



Introduction

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This seminar dealt with topics in the theory and practice of crime and punishment in contemporary America from the standpoint of politics and political theory. We dealt with various theories of the criminal law in light of debates about empirical evidence, the politicization of crime, civil rights issues, abortion, psychiatry and the law, and arguments about punishment and prison reform. I did not try to offer a comprehensive overview of the American criminal justice system, or even of the topics covered. Rather, my aim was to promote disciplined reflection about the difficulties and complexities of the ideas of crime and punishment as we operate with them in everyday life.

The readings and seminar discussions were organized around four topics: moral foundations of the criminal law, in which we discussed classic arguments about what the content of the criminal law should be, what obliges us to obey it, who should make the law (legislatures vs. common law courts), and how to reconcile its somewhat conflicting goals of retribution, rehabilitation, and deterrence. In the section of players and procedures in the criminal law we attended to the structure of the American courts system (state and federal plus tiers of review), the different rights and perspectives of defendants, victims, prosecutors, judges, defense attorneys and juries. We spent some time on what difference it should make to the operation of the criminal law that we live in a democracy, and we traced the history of right to court-appointed counsel for indigent defendants in some detail as a case study of how the criminal law evolves over time. In a section on politics and the criminal law we looked at the politicization of both crime and punishment, with attention to such issues as the war on drugs, the move toward private sector prisons, the significance of high-profile cases such as the Simpson or Menendez brothers cases, and the role of the criminal justice system in exacerbating or ameliorating racial tensions in the United States. In a final section on the edges of the criminal law we focussed on the juvenile justice system and the insanity, with particular attention to three issues: what they tell us about the limits of guilt and responsibility for criminal wrongdoing, the difference between punishment and treatment, and the differences between prisons and other total institutions such as mental hospitals and juvenile corrections facilities.

The seven fellows in the seminar worked on a variety of topics that to some extent cut across, and drew on, all these areas. Joan Rapczynski focussed, in "Search and Seizure," on Fourth Amendment to the U.S. Constitution. Her unit combines an overview of the nature and purposes of the Bill of Rights, a window onto the changing interpretations of the Fourth Amendment on the Supreme Court over time, technicalities concerning the requirements of search warrants and the exclusionary rule (excluding illegally seized evidence from trial), debates about automobile searches and "racial profiling," rights to juveniles to privacy in the context of school searches. Angela Beasley-Murray wrote "...By Reason of Insanity: An Exploration of the

Mental Disease/Defect Defense," in which she explores the different legal tests for criminal culpability and the extent to which these comport with commonsense understandings of insanity as expressed in novels as well as standard medical definitions. In "Democracy Speaks Through Criminal Law," Joyce Bryant explores various ways in which the criminal justice system stands in need of reform if democracy is to speak through the criminal law. She focuses on the Bill of Rights, the jury system, the distribution of discretionary authority within the system, and the ways in which it exhibits racial and other biases.

Four fellows developed units on different aspects of the juvenile justice system. In "The Juvenile Justice System: The Real Deal" Deborah Smereczynsky focuses on the constitutional rights of juvenile offenders, the nature of juvenile proceedings, and the recent move to try juveniles as adults for increasing numbers of offenses. In "Juvenile Delinquency: Cause and Effect" Cynthia Roberts deals with status offenses-activities that would not be crimes if committed by adults but are when committed by children-and the role of the juvenile court. Joseph Wickliffe deals with debates about the causes of juvenile delinquency in "Why Juveniles Commit Crimes," and Afolabi J. Adebayo deals with the disposition of juvenile offenders in "Rehabilitation and Control of Juvenile Delinquency Offenders."

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