

Monica Bell and HKG Intro 1 082923

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This is Inside Yale Law School, the podcast series designed to give you a peek inside to the scholars, the thinkers, the teachers, and the game changers of Yale Law School. I'm Heather Gerken, the Dean, here to open a little window into the world of this remarkable place.

By the time I was in college, I thought I probably wanted to be a lawyer, but it wasn't until I got here, as a student, that someone suggested to me for the first time that I should consider legal academia. And it's not something I'd ever considered. But that was a big-- just someone mentioning it as a possibility was really a big-- made a huge difference in my life.

I'm here with Professor Monica Bell, one of our most recently tenured faculty members to talk about her work, her life, and the unbelievably interesting things she does that makes us all look lame by comparison. So Monica, let's talk a little bit about your work.

And maybe you can start with what I think of as one of the most important ideas that any scholar at Yale in the last couple of years has come up with, which is the idea of legal estrangement. And I wonder if you could just talk a little bit about the idea, how it fits into the existing scholarship, and where you're going with it.

Well, thank you so much for having me here. The idea of legal estrangement really came out of a lot of, first of all, both deep reading about legal cynicism and procedural justice and legitimacy, which are kind of the main big theories to explain why marginalized communities tend not to have positive relationships consistently with, especially law enforcement, but also other sorts of governmental institutions, although there's a lot more complexity there, but both out of the reading and out of my qualitative research.

So the particular article in which I developed the legal estrangement idea is based on participatory action research in Baltimore with young people. So I ran a team with young people in Baltimore where we were interviewing other young people about their experiences with the criminal legal system, but also other sorts of systems.

And the basic idea is to turn the lens away from an individualistic sort of, there's an individual and they distrust the police or something like that, which is the usual framework. But instead, think more about the project of social solidarity, which is to say, trying to understand why people and groups at a larger level feel excluded in relationships to various sorts of governmental actors, including the police.

So can you-- just give us a step back, because you're writing against the background of a field that has been dominated in some ways by the procedural justice model. And two of the finest scholars of the procedural justice model, Tom Tyler and Tracey Meares are here. And I understand what you were doing to be a critique of that model. And I wonder if you could just say a little bit about how they fit together.

Sure, I'd be happy to. So I would-- there's a critique of procedural justice and legitimacy in my legal estrangement work. But it is also a theory that tries to incorporate their research and their theorizing as well. So the basic structure of the legal estrangement theory is it focuses on three levels of individuals' and communities' interactions with the police, in this case.

So the first level is actually procedural injustice. So it's to say that all of the important insights from the procedural justice framework are in some ways built into the theory, which is to say that individuals having

respectful and appropriate interactions with police, that's important. I mean, you a theory wouldn't make sense I think that doesn't take account of that.

But then I also try to incorporate vicarious experience, so that's the next level of vicarious marginalization. So in the research with youth and also research with mothers that I've done in other contexts, what you hear over and over again, is that actually how people see the police treat other people they care about, how they see people who look like them treated by the police in other scenarios, so for example on the news and of course, all of the viral videos that have circulated of police violence and negative police interactions, those are important for understanding this relationship of what some people would call distrust or estrangement.

And then, of course, there's also structural features. So a lot of my work has focused on, for example segregation and this relationship to collective negative experiences with the police. So the theory is operating at an individual, a mezzo, and a macro level. And that's the type of intervention that's trying to keep in mind.

I really appreciate that. And I actually want to say, Tom and Tracey are two of your biggest supporters. And I still remember the absolute delight they expressed over a paper that was a challenge to some of their work, which is just a reminder of the finest scholarly traditions is that you just take joy in having your students write something that is very different from what you had and having other people critique your work. It's really amazing.

And just to amplify that. First of all, that's true. Tom and Tracey, have you not just as supporters but mentors in this work, so importantly, before I came to Yale as a Professor, I did-- a couple of years before that I spent a year doing a fellowship with the Justice Collaboratory that they run.

And I did that largely because I wanted to really understand their ideas and their theory before I engaged in some kind of project of critiquing them. And that I think also was important to get in deeply. And I think they understand that I have an understanding of what they do. And I value it. And therefore, I think there's a mutual respect and really improving each other's work through that relationship.

So for the folks in the audience who aren't scholars and maybe aren't as familiar with these debates, I wonder if we can just make it very concrete and talk a little bit about both your idea, but also your methodology, because you're a sociologist. It's amazing to see someone who is placing in top tier journals and placing in top tier sociology, peer edited reviews, which is really-- Monica's a polymath and she brings that work to the law school and to her criminal justice work.

But just to give an example. So there's one of my favorite papers of yours, I think it's fair to say, solves a puzzle that had been in the field for a long time. So if I remember correctly, and you have to tell me if I get this wrong, people were aware that members of the Black community have distrust of police.

And yet there's this puzzle about why do people call the police into their communities. And you can see it in the aggregate numbers. So if you're a big data cruncher, you can see the aggregate numbers and tell that story. But it doesn't answer the question. And you came in, as a sociologist, with a very different qualitative methodology and helped answer that question. I wonder if you could just talk a little bit about that project.

So that project was based on interviews that I conducted with mothers in Washington DC, low-income Black mothers, and so it was really interesting having extended conversations with them in which one part of the conversation would be about how much they hated the police or something like this. But then

actually asking people about their interactions with the police, asking them about times they would call, times they had called.

And so this is really important, the distinction between whether they-- people often say they will do something, but that's different from actually reporting an incident of doing it. So I focused on times when they actually did call the police and then dug more deeply. Because we, again, as you said, already know, that people who distrust the police call them.

But the question is why, and under what conditions? And so in the paper, I set out four different types of situations in which these mothers talked about calling the police. So one of them is if they had a positive individual relationship with an officer in their neighborhood. So this is kind of the classic community policing type of story. When it works well, it can give people license to call.

Now that doesn't mean it always goes the way they want it to or that a way that is helpful, but that's a reason. Second is if they feel that their home is being directly influenced. So there's this idea, there's a desire to have people call the police when they see something that is, even if it's not directly affecting them, that's kind of the desire to build that sort of relationship.

But these mothers talked about that really not being the circumstance under which they would call. So there's this kind of domain specificity, I called it in the paper. One I just think is helpful to highlight, and I won't go through all four of the findings, because that might be boring, but one I think is really important to highlight is institutional navigation. So this is to say, a lot of these mothers, are involved in multiple systems.

They live in public housing or have housing vouchers. They are worried about being involved in the Child Protective Services or family regulation system. And so in order to navigate those systems, so for example, in order to make sure that you're not called out if your child is truant, you might call the police on your child to basically kind of do a due diligence sort of business.

If you want to relocate from one public housing facility to another, you might call the police in order to get a record of some kind of hardship you're having in your current placement in order to move elsewhere. And so there's a way in which all of these systems operating together produces a form of reliance that might not necessarily be there otherwise.

So I want to put a pin in this for a second, because I know this is also going to lead to-- is leading to your big book project in part. But I also wonder if we could talk a little bit about your work on segregation. So you have, this is a traditional law journal piece that you publish.

But one of the things that really struck me about it was how narrow gauge the discussion in law tends to be about segregation, in some ways, because we're sort of following court decisions which are focused on certain kinds of institutions. And you really widen the lens and thinking about both its harms and its remedies. And I wonder if you could just kind of give us a little-- short a little primer on that piece.

So this piece, this particular piece that you're referencing is called "Anti-Segregation Policing" and that's kind of-- the title is more the takeaway, but the actual article is kind of split in two pieces. And the first big piece is a theory of what segregation should be taken to mean.

And the reason I wrote that part of the paper, I initially wasn't planning to go that in-depth to try to widen the lens on segregation. But I was getting a lot of feedback or pushback asking me, why should we even really be focused on segregation as a problem at all?

What is even the problem with segregation considering that sometimes people talk about feeling more protected in neighborhoods where people look more like them, especially with respect to certain forms of policing. The hypervisibility can create problems for people.

So I wanted to explain why segregation was actually a problem in the first place. And I think from a certain vantage point that seems obvious, because as you mentioned, a lot of our court cases presume that segregation has these particular sorts of stigmatizing meanings. But in the years since then, there's been a lot more debate.

I also will point out that this presumption that segregation is just totally always bad is also part of sociology. And so there's some ways in which the theory of segregation, which focuses on, not just separation, but also the meaning of that separation. So it may be fine for people, if people just choose to live in communities where people have a common culture or have, for sovereignty purposes, for example, that can be fine.

But that's not the actual meaning of most of the residential segregation we see in urban contexts that are where people are heavily policed. So this is a quick takeaway on what I think is important to understand about segregation, that it's not just separation, but that it's a particular meaning of oppression and inequality that I was trying to focus on in the piece.

So I think of a lot of your work is in this sort of theoretical framing vein, that is you're helping us understand in a much deeper way the nature of racial injustice. But you also think about real world policy applications for your insights. You're moving a field. And you're forcing all of us to rethink a set of assumptions and ideas that we've had before. That is more than enough for a scholarly agenda. But then it's also just sort of amazing to see how you take something that's high theory and move it down into what it should look like in the real world, what should we take away from it, if you just want to think about how to make things better. So I don't know if you might talk about one example of that before we turn to your book.

I'll try to. So I think one of the key troubles with using a law and sociology approach, and I talk about the sociologists regularly, one of the key challenges of that approach is that our diagnoses tend to be big and feel intractable. And so one of the ways I try to do due diligence is to come up with some policy takeaways that are practical, that won't actually resolve the theoretical issue that I'm raising, but do point us in what I think is kind of the right direction, so to speak.

So for example, in the anti segregation policing piece, one of the proposals I talk about is actually in a consent decrees directly discussing residential segregation as a problem and trying to intervene on how policing happens, like how districts are set up for example, in order to shift the type of policing that certain neighborhoods experience. So that's one example.

So one issue that we've also seen is people kind of inappropriately calling the police on people of color for-- when there's not really a problem. So this is something that I've had happen to me and that also has gained a lot of public attention over the past several years.

And so I wrote a piece that basically suggested there should be accountability at a collective level and healing at a collective level for people who have experienced this type of harm, because the problem isn't that there are just individual racists running around calling the police needlessly. It's not individualistic. So a lot of the shaming that happens that people experience from that is maybe warranted, but it doesn't really do enough to account for the cultural dynamics that are set up that produce this type of problem.

And so one of the key insights I think of sociology and kind of a key focus of my work is this kind of-- we're operating at a cultural level and not just an individual level. And so that's a type of example. I remember we once had a conversation where you said, I don't want it to be law and sociology, which is the classic thing to do as a law professor, I do law and this PhD discipline. But you said I want it to be law/sociology. And I see that every day in your work. And I wonder if you could just say a little bit about what you meant when you were talking about it.

So there are, of course, people who do, for example, qualitative interviews in law. That's a sociological kind of tool, methodologically. But it's not really sociological thinking about the law. And so when I was saying that we should collapse them in some ways is to say, let's really draw upon the insights of sociology, but also for sociologists.

And this is key, sociologists also need to draw on the insights of law and really learn and understand how law shapes so much of what we see in social life. And so it's really, really, I think, important to blend these two disciplines together in a way that is not purely methodological, but is also rich in theoretical, because I think that's where we get meaningful policy and legal insights.

No, I totally see that. And it's also just it's why we build a mini university inside a law school, is so that we learn together. So you know, Monica, it really did hit me when you said law/sociology how much my own language has changed in thinking about the law because of your work and the work of Issa Kohler-Hausmann as well.

And I think that people don't really realize how much other fields have embedded themselves into the language of law. So economics is a really good example. It is sort of part of a vocabulary as lawyers, even though these are terms from another field. And I take it that's your aim, at the end of the day, with thinking about law/-sociology.

Right, so one concrete example, I think, is the word efficiency, and how the word efficiency has so influenced law because of the school of law and economics. Actually one of the books I'm going to have my students read in law and sociology next semester is a book that sociologists tracking the influence of the language of efficiency and the language of economics to replace language like equality, whereas, that are really important from a sociological lens.

So words for me, like a collective efficacy, which is this idea that's about how communities can basically come together and build power and change. That is a metric. You could actually measure a collective efficacy. And that's the kind of language I want to see incorporated into our decision making about law. And you can just imagine what the world would look like if courts use terms like estrangement and efficacy in the same fashion that they use the word efficiency. When you arrived here, I thought your research agenda was the most exciting research agenda I had ever seen from any junior in all of my time in law teaching. And I still think that.

It's just incredibly exciting to see what comes out of it. And also just to see, for those of you in the world, usually when juniors arrive, they're green. And sort of part of the job of a law school is to help them figure out how to be scholars and develop what Morty Horowitz, when I was at Harvard, always used to call it tenure of the mind, not just tenure, but tenure of the mind.

I felt like you had tenure of the mind from the first day you walked into the door here. You knew who you were. You knew where you were going. And you had this just astonishing research agenda ready to unfold. And now we're watching you unfold it. So I wonder if you might just talk a little bit about the a book project that you're working on.

So I will say the book project I'm working on-- it was not something that was on my initial research agenda when I started. But it is something that grew out of a piece that I published in 2019 called "Safety, Friendship, and Dreams." And the basic idea of the article was to really highlight the emotional content of what people talked about in the interviews about their engagement with legal institutions and their experiences seeking safety.

And so in the process of trying to find an effective way of presenting this information, I started developing this methodology that I'm calling empirical poetry. So it draws from traditional types of qualitative methodology in terms of coding interviews for themes, and this kind of aspect of social science research. But it also tries to reimagine the interviews themselves in a way that draws upon the words of people who are being interviewed to convey the specific critiques they're making of law and also their emotional responses to law. So the book right now is being called Inequalities Emotions, and Empirical Poetry is kind of the tagline.

And it's a collection that focuses on various sorts of emotions that interviewees expressed, but then it really uses their words in a kind of free versus form to make arguments that otherwise would make more myself, and then I also integrate some essays within the pieces to offer my own analysis, although I think there are debates among like humanists and social scientists about how much work the writer is supposed to do in terms of versus allowing people to do their own interpretation from the pieces themselves. So this is what I've been working on most over the past couple of years.

It's incredibly exciting. I cannot wait for it to be published. Monica, I wonder if you could talk a little bit about where you came from, because in addition to being a Black woman, you are first in the family to go to college. And you didn't get to the academy with all the advantages that people sometimes think you have to have. You carved your path here. And I wonder if you could talk about that journey.

So I'm from Anderson, South Carolina, which is a small town in South Carolina. And I grew up low-income, like we lived in mobile home. And neither of my parents went to college. But I still, nonetheless, feel that my parents were both pretty intellectual. I didn't know my father very well, but my mother was kind of a nerd book person.

She simply just did not have the opportunities to pursue higher education. I mean, she went to-- she spent most of her K through 12 education in segregated schools, like that's how recent the segregation was. And so throughout my life, thought I would probably go to college.

But we were also part of a church like a fundamentalist church, that at some point when I was in high school, suggested that we were not allowed to go to college. And so then things got a little dicey. So I had to get special permission that my mom negotiated for me to go to a college, Furman University, where I'm really proud to have gone to college, about 45 minutes away from home.

And then the agreement was that I could stay there during the week, but that I would have to go to church every weekend. And so we kind of set up this scenario. And I just-- I've always been the kind of nerdy person. I've always been intellectually curious. And I think, frankly, academia is a perfectly natural place for me to wind up. It's just not something that I had a cut a clear path toward before I got here actually.

I always thought I would-- or not always, but by the time I was in college, I thought I probably wanted to be a lawyer, but it wasn't until I got here as a student that someone suggested to me for the first time that I should consider legal academia.

And it's not something I'd ever considered, but that was a big-- just someone mentioning it as a possibility was really a big, made a huge difference in my life. And so it's-- I then spent a lot of time just reading scholarship extracurricularly while I was in law school to figure out what I was interested in.

Well, and also it's just been wonderful to watch how many students you've mentored to think about, you've been started to be the person who says you should think about legal academia. And so maybe you can talk a little bit about both the mentoring and the teaching you've been doing, which has just been a dazzling range of classes. And I worry sometimes that you are teaching every class at Yale Law School, but I wonder if you could talk a little bit about the kinds of things you've been doing in terms of your pedagogy.

So I will-- first, I mean, I don't think my pedagogy is necessarily special. But I do think it's important. I think it's important to build mentorship into the classroom setting. And I've been fortunate to be able to do that across several classroom settings.

So for example, in my very first law and sociology course that I taught here, two of basically-- that year two students applied for a PhD programs in sociology and are now doing those and are kind of planning to be legal academics who do sociology style of work. And I'm on one of their dissertation committees now, so it was like a longer term relationship.

Also a few years ago, I started teaching a writing course called Race, Inequality and the Law. And it's a year-long course, in which students come in with projects that they are interested in. They don't necessarily have to be fully formed, but they spend the year working on the projects. But in addition to that, I also have guest speakers come in who are early stage academics who write about race inequality and the law themselves, just to expose them to other ways of thinking about these materials and this process.

And also really important is the group atmosphere in the class. So one of the things that I had to learn as a budding academic is that actually it's not a top down thing. What we do in academia is work together. We get feedback from lots of different people and have an intellectual community. And so I try to create that in the classroom with the students where they don't do the secret, I don't want people to see my draft until it's perfect kind of thing.

No, you're forced to share your draft with everyone in this class. And we are all going to sit around and talk about it for 30 minutes. And so that is another important piece of the mentorship for me.

That's exactly it. It's such a great way to do it. And you're exactly right. No junior ever wants to share their work ever. I remember when I was a junior and Jack Goldsmith walked into my office. I'd never met him, he's like, give me your draft. I said, no, I want to work. He says, just print it out right now. And that's the right way to be a mentor.

What I'm really glad about the work that you've been doing is that it's-- I feel like it is often the invisible work of citizenship at this law school. And one of the things that I hope to do in the next couple of years is enlist the law school in a much more formal and transparent way, in building out an academic pipeline for folks who come from underrepresented groups.

Because whenever people talk about hiring, they always say, we can't hire X, Y, or Z because there's a pipeline problem. And we're the pipeline. And I feel like it's time for us to really think hard. We've done so much to bring-- to open the gates of the school, to bring other-- to bring folks from every part of the world here that now is the time to really think about how do we get them that next step on their journey.

So I'm deeply grateful to you for the work that you've done and also that you're going to advise us how we can do it better, which is enormously helpful. So thank you for doing that. I'm looking forward to the work.

So, Monica, there are so many ways in which you make all of us look lame. So you've had this dazzling scholarly career. You have a beautiful voice, which people may not know, but every time I need someone to sing Happy Birthday, I always look in your direction.

But you also actually have this incredible media presence, where you somehow manage to do something that I would never have guessed was possible, which is to do makeup tutorials at the same time as have serious conversations about serious issues. It's amazing. And I wonder both, how did you end up there, as an Instagram star? And how do you think about what you're doing?

So I'm far from an Instagram star. But so really during the pandemic, I picked up a bit of a pandemic hobby of doing makeup. And it's especially, I think, as a queer person, and someone who often hasn't really presented as traditionally feminine, there is something interesting about the makeup world. It's actually quite subversive.

I'm in community with lots of people who are queer, who are rethinking makeup and how it's presented. And so it became, sort of a-- we felt like we were doing something that was vaguely social justice related. But in my own Instagram, I just think it's important to incorporate things that I really care about as well. So sometimes I talk about books that I think are really important and hair and makeup look with them, in part, frankly to just-- the people on my makeup Instagram are often not people who are reading books about sociology of inequality or law and inequality.

And so I think to kind of spread that work a little bit through this other medium is important to me, but also I think just being a whole person is important. I mean, I find makeup to be a healthy way of engaging in a sort of artistic expression. It's actually a lot of the way I think about my scholarship as well.

And so there's a lot of ways in which it's quite-- the Instagram fun, it might seem frivolous on some level, but for me it is a way in which I can nurture all the different aspects of my creative commitments.

I think it's actually because you come here as a whole person and manage to be such a spectacular whole person, that so many of-- you're one of the most beloved faculty we have. And the I still remember the speech that you gave at commencement last year, the students asked you to be the commencement speaker. I wonder if you could just talk a little bit about what you said to them because it was really powerful and important.

I mean, I talked a lot about friendship and chosen family in the speech. And I think a lot of times commencement speeches focus on how great the students are and how they're going to do really important things. And I think that's great. But the particular role, I thought it might be helpful to play, especially at this time in our history where there's so much polarization and there's so much angst, it's just to remind the students how they're going to be in each other's lives forever, whether they want to be or not.

They're in some sense family forever. And they can be generative family for each other. And so I talked about that theme in my speech and told some personal stories, including involving people who I've met through YLS and how they were important to-- or basically how they had become my chosen family over the years.

So I know that you also did, I talked a little bit about some similar stuff at orientation, so our-- at the time that we're recording this, our class just arrived, the class of 2026 just arrived. It's a quite extraordinary

class. It's the most diverse in our history, 57% students of color, more than 1 in 3 is a first genner, more than 1 in 6 is first in the family to go to college.

And one I'm particularly proud of is that more than 15% of the class are Hurst Horizon scholars, which means that these are students who come from just families who live just above or below the poverty line. And so first of all, I can't even imagine what it meant to them to see you up there as a role model.

But also I wonder if you could talk a little bit about the advice you gave them, because I feel like this is always the moment when you think back to when you were a first year in law school. And so it's-- I think they have trouble imagining someone like you as a first year in law school. So if you could maybe share with what did you talk to them about.

I mean I talked to them about many topics. But I think the main focus was that it's OK, actually, to be enraged by what we learn about law. I think for me coming to Yale Law School was an awakening of my understanding about class and inequality, because I actually did not know that I was poor. I didn't really have a sense of that before I got here.

And if I were in law school today, I would qualify for the Hurst Horizons scholarship. But it's OK to be enraged by learning about this, but the question is how we channel it. How do we use our rage productively? How do we think about channeling everything we've learned into real meaningful change as opposed to just blowing off steam?

And also how do we sharpen our own set of tools? And part of sharpening that set of tools is listening to people who have not had our experiences or who just don't have our perspective and/or don't share our perspective, I guess I should say. And really listening to them and engaging with them and that's a productive way I think of channeling our rage and turning it into love for the people we care about.

I cannot imagine better advice for any person, let alone any law student, so really appreciate that. Well, so Monica, I just want to say thank you. It has just been the most glorious thing in the universe to be the Dean when you were given tenure as the first Black woman to be tenured at this law school from being a junior.

And you have just blazed a trail as an intellectual and as a human being at this school and have made an enormous difference in every part of our collective lives and our students' lives. And we are so grateful to everything that you've done and it just feels like a gift to work at the same place you do.

Well, I feel the same way about you Heather, so thank you so much for allowing me to be here at the same time with you as Dean.

Thank you.

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