

## Theories of Punishment

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PHL 267: Theories of Punishment  
Winter 2003

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This course will examine the moral and political justifications of punishment. It will address such questions as: Under what circumstances is a person justified in inflicting punishment on another? What counts as punishment? What is the purpose of punishment? Must punishment be painful? Is there any connection between punishment inflicted by the state and punishment inflicted in the private sphere (such as by parents on children, or teachers on students)?

This course will begin by looking at classical theoretical justifications of punishment, such as deterrence, retributivism and rehabilitation. We will then use our newfound theoretical knowledge to examine forms of state punishment and consider such legal practices as capital punishment and increasingly popular "three strikes, you're out" laws. To evaluate these practices, we will examine recent Supreme Court decisions concerning the capital punishment of mentally handicapped individuals, minors and prisoner rights.

Required Texts:

*Punishment and Rehabilitation*, Jeffrie Murphy (3rd edition) (M)  
*Punishment and the Death Penalty*, eds. Baird and Rosenbaum (BR)  
*Discipline & Punish: The Birth of the Prison*, Michel Foucault (F)  
court case packet

Grade Scale:

A 95-100  
A- 90-94.9  
B+ 87-89.9  
B 84-86.9  
B- 80-83.9  
C+ 77-79.9  
C 74-76.9  
C- 70-73.9  
D+ 67-69.9  
D 64-69.9

D- 60-63.9

Course Requirements:

3 critical essays (2-3 pages each): These essays will require students to present a critical analysis of recent court case decisions. Each essay is worth 10% of the course grade.

midterm and final exams: These exams will require students to demonstrate an understanding of key philosophical and legal terms used in the course. Each exam is worth 15% of the course grade.

article write-ups: Students are required to write a short essay that describes the main ideas of articles and court cases assigned. The essays are due in class on the day for which the article is assigned when you arrive to class. These essays should be about 200 words long (typed, double-spaced). Handwritten essays are accepted only in extraordinary circumstances. Students who miss class may not hand in the essay later. If you anticipate missing a class, you may turn in the essay PRIOR to the class you will miss. You can also e-mail the write-up to me if you will not be on campus the day it is due. However, it must be e-mailed prior to class.

29 articles and chapters and 17 court cases are assigned; 25 write-ups are required. The write-ups will count for a total of 40% of the course grade.

Each write-up essay will be graded using the following scale:

- 4: demonstrates an understanding of the important idea(s) of the article
- 3: demonstrates a familiarity with the main idea(s) of the article
- 2: demonstrates a familiarity with at least one idea in the article
- 1: demonstrates some understanding of the article
- 0: demonstrates no understanding of the article; did not hand in a write-up

Academic Expectations: It is expected that all work turned in by the student will be his or her own work. Whenever the ideas of others are used, including ideas discussed during class, credit must be given. Academic dishonesty is a serious offense and will be penalized by an appropriate action. Such actions include: failing the assignment, failing the course, and/or being expelled from the university.

Course Schedule:

1/6: introduction to course

Justifications for Punishment:

1/8: introduction to justifying punishment

1/10: "Punishment and Utility" (M)

1/13: "The Justification of General Deterrence" (M)

1/15: "On the Right to Punish..." (M)

1/17: "Persons and Punishment" (M)

1/20: no classes scheduled

1/22: "The Moral Worth of Punishment" (M)

1/24: "Playing Fair With Punishment" (BR)

1/27: "Punishment as Healing for the Soul" (M)

1/29: "A Paternalistic Theory of Punishment" (M)

1/31: "Expression, Penance and Reform" (M)

2/3: "Therapy, Not Punishment" (BR)

2/5: "Punishment v. Rehabilitation" (BR)

2/7: midterm exam

### Capital Punishment

2/10: introduction to capital punishment

2/12: "A General History of Capital Punishment in America" (BR);

"The Crusade Against Capital Punishment" (BR)

2/14: "On Deterrence and the Death Penalty" (BR)

2/17: "Capital Punishment and Deterrence" (M)

2/19: "Does It Matter if the Death Penalty is Arbitrarily Administered?" (BR)

2/21: "Justice, Civilization, and the Death Penalty: Answering Van Den Haag" (BR)

2/24-2/28: Winter Break-No Classes

3/3: Furman v. Georgia

3/5: Gregg v. Georgia

3/7: McCleskey v. Kemp

3/10: (children being executed)

3/12: (mentally retarded being executed)

### Other Sentencing Issues

3/14: Rummel v. Estelle

3/17: United States v. Oviedo; People v. Dlugash

3/19: "Is the Insanity Test Insane?" -- photocopy

3/21: People v. Drew; Durham v. United States

3/24: "Getting Even: The Role of the Victim" (M)

3/26: Booth v. Maryland; Payne v. Tennessee

### Prison/Prisoner Rights

3/28: Torture, chap 1 (F)

3/31: Torture, chap 2 (F)

4/2: Punishment, chap 1 (F)

4/4: Punishment, chap 2 (F)

4/7: Discipline, chap 1 (F)

4/9: Discipline, chap 2 (F)

4/11: Discipline, chap 3 (F)

4/14: Prison, chap 1 (F)

4/16: Prison, chap 2 (F)

4/18: Prison, chap 3 (F)

4/21: no classes held

4/23: Final Exam, 10:30-1:00