CALIFORNIA STATE UNIVERSITY SAN MARCOS

THESIS SIGNATURE PAGE

THESIS SUBMITTED IN PARTIAL FULFILLMENT
OF THE REQUIREMENTS FOR THE DEGREE

MASTER OF ARTS

IN

SOCIOLOGICAL PRACTICE

THESIS TITLE: Legalized Violence in Immigration Prison Courtrooms

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DATE OF SUCCESSFUL DEFENSE: April 26, 2018

THE THESIS HAS BEEN ACCEPTED BY THE THESIS COMMITTEE IN
PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS IN
SOCIOLOGICAL PRACTICE.

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Legalized Violence in Immigration Prison Courtrooms

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May 2018

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ABSTRACT

This ethnographic study explored interactions inside the courtrooms of immigration detention centers, or more aptly described as immigration prisons. The legalized barriers were significant against respondents. The research drew upon humanizing, Critial Race Theory, and social justice approaches of inquiry. Findings include the prison setting of the immigration court; the active prosecution by judges and government attorneys; various courtroom dynamics that impacted cases; and, the hostile environment of the immigration court. Respondents endured injustice when they were unable to hire an attorney, did not have family testimony, and did not speak English. Recommendations include the abolition of immigration prisons and punitive immigration law enforcement. Until then, restructuring the dynamics of immigration courtrooms and *true* immigration reform that supports the human rights of all people.

Keywords. Undocumented immigration; immigration courtrooms; immigration prison; immigration detention centers; legalized violence; legal violence; immigration reform; humanizing research approach; counter-narratives; migration; crimmigration; prison guards; judges; government attorneys; immigrant families; asylum; refugees.

ACKNOWLEDGEMENTS

This thesis is dedicated to the respondents and their families whose immigration hearings I witnessed at the Immigration Prison. Although they did not know who I was or my reason for being inside the courtroom, my intention of this research was to humanize their existence and reveal the legalized violence they endure while navigating their immigration hearing inside an immigration prison.

Thank you to my thesis chair Dr. Clark-Ibáñez for your constant support and guidance. Your professional insight garnered important critical perspectives and organization in my thesis. Thank you for being the calming light during each step of the way. Your positivity and sense of humor made this process enjoyable and unforgettable.

Thank you to the rest of my committee for your endless support and reassurance, and for taking the time to read my thesis. Dr. Swan, thank you for your professional and insightful feedback, and comforting presence since the start of this program. Dr. Santos, thank you for guaranteeing my thesis was critical and reflexive, and for your continual inspiration throughout the process.

To my family and friends, thank you for your lifetime of love and encouragement. Mom and Dad, you have been my greatest support system and have provided me with overwhelming love and reinforcement throughout this entire process. Words cannot express the gratitude I have for you both. Thank you to my two older sisters for being my female role models in academia and always inspiring to strive for the best that I can be. Gregory, thank you for supporting me, listening to me, and always making me laugh in the most stressful of times. Thank you to my grandparents who built our family with strength, love, and compassion.

INTRODUCTION

As I am sitting in the courtroom waiting for the next bond hearing to begin, four young children walk in the room and wearily sit in the front pew as the guard directs them to do. The youngest girl starts frantically waving to the woman sitting at the respondent's desk on the other side of the railing, separating visitors from the court. The woman is fixated on the children. She keeps turning around to look at them, grinning from ear to ear; it becomes apparent to me she is their mother. As she sits in her prison uniform, the youngest of her children begins to tear up, hit by a flood of emotions—unable to talk to her mother or touch her.

Her hearing begins and the room becomes still. The children attentively wait to see if the judge will release their mother from the shackles of the institution that has imprisoned her. The judge makes her decision and the youngest burst into tears. The older children begin crying, placing their head down in between their hands as they shake their head from side to side, devastated at the decision. Court is still in session, so the room needs to stay quiet. The mother turns around again, this time with red eyes and cheeks soaked in tears. She puts her finger over her lips to signal silently to not cry so loud and forces a smile – she is parenting her children from ten feet away; close enough to talk and hold them, yet far enough to possibly never be with them again. This mother of four will remain captive in the Immigration Prison.

According to my study, this example is atypical in the sense that this respondent is a mother with an attorney and has family presence in the courtroom. These were usually indicators the hearing would have a positive outcome. However, this example is

also typical in the sense of the devastation and collateral consequences immigration court proceedings brings to respondents and their families, if present.

The Immigration Prison is painted dull brown, has no windows, and entirely surrounded with doubled fences and barbed wire, hiding its dirty laundry from the rest of the world. At the first gate, visitors ring the security bell to speak to a guard where they ask who they are and their reason for being there. They command you to not bring anything inside, "no contraband," besides your photo identification card and car keys. If you are an attorney, you are allowed to bring in a briefcase with paperwork. Once inside, you go through a security check. A guard must escort you everywhere within the prison.

The courtrooms are located upstairs to the right of the entry office. As a visitor, you know there are hundreds of migrants held captive in some area of the prison, but no one sees or hears them. Upstairs, there is a waiting area for families or friends there to support their relative or friend. All walls, besides the courtrooms, are sterile white, with fluorescent lighting. The courtrooms are about the size of a high school classroom, with no windows and muted beige colored walls. The wall behind the judge's desk is dark blue and decorated with a shiny-circled emblem of the United States Executive Office for Immigration Review (EOIR). The judge's area takes up the middle and back of the courtroom, and sits in the center of the room; their clerk is seated to the right. The government attorney, or "ICE"[1] attorney, sits at a desk facing the judge on the right side of the room and is provided with a computer. The respondent[2] sits at a desk on the left-hand side of the room with no computer and sometimes has an attorney with them.

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[1] Immigration and Customs Enforcement (ICE)
[2] The individual whose case is under review

Visitors sit in the wooden pews behind a railing that separates them from the attorneys and respondents. Observers are usually directed by the guards, who act as bailiffs, to sit in the pews on the side of the government attorney. Interpreters are usually seated at a desk to the right of the judge and speak into a microphone. There are five courtrooms at the Immigration Prison and they are organized in the same way.

The immigration court within the Immigration Prison is an institution that places people in a space of "legal nonexistence" (Coutin and Reiter 2017:567), separating people from their children and family, and forcing them to negotiate with a system that is stacked against them. It is a place where someone seeks refuge, but may never find refuge; a place where a decision to allow someone to stay in the United States or to be deported determines the direction of that person's life. The mother and her four children do not know when they will be reunited again; they only know their mother was labeled a "criminal." The pain of deportation proceedings inside an immigration prison affects lives beyond the courtroom.

* * *

From July to December 2017, I visited the Immigration Prison to understand the level of access, interactions and general routines of immigration courts, as compared to the city federal immigration courts. In this ethnography, I took note of what makes people human—their pain, their suffering—in these dehumanizing institutions, attempting to humanize the immigration court process. Immigration courts within immigration prisons are unique in several ways. Respondents are issued bond hearings, where they are either released with an (sometimes) expensive bond or are not released due to being deemed "a threat to society" or a "flight risk" (Ryo 2016: 119). Since immigration court is

considered civil law, several "due process" proceedings do not apply, such as the right for the government to appoint individuals with an attorney. Instead, people have to find their own counsel, even if they are imprisoned in a detention facility where the likelihood of finding an attorney is extremely difficult due to restricted resources. Only 15% of respondents in immigration prisons are able to find counsel (PBS 2017), and face oppressions similar to federal prisons, hence why I use the term "immigration prison."

Immigration law is complex. Navigating immigration courts without an attorney can be an extremely difficult task, even for those who have lived in the U.S. for a long time or speak English. When I first began my observation fieldnotes, I found myself lost in the legal jargon and several times could not make sense of what was occurring in the cases. For those using an interpreter (usually Spanish) in the hearings, an added obstacle of poor translation makes it difficult, if not impossible, for respondents, especially those with no attorney, to understand what is occurring in their case (Abel 2011; Family 2015).

Through ethnographic data collection, this study aims to understand the nature of immigration courts and how incarcerated individuals navigate the turbulent, complicated, and unjust U.S. immigration system. In taking note of interactions, emotions, routines and the atmosphere of the immigration court at the Immigration Prison, this study humanizes what occurs inside these highly private and bureaucratic legal spaces. The humanizing research approach requires the researcher to be "evolving and situated," and to constantly be mindful of respecting the humanity of those who allow us into their worlds (Paris and Winn 2014: xv). It requires to abandon traditional colonizing methodologies and to make marginalized and oppressed communities or individuals the center of focus (Paris and Winn 2014). This study understands the systematic, structural,

and legal inequalities people are forced to navigate in immigration courts within an immigration prison. The story taken from my fieldnotes, and those to follow, are a call to action to put a face on the immigration issue and humanize the U.S. immigration system.

In the process of humanizing immigration court proceedings, terminology must be addressed. Rather than contribute to mainstream rhetoric that dehumanizes undocumented populations by referring to them as "illegal" or "illegal aliens," I will use the terms undocumented immigrants or individuals; however, I want to note the term *undocumented* has clear racial and ethnic designations, such that European or other White immigrants with no documentation are not labeled as undocumented or "illegal" (Glenn 2011). This will be explored in my theory section. At immigration prisons, those who are awaiting their court hearing are referred to as "detainees" or "inmates;" I will use the term respondents, which is also the legal name they are given inside immigration courts. I use the term immigration prisons instead of their mainstream name, immigration detention centers, to depict the true nature of their environment. At times I refer to my fieldsite as the Immigration Prison, as a matter of confidentiality and to not expose its actual name. The goal is that respectful and realistic terminology will humanize my participants and their experiences, and not contribute to ongoing rhetoric that fuels anti-immigrant ideologies.

WHAT IS IMMIGRATION COURT?

Immigration court and law is classified as *civil.* Its main task is to decide whether someone is eligible for relief from removal or if someone is "entitled" to "legal" entry in the U.S. (Family 2015). Jill Family (2015) argued that the complexity of immigration court is like "deciding a death penalty case in traffic court" (184). While Congress, or the

legislative branch, creates statues and laws that define “legal” immigration, “legal” immigration quotas, and removal grounds, the executive branch (through the Department of Homeland Security (DHS)) enforces these laws and controls the day-to-day immigration law decision-making. Under the Executive branch, the DHS charges immigrants with “removal” orders, and the Department of Justice (DOJ) (still under the Executive branch) decides whether that individual should be removed from the U.S. Under the DOJ is the Executive Office for Immigration Review (EOIR), which controls immigration courts and the Board of Immigration Appeals (Family 2015).

Immigration judges are employees of the DOJ and thus decide all immigration case outcomes, without a jury (Family 2015). The U.S. Attorney General appoints all immigration judges as an administrative judge in accordance to the civil service laws. Immigration judges do not have life tenure and can be removed from the bench or can be reassigned to another position by the Attorney General (Ryo 2016). The irony of immigration courts is that although it is classified as *civil* court, it processes people as if they are in *criminal* court and have committed criminal acts.

STATEMENT OF THE PROBLEM

Under President Trump, the safety and well being of *all* undocumented individuals living in and migrating to the U.S. are at serious risk. While former President Obama did not deter incarcerations and deportations, he did attempt to provide protection from deportation for a select undocumented population in his executive action, Deferred Action for Child Arrivals (DACA). Contrarily, the current president does not seek social justice, but rather injustice, as he has revoked DACA as of September of 2017 (Oh 2017;

PBS 2017; Schatz 2017). Starting in the nineties and after 9/11, the number of deportations rose immensely due to militarized immigration enforcement laws and policies that target undocumented immigrants of color. Since then, immigration court backlogs have surged, reaching over 650,000 unheard cases at of November 2017 (TRAC). Those being held in immigration prisons are stripped of their humanity and forced to navigate through the immigration system, as the mother and her four children experienced. For this reason, it is important to study what occurs inside immigrant courts within immigration prisons to humanize the process of those navigating through the immigration system and to deconstruct master narratives.

Historical and International Context

Beginning in the 1880s, anti-immigration policies began to create a hostile environment for undocumented immigrant communities in the United States. In 1882, the Chinese Exclusion Act was the first legislation in the U.S. barring Chinese laborer immigrants from working in the U.S. based on their nationality (Calavita 2006). Later, legislation in the 1980s and 1990s did not explicitly ban immigrants based on nationality, but acted to covertly prevent certain undocumented populations from working and living in the U.S., specifically Latinx immigrants. During this time, there was a rise in immigrant detention centers because two major prison corporations, GEO Group and Corrections Corporation of America, lobbied the government to expand detention and incarceration, increasing the number of immigrants incarcerated from around 30 people per year before 1980 to about 420,000 per year as of 2015 (EndIsolation n.d.).

The Immigration and Nationality Act (INA) of 1965, Immigration Reform and Control Act (IRCA) of 1986, and the Immigration Act of 1990 contributed to the

construction of immigrant "illegality" and increased anti-immigrant sentiments and prejudices (Calavita 1989; Clark-Ibáñez 2015; Sarabia 2012). In 1996 the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) was passed, which increased border enforcement, established new deportation and exclusion regimes, including the removal of judicial review, and implemented tougher restrictions on asylum applicants and refugees (Fragomen 1997). Alongside the IIRIRA, the Anti-terrorism and Effective Death Penalty Act (AEDPA) of 1996 allowed for the use of secret evidence in deportation procedures and in the denial of asylum (Welch 2003).

Finally, after the September 11th terrorist attacks in 2001, anti-immigrant sentiments reached an all time high. In response to the newly declared "War on Terror," the Bush administration created the Department of Homeland Security (DHS) in 2003, and replaced the Immigration and Naturalization Services (INS) with the Immigration and Customs Enforcement (ICE). This expanded immigration governance to the federal level, and increased the militarization of immigration law enforcement and rise in immigrant deportations and incarceration (Golash-Boza 2016; Hagan et al. 2011). In 2001, there were around 189,000 deportations and in 2014, deportations rose to about 414,000 (Gonzalez-Barrera and Lopez 2016).

Anti-immigrant sentiments and legislation is a global issue. Former president of the European Commission José Manuel Barroso stated, "Racism and xenophobia, intolerance and Islamophobia are on the rise" (World Economic Forum 2015). In Europe, he noted an increase in harassment and violence against immigrants, refugees, and ethnic and sexual minorities. For example, in February 2014 the Swiss voted to reintroduce strict quotas on immigration from EU countries. Shortly after, anti-immigrant parties

were selected in several European elections (World Economic Forum 2015). In June 2016, the United Kingdom population voted to leave the EU in order to enforce stricter immigration laws, also known as the "Brexit vote" (PNC Law Offices 2017). Hostile sentiments towards immigrant groups expand beyond Europe and into any country where a "foreign" or "illegal" identity is created, such as for the Rohingya population in Myanmar (PNC Law Offices 2017).

Deportation in the United States

The United States Supreme Court (2009) explained:

> While once there was only a narrow class of deportable offences and judges wielded broad discretionary authority to prevent deportation, immigration reforms have expanded the class of deportable offences and limited judges' authority to alleviate deportation's harsh consequences. Because the drastic measure of deportations or removal is now virtually inevitable for a vast number of noncitizens convicted of crimes, the importance of accurate legal advice for noncitizens accused of crimes has never been more important (p. 1).

Customs and Border Patrol (CBP) and ICE officials disproportionately target Latinx and Caribbean male immigrants, which Golash-Boza and Hondagneu-Sotelo (2013) refer to as a "gendered racial removal program" during the era of a "mass deportation phenomenon" (271). As of 2013, Mexican immigrants are the highest deported population followed by Guatemalans, Hondurans, Salvadorians, Dominicans, Ecuadorians, Brazilians, Colombians, Nicaraguans, and Jamaicans (TRAC 2014). The remaining countries include other Caribbean nations, Eastern Europe, and countries in Africa and Asia. As of 2014, the large majority (93%) of those deported were men

(TRAC 2014). President Obama deported a little over five million individuals during his term, President Bush deported more than ten million people, and President Clinton deported a few more than twelve million (Chishti et al. 2017).

During this era of mass deportation, the current administration is relentless in their new and proposed immigration policies. In January of 2017, President Trump issued an executive order to prioritize deportation proceedings for *all* undocumented immigrants *suspected* of violating an immigration law, even those without "criminal" records (Sherman-Stokes 2017). This includes the expansive use of "expedited removal," which allows low-level immigration officials to deport individuals without a hearing before an immigration judge (American Immigration Council 2017). As of 2013, 44% of deportations were issued through expedited removal (American Immigration Council 2017; Magaña-Salgado 2017). From February through June of 2017, ICE has arrested an average of 13,085 people per month (Gomez 2017). The number of incarcerated individuals in immigration prisons awaiting removal proceedings has increased from 46% under Obama to 75% (TRAC 2017). Further, from January 20, 2017 to the end of March 2017, 763 civil immigration lawsuits have been filed involving immigration matters, doubling from five years ago under Obama (TRAC 2017).

Between August 2016 to April 2017, the Binational Defense and Advocacy Program (PDIB) interviewed 600 migrants who had been deported to Mexico. The interviews focused on whether U.S. immigration agents were upholding their obligations, such as informing immigrants of their rights during the respondent's removal proceedings. 43.5% of respondents were not told they had the right to contact their consulate; 55.7% were not asked if they feared returning home; 23.5% reported

experiencing some type of abuse by immigration authorities; 50.7% were not allowed to read their repatriation (or deportation) papers before signing them, mainly because they could not read them; and 57.6% did not receive their repatriation (or deportation) documents (Campos and Cantor 2017). These findings suggest several undocumented immigrants are being subjected to unjust removal proceedings.

Supportive Program Taken Away

In addition to unjust removal proceedings increasing under the current administration, several supportive programs for undocumented individuals have been removed. President Obama issued the Central American Minors (CAM) parole program in 2014 to aid in the surge of unaccompanied Central American youth seeking asylum in the U.S. Youth could apply for asylum while still living in their country of origin. The idea was to prevent young people from risking a dangerous journey to the U.S. (Fernandez 2017). On August 16, 2017, Elaine Duke, the Acting Secretary of Homeland Security, ended the CAM parole program (USCIS 2017).

As of September 2017, the Trump administration ended the Deferred Action for Childhood Arrivals (DACA) program, which protected 800,000 undocumented immigrants from temporary deportation and arrests who came to the U.S. before the age of 16. DACA did not offer a pathway to citizenship or permanent residency, but it did allow for renewal of this deferred status and provided young people with “legal” documentation, such as a social security number and work permit (Swan and Clark-Ibáñez 2017). With these documents in hand, DACA recipients were able to work and drive “legally” (Schatz 2017). Now, if these recipients had cases in immigration court, these cases could be reopened, risking their deportation (PBS 2017). Former President

Obama referred to this decision as “cruel” and as an act of “systematic discrimination” (Oh 2017). Rallies, protests, marches, and classroom walkouts were held throughout the nation in opposition of this inhumane decision (Sacchetti and Stein 2017).

A Look Inside Immigration Courts and Prisons

As supportive programs are ending, the amount of deportations has decreased due to the rising backlog in immigrant courts (Gomez 2017). The Trump administration does not provide an equivalent amount of funding for immigration courts as it does for immigration law enforcement (Chacón 2010). The caseload for immigration judges, then, becomes overwhelming; some judges may have around 3,000 pending cases (PBS 2017). As of November 2017, the backlog of immigration cases has reached 658,728 cases (TRAC 2018) and 334 judges to hear these cases (PBS 2017). Five years ago in 2012, the backlog for immigration proceedings was at 314,147 cases (Human Rights First 2017; Winograd 2012). California leads in the country with the largest backlog of 123,217 cases (TRAC 2017). Attorney General Jeff Sessions states he plans to reduce this backlog by taking away or limiting judge’s ability to administratively close a case, grant continuances, and limit what qualifies people for asylum. An immigration law professor stated these changes would create a rapid system leading to *more* deportations. Further, the Justice Department is creating quotas for judges, forcing them to quickly resolve cases (NPR 2018).

These changes seem impossible when acknowledging the lack of resources judges have in court, such as multiple clerks and quality language translations, and raise serious concerns about increased and unfair deportations. They perform “quasi-criminal law functions” of immigration law, such as settling bond hearings and deciding if someone

will be deported from the U.S. (Ryo 2016:119). As a result, individuals facing removal proceedings or applying for asylum are left waiting for years (an average of 672 days) to have their cases heard, some of which are held in immigration prisons (Winograd 2012; PBS 2017).

Having to wait years inside an immigration prison to have your case heard has detrimental medical and emotional effects. People being held in immigration prisons are given substandard medical care, are vulnerable to physical and sexual abuse, have slave-labor working conditions, and can be held indefinitely (Greenwald 2017). “These facilities have grown into a highly privatized, lucrative, and abusive industry that profits off the misery of immigrants awaiting deportation” (Greenwald 2017:n.p.). In 2017, deaths in immigration prisons reached an all time high since 2009, which was often due to substandard or delayed medical care and ignoring complaints of illness (Kuang 2018). The abusive treatment of undocumented immigrants is justified because of their marginalized identity and the perceived notion of being “criminals, noncitizens, and persons of color” (Garcia Hernández 2017:286; Olivares 2016).

Díaz (2012) argues that the “War on Drugs” has grown into a “War on the Border.” The War on Drugs fuels the Prison Industrial Complex (PIC) and the War on the Border now fuels the Immigration Industrial Complex (IIC), both of which garner billions of dollars for private prison owners through the incarceration of people of color (Díaz 2012). In 2014, DHS spent $2 billion on immigration prisons, which averages to $161 per individual locked up (Ryo 2016). This incarceration of immigrants of color is sustained through “hypercriminalization” of racialized immigrant groups and “crimmigration,” the convergence of immigration and “criminal” law (Díaz 2012; García

Hernández 2017; Ryo 2016). García Hernández (2017) describes this process of immigrant incarceration and deportation as a "removal pipeline" (p. 254).

Since immigration court is considered *civil* court, and not "criminal" court, the procedure under which people are processed is vastly different. For example, the government does not provide legal representation to respondents in immigration court. Respondents are left to find and pay for their (if the lawyer is not *pro bono* or apart of a non-profit) own legal counsel (Family 2015). An attorney, however, always represents the government. Recently, immigration judges now have to appoint legal representation to respondents with serious mental health discrepancies (Eagly and Shafer 2015).

Being held in an immigration prison makes the odds of finding representation even harder. Eagly and Shafer (2015) found in their six-year study that 14% of respondents in immigration prisons were represented, while 66% of respondents not locked up were able to find counsel. Thomas and Benson (2016) found that unrepresented children are deported 90% of the time. In addition, Mexican immigrants have the highest rate of detention (78%) and the lowest representation rate (21%) out of all undocumented immigrants (Eagly and Shafer 2016). Arizona, Louisiana, and Texas have the lowest rate of legal representation in the country, respectively. About 70% of people facing removal in Texas do not have representation and 68% of cases in Texas end in deportation (Aguilar and Cameron 2018). Immigrants who are legally represented in court are fifteen times greater to seek some type of relief and five-and-a-half times greater to receive relief from removal (Eagly and Shafer 2015).

Grassroots Advocacy and Resistance

As immigrant communities face inhumane and unjust immigration law proceedings in the U.S., several grassroots advocacy groups and resistance efforts have been stepping forward in opposition to this system and use in-person campaigns and social media venues. The campaign #19toomany engages in direct action, community education, and dialogue with officials to combat the Travis County, Texas detention center that deports nineteen immigrants a week (Grassroots Leadership 2017). In addition, the campaign #endthequota expose the role for-profit prisons and their lobbyist play in incarcerating thousands of undocumented immigrants for their own corporate gain (Grassroots Leadership 2017). The #not1more campaign builds collaboration with communities and individuals to expose and overcome unjust immigration laws. Their goal is to end detention and removal proceedings, and to strengthen the work of local organizations in their fight against deportations (#not1more; Chase 2015). #ImAlreadyHome calls for people to stand in solidarity and prove that immigrants already make America great by taking photos with loved ones who are immigrants in the U.S. (Estaff 2017). #defendDACA, #HereToStay, #undocumentedandunafraid and #UnitedWeDream are direct and current reactions from undocumented immigrants and their allies to the current administration for ending the DACA program and threatening deportations (Lapowsky 2016; United We Dream n.d.).

My study explores how incarcerated individuals in immigration prisons navigated through the complex U.S. immigration legal system. In addition to extreme backlogs and overworked immigration judges, I attempt to understand and humanize how undocumented immigrants survive through this ‘web of bureaucracy’ (Family 2015; Ryo

2016; Thomas and Benson 2016). Instead of contributing to the political rhetoric of undocumented immigrants as "non-human debate topics," this study humanizes individuals navigating through immigration courts in immigration prisons, and exposes how the current immigration system is damaging to certain undocumented individual's human rights (Alonso 2017:n.p.). My research attempts to deconstruct master narratives of undocumented populations and humanize their existence in immigration courts at the Immigration Prison. I propose ideas to positively dismantle and change the immigration system, and end the criminalization of racialized immigrant communities.

THEORY

Critical Race Theory

Critical Race Theory (CRT) is my theoretical framework because of its relevancy to legal studies, race, and understanding injustice for undocumented immigrants. CRT emerged from Critical Legal Studies (CLS) (Tushnet 1991; Unger 1983), which gained recognition in the late '70s and early '80s. CLS is a theory that analyzes the law through a class-conscious lens (Johnson 2009). Black legal scholars such as Kimberlé Crenshaw (1995) grew increasingly concerned about the lack of change from previous generations that disproportionately affect (and still effect) the Black population in sentencing laws, due process, racial profiling, police violence, and mass incarceration. Thus CRT emerged among left scholars of color, such as Crenshaw, as a body of work that challenges the ways race and racial power are constructed and maintained through the law and U.S. society as a whole. CRT calls to *change* the bond between the law and racial power, not just understand it (Crenshaw et al. 1995). The increasing immigration incarceration and

enforcement regime, such as “Operation Streamline” which is an anti-immigrant policy that generates huge profits to private immigration prison owners (Díaz 2012:278), relates closely to the concerns of mass incarceration of Black and Brown bodies in the tradition of CRT.

CRT broke away from CLS to address the impact of race on the development of the law, and in particular, the intersection of race and class (Johnson 2009). CRT offers a critical critique of the law and how the law has constructed and maintained social domination and subordination through White supremacy (Crenshaw et al. 1995). It highlights how White privilege is embedded in the law, law enforcement, and its subordination of people of color. CRT scholars aim to expose the privilege of Whiteness through anti-colonial methods, such as narratives and personal experiences of those who are marginalized. This creates counter-narratives to mainstream stories that preserve White privilege (Sanchez and Romero 2010). CRT scholars also draw on the concept of micro- and macro-aggressions, which explains the everyday racial prejudices people of color encounter in the criminal justice system. Most importantly, CRT presents the concept of intersectionality, which addresses the way race, gender, class, sexuality, etc. intersect to affect people’s experiences with the law (Sanchez and Romero 2010).

CRT is a discipline committed to social justice. Pulitano (2013) argues that CRT is ideal for studying immigration because undocumented populations are reduced to “sheer numbers of illegality” (p. 173). Through CRT, counter-narratives bring strength to marginalized communities whose experiences have not been legitimized within the master story of White supremacy. As immigrants and asylum seekers arrive in the U.S., they are hit with the reality that post-9/11 America does not want to accept *all* who arrive

seeking ‘freedom,’ but only a select few (Pulitano 2013). As Pulitano (2013) writes, “under the cover of national security coupled by the ‘war on terror’ rhetoric, our government has constructed a stock story of fear, intolerance, and downright discrimination targeting innocent peoples whose only crime has been to request a more dignified life in the land of the free” (p. 175). In rewriting narratives using the CRT framework, people can challenge the hegemonic discourse by rejecting color-blindness and expose racism as a determining factor in inequities (Pulitano 2013).

CRT is a useful theoretical framework for my study because it goes beyond traditional studies of immigration, which treat categories of race, ethnicity and immigration as mutually exclusive. Traditional sociology of immigration also focuses on assimilation, acculturation, and social mobility: these fail to recognize race and ethnicity as central to modern society, reduce racism and racial oppression to economics and psychology, ignores structural and institutional racism, and relies on the White-Black binary (Romero 2008). In contrast, CRT focuses on racial profiling, anti-immigrant sentiment, the increased militarization of the U.S.-Mexico border, and the increased deaths of immigrants on the border (Romero 2008). It recognizes how Whiteness determines a group’s ability to gain full citizenship status, and it uncovers how immigration law ensures the subordination of racialized migrant groups (Sanchez and Romero 2010). CRT scholars accomplish this by being committed to grassroots research agendas, social justice and activism. CRT places race at the center of immigration studies, and conceptualizes race and ethnicity as social constructions of the law, public policy, and the public’s everyday practices (Romero 2008). Therefore, CRT furthers our understanding of immigration in the U.S.

Through the lens of CRT, scholars can "challenge the ways in which race and racial power are constructed and represented in American legal culture" (Crenshaw et al. 1995:xiii). Immigration policies have always intersected with racial, class, and gender oppression. The Immigration Act of 1965 created the first quota system for Asian and Latin American immigrants. This act criminalized those who came into the U.S. impermissibly, created the notion of the "undocumented Mexican," and set the stage for the "War on the Border" (Díaz 2012; Massey 1995). Starting with the War on Drugs, and fueled by the War on Terror, the "War on the Border" or the "War on Immigrants" has emerged as a mechanism to criminalize immigrants of color and to increase U.S.-Mexico border enforcement and interior enforcement (Díaz 2012; Golash-Boza 2009). Increased surveillance and hypercriminalization on the U.S.-Mexico border and not on the Canadian border exemplifies how the U.S. works to preserve the White "racial order" (Díaz 2012). This war includes the "drone surveillance program," where the use of aerial surveillance is seen as necessary for "public safety" (Díaz 2012:272).

In 1986, Congress passed the Immigration Reform and Control Act (IRCA) to deter employers from hiring undocumented workers. Instead, the IRCA led people to produce fraudulent documentation they needed to work and thus, increased nativist ideologies (Golash-Boza 2009). Ten years later, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 allowed for the racialization and criminalization of immigrant communities, disproportionately Latinx immigrant communities. It gave immigration and border patrol officers the power to detain and deport people without a judge's approval, also known as expedited removal (Pulitano 2013). Although the U.S. has pledged to treat those who seek refuge in compliance with

international law, which protects people from arbitrary detention, the IIRIRA mandates the initial detention of those who arrive without travel documentation (Pulitano 2013).

This detention escalated after 9/11, when in 2003, Congress created the Department of Homeland Security (DHS) and increased the immigration law enforcement budget. Deportations rose exponentially, disproportionately affected Latinx communities; in 1996 there were 70,000 deportations and in 2013 deportations rose to 438,421 (DHS 2013; Golash-Boza 2016). Golash-Boza (2009) finds, however, legislation and increased immigration enforcement has not led to any decrease in the undocumented population. And yet, the DHS continues to enforce these punitive acts. CRT can offer an explanation for this.

Important to CRT is identifying levels of anti-immigrant sentiment and state-created obstacles immigrants must face when seeking work or education. Sanchez and Romero (2010) highlight three major themes in CRT and immigration: the social construction of racialized citizenship, the social construction of migrant "illegality," and the anti-immigrant sentiments that create harsh legislation, which violate migrants' human rights, splits families by legal statuses, and targets populations for hate crimes (p. 782). CRT finds the racist ideologies embedded in nativism and links anti-immigrant sentiments to White supremacy. This racist nativism targets "Mexican immigrants in particular and Latino in general" (Sanchez and Romero 2010:785). With an increasing population of people of color, nativists' White privilege is threatened.

In examining this racialized threat, Sanchez and Romero (2010) stress the importance of not separating undocumented and documented immigrants to understand racialization. A common misconception of immigrant populations is that they all share

the same legal status, when in fact, immigrant populations are comprised of both citizens and noncitizens. As traditional sociology of immigration would separate these two, CRT scholars recognize the importance of how different groups are racialized as a whole. For example, Sanchez and Romero (2010) find law enforcement agencies to have historically treated Latinx immigrants as "suspects on the basis of what is constructed as their perceived 'foreign-ness'" (p. 781). Both Latinx citizens and noncitizens are questioned based on their physical appearance, which makes them second-class citizens not 'deserving' of the same rights as White citizens (Sanchez and Romero 2010).

CRT informs the premise of my study: immigration law was created to sustain White racial order and benefits those who are closest to whiteness. My study draws on CRT to portray the process of the immigration court system through a social justice lens. CRT informs my participant-observation (ethnography) because looked for units of analysis such as race, racism, nativism, and white privilege. In attempting to create a counter-narrative to immigrant master narratives through the CRT framework, this study is committed to understanding the immigration detention courtroom as a racialized site and one where the "deck is stacked" against the Latinx respondents.

LITERATURE REVIEW

Introduction

This literature review focuses on the political, economic, and social environment of the United States immigration system, and the individuals navigating through an immigration prison's courtrooms. My study explores immigration courts in immigration prisons using an ethnographic research method. This literature focuses on how

undocumented immigrants of color are being criminalized through the Immigration Industrial Complex (IIC). It also explores respondents' vulnerabilities in courts and how scholars conceptualize the mechanisms of immigration courts. Little research explores immigration courts in immigration prisons using an ethnographic and humanizing research approach, which is my contribution to existing literature.

The Immigration Industrial Complex

My research project is set in an immigration prison. Immigration law considers imprisonment and deportation a *civil* form of punishment (Golash-Boza and Patler 2017). However, with the convergence of immigration law and "criminal" law enforcement, also known as "crimmigration" (Armenta 2016; García Hernández 2014), scholars are finding that immigration law is becoming more punitive than *civil* (García Hernández 2017). Throughout the years, and especially after the terrorist attacks on 9/11 in 2001, increased border and interior enforcement and the hyper-criminalization of immigrants, specifically those of color, make up the U.S. immigration system and fuel the Immigration Industrial Complex (IIC). As Golash-Boza (2009) finds, legislation and increased immigration enforcement has not changed the number of undocumented immigrants in the U.S., so why is the Department of Homeland Security (DHS) and Congress continuing these practices? As this section will explain, recent literature argues incarceration and deportation can be understood as racialized tools of social control (Golash-Boza and Patler 2017). "Crimmigration" and the IIC work together to maintain White racial hegemony and White supremacy through mass incarceration and deportation of immigrants of color, which leads to devastating collateral damages to immigrant communities and mixed-immigration-status families (Golash-Boza and Patler 2017).

Defining "Crimmigration." The term 'crimmigration' has emerged as a field in which critical immigration scholars conceptualize the current immigration law enforcement system. Crimmigration is broadly defined as the convergence of the criminal justice system and immigration enforcement (Armenta 2016), where immigration law enforcement has adopted the "criminal" law enforcement approach. This frames undocumented immigrants as "criminal" deviants and security risks (García Hernández 2014). Crime and migration control have become completely intertwined, so much so that both undocumented and documented individuals suspected of being a noncitizen are targeted (García Hernández 2014). However, instead of "controlling crime," this concept directly discriminates against poor immigrants of color (Golash-Boza 2009).

García Hernández (2014) explains the criminalization of undocumented immigrants began in the aftermath of the Civil Rights movement. Michelle Alexander (2012) explores how the U.S. criminal justice system is made of "colorblind" policies and law enforcement practices that have shaped the mass incarceration of people of color into an era of "The New Jim Crow." As Alexander (2012) and García Hernández (2014) agree, overt racism and racist laws became culturally scorned, and covert racism became naturalized. This new form of racism focuses on penalizing criminal activity while promoting "neutral" rhetoric. Immigrant and Black communities were (and are) characterized as either desirable or undesirable through criminal law. Thus began the rise in immigrant incarceration and deportation for those deemed racially "undesirable" (García Hernández 2014).

Recently, states are implementing a variety of immigration related "criminal offenses" that are punishable by imprisonment. California, Oregon, and Wyoming

criminalize the use of fraudulent immigration or citizenship documents (García Hernández 2017:254). Arizona prosecutes migrants who are "smuggled," which is also referred to as "self-smuggling." Arizona also allows judges to confine witnesses in certain "criminal" cases if they are suspected of being in the U.S. without documentation (García Hernández 2017:254). The most common violations of immigration law on the federal level are unauthorized entry (a federal misdemeanor) and unauthorized reentry (a federal felony). These "offenses" deemed as "crimes" under immigration law set the tone for what García Hernández (2017) refers to as the "removal pipeline" of immigrants (p. 254).

Some scholars focus on the organization of this mass removal of immigrants. Chacón (2010) finds that immigration law enforcement is being decentralized. Customs and Border Patrol (CBP), Immigration and Customs Enforcement (ICE), and the Department of Homeland Security (DHS) are the central law enforcement agencies in control of enforcing immigration law. However, other federal, state and local law enforcement agencies, such as sheriff's offices, municipal police departments, the Federal Bureau of Investigation (FBI), and the Drug and Enforcement Agency (DEA), aid in this "removal pipeline" (Chacón 2010; García Hernández 2017). In 1996, Congress expanded power to state and local law enforcement agencies to enforce federal immigration law. These agencies keep people locked up in jails or prison when they receive an "immigration detainer[3]" from ICE (García Hernández 2017:254), and aid in interior enforcement (Chacón 2010). In addition, some agencies participate in the State Criminal

[3] Immigration detainer is a request from ICE to keep people behind bars if they are suspected of an immigration violation.

Alien Assistance Program ("SCAAP"), which gives these agencies financial incentives to cooperate with ICE in identifying immigrants in their custody (García Hernández 2017). With immigration enforcement reaching all levels of enforcement agencies, the Immigration Industrial Complex (IIC) thrives.

Understanding the Immigration Industrial Complex. García Hernández (2014) argues that immigration imprisonment has been naturalized due to the billions of dollars, thousands of prison beds, and hundreds of third parties invested in its maintenance and expansion. Policy makers and law enforcement agencies are able to hide behind the fact that immigration law is considered *civil* law, thus disguising the reality that they are incarcerating people for offenses that do not deserve punitive punishment. They commonly disguise immigration prisons, or detention centers, as "holding centers" for immigrants awaiting their court hearing, and not what they truly are: *prisons* (García Hernández 2014, 2017). Meanwhile, hundreds of thousands of people are being incarcerated and deported everyday in privatized immigration prisons, as this section will unfold.

Beginning in the 1980s, the mass incarceration of people of color has fueled a system of profit for billionaire owners of private prisons, otherwise known as the Prison Industrial Complex (PIC). Scholars note how this system has made it possible to become rich from the incarceration of people (Díaz 2012; Hallinan 2001). Similar to the PIC is the Immigration Industrial Complex (IIC), where immigrants of color are incarcerated in profit-making immigration prisons. The DHS and ICE control these detention centers and contract two of the biggest for-profit prison companies: CCA and GEO Group. Both of

these companies lobby Congress with billions of dollars in favor of immigration prison policies (Cervantez et al. 2017).

Jesse Díaz (2012) conceptualizes the IIC as a mechanism to maintain White supremacy. Mass incarceration removes those who pose the greatest "threats" to state power, i.e. the poor, youth, and non-citizens (Díaz 2012). Díaz (2012) refers to this process as "ethnodistillation," or the eradication of people of color and Latinx immigrants from society to preserve the hegemonic order, which is a concept used to describe the maintenance of White dominance over ethnic and racialized groups (Díaz 2012). This poses as major threat and source of fear to White racial hegemony as, it may entail the surrendering of demographic, political, and economic dominance. Instead of accepting a more diverse and equalized society, the power of the state refuses to give up its privilege and power, and perpetuates a caste-like system through the ethnodistillation of people of color (Alexander 2012; Díaz 2012).

Golash-Boza (2009) describes the IIC as the convergence of "public and private sector interests in the criminalization of undocumented migration, immigration law enforcement, and the promotion of 'anti-illegal' rhetoric" (p. 295). Similar to the prison and military industrial complexes, the IIC instills rhetoric of fear, converges powerful interests, and creates a dialogue of racial "otherization." Otherization allows politicians to create a "moral panic" of immigrants as a threat to public safety, which then supports government spending on punitive border and interior immigration enforcement (Golash-Boza 2009).

Through the 'illegalization' and criminalization of immigrants, the IIC is able to thrive, and the mass imprisonment and deportation of immigrants is justified as

protecting against those who are deemed “undesirable” (García Hernández 2014; Coutin and Reiter 2017). State actors, such as ICE, have the authority to identify people based on who fits as the “welcome immigrant” or the “threatening alien,” “perpetual foreigner,” or “deportable noncitizen” (Cantú 2009:42; Spade 2011:139). Through this process, immigrants move from federal prisons to immigration prisons to countries outside of the U.S.

The IIC is specifically detrimental to Latinx communities since they make up 17% of the total U.S. population but represent 20 to 25% of the total prison population (Velasquez 2017:283). Velasquez (2017) reviews the “collateral consequences” of mass incarceration and deportation on Latinx communities, and how these consequences are identical to what has occurred to Black communities through mass incarceration. One consequence is the destruction of families, where children are either parentless, raised by one parent or grandparents, and have higher chances of entering the school-to-prion pipeline. Other consequences include people experiencing depression or trauma from separation from their family and their home; difficulty adjusting to a new culture; vulnerability to poverty and homelessness if deported; vilified as threats to American culture; the inability or fear to vote in the U.S. even if they are a citizen; children traumatized by the criminalization and arrest of loved ones by immigration officials; and U.S. born children having to move to their family’s country of origin where they face obstacles adjusting to a new culture (Velasquez 2017).

There are economic and human costs of immigrant incarceration as well. Patler (2015) found in her study where she surveyed 562 incarcerated immigrants in California who had been imprisoned for more than 6 months that long-term imprisonment removed

millions of dollars from local communities due to individual's recent unemployment. This contributes to financial instability for family members of incarcerated individuals, where they are unable to pay for mortgage, rent, or utilities, medical bills, or food (Patler and Golash-Boza 2017; Patler 2015). Reiter and Coutin (2017) find that these individuals are in a "space of legal nonexistence" (p. 567). They argue the 'illegalization' and incarceration of immigrants "disintegrates" them through severe sanctions, such as solitary confinement and deportation, without having access to legal protections. This process of disintegration breaks positive relationships with society, such as employment, civic engagement, education, family, language skills, assets, and religious ties (Reiter and Coutin 2017).

Another collateral damage of the IIC is that it promotes the interests of U.S. employers. The system is designed to scare workers into thinking they can be deported at any time. Thus, workers ability to protest and improve their exploitive working conditions both inside and outside the U.S. is limited based on their fear of deportation (Clark-Ibáñez and Swan: forthcoming).

Federal, state, and local governments imprison over 500,000 people every year in immigration prisons (García Hernández 2017). Anyone who is not a U.S. citizen, or thought to be a noncitizen, even those with "green cards," visas, or legal permanent resident status, is susceptible to imprisonment and deportation. If someone is thought to have 'violated an immigration law,' or has come to the U.S. seeking refuge from violence, s/he is susceptible to incarceration and deportation (García Hernández 2017).

Crimmigration and the Immigrant Industrial Complex (IIC) are key components in understanding the mechanisms of the immigration system and how people are treated

within this system. The convergence of immigration enforcement and the criminal justice system provides a critical race analysis of how undocumented immigrants of color are treated and convicted as "criminals." The IIC perpetuates, justifies, and disguises the criminalization of immigrants by "holding" them in immigration detention centers. In reality, hundreds of thousands of immigrants of color, specifically Latinx immigrants, are incarcerated and disappearing from U.S. society for civil immigration law offences that are treated as "criminal" offences. The idea of who deserves protection and who is a threat is determined by intersections of race, gender, and citizenship status (Spade 2011). As García Hernández (2014) notes, not enough literature studies immigration prisons. My study attempts to understand what is going on in these highly private institutions and courtrooms. This study complements current literature that studies immigration court processes in public courts by adding an analysis of the IIC and concept of crimmigration.

The Violation of Respondents' Human Rights in Immigration Court

The previous section explored literature on the disposition of the immigration system and how it maintains White hegemony. This next section addresses vulnerabilities and violations people are experiencing as they navigate immigration courts, and how these contribute to the maintenance of the hegemonic order. There are some serious differences that result in vulnerabilities for respondents in immigration court, specifically in due process. Immigration law is considered *civil*, which means immigration policies and court processes do not encompass standard due process proceedings as "criminal" law and courts do. Because of this, immigrants in removal proceedings are often victim to human rights violations and law enforcement abuses—they cannot even contest these abuses in court. In addition, respondents are not appointed with legal representation, they

have to contend with interpretation issues, and those in immigration prisons are forced to wear "markers of criminality" in court (Ryo 2016:147). Put all of these vulnerabilities together, and it is hard to find where respondents are given a fair chance in their deportation court hearing. In order to create a more fair system, García Hernández (2014) argues immigration law needs to become *truly* civil and not punitive.

"Due Process" Violations in Immigration Courts. As decided by the Supreme Court, immigration removal proceedings are considered *civil* law and not "criminal" law. Chacón (2010) argues, "immigration courts were not designed to police the police" (p. 1563). In other words, immigration courts do not oversee police activity as state and federal "criminal" courts do. As the executive branch has expanded immigration law enforcement, the immigration "justice system" has not changed to meet this expansion. In *INS v. Lopez-Mendoza* (1984), it was decided that immigration courts only settle deportation proceedings and do not oversee misconduct of police activity in immigration violations (Chacón 2010:1569). Thus, immigration court proceedings lack the same due process of "criminal" court proceedings, leaving immigrants victim to human rights violations and law enforcement abuses.

For example, even though the U.S. Constitution gives rights to *all* under the 4th Amendment's protection against unreasonable searches and seizures, it is applied less stringently in immigration enforcement than it is in the criminal context. The 5th Amendment, which protects against self-incrimination, does not apply in civil proceedings. The Due Process Clause created limitations on extremely coercive interrogations, but these violations are more difficult to establish in immigration proceedings. Immigrants in removal proceedings also have no right to appointed counsel,

but have the right to supply their own counsel[4]. The 8th Amendment prohibits "cruel and unusual" punishment; but since "deportation is not a punishment for crime," this amendment does not apply in immigration civil proceedings (Chacón 2010:1604-6).

The Immigration and Nationality Act (INA) set standards under Section 287 for searches, seizures, and custodial interrogations. This section gives any authorized officer or employee of DHS the power, without a warrant, to interrogate undocumented immigrants about their immigration statuses. In other words, this allows for brief detentions and interrogations without probable cause, and only on *suspicion* of a *civil* violation of immigration law. In *Hiibel v. Sixth Judicial District Court of Nevada* of 2004, the Supreme Court decided that states could pass "stop and identify" laws that require non-citizens to answer an officer's request to identify themselves (Chacón 2010). Further, Section 287 allows immigration enforcement to arrest someone if they have "reason to believe" that person has violated immigration law. Although the law requires warrants for searches and seizures in private homes, officials are conducting these searches without warrants; the court sometimes uses the evidence ICE officials seize when conducting these searches. Finally, officials do not need to give *Miranda*[5] warnings in "civil" arrests, only for "criminal" arrests. However, incentives for immigration officials to give warnings in "criminal" arrests are lower than in noncriminal arrests because the government can still use evidence obtained in violation of *Miranda* in civil deportation proceedings (Chacón 2010:1606-11).

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[4] Obtaining counsel, or legal representation, for court can be very costly and a difficult procedure, especially if respondents are being held in immigration prisons with a lack of resources.

[5] Upon an arrest, the officer must inform the person of the appropriate rights as required by the law during the arrest or soon after (Chacón 2010:1606).

Access to Counsel. Immigration prisons are "total institutions" (Goffman 1961), where individuals are cut off from society by walls and fences, just like prisons. Emily Ryo (2016) is one of the few scholars that has examined bond hearings in immigration courts. She used original survey data from 565 respondents incarcerated at four immigration prisons, as well as courtroom observation data focused on bond hearings. She found attorneys are respondents' intermediaries between themselves and the outside world. Attorneys are crucial for respondents locked up in immigration prisons because they help collect and find relevant documents and evidence in support of their case (Ryo 2016). Lack of access to counsel poses as a major vulnerability and violation of human rights for immigrants in removal proceedings.

While an attorney from the DHS represents the government (Family 2015), the government does not provide representation for respondents, as it does in "criminal" court proceedings. Respondents are left to find and pay for their own legal counsel, a process that is extremely difficult and costly; those being held in immigrant prisons are significantly less likely to find counsel because of the lack of resources and employment to afford a lawyer. Eagly and Shafer (2015) present the results of the first national survey of over 1.2 million deportation cases of access to counsel in immigration courts between 2007 and 2012. They found that only 14% of respondents in immigration prisons were able to find legal representation, and 37% of all immigrants were able to obtain a lawyer. Overall, only 2% of respondents had free legal services through non-profit organizations, law school clinics, or large law firm volunteer programs (Eagly and Shafer 2015). Those with representation compared to those without representation were fifteen times more likely to find relief, and about five times more likely to find relief from removal.

Represented respondents had a better chance of being released from custody, having their cases terminated, or were more likely to go to their future court hearings (Eagly and Shafer 2015). In addition, Miller et al. (2015) found the quality of legal representation plays a significant role in asylum case outcomes.

Another advantage of legal representation is that respondent's attorneys can negotiate with government attorneys before the hearing to propose, for example, a "bond settlement" to immigration judges. Ryo (2016) found in her courtroom observation data that the judges used the proposed bond amount agreed upon by the attorneys and did not pose additional questions. In contrast, respondents with no legal representation did not have this privilege of negotiation, which then decreased their likelihood of being granted bond. In an interview with a respondent, they noted that those with legal counsel are viewed as a "worthy opponent" of being granted bond and that it shows more commitment to and investment in the legal process (Ryo 2016:145).

Eagly and Shafer (2015) find there is discrimination on who can find counsel based on detention status, geographic location of the court, and the nationality of the respondent. As mentioned above, respondents held in immigration prisons are least likely to find counsel. Those who had court hearings in large cities were four times more likely to be represented than those with hearings in small or isolated court locations. Mexican respondents had the lowest representation rate: only 21% were represented in court when compared to other nationality groups, but they make up the majority of who is being incarcerated and deported (Eagly and Shafer 2015).

As Eagly and Shafer (2015) suggest, advocates, scholars, and public figures are beginning to advocate for the national public defender system to appoint counsel for

some poor immigrants in deportation proceedings. In a decision in the Ninth Circuit, immigration judges now have to appoint legal representation to respondents with serious mental health discrepancies. Government and Philanthropic donors in New York City established the first program to provide legal representation for respondents in immigration prisons. In New Mexico, a pro bono effort created universal volunteer representation for women and children held in remote immigration prisons. Some of those in favor of providing counsel for respondents argue attorneys reduce the strain on overworked judges by resolving cases more quickly. Despite these small efforts, the majority of respondents in immigration prisons throughout the nation are not being legally represented in court, leaving them vulnerable to deportation (Eagly and Shafer 2015). My study contributes to this national survey data because helps understand what it looks like to not be represented by an attorney in immigration court.

Bond Hearings. Bond hearings, or custody hearings, are vulnerable and unique spaces for incarcerated respondents, especially for those with no legal representation. Ryo (2016) finds that bond hearings are important to study due to the lack of literature on them and that they deprive respondents of their liberty. For example, denial of bond means a longer separation from family and a cut off from basic sources of social and economic support that may help a respondent obtain legal counsel. In a bond hearing, the judge decides if they believe the respondent is a "danger to society," as seen in "criminal" court proceedings, *and* if they are a "flight risk[6]" (Ryo 2016). If the judge decides the

[6] When a judge deems someone a "flight risk," this means the judge believes the person will not show up to future court hearings unless they stay incarcerated at the immigration prison.

respondent is either of these, they are denied bond. Both legal representation and respondent's "criminal" history determine bond outcomes (Ryo 2016).

Recently, the Ninth Circuit, in *Rodriguez v. Robbins*, ruled bond hearings are required when detention exceeds six months, and a bond hearing is required every six month after that if the person is still incarcerated. This bond is commonly referred to as a *Rodriguez* bond. It was enacted when Alejandro Rodriguez was incarcerated for three years and two months while his removal proceedings were pending. Before this ruling, thousands of individuals were held in immigration prison for more than 180 days (and up to 5 years or longer) without access to a bond hearing (Firmacion 2015).

As legal representation plays a vital role in bond hearing outcomes, Ryo (2016) finds respondent's "criminal" history is most detrimental in bond hearings. Although evidence is mixed in the criminal justice context of whether "criminal" history is significant in bond hearing matters, Ryo (2016) provides possible explanations of respondent's "criminality" as the determining factor in their bond hearing. Immigration judge's lack of resources and time constraints may make them resort to respondent's "criminal" history as the determining factor of respondent's moral character. Further, immigration judges may decide to deny bond since it is a safer decision to ensure their profession and minimal backlash from the public. Most importantly, incarcerated respondents have "physical markers of criminality" because they have to wear government issued uniforms (Ryo 2016:147). These uniforms are the same as those in prison or jail, and are color-coded indicating ICE's assessment of security risk. As Ryo (2016) found in her observational courtroom data, my study provides further insights on how bond hearings and "markers of criminality" are detrimental to respondent's cases.

Since my study uses primarily ethnographic data, my study focuses on humanizing the immigration court process. My study captures how judges and other actors in the court may criminalize certain immigrants and not others, and how this may determine their individual case or bond hearing outcomes.

Language. In my preliminary fieldnotes, I noticed serious issues with interpretations inside the courtroom, and I have sought out literature to address this problem. Laura Abel (2011) explores language accessibility in immigration courts in hopes to provide the Department of Justice (DOJ) with guidelines to improve its language assistance plan. In immigration courts, the majority of respondents (85%) does not speak English as their first language, or have limited proficiency in English, also referred to as "LEPs" (Abel 2011). Abel (2011) argues immigration courts fail to provide LEP respondents with "meaningful access" to language interpretations. Immigration courts do not require interpreters, or court translators, to obtain certifications from the Administrative Office of the U.S. Courts or the states courts' Consortium for Language Access in the Courts. Immigration courts will commonly use telephonic interpretation performed remotely, where there is a lack of technological capabilities. Also, immigration courts fail to translate vital written documents for LEP respondents. Executive Order 13166 requires all federal agencies to provide "meaningful access" to LEP respondents, and the DOJ is responsible for implementing this.

Although the EOIR has taken steps to comply with this Executive Order, such as providing interpreters to LEP respondents who request them, Abel (2011) finds EOIR is still not providing "meaningful access" to LEP respondents. One problem is interpreters provide only partial interpretations of court proceedings, impeding respondents

understanding of their case. There is also an inconsistency in quality interpretations, inadequate video or telephone technology affecting quality, and the lack of commonly spoken languages available on immigration court forms and websites. These ongoing problems with immigration court interpretations means "people lose their freedom, families, livelihoods, and homes because of simple misunderstandings" (Abel 2011:1).

Pulitano (2013) reviewed the work of Italian sociologist Alessandro Dal Lago, where he argues immigrants and asylum seekers are deemed judicially and socially illegitimate due to "linguistic opacity" (p. 184). This means that people are limited through language in representing their true identity, thus reducing them to categories of "non-persons" (Pulitano 2013:184). As immigration court translations are often not accurate or held to higher standards, respondent's identities can be skewed. My study explores how those who speak the dominant language of the courts, English, have a linguistic privilege over other respondents, and are thus less often reduced to "non-persons" (Pulitano 2013:184). Since hardly any studies explore language accessibility in immigration courts, my study contributes to this literature. An analysis of immigration court laws cannot be enough to understand the perplexity of language accessibility. My ethnographic observations provide first-hand insight into how poor translation is detrimental to immigration case outcomes, especially for respondents with no legal representation.

With no fortified legal counsel, markers of criminality, no due process protections as seen in "criminal" court proceedings, and other vulnerabilities in court, respondents do not have a fair chance at receiving some type of relief from removal. Due process in immigration courts compared to "criminal" courts exemplifies how

immigrant's rights are being violated in the U.S. justice system. Since immigration laws and courts are considered civil entities, but they are being processed and convicted as "criminals," how can due process be upheld? García Hernández (2014) finds immigration incarceration is not truly civil, but punitive. He argues that the immigration incarceration system either become more penal by adopting criminal procedure doctrines, such as appointing respondents with counsel; or better, it must become truly civil. To do this, the system, "must move away from its punitive past and into a future where detention is the exception and liberty is the norm" (García Hernández 2014:1414).

Dynamics of Immigration Court

Previous scholars have studied the scope of immigration courts, immigration judges, how courts are performances, and how respondent's social location shape their cases. According to Family (2015), Congress has created rigid statutes aimed to decrease the discretion for immigration judges in their decision and to keep immigration law within the Executive branch. There are "check the box" types of statutes judges abide by and a quota on the number of respondents who can receive cancellation of removal per year. If a respondent wants to appeal the judge's decision in their case, they send this appeal to the Board of Immigration Appeals in Virginia, still under the DOJ. Finally, if the respondent wants to appeal the decision of the Board of Immigration Appeals, then the Judiciary branch of government reviews the case. There are several problems with this system. As Family (2015) writes:

> The system faces extreme challenges, including a lack of resources, tremendous backlogs, a lack of decisional independence, a lack of representation for foreign nationals, a lack of esteem, a disconnect between the simplicity of procedure

> afforded and the complexity of the substantive law to be applied, an inability to fully commit to the importance of procedural protections for foreign nationals, and efforts to divert foreign nationals from the adjudication system in favour of mechanisms that provide even fewer procedural protections (p. 183).

The rise in immigration enforcement has created extreme backlogs and an increasing number of cases for immigration judges to hear. In 2008, just over 200 judges completed 274,469 removal proceeding cases (Chacón 2010:1567). As of November 2017, there was a backlog of 658,728 cases (TRAC 2017), and the average wait time for respondents to have their case heard was close to two years (Harris 2015). As several political and immigration analyst believe the backlog under the Trump administration will slow down deportations, Koh (2017) disagrees. Since legal sanctions allow the government to deport immigrants without court hearings, also known as expedited removals, mechanism for removal without immigration courts will be likely expanded under the Trump Administration. Koh (2017) defines expedited removals as immigration court's "shadows," and that these "shadow" removals compromise the vast majority of all removals (p. 460). Koh (2017) argues that the issues with "shadow" removals, such as fewer processes, fewer lawyers, and fewer legal claims, will ultimately bleed into immigration courtrooms.

Challenges Facing Immigration Judges. Unlike federal judges, immigration judges do not have several clerks to assist them. They often face respondents with no legal representation and those who qualify as LEP respondents (limited proficiency in English). A lack of quality court translations affects both the judges and respondents, leaving both parties with detrimental misunderstandings (Abel 2011; Chacón 2010).

Several judges on temporary assignment are less likely to be familiar with the history of the cases on their docket (Koh 2017). Due to the increasing incarceration of immigrants in detention facilities, immigration judges also have to adjudicate bond hearings, where they decide if respondents can be released from custody at an immigration prison (Chacón 2010). Ramji-Nogales et al. (2009) found that the gender of immigration judges and their previous work experience is significantly associated with respondent's chances of winning asylum. Ryo (2016) describes immigration judge's roles as performing "quasi-criminal law functions" of immigration law (p. 119).

Family (2015) suggests more immigration judges are needed. However, immigration courts are not priority for immigration law, as seen in their lack of resources. In 2008, immigration judges had the highest burnout rate than any other profession. Immigration judge training conferences are scarce as well, where in 2015, only one conference was held within the past five years. Several scholars say the system is like "deciding death penalty cases in traffic court" (Family 2015:184). In sum, the system is underfunded and judges are overloaded with cases.

While some scholars find judges are bound by stringent immigration law statutes in making their decisions and are overworked (Family 2015), other scholars find judges use too much discretion in making both quick and life-altering decision. As Lipsky (2010) explains, street-level bureaucrats are humans and use their discretion in decision-making and forming opinions and biases. Immigration judges are not the exception. Marouf (2011) studies the "implicit bias" of immigration courts, judges, and the Board of Immigration Appeals (BIA). Marouf (2011) argues that although judges are naturally biased, the conditions under which judges must make life-altering decisions render an

implicit bias. Judge's "lack of independence, limited opportunity for deliberate thinking, low motivation [resulting from high stress levels and burnout rates], complex caseloads, and the low risk of review all allow implicit bias to drive decision-making" (Marouf 2011:n.p.).

Wistrich and Rachlinski (2017) find that judges rely too heavily on their intuition in decision-making, rendering systematic errors in judgment and implicit race and gender bias. Since we cannot expect judges to perform as non-biased objective actors, Marouf (2011) argues for comprehensive immigration reform to help *reduce* implicit bias, such as increased recourse for judges, conducting evaluations of their performance, and provide training to make them aware of the effect of implicit bias. More complex reforms include restricting the entire immigration court system and implementing more reliable rules for issues such as credibility determinations (Marouf 2011). My research contributes to revealing judge's biases in immigration courts, as well as noting judge's tones, gestures, facial expressions, and the organization of their courtroom. I also take note of their gender and race in my analysis.

Courts as Performances. In a critical analysis of courts and the law, Merry (1994) conceptualizes the significance of performances and the discretionary modes of power in court hearings. She finds that court areas create and impose cultural meanings, such that courts act to interpret, name, discuss, and settle each case. Courts use discretionary power to decide the outcome of cases and how severe a penalty will be. These procedures, the agents who work in the court, and the organization of the court act like a drama or performance, which influences ideologies about social hierarchy, authority, and order. In sum, these performances of the court convert the issues and relationships of everyday life

into legal terms. While courts may be a sight of resistance, this resistance must strictly be framed around the law and the hegemonic order: “Court performances introduce the cultural practices of the dominant group to the subordinate group as they impose new regulations and conceptions of social relationships” (Merry 1994:40). In other words, courts superimpose the hegemony of the law on social rules and relationships.

While Merry (1994) provides a critical analysis of immigration courts as reinterpreting power, Ursula Castellano studies various courts through an ethnographic and organizational lens, and accounts for the different roles of the actors inside courts. Although Castellano (2017) has not studied immigration courts in particular, her analysis of mental health courts (MHCs), and traditional courts, is useful to my study. She finds the social and political behavior in traditional courtrooms shapes judicial behavior. Judges in traditional courtrooms play a passive role and act as “cogs in a bureaucratic machine,” making decisions in a routine and predictable fashion (Castellano 2017:401). In nontraditional courts, judges often participate in a process Castellano (2017) refers to as the *politics of benchcraft,* where judges must rise to the larger challenges embedded in alternative courtrooms (p. 417). Castellano (2017) found judges apply legal reasoning, humanitarian ideals, and sound judgment to protect individual rights. She argues scholars should look at the ecology of courtrooms, and how this affects the public’s opinions of judicial fairness. This approach to immigration court observations is important to understand judge’s roles in a more holistic way. Instead of entering the court with the impression that judges are out to get respondents, I found it important to be fair in my analysis and take note of judge’s attitudes in certain courtroom situations.

Actors in the court include judges, judge's clerks, attorneys, respondents, observers, such as family, friends, or the general public, and in this thesis, guards at detention centers. As Lipsky (2010) notes, street-level bureaucrats (SLB) use their discretion in "determining the nature, amount, and quality of benefits and sanctions provided by their agencies" (p. 13). Rules, regulations, occupational and community norms shape these decisions and judgments. These influences and interactions with the public establish street-level policy. Therefore, SLBs, and in my study the guards, are the intermediaries between the law, which is created by the dominant social group, and responsive to the cultural systems of the subordinate group (Merry 1994:40).

Intersectionality and Heteronormativity within Immigration Courts. Chauvin and Garcés-Mascareñas (2014) examine the notion of immigrant "illegality." They find that the state is "rewarding illegality" by creating more severe criteria to becoming a "legalized" citizen. For example, in order to obtain any type of "legal" status in the U.S., individuals have to prove their 'deservingness' through having lived in the U.S. for several years or by fully integrating into 'mainstream' society. The opportunities of legalization intensify a hierarchy between "deserving" and "undeserving" individuals and/or groups of people. Chauvin and Garcés-Mascareñas (2014) conclude that states restrict the "right to deserve" by promoting 'deservingness' frames and limiting migrants access to this 'deservingness;" thus, the right to deserve is turned into a "civic privilege" (p. 429). This "civic privilege" is highly racialized, gendered, and based on one's ability to fit a heteronormative persona—the ability to fit mainstream and hegemonic ideologies of "normalness," such as being a White upper-middle class heterosexual male and U.S. citizen. (Cantú 2009; Chauvin and Garcés-Mascareñas 2014).

While Latino males comprise the majority of those targeted for detention and deportation (94% as of 2015), women, children, and unaccompanied youth may also be targeted. As of 2013, 60% of people deported were of Mexican origin and 32% were of Central American origin (Cervantez et al. 2017; DHS 2016; TRAC 2014). Golash-Boza (2016) refers to the criminalization of Latino male immigrants as a "gendered racial removal program," but also recognizes the rise of female and youth criminalization as anti-immigrant and deportation policies intensify. This "gendered racial removal program," or mass deportation phenomenon, is similar to mass incarceration, where law enforcement disproportionately targets poor men of color to be imprisoned and isolated from the rest of society, creating the idea of enhanced security for White upper class society (Golash-Boza 2016; Spade 2011).

Cervantes et al. (2017) conducted interviews with eleven immigration lawyers who have access to women who are or were incarcerated in immigration prisons or "Alternative to Detention Programs" (ATD) to understand the women's experiences. Women apprehended at the border are usually from Central American countries, El Salvador, Honduras, or Guatemala, seeking asylum from gender violence. These women are usually placed in ATD programs after being held in detention if their case needs further evaluation. Women apprehended in the interior may or may not be released on bond if they do not pose a threat to society or are not a "flight risk" (Cervantes et al. 2017). Cervantes et al. (2017) argue that feminized or "humane" discourses of care for families and children in immigration detention and ATD programs disguises strategies of control aimed at Latina immigrant bodies. For example, some immigrant women are separated from their children, often U.S. citizen children, for long periods of time,

causing mental and emotional trauma for both mothers and children. Women incarcerated in immigration prisons and ATD programs with their children often lack resources, social, and physical spaces to care for them, and are thus labeled as "bad mothers" (Cervantes et al. 2017). These "humane" tactics of control and state power are fused with immigrant's everyday lives, suppressing women's rights and veiling the violence that women experience (Cervantes et al. 2017).

Gender roles and heteronormativity shape respondents outcomes. Gathings and Parrotta (2013) explored the use of gendered narratives through courtroom observations and how they are useful for defense attorneys to construct their clients as "worthy of leniency." They discovered that leniency depended on the ability for the defense attorney to "accomplish gender" in a heteronormative and conventional fashion for their clients (Gathings and Parrotta 2013:673). Thus, men were depicted as good workers, fathers and providers, and rational actors, and women were described as having mothering responsibilities, being caretakers, and being economically dependent on men. Those who could accomplish these gender norms were more successful in court than those who did not fall into these traditional gender categories. Gathings and Parrotta (2013) find that the effective use of gender narratives in courtrooms allows the court to police gender and reproduces a hegemonic gendered order. My study contributes to this research because it explores gender narratives in immigration courts and how those with no legal representation attempt to advance their case through the use of gender narratives.

In addition to gender roles in court, immigration laws have traditionally excluded lesbian, gay, bisexual, transgender, and queer (LGBTQ) immigrants from applying for asylum, as seen in the Immigration and Nationality Act (INA) of 1952. Although this law

has been overturned, the covert heteronormativity of immigration policies remains firmly intact. In other words, although immigration policies may not overtly bar certain immigrants from advancing their status, the criterion for applying for asylum, citizenship, etc. may be extremely difficult, especially for those who do not 'fit' the heteronormative persona (Cantú 2009). This is similar to the way in which after the Civil Rights movement racism went from being overt to covert. White racial order was stabilized through the hyper-criminalization of Black and Brown communities instead of through slavery or Jim Crow laws (Alexander 2012; Díaz 2012). Cantú (2009) argues scholars must expose how the U.S. immigration court system and its policies act to covertly discriminate against certain immigrant groups and not others, and how heteronormativity manifests through immigration court systems.

The intersection of gender and sexual orientation are vital factors that shape asylum and immigration processes. The heteronormativity of immigration policies serve to discriminate against gay and lesbian immigrants. For example, the heteronormative definition of 'family' bars gay or lesbian couples from claiming citizenship through their U.S. partner (Cantú 2009). While the state recognizes that individuals' sexual orientation or HIV status may place them under persecution in their country of origin, the process of proving this persecution is extremely difficult. Therefore, being granted political asylum on the basis of fear of persecution is difficult for individuals who identify as gay, and nearly impossible for individuals who identify as lesbian due to their compounding intersecting identities (Cantú 2009).

Class also plays a vital role in an immigrant's identity and possible strategies for moving through immigration boundaries (Cantú 2009). For example, Cantú (2009) found

that queer immigrants can make a case for professional entry into the U.S. if they possess a certain skill or profession. The privilege of having the resources and money to afford a lawyer also helps in advancing their case. In addition, immigrants who are better informed on issues gain the privilege of utilizing their resources and advancing their chances in immigration relations. The fact that certain immigrants are able to use their privileges and resources to better their chances in immigration proceedings exemplifies how the U.S. is able to maintain social control through awarding those with advanced social privileges and demonizing those with oppressed social locations. This process of immigration regulation helps the U.S. to determine who is "desirable" and who is not (Cantú 2009; Díaz 2012; Neubeck and Cazenave 2001).

My study is informed by understanding how identities are performed and the ways that the court actors respond and decide outcomes. My study contributes to immigration court literature through humanizing the immigration court process using an ethnographic research approach. A critical qualitative look inside immigration courts within immigration prisons is needed because it is able to capture emotions, narratives, interactions and dialogues that are controlled through bureaucracy and the law. My study takes note of identity performances and how court actors delegate case outcomes. Immigration courts in immigration prisons are vulnerable areas for respondents. Discovering discrepancies within the U.S. justice system in immigration law is pivotal for creating better policies and advocacy for undocumented populations.

METHODOLOGY

Before deciding on the methodology and site for my master's thesis, I wanted to see if I could gain regular entry into an immigration court inside an Immigration Prison.

Even though the site is technically a public venue, it is in a remote area and involved various steps to get inside the facility. After each successful attempt at visiting the court, I wrote ethnographic fieldnotes that detailed the interactions I observed as well as my personal insights, feelings, and reactions to the courtroom dynamics. Therefore, my pilot study of immigration court accumulated five months of ethnographic data collection.

Ethnographic Approach

Ethnographic field research studies people in their everyday lives. An ethnographic approach is also characterized as "participant observations," where the researcher participates in the habitual routines of the setting, develops relationships with those in the setting, and observes interactions. The researcher takes detailed fieldnotes of what she/he observed and experienced, to accumulate written records that are considered qualitative data (Emerson et al. 2011). Emerson et al. (2011) explain that ethnography is a way to describe and understand social worlds. Ethnographers should seek a deep *immersion* in other people's worlds, and to see from the *inside* how others make meaning of their lives and daily routines. Goffman (1989) suggests to "subject yourself" to your field setting in order to see how people respond to events in their everyday lives and to experience the events and situations for yourself as a researcher (Emerson et al. 2011:2-3).

Using an ethnographic research approach is appropriate for my study because much of the existing data on immigration courts uses quantitative methods. An ethnographic approach complements statistical data and humanizes the bureaucratic processes in creating a clearer picture of witnessed events and interactions that occur in immigration courts at immigration prisons. Ethnography seeks to transform these

witnessed events into written down social discourse, something quantitative research is unable to do (Emerson et al. 2011).

This ethnography uses unobtrusive observations, where I observe people, their behavior, cultural artifacts, such as posters or art on the walls, and hear discourse. As Lofland and Lofland (1995) discuss, gaining access at a fieldsite as an "unknown investigator" (p. 32) requires me to play a certain role in the setting and secretly collect my data. In this ethnography, I played an innocent student role curious about the immigration courtroom processes, which is discussed in more detail in my reflexivity section. Although immigration courts are open to the public, the atmosphere becomes private due to the sensitivity in each case. For individual hearings, as I discuss in my ethical considerations section, respondents had to grant me permission to stay and observe at their hearing. In other cases where permission was not required, blending my role as an unknown investigator and considering ethical implications became a matter of the respect I had for my participants in preserving their integrity, privacy, and humanity.

This ethnography also uses a studying up approach since I take note of all interactions in the courtrooms and prison. Through studying up, I am gaining access to the work of professional elites, such as judges and lawyers. As Gusterson (1997) argues, "the cultural invisibility of the rich and powerful is as much a part of their privilege as their wealth and power, and a democratic anthropology should be working to reserve this invisibility" (p. 115). My ability to study up is accessible because of my positionality as a White middle-class female graduate student, as will be further discussed in a later section.

There are, however, limitations to an ethnographic approach. In my study, I am limited to interacting with certain participants at the Immigration Prison. Most of my interactions occur with the guards and less often with other observers, lawyers, or respondents. Many times I am unable to directly interact with important members of the court fieldsite. Becker (1967) suggests with little to no interaction with participants, we may misconstrue meanings. This is inevitably dangerous. As I wrote my fieldnotes, I aimed to not assume or summarize the viewpoint of participants; rather, I used thick description to record interactions, events, and experiences, and acknowledged that these descriptions were from my point of view (Geertz 1973).

Using an ethnographic approach for this study, I never truly achieved an insider status. In relation to the respondents, I am not incarcerated, I am not an undocumented immigrant nor are any of my family members, and I could leave or not go to the Immigration Prison as I chose. As the hearings ended, I watched as the guards escorted the respondents back to their cells, while I left the facility. I have no special access like the staff. In relation to the judges and attorneys, I have no special knowledge of the law or professional status. In addition, I observed at the Immigration Prison for two to five hours once a week, and sometimes biweekly; I was not obligated to go everyday like the staff and judges. For these reasons, I am an outsider of the Immigration Prison and the court inside.

Through recognizing my position as an outsider of my fieldsite, I have become an "active participant" at the Immigration Prison, building relationships with those whom I am able to interact with, such as the guards and judges (Emerson et al. 2011:4). These interactions are crucial to attempt to understand their point of view, as this helps

understand and interpret the interactions played out in the courtrooms and Immigration Prison. As Emerson et al. (2011) suggests, ethnography does not determine the "truth," but rather reveals various truths in others' lives.

Setting

The Immigration Prison is located in an isolated area near the U.S.-Mexico border. Surrounding the Immigration Prison are mountains and industrial factories. There is a road a few miles long from a highway leading to it. The building is surrounded with double fences and barbed wire. It is a dull brown color with no windows. As a student observer, I was not granted access inside the entire Immigration Prison. I was only able to observe in courtrooms, which were located one story above the entrance or lobby area. Upon entering the building, I went through a double gate, where a man (or less likely a woman) through a speaker would instruct me to not bring in anything expect my photo identification and car keys. Once through these gates, in the lobby area I went through a security check and was escorted up the stairs to the courtrooms. There was a seating area with a television for guests waiting to observe a court hearing. Through two doors, there was a hallway with a row of doors on the left leading to all of the courtrooms. There were five courtrooms.

Before I started my data collection at the Immigration Prison, I was involved in an ethnographic project at a non-detention center immigration court located in an urban area. Both of these courts are open to the public; however, because of the prison-like feel of the immigration prison, I was unsure if I would be granted access (EOIR 2017). Before my first visit to the Immigration Prison, I called to ask if I would be able to observe in their immigration court. After being transferred several times and asked to call back, a

worker at the Immigration Prison finally told me I would be able to observe. That following week I began my preliminary ethnography at the Immigration Prison. This stage was crucial to prepare for a more systematic thesis data collection.

The region of my fieldsite has relatively lenient outcomes to immigration cases as compared to other states in the U.S. Pearson (2011) notes that in my specific fieldsite region, 64% of cases resulted in deportations in 2009, and in 2011 that number dropped to 46%. Overall, the state of my fieldsite has been more likely to allow undocumented immigrations to remain in the U.S. Immigration and Customs Enforcement (ICE) officials, however, continue to arrest and incarcerate people in mass numbers (Pearson 2011).

Participants

There are several participants in my study. Since this is an ethnographic research project, I included every actor that I observed at the Immigration Prison and in the courtrooms. My participants included: security guards; respondents (those who were imprisoned at the Immigration Prison); guests, such as family or friends of the respondents; the lawyers of the respondents (who were sometimes accompanied by interns); judges; judges' clerks; interpreters; and, the government lawyer, also known at the ICE attorney. I created pseudonyms for all judges' names. On one occasion there was another observer like myself; the man used to be a lawyer and was interested in becoming an immigration attorney.

Throughout some of the hearings, I did not always know the respondent's country of origin. I observed that most of the respondents were from Mexico, followed by countries in Central America. Some respondents were from Caribbean and African

countries. There were two male respondents were from both Western and Southern Asian countries. When the country of origin is not mentioned in this thesis, it was because I either was not present when the judge or one of the attorneys mentioned the country of origin or because it was not mentioned at all. Based on respondent's country of origin, I was able to conclude most respondents were Latinx of Mexican origin, and the majority were Latino males. I observed very few females. When I am aware of the respondent's country of origin, I noted their ethnicity if they are Latinx or the *continent* of origin to guarantee confidentiality throughout my findings. The only country of origin I reveal is Mexico since the large majority of respondents going through the U.S. immigration system are from Mexico.

In my preliminary fieldnotes, I did not record the colors of respondents' prison uniforms. Halfway through my observations, I began taking note of respondents' uniform colors and found majority wore either orange or red, meaning they were classified as "medium" or "high" level, respectively. A little more than half of respondents were not legally represented. The majority of hearings I witnessed were either asylum cases or bond hearings.

Data Collection

At the Immigration Prison, I was not able to bring in any materials, such as a notebook or phone. These items are common for ethnographers to take detailed descriptions of observations and experiences. My fieldnotes consist of everything that I was able to remember once I exited the Immigration Prison. With practice in this preliminary stage, my ability to recall details and understand legal jargon improved. When analyzing my data, I noticed how there are gaps in some stories since I was not

able to remember all details. While some stories are rich in details, others are not. I either did not use these less-detailed examples or I was able to find some meaning in them.

During the preliminary stage, I frequented the Immigration Prison immigration court 14 times for 2 to 5 hours each visit. After I left the facility, I would get into my car and immediately started recording myself on my phone to remember the details of what I had just witnessed. After these recordings, I would go home and type my fieldnotes. Since I practice a reflexive approach to ethnography, I included my opinions, emotions and commentary. However, they are bracketed throughout my fieldnotes.

Table 1 (below) details the dates and times I observed at the courtrooms and prison, and the number and type of hearings I witnessed that day. Morning hearings began at 8:30am and afternoon hearings started at 1pm. I had no sense of time inside the courtrooms because I could not bring my phone and some courtrooms did not have clocks on the walls. I assumed most hearings were starting on time, but some hearings took five to ten minutes longer to begin depending on the judge. Master hearings briefly review someone's case and schedule the individual (or merit) hearing. Individual hearings are someone's private individual case, where it is decided if someone can find relief from removal or will be deported. Permission from the respondent to observe in these cases is required. Bond hearings are only held in immigration prisons because they determine whether someone can be released from prison or not.

Table 1. Immigration Courtroom Observations

Date	Time	Number of Hearings	Type of Hearing
7/11/17	Morning	4	Bond
7/21/17	Morning	1	Individual
8/1/17	Morning	4	Bond
8/15/17	Afternoon	4	Master
8/15/17	2:30pm (switch rooms)	5	Bond/Master
8/22/17	Afternoon	1	Individual
9/14/17	Morning	2	Bond
9/25/17	Morning	1	Individual
10/13/17	Morning	1	Individual
10/20/17	Morning	3	Individual/Master
10/26/17	Afternoon	3	Master
10/31/17	Afternoon	2	Master/Individual
11/9/17	Morning	1	Individual
11/17/17	Morning	1	Bond/Individual
12/4/17	Afternoon	6	Master

Positionality and Reflexivity

My passion to understand the experiences of undocumented immigrants in the U.S. developed my interest in immigration courts within immigration prisons. Since I am a White female graduate student and citizen of the U.S., I have no personal experience or knowledge with undocumented immigration. In my undergraduate studies, I developed an interest in immigration and a passion to understand why certain undocumented immigrants are marginalized in the U.S. Through research and community involvement, such as in non-profit legal aid organizations and grassroots organizing, my knowledge and compassion grew. My thesis explores this passion to understand the experiences of undocumented immigrants as they navigate through the unjust U.S. immigration system.

In gaining access to the Immigration Prison's immigration court, I have become a "worthy witness" of what goes on inside (Paris and Winn 2014). In part, I gained this access because of my positionality. I am a young White female student and citizen of the U.S. In addition, others viewed me as "innocent" and "curious." When asked about my purpose at the Immigration Prison, I truthfully said that I was interested in immigration law and wanted to learn more about immigration court. Slowly I started to disclose to certain participants, who asked me repeatedly about my purpose, such as guards and one of the judges, that I was a graduate student and was thinking about using what I learned at the Immigration Prison in my thesis. My research did not appear to worry or alarm anyone at the Immigration Prison and access continued for the duration of my study.

Since knowledge is situated in our standpoint, we must acknowledge the impact intersectionality has on our research purpose and analysis (Collins 2000). For example, through a feminist standpoint epistemology, we recognize how our different social positions and intersectionality influence the questions we ask, whom we talk to in the fieldsite, how we make sense of our experiences at the fieldsite, and how we analyze our findings (Naples 2000). As Winddance Twine (2000) notes, "racial and color hierarchies mediate social interactions" (p. 5). In my case, as a U.S. citizen and educated White female, I am reflexive of my positionality and recognize my experiences are not the same as my participants, and that my interactions are mediated through my identity. As will be further discussed in my findings, one family of a respondent thought I worked at the Immigration Prison because of my identity. They asked for my help in their loved ones case since there were issues with interpretation. I sadly had to reveal to them I did not work there and could not help in their case.

I have grown up in a society that privileges "Whiteness"; I have never experienced discrimination or marginalization based on my identity. Because of my Whiteness, I have never been targeted by immigration law enforcement—my 'citizenship' or 'legal' status is assumed and never questioned. In recognizing this, I am not claiming to write an accurate story of the experiences of my participants because my data are from my point of view. In using a standpoint and reflexive method, my research *attempts* to deconstruct traditional positivist social research, challenge mainstream sociology, and counter destructive master narratives through a Critical Race Theory lens (Grahame 1998).

Humanizing Research Approach

Paris and Winn (2014) conceptualize the humanizing research approach as building relationships of care and dignity and creating a "dialogic consciousness" (p. xvi). In using a decolonizing approach, my study aims to place marginalized or oppressed communities at the center of focus. Social researchers become "quilt makers" of social worlds and social meanings, and create narratives (Denzin and Lincoln 2005). Critical sociologists tend to not follow the "hierarchy of credibility," which is a socially accepted understanding that those with power and privilege create knowledge (Becker 1967:241). David Kirkland suggests knowing how to listen to participants and privileging their voices over society becomes a matter of ethics (Paris and Winn 2014). Although I did not conduct interviews to truly grasp the narrative of my participants, this ethnography sought to humanize a highly dehumanizing process for individuals as they navigated U.S. immigration law through the court.

Through a Critical Race lens, I focused on how intersecting avenues of oppression create unfair outcomes for people facing immigration incarceration and deportation. This oppression constructs master narratives, which label undocumented immigrants as "problems" and "illegal aliens." The incarceration of undocumented immigrants, especially of color, is justified and their deportation is viewed as necessary to maintain hegemonic order. My position as a researcher is to question, how is this a social issue and how is this creating unfair treatment of certain individuals facing incarceration and deportation? Elvira Pulitano (2013), an immigration and critical race scholar, argues that, "complex human stories lie behind the phenomenon of so-called illegal immigration and that such stories need to be heard if the United States intends to live up to its founding principles of dignity and respect for all people" (p. 173). She suggests there needs to be a human aspect to the immigration debate.

Ultimately, my research of an immigration prison's courtrooms might create political and social awareness of the social injustices the system creates for undocumented individuals in the 'removal' process (Paris and Winn 2014). It also attempts to deconstruct the master narratives of undocumented populations. Through the humanizing approach, I acted as a "worthy witness" to the dehumanizing events that played out inside the immigration courts (Paris and Winn 2014), and attempted to capture the human emotions and interactions that were controlled through this "iron cage" of bureaucracy (Longhofer and Winchester 2012:203). I also took note of my feelings throughout the process to further understand how my emotions were also controlled.

Although I never became a true 'member' at the Immigration Prison, I was still able to immerse myself in the daily routines, and *attempted* to understand the viewpoint

of others, while *not* speaking for them (Emerson et al. 2011; Becker 1967). Blackburn (2014) suggests that researchers with different social locations as their participants must become responsible for learning as much as they can about others' experiences. Also, we should not limit our research because participants do not mirror us (Paris and Winn 2014). Through a humanizing research approach, I used my privilege to deconstruct the master narrative of undocumented immigrants as "social problems" and as "illegal immigrants," and attempted to humanize their experiences inside the courtrooms at the Immigration Prison.

Ethics

Using the humanizing approach, it is my responsibility to be respectful of my participants and treat them with integrity. The court hearings that I observed were individual, master, or bond hearings. Individual hearings require permission from the respondent to let outsiders of the court observe. Before these hearings began, one of the guards would let the judge know that an observer was there and the judge would then ask the respondent if she or he would allow the observer to stay. If the respondent said no, I respected that they did not know me and did not want me to witness their hearing. In master or bond hearings, no permission was needed from the respondent.

In my analysis, I used the ASA Code of Ethics, which involves not using any names, including the name of the immigration prison (American Sociological Association 2008). I call the facility the Immigration Prison to ensure the safety of those working and incarcerated there. I created pseudonyms for all judges and do not specify certain countries except for Mexico, since they represent the highest deportation population in the U.S. (TRAC 2014). I also do not mention the date or times of the hearing. I carefully

chose which stories I shared in my thesis to not expose sensitive or potentially threatening information. In being self-conscious and aware of how my privilege creates credible knowledge, I aimed to avoid reproducing colonial master narratives and inequalities.

FINDINGS

This section explores my overall findings. I identify four main themes from my courtroom and prison observation fieldnotes. The first includes the prison setting of immigration court, where I explore health challenges, guards and high security, dehumanizing language, and criminality. The second includes prosecution of respondents as seen through the judges and government attorneys. The third discusses courtroom dynamics impacting cases, such as legal representation, family presence in court, and speaking English. The final explores control and stripping of dignity. These themes focus on the systemic issues affecting respondents in their hearings at the Immigration Prison.

Prison Setting of Immigration Court

U.S. immigration detention centers are not commonly referred to as immigration prisons. Their government-issued name, "immigration detention centers," deters the general public from understanding what goes on inside these institutions. The purpose of immigration detention centers is to hold people awaiting their immigration hearing, similar to people awaiting their court hearings in jail. However, Family (2015) argues the immigration system is equivalent to "deciding death penalty cases in traffic court" (p. 184). Respondents can be held there indefinitely, and face abuses and substandard care similar to that of prison. This is why I refer to the institution of my study as the Immigration Prison. The prison also affects families: they witnessed their loved ones

being criminalized, called “illegal,” and suffer from the consequences of incarceration and deportation.

Even though I did not gain access inside the entire facility, I recognized how the setting was highly punitive, dehumanizing, criminalizing, and mimicked prison standards. Security guards were present everywhere within the facility, the building was surrounded with double fences and barbed wire, respondents wore criminalizing color-coded prison uniforms with “DETAINEE” written on the back, dehumanizing language was the norm, and health concerns arose during hearings.

Respondents are treated similar to people confined in federal jail or prison. One respondent was released on bond with the condition that he wore a monitored ankle bracelet. One judge granted a second bond to a respondent with the conditions that he lived with his mother and that he could not have any more alcohol related offenses. This mimics the federal jail and prison systems; people who are released are often put on probation and have limitations to the release. Indeed, it is ironic and unjust that people being released on bond from an immigration prison are treated the same way as if they were being processed in “criminal” court, when in reality immigration court is *civil court*[7].

Health Challenges. Because of this prison-like setting, several health concerns at the immigration prison arose during hearings. As noted, the health conditions at immigration prisons are detrimental to the well-being and lives of respondents. Several scholars and news articles report on the substandard living conditions in immigration prisons. In 2017, immigration prison deaths reached the highest total since 2009 (Kuang

[7] Civil court settles all “noncriminal” cases (United States Courts n.d.).

2018). People imprisoned in these institutions are often left waiting for long periods of time to be taken to the hospital or be seen by a credible doctor (Kuang 2018).

In the courtrooms, I honed in on some of these dire health concerns, specifically mental health concerns. One respondent was given only one ibuprofen per day for his schizophrenia. The respondent had trouble sleeping at night and had overdosed on drugs before in order to treat his mental health condition. Other respondents at the prison gave him pills to help him sleep, since he would be loud at night and disturb others from sleeping. The judge advised him that taking too many drugs from other "inmates" was not good for him. The judge initially decided she was not going to release him on bond fearing he would become a flight risk if he started heavily using drugs again. However, the respondent's attorney made a convincing argument that his client had learned a lot in prison and would agree to seeing a doctor about his mental health condition and go to drug classes. The respondent was eventually granted bond; the pressure was put onto the individual (not on the institution) to receive proper treatment for his condition. The judge even commented on how *he* (the respondent) needed to continue to seek medical help from the staff—I wondered why the judge could not understand how the treatment was substandard at the prison since the respondent was being treated for schizophrenia with only one ibuprofen per day.

In a Southern Asian man's hearing, he noted how he was held in a "torture cell" that was freezing for six days before he was transferred to the Immigration Prison. These "torture cells" the respondent was referring to are commonly called "hieleras" or "iceboxes." They are Customs and Border Patrol (CPB) facilities where people are sent from the border when applying for asylum (Cantor 2015). The respondent explained that

the guards were abusive by lowering the temperatures to extreme levels, over-crowding the rooms with people, and not having any beds in the cells. Cantor (2015) reports these facilities lack adequate food, water, and medical services. The officers at these facilities are known to harass and ridicule individuals and separate mothers from their children (Cantor 2015).

Guards and High Security. The entire immigration prison is surrounded with barbed wire and double fencing. There are no windows throughout the entire building. To enter, you walk through double gates, where a guard asks, "Who you are?" "Why you are here?" and "Do you have any contraband on you?" No cell phones, electronic devices or weapons are allowed inside. Guards are everywhere. When you walk in through the front doors, you go through a security check. Family members check in here to speak with their loved ones; there is a door to the left of the security desk labeled "visitation room," where family can talk to their loved ones through an archaic television and phone. Guards have to escort respondent attorneys, interpreters, family, and other guests, such as myself, everywhere in the facility.

The guards are usually friendly and helpful to guests of the prison. I only witnessed two incidents where this was not the case. In the first incident, a woman and her two children were there to watch their loved one's hearings. At this point, I had been to the prison a few times and was able to answer the woman's questions about entering the prison. We walked in together and I informed her she had to fill out a visitor's paper[8]. As I started walking through the security check, the woman presented the visitor's paper

[8] Visitor papers were forms which asked visitors to designate their loved ones name, "alien" number, their attorney's name (if they had one), and information about the visitor, such as their name, address, etc.

to the male guard at the counter. He asked her what the number was and the woman looked at him confused. Frustrated, the guard shouted, “El número!” and the woman replied, “The number?” Once the guard realized the woman spoke perfect English, he changed his demeanor and explained that she needed to know her loved one’s case number. Although the male guard was Black, he had a racial bias against Latinx people. This interaction made me wonder how this guard may treat people locked up in the institution and how families are also suffering from dehumanizing treatment.

The second incident occurred when I was in the hallway of the courtrooms. A female guard, who had always been friendly to me, was escorting two respondents out of a courtroom. She directed them to walk down the hallway. One male respondent looked confused and just stood there. The guard raised her voice and said sternly, “Go!” This was an attitude I had never seen in a guard before. In the courtroom areas, guards do not talk much. After having conversations with some guards, I learned their outlook on respondents was much different than their outlook on attorneys, interpreters, or other visitors. One male guard explained to me that he treated the respondents this way because they are probably “criminals” in their country of origin and that the court might not be aware of this because their records had not been transferred. This comment made me wonder how the guards treat the respondents inside the prison, where there are no guests or outside observers.

Dehumanizing language. Mostly every guard I interacted with referred to respondents as “detainees.” Some referred to them as “inmate.” In a conversation with one of the female guards, she explained to me her routine as a guard: “we go up, we help get the *bodies*, you know the detainees” (Fieldnotes). Yet another dehumanizing term to

describe a respondent. Judges also referred to respondents as “detainees” or “inmates.” On top of this, U.S. immigration law routinely uses the term “alien” to refer to respondents. On the visitor’s paper I had to fill out every visit, it asked which “detainee/inmate/alien” I was there to visit and asked for their “alien number,” which is commonly referred to as an “A number.” These terms dehumanize and criminalize respondents who have not committed any crimes. Respondents already have minimal rights in these immigration prisons; referring to them as “criminal” minimizes their existence and legitimizes their mistreatment. Because of these conditions, some respondents desperately wanted to be released from prison and deported, as will be noted in the following sections.

Richards and Ross (2003) argue researchers often replicate the official terminology that dehumanizes people caught in the system. These words are rarely challenged. They find this language reflects the interest of the prison bureaucracy since the government funds research. This government-approved research is used to inform new policy and procedure, and therefore perpetuate inhumane treatment and policy of people caught in the system (Richard and Ross 2003).

Critical sociologist Christopher Bickel (2010) finds dehumanizing language inside punitive institutions as theoretically inadequate when describing youth who are incarcerated. He argues degrading terms, such as “criminal” and “offender,” force people to focus solely on the behaviors of those labeled as such and ignore the role the institution has on creating these negative identities. He draws on the term “captivity” to adequately describe the process in which people are created as different once inside the institution. To be a “captive” means one is held in that category by an outside force, such as by

guards or judges (Bickel 2010). In my study, this concept of "captivity" helps conceptualize why the Immigration Prison uses dehumanizing language when referring to respondents.

Criminality. In addition to being in a prison setting, the respondents were physically marked with stigmas of criminality. I learned from one of the guards what the colors of the uniforms meant. I was sitting in court one day waiting for the hearings to begin and naively asked the guard why the respondents wore different colored uniforms. He explained that yellow meant "segregation" (or mental health disability), red meant "high level," orange meant "medium level," and blue meant "low level." Most respondents also had the letters "DETAINEE" written on the upper half of their back. These uniforms are clear markers of criminality (Ryo 2016). While private attorneys or public defenders in criminal court are allowed to bring a suit for their client during their hearing, I did not witness any respondents' attorneys bringing a suit for their client.

Most of the time, respondents, and especially those without an attorney, with an alleged "criminal past" were not granted bond. These alleged convictions consisted mostly of DUIs, domestic violence, alcohol or substance abuse, and restraining order violations. Judges considered entering the U.S. without documentation also part of criminality, even when this law is civil, and not a criminal matter. Because of these convictions, respondents were labeled as a danger to the community.

For example, a Latinx respondent was representing himself and trying to convince the judge that he feared returning to Mexico. The respondent had been deported twice before and was forced to spend two and a half years in federal prison. He had DUI convictions and had been in and out of jail and prison for slots of 60 to 90 days. This was

the first case I had witnessed where the judge made a decision to deport a respondent. This would be this respondent's third time being deported from the U.S.

The same Latinx respondent mentioned previously was marked with criminality as he was wearing ankle and wrist cuffs in the courtroom. He wore a yellow uniform, meaning he was diagnosed with a mental health disability and was deemed mentally incompetent to represent himself in court. The combination of his physical restraints and uniform marked him as a criminal. The sound of the metal chains on his ankle and wrist cuffs made a clanking noise every time he moved, reminding everybody in the court of his criminality. The respondent had overdosed on drugs and was diagnosed with schizophrenia. Instead of giving this respondent proper treatment for his mental health disability and giving him an opportunity to go to substance abuse treatment, the immigration system uses punitive treatment and keeps him locked up in prison. He was given one ibuprofen a day to 'help' him go to sleep at night. He is physically marked as a criminal and facing the threat of repatriation.

I was struck by the matter-of-factness of the government attorneys who lobbied in favor for deportation. In one case, the judge had deported a person who had been emotionally and desperately pleading to stay in the U.S. Afterwards, the government attorney commented to me that she believes the respondent will return to the U.S. to apply for asylum again because of what he was saying in court. She explained that the respondent does not understand that he will never get his green card because of his "criminal" history. I asked if he could apply for his green card after years had passed since his alleged convictions. She explained that even years later, he will not be able to obtain a green card. At the end of our conversation, she mentioned how she used to be on

the other side "representing aliens." As I wrote my fieldnotes that night, I wondered how good of a respondent's attorney she was if she referred to her clients as "aliens."

Ryo's (2016) findings on criminality were consistent with mine. As Ryo (2016) found in her study of bond hearings, a respondent's "criminal" history is the determining factor in the outcome. She found that judges would often cite respondent's "criminal" history when deciding cases because of their time constraints and lack of resources. It was a fast and legal way to close a case. She also found that respondents in prison are stamped with "physical markers of criminality" when wearing their uniforms (Ryo 2016:147).

Prosecution of Respondents

Throughout my observations, judges routinely relied on discretion for when to implement the law and when to grant more lenient decisions. Judge Angelo displayed a stern role to several respondents, telling some of them they needed to get their act together or sympathizing with them and then laying the law down. The other judges, Judge Aaron, Judge Summers, Judge García, and Judge Smith, tried to be strictly "by the books," spoke in monotone voices, and followed all mandated procedures. I observed four female judges and only one male judge. The attorney general, Jeff Sessions, had recently appointed two of the female judges.

Judges in Immigration Court. Judges displayed a cynical attitude. When cases began with the judges displaying insensitivity or cynicism, there was usually a negative outcome. Most judges stuck to an individualized reason for behaviors. In one instance, Judge Angelo lectured a respondent, putting emphasis on the fact that *he* broke the restraining order and that *he* needs to take responsibility for what *he* did. This mentality

reflects the idea of “law and order” and meritocracy, that individuals are held responsible for their actions. It does not consider how systemic inequalities come into play when someone is making a life-altering decision.

A few judges were dismissive and cynical. In multiple cases during a respondent’s testimony, Judge Angelo rolled her eyes and said “I don’t buy it” when the respondent claimed they “found God in prison” (Fieldnotes). In an individual hearing, this same judge’s body language appeared to be dismissive. When an African male respondent was giving his testimony, the judge would squint her eyes with a confused look and asked the respondent in a demeaning and non-empathetic low tone of voice, “What do you mean by that?” (Fieldnotes). The respondent divulged the emotional and physical trauma he endured in his country of origin and the judge questioned his emotions in a stoic and inconsiderate way.

The respondent had been imprisoned in his country of origin for being labeled a traitor and was heavily abused, both physically and mentally. The respondent began crying when explaining how the guards at the prison made disrespectful comments about his mother, calling her a whore. The judge asked why he was sad about those comments and that she expected him to cry about the physical torture. After the respondent escaped from prison, he explained that the police arrested his mother. The judge then asked the respondent, “If the insults about your mom made you so sad, then why would you let them [the police] take her?” (Fieldnotes). I sat in the pews stunned at Judge Angelo’s insensitivity to the respondent’s traumatizing story.

Judge Angelo also tended to lecture respondents. One time she explained to a respondent how the U.S. prides itself on privacy and once you do something “criminal”

then you lose that privacy. She had a punitive “rules are rules” mentality, and said, “You know, I’m sorry but this is the way things are in the U.S.” (Fieldnotes).

In one case, Judge Summers displayed an individualized framework for interpreting the respondent’s case. A Latino male respondent received a DUI because he was intoxicated in the driver’s seat when he was parked outside of a liquor store. The judge deemed this respondent a danger to the community and denied him bond. She explained to the respondent she would have been more understanding if the respondent was just eating dinner at a restaurant, had a few drinks, and decided he could not drive while sitting in his car. The class bias here is evident in her rationale due to the liquor store context versus going out to dinner.

Few judges also questioned the oppression of people in other countries. In a few different cases, judges would question respondents on their fear of returning to their country of origin. In an Asian man’s case, Judge Summers questioned how the terrorist group in his country of origin knows who he is, and the respondent explained the group is underground and knows everyone. The judge further probed why the respondent could not live in another area of his country of origin, and the respondent said he could not afford that. Judge Angelo questioned a Latino male respondent on what makes him believe the Mexican drug police will know whom he is when he returns to Mexico since he had been convicted in Mexico for drug abuse. The respondent explained they track you when you enter through customs. The judge still decided to order this respondent to be deported from the U.S. to Mexico because she did not believe he fit the five criteria to be eligible for asylum. For asylum cases, respondents must show they have suffered persecuted or will suffer persecution due to their race, religion, nationality, membership

in a political social group, or political opinion if they return to their country of origin (USCIS).

I gained some backstage knowledge that transferred to the front stage of the courtroom. Some judges exhibited frustration with the system. Judge Angelo comment on the court backlogs, and how it was causing delays in settling cases. She also noted how she has spent up to twenty-four hours reviewing cases. Judge García acknowledged that translations were causing confusion and even got frustrated at certain interpreters. Judge García spoke Spanish and asked the interpreter to translate something again because they had not said it right. In a conversation I had after a hearing with Judge Angelo and a government attorney, they both jokingly advised me to not get into immigration law since it is so complex and tiring.

To explain their lack of leniency, judges took a rigid view of "the law." Several judges would note how "the law" restricted them in their decision-making, mostly when the outcome meant no bond or deportation. In the example with the mother from Mexico who was not granted bond and whose four children were there to watch their mother's case, Judge Angelo apologized to the children saying, "I am sorry but I am restricted by the law and have to follow the law even if I don't agree with it. I feel this is the best decision under the law" (Fieldnotes).

I observed both Judge Smith and Judge Angelo in situations where the respondent just wanted to be deported in order to get out of prison. Both judges explained they could not just deport them because they had to go through the rules and follow the protocol of deportation procedures. However, what is the line between "the law" and judges'

discretion? Judges are the law; they implement the law, make decisions and are given discretion under the law.

Family (2015) finds stringent immigration laws in court bind immigration judges' decisions. Conversely, Marouf (2011) argues judges may allow their bias to determine their decisions because of their limited time to make decisions, lack of independence, low motivation, and complex caseloads. These factors may defer judges to rely on their biases when making life-changing decisions. For example, respondents' criminality can be a determining factor in whether someone is granted bond or not. Judges may use their bias to label someone as a "criminal" or not. The ability for judges to rely on "the law" to decide case outcomes or to use their bias in cases shows the level of discretion judges truly have. In my study, I found judges to use both the law as an excuse to not be lenient and to sometimes allow their biases to influence their decisions, such as accepting immigrant criminality.

Government Attorneys in Immigration Court. Government attorneys rarely fought stringently for deportation and took a more passive role in procedural courtroom proceedings, such as master or bond hearings. In these hearings, government attorneys did not speak much and just "went through the motions" of the hearing. They would walk into the courtroom with a big cart stacked with thick files, where I assumed was held information about each case. During master hearings, government attorneys would agree on dates to reschedule a respondent's hearing and sign the necessary papers for this. A few times, judges would call on government attorneys to clarify facts about respondents, such as the date they arrived in the U.S. and when they were "detained."

Government attorneys' presence was most prominent in individual hearings, where they would conduct questioning and assemble evidence against the respondent. They could also object to the respondent's attorney's arguments in defense of their client. In these cases, government attorneys demonstrated results of extensive research to support the government in deporting respondents. In an asylum case of a female respondent from a country in Africa, the government attorney presented evidence against the respondent during her hearing. He said that the respondent claimed to join a political party at 18, but according to his evidence, she (the respondent) could not join the party until 21. The respondent's attorney defended her client stating there was a translation issue and that you could in fact join the political party at 18. The respondent's attorney objected to the government attorney's other pieces of evidence because she had not seen this evidence before and stated that attorneys should typically try to not bring new pieces of evidence the day of the hearing. The judge asked if the respondent's attorney wanted time to review the documents; but to save time, the respondent's attorney decided to continue with the hearing and think on her feet on how to defend her client.

While government attorneys were passive in procedural hearings, their presence was detrimental to case outcomes. Some government attorneys seemed to only have deportation on their minds when they would appeal decisions the judge made. Most other government attorneys just performed their bureaucratic role and did not react if they lost their case. In one case, however, a female government attorney whipped her hands in the air and smacked them on the table, objecting to the respondent attorney's statement about how the family knows how dangerous his country of origin is. The government attorney looked at the judge wide-eyed as if she was saying, "You're really going to let that

slide?!" (Fieldnotes). In another instance, the government attorney objected three different times, claiming the respondent's attorney was asking leading questions to her client.

In individual cases where government attorneys were most active, they would probe on the fact that the respondent side did not have enough evidence in their testimony. In the asylum case of the woman from Africa mentioned above, the government attorney needed medical records as proof that someone from their government raped the respondent in her country of origin. The respondent explained that her father had told the police about the rape but they did nothing about it. The respondent repeated to the government attorney that in her country, they do not handle situations like the U.S. and that the police do not care about rape. The government attorney said that any "criminal in the street" (Fieldnotes) could have raped her since there was no evidence the government did it. The attorney also claimed there was no evidence the respondent's father was killed by their government. In the end, the judge announced he intended to grant the respondent asylum. However, the government attorney appealed this decision, meaning the respondent would not be released from prison anytime soon.

In the case with the Asian man, the government attorney argued the respondent's asylum application did not match his testimony in court. The government attorney also began questioning the respondent on why he chose to apply for asylum in the U.S. and not in another country. I found this question to be nativist and racist, as if he was implying this respondent was not welcome to apply for asylum in the U.S. In this case, there were a lot of interpretation issues since the respondent was not answering the questions as the judge or government attorney wanted. The government attorney used this

confusion to make the respondent seem incompetent and not credible. During the hearing, the government attorney was constantly rolling his eyes, sighing, and shaking his head, which I found as nonverbal cues that shaped the judge's decision.

Judges and government attorneys were the two main actors prosecuting respondents in court. The job of the government attorney is to present viable evidence the respondent should be deported to their country of origin. Although government attorneys sometimes did not have a huge presence in court, their role was crucial to determining whether or not someone would be deported. In most cases, when respondents did not have attorneys defending them, the government attorney had an advantage in court because they could communicate with legal jargon and had enough legal training to know how to prosecute respondents.

Courtroom Dynamics Impacting Cases

This section compares the factors that shaped the judge's decisions on respondents' cases. A "positive outcome" for the respondent usually meant a respondent was granted bond and was able to leave the immigration prison to have their case heard at a non-prison immigration court. Only a few cases were granted asylum or some type of relief from removal. Typically, a "negative outcome" was that a respondent was not granted bond and had to stay in immigration prison for the duration of their case. However, a few respondents asked the judge if they could self-deport in order to be released from prison. I witnessed only one respondent whose case resulted in an immediate order of deportation, not at the request of the respondent.

After analyzing my ethnographic data, distinct elements emerged as impacting cases: having an attorney; having family present in the courtroom; and speaking English.

Legal Representation. Respondents' attorneys were very important to the outcome of cases. I witnessed the work of the immigration attorney to include: representing their client, presenting evidence, preparing necessary paperwork, explaining details of the case to the respondent, presenting data about the client's home country to support the client's claim, speaking for their clients during court, and speaking to client's family and other loved ones.

Respondent's attorneys alleviated respondents from having to settle disputes in the courtroom, and sometimes they settle disputes with the government attorney before the judge is in the room. For example, in a young Latinx male respondent's case, his attorney, the government attorney, and the judge were all talking about the case between themselves. The government attorney mentioned to the judge that she and the respondent's attorney had spoke about something in the case before the hearing and the judge agreed on whatever this matter was. In these instances, respondents' voices are rarely heard. This finding is similar to Ryo's (2016) study on bond hearings. Legal talk is left to the judge, government attorney, and respondent's attorney. Respondents are only addressed if the judge has a question or comment for them.

Most attorneys came well prepared for their clients' case. In individual hearings, the attorneys had a thoroughly planned set of questions to ask their clients, and evidence and testimonies in support of their client's case. One of the most prepared attorneys spoke methodically, as if he was reading from a well-written essay with an introduction and conclusion. It was as if he knew what the court wanted to hear. He collected testimonies from all of his client's family members, including his client's ex-wife who was a victim of his domestic abuse. All of the testimonies spoke highly of the respondent

and clarified their support for the respondent. The ex-wife testified the respondent did not deserve to be deported, even after her encounters of domestic abuse with him. The family swore they would ensure the respondent would show up to all of his court hearings. This was proof to the judge that the respondent would not be a flight risk or danger to the community, and was thus granted a high bond of $20,000. Bonds ranged from about $1,500 to $20,000 in the hearings I witnessed.

With an attorney on both sides, respondents have more of an equal playing field. In court, an attorney questions the respondent on matters that will make their client look good in the eyes of the court. They will often play on emotions; one respondent attorney asked his female client how she felt after she was raped in her country of origin. While a question like this is hard to answer, it ultimately benefited the respondent because she was able to gain sympathy from the court. Meanwhile, the government attorney poses questions that deteriorate the credibility of the respondent. They conduct extensive research on the respondent's country of origin and try to find flaws in their testimonies. Well-prepared respondent's attorneys gather extensive research to counter these arguments.

A female respondent from Africa was applying for asylum and had an attorney. Both herself and her attorney had provided viable evidence that she feared returning to her country of origin based on political beliefs, despite the government attorney's opposing claims. The judge proclaimed he believed she was persecuted several times in the past and intended to grant her asylum. The respondent immediately began crying, putting her hands to her face. Her attorney was grinning from ear to ear as she patted and

rubbed her client's back. The respondent's journey to finding asylum was finally coming to a happy end.

Respondents' attorneys were responsible for defending their client in tough moments or against pre-existing charges. For example, during the government attorney's questioning in an individual case, the respondent's attorney claimed the government attorney was flustering her client and expecting her to be an expert on political parties in her country of origin. Although the judge did not allow the respondent's attorney to object for this reason, this example shows the persistence of attorneys to defend their clients at any given moment.

In another example, the judge was going to rule the respondent mentioned earlier, a Latino male who was wearing a yellow uniform and hand and ankle cuffs, as a "flight risk" because of his past drug consumption. The respondent's attorney quickly jumped in and argued his client has, "learned a lot while in the detention center" and does not live the way he used to. The attorney explained his client was "willing to do anything" he can for the court, as in consulting with a doctor about his mental health and going to substance abuse classes. The judge then decided to grant the respondent the lowest bond ($1,500), but noted the Department of Homeland Security (DHS) may require him to wear an ankle bracelet.

During another hearing, the judge was explaining she found the Latino male respondent to be a danger to the community because of his DUI. The respondent's attorney defended his client stating the respondent was going to get help for his drinking problem if he was released on bond. He said his client was able to pay for this help. The

judge said she needed proof of this and a written down plan of action. The respondent's attorney asked for a continuance to gather this proof.

An attorney presented a heteronormative-gendered case to support their male clients' release from immigration prison. For example, one of the respondent's attorneys explained his client has a U.S. citizen wife and children, and that his client is the 'breadwinner' of the family (Gathings and Parrotta 2013).

In addition to representing respondents in court, several attorneys were emotionally attentive to their clients' needs and circumstances. If another case was going on or court had not began, I witnessed several attorneys sitting next to their clients on the benches whispering in their ears indicating some level of engagement. Some attorneys appeared to be actors of emotional support for their clients. A few attorneys asked their clients, "How are you doing?" (Fieldnotes). One female attorney was rubbing and patting her clients back while she was crying, a gesture of support and comfort.

The attorneys' emotional and protective stature came through when I would ask the client and attorney to join their hearing as an observer. While most agreed, one did not allow me to be present. I observed the attorney consulting with the client and family members, which, to me, indicated respecting the client's wishes or privacy. The respondent's attorney then asked me to leave the courtroom before the hearing had started. I had been observing in the courtrooms for about 3 months and had not been asked to leave a hearing. In this instance, the respondent's family of ten was in the room.

Respondents' attorneys also served as important intermediaries for their clients. First, attorneys had access to information that would support the case that the respondent lacked, which included government records, data about the home country to help the

case, and information from family members. Often times, this resulted in attorneys portraying the home countries in negative ways and portraying the U.S. as a beacon of hope for their clients. They reassured that the U.S. social, political and economic system was more advanced than other countries, especially the home country of their clients. The "otherization" of non-U.S. cultures was a beneficial tool for respondents.

In one case, a respondent's attorneys made a well-prepared testimony supporting her client. This testimony consisted of explaining, in detail, how Mexico is a dangerous place for people with mental health disabilities who have been deported. She explained that mental health institutions in Mexico were considered a form of torture under U.S. law. She used convincing statements to the judge like, "the institutions are like locking up animals in a zoo" and that people are forced to defecate on themselves since they are not allowed to leave their cell. While there may be truth to some of these statements, it does not explore the root causes of why Mexico may not be an ideal place for people who have been deported, nor does it explain why people migrate from Mexico in the first place.

Another example of glorifying the U.S. immigration system is promoting the statement of: "I [or my client] learned a lot in the detention center" (Fieldnotes). This serves to promote that the institution or prison is "fixing people," when in reality it is not. Similar to the concept of "otherization," this statement benefits respondents because it supports the U.S. immigration system. In agreeing with a punitive immigration system, respondents and their attorneys are creating a better chance at advancing their case.

Second, attorneys could talk to the family members of the clients to obtain information about the case and to rely procedural information to loved ones. If a respondent tried to communicate with their family, some guards signaled to the

respondent that was not allowed, while others showed leniency. Most guards would allow respondents to wave or smile at their loved ones. But once talking began, they were told they could not speak. Respondent's attorneys, therefore, became the intermediary between the respondent and their family. Several attorneys spoke with families before and after hearings, either in the waiting room areas or inside the courtroom.

Since attorneys have a high level of access at immigration prisons and about their client's case, they are able to gather information that a family may not have access to. For example, while I was waiting to go back to the courtrooms in the hallway of the waiting room, I witnessed an attorney speaking with her client's family (a son, wife, and mother) and informing them that their loved one was put into 'segregation' and already had his case that morning. The attorney relayed the message from the respondent to his family that, "He was in segregation but that he was going to be getting out soon" (Fieldnotes). The family did not say much; they just looked around the room and said "okay."

In another example, a group of around ten family members were in the waiting room. Once the attorney arrived, the wife of the respondent greeted the attorney and began introducing her to certain family members. The attorney greeted everyone saying, "Gracias por venir" in a warming voice (Fieldnotes). After meeting the family, the attorney informed the wife about details on her husband's case. Instances like these were common when the attorney was well prepared.

Consistent with Ryo's (2016) study, respondent's attorneys are intermediaries between them and the outside world when they are in immigration prisons. Respondent's attorneys help to find and collect relevant data for their client's case while their client is

unable to do so in prison. Further, attorneys alleviate respondents from having to speak in court where legal jargon is used often (Ryo 2016).

Lack of Legal Representation. In about half of the cases I witnessed the respondent was not legally represented. As noted in the above section, hearings without respondent attorneys went by slower and typically concluded with worse outcomes than the other cases I have observed. Respondents with attorneys are fifteen times greater at finding relief from removal than those with no legal representation (Eagly and Shafer 2015). The law in general is exclusively made for those who are educated on the law and excludes everyone else. The lack of formal legal representation seemed to negatively impact the respondent's case even when they had knowledge of the legal system. Most respondents did not speak in court or just answered "yes" or "no." Further, being incarcerated in an immigration prison deterred respondents' ability to find and pay for legal representation.

Respondents in this study did not have the same rights as those who are fighting their cases outside of immigration prison. While informal economies exist inside prison, several respondents noted in court how they could not hold a job outside of prison while in incarcerated and they had limited access to the outside world. Because of this, respondents said they had monetary constraints and could not afford to pay for an attorney. If they could not pay for or find an attorney while in prison, they could not communicate with the outside world or gather extensive evidence to advance their case. I witnessed several respondents who could not find or afford an attorney for their case.

For example, a Latino respondent explained to Judge Angelo he did not have money to pay his attorney anymore:

> *The respondent explained how he would like to be released so that he could get a job to pay his attorney. Judge Angelo got a bit irritated and said that the he was 'expecting a lot' asking for something like that. Basically, the respondent had been detained before (I think alcohol related problems) and this same judge had given him bond the first time. The respondent also had domestic violence charges and 2 DUIs (Fieldnotes).*

The respondent also broke a restraining order his ex-girlfriend had on him because he wanted to see his son. Judge Angelo ultimately did not grant this respondent with a bond because she felt he should not be given a second chance and that he needed to take responsibility for what he did. Judge Angelo did not take into account other social factors leading to the respondent's second arrest and individualized his situation. This puts full responsibility onto the respondent for not being able to afford paying for his attorney.

In another example, a male respondent could not find an attorney while confined in immigration prison. The respondent was representing himself and Judge Summers reminded the respondent that he, "has a legal right to have an attorney free of charge from the government" (Fieldnotes), meaning the government will not provide him with an attorney but he has "has the right" to have an attorney. The respondent explained he had not been able to find an attorney because his family lives in Fresno: he had an attorney there but not here. The judge said he can call from the list of non-profit legal organizations that the court gives them to find an attorney, but the respondent said he has called them and none of them can help him. The judge then explained that if these non-

profit legal organizations cannot help then he could use any other attorney to represent him. The respondent said he understood. It seemed as though the respondent felt hopeless since it would be difficult to find an attorney before his next hearing, which was in one week.

The respondents without attorneys deferred to the system. Respondents apologized and accepted their alleged convictions. Several respondents would atone for their past 'convictions.' One Latino respondent admitted to some convictions but would then shake his head from side to side, waving his hands in the air saying, "no, no, no!" when he knew he did not commit some of those convictions. A Western Asian male respondent eagerly stated to the judge how he was sick of being in detention and could not take being there for one more day. He promised the judge he would not go around his wife anymore since he was convicted of domestic violence. The judge replied by saying she could understand why he would want to leave detention but the law restricted her from releasing him. This man will continue to be held in immigration prison until "the law" releases him.

The majority of these alleged convictions consisted of Driving Under the Influence (DUIs), substance abuse, burglary, violating restraining orders, using fraudulent identification, or "entering the U.S. *illegally*." Some respondents would repeatedly apologize to the immigration judge, emphasizing how they have learned from their past and want to change their life. They would explain to the judge how they had "learned a lot" while in prison (Fieldnotes). One man reacted to an alleged conviction saying, "I don't really remember that one but if it is on my record then it must be true"

(Fieldnotes). They took ownership of these convictions, a value of 'American meritocracy.'

When respondents tried to respond or even argue on their own behalf, they were under prepared and the interaction typically did not help their case. As an educated non-detained English speaker, I would get lost in the legal jargon and initially could not understand what was occurring in the courtroom. It took me several visits to understand the meaning of a continuance, an appeal, and prosecutorial discretion. I had resources, such as scholarly articles, policy manuals and the Internet, to look up the many unfamiliar terms after I left court. The few respondents who represented themselves often times had never been in immigration court before and had no resources. The judges were responsible for explaining respondent's rights to them.

In one extended case, a respondent entered the court with an extra guard. All of the other respondents were cleared out of the room. I was the only one left in the pews. The respondent was a younger male, with matted-down hair, from Mexico, spoke English, and wore an orange uniform, signifying "medium level." When the judge called the respondent's name, he loudly started vocalizing how he did not have two last names and corrected the judge on this. The judge became friendlier to this respondent and used the name the respondent gave her. As the respondent took his seat, the extra guard stood at the half door separating the court from the pews, and the main female guard stood near the wall on the respondent's side, as if they were boxing in the respondent to prevent escape or to deter violence.

Before the hearing began, the judge asked if he had found an attorney. The respondent replied saying, "I don't need no lawyer, I can represent myself… I am here so

why do I need a lawyer?" (Fieldnotes). The judge said she believed he needed an attorney. The respondent kept repeating how he did not need one. During his case, he spoke out when the judge was not addressing him, breaking courtroom norms. The judge stated that if the respondent knew his rights, then she would let him represent himself. (I assumed the judge was determining if he had a mental health disorder, in this case she would have to appoint him a government-funded attorney). The respondent replied, "I have the right to do anything I want" (Fieldnotes). The judge half-smiled and said he had more rights than that.

The respondent proclaimed he had been inside the detention center for "184 days" and that he wanted to "self deport." [9] The judge replied that she understood this was a long time but that he cannot self deport. The respondent repeated loudly that he had been in detention for a long time and wanted to be home for Christmas. He said he wanted to be deported, so that he can come back to the U.S. and be with his family. The political conditions and the increased immigration enforcement have led to more self-deportations (Serwer 2012; Tchekmedyian 2017). The judges in my study stated they could not let the respondent self deport. The procedural processes for someone to self deport once in immigration prison could be a factor. When someone is not held in the custody of ICE officials, but they have an order to be removed from the U.S., they are allowed to self deport (JCS Immigration Law n.d.).

[9] Self-deportation is different from voluntary departure, which grants a respondent permission to leave the U.S. instead of being deported. For several respondents, voluntary departure is desired because it does not entail the harsh legal repercussions of deportation, such as the inability to renter the U.S. for several years (USCIS).

The judge clicked something on her computer to start recording the hearing, otherwise known as “going on the record,” and the respondent kept repeating the same things. The judge and respondent began bantering back and forth: the respondent said things like “Why am I here? I didn’t break the law?!” And the judge replied, “Well you broke one law, and that is that you entered the U.S. *illegally*.” The respondent quickly replied, “My mom brought me here illegally. I didn’t do it! It’s not my fault!” The judge shook her head in agreement but said, “I know, but this is why you are here. You can’t be here without documents.” The respondent then began pleading with the judge: “I just want to go back to Mexico. I don’t want to be in here anymore. I want to go back before Christmas. I just want to be with my family. I missed Halloween. 184 days is a long time to be in here. Don’t you think 184 days is long? I didn’t do anything wrong. Why am I here?” (Fieldnotes). He also repeated that he did not need an attorney, even though the judge did not agree with this. He expressed concern that an attorney would not be reliable and that could ruin his case.

The judge promised the respondent she would try to get him out of the prison before Christmas. The respondent made her promise again, “Do you promise I will be out before Christmas?” (Fieldnotes) and the judge said she would try her best. The respondent slowly stopped speaking out and thanked the judge. He admitted that he did not actually want to deport himself but if he were deported, he would just come back to the U.S. The judge called herself a realist and said she would understand why he would not want to stay in Mexico with no family. This respondent wanted to represent himself but the system would not let him. Instead, he took control in his case and broke the norms of the court.

In another example, a man from South Asia had no attorney and was trying to explain to the judge and government attorney how he feared terrorists if he returned to his country of origin. This man used an interpreter, which added another obstacle I will explore in another section. Both the judge and government attorney were growing frustrated with the man because he was not answering their questions correctly. They would ask *yes* or *no* questions and the man would respond with a long explanation. During the judge's questioning period, she was asking the respondent questions to see if they matched his asylum application that he filed at the port of entry with an asylum officer. She asked him questions like, "Were you here on this day?" (Fieldnotes) and the respondent would go off on a long explanation. The judge explained it felt as though the respondent was trying to get out of answering questions and that the grin on his face was hurting his credibility.

Throughout the hearing, I felt as though it was two opinions against one. The judge commented on how his answers and how he was answering the questions were hurting his credibility. The government attorney claimed his testimony in court was not matching his asylum application. In his asylum application, the respondent claimed he did not fear his country of origin and that he needed "humanitarian help" in the U.S. because of his medical condition. In court, the respondent said he did fear his country of origin because of terrorist groups. He explained he did not write his fear of his country of origin on his asylum application because he was scared to admit this. He feared giving his Facebook page to the asylum officers in case he had accidently added a member from terrorists on there. The government attorney asked him what his real answer was because he was contradicting himself.

Further, this same respondent presented his medical records from South Korea that he was using to prove he had been in and out of the hospital. The respondent had lived in South Korea with a work visa for ten years, returned to his country or origin, and then came to the U.S. to apply for asylum. The judge said she could not accept the medical records since they were not translated into English. The respondent explained he would translate them but did not know the proper way to. He did not have the assistance of an attorney to translate these documents, nor did he have a means of finding someone in prison to translate the documents to the court's standards.

It became evident the respondent would not be granted asylum because the judge and government attorney were both questioning the respondent's credibility. When the respondent's testimony in court did not match his asylum application or if he did not answer a question 'correctly,' the government attorney would shake his head while looking at the judge and sigh, signifying he was over this case and had nothing left to talk about. The judge blatantly told the respondent that the constant grin he had on his face and inability to answer questions was hurting his credibility. Having an attorney may have changed the flow of this hearing.

During my observations, there was only one respondent who understood the law, spoke English, and addressed the court in a professional manner. He was from Mexico and wore a red uniform, signifying he was a "high level detainee" as opposed to medium or low level. I witnessed a continuance of his individual hearing. The judge explained she would have his written decision by the following week. I learned the respondent had appealed his bond hearing decision. This appeal was denied and he was planning to

appeal this decision to the 9th circuit. He asked the judge instructions on how to do this and she gave him a quick rundown of the steps.

The respondent then expressed his concern that the judge had not understood or heard his testimony. The judge explained she had reviewed every detail in his case and started summarizing each point as proof. After this, the respondent added a counter argument to the government attorney's evidence about cartels in Mexico. The government attorney testified that the people who were out to kill the respondent were probably either deceased or in prison. The respondent explained the cartel in Mexico still have friends or family that will go after him. The respondent kept bringing up concerns he had with his case, such as if the judge understood his entire case and all of the evidence he presented. The judge explained they could have another individual hearing for him if he did not feel his points were heard. However, I felt as though the judge was hinting at the fact that she believed he truly feared returning to Mexico since she reminded him she knew the details of his case and offered to have another hearing for him. The judge asked the respondent how he was doing; he looked down, put his hands to his head, looked back up and shook his head, and said, "I don't know" (Fieldnotes). A life or death decision was right around the corner for this respondent. The respondent's competency in English and the law made his hearing smooth, and allowed the respondent to take full control in his case without having an attorney.

Speaking English. While some English-speaking respondents had attorneys, I found respondent's ability to speak English was especially beneficial when they were not legally represented. For example, an English-speaking male respondent, who did not have an attorney, was speaking with the government attorney before the hearing had begun and

before the judge was present. They were discussing details in his case and the respondent was explaining why he was re-arrested after given bond. The government attorney was gathering facts to settle the case faster and spoke to the respondent as if he was another attorney. When the judge entered, the attorney filled in the judge on the details they had been discussing. It was unusual to see a respondent representing himself because attorneys typically settle cases between each other. The respondent's ability to speak English was beneficial because he was able to relay important information in order to settle his case more efficiently. This case was given a continuance, where they would resume the hearing on a later date.

Respondent's inability to speak fluent English, on the other hand, and poor translations in court seemed to negatively impact respondent's cases. Poor quality translation in immigration court is hardly studied. Throughout my study, I was able to witness first-hand how poor translation created chaos and confusion in court.

In my previous example of the Asian man representing himself in court, I noted how the lack of quality translation in the courtroom might have contributed to why he gave "frustrating" answers to the judge's questions. Immigration courts do not require interpreters to obtain certifications from the Administrative Office of the U.S. Courts or the states courts' Consortium for Language Access in the Courts. Also, some words or phrases do not simply translate from one language to another. For example, the judge questioned the respondent in this case on why in his testimony he said his brothers hand was broken and not his elbow—the respondent had physically pointed to his elbow in court to show which part of the arm his brother broke. The respondent explained the word

"hand" in Urdu could mean any part on the arm. This caused confusion and doubt in what the judge believed to be true, but she did not question this any more.

Immigration courts use telephonic interpretation services, where there is often a lack of technological capabilities (Abel 2011). Telephonic interpreters were usually used for languages other than Spanish since Spanish interpreters are easier to come by. When judges cannot obtain in-person interpreters, they revert to using telephonic interpreters.

Issues with interpretation worsened when a judge has to use a telephonic interpreter. A few times throughout the hearing, the judge had to keep calling back the interpreter since the line kept hanging up on him or the interpreter would cut out. It took around fifteen minutes for the judge to finally get an interpreter on the line. Everyone in the courtroom sat there in silence as soft classical elevator music was playing from the loudspeakers as the judge was on hold for an interpreter. About halfway through the case, the line cut out and the judge could not get the interpreter back on the line.

There also seemed to be poor translation since the respondent kept repeating that he just wanted to return home to Central America. He could not afford an attorney and kept repeating to the judge he just wanted to return home. The judge, again, was "restricted by the law" and could not release the respondent until he had gone through the legal procedures of deportation. The judge rescheduled the hearing for a later date, prolonging the respondent's time in prison.

During an Asian man's hearing, the judge and government attorney grew highly frustrated and agitated with the responses from the respondent. The judge would repeat things like, "Sir! I did not ask you that. I asked you one question. Please listen carefully to the question and answer me. It is a yes or no question. I keep warning you. If you do

not answer the question then we will not know what happened in your case" (Fieldnotes). The government attorney used this frustration to his advantage; after the respondent gave his long answer, the government attorney re-asked the question since he had not answered it correctly. If the respondent answered it 'wrong' again, the attorney would throw his hands up, roll his eyes, and move on to the next question. The attorney's strategy seemed to be proving to the judge that the respondent was not complying and therefore, not credible or deserving of asylum.

In the case of West Asian family of eight (parents, sisters, brothers, and cousins), there were detrimental interpretation issues. The sisters of the respondent spoke English and grew agitated in court because their brother did not understand a question being asked of him. After the hearing was over, one of the sisters angrily informed me outside of the courtroom that the interpreter was not translating the question correctly. She wanted me to go back in the court and tell the judge what had happened. Once I told her I did not work at the immigration prison, she and her family became more agitated and started speaking in their native language. It was evident that their brother had answered something incorrectly and that it could have vastly affected his case.

Using interpreters is also time consuming. Every case that used an interpreter was significantly longer, especially in individual hearings and when using telephonic interpreters. Since telephonic interpreters are not sitting in the courtroom, they cannot see body language or social cues. There were often awkward moments of the interpreter talking over a respondent, judge, or attorney on accident or vice versa. Someone would have to stop speaking and repeat what they were saying. Some respondents spoke for a while, giving the interpreter a lot to translate at once. Interpreters would ask respondents

to repeat what they had said since they could not remember every detail. During the questioning time of individual hearings, judges need to know every little detail of respondent's cases, including exact times and dates, and details in stories. Often times, these translations would need to be repeated several times, which further elongated hearings.

On a break, I heard two interpreters talking amongst themselves. They were discussing how they recognized some interpreters do not do a good job at translating correctly. Interpreters will sometimes sit in courtrooms and wait until their language is needed. For example, a Spanish interpreter will be translating and an Aramaic interpreter will be waiting in the pews until the respondent who speaks Aramaic is having their hearing. One of the interpreters explained how he spoke a little Spanish and could tell when a translation was not correct.

Family Presence in Court. A family's presence in court usually indicated to a judge a respondent would not be a "flight risk" for future hearings if they were released from the Immigration Prison. To be released on bond in immigration court, the respondent has to prove they are not a flight risk or danger to the community. Proving they are not a flight risk requires having U.S. family ties. Judges need to see proof of someone the respondent can live with if they are to release them on bond. For example, in my previous example of the most prepared attorney I had witnessed, the respondent's family presence was vital. The attorney pointed out to the judge that eight of the respondent's family members had showed up to support the respondent and provided testimonies to ensure he would attend all of his future court hearings if he were released

on bond. However, if a respondent's family members are undocumented, it could be likely they would be too fearful to attend the court hearing inside an immigration prison.

In addition, the judge needs a physical formal address of this outside person and other contact information. If the respondent or their attorney cannot come up with this evidence, they will be labeled a flight risk and not released on bond until an address is provided. One Latino male respondent, who did not have an attorney, was unable to remember his address or phone number of any family members. When he was arrested by immigration law enforcement, he did not have his phone on him. While locked up in prison, he could not get access to this important information. The respondent said he was not sure if his family even knew he was "detained" (Fieldnotes). This respondent had no attorney to be his intermediary between him and the outside world.

In mental health cases, respondents must be appointed with government-funded attorneys (Eagly and Shafer 2015). Even with an attorney, family presence seems to enhance outcomes for the respondent. One respondent was deemed 'incompetent' to answer the judge's questions because of his mental health disability. The judge then requested for the respondent's family to assist in answering important questions and the family agreed. If the respondent did not have his family present in court, questions the judge had may not have been answered. This could have hurt the respondent's case.

However, family presence in the courtroom did not always guarantee a favorable outcome. In some of my earlier visits, a Latina mother of four children, who were all present in the courtroom, was not granted bond because she was deemed a "danger to the community." She had used false identification when entering the U.S. While this was an extremely emotional moment in the courtroom for the children and their mother, these

emotions did not stop the judge from deeming a mother of four as a danger to the community.

Final Reflections: Control and Stripping of Dignity

Ultimately, immigration court inside immigration prison is a hostile environment for the respondents. In the Immigration Prison's courtrooms, respondents are emotionally triggered and are stripped of their rights, dignity and humanity. Respondents have to relive past traumatizing events in their lives, causing many to show strong emotions such as crying. Other respondents cried out of happiness when they learned they would be granted bond or had a good chance at finding relief from removal. Some, however, cried out of the fate awaiting them—not being released on bond or deportation. Respondents also seemed to be more eager to be released from prison, whether that was to be deported or to be able to find resources outside of the prison to help them in their case.

The most emotional moment was when four children had to witness their mother, who was from Mexico, not be granted bond to be released from prison. The four children sat in the front row and I sat in the last row. Their mother was on the other side of the room at the respondent's table with her attorney. Simultaneous to when the judge announced she would not be releasing the mother on bond, the youngest girl began hysterically crying. The other children started crying, putting their heads down and wiping the tears from their face. The mother looked back at her children, with a face soaked in tears and a forced smile, and tried to signal to them to not cry so loud. The judge apologized to the children, explaining how the law restricted her from releasing their mother on bond. Velasquez (2017) found that children are often traumatized by the criminalization of their parents or guardians, and experience depression from family

separation. The injustices experienced inside the courtroom go far beyond the institution and into the lives of too many families, creating devastating collateral consequences.

Another male respondent from Mexico was emotionally triggered in court. He had a conviction of domestic violence and had two DUIs. He had broken the restraining order his ex-girlfriend filed in order to see his son. The respondent had no attorney since he could not afford to pay anymore. He admitted several times to the judge that he had messed up and was paying for it. The judge did not grant him bond, since he had been granted bond before. She stated, “You cannot keep getting second chances in life” (Fieldnotes). The respondent put his head on the desk and immediately began crying. He kept wiping the tears from his eyes with the tissue in his hand. He will have to combat his case while in prison without any help from the outside.

This sense of controlled bureaucracy and loss of humanity was also seen in the restrictions of respondents inside the courtroom. Aside from respondents being locked up in immigration prison, their communication was also restricted inside the courtrooms. Whenever a family member was present, the respondent was not allowed to communicate with them. The guards were in charge of enforcing this rule. In one case, the respondent tried to turn back to speak with his parents but the guard intervened and said he could only look at them and not talk to them. The guard called the respondent’s name, shook her head signaling at him “No,” and the respondent stopped talking. As mentioned previously, this is a major reason why respondent attorneys are intermediaries between family and their clients because they are allowed to talk with family members in court where respondents are not allowed.

In an example I briefly discussed before, a male respondent from Mexico was denied asylum because he did not meet the five criteria. The respondent did not have an attorney and had been deported two times before. He feared returning to Mexico because he claimed the drug police had followed him on his second deportation and abused him. While the respondent was in the U.S., he was detained at a facility in California and was transferred to another facility. During this trip, the bus got into an accident and the respondent flew forward, hit his head hard, and injured his hip and leg, all while being hand and ankle cuffed. He was hospitalized and treated for depression. This trauma, however, was not enough evidence to be granted asylum or to eligible for any other type of relief from deportation. The respondent was going to be deported for a third time.

In another previously discussed example, the judge dismissed the respondent's emotional triggers. The respondent had been imprisoned at a military camp in Eritrea, his country of origin. He was convicted of being a traitor and was physically and mentally abused by the prison guards. In court, all respondents have to relive the abuse, trauma and torture they experienced in their country of origin. The respondent and his attorney both explained how he was beat every day by the prison guards in a helicopter position for being labeled a traitor. The respondent's attorney even provided pictures to the judge of what torture looks like when the body is put in the helicopter position. For this respondent, however, explaining to the court how the guards called his mother a whore caused an emotional outbreak. Instead of the judge being sympathetic and understanding the level of emotional abuse the respondent endured, the judge squinted her eyes and questioned why these comments from the guard would make him sad. She stated that she

would think being beaten would cause an emotional outbreak since he knew his mother was not a whore.

Emotions are not validated inside courtrooms. As Max Weber theorized, highly bureaucratic spaces become “iron cages” of bureaucracy (Longhofer and Winchester 2012:203). These “iron cages” take away all humanity and ethical meaning from individuals, and forces individuals to live in this system. There is an “iron cage” of bureaucracy within immigration courtrooms and immigration prisons. Respondents’ triggered emotions seemed to reduce their credibility in courtrooms. They are stripped of their humanity and forced to navigate through a system that does not take their emotions or humanity into consideration.

In conceptualizing my fieldsite, I draw on Max Weber’s “iron cage” concept. Weber finds the increasing rationality in capitalism creates an “iron cage” in which society has no escape (Longhofer and Winchester 2012:203). Herbert Marcuse expands on this idea, finding that in “advanced industrial societies” people have become “one-dimensional” and controlled by “technological governance” (Longhofer and Winchester 2012:205). Marcuse explains, “society’s domination over the individual is greater than ever before,” and has created an iron cage (Longhofer and Winchester 2012:206). This iron cage is stripped of all humanity and ethical meaning, and creates a system that demands people to work and live in it. In my ethnography, I explored the iron cage of the immigration legal system. In immigration courtrooms, people could not give ethical meaning to their actions; instead, rationality and bureaucracy created through the law controlled their actions. Similar to how the mother and her four children were controlled through the bureaucratic rules of the courtroom, I witnessed other ways in which

respondents were controlled, not only in the courtrooms, but also in the Immigration Prison.

The findings of my study suggest there is a need for comprehensive change in the U.S. immigration system. The prison-like setting of the Immigration Prison where respondents are held captive deters them from having a fair chance in their immigration case. They are criminalized, face serious health concerns, and are blocked from outside resources that may help them in advancing their case. Judges sometimes displayed cynicism and used "the law" to hide their level of discretion in making life-changing decisions. Respondents with no legal representation had to navigate legal jargon and a well-prepared government attorney trying to deport them. While several respondents are capable of defending themselves in court and showing agency, there needs to be a higher level of respect for all people forced through the system. The dignity of respondents is stripped away and they are forced to navigate in an unjust system. I hope these findings bring light to issues within the immigration system that have gone unnoticed for far too long.

RECOMMENDATIONS

Massive overhaul of immigration law is needed at each step of immigration, starting with inclusive pathway to citizenship that is truly administrative (not based on incarceration or criminality). I propose recommendations to support the human rights of people captured in the United States' immigration legal system. Supporting respondent's human rights requires several steps.

The U.S. immigration system needs to become truly *civil* and end the criminalization of undocumented populations. In order for the immigration system to

truly become a *civil* form of law, it needs to end its punitive acts, such as incarceration and deportation, and the criminalization of racialized immigrant communities. The majority of people targeted and captured in the immigration legal system are immigrants of color, specifically Latinx immigrants (Golash-Boza 2016; TRAC 2014). In my study, most respondents were from Latinx communities south of the U.S. border. This is not a coincidence. The criminalization of Latinx immigrant communities stems from a historic lineage of racism, nativism, and the preservation and expansion of the White hegemonic order. This criminalization of immigrant communities justifies their incarceration and deportability (De Genova 2002), which transitions into my next recommendation of abolishing U.S. immigration prisons.

U.S. immigration prisons, otherwise referred to as immigration detention centers, need to be abolished. These institutions reflect sanctioned fear, hatred, and state violence towards immigrants of color. They mimic federal and state "criminal" prisons, in that they commodify their prisoners for capital gain, and are highly punitive (García Hernández 2017). Immigration prisons significantly lower respondent's chances of finding relief from deportation and strip respondents of their dignity. The "criminal" "undocumented immigrant" label becomes naturalized and accepted discourse in society. This rhetoric creates a moral panic for White society and justifies draconian forms of punishment on undocumented populations. The prisons ensure safety for White society, who are convinced they are "upstanding citizens" deserving of protection from "deviant others" (Díaz 2012; García Hernández 2014; Golash-Boza 2009; Muñiz 2015; Ríos 2008, 2012; Reiter and Coutin 2017). Therefore, the abolition of immigration prisons and deportation is necessary in order to eliminate the hateful and dehumanizing treatment of

undocumented immigrants. The immigration system needs to become truly civil, and adopt a restorative form of justice paired with a collective community healing (García Hernández 2017).

Punitive immigration law enforcement agencies, such as Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP), need to be eradicated. ICE strips people of their humanity through hostile immigration raids and target the stereotypical 'undocumented immigrant,' which has clear racial and ethnic designations (Glenn 2011). CBP uses violence and zero-tolerance policies, such as expedited removal[10], to maintain nativist borders (Muñiz 2015). In reality, the U.S. stole and colonized the land they claim to be theirs from Native populations. Therefore, CBP does not have the right to enforce such punitive and nativist immigration laws. The U.S.-Mexico border reflects a history of colonization, violence, and abuse; and its existence perpetuates this.

Although I strongly support the abolition of immigration prisons and punitive immigration law enforcement, the following suggestions focus on practical measures immigration courtrooms can take to protect the human rights of all respondents caught in the immigration legal system.

Immigration courts should be designed to conduct more civil forms of law, such as granting asylum, creating visas, etc. *All* immigrants should have a fair opportunity in their immigration case. More funding to immigration courts will provide

[10] Expedited removal is the process in which low-level immigration officials can quickly deport undocumented individuals at the border, as well as individuals who have entered the U.S. without authorization. As of 2013, 44% of all deportations were conducted through expedited removal. Under the current president, these quick removals are increasing (American Immigration Council 2017).

more support for immigration judges and interpreters. Judges will be less overworked and their burnout rate may decrease. This will hopefully reduce some of the biases judges rely on when making life-changing decisions for respondents. Also, the eradication of punitive immigration law enforcement and the abolition of immigration prisons and deportations will decrease the amount of people captured in the system, lowering the court backlog and allowing people to live free from fear of incarceration and deportation.

Judges and government attorneys should be trained in critical sociology of law and human rights to avoid the dehumanization and mistreatment of respondents inside immigration courtrooms. My study revealed several examples of the dehumanization and mistreatment of respondents inside the courtrooms from judges and government attorneys. To avoid this, judges and government attorneys should be educated on systemic and social problems that explain why respondents are caught in the immigration legal system, as opposed to relying on individualistic epistemologies.

They should also receive comprehensive training on how to reduce their racial and class biases in court. All respondents deserve respect in court. Marouf (2011) argues to help *reduce* implicit bias in judges, there needs to be an increase in recourse for judges, evaluations of their performance, and trainings to make them aware of the effect of implicit bias. Judges and government attorneys should not be hired until they pass a mandatory yearlong ethical training program.

Increase standards and funding for higher quality interpreters. I witnessed extreme confusion and miscommunication for respondents using interpreters. This confusion is extremely detrimental to their hearings, as it could determine a good or bad outcome for a respondent. Although my Spanish comprehension is not apt enough to

catch words or phrases that were not translated correctly, the Spanish language contains several different dialects depending on country or region within a country. Immigration court interpreters should be knowledgeable about these different dialects and should be assigned to different hearings based on these dialects.

Grant respondents with competent government funded immigration attorneys to represent them in all hearings. It should be a basic human right for respondents to be provided with government-funded attorneys, especially if the immigration system continues to criminalize and use punitive tactics against undocumented immigrants. Some respondents showed resilience and the ability to represent themselves inside the courtrooms at the Immigration Prison. However, when respondents were able to represent themselves in court, they often had certain privileges advancing their cases, such as the ability to speak English and comply with courtroom norms. For those who did not have these privileges, the odds of having a good outcome in their case were nearly non-existent. As Eagly and Shafer (2015) found, respondents with attorneys are fifteen times greater to find some type of relief from deportation. Therefore, being provided with competent government funded attorneys should be a fundamental right to all people caught in the immigration legal system.

There needs to be *true* comprehensive immigration reform. As the Immigration Youth Justice League (2013) attests, *true* comprehensive immigration reform should not be reflective on the best interest of politicians, but rather, on the systemic reasons for migration, such as free trade agreements, exploitive labor practices, human trafficking and violence. It should *not* reflect the current hierarchal system that excludes immigrants based on race, class, gender, sexuality, etc. Immigration advocates

should provide support for immigrant communities and not only rely on legislative change to defend the fundamental rights of all immigrants (IYJL 2013).

Any new immigration policies and courtroom procedures should be reflective on the humanity and respect of undocumented populations. People labeled as undocumented immigrants should not live in fear of deportation or of legal and structural violence. Instead, they should feel free to live wherever they want, without violent borders and nativist ideologies.

CONCLUSION

Draconian forms of law justify immigrant incarceration and deportation and the numerous legal and human rights being stripped from undocumented immigrants in courts and other legal entities. As Menjívar and Abrego (2012) explain, legal violence protects the rights of the "general good," while harming other social groups. It forces people to comply with the law but excludes them from legal protections and rights under the law. Similar to structural and symbolic racism, legal violence is socially accepted and reflects a covert form of racism and nativism (Menjívar and Abrego 2012). Menjívar and Abrego (2012) find the practice of converging immigration law with criminal law is an act of legal violence. Since respondents are processed as if they were in a "criminal" court setting, they should be given the same rights, such as being provided with government-funded attorneys. But since immigration court is *civil court*, respondents are not provided with attorneys, thus rendering the immigration court a space of legal violence.

As discussed in my findings, one respondent could not find an attorney while he was in prison. The list of non-profit legal centers could not help him and his family lived

far away from the immigration prison to provide assistance. This suggests a dire need for government-appointed immigration attorneys for *all* people in the system. Although respondents are capable beings of taking agency in court, they are combatting a system where they have no resources and where the system is stacked against them due to racial power structures.

Critical Race Theory (CRT) recognizes the ways in which race and racial power are maintained through U.S. law and society as a whole (Crenshaw 1996). As my findings suggest, Whiteness determines a person's ability to advance their immigration case, such as the ability to speak English, pay or find an immigration attorney, and to prove their eligibility of "citizenship." These examples reflect racial and power structures in the immigration legal system; someone who has to use an interpreter because they do not speak English may not be able to advance their case as easily as someone who speaks English. Poor quality translations could also result in major negative outcomes for respondents. And yet, these procedures are naturalized and continue to negatively affect the lives of so many individuals.

The criminality of respondents in court is one example of naturalized legal violence and racial power dynamics. My findings suggest judges may rely on a respondent's "criminal" history when deciding their case outcome. For bond hearings especially, respondent's "criminal" history tended to be a determining factor in whether the judge would deem them a threat to the community or a flight risk. The clothing of respondents marks a physical presence of criminality. The courtroom was reminded of the male Latino respondent's criminality when the clinking of the shackles around his wrists and ankles made noise with his movements.

This thesis calls to recognize how certain undocumented immigrants are racially subordinated for the preservation of the White hegemonic order, and how this results in an unfair immigration system that is designed to benefit only certain immigrants. The subordination of racialized immigrants is sustained through hypercriminalization, surveillance, and incarceration (Díaz 2012). The respondents in my study were highly criminalized and facing the most punitive form of immigration law: incarceration and the possibility of deportation. In using a CRT lens, immigration law reflects White privilege and the subordination of racialized immigrant populations (Romero 2008; Sanchez and Romero 2010).

The United States fails to acknowledge their part in the migration of communities south of the U.S. border, and simply blames individuals and cultures for their forced migration. For example, as Gloria Anzaldúa explains in her noteworthy book, *Borderlands: The New Mestiza*, the "crisis of Mexico" began because of U.S. invasion. Powerful landowners in Mexico partnered with U.S. companies and dispossessed millions of Indians from their lands, and the Mexican peso was devalued. There are now few-to-no jobs in Mexico. Anzaldúa (1999) writes, "The choice is to either stay in Mexico and starve, or move north and live" (p. 32). Those who are forced to migrate to the U.S. experience legal violence, are stripped of their livelihood, and have to combat a social and economic system that labels them as "criminals," "illegal," and perpetual "others." Undocumented immigrants in the U.S. have to "prove their worth" through demonstrating they are not "criminals" and can contribute to the U.S. economy (Chauvin and Garcés-Mascareñas 2014; De Genova 2002; Díaz 2012; Golash-Boza 2009; Muñiz 2015; Ríos 2008, 2012).

Mexican migrants in the U.S. have historically been stigmatized as disposable for their labor through skewed reports of who is considered “deportable” and a “crisis” to the border and economy (De Genova 2002). The distinction between who is “legal” and “illegal” in the United States was created to stigmatize and regulate Mexican migrant workers, and racialized Latinx populations as a whole. Undocumented migrant labor is criminalized as “illegal” and subject to severe policing. Thus, the “illegal alien” label becomes profitable because it sustains a legally vulnerable population and an inexpensive reserve of labor. Undocumented immigrants, specifically racialized Latinx populations, are then viewed as a “deportable” population and their incarceration and maltreatment is justified (De Genova 2002). Because of racial and class boundaries, undocumented immigrants are inevitably criminalized, mass incarcerated to fill the pockets of private prison investors, and are not given any legal, economic, or social recourses.

Racism, xenophobia, and nativism in relation to immigration are not limited to the United States. Smith (1996) explains that by 1995, backlash against immigration went global, expanding beyond xenophobic sentiments in rich and industrialized countries. For example, South Africa declared “illegal immigration” on their neighboring countries such as Zimbabwe (Smith 1996). The current crisis facing the Rohingya population in Myanmar is another example; they are considered “illegal” immigrants from Bangladesh, and are fleeing severe persecution in Bangladesh and India (PNC Law Offices 2017; Solomon 2017). Italy claims it is “cooperating” with the Libyan government, but in reality, this “cooperation” has blocked around 1 million migrants from leaving Libya because of increased immigration enforcement (Hooper 2017). While some Latin American countries have sought to construct migration as a right, several recent political

leaders in Chile and Brazil are expressing anti-immigrant sentiments, jeopardizing Haitian and Venezuelan migration throughout the regions (Bolter 2017). These examples, and countless others, illustrate the need to humanize not just the U.S. immigration system, but also issues related to immigration on a global scale to effect change.

This study attempted to bring a human aspect to the U.S. immigration system through acknowledging the structural and legal violence's several respondents endure inside an immigration prison's courtrooms. Similar to the story of the four children having to witness their mother not being released from the Immigration Prison on bond, several other mothers and fathers are being stripped from their children and families, where they all experience depression, trauma, forced separation, and several other collateral consequences (Velasquez 2017). This is a call to action for the humanization of undocumented populations who migrate to the U.S. and a call for *true* immigration reform. Our immigration system should treat all immigrants with respect and dignity. Undocumented individuals should not live in fear of incarceration and deportation because of their race, ethnic background, gender, class, etc. Everyone should have the fundamental right to work, live in safety, travel, be healthy, and participate in society in the U.S. (IYJL 2013).

There are several avenues for future research based on this study. Focus on the punitive and racialized nature of the immigration system and how this creates a system of subordination and oppression of racialized immigrant groups. Following respondents' cases throughout their process would provide direct insights to human rights considerations, collateral damage experienced by family members, and the role of immigrants' attorneys. Compare immigration court with the problem solving courts' legal

models, which lessen the punitive focus on the respondents and enhance the wrap-around social services and treatment. With the increase in immigration enforcement and the increased hiring of immigration judges, the immigration courtroom – especially in immigration prisons – is an important site that intersects the hope for human rights and the reality of legalized violence.

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