

THE NECROPOLITICAL PRACTICE OF IMMIGRATION DETENTION IN THE UNITED STATES

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The article examines the system of immigration detention in the United States during the COVID-19 pandemic through a necropolitical lens.

Necropolitics was first developed by Cameroonian philosopher Achille Mbembe in 2003 to describe governance of postcolonial spaces in certain parts of Africa in which the ruling entities are often non-state actors. Necropolitical analysis focuses on spaces in which killing the enemy is a primary political goal, and thus “death-worlds” are created by the powerful, for whom the deaths are lucrative. Recently, scholars and theorists such as the authors in Ariadna Estevez’s 2021 book *Necropower in North America* have begun to place necropolitics in a first world context to describe spaces where they believe life has been made subordinate to the power of death under the term “rule-of-law necropower.” Rule of law necropower refers specifically to these instances of necropolitics in the first world that are results of pieces of legislations and/or interpretations of the law as written that subject people to environments dominated by death, such as deportation to dangerous places, militarization of law enforcement that targets ethnic minorities, intentional exposure to illness, and mass imprisonment.

Although it focuses on the first world, rule-of-law necropower also includes the leverage of neocolonial relationships that allows certain groups to subjugate others to deadly spaces. Just like in the third world, these deaths are lucrative because they are driven by economic extraction, both in the form of destruction of living spaces and carceral capitalism.

To understand how the concept of necropolitics relates to the detention of immigrants in the US, this paper will focus on two key components that illustrate the necropolitical characteristics

of immigration detention. The first is lucrative death, which will be explained through the lens of carceral capitalism to demonstrate the association between capital interests and ever-increasing rates of detention. The second is neocolonial hierarchy, which reproduces colonial relationships of extraction for the benefit of those in power at the expense of a racialized colonial underclass, in this case undocumented immigrations to the United States from Latin America.

Carceral capitalism and lucrative death in immigration detention

The idea of carceral capitalism, developed by Jackie Wang in her 2018 book by the same name, was conceived by analyzing the domestic criminal justice system and how it works to support the interests of capital and uphold white supremacy. Wang forcefully argues that it is no coincidence that the unchaining of capitalism and the beginning of the era of mass incarceration in the United States happened simultaneously, both jump-started under the Reagan Administration and continued to gain steam under Clinton until they became seemingly irreversibly woven into the fabric of 21st century US domestic policy. The crux of the argument is that while taxes were cut for the rich, municipal budgets, which do not have the same flexibility as the federal budget, came to rely largely on extracting money from their poor and Black citizens through a system of fines, municipal penalties, and prison sentences. This system serves not only to keep the working class exploited and at the mercy of the powers of both capital and the state but also to keep police budgets funded while social services are slashed in the name of lowering taxes. The slashing of social services in turn creates conditions that are conducive to more crime which in turn creates more justification for incarceration.

In contrast to the domestic prison system, the immigration detention system is a civil detention system, which scholars such as Juliet Stumpf have argued is an oxymoron. Another distinct feature of immigration detention is that, according to a 2021 study by the Brennan Center

about 80% of detainees are in in detention centers that are run by private prison companies, as opposed to the less than 10% people in domestic prisons. Private prison companies have seen their profits increase steadily since the expansion of the immigration detention system in the Bush and Obama years, and in turn spend much of that money lobbying for more immigration detention centers to be built. Carceral capitalism, however, teaches us to go beyond the direct profits of private companies and look at how the continued construction of new detention centers upholds broader financial interests, namely those of local governments that can use detention as a way to support their budgets while cutting taxes and social services and corporations that profit off of all aspects of detention, from transporting detainees to managing the centers themselves as documented in several studies such as Anita Sinha's 2015 article "Slavery by Another Name".

Even more important than the profits of corporations in the carceral capitalism framework are the financial interests of municipal governments. State and local governments do not have the same seemingly unlimited spending ability as the federal government, so they need to balance their budgets. Injections of federal funds, however they come, offer a convenient path to a balanced budget. In his 2017 article "Abolishing Immigration Prisons," César Cuauhtémoc García Hernández explains that since the turn of the century, many municipal governments across the country have come to depend on federal immigration detention contracts as a way to keep themselves funded without raising taxes or otherwise threatening capital interests.

The National Immigrant Justice Center's 2021 Policy Brief entitled "Cut the Contracts" lays out the various types of capital transfers involved in immigrant detention center contracts and their beneficiaries. In the most common type of ICE detention contract, known as a Non-Dedicated Intergovernmental Service Agreement (IGSA), a complex arrangement in which state and local governments in whose jurisdiction the detention center is located act as intermediaries between

ICE and the private companies. The municipal governments in turn receive a payment from the contractors. In other cases, ICE contracts directly with state or local governments who in turn manage the facility themselves. Just as private companies receive a certain amount of money from the federal government per detainee that they hold in their facilities per day, so do state and local governments in the facilities that they run. Research such as Douglas and Saenz's 2013 article "The Criminalization of Immigrants & the Immigration-Industrial Complex," as well reporting from USA Today entitled "'These People Are Profitable': Under Trump, Private Prisons Are Cashing in on ICE Detainees," has demonstrated that local sheriffs and politicians are strongly incentivized to push for the detention of more immigrants, even if many of them admit to being apprehensive about detention on such as mass scale on a personal level. Regardless of how wrong it may feel, their jurisdictions cannot or will not get the money they need from taxes or the federal government, so they feel increased detention is the best way to secure funds for their municipality and keep government employees employed. During a deadly pandemic in which detaining higher numbers of people directly leads to higher risk of infection and death, this system of financial incentives allows powerful groups to profit from subjecting certain people to death.

Neocolonial hierarchies: reproduction and extraction

Understanding the governmentality of rule-of-law necropower requires and understanding of the neocolonial dynamics at play—the people being subjected to detention and death are those at the bottom of the neocolonial hierarchies. Scholars who approach critical migration studies from a necropolitical perspective often argue that necropolitics is an apt frame of analysis because of its emphasis on colonial violence using examples such as the slave plantation colonial treatment of indigenous peoples instead of the modern governments using examples such as Nazi extermination camps frequently referenced in biopolitical analyses such as Agamben's *Homo Sacer*. Of course,

the inclusion of necropolitics does not exclude biopolitical analysis from relevance—its aim is to provide a different, perhaps more apt dimension to the discussion of state control of migrants' bodies. As explained in Estevez's 2018 article "Biopolitics and necropolitics: opposite or constitutive?" and her forthcoming book *The Necropolitical Production and Management of Forced Migration*, the two terms build upon each other rather than contrast one another, and what distinguished one from the other is the analysis of the neocolonial, extractivist relationships between the powerful and the subjects.

In their work "Necropolitics and Slow Space," Mayblin et. al explain their choice of the necropolitical lens through a criticism of the "human rights framework" that followed the Second World War in Europe. Horrified by the offenses of the Nazi Regime, leading powers used organizations like the newly-formed United Nations to draft human rights declarations but took care to leave out colonized people as many countries had still yet to achieve independence from their colonial rulers. These colonial norms continued after independence with the idea that some countries were "undeveloped" or "traditional" while others were "advanced" and "modern" and therefore the exclusion of people from previously colonized countries was justified on the basis that they did not share the values of the Western powers. The treatment of migrants and refugees bears resemblance to the violence of colonial sovereignty described by Mbembe because of the continual war of attrition being waged against them that leads to the creation of what Mbembe called "death-worlds."

Although the United States was a settler-colony and not a colonial power in and of itself during the era of colonialism, it has since taken up the mantle of global imperial power, especially on the American continent. The more blatant conquer-and-occupy model of imperialism has been replaced by a less direct form of political and financial control from afar in a way that maintains

the United States' position atop the global hierarchy. Harsha Walia's 2021 book *Border and Rule* lays bare the part that US immigration enforcement plays in creating and maintaining the colonial relationships that have determined the global hierarchy for the past 500 years. Walia uses Central America as a prime example of how US imperial policy and the immigration system function together. Through a slew of military interventions, electioneering, and money-laundering operations, the US government eliminated any chance of a successful left-wing government in Central America that would aim to keep profits from their natural resources in local hands. US corporations, specifically the United Fruit Company, gained control of the countries' natural resources at the expense of local producers by force, sending the profits from Central America's resources north. The tight control of these small nations' economies was mirrored by the tight control of those who came seeking asylum when the multinational corporations' control of the land made it impossible for them to provide for themselves. If they make it to the border, they are still treated as a colonial underclass, heavily racialized, marginalized, and constantly subjected to the threat of detention and/or deportation, which once again creates benefits for capital interests as described in the previous section.

Archille Mbembe himself has discussed the role of borders in neocolonialism in a 2018 article entitled "The Great Riddance," placing them within a necropolitical framework. In a 2018 article, he writes "[Borders] are no longer merely a line of demarcation separating distinct sovereign entities. Increasingly, they are the name used to describe the organized violence that underpins both contemporary capitalism and our world order in general." He also references the "war of attrition" that is being waged by Global North countries against migrants from the Global South. In the necropolitical framing of politics as war and with colonial sovereignty as the point of reference, the US immigration enforcement apparatus carries out the everyday slow violence that

protects and enforces neocolonial hierarchies in a way that is lucrative for those at the top of those hierarchies and those executing the enforcement.