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 Çali, 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