Dignity Rights in Delaware Justice: A Conference for Activists and Reformers

April 8, 2022
8:30 AM - 11:00 AM
- public -
11:00 AM - 5:00 PM
- invited participants -

Delaware Law School
4601 Concord Pike,
Wilmington, DE 19803
This Conference, a collaboration between Dignity Rights International, Delaware Humanities and Delaware Law School’s Dignity Rights Clinic, is the first of its kind: it is premised on the idea that the nation’s commitment to equal human dignity should undergird our criminal justice system. This commitment – with its roots in international human rights and constitutional law in the United States and throughout the world – means that our policies and practices regarding everything from arrest and detention to prosecution, incarceration, and release should reflect and protect every human being’s inherent and inalienable human worth and should protect each person’s right to live with and be treated with dignity. To that end, conference participants will be invited to collaboratively develop a set of principles aimed at protecting every person’s equal dignity that will guide Delaware’s policy-makers and serve as a uniting call to action.

This Conference brings together organizations committed to social justice in Delaware, and specifically those that work with people who have experienced and felt the impact of the carceral system in the First State. This day-long interactive event will include panels, and a simulation exercise, and workshops, all designed for collaborative engagement, networking, and the development of effective strategies for reform on a statewide basis. Topics of discussion include theories of punishment, race and racism, gender inequities, the impacts of poverty, and more. -- and, ultimately, the protection of the inherent and equal worth of human being.
VALE MOOT COURT ROOM

Check-in  8 to 8:30

Welcomes and Introductions  8:30 to 9

Rodney A. Smolla, Delaware Law School, Welcome
Erin Samarasinghe, Delaware Humanities
Erin Daly, Delaware Law School Dignity Rights: Clinic: Dignity Frameworks
James R. May, Delaware Law School: Criminal Justice in Delaware

Inside Panel  9 to 9:50

Haneef Salaam, Clean Slate and Delaware ACLU
Judy Ritter, Delaware Law School, Innocence Delaware
Romie Greismer, Delaware Law School, Inside/Out
Stanley Holdorf, Prisoner Legal Advocacy Network (PLAN)

Outside Panel  10 to 10:50

Reverend Mark Salvación, Justice for our Neighbors
Jake Fox, Advocate
Stephen Hampton, Grady & Hampton, LLC
John Flynn, New Beginnings/Next Steps

BARRISTERS CLUB

Re-entry Simulation  11 to 12:30

U.S. Attorney’s Office, Delaware Division of Social Services, Project New Start Graduates, and Priscilla Turgon

Lunch  12:30 to 1:45

POLISHOOK ROOM 203

Delaware Shakespeare’s Artist Activity  1:45 to 2
with Eric Mills

Breakout Session 1: Inside  2 to 2:30

Breakout Session 2: Outside  2:30 to 3

Reconvene and draft Dignity Declaration  3 to 4

Social Hour  4 to 5
Speakers

Erin Daly
Delaware Law School
Dignity Rights International

Jake Fox
Advocate

Stephen Hampton
Grady & Hampton LLC

John Flynn
New Beginnings/Next Steps

Romie Griesmer
Delaware Law School
Inside/Out

Stanley Holdorf
PLAN
Speakers

James R. May  
Delaware Law School  
Dignity Rights International

Rev. Mark Salvación  
Justice For Our Neighbors

Haneef Salaam  
ACLU-DE,  
Clean Slate Delaware

Judy Ritter  
Delaware Law School  
Innocence Delaware

Erin Samarasinghe  
Delaware Humanities
This wheel shows the various aspects of human dignity. These are ways in which people experience dignity that the law should protect. This language is derived from the global dignity caselaw.
Dignity in the Criminal Legal System: An Introduction

Erin Daly

“There is something that feels more like freedom, more like equality, more like justice, waiting for all of us.”

– Bryan Stevenson

The motivating force of this project is a commitment to the idea that the law should always reflect and protect the human dignity of “every member of the human family” and that only in dignity can a criminal legal system become a criminal justice system.

Human Dignity

There is no formal or official definition of human dignity, but every person instinctively understands that their own life has value, that their intrinsic worth as a human being is equal to that of everyone else’s, and that they are entitled to have some measure of control and agency over their own lives, some space in which they can fully develop their personality according to their own needs and values, and some measure of respect from everyone else.

In one way or another, this idea is reflected in all of the world’s most important human rights treaties, and in the constitutions of more than 170 nations on Earth. It is reflected implicitly in the constitutional law of the United States, including in the Eighth Amendment’s prohibition of cruel and unusual punishment which the United States Supreme Court has said is about "nothing less than the dignity of man.

The global consensus on the primacy of dignity as “the foundation of a just rule of law” draws around certain elemental characteristics of human dignity that define what it means under law.

Dignity represents the worth or the value of every person’s life.

• Dignity is an inherent quality of every human being; it is a fact of being born a member of the human family. Dignity itself is not a right and is not granted or created by the government, though the government must recognize it.
Dignity is equal for every person. No one has more dignity or less dignity than anyone else. No one’s life is more valuable than anyone else’s and no one can control another’s destiny.

Dignity is inalienable. The government can no more grant dignity than it can take it away. Dignity cannot be forfeited or bargained away. A person who is guilty of even the most egregious crime is still a person and therefore is still entitled to be treated as a person, with respect for their dignity.

**Dignity Rights**

From the fact of human dignity flow certain inalienable rights. In thousands of cases around the world, international and regional tribunals and constitutional courts have found that dignity represents the right to have and to claim rights that fall into three broad categories:

- The right to be treated with dignity including rights against torture, inhumane conditions of custody and incarceration, and humiliating and degrading treatment;
- The right to live with dignity, including rights to material and social goods including food, water, healthcare, education, and a healthy environment;
- The right to be a person with dignity, including the protection against discrimination, the right to the full development of the personality and the right to have some control over one’s life course (or life project).

This set of rights also includes the right to freedom of expression, freedom of conscience, and political rights to participate in democratic activity. In some constitutional cultures, these rights also include the right to psychological integrity including the right to retain hope and the right to not have one’s personality altered.

These are the rights that flow from the law’s recognition of human dignity. As understood and applied by jurists around the world, the recognition of dignity rights has certain implications.

First, dignity is absolute and dignity rights are inviolable: it is not subject to law and its infringement can never be justified. “In a democratic society, ill treatment is never an appropriate response to the problems facing the authorities,” the European Court of Human Rights has said.
Second, some of these are negative rights in the sense that they merely require governments to avoid violating dignity rights. Others are positive rights in the sense that they require governments to provide or secure goods, to affirmatively ensure that dignity is protected. To assure respect for human dignity for all, the government must sometimes do more for one person than for another; individualized attention is essential the government’s obligation to treat every person “as a person.”

Third, because they embody what makes us human and reflect the full range of human experience, dignity rights are fantails that connect the full spectrum of rights to one another. Whatever their particular characteristics, dignity rights represent the promises that governments make to the people over whom they exert power.

The Criminal Legal System

And yet the criminal legal system we have in no way fulfills the promise of dignity under law. The numbers are well known and yet still shocking.

Numbers of human beings incarcerated.
- Numbers of people incarcerated (2020): approximately 2,000,000
- 1,182,166 human beings are locked up in state facilities.
- 142,028 human beings are locked up in federal facilities.
- 549,100 human beings are locked up in local jails.

Global comparisons
- If the population of people incarcerated in the United States formed their own nation, it would be more populous than 85 countries and dependent territories.
- Every single U.S. state incarcerates more people per capita than virtually any independent democracy on earth.
- Thirty-four U.S. states have higher incarceration rates than any country on earth.
- One in 7 inmates is serving a life sentence or a sentence of 50 years or more (virtual life).

If you were born in 2001, your chance of being incarcerated is
- 1 in 9 if you are a man and 1 in 56 if you are a woman.
- 1 in 3 if you are a black man, and 1 in 18 if you are a black woman.
- 1 in 6 if you are a latinx man and 1 in 45 if you are latinx woman.
Juveniles

More than 48,000 youths are locked away from their families and support systems, including more than 4500 who are held in adult prisons and jails and more than 10,000 young people living in long-term secure facilities; nearly half of those are incarcerated for offenses not against persons.

The juvenile justice system confines black youth at over 4 times the rate of white youth and for the lowest level offenses. Black and American Indian youth are confined at 3 times the rate of white youth. American Indians make up 3% of girls and 1.5% of boys in juvenile facilities, despite comprising less than 1% of all youth nationally.

Women

The United States incarcerates 30% of the global population of incarcerated women. Of the 50 jurisdictions with the highest rates of incarceration of women,

- 4 are countries and 46 are states within the United States.
- Pennsylvania has a higher incarceration rate for women than the combined rates of Portugal, Luxembourg, UK, Canada, Norway, Belgium, Italy, France, Netherlands, Iceland, and Denmark
- 93,360 women are locked up in state facilities (57.1 per 100,000 female residents)
- 11,608 women are locked up in federal facilities (7.1 per 100,000 female residents)
- 99,100 women are locked up in local jails (60.8 per 100,000 female residents)
- 55,000 women are pregnant when incarcerated

Racial disparities

On the street

- Whites make up 65% of the population, but 60% of the people who are stopped on the street.
- Blacks make up 12% of the population, but 18% of the people who are stopped on the street.

Use of force

- Blacks make up 11.5% of the stops, but 20% of the people who experience police use of force. Hispanics make up 12.5% of the stops and 21% of the people who experience use of force.
**Arrests**
- Blacks make up 15% of the population under 18, but 35% of the youths arrested.

**Pre-trial detention – more than doubled in 20 years.**
- Of the people in pre-trial detention, 43% were black and 19.6% were Hispanic in 2002 (the last year in which racial data is available).

**Sentencing**
- Of the people serving life, life without parole, or virtual life, 48% are black and 32% are white.
- Of the people on death row, 42% are black and 42% are white.

**In confinement**
- One in 12 black men in their thirties is in prison on any given day. 46% of the men and 40% of the women in solitary confinement are black.

**Money matters**

Income to prisoners: slavery is prohibited in the United States "except as a punishment for crime": On average, prisoners earn between 12 and 40 cents per hour in federal facilities and between 14 and 63 cents per hour in state facilities. New Jersey and Minnesota pay the highest hourly wage of $2.00.
- Prisoners pay up to $24.95 for a 15-minute phone call.

**Income to companies:**
- $1,400,000,000: Bail bond companies collect in nonrefundable fees from defendants and their families.
- $2,900,000,000: private companies earn in supplying goods to prison commissaries or providing telephone service for correctional facilities.
- $3,900,000,000: governments pay companies to operate private prisons.
Deaths in custody

- Suicide accounts for approximately 30% of all deaths in custody, with most suicides occurring in the first 9 days.
- Women have a 7% higher mortality rate than men in jail.
- Population serving sentences of life or life without parole: 217,457 (approx. 15% of population)

Population on probation or parole: 4,371,738

- The rate of homelessness for blacks and Hispanics who have been released from prison is 240 and 191 per 10,000 people, respectively, compared with a general homeless population of 21 per 10,000 people.
- The rate of disenfranchisement among blacks is 6.2% compared with 2.7% of the general population.

These numbers, as shocking as they are, don’t begin to tell the stories of the human beings who are impacted by the criminal legal system. They don’t describe the myriad ways in which our carceral state diminishes the dignity of human beings throughout the nation. Nor do they describe the many ways in which the criminal legal system harms the dignity of people before they enter prison and after they leave. Nor how it harms the dignity of family members and others who are affected by how the system treats people who are suspected, charged with, or convicted of crimes.

Throughout the world, this recognition is already having an impact on law. In countries as diverse as Colombia, Germany, India, Israel, Pakistan, Peru, South Africa, Taiwan, and elsewhere, the law is reshaping itself around the central axis of the human dignity. One of the last places where this is happening is in the US criminal legal system.

This project aims to change that.

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Participants

1 Delaware Humanities

An independent, nonprofit affiliate of the National Endowment for the Humanities. The mission of Delaware Humanities is: We strengthen our communities by encouraging all Delawareans to be inspired, informed, and engaged through exploring the diversity of human experience. Founded in 1973, Delaware Humanities provides educational and cultural opportunities to Delawareans through original programming and grants for non-profit organizations.

2 Dignity Rights International

Dignity Rights International helps people around the world claim and protect their dignity rights through law with education, advocacy, and consultation. Dignity means people live more fulfilling lives. And the law around the world must reflect and protect the inherent, inalienable, inviolable, and equal dignity of all.

3 Delaware Law School Dignity Rights Clinic

The first legal clinic in the nation dedicated to enhancing the human dignity through law of every person, everywhere. This year, the Clinic is working with the Prisoner Legal Advocacy Network on the development of Dignity in the Criminal Justice System: A Handbook for Litigation, Advocacy, and Reform. The Clinic is part of Delaware Law School’s Dignity Rights Institute and is directed by Professor Erin Daly.
The ACLU-DE is an organization dedicated to ending the era of mass incarceration and dismantling the tough-on-crime approach and racial bias that has come to define criminal justice. ACLU-DE has been the “underdog’s watchdog” for over half a century. We are a first resort when the government threatens our rights in Delaware and a last hope when we are deprived of our liberties. Our ongoing efforts today to promote racial justice, criminal legal reform, expanded voting rights, and more are only the next step in our organization’s history. We will continue our work to protect and expand civil liberties in Delaware, because we know all too well that "the fight for civil liberties never stays won."

Branches to Chances is a horticultural job training program for unemployed, underemployed, and/or previously incarcerated individuals. Training is aimed at connecting participants with entry-level positions in the horticulture industry, such as landscaping, tree maintenance, and park maintenance.

In 2012, members of the Mother African Union Church, First Unitarian Church of Wilmington, and the Interdenominational Ministers Action Council (IMAC) formed a partnership to study mass incarceration and institutional racism and their affects on communities of color and the poor. This organization focuses its efforts on awareness-raising, advocacy, and racial healing.
Participants

7 Delaware Law School and Innocence Delaware Legal Clinic

The Innocence Delaware Legal Clinic partners with nonprofit organization Innocence Delaware, which provides representation to people unjustly incarcerated in the state for crimes they did not commit. Students assist Innocence Delaware in their mission by screening cases for representation, learning post-conviction law, and practicing innocence work, such as interviewing clients, conducting investigations, doing legal research, and preparing legal pleadings. The clinic is directed by Professor Judy Ritter.

8 Delaware Shakespeare: Juvenile Justice Acting Classes (Stevenson House)

Delaware Shakespeare is one of seven nonprofit organizations across the nation selected to present theatre education programs that engage youths in the juvenile justice system with the works of Shakespeare. The program consists of six 10-session acting classes offered at four juvenile justice facilities.

9 Dignity Campaign

Alicia Clark (working with religious and spiritual community and with families of people who are justice impacted).
Participants

10  Innocence Delaware

Innocence Delaware works to investigate credible claims of innocence in Delaware and advocating for exoneration where the facts support the case.

11  Justice for Our Neighbors Delaware Valley Chapter

Justice for our Neighbors is a community run non-profit that provides low-cost and pro bono immigration legal services to the populations of Pennsylvania, New Jersey and Delaware.

12  New Beginnings-Next Step

New Beginnings- Next Step is a peer-support group for Returning Citizens as they transition from incarceration to freedom. It is run both for, and with, ex-offenders, along with a vital and growing group of compassionate volunteer-facilitators, in order to build a community of hope, and a culture of accountability and possibility on the streets of Wilmington, Delaware.
Participants

13  Prisoners Legal Advocacy Network

PLAN provides cost-free legal services and support to incarcerated individuals nationwide. PLAN challenges reportedly unconstitutional conditions of confinement in order to 1) restore the rights of incarcerated people to live with dignity and without fear and 2) reform the arguably unlawful systems of control that are sometimes used by prison systems to subjugate and demoralize people inside.

14  Project New Start

Project New Start, Inc. was established as a non-profit entity and the New Start reentry program was created to guide individuals transitioning out of state and federal institutions in their personal and professional development.

15  Southern DE Alliance for Racial Justice

A non-partisan organization that educates, informs, and advocates for racial justice, equality, and fair opportunity.
Thank You

to our community partners for their attendance today and for their everyday passion for justice in Delaware.

DE Center for Horticulture: Branches to Chances
Coalition to Dismantle the New Jim Crow
Delaware Humanities
Delaware Law School
Dignity Rights International
New Beginnings- Next Step
PLAN
Project New Start
DE Poor People's Campaign
Southern Delaware Alliance for Racial Justice
ACLU of DE, Clean Slate and Smart Justice Initiatives

For ongoing access to our ever-growing resources on the topic of Dignity Rights in Delaware, scan here: