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The American University in Cairo
School of Global Affairs & Public Policy

Life, Death, and Corporeal Resistance in Immigration Detention

A Thesis Submitted to the
Center for Migration and Refugee Studies
In partial fulfillment of the requirements for
The MA in Migration and Refugee Studies

By
Jana Moss

November 2018

The American University in Cairo
School of Global Affairs and Public Policy

LIFE, DEATH, AND CORPOREAL RESISTANCE IN IMMIGRATION DETENTION

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Jana Moss

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November 2018

in partial fulfillment of the requirements for the
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Jana Moss

Supervised by Professor Mai Taha

ABSTRACT

This thesis analyzes corporeal strategies of resistance used by immigration detainees in the global North. Corporeal resistance is defined as an act of protest that physically harms the actor but is not intended to harm anyone else. Examples include hunger strikes, lip sewing, self-immolation, and other forms of public suicide. In response to the prevailing public opinion that detainees' acts of self-harm or suicide are simply acts of desperation by disenfranchised people who have nothing to lose, I argue that they can be a logical and strategic response to state necropolitics. Detainees take back corporeal necropower by reasserting control of their own life and death. The paper proceeds by analyzing the corporeal power inherent in immigration detention centers. I analyze detention centers as a space of waiting in a confined space for an indeterminate amount of time, in which the state is given the power to deport detainees to a place where their life is threatened (effectively sentencing them to death), or allow detainees to stay (letting them live). I then elaborate on how detainees have used methods of self-harm as a form of corporeal resistance. Narratives from detainees who have participated in these acts demonstrate a desire to reassert corporeal autonomy and send a symbolic message that their life is at stake. State responses to detainee corporeal resistance, in turn, show that these acts are a threat to the very object and purpose of immigration detention.

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Introduction

This thesis analyzes the corporeal power relations between the state and immigration detainees during their period of detention.¹ Detainee resistance is often corporeal, involving self-inflicted physical harm. While these actions are frequently dismissed as acts of irrational desperation² or signs of mental illness,³ I use detainee narratives to show that corporeal resistance can be an intentional and logical response to state corporeal power. Affirming their agency, detainees literally and symbolically take back power over their own life and death by using corporeal strategies of resistance such as hunger strikes, lip sewing, self-immolation, and other forms of public suicide.

I argue that immigration controls generally, and immigration detention in particular, are a form of necropower—state power over life and death.⁴ Detention allows the state control

¹ My definition of “immigration detention” comes from Stephanie Silverman and Evelyne Massa’s article that defines immigration detention as having three characteristics. “[F]irst, detention represents a deprivation of liberty- second, it takes place in a designated facility in the custody of an immigration official; and third, it is being carried out in the service of an immigration-related goal.” Silverman, Stephanie J., and Evelyne Massa. “Why Immigration Detention is Unique.” *Population, Space and Place* 18, no. 6 (2012), 679. I also analyze Australia’s offshore processing centers on various Pacific islands as detention centers because even though they are material different in some ways, their overall purpose is still the same. For more background and details on Australia’s “offshore processing” regime see: Flynn, Michael. “Country Profile: Australia.” Global Detention Project, December 2008. <https://www.globaldetentionproject.org/countries>.

² See, for example: Athwal, Harmit, and Jenny Bourne. “Driven to Despair: Asylum Deaths in the UK.” *Race & Class* 48, no. 4 (2007): 106-114.; Cohen, Juliet. “Safe in Our Hands?: A Study of Suicide and Self-Harm in Asylum Seekers.” *Journal of Forensic and Legal Medicine* 15, no. 4 (2008): 235-244.;

³ See, for example: Mares, Sarah, Louise Newman, Michael Dudley, and Fran Gale. “Seeking Refuge, Losing Hope: Parents and Children in Immigration Detention.” (2002);

⁴ Mbembe, Achille. “Necropolitics.” Translated by Libby Meintjes. *Public Culture* 15, no. 1 (March 2003): 11–40.

over migrant bodies while it judges whose life is worth saving, and who may be deported. As such, this system necessitates corporeal control both as the means and the ends, exerting spatial and temporal control, as well as daily microaggressions against detainees' health and safety.

I focus broadly on the global North because I see necropower as operating through similar patterns of state control and subjugation in these states, particularly of the poor and people from the global South.⁵ The details of immigration detention may differ from one country to another, but the goals and effects have been the same. Similarly, acts of resistance have also taken bodily or corporeal form in detention centers across the global North. I show how these corporeal power relations rely on a racialized, gendered and classed detention regime.

Because of the broad nature of this thesis, it was not feasible to conduct original field research. Instead, I rely on secondary ethnographic research, reports from international organizations, and news articles. My methodology is also informed by the attempt to reaffirm agency and resistance; as such I rely on personal narratives of detainees on their experiences in detention. Many of these narratives come from blogs and social media accounts that reproduce letters directly from inside the detention center. Immigration detainees' writings are analogous with prison literature, which has a long history of

⁵ The terms "global North" and "global South" are terms that have been emerging in transnational and postcolonial studies to refer to what used to be called the first/third world or developed/developing countries. In general, the global North includes North America, Europe (excluding some Eastern European countries), Japan, Australia, New Zealand, and Israel. Dados, Nour, and Raewyn Connell. "The Global South." *Contexts* 11, no. 1 (2012): 12-13.

political and cultural significance for resistance movements.⁶ Prison writing serves dual purposes for both the writer and the reader. For the writer, it serves a way to use their time creatively and purposefully in a dehumanizing and monotonous environment. For the reader, it offers insight into an obscure space without potential whitewashing from official sources.

This thesis is informed by a prison abolitionist perspective. While I make comparisons and contrasts with prisons as a familiar reference point, I will not argue against immigration detention on the basis that the detainees have not committed a crime. Immigration detention is not wrong because of who it incarcerates, but because of the incarceration itself. Further, while I will elucidate legal norms meant to regulate the treatment of migrants and detainees, I do not see appeals to law as ultimately emancipatory because state power is what predicates this problem.⁷

Immigration Detention

Detention of irregular migrants and asylum-seekers is on the rise worldwide, both in terms of prevalence and duration.⁸ It is difficult to determine exactly how many detention centers exist because some states use jails, prisons, airports, and other holding facilities as de facto immigration detention centers. Global Detention Project lists approximately

⁶ Miller, D. Quentin, ed. "Introduction." *Prose and Cons: Essays on Prison Literature in the United States*. McFarland, 2005.

⁷ See generally: Lorde, Audre. "The Master's Tools Will Never Dismantle the Master's House." *Feminist Postcolonial Theory: A Reader* 25 (2003): 27.

⁸ Silverman & Massa 2012.

1,500 centers in operation globally.⁹ The increase in detention is due in large part to increasing control, criminalization, and securitization of immigration, wherein all immigrants are seen as potential threats.¹⁰

Detention is an almost necessary part of immigration control. The purpose of detaining migrants is to prevent them from absconding while awaiting a decision on their immigration status—whether granting of asylum or other visa status, or deportation in unsuccessful cases. There are somewhat less-intrusive alternatives to detention, such as ankle monitors, bonds and other sureties, and curfews at semi-open centers.¹¹ However, these alternatives are not the norm, particularly in the global North.¹² Detention for immigration purposes is legal under international law so long as it is not arbitrary and the centers meet certain minimum standards of treatment.¹³ The Refugee Convention implicitly justifies immigration detention in articles 26 and 31, which say that refugees should not have restrictions to their movement except those “applying to any aliens

⁹ "Immigration Detention Centres." Global Detention Project. 2018. Accessed April 22, 2018. <https://www.globaldetentionproject.org/detention-centres/list-view>.

¹⁰ Hernandez, Cesar Cuauhtemoc Garcia Hernandez. "Immigration Detention as Punishment." *Immigr. & Nat'lity L. Rev.* 35 (2014): 385.

¹¹ Field, Ophelia. "Alternatives to Detention of Asylum Seekers and Refugees." Legal and Protection Policy Research Series. United Nations High Commissioner for Refugees, April 2006. <http://www.unhcr.org/protection/globalconsult/4474140a2/11-alternatives-detention-asylum-seekers-refugees-ophelia-field.html>.

¹² *Ibid.*

¹³ McGrady, Barbara. "Resort to International Human Rights Law in Challenging Conditions in U.S. Immigration Detention Centers," 1997.; UN General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) : resolution / adopted by the General Assembly, 8 January 2016, A/RES/70/175

generally in the same circumstances” and only when “necessary” for regularization purposes.¹⁴

However, these supposedly temporary situations are often prolonged for years. With large court backlogs and often no option to post bail, people are being detained indefinitely. The UK,¹⁵ Canada,¹⁶ and Australia¹⁷ have no time maximum, allowing migrants to be detained until they are deported or formally granted a visa. The EU Return Directive sets absolute maximum of 18 months for immigration detention,¹⁸ although some state parties have been accused of releasing and re-detaining migrants in order to get around the detention limits.¹⁹ In February 2018, the US Supreme Court ruled that people being held in detention are not entitled to regular hearings to find out if they are eligible to be released on bail.²⁰ Indefinite detention with no option to appeal or post bail can be considered a violation of the protection against arbitrary and indefinite detention

¹⁴ UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951, United Nations, Treaty Series, vol. 189, Art. 26, 31

¹⁵ “Country Profile: United Kingdom.” Global Detention Project, October 2010. <https://www.globaldetentionproject.org/countries>.

¹⁶ Silverman, Stephanie. "In the Wake of Irregular Arrivals: Changes to the Canadian Immigration Detention System." (2014), 2.

¹⁷ Phillips, Janet, and Harriet Spinks. "Immigration Detention in Australia." Parliamentary Library 20 (2013), 4.

¹⁸ Flynn, Michael. “Regional Norms and Standards: Europe.” Global Detention Project, 2018. <https://www.globaldetentionproject.org/international-law/regional-norms-and-standards-europe>.

¹⁹ Flynn, Michael. “Belgium Immigration Profile.” Global Detention Project, May 2017. <https://www.globaldetentionproject.org/countries>.; Zafiroopoulos, Pavlos. “Irregular Immigrants Launch Hunger Strike in Corinth in Protest of Indefinite Detention.” The Press Project, June 11, 2014. <https://www.thepressproject.gr/article/63650/Irregular-immigrants-launch-hunger-strike-in-Corinth-in-protest-of-indefinite-detention>.

²⁰ *Jennings v. Rodriguez*, 138 S. Ct. 830, 583 U.S. (Supreme Court 2018).

outlined in articles 9(3), 10, and 12(3) of the ICCPR,²¹ and violates a number of human rights treaties by giving differential treatment to nationals and non-nationals.²² In some rare cases when no state is willing to accept someone, migrants can become “stranded” and detained indefinitely, a situation that is unfortunately increasing.²³

Immigration detention is ostensibly not meant to be punitive, and the Refugee Convention prohibits punishing people for illegal entry if they are seeking asylum.²⁴ However, policymakers have implied or stated that detention is also intended to discourage immigration. A former US Immigration and Naturalization Service commissioner was quoted as saying that detention works as a deterrent for other would-be irregular immigrants because it “would send a message that immigrants would be held in conditions that won't be like the Ritz-Carlton.”²⁵ Former US Attorney General William French said something similar about asylum-seekers, “detention of aliens seeking asylum was necessary to discourage people like the Haitians from setting sail in the first place.”²⁶ If administrative detention is used as a deterrent, this creates an incentive to create or maintain poor conditions.

²¹ International Covenant on Civil and Political Rights (ICCPR), Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, arts. 9(3), 10, and 12(3).

²² International Convention on the Elimination of all Forms of Racial Discrimination 660 UNTS 195; G.A. res. 2106 (XX), Annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966) art. 1(2); International Covenant on Economic Social and Cultural 993 UNTS 3, art. 2(2); ICCPR art. 2.

²³ Grant, Stefanie. "The Legal Protection of Stranded Migrants." *International Migration Law: Developing Paradigms and Key Challenges*. Ed. by Ryszard Cholewinski, Richard Perruchoud and Euan MacDonald. The Hague (TMC Asser Press) (2007): 29-47.

²⁴ Refugee Convention, Art. 1(a), Art. 33(1)

²⁵ Solomon, Alisa. *Yearning to Breathe Free*, Village Voice, Aug. 8, 1995.

²⁶ Dow, Mark. *American Gulag: Inside U.S. Immigration Prisons* 7 (2004)

Criminal prisons are sometimes used as immigration detention centers²⁷ despite the fact that under international law, people in administrative detention must be held separately from people who have been convicted of a crime.²⁸ Yet even designated immigration centers are highly securitized with unpleasant conditions very similar to that of prisons. Detainees and watchdog organizations in various countries have reported physical, sexual, and verbal abuse by guards, poor ventilation and heating, limited food and hygienic resources, and heavily restricted time for recreation and communication with family members outside.²⁹

Conditions aside, the fact of having one's freedom of movement restricted for an indefinite period of time is psychologically detrimental. Vulnerable populations such as children, pregnant women, and people with disabilities are particularly at risk.³⁰ Studies have shown that the mental health of detainees deteriorates the longer they are held in detention and the damage can last for years after release.³¹ Waiting becomes part of the distress in part because it is indeterminate; while people in criminal prisons often have a

²⁷ "Detention in Prison." AVID Detention, 2017.

<http://www.aviddetention.org.uk/immigration-detention/detention-prison>

²⁸ ICCPR, Art. 10(2)(a).

²⁹ Phillips, Scott, Jacqueline Maria Hagan, and Nestor Rodriguez. "Brutal Borders? Examining the Treatment of Deportees during Arrest and Detention." *Social Forces* 85, no. 1 (2006): 93–109; Shoichet 2017; Majcher, Izabella, and Michael Flynn. "Harm Reduction in Immigration Detention: A Comparative Study of Detention Centres in France, Germany, Norway, Sweden, and Switzerland." Global Detention Project, October 2018.

³⁰ Mares, Sarah, and Jon Jureidini. "Psychiatric assessment of children and families in immigration detention—clinical, administrative and ethical issues." *Australian and New Zealand Journal of Public Health* 28, no. 6 (2004): 520-526.

³¹ Steel, Zachary, Derrick Silove, Robert Brooks, Shakeh Momartin, Bushra Alzuhairi, and I. N. A. Susljik. "Impact of immigration detention and temporary protection on the mental health of refugees." *The British Journal of Psychiatry* 188, no. 1 (2006): 58-64.

specific release date, people in immigration detention typically have no idea when they may be released.³² Negative mental health consequences of waiting are multiplied when people do not fully understand why they are being detained, or recognize that the reasons for their detention are unjust.³³

With such poor treatment and conditions, it is easy to see the state as indifferent to the lives of immigration detainees. However, the fact that the state attempts to prevent self-inflicted death but still deports people to death in their home countries shows that the goals of the state are more complicated than simply preventing or allowing migrant death. If the state were simply apathetic to migrants, they would not invest effort into thwarting detainees' life-threatening modes of resistance. The state, accordingly, is invested in the project of immigrant death—controlling when and how death takes place, and the conditions surrounding it. This control discourages resistance and works to create docile detainees who will either become docile residents or deportable aliens.

Outline

Chapter 1 analyzes immigration control as a form of state power over life and death. Using Achille Mbembe's concept of necropower, I argue that immigration control uses a racialized regime to judge not only which bodies are acceptable to let die, but also what kind of death is acceptable. The Refugee Convention and other humanitarian visa

³² Silverman & Massa 2012.

³³ "Invisible Suffering: Prolonged and Systematic Detention of Migrants and Asylum Seekers in Substandard Conditions in Greece." Médecins Sans Frontières, April 2014.; Turnbull, Sarah. "'Stuck in the Middle': Waiting and Uncertainty in Immigration Detention." *Time & Society* 25, no. 1 (2016): 61-79.

regimes focus not on the level of danger an asylum-seeker faces, but on the type of danger. The state saves those who are at risk for their religious or political beliefs, but does not have an obligation toward those fleeing domestic violence, climate change, generalized violence, or poverty.

In chapter 2, I outline the ways in which the state exerts corporeal power over detainees in immigration detention centers, both in terms of procedures and the physical conditions of the centers themselves. I analyze detention centers as a space of waiting, in which the state is given the power to deport detainees to a place where their life is threatened (effectively sentencing them to death) or allow detainees to stay (letting them live). The confined physical space combined with an indeterminate amount of time serves to disorient detainees and make them less likely to resist. Further, the poor conditions, including insufficient food and water, limited medical attention, and generally unsanitary conditions, also illustrate the state's power over detainees' physical vitality.

My third chapter looks at the ways in which detainees use resistance techniques that disrupt the corporeal power exerted over them. Detainees deploy a number of corporeal techniques, individually and collectively. Those techniques often take the form of self-harm, including self-immolation, suicide attempts, hunger strikes, and various forms of self-mutilation. Narratives from detainees who have participated in these acts demonstrate a desire to reassert corporeal autonomy—including controlling conditions surrounding their death—and send a symbolic message that their life is at stake.

The fourth chapter examines how state authorities react to detainees' corporeal acts of resistance. In many cases, detainees are punished for their peaceful protest. Authorities isolate detainees suspected of organizing group demonstrations and force-feed hunger strikers. Corporeal control is both the means and the ends of immigration detention; the state uses its daily power over detainees' space, time, and physical vitality in order to ensure its overall domination over life and death.

Chapter 1: The Necropolitics of Immigration Detention

Immigration detention is typically theorized as a form of spatial control, an aspect of global geopolitics. Alison Mountz in particular advocates for using this approach to study immigration detention.³⁴ She points out the paradox of immigration control: increased mobility in a globalized world has coincided with increased control of movement. Immigration detention is described as a step in a process of containment: People in the global South are first contained to their state, and if they must leave, visa regimes encourage would-be migrants to remain in their own region. If they manage to cross into a northern state, they are then contained to a small location within the state (the detention center).³⁵

While immigration detention certainly is a form of spatial control, I emphasize the corporeal aspect of this power. Immigration control means control of bodies. While people's words and ideas can travel across borders through technology almost without limits, their physical body is subject to immigration law. Immigration law, and therefore immigration detention, is an inherently corporeal project.

State power over death, or *necropolitics*, is famously theorized by Achille Mbembe, who draws on Michel Foucault's conception of *biopolitics*. Biopower describes the processes by which human life and social understandings are intervened upon in order to preserve and validate existing authority. Foucault argues that state control of human biological

³⁴ Mountz, Alison, Kate Coddington, R. Tina Catania, and Jenna M. Loyd. "Conceptualizing Detention: Mobility, Containment, Bordering, Exclusion." *Progress in Human Geography*, October 15, 2012, 1–20.

³⁵ *Ibid*, 6.

processes began in the nineteenth century as rulers looked for less direct means to govern growing populations rather than public demonstrations of physical punishment. Biopower came to replace the classical notion of sovereign power. In his earlier works, Foucault argues that the state's power over life and death took a subtle shift: "It is the *power to 'make' live and 'let' die*. The right of sovereignty was the right to take life or let live. And then this new right is established: the right to make live and to let die."³⁶ Achille Mbembe connects this idea with biopolitics in his essay "Necropolitics,"³⁷ arguing that a necessary element of biopower—the control of life—is the control of death. He differs from Foucault and others who write on biopolitics in that he expands this to transnational power, rather than just the power the state has over its own nationals.³⁸ This necropower applied transnationally allows states to attempt to preserve the 19th century ideal of the nation-state in an increasingly globalizing world. States in the global North allow entry of some immigrants, but do so selectively along the lines of race and class.

Clear examples of the state's ability to kill are the death penalty and war. A less obvious aspect of necropolitics is the state's ability to decide whose life is of value and whose is expendable.³⁹ State control of health care, for example, allows state authority over whose life is worth saving based on class. This concept was perhaps satirized by the popular claim from US conservatives that the Affordable Care Act would include "death panels" in which government officials would make serious medical decisions "based on a

³⁶ Foucault, Michel, and François Ewald. "Society Must Be Defended": Lectures at the Collège de France, 1975-1976. Vol. 1. Macmillan, 2003, 241.

³⁷ Mbembé 2003.

³⁸ Ibid, 11.

³⁹ Ibid, 27.

subjective judgment of their 'level of productivity in society.'"⁴⁰ While this claim was not literally true, the state does effectively allow certain categories of people to die by making healthcare accessible to only a few. Access to healthcare is one of many ways the state allows preventable deaths—"lets die"—for economic reasons.

Race is also a prominent factor in state necropower. As Mbembe writes, "race has been the ever present shadow in Western political thought and practice, especially when it comes to imagining the inhumanity of, or rule over, foreign peoples."⁴¹ Immigration controls, likewise, are inseparably linked to race. As Lauren Wilcox explains, "mobile bodies may be the locus of threat in the contemporary security imagination, but it is not quite accurate to say that *all* mobile bodies are perceived as a threat to the late modern liberal state."⁴² Although not quite as explicitly as they once were,⁴³ immigration laws in the global North are shaped by racial objectives. As Harsha Walla brilliantly summarizes, "The reinforcement of physical and psychological borders against racialized bodies is a key instrument through which to maintain the sanctity and myth of superiority of Western civilization."⁴⁴ Political anti-immigration rhetoric is still heavily coded with racial

⁴⁰ Gonyea, Don. "From The Start, Obama Struggled with Fallout From a Kind of Fake News." NPR, January 10, 2017. <https://www.npr.org/2017/01/10/509164679/from-the-start-obama-struggled-with-fallout-from-a-kind-of-fake-news>.

⁴¹ Mbembe 2003, 17.

⁴² Wilcox, Lauren. "4. Gendered bodies in securitized migration regimes." *Handbook on Migration and Security* (2017): 87.

⁴³ Lee, Erika. "The Chinese Exclusion Example: Race, Immigration, and American Gatekeeping, 1882-1924." *Journal of American Ethnic History* (2002): 36-62.

⁴⁴ Walla, Harsha. *Undoing Border Imperialism*. Vol. 6. AK Press, 2014, 7.

language that promotes an othering between those who look like they could be citizens and those who clearly do not fit in.⁴⁵

Immigration laws favor those from Western countries, and the *enforcement* of those laws favors the white or white-passing. For example, a person of color holding a US passport can enter Europe more easily than a white-passing person with a Syrian passport, but without documentation, the American may actually have less mobility crossing internal borders of the European Union.⁴⁶ Irregular migrants of color living in the United States are far less likely to be caught because police does not target them for immigration checks.⁴⁷ Reports have also surfaced recently that US citizen Latinos have been denied entry at the border after visiting Mexico or have been denied issuance of a passport, throwing their citizenship into question.⁴⁸ The subtle difference between how the state creates immigration laws and how it enforces those same laws shows that the state does

⁴⁵ See, for example: “Italy’s Salvini Likens African Immigrants to ‘Slaves.’” Reuters. September 14, 2018. <https://www.reuters.com/article/us-europe-migrants-italy-luxembourg/italys-salvini-likens-african-immigrants-to-slaves-idUSKCN1LU1QR>; Watkins, Eli, and Abby Phillip. “Trump Decries Immigrants from ‘Shithole Countries’ Coming to US.” CNN, January 12, 2018. <https://edition.cnn.com/2018/01/11/politics/immigrants-shithole-countries-trump/index.html>.

⁴⁶ B, Richard. “Rubber Boats & the Planetary Class Struggle.” *Meta Mute* (blog), October 28, 2016. <http://www.metamute.org/editorial/articles/rubber-boats-planetary-class-struggle>.

⁴⁷ Downs, Kenya. “Irish Immigrant’s Arrest Highlights Race’s Role in Deportation.” BBC News, July 23, 2017, sec. US & Canada. <https://www.bbc.com/news/world-us-canada-40332646>.

⁴⁸ Grinberg, Emanuella, Nick Valencia, Justin Gamble, and Maegen Vasquez. “Washington Post: US Denying Passports to Hispanic Americans in South Texas.” CNN, August 31, 2018; Martinez, Michael, and Mariano Castillo. “Arizona’s ‘Show-Me-Your-Papers’ Law Rolls Out a Day After Supreme Court Ruling.” CNN, June 27, 2012. <https://edition.cnn.com/2012/06/26/us/arizona-immigration/index.html>. <https://www.cnn.com/2018/08/30/politics/us-denying-passports-to-american-citizens/index.html>.

not always view migrants as people of a certain nationality and status, but as racialized bodies.

This thesis draws parallels from the work of Banu Bargu, who researches the weaponization of life. Her book, *Starve and Immolate: The Politics of Human Weapons*, recounts the story of the Turkish political prisoners involved in the “death fast” to protest moving to a more socially segregated type of prison.⁴⁹ She analyzes this particular incidence not as an exceptional case, but as “an instance that crystallizes a conjuncture in which the process of the biopoliticization of sovereignty meets the necropoliticization of resistance.”⁵⁰ Bargu shows that the Turkish state sought to end these demonstrations, even though the force-feeding and other operations by authorities actually caused detainees’ deaths in some cases.⁵¹

Not only does the state regulate *when* one may die, but also *how* one must die. There are only certain times, locations, and forms of death that are acceptable. The normative death is one of natural causes, occurs out of public view, at an old age, and after one has procreated. This kind of death is acceptable and requires minimal grief.

There are a few allowable exceptions to the norm. A violent death at an early age is acceptable, and even celebrated, if it occurs during war. Across cultures, military members who die in battle are idolized, and their death, while tragic, is not interpreted as

⁴⁹ Bargu, Banu. *Starve and Immolate: The Politics of Human Weapons*. New York: Columbia University Press, 2014.

⁵⁰ *Ibid*, 27.

⁵¹ *Ibid*, 5.

something that should have been prevented. Similarly, civilian deaths in enemy territory as “collateral damage” are justified in limited numbers so long as it is not clearly excessive in relation to the anticipated military advantage.⁵²

Death due to poverty may be a tragedy, but not one that is the responsibility of the state. Under capitalism, acquiring basic necessities is seen as the responsibility of the individual. Someone who is too poor to live, then, has only failed themselves. Needing food, water, shelter, or medicine is not generally considered an acceptable excuse for stealing the way that self-defense may be considered a justification for murder or other violent crimes.

Suicide is one example of a non-normative, and therefore unacceptable death. Suicide is illegal in many jurisdictions,⁵³ although legislation has changed in the Western world in recent decades. In this case, the state not only has the sovereign right to kill, but also the sovereign right to force people to stay alive—“make live.” In places where suicide is illegal, police are allowed to forcibly enter someone’s house if they suspect someone may attempt suicide, and people who are suicidal can be held against their will in psychiatric hospitals if they are deemed a danger to themselves. With few exceptions, even people suffering from terminal illnesses must allow the disease to run its course rather than being legally allowed to request euthanasia.⁵⁴ Suicide legislation highlights the legal distinction

⁵² Rome Statute of the International Criminal Court, 2187 U.N.T.S. 90, entered into force July 1, 2002. Article 8(2)(b)(iv).

⁵³ Mishara, Brian L., and David N. Weisstub. "The Legal Status of Suicide: A Global Review." *International Journal of Law and Psychiatry* 44 (2016): 54-74.

⁵⁴ Grayling, A. C. "Right to Die." (2005): 799.

between acceptable and unacceptable death, perhaps best summarized by this fact: Until 1988 in England and Wales, attempted suicide was punishable by death.⁵⁵

Immigration Control as a Form of Necropower

Immigration detention is a form of necropolitics because immigration controls in general are a form of necropolitics. The receiving state has the authority to decide who may remain and who must go, in most cases, even when a migrant returning to their country of origin faces a serious threat to their life. These decisions are made on the basis of whose life could be of value to the receiving state as well as whose death would reflect poorly on the state or its political ideology.

States have the sovereign right to control movement in and out of their territory. While nationals are free to leave and enter their own state as they please,⁵⁶ there is no human right to enter another state. The significant exception to this rule is the 1951 Convention Relating to the Status of Refugees. State parties are obligated to grant refugee status to anyone has a well-founded fear of persecution based on race, religion, nationality, membership of a particular social group or political opinion and cannot seek protection from this persecution in their country of origin.⁵⁷

⁵⁵ Farmer, Richard. "Epidemiology of Suicide." *International Clinical Psychopharmacology* (1992).

⁵⁶ Universal Declaration of Human Rights, Dec. 8, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948). Art. 13(2). However, this is not an unlimited right; states may prevent nationals from leaving if they have unfulfilled military obligations, or prevent them entering for quarantine purposes, for example. See: Apap, Joanna, ed. *Freedom of Movement of Persons: A Practitioner's Handbook*. Kluwer Law International, 2002.

⁵⁷ Refugee Convention, Art. 1(a), Art. 33(1).

Elements of the Refugee Convention seem to support the idea that people should have the right to emigrate if they face a threat to their life in their country of origin. Article 31 states that “The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization.”⁵⁸ The right to seek asylum regardless of irregular entry is also included in the Universal Declaration on Human Rights,⁵⁹ and is arguably customary international law.⁶⁰ This would appear to prioritize life over laws, and therefore serve to save lives internationally.

However, the Refugee Convention has indirectly caused the deaths of many. One unintended consequence of the Convention is that people from countries that are likely to seek asylum are often prevented from crossing borders in the first place in order to avoid state responsibility. When people are denied access to official points of entry, they must seek alternative, much more dangerous means of arrival. This is not a matter of the unaffordability of modern transportation methods; the cost of paying a smuggler usually far outweighs the cost of a plane ticket.⁶¹ The problem is that they are legally prevented from using modern transportation in order to reach safety. In Europe, this means

⁵⁸ Ibid, Art. 31(a).

⁵⁹ Universal Declaration of Human Rights, Dec. 8, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948). Art. 14.

⁶⁰ “Moreover, the Declaration has been said to be “an authoritative expression of the customary international law of today in regard to human rights.” Paul Weis, *The Draft United Nations Convention on Territorial Asylum*, 1979 BRrr. Y.B. INT’L L. 151,152 as cited in Roman Boed “The State of the Right of Asylum in International Law” Duke Journal of International and Comparative Law 5:1 (1994) 1-35 at 6

⁶¹ Crawford, Beverly. “Why Don’t Refugees Fly?” The Berkeley Blog (blog), February 11, 2016. <http://blogs.berkeley.edu/2016/02/11/why-dont-refugees-fly/>.

thousands of people per year drown in the Mediterranean⁶² and many die in the Balkans attempting to cross by land.⁶³ Hundreds of migrants die in the desert crossing the southern border to the United States.⁶⁴ Australia does not publish official records of migrant deaths, but a project by Monash University lists nearly 2000 migrant deaths at sea.⁶⁵

Not only are these dangerous crossings a creation of immigration controls, they are worsened because of them. Rescuing boats has become politicized because it triggers the flag state's responsibility for those rescued.⁶⁶ The Italian government created Operation Mare Nostrum in 2013 in order to rescue migrants at sea, but the operation was soon replaced by the more profitable European Union-led Operation Triton. Operation Triton is part of Frontex, and its mandate is to patrol rather than to rescue.⁶⁷ Since then, the number of deaths in the Mediterranean has risen while the number of migrants reaching

⁶² "Migrant Drownings Top 3,000 for 4th Straight Year, Despite Reduced Migrant Crossings of Mediterranean." International Organization for Migration, November 28, 2017.

⁶³ "Desperate Journeys: Refugees and Migrants Entering and Crossing Europe via the Mediterranean and Western Balkans Routes." UNHCR Bureau for Europe, February 2017.

⁶⁴ "Migrant Deaths Remain High Despite Sharp Fall in US-Mexico Border Crossings in 2017." Press Release. Missing Migrants. International Organization for Migration, February 6, 2018. <https://www.iom.int/news/migrant-deaths-remain-high-despite-sharp-fall-us-mexico-border-crossings-2017>.

⁶⁵ Border Crossing Observatory. "Annual Report on Border-Related Deaths, 2017." Australian Border Deaths Database. Monash University, 2017.

⁶⁶ Goodwin-Gill, Guy S. "The Right to Seek Asylum: Interception at Sea and the Principle of Non-Refoulement." *International Journal of Refugee Law* 23, no. 3 (2011): 443-457.

⁶⁷ Mann, Itamar. "Maritime Legal Black Holes: Migration as Extra-Legality," Working Paper, University of Haifa (2016)

Europe by boat has decreased.⁶⁸ Similarly, the number of recorded migrant deaths around the US-Mexico border has increased while the number of apprehended migrants has decreased.⁶⁹ Water and other supplies left by activists have also been reportedly destroyed by US border patrol agents.⁷⁰

Furthermore, refugee law differentiates based on the reasons for the persecution one faces in their country of origin. Although the threshold for persecution under the Refugee Convention has been interpreted in different ways, it does not need to rise to the level of life threatening.⁷¹ However, for the purposes of this thesis I will focus on those situations in which asylum-seekers do face the prospect of death in their country of origin. The narrow definition of a refugee prioritizes civil and political rights over economic rights, or the freedom from fear over the freedom from want.⁷² This reflects the original purpose of the Refugee Convention: to justify returning the majority of those displaced in Europe during World War II while still condemning communism.⁷³ While the type of persecution someone is fleeing is relevant, the reasons for it are also crucial. The same fear for different reasons is evaluated differently under the law. Unless they are being persecuted based on one of the five grounds, someone dying of starvation will not be granted refugee

⁶⁸ “Migrant Drownings” 2017.

⁶⁹ “Migrant Deaths Remain High” 2018.

⁷⁰ “Disappeared: How US Border Enforcement Agencies Are Fueling a Missing Persons Crisis.” Disappeared: How US Border Enforcement Agencies Are Fueling a Missing Persons Crisis. Accessed September 15, 2018. <http://www.thedisappearedreport.org/>.

⁷¹ *INS v. Elias-Zacarias*, 502 U.S. 478, 112 S. Ct. 812, 117 L. Ed. 2d 38 (1992); *Korablina v. Immigration and Naturalization Service*, 97-70361, United States Court of Appeals for the Ninth Circuit, 23 October 1998

⁷² Bader, Veit. "The Ethics of Immigration." *Constellations* 12, no. 3 (2005): 331-361.

⁷³ Hathaway, James. "A Reconsideration of the Underlying Premise of Refugee Law." *Harvard International Law Journal* 31, no. 1 (1990): 129-147.

status. People fleeing widespread gang violence, war, domestic violence, or natural disasters are not protected by the Refugee Convention unless they can connect that danger to discrimination based on their civil and political rights.

It is increasingly common for people to face threats in their country of origin that are not covered by the Refugee Convention's narrow definition. The number of people migrating for climate-related reasons is difficult to measure, but has been estimated to reach up to 200 million by 2050, which would be 10 times the current number of documented refugee populations.⁷⁴ This includes people fleeing natural disasters such as hurricanes, tsunamis, and wildfires that become more frequent and intense with climate change. It also includes peoples whose homeland may cease to exist due to rising sea levels, such as some islands in the Pacific.⁷⁵ Climate-induced migration also tends to include people whose livelihoods are threatened because of water shortages or crop failures.⁷⁶ None of these people are likely to be covered by the Refugee Convention.

Another consequence of the Refugee Convention is that it creates a false dichotomy between forced migration and economic migration. This perception has been widely problematized by researchers who clarify that people often have mixed reasons for

⁷⁴ Brown, Oli, *Climate Change and Forced Migration: Observations, Projections and Implications*, UNDP HDR Background Paper (2008).

⁷⁵ Locke, Justin T. "Climate Change-Induced Migration in the Pacific Region: Sudden Crisis and Long-Term Developments 1." *Geographical Journal* 175, no. 3 (2009): 171-180.

⁷⁶ Brown 2008.

migration.⁷⁷ Regardless, the perception of a clear-cut distinction between forced migrants and economic migrants has endured. It is not uncommon to hear politicians or the general public contend that a group does not deserve sympathetic treatment because they are “just” economic migrants—as if money had nothing to do with the ability to stay alive. Other humanitarian visa programs beyond the Refugee Convention also tend to ignore economic concerns.⁷⁸

Immigration laws allow the state to determine of what kind of death must be avoided and what is acceptable. The state may recognize that a migrant faces almost certain death should they return to their country of origin, but still maintain the legal right to deport them depending on how they might die, and how that death reflects on the state or its ideology. This dichotomy between acceptable and unacceptable death is facilitated by immigration detention. Detention is a space made for awaiting a decision, and this decision, for many detainees, determines whether they live or die.

⁷⁷ Bakewell, Oliver. "Some reflections on structure and agency in migration theory." *Journal of Ethnic and Migration Studies* 36, no. 10 (2010): 1689-1708; Van Hear, Nicholas, Rebecca Brubaker, and Thais Bessa. "Managing mobility for human development: The growing salience of mixed migration." (2009)

⁷⁸ Fitzpatrick, Joan. "Temporary Protection of Refugees: Elements of a Formalized Regime." *American Journal of International Law* 94, no. 2 (2000): 279-306.

Chapter 2: Structural Necropower

In this chapter, I outline the ways in which the state exerts corporeal power over detainees in immigration detention centers. Detainees' actions must be understood in the context of overarching structure of detention that attempts to give the state control over detainees' bodies. As outlined in chapter one, the state exerts control over detainees' life and death through immigration controls generally. Those who are threatened with death in their home country still have to prove themselves worthy to stay in the country of arrival. Immigration detention is where these decisions are made. The act of controlling movement is inherently corporeal, but this power is reified through the material structure of detention centers.

As argued in the previous chapter, immigration controls allow the state to separate acceptable deaths from unacceptable deaths, but the state is also able to control when and how death may take place within the confines of the detention center. Detainees may die for lack of proper medical treatment, but will be put under 24-hour surveillance to prevent suicide. Women lose wanted pregnancies because of abuse or insufficient prenatal care, yet pregnant women who want abortions are denied access. The state has the power to control what happens to detainees in these situations because of the corporeal power of immigration detention.

There can be no necropower without biopower.⁷⁹ To that end, immigration detention is a form of corporeal or bodily control across time and space. Serving as gatekeepers of life

⁷⁹ Foucault, Michel. *The History of Sexuality. Volume 1: An Introduction*. New York: Vintage Books, 1979, 142-143.

and death, the state exercises control over detained bodies in a confined space and an undefined time. This is achieved through spatial and temporal control, as well as daily microaggressions against detainees' health and safety.

Spatial Control

The architecture of the immigration detention center facilitates comprehensive bodily control. Although immigration detainees are ostensibly not being punished, they are still held in a highly securitized environment that in many ways replicates that of prisons.⁸⁰ Centers are almost always located in remote areas away from major cities.⁸¹ The buildings are surrounded by fences or walls topped with barbed wire.⁸² The external doors can only be opened by with a key. In most cases, men and women are held separately, although there are some family detention centers.⁸³ Some detention centers have large shared sleeping quarters that hold several detainees. Others have smaller sleeping quarters, often referred to as “cells.”⁸⁴ In many detention centers, detainees are locked in these cells during certain hours of the day. Detainees are issued uniforms, often

⁸⁰ In some cases, they are, in fact, prisons that double as immigration detention centers

⁸¹ Or on remote islands, as in the case of Australia's offshore processing centers

⁸² Majcher & Flynn 2018, 3-7.; Pugliese, Joseph. “The Tutelary Architecture of Immigration Detention Prisons and the Spectacle of ‘Necessary Suffering.’” *Architectural Theory Review* 13, no. 2 (August 1, 2008): 206–21.

⁸³ Myslinska, Dagmar R. “Living Conditions in Immigration Detention Centers.” *Legal Encyclopedia*. Nolo, 2018. <https://www.nolo.com/legal-encyclopedia/living-conditions-immigration-detention-centers.html>.

⁸⁴ Schriro, Dora Bess. *Immigration Detention Overview and Recommendations*. Washington, DC: US Department of Homeland Security, Immigration and Customs Enforcement, 2009, 27.

jumpsuits, and are referred to by their alien registration number.⁸⁵ Armed guards patrol the halls. There are regular roll calls throughout the day, which one former detainee described as “where they check if we're dead or alive, really. Because where else would we go? It's not like we'd be missing.”⁸⁶

Detainees can also be put in solitary confinement. Guards may legally place detainees in solitary confinement for short periods of time if they view them as a threat to themselves or others, but this power is routinely abused.⁸⁷ Guards often place detainees in solitary confinement for minor infractions or for appearing to disrespect authority.⁸⁸ Sometimes, detainees taking control over their own bodily autonomy is considered an infraction. A Muslim detainee in the US was placed in solitary confinement because he refused to eat during Ramadan.⁸⁹ One woman spent weeks in segregation for having an extra blanket.⁹⁰ Another was placed in segregation for days because he shared another detainee’s

⁸⁵ Majcher & Flynn 2018; Sronce, Joel. “Wearing the Immigrant Uniform.” *Piedmont Left Review*, January 16, 2018. <https://piedmontleftreview.com/2018/01/16/wearing-the-immigrant-uniform/>.

⁸⁶ The Guardian. *Immigration Detention: “You’re Not Human to Them.” The Story* Podcast, n.d.

⁸⁷ Page, Patrick. “The Punishment Room: Use of Solitary Confinement in Immigration Detention.” *TruePublica*, July 24, 2017. <http://truepublica.org.uk/uk-civil-liberties-and-rights-newscast/punishment-room-use-solitary-confinement-immigration-detention.>; Perlmutter, Alexis, Mike Corradini, and Christy Fujio. “Invisible in Isolation: The Use of Segregation and Solitary Confinement in Immigration Detention.” *National Immigrant Justice Center & Physicians for Human Rights*, September 2012. <http://www.immigrantjustice.org/research-items/report-invisible-isolation-use-segregation-and-solitary-confinement-immigration>.

⁸⁸ Kelly, John V. “Management Alert – Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California.” *Department of Homeland Security, Office of Inspector General*, September 27, 2018.

⁸⁹ *Ibid.*

⁹⁰ “Invisible in Isolation 2012, 17.

coffee.⁹¹ Solitary confinement has a clear and well-established link to declining mental health, particularly for survivors of torture,⁹² and many of these effects become irreversible after 15 days in isolation.⁹³ Prolonged isolation can even lead to physical problems like heart palpitations, digestive problems, deteriorating eyesight, and worsening of pre-existing medical conditions.⁹⁴ Solitary confinement is also used in lieu of mental health services in order to prevent detainee suicides, leading some detainees to avoid asking for help for fear of being sent into segregation.⁹⁵

Detainees are therefore not only spatially controlled *to* the detention center, but *within* the center. In higher security centers, detainees are locked in their cells at night, up to 13 hours in some cases.⁹⁶ They are held to a set schedule for sleeping, meal times, and recreation. A detainee in the UK explained, “you got to do everything in accordance to them. You ask an officer ‘Well can I do this?’ ‘No, you have to wait till this time.’ ‘Why?’ ‘Because you have [to], because we can.’”⁹⁷

⁹¹ “Concerns About ICE Detainee Treatment and Care at Detention Facilities.”

Department of Homeland Security, Office of Inspector General, December 11, 2017, 6.

⁹² Arrigo, Bruce A., and Jennifer Leslie Bullock. "The Psychological Effects of Solitary Confinement on Prisoners in Supermax Units: Reviewing What We Know and Recommending What Should Change." *International Journal of Offender Therapy and Comparative Criminology* 52, no. 6 (2008): 622-640; Smith, Peter Scharff. "The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature." *Crime and Justice* 34, no. 1 (2006): 441-528.

⁹³ *Ibid.*, 19.

⁹⁴ Interim Report of the Special Rapporteur of the Human Rights Council on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ¶ 62, U.N. Doc. A/66/268 (August 5, 2011) (prepared by Juan Méndez) (hereinafter “Méndez Report”), available at <http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx>.

⁹⁵ *Ibid.*, 18.

⁹⁶ Turnbull, Sarah. “‘Stuck in the Middle’: Waiting and Uncertainty in Immigration Detention.” *Time & Society* 25, no. 1 (March 2016): 61–79, 66.

⁹⁷ *Ibid.*, 66.

Temporal Control

Time is also controlled within this space. Detainees' primary action in immigration is to wait. Waiting is inseparably linked to spatial control.⁹⁸ Being confined to a specific place makes the essential difference between experiencing waiting and simply experiencing time passing. Un-incarcerated people often need to wait, but this waiting can be a backdrop to the rest of their lives proceeding as normal. Waiting can be most distressing when it prevents someone from moving forward.

Waiting is part of the systemic corporeal power. Waiting is corporeal because waiting is aging. A public statement from hunger strikers in a Greek detention center said, "With the systematic and indefinite detention the Greek government is killing us. They are wasting our lives and killing our dreams and hopes inside the prisons."⁹⁹ A detainee on Nauru described people crying when they saw the sun go down because, "Every sunset was a symbol of another day lost."¹⁰⁰ Anthropologist Sarah Turnbull's interviews in the UK show that detainees see waiting as time stolen: "Several younger detainees told me how their lives were being wasted by the time they spent in detention, particularly as they saw others their age moving on with their lives."¹⁰¹ A detainee in the UK wrote, "Time is taken away from our lives. I want to study and want to do my nursing. But I can't do that.

⁹⁸ Armstrong, Sarah. "The Cell and the Corridor: Imprisonment as Waiting, and Waiting as Mobile." *Time & Society* 27, no. 2 (June 18, 2015), 137-138.

⁹⁹ Zafiroopoulos 2014.

¹⁰⁰ Doherty, Ben. "Death in Detention: 'I'd Give Everything to Have Him Back.'" *The Guardian*, March 22, 2017, sec. Australia news. <https://www.theguardian.com/australia-news/2017/mar/23/death-in-detention-id-give-everything-to-have-him-back>.

¹⁰¹ Turnbull 2016, 73.

Months are taken away from us, we can't get that back. It's not fair."¹⁰² The purpose of immigration detention is not to rehabilitate, but to incapacitate.¹⁰³ Accordingly, detainees' options in detention centers tend to be activities to simply occupy their time, rather than investing it.¹⁰⁴

One of the most troubling aspects of waiting in immigration detention is that it is undefined. Detainees do not know how much longer they will be held in detention.¹⁰⁵ An Iranian detainee who had been in a UK for over a year, said, "I don't know when I'm going to get back to my life. Could be any time, could be five years. We don't know. That's what's killing us here."¹⁰⁶ The indeterminate nature of immigration detention is commonly understood as being worse than a prison sentence.¹⁰⁷ One detainee explained, "it's even more torturing than a prison, because in a prison, if you're there for two years,

¹⁰² DV. "Anything you apply for, however, is always 'no, no, no' and 'rejected, rejected, rejected.'" Detained Voices, May 04, 2018.

<https://detainedvoices.com/2018/05/04/anything-you-apply-for-however-is-always-no-no-no-and-rejected-rejected-rejected/>

¹⁰³ Turnbull 2016, 64.

¹⁰⁴ Ibid, 65.

¹⁰⁵ Kessler, Bridget. "In Jail, No Notice, No Hearing.... No Problem-A Closer Look at Immigration Detention and the Due Process Standards of the International Covenant on Civil and Political Rights." *Am. U. Int'l L. Rev.* 24 (2008): 571.

¹⁰⁶ "End Indefinite Detention." Detention Action UK. Accessed September 29, 2018. <https://detentionaction.org.uk/campaigns/indefinite-detention-in-detail>.

¹⁰⁷ This is based on an incomplete understanding of how the criminal justice system works. Not all those in criminal prisons have a set release date. Those awaiting a bond hearing, for example, may not know when or if they will be released while awaiting trial. Some prisoners are also given indefinite sentences. For more, see: James, Doris J. "Profile of jail inmates, 2002." (2004); Wagner, Peter, and Wendy Sawyer. "Mass Incarceration: The Whole Pie 2018." Prison Policy Initiative. March 14, 2018. Accessed October 17, 2018. <https://www.prisonpolicy.org/reports/pie2018.html>.

you know you're there for two years. After two years, you'll be out. If it's three months, you know you're there for three months. After three months you'll definitely be out."¹⁰⁸

While the most common situation of immigration detainees is waiting for a decision on legal admittance to the host state, some detainees have already had their fate determined and are simply waiting to be deported. In some cases, detainees themselves have asked to be deported rather than remain in detention. But still there are delays. Yousef, an Ethiopian national detained in the UK, called police from the detention center to report his kidnapping. He had agreed to leave the UK but was still waiting for Home Office to either return him to Ethiopia or realize that he cannot be returned and release him from detention.¹⁰⁹ Another former detainee recalls begging US detention agents, "Just let me die in my country, I can't die here."¹¹⁰

In many jurisdictions, there is also no limit to how long someone can be held in immigration detention. Both Australia and Canada have no time maximum, allowing migrants to be detained until they are deported or formally granted a visa.¹¹¹ In early 2018, the United States Supreme Court ruled that detainees did not have the right to post bail, effectively allowing indefinite detention for immigration purposes.¹¹² President Trump's June 2018 executive order also called for a rollback of protections under the

¹⁰⁸ Turnbull 2016, 67.

¹⁰⁹ Turnbull 2016, 74.

¹¹⁰ Dow, Mark. *American Gulag: Inside U. S. Immigration Prisons*. University of California Press, 2004, xi.

¹¹¹ Silverman, Stephanie. "In the Wake of Irregular Arrivals: Changes to the Canadian Immigration Detention System." (2014), 2; Phillips, Janet, and Harriet Spinks. "Immigration Detention in Australia." *Parliamentary Library* 20 (2013), 4.

¹¹² Turnbull 2016, 70.

1997 Flores Settlement, which limited detention of minors to 20 days.¹¹³ As of the time of this writing, it was still unclear how this would be enforced. While the rest of the European Union is held to the EU Return Directive, which sets an absolute maximum of 18 months for immigration detention, The United Kingdom is the only country in the European Union that does not have a time limit for detention,¹¹⁴ although there are significant and increasing activist movements calling to set a time limit at 28 days.¹¹⁵ However, other European states have been accused of releasing and re-detaining migrants in order to get around the detention limits.¹¹⁶

Waiting in immigration detention is marked by uncertainty. Not only do detainees not know *when* their detention will end, they also do not know *how* it will end.¹¹⁷ That is, whether they will be released to the host country or will be deported to their home country or a “safe third state.”¹¹⁸ The stakes are high. For virtually all detainees, deportation means separation from family and loss of livelihood. For many, deportation is

¹¹³ “President Trump’s Executive Order and the Flores Settlement Explained.” Refugees International, June 28, 2018.

<https://www.refugeesinternational.org/reports/2018/6/28/trumps-executive-order-and-the-flores-settlement-explained-bswdt>.

¹¹⁴ “Country Profile: United Kingdom.” Global Detention Project, October 2010.

<https://www.globaldetentionproject.org/countries>.

¹¹⁵ “End Indefinite Detention.” Detention Action UK. Accessed September 29, 2018.

<https://detentionaction.org.uk/campaigns/indefinite-detention-in-detail>.

¹¹⁶ Flynn, Michael. “Belgium Immigration Profile.” Global Detention, May 2017.

<https://www.globaldetentionproject.org/countries>; Zafiroopoulos 2014.

¹¹⁷ Turnbull 2016, 66.

¹¹⁸ The idea of “safe third country” is not a legal concept, but has developed as state practice in order to get around non-refoulement. See: Borchelt, Gretchen. “The Safe Third Country Practice in the European Union: A Misguided Approach to Asylum Law and a Violation of International Human Rights Standards.” *Colum. Hum. Rts. L. Rev.* 33 (2001): 473.

a death sentence.¹¹⁹ Detainees wait on life-altering news, with no indication when they will receive it. This kind of waiting has been compared to purgatory—neither alive nor dead, but awaiting judgment day.¹²⁰

Melanie Griffiths argues that the uncertainty of immigration detention is not accidental, but is a strategic aspect of incapacitation.¹²¹ Detainees are uncertain as to when or if they will be released, where they will be released to, and even when they will get answers to these questions. Not only does this make the waiting worse, it keeps detainees confused and easier to control. Barry Schwartz says that the “punitive” aspect of waiting is when a someone is “kept ignorant as to how long he must wait.”¹²² Keeping detainees guessing when it could swiftly deport them is also one of the ways the state asserts its authority over immigrants. As Pierre Bourdieu puts it, “making people wait... delaying without destroying hope is part of the domination.”¹²³ Hope is what defines the experience of waiting rather than simply being in a temporary condition. Further, completely “destroying hope” would solidify the state’s role as the aggressor, whereas when detainees still have hope, they may feel they cannot risk their visa application by expressing their frustration.

¹¹⁹ See: Stillman, Sarah. “When Deportation Is a Death Sentence.” *The New Yorker*, January 15, 2018. <https://www.newyorker.com/magazine/2018/01/15/when-deportation-is-a-death-sentence>.

¹²⁰ DV. “Yarls Wood: They Even Restrained Her Legs Because She Started to Cry.” *Detained Voices*, March 18, 2018. <https://detainedvoices.com/tag/yarls-wood/page/1/>; Marks, Kathy. “Refugee Camp Children Sew Their Lips in Protest.” *The Independent*, January 22, 2002. <http://www.independent.co.uk/news/world/australasia/refugee-camp-children-sew-their-lips-in-protest-5362577.html>; Turnbull 2016, 69.

¹²¹ Griffiths, Melanie. “Living With Uncertainty: Indefinite Immigration Detention.” *Journal of Legal Anthropology* 1, no. 3 (2013): 263-286.

¹²² Schwartz, Barry. “Queueing and waiting.” (1975).

¹²³ Bourdieu, Pierre. *Pascalian Meditations*. Stanford University Press, 2000, 228

Waiting seeks to make detainees more compliant. In their research on time spent on death row, Cary Federman and David Holmes argue, “For resistance to be silenced, power must reach the very grain of the condemned, rendering prisoners docile and obedient through the use of time... Far above laws and disciplinary technologies, power needs to operate in-depth by combining the use of time as an instrument of control.”¹²⁴ For Federman and Holmes, control of time is essential for creating docile prisoners who will not resist execution. Analogously, temporal control serves to pacify immigration detainees so that they will be compliant with deportation.

Abuse and Humiliation

Along with the disorientation through control of their time, detainees are also subjected to abuse and humiliation at the hands of guards. The nature of incarceration necessitates security guards who have the ability to use physical force to control populations. Guards at immigration detention centers carry weapons and have access to riot gear,¹²⁵ while detainees have nearly all of their personal belongings taken away in the name of security.¹²⁶ Unsurprisingly, guards in immigration detention abuse their power. The controlling nature of detention can also be infantilizing. One detainee in the UK told a

¹²⁴ Federman, Cary, and Dave Holmes. “Breaking Bodies into Pieces: Time, Torture, and Biopower.” *Critical Criminology* 13 (2005), 332.

¹²⁵ Holt, Alison. “G4S: What I Saw When I Went Undercover.” BBC News, September 4, 2017. https://www.bbc.co.uk/news/resources/idt-sh/g4s_brook_house_immigration_removal_centre_undercover.

¹²⁶ Sronce, Joel. “Wearing the Immigrant Uniform.” *Piedmont Left Review*, January 16, 2018. <https://piedmontleftreview.com/2018/01/16/wearing-the-immigrant-uniform/>.

researcher, “We’re adults; some of us are older than them. And then we get talked to like we’re babies”¹²⁷

Juliet Brough Rogers argues that abuse by authority figures reveals anxiety about their legitimacy. In her analysis of border agents in occupying states, she demonstrates that acts of humiliation are the symptom of law enforcement officials’ attempt to legitimize arbitrary laws.¹²⁸ When agents are uncomfortable with the laws or policies they are being told to enforce, the cognitive dissonance leads them to set aside their empathy in favor of coldly following orders from superiors.¹²⁹ Making detainees feel subordinate helps to solidify the guards’ ranking.¹³⁰ As Brough Rogers explains, “Humiliation... works to make those subject to it complicit in their own subjugation”¹³¹

Detention center guards may also use physical violence to help justify the system in which they work. A former detention center employee explained, “My coworkers were good people. But in order to sleep at night, they had to convince themselves that the people they were guarding were dangerous.”¹³² Seeing detainees as dangerous leads guards to physically harm them. Detainees frequently report that guards use excessive

¹²⁷ Turnbull 2016, 69.

¹²⁸ Brough Rogers, Juliet. “The Work of Humiliation: A Psychoanalytic Understanding of Checkpoints, Borders and the Animation of the Legal World.” *Law and Critique* 28, no. 2 (July 2017): 215–33.

¹²⁹ *Ibid.*, 26. See also: Milgram, Stanley. *Harpers Magazine*. The Perils of Authority. 1974.

¹³⁰ For more on humiliation and artificially-created power dynamics see: Shuttleworth, Martyn. “Stanford Prison Experiment.” *experiment-resources.com* (2008).

¹³¹ Brough Rogers 2017, 230.

¹³² Wallman, Sam. “At Work Inside Our Detention Centres: A Guard’s Story,” 2014. <http://tgm-serco.patarmstrong.net.au/>.

force to move detainees to and within immigration detention centers.¹³³ Guards also use physical punishment to retaliate against detainees, which has included pepper spray,¹³⁴ making them sleep in an industrial refrigerator,¹³⁵ and forcing detainees to fight each other.¹³⁶

Sexual harassment and assault are rampant in detention centers, and far too often no one is held accountable. In the UK, the Home Office stated that six formal allegations of sexual assault were made by detainees against guards between 2013 and 2015.¹³⁷ However, a report by the organization Women for Refugee Women found that one third of women interviewed had experienced some form of sexual harassment or assault while in detention.¹³⁸ In the US between 2010 and 2017, 1,224 complaints of sexual assault at detention centers were filed but only 43 were investigated.¹³⁹ One woman says she was

¹³³ Phillips, Scott, Jacqueline Maria Hagan, and Nestor Rodriguez. "Brutal borders? Examining the treatment of deportees during arrest and detention." *Social Forces* 85, no. 1 (2006): 93-109.

¹³⁴ "Persecuted in Immigration Detention: A National Report on Abuse Motivated by Hate." *Freedom for Immigrants*, June 2018. https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5b3174e46d2a73f2d1f56aab/1529967847644/FFI_NatReportAbuse_062518.pdf.

¹³⁵ Washington, John. "Here Is Just Some of the Hateful Abuse Immigrants Face in Detention Centers." *The Nation*, June 27, 2018. <https://www.thenation.com/article/just-hateful-abuse-immigrants-face-detention-centers/>.

¹³⁶ Cochrane, Liam. "Australia Considers Five-Year Offshore Detention Centre Contracts." *ABC News*, August 7, 2015. <http://www.abc.net.au/news/2015-08-07/australia-considers-five-year-offshore-immigration-contracts/6681208>.

¹³⁷ "Parliamentary Question Reveals Extent of Sexual Assaults at Yarl's Wood." *Asylum Aid*, August 1, 2016. <https://www.asylumaid.org.uk/parliamentary-question-reveals-extent-sexual-assaults-yarls-wood/>.

¹³⁸ Girma, Marchu, Isabelle Kershaw, Gemma Lousley, Sophie Radice, and Natasha Walter. "I Am Human: Refugee Women's Experiences of Detention in the UK." *Women for Refugee Women*, January 2015, 4.

¹³⁹ Sperti, Alice. "Detained, Then Violated." *The Intercept*, April 11, 2018. <https://theintercept.com/2018/04/11/immigration-detention-sexual-abuse-ice-dhs/>.

pushed to the ground and sprayed with mace while guards groped her, then later filmed her as she showered the mace off her skin.¹⁴⁰ On Manus Island in 2015, three security staff that were accused of indecent exposure and attempted rape were sent back to Australia without an investigation.¹⁴¹

Verbal abuse of detainees is still corporeal. Guards frequently use racist, sexist, and dehumanizing insults. Detainees are harassed for basic human actions; a former detainee said that when he was in an ICE processing center in California, “guards would mock the detainees lined up to get their meals by imitating the call of cows. ‘Moo! Here are the cows, walking through!’”¹⁴² In another incident, a guard referred called a detainee a “dog” and told her “go fetch your food.”¹⁴³ Detainees are also often subjected to racist comments and slurs,¹⁴⁴ drawing attention to the fact that most detainees are people of color while most guards are white.¹⁴⁵

¹⁴⁰ Ibid.

¹⁴¹ Cochrane, Liam. “Rape Investigation Deadline Passes as Tensions Rise on Manus Island.” ABC News, July 31, 2015. <http://www.abc.net.au/news/2015-07-30/rape-investigation-deadline-passes-amid-tensions-on-manus-island/6661054>.

¹⁴² Speri 2018.

¹⁴³ “Persecuted” 2018, 2.

¹⁴⁴ Hagan, Jacqueline Maria, Nestor Rodriguez, and Brianna Castro. “Social effects of mass deportations by the United States government, 2000–10.” *Ethnic and Racial Studies* 34, no. 8 (2011): 1374-1391.; Phillips, Scott, Jacqueline Maria Hagan, and Nestor Rodriguez. “Brutal borders? Examining the Treatment of Deportees During Arrest and Detention.” *Social Forces* 85, no. 1 (2006): 93-109.

¹⁴⁵ Johnson, Kevin R. “The Case Against Race Profiling in Immigration Enforcement.” *Washington University Law Review* 78, no. 3 (2000): 675-736; Soldatic, Karen, and Lucy Fiske. “Bodies ‘Locked Up’: Intersections of Disability and Race in Australian Immigration.” *Disability & Society* 24, no. 3 (2009): 289-301.

Basic personal hygiene can also be limited in immigration detention, with strict time limits for showering and restrictions on what personal care items detainees can keep with them.¹⁴⁶ Detainees at the Northwest Detention Center in Tacoma report having to show their ID in order to borrow shampoo.¹⁴⁷ Detainees are often refused clean clothing for days at a time.¹⁴⁸ A detainee in the UK was forced into solitary confinement for trying to moisturize after showering. The report explaining her confinement said that she was non-compliant by “removing her clothing and covering herself in oil.”¹⁴⁹ Humiliation also occurs through regulation of dental control. In the United States, ICE detention centers are obligated to provide dental care for detainees who are held for over six months. However, this is rarely the practice, and some detainees have been put on waitlists for months or even years for basic dental care.¹⁵⁰ Detainees at a for-profit center in California told inspectors that they have had multiple teeth fall out while they waited for a cavity to be filled. The dentist’s response to complaints was that he did not have enough time to fill cavities, and that detainees would be fine if they brushed and flossed regularly. When it was pointed out that floss was only available to detainees who could afford to buy it from commissary, the dentist suggested that they “could use string from their socks to floss if they were dedicated to dental hygiene.”¹⁵¹

¹⁴⁶ Schriro 2009, 54-56.

¹⁴⁷ “Translation of Hunger Striker’s Statement.” Facebook page. NWDC Resistance/Resistencia al NWDC, April 18, 2017. https://www.facebook.com/pg/NWDCResistance/posts/?ref=page_internal.

¹⁴⁸ “Expose and Close” 2012, 5.; Dow 2004, 13, 47-48.

¹⁴⁹ Page, 2017.

¹⁵⁰ Bull, Melissa, Emily Schindeler, David Berkman, and Janet Ransley. "Sickness in the System of Long-Term Immigration Detention." *Journal of Refugee Studies* 26, no. 1 (2012): 47-68.

¹⁵¹ Speri 2018.

These acts of humiliation are based on mocking detainees for taking on corporeal autonomy. Simple acts like showering or flossing are subject to control within immigration detention. Though not necessary for survival, controlling these actions reaffirms the state's power over migrant bodies while they are detained.

Conditions and Survival

Incarceration puts detainees in a position of dependence on the incarcerator for basic necessities. Detainees are forbidden from leaving, preventing them from earning an income or maintaining their own survival beyond what the detention center allows. This violates their most basic human autonomy—to keep themselves alive. While the material structure of immigration detention centers is inherently corporeal, it is worsened by poor conditions. As César Cuauhtémoc Garca Hernandez points out, no matter how lavish the setting became, immigration detention would still entail a lack of freedom.¹⁵² Regardless, the conditions of immigration detention are inevitably poor. The basic necessities needed for human survival are very often limited and substandard. Many of the reports describe conditions that violate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides certain minimum standards of treatment everyone in state custody regardless of their legal status.¹⁵³

¹⁵² Hernandez, César Cuauhtémoc Garca. “Detention as Punishment.” *UCLA Law Review* 61 (2014). p 1382-1396. See also: Routon, Erin. “When the State Does Care, Do You?” Oxford Law Faculty, September 7, 2018. <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2018/09/when-state-does>.

¹⁵³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85.

Descriptions from detainees and independent reports repeatedly say that food in immigration detention centers is inadequate. The food provided is limited, not nutritious, and sometimes unsafe to eat. Detainees have to eat at specified meal times and eat whatever is made available for them. That food is usually unhealthy, canned or frozen, with limited fruit and vegetable portions.¹⁵⁴ Worse, detainees have described completely inedible food with mold, bits of plastic, or maggots.¹⁵⁵ Detainees hypothesized that the food was intentionally inedible so that they would be forced to buy food at the commissary—increasing profits at privatized centers.¹⁵⁶

Water is also quite often limited or unsafe. During the summer of 2012, detainees at the Stewart Detention Center in Georgia reported frequent water outages, including an outage that lasted for over 24 hours. Detainees resorted to melting ice from an ice machine to drink.¹⁵⁷ Even when it is available, water is not always safe to drink. Detainees at the Stewart Detention Center said that between water outages, the water was unclean, even

¹⁵⁴ “Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention.” Human Rights Watch, June 20, 2018. <https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration>.

¹⁵⁵ “Expose and Close: Stewart Detention Center Georgia.” Detention Watch Network, November 2012.

¹⁵⁶ Speri, Alice. “At Largest ICE Detention Center in the Country, Guards Called Attempted Suicides ‘Failures.’” The Intercept (blog), October 11, 2018. <https://theintercept.com/2018/10/11/adelanto-ice-detention-center-abuse/>.

¹⁵⁷ “Expose and Close: Stewart Detention Center Georgia.” Detention Watch Network, November 2012.

greenish. Most detainees would microwave the drinking water they were given at mealtimes in an attempt to purify it.¹⁵⁸

Even the air detainees breathe is of low quality in immigration detention. There have been multiple reports of poor ventilation in detention centers.¹⁵⁹ Outdoor recreation time is also limited, and sometimes illegally withheld.¹⁶⁰ Detainees in Australia's open-air offshore processing centers still have unhealthy air quality; detainees and doctors on Nauru have claimed that people get sick from sleeping inside of moldy tents.¹⁶¹

Poor conditions could be explained away as state indifference toward detainees. The state simply does not care about them, so it invests little money and effort into their wellbeing. However, this indifference also demonstrates a sinister form of control. The conditions are often illegal under international and domestic law, but they work toward the state's goal of creating docile detainees. These conditions not only make detainees suffer, they serve as daily reminders that the state has their lives in its hands. It allows the state to play with detainees' survival instincts. It is continued humiliation via false choice; people need food to stay alive, so the center can make the food as bad as they want to and detainees will still have to eat it. Detainees are allowed to stay alive, but just as the state permits their bare survival.

¹⁵⁸ "Expose and Close" 2012.

¹⁵⁹ "Concerns About ICE Detainee Treatment and Care at Detention Facilities." Department of Homeland Security, Office of Inspector General, December 11, 2017.

¹⁶⁰ Shoichet 2017.

¹⁶¹ Doherty, Ben, and Saba Vasefi. "'You Hate Us That Much?' Mother of Refugee Who Killed Himself on Nauru Berates Australia." *The Guardian*, June 27, 2018, sec. World news. <http://www.theguardian.com/world/2018/jun/28/you-hate-us-that-much-mother-of-refugee-who-killed-himself-on-nauru-berates-australia>.

Medical Care and Preventable Deaths

The state also controls detainee survival through access to healthcare, which is often dangerously limited. As detainees' movement out of detention centers is restricted, most have medical centers on site or bring in doctors as needed. Freedom for Immigrants found that medical negligence was the most common grievance reported to the nonprofit.¹⁶² Problems with healthcare for detainees in the United States include doctors checking in on non-English-speaking detainees without an interpreter,¹⁶³ stamping medical files without physically viewing the patient,¹⁶⁴ abruptly canceling appointments, and failing to follow through with recommended treatment.¹⁶⁵ This has dire consequences. A joint report by Human Rights Watch, Detention Watch Network, the ACLU and National Immigrant Justice Center showed that substandard medical care caused or contributed to 8 of the 15 deaths in immigrant detention centers between December 2015 and April 2017.¹⁶⁶

In Australia's offshore processing centers, access to medical care is limited by externalized borders. Since these centers are held on small and impoverished island

¹⁶² "Detention Map & Statistics." Freedom for Immigrants, January 2018.
<https://www.freedomforimmigrants.org/detention-statistics/>.

¹⁶³ Kelly 2018, 7.

¹⁶⁴ Speri 2018.

¹⁶⁵ Hellmann, Melissa. "Incarcerated and Infirm: How Northwest Detention Center Is Failing Sick Inmates," October 10, 2018.
<https://www.seattleweekly.com/news/incarcerated-and-infirm-how-northwest-detention-center-is-failing-sick-inmates/>.

¹⁶⁶ "Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention." Human Rights Watch, June 20, 2018.
<https://www.hrw.org/report/2018/06/20/code-red/fatal-consequences-dangerously-substandard-medical-care-immigration>.

nations, it is not uncommon for certain medical procedures to be unavailable. However, medical transfers mean allowing migrants to enter Australian territory, triggering the right to seek asylum. Previously, urgent medical transfers were arranged directly between the Australian Border Force and International Health and Medical Services, the Australian government's health contractor. In July 2017, Australia's Department of Immigration and Border Protection put in place a new policy that all medical transfers must be approved by the Nauru hospital overseas medical referral committee.¹⁶⁷ The change was widely criticized as a political decision designed to limit and slow down transfers. Medical staff on Nauru say that the Overseas Medical Referral (OMR) is willfully inefficient, meeting irregularly and often deferring important decisions.¹⁶⁸

In August that same year, nearly 50 detainees on Nauru were denied their requested medical transfers to Australia. They had a variety of reasons for medical transfers, but all were serious and many were life threatening. Some needed treatment for injuries resulting from self-harm, an increasing phenomenon on the island.¹⁶⁹ Although doctors on the island confirmed the detainees' medical concerns, Nauruan officials refused to sign off on transfers because they were not convinced they were serious enough to

¹⁶⁷ Davidson, Helen. "Australia Let Nauru Block Refugee Medical Transfers to Preserve 'Relationship.'" *The Guardian*, September 30, 2018, sec. Australia news. <https://www.theguardian.com/australia-news/2018/sep/30/australia-nauru-medical-transfers-relationship>.

¹⁶⁸ Doherty, Ben. "Pregnant Refugees Refused Abortions on Nauru Must Be Brought to Australia, Says AMA." *The Guardian*, August 23, 2017, sec. World news. <https://www.theguardian.com/world/2017/aug/23/refugees-needing-high-level-treatment-should-be-brought-to-australia-medical-bodies-say>.

¹⁶⁹ Worthington, Elise. "Australian Doctor Kicked off Island by Nauruan Government." Australian Broadcasting Corporation, September 7, 2018. <http://www.abc.net.au/news/2018-09-07/asylum-seeker-doctor-removed-from-nauru/10208112>.

warrant a transfer. The OMR has claimed that sending an air ambulance for detainees despite the Nauruan government's denial would harm the "working relationship" between the two countries.¹⁷⁰ Detainees' lives were not prioritized over diplomatic relations allowing them to continue to be detained.

There have also been increasing reports of preventable deaths in immigration detention centers in Japan because there are no medical professionals on site. A Reuters report found, "Guards with scant medical training make critical decisions about detainees' health. Doctors visit some of the country's main detention centers as infrequently as twice a week. And on weekends there are no medical professionals on duty at any of the immigration detention facilities."¹⁷¹

Niculas Fernando was one such preventable death.¹⁷² 57-year-old Fernando decided to travel to visit his son who lives in Tokyo while potentially dangerous elections were taking place in Colombo. He never made it past immigration at the Haneda Airport. A few days after transferring to the detention section of the Tokyo Regional Immigration Bureau, Fernando woke up with severe chest pain. The guards refused to take him to the hospital, claiming that all nearby hospitals were closed on Saturdays. Guards measured his pulse and blood pressure themselves and found no abnormalities, but Fernando insisted that something serious was wrong, saying, "I need to go to hospital or I'm going

¹⁷⁰ Davidson 2018.

¹⁷¹ Funakoshi, Minami, Thomas Wilson, Ami Miyazaki, and Mari Saito. "Special Report-Death, Drugs and Detention in Japan's Immigration System." Thompson Reuters Foundation News, March 7, 2018. <http://news.trust.org/item/20160308144722-tpcd4/>.

¹⁷² Ibid.

to die.” He died one hour after being moved to an observation cell. Despite the fact that Fernando was under surveillance cameras, it took guards at least three hours to notice that he had died.¹⁷³ Although the autopsy report commissioned by the center stopped short of saying that Fernando’s death was preventable, a national oversight group’s report stated unequivocally that the guards “missed opportunities to avoid his death.”¹⁷⁴

Deliberately withholding medical treatment means that the state is “letting die,”¹⁷⁵ if not effectively killing detainees. Not saving someone’s life when it is within one’s ability to do so is can be prosecuted as gross negligence or as manslaughter by omission.¹⁷⁶ Most philosophers who write on the issue say that there is an important moral distinction between killing and not saving.¹⁷⁷ However, bioethicist James Rachels argues that letting someone die is tantamount to murder. Rachels says that the common argument that the moral difference lies in action versus inaction is flawed because inaction is itself an

¹⁷³ Wilson, Thomas, Mari Saito, Minami Funakoshi, and Ami Miyazaki. “Grim Toll Rises in Japan’s Detention Centers as Foreigners Seek Asylum.” Reuters, March 8, 2016. <http://www.reuters.com/investigates/special-report/japan-detention/>.

¹⁷⁴ Ibid.

¹⁷⁵ Foucault 2003, 241.

¹⁷⁶ See: Ashworth, A. "Manslaughter by Omission and the Rule of Law"(2015)." *Criminal Law Review* 8: 563.; Elliot, Catherine. "Liability for Manslaughter by Omission: Don't Let the Baby Drown," *Journal of Criminal Law* 74, no. 2 (April 2010): 163-180.

¹⁷⁷ Gennaro, Rocco J., “The Relevance of Intentions in Morality and Euthanasia,” *International Philosophical Quarterly* 36 (1996), 217-227; Oddie, Graham, “Killing and Letting-Die: Bare Differences and Clear Differences,” *Philosophical Studies* 88 (1997),267-287.; Trammell, Richard, “Saving Life and Taking Life,” *Journal of Philosophy* 72 (1975), 131-137.

action.¹⁷⁸ The state's inaction on Fernando's heart attack, and the inaction on other preventable detainee deaths, makes the state responsible.

This is where there is a significant deviation from treatment of hunger strikers, revealing the dichotomy between acceptable and unacceptable death. The state theoretically intervenes when detainees harm themselves in protest in order to preserve its own reputation. However, it also reflects poorly on the state when detainees in their care die from lack of proper medical care. For the incarcerating state, death due to medical reasons outside of the detainee's control is more tolerable than death as protest, even though both clearly reveal injustice within the detention center.

Abortions and Miscarriages

Corporeal control requires a racial and gendered regime to operate efficiently. Women in immigration detention are subjected to further corporeal power through restrictions on reproductive healthcare. Of the 50 detainees on Nauru who were denied medical transfers in August 2017, "at least three" were pregnant women who wanted to terminate their pregnancy.¹⁷⁹ Abortion is illegal on the predominately Christian island of Nauru, so women who want abortions must apply for a medical transfer to Australia. All of these women had doctor's requests made on their behalf, but the OMR committee denied the transfers. For at least one of the women, a psychiatrist stated that her "mental health was being significantly impacted upon by her current situation and that if the termination of

¹⁷⁸ Rachels, James. "Killing and Letting Die." Encyclopedia of Ethics, 2nd edition, ed. Lawrence Becker and Charlotte Becker (New York: Routledge, 2001), vol. 2, 947-50. See also: Bennett, Jonathan, *The Act Itself* (Oxford: Clarendon Press, 1995).

¹⁷⁹ Doherty 2017.

pregnancy does not proceed it will very likely pose a significant risk to her physical and mental health, both from an individual, familial and community perspective.”¹⁸⁰ The OMR refused the transfers on the basis that it would be a bad political decision to sign off on a procedure that is illegal on Nauru.¹⁸¹

In the United States, there have recently been a few high-profile cases of detainees being denied access to an abortion, contrary to legal norms.¹⁸² One young woman was inexplicably rushed to the hospital to have her stomach pumped after she intentionally ingested a prescribed abortion pill.¹⁸³ In October 2017, the ACLU took on the case of a 17-year-old detainee known as Jane Doe, who went through a series of obstacles obtaining an abortion in Texas. Doe was initially denied because Texan state law requires minors to have a parents’ permission to undergo an abortion, and she was unaccompanied in the US. After she received the necessary court order to make an exception, state officials still refused to let her leave the center for the procedure. She finally underwent the abortion after a federal appeals court ruled in her favor.¹⁸⁴ The decision was appealed again, but thrown out before reaching the Supreme Court because the point was moot; the abortion in question had already taken place. This means that the question is still legally

¹⁸⁰ Ibid.

¹⁸¹ Davidson 2018.

¹⁸² “Detention Standards 4.4 Medical Care (Women).” In Performance-Based National Detention Standards 2011 (PBNDS 2011), Revised December 2016., 322–26, 2016.

¹⁸³ “Garza v. Hargan - Challenge to Trump Administration’s Attempts to Block Abortions for Young Immigrant Women.” American Civil Liberties Union, August 8, 2018. <https://www.aclu.org/cases/garza-v-hargan-challenge-trump-administrations-attempts-block-abortion-young-immigrant-women>.

¹⁸⁴ Chappell, Bill. “Jane Doe’ Immigrant Has Abortion In Texas, After Battle With Trump Administration.” NPR, October 25, 2017. <https://www.npr.org/sections/thetwo-way/2017/10/25/560013894/jane-doe-has-abortion-in-texas-after-battle-with-trump-administration>.

unresolved.¹⁸⁵ Doe made it clear that she was mentally unaffected by the politics surrounding her case, saying in a statement through the ACLU, "I made my decision and that is between me and God. Through all of this, I have never changed my mind."¹⁸⁶

This decision from an anti-immigration perspective was a bit ironic. The United States has birthright citizenship, so any child born on American soil is eligible for citizenship regardless of the parents' immigration status. Fears about "anchor babies"¹⁸⁷ have been a recurring theme in anti-immigration American political rhetoric, leading to pregnant non-citizen women being turned away at the border even if they have a valid entry visa. The United States, in general, seeks to limit the number of births by non-citizen mothers. The only real benefit for the state in this case is effective corporeal control of migrant women's bodies.

The state's treatment of female detainees is not motivated by a genuine concern for the unborn, as evidenced by the fact that it also severely limits access to prenatal care in detention centers. Several women in ICE detention have lost wanted pregnancies, a trend on the rise since the Trump administration recently rolled back protections for pregnant detainees.¹⁸⁸ Women cited delayed, insufficient, or absent prenatal care as reasons for their miscarriages. Some blamed physical abuse by guards and the generally unhealthy

¹⁸⁵ "Garza v. Hargan" 2018.

¹⁸⁶ Chappell, 2017.

¹⁸⁷ Huang, Priscilla. "Anchor Babies, Over-Breeders, and the Population Bomb: The Reemergence of Nativism and Population Control in Anti-Immigration Policies." *Harv. L. & Pol'y Rev.* 2 (2008): 385.

¹⁸⁸ Jones, Liz. Pregnant And Detained. All Things Considered. Aired April 6, 2018. Accessed October 1, 2018. <https://www.npr.org/2018/04/05/599802820/pregnant-and-detained>.

atmosphere of immigration detention. Rubia Mabel Morales Alfaro says that border agents pushed her to the ground and handled her roughly as they brought her into detention even though she warned them that she was pregnant. She later told reporters, “When the doctor examined me, he said there were many reasons for the miscarriage, but it was likely because of the conditions they had me in.”¹⁸⁹ Similarly, Australia has prevented women with complicated pregnancies from being transferred to the mainland to give birth in hospitals with specialized obstetricians.¹⁹⁰

These seemingly paradoxical responses to pregnant women further show the state’s determination of acceptable and unacceptable death. They demonstrate an intolerance of abortion, yet a tacit acceptance of miscarriages. If the state sees the unborn fetus as a life, as implied by strict control over abortion access, then allowing a miscarriage to occur because of insufficient prenatal care is equivalent to allowing detainee deaths because of circumscribed medical care. Both denote the state’s tolerance of accidental deaths and intolerance of corporeal autonomy on the part of the detainee.

Conclusion

Detainees suffer from total corporeal control from the moment they are stopped by immigration authorities. Handcuffs prevent them from moving their limbs. Walls prevent them from moving their bodies. Uniforms and ID numbers superficially rob them of their

¹⁸⁹ Sinclair, Harriet. “Pregnant Women Detained By ICE Miscarried and Did Not Get Medical Care, Report Claims.” *Newsweek*, July 10, 2018. <https://www.newsweek.com/pregnant-women-detained-ice-miscarried-babies-and-didnt-get-medical-care-1015676>.

¹⁹⁰ Marshallsea, Trevor. “Refugee’s Medical Emergency Reignites Debate in Australia.” *BBC News*, February 3, 2017. <https://www.bbc.com/news/world-australia-38836424>.

identities. Constraints on food, water, and hygiene weaken them, and deficient medical care threatens their lives. Meanwhile, they grow older in these disrespectful conditions, not knowing when or how their lives will change.

As part of its project to control immigration and filter out the undeserving, the state keeps immigration detainees in a setting that severely limits their corporeal autonomy. Corporeal control is both the means and the ends of immigration detention. It is no wonder, then, that detainees try to regain this control by using corporeal means of resistance.

Chapter 3: Corporeal Resistance

Against the victimhood narrative that portrays detainees as passive victims of an oppressive system, this chapter examines the ways in which detainees resist structural power. Immigration detention is an oppressive system, but detainees still have the agency to resist. Lucy Fiske even argues that the conditions in detention centers virtually guarantee resistance.¹⁹¹ The fact of incarceration only limits and informs their options for how they resist.

In the context of corporeal power, detainees resist using corporeal methods. Rather than violence against others, these methods of resistance are primarily self-inflicted. This includes hunger strikes, self-immolation, and self-mutilation. These methods can both be collective or individual and have a combination of specific and general demands. Some acts of corporeal resistance are not meant as negotiating tools, but rather forms of symbolic protest meant to convey a message against immigration detention. The specific circumstances and strategies are varied, but all are a way of reasserting corporeal autonomy in opposition to corporeal power by the state.

Detainees' corporeal acts of resistance have been analyzed in a variety of ways. The simplest explanation is to see these acts the same way any other acts of self-harm are analyzed: as a symptom of mental illness.¹⁹² The perception is that since immigration

¹⁹¹ Fiske, Lucy. "Riotous Refugees or Systemic Injustice? A Sociological Examination of Riots in Australian Immigration Detention Centres." *Journal of Refugee Studies* 27, no. 3 (August 2013).

¹⁹² Self-harm is a known symptom of various psychological disturbances, which I will not detail here. For more, see: Hawton, Keith, Kate EA Saunders, and Rory C. O'Connor.

detention has a strong correlation with declining mental health, detainees are simply using unhealthy coping mechanisms to deal with their emotional pain.¹⁹³ Along the same lines, anti-immigration politicians say that detainees will intentionally injure themselves for medical attention, whether simply because they crave attention, or because a stay in the hospital gives them an opportunity to seek help for complaints about the conditions of the detention center.¹⁹⁴ On Australia's offshore processing centers, serious injuries may require them to be airlifted to the mainland, thereby triggering the right to seek asylum.¹⁹⁵

Corporeal resistance is often couched in terms of "desperation."¹⁹⁶ Detainees are held in poor conditions with limited access to legal remedies, so the perception is that they have

"Self-harm and Suicide in Adolescents." *The Lancet* 379, no. 9834 (2012): 2373-2382.; "Self-Harm." NAMI: National Alliance on Mental Illness. 2018. Accessed October 19, 2018. <https://www.nami.org/Learn-More/Mental-Health-Conditions/Related-Conditions/Self-harm.>; Zetterqvist, Maria. "The DSM-5 Diagnosis of Nonsuicidal Self-Injury Disorder: A Review of the Empirical Literature." *Child and Adolescent Psychiatry and Mental Health* 9, no. 1 (2015): 31.

¹⁹³ See, for example: Doherty, Ben. "Nauru Self-Harm 'contagion' as 12-Year-Old Refugee Tries to Set Herself Alight." *The Guardian*, August 22, 2018, sec. Australia news. <https://www.theguardian.com/australia-news/2018/aug/23/nauru-self-harm-contagion-as-12-year-old-refugee-tries-to-set-herself-alight.>; "Migrants Sew Lips Together in Rome Protest." *The Local*, December 22, 2013. <https://www.thelocal.it/20131222/migrants-sew-lips-together-in-rome-protest>.

¹⁹⁴ Puggioni, Raffaella. "Speaking Through the Body: Detention and Bodily Resistance in Italy." *Citizenship Studies* 18, no. Issue 5: The Body as a Site for Politics: Citizenship and Practices of Contemporary Slavery (July 22, 2014): 562-77.

¹⁹⁵ Bradley, Michael. "No One Burns Themselves to Change Their Address." *ABC News*, May 5, 2016. <https://www.abc.net.au/news/2016-05-05/bradley-no-one-burns-themselves-to-get-a-change-of-address/7385522>.

¹⁹⁶ Kurlmelovs, Royce. "In a Bad Week for Australian Border Force, a Refugee Threatens Self-Immolation and Disappears." *Vice*, October 20, 2015. https://www.vice.com/en_au/article/bnp55w/in-a-bad-week-for-australian-border-force-a-refugee-threatens-self-immolation-and-disappears.

nothing to bargain with but their lives.¹⁹⁷ Another reason posited for why detainee resistance is so often self-destructive is because of the shock value.¹⁹⁸ More attention means a wider audience to hear their demands and potentially make changes, and detainees having a sit-in protest is less likely to make international news than detainees sewing their own lips together. Morbid acts like these capture the public's attention in ways that other forms of protest might not.

All of these explanations contain some elements of truth, and could be more or less relevant in specific cases. Fiske says of acts of resistance in Australia, "Detainees were distressed, depressed, feeling hopeless, powerless and despondent. These feelings informed and drove their actions protesting detention, but so too did political analysis."¹⁹⁹ Regardless of the varied conscious intentions of the actors, the result is still the same. I analyze these acts as a strategic and deliberate method of resistance against the state's corporeal power.

Banu Bargu uses the term "necroresistance" to describe the ways in which people use self-destructive violence to resist state oppression. Her research focuses on the Death Fast in high-security Turkish prisons in the early 2000s. The prisoners used the "weaponization of life," which is "a tactic in which the body is utilized as the conduit of a

¹⁹⁷ Ellermann, Antje. "Undocumented Migrants and Resistance in the Liberal State." *Politics & Society* 38, no. 3 (September 1, 2010): 408–29. <https://doi.org/10.1177/0032329210373072>; Puggioni 2014.

¹⁹⁸ Fiske, Lucy. "Self-Immolation Incidents on Nauru Are Acts of 'Hopeful Despair.'" *The Conversation*, May 4, 2016. <http://theconversation.com/self-immolation-incidents-on-nauru-are-acts-of-hopeful-despair-58791>.

¹⁹⁹ Fiske, Lucy. "Insider Resistance: Understanding Refugee Protest Against Immigration Detention in Australia, 1999 – 2005." Curtin University, 2012, 183.

political intervention.”²⁰⁰ According to Bargu, these acts are not just acts of desperation by people who have nothing to lose, but intentional, strategic resistance to state violence.

Despite seeing these methods as political strategy, it is important to remember that these are real people who have experienced (or still are experiencing) real, physical suffering. I try to present their stories keeping this in mind, while still validating their political agenda. My intention is neither to relish in gory details nor to capitalize on their suffering. However, I think it is important to tell specific stories in order to avoid only thinking of these concepts as an abstraction. To that end, I will use direct quotes from detainees involved in resistance whenever possible. As stated in chapter 1, relying on prison literature centers the focus in the incarcerated themselves. Allowing them to tell their own stories counters the impulse to assume that the detainees involved are behaving irrationally and instead evaluate the mixed motivations for their actions.

Narratives of Corporeal Resistance

The most common form of protest in immigration detention seems to be hunger strikes. Refusing food as a form of protest has a long history in peaceful resistance. Best known examples come from the Indian independence movement led by Gandhi,²⁰¹ imprisoned IRA members in Northern Ireland,²⁰² and the women’s suffrage movement in the UK.²⁰³

²⁰⁰ Bargu 2014, 16

²⁰¹ Gould, James W. "Gandhi’s Civil Disobedience." *The Acorn* 3, no. 2/1 (1988): 3-7.

²⁰² Feldman, Allen. *Formations of Violence: The Narrative of the Body and Political Terror in Northern Ireland*. University of Chicago Press, 1991.

“There is an undeniable link between imprisonment and hunger strike,” as Maud Ellman argues.²⁰⁴ Psychologist Bea Brockman observes that for sentenced prisoners, hunger strikes are usually “instrumental, a method of reducing tension or an attempt to precipitate change, rather than a serious desire to die,” whereas for those in immigration detention, “hunger-strike can be motivated by the desire to die rather than accept the fate handed down to him.”²⁰⁵

While hunger striking does not usually result in death, it is a serious health risk. In the first three days of fasting, the body is still using energy from stored glucose. After that, the liver starts processing body fat. After depleting fat, the body enters a starvation mode, at which point the body starts consuming the muscles and vital organs for energy, and the loss of bone marrow becomes life threatening. Hunger strikers begin to die after 40 days of fasting.²⁰⁶ Hunger strikes may be simultaneous or relayed, wherein strikers take turns fasting for periods of time. Some hunger strikes mean just refusing food, while others strike by refusing both food and drink.²⁰⁷ Unfortunately, the details of the type of hunger striking detainees engage in is rarely available.

²⁰³ Grant, Kevin. "British Suffragettes and the Russian Method of Hunger Strike." *Comparative Studies in Society and History* 53, no. 1 (2011): 113-143.

²⁰⁴ Ellmann, Maud. *The Hunger Artists: Starving, Writing, and Imprisonment*. Cambridge, MA: Harvard University Press, 1993.

²⁰⁵ Brockman, Bea. "Food Refusal in Prisoners: A Communication or a Method of Self-Killing? The Role of the Psychiatrist and Resulting Ethical Challenges." *Journal of Medical Ethics* 25, no. 6 (December 1, 1999), 452.

²⁰⁶ Fiske 2012, 187.

²⁰⁷ *Ibid*, 180-185.

In 2017, detainees at the Northwest Detention Center in Tacoma, Washington began a hunger strike that had an estimated 750 participants at its peak.²⁰⁸ At first, the participants were mostly men.²⁰⁹ The group NWDC Resistance organized rallies of support outside of the center and posted regular updates on their Facebook page. The first list of demands, published as a handwritten note, reads:

1. Change the food (menu)
2. Lower the commissary (reasonable prices)
3. Better hygiene (with the clothes)
4. Increase the rec-time
5. Being programs such as: school, and programs to keep our heads occupied and evade depression mentally
6. Better medical attention
7. Increase wages for working detainees
8. Agitate court proceeding (speed up the process)²¹⁰

A month after the initial hunger strike announcement, 70 women at the Northwest Detention Center also joined. They published a new list of demands on the NWDC Facebook page:

Parole, accessible bond, guaranteed political asylum: there are cases of people who have been granted asylum by a judge and are still not free, new underwear, more recreation time in the rec yard, more time for religious services, don't throw out the belongings of the detainees, documents in our mother tongue, purified potable water available 24 hours a day, improvements to our nutrition (including fruit on the menu), stop transfers of detainees from one facility to the other, provide a variety of exercise equipment in the units, improvements in the medical realm- trained medics, medical attention and assistance, courts on time, without

²⁰⁸ Person, Daniel. "There Are Now 750 People on Hunger Strike at the Northwest Detention Center." *Seattle Weekly*, April 13, 2017. <http://www.seattleweekly.com/news/there-are-now-750-people-on-hunger-strike-at-the-northwest-detention-center/>.

²⁰⁹ *Ibid.*

²¹⁰ "Demands of People Detained on Hunger Strike at NWDC Tacoma." Facebook page. NWDC Resistance/Resistencia al NWDC, April 10, 2017.

delay or postponement, honesty from ICE- concrete and precise answers, improvements in lowering commissary prices.²¹¹

The strike continued off and on for the next year. In August 2018, the hunger strikers announced that that they would begin a hunger strike and work stoppage from August 21 to September 9th in solidarity with the US prison strike.²¹² This time, their motivations were more broad: “We are taking part in a hunger strike nation wide, demanding change and closure of the detention centers, we are acting with solidarity for all those people who are being detained wrongfully, and stand together to help support all those women who have been separated from their children, and to stop all the family separations happening today.”²¹³

Across the world in the United Kingdom, another hunger strike began. On February 21st 2018, over 100 women went on hunger strike at Yarl’s Wood, a female-majority center in

²¹¹ “Northwest Detention Hunger Strikers Issue Demands.” Facebook page. NWDC Resistance/Resistencia al NWDC, June 22, 2017.

²¹² “Hunger Strike & Work Stoppage at NWDC Tacoma People Detained Join National Prison Strike.” Facebook page. NWDC Resistance/Resistencia al NWDC, August 21, 2018.
<https://www.facebook.com/NWDCResistance/photos/a.672106136183603/1944504885610382/?type=3&theater.>; “The Prison Strike Is Working Just How It Was Planned.” The Atlantic. Accessed September 4, 2018.
[https://www.theatlantic.com/business/archive/2018/08/prison-strike/568948/.](https://www.theatlantic.com/business/archive/2018/08/prison-strike/568948/)

²¹³ “Demands from Hunger Strikers Joining #nationalprisonstrike #august21.” Facebook page. NWDC Resistance/Resistencia al NWDC, August 21, 2018.
<https://www.facebook.com/NWDCResistance/photos/pcb.1945000262227511/1944998178894386/?type=3&theater.>

the UK.²¹⁴ They submitted a handwritten note explaining their demands, which was published on the website Detained Voices the next day. It reads:

1. Shorter bail request periods.... 2. Amnesty for those who have lived in the UK 10 years and above 3. End indefinite detention. Detention periods shouldn't be longer than 28 days. 4. End Charter flights... 5. No more re-detention... 6. End systematic torture... 7. Stop separating families... 8. No detention of people who came to the UK as children... 9. The beds need to be changed... 10. LGBT+ persons' sexuality be believed... 11. Fit emergency alarms in every room in the detention centre... 12. Give us access to proper healthcare. 13. Give us proper food to look after our diets. 14. Release people with outstanding applications. 15. We want to speak to Alistair Burt MP for the constituency.²¹⁵

Three days later, after the Home Office had shown no acknowledgement of the strike, the detainees also began refusing to work and published another list of demands. The list was almost the same as the first one, but with the addition of “an end to the Home Office’s of employing detainees to do menial work for £1 per hour, it prays on the vulnerable and forces them to participate in their own detention.”²¹⁶ It also ended with a clarification about their motivations: “I want to stress that there are as many demands as there are detainees, everyone in detention is unfairly treated, and all we want is a fair process. This

²¹⁴ Yarl’s Wood is not exclusively female, but tends to be mostly female because most male detainees are sent to all-male centers. The men and women are held separately. See Turnbull 2016, 66.

²¹⁵ Edited for length. See original source for explanations under some of the individual demands: DV. “The Hunger Strikers’ Demands.” Detained Voices, February 22, 2018. <https://detainedvoices.com/2018/02/22/the-hunger-strikers-demands/>.

²¹⁶ DV. “The Strikers’ Demands.” Detained Voices, February 25, 2018. <https://detainedvoices.com/2018/02/22/the-hunger-strikers-demands/>. See also the concept of “superexploitation” as described in: Maria, Mies. "Social origins of the sexual division of labour." Maria Mies, Veronika Bennholdt-Thomsen and Claudia Von Werlhof Women: The Last Colony, London (1988).

is the only option we are left with to express how we feel. We will not eat till we are free.”²¹⁷

The women have since posted several anonymous letters about the strike to Detained Voices, which demonstrate solidarity while also concern for the self. They write about hostility from the staff, poor conditions that are not improving, and express thanks to those supporting them on the outside. Many of the letters mention the trauma of seeing other detainees being deported.²¹⁸ They show concern for those who have been deported, but also fear that the same will happen to them. After her friend was put in segregation and nearly deported as retribution for refusing to eat, one detainee wrote, “I dread my turn and it will come, I am more afraid than ever and there is nothing I can do but be detained and have this threat over my [head] like a guillotine.”²¹⁹ Another woman wrote after seeing a fellow detainee handcuffed and removed, “it’s like I’m in the wolf’s den and I will get eaten eventually, I don’t know what is worse, the anticipation of the event or the event itself.”²²⁰

²¹⁷ Ibid. It is unclear who the “I” writing the note is, as it is published anonymously.

²¹⁸ DV. “I Worry About What is Happening to Her I Hope She is Safe. It’s Really Bothering Me.” Detained Voices, March 05, 2018; DV. “It Shook Me Up Real Bad.” Detained Voices, July 03, 2018; DV. “My Friend Was Taken This Afternoon.” Detained Voices, March 16, 2018; DV. “They put her in handcuffs.” Detained Voices, March 28, 2018. <https://detainedvoices.com/tag/deportation/>

²¹⁹ “They Even Restrained Her Legs” 2018.

²²⁰ DV. “I Can Honestly Say I Have Never Felt So Alone and Hopeless in my Life, But I Have Never Felt Such Anger Either.” Detained Voices, March 29, 2018. <https://detainedvoices.com/2018/03/29/i-can-honestly-say-i-have-never-felt-so-alone-and-hopeless-in-my-life-but-i-have-never-felt-such-anger-either/>

The letters also describe their attitudes toward the hunger strike. They vary from determined perseverance to resigned desperation, sometimes within the same letter. There is doubt and a feeling of uncertainty that the strike will truly make a material difference, yet there is still the determination to carry on: “I honestly feel like I am fighting a losing battle already when it comes to my case personally. I fight because I don’t have a choice, there is no alternative for me or indeed for so many people in here. So I will keep going, and try to stay strong, and I will not go gracefully, to exile.”²²¹ Their relationship to their chosen form of resistance varies from determined perseverance to resigned desperation, sometimes within the same letter.

Self-immolation is a less common than hunger strike but potentially more shocking form of corporeal resistance. Self-immolation has a long history as a form of political protest, most common in Asia because of its association with both Buddhism and Hinduism.²²² The self-immolation of Mohamed Bouazizi in Tunisia was a crucial starting point for the Arab Spring, prompting other public self-immolations across the region.²²³ There have been a few examples of people self-immolating in response to immigration detention.

²²¹ DV. “So I will keep going, and try to stay strong, and I will not go gracefully, to exile.” *Detained Voices*, March 26, 2018. <https://detainedvoices.com/2018/03/26/so-i-will-keep-going-and-try-to-stay-strong-and-i-will-not-go-gracefully-to-exile/>

²²² Sanburn, Josh. “A Brief History of Self-Immolation.” *Time*, January 20, 2011. <http://content.time.com/time/world/article/0,8599,2043123,00.html>.

²²³ Bargu, Banu. “Why Did Bouazizi Burn Himself? The Politics of Fate and Fatal Politics.” *Constellations* 23, no. 1 (March 2016): 27–36. <https://doi.org/10.1111/1467-8675.12212>.

Uddhav Bhandari was a journalist in Nepal who faced death threats after working on a controversial article exposing police corruption.²²⁴ He fled to Scotland, where he spent 6 years trying to get legal residency and bring his wife and two children to live with him. After being refused leave to stay, he poured gasoline on himself and set himself on fire in the Asylum and Immigration Tribunal office. He was immediately rushed to the hospital, but died of his injuries 11 days later.²²⁵

Hodan Yasin, was an asylum-seeker from Somalia between the ages of 19 and 21. She had been living on Nauru for 3 years when a motorcycle accident prompted her to be moved to Australia for medical treatment. After a few weeks, she was forcibly removed from the country, reportedly screaming and attempting to resist as guards carried her out of the immigration transit accommodation.²²⁶ After only three days back on the island, she set herself on fire. Witnesses immediately extinguished the flames, and within hours she was airlifted for treatment back in Brisbane. Her friends described her as “a gentle soul” who was “destroyed” by her time in detention. She survived, but her immigration status is still pending.²²⁷

²²⁴ Vasagar, Jeevan. “Asylum Seeker Dies from Burns.” *The Guardian*, March 20, 2007, sec. UK news.

<https://www.theguardian.com/uk/2007/mar/20/immigration.immigrationandpublicservice>

²²⁵ “Fire Protest Man Memorial Service.” *BBC News*, March 21, 2007.

http://news.bbc.co.uk/2/hi/uk_news/scotland/edinburgh_and_east/6476727.stm.

²²⁶ Doherty, Ben, and Helen Davidson. “Somali Refugee in Critical Condition after Setting Herself Alight on Nauru.” *The Guardian*, May 2, 2016, sec. Australia news. <https://www.theguardian.com/australia-news/2016/may/03/somali-refugee-in-critical-condition-after-setting-herself-alight-on-nauru>.

²²⁷ Robertson, Joshua. “Nauru Refugee Who Set Herself Alight ‘Denied Basic Social Support’ in Brisbane Hospital.” *The Guardian*, September 21, 2016, sec. Australia news.

Detainees have used other forms of public suicide as a threat. A former detention center guard in Australia described a time when a detainee held broken glass in his mouth and threatened to swallow it if the guards did not meet his demands. “His demands weren’t much. From memory, all he wanted was to see his case manager.”²²⁸ At the Corinth center in Greece, there have been multiple incidents of detainees climbing onto the roof and shouting their demands, threatening to jump.²²⁹ While suicide is relatively common in immigration detention, the circumstances surrounding it are often publicly unavailable, making it difficult to know how many were meant as a form of protest.

Mixed forms of corporeal resistance were used when protests broke out in January 2002, at Woomera, a detention center in the remote south Australian desert. Approximately 70 detainees sewed their lips shut in conjunction with a hunger strike that included a total of nearly 370 strikers.²³⁰ Australian media reported that they were protesting conditions in the center and the government’s decision to freeze asylum applications for Afghan nationals after the fall of the Taliban.²³¹ A handwritten note smuggled out of the center said, “we want freedom or die.”²³²

<https://www.theguardian.com/australia-news/2016/sep/22/nauru-refugee-who-set-herself-alight-denied-basic-social-support-in-brisbane-hospital>.

²²⁸ Wallman 2014

²²⁹ “Invisible Suffering: Prolonged and Systematic Detention of Migrants and Asylum Seekers in Substandard Conditions in Greece.” Médecins Sans Frontières, April 2014, 14

²³⁰ Detainees themselves reported that 370 people were on hunger strike, although the Department of Immigration claimed the number was “only” 259. Fiske 2012, 177.

²³¹ Marks 2002.

²³² Ibid.

The protests escalated. On January 26th, Australia Day, Mahzar Ali climbed the fence surrounding the detention center and threw himself onto the razor wire below. He survived, but suffered deep lacerations all over his body. Fellow detainees saw his actions as heroic, one writing that it was “in an effort for us to be taken seriously.”²³³ Trying to be to be “taken seriously” seemed to be an important aspect of the protests. Hunger strikers decided to sew their lips shut, in part because the guards claimed that they were secretly eating.²³⁴ The shocking self-mutilation also served to get the message out. One of the detainees who sewed his lips spoke of his strategy to show a psychiatrist what he had done: “I knew that he will go out and reflect it positively. He’s a psychiatrist . . . he’s not just a journalist going around and saying ‘people sewed their lips because they are desperate.’ I mean, journalists saying that, it means something. But when a psychiatrist saying that, it means a lot.”²³⁵ Others attempted suicide as part of the protest, drinking shampoo and bleach or swallowing razor blades.²³⁶

Rehmatullah, one of the spokespeople for the protests, clarified the purposes of the hunger strike when asked why they did not give up when offered compromises by state authorities. He said, “The real purpose of the hunger strike is to get freedom for all of us.”²³⁷

²³³ Fiske 2012, 179.

²³⁴ Ibid, 189.

²³⁵ Ibid, 195.

²³⁶ Fernandez, Ramesh. “Others Need Not Suffer My Living Hell.” Sydney Morning Herald, April 20, 2013. <https://www.smh.com.au/opinion/others-need-not-suffer-my-living-hell-20130419-2i5nf.html>.

²³⁷ McKay, Dave. “6pm Update, Hunger Strike.” News Archive. Ausnews, June 26, 2002. <https://groups.yahoo.com>.

Solidarity

Corporeal resistance tends to have collective motivations regardless of whether the action itself is collective or individual. However, some individual actions of corporeal resistance have a martyr quality. Self-destructive violence such as self-immolation appears at first glance to be inherently selfless. The actor dies before seeing the result of their actions, so if any change occurs, it is for the benefit of others left behind. By contrast, collective actions that do not result in death can seem like more of a collective bargaining tool. Hunger strikes are a way of slowly flirting with death that can be halted at any time. Although strikers may say that they are willing to die for the cause, authorities may meet their demands before it reaches that point. This way, although the hunger strike is often a collective action, the individual strikers still stand to benefit from the effects of the strike.

However, this distinction is not as clear-cut as it first appears. Bargu argues that self-destructive violence may not be just the means to an end, but the ends itself. She argues that self-destruction makes a “commentary” on prioritizing beliefs over life itself. “These acts say, in a sense, it is not worth living life if you cannot live it according to your own political convictions; it is not worth living life if you are forced to live a mere existence that is predicated on renouncing or not living up to your political cause.”²³⁸ In that way, people who commit suicide as protest are also serving themselves by staying true to their convictions, although their protest may only materially benefit others.

²³⁸ Bargu 2014, 16.

Likewise, individual hunger strikers have both individualized and collective motivations. Hunger strikes are more effective as a collective effort, both because they are more noticeable, and because solidarity makes resistance easier in the face of systemic power. One of the women participating in the Yarl's Wood strike writes, "I hope we can all stick together and stop this happening again, all detainees should stop being afraid, or use that fear to fight for their own and each other's survival. We have to make a stand for not just our rights but for what is right. Unity and Solidarity is what will make the difference."²³⁹ While the state attempts to treat detainees as undifferentiated bodies through uniforms and ID numbers, detainees have tactically used this dehumanizing categorization in their acts of resistance. Instead of seeing different nationalities, cultures, and religions, the strikers band together under the common identity of "detainee." Fiske writes,

"[I]dentifying as 'detainee' enabled relationships and solidarity bonds to form across differences which would previously have precluded such collaboration. At least at certain moments, Hazaras acted alongside Pashtuns, Iraqi Sunnis and Shias aligned with Iranians, and Issaq, from Iran, and his fellow lip sewers, an Iraqi and an Afghan, went on strike in solidarity with detainees in Port Hedland and Woomera, knowing nothing of their national, ethnic or religious identities... Osman reported that he would act for, 'Anyone! Anyone who are detainee. It doesn't matter if you are Iraqi, Afghan, No No. We are detainee. We are detainee.'"²⁴⁰

While detainees may band together under an undifferentiated identity, detention does affect different detainees in different ways. Race and cultural background strongly influences migrants' experiences in detention. As previously described, the enforcement of immigration laws often favors the white or white-passing, meaning that people of color

²³⁹ "I Can Honestly Say" 2018.

²⁴⁰ Fiske 2012, 193.

are more likely to be detained. While in detention, detainees of color are frequently subjected to harassment and abuse by employees who are generally from the majority demographic of the host state.²⁴¹ Gender also plays a significant role. Women in detention experience more obstacles to obtaining medical care and are far more likely to experience sexual harassment or assault.²⁴² Because of the securitization of the male body, men may experience more physical violence in the detention and be more likely to be detained in the first place.²⁴³ In some cases, men are held separately from their children in family detention centers.²⁴⁴ Gender non-conforming individuals, unsurprisingly, also face discrimination and harassment based on their gender identity, and are at an increased risk of sexual violence.²⁴⁵ Nevertheless, detainees who resist frequently use a form of “strategic essentialism”²⁴⁶ in order to further their cause.

Hunger strikes have been used to protest treatment of fellow detainees after the fact. In Japanese detention centers, there have been a number of hunger strikes in which protesters named the detainee deaths as one of their motivations. In a center where an Indian man committed suicide, about 100 detainees began refusing their food. One of the detainees told Reuters that the man had killed himself a day after being denied release,

²⁴¹ “Persecuted in Immigration Detention: A National Report on Abuse Motivated by Hate.” Freedom for Immigrants, June 2018, 5-8.

²⁴² Wilcox, Lauren. "4. Gendered bodies in securitized migration regimes." Handbook on Migration and Security (2017): 87.

²⁴³ Ibid, 94.

²⁴⁴ Majcher & Flynn 2018, 20; Hennessy-Fiske, Molly. “Immigration: Are Male Detainees Treated Differently Than Women?” Latimes.Com. August 31, 2015. <https://www.latimes.com/nation/la-na-family-detention-fathers-20150829-story.html>.

²⁴⁵ “Persecuted in Immigration Detention: A National Report on Abuse Motivated by Hate.” Freedom for Immigrants, June 2018, 10-13; Wilcox 2014, 90-96.

²⁴⁶ Colebrook, Claire. "Certeau and Foucault: Tactics and Strategic Essentialism." South Atlantic Quarterly 100, no. 2 (2001): 543-574.

and that the hunger strike was meant to pressure authorities to address complaints, saying, “We want to know what responsibility they will take for the death.”²⁴⁷ At the Tokyo detention facility where Nicolas Fernandez died,²⁴⁸ 30 detainees went on hunger strike to protest poor medical facilities.²⁴⁹

Hunger strikes may also seek to improve future conditions for others. A former detainee from Woomera, years after the infamous revolt, wrote that he hopes “others need not suffer my living hell.”²⁵⁰ Letters from the Yarl’s Wood hunger strikers demonstrate a martyr mentality, even if the participants do not necessarily intend to die as result. One woman’s letter stands out to summarize this idea: “No matter what happens, let me be remembered as a Uganda Detainee that was fighting for the vulnerable and mistreated asylum seekers.”²⁵¹

The Symbolic: “I Will Not Go Gracefully into Exile”

The purpose of corporeal resistance is not always specific. Sometimes there are neither negotiations with authority nor clearly stated demands. Resistance can be through symbolic messages of corporeal power that echo the daily reminders that the state has the

²⁴⁷ Wilson, Thomas. “Immigration Detainees in Japan Launch Hunger Strike over Death Of...” Reuters, April 17, 2018. <https://in.reuters.com/article/japan-detention-death/immigration-detainees-in-japan-launch-hunger-strike-over-death-of-indian-man-idINKBN1HO0NO>.

²⁴⁸ See chapter 2 of this thesis.

²⁴⁹ “Prolonged Captivity and Abuse Alleged as Japan’s Migrant Detainees Wage Hunger Strike,” May 12, 2017. <https://www.telesurtv.net/english/news/Prolonged-Captivity-and-Abuse-Alleged-as-Japans-Migrant-Detainees-Wage-Hunger-Strike-20170512-0018.html>.

²⁵⁰ Fernandez 2013.

²⁵¹ DV. “I Feel I am Being Threatened and Patronised because of the Protest.” Detained Voices, March 03, 2018. <https://detainedvoices.com/2018/03/03/i-feel-i-am-being-threatened-and-patronised-because-of-the-protest/>.

detainees' lives in its hands. A former guard at a detention center in Australia recalled a time a few detainees "decided to dig themselves graves in one of the common areas... You had to walk past it every day."²⁵² Detainees also hang nooses made out of sheets in their cells. In an oversight investigation into an ICE detention center in California, investigators found nooses in 15 out of 20 of the cells visited.²⁵³ These messages serve as a reminder to the guards of their detainees' mortality. The Australian former guard who remembers having to "walk past" the open graves is apparently disturbed by the incident even though he understands the graves as being for the detainees, not the guards. It is not a personal threat, but rather a reminder of what was at stake for the detainees.

Another high-profile symbolic form of corporeal resistance was the lip sewing. The detainees who sewed their lips together at Woomera did so in part to ensure that they could not break the hunger strike. Beyond the functional purpose, sewing their lips together also meant that they could not speak. This symbolized their silencing by the Australian government and lack of political voice.²⁵⁴ Lip sewing, while shocking, is has been repeated in various countries by immigration detainees of diverse backgrounds. In 2013, 9 North African men who were detained at a facility in Rome also sewed their lips together as a form of protest.²⁵⁵ At Nauru, at least 15 people sewed their lips together in conjunction with a hunger strike in response to plans resettle them to Cambodia.²⁵⁶ A 16-

²⁵² Wallman 2014.

²⁵³ Kelly 2018, 2-4.

²⁵⁴ Fiske 2012, 177.

²⁵⁵ "Migrants Sew Lips Together in Rome Protest." *The Local*, December 22, 2013. <https://www.thelocal.it/20131222/migrants-sew-lips-together-in-rome-protest>.

²⁵⁶ Doherty, Ben. "Nauru Asylum Seekers Sew Lips Shut in Protest Over Cambodia Transfer." *The Guardian*, October 1, 2014, sec. World news.

year-old asylum-seeker at detention center in Greece who had initially been told that he was due to be released sewed his lips together after being told that he would continue being detained.²⁵⁷ On Manus Island, group demonstrations of lip sewing have been repeated several times over the years, usually during hunger strikes.²⁵⁸ Migrants stranded on European borders have also sewn their mouths shut in protest.²⁵⁹ Clearly, the morbid symbolism of sewing one's lips together resonates with migrants in a variety of contexts.

Although hunger strike can be a form of negotiation, it is also a form of symbolic expression. The penultimate line of the second list of demands from the Yarl's Wood hunger strikers says, "This is the only option we are left with to express how we feel."²⁶⁰ Not the only option left for bargaining—the only option to express how they feel. They

<https://www.theguardian.com/world/2014/oct/02/nauru-asylum-seekers-sew-lips-shut-protest-cambodia-transfer>; "Migrant Crisis: 'Iranians' Sew Lips Shut in Border Protest." *BBC News*, November 23, 2015, sec. Europe. <https://www.bbc.com/news/world-europe-34903677>;

Taylor, Matthew, and Saeed Kamali Dehghan. "Iranian Hunger Strikers Sew Their Lips Together in Protest at UK Deportation." *The Guardian*, April 21, 2011, sec. World news. <https://www.theguardian.com/world/2011/apr/21/iranian-hunger-stikers-sew-lips-uk-deportation>.

²⁵⁷ "Invisible Suffering" 2014, 14.

²⁵⁸ Doherty, Ben. "Four Asylum Seekers on Manus Sew Lips Together as Part of Mass Hunger Strike." *The Guardian*, December 4, 2014, sec. Australia news.

<https://www.theguardian.com/australia-news/2014/dec/04/four-asylum-seekers-manus-sew-lips-together-mass-hunger-strike>; Farrell, Paul, and Oliver Laughland. "Sex Assaults at Manus Island Centre Appear Likely to Go Unpunished." *The Guardian*, November 1, 2013, sec. World news. <https://www.theguardian.com/world/2013/nov/01/sex-assaults-manus-island-unpunished>;

Michael, Sarah. "Two-Thirds of People in Manus Island Detention Centre on Hunger Strike." *Mail Online*, January 18, 2015. <https://www.dailymail.co.uk/news/article-2915818/Two-thirds-people-Manus-Island-detention-centre-hunger-strike-plans-resettle-Papua-New-Guinea-14-asylum-seekers-sewing-lips-together.html>.

²⁵⁹ "Migrants Sew Lips Together to Protest Treatment in Calais Jungle," March 3, 2016. <https://www.euronews.com/2016/03/03/migrants-sew-lips-together-to-protest-treatment-in-calais-jungle>.

²⁶⁰ "The Strikers' Demands" 2018.

provide a non-exhaustive list of demands, yet they end on expressing feelings, implying that having their demands met is not exclusive to communicating the message that they have demands. Even if nothing changes materially, they do not want to go down without a fight. In other words, they will “not go gracefully into exile.”²⁶¹

Instead of fighting back against corporeal harm inflicted upon them, detainees increase it in order to send a clearer message about the power and violence of the state. When those in the state’s custody suffer violent bodily harm, it is clear who the guilty party is. This statement from Rehmatullah, the Woomera spokesperson, describes this strategy well: “[The strike will] show the cruelty of persecution on us. If we die, it will make conspicuous our innocence and the guilt will be on the Government. They will be responsible if anyone dies here.”²⁶²

Conclusion: “I’m Not Going Out Like That”

Corporeal acts of resistance not only challenge the corporeal control of immigration detention, they highlight the necropolitics of immigration controls more generally. The message of life-threatening corporeal acts of resistance is that the issue at hand is life threatening. Some protesters express a preference for death in the country in which they are detained over a life in their country of origin. A Yarl’s Wood detainee wrote of her motivation for the hunger strike, “I would rather die in Britain than live in the country

²⁶¹ “So I Will Keep Going” 2018.

²⁶² McKay 2002.

they want to send me to.”²⁶³ Maru Mora-Villalpando, an immigrants’ rights activist, former detainee, and unofficial spokesperson for the Northwest Detention Center hunger strike said, “Today is day 56 for one person on hunger strike. So that tells you... how bad things are inside that one person decided, ‘I’m not gonna eat and that I’d rather die in here rather than going back to my country.’”²⁶⁴

Detainees on Nauru who sewed their lips together in 2014 to protest being sent to Cambodia also sent a clear message about seeking to control their life and death. As they stood against the camp perimeter fence in view of cameras, they held signs reading, “I’m tired, please kill me,” and “Only our corpses may go to Cambodia.”²⁶⁵ The protesters also gave media representatives a letter addressed to the Australian high commissioner saying that they “want the Australian government to know that they can send us to Cambodia but only our dead bodies. They will need to kill us first.”²⁶⁶ Here, detainees sought to reject the state’s power to “let live”²⁶⁷ under specific circumstances. The detainees communicate that they would prefer to die than to live in the country they are being sent to, yet this is not a suicidal statement. The detainees dare the state to kill them.

This is more than a matter of being able to avoid death, but controlling the circumstances of death. Detainees’ statements make this clear. A Yarl’s Wood detainee wrote, “let the

²⁶³ DV. “This whole thing started out of desperation and frustration and a deep sense of injustice felt by myself and others.” Detained Voices, March 05, 2018.

²⁶⁴ Jackson, Reagan. Maru Mora-Villalpando in Her Own Words, October 22, 2018. Seattle Globe. <http://www.seattleglobalist.com/2018/10/22/maru-mora-villalpando-in-her-words/77959>.

²⁶⁵ Doherty 2014

²⁶⁶ Ibid.

²⁶⁷ Foucault 2003, 241.

Home Office and the Home Secretary kill me here in the UK, than returning me to a death trap in Uganda.”²⁶⁸ Calling her country of origin a “death trap” implies that her physical vitality would be at stake if she were deported. However, she would rather be “killed” in detention. She posits her options as two different ways of dying, and expresses a preference for dying in the custody of the state. Under both circumstances, in her perception, her death would be the fault of the UK government, but if she died in detention, the culpability would be more obvious; they would “kill” her.

Similarly, Bhandari, the former Nepalese journalist, chose to make his death visibly the fault of the state. He could have agreed to be deported and risk being murdered. Instead, he guaranteed his death by setting himself on fire in Scotland. Unfortunately, Bhandari did not leave behind a message describing his motivations, but his actions showed him taking back corporeal power. If he was going to die, he wanted it to be on his own terms. A chant from the Yarl’s Wood protests captures this demand: “I’m not going out like that.”²⁶⁹

²⁶⁸ “I Feel I am Being Threatened” 2018.

²⁶⁹ DV. “We have a new chant for our protest and it goes ‘I’M NOT GOING OUT LIKE THAT.’” Detained Voices, March 28, 2018.

Chapter 4: State Responses

This chapter analyzes the ways in which the state responds to detainee resistance. Detainees respond to their corporeal oppression by using corporeal tactics of resistance, and the state in turn reasserts this power using corporeal methods. The immigration detention regime is built upon a system that relies on corporeal control over people's bodies in a confined space with an indeterminate time. As such, when detainees regain control over their own bodies through adopting these corporal tactics of resistance, they threaten to undermine the entire system of immigration detention.

Though detainee resistance poses a serious threat to state control, the state's discourse deemphasizes its significance. Publicly, the state treats these acts as simply an inappropriate negotiation tactic. Statements by officials attempt to reframe corporeal acts in normative terms that uphold state legal power. This includes repeating that acts like these will not affect visa applications, referring detainees to formalized complaint and appeal mechanisms, and characterizing resistance as a way of cheating an otherwise fair system. In response to the growing hunger strike at a Tokyo facility, an Immigration Bureau said, "We want them to exploit the existing appeals system rather than protest through a hunger strike." Authorities also gave the protesters a complaint box to register their grievances through what authorities called the "proper channels."²⁷⁰ This way, the state could meet their demands to end the strike quickly without appearing to give in to intolerable actions. In Australia, detainee acts of corporeal resistance are often framed as

²⁷⁰ "Prolonged Captivity and Abuse Alleged as Japan's Migrant Detainees Wage Hunger Strike," May 12, 2017. <https://www.telesur.tv/english/news/Prolonged-Captivity-and-Abuse-Alleged-as-Japans-Migrant-Detainees-Wage-Hunger-Strike-20170512-0018.html>.

manipulative. In response to the detainees who sewed their lips, the then Premier of South Australia called it, “barbaric and totally unacceptable in our community,”²⁷¹ while the Minister for Immigration, Philip Ruddock, said that lip-sewing “offends the sensitivities of Australians” because it was “unknown in our culture.”²⁷² Refugee advocates are repeatedly blamed for encouraging detainees to hurt themselves in order to garner media attention and gain sympathy for their cause.²⁷³

However, inside the detention centers, the state’s actions make it clear that it sees corporeal resistance as a serious threat. In her analysis of state responses to the death fast in Turkey, Bargu argues that the state knew exactly what the significance of these acts was. “As the officials well understood, these acts were calculated responses, arising out of the problems of their immediate material conditions, but they were not necessarily limited in their political purpose to those conditions. Rather, they were acts of corporeal, existential, and total resistance and refusals to participate in one’s own dehumanization.”²⁷⁴ Likewise, the state understands that detainees’ acts of corporeal resistance are not just a bargaining tactic, but also a very intentional commentary on their corporeal autonomy.

Given the comprehensive corporeal control of immigration detention, it is neither

²⁷¹ Seccombe, M., & Clennel, A. “Wait in Fright.” Sydney Morning Herald, January 26, 2002, 19.

²⁷² Jackson, A. “Refugee Hunger Protest Grows.” The Age, January 20, 2002, 1.

²⁷³ Kwan, Biwa. “Nauru President Wrong to Say Refugee Kids’ Self-Harm Is a Tactic: Advocates.” SBS News, September 1, 2018. <https://www.sbs.com.au/news/nauru-president-wrong-to-say-refugee-kids-self-harm-is-a-tactic-advocates>.

²⁷⁴ Bargu 2014, 13.

difficult nor surprising for the state to suppress or physically put an end to corporeal resistance. The “good order of the facility”²⁷⁵ depends on detainees playing by the rules. While some of the state’s counter resistance strategies are legally prohibited, these actions remain consistent with the objectives and logics of immigration detention, namely, corporeal control. These centers would not serve their purpose without corporeal control. The ICE detention standard disciplinary policy states that its policy is “[t]o provide a safe and orderly living environment, facility authorities will impose disciplinary sanctions on any detainee whose behavior is not in compliance with facility rules and procedures.”²⁷⁶ The priority is not on the physical safety of detainees or the detention center staff, but on ensuring that “rules and procedures” are respected. The Australian Protective Service has also stated that the Department’s policy was to make things as difficult as possible for people on a hunger strike.²⁷⁷ Detainee resistance threatens the very objective of immigration detention, so the state must take measures to put an end to it. The state uses its power over detainees’ space, time, and physical vitality in order to ensure it still dominates control over life and death.

²⁷⁵ “Detention Standards 5.6 Telephone Access.” In Performance-Based National Detention Standards 2011 (PBNDS 2011), Revised 2016., 388–391, 2016, 398

²⁷⁶ “Detention Standards 3.1 Disciplinary System.” In Performance-Based National Detention Standards 2011 (PBNDS 2011), Revised 2016., 220

²⁷⁷ “Those Who’ve Come Across the Seas: Detention of Unauthorised Arrivals.” Sydney: Human Rights and Equal Opportunity Commission, 1998, 107. The Australian Protective Service (APS) was an Australian Commonwealth law enforcement agency that existed between 1984 and 2004. The staff and functions of the APS were reintegrated into the AFP in 2004 as part of Australian Government efforts to better coordinate the response to terrorism.

Spatial Control

The carceral structure of immigration detention facilitates circumventing corporeal resistance. First, it allows immigration officers to control media attention. Many hunger strikes have involved sit-ins in open areas in order to increase visibility of the strike. The fact that detention centers are usually in remote locations helps to prevent publicity. However, the state also tries to maintain spatial control within the center in order to limit the visibility of protests. In 1997, at the Villawood Detention Center in Australia, detainees slept in the outdoor visitors' area as part of a hunger strike, but immigration officers at the center put up black plastic on the fences to prevent media coverage.²⁷⁸ Officers also withheld basic supplies, including blankets for the hunger strikers' children, in order to encourage detainees to move indoors.²⁷⁹

Another tactic to disrupt collective resistance is to transfer detainees to a new facility. Alison Mountz points out that “paradoxically, even as detention works to contain the apparently unknowable migrant, it simultaneously also produces new, highly mobile identities,”²⁸⁰ making transfers between detention centers commonplace.²⁸¹ There have been multiple examples of detainees being transferred to a different centers following leadership in hunger strikes, particularly in the United States, where there are many

²⁷⁸ “Those Who’ve Come” 1998, 105-107.

²⁷⁹ *Ibid*, 106-109.

²⁸⁰ Mountz, Alison, Kate Coddington, R. Tina Catania, and Jenna M. Loyd. “Conceptualizing Detention: Mobility, Containment, Bordering, Exclusion.” *Progress in Human Geography*, October 15, 2012, 1–20., 11.

²⁸¹ Conlon, Deirdre, Nancy Hiemstra, and Alison Mountz. “Spatial Control: Geographical Approaches to the Study of Immigration Detention,” September 20, 2017.

detention centers located far away from one another.²⁸² This not only circumvents collective protests, but it is also problematic for the detainees who are transferred. Detainees are often transferred quickly and without warning, leaving their loved ones and even their lawyer unsure of their whereabouts for days at a time.²⁸³ It also means that detainees have to reorient themselves socially in a new environment. In one instance, female detainees on hunger strike were transferred to majority-male detention centers.²⁸⁴ In Canada, immigration detainees have even been transferred to criminal prisons for being deemed a threat to themselves.²⁸⁵

The state also frequently uses solitary confinement both in order to punish those who resist and to contain collective action. Placing detainees in solitary confinement is a relatively frequent response to detainee resistance. ICE detention records show that more than two-dozen people at just one facility in Georgia had been placed in solitary confinement either for hunger striking, or upon declaring that they were on hunger

²⁸² Cipriano Ríos Alegria, J., Angelica Cházaro, Tomás Madrigal, Murphy Mitchel, Josefina Mora, Maru Mora Villalpando, Wendy Pantoja, Strand Naomi, and Megan Ybarra. *Hunger Strikers' Handbook*. Trade Printery, 2017, 26, 30; "ICE Preparing to Transfer at Least 6 More Women on Hunger Strike at Hutto in Retaliation for Protest." *Grassroots Leadership* (blog), November 5, 2015.

<https://grassrootsleadership.org/releases/2015/11/ice-preparing-transfer-least-6-more-women-hunger-strike-hutto-retaliation-protest.>; Tolan, Casey. "Women on Hunger Strike Face Retaliation at This Texas Immigration Detention Center, Activists Say." *Splinter*, November 4, 2015. <https://splinternews.com/women-on-hunger-strike-face-retaliation-at-this-texas-i-1793852565>.

²⁸³ Conlon, Hiemstra & Mountz 2017, 5.

²⁸⁴ "ICE Preparing" 2015.

²⁸⁵ "Immigration Detainees on Hunger Strike for 14 Days Demand Meeting with Goodale." *CBC News*, July 25, 2016.

<https://www.cbc.ca/news/canada/toronto/immigration-detainees-hunger-strike-ralph-goodale-1.3693631>.

strike.²⁸⁶ Solitary confinement can be used to both punish and silence those who resist. Hunger strikes in particular are a collective action, which requires organization with other detainees. Separating people prevents them from convincing others to join the cause, and from knowing the status of hunger strikers. Without community, hunger strikes are difficult both to increase and for individual strikers to continue. The use of segregation, however, is consistent with the broader logic of confinement. The state deals with detainees who resist the same way it deals with migrants generally—by confining them.

Communication and Hope

Solitary confinement not only works to suppress resistance by controlling detainees' space, but also their time. Segregation limits their ability to communicate with other detainees for the purposes of organizing as well as their ability to contact those on the outside. External communication is important to ensure that the public knows about the resistance, particularly because the state actively tries to hide these incidents. Australian officials first responded to the now-infamous corporeal protests at the Woomera detention center with denial. They initially told news outlets that the hunger strike was not real and that detainees were secretly eating. Later they admitted that a protest was taking place, but downplayed the number of participants reported by detainees.²⁸⁷

²⁸⁶ Woodman, Spencer. "Exclusive: ICE Put Detained Immigrants in Solitary Confinement for Hunger Striking." *The Verge*, February 27, 2017. <https://www.theverge.com/2017/2/27/14728978/immigrant-deportation-hunger-strike-solitary-confinement-ice-trump>.

²⁸⁷ Fiske 2012, 179.

In order to circumvent public denial of resistance, detainees have used social media to give their own accounts of what is happening within the detention center. Notable examples are Detained Voices,²⁸⁸ a website that publishes entries from people in UK detention centers and was instrumental in documenting the Yarl's Wood hunger strike. Other detention centers have activist-run Facebook pages especially designed to support detainee resistance. NWDC Resistance²⁸⁹ is a Facebook page run by un-incarcerated activists that is used to disseminate information about the ongoing hunger strike in the Northwest Detention Center in Tacoma, Washington. It publishes updates on the strike, including how detainees are being treated, and lists of their demands.

However, official statements from immigration authorities can still sometimes conflict with activist reports. In October of 2015, the Facebook page Texans United for Families announced that 27 women were on hunger strike at the T. Don Hutto Detention Center in Texas. They even posted nine handwritten notes from the women explaining their motivations.²⁹⁰ Despite these direct reports, one week later a spokesperson insisted that not one person was “identified as being on a hunger strike or refusing to eat.”²⁹¹ In August of 2018, the NGO Raices Tweeted that at another Texas facility, 50 fathers were beginning a hunger strike, and that their children were on a modified strike in which they refused to participate in activities. A few days later, an official statement from ICE

²⁸⁸ Detainedvoices.com. Detained Voices, n.d. Accessed September 8, 2018.

²⁸⁹ “NWDC Resistance/Resistencia Al NWDC.” Facebook page. Accessed July 30, 2018. <https://www.facebook.com/NWDCResistance/posts/1908132729247598>.

²⁹⁰ “Letters Explaining Hunger Strike in T. Don Hutto Detention.” Facebook page. Facebook, October 28, 2015.

https://www.facebook.com/pg/TexansUnitedForFamilies/photos/?tab=album&album_id=870859002996525.

²⁹¹ Tolan 2015.

refuted the reports and only admitted that there was a “brief sit-in” that involved much fewer than 50 people. The same day Raices posted another Tweet saying that the hunger strike had in fact begun with more than 50 participants.²⁹²

Although social media spaces like these are usually maintained by the un-incarcerated, they require communication with detainees. Communication is highly limited in immigration detention regardless of whether or not resistance is taking place. Many centers have insufficient number of phones and limited Internet access.²⁹³ In many privatized detention centers in the United States, phone calls come with exorbitant per-minute fees.²⁹⁴ These limited services can and have been shut off entirely in the event of resistance.²⁹⁵ The INS detention manual states “Telephone access and use may be limited in the event of escapes, escape attempts, disturbances, fires, power outages, etc. Telephone privileges may be suspended entirely during an emergency.”²⁹⁶ Unsurprisingly, then, in-person visitations can also be cut off for individuals “when there

²⁹² Lind, Dara. “What We Know About a Reported Hunger Strike by Fathers in Immigration Detention.” *Vox*, August 2, 2018. <https://www.vox.com/2018/8/2/17641208/immigrant-strike-detention-families-separation>.

²⁹³ “Access to the Internet at Immigration Detention Centres.” *Free Movement* (blog), April 11, 2013. <https://www.freemovement.org.uk/access-to-internet-at-immigration-detention-centres/>; Skodo, Admir. “How Immigration Detention Compares Around the World.” *The Conversation*, April 19, 2017. <https://theconversation.com/how-immigration-detention-compares-around-the-world-76067>.

²⁹⁴ Jonassen, Wendi. “For Those in Detention Centers, Calling Home Can Be an Expensive Problem.” *Richmond Confidential*, May 13, 2013. <https://richmondconfidential.org/2013/05/13/for-those-in-detention-centers-calling-home-can-be-an-expensive-problem/>.

²⁹⁵ Tolan 2015.

²⁹⁶ “Detention Standards 5.6 Telephone Access.” In *Performance-Based National Detention Standards 2011 (PBNDS 2011)*, Revised 2016., 388–391, 2016, 398.

is reasonable suspicion that the detainee has acted in a manner constituting a threat to the safety, security or good order of the facility.”²⁹⁷

The state further manipulates detainees’ time by manipulating their sense of hope. The state makes it clear that sympathy will not undermine the rule of law; detainees who self-harm will still have to play by the rules. An Immigration Department spokeswoman said of the lip sewing, “This kind of action will make no difference to the visa processing system. It will not help their applications.”²⁹⁸ After one of the mass escape attempts from Woomera, the Department of Immigration released a statement saying, “this was not an unrestrained riot – it was a deliberate campaign of criminal activity to hold the Australian people to ransom in order to gain visas”²⁹⁹ The idea that corporeal resistance is a way of cheating the system is echoed in the characterization of resistance on Nauru as well, with the Nauruan president recently It’s the way of working the system and probably short-circuiting it just to get to Australia.”³⁰⁰

The UK Home Office sent letters to hunger strikers at Yarl’s Wood implying that they may be deported more quickly as a result of their protest. The letter begins sounding as though it were reassurance that they would not be punished for refusing to eat, but then takes a turn, saying that it “will not lead to the progress of your immigration or asylum case being halted or delayed; may in fact, lead to your case being accelerated and your

²⁹⁷ “Detention Standards 5.7 Visitation.” In Performance-Based National Detention Standards 2011 (PBNDS 2011), Revised 2016, 395.

²⁹⁸ Goldsmith, Belinda. “Asylum Seekers Sew Lips Together.” *The Guardian*, January 19, 2002. <https://www.theguardian.com/world/2002/jan/19/immigration.uk>.

²⁹⁹ Fiske 2012, 233.

³⁰⁰ Kwan 2018.

removal from the UK taking place sooner; will not lead to your removal directions being deferred; and will not automatically lead to your release from detention.” This sends an intentionally mixed message to those participating in resistance. Detainees will certainly not be favored for participating in corporeal resistance, but they will not *necessarily* be deported for it either. This allows the state to threaten misbehaving detainees without actually doing the legal work of attempting to deport people who may not be deportable. It also encourages detainees to watch their behavior, because they still might get what they want. The state is reasserting domination by “delaying without destroying hope.”³⁰¹

Abuse and Humiliation

Although corporeal punishment is prohibited,³⁰² there have been a number of documented instances of detainees being punished for corporeal resistance. A man who tried to hang himself at the Curtin detention center in Australia was cut down and beaten for hours by ACM.³⁰³ In 1994, the European Court of Human Rights unanimously ruled in favor of a man from the former Yugoslavia who faced retaliation from officers while he was being held in an Austrian jail pending removal. Naser Palushi was three weeks into his hunger strike when officers “pulled him out of his cell by his feet, kicked and [beat] him and

³⁰¹ Bourdieu 2000, 228.

³⁰² Immigration detention is administrative, not punitive, and even criminal prisons have minimum standards of treatment that prohibit physical violence. For more specific prohibitions from international law see: Rodley, Nigel, and Matt Pollard. “What Constitutes Torture and other Ill-Treatment?” *The Treatment of Prisoners Under International Law*. OUP Oxford, 2009.

³⁰³ Dudley, Michael. “Two Australian National Policies on Self-Injury And Suicide: A Submission to the Human Rights Commission on Children in Detention.” Australian Human Rights Commission, January 9, 2003.

stabbed him behind the ears with ballpoint pens. He had then been dragged down some stairs – causing injuries to his back – and was placed in solitary confinement.”³⁰⁴

At Corinth Migrant Detention Center in Greece, a riot broke out after guards beat one of the 65 detainees who had begun a hunger strike. The detainee responded by threatening to throw himself off a building. Detainees reportedly set fire to their mattresses and threw roof tiles at guards in response to the hunger striker’s treatment. Riot police were eventually called in and pepper-sprayed detainees, and 47 of the detainees were arrested and transferred to a nearby jail to face “criminal association” charges.

Jesus Chavez Flores, a hunger striker at the Northwest Detention Center, filed a lawsuit against ICE for their retaliation against his peaceful protest. Chavez says that after refusing one meal, he was singled out as a leader of the hunger strike and was punched in the face by a guard and then placed in solitary confinement for weeks under false accusations of contraband. He was initially denied medical treatment for his injuries in the altercation and was experiencing blurred vision that doctors now say could be permanent.³⁰⁵

³⁰⁴ European Court of Human Rights. “Factsheet: Hunger Strikes in Detention,” August 2015. https://www.echr.coe.int/Documents/FS_Hunger_strikes_detention_ENG.pdf.

³⁰⁵ “ACLU-WA Lawsuit Seeks to Uphold Free Speech Rights of Hunger Striker at Northwest Detention Center.” ACLU of Washington, February 23, 2018. <https://www.aclu-wa.org/news/aclu-wa-lawsuit-seeks-uphold-free-speech-rights-hunger-striker-northwest-detention-center>.

At an El Paso, Texas facility, officers strip-searched 31 detainees in front of each other the day they declared a hunger strike.³⁰⁶ A few days later, one of the leaders of the strike was physically abused while being taken to solitary confinement. A detainee who witnessed the incident said, “The guards came in and in front of all the detainees, twisted his arm, slapped him, and took him out. He was retaliated against because of the leadership role he took and it was also confirmed by the fact that he never received a reason for why he was put in solitary confinement, which they’re required to give.”³⁰⁷

The state does not always follow its own stated laws and guidelines when dealing with detainee resistance. However, these responses are entirely consistent with the logic of immigration control. Immigration controls themselves cause physical harm to the migrant, so it is not surprising for harm to occur in immigration detention. Punishing or abusing detainees for taking part in corporeal resistance is not an exception to state power, but an extension of it.

Medical Intervention and Preventing Deaths

The ultimate objective of reasserting corporeal control is to regain power over life and death. Therefore, the state will physically intervene in corporeal resistance that may end in the detainee’s death. Out of context, this may appear to demonstrate concern for the detainee’s wellbeing. However, as this research has made apparent, the state is not

³⁰⁶ “DRUM - Desis Rising Up & Moving.” Facebook page. Facebook, October 20, 2015. <https://www.facebook.com/DesisRising/photos/a.407156939342582/984645758260361/?type=3&theater>.

³⁰⁷ Yu Hsi Lee, Esther. “The Hunger Strike You Haven’t Heard About.” Think Progress, October 21, 2015. <https://thinkprogress.org/the-hunger-strike-you-havent-heard-about-1c3f72570545/>.

motivated by altruistic compassion for detainees, but rather a need to preserve necropower. Medical intervention in corporeal resistance is one way to state “makes live.”³⁰⁸

The most palpable way the state asserts this power is by feeding hunger strikers against their will, usually through artificial feeding. Force-feeding involves the patient being sedated or physically restrained while a feeding tube is inserted into either their nose or their throat that releases a nutrition supplement directly into the stomach.³⁰⁹ Besides effectively ending their protest and violating their corporeal autonomy, artificial feeding is also physically painful. It is not unheard of for people to vomit blood after force-feeding or to die because the feeding tube was improperly placed in their lungs rather than their stomach.³¹⁰ The United Nations Special Rapporteur on torture even issued a statement in 2013 implying that force-feeding could be considered torture. Recovery from a hunger strike is also dangerous. Re-feeding following a strike 21 days or more carries dangers of edema (excess water accumulating in tissues, including the lungs), kidney failure and brain damage, cardiac failure, among other serious medical consequences. Hospitalization to enable close medical supervision of re-feeding is

³⁰⁸ Foucault 2003, 241.

³⁰⁹ The term “force-feeding” can refer to any time someone is made to consume nourishment against their will, whether by force or coercion. In this context, I use the term “force-feeding” to mean artificially feeding someone who has declared themselves on hunger strike and has not consented to this treatment. See: Jacobs, Pauline. *Force-Feeding of Prisoners and Detainees on Hunger Strike: Right to Self-Determination Versus Right to Intervention*. Cambridge, United Kingdom : Portland, OR: Intersentia, 2012, 15-16

³¹⁰ “Force-Feeding Under International Law and Medical Standards.” Factsheet. Addameer, November 16, 2015. <http://www.addameer.org/publications/factsheet-force-feeding-under-international-law-and-medical-standards>.

recommended for the first several days after hunger strike. In other words, even when a detainee voluntarily chooses to end their strike, they may still need medical treatment.

Detainees who have spoken out about force-feeding recall it as a both physically and emotionally traumatic experience. Baha'adin, a former detainee at Curtin IRPC in Australia said of his hunger strike: "The reason I break it, I couldn't move nothing. I was just lying there and I didn't know what's going on around me. Suddenly I saw they put their syringe through my nose, through my thing and it was really hurting in my nose. It was really hurtful. They broke my fast... It was terrible. They forced me . . . they hold my hands and they put the syringe in my nose by force because I was nearly, I wanted to die really bad. So I was close to it."³¹¹ A former hunger striker at the Northwest Detention Center compared it to torture, recalling, "I'm not an animal. It's a cruel way to grab somebody, hold them down and put a tube down their throat. We are here to fight our cases and get back to our families. We aren't here to be tortured."³¹²

The legality of force-feeding for hunger strikers depends on the jurisdiction. Legal norms weigh bodily autonomy against a duty to preserve life. In the UK, Canada, and most of the European Union, patient consent is prioritized and force-feeding is only permitted if a psychiatrist diagnoses the hunger striker as having a serious mental illness that inhibits

³¹¹ Fiske 2012, 175.

³¹² Cipriano Ríos Alegria, J., Angelica Cházaro, Tomás Madrigal, Murphy Mitchel, Josefina Mora, Maru Mora Villalpando, Wendy Pantoja, Strand Naomi, and Megan Ybarra. *Hunger Strikers' Handbook*. Trade Printery, 2017.

their ability to make rational choices for themselves.³¹³ In some circumstances, if a hunger striker is unconscious, this qualifies as their not having the ability to give informed consent.³¹⁴

The state responded to the Yarl's Wood detention hunger strike not by medical intervention but by attempting to sign away its liability. One of the detainees wrote on Detained Voices, "In Healthcare, I was asked to sign a document that take away the duty of care of my health from Healthcare. The Doctor asked me to sign so Healthcare doesn't have to be liable for my health. 'In case any health hazard happens to you, maybe you faint or at the verge of death, if you can sign the document, we shall not touch you.' In other words, I will have to die and healthcare, Serco and Home Office will not be liable. I refused to sign."³¹⁵ While it is unclear if this was standard practice, this incident reveals a dynamic of negotiating control over life and death. Any harm to the detainees participating will be attributed to the state. Since force-feeding is prohibited in the UK, having detainees sign away liability is only way to protect itself from the results of the hunger strike. If the state cannot prevent the detainee's death, then it can at least control how the death is perceived. The detainee refusing to sign seeks to ensure that if she dies, it will be obvious who is at fault.

³¹³ Brockman 1999; Correctional Service of Canada. "Hunger Strike: Managing an Inmate's Health." Government of Canada, April 27, 2015. <http://www.csc-scc.gc.ca/politiques-et-lois/800-1-gl-eng.shtml>.; Jacobs 2012.

³¹⁴ Ibid, 56-75.

³¹⁵ DV. "I Feel I am Being Threatened and Patronised because of the Protest." Detained Voices, March 03, 2018. <https://detainedvoices.com/2018/03/03/i-feel-i-am-being-threatened-and-patronised-because-of-the-protest/>.

In the United States, the law also generally prohibits force-feeding hunger strikers who are mentally sound.³¹⁶ However, precedent allows state officials to artificially feed incarcerated hunger strikers whose lives are in danger under certain exceptions, including if the striker's suicide would cause detainee unrest or if the striker's intent is to "manipulate the state." In 2010, the Superior Court of Connecticut ruled that the department of corrections was justified in force-feeding a hunger-striking prisoner, William B. Coleman. The court stated that while a prisoner's right to refuse medical treatment should generally be respected, in this case, "there was ample and convincing evidence that allowing the defendant to starve himself to death will harm the orderly administration and security of the prison where he is incarcerated, upsetting the other inmates, requiring additional measures to deal with the inmate reactions and potentially causing unrest, demonstrations and violence. His suicide by starvation would be contrary to the preservation of his life. He seeks by his hunger strike to force a further investigation by state authorities into his criminal conviction and its circumstances, which is an attempt to manipulate the state. And his death would deprive his innocent, dependent children of his future financial support."³¹⁷

The ICE detention manual seems complacent with resorting to force-feeding as a way to end a hunger strike, writing, "An individual has a right to refuse medical treatment. Before involuntary medical treatment is administered, staff shall make reasonable efforts

³¹⁶ Crosby, Sondra S., Caroline M. Apovian, and Michael A. Grodin. "Hunger strikes, force-feeding, and physicians' responsibilities." *Jama* 298, no. 5 (2007): 563-566.

³¹⁷ *Lantz v. Coleman*, 2010 W.L. 1494985 (2010).

to educate and encourage the detainee to accept treatment voluntarily.”³¹⁸ The manual states that ICE policy is to seek a court order authorizing involuntary medical treatment, but if it cannot, “ICE/ERO [Enforcement Removal Operations] may consider other action if the hunger strike continues.”³¹⁹ Similar legislation in Israel allows force-feeding mentally competent hunger strikers any time there is a serious risk of death or irreversible physical harm, ostensibly because of the state’s responsibility to protect “the sanctity of human life.”³²⁰

In Australia, the legality of involuntary feeding depends on the type of detainee. Under legislation addressing medical care for incarcerated people, hunger striking is protected speech and medical personnel may not treat strikers against their will. However, immigration detainees are not part of the incarcerated population under this legislation.³²¹ The Immigration Department can authorize the artificial feeding or rehydration of immigration detainees even when the detainee has expressly refused treatment.³²² Medical professionals are even authorized to use restraints or sedatives if necessary.

³¹⁸ “Detention Standards 4.2 Hunger Strikes.” In Performance-Based National Detention Standards 2011 (PBNDS 2011), Revised 2016., 253-256, 2016, 255

³¹⁹ Ibid, 256.

³²⁰ Levush, Ruth. “Israel: Law Authorizing Force-Feeding of Prisoners Held Constitutional | Global Legal Monitor.” Library of Congress, October 5, 2016. <http://www.loc.gov/law/foreign-news/article/israel-law-authorizing-force-feeding-of-prisoners-held-constitutional/>.

³²¹ MIGRATION REGULATIONS, Pub. L. No. mr1994227 s5.35, § Medical Treatment of Persons in Detention Under the Act, 5.35 REG (1994). available at: http://www6.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_reg/mr1994227/s5.35.html.

³²² Farrell, Paul. “Immigration Approved Treatment for Detainees without Their Consent.” The Guardian, March 3, 2014, sec. World news. <https://www.theguardian.com/world/2014/mar/03/hunger-striker-force-fed-treatment-detainees>.

Although highly controversial, the law is still in effect and has been utilized at least 10 times since 2005.³²³

This clearly shows a distinction between the way citizen and non-citizen bodies are regarded by the state. Citizens' corporeal autonomy, while not entirely preserved, is more respected than that of the migrant. While it is unsurprising that states treat their own citizens with more respect than migrants, what is interesting here is that these are the incarcerated citizens—not the supposedly model, law-abiding citizens. Even for a segment of its population that it subjugates, the state still grants more corporeal autonomy. Criminal prisoners are clearly subjected to spatial control in a similar way to immigration detainees, but the Australian state demonstrates that there is something inherently corporeal about immigration controls. The state incarcerates and subjugates both groups of people—citizen prisoners and non-citizen detainees—but their treatment differs when it comes to intervening in their life and death.

There have been serious debates within the medical profession about the ethics of force-feeding hunger strikers. The issue pits two principles of medical care against each other—the idea of patient consent and the oath to “do no harm.” However, the prevailing opinion seems to prioritize patient consent. The World Medical Assembly issued a declaration in 1991 on the appropriate treatment of hunger strikers. The declaration states that while artificial feeding can be ethically appropriate “if incompetent individuals have left no unpressured advance instructions refusing it,” for conscious hunger strikers who

³²³ Ibid.

have refused treatment, “forcible feeding is never ethical.”³²⁴ It recognizes, however, the “conflicting loyalties” that medical professionals often feel in these situations—to preserve patient autonomy, to preserve life wherever possible, and to follow directions from legal authority.³²⁵ In 2015, the Australian Medical Association updated their official policy position on the treatment of asylum seekers and refugees to affirm immigration detainees’ right to refuse treatment as long as they are made aware of the risks. It also states that medical professionals should be allowed to follow their conscience even if it goes against legal directives.³²⁶

Policies justifying medical intervention are couched in language about concern for the sanctity of human life, but state actions make it clear that this is not its priority. Although the state frequently fails to prevent deaths in detention through other means, it circumvents medical ethics to ensure that detainees do not die because of corporeal resistance. With incarcerated populations, particularly non-citizens, the state does not consistently exert effort into ensuring that people stay alive. After the Israeli Supreme Court ruled that it was constitutional to force-feed imprisoned hunger strikers, the Palestinian NGO Addameer published a factsheet criticizing the court’s supposed justification. “The claim that the force-feeding bill is issued for the purpose of preserving the lives of hunger striking prisoners is a manipulative statement that can be thwarted by reviewing the history of medical negligence in Israeli prisons and detention centers where

³²⁴ “WMA Declaration of Malta on Hunger Strikers.” World Medical Assembly, November 1991. International Committee of the Red Cross.

³²⁵ Ibid.

³²⁶ “Health Care of Asylum Seekers and Refugees - 2011. Revised 2015.” Australian Medical Association, December 23, 2015. <https://ama.com.au/position-statement/health-care-asylum-seekers-and-refugees-2011-revised-2015>.

Palestinians are being held.”³²⁷ Medical negligence is incredibly common in immigration detention, as I have previously indicated. The state selectively concerns itself with migrants’ physical state in order to ensure power over their bodies.

Conclusion

Detainee resistance sometimes has material positive outcomes; there have been a few examples of when it directly led to a specific policy change. After one year of protests and off-and-on hunger striking at Woomera, the government agreed that it would resume the processing of Afghan asylum. The protesters collectively agreed to call off the hunger strike.³²⁸ Hunger strikers in Japan agreed to call of their strike after the immigration department agreed to meet some of their demands.³²⁹ However, the point is to regain corporeal autonomy in order to challenge the entire system of immigration detention. As Rehmatullah, a spokesperson for the Woomera protests said, “The real purpose of the hunger strike is to get freedom for all of us.”³³⁰

The logic of the entire system relies on the state having corporeal control, as the purpose is to confine bodies to certain spaces. These centers would not serve their purpose without this control. It is therefore vital for the state to stop detainees from using corporeal resistance. The state is not suddenly preoccupied with those under its

³²⁷ Addameer 2015.

³²⁸ Fiske 2012.

³²⁹ Reuters. “Foreigners in Japanese Immigration Detention End Two-Week Hunger Strike.” Business Insider. Accessed October 28, 2018.

<https://www.businessinsider.com/r-foreigners-in-japanese-immigration-detention-end-two-week-hunger-strike-2017-5>.

³³⁰ McKay 2002.

supervision when detainees begin using corporeal resistance. It is not that the state does not want detainees to harm themselves; it is that the state wants to be the one to harm them. Detainees' taking over this control threatens to undermine the system of containment and deportation. The state requires corporeal control in order for its immigration policies to function. It is not that the state does not want detainees to die; the problem is that they do not want detainees to die *that way*.

Conclusion

This thesis has examined the ways in which the state exerts corporeal control over would-be citizens in immigration detention, and how detainees disrupt this power using corporeal methods. Immigration detainees may self-harm for other reasons, but it is also frequently a strategic and logical response to the bodily power to which they are subjected. As Foucault says, “wherever there is power, there is resistance.”³³¹

The way the state treats detainees who engage in corporeal resistance versus the way the state treats detainees and migrants generally demonstrates that their motivation is neither of sympathy nor indifference, but one of control in order to create docile subjects for either deportation or serving the nation-state. The state controls the act of living by keeping detainees in a confined space for an indeterminate length of time. It then selectively intervenes in migrants’ physical state in order to ensure power over their bodies. In other words, it is the state’s control over life and death.

I have only described some incidents in detail, but they are not unique. Precise numbers are lacking, but anecdotal evidence shows that corporeal resistance is not infrequent, and hunger strikes are almost routine. Hunger strikes are common enough in US immigration detention that the ICE detention operations manual has an entire section of protocol for dealing with a hunger strike.³³² The Department of Health in the UK also published the 50-page “Guidelines for the Clinical Management of People Refusing Food in

³³¹ Foucault 1979.

³³² “Detention Standards 4.2 Hunger Strikes.” In Performance-Based National Detention Standards 2011 (PBNDS 2011), Revised 2016, 253-256.

Immigration Removal Centres and Prisons” in 2010.³³³ A physician in the UK recalled from memory at least 36 hunger strikes in immigration detention centers between 2006 and 2011.³³⁴

Corporeal resistance continues to be the main tool for detainees in migrant detention centers. In fact, some of the incidents I have cited had not even occurred when I began writing this thesis. These collective acts of bodily resistance are also repeated in the same detention centers over time involving none of the same detainees. The Northwest Detention Center was the scene of a hunger strike in 2014 involving over a thousand detainees.³³⁵ Yarl’s Wood, the scene of the recent hunger strike that was carefully documented by Detained Voices, also experienced a revolt in 2002 in which 23 detainees escaped and half the structure was burned down.³³⁶ The body seems to be the most obvious site of resistance in the case of immigration detention, a regime that is constructed by the state precisely for that bodily control.

³³³ Stroud, Mike. “Guidelines for the Clinical Management of People Refusing Food In Immigration Removal Centres and Prisons.” Offender Health. Department of Health, January 2010.

³³⁴ Dr. Frank Arnold, as cited in: Jacobs, Pauline. Force-Feeding of Prisoners and Detainees on Hunger Strike: Right to Self-Determination Versus Right to Intervention. Cambridge, United Kingdom : Portland, OR: Intersentia, 2012, 303-304.

³³⁵ Henterly, Lael. “Tensions Rise at Tacoma Detention Center, with Little Room for Negotiation.” The Seattle Globalist, August 7, 2014. <http://www.seattleglobalist.com/2014/08/07/tacoma-detention-center-trouble-continues-ice-hunger-strike/28238>.

³³⁶ Corporatewatch2. “UK Border Regime: A Brief History of Resistance to Immigration Detention.” Corporate Watch, October 11, 2018. <https://corporatewatch.org/the-uk-border-regime-a-brief-history-of-resistance-to-immigration-detention/>.

It is also difficult to take all acts of corporeal resistance into account. As demonstrated in the last chapter, immigration officials try to limit media coverage of resistance in order to preserve their reputation and minimize public outcry—a natural result of a confined space. It is possible that many stories are left untold. Further, without details, it is unclear what acts are meant as resistance. There were 446 suicide attempts in UK detention centers in 2017 alone,³³⁷ and at least one incidence of self-harm every day.³³⁸ Self-harm is usually seen as a symptom of mental illness rather than an act of resistance, and any acts of self-killing can be written off as simple suicide by a detainee who has lost all hope. When detainees leave notes or otherwise leave behind a message about their suicide, it is often only released to their families.³³⁹ While it is impossible to know the intentions behind all of these acts, this research serves to show that they cannot all be explained away by mere irrational desperation.

While I have presented these acts as a strategic, and in some ways effective, way of resisting state violence, I do not want to imply that this is a valid solution. It is tragic that detainees around the world inflict physical harm on themselves. The purpose of this research is not to celebrate or encourage corporeal resistance, but rather to recognize it as an intentional and logical response to a corporeal structure that facilitates state control

³³⁷ “Highest Recorded Number of Suicides in Detention Last Year.” Migrants’ Rights Network, May 15, 2018. <https://migrantsrights.org.uk/blog/2018/05/15/highest-recorded-number-of-suicides-in-detention-last-year/>.

³³⁸ O’Hare, Liam. “At Least One Person a Day is Self-Harming in UK Detention Centres.” *The Independent*, April 2, 2018. <https://www.independent.co.uk/news/one-person-a-day-selfharming-uk-detention-centres-a8285206.html>.

³³⁹ Bulman, May. “Suicides in Immigration Detention Centres Kept ‘State Secret’ by Home Office, MPs Told.” *The Independent*, September 12, 2018. <https://www.independent.co.uk/news/uk/home-news/immigration-detention-centres-uk-suicides-prison-deaths-home-office-a8533366.html>.

over their life and death. The answer is not for detainees to continue harming themselves. Rather, these actions should be seen as a clear sign that the system needs to be changed. Any system that routinely causes this level of violence should not continue.

The problem cannot be resolved by immigration detention centers improving their treatment of detainees. Immigration detention is an inherently corporeal system that will necessarily involve bodily control of the detainee across time and space. Improving the quality of these conditions would make a small-scale difference in detainees' day-to-day life, but would ultimately mask the real problem. Many activists have mistakenly focused on the material conditions of detention,³⁴⁰ implying that immigration detention would be unproblematic if the centers themselves were "nicer". States have also latched onto this idea as a quick fix to quell criticism. An astounding example of this is that Trandum Detention Center in Norway, undoubtedly the worst detention center in Scandinavia and the scene of multiple riots and suicides,³⁴¹ recently launched a project to decorate its walls with art.³⁴² This approach exemplifies the problem with attempts to "reform" immigration detention. It superficially masks the structural violence of the system confinement and does nothing to ultimately improve migrants' lives. In a facility that allows total corporeal control to the point of managing death, it is entirely irrelevant how pretty the walls are.

³⁴⁰ McGrady 1997; Varsanyi, Monica. Taking local control: Immigration policy activism in US cities and states. Stanford Univ Pr, 2010.

³⁴¹ Majcher & Flynn 2018.

³⁴² Helsvig, Simen Joachim. "Kunsthalle Trandum." *Kunstkritikk* (blog), January 20, 2017. http://www.kunstkritikk.no/kritikk/kunsthalle-trandum/?do_not_cache=1.

Regardless of the relative quality of the environment, detainees would still be subjected to corporeal control by virtue of their being immigration detainees. While the state may defend these institutions by saying that they are simply caring for migrants while their case is pending, anthropologist Erin Routin argues, “Care, in the administration’s language, is more appropriately understood as a project to control bodies, motivated less by empathetic concerns for migrant welfare and more by custodial interests”³⁴³ While small improvements may be made, it is important to remember that the state is not doing detainees a favor by treating them more kindly in a place that they have locked them into. The state’s only motivated by a desire to continue controlling movement. The entire premise of immigration detention is to incapacitate bodies while a decision is made; the system would not serve its purpose without it.

In order to truly prevent this level of corporeal control, immigration controls would need to be limited. Practically speaking, immigration detention is an almost necessary aspect of immigration control. The state must detain people if it wants to verify the identities and claims of people entering its territory without allowing them the opportunity to evade deportation. Deportation and policies that prevent immigration are also corporeal. These systems control where bodies may be located and permits some bodies to be in danger. The externalization of borders forces many people to risk their lives trying to get out of harm’s way. Deportation then giving states the authority to place migrants back to a place they risked their lives to leave. State recognition of migrants’ corporeal autonomy must also preserve migrants’ autonomy over their physical life and death.

³⁴³ Routon 2018.

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