Proposal for a Junior-Senior Cluster Course

Title of proposed course:  PHL 311, The morality of Punishment

When will this course be offered?:  Winter 1997, and one term each following year.

Title of cluster:  Morality

Name of cluster proposal coordinator:  Byron L. Haines

A. Course Description (100 words or less).
This course will focus on some of the various considerations that may be offered in support of the justification of punishment. As a taking off point critical consideration will be given to some of the main theories of punishment: retributionism, utilitarianism, the therapy view (i.e. the view that criminals are to be treated therapeutically rather than punished, in the ordinary sense of punishment) and paternalism (i.e. the view that a central concern in punishment should be the moral good of the punished person). Attention will also be given to some of the more specific problems of punishment such as the punishment of juveniles.

B. Course Development.
This is an existing course.

C. General Education Goals.

I. Inquiry and critical thinking. Students will be expected to come to understand and critically asses arguments for and against the main theories of punishment, as well as moral arguments for and against punishing specific offenders for specific offenses in specific kinds of ways.

II. Communication. Students will be expected to present in writing their understanding of some relatively complex positions concerning the justification of punishment, as well as to present critical evaluations of those positions. There will be about five writing assignments for the term, building from the simple to the more complex.

III. Human Experience. For good or ill, punishment, whether in the family or the state, is an important part of human experience. How it should be done, and to what ends, is something every thoughtful person should think about.

IV. Ethical issues and social responsibility. Few modern societies incarcerate, and even execute, as many of its citizens
as does the United States. While many of the considerations that bear on this have to do with the empirical, sociological (criminological) issues - e.g. why so much violent crime? - there are also questions to be addressed by every responsible citizen concerning why we should punish and to what proper ends.

D. Course Outline.
This class will be taught by Byron Haines, Winter 1997, and each following year. A recent list of topics and assignments is attached.
PHILOSOPHY 311
THE MORALITY OF PUNISHMENT
WINTER 1995
Byron Haines

PHILOSOPHY 311, Winter term 1995, will focus on some of the philosophical (as
distinct from empirical) issues concerning the morality of punishment, and, more
generally, the morally appropriate treatment of those who have committed some offense
against, and constitute some serious threat to, their fellow persons. A number of
questions will be considered. For example, what is punishment? How is punishment to
be distinguished (if it is) from such related phenomena as retaliation, revenge,
conditioning through the use of aversive stimuli, etc.? What, from the moral point of view,
is the proper aim of punishment? Is it, for example, to provide suffering for the offender
that is comparable to that caused by the victim by the offense? Must punishment, to be
justified, produce some general social good? If so, what is that good?--protection of the
innocent from the specific offender?--deterrence of others from committing similar
offenses?--reform of the specific offender?--or some combination of these? What gives
anyone the right to punish? What are some of the various features that may make a
given punishment unjust, or, perhaps more generally, immoral? How are we to treat
properly those persons who, while perhaps being judged not responsible for their acts
because of psychological disorders (e.g. suffering from delusions), nonetheless have
committed serious offenses against persons and who may continue to be a threat to their
fellow persons? Finally, are we ever justified, on moral grounds, in punishing a person
by taking the life of that person? If not, why not? If so, then under what conditions?
(Note: inasmuch as the Death Penalty is characteristically one unit of the Life and Death
Issues class, there will not be a large block of classes devoted specifically to it. However,
some consideration of it is certain to come up in connection with other issues.) There will
likely also be some class discussion of some current issues--e.g. mandatory sentences.

As a taking offpoint for considering these questions, we will consider some of the
standard defenses and criticisms of some general theories of punishment:

(1) retributivism, in its crude form the view that just punishment involves something
like an eye for an eye, a life for a life, etc., but which can also be presented in
more refined ways,

(2) utilitarianism, the view that punishment, like all other morally significant actions,
can be justified only by the overall good consequences of punishing,

(3) the therapy view, i.e., the view that the offender is to be understood as the victim
of an illness and rather than punished, as punishment is usually understood,
provided with a kind of therapy, and

(4) paternalism (parentalism?), The view that a central concern in punishing ought be
with the moral good of the punished person.
Our aim in thinking about these theories will not be that of choosing one of them, but that of assimilating the insights of, and benefitting from a consideration of the difficulties in, each of them.

The assigned readings for the course will come from two main sources. There will be a small text, *Punishment and Rehabilitation*, edited by Jeffrie Murphy, available at the PSU Bookstore. Additionally, there will be a packet of readings available at Clean Copy on 6th Avenue.

The method of instruction will be a combination of informal lecture and discussion. The instructor will assume responsibility for presenting the general theories of punishment, the standard arguments for and against such theories, and for advancing, from time to time, for critical consideration, some views of his own. (For example, the instructor believes that some insight concerning the morality of punishment is to be gained by giving consideration to punishment and its alternatives within those personal human associations such as the family where mutual respect and caring can be presupposed.) However, thoughtful participation from the class will be encouraged, and contributions from those who, on the basis of their own experience, academic and otherwise, can provide information concerning actual cases, and empirical data where it is relevant, will be welcomed.

There will be some writing for the class—most likely three or four short papers on assigned topics and a take-home final exam. Grading for the class will be more or less conventional, with the grade of A reserved for special achievement, and the grade of C (or Pass) requiring serious effort in terms of class attendance, completion of the writing assignments, and displaying some understanding of the issues and arguments we consider. In general, students who put out serious effort should not have difficulty in earning at least a C grade for the class; however, students who pay only occasional visits to the class will not be considered to have made serious effort.

A prerequisite for the class is one previous class in ethics—e.g. PHL 202 or its equivalent. However, exceptions can be made, with the instructor’s consent, in the case of students who have serious interest in the subject and who have studied issues concerning punishment from other perspectives. Some Administration of Justice students, for example, might qualify here. If in doubt consult the instructor either before the class begins or during the first week.
Philosophy 311 The Morality of Punishment  
Winter Term 1995  
Byron Haines  
Phone: 725-3520  
Office: M 426, 4th Floor *Mezzanine, Neuberger Hall  
Office Hours: 11-12 MWF or by appointment. Appointments are typically from 3pm onwards on Monday or Friday, or after 10:30 am on Tuesday or Thursday.

Tentative schedule of topics and assignments. "Murphy" refers to the text, Punishment and Rehabilitation, 3rd Edition, ed. Jeffrie A. Murphy, available at the PSU bookstore. "CC" refers to the readings in the packet available at Clean Copy. (For reasons that will be explained in class there may be some slight changes in the order of reading assignments. If there are they will be announced in class.) It will improve the level of the lectures and class discussions considerably if the assignments are read before they are discussed in class.

1. Wed. Jan. 4. Introduction to the subject and the course. Philosophical issues distinguished from empirical issues. Some of the main philosophical issues concerning punishment.

2. Fri. Jan. 6. What is punishment? Why have punishment at all?  
Assignment: Bedau, "A World Without Punishment?" CC.

Assignment: Murphy, Introduction, pp. 1-5.

Assignment: Murphy, 14-20 (Kant).

Assignment: Nagel, "Free Will," CC.

Assignment: Murphy, 132-151 (Murphy).

Assignment: Murphy, 21-35 (Bentham).

Assignment: Rawls, "Punishment as a Practice," CC.

Assignment: McCloskey, "A Non-Utilitarian Approach to Punishment," CC.

Assignment: Murphy, 38-60 (Farrell).

Assignment: Skinner, "Punishment," CC.

Assignment: Menninger, "Therapy Not Punishment," CC.

Assignment: Szasz, "The Myth of Mental Illness," CC.

Assignment: Murphy, 74-93 (Morriss).
   Assignment: review Morris paper ("Persons and Punishment").

   Assignment: Murphy, "Marxism and Retribution," CC.

   Assignment: Haines, "Morris, Murphy, the Family and the Wise Punishment of Persons," CC.

   Assignment: Murphy, 8-13 (Plato) and Murphy, 154-168 (Morris).

   Assignment: Review Morris paper.

   Assignment: Murphy, 169-198 (Duff).

   Assignment: Murphy, 249-273 (Delgado).


23. Mon. Feb. 27. Catch up and review.

   Assignment: Backlar (& Rogers) "Out of Control," CC.

25. Fri. Mar. 3. Deterrence and the death penalty.
   Assignment: Murphy, 61-71 (Conway).

   Assignment: Haines, "Human Rights, the Moral Community, and the Death Penalty," CC.

27. Wed. Mar. 8. Some of the varied ways in which punishing and failing to punish can go wrong.
   Assignment: review and think.

   Assignment: review and think.

My office: M 427 NH (Located on the 4th Floor *Mezzanine, (east side of Neuberger Hall).
Office phone: 725-3520
Philosophy Department Office: 471 NH (west side of Neuberger Hall).
My home phone: 274-1082 (I do not mind being called at home on matters of importance or
to make appointments.)

*The 4th floor Mezzanine is on the east side of NH (1/2 floor up) accessible by stairs east of
the English Department and/or the Instructional Computing Center.