



LA Immigration Court Exposes the ‘Legal Hell’ of the U.S. Deportation System

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It is legal hell, a bottomless tangle of ironclad laws, procedures and rules that are difficult even for some lawyers to understand. There is a huge backlog of cases. The caseload is so great that time seems to stand still in immigration court.

One courtroom was so crowded at 8:45 a.m. on a recent day that there were no empty seats and hardly room to stand. In a nearby courtroom, I heard the judge tell an immigrant his deportation hearing wouldn't be held until Nov. 1, 2018, almost a year and a half away. I saw a woman's deportation hearing set for Feb. 3, 2020.

Nationally, there is a backlog of 598,943 cases awaiting hearings, according to the Transactional Records Access Clearinghouse (TRAC) of Syracuse University, the leading compiler of [immigration statistics](#). The average wait for a hearing is 670 days. The judges are so stressed from the pressure, a University of California, San Francisco, medical study found, that many are suffering from significant symptoms of secondary traumatic stress and job burnout, which may shape the way they decide cases.

I spent four days in immigration court recently as I began reporting on how President Trump's nativist immigration policy, favoring native-born Americans, is reaching down to the street level. Contempt for immigrants was at the heart of his presidential campaign, and it remains a cornerstone of his domestic policy, whether the immigrants are from Muslim countries or are from Mexico and Central America.

The United States is a nation of immigrants, founded and shaped by them, an idea so ingrained in the national psyche that it is almost a cliché. So is opposition to them, from the 19th century and the [Know Nothing Party](#) to Donald Trump. But the immigrants—Germans, Asians, Irish, Italians, Jews and many others—survived and prospered. “The migration of foreign peoples to the United States has been one of the most significant transformation processes in American history,” Erika Lee writes in [her review](#) of Roger Daniels' book [“Guarding the Golden Door.”](#)

Personally, I root for the immigrants. I see them as America's future, a feeling reinforced most recently while I watched journalism students, children or grandchildren of immigrants, from Roosevelt High School in Los Angeles' heavily Latino Boyle Heights. They were learning the best way of using their mobile phones to cover their community and transmit the news stories they dig up. With this energy, I thought, our beleaguered news business may be saved.

Still, the ambivalence and opposition to immigration persists, now fueled by the nationalism of Trump. People whose forebears came from the old country say the current generation will weaken the United States. These people dismiss the idea of immigrant rights. Rights? The idea is alien to those who say immigrants have no rights. The unauthorized immigrants came here illegally. They should leave.

The conflict is played out each weekday in immigration court.

To reach the court, I walked from the commuter train station several blocks east on sidewalks crowded with multiethnic pedestrians, ranging from office workers in the growing number of high-rises to poor people trying to get by. My destination was a block from Pershing Square, a local rallying place. A few weeks before, I had attended a demonstration at Pershing Square for Romulo Avelica-Gonzalez, who had been arrested by immigration officers after he dropped his 13-year-old daughter off at school.

On the 15th floor, I went through a metal detector. I explained my errand to a friendly guard, who directed me to some courtrooms I could visit.

At Courtroom K, the judge looked me over and asked why I was there. The immigration bar is comparatively small, and I was a stranger. (I think my lack of a tie didn't help, a mistake I wouldn't repeat in future visits.) Immigration court is open to reporters and other visitors unless the defendants, called respondents in this venue, object. Some do not want personal details of their cases revealed to the public. In this case, the respondent exercised his prerogative, and I moved on to another courtroom.

There, Judge Philip J. Costa, asked if I was an observer. When I said yes, he motioned for me to sit. The respondent/defendant was seated at the table in front. His wife was at his left. His lawyer, Sung U Park, was to his right. As the proceedings unfolded, I saw an example of the human stories behind the legalities.

The respondent was a Mexican national who had lived in this country for more than two decades and was facing deportation. He was married to an American-born woman, and they had two sons, ages 20 and 26, both born in the United States. DUI arrests had brought him to the attention of immigration officers. In one of the arrests, he had apparently lied that he was an American citizen.

Despite these brushes with the law, the man worked and supported his family. He did not fit Trump's description of immigrants as violent felons: "We've gotten tremendous criminals out of this country. I'm talking about illegal immigrants that were here that caused tremendous crime, that have murdered people, raped people. ... Horrible things have happened. They're getting the hell out, or they're going to prison."

In fact, Trump's description is wrong. According to TRAC, "Only a small percentage of the filings in immigration courts seeking to deport have been based on alleged criminal activities."

The Population Association of America, cited in *The New York Times*, reported that just 820,000 of the 11 million unauthorized immigrants in the United States have been convicted of crimes,

and less than 3 percent of them have committed felonies, compared to 6 percent of people in the country as a whole. The libertarian Cato Institute, in a [March 2017 policy paper](#), said that “Empirical studies of immigrant criminality generally find that immigrants do not increase local crime rates and are less likely to cause crime than their native-born peers, and that natives are more likely to be incarcerated than immigrants.” The study was based on an analysis of rates of crime and institutionalization.

Under gentle questioning by Park and Judge Costa, the wife told her story. She suffered from multiple psychological disorders, including depression. Yet she remained active in her church, attending four times a week and working with children and teens. As she explained, she couldn’t do it without her supportive husband.

If he were deported, she would follow him to Mexico, as would their elder son. The 20-year-old would remain in Los Angeles to complete community college. She testified in a calm, clear manner, as did the younger son.

The judge noted that the family would be broken up if he ordered deportation. He related the government’s case against the immigrant, citing his criminal record and his lying to immigration police. But Costa also noted the man’s long work history and close family ties. After carefully weighing one side against the other in his remarks, he said he was deciding for the man. He warned that he hoped he wouldn’t see the man in his court again.

With the Trump administration’s new immigration policies, it’s likely there will be many more deportation cases like this, involving immigrants whose arrests for nonviolent crimes such as driving under the influence occurred many years ago and who are settled into jobs and family lives. Other deportation cases involve immigrants whose only offense is living in the United States without papers—a civil, rather than a criminal, offense.

The Obama administration also deported many immigrants—so many that he was known as the “deporter in chief.” But under Trump, the guidelines for arresting unauthorized immigrants have been greatly expanded.

John Kelly, secretary of the Department of Homeland Security, issued new orders giving Immigration and Customs Enforcement (ICE) officers wide latitude to arrest anyone they might suspect is an immigrant without papers.

Kelly empowered them to arrest unauthorized immigrants who “in the judgment of an immigration officer ... pose a risk to public safety or national security.” This potential exercise of racial profiling permits ICE officers to stop any people who look suspicious and arrest them if they can’t produce the right papers.

In addition, the Kelly orders said immigration cops should make it a top priority to arrest unauthorized immigrants they think have committed acts that “constitute a chargeable criminal offense.” Also subject to arrest under the Kelly order is anyone who “has engaged in fraud or willful misrepresentation in connection with any official matter before a governmental agency.”

ProPublica reported that the head of the ICE unit in charge of deportations has directed his officers to take enforcement action against all unauthorized immigrants, whether or not they have a criminal history. Thus Kelly, who reports to Trump, has sanctioned the arrest of any of the 11 million unauthorized immigrants believed to be in the U.S.

Although the Trump-Kelly team have been in business for only half a year, a study of TRAC statistics shows the impact of their actions. While the number of deportation orders sought by ICE under Kelly has not increased from Obama days, the number of immigrants placed in custody after arrest has risen sharply. More than half the Obama arrestees were immediately freed after arrest, permitting them to return to their jobs and families while awaiting the long months before their immigration hearings. Only a quarter of those arrested under Trump have been freed.

The policy of locking them up implements Trump's campaign promise to increase deportations. He said he would go after "bad hombres" such as gang members, murderers and rapists. But as I saw in immigration court and learned in interviews with advocates for immigrants, ICE officers are casting a much wider net, jailing any unauthorized immigrant they catch.

"The change is dramatic. It's breathtaking. It's night and day," said Judy London, a UCLA law professor and directing attorney of Public Counsel's Immigrant Rights Project. We talked in her office at Public Counsel, a longtime nonprofit advocate for the underdog.

"Look at how many ICE removals have been of immigrants with no criminal history. ... I have never before in 25 years of doing this work heard from the community that people were afraid to come to our information sessions," London said.

"One of the orders makes parents who send money to smuggle their children here subject to deportation and criminal prosecution. We represent 200 unaccompanied minors, children who have come alone. A typical case: A girl leaves school [in her native country] and is kidnapped by a gang working with police and is tortured for weeks. The child's parents in America have a choice: 'If my child is lucky enough to survive, then I can leave her there to be murdered or I can bring her here.' The child would present herself at the border and have the right to seek asylum, but what Trump has said is we should be criminally prosecuting that parent for sending the money.

"These children need to get to immigration court," London continued. "We have thousands of children in removal proceedings [after seeking asylum], but now the mother or father is afraid to walk into the courtroom because they are afraid they will be deported and the child will [also] end up" deported.

I talked to Victor Narro, project director at the UCLA Labor Center and a law professor at the university. Narro has been organizing unauthorized immigrants for many years. He is co-founder of the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), where he was involved with organizing day laborers to improve their pay and working conditions. The occupations he has organized describe the work immigrants do: domestic jobs, garment work and

gardening. Also among them are janitors, hotel staff, laundry workers, sanitation employees, health workers, port truck drivers and car washers.

Like London, Narro said Trump has brought an atmosphere of fear to immigrants. “Trump has called on every enforcement agency to collaborate with immigration officers,” Narro said. “You have immigration officers going to the courthouses waiting for individuals, and after the court hearing, they just detain them.

“They don’t go into the schools. They go in the vicinity of the schools. Trump is violating those long-standing agreements to stay away from the schools. They’ve changed the policy. Schools, health clinics, public transportation facilities.

“The union that represents the border patrol and ICE officers, they endorsed Donald Trump, and they made a decision they can implement immigration law any way they choose to,” Narro said. “They endorsed Trump because they figured he would give them free rein to do what they wanted to.

“It was already a bad situation, but with Obama, we knew where the parameters were. Under Obama, you didn’t have them going to the courthouses, the schoolhouses, the bus stations; but Trump has made it clear they can enforce anywhere, any time, any way, and Trump has declared that cities have to collaborate with him.”

In the next room at the UCLA Labor Center, a group of immigrants seated in a circle learned how to resist ICE officers. They were from worker centers across the country. Narro and other organizers helped set the centers up as places where day laborers could gather while awaiting jobs, instead of their usual street corners.

They were organizing to protect themselves and other immigrants against the Trump assault. In classes that lasted from 9 a.m. to 5 p.m., Narro and others talked to the workers, role-playing the confrontations they might have with ICE officers.

The instructions were encapsulated in leaflets prepared by CHIRLA that tell immigrants what to do if stopped. The advice on “Prepare a Family Plan” suggests what life would be like in a police state: Carry at all times a card listing your rights and an immigration attorney’s phone number. Prepare a caretaker’s affidavit to authorize someone to care for your kids. Keep birth and marriage certificates and passport in a safe place, and start saving money for your defense. (Judy London of Public Counsel said a lawyer for some complex cases could cost between \$5,000 and \$10,000.)

Attorney Emi MacLean of the [National Day Laborers Organizing Network](#), who spoke to the class, told me, “What we are doing is empowering the folks at the workers centers, giving them the tools they need ... to be defensive and offensive, the tools they need to fight back,” she said. The immigrants are told, “Don’t speak, don’t give information you don’t have to give, be in solidarity with one another, no one should be selling anyone out, got to come up with a plan, defend it, protect yourselves.”

I envisioned immigrants stopped on the street or in a bus station refusing to cooperate with ICE. “That takes a lot of guts,” I said.

“It takes a lot of guts,” she replied.

I’ll show their courageous behavior as I continue to report on the efforts of these women, men and children to become part of America and, in the immediate future, avoid the horror of immigration court and the rest of the immigration legal system.