

DEPARTMENT OF POLITICAL SCIENCE
BELLARMINE COLLEGE OF LIBERAL ARTS
LOYOLA MARYMOUNT UNIVERSITY

PUNISHMENT AND MERCY

Political Science (POLS) 392, CRN: 22573
Theological Studies (THST) 392, CRN: 22394

Summer Session II, 2015, 3 Units
LMU/Oxford Study Abroad Program
Prof. Andrew Dilts (andrew.dilts@lmu.edu)

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COURSE INFORMATION

DESCRIPTION: This course explores the many theoretical and practical difficulties that arise in attempting to reconcile an effective and just system of social punishment with the virtue of mercy. The relationship between mercy and punishment is frequently viewed as mutually exclusive or contradictory. Can a system forego punishment (through mercy) for some and still have equality? Can a system punish offenders and still uphold the dignity of the individual? How does one mediate between impunity and vengeance? Utilizing the lenses of modern philosophical ethics (Locke, Bentham, Kant), contemporary political theory (Nietzsche, Durkheim, Foucault, Derrida), and theology (Scripture, Augustine, Aquinas, Luther) as well as engaging contemporary case-studies, this course analyzes this relationship in terms of competing purposes of punishment and mercy, and political, philosophical, sociological and theological visions of forgiveness and mercy. The purpose of the course is not to develop an overly simplistic solution but rather to challenge and transform students' presuppositions regarding mercy and punishment.

STUDENT LEARNING OUTCOMES:

Our desired course learning outcomes include the following: we would like students to acquire a sense of the complexity and difficulty of these issues as well as a theoretical toolkit for addressing these problems and working towards their resolution. Course assignments are designed to measure regular progress through the theoretical readings and case studies; to require students to engage with alternative views and conflicting values; and to achieve on an individual basis a thorough and sophisticated understanding of the relation of theory and practice in a concrete and complex instance.

More specifically:

1. **Students should be able to differentiate and critically analyze a wide range of the major theoretical approaches taken to mercy and punishment** in the disciplines of philosophy, theology, sociology, and critical theory.
2. **Students should learn to carefully examine and critically engage with classic contemporary texts** in philosophy, theology, sociology, and political theory, and should gain a greater appreciation of the possibilities of interdisciplinary conversations between these approaches.
3. **Students should understand and appreciate the enduring tensions and current practical challenges** in bringing together questions of mercy and punishment.
4. **Students should improve in their capacity for interpretive and normative argument, both written and oral**, including specifically the ability to arrive at coherent and compelling normative conclusions and the ability to express those views in speech and in writing with greater focus, clarity, force, and sophistication.
5. **Students should grow intellectually and personally as individuals and as active citizens.**

PREREQUISITES/RECOMMENDED BACKGROUND: Students are expected to have completed 100-level philosophy and theology core requirements and must be registered participants in the Oxford Study Abroad Program.

COURSE REQUIREMENTS

There are five course requirements used in assessing the course grade:

- 1) **Attendance and Participation (10%)** – Students are expected to attend all class meetings, having carefully prepared all assigned readings, and to contribute to class discussion. Attendance will be taken at each session. More than two absences will result in the lowering of the attendance/participation grade. In terms of participation, students’ contributions will be evaluated for quality rather than frequency. Attention to the texts, thoughtfulness and preparation, and creative responses to others are the main indicators of quality. The instructors may challenge students to defend their views in the interest of deepening the examination of basic values and principles.
- 2) **Reading Questions/Blog Posts (30%)** – Because each of our sessions are driven by student participation, you must come to each session with a written reading question prepared. You will post your reading questions online by 5pm the day before each session. **When there are multiple required readings for a session, you are expected to write a question for each reading. See below for more information on reading questions/blog posts.**
- 3) **Mid-Term Exam (30%)** – Students must complete a midterm take-home exam at the end of week two.
- 4) **Final Exam (30%)**

GRADE BREAKDOWN:

Midterm Exam:	30%	A	93-100
Final Exam:	30%	A-	90-92
Reading Questions:	30%	B+	88-89
Class Participation:	5%	B	83-87
Attendance:	5%	B-	80-82
		C+	78-79
		C	73-77
		C-	70-72
		D	60-69
		F	0-59

GRADING SCALE:

READING QUESTIONS / BLOG POSTS: Your blog posts must demonstrate a direct and textual engagement with the readings themselves. A good question is precisely that: a question. Your question should cite a specific passage, term, or concept that you are puzzled about, and it should offer your interpretation of the passage at hand. It should be focused on something that genuinely puzzles you in the reading, and which you can probably assume that others find puzzling or confusing as well. Moreover, a good reading question prompts an engagement with a possible *answer* to that question, either by (as noted above) (a) offering a provisional interpretation of the passage in question or (b) putting an empirical example into play. To this end, I am very interested in your blog posts engaging with the world outside of our texts, and taking advantage of the blogging format, link to news stories or other online sources.

You will submit one question/blog post per class meeting (8 in total). Questions must be **submitted by 5pm the day before** class meets. Late questions will be accepted for partial credit. Questions posted after class

meets will receive no credit. Questions will be graded on the following scale: Excellent = 2.5 (directly engages with specific passage from the text *and* offers possible interpretation and connection to current events); Good = 2.0 (directly engages with the text, but does not offer interpretation or outside connection); Satisfactory (or late) = 1 (question is a question, but it is vague and not well specified; Unacceptable (or not submitted) = 0 (is this a question? What is this? Why did you even bother?)

In the unlikely event that students are not keeping up with the reading, the instructor reserves the right to add short reading quizzes without notice.

****Any student who receives a failing grade for attendance and participation will receive a failing grade for the class. Any student who has not submitted all course requirements will receive a failing grade for the class.****

COURSE POLICIES

ACCESSIBILITY: Students with who require reasonable modifications, special assistance, or accommodations in this course should have already directed their request to the Disability Support Services (DSS) Office (Daum Hall 2nd floor, 310-338-4216) before the term if possible. All discussions will remain confidential. Please visit <http://www.lmu.edu/dss> for additional information. All students are invited and encouraged to discuss with me any questions and suggestions you might have about how to ensure that our class is supportive of difference and welcoming to all modes of learning, thinking, and interacting.

POLICIES CONCERNING CONFIDENTIALITY: While I will always work to ensure an atmosphere of trust and respect in which you feel you can come talk to me, there are new university policies developing (pursuant to Title IX and the Clery Act) that may limit my ability to maintain confidentiality with regard to some topics. These include allegations of sexual harassment, sexual violence or assault, dating or domestic violence, stalking, and other misconduct involving students, faculty, or staff. These may trigger contact with a campus official who will want to speak with you about the incident you shared, and conduct an investigation. For more information about this, please consult the Community Standards, the LMUCares website, or come and chat with me about it.

To file a report of sexual or interpersonal misconduct, contact the study abroad coordinator directly, or you may contact the LMU Department of Public Safety (DPS) at +1 (310) 338-2893. If you are unsure about who to talk to, please ask me or another faculty member that you trust. Just be aware that faculty are potentially obligated to report incidents on your behalf.

RESPECT FOR OTHERS: Given the sensitive nature of the topics explored, a spirit and active practice of mutual respect is crucial for classroom discourse. Students must respectfully listen to others' critiques and articulate responses in a thoughtful manner. As always, you will be held to the standards defined in the LMU's *Community Standards Student Conduct Code*:
(<http://studentaffairs.lmu.edu/administration/judicialaffairs/studentcodespolicies/>)

GENDER NEUTRAL & GENDER SPECIFIC LANGUAGE, NAMES & ACCENTS: Academics no longer use the pronoun "he" to apply universally to all persons, nor do we use the term "man," when we are referring to humanity or people in general. In our writing, when we are making generalizations we should use gender neutral pronouns, that is, sie and hir, s/he, him or her, they/their, etc. When referring to a specific person or group of people, we should use the language and pronouns *that they prefer* if we know them. Further, we should be attentive to the spelling and accents of author's names. Finally, all authors must be referred to by their entire names, or only their last names, *not by their first names*, orally and in writing.

Where this is not possible (either because the claim you are making is gendered, or because you are relying on a text that uses gender-exclusive pronouns), you must explain why this is the case. Usually, this requires no more than a footnote (e.g. Foucault uses “he” or “mankind” as universals. Add a footnote at your first usage of his language, directly quoted or not, and say that you are following Foucault’s usage here, and do not mean to endorse his usage). You aren’t necessarily required to solve these problems, but you are required to make note these problems and signal your awareness of them.

ATTENDANCE: Timely, prepared, and engaged attendance is required. Absences will only be excused in the case of illness or emergency. If there is a conflict between course participation and religious observance, please contact me in advance. It is not necessary to obtain prior approval from the instructor when missing a meeting is unavoidable, but note that students bear the *entire responsibility* for the decision to miss class and for whatever effect that may have on their course grade and their learning experience. Repeated absences and lateness will directly affect the discussion and attendance portion of a student’s grade. Participation in class discussions will be evaluated on quality, quantity, and appropriateness of student questions and comments.

Please note: it is just as possible to talk *too much* as it is to talk too little in class. Likewise, there is such a thing as active listening, and yes, your professors are capable of distinguishing this from passive listening. If you are worried about your the level and/or quality of your participation, the best thing to do is to come to office hours, where the professor can give you direct feedback throughout the semester, rather than at the end (when it is too late to change your behavior!).

LATE PENALTIES: Assignments are accepted when they are due. Assignments must be turned in at the designated time and place. Failure to turn in an assignment on time is unacceptable except with the prior agreement of the instructor (which will be given only in exceptional circumstances). Except in documented cases of illness or emergency, a penalty of **up to a full letter grade** may be assessed for each day (24hrs) the assignment is late. When assignments are submitted electronically, this includes weekend days.

PLAGIARISM & ACADEMIC HONESTY: Academic dishonesty will be treated as an extremely serious matter. Proven plagiarism of any kind may result in automatic failure of the course and will be referred to the University for further disciplinary action without exception. I reserve the right to submit your electronic document to plagiarism detection websites if necessary. It is **never** permissible to turn in any work that has been copied from another student or copied from a source (including the Internet) without properly acknowledging the source. It is your responsibility to make sure that your work meets the standard of academic honesty set forth in the “LMU Honor Code and Process” which appears in the LMU *Community Standards*. It is not permissible to turn in work for a class that has been previously submitted in part, or in whole, for credit in another course. Any doubts of questions related to this policy should be brought to your instructor as soon as they arise and before you turn in the work. You should also refer to the additional statement on academic honesty in the writing requirements posted on the course website.

EMAIL COMMUNICATION: At times I will communicate with the entire class using campus email systems, so it is essential that you regularly check your lion.lmu.edu email address or forward your lion account email to your preferred email address. I encourage you to contact me via email with questions about the course, the material we cover in class, and assignments.

You are expected to be professional in all communication with the instructor. All email communication should be in complete sentences with a proper salutation and conclusion. Treat the email more as a letter and less like a text message. Include a comprehensible subject heading (e.g. “POLS 392 question”), address and sign the email, making sure to identify what class you are in (usually instructors are teaching more than one class) and explain clearly what it is that you are inquiring about. Failure to do these will guarantee that you will not get a response. Also, unless I’ve explicitly stated otherwise, I generally check my faculty email only during

normal business hours (more or less from 7am to 6pm on weekdays).

Finally, here is a short list of things to which **I will not respond**:

1. Questions that can be answered by checking the course syllabus or looking online.
2. A request to know **if** you missed anything during an absence. (The answer is yes.)
3. A request to know **what** you missed during an absence. (Instead of asking this through email, take the appropriate next steps to catch up: ask a classmate for notes, meet with me in my office hours, etc.)

TECHNOLOGY USE DURING CLASS: You are welcome to bring a computer or tablet to class **provided that it enables you to engage *more* in the class discussion** than without it. You may also use a computer to help you take notes. Email, Twitter, Facebook, or anything at all that is not directly related to the *conversation* we are having will not be tolerated. Using a computer in this way during a seminar is rude and disrespectful to your classmates. **If you need to use a computer in class, you will be expected to share copies of your class notes *immediately* following the session.** If you are not willing to do this, do not bring a computer with you. The same applies to e-readers/tablets/phones of any kind, etc. Use of any technology in class that does not directly contribute to our discussions will not be tolerated.

But also, recent evidence indicates that note-taking on a computer is actually not a good way to learn things.¹

It is my STRONG preference that E-Reserve texts should be *printed* and brought to class. All readings will be available prior to leaving for the UK, so I suggest making a “course reader” for yourself to pack.

Your phone (of any kind) must be **turned off and put away** (unless you have received prior permission from the instructor, which will only be given in truly *exceptional* circumstances). If your phone rings during class, you will be marked absent for the session.

TENTATIVE NATURE OF THE SYLLABUS: If necessary, this syllabus and its contents are subject to revision; students are responsible for any changes or modifications distributed in class or posted on MYLMU Connect

REQUIRED TEXTS

These texts will all be available for purchase from the bookstore. You are welcome to purchase them wherever you please or borrow them from the library, but *please use these editions of the texts* so that we are all literally on the same page during class. You will be expected to come to class with the text in hand. Some readings will be made available via electronic reserve in PDF format. We prefer that you **print** hard copies of these readings.

- Michel Foucault, *Discipline and Punish*. Vintage Press.

¹ See <http://www.vox.com/2014/6/4/5776804/note-taking-by-hand-versus-laptop>

TENTATIVE COURSE SCHEDULE AND POSSIBLE READINGS

NB: *This schedule of readings is subject to change at the instructors discretion.*

Required Reading to do *before* you arrive in Oxford

- Thomas Brooks, *Punishment*, Part 1
- William Shakespeare, *Measure for Measure*.
- Alex Tuckness and John Parrish, Selections from Chapter 1 of *The Decline of Mercy*.

Strongly Recommended:

- Michelle Alexander, *The New Jim Crow: Mass Incarceration in an Age of Colorblindness*
- Bryan Stevenson, *Just Mercy: A Story of Justice and Redemption*

1) Tuesday, July 14: Four Approaches to the Study of Punishment and Mercy

Theological

- Leviticus 24:13-22; Matthew 5-7
- Martin Luther, “The Sermon on the Mount”
- Paul Ramsey, *Basic Christian Ethics*, pp. 1-24 (recommended)

Deontological

- Immanuel Kant, *Groundwork of the Metaphysics of Morals*, Selections
- John Rawls, *A Theory of Justice*, Selections
- Jeffrie Murphy, *Mercy and Legal Justice* (recommended)

Utilitarian

- Beccaria, *On Crimes and Other Punishments*, Chs. 2, 6, 7, 11, & 12
- Jeremy Bentham, *The Principles and Morals of Legislation*, Chs. 1 and 4
- Ross Harrison, “The Equality of Mercy” (recommended)

Sociological

- David Garland, *Punishment and Modern Society*, Chapter 1.

II. Punishment

2) Thursday, July 16: Punishment and its Rationales

- Thomas Aquinas, *Summa Theologiae* II-II, q. 64, aa. 2-3
- John Locke, *Second Treatise of Civil Government*, Chs. 1-4
- Jeremy Bentham, *The Principles of Morals and Legislation*, Chs. 7.1-6, 13-15
- Immanuel Kant, *The Metaphysics of Morals*, Selections

Recommended:

- R.A. Duff, “Consequentialist Punishments”
- Timothy Gorringe, “The Gospel and Retribution”
- Jean Hampton, Selection from “The Retributive Idea”

3) Tuesday, July 21: Punishment and its Function(s)

- Emile Durkheim, “Mechanical Solidarity,” Selections.
- Michel Foucault, *Discipline and Punish*, Chapter 1 (pp. 3-31).

Recommended:

- Friedrich Nietzsche, *On the Genealogy of Morality*, Selections

III: Mercy

4) Thursday, July 23: Mercy as Equitable Judgment

- Aristotle, “On Equity” (NE V.10)
- Beccaria, *On Crimes and Other Punishments*, Chs. 27 and 46

Recommended:

- Seneca, “On Mercy,” selections
- Rousseau, Chapter 5 of *On the Social Contract*
- Bentham, Selections on pardons
- Martha Nussbaum, “Equity and Mercy”

MIDTERM EXAM – Due via email Monday, July 27.

5) Tuesday, July 28: Mercy as Forgiveness:

- Parables and Teachings on Forgiveness: Mt. 6:12-15; 9:2-13; 18:21-35; Lk. 7:36-50; 15:1-16:13 (8)
- Hannah Arendt, *The Human Condition*, Chapter 33

Recommended:

- Joseph Butler, Sermon 9, “On Forgiveness”
- Charles Griswold, “Forgiveness at Its Best”
- Jacques Derrida, “On Forgiveness”

IV. Critical Approaches: Michel Foucault’s *Discipline and Punish*

6) Thursday, July 30: *Discipline and Punish*

- *Discipline and Punish*, Part 2 (Selections: pp. 73-103, 130-131)
[NB: I strongly recommend you read all of Part 2, not just the selections]

7) Tuesday, August 4: Foucault 2

- *Discipline and Punish*, Part 3: Discipline (pp. 135-141, 167-228),
- *Discipline and Punish*, Part 4: Prison (pp. 231-308).

Recommended sources to help you read Foucault:

- **Download and print out a copy of Prof. John Protevi’s “outline” of the book, to help you follow along:** <http://www.protevi.com/john/Foucault/DP.pdf>
- David Garland, “Review: Foucault’s ‘Discipline and Punish’--An Exposition and Critique” *American Bar Foundation Research Journal*, Vol. 11, No. 4. (Autumn, 1986), pp. 847-880.
- Michel Foucault, 1983, “What is called ‘Punishing?’” [7]*
- Michel Foucault, “Prison Talk.”*
- Devonya Havis, 2014, “Discipline” in *The Foucault Lexicon*, pp. 110-119. [10]*

- Ladelle McWhorter, 2014, “Normalization” in *The Foucault Lexicon*, pp. 315-321. [7]*
- John Protevi, 2014, “Body” in *The Foucault Lexicon*, pp.51-56. [6]*

8) Thursday, August 6: Restoration, Reparation, Accountability, & Abolition

- Andrew Skotnicki, “How is Justice Restored?” *Studies in Christian Ethics*, 187-204. (18)
- Ta-Nehasi Coates, “The Case for Reparations”:
<http://www.theatlantic.com/features/archive/2014/05/the-case-for-reparations/361631/>
- Communities Against Rape and Abuse (CARA), “Taking Risks: Implementing Grassroots Community Accountability Strategies”
- Mary Louise Frampton, “Transformative Justice and the Dismantling of Slavery’s Legacy in Post-Modern American”

Recommended:

- Michel Foucault, “Alternatives to the Prison: Dissemination of Decline of Social Control?”
- Joel Olson, “The Abolition-Democracy”
- Brady Heiner, “Excavating the Sedimentations of Slavery: The Unfinished Project of American Abolition” in *Death and Other Penalties*.

FINAL EXAM – Due via email Saturday, August 8 (i.e. before you leave Oxford)