

Policing, Detention, Deportation, and Resistance: Situating Immigrant Justice and Carcerality in the 21st Century

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IN MAY 2008, THE *SAN DIEGO UNION TRIBUNE* REPORTED THAT THE CORRECTIONS Corporation of America (CCA) announced plans to build a 3,000-bed mega-prison in San Diego, California, which if built would be the largest immigrant detention center in the United States (Berestein, 2008). On May 11, 2008, the *Washington Post* reported that since 2001, the number of immigrant detainees over the course of each year has more than tripled, to 311,000 (Priest and Goldstein, 2008). *The New Yorker* reported that whole families, many of whom have committed no crime, are incarcerated in the privately run Hutto immigration prison located in a remote area of south Texas (Talbot, 2008). The *Washington Post* reported numerous abuses of immigration detainees, ranging from inadequate or improper health care and rape of female detainees to the adverse psychological effects of detention on children (Berestein, 2008).

Situating the Problem

In many ways, passage of the 1986 Immigration Reform and Control Act (IRCA) was a pivotal point in the criminalization of migrants, setting the stage for increases in deportation and detention, as well as the abuses that immigrants endure once detained. IRCA was the first major legislation to initiate the militarization of the border, while also contributing to the increased presence of migrants in the United States by providing amnesty to over two million people and allowing for family reunification. The criminalization of migrants was crystallized in the national imagination in 1996, when the Republican Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which reclassified a number of minor offenses, such as drunk driving or simple assault, as aggravated felonies. Two additional federal laws that also passed in 1996—the Anti-Terrorism and Effective Death Penalty Act (AEDPA) and the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)—are manifestations of the ideological merging of immigration with state dependency and criminality. The events of September 11 further fueled anti-immigrant sentiment and reactions, including an increased reliance on detention and prosecution of immigrants.

The desire to criminalize immigrants is also exemplified in more recent legislation, such as the Border Protection, Anti-Terrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437)—known as the Sensenbrenner Bill—which attempted to redefine undocumented migrants as felons and to designate any *assistance* to this group as *criminal and punishable by law*. Although housing someone, offering food, or providing a ride may seem trivial, had H.R. 4437 been signed into law such acts would have been turned into defining moments leading to one's imprisonment.

The Sensenbrenner Bill highlighted the plasticity of the line that marks the difference between civil and criminal matters. Unintentionally, the proposition created an instinctive consciousness of the ways in which the social construction of crime participates in the labor of regulating society. This realization contributed to the eruption of the immigrant rights movements in 2006. Although there is a long history of immigrant rights organizing across the United States, this moment seemed to almost immediately coalesce into a massive national movement against the criminalization of migrants. Even though this intense reaction was generated by the disturbing recognition that the creation of crime is a useful tool for social regulation, much of the immigrant rights organizing that developed was unable to move beyond undocumented migration to see how the production of crime is useful to controlling migration and policing the border, as well as for organizing society in general. Instead, rhetoric such as “immigrants are not criminals”—an aphorism that attempts to constitute immigrants as innocent—dominated the immigrant-rights stage.

Marking IRCA, the 1996 legislation, and the post-September 11 moment as particularly significant for the criminalization of immigrants does reflect the truth, yet lost in this narrative is how immigrant criminalization is rooted in a longer history of U.S. carcerality, especially as it developed during the 1970s. President Richard Nixon's “get tough on crime” political campaign, and those deployed by subsequent presidential administrations, were fueled by an imagined social crisis of domestic lawlessness. This lawlessness was marked as indigenous to communities of color, especially Black urban spaces. In part, the militancy of the social movements of this time was used to argue that “law and order” had been undermined, requiring an expansion of the criminal justice system. Thus, the ensuing development of the U.S. prison regime (Davis, 2003), of which immigrant criminalization forms a part, is to some extent a political response to demands for a social transformation in race relations. The policing, imprisonment, detention, and deportation that immigrant communities face today cannot be divorced from this history. As such, the criminalization of immigrants must be contextualized in a longer history of the U.S. prison regime, and not be conceived of as a distinct process or a specific post-IRCA development in the 1990s, or even post-September 11.

This collection of articles has its origins in frustrations with the hegemonic logic of the “good immigrant/bad immigrant” dichotomy that prevails within the mainstream immigrant rights movement and reinforces gendered racial boundar-

ies of social belonging. The contributions explore the connections between, and implications of, the contemporary criminalization of migrants and the longer trajectory of U.S. carcerality. By presenting this framework, we join the voices of activist scholars such as Dylan Rodriguez (2008) and David Manuel Hernández (2008), who compel us to dislodge this anti-immigrant moment from exceptionality. In arguing that the policing, detention, and deportation that migrants face today are not unprecedented, these voices demand that we view the punitive processes that migrants experience as extensions of the histories of human captivity that constitute the United States. In other words, this framework underscores how human immobilization is at the heart of the U.S. social formation. Contributors link current anti-immigrant enforcement to U.S. carcerality by demonstrating how strategies employed in the criminalization of migrants—such as mass prosecutions of undocumented people caught crossing “illegally” into the United States, or the forced separation of families—extend the U.S. prison regime either by deploying its logic and tactics or by literally serving to expand imprisonment. This issue of *Social Justice* demonstrates that imprisonment, including immigrant detention, is essential to U.S. efforts to preserve geopolitical dominance. It examines activist efforts to resist this trend and urges the building of bridges between prison abolition and immigrant justice work.

Preview of This Volume

Martha Escobar’s essay provides a comparative and relational analysis of the detention, incarceration, deportation, and family separation of migrant women and the history of the criminalization of Black motherhood in the United States during the 1960s and 1970s. She reinforces the notion that incarceration is a mechanism for racialized social organization. For Escobar, the U.S. prison regime’s mobilization against migrants has as its context the criminalization of the bodies of Black women. The deployment of notions of Black mothers as “breeders of lawlessness” fueled the expansion of the criminal justice system. By tracing how the ideological work performed to criminalize Black motherhood has been re-mapped onto migrant women, Escobar highlights the centrality of women’s reproduction in the racial organization of society, which takes place through the containment of bodies. She maintains that this dynamic is a fundamental method of regulating labor relations in the era of neoliberalism.

Dulcinea Lara, Dana Greene, and Cynthia Bejarano critique two popular phrases they identify as “immigrant advocacy tropes.” The authors argue that “They are not criminals” and “They do the jobs no one else will” create friction between immigrants and groups such as laborers, prisoners, and the unemployed and fail to challenge a social structure that undervalues and increasingly punishes these populations. Using the example of the ability of the Industrial Workers of the World to create unity among and between groups such as women, immigrants, and racialized

minorities, Lara, Greene, and Bejarano urge social justice activists and advocates to unite to expose power structures and forge solidarity for systemic social change.

Following that logic, Lawston and Murillo analyze a film, *Under the Same Moon*, and the Pulitzer-prize winning book, *Enrique's Journey*, to explore the ways in which popular, liberal discourses on immigration are reactions to anti-immigrant, law-and-order strategies that define and label crossing a national boundary as “criminal.” Liberal discourses, they argue, often employ a sympathy frame to characterize certain undocumented immigrants as “deserving” (inadvertently making other immigrants “undeserving”) of entrance into the United States. Like anti-immigrant discourses, liberal discourses fail to historicize or contextualize immigration and the ongoing role of the United States in creating and maintaining the political and economic conditions that drive migrants northward. The authors suggest that because racist laws, discourses, and media images justify the incarceration of citizens and the detention/imprisonment of immigrants, immigrant justice advocates seeking to dismantle structures of dominance and privilege should highlight the connections between immigrant detention and prison expansion more broadly, rather than allowing the binary logic of “criminal/noncriminal” to define the debate.

In the next article, Meghan G. McDowell and Nancy A. Wonders draw on narratives obtained from focus groups and interviews to analyze how the localized expression of global disciplinary strategies racializes and restricts public space for migrants residing in Arizona. They use the narratives to examine whether and how interrelated technologies of control, surveillance, and enforcement rituals operate to shape migrants’ experience of public space. The authors argue that global disciplinary strategies are used so that Western nations are able to maintain a cross-border flow of migrant labor that is both vulnerable and exploitable.

Daysi Diaz-Strong, Christina Gómez, María Luna-Duarte, Erica Meiners, and Luvia Valentin broaden the discussion and analyze how the prison and military-industrial complex intersect and attempt to constrain futures for undocumented youth. These activist-researchers draw upon their participatory action research, narratives from undocumented and formerly undocumented students, and reflections on their own statuses to examine legislation—particularly the DREAM Act—that offers military service as a potential path toward “legalization.” The authors make crucial connections between immigration law and policies, the military, practices of deportation and detention, and the vast prison regime. They conclude with a call to reconstruct “the structures *and traditions* that safeguard power and privilege” as a basis for building an abolition democracy.

Jenna M. Loyd, Andrew Burrige, and Matthew Mitchelson’s commentary expands upon conversations developing between immigrant justice and anti-prison organizers. They note how the criminal justice system serves to mobilize and immobilize bodies. In addition, they outline how prisons and borders constitute each other, making it necessary to theorize about and engage in liberation through sites of (im)mobilization. These abolitionist scholar-activists seek to bridge the prison

abolition and immigrant justice movements by highlighting the transformative possibilities offered by an abolitionist vision, in which the freedom of movement and the freedom to inhabit space are imperative to the creation of strong, sustainable communities.

Two testimonies of imprisoned migrant women conclude this compilation. Instead of discussing their “crimes,” they provide insight into the impact of criminalization on their lives and critique the limitations of mainstream immigrant rights organizing. The first testimony is that of an anonymous woman, currently detained, who will be deported to Mexico in June 2010. Her testimony addresses the limitations of language, culture, and racism for detained migrant women in securing their rights. Her standpoint is collective rather than individualized. It condemns the role of the United States in perpetrating violence against this captive group, as well as the Mexican government’s neglect, which enables ongoing violence. This testimony underscores that such violence is a collaborative effort of both countries against this group.

The second testimony is by Esther Morales Guzman, a migrant woman who spent five years in California prisons. After her deportation to Mexico, she joined the immigrant rights movement in Tijuana. Her subsequent attempt to reenter the United States resulted in her being caught and sentenced to 27 months in federal detention. Morales Guzman’s testimony highlights the difficulties faced by deportees, especially individuals who are marked as criminals. Although the charge of crossing as a “criminal alien” was removed, the prosecutor used her record as an immigrant rights activist to argue that she was involved in a conspiracy to commit crimes against the United States by promoting undocumented migration. Attention is drawn to the shifting definition of criminality. In her case, immigrant rights organizing became a crime, resulting in additional prison time.

This issue of *Social Justice* brings together a multiplicity of voices that offer new insight into U.S. carcerality and the criminalization of migrants, while connecting immigrant justice and prison abolition work. In a political and economic climate that values corporatization, money, and silence over progressive social change, we hope that the contributions here will inspire more movement building and coalitions among immigrant justice and prison abolition activists, and unite these advocates with those struggling for environmental, gender, racial, queer, reproductive, worker, economic, and global justice. The time is ripe for dismantling systems of privilege and dominance. We urge activists, scholars, and scholar-activists to continue to make connections between the multiple forms of oppression in the United States and globally, and to form strong alliances that organize and fight for justice and emancipation for all people.

REFERENCES

- Berestein, Leslie
2008 "Detention Dollars: Tougher Immigration Laws Turn the Ailing Private Prison Sector into a Revenue Marker." *San Diego Union Tribune* (May 4); at http://legacy.signonsandiego.com/uniontrib/20080504/news_1z1b4dollars.htm.
- Davis, Angela
2003 *Are Prisons Obsolete?* New York: Seven Stories Press.
- Hernández, David Manuel
2008 "Pursuant to Deportation: Latinos and Immigrant Detention." *Latino Studies* 6: 35–63.
- Priest, Dana and Amy Goldstein
2008 "System of Neglect: As Tighter Immigration Policies Strain Federal Agencies, the Detainees in Their Care Often Pay a Heavy Cost." *Washington Post* (May 11); at www.washingtonpost.com/wpsrv/nation/specials/immigration/cwc_d1p1.htm.
- Rodriguez, Dylan
2008 "'I Would Wish Death on You...': Race, Gender, and Immigration in the Globality of the U.S. Prison Regime." *Scholar and Feminist Online* 6,3 (November 24, 2009); at www.barnard.edu/sfonline/immigration/drodriguez_01.htm.
- Talbot, Margaret
2008 "The Lost Children: What Do Tougher Detention Laws Mean for Illegal Immigrant Families?" *The New Yorker* (March 3); at www.newyorker.com/reporting/2008/03/03/080303fa_fact_talbot.