

**Course code(s):** -

**Title of the course:** Crime and Legal Punishment

**Instructor:** dr. Perica Jovchevski

**Time:** Wednesdays, 12.00-1.30pm

**Office hours:** by appointment, requested at least one week in advance via email.

**Course description:**

The central question which we will examine on the course is whether there is a plausible justification for the social practice of punishment as a response to criminal acts in a society? Three groups of theories answer positively to this question: retributivist, consequentialist and so-called “mixed theories”. Some retributivists defend the view that punishment is justified because criminal offenders deserve to suffer. Some consequentialists, on the other side, claim that punishment can only be justified on forward-looking reasons, namely with the intention to deter future offenders. Other theorists propose more complex view according to which punishment is justified because it contains a reprobative element, namely it is not simply an infliction of harm on an offender, but it also communicates a censure, or social disapproval of criminal behavior. During the course we will examine in detail the variety of each of these theoretical camps and evaluate their justifications. Aside from these three positive answers to the central question of this course, “philosophical abolitionists” answer this question negatively. There are various reasons for taking such a stand. Some give a negative answer because they believe that no agent satisfies the conditions for moral responsibility necessary for punishment. In the last part of the course, we will examine what follows from taking such a position by discussing Caruso’s “quarantine model”. On the last class we will also survey the views of contemporary political abolitionists, mainly in the American context.

**Overview of the weekly program of the course:**

Week 1 (September 11): Course introduction: what is personal autonomy?  
Week 2 (September 18): Retributivism: desert based  
Week 3 (September 25): Retributivism: fair-play based  
Week 4 (October 02): Other forms of retributivist justification of punishment  
Week 5 (October 09): Consequentialism: act-utilitarian theories  
Week 6 (October 16): Consequentialism: non-utilitarian theories  
Week 7 (October 23): National holiday  
Week 8 (October 30): Fall holiday  
Week 9 (November 06): Punishment as communicating social disapproval  
Week 10 (November 13): Punishment as moral education  
Week 11 (November 20): Abolitionism: a quarantine model I  
Week 12 (November 27): Abolitionism: a quarantine model II  
Week 13 (December 04): Abolitionism in context  
Week 14 (December 11): Recap and discussion

**Learning outcomes:**

By the end of the course students will be able:

- to acquire knowledge about fundamental moral issues within the fields of criminal and/or correctional justice
- to construct moral arguments on various key topics in the study of criminal and/or correctional justice
- to use normative methods and conduct independent normative research on other problems concerning criminal and/or correctional justice

- to develop critical reading and thinking tools while discussing the literature assigned

### Course requirements:

- Attendance: students are required to attend minimum 11 classes (85%) in order to get a grade.
- Participation in seminar discussions

Students are expected to have read the compulsory readings and participate in the class discussions. For those students who have no experience in participating in philosophical conversation/discussions, I recommend you to consult this brief overview of the modes of participation on a philosophy class by Olivia Bailey: [Bailey - But how do I participate? 2021 edition \(weebly.com\)](https://www.bly.com). The contribution to the class discussions will be marked continuously during the course and it will constitute 10% of the grade.

- Presentation(s) of mandatory reading(s)

Depending on the course size students are required to make one or two individual and/or group presentations of a mandatory reading. The presentation should last no more than 20 minutes and should be focused on exposing the main arguments of the assigned reading in a way that will make it easier for the class to discuss and evaluate them. The presentation should be (1) comprehensive and present all relevant arguments from the reading; the arguments should be presented (2) accurately and (3) clearly; and should include a (4) critical stand or evaluation of the arguments by the presenter(s). The presentation(s) will be graded according to these four criteria and will constitute 20% of the grade.

- Mid-term position paper (max. 1000 words)

During the course students are required to write one position paper of around 1000 words. The position paper is due on **October 16, 2024, at midnight**. The position paper should be written in MS Word format and should be sent to me as an attachment via email. Please name your document, in the following way: "Surname and name\_Position Paper\_Course name". Papers which do not meet the above format requirements (which are submitted as cloud links, pdfs, ppts, jpgs) or are improperly named, will be penalized with one grade. For papers sent after the deadline the late submission policy applies. The position paper comprises 30% of the grade. More details on how to write a position paper for my course will follow in class in due time.

- Final paper (2500-3000 words)

The final paper is written on a topic of choice by the student which has been discussed or is relevant for the course and has been approved by me upon consultation (in person or by mail). The final paper is due on **December 11, 2024, at midnight**. The final paper constitutes 40% of your grade. More details on how to write your final paper for my course will follow in class in due time.

### Grade composition:

- Participation in class discussions - 10%

- Presentation(s) of mandatory reading(s) - 20%
- Mid-term position paper -30%
- Final paper - 40%

### Grading Scale:

- 0-49 points: fail (1)
- 50-54 points: sufficient/pass (2)
- 55-69 points: satisfactory (3)
- 70-84 points: good (4)
- 85-100 points: excellent (5)

### Late submission policy:

The position and the final paper are due on the dates indicated above. If papers are up to one day late, they will be penalized a whole grade. Thereafter, one more grade for each additional day they are late.

### Accommodations:

In case you have a documented disability, which affects your performance on the course, please let me know through mail or after the classes, so that we can discuss on time the appropriate provisions to accommodate your needs.

### Policy on academic honesty:

All position and final papers will be checked for plagiarism. Plagiarism on any of the papers will result in automatic failure of the course irrespective of the rest of your performance. Be careful how you present the works of others: use appropriate citations and full bibliographic references to the literature you are using! You are free to use any reference style but please be consistent!

### Course schedule:

- **Week 1 (September 11):** Course introduction, no reading assignment
- **Week 2 (September 18):** Retributivism: desert-based theories

Mandatory reading:

- Kershnar, S. (2000), "A Defense of Retributivism," *International Journal of Applied Philosophy*, Vol. 14, No. 1: 97–117.

Supplementary reading:

- Moore, M. S. (1993), "Justifying Retributivism." *Israel Law Review*, Vol. 27: 15–49.

- **Week 3 (September 25):** Retributivism: fair-play based theories

Mandatory reading:

- Dagger R. (1993), "Playing Fair with Punishment," *Ethics* 103 (3): 473–488

Supplementary reading:

- Dagger, R. (1991), "Restitution: Pure or Punitive?," *Criminal Justice Ethics*, Vol. 10, No. 2: 29–39.

- **Week 4 (October 02):** Other forms of retributivist justification of punishment

Mandatory reading:

- Nino, C. S (1983), "A Consensual Theory of Punishment," In *Punishment* edited by Simmons et al., 94–111.

Supplementary reading:

- Boonin, D. (2008) *The Problem of Punishment*. Cambridge: Cambridge University Press, Ch.3.

- **Week 5 (October 09):** Consequentialism: act-utilitarian theories

Mandatory reading:

- Bentham, J. (1789), *An Introduction to the Principles of Morals and Legislation* (excerpts shared)

Supplementary reading:

- Golash, D. (2006), *The Case Against Punishment: Retribution, Crime Prevention, and the Law*, NYU Press. Ch.2

- **Week 6 (October 16):** Consequentialism: non-utilitarian theories

Mandatory reading:

- Cragg, W. (1992), *The Practice of Punishment: Towards a Theory of Restorative Justice*. Routledge. Ch 6 and 7

Supplementary reading:

- Brunk, C. G. (1996), "Restorative Justice and Punishment." *Dialogue*, Vol. 35, 593–8.

- **Week 7 (October 23): National Holiday**

- **Week 8 (October 30): Fall Holiday**

- **Week 9 (November 06):** Punishment as communicating social disapproval

Mandatory reading:

- Duff R.A. (1999), "Punishment, Communication, and Community," in *Punishment and Political Theory*, edited by M. Matravers, Bloomsbury Academic, 48–69.

Supplementary reading:

- Duff R.A. (2001), *Punishment, Communication and Community*, Oxford University Press.

- **Week 10 (November 13):** Punishment as moral education

Mandatory reading:

- Hampton J. (1984), "The Moral Education Theory of Punishment," *Philosophy & Public Affairs* 13 (3): 208–238.

Supplementary reading:

- Hampton J. (1998), "Punishment, Feminism, and Political Identity: A Case Study in the Expressive Meaning of the Law." *Canadian Journal of Law and Jurisprudence*, Vol. 11, No. 1: 23–45.

- **Week 11 (November 20):** Abolitionism: a quarantine model I

Mandatory reading:

- Caruso G. D. (2021), *Rejecting Retributivism: Free Will, Punishment, and Criminal Justice*, Cambridge University Press, Ch.6.

Supplementary reading:

- Pereboom, D. (2013), "Free will skepticism and criminal punishment," in *The Future of Punishment*, edited by T. Nadelhoffer, Oxford University Press, 49–78.

- **Week 12 (November 27):** Abolitionism: a quarantine model II

Mandatory reading:

- Caruso G. D. (2021), *Rejecting Retributivism: Free Will, Punishment, and Criminal Justice*, Cambridge University Press, Ch.7

Supplementary reading:

- Caruso G.D. (2021), "Retributivism, free will skepticism and the public health-quarantine model: replies to Corrado, Kennedy, Sifferd, Walen, Pereboom and Shaw," *Journal of Legal Philosophy*, Vol. 46 No. 2: 161–215.

- **Week 13 (December 04):** Abolitionism in context

Mandatory reading:

- Bell M. (2021), "Abolition: A New Paradigm for Reform," *Law & Social Inquiry* 46 (1): 32–68.

Supplementary reading:

- McLeod, A. M. (2015), "Prison Abolition and Grounded Justice," *University of California Los Angeles Law Review* 62: 1156–1239.

- **Week 14 (December 11):** Recap and final discussion

No reading assignment