

LAURA FLANDERS & FRIENDS

CRIME & MIGRANT DETENTION: AN ABOLITIONIST PLAN FOR IMMIGRATION JUSTICE

LAURA FLANDERS: Our national discourses around crime and migration are highly politicized already and likely to get more so this election year. Both center on punishment and policing and attempt to justify mass detention and incarceration on the grounds that the nation is facing a dangerous crisis. But are we? As so often the facts belie the panic. In this episode, we're going to look at the question, are either of these crises real and how did US policy come to be this way? We'll also consider the shape and impact of social justice organizing on these issues, especially the effect of abolitionist beyond policing thinking. With me to host this discussion is Amir Khafagy, Award-winning Report for America Corps Member working at the online journal Documented. He's co-hosting with me again today, and I'm very happy about that. Amir, welcome back. Glad to have you.

AMIR KHAFAGY: Thank you for having me. It's always a pleasure. On today's episode, both of our guests have worked on issues around immigration detention, the prison industrial complex, and migrant justice. Silky Shah is the executive director of the Detention Watch Network, a national coalition working to abolish immigration detention in the US. She's also an author with a new book out called "Unbuild Walls: Why Immigrant Justice Needs Abolition" just released by Haymarket Books. Aron Thorn is a senior attorney with the Texas Civil Rights Project's Beyond Borders program. He works to improve border communities legal advocacy for public policy that respects not only migrants, but the communities that live near the border. Silky and Aron, we're so happy to have you on today's show.

LAURA FLANDERS: It's great to have you both. Let me start with you Silky congrats on the book. It's just coming out now as Amir said. In it, you paint the picture of the situation we're looking at today - for our audience, how would you describe it? What's the sort of outline of our migration detention question? Who's getting held for how long and why?

SILKY SHAH: Well, immigration detention has been an issue for a very long time, and we started to actually get to a place where people were starting to question the detention, but now we're in a sort of backlash to what, you know, a lot of the work that happened to build sanctuary policy and push against criminalizing immigrants. Many, many states like New York, Illinois, California said, no, we don't want immigrants targeted this way. Unfortunately, right now, we're in a backlash moment when actually in so many ways the right has taken the narrative and people like Greg Abbott in Texas is essentially dictating immigration policy right now. And the Dems don't have any real counter vision and unfortunately they're capitalizing on the sort of

moral panic and the crime panic around all these things and blaming immigrants. And then the answer is, well, let's have more deterrents, let's have more detention, let's have more policing at the border. Let's have more militarization. And that is hurting us.

LAURA FLANDERS: So Aron, coming to you, you're there down on the border working on these issues. What are you seeing? And again, the same question. Who's getting detained for how long and why?

ARON THORN: Border militarization and the sort of using the entire carceral state, not just the immigrant detention state against immigrants, has been alive and well in Texas for really long time, Texas took, undertook the project to wield its entire criminal justice systems, one of the largest criminal justice systems in the world, forget about one of the largest ones in the United States, against immigrants that were coming after COVID after several countries really saw domestic disturbances in their country. Lots of folks coming to the border for legitimate reasons seeking asylum and otherwise, you know, we saw Texas build an entire separate justice system for immigrants seeking safety at the border through Operation Lone Star arresting migrants in the thousands for criminal trespass, you know, a simple misdemeanor offense, using it as an excuse to incarcerate folks in our own criminal justice system as a simple pathway to the immigrant justice system. And so these things work, you know, in Texas and in other states as well, right? Our carceral system works directly hand in hand with the deportation system, and Texas is an innovator in making as many pathways into deportation possible through our criminal justice system and is wielding it directly against migrants that are showing up at our border.

AMIR KHAFAGY: I've been reporting in New York, I've been covering a lot of the situation around the migrants being bused in to New York from Texas, and it seems like the border has moved right? Now it's coming front and center in New York City. What has changed? Why has this occurred and what is different than how things have been handled prior?

ARON THORN: As, you know, as somebody who has lived and worked at the border for a really long time, it's fascinating to see my colleagues in New York grappling with some of the same really difficult questions that border Texans have grappled with for a really long time, which is what does it look like to give meaningful support to folks who are coming here and seeking a better life, whether it's for economic or safety reasons, et cetera. And the United States, because it is spending all of its political will and resources on incarcerating folks and criminalizing folks does not have the political will to give folks a meaningful start when they come here.

LAURA FLANDERS: You start your book *Silky* with talking about actually, I mean, on a relatively positive note, how there has been some movement around this issue of movement resources being brought to bear not only on meeting the needs of migrants, mutual aid and so

forth, but also articulating an alternative vision. Do you still see some progress from the Obama years?

SILKY SHAH: The Obama years are so instructive to understand because it was a moment of real possibility. And then actually what ended up happening, as I imagine a lot of viewers will know, is that Obama was labeled Deporter in Chief. And we saw, such an expansion of the number of people being incarcerated for reentering the country under Obama. And also at the same time, you know, Black Lives Matter protests were growing and people started really understanding the role of police and prisons in the society. And this really started shifting the immigrant rights movement to kind of say, how can we throw a wrench in this? And that's where we started to see an expansion of sanctuary policy. We started to see other efforts of admin relief, like deferred action for childhood arrivals, like DACA things that wouldn't do the trade off that has always been offered, which is legalization for more enforcement. And so actually over time, arrests of immigrants in community who are currently living here started to go down from some 300,000 at the beginning of the Obama administration to 100,000 or so by the end of it. And you start to see these shifts where actually it was no longer politically popular to target community members in the same way it was at the early Obama administration. Things started to really shift. Of course when Trump came in, you know, there was an attempt to say no priorities, we're just going to go after everyone, but actually there was so much more energy to say, let's put even more sanctuary policies into place. Let's block ICE from targeting, rampantly targeting people. And of course there was more attention on the border and so some resources were going there. And I think what's kind of terrifying right now is that actually because of the backlash we're seeing is there's a lot of challenges to some of these sanctuary policies that are coming up.

AMIR KHAFAGY: Silky when you, you talk about a lot of the intersections between the criminal justice system and the immigration system. And it makes me think about, you know, I had in the aftermath of 9-11, I had an uncle who was arrested and he and deported back to Egypt, but before he was arrested, I mean before he was deported, he was in jail for like a year and without being charged of anything. So I really, and simply because he was a Muslim and he was Arab, so there was a lot of racial intersections in what you're saying. And I can't help but think in your book you write about how we should think about the intersectional nature of the immigration rights struggle. And we should not just see it as a challenge, but some sort of opportunity to bridge the different movements together. And I was just wondering what do those opportunities look like and how could we bridge those, those different movements that people have in their mind that they are different and how can we connect them?

SILKY SHAH: Starting with this sort of question of criminalization, I think there is this tendency among immigrant rights advocates to say, look, immigrants didn't do anything wrong. They quote unquote commit less crimes than quote unquote citizens. That doesn't actually help us. Because the reality is, is what, if you understand the history of the prison industrial complex

and how we came to be the world's leading incarcerator, you actually understand that these systems are about warehousing people who are Black, Brown, Indigenous, poor, working class, people who are considered disposable. And so often the way politicians approach it is to scapegoat immigrants and say, oh, they're the problem. But actually inequality is the problem. The fact that so much of our money is going to the war machine and to the prison industrial complex. And as Aron laid out really helpfully like this is a whole industry that we're negotiating. It's not just the private prisons, it's actually everybody is involved, the prosecutors, the guards, everything. And we really need to think about what is that transition from a carceral economy, a military economy, how can we put investment into education, healthcare, the things that we need? And housing? The quote unquote migrant crisis actually distracts from what is really happening, what we need to focus on. And so I think it's so important for us to not just pigeonhole these issues and understand how they intersect so that we're not ending up making an argument that actually ends up throwing other people under the bus and that we like focus on the whole, this can't be a zero sum game.

LAURA FLANDERS: Well, while we still have a whole United States to focus on. Aron, I want to come to you because you are busily fighting Senate Bill 4 which it seems to be, is an attack on federalism. It is sort of setting up a whole kind of separate parallel track legal system under Governor Abbott. I mean I'm just constantly struck by the failure of media to have the hair on fire about this. Talk about what's at stake here, what you're seeing play out and maybe you could elaborate a little on the threat there.

ARON THORN: SB4, you know, being a law that is the state of Texas attempting to make its own immigration system, including its own ability to have its law enforcement officers deport folks defacto and criminalize them from entering the state in the first place. Texas passes this law and they say, you know, lawmakers that pass this law say, I don't know why everybody is freaking out about this. We're only going to use it against migrants at the US Mexico border. And yet they don't limit it in any way. And somebody who is in Amarillo, hundreds of miles from the border can also be criminalized under this scheme, right? It belies the true purpose of this law, which is to scare immigrant communities in Texas to make people feel unsafe. And then for the, you know, folks that end up in this carceral system, they'll get it twofold, right? They'll get immigration enforcement from the state of Texas and then from the federal government. SB4 is part of a larger project of challenging federalism and challenging a federal government that it disagrees with. You know, the state of Texas is running immigration policy within its borders regardless of what the federal government feels, right? They commandeered a park on the US Mexico border like literally on the river and refuse to let the border patrol into that part to do their job. Border patrol has an unfettered access to properties along the border. That sort of power that a state can wield against the federal government, whether it's states like Iowa and Georgia and Florida who want to wield that exact same power now passing their own laws that look just like SB4, or whether it's another state that just decides it's some other thing that is the

dominion of the federal government and they decide they don't like the way the federal government is running that. And so they're going to buck their authority until they have a say so over that policy. We should all be really wary about a federal system that allows that type of behavior from a state,

LAURA FLANDERS: I'm thinking education, healthcare, I mean, we are kind of down that road already. Amir?

AMIR KHAFAGY: Are these new laws and these new rules and these new acts that these states are doing, are they a form of social control? Is our immigration system essentially a form of social control?

SILKY SHAH: You know, it's so important to see like, actually this is about racial and economic justice. It's not just a question of immigration compliance or control specifically. It's actually how do our economies function and even at the border so much, you know, so much of the narrative is, oh well we need these border measures or we need homeland security investigations or all these other entities to, to focus on the traffickers and the smugglers and the drug trafficking, human trafficking, all those other things that are happening. But the reality is all those restrictions that the US government has put in place and that Abbott is also putting in place and essentially not just dictating immigration policy in Texas, but immigration policy beyond Texas as well. All those policies give more power to those entities. People are going to want to migrate regardless of what's happening at the border. And they continue to, and all this stuff just makes it more heartless and more dangerous and gives power to those entities that we're supposedly trying to fight.

LAURA FLANDERS: To go back to where we are right now. As we said at the beginning, election year, candidates of all stripes, many stripes anyway, but mainstream Dems and Republicans both talking about this crisis that we're facing. Are we in fact facing a crisis, Aron?

ARON THORN: Sure, I think one of the things that we learn as immigrants rights advocates, you know, something that's well documented is the cyclical nature of immigration that no matter how high a spike. it will always go down. And, you know, one thing that is often missing in these discussions too is that we are hyper focusing on the border because it seems like an easier solution than all of the rest of the problems that cause folks to need to migrate in the first place. There's this hyper focus on if we just get this border as hard as possible, it will solve the entire problem. When the reality is, one of the reasons that those numbers are so cyclical is because people migrate for reasons that are also cyclical, right? Politics in their country, but also politics in the United States during economic depressions, for example, migration goes way down because folks know that they can't come to the US to find jobs. One of the famous lessons right about the US deportation system at the US-Mexico border is built to turn around single Mexican

male adults right back into Mexico. That's why we built these gigantic detention centers where we did near the US Mexico border. And then when migration changed because things changed, Mexico's economy got better, young Mexican men stopped coming, central American economies and political situations got bad. And so who migrated changed families were coming seeking safety, all of a sudden we had this multi-billion dollar system that we couldn't use anymore because it had changed, right? And so the lessons that we have are that we cannot have this enforcement only approach. And I'm very weary of any solution that says if we have one more carceral policy, if we have one more billion dollars, the state of Texas is going to spend, you know, all said and done upwards of \$10 billion on its Operation Lone Star system, right? We have 1 billion more dollars, we're going to fix this. When the reality is so deeply complicated, that statistic alone can't tell us very much without looking at the bigger picture.

AMIR KHAFAGY: New York would constantly say that the city was a sanctuary city, but as soon as the buses started to come, we saw the city sing a different tune. Those words were hollow words. Essentially the city wasn't providing for the migrants that were coming. A lot of the heavy lifting was being lifted by community groups and mutual aid groups like South Bronx Mutual Aid and other groups were really coming out and really doing their part to really welcome the migrants and help them get on their feet. Organizations like that along the board.. I'm sure there are organizations like that along the border, especially the National Day Laborer Organizing Network, and I'm sure other organizations, how could they center abolition into their work and how could we elevate the conversation around abolition in activist circles and I guess in policy circles?

SILKY SHAH: I lived in New York for many years. There have been different moments where there have been large numbers of migrants arriving and actually New York had the infrastructure to support them and do what was needed to help them sort of get on their feet and sort of start living their lives, whether it was in New York or somewhere else. But now, and I think this is really just sort of what we're sort of negotiating right now, and this is what abolitionist scholar Ruth Wilson Gilmore refers to as sort of organized abandonment is actually the social safety nets that existed before, prior to the pandemic or many years ago, have started to really crumble in this way. And, you know, there's a very long history of this in sort of neoliberal policy, but really in what we're seeing in New York right now, because those social safety nets don't exist in the same way, there aren't, there isn't the ability for the City to do the work. And then beyond that, I mean I think this just really goes back to this point about Abbott and how, you know, his strategy has worked. It's put more strain on New York and Chicago and other places. And if Biden had intervened and said, we are going to make this process better, not make it so difficult for the migrants who don't actually know what's happening and provide some resources to people like we wouldn't be in this situation. But that's part of the problem is that the Biden administration has time and again since the beginning, kept Trump policies and has, time and again, not done what needs to be done, not been bold on this issue. Sure there's been some minor reforms here

and there and humanitarian parole or other things that have happened that have been good and I don't want to dismiss that, but none of it's been at the scale that it needs to be. And there needs to be a real investment that doesn't just let the Republicans dictate the debate, which is essentially what's happening and the Democrats are sort of falling in line.

ARON THORN: Yeah, and I wanted to add too, like I want to highlight the busing as a perfect example of how any tool we come up with, we want to wield it as another part of the carceral system as another punishment, right? When busing came in, you know, we've had similar conversations with the federal government as well, but the reality is that a migrant who comes in Del Rio, Texas is very far from their family. Some migrants are coming to be based in Texas, but many of them are not. They have a far way to go once they come in the United States. And that person is in need of at minimum a ride, right? And we have FEMA. Texas has its own emergency management system. We have encouraged, you know, as Texas advocates, we have encouraged both the state government and the federal government to think of this more as a, if you want to use the word disaster, let's use it like a disaster. We do disaster management, we respond to disaster in a humane way. We get people to safety, which means getting to their family. Many of these folks already have family that are willing to receive them in the United States, right? But even this thing, the busing and the food and the resources that it takes to get these migrants further into the United States is wielded as a punishment to those migrants and a punishment to sanctuary cities, right? We would spend the same amount of money to wield this as a disaster response, to put a bottle of water in every migrant's hand and clean clothes and tell them, here's the line for the LA bus, here's the line for the Seattle bus, here's the line for the Miami bus. Where is your family? We'd spend the same amount of money, but that's not the point, right? The point is to punish both the migrant for coming here and the sanctuary city for having the gall to, you know, try to respect people's humanity.

LAURA FLANDERS: I want to ask you both the question that I often ask our guests and that is about the future. You quote the Japanese American activist Silky who says, you know, what kind of ancestors do we want to be? And that's a version of the same question. You say actually that you're seeing abolition being made real these days.

SILKY SHAH: From my perspective, I do think that I see right now people in Texas, I was with Aron last week in Texas and people really organizing and really thinking about how do we take back this park? How do we change the way things are happening at the border? I see folks in New Mexico who continue to fight every day for Dignity Not Detention in New York state and all these places. And it's happening. Everyone, people are continuing to fight and I think we need to just remember that that's like we have to rise up, that there has to be grassroots action. That's how we're going to get closer to the thing that we want to be.

ARON THORN: I think that we are in a moment in Texas where we're seeing really young people come online politically. They're very bold and I really do believe that this is a sort of watershed moment in Texas. The government that represents us is very far from actual Texans who are of many different mindsets, of many different walks of life. And I think that, you know, there was a real energy in the room when I was with Silky. I think that there's still a lot of fight left in Texans here, and I think that we're going to hold onto that.

LAURA FLANDERS: Well, I'm sure Silky Shah, your book "Unbuild Walls" is going to make a difference in this conversation. Thank you so much for writing it and coming on to talk with us about it. Aron Thorn, thank you for your work. Amir to you. Any thoughts? I mean, you are seeing this story up close in New York and as we are speaking, as we are recording this, we're seeing mass detention happening of students in campus protests around funding Israel's assaults on Palestinian rights. I mean, it seems as if we have truly as a society lost any mechanism of response to anything that makes us uncomfortable other than detention and all of that is not to be, you know, flip about it, but detaining us from thinking about what is really needed.

AMIR KHAFAGY: Unfortunately, I feel like incarceration is as American as apple pie. It's an American tradition to constantly lock anybody up or anything up that where we don't agree with and years from now, we'll look back at this, for example, the campus protest and stuff and say, 'oh, those brave students and that was such a great time'. But in the present time we always, that's the reaction. It's always a very heavy reaction and oppressive reaction but I feel like more people are on the streets and more people are raising their voices and more people are organizing and that's our only hope really.

LAURA FLANDERS: And more people are making more connections and you are all part of it. Thank you so much for joining us. Stay tuned, stay kind, stay curious. We'll be back with more Laura Flanders and Friends in the weeks to come.

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