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Office Hours:
Tuesdays, 2 -3pm
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Description:
The desire to punish seems to be a universal human trait with deep psychological, moral, and practical foundations. At the same time the practices and meanings associated with punishments, what has been called the “penal field” or “penality,”¹ vary enormously across time and

¹ The notion of a “penal field” derives from the sociology of Pierre Bourdieu. For Bourdieu, “fields,” along with the related concepts of “habitus” and “capital”, is used to describe action in complex social worlds where outcomes depend on both external and internal characteristics of the players in competitive domains like law, journalism, fashion, or punishment. See Joshua Page, “Punishment and the Penal Field”, in Jonathan Simon and Richard Sparks eds., The Sage Handbook of
place. This is especially true when we consider those examples of
punishment that take place under the legal authority of a state or
government. Whatever may be true of practices of punishment within
the family, or specialized institutions like schools, monasteries, and
militaries, punishment as a legal institution is a part of state power,
which is our main concern, and like other aspects of the legal order
must be understood to address multiple concerns and audiences. In
particular, "mass incarceration," the profound enlargement of prison
systems in the United States since the 1970s, and its concentration on
economically marginal members of racial and ethnic minorities,
requires attention to politics, social structures, and cultural meanings.

This course explores the roots of penal change in the advanced
economic countries since the 18th century, with special attention to
California’s penal crisis in the early 21st century and comparisons with
trends in the rest of North America, Europe, Asia, and South America.

**Learning Objectives:**
Students should be equipped to participate as informed citizens (either
alone or on behalf of organizations) in the pressing public debate about
the future of punishment that is emerging in California and the United
States and looming in much of the rest of the world. To be so equipped
requires knowledge from different disciplines about different aspects of
punishment. At the end of this course, full-time participants should
have made significant gains in their understanding of, or capacity for, all
of the following: (1) Students should be able to understand the different
social purposes that punishments generally and specific historically
significant penal practices serve, as well as the social meanings they
produce and engage. (2) Students should be able to identify the salient
features of specific penal practices, such as public scaffold execution, or
penitentiary-style incarceration, that have at one time or another served
to anchor the larger penal field in early modern and modern societies,
and the underlying structural features of those societies that these
practices successfully address or accommodate. (3) Students should be
familiar with the state and social institutions and social forces that

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*Punishment and Society (2013) 152. “Penality” comes from the work of David
Garland who defines it as “the complex of laws, processes, discourses and
institutions which are involved in [the penal] sphere.” See, David Garland,
Punishment and Modern Society: A Study in Social Theory (1990), 10 n. 12*
influence or are interested in the penal field and which derive power from that field. (4) Students should know the development history of our current penal practices and what alternatives have been tried or untried in the past that might change our present circumstances. (5) Students should hone their ability to draw on empirical and normative scholarship about punishment in this and other societies to evaluate the claims made on behalf of our current penal practices or proposals that might replace them.

Evaluations and Assignments:
Students will be evaluated through three dimensions with the following weights.

- **Examinations**: 40 percent (20 percent in-class midterm, 20 percent final)
- **Research Paper**: 40 percent (10 percent rough draft, 30 percent final paper)
- **Section participation and assignments**: 20 percent

**Research Paper**
During the semester you will be introduced to the work of many researchers in the field of punishment and society, but we will closely read recent book-length studies by two eminent scholars on two of our most distinctive penal practices: David Garland on capital punishment, and Mona Lynch on mass incarceration in Arizona. Both Garland and Lynch each provides a powerful and distinctive analytic approach to their respective subjects that can be generalized and applied to other topics in the penal field (and generally to much of legal studies). For your research paper, you should choose the analytic approach of either Garland or Lynch and apply their approach to a different topic in the penal field. During the first month of the course, all the instructors will offer frequent examples in class and section of such topics. Your paper should not only teach the reader about the topic you are researching, but also provide a critical review of how Garland or Lynch can help us gain insight into the topic and any limitations or “blind-spots” that you find introduced by that approach. You will have up to 3,000 words. You must agree on a topic with your GSI by March 14. Your rough draft, worth 10 percent of your class grade, will be due in class on April 4th.
and your final paper, worth an additional 30 percent, must be submitted to your GSI by email before midnight Friday, May 10th.

**Student Responsibilities:**
Students are expected to attend all lectures and section meetings having already prepared any required readings or section assignments (students are strongly encouraged to obtain and review at least one recommended reading per week). During the first two weeks of classes, when we will be taking attendance in order to permit students on the waiting list to add the class, you must contact us on the same day of any absence. Thereafter, if you will be absent for more than two lectures or one section meeting due to illness of yourself or a dependent you should notify your GSI.

**Classroom expectations:**
While in class please turn your cell phone off or, if you must monitor it, set it to silent mode. You may use your laptop to take notes and when relevant, seek outside information for class discussion, but **do not sleep or read emails, newspapers, or other non-class related materials during class.** This is a matter of basic respect toward your fellow students and instructors.

**Mindfulness:**
The topics of this course include many subjects on which strong feelings and emotions may be generated. Students are encouraged to speak up with questions and comments and to respond to points raised by other students. The maintenance of an effective discussion space in class, however, requires all of us to act with respect for and sensitivity toward everyone else in the room. To advance that, I will begin each class with a minute of mindfulness during which I will ask everyone to remain silently seated, either meditating or silently reflecting on the class, and during which your laptop screen must be closed.

**Special Needs due to Disabilities:**
It is a high priority of this class to assure complete accessibility to all students no matter the nature or degree of dis-or-different ability. If you have special needs we will make every effort to accommodate them. For more information contact the Disabled Students Program at UC
Books and Assigned Readings:


Assigned readings other than from these three sources will be available online through a provided url (which may require calnet account or comparable library access) or as a pdf on bspace (for academic use with this class only).

Lecture Topics and Assignments:

Pt I. Punishment and Social Theory

We often say that the urge to punish is natural and recognize a failure to punish a clear wrongdoer as unjust. But where does this common sense intuition come from? In this unit we explore some productive frameworks from different disciplines for understanding this intuitive sense of rightness about punishment including psychology, philosophy, economics, criminology, and sociology.

1. **January 22. Between the psychology of retribution and the philosophy of dignity: Locating Punishment in Law and Society**

Assigned reading:

*Mass Incarceration on Trial*, Introduction [available on bspace]
Recommended reading:

http://www.sciencemag.org/content/322/5907/1510.full

http://ojls.oxfordjournals.org/content/25/1/141.short


Assigned reading:

http://heinonline.org/HOL/Page?handle=hein.journals/ucinlr38&div=8&g_sent=1&collection=journals

http://pun.sagepub.com/content/2/4/417.full.pdf+html

Recommended reading:

Emile Durkheim, *The Division of Labor in Society*, pp. 31-76 (bspace)


Assigned reading:

Michel Foucault, *Discipline and Punish: The Birth of the Prison* (translated by Alan Sheridan 1977), pp. 3-31


Recommended reading:


4. January 31. The Birth of the Penitentiary

Assigned reading:


Recommended reading:


Part II: Peculiar Institution: The Death Penalty in an Age of (Global) Abolition

In this section of the course we will examine the oldest and most problematic part of our contemporary set of penal techniques: the
killing of a prisoner as punishment, known as “the death penalty” or “capital punishment.” The United States, along with Japan, remains the only major industrialized democracy to still use capital punishment to punish crimes. Through David Garland’s recent study of America’s death penalty in a global comparative context, we will attempt to understand why the death penalty persists in the US, and how long and under what conditions it is likely to endure in the US and in the world.

5. February 5. The American Way of Death

Assigned reading:

*Peculiar Institution*, pp. 1-69

Recommended reading:


Assigned reading:

*Peculiar Institution*, 70-150

Recommended Reading:

Cesare Beccaria, *Of Crimes and Punishment* (1764), Ch. 27-8
[http://www.constitution.org/cb/crim_pun.htm](http://www.constitution.org/cb/crim_pun.htm)

Franklin Zimring, *The Contradictions of American Capital Punishment* (Oxford University Press 2003), chapter 2 (excerpt on bspace)
7. **February 12. The American Death Penalty and its Modernization**

Assigned reading:

*Peculiar Institution*, 151-230


Assigned reading:

*Peculiar Institution*, 231-313

Franklin Zimring, “Endgame for death penalty in California,” San Francisco Chronicle, December 8, 2012


Recommended:


Austin Sarat, *When the State Kills: Capital Punishment and the American Condition* (2001), pp. 60-84 (bspace)

9. **February 19. A Comparative Case Study: Capital Punishment in India**

Assigned reading:
Franklin Zimring and David Johnson, “Executing Kasab: A New Beginning, or the Beginning of the End for India’s Death Penalty,” Economic and Political Weekly (Mumbai, India) http://www.epw.in/system/files/pdf/2012_47/52/Executing_Kasab.pdf?ip_login_no_cache=ef0a10b0737953c9691414940681b7f7

Recommended reading:


10. February 21: In Class Midterm

Pt. III. The Prison and its Alternatives in Modern Societies
The partial abolition discussed in class 10 was possible because a new penal method had emerged to provide a convincing method of punishment and social control, the penitentiary-style prison.


Assigned readings:


Recommended readings:


12. **February 28. Prison Labor**

Assigned reading:


Recommended reading:


13. **March 5. Prison Discipline and Rehabilitation**

Assigned readings:


Recommended Reading:


**Pt. IV. MASS INCARCERATION AND BEYOND**

Between the 1970s and the 2000s, the US embarked on a pattern of imprisonment unprecedented in history. California was an extreme but revealing example. The California prison population grew by over 500 percent between 1976 and 2006. Since the early part of this century California’s prison system has been in a state of sustained crisis with chronic overcrowding and unfulfilled court orders requiring billions of dollars in improvements to prison health systems to prevent unconstitutional death and suffering by prisoners. Under a 2011 Supreme Court decision California is engaged in a historic effort to downsize its prisons, a process known as “realignment” that will require Californians to reconsider the ends and means of a legitimate and moral prison system.

14. **March 7. From Reform to Warehousing: The Nature of Mass Incarceration**

Assigned readings:

*Sunbelt Justice*, pp. 1-84

Recommended readings:

15. March 12. Building a Penal State in the West

Assigned readings:

*Sunbelt Justice*, pp. 85-173

Recommended reading:

*Mass Incarceration on Trial*, chapter 1


Assigned readings:

*Sunbelt Justice*, pp. 174-230

Recommended


http://www.mitpressjournals.org/doi/pdf/10.1162/DAED_a_00023

17. March 19. The Experience of Incarceration
Assigned reading:


Recommended reading:


Assigned reading:

Laura Piacentini, “Penal Identities in Russian Prison Colonies,” Punishment Society 2004; 6; 131
http://pun.sagepub.com/content/6/2/131.short

Recommended reading:


Assigned readings:

20. **April 4. Supermax or Secured Housing Unit Prisons**

Assigned reading:

*Mass Incarceration on Trial*, chapter 2

[http://www.motherjones.com/politics/2012/10/solitary-confinement-shane-bauer](http://www.motherjones.com/politics/2012/10/solitary-confinement-shane-bauer)

Recommended reading:


Sharon Shalev, *Supermax: Controlling Risk through Solitary Confinement* (Willan, 2009)


[http://www.newyorker.com/reporting/2009/03/30/090330fa_fact_gawande](http://www.newyorker.com/reporting/2009/03/30/090330fa_fact_gawande)
Security Threat Group Prevention, Identification, and Management Strategy (California Department of Corrections and Rehabilitation, March 1, 2012)


Assigned reading:

Mass Incarceration on Trial, chapter 3

Mass Incarceration on Trial, chapter 4

Recommended reading:

Benjamin Fleury-Steiner and Carla Crowder, Dying Inside: The HIV/AIDS Unit at Limestone Prison (University of Michigan Press)


22. April 11. Overcrowding and the Crisis of Mass Incarceration
Assigned reading:

*Mass Incarceration Trial*, chapter 5

*Plata v. (Schwarzenegger) Brown*, 3 judge court opinion and order (excerpts on bspace)


Assigned reading:

*Mass Incarceration on Trial*, chapter 6

*Brown v. Plata*, 130 S.Ct. 1960 (Supreme Court 2011) (excerpt on bspace)


Assigned reading:

Dirk van zyl Smit, TBA

Recommended reading:


26. **April 23. Realignment I: Restorative Justice**

Assigned reading:

Recommended reading:


27. **April 25. Realignment II. Revitalizing Probation or the Return of the Jail?**

Assigned reading:


Recommended reading:


28. **April 30. Realignment III. Monetary Fines (and their equivalents)**

Assigned reading:


Recommended reading:
29. **May 2. Reimagining Penal Justice for an Age of Chronic Illness, Globalization, and Big Data**

Required reading:

*Mass Incarceration on Trial, Conclusion*

Recommended reading: