ARCHIVIO ISTITUZIONALE
DELLA RICERCA

Alma Mater Studiorum Università di Bologna
Archivio istituzionale della ricerca

Reassessing the camp/prison dichotomy: New directions in geographic research on confinement

This is the final peer-reviewed author's accepted manuscript (postprint) of the following publication:

Published Version:
Asoni, E. (2022). Reassessing the camp/prison dichotomy: New directions in geographic research on confinement. PROGRESS IN HUMAN GEOGRAPHY, 46(6), 1349-1368 [10.1177/03091325221118578].

Availability:
This version is available at: https://hdl.handle.net/11585/957799 since: 2024-02-14

Published:

DOI: http://doi.org/10.1177/03091325221118578

Terms of use:

Some rights reserved. The terms and conditions for the reuse of this version of the manuscript are specified in the publishing policy. For all terms of use and more information see the publisher's website.

This item was downloaded from IRIS Università di Bologna (https://cris.unibo.it/).
When citing, please refer to the published version.

(Article begins on next page)

02 November 2024

This is the final peer-reviewed accepted manuscript of:
Asoni, E. (2022). Reassessing the camp/prison dichotomy: New directions in geographic research on confinement. Progress in Human Geography, 46(6), 1349-1368. https://doi.org/10.1177/03091325221118578

The final published version is available online at: **https://journals.sagepub.com/doi/abs/10.1177/03091325221118578**

Terms of use:
Some rights reserved. The terms and conditions for the reuse of this version of the manuscript are specified in the publishing policy. For all terms of use and more information see the publisher's website.

Reassessing the camp/prison dichotomy: New directions in geographic research on confinement.

KEYWORDS: Legal Geography; Carceral Geography; Camp; Biopolitics; Temporality; Agamben; Guantánamo.

Abstract

What separates camps and prisons as distinct institutions of confinement? This question has important implications for geographic research, and particularly for current and potential intersections between "camp studies" and other contiguous fields in geography. Here, I conceptualize camps and prisons as historical formations, whose distinction varies at specific junctures. I compare confinement sites in reference to their temporal equilibriums and changes over time, so as to highlight possible convergences among them. To demonstrate my argument, I take legal developments concerning the Guantánamo Bay detention camp as an empirical reference point, and I examine the camp's progressive normalization within the US carceral circuit.

Introduction

Until the 21st century, the field of geography seemingly contributed little to the study of imprisonment and detention (although see Dirsuweit, 1999; Ogborn, 1995; Valentine and Longstaff, 1998). This changed in the last two decades, when a growing number of geographers brought their own distinct frameworks to the study of incarceration, taking their place at a table that until then had been largely reserved for sociologists, anthropologists, and criminologists (for example Gilmore, 2007; Martin and Mitchelson, 2009; Moran, 2016; Moran et al. 2016; Philo, 2001). In retrospect, this development seems natural. The usage of space to incarcerate, and to distribute populations across prisons and camps is a topic that lends itself well to geographic analysis. However, the growth of a discipline is not a natural process but a development that needs the right junctures for it to be possible. Several things had to happen for geography to become invaluable in studies of confinement. Some were more important than others, and one cannot be overestimated: the opening of the detention camp of Guantánamo Bay.

The opening of Guantánamo in January 2002 was an event of enormous consequence, not only for the people who have been detained in the camp since its opening, but more broadly for its symbolic, radical significance in the War on Terror. Among geographers, the camp gained attention as a site of critique, but also as a space for new and radical geographic analysis. Guantánamo could be described as the outcome of a colonial project (Gregory, 2006; Reid-Henry, 2007), a biopolitical technology (Minca, 2005), or an effort to complicate geopolitical boundaries by relying on its extraterritorial location (Kaplan, 2005). Its opening contributed to the spark in popularity of the work of Giorgio Agamben (2005, 1998), which has since become a mandatory reading for geographers working on the topic (Belcher et al. 2008; Diken and Laustsen, 2006; Giaccaria and Minca, 2011; Minca, 2007 also see Aradau, 2007; Hussain, 2007).

Finally, the earliest analyses of Guantánamo informed subsequent attention toward the War on Terror, with geographers focusing on targeted killings, "lawfare," and other topics as well (Amoore, 2006; Gregory, 2011; Jones, 2016; Wall, 2016).

When Guantánamo opened, the earliest application of Agamben's philosophy resulted in its conceptualization as a distinct, exceptional site, which could in no way be conflated with the prison as a modern institution (Minca, 2005). Instead, Guantánamo was interpreted as a "camp," meaning that specific, modern technology of confinement whose origins would not be found in criminal or prison law, but in the widespread usage of concentration camps in Europe and its colonies in the late 19th and 20th century (Netz, 2004; Hyslop, 2011; Mühlhahn, 2010). This idea has persisted in the field of camp studies, and while camp scholars eventually expanded their focus toward camp-forms other than Guantánamo, there remains a lingering sense that camps and prisons should not be conceptualized as continuous institutions or technologies (Martin et al. 2020: 749-50; McConnachie, 2016: 398). Nonetheless, camp scholars' current concern with contemporary practices of (im)mobility and confinement leads them to intersect other geographic fields focusing on incarceration, and especially carceral geography. This hints to the possible exchanges that a greater dialogue among different perspectives in geography could bring forward.

This article reviews separate strands of geographic research on these topics, but particularly camp studies, to suggest that the distinction between camps and prisons may be less rigid than Agamben originally envisioned. I argue that Agamben adopts a paradigmatic conception of the prison, which does not account for the shifting dynamics that characterize its historical development (Armstrong and Jefferson, 2017). Instead, I propose to focus on camps and prisons as historical formations, whose difference depends on what constitutes a "prison"

and a “camp” at specific junctures. I draw from Agamben to propose a reading of its theory that could account for these temporal dynamics.

Importantly, I do not propose the adoption of a “carceral” gaze in the field of camp studies, but rather I engage with the theoretical contributions of camp scholars to examine the possibility of extending their reflection to the study of prisons. To do so, I use the recent history of Guantánamo as an empirical reference point for my analysis, as Guantánamo’s progressive integration within the US carceral circuit provides an example of how camps and prisons’ boundaries often blur. I draw from the recent attention to time in legal geographic research (Valverde, 2015) to focus on the relation between time, the law, and the camp, and I examine developments in Guantánamo against development in US prison law to highlight the convergence between the two.

To unfold these arguments, I begin with a review of camp studies where I discuss how camp scholars have constructed their characteristic approach to the study of confinement and (im)mobility in geography, while also examining continuities between camp scholarship and carceral geography. In the following section, I offer an analysis of Agamben’s work and its most recent applications in camp studies. Here, I draw from Agamben to examine the temporal dynamics underpinning his theory of the exception, and I propose a different approach to time within his theory, so as to examine the shifting nature of camps and prisons as well. In the third section, I discuss Guantánamo’s recent history and I use its progressing normalization in the US carceral circuit as an opportunity to draw from various contributions in the geographic literature on confinement and biopolitics. This leads to my final argument, where I discuss contemporary features of US prison law to argue that prisons could offer a productive terrain of analysis for camp scholars.

I. Camp studies and "the carceral"

The term "camp studies" identifies an interdisciplinary field which developed in the current century in order to analyze the multifaceted concept of "the camp." Guantánamo effectively inaugurated this field (Minca, 2005), but it has since expanded beyond the US-controlled camp in Cuba (see Katz et al. 2018; Minca, 2015). While interdisciplinary, camp scholarship has been characterized by numerous and important contributions of political geographers who have played a large part in its growth and development. Notwithstanding the heterogenous analyses brought by contributors, it is possible to distill three recurring characteristics in the work of camp scholars. First, they owe a large intellectual debt to the work of Giorgio Agamben, who has directly inspired the study of camps from a biopolitical perspective in geography and beyond (see Ek, 2006; Isin and Rygiel, 2007; Rahola, 2006). Second, their work is characterized by a deep engagement with biopolitics, which is a fundamental topic for scholars working across this field (see Minca et al. 2022). Third, camp scholars tend to interpret camps as technologies against populations that are perceived as harmful, and thus, as instruments to detain masses more than single individuals (Martin et al. 2020).

In this sense, camp scholars focus on unveiling those political technologies that are historically central to the subjection and exclusion of certain groups, and primarily through processes of colonization and state-building. In the current scenario, their focus naturally shifts toward those sites and practices that regulate the mobility of unwanted populations, and especially in systems of immigration control (Bashford and Strange, 2003; Kreichauf, 2018). While the field has not directly engaged with the study of prisons, its focus leads it into dialogue with the broader geographic literature concerning modern instruments of coercion and control, of

which the prison is a part. Most notably, camp scholars' understanding of the camp as a multifaceted technology, which may assume different forms or be expressed through various arrangements, resonates with the concept of "the carceral" as developed by carceral geographers.

More specifically, the term "carceral geography" identifies a broad set of authors and studies that altogether focus on the carceral as an organizational model to control and govern individuals' mobilities (Moran, 2016; Moran et al. 2018). From this perspective, and while the main focus is on the prison, the carceral encompasses other sites and technologies of control, thus rendering it a "diffuse" mechanism (Cassidy et al. 2019; Martin and Mitchelson, 2009; Villanueva, 2017). Carceral geographers' main contribution to prison studies is precisely their focus on mobility, as the field rejects the idea of the prison as a "total institution" (Goffman, 1961), meaning a bounded site wholly separated from its social and economic surroundings (Gill et al. 2018). Instead, the focus is on networks, circulations, flows, and more generally all those connections that the carceral establishes and reproduces within the prison and across larger scales (Brooks and Beast, 2021; Mincke and Lemmon, 2014; Moran et al. 2012). The history of this approach to the study of incarceration can be traced back to the seminal work of Michel Foucault (1977), and more broadly to the growth of similar perspectives in critical criminology, with scholars focusing on how prisons maintain, produce, and mold social equilibriums beyond prison walls (see especially Melossi and Pavarini, 1981). For this reason, carceral geographers are entangled in productive dialogues with scholars working in criminology and criminal justice, which are not disciplines that camp scholars usually intersect (Bloch and Olivares-Pelayo, 2021; Moran and Schliehe, 2017; Sylvestre et. al. 2020; also Crewe et al. 2014).

Unsurprisingly, the topics where the two perspectives intersect the most are immigration detention and border control, which have been examined from biopolitical perspectives by a

large number of geographers (for example see Pallister-Wilkins 2017; Topak, 2014; Vaughan-Williams, 2010; Walters, 2010). In this case, the governed subject is a person whose exclusion from the political community is determined *a priori* based on race and nationality, and this renders immigration detention an exceptional form of confinement when compared with others that primarily target specific conducts (Bigo, 2007; Prem Kumar and Grundy-Warr, 2004). Camp scholars' recent attention to refugee camps, and particularly "makeshift" camps built by migrants on the move, further leads them to focus on camps as networks that redirect and shape human mobilities (Hagan, 2021; Martin et. al. 2020), which resonates with parallel analysis of immigration detention and forced mobility in carceral geography (Conlon et al. 2017; Gill, 2009; Hiemstra, 2019; Mountz et. al. 2013). Thus, it is not uncommon to find greater cross-pollination among different perspectives and theoretical backgrounds in reference to immigration detention and migration studies (Brankamp, 2021; Conlon, 2013; Turner and Whyte, 2022).

Additionally, while the distinction between camps and prisons remains understudied in the field, camp scholars have been prolific in examining the relation between the camp and the city, thus focusing on the shifting character of camps built on cities' outskirts, and the process of mutual affection that they establish with their urban surroundings (Abourahme, 2020; Pasquetti, 2015; Picker and Pasquetti, 2015; Sanyal, 2014). The same trajectory is being pursued in carceral geography, where the urban effects of carceral policies are a popular topic of analysis (Shabazz, 2015; Sylvestre et al. 2020; also see Herbert and Beckett, 2010).

Furthermore, just like carceral geographers theorize the carceral as a model encompassing multiple sites and techniques, camp geographers moved from their initial focus on Guantánamo and the concentration camp to eventually shift toward other camp-forms, with refugee camps being the most investigated topic at the moment. This has coincided with a critical

reassessment of the work of Agamben, to the point that Martin et al. speak of the current phase as “post-Agambenian” (2020: 753). In practice, camp geographers have found the work of Agamben to be limiting when applied to a diverse range of camp-like institutions. Due to his sole focus on the concentration camp, Agamben does not investigate the alternative functions that could be performed by other camp-forms (Katz, 2016), and how prisoners themselves may play a leading role in shaping the political equilibrium of a camp (Abreek-Zubiedat F and Nitzan-Shiftan, 2018; Katz, 2015; Sigona, 2015). More generally, Agamben’s concern with sovereignty leads him to disregard the agency of those who are subjected to it, and this may result in poor analyses when Agamben is applied uncritically to empirical case studies (see Bailey, 2009; Fischer, 2015; Hall, 2010; Owens, 2009; Puggioni, 2014).

Altogether, these developments in camp studies challenge the idea of camps as isolated enclaves, thus shifting the focus toward mobility in between camps, and toward the connections between camps and their outside (Aru, 2021; Carter-White and Minca, 2020; Weima, 2021). This further increases the dialogue between camp scholarship and carceral geography. Through this process, the “camp” becomes something more complex, a spatio-temporal formation that can assume different forms while also maintaining its historico-political function.

II. Time, law, and the camp

As explained, camp scholars have already begun to examine intersections between camps and other sites and institutions. Thus, to expand their focus onto the prison is a coherent step in this direction. To do so, I now turn to an article by Diana Martin (2015) that exemplifies how camp scholars have engaged with the work of Agamben in recent years, and I take it as a cue to advance further in the same trajectory.

In her essay, Martin describes the evolution of Palestinian refugee camps in Beirut and particularly their dynamic relation with the city surrounding them. Notably, she finds the Agambenian concept of the camp to be limiting when transported to her case study. Due to his excessive legal focus, Agamben does not offer the instruments to account for the camps' changes over time, which span beyond the law. To overcome this problem, Martin develops a less legal understanding of the camp and the exception, which she rearranges into the concept of "campscapes," so as to capture the dynamic transformation of the camps and the city she is considering. Martin treats the exception as a possibility that opens up to new directions in space and time, which the camp may or may not take. The exception is never understood as one final outcome, and it constitutes a passage instead, which rearranges a specific spatio-temporal formation into multiple directions without losing its exceptional character (also see Ramadan and Fregonese, 2017).

I engage with this essay to make two further arguments. First, Martin's understanding of the exception as a possibility with multiple outcomes could be transported in a more legally focused approach to the camp. In other words, a juridical focus does not necessarily lead to a static conceptualization of the exception. Second, the relation of exchange between the camp and the city that Martin describes offers a framework to investigate the relation between the camp and the prison. I develop the second argument in the subsequent sections of this essay, while I focus on the former below.

As mentioned, the main difficulty encountered by Martin when adapting Agamben to her case study is the philosopher's excessive reliance on law. To account for the camp's complexity, Martin needs a non-legal focus, and she finds it in Foucault. Specifically, Foucault (2008; 2003) avoids a legal conceptualization of biopolitics as he believes that a juridical analysis of biopower

could not account for alternative forms of subjectivities than the legal subject of rights. Digging deeper, this position is motivated by his desire to theorize biopolitics as separate and distinct from sovereign power (Esposito, 2008: 24-26). Foucault considers the "law" as inherently tied to sovereignty, because a juridical form of power can only cling to life by establishing a binary relation between the sovereign and an individual human (Hunt, 1992). This results in a system that functions through binary options, where things are either legal or illegal, and where power operates through punishment. Conversely, biopolitics designates a number of modern technologies and discourses that link power to life itself, with "life" designating a biomedical object that is separate from its individual bearers (see Foucault, 2003: 241-244). Thus, biopolitics relies less on law and more on political economy and biology, through a set of techniques that altogether foster and govern the life of a population.

Agamben (2005; 1998) has a different take altogether. In his work, biopolitics and sovereignty *always* coincide, because the relation that renders one a subject of sovereign power and a subject of law is always biopolitical. For this reason, Agamben disregards the genealogical research that informed Foucault's work, because he treats biopolitics not as a modern invention, but as the very foundation of Western legal and political systems. In this sense, the comparison between the two theories already hints at the implications in adopting Foucault or Agamben for the study of confinement, and camps in this case. An Agambenian focus is naturally led toward those processes that turn an individual into a living piece of a mass, and thus, the de-personalization that takes place inside the camp, where individuals are deprived of their persona and reduced to bare life.

Going back to Martin, it is important to underline that what she wishes to avoid is not a legal focus *per se*, but the reduction of the exception and the rule of law to two outcomes that are

mutually exclusive. This characterizes Agamben's work, because in order to theorize a biopolitical sovereignty Agamben is forced to conceptualize sovereign power as a binary relation. First, the relation between the sovereign and its subject, with the latter being reduced to bare life. Second, the relation between the exception and the rule of law, with the former drawing a space outside the juridical order that is materialized in the camp as a container for bare life. It is this lack of alternatives that renders Agamben inadequate to the analysis that Martin wants to put forward. Additionally, the same philosophy would also fail to capture the temporal dimension of the life of a camp *and* of life in the camp, because the reliance on the binary perspective excludes other configurations that a camp can assume throughout its developments.

But if that is the case, there are possible trajectories to overcome this difficulty while also accounting for the juridical aspects of the exception. Within the purpose of this article, a juridical focus is necessary to examine the camp's legal developments across space and time, which is yet another dimension of change in addition to those considered by Martin. In doing so, I follow the lead of legal geographers who conceptualize law and space as entangled in relations of mutual constitutiveness (Bennett and Layard, 2015; Braverman et. al. 2014; Kedar, 2003), and particularly the work of Mariana Valverde (2015), who stresses how legal geographers must confront law's relation with time, and not solely space. By redirecting the focus on law, I re-engage with Agamben so as to transport his philosophy in contexts that are apt to guide legal geographic research.

Importantly, Agamben's theory is characterized by a peculiar approach to time. For Agamben, the state of exception escapes time, because it breaks with the temporal order of the law. Outside the state of exception, the application of a norm follows the norm in time and it is bound to it, with the norm being a general, abstract rule that may be applied to a range of

different cases. Conversely, the state of exception consists in the suspension of the norm, and in enforcement[1] of a norm that has been suspended in order to preserve it. Thus, in the state of exception the relation between the law and its application, which corresponds to the relation between the general and the particular, attains a paradox. There, the application has lost any concrete reference to the norm, as the norm has been suspended, and yet the two are also weirdly indistinguishable, because every sovereign decision has the same efficacy of a law, meaning the same force-of-law (Agamben, 2005: 32-40). This is best understandable through Agamben's description of the Nazi regime, where the word of the Führer is immediately law once it is pronounced (1998: 142).[2]

Therefore, the state of exception escapes time. In it, the sovereign actor makes decisions that are not bound by any previous ruling, and the binding force of each decision expires at the moment that the decision is made, because it will not bind any decision in the future. This is absolute power, because the sovereign can act or refrain from acting without any sort of constraint, including the constraint of its own previous decisions (see Agamben, 1998, 44-47). My first observation, however, is that Agamben's description of the exception is of less immediate application to the common law. While Agamben discusses his work as valid for "Western"[3] legal systems, it is in fact situated in the civil law tradition, which is understandable given that Agamben is deeply influenced by Carl Schmitt. This is best visible in Agamben's binary conceptualization of the general and the particular, meaning an abstract, general norm and its empirical application. The relation is a temporal and hierarchical one, with the application

---

[1] In Italian, to apply and to enforce the law are translated by the same verb *applicare.*

[2] More precisely, the word of the Führer possesses the force-of-law, and thus, the same binding power. The state of exception corresponds to the scenario where there is no law any longer, but only acts bearing its force.

[3] Others have criticized Agamben's usage of the term "Western" to refer to his scale of analysis (Hopkins, 2019, 964-66; Bignall and Svirsky, 2012, 2).

being bound by the norm not only due to the fact that it must logically derive from it, but also to the fact that it may only come *after* that a law has been passed. The exception is reached precisely once this hierarchy is subverted, as the application is not bound by the norm any longer, and it coexists with it without following it in time and logic. But the common law presents us with a third possibility, and that is the institution of a new norm based on the application of another. The judge-made law complicates Agamben's theory, because now the norm follows its application, and not the other way around.[4]

Tim Murphy (1994) may help us here. Murphy conceptualizes the distinction between civil and common law by associating the two to different forms of texts. Civil law establishes a void between the empirical and the ideal, with the law being conceptualized as a modernist, scientific model that is exemplified by the code. The code constitutes an abstract manual, impervious to time, whose application owes its legality to the logical connection with the abstract rules from which it derives. Conversely, common law is written as a medieval text, with separate scribes transcribing an original text to which they add notes to the margin, with the note becoming an integral, authorless part of the text in all its future transcriptions. Thus, common law is bound to the passing of time. It does not escape it. The text that is the law can never be visualized abstractly, because at each point in time we will have a different text, which is being commented on with the awareness that others will add to it.

The common law defies the opposition between the general and the particular, because every judicial decision resembles a comment that is added to a growing text. In this sense, every decision has the form of an exception, because it makes new law by either finding an exception to the application of a previous norm, or by extending a norm to a new case that was not

[4] Obviously, here I am discussing this distinction from a doctrinal and historical perspective. In practice, civil law systems also rely on jurisprudence as a source for the correct interpretation of the law.

previously included. Importantly, while Agamben does not focus on common law he is aware that even in civil law systems the exception is a necessary part of the judicial decision. This is because the judge *decides* on how a norm must be applied, and thus, part of the judicial decision is the expression of something other than the norm itself, or else the law could not be applied in the first place (2005: 39-40). But while civil law tends to hide and mask this necessary feature, common law embraces it by rendering the application of the norm a binding precedent that constitutes new law. Thus, in the common law an exception is such only *because* it operates on a previous exception that is re-charged as a norm at the very moment that a new exception is extracted from it (see also Esposito, 2012: 79-80).

How may we account for time here? Niklas Luhmann offers a possibility (2004: 280-84). The judicial decision possesses two temporalities: it constitutes the future of a previous norm, and the past of a future exception. This is because the judicial mind must present every ruling as the necessary outcome of a previous ruling that is binding, and the ruling that is so issued is already the past of a future ruling that will be issued eventually. Thus, each exception is a possibility opening to multiple, but not infinite, directions. Importantly, this reading does not stand in contradiction with Agamben's work, and it is also in line with Martin's understanding of campscapes. For Martin, the camp moves in time and space through multiple exceptions, and across an irregular path. This is common law as well.

What are the implications of an exception of this kind, inspired by common law but valid elsewhere as well? There are several, and I will uncover them in the rest of the article. To begin, it leads us to an understanding of biopolitics where the law is able to produce multiple biopolitical subjects, which correspond to multiple exceptions. This resonates with Aradau and Tazzioli's concept of "biopolitics multiple" (2020), with biopolitics becoming a range of

possibilities instead of a dichotomy between the two outcomes of "make live" and "let die" (also Tazzioli and De Genova, 2020; and especially Puar, 2017). Here, the changing exception is not limited to a negative relation of inclusion and exclusion. When reflecting on biopolitics multiple, Claudio Minca wonders whether the Agambenian "sovereign ban" may still find a place in this renewed engagement with biopolitics (Minca et. al 2022, 13-16), and I find that it absolutely can, with Guantánamo being the best example.

III. Guantánamo and its others

Guantánamo's shifting nature over time provides us with the best reference to analyze possible continuities between camps and prisons, due to the camp's progressive integration within the US carceral circuit. Certainly, there would be other valid empirical references to pursue my argument, but the reason for favoring Guantánamo is its importance in camp studies. As mentioned, earliest contributions focused on this site as the perfect exemplification of Agamben's theory. With time, camp scholars focused elsewhere, while the detention camp in Cuba went through changes that have now rendered these readings outdated. Thus, there is merit in *returning* to Guantánamo, and particularly to question the camp/prison separation that appeared to be so well defined during its early years.

When Guantánamo opened in January 2002, the Bush administration argued that the camp was fully excluded from constitutional jurisdiction, and that prisoners were "enemy combatants" who could be detained at the President's discretion (Kaplan, 2005). But in 2008, the Supreme Court ruled in *Boumediene v. Bush* that Guantánamo prisoners maintain a constitutional right to habeas corpus, thus allowing them to litigate the legality of their detention in court.[5]

---

[5] This decision was the climax of a legal battle over the right of habeas corpus that the government ultimately lost. Before *Boumediene*, the Supreme Courts had previously extended habeas corpus to the prisoners under statutory

Since then, hundreds of writs of habeas have been issued and the courts of the District of Columbia in Washington DC elaborated a new law of detention, case by case, using every new case as an opportunity to add to the growing body of law.[6] Importantly, the Supreme Court never determined the extent to which the constitution applies to Guantánamo, as they only gave a right to habeas while remaining vague on the extent of substantial and procedural guarantees that this entailed. Thus, Guantánamo is indeed exceptional, but in a different way than when it was opened.

The judicial decision over a detainee's case constitutes the application of a norm that is suspended, meaning the constitution. And yet, every decision bind future ones, so that the court's work cannot escape time as it is bound by the previous decisions that have already been made. Here, Guantánamo's evolution in space and time is certainly biopolitical, but the construction of the detainee as a subject in law, who may be detained according to shifting grounds and rules, cannot be analyzed through a dialectic between the exception and the rule of law. Instead, every judicial decision constitutes the future of multiple, possible exceptions, while still being one specific outcome of a previous decision which, at the time that it was taken, could have led to multiple results, meaning multiple pasts and futures.

Far from establishing a place outside the juridical order, the work of the courts constructs Guantánamo as a shifting territory where the relation between the camp and domestic law, including domestic prison law, is constantly reassessed, modified, and clarified. In this sense,

---

grounds in 2004 and 2006. Congress responded with the 2006 Military Commissions Act, which stripped detainees of their right to challenge their detention in court. In 2008, the Supreme Court reacted by holding that the detainees were entitled to habeas corpus under constitutional grounds.

[6] After *Boumediene*, the first wave of habeas cases saw a number of victories for detainees at the District Court level. With time, however, the Court of Appeals of the DC Circuit reversed many of these decisions.by adopting deferential standards to the government evidence. Several commentators argue that the DC Circuit ultimately reduced habeas corpus to a formal remedy without any effectiveness (see Anderson, 2021).

Guantánamo is pulled into the "normal" carceral circuit while also remaining an exception from other forms of confinement. Often, habeas cases revolve around the exact distance separating Guantánamo's law from the law of other forms of detention, such as immigration detention, civil commitment, and incarceration in a penitentiary (Brenner-Beck, 2020; Resnik, 2010). Furthermore, Guantánamo hosts special military tribunals, the so-called Military Commissions, which have tried a selected number of detainees for their alleged war crimes. But whether these proceedings should be guided by the law of war or international law is another topic of debate (Poulin, 2021).

Thus, one first observation is that the camp does not exist as a bounded enclave, because its features depend on legal networks of which it is part of. As mentioned, this resonates with developments in camp studies and carceral geography, as both theorize their objects of research as technologies that are expressed by different sites and through different arrangements. While for the courts this is a legal issue, geographers may appreciate the camp's shifting positions while moving beyond a solely legal focus (see again Martin, 2015). In this sense, Guantánamo offers an interesting case study to examine the transitions of a carceral site across its circuit.

A most obvious development is how Guantánamo complicates the boundary between military and carceral circuits. A recent contribution by Moran and Turner (2022) urges carceral geographers to focus precisely on this topic, and they highlight the historical and present links between prisons and military sites. The authors pursue this by focusing on the continuity between their economies, which is a topic that was famously investigated by Ruth Gilmore (2007), but also exchanges in techniques and personnel. Furthermore, the connection between war, the military, and the camp is a frequent topic of discussion in camp scholarship as well (see Netz, 2004; Smith and Stucki, 2011; Tyner and Devadoss, 2014). Guantánamo is an obvious

example because of its atypical position between prison law and the law of war, and furthermore for how the camp blurs the boundaries between warfare and incarceration.

Another interesting perspective is to examine the temporal equilibrium characterizing life and law in Guantánamo against those of other forms of confinement. As time passes, it is the very significance of time itself to change within the camp. While most prisoners have been released, others are not and to justify their detention becomes more and more difficult, particularly because it would be impossible for other forms of detention within the domestic carceral circuit. In other words: how long is too long?[7] Time here is understood as an extension (Bergson, 1960), a homogenous quantity that is distributed through different periods, and whose length is measured differently depending on the specific form of detention and its law. But by adopting its measurements of time, the law hides the intensity of its passing. This is a typical concern for scholars working on incarceration and confinement.

Geographers have focused on waiting as a state of debility that affects asylum seekers or other categories of noncitizens trapped in the immigration system (Conlon, 2011; Hyndman and Giles, 2011). Relatedly, Griffiths (2014) discusses the pain of indefinite immigration detention, as detainees are unable to predict their release date, and this compromises their ability to plan for the future. The debility produced through imprisonment spans beyond carceral sites as well, both on prisoners' families (Kotova, 2019; Moran et al. 2017), and through carceral mechanisms such as parole (Massaro, 2020). Camp scholars have similarly focused on temporalities as part of their effort to account for camps' complexity, and to avoid their reduction to blackholes outside the

---

[7] Specifically, in *Al-Alwi v. Trump* (2018) the detainee's counsel argued that the authority to detain their client should unravel after a certain amount of time. *Al-Alwi* was an effort to extend due process rights to detainees in Guantánamo, as this would likely result in the possibility of arguing that the government's burden to justify their detention should increase with the passing of time. Similar efforts were pursued without success in *Qassim v. Trump* (2019) and *Al Hela v. Trump* (2020).

law (Martin, 2015; Ramadan, 2013; also see Sofsky, 1997: 73-93). Thus, how time is measured and partitioned affects the temporal dynamics characterizing different sites, with the result of producing separate temporal equilibriums. For example, Steve Herbert (2019) describes the problem of life sentenced prisoners in the US prison system, where aging individuals pose significant trouble for the administrators' task of not letting prisoners die under their watch. Carol Rosenberg (2019) reports the same problem in Guantánamo, where the Pentagon plans of turning certain sections of the camp into "hospice care confinement."

To reiterate, the point in adopting this gaze is that of examining the continuities between Guantánamo and its broader circuits, and how these change over time. Guantánamo is isolated, indeed it is located on an island for this purpose, but this does not prevent it from being connected with its network. The dichotomy of insularity and connectivity has been brought forward in the growing field of island studies (Baldacchino, 2008; Hay, 2006; Randall, 2020; Steiberg, 2005; Stratford et al. 2011), and how prison-islands or camp-islands express this tension particularly well has already been noticed by geographers (Andrijasevic, 2010; Mountz, 2015, 2011; Tazzioli and Garelli, 2020). In this sense, carceral geographers and scholars in island studies and camp studies move on the same axis, which is that of avoiding a bounded conceptualization of their object of research to examine its porosity instead, whether this be a prison, an island, or a camp.

Of particular interest here is a recent contribution by Weima and Minca (2022), where they argue that camp scholars tend to focus on the state of camps at a given time and less on the event of their closure, which would require attention to time, and not solely to space. Far from representing the "end" of a camp, closures operate as events within larger networks, by redistributing the population of the camp that is being closed and by affecting other sites. Here, I

build on this concept to show how Guantánamo's progressive normalization was made possible by the closure of other camps that were part of the detention system during the War on Terror, and thus, how Guantánamo shifts not just in one network, but through different networks as well.

During its early years, Guantánamo was the most visible site of a larger archipelago of camps, whether camps managed by the US military or secret facilities managed by the CIA, the so-called "black sites" (D'Arcus, 2014; O'Neill, 2012; Scott-Clark and Levy, 2021). But at the end of his second term, President Bush began abandoning detention and interrogation as military tactics, and Obama continued this process by either shutting down the camps or transferring them under Afghan or Iraqi authority (Hajjar, 2019). Following Weima and Minca, we must examine these closures not for what they terminate, but for the possibilities that they open into the circuit of which they are a part of. Guantánamo changed *because* of the closure of the other camps, as the administration could present the camp in Cuba as an *exception* from the rest of the older circuit. Once closed, the other sites allowed for Guantánamo's normalization, even though the camp would remain exceptional in itself, as an exception both from its older network and the domestic carceral circuit.

Like an exception, a closure is both past and future because the memory of what has been closed is made present elsewhere. In Guantánamo, the closure of the older camps is complicated by the people's histories and bodies, because the evidence against many detainees was obtained through torture in military camps or black sites. Their suffering is made present in Cuba due to the courts' obligation to deal with this awkward reality, which requires it to find a balance between what is admissible as evidence and what isn't (Pradhan, 2021). This process where the older sites are made present in law not despite of, but *because* of their closure, can find fertile

ground in legal-geographic works that explore the non-linear temporalities of legal proceedings and courtrooms (Fisher et al. 2021; Gorman, 2017; Jeffrey and Jakala, 2014; Valverde, 2014).

How can this help to account for continuities between separate sites of confinement, whether in camp studies or elsewhere? In this case I am not treating the different stages of Guantánamo as many different camps, as if I were classifying it according to specific categories. Classifications obscure the fluidity of the concept, not only because one camp may have many goals, but primarily because camps change according to their surroundings. In a remarkable article that touches this issue, Richard Nisa (2019) discusses the development of the Korean carceral system during the Japanese and American occupations, where the constructions of prisons and camps for war prisoners were part of a same strategy, with the two institutions manifesting similar purposes that complicated the apparent difference in their functions (also Loyd and Mountz, 2018; Pieris and Horiuchi, 2022). Here, Guantánamo shifts through a "carceral continuum" (Hamlin and Speer, 2018) that shrinks the distance separating it from the US carceral circuit, and this process is reinforced by the construction of Guantánamo as an exception from its older network.

On one occasion, Circuit Judge Brown described Guantánamo as one branch of a tree that is habeas corpus, with Guantánamo being a new branch that grew after *Boumediene* (*Al-Bihani v. Obama*, 2010: 876). Let us appreciate the meaning of this metaphor. First, the judge binds Guantánamo to all other forms of detention and incarceration in the US, each of them being a branch of the tree (for example civil commitment, immigration detention, pre-trial detention, and imprisonment). But second, he also describes Guantánamo as different, as it constitutes its own branch, so that it may grow independently but only as long as it remains part of the tree trunk and its roots, and that is, the US carceral circuit. What is also hinted, however, is that the prison

itself, just like all other forms of confinement, mutates through space and time, growing as its own branch which may intersect others, Guantánamo included. I take the next section to show how that is the case.

IV. The US penitentiary and its shifting scales

As discussed, camp geographers performed a significant re-assessment of Agamben's theory in recent years, as they acknowledged the need for different frameworks to investigate camps other than Guantánamo and the concentration camp. However, Agamben's conceptualization of the prison and the camp as two sites that remain ontologically distinct held sway, and the expansion of the field has stopped short of reaching the prison. For example, McConnachie (2016: 398) argues that camps function as instruments to manage population and are therefore biopolitical, while prisons are not as they serve disciplinary purposes. Similarly, in their review of camp studies Martin et al. argue that: "Individuals are interned in prisons because they have committed a crime and are therefore subject to the penal system; however, in camps people are normally not interned as individuals but as 'masses,' not because of what they did but because of who they are" (2020: 749-50).

In other words, the distinction concerns *who* is imprisoned, and not necessarily how. The presence of common carceral techniques in between institutions is in fact acknowledged, and certain authors have used the term "quasi-carceral" to refer to the control of non-citizens' mobilities in detention centers or similar forms of confinement (Altin and Minca, 2017; Felder et al. 2014). However, and regardless of their common carceral practices, camps and prisons remain distinct due to the crucial difference in their function. But this approach to prisons contradicts the more nuanced approach to the study of camps that has characterized the field, and which Martin et al. review in the same piece. Camp geographers have begun treating camps as

shifting formations, thus escaping the paradigmatic conceptualization that informed Agamben's work on the subject. However, the prison is still conceptualized as a linear byproduct of criminal law, and without considering how a penal system that punishes people for how they act, and not for who they are, merely constitutes an ideal, liberal model of criminal law (see Ashworth and Zedner, 2014; Ferrajoli, 1989; McSherry et al. 2009). Agamben does the same thing, but this is less contradictory in his work, because he relies on paradigms to describe both camps and prisons. In *Homo Sacer*, he writes that: "The camp, and not the prison, is the space that corresponds to this originary structure of the nomos. This is shown by the fact that while prison law only constitutes a particular sphere of penal law and is not outside the normal order, the juridical constellation that guides the camp is martial law and the state of siege" (1998: 20).

While this quote may be valid from a doctrinal perspective, if our gaze is less abstract Agamben's description of the relation between criminal and prison law is highly simplistic. Specifically, he disregards that prison law possesses an autonomy that varies depending on the concrete regulations of a legal system (Tamburino, 2015). This is true geographically as well, because the two bodies of law concern different subjects, temporalities, and scales (see Valverde, 2009). Criminal law is concerned with the past and the future, and it aims at establishing the truth of an incident that has happened, and the amount of punishment that would defend society's interest. Conversely, prison law operates in part as an expression of police power, and it empowers prison administrators to incapacitate a threat to the institution at a specific moment (see Dubber, 2005). For this reason, a prison policy does not always work in harmony with criminal law. As an example, a popular critique against solitary confinement in US prisons is that administrators release inmates in crowded areas after years or decades of total isolation, and this raises the likelihood of violent incidents (Lovell et al. 2007; Reiter, 2016: 168-73). However,

from the perspective of prison administrators the policy functions quite well, as it is designed to protect the prison, and not society. They are not concerned with what the inmates have done or will do outside the prison, but merely in their behavior for the time that they remain inside.

Unsurprisingly, Agamben has been utilized to analyze the contemporary supermax prison and its policies of solitary confinement (Czajka, 2005; Morin, 2013; also De Dardel, 2016). The issue here is that if prison law can break free from the constraints of criminal law we reach an internal state of exception, where prison administrators begin to operate as sovereign authorities (Reiter, 2016). To give more context, at the moment US prison administrators may regulate their prisons as they see fit, as long as their regulations satisfy a legitimate "penological goal." If that is the case, prisoners cannot contest those regulations under constitutional grounds, meaning that any restriction of their rights is legal as long as the administration is able to justify it as necessary.[8] In *Overton v. Bazzetta* (2003: 133), the Supreme Court explained that the promotion of the prison's internal security is "perhaps the most legitimate of penological goals." But if "internal security" is the most legitimate goal, and not rehabilitation, deterrence, or any other social goal, the prison is mutating into something else, and specifically into a site whose means and end coincide, where the constitution is suspended and the actions of administrators are always constitutional precisely for this reason. To readapt Claudio Minca's reflections on the camp, these developments in prison law results in "a geography that continually produces and dismembers spaces within which everything is, literally, possible" (2006: 401).

Importantly, the thesis that only convicted individuals may be subjected to this treatment is incorrect. In *Bell v. Wolfish* (1979), the Supreme Court rejected the argument that detainees awaiting criminal trial in prisons (pre-trial detainees) had a constitutional interest toward being

[8] This was affirmed in *Turner v. Safley* in 1987 and strengthened by the subsequent case law.

spared the same treatment of those who had already been convicted and sentenced in the same institution. The detainees' argument that they were "innocent" found no sympathy, because the policies that they attacked did not punish guilty people, as they merely kept the prison "secure." Thus, the subject of prison law is not a sentenced individual but a prisoner, and what matters is who is inside the prison at a specific moment and not why. For this reason, prison case law has application to any carceral site in the United States, Guantánamo included. The issue is not that separate sites are governed similarly, but that the legal subjects who are imprisoned share a common, sub-constitutional status (Dayan, 2011; also Reiter and Coutin, 2017). In Agambenian terms (2002, 85), the prisoner is a "biopolitical substance" who must be governed in order to achieve the "internal security" of the institution, but within an understanding of security that excludes death as a possible goal (Puar, 2017).

As an example, a topic that led to public and scholarly attention to Guantánamo during the last decade has been the force feeding of hunger strikers (Ibrahim and Howarth, 2018; Purnell, 2014; Vicaro, 2015). However, force feedings are hardly exclusive to Guantánamo, and they are practiced in almost any carceral facility in the United States (Ohm, 2007). When Guantánamo's hunger strikers sought a court order to prevent their force feeding, the government argued that they could not litigate the conditions of their confinement unlike all other prisoners in the United States. However, the D.C. Circuit rejected this and extended prison law to Guantánamo to improve the detainees' constitutional status. But for this very reason they also ruled against them, precisely because federal prisoners have no right to be protected by force feedings and Guantánamo detainees *are no exception* (see *Aamer v. Obama*, 2014).

Paradoxically, Hannah Arendt who inspired Agamben to look elsewhere than punitive institutions to find his *homo sacer* is proven right exactly by the conditions existing inside US

prisons. As Arendt put it: “Jurists are so used to thinking of law in terms of punishment, which indeed always deprives us of certain rights, that they may find it even more difficult than the layman to recognize that the deprivation of legality, i.e., of all rights, no longer has a connection with specific crimes” (1973: 295). Indeed, this is correct. Whether prisoners may spend decades in full isolation, be prevented from reading or keeping a picture of their family, has nothing to do with their crimes.[9] These are administrative decisions, and prisoners may not litigate them as a form of excessive punishment because they are not legally punitive (see Zedner, 2016; also Beckett and Murakawa, 2012). They are merely the consequence of the loss of constitutional protection that follows the individual’s incarceration, whether in a prison or any other carceral facility, Guantánamo included.

Thus, just like Guantánamo pulls inward the US prison pulls outward, and the two are dangerously close to meeting halfway, in the Agambenian zone of indistinction where administrators apply a norm that is suspended. If Guantánamo was pushed toward this direction by the closure of the other camps, the US prison follows an inverse trajectory due to the opening of an enormous number of facilities at the end of the previous century (Alexander, 2012; Gilmore, 2007; Wacquant, 2009). The new penitentiary exhibits preventive purposes that focus on the incapacitation of dangerous subjects, and this pushes it toward judicial structures that enhance its camp-like purposes and features (Dayan, 2014; Harcourt, 2010). The two institutions do not just share the same techniques and regulations, but also common devices of subjection which are the main concern of camp scholars. While mine is a juridical focus, here the law must be interpreted extensively, as a field of power that is entangled in material and spatial relations

---

[9] These policies were found to be non-punitive by the Supreme Court in *Beard v. Banks* in 2006.

that span beyond the law's text to affect spaces, bodies, and temporalities (Jeffrey, 2020; Valverde, 2015).

Conclusion

This article examined recent trajectories in camp studies to argue that the field could expand its focus on continuities between camps and prisons as modern institutions. During the last decade, camp scholars rearticulated their field to escape a paradigmatic understanding of the camp, and to expand their focus beyond the concentration camp and encompass other technologies and sites. This trajectory would benefit by a greater attention to prisons as historical formations, not unlike camps, so as to test their boundaries at different historical junctures. I have taken the detention camp of Guantánamo and the contemporary US penitentiary as my empirical reference points, so as to demonstrate how sites of confinement escape rigid classification and shift through them instead. Thus, I do not argue that camps and prisons are *always* contiguous, but that their relation is subject to vary through time and space. In reference to the specific case at hand, the relation is not of similarity but convergence.

I pursued this argument while retracing the development of camp studies from their original confrontation with Guantánamo to its current post-Agambenian phase. Across this path, camp scholars have critically re-engaged with the work of Agamben, while also keeping many of his intuitions as valid. Following this lead, I drew from Agamben to examine the relation between law and time in the work of the Italian philosopher. As I aimed to account for camps and prisons as spatio-temporal formations, I constructed a reading of the exception that could account for the temporal and juridical dynamics of different institutions of confinement, so as to examine their possible convergence. In doing so, I drew inspiration from recent directions in legal geography (Valverde, 2015).

A purpose of this essay is to examine the possibility for cross-pollination among separate strands of geographic research. Camp scholarship shares many concerns and interests with carceral geographers, and with scholars working on military circuits (Gregory, 2007; Loyd et. al. 2016; Moran and Turner, 2022; Pieris and Horiuchi, 2022), humanitarian complexes of care and security (Anderlini, 2015; Garelli and Tazzioli, 2018; Pallister-Wilkins, 2017), and more generally all those institutions that blur the distinction between care and control (Philo and Parr, 2019; Rhodes, 2004). Across these literatures, camp scholarship has stood out for its attention toward the historical and political significance of confinement and (im)mobility in processes of subjectivation and construction of identities and communities. To question the boundaries separating camps and prisons is a step forward across this trajectory.

As a final note, an engagement with the prison from within camp studies is also beneficial for examining the "campization" (Kreichauf, 2018) of contemporary penitentiaries. Legally speaking, this phenomenon is bolstered by both a transition toward criminal law models that exasperate its preventive purposes (Ashworth and Zedner, 2014), and the growing insulation of prison administration as a form of unscrutinized police power (Dubber, 2005; Feeley and Swearingen, 2004). For this reason, the reliance on a liberal concept of criminal law in camp studies can obscure the increasing convergence of camps and prisons in their characteristics and function. While the two institutions may have developed across separate trajectories, their current intersection is an alarming development that should not go unaccounted.

References

Abreek-Zubiedat F and Nitzan-Shiftan A (2018) 'De-camping' through development: The Palestinian refugee camps in the Gaza Strip under the Israeli Occupation. In: Katz I, Martin D

and Minca C (eds) *Camps Revisited: Multifaceted Spatialities of a Modern Political Technology.* London: Rowman & Littlefield, 137-158.

Abourahme N (2020) The camp. *Comparative Studies of South Asia, Africa and the Middle East* 40(1): 35-42.

Agamben G (1998) *Homo Sacer: Sovereign Power and Bare Life.* Stanford: Stanford University Press.

Agamben G (2002). *Remnants of Auschwitz*. New York: Zone Books.

Agamben G (2005) *State of Exception.* Chicago: University of Chicago Press.

Alexander M (2012). *The New Jim Crow: Mass Incarceration in the Age of Colorblindness.* New York: The New Press.

Altin R and Minca C (2017) The ambivalent camp: Mobility and excess in a quasi-carceral Italian asylum seekers hospitality centre. In: J Turner and K Peters (eds.) *Carceral Mobilities: Interrogating Movement in Incarceration*. Abingdon: Routledge, pp.30-43.

Amoore L (2006) Biometric borders: Governing mobilities in the war on terror. *Political Geography* 25(3): 336-351.

Anderlini J (2015) Border Troubles: Medical Expertise in the Hotspots. In: Ambrosini M, Jacobson D, and Cinalli M (eds) *Migration, Borders and Citizenship. Between Policy and Public Sphere*. Cham: Palgrave Macmillan, pp.141-161.

Anderson K (2021) Are there rights in Guantánamo Bay: The great writ rings hollow. *Cornell Law Review* 106(4): 1027-1060.

Andrijasevic R (2010) From Exception to Excess. In: De Genova N and Peutz N (eds) *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*. Durham: Duke University Press, pp.147-165.

Aradau C (2007) Law transformed: Guantánamo and the “other” exception. *Third World Quarterly* 28(3): 489-501.

Aradau C and Tazzioli M (2020) Biopolitics Multiple: Migration, extraction, subtraction. *Millennium: Journal of International Studies* 48(2): 198-220.

Arendt H (1973) *The Origins of Totalitarianism*. New York: Harcourt Brace & Company.

Armstrong S and Jefferson AM (2017) Disavowing ‘the’ Prison. In: Moran D and Schliehe AK (eds) *Carceral Spatiality: Dialogues Between Geography and Criminology*. London: Palgrave Macmillan, pp.237-267.

Aru S (2021) Abandonment, agency, control: Migrants’ camps in Ventimiglia. *Antipode* 53(6): 1619-1638.

Ashworth A and Zedner L (2014) *Preventive Justice*. Oxford: Oxford University Press.

Bailey R (2009) Strategy, rupture, rights: Reflections on law and resistance in immigration detention. *The Australian Feminist Law Journal* 31(1): 33-56.

Baldacchino G (2008) Studying islands: On whose terms? Some epistemological and methodological challenges to the pursuit of Island Studies. *Island Studies Journal* 3(1): 37-56.

Bashford A and Strange C (2002) Asylum-seekers and national histories of detention. *Australian Journal of Politics and History* 48(4): 509-27.

Beckett K and Murakawa N (2012) Mapping the shadow carceral state: Toward an institutionally capacious approach to punishment. *Theoretical Criminology* 16(2): 221-244.

Belcher O, Martin L, Secor A et al. (2008) Everywhere and nowhere: The exception and the topological challenge to geography. *Antipode* 40(4): 499-503.

Bennett L and Layard A (2015) Legal geography: Becoming spatial detectives. *Geography Compass* 9(7): 406-422.

Bergson, H. (1960). *Time and Free Will: An Essay on the Immediate Data of Consciousness*. New York: Harper.

Bignall S and Svirsky M (2012) Introduction: Agamben and colonialism. In: Bignall S and Svirsky M (eds.) *Agamben and Colonialism*. Edinburgh: Edinburgh University Press, pp.1-16.

Bigo D (2007) Detention of foreigners, states of exception, and the social practices of control of the Banopticon. In: Prem Kumar R and Grundy-Warr C (eds) *Borderscapes: Hidden Geographies and Politics at Territory's Edge*. Minneapolis: University of Minnesota Press, pp.3-34.

Bloch S and Olivares-Pelayo EA (2021) Carceral geographies from inside prison gates: The micro-politics of everyday racialisation. *Antipode* 53(5): 1319-1338.

Brankamp H (2021) Camp abolition: Ending carceral humanitarianism in Kenya (and beyond). *Antipode.* Epub ahead of print 27 July 2021. DOI: 10.1111/anti.12762

Braverman I, Blomley N, Delaney D et al. (2014) *The Expanding Spaces of Law: A Timely Legal Geography*. Stanford: Stanford University Press.

Brenner-Beck D (2020) Eighteen years of detention at Guantánamo Bay: Compliance with international law or the specter of tyranny? *American University International Law Review* 35(4): 671-756.

Brooks I and Best A (2021) Prison fixes and flows: Carceral mobilities and their critical logistics. *Environment and Planning D: Society and Space* 39(3): 459-476.

Carter-White R and Minca C (2020) The camp and the question of community. *Political Geography* 81: 1-11.

Cassidy K, Griffin P and Wray F (2019) Labour, carcerality and punishment: 'Less-than-human' labour landscapes. *Progress in Human Geography* 44(6): 1-22.

Conlon D (2011) Waiting: Feminist perspectives on the spacings/timings of migrant (im)mobility. *Gender, Place and Culture* 18(3): 353-360.

Conlon D (2013) Hungering for freedom: Asylum seekers' hunger strikes as counter-conduct. In: Moran D, Gill N and Conlon D (Eds.) *Carceral Spaces: Mobility and Agency in Imprisonment and Migrant Detention.* Farnham: Ashgate Publishing, pp.133-148.

Conlon D, Hiemstra N and Mountz A (2017) Spatial control: Geographical approaches to the study of immigration detention. *Global Detention Project*, Working Paper No. 24. Available at: https://www.globaldetentionproject.org/wp-content/uploads/2017/09/Conlon-Hiemstra-Mountz-GDP-Paper-2017.pdf (accessed 10 June 2022).

Crewe B, Warr J and Bennett P (2014) The emotional geography of prison life. *Theoretical Criminology* 18(1): 56-74.

Czajka A (2005) Inclusive exclusion: Citizenship and the American prisoner and prison. *Studies in Political Economy* 76(1): 111-142.

D'Arcus B (2014) Extraordinary rendition, law and the spatial architecture of rights. *Acme* 13(1): 79-99.

Dayan C (2011). *The Law is a White Dog: How Legal Rituals Make and Unmake Persons.* Princeton: Princeton University Press.

Dayan C (2014) With law at the edge of life. *South Atlantic Quarterly* 113(3): 629-639.

de Dardel, J (2016) Resisting 'bare life': Prisoners' agency in the new prison culture era in Colombia. In: Moran D, Gill N and Conlon D (Eds.) *Carceral Spaces: Mobility and Agency in Imprisonment and Migrant Detention.* Farnham: Ashgate Publishing, pp.183-198.

Diken B and Laustsen CB (2006) The camp. *Geografiska Annaler, Series B: Human Geography* 88(4): 443-452.

Dirsuweit T (1999) Carceral spaces in South Africa: A case study of institutional power, sexuality and transgression in a women's prison. *GeoForum* 30(1): 71-83.

Dubber M (2005) *The Police Power: Patriarchy and the Foundations of American Government*. New York: Columbia University Press.

Esposito R (2008) *Bíos: Biopolitics and Philosophy*. Minneapolis: University of Minnesota Press.

Esposito R (2012) *Third Person: Politics of Life and Philosophy of the Impersonal*. Cambridge: Polity.

Ek R (2006). Giorgio Agamben and the spatialities of the camp: An introduction. *Geografiska Annaler Series B, Human Geography* 88(4): 363-386.

Feeley MM and Swearingen V (2004) The prison conditions cases and the bureaucratization of American corrections: Influences, impacts and implications. *Pace Law Review* 24(2): 433-475.

Felder M, Minca C and Ong CE (2014) Governing refugee space: The quasi-carceral regime of Amsterdam's Lloyd Hotel, a German-Jewish refugee camp in the prelude to World War II. *Geographica Helvetica* 69(5): 365-375.

Ferrajoli L (1989) *Diritto e Ragione: Teoria del Garantismo Penale*. Roma: Laterza.

Fischer N (2015) The management of anxiety. An ethnographical outlook on self-mutilations in a French immigration detention centre. *Journal of Ethnic and Migration Studies* 41(4): 599-616.

Fisher D, Gill N and Paszkiewicz N (2021) To fail an asylum seeker: Time, space and legal events. *Environment and Planning D: Society and Space*. Epub ahead of print 14 September 2021. DOI: 10.1177/02637758211032623.

Foucault M (1977) *Discipline and Punish: The Birth of the Prison.* New York: Pantheon Books.

Foucault M (2003). *Society Must be Defended. Lectures at the College de France, 1975-76.* New York: Picador.

Foucault M (2008) *The History of Sexuality Vol. 1*. Camberwell: Penguin.

Garelli G and Tazzioli M (2018) The humanitarian war against migrant smugglers at sea. *Antipode* 50(3): 685-703.

Giaccaria P and Minca C (2011) Topographies/topologies of the camp: Auschwitz as a spatial threshold. *Political Geography* 30(1): 3-12.

Gill N (2009) Governmental mobility: The power effects of the movement of detained asylum seekers around Britain's detention estate. *Political Geography* 28: 186-196.

Gill N, Conlon D, Moran D and Burridge A (2018) Carceral circuitry: New directions in carceral geography. *Progress in Human Geography* 42(2): 183-204.

Gilmore R (2007) *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*. Berkeley: University of California Press.

Goffman E (1961) *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*. New York: Anchor.

Gorman CS (2017) Redefining refugees: Interpretive control and the bordering work of legal categorization in U.S. asylum law. *Political Geography* 58: 36-45.

Gregory D (2006) The black flag: Guantánamo Bay and the space of exception. *Geografiska Annaler, Series B: Human Geography* 88(4): 405-427.

Gregory D (2007) Vanishing points: law, violence, and exception in the global war prison. In: Gregory D and Pred A (eds) *Violent Geographies*. New York: Routledge, 205-236.

Gregory D (2011) The everywhere war. *Geographical Journal* 177(3): 238-250.

Griffiths MBE (2014) Out of time: The temporal uncertainties of refused asylum seekers and immigration detainees. *Journal of Ethnic and Migration Studies* 40(12): 1991-2009.

Hagan M (2021) Precarious encampments in hostile border zones: The methodological challenges of and possibilities for studying contingent camps. *Area*. Epub ahead of print July 9 2021. DOI: 10.1111/area.12741.

Hajjar L (2019) The Counterterrorism War Paradigm versus International Humanitarian Law: The legal contradictions and global consequences of the US War on Terror. *Law and Social Inquiry* 44(4): 922-956.

Hall A (2010) 'These people could be anyone': Fear, contempt (and empathy) in a British immigration removal centre. *Journal of Ethnic and Migration Studies* 36(6): 881-898.

Hamlin M and Speer J (2018) The politics of conceptualizing the carceral: A commentary on Moran et al. (2017). *Progress in Human Geography* 42(5): 799-802.

Harcourt BE (2010) Neoliberal penality: A brief genealogy. *Theoretical Criminology* 14(1): 74-92.

Hay P (2006) A Phenomenology of Islands. *Island Studies Journal* 1(1): 19-42.

Herbert S (2019) *Too Easy to Keep: Life-sentenced Prisoners and the Future of Mass Incarceration*. Oakland: University of California Press.

Herbert S and Beckett K (2010) "This is home for us": Questioning banishment from the ground up. *Social and Cultural Geography* 11(3): 231-245.

Hiemstra N (2019) *Detain and Deport: The Chaotic U.S. Immigration Enforcement Regime*. Athens: University of Georgia Press.

Hopkins B (2019) Beyond the Agamben paradigm: The spatial logics of exceptionalism. *Environment and Planning D: Society and Space* 37(6): 953-970.

Hunt A (1992) Foucault's expulsion of law: Toward a retrieval. *Law and Social Inquiry* 17(1): 1-38.

Hussain N (2007) Beyond norm and exception: Guantánamo. *Critical Inquiry* 33(4): 734-753.

Hyndman J and Giles W (2011) Waiting for what? The feminization of asylum in protracted situations. *Gender, Place and Culture* 18(3): 361-379.

Hyslop J (2011) The invention of the concentration camp: Cuba, Southern Africa and the Philippines, 1896-1907. *South African Historical Journal* 63(2): 251-276.

Ibrahim Y and Howarth A (2019) Hunger strike and the force-feeding chair: Guantánamo Bay and corporeal surrender. *Environment and Planning D: Society and Space* 37(2): 294-312.

Isin EF and Rygiel K (2007) Abject spaces: Frontiers, zones, camps. In: Dauphinee E and Masters C (eds) *Logics of Biopower and the War on Terror.* New York: Palgrave Macmillan, pp.181-203.

Jeffrey A (2020) Legal geography II: Bodies and law. *Progress in Human Geography* 44(5): 1004-1016.

Jeffrey A and Jakala M (2014) The hybrid legal geographies of a war crimes court. *Annals of the Association of American Geographers* 104(3): 652-667.

Jones CA (2016) Lawfare and the juridification of late modern war. *Progress in Human Geography* 40(2): 221-239.

Kaplan A (2005) Where is Guantánamo? *American Quarterly* 57(3): 831-858.

Katz I (2015) From spaces of thanatopolitics to spaces of natality - A commentary on 'Geographies of the camp'. *Political Geography* 49: 84-86.

Katz I (2016) Camp evolution and Israel's creation: Between 'state of emergency' and 'emergence of state'. *Political Geography* 55: 144-155.

Katz I, Martin D and Minca C (2018) *Camps Revisited: Multifaceted Spatialities of a Modern Political Technology.* London: Rowman & Littlefield International.

Kedar AS (2003) On the legal geography of ethnocratic settler states: Notes towards a research agenda. In: Holder J and Harrison C (eds) *Law and Geography*: *Current Legal Issues Volume* 5. Oxford: Oxford University Press, pp.404-442.

Kotova A (2019) 'Time … lost time': Exploring how partners of long-term prisoners experience the temporal pains of imprisonment. *Time and Society* 28(2): 478–498.

Kreichauf R (2018) From forced migration to forced arrival: The campization of refugee accommodation in European cities. *Comparative Migration Studies* 6(7)

Lovell D, Johnson LC, and Cain KC (2007) Recidivism of supermax prisoners in Washington State. *Crime & Delinquency* 53(4): 633-656.

Loyd JM, Mitchell-Eaton E and Mountz A (2016) The militarization of islands and migration: Tracing human mobility through US bases in the Caribbean and the Pacific. *Political Geography* 53: 65-75.

Loyd JM and Mountz A (2018). *Boats, Borders, and Bases: Race, the Cold War, and the Rise of Migration Detention in the United States*. Oakland: University of California Press.

Luhmann N (2004) *Law as a Social System*. New York: Oxford University Press.

Martin D (2015) From spaces of exception to "campscapes": Palestinian refugee camps and informal settlements in Beirut. *Political Geography* 44: 9-18.

Martin D, Minca C and Katz I (2020) Rethinking the camp: On spatial technologies of power and resistance. *Progress in Human Geography* 44(4): 743-768.

Martin L and Mitchelson ML (2009) Geographies of detention and imprisonment: Interrogating spatial practices of confinement, discipline, law, and state power. *Geography Compass* 3(1): 459-477.

Massaro VA (2020) Relocating the "inmate": Tracing the geographies of social reproduction in correctional supervision. *Environment and Planning C: Politics and Space* 38(7-8): 1216-1236.

McConnachie K (2016) Camps of Containment: A Genealogy of the Refugee Camp. *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 7(3): 397–412.

McSherry B, Norrie A and Bronitt S (2009) *Regulating Deviance: The Redirection of Criminalisation and the Futures of Criminal Law*. Oxford: Hart.

Melossi D and Pavarini A (1981) *The Prison and the Factory: Origins of the Penitentiary System.* London: The Macmillan Press.

Minca C (2005) The return of the camp. *Progress in Human Geography* 29(4): 405-412.

Minca C (2006) Giorgio Agamben and the new biopolitical nomos. *Geografiska Annaler: Series B, Human Geography* 88(4): 387-403.

Minca C (2007) Agamben's geographies of modernity. *Political Geography* 26(1): 78-97.

Minca C (2015) Geographies of the camp. *Political Geography* 49: 74-83.

Minca C, Rijke A, Pallister-Wilkins P, et al. (2022) Rethinking the biopolitical: Borders, refugees, mobilities…. *Environment and Planning C: Politics and Space* 40(1): 3-30.

Mincke C and Lemonne A (2014) Prison and (im)mobility: What about Foucault? *Mobilities* 9(4): 528-549

Moran D (2016) *Carceral Geography: Spaces and Practices of Incarceration.* London: Routledge.

Moran D, Gill N, and Conlon D (2016) *Carceral Spaces: Mobility and Agency in Imprisonment and Migrant Detention*. London: Taylor and Francis.

Moran D, Hutton MA, Dixon L, et al. (2017) 'Daddy is a difficult word for me to hear': Carceral geographies of parenting and the prison visiting room as a contested space of situated fathering. *Children's Geographies* 15(1): 107-121.

Moran D, Piacentini L and Pallot J (2012) Disciplined mobility and carceral geography: Prisoner transport in Russia. *Transactions of the Institute of British Geographers* 37(3): 446-460.

Moran D and Schliehe A (2017) *Carceral Spatiality: Dialogues Between Geography and Criminology.* London: Palgrave Macmillan.

Moran D and Turner J (2022) Carceral and military geographies. *Progress in Human Geography*. Epub ahead of print March 27 2022. DOI: 10.1177/03091325221080247.

Moran D, Turner J and Schliehe AK (2018) Conceptualizing the carceral in carceral geography. *Progress in Human Geography* 42(5):666-686.

Morin KM (2013) 'Security here is not safe': Violence, punishment, and space in the contemporary US penitentiary. *Environment and Planning D: Society and Space* 31(3): 381-399.

Mountz A (2011) The enforcement archipelago: Detention, haunting, and asylum on islands. *Political Geography* 30(3): 118-128.

Mountz A (2015) Political geography II: Islands and archipelagos. *Progress in Human Geography* 39(5): 636-646.

Mountz A, Coddington K, Catania RT, et al. (2013) Conceptualizing detention: Mobility, containment, bordering, and exclusion. *Progress in Human Geography* 37(4): 522-541.

Mühlhahn K (2010) The concentration camp in global historical perspective. *History Compass* 8(6): 543-561.

Murphy T (1994) As if: Camera juridica. In: Douzinas C, Goodrich P, and Hachamovitch Y (eds.) *Politics, Postmodernity, and Critical Legal Studies: The Legality of the Contingent.* London: Routledge, pp.68-106.

Netz R (2004) *Barbed Wire: An Ecology of Modernity.* Middletown: Wesleyan University Press.

Nisa R (2019) Capturing the forgotten war: Carceral spaces and colonial legacies in Cold War Korea. *Journal of Historical Geography* 64: 13-24.

O'Neill B (2012) Of camps, gulags and extraordinary renditions: Infrastructural violence in Romania. *Ethnography* 13(4): 466-486.

Ogborn M (1995) Discipline, government and law: Separate confinement in the prisons of England and Wales. *Transactions of the Institute of British Geographers* 20(3): 295-311.

Ohm TM (2007) What they can do about it: Prison administrators' authority to force-feed hunger-striking inmates. *Washington University Journal of Law & Policy* 23: 151-174.

Owens P (2009) Reclaiming 'bare life'?: Against Agamben on refugees. *International Relations* 23(4): 567-582.

Pallister-Wilkins P (2017) Humanitarian rescue/sovereign capture and the policing of possible responses to violent borders. *Global Policy* 8(Suppl. 1): 19-24.

Pasquetti S (2015) Negotiating control: Camps, cities and political life. *City* 19(5): 702-713.

Philo C (2001) Accumulating populations: Bodies, institutions and space. *International Journal of Population Geography* 7(6): 473-490.

Philo C and Parr H (2019) Staying with the trouble of institutions. *Area* 51(2): 241-248.

Picker G and Pasquetti S (2015) Durable camps: he state, the urban, the everyday. *City* 19(5): 681-688.

Pieris A and Horiuchi L (2022) *The Architecture of Confinement: Incarceration Camps of the Pacific War*. Cambridge: Cambridge University Press.

Poulin M (2021) The Guantanamo Military Commission: The MCA 2009 as violation of international law. *Notre Dame Journal of Law, Ethics & Public Policy*, 35(Online Supplement 1): 473-496.

Pradhan A (2021) The myth of attenuation: Reinvigorating the exclusionary rule for torture-tainted statements. *University of Toledo Law Review* 52(4): 531-544.

Prem Kumar R and Grundy-Warr C (2004) The irregular migrant as Homo Sacer: Migration and detention in Australia, Malaysia, and Thailand. *International Migration* 42(1): 33-64.

Puar J (2017) *The Right to Maim: Debility, Capacity, Disability*. Durham: Duke University Press.

Puggioni R (2014) Speaking through the body: Detention and bodily resistance in Italy. *Citizenship Studies* 18(5): 562-577.

Purnell K (2014) Body politics and boundary work: Nobodies on hunger strike at Guantánamo (2013-2015). *Alternatives* 39(4): 271-286.

Rahola F (2006) La forma campo. Appunti per una genealogia dei luoghi di internamento contemporanei. *Deportate, Esuli, Profughe: Rivista Telematica di Studi sulla Memoria Femminile* 5-6: 17-31.

Ramadan A (2013) Spatialising the refugee camp. *Transactions of the Institute of British Geographers* 38(1): 65-77.

Ramadan A and Fregonese S (2017) Hybrid sovereignty and the state of exception in the Palestinian refugee camps in Lebanon. *Annals of the American Association of Geographers* 107(4): 949-963.

Randall J (2020) *An Introduction to Island Studies*. Lanham: Rowman & Littlefield.

Reid-Henry S (2007) Exceptional sovereignty? Guantánamo Bay and the re-colonial present. *Antipode* 39(4): 627-648.

Reiter K (2016) *23/7: Pelican Bay Prison and the Rise of Long-Term Solitary Confinement*. New Haven: Yale University Press.

Reiter K and Coutin SB (2017) Crossing borders and criminalizing identity: The disintegrated subjects of administrative sanctions. *Law and Society Review* 51(3): 567–601.

Resnik J (2010) Detention, the war on terror, and the federal courts. *Columbia Law Review* 110(2): 579-686.

Rhodes L (2004). *Total Confinement: Madness and Reason in the Maximum Security Prison.* Berkeley: University of California Press.

Rosenberg C (2019) Guantánamo Bay as nursing home: Military envisions hospice care as terrorism suspects age. *The New York Times*, April 27. Available at: https://www.nytimes.com/2019/04/27/us/politics/guantanamo-bay-aging-terrorism-suspects-medical-care.html (Accessed 20 June 2022).

Sanyal R (2014) Urbanizing refuge: Interrogating spaces of displacement. *International Journal of Urban and Regional Research* 38(2): 558-572.

Scott-Clark C and Levy A (2021) *The Forever Prisoner: The Full and Searing Account of the CIA's Most Controversial Covert Program*. New York: Atlantic Monthly Press.

Shabazz R (2015) *Spatializing Blackness: Architectures of Confinement and Black Masculinity in Chicago*. Urbana: University of Illinois Press.

Sigona N (2015) Campzenship: Reimagining the camp as a social and political space. *Citizenship Studies* 19(1): 1-15.

Smith IR and Stucki A (2011) The colonial development of concentration camps (1868-1902). *The Journal of Imperial and Commonwealth History* 39(3): 417-437.

Sofsky W (1997) *The Order of Terror: The Concentration Camp.* Princeton: Princeton University Press.

Steinberg PE (2005) Insularity, sovereignty and statehood: The representation of islands on Portolan Charts and the construction of the territorial state. *Geografiska Annaler. Series B, Human Geography* 87: 253-265.

Stratford E, Baldacchino G, Mcmahon E, et al. (2011) Envisioning the archipelago. *Island Studies Journal* 6(2): 113-130.

Sylvestre M, Blomley N and Bellot C (2020) *Red Zones: Criminal Law and the Territorial Governance of Marginalized People.* Cambridge: Cambridge University Press.

Tamburino G (2015) Diritto penale e diritto penitenziario. Integrazione e distacco. In: Marzio L (ed.) *Verso l'Uscita dall'Emergenza: Scritti di Giovanni Tamburino, 2012-2014*. Ivrea: Tipografia Casa Circondariale Ivrea, pp.13-25.

Tazzioli M and De Genova N (2020). Kidnapping migrants as a tactic of border enforcement. *Environment and Planning D: Society and Space* 38(5): 1-20.

Tazzioli M and Garelli G (2020) Containment beyond detention: The hotspot system and disrupted migration movements across Europe. *Environment and Planning D: Society and Space* 38(6): 1009-1027.

Tyner JA and Devadoss C (2014) Administrative violence, prison geographies and the photographs of Tuol Sleng Security Center, Cambodia. *Area* 46(4): 361-368.

Topak ÖE (2014) The biopolitical border in practice: Surveillance and death at the Greece-Turkey borderzones. *Environment and Planning D: Society and Space* 32(5): 815-833.

Turner S and Whyte Z (2022) Introduction: Refugee camps as carceral junctions. *Incarceration.* 3(1): 1-9.

Valentine G and Longstaff B (1998) Doing porridge. *Journal of Material Culture* 3(2): 131-152.

Valverde M (2009) Jurisdiction and scale: Legal 'technicalities' as resources for theory. *Social and Legal Studies* 18(2): 139-157.

Valverde M (2014) "Time thickens, takes on flesh." Spatiotemporal dynamics in law. In: Braverman I, Blomley N, Delaney D et al. (eds.) *The Expanding Spaces of Law : A Timely Legal Geography*. Stanford: Stanford Law Books, pp.53-76.

Valverde M (2015) *Chronotopes of Law: Jurisdiction, Scale, and Governance.* Abingdon: Routledge.

Vaughan-Williams N (2010) The UK border security continuum: Virtual biopolitics and the simulation of the sovereign ban. *Environment and Planning D: Society and Space* 28(6): 1071-1083.

Vicaro MP (2015) Hunger for voice: Transformative argumentation in the 2005 Guantánamo Bay hunger strike. *Argumentation and Advocacy* 51(3): 171-184.

Villanueva J (2018) Pathways of confinement: The legal constitution of carceral spaces in France's social housing estates. *Social and Cultural Geography* 19(8): 963-983.

Wacquant L (2009) *Punishing the Poor: The Neoliberal Government of Social Insecurity.* Durham: Duke University Press.

Wall T (2016) Ordinary emergency: Drones, police, and geographies of legal terror. *Antipode* 48(4): 1122-1139.

Walters W (2010) Foucault and frontiers: Notes on the birth of the humanitarian border. In: Bröckling U, Krasmann S, and Lemke T (eds) *Governmentality: Current Issues and Future Challenges*. New York: Routledge, pp.138-164.

Weima Y (2021) Ethically (un)bounding camp research: Life histories within and beyond camp boundaries. *Area*. Epub ahead of print 5 October 2021. DOI: 10.1111/area.12760

Weima Y and Minca C (2022) Closing camps. *Progress in Human Geography* 46(2): 261-281.

Zedner L (2016) Penal subversions: When is a punishment not punishment, who decides and on what grounds? *Theoretical Criminology* 20(1): 3-20.

Cases Cited

Aamer v. Obama, 742 F.3d 1023 (D.C. Circ. 2014)

Al-Alwi v. Trump, 901 F.3d 294 (D.C. Circ. 2018)

Al-Bihani v. Obama, 590 F.3d 866 (D.C. Circ. 2010)

Al Hela v. Trump, 972 F.3d 120 (D.C. Circ. 2020)

Beard v. Banks, 548 U.S. 521 (2006)

Bell v. Wolfish, 441 U.S. 520 (1979)

Boumediene v. Bush, 553 U.S. 723 (2008)

Overton v. Bazzetta, 539 U.S. 126 (2003)

Qassim v. Trump, 927 F.3d 522 (D.C. Circ. 2019)

Turner v. Safley, 482 U.S. 78 (1987)