

PSCI 23910
Theories of Punishment

Department of Political Science
The College of Wooster
Fall 2019

Professor: Sid Simpson

Course Information:

TR 9:30am - 10:50am
Kauke Hall 237

Contact Information:

Email: ssimpson@wooster.edu

Office Hours: Wednesdays 9:30am to 11:00am and Thursdays 11:00am - 12:30pm in Morgan 303 or by appointment

Course Description:

Why do we punish? How do we justify it? Is punishment, ultimately, good? In this course, we will examine a range of philosophical treatments of punishment, texts in political theory and contemporary case studies (involving issues like corporal punishment, symbolic punishment, outgroup alienation) in order to better triangulate the very function of punishment in society. We will begin with the thesis that punishment, as a whole, is good: the rehabilitative and restorative traditions, along with relevant readings from thinkers like Kant and Hegel, articulate the moral and social benefits of punishment. As the semester proceeds, we will look to more instrumental utilizations of punishment, as referenced by utilitarian and deterrent traditions along with readings from Bentham and Machiavelli. Finally, we will look to historical genealogies of punishment coming out of Nietzsche and Foucault, which argue that our received understandings of punishment are predicated on a contingent history of conflicting narratives that ultimately has come to deny or exploit us. As we confront this broad spectrum of viewpoints, from 'punishment as a possibility for righting the soul' to 'punishment as a vector of power exerted upon us', we will continually revisit the questions of *why* we punish and *to what end* we punish.

Questions relevant to contemporary politics to highlight: What political ramifications does punishing someone have? What effect does the rally-round-the-flag effect have? What happens when we punish other groups symbolically or physically? Can punishment be justified even if the accused is innocent? What forms of punishment are defensible? What does a philosophy of punishment have to do with mass incarceration? Should prisons be abolished?

Course Requirements:

Students are required to complete all assigned readings, participate actively during class meetings, take a midterm and final, and write two papers.

A. Required Texts

Readings will either come from the books listed below or be available on Moodle.

Alexander, Michelle. *The New Jim Crow*. New York: The New Press, 2010.

Davis, Angela. *Are Prisons Obsolete?* New York: Seven Stories Press, 2003.

Foucault, Michel. *Discipline and Punish*. New York: Vintage, 1975.

Gilmore, Ruth Wilson. *Golden Gulag*. Berkeley: University of California Press, 2007.

Nietzsche, Friedrich, Walter Arnold. Kaufmann, and Reginald John. Hollingdale. *On the Genealogy of Morals; Ecce Homo; Friedrich Nietzsche*. New York: Vintage, Div. of Random House, 1967.

B. Grading

Grades will be based on a midterm and final (20% each), a shorter paper (5-7 pages, due Oct 3rd for 15%), a final research paper (12-15 pages, due Dec 5th for 25%) and participation (20%).

Late assignments will be deducted one third of a letter grade (e.g., from a B+ to a B) for every 24 hours that the assignment is late.

The grading scale is standard:

A: 93-100	C+: 77-79
A-: 90-92	C: 73-76
B+: 87-89	C-: 70-72
B: 83-86	D: 60-69
B-: 80-82	F: 59 or below

No incompletes will be given for this class.

Academic Honesty and the Code of Academic Integrity

The College's understanding and expectations in regard to issues of academic honesty are fully articulated in the Code of Academic Integrity as published in *The Scot's Key* and form an essential part of the implicit contract between the student and the College. The Code provides a framework at Wooster to help students develop and exhibit honesty in their academic work. You are expected to know and abide by the rules of the institution as described in *The Scot's Key* and the *Handbook of Selected College Policies*.

Learning Center: Academic Support and Disabilities.

The Learning Center (ext. 2595) offers services designed to help students improve their overall academic performance. Sessions are structured to promote principles of effective learning and academic management. Any student on campus may schedule sessions at the Learning Center. The Learning Center also offers a variety of services and accommodations to students with disabilities based on appropriate documentation, nature of disability, and academic need. In order to initiate services, students should meet with the director of the Learning Center, at the start of the semester to discuss reasonable accommodations.

Schedule of Readings:

August 22: *Introduction - What is punishment? Why do we punish? What is the political function of punishment? How do we punish?*

- Foucault, Michel. *Discipline and Punish*. pp. 3-7

August 27: *Would we want to be punished? Or would we want to get away with the crime?*

- Plato. *Gorgias*. 469a - 479e. (pp. 52-69)

August 29: *Should we always know the right thing to do? What if we were just ignorant of the law? What if we didn't know any better?*

- Rachels, James. "Are There Absolute Moral Rules?" *The Elements of Moral Philosophy*. pp. 125-135

September 3: *Can we punish people if we don't even have free will?*

- Kane, Robert. "The Free Will Problem." *A Contemporary Introduction to Free Will*. pp. 1-10
- Eagleman, David. "The Brain on Trial." *The Atlantic*.
<https://www.theatlantic.com/magazine/archive/2011/07/the-brain-on-trial/308520/>

September 5: *What if the situation pushes us to commit a crime we might not otherwise have committed?*

- Milgram, Stanley. "The Dilemma of Obedience." *Obedience to Authority: An Experimental View*. pp. 1-12
- Sommers, Tamler. "The Power of the Situation." *A Very Bad Wizard*. pp. 29-59

September 10: *What is retribution, and why do we need it? Can we will our own punishment?*

- Kant, Immanuel. "On Penal Right and the Right of Pardon." *Metaphysics of Morals*. pp. 128-134
- Primoratz, Igor. "Punishment as Retribution: Hegel." *Justifying Legal Punishment*. pp. 67-81

September 12: *How can punishment make the most people happy? How do we deter people?*

- Bentham, Jeremy. *An Introduction to the Principles of Morals and Legislation*. Chs. 1, 4, 13, 14 (sec. I - XV)

September 17: *Could we punish an innocent person for the good of the entire community?*

- Koerth-Baker, Maggie. "Crime Despite Punishment." *Undark*. <https://undark.org/article/deterrence-punishments-dont-reduce-crime/>
- Primoratz, Igor. "Arguments Against the Utilitarian Theory." *Justifying Legal Punishment*. pp. 33-45
- Sommers, Tamler. "Trolley Problems." *A Very Bad Wizard*. pp. 131-150

September 19: *Can public justice rekindle our love of the fatherland? To what extent does civil society demand that the sovereign can punish?*

- Machiavelli, Niccolo. *Discourses on Livy*. Book I, sec 7,8 & Book III, sec 1
- Hobbes, Thomas. "Of Punishments and Rewards." *Leviathan*, Ch. 28
- "White Bear" *Black Mirror*. Season 2, Episode 2.

September 24: *Can punishment help us reckon with horrors and atrocities?*

- Wyzanski, Charles. "Nuremberg: A Fair Trial? A Dangerous Precedent." *The Atlantic*. <https://www.theatlantic.com/magazine/archive/1946/04/nuremberg-a-fair-trial-a-dangerous-precedent/306492/>
- Arendt, Hannah. *Eichmann in Jerusalem*. pp. 120-122
- Butler, Judith. "Hannah Arendt's Challenge to Adolf Eichmann." *The Guardian*. <https://www.theguardian.com/commentisfree/2011/aug/29/hannah-arendt-adolf-eichmann-banality-of-evil>

September 26: *What is the role of the victim in punishment?*

- Murphy, Jeffrie. "Getting Even: the Role of the Victim." *Social Philosophy and Policy*. pp. 202-225
- Tullis, Paul. "Can Forgiveness Play a Role in Criminal Justice?" *The New York Times*. <http://www.nytimes.com/2013/01/06/magazine/can-forgiveness-play-a-role-in-criminal-justice.html>

October 1: *How should we treat our inmates? What would an alternative approach look like?*

- Garbus, Martin. "Cruel and Usual Punishments in U.S. Prisons." *LA Times*. <http://www.latimes.com/opinion/op-ed/la-oe-garbus-prison-cruel-and-unusual-20140930-story.html>
- "Prisoner Abuse: How Different are U.S. Prisons?" *Human Rights Watch*. <https://www.hrw.org/news/2004/05/13/prisoner-abuse-how-different-are-us-prisons>
- Larson, Doran. "Why Scandinavian Prisons are Superior." *The Atlantic*. <https://www.theatlantic.com/international/archive/2013/09/why-scandinavian-prisons-are-superior/279949/>
- Fisher, Max. "A Different Justice." *The Atlantic*. <https://www.theatlantic.com/international/archive/2012/08/a-different-justice-why-anders-breivik-only-got-21-years-for-killing-77-people/261532/>

October 3: *SCREENING OF LONG NIGHT'S JOURNEY INTO DAY, SHORTER PAPER DUE***October 8: No Class - Fall Break****October 10: No Class - Fall Break****October 15:** *Can punishment clear the way for a more peaceful relationship after a war or genocide?*

- Roht-Arriaza, Naomi. "The New Landscape of Transitional Justice." *Transitional Justice in the Twenty-First Century: Beyond Truth Versus Justice*. pp. 1-14
- "Guatemala Genocide Trial: Witnesses of Atrocities Tell Their Stories." *The Guardian*. (video) <https://www.theguardian.com/commentisfree/video/2013/may/10/guatemala-genocide-trial-victim-video>
- Wingfield-Hayes, Rupert. "Japan Revisionists Deny WW2 Sex Slave Atrocities." *BBC News*. (articles and videos) <http://www.bbc.com/news/world-asia-33754932>

October 17: MIDTERM

October 22: *Nietzsche I - What is genealogy? Has the meaning of punishment changed?*

- Nietzsche, Friedrich. "Preface" and "Essay I: Good and Evil, Good and Bad." *On the Genealogy of Morals*. pp. 15-56. (read all, but focus on Sections 1, 3, 5 & 6 in the Preface and Sections 2-4, 6, 7, 9-11, 13-14, & 16-17 in Essay I)

October 24: *Nietzsche II - Is punishment resentful? What does it mean to be merciful out of meekness? Merciful out of excess of strength?*

- Nietzsche, Friedrich. "Essay II: Guilt, Bad Conscience and the Like." *On the Genealogy of Morals*. pp. 57-96

October 29: *Foucault I - Do we punish the body or the soul?*

- Douthat, Ross. "Crime and Different Punishments." *The New York Times*. <https://www.nytimes.com/2017/04/22/opinion/sunday/crime-and-different-punishments.html>
- Foucault, Michel. "The Body of the Condemned," *Discipline and Punish*. pp. 3-31

October 31: *Foucault II - Why aren't people drawn and quartered anymore?*

- Foucault, M. "The Spectacle of the Scaffold," *Discipline and Punish*. pp. 32-69

November 5: *Foucault III - What brought about penal reform?*

- Foucault, M. "Generalized Punishment," *Discipline and Punish*. pp. 73-103

November 7: *Foucault IV - What is the effect of surveillance on policing?*

- Foucault, M. "Panopticism," *Discipline and Punish*. pp. 195-228

November 12: *Mass Incarceration I - Why does the U.S. house 25% of the world's inmates?*

- Mock, Brentin. "Why Jails are Booming." *The Atlantic*. <https://www.theatlantic.com/politics/archive/2017/06/why-jails-are-booming/528837/>
- "Incarceration Nation." *American Psychological Association*. <http://www.apa.org/monitor/2014/10/incarceration.aspx>
- Enns, Peter. "Introduction." *Incarceration Nation*. pp. 1-18
- Whitehead, John. "Jailing Americans for Profit: The Rise of the Prison Industrial Complex." *The Huffington Post*. http://www.huffingtonpost.com/john-w-whitehead/prison-privatization_b_1414467.html

November 14: *Mass Incarceration II - What roles do class and race play in mass incarceration?*

- Wacquant, Loïc. "Bourdieu, Foucault, and the Penal State in the Neoliberal Era." *Foucault and Neoliberalism*. pp. 114-133
- Coates, Ta-Nehisi. "The Black Family in the Age of Mass Incarceration." *The Atlantic*. <https://www.theatlantic.com/magazine/archive/2015/10/the-black-family-in-the-age-of-mass-incarceration/403246/>

November 19: *Mass Incarceration III - What is the 'new' Jim Crow? What is the relationship between the 13th amendment and private prisons?*

- Alexander, Michelle. "The New Jim Crow." *The New Jim Crow*. pp. 178-220.
- *13th*, directed by Ava DuVernay.

November 21: *Mass Incarceration IV - What are the conditions under which racialized categories of criminality are reproduced? How do we change them?*

- Alexander, Michelle. "The Fire This Time." *The New Jim Crow*. pp. 221-261.

November 26: *Prison Abolition I - Why do we have prisons at all? What is the structuring role of gender in the experience of incarceration? **Talk to me about your final paper by this date.***

- Davis, Angela. "Introduction - Prison Reform or Prison Abolition?" *Are Prisons Obsolete?* pp. 9-21
- Davis, Angela. "How Gender Structures the Prison System" *Are Prisons Obsolete?* pp. 60-83
- Davis, Angela. "The Prison Industrial Complex" *Are Prisons Obsolete?* pp. 84-104

November 28: No Class Meeting - Thanksgiving

December 3: *Prison Abolition II - What do geography and surplus have to do with building cages?*

- Kushner, Rachel. "Are Prisons Necessary? Ruth Wilson Gilmore Might Change Your Mind." *The New York Times*. <https://www.nytimes.com/2019/04/17/magazine/prison-abolition-ruth-wilson-gilmore.html>
- Gilmore, Ruth Wilson. "Introduction" *Golden Gulag*. pp. 5-29

December 5: *Prison Abolition III - What next? What is the relationship between prisons and punishment? **FINAL PAPER DUE***

- Davis, Angela. "Abolitionist Alternatives" *Are Prisons Obsolete?* pp. 105-115
- Gilmore, Ruth Wilson. "What Is to Be Done?" *Golden Gulag*. pp. 241-248

December 11: FINAL at 9am