PUNISHMENT, POLITICS AND CULTURE

Spring, 2009

Austin Sarat

413-542-2308
adsarat@amherst.edu

Office Hours

Tuesday 200-330 and Thursday 200-330

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 included in a course packet.

Please note that there are several films which will be shown as part of the course.
I. INTRODUCTION: PUNISHMENT AND PAIN

1. Introduction (January 28)
   
   Francis v. Resweber, 329 US (1947) 459 (M)
   Ted Conover, “In the Land of Guantanamo,” NY Times, June 29, 2003

FILM: Noon Wine

2. The Phenomenology of Suffering: If There Is Punishment There Must Be Guilt, But Without Punishment Can There Be Innocence? (February 4)
   
   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 11)
   
   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, “Vengeance, Victims and the Identities of Law,” Social and Legal Studies (M)

IV. THE PAINS OF PUNISHMENT
FILM:  Sling Blade

6.  *Imprisonment and Indignity-I (March 4)*

Ruffin v. Commonwealth, 62 Va. (1871) 1024 (M)
Fox Butterfield, *All God’s Children* (P)

FILM:  Shawshank Redemption

7.  *Imprisonment and Indignity-II (March 11)*


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 The American Way of Punishment (April 1)*

Joan Dayan, “Held in the Body of the State: Prisons, Memory, and the Law” (M)
Fox Butterfield, “With Cash Tight, States Reassess Long Jail Terms,” *NY Times*
(November 10, 2003)

10.  *”Three Strikes And You Are Out,” Extending the Sphere of Control and The American Way of Punishment (April 8)*

Ewing v. California, No. 01-6978 (2003) (O’Connor and Breyer)

FILM-Pierrepont, The Last Hangman

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*


Alex Kotlowitz, “In The Face of Death,” *NY Times* (July 6, 2003)

**VI. BEYOND PAIN?**


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

14. **Conclusion** (May 6)