



Is Infiltrating Migrant Prisons the Most Effective Way to Challenge Detention Regimes? The Case of the National Immigrant Youth Alliance

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About the Global Detention Project

The Global Detention Project (GDP) is a non-profit research centre based in Geneva, Switzerland, that investigates the use of detention in response to global migration. The GDP's aims include: (1) providing researchers, advocates, and journalists with a measurable and regularly updated baseline for analysing the growth and evolution of detention practices and policies; (2) facilitating accountability and transparency in the treatment of detainees; and (3) encouraging scholarship in this field of immigration and refugee studies.

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Is Infiltrating Migrant Prisons the Most Effective Way to Challenge Detention Regimes? The Case of the National Immigrant Youth Alliance

Summary: Since 2011, members of the National Immigrant Youth Alliance have repeatedly “infiltrated” immigration detention centers in the United States. This paper describes these infiltrations by undocumented immigrants and what we can learn from them. The stories, told from the perspective of the infiltrators, reveal details that non-profit organizations and activist scholars have struggled to illuminate, something that only the detained *and* liberated can show: the lived experience of detention. The authors argue that these stories demonstrate that civil disobedience, a strategy often ignored by allies and advocates of undocumented immigrants, can be an effective tool to counter growing detention and deportation systems.

By Claudia Muñoz and Michael P. Young

I. Introduction

Immigration detention in the United States is a shadowy world in which 400,000 men, women, and children become ensnared each year. For most of the detained it is a prelude to deportation. These immigrant detainees hold a peculiar position in America’s massive carceral system. They are jailed without constitutionally adequate bond hearings or the assurance of access to legal counsel. They are often cut off from the outside world and made to wait indefinitely for court hearings.¹ The separation of powers in U.S. government affords them precious little protection. All the while, they are constantly pressured by officials to take the only certain way out: signing for “voluntary departure.”

Numerous reports by non-profit organizations and the Department of Homeland Security have revealed key aspects of this archipelago of immigrant detention centers.² From these reports we know how many immigrants are detained in the U.S. and for how long. We know the countries of origin of the detained, how many have died in detention, and the abuses detainees often face. These reports have also provided data about the criminal records of detainees, even if the data are almost impossible to parse. From

¹ Immigrant detainees must pay for their phone calls, often at exorbitant rates, effectively cutting many off from contact with the outside world, and many never receive legal counsel before they are deported.

² These reports include: Doris Meissner et al. 2013. “Migration Policy Institute, Immigration Enforcement in the United States: The Rise of a Formidable Machinery” available at <http://www.migrationpolicy.org/pubs/enforcementpillars.pdf>; National Immigrant Justice Center and Detention Watch Network. 2015. “Lives in Peril: How Ineffective Inspections Make ICE Complicit in Immigration Detention Abuse” available at <http://immigrantjustice.org/sites/immigrantjustice.org/files/THR-Inspections-FOIA-Report-October-2015-FINAL.pdf>; ACLU. 2014. “Warehoused and Forgotten” available at <https://www.aclu.org/sites/default/files/assets/060614-aclu-car-reportonline.pdf>; Schriro, Dora. 2009 “Immigration Detention Overview and Recommendations.” Department of Homeland Security, Immigration and Customs and Enforcement. *October 6, 2009* available at <https://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>

these reports, we know something of the varying conditions of these centers. Many facilities are owned and maintained by private companies like GEO and CCA who profit from the system of immigrant detention and lobby aggressively to protect themselves from regulation and to expand the system. Because of a lack of oversight and special protections afforded private prisons, some detention centers offer conditions considerably worse than jails for accused criminals and prisons for convicted criminals. In some cases, immigrant detainees are held in the same jails as suspected criminals.

While these studies uncover aspects of the detention system, the lives and experiences of the detained remain mostly cloaked. Authorities, public and private, hide behind their ironclad claim that they cannot discuss particular cases. With the particularities of each case held secret, the system remains largely obscured. But a bright light on this world has come from a surprising place, from the inside, from the detained, from the infiltrators.

Since the fall of 2011, the “undocumented and unafraid” movement of immigrant youth has repeatedly broken into this world and walked out with its secrets. In this paper we describe these break-ins or infiltrations by members of the National Immigrant Youth Alliance (NIYA) and what they have made public. Our descriptions come directly from the perspective of the infiltrators. The accounts expose details that the U.S. Department of Homeland Security has worked hard to hide. They reveal something liberal non-profits and activist scholars have been unable to report. They expose something only the detained *and* liberated can show: the lived experience of the detained. They also demonstrate what is arguably the surest path to limiting the excesses of detention and deportation policies, a strategy that is largely ignored by the allies and advocates of undocumented immigrants—organized collective action and civil disobedience that directly challenges the detention system from the inside.

II. “We Can Organize Inside and Out”

We start with a detailed description of the first successful NIYA “break-in” because it captures both the motive force behind this kind of act of civil disobedience and its ramified effects on those on both sides of the bars. NIYA believes this force and effect are keys to ending immigrant detention in America. With the act of infiltration, undocumented and unafraid activists have shown that they can flip the power right at the center of the system of detention and deportation in a way that no non-profit report or work of activist scholarship could ever hope to. The NIYA infiltrations expose how vulnerable the system of immigrant detention really is.

In a NIYA press release of November 20, 2011, announcing the first successful attempt by undocumented activists to break into detention, Mohammad Abdollahi explains the logic of the action:

We know many of you think it’s crazy but why not? Immigration thinks it has some power over our communities, they think they can hold us hostage with the threat of detention. So why not take the power away from them and let them know we can go to detention on our own terms. If we take the fear card away from them then what do they have to hold over us?³

³ This NIYA press release can be found in Pavey, Steve and Marco Saavedra. 2012. *Shadows then Light*. Lexington, KY: One Horizon Institute.

It is important to note who NIYA is directly addressing in this press release: not the press, not the authorities, not allies, but “us”—i.e. other undocumented immigrants. Also note the sheer audacity of the claim: “we can go to detention on our own terms.” It is equal parts threat and observation—a caution to “Immigration.”

After the legislative loss of the DREAM Act on the Hill in 2010, a network of radical DREAMers formed NIYA to breakaway from the “non-profit industrial complex” and elite “allies” who had directed to that point in time a very timid and compromised politics of immigration reform. NIYA called for an escalation of aggressive actions organized by and for undocumented immigrants in order to directly challenge immigration authorities. In the fall of 2011 NIYA organized in Alabama to resist HB56,⁴ the state’s version of Arizona’s SB1070 but *on steroids*.⁵ There they staged their first successful action of “going to detention on their terms.” In NIYA’s November 20, press release quoted above, Mohammad explains the audacious logic of the action. He sees it as an extension of an escalating method of “coming out” and civil disobedience developed by radical DREAMers over the previous two years of organizing.

So far we’ve been able to show you that if you are undocumented and organized you are safe from deportation. Obama memo or not, if you are a part of a larger community then you are safe from deportation. What immigration authorities are banking on is your fear; you need to be afraid of them therefore they can rule your life. Are you really going to play into their hands? By not coming out you are playing into their hand. They are banking on the fact that you will be afraid of them. If you challenge the system, it will fall apart. The power of civil disobedience is that we go against the norm. We change the power dynamics and show that we are the ones to dictate our futures. We are the ones in control. It isn’t that the cops are arresting us; we are allowing for the cops to arrest us and on our own terms. It isn’t that ICE has the option to detain us; we are dictating whether we allow for them to detain us or not. We are the ones in control, regardless of what the authorities think. Once we take the power back from them then we can start to win. That is what we do with civil disobedience. We can organize inside and out.⁶

To begin to actualize this idea of organizing “inside and out”, on November 18, 2011, Jonathan Perez walked into a Border Patrol office in Mobile, Alabama, to get detained. What happened next was captured in an undercover NIYA video and streamed live over the internet.⁷

⁴ Alabama’s HB 56, titled the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, was signed into law in June 2011. It was considered the toughest anti-immigrant law at the time.

⁵ Arizona Senate Bill 1070 passed in 2010. It was at the time the broadest and strictest state law aimed at immigration enforcement. It inspired dozens of copycat bills like the one in Alabama. According to the American Civil Liberties Union SB 1070 requires “police to determine the immigration status of someone arrested or detained when there is ‘reasonable suspicion’ they are not in the U.S. legally.” Although other aspects of the law were struck down by the courts, this part “inviting rampant racial profiling” was not. For more on the law see: <https://www.aclu.org/feature/arizonas-sb-1070>

⁶ Pavey, Steve and Marco Saavedra. 2012. *Shadows then Light*. Lexington, KY: One Horizon Institute.

⁷ You can see the video of the Isaac and Jonathan infiltration at <https://www.youtube.com/watch?v=iA54ErBfZ8E>

Before Jonathan leaves his car to enter the building, his compatriot Isaac Barrera asks him if he has any “last words?” Jonathan replies, “let’s take this ICE out!” He enters the Border Patrol office. His phone is in his breast pocket, the camera lens peeping out of the pocket and filming. A woman in civilian clothing greets him with a skeptical, “Can I help you?”

Jonathan: What is this?

Woman: Border Patrol.

J: Oh shit! [Long Pause] Yeah, we’re lost.

Woman: Okay, um, where you trying to go?

J: Mobile [He mispronounces Mobile with an exaggerated ending of *bile*, as in stomach bile.]

Woman: Where?

J: *Mo-bile*.

Woman: Okay. Hang on one second.

The woman looks confused or maybe in disbelief and beats a hasty retreat leaving the lobby using her card key to access some back offices. Twenty seconds later, it feels like an eternity, a man in civilian clothes walks in with a John Wayne swagger. He is followed by another man dressed in a green Border Patrol uniform with a gold badge on his chest and a gun on his belt, his step at once more timid than his partner’s. The man with no uniform addresses Jonathan with “Hey, what’s going on hoss?” What follows is a performance of activist jiu-jitsu by Jonathan.

Jonathan: Huh?

Man-in-civis: How you doing?

J: I’m doing good.

M-in-c: Can we help you with something?

J: Yeah, you know what, I’m actually not lost, I’m just kind-of pissed off. What are y’all doing here?

M-in-c: What are we doing here?

J: Uh, hun.

M-in-c: Doing a job.

J: What’s your job?

M-in-c: Doing a job. Why?

Jonathan: What’s your job?

M-in-c: To enforce immigration laws.

J: That’s what you do?

M-in-c: Yeah.

Man-in-uniform [Speaks up for the first time]: That’s what we do. [Pause] What can we help you with?

J: So y’all are deporting people.

M-in-c: We don’t deport people. Judges do that.

J: You all take ‘em there, right?

M-in-u: It is our mission to protect the border.

He sounds a little unsure of himself, as if self-conscious of the absurdity of border protection in Alabama. There is a long pause, and then the man in civis, as if compensating for his partner’s timidity, challenges Jonathan: “What’s it to you?”

J: I’m undocumented too?

M-in-c: You're what?
J: I'm illegal too?
M-in-c: Oh, you're illegal. [Nodding his head]
J: You think I should be deported too?
M-in-c: I don't know. Why don't you show us some ID?

He extends his hand and walks to Jonathan's side blocking him from the exit door. Jonathan is about to get detained.

M-in-c: Let's see what you got for ID.

The camera is fixed on the man in uniform as off-camera Jonathan pulls out his ID and gives it to the man in civis. Then, back on camera, the man in civis hands the ID to the man in uniform. He looks at it for a few seconds, and then turning it over in his hands addresses Jonathan.

M-in-u: So how did you get to the United States?
J: Cross the border.
M-in-u: When did you do that?
J: Long time ago [is that a chuckle from Jonathan?]
M-in-u: You have any other ID with you?
J: No, not with me?

The video cuts out at this point, but shortly thereafter, Isaac, bringing coffee from a nearby restaurant, joins Jonathan and the men of Border Patrol. Jonathan and Isaac are rewarded for their performance with a trip to Basile Detention Center in Louisiana. They get detained on their terms.

We describe this action at length here because it captures the force and effect of the kind of resistance that NIYA argues can change the power dynamics. As Mohammad put it in the press release, "we are dictating whether we allow them to detain us or not." Marco Saavedra, in a video shot a few months later, just before the infiltration of the Broward County Transitional Center, says that with infiltrations NIYA wants to "flip the organizing narrative." Rather than rely on allies to protect them through a mediation of the political and legal processes controlled by citizens, undocumented immigrants can control their own fate through direct actions. As Marco puts it, they can "walk into detention centers, organize, and walk out."⁸ How did NIYA come to think it could expose detention centers in this way?

III. The Birth of the Idea of Infiltration

The infiltration idea grew out of NIYA's work to stop deportations and to show immigrant communities *by example* that the safest path is not to hide but to come out and organize. The repressive forces policing undocumented immigrants benefit and profit off immigrants' fear of being "interpellated" as "illegal."⁹ Guarding against exposure makes

⁸ You can see the Marco infiltration video at <https://www.youtube.com/watch?v=QPqEuTop41g>

⁹ The use of "interpellation" here is borrowed from Althusser's (1972) use of the term in "Ideology and Ideological State Apparatuses" *Lenin and Philosophy*, which captures how state apparatuses transform individuals into subjects. It is captured in his example of the police officer who yells "Hey, you there!" and the individual turns in fearful reaction to being hailed and thus subjugates

the undocumented immigrant unwittingly complicit in her own confinement to the shadows. Counter intuitively, NIYA activists argue that coming out of the shadows and directly challenging the forces of deportation in the light of day actually is the “safest” line of action. To be safe, to protect themselves, undocumented immigrants need to fight their own fear and the false sense of security of living in the shadows. Detention center infiltrations extend this logic seeking to expose to public light the tools of immigration control.

Since early 2010, radical undocumented youth have been arguing that the surest way to avoid detention and deportation is to move into the public light—to make your status public, tell your story, and enable the community to protect you. It was a NIYA insight to see it could break into detention in an attempt to reverse the power equation of this system. Infiltrations could, as Marco Saavedra put it, flip the narrative. NIYA could do what the “white savior/ally” could not even imagine. It was a creative act of “political jiu-jitsu.”¹⁰

In separate interviews discussing the origins of the strategy, Marco and Santiago Garcia-Leco, both NIYA infiltrators, described how an act of civil disobedience in North Carolina in the summer of 2011 inspired NIYA activists to consider the possibilities of organizing inside detention centers. This protest was staged at a major intersection near Central Piedmont Community College to call attention to a degrading education policy that made undocumented immigrants wait until all citizens had signed-up for classes before they could enroll. As a result DREAMers were closed out of many classes and reminded of their “second-class” status “with this back-of-the-bus treatment.”¹¹ Another target was Sen. Kay Hagan (Democrat-North Carolina) who had voted against the DREAM Act in 2010 helping seal its demise. Also Mecklenburg County was one of the few counties in the state at that time with a 287(g) program, which empowers local law enforcement to enforce immigration laws.¹² And finally, NIYA working with the NC DREAM Team was looking ahead to the 2012 Democratic National Convention to be hosted in Charlotte. This is how Marco Saavedra explained a key motivation for the action:

The main reason they wanted to plan the civil disobedience was because Charlotte was going to host the Democratic National Convention in a year, 2012. And they wanted to kind of have these open cases. I mean, I think it was kind of witty, they kind of wanted us DREAMers facing deportation as the convening was going to come to town, so as to show you still have all these DREAMers facing deportation with these open cases in this very county.

In short, NIYA organizers hoped that this action of civil disobedience would lead to arrests and then deportation proceedings so that when all the Democrats came to town they could expose that the Obama administration was still trying to deport DREAMers.

himself to the law: “by this mere on-hundred-and-eighty-degree physical conversion, he becomes a *subject*” (Althusser 1972: 174). Some NIYA activists play with the label “illegal” precisely to rob this form of ideological repression, this interpellation, of its subjugating power. They self-describe as “illegal” to obviate the fear of being hailed “illegal” by authorities, an example of the activist “jiu-jitsu” described elsewhere in this paper.

¹⁰ The phrase “political jiu-jitsu” comes from Gene Sharp. 1972. *The Politics of Non Violent Action: Part Three: The Dynamics of Nonviolent Action*. Porter Sargent: Boston, MA. Chapter 13.

¹¹ Santiago Garcia-Leco interview December 18th, 2013, El Paso, TX.

¹² ICE describes The 287(g) program as “one of ICE’s top partnership initiatives,” which “allows a state or local law enforcement entity to enter into a partnership with ICE ... in order to receive delegated authority for immigration enforcement within their jurisdictions.”

More generally, however, the action aimed to show undocumented immigrants that organized undocu-activists could get arrested, even enter ICE custody, and still win their own release. As Mohammad Abdollahi explained in an interview, the Charlotte action, like other NIYA actions at the time, was conceived of as an object lesson or a form of “education through escalation.” He explained that through civil disobedience they were demonstrating that if undocumented immigrants are out of the shadows and organized they are safe from deportation even if they are arrested and detained.¹³

Blocking the intersection led to the arrest of ten undocumented youth. According to Santiago, Mohammad got arrested by mistake. The plan was for him to work from the outside for the release of the arrested.

I think we really pissed off the cops. They were really, really mad. They were telling Mohammad to back off. And he wouldn't. He wanted to see where they were taking us. And the cop finally got pissed, was like 'ok, you going in with them.'

Despite their success in getting arrested, entering into immigration custody proved more difficult. The action and arrests attracted considerable public attention and ICE wanted no part in the publicity, so it kept its hands off the arrested DREAMers and did not place “immigration detainees” or holds on them.

All ten were released within a few days, but while in custody Mohammad and Marco met Javier de los Santos. Javier was stopped by police because his car had a broken license-plate light; and, under the 287(g) program, ICE had put a hold on him. Mohammad and Marco started working to stop his deportation right there in the jail. Mohammad and fellow NIYA activists had already worked hundreds of deportation cases starting back in 2009. In all of these cases family members or friends of the detained brought the case to their attention. Javier's case was this first case they started working “from the inside.” To this point DREAMers had been trying to get into deportation proceedings to show the community that they could stop their *own* deportations, but the Charlotte action raised the possibility of getting into immigration custody to stop the deportations of others from the inside.

A month later, NIYA staged a sit-in at ICE offices in Los Angeles with the intent of getting inside ICE detention, but as in the Charlotte action the arrested were quickly released. If NIYA was going to get into immigration detention it would require a “silent action.” They would have to take their method of civil disobedience undercover.¹⁴

IV. Broward County Detention Center

The action by Jonathan and Isaac in Mobile, described above, showed that activists could get into detention centers, but at the time NIYA did not intend to use the action to stop the deportations of people Jonathan and Isaac met inside. Marco said they really did not have the organizational capacity at the time to work-up scores of cases all at

¹³ Mohammad Abdollahi interview June 15, 2016.

¹⁴ Jonathan Perez used this term “silent action” to describe the Mobile action. See the November 9th, 2012, Jonathan Perez and Isaac Barrera panel presentation during the Art Media Immigration symposium at the University of New Mexico:
<https://www.youtube.com/watch?v=4ct6IMyFWfM>

once. Mohammad said the main point of the action was to show that they could get in and out of detention. Once Isaac and Jonathan succeeded getting inside ICE detention, NIYA activists went to work on securing the release of the infiltrators. Marco Saavedra explains: “what was really strong about [the Mobile action] was that it had happened before even DACA had been announced.¹⁵ So they were just trusting organizers to get them kicked out [of Basile Detention Center in Louisiana].” It took a week of pressure from NIYA to secure the release of Jonathan and Isaac.

A few months later, building on its success of getting activists in and out of the Basile Detention Center, NIYA planned an infiltration of the the Broward County Transitional Center (BTC). This time they planned to infiltrate in order to stop the deportation of immigrants detained in BTC. The BTC action is the best known of the infiltrations organized by NIYA and the most successful in terms of springing detained immigrants. Marco Saavedra and Viridiana Martinez’s infiltration in the summer of 2012 gained widespread media coverage. As with most of NIYA’s actions, the Spanish-language media paid the most attention. Univision and Telemundo brought news of their actions to millions of Spanish-speaking viewers. Marco and Viri appeared on “Democracy Now” and their actions were also the subject of a long story in “American Prospect” and a radio segment on “This American Life.” More importantly, during their infiltration, Viri and Marco gathered information on hundreds of detainees, and this time NIYA organizers established a “base camp” on the outside poised to work on the cases emerging from inside.

Marco says he was not scared before the infiltration because he doubted he would get into immigration custody. He figured if he succeeded in getting detained immigration would pull his file and see that he was a DREAMer and release him. But he was wrong. Just as Jonathan and Isaac did, he walked into a Border Patrol office, this one in Fort Lauderdale. He asked about a missing friend. NIYA secretly recorded the audio of the interaction.¹⁶ Marco tells a Border Patrol officer in a Fort Lauderdale office that he has not heard from his friend for days and fears he has been detained. The officer asks if his friend is an “illegal alien.” Marco does not answer directly but says that they crossed the border together from Mexico into Arizona.

Officer: Does he have papers?

Marco: No.

Officer: How old were you when you crossed?

Marco: Fifteen.

Officer: Do you have papers?

Marco: No. Just this ID.

Officer: Do you go to school?”

Marco: No, just work here in Fort Lauderdale.

Officer: You know I have to arrest you?

Marco: Oh.

It was only when being processed that Marco got scared. The officers saw that he had a prior arrest in North Carolina (from the civil disobedience action in Charlotte) and they figured his would be an expedited removal case. Marco says “fortunately the North

¹⁵ In June of 2012, Obama announced the Deferred Action for Childhood Arrivals or DACA policy memo directing enforcement discretion to exempt eligible candidates from deportation and granting them 2-year work permits if they filled the right forms and paid the requisite fee.

¹⁶ Available at <https://www.youtube.com/watch?v=QPqEuTop41g>

Carolina case had been closed” and he was sent to languish in the men’s section of BTC. At roughly the same time Viridiana Martinez was infiltrating the women’s section of the same center.

Once in BTC it took Marco a little time to adjust and get to work. The “boredom gets to you,” he said. “You miss clean socks.” But organizing on the inside proved quite easy. In an immigrant detention center all the undocumented are already out.¹⁷ There is no reason for anyone to hide their status. Moreover, the prisoners are already “organized” by the confines of the jail. Marco describes life in detention this way: “Inside it was pretty safe—excessive church going. There is so much church going in there. It’s crazy like, the chapel’s full every period, even outside in the courtyard.”

Marco tapped these religious networks and started doing intakes. He would ask his fellow inmates when and how they came to the US? Why were they detained? Were they DREAM Act eligible? Did they have US citizen children? Did they have a criminal record? Did they have a case for asylum? For a U-visa?¹⁸ Did they have loved ones who depended on them for survival such as ill or disabled family members? Did they have a lawyer? Who was on the outside waiting for them? Would these loved ones be willing to take public actions to pressure authorities on their behalf?

As Marco gathered this information in the men’s section of BTC, Viri did the same in the women’s section. All the information they gathered was shared with the outside NIYA base camp where a half-dozen organizers pulled it together and worked around the clock to stop as many deportations as possible. NIYA organizers contacted family members and asked them if they were willing to go public to fight for the release of their loved one? Would they start a petition? Hold news conferences? Pressure local politicians? In short, would they help launch a public campaign to stop the deportation?

NIYA pulled all this information together in a spreadsheet. In total Marco and Viri met with over 200 detainees and did 188 documented intakes (not all intakes provided the complete information they hoped for). The detained came from 26 different countries of origin. More than two-thirds of the detained came from four countries: El Salvador, Guatemala, Honduras and Mexico.¹⁹ Of the 170 intakes with relatively complete information, 60 had no criminal record, roughly 1 in 3. The vast majority of these detainees without criminal records were detained after being stopped by law enforcement in a motor vehicle. Out of the 170 cases, 93 were initially detained for one of the following minor infractions or legally spurious reasons: driving without a license, ticketed for moving or traffic violation, riding in a car stopped for a violation and failing to present some form of identification, or caught in an investigation or raid targeting someone other than themselves. Ten out of the 170 were DREAMers—i.e., could qualify for the DREAM Act. At least ten had good grounds for a U-visa. At least twenty-four had grounds for asylum or temporary protective status. Forty-five were parents of U.S. citizen children. At least 25 had no legal representation or were the clear victims of legal

¹⁷ Jonathan makes this same point, see Jonathan Perez and Isaac Barrera panel presentation during the Art Media Immigration symposium at the University of New Mexico: <https://www.youtube.com/watch?v=4ct6IMyFWfM>

¹⁸ U-visas are granted persons who have been victims of a crime committed in the US and have cooperated with authorities in the investigation of the crime. It was created by the Victims of Trafficking and Violence Protection Act of 2000.

¹⁹ There are 10 missing data points for nationality. Out of the 176 cases with complete data 56 came from Mexico, 35 from Honduras, 26 from Guatemala, and 12 from El Salvador. Detainees from the Dominican Republic were the next most numerous numbering 8.

malpractice. In short, the majority of the detained deserved consideration for prosecutorial discretion for deferred action according to the Morton and DACA memos.²⁰ As NIYA suspected, BTC was filled with people the Obama administration claimed it was not detaining and deporting. Out of these cases, NIYA launched 94 online petitions. Marco estimates that easily 40 deportations were stopped by their efforts.

After Marco and Viri finished their intakes and fed the information to the base camp, NIYA announced to the public that it had two infiltrators in BTC. Almost immediately after this announcement, Marco and Viri were released, or better put, kicked out. Viri described the release in a talk at the University of New Mexico in November of the same year. She was escorted without explanation from the women's section through "a side door" and brought to the front of the center where GEO authorities do intakes. At first, Viri did not know what was happening. "They had guards all around me like I was some big time criminal or something. I was like what's wrong with you people? What are you afraid of?" She had not yet seen Marco. He too had been removed from the other detainees but she did not yet know this when she witnessed an amazing scene. She saw scores of men in their orange jump suites amassing outside the intake center. They were demanding "we want to see Marco?" Then she saw the men begin to chant and pump their fists in the air.

"Marco! Marco!" And we are talking like five hundred, six hundred immigrant detainees, like "Marco! Marco!," all male. It was crazy. I was what just like what am I in a movie? What have they done to Marco? What's going on? I didn't see Marco. And then they forced them into the courtyard and they started chanting: "Free at last! Free at last."

The removal of Marco, without explanation as to where he was being taken, had triggered a mass demonstration in the men's section. Soon thereafter Viri was told "your ride is here," and she and Marco were "literally kicked out ... told to go to the other side of the fence."²¹ They had walked into detention and now they walked out.

V. "Like Pushing a Cat": The El Paso Infiltration

On November 22, 2013, Santiago Garcia-Leco reported to the ICE Processing Center on Montana Ave in El Paso scheming to get himself locked up. The night before, Santiago had tried to get detained at the Sierra Blanca Border Patrol checkpoint, 80 miles or so southeast of El Paso on interstate highway I-10. They held him there for 12 hours trying to convince him into signing a voluntary departure form, but when it became clear he was not going to sign, they released him on his "own recognizance" with a paper instructing him to report to an ICE center.²² He wasted no time, presenting himself the next day to the entrance of the El Paso Processing Center with the paper in hand. "I told the guards I don't understand this paper that I was given yesterday," Santiago recalls. "I just don't have time for this. What the hell is this? I don't have time for this bullshit."

²⁰ The "Morton memos" refer to memorandum issued in June 2011 by then-ICE Director John Morton on prosecutorial discretion in immigration cases.

²¹ You can see Viri's UNM talk at <https://www.youtube.com/watch?v=3LyJRonXvBo>

²² See NIYA video of Santiago infiltration here at <https://www.youtube.com/watch?v=Y2DVOE4mUZI>; Michael interviewed Santi twice in late 2013: once over the phone when he was still detained and a week after his release in El Paso.

The bewildered guards sent Santiago to the trailers where the deportation officers work. There he spoke with Officer Mendez who asked him why he didn't want to "comply" with being released under his "own recognizance"? Santiago turned up his attitude and tried to piss Mendez off: "I don't have time for these visits. I have a family to provide for in Mexico." And then he threw the paper down and started to walkout. His antics worked. Before he could leave, Officer Mendez stopped him: "well, with that kind of attitude you'll be able to stay here a few days." And just like that Santiago was in, another successful NIYA infiltration. It "was easy," Santiago said, "like pushing a cat."

What at first brought NIYA's attention to the ICE detention center in EL Paso was a line of direct action different than infiltrations but equally confrontational. In late September 2013, NIYA gathered 30 DREAMers and a few of their family members in Nuevo Laredo, Mexico, and orchestrated a border crossing into the United States. The members of the "Dream 30" were all undocumented immigrants raised in the United States, but who had had gone back to Mexico for various reasons: to bury loved ones, to care for sick family, to finish an education they couldn't finish in the United States, to follow a deported parent, or in a few cases because they were deported themselves. They found life in Mexico alienating and dangerous. NIYA's "Bring Them Home" campaign was a lifeline.

When the Dream 30 crossed into Laredo, Texas, they asked for humanitarian parole. Those denied parole petitioned for political asylum and were moved to the ICE Processing Center in El Paso. NIYA hoped that the members of the Dream 30 could gather detailed information on others detained in the El Paso jail and activists outside could start working up the cases, as they had done in the Broward infiltration. But ICE kept the Dream 30 in separate pods from the other inmates. Nonetheless, as NIYA worked for the release of the Dream 30, they started to learn through the furtive passing of scrawled notes from inmates to members of the Dream 30 about a large number of asylum cases in the detention center that seemed stalled for no good reason. When the last of the Dream 30 was released in early November, NIYA planned Santiago's infiltration.

Once inside Santiago says it took him a few days before he got comfortable approaching fellow inmates to talk about their stories. Here is how Santiago described breaking the ice:

The first few days I was just like any detainee confused or I was trying to act confused. But little-by-little I started noticing that wherever you go there's always like one ringleader, like the one person that always attracts other people. Inside this barrack there was like a group of folks that had like prayer hours and so the guy that was preaching, Juan, I started talking to him. I started talking about the Dream 30. I asked him 'what do you know about the Dream30.' He said, 'you know I was like really, really excited when they were here, I thought that something was going to change for all of us too at the same time when people were fighting for them, but then it was so sad because as soon as they were out it was like everything went back to normal.' Then I told him that actually I was working for that organization and that I was here to hear about what's going on in here and to hear their stories and highlight them just like we did with the Dream 30.

Once Santiago won the confidence of people like Juan, "everything from there just fell into place. I got here on a Sunday and by Wednesday most [in the pod] were talking to

me. It just happened so easily.” Santiago describes himself as someone who “likes to talk and is easy to talk to,” but he doesn’t think that explains how quickly he gathered over a hundred inmate stories. “These people feel cutoff from the outside world and they were dying to tell their stories.” Santiago was surprised that almost all of the inmates in the pod he was first assigned to were asylum seekers. Out of the 64 inmates, he says 52 were asylum seekers, and of these he thinks 48 had passed what are called “credible fear interviews.” Many of these asylum seekers have sponsoring family members in the United States. There was no reason to continue to detain these asylum seekers with passed credible fear interviews and sponsoring families in the U.S. At first, Santi thought that he must have landed in a pod designated for asylum seekers. As luck would have it, he was transferred to another pod and again the distribution of inmates was similar. Out of 64 inmates, more than fifty were asylum seekers and more than forty of these had passed credible fear interviews.

We asked Santiago if there seemed to be a pattern to all these cases. “I’ve thought about this a lot,” he said “but it’s not so easy to tell.” Santiago then went on to tell us of some of the many cases and their varied stories. He told the story of Leonardo and Jonathan from Juarez who ran to the international bridge connecting to El Paso abandoning their car on the Mexican side just after being shot at twice. They crossed the border without a plan literally running for their lives. He told me about Maria from Michoacán who has four children living in the U.S., all citizens. She lived for over two decades in Alabama. She returned to Michoacán in 2012 where her life turned into a nightmare of extortions and threats on her life.²³

Santiago also talked about the large number of Indian nationals being held. One of them Kumar, who speaks and reads English, worked as a translator for many of the other detained Indians trying to help them navigate the legal channels of asylum. Kumar fled India with his partner. Like many of the other Indians they flew to Mexico and then surrendered themselves at the international bridge crossing into El Paso asking for asylum. Kumar and his partner are gay. Back home in India they were persecuted for their homosexuality. Kumar says his family told him that if he returned home he would be killed. Another Indian asylum seeker, Chagir, was fleeing persecution for his association with a particular political party. His body was marked with the many violent attacks he suffered while in India. At the detention center in El Paso, ICE repeatedly forced these asylum seekers to meet with officials from the Indian consulate, an flagrant violation of their human rights.²⁴

Although the inmates come from very different places and for different reasons, they now share something in common. Santiago said the Indians and the Latinos get along quite well in detention. It makes sense, he says, “after all, in here they’re all in the same place. ... In here you get the feeling that everyone forgot about them.” Asked whether he got news from the outside, like the death of Nelson Mandela:

²³ In late 2013 when Santiago was undercover in EL Paso, Michoacán was in the grips of what amounted to open warfare between the Templarios and the Autodefensas. What brought Maria to cross the border was, as with Leonardo and Jonathan, a fear for her life.

²⁴ See Sonia Smith. August 2014. “Asylum Politics” in Texas Monthly <http://www.texasmonthly.com/politics/asylum-politics/> and letter to Sonia Smith from Bill Frick, Esq. “Thank you again for bringing this situation to light. My client did not even realize how wrong it was that ICE would allow the Indian Consulate to address the group of asylees in the manner that was done. I would probably not have known about the incident without your article.” NIYA’s infiltration led to the Smith’s TM article, although she does not credit the NIYA infiltration in her story.

Santiago: O Yeah, I saw that on the news here. The Indian folks here, they were watching the news. Yeah it was kind of sad, but actually, [pause] actually, it was kind of nice.

Michael: Why?

Santiago: We have like circles where we get a lot of folk together and just talk and usually its just kind of cheesy stuff. But that day we were all just there [the Indians were] talking about how life in India is and what Nelson Mandela meant to them. It was a sad but actually a nice day in here.

Reflecting on his experience organizing from the inside, Santiago said: “I’ve been really, really lucky to see the very beautiful side of people in here. I’m lucky [pause]. I keep saying that, I know it sounds crazy because the people in here have no option ... but I’ve been lucky to make a lot of friends really quickly. And it is so great to see that they feel really energetic because they now know that there are some crazy kids on the outside fighting for them.”

After his release, NIYA worked to bring public attention to the asylum seekers detained in El Paso. Inside the detention center, inmates kept up the pressure with a prolonged hunger strike. ICE scattered many of these men throughout different centers but not before word got out about the mistreatment of the Indian inmates in particular.²⁵

²⁵ For reports on the hunger strikes and the plight of Indian and Bangladeshi detainees in El Paso see: <https://www.texasobserver.org/indian-men-still-held-immigrant-detention-hunger-strike/> and <http://www.colorlines.com/articles/asylum-seekers-demand-release-el-paso-detention>.

VII. Conclusion

America's archipelago of immigrant detention centers is the product of the latest phase in its history of criminalizing immigrants. This current phase started with the Clinton administration's signing of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). This 1996 law had bipartisan support. The Clinton administration used it zealously to show that it was tough on "criminal aliens" and the number of immigrant detentions and deportations started to rise dramatically. Under the Bush administration and in the post-9/11 world, these numbers skyrocketed. Under Obama, this trend accelerated as state and federal authorities synchronized their efforts. Every highway and byway across America became a potential immigration checkpoint. As Marco and Viri discovered in BTC, detention centers are filled with immigrants caught driving or even just riding "while undocumented." More than 20 years on, this latest phase in criminalizing immigration continues unabated. The Morton memos, DACA, and DAPA, along with the earlier Meissner and Myers memos outlining the principles of prosecutorial discretion, have proved hollow or at best weak medicine.²⁶

Liberal advocates for immigration reform have had few major accomplishments in defending the undocumented community in America against the machinery of "crimmigration." Major philanthropic institutions like the Ford Foundation have provided millions of dollars to large non-profit grantees who are devoted to pressuring for reforms. While these big non-profits have built a social movement for immigrant rights in the United States, they have largely been forced to counsel the undocumented community for patience as they work with their political allies in the Democratic Party for an electoral shift that may eventually lead to comprehensive immigration reform but which now appears further away than ever.

In contrast, the undocumented youth of NIYA early on came to the conclusion that freedom from the oppression they and their loved ones experience could more readily be achieved through direct action. Although many have warned NIYA activists against acts of civil disobedience and decried their escalation leading to detention center infiltrations and border crossings, these undocumented youth have persisted in their struggle. In the process, they have exposed many of the abuses that undergird the detention and deportation system, triggered resistance at the very center of this state machinery, and helped set fellow immigrants free. As the United States heads toward a Donald Trump administration, the lessons taught by their escalations are more important than ever.

²⁶ Since the 1996 passage of IIRIRA, directors of INS and later ICE, sought through memoranda to guide "prosecutorial discretion" to limit the scope of the state violence authorized by this immigration law. These memos justify deferring the deportation of certain "illegal aliens" from deportation in order to "better focus" scarce resources on enforcement "priorities." With DACA signed in 2012 and its companion Deferred Action for Parents of Americans (DAPA) signed in 2016, President Obama formally expanded the uses of prosecutorial discretion to defer the removal of certain categories of "illegal aliens" for a certain period of time, also granting them permission to work. These memos and executive actions do not, however, end the criminalization of these migrants.

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