

January 5, 2017

**CRIME, PUNISHMENT, INJUSTICE
Law and Philosophy Seminar
LAWJ-1401-08/PHIL 738-01**

**Judith Lichtenberg and David Luban
Spring 2017
Fridays, 1:20-3:20**

The class will usually be held at the law school in the Hotung dining room, on the main floor of Hotung. We will occasionally meet on the main campus, and will advise you accordingly.

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Criminal justice is in disarray, and in recent years punishment practices have come under searching scrutiny. Issues include over-punishment, mass incarceration and its consequences in minority communities, the role of race, and the morality of specific punishment practices (long-term solitary confinement, life without parole, adult punishments for juveniles, the death penalty). Are there morally acceptable alternatives to punishment, or does crime demand some form of punishment? These raise old philosophical questions in new form: What is punishment for? What roles should deterrence, retribution, rehabilitation, and providing closure to crime victims play? How should the law respond to genuine evil? These questions concern not only justice in the U.S.—they exist in debates over international criminal justice in response to atrocity crimes, a subject that two speakers will address.

This is a colloquium-style seminar, meaning that individual class sessions will host visiting scholars making presentations of their own research, some from Georgetown and others from elsewhere. Georgetown faculty are also invited to attend the colloquium.

Course requirements

Your grade for this seminar will be based on three components:

(1) Preparation for, and attendance and participation in, the seminar sessions. You must read the paper in advance, and each student is required to prepare at least one question or comment to pose to the speaker about their work. As explained below, at each session half the class will also provide written comments on the work for the speaker; but all students should bring a question to all sessions. Of course, we do not expect that there will be time for everyone to ask their question, but over the course of the semester we will try to ensure that all students have an opportunity to speak in class.

We expect regular attendance; if circumstances force you to miss two consecutive sessions, please notify us. Otherwise we worry.

(2) Six 300-600-word comments on the readings. We will assign half the class to post comments on Canvas each week. Please post them on the Discussion tab in Canvas no later than the Wednesday before the seminar at 8 p.m. so that they can be sent to the author (20 percent).

(3) Seminar paper and associated activities. Our evaluation will include not only the quality of the final paper but also fulfillment of the preparatory requirements leading up to it (see below). (80 percent).

Failure to meet deadlines without permission may be reflected in your seminar grade. Please hand in all of your work electronically by posting it on the Canvas site set up for this class. Law students should submit their final paper directly to the Office of the Registrar, which will time-stamp it and deliver it to us. Please submit it electronically as well, however, because the Registrar will send the hard copy to only one of us.

Below are additional explanations of what we are looking for in the various components of the seminar. A few updates and corrections are likely.

I. Comments on the readings

You will be asked to post comments of 300-600 words on the week's reading for *half the classes*. (No comments are required for our first introductory class.) You can comment about any aspect of the reading you choose. The point is to focus your thinking and prepare you to participate in class discussions. Your comment should include at least one question for the speaker to address and that you should be prepared to pose orally. The postings are due by 8 p.m. on Wednesday evening before the class, so that they can be sent to the guest and so we all have time to reading them before the class. Before class, try to read all your classmates' postings for the week.

II. Seminar papers

The final grade for the paper will be based on its scholarly quality: an excellent paper will have an interesting, original, and well-defined thesis; show research into and proper understanding of the relevant literature and philosophical, legal, or policy concerns (depending on your choice of topic); and present a coherent argument in well-written prose, with footnotes in proper citation form (Bluebook for law students; any recognized citation system for other students).

Choosing a topic: the biggest challenge!

We strongly encourage you to meet with one or both of us to discuss your paper topic. In general, finding a good topic is the most difficult part of writing a paper, and it will require significant preliminary research on your part. Here are a few things to keep in mind:

- Although the seminar is titled "Law and Philosophy," we do not require that the paper be philosophical, and law students without advanced training in philosophy will probably want to write a more typical doctrinal or policy paper similar to a law review article or student note. Naturally, philosophy graduate students will wish to write a philosophy

paper, although nothing should prevent you from consulting and incorporating relevant legal literature.

- We do not require that your paper be on the same subjects as the various colloquium presenters, but a good place to start your topic-search is by looking at their work for ideas.
- For philosophy students, writing a well-worked-out rejoinder to another scholar's paper is of course a very typical genre. That can include writing rejoinders to papers presented in the colloquium. If that is your route, it will be important to familiarize yourself, at least in a preliminary way, with the author's other published scholarship on related topics. That may actually inspire you to write about one of the author's other works rather than the one presented in the colloquium. Law students may also choose to write a paper of this sort, but we would caution you against writing "philosophical disputations" unless you have significant background in philosophy.
- Naturally, all papers should be on the theme of the colloquium: the U.S. or international criminal justice systems, approaches to punishment, or alternatives to punishment.
- You must get our approval of your topic.
- Please read the pages (109-10) on plagiarism in the [GULC Bulletin](#) and "[What Is Plagiarism?](#)" on the main campus's Honor Council website.

Papers by law students

Your research papers are expected to be at least 6,000 words (excluding notes). The Law Center has specified requirements for seminar papers that satisfy the writing requirement. The following paragraph comes from the [Georgetown Law Bulletin](#) (pp. 3-4) and sets out these requirements in full bureaucratic glory:

The following are the technical requirements for the upperclass legal writing requirement, which must be completed in accordance with the professor's instructions and schedule: (1) use of legal forms of citation (when appropriate); (2) submission of an outline; (3) submission of a first draft of at least 6,000 words (excluding footnotes); (4) submission of a revised final paper of at least 6,000 words (excluding footnotes) based on the professor's comments.

Also required: (1) advance submission of a paper topic, to be approved by us; and (2) preparation of an annotated bibliography or bibliographic essay, to be submitted simultaneously with the outline.

Papers by students from the main campus

Your seminar papers are expected to be at least 6,000 words (excluding notes). In general the requirements are the same as those for the law students. But outlines, bibliography, and drafts are

optional. If you choose to submit any of these, the due dates are the same as for the law students.

Important due dates

Submit paper topic: Friday, February 17.

Submit outline: Friday, March 3.

Submit bibliography and draft: Friday, March 31.

Submit final paper: graduating law students, May 1; graduating seniors, May 8; others, May 16.

III. Attendance and participation

Engaged and informed discussion in class is essential. We encourage even those of you who are generally quiet to participate in class discussion. Outstanding contributions to the class discussion may raise your grade by up to half a grade. No student will be graded down based on quality of discussion, but persistent lack of preparation can lower your grade.

SCHEDULE

**Readings will be posted on Canvas (under Files) a week or two before the class.
Titles and topics are tentative and may be updated.**

January 13. Introduction.

“Crime, Punishment, and International Law” (reading posted on Canvas).

January 20. No class: Inauguration Day.

January 27. [Marc Howard](#), Georgetown, Government.

“Unusually Cruel: Prisons, Punishment, and the Real American Exceptionalism”

February 3. [Máximo Langer](#), UCLA, Law.

“The Archipelago and the Wheel: The Universal Jurisdiction and the International Criminal Court Regimes”

February 10. [Erin Kelly](#), Tufts, Philosophy.

“Law Enforcement in an Unjust Society”

February 17. [Deborah Denno](#), Fordham, Law.

“Concocting Criminal Intent”

February 24. [Paul Butler](#), Georgetown, Law.

“Chokehold: Policing Black Men”

March 3. [Neha Jain](#), Minnesota, Law.

“Radical Dissents in International Criminal Trials”

March 10. No class: main campus spring break.

March 17. No class: law school spring break.

March 24. [Victor Tadros](#), Warwick, Law.
“Wrongs and Crimes”

March 31. [Judith Lichtenberg](#), Georgetown, Philosophy.
“Against Life Without Parole”

April 7. [Marcia Baron](#), Indiana, Philosophy.
“Sexual Consent, Reasonable Mistakes, and the Case of Anna Stubblefield”

April 12 (**Wednesday!**). [Joshua Kleinfeld](#), Northwestern, Law and Philosophy.
“Democratic Criminal Justice”

April 14. No class: Good Friday.

April 21. [Allegra McLeod](#), Georgetown, Law.
“Imagining Abolition”

April 28. [James Forman, Jr.](#), Yale, Law.
“Locking Up Our Own: Crime and Punishment in Black America”