“DARKER THAN ANY PRISON, HOTTER THAN ANY HUMAN FLAME”: PUNISHMENT, CHOICE, AND CULPABILITY IN A CLOCKWORK ORANGE

ILLYA LICHTENBERG
Montclair State University

HOWARD LUNE
William Paterson University

PATRICK MCMANIMON, JR.
Kean University

Contemporary textbooks in criminal justice use A Clockwork Orange to illustrate issues of correctional and sentencing practices. This article challenges criminal justice faculty and students to use the film to explore the political and social realities of punishment, in particular the examination of the moral question of “voluntariness” and the implications for “treatment” as a mechanism of social control. This paper explores the moral questions of state sponsored social control and using the film satire invites the student to examine their beliefs about the political and social realities of punishment and rehabilitation.

The use of films in teaching criminal justice is far from a new pedagogic practice. Recent technological advances and increasing accessibility to varied forms of media and media devices has made the use of video technology in the classroom simple and prevalent. Less prevalent in criminal justice are guides and research on the utility of films in criminal justice education.

Criminal justice has fallen behind other fields in examining the use of film as a pedagogic tool. Psychology in particular has closely examined the potential benefits of films for classroom teaching (Paddock, Terranova, & Giles 2001; Bluestone 2000; Hudock & Warden 2001; Downey, Jackson, & Furman 2001). There have also been some empirical tests of the effectiveness of films as a pedagogic tool, which have been positive, though more thorough empirical testing would be helpful (Roskos-Ewoldsen & Roskos-Ewoldsen 2001). In addition, research has started focusing beyond the use of full-length feature films to include testing the use of short clips that only occupy a segment of a full class. (Roskos-Ewoldsen & Roskos-Ewoldsen 2001).
This article explores the movie *A Clockwork Orange* (1971) as a full-length film presented to a classroom audience for the purpose of teaching a broader understanding of many important aspects of criminal justice and the criminal justice system. This film is particularly beneficial in the area of corrections and sentencing, but also fits nicely with an introductory course or a course on ethics or philosophical issues in punishment and human rights. This article does not subject the film to empirical scrutiny, but rather provides instructors with an analysis of a film that goes far beyond simple practical benefit and reaches into some very controversial areas of philosophical and theoretical importance to criminal justice. It is also intended to stimulate discussion and empirical research into the effectiveness of film in teaching criminal justice and to encourage academics in criminal justice to develop and improve upon the use of film as a pedagogic tool.

**A CLOCKWORK ORANGE**

The Stanley Kubrick film *A Clockwork Orange* (1971), an adapted version of Anthony Burgess' (1963) work of the same title, has entertained audiences around the world for 40 years. A biting satire, the film's value extends beyond mere entertainment. Like the novel, the film version serves as a social indictment of the state and the use of modern techniques of social control for political purposes, among a host of other topics implicating the criminal justice system. Unlike many police dramas, *A Clockwork Orange* is deeply concerned with questions pertaining to the philosophy of corrections, as evidenced in part by the fact that textbooks in criminal justice have used the film to illustrate matters of corrections and sentencing (Adler, Mueller, & Laufer 1994: 459). The film impresses upon the viewer issues concerning the relationships and responsibilities between the individual and the state, criminal law, sentencing, punishment, corrections, and human culpability and vulnerability and the moral issues stemming therefrom.

Using the film as a springboard, this article explores deep-seated moral dilemmas concerning punishment and the state. *A Clockwork Orange* serves as a venue and a pedagogic tool for stimulating class discussion and reaching further into this political satire's deeply rooted critique of society. Although this article is written with the hope that students (and faculty) enjoy the movie, and that the use of film assists in the students' comprehension of the moral questions with which they are confronted, it is premised upon the assumption that the moral dilemmas depicted in the fictional story are intended to be viewed as a commentary on problems existing within the modern criminal justice system. In particular, we address the concept of voluntariness and the implications for "choosing" to participate in various treatment modalities as they are or might be introduced within a criminal control system. *A Clockwork Orange* questions
whether any non-punitive "treatment" can be validly applied within the
context of a coercive institution.

THE HISTORICAL ORIGINS AND SOCIAL
CONTEXT OF THE FILM

In the early 1960s, Lady Wootton (1960 as cited in Hart 1968) intro-
duced critiques of the current modes of punishment in light of the alterna-
tive models that had become popular in Great Britain. In a very simplified
account, Lady Wootton proposed abolishing the concept of mens rea, the
legal requirement of a "criminal mind" or "criminal intent," as a require-
ment for adjudicating the guilt of the accused. Her essential argument was,
since it is impossible to ever know the thought process and motive of an
individual when they commit an offense, the law can never be sure what
the actor's true intentions and hence, moral culpability, were. Her pro-
posed replacement for the mens rea requirement was to require offenders
to be either punished or treated depending upon the nature of the offense.
This approach would by-pass the question of offender guilt and culpability,
whether the act was blameworthy, willful, accidental, or the product of
some mental abnormality, and simply address need. She thus proposed a
modified version of strict liability (an offense where there is no mens rea
requirement) for use in assessing criminal liability and hence, reform or
punishment.

Strict liability had become popular for such crimes as traffic offenses,
in which the offender's intent was less relevant than the perceived threat
the offense represented to public safety. Its use was justified by the pre-
mise that efforts to reform offenders based on the cost of their actions
would be more effective and appropriate than punishing them based on the
moral gravity of their offense (Mueller1960). As Hart (1968:183) character-
ized Lady Wootton's position, blameworthiness was irrelevant. Offenders
should be viewed "...merely as alterable, predictable, curable or manipula-
tble things." This debate, characterized as a conflict between Hart and
Wootton, was far broader than an English dilemma. The controversy was
rooted in unresolved, and sometimes incompatible, differences between
the philosophies of punishment and rehabilitation. These differences
gained urgency as rehabilitation schemes, and other preventive, future-foc-
cused interventions began to replace or compete with morality-based pun-
ishments, which focused on past conduct. This debate was particularly
unsettling in England where much of the philosophical and social scientific
debate was initiated.

Hart offered a philosophy to justify criminal punishment and sentenc-
ing requiring the presence of utilitarianism and retribution. For Hart, retri-
bution is not a matter of revenge but rather one of proportionality, linking
the severity of the crime with the gravity of punishment meted out. In
short, it is a limit to mitigate extremism, which is all too often the product of revenge.

Hart justifies punishment in two stages. First, the “General Justifying Aim” explains why the criminal law and punishment exists; simply to have fewer social harms caused by criminals and crimes. This utilitarian aim is to be attained by deterrence. In the classical tradition, Hart believes that criminals are rational actors and, as such, can regulate their behavior. By setting the pain of punishment slightly higher than the pleasure obtained from the criminal offense, deterrence can be effected. The law exists in order to maintain happiness in society. Since punishment creates unhappiness in a segment of society, it can only be justified if it prevents greater evil than it produces. Hart’s second stage involves who is to be punished and how much punishment should be meted out. Hart and others argue that only the guilty are to be punished and only in proportion to the severity of their acts. Hart acknowledged that proportionality is a measure open to dispute, as the varying means of determining proportionality are difficult to defend, but argued that it is better that the crime be punished rather than the offender. In a sense, the offender is as “bad” as his crime and therein lies the area of debate for modern retribution.

An alternative to Hart’s position is rehabilitation, which promotes sentencing based on the needs of the offender in such areas as therapy, substance abuse treatment, and basic life skills counseling. Rehabilitation as a goal/philosophy of punishment came under attack almost as soon as it was introduced, for a variety of reasons. First, as Lipton, Martinson, and Wilkes (1975) found, few correctional rehabilitation programs demonstrated any significant success in reducing future criminality. Additionally, Fogel (1975) argued that rehabilitation was unlikely because, within the prison system, rehabilitation was an artificial means to obtain release and was imposed on the offender, not a means for the offender to alter his criminal conduct.

Morris (1968) argued that therapy and a punishment system are incompatible. Punishment focuses on the past, therapy on the present. Therapy seeks to help or benefit an individual who is suffering by ministering to an illness, to cure the ailment. Punishment seeks to deprive one of something acknowledged as good. Therapy does not require waiting for symptoms to manifest themselves in self-destructive or victimization episodes requiring a social control reaction. Rather, treatment should begin at the earliest stages to arrest the condition. Thus, while one might endorse therapy for the benefits of therapy or punishment for its features, therapy cannot substitute for punishment. According to Morris (1968), rehabilitation within the prison is therefore unlikely. It is too late and only offered under conditions of inappropriate constraint. Punishment affords society a unique option that therapy does not: “a person who commits a crime may argue that what he did was right, he pays the price and we respect his right to
retain the judgment he made. A conception of pathology precludes this form of respect” (Morris 1968: 484).

A Clockwork Orange presents a graphic illustration of this conflict taken to the extreme. Initially sentenced to a purely punitive prison term, the protagonist is moved to an experimental therapeutic program. In theory, he was treated for who he was rather than punished for what he had done. Where the prison system had focused on his past transgressions, the treatment looked to his personal pathologies and his future behavior. Yet, this very dichotomy is played out in the context of ongoing struggles for political control of the criminal justice system itself. The character became an object of manipulation in which the most relevant factor was not his state of being – either cured or penitent – but his utility to the institutions of power. Thus, the variable of coercive power and, hence, free will, overwhelms the entire philosophical edifice of the social debate. What difference does it make which approach is taken towards the offender’s mens rea, the film asks, when all decisions and actions are taken in the context of a total institution where the offender – the subject of the intervention – has no subjectivity.

When Anthony Burgess published the novel in 1963, World War II, the atomic bomb, the brutality of the Stalin regime, and the Holocaust were all relatively recent events. The destructive capabilities of a finely tuned military-industrial machine and a totalitarian government were known to all. Orwell’s Nineteen Eighty Four (1949) and Huxley’s A Brave New World (1932) were relatively contemporary popular fiction. By that time as well, Adolph Eichman, on trial for crimes against humanity, surprised the world by mounting a moral defense. The Nuremberg Trials raised the question of whether individuals of “normal” morality could be conditioned by the state to commit any atrocity.

By the time of the film, the specter of unlimited state power was particularly salient in the United States, where the undeclared war in Vietnam was at its peak, and the government was using considerable force to put down anti-war and free speech demonstrations. Thus, while the subject matter of A Clockwork Orange is one man’s criminal career, the issue of individual freedom in the face of state power weighs heavily on the events. The moral conflict is made all the more problematic by the simple fact that the protagonist is not in any way an innocent victim. The film is concerned with the notion of excessive state power over individuals, whether those individuals are good citizens or not.

A CLOCKWORK ORANGE: THE FILM

The analysis of the film is split into three principal sections, which progresses along with the chronology of the film. The first section analyzes the protagonist, Alex, as a person and as a vicious hoodlum. The second
section addresses the incarceration and treatment of Alex. The third section examines post-treatment Alex and the social reaction to Alex' treatment.

Pre-Treatment Alex: His Crimes, His Humanity

The film opens with Alex, young, handsome, stylishly dressed in a very individualistic, yet odd fashion, drinking spiked milk in a hip underground bar with his "droogs," contemplating the evening's planned activities. "A bit of the ol' ultraviolence," he calls it. He doesn't know who or where, but there will be great violence to come, and he and his droogs-his henchmen-or small gang perhaps-will be the cause of it. The following few scenes deliver on the promise. Alex and crew viciously beat a drunken old homeless man after Alex' voiceover narrative castigates both the man's appearance and his singing. The violent episodes continue as they run motorists off the road, attack a rival gang, and break into a home, inflicting atrocities on the couple who live there, brutally raping the woman and beating her husband.

Clearly, Alex is a case for law enforcement attention. Equally as clear, the gang has freely chosen to enact this violence. The acts of violence are not incidental. They are the goals of the evening's activities, though that is not the essence of the story. Alex' anti-social sadism is not what makes him unique. For A Clockwork Orange does not place its antihero in a safe and orderly world in which lone psychopaths threaten chaos while systems of justice stop them. Alex lives in a sadistic world, only slightly different from our own, in which everyone who has power over others manifests this power with more or less indifferent cruelty. All expressions of authority have elements of arbitrary violence in them. Further, much of the violence in this film has a sexual undertone, and most forms of sexual expression have at least hints of power and subjugation. Thus, the treatment that is eventually designed for him aims to control both his sexual and violent impulses as dual elements of a single process. What exists as an undercurrent of Alex' culture, he brings to the surface and celebrates in a somewhat righteous, artistic, and extremely extroverted fashion. In a sense, his core problems might be a lack of proportion and his inability to find a constructive outlet for his passions. Nonetheless, his innate creative talents are readily apparent.

Alex and his droogs also steal and commit other crimes for profit. But, the profit motive is clearly a lacking rationale. Whereas his three comrades are more goal-directed, hoping for better goods in return for their efforts, Alex states that "money isn't everything," a conflict which ultimately sets the gang against him. For him, their nightly acts are crimes of passion. Alex, who beyond his almost limitless capacity for violence is socially powerless, expresses his desires, his sense of self, his alienation, and his artistry through the violence itself. He sings while beating a man near to death, though it's unclear whether the brutality is accompanying the song or the
other way around. Unmoved by the plastic arts and absurd architecture that dominate his world, Alex is transported by the classical power and lyricism of Beethoven's symphonies, represented for the most part by the recurring presence of Beethoven's Ninth Symphony, in his life and on the soundtrack. Uniquely, however, he is transported not to a place of intellectual, philosophical or spiritual betterment, but into a rapture of sado-masochistic imageries involving brides hanging from gallows and publicly performed rapes. Alex's voiceover narration gives us a glimpse into the world of his musical rapture:

Then, brothers, it came. O bliss, bliss and heaven, oh it was gorgeousness and georgeosity made flesh. The trombones crunched redgold under my bed, and behind my gulliver the trumpets three-wise, silver-flamed and there by the door the timps rolling through my guts and out again, crunched like candy thunder. It was like a bird of rarest spun heaven metal or like silvery wine flowing in a space ship, gravity all nonsense now. As I slooshied, I knew such lovely pictures. There were veeks and pit-sas laying on the ground screaming for mercy and I was smeecking all over my rot and grinding my boot into their tortured litos and there were naked devotchkas ripped and creeching against walls and I plunging like a shlaga into them.

The symphonic background to his fantasies is not merely a narrative device. It is an actual trigger for his passions. It touches his soul and channels his actions. His music and his fantasies bring him peace. Alex has both a poster and a bust of Beethoven, and his room is decorated with little other than speakers for his extensive sound system. Alex is truly a man of passion. In comparison, the smug police officers and pederastic "Post Corrective Advisor" are banal in their petty acts of brutality.

Alex' personal propensities for non-commodity pleasures lead to his eventual imprisonment following the betrayal by his more traditional criminal associates. After a failed attempt to change the chain of command, the gang persuades Alex to burglarize a promising house occupied solely by the "Cat Lady." Rather than burglarize the place, however, Alex engages in a fight with the Cat Lady, she swinging her own bust of Beethoven at his head while he attacks and eventually kills her with a giant phallus sculpture. It is then, with the police audibly approaching, that his gang turns on him, smashing a bottle across his face and leaving him to face the rap alone. As Alex tells the viewer:

This is the real weepy and like tragic part of the story beginning, O my brothers and only friends. After a trial with judges and a jury, and some very hard words spoken against your friend and humble narrator, he was sentenced to 14 years in Staja No. 84F among smelly perverts and hardened prestoopnicks, the shock sending my dadda beating his bruised and kroovy rookas against unfair Bog in his Heaven, and my mom, boohoohooing in her mother's grief as her only child and son of her bosom, like letting everybody down real horrorshow.
The Punishment and "Treatment" of Alex

In literal terms, Alex' prison experience is a caricature of the modern, in this case, British system of incarceration. As with any good satire, however, the representation achieves its comic effect by playing with familiar elements. Alex's prison, or rather, Kubrick's prison, brings to the forefront elements of prison life that are built into the foundational theories of incarceration, yet treated as individual aberrations when they actually become visible. Principally, prison imposes discipline on the actions of its inmates without regard for their underlying thoughts (Foucault 1977; Garland 1990). It is a "total institution" (Clemmer 1958; Goffman 1957:45).

The term "total institution" signifies that all aspects of life are conducted in a single place, that phases of individual members' daily activities are carried out in the company of others, that there are tight schedules for all activities and, finally, that all activities are planned to fulfill the official aims of the institution. Alex's role in the free community was the antithesis of this structured institution. The total institution divorces him from his life and identity as a "free man," transforming him into a charge of the state whose every move, virtually, is orchestrated from without.

Conformity to routine is demonstrated from the first moment Alex arrives at the prison. The mortification process (Goffman, 1957) follows the standard script: assignment of a number to replace the individual's name, intrusive and demeaning strip search, removal of all personal items, and placement in prison-issued uniforms; a new identity, stripped of the old and physically reduced to a case number. In this situation, conformity itself is stressed, as well as the prisoner's willingness to accept it, as Alex is made to follow several very obviously dysfunctional rules and procedures, all of which are shouted at him in crisp military tones by the chief guard. Alex' own skills at manipulation provide him a defense against succumbing to the prison environment. Shouting "sir" at the proper moments and otherwise accepting the debasement of prison life is a form of manipulation that he has practiced before. However sick the social world, he can adapt to it.

While serving his sentence, Alex becomes aware of a program that promises that you will "get out of prison in no time at all and makes sure you never get back in again." The program is defined as a cure - a means of rehabilitation - though the reality is more about classic conditioning. Alex manipulates the prison chaplain into helping him gain access to the program, continuing his patterned egocentric behavior by seeking early release, but not treatment and cure. His conversation with the priest illustrates this effort.

Alex "Father, I have tried, have I not?"
Priest " You have my son."
Alex(A) "I've done my best, have I not?"
Priest(P) "Indeed."
(A) “And, Father, I’ve never been guilty of any institutional infractions, have I?”
(P) “You certainly have not, 655321. You’ve been very helpful, and you’ve shown a genuine desire to reform.”
(A) “Father. May I ask a question in private?”
(P) “Certainly my son, certainly. Is there something troubling you, my son? Don’t be shy to speak up. Remember, I know all urges that can trouble young men deprived of the society of women.”
(A) “No Father. It’s nothing like that, Father. It’s about this new thing they’re all talking about. About this new treatment that gets you out of prison in no time at all and makes sure you never get back in again. . . .”
(P) “I take it you referring to the Ludovico Technique?”
(A) “I don’t know what its called, Father, all I know is that it gets you out quickly and makes sure that never get in again.”
(P) “That’s not proven, 655321. In fact, it is only in the experimental stages at this moment.”
(A) “But it is being used, isn’t it, Father?”
(P) “It has not been used yet in prison. The governor has grave doubts about it and I have heard that there are very serious dangers involved.”
(A) “I don’t care about the danger, Father. I just want to be good. I want the rest of my life to be one act of goodness.”

Clearly, Alex is lying. It is unclear how he feels about the danger, of which he has no real knowledge, but his goal is simply to get out. And while getting out might seem, to him, to be the same as going free, it turns out to be far more like a new and different form of total control, a new imprisonment, with no scheduled release date. Alex agrees to the program; he actually seeks it out. But he has not, in any meaningful sense, freely volunteered. He chooses the devil that he does not know over the one he knows.

Alex is moved from the prison to what appears to be a hospital setting, possibly a mental hospital, where he is attended by nurses and doctors, not guards. In contrast to his commitment to the prison, his institutionalization here follows a medical model. He is treated with gentle respect. In appearance, he has left the world of punishment and entered the world of treatment. A single guard politely shows him to “his room,” much to the evident chagrin of the prison’s chief guard. Despite the guard’s buffoonery, his parting advice to the doctors is actually quite accurate: “You’ll have to watch this one. A right brutal bastard he has been, and will be again.” The medical staff appears unimpressed by the warning. Indeed, they are entirely unconcerned with who he has been prior to admission.

Alex has no understanding of the type of program he has “volunteered” for and no knowledge of the modalities involved. His participation is therefore not voluntary, in that consent is not informed, and the therapeutic modality, including its dangers and methods, were not explained to Alex. This point is made explicit by the Chief Guard’s instructions regarding the consent form with which he is presented prior to transfer: “Don’t
read it! Sign it.” During the treatment Alex is deceived into believing that the process does not involve anything other than re-education. When the effects of the treatment are actually felt, the torturous consequences are extreme. Alex describes the passive helplessness of his participation as, in a drugged state, he was made to watch a series of sexually violent images:

Now all the time I was watching this I was beginning to get very aware of like not feeling all that well, but I tried to forget this, concentrating on the next film, which jumped right away on a young devotchka, who was being given the old in-out, in-out, first by one malchick, then another, and another. . . When it came to the sixth or seventh malchick, leering and smacking and then going into it, I began to feel really sick. But couldn’t shut my glazzies and even if I tried to move my glazballs about I still could not get out of the line of fire of this picture.

As the film shows Alex retching violently and struggling against his straight jacket, the doctors discuss his treatment. The designer of the experiment, Dr. Brodsky explains:

Very soon now the drug (which by the way was given to Alex under the guise that he was malnourished) will cause the subject to experience a death-like paralysis together with deep feelings of terror and helplessness. One of our earlier test subjects described it as being like death, a sense of stifling and drowning, and it is during this period we have found the subject will make his most rewarding association between his catastrophic experience and the environment and violence he sees.

The conditioning removes Alex’ ability to respond to violence, and along with it, his ability to experience the sexual stimulation that had accompanied his violent impulses. More sinister is the unforeseen removal of Alex’s love of the Ninth Symphony, which accompanies the visual stimulation. When Alex associated the music with the targeted pathologies, he lost a healthy and viable part of himself. Even upon learning about this positive attribute of Alex-his love of music-the doctors continue the “treatment” for it own sake. Alex, in voiceover, introduces the event:

It was the next day, brothers, and I had truly done my best, morning and afternoon, to play it their way and sit like a horror-show co-operative malchick in the chair of torture, while they flashed nasty bits of ultra-violence on the screen: though not on the soundtrack, my brothers. The only sound being music. Then I noticed in all my pain and sickness what music it was that like cracked and boomed. It was Ludwig van’s 9th symphony, 4th movement.

Alex: “Stop it. . .stop it!!! I beg of you!!!It’s a sin!!!It’s a sin!!! It’s a sin!!! It’s a sin, please!!!”

Dr. Brodsky “What’s all this about sin?”

Alex: That!. . .Using Ludwig van like that! He did no harm to anyone. Beethoven just wrote music.”

Dr. Branom “Are you referring to the background score?”

Alex: “Yes!!!”
Dr. Branom "You've heard Beethoven before?"
Alex: "Yes!!!"
Dr. Brodsky "You're keen on music?"
Alex: "Yes!!!"
Dr. Branom (quietly) "What do you think about that Dr. Brodsky?"
Dr. Brodsky (softly) "It can't be helped. Here's your punishment element perhaps. The governor ought to be pleased. I'm sorry Alex, this is for your own good, you'll have to bear with us for a while."

The treatment conditions Alex to become sick at the very thought, let alone the sight, of either sex or violence. His will has not been rehabilitated; only his ability to act has been constrained. He has been made impotent, in all senses of the term. This point is formally demonstrated when the medical authorities stage a theatrical display of Alex's self-abasement. He is first abused and then compelled to lick the bottom of his tormenter's shoe. Helpless, he becomes sick in response to the sexual provocation of a beautiful woman. Observing all of this with great pleasure, the Justice Minister exclaims that the conditioning has succeeded. Alex is "impelled towards good by paradoxically being impelled toward evil," with the physical symptoms of illness leading him from violent desire to "a diametrically opposed attitude." At this point, the prison chaplain alone stands up and names the problem. "Choice. The boy has no real choice, has he? . . . He ceases . . . to be a creature capable of moral choice." The priest's response momentarily lifts the veil off of the notion of the treatment as a cure, if a treatment at all. Yet, significantly, the Justice Minister quickly brushes aside the distinction between action and intent, behavior and identity, or even theory and practice.

Padre, these are subtleties. We are not concerned with motive, with the higher ethics; we are concerned only with cutting down crime. And with relieving the ghastly congestion in our prisons. . . . He will be your true Christian, ready to turn the other cheek. Ready to be crucified rather than crucify, sick to the very heart at the thought even of killing a fly. Reclamation, joy before the angels of God. The point is that it works!

Alex After the Treatment

Upon release, Alex reverses the course of his last days of freedom, falling prey to the unsatisfied desire for vengeance felt by his victims. Homeless and without resources, he stumbles upon the tramp that he and his droogs had beaten. As weak a foe as this man was, he and his tramp friends quickly subdue Alex, who is unable to defend himself. He is then "saved" by a couple of passing policemen, his former droogs, now armed and still thoroughly unrepentant. The association between violent criminals becoming agents of social control and the practices of the Nazi (Storm
Troopers) is not incidental. His torments at their hands lead Alex at last back to the home of the couple whose lives he had ruined, the Alexanders.

Mr. Alexander, whose wife had died subsequent to Alex’ assault, at first only knows Alex as the “victim” of the state’s experiment and “the most potent weapon imaginable to ensure that the Government is not returned at the next election.” Soon, however, he also recognizes him from their first encounter. Alexander’s two interests coincide. He manipulates Alex’ weaknesses in an attempt to drive Alex to suicide, thereby embarrassing the government that had just declared a victory over crime while achieving personal revenge. Unlike Brodsky’s account of the punishment component, this was as graphic a display of retribution, “an eye for an eye,” as any society could ask for. The attempt nearly succeeds, landing Alex in yet another institution—a state hospital.

Here, at last, Alex regains his power. The combined traumas of his recent life break the bonds of his conditioning, while his prominence as a victim of the state makes others dependent upon him for their political futures. His subjectivity is finally restored, as, flush with new fantasies, Alex begins negotiating with the Justice Minister over his future. His humanity and his perversity, always linked, are conjointly restored.

**DISCUSSION**

*A Clockwork Orange*’s utility in the current criminal justice course is not limited to an historic perspective. Rather, its true value is as a point of reference, a jumping off point, to discuss the dilemmas facing modern penology and punishment (sentencing), and the relation of the state to its most marginal citizens: convicted offenders. The film presents students with an opportunity to examine broader social issues of utility and its impact on current debates concerning incapacitation, retribution, and rehabilitation and the morality of each. The film also raises the often overlooked issue of the disjuncture between the philosophy underlying a system of punishment and the system’s actual implementation. Was rehabilitation’s failure predicated on a lack of consent on the part of the offender and the harm caused to the inmate by limiting his/her free will to choose to participate in his/her treatment? The concept of free will rarely appears in discussions regarding treatment, but only as a justification for retribution. *A Clockwork Orange* dramatically compels such a debate.

Finally, the current wave of mandatory minimum sentencing schemes, passed by legislatures and the United States Congress in the past ten years, is touted as “Victims’ Rights Legislation.” They may also be viewed as measures to appease an ever more agitated public’s demand that government provide the protections guaranteed under the social contract of the classical school of criminology. The countries of interest are different but the fundamental issues remain unresolved, which is the beauty of the film as a teaching tool. In a total institution the differences between rehabilitation and
punishment become blurred, all that is left is incapacitation; or has incapacitation in its modern forms washed out punishment and rehabilitation?

Punishment and Utility

Incapacitation is rooted in the medieval tradition of banishment or mutilation. Thus, torture was an accepted and approved form of banishment. In this context a convict, or even a suspect, has obligations to the state while the state's obligations are minimal. Alex's "treatment," including a behavior modifying drug, physical restraint, and forced viewing of horrific films depicting unimaginable violence and death, was no less a form of punishment than were punishments invoked in the 16th Century. Carefully dressed in a clinical care model, Alex' treatment deliberately seeks to mutilate his mind, to alter his individuality, and to lock him in a condition of permanent helplessness. With only the slightest provocation, the Justice Minister happily declares that this is the political goal of the criminal justice system-total control over crime.

The similarities to the state's attempts at total control in the modern United States' criminal justice systems are compelling. The harm done to Alex is palatable because of his violent nature and predatory capabilities. The current trend toward requiring sex offenders to register takes on a similar feeling of satisfaction. In Smith v. Doe (2003) the Supreme Court recently upheld the constitutionality of state sex offender registry laws against an Eighth Amendment challenge, ruling that public notoriety and vilification do not constitute "punishment." Both Alex and the modern sexual offender should be controlled, must be controlled. The utilitarian principle that convicts should be restricted from committing future crimes, especially these types of crimes, justifies incarceration. But does it justify the permanent restriction of freedom forced on Alex and on sex offenders today? If both are such threats to society, why was the prison not used for its intended purpose-modern day banishment?

The total control of crime requires, by its very nature, the total control of criminals. To that end, banishment is certainly an accepted means. In A Clockwork Orange, banishment took the form of the psycho-surgical removal of Alex' ability to choose. Current trends in the United States do not extend to such extreme measures. Our quest for total control is often more symbolic than practical, as is the choice of targets for many of our newer punishments. The use of mandatory minimum sentences for drug offenders and the increasing penalties for repeat offenders up to and including life in prison without parole, reflect a growing predilection in modern "criminal control." Convicted felons may be denied the right to vote, even after they have served their sentences, thereby all but eliminating their political voice. They, in effect, are banished from society in the most sophisticated and unnoticeable way.
Retribution in its truest form is a way to punish the offender for past wrongs committed against society (Von Hirsch 1976). It also serves symbolically as a form of public vengeance wherein the state inflicts proportionate discomforts on those who have harmed others, theoretically preventing the members of the community themselves from seeking revenge or vigilante justice. When Alex sought to get around the system, finding a quicker path out of prison, he satisfied only the state’s requirements for punishment, but not the community’s. His renewed physical freedom, when it came, merely placed him at the mercy of his many victims, none of whom felt that he had been punished sufficiently. If nothing else, had he served his complete sentence, at least two of his eventual tormentors likely would have died from natural causes during that time.

In contrast to the film’s individual concentration, modern criminal justice takes on this dilemma in a more general sense. Overcrowded prisons and ever constricting state budgets, as well as a decade of lingering consent decrees to reduce prison crowding, have muted the public vengeance aspect of the retributive model of punishment. Early releases of prisoners emptied the prisons in many states of their non-violent prison population. Mandatory sentencing laws and the subsequent early release of many convicted offenders created havoc in the state of Florida among others. As a result, the public’s rage was felt in elections in many jurisdictions. Alex’ victims represent the many victims exposed to the terrifying reality that their tormentors are released before their sentences have been completed because of cost issues. The rise of vigilantism and public calls for greater state control, in both the movie and society, are important topics that should be considered in any discussion of the modern criminal justice system. Just as the characters in the movie felt their government could not address their need for justice, proponents for harsher sentencing voice frustration with “revolving door” policies, early release, and increasing levels of criminal violence.

The Morality of Treatment and Consent

Alex himself adapts the language of rehabilitation in order to get out of prison. At its core, rehabilitation entails “curing” the offender of his criminal tendencies. Precisely, it changes an offender’s outlook, personality, habits, and in certain forms, the opportunities and needs to commit crimes (von Hirsch & Ashworth 1992). Rehabilitation does not presuppose a benefit to the offender: the community benefits because it is less likely to be victimized by the offender if he is “cured” of his malevolent behavior.

The treatment to which Alex was subjected did far more than disable his criminal propensities; it altered him as an individual. Thus, what was presented as a success of the therapeutic model was in fact a failure of the traditional punishment model. He was incapacitated, yet he was declared to have been rehabilitated. Rehabilitation, in the traditional sense, removes or
reduces the desire of a particular offender to commit an offense. It affects the choices one makes. Altering Alex’s ability to commit crimes, however, removed his ability to choose. Alex’s propensity or desire for violence and gratification were not altered. Incapacitation, not rehabilitation, had occurred.

Of further concern is the fact that Alex gave consent to the treatment, but that the consent could not be freely given. Fogel (1975) argues that modern “rehabilitation” is a myth for just this reason. Rehabilitation requires prisoners to give consent to treatment and presumably (s)he can see the benefit to changing behavior. The current system forces inmates into treatment programs as an incentive to be released before the completion of their entire sentence. As such, Fogel (1975) and von Hirsch (1976) argue against the efficacy of rehabilitation and, moreover, contend that coercion, through early release, limits the ability of an offender to consent in the legal definition of the term.

Obviously, the consent that Alex offered would not meet most institutions’ standards for “informed.” But even had it done so, Alex’ choices were so constrained that voluntary consent and coercion are difficult to separate. Faced with another 12 years of imprisonment, what choice did he have? Whatever Alex had done to legitimately place himself in such a position of dependency and total social control, he no longer possessed the individual authority necessary to make such a choice.

The ability to give consent also implies the ability to withdraw such consent. The treatment administered to Alex was designed to be continuous and irrevocable. Once conditioned, Alex was incapable of terminating the effects of the treatment and unable to return to standard punishment. This raises the issue of whether consent can ever be considered as such if it is perpetual and irrevocable. When, for example, a person consents to have sex, this is not consent for future sex. New consent is necessary. There are no contracts in law that permit a person to be subject to a status of life-time duration without some means of either terminating the status or with some reasonable time-frame placed on the duration of the status. Essentially a contract of perpetual duration is akin to involuntary servitude or slavery.

Fogel’s (1975) critique of the rehabilitation model closely aligns with the film’s critique of consent in total institutions. Inmates are not free to select a program that they believe to be beneficial, nor are they able to decide that they wish no involvement in institutional activities. Rather, the only way to make themselves eligible for early release is to participate in one or more activities selected for them, under the guise of consent. Institutional pay scales for those who “volunteer” for jobs approach slave wages, and an inmate who wishes to stay in his cell and “do his time” can expect to do all of his time. Choice in the modern, total institution is a mirror image of the points elucidated in the movie.
Voluntariness and Morality

One of the functions of the criminal justice system is to convert individual acts into judgments of responsibility. Voluntariness is a central component of criminal law and criminal procedure. Were the alleged acts of the accused voluntary? In the area of criminal procedure, voluntariness is raised as an issue in such questions as whether a suspect voluntarily gave consent to search (Schenckloth v. Bustamonte 1973), confessed (Miranda v. Arizona 1966) or waived the right to a trial (Johnson v. Zerbst 1946). In criminal law, voluntariness, by varied definitions, becomes an issue in the area of reflex, duress, mistake of fact, intent, and intoxication, among a host of other areas of criminal culpability. In fact, the only area of criminal law where voluntariness is not an issue is limited to those cases where malice and culpability are irrelevant—strict and absolute liability offenses (Packard 1969). The introduction of a strict liability interpretation or, by extension, the transfer of a case from a punishment model to a rehabilitation model, may thus mask a failure to take voluntariness into account. This issue is contentious because voluntariness is rarely a simple yes or no matter, and determinations are very sensitive to definitions. Decisions are made in the face of incentives and constraints, each of which may be manipulated to bring about a desired outcome.

As Hart (1968) had noted, the moral component of the law requires that the offender has a choice. The law recognizes that under certain circumstances people are either compelled by circumstance to commit crimes or do not understand that what they are doing is a crime. This is why insanity, duress, necessity, and other such defenses exist. Conviction in a court of law is the pronouncement from society that the person is blameworthy for the crime he/she committed. This in itself is an important component of the law, separate and apart from the punishment ultimately received by the offender. After treatment, Alex was neither able to choose to obey the law nor able to legally defend himself against threats to his life. He could no more choose to be moral than he could choose not to be.

That Alex's subsequent compliance with the law was not voluntary is the central moral dilemma presented by A Clockwork Orange. Both by design and by the routine functioning of a total institution, Alex is made the object of a series of interventions, punitive and otherwise. Having been convicted, he is not allowed to meaningfully participate in the decisions determining his life. His subjectivity has been suppressed. Even upon release, Alex does not choose to comply with the laws of the state. This deprives the state of its moral foundation in the law. If there is no choice, there is no morality. As the legal adage states, “no punishment without law, no law without punishment.”

In the case of the post-treatment Alex, neither law nor punishment is a necessary function of society. Since Alex cannot act upon his free will, he is no longer subject to the law. Yet, if there is no law, there is no punishment.
Since Alex is incapable of doing intentional wrong, he is reduced to a perpetual state of infancy, reliant upon the state for his protection. Alex is equally unable to protect himself from his tormentors or to rebel against an oppressive state government. He must submit unconditionally to what is imposed upon him. He ceases to be a functioning moral being and becomes merely a harmless being subject to the exploitation of his tormentors, a theme vividly portrayed in the movie throughout his post-treatment experiences.

**AFTERWORD: USES OF THE MOVIE AS A TEACHING TOOL**

Although this article primarily provides the moral criticisms of modern social control techniques, we feel that the movie can be used for other educational purposes. Included in this section are notes and observations for faculty to use outside of the moral dilemma. As a teaching note, the movie shown early in the semester can provide a useful point of reference to raise a multitude of issues other than the primary issues addressed before.

*A Clockwork Orange* presents to instructors of sentencing, corrections, legal and moral philosophy and a host of other areas within the domain of criminal justice, an opportunity to place students in a tremendous moral dilemma. The moral dilemma stems from a film that is obviously not reality based, but so within the reach of human technology and psycho-therapeutic knowledge that it cannot be dismissed as mere fantasy. It is also a good lesson for practical ethics, a constant reminder to look closely at anything that sounds too good to be true, as the actual consequence may be far graver than any benefit derived.

Can and should the criminal justice system be permitted to place a perpetual status on an individual without his/her consent? If the criminal justice system has the person’s consent, can that consent be considered valid if irrevocable and for a perpetual duration? Finally, what factors surrounding the consent should be considered when determining whether consent was validly given? It is difficult to consider such questions purely in the abstract. But it is also difficult to address them with reference to actual cases, as the specifics of the events in question may distract students or compel them to defend the institutionally sanctioned position. In *A Clockwork Orange*, Stanley Kubrick has given us a carefully constructed test case, a worst-case scenario for analysts of all persuasions. When, in the film’s end, Alex is “cured” of his treatment and restored to his original psychopathology, the celebratory sensibility accompanying this realization is both bitter and sweet, frightening and a relief. The viewers, if they enjoy the film too much, are made complicit in its dark surrender. As Alex had earlier observed, “Well, now we’re back to where we were. Yes? Just like before and all forgotten? Right, right, right.”
APPENDIX A: QUESTIONS TO STIMULATE CLASS DISCUSSION

1. Is Alex all bad? Does he have any human qualities? What qualities about him would you admire or not want to change?

2. Is Alex incurable? Is it impossible to reform Alex? What form of punishment do you think is appropriate for Alex's crimes?

3. How much of an influence was the group on Alex's criminal behavior? How much culpability can be attributed to the group and how much to Alex?

4. Alex frequently had violent fantasies and he raped women, beat up old men, and brutally beat rival gang members. Alex also took whatever he wanted of other's property. As leader of the gang though, he always engaged in opportunistic offenses and rarely planned. Based on these facts, when the other gang members insisted upon doing a "professional" hit on the woman's home, how culpable was Alex? Would Alex have killed the woman but for her attacking him? Was she partly at fault for causing her own death? Is Alex a murderer or unlucky thief with a perverted sense of humor?

5. Alex's crimes seemed largely influenced by his desire to seek immediate gratification of a desire-an impulsive or compulsive behavior. How was the murder different from the other crimes? Does the demonstration of what appeared to be genuine remorse or concern for the "Cat Lady" when Alex learned of her death alter your opinion?

6. The society that Alex lived in was clearly different from the one we know today. What influences did the social environment have on Alex's criminal propensities? Does the environment that Alex lived in change our perspective on the level or degree of Alex's culpability? Is it one of many factors in assessing the culpability of Alex?

7. Do you see *A Clockwork Orange* in the society of today? The use of psychotropic drugs on prisoners (Floyd 1990)? The civil commitment and chemical castration of sex offenders (Janus 1996; Wong 2001)? What is the importance of the individual when determining the form of punishment to administer on wrongdoers? How does the concept of choice, the foundation of morality since Aristotle, relate to these punishments?

8. Are there limits to legitimate punishment? Is there a point at which a convict is not due any rights or considerations whatsoever?

9. When creating rehabilitative strategies and interventions, what implications beyond the convict's criminal propensities should be considered?

10. What is the relationship between rehabilitation and choice? What is the importance when considering the use of coerced rehabilitation?

11. Why might prisoners be considered a vulnerable class of people in need of special protection before participating in experimental therapies?
12. Should punishment focus on past conduct or the implications of the criminal or criminal act on the future? Why should the past be important—it has already happened? Why should society attempt to control the future when it cannot be controlled, foreseen, or predicted?

13. If a treatment was created that could cure all criminals, how would that alter criminal punishment? Would the victims of a crime be satisfied that the offender was “cured, released”, but not punished? Can something be called a punishment without having some retributive component?

14. Is the criminal justice system intended to prevent crime, administer punishment and justice, or both? If both, is one more important than the other? Why?

15. Do you believe Alex was curable? Do you believe Alex was capable of choosing his own actions based on rational choices? In the book version, there is a later chapter in which after having the treatment removed, Alex integrates back into society, has a family, and becomes a “normal” person. Does this change your opinion about the movie? The punishment and/or treatments? How does the concept of “free will” play a role in making determinations of Alex’ culpability? In deciding the appropriate punishment or treatment of Alex?

16. If a culpable offender is “cured” but not punished, will people take the law into their own hands and seek personal vengeance? If the punishment component is removed from corrections would society become as lawless as it would be if there was no punishment at all? What does the saying “no law without punishment, no punishment without law” mean to you before and after observing the film? Did you feel that Alex got what he deserved from the vigilante justice observed in the film?

17. If a punishment scheme like the one observed in the film were to be used on a mass scale in the United States today, what restrictions would you wish to see placed on it? Should only a certain percentage of the population be subjected to it? If such percentage restrictions were in place what should it be? 10%? 20%? 80%? Why?

18. History demonstrates that the entity most likely to take your life by man-made means is your own government (see Kelman & Hamilton 1989), not criminals or foreign nations. Does this alter your perspective on the degree of control the government should have over your individual choices?

19. If a system like the one observed in A Clockwork Orange were in place in the United States today, do you think it would be restricted to merely violent criminals or would it be applied to a larger number of people? If the number of people subjected to the treatment were expanded, how do you think this would happen? Overnight? Or each time some perceived “criminal” crises emerged? How might this relate to “moral panics?”
20. Can the treatment of Alex be compared to the disenfranchisement of convicted felons today?

21. Does the simplicity of the saying “you do the crime, you do the time” have more or less appeal after watching the movie?

22. If the treatment of Alex were morally justified, why not simply treat all people at birth—violence would no longer exist. Or is violence simply a social construction? Would a new definition of violence merely occur? Durkheim argued that the application of deviant labels is necessary to reinforce social bonds in society. If society was free of crime as we define it today, how would social bonds be reinforced? Would new behaviors simply be deemed deviant? Is it possible to solve the crime problem? Do we need criminals and punishment?

23. Many American heroes participated in the American Revolution; people who rebelled against their own government. If the government Alex lived under became “oppressive” could he have forcefully rebelled? How does this implicate the concept of a “social contract” which underlies any democratic form of government?

24. The Supreme Court has stated “There is, of course, a sphere within which the individual may assert the supremacy of his own will and rightfully dispute the authority of any human government existing under any written constitution, to interfere with the exercise of that will (Jacobson v. Massachusetts 1905: 29).” Could Alex “assert the supremacy of his own will?” Could Alex “dispute the authority of any human government?” Did the government in A Clockwork Orange violate the individual sphere that the Jacobson Court so boldly protected?

REFERENCES


