The United States, almost alone among constitutional democracies, retains death as a criminal punishment. It does so in the face of growing international pressure for abolition and of evidence that the system for deciding who lives and who dies is fraught with error. This seminar is designed to expose students to America’s death penalty as a researchable subject. It will be organized to help students understand how research is framed in this area, analyze theories and approaches of death penalty researchers, and identify open questions and most promising lines of future research. It will focus on the following dimensions of America’s death penalty: its history, current status, public support/opposition, the processing of capital cases in the criminal justice system, race and capital punishment, and its impact and efficacy. During the seminar, each student will develop a prospectus for a research project on America’s death penalty.

I. Introduction-What is a Researchable Question?: Meaning, Change, Difference, Impact

II. Philosophical Perspectives on Capital Punishment


Walter Berns, For Capital Punishment, 153-176

Other Sources:


George Kateb, Patriotism and Other Mistakes

William Connolly, The Ethos of Pluralization, 41-49, 58-74
Immanuel Kant, The Philosophy of Law

III. Public Support for Capital Punishment


Other Sources:

IV. Comparative Perspectives: American Exceptionalism?


Other Sources:
Roger Hood, The Death Penalty: A World-Wide Perspective
Raymond Paternoster, Capital Punishment in America
William A. Schabas, *The Abolition of the Death Penalty in International Law*
Franklin E. Zimring & Gordon Hawkins, *Capital Punishment and the American Agenda*
Austin Sarat and Christain Boulanger, eds. *The Cultural Lives of Capital Punishment: Comparative Perspectives*
Austin Sarat and Jurgen Martschukat, eds. *Is the Death Penalty Dying? European and American Perspectives*

V. From Lynch Mobs to the Killing State


*Other Sources:*
Franklin Zimring, *The Contradictions of American Capital Punishment*
Cynthia Skove Nevels, *Lynching to Belong: Claiming Whiteness Through Racial Violence*
Philip Dray, *At the Hands of Persons Unknown: The Lynching of Black America*

VI. The Legal Framework


*Other Sources:*


Lee Epstein and Joseph Kobylka, The Supreme Court and Legal Change: Abortion and the Death Penalty

Carol Steiker, “Things Fall Apart, But the Center Holds: The Supreme Court and the Death Penalty,” 77 NYU Law Review (2002), 1475


VII: The Legal Process: Trials

Austin Sarat, When the State Kills: Capital Punishment and the American Condition, chapter 4

Other Sources:


William Geimer, “Law and Reality in the Capital Penalty Trial,” 18 NYU Review of Law
& Social Change (1990), 273

VIII: The Legal Process: Victim Impact Statements

Austin Sarat, When the State Kills; Capital Punishment and the American Condition, chapter 2

Other Sources:

IX. The Legal Process: Juries

Austin Sarat, When the State Kills; Capital Punishment and the American Condition, chapter 5

Other sources:


Alex Kotlowitz, “In The Face of Death,” NY Times (July 6, 2003)

Benjamin Fleury-Steiner, Jurors’ Stories of Death: How America’s Death Penalty Invests in Inequality

Benjamin D Steiner, William J. Bowers, and Austin Sarat,“Folk Knowledge as Legal Action: Death Penalty Judgments and the Tenet of Early Release in a Culture of Mistrust and Punitiveness” 33 Law & Society Review (1999), 461-506

X. The Legal Process: Miscarriages of Justice in Capital Cases


Other sources:


Talia Harmon, “Predictors of Miscarriages of Justice in Capital Cases,” 18 Justice
Quarterly (2001), 949
Michael L. Radelet & Hugo A. Bedau, & Constance E. Putnam, In Spite of Innocence: Erroneous Convictions in Capital Cases

XI: The Legal Process: Clemency


Other sources:
Bruce Ledewitz and Scott Staples, “The Role of Executive Clemency in Modern Death Penalty Cases,” 27 University of Richmond Law Review (1992), 227
Kathleen Dean Moore, “Pardon for Good and Sufficient Reasons,” 27 University of Richmond Law Review (1992), 281
Michael Radelet and Barbara Zsemblik, “Executive Clemency in Post-Furman Capital Cases,” 27 University of Richmond Law Review (1992), 289

XII: The Cultural Life of Capital Punishment
FILM: Dead Man Walking

Austin Sarat, When the State Kills; Capital Punishment and the American Condition, chapter 8

Other Sources:

David Dow, “Fictional Documentaries and Truthful Fictions: The Death Penalty in Recent American Film,” 17 Constitutional Comment (2000), 511


Linda Williams, “Melodrama in Black and White: Uncle Tom and The Green Mile,” 55 Film Quarterly (2001), 14


Carole Shapiro, “Do or Die: Does Dead Man Walking Run?” 30 University of San Francisco Law Review (1995), 1143


Diana George and Diane Shoos, “Deflecting the Political in the Visual Images of Execution and the Death Penalty Debate,” 67 College English (2005), 587-609


Patricia Molloy, "Face to Face with the Dead Man: Ethical Responsibility, State-Sanctioned Killing, and Empathetic Impossibility," 22 Alternatives: Social Transformation and Humane Governance (1997), 467-92


XIII: Presentation of Research Proposals-I

XIV: Presentation of Research Proposals-II

Postscript: Among the topics that we have not covered you might be interested in: The Death Penalty in American History; Methods of Execution; and The Impact of Capital Punishment: Does the Death Penalty Deter