

2020

Insurgent Visions Of FREEDOM: Migrant Resistance Against The Settler Colonial Nation And Neoliberal Carceral State During The 1995 Esmor Immigration Prison Rebellion

Diana L. Martínez-Montes
Swarthmore College, dianal.martinezmontes@gmail.com

Follow this and additional works at: <https://works.swarthmore.edu/suhj>



Part of the [United States History Commons](#)

Recommended Citation

Martínez-Montes, Diana L. (2020) "Insurgent Visions Of FREEDOM: Migrant Resistance Against The Settler Colonial Nation And Neoliberal Carceral State During The 1995 Esmor Immigration Prison Rebellion," *Swarthmore Undergraduate History Journal*: 1 (1), 37-71. 10.24968/2693-244X.1.1.2
<https://works.swarthmore.edu/suhj/vol1/iss1/3>

This work is brought to you for free by Swarthmore College Libraries' Works. It has been accepted for inclusion in Swarthmore Undergraduate History Journal by an authorized editor of Works. For more information, please contact myworks@swarthmore.edu.

**Insurgent Visions of Migrant FREEDOM: An Analysis of the 1995 Esmor
Immigration Prison Rebellion and Its Legacy**

Diana Martinez
Swarthmore College

Introduction

In 1995, on the eve of the 130th anniversary of Juneteenth, about fifty African refugees detained in the New Jersey Elizabeth County Esmor Detention Center staged a militant prison insurgence to demand freedom and respect for their human rights.¹ Detainees identified objects in their vicinity that would facilitate their escape and ensure protection: ripped metal wall handrails cleared the heavy prison infrastructure intended to confine. Debris and furniture were cleverly shaped into defense barricades. Electronic monitors were destroyed. Security and dorm windows were broken. While some men ran to the roof, others attempted to climb 40-foot high pipes that led to the skylights. Amid the shattered glass, torn tables, and debris, a foot-high seven-letter word stood scrawled onto a guard post in dark paint: FREEDOM.²

The Esmor Detention Center was converted from a warehouse to New Jersey's only privatized immigration prison in 1994. It imprisoned about 240 men and sixty women from over forty countries. Most entered the country through New Jersey and New York's airports without government authorization. Shortly after their arrival, migrants were transferred to Esmor to await their deportations or asylum hearings.

Within months of opening, Esmor became notorious for its incompetence, abuse, and neglect. Detained migrants and their family members, local politicians, community organizers, refugee advocates, and attorneys complained about the prison staff's lack of formal training and reported multiple accounts of sexual assault and unjustified physical and psychological abuse.³ There were documented reports of migrants placed in solitary confinement for breaking harmless

¹ Rutgers University-Newark and American Friends Service Committee's Immigrant Rights Program, "New Jersey: Seeking Asylum, Resisting Detention."

² Perez-Peña, Richard. "Illegal Aliens Overrun a Jail In New Jersey."

³ Bustamante, Roberto. "Fiscalía De Unión Pedirá El Cierre De Esmor: Cerca De 100 Hispanos Entre Los 300. Prisioneros Del Tenebroso Lugar."

protocols such as running water before 6:00AM. Esmor staff also violated the religious rights of Muslim migrants by prohibiting them from practicing their faith and forcing them to eat food that violated their dietary laws.⁴

Two years after the rebellion, twenty migrants who were formerly detained at the facility came together to file a class action suit against Esmor and selected prison staff. *Jama v. INS* (which later coalesced into *Jama v. Esmor Correctional Services Inc*) was filed on grounds of the physical, psychological, and verbal abuse that migrants experienced at the Esmor immigration prison.⁵ The lawsuits produced limited benefits to the plaintiffs involved but succeeded in redefining refugee law in the United States: the class actions opened new judicial avenues for migrants in the United States to protect their religious rights and to hold private corporations accountable for harm done.

The Esmor prison rebellion and *Jama v. Esmor* do not exist in a vacuum. Rather, they challenge discourses on the politics of migration, reflect broader patterns of hegemonic governance and domination in the United States, and enrich our understanding of resistance against the Carceral State and settler coloniality. The United States coexists as a settler colonial society and a neoliberal Carceral State.⁶ Since the country was founded and expanded by means of state-sanctioned violence, conquest, and colonization, its imagined national identity has been (and continued to be) racialized.⁷ As the nation evolved, racial hierarchies concentrated power and capital in its affluent Anglo Protestant groups. The Carceral State upholds a racialized social order by functioning as a system of social control: through incarceration, it makes invisible those who do not fit the settler colonial identity. Scholarship on Mass Incarceration supports this by

⁴ Daniels, "The Ins and Outs of the Jama Case Part I."

⁵ Loboguerrero, Cristina. "Inmigrantes Demandan Al INS y a La Esmor."

⁶ Hernández, *City of Inmates*.

⁷ Ngai, *Impossible Subject*.

highlighting the disproportionate criminalization of people of color, impoverished communities, and folk with mental, intellectual, and physical disabilities.⁸

Immigration prisons sustain this racialized power hierarchy by incarcerating migrants whom the State deems unfit for its settler colonial project.⁹ These institutions police the borderlands by incarcerating and deporting immigrants, most of whom come from the Global South. Immigration prisons hold thousands of refugees and undocumented migrants in civil detention solely because they migrated without government authorization. The Carceral State publicly justifies the incarceration of migrants on grounds of defending national security. However, this discourse perpetuates a hegemonic settler colonial identity and simultaneously produces lucrative profits that reinforce the nation's neoliberal economy.

In addition, New Jersey's Esmor prison challenges the notion that the migration crisis is concentrated at the United States-México border. There is no single locus of transnational foreign movement, but rather multiple hubs. Clandestine and official ports of entry are dispersed all across the country and include air, land, and sea entryways. The broad geographic distribution of immigration prisons in the United States reflects that migration is not a geopolitical situation that solely exists at the Southern Border. On the contrary, migration extends beyond the borderlands and exists in remote pockets across the country.

Drawing from theoretical paradigms on settler coloniality, the neoliberal Carceral State, and critical resistance, this paper provides a historical analysis of the New Jersey Esmor prison rebellion and its aftermath. The critical examination of the eruptive event is wholly informed by Spanish and English-language newspapers, judicial opinions, human rights reports, Immigration and Naturalization Service reports, and memoirs. These primary sources allow one to primarily

⁸ Alexander, *The New Jim Crow*.

⁹ Macías-Rojas, *From Deportation to Prison*.

examine the insurgence's breaking point and neoliberal context, public perceptions of the riots, and the first-hand testimonials and resistance practices of detained migrants. A brief investigation of *Jama v. INS* and *Jama v. Esmor Correctional Services Inc* also showcase an alternative resistance approach to the rebellion that is dependent on judicial institutions.

The 1995 insurgence, though generally disorganized, was a brief militant act of resistance that challenged the settler colonial nation and the neoliberal Carceral State. During the five-hour long revolt, select detainees catalyzed their collective emotional distress to assert their humanity and demand liberation. Their direct action drew national attention to their pleas; pressured federal and municipal actors to question the privatization of immigration prisons during the early phase of the prison-industrial-complex; and inspired two civil class actions that expanded the legal rights of refugees in the United States. While their militant resistance was brief in duration and triggered some troubling ramifications for the individuals detained in Esmor, it represents a significant event that lies at the intersection of discourses on migration, incarceration, and resistance.

A Historiographical Analysis

A historical analysis of the 1995 Esmor prison insurgence requires a synthesis of historian's scholarship with interdisciplinary academic literature on crimmigration and the present-day Carceral State in the United States. Historians like Kelly Lytle Hernández, Benjamin Gonzalez O'Brien, and Mae Ngai have addressed immigration detention and deportation policy in their scholarly work. Even though their research mainly outlines the early phase of the criminalization of migration, it is worthwhile to examine the groundwork they establish because it is some of the only existing historical research on immigration detention and deportation

policy.¹⁰ Equally important, this historical scholarship accentuates the relationship between conquest, imperialism, migration, and race which is fundamental for understanding the politics that have shaped twentieth-century immigration law. At the same time, recent scholarship in criminology, sociology, and crimmigration have extended the limited available historical discourse on immigration detention and deportation policy into the second half of the twentieth century, contextualizing the functions of the immigration legal system and criminal justice system during the time of the Esmor revolt. Lastly, critical resistance theory offers one additional way to contextualize the use of rebellions as tools of resistance against oppressive hegemonic institutions. Together, these overlapping scholarly literatures can situate the Esmor insurgence into a broader historical context.

Immigration historian Mae Ngai's sociolegal research highlights how undocumented migrants, whom she describes as "impossible subjects," have paradoxically existed in a liminal status of (il)legality. These uncertain states further racialized many Chinese, Mexican, and Filipino migrants and placed them in alignment with the nation's white-imagined identity. Historian Kelly Lytle Hernández connects Ngai's scholarship on immigration enforcement to the Carceral State in *City of Inmates: Conquests, Rebellions, and the Rise of Human Caging in Los Angeles, 1771-1965*. She posits that as an Anglo settler colonial nation, the United States has depended on cheap racialized labor that can be made disposable through deportation and incarceration. Settler societies, according to Hernández, "trend toward excluding racialized workers from full inclusion in the body politics [by] deporting, hiding, or criminalizing them."¹¹ In other words, once workers no longer provide cheap and disposable labor, the settler society responds by *eliminating* them through various means including revoking their right to be

¹⁰ Gonzalez O'Brien, *Handcuffs and Chain Links*. Hernández, *City of Inmates*. Ngai, *Impossible Subject*.

¹¹ Hernández, *City of Inmates*. 8.

physically present in the country. The United States' politics of dominance align with Hernandez's definition of a settler society because the country has sought to "disappear" working-class people of color—citizens and non-citizens—through deportation and incarceration when they reject the submissive status projected onto them by the State.¹² In the end, the use of "disappearances" has aimed to establish, defend, and reproduce a settler society.

Hernández also explores nativist immigration laws that emerged in the early 20th century to demonstrate the State's xenophobic obsession with constructing a white Anglo nation absent of foreign *invaders*. Nativism's white supremacist ideology initiated a shift in the adjudication process of immigration law: border crossings went from having no penal repercussions to acts resulting in a dramatic surge in immigration detentions. Hernández draws particular attention to the 1929 passage of the Undesirable Aliens Act, otherwise known as S. 5094, which became the first immigration law to criminalize unauthorized border crossings into the United States. The passage of this act is evidence that the Carceral State began punishing migrants who threatened the nation's imagined Anglo identity through incarceration as early as 1929.

Historian Benjamin Gonzales O'Brien has furthered the historical scholarship on the interwoven relationship between migration, punishment, and race. His work draws specific attention to the normalization of deterrence-through-punishment practices that occurred between the passage of the Undesirable Aliens Act in 1929 and the Immigration Reform and Control Act (IRCA) of 1986. Gonzales O'Brien posits that public perceptions and legislative approaches towards unauthorized migration created a locked feedback loop that treated undocumented immigration as "a crime-control issue, in both rhetoric and legislation."¹³ As a result, tough-on-

¹² Ibid., 7.

¹³ Gonzalez O'Brien, *Handcuffs and Chain Links*. 2.

crime rhetoric, labor concerns, and racialized attitudes towards migrants consolidated to create punitive immigration law.

Ngai, Hernández, and Gonzales O'Brien lay the groundwork for understanding the role of immigration policy as an instrument of racialized social control. Their scholarship confirms that settler colonialist practices and carceral politics shaped early 20th century immigration law to varying degrees. Indeed, it is important to extract those discourses to understand how they continued to frame the immigration detention and deportation policy that existed at the time of the Esmor prison rebellion. The insurgence erupted in response to the increased criminalization of migrants from the Global South and the increased use of incarceration as a method of deterrence, all of which are factors explored in histories written by Ngai, Hernández, and Gonzales O'Brien.

In order to extend this historical research into the second half of the twentieth century, one must examine the scholarship in non-historical fields to showcase some of the changes and continuities that immigration policy experienced beyond the Civil Rights Era. Some of the most significant sociopolitical phenomena that reshaped post-1960s immigration law were the use of “colorblind” policies in the criminal justice system, the increased power of the Carceral State, and the strong influence of neoliberal ideologies. This section will use Legal, Latin American/Latinx Studies, and crimmigration scholarship related to mass incarceration have demonstrated how the politics of race and neoliberalism yielded an increase in incarcerations, thereby defining the penal immigration policy that Esmor detainees encountered in the 1990s.

Legal scholar Michelle Alexander deconstructed the supposed “colorblind” criminal justice system to highlight how the State uses incarceration and prisons to maintain racialized social control. In *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*,

Alexander challenges the “race-neutral” narrative that characterized the criminal justice system in the post- Civil Rights Era. Alexander establishes that the racially charged rhetoric that defined the War on Drugs’ zero-tolerance policy and law enforcement practices significantly harmed communities of color, specifically Black urban communities. Latin American and Latinx Studies scholar Suzanne Oboler has added to Alexander’s argument by opening a dialogue on the ways that contemporary immigration policy and criminal justice policy interact. In *Behind Bars: Latino/as and Prison in the United States*, Oboler asserts that immigration enforcement serves a parallel function to criminal law enforcement.¹⁴ Indeed, agencies such as Immigration and Naturalization Service (known today as Immigration and Customs Enforcement) and Customs and Border Patrol are used to police migrants in the United States. Not only can they question immigrants, but these agencies also hold the power to detain and even deport non-citizens.

In addition to highlighting that incarceration is a racialized method of social control, academic studies of mass incarceration have also highlighted the relationships between the neoliberal politics of the post-Civil Rights Movement and the expansion of the Carceral State. Neoliberal societies, according to sociologist Tanya Maria Golash-Boza, depend on the expungement of social welfare and the privatization of public entities. In order to achieve this, every contributing member of the neoliberal economy must be “entrepreneurial and independent.”¹⁵ This kind of politics heavily rely on the Carceral State’s intervention to make such a social order possible. Incarceration is used to punish and remove individuals who do not participate in the neoliberal society. The State benefits from their incarceration by silencing their dissent and turning them into cautionary examples. Neoliberalism simultaneously incentivizes the Carceral State to privatize prisons in order to profit from the punitive measures it adapts.

¹⁴ Oboler, “‘Viviendo En El Olvido’: Behind Bars—Latino/as and Prison in the United States,” 3.

¹⁵ Golash-Boza, *Deported*, 203.

Thus, neoliberalism and the Carceral State create a codependent relationship that advances their respective agendas.

Crimmigration scholars like Jennifer M. Chacón, César Cuauhtémoc García Hernández, and Patrisia Macías-Rojas have built on studies of mass incarceration by highlighting that the criminal adjudication of immigration offenses during the second half of the twentieth century is directly linked to the War on Drugs' zero-tolerance policies and punitive racialized neoliberal politics. Their lens of inquiry draws attention to how the politics of the neoliberal Carceral State have increased the convergence of the penal system and immigration legal system.

In *From Deportation to Prison: The Politics of Immigration Enforcement in Post-Civil Rights America* Patrisia Macías-Rojas adapts a “carceral liberalism” theoretical framework to critically examine the nuanced discourse on crime, rights, and migration in the Post-Civil Rights Era.¹⁶ Carceral liberalism, according to Macías-Rojas, is defined as the practice of addressing civil rights issues through a punitive approach that dismisses the systemic roots that make civil rights violations possible in the first place. Macías-Rojas also reaffirms some of Michelle Alexander’s argument regarding the “colorblindness” of the criminal justice system. Macías-Rojas draws from political scientist Naomi Murakawa’s scholarship to posit that liberal civil rights legislation created a “civil rights carceral state.” In other words, civil rights jurisprudence sought to supposedly “protect” civil liberties through a punitive approach that did not address the systemic issues at hand.¹⁷

¹⁶ Macías-Rojas, *From Deportation to Prison*. 24.

¹⁷ Macías-Rojas, *From Deportation to Prison*. 22. Murakawa claims that Civil Rights Era criminal justice system failed to address its own racial biases and instead sought to punish individual hate crimes. In failing to do so, the justice system failed to address the “root causes of systemic violence” and its “historic and systemic role in racial violence.”

Furthermore, crimmigration scholarship has highlighted the punitiveness of the policies that criminalized migrants. Legal scholar Jennifer M. Chacón claims that the isolation, neglect, and lack of access to basic services that incarcerated migrants experience creates a punitive environment that intends to further deter irregular migration. Leading crimmigration scholar César Cuauhtémoc García Hernández adds to Chacón's analysis by claiming that "the use of conviction and confinement on a large-scale replicates and expands social marginalization."¹⁸ His analysis aligns with Michelle Alexander's argument that incarcerated folks are forced into a "stigmatized racial group" that locks them into an "inferior position by law and custom."¹⁹ Incarcerated individuals, citizens and non-citizens, lose fundamental social rights such as the freedom of movement and the ability to engage in their community's social life. Thus, the punitiveness of immigration detentions makes migrants invisible by isolating them from their social networks and criminalizing them upon entry to the country.

Finally, to fully contextualize the significance of the Esmor rebellion, it is necessary to acknowledge existing scholarship that explores prison insurgences as forms of resistance against oppressive systems. Nonetheless, similar to the lack of historical scholarship on post-Civil Rights Movement immigration policy, there is also a lack of overall research on the role of prison rebellions as acts of critical and radical resistance. It can be speculated that the strong stigmatization that incarcerated folks experience restrains academics from considering prison revolts as serious efforts against oppressive hegemonic institutions. Despite this challenge, the scholarship of American Studies scholar Jordan T. Camp and sociologists Jack A. Goldstone and Bert Useem inform how the Esmor rebellion fits into the academic studies on prison insurgences in the post-Civil Rights Movement. Goldstone and Useem describe prison rebellions as

¹⁸ García Hernández, "Immigration Detention as Punishment," 1398.

¹⁹ "Victory in Jama Lawsuit."¹⁹ Alexander, *The New Jim Crow*, 12.

microrevolutions which are defined as small-scale revolutionary acts that function analogously to broader mass-scale revolutions.²⁰

Camp contextualizes Goldstone and Useem's analysis within the post-Civil Rights Era. He claims that from 1950 to 1995, there were over 1,300 prison insurgencies in the United States.²¹ There was a significant increase from five in 1968 to forty-eight in 1971. These statistics reveal that prison revolts are not rare incidents, but rather prevail in response to the abuse of hegemonic systems. Camp attributes the increase in prison rights between 1968 and 1971 to the destruction caused by social and economic neoliberal structures. He grounds this claim in his case study of the 1971 Attica prison rebellion. The insurgence in upstate New York was a sophisticated attack organized by a multiracial cohort of socially conscientious men who intended to liberate incarcerated folks from the prison's cruel, violent, and traumatizing environment. Camp claims that their political consciousness stemmed from the popular education they received by other men in the prison. Incarcerated men in Attica understood that their prison confinement was a product of the social and economic policies that punished those harmed by structural racism and aggressive deindustrialization. Thus, the Attica Rebellion, just like other prison insurgencies of the time, created microrevolutions that defied hegemonic neoliberal ideologies.

A historical study on the Esmor prison revolt gains a lot from the analyses presented by Goldstone, Useem, and Camp. Their research places the 1995 insurgence in a broader chronicle of grassroots resistance efforts during the second half of the twentieth century. Though prison rebellions were not popular, even during the years that saw an increased number of them, it remains vital to understand that the Esmor revolt surged in a time period that saw an increase in

²⁰ Goldstone, Jack A., and Bert Useem. "Prison Riots as Microrevolutions." 986.

²¹ *Ibid.*, 989.

neoliberal policies, migrant criminalization, and overall incarcerations. Although the individuals involved in the 1995 rebellion might not have consciously considered these factors when planning their direction action, these external pressures consolidated to catalyze the event. The Esmor prison revolt, thus, was not a rare occurrence but rather an event that reiterated the concerns that other incarcerated folks before them had.

The Esmor Prison Rebellion

The 1995 insurgence was not unprecedented. Migrants had a history of engaging in acts of civil disobedience at the Esmor prison to protest their inhumane treatment. Cuban migrants had previously held hunger strikes, though these were completely ignored by prison staff.²² This sort of response from Esmor employees was common because they lacked the formal training needed to address the abuse. Some even participated in inflicting it. Sudanese refugee Suzanne Kideni, a former Esmor detainee, recalled, “We had no way to make complaints. We had to complain to ourselves.”²³ Esmor’s refusal to address the abuse that ran rampant within its facility ultimately led to the 1995 outburst of frustration, desperation, and multiethnic solidarity.

The list of grievances in Esmor ran long. Migrants were unjustly detained for months at a time; denied regular attorney visitations; shackled during their attorney visits; manipulated into signing their own deportation orders; forced to stay awake at night by beaming bright lights; barred from getting fresh air or exercise for the entirety of their imprisonment; fed unhealthy and rotten food; and over-surveilled, including in the restrooms and showers.²⁴ Prison staff also prevented Muslim refugees from practicing their faith. For instance, Esmor employees frequently

²² Dunn, Ashley. “Harsh Memories of Detention Center.”

²³ Immigration and Naturalization Service, Headquarters Detention and Deportation Division, 4.

²⁴ Bustamante, Roberto. Perez-Peña, Richard.

served Muslim migrants food that violated their dietary laws.²⁵ In sum, isolation, deprivation, confinement, and humiliation dominated the migrant experience in Esmor. Immigration and Naturalization Service eventually decided to conduct an interim assessment amid the wave of complaints. However, the INS's attempt to address the prison's abysmal conditions came too late. Though the INS's investigation of the Esmor prison was initiated two weeks prior to the revolt, it was not ready to be published by June 18, 1995.²⁶

The insurgence lasted about five hours. Prison guard responses proved as disorganized and chaotic as their day-to-day facility management. The emergency protocol was not followed. Prison guards hid in ceilings.²⁷ When five detainees assaulted two prison guards, the guards responded by ordering other guards to vacate the premise.²⁸ Around 6:00am, local SWAT teams and armed police officers brandishing batons and percussion grenades showed up at the Esmor prison.²⁹ The police's counterattack was violent. They arrived with the intention to suppress the rebellion with excessive use of force without any concern for the safety of those inside. Police tried to keep everyone inside the facility. They deployed a high-intensity fire hose to spray migrants as they climbed out of the facility. Migrants who scrambled back inside to hide were trapped by police who released tear gas and percussion grenades.³⁰ Though none of the refugees were armed, they endured excessive police brutality. They were arbitrarily beaten by police who roamed the facility's halls and rooms.

²⁵ Daniels, "The Ins and Outs of the Jama Case Part I."

²⁶ Dunn, Ashley.

²⁷ Perez-Peña, Richard.

²⁸ Immigration and Naturalization Service, Headquarters Detention and Deportation Division, "Interim Assessment Report on the Elizabeth, New Jersey Contract Detention Facility Operated by ESMOR Inc." 4.

²⁹ Immigration and Naturalization Service, Headquarters Detention and Deportation Division, 4. Perez-Peña, Richard.

³⁰ Kassindja, Fauziya. *Do They Hear You When You Cry*. 275.

The police eventually evacuated the prison. They handcuffed everyone inside and forcibly took them to the facility's parking lot. Many were either deported or transferred to other immigration prisons in surrounding states.³¹ A handful of women and children ended in Pennsylvania's York County Immigration Detention Center, Berks Family Detention Center, and the Pike Immigration Prison. INS also rescinded Esmor's contract on the grounds of neglect, abuse, and lack of prison staff training. INS admitted its failure to maintain a transparent and dialogical relationship with Esmor. Nonetheless, the Elizabeth detention center reopened eight months later in February of 1996 under the administration of a different private contractor.³²

There is a significant lack of first-hand accounts from migrants present during the rebellion and from the men directly involved in organizing it. Most of the testimonials available are limited to fragmented quotes retold by newspaper articles. However, Fauziya Kassindja's *Do They Hear You When You Cry* is an anomaly among all the available primary sources. Kassindja is a Togolese refugee woman who was eighteen years old at the time of the insurgence. Her detention at Esmor began in mid-December 1994, shortly after she was detained at the Newark International Airport. She was granted asylum on June 13, 1996 in the landmark decision named *Matter of Kasinga*. This case expanded refugee rights in the United States by acknowledging that gender-based persecution is an eligible claim to seek asylum in the United States.³³

Do They Hear You When You Cry is an autobiographical narrative that details Kassindja's refugee experience. Part of the memoir recounts her time at Esmor, including her experience during the revolt. Kassindja's narrative is critical for an analysis of the Esmor rebellion. It confirms the psychological abuse that migrants experienced in the facility and

³¹ Perez-Peña, Richard.

³² Smothers, Ronald. "Asylum-Seekers Are Confined to Dormitories After Protest."

³³ Kassindja, Fauziya. *Do They Hear You When You Cry*. 509.

simultaneously introduces a nuanced gender-based perspective on the insurgence. Kasindja writes of the many nights she was unable to sleep because the “blinding, painful” high-intensity ceiling lights stayed on at night.³⁴ Anecdotes of freezing cold rooms, lack of fresh air, inedible food, exposed showers, the prison guard’s religious intolerance, solitary confinement, and long random middle-of-the-night room searches fill the memoir’s pages. In this sense, Kasindja expresses the continuous humiliation, isolation, and neglect that migrants often felt during their time in Esmor.

Nonetheless, Kassindja’s account also draws attention to a well-founded gender critique of the rebellion. According to Kassindja, many women were horrified by the insurgence because it was completely unexpected, and its organizers were unknown. Women and men found themselves on different wings of the Esmor facility. The gender-based spatial divisions made it nearly impossible for women and men to communicate. As a result, most women were unaware that some of the men were planning to launch a revolt. Women feared they would experience gender-based assaults or sexual violence at the sight of men charging towards them and destroying items in the vicinity.³⁵ For many women, fear for their safety was a reasonable response during such a chaotic event. Their gender automatically rendered them more susceptible to violence and danger. They also initially lacked any information on who was organizing the rebellion, so they were rightfully apprehensive about partaking in it or even condoning it. Amid the turmoil, some of the women came to recognize the men held in the other wing of the detention center. Their interactions fostered a degree of clarity and trust. The women

³⁴ Kassindja, Fauziya. *Do They Hear You When You Cry*. 190.

³⁵ *Ibid.*, 270.

eventually realized that the men were not there to intentionally harm them, but rather to ensure their safety while other men carried out the insurgency.³⁶

Kassindja remains critical of the rebellion throughout her memoir. This response can be attributed to Kassindja's fear of gender-based violence during the revolt and the retraumatizing consequences that she and others had to face following the incident. Though she acknowledges the catalyst for the revolt, Kassindja consistently distances herself from those who participated in it. Kassindja asserts, "We [the women] hadn't busted [the Esmor Detention Center] up. The men had."³⁷ Her words reflect a degree of disdain for the men's actions. One can speculate that Kassindja's critique is grounded in the harm that she and other women experienced after the insurgency. It is possible that many were traumatized after being transferred to other jails without notifying their loved ones or being forcibly separated from the new community they joined during their time in Esmor. Kassindja's account describes her first couple of days following the insurgency as confusing, lonely, and depressing. She was moved to two different prisons within one week: first at the Hudson County Correctional Center in New Jersey for a couple of days and then transferred to the York County Prison in Pennsylvania. Neither her family nor attorney knew where she was for most of that week. They only found out when she phoned her lawyer at York.

Kassindja's experience reflects the immigration system's lack of transparency, its neglectful treatment of migrants in detention, and its incompetence during emergencies. INS cared very little about keeping track of where most refugees went. Very little was done to connect them to their families and legal advisors during this process. This experience could have been retraumatizing because it exacerbated feelings of hopelessness and isolation among

³⁶ Ibid.

³⁷ Ibid., 285.

migrants. The collective sense of seclusion was further accentuated by the separations that they experienced in the wake of the rebellion. Kassindja's 514-page autobiography depicts the strong sense of sisterhood and community that the women detained at Esmor were able to build, relationships that were crucial during her time in Esmor. Kassindja's strong friendships made her time in detention more tolerable because her friends were her caretakers, sources of hope, and mentors. However, these relationships were fractured after the revolt when INS dispersed everyone across various prisons in the tristate area. Thus, Kassindja and other migrants formerly detained in Esmor found themselves in prisons far from where they had once been and surrounded by people they did not know. Though Kassindja was eventually reunited with her friends at York, she still experienced traumatizing instances of isolation and separation. These situations are layered on top of the separation that many migrants experienced the moment they left their countries of birth. Thus, there was a double damage associated with the separation they faced after Esmor.

The Esmor revolt stands alone as one of the few, if not only, documented immigration prison insurgencies in the United State. Informed by the theoretical frameworks established by Jordan T. Camp, Jack A. Goldstone, and Bert Useem, this paper proposes an interpretation of the Esmor prison revolt as a microrevolutionary act that briefly disrupted the neoliberal Carceral State and the nation's settler colonial identity. Although there is limited information on the identities and objectives of those involved in the Esmor insurgence, this interpretation is constructed based on speculative inquiries and the few pieces of evidence left behind by those detained during the time of the revolt. I draw attention to the word *FREEDOM* which was boldly scribbled onto one of the guard posts. It was mentioned once in a *New York Times* article but was missing from every other primary source account of the event. The *New York Times* glossed over

it during its enumeration of the prison's property damage in the article "Illegal Aliens Overrun a Jail in New Jersey." Nonetheless, it is important to extract this piece of evidence because it presents a rare explicit articulation of resistance by those involved in the insurgence. The choice to write *FREEDOM* on a guard post wall speaks to a demand for liberation. Guard posts are spaces that legitimize abusive power dynamics between dominant forces (the prison guards) and the subordinate (the detained migrants). Guards hold the power to police every move that migrants make through the television and computer monitors in the guard post. Thus, the act of writing *FREEDOM* directly rejects the hegemonic power dynamics that uphold the cruel treatment of migrants in detention. It is also critical to question the use of the English language to write the word. It yields the question, *who was meant to understand this?* The conscious decision to use the United States' dominant language implies a desire to reach an audience beyond just those incarcerated in Esmor. I speculate that the migrants detained in Esmor wanted prison staff and State authority figures to read their brief remark. They wanted the public to hear their demands. This clue provides evidence of a microrevolution that rejected the Carceral State and the settler colonial nation. Migrants involved in the rebellion rejected the State's punitive carceral decision to confine them on the basis of their immigration status.

In June 1995, the Esmor detention center was the only private immigration prison in New Jersey. This fact showcases a tension between the fragmented dominant discourse that supported the growing neoliberal prison-industrial-complex and the local popular discourse that condemned the privatization of prisons. Before providing an analysis of the INS-Esmor Correctional Services relation, it is important to contextualize the privatization of prisons in the neoliberal society that was unleashed by the War on Drugs.

Ronald Reagan's 1980s neoliberal "reaganomics" plan lies in the background of the Esmor insurgence, and demonstrates the role that the Carceral State holds in upholding this political ideology. Reagan's neoliberal economic plan disinvested from welfare, public education, urban development, and many other programs that intend to care for the wellbeing of the country.³⁸ Reaganomics redirected that funding towards the defense, domestic enforcement, and prison budget.³⁹ This federal spending reallocation fueled the War on Drugs which served to enforce Reagan's neoliberal plan. Individuals who deviated from abiding by neoliberal principles were punished through incarceration. This disproportionately affected communities of color, the poor, migrants, and others who were harmed by the era's rapid deindustrialization and drastic social welfare budget cuts. Neoliberal politics harm communities that have been systemically disenfranchised and neglected as a result of colonialism, slavery, and capitalism. It exacerbates structural oppression by further eliminating the services and resources they need. Thus, neoliberalism worked with the Carceral State to advance that State's project of social control.

In addition to incarcerating marginalized groups that disrupt neoliberal politics, Reagan-era neoliberal policies sought to profit from the people it punished. The aggressive push to privatize institutions created morally distorted scenarios that rewarded private entities for partaking in the oppression of vulnerable communities. This sort of dynamic incentivized relationships like that between the INS and Esmor Correctional Services. Esmor profited from holding migrants in detention for long periods of time. It received between \$75 and \$100 from INS for every migrant that spent the night in the facility. INS and Esmor's relationship is reflective of the prison-industrial-complex which is a product of neoliberal politics. The prison-industrial-complex refers to the public and private sector's overlapping economic interest in

³⁸ Ibid., 202.

³⁹ Camp, *Incarcerating the Crisis*, 93.

upholding the neoliberal Carceral State.⁴⁰ At the time of the Esmor rebellion, the prison-industrial-complex was a fledgling phenomenon that was rapidly expanding. Private prison contractors provided INS with about 1,100 prison beds to hold migrants.⁴¹ In 1994 alone, private prison contractors had a revenue of about \$24 million.⁴²

INS found itself scrambling to acquire new bed spaces during the Reagan Era due to prison bed shortages. War-on-Drug crime bills, such as the 1984 Comprehensive Crime Control Act, produced prison overcrowding. All available prison room was filled up by people arrested for federal drug offenses, including possession of marijuana. Immigration reform acts added further stress to the overcrowded prison conditions by incentivizing immigration enforcement to detain more migrants. For instance, INS was instructed to abandon its practice of nondetention and instead was directed to detain all undocumented migrants with the exception of pregnant women and youth.⁴³ The Criminal Alien Program (CAP) of 1988 also added to the high demand for prison beds. CAP was a liberal carceral initiative that indicated the punitive turn that immigration law took in the era of Mass Incarceration. As a result, migrants with criminal convictions and unauthorized migrants—whom already held a liminal status of illegality—were made even more vulnerable to the possibility of incarceration and deportation. Private contractors served to alleviate overcrowded detention facilities by providing dozens of bed spaces within short notice. INS upheld this view by claiming that private prisons were “an effective means to maximize the resources available to the INS.”⁴⁴ Private contractors had the ability to open immigration prisons within eighteen to twenty-four months after signing a

⁴⁰ Gutierrez, Alberto. "Prison-Industrial Complex."

⁴¹ Immigration and Naturalization Service, Headquarters Detention and Deportation Division. 2.

⁴² Perez-Peña, Richard.

⁴³ Macías-Rojas, *From Deportation to Prison*. 55.

⁴⁴ *Ibid.*

contract with INS.⁴⁵ INS was drawn to this expediency, so it continued to invest in privately-run prisons. In sum, incarceration became a focal point of immigration enforcement. It sought to accelerate the detention-to-deportation pipeline and expand the prison-industrial-complex.

Nonetheless, local and national actors expressed skepticism and even condemnation of the prison-industrial-complex following the Esmor insurgence. English language and Spanish-language newspapers questioned the use of private immigration prisons. *El Diario la Prensa*, the oldest Latinx newspaper in the United States, argued that the rebellion should serve as a lesson to hinder plans for further prison privatization. It challenged local government officials to question whether private immigration prisons were moral entities.⁴⁶ County officials agreed with the public sentiment. Union County prosecutor Andrew K. Ruotolo urged Esmor to permanently close in light of the rebellion.⁴⁷

The community's strong condemnation prompted INS to distance itself from Esmor. INS's reaction is worth studying because it reveals a fragmented relationship between the government and corporations. It showcases that both parties are willing to work together for the sake of amassing lucrative profits but are willing to part ways in the face of strong public condemnation and crisis. In the "Interim Assessment Report on the Elizabeth New Jersey Contract Detention Facility Operated by ESMOR Inc." INS admits that ESMOR "had a serious negative impact upon relations between the INS and general public since, in the public perception, INS is inextricably linked to the operations of the Elizabeth facility."⁴⁸ INS's vehement denial of wrongdoing marked an attempt to clear itself of any blame for the June 18th insurgence. This outcome demonstrates that the public's denunciation of private prisons

⁴⁵ Ibid.

⁴⁶ Bustamante, Roberto.

⁴⁷ De la Cruz, Donna. "After Riot, Questions about Privatization."

⁴⁸ Immigration and Naturalization Service, Headquarters Detention and Deportation Division. 2.

fragmented INS-Esmor relations, but it did not change the neoliberal State's commitment to invest in privatized prisons. The INS ultimately awarded another private corporation a contract to run the facility in February 1996.

Furthermore, media coverage on the revolt largely perpetuated a liberal carceral discourse that ultimately upheld the Carceral State and the nation's racialized settler colonial identity. Printed publications offered varied descriptions of the detainees involved in the Esmor revolt, but generally upheld crime-control and liberal carceral narratives. Historian Benjamin Gonzales O'Brien's scholarship on immigration identifies the formal strategies that uphold misleading colorblind characterizations of the criminal justice system and rationalize migrant detentions. According to Gonzales O'Brien, the Congress-media-public feedback loop functions as a cyclical dialogical relationship between the State, media outlets, and the general public. He claims that the government's portrayal of immigration as a "crime-control issue [...] influences media narratives, which in turn affect public opinion. Public beliefs in immigrant criminality in turn help to reinforce policy making on the issue."⁴⁹ This analysis sheds light on the role that the government and media play in the production of public perceptions. The crime-control discourse that the government disseminates through legislative practices frames the media's incriminating attitudes towards undocumented migrants and refugees. The general public absorbs this skewed information and feeds it back to the government through its political demands for tough-on-crime policy.

The Congress-media-public feedback loop also works in conjunction with mythologized notions that maintain the nation's white settler colonial dominance. Latinxs migrants incite images of criminality and national security threats in the public sphere. Historic geopolitical

⁴⁹ Gonzalez O'Brien, *Handcuffs and Chain Links*. 3.

relations between the United States and México, legacies of westward imperialism, and Mexico's close proximity to the United States have characterized Latinxs as foreign invaders who threaten the nation's imagined Anglo social fabric. Echoing Historian Kelly Lyttle Hernández's analysis of the nativist characterization of Mexicans as invaders, anthropologist Leo Chavez characterizes this discourse as the "Latino Threat Narrative." His book, *The Latino Threat: Constructing Immigrants, Citizens, and the Nation*, claims that the Latinx Threat discourse falsely asserts that Latinx migrants will never successfully assimilate into the United States because they lack the ability and willingness to do so. As a result, they threaten to disrupt the country's racialized imagined identity. The illusion of the "Latinx Threat" is recycled throughout the course of the Congress-media-public feedback loop. The racialized portrayals ultimately frame Latinx migrants as criminal invaders who threaten the wellbeing of the general public.

The impact of the Latinx Threat narrative and Congress-media-feedback loop were evident in the newspaper accounts of the Esmor prison rebellion. English-language newspapers such as the *New York Times* often used a racialized rhetoric that stigmatized migrants as violent deviant individuals. Journalist Richard Perez-Peña wrote "Illegal Aliens Overrun a Jail in New Jersey" which debuted in the June 19, 1995 *New York Times* Monday late edition print. Perez-Peña's use of the phrase "illegal aliens" depicts undocumented migrants and refugees as criminal *others*. The reader is prompted to deny their humanity and therefore not feel empathy for them. Throughout the article, Perez-Peña uses racially coded language to further incriminate the migrant men who partook in the insurgence. Phrases like "a ragtag band of detainees" and words like "ringleaders" evoke images of street gang activity and deviant behavior.⁵⁰ Perez-Peña's article models the ways in which the media confirms criminalized narratives of migrants in the

⁵⁰ Perez-Peña, Richard. 1 and 2.

media. National newspapers such as *The New York Times* have a powerful influence on public perceptions, so this article's attitude towards migration had a strong impact on the English-speaking readers it reached.

Other media outlets such as Spanish-language newspapers featured testimonials that distinguished between migrants and incarcerated citizens with criminal charges. *Diario La Prensa* writer Roberto Bustamante published "Union's District Attorney Will Ask for Closure of Esmor: Close to 1000 Hispanics Amid the 300 prisoners of the Sinister Place" on June 22, 1995. The article featured a testimonial from New Jersey congressional representative Robert Menendez, a well-known advocate for Latinx and immigrant communities. Menendez claimed he had seen "hardened criminals treated better than the immigrant awaiting deportation or asylum hearings at ESMOR."⁵¹ In this testimonial, Mendez spoke out against the unfair incarceration of migrants by claiming that detained migrants deserve better treatment than those with criminal records. His statement drew a binary between those deserving and undeserving of punishment. By evoking compassion for detained migrants at the expense of people convicted of criminal offenses, Mendez framed carceral punishment as a moral issue: migrants and refugees should not be incarcerated because they have no criminal record and are seeking to improve their lives despite the adversity they faced in their birth countries. On the other hand, folks with criminal records did deserve punishment because they committed an immoral crime.

This argumentation was widely shared by politicians, migrant organizations, and other allies of detained migrants. Nonetheless, it wrongly assumes that carceral punishment is a fair assessment of justice and that migrant detentions constitute an anomaly in the country's long-standing methods of governance. Incarceration is not founded on principles of ethics and morals.

⁵¹ Bustamante, Roberto.

Previous scholarship on the Carceral State, mass incarceration, and the settler colonial state confirm this by deconstructing the racialized politics of punishment. The Civil Rights carceral state and the War on Drugs' discourse have created a criminal justice system that has worked to criminalize communities and actions that disrupt the nation's settler colonial dominance. Under this context, perpetuating discourses that portray incarceration as a just practice for accountability upholds false "race-neutral" characterizations of the criminal justice system. It also dismisses the opportunity to address systemic oppression.

***Jama v. United States Immigration and Naturalization Service and
Jama v. Esmor Correctional Services Inc.***

The class actions that were filed by migrants formerly detained in Esmor differ from the 1995 prison insurgence which took a form of direct militant resistance. These lawsuits used the instruments of the legal system to demand justice for the abuse migrants faced while detained in Esmor. On June 16, 1997, twenty migrants who were formerly detained at Esmor came together to file *Jama v. United States Immigration and Naturalization Service (INS)*. This civil action sought to sue INS, INS officials, Esmor Correctional Services, Esmor officers, Esmor facility administrators, and Esmor prison guards for the prison's abysmal conditions. Hawa Abdi Jama, a Muslim Somalian refugee, was the lead plaintiff.⁵² *Brown v. Esmor Correctional Services* was filed a year prior to *Jama v. INS* by other refugees but solely targeted Esmor Correction services. While this was an important precursor to *Jama v. INS*, the following analysis will only focus on the significance of *Jama v. INS* and its succeeding class action known as *Jama v. Esmor Correctional Services*.⁵³

⁵² Daniels, "The Ins and Outs of the Jama Case Part I."

⁵³ Prison Legal News, "Aliens May Sue Private Detention Companies Under ATCA," May 15, 2007.

Jama v. INS and *Jama v. Esmor Correctional Services* represent migrant-led class actions that successfully expanded the rights of refugees in the United States. Plaintiffs from both lawsuits implored the United States court system to hold the federal government and Esmor accountable for the harm they had caused. Most of the migrants filed the lawsuits while incarcerated. About half of them were detained at the York County Prison and the rest were scattered across various immigration prisons in the surrounding states.⁵⁴ Plaintiffs accused Esmor and INS of violating a series of laws, including (but not limited to) the United States' First, Fifth, and Thirteenth constitutional amendments; the International Covenant on Civil and Political Rights (ICCPR); the Alien Tort Claims Act (ATCA); and the Religious Freedom Restoration Act (RFRA).⁵⁵ These violations were grounded in the physical, psychological and sexual abuse that migrants experienced while detained in Esmor.

The fight for justice entailed a twelve-year long court battle litigated by a committed group of legal advocates from the Rutgers University School of Law's Constitutional Litigation Clinic and private attorneys from New York City. Their legal work and the plaintiff's active participation in the case redefined contemporary refugee law in the United States. Under the Alien Tort Claim Act of 1789, *Jama v. INS* established that political asylum seekers are protected by international law and can therefore sue United States-based corporations, including their employees and agencies, for human rights violations.⁵⁶ ATCA was enacted in 1789 but remained rather dormant for much of its time. The ATCA allows federal courts in the United States to hear civil lawsuits presented by foreign nationals that violate international or United States law. The United States District Court of New Jersey extended the implication of the

⁵⁴ Loboguerrero, Cristina. "Inmigrantes Demandan Al INS y a La Esmor."

⁵⁵ *Hawa Abdi Jama v. United States Immigration and Naturalization Service v. Esmor Correctional Services*

⁵⁶ "Victory in Jama Lawsuit."

ATCA in its 2004 opinion. The court asserted that the ATCA grants the judicial system the proper federal jurisdiction to hear cases brought forward by immigrants and decide whether those cases present violations of international law. Its 2004 opinion stated,

“The mental and physical abuses which are alleged to have been inflicted upon plaintiffs violate the international human rights norm of the right to be free from cruel, unhuman and degrading treatment. The ATCA confers federal subject matter jurisdiction when an alien sues for a tort committed in violation of the law of nations.”⁵⁷

The court’s opinion rendered justice to the extent that it acknowledged the harm that Esmor’s abuse had caused. Additionally, it set precedent for migrants to sue powerful corporations protected by dominant neoliberal ideologies. This migrant-led legal victory disrupted the neoliberal Carceral State by defending the right of migrants to sue private prisons. The jury’s 2007 verdict also established that the Religious Freedom and Restoration Act of 1993 protects the religious rights of migrants even while in detention. It was the first time that the RFRA was used to uphold migrants’ freedom of religion. By 2007, plaintiff Jama was the only one who had not settled. The jury’s verdict on her RFRA claim and other claims regarding Esmor’s abuse awarded her \$100,001 in damages. The case’s outcome opened the doors for other migrants to use RFRA to defend their religious rights. Overall, the ATCA and RFRA settlements reflect a judicial victory—informed by the lived experiences of migrants—against private prisons and the encroachment on the rights of refugees.

Despite the *Jama* lawsuit’s success in expanding the judicial protection of refugee rights, it produced limited favorable outcomes for the plaintiffs involved. For starters, not all of the twenty migrants were present for the entire arch of the case so many were unable to receive the justice they deserved. Many were deported, voluntarily withdrew, or reached early settlements. By 2004, only nine of the original twenty plaintiffs remained when the case was presented in

⁵⁷ *Hawa Abdi Jama v. United States Immigration and Naturalization Service v. Esmor Correctional Services*

front of a jury.⁵⁸ Time is a defining factor in immigration removal proceeding cases. Immigration law seeks to expediate deportations, so migrants often have no control over determining the amount of time they have left in the country. Thus, it is not surprising that many of the original plaintiffs were unable to be present for the final 2008 decision. Given that the length of their presence in the country was uncertain and often very limited, one can speculate that a handful of plaintiffs settled early to ensure they received a benefit as opposed to none at all in case they were abruptly forced to leave the country. It is also reasonable that some of the plaintiffs retracted from the case, fearing that their involvement could have been weaponized against their asylum case. Fear of retaliation, whether well-founded or not, could have pushed many to step down from the case. Lastly, it is important to consider that lawsuits require a significant amount of time and energy which is often difficult to sustain throughout twelve years. Thus, from the very beginning, the potential benefits of the case were likely to have a limited effect on the plaintiffs involved. Their uncertain immigration legal predicaments, the extensive work that the lawsuit required, and the court's sluggish bureaucratic pace put them at a disadvantage from the case's inception.

It is equally important to recognize that *Jama v. Esmor Corp's* final 2008 verdict fell short of holding Esmor judicially accountable for its harm. Though plaintiff Jama was awarded \$100,001 for damages, this represents a small compensation for the overall psychological and physical abuse she experienced. Only \$1.00 of the total compensation was for the RFRA claim. The rest was compensation for Jama's negligence claims regarding Esmor and Esmor staff's abuse. This outcome demonstrates that though migrants' religious rights are protected under RFRA, they are not guaranteed rightful justice if they're violated. Additionally, while the court

⁵⁸ Ibid.

established that migrants could sue corporations under ATCA, the jury decided that the plaintiffs in *Jama* held insufficient evidence and thus failed to grant their ATCA claim. The jury's decision once again demonstrates that having the legal instruments to protect migrant rights does not necessarily secure just accountability when those rights are violated. Overall, *Jama v. Esmor Corp* succeeded in refining the adjudication of refugee law in a way that upholds the rights of migrants. In practice, however, it granted plaintiffs limited short-term benefits.

Conclusion

The Esmor prison rebellion and its aftermath must be sedimented into the country's collective understanding of resistance. The recollection of the Esmor prison revolt must be rescued from getting lost across scattered newspaper articles. Instead, the dispersed evidence should be woven together to reconstruct a fuller narrative of the multiethnic migrant solidarity that disrupted mid-1990s neoliberal hegemonic structures. While the militant act succeeded in bringing attention to the inhumane conditions of the Esmor immigration prison, its impact went beyond that: it spurred local policymakers and community leaders into action and expanded the legal protections of refugees. This history becomes clear when multilingual newspaper articles and court documents from the time are pieced together. These demonstrate that community stakeholders openly condemned the use of private immigration prisons such as Esmor Correctional Services Inc in their state and pressured the Immigration and Naturalization Service to close the private detention facility. Additionally, they make visible the necessary role of the Esmor prison rebellion in catalyzing two civil class actions that ultimately expanded refugee rights in the United States on grounds of the Alien Tort Claims Act and the Religious Freedom Restoration Act.

Still, many questions about the 1995 rebellion remain unanswered. Further research should be conducted to investigate and document first-hand accounts of those who were present during the prison revolt. These testimonials can create a more robust understanding of the preparation that went into carrying out the insurgence and its goals. More importantly, it would shed light on the multiethnic organizing that occurred during that night. I am particularly interested in this piece because this event can serve as exemplary evidence of contemporary multiethnic solidarity and resistance against the neoliberal Carceral State. The use of immigration prisons is a relatively new practice, as crimmigration scholars point out, and thus there is little scholarship on multiethnic migrant-led resistance within this spatial context.

Nonetheless, there are limits to this research. There is little information on what happened to many migrants after they were transferred from Esmor. There is a strong probability that a significant number was deported which leaves them largely untraceable. On the other, there may also be a strong desire among migrants still residing in the United States who experienced the rebellion to remain anonymous for fear of losing their immigration status or bringing visibility to their undocumented status. Therefore, the legal advocates involved in *Jama v. Immigration Naturalization Service* and *Jama v. Esmor Correctional Services* can constitute as another source of evidence. Plaintiff attorneys developed close relationships with many of the migrants formerly detained in Esmor throughout the twelve-year legal battle. Though attorney-client privilege must be carefully navigated, the second-hand testimonials of legal advocates can provide clues to build a more comprehensive picture of the rebellion.

Furthermore, it is important to note that the impact of the Esmor prison insurgence was *not* limited because of the strategies taken by those involved in organizing it. Rather, it was curtailed as a result of the dominant discourses relating to neoliberal politics, the War on Drugs,

and nativist immigration policy. This paper interprets this counterattack to the rebellion as evidence of the dramatic power imbalance that exists between the settler colonial neoliberal Carceral State and those whom defy it. It is imperative to hold on to examples of popular resistance such as that of the Esmor prison revolt to extract models of disruption and visions of freedom. The “FREEDOM” that was boldly scrawled by migrants across the Esmor guard post must be memorialized as a testament to that power.

Going forward, the Esmor prison rebellion should encourage activists, legal and policy advocates, and Human Rights organizations to partake in a conscientious struggle that understands incarceration and immigration policy as State mechanisms of social control. In order to properly understand the impact of contemporary immigration detentions, individuals must develop a critical historical analysis of the politics of race, colonization, and power. Existing discourses on prison abolition are already addressing this and therefore serve as an important reference point going forward. It is crucial for individuals to reject carceral discourses when fighting for the liberation of incarcerated citizens and non-citizens. Carceral rhetoric creates a false and distracting dichotomy that frames migrant detentions as a moral issue and thus prevents individuals from perceiving migrant incarcerations as a form of racialized social control.

Bibliography

Primary Sources

Bustamante, Roberto. "Fiscalia De Union Pedira El Cierre De Esmor: Cerca De 100 Hispanos Entre Los 300 Prisioneros Del Tenebroso Lugar." *El Diario La Prensa*, Jun 22, 1995, <https://proxy.swarthmore.edu/login?url=https://search.proquest.com/docview/368318819?accountid=14194> (accessed November 4, 2019).

Clarke, Caryl. "Detainees' Riot Brings Profit to York County." *York Daily Record*, Jun 24, 1995, https://infoweb.newsbank.com/apps/news/openurl?ctx_ver=z39.882004&rft_id=info%3Aasid/infoweb.newsbank.com&svc_dat=AWNB&req_dat=644AAF92FD74F1AAF1EE7B0E444B16E&rft_val_format=info%3Aofi/fmt%3Akev%3Amtx%3Actx&rft_dat=document_id%3Anews%252F0EB2927AD0DEAD71 (accessed October 26, 2019)

De la Cruz, Donna. "After Riot, Questions about Privatization." *The Philadelphia Inquirer*, June 20, 1995.

Dunn, Ashley. "Harsh Memories of Detention Center." *The New York Times*, June 19, 1995, Monday, Late Edition – Final. <https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:3S897TR0-0005-GOX2-00000-00&context=1516831> (accessed October 20, 2019) FBI Records: The Vault. "COINTELPRO." Folder. Accessed December 4, 2019. <https://vault.fbi.gov/cointel-pro>.

Hawa Abdi Jama v. United States Immigration and Naturalization Service v. Esmor Correctional Services, 343 F.Supp.2d 338 (United States District Court, D. New Jersey. 2004)

Human Rights Watch. "Locked Away: Immigration Detainees in Jails in the United States," September 1, 1998. <https://www.refworld.org/docid/3ae6a8400.html>.

Immigration and Naturalization Service, Headquarters Detention and Deportation Division. "Interim Assessment Report on the Elizabeth, New Jersey Contract Detention Facility Operated by ESMOR Inc." Office of the Commissioner, July 20, 1995. https://archive.org/stream/758481-ins-report-esmor/758481-ins-report-esmor_djvu.txt.

Jama v. Esmor Correctional Services Inc, FindLaw. <https://caselaw.findlaw.com/us-3rd-circuit/1374240.html> (accessed November 2019)

Kassindja, Fauziya. *Do They Hear You When You Cry*. New York, NY: Delacorte Press, January 1999.

Loboguerrero, Cristina. "Inmigrantes Demandan al INS y a La Esmor." *El Diario La Prensa*, Jun 19, 1997. <https://proxy.swarthmore.edu/login?url=https://search.proquest.com/docview/368282409?accountid=14194> (accessed November 2, 2019)

Perez-Peña, Richard. "Illegal Aliens Overrun a Jail In New Jersey." *The New York Times*. June 19, 1995, Monday, Late Edition – Final.

<https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:3S897TP0-0005-GOVM-00000-00&context=1516831> (accessed October 18, 2019)

Prison Legal News. "Aliens May Sue Private Detention Companies Under ATCA." *Prison Legal News*, May 15, 2007. <https://www.prisonlegalnews.org/news/2007/may/15/aliens-maysue-private-detention-companies-under-atca/>.

Smothers, Ronald. "Asylum-Seekers Are Confined to Dormitories. After Protest." *The New York Times*, October 1, 1998. (accessed November 2, 2019) "Victory in Jama Lawsuit." *Rutgers School of Law Clinic News*, 2008.

<https://www.yumpu.com/en/document/view/41801629/victory-in-jama-lawsuit-rutgersschool-of-law-newark>.

Secondary Sources

Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. Revised edition. New York: New Press, 2012. Business & Human Rights Resource Centre. "Esmor Correctional Services Lawsuit (e Immigration Detention Facility)." Business & Human Rights Resource Centre. Accessed December 9, 2019. <https://www.business-humanrights.org/en/esmor-correctionalservices-lawsuit-re-immigration-detention-facility>.

Caban, Pedro. "Cointelpro." *Latin American, Caribbean, and U.S. Latino Studies Faculty Scholarship* 18 (2005).

https://scholarsarchive.library.albany.edu/cgi/viewcontent.cgi?article=1017&context=lacs_fac_scholar.

Camp, Jordan T., *Incarcerating the Crisis: Freedom Struggles and the Rise of the Neoliberal State*. Oakland, CA: University of California Press, 2016.

Chacón, Jennifer M. "Immigration Detention: No Turning Back?" *South Atlantic Quarterly* 113, no. 3 (July 2014): 621–628.

Chavez, Leo R. *The Latino Threat: Constructing Immigrants, Citizens, and the Nation*. Stanford, Calif: Stanford University Press, 2008.

Daniels, Pauline. "The Ins and Outs of the Jama Case Part I." *States of Incarceration*. Accessed December 9, 2019. <https://statesofincarceration.org/story/ins-and-outs-jama-case-part-i>.

García Hernández, César Cuauhtémoc. "Immigration Detention as Punishment." *UCLA Law Review* 61 (2014): 1346–1414.

Golash-Boza, Tanya Maria. *Deported: Immigrant Policing, Disposable Labor, and Global Capitalism*. New York, NY: New York University Press, 2015.

Goldstone, Jack A., and Bert Useem. "Prison Riots as Microrevolutions: An Extension of State-Centered Theories of Revolution." *American Journal of Sociology* 104, no. 4 (1999): 985-1029. doi:10.1086/210134.

Gonzalez O'Brien, Benjamin. *Handcuffs and Chain Links: Criminalizing the Undocumented in America*. Charlottesville, VA: University of Virginia Press, 2018. Gutierrez, Alberto. "Prison-Industrial Complex." In *Encyclopedia of Race and Racism*, edited by Patrick L. Mason. 2nd ed. Gale, 2013.

https://proxy.swarthmore.edu/login?url=https://search.credoreference.com/content/entry/galerace/prison_industrial_complex/0?institutionId=568

Hernández, Kelly Lytle. *City of Inmates: Conquests, Rebellions, and the Rise of Human Caging in Los Angeles, 1771-1965*. Chapel Hill, NC: The University of North Carolina Press, 2017.

Macías-Rojas, Patrisia. *From Deportation to Prison: The Politics of Immigration Enforcement in Post-Civil Rights America*. New York, NY: New York University Press, 2016.

Ngai, Mae M. *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton, NJ: Princeton University Press, 2004.

Oboler, Suzanne. " 'Viviendo en el olvido': Behind Bars—Latino/as and Prison in the United States." In *Behind Bars: Latino/as and Prison in the United States*, 1–33.

Palgrave Macmillan, 2009. Rutgers University-Newark, and American Friends Service Committee's Immigrant Rights Program. "New Jersey: 'Seeking Asylum, Resisting Detention.'" *States of Incarceration National Traveling Exhibit*, October 18, 2017. <https://statesofincarceration.org/states/new-jersey-seeking-asylum-resisting-detention>.