

PHIL 177-B: Punishment & Responsibility

Whitman College – Spring 2012

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Course Description and Goals

Our society places extraordinary emphasis on punishment: the United States has one of the highest incarceration rates in the world, with well over two million people in our prisons and jails. Walla Walla itself is home to the Washington State Penitentiary, which currently houses nearly 2000 inmates, and which was recently expanded to increase its capacity significantly[†]. 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 for punishment? What kinds of punishment are or are not justified?
- ★ **Responsibility:** Under what circumstances is or isn't it appropriate to punish someone? What are the 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 owner 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?

Time and attention will also be devoted to developing the general interpretive, analytical, and argumentative skills that are necessary for doing any kind of philosophy well.

While questions of punishment and responsibility have occupied thinkers for millennia, in this class we will focus on current views. This means that we will be examining some difficult and complicated texts in contemporary philosophy. 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.

[†] Though now, because of budget cuts, some parts of WSP have been closed, and other parts might be closed soon.

Course Materials

There are no books that you need to buy for the course. Instead, all of the readings will be available on the course CLEo site (explained below). They will be posted as “Resources,” organized by topic.

I strongly recommend that you print out the readings so that you can mark them up, and have them available in class and when writing papers. If you do 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!

CLEo & E-mail

Being registered for this course automatically gives you access to the CLEo site that I will be maintaining. To log in to the site, simply go to <http://cleo.whitman.edu> (or use the pull-down menu on the right side of the students’ version of the main Whitman webpage). Your username and password are the same as for your Whitman e-mail account. The site is pretty simple to navigate. Please take a few minutes now to poke around and see what is (or could be) there.

If you have questions, ideas, information, and/or links that you’d like to share with the class, you’re welcome to use the class list-server, which can be accessed through the CLEo site. Note that I will often distribute important announcements, reminders, and clarifications through the class list-server. One of your responsibilities for this course is to *check your account every day!*

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 (best grade 20%, others 10% 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. About once every two or three weeks (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 brief (30 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.

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. I encourage you to talk *now* with any relevant faculty, coaches, directors, etc. about those days to make any needed arrangements. 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 – though I've never yet heard of a student who wasn't.)

Academic Honesty

All of the work that you submit in this course must be entirely your own. Of course, you can seek help in a variety of ways as you're working on the papers. So it is **permitted** (and even encouraged!) for you: to consult additional readings, to search for material on the internet, to discuss your ideas with other students, to exchange notes with other students, and to read and to discuss drafts of each other's papers. But it is **not permitted** for you to use someone else's words or specific ideas in your written work without providing a proper citation to the source. Even if it's an accident, it's still plagiarism! You have a responsibility to keep track of the sources of the words and ideas in your work, and to include citations to them.

Plagiarism will *not* be tolerated in any form. You have signed a statement indicating that you understand and will abide by the College policy on plagiarism. **Any student caught plagiarizing will automatically fail the course, and may be expelled from the College.** For more details, see the Student Handbook.

If you have *any* questions about what would or wouldn't be plagiarism in this context, please just talk with me about it *in advance*.

Tentative Schedule of Topics and Assignments

Tue. Jan. 17 course introduction

1. Justifications of Punishment

A. Deterrence

Thu. Jan. 19 Primoratz, *Justifying Legal Punishment*, ch. 2: "The Utility of Punishment"

Mon. Jan. 23 Wilson, *Thinking about Crime*, chs. 7-8: "Penalties and Opportunities" & "Incapacitation"
optional: Nagin, "Deterrence and Incapacitation" (more recent data, but a bit more technical)

Tue. Jan. 24 Hart, "Prolegomenon to the Principles of Punishment," secs. 1-2

Thu. Jan. 26 Rawls, "Two Concepts of Rules," secs. 1 & 3-4

B. Retribution

- Mon. Jan. 30** Morris, "Persons and Punishment"
Tue. Jan. 31 Morris, cont.
Thu. Feb. 2 Davis, "Harm and Retribution"
** Fri. Feb. 3* *afternoon field trip to Washington State Penitentiary (Walla Walla)*
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- Mon. Feb. 6** discussion of trip to WSP *first response paper due*
Tue. Feb. 7 Murphy, "Getting Even: The Role of the Victim"

C. Communication & Education

- Thu. Feb. 9** Feinberg, "Expressive Function of Punishment," secs. 1-3 & 5
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- Mon. Feb. 13** Hampton, "An Expressive Theory of Retribution," secs. 1-4 & 6
Tue. Feb. 14 Hampton, "The Moral Education Theory of Punishment"
Thu. Feb. 16 Shafer-Landau, "Can Punishment Morally Educate?"
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- Mon. Feb. 20** NO CLASS – Presidents' Day

D. Rehabilitation & Restitution

- Tue. Feb. 21** Rotman, "Beyond Punishment" *second response paper due*
** Wed. Feb. 22* *day-long field trip to Coyote Ridge Corrections Center (Connell, WA)*
Thu. Feb. 23 discussion of trip to Coyote Ridge
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- Mon. Feb. 27** Barnett, "Restitution: A New Paradigm of Criminal Justice"
Tue. Feb. 28 Sayre-McCord, "Criminal Justice and Legal Reparations [...]"

2. Types of Punishment

- Thu. Mar. 1** Lippke, "Retribution and Incarceration"
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- Mon. Mar. 5** Newman, *Just and Painful*, ch. 6: "Splitting Crimes from Criminals"
Murtagh, "Is Corporally Punishing Criminals Degrading?"
Tue. Mar. 6 Pojman, "Why the Death Penalty Is Morally Permissible"
Thu. Mar. 8 Pojman, cont. *third response paper due*

———— SPRING BREAK ————

3. Issues of Responsibility

A. Justification, Excuse, and Mitigation in General

- Mon. Mar. 26** Hart, "Legal Responsibility and Excuses"
Tue. Mar. 27 Morse, "Brain and Blame"
Thu. Mar. 29 Bayles, "Character, Purpose, and Criminal Responsibility"
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- Mon. Apr. 2** Husak, "Partial Defenses," secs. 1 & 3-5

B. Insanity

- Tue. Apr. 3** Feinberg, "What Is So Special about Mental Illness?"
Thu. Apr. 5 Moore, "Mental Illness and Responsibility"
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- Mon. Apr. 9** Reznek, *Evil or Ill?*, excerpts
Tue. Apr. 10 NO CLASS – Undergraduate Conference

C. Psychopathy

- Thu. Apr. 12** Murphy, "Moral Death" *fourth response paper due*
Elliott, "Morals, Lions, and Psychopaths," excerpt
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- Mon. Apr. 16** Levy, "The Responsibility of Psychopaths Revisited" + responses

D. Age

- Tue. Apr. 17** Steinberg & Scott, "Less Guilty by Reason of Adolescence"
Beckman, "Crime, Culpability, and the Adolescent Brain"
optional: edited version of Roper v. Simmons (2005 Supreme Court decision banning capital punishment of juveniles)
Thu. Apr. 19 Morse, "Immaturity and Irresponsibility," secs. 1 & 3-4
*** Fri. Apr. 20** *afternoon field trip to Walla Walla County Juvenile Justice Center*
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- Mon. Apr. 23** Zimring, "Penal Proportionality for the Young Offender"

E. Addiction

- Tue. Apr. 24** Husak, "Addiction and Criminal Liability"
Thu. Apr. 26 Morse, "Hooked on Hype," secs. 4-6

Mon. Apr. 30 Levy, "Addiction, Responsibility, and Ego Depletion"

F. Social Deprivation

Tue. May 1 Tonry, *Malign Neglect*, chs. 4 and 5: "Social Adversity and the Criminal Law" & "Social Adversity and Punishment"

Thu. May 3 Delgado, "'Rotten Social Background' [...]"

fifth response paper due

Mon. May 7 Lippke, "Social Deprivation as Tempting Fate," sec. 2

Tue. May 8 semester wrap-up

Class Participation Expectations and Standards

Most of our time together will be spent in a group conversation about the issues, views, and questions suggested by the readings. You will learn not only from the authors and from me, but also from each other.

As with any conversation, you can't usefully participate if you don't have anything to contribute or if you don't know what you're talking about. So it is essential that you come to our meetings well-prepared:

- Carefully read (and often re-read) the assignment before class.
- Reflect on the reading, and identify some questions, issues, and ideas that are worth discussing.
- Complete any additional assignments that have been given.

Everyone in the class should be a part of our conversation. With over 20 of us in the room, no one person needs to talk all of the time. As long as you are regularly involved in the discussion, the *quality* of your contributions is much more important than the *quantity* of time that you're speaking. There are many different ways of contributing, all of which are very important. You should work to find the forms of participation that are most effective for you. At the same time, I hope that you don't settle into a rut, but rather try different forms of participation on different occasions.

I understand that everyone has good days and not-so-good days; some of the readings and issues will engage you more than others. Your participation grade will be based on your overall involvement throughout the semester. These are the grading criteria that will be used:

An **OUTSTANDING** participant (A-level) typically:

- Displays genuine enthusiasm and engagement with the readings and issues.
- Plays a leadership role and advances the conversation to new levels.
- Contributes complex insights into the readings and issues.
- Draws connections among the different readings and issues.
- Raises provocative new questions, issues, and ideas.
- Enhances the participation of others by questioning, actively listening, and sharing time.

A **GOOD** participant (B-level) typically:

- Shows interest and effort.
- Actively listens and volunteers.
- Stays on-topic and furthers the conversation.
- Expresses substantial, well-supported ideas.
- Asks good questions about the readings and issues.
- Engages other students, and not just me.

An **ADEQUATE** participant (C-level) typically:

- Listens but does not volunteer.
- Shows acquaintance with the readings and some signs of preparation if called on.
- Offers reactions to the readings, but without specific textual references or other support.

UNACCEPTABLE (failing) behavior includes any of the following:

- Frequent absence.
- No evidence of preparation.
- Dozing off in class. (If you're that sleepy, you should simply go home and take a nap!)
- Other signs of disengagement at our meetings: doodling, working for another class, etc.
- "Toxic" or hostile behavior that undermines our intellectual community.

Response Papers

The purpose of the response papers is to give you a forum throughout the semester to develop and express your own thoughts about the course material. The only requirements are:

1. Your essay must make direct contact with at least one specific and significant idea from one of the readings since the previous paper.

(Note: You should not write about the reading assigned for the day the response paper is due; you'll be able to write about that in your next paper, after we've had a chance to discuss the reading in class.)

2. Your essay must make a point: explain and support a particular claim / thesis.

Your essay shouldn't simply present a series of reactions, but should instead be shaped into a unified argument with a definite conclusion.

Some of the possibilities include:

- Identify and explore one of the important assumptions behind an author's view.
- Provide further or different support for one of an author's claims.
- Present an objection to one of an author's claims.
- Explore the connections between two different aspects of an author's view.
- Relate one author's ideas to another author that we read.
- Extend or apply one of the author's main ideas to some other issue that she or he doesn't consider.

These are only suggestions; any other topic is fine, as long as it satisfies the two requirements listed above.

Length: There is an *absolute* maximum length of **1300 words**. (*I mean it! – longer papers won't be accepted!*)

Format:

- Your essay should be typed using 12-point Times New Roman font, with one-inch margins all around.
- In the upper left-hand corner, single-spaced, you should list your name, the course, my name, and the date.
- The title of your essay should be centered and in bold font, and it should indicate the specific topic or view that you will discuss. (Cleverness is optional.)
- The body of your paper should be double-spaced.
- You should use parenthetical citation, not footnotes or endnotes.
- You should *not* include a list of works cited, *unless* you use sources that aren't assigned for this class.
- At the end of your essay, you should include a word-count.
- Multiple pages must be stapled together. If possible, please print on both sides of the paper.

Citation (very important!): If you use someone else's exact words, you *must* put them in quotation marks, and you must give proper acknowledgment. You *must* also acknowledge the source of any specific passages or ideas that you paraphrase. **Failing to include proper citations could be deemed to be a form of plagiarism!**

For this assignment, informal citation is fine. After the end of the quote or paraphrase, include a brief parenthetical citation in the text. For outside sources, just include enough information for your reader to be able to find the original source.

Due: Response papers are due at the **beginning of class on the due date.**

Extension Policies:

- If you have a Whitman-sanctioned activity (such as a sport), a religious observance, or a pre-planned family event (such as a wedding), you should talk with me in advance, and I'll be happy to make any reasonable accommodation.
- If you have an unexpected emergency (such as a significant illness or death in the family), you should talk with one of Whitman's Powers That Be (such as the Dean of Students or Counseling Center) as soon as you can afterwards. Once I get official clearance, I will be happy to make any reasonable accommodation.
- For any other reason you like, or for no particular reason at all, you may take a 4-day (exactly: 96-hour) extension on *any two* of the papers. You don't need to tell me in advance; you can simply submit that paper at the later time. Papers submitted outside of our class meetings should be left in my mailbox in the main Olin office, *not* slid under my office door.

**** Late papers will not be accepted for credit under any other circumstances!!!***

Elements of a Successful Philosophy Paper

A successful philosophical essay advances a position with clarity, momentum, and the force of compelling evidence. It must include:

1. A **thesis**. A thesis is not just the topic or issue you are writing about, it is what you are claiming about that topic or issue. It should be stated clearly and fully at the outset of the paper. Surprise is not a virtue!
2. Clear **organization**. The body of the essay should proceed in a logical way that builds toward your thesis. A paragraph is not just a typographical unit but also an intellectual unit: one paragraph should equal one main idea. So, each paragraph should make a single main step, building from the previous paragraphs/ steps and toward your overall thesis.
3. Explicit **structure**. Each paragraph should have its own "paragraph thesis," stated at its beginning, which that paragraph tries to establish. You should also make it clear to your reader how each paragraph / step contributes to your overall thesis.
4. Careful use of **textual evidence**. Every idea that you attribute to the author should be grounded in citations to specific passages from the text. You should use direct quotes only if the exact words of the author are important, or if you couldn't possibly capture the idea better yourself; otherwise, you should paraphrase. Whenever you do quote, make sure that you explain what you get out of that passage and how it fits into your discussion.
5. Thorough and convincing **arguments** in support of your thesis about the author's views. Simply stating your view isn't enough; you need to articulate as clearly and carefully as you can why you accept it. Provide as complete a statement of your reasoning as you possibly can, and when you reach its foundation, identify your starting assumptions explicitly. If you can think of any examples to help illustrate your view, present them and explain how they help. As well, you should consider what kinds of objections or counter-examples might be presented, and do your best to avoid or address them.
6. **Mechanical correctness**. There is no excuse for mistakes! You should refer to Hacker's *Pocket Style Manual* for matters of grammar and usage, and to your dictionary for matters of spelling. Make sure that you proofread very carefully.

Grading Standards:

It is important to understand that the quality of your understanding and insight cannot directly be graded. All that can be graded is the *product* of that understanding and insight: your paper. These are the standards of evaluation that I employ:

An **OUTSTANDING** (A-level) paper:

- Reveals a thorough and careful understanding of the reading.
- Contains sophisticated and penetrating insights into the reading and issues.
- Draws interesting and thought-provoking connections among ideas.
- Moves well beyond our class discussions.
- Is written in lucid and elegant prose.
- Is well-organized, with a logical flow.
- Displays a clear structure, with a helpful introduction, transitions, and conclusion.
- Is virtually flawless in its mechanics, with almost no typos, misspellings, or mistakes of grammar or punctuation.

A **GOOD** (B-level) paper:

- Indicates a good grasp of the reading and issues.
- Proposes a thesis that goes beyond what's directly stated in the text and what we directly discussed in class.
- Develops a coherent line of argument.
- Is written clearly enough to convey its points.
- Follows a discernible structure.
- Has few mechanical errors, such as typos, misspellings, and mistakes of grammar and punctuation.
- May compensate for weakness in some aspects with particular strength in others.

A **POOR** (C-level) paper:

- Displays some understanding of the reading and issues.
- Meets the fundamental requirements of the assignment.

but has serious flaws, such as:

- Incomplete or partially mistaken views about the reading or issues.
- Too little substance beyond summarizing the reading.
- Insufficient evidence and argumentation to articulate and support its basic claims.
- Lack of a central line of argument or discussion, instead jumping from topic to topic.
- Writing that is too unclear to convey specific thoughts.
- Major mechanical errors – too many typos, misspellings, and/or mistakes of grammar and punctuation.

UNACCEPTABLE (failing) work may include any of the following:

- A complete misunderstanding of the material.
- A lack of substance normally found in college-level work.
- Incomprehensible writing.