



1989

# INTRODUCING LAW AND LIBERATION

Follow this and additional works at: <https://digitalcommons.law.yale.edu/yjll>



Part of the [Law Commons](#)

### Recommended Citation

*INTRODUCING LAW AND LIBERATION*, 1 *YALE J. L. & LIBERATION* (1989).

Available at: <https://digitalcommons.law.yale.edu/yjll/vol1/iss1/1>

This Article is brought to you for free and open access by Yale Law School Legal Scholarship Repository. It has been accepted for inclusion in Yale Journal of Law and Liberation by an authorized editor of Yale Law School Legal Scholarship Repository. For more information, please contact [julian.aiken@yale.edu](mailto:julian.aiken@yale.edu).

## INTRODUCING LAW AND LIBERATION

As an individual, you can dissent. But when you find others who dissent you can truly begin to create alternatives. At Yale, we responded to our law school environment by coming together and forming Law and Liberation. This coming together has allowed us to build upon our dissent and to reaffirm our intention to challenge disempowering economic and social structures.

In the journal, we hope to present both the failures of law and the possibility of using that same law for progressive ends. This means not only bringing different issues into the legal discourse, but also challenging the nature of that discourse — we want to explore new ideas about what is worth writing about as well as different ways of framing the issues.

The project of revaluing voices which have been suppressed or silenced has also informed our speakers' series. By providing a forum for community activists and legal practitioners we have tried to reclaim space from traditional academic dialogue. These panels have included a forum on "Israeli Security/Palestinian Rights" and a symposium on "Police Violence Against Oppressed Communities." There have been related workshops on "Human Rights on the West Bank" and a workshop on litigating police brutality cases. Meron Benvenisti, director of the West Bank Data Project, came to talk about the situation in the Occupied Territories, and Ben Cohen, co-founder of Ben & Jerry's Homemade Ice Cream discussed the possibility of bringing personality and social conscience into the corporate world.

We have been involved in direct action, which has sometimes meant working within established boundaries for causes we support — legal research and advocacy for the ill-housed or collecting funds for hurricane relief in Nicaragua or demanding greater diversity at Yale. At other times this has meant exercising our rights to protest — against the repression of Puerto Rican nationalists in the Hartford 15 trial or for a woman's right to choose a safe and legal abortion.

The paradox of our ambition is that it is activism from within the narrow confines of the academy. The centerpiece of our efforts is yet another of that most typical law school activity, the law journal. But just how much protest can you have within the privilege of the Ivy League? How much liberation within the law? Academics and activism, protest and privilege, everything and nothing: Law and Liberation, at its most basic, is an attempt to take the awareness of this tension into our struggle for social change. Refusing to hide from this tension is our own first step towards participating in the liberation struggles of others.

## Police Violence against Oppressed Communities

A forum sponsored by the  
Yale Journal of Law & Liberation

### Keynote Speaker

William Kunstler  
Vice-President & Staff Attorney  
Center for Constitutional Rights



### Panel

George Edwards  
Former State Coordinator, Black Panther Party

Jose Luis Morin  
Co-Chair, Association of Latino Attorneys;  
Latino Coalition for Racial Justice

Elizabeth Walber  
NYC Gay & Lesbian Anti-Violence Project

John R. Williams  
Williams & Wise

Moderator: Harlon L. Dalton  
Associate Professor of Law, Yale Law School



7 pm, Tuesday, February 21  
Room 127, Yale Law School

## STATEMENT OF PURPOSE

Law and Liberation embraces the premise that the legal system in the United States has failed to fulfill its promise of social justice for those disenfranchised by virtue of their race, class, gender, sexual orientation or other characteristics. We regard it as not coincidental that the basic legal framework of this country was established, at least in part, to secure the power and prerogatives of a group of white male elites and that the enlightenment ideals of freedom and equality inscribed in the Constitution denied the personhood of a large segment of the population. Nor do the problems resulting from the persistently unjust distribution of social wealth and power stop at our national borders; indeed we recognize that these inequities arise within the context of a global system of power in which the indignities of people in the underdeveloping countries and the disempowered in our own are crucially linked. To understand the working of our contemporary legal structure (culture), then, requires an analysis of its role within the global system of social power in which we maintain our own relative hegemony.

As law students, we have become increasingly aware of the disparity between the idealized image of the law presented in the casebook and classroom, and the reality of law as an institutional mechanism of social control. The presumption that the proper goal of our legal system is to attain neutrality, cost-efficiency, or some kind of objectivity is perhaps only the most conspicuous of the many fictions dominating our legal education; but it certainly does not stand alone. What we find missing in the current atmosphere of legal thought is any appreciation of the function of law in legitimating existing relations of power and social domination and any consideration of the prospects for realigning those social relations of power. Much of contemporary legal analysis, either reformist or affirmative, falls within the narrow conceptual confines of the existing system and fails to address the pressing need to broaden the basis of social empowerment to integrate those truly excluded from the fruits of social cooperation.

To be sure, such a characterization of the current situation in legal thought has itself become commonplace. It was the legal realists who first insisted that the law cannot be understood as a rational system of normative propositions, but must be understood against the background of a concrete set of social relations and life-practices that shape both the principles of law and their modes of application. But from a perspective informed either by Marxism or by critical legal studies, the original proposal of the realists was not sufficiently specific. It is not enough to understand law within its practical social context, but we must also seek to grasp the manifold senses in which it is embedded in a system of social control and domination. Neither Marxism nor critical legal studies, however, has produced the conceptual models that would fulfill this aspiration. It is precisely to this urgent theoretical need that the JOURNAL OF LAW AND LIBERATION responds. We aim to join the forces of legal realism and critical social analysis and thereby to project the tradition one step further toward a constructive understanding of the law within the pragmatics of social

## Israeli Security

## Palestinian Rights

Forum  
The Future of the West Bank & Gaza

Wednesday, November 16  
Yale Law School Auditorium  
7 pm  
Admission Free

David Sidersky  
Professor, Columbia University;  
Editorial Board, Mid-East Review

Milrel Schenker  
Senior Editor, New Outlook Magazine;  
Co-Founder of Peace Now

Joel Marbat, esq.  
Exec. Comm., Americans for a Safe Israel

Moderator: Michael Reisman

Riyad Mansour  
PLO Observer Mission to the United Nations

Mubarak Awad  
Center for the Study of Non-Violence

Hanan Ashrawi  
Professor, Bir Zeit University

Professor  
Yale Law School

power. In so doing, we hope to generate a new way of thinking about the law that employs a multi-disciplinary approach to make possible a deeper understanding of legal issues. This approach will include historical, sociological, philosophical, and other analyses designed to invigorate the remedial function of law by forcing it to confront the complex social reality underlying it.

We recognize the influential role assumed by journals at the Yale Law School, and we aim to use the JOURNAL OF LAW AND LIBERATION to provide a forum for those who are voiceless in the dominant legal culture. Existing law journals do not adequately address the fundamental socioeconomic violence of the system because they do not attend to the views of the disenfranchised or enrich their perspectives through the multi-disciplinary approach that we plan to encourage. In connection with our inclusive method that aims at cultivating new forms of legal analysis, we intend to serve as a forum for debate, sponsoring symposia, lectures and other modes of political action at the law school. Through these activities we hope to reinforce the belief that social change is effected most readily when theory and practice continuously inform each other.

