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SYMPOSIUM ON TRANSDISCIPLINARY APPROACHES TO MIGRANT SOLIDARITY IN THEORY, LAW, AND PRAXIS

DISTILLING SOLIDARITY

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Introduction

In the aftermath of the 2018 migrant caravans, the Mexican government arrested two migrants' rights activists,[1] but not because they gave food or donated clothes to the *caravaneros*. The transgressive nature of their activism consisted of walking and organizing alongside people whose presence in the country was unauthorized. They were charged with smuggling-related crimes; but they were really "guilty" of solidarity. In this essay, we outline what solidarity entails, what compels various actors to join in, and to what end. From an interdisciplinary perspective, we discuss the "what," "where," "who," and "why" of solidarity. The purpose is to open a new epistemological horizon, providing tools to collectively reflect on the complex issues at the intersection between solidarity, migration, and law.

Solidarity as Emancipation

In defining solidarity in the context of migration movements, it is helpful to consider what sets solidarity apart from other types of kindness and collective action. Terms like "care," "humanitarianism," "charity," "compassion," or "accompaniment"[2] are frequently used interchangeably with "solidarity." We might care for ill loved ones, donate to well-meaning charities, volunteer at a local soup kitchen. All of these are commendable acts, but not necessarily acts of solidarity. It is *because* solidarity is threatening, transgressive, and involves risk that it can be distinguished—therein lies its potential to enact social change.

Solidarity, in bridging divisions, in connecting and sharing and accompanying people who are assumed to be not "naturally" on the same side is, by nature, transgressive. This is what makes solidarity threatening—both to power and the status quo. Coming together in collective action in a way that works *along* the grain of power would not necessarily be solidarity (co-nationals engaging in collective action against foreigners, for example.) But coming

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Authors are listed in alphabetical order to reflect the non-hierarchical solidaristic co-production of knowledge underpinning this essay, entailing a trans-disciplinary collaboration among scholars from different backgrounds and non-academics.

[1] *Detienen a defensores de migrantes en Sonora y Xochimilco*, Aristegui Noticias (June 5, 2019).

[2] Kristin Elizabeth Yarris & Whitney L. Duncan, Accompaniment with Im/Migrant Communities: Engaged Ethnography (2024).

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together across statuses, nationalities, and borders is the clearest kind of solidarity in that it challenges the very premise of those taken-for-granted divisions. This does not necessarily presuppose that this coming together is across lines of relative privilege, but, rather, across lines of social cleavage that can be exploited to maintain division. A key aspect of solidarity, and what contributes to the power it holds and the potential threat it poses, is that it involves assuming some level of risk to which a person would not otherwise be exposed.

Solidarity in the migration context, and particularly in relation to the definition of irregular migration *by* and *through* law, is transgressive and emancipatory from power structures that divide, oppress, and marginalize certain "others."[3] It defies the divisions that power relies upon and exploits to its benefit. When coming together in collective action works *against* the grain of power, when that coming together bridges divides that are useful to power, when those who are coming together are surprising in their unity, in part because their interests are *not* assumed to be aligned, *that* is solidarity.

Assessing Solidarity

What about the possibility of reactionary solidarians who nevertheless see themselves as contra dominant power? Think of anti-migrant vigilante groups. A meaningful discussion on law, migration, and solidarity requires consideration of the underpinning normative commitments in play. Assessing the "justness" of solidarity engagements demands an appraisal of their "quality." How should we evaluate whether practices of solidarity in the context of migration (as mediated through law) are virtuous and normatively just? After all, solidarity is invoked to protest diametrically opposed policies.

It should be possible to make normative judgments about solidarity practices based on what we know about relations and structures of power. Power need not be something to curtail. We allow control over others in certain circumstances—in the case of children, whose developmental stage justifies restrictions on their autonomy through parental control, or adults who are deprived of liberty because of serious infractions against societal norms. In such cases, however, the exercise of power must be justified. The government needs to explain to citizens why it taxes them, for example, and give them a way to jointly exercise veto over that power of taxation. But sometimes, power is exercised with no regard to those it affects. In that case, power amounts to subjection to the will of another and should be understood as "domination"[4] or "exploitation."[5] Refugees and undocumented migrants are frequently thought of as paradigmatic examples of the globally dominated or exploited.[6]

When we stand in solidarity with others, we are jointly taking a stand against what we perceive as dominating power—abuses of power by immigration authorities, for instance—and we signal our unwillingness to let this go unquestioned. We collectively raise our fist against laws and practices that—in our view—exclude and oppress, or to contest the unwillingness of authorities to implement adequate protection against violations. To reiterate, this oppositional character of solidarity alongside its emancipatory potential is crucial to the concept; it is difficult to conceive of it in its absence. Solidarity takes place *against* a backdrop of structures and relations of power, and, in this sense, it is inherently political. Without an implicit or explicit stance *against* domination, the expression of unity with others resembles friendship or kinship, rather than solidarity.

[3] Óscar García Agustín & Martin Bak Jørgensen, Solidarity Without Borders: Gramscian Perspectives on Migration and Civil Society Alliances (2016).

[4] Philip Pettit, Republicanism: A Theory of Freedom and Government (1997).

[5] Marcel Paret & Shannon Gleeson, Building Citizenship from Below: Precarity, Migration, and Agency (2017).

[6] Barbara Buckinx, Jonathan Trejo-Mathys & Timothy Waligore, Domination and Global Political Justice: Conceptual, Historical, and Institutional Perspectives (2015).

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Solidarity is not limited to migrants, of course, and is often angled toward compatriots. But it is important to underline that migrants (e.g., in detention or deportation proceedings) are being dominated by a border regime that is beyond their control. So, to the extent that we value solidarity as a "raised fist" against such domination, solidarity is liberating. Alternatively, when solidarity is invoked to protect compatriots (even those badly off) at the *expense* of migrants, we must be skeptical that this solidarity is misguided and misdirected. A raised fist against an unjust economic and welfare system that fails to distribute resources fairly should accompany, not preempt, a raised fist against migrant domination. Solidarity that colludes with structures of domination rather than protesting them cannot be justified. The key normative commitment of solidarity is liberation.

Solidarity's Motivations

What drives solidarity and its ensuing calls to action? How do calls to solidaristic action emerge, and what compels individuals to engage in solidarity-based interventions? Social movements scholars have long grappled with the question of coalition-building to understand how campaigns emerge, how joint agendas are formed, and how coalitional actors navigate differing wells of power.[7] The motivations for solidaristic action may differ depending on the constellation of actors in these coalitions—be they individuals, organized groups, or even nation-states.

The decision to engage in solidarity may be moralistic, transactional, or even strategic. Solidarity can also be reparative, often demanding a future of liberation. Individuals may engage in solidarity out of a sense of personal conviction.

Solidarians must first be socialized—through faith groups, political groups, or other social movements. Organized spaces can help foster the political consciousness that creates the sense of urgency necessary to take the risks that solidarity demands. The limits of solidarity are real and tangible. Solidarity of spirit may be boundless (defined by statements denouncing immigration raids, bumper stickers declaring that "migration is beautiful," or perhaps even the online petitions demanding release from detention). But gaining consensus on tangible solidaristic action requires additional discernment and investment.

Structural systems of inequality all constrain the possibilities of solidarity, even as solidarity efforts may attempt to challenge those same systems. Decisions on where to direct solidaristic determination are often metered by social norms and the politics of deservingness—themselves politically constructed.[8] Moreover, strategies of solidarity must weigh the costs and benefits of expending (finite) political, social, and financial capital on standing with migrants, especially those not easily construed as compelling victims.

Much of solidarity is borne of humanitarian conviction, such as the life-saving water drops along the U.S.-Mexico border—which sometimes end in legal prosecution.[9] Yet, solidaristic action is also ultimately public and strategic. Solidarians aim to disrupt existing assumptions, demanding rethinking of political and legal categories we have come to normalize, such as the "illegal alien" or the unauthorized border-crosser defying the law. Solidarity can also be produced and cultivated through media campaigns—often funded by philanthropists and often linked to political elites—who seek to shift discourse. Yet, recipients of solidarity can reclaim these narratives too. The *Dreamers*, for instance, have simultaneously embraced their elevated status as economic contributors and assimilated members of society, while also rejecting the exclusion that accompanies being in an irregular migration situation.[10] Theirs is an example of solidarity layering and the agency of migrants as both the recipients and generators of solidarity.

[7] Strategic Alliances: Coalition Building and Social Movements (Nella Van Dyke & Holly J. McCammon eds., 2010).

[8] Grace Yukich, *Constructing the Model Immigrant: Movement Strategy and Immigrant Deservingness in the New Sanctuary Movement*, 60 Soc. Probs. 302 (2013).

[9] *See, e.g.*, Bobby Allyn, *Jury Acquits Aid Worker Accused of Helping Border-Crossing Migrants in Arizona*, NPR (Nov. 21, 2019).

[10] Walter Nicholls, The DREAMers: How the Undocumented Youth Movement Transformed the Immigrant Rights Debate (2013).

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The Who(s) and Where of Solidarity

The distinction between the recipients and generators of solidarity is not clear-cut. Who, exactly, are solidarity's protagonists? Analytically, we might distinguish between two actor categories: those who understand themselves as solidaristic with certain others, and those others on whose behalf, or with whom, such solidarity is extended, which may overlap.

In some substantive conceptions of solidarity, proponents might reject any bifurcation between subject and object, insisting that solidarity is precisely an anti-objectifying and mutualizing ethical practice that collapses such distinctions. Still, the distinction is commonly acknowledged and enacted, even when also problematized—this is one of solidarity's paradoxes.

Here, we focus on the solidarians and the scope of what we might call their "political imaginaries." Always looming are questions of how, and in what respects, national identity, national boundaries, and national territory bear on solidaristic commitments with cross-national migrants. Whether in strategic debates on resources or over principle, the question as to whether solidarity's geographic and political scope is in some form constrained by the national shapes discourse and practice.

It is hardly news that immigration solidarians repudiate ethnonationalist formulations of membership and fellowship. A great many also question civic nationalist versions, according to which solidarity extends only to national co-citizens (citizenism), instead insisting that non-citizens must be understood as part of the polity, too.[11] Further, many decisively reject understandings that would exclude immigrants not in possession of formal immigration status. Indeed, one of the primary commitments of the immigrant rights movement of the last generation has been its critique of how states produce status illegality, which in turn undergirds various forms of domination and exploitation.[12] Solidarians press for access to status regularization, thereby (paradoxically) recognizing the value of such status in practical terms, but many simultaneously repudiate the notion that formal status be a precondition for solidarity.[13]

Nonetheless, the status-critical position usually maintains a nationally framed solidarity imaginary in that it conceives the subjects of concern as all persons present within national territory. Certainly, extensions of solidarity to all those "here" is radically inclusive *internally*, but it remains circumscribed by national borders ("ethical territoriality").[14] Should the solidaristic gaze be confined strictly to those present in national territory? What about persons who were once territorially present but are no longer here, possibly because of forcible expulsion? Does prior presence count? And what of those who the state's borders precluded or dissuaded from arriving? What, finally, about those whose life trajectories have been structured by injurious policies conceived in, and launched from, the same territorial state in which presence is now required? Why should such circumstances not evoke solidarity equal to, or even greater than, co-territorial presence?

As it turns out, most immigration activists tend to sidestep these questions in order to focus on the most pressing needs of those migrants "here and now"—also to appease mainstream discourse. It is, nonetheless, important to recognize the vocal strands of solidarians who more categorically challenge solidarity's linkage to the national, including territoriality. Whether as a politics of No Borders, Open Borders, or Free Movement, advocates press for further decoupling solidarity from national place.

[11] David Owen, *Democracy, Boundaries, and Respect*, *in* Democratic Multiplicity (James Tully, Keith Cherry, Fonna Forman, Jeanne Morefield, Joshua Nichols, Pablo Ouziel, David Owen & Oliver Schmidtke eds., 2022).

[12] Catherine Dauvergne, Making People Illegal (2008).

[13] Linda Bosniak, *Territorial Presence as a Ground for Claims: Some Reflections*, 14 Nordic J. Applied Ethics 53 (2020).

[14] Linda Bosniak, *Being Here: Ethical Territoriality and the Rights of Immigrants*, 8 Theoretical Inquiries in L. 389 (2007).

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(Legal) "Solidarity Work"

The intricacies of solidarians' work and its paradoxes are particularly visible in legal mobilization projects and law clinics around the world. The need to contest, while upholding, the law and the structures of power that sustain them is acute, as is the imperative to navigate, but also transform, the system. Both require delicate choices and strategizing.

Among solidarians, clinical professors, and their students, there is a general tendency to push aggressively within the existing boundaries of laws, policies, and deontological norms. They do so by engaging in direct legal services, community education, policy-level advocacy, and building interdisciplinary coalitions to expand due process and access to justice.

In so doing, they grapple with what it means to work within an unjust immigration system. They must carefully consider their role in supporting related hierarchies, such as when appearing before courts and arguing within the confines of current law and policy. They are in constant struggle about how to represent individuals within these systems, while supporting movements seeking to dismantle and overhaul them.

Law students quickly learn that many arguments offered to shield a non-citizen from deportation involve proving the immigrant's worthiness in a capitalist society.[15] They must also affirm the non-citizen's law-abiding nature within the race-based contours of penal codes, and underscore the host country as a safe haven in contrast to the chaos and danger of their home country. In the classroom, law teachers teach about professional responsibility, including a lawyer's part in ensuring client compliance with immigration law and policy and in counseling on the risks of violating them. Though law teachers prioritize client-centered and holistic lawyering, attorney-advocates often maintain a disconnect from the actualities of persons in transit and the work of the community members, social workers, medics, and clergy who support them. This may include arranging safe harbor and sanctuary for those with deportation orders, fundraising, or accompaniment to contest the immigration regime—all critical demonstrations of solidarity when legal avenues close. Through a sense of shared cause—and risk—these acts open new doors of support and empowerment.

The efforts of attorney-advocates who work within the system may conflict with larger movements for abolition and transformation. Therefore, incorporating solidarity principles into teaching could serve to reconcile these tensions. By normalizing solidarity in legal education, teachers could question existing deontological norms to include what are now seen as transgressive acts of solidarity. Through this process, law clinics, too, can play a role in disrupting assumptions, and engage students in rethinking normalized political and legal categories.

It would be productive for law students to confront how legal "solidarity work" is perceived and contrast its impact with traditional lawyering. In deportation defense, these lessons manifest through solidarity-based practices such as holistic legal representation, framing legal cases within the context of community support, and challenging the legitimacy of deportation itself. Law teachers must model "solidarity lawyering" while counseling future practitioners through the risks of prosecution, professional discipline, or public condemnation for solidarity measures seen outside of, or even antithetical to, current law and policy. Discussing these risks highlights the law's limitations and its role as the ultimate tool of justice.

Conclusion

In this essay, we have reflected on aspects of the "what," "where," "who," and "why" of solidarity in the hope of providing resources for further conversations about the intersection between solidarity, migration, and the law.

[15] Nermeen Arastu & Qudsiya Naqui, *Standing on Our Own Two Feet: Disability Justice as a Frame for Reimagining Our Ableist Immigration System*, 71 UCLA L. Rev. 236 (2024).

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Solidarians position themselves alongside migrants as equals, coming together to face power structures that regulate and penalize unauthorized border crossing. Whether motivated by humanitarian concerns or strategic considerations, they stand together against laws that, in their view, unduly oppress and exclude. Solidarians ultimately challenge the acceptability of political and legal categories that we have come to accept as "natural," such as that of "irregular" mobility. Solidarity in the migration context is indeed at its most emancipatory when it critiques the designation of certain forms of migration as "irregular" and counter to the law.

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