

Whitewashing the Question of Who Belongs:

American Cold War Policies of Deterrence, the Criminalization of Refugees,
and the Rise of the Detention/Deportation Carceral Apparatus in the United States

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On November 25, 2018, the United States military launched tear gas at Central American asylum seekers at the Tijuana border. This militarized act of deterrence sparked wild international debates regarding the ethics of using weapons on migrants, and a fierce social backlash on the home front. Pictures of the horrible atrocity filtered through news feeds, circled through major news outlets, and littered social media accounts. Everyone seemed to have an opinion on whether this action by the U.S. military was warranted and how the United States government could possibly stoop so low. They were furious at photographs of the armed riot police leering at exhausted, terrified mothers and children in tattered second-hand clothing. “This is not the America I know and love,” they said, implying that there was some sudden and sweeping policy shift that ripped their freedom-pursuing nation and its founding principles of equality for all out from beneath them. What sentiments like this fail to recognize, however, is that the American debate over “who belongs” is as old as the Declaration of Independence itself. And the answer, not only of who fits the desired quota, but also of how the government sets about enforcing that desire, in large part, gets erased from public memory.

This essay will evaluate the rise of the United States detention and deportation prison system and argue that the monolith that perpetuates human rights abuses daily finds its roots in institutionalized racism. In addition, through careful review of three groundbreaking additions to the study of migration, refugees, detention, and criminalization, it will provide substantial evidence that the United States of America crafts its migrant and refugee policies, ultimately answering the question of “who belongs,” through an anti-Black lens. The authors of these texts collectively enhance the argument that the enforcement policies of the United States’ modern immigration laws and subsequent detention/deportation apparatus rose from a historical legacy of anti-Blackness and Cold War policies of inhumane containment. Each scholar further

develops strands of this thread by weaving in various additional elements, such as historical migration patterns and trends, dictators, economic policies and trade legislation, legal cases and examples, geography, the increasing strength of the American carceral state, the proliferation of militarized international crime control measures, and ultimately, the merging of the American criminal justice system with its immigration policies and enforcement at all points of entry into the United States.

In her illuminative work *Seeking Refugee: Central American Migration to Mexico, the United States, and Canada*, historian Maria Cristina Garcia provides a thoroughly-researched account of the Central American civil wars during the last three decades of the 20th Century, during which time over one million people were internally displaced, and over two million were involuntarily forced out of their home countries (Garcia, 1). Garcia specializes in refugees, migration studies, and immigration issues in the post-Cold War and post-9/11 eras. In her work, the author concisely lays out the events of and those leading up to the conflicts themselves and proceeds to provide in-depth explanations of the responses each North American nation had to the resulting Central American refugee crisis. Garcia thoroughly explains the domestic and foreign policy interests of the United States, Canada, and Mexico during this time period, and how those interests intermingled and impacted each nation's individual and collective response to the refugees fleeing each country. The author draws parallels between the three conflicts, and connects the ideological and cultural similarities between them, but also calls special attention to the areas in which the conflicts differed - especially regarding U.S. Cold War political ideologies. She highlights the North American response to the refugee crisis by calling attention to both economic and policy decisions, and sheds light on the vital importance of the non-governmental transnational advocacy networks that developed as a result. Garcia highlights the

role journalists, lobbyists, non-profit organizations and other advocacy groups, religious clergy, and ordinary people had in increasing humanitarian pathways in each North American nation's policy development. Through narration of the broad humanitarian impact made by many specific groups and people, Garcia organizes her work into a comparative look at both policy and government action, interwoven with the response of the public.

By laying out first the historical events, and then providing explanations behind the policy decisions and subsequent actions of the United States, Canada, and Mexico, Garcia provides a transnational picture of the refugee and human rights crisis North America now faces in the early 21st Century. Her central argument emphasizes that this transnational crisis requires a transnational response, which is something the three neighbors have yet to establish. She calls for the three nations to collectively share the burden of accommodating and integrating the refugees from Central America and warns that shifting the burden of care to smaller, less financially developed nations in the area will only cause further economic and infrastructural problems in the future (Garcia, 2). Garcia explains Mexico's role as the country of first asylum, as geography typically dictates for groups migrating north. She explains that many of Mexico's immigration and deportation policies responded to the pressures put upon them by the United States, specifically the U.S. call for Mexico to strengthen its southern border with Guatemala and to crackdown on apprehensions and expulsions of migrants. Garcia emphasizes this display of cross-national migration policy-making by noting, "...In the NAFTA era, Mexico was willing to comply. Once again, Central Americans became the pawns of foreign policy decisions" (Garcia, 10).

The author then analyzes the United States' integral role as accessory in each Central American conflict, and the proceeding failure of the superpower to claim responsibility for that

role, ultimately resulting in a crisis of accountability in American policy-making discussions. Finally, the author tells the story of Canada's attempts to be historically humanitarian and provides examples of how and why this strategy created mixed results. Mexico and Canada typically tried to draft policies "independent in tone" from the United States, which specifically in Canada, generally resulted in more humanitarian responses. As a result of the U.S. 1968 Immigration Reform and Control Act, which imposed sanctions to curb the entry of undocumented workers into the United States, an influx of rerouted refugees fled to Canada, further exemplifying that this crisis was transnational in both scope and remedy (Garcia, 11).

By first describing in graphic detail the violent impact the wars had in their respective countries, and the pivotal role that U.S. Cold War policies of containment played in furthering the loss of human life and political instability in the region, Garcia argues that the United States has a moral authority to aid the refugees produced by these conflicts. The author places an emphasis on the role non-governmental actors played in shaping the national discussion of the refugee crisis in the United States. In a post-Vietnam world, a vocal contingent of anti-militarization activists linked the issues of militarization and immigration policy with human rights rhetoric in the increasingly globalized debate of how to handle refugees displaced through acts of neocolonial, post-Cold War containment and neoliberal economic policies. A major piece of Garcia's argument in the book connects this sentiment with the cross-national responsibility the three North American nations have to respond to this increasingly globalized humanitarian crisis.

Using the specific cases of the Central American civil wars and ensuing refugee emergency, Garcia argues that in the late 20th Century, the United States shaped both its foreign policy and its immigration legislation around the Cold War political strategy of containment. As

a result, a “culture of protest” rose up surrounding the inhumane handling of the crisis and the Sanctuary Movement resulted, which played a major part in shaping the domestic discussion of how to handle the refugees, forcing the corruption of the U.S. government’s actions in Central America into the public view (Garcia, 7). This vocal segment of human rights activists called for the U.S. government to accept culpability and shape subsequent policies in light of that acceptance. They worked through “protest and civil obedience, lobbying, and the shaping of public opinion, and ultimately through the courts” (Garcia, 86). Despite a fervent call for humane treatment of the refugees, because many of them chose to come to the United States instead of other countries in the region, the American government pressed their distinction as economic migrants rather than political refugees. This allowed the U.S. government to shift the blame to Central American economic trends, rather than their own involvement in the insidious political activity in the region. According to Garcia,

“The Reagan and Bush administrations denied that the ‘feet people’ were refugees, because to acknowledge this would have implied that the governments they supported with billions of dollars each year were terrorizing their own citizens – an action that would both alienate the United States’ Central American allies and sabotage continued congressional aid for these regimes” (Garcia, 10).

In addition to these policy responses rooted in Cold War containment, Garcia describes the American people as having “compassion fatigue,” given the large amount of refugees and asylum seekers journeying to the country for a better life (Garcia, 86). In addition to an increasing coolness towards the idea of accepting tattered new countrymen (with the notable exception of the activists and members of the Sanctuary Movement), the American people generally supported the idea of punishing communist leaders. According to Garcia, by 1990 “over 90 percent of the refugee admissions from abroad came from communist or communist-dominated countries” (Garcia, 88). In discussions of extending provisional temporary status and

opportunities for extended voluntary departure, the Reagan administration resisted helpful policies “on the grounds that the violence in El Salvador, Nicaragua, and Guatemala was not sufficiently intense or widespread to warrant such an action...Of course, for the Reagan administration to admit otherwise was to acknowledge that the governments it supported with millions of tax dollars were despotic regimes that violated human rights” (Garcia, 89-90). In this way, Garcia argues that U.S. immigration policies and the modern American detention/deportation apparatus was born from inhumane Cold War policies of deterrence, containment, and U.S. refusal to accept responsibility for supporting abusive regimes in the name of spreading democracy. In the final sections of her work, the author adds that in a post-9/11 world, the focus of North American policy-making, driven in large part by the interests of the United States, revolves around “the elusive goal of national security” (Garcia, 168). This emphasis on containment, deterrence, and increased homeland security measures through border control and deportation laid the foundation for the modern detention/deportation apparatus that has unequivocally merged American immigration policy with its criminal justice system.

Geographers Jenna Loyd and Alison Mountz substantiate Garcia’s argument in their work *Boats, Borders, and Bases: Race, the Cold War, and the Rise of Migration Detention in the United States*. Bringing an informed, unique perspective to the discussion, these two scholars provide fascinating evidence for their central argument that often *ad hoc* Cold War policies of containment and deterrence drove the production of the migration detention apparatus in the modern United States. In addition to supporting Garcia’s claim, the authors add the argument that anti-Black racism also worked in tandem with Cold War geopolitics to shape the formation of America’s modern carceral state. Loyd and Mountz use geography, history, and legal studies to argue “racialized asylum policies created the conditions for detention and border deterrence as

interrelated practices” (Loyd, 4). Using a detailed analysis of geographic ‘remoteness’ fabrication, a critical look at the use of repurposed military bases in the Caribbean as migration detention centers, and recognition that the erasure of these actions through the proliferation of the myth that America’s main “border” is the one it shares with Mexico, Loyd and Mountz effectively argue that the United States’ militarized and carceral detention/deportation regime is inherently rooted in transnational anti-Blackness.

Using the specific cases of Afro-Cubans and Haitians fleeing corruption, abuse, and communism, the authors provide evidence for their argument that much of the decision-making at the time found its roots in anti-Blackness. Loyd and Mountz explain that the Mariel arrivals from Cuba disrupted the “neatly drawn and geopoliticized categories of refugees into which U.S. immigration and refugee policies sorted populations”. Despite fleeing a known communist government with a long history of human rights abuses and animosity towards the United States, the authors explain that these predominantly poor Afro-Cubans “were quickly cast as unruly, racialized, unexpected, and undesirable migrants whose arrivals resulted in costly expenditures of resources and political will” (Loyd, 58).

During its first year, the Reagan administration implemented a program that involved two basic steps for dealing with Haitian and Cuban cases. The first measure involved interception at sea, and the second required subsequent mandatory detention at repurposed American military bases in the Caribbean. A major tenet of the argument proposed in this work centers around the idea of using detention as a deterrent for undesired groups fleeing to the United States. The resulting practice and classification of “Cuban-Haitian entrants (status pending)” blurred the line between migrants desiring a designated legal status and refugees fleeing violence in their home islands. In this way, the administration prevented these detained people from receiving access to

the services of either the INS or the department of Health and Human Services. According to Loyd and Mountz, “The designation also blurred the legal geography of status and access to rights; although people were physically on sovereign territory, their legal destination as not yet having ‘entered’ sovereign territory mediates access to asylum” (Loyd, 62). In this way, the mandatory detention of racialized asylum seekers fleeing oppressive Caribbean regimes sowed the roots of the carceral immigration apparatus and subliminal criminalization of immigration in the 21st Century.

Loyd and Mountz establish their argument through description of U.S. detention facilities throughout the United States, their utilization, and the policies that arose as a result of their existence. By controlling border narratives and centering national focus on the U.S.-Mexico border, the authors argue, the American government effectively erased the racialized origins of the migration detention apparatus. By forcing groups of predominantly Afro-Caribbean migrants into isolated facilities previously used for military organization beyond the United States’ formal geographical mainland, the American government proliferated the concept of cementing provisional solutions driven by racism into immigration law and policy-making. While originally arguing that these spaces were singular in their remoteness, the authors eventually make the claim that “the ‘exceptionality’ of these spaces is not so exceptional, as they become the norm” (Loyd, 217). Within these detention facilities, refugees risking their lives for better living conditions met prison bunkers, barbed wire, poor food rations, and sweltering conditions. Eventually, these inhumane conditions resulted in organization and violent outbreaks, which further stigmatized these groups in the eyes of American lawmakers. As these desperate and off-handed solutions became entrenched, they necessitated transportation and a rapid influx of tax dollars and private funds for the propagation of the growing detention system. As Cold War

contingency planning became fortified policy, subcontracting and privatized arrangements for transforming prisons and military bases to immigrant holding centers became the norm (Loyd, 200).

In addition to the thoroughly researched and unique perspective the authors bring to the discussion, the greatest strength of this work lies in its ability to project the arguments of the authors globally and connect them to transnational trends in order to strengthen their claims. Like Garcia in her evaluation of the development of U.S. policies regarding Central American refugees, Loyd and Mountz emphasize the profoundly transformative impact the 2001 terrorist attacks had on the entire transnational policing system. While it is commonly understood that the 9/11 attacks played a large part in consolidating the American carceral regime, it is not generally recognized that this process began long before that devastating day. This work argues that there is a direct correlation between increased militarization of enforcement methods and heightened criminalization of migrants, trends that clearly rose up first from Cold War policies of racialized detainment as deterrence. These policies then strengthened and became institutionalized in the post-9/11 era of intensified transnational policing and racially-profiled crime fighting.

On March 1, 2003, the Department of Homeland Security (DHS) was operationalized, which integrated twenty-two federal departments and agencies. The Immigration and Naturalization Service (INS) became integrated within DHS, and the role of the INS was split between three departments: Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS). The U.S. Coast Guard was also enveloped into DHS, providing further evidence to the argument presented by Loyd and Mountz that interception and detention at sea became an institutionalized piece of immigration policing prior to September 11, 2001. According to Loyd and Mountz,

“The folding of most function of immigration policy and border enforcement into one of the largest federal departments named with the mandate of securing the homeland is a signal of the extent of criminalization that took place after 9/11 through the elision of ‘terrorist’ and ‘criminal alien’”(Loyd, 2006).

This phenomenon and its subsequent policy transformations resulted in what criminologists and legal scholars have titled “crimmigration”. Loyd and Mountz argue that the production of this term and its implications are rooted in “policies that were tested on and disproportionately borne by Haitian migrants” (Loyd, 2000). The authors note, however, that over the course of the 21st Century thus far, these crimmigration policies have evolved to a “one-size-fits-all policy answer” for U.S. immigration issues.

Supporting Loyd and Mountz and providing ample evidence to corroborate the claim that American immigration policy has consolidated into the American criminal justice system is sociologist Patrisia Macias-Rojas. A well-known scholar of “crimmigration”, ethnography, and migration studies, Macias-Rojas authored the 2016 contribution to New York University Press’s Latina/o Sociology series entitled *From Deportation to Prison: The Politics of Immigration Enforcement in Post-Civil Rights America*. This work traces the legacy of the Criminal Alien Program, which Macias-Rojas argues, “quietly set off a punitive turn in immigration enforcement that has fundamentally altered detention, deportation, and criminal prosecutions for immigration violations” (Macias-Rojas, 1). Through a ten year process of interviewing over 150 elected and law enforcement officials, border community members, NGO operators, public defenders, judges, and detained migrants in Arizona and Sonora, Macias-Rojas collected “multi-cited” data and testimonies to support her argument that the Criminal Alien Program developed from the prison-bed crisis that originated in the late 20th Century U.S. crackdown on crime (Macias-Rojas, 6). She also substantiates Loyd and Mountz by unequivocally asserting, “That crackdown particularly targeted African Americans through disparate sentencing and...fueled a

need to pull noncitizens out of regular prisons in order to create space for newly criminalized people of color” (Macias-Rojas, 3). She further supports all the scholars in this essay by observing that the “rhetorical conflation of immigration with terrorism and national security” effectively transformed U.S. immigration policy-making and enforcement procedures into “little more than domestic crime control extended to an immigration context” (Macias-Rojas, 8).

Adding to the foundation established by Garcia, Loyd, Mountz, Macias-Rojas extends this argument further by arguing the importance of the “post-civil rights era” development of America’s racialized, carceral crimmigration state. A major tenet of her argument rests in the idea that prison-overcrowding as a result of the late-80’s early 90’s crackdown on crime resulted in a disproportionately racialized and overcrowded prison system, fueled by the migration detention regime developed offshore as a result of provisional Cold War detention and deterrence policies. These overly crowded facilities, largely funded and operated by private companies, needed a post-civil rights, politically correct solution. Indeed, Macias-Rojas provides thorough evidence that the modern immigration detention apparatus “operates within post-civil rights ‘antidiscrimination’ constitutional frameworks” (Macias-Rojas, 11). The author argues that rather than simply being connected to the struggle for civil rights in the late 20th Century, the modern mass incarceration apparatus in the United States and the Civil Rights Movement are “not...antithetical or directly opposed, but are integrally linked and complimentary” (Macias-Rojas, 24). This work describes the punitive turn in U.S. immigration enforcement as a result of the government’s attempts to be race-neutral and follow constitutional demands within the context of an institutionally anti-Black society. Macias-Rojas argues that in fact, the criminalization of the American detention/deportation apparatus “has never been race blind,” and like Loyd and Mountz, argues that the proliferation of this system has allowed the promotion of

anti-Black subjugation through the use of privatized and remote immigration detention centers (Macias-Rojas, 22). This overtly “race-blind” approach to criminal immigration enforcement “never abandoned a constitutional framework,” which ultimately, makes it harder not only to highlight, but to fight its unmitigated expansion (Macias-Rojas, 62).

By transitioning from the use of “illegal” to the classification of “criminal,” the modern American detention/deportation regime has created a climate in which people of color are disproportionately denied rights within a constitutional framework. Distanced from insufficient numbers of public defenders in remote migrant detention centers, these groups of people become branded with a “criminal” category that strips them of the ability to defend their rights, rather than an “illegal” category that could be shed through the acquisition of citizenship, which ultimately results in their deportation. This insidious process of branding migrants with criminal status further complicates the increasingly privatized American prison system and its’ over 34,000 annual bed quota (Macias-Rojas, 74). In her work, Macias-Rojas argues that a branding of criminal status ultimately transcends birthplace and rights to citizenship, and is therefore, a “race-neutral” and “constitutional” means of controlling the ethnographic makeup of the United States (Macias-Rojas, 168).

In *Boats, Borders, and Bases*, Loyd and Mountz reference Macias-Rojas’ ethnographic work, using it to bolster their argument that detention-space shortage created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 resulted in increased detentions and deportations, and further equated “criminality, confinement, and Blackness” (Loyd, 212). Furthering support for each other’s work, Loyd and Mountz add to Macias-Rojas by emphasizing that the “roots” of the criminalization she describes was the racialized, arbitrary and aggressive detention of Haitian migrants during the Cold War. Criminal prosecution of migrants illicitly

entering the United States dominates the U.S. immigration enforcement system, and has deep historical roots in global anti-Blackness, detention as deterrence policies in the Cold War Caribbean and beyond, and the increasingly privatized American criminal justice system, born from Reagan-era crackdowns on crime and transnational promotion of neoliberal economic cutbacks.

Modern debates regarding migrant and refugee and policy implementation dominate the American political theater. These abstract and theoretical discussions very often lack a clear recognition of the racially-rooted immigration history of the United States. As the authors of these three texts clearly illuminate, recognition of the systemically racist and rapidly strengthening American carceral state is essential when crafting policy propositions that involve the human rights of refugees. The United States' modern criminalized immigration detention and deportation system strips the rights of people of color by designating them not as illegal, which is a status that can be transformed, but as criminal, which requires immediate removal from the state. In post-civil rights America, policy makers, activists, and public defenders working to defend the rights of people of color in detention centers and change this overwhelmingly powerful system now find themselves not only fighting private corporations and corrupt politicians, but sometimes even the United States Constitution itself. Proponents of immigration reform and refugee policies have a long, uphill battle to ensure universal rights for migrants and refugees trying to find safety in America. These advocates must understand that educating the masses about the system's unapologetically racialized roots is essential for reform.

This task will not be easy, because the United States of America does an outstanding job of whitewashing its history, even if the history in question is not that far behind it. The authors in this analysis provide ample evidence of this fact. Through the late 20th Century detention of

Haitian migrants, the modern imprisonment and deportation of thousands of migrants every year, and the rise of the massive carceral state that has enveloped immigration enforcement and policy-making in a post 9/11 world, the authors convincingly argue that poor migrants and refugees of color do not, and have never, openly belonged in the national ethnographic makeup of the United States of America. And the substantiating proof of this militarized, institutionalized enforcement regime can be seen today in images of police in riot gear, throwing poisonous gas at poor people of color in Tijuana, who journeyed weeks in the hot desert from Central America to seek refuge in a nation determined to deter them.

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