

**Detention on a Global Scale: Punishment and Beyond**  
**Robert L. Bernstein International Human Rights Fellowship Symposium**  
**Arthur Liman Public Interest Colloquium**

**April 9-10, 2015**  
**Yale Law School**  
**127 Wall Street, New Haven, Connecticut**

**Sponsored by the Arthur Liman Public Interest Program and  
the Orville H. Schell, Jr. Center for International Human Rights**

**Thursday, April 9th**

3:00-4 pm      **Registration**      Room 122

4:10-5:30 pm      **Democracy and Detention**      Room 127

Political and social theorists have long posited a close relationship between how a state punishes and how it governs. One puzzle is the variation among contemporary democracies in the incidence of incarceration and the forms incarceration takes. By examining different penal regimes in the context of larger political economic dynamics, is it possible to posit preconditions for a more tolerant criminal justice system? What effects do detention practices have on a state's governance, and who participates in government and how?

Presenter:      Nicola Lacey, School Professor of Law, Gender and Social Policy,  
London School of Economics

Comments:      Lukas Muntingh, Co-Founder, Civil Society Prison Reform Initiative,  
Community Law Centre at the University of the Western Cape  
Vesla Weaver, Assistant Professor Political Science and African  
American Studies, Yale University  
James Q. Whitman, Ford Foundation Professor of Comparative and  
Foreign Law, Yale Law School

Moderator:      Judith Resnik, Arthur Liman Professor of Law, Yale Law School

5:45- 7:00 pm      **Detaining Outsiders: Migrants, Borders, and Security**      Room 127

Detention is an increasingly common fixture of national strategies to manage geographical borders. What dynamics contribute to the proliferation of immigration detention? What are justifications for and against detaining people who lack legal authorization to be present within a nation's borders? To what extent should immigration detention be viewed as a form of "preventive detention," and what are the effects of doing so?

Panelists: Mary Bosworth, Professor of Criminology and Fellow of St Cross College, University of Oxford, and Professor of Criminology, Monash University, Australia  
Michael Flynn, Director, Global Detention Project, Geneva, Switzerland  
Zonke Majodina, former Member, UN Human Rights Committee; former Deputy Chairperson South African Human Rights Commission  
Allegra McLeod, Associate Professor of Law, Georgetown University Law Center, USA

Moderator: Darryl Li, Associate Research Scholar and Robina Visiting Human Rights Fellow, Yale Law School

7:30-10:30 pm **Dinner**

President's Room, Woolsey Hall

## Friday, April 10th

9:00-10am **Continental Breakfast**

Room 122

10:00-11:45am **Punishment Before Trial**

Room 127

More than 3.3 million people worldwide are held in pretrial detention, sometimes for longer than the maximum sentences they would have received upon conviction. What drives pre-trial detention, and what are possible solutions? Should the emphasis for reform be on access to counsel? Or reliance on less formal (and less expensive) alternatives, such as paralegals or community education? On alternatives to incarceration, such as probation or diversion out of the criminal process? Or should decriminalization be central to the conversation?

Panelists: Uju Agomoh, Director, Prison Rehabilitation and Welfare Action, Nigeria  
Maja Daruwala, Executive Director, Commonwealth Human Rights Initiative, New Delhi  
Martin Schoenteich, Senior Legal Officer, Open Society Justice Initiative  
Melanie Vélez, Litigation Director, Southern Center for Human Rights, USA

Moderator: Fiona Doherty, Clinical Associate Professor of Law, Yale Law School

12-1:30 pm **The Language of Punishment**

Room 127

Speaker: Robert Ferguson, Woodberry Professor in Law, Literature, and Criticism, Columbia Law School, and author of *INFERNO - AN ANATOMY OF AMERICAN PUNISHMENT*

Moderator: James J. Silk, Clinical Professor of Law and Director, Orville H. Schell, Jr. Center for International Rights, Yale Law School

1:45-3:30 pm

## **Rights, Oversight, and Change**

Room 127

What role do rights have in challenging the “penal populism” described by Nicola Lacey? What are the promises and limits of rights in this context? On one hand, there is a risk that “rights” will reach acute abuses but not systemic issues, such as the overuse of confinement. On the other hand, how relevant is “rights talk” in systems that lack the resources to implement reforms? How are rights used in practice by prisoners, lawyers, courts, and institutions? What roles do international law and institutions play? Where are they effective? Where do they fall short? Should advocates push for greater involvement in international mechanisms, or are such efforts unlikely to yield results?

- Panelists: Başak Çalı, Director, Center for Global Public Law, Koç University, Istanbul  
David Fathi, Director, ACLU National Prison Project, USA  
Rick Raemisch, Executive Director, Colorado Department of Corrections, USA  
Miguel Sarre, Professor of Law, Instituto Tecnológico Autónomo de México (ITAM)  
Dirk Van Zyl Smit, Professor of Comparative and International Penal Law, Faculty of Social Sciences, University of Nottingham School of Law, United Kingdom
- Moderator: Johanna Kalb, Visiting Associate Professor of Law, Director Liman Public Interest Program, Yale Law School

3:45-5:30 pm

## **The End(s) of Detention?**

Room 127

Prisons are often viewed as objects of reform, but they also have a long history of being sites of experimentation for social reform. What are the likely sources of change in the ways incarceration occurs in the coming decade? Should prisons try to do more, not less? Should reform efforts work on measuring and incentivizing positive outcomes for prisoners? Or are we better off abandoning the idea of prisons as a site of transformation? Should the emphasis, instead, be on decreasing the numbers detained pending trial? Minimizing the sentences for those convicted? Finding alternatives to incarceration altogether? All of the above? None?

- Panelists: Marie Gottschalk, Professor of Political Science, University of Pennsylvania, USA  
Glenn E. Martin, Founder and President, JustLeadershipUSA  
Nils Öberg, Director-General, Swedish Prison and Probation Service  
Bernie Warner, Secretary, Washington Department of Corrections, USA
- Moderator: Hope Metcalf, Executive Director, Orville H. Schell Jr. Center for International Human Rights and Clinical Lecturer in Law, Yale Law School

5:30-9 pm

**Reception and Dinner**

Law School Dining Hall