How educational can pornography be? Very much so, it turns out—at least in the hands of criminal law professor Bernard Harcourt. Same goes for gambling, adultery, drugs, gangs, and a host of other topics that Harcourt uses to get his students thinking about what he calls "the liminal space where moral opprobrium meets government-sanctioned punishment."

The project is called The Carceral Notebooks, and it's run through a nonprofit organization created by Harcourt. Along with students and other faculty, Harcourt has taken this project out of the classroom and onto the streets of Chicago. Students play a significant role in creating the project's print journal, website (www.thecarceral.org), and a series of salons to which the public is invited to discuss one of the articles from the journal. "The goal," Harcourt said, "is to study contemporary culture through the integration of law, art, social science, philosophy and critique." In the preface to the journal's first edition he frames the questions the project seeks to illuminate:

Where do we stake the boundary of the criminal law—or, more importantly, how? How do we decide what to punish? Do we distribute these vices, these recreations, these conducts—what do we even call these things?—into two categories, the passable and the penal, and then carve some limiting principle to distinguish the two? Are we, in the very process, merely concocting some permeable line—a Maginot line—to police the criminal frontier?

Assistant Professor Thomas Miles, who teaches federal criminal law, observes that the multiple facets of this enterprise reflect "the incredibly innovative pedagogy that's typical of Bernard." Shaudy Danaye-Elmi, '05, who contributed an article to the first issue of the journal and led a discussion about it at the first salon meeting, describes Professor Harcourt's approach as "a fabulous, sometimes unnerving, way of thinking about things we might be encouraged not to really think much about."

Danaye-Elmi, who holds undergraduate and graduate degrees in philosophy, tackled the case for banning pornography in her essay, "Pornography as Action, Pornography as Interaction." She applies that discipline along with social science, the arts, and legal scholarship on the way to concluding that, contrary to some calls for the outlawing of pornography, "different contexts of production and consumption could interact with the discourse of pornography in new and healthy ways."

When Danaye-Elmi was first composing her paper in Harcourt's criminal law class, she had no expectation that it would reach an audience beyond her professor and her fellow students. But when Harcourt read it along with other student submissions, he recalls, "I felt they needed to reach a wider public. There is a kind and a quality of thinking in these papers that is not generally applied to these vital, if touchy, subjects."

A friend of Harcourt's agreed with his high estimation of the essays and offered to underwrite an initial printing of the journal. In addition to Danaye-Elmi's article there, other students from her class are also represented: Andrew Sherman and Victor Zhao take on the regulation of gambling, Sean Hannon Williams considers the recent proliferation of hardcore pornography, Mary McKinney evaluates adultery law, Naria K. Santa Lucia ponders the issue of ongoing consent in sadomasochistic encounters, Ranjit Hakim examines the possibility of reciprocal relationships between gangs and communities, Anne Mullins observes mutual exploitation in the relationship between an ethnographer and the crack dealers he studied, and Mark D. Davis challenges oversimplified contrasts between the "harm principle" and morality-based arguments in...
criminal law before offering a preliminary reconceptualization of the harm principle.

In looking for artwork for the cover of the journal’s first edition, Harcourt encountered the work of Virgil Marti, particularly a series of installations entitled “For Oscar Wilde” created at the Eastern State Penitentiary. Of these installations Marti writes: “I have no first-hand experience of prison, so I felt it would have been offensive to conjecture what that would be like. However, I did always find Eastern State very beautiful. What does it mean to have an intense aesthetic experience in such an awful place? This seems related to the terrible irony of Wilde’s life—preaching aestheticism as beyond conventional morality and ending up in prison.”

Harcourt recognized that art could broaden and deepen the inquiries begun in the essays, and from there, he says, it was a small step to conceiving of the salons, where participants could engage the topic, with the speaker and her or his ideas, with art and the artists who created it, and with each other.

A “Critic’s Choice” mention in the Chicago Reader drew many Chicagoans to the first salon in June. Danaye-Elmi led a discussion of her paper. Three artists—Sarah Black, Virgil Marti, and Mia Ruyter—showed work that explores the edges of transgression. Wrote one blogger the next day: “I went to a art showing. Wasn’t even sure where I was going. Turned out to be a surprisingly intellectual discussion about porn and social consciousness among other things. We listened to the hosts, the author, and the peanut gallery.”

That connection with the “peanut gallery” was gratifying to Danaye-Elmi, who said, “We’re not trying to have the last word on these topics. We’re opening a discussion and inviting participation beyond just legal scholars.” The most liberating aspect for her, she says, was to realize “that your contribution is just to get the interaction started, and that being ultimately right—whatever that means—is sort of beside the point. Then you can let your imagination go. Hopefully that comes through for the people who read the articles or come to a salon.”

The first volume of Carceral Notebooks, along with related artworks and other information, can be found at www.thecarceral.org. A second volume is well underway; in addition to contributions from students it will include articles by some who have asked to write under a nom de plume. Salons in New York, San Francisco, and elsewhere are also in the works.

![Image of Carceral Imaginations: 57 University of Chicago Law Students](image)

“We have certain moral desires—visions of a moral order, yearnings for the comportment of others and ourselves—and we seek to impose those moral desires on the world in whatever idiom we believe to be most persuasive,” writes Professor Bernard Harcourt. To help his students situate themselves within that framework, he conducted a confidential survey of the students in his advanced criminal law course, asking them to imagine themselves as members of the Illinois legislature and to indicate how they would treat each of twenty-eight activities. They could choose among “fully legal,” “criminalize,” “licensing scheme,” and “regulate to discourage.” This table maps the results.

![Image of Virgil Marti, “For Oscar Wilde”](image)