

# Social Justice Lawyering Immigrant Justice

## [00:00:00] Introduction to Sustained

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[00:00:04] **Milik Robinson:** You are listening to Sustained: inside the conversations, classrooms and collective efforts happening at CUNY Law. Join our public interest lawyers, advocates, and communities as we carry social justice forward.

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## [00:00:20] Overview of the Panel Discussion

[00:00:20] **Elise Hanks Billing:** This episode is part of CUNY Law's Social Justice Lawyering: Strategies to Confront the New Administration, a series of panels that brings together expert faculty and alumni to examine the legal landscape, anticipated challenges, and strategic responses for social justice lawyers in this moment.

[00:00:40] **Elise Hanks Billing:** This panel was recorded on December 4th, 2024, before the inauguration and before the sweeping executive orders that now define the new administration's approach to immigration.

[00:00:52] **Elise Hanks Billing:** At the time of this recording, our panelists were analyzing what might be coming. Today, those threats are no longer  
[00:01:00] theoretical.

[00:01:00] **Elise Hanks Billing:** You'll hear from faculty and alumni rooted in immigrant justice lawyering, offering clear-eyed analysis, lived expertise, and strategies for organizing, resisting, and defending our communities in this moment and beyond.

[00:01:14] **David Baluarte:** All right.

## [00:01:15] Introduction of Panelists

[00:01:15] **David Baluarte:** I think I'm going to get us started. Lovely to see you all today. My name is David Baluarte. I'm Associate Dean for Academic Affairs here at the Law School. I'd like to welcome you to the inaugural panel of a series of panels that the Law School is going to be organizing in the coming months called Social Justice Lawyering: Strategies to Confront the New Administration and this first panel concerns immigrant justice. I'm going to briefly introduce the panelists and then give them a moment to introduce themselves.

[00:01:49] **David Baluarte:** To start with, we are joined by professors Talia Peleg and Nermeen Arastu, the co-directors of our renowned Immigrant  
[00:02:00] and Non-Citizen Rights Clinic here at the Law School.

[00:02:03] **David Baluarte:** Then we are joined by two alums: Yasmeen Farhang, graduated in 2013, the Director of Advocacy at the Immigrant Defense Project, and we are also joined by Karem Herrera graduated just last year, 2024, and she is an Immigrant Justice Fellow with Lutheran Social Services. So those are just the briefest introduction, but I think it's important for you to hear from these folks, both who they are and then maybe briefly just what brought you all to immigrant rights work just so we can have a sense for who all we're hearing from today.

[00:02:42] **David Baluarte:** Is that okay?

[00:02:43] **Nermeen Arastu:** Yeah, that sounds great.

## **[00:02:44] Nermeen Arastu's Journey and Work**

[00:02:50] **Nermeen Arastu:** As mentioned, my name is Nermeen Arastu, I co-direct the Immigrant and Non-Citizen Rights Clinic with Professor Peleg here and have been lucky enough to be teaching here at CUNY for almost, I think of almost 10 years. In the Immigrant and Non-Citizen Rights Clinic here, we do a  
[00:03:00] broad variety of immigration and deportation defense.

[00:03:04] **Nermeen Arastu:** We work with clients on affirmative applications in front of agencies. We do policy projects, community education work, other types of non-litigation and documentation projects. And our real, our goal in the clinic, and my personal goal also, in terms of my scholarship and practice, has really been to look at the most marginalized of marginalized communities.

[00:03:25] **Nermeen Arastu:** And so my own scholarship has really been focused on discrimination within the immigration system of different types. Before coming to CUNY I was lucky enough to work at the Asian American Legal Defense and Education Fund where I led their post 9/11 Immigrant Rights Project, which is a lot of the work that we do at the school, and that's how I was introduced to CUNY, working with the CLEAR project, looking very specifically at how different communities were targeted by over-broad post 9/11 measures.

[00:03:54] **Nermeen Arastu:** It was the time where I think it was I want to say 2010 when the Associated Press came out with its reports of [00:04:00] surveillance of Muslim communities. And that really added to my drive of looking at how immigrants specifically, that intersectionality they're about, immigrants, people without documentation, or even long-term permanent residents are especially vulnerable to discriminatory policies.

[00:04:16] **Nermeen Arastu:** Like many of you and many of our students in INRC, I think my approach to this work is extremely personal. As a daughter of immigrants, but a very privileged daughter of immigrants who came with status I still saw the vulnerabilities in the communities that my parents belonged to—and really the need for cultural competence in immigration services. How it was so much easier to tell your story when you had a lawyer who maybe spoke the language you spoke, understood your cultural norms, understood the complicated relationship, which many even asylum seekers have with their home countries, that it's not all bad, and here it's not all good. And it really led me to want to be in this field of providing services in that way, [00:05:00] and also, really my dream job was to be in this position right here, training lawyers to think about providing legal services in this manner.

## [00:05:08] Talia Peleg's Background and Contributions

[00:05:08] **Talia Peleg:** Hi, thanks everyone, again, I'm Talia Peleg. It's wonderful to be here, and I think I'll just say a little bit, I grew up also in an immigrant household and very much come to the work from that perspective, but I'll turn back to just fast forward to, which is much later, but I actually was working as a legal advocate here in New York City, and I applied to CUNY Law School and knew this is where I wanted to go, and I was very fortunate to graduate in 2010 from the law school.

[00:05:36] **Talia Peleg:** So I'm also an alum, so it's really an honor to be here with other alum. And I'll talk a little bit about what my, the work I did that led me back to now co-direct the clinic. So I was fortunate to do the INRC clinic and in that clinic I was able to do really incredible federal litigation work at the DC Circuit Court of Appeals and got to work on appellate-level work, which I had never really [00:06:00] done as a paralegal beforehand.

[00:06:02] **Talia Peleg:** And when I left it was really clear to me that I really wanted to work at the intersection of immigration and criminal law. I saw through my internships within law school, with my work that was,

[00:06:13] **Talia Peleg:** those immigrants were the most vulnerable to deportation and detention, remain so today, and that's really where my passion landed me and grew.

[00:06:23] **Talia Peleg:** And I was really lucky to graduate in 2010 when the Padilla v. Kentucky decision came out, which promised that non-citizens, believe it or not, it was not a constitutional guarantee to have advice as to the immigration consequences of a guilty plea in the criminal legal system.

[00:06:39] **Talia Peleg:** So I was very lucky to be hired at Brooklyn Defender Services to work as one of the first Padilla attorneys there and got my feet wet, jumped right in trying to figure out how do we change criminal defense here in New York. People have been doing this for many years to really make sure that immigrants are protected from this extremely severe consequence.

[00:06:59] **Talia Peleg:** In [00:07:00] 2014 was able to be one of the first attorneys here to launch the New York Immigrant Family Unity Project, which is the, detained right to counsel program in New York City where we are assigned to defend immigrants in detention against deportation and I got to work on a really wide range of cases and it was very grinding and difficult time, but also incredibly enlightening and really taught me so much about litigation.

[00:07:26] **Yasmeen Farhang:** Thanks, Talia.

## [00:07:28] Yasmeen Farhang's Advocacy Experience

[00:07:37] **Yasmeen Farhang:** As was mentioned, I'm the Director of Advocacy at the Immigrant Defense Project, and for those who are not familiar

with IDP, IDP was founded approximately 27 years ago, following the signing by former President Clinton of some of the most draconian immigration bills

[00:07:44] **Yasmeen Farhang:** in U. S. history that were signed in 1996 and fundamentally changed the system of detention and deportation that we have today.

[00:07:52] **Yasmeen Farhang:** Before IDP, though, and a lot of what it was I was at Make the Road New York for about seven years as an immigration attorney and I was [00:08:00] there during both the Obama and Trump administrations.

[00:08:03] **Yasmeen Farhang:** Between those years at Make the Road and where I am now I had two interesting years under the

[00:08:09] **Yasmeen Farhang:** former mayoral administration at the Mayor's Office of Immigrant Affairs, on the policy team.

[00:08:14] **Yasmeen Farhang:** Part of what actually triggered me going there was actually you know, there was a period that I'll get into later where we really saw an increase in ICE policing and home raids under the Obama administration and that especially targeted people who are at most imminent risk so in particular people with old removal orders.

[00:08:33] **Yasmeen Farhang:** So we created a program that continues to exist today, although, as I'll talk about later, has been defunded by this mayoral administration called the Rapid Response Legal Collaborative. And so part of my transition to the mayor's office was actually helping manage and grow programs like that.

[00:08:49] **Yasmeen Farhang:** And I guess by way of background, before all that, all I am a CUNY alum.

[00:08:53] **Yasmeen Farhang:** I graduated in 2013, born and raised in New York City, and came to immigrant [00:09:00] justice early.

[00:09:00] **Yasmeen Farhang:** My family is primarily from Iran and a little bit from France, and I think for me, like I although I eventually went to law school and practiced immigration law for many years,

[00:09:12] **Yasmeen Farhang:** I think my the origins, which continue to be my lens on immigrant justice today, is not really about lawyering that's one of the

many tools and strategies that we use, but it's really about racial justice, and it's really about the freedom to move, and to thrive, and to have dignity.

[00:09:28] **Yasmeen Farhang:** And both locally at the very local level at the national level, and at the international level, and so that is really the lens I come to this work from.

[00:09:38] **Yasmeen Farhang:** And it's also why I feel very privileged to be at the Immigrant Defense Project and to be approaching the work now from an advocacy perspective.

[00:09:47] **Karem Herrera:** Hi, everyone.

## [00:09:48] Karem Herrera's Personal Story

[00:09:48] **Karem Herrera:** My name is Karem Herrera. I graduated just this past May, so super new attorney I'm an IJC fellow with the Immigrant Justice Corps.

[00:09:56] **Karem Herrera:** It's a nationwide fellowship that works with recently [00:10:00] graduated or folks who want to make a career change into immigration. My placement right now, I'm a staff attorney at Lutheran Social Services, which is located in East Harlem.

[00:10:09] **Karem Herrera:** Part of it is through the fellowship, the cases that I have through there that are fully retained, but I also work with the Asylum Seekers Legal Network.

[00:10:18] **Karem Herrera:** So folks who are just asylum seekers here in New York City, maybe sometimes doing asylum applications, maybe doing work permits, maybe they have a deportation order that we need to reopen fast. A lot of it is just really, quote, problem solving, is what is lawyering.

[00:10:36] **Karem Herrera:** I'm a DACA recipient. I've been here in the United States since I was three years old. I grew up undocumented and I gained DACA when I was in college. And so a lot of what's happening now is affecting me personally, but also just really affects my family, my community.

[00:10:53] **Karem Herrera:** So that is the main reason why I decided I want to go to law school.

## [00:10:59] Setting the Stage for the Discussion

[00:10:59] **David Baluarte:** Such a [00:11:00] fantastic set of experiences and perspectives on the panel to guide us through, I think, a really difficult conversation.

[00:11:07] **David Baluarte:** What I'd like to do is ask Nermeen and Talia to just set the stage for this conversation a little bit, to organize us and our thoughts and then I'm going to have a series of questions for the panel to dig into some of the details of what is to come.

[00:11:23] **Talia Peleg:** But just a couple of things that we want to talk about a little bit today to orient us.

[00:11:27] **Talia Peleg:** We're hypothesizing what we think might be coming, but also very much value and the perspectives of everyone here, the creativity that everyone brings, the lived experience and legal and otherwise, other experience that will inform how we all respond in the next several years.

## [00:11:43] Analyzing the Trump Administration's Immigration Policies

[00:11:43] **Talia Peleg:** Just to start, I just wanted to briefly say we saw under the first Trump administration, obviously, massive attacks on immigrants and the immigration system.

[00:11:51] **Talia Peleg:** But I think something important to ground the conversation, the majority of what was done

[00:11:57] **Talia Peleg:** was in the existing structures of the [00:12:00] immigration law today that we heard Yasmeen talk about, right?

[00:12:03] **Talia Peleg:** So while there were extreme new measures developed or potentially returned to that have been done historically, really

[00:12:10] **Talia Peleg:** this was an exploitation of existing laws, existing policies— so I want to start us there.



[00:12:17] **Talia Peleg:** That is not to say, and many people suffered deep violence and brutally under the administration, many lives were lost.

[00:12:26] **Talia Peleg:** And absolutely, there was something anomalous about that administration.

[00:12:31] **Talia Peleg:** However, as you heard from Yasmeen, and you'll hear throughout, it was really exploiting the structures that already exist

[00:12:38] **Talia Peleg:** and our immigration system that's really built on this idea of exclusion and multiple, and it's been growing as to who can be excluded and pushed out from the inception of the INA.

[00:12:51] **Talia Peleg:** That's really the framing that you know,

[00:12:53] **Talia Peleg:** President Trump was able to exploit—and wants, hopes to continue to exploit—which is many of the most damaging [00:13:00] policies that President Trump 1.0 put into place were continued by the Biden administration. However, now there was much less care concerned by the population.

[00:13:12] **Talia Peleg:** Trump 2.0 is promises to be even a more violent version of the first agenda. And this time, seemingly, with the endorsement of the population, where xenophobic rhetoric, anti-immigrant rhetoric has become not just commonplace, but supported by many in many parts of the country that although we knew that these sentiments existed and that's been clear throughout history, are being publicly endorsed. So we're in a different reality today.

[00:13:39] **Nermeen Arastu:** In the last few weeks, we're constantly getting questions like, what do you think is gonna happen?

[00:13:44] **Nermeen Arastu:** What can you predict? How can we prepare? And all of us have been preparing for this moment, of course, for like long before the election. One thing we really struggle with is we recognize that some of the rhetoric, the dehumanizing, racist, xenophobic rhetoric is, saber rattling, right?

[00:13:59] **Nermeen Arastu:** [00:14:00] It's fear-inducing—how much do we want to focus on that rhetoric—versus how much do we want to focus on things that we think could become real and actionable policies? We are focusing on the rhetoric as well, because we know that rhetoric in and of itself has a very real impact on destabilizing, dehumanizing ourselves, our friends, our communities,



our parents, many of us in this room who may come from mixed status families, or may have tenuous or no status themselves.

[00:14:26] **Nermeen Arastu:** We will be sharing the worst of what we think could happen. We hope it doesn't happen, but I just wanted to flag that there will be some of that language that is extremely triggering.

[00:14:37] **Nermeen Arastu:** Obviously then, the second goal of this is to start thinking about effective strategies, not only in our lawyering, but also as a community.

[00:14:45] **Nermeen Arastu:** What does community safety mean in this school? Much of this is going to require clear-eyed bravery from ourselves, and our administration, a willingness to stand up and defend our [00:15:00] students, our constituents, staff members, community members, especially vulnerable students. We've seen this already come up in different ways.

[00:15:07] **Nermeen Arastu:** It means the defense of protest, free speech, is going to be all the more important, as a lot of that is going to be criminalized more than it already has even been, which we've already been experiencing.

## [00:15:19] Impact of Policies on the Southern Border

[00:15:19] **David Baluarte:** So let's get into it, Nermeen mentioned that we're going to be focusing on various perspectives and we're going to start with Nermeen and the border.

[00:15:28] **David Baluarte:** We've heard so much about the quote unquote "border crisis."

[00:15:33] **David Baluarte:** I'm a glutton for punishment, so I actually watched Trump's victory speech in the middle of the night, first thing out of his mouth, right? We're going to close the border. We know that this is where a lot of attention is going to be paid.

[00:15:44] **David Baluarte:** Nermeen, can you break down for us what exactly did happen in the last administration, and what can we expect moving forward?

[00:15:52] **Nermeen Arastu:** Yeah, so starting from the border and again, like the big frame here, obviously Professor Peleg mentioned, a lot of this was not

new. Some of [00:16:00] it was a lot of this happened because frameworks already existed for it to happen.

[00:16:04] **Nermeen Arastu:** A lot of it, Biden did very little to stop or even made it worse. So for border attorneys that like, that triage emergency lawyering has actually really continued into the last four years as well.

[00:16:17] **Nermeen Arastu:** You all will probably remember the zero tolerance and family separation policies.

[00:16:22] **Nermeen Arastu:** This idea was really created during the Trump administration, this was like very much not done in this way by past administrations to this extreme.

[00:16:31] **Nermeen Arastu:** But really this mandated when parents were crossing the Southern border without documentation, many of whom were asylum seekers,

[00:16:39] **Nermeen Arastu:** that they would be forcibly separated from their children until the pendency of their proceedings,

[00:16:46] **Nermeen Arastu:** which any of you know who are reading the news, the system is incredibly backlogged.

[00:16:50] **Nermeen Arastu:** So what did that mean?

[00:16:51] **Nermeen Arastu:** That parents were separated from children for months, for years, and this was grossly mismanaged. On top of all that, many children [00:17:00] were lost, records were not kept.

[00:17:02] **Nermeen Arastu:** At first, the Trump administration tried to pretend that this wasn't intentional,

[00:17:06] **Nermeen Arastu:** but what I think is especially dangerous is on the campaign trail, the Trump administration really owned up to the family separation policy as a deterrent.

[00:17:16] **Nermeen Arastu:** There was a lot of excellent reporting around this time, even though, like I said, the Trump administration said that separation wasn't the goal,

[00:17:22] **Nermeen Arastu:** reporters, especially like those at NPR, there's some excellent pieces about this, actually found that administrators, Trump administration officials, DHS and ICE,

[00:17:31] **Nermeen Arastu:** went out of their way to further separation for as long as possible, even where parents had maybe won their cases.

[00:17:38] **Nermeen Arastu:** On Biden's first day in office they did issue an executive order to establish a task force aimed at looking at this, how it happened, and the fallout of it.

[00:17:47] **Nermeen Arastu:** The ACLU settled a case last year that was litigating against this *Miss L v. Ice*.

[00:17:53] **Nermeen Arastu:** So there is a settlement agreement in place preventing this from happening again, but we know that we, and we fear that [00:18:00] the Trump administration may try to research like some of these types of policies.

[00:18:03] **Nermeen Arastu:** I think what you see here is the ability to go to any extreme to dehumanize, quote unquote, "deter" individuals,

[00:18:11] **Nermeen Arastu:** especially asylum seekers who are coming in from the Southern border.

[00:18:14] **Nermeen Arastu:** There were a series of other policies during the Trump administration, it was called the Migrant Protection Protocols.

[00:18:22] **Nermeen Arastu:** We called it the Remain in Mexico Protocols—it was basically this idea that when individuals historically have approached the Southern border to seek asylum—they were paroled into the country, allowed into the country.

[00:18:35] **Nermeen Arastu:** In past administrations, they were still incarcerated at the border in horrible conditions, but they were allowed into the country to await their shot at asylum.

[00:18:45] **Nermeen Arastu:** And what it meant in practicality was we saw the creation of some of the world's largest refugee camps right at our Southern border.

[00:18:53] **Nermeen Arastu:** In El Paso, Ciudad Juarez, it was like rolled out throughout the Southern border at its height.

[00:18:58] **Nermeen Arastu:** So you saw a [00:19:00] rise in border communities of kidnapping, sex trafficking, all types of, other types of trafficking.

[00:19:06] **Nermeen Arastu:** And I just want to flag here, this was also, and you're going to see this again and again with the Trump administration, just a way to remove people from resources.

[00:19:15] **Nermeen Arastu:** Professor Peleg was mentioning how you don't have a right to an attorney in the immigration system, in New York, we have programs providing attorneys to people, that problem gets a lot harder if you're stuck in Mexico.

[00:19:26] **Nermeen Arastu:** So MPP is also a lesson in how litigation worked and then could also work against us.

[00:19:33] **Nermeen Arastu:** So I met multiple organizations and there was a lot of impact litigation that led to injunctions against MPP, but actually in the early days of the Biden administration, courts reversed those injunctions and required the Biden administration to keep going with MPP.

[00:19:50] **Nermeen Arastu:** And even when MPP eventually lapsed, the Biden administration essentially replaced it with another form of an asylum ban that was really [00:20:00] dangerous,

[00:20:00] **Nermeen Arastu:** which used a very glitchy app, which had all of its own problems to require people to essentially make an appointment to seek asylum,

[00:20:06] **Nermeen Arastu:** which any of you who've worked with asylum seekers or been in that position of crossing the border know that's not how it works when you're fleeing persecution.

[00:20:13] **Nermeen Arastu:** There was this other thing called Asylum Cooperative Agreements, essentially this idea of, Safe Third Country agreements

[00:20:21] **Nermeen Arastu:** where the Trump administration negotiated with Central American nations, Honduras, El Salvador, Guatemala and said,

[00:20:27] **Nermeen Arastu:** Look, if migrants and asylum seekers are coming through your country, you need to handle their asylum processing.

[00:20:34] **Nermeen Arastu:** Don't let them get to the U.S. Leaving people fleeing persecution in extremely dangerous situations.

[00:20:40] **Nermeen Arastu:** This is one thing the Biden administration did not continue, these agreements basically lapsed.

[00:20:45] **Nermeen Arastu:** The Biden administration was much more focused on looking at the root causes of migration, violence, poverty, climate change and so that was their approach a little bit.

[00:20:55] **Nermeen Arastu:** But there's still, again, plenty to say and criticize about the Biden administration's approach [00:21:00] to asylum at the Southern border.

[00:21:01] **Nermeen Arastu:** And then you all remember COVID and the use of Title 42, which was its own, like basically this antiquated public health law that was evoked to essentially then close the Southern border during COVID. So that is something that also took time for the Biden administration to dismantle and that that they sustained that for a while.

[00:21:24] **Nermeen Arastu:** Many of us also remember from that time when we're thinking about asylum and just entering the country, these 5 a. m. drops of new policy. And so what we saw in this theme was the Biden administration was basically using really sloppy regulatory rulemaking that was not following any notice and comment process to drop policy after policy.

[00:21:48] **Nermeen Arastu:** So this kind of impacted every posture of the asylum process, from your ability, they tried to limit your ability to reopen cases, ability to appeal cases, ability to [00:22:00] get a work authorization, for example, increased fees on appellate cases, they tried to expand criminal bars to asylum, they tried to rush hearings for asylum seekers into untenable timelines.

[00:22:11] **Nermeen Arastu:** And they attempted to strip asylum status years after it was granted. So I just wanted to give you all of that context. So we were already working at the Southern border with all of this, but then every Friday we were also hearing about these new policies that were directly impacting our clients.

[00:22:27] **Nermeen Arastu:** I do want to talk about the border wall for a minute at least, just to say that of course we heard a lot about that during the Trump administration. The Biden administration maybe stopped some of that construction that was like a hallmark of the Trump administration, but a lot of us have argued and seen firsthand that the Biden administration still used an expanded use of surveillance technology but the points remain the same:

[00:22:54] **Nermeen Arastu:** the emphasis on security enforcement militarization the [00:23:00] growing budget of customs and border protection, all of that kind of has sustained itself also through the Biden administration.

[00:23:07] **David Baluarte:** Thank you very much for surfacing all of those challenges. I think why don't we keep moving to now focus on the interior a little bit more.

[00:23:17]

## [00:23:17] Mass Deportation and Interior Enforcement

[00:23:17] **David Baluarte:** Like the quote unquote border crisis, we've been hearing a lot about the mass deportation that's coming, this commitment to dislodging the immigrant community from the United States. So Talia, I'm hoping that you can talk a little bit about what that is actually going to mean practically for immigrant communities, what we can expect from the Trump administration in here in New York and in the interior of the US.

[00:23:42] **Talia Peleg:** Thank you. Yeah, so looking forward, so one thing that I think is really important to know, is that in order of this sort of quote unquote mass deportation, in order for that to happen, there is not the logistical financial possibility of that happening currently based on the way the department of Homeland [00:24:00] Security is structured.

[00:24:01] **Talia Peleg:** Just numbers wise, given that there's estimated around 11 million undocumented immigrants currently in the United States, practically speaking, tomorrow, that would not be able to happen in the way that Trump has discussed. I wanted to just talk about a couple of points that I think are important to be looking forward to, or looking out for, excuse me, not look forward to in respect to this.

[00:24:24] **Talia Peleg:** Stephen Miller has talked about invocation of something called the Alien Enemies Act, quote unquote, and I use that quote, which is a very old set of statutes, part of an old set of statutes that gives certain authority to the president during wartime. It has not been used during, quote, peacetime, but it allows for basically potentially detaining groups of people with stripping them of many of their constitutional protections.

[00:24:51] **Talia Peleg:** However, there is a provision that would allow the President to do where there's sort of an invasion by a foreign government where the [00:25:00] President could invoke this. But again, there's a lot of complications for this to happen. There are these old laws on the books that are concerning, and there is a history in this country—such as Operation Wetback, which I apologize using that term, but that's what it was called, where in the 1950s, the Eisenhower administration deported nearly a million Mexican nationals, some of whom were citizens to Mexico under this program. So again, we'll have to see how this plays out. I wanted to say something just a brief point on, as I was saying.

[00:25:31] **Talia Peleg:** Generally, within the United States, non citizens have, if they've never had contact with the agency before, generally have no previous order of removal, have under the Fifth Amendment the right to face removal proceedings in immigration court where there's certain due process protections. They're not great, they're problematic, but it exists.

[00:25:49] **Talia Peleg:** Something I think to keep an eye out is there is part of the amendments to the law in 1996 was creation of expedited removal, which a lot of you, where people could be subject to [00:26:00] deportation basically by an officer, not in front of a judge, with very limited, limited review. And there is a statute on the books that could allow this to be expanded.

[00:26:09] **Talia Peleg:** It can be enacted within a hundred miles of the border. And Trump actually, in fact, in his first term, tried to do this and fast pass regulations of places like New York, where people who were subject to deportation could be potentially placed in these expedited proceedings that would be extremely damaging.

[00:26:28] **Talia Peleg:** The other way I think that we're going to see—and know—that mass deportations will be attempted, is stripping people who currently have immigration status or have deferral from removal, which I'll talk about a little bit. So the Trump. Rescinded TPS, temporary protected status, a lot of you I know, but those of you who don't, despite say, being called



temporary is a status that can be given to individuals when they can't return to their home country for safety concern.

[00:26:55] **Talia Peleg:** Often this is done in terms of humanitarian disasters war and [00:27:00] things like that. So I think seeing an effort to try to strip people of status. They've said they're going to do it, they want to do it, they've tried before. Every court blocked that effort last time around, but obviously we know the courts are different now than they were then, given the appointments, and it's just still something in court to keep an eye out for.

[00:27:17] **Talia Peleg:** As you all remember, the Trump administration also tried to revoke DACA, which is Deferred Action for Childhood Arrivals for individuals who came here at a certain age which essentially is not it allows individuals to receive work authorization. And other sorts of potential benefits that are deferred from deportation.

[00:27:37] **Talia Peleg:** Currently this is being litigated before the 5th Circuit in a case called Texas v. U. S. And a decision could come down on the constitutionality soon and could potentially be before the Supreme Court this term. So obviously of deep concern for our student body, for our city, for our country.

[00:27:55] **Talia Peleg:** And over 600,000, nearly 600,000 people currently have DACA. [00:28:00] So again, this effort to strip those who do have some sort of protection to make them subject and vulnerable to these policies is really important. So I think looking what happens at the litigation, but also the executive branch could take other actions to try to rescind DACA.

[00:28:14] **Talia Peleg:** And the third thing I just wanted to touch on, we have heard this sort of mass efforts to try to denaturalize individuals. Stephen Miller has been also, I hate to say his name twice, been talking about this. But this was something created by the Obama administration, this effort to go after individuals that are naturalized U. S. citizens. And that was greatly expanded under something called Operation Janus by the Trump administration, where literally the Department of Justice combs through They are looking at old immigration files, trying to find any sort of fraud or misrepresentation along the way of the immigration process to try to denaturalize people and make them subject to deportation.

[00:28:51] **Talia Peleg:** And so I think looking at that is going to be really important. But I also just want to say, along with mass deportation, obviously

comes this idea and this threat of [00:29:00] detention camps, mass, which has been is really terrifying.

[00:29:04] **Talia Peleg:** There are currently almost 40,000 individuals in immigration detention throughout the country right now. There are large camps already along the Southern border. We took a group of students, some of whom are here to Texas in May and saw some of these facilities that were built by CBP versus ICE and the infrastructure is very much supported.

[00:29:24] **Talia Peleg:** And so we have a very vast private detention system in the United States where these private corporations are profiting. Immensely off of the detention of non-citizens There's a new dynamic that wasn't at play under the previous Trump administration, Biden actually, when he came to office, put many individuals in alternative to detention programs, which sounds.

[00:29:49] **Talia Peleg:** Somehow better than these detention facilities and essentially jails. Nearly 200,000 individuals are being monitored by the government. This includes children, families, [00:30:00] all kinds of people who check in regularly with the government, who are monitored through GPS who now face good, grave risk of being placed in one of these immigration jails.

[00:30:09] **Talia Peleg:** So this alternative to detention, increased surveillance that you heard about from Professor Arastu is being implemented within the interior and could very much lead to additional detention. And while immigration detention is generally in the last 40 years has been a lot of litigation as to the constitutionality has largely been upheld by the courts. There is this backstop that it is clear that immigration detention cannot be used as a deterrent. It can only be used for flight risk to make sure people come to court, and for community safety. It cannot be used for deterrence. So I think we're gonna need to be thinking about challenges to the expansion of detention, and really limiting the privatization of detention.

## **[00:30:50] State and Local Advocacy Efforts**

[00:30:50] **David Baluarte:** We're going to move to you, Yasmeen. We've heard about some of the horrors that we can expect on the border in the interior. We know that your work with IDP [00:31:00] involves a lot of state and local activism. And we also can recall from the last Trump administration that some of that was incredibly effective, right?

[00:31:09] **David Baluarte:** When you lose the federal government you need to do this these local actions. And so would love to hear from you your experience with state and local advocacy during the last Trump administration and how you think that kind of advocacy can help us with the administration to come.

[00:31:28] **Yasmeen Farhang:** There's a lot.

[00:31:29] **Yasmeen Farhang:** I think probably people have seen both our mayor and governor in the news quite a bit on immigration in the last few weeks, but I'm going to take us a few steps back, maybe even from before Trump won. to give a little bit of context at the New York City level to start with for those who are not familiar.

[00:31:44] **Yasmeen Farhang:** We're hearing a lot in the last couple of years at the local level in particular about sanctuary and sanctuary policies and I think it's just a starting place that's important to note that there's not one meaning for what sanctuary is and what sanctuary laws or policies are, right? It's an umbrella term that's used to [00:32:00] encompass kind of a whole set of different policies and laws that generally seek to protect non-citizens at the local level.

[00:32:06] **Yasmeen Farhang:** So just to take us a few steps back in New York City you would think if you followed the news the last couple of years that like we just passed sanctuary laws in New York City under the Adams administration and this is this kind of brand new, really scary thing that's happening, right? When in fact I was, four years old when the former mayor of New York in 1989 signed the first executive order that essentially broadly prohibited local agencies from communicating and sharing people's information for purposes of federal immigration enforcement with some limited exceptions, right?

[00:32:39] **Yasmeen Farhang:** And it's really important for us whenever sanctuary comes up to go back to that history because we've been through a whole bunch of mayors since then, including Giuliani, who have affirmed, long affirmed our policy. What the New York City Council as a legislative body has done since then is really just litigated slowly over the years around these principles that we've had in New [00:33:00] York City for a very long time, right? And for which we've had this kind of very long executive order. And we saw starting in 2011, and then later in 2014, and then later in 2017, a whole set of local laws that have passed, that have gradually legislated around sanctuary in different ways.

[00:33:17] **Yasmeen Farhang:** So some of those local laws have over the course of a couple of different bills have greatly limited the extent to which both the New York Police Department and the Department of Corrections can share people's information with ICE and can facilitate the transfer of people in their custody to the custody of ICE.

[00:33:34] **Yasmeen Farhang:** We got ICE out of Rikers, where they used to have an office and they used to be located and have direct access to New Yorkers who were in Department of Corrections custody. We've passed laws that restrict access to city property by federal agencies without a judicial warrant and most notably, maybe, because it's coming up a lot now, we passed a law in 2017, which is often referred to as Local Law 228, or City Resources Law, [00:34:00] which broadly prohibits the use of city employees resources, including just personnel time itself for purposes of federal immigration enforcement.

[00:34:08] **Yasmeen Farhang:** All this was in place before Trump ever came in office, right? Many of us were already doing work dealing, facing a lot of really harsh immigration, ice policing in New York City with a lot of concerns around the role of the city and state ice policing before the Trump administration.

[00:34:24] **Yasmeen Farhang:** But when Trump came into office, the first time there was a really strong response across different communities—and certainly across local and state elected officials—of wanting to really stand up and hold themselves out as being ready to protect immigrants in the face of Trump as being the anti Trump.

[00:34:42] **Yasmeen Farhang:** That was a theme that you saw in many different spaces when you saw the first wave of actions by the Trump administration and kind of the first wave of increase in certain ice tactics that we saw in New York City and we saw this kind of across city, not just I named federal electives, but we saw this at the city and state level, [00:35:00] right?

[00:35:00] **Yasmeen Farhang:** We saw that in a lot, it take a lot of different forms, right? So we saw funding, which is a big conversation coming up back back up right now by the mayoral administration, by the city council, by the state, to fund for example immigration legal services, and other kind of supported programs for immigrant New Yorkers, we saw an appetite for legislation.

[00:35:21] **Yasmeen Farhang:** The passage of Green Light, which was the bill that passed in New York state to give access to drivers licenses for all people

regardless of immigration status and later we saw and this is something that the Immigrant Defense Project played a large role in, the passage of Protect Our Courts Act which is one of the most, critical pieces of legislation we'd actually passed in New York State, at the New York State level to directly confront the increase in immigration enforcement in New York, which was a bill to prohibit ICE from carrying out civil, federal immigration enforcement activities in and around courthouses.

[00:35:56] **Yasmeen Farhang:** So you saw a real appetite to take [00:36:00] action and to say, What can we do with the state to safeguard against this increase in ice policing that we're seeing at the state level? And even with people in office who previously would have been very happy to do nothing for immigrants.

[00:36:13] **Yasmeen Farhang:** And then at the city level, that actually, and I referenced this before, but it was during the Trump administration that I was at Make the Road and approached the Mayor's Office of Immigrant Affairs and the state Office of New Americans to say, hey, we actually need like a million dollars at least to develop this new program, the Rapid Response Legal Collaborative to better respond to ICE raids on the city and state and to better support people who are facing imminent deportation.

[00:36:38] **Yasmeen Farhang:** And they gave us the money. My point is that even with kind of a mayor and a governor who were not, definitely, I don't think people that we could call champions for immigrants they felt that it was politically the right move for them to come out strong and take protective action for immigrant communities.

[00:36:55] **Yasmeen Farhang:** We really saw that momentum. Unfortunately, what we also [00:37:00] saw was that there were other states around the country, and this is a little bit of a pattern across a whole different set of kind of social issues outside of immigration, who were moving a lot faster than New York. But we saw states across the country introducing legislation that would broadly prohibit any agency in their state from communicating with ICE, sharing information with ICE, or otherwise conspiring with ICE.

[00:37:21] **Yasmeen Farhang:** In federal immigration enforcement. We saw a lot of this on the West Coast unsurprisingly. We saw California, Washington, Oregon, Illinois, and kind of eventually Colorado, Maryland, and not all of these bills were created the same much stronger than others. But as this was happening, New York had introduced a bill which is eventually came to be

called the New York for All Act, which would do the same thing in New York, right?

[00:37:44] **Yasmeen Farhang:** So this was introduced under the first Trump administration. So we're still under the first Trump administration, right? And this is a bill that would. Broadly prohibit agencies in New York City from communicating with ICE. It's a very strong bill. It is mirrored after some of the [00:38:00] strongest bills that passed years ago.

[00:38:02] **Yasmeen Farhang:** But New York for All never passed under the first Trump administration, right? And Trump administration ends. Biden comes in. And that strong appetite that we saw Just slowly started to fade away. And that really compromised our ability to pass New York for All. During these last couple of years, even though we actually, through incredible kind of organizing and advocacy by people involved in the coalition around the state, gained a lot of traction.

[00:38:33] **Yasmeen Farhang:** We actually have a majority of sponsors in the Senate, had it ever actually gone to the floor for a vote. We got labor unions out in support, we got a lot of worker centers out in support around the state, but there's other supports we never got. Attorney General has yet to come out in support of, the state's Attorney General has yet to come out in support of the New York for All Act, right?

[00:38:52] **Yasmeen Farhang:** The city government has yet to come out and support, obviously now, but the New York For All Act, right? I just want to paint the picture that [00:39:00] at the state level, the momentum decreased significantly, and we were continuously being told, not just in the New York For All campaign, but across a number of campaigns dealing with immigrant justice issues, that ooh, now is not the time.

[00:39:13] **Yasmeen Farhang:** So what we have seen is that instead of us being able and during the Biden administration to move forward and actually advance protections we've needed, we've actually spent the last three, four years being on the defensive, trying to remind our local elected officials at the city and state level about our sanctuary history, trying to remind them about why these laws exist in the first place, using the talking points that we know are most effective for them in terms of Building meaningful trust between immigrant communities and public agencies.

[00:39:43] **Yasmeen Farhang:** And really trying to guardrail against changes. There are Republican council members who introduced legislation last year that



would cut away at the bills that we passed in 2014, ten years ago. The number one concern a lot of us had who do work at the city and state level is that [00:40:00] Trump effect that we saw Trump won.

[00:40:03] **Yasmeen Farhang:** It was very difficult to imagine that we were going to see the Trump effect again. And unfortunately, the last couple of weeks have proved to us that we were correct, right? So those elected officials who were pushing each other aside to get in front of the cameras and who were standing on top of tables saying, we are here to protect immigrant New Yorkers and immigrants are welcome here.

[00:40:25] **Yasmeen Farhang:** I think that was one of the most common refrains but the thing I've been saying the last few weeks is like, they're not on top of the tables, they're hiding under the tables and they're hoping we'll stop calling them.

[00:40:34] **David Baluarte:** Thank you so much, Yasmeen. Karem, Karem—I want to come to you now. You mentioned at the outset that you are a DACA recipient.

[00:40:45] **David Baluarte:** And you've been really outspoken about growing up undocumented, from in an immigrant community, then gaining DACA status, and of course now as an immigrant rights advocate [00:41:00] yourself. I'm really interested to hear from you at this moment a little bit about what you're thinking. What kind of planning are you doing on a personal level on the level of your community and then obviously legal actions that you're thinking about taking with the new administration coming in?

## [00:41:18] Community Response and Support

[00:41:18] **Karem Herrera:** I think hearing all of this, for me, it's just it's resoundingly obvious that the help is not gonna come from the federal government. It's not gonna come from local officials. It's not gonna come from the courts. It's gonna come from the people. And that was the case during the previous Trump administration; it was the case still during the Biden administration, I would say. So I'm really leaning back on what we went through and where the power and energy was. And I would say that maybe we're not seeing that same energy in the local governments and the federal governments. In the courts, but we're, I'm definitely seeing it around with people are ready to [00:42:00] fight.



[00:42:00] **Karem Herrera:** As I mentioned, I was a paralegal from 2016 to 2021 and in immigration in California. And when Trump became president, a lot of folks weren't so afraid as they are now. And came, flooded our office in California. We weren't the only. Legal service provider that provided representation to folks who were detained.

[00:42:25] **Karem Herrera:** And once that started as well we had these monthly um, clinics where we opened doors, folks would come in and come in with just different questions, meet an attorney that day. It was all free. The need was just a lot of information. A lot of it was just, detains me at work? What happens if I show up at my kids schools?

[00:42:50] **Karem Herrera:** And these are the same questions that I'm getting out from clients. And a lot of my work now has been really going out into the community, and we've had [00:43:00] some co-events with folks talking to black immigrants about how to engage with police and what could potentially happen. With stop and frisk and what response of and what rights they have there.

[00:43:13] **Karem Herrera:** And so coupling with that and bringing in an immigration lawyer and being able to answer some questions in the past as well. During the Biden administration, while I was here at INRC, we saw a lot of the ways that communities really came together and really advocated. I'm just reminded also, in the Trump administration, when COVID hit and the stimulus checks were coming out, a lot of undocumented folks lost their jobs also, but were not eligible for these.

[00:43:44] **Karem Herrera:** And then there was these funds created to, where people donated money to be able to give a stimulus check to folks who were not going to get one from the government. And so just those ways that the community really stepped up. I never felt, I was looking [00:44:00] through a lot of my pictures, a lot of like old presentations that I did and I saw a lot of the ways that I felt really supported by my community both on a financial level folks also from work, we went to the, to the Supreme Court when DACA was being litigated and we slept outside and we were there the whole night.

[00:44:23] **Karem Herrera:** And it was it's super cold, very similar to this weather now, but and also a lot of Californians, so it was extra cold for us, but so we were there and that entire night we were singing songs. We were chanting. People brought us different chairs like tarps. Electric blankets, pizza tea. Folks were just driving up and bringing a lot of all these resources.

[00:44:48] **Karem Herrera:** So it was so moving because as the night was getting darker, as it was getting colder, as police were showing up the community was always there. And in the morning, they brought us like [00:45:00] bagels and coffee. They took away our chairs. They made sure we had what we needed. Gave us hand warmers.

[00:45:06] **Karem Herrera:** And And I think being in the Supreme Court and listening to folks arguing about DACA was so disempowering to me after having experienced all of this support afterwards to just sit there and listen quietly to this group of people who are not going to be impacted at all by whatever they're talking about.

[00:45:27] **Karem Herrera:** And that was really, for me, the impetus to really go to law school because I said I really. I want them to talk about the real impacts that taking away DACA is going to have on folks who are, have been here our whole life and really their family as well. I do have fear. I don't know what's going to happen and that's what I tell my clients too.

[00:45:48] **Karem Herrera:** This is what's happened in the past. These are our rights. But let me tell you about all the ways that the community really showed up. And I think that has been a lot of comfort to clients. I don't think [00:46:00] that fear is going to go away because It's natural, but I think that it's really powerful to be able to talk to people and say this is potentially what could happen, and this is the way also that community has shown in the past.

[00:46:13] **David Baluarte:** Thank you so much, Karem.

## [00:46:15] Conclusion and Call to Action

[00:46:15] **Milik Robinson:** You've been listening to Sustained: conversations and advocacy at CUNY Law. To hear more from the front lines of public interest ordering and social justice advocacy, subscribe to Sustained wherever you get your podcast. For episode notes, resources, and more ways to get involved, visit [law.cuny.edu/sustained](http://law.cuny.edu/sustained).

[00:46:42] **Milik Robinson:** Thanks for listening and for carrying it forward.