

**Liman Public Interest Workshop**

**ABOLITION:**

**Slavery, Supermax, and Social Movements**

**Fall 2011 Syllabus**

**Mondays, 6:10-8 pm, room 124**

**Hope Metcalf, Director, Liman Public Interest Program**

**Judith Resnik, Arthur Liman Professor of Law**

**Sia Sanneh, Senior Liman Fellow**

**Student Co-Conveners: Amanda Alexander, Estella Cisneros, Rachel Clapp, Linda Evarts, Jeremy Kaplan-Lyman, David Lebowitz, Doug Lieb, Ester Murdukhayeva, Katherine Oberembt, Jane Rosen, Trevor Stutz, Lorraine Van Kirk**

This workshop will consider why some social movements use the nomenclature of “abolition” and that term’s import for reshaping legal obligations and entitlements. To do so, we will look at the rich literature on social movements in the context of the anti-slavery and temperance movements as well as more recent efforts to end child labor, apartheid, sex trafficking, torture, and the death penalty, all of which were and are transnational. Our interests include how such movements came to embrace the concept of “abolition” and how that formulation in turn affected the focus and function of such groups. Further, we seek to understand the roles played by faith, organized religion, and by political and legal theory in claims of “abolition.” We also explore how or whether the legal theories varied when the focus was on a particular nation-state or as part of world-wide activities. In addition to the arenas listed above, we will consider whether abolition is appropriately invoked in the context of “supermax,” prisons designed in the United States and in use since the 1970s to put individuals into solitary confinement indefinitely.

We are coordinating with a workshop run by Professors Brett Dignam and Jeff Fagan at Columbia Law School, and we will also draw on work from the ACLU National Prison Project’s campaign to end solitary confinement. Our topics include: Social Movements and Legal Activism; Slavery and Abolition; Absolutism and Torture; Prohibition; Death Penalty Abolition;

Children, Incarceration, and Isolation; Solitary Confinement; Denormalizing Supermax; Sex Trafficking and Prostitution; and Ending Genocide.

**Requirements and Readings:** 2 units/credit fail

This Workshop is a two credit ungraded course. We meet weekly; preparation and attendance at these discussions is required for credit. If you need to miss a class, please be in touch with the professors in advance of the meeting. Students missing more than two sessions without permission will not receive credit. Auditing is possible if arranged at the beginning of the semester. Visitors are welcome, with permission from the teachers.

Readings will be available on the Liman Public Interest Program's website: <http://www.law.yale.edu/intellecualife/workshopsyllabus.htm>. In addition, at least six times during the semester, students must post on "Inside Yale" a one-page reflection on readings -- due NO LATER than by 9 a.m. on the Monday mornings of the workshop and circulated to the class. Please email your reflections as well to Hope Metcalf and Judith Resnik. The purpose of writing is to encourage you to begin the conversations before class as you think about the relationship among readings. Further, failing to turn in the six reading reflections **on time** will result in not receiving credit.

With permission, some students may do additional work (including research and clinical opportunities) and receive more credit. The amount and kind of credit (SAW, etc.) depends on the project approved.

Below is an outline of the sessions and a list of readings, to be supplemented or varied in light of our discussions and your suggestions.

**September 12 Session 1: The Liman Program: Social Activism and Law**

This introductory session will provide an overview of the Liman Program, including this workshop, the upcoming fifteenth annual Liman Colloquium, *Accessing Justice*. At this event, March 1-2, 2011, we will host the chief justices of several states all of whom are addressing how to equip courts and litigants. Also outlined will be post-graduate public interest fellowships and the following Liman Projects: Ending Supermax; Women, Families, and Prisons; Ethics and Prosecutorial Misconduct; and Diapers, Rights, Hygiene, and Health.

Current Liman Fellows, Dan Mullkoff and Diala Shamas, will discuss the concept of "social movements" and the relationship of political and social organizing to their particular projects about policing, race, and identity in New York City.

Guests: Dan Mullkoff, Liman Fellow, 2012

Host: New York Civil Liberties Union  
Project: policing and racial profiling, including “stop and frisk” policies, in New York City

Diala Shamas, Liman Fellow, 2012

Host: Creating Law Enforcement Accountability and Responsibility (CLEAR) Project, CUNY Law School, New York City  
Project: law enforcement practices in Muslim, Arab, and South Asian communities in the New York City area

#### Readings:

Arthur Liman, Preface, pp. xi-xxi in ATTICA: THE OFFICIAL REPORT OF THE NEW YORK STATE SPECIAL COMMISSION ON ATTICA (1973). In 1971, Arthur Liman was appointed to be the General Counsel of the New York State Special Commission on Attica after the uprising at Attica Prison, NY where 39 people died. The Commission’s report was the first “instant paperback” and framed prison reform for some decades to come.

*Imprisoned*, Liman Newsletter (Fall 2010). Nearly forty years after the Attica uprising, some 400 people came together at Yale Law School to consider contemporary issues related to incarceration.

Andrew Gelman, Jeffrey Fagan, and Alex Kiss, *An Analysis of the New York City Police Department’s “Stop-and-Frisk” Policy in the Context of Claims of Racial Bias*, 102 J. of the Am. Statistical Assoc. 813 (2007).

Tom R. Tyler, Stephen Schulhofer, and Aziz Z. Huq, *Legitimacy and Deterrence Effects in Counterterrorism Policing: A Study of Muslim Americans*, 44 L. & Society Rev. 364, 364-75, 386-89 (2010)

## September 19      **Session 2: Abolition and the Legal Regime of Slavery**

Abolition in the United States is famously connected to slavery. Some were absolutist in being for or against slavery and others temporized. The materials that follow enable us to consider how law and social political efforts constituted each other.

Convenors: Rachel Clapp, Linda Evarts, Doug Lieb, Hope Metcalf

Robert Cover, *Prelude: Of Creon and Captain Vere: The Intellectual Tradition: Slavery, Natural Law, and Judicial Positivism*, pp. 1-30, in JUSTICE ACCUSED: ANTISLAVERY AND THE JUDICIAL PROCESS (Yale Univ., 1975)

*Somerset v. Stewart*, (1772) 98 Eng. Rep. 499 (K.B.).

*Dred Scott v. Sandford*, 60 U.S. 393 (1856), excerpted in Paul Brest & Sanford Levinson, PROCESSES OF CONSTITUTIONAL DECISIONMAKING 193-202 (3d ed., 1992)

Fugitive Slave Act of 1850

Thirteenth, Fourteenth, and Fifteenth Amendments, United States Constitution

*Ending: Strange Order of Things*, pp. 509-537, in Christopher Tomlins, FREEDOM BOUND (2011)

Abraham Lincoln, Emancipation Proclamation

### **September 26 Session 3: Social Movements to Abolish Slavery: Race, Gender, and Self-Ownership**

The movement to abolish slavery in the United States unfolded over nearly a century and extended across the Atlantic. The below readings begin to reveal the complex evolution of that movement and the relationships between its constituents from different political, social, and religious communities. Also considered is the interplay between gender and race.

Convenors: Amanda Alexander, Katherine Oberembt, Lorraine Van Kirk, Sia Sanneh

Guest: David Brion Davis, Sterling Professor of History Emeritus and Director Emeritus of the Gilder Lehrman Center for the Study of Slavery, Yale University

FREDERICK DOUGLASS, NARRATIVE OF THE LIFE OF FREDERICK DOUGLASS, AN AMERICAN SLAVE 38-44 (6th ed. 1845)

Richard S. Newman, ABOLITIONIST TRANSFORMATIONS: FIGHTING SLAVERY IN THE EARLY REPUBLIC, 1-15 (Yale, 2002)

Eric Foner, *True Likenesses*, in FOREVER FREE: THE STORY OF EMANCIPATION AND RECONSTRUCTION 34-40 (Knopf, 2005)

DAVID BRION DAVIS, *Declaring Equality: Sisterhood and Slavery*, in WOMEN'S RIGHTS AND TRANSATLANTIC ANTISLAVERY IN THE ERA OF EMANCIPATION 3-18 (Kathryn Kish Sklar & James Brewer Stewart, eds., Yale Univ. Press, 2007) [hereinafter Sklar and Stewart]

ERICA ARMSTRONG DUNBAR, *Writing for True Womanhood: African-American Women's Writings and the Antislavery Struggle*, in Sklar and Stewart, 299-318.

Michael McCann, *Law and Social Movements: Contemporary Perspectives* 2 Ann. Rev. of L. & Soc. Sci. 17-38 (2006)

Optional background reading on slavery in America: Seymour Drescher, *The End of Slavery*, in *ABOLITION: A HISTORY OF SLAVERY AND ANTI-SLAVERY* 294-332 (Cambridge, 2009)

### **October 3      Session 4: Absolutism: The Case of Torture**

Convenors:    Jeremy Kaplan-Lyman, David Lebowitz, Ester Murdukhayeva, and Hope Metcalf

We turn from slavery to torture because it has become a contemporary “debate” (with a huge literature) between abolitionists and those who argue for toleration of some forms of “enhanced interrogation techniques.” We will examine the claims—legal, political, and otherwise—for categorical bans on particular practices in the context of post-9/11 arguments. While doing so, we can reflect on the relationship between the practices of slavery and of torture – to consider whether they have an analytic relationship in practice and in law.

Statutes, Treaties, and Restatements (all reprinted in one compilation):

Eighth Amendment, United States Constitution

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, [annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)], entered into force June 26, 1987 (excerpted)

Restatement (Third) of Foreign Relations Law § 702, Customary International Law (1987) (excerpted)

Torture Victim Protection Act of 1991, Pub. L. 102–256, Mar. 12, 1992, 106 Stat. 73 (excerpted)

Detainee Treatment Act of 2005, Pub.L. 109-148, div. A, tit. X, §§ 1001-1006, 119 Stat. 2680, 2739-44 (2005), codified in part at 42 U.S.C. § 2000dd and § 2000dd-1 (excerpted)

Military Commissions Act of 2006, Pub. L. No. 109-366, 120 Stat. 2600 (Oct. 17, 2006), codified in part at 28 U.S.C. 2241(7)(e) (excerpted)

Case Law and Commentary

*Rochin v. California*, 342 U.S. 165 (1951)

*Padilla v. Yoo*, 633 F. Supp. 2d 1005 (N.D. Cal. 2009) (excerpted), appeal pending

Alan Gewirth, *Are There Any Absolute Rights?*, *The Philosophical Quarterly*, Vol. 31, No. 122 (Jan., 1981), pp. 1-16

Ariel Dorfman, *The Tyranny of Terror*, in *TORTURE: A COLLECTION* 3-18 (Levinson, ed., 2004)

Henry Shue, *TORTURE*, 7 *PHIL. & PUB. AFF.* 124 (1977)

Richard A. Posner, *Torture, Terrorism and Interrogation* in *TORTURE: A COLLECTION* (Levinson, ed. 2004)

Charles Fried and Gregory Fried, *BECAUSE IT IS WRONG: TORTURE, PRIVACY AND PRESIDENTIAL POWER IN THE AGE OF TERROR* (2010) pp. 22-51, 162-169.

**October 10 Fall Break—NO CLASS**

**October 17 Session 5: Prohibition**

Convenors: Estella Cisneros, Jane Rosen, Trevor Stutz, and Hope Metcalf

Slavery and torture debates were and are international, as they are also gendered and raced. So, too, was Prohibition – an “abolitionist” movement that was grounded on arguments about family safety, that moved worldwide and that has since been repealed – or reemerged in the context of drug prohibitions. This session will examine the movements producing the ban as well as those contesting or refusing to enforce it.

United States Constitution, Amends. XVIII, XXI

National Prohibition Act, Pub.L. 66-66, Stat. ch. 85, 41 Stat. 305–323 (1919)

S. J. Mennell, *Prohibition: A Sociological View*, *Journal of American Studies*, Vol. 3, No. 2 (Dec., 1969), pp. 159-175

Ian R. Tyrrell, *WOMAN'S WORLD/WOMAN'S EMPIRE: THE WOMAN'S CHRISTIAN TEMPERANCE UNION IN INTERNATIONAL PERSPECTIVE, 1800-1930* (UNC-Chapel Hill, 1991), pp. 1 – 10 Women's

World/Woman's Empire, pp. 11-34, Origins of Internationalism, pp. 254-284, Prohibition and the Perils of Cultural Adaptation, pp. 285-290, Epilogue: Divergent Meanings of the World's WCTU

David E. Kyvig, *Women Against Prohibition*, *American Quarterly*, Vol. 28, No. 4 (Autumn, 1976), pp. 465-482

George E. G. Catlin, *Alternatives to Prohibition*, *Annals of the American Academy of Political and Social Science*, Vol. 163 (Sep., 1932), pp. 181-187

L. Ames Brown, *Prohibition or Temperance?*, *The North American Review*, Vol. 203, No. 725 (Apr., 1916), pp. 564-571

Michael P. Young, *Confessional Protest: The Religious Birth of U.S. National Social Movements*, *American Sociological Review*, Vol. 67, No. 5 (Oct., 2002), pp. 660-688

## **October 24      Session 6: Death Penalty and Abolition**

Convenors:    Rachel Clapp, Katherine Oberembt, and Sia Sanneh

Like the anti-slavery and prohibition movements, the movement to abolish the death penalty in America involves issues of morality, religion, class, and race. Justifications for the death penalty have evolved over time; so too have the goals and tactics of those seeking to abolish this practice. This session will examine the history of the death penalty abolition movement, the strategies and objectives of death penalty abolitionists and the challenges facing the movement today.

United States Constitution, Amends. VIII, XIV

David Brion Davis, *The Movement to Abolish the Death Penalty in America, 1787-1861*, *AM. HIST. REV.* 63 (October 1957)

*Furman v. Georgia*, 408 U.S. 238 (1972) (excerpted from NINA RIVKIND & STEVEN F. SHATZ, *CASES AND MATERIALS ON THE DEATH PENALTY*, (2d ed. 2005)

STUART BANNER, *THE DEATH PENALTY*, 231-66 (2002)

*Gilmore v. Utah*, 429 U.S. 1012 (1976); Open Letter From Gary Gilmore; An Open Reply to Gary Gilmore from the ACLU, Jan. 3, 1977 (excerpted from OWEN M. FISS & JUDITH

RESNIK, ADJUDICATION AND ITS ALTERNATIVES: AN INTRODUCTION TO PROCEDURE 203-09, 214-16 (2003))

Frank Newport, In U.S., *Two-Thirds Continue to Support Death Penalty*, Death Penalty Information Center, Oct. 13, 2009

725 ILL. COMP. STAT. 5/119-1 (West 2011) (Illinois Repeal Statute)

Gov. Pat Quinn's Statement Regarding the Repeal of the Death Penalty, Apr. 26, 2011

Letter from Dr. William Petit Regarding the Death Penalty in CT, published in the *Cheshire Herald*

Scott Bronstein & Drew Griffin, *Mississippi Teen Pleads Not Guilty in Hate Crime Case*, CNN.com, Sept. 30, 2011.

*McCleskey v. Kemp*, 481 U.S. 279 (1987) (excerpted from NINA RIVKIND & STEVEN F. SHATZ, CASES AND MATERIALS ON THE DEATH PENALTY, (2d ed. 2005)

Judith Resnik, *Ambivalence: The Resiliency of Legal Culture in the United States*, 45 STAN. L. REV. 1525 (1993)

North Carolina Racial Justice Act, N.C.G.S.A. § 15A-201

Raymond Bonner, *Drug Company in Cross Hairs of Death Penalty Opponents*, Mar. 30, 2011, N.Y. Times

*In re Davis*, 130 S. Ct. 1 (2009) (Scalia, J., dissenting)

Elizabeth Flock, *U.S. Supreme Court Rejects Appeal; Troy Davis Executed*, Wash. Post, Sept. 22, 2011.

## **October 31      Session 7: Children, Incarceration, and Isolation**

Convenors:      Estella Cisneros, Doug Lieb, and Sia Sanneh

This week's readings explore the tension between the expansion of legal rights for children, which raises children to the same legal level as adults, and the movement to abolish certain types of punishment for juveniles, such as the death penalty and life without parole for non-homicide crimes. These materials explore the various claims – moral, legal, political, economic, and otherwise – for categorical rules prohibiting particular punishments for children,



as well as the movements to expand these prohibitions and those opposing this approach, and we will also examine alternatives to the existing imprisonment model for children.

United States Constitution, Amends. VIII, XIV

Jeffrey Fagan, *The Contradictions of Juvenile Crime & Punishment*, 43 DAEDALUS (2010)

*In Re Gault*, 387 U.S. 1 (1967) (excerpted from BARRY C. FELD, CASES AND MATERIALS ON JUVENILE JUSTICE ADMINISTRATION 721-38 (3d ed. 2009).

Sanford J. Fox, *Juvenile Justice Reform: An Historical Perspective*, 22 STAN. L. REV. 1188 (1970)

*Roper v. Simmons*, 543 U.S. 551 (2005) (excerpted from NINA RIVKIND & STEVEN F. SHATZ, CASES AND MATERIALS ON THE DEATH PENALTY 241-62 (2d ed. 2005)

*Graham v. Florida*, 130 S.Ct. 2011 (2010)

Tina Rosenberg, *For Teen Offenders, Hope in a Jury of Their Peers*, N.Y. Times, Oct. 13, 2011

Editorial, *Court Reform for Teenage Offenders*, N.Y. Times, Oct. 11, 2011

## **November 7 Session 8: Solitary Confinement and Supermax**

Convenors: Jane Rosen, Trevor Stutz, and Hope Metcalf

For the next two weeks, we will be exploring the development of solitary confinement and supermax prisons in order to understand their claimed utilities, moralities, and effects, as well as the distinctions between these forms of detention. For the first set of discussions on November 7, our focus will be on the practice and evolution of solitary confinement. We will consider its history as a rehabilitative intervention in the early nineteenth century, and the forms it took in the late twentieth century.

### **A Window into Contemporary Practices**

Atul Gawande, *Hellhole*, The New Yorker (March 30, 2009), available at [http://www.newyorker.com/reporting/2009/03/30/090330fa\\_fact\\_gawande](http://www.newyorker.com/reporting/2009/03/30/090330fa_fact_gawande)

### **The Evolution of Solitary Confinement and Supermax**

David Rothman, THE DISCOVERY OF THE ASYLUM, Introduction & Ch. 4 (1971)

Stephen C. Richards, *USP Marion: The First Federal Supermax*, 88 *The Prison Journal* 6-10 (2008)

### **Prison Regulations**

Federal Bureau of Prisons, Program Statement: Special Housing Units, July 29, 2011

Connecticut Department of Corrections, Administrative Directive Chapter 9  
Classification, Charts A & B (Privilege Consequences of Classification)

### **Case Law**

*In re Medley*, 134 U.S. 160 (1890) (excerpted)

*Austin v. Wilkinson*, 189 F.Supp.2d 719 (N.D. Ohio 2002) (excerpted)

*Wilkinson v. Austin*, 545 U.S. 209 (2005) (excerpted)

### **Analyses of Utilities and Costs**

David Lowell, Kristin Cloyes, David Allen & Lorna Rhodes, *Who Lives in Super-Maximum Custody? A Washington State Study*, 64 *Fed. Probation* 33 (2000)

Jesenia M. Pizarro, Vanja M. K. Stenius & Travis C. Pratt, *Supermax: Myths, Realities, and the Politics of Punishment in American Society*, 17 *Crim. Justice Policy Rev.* 6 (March 2006)

Daniel P. Mears & Jamie Watson, *Towards a Fair and Balanced Assessment of Supermax Prisons*, 23 *Justice Quarterly* 232 (June 2006) (excerpted)

Fred Cohen, *Isolation and Mental Disability*, *Corrections Managers' Report* Vol. XVII, No. 1, June/July 2011

Russ Immerigeon, *Colorado Study Finds Administrative Segregation Not as Damaging as Expected: What the Report Says, What the Critics Say, and What the Future Holds*, *Corrections Managers' Report* Vol. XVII, No. 1, June/July 2011

## **November 14 Session 9: Denormalizing Supermax, De-Demonizing Human Beings**

Convenors: Amanda Alexander, David Lebowitz and Hope Metcalf

This week's workshop will build upon last week's discussion of the proliferation of extreme forms of confinement. We will probe how the individual rights of prisoners—as

enshrined in various, sometimes overlapping fonts of substantive law—are valued against ‘public safety’ needs and the imperatives of social justice, and whether abolition is an appropriate frame through which to view movements to disestablish specific forms of imprisonment or incarceration more broadly.

As you read the materials, consider the different strategies for combating the inhumane treatment of prisoners. What roles are there for “majoritarian” public policymaking, for courts, for supranational institutions? What is the importance of national or state sovereignties in the context of criminal punishment? In various ways, we will also examine the participation of “experts” in different fields implicated by questions around supermax confinement. Reflect on the different perspectives from expert communities that the materials illuminate. Consider what is gained and lost when an abolition-based social movement takes an absolutist, as opposed to reformist, approach to combating injustice.

### **Litigation in U.S. Courts – Then & Now**

Jackson v. Bishop, 268 F. Supp. 804 (E.D. Ark. 1967)

Jones ‘El v. Berge, 164 F.Supp.2d 1096 (W.D. Wis. 2001)

Saleh v. Fed. Bureau of Prisons, 2010 U.S. Dist. LEXIS 138642 (D. Colo. 2010)

### **International Perspectives**

Babar Ahmad, et al. v. The United Kingdom, Partial Decision as to the Admissibility of Application nos. 24027/07, 11949/08 and 36742/08, Eur. Ct. H.R. (July 6, 2010)

U.N. General Assembly, *Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment*, U.N. Doc. A/66/268 (Aug. 5, 2011) (excerpts)

### **Roles of Medical, Psychological, and Religious Communities**

Brief of Professors and Practitioners of Psychology and Psychiatry as Amici Curiae in Support of Respondent, *Wilkinson v. Austin*, 545 U.S. 209 (2005) (No. 04-495)

Jeffrey L. Metzner & Jamie Fellner, *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 J. Am. Acad. Psychiatry & L. 104 (Nov. 2010)

Letter from the National Religious Campaign Against Torture to the U.N. Special Rapporteur on Torture (May 16, 2011)

### **State-Level Reforms**

Lance Tapley, *How One State Dramatically Reduced Solitary Confinement*, NIEMAN WATCHDOG, Aug. 1, 2011

John Buntin, *Mississippi's Corrections Reform*, GOVERNING, Aug. 2010

### **Popular Discourse**

Editorial, *Cruel Isolation*, N.Y. Times (Aug. 1, 2011)

Letter to the Editor, *Is Solitary Confinement Inhumane? Or Indispensable?*, N.Y. Times (Aug. 9, 2011)

George Lavender, *Why California Prisoners Press on with Hunger Strike*, The Guardian (U.K.) (Oct. 17, 2011)

Sarah Shourd, Op-Ed, *Tortured by Solitude*, N.Y. Times (Nov. 5, 2011)

### **Challenging the Paradigm of Institutional Confinement**

Angela Y. Davis, *ARE PRISONS OBSOLETE?* 9-20 (2003)

### **November 21 Thanksgiving Week—NO CLASS**

## November 28 Session 10: Sex Trafficking and Prostitution: Line-Drawing Locally and Globally and Reflections on Law's Violence

Convenors: Jeremy Kaplan-Lyman, Lorraine Van Kirk, Hope Metcalf

This week's readings—which consider efforts to abolish sex trafficking and prostitution—take on three interrelated themes that have been present throughout the semester. First, how might one define the harm? What are the utilitarian, ethical, moral, economic, political, and religious dimensions of that inquiry? Second, even if sex trafficking and/or prostitution is a bad thing, is legal prohibition proper? And should that prohibition be absolute? What is the best way to regulate or prohibit prostitution and/or sex trafficking to produce optimal social, ethical, moral, economic, political, and/or religious outcomes? Finally, what roles do social movements play in the fight to abolish sex trafficking and/or prostitution? Does it matter *who* is fighting for prohibition and *how* the social movement constructs the harm? What role should trafficked women and sex workers play in the social movement to regulate or abolish sex trafficking and prostitution?

### Scope of the Problem

Patrick Belser, Michaëlle de Cock & Farhad Mehran, *ILO Minimum Estimate of Forced Labour in the World*, 1-13 (International Labour Office, Geneva, April 2005), full report available at [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_081913.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_081913.pdf)

Janice G. Raymond & Donna M. Hughes, *Sex Trafficking of Women in the United States: International and Domestic Trends* 7-12 (2001), [http://www.uri.edu/artsci/wms/hughes/sex\\_traff\\_us.pdf](http://www.uri.edu/artsci/wms/hughes/sex_traff_us.pdf).

### Legal Regulation Regimes

Judith Resnik, *Law's Migration: American Exceptionalism, Silent Dialogues, and Federalism's Multiple Ports of Entry*, 115 YALE L.J. 1564, 1660-66 (2006).

Convention on the Elimination of All Forms of Discrimination Against Women, art. 6.

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, U.N.T.S. 39574 (2000). **SKIM**

Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, § 102, 114 Stat. 1464 (2000). **SKIM**

Protection and Assistance for Victims of Trafficking, 22 U.S.C. § 7105(b). **SKIM**

Janet Halley et al., *From the International to the Local in Feminist Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four Studies in Contemporary Governance Feminism*, 29 HARV. J. OF L. & GENDER 335, 395-405 (2006).

Joseph Berger, *Despite Law, Few Trafficking Arrests*, N.Y. TIMES, Dec. 3, 2009, available at <http://www.nytimes.com/2009/12/04/nyregion/04trafficking.html>.

### **Theorizing Regulation/Prohibition of sex work/trafficking**

Noah D. Zatz, *Sex Work/ Sex Act: Law, Labor, and Desire in Constructions of Prostitution*, 22 SIGNS 277, 277-278, 299-306 (1997).

Catharine A. MacKinnon, *Prostitution and Civil Rights*, 1 MICH. J. GENDER & L. 13 (1993).

### **Movement-Building**

Nicholas D. Kristof, *If This Isn't Slavery, What Is?*, N.Y. TIMES, Jan. 4, 2009, <http://www.nytimes.com/2009/01/04/opinion/04kristof.html?pagewanted=print>.

International Justice Mission, 2010 Sex Trafficking Fact Sheet, <http://www.ijm.org/sites/default/files/resources/Factsheet-Sex-Trafficking.pdf>.

Oprah, *Ending Modern Day Slavery*, Dec. 1, 2009, <http://www.oprah.com/world/Ending-Human-Sex-Trafficking/1>.

### **Critiquing the Movement**

Elizabeth Bernstein, *Militarized Humanitarianism Meets Carceral Feminism: The Politics of Sex, Rights, and Freedom in Contemporary Antitrafficking Campaigns*, 36 SIGNS 46 (2010).

Ratna Kapur, *Erotic Justice: Law and the New Politics of Postcolonialism* 1-3, 114-20 (2005).

### **Views of Prostitutes and Trafficking Victims**

Urban Justice Center, *Revolving Door: An Analysis of Street-Based Prostitution in New York City* 62-65 (2003), <http://www.sexworkersproject.org/downloads/RevolvingDoor.pdf>.

## December 5 Session 11: Ending Genocide

Convenors: Linda Evarts, Ester Murdukhayeva, Sia Sanneh

There is a modern movement to abolish genocide. The readings for this week will consider the history, naming, and framing of the idea of genocide, its implications, and areas in which framing is contested. This session will also address the relationship between genocide and abolition, and examine the shape of the contemporary movement to abolish genocide.

How is genocide defined in law? More broadly? What obligations do States have to prosecute those who commit genocide?

Convention for the Prevention and Punishment of the Crime of Genocide (1948).

Principles of the Nuremberg Tribunal (1950).

Rome Statute of the International Criminal Court, Part II (1998).

Raphael Lemkin, Axis Rule in Occupied Europe, Chapter IX: *Genocide—A New Term and New Conception for Destruction of Nations* (p. 79-95).

Martin Shaw, Conceptual Proliferation, *What is Genocide?* (p. 63-78) (2007).

Rhonda Copelon, *Gender Crimes as War Crimes: Integrating Crimes against Women into International Criminal Law*, McGill Law Journal (2000).

Donatilla Mukamana and Petra Brysiewicz, *The Lived Experience of Genocide Rape Survivors in Rwanda*, Journal of Nursing Scholarship, Fourth Quarter (2008).

What is the relationship between genocide and abolition? What is the shape of the contemporary movement to abolish genocide?

Alison L. Des Forges and Alan J. Kuperman, *Alas, We Knew [with Reply]*, Foreign Affairs, Vol. 79, No. 3, May-June 2000 (pp. 141-44).

Samantha Power, *To Suffer by Comparison?*, Deadalus, Vol. 128, No. 2 (pp. 31-66) (Spring 1999).

Anthony Lake and John Prendergast, *Stopping Sudan's Slow Motion Genocide*, The Boston Globe, May 20, 2004.

Optional Reading:

William A. Schabas, *Genocide in International Law* (2d ed. 2009), *Origins of the Legal Prohibition of Genocide* (p. 17-58).

## **December 12      Session 12: Reflections on Abolition: A Reprise**

Convenors: Judith Resnik, Hope Metcalf, Sia Sanneh

To reconsider and recap our themes, we return to the issues with which we began – slavery and torture. As you read, consider how Levinson’s essay links slavery and torture and to what ends. We also revisit solitary confinement: the Council on Europe’s Anti-Torture Committee has recently addressed this issue, urging states to minimize the use of solitary confinement. In addition, under the Civil Rights of Institutionalized Persons Act, the Department of Justice has undertaken an investigation of two state correctional institutions in Western Pennsylvania to determine whether practices and policies violate the Eighth Amendment. Also included is a report on Pennsylvania’s State Correctional Institution at Huntingdon, written by the Human Rights Coalition, which includes family members of those incarcerated. Finally, returning to the issue of children and incarceration, we ask: is life without parole for juvenile offenders also to be conceptualized as conduct that is cruel, unusual, and falls inside international prohibition? The U.S. Supreme Court will be returning to this issue in the 2011-12 term.

### **Slavery and Torture**

Sanford Levinson, *Slavery and the Phenomenology of Torture*, SOCIAL RESEARCH Vol. 74 No. 1 (Spring 2007)

### **Solitary Confinement**

Council of Europe Anti-Torture Committee, Press Release, *Solitary Confinement in Prisons Should Be Minimised*, Nov. 11, 2011.

Department of Justice, Press Release, Justice Department Opens Investigations into Two Western Pennsylvania State Correctional Institutions, Dec. 1, 2011.

Human Rights Coalition, Unity and Courage: Report on State Correctional Institution at Huntingdon (April 2011).

### **Supreme Court Litigation Preview: Children and Incarceration**

Juvenile Life Without Parole: *Jackson v. Hobbs* and *Miller v. Alabama*