**Description:**

This course surveys the development of Western penal practices, institutions, and ideas (what David Garland calls “penality”) from the eighteenth-century period to the present. Our primary focus will be on penal practices and discourses in the United States in the early 21st century. In particular we will examine the extraordinary growth of US penal sanctions in the last quarter century and the sources and consequences of what some have called “mass imprisonment.” To gain some comparative perspective the course will also take up contemporary penalities in Europe, South Africa, Central America, and Asia, as well as US penality and society at some earlier conjunctures.

In our analysis of penalty, we will draw upon a range of social science theories with general relevance but with particularly rich application to the study of punishment. These theories provide the “tool kits” we will use to interpret and analyze multiplex implications of punishment and its relationship to changes in economic, social, and political relations associated with modernization and more recently the globalization of modern capitalism.

The course will examine many examples of penal practices and the ideas associated with them including mass imprisonment, the death penalty, and restorative justice. In the last portion of the class we will examine the recent crisis in California’s juvenile prisons through the lenses both of different social theories and the examples of different national and historical penal patterns.

**Evaluations and Assignments:**

Students in the class will be evaluated in three ways.

**Midterm examination:** 25% of the total grade
In class March 1, 2007

Final examination 50% of the total grade

(Both exams will involve multiple-choice questions as well as brief essays.

Section Performance: 25% of the total grade.

Special Section Research Project: Documenting California Penalty
In the third week of classes, GSIs will hand out lists of possible research topics on California penal policy and practice. Topics will include all of California’s many prisons and juvenile detention facilities,1 recent executions of California prisoners, current legal cases involving California penal practices, books on California penal policy, Governor Schwarzenegger’s reform proposals. You will be expected to prepare (and possibly present) a 5 minute oral presentation on your topic. Further instructions will be provided in the third week of classes. The assignment will be due in the third class following spring break.

Due April 17, 2007

Student Conduct:

Attendance: Students are expected to attend all lectures and section meetings having already prepared any readings or assignments. If you are unable to attend due to illness of yourself or a dependent you need not contact the GSIs or the Professor unless you will be absent for more than a week in which case you should be prepared to offer medical verification of the problem. During the first two weeks of classes, however, 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.

Class room expectations: While in class please turn your cell phone off or if you must monitor it, set it to manner-mode. If your laptop has wireless access you may use it to access information relevant to the discussion but please do not read emails, newspapers, or other non-class related materials during class. 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.

Plagiarism: According to the College of Letters and Sciences:

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1 Prisons are now located in virtually every county in California. Anyone who wants to visit a prison as an individual or small group can make their assignment a report on the visit (and we can help you make arrangements through the regular public tour program of the Department of Corrections).
All written work submitted for a course, except for acknowledged quotations, must be expressed in the student's own words. It must also be constructed upon a plan of the student's own devising. Work copied without acknowledgement from a book, from another student's paper, from the internet, or from any other source is plagiarized. Plagiarism can range from wholesale copying of passages from another's work to using the views, opinions, and insights of another without acknowledgement, to paraphrasing another person's original phrases without acknowledgement.

The submission of such work will, under University rules, render the offending student subject to an F grade for the work in question or for the entire course, at the discretion of the instructor, and will also make the student liable for referral to the SJA.

Special Needs due to Disabilities:

If you have special needs due to disabilities we will make every effort to accommodate them. For information on University policies regarding students with disabilities, and federal and state laws affecting people with disabilities, contact: http://dsp.berkeley.edu/sbin/dspACCESS.php? _page=dspCertForms

Texts:

Please purchase:


- Further assignments will be made directly to journal articles available from the digital library through campus networked computers (proxy server instructions can be found at:

  - http://www.lib.berkeley.edu/Help/connecting_off_campus.html;

  - Articles available on LexisNexis can be found by going to the Guided Search page under the Law Review subtitle of the Legal Research at http://web.lexis-nexis.com/universe/form/academic/s_lawrev_more.html?_m=7b2d1eccaed06c6e04d11c7c0fc67422&wchp=dGl6bVtbzSkVA&_md5=74577e5939756ae0b9a88861c0e8ea41 and searching for
Recommended:

Professor Simon’s lectures will make repeated reference to the following (which will also be placed on reserve). Particular chapters of these books will be recommended in the schedule of assignments. Students interested in deeper study of contemporary penality are encouraged to obtain and read through these books in their entirety:


Class Topics and Assignments
Reading Assignments for each unit are expected to be covered in a single class period. Always prepare for class by reading one unit ahead of where the previous class ended).

1. Global Penal Practices at the Millennium, an Overview
   Topics: Mass imprisonment; Torture, Abu Ghraib and Human Rights; the Execution of Saddam Hussein; Decline of the American death penalty?

   Assigned Reading:
   ▪ Seymour M. Hersh, Torture at Abu Ghraib, The Newyorker, 2004
     http://www.newyorker.com/fact/content/articles/040510fa_fact?040510fa_fact

   Recommended Reading:
   ▪ Marc Mauer, Race to Incarcerate (New York: New Press, 1999)
   ▪ Bruce Western, Punishment and Inequality (London: Sage, 2006)

2. Punishment and Society
   Topics: Normative arguments about just punishment for crime; punishment considered as a social institution, a historical practice, a body of ideas, images, sensibilities, an experience; other institutions of social control, families, hospitals, shelters, detention centers, camps

   Assigned Reading:
   ▪ Punishment and Modern Society, chap. 1

   Recommended Reading:
3. Punishment and Social Solidarity

Topics: Emile Durkheim’s theory of penal evolution; Durkheim’s theory of the division of labor; Capital crimes in comparative perspective; Contemporary sex offender law

**Assigned Reading:**
- Punishment & Modern Society, chapter 2

**Recommended Reading:**

**Further Reading:**
4. Punishment and Authority

Topics: Punishment and the limits of sovereignty; Lynching and “popular justice” in Central and South America; Traditional courts versus international human rights standards in post-genocide Rwanda

Assigned Reading:

- Punishment & Modern Society, chapter 3

Recommended Reading:

Further Readings:


5. Punishment and Political Economy: Prison and Labor Market

Topics: The “prison industrial complex”; The effect of mass incarceration on the U.S. labor market during the 1990s

Assigned Reading:

- Punishment & Modern Society, chapter 4

Recommended Reading:

- George Rusche and Otto Kirchheimer, *Punishment and Social Structure* (original 1939; Transaction edition edited and with a new introduction by Dario Melossi, 2005)

Further Reading:
- S. Spitzer, “Marxist Perspectives in the Sociology of Law,”

6. Punishment and Hegemony
Topics: Neoliberal penalty; Immigration detention and the global economy

**Assigned Reading:**
- *Punishment & Modern Society*, chapter 5

**Recommended Reading:**

7. Punishment and Technologies of Power
Topics: The Prison as an individualizing technology; Bentham’s Panopticon; Super-Max Prisons

**Assigned Reading:**
- *Punishment & Modern Society*, chapter 6

**Recommended Reading:**

**Further Reading**
http://bjc.oxfordjournals.org/cgi/reprint/40/2/205

8. Punishment and Governance
The persistence of the prison; Mass imprisonment; State variation

Assigned Reading:
http://pun.sagepub.com/cgi/reprint/8/1/5

Recommended Reading:
http://www.jstor.org/cgi-bin/jstor/printpage/01923234/ap040026/04a00040/0.pdf?backcontext=page&d owhat=Acrobat&config=jstor&userID=a9e52087@berkeley.edu/01cce44063 00501b5a20b&0.pdf
http://tcr.sagepub.com/cgi/reprint/9/2/175
http://pun.sagepub.com/cgi/reprint/7/3/243.pdf

Further Reading
- Richard Sparks, “Bringin’ it all back home: Populism, media coverage and the dynamics of locality and globality in the politics of crime control,” in Kevin
- Michael Tonry, Punishment and politics: evidence and emulation in the making of English crime control policy (Devon, UK: Willan, 2004) (all chapters relevant, but you might want to start with Chapter 3)

9. **Rationalization of Punishment**

Topics: Penal bureaucracy; New Penology

**Assigned Reading:**
- Punishment & Modern Society, chapter 8

**Recommended Reading:**

Further Reading:

10. Punishment and Sensibilities
Topics: the abolition of public executions; the problem of inhumane punishments; the current controversy over lethal injection

Assigned Readings:
- Punishment & Modern Society, chapter 10


Recommended Reading:

Further Reading:
  [http://www.ingentaconnect.com/content/routledg/rbjs/1999/00000050/00000002/art00005]
  [http://pun.sagepub.com/cgi/reprint/2/4/417]

11. The Decline of the Death Penalty in Europe and N. America from late 18th century until the late 20th century

**Assigned Reading:**

**Recommended Reading:**
  [http://pun.sagepub.com/cgi/reprint/8/3/365]

**Recommended:**
- David Brion Davis, “The Movement to Abolish Capital Punishment in America, 1787-1861,” The American Historical Review (1957), Vol. 63, Issue 1, pp. 23-46 (JSTOR: [http://www.jstor.org/cgi-bin/jstor/printpage/00028762/di951314/95p00045/0?frame=noframe&dpi=3&userID=a9e52087@berkeley.edu/01cce4406200501b3c594&backcontext=pag e&backurl=/cgi-bin/jstor/viewitem/00028762/di951314/95p00045/0%3fframe%3dnoframe%26dpi%3d3%26userID%3da9e52087@berkeley.edu/01cce4406200501b3c594%26config%3d%26PAGE%3d0&action=download&config=jstor]

Assigned Reading:

  http://pun.sagepub.com/cgi/reprint/7/4/347

Recommended Reading:

  http://pun.sagepub.com/cgi/reprint/7/4/377
  http://pun.sagepub.com/cgi/reprint/7/4/385
- Jonathan Simon, “Why Do You Think They Call It Capital Punishment? Reading the Killing State,” Law & Society Review (2002), Vol. 36, Issue 4, pp. 783-812 (http://www.jstor.org/cgi-bin/jstor/printpage/00239216/ap050004/05a00050/0?frame=noframe&dpi=3&userID=a9e52087@berkeley.edu/01cce4406200501b3c594&backcontext=page&backurl=/cgi-bin/jstor/viewitem/00239216/ap050004/05a00050/0%3fframe%3dnoframe%26dpi%3d3%26userId%3da9e52087@berkeley.edu/01cce4406200501b3c594%26config%3d%26PAGE%3d0&action=download&config=jstor)
  http://pun.sagepub.com/cgi/reprint/4/4/459

13. Capital Punishment: The Asian Experience

Assigned Reading:

  http://pun.sagepub.com/cgi/reprint/8/3/251
14. The Persistent Prison
Topics: The failure of prisons and their reform

IN CLASS PRESENTATION
Quiet rage [videorecording] : the Stanford prison study / produced and directed by Ken Musen ; written by Ken Musen and Philip Zimbardo.

Recommended Reading:
- http://www.prisonexp.org/

Further Reading:
- Charles Dickens, American Notes, Chapter 7: Philadelphia, And Its Solitary Prison, (online version: www.people.virginia.edu/~jlg4p/dickens/amnotes/dks7.html) {originally published 1842}
- John H. Langbein, “The Historical Origins of the Sanction of Imprisonment for Serious Crime,” The Journal of Legal Studies (1976), Vol. 5, Issue 1, pp. 35-60 (http://www.jstor.org/cgi-bin/jstor/viewitem/00472530/ap020011/02a00030/0%3fframe=noframe%26dpi=3&userID=a9e52087@berkeley.edu/01cce4406200501b3c594&backcontext=p age&backurl=/cgi-bin/jstor/viewitem/00472530/ap020011/02a00030/0%3fframe%3dnoframe%26dpi%3d3%26userID%3da9e52087@berkeley.edu/01cce4406200501b3c594%26config%3d%26PAGE%3d0&action=download&config=jstor)

15. The Penitentiary and its Transformations through WWII
Topics: Silent system; convict lease system; Nazi prisons; the Big-House; the correctional institution

Require reading:
  http://www.jstor.org/view/00224642/di982407/98p0659j/0
Recommended reading:


16. The Correctional Institution

Assigned reading:


Recommended reading:

- Volker Janssen, “From the Free World to the Carceral Empire: American Prisons in International Context, 1941-2004,” (Manuscript on b_space)

• Eric Cummins, The Rise and Fall of California’s Radical Prisoner Movement (Stanford University Press, 1994)

Further reading:

17. Mass Incarceration

Assigned reading:
  http://pun.sagepub.com/cgi/reprint/3/1/5
• Lorna A. Rhodes, “Psychopathy and the face of control in supermax,” Ethnography (2002), Vol. 3, pp. 442-466
  http://eth.sagepub.com/cgi/reprint/3/4/442

Recommended:
  http://cad.sagepub.com/cgi/reprint/49/1/124?ck=nck
  http://pun.sagepub.com/cgi/reprint/3/1/61
  http://pun.sagepub.com/cgi/reprint/8/1/33
  http://pun.sagepub.com/cgi/reprint/1/2/163

18. California’s Prison Crisis

Assigned reading:
• Little Hoover Commission, Solving California’s Correction’s Crisis: Time is Running Out (Report #185, January 2007) excerpts
  http://www.lhc.ca.gov/lhcdir/report185.html
19. Punishment and Racial Inequalities

Assigned reading:

Recommended reading:
- Bruce Western, Punishment and Inequality (London: Sage, 2006)

Further reading:

20. Parole, Probation and Community Punishment

Assigned reading:
  [http://www.jstor.org/cgi-bin/jstor/printpage/00239216/ap030004/03a00050/0?frame=noframe&dpi=3&userID=a9e52087@berkeley.edu/01cce4406200501b3d526&backcontext=page&backurl=/cgi-bin/jstor/viewitem/00239216/ap030004/03a00050/0%3fframe%3dnoframe%26dpi%3d3%26userID%3da9e52087@berkeley.edu/01cce4406200501b3d526%26config%3d%26PAGE%3d0&action=download&config=jstor](http://www.jstor.org/cgi-bin/jstor/printpage/00239216/ap030004/03a00050/0?frame=noframe&dpi=3&userID=a9e52087@berkeley.edu/01cce4406200501b3d526&backcontext=page&backurl=/cgi-bin/jstor/viewitem/00239216/ap030004/03a00050/0%3fframe%3dnoframe%26dpi%3d3%26userID%3da9e52087@berkeley.edu/01cce4406200501b3d526%26config%3d%26PAGE%3d0&action=download&config=jstor)

**Recommended reading:**
- Joan Petersilia, “Probation in the United States,” *Crime and Justice* (1997), Vol. 22, pp. 149-200 ([http://www.jstor.org/cgi-bin/jstor/printpage/01923234/ap040022/04a00050/0?frame=noframe&dpi=3&userID=a9e52087@berkeley.edu/01cce4406200501b3d526&backcontext=page&backurl=/cgi-bin/jstor/viewitem/01923234/ap040022/04a00050/0%3fframe%3dnoframe%26dpi%3d3%26userID%3da9e52087@berkeley.edu/01cce4406200501b3d526%26config%3d%26PAGE%3d0&action=download&config=jstor](http://www.jstor.org/cgi-bin/jstor/printpage/01923234/ap040022/04a00050/0?frame=noframe&dpi=3&userID=a9e52087@berkeley.edu/01cce4406200501b3d526&backcontext=page&backurl=/cgi-bin/jstor/viewitem/01923234/ap040022/04a00050/0%3fframe%3dnoframe%26dpi%3d3%26userID%3da9e52087@berkeley.edu/01cce4406200501b3d526%26config%3d%26PAGE%3d0&action=download&config=jstor))

### 21. Introduction to Comparative Penology

**Assigned reading:**
*Penal Systems*, Chapter 1

### 22. American Penality in Global Context

**Assigned reading:**
*Penal Systems*, Chapters 2, 3

### 23. Anglo-Saxon Penality?

**Assigned reading:**
*Penal Systems*, Chapters 4, 5

### 24. France and Italy: Corporatist Alternative?

**Assigned reading:**
*Penal Systems*, Chapter 9
25. South Africa & Germany: The Backdrop of Authoritarianism

Assigned reading:
Penal Systems, Chapters 6, 7

26. Nordic Penalty?

Assigned reading:
Penal Systems, Chapter 10

27. Japan

Assigned reading:
Penal Systems, Chapter 11

28. Comparative Youth Justice

Assigned reading:
Penal Systems, Chapter 12
Reading on California youth prisons TBA

29. Neo-liberal youth justice systems

Assigned reading:
Penal Systems, Chapter 13

30. TBA

31. The Future of Penality

Assigned reading:
Penal Systems, Chapter 17
LEGAL CULTURE
The expression "legal culture" refers to opinions, attitudes, values, and expectations with regard to law and legal institutions. Every man and woman in society has at least some opinions on this subject about judges, courts, the Supreme Court, or lawyers but the expression, as the word "culture" implies, refers not so much to individuals as to generalizations about the opinions and values of members of some distinct group, class, category, or jurisdiction.

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Cultural studies address new questions and problems of today's world. Rather than seeking answers that will hold for all time, cultural studies develops flexible tools that adapt to this rapidly changing world. This book is valuable to students navigating the dynamic debates and intellectual challenges of cultural studies.

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For Bourdieu, along with the related concepts of â€œhabitusâ€ and â€œcapitalâ€, 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.