SYLLABUS FOR EXP-0076-S

CRIME AND PUNISHMENT: CONTEMPORARY ISSUES IN CRIMINAL JUSTICE

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Course Description: Outside of the classroom, crime and punishment are areas of popular discourse; and many who are engaged in this conversation tend to misunderstand and question not only the procedures and outcomes of publicized cases, but also the overarching philosophical concerns about fairness. Commonly asked questions include: What are the objectives of the criminal justice system? Is it more difficult to convict than to defend criminals? What are the guiding principles of American criminal justice and in what way are they applied? This course will attempt to explore these and other questions as we uncover the evolutionary nature of crime and the criminal process in the United States. This survey will begin with an introduction to the common law and include consideration of select constitutional principles in an effort to address classical and contemporary theories of justice.

As an introduction to the American criminal justice system (CJS), emphasis will be placed on the functional components of the system and the way in which they are related to the social experience. To the extent that criminal justice is interdisciplinary, we may at times cover aspects of criminal justice that relate to criminology, sociology, law, history, psychology, philosophy and political science. Over and above the goal of delivering basic information about the CJS, this course will seek to enhance the student’s ability to think about, articulate and draw conclusions about major justice issues. The course will follow two basic themes: 1) as previously suggested, the interdisciplinary nature of criminal justice; and 2) the legal principles and inherent policy considerations that are drawn from the assigned cases and projects that illumine the substantive and procedural issues relating to a) prosecuting and defending the accused; b) concepts of conviction and acquittal; c) the legal and philosophical foundations of sentencing and punishment.

Learning and Teaching: In approaching the course readings, focus closely on the cases and highlight key concepts, make marginal notations, comments and questions for reinforcement of the material or for future class discussion. During class, certain areas of the case readings will be emphasized, but this by no means discounts the relevance and value of other areas not expressly covered in detail. It will be your responsibility to initiate discussion on those areas that are of interest or raise further questions about areas that may have been covered in less depth.
Briefing: Of particular importance is the student’s implementation of a classic methodology in the reading of court cases. Specifically, the most useful approach to studying cases is to “brief” them. Briefing cases is a simple yet highly effective method to assure a basic understanding of the relationship of facts to principles of law and the necessary comparisons that flow from case to case. Students will be required to “brief” and organize each assigned case in a portfolio. The briefing process will be further discussed and demonstrated in the first class.

Structure: Many students will enter this class with firm viewpoints and assumptions about crime and the effectiveness of the CJS in addressing myriad issues connected to crime. It is in terms of an interactive approach to connecting those viewpoints with the course material and exercises that the course will come alive and have real meaning. Accordingly, the syllabus will outline the case readings for each class; each case review may entail a series of commentary, questions and class discussions relating to the assigned cases. Students should be prepared to participate in this process either individually or by means of small discussion groups.

Course Outcomes: The student should be able to:

1. Explain the sources of substantive and procedural American criminal law;
2. Understand the functional structures of the criminal justice system;
3. Understand the process of criminalization;
4. Understand the evolutionary nature of the law and its permutations through the common law and statutory process;
5. Demonstrate a basic understanding of the definition of criminal acts and the susceptibility of these definitions to change;
6. Understand the nature of morality and its application to the criminal law;
7. An appreciation for the tensions that exists between public order versus liberty interests and similar competing values;
8. Understand the constitutional issues that are necessarily related to law enforcement and the prosecution of criminal offenders;
9. Understand the interactions that occur between the various actors professionally engaged in the criminal justice system;
10. Understand the purpose of punishment and role of corrections.

COURSE REQUIREMENTS AND PERFORMANCE ASSESSMENTS:

1. INTRODUCTION: CONTEMPORARY TOPIC PRESENTATION

In addition to the readings and class discussions, each student is required to offer a class presentation on a current criminal justice topic. The point of this exercise is to create a learning environment addressing contemporary issues to be formally presented to a classroom community of diverse experiences, learning objectives and viewpoints. You will review the list of topics and select one for independent inquiry, presentation, and the moderating of class discussion on the topic. In lieu of selecting off the list, you may submit a written topic proposal to the instructor for approval.
THE SELECTION PROCESS

Select a topic by submitting four (4) choices in the order of preference. Please submit your choices to the instructor as soon as your choices have been made. If you decide to propose your own topic, please email a written description and request for approval. Topic assignments and presentation dates will be forwarded by email within 24 hours of receipt of the topic choices.

The following guidance is suggested for the classroom presentation:

(1) Beginning statement that explains the issue;
(2) Discussion of the main positions related to the issue;
(3) Engagement of the class in a meaningful period of questions and commentary; and
(4) A clear and unequivocal assertion of your own position supported by sound reasoning and adequate evidence.

The student should explore the ways his/her investigation and research have brought to life the varying or conflicting positions related to the topic. If the student’s findings contradict course coverage, conventional thinking, or even the student’s personal experiences, then the objective is to support the position. In presenting and leading a discussion, part of the challenge will be to anticipate the types of questions and comments that will be elicited to assure that your responses will be informative and meaningful. NOTE: each member of the student audience is evaluated in terms of his/her familiarity with the topic and responsiveness to the student’s presentation.

II. THE FILM ESSAY

The film essay focuses on either an in-class screening of documentary and/or dramatic film; or it may be assigned for an independent out-of-class viewing (if time does not allow for in-class screening) covering classic or contemporary issues in criminal justice. You are to submit a written essay (6 - 8 pages, double-spaced) that relates to the justice principles and issues central to the film. As guidance in developing your film essay:

(1) spot the issue(s);
(2) ask the questions necessary for coming to an understanding of those issues; and
(3) develop a written discussion that integrates the cinematic text and images to the identified themes specifically related to crime and the justice system.

Students will be expected to assess the legal principle(s); the social and moral consequences in the implementation or abrogation of the principle(s); and how the film brings these considerations into focus. In sum, you are to deliberate over the film’s takeaway in answering how the film illuminates its thesis and amplifies the content of this course. The essay is due the week prior to the final examination.
III. WEEKLY BRIEFING PORTFOLIO

The readings are dominantly case decisions offered to clarify and expand upon legal principles. To achieve maximum understanding and to serve as an aid for class discussion, students are required to “brief” each of the cases and to collect the briefs in a portfolio. The briefing exercise will provide a means for effectively reviewing the cases for class discussion and examination preparation. Please sequence the briefs in the order of the case reading assignments listed below.

WEEKLY ASSIGNMENT SCHEDULE:

**Weeks 1 and 2:** *Orientation to the Course and introduction to Crime, Punishment, and the Rule of Law*

*Case Readings:*
- *The Nuremberg Hypothetical* (in class)
- *Rex v. Manley*, 1 K.B. 524 (1933)

**Weeks 3:** *The General Principles of Criminal Law I*

*Case Readings:*

**Week 4:** *The General Principles of Criminal Law II*

*Case Readings:*
- *Jones v. United States*, 308 F.2d 307 (1962)
- *Regina v. Faulkner*, 13 Cox CC 550 (1877)

**Week 5:** *Criminal Law Defenses: Excuse, Justification, and Beyond I*

*Case Readings:*
- *Dir. of Public Prosecutions v. Smith, House of Lords* (1960)
- *The Model Penal Code Culpability Provisions*
- *Freddo v. State*, 155 SW 170 (1913)
**Week 6:**  MID-TERM EXAMINATION

and

*Criminal Law Defenses: Excuse, Justification, and Beyond II*
(if necessary, carry-over from Week 5)

also (if time permits)

CLASSROOM SCREENING:
*Scottsboro: An American Tragedy*
or
*Gideon's Trumpet*

**Week 7:**  *Criminal Law Defenses: Excuse, Justification, and Beyond III*

**Case Readings:**
- *Mullaney v. Wilbur*
- *Patterson v. New York*
- *The Case of Joy Baker* [trial transcript]

**Week 8:**  *Criminal Law Defenses: Excuse, Justification, and Beyond IV*

**Case Readings:**
- *State v. Crawford*
- *State v. Warshow*, 410 A2d 1000 (1979)

**Week 9:**  *Criminal Law Defenses: Excuse, Justification, and Beyond V*

**Case Readings:**
- *Regina v. Dudley and Stephens*, 14 QBD 273 (1884)

THE FOLLOWING ASSIGNED CASES ARE DECISIONS OF THE UNITED STATES SUPREME COURT. THESE CASES MAY BE GOOGLED AS WELL AS LOCATED ON SEVERAL WEBSITES, INCLUDING:

WWW.LAW.CORNELL.EDU/SUPREMECOURT
WWW.JUSTIA.COM
Week 10: Criminal Punishment and the Constitution I

Case Readings (select excerpts):
- McGautha v. California [Revisited]
- Furman v. Georgia (1972) and its progeny, including a review of:
  - Gregg v. Georgia (1976)
  - Coker v. Georgia (1977)
  - Kennedy v. Louisiana (2008)

Week 11: Criminal Punishment and the Constitution II

Case readings:
- Continuation of remaining cases from Week 10;
- Ewing v. California (2003) and an historical review of cases, including:
  - Rummel v. Estelle (1980)
  - Hutto v. Davis (1982)
  - Solem v. Helm (1983)

Week 12 and beyond: Criminal Punishment and the Constitution II

- Continuation of remaining cases from Week 11;

CLASSROOM SCREENING: TBA

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The Bill of Rights, Trial by Jury, Interrogations and Confessions and the Role and Functions of Prosecutors and Defense Counsel

Case readings:
- Gideon v. Wainwright (1963)
- Escobedo v. Illinois (1964)
- Miranda v. Arizona (1966) and a review of its progeny, including:
- Massiah v. United States (1964)
- Scott v. Illinois (1979)

The Fourth Amendment and the Exclusionary Rule

Case readings:
- Weeks v. United States (1914)
- Wolf v. Colorado (1949)
- Mapp v. Ohio (1961)

EVALUATIVE CRITERIA AND WEIGHT:

1) Midterm exam (20%)*
2) Final exam (30%)*
3) Film essay (20%)
4) Discussion topic presentation (20%);
5) Case briefing portfolio (10%)

*NOTE: Examinations will comprise brief essay questions based on case readings and class discussions, as well as the analysis of fact patterns.