PUNISHMENT, POLITICS AND CULTURE

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Office Hours

Tuesday 1:00-2:00 and Thursday 1:00-2:00

Other than war, punishment is the most dramatic manifestation of state power. Whom a society punishes and how it punishes are key political questions as well as indicators of its character. This course considers connections between punishment and politics in the contemporary United States. We will ask whether we punish too much and too severely, or too little and too leniently. We will consider the politicization and racialization punishment and examine particular modalities through which the state dispenses its penal power. Among the questions to be discussed are: Does punishment express our noblest aspirations for justice or our basest desires for vengeance? Can it ever be an adequate expression of, or response to, the pain of the victims of crime? When is it appropriate to forgive rather than punish? Throughout we will try to understand the meaning of punishment by examining the way it is represented in politics and popular culture.

Books for the course are available at the Amherst Bookstore.

Stephen Mitchell, *The Book of Job*
James Whitman, *Harsh Justice*
Herman Melville, *Billy Budd*
Fox Butterfield, *All God’s Children*
Austin Sarat, *When the State Kills: Capital Punishment and the American Condition*
Austin Sarat, *Mercy on Trial: What It Means to Stop an Execution*

Other readings are available on the course website on CMS.

Please note that there are several films on e-reserve.
I. INTRODUCTION: PUNISHMENT AND PAIN

FILM: Pierrepoint, The Last Hangman

1. Introduction (January 27)

Francis v. Resweber, 329 US (1947) 459 (M)
“Ohio Plans to Try Again as Execution Goes Wrong,” New York Times (September 2009)

FILM: Noon Wine

2. The Phenomenology of Suffering: If There Is Punishment There Must Be Guilt, But Without Punishment Can There Be Innocence? (February 3)

Stephen Mitchell, The Book of Job (P)
Elaine Scarry, “The Structure of Torture,” in The Body in Pain, 27-59 (M)

3. Punishment and the Constitution of Culture (February 10)

James Whitman, Harsh Justice, Introduction, Chapter 1, 2, 3, 5, Conclusion (P)

III. PUTTING PAIN TO WORK


Herman Melville, Billy Budd (P)
Herbert Morris, “Persons and Punishment” (M)
Robinson v. California, 370 US (1962) 660


Marc Klass, “Victim Impact Statement”
Austin Sarat, “The Return of Revenge: Hearing the Voice of the Victim in Capital
IV. THE PAINS OF PUNISHMENT

FILM: Sling Blade

6. Imprisonment and Indignity-I (March 3)
   
   Ruffin v. Commonwealth, 62 Va. (1871) 1024 (M)
   Fox Butterfield, All God’s Children (P)

FILM: Shawshank Redemption

7. Imprisonment and Indignity-II (March 10)
   

8. The Violence of Imprisonment: Is the State of Nature Inside Law? (March 24)
   
   Hudson v. McMillan, 503 US (1992) 1-12, 17-29 (M)

V. COMPETING IMPULSES: SEVERITY AND ITS LIMITS

FILM: I Am a Fugitive From a Chain Gang

9. Mandatory Sentences, Chain Gangs, and Solitary Confinement and The American Way of Punishment (March 31)
   
   Joan Dayan, “Healed in the Body of the State: Prisons, Memory, and the Law” (M)

10. "Three Strikes And You Are Out," Extending the Sphere of Control and The American Way of Punishment (April 7)
Ewing v. California, No. 01-6978 (2003) (O’Connor and Breyer)
(M)

FILM-Pierrepoint, The Last Hangman

11. Execution Politics: America and the Future of Capital Punishment-I (April 14)

William Connolly, “The Will, Capital Punishment, and Culture War” (M)
Austin Sarat, When the State Kills: Capital Punishment and the American Condition

FILM: Dead Man Walking

12. Execution Politics: America and the Future of Capital Punishment -II (April 21)

Alex Kotlowitz, “In The Face of Death,” NY Times (July 6, 2003)
Rachel Barkow, “The Court of Life and Death: The Two Tracks of Constitutional
Sentencing Law and the Case for Conformity,” 107 Michigan Law Review
(2009), 1145-1205

VI. BEYOND PAIN?


(2009), 182-236
Martha Nussbaum, “Equity and Mercy” (M)
Austin Sarat, Mercy on Trial: What It Means to Stop an Execution (P)

14. Conclusion (May 5)