**Understanding the social functions of pre-trial detention: A comparative study between Canada and France**

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The use of pre-trial detention for individuals that await trial in Canada and France has been perceived as problematic for a long time but the situation seems to have worsened in recent years. While alternative mechanisms have quadrupled in France in the last three decades (Aubusson de Cavarlay, 2006), the rate of accused in pre-trial detention has not decreased. In Canada, the use of pre-trial detention has doubled from 2001-2010 (Porter & Calvery, 2011). The John Howard Society of Canada has described this as a crisis, since more than 50% of provincial and territorial jails comprise people that have not been convicted or sentenced. The rationale behind pre-trial detention has been to protect society and the judicial investigation (Trotter, 2013), but it remains unclear why these numbers are surging at a time when crime is at an all-time low. Understanding *why* this form of detention is being used more frequently in recent years is crucial, considering its impact on the lives of individuals that are detained while still being presumed innocent (Friedland, 1965), as well as the significant financial costs for the state.

This project compares pre-trial detention and examines its role in Canada and France – two countries that share different legal traditions, namely common law and civil law. It argues that although in some cases public protection warrants the use of this institution, pre-trial detention fills other societal needs that are present in both legal traditions, including the need for a quick punishment after the fact, thus compensating for the growing length of criminal procedures and responding to public opinion based on a discourse surrounding the confidence in the administration of justice. This project examines the ways that this institution is implemented in both jurisdictions and its relationship with punishment, including retributive and utilitarian rationales. Sociological perspectives are also integrated in the analysis as they offer greater insight on the social functions that this mechanism serves within the criminal justice system -- enabling legal comparativists to understand the ways that criminal justice institutions, such as pre-trial detention, share similar social functions despite operating within different legal traditions.