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Immigration Control and Resistance: Historicizing the Present Moment, a Conversation between Historians and Activists

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# **Immigration Control and Resistance: Historicizing the Present Moment, a Conversation between Historians and Activists**

**Roundtable participants were:**

**JULIE GREENE**

**Professor of History and Director, Center for Global  
Migration Studies, University of Maryland at College Park**

**MADELINE HSU**

**Professor of History, University of Texas at Austin;  
President, Immigration and Ethnic History Society**

**LUIS MANCHENO**

**Attorney at the Immigration Practice of the Bronx Defenders**

**REBECCA PRESS**

**Senior Staff Attorney, Central American Legal Assistance**

THIS DISCUSSION TOOK PLACE AS PART OF A ROUNDTABLE at the American Historical Association's annual meeting in Washington, DC, on January 6, 2018. Included in the conference as a "late-breaking session," the roundtable was organized and moderated by Chantel Rodríguez and Andrew Urban, this issue's guest editors. The impetus for the roundtable was to explore the relationship between scholarship and advocacy by initiating a conversation among a group of senior immigration historians and immigration legal activists.

To this end, the roundtable was structured around two interrelated questions: what can historians, as scholars and teachers, learn from legal advocates, social workers, and community organizers working with immigrant communities in everyday practice; and what relevant information can scholars provide from their analysis of the past to activists and advocates working in the field?

The conversation that unfolded revealed how historians and immigrant activists are invested in similar issues but often have very little interaction. In explaining their experiences defending migrants in removal proceedings,

the immigration lawyers identified historical research as an invaluable tool for building their cases. Historians detailed how they have made connections with migrant communities and sought to empower them through language course offerings. Both in the roundtable conversation and in the audience Q&A, there was great interest in cultivating a viable bridge between scholars and activists built on solidarity and resistance. While many ideas were generated for doing so (and readers of this issue are encouraged to submit their own successes and challenges in this area), one recommendation that appealed to everyone was to create a listserv that could serve as a network connecting scholars and activists. This listserv would enable activists and scholars to share information on issues and organizing actions related to immigration laws and their enforcement to committed individuals across the United States and beyond.

The editors would like to thank Claire Urban of the Bronx Defenders for her help identifying participants. The opinions presented here are the individuals' alone, and do not necessarily represent the views of their affiliated institutions or of the *Journal of the American Ethnic History*. The forum has been condensed and edited for clarity.

[To Mancheno and Press]: What does your everyday work involve?

PRESS: [Central American Legal Assistance] represents Central and South Americans who are in removal proceedings, . . . the vast majority of whom have crossed our southern border fleeing violence and who are afraid to return to their country of origin. I help them obtain some sort of humanitarian protection in the United States, asylum, under the [United Nations] Convention against Torture, which prevents [the United States] from removing people to countries where they will be tortured. We usually have a minimum of four appearances in Immigration Court every single day. Many of those are preliminary hearings, which are like an arraignment in the criminal context.

In addition to the work with people in removal proceedings, we also represent a little less than one thousand DACA recipients. That work has obviously changed significantly. It's no longer the legal work of filling out their applications and helping them obtain DACA. It's now being involved in the political activism and organizing and showing up for when the political groups do the organizing.

The other population that we work very intensely are recipients of TPS [Temporary Protected Status]. We have approximately 2500 TPS clients from El Salvador, Honduras, and Haiti, and just a couple from Nicaragua. Thus far, the Trump administration has gotten rid of TPS for Haiti, for Nicaragua, for Honduras, and El Salvador should be announced on Monday [it was]. There are two hundred thousand Salvadorans who live in the United States with TPS and they have lived here since the year 2000 or before.

We also do a lot of appellate work. So, the cases we lose in court, we appeal to the Board of Immigration Appeals, and then, sometimes, beyond that to the federal court, the Second Circuit.

The one other group I want to mention are our clients who have prior orders of removal. These are individuals who, for whatever reason, were ordered removed, but haven't left the United States. Most of our clients do not have a criminal record that makes them [automatically] removable and [previously] they've been able to stay in the United States. That has drastically changed and . . . our clients with old orders of removal are [now] at risk every minute of every day of being picked up by ICE [US Immigration and Customs Enforcement], either at their homes, at their jobs, or when they have to go to an ICE check-in.

MANCHENO: Bronx Defenders is a public defenders office in the Bronx. I think one of the most important things to talk about when describing my job is the fact that people really don't have any idea what an Immigration Court proceeding looks like. . . . One of the things that I would encourage everybody in this room to do is to actually go to an immigration or a deportation hearing. They are all open to the public and I think that, only then, you will be able to see, you know, all of the things that we're describing to you right now, all of the things that you're hearing in the media and you're really going to be able to see the real face of our country.

What I do is a little different than what Rebecca does, because, mostly, the population that I work with is people who are in immigration detention. The United States has about 35,000 to 45,000 people detained on any given day in immigration detention. People who are in immigration detention are not necessarily there because of a criminal conviction. Under our laws, anybody who is facing removal proceedings or deportation proceedings can be detained. This detention can last two, three days, five days, a month, and it can also last an unlimited amount of time. I have represented clients who have been detained for over eight to nine years in immigration detention, without ever having the right to access a bond hearing,

[In the United States], people have the right to have an attorney to represent them in deportation proceedings, but they don't have the right to have that attorney paid by the government—meaning that if you don't have money to pay for a lawyer, you just get to represent yourself. And think about representing yourself in a deportation proceeding where you don't know the legal system and often don't know the language that everybody's speaking in the room and don't know a system that is incredibly complicated, that has been compared in the level of complication to our tax laws.

New York, starting in 2014, became the first city in the country to provide universal representation, meaning an attorney for every single person who is detained in deportation proceedings, no matter how much money you have.

How do we create a viable bridge between historians and immigrant activists?

GREENE: At the Center, we create bridges in many different ways. We see teaching itself as a radical tool of engagement and intervention. Immigration history, more than any field I've been in contact with, is itself a radical pedagogical tool. There's so much false information out there about immigration, you know—so that when I speak publicly and people will say, "Oh, well, these immigrants, you know, from [El] Salvador, they aren't learning English. That's the problem." And I can say, "Well, they're learning English at a faster rate than Italians were in 1905," [laughter] you know, and that perks people up. And you can see the light bulbs go off in their heads. So, I have those moments constantly, just using history to correct the misinformation that's out there.

We also try other tactics, like teaching English as a second language to refugees in the College Park, Maryland, area. We work with groups trying to distribute information to immigrant communities so that they know what to do if they're afraid, if they're facing the possibility of detention, for example.

Hsu: I should underscore that I am from Texas. Unlike many other states in the United States, unfortunately, where many people are rejecting some key platforms articulated by Trump as a candidate, Texas has run sort of full force towards them.

As historians, I think, for those of us who work on immigration, we are well aware that once the United States embarked on systematic immigration controls, built into laws [and] institutions and practices is legal discrimination against those peoples deemed excludable, that we don't want them to enter. This enters us into this system where, to enforce those laws, excludable aliens or people who have overstayed their residency or are working when they're not supposed to, legally have lesser rights and protections.

I think that, specifically for historians, it would be very, also, very important, as it was mentioned, to really engage and to really establish a solid way of communication with immigration activists and advocates and attorneys. . . . The Muslim ban or travel ban was a very big thing for a lot of people and people are very aware of it. But there are so many other worse things that are happening right now, but people are not writing about it or not researching about it, because there's not that established way of communication. So, community engagement and communication between the two fields will be very, very valuable for the future.

PRESS: I want to give an example of how I use historical scholarship in my practice. I don't use academic articles related to the United States, but I do use academic articles related to the countries where my clients come from: El Salvador, Guatemala, Honduras, Columbia, Venezuela. Those articles are so critical because they help the adjudicator, the immigration judge, understand how El Salvador got to where it is today—what was happening forty-five years ago, what was happening twenty-five years ago, how it's all directly related to what's going on

today. And, very frequently, immigration judges only care about the facts, like the black-and-white facts of the case. They decontextualize what's going on, and academic articles help to contextualize it.

What does solidarity and resistance look like between advocates and scholars who seem to be operating in different worlds?

HSU: I've been trying to develop a series of teaching modules . . . for teachers who are in high school US history classrooms, teaching civics courses.

We consulted immigration attorneys because they're the ones who actually understand how all of this actually works [in practice]. As historians, we focus on the intention of the laws. But since the 1920s, there's been a deliberate effort to lodge the enactment of these kinds of federal authority, which are about maintaining inequality based on immigration status . . . in this maze of details. To understand how [immigration laws] operate and to combat [them], we have to be talking to the immigration attorneys.

GREENE: When I teach immigration history, three things completely blow my students away. First is the whole structure around immigration [and] the term "illegals," [which] was the most brilliant thing the anti-immigrant movement did, because it makes undocumented immigrants less than human, [even though immigration cases are] civil proceedings. [Immigrants] don't have the basic protections that someone accused of a crime would have, so that tension is at the very heart of everything related to the immigration crisis. And, once my students understand that, they see the entire picture differently.

The second thing is understanding how much the US impact on the world shapes immigration patterns—and that gets to El Salvador, you know. The role of the United States in Central America is a huge driver pushing people, generating violence and inequality and, thus, pushing people here, policies like NAFTA [North American Free Trade Agreement], pushing people off the land in Mexico, forcing them to the United States. When they start to see that US policies are shaping these patterns, they want to find ways for the United States to take responsibility for that—probably it's utopian to think that the United States ever will—but that's what they end the semester talking about.

And the third thing that really strikes them is the centrality of race in all of these discussions, in the entire history of US immigration policy, you know, going back to the 1790 Naturalization Act that limited naturalization to, quote-unquote, "free white persons," and the way that has played out over and over again, from Chinese exclusion to the 1924 Act [the Johnson-Reed Immigration Act] and the influence of eugenics, to Japanese American internment during WWII. [Race] has just overwhelmingly shaped and reshaped immigration policy. I think that the more we can translate those key insights into something that can shape the public dialogue, the better.

MANCHENO: If you just picture in your head, an immigrant or an undocumented immigrant, the first thing that comes to your mind is somebody who looks a little bit like me, somebody who's Latino. So, I really do think that one of the things that we have to do—as historians at scholarly institutions—is to write about Latinos and the contributions that Latinos have made to this country and the contributions that immigrants in general have made to this country. There's this idea that Latinos are new to this country—and are being given favors or gifts. And I think that the more work we see on educating the community about all of the history of Latinos in the United States and immigrants in the United States will be absolutely rewarding for our future endeavors.

Reach out to us when you are working on writing or researching. I think that, too often, I see articles and scholarship that cite a *New York Times* report, but if you actually look, the people who are being quoted there are usually immigration attorneys or immigration advocates—so, going one level down and actually reaching out to the immigration attorneys who contributed to those pieces.

PRESS: We keep mentioning IMMPROF [the immigration law professors listserv]. Maybe there should be some new listserv where activists and scholars can communicate, because I can't get on to IMMPROF because I'm not a professor. My point really is that we also need access to historians. The academic articles that I've used, I've found by Googling. I didn't know that these women wrote this amazing article on Central America, and then, I couldn't access it, because I had to pay for it. I emailed them and, immediately, they sent it to me and they were thrilled that I was using it and that I continue to use it—but I had no idea that this amazing article was out there.

What do more just immigration policies look like?

GREENE: I think it's really important to be clear that white supremacy is behind Trump's immigration policies. It's also behind the massive effort to suppress the right to vote. And that's why somebody like Kris Kobach [Republican Secretary of State of Kansas and Vice Chairman of President Trump's Commission on Election Integrity] is really a key person here, because he is the advocate both for immigration restriction and exclusion and, also, the person investigating “voter fraud,” because both of those two prongs are central to trying to shore up white domination in this country in the face of gradually changing demographics.

HSU: I respond [to the question of just immigration policies] this way: what are immigration policies that actually work with migration flows? For laws to work and not to produce so much in the way of unauthorized immigration, they have to be accepted as viable and fair. If the United States really wanted to manage immigration in a way that is not so inhumane, it would work to look at what's happening in the sending countries and try to ensure that people have a reasonable level of economic opportunity and reasonably safe political and social

conditions. These are the sorts of things that press people to then migrate and undertake desperate kinds of risks and journeys and make tremendous sacrifices.

MANCHENO: I'm repeating this again, [but scholars need to highlight] the contributions that immigrants [have made] to what America really is . . . [and] highlight the stories of people of color, of immigrants or Latinos, of black people, who have contributed immeasurably to this country and continue to do so. The people I mostly work with are very recent arrivals and have come fleeing for their lives. Their idea of what America is hasn't been tainted yet.

PRESS: There's obviously deep emotional difficulty that has come with the Trump administration—but there is still faith that we and they are here to help make this country better and to improve their own lives. And the belief in the American dream is quite strong, at least among my clients, and it personally helps me.

I could not agree more with what Madeline said about having to have an international perspective to our immigration law and reform, but I do think that there are specific things that could happen within our own statutes that would make a tremendous difference. For example, there is an “original sin” of crossing the border illegally, that is almost impossible to overcome. And that original sin of entering unlawfully outweighs anything else you could do. “Three US citizen kids, working twenty years—it doesn't matter. You crossed unlawfully—you gotta go.” We could do away with that and it would help hundreds of thousands, if not millions, of people.

The other thing that I think, in talking about immigration reform, that we really need to be fully aware of are the intersections and interactions between the criminal justice system and the immigration system. All of the injustices that we see in the criminal justice system are highlighted or perpetuated in the immigration system. So, Luis's client who was convicted of some misdemeanor, because he was stopped “walking while black,” is now facing removal proceedings and it doesn't matter that that was a race-based stop. He has a conviction and the immigration judge will have to order him removed, if he's not eligible for some way of staying here. So, they are directly related.

MANCHENO: Anybody who is a “green card” holder, meaning a lawful permanent resident of this country, [can be deported for what is] called “theft of services,” which means jumping the [subway] turnstile in New York City. That person is what Trump calls “a criminal alien.” That person is automatically put into deportation proceedings. That's the type of people that we're talking about.

Recently, I represented a client who is in deportation proceedings after being in the United States for twenty-four years as a lawful permanent resident—for stealing two blocks of sharp cheddar cheese and one block of salami. That is exactly what was submitted to the Immigration Court, and that person is about to be separated from their communities and family. [He] also suffers a mental

illness and that is the reason why he stole the cheese and the salami. That just gives you an idea of how horrible, unjust, and inhumane our current immigration laws are.

[At this point, the discussion was opened to audience members, whose affiliations are provided here. Panelists took a series of questions and comments before responding.]

CHRISTIAN PETERSON, Ferris State University: I had a student say to me one time, “What’s wrong with restricting immigration now? We’ve restricted it since the beginning of time. What’s the problem with that? It seems as American as apple pie to restrict immigration.”

I’m wondering, how you respond, how would you advise [us] to respond, to such a narrative? And I do raise the question—it goes against the grain of academia—do we need to throw in a dose of American exceptionalism and the idea of the American dream to actually make people rethink their views on immigration and change laws for the better?

HIDETAKA HIROTA, City College of New York: As scholars, historians’ strength lies in writing, so it would be great if we can make a difference through writing. But, then, the question is, who would be our audience? We write many opinions in these relatively liberal venues . . . so my pessimism is we’re writing to the people [with] similar conclusions. Should we try to write to audiences who see immigration as evil?

HSU: I don’t think this will be a popular opinion—but I actually do think numbers really matter. And immigration was cresting in the 1890s and the 1900s and it led to the most severe immigration restriction in the 1920s—and immigration numbers are cresting again.

We can see very clearly in the people we have excluded from the United States the values of this country. We don’t like poor people, we don’t like certain racial groups, right, and it’s explicit in our immigration laws.

GREENE: I also think that even if we accept the limitations of our audience, it’s really important to keep writing for that audience, too, to keep articulating clearly and powerfully our arguments. And to defend higher education against attacks. The right is attacking higher education because they don’t want us making those arguments, even if it is for a limited audience.

I think we need, as scholars, much more work on the connections between immigration policy and law and the work being done on the carceral state. There’s a lot of great work being done on criminal justice and mass incarceration today, but, often, it’s disconnected from the ways in which immigrants who commit a misdemeanor by crossing the border without papers are thus marginalized and penalized and made vulnerable.

And, politically, what that leads me to is a return in this country to thinking about basic human rights. You know, we all know as scholars that most of the Constitution does not give rights only to citizens. There's very little in the Constitution that limits rights to citizens. And, yet, when it comes to immigration, hundreds of thousands, millions, of people are placed outside of the Constitution. So, we need to return to a sense that those people deserve basic human and political and labor rights as well.

MANCHENO: Humanizing the people who have been successfully dehumanized, I think, will be the first step that we can take in order to be able to change the minds of people. And then, once we do that, once we have—once we're able to have a conversation where the other party's ready to listen—then, we will need those numbers, though, and those statistics and that information to be able to back up a lot of the arguments that we're making.

The last thing that I wanted to say is that the one criticism that I have sometimes with scholars is that there can be issues that are really, really interesting and complicated, but, at the end, when I see the final product, I don't know what to do with it. [laughter] I think that it might be important to sometimes . . . ask about what to write, to ask about what to research on. For example, right now, I haven't found a lot of work on the history of gangs in the United States and how the MS-13 was born, which is one of the biggest gangs in El Salvador, Honduras, and Guatemala, and how they were created in LA and are exercising control here in the United States and in Central America.

PRESS: There was an example of a case, I think in Illinois, where the town overwhelmingly voted for Trump and, a few weeks later, a beloved member of the community was picked up by ICE. He had an old removal order. He had a DUI from seventeen years ago or something like that. And the community was horrified: "That's not who we meant, not people like that." Well, you know what? That's exactly who's being affected by this. So, those examples are critical to enlightening Trump supporters, frankly.

The last thing that I wanted to add is that I've talked to you guys as scholars, but I think that it's important for us to talk to you about it as human beings as well, right. There are many things that you can do in your scholarship and in your writing and in your research, but there are also many things that you can do as community members—you know, show up whenever there's a protest.

Every single time—and I think that this might be the exception today—that I am in a panel like this, somebody comes to me at the end and says, "My father's getting deported. My friend is getting deported. I have this friend who has this immigration issue." The pain of this injustice that the current immigration system is inflicting in our communities will be felt by every single one of us. So we need to unite and consider it our problem as well.