**Down to the Struts**

Law, Policy, and Disabled Immigrants

Host: Qudsiya Naqui

Guests: Katherine Perez and Roxana Moussavian

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**Introduction**

[jazzy piano chords, bass strumming with smooth R&B]

**Qudsiya Naqui**

Hi, this is Qudsiya Naqui and welcome to season two of Down to the Struts. We are so excited to bring you six new episodes about disability, design, and the need to find intersectional solutions to complex problems. For our first episode, we'll be talking about a topic that is near and dear to my heart. Immigration. The experience of disabled immigrants is often unknown or forgotten, and our immigration laws and policies often do not account for the experience of disabled immigrants. Today, we'll listen in on my conversation with Katherine Perez and Roxana Moussavian, experts at the intersection of immigration and Disability Law.

A warning that this episode contains heavy content, including depictions of violence, please exercise care when listening. Also, we'll be speaking about a couple of common terms that I want to explain before we get started. The first is DHS, which is the Department of Homeland Security, which houses many of the agencies that administer our immigration laws. Within DHS is ICE, Immigration and Customs Enforcement, the agency that among other things, is responsible for prosecution and detention of immigrants in the system. Finally, if you want to learn more about the firsthand experiences of disabled immigrants in the United States, I encourage you to check out Episode 90 of Alice Wong's podcast, the Disability Visibility Project featuring Conchita Hernandez, Legorretta, who you'll remember from [Episode Five of Down to the Struts called WOC World](https://downtothestruts.squarespace.com/episodes/season-1-episode-5-woc-world). Okay, let's get down to it.

Well, thank you so much, Katherine and Roxana, for being with me today. It's so great to have you here. How are you guys doing this evening?

**Katherine Perez**

Pretty good. Thanks for having us, Qudsiya.

**Roxana Moussavian**

Yeah. Very excited to speak with you both.

**Qudsiya Naqui**

Yeah. Thanks for being here. And so I wanted to start off by asking you both to just introduce yourselves and a little bit about the work that you do and and a little bit about your background for listeners.

**Roxana Moussavian**

I'll go first. So my name is Roxana Moussavian. I am an immigration attorney. I am focused on the intersection of immigration and Disability Law. I'm really passionate about abolition, and then immigration and incarceration. And I'm really excited about disability law as an opportunity for forcing an immigration custody as like full humans with bodies and bodily needs and disabilities and using disability rights and the protections that affords to fight back against the terrorization, dehumanization that is all too common in immigration law generally, but in immigration, incarceration in particular.

**Qudsiya Naqui**

Thanks, Roxana. There's there's so much in what you just said. And I'm excited to dive into our conversation and and explore more some of the topics that you're raising about immigration, incarceration and disability laws as a tool to fight back. So I really appreciate that background. Katherine, I'd love to hear a little bit from you about your background and what brought you to this work.

**Katherine Perez**

Sure. So my name is Katherine Perez, and I use she her pronouns. And I realize folks are listening but just a visual description. I am a Latina woman, I'm 36 years old. I wear these like big, huge red glasses that you guys are currently looking at because we're on zoom. I have dark brown hair considering cutting it pretty short. We'll see. I'm so glad that I'm on with Roxana because she definitely is the immigration legal expert Between us. I sort of come to this work as an activist in the disability rights space. I helped launch the National Coalition for Latinx with disabilities a few years ago and while we represented all issues at the intersection of disability and Latinidad because we have launched around the time of Trump coming into office, it felt like every new week there was a new assault against the immigrant community and we ended up doing a lot of our advocacy work around immigration and disability. So so that has been sort of my primary experience over the last few years with immigration and disability, which was advocacy.

But also I am a non practicing attorney who went straight from law school into her PhD program, I'm getting a PhD in disability studies. So I'm also an academic and recently just started up the Coelho Center for Disability Law Policy and Innovation as the executive director and I teach Disability Law at Loyola law school.

**Qudsiya Naqui**

Thanks so much Katherine. And I really resonate with being a sort of non practicing lawyer. I, I too, am a non practicing lawyer. So see, there's lots you can do with a law degree that doesn't involve practicing law, but mad respect for the lawyers who practice law. So thank you so much for for that introduction. And I think your expertise at the intersection of immigration and Disability Studies is so important. I think, you know, I come to this work with some familiarity as well, prior to my current work, which is focused more on civil justice, I was working on immigration projects, particularly in the area of access to justice and creating access to counsel for immigrants, and specifically unaccompanied immigrant children, which is where I really started to think about immigration as a disability issue, as I saw children with disabilities coming through the detention system. And this is a topic that’s just really, really important to me. I am also a daughter of immigrants, I'm South Asian. And so, and i also identify as a person with a disability, I'm blind. So you know, this, this is something that's really important to me. And I'm really excited to have both of you here to to share your wisdom and knowledge on this topic. And that is very important, and also actually very little discussed and written about till the two of you came along, I think, and other advocates who are now working in this intersection. So I wanted to start off by asking you, and either of you can sort of take this question, or both of you. Can you just set the stage a little bit for folks about you know, what role disability has played in the US immigration system, you know, to date, which is a big question, I'm sure you can give me a very succinct answer.

**Katherine Perez**

I really wanted to start off with sort of a content warning. So I just want to start off with a little bit of a content warning for folks who don't know, the history of the United States, in addition to being extremely racist has been incredibly ablest and for folks who do not know the term ableism, I guess I should just provide a quick definition. And I'll read from Lydia X.Z. Brown's definition and off their website, autistic ladder. So ableism is the oppression, prejudice, stereotyping, or discrimination against disabled people on the basis of actual presumed disability. And it's the belief that people are superior or inferior, have better quality of life, or have lives more valuable or worth living on the basis of actual or perceived disability. And I think an important thing to take away from this definition, too, is that ableism is systemic.

And so going back to the question, you know, what's the role of disability in US immigration policy, part of Abel ableism, in the US has been deeply ingrained, and our immigration law narrative. So as far back as the first major Immigration Act in 1882, in the US, there was exclusion of people with mental and physical, quote, unquote, defects, as well as other categories of folks, including folks who were, quote, criminals, quote, immoral, etc. And a lot of times in our history, there sort of confluence between all of those terms, right. So folks being seen as a moral, insane criminal or being seen as disabled. And something that became more popularly understood in our immigration law recently, what was the concept of public charge, which was actually sort of this latent law, and I know, Qudsiya, you and Roxana can probably explain public charge way better than I can ever explained, since you guys are practicing attorneys. What I wanted to say historically was that, you know, before public charge came back into public discourse with Trump, changing the rules and public charge, it actually, you know, goes back to the late 1800s in the US and was in immigration law, and it quote, prohibited entry of any quote, lunatic idiot or any person and able to take care of himself or herself without becoming a public charge. And then in 1891, you know, several other times throughout the next several decades, the definition shifted, so that definition eventually switched to become likely to become a public charge.

**Roxana Moussavian**

I want to step back just one level from public charge. So as the fellow daughter of immigrants, myself, as I've learned about immigration law in the US immigration system through my own life through my family's experience, and as I've started to learn more about disability law in the history of disability rights and the exclusion of people with disabilities, the treatment of people with disabilities, and the development of disability law in this country. The two histories I think are fascinating when compared side by side for a lot of reasons. But namely, they start at the same point, like Katherine saying of the immigration legal system is based on exclusion. It's about keeping people out. The history of the treatment of people with disabilities in this country is not all that different. It's about subordinating, confining and excluding from society, people based on this ablest sort of thinking Disability Law, on the other hand, developed as a response to that kind of foundational point and is today this like, beautiful, you know, really, really robust tool that has developed over the course of many decades of activism. It's a rights based system, it's a way of protecting the rights, the dignity, the needs of people with disabilities.

On the other hand, immigration law today is just as exclusionary, as it was when the US immigration system was initially developed. Immigration law today, you know, looking at recent examples of family separation, incarcerating children of disrespecting the reproductive rights of woman in immigration custody. I mean, this is a system that today is still based on exclusion. So I think that contrast is really helpful, for me, at least, for understanding some shared commonalities and how these two systems are developed. But also major differences in what when we're thinking about the intersection of the two what immigration law does and has to offer and what disability law doesn't offer.

**Qudsiya Naqui**

I think that's a really helpful way of putting it and as you were describing it, I mean, it's just as absolute, almost this cognitive dissonance in what you're sort of juxtaposing just there, between this body of law coming out of the same governmental sort of infrastructure ecosystem that was designed to provide access for people, reasonable accommodation. And you know, that culturally, you know, you know, in past episodes of this podcast, we've talked about the movement from rights to justice, that have sort of grown to move from, you know, accommodation, to inclusion to access, and it is, you know, a really beautiful movement, as you said, in a robust movement. And, and there's just such a dissonance between that And then the way the same system, the same governmental ecosystem, is continuing to use a framework of exclusion towards people with disabilities, and just sort of people in general. and we'll talk about that a little bit later when we kind of discuss the intersection of race and disability in the immigration system.

But that's actually a perfect segue. Roxana and Katherine into what I wanted to talk about next, and the immigration system in the US is a complex web of different types of forces. But broadly speaking, there's the kind of what we immigration lawyers refer to as the benefits side. So the side of immigration law where you're seeking entry, lawful entry into the United States, and then there's the kind of enforcement side of things and I was wondering if you could give us an overview of you know, how disability factors into those two prongs of the immigration system and kind of describe for people, you know, how people flow through the system and where their disability can become a factor in that process? And what, you know, what can happen to someone in the system?

**Katherine Perez**

Yeah, it's interesting when we think about so who are immigrants with disabilities? I like how your questions raised because it kind of makes us think about the immigrants, or the immigration system from the point of immigrants migrating to the United States through going through the institutions of immigration? And, you know, the first thing that I found in my literature review of immigrants with disabilities, of which there is some literature out there, but not a lot, like you said at the beginning, not a lot of folks are researching this or talking about it. And definitely even fewer or no folks are actually asking for the opinions and experiences of actual immigrants with disabilities themselves. But the literature that is out there does talk about the, quote, healthy migrant effect. And that sort of talks about the idea that migrating itself is such a grueling, physically and mentally difficult process, especially if you're talking about coming over to the United States undocumented, that would presuppose that the folks who do decide to migrate in the first place would be folks who are, you know, quote, unquote, more healthy, in order to withstand sort of that, that grueling journey to the United States. So already, there's this dividing line of immigrants being more non disabled. We do find, though, that even though we have more non disabled folks migrating to the US, there's different points at which immigrants will to acquire disabilities. And so with that grueling journey comes physical disability with that grueling journey. And then Roxana could talk a little bit more about the institutions. You know, as folks offer their institutions, a lot of folks go through a lot of trauma and end up with a lot of mental disabilities. A lot of what I write about as a scholar is about how the law itself creates and constructs disability. And I think this is a really clear example of where the immigration system is creating disability in immigrants. And so that's not even to talk about public charge, right, which is that the law itself already is excluding folks with disabilities themselves.

**Roxana Moussavian**

I can piggyback off of what Katherine's like very thoughtfully laid out and maybe start with so I, like I said at the beginning, I'm an immigration attorney and I specifically I work I represent people who are in immigration custody. So that's someone who has arrived at the border seeking asylum, and for whatever reason, they're a part of the small percentage of immigrants that the government does not, like release to bite for asylum while living freely in society. But they remain incarcerated while they're fighting their case, or immigrants who may have lawful permanent status that is being challenged or end up in immigration custody, often through criminal justice system. Focusing just on that piece of the very complicated web of immigration systems, as you've put, Qudsiya, like the rights and treatment of immigrants with disabilities, I guess, are coming from three different, let's say, three different institutions.

So first is an immigration court itself. So immigrants with disabilities are the only category of immigrants that can possibly qualify for a court appointed attorney in immigration proceedings. Unlike in criminal proceedings, though, every immigrant has the right to an attorney, the government doesn't have the obligation to pay for your attorney and immigration proceedings. The only situation in which an immigrant can have a government appointed government paid for attorney is if you have a disability that poses quote, unquote, competency issue or a challenge to your ability to understand what's going on in the proceedings and be able to engage in the proceedings and represent your own interests to a sufficient degree in the ninth circuit. So in states like California and Arizona, that process is governed by this lawsuit called settlement called Franco, which provides that court appointed attorney in other parts of the country, there's a similar type of process that's a little bit less robust, but also exists. Other than that, there is very little, by way of rights that people are getting in immigration court. There's a few other very minimal protections in the form of, you know, for example, normally, in immigration proceedings, you don't actually show up in court, someone who's in custody is attending their proceedings over the phone, they're attending them over video conference for certain persons with disabilities, they can seek to appear in person as an accommodation. And there's a process for requesting that. But so so just to give you an example of how limited these protections are like today, there are immigrants in US courts that are documented to need a hearing aid and be taken by ICE to immigration proceedings where they are not provided a hearing aid. And so they are in immigration court expected to communicate with a judge their trying to participate in a totally unreasonable and kind of unrealistic and unlawful situation that so that's that's immigration court, in addition to immigration court, another piece of like another institution to think about is ICE itself. Immigrants who are in proceedings are either again living like freely in society, or they're in ICE custody and those who are living in ICE custody, every aspect of their day to day is controlled by ICE. So from, you know, how many meals they're eating, what they're eating in those meals, to how much sunshine they're seeing how much fresh air they're getting, all of that is decided exclusively at ICE's discretion and in terms of accommodations in ICE custody, there's very, there's a lot of reports that are done by people like Disability Rights California and different inspector general's documenting across the country how inadequate ICE's identification of people with disabilities is so like, you know, the very first step of being able to see what what is a reasonable accommodation or what inclusion might look like for an individual requires this identification. That's not happening. Even when there is an identification happening. You know, there are lots of advocates are spending their careers trying to get ICE to take seriously the responsibility of caring on like a, you know, minute by minute basis for someone with yeah, like very specific medical needs and and the horrific examples of the inadequate job that ICE is doing about.

And then kind of the third institution as I think about it are like attorneys and advocates and like the people that bear some responsibility in working with immigrants, including immigrants with disabilities in defending their interests, with the government, and I want to mention them as an institution because I think the difficulty of being, like existing as an immigrant in immigration proceedings, and under the total control of ICE custody, and the the compounded difficulty of existing as a person with a disability in those situations complicates the relationship between a person and their advocate and their attorney. And I'm new to this work, I've only been doing it for a year and I I've been looking to meet other advocates and learn from other attorneys who specialize on representing, who are those court appointed attorneys who represent and have represented for a long time, lots of people with disabilities. And I have been struck by the number of really, really smart immigration like really good, like some of the best immigration attorneys that I have met who admit that they either that basically, they have a tendency not to take the cases of people in immigration custody, who have disabilities who have, quote, unquote, severe disabilities, because of quite how impossible the task of representing their interests are.

I think it's also worth mentioning that when we're talking about people with disabilities, and immigrants with disabilities, and especially immigrants with disabilities in ICE custody, I mean, obviously, ICE has detention facilities all across the country, and who have these disabilities varies. But in Northern California, in California, a lot of the population are people with psychiatric disabilities and people who are not not only not receiving any sort of mental health care, but are being confined in conditions akin to solitary confinement, they're spending 23-24 hours a day, some days, most days in a single cell without other people. So so when I talk about the difficulty, the challenge of working with and representing the interests of these people, I think it's helpful to have a little bit of a an image of who exactly we're talking about, and why that situation is so impossible.

**Qudsiya Naqui**

Yeah, there's, there's so much and what both of you just said that I just kind of want to distill for a second. And that ties really well to some of the other things I want to cover. And, you know, so, you know, Katherine, you talked about something that, you know, I actually, you know, hadn't really framed in this way, and you and you said it so eloquently, just this idea of the immigration itself, being sort of like a disabling institution, and then Roxana, you complemented that with talking about how the system creates an erect, you know, barrier after barrier for people who are disabled. And I really appreciate that you mentioned the role of the advocates and lawyers as an institution. In my work, running legal services programs focused on unaccompanied minors who are in custody, we had a lot of children who, you know, were, you know, for example, various types of disabilities. Oftentimes, sometimes kids who are deaf, but only new home signs, so they, you know, obviously didn't know ASL. They're from Central American countries, and just lots of complex types of issues that, you know, advocates who weren't looking at their work from a disability land disability rights or Disability Justice lens, we're looking at this case through like the eyes through the eyes of an immigration lawyer, which is completely reasonable, because that's their expertise. And that's their work sort of didn't have the didn't have the sort of frame of reference or even the vocabulary, in some instances, to understand how to access that person into how to be an effective advocate and advocate for that person's expressed interests in a lot of instances. And so that, you know, create a lot of challenges. And so there's so many ways in which the system, the act of migration can have disabling effects on someone as Kathrine was saying, and then also how being inside of the system can exacerbate the barriers that people are facing. And I think the thing that's really shocking about it, and I think the example you gave, Roxana, of the hearing aid is, you know, under the Americans with Disabilities Act and the Rehabilitation Act, for example, in particular, you know, this is these are federal agencies that have obligations under the disability rights laws that have protected and provided access and accommodation for so many people. But when you are in this immigrant category, as you all were talking about earlier, when we were talking about the history of disability and the immigration system, it's like this separate exclusionary category, and so you're kind of doubly bound and W sort of trapped in a way and it's really, really challenging. I really appreciate the picture. The two of you, you know, painted of this situation.

And I often think in this kind of goes into my next question, which is oftentimes when we talk about the immigration system, there's a lot of discussion about it in in terms of racism, and again, in the immigration system being used as a tool to facilitate, you know, facilitate racism, basically, and to exclude based on race. And I'm curious what your thoughts are about how those, the concept of race and the concept of disability intersect in the immigration system and what that means for people who are in it, both who are migrating and then who are in the sort of web of, the labyrinth of the US system that involves, you know, the courts and the detention facilities and so forth. So I'm curious about your thoughts about kind of race and, and disability and what role it plays in the immigration system. Any thoughts? Let's hear them.

**Roxana Moussavian**

I guess, when I try to think about the history of like racism in the US and dating back to like my understanding of colonialism, like the treatment of indigenous people, the treatment of like, the first enslaved people brought, like, you know, lynching, like the foundational idea, if I can reduce everything to one, I think is like the total dehumanization of people. That's the goal of racism, like to treat people who are people as less than full people. And that is completely what the US immigration system is doing every single day. Today. I am really hopeful and optimistic and excited about the opportunity for undoing that through the gains that have been made by the disability rights movement and through the imperfect, but still super robust protections that exist in disability law, and that I think, like fundamentally acknowledge that people with disabilities are people. I don't think it's possible to enforce Disability Law, and at the same time, treat the people that you're enforcing it for as not humans. The two things are like directly contradictory, right? So yeah, the picture today, as I see it, through the experiences that my clients share with me, is pretty dark in the immigration system like it, like you said, like, the stuff that's happening is just like clear violations of disability law, the Rehabilitation Act more than 50 years, like after, like, a really long time after its passage. And to any Disability Law Lawyers listening to this, like, hey, the immigration space is a really, really ripe area for enforcement. Like we've been saying, like immigration lawyers don't know Disability Law, the example of the lawyer who I just gave who was like, Yeah, I don't really take cases. Like that person I really, truly believe did not realize that he was admitting to basically disability discrimination in saying that to me. But because people they aren't thinking about it like that, like everything you said, I 100% agree with. So I don't think it is possible, it will be possible, we will only be sustainable for our immigration system for ICE for the Department of Homeland Security to treat immigrants the way it does right now, if it were to actually enforce disability law too. I don't think that's just true, or that impact, that that potential impact would have to have ramifications beyond just the specific intersection of like this community of immigrants with disabilities, I think it would have to have impacts on immigrants and the immigration system more generally.

So the vision, the dream that I think is possible for people interested in working at this intersection is like, like a complete undoing of a lot of the worst parts of the immigration system. And I mean, when I say that I really am thinking specifically about immigration, detention and immigration, incarceration, the system that was really born out of kind of post 911 America and I believe that like Disability Law and more awareness of disability rights is a part of that solution. And a really serious, a more serious tool as a part of that. And like, that's not just like a thing, I think. I mean, the example I gave right, the only place in the immigration court system where someone right now gets the right to like a government provided attorney something that everyone in you know, that anyone that's accused of a crime basically gets is for people with disabilities. And is because of an acknowledgement that like, yeah, this is, you know, not doing that is probably a violation of the Rehabilitation Act. Yeah, I think there's a lot more room for progress and progress that will change how the immigration system touches and impacts and affects both people with disabilities and all people.

**Qudsiya Naqui**

Yeah, those are really really great points Roxana, yeah, it's important to note so the the what's interesting for listeners who aren't familiar is that the immigration system is the immigration court system is a civil system actually. So an immigration violation is a civil violation. It's not criminal. However, as Roxana and Katherine have both described in describing incarceration and detention, the immigration system functions more like the criminal justice system than it does, you know, going into negotiate, for example, you know, an eviction or a family law matter if the stakes are high, you could be detained or incarcerated for long periods of time. And yet you have no right to a government funded attorney, if you can't afford one. So that's

**Roxana Moussavian**

or deported, or -

**Qudsiya Naqui**

or deported to a place you've never been, or haven't been to since as a child, -

**Roxana Moussavian**

You're going to be harmed or have been harmed in the past. And for a lot of people that have the most complicated cases, they're getting there, because of a criminal court experience. So it's -

**Qudsiya Naqui**

And layer on top of that being a person, a disabled person in that system. So Katherine, I wanted to turn it over to you to get your thoughts. And, you know, one of the one of the things that led me to you a couple of years ago when I was working on these issues was an article that you had written in the UCLA Law Review, and it talked about this intersection of race and disability in the immigration system. So I'm curious about you what your thoughts are about that, just from the vantage point of your disability studies, expertise and the work that you've done?

**Katherine Perez**

Sure, yeah, I don't think we've mentioned this yet. But But the idea of eugenics in the United States, you know, goes back to almost starting assumption. And eugenics is a concept I'll define that shortly, is very, very steeped in both racism and ableism. For folks who don't know, eugenics was something that was practiced in the US in the late 1800s, pretty much well through 20th century, I'll just put a little asterisks here that hearing reports that in some ice detention centers that they were sterilizing the woman without their knowledge sort of harkens back if not, lets us know that eugenics is still very much alive today. So eugenics was a set of beliefs and practices which are aim to create to improve the human population by picking out the most desirable genetic qualities of a person, read, you know, white, able bodied, and set a bunch of practices and institutions to make sure that those folks procreated Well, and those with less desirable traits read, non white and disabled folks would not procreate. And so eugenics is not just not just attached to immigration, of course, we have, you know, a very troubled history of people with quote unquote, mental illness in the United States who were institutionalized and sterilized. For those law students, attorneys out there might remember from their constitutional law class, the case of Buck v Bell, where the Court declared that three generations of imbeciles was enough, thereby sanctioning the sterilizations of folks in mental institutions. But immigration itself has essentially function in the US as a program of eugenics. So that and it's all I guess, is just to point out that historically, immigration has been, has a history of racism and ableism that are deeply intertwined. And, you know, I think a lot of times folks think about immigration through the racism lens, but often leave out the ablest side of it. And I encourage folks to think about it through an intersectional lens. And since we've said the word you know, intersection, intersectionality a few times now, I just always make sure that I give props on credit to black feminist scholars and thinkers, in particular, Kimberly Crenshaw, who I had it when I went to UCLA law, she was my professor. So she coined the term intersectionality. And essentially, when when she coined this term, she was thinking about black women in employment settings for home, race, space, civil rights legislation was insufficient in the employment context. And then sex based discrimination law was insufficient, because black women had unique experiences that weren't being covered by either of those two discrimination theories in the immigration scene. You know, we sort of think of it the same way, think of it as when we think about immigration policy, we need to make sure that are we thinking of immigration policy that actually benefits or honors the experience of folks with immigrants with disabilities. And later if I have time to give some examples I'd like to talk about about the DREAM Act and DACA. And some of the folks that I've talked to who are disabled immigrants and who feel like that piece of legislation does not really speak to their unique experience.

And one more thing that I will say, I think at the top, I said something about how I approach this work by being involved in the activist community, in the disability side of things, you know, in the disability rights movement, we have a sort of what we call hashtag disability too white. That's something that was coined by by Vilissa Thompson a few years ago, and it's sort of calling out the disability community, the disability rights movement for its leadership being primarily white, but also for leadership, but also, you know, viewing the problems and working on policies that that just favor white disabled folks. So really, there's been this push within the community towards Disability Justice. And for folks who don't know what Disability JusticeQudsiya , I think you did refer to it a few times. But just to also give props to in particular queer disabled people of color, who several years ago coined the term disability justice, and one in particular thought leader in this is her name is Patty Berne, folks should look up Patty Berne, Disability Justice is really a great blog post that outlines the tenants of Disability Justice, it's sort of reactionary, to this idea of disability too white, and I won't talk about all the tenants of Disability Justice, but the first, the first one is for us to do work that is intersectional in nature, and then it goes on to be to include the leadership of the most impacted, which includes disabled people of color, you know, in disability rights spaces, and disability community and disability culture, there's a lot of push for pride, and for culture and community, which has been very important on an individual level, but also as a collective level to get where we are today in terms of, you know, the civil rights that we have, including mentioning the Americans with Disabilities Act and section 504, when we use an intersectional lens to talk about disability, a lot of folks that we're talking about in the communities of color with disabilities don't really approach disability through a pride lens. And so in these communities, disability is still very heavily stigmatized. And that's even if you think or consider yourself, as someone who has a disability, a lot of folks and in particular immigrants may not even, you know, know that they have a disability or consider themselves having disability, much less know that there's Disability Rights out there to protect them. And then, you know, going back to what I said about who are these disabled immigrants, you know, a lot of them are folks who have been disabled through the system. So it's folks who have become disabled through oppressive institutions. So this notion of pride within the disability community doesn't really work to include folks disabled immigrants of color, to include them in their experiences. So I, you know, I urge, you know, disabled activists and scholars to continue to put on our intersectional lens and like, allow for the idea of thinking about disability through through this oppressive framework, and as something that for many people is, has been very negative in their lives.

**Qudsiya Naqui**

Yeah, thank you for that, Katherine. And I'm really glad that you mentioned Patty Berne. And we've definitely talked about Sins Invalid, and in show notes from previous shows have directed people to Sins Invalid, and the principles of Disability Justice. So those are things that I hope that listeners will go back to and refer to constantly. And I think you're so right to honor, you know, queer, disabled people of color, you know, women of color, people who have been marginalized in every direction, both in the civil rights movement in the disability rights movement, who have come forward and said, and created space for themselves. And as I mentioned earlier, at the top, like Roxana, I'm also you know, the daughter of immigrants. And you know, I have a great deal of pride in my, in my culture as being South Asian. However, I think, again, I came from a community that didn't have the vocabulary to talk about disability and didn't understand the framework of rights that existed to protect me and didn't understand when things happened, whether or not like that I was even being discriminated against at all. And so I think there's a lot of educating to do on all sides. And if we think about things from a multi dimensional intersectional lens, we're much more likely to have better solutions. And I think that's also true about all of the barriers that Roxana was describing in the institutions of the system itself.

And there's one more thing, Katherine, that you said that I want to highlight, which is, you know, this idea that the idea of disability pride as being really a really important part of the movement, but also understanding the oppressive institutions that disabled people and what effect and what trauma that creates and recognizing that and making sure that there's space to be okay with feeling pain around your disability, to the extent that it flowed from a system of oppression. And I think those are all really valid, important experiences that we need to honor and recognize and try to heal from in different ways. So I think that's really important. But before we turn to the next topic, I wanted Katherine to follow up with you on on one point that you made about DACA and the DREAM Act, because I think it's really important and interesting.

So just quickly for listeners, you know, DACA the Deferred Action for Childhood Arrivals was a program that was executed under the Obama administration in 2012. That made it possible for young immigrants who were in and met certain specific criteria to remain in the country and be able to work and not have the fear of deportation.

 So would you mind going back to that and telling us a little bit about folks who felt left out of that huge movement.

**Katherine Perez**

Sure. So a couple of years ago, when the administration rescinded DACA, and there was sort of an outpouring of support for passing the DREAM Act, and we thought for like, a really hot second that it might happen. And then it didn't. I spoke to a bunch of DACAmented or DACA eligible folks with disabilities, about their experience with the DACA program, and about their ideas about a future DREAM Act, or potential DREAM Act, and the stories that I heard, or not surprising, but really interesting and illustrative of how, you know, our different civil rights groups need to learn to work together to make sure that we aren't leaving folks in the margins of the margins out. And some of the stories that I was hearing ranged from folks who are DACA eligible, just not even able to physically get into attorney's offices because they weren't accessible, or not getting, you know, sign language interpreters to even get an attorney. So barriers at that first institutional level. Roxanna, you talked about like, you know, working with an attorney as as one institutional way that folks with immigrants confront the immigration system. But then, you know, for folks that even weren't able to get attorneys, and were able to get DACA status, those folks described not being able to get employment, because even if DACA was giving work visas to folks, it wasn't addressing systemic discrimination of people with disabilities in the employment context, you know, so what good was this legislation if folks with disabilities couldn't get a job, and then I think, you know, when talking about the DREAM Act, and also embedded in the DACA, that DACA Executive Order was this idea of giving a break to folks who could either have a certain educational attainment or work attainment that sort of made them quote, unquote, more worthy of being exceptions to deportation than other categories. And of course, a big part of DACA Dream Act also was about the age at which you came to the US. So the idea of if you're young, you have no fault. So this sort of worthy and worthiness brought up the idea that, that folks who who couldn't be successful in school or couldn't be successful in work contexts aren't as worthy, and that, and that brings up our disability community. So as we continue to think about future legislation, like the DREAM Act, we need to make sure that we consider that we consider both ableism and racism and anti immigrant sentiments in forming that legislation.

**Qudsiya Naqui**

Yeah, I think that's a that's a really good point. Because I think the structure of DACA and and what your status was predicated upon, which as you mentioned, was attaining an educational level of of a certain level and or employment presupposes the notion that our systems of employment and our systems of education are non discriminatory towards disabled people, which is not necessarily true in the same way that at the intersection of immigration and the criminal justice system. So the idea that you can be deportable or inadmissible if you've committed a crime presupposes that our justice system is fair to all people and treats people equitably. So I think that's a that's a really important point and really good policy recommendation.

**Katherine Perez**

Historically, there's been these two major policies of immigration, and that is family reunification policies, and merit based immigration. And if you look at the history is very steeped in racism. But if you look even closer, you could see another example of how our immigration system is both steeped in racism and ableism. And so for folks who don't know, the family reunification system was put in place in the early 20th century, you know, this is very reductionist, by the way, but long story short, essentially, to make sure that, you know, western and northern European immigrants were prioritized and the immigration and immigration to the United States and the way to do that, other than just specifically calling out racial groups, which they did, for example, I mean, look up the Chinese immigration Act.

Right, we have, that's one very explicit example of, of the US, you know, explicitly calling out an entire nation of folks for exclusion to immigrate to the United States, but for them to get around that the family reunification policy, basically made it so they will prioritize folks who immigrated here, their families to come and immigrate. And so the folks have grown have been immigrating because of those past race-based legislation where northern and western Europeans, so family reunification policies, in that instance, we're going to favor white European folks. And what's interesting is that around the 1960s, they tried to change it to merit based immigration, where it's the idea of bringing over folks or prioritizing immigration for people who have more skills and education, bring those folks to the US. But there was a really big at that time, people in the US were so much against merit based immigration, because because that was going to decrease, or they thought that that was going to decrease the amount of northern and western European folks who would emigrate over here. Open it up to folks from, you know, non European countries.

And now we see the inverse, right. So like, so our system stayed on is as more of a family reunification system and you know, over the last several decades has been, but in this, you know, recent administration, there was a lot of rhetoric around switching our immigration system back to the merit based system, which is like kind of ironic, right? Because when they did it back then there was like this fear that if we went to a merit based immigration, it would like bring in all these people of color. But this time, it was because family reunification was allowing people of color to bring people of color over and I switched to merit based immigration was going to sort of stymie that. And then my points were to was that, you know, merit based immigration is like, very steeped in ableism, obviously.

**Qudsiya Naqui**

Right. Yeah, exactly. Exactly. I mean, we could write someone who needs to write a book about this really is what needs, multiple multivolume. So I wanted to kick it over to you, Roxana, to talk a little bit about if you could give, you know one or two examples of and like just just so we can get a little snapshot of some of the things you were describing earlier in terms of what a person experiences inside of these institutions that we've been talking about immigration, customs enforcement, the court system and so forth. So if you have a case example, or someone you've worked with a human story that that you wanted to share?

**Roxana Moussavian**

Yeah, like I mentioned, I've been working with people in ICE custody. So one example is my client who is an asylum seeker from El Salvador who sought asylum in the US as an attempt to escape a lot of violence that was a part of his life from a really young age he witnessed his like stepfather be shot at, was later shot at himself and fled gangs coming after him basically, and who after four years in ICE custody, and being shuffled between eight different detention facilities on different occasions, he started experiencing regular hallucinations for the first time in his life, he attempted suicide he began to experience chronic suicidality attempted to take his life multiple times. Now, this is someone who, like I said, He's an asylum seeker in his particular sort of circumstance, he watched his father be shot at when he was around 12 years old, he was brutally assaulted multiple times, shot at himself. That's why he fled his country of origin and came to this country in the hopes of a better life. And he when I first met him, he described ICE custody to me as the worst thing that he has ever experienced. Legally, I mean, he was so unable to, to think, to remember key facts about his past, to speak, to function, that he couldn't even work with me to participate in the very immigration proceedings. He was being held by ICE to attend. So we were able to work together and a judge said that under Disability Law, his incarceration is actually a form of discrimination because it's been so long it's led to the deprivation of his ability to have equal access to his immigration proceedings. So I just want to focus for a second on like, what what's going on there? How is this happening? What what's actually happening? This client he was being held for periods of weeks, months at a time in a cell by himself, even when he wasn't in that cell by himself, he never in this year period was allowed outside every day, he frequently would go for more than a week without being allowed outside at all. He was being fed expired food on a regular basis, commissary was so prohibitively expensive, you know, a 99 cent bag of chips was being sold for $5 that he was unable to afford commissary. He wasn't being given soap or shampoo on a regular basis. He wasn't getting laundry regularly. A 10 minute phone call with his family would cost him more than $4. And again, he had no source of income. He been in ICE detention, ICE incarceration for four years and all that setting aside the inadequate medical care like I said he entered ICE custody with an independent psychiatrist who was involved in his case diagnosed as PTSD, but ICE medical care never diagnosed him with anything during his four years of custody. Even after his suicide attempts, even when he was experiencing hallucinations, he was only ever diagnosed with anxiety. He received no medication for his psychiatric care, he received no mental health care. This is, you know, consistent with inadequate medical care that we're seeing all across the country, especially now during the time of COVID. And all of this kind of mistreatment, unjust treatment, setting aside the abuses of power that he witnessed, you know, mistreatment that's documented, and and unfortunately, too many people's cases of sexual assault of beatings. So that's just one example of the impact the consequence, the very real and human consequence of this immigration system, on people with disabilities in particular.

**Qudsiya Naqui**

Yeah, that that goes right back to what Katherine was saying about the system of oppression, being an agent, a disabling agent, in a way that's really like negative and sort of different from the concepts of disability pride that we talked about in the Disability Justice Movement. So I think that that's such a great, I mean, it's a terrible story in a very powerful illustration of what we've sort of been talking about this whole time,

**Roxana Moussavian**

But now he's out.

**Qudsiya Naqui**

And it has a happy ending, which is really wonderful, thanks to your advocacy, as well.

**Roxana Moussavian**

But yeah, I for sure, the hardest part of working with that client, and I think something that a lot of like the decision of watching someone weigh the option of going back to a country where they really, really are in a situation where they really truly believe and have facts to, you know, support their belief that their life is in danger with the alternative of staying in a situation that is pushing them to like the brink of their survival. And like simply watching someone, make that decision, navigate that on a day to day basis, and then try to support them. I mean, it's it's an impossible situation our country puts people in.

**Qudsiya Naqui**

Yeah, I think that's, that's very true. So as we wrap up, I wanted to ask each of you to if you have any parting thoughts, we've unpacked a lot today. And I think, as we've all said, there's just been so little written and talked about when it comes to immigration, and the experience of disabled people in the immigration system. And the work that you the two of you are doing is so important. So I was wondering if you could share, wrap us up by sharing a little bit about that work that you're doing and kind of the movement you're building? And just what your kind of parting thoughts are for folks who want to be engaged with this particular work in this intersectional work at the intersection of disability and immigration?

**Katherine Perez**

Sure, well, first, thank you for having us. This was a lot of fun, a little bit nerve racking, we talked about a lot of great stuff today, heavy stuff, you know, I hope that folks who listen are able to engage in some type of self care afterward. So in the last few years, I've seen the immigration community and the disability community come together on this issue more than they have ever before. So I feel really hopeful about our two communities, bridging this great divide that we've talked about throughout the podcast. And I did want to plug them Disability Rights California for which I serve on their board of directors very proud of their work. You know, they came out with a report just a couple of years ago, where they went into a detention facility and wrote a report on excruciating conditions. And then also, I wanted to plug the case, and I'm probably gonna butcher their name, but it's Fraihat versus US Immigrations and Customs Enforcement, the Fraihat case, which disability rights advocate Creek and other both disability and immigration attorneys coming together to to file against ICE on the horrible conditions and ICE detention centers. And that case so far, is going well. So hopefully, we will see some precedent setting with that case in the future. So that you know, I think with Fraihat and what DRC has done, I think it gives us hope of the magic that comes when you know the disability community and the immigration community comes together to think of ways to support disabled immigrants.

And so Roxana and I met because, you know, we both work at this intersection. And we wanted to find like minded people doing like minded work. And now that, you know, we've been working together over the past few months sharing information and knowledge, you know, we've decided to bring more people on board and form a coalition of folks who work at this intersection. So we're in the very early stages of forming this coalition. But we've already been talking to a lot of really great folks across California who are interested in joining us and sharing information, sharing resources and doing more work together.

**Qudsiya Naqui**

That's fantastic. And once you have that organization or that coalition up and running, I'd love to be able to share information about how people can get involved on the platform of the Down to the Struts podcast and help to amplify the work that you're doing. Roxana, do you have any sort of parting thoughts?

**Roxana Moussavian**

Yeah, I feel like our conversation has been so has been very legal, very legal focused. And I know that thankfully some of your other interviews have been less so because I hope that I'm we're obviously thinking a lot about what the law can do and what the law how far the law can go on the problems that that we've been talking about. But I think we are under no delusion that the law is going to save or solve, you know, all these issues exclusively. So I, I just hope that whoever's listening, whatever spaces conversations, you're a part of whatever skills that you have, you're inspired to think a little bit about, you know, maybe one of these two communities or identities, experiences that you may have thought less about in the past, and how in your life in your world, and wherever you are, and what you do, you might be able to kind of be a part of what is going to necessarily be a many, many decades long project to continue to fight for the freedom of immigrants of people with disabilities of all subordinated peoples. And yeah, I hope our coalition might be a space that people can eventually learn from and plug into. But there are a lot of people that you've brought together on your podcast. And we will share some some resources to learn more about afterwards that are thinking about these issues working on these issues. And I just encourage anyone who's listening and interested to find other like minded people to work with, because we can't do anything on our own.

**Qudsiya Naqui**

That's a really great parting advice, Roxana. And I just want to thank both of you again, for joining me, this has been a fabulous conversation, we'll be sharing out a lot of the resources and the report and court case that you talked about. We'll share that information in our show notes. And so delighted to have the two of you. And I hope I hope we can continue this conversation. So thanks.

**Roxana Moussavian**

Thanks so much for organizing this and making this podcast and yeah, I mean being a part of the exact thing that we're talking about, that bring together of the people and the resources, and I really enjoyed listening to some of the past episodes. So thank you so much for doing what you're doing.

**Katherine Perez**

Thank you, Qudsiya

**Qudsiya Naqui**

Thanks for listening. Thank you for listening to this episode of Down to the Struts. This podcast would not be possible without the energy and creativity of Ilana Nevins, Adriane Kong and Avery Anapol. If you want to learn more about the podcast and access additional resources related to this and other episodes, you can find our website [www.DownToTheStruts.com](https://downtothestruts.squarespace.com/). You can also follow us on Facebook, Twitter, and Instagram at Down to the Struts. Remember to subscribe, rate and review the podcast on Apple podcasts, Stitcher, Spotify or wherever you love to listen. Thanks again for listening and see you soon so we can get back down to it.