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The Alien Enemies Act of 1798:

Understanding 1941 and 2025

ABSTRACT

Immediately after the attack on Pearl Harbor, President Franklin D. Roosevelt invoked the Alien Enemies Act (AEA) of 1798, leading to the arrest of thousands of West Coast Issei men and their wartime detention in Army and INS facilities in an internment process that was distinct from the incarceration of nearly 127,000 persons of Japanese ancestry under Executive Order 9066. In the spring of 2025, President Donald J. Trump invoked this act against alleged Tren de Aragua members on the basis that this Venezuelan gang has “invaded” the United States, spawning a blizzard of litigation over this Trump administration’s assertion of authority in immigration policy and practices.

This panel, which took place on October 9, 2025, discussed how this act was applied to and impacted the Japanese American wartime community, ramifications of the current administration’s approaches, the status of the court cases challenging the administration’s use of the AEA, and the amicus brief that was filed on behalf of descendants of Issei men who were imprisoned when the AEA was invoked in World War II. The speakers also discussed how to accurately and effectively speak about the lessons from history when communities, especially those of color, live under the specter and reality of arrest, detention, and deportation.

ABOUT THE PANEL

Robert S. Chang, J.D., is the Executive Director of the Fred T. Korematsu Center for Law and Equality, Professor of Law, and Sylvia Mendez Presidential Chair for Civil Rights at the University of California, Irvine.

Susan H. Kamei, J.D., is Adjunct Professor (Teaching) of History and affiliated faculty with the USC Shinso Ito Center for Japanese Religions and Culture at the University of Southern California.

traci kato-kiriyama is an award-winning multi-, inter- and transdisciplinary artist.

Kathy Nishimoto Masaoka is the co-chair of the Nikkei for Civil Rights & Redress (NCRR).

Brian Niiya is the content director for Densho and editor of the Densho Encyclopedia.

Jean Lantz Reisz, J.D., is co-director of the USC Immigration Clinic and Clinical Associate Professor of Law at the USC Gould School of Law, University of Southern California.

The following transcript has been edited lightly for clarity.

SUSAN H. KAMEI

Good afternoon, everyone. Thank you so much for joining us. I'm Susan Kamei. I am an affiliated faculty member with the USC Shinso Ito Center for Japanese Religions and Culture, and on behalf of the Ito Center, thank you all for joining us this afternoon. In addition to those of you that have joined us in person, I understand we have a very large online audience, and we'll welcome your chats and questions as we move through the program.

As I have been often saying about things related to the Japanese American incarceration, I wish that the things that had happened to our community in World War II would have just become footnotes in history. But sadly, as the phrase has become, we see history repeating itself, and that is the case with the Alien Enemies Act and how it's become part of the news cycle now.

Duncan Williams, the director of the Ito Center, asked me to convey his regrets that he's not personally here to welcome you and to kick off the program, but Duncan and the Irei team are in Crystal City and on the front end of an East Coast tour of the *Ireichō* Book of Names. Brian and I will be catching up with them at the Poston Pilgrimage in a couple of weeks. So we're all wearing many hats, but on behalf of Duncan and those co-sponsoring organizations that I'd like to acknowledge now, thank you for your support. We'd like to thank the Japanese American Citizens League, NCRR, the Korematsu Center at UC Irvine, and the USC Immigration Center for helping us spread the word.

To kick us off, we're very pleased to have Brian Niiya, who really needs no introduction to our Japanese American Community, but to give everyone the benefit of Brian's background, he is the content director and editor for the *Densho* Encyclopedia. A Sansei, born and raised in Southern California, his Nisei parents were born and raised in Hawai'i. His maternal grandfather was one of a small number of Japanese Americans from Hawai'i who were interned, and—hold that thought on the use of the word “interned”—his mother's family went to Japan on an exchange ship during the war. I'd like to take this opportunity to thank Brian publicly for all that he has done, his leadership, his scholarship, his collegiality, and in support of public information about the Japanese American incarceration. He's had a number of positions with organizations, including the Japanese American National Museum and the Japanese Cultural Center of Hawai'i. He's a graduate of Harvey Mudd College and has an M.A. in Asian American Studies from UCLA. So, with that, Brian, thank you for kicking us off and giving us some historic context and the relevance of the Alien Enemies Act to us.

BRIAN NIIYA

Thank you so much, Susan, and thanks, everyone. I'm sorry I couldn't be there in person, but I had a family emergency come up, and I had to fly out to Honolulu, so I'm coming to you from Honolulu. But I wish I could be there with you.

So, my job is to basically give a quick overview of what happened in 1941 to 1945, which was the last time the Alien Enemies Act was invoked, really with a focus on the impact on the Japanese American community. This included the

internment of thousands of Japanese immigrant community leaders. We should note here that this is mostly a separate story from the later mass exclusion and incarceration of all Japanese Americans, 120,000 people, from the West Coast under the auspices of the infamous Executive Order 9066, that started later in 1942. Also, while there were more Japanese Americans in Hawai'i than in the continental U.S. in 1941, I'm mostly going to focus on the continent, given the limited time. Though a similar roundup also took place in Hawai'i, with one very important difference that I'll note in a moment.

To start with, I want to go back a decade or so to the early 1930s, as tensions between Japan and the U.S. began to ramp up, leading to fears of war between the two countries. In preparation for this, various federal agencies, most notably the FBI and the Office of Naval Intelligence began surveillance of Japanese American communities, out of which came the creation of custodial detention lists of who would be interned in the event of war, so the government was ready with these lists in the event of war. When war did come—when the U.S. entered the war after the Japanese attack on Pearl Harbor on December 7, 1941—the president, Franklin D. Roosevelt, invoked the Alien Enemies Act through a series of proclamations that allowed for the apprehension of “alien enemies deemed dangerous to the public health or safety of the United States.” Detentions began immediately. My grandfather was actually arrested. My mom remembers them coming to get him that night, late at night on December 7th.

While Japanese consular officials and the like were rounded up, the bulk of those detained were actually long-time resident immigrants, which we in the Japanese-American community refer to as Issei. Due to restrictive immigration laws that first limited and later prohibited Japanese migration to the U.S. after 1924, nearly all of these Issei had been in the U.S. for decades, and had decided to make their lives here—many raising American citizen children, the Nisei, who grew up like other American kids, in the '10s, '20s, and '30s. The population was largely concentrated in the territory of Hawai'i and on the West Coast of the continental U.S. Significantly, Issei and other Asian immigrants were prohibited by law from becoming naturalized U.S. citizens, unlike their counterparts from Europe. So, they were, in a sense, perpetually alien regardless of how long they had been here, and regardless of whether they wanted to be citizens or not.

Those designated for detention through this prewar surveillance were largely Issei community leaders, such as Buddhist priests, Japanese language school personnel, members of Issei economic and cultural groups and the like. Most of them were singled out largely for the positions they held in the ethnic community as opposed to anything they had specifically done. So, by December 10th, just a couple days after the outbreak of war and the beginning of the arrests, about 1,300 Japanese had been detained. According to FBI Director J. Edgar Hoover, practically all of those he had planned to arrest had already been taken into custody. I should note here that a smaller number of resident German immigrants and just a handful of resident Italian immigrants were also detained, as well as larger numbers of German and Italian crew members of ships in U.S. ports.

The stories of detentions echo in our community and have a similar broad storyline. Those of us who have done oral history interviews and read memoirs and so forth, the stories are inevitably those of mysterious men in suits appearing at the door in the hours, days, and weeks after the outbreak of war. Taking away the family patriarch for questioning, the family left with no idea as to where he was being taken, and how long he would be gone. I should also note, a few women were detained—very few, though there were a few.

While in Hawai'i there was a generally similar process, there was an important difference in that Hawai'i was under martial law, and thus, in addition to Japanese immigrants, U.S. citizens were also detained at this point. One thing that always blows my mind is that two of the Nisei who were interned in Hawai'i were actually sitting members of the Hawai'i Territorial Legislature at the time, which is just mind-boggling to consider. So, by the middle of February, about 2,200 Japanese had been detained, about 1,400 Germans, 264 Italians. Remember, a lot of those are ship crew members. There was another big wave of arrests that also took place a little later in February.

So, what happens to these men? They're mostly held in local facilities first. Here in LA, in the LA County Jail, as well as in quickly assembled detention camps, such as Tuna Canyon or Griffith Park. They were held in immigration station buildings in places like San Francisco and Seattle. Then, anywhere from a few days to weeks later, most of the West Coast internees were then transferred to one of three larger and more distant detention centers run by the INS. Those were Fort Missoula, Montana; Fort Lincoln, which is in Bismarck, North Dakota; and the third was in Santa Fe, New Mexico. Each of these internment camps held about 1,000 Issei in this first phase of internment, which took place in the spring of '42 into the fall.

From here, it gets very complicated. I don't have time to go into details, but the key points are that hearings take place at all of these camps, and though they were grossly unfair in ways that are almost comical when you read the details today, about half of the internees were essentially sentenced or designated to be interned for the duration of the war. They were taken first to camps run by the U.S. Army in the late fall of '42, and then, as those camps started to fill up with POWs, they were sent back to the Justice Department and interned in Justice Department camps, and Santa Fe ends up being the one that's the primary long-term internment camp for these men. In many of the camps, they were held alongside German immigrant internees and/or German and Italian ship crew members.

The other roughly half of the internees were cleared and designated for release or parole. But the irony is that for Japanese Americans, being released meant that they were just sent to another series of concentration camps, because by that time, Executive Order 9066 had been declared, and this whole program of rounding up and incarcerating all Japanese Americans on the West Coast was taking place. So, the men who were released or paroled from these Justice Department camps generally ended up in these War Relocation Authority camps—the advantage being that they could at least be reunited with their families.



**Dwight Takashi Uchida with family at Topaz after his return from Missoula.
From the Yoshiko Uchida Collection, Bancroft Library, UC Berkeley.¹**

This photo shows one such man, Dwight Uchida, who was reunited with his family at Topaz after his internment at Missoula. This brings up another common incarceration narrative, which is that of families remembering the Issei patriarch returning from Justice Department internment looking unrecognizably older and refusing to speak of his prior internment.

So, with that, I just want to briefly note the aftermath. As noted, some were held in internment for the duration of the war by the Justice Department, others were released on parole to the WRA concentration camps. Some, including my family, were sent to the Crystal City Justice Department camp, which was known as the family camp. As Susan mentioned earlier, a pilgrimage to that site is going on, I believe, as we speak. That became the family Justice Department camp; some of those families were designated to return to Japan on an exchange ship. I should also note that, in the internment camp system, again, not the WRA system, but the one run by the Justice Department, three men were shot to death by guards while they were interned.

With that introduction, I will turn it back to Susan and the rest of the panel to talk about the present.

SUSAN H. KAMEI

Thank you so much, Brian. Do you want to take a moment and help sort the use of “internment” versus “incarceration”?

BRIAN NIIYA

Sure. So, for years, the common terminology just referred to this whole episode as “internment.” In the last 20 years or so, there’s been an effort to disentangle

1. Yoshiko Uchida, *Family, Topaz* (photograph), in YOSHIKO UCHIDA PHOTOGRAPH COLLECTION CIRCA 1902–1991 (1942), THE BANCROFT LIBRARY, <https://digioll.lib.berkeley.edu/record/177623?v=uv#?xywh=-301%2C-7%2C2212%2C1145> [<https://perma.cc/LQ66-TQTN>].

the terminology and note that internment is a term that specifically applies to enemy aliens who have been detained. Thus, what we're talking about here with the Justice Department, detaining enemy aliens is truly internment. The mass removal and incarceration of other Japanese Americans by the War Relocation Authority—sixty percent or so of them were U.S. citizens—is not “internment” by definition, because these were not enemy aliens. These were largely American citizens. So, I think the terminology that we've tried to use is incarceration rather than, at the time, the more euphemistic term of evacuation. Evacuation implies that this is being done for your own protection, as with an earthquake or a flood or something. We've tried to use incarceration, imprisonment, detention, etcetera as terminology separate from internment, which is applicable to the Justice Department system and the roundup of enemy aliens.

SUSAN H. KAMEI

Great, thank you. So, we're making a distinction between those that were imprisoned as a consequence of Executive Order 9066 and those that we're talking about today, as a function of the Alien Enemies Act.

With that, we've got so much to understand and be up to speed on in terms of how the current Trump administration is using the Alien Enemies Act in policies and practices today. I'm thrilled that we have Professor Robert Chang, one of our nation's leading scholars on issues of race and inter-ethnic relations, and one of the most recognized voices on Asian American law issues, here with us today. Bob has come with the Korematsu Center and is the executive director of the UC Irvine Fred T. Korematsu Center for Law and Equality, and holds, as the inaugural chair, the Sylvia Mendez Presidential Chair for Civil Rights. Professor Chang founded the Korematsu Center, named after pioneering civil rights leader Fred T. Korematsu, in 2009 at the Seattle University School of Law. The center leads numerous initiatives and projects focused on research, advocacy, and clinical education. Professor Chang has an A.B. from Princeton in molecular biology, and an M.A. in Philosophy and a J.D. from Duke University. Thank you, Bob, for joining us.

ROBERT S. CHANG

Thank you, Susan, for the generous introduction and the Ito Center for sponsoring this. I was reflecting on the cover, the title of Susan's book, *When Can We Go Back to America?*, which was written in the context of World War II. I've been thinking about this in the context of today—when can we go back to America? I feel, in some ways, that we've gotten so far from what we think makes our nation great, in terms of the Constitution, separation of powers, and the rule of law. I know that we're talking about the Alien Enemies Act, and its application and historical resonances, but I also want to place what's happening today in the broader context of all of the assaults on the rule of law: executive orders attacking law firms, funding of universities, attacks on free speech of non-citizens, which then also has a chilling effect on the speech of citizens. We have the National Guard being deployed in various cities. We have the cases going on right now. There are

hearings today, and I keep checking my news to see what happened with the Ninth Circuit in its evaluation of what Judge Immergut did in Portland. Then, also what is happening with the Chicago case and Judge Perry's hearing. Is she, like some of the other judges, also going to issue a temporary restraining order?

When we think about what's going on today, the invocation of the Alien Enemies Act, we should remember that the Alien Enemies Act was invoked after the attack on Pearl Harbor and was a first step before the broader treatment of Japanese Americans with 9066. Why should we care about the Alien Enemies Act here, especially in terms of the small group that is being targeted? When President Trump, on March 15, 2025, issued the proclamation invoking the Alien Enemies Act, he singled out a small group, and it wasn't Venezuelans wholesale, it was Venezuelans who were members of a particular gang, one particular gang. So, it's that group. But, when I think about what else is going on, that was the first step in some ways, of scapegoating a group, tarring a group with criminality, and this was followed soon after with the vacatur: the termination of temporary protected status for hundreds of thousands of Venezuelans, which makes them subject to immediate deportation, should the government choose to act in that way. So, we had the Alien Enemies Act invoked with a small group, and then we have a broader treatment of Venezuelan immigrants.

It's scary in some ways how closely it mirrors what took place before. The Alien Enemies Act of 1798—what is that even? I think it's important for us to know what it says: Congress granted power to the President of the United States, that whenever there shall be a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion that shall be perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government, the president then has great powers, and these powers allow him then, to declare individuals or groups of individuals who are aliens, so non-citizens—this includes people who are undocumented, people who are legally here, legal permanent residents because legal permanent residents are not citizens—to be enemy aliens. After the declaration that they're enemy aliens, it allows the administration to decide that some are such a danger to our security and peace that they can first be detained and then they can be deported. Now, one critical thing about detention and deportation is that this is a civil action, it is not a criminal action. What that also goes back to is the long history of how we got to this place. Why do we treat deportation as not punishment? Deportation, for people who have lived here, who are here, is banishment. Banishment historically has always been punishment. But this changed in an early case involving Chinese immigrants, *Fong Yue Ting v. United States* (1893), where the U.S. Supreme Court said that deportation is not punishment, and because it's not punishment, you don't get any of the other things that come along with due process, including a right to counsel and other constitutional safeguards. So, this power exists when there is war or when there is a predatory invasion or predatory incursion by a foreign nation or government. During World War II, there was not a question about the valid invocation of the Alien Enemies Act. Why? Because there was a declaration of war. Once there's

a declaration of war, then, this allows the president to act on that basis. There was not the challenge there that President Roosevelt had improperly invoked the Act.

The question after that is, what happens in terms of the treatment? Today, there is a legal question, in a number of cases, as to whether or not the president acted lawfully in invoking the Alien Enemies Act, based on his argument that this particular gang has engaged in an invasion or predatory incursion. Now, you might also wonder: gang, well, they're not a foreign nation or a government. That's absolutely correct. But it might surprise you to learn that there are three federal district court judges, and I don't think it's good to call judges Republican judges or Democratic judges, but I will note that the three district court judges who found that this was a valid invocation of the Alien Enemies Act here were Trump appointees. So there are ten cases now going on in various district courts. Two are in the Central District of California, one in Colorado, one in New York, one in Pennsylvania, and four in three different districts in Texas.

For now, there has been some action with regard to the U.S. Supreme Court putting a stop to some of what had been going on—not on the merits yet, but through this thing called the emergency docket. If we have time, I would love to explain what the emergency docket is—which is where the U.S. Supreme Court keeps stopping what I think the lower courts are doing correctly in terms of stopping or limiting the excesses of the executive branch. But the U.S. Supreme Court, surprisingly, in a case called *AARP v. Trump*, said you can't just do this. We're not deciding whether or not you've invoked it properly—we'll leave that for the lower courts to decide—but that there has to be some measure of due process involved, some notice, because if the government declares you to be an enemy alien, you ought to be able to challenge that classification. You ought to be able to say, well, I'm not a member of this gang that you've singled out because the process that existed at the time really just included putting them on planes, and deporting them in most instances to El Salvador, or would have been El Salvador because of the agreement with the administration there.

You might be wondering, AARP—why is the Association of American Retired Persons suing Trump about this? What is their special interest? It turns out that those are just initials, and when it went back, the case now is no longer known as *AARP v. Trump*, but it's *WMM v. Trump*, and it's because AARP, the one that we know about, the organization, filed the motion to intervene in the District Court in Texas for the limited purpose of asking the court, since you're using initials anyway, and there is another person, WMM, in this case, can you call it WMM? The Federal District Court judge says, alright, I will grant you this limited motion to intervene for this purpose, granted it, and then AARP, the one that we know about, is no longer part of this case. So, WMM then went to the Fifth Circuit. The Fifth Circuit, in a surprise to many of us, found in a 2–1 split panel, that the invocation of the Alien Enemies Act was unlawful, that there had not been the predicate of an invasion or a predatory incursion by a foreign nation or government. Now, you might wonder: well, gosh, that's good, what happens after that? Normally the government would appeal to the U.S. Supreme Court, and then we would wait to see what happens here. But there's this other process with regard to the way that our

intermediate federal appellate courts operate. So this was decided by a three-judge panel. There's a process where a case can be reheard by all of the judges in the Fifth Circuit, and it's called en banc and this has happened now. The effect of that is that *WMM*, the opinion by the Fifth Circuit is vacated. It's no longer good. It's a nullity. Now we're waiting for what happens with the briefing before the Fifth Circuit en banc.

I had the privilege of working with counsel at Asian Law Caucus in San Francisco, and lawyers at the D.C. Asian Americans Advancing Justice, and also attorneys at the law firm of Covington & Burling, filing an amicus brief where the lead party was the National JACL. Now, for those of you who may be less familiar with this, an amicus brief is a friend of the court brief, so you're not actually representing a party in the litigation, but you're representing an individual or group, or sometimes a coalition who then files a brief before the court as a friend of the court. The idea there is, we have something to say, and we think that it's important for you to hear about this. When the Korematsu Center engages in amicus advocacy, part of our theory behind this is that it's a way to democratize the courts, because you have litigation, it affects the interests of those parties, but often many other individuals or groups who are not part of the litigation. Amicus advocacy, by democratizing the courts, allows for those individuals or groups to have a voice or a say.

Now, with regard to the JACL, what did the JACL have to say about this? Well, part of what we try to do often in our amicus briefs is to remind the court of times when our country has not lived up to its democratic ideals; when our courts sometimes have failed. The JACL and other Japanese American groups have a distinct voice and can operate or act as the conscience of the court, to remind the court and also the public. The other function for amicus briefs for us includes public education. We're speaking to the judges and the justices, but we're also speaking to the public because quite often, the public is not familiar with so many of these stories. I mean, who knew, right, that it wasn't just Executive Order 9066 that put people into camps, it was also the Alien Enemies Act, and in some ways, it was the Alien Enemies Act that was the first step, a trial run in some ways, of something that would become much broader.

So, in this amicus brief, we talk about what happened the first time around when President Roosevelt invoked the Alien Enemies Act. It's wonderful we had the thicker description of what took place with so many of the men, primarily, who were rounded up, and the difference in terms of the camps—internment camps versus incarceration camps—and the other things that were part of it. Now, the thing about those hearings that Brian told us about, these were civil trials, not criminal trials, and so you don't have the right to counsel and that's one thing that is very limiting for somebody who is trying to assert their rights in the face of government action against them. We also told the story of certain persons and families who were impacted by the arrests that follow the invocation of the Alien Enemies Act. We also highlight the challenges or issues with regard to the evidence that existed during World War II. The evidence that largely did not exist, and in some ways, the circular reasoning that existed. General DeWitt, during World War II, said that the fact that there had been no sabotage identified by Japanese Americans and Japanese

immigrants, was the danger here—the fact that it had not existed. The U.S. government is saying the same thing this time around. When it came out that so many of those who were caught up in the arrest following the proclamation and the invocation of the Alien Enemies Act had no criminal records or backgrounds, the U.S. government, in this sad echo of the past, said, well, it's the fact that they don't have those criminal backgrounds that makes them so dangerous.

So, part of what we try to do in the stories that we tell is to offer the moral voice of the JACL, and here also joined by over sixty Asian American organizations, to remind the country and the judges and justices about what took place before, including also the very thin evidence that was used to justify this treatment, to then say we should pay attention to these lessons because we're in danger of repeating history.

SUSAN H. KAMEI

Thank you, Bob. I was actually very relieved to hear that the work to prepare these briefs and to form these coalitions actually started not long after the inauguration, because this had been a campaign point by then-candidate Trump, and there were those that were anticipating that this work was going to be needed. That actually came as a great relief to me, to know that so much effort has been going on, on a national basis, to prepare these briefs. So, thank you.

Let's come back to the emergency docket, because I think that's an important point to help understand what's happening in the news today. Professor Reisz, you are a little busy these days. So, let me give you a little background. Professor Reisz teaches and co-directs the USC Gould School of Law Immigration Clinic, and directs the Immigration, Detention and Appellate Clinic and the Legal Professions courses. Under her supervision, second- and third-year law students represent individuals in removal proceedings, seeking humanitarian forms of relief. The venues include not only the Immigration Court—the Board of Immigration Appeals—but also the Federal Appeals Court for the Ninth Circuit. She also oversees the Immigrant Legal Assistance Center, which provides free legal assistance to USC students, faculty, and staff, and their families in connection with immigration issues. So, thank you so much, Jean, and thank you for taking the time to join us.

JEAN REISZ

I'm happy to be here with such an impressive panel today. So, I thought I would talk about the Alien Enemies Act in the context of immigration enforcement today. Why invoke the Alien Enemies Act? It has everything to do with this idea of mass deportation. Mass removal of immigrants from the country. It's a one piece of a very large pie of very aggressive tactics that we're seeing by this current administration. So, why the Alien Enemies Act? It authorizes the president to remove a group of people. Although there are due process protections that apply under the Alien Enemies Act, they're very minimal. Many non-citizens present in the United States have certain due process protections, including going in front of an immigration judge, having the government provide evidence that they're present

in the U.S. in violation of immigration law; seeking applications for protections, such as asylum, such as cancellation of removal, which is for somebody who may have U.S. citizen or permanent resident family members who would face hardship if they were removed.

There is a huge backlog in the immigration court. The last time I checked, I think it was close to 3 million cases. So, if the president wants to deport a million a year, or as many people as the president is attempting to deport—having them go through these proceedings, which is their right, the Constitution provides protections for non-citizens in the U.S, but the immigration laws, the Immigration Nationality Act also require certain due process protections—it's going to take a long time. So, the Alien Enemies Act is a way to circumvent those pathways, and those potential protections, to order someone removed. We saw it happen in that first plane that left very quickly to El Salvador, and with very little due process. In some of the cases at issue, the due process protections are notice and very little time to challenge whether or not someone is a member of the Venezuelan gang, Tren de Aragua, should this apply to them. So, that's why it's being used as a tool of enforcement.

One of the things that we're also seeing is this concept of invasion. This is a theme that has circulated throughout immigration history, and I'll talk about one of the foundational cases of modern immigration jurisprudence, the *Chae Chan Ping* case involving, it was called at that time, the Chinese Exclusion Act. There was no war with China; there was a treaty that was a reciprocal treaty for labor but the Supreme Court in that case said, it's not for us to determine whether or not there's an invasion, even if there's not a military attack, it's for the president to decide whether or not there are national security issues, whether or not we are threatened, and that is conclusive upon the judiciary. That's a very old case, but I think we're seeing that kind of conflict today where we're talking about migrants as invaders who are intending to do harm. I'll just quote from one of the several cases challenging the Alien Enemies Act. One of the judges said, "there is nothing in the Alien Enemies Act that justifies a finding that refugees migrating from Venezuela or Tren de Aragua (TDA) gangsters who infiltrate the migrants are engaged in an invasion or predatory incursion. They do not seek to occupy territory, to oust American jurisdiction from any territory, or to ravage territory. TDA may well be engaged in narcotics trafficking, but that is a criminal matter, not an invasion."

So, we're looking at invasion often to justify these extraordinarily aggressive tactics: arresting people and sending them to a prison in El Salvador under the Alien Enemies Act, but also other things that we're seeing. Recently in June, the Department of Homeland Security and now the Department of Justice, which houses the immigration courts, have reinterpreted a statute that provides for bond hearings for persons who are arrested in the U.S. who may be in violation of immigration law, but who have been here for longer than two years. For sixty years, those individuals would be eligible for a bond hearing to determine whether they pose a danger or a flight risk. That has been reinterpreted to treat all of those individuals as if they were still at the border seeking entry and requiring mandatory detention. Why do that? Well, it's going to be harder to remove people from the

U.S. if they have the ability to get out on bond and fight their cases in a backlogged immigration court process.

Many people that I know firsthand are giving up because the conditions of detention are so terrible. Detentions are run by for-profit corporations. We're seeing big "soft-sided camps," and all of this is part of this really aggressive enforcement and the invasion rhetoric surrounding it. This administration is often conflating people who are present to do harm with people who are present in violation of immigration law. As my co-panelist pointed out, immigration law is a civil law, so being present in the U.S. in violation of immigration laws is not a crime but this conflation between the two that is used to justify some of these aggressive tactics.

So, the Alien Enemies Act conversations essentially center around that the president is the one who can determine, in dealing with foreign countries, whether or not there's an invasion and the judiciary can't look to that, and that's the government's argument in a very simplistic nutshell. The case history for Alien Enemies Act is not thorough. There's not that many. It's only been invoked in times of a declared war, and there seems to be this requirement that the courts can at least see if it's a valid use of the statute—they can at least interpret it to see if it applies. So, I think that's the big challenge, this kind of overall enforcement; and also the reinterpretation of birthright citizenship in the 14th Amendment, that's an enforcement tool because that would make it easier to remove people, and that would deter migration.

I will say one other thing that we've seen with these aggressive tactics, that is very much related to this idea of a foreign invasion is what we've seen happening in Southern California, specifically in Los Angeles over the summer, with the targeting and arresting of individuals at Home Depots, at bus stops, at agricultural locations based on the way that they look, and whether they speak Spanish or English with an accent. Going back to the foundational case, *Chae Chan Ping*, one of the issues was people who were coming who would not assimilate. So it's very much that idea of targeting people based on the way that they look and the language that they speak, as part of this overall enforcement.

We recently filed a TRO for an individual who was arrested at a car wash. His leg was broken during the arrest and he was taken by immigration officials to the hospital, where he had surgeries and where he was kept for over a month, and was guarded by four to five immigration agents. He was never charged with being in violation of immigration law. People think that's crazy, but we've seen it before, and we've seen this kind of mass detention, and the Alien Enemy Act, unfortunately, is a tool in that. I will say the judge issued the TRO and ordered ICE to remove their guards. Our client wasn't able to eat or sleep without supervision, or use the bathroom without guards there; wasn't able to see his family; and had limited access to his attorneys. And the judge said, this is the cornerstone of American society: freedom, liberty, freedom from restraint without some sort of due process, and here we didn't even have allegations of a violation of the law. So, I point that out as very aggressive tactics. I'm happy to answer other questions about that, but this idea of due process and humane processes, and I think the Alien Enemies Act, are one way

to get around some of the protections that are built into our immigration system, and some of the flaws that delay people either being removed or getting their statuses.

SUSAN H. KAMEI

Thank you, Jean. One of the things I have noticed from the time that I started teaching about the Japanese American incarceration eight to nine years ago is that the rhetoric has now changed purposefully. Before, there was a distinction that I think most people were willing to make between legal immigrants in the United States—they're non-citizens, aliens in the United States—versus those that were illegal and now we've just seen this conflation. We've been using that word today, in that all immigrants of all backgrounds should be suspect and feared. I talk about this as immigration NIMBYism: that now that I've gotten in, no one else should.

We are grateful to have Kathy Masaoka here, and one of the goals that I have had for this program is that we could leave with things that we could do. I hear from so many, it's not unusual to feel helpless, I dare say hopeless, in what's going on with this onslaught of administrative activity, and so I'm glad that Kathy is here to help give us some, tangible ways that we could be involved and do things if we so choose. By background, she's, like me, a native Angeleno, Los Angeleno, born and raised in Boyle Heights. The Vietnam War and being an Asian American Studies student at UC Berkeley has had an important influence on how she has come to be living her principles. She has for many years, worked on issues related to youth and workers, housing in Little Tokyo; was a big redress champion; and continues to serve as the co-chair for Nikkei for Civil Rights and Redress (NCRR), and many other groups that include Nikkei Progressives and Vigilant Love. Kathy, thank you for all you do, and for joining us.

KATHY MASAOKA

I want to thank Susan and the other panelists for a lot of good information, things to think about. I wanted to express appreciation also to the first generation, the Issei, and the immigrants who came to the U.S. and had the strength and resilience to carve out a life. Some were able to build families here in the face of hostile laws and abundance of racism. I know that I would not be here if not for them. Except for the Indigenous peoples whose land we occupy, for the descendants of the enslaved people who were kidnapped from Africa, most of the people in this country would not be here, most of us would not be here if not for the immigrant ancestors. So, I think about that and really appreciate their strength.

Some of this is abstract and not so concrete, but it is important to keep learning from history, our own as well as others, to understand that our whole history is all interconnected, and to challenge ideas that we had accepted as truth, be open to new ones, and unlearn our old ideas. As I get older, I keep on finding things that I need to change and things I need to learn. One is the Alien Enemies Act. I had never heard about it; working in redress, I never heard about it or paid attention to it. I think, as Bob mentioned, this wasn't really noticed. I first learned about it several years ago from Kanji Sahara, who has since passed. He was working on a display

for the Tuna Canyon Detention Center at the Japanese American National Museum. I looked at it, and I said, this is so old and archaic. I don't even know why this is important to know. I just sort of dismissed it. Now I think about, why wasn't that ever challenged earlier? It's just been around for so long. I think that many of us had accepted the idea that somehow "aliens," or immigrants, did not have the same rights as all people. The government used that perception about aliens not only for the Issei, but also for the Japanese American population as a whole, and they said, well, these are aliens, the Issei; and these are non-aliens. So, sticking that word "aliens" in there to make sure that it was attached to Japanese Americans during World War II, not seeing them as citizens. I think that we also bought into this idea as a community when we talk about 120,000 plus Japanese Americans being incarcerated, and we emphasized two-thirds were citizens as if it was really wrong for citizens, but it was somehow okay for the immigrants to be rounded up and taken away. This is information that I had to unlearn.

As I think it was said, due process is for all people: immigrants, documented and undocumented alike. I always thought my grandfather, Sochi Kadota, Issei, was picked up by the FBI right after Pearl Harbor, December 7th, but I learned that this was not true. I also thought he was just another individual Issei, like so many who had been picked up and taken to a camp—Bismarck, in his case. But when I learned more about what happened to him and other Issei in Santa Barbara County, where he was from (Santa Maria), it put his individual experience into a broader picture and I learned this from Professor Russell Endo, who was teaching at the time at the University of Colorado, maybe within the last five years. I never knew this. My grandfather, Sochi, was one of 265 Issei men rounded up in a mass raid by the FBI, over a three-day period on February 18, 19, and 20. He was picked up on February 19, 1942. This is the day that Executive Order 9066 was issued by FDR. This was a double whammy for the community. Their fathers and leaders were rounded up, and now they were all facing removal from the West Coast. With a roundup of so many among a community that numbered just under 2,200 people in that county, over ten percent were taken. It left the farms and the businesses in the four major Japantowns in disarray. The FBI continued to sow fear when they set up roadblocks and stopped cars, taking Issei men into custody. These men were taken to the Santa Barbara Jail, since there were no facilities set up for these numbers, and quickly moved to Los Angeles, to San Pedro, Tuna Canyon, or in my grandfather's case, to Griffith Park which took the overflow from Tuna Canyon. Again, they were not set up for receiving these numbers of people. General DeWitt was so eager to move the Issei from the West Coast that they shipped them out before any hearings could be held. Officials wrote in my grandfather's notes that this guy didn't appear to be a problem, there was no threat from him but he was not released and shipped out in two days from Griffith Park to Bismarck, North Dakota. The family did not know where he was taken, and we never knew that he was actually in LA.

So, mass raids, communities in fear, families separated, poor detention facilities, no hearings, taken to distant places with no ability to contact their family, no due process. That is what is happening today. So what can we do? I think one thing is demanding due process for all, no matter your status, no matter if you're called

a criminal, no matter what—everybody has a right to due process. And to support those that are challenging the Alien Enemies Act, and actually figuring out some way to really undo it. I think the way that we are building support for immigrants is by building community, and I want traci to talk more about this first.

SUSAN H. KAMEI

Let me introduce traci. Award-winning, multi-inter-transdisciplinary artist, recognized for their work as a writer, performer, theater divisor, cultural producer, community organizer, and audiobook narrator. The throughline and inspiration of much of tkk's work are tied to themes of survival, interconnectedness, death, loss, illness and regeneration, remembrance, legacies of silence and noise, trauma, and intergenerational reclamation, and reimagining our dreams of the past and the future. tkk might best be known to our USC community for their show, *Tales of Clamor*, that I was honored to be a faculty co-sponsor for the USC Visions and Voices Arts and Culture Series in 2023. That was a moving, memorable event.

TRACI KATO-KIRIYAMA

Thank you, Susan. I am so honored to be a part of this panel. I hope everyone in this room by now feels as angry and upset as I feel, right? As an artist, as a poet, as a theater maker, an actor, and a Scorpio, I am a professional emotional person. I am a professional feeler. I can hear stories

over and over again about our parents and grandparents and it's just as fresh as I feel like I just heard it yesterday because we understand that this history, these stories, these memories are still living. They're not only living in our bodies literally when we think of these specific memories and stories and things that happen to our families, but we see it all around us, right? Just in the past two days, I've gotten several texts from people in my neighborhood about ICE showing up at the local Home Depot where my partner and I go all the time.

I think in terms of what we can do, I just want to offer a few things that I'm sure most of you are already engaged in, or hopefully supporting, but it's worth noting. For Nikkei Progressive, we have an immigration committee, an electoral committee, and a Little Tokyo committee. We also work on reparations very actively, Kathy and I, with many other people on that committee. We're literally right here, so you can talk with us afterwards, and there are local organizations right in this room, where we can actually do work directly. Our immigration committee is part of a larger coalition, the Inland Coalition for Immigrant Justice (ICIJ) in the Inland Empire, and they do a lot of critical work. They're part of a much larger coalition as well. So, Kathy will speak a little bit more on some actions or support that's happening at Adelanto, which is a detention center. We also support CHIRLA, the Coalition for Humane Immigrant Rights Los Angeles, they do a lot of direct work; Union Del Barrio, friends of mine are very active in that, and they do rapid response when they get a call in the area. They understand that it's really necessary for us to do work locally, right in our own neighborhoods. NDLO, the National Day Laborer Organizing Network. Again, a national network, they do a lot

of incredible work, and all of these groups are in some way, shape, or form related to each other. Immigrant defenders, a number of attorneys that are doing a lot of legal work, right? Pro bono legal work, but also trainings for the rest of us, attorneys and non-attorneys like myself.

So, I want to really highlight the local aspect and the donation aspect. I think that all of these organizations that I named are doing so much work beyond the time and resources that they have, that they can really utilize actual financial support. So if you are a student, a faculty member with a very full plate on campus, there's always ways to engage donor dollars from yourself, your own pocket, and your family members, your community, your friends. I'm having a birthday party this Sunday, and we're raising money for a local organization. You can do all kinds of things with what's in your actual wheelhouse. Getting together, being on a text thread, a Signal thread, a Discord with people in your own neighborhood to stay on top of what's going on. Things are so bad, the one silver lining is that so many more people that I know in my own neighborhood in South Bay are activated. My friend, who does not consider herself an activist, through her Ring, she's connected with a network of folks in the South Bay who do alerts. Through that Ring community, they alert each other about what's happening at the car washes, at the local Home Depots, and so forth.

I also feel like, as an artist, I want to say to all the creatives in the room, which is every single person, the importance of us writing and using our creative communication to engage with folks on a heart level: sharing stories, like Kathy shares all the time, and relating to people. I hope it sounds concrete, you know what I mean? The importance of our organizing work really rests upon relationship building, which really rests upon conversations and breaking bread. We do it all the time. We break bread and we have conversations with our folks. We talk about, how do you talk about this difficult thing with your family and friends? And we actually have sessions about that. I do think it's so important. I think that if you are a creative, by trade, a writer, a poet, a theater artist, a filmmaker, there are so many ways in which we need to write; to share these wonderful pieces of information in various formats that can relate to folks in a different way. We have to combat the language that is happening. It's weird—I've always grown up feeling like an enemy alien. I feel like enemy alien is somewhere in my identity. I've always felt that way. I know a lot of other Japanese Americans who are children of those who were incarcerated who kind of have that sense of, like, oh yeah, that's in our background, we're enemy aliens. You know what I mean? There's no separation for me. Three of my grandparents were Issei. There's no separation for me in terms of them being citizens versus non-citizens versus naturalized citizens. They suffered actually the most and did the most for my family. So I think about that a lot—what it means when people in power also have use of language and have the ability to literally culture shift and have us thinking about migrants, immigrants, in a very specific way, and it becomes subconscious. So we have the responsibility to make the connections between past and present as we look into our future. So, there are many ways, there are so many ways, and Kathy, I know you want to add more things.

KATHY MASAOKA

Just a few more things, because older people have asked, well, what can I do? I don't want to put myself in the face of violence or a danger in my life. There are things like not supporting businesses that don't align with your values. You don't have to put yourself in danger. Tabling with information about what is going on and how to support. As traci mentioned, donating. Even also helping prepare bags of groceries that go out to immigrant families.

We work with a group called API-RISE, it's an Asian Pacific Islander reen-try group that works with people that are mainly from Southeast Asia that served time in prison and came out. They're trying to support them in jobs, etcetera, but they often face deportation immediately after coming out or they're out and they face deportation. So there is a need to accompany people to their check-ins and court hearings. So, I think that a lot of legal help is needed - and I've heard of USC's great work, in trying to find attorneys that will support people for free, pro bono; making calls to the detention center like Adelanto, which is very unfriendly. People spend hours on the phone trying to make calls to see if they could set up visitations and the people there are determined to isolate people. People there can't even really accept calls unless you know exactly what their bunk number is, and you don't know their bunk number unless you go there and you see them, and they can tell you. So information is blocked, totally. So they try to find out where that person is, what visitation hours are, and set those times up. We had sixteen people go on Monday to Adelanto, three of them couldn't see the person because it was too full. Officials at Adelanto said come back three hours later, and then they told them, oh, that person went to the medical check-in, or whatever. So they waited for nothing. But that is the treatment that people have at Adelanto. They don't really see daylight, they're in places where there's no view of the sky and then they had a shutdown, so they didn't see any outside area at all. These visitations are important because people want to talk to and visit with people.

Again, NDLON (National Day Laborer Organizing Network) is national, so people anywhere can support NDLON. Adopt a Corner is one of the things that they're pushing, for people to be at the Home Depot corners to support the workers there, and to be on the watch for anything coming. We don't want people to put themselves in danger but we hope that people can find a way to be involved and to support. Sometimes we do have to step out of our comfort zone and try things out, and then maybe it doesn't fit, try it again, and find a place where you can do things. But I think there is a way for everybody to find a way to support.

SUSAN H. KAMEI

Thank you. traci, do you want to do your reading?

TRACI KATO-KIRIYAMA

Sure, thank you. I have three short pieces and then I'm going to ask everyone to do a call and response with me for the last one. So, get your vocals ready, please. Thank you for letting me read some poetry. Again, I hope you all will

keep writing, we'll write anew. Keep thinking about creative ways to communicate and also to process. I write a lot just to help myself process information and deal with the world.

War near war.

To measure hate, I can say I know love well.

I can measure fear as I share company with joy and understanding often enough. But in the scale of war, to measure against peace, to measure peace onto itself, we have never held that mirror.

Even in our well-lit streets or suburban living rooms with plants dying on filtered water. We have no idea how to mark the end of war, or the beginning of peace except in moments of forgetfulness.

Forget last week's bombings. Forget Monday through Friday on BBC News. Forget civilian headcounts. Families still waiting for reunion, children still teething underneath rubble. In reality, is the opposite of war, not peace? But instead, amnesia?

I measure myself on how long I can go with and how long I can go without thinking on destruction.

There is war.

So folks always ask, what do I write about? I write about anything, anything is fair game. Of course, there's what's happening in the world that is on my mind all the time, so there are many, many poets throughout Los Angeles that are grappling with language and power, and how we self-determine that power for ourselves to try to contribute to some way of thinking.

I was a part of a much larger effort called FandangObon, which is a collaboration between Great Leap, Quetzal Flores, Martha Gonzalez, Nobuko Miyamoto, and many, many other artists. We gather once a year to dance together, from, Muslim Sufi Hadra tradition to West African dance to Obon dance, to just a collective community dance in concentric circles. So, please look out for that, it's a great gathering. There are so many walks of life and different ages of people that joined us. Just about a month before FandangObon happened this year, I got a call from Nobuko. She was very charged up because just a few days before our annual Nisei Week Festival in Little Tokyo, right in front of the Japanese American National Museum, ICE showed up. It was horrible. It was a horror. There were community people who were extremely upset. There were elders who were yelling on the sidewalk and one person in particular who I don't necessarily think of as community organizer but is really engaged in the community, wrote this huge letter to all the people involved in Nisei Week. And he was so angry, and he said, how dare they? How dare they show up in our neighborhood. How dare they show up literally at the point where our folks had to line up with their two suitcases to then be shipped off to camp. Nobuko took in his letter, and she called up Ruben Guevarra, myself, and then Sharon Bridgforth—three poets—and she's like, you must write a collaborative piece about this, and what's happening. It's a very long piece, I'm just going to share with you words from Ruben.

We were able to share this in a collective poem and one part he said . . .

On this corner, let us remember.

They might deport our bodies, but they cannot deport history, truth, and facts.

They cannot deport our ancestors, our culture, our voices, our spirit, our memory, our anger, our love, our courage, our soul.

They cannot deport the wind, the rain, the mountains, the trees, the rivers, because we are alive in the land.

Remember, remember, remember our dreams and courage are in the rain. They nourish us. The living spirit seeds birthed by the stars and Mother Earth.

Our spirits cannot be deported. Our seeds will grow and flourish like fearless, ferocious, wild flowers.

So, I just want to leave you with a short poem, and I'm going to read it once and then I'm going to say a line, and then you're going to repeat after me. How does it sound? I, as an organizer, love to have words be infused and go through the vibration of your bodies. I feel like it sticks with you in a different way, so indulge me, please. This is called "Weeds."

Let us grow peace like a weed.

That crawls up the sidewalks of every street.

So pervasive, so profound, it becomes impossible to kill.

Let us grow peace.

Let us grow peace.

Like a weed.

That crawls up the sidewalks.

Of every street.

So pervasive, so profound.

It becomes impossible to kill.

Let us grow peace.

Thank you so much.

Q&A PORTION

SUSAN H. KAMEI

Thank you, traci. We have a few questions. Brian, I'm wondering if I could toss this first one to you. This is from Gerald in Washington, D.C. What was the government's authority to detain Japanese from Latin America in Crystal City, Texas during World War II?

BRIAN NIIYA

I actually don't know the answer to the legal side of that, but essentially, he's referring to what I think to be accurately called kidnapping of Japanese Latin Americans by the U.S. government in cooperation with the governments of those countries to serve as prisoners to be exchanged with Japan for the return of American prisoners. That didn't quite happen, so many of them ended up getting detained at Crystal City.

SUSAN H. KAMEI

I think there were some protocols that were hemispheric security agreements. Hull was the Secretary of State and there were some agreements in terms of what was considered to be in the support of hemispheric security between North America and South America.

Brian, would you have anything to add about the Snow Country Prison project in Bismarck, North Dakota, or maybe Kathy?

BRIAN NIIYA

Sure. I was actually involved with that. There's a memorial, it just had an unveiling a month ago. It turns out that the former Fort Lincoln that served as one of the three main internment sites for West Coast Issei later became a tribal college, the second tribal college in the country. It's now called United Tribes Technical College. The college, working with the Japanese American community, constructed a memorial courtyard honoring Issei who were held at that site. I think, Kathy, you mentioned your family was among those. So, the names are all carved on the memorial, and the fascinating thing about it is that it's one of the only sites where the actual buildings that were used to hold the internees at the time are still intact, and still, in fact, in use. So one of the buildings that was used as a detention barracks is where the courtyard is. It was right in front. So it's quite an interesting project that kind of connects the Native American and Japanese American communities, and the project is ongoing.

SUSAN H. KAMEI

Bob, there's a question about the status of the amicus briefs.

ROBERT S. CHANG

Earlier I said that the Fifth Circuit is going to hear the case en banc, and so there's a new briefing schedule. We're planning to refile in that case. At this point in time, there are other cases going on. I don't know where things are in terms of the Ninth Circuit, the Tenth Circuit, the Second Circuit, and the Third Circuit in part because everybody had been thinking the Fifth Circuit case is going to be the one that goes up to the U.S. Supreme Court. So, if those cases start to move in those other circuits, we are ready to file in those cases. Part of it is that you never know how a particular case is going to get up to the U.S. Supreme Court. What is the posture? And that's also why we're planning to file again in the Fifth Circuit en banc, in part because right now, the earlier opinion, 2-1, which found that the invocation of the Alien Enemies Act was improper, was vacated then the court decided to rehear the case en banc. The other thing that could happen is that facts could change, including the military actions where boats are being sunk, and they're being declared military actions. It's interesting, then, to think whether those will be considered to be the threat of an incursion associated with a national government. That might actually provide a stronger legal basis for some of these courts that might have less courage—SCOTUS—to go along with what the administration is doing. I'm so concerned about those killings. These are extraterritorial, extrajudicial executions that are taking place and once those get constructed as the threat of an incursion, that ratchets up everything that can be done internally. So right now, it's extraterritorial, but the point about the extraterritorial is there's a threat internally and there's also the rhetoric, the narrative that is being constructed about the enemy within. We're seeing that also with regard to the deployment of the National Guard, the speeches to the military, this idea or notion of the enemy within. If that becomes the controlling narrative, you can see what the threat is for all of us who can be considered the enemy within.

SUSAN H. KAMEI

I do want to take a moment and talk about the use of the emergency document by the Supreme Court.

ROBERT S. CHANG

There's this thing called the emergency docket, which is very frustrating for many of us who are trying to challenge the actions of the executive. What happens is that when a lower court issues an injunction—when a lower court says, with regard to the executive order on birthright citizenship, that it is unconstitutional and says that it has to be enjoined, it then goes up to the circuit courts. All of the district courts and all of the circuit courts that have decided this have said, yes, it's unconstitutional, and have also authorized national injunctions. That case went up very quickly to the Supreme Court where the government says, we have an emergency. And the emergency is that unless we can proceed with enforcing this, we are in danger, and you have to tell those lower courts that their orders cannot continue to be enforced. This is the emergency docket, the so-called shadow docket as some

scholars have begun calling it. Now, when we think about immigration matters that went up to the emergency docket with regard to actions by the Biden Administration versus an emergency docket, where it's the Trump Administration, what we find is that this Supreme Court was much better about leaving in place lower court injunctions when it was the Biden Administration than it is now, when it's the Trump Administration, when the lower courts are saying, stop. The U.S. Supreme Court then is saying to the government, you can go on doing these things while it's being decided below, even though it has not yet been fully briefed.

One of the cases that I'm involved in, I had the privilege of representing 137 members of Congress. It has to do with the termination of temporary protected status for Venezuelans. It's gone up twice to the emergency docket, and the Court has, the second time around—even though the lower court had decided, after a trial on the merits that this is illegal—said we're going to allow the government to continue in this circumstance, if they want, to deport Venezuelans who had previous protection while the lower courts continue deciding the merits before we finally decide on the merits. It's so frustrating because what I see what's going on, the stress test to our constitutional democracy, the lower courts are doing a really good job of saying certain things are in excess of constitutional authority; but what we keep seeing over and over and over again with the emergency docket is the Supreme Court is saying to the administration, go ahead while we figure it out, ultimately.

JEAN REISZ

I'll just add to that, because I think part of the problem, too, is there's just no explanation. Another emergency docket case regarding the TRO that was issued for these enforcement operations in Southern California based on those four factors. All we had was Justice Kavanaugh's concurring opinion but we don't know, really, what the majority decided. I have a friend who is on this, Ahilan Arulanantham, and, he says, "literally lawlessness," because what are the laws that you're relying on, at least to be able to direct the lower courts? So we don't know. And then, is it binding or not in these emergencies? I think most people say no, it's not.

SUSAN H. KAMEI

Jean, there's a question about currently detained persons who are consenting to leave the U.S. rather than endure continued detention. Can you elaborate on that decision or the choice that they have, and is there any benefit to them in agreeing to leave?

JEAN REISZ

This is a complicated area because there's different ways to leave. So, some people may be eligible for what's called voluntary departure which minimizes the impact that a removal order has. So the removal, if one is ordered removed from the U.S., colloquially we say "deport," there's consequences including bars from returning to the U.S. So voluntary departure is actually kind of a form of relief where somebody can leave voluntarily and not have the consequences of a removal

order. The problem is, a lot of people aren't going to be eligible. We also have the self-deportation app, and that is not the same thing. So it's really questionable whether somebody would benefit from giving up. Part of the due process protections include a right to an attorney, but at no cost to the government, so if you don't have an attorney, you have to represent yourself. You have to make these decisions on your own based on law that you aren't an expert in or really know, and frankly, I find it very hard to stay on top of it and that's all I do all day. So, I think that there are people who are giving up, and whether or not they're getting any benefit from that, other than just physically going back to their country, not being in a detention camp in Texas, for example, might be the only benefit. There could be people who might be able to, avoid some consequences, but then the other non-legal consequences of separation from family.

SUSAN H. KAMEI

In the last few minutes, are there any questions from our in-person audience?

GABBY [AUDIENCE MEMBER]

My name's Gabby, I'm a doctoral student here at USC in American Culture Studies, studying Japanese American history. I actually had the privilege of meeting Traci and Kathy a year ago, so it's good to see you again. I just have a comment. So, I was on the bus in New York City reading the book, *The Literature of the Japanese American Incarceration*, and this person on the bus next to me, an older Caucasian man, was like, "what are you reading?" Naturally, in our current political moment, I was a little bit like, "Um, I'm just reading a book!" He was very curious and I ended up telling him what it was about and he goes, "oh, one of my best friends was in camp." I think that just speaks to your point of the power of words and sharing stories. Anyway, that interaction went a lot better than I anticipated. So, I just wanted to share that with you because when I first met you, that book had just come out, and then a year later, someone was interested in learning more about it, so there you go!

TRACI KATO-KIRIYAMA

Yeah, I think that's the thing, too, taking the chance to have a conversation. Obviously, we all have to pick our battles and you have to be in a safe space, but you were in a public space. So, I always think, if this goes bad, I'm gonna not see them in about two minutes. So, what do I have to lose, right?

KATHY MASAOKA

Just one last comment is that I think we all have to try, and this may sound a little corny, but build community. Build and take those chances and talk to people. We can't judge what people are going to say or what they think, and even if they do have something different, just do that—build community wherever we're at because we lack so much community right now.

TRACI KATO-KIRIYAMA

We also have to pace ourselves and trust that we're part of a bigger team. Be as active as we can as a teammate.

ROBERT S. CHANG

I want to talk about the power of protests. In 2020, I had the privilege of representing Black Lives Matter, Seattle-King County, and individual named plaintiffs, challenging the use of force against peaceful protesters by the police. I was working with Perkins Coie attorneys and the ACLU of Washington. One of the named plaintiffs, Sharon Sakamoto, was born in Camp Minidoka, and part of the story she told in the complaint and in her declaration is that she understands the power of protest, because she also understands the protest that did not occur during World War II. She speculated: What if people had taken to the streets then, and not Japanese Americans, not Japanese residents, but everybody else. Instead of wearing buttons saying, I'm not Japanese, and for people who didn't have to wear buttons saying, I'm not Japanese, because their skin said that they weren't Japanese. If people had taken to the streets, would Japanese American incarceration have taken place? It's an unprovable counterfactual, but I believe in the power of protest, which is why it was so important during that moment to try to put a stop to what the City of Seattle was doing to protesters.

SUSAN H. KAMEI

Well, we have so much to take away, so much to think about, so much to do. I want to thank all of you for joining us, and especially my colleagues here that made an effort to make it. Thank you so much for what I hope has been a rich and informative experience, and as Dan Rather used to say, courage. Thank you. Thanks for joining us.