

Values, Ethics, and Criminal Justice Policy: Fall 2019

George Mason University
CRIM 700.002, Robinson Hall #B204
Thursdays, 3:00 pm to 4:15 pm
Online/classroom hybrid
Instructor: Dr. Andrew Novak

Course Description

Criminal justice programs traditionally emphasize empirical theories of crime rather than normative theories analyzing the public values, ideals, and obligations that shape justice systems and practices. This is surprising: the study of lawmaking, lawbreaking, and law enforcement is concerned, first and foremost, with the study of moral behavior. This course therefore has several objectives:

- To deepen appreciation for assessing the value judgments underpinning criminal justice phenomena
- To unpack justice as a multifaceted and value-laden term into some of its constituent parts, each of which can then be analyzed more deeply
- To learn a range of classical and contemporary perspectives on justice within a criminal justice framework
- To use normative approaches to identify and evaluate the relevant values that underlie different justice policies and practices
- To think critically about moral values and questions and to improve capacity to make judgments about criminal justice priorities from a justice perspective

About the Instructor

I am a term assistant professor of criminology, law, and society at George Mason University. My research is primarily international and comparative in nature, focusing on the death penalty, clemency, comparative constitutional law, and international criminal law. I have a Master of Science in African Politics from the London School of Oriental and African Studies, a Juris Doctor from Boston University, and a Ph.D. in law from Middlesex University in London. I am licensed to practice law in New York and Washington, DC.

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Office Hours

I am available Thursday afternoons, typically between 1:30 pm and 3:00 pm in my office, Enterprise 345 (across from the front desk in the criminology department).

Course Format and Grading

- **Weekly online quizzes (25%):** Every week before class starts, you will need to take an online quiz based on the video lectures, readings, and any internet assignments. These

quizzes are not timed and do not need to be completed in one sitting. There are a total of 12 quizzes.

- **Discussion Board posts (25%):** Every week before you come to class, you will write a mini-essay responding to the prompt listed on Blackboard. The other members of the class will be able to see your post, but it is not necessary to respond directly to others' posts since we will discuss them in class. You are welcome to consider news articles, YouTube videos, or other online sources in your posts, but these are not necessary.
- **Final Paper draft (10%) and Final Paper (30%):** This course ends with a final paper at the end of the semester. This paper will be 10 to 15 pages, double-spaced. Earlier in the semester (dates below), you will need to submit at least the first two pages for early feedback. The topic requires analyzing a criminal justice topic of your choice from a justice perspective: what are the key value judgments behind the policy or practice you have chosen? You may write about one of the topics we write about in class, but of course you are welcome to write about something else that is of interest.
- **Class Participation (10%):** Your grade for class participation is based on how well you contribute to class discussion, offer constructive criticism, raise useful questions, and promote a learning environment.

Minimum Attendance Policy

This course is an online hybrid, so nearly all the graded work will be completed at home, on your own time rather than in class. Class time is still important, since it is in class that we relate the topics in the online lectures to one another. Nonetheless, the attendance requirement is a little softer than an ordinary in person class.

There are ELEVEN classes in addition to the introductory class, or twelve in total. You must attend **SIX** of these eleven, not including the introductory class, or your participation grade will be reduced by a flat 5-points. If you attend **EIGHT** of the eleven classes (not including the introductory class), I will drop your lowest quiz grade when I am calculating your quiz scores.

I consider this to be a lenient policy. Therefore, **I ONLY COUNT ATTENDANCES, NOT ABSENCES.** This course does not have "excused absences," so I do not need doctor's notes or information about family or other emergencies. If you have a *continuing* reason to be out of class over multiple weeks, please let me know, because we may be able to use web conferencing software so that you may join. This is only for emergencies.

Late Work Policy

If you are late taking a weekly quiz, please let me know as soon as possible and I will keep it open for up to 48 hours longer. All the quizzes must be completed before I grade them, because grading will reveal the answers. If you missed a quiz for which I have already released the answers, you may still take a portion of the quiz for partial credit. Typically, this will be only the short answer portion, not the objective portion.

If you are late posting on the Discussion Board in a given week, your post will be subject to a 50% reduction. This is because the previous week's Discussion Board posts are designed to

generate discussion in class, and a late post does not serve this purpose. Posts that are irrelevant, disrespectful, or toxic are not appropriate for the Discussion Board. Posts that are triggering or based solely on personal experience are discouraged, although these will be judged on a case-by-case basis.

If your draft paper is late, it will be subject to a flat 5% grade reduction regardless of when it is submitted. I would rather read a good paper that's a week late than a bad paper that's a day late. If your final paper is late, it will be subject to a flat 10% grade reduction, regardless of when it is submitted. However, if it is not submitted by the time I calculate grades, you must ask me for an incomplete *before your final grade is submitted*. I cannot change a final grade unless I made a calculation error.

Finally, your research should not contain interviews or surveys that you have administered yourself. This constitutes research on human subjects and requires ethical clearance from the university. Please avoid sharing personal confidential information or basing a paper exclusively on your personal experiences.

Reading Assignments and Schedule of Classes

Thursday, August 29

Topic: Introduction to the course

Thursday, September 5

Topic: Introduction to Normative Ethics

Required Reading (to be completed **before class**): David Thacher, "Normative Case Study," *American Journal of Sociology* 111:6, 1631-1676 (2006)

Online videos (to be completed **before class**): (1) Normative Ethics (theory); (2) Ethical Policymaking (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Thursday, September 12

Topic: Pleasure, Pain, and Shame

Required Reading (to be completed **before class**): John Braithwaite, "Shaming and the Good Society" from *Crime, Shame and Reintegration* (Cambridge 1989)

Excerpts from, Colin M. Turnbull, *The Forest People: A Study of the Pygmies of the Congo* (Clarion 1961)

John Oliver clip on public shaming

Online videos (to be completed **before class**): (1) Pain and Pleasure (theory); (2) Shaming (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Thursday, September 19

Topic: Character and Drug Courts

Required Reading (to be completed **before class**): James L. Nolan, "Reinventing Justice," in *Reinventing Justice: The American Drug Court Movement* (Princeton 2001)

Toby Sedden, "Coerced Drug Treatment in the Criminal Justice System," *Criminology and Criminal Justice*

Online videos (to be completed **before class**): (1) Character/Virtue (theory); (2) Drug Courts (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Thursday, September 26

Topic: Utility and Harm Reduction

Required Reading (to be completed **before class**): Christie, Groarke, and Sweet, "Virtue Ethics as an Alternative to Deontological and Consequential Reasoning in the Harm Reduction Debate," *International Journal of Drug Policy*, 52-58 (2008)

Loue, Lurie, Lloyd, "Ethical Issues Raised by Needle Exchange Programs," 23 *Journal of Law, Medicine, and Ethics* 23, 382-388 (1995)

Online videos (to be completed **before class**): (1) Utilitarianism (theory); (2) Harm Reduction (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Thursday, October 3

CLASS CANCELLED (but online work is still due!)

Topic: Duty, Principle, and Death Penalty

Required Reading (to be completed **before 3:00 pm**): Hugo Bedau, "Against the Death Penalty," *What is Justice? Classic and Contemporary Readings*

Immanuel Kant, "A Retributivist Theory of Punishment," from *What is Justice? Classic and Contemporary Readings*

Robert Solomon, "Justice and the Passion for Vengeance," from *What is Justice? Classic and Contemporary Readings*

Online videos (to be completed **before 3:00 pm**): (1) Duty and Principle (theory); (2) Death penalty ethics (applied)

Quiz and Discussion Board post (to be completed online **before 3:00 pm**)

Thursday, October 10

Topic: Divine Command and Mercy

Required Reading (to be completed **before class**): Excerpts of Kathleen Dean Moore, *Justice, Mercy, and the Public Interest* (Oxford 1989)

Nigel Walker, "The Quiddity of Mercy," *Philosophy*

Carol Steiker, "Tempering or Tampering? Mercy and the Administration of Criminal Justice" in *Forgiveness, Mercy, and Clemency* ed. Sarat and Hussain (Stanford, 2007)

Online videos (to be completed **before class**): (1) Divine Command (theory); Mercy (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Thursday, October 17

Topic: Justice as Fairness and Hate Crimes

Required Reading (to be completed **before class**): Susan Moller Okin, "Justice as Fairness: For Whom?" in *What is Justice? Classic and Contemporary Readings* (2nd ed., Oxford 2000)

Patricia Faraldo-Cabana, "Towards Equalisation of the Impact of the Penal Fine: Why the Wealth of the Offender was Taken into Account," *International Journal for Crime, Justice and Social Democracy*

Russ Manning, "Environmental Ethics and John Rawls' Theory of Justice," *Environmental Ethics*

Online videos (to be completed **before class**): (1) Justice as Fairness/Rawls (theory); (2) Hate Crimes (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Thursday, October 24

Topic: Ethics of Care and Sex Offenders

Required Readings (to be completed **before class**): Tony Ward and Karen Salmon, "The Ethics of Care and Treatment of Sex Offenders," *Sexual Abuse* 23:3, 397-413 (2011)

Astrid Birgden and Heather Cucolo, "The Treatment of Sex Offenders: Evidence, Ethics, and Human Rights," 23:3 *Sexual Abuse* 295-313 (2011).

Roger N. Lancaster, "To Catch a Predator" in *Sex Panic and the Punitive State* (California 2011)

Online videos (to be completed **before class**): (1) Ethics of Care (theory); (2) Sex Offenders (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Thursday, October 31

Topic: Social Contract and Felon Disenfranchisement

Required Reading (to be completed **before class**): Eli L. Levine, "Does the Social Contract Theory Justify Felony Disenfranchisement?" *Washington University Jurisprudence Review* 1, 193-224 (2009)

Jesse Furman, "Political Illiberalism: The Paradox of Disenfranchisement and the Ambivalences of Rawlsian Justice," *Yale Law Journal* 106, 1197-1232 (1997)

Michael J. Lynch and W. Byron Groves, "A Critical Interpretation of Punishment and Corrections," in *A Primer in Radical Criminology* (New York: Harrow and Heston, 1989).

Online videos (to be completed **before class**): (1) Social Contract (theory); (2) Felon Disenfranchisement (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Assignment Due: First Draft Pages or Outline Due on Blackboard by 3:00 pm

Thursday, November 7

Topic: Restorative Justice and Truth Commissions

Required Reading (to be completed **before class**): Excerpts from Priscilla B. Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions* (Routledge 2002)

Amy Gutmann and Dennis Thompson, "The Morality of Truth Commissions," in *Truth v. Justice: The Morality of Truth Commissions* ed. Rotberg and Thompson (Princeton 2010)

Online videos (to be completed **before class**): (1) Restorative Justice (theory); (2) Truth Commissions (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Thursday, November 14

Topic: Procedural Justice and Prisoner Litigation

Required Reading (to be completed **before class**): Nils Christie, “The Computer,” from *Limits to Pain: The Role of Punishment in Penal Philosophy* (Wipf and Stock 1981)

Danzinger, Levav, Avnaim-Pesso, “Extraneous Factors in Judicial Decisions,” Proceedings of the National Academy of Sciences

Michael J. Lynch and W. Byron Groves, “The American Court System: A ‘Justice’ Model?” in *A Primer in Radical Criminology* (New York: Harrow and Heston)

Online videos (to be completed **before class**): (1) Procedural Justice (theory); (2) Prisoner Litigation (applied)

Quiz and Discussion Board post (to be completed online **before class**)

Thursday, November 22
CLASS CANCELLED (no work is due)

Thursday, November 28
CLASS CANCELLED (Thanksgiving): No Work Due

Thursday, December 5
Topic: New and Non-Western Theories of Criminal Justice and Compensation for Crime Victims

Required Reading (to be completed **before 3:00 pm**): Stephen Ellis and Gerrie ter Haar, “Morality” in *Worlds of Power: Religious Thought and Political Practice in Africa* (Oxford 2004)

Excerpts, Shannon Morreira, *Rights After Wrongs: Local Knowledge and Human Rights in Zimbabwe* (Stanford 2016)

Daniel Ntanda Nsereko, “Compensating the Victims of Crime in Botswana,” *Journal of African Law* 33, 157-171 (1989)

Excerpts, Concurring opinion of Yvonne Mokgoro in *Makwanyane v. Attorney General* (Constitutional Court of South Africa)

Paul Butler, “A Hip-Hop Theory of Justice,” from *Let’s Get Free: A Hip-Hop Theory of Justice* (New Press 2009) (or his *Stanford Law Review* article on the subject)

Online video (to be completed **before 3:00 pm**): (1) Non-Western Theories of Justice (theory); (2) Compensation for Crime Victims (applied)

Quiz and Discussion Board post (to be completed before 3:00 pm)

Assignment Due: Final Papers Due at 3:00 pm (Submit on Blackboard)

Paper Guidance

This course will end in a writing assignment. Your grade is based on **how you write**, so **it is essential** to focus on grammar, presentation, conciseness, and clarity of writing. I will provide more guidance in class. The papers **should cite an appropriate number of scholarly sources**. They are not reflection papers. I will track changes on Microsoft Word and upload the paper back to Blackboard. If you submit the paper in PDF form, I will change this to a Word document and grade it in Word.

Honor Code Policy

Available on the web at academicintegrity.gmu.edu. All graded course work must be done independently. You are bound by the George Mason University Honor Code. Violations will be referred to the University Honors Committee. You may collaborate with other students in studying and discussing course topics, but your written course work must be entirely your own.

ALL STUDENTS ARE ON NOTICE THAT I CONSIDER PAPER RECYCLING FROM ANOTHER COURSE TO BE A VIOLATION OF THE HONOR CODE. This is, in part, because I use the Blackboard "Safe Assign" feature to detect plagiarism, and the Safe Assign feature cannot distinguish between another student's paper and a paper that you have previously turned in to another class.

Disability Accommodations

If you have a documented learning disability or other condition that may affect academic performance you should (1) make sure this documentation is on file with Office for Disability Services (SUB I, Rm. 4205; 993-2474; <http://ods.gmu.edu>) to determine the accommodations you need; and (2) talk with me to discuss your accommodation needs. I want to be helpful.