

Date: August 18, 2020

# COLUMBIA UNIVERSITY

IN THE CITY OF NEW YORK

## ABOLITION: A SOCIAL JUSTICE PRACTICUM

ALEXIS J. HOAG AND BERNARD E. HARCOURT

Fall 2020

**3 CREDITS**

**L 8419 / CPLS 3980**

**WEDNESDAY 4:20 – 7:10 pm**

Alexis Hoag  
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Course times: Wed. 4:20 – 7:10 pm  
Course location: Drapkin Lounge, CLS

Bernard E. Harcourt  
Isidor and Seville Sulzbacher Professor  
Law, Political Science, and ICLS  
Columbia University  
Jerome Greene Hall 603

*Holder Initiative Associate Director*  
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### COURSE DESCRIPTION

This course will explore the social justice road to punitive abolition—to the abolition of capital punishment and the dominant punitive punishment paradigm in the United States. It will investigate how abolition of the death penalty might be achieved in this country, but also what it might mean to imagine abolition in the context of policing, of the prison, and also of punishment more broadly.

The United States incarcerates more of its own than any other country in the world and than any other civilization in history. With over 2,600 inmates on death row, 2.2 million people behind bars, another 5 million people on probation or parole, and over 70 million people in the FBI’s criminal record database, this country now operates a criminal justice system of unparalleled punitiveness. The burden of this system has fallen predominantly on poor communities of color. In fact, in some striking ways, this country’s criminal justice system and reliance on mass incarceration have replaced chattel slavery. As Bryan Stevenson explains, “Slavery didn’t end in 1865. It just evolved.”

This course will explore how the country can move from a punitive paradigm to a new paradigm that favors instead education and well-being. It will investigate: (1) how to chart a social justice path toward abolition of the death penalty; (2) how to reimagine the criminal justice system so that it is no longer based on a punitive paradigm; and (3) what it would mean to imagine abolition more broadly of policing and punishment.

This course will be limited to 26 students, including six undergraduate students. Students will work on research projects together on mixed teams of law and undergraduate students. Research projects will be in the areas of capital punishment, criminal defense and advocacy, and appellate litigation. Projects will include, for instance:

- Researching and charting a path to abolition of the death penalty in the United States, determining what the next strategy should be and how it could be implemented;
- Collaborating with a local public defender agency to finding alternatives to incarceration for clients charged with crimes against an intimate partner;
- Partnering with a national organization on litigation and policy work to abolish qualified immunity;
- Assisting in warrant litigation, including authoring a potential amicus brief, for a death sentenced individual challenging his scheduled execution date.

This practicum will be co-taught by Alexis J. Hoag and Bernard E. Harcourt.

Alexis J. Hoag is a lecturer and associate research scholar at the law school and the Practitioner in Residence at the Eric H. Holder Jr. Initiative for Civil & Political Rights at Columbia University. Before joining Columbia, Alexis was senior counsel at the NAACP Legal Defense and Educational Fund, Inc. (LDF), where she represented clients in a variety of civil and criminal matters. Prior to LDF, she served as an Assistant Federal Public Defender in the Capital Habeas Unit in Nashville, Tennessee representing death sentenced individuals in their federal habeas and related state court proceedings.

Bernard E. Harcourt is Professor of Law and Political Science at Columbia University and the Executive Director of the Eric H. Holder Jr. Initiative for Civil & Political Rights at Columbia University. He has represented individuals sentenced to death and to life imprisonment without parole in Alabama for thirty years.

The course will meet for a three-hour working seminar every week. Working in teams, law and undergraduate students will partner with Hoag and Harcourt on research projects regarding abolition of the death penalty; finding alternatives to incarceration; and abolishing qualified immunity. Hoag and Harcourt will offer weekly supervision. Student can be expected to work intensely on projects for at least three hours for every hour in seminar.

Please note that we will periodically invite experts in the field to join us as guests in seminar. It is our hope that you will engage with them regarding the material we cover in readings and the fieldwork you are conducting outside of class. The readings are subject to change, please look out for announcements in class and on CourseWorks.

For the undergraduates, this independent study is intended to build on [core competencies](#) for graduation, including: civic individual responsibility; written communication; community engagement and inclusion; creativity and innovation; critical thinking; global awareness; knowledge; research; and teamwork and collaboration. This course will offer an eye-opening and mind-flexing experience for undergraduates and law students that will directly engage issues of race, class, inequality, law, history, philosophy, and justice. Plus, students will be introduced to leading social justice advocates.

#### COURSE PREREQUISITES

Law students who wish to take the course and undergraduates who wish to take independent supervised research credit with Professor Harcourt should send a paragraph describing their background and reason for wanting to take the course and CV.

#### COURSE REQUIREMENTS

Students will be required to read the assigned materials, attend the weekly seminar, and participate in seminar discussion.

Students will be required to work on research projects. Those will be graded first on the basis of a proposal submitted on week four; and then on the basis of the completed research project submitted at the end of the course. Ongoing feedback and discussion with the instructors will provide ongoing guidance for successful research.

Students will be required to submit a final written product that may be a research paper or policy brief. The work product is expected to be 4,000-5,000 words.

During the semester, the students will be asked to submit in consultation with the instructors a document detailing their research topic and describing what they will be working on during the semester; and at the end of the semester, submit the final draft of their research or policy paper. The final grade for the course will be determined in the following manner:

- Seminar Attendance and Participation (20%)
- Project Description (20%)
- Final research or policy paper (60%)

#### STATEMENT REGARDING ACADEMIC INTEGRITY

Each student in this course is expected to abide by the Columbia University Code of Academic Integrity. Any work submitted by a student in this course for academic credit must be the student's own work. The complete Faculty Statement on Academic Integrity can be found at: <https://www.college.columbia.edu/academics/integrity-statement>

and the Columbia University Undergraduate Guide to Academic Integrity can be found here: <https://www.college.columbia.edu/academics/academicintegrity>

Any violation of the Academic Code of Integrity will be forwarded to the Office of Judicial Affairs and Community Standards and will result in a failing grade for the course.

#### TAKING AND CREATING SPACE

Be mindful of any privileged identities you may hold and help to create an environment for everyone to contribute, speak up when you have something to share, but also create a space for others to share. This can mean letting others speak even if you do not get to share your view and being aware of the impact you are having on others' ability to contribute.

#### DISABILITY STATEMENT

Columbia Law School is committed to the full inclusion of students with disabilities in the life of the University. In accordance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA), and the Americans with Disabilities Act Amendments Act (ADAAA), CLS provides accommodations and supports to students with documented disabilities on an individual, case-by-case basis. To request disability accommodations for this course, students must first be registered with Disability Services (DS).

Detailed information is available online (<https://health.columbia.edu/content/disability-services>) regarding the registration process, drop-in hours schedule, documentation requirements and important deadlines. Please allow for at least three weeks to complete the DS registration process. If you have already registered with DS, please contact the CLS DS liaison: Jennifer Braden, Assistant Director of Counseling and Student Support, [jbraden@law.columbia.edu](mailto:jbraden@law.columbia.edu).

#### BASIC NEEDS AND SECURITY

Any student who faces challenges securing their food or housing and believes this may affect their performance in this course is encouraged to contact Bernard and/or Alexis if you are comfortable doing so and we, along with the Dean of Students, will assist you in accessing resources.

## SYLLABUS

### Week #1: September 16, 2020 – Introduction to Abolition

In our first seminar, we will introduce the topic of abolition and the various projects that we will be working on this semester. We will assign students to research projects and begin to chart speakers to invite to class, targeted readings for the sessions, and chart out the research plans.

#### Readings:

Allegra McLeod, “Prison Abolition and Grounded Justice,” 62 UCLA L. Rev. 1156 (2015), [available here](#).

Amna Akbar, “Towards a Radical Imagination of Law,” 93 NYU L. Rev. 405 (2018)

Roberts, Dorothy. “Abolition Constitutionalism.” *Harvard Law Review* 133, no. 1 (2019): 1-122. [https://harvardlawreview.org/wp-content/uploads/2019/11/1-122\\_Online.pdf](https://harvardlawreview.org/wp-content/uploads/2019/11/1-122_Online.pdf)

### Week #2: September 23, 2020 – Criminalization of Blackness

#### Readings:

Bryan Stevenson, *A Presumption of Guilt*, in *POLICING THE BLACK MAN* (Angela J. Davis ed., Penguin 2017), pg. 3-30

KHALIL GIBRAN MUHAMMAD, *THE CONDEMNATION OF BLACKNESS: RACE, CRIME, AND THE MAKING OF MODERN URBAN AMERICAN* (Harv. Univ. Press 2010), Introduction, pg. 1-14

PAUL BUTLER, *CHOKEHOLD: POLICING BLACK MEN*, “Constructing the Thug,” pg. 17-46 (New Press 2017)

### Week #3: September 30, 2020 – Reform/Defund Police

#### Readings:

Jocelyn Simonson, *Police Reform Through a Power Lens*, 130 YALE L. J. \_\_ (forthcoming 2021), availability TBD.

Garrett Felber, *The Struggle to Defund the Police Is Not New*, BOSTON REVIEW, June 9, 2020, [available here](#).

Tracey Meares and Tom Tyler, “The First Step Is Figuring Out What Police Are For,” *The Atlantic*, June 8, 2020, [available here](#).

### Week #4: October 7, 2020 – Abolish the Police

#### Readings:

Brandon Hasbrouck, *Abolishing Racist Policing with the Thirteenth Amendment*, 68 UCLA L. REV. 200 (2020), [available here](#).

Amna Akbar, *An Abolitionist Horizon for Police (Reform)*, 108 CALIF. L. REV. \_\_\_ (2020), [available here](#).

Mariame Kaba, *Opinion: Yes, We Mean Literally Abolish the Police*, N.Y. TIMES, June 12, 2020, [available here](#).

**\*\*\* Submit Project Description Essay in class on Week 4 \*\*\***

**Note:** Essay should be 1,000 words long and contain two main sections: a first section summarizing the project you are working on, followed by a second section describing in more detail how you are going to realize the project. We will give directions early in the semester. This assignment will be returned to you with comments, as well as feedback on your seminar participation.

Week #5: October 14, 2020 – Abolish Qualified Immunity

Readings:

Jamison v. McClendon, No. 3:16-595 (S.D. Miss. Aug. 4, 2020)

Baxter v. Bracey, 590 U.S. \_\_\_ (2020) (Thomas, J., dissent)

Joanna Schwartz, *Police Indemnification*, 89 N.Y.U. L. REV. 885 (2014), excerpts

Additional Reference:

*For Cops Who Kill, Special Supreme Court Protection*, Reuters Study (2020), [available here](#).

Week #6: October 21, 2020 – Abolish Prisons

Readings and Podcast:

*Ruth Wilson Gilmore Makes the Case for Abolition*, The Intercept, Vol 1. (54 min) and Vol. 2 (31 min), [available here](#).

Angela Y. Davis, *Are Prisons Obsolete?* (Seven Stories Press, 2003), excerpts

Additional Reference:

“A World Without Walls” Abolitionist Toolkit, *Critical Resistance*, [available here](#).

Week #7: October 28, 2020 – Abolition Within the Criminal Legal System

Readings:

Nicole Smith Futrell, “The Practice and Pedagogy of Carceral Abolition in a Criminal Defense Clinic,” \_\_\_ N.Y.U. REV. L. & SOC. CHANGE \_\_\_ (*forthcoming* 2021), availability TBD.

Lindsey Webb, “Slave Narratives and the Sentencing Court,” 42 N.Y.U. REV. L. & SOC. CHANGE 125 (2018), pages 141-71

## Week #8: November 4, 2020 – Intimate Partner Violence Outside the Criminal Legal System

## Readings:

Alisa Bierria, Hyejin Shim, Mariame Kaba, and Stacy Suh, ed., *Survived and Punished: Survivor Defense as Abolitionist Praxis*, (2017) [available here](#).

Aviva Stahl, *We Have Already Stopped Calling the Cops*, BUSTLE, July 21, 2020, [available here](#).

## Additional Reference:

Violence Intervention Program NYC, [available here](#).

Connect NYC, [available here](#).

## Week #9: November 11, 2020 –Temporary Abolition of the Death Penalty

## Readings:

*Furman v. Georgia*, 408 U.S. 238 (1972), excerpts

*Gregg v. Georgia*, 428 U.S. 153 (1976), excerpts

Jack Greenberg, CC '45, CLS '48, Chapter 32, NORI and Criminal Justice, *Crusaders in the Courts: How a dedicated band of lawyers fought for the Civil Rights Revolution* (Basic Books, 1994), 440-460

## Week #10: November 18, 2020 – Anti-Black Racism is an Inherent Part of Death Sentencing

## Readings:

*Enduring Injustice: The Persistence of Racial Discrimination in the U.S. Death Penalty*, Death Penalty Information Center Report (2020), availability TBD.

Jennifer Eberhardt, et. al., *Looking Deathworthy: Perceived Stereotypicality of Black Defendants Predicts Capital-Sentencing Outcomes*, 17 Psychol. Sci. 383 (2006)

*Buck v. Davis*, 137 S.Ct. 759 (2017), excerpts

## Week #11: November 25, 2020 – Revisiting the Fourteenth Amendment as a Tool for Abolition

## Readings:

*McCleskey v. Kemp*, 481 US 279 (1987)

Alexis Hoag, *Valuing Black Lives: A Case for Ending the Death Penalty*, 51.3 COLUM. HUM. RTS. L. REV. 985 (2020), [available here](#).

## Week #12: December 2, 2020 – The Road to Abolition of the Death Penalty

## Readings:

*Glossip v. Gross*, 135 S.Ct. 2726, 2755-2797 (2014) (J. Breyer, dissent)

*Washington v. Gregory*, No. 88086-7 (Oct. 11, 2018)

Week #13: December 9, 2020 – Alternative Remedies to Address Harm

**Readings:**

Paul Tullis, *Can Forgiveness Play a Role in Criminal Justice?*, N.Y. TIMES (Jan. 4, 2013), [available here](#).

Sherrilyn A. Ifill, Chapter 9, Reconciliation in the Twenty-First Century, *On the Courthouse Lawn: Confronting the Legacy of Lynching in the Twenty-First Century* (Beacon Press, 2018), tenth-anniversary edition, 173-176

Tammy Krause, “Reaching Out to the Other Side: Defense-Based Victim Outreach in Capital Cases,” in *Wounds That Do Not Bind: Victim Based Perspectives on the Death Penalty*, ed. James Acker and David Karp (Carolina Academic Press, 2006)

**\*\*\* Final Submissions of Project Report, Research Papers or Policy Proposals due (4,000 – 5,000 words) on December 11 at 5:00 PM \*\*\***