

## Course Outline

**COURSE:** LAWS 3308B Punishment and the Law

**TERM:** Winter 2012

**PREREQUISITES:** LAWS: None

**CLASS:** **Day & Time:** Mondays 6:05pm-8:55pm  
**Room:** Please check with Carleton Central for current room location

**INSTRUCTOR:** Ummni Khan  
**TEACHING ASSISTANT:** Darren Pacione

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**Office Hrs:** Professor Khan: by appointment  
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(If Web CT is down, use: ummni\_khan@carleton.ca)

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"Students with disabilities requiring academic accommodations in this course must contact a coordinator at the Paul Menton Centre for Students with Disabilities to complete the necessary Letters of Accommodation. After registering with the PMC, make an appointment to meet and discuss your needs with me in order to make the necessary arrangements as early in the term as possible, but no later than two weeks before the first assignment is due or the first test requiring accommodations. For further information, please see: [http://www.carleton.ca/pmc/students/accom\\_policy.html](http://www.carleton.ca/pmc/students/accom_policy.html). If you require accommodation for your formally scheduled exam(s) in this course, please submit your request for accommodation to PMC by **March 7, 2012 for Winter exams**. For Religious and Pregnancy accommodations, please contact Equity Services, x. 5622 or their website: [www.carleton.ca/equity](http://www.carleton.ca/equity)

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**COURSE DESCRIPTION**

This course explores definitions, justifications, and debates regarding punishment. Why do we punish? How much should we punish? What does our choice of punishment reveal about our understanding of human nature? What does our choice of punishment reveal about inequality and oppression? Should punishment be uniform across all communities, or should punitive practices be tailored to the ethos of specific cultures? Is state punishment a rational response to wrongdoing, or an indulgence in sadism and vengeance? Are there better ways to approach punishment? We will consider all of these questions in relation to classic philosophical texts, sociological analyses, political arguments and creative works. Although this is a lecture course, I will use a variety of methods to make it more interactive including small and large group discussions, Socratic Methodologies, and class debates.

**Class Objectives**

- Factual Knowledge: To understand the major philosophies, approaches and debates in punishment studies (evaluated by the midterm & the exam).
- Written skills: To be able to reflect and engage with these philosophies in short essay form (evaluated by the midterm and the exam).
- Reading Comprehension: To be able to read an article on punishment and summarize its main points, contributions and connections to other readings (evaluated by the reading summaries).
- Verbal communication skills: To be able to express one's thoughts about these approaches orally in class (evaluated by general participation and on the day the student is "on-call").

**REQUIRED TEXTS**

1. Michael Tonry, *Why Punish? How Much? A Reader on Punishment* (Oxford University Press, 2011). (All readings come from this text unless otherwise stated. It can be purchased at the University Bookstore)
2. Martha Nussbaum, "Danger to Human Dignity: the Revival of Disgust and Shame in the Law" *The Chronicle of Higher Education* ( 2004), pp. 1 – 5 (You must access and download this article through Carleton University Library's electronic database)
3. Nathaniel Hawthorne, *The Scarlet Letter*, Chapters 1-3 (available on-line at: <http://www.online-literature.com/hawthorne/scarletletter/1/> OR available as a free audiobook downloadable at <http://overdrive.biblioottawalibrary.ca/BAEA79D5-ED77-4B3F-AB12-29AB6A203655/10/435/en/ContentDetails.htm?ID=1574BC02-CE9A-41F5-9052-7C0B63BA4636> )
4. Angela Y. Davis and Dylan Rodriguez "The Challenge of Prison Abolition: A Conversation" *Social Justice*. 27.3 (Fall 2000): pp. 212 – 218 (You must access and download this article through Carleton University Library's electronic database)

**VIDEOS WATCHED IN CLASS**

5. *The Simpsons*, "The Parent Rap" Season 13, Episode 2
6. *The Twilight Zone*, "Execution" Season 1, Episode 26

**EVALUATION**

**(All components must be completed in order to get a passing grade)**

**Attendance 10%**

Attendance will be taken every week. To receive a full mark, you must be present for the entire duration of the class. During open discussions, you should offer thoughtful remarks on a regular basis. You should not be chatting with your neighbour, texting or surfing the net. If you need to make or receive a phone call or text, quietly leave the class and return when you are ready to fully participate.

### Readings Summary and Socratic Method performance 20%

Starting on January 23, I will assign 6-8 students who will be “on call” for one week. This means that during the lecture, I will employ a modified Socratic method where I call on the assigned students to discuss the readings and the related issues. These students must also provide a short summary of each of the readings for that class to be handed in by the end of class. Reading summaries should be between 300-500 words per article. Absence during the week you are on-call will result in a 0 mark unless a doctor’s note is provided.

### **KEY QUESTIONS that must be addressed in your reading summaries:**

1. Contextualize the author in terms of time period, nationality and branch of study or disciplinary field. 2. What is the thesis or what are the main ideas of the reading? 3. What evidence is offered to support the thesis or main ideas? 4. Does the article take a philosophical, legal, sociological, moral, creative or other approach to its argument and how is this expressed? 5. How does the reading relate to other readings this week and previous weeks? 6. What is the major contribution of the article to the field of punishment studies?

### Midterm exam (2 hours): 30%

The closed-book midterm will be scheduled during regular class time on February 6, 2012. It will consist of 40 multiple choice questions and 2 short essay questions. Material to be covered in the midterm consists of all assigned readings, *The Simpsons* video and information provided during lectures and class discussions. **Absence will result in an automatic failure for the class unless a doctor’s note is provided that specifically outlines an illness that prevented the student from coming to class.**

### Final Exam (3 hours): 40%

The closed-book final exam will be scheduled during the regular exam period. It will consist of 60 multiple choice questions and 3 short essays. Material to be covered in the exam consists of all assigned readings, in-class videos and information provided during lectures and class discussions. Absence from the final exam will be handled by the Registrar’s office.

## **SCHEDULE**

### **January 9: Introduction**

Syllabus overview.

Class viewing and discussion of punishment theories in relation to:  
*The Simpsons* Season 13, Episode “The Parent Rap”

**January 16: Intro to Punishment Theories & Thinking Critically About Racialized Incarceration**

1. Michael Tonry, "Introduction: Thinking about Punishment" pp. 3 - 28
2. Introduction to Social Theories Section pp. 383 - 385
3. Loic Wacquant, "From Slavery to Mass Incarceration: Rethinking the "Race Question" in the U.S." pp. 387 - 401

**January 23: Classical Theories**

1. Introduction to Classical Theories Section pp. 29 - 30
2. Immanuel Kant, "The Penal Law and the Law of Pardon" pp. 31 – 36
3. Hegel, "Wrong" pp. 37 - 49
4. Jeremy Bentham, "An Introduction to the Principles of Morals and Legislation" pp. 51 - 70

**January 30: Classical Theories and a Marxist Analysis**

1. Sheldon Glueck, "Principles of a Rational Penal Code" pp. 71-90
2. C.S. Lewis, "The Humanitarian Theory of Punishment" pp. 91-96
3. Francis Allen, "Legal Values and the Rehabilitative Ideal" pp. 97-105
4. Georg Rusche, "Labor Market and Penal Sanction: Thoughts on the Sociology of Criminal Justice" pp.403-413

**Feb 6: Midterm Exam (In Class) MANDATORY ATTENDANCE**

*(Absence will result in an automatic failure for the class unless a doctor's note is provided that specifically outlines an illness that prevented the student from coming to class)*

**February 13: Retributive Theories (including Durkheim)**

1. Introduction to Retributive Theories Section pp. 107 - 110
2. Joel Feinberg, "The Expressive Function of Punishment" pp. 111 - 125
3. Nathaniel Hawthorne, *The Scarlet Letter*, Chapters 1-3 (available on-line at: <http://www.online-literature.com/hawthorne/scarletletter/1/> OR available as a free audiobook downloadable at <http://overdrive.biblioottawalibrary.ca/BAEA79D5-ED77-4B3F-AB12-29AB6A203655/10/435/en/ContentDetails.htm?ID=1574BC02-CE9A-41F5-9052-7C0B63BA4636> )

4. Emile Durkheim, "Rules for the Distinction of the Normal from the Pathological" pp. 415 – 420
5. Martha Nussbaum, "Danger to Human Dignity: the Revival of Disgust and Shame in the Law" *The Chronicle of Higher Education* (2004), pp. 1 – 5. **NOTE: This article is NOT in your reader.** You must access this article through Carleton University Library's electronic database.

### **February 20: Reading Week NO CLASS**

### **February 27: Retributive Theories**

1. Jeffrie G. Murphy, "Marxism and Retribution" pp. 127 - 145
2. Herbert Morris, "A Paternalistic Theory of Punishment" pp. 147 - 159
3. T.M. Scanlon, "Punishment and the Rule of Law" pp. 161 - 172

### **March 5: Mixed Theories**

1. Introduction to Mixed Theories Section pp 191-193
2. H.L.A. Hart, "Prolegomenon to the Principles of Punishment" pp 195 - 205
3. Andrew von Hirsch, "Proportionate Sentences: A Dessert Perspective" pp. 207 - 216
4. Michael Tonry, "Proportionality, Parsimony and Interchangeability of Punishments" pp. 217 - 237

### **March 12: Mixed Theories**

1. Tapio Lappi-Seppala, "Sentencing and Punishment in Finland: The Decline of the Repressive Ideal" pp. 239 -254
2. Richard S. Frase, "Limiting Retributivism" pp. 255 – 262
3. Richard S. Frase, "Excessive Relative to What? Defining Constitutional Proportionality Principles" pp. 263- 270
4. Michel Foucault, "Discipline and Punish: The Birth of the Prison" pp. 421 – 433

### **March 19: Emotion, Intuition, and Determinism**

1. Introduction to Emotion, Intuition and Determinism Section pp. 269 - 270
2. J.L. Mackie, "Morality and the Retributive Emotions" pp. 271 – 281
3. Paul H. Robinson, "The Role of Moral Philosophers in the Competition Between Deontological and Empirical Desert" pp. 283 - 291

4. Joshua Greene and Jonathan Cohen, "For the Law, Neuroscience Changes Nothing and Everything" pp. 293 - 314

### **March 26: Restorative Theories**

1. Introduction to Restorative Theories Section pp. 315 - 317
2. Lode Walgrave, "Restoration in Youth Justice" pp. 319 - 335
3. John Braithwaite, "In Search of Restorative Jurisprudence" pp. 337 - 352
4. R. A. Duff, "Restorative Punishment and Punitive Restoration" pp. 367 - 382
5. NOTE: This article is NOT in your reader. You must access this article through Carleton University Library's electronic database: Angela Y. Davis and Dylan Rodriguez "The Challenge of Prison Abolition: A Conversation" *Social Justice*. 27.3 (Fall 2000): pp. 212 – 218

### **April 2: (no readings)**

1. In-class video: The Twilight Zone, "Execution" Season 1, Episode 26 and brief discussion of poetic justice
2. Exam Review

**Final exam scheduled during the regular exam period.**