

"Not Counting Mexicans or Indians".

THE MANY TENTACLES OF STATE VIOLENCE AGAINST BLACK-BROWN-INDIGENOUS COMMUNITIES

by Roberto Rodriguez, published in Truthout Feb. 4, 2015

"They tried to bury us, but they didn't know we were seeds." - Popul Vuh

Between my eyes, I bear a scar in the shape of a "T" that I received on March 23, 1979, on the streets of East Los Angeles. It functions as a reminder that my skull was cracked, but more importantly, that I did not remain silent and that I won two police violence trials, for witnessing and photographing the brutal beating of a young man by perhaps a dozen sheriff's deputies.

These events are seared into my memory because of how I remember them. After coming back to consciousness, amid violent threats, I was handcuffed and left facedown on the cold street, bleeding profusely from my forehead. While in shock and unable to even lift my head, in my own pool of blood, amid flashing red and blue lights everywhere, I could see many dozens of officers giving chase and arresting everyone in sight. What I also witnessed in the reflection of my own blood was everything that I will relay here.

This happened when I was doing research for Lowrider magazine, comparing mass violence, mass roundups and mass arrests against barrio youth in the 1970s, to the violence of the Sleepy Lagoon and the Zoot Suit era of the 1940s. This mass law enforcement violence against Zoot Suiters, included violence against Mexicans, African-American and Filipino youth. ("Pachuco Yo, Ese," Lowrider, v. 2#4, 1978)

One of the most notorious cases prior to the 1960s was the "Bloody Christmas" incident in 1951, memorialized in the 1997 movie, *LA Confidential*. It involved the 90-minute brutal beating of seven men, all but one of them Mexican, inside the Los Angeles Police Department's central station, and one outside of his own home. Only a few were put on trial, though none served even a year. This travesty was considered justice, and an example of how the LAPD could "police its own."

Even before I worked for Lowrider, I had covered a historic trial of a sheriff's deputy, Billy Joe McIlvain, who had executed a teenager from San Gabriel named David Dominguez in 1977. At the trial, it was revealed that it was the deputy who had



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kidnapped and killed Dominguez, while the deputy claimed the reverse. He was given a life sentence, an extreme rarity in the history of US jurisprudence, yet he served only 13 years. Little wonder the expression: "The price of a Mexican." In most cases, the price is zero. One Texas murder case in 2000 resulted in no prison time, but a whopping \$4,000 fine.

This is the prism through which I approach the reality of police violence against communities of color - a reality that I track to 1492, and that today includes the criminalization and demonization of Black and Brown youth. Too many bear physical and psychological scars.

MANY ARE INCARCERATED DUE TO THE TRAVESTY OF CONTINUAL RACIAL PROFILING, INCLUDING BEATINGS AND KILLINGS BY THE POLICE OR THE MIGRA - OFTEN FOR SIMPLY BREATHING, SITTING, STANDING, WALKING OR DRIVING WHILE BLACK OR BROWN.

There is no shortage of recent examples of this violence, which is primarily carried out against Black and Brown men and youth, from Michael Brown in Ferguson, Missouri, to Eric Garner in New York City, to 12-year-old Tamir Rice in Cleveland, Ohio. Of course, it's not a new phenomenon. I remember having similar conversations in the wake of the videotaped beating of Rodney King in Los Angeles in 1992. Consider that the beating of King was followed, in 1996, by the nationally televised brutal beatings of Alicia Soltero and Enrique Funez Flores, who were brutalized by several Riverside County Sheriff's deputies after a chase.

Undocumented migrants are also especially targeted. The recent Arizona Republic investigation, "Force at the Border," revealed that from 2005 through March 25, 2014, immigration

officers had killed at least 46 people along the US-Mexican border (seven more since). None of those officers have ever been convicted for the killings. The most egregious recent case is that of 16-year-old Jose Antonio Elena Rodríguez, who was shot in 2012 on the Mexican side of the border 10 times by two border patrol officers on the US side, purportedly (though erroneously) for throwing rocks at them. These killings do not wind up in police violence statistics, because the culprits are border patrol or *migra* officers —whom labor leader César Chávez used to refer to as the Gestapo of the Mexican people—who are accountable to no one, precisely because those they murder are primarily Mexicans. It is reminiscent of an oft-repeated trope in Hollywood movies in which white cowboys brag about how many people they have killed. In the 1990 film, *Young Guns II*, one of the characters, exclaims: “I’ve killed 65 men, not counting Mexicans and Indians!”

The list of state-sponsored killings and brutality is endless. Documentation is critical, yet difficult to accomplish because there has never been a uniform standard for accurately reporting instances of police brutality. While the FBI creates an annual list of “justifiable homicides” by US law enforcement agencies (excluding border patrol), it relies on voluntary cooperation. Also, what authorities deem to be “unjustifiable homicides” by definition are excluded or not even recognized. The FBI tally for police killings in 2013 was 461. A citizen group called “Killed by Police,” in 2014, tallied more than 1,000 killings, this while culling mainstream media stories. There is no tally for non-lethal cases of excessive force.

Much of the violence committed against undocumented migrants, especially against women and including rape, largely goes unreported for fear of deportation. Violence against women of color, however, is not restricted to migrants. For example, in Denver, the police viciously took down a seven-months pregnant woman, Mayra Lazos-Guerrero, who was pleading with them to stop brutally beating her boyfriend.

On January 26, 2015, Jessica Hernández, 16, was shot to death purportedly for striking a Denver police officer in the leg with a vehicle. This adds to the spate of shootings over the past year by Denver Police Department officers. On December 24, 2014, Francisco Manuel Cesena was tasered to death at the Tijuana border crossing by Customs and Border Protection agents. Two days earlier, a Lakota man, Allen Locke, was shot five times and killed by Rapid City, South Dakota, police officers, a day after attending a Native Lives Matter rally in Rapid City. Across the country, five other native people were killed in the same two-month period, while others were attacked by vigilantes. Two weeks before that, a Victoria, Texas, police officer was caught on videotape unjustifiably taking down and injuring a 76-year-old man, Pete Vásquez, then tasering him twice. A few days earlier, in December, Romain Brisbon was killed by Phoenix police. Two weeks prior to that, in mid-November, sheriff’s deputies in East Los Angeles shot Eduardo Bermudez and Ricardo Avelar-Lara to death.

At the end of October 2014, Oscar Alberto Ramírez was shot four times in the back by sheriff’s deputies in Paramount, California. Also, a couple of months earlier, in Los Angeles, Ezell Ford was killed by the LAPD, and nine days before that, Omar Abrego was beaten to death by LAPD officers in the same vicinity. A few months before, in April, unarmed

Richard Ramírez was executed, on camera, by a Billings, Montana, police officer, Grant Morrison, who was exonerated. The previous month, Alex Nieto was killed by San Francisco police officers, riddled with more than a dozen bullets because the officers purportedly mistook his holstered Taser from some 75 feet away. The previous month, in February, five law enforcement officers in Moore, Oklahoma, beat and suffocated Luis Rodríguez to death. His last words, eerily, were, “I can’t breathe.” And in a case similar to Tamir Rice, in 2013, a sheriff’s deputy in Santa Rosa, California, killed 13-year-old Andy Lopez, who was carrying a toy BB pellet rifle.

Recently, many of us have been cognizant of the extreme violence in Mexico and Central America, especially the October 2014 kidnapping and disappearance (and presumably killings) by police in collusion with a drug gang, of 43 Indigenous students studying to be teachers from Ayotzinapa in Iguala, Guerrero, Mexico. In the past few years, upwards of 26,000 Mexicans have been “disappeared” whereas at least 100,000 have been killed, caught between cartel and military violence.



THERE HAS NEVER BEEN A TIME IN THE HISTORY OF THIS COUNTRY IN WHICH PEOPLE OF COLOR WERE TREATED BY THE LEGAL SYSTEM AS FULL HUMAN BEINGS WITH CORRESPONDING FULL HUMAN RIGHTS.

Complicit in this dehumanization have been this nation’s official historians, the educational system and the mainstream media, who shape, teach and cling to fairy tales regarding the founding of this country. That history includes genocide, land theft, slavery, state and vigilante violence (lynchings) against slaves, and against Blacks during the Jim Crow era. *That history includes the widespread lynching of Mexicans, between the 1840s and 1920s, including the several thousands killed by the*

Texas rangers, on both sides of the US-Mexican border.

Mass state violence against Mexicans is not exclusive to immigration-related matters. Consider the Eastside high school walkouts, which were met by brutal LAPD violence. Memorialized in the 2006 movie *Walkout*, they involved 10,000 students, who demanded the end of punitive measures against students, bilingual education and a culturally relevant curriculum. One of the founding members of the Brown Berets from East Los Angeles, Carlos Montes, related to me that the very first issue taken up by them in 1967 was the rampant issue of police violence, then, the walkouts. Of note, on the other side of the country, the Puerto Rican community had rioted for three days in 1966 in Chicago, in protest over the shooting death of 20-year-old Aracelis Cruz.

In those days, the Black Panthers and the Puerto Rican Young Lords formed to counter the rampant police abuse in their communities, and they supported each other.

On August 29, 1970, the National Chicano Moratorium against the Vietnam War took place, and was attended by some 30,000 protestors. Thousands of rally-goers—who were also protesting against the endemic police abuse in the nation’s barrios—were brutally attacked by riot-equipped Los Angeles sheriff’s deputies and LAPD officers. This massive assault was memorialized in *Requiem 29*. On that day, three people were killed, including famed Los Angeles Times columnist, Ruben Salazar, along with Angel Díaz and Lyn Ward. Salazar, who had been writing about police brutality, was purportedly killed by a 9-inch, armor-piercing tear-gas projectile. No one was ever prosecuted.

Despite many hundreds of killings, only a few other cases have made such an indelible imprint in national mass media, such as Santos Rodríguez’s execution in 1973 by a Dallas police officer playing Russian roulette on the 12-year-old boy’s head, and the 1997 shooting death of high school sophomore, Esequiel Hernández, by four fully camouflaged US Marines in Redford, Texas, highlighting that the US military has been deployed on US soil since 1981, assisting in the US war on drugs and migrants.

PRISON AND PLEA BARGAINS

Of course, police violence is inextricably tied to another mass form of state violence against Black and Brown people: the sprawling US prison system.

That system today has expanded to become the world’s largest, filled disproportionately with Black and Brown bodies. Due to undercounts, the number of prisoners may be as high as 2.4 million, excluding immigration detentions. During law enforcement encounters, on the streets and in the courtroom, this system demands silence, speedy compliance and, ultimately, complete submission, in effect, emasculation. Failure to be docile often becomes the rationale for officers shooting, brutalizing and charging those they question with trumped up charges that subsequently cause the prisons to swell. In the past decade, federal immigration detentions have not only skyrocketed, but they have become at least 50 percent of all federal crimes. This translates to close to 100,000 detentions per year, often in for-profit prisons, for “crimes” that before 2000 resulted in simply returning migrants back to their country of origin.



One population that the prison system almost never entraps is police, themselves. One thing I learned when I worked for Lowrider is that plea-bargaining, which has virtually been refined to a science, effectively guarantees that law enforcement officers never serve a day in prison. Police officers brutalize people, and then charge the victims with felonies. In court, district attorneys offer to reduce the charges to misdemeanors, permitting the victims to plead guilty and walk away with no time or time served. After the victims plead guilty rather than face the possibility of many years in prison, the officers incur virtually no risk of being brought up on charges or losing in the event of a lawsuit. Even if a victim were to emerge victorious in a lawsuit, none of the money awarded normally comes from the officers, themselves.

Another method of ensuring that officers never serve time in prison is not leaving witnesses. In *Ando Sangrando*, author Armando Morales pointed out that never in the history of this country had a police officer been convicted in federal court for assaulting or killing a Mexican (a Spanish-speaking person) since records had been kept, and applicable statutes enacted, in the 1800s (p. 20).

Once in a great while, “punishment” for police abuse consists of suspension or vacation with pay, while sometimes an officer gets transferred or loses his or her job. Society somehow equates that with “justice.” Most of us who have lived or who live these realities have never equated beating back criminal charges or dead relatives winning a lawsuit, which is extremely rare, with justice.

Young people are extremely vulnerable if law enforcement perceives them to be gang-affiliated. This criminalizing of youth has led to the use of gang injunctions and safety zones that restrict the association and mobility of suspected gang members, named and unnamed. These are many of the same youth who are profiled—and when falsely arrested, beaten or killed. In the psyche of the community, these youth are presumed guilty, thus they “got what was coming to them.” Those who are killed or brutalized or who have criminal backgrounds suffer the same fate.

In 1970, the prison system in this country was perhaps one-tenth the size of what it is today. Many people attribute this immense growth to the war on drugs. But even more than that, it is a war against people of color, principally, against Black-Brown-Indigenous bodies—the very same colonial war brought to us by Columbus and the *conquistadores*. The value these “civilizers” who were living in the “Dark Ages” placed on the

lives of Black and Brown peoples was zero. In many parts of the country, that designated value continues to be zero.

THE NEW AND FLAWED RACIAL PROFILING GUIDELINES

Within the past generation, the border has literally become a killing field. It has become a cemetery for migrants from Mexico and Central America. And yet, in many ways, the border has extended to the entire country—everywhere, our skin color is considered suspect. This expansion, coupled with the complicity of the mainstream media and much of civil society, means that the government can continue to act with impunity. For example, in December 2014, the US Justice Department put forth new racial profiling guidelines that formally ban racial profiling in the United States. There are, however, two huge exceptions that render these guidelines virtually meaningless for Brown peoples. The guidelines exempt both the border region, which “legally” means 100 miles from the actual border, plus much of the Department of Homeland Security.

Meanwhile, across the country, brutal and dehumanizing immigration enforcement raids (such as the Pottsville, Iowa, raid involving 1,000 agents) take place, not limited to the border or ports of entry. In many instances, they function like hunter battalions. Immigration authorities hunt primarily Mexicans, but also Central Americans, and Blacks, in certain parts of the country. (It is estimated that there are a half-million Black undocumented immigrants in the United States.)

As most young Black and Brown youth know, it is during these racially profiled law enforcement stops that trumped-up “crimes” are committed, such as failure to disperse, resisting arrest and of course, assault and battery on law enforcement officers. Sanctioning the ability of officers to pull over anyone suspected of being an “illegal alien,” is a recipe for abuse and violent escalation, wherever they operate.

Historically, harassment on the streets has been the norm in this country’s major cities. In New York City, it has been called “stop-and-frisk,” but it exists everywhere, sometimes without that name. For Border Patrol, it is their *raison d’être* or part of their job description.

The racial profile singled out by Border Patrol is not “Hispanic.” It is often a specific indigenous phenotype that triggers suspicion: brown skin, brown/black hair, brown/black eyes and the use of the Spanish language, which is racialized as Brown, unwanted and “enemy other.” Immigration enforcement, in effect, amounts to modern-day Indian removal.

These guidelines and any future immigration reform will further militarize the “border” and it is sure to at least triple the

size of Operation Streamline, which today facilitates the daily conviction of hundreds of migrants in mass show trials that last an hour only, sending them to private prisons or immediate deportations. Tucson human rights lawyer Isabel García “noted that one time, an African-American delegation [Black Alliance for Just Immigration or BAJI] witnessed the operation and left early in disgust.” They did so “because the brown men in shackles [ankles, wrists and waist], all lined up on one side of the courtroom, created the imagery of Africans in slave ships.”



BAJI is a group that emphasizes the impact of racism and globalization on African-American and immigrant communities as a basis for forging alliances across these communities.

SOLUTIONS AND BLACK - BROWN- INDIGENOUS UNITY

There is a crisis of state violence directed at Black peoples in this country. While the mainstream media still presents the issue in an extremely biased and ahistorical manner, at least the conversation of police abuse, due to the Black insurrection Black Lives Matter, is on the table.

IT IS INCUMBENT UPON THOSE WHO ALSO LIVE MARGINALIZED REALITIES TO BOTH OFFER CRITICAL SUPPORT TO THIS BLACK INSURRECTION AND TO ALSO STEP FORWARD ABOUT THE STATE VIOLENCE AGAINST THEIR OWN COMMUNITIES.

Many from communities targeted by state violence have been working toward building much-needed Black-Brown-Indigenous coalitions. There is precedent for this. At the behest of Dr. Martin Luther King Jr., many Brown people were part of the Poor People’s March of 1968. And Ron Espiritu - who has

In immigration court, we have begged judges to review the custody of families who have been detained for many months, —up to 9 or 10 months, at present, for some. DHS argues that it must detain people who have been removed (deported) from the U.S. before, because people in this category have final orders of removal. That statement is just plain false: DHS *always* has the discretion, on a case-by-case basis, to release people on parole. Moreover, women whom asylum officers have determined have “reasonable fear” of returning do not currently have “final orders of removal.” They would not be in court if they had final orders of removal! They are pursuing claims for “withholding of removal” and for protection under the Convention Against Torture (CAT). We also argue that *Flores v. Reno* requires the release of the children, and that the law and regulations allow for release of parents (even parents who have been deported before). And we remind immigration judges that even “mandatory” detention does not mean mandatory *forever*. Indefinite detention is unconstitutional. While some federal courts have required review of even “mandatory” detention after a person has been locked up for 6 months, other courts have said that there is not a single fixed time when they must review detention. That decision, too, should be case-by-case. We argue that the 6-month rule was set in cases involving adults, and typically adults who had been convicted of certain delineated crimes. Six months may be the outside limit for adults—but it’s certainly far too long to wait for judicial review of children!

On March 30, several families who’ve spent close to eight months in Karnes asked an immigration judge to release them, making all of these arguments. They could have found no more effective advocate than Javier Maldonado. The judge acknowledged the compelling arguments for their release but decided that he did not have jurisdiction to do anything. (That night, women began their fast.)

It’s not that immigration judges don’t recognize that the situation is very, very bad. It’s that they are not “regular” judges but administrative law judges. I am privileged to practice immigration law before smart and good judges, but these immigration judges are *not* sworn to uphold the U.S. Constitution. They are *not* empowered to say that detention in any given case is unconstitutional. Rather, they are only allowed to look at immigration law, the statute itself, as interpreted by the Board of Immigration Appeals (BIA), which is part of the Department of Justice, an executive agency. Unlike “regular” judges, immigration judges report to the Executive

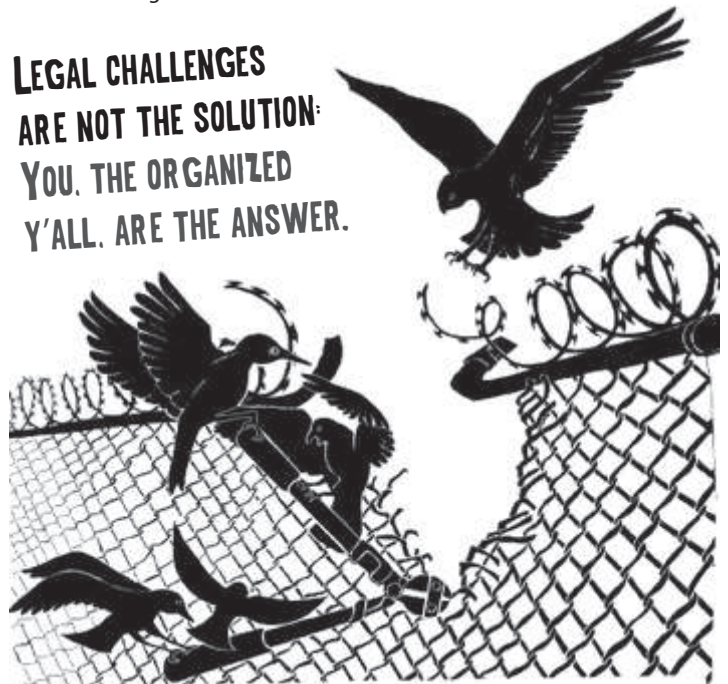
Office of Immigration Review (EOIR), which is part of the US Department of Justice, which is part of the executive branch of government. In other words, there is no separation of powers: immigration judges ultimately answer to the President. They are not members of the judicial branch of government.

On April 9, Professor Ranjana Natarajan, already busy trying to enforce the *Flores* settlement, and her students Julia Furlong, Seth Manetta-Dillon, and Sofia Meissner filed a habeas corpus petition in the U.S. District Court for the Western District of Texas, San Antonio Division. Maria Estela Marquez Marquez has been locked up in Karnes with her 3 daughters since August 5th. Jackie, Carmen, and Melissa marked their 11th, 14th, and 16th birthdays in immigration jail. DHS says they can leave, as soon as their mother pays a bond—a bond that the immigration judge and DHS say only DHS can set—and that DHS refuses to set.

Will a federal judge release this family? We don’t know. Stay tuned, but don’t passively wait for the answer. We do know *this*: the most effective way to seek social justice is through creativity (opening hearts), education (telling the truth, countering false assumptions and lies), and organizing. Legal challenges are not the solution: *You, the organized y’all, are the answer.*

Sing, paint, perform, write poetry. Teach. Assemble. Demand justice. ♦ *Bio: Virginia is a lawyer in Austin, TX who is, on a pro bono basis, representing refugees and immigrants who would otherwise be left without legal assistance.*

**LEGAL CHALLENGES
ARE NOT THE SOLUTION:
YOU, THE ORGANIZED
Y’ALL, ARE THE ANSWER.**



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Not Counting Mexicans cont'd from p.10

been teaching a ground-breaking Chicano/African-American Studies class for the past seven years at Animo South Los Angeles High School - notes that the United Farm Worker’s movement itself was heavily supported by both King and members of Student Nonviolent Coordinating Committee. In *To March for Others*, Lauren Araiza chronicles these alliances, which included all the major Black civil rights organizations supporting the struggle of the UFW. Most Native American activists of that era also joined in supporting the UFW’s movement.

Today, too, the silencing and invisibilization of subject

populations is unacceptable. The federal government, elected officials, the states, municipalities and other institutions that hold power over law enforcement must be confronted. The mass media must also be confronted: Silencing and invisibilization also take place as a result of where the lens is focused or where the microphones are placed. As the Zapatistas have proclaimed in their struggle: “Never again a world without us.” ♦

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