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IMMIGRATION LAW—THIS LAND IS MY LAND, OR IS IT?: STATUTES OF LIMITATION WITHIN THE CONTEXT OF THE IMMIGRATION AND NATIONALITY ACT

*Lisa Marquardt**

This Article proposes a unique perspective on the problem of the undocumented population within the borders of the United States. It seeks to reframe the immigration discussion from one that maligns the undocumented as criminals to one that identifies them as simple trespassers who are entitled to a defense based on a statute of limitations. The author's point of view is from her experience as an immigration law and criminal defense practitioner.

INTRODUCTION

“No Trespassing.” That’s what the signs aligning the two-acre plot of land across the street say clearly and unmistakably. Yet, every day I see neighbors stepping into the clearly marked area to stroll with their dogs, take photos, or to let their kids run around. Our local police officers drive by at least once a day; they never mind the trespassers and, more times than not, will exchange friendly greetings. After all, walking a dog seems a pretty harmless type of trespass. Certainly, there is no evidence of malicious destruction of property, and it would seem unreasonable to remove them, or even worse, write them up for a trespassing citation.

What if, after years and years of continually violating the clearly stated wishes of the landowner, one of these folks decides to build a doghouse and places it in full view of the community, the owner, and law enforcement? The owner sees it, thinks it is kind of quaint, and decides to do nothing about it. Years later, the same person who built the doghouse builds a shed, decides to live in it, and even plants a

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garden. By now, the owner has bigger fish to fry and, again, does nothing about it. More time passes, and the owner finally decides to sell the land. Ms. Shed-dweller and her dog are very unhappy about this, especially because they have enjoyed the benefits of living there undisturbed for more than ten years. This has been their home, their comings and goings have been in full view, and there is a sense in which, this land has become *her* land. As a matter of fact, it has.

I. ADVERSE POSSESSION, STATUTES OF LIMITATIONS, AND THE PROBLEM OF UNDOCUMENTED IMMIGRANTS

In 1845, Chief Justice John Bannister Gibson stated that the law of adverse possession was devised to “protect[] the occupant, not for his merit, for he has none, but for the demerit of his antagonist in delaying the contest beyond the period assigned for it, when papers may be lost, facts forgotten, or witnesses dead.”¹ In this case, the “occupant” is Ms. Shed-dweller (who would be deeply offended to be classified as not having any merit) and the “antagonist” is the landowner who delayed too long to exert his right over the land. The doctrine of adverse possession dates back to colonial times and was embraced after Independence as a clear break from English land law.² Justice Oliver Wendell Holmes might have perceived the displacement of someone in Ms. Shed-dweller’s position this way: “[M]an, like a tree in the cleft of a rock, gradually shapes his roots to his surroundings, and when the roots have grown to a certain size, can’t be displaced without cutting at his life.”³ What would Justice Holmes have to say about the millions who have trespassed on American soil; who have put down roots in plain view while authorities neglected to take any action to remove them; who were allowed to grow and deepen their presence in their communities; and who, suddenly, are in jeopardy of being indiscriminately cut-at-the-roots and told they have no stake whatsoever in the land where they have lived and thrived for years? Such is the case for the majority of those who have entered the United States without permission.

Undocumented men and women have regularly crossed the border

1. *Sailor v. Hertzogg*, 2 Pa. 182, 185 (Pa. 1845).

2. See LAWRENCE M. FRIEDMAN, *A HISTORY OF AMERICAN LAW* 412–13 (2d ed. 1985).

3. OLIVER WENDELL HOLMES, *Letter to William James, April 1, 1907*, in *THE MIND AND FAITH OF JUSTICE HOLMES: HIS SPEECHES, ESSAYS, LETTERS AND JUDICIAL OPINIONS* 417–18 (Max Lerner ed., 1946).

knowing full well that they were forbidden to enter. Unlike Ms. Shed-dweller and her peers, if law enforcement detected the trespassers immediately, then they would be processed in what is known as *expedited removal*—you crossed without permission and now we are sending you back.⁴ This sounds almost as simple as a citation for trespassing. But what about the millions that have come across without being detected and actually made a life for themselves and their families over a span of ten, eighteen, twenty years?

Granted, to call illegal immigration a simple act of trespass may seem like a bit of a stretch, but the legal principles that are applied to those who “sleep on their rights” is not.⁵ Statutes of limitations have been part and parcel of common law since Roman times;⁶ they exist to promote efficiency in our court systems, to preserve evidence, and to avoid manifest injustice.⁷ Defendants should not be required to litigate issues long after witnesses and evidence have become unavailable.⁸ It is a principle, however, that is foreign to our immigration laws. Nowhere in the Immigration and Nationality Act (INA) can one find a reference of any kind to the tolling of the delay caused by the “antagonist,” in this case Immigration and Customs Enforcement (ICE).

II. HYPOTHETICAL CASE-IN-POINT: FROM ICE IDENTIFICATION AS AN ALIEN TO LEGAL PROCEEDINGS AND REMOVAL

Consider for a moment a Honduran citizen who trespasses on U.S. soil and remains undetected by immigration authorities for a period of ten years. He settles into the community, gets a job, causes no harm, has a family, and puts down roots of the kind Justice Holmes referred to—the kind that, if severed, destroy his very life. Suppose that one day, a neighbor of his who has very strong anti-immigrant inclinations, decides to call ICE to report “suspicious activity.” ICE comes to the door of the Honduran and his family, requests identification, and asks the one question they care about—“Are you here legally?” So begins the nightmare.

Unlike Ms. Shed-dweller, he has no legal recourse to make a claim

4. Immigration and Nationality Act (INA) § 235(b)(1), 8 U.S.C. § 1225(b)(1) (2016).

5. *Upton v. Tribilcock*, 91 U.S. 45, 55 (1875).

6. *Developments in the Law: Statutes of Limitations*, 63 HARV. L. REV. 1177, 1177 (1950).

7. *See id.* at 1185.

8. *See id.*

that his presence should remain uninterrupted because nobody bothered checking on him before. Not the employer who relishes his work ethic and skill; not the IRS who happily processes his yearly contributions without cross-checking his immigration status; and not his landlord who appreciates tenants of his caliber. The length of time that the Honduran has lived peaceably in the United States is irrelevant to Immigration Enforcement. He will be processed, charged, and taken away. And that is just the beginning.

He is then placed in what is called “immigration detention,” another way of saying prison.⁹ He is given an orange jumpsuit and locked in a cell where his cellmate could potentially be serving hard time for a violent crime. He can hardly speak English and is not entitled to an attorney. The world he has built for himself and his family—far away from the graft, corruption, danger, and lawlessness of the place where he was born—has come crashing down on him and his family for one simple reason: trespassing on U.S. soil and making himself at home.

Prisons are warehousing people like the Honduran in 637 detention centers throughout the United States, the majority of whom are being punished for what can be compared to a simple act of trespass.¹⁰ Many of them are determined to believe that this country, that they have learned to cherish for its justice system and fairness, will offer them an opportunity to prove their worth: “If I can just explain to the judge why I came in the first place and the positive things I have done ever since I set foot here, surely the judge will then allow me to remain here with my family.” But, even if the judge were to sympathize, immigration judges have limited authority to exercise their discretion no matter how sincerely sorry they might be that this has happened to someone who has proven to be a valuable member of the community.¹¹

The complexities of the immigration court system and the numerous delays are another barrier. At last count, the number of cases pending in immigration courts was close to 600,000.¹² Because he has no right to

9. *Detention Management*, U.S. IMMIGRATION & CUSTOMS ENF'T (Jan. 3, 2018), <https://www.ice.gov/detention-management> [<https://perma.cc/8AGS-P8CS>].

10. *New Data on 637 Detention Facilities Used by ICE in FY 2015*, TRAC (Apr. 12, 2016), <http://trac.syr.edu/whatsnew/email.170616.html> [<https://perma.cc/7KFF-JXAA>].

11. John F. Gossart Jr., *Immigration Reform Can't Wait [Commentary]*, BALTIMORE SUN (Mar. 12, 2014, 1:11 PM), <http://www.baltimoresun.com/news/opinion/editorial/bs-ed-immigration-court-reform-20140312-story.html> [<https://perma.cc/9ELC-RXYZ>].

12. David Burnham & Susan B. Long, *Immigration Court Backlog Nears 600,000*, TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE (June 16, 2017),

counsel, the Honduran and his wife will hire someone who will charge them an inordinate amount of money for representation, without any certainty that this particular attorney has any experience in removal defense and who, if less than forthright, may lead them to believe that this is a winnable case. Removal defense is not a favorite specialty for most immigration lawyers. It is tedious, costly, and complicated. More often than not, families have run out of money and the process can be so demanding with such minimal chances of victory that attorneys and their clients will often agree it is just not worth it.

Desperation sets in as the Honduran, like so many in his position, agonizes over the separation from his loved ones, worries for the welfare of his children, and fears suffering the indignities of life behind bars. Visits from family members are few and far between because of fear that they will be asked the same questions: “What is your immigration status?”; “Are you here legally?”; and “Let me see your driver’s license.” The Honduran tells his wife not to come because if ICE takes her, then the children are left with nobody. They can speak on the phone as long as they can afford the per-minute charges on the inmate calling card they purchased. He asks about the kids. He loves the sound of her voice, but the depth of her sadness and fear are so painful that he almost would rather avoid speaking to her. The same recurring questions keep going around in what seems like a cyclical nightmare: “What’s going to happen next?”; “What are we going to do if they deport you?”; and “When will we see you again?” The truth is that his hope is fading. At first, he was confident that it was all going to turn out all right and that he would be reunited with his family; now, he isn’t so sure. Besides, the lawyer told them that based on the denial of any relief at their last hearing, an appeal must be filed, which will cost more money.

In the case of the Honduran, it is the attorney’s job to prove that: (1) he has lived in America continuously for at least ten years; (2) he has been a person of good moral character; (3) he has not been convicted of a crime that qualifies as a crime involving moral turpitude; and finally, (4) that his removal would cause exceptional and extremely unusual hardship on a qualifying member of the family—i.e., a U.S. citizen child or spouse.¹³ Simple! When the lawyer describes the requirements, there is a ray of hope. Finally, a chance to present all the positive things he has done over a decade. He has copies of all his tax returns, his

<http://trac.syr.edu/whatsnew/email.170616.html> [<http://perma.cc/7KFF-JXAA>].

13. INA § 240A(b), 8 U.S.C. § 1229b(b) (2008); 8 C.F.R. §§ 1240.11(a), 1240.20 (2017).

employer would be happy to provide a letter describing their years of working together, and his pastor will write a letter attesting to his character. More importantly, it will be an opportunity to describe the disastrous consequences on his family if he were deported. Extreme hardship? Of course! (*“My wife does not speak English, she relies on me to provide for the family, she has no one to turn to for assistance, and she has already suffered enough during my incarceration. She came the way I did and for the same reason: she was under the threat of Honduran gang members who forced her to do the unthinkable. Young women are treated as chattel, and government authorities are complicit with gang leaders by accepting bribes in exchange for turning a blind eye and refusing to prosecute them for their crimes. There was and continues to be a culture of lawlessness, and the government does nothing to stop it. At age eighteen, when my wife was told she would have to marry one of the leaders of the Maras, she fled the country: she took buses, walked, swam, and crawled her way into the United States. Extreme, unusual, and exceptional hardship? No question!”*)

The lawyer informs the Honduran that, unfortunately, the law is not concerned with the hardship on his wife, nor anyone else in his family that might be here illegally. The intent of the law is to protect U.S. citizens, his children, for example, if they were born here.¹⁴ (*“But what about mi querida, my beloved, are you saying that she might need to return to the hellhole she escaped all those years ago? That the United States would turn a blind eye to the persecution and suffering she would encounter? No puede ser—it can’t be—this is not the America I know and love!”*)

Now that it’s understood that his wife’s hardship is not a factor, the Honduran proceeds to speak to the attorney about his children. “Yes, in fact all three of my children were born here. If I were deported they would have to grow up without a father. This is clearly a case of extreme hardship. We are very close as a family, and it has already been a hardship to be behind bars—not being able to embrace them, tuck them in at night, comfort them, or laugh with them.”

At this juncture of the interview, the lawyer must proceed with questions that are more personal: “Are any of them suffering from a disability, experiencing trouble in school? Any health concerns of any kind?”

14. *In re Ariadna Angelica Gonzalez Recinas*, 23 I. & N. Dec. 467, 471 (B.I.A. Sept. 19, 2002).

“No. I’m happy to say they are thriving, doing well in school, and are physically and emotionally as healthy as can be. Why?”

To lawyers who practice removal defense, the fact that the client has American-born children is helpful, but this glowing type of report regarding their well-being is, in a draconian sort of way, bad news as far as the strength of the case and the chances of winning are concerned. Yes, it can be argued that family separation, economic factors, and other equities might win the day, but a documented medical condition—or even a learning disability—is so much better.¹⁵ Anticipating what is called the *hearing on the merits*, this is the opportunity to present evidence in immigration court sufficient to convince an immigration judge that returning this man to Honduras would cause exceptional and extremely unusual hardship to his U.S. citizen children. The court will probably ask why he cannot just bring his family with him to Honduras. If the children don’t require medical or academic resources of the caliber only America can provide, then why not pick up and move everyone back to his country of origin? The only chance of rebuttal is to hire a country-conditions expert—someone who can speak to the gang violence that permeates every area of life in Honduras.¹⁶ One more expense and, again, no guarantees.

Immigration courts are flooded with cases from Honduras. However, reports on country conditions are not always given considerable weight.¹⁷ Judges are required to consider country condition reports; however, different judges give different weight to these reports and the INA caps the number of people who qualify for cancellation of removal at 4000 per year.¹⁸ The client will have to provide an affidavit attesting to the persecution, the injuries, and the fear he suffered as he was growing up. But these affidavits are sometimes perceived as self-serving by judges and, unless it is an affidavit from an objective observer, will not be enough.

At this juncture, a lawyer will typically ask difficult questions regarding the client’s past pain and suffering, both physical and emotional. The Honduran lowers his eyes and his lips tremble as he is forced to look back on those days he thought were long gone. His mother, who was forced to marry a notorious gang leader, did everything she could to protect him; she even sent him to live with his grandmother

15. *See id.* at 470.

16. *See Tadesse v. Gonzales*, 492 F.3d 905, 909–11 (7th Cir. 2007).

17. *See Gebremichael v. INS*, 10 F.3d 28, 37–39 (1st Cir. 1993).

18. 8 U.S.C. § 1229b(e)(1).

in a town where the threat was less pervasive. But his grandmother died when he was thirteen and he had to move back. His age made him a prime candidate for gang recruitment, and his father would certainly be counting on it. There would be no way around it. He thought maybe they would ask him to do menial tasks like collecting a form of extortion known as the “war tax” from storeowners, or maybe threatening a few people here and there. But, to prove his loyalty to the gang, he was asked to participate in the murder of a government official. He refused, and consequently was severely beaten on numerous occasions, with scars to show for it. He ran for his life, seeking refuge in the same country his uncle had escaped to many years before for similar reasons.

“Any medical reports of the injuries you suffered at the time?” the lawyer asks, hoping to provide the court with documents that are considered reliable.

“No, my mother was afraid that if anyone found out there would be some form of retaliation.”

“Any police reports documenting the assault?”

“No. Nobody goes to the police because they are in on it with the gangs.”

“Any acquaintances or witnesses that can attest to what happened?”

“No. This was long ago, and everyone is afraid to say anything against the gangs.”

If this were a hearing on the merits, an immigration judge would be likely to jump in and question him about current circumstances: “Sir, this was more than ten years ago, and you were a young man; but if you were to return to Honduras today, who would even know you or remember you? Who would be out to get you? Who would you be afraid of? Can you offer some proof that if you were to return to Honduras, you would still be subjected to this kind of treatment?”

Looking back at the horrors of his life in Honduras is something he hoped he would never have to do. Reliving the days that he thought were far behind him has caused flashbacks, nightmares, depression, and despair. “God, have mercy!” he prays, over and over again.

On the day of the hearing, the Honduran is not in the courtroom, but instead is broadcast through a screen via video. He is in his orange jumpsuit looking frail and afraid. He told his wife that it would not be safe for her to attend the hearing, even though she technically would have been allowed to be there, and perhaps would have been called to testify about the things she knew to be true about Honduras. His attorney had told him about the kinds of questions he would be asked and what to expect, but nothing prepared him for the dismissive manner

in which the proceedings were conducted. This hearing marks perhaps his only opportunity to recover the life he had, or to lose it all. And yet everything was moving at such a fast pace that he feels bewildered and oftentimes confused. As anticipated, the judge asks him to provide a basis for his fear of returning today after so much time had elapsed since he fled Honduras. His honest response is unflinching and straightforward: “The gangs have long memories and they never forget someone who has betrayed them in any way. There are gang members in the jail where I am right now, and word has gotten around that I am the son of a well-known gang leader. My mother told me that, just the other day, someone came by her house in Honduras to threaten her because they heard I would be testifying in court today.”

The judge asks, “Any other evidence I should consider?”

He remembered his attorney mentioning that scars were sometimes considered reliable evidence of injuries suffered as the result of gang violence. At this juncture, he reaches down to pull up one of his pant legs to show the judge a scar from the day, a decade ago, when he was struck with a machete by a group of gang members who had been ordered to track him down to send a message.

“No! No, Sir. We will not allow that kind of display in this courtroom!”

Before he knew it, the hearing was over. He looked at his attorney’s face and saw disappointment and defeat. Sure enough, a couple of weeks later, the judge issued a decision denying the cancellation of removal and issuing a final order of removal. After this harrowing journey, he would soon be transported back to Honduras.

III. COLLATERAL CONSEQUENCES OF IMMIGRATION ENFORCEMENT INTENDED TO PROTECT AMERICAN INTERESTS

If the INA were to incorporate an immigration statute of limitations, this common scenario—and all its collateral damage—could be prevented. Some would argue that, technically, it would simply be another form of amnesty—a word that grates the wrong way on people who insist that we are a country of laws that exist for a purpose. Amnesty rewards the lawbreaker by granting a benefit the person does not deserve. This raises a reasonable question: Why did the Honduran not emigrate legally, wait his turn, and come into the country the correct way? The unequivocal answer is that it would have been impossible for anyone in his position. He possessed no special skills, no advanced degree, no finances to speak of—nothing but an elementary school education and a desire to work hard. More significant than anything

else, his own life was in the balance.

The INA is, in large part, designed to welcome people from other countries who can contribute to the welfare and advancement of our country: athletes, doctors, researchers, scientists, and yes, even circus performers.¹⁹ Terminology such as “ethnic diversity,” “quotas,” and “preference categories” are common terms of art, regardless of their distinct racial undertones. President Donald Trump is currently referring to “merit-based entry” to promote the idea that low-skilled workers do not merit the privilege of entering our country because their contributions to our culture are minimal in comparison.²⁰ Merit notwithstanding, those “low-skilled workers” are the very ones who keep hospitality, agricultural, and construction businesses in motion.²¹ Deportations, to the tune of more than 389,000 on average per year from 2008 to 2016,²² cause enormous gaps in the industries that have thrived because of the presence of these workers—the large majority of whom come from Mexico and Central America.²³ The impact is a cause for concern, particularly in areas such as California where, according to research by the University of California Davis, seventy percent of all farmworkers are undocumented.²⁴

With 6.5 million people living in the valley, the fields in this state bring in \$35 billion a year and provide more of the nation’s food than

19. See generally INA §101(a)(15)(P), 8 U.S.C. §1101(a)(15)(P); 8 C.F.R. § 214.2(p); 22 C.F.R. § 41.56; Creating Opportunities for Minor League Professionals, Entertainers, and Teams Through Legal Entry Act of 2006, 8 U.S.C. § 1184(c)(4)(A).

20. See Octavio Blanco & Tal Kopan, *Trump’s Merit-Based Immigration System: Who Would Get In?*, CNN MONEY (Mar. 3, 2017, 11:17 AM), <http://money.cnn.com/2017/03/03/news/economy/merit-based-immigration-trump/index.html> (last visited Feb. 25, 2018).

21. Editorial Board, *How to Increase Illegal Immigration*, WALL STREET J. (Aug. 4, 2017, 7:14 PM), <https://www.wsj.com/articles/how-to-increase-illegal-immigration-1501888489> (last visited Feb. 25, 2018).

22. U.S. IMMIGRATION & CUSTOMS ENF’T, FISCAL YEAR 2016 ICE ENFORCEMENT AND REMOVAL OPERATIONS REPORT 2 (2016), <https://www.ice.gov/sites/default/files/documents/Reportdocument/report/2016/removal-stats-2016.pdf> [<http://perma.cc/27KA-P2TL>].

23. *Id.* at 1, 11.

24. Caitlin Dickerson & Jennifer Medina, *California Farmers Backed Trump, but Now Fear Losing Field Workers*, N.Y. TIMES (Feb. 9, 2017), <https://www.nytimes.com/2017/02/09/us/california-farmers-backed-trump-but-now-fear-losing-field-workers.html> (last visited Mar. 2, 2018). Immigration law practitioners prefer the term “undocumented” over the statutory term “alien.” As noted by Professor Stephen H. Legomsky, the word “alien” “st[r]ikes a disturbing chord. Many feel that the term connotes dehumanizing qualities of strangeness . . . and that it[] . . . strips human beings of their essential dignity” STEPHEN H. LEGOMSKY, IMMIGRATION AND REFUGEE LAW AND POLICY 1–2 (Robert C. Clark et al. eds., 3d ed. 2002).

any other state “If you only have legal labor, certain parts of this industry and this region will not exist,” said Harold McClarty, a fourth-generation farmer in Kingsburg whose operation grows, packs, and ships peaches, plums[,] and grapes throughout the country. “If we sent all these people back, it would be a total disaster.”²⁵

Despite this well-known aspect of American life, what has become a highly efficient deportation machine continues to indiscriminately wreak havoc.

More than 100 years ago, the Supreme Court affirmed, in no uncertain terms, the government’s “power of exclusion of foreigners . . . when, in the judgment of the government, the interests of the country require it. . . .”²⁶ In 1888, the sociopolitical climate of the country regarding the flood of inexpensive Chinese laborers—the “low-skilled” workers of that era—shifted from one of necessity to, what organized labor considered, a glut. Congress acted to exclude the very people that had been instrumental in California’s growth and development.²⁷

Congress’s absolute power to add or subtract provisions from the INA—according to whatever is currently expedient—creates a formula for potential abuses that accompany such decisions. In the case of California, it has created obstacles to specific sectors of our economy rather than benefits. Statistical analysis of what our country needs—or which ideal combination of cultures, colors, and skills fits the bill of the day—is in sharp conflict with the core principles of equity and fairness. A fitting example is the Cuban Adjustment Act of 1966.²⁸ In response to a mass influx of Cubans fleeing Castro’s communist regime, the United States instituted policies based on what became known as the wet-foot/dry-foot policy, allowing Cuban refugees who set foot onto dry land in the United States to remain and apply for asylum.²⁹ Cubans seeking legal status in the United States, who succeeded in avoiding interdiction, would generally be eligible for immigration benefits simply by setting

25. *Id.*

26. *Chae Chan Ping v. United States*, 130 U.S. 581, 609 (1889) (noting power to exclude foreigners is “an incident of sovereignty”); *see also* *Kleindienst v. Mandel*, 408 U.S. 753, 766 (1972) (Congress has “plenary power to make rules for the admission” and exclusion of aliens); *Ekiu v. U.S.*, 142 U.S. 651, 659 (1892) (“[E]very sovereign nation has the power, as inherent in sovereignty, and essential to self-preservation, to forbid the entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe.”).

27. *LEGOMSKY*, *supra* note 24, at 18.

28. Cuban Adjustment Act, 8 U.S.C. § 1255 (2006).

29. *Movimiento Democracia, Inc., v. Chertoff*, 417 F. Supp. 2d 1343, 1344–45 (S.D. Fla. 2006).

foot onto American soil.³⁰ The policy has shifted now that Cuban-United States relations are different than they were during the Cold War, but until recently, the technical requirements for Cuban citizens trespassing on American soil and seeking status as legal permanent residents was, essentially and simply, their success in entering and being physically present without having to prove persecution or refugee status.³¹ One day with your “foot in the door” so to speak, in contrast to a proven track record of living and thriving peaceably for ten years in a community that has formed the “tree in the cleft of a rock,” as referred to by Justice Holmes. The latter, as in the example of the Honduran, reflects the “tree in the cleft of a rock” referred to by Justice Holmes.³² The preference given to one particular sector of immigrants over another can often be described as arbitrary and patently unfair.

As immigration law adapts to the twists and turns of the current political climate or crisis, it continues to become more and more susceptible to manifest injustice. The century-old Chinese Exclusion Act is a case-in-point. The Asiatic Barred Zone Act of 1917 and the Quota Act of 1921 are laws that were designed to exclude those from Southern Europe, Asia, and Africa.³³

A more recent example can be seen in revisions to the Refugee Admissions Program barring refugees from eleven countries. Islam is the predominant religion in nine of the eleven countries now barred from the Program.³⁴ Changes to our immigration laws that may in principle be designed to protect the interests of American citizens often create an unfair backlash on many who deserve a safe haven.

CONCLUSION

In the final analysis, the significance of what is lost cannot be overstated. Failing to institute a statute of limitations is a failure in due process. Failing to consider individual stories and circumstances regardless of nationality is the antithesis of justice and fairness: principles that we, as Americans, hold dear. Abraham Lincoln

30. *Id.* Stephen H. Legomsky & Charles F. Nagel, *The USA and the Caribbean Interdiction Program*, 18 INT'L J. REFUGEE L. 677, 684 (2006).

31. *United States v. Dominguez*, 661 F.3d 1051, 1067 (11th Cir. 2011).

32. HOLMES, *supra* note 3, at 417.

33. IRA J. KURZBAN, IMMIGRATION LAW SOURCEBOOK 3–4 (14th ed. 2014); *see also National Quotas for Immigration to End*, 21 CQ ALMANAC 1965 459, 459-82 (1966) <https://library.cqpress.com/cqalmanac/document.php?id=cqal65-1259481>.

34. U.S. DEP'T OF STATE ET AL., PROPOSED REFUGEE ADMISSIONS FOR FISCAL YEAR 2018 (2017).

enunciated those principles eloquently when he stated that the United States is a “nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.”³⁵ The “equality” we espouse as Americans is far from the reality of fear, incarceration, limited access to counsel, and more times than not, the certainty of deportation for those who have come to live among us and grow roots in this land of ours.

35. *Abraham Lincoln: November 19, 1863*, in THE PENGUIN BOOK OF HISTORIC SPEECHES 368 (Brian MacArthur ed., Penguin Books 1996) (1995).