

PHIL 202: Responsibility & Excuse
UCSD; Fall 2017
Professor David O. Brink
Syllabus

Here is a list of topics and readings in the order in which we will discuss them. Within a topic, do the readings in the order in which they are listed. Readings are either (A) required or (B) recommended. Required readings are drawn from the required text — Joshua Dressler, *Understanding Criminal Law* — and from additional electronic sources, which can be found on the TED website [TED]. There may be minor modifications in the assigned readings during the term; you should check periodically to make sure that you are operating with the current version of the Syllabus. We will try to stick to the timetable of the Syllabus as best we can. If we fall behind, I'll try to find ways to make up ground. It is important to read the assignments on time, and it is helpful if you bring the texts we are discussing to class. Full publication details for these readings can be found on the Select Bibliography.

Week 1. THE REACTIVE ATTITUDES, RESPONSIBILITY, ATTRIBUTABILITY, AND ACCOUNTABILITY

- (A) P.F. Strawson, "Freedom and Resentment" [TED]; Gary Watson, "Responsibility and the Limits of Evil: Variations on a Strawsonian Theme" [TED]; and Gary Watson, "Two Faces of Responsibility" [TED].
- (B) John Rawls, "Two Concepts of Rules;" Angela Smith, "Attributability, Answerability, and Accountability: In Defense of a Unified Account;" David Shoemaker, "Attributability, Answerability, and Accountability" and *Responsibility from the Margins*, chs. 1-3.

Week 2. RETRIBUTIVISM AND THE FAIR OPPORTUNITY CONCEPTION OF RESPONSIBILITY

- (A) Michael Moore, *Placing Blame*, ch. 2 [TED]; David O. Brink, "Retributivism and Legal Moralism" [TED]; David O. Brink and Dana K. Nelkin, "Fairness and the Architecture of Responsibility" [TED]; and Al Mele, "Irresistible Desires" [TED].
- (B) Robert Nozick, *Philosophical Explanations*, pp. 363-97; Moore, *Placing Blame*, ch. 3; Herbert Morris, "Persons and Punishment;" Erin Kelly, "Criminal Justice Without Retribution;" Joshua Dressler, *Understanding Criminal Law*, chs. 2 and 6; Harry Frankfurt, "Alternative Possibilities and Moral Responsibility;" Susan Wolf, *Freedom and Reason*; R. Jay Wallace, *Responsibility and the Moral Sentiments*; John Fischer and Mark Ravizza, *Responsibility and Control*; Dana Nelkin, *Making Sense of Freedom and Responsibility*; Manuel Vargas, *Building Better Beings*; H.L.A. Hart, *Punishment and Responsibility*; Michael Moore, *Placing Blame*; Stephen Morse, "Uncontrollable Urges and Irrational People."

Week 3. CULPABILITY AND CRIMINAL LIABILITY

- (A) Paul Robinson, *Structure and Function in Criminal Law*, ch. 3 [TED] and David O. Brink, "Two Kinds of Culpability" [TED].
- (B) Joshua Dressler, *Understanding Criminal Law*, chs. 9-10, 16-17; Mitch Berman, "Justification and Excuse, Legality and Morality;" and Seana Shiffrin, "The Moral Neglect of Negligence."

Week 4. RESPONSIBILITY AND STRUCTURAL INJUSTICE

- (A) Herbert Morris, "Persons and Punishment" [TED]; Gary Watson, "A Moral Predicament in the Criminal Law" [TED]; and Tommie Shelby, *Dark Ghettos: Injustice, Dissent, and Reform*, chs. 7-8 [TED].
- (B) R.A. Duff, *Punishment, Communication, and Community*; Victor Tadros, "Poverty and Criminal Responsibility;" Michelle Alexander, *The New Jim Crow*; and James Forman, "Racial Critiques of Mass Incarceration: Beyond the New Jim Crow."

Week 5. SITUATIONISM AND RESPONSIBILITY

- (A) John Doris, *Lack of Character*, esp. chs. 2-4 and 7 [TED]; John Doris and Dominic Murphy, "From My Lai to Abu Ghraib: The Moral Psychology of Atrocity" [TED]; David O. Brink, "Situationism, Responsibility, and Fair Opportunity" [TED].
- (B) Dana Nelkin, "Freedom, Responsibility, and the Challenge of Situationism."

Week 6. INSANITY AND PSYCHOPATHY

- (A) Joshua Dressler, *Understanding Criminal Law*, ch. 25; Deborah Denno, "Who is Andrea Yates? A Short Story about Legal Insanity" [TED]; Gary Watson, "Responsibility and the Limits of Evil" [TED] and "The Trouble with Psychopaths" [TED]; Cordelia Fine and Jeanette Kennett, "Mental Impairment, Moral Understanding, and Criminal Responsibility" [TED]; David O. Brink, "Responsibility, Incompetence, and Psychopathy" [TED]; and Dana Nelkin, "Psychopaths, Incurable Racists, and the Faces of Responsibility" [TED].
- (B) David Shoemaker, *Responsibility from the Margins*, chs. 5-6.

Week 7. IMMATURITY

- (A) Barry Feld, *Bad Kids: Race and the Transformation of the Juvenile Court*, ch. 8 [TED]; David O. Brink, "Immaturity, Normative Competence, and Juvenile Transfer" [TED]; *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida* 130 S.Ct. 2011 (2010); and *Miller v. Alabama* 132 S.Ct. 2455 (2012) [TED].
- (B) Elizabeth Scott and Scott Steinberg, "Blaming Youth."

Week 8. ADDICTION

- (A) *United States v. Lyons*, 731 F. 2d 243 (1984) [TED]; Richard Holton and Kent Berridge, "Addiction: Between Compulsion and Control" [TED]; Jay Wallace, "Addiction as a Defect of the Will" [TED]; Gary Watson, "Excusing Addiction" [TED].
- (B) Gideon Yaffe, "Recent Work on Addiction and Responsible Agency" and *Addiction and Self-Control*, ed. Levy.

Week 9. PROVOCATION AND CRIMES OF PASSION

- (A) Joshua Dressler, *Understanding Criminal Law*, chs. 22-23 and 31; Victoria Nourse, "Passion's Progress: Law Reform and the Provocation Defense" [TED].

Week 10. PARTIAL RESPONSIBILITY

- (A) Joshua Dressler, *Understanding Criminal Law*, ch. 26; Dana Nelkin, "Difficulty and Degrees of Moral Praiseworthiness and Blameworthiness" [TED]; and David O. Brink, "Partial Responsibility and Excuse" [TED].
- (B) Stephen Morse, "Undiminished Confusion in Diminished Capacity" and "Diminished Rationality, Diminished Responsibility."