This course will examine the distinctive law of capital punishment. What special rules and procedures govern the conduct of capital trials, especially the determination of punishment where death is an option? What are the burdens and responsibilities of lawyers in capital cases? In addition, we will pay particular attention to the Eighth Amendment’s prohibition of cruel and unusual punishment. How has the Eighth Amendment been interpreted in capital cases? We will also consider the current practices and status of the death penalty in the United States.

Books for the course are:

Herman Melville, *Billy Budd* (P)

Other readings are available on electronic reserve.

Please note that there is one film which you should see as part of the course.

I. INTRODUCTION

1. *Introduction* (TUESDAY, March 21-330-500)

   Francis v. Resweber, 329 US (1947) 459

II. THE CONTEXT OF CAPITAL PUNISHMENT: PERSPECTIVES ON PUNISHMENT


3. *Why Do We Punish?* (WEDNESDAY, March 22-330-500)

   Herman Melville, *Billy Budd* (P)
Herbert Morris, “Persons and Punishment” 52 The Monist (1968), 475-501
Robinson v. California, 370 US (1962) 660

4. **Why Do We Punish?—II (WEDNESDAY, March 22-630-900)**

5. **Why Do We Punish?—III (THURSDAY, March 23 330-500)**

**III. PERSPECTIVES ON CAPITAL PUNISHMENT**

6. **Philosophical Perspectives on Capital Punishment (THURSDAY, March 23 630-900)**
   Walter Berns, For Capital Punishment, 153-176
   William Connolly, “The Will, Capital Punishment, and Culture War” 197-205

**WEEK 2**

7. **Social and Political Perspectives on Capital Punishment (TUESDAY, April 4-330-500)**

**IV. THE DISTINCTIVE LAW OF CAPITAL PUNISHMENT**

   Furman v. Georgia, 408 US 238 (1972), 238-314, 375-405
9.  The Modern Legal Framework-II: The Death Penalty Deregulated (WEDNESDAY, April 5-330-500)

Marc Klass, “Victim Impact Statement”

10.  The Modern Legal Framework-III: Methods of Execution (WEDNESDAY, April 5 630-900)

Campbell v. Wood, 18 F. 3d 662 (1994) (Opinions by Beezer, just Section VII, and Reinhardt)

11.  The Modern Legal Framework-IV: Limits and Doubts (THURSDAY, April 6 330-500)


V. THE FUTURE OF CAPITAL PUNISHMENT

FILM: Dead Man Walking (see before class)

12.  A New Death Penalty Politics? (THURSDAY, April 6-630-900)