

PHIL 141: Punishment & Responsibility

Whitman College – Spring 2018

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Course Description and Goals

Walla Walla is home to the Washington State Penitentiary, which currently houses around 2500 inmates. That is just one small piece in a very large system: American society places extraordinary emphasis on punishment, with one of the highest incarceration rates in the world, and well over two million people in our prisons and jails. At the same time, it's clear that our society has no good sense of *why* we are doing these things – or more importantly why we *should* be, or even *if* we should be.

These practices stand in need of justification, since the very nature of punishment is to do something which would ordinarily be wrong: intentionally to impose suffering and/or hardship on someone. In this course, we will take some first steps toward determining exactly how and when those practices can be justified (if, indeed, they can be). We will focus on two sets of questions:

- ★ **Punishment:** What is the ultimate justification and purpose of punishment?
What form(s) should punishment take?
- ★ **Responsibility:** Under what circumstances is or isn't it appropriate to punish someone?
What are the bases and limits of responsibility?

We will be particularly concerned with the interrelations among all of the different issues and views that we examine. Ultimately, our goal is to work towards an *integrated* and *comprehensive* theory of punishment.

At the same time, this course is designed to be an introduction to philosophy. Thus in the process of addressing the relatively focused questions listed above, we will touch on (though not systematically explore) issues from a number of areas of philosophy:

- Ethics: What is the correct conception of how one should live and act?
- Political Philosophy: What is the relation between ethics and the law? What is the proper role of the state?
- Metaphysics: What is required to be a genuine agent or author of one's own actions?
- Philosophy of Mind: What is the nature of the self? How are different mental processes related?
- Philosophy of Science: What are the status and relevance of the social sciences? Of the natural sciences?
- Epistemology: What is required for genuine knowledge and understanding?

In the process, time and attention will be devoted to developing the general interpretive, analytical, and argumentative skills that are necessary for doing any kind of philosophy – and many other fields as well.

While questions of punishment and responsibility have occupied thinkers throughout Western history, in this class we will focus on current views. This means that we will be examining some difficult and complicated texts in contemporary philosophy and legal theory. Nonetheless, this course does not assume any prior background (though students with more experience with philosophy and/or other relevant fields should also find it rewarding). We will take the time to make sure that at least the main ideas are clear and accessible to everyone.

Course Materials

There are no books that you need to buy for the course. Instead, all of the readings are available on the course CLEo site's "Resources" tab, organized by topic.

You will need to have the readings available in class, and I strongly recommend that you be able to mark them up, either by hand or electronically. If you print them out, I strongly encourage you to print on both sides of the paper, if possible. (Most campus printers can print double-sided – if you're unsure how, please just ask someone.)

Finally, you should make sure that you always have access to a good dictionary while you're reading. You can't understand the authors' ideas and arguments if you don't know what all of the words mean!

Technology

- **CLEo:** Being registered for this course automatically gives you access to the (very rudimentary) CLEo site that I will be maintaining. If you're unfamiliar with CLEo or have any difficulty accessing the site, please just let me know.
- **E-Mail:** I will often distribute important announcements, reminders, and clarifications through the class list-server. It is your responsibility to *check your Whitman e-mail account every day!* If you have questions, ideas, information, and/or links that you'd like to share with the class, you're also welcome to use the class list-server, which can be accessed through the CLEo site.
- **In the Classroom:** You are welcome to use a computer, tablet, or smart-phone in the classroom, as long as it is *exclusively* focused on our immediate tasks (the readings, note-taking, etc.). You should *never, ever* take even a moment to check your e-mail, blog your instagram on The Facebook, tweet your snapchat, etc.

Support for Students with Disabilities

If you are a student with a disability who might need accommodations in this course, please meet with Antonia Keithahn in the Academic Resources Center for assistance in developing a plan to address your academic needs. All information about disabilities is considered private, and so if I receive notification that you are eligible to receive an accommodation due to a verified disability, I will provide it in as discreet a manner as possible.

Field Trips

During the semester, three trips have been arranged for you to see first-hand the kinds of institutions in which our society confines wrongdoers, and to talk with the individuals confined in them and the staff who work there. Those trips will be closely integrated with the course readings and discussions, and are unusual and very powerful opportunities in themselves. So, the trips are **required**, and you will be officially excused from any classes or other activities that they will cause you to miss. There will also be one day when our meeting will start an hour early, because of a special guest coming in from out of town. That will also be an excused absence for anyone who has to miss class.

I encourage you to talk *now* with any relevant professors, coaches, directors, etc. about those days to begin making the arrangements you'll need in order to go on the trips. If you have an irresolvable conflict with one of the trips, you should talk with me as soon as possible. (Note that each of the institutions will need to conduct background checks, and I can't *guarantee* that everyone will be cleared.)

Summary of Requirements and Grading

Preparation and Participation – 20% of your total grade

Our class meetings will primarily focus on conversation about the readings and the larger issues that they address. It is essential for you to be an active and productive participant in our conversations. To do this, you must carefully read (and often re-read) the assignment before class, and come to our meetings with questions and ideas to discuss. There will occasionally be more specific assignments for you to complete. More details about expectations and grading standards are printed below.

Response Papers – 60% of your total grade (15% each)

As we are examining the different views, it is important for you to reflect on the ideas presented and to develop your own thoughts in response. Four times throughout the semester (as indicated on the schedule below), you will articulate and support your views on the material in a moderate-length essay. More details about the assignment are printed at the end of this syllabus.

Oral Final Examination – 20% of your total grade

During the final exam period, I will conduct a 30-40 minute oral examination of each student. The exam will be comprehensive, and may cover any of the material that we've read or discussed this semester. This one-on-one conversation will give you the best opportunity to demonstrate that you have understood, synthesized, and reflected on the issues and views that we've examined throughout the semester. More details will be provided toward the end of the semester.

Writing Fellow

XXX is an outstanding junior Politics major who took this course two years ago, and then served as the "Writing Fellow" last year – and will be serving as the Writing Fellow again this semester. Having honed her own skills in composing clear and convincing philosophical essays about punishment and responsibility, she will now be working with you to develop yours. Of course, I will also be happy to meet with you at any point in the semester; X's help is meant to supplement mine, not to replace it.

Before the due-date for each of the brief essay assignments, X will be available for one-on-one meetings to help you develop your ideas and map out your arguments. And starting with the second essay, she will also discuss the feedback you've received, to help you determine how to address my comments and suggestions in the next essay. More details about how those meetings will work are included with the explanation of the paper assignment at the end of the syllabus.

Each student will be **required** to meet with X before each of the first two papers. You will be **strongly encouraged** to meet with her before each of the remaining essays. Simply put: the more you work with X, the better your essays will be!

Please be sure to respect X's time and schedule at least as much as you would mine. Skipping a meeting with her, or cancelling less than 24 hours in advance, will result in your overall grade for the course being lowered by 1% (i.e., about a third of a notch) each time that happens.

Tentative Schedule of Topics and Assignments

1. Justifications of Punishment

Wed. Jan. 17 introductory discussion: why should criminals be punished?

A. Pure Deterrence

Fri. Jan. 19 Primoratz, *Justifying Legal Punishment*, ch. 2: "The Utility of Punishment"
** bring completed clearance forms for prison tours*

Mon. Jan. 22 Wilson, *Thinking about Crime*, chs. 7-8: "Penalties and Opportunities" and "Incapacitation"
OR: Nagin, "Deterrence and Incapacitation" **** marked by last initial on CLEo ****

B. Pure Retribution

Wed. Jan. 24 Morris, "Persons and Punishment"

Fri. Jan. 26 Morris, "Persons and Punishment" – *reread*

Mon. Jan. 29 Davis, "Harm and Retribution"

Wed. Jan. 31 Murphy, "Getting Even: The Role of the Victim"

** Thu. Feb. 1 @ 8:15 a.m. – trip to Washington State Penitentiary (Walla Walla)*

Fri. Feb. 2 discussion of trip to WSP

Mon. Feb. 5 Lippke, "Retribution and Incarceration"
Newman, *Just and Painful*, chs. 6 and 8: "Splitting Crimes from Criminals"
and "Comparing Punishments"
**** first essay due**

C. Hybrid of Deterrence + Retribution

Wed. Feb. 7 Hart, "Prolegomenon to the Principles of Punishment," secs. 1-2

Fri. Feb. 9 Rawls, "Two Concepts of Rules," secs. 1 & 3-4

D. Communication & Education

Mon. Feb. 12 Feinberg, "Expressive Function of Punishment," secs. 1-3 & 5

Wed. Feb. 14 Hampton, "An Expressive Theory of Retribution," secs. 1-4 & 6

Fri. Feb. 16 Hampton, "The Moral Education Theory of Punishment"

Mon. Feb. 19 NO CLASS – Presidents' Day

E. Rehabilitation & Restoration

Wed. Feb. 21 Rotman, "Beyond Punishment"

Fri. Feb. 23 *skim* excerpts of "How to Escape Your Prison: A Moral Reconciliation Therapy Workbook"
skim parts of the "Redemption Program" workbook
guest speaker: Kathy Farrell-Guizar, Department of Corrections and The STAR Project
* noon – trip to Eastern Oregon Correctional Institution (Pendleton)

Mon. Feb. 26 discussion of trip to EOCI

Wed. Feb. 28 Barnett, "Restitution: A New Paradigm of Criminal Justice"

* Fri. Mar. 2 – class runs until 11:50
guest speaker: Jim Huffman, Victim Support Services

Mon. Mar. 5 Christie, "Conflicts as Property"
Zehr & Mika, "Fundamental Concepts of Restorative Justice"
** second essay due

Wed. Mar. 7 Duff, "Restorative Punishment and Punitive Restoration"

Fri. Mar. 9 Duff, "Restorative Punishment and Punitive Restoration" – cont.

SPRING BREAK

2. Issues of Responsibility

A. Justification and Excuse in General; Legal "Insanity"

Mon. Mar. 26 Hart, "Legal Responsibility and Excuses"

Wed. Mar. 28 Morse, "Brain and Blame"

Fri. Mar. 30 Feinberg, "What Is So Special about Mental Illness?"

Mon. Apr. 2 Moore, "Mental Illness and Responsibility"
* bring completed clearance form for Juvenile Justice Center

Wed. Apr. 4 Bayles, "Character, Purpose, and Criminal Responsibility"

Fri. Apr. 6 Reznick, *Evil or Ill?*, excerpts

B. Psychopathy

- Mon. Apr. 9** Murphy, "Moral Death"
Wed. Apr. 11 Elliott, "Morals, Lions, and Psychopaths"
Fri. Apr. 13 Litton, "Criminal Responsibility and Psychopathy"
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C. Age

- Mon. Apr. 16** Steinberg & Scott, "Less Guilty by Reason of Adolescence"
Beckman, "Crime, Culpability, and the Adolescent Brain"
optional: Roper v. Simmons (2005 Supreme Court decision banning capital punishment of juveniles)
**** third essay due**
- Wed. Apr. 18** Morse, "Immaturity and Irresponsibility," secs. 1 & 3-4
Fri. Apr. 20 Zimring, "Penal Proportionality for the Young Offender"
** Fri. Apr. 20 @ 1:45 – trip to Walla Walla County Juvenile Justice Center*
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D. Addiction

- Mon. Apr. 23** Morse, "Hooked on Hype," secs. 4-6
Wed. Apr. 25 Sinnott-Armstrong, "Are Addicts Responsible?"
Fri. Apr. 27 Levy, "Addiction, Responsibility, and Ego Depletion"
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E. Social Deprivation

- Mon. Apr. 30** Tonry, *Malign Neglect*, chs. 4 and 5: "Social Adversity and the Criminal Law"
and "Social Adversity and Punishment"
**** fourth essay due**
- Wed. May 2** Lippke, "Social Deprivation as Tempting Fate," sec. 2
Fri. May 4 Delgado, "'Rotten Social Background' [...]"
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- Mon. May 7** semester wrap-up