

Course Syllabus

Philosophy 191: Seminar on Punishment and Responsibility Fall Semester 2020

Erin Kelly
erin.kelly@tufts.edu
Phone: 617-627-2849 (office)

MW 3-4:15
Office Hours: Th 3:30-4:30pm

This seminar will investigate the basic concepts of criminal law, including criminal responsibility, the significance of act, intent, causation, and result, and various rationales for punishment. We will touch on legal notions of justification and excuse and explore the connection or lack thereof between legal excuses and moral philosophies of blame, mitigation, and responsibility. Attention also to conditions of social injustice and the bearing on those conditions on moral concepts of individual responsibility.

This course will take place on **Zoom**.

Readings:

All readings are available on the course Canvas site:
<https://canvas.tufts.edu/courses/22012>

9/9 **Introduction**

Danielle Sered, "Introduction," *Until We Reckon: Violence, Mass Incarceration, and a Road to Repair* (pp. 1-5)

9/14 **Culpability in Criminal Law: Actus Reus**

Kadish, Schulhofer, and Barkow, *Criminal Law and Its Processes*, 10th Ed.
(pp. 221-234, 1072-1081)
Martin v. State
People v. Newton
Robinson v. California
Powell v Texas

9/16 **Culpability in Criminal Law: Omissions**

Kadish, Schulhofer, and Barkow, *Criminal Law and Its Processes*, 10th Ed.
(234-257)
Jones v. United States
Pope v. State
Barber v. Superior Court

9/21 **Culpability in Criminal Law: Mens Rea**

Kadish, Schulhofer, and Barkow, *Criminal Law and Its Processes*, 10th Ed.
(pp. 258-279, 287-293)
Regina v. Cunningham
Elonis v. United States

- Regina v. Prince*
- 9/23 **Culpability in Criminal Law: Causation**
Kadish, Schulhofer, and Barkow, *Criminal Law and Its Processes*, 10th Ed.
(pp. 603-619)
People v. Acosta
People v. Arzon
- 9/28 **Criminal Responsibility: Fair Opportunity**
H. L. A. Hart, "Responsibility and Excuses"
- 9/30 **Criminal Responsibility: Blameworthiness**
Sanford Kadish, "Excusing Crime"
- 10/5 **Criminal Responsibility: Capacity, Character, Outcome**
Nicola Lacey, *In Search of Criminal Responsibility*, Ch. 2
- 10/7 **Criminal Responsibility and/vs. Moral Responsibility**
David Brink and Dana Nelkin, "Fairness and the Architecture of Responsibility"
- 10/12 *Midterm paper due (6-8 pages)*
- 10/12 **Criminal Responsibility and/vs. Moral Responsibility**
Erin I. Kelly, *The Limits of Blame*, Ch. 1
- 10/14 **Moral Blame and Excuses**
John Stuart Mill, *Utilitarianism*, Ch. 5
- 10/19 **Moral Blame and Excuses**
Stephen Darwall, "Justice and Retaliation"
- 10/21 **Moral Blame and Excuses**
Jeffrie Murphy, "Hatred: A Qualified Defense" (88-110)
Stephen Darwall, "Respect as Honor and as Accountability"
- 10/26 **Why Punish? The Retributive Theory**
Jean Hampton, "The Idea of Retribution"
- 10/28 **Why Punish? The Retributive Theory**
Jean Hampton, "The Idea of Retribution"
Michael Moore, "The Moral Worth of Retribution," (pp. 179-185, 208-217)
- 11/2 **Why Punish? The Retributive Theory**
Mitchell Berman, "Modest Retributivism"
- 11/4 **Criticizing the Retributive Theory**
James Q. Whitman, "A Plea Against Retributivism"
- 11/9 **Stigma and Social Death**

- Colin Dayan, "How Legal Rituals Make and Unmake Persons," *Law is a White Dog*, Ch. 3 (pp. 71-112).
- 11/10 **Harm Reduction**
Erin Kelly, "Is Blame Warranted in Applying Justice?"
- 11/16 **Law Enforcement in an Unjust Society**
Erin Kelly, *The Limits of Blame*, Ch. 6
- 11/18 **Prison Abolition**
Angela Davis, "Are Prisons Obsolete?" Chs. 1-2.
Michelle Alexander, "The Lockdown," *The New Jim Crow*, Ch. 2 (pp. 59-96)
- 11/23 **Prison Abolition**
Allegra McLeod, "Prison Abolition and Grounded Justice," selections
- 11/30 **Restorative Justice**
Linda Radzik, "Reforming Relationships: The Reconciliation Theory of Atonement," *Making Amends: Atonement in Morality, Law, and Politics*, Ch. 4 (75-109)
- 12/2 **Restorative Justice**
Davis, "Are Prisons Obsolete?", Ch. 6.
Sered, "In Praise of Accountability," *Until We Reckon: Violence, Mass Incarceration, and a Road to Repair*, Ch. 3 (pp. 91-128)
- 12/7 **Restorative Justice**
Adriaan Lanni, "Taking Restorative Justice Seriously"
- 12/9 **Restorative Justice**
Sered, "Displacing Incarceration," *Until We Reckon: Violence, Mass Incarceration, and a Road to Repair*, Ch. 4 (pp. 129-156)
- 12/16 **Final Paper due (12-15 pages)**

Course Requirements

Class attendance and participation	
One shorter paper (6-8 pages)	30%
One longer paper (12-15 pages)	70%

Course Policies

Late papers may be marked down if the lateness is unexcused.
Incompletes will be granted only in special circumstances and provided that you make your request before the last paper is due.

Learning Objectives

In this course you will learn:

1. How to think abstractly and concretely about the nature of law, the basic elements of criminal law, and the relationship between law and morality.
2. How to read and analyze legal cases.
3. How to read, analyze, and articulate arguments and viewpoints in primary philosophical texts and the writings of legal theorists.
4. How to produce a cogent argument and express it clearly, both in writing and orally.
5. How to identify the substance and structure of an argument and evaluate it for soundness and validity.
6. How to anticipate objections to one's views, apply the principle of charity to others' opinions, and address objections and competing views effectively and respectfully in discussion and writing.
7. How to develop and defend one's own position with respect to problems that have occupied both historical and contemporary philosophers of law.