

Fall 2005

## JUSTICE STUDIES 115

Special Topics: The Death Penalty in America

Class meetings: Tuesdays -Thursdays 10:30 –11:45 AM, MH 523

Instructor: Mona Lynch

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Office hours: T 12:30-3:00 PM; Th. 9:30-10:30; 12:30-2:00 PM.

**REGULAR OFFICE HOURS WILL BEGIN THURSDAY, SEPTEMBER 1!**

### COURSE OVERVIEW:

This course will address several large questions related to the most extreme form of legal punishment--execution by the state. Who is likely to receive the death penalty? What purpose does it serve? Why has this ultimate corporal punishment thrived throughout our history while most other forms of physical punishment have been rejected by both the courts and the public? Since the earliest days of the republic, heated battles over capital punishment - how it should be carried out, against whom, how to apply it fairly, or whether to execute people at all - have cropped up in public and political arenas, so we will begin the course with an historical overview to provide a framework for examining these questions. Throughout the semester, we will address the issues surrounding race, class, and gender and the death penalty, from the colonial witch hunts and the disproportionate execution of slaves, up through modern legal challenges based on racially biased application. Within this inquiry, we will examine how the courts have interpreted the limits of acceptability in criminal punishment, both procedurally and in terms of what constitutes unconstitutionally cruel and unusual punishment. We will discuss how deviant behavior comes to be defined as so serious that it warrants death, including how that definition has transformed with broader social changes over time.

We will also explore the explicit social justifications for capital punishment, including retribution, deterrence, and incapacitation; as well as the implicit purposes, as suggested by sociolegal theorists. In a related vein, we will analyze public opinion on the death penalty, including a discussion on how we learn about capital punishment and how the issue is politicized. We will discuss in detail the modern death penalty legal procedure, from the charging stage through the execution process. In this section, we will focus on the problems that accompany our continued use of this punishment in terms of achieving equitable justice. We will conclude with an inquiry into capital punishment's future in this nation by placing it within an international perspective: Will we continue to be the exception to the international trend of our peer nations by maintaining capital punishment, or will the death penalty soon be abandoned as would be predicted by a number of factors?

### REQUIRED TEXTS:

Banner, Stuart (2002). The Death Penalty: An American History. Harvard University Press. Available at Robert's Bookstore, 330 S. 10 Street, San Jose and Spartan Bookstore on campus.

Haney, Craig (2005) Death by Design: Capital Punishment as a Social Psychological System. Oxford University Press. Available at Robert's Bookstore, 330 S. 10 Street, San Jose and Spartan Bookstore on campus.

Death Penalty Course Reader (2005) Available after September 15 at Maple Press, 431 E. San Carlos, San Jose.

#### COURSE REQUIREMENTS:

You need to complete the required readings **prior** to the week's classes, as laid out in the course outline below, take and pass two in-class written exams, complete a series of in-class reading response writing assignments that must be completed during the class period in which they are assigned, and co-lead and participate in small in-class discussion groups.

The tests will include questions on both the reading assignments and the material covered during class periods. It should be clear that your regular attendance in class will have a MAJOR impact on your overall grade.

The weight for each of these course requirements is as follows:

Midterm	150 points
Final exam	150 points
In-class reading responses	100 points
Discussion co-lead/part.	100 points
TOTAL:	500 points

Final grades will be determined by your averaged performance across the four course requirements, as follows:

A range = 450 points or above
B range = 400-449 points
C range = 350-399 points
D range = 300-349 points
F = 299 points or below

#### MISSED CLASS ASSIGNMENTS, EXAMS & ACADEMIC DISHONESTY POLICY

Only legitimately excused missed exams can be made up. My policy for what constitutes legitimate excuses will be outlined during our first class meeting. Only under extreme and unavoidable documented emergency circumstances will you be able to make up an exam for a legitimate excuse if you have not given notice of your absence before the actual scheduled exam period. In other words, don't report your absence after the exam was given, unless you can document your complete and total inability to do so before the exam. You may only make up 1 scheduled exam during the semester, so if you are not in attendance for more than 1 scheduled exam, you will receive zero (0) points for the additional missed exam. Missed midterms will be taken on the final day of class, December 8, during the class period. The make-up exam will be in a different format than the original exam. The missed final period will

be arranged if necessary, and will also be in a different format than the original final. PLEASE NOTE THAT IN-CLASS EXAMS WILL ONLY BE DISTRIBUTED IN THE FIRST 10 MINUTES OF THE EXAM PERIOD. You will not be able to take the exam if you arrive later than 10 minutes after the scheduled class/exam period start time.

In-class writing assignments and discussion activities CANNOT be made up; if you are absent on the days that they are given, you will lose those points.

Please familiarize yourself with the SJSU policy on academic dishonesty, available in pdf format at: <http://www.sjsu.edu/academic.html>. It is also published in the SJSU print catalog. Use those rules and definitions to guide your conduct in this class. Any violation of this policy will result in a MINIMUM sanction of a referral to Student Affairs and a zero (0) grade on the affected test/assignment.

#### TOPICS / ASSIGNMENTS / DUE DATES:

WEEK 1 (August 30-September 1): The death penalty & the birth of the nation.

READ by Tuesday: Introduction and Chapter 1—Banner.

WEEK 2 (September 6-8): Capital punishment practices through the Civil War.

READ by Tuesday: Chapter 2-4—Banner.

WEEK 3 (September 13-15): Historical developments through the mid-20th century.

READ by Tuesday: Chapters 5-7—Banner.

WEEK 4 (September 20-22): Constitutional challenges to capital punishment: From *Maxwell* to *Furman*.

READ by Tuesday: Banner—Chapters 8-9.

WEEK 5 (September 27-29): From *Furman* to *Maxwell*: Introduction to the modern death penalty; discussion groups.

READ by Tuesday: Banner—chapter 10 & epilogue; Haney Chapter 1.

WEEK 6 (October 4-6): Thinking about the modern death penalty: Public opinion, sources of knowledge and capital punishment; discussion groups.

READ by Tuesday: Haney, Chapters 2-4.

WEEK 7 (October 11-13): Arguments for and against the death penalty; purposes of the death penalty.

READ by Tuesday: Reader—Chapter 1.

**NO CLASS THURSDAY, OCTOBER 13!**

WEEK 8 (October 18-20): Introduction to the modern capital punishment procedure—death eligibility; the politics of seeking death.

READ by Thursday: Reader—Chapter 2.

**MIDTERM EXAM TUESDAY, OCTOBER 18**

WEEK 9 (October 25-27): Modern death penalty procedures.

READ by Tuesday: Haney, Chapters 5-6.

WEEK 10 (November 1-3): The capital trial process; discussion groups.

READ by Tuesday: Haney, Chapters 7-8.

WEEK 11 (November 8-10): Demographics of death & continued discretionary concerns.

READ by Tuesday: Haney, Chapter 9.

WEEK 12 (November 15-17): The post-conviction process and habeas corpus; the issue of innocence in the appellate process: *Herrera v. Collins*; discussion groups.

READ by Tuesday: Reader—chapter 3.

WEEK 13 (November 22): The social psychological effects on the participants; execution procedure.

READ by Tuesday: Reader—chapter 4.

**NO CLASS ON THURSDAY—THANKSGIVING!**

WEEK 14 (November 29-December 1): U.S. death penalty & international standards, discussion groups.

READ by Tuesday: Reader—chapter 5

WEEK 15 (December 6-8): A change of tide? Signs of reform, retreat, and a new abolitionism.

READ by Tuesday: Haney, Chapter 10; Reader—Chapter 6.

**THURSDAY:** Exam make-ups; individual questions/review.

**FINAL EXAM: During scheduled exam period—Wednesday, December 14, 10:45-12:00 NOON. NOTE LATER STARTING TIME.**