Ethical Issues in Foreign Policy

Syllabus

John Norton Moore
Walter L. Brown Professor of Law
Director, Center for National Security Law

David Little
T.J. Dermot Dunphy Professor Emeritus of
the Practice of Religion, Ethnicity, and International Conflict
Harvard University Divinity School

Class Web site:
http://www.faculty.virginia.edu/jnmoore/ethicalissues/

January Term 2012
University of Virginia | School of Law | Charlottesville, Virginia
Ethical Issues in Foreign Policy

January Term 2012

Syllabus

(NOTE: Reading assignments begin on page 3)

Professor John Norton Moore  
Walter L. Brown Professor of Law  
Director, Center for National Security Law  
University of Virginia  
School of Law  
Monday-Friday, 1:30-4:00 p.m.

Professor David Little  
T.J. Dermot Dunphy Professor Emeritus of the Practice of  
Religion, Ethnicity, and International Conflict  
Harvard Divinity School

Date  Topic

January 16  I. What is Ethical Thinking?

A. Contemporary Overviews of Ethics and International Affairs (Hoffmann and Cohen)
B. Classical Positions
   1. Realism (Machiavelli, Kennan)
   2. Realism, Modified (Hume)
   3. Idealism, Statist (Kant)
   4. Idealism, Internationalist (Grotius)

January 17  II. The Decision to Drop the Atomic Bomb: Hiroshima and Nagasaki

A. The History of International Law on the Control of Aerial Bombardment
B. Conventional Bombing Methods during WWII (Including the Firebomb Raids on Tokyo)
C. The Human Cost
D. The Decision to Use the Bomb
E. Japan’s Decision to Surrender
F. The Role of Intelligence Information

January 18  III. Torture and Intelligence Gathering

A. National and International Prohibitions against Torture
B. The Israeli Experience
C. Decisions by the Bush Administration to “Take off the Gloves” (Dumbing Down the Prohibitions Against Torture)
D. Detainee Abuse at Guantanamo & Abu Ghraib
E. The Costs of Detainee Abuse
F. The Broader Debate about Torture

---

January 19  IV. The Crisis in Rwanda

A. Moral Issues: Humanitarian Intervention
B. Legal Issues
C. Clinton Policies
D. Policy Debates

---

January 20  V. The War in Iraq

A. Policy Background
B. Policy Debate
C. Legal Issues
D. Moral Issues
Ethical Issues in Foreign Policy

Reading Assignments

Professor John Norton Moore
Walter L. Brown Professor of Law
Director, Center for National Security Law

January Term 2012
University of Virginia
School of Law
Monday-Friday, 1:30-4:00 p.m.

Professor David Little
T.J. Dermot Dunphy Professor Emeritus of the Practice of
Religion, Ethnicity, and International Conflict
Harvard Divinity School

Texts for Reading Assignments

2012 Reader: A two-volume compilation of documents and reading materials prepared by Professor Moore and Professor Little for this course is available in the Copy Center.

Reserve Materials: Materials indicated here as “Readings, On Reserve” are available in the Law Library.

In addition to reading material, three films (DVD copies) have been placed on reserve at the library as optional viewing for the sessions on “The Decision to Drop the Atomic Bomb” and “Torture and Intelligence Gathering.” Original Child Bomb is an hour in length (note: the DVD is slow to load), The Torture Question is 90 minutes and Ghosts of Abu Ghraib is 78 minutes.

Online Materials: Note that some of the readings in the section on Rwanda can be found online.

Date Topic and Assignments

January 16 I. What is Ethical Thinking?

A. Contemporary Overviews

2012 Reader, Volume 1 (required):

Readings, On Reserve (required):
#1 Stanley Hoffmann, “Ethics and International Affairs,” ch. 1 in Duties Beyond Borders, pp. 1-43.
B. Classical Positions: Realism, Modified Realism, Statist Idealism, Internationalist Idealism

Readings, On Reserve (required):
#4 George Kennan, “Morality and Foreign Policy,” *Foreign Affairs* 205-218 (Winter 85/86).

Jan. 16 (cont.)

Readings, On Reserve (recommended):
#3 Niccolo Machiavelli, *The Prince*, chs. 15, 18; *Discourse*, chs. 34, 40-42.
#6 Immanuel Kant, *Perpetual Peace*, Appendix I and II.
#7 Hugo Grotius, *Prologomena to the Law of War and Peace*.
#9 David Little, “Hugo Grotius and the Doctrine of the Just War,” from *Suche nach Frieden: Politische Ethik in der Frühen Neuzeit, I*.
#10 W.B. Gallie, “Kant on Perpetual Peace,” in *Philosophers of Peace and War*.

January 17

II. The Decision to Drop the Atomic Bomb:
Hiroshima and Nagasaki

*Skim* the readings in this section for an overall assessment

A. The History of International Law on the Control of Aerial Bombardment

2012 Reader Vol. 1 (skim):

Readings, On Reserve (skim):

B. Conventional Bombing Methods during WWII (Including the Firebomb Raids on Tokyo)

Readings, On Reserve (skim):
#12 *The Strategic Air War against Germany* 1939-1945, foreword, xxxiii-xxxiv, 5-10, 88-98 (Frank Cass Publishers, 1998).

C. The Human Cost

On Reserve (optional): Film: “Original Child Bomb”
D. The Decision to Use the Bomb

Jan. 17 (cont.)

2012 Reader (skim):

Readings, On Reserve (skim):

E. Japan’s Decision to Surrender

Readings, On Reserve (skim):

F. The Role of Intelligence Information

2012 Reader (skim):

January 18

III. Torture and Intelligence Gathering

Skim the readings in this section for an overall assessment

A. National and International Prohibitions against Torture

2012 Reader Vol. 1 (skim):
110-149 Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War (August 12, 1949).
150-159 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; U.S. Reservations (December 10, 1984).
172-173 18 USC Sec. 2340A; Title 18 – Crimes and Criminal Procedure (January 5, 1999).

Jan. 18 (cont.)

B. The Israeli Experience

2012 Reader (skim):

C. Decisions by the Bush Administration to “Take off the Gloves” (Dumbing Down the Prohibitions against Torture)

Class Handout (required):

2012 Reader (skim):
252-263 Department of Defense memos (October 11, 2002).
264 Memo for Secretary of Defense from William J. Haynes, General Counsel of the Department of Defense regarding Counter-Resistance Techniques (November 27, 2002).
265-316 Working Group Report on Detainee Interrogations in the Global War on Terrorism: Assessment of Legal, Historical, Policy, and Operational Considerations (March 6, 2003).
317-322 Department of Defense Memo on Counter-Resistance Techniques in the War on Terror (April 16, 2003).

Readings, On Reserve (skim):

D. Detainee Abuse at Guantanamo & Abu Ghraib

On Reserve (optional):
DVD of TV program: *Frontline’s “The Torture Question”*
DVD of HBO documentary: “Ghosts of Abu Ghraib”

Readings, On Reserve (skim):

2012 Reader (skim):
334-350 Press briefing by White House Counsel Judge Alberto Gonzales, DoD General Counsel William Haynes, DoD Deputy General Counsel Daniel Dell’Orto and Army Deputy Chief of Staff for Intelligence General Keith Alexander (June 22, 2004).
E. The Costs of Detainee Abuse

Students are requested to reflect on the full national and international implications of detainee abuse.

2012 Reader (skim):
351-352 Michael Walzer, Arguing about War, 9 (Yale University Press, 2004).

Jan. 18 (cont.) F. The Broader Debate about Torture

Readings, On Reserve (skim):
#19 Wayne McCormack, Legal Responses to Terrorism, 571-598 (LexisNexis, 2005).
#20 Wayne McCormack, Legal Responses to Terrorism, 625-626, 666-667 (LexisNexis, 2005).

2012 Reader (skim):

Readings, Online (recommended):

January 19 IV. The Crisis in Rwanda

A. Moral Issues: Humanitarian Intervention

Readings, On Reserve (required):

2012 Reader, Volume 2 (required):


B. Legal Issues

**Readings, On Reserve (recommended):**


C. Clinton Policies

**Readings, Online (recommended):**


**Readings, On Reserve (recommended):**


D. Policy Debate

**Readings, On Reserve (required):**


Behrens, 2007) pp.73-95. (Includes comparison of genocides in Yugoslavia, Rwanda, and Darfur).

Readings, Online (recommended):

January 20

V. The War in Iraq

A. Policy Background

2012 Reader, Vol. 2 (required):
508-512 Bush’s West Point speech of June 1, 2002.
513-517 Bush’s UN speech of September 12, 2002.
518-525 Bush’s Naval Academy speech, November 30, 2005

Readings, On Reserve (required):

Readings, On Reserve (recommended):

B. Policy Debate

Readings, On Reserve (recommended):
#30 George Lopez and David Cortright, “Containing Iraq: Sanctions Worked,” 83 Foreign Affairs 90-103 (July/August, 2004).

C. Legal Issues

Readings, On Reserve (recommended):

Jan. 20 (cont.)

**2012 Reader (required):**


577-589 Memo to British Prime Minister Tony Blair from Britain’s Attorney General Peter Goldsmith concerning the legality of a war in Iraq (dated March 7, 2003)

590-592 Memo from Matthew Rycroft to members of British government concerning a Prime Minister’s meeting in Iraq July 23, 2002 (“The Downing Street Memo”).

593-595 Iraq Study Group Report: Executive Summary

**D. Moral Issues**

**2012 Reader (required):**


**Readings, On Reserve (required):**


**Readings, Online (recommended):**

President Obama’s Remarks at the Acceptance of the Nobel Peace Prize (2009)
JOHN NORTON MOORE

John Norton Moore is the Walter L. Brown Professor of Law at the University of Virginia School of Law. He also directs the University’s Center for National Security Law and the Center for Oceans Law & Policy and was the Director of the Graduate Law Program at Virginia for more than twenty years. Viewed by many as the founder of the field of national security law, Professor Moore chaired the prestigious American Bar Association’s Standing Committee on Law and National Security for four terms. He is the author or editor of more than twenty-five books and over 160 scholarly articles and served for two decades on the editorial board of the American Journal of International Law. He is a member of the Council on Foreign Relations, the American Law Institute, the American Society of International Law, the Order of the Coif, Phi Beta Kappa, and numerous other professional and honorary organizations.

In addition to his scholarly career, Professor Moore has a distinguished record of public service. Among seven Presidential appointments, he has served two terms as the Senate-confirmed Chairman of the Board of Directors of the United States Institute of Peace and, as the first Chairman, set up this new agency. He currently serves as a Member of the Director of Central Intelligence’s Historical Review Board. He also served as the Counselor on International Law to the Department of State, and as Ambassador and Deputy Special Representative of the President to the Law of the Sea Conference, Chairman of the National Security Council Interagency Task Force on the Law of the Sea, and as a member of the United States’ legal team before the International Court of Justice in the Gulf of Maine and Paramilitary Activities cases.

In the past, he has served as a consultant to both the President’s Intelligence Oversight Board and the Arms Control and Disarmament Agency. He has also been a member of the National Advisory Committee on Oceans and Atmosphere, the United States Delegation to the Conference on Security and Cooperation in Europe, and the Presidential Delegation of the United States to observe the elections in El Salvador. In 1990, he served, with the Deputy Attorney-General of the United States, as the Co-Chairman of the United States-USSR talks on the Rule of Law. He also served as the legal advisor to the Kuwait Representative to the United Nations Iraq-Kuwait Boundary Demarcation Commission.

Professor Moore has recently completed a book entitled Solving the War Puzzle: Beyond the Democratic Peace (Carolina Academic Press, 2004) which summarizes more than a decade and a half of work concerning the origins of war and means to control war. The book also develops a theoretical approach to international relations termed “incentive theory.”

His wife, Barbara, is the Director of the National Undersea Research Program in the National Oceanic and Atmospheric Administration (NOAA) and is a former NOAA aquanaut. He is the proud father of two daughters, Victoria and Elizabeth.
DAVID LITTLE

Little is the former T.J. Dermot Dunphy Professor of the Practice in Religion, Ethnicity, and International Conflict at Harvard Divinity School, and former Director of Initiatives in Religion and Public Life. He was also an Associate at the Weatherhead Center for International Affairs at Harvard University. He retired from Harvard in 2009. Until the summer of 1999, he was Senior Scholar in Religion, Ethics and Human Rights at the United States Institute of Peace in Washington, DC, where earlier he was a Distinguished Fellow. One of his major responsibilities in that capacity was to direct the Working Group on Religion, Ideology, and Peace, which conducted a multi-year study of religion, nationalism, and intolerance, with special reference to the UN Declaration on the Elimination of Intolerance and Discrimination. He was a member of the U.S. State Department Advisory Committee on Religious Freedom Abroad from 1996 to 1998.

Little was formerly Professor of Religious Studies at the University of Virginia. He taught previously at Harvard and Yale Divinity Schools, and from time to time at several colleges and universities. He was Distinguished Visiting Professor in Humanities at the University of Colorado, and has held the Henry R. Luce Professorship in Ethics at Amherst College and Haverford College. He has written in the areas of moral philosophy, moral theology, history of ethics, and the sociology of religion, with a special interest in comparative ethics, human rights, religious liberty, and ethics and international affairs. Little was educated at the College of Wooster, Union Theological Seminary (New York City), and he holds his doctorate from Harvard University.


Little is married and he and his wife, Priscilla, have three married children, and seven grandchildren.