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# Social Banishment and the US “Criminal Alien”: Norms of Violence and Repression in the Deportation Regime

David C. Brotherton

*CUNY Graduate Center, CUNY John Jay College*

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# SOCIAL BANISHMENT AND THE US “CRIMINAL ALIEN”: NORMS OF VIOLENCE AND REPRESSION IN THE DEPORTATION REGIME

David C. BROTHERTON

RÉSUMÉ. – Cet article mobilise les données issues d'un travail d'observation participante au sein d'audiences d'expulsion de migrants dans le nord-est des États-Unis en se focalisant sur deux thématiques : (i) l'émergence d'un régime de déportation et ses mécanismes de violence structurelle et (ii) les normes de la violence dans les espaces de ce régime de déportation. Par régime de déportation, nous faisons ici référence aux systèmes et pratiques institutionnels créés par l'émergence d'un état de sécurité exceptionnel, aux appareils et rituels discrets et peu discrets utilisés pour discipliner les esprits et les corps des travailleurs immigrants avec ou sans papiers, et leurs conséquences collatérales. La violence structurelle se réfère aux arrangements systémiques qui infligent des dommages sociaux aux individus en les privant de leurs droits fondamentaux à l'existence, conduisant souvent à leur mort prématurée. L'article explore différentes formes de violence dans les espaces sociaux où le régime exerce son pouvoir presque incontrôlé. Il soutient que la violence qui découle du régime a un impact important non seulement sur les non-citoyens immigrants, mais aussi sur les citoyens immigrants et les citoyens non-immigrants. Cette violence structurelle induit un effet de spirale et d'amplification qui diffuse un large éventail de relations sociales, car son pouvoir intimide, terrorise, contient et subordonne des individus et des communautés, les soumettant à son mandat imposé par l'État pour retirer des éléments « indésirables » du corps social. Ces politiques et pratiques, parrainées par l'État, visent à déshumaniser, désorienter, distraire, humilier et intimider et ne sont pas les conséquences involontaires de politiques autrement rationnelles et mesurées visant le bien commun.

MOTS-CLÉS. – Bannissement ; Déportation ; Violence structurelle ; Droits humains ; État sécuritaire.

ABSTRACT. – In this contribution, I interpret data from an ongoing participant observation study of deportation hearings in the North-East United States using two analytical themes: (i) the emergence of the deportation regime and its mechanisms of structural violence, and (ii) the norms of violence in the spaces of

the deportation regime. By deportation regime I am referring to the institutional systems and practices created under the emergence of an exceptional security state and the discrete and not so discrete apparatuses and rituals employed to discipline the minds and bodies of documented and undocumented immigrant labor and the collateral consequences that result. Whereas structural violence refers to the systemic social arrangements that inflict social harm on individuals by depriving them of their basic human rights to exist, often leading to their premature deaths. In my analysis, I focus on the various forms of violence in the social spaces where the regime exerts its almost unchecked power. I argue that the violence that flows from the regime has an extraordinary impact not only on immigrant non-citizens but also on immigrant citizens and non-immigrant citizens. This structural violence has a spiraling and amplifying effect, infecting a wide range of social relations as its power intimidates, terrorizes, contains and subordinate individuals and communities, subjecting them to its state-enforced mandate to remove “undesirable” elements from the social body. Such state-sponsored policies and practices aim to dehumanize, disorient, distract, humiliate and intimidate and *are not the unintentional consequences of otherwise rational and measured policies aimed at the common good.*

KEYWORDS. – Banishment; Deportation; Structural Violence; Human Rights; Security state.

*We are throwing MS-13 the hell out of here so fast. We are cracking down hard on the foreign criminal gangs that have brought illegal drugs, violence, horrible bloodshed to peaceful neighborhoods all across our country... We're liberating our towns, and we're liberating our cities. Can you believe we have to do that?*

D. Trump, President of the United States,  
Youngstown (Ohio), 25/07/2017.

The utterance (above) by the President-elect of the United States (US), often referred to as the most powerful man on the globe, articulates the seemingly unbounded power of a nativist impulse to expel the Other from our midst. The purpose of this article is to inquire into the state system given the responsibility of carrying out such acts of expulsion and banishment while shedding light on the spaces within which the state and its agents employ the structural violence necessitated in this process. In this primarily ethnographic investigation, I trace the historical emergence of the

current deportation regime, particularly its main enforcement arm, the Office of Immigration and Customs Enforcement (ICE), and follow its practices through my engagement with it as an expert witness in fifty immigration removal hearings over the last decade. My ethnographic encounter, therefore, primarily takes place within three types of social spaces: the community, detention centers, and immigration court rooms.

The themes of banishment in President Trump's hyperbole resonate strongly within current research on deportation that stretches across the disciplines (see *inter alia* Brotherton and Barrios, 2011; Brotherton and Kretsedemas, 2018; Calavita, 1992; Coutin, 2007; De Genova and Preutz, 2010; Golash-Boza, 2015; Kanstrom, 2007; Marcías Rojas, 2016; Menjivar and Abrego, 2012; Ngai, 2003; Zilberg, 2011). Within this literature two primary questions are consistently posed: (i) what constitutes the mechanisms of deportation? And (ii) what kinds of violence are used in the deportation process? These questions are especially prescient in a period of socially constructed hyper-anxiety over "threats" to international and domestic security posed by an assortment of immigrant Others (or "bad hombres" in the terminology of the current US President).

In this contribution, I employ data from an ongoing participant observation study of deportation hearings in the North-East United States to return to these questions focusing on two analytical themes: (i) the emergence of the deportation regime, and its mechanisms of structural violence, and (ii) the norms of violence in the spaces of the deportation regime. By deportation regime, I am referring to the institutional systems and practices created under the emergence of an exceptional security state (Hallsworth and Lea, 2011) and the discrete and not so discrete apparatuses and rituals used to discipline the minds and bodies of documented and undocumented immigrant labor and the collateral consequences that result. Whereas structural violence refers to the systemic social arrangements that inflict social harm on individuals by depriving them of their basic human rights to exist, often leading to their premature deaths (Galtung, 1969). In this article, I am mainly applying the concept of structural violence to activities and contingencies of the coercive state in the form of the deportation regime. There is a growing literature on deportation and violence in the US based on an increased interest in the populations being expelled at ever greater rates, which in effect contest hegemonic paradigms in sociological immigration studies that privilege assimilationism (Treitler, 2015; Brotherton and Barrios, 2011).

The notions of the deportation regime and the production of violence is seen in the Foucault- and Agamben-influenced work of De Genova (2010) who argues that such regimes have been normalized in many Nation-states as they enforce a historically specific form of sovereignty on populations valued mostly for their potential relationship to capital, i.e., their exploitability. This is particularly true of the undocumented immigrant (Calavita, 1992), where a partial and uneven application of border controls has resulted from policies and state practices. In more recent times, the regime has hardened and been extended due to multiple processes of state securitization all of which aim to control the flows of immigrant bodies, particularly those moving from the South to the North, as he states;

“...The freedom of movement remains the freedom of life itself, not merely the mundane necessity to make a living but the freedom to truly live. Deportation, as a more or less juridical, more or less arbitrary exercise of state power, is therefore an exquisitely concentrated abnegation of that freedom, one more usurpation by the state of the sovereign power of humanity itself.” (De Genova, 2010, p. 58).

For De Genova, a key purpose of the regime is to establish a bounded political and economic environment through laws, customs and institutions to produce a flexible army of exploitable and deportable immigrants for no other reason than the use of their labor power. The genius of this disciplinary process, a form of bio-politics, is that it extends to the laboring classes in general. Thus, the economic policies of neo-liberal governments and the transnational capitalist class are predicated on this flexibility, utility and disposability of a globalized and transnational work force (Golash-Boza, 2015; Robinson, 2014). The deportee, thus, is a once valued and now devalued subject/object created by larger State and Non-state forces in a quest for governmentality (Hiemstra, 2010). In the US, the deportee emerges as a vast transnational population out of the specific contradictions of late modern capitalism where the Keynesian model for Welfare state-based consensus has been traded for a system that punishes the poor (Wacquant, 2009) with strong white supremacist forms of social control in which both mass incarceration and mass deportation are mutually reinforcing features (Alexander, 2010).

While social expulsion and exploitation of the Other has been the long-term project of US elites (Zinn, 2005), the immigration-enforcement apparatus produces the “great expulsion” (Ewing *et al.*, 2015). As Kanstroom (2010) argues, the new deportation regime has a long pedigree with consistent racial and class-based violent

state expulsion programs.<sup>1</sup> However, this present State apparatus and structure represents a dramatic new stage in the US elite's effort at population management, merging both a system of external border maintenance with an internal social control based on an amalgam of legal, bureaucratic and militarized state agencies. It is a system that has had little precedent in its excessiveness and omnipresence in the modern era and is seen as the working out of an entire "crimigration" complex (Stumpf, 2006) — an overarching system of laws, processes and practices that fuses criminal justice, immigration, border control and civil society during the "punitive turn" in domestic social control (Feeley and Simon, 1992).

To invoke Erikson (1966), the deportation regime's emergence is the end game in a process of constructing the deviant Other. By bestowing anti-social properties on the target population, the immigrant as "folk devil" (Cohen, 1972) is symbolically created, and the solution is social cleansing (Douglas, 1966). The social suffering (Bourdieu, 2000) that this engenders is clear for all to see and takes many forms. For example, hundreds of thousands of deportees' children are left behind without one or both parents (Golash-Boza, 2015), detainees are rampantly abused in detention centers that resemble modern day concentration camps (Dow, 2005), deported subjects are victims of extreme forms of social and institutional discrimination and premature death on return to their homelands (Brotherton and Barrios, 2011; Zilberg, 2011), and the social-psychological impact on returnees produces an epidemic of depression and drug abuse (Brotherton and Barrios, 2011). The scapegoating and symbolic violence (Menjivar and Abrego, 2012) meted out to the "deportable alien" is the means by which the ruling class shores up its failing ideological hegemony amid the devastating social injuries of its neo-liberal, transnational capitalist project (Robinson, 2014).<sup>2</sup>

Finally, there is a powerful cultural context to the regime's violence and its social practices. As Young (2007; 1999) has theorized, the epoch of capitalist late modernity produces "social bulimia" or the co-presence of cultural inclusion and social exclusion, of which the deportable immigrant falls victim. For Young, the exclusionary

1. From the "Indian" Removal Act of 1830 to the Fugitive Slave Act of 1850 to the Chinese Exclusion Act of 1882 and the ongoing racial cleansing that persisted into the 20th Century with Executive Order 9066 in 1942 and Operation Wetback in 1954.

2. Given that most criminologists suggest that the immigrant population has the least propensity to engage in crime than almost any other in the US then the ostensible reason for deporting immigrants as one of crime control is clearly spurious (see Martinez and Valenzuela, 2006).

apparatuses function with irrational vindictiveness and not simply the measured rationality of the iron cage imaginary. Thus, behind the bureaucratic violence of the regime's agents and their supporters, lies deep-seated feelings of resentment. With large sections of the working — and middle — classes facing increasing levels of precarious employment and social stagnation, an anti-immigrant sentiment flourishes and is easily manipulated within an already established culture of control (Garland, 2001). It is difficult to imagine a more vindictive State structure reflective of such contradictions than the deportation regime.

## **Methodology**

The methodology adopted for this study is ethnographic participant observation carried out primarily in and around immigration court rooms over the past five years. Hence, I have served as an expert witness in more than fifty immigration removal hearings mostly related to the Dominican Republic throughout the northeastern United States. These have led to forty in-person testimonies and the production of fifty affidavits.

In these hearings, my role is to analyze court documents filed by immigration lawyers in efforts to gain relief for their clients who face forced repatriation and virtually permanent banishment. In addition, I provide a summary of the hostile country conditions that deportable subjects can expect to encounter in the form of an affidavit. Such threats must be seen by the court to reach the point of torture or even death as defined by the United Nations' Convention Against Torture Act signed by the United States in 1986. For this is only the means for male deportees to escape removal while females can also appeal under the US federal law of Violence Against Women Act of 1994.

Consequently, I appear in court hearings in person and undergo cross-examination by government lawyers whose role is to discredit my testimony and question my knowledge and expert opinion. The role of the expert witness has given me multiple possibilities to experience, record, observe and gain access to settings, detained individuals and their families. It also places me in a position where I have to defend my work under often hostile and intimidating settings. These field work experiences bring me closer to the felt social and cultural conditions, going beyond the usual distance of the neutral observer and enabling a more reflexive

sociology (Bourdieu and Wacquant, 1992; Denzin, 2001). Such a sociology takes into critical account the positionality of the researcher, the self-awareness of the social relationships and power dynamics between the researcher and the researched, and the domain assumptions (Gouldner, 1970) inherent in the "research act" (Denzin, 1973) that can obscure, for example, dynamics of race, class and gender especially in institutional contexts where the power relations are so unequal.

To a certain extent, my methodology also borrows from action research (Fals-Borda and Rahman, 1991), autoethnography (Bochner and Ellis, 2016) and ethnographic activism (Juris and Khasnabish, 2013) in that I have voluntarily placed myself inside relations and structures of power that constitute and configure the asymmetrical setting. I have chosen to do this in order to make audible those voices normally silenced by relations of subordination and subjugation while gaining another epistemological way to document, represent and interpret an array of social actors that constitute the court room experience in all its layered performativity.

In addition, I have conducted twenty face-to-face qualitative interviews with immigrant lawyers, fifteen interviews with detained subjects, ten interviews with non-detained subjects and thirty interviews with family members and associates of deportable subjects. All these interviews interrogate the experiences of the deportation process with an emphasis on its vindictive and violent properties.

This methodology has yielded important new data which after being systematically coded, interpreted and analyzed, have yielded the themes outlined below. Such analysis draws from the extended case study methods of Burawoy (1998) in that it reveals emerging and continuing processual relations between actions, apparatuses and ideologies of elite power structures and the dominated. What follows is a brief description of deportation regime and its militarization followed by an analysis of the interactional processes that this regime engages in on an everyday basis, most of which go unnoticed by the general public, hidden behind the closed doors of private homes, detention camps and immigration courts. After providing a picture of the extent of the deportee regime and its enforcement programs, I will discuss the normativity of its practices, especially as they pertain to modes of violence and repression as integral parts of the State-sponsored act of banishment and repatriation.

## The Emergence and Militarization of the Deportation Regime

“Over the years, ICE has achieved truly impressive results in protecting our nation’s borders and enhancing public safety. Today, ICE is more than 20,000 strong with a presence in all 50 states and 48 foreign countries. We are galvanized toward our mission — to promote homeland security and public safety through the enforcement of federal laws governing border control, customs, trade and immigration.” (US Department of Homeland Security [online: <https://www.ice.gov/history>], accessed 23/10/2017).

As ICE’s own website proudly states the State bureaucratic and militarized system which oversees the categorization, apprehension and expulsion of non-citizens have “achieved truly impressive results.” This arm of the coercive State, founded in 2003, has violently and intrusively insinuated itself into almost every aspect of the nation’s social, political and economic fabric with profound long-term destabilizing impacts on a broad spectrum of immigrant communities both individually and collectively (Hagan, Rodriguez and Castro, 2011). The legislation having the single most impact on the regime’s growth is undoubtedly the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), enabling a seismic escalation in rates of deportation and social injury with a particular focus on non-citizens from Latin America and the Caribbean. This has been accomplished, in particular, through:

- (i) expanding the definition of “aggravated felony” to crimes carrying a prison sentence of more than one year, thus automatically qualifying subjects for expedited removal;
- (ii) making the law retroactive, meaning that subjects are deportable based on any crime recorded in their past, despite having served their sentences;
- (iii) ending family-based waivers for subjects;
- (iv) abolishing the possibility of judicial review, and
- (v) introducing biometrics to record finger prints nationwide of any “criminal alien.”

Virtually, the only legal defense for persons caught in removal proceedings, therefore, is to claim the likelihood of torture by agents of a foreign government if deported and for women, threats of violence by a partner or other likely protagonist (see *infra*). *The tragic irony of the deportable subject should be obvious, since their only legal defense is that they will be the victim of the most extreme forms of State*

*violence in the receiving country after being the victim of extreme State violence in the sending country.*

The growth of the regime and its main arm of structural violence has been explosive. By the end of Obama’s first term in 2009, the first African-American President of the United States had expanded the program on immigrant removals by “approximately 3600 percent” (Franco and Garcia, 2016). Nearly all of these removals are carried out by the Office of Immigration and Customs Enforcement which has morphed from a sub-branch of the Department of Justice at the turn of the millennium into a bureaucratic behemoth with an annual budget of over \$6 billion<sup>3</sup>. Meanwhile, the political economy of the deportation regime is sustained by major investments from private capital and increasing federal budgets courtesy of the US tax-payer. The American Council on Immigration (2014) reported that funding during Obama’s second term for two of ICE’s main departments, Customs and Border Protection and Enforcement and Removal Operations doubled to \$11.9 billion or more than 70% respectively.

Meanwhile, on news of Trump’s presidential victory shares in the Correction Corporation of America (now called Corecare), the largest corporation to invest in private detention facilities for immigrants, rose 43% reflecting the vaunted profitability of the deportation-industrial complex as seen through the lenses of private capital. For each detained deportee, private prison corporations receive over \$120.00 per day, highlighting the degree to which detainees have become commodities with an increasing exchange value within a broader process of what Robinson (2014) calls “militarized accumulation.”<sup>4</sup> With the new President promising to deport over 11 million immigrants and doubling the capacity of detention beds in its 290 facilities, all of which have to be filled on a daily basis to the maximum of 34,000 persons, the future of the private deportation industry would seem propitious (Stageman, 2017).

3. See: ICE [online: <https://www.ice.gov/>].

4. Robinson’s (2014) global structuralist analysis asserts that the central crisis of capitalism is its overaccumulation (see Luxemburg, 1913), i.e., two of capitalism’s basic contradictions are its tendencies to overproduce wealth while ensuring increased social polarization between the haves and have-nots at the same time as it overproduces commodities for which there is insufficient demand. This results in the need to destroy capital periodically amid the production of a vast global surplus class of labor. Thus, the State joins with private capitalists to militarize its apparatuses to both exploit and control the surplus class that capitalism cannot absorb. Part of this “militarization of capital” involves moral panics such as “the war on drugs” and “the war on terrorism” and the mass expulsion of immigrants.

As we witness the growth of the regime in State and private investments, we also see the extraordinary proliferation of all its various programs within an expanding apparatus of forced removal. The following comprise but a partial list.

- The Criminal Alien Program (CAP), which places ICE officials at State prisons to conduct immigrant screening.
- The National Fugitives Operations Program (NFGP), which has led to the arrest of more than 350,000 removable aliens since its inception in 2003.<sup>5</sup>
- Secure Communities, a program once abandoned by Obama and now revived by Trump. This program authorizes police to enter prints of arrestees into a joint FBI and ICE database using a “federal information-sharing partnership between Department of Homeland Security (DHS) and the FBI to identify in-custody aliens without imposing new or additional requirements on state and local law enforcement.”<sup>6</sup> The system operates on a growing system of biometrical monitoring of citizens and non-citizens through the Automated Biometric Identification System (IDENT) and the Integrated Automated Fingerprint Identification System (IAFIS).
- The 287(g) program which trains state and local police to identify, process and detain suspect immigrants whom they encounter during their regular law enforcement activities. According to ICE it has “agreements with 60 law enforcement agencies in 18 states” and “has trained and certified more than 1,822 state and local officers to enforce immigration law.”<sup>7</sup> This program has become a widely used tactic in dismantling the establishment of “sanctuary cities” across the United States with widespread reports that ICE agents have been dispersed throughout the criminal justice system, e.g. attending family court and criminal justice hearings to take deportable subjects directly into administrative custody.
- The Violent Criminal Alien Section (VAS), a program that screens recidivist criminal aliens encountered through Enforcement and Removal Operations’ (ERO) efforts ostensibly to lessen the risk of future recidivism.

5. See: US Department of Homeland Security [online: <https://www.ice.gov/fugitive-operations>], accessed 19/01/2018.

6. See: US Department of Homeland Security [online: <https://www.ice.gov/secure-communities>], accessed 19/01/2018.

7. See: US Department of Homeland Security [online: <https://ice.gov/287g>], accessed 19/01/2018.

- The Joint Criminal Alien Removal Task Forces (JCART) that identifies, investigates and arrests criminal aliens with wide range of offenses.
- The Detention Enforcement and Processing Offenders by Remote Technology (DEPORT) Center where immigrant "deportables" in the prison system are interviewed by agents through video teleconferencing.

These are just some of the programs and agency and sub agencies which constitute a highly layered and complex bureaucratic immigrant removal machine established in a little over a decade. The machine continues to expand using a growing assortment of specialized enforcement personnel along with the weapons and surveillance systems based on self-fulfilling prophesies of securitizing the state and protecting "us" against the immigrant Other. But like the reasons for mass incarceration, the regime's goals have little to do with fighting the threat of the criminally disposed immigrant. It is estimated that less than a third of deportees removed for criminal transgressions would be considered deportable prior to the 1996 IIRIRA (Golash-Boza, 2015).

### **The Norms of Violence in the Spaces of the Deportation Regime**

Clearly, the regime is a formidable presence in the contemporary US and demonstrates the degree to which the regime's practices are transforming and uprooting social life across society, not just in immigrant communities. In the following, I focus on the various forms of violence in the social spaces where the regime exerts its almost unchecked power. The violence that flows from the regime has an extraordinary impact not only on immigrant non-citizens but also on immigrant citizens and non-immigrant citizens. In other words, the structural violence of the regime has a spiraling and amplifying effect, infecting a wide range of social relations as its power intimidates, terrorizes, contains and subordinates individuals and communities, subjecting them to its state-enforced mandate to remove "undesirable" elements from the social body. In this analysis I interpret the violence as forms of spatial practices (Lefebvre, 1994; Zilberg, 2011) which intersect with and condition everyday life, often blurring the lines between peace and war in a community's lived experience (Bourgois, 2001).

*The Space of Community*

As the regime has developed in all its dimensions — the budget, the profits, the personnel, the numbers detained, and the spaces linking State and Non-state institutions and the militarized culture within which social control and banishment become enabled,<sup>8</sup> nurtured and rationalized —, a marked increase in cross-agency incursions into the immigrant community is witnessed. Such incursions are rationalized and framed by two primary signifiers: gangs and drugs. These traditional tropes of State-inspired moral panics were the main inspiration behind the program called “Secure Communities” (see above) with its reliance on militarized solutions to social problems — highlighted by the gang-expulsion project code named “Operation Matador”.<sup>9</sup> In the following account by a US citizen, he describes how his older sibling, a 42-year-old legal US resident, came face to face with the deportation regime in the private and personal space of his New York City apartment one afternoon:

“They just came in through the door, you know, broke through using those hammers about four in the afternoon. Must have been like 12 of them stormed in guns drawn. There was this big Latino guy from some immigration tactical squad at the front. I think there were like four of these squads all working together, you know, immigration, FBI, some drug unit... He just came straight over to my brother and started beating him over the head with the end of his gun, like the handle. My brother was just sitting at the table in the kitchen drinking coffee. You know my brother’s not well, he’s sick, on disability. He hit him three times and kept hitting him, then my brother fell to the floor. I thought he was dead, he was completely unconscious, you know, his eyes staring out like there was no life in them... blood pouring out the side of his head all over the floor. I was shouting at the guy, ‘Stop hitting him, don’t you see you’re killing him?’ Then another guy from one of these squads said something like ‘You’d better step back I think you’ve killed him.’ The Latino guy just said, ‘Fuck him he deserved it.’ I’m not joking, that’s what he said. I couldn’t believe it. Who are these people? They’re like animals. Then this other team came in after they carried

8. The goals of the Trump administration to significantly increase the numbers of those deported as well as expand the machinery of the deportation regime have been undercut by continuing disagreements with Congress over the President’s budget proposals.

9. The militarization of the administration and its explicit focus on expelling the Other is highlighted by the new White House chief of staff, John Kelly, who is a four-star army general, previously the head of the US Southern Command and the former director of the Department of Homeland Security.

him out and started cleaning up the blood. You know, they didn't want evidence." (Interview, 22/05/2017)

The interviewee above, also tells me that his brother is suing the police for their brutality and describes the terrible injuries he continues to suffer from. But who will hear his voice? Black males get killed all the time in the US without receiving justice so what chance is there for a black male deportable Other? Thus, the regime exerts its violent power not only through its overt practices of repression and intimidation but through its capacities to silence and cower immigrant communities (Leyro, 2018).

These raids are forms of legal State violence (Menjívar and Abrego, 2012), borrowing their rationales, practices and techniques from the normative rules of combat employed in State-sponsored counter-terrorism and organized crime-fighting missions. The social actors in the above citation are members of an ICE unit called the Special Response Team, which, according to ICE, consists of specially selected members drawn from the broader population of field agents. Members of this unit undergo weapons and combat training normally reserved for the military at Fort Benning, Georgia. ICE boasts that such teams are trained by Navy Seals, the elite US special forces unit (ICE, 2015).

The hardening of the deportation regime as it takes on a primary role in the Trump administration's war against the Other is complemented by the security industry's ability to profit from the paramilitaristic practices of the State and its interlocking systems of containment (see *supra*, footnote [4]). As the State prepares to extend its internal wars, the acts of violence multiply with ever greater frequency and intensity, drawing in tens of thousands of new social actors or recycling those already socialized and conditioned by cultures of militarism and domination which are imbued with practices of dehumanization and denial. In 2009, a report was published on the widespread practice of ICE agents illegally entering homes of immigrants in search of deportable aliens without warrants and sufficient legal cause. The authors describe the use of "swat-style raids," like the one above, on immigrant homes frequently without any targeted individual(s) being apprehended (Chiu *et al.*, 2009).

All this happens despite the Fourth Amendment of the US Constitution which states that people have the right "to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall

issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” The ultimate goal of this provision is to protect people’s right to privacy and freedom from unreasonable intrusions by the government.

Such raids are a clear example of structural violence by the coercive State as it transgresses the right of human beings to reside without the fear of incursion in their own homes. As a result of such flagrant breaches of the law in 2007, 22 Latino/a immigrants filed a law suit against ICE after their homes had been raided without just cause, frequently without warrants, and using armed threats against the inhabitants on the grounds that they were all gang members or related to “the gang.” In the case of *Aguilar v. Chertof* (former National Director of Homeland Security), the plaintiffs won a judgment in 2013 against the government and I served as an expert witness examining the testimonies of ICE agents regarding their knowledge of gang culture. I found that of more than 100 ICE agents almost none had sufficient expertise in the area of gang cultures and would be hard pressed to identify a gang member if they saw one (Brotherton, 2010). During the case, it was disclosed that the deportation regime was attempting to meet a nationwide quota system of “deportable aliens” and invented the categories of “gang associates” and “gang collaterals” in order to meet the number of gang members set by the upper echelons of the bureaucracy.<sup>10</sup> These state-sponsored invasions into community spaces on the pretext of removing tainted members from society, often based on faulty information gleaned from “crimmigration” data bases, reflects the degree to which a “banality of evil” (Arendt, 1963) pervades the practices of the deportation regime.

### *The Space of the Detention Camp*

I have visited a wide range of detention camps all across the north east of the US to talk with deportable subjects in order to learn first-hand about the circumstances of their cases. These camps vary in their architecture, geography, management structure and relationship to the state. Most are run by the DHS and employ public employees while others are privately owned but managed according to DHS guidelines. My visits have taken me

10. Tagging immigrants as gang members and racial profiling continues to be a favored tactic of ICE across the United States (Yee, 2017).

to the borders of New York and Canada where a state detention complex is situated at the back of a shopping mall, while others are located in vast, early 20th century State prisons two hours' drive from Manhattan, and still others are corporately owned, profit-driven enterprises located amid factories and warehouses in the de-industrial environs of New Jersey. These camps reflect the wider permanence of "geographies of exclusion" (Sibley, 1995) in the US ethnoscape where racialized groups have been amassed through their complex relationship to the political economy and the expanding system of "crimmigration."

Mr. B. has been detained for a year, during which time he has been denied the treatment necessary for his deteriorating physical condition in an immigration detention facility close to New York City. The subject has been diagnosed with chronic psoriasis, a severe skin malady that also causes chronic arthritis and results in the extreme swelling of joints in the hands and legs for which he needs an injection once a week. However, such treatment has been consistently denied by the authorities' due to its costs. As Mr. B. says, "all they give me is a cream which is useless and does nothing. Sometimes I can't move, I can't tie my shoe laces and I just lie there in pain. They don't care about me, they just want to get rid of me."

There is a direct link between the profits generated by the deportation regime and both the violence and suffering endured by the deportable subjects. Such examples of withholding medical treatment for detainees on account of the costs is par for the course in the US where 25 million people do not have health insurance and health care is not considered a public good or a human right but rather a service that is mediated by the profit motives of private insurance companies, private hospitals, doctors and pharmaceutical companies. Deportable aliens are viewed in similar terms, as transitional beings and subjects/objects of control that cost money to maintain and process on their way to removal.

The space of the detention camps provides multiple examples of State-sponsored violence and vindictiveness, whether it is demonstrated in the figure of Mr. B., clothed in his prison issued, convict orange uniform and his grotesquely mis-shapen hands or Mr. T. who talks about his recent experience of being "mistakenly" deported whereupon he experienced three attempts on his life as "pay back" for his cooperation with US law enforcement. While Mr. B. talks about the threats to his health at the lack of medical treatment in the present, Mr. T. discusses such threats to

his well-being in the future. Both are brought together within the spaces of detention, what Zilberg (2011) calls “militarized spaces” which are created from a combination of the US’s internal and external wars over time, i.e., its domestic wars against the immigrant and its international neo-colonial wars that produce huge waves of displaced subjects, many of whom become “deportable aliens.”

Such detained subjects are always in spatial limbo, fixed in some kind of legal liminality (Brotherton and Barrios, 2011; Menjivar, 2006), as their relationship to the sovereign state is placed on hold due to their past transgressions now receiving extreme scrutiny by the deportation regime that threatens disproportionate sanctions (Kanstrom, 2010). Through this treatment by the state, a semblance of due process still exists (see *infra*, section on the courts) with detained subjects holding on to hope against hope that they might be freed but psychologically facing the stronger reality of eventual deportation. This kind of violence which causes extreme levels of depression, anxiety and stress in detainees is a form of psychic violence, as subjects wait months and sometimes years in despair, frustration and exasperation.

As deportable subjects are placed in social spaces between physical, social and cultural borders the experience of privation is felt as an intended and deliberate traumatic act of the pre-removal process. The conditions of detention camps, of which there are now 290 such facilities in the US reflects a culture of cruelty (Giroux, 2012) across a society now in its fourth decade of the “punitive turn” (Feeley and Simon, 1992). During ten years of my visits to these spaces I have never heard a positive word about the conditions “deportables” are forced to endure. It should be remembered that these institutions are there to detain subjects not to punish them for they are only in administrative proceedings as they await the outcomes of the expulsion process. A family member of a detainee who has spent six months in detention described the conditions under which her uncle was being held:

“It’s terrible in there, really terrible. He does nothing all day just sits there waiting to come home or be deported. They don’t have a single program for them in there, nothing. Plus, it’s totally overcrowded, they are jammed in there, sometimes he says he can’t even wash himself. And, of course, the people in there are all kinds, some of them hardened criminals, MS13 members, not like him who got caught in some minor scheme. (Interview, 23/10/2017)

*The Space of the Courts*

"It's so stressful, we are always up against it. It never stops, whatever we do they have such an inbuilt advantage. Like right now they are hiring all these TAs (trial attorneys) and they have such little experience, some of them barely 9 years out of law school and they are judges. They work completely with the government lawyers, they almost work for them. I had a case the other day with X the gov lawyer, this guy is pure nasty, nothing gives with him, and he starts saying in the hearing 'we're gonna remove this guy now,' and this kind of thing. Totally unprofessional and against any notion of process even the modicum we can kind of guarantee and the judge just lets him do it and makes a note of it like nothing is wrong, like everything is permissible. So, we come along and we try to work with legal theory and think of all the ways we can represent our clients and we get this treatment, it's crazy. You keep thinking things must get better, it can't stay this way, but then it does, it just goes on and on. It's all stacked in their favor." (Interview, 05/06/2017)

Above, an immigration lawyer comments on her experience of withstanding the strains of representing clients who are clearly at a disadvantage within the unequal terrain on which the immigrant laws are enforced within the nationwide system of immigration hearings and appeals. Deportable aliens are either taken to court straight from the detention camps or they are issued warrants to appear or else they will be apprehended by ICE agents. As the US President of the National Association of Immigration Judges has plainly stated (National Public Radio, 2017), the onus of proof is on the deportable subject, since he or she has to prove they are worthy of relief. In other words, they have already been deemed removable and guilty of breaking the law, hence their only legal recourse is to convince the judge that their treatment warrants some mitigation by the State due to their special circumstances.

The interactions I have witnessed and participated in during immigration hearings are replete with acts of humiliation and degradation (Goffman, 1963; Garfinkel, 1956) as government trial lawyers do their utmost to convince judges that respondents are precisely not worthy of remaining in the country (even though the majority of deportable subjects are guilty of minor crimes for which they have already paid their debt to society). The court, thus becomes a space of judgement on the character of the immigrant, with the discourse of government lawyers filled with statements about the moral turpitude of the subject while the judge is supposed to

maintain the court's spatial integrity, as an independent third branch of government critical to any functioning democracy.<sup>11</sup>

Such interactions cohere into a tense, fraught, and contested environment, placing enormous social-psychological stress on the deportee and anyone associated with him or her, including lawyers, friends and family members. It is further evidence of the collateral consequences of the social, physical, emotional and structural violence of the deportee regime as it upends individual lives, destabilizes relationships and imposes a new social order. As the interactions in court increasingly resemble the incivilities of the political fray of the outside society the court's character takes on a disturbing performative quality akin to what Artaud termed a "theater of cruelty" (Artaud, 1958; Brotherton, 2010).

Thus, in the spaces of the court we witness government attorneys engaged in displays of verbal combat both with the legal representatives of "deportable aliens" as well as with the immigration judges themselves. As the backlog on removal cases increases exponentially, now reaching more than 650,000, the 300 immigration judges throughout the nation have come under intense pressure to speed up the removal process with the US President supporting the Secretary of Homeland Security's call for more expedited removals to bypass the court and end any semblance of due process in immigration court proceedings. Hence, the judicial branch inevitably finds itself in conflict with government lawyers who are energized and encouraged by the predatory and persecutory culture now commonplace in the deportation regime.<sup>12</sup> Below, a government lawyer openly challenges the judge in the middle of a hearing. While such behavior is not an everyday occurrence, there are increasing reports of deportation lawyers around the nation adopting such stances.

Mr. P: "I disagree with your decision, Judge. I have submitted many newly discovered documents that point to the lack of credibility of the expert witness."

Judge: "I have heard the expert witness testify before, he is a noted scholar in this area and I have read his statement I do not wish to hear any more."

11. Immigration judges are selected and employed by the Department of Justice. They preside over the trial-level tribunals where removal proceedings are initiated by the Department of Homeland Security.

12. It is important to bear in mind that these observed tensions between judges and government lawyers are somewhat unexpected since many immigration judges are themselves former trial lawyers for the immigration authorities.

Mr. P.: "I must object Judge. I think your judgement is marred by the fact that you teach in the same institution as the witness and you have let this association with the witness influence your decision-making."

Judge: "Are you maligning my moral character Mr. P.? How dare you infer that I am acting beneath the integrity of my position..."

Mr. P.: "I must insist, Judge, that you let me cross-examine the witness."

Judge: "You have heard my decision if you want to complain then write a letter to the board."

Mr. P.: "Judge, this witness is not credible. He has not been in the Dominican Republic like he asserts. He did not win prizes for his book and he has not testified on behalf of the government as he claims. I have proof of all this in these documents."

Judge: "Did you not listen to what I just said? I have made my decision. This is my court room and this is my decision. This is the end of the matter." (Field Note # 2 – 20/07/2017).

During the period since President Trump assumed his position as head of State immigration lawyers have consistently commented on the deterioration in the court's social and legal climate, evidenced by multiple complaints against the aggressive and unprofessional behavior of government lawyers being lodged with the immigration judges and the immigration court of appeals. As one immigration lawyer winced during a recess in court proceedings, "What is this a sandpit or a court of law," while another looking irate and exasperated, "It's a war in there [i.e., in the court<sup>13</sup>]. They [i.e., the government lawyers<sup>14</sup>] argue against everything. They make ludicrous points, legally completely indefensible in a normal court of law but anything goes now, anything."

Structured, deportation regime violence thus wends its way through the entire judicial branch and, of course, judges themselves can become exponents of the punishing and banishing culture within which immigrants may find themselves. Some judges do their best to preside over hearings with strict adherence to the protocols of due process and the rules which govern the kinds of evidence that might be submitted to shed light on "the facts." For it is only the judge who decides, there is no jury in these administrative cases. Nonetheless, we also regularly encounter judges who berate respondents for their defective values, reminding them how

13. Author's note.

14. Author's note.

they have engaged in behavior that threatens the security of the US, this is particularly the case in drug-related cases. In such cases, the judge often reminds the respondent that he or she has not met the standards of comportment of a guest in a host society. The extenuating circumstances of the “deportable subject,” his or her mental capacities, social and economic pressures or environmental contexts are viewed in this moment of decision as of lesser importance than the need to expel, a moment that can be likened to an act of purification (Douglas, 1966). Ms. D., below, reflects on how she and her deportable friend have been treated in court hearings:

“Judge L. at X court was so mean and difficult, he gave me such a hard time... Shouting at me at first. ‘This is such a terrible thing,’ he said, ‘this involvement... bringing drugs into the country.’ That kind of thing. I agree with him, it is terrible. The same is happening with B. but what she did was ten years ago when she was twenty-three years old and she did probation for that. She’s a changed woman. No record since and two young children. But they believe these are terrible acts done against this country. There’s no sympathy for people like me and B” (originally quoted in Brotherton and Tosh, 2018).

In the instances above, both Ms. D. and her friend B. were legal residents who were used as occasional drug mules by cartels, subsequently arrested and after cooperating served short prison sentences and then resumed their lives, raising their children as single mothers and never again interacted with the criminal justice system until ICE apprehended them in a recent sweep. In a society with rational immigration and border control policies they would be seen as exemplars of rehabilitation, successfully putting a moment of transgression, for which they were punished, behind them. The deportation regime, however, does not function along rational lines and unfortunately neither do many arbiters of immigration justice, a situation which will only be made worse as the White House and Republican leaders declare their intention to destroy the “progressive State.” This will be done by replacing members of the judiciary with ultra-conservative candidates who, like the President, believe that the US is an aggrieved nation whose liberal largesse has been exploited by legions of “bad hombres” (and “mujeres.”) Now is the time, says the President, to put “America” first with the deportation regime on the front lines leading the new crusade.

## Conclusion

In the above I have argued that the perniciousness of the deportation regime and its role in producing and reproducing social harm to society's most vulnerable subjects continues at an alarming pace (see also Brotherton and Tosh, 2018). Structural violence is a key characteristic of the regime and can be seen in the multiple spaces where this coercive State apparatus operates. In immigrant communities, houses of immigrant detention, and immigration courts the extraordinary power and reach of the regime is on full display and in the current political climate with the legal and militarized wings of this regime in full ascendancy it is difficult to see from where an adequate countervailing force will emerge. The Trump administration was elected based on a politics of resentment with a commitment to expel the immigrant Other, hence the repressive practices outlined above are perfectly in keeping with what he has promised to his base. Unfortunately, the structural violence embedded in the regime has been developing for some time, with both Republican and Democratic administrations responsible for the extreme social injuries now being meted out to a growing number of citizens and non-citizens who somehow are related to the "deportable alien."

Deportation, therefore, can be understood as a massive transgression of human rights by the State. The 350,000-400,000 deported annually to a few countries with nearly all those removed persons of color can be viewed as racialized acts of State violence (Golash-Boza, 2015; Noguera, 1999). These intensive, dangerous state-sponsored acts are reflective of a society willfully undermining its own pretensions to be a model of democracy. Such policies and practices aim to dehumanize, disorient, distract, terrorise, humiliate and intimidate and *are not the unintentional consequences of otherwise rational and measured policies aimed at the common good.*

Meanwhile, banishment is alive and well not only in the United States, but in many other countries where the US is depositing more of its problem populations. Expulsion from the US, therefore, is reproducing itself globally due to the extraordinary position of the US as the world's biggest laboratory of punitive criminal justice and immigration policies, thus the findings of this specific research have much wider repercussions.

Naturally, these extraordinary attacks on US immigrant populations have been met by widespread resistance with over 500 sanctuary

cities<sup>15</sup> established throughout the country led by immigrant advocacy groups, community activists, clergy and local politicians all of whom recognize the threats to democracy by these exclusionary impulses and their nativist rationales. Moreover, in January 2017 we witnessed unparalleled demonstrations of spontaneous mass anger and frustration at the first efforts of the Trump administration to enforce a ban on Muslim travel to the US, as tens of thousands protested at airports until federal court judges in New York and Hawaii ruled that the order was unconstitutional (Gambino *et al.*, 2017).

In conclusion, critical research into the sociology of banishment can and should make an important contribution to the literature on social exclusion and the ongoing regimes of domination and subjugation as we enter a singularly fraught period of social control, conflict and resistance. While so much of what happens to these most vulnerable populations goes undetected it is incumbent on social scientists to turn these private problems of individuals and their families into public issues. The research that I continue to be in engaged in goes some way to achieving this aim.

David C. BROTHERTON  
 City University of New York  
 dbrotherton@jjay.cuny.edu

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15. These are cities where the local political establishment votes to limit their cooperation with the national government in the implementation of immigration laws.

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