Point of No Return: The Fear and Criminalization of Central American Refugees

Center for Migration Studies and Cristosal

"Recognition of his refugee status does not make him a refugee but declares him to be one."

(UNHCR 1979)

Executive Summary

Background

The purpose of this study was to ascertain the challenges faced by Central American migrants who returned home after failing to gain asylum or other international protection in the United States or Mexico. Cristosal interviewed individuals who fled from El Salvador, Guatemala, and Honduras under threats of violence and persecution and had been deported back to their country of origin to determine why they fled their homelands, why they could not secure asylum, and on their situations post-return. In the context of mass migration from these countries, the study used in-depth interviews to understand the different ways in which people experienced the violence and fear that forced them to flee and how their responses upon "voluntary return" or deportation back to their country of origin were shaped by that same violence.

While there are many studies on the flight of persons from the Northern Triangle of Central America (NTCA), little is known about the experience of refugees who cannot secure protection in another country and are deported to their home country, from which they originally fled. What are the psychosocial, security, and human rights consequences for people who migrated out of fear for their lives and were then forced to return to the situation that forced them to flee?

Findings

While each person interviewed has a unique story, there are several commonalities in the narratives of the migrants interviewed for this study ("participants" or "interviewees"). These point to a failure in the international system of protection, especially as it applies to the international obligations of transit and receiving states and the national obligations of the sending countries. As a result, the refugees interviewed could not rely upon any of these states to protect them from violence. In addition, they experienced violence from gangs, public officials, smugglers, and drug traffickers. In the absence of state protection, they were forced to rely on protection from a network of family members in both the sending and receiving countries. The study found that:

- Specific acts of violence, rather than the generalized violence endemic in the Northern Triangle states, precipitated flight in search of protection. Most participants expressed feelings of fleeing as a "last resort," as they left behind jobs, family, friends, homes, and culture in order to seek protection.

- The majority of interviewees had themselves been victims of violence or had family members who had been victims. Some had a family member who had been killed by gangs in their stead or "in place" of them.
- Half of the interviewees had been displaced internally before deciding to leave the country. Upon their return to the circumstances they fled, they relied on their families for shelter, support, and a modicum of protection, not the government.
- No one interviewed indicated that they expected protection from the US government, although all needed it. Their lack of understanding of the law and the inability of their families to protect them in transit and upon arrival in the United States prompted some to make decisions to "voluntarily" return, without full knowledge of their rights.
- Several participants opted not to report their fear and victimization to the local authorities before they left, for fear that corrupt officials would inform gang members or because they left quickly in fear of violence or death from the gangs. Even individuals who were in victim/witness protection were at risk due to the failures of those programs.
- Except Hondurans, all interviewees traveled with coyotes in very dangerous conditions, not trusting authorities. Several reported on dangers posed by coyotes, including sexual harassment, assault, and risks related to the smugglers' drug consumption. No one expressed a full understanding of their internationally recognized right to seek asylum, nor did they understand themselves to be refugees.
- Former detainees reported that in US detention facilities they had been treated like criminals, often handcuffed at the hands, waist, and feet, and kept in holding cells under conditions that some described as inhumane. Although detention should never be used as a deterrent to seeking asylum, some reported that detention dissuaded them from seeking protection in the United States and Mexico.
- Some of the interviewees did not pursue asylum due to the belief that a lack of evidence (beyond their own testimony) at the time of apprehension meant they had no case or that they would have to present legally admissible evidence at the time of their detention. Some, including trafficking victims and former gang members fleeing retribution, feared that the United States would prosecute them rather than protect them.
- Many factors cast doubt on the voluntary nature of those deemed to have "voluntarily' returned to their countries of birth. Immigration officials, for example, told some interviewees that they could not stay with or be reunited with their families in the United States and that their fear was not "credible" before a credible fear interview. Some were coerced into signing documents without full knowledge of their rights and without an attorney present.
- In some cases, participants were told that they could seek asylum, but their lack of legal representation made pursuing, much less prevailing in an asylum claim a remote possibility. Some interviewees, including persons seeking international protection who were transgender and gay, reported sexual abuse and assault.
- All reported being handcuffed and shackled and treated with hostility during the deportation process. All continue to live in fear in their home countries, remain displaced, and most

have not returned to their local communities for fear of reprisals. The government has not protected them upon their return, causing some cases to flee multiple times.

- Interviewees reported that reintegration in countries of origin were often unsuccessful because of the persistence of threats and persecution upon return and the inability of NTCA governments to guarantee access to justice and the full exercise of rights.
- Because of lack of confidence and fear of national authorities, many interviewees sought protection through subsequent attempts at emigration and internal displacement, resorting to family networks to evade persecutors and reintegrate into their countries of origin, while often accepting conditions that seriously restrict their personal freedoms.
- Subsequent to "voluntary return" or deportation, interviewees reported threats to their lives and physical integrity and suffered restrictions on their personal freedoms that raise serious concerns that the deportation policies of the United States and Mexico violate the well-established principle of *non-refoulment*.

Policy Recommendations

Given the findings from our interviews, we offer the following policy recommendations to address the protection gaps for persons fleeing violence in the Northern Triangle. Although these recommendations largely track those already offered during this debate, they have either not been adopted by the United States and Mexico or have not been implemented. We also note that deterrence strategies and messaging continue to define the US government's response to the crisis of violence in the Northern Triangle states, including threatening to separate mothers from their children, which effectively denies refugees the right to apply for international protection.

Central Americans who arrive at the US border should be provided with a know-your-rights briefing by nonprofit legal experts and access to legal representation prior to their credible fear interview. As the interviews confirmed, Central Americans from the Northern Triangle states are unfamiliar with the asylum process when they arrive at the US border and are not fully cognizant of their rights. They can be susceptible to intimidation and may not be fully informed of the process for asking for asylum, leaving them vulnerable to deportation without full due process. Moreover, they are traumatized and may not be fully able to comprehend the process. *Refoulement* does not require that a person is returned to actual harm, but to an environment in which his or her basic liberties are restricted to avoid that harm.

Alternatives to detention should be offered to persons found to have a credible fear of return. Those who pass a credible fear interview should be released to local community groups that can provide them with services, including mental health care, and obtain legal representation for them. Detention blocks them from obtaining this assistance. Supervised release, in turn, prevents them from suffering abuse at the hands of detention officials, a problem detailed in some of the testimonies. Detention should only be used if a person is a flight risk or (in rare cases) a threat to the community, with justification from US Department of Homeland Security (DHS) as to why a person is being held and why other, less burdensome options cannot reasonably satisfy these goals.

Deterrence policies should be replaced with protection programs in countries of origin, transit and asylum. Successive administrations have deployed deterrence policies that inhibit a refugee's

ability to reach safety and protection. The United States and Mexico, along with other countries in the region, should expand *protection* programs, such as the Central American Minors (CAM) Program and in-country processing through Costa Rica. Mexico should expand its capacity to accept asylum-seekers and limit its use of detention, although many experienced persecution in Mexico and expressed fear of staying in Mexico. Protection programs should include alternatives to asylum, such as humanitarian visas for cases that are not determined to be eligible for refugee protection but have protection needs. Expansion of responsibility-sharing programs like the Protection Transfer Agreement (PTA) to include other countries as resettlement sites would also offer further alternatives for those in need of protection. The United States, Mexico, and Central American governments, pursuant to the San Jose Action Statement, should establish a comprehensive refugee response program in the region.

A comprehensive return program should be created which helps deportees and other returnees find employment and receive protection. The US and Mexico, in conjunction with nations of the Northern Triangle, should launch a safe return program that helps those deported receive protection, access to justice and integrated social services including employment, housing, education, and health services. Current programs are insufficient to ensure that those returned are safe and have a future in their home countries.

The United States and other nations should assist nations of the Northern Triangle to address the root causes of flight. Funding should be provided to assist with evidence-based violence prevention, strong and accessible protection programs which include access to justice, and resettlement programs. Non-government organizations should be funded to test these programs and, if successful, to offer evidence for government expansion of the programs. A re-designation of temporary protected status (TPS) to El Salvador and Honduras and the designation of Guatemala would help stabilize and increase remittances to the area.

Nations of origin, transit, and destination should adopt a rights-based, comprehensive policy of protection. Central American countries, Mexico, and the United States should approach persons fleeing from violence in the Northern Triangle as asylum seekers and not as criminals. Anti-immigrant rhetoric and fear tactics effectively deny persons their international right to protection.

Vulnerable refugees should be given special consideration and protection. Vulnerable populations, including unaccompanied alien minors and LGBTQ persons, should be given protection that corresponds to their vulnerabilities, including protection from abuse and assault, access to due process, and placement in the least restrictive and safest situations.

US Citizenship and Immigration Services (USCIS) should adopt the 2016 UNHCR guidance on assessing the international protection needs of asylum seekers from El Salvador for eligibility determination interviews of Northern Triangle asylum claims. The adoption of the 2016 UNHCR guidance will strengthen adherence the 1951 refugee convention standards in refugee determination processes stemming from the situation of nonconventional violence and the diversity of violent actors generating displacement in NTCA.

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Introduction

The Center for Migration Studies of New York (CMS), an educational institute/think tank devoted to the study of international migration and a member of the Scalabrini International Migration Network, Inc. (SIMN), partnered with Cristosal, a human rights organization working in the Northern Triangle region to produce this report on the fate of migrants who were returned by the United States and Mexico to Guatemala, El Salvador, and Honduras.

The United States and Mexico continue to pursue a policy of interception, arrest, detention, and removal of unaccompanied minors, families, and others fleeing the Northern Triangle of Central America (NTCA). The United States has supported the interdiction and return policies of Central Americans by Mexico, but the degree to which the United States and Mexico may be returning Central Americans who fear persecution or violence in violation of international law is the subject of important debate.

The purpose of this study and report is to provide a broad review, involving interviews with deportees and their families from Honduras, Guatemala, and El Salvador, on where deportees have settled, for how long, what factors have influenced their decisions, and what has happened to them upon their return home. The study also sought to determine whether any of the decisions made by deportees were influenced by violence or persecution, and whether deportees have suffered violence or persecution upon their return.

The study explores a broad array of outcomes for those removed from the United States and Mexico and returned to their home countries — whether they attempted another journey, experienced internal displacement from their home communities, suffered harm from violent actors in the region, or a combination of these and other factors. This report also makes policy recommendations based on the findings.

Our field research took place from January to March of 2017 although the report includes cases of migrants returned in a much broader period. This study includes 10 cases of people (three to four from each country of the Northern Triangle) who fled their countries and were subsequently returned.

The first finding was a challenge to our method: the reality of those who have returned fearing for their lives is that they made themselves difficult find. The organizations and researchers involved in setting up the study agreed that, having heard seemingly endless accounts of people fleeing for their lives and then being “caught” and sent home, wanted to locate some of these people and give them an opportunity to tell their stories.

A common assumption among migration experts is that both state and private organizations have programs that attend to returning migrants’ immediate needs. While there are some programs

of this type, we found that most of these programs had little or no capacity to attend to the protection needs of people who had specifically fled under threat and were reluctant to return to their place of origin. Just as they had done before leaving their former lives behind, upon their return most of the study participants attempted to move to places away from the dangers in their home communities.

Except for the Honduran cases, all the participants we interviewed were living without significant institutional support. They were identified through personal and institutional contacts and were living without special protections from the state. In four of the cases, the interviewees were in protection programs run by private, nonprofit organizations. The research team made every effort to protect the security of the participants, and all freely participated with the knowledge that there would be no direct benefit to them for their participation. This latter condition was difficult at times for the researchers, since the circumstances in which most were living were precarious at best. But, from our interaction with the interviewees, it became clear that for most the narration of their stories was part of a process of making sense of their current reality. For their openness in sharing their frustrations, fears, and pain, we are immensely grateful. Though we do not mention them by name for their own safety, we offer our thanks.

Research Questions

This study was not designed to do legal analysis of the merits or procedures related to individual cases. We were interested in understanding the subjective experience of people who fear for their lives and to begin to understand their experience in light of the law and public policy. The cases were not chosen for their uniqueness or for the particularly clear violation of a “right” to asylum, but rather because they exemplify the complex, human reality that policy and those who apply it must consider.

The research question was formulated as the following: What are the psychosocial, security, and human rights consequences for people who migrated out of fear for their lives and persecution and then returned to their country of origin?

In the context of mass migration in these countries, we attempted to investigate the different ways in which violence and fear become push factors for displacement and flight. Migration is examined as an individual and collective strategy, and as a response to the situation of violence and crime in the absence of the capacity or political will of states to guarantee their protection. The report also investigates the different ways that the violence and the fear experienced by victims push and shape the process of return and integration. The case studies offer a lens to analyze the effectiveness of legal systems and institutional programs designed to protect migrants.

Research Method

The field research carried out as the basis for this report used qualitative methodology. The study sought to reconstruct the experience of migrants and thus access information to understand the dynamics that occur at different stages, from the factors that trigger the decision to migrate, through flight, return, and settlement in the country of origin. We consider the subjective experience and participation of migrants to be a necessary and under-documented component for constructing sound public policy with a human rights focus.

Each of the case studies included a semi-structured interview with a returnee who migrated from fear for his or her life and safety. These personal accounts were complemented by interviews with

government officials and specialists who contribute a broader understanding of the cases studied. These interviews also served to gather information on the legal and institutional protection frameworks and systems and how they protect or fail to protect forced return migrants.

The following criteria were used to select cases: (1) irregular migrants who fled their home countries because of violence or threats and who sought some form of protection (shelter, asylum, special relief programs, or immigration amnesty) in countries of transit or destination; and (2) who had been forcibly returned to their home countries.

Scope and Difficulties

The scope of the research was limited to the subjective experiences of the participants within a contextualized view of the current country conditions and capacity of state institutions. The study did not attempt to verify the testimonies of the participants through independent means.

Because the research question required contact with persons who were — to one degree or another — seeking to hide themselves from threats and were not able to access protection from the state, there was an inherent challenge to the researchers to identify and meet with these people. In Guatemala and El Salvador especially, we did not have contact with organizations involved in the protection or housing of returned migrants. Many of the contacts were personal connections or came through other work spaces in which we could ask for contacts with sufficient trust that the participants were willing to speak with us. This research approach sought to protect and to avoid the revictimization of the participants. All participants agreed to be interviewed without compensation or other direct benefit to themselves. In several cases, interviewees expressed positive feelings about having a chance to tell their stories, even though their participation did not offer any immediate opportunity to diminish their risk or alleviate their fear.

Historical Background

In the 1980s, Salvadoran refugees were “encamped” by the thousands in Mesa Grande, La Virtud, and Colomoncagua, Honduras, having escaped the extreme violence of civil war. Guatemalans, mostly indigenous people, had also fled the brutal repression in their country and settled into camps across the border in Mexico. In these places, like many around the world, a sea of tents and the word “camp” made it clear that these people were refugees.

Many Salvadorans and Guatemalans sought to stabilize their situations outside the borders of these camps and looked towards the United States for asylum. To them, “political” asylum meant safety from the brutal human rights violations and overwhelming fear for their lives in their countries of origin. Their stories of rape, massacres, disappearances, and torture contradicted the narrative of democratically elected governments staving off communists. The US government then, as now, framed the narrative, calling refugees “economic migrants,” and actively discouraged them from seeking and pursuing asylum. There were massive arrests, deplorable conditions in detention centers, and the lack of legal counsel or information regarding the rights of refugees. These conditions resulted in numerous “voluntary” returns to countries that threatened asylum seekers’ lives and freedom, and that violated the core principle of refugee protection, *non-refoulement*.

But the stories continued to be told in churches and grassroots rallies, to asylum lawyers, and in solidarity organizations. The sanctuary movement was born. In 1991, a settlement in the *American Baptist Church v. Thornburg* case established that thousands of Guatemalan and Salvadoran asylum seekers would be given protection, albeit temporary. They were authorized to work, given stays from deportation and had their cases reopened. There was, at that point, a legal recognition that the de facto policy of "no asylum" was politically motivated and in conflict with fundamental principles of refugee law.

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A quarter of a century later, thousands of children and families have fled Guatemala and El Salvador, as well as Honduras. Years after civil wars have ended and democratic — or at least formally democratic — governments have been elected, the Northern Triangle countries of Central America are still generating the brutal forms of violence that push families to flee from their homes and to face extreme hardship in their search of safety and some measure of peace.

On the US side of the story, we might still tend to look for the camps where these displaced refugees have set up a temporary life. But, there are no camps. Flight from gang violence and organized crime is individualized, isolated, and invisible unless the bigger picture is considered. Increased asylum requests in the United States are partial indicators of the depth and breadth of the problem. Effective migration interdiction enforcement in Mexico, fully backed by the United States, also contributes to the reduction of Central American refugees at the US border and to the US migration narrative that US policies of deterrence are working.

Given the US history of resistance to recognizing the asylum claims of Central Americans, it is not surprising that, faced with increased asylum requests, the US government has implemented concrete measures to dissuade and reduce the flow of refugees across its southern border. The experiences of asylum seekers tell us how the victims of violence and persecution experience and understand these measures and the actual effect of their implementation.

Understanding the Nature of Fear in the Northern Triangle of Central America

Current Context

Since 2012, there have been high levels of migration from the countries of the NTCA to the United States and elsewhere, specifically unaccompanied minors and families. US Immigration and Customs Enforcement (ICE) reports that in fiscal year (FY) 2014, migration from Central American countries increased by 68 percent over the previous year (DHS 2014).

According to Border Patrol sources, it is estimated that between 2013 and 2014, about 50,000 migrant children were detained on the border between Mexico and the US: an increase of 92 percent. A notable intensification happened in 2014, followed by a slight decrease in 2015, and

another major increase in 2016. These patterns are reflected in the numbers of arrests of migrants from the region registered by the US Department of Homeland Security (DHS), including massive numbers of underage migrants (DHS 2016).

On the other hand, there was also an increase in deportations of Central Americans beginning in 2012, not only from the United States, but also from Mexico. In fact, from 2014 to 2015, Mexico surpassed the United States in the number of deportations of El Salvadorans, Hondurans, and Guatemalans. The focus of deportation has moved further south from the Mexico-US border.

Although several reasons for emigration are reported, recent patterns highlight violence and insecurity as among the main reasons.[1] Migrants face serious dangers on the migratory route and often enormous challenges to rebuilding their lives when they arrive at their destination. They are exposed not only to the exploitation and abuses of actors that make irregular migration a lucrative business, but also to violations of their rights by agents of the Mexican state. There are significant shortcomings in the protection systems of the governments of the NTCA and Mexico for Central Americans, as well as for other asylum seekers in transit. For example, there is lack of coordination among institutions, limitations of financing and coverage of programs, lack of recognition of internal displacement, and the political will to recognize the humanitarian consequence of violence and build assistance programs for victims based on appropriate public policy.

There is still no agreement among experts on the extent and magnitude of migration motivated by violence. While some governments in the region are trying to downplay its importance, it has become an ever-increasing factor in internal displacement in the region. Cristosal and Civil Society Working Group on Forced Displacement due to Generalized Violence (CS Working Group) documented 193 cases involving 699 individuals displaced by violence in 2016 in El Salvador (CS Working Group 2017).

For some time now, the NTCA countries have been implementing, at least in a pilot phase, projects and programs for labor, economic, and educational reintegration, such as the "Con Chamba Se Puede" program implemented by the Honduran government, or labor reintegration programs in El Salvador and Guatemala that grant seed money and training with the intention of reducing repeated attempts at irregular migration. In cases in which violence is a trigger for migration, return to the same community without any significant changes in levels of security and violence and in the absence of a protection system, poses a high risk of revictimization and displacement.

Conceptual Framework

Traditionally, the study of the phenomenon of international migration has focused on two areas: (1) the causes that motivate the individuals to migrate; and (2) the economic, social, cultural and political impacts that the migratory flows provoke in the societies of migrant origin, transit, and destination. As noted, poverty and low economic growth have been almost exclusively framed as the great triggers and drivers of massive migratory flows from Central America. While they are significant, and clearly impact the capacity of individuals to protect themselves, they do not exclude the possibility that the person involved may need international protection. The 1951

1 A recent report by Doctors Without Borders stated, for example, "Of those interviewed, almost 40 percent (39.2%) mentioned direct attacks or threats to themselves or their families, extortion or gang-forced recruitment as the main reason for fleeing their countries" (Medecins Sans Frontieres 2017).

refugee standard provides that fear of persecution must be on account of one of the protected grounds, but need not be the only or primary cause of migration. Many of the migrants seen as “economic” or “family reunification” migrants may also have fled for their lives and have legitimate protection needs.

This one-dimensional explanation of Central American migration to the United States in the current crisis does not stand the test of experience any more than it did during the 1980s. During the civil war period, military conflicts and the political persecution that these countries experienced in different degrees provoked strong demographic movements both internally and internationally. This trigger did not happen in isolation of the economic deprivation of most victims of persecution. Their options, in very significant ways, were limited by their material resources. The generalized economic difficulties, chaotic political environments, and fragile social cohesion contributed to the continuing migration post-civil conflicts. A growing trend of transnational Central American families and communities has become a cultural reality.

A growing trend of transnational Central American families and communities has become a cultural reality.

Recent research on these trends has not done much to explain the complex relationship of violence, economics, and family in decisions to leave home and seek refuge in the United States. This study is a first attempt to look at the re-victimization that migrants face on returning to the communities that prompted their flight.

It is not only a matter of analyzing violence as a factor of international migration, but also about the characteristics of forced return, the gap between legal and institutional protection frameworks, and the situation of returnees whose refugee status has not been recognized.

Defining Well-Founded Fear

The “well-founded fear of persecution” element of the refugee definition must be understood in both the objective and subjective dimensions. Objectively, few would dispute the high level of serious crime in the NTCA and specific data, though not always as reliable or consistent as researchers might desire, does establish the pervasive nature of gang-related crime, as well as hate crimes and “common” crime that disproportionately affect vulnerable populations. Expanding the international definitions to include “generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order” was the goal of the Cartagena Declaration on Refugees.

The Cartagena Declaration was responsive to the civil war era and the internal conflict and political upheaval that were divergent from traditional interstate conflict and previous refugee situations. Cartagena is a regional standard on the 1951 definition adapted to the complexities of conflict and the displacement patterns in Latin American countries. The United States, however, is not party to Cartagena and, at a global level, the debate continues about how to define refugees in nonconventional contexts. All of the persons interviewed met the standard for protection set forth in the Cartagena Declaration and, in our opinion, deserved protection from the United States, as well.

Fear is a subjective matter and therefore difficult to discredit on the one hand, and difficult to prove on the other. Most people will experience some level of fear in a situation of generalized violence. Yet, we found that it was ***not*** the fear of "generalized violence" that causes people to flee, but rather specific acts of violence within a context of generalized violence that increased the fear. The increase in the level of fear of staying, generated by these specific acts, is what finally motivated the decision to leave.

The study focused much of its attention on understanding the subjective dimension of fear. Most of the interviewees had been victims of gang violence. Gang studies are limited, but the most widely understood "facts" regarding gangs include the understanding that a) they are highly organized and communicate throughout the region, b) they carry out the threats they make, and c) law enforcement is unable or unwilling to stop their actions. It is also important to understand the role that impunity plays in augmenting that fear because there is little to no confidence in law enforcement's ability to protect victims from gangs or hate crimes.

According to the United Nations High Commissioner for Refugees (UNHCR), "An evaluation of the *subjective element* is inseparable from an assessment of the personality of the applicant, since psychological reactions of different individuals may not be the same in identical conditions . . . One person may make an impulsive decision to escape; another may carefully plan his departure" (UNHCR 2011, 11). While the study did not attempt to apply professional psychological evaluation of the participants' personalities, their state of mind and the effects of trauma on their current situation were considered. The case studies highlight the subjective elements in relation to certain personality-related factors such as knowledge of and willingness to defend their own rights. Age, socioeconomic status, prior history with authorities, gender expression, and familial understanding of risk were all subjective elements that contributed to fear.

Without exception, the participants in the study had stories that fulfilled the condition of both objective and subjective fear. Living in circumstances like those they had previously fled, most live in a state of fear that restricts the exercise of their movement and other fundamental rights. Again, socioeconomic status, social and family networks, and various vulnerabilities affect both the subjective and objective levels of fear that the interviewees continue to experience.

No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.[2]

Protection Framework

Protection is defined as "*all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. International Human Rights Law (IHRL), International Humanitarian Law, International Refugee law (IRL))*" (IASC 2013).

This definition of protection, national or international, should be understood as encompassing all activities which ensure the lives and personal freedoms of affected persons. The case studies presented in this study demonstrate the limited access that persons fleeing violence in the NTCA have to protection in countries of origin, transit, and asylum. Particularly, this study is concerned with the degree to which persons who fled their country because of persecution have access to protection upon return by deportation or "voluntary return."

2 Convention relating to the Status of Refugees art. 33, July 28, 1951, 189 U.N.T.S. 150.

A normal refugee return scenario — that is when a refugee voluntarily decides to return to his or her country of origin — implies the restoration of national protection (i.e., the end of the need for international protection) and, through the reintegration process, the disappearance of "*differences in legal rights and duties between returnees and their compatriots and the equal access of returnees to services, productive assets and opportunities*" (IASC 2013). The culmination of reintegration is the universal enjoyment of full political, civil, economic, social, and cultural rights.

While the return scenarios posed in the case studies cannot be understood as "completely voluntary," the concept of restoration of national protection and the criteria for "reintegration" is a useful framework to assess the outcomes of deportation/return.

SUMMARY OF FINDINGS

A Multitude of Factors

The primary criteria that was used to select participants in this study was that a "well-founded fear" related to persecution was one of the motivating factors for migration.[3] There were no cases in which the interviewee expressed prior plans to migrate, though many had family members living outside of their home countries, mostly in the United States. Most expressed resistance and feelings of "last resort" in choosing to leave behind jobs, homes, family, friends, and culture in order to seek protection.

What we discovered was that fear had context—a long list of factors—that contributed to the decision to seek refuge outside of their countries of origin. Every migrant's story is unique and has characteristics and context that contribute to their decisions. But, the participants' stories also have several factors in common. These cases parallel findings from other research[4] showing that migration is related to a complex interaction of push and pull factors: it is unlikely that there is a single reason why a person decides to migrate.

The Salvadoran government considers the first reason for the uprooting of migrants to be economic, but as explained in Amnesty International's (2016) recent study:

For example, a person who has a business, pays extortion to gang members and must sell his business, decides to migrate because he no longer has an income but he does have family in the US who can and will find him a job. It may appear that this person migrated for "economic reasons" or even "family reunification," however it was the targeted violence that caused the move and the need to look for work elsewhere. These types of cases cannot be understood unless the various factors influencing migration are considered. In many cases, the threat of violence limits choice and increases vulnerability, "tilting the balance" in favor of migration.[5]

3 The study did not independently establish legal facts in these cases.

4 See, for example, Gaborit et al. (2016), Amnesty International (2016), and others listed in the references.

5 This paragraph was translated to English from the Spanish version of the report.

The interviewees gave extensive context to the situation or act that served as the trigger for their decision to leave. We observed that many were victims or had family members who were victims of violent crime prior to seeking refuge outside of their home countries. Most had deep distrust of authorities coupled with a general sense of helplessness — augmented by factors such as age, gender or economic adversity — which reduced their functional ability to reclaim or demand respect for their rights.

Understanding Central American Family Dynamics

According to data from NTCA immigration authorities, "family reunification" is one of the primary motivating factors for irregular migration out of the NTCA to the United States. Often this explanation is posited as if it were separate from or contradictory to fear of persecution. However, family reunification is, in fact, a survival strategy for many victims of persecution, given the cultural dynamics of Central American families, together with the lack of trust in the state. In all of the interviews, only one person expressed that they fled to the United States specifically because they expected protection from the state. It is clear from their experiences that the rest needed protection, but most had only a vague sense that if they reached the United States, they and their families would be safe. Just as in their countries of origin, their expectations and understanding of the responsibility of the state vis-à-vis their rights were quite limited, while their expectations of familial responsibility were almost absolute. Their lack of understanding of the law and the limited ability of their families to protect them made them vulnerable to making decisions without full knowledge of their rights.

Just as in their countries of origin, their expectations and understanding of the responsibility of the state vis-à-vis their rights were quite limited, while their expectations of familial responsibility were almost absolute.

There are two types of family networks that influence the migration experience: the family network in the country of origin and the network in the country of destination. These can work simultaneously to support the person in need and to influence their subjective perception of risk. However, there are certain roles that only one network or another can fulfill depending on where the person is threatened.

The first family network that has a direct impact on the life of a person who has been threatened or attacked and who has the need to flee is the network that the individual has in his or her country of origin. States of NTCA countries do not have the mechanisms or the financial or human resources to protect victims of violence, which means that the protection of such persons is something that families themselves must assume.

We observed from our interviews that when a person has a support network, either in the country of origin or in the country of destination, there is a collective response. Cultural norms grant both the right of family members as victims to ask for help and the responsibility (as family) to respond to the situation of persons at risk. In many cases, the family contributes through accompaniment during the trip, contacts, payment of the coyote (smuggler), and reception of the survivor in

the United States.[6] It is there — along with networks of neighbors or fellow nationals — that the family assumes the function of protection and vigilance. The family network comes to meet certain functions that typically fall on the state, and in some cases family members "pay the price" for providing protection and support, putting themselves at risk of threats and violence.

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Although under international norms family members could themselves have been considered refugees in many of the cases interviewed,[7] in most, only the first victim has been viewed as the asylum seeker or in need of immediate protection outside of their home communities. Again, familial assessment of risk and resources influence the decision about who leaves and who stays. Several of the interviewees recounted decisions made by other family members that directly impacted their migration experience.

To understand the importance of family networks, it is necessary to consider the age, gender, and all circumstances of the person threatened.[8] When children or adolescents are at risk, decisions are usually made by the mother, the father, or the responsible adult in the home. However, adolescents sometimes make decisions at odds with the wishes of their parents. Carlos, a 17-year-old Salvadoran teenager, had received a death threat from gangs for not collaborating with them. Faced with this threat, Carlos decided to migrate to the United States along with three friends. Of the four who traveled, three were minors. Carlos's mother opposed his desire to migrate. However, when he was sent to the house of his father's relatives, Carlos had more freedom to leave without the consent of his mother. When he later learned of the murder of his brother — an action he understood to have been perpetrated because the gang could not reach him — his sense of guilt and impotence were exponentially increased because he had not followed his mother's wishes.

One-half of the persons interviewed had been displaced internally before deciding to leave the country. Once again, it was the family that provided shelter and support for the internally displaced, and not the state. Upon their return, many of the interviewees depended upon family networks so as to not return to the community they had fled.

6 Presumably the same would be true in other countries where a victim might have a family member. However, for reasons of geography as well as the sheer number of its Central Americans residents, the United States is often the first and only destination considered.

7 According to UNHCR (2011, 36), "If the head of a family meets the criteria of the definition, his dependents are normally granted refugee status according to the principle of family unity . . . As to which family members may benefit from the principle of family unity, the minimum requirement is the inclusion of the spouse and minor children. In practice, other dependents, such as aged parents of refugees, are normally considered if they are living in the same household. On the other hand, if the head of the family is not a refugee, there is nothing to prevent any one of his dependents, if they can invoke reasons on their own account, from applying for recognition as refugees under the 1951 Convention or the 1967 Protocol. In other words, the principle of family unity operates in favor of dependents, and not against them."

8 These patterns were found in the case studies as well as in the cases of internal displacement documented by the SC Working Group. Other recent research on trends in migration of children and adolescents show similar patterns, see references.

Not everyone whom we interviewed went to the authorities before deciding to leave their homes and their countries. In fact, most expressed that part of their fear was directly linked to the possible consequences of reporting the crimes committed against them. Many gave examples of both logistical difficulties — such as having to return to the area they were fleeing to do paperwork related to their cases — as well as reprisals due to infiltration and corruption in the criminal justice system. Even the lives of persons in victim/witness protection were at risk due to the failures of those systems.

As a result of degrading rhetoric used against them by elected leaders and others, all the interviewees expressed a belief that they were doing something illegal when traveling irregularly and in conditions of vulnerability. They fled from the authorities and looked for routes that were not very well traveled. They traveled by night, hiding in dangerous conditions. Many, including a young pregnant teenager, reported going for days without food and sleeping in unhygienic conditions. The use of coyotes, while considered a safe bet by some, presented their own dangers, including sexual harassment, assault, and dangers related to their drug consumption. No one expressed a full understanding of their internationally recognized rights as such or awareness about options for humanitarian protection, specifically those rights found in articles 13 to 15 of the Universal Declaration of Human Rights.

Criminalization of Asylum Seekers

Fundamental to the rights of migrants and particularly pertinent to the rights of asylum seekers is the prohibition of states to criminalize unauthorized entry into their territories. Detention in prison-like facilities, the use of handcuffs and even shackles, and law enforcement tactics and strategies of the US Border Patrol contribute to a perception of the irregular migrant as a criminal. The presence of certain migrant populations within the United States continues to be framed in national security and criminal justice terms. The labeling of migrants as "illegals" is meant to convey their criminality. This is true to such a degree that digital media comment sections are often filled with the "argument" that undocumented migrants have committed a crime and "should be punished for it." And, regardless of studies showing the contrary (American Immigration Council 2015), many policies continue to be made based on the assumption that undocumented immigrants are engaged in criminal activity.

This criminalization of the undocumented immigrant — through politically biased labels like "illegal" and a range of deterrence and enforcement strategies — is internalized by asylum seekers.

This criminalization of the undocumented immigrant — through politically biased labels like "illegal" and a range of deterrence and enforcement strategies — is internalized by asylum seekers. Study participants reported several factors and circumstances that led migrants to feel "like criminals" or to believe and act as if they had few, if any rights. Many of the interviewees who had no previous participation in any illicit activities were clearly impacted by their escape journey in which they witnessed drug consumption, paying of bribes to Mexican authorities, and sexual assault carried out by coyotes. Their narratives conveyed a clear sense of having to elude or escape detection of authorities in Mexico and, in some cases, a fear that they could not go to the authorities in the United States because they could not "prove" their cases.

The description the participants gave of detention facilities in the United States correspond with those given in any number of newspaper articles[9] and studies — of prison-like conditions in which undocumented migrants are held with little regard for their rights or needs. Though detention cannot be used under international law to deter or dissuade people from seeking asylum, the testimony of our participants showed that detention had a very negative impact on their decision-making regarding whether to seek or accept offers of asylum (including in Mexico), as did the labeling of undocumented migrants as "illegals."

Impacts of Detention

During FY 2016, DHS agents apprehended 530,250 undocumented immigrants. During that same period, ICE imprisoned 352,882 people in US detention facilities, and 137,614 families and unaccompanied minors came from Central America with the hope of escaping the violence (DHS 2016).

> Despite international standards that restrict the use of detention, the United States continues to use detention under the pretext of security, while putting the mental and physical health of detainees at risk.

Study participants reported that in detention they were treated in a way that makes them feel like criminals. They reported that each time they were transferred from one facility to another, they were handcuffed at the hands, waist, and feet. They traveled on buses with bars and were fearful of accidents that would leave them unable to escape the bus. They were kept in holding cells under conditions that some of them described as inhumane and were treated with hostility inside detention centers. Some were held in common prisons. Many spent several days in the "*hieleras*," or cold Border Patrol holding cells so infamous among Central Americans that the nickname is widely used. They witnessed other people suffering from the cold of those rooms, the inadequate food, and the hostility of the agents who insisted on speaking to them in English even though they did not understand that language.

One Guatemalan woman who had turned herself in to seek asylum, reported being treated as a criminal. The authorities told her they were treating her this way for their safety. "Whose safety?" she asked. "How are we supposed to escape a bus with bars like a prison?"

Despite international standards that restrict the use of detention, the United States continues to use detention under the pretext of security, while putting the mental and physical health of detainees at risk. Detainees came to think of themselves as criminal. International law provides that detention is never to be used as a deterrent to seeking asylum (Dominguez, Lee, and Leiserson 2016). Yet, some former detainees insisted that the detention experience dissuaded them from seeking protection in the United States.

Petitioning for Asylum (or Not)

Our study found several cases in which the interviewee explained that he or she did not actually ask for asylum. While at first glance this would appear to exclude their cases from further study,

9 See Arnold and Hallett (2017).

we were particularly interested in understanding why, given their reasons for leaving, they did not ask for — or in some cases accept — asylum.

First, people stopped by Customs and Border Protection (CBP) agents or their equivalent in Mexico who do not have legally authorized papers to enter the country must nonetheless be allowed to pursue an asylum claim if they express a fear of returning to their country or request asylum. Because border agents should not be responsible for determining if applicants satisfy the legal requirements for recognition of refugee status, those people expressing fear of return should then be passed on to specially trained officers from US Citizenship and Immigration Service (USCIS), who determine the credibility of the claim. If it is deemed credible, then the asylum seeker has the right to be heard in removal proceedings before an immigration judge.

Some of the reasons that our interviewees stated for not asking for asylum include a series of beliefs that did not correspond to what the process "should" have determined. For example, some believed that lack of evidence at the time of apprehension meant they had no case, or that they would have to present legally admissible evidence at the time of their detention. Others simply did not understand their rights. And some, including sex workers and former gang members, had serious doubts about whether the United States would further persecute them rather than protect them.

Jorge, for example, had become a member of gang while growing up in Los Angeles. He served time and was deported to El Salvador in 2000. He managed to put his life together in a country he barely knew, had a family, and found a steady job. In 2014, the gang that he had known in Los Angeles came looking for him but he did not agree to reincorporate into their criminal structure. When they came to kill him at his place of work, Jorge barely escaped with his life. He spent three months in hiding before he left for the United States as a last resort because the gang was present in all the places he could have lived in El Salvador. But when he finally was apprehended, he was told—or he understood—that he would have to go to prison for three years for having entered illegally. His prison record and reasons for fleeing became his reasons for not seeking asylum: he believed he would serve more time if they knew why the gang had threatened him. His lawyer fought his deportation rather than requesting asylum and Jorge considered himself lucky not to have spent more time in prison.

Leslie believed she had the evidence needed to secure asylum. A Guatemalan victim of gang extortion, she arrived in the United States and requested asylum. Unfortunately, she was told her fear was not "credible"

Central Americans from Northern Triangle states have extensive family connections in the United States. The cultural emphasis on family unity includes a vision of family responsibility and rights, as mentioned previously. This had an influence on whether study participants considered Mexico an option for asylum, even when directly offered. But, perhaps more significantly, it was the trauma and violence they experienced while transiting through Mexico that convinced these refugees that Mexico was not the haven they were seeking.

Carlos, a gay youth from El Salvador, had not only witnessed the murder of his friends and fellow travelers, but was unexpectedly and unceremoniously given the news that his brother had been murdered "in place" of him in El Salvador. As a minor, with no one close to him to consult with, and with fear not just in El Salvador but now in Mexico as well, the offer of asylum in an unknown and dangerous country held little appeal.

Whether someone "volunteers" to return to a country where they have claimed their lives are at risk is a complex determination. However, among our participants who, in legal terms, "voluntarily" returned, there were many factors that cast doubt on the voluntary nature of their actions. Two teenage girls from El Salvador, one with a baby born while she was in the process of migrating to the United States, were told by their social worker that all three could be adopted in the United States, but that they wouldn't necessarily be adopted together. Their contact by phone with their mother in another detention center was enough to make them come to the decision that none wanted to be separated from the family members. They further understood that if they "asked for forgiveness" from the judge, they could try to enter again legally in a year. This, they proceeded to do, and returned "voluntarily" to a situation of enormous risk in El Salvador.

Legal Representation

In some cases, the asylum seekers came to understand or were directly told that they could seek asylum. However, lack of legal representation made this possibility very remote. In one case, for example, Brandon was told he could obtain legal counsel if he had $5,000, a sum well beyond his means even if he had not paid for a coyote to bring him through Mexico. He spent two months in a men's prison in Los Angeles before finally being taken to a detention center. The transwomen interviewed reported being detained in men's prisons and being fearful of sexual assault. Luis reported inappropriate sexual advances on the part of detention authorities who understood he was gay. The interviewees believed that these kinds of human rights violations would have been reduced or eliminated had they had legal representation and access to counsel.

Living in Fear: Everyday Concessions to Risk

Given their fear of persecution, one might expect that those who have been forced to return have met with immediate and dire consequences. The reality is more mundane, but just as concerning. It would be easy to dismiss these cases of survivors as "proof" that they did not "need" asylum. However, the analysis must go deeper. The responsibility of the state does not begin with the country of destination, but rather the country of origin. The participants were notably less effusive about their current state of risk than they were in telling the story of the event that precipitated their journey. The details of their lives before and after the trigger incidents were sparser, less dramatic. On an emotional level, this is to be expected as the everyday concessions they make to living with risk must be managed without succumbing to hopelessness. Yet, they were clear that they continued to make decisions regularly about work, housing, recreation, and other daily activities based on the fear that they were not protected from further persecution.

The failure of the states of the Northern Triangle to prevent violence, protect victims, and assist and protect imperiled returnees is apparent in the stories of victims. The very conditions that give rise to generalized (criminal) violence can be understood as a form of violence in itself. The systematic violations of rights — to education, work, health, cultural, social and political participation, legal recourse, state violence, and violations of due process and access to justice — have laid the foundation for a vast array of criminal violence in which a myriad of actors benefit and participate. Without addressing these issues, it is difficult to imagine more than a case by case "solution" for the victims of that violence.

Equal Access of Returnees to Services, Productive Assets, and Opportunities

Under international protection standards, the return alone does not meet the criteria of a durable solution. In emblematic cases, there is a profound sense of the precariousness of the situation expressed in self-confinement hiding, the desire to reattempt emigration, or to internal displacement. Even in cases such as that of transgender persons or ex-gang members who expressed little desire to attempt to change their current situation, their decisions were based on an assessment of the impossibility of accessing protection rather than a lack of a need for it.

After the second deportation, Rolando, for example, returned to his mother's house once more. His mother claims that gang members have not harassed him any further, but she kept him locked up for a few months before letting him out. Or the case of Silvia, who said, "I practically don't ever leave the house. I have gone to look for work, I can't find anything and sometimes I am afraid to go out looking . . . I'm afraid they'll recognize me."

Carlos and his mother decided to move to a neighborhood nearby where there was less crime. Carlos finished his high school by correspondence and started expressing his gender identity openly. Currently, Carlos is a transwoman named Natalie, and is an activist at a nongovernmental organization (NGO).

Ongoing Risk

Fear of persecution can last for years, and threats evolve as criminal actors serve prison sentences and are released, gangs shift territories and move further away and then back again. Persons internally displaced rely on family networks for years, but lose the stability of owning a home or continuing their studies. Raquel and her daughters, for example, were no longer afraid of the gang member who had left the older daughter pregnant, as he had been killed. But members of the same gang continued to threaten them and they were forced to go into hiding once again after being returned, leaving the remainder of the family vulnerable to further threats and extortion.

Not only is he in poor health, but Luis is also deathly afraid of the threats of the gang member's wife. It has been five years since the first threat, and in three years, the gang members who first threatened him will be released. This puts Luis at risk. Luis's daily life has changed dramatically since he has been threatened. His mother and aunt lamented that he will never be able to hold a regular job now, as he cannot hire himself out as a fieldworker without putting himself at risk. They were sure they would be supporting him economically even though their means to do so were very limited. Rather than having found protection with his family, he had resigned himself to an indefinite state of confinement.

Axel, his sister, and his nephew had to return to their place of residence, precisely where the acts of violence had occurred. As a strategy to confront his situation, Axel's family entered the family reintegration program of Casa Alianza de Honduras — a private organization — as a preventive measure. They remain confined to the house, trying not to expose themselves much, because the threats in their neighborhood continue. "Can you believe I even stopped going to church, because the gang members who threaten us live nearby, so I'm scared and I'd better not leave the house."

The Barrio 18 gang members who raped Jennifer have now been killed or are currently in jail. However, their girlfriends who encouraged the rape still live in the sector, so the threat is still standing for Jennifer and her family.

The cases studies present a pattern in all three NTCA countries in which deportees or returnees to the country of origin were unable to avail themselves fully of national protection. In all cases, key rights like the freedom of movement, access to justice and education, and the right to work were truncated because of continued fear and persecution.

POLICY RECOMMENDATIONS

Given the findings from our interviews, we offer the following policy recommendations to address the protection gaps for persons fleeing violence in the Northern Triangle. Although these recommendations largely track those already offered during this debate, they have either not been adopted by the United States and Mexico or have not been implemented. We also note that deterrence strategies and messaging continue to define the US government's response to the crisis of violence in the Northern Triangle states, including threatening to separate mothers from their children, which effectively denies refugees the right to apply for international protection.

Central Americans who arrive at the US border should be provided with a know-your-rights briefing by non-profit legal expertsand access to legal representation prior to their credible fear interview. As the interviews confirmed, Central Americans from the Northern Triangle states are unfamiliar with the asylum process when they arrive at the US border and are not fully cognizant of their rights. As a result, they can be susceptible to intimidation and may not be fully informed of the process of asking for asylum, leaving them vulnerable to deportation without full due process. Moreover, they are traumatized and may not be fully able to comprehend the process. *Refoulement* does not require that a person is returned to actual harm, but to an environment in which his or her basic liberties are restricted to avoid that harm.

Alternatives to detention should be offered to persons found to have a credible fear of return. Those who pass a credible fear interview should be released to local community groups that can provide them with services, including mental health care, and can help them to obtain legal representation. Detention blocks them from obtaining this assistance. Supervised release, in turn, prevents them from suffering abuse at the hands of detention officials, a problem detailed in some of the testimonies. Detention should only be used if a person is a flight risk or (in rare cases) a threat to the community, with justification from DHS as to why a person is being held and why other, less burdensome options cannot reasonably satisfy these goals.

Deterrence policies should be replaced with protection programs in countries of origin, transit, and asylum. Successive administrations have deployed deterrence policies that inhibit refugees' ability to reach safety and protection. The United States and Mexico, along with other countries in the region, should expand *protection* programs, such as the Central American Minors (CAM) Program and in-country processing through Costa Rica. Mexico should expand its capacity to accept asylum seekers and limit its use of detention, although many interviewees experienced persecution in Mexico and expressed fear of staying in Mexico. Protection programs should include alternatives to asylum, such as humanitarian visas for persons who are not determined to be eligible for refugee protection but have protection needs. Expansion of responsibility-sharing programs like the Protection Transfer Agreement (PTA) to other countries of resettlement would offer further alternatives for those in need of protection. The United States, Mexico, and other Central American governments, pursuant to the San Jose Action Statement, should establish a comprehensive refugee response framework in the region.

A comprehensive return program should be created which helps deportees and other returnees to find employment and receive protection. The United States and Mexico, in conjunction with nations of the Northern Triangle, should launch a safe return program that helps those deported to receive protection and access to justice and integrated social services, including employment, housing, education, and health services. Current programs are insufficient to ensure that those returned are safe and have a future in their home countries.

The United States and other nations should assist nations of the Northern Triangle to address the root causes of flight. Funding should be provided to assist with evidence-based violence prevention, strong and accessible protection programs which include access to justice, and resettlement programs. Nongovernmental organizations should be funded to test these programs and, if successful, to offer evidence for government expansion of the programs. A re-designation and extension of Temporary Protected Status (TPS) to El Salvador and Honduras and the designation of Guatemala would help stabilize and increase remittances to the area.

Nations of origin, transit, and destination should adopt a rights-based, comprehensive policy of protection. Central American countries, Mexico, and the United States should approach persons fleeing from violence in the Northern Triangle as asylum seekers and not as criminals. Anti-immigrant rhetoric and fear tactics effectively deny persons their international right to protection.

Vulnerable refugees, like unaccompanied alien minors and LGBTQ persons, should be given special consideration and protection that corresponds to their needs, including protection from abuse and assault, access to due process, and placement in the least restrictive and safest situations.

USCIS should adopt the 2016 UNHCR guidance on assessing the international protection needs of asylum seekers from El Salvador for eligibility determination interviews of Northern Triangle asylum claims. The adoption of the 2016 UNHCR guidance will strengthen adherence to the 1951 refugee convention standards in refugee determination processes stemming from the situation of nonconventional violence and the diversity of violent actors generating displacement in NTCA.

Stories of Fear: Ten Case Studies of Failed Attempts to Seek Protection in the United States

GUATEMALA

Andrea

Current age: 27 years

Age at the time of migration: 26 years

Andrea is a Guatemalan from a village located on the border with Mexico. At the time of her migration, Andrea was 26 years old, lived with her mother and father, her younger sister, and her nephew. Andrea's older sister lives in the United States and another sister also had lived there for some time.

Extortion and Death Threats

Andrea comes from a family of merchants and her sister, who lives in the United States, proposed to help Andrea by opening a business for her to run. Three months after starting the business, Andrea received a phone call from someone who told her that they had been hired to kill her, but that after checking around, they realized she was a good person and did not want to kill her. They said that to spare her life, she would have to pay 50,000 Guatemalan quetzals (GTQ) (6,700 USD) and they would even tell her who paid to kill her. Andrea replied that she did not have that kind of money and that she could not afford to make the payment. After several calls to negotiate payments with the extortionists, Andrea agreed to deliver 5,000 GTQ (680 USD) as an advance and showed her willingness to pay the required amount little by little. The extortionists threatened to kill her if she decided to go to the authorities.

> *"They told me 'You know, have you heard of the people that are found cut up into pieces here?' 'Yes,' I answered. 'Well, we're the ones who have done that to them. If you don't want this to happen to someone in your family, you'll get us that money.' They said, 'We know you have family in the States, and that you work over there [at the store].' And because of their threats, they knew where my family was, where my dad was, where my mother worked, and since they told me they could kill them, I told them, 'Fine, I'll see where I can get the money, just give me time and I'll see where I can get it.' So, they told me they would give me an hour to get it . . . I hung up and broke into a panic right there on my own."*

Andrea learned that the extortionists had already spoken to her mother as well. Together they decided to go to the police. The police gave them a protocol to follow when receiving calls. They advised her to turn the phone off and remove the SIM card. The authorities treated Andrea's complaint perfunctorily, as if it were not a real threat. They did not offer her any protection and only gave her a short-term solution:

> *"[The police] assisted me just for that moment, telling me that they were going to look after me only for that little while, and then no more."*

Following the advice of the authorities, Andrea stopped answering the extortionists' calls, but they communicated again with her mother, threatening to kill the family if Andrea did not make the payments. Andrea and her mother quickly decided to move and packed some basic things to take with them to Guatemala City where one of Andrea's older sisters lived.

Within a week of being displaced, they had to return to the village to report to the Public Prosecutor's Office (*Ministerio Público*), since it was impossible to do so at the headquarters in the capital. It was just a short round trip but they were very afraid.

They spent several months in the capital, but they did not adapt to the capital city life. Andrea's family decided to return to the village, but Andrea stayed in Guatemala City. During those months, she never received any information about the progress of her case or news about the identification of the extortionists. Despite the support provided by the police at the time, she did not receive any followup after having migrated to the capital.

Out of fear for her life, Andrea's brothers insisted that she leave the country and go to the United States and offered to pay for a coyote.

> *"Since November [2015] they had been telling me 'you're going to the States,' and I didn't want to go. I wasn't longing to go there . . . they wanted to send me over there because they didn't want me to be in danger here. They insisted all of November, December, January, February until May [2016] when I said, 'Well, I'm going. If you already have the money, I'm leaving.'"*

Andrea left with a file full of the evidence she had gathered: audio recordings of the calls in which she was extorted, copies of the reports she had filed with the police and the Public Prosecutor's office and the details of the account in which the extortionists demanded that she deposit the money.

Andrea did not recount incidents of direct violence on her journey, but she expressed that she felt unsafe due to the degree of drug consumption on the part of the coyotes. Most of the trip was by car. She faced none of the dangers that other migrants reportedly suffer. In fact, the journey took less than a month and she almost did not walk at all except for the last stretch, crossing the Rio Bravo:

> *"I do have some complaints: sometimes the people who are taking you are on drugs and don't even pay attention to what they're doing on the job, instead, more than anything, since they are awake all night and barely sleep, I don't know if that's why it is, but they party and take drugs."*

Seeking Protection

Andrea left Guatemala aware of her right to seek asylum. She carried audios and documentation that proved she was in fact a victim of extortion and that she was targeted because the criminals knew she had family in the United States. She had received advice to turn herself in at the border. But, her confidence in finding protection was shaken by the treatment she received: her detention in *hieleras*[10] for a few days discouraged her.

> "*They had told me 'you have the evidence, the filed reports, the audio they had recorded, you take everything and hand yourself in to immigration authorities, you take your case there and they'll let you go.' But it didn't work out that way . . . when you are going to turn yourself in, you cross the river and they tell you 'go along that path and you'll find Immigration. If not, then once you get to the other side they'll find you.' We crossed and there were about six or seven of us going on that day. We were looking for US Immigration and we walked around for like an hour and we couldn't find Immigration and then suddenly we spotted them and said, 'There's Immigration!' and we turned around again and went to where they were. They asked for our information and they showed us into the famous '*perreras*'*[11] *— as they are called — and they took us to the famous* hieleras*. They had me in the* hielera *for about four days."*

Upon being arrested, an officer asked Andrea if she was afraid to return to her country. Andrea reports that this is when her asylum application process began, even though it seems like she was not clear about what was happening in the process:

> *"The officer interviews you in the* hielera*, when you are detained. I was asked if I was afraid to return to my country, I said yes. Then they did the interview, they took my information, where*

10 In this context, a "*hielera*," the Spanish word for "freezer," refers to the Border Patrol holding cell with concrete floors, notorious for holding Central American migrants in overcrowded conditions during the spike in 2014.

11 In this context, a "*perrera*," the Spanish word for "kennel," refers to the Border Patrol vehicle that transports arrested migrants.

I had been caught, and then they sent me back to the hielera*. Then they got me out of there and took me to the Laredo ICE [office]. I was told that I was taken there to argue for asylum, and that, from there, they were going to send me to another detention center. It was there, at the Laredo ICE [office], that they told me that I was going to argue my case."*

After the days in the *hielera*, Andrea was transferred to the Joe Corley Detention Facility in Texas where she spent three months arguing her case.

"They interviewed me a month later. After they interviewed me, I waited another month, about 20 days or so, for them to give me an answer. Supposedly, they respond within eight days, but no, it took them almost a month; I was given the 'Not credible.' They told me, 'Your case is not credible, if you want you can appeal to the judge. Do you agree to an appeal?' I said, 'Yes, I am going to appeal to the judge.' . . . I had the interview with the judge almost 15 days later. The judge told me that my case was not credible, too. Then, I waited for them to deport me and I was there for three months, just waiting."

As she remembers her experience, Andrea is not able to explain why her case was not considered. She supposes that not having a lawyer to legally advise her when presenting evidence for her argument was decisive for the verdict.

"The truth is that I do not know what it really consists of. I had my evidence, I had the audio recordings, I had all of that. I don't know if they didn't take my case seriously because I didn't have a lawyer, because most people who have lawyers get to stay there [in the United States], and those who don't have lawyers, more than anything, they lose their case."

Even though Andrea was afraid, it was a relief to be deported. She was tired of the indifferent and even hostile treatment she received at times, of the bad food, and of feeling like they were treating her like a criminal.

Even though authorities and security officials at immigration detention centers inform them of their right to seek asylum and ask them if they are afraid to return to their country, migrants receive hostile treatment like that received by persons who have committed crimes. While distinctions between them are made based on the color of their uniforms (migrants seeking asylum are blue and those who committed crimes are orange), being transported in handcuffs and being permanently behind bars indicates that they are considered criminals in the destination country.

"What I did not like was the experience I had inside the prison, in the detention center . . . There are a lot of racist people there, too . . . They toss you from one detention center to another, that day I felt bad, I even started to cry because they handcuffed me, they put my feet in shackles and from the waist down, too. That day I started to cry and the officer who was putting those things on me asked me, 'Why are you crying?' 'Because here, you are treated as a criminal and I am not a criminal.' So he said, 'Maybe you're not a criminal, but it's for our safety.' Safety from what? We are not going to do anything. We are not criminals to be treated like this . . ."

Deportation

Andrea says that the deportation happened just like any other: they handcuffed her on the plane, treated her with hostility, and during the flight she was kept handcuffed until the plane landed.

Like most, her hands, waist, and legs were chained. Throughout the process, from detention to landing in the country, migrants are made to feel that they are criminals.

Survival Strategies upon Return

Upon her return in November 2016, Andrea was still afraid to return to her village and stayed with her sister in Guatemala City. She became involved with the *Asociación de Retornados Guatemaltecos* (Association of Returning Guatemalans, ARG) and became an activist for the organization until becoming a member of the board of directors. As a board member of this group, she assists migrants who have been forced to return, supporting them by offering to make phone calls and by providing them information. She has no plans to go back to the United States, but she also cannot return to her village because of fear for her life.

> *"It's already been over a year since I was there (the village). I even told my mom just as I landed that I wanted to go back there, but she told me not to . . . I have not been there in a year and two months. I returned to [Guatemala City] on October 12, 2016, when I was deported. It's been about four months."*

Upon returning there are many challenges to overcome. One of the most difficult is fear. Those who have other resources — family, contacts — activate the support networks that can support the migrant upon forced return because there are no state resources available. For Andrea, that support is her family.

> *"Right now, the challenge I'm facing is getting rid of that fear, I want to go to my place of origin. I tell my mom 'I do not owe anything to anyone, I do not have to hide anymore. I'm going to go, I want to go there.' But yes, with the support of my family, I have come a long way. I've gotten past all that I've been through."*

Another challenge is to find an opportunity for productive work in the absence of state workforce reintegration programs. For many, like Andrea, finding a job depends on family and other social networks.

Andrea's case shows the impossibility of reconstructing her life as it was before she was forced to migrate. However, it also illustrates her resilience *despite* having been forced to return and having no recourse to obtain protection or the restitution of rights. Her life is impacted by the fear she has to manage.

Rolando

Current age: 21 years

Age at the time of migration: 15 years

Triggering factors for migration: death threats by gangs

Rolando is a timid young man who lives with his mother and three brothers in a squatter community in Guatemala City. The place where he lives is dangerous and gang ridden. His fear was apparent as he was interviewed. He hesitated over details and expressed uncertainty about how risky it was to talk about the threat against his life. Gangs restrict the entrance and mobility

of people in his neighborhood. They won't allow cars in unless they are known and they keep a careful eye on everyone who lives there. His family lives with scarce resources and works in the informal economy sector. His mother has always been a domestic worker. In the evenings, Rolando helps his sister if she has any sewing jobs.

Mistaken Identity

In 2010, at age 15, Rolando migrated to the United States fleeing gang persecution. The area where Rolando lives is one of the most violent and with the highest gang presence in Guatemala City. Rolando was mistaken for someone who the gang members wanted to kill. He was chased while traveling by bus and had to run several blocks because the gang members were determined to kill him. Arriving at his house, his mother kept him locked up for about a month until they managed to get him into a taxi, after which he began his journey to flee to the United States. His mother, Elena, says that at that time, Rolando was 15 years old and that he himself considered that he had to leave to avoid getting into trouble. The family, however, made the decision together. His uncles in the United States paid the coyote and his aunt agreed to accompany him.

The Decision to Leave

The family's way of confronting the problem was to send Rolando to the United States. There was no previous internal migration. They never reported the issue to the police since they considered that they did not have any evidence. Therefore, they believed the only way to spare his life was to take him out of the country. The trip was planned by his aunt, who had been deported before and was going to make her way to the United States with Rolando, a minor.

The family had already faced a similarly dangerous situation before, and this influenced their sense of risk and urgency. Ten years earlier, when Rolando's sister was 15 years old, she was deceived by a girl from the neighborhood and, under threat, was kidnapped by gang members. They threatened to throw a grenade at her house if she did not go with them. His sister, despite not wanting to do so, went with them and they kept her for a whole night. In that case, Elena, Rolando's mother, did report the incident and filed a lawsuit against the young woman who was responsible. However, no actions were taken by the authorities.

Rolando was quite brief in his testimony when he narrated other points of the experience, but when it came to the actual passage, he decided to share some details.

The First Try

Hiring the coyote was no guarantee of an easy and safe transit through Mexico. In fact, the coyotes themselves implied more risk because of their drug abuse. However, the risk is greater for lone women travelers who are often victims of sexual violence.

> *"With coyotes, you don't always feel safe. There were times when they wanted to abuse women, they did drugs. They took us to a house where there were more people who were going to migrate to the United States. They gave us food, they gave us a place to sleep."*

Rolando did not describe the Mexican authorities as a danger. He mentioned that when they met with federal agents, all they had to do was pay them to be allowed to continue their journey. The passage lasted two weeks and during that period, they were robbed at gunpoint. He observed that those who had no money were kidnapped by drug traffickers.

> *"The trip lasted 15 days. We were assaulted by a group of drug traffickers. We were passing by and they came out in a group. Armed and hooded, they took our things and our money; those who had no money or valuable things were taken. My aunt had enough money, we gave it to them and they let us go."*

However, one of the most difficult stretches for Rolando was crossing the desert. It took them twice as long as they were told was typical. They had little food and were afraid because planes were flying above them.

> *"The coyotes called their contact and they came to look for us to make an exchange. They took us to a house in the middle of the bushes to wait to cross to the United States. In the middle of the night, we were given a backpack with some cookies, some oranges, and a water bottle. And, at midnight, they took us in a car down a dirt road and left us there to start walking. They told us that it would only be three days, but it was a six-day journey. We had to stop because planes were passing by, detecting people down below. We stopped and rested. It was quite difficult to cross the desert and walk in the mountains."*

Rolando and his aunt managed to cross the border, but were detained by the US authorities almost immediately.

He was separated from his aunt for being a minor and was informed of his right to seek asylum. A month later, he was delivered to his family living in the United States and assigned a lawyer.

> *"When immigration detained us, they took me to a shelter because I was a minor, and they were going to help me get my papers to apply for asylum. They had me there for 30 days and then sent me to my relatives and they came to take me to Arizona. I went to court there to see if I could get my papers, but they did not want to give them to me. They got me a lawyer, but they told me that I did not qualify for asylum."*

Four years after he was first detained, Rolando was informed that he did not qualify for asylum. He remained with his family while waiting on his case. However, he says he did not show up at court and he was arrested by the police who took him to a prison for men in Los Angeles and not a detention center for migrants.

> *"I no longer went to court, and one day I was walking down the street, the police stopped me and they spoke to me in English. They did not let me go and they took me to [an] LA county [jail] where I was held for two months. Then, I was transferred to an immigration prison and I was held there for a month and after that I was deported.*
>
> *"One night, out of nowhere, they came only to send me along with others; they got in the truck, not only me but several people were taken out and sent away, and already at night we were at the airport boarding the plane that was going to take us back. They never took me to court, they told me I had a hearing, but the night they sent us away was the night before the hearing."*

The Second Try

The second time that Rolando traveled, he was in the company of his uncle. They were without a coyote until they reached the border between Mexico and the United States. They opted for riding what is known as "*La Bestia*," or "The Beast." Rolando explains that among the dangers that exist when riding *La Bestia*, one risks falling asleep and being thrown off by the branches.

> *". . . There were even bodies split in half along the train tracks where people had fallen, recent bodies."*

Observing the bodies torn by the train made it clear to the migrants that the danger was not necessarily just about crossing the border. At the same time, another threat appeared on the route: the possibility of being robbed by gang members who board the train.

> *"There is a place that is controlled by the MS, the MS gang, in Mexico where all [the migrants who ride La Bestia] do themselves the favor of joining forces, because they come to rob the train. All the people are united there so as not to let them go up, armed with machetes, stones, sticks, everything, because like just like them, the gang members board* the train with guns and things like that."

If all goes well and they manage to survive by avoiding train crashes and gang assaults, migrants can hire a coyote to cross the border.

> *"At the border, the coyotes ask you if you want them to help you cross. In the migrant houses also, since at each train stop there is a migrant house. We would rest there because the train stops temporarily when it changes city. The next day we take it again."*

They arrived in the United States with the help of a coyote but were arrested within 20 minutes of crossing the border.

The second time he tried to reach the United States — in 2015 — he was apprehended in Houston, Texas and taken to a police station. He was not informed of his right to seek protection. That same day he was transferred by bus to Mexico, where he was taken to a detention center for migrants in Tijuana.

> *"They just took us to a police station there and they took us to a bus that was ready, with half of the passengers already inside, and they were just waiting for our group, and we were sent to Mexico, to Tijuana, to a jail in Tijuana. There we were about 10 days and they sent us here as they received more and more people."*

Rolando was deported for the first time at age 19. As he was of age, he did not have the right to the same care and conditions he received when he arrived at 15 years of age. Now, he was treated as an adult and, in Rolando's words, as a "criminal."

> *"On the plane, we were uncomfortable because they bring us with handcuffs. The ICE people treat us poorly. Once I said I wanted to go to the bathroom and one of them told me to wait but I could not stand it. I said, 'Please, let me go to the bathroom!' He said, 'Okay,' and took me to the bathroom in handcuffs, but he did not take my handcuffs off. When we had passed the last part of the plane, I saw that two of his colleagues stood in the way, keeping the bathroom hidden from view, and he came into the bathroom with me and started to beat me. He began to beat me in the stomach, so much that I couldn't breathe, telling me that I was a good-for-nothing immigrant. When I got off the plane, I reported him to the Guatemalan authorities."*

The second time, he was deported by land and sent immediately to a jail in Tijuana, Mexico. He was there for 10 days until they took them to Tapachula and crossed the border of Tecún Umán, Guatemala. *"They just left me at the border, where we would have to fend for ourselves."* At the

Tapachula Jail, they let him make some phone calls, so he called his mother. She made a deposit for him to return home by bus.

Return and Integration

When Rolando returned home the first time, he received the usual package of food, phones, and money for bus fare. But, he reports having a hard time when returning to his mother's house where he had to remain locked up since his mother worried that gang members would find him.

After the second deportation, Rolando returned to his mother's house once more. His mother claims that gang members have not harassed him any further, but she kept him locked up for a few months before letting him out. She thinks they let him off the hook because the people in the neighborhood assume that the time Rolando spent out of town, he was in prison in Pavon. Rolando clarified that he no longer wants to leave as there are many dangers along the way, especially now that policies have changed. Rolando continues living in the same community, at high risk for gang violence and he fears for his safety. He has not had an opportunity to seek meaningful employment or continue his studies.

Silvia

Current age: 22 years

Triggering factors for migration: extortions and death threats against her and her family by gangs

Silvia lives in a suburban area in the department of Guatemala. The family nucleus is made up of her parents and their two daughters (Silvia and her sister). The family was extorted by the gangs who threatened to kill the daughters if they did not pay. Twice they paid 15,000 GTQ (2,000 USD). Having no resources left, they were forced to leave their home.

Silvia had relatives living in the United States, which made it easier for her mother and father to make the decision to migrate with trusted coyotes and then pay for the transfer of her and her sister. Her uncle is awaiting asylum since he witnessed a homicide, which gave the family hope of being able to avail themselves of some measure of protection in the United States. The uncle preferred to migrate irregularly because he had seen that his relatives had managed to stay, whether legally or irregularly.

The area where Silvia lives is very dangerous because gang members control the territory. The villagers know that the main perpetrators of violence in the area are gangs.

> *". . . In each house of the neighborhood the gangs have killed somebody for the same reason, because they don't pay up; you can't even set up a business because, even if it's a candy shop, they're going to ask for the money."*

In a scenario of such terror and insecurity, the main problem Silvia's family faced was extortion, since not paying meant risking the lives of their two daughters.

> *"In fact, we had to make 2 payments of 15,000 [GTQ] each time and with clear death threats targeting us and my sister and me, the youngest [of the children]. And so, they [my parents] had to pay up but each time it became more difficult to pay."*

The family paid the extortion fee twice for fear of the reprisals that these groups might take against family members. The quota imposed on people living in the area depends on what the extortionists consider they can pay according to the standard of living they have. To calculate this, they observe the characteristics of the dwellings or any other observable asset.

> *"In the neighborhood, they go classifying the houses: if it's a one-story house then they ask for a certain amount; two stories, another amount; if you have a car, then a higher amount. You see, they don't care why you have these things or the effort it took to have them, but you have to pay up to live there."*

Silvia explains that her best friend was recruited by gang members to place cell phones in people's houses or to deliver them to relatives of those who were going to be extorted.

> *"Distributing phones, for example, my friend, who they killed, was forced to go deliver the cellphones to the taxi drivers, or the stores they extorted, to take photos on the streets to see the houses, to do some research on people or to go to collect their money. For instance, sometimes they deposited money in her account that had to be delivered to prison. And when she said she didn't want to do it, they killed her . . . She thought that, since they had grown up together and they knew her, they would not do anything to her. She still lived in the neighborhood; they made an appointment and they killed her."*

Because it was difficult to pay the extortion, and in fear of the threats or that their daughters would become involved in the gang, the family looked for alternatives to their situation. They opted to migrate to the United States with the support of the rest of the family already living there. The parents went first with the idea of settling down and then bringing their daughters. In the meantime, they decided not to report to the police for fear of putting their daughters in further danger.

> *"In this system, you can't even file a report because, if they realize who it was, they kill the family. There have been cases in which they go in and rape the daughters and the other female relatives and, you know, out of fear, no one said anything. Even the cops know what is going on and they turn a blind eye out of fear, too. They already threw a bomb at the police station so they're scared."*

However, when the parents were no longer in Guatemala and the threats targeted Silvia's baby nephew, they decided to file a report immediately and leave.

> *"My sister filed a report when they threatened to harm the child and I think that played a bit of a role in her staying there. She's fighting to stay there."*

The intention behind filing the report was to be able to document the case to seek protection in the United States. It appears that the family expected that, because this was a matter of a mother traveling with her baby, the two would be granted protection and not be deported, at least while the case was being evaluated after surrendering to immigration authorities.

Silvia's Journey

At first, Silvia resorted to internal migration as a safety measure within the same municipality, but to a place where she would be somewhat safe from the risks to which she had been exposed. The second measure was to hide. Silvia knew that she had to keep a low profile. Otherwise, she

would be forced to participate in extortion and take part in the gang. The third measure she took was migrating to the United States with the help of her parents. At no point did she report the threats she received; she feared reprisals after the murder of her friend. The trip was made with a coyote, all coordinated by her family in the United States.

After her deportation, she has insisted on continuing to try to leave Guatemala. To date, Silvia has already made seven unsuccessful attempts. The fear of being found by the extortionist in her neighborhood has been an important motivation as well as the lack of employment opportunities and the longing to meet with her family. She says she feels very alone as she only has a grandmother and an uncle in the country who she cannot visit out of fear for her safety from the gangs.

In Transit

Apparently, the transits — all of which were organized by coyotes—have been relatively short: *"The first time, it took me 14 days. The second time, I did not cross the border to the United States. It took me 15 days and they returned me from Monterrey."* However, they have not necessarily been safe.

Among the greater risks she faced along the way were:

- disorientation after being left without the guidance of the coyote,
- health problems resulting from dehydration and drinking contaminated water, riding "*La Bestia*," and
- robberies of migrants, since migrants are vulnerable, weak, and get tired along the way.

In her other attempts to migrate, she has been forced to return without even making it to the United States. Sometimes it has been because of the risks or dangers of the trip and at other times because of recklessness.

In one of her attempts, Silvia managed to enter the United States and join her family. After six months, she was surprised by a raid of US authorities while she was working.

> *"Those who could run, ran but almost no one could leave because we were surrounded by them. They managed to catch many and few could run . . . [I felt] unprotected because I could not call my relatives and I was also afraid because since they were illegal, I was afraid they would be deported."*

As with her journey, she emphasizes this apprehension as if it were the only one she experienced. She seems to consider her other experiences as part of an unfinished journey. Perhaps this is because, at the time of that particular apprehension, she was already building a life in the United States. Also, this was probably the most traumatic of her arrests because it caught her by surprise and because she did not have the opportunity to contact her relatives.

She confirms that she was in fact aware of her right to apply for asylum and protection, but that she did not do so because she had no evidence to support her case.

> *"They prioritize cases that involve children, people who are visibly hurt or wounded who can demonstrate that it was due to some type of violence. Those who are lucky get to leave, but all they want is to deport the others. If they want a lawyer, that has a cost, they have to pay.*

For instance, my uncle, to avoid getting deported, he had to pay $5,000 for a lawyer. To be granted asylum he had to have evidence, he had to have letters, had to have the reports he filed. It took a long time to do all the paperwork, to manage that."

Silvia perceives that this protection is given to those who are accompanied by small children or to those who manage to support their case, as with her uncle and sister. Another disadvantage was her financial situation as she could not afford a lawyer.

Deportation

After the arrest described above, Silvia has been deported once from the United States and six times from Mexico. As in the previous sections, her point of reference is the forced return from the United States. Even so, it can be said that a constant in her irregular migratory experience is that she was made to feel like a criminal.

The return is the apparent culmination of a failed irregular migration process. However, for Silvia this process is not linear but rather a kind of spiral as it approaches the "initial" point of departure. Instead of ending there, it becomes the point of departure with a new twist, a new attempt to migrate and cross the border to meet her loved ones with the hope of feeling safe.

Living in Isolation

Her first thought was, "*I cannot go back there*." So, she went out of her way to move elsewhere. She did not return to what used to be her "community" before the journey. She decided to rent a space in a residential complex.

"When I left, I had been living in the house. When I returned, I couldn't go back there, that was when I went to live in a residential complex. I could not go back. . . . I practically live in hiding so they will not find me. Because, if not, they'll want to force me to go around delivering messages and cell phones to threaten people and to join the gang."

Although she needs a regular income, she keeps herself hidden and isolated from the few relatives she has in Guatemala in order to stay alive.

"Not leaving the house, I practically don't ever leave the house. I have gone to look for work, but can't find anything and sometimes I'm afraid to go out looking for the same thing because I'm afraid they'll recognize me. Here I have my grandparents, some aunts and uncles, but I am alone because my mom, my dad, and my sister are over there in the United States, I am practically alone."

The measures she must take in order to stay safe hurt her prospects of finding employment so much that the very act of looking for a job generates visible discomfort. It suggests a fear of leaving the house and coming back at certain hours and taking certain routes. This exposes her and makes her vulnerable to being spotted and followed by gang members. As the phenomenon of gangs and violence continues to grow, Silvia has no alternative but to persist in her attempts to reach the United States, even when the passage is dangerous. "*Here, you can't live*," is a recurrent phrase in her testimony.

When asked what she needed to stay in her country and not migrate, she skeptically responded:

> *"A job, more security with this gang issue, but I really see that it is impossible to fix anything here. They are becoming more and more each time, they are recruiting more and more people. Or they send them to prison and from there they screw people over. They multiply as others outside [of prison] do their dirty work. I do not think this situation could work out."*

EL SALVADOR

Carlos

Current age: 25 years

Age at the time of migration: 17 years

Triggering factors for migration: threats by gang members

In 2008, Carlos lived in central El Salvador, he was in the ninth grade and identified as a gay young man. He was interested in changing his gender expression but did not consider himself a transgender woman at that time because he was unaware of the possibility of defining himself that way.

Carlos's brother was very influential in his life and encouraged him to excel. For Carlos, his mother and brother were priorities. Carlos's father, who had abandoned them, lived in the United States, while his paternal relatives lived in San Salvador. Carlos kept in touch with that part of his family while he lived with his mother.

Forced Recruitment

Carlos had never encountered the gangs before, but one day they told him that if he did not become involved with them, they would kill him and his mother:

> *"They wanted all the boys. They knew that I was gay, but what they wanted at that time — well, I don't know about now — they wanted to recruit as many young people so they could to let them know when the police were there, when things happened. They said, 'Look, we want you to join us and we're going to be your family, you will never be lacking in anything,' but this was a lie. They are not family, and no, I have my own family, I want to continue studying. Not me, I don't want this. So, they said, 'No, we want you to join us the good way or the bad way, and if you do not join us we'll give you 15 days or else we'll kill your mother.'"*

Carlos did not want to participate in anything gang-related. Immediately, Carlos feared not only for his own life, but also for those of his mother and brother. He could not turn to the police because he was afraid of the consequences this would have for his family. Although he lived with his mother, his extended family was also close. He was terrified as he did not know where to go or who to turn to. One day he decided to tell his brother. Carlos and his mother decided to confront the gang members but they denied what happened. As a result, his mother decided to file a report but had no response from the police.

"We did report it, we filed the report but they didn't listen to us, the same cops ignored it because they said that they would have to go to the area, because it was a 'red zone' as they call it, where there is plenty of crime. So, they opted for taking me to my dad at that moment in time."

Considering the attitude of the police, Carlos's mother decided to take measures into her own hands and she sent her son to his father's family across town.

After living with them for two months, he and three of his friends decided to make their way to the United States because they were all afraid of the gangs. Carlos expected to arrive in the United States and then bring all his family, mainly his mother and his brother. His intention was to obtain protection in the United States since they had not received any protection in El Salvador:

"Because I decided that I wanted to take my whole family. You see, I wanted to get there, present my case and tell them, 'I'm being threatened,' and that I needed help at that moment. My idea was getting there — I wanted to take mainly my mother and my brother — and then we were going to see what would happen, but at that moment I was going with that idea, with that purpose because I had not been heard here, they [the authorities] had not even considered my case."

The fact that Carlos and his family did not receive any kind of support from the authorities demonstrates how the lack of state protection forces people to look for alternatives on their own. In addition, the police's lack of interest in addressing Carlos' case and the argument that they could not do anything in a "red zone" expose the normalization of the violence suffered by the very agents who are supposed to protect victims. In Carlos's case, the first measure of protection to which he resorted was internal displacement. Then, while he was still a child, he chose to migrate to the United States in search of protection for himself and his family. Carlos never informed his mother and brother that he was going to leave because he knew they would try to stop him.

In Transit: Describing the Passage

Carlos and his three friends traveled by hiding in a truck with little access to food. They had to get off the truck after they encountered a raid along the way. Carlos and his friends were totally unprotected and without resources to deal with the journey.

As they were left fending for themselves, afraid of the dangerous animals they might find, they ran until they reached a house and asked for help:

"And we came to a house where there were some people and we asked for help. I said 'They're following us.' 'They're immigrants,' they said. And yeah, they gave us a place to stay. They lived there, they were residents in Mexico and they told us, 'You can't stay here for long because the houses in this area are constantly checked so we can only let you spend this night here,' and they gave us food. We got some tortillas that weren't really tortillas, they were really thin, and they *explained all the things that were going on in the area."*

The temporary hosts oriented the young migrants so that they could arrive at the place where the train passes:

> *"The next day we went out and they explained how to go on our way and we arrived where the train passes. They told us that, once there, someone would help us, but unfortunately, we were kidnapped by a group that was part of 'Los Zetas'. They were covered from here to there [gestures to indicate where on the body] and 'holy sh . . .' then they put a gun to my head. 'You are Salvadorans' and I am like, 'holy sh . . .' They put me on my knees, they took us in a van to an abandoned house that we didn't know where because they had covered our faces, they covered us with big bags like that. We could breathe but not much. So I was afraid, I prayed a lot."*

Carlos explains that Los Zetas let those who had money go, but since they did not have any money, they were kidnapped. They were taken to a place where two of the four in the group, Rafael and Miguel, did not stop crying and shouting for help. To make them stop, Los Zetas beat them for a long time.

> *"When we arrived at this place they took everything from them and beat them, I just heard them plead, 'Don't beat me!' And so, my other partner and I, Fran, would say, 'You better not complain or else they'll beat us all,' and that's how we were. And so, one of them approached us and spoke and asked, 'What's your name?' And I was silent. 'What's your name?' 'Carlos,' I told him. 'Are you Salvadoran?' 'Yes, we are Salvadoran.' 'Are you close to anyone we can call and ask for money?' he said. He still gave me the choice. 'No, I have no one,' I said, because I did not want to put my family at risk. It's not like they could just send money over for me; they didn't even have any. Because that meant that they would do something like, they were going to want to go over there, or — what do I know? — they were going to do something about it and make matters worse. So, I said 'No, I don't have anyone, no, I can't, no, I don't have anyone's number,' even though I know everyone's number off the top of my head."*

Carlos and his friends were transferred to another place, where they were going to kill them all. They were left lying there all night. Carlos called out his friends' names. Rafael and Miguel did not answer, but Fran, who was the youngest, answered back. Moving around in that dark space, they found some tin that helped them untie each other. When they were loose, they looked for Rafael and Miguel and realized they were dead; they had been tortured and slaughtered.

> *"When we went to look for the guys they were already dead because, you know, unfortunately, they didn't answer back and I thought they were only unconscious but they had already killed them, they killed them, there they did so many things that were, you know, it was very tragic because I said 'Shoot! My friends, what have I put them through?' because I blamed myself. Ah, how they have ended up!"*

The difficulties faced along the way by all persons migrating irregularly are numerous. Without a visa to authorize entry, these people embark on a passage that exposes them to dangers from which they are completely unprotected. They cannot appeal to the authorities for fear of being detained and have no alternatives for assistance.[12]

12 Over the years, the journey of these irregular migrants has become increasingly dangerous. In the words of Mexican priest Alejandro Solalinde, one of the main defenders of migrants' rights, "the cartel of 'Los Zetas' absorbs, in one way or another, 10% of all the undocumented people that travel clandestinely in the freight trains that head towards the border with the United States" (Bonello 2013).

As confirmed by the experience of Carlos and his friends, who were kidnapped, tortured, two of them murdered by Los Zetas, this criminal structure kidnaps the migrants to extort them and obtain a ransom. When migrants and their families cannot pay, they are tortured and/or killed. In certain cases, they may also be forced to join the organization and commit criminal acts. Studies of violence experienced by migrants along the way suggest that there is a "hidden epidemic of kidnappings" in Mexico (Amnesty International 2010).

What a Heavy Burden

The door of the place they were in was open and they managed to escape. They went out and found reed beds and began to run in the dark. They ran so hard that they hurt themselves. They came to a road and the police caught them. They were still in Mexico. The policemen questioned Carlos about the death of his friends:

> *"Then when they told me, 'And Miguel, what were the last words he said to you?' That they didn't want to die, because he would tell me 'I do not want to die, Carlos, I do not want to die!' And I couldn't do anything. 'Calm down, keep calm,' and he shouted 'Help, help!' Then, the fact that they were gone was something that I had to struggle and live with because I said to myself, 'What a heavy burden I have to carry.' Because I was carrying the burden of both their deaths, I felt guilty for taking them. Our intention was to run away but also to take our families forward."*

The police took them to a detention center they called "*baúles*," or prisons. At first, they spoke to them in English. Then, they asked to be spoken to in Spanish, as they were Salvadoran. The police understood that they were migrants. They saw that they were wounded and got them attention. The police told them they had to be taken to a detention center because it was their duty but that someone would come see them the next day. That was when they recounted their experiences and told them that the other two members of the group had died. After searching for their bodies, they managed to find them and send them back to El Salvador to be buried.

Carlos told his story to a lawyer from the detention center in order to apply for refugee status. He was told that, if he stayed there for three months, he would be given Mexican citizenship, that they would ask his mother for evidence of the filed reports and that he would have to wait until his case could be presented.

He explained that he wanted to ask for protection because he already knew that refugee status existed:

> *"At 17, I was on top of the news, I always liked to read articles, so I knew there was something that could help me if I explained what was going on. I had already, like, schooled myself so I already knew, and I knew what I was going to say."*

Many migrant children are unaware of existing protection mechanisms, making it difficult for them to obtain any kind of aid or assistance from the authorities. The selection criteria for granting refugee status have become increasingly strict and the number of people granted asylum is very low compared to the number of people who petition for it. Although he knew of his right to seek protection, he did not know the details of the procedure to obtain it. In telling his story to Mexican authorities, he asked for help but was told to wait some time to obtain the visa and protection.

The Deportation

Because of the danger he was in, Carlos was willing to stay three months, waiting to be granted Mexican citizenship. However, the living conditions for migrants in the detention center were not favorable. For instance, he was given only three minutes to communicate by phone with his family, so it was necessary to find someone who could give him their minutes.

One day, the lawyer told Carlos that he had information about his family; his brother had been killed. At that moment, Carlos asked to be returned. Fran also decided to leave because he believed that if he stayed in the detention center "something could happen to him." They were both sent to El Salvador. Carlos's brother was killed due to his relationship to Carlos. His sister-in-law and her 5-year-old daughter witnessed the murder. Carlos and his family did not want to report the events to the police for fear of exacerbating the situation.

> *"It was meant to be a warning but when they took him from us, they left us alone. But it was like they had left us alone because they hit me where it hurt me the most and they knew it, because he was my brother, my only brother by my mother's side. So, my mother was feeling awful. I had gotten along with him more than anything because he was the brother who was always overprotective of me."*

Carlos had just lost two of his best friends, and losing his brother caused him extreme pain. His reaction to the acts of the perpetrators seems to be an unconscious strategy to make sense of such a crude reality and to mitigate fear and risk.

The situation that Carlos lived in the detention center illustrates the inadequacy of the conditions of confinement of children (and people in general) in need of protection. People who migrate because of violence are in a serious condition of vulnerability. The fact that they are locked up for several months, with little communication with their families, can lead to despair, especially for children who have been violently uprooted from their communities of origin, resulting in the need to return, and to give up the protection they require.

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Back Home, Back at Risk

Carlos and his mother did not receive any support when he returned as a deported child, even though the Salvadoran authorities knew of the traumatic events that had taken place, both before and during the trip. It is necessary to emphasize that it was not until 2014, due to the humanitarian crisis of migrant children in the Northern Triangle states that the Salvadoran government, through the CONNA (the National Council for Children and Adolescents), began to develop processes to activate state agencies aimed at protecting migrant children. In 2008, despite the grave adversities he had faced, neither Carlos nor his family received any kind of support or protection.

Carlos's mother did not receive any support to deal with the return of her youngest or the death of her eldest, but the authorities asked her to file a new report to carry on with the investigation of the murder of her son. Carlos asked his mother not to do it for fear that this would further the vicious circle of death and revenge.

> *"They wanted my mom to file a new report for the murder of my brother and I was like, 'No, Mom!' They wanted to know if she knew who was responsible. So, it was going to be like setting off a bomb and they're like, 'You give me, I take, you give me.' They take the life of a relative and then you are playing with the lives of your whole family because if you go to the police, you file the report, one or two of them come over — what do I know? — and the rest of them hide, the others talk, then they come for someone in your family and then again like a cycle. So, I already knew that game. I told my mom, 'Enough, let God take this one! I hope my brother forgives me but it is your life and my life, we are alone together in this.'"*

Carlos and his mother decided to move to a neighborhood nearby where there was less crime. Carlos finished his high school online and started expressing his gender identity openly. Currently, Carlos is a transwoman named Natalie, and is an NGO activist. Natalie continues to live in the neighborhood where she was first threatened. Though different gang members get arrested or released from prison, she has taken an attitude that there is nothing more to be done than to hope that she isn't targeted again.

Jorge

Current age: 37 years

Age at the time of migration: 34 years

Triggering factors for migration: former gang member who refuses to reintegrate into the gang structure

Jorge first migrated to the United States when he was 10 years old. His father had fled because the soldiers tried to kill him during the civil war. He entered the country in 1990, asked for amnesty, and got permission for him and his mother to stay. He lived for 11 years in Los Angeles, California, in an area where most residents were Central Americans. He socialized only with children of other Salvadoran migrants in the neighborhood and at school. It was in this context that he joined a Salvadoran gang. He was arrested and imprisoned for five years and then deported for the first time in the year 2000 when he was 20 years old.

Upon returning, he decided to leave the gang and settle in the western part of El Salvador, where he still had family. Between the year 2000 and 2014, he married, had children, and developed himself professionally. Then, in 2014 there was an incident involving the local branch of the gang he belonged to when he lived in the United States.

Jorge had lived 11 years in the United States and spent most of his time in jail. However, he still has relatives, his father and brother, and a network of friends in the country.

The Gang Shows Up

The gang to which Jorge belonged also exists in El Salvador, but at the time of his return in the western part of the country, there were still no gangs. It was not until 14 years after his deportation that local gang structures began to form and members asked him to reintegrate. Jorge left them waiting for his response. Because he did not get back to them, the gang members tried to kill him.

While Jorge was working as a mechanic in the repair shop, his colleagues warned him that the gang members were approaching. They came to kill him. His colleagues then put him in one of the cars at the shop and he managed to escape. He then spent three months confined to his home, planning his journey. For a whole month, there was a young gang member watching over his house until finally, he managed to migrate.

Confronting the Threat

Jorge did not consider internal displacement since gangs are present all over the country. When these events occurred and despite having no criminal record or links to the gang in El Salvador, Jorge did not even consider going to the authorities or filing a report.

> *"In my case it's worse because I have tattoos, do you understand what I'm saying? They're gang-related. Then maybe the government or the police wouldn't have helped me, they might have even killed me."*

Jorge planned his trip for three months, since leaving also implied leaving his family, his daughters, his work, his friends, and starting over in the United States. Faced with the lack of state protection and the impossibility of moving within his country of origin, going to the United States was the only option he felt could save his life. Although the gang also exists in the United States, Jorge explained that in such a large country, it is easier to go unnoticed.

Jorge is in a complicated situation. Although fully integrated in society, his previous ties to a gang mean that he did not even consider turning to the state for protection, nor did he trust state agents because he thinks that they also have ties with the gangs. The threat in his place of origin is so great and the fear so strong that he considered leaving all the stability it afforded him, his family, his friends, so as to not be murdered.

Jorge did not give much information about his journey. He only mentioned that it was difficult to eat and sleep and that he had to hide and respond to the orders of Mexican traffickers. He managed to cross the border to the United States. The immigration authorities caught him in Houston. He spent three days in the center for migrants where "*they treat you like a dog, in that awful cold*." The officer did not tell him anything, but a federal agent arrived on the third day and told him that because of his criminal record, he had to go to jail. He never mentioned that he was migrating, fleeing from gang-related threats. It did not occur to him to ask for asylum:

> *"Since I've seen a lot of cases, I do not know if it's a matter of luck, I don't know how to explain it, but most people don't get that permission . . . I saw a lot of Salvadorans, people from Honduras, Central America who were also fleeing gangs or things, you know, some sort of evil. The US government isn't interested, they don't care."*

Due to his criminal record, his perception that, as a former gang member, he did not have the right to petition for asylum, and his lack of knowledge of any other forms of humanitarian protection, he did not even consider asking for help. He was sentenced to three years in prison for illegally entering the United States and for his criminal record. However, he received assistance from a lawyer and spent a year in jail waiting for his case to be solved. As a former gang member, Jorge was convinced that there was no protection available for him in the United States or in El Salvador.

Living with Fear

Jorge's lawyer won the case and he was deported. Upon returning, Jorge did not report the real reasons for his migration to the authorities, considering his criminal record and the tattoos that revealed his ties to the gangs. He was received in El Salvador and the officer said:

> *"'If you owe something, you stay. If you don't, you go with your family.' They did search me more than anyone else, though, because of my tattoos, and all that, they took photos, but since I have no record, everything was fine."*

When deported, Jorge decided to return to the west of the country where his family lived. However, he returned afraid of the gang that had attempted to kill him, since it was well-established in town. He has thought about re-migrating irregularly to Belize, Costa Rica, or Panama, but considers that this is more difficult because he does not have any family in those countries. He returned to the west with his family. Upon returning, he spent two months without leaving his home.

The threat that triggered his migration is still a problem for him. Jorge says that in response to this looming threat, he has joined a church and asks God to help him and to protect him so that he can live in peace with his family. He no longer considers trying to migrate for fear of being thrown into jail again. However, Jorge's situation, and that of his family, remains unresolved.

Jorge's case brings to light the complex situation of those who have been part of a gang at some point in their lives and who wish to leave.

The situation is already difficult for people who have been threatened, extorted, or attacked by gangs to receive any kind of protection in El Salvador. However, it is even more difficult for people who have had evident ties to gangs (like Jorge with his tattoos), who want to sever them and who, as a result, have been threatened or beaten. Notwithstanding the state's capacity to provide protection or assistance, even Jorge excludes himself from asserting his own rights.

Luis

Current age: 30 years

Age at the time of migration: 26 years

Triggering factors for migration: threats by gang members

In 2012, Luis worked for a political party, visiting people's houses. It was during this time that two gang members tried to kill him. Confronted with this threat, he hid in a friend's house and filed a report. The way in which the police handled the report put Luis in more danger, since the authorities were careless and the gangs found out who was responsible for reporting them. The gang members threatened him with death for turning to the authorities. Luis decided to withdraw the complaint so that the gang members would leave him in peace. Despite this decision, the judge sentenced them to eight years in prison for other crimes they had committed. The wife of one of the sentenced gang members threatened Luis; she considered it was his fault her husband was in jail. Luis decided to migrate and asked his friends who lived in Maryland for help. They agreed to pay for the coyote and receive him in the United States.

The authorities arrested Luis while crossing the river. He was then transferred to several different *hieleras* in Houston until he was sent to a detention center where he was led to believe that the asylum process could last one to three years. Faced with this information, which was probably meant to dissuade him, he chose not to seek asylum since he did not want to remain in detention. Luis felt the detention center for migrants was imprisonment. Upon returning to El Salvador, he received no state protection and before long the gang member's wife threatened him again.

Other Migration Attempts

Luis's case is also very complex since he migrated on three occasions and, each time, his rights were violated in different ways. To understand why Luis never managed to obtain refugee status, it is important to consider the type of information he received from authorities and the limited understanding migrants have of the conditions in which they find themselves.

Luis had a first grade-education and reading and writing are difficult for him. His oral expression is somewhat confusing, which made it difficult to understand part of his story. His conditions of vulnerability — the result of many different factors — made it difficult for Luis to articulate his ideas and communicate his situation to the authorities. His experience is relevant to understanding many of the problems that arise in the process of petitioning for asylum, since many migrants from the Northern Triangle come from similar socioeconomic conditions that place them in similar situations of vulnerability.

According to Luis, he asked for asylum on his second attempt to enter the United States. His account shows that the authorities who encouraged him to represent himself in his petition for asylum were aware of the difficulties he could come across in doing so, since they had interviewed him previously. It was not until after his hearing that he was told that it would have been more appropriate to be represented by a lawyer. The lack of information, education, and other structural causes put Luis in a vulnerable situation in the process of seeking asylum. Although this is the particular case of one person, there is no doubt that other people who fear for their lives coming from the NTCA have gone through similar situations, since the majority of people who migrate because of a well-founded fear come from socioeconomic situations similar to Luis's.

In his third attempt to enter the United States, Luis again experienced problems due to communication barriers between him and the authorities, and because his rights were repeatedly violated by immigration authorities and GEO Group private prison officials. Luis managed to obtain a pro bono lawyer at the end of his term at the last detention center, before being deported. When we contacted his lawyer to better understand Luis's case, he explained that in his first deportation, if Luis had been represented by a lawyer, the authorities would have probably granted him asylum. The lawyer explained that the barriers of communication between the judges in the United States and Luis led them to deny him asylum. The problems that have placed Luis in a situation of vulnerability in his home country have also rendered him vulnerable in seeking asylum. His lack of formal education — he is unable to read and write — and his discomfort referring to his perceived sexual orientation as well as his family's extreme poverty all contributed to his difficulties in moving successfully through the asylum process. His case shines light on the need for mechanisms to facilitate communication between migrants and authorities in the destination country.

Mistreatment in Detention

Luis was transferred to a detention center in Pearsall, Texas, operated by the GEO Group, Inc. There, he was put to work cleaning floors, doors, and windows. Luis reported that the power outlets were not working, but no actions were taken to repair them and he was electrocuted while working. His arm was badly hurt and the general condition of his health suffered. When Luis was about to meet with a lawyer from the organization, RAÍCES, that supports migrants, he was transferred to another detention center. Luis was sent to Alabama's federal prison and a month later, to another federal prison, where he explains that murderers were imprisoned. An officer who heard him crying called an inspector to explain the situation to Luis. He explained that he had the right to apply for a U visa and referred him to the Louisiana detention center while he waited for a medical operation that never took place. In Louisiana, he was informed that his asylum request was denied because his fear was not credible. Luis reports that he was mistreated by the staff at the detention center in Louisiana and by the officials. An official of the Salvadoran consulate offered him advice and led him to believe that he could be helped but was later replaced by someone who, according to Luis, collaborated with immigration officials to get him deported.

Living with Fear and Disability

Upon returning to El Salvador, Luis received no specific support or protection from the state. The person in charge of receiving the retuning migrants was from the Ministry of Foreign Affairs and offered him the basic assistance offered to migrants, but nothing specific to his case.

Luis is currently being represented by an attorney in the United States, who is bringing a lawsuit against the Pearsall Texas Center run by the GEO Group because of the injury that has now resulted in permanent disability.

Luis went to the Office of the Ombudsman for Human Rights (PDDH) where he obtained help from the person in charge of protecting migrants' rights. The local PDDH office arranged for transportation in and out of his community in order to receive medical attention. However, his treatment is not optimal since the medical equipment necessary to monitor his condition does not exist in the country. Neither the PDDH nor any other government office has provided support for protection from threats. It has been five years since the first threat, and in three years, the gang members will be released. This puts Luis at risk. Luis's daily life has changed dramatically since he has been threatened: he does not work or leave his house and he lives in fear.

The Navas Family

Triggering factors for migration: recruitment, extortion, and harassment by gangs

Several triggers led the Navas family to migrate to the United States.

Trigger 1: The first person in Raquel's family to be affected was her 17-year-old son. The adolescent was threatened to death for refusing to join a gang. Following this event, he made the decision to migrate to the United States with his cousin. He was apprehended by the authorities upon arriving in the United States. To help her son, Raquel decided to move to the United States since she had an American tourist visa. She started working in Los Angeles to pay for her son's lawyer.

Raquel's son failed to obtain asylum. However, he was given a renewable permit to live in the United States. Raquel returned to El Salvador after eight months, after learning that her 15-year-old daughter was pregnant.

Trigger 2: The pregnancy of one of Raquel's daughters triggered a second migration to the United States. The father of the child she was carrying was a gang member. After evaluating the risk this could pose for her daughter, Raquel decided to send both daughters illegally to the United States. Upon arrival, the adolescents were arrested and sent to a juvenile detention center. Raquel again decided to migrate legally with her visa, but was sent to a detention center for having worked without a permit and for staying longer than her visa allowed on her previous trip.

Abandoning the Petition for Asylum

At the detention center, Raquel was unaware of her right to petition for asylum. Her son, who lived in the United States, hired a lawyer to represent her. However, Raquel decided to abandon the process of applying for asylum due to the lack of communication with her lawyer and how little she understood in the hearing with the judge: most of the proceeding was in English and at no time was the content of the hearing explained properly. She managed to get deported, but wanted her daughters — both minors who remained in the detention center — to be deported too.

It is necessary to remember that people who migrate to seek asylum face extremely complicated situations. The level of stress they are dealing with can be very high and it is essential for the authorities to be careful and transparent in all processes. However, the authorities seem to forget the rights of migrants — and human rights — when they meet this population. Irregular migrants are not spoken to clearly, they are not given information about their situation, the language barrier is not considered and, as demonstrated above, they are often treated as criminals, although most of them are fleeing from violence and persecution.

Limited Liberties and Rights upon Return

Two months after Raquel was deported, her daughters and granddaughter were deported as well. Raquel resumed the life she left before migrating, and resumed her business. After a while, her daughters began their studies. However, as her food business became successful, it caught the attention of gang members in the area who attempted to extort her as the owner. She refused to pay the extortionists, but gang members would eat without paying. The situation escalated when police officers began to arrive at her diner. Gang members demanded that Raquel stop the police from coming to her diner. Raquel did not comply and the gang began to harass her. She was forced to close her business and the family's economic situation began to deteriorate.

Soon after the threats, she and her family had to move. However, they found problems since their new place was in the territory of a rival gang. One of the daughters was harassed and the family was threatened with death. Confronted with these dangers, they returned to their place of origin, but this reactivated the threats from the other gang. Raquel asked an NGO for help. They referred her to another institution that is currently providing protection for her and her family. They live confined to their home, in a precarious economic situation.

The case of Raquel Navas is complex because it concerns her whole family, not in the sense that the family as a group was threatened but instead, different members of the family

received different threats at separate times. The threats accumulated, which increased their vulnerability to the point that the family was forced to seek protection of a Salvadoran NGO. The deportation of Raquel Navas put her in danger again, living under new threats. The gang member who left her daughter pregnant passed away, which is why she was no longer persecuted by this specific actor. However, Raquel and her daughters were threatened by other gang members. If Raquel and her family had been given protection during that second trip, they would probably be living more freely than they do now.

HONDURAS

Axel

Current age: 15 years

Axel is a 15-year-old adolescent, who is not going to school. He lives with his two sisters. In the interview, he came across as teenager with great abilities. He is creative, smart, sensitive, and humble. But, he seemed uneasy and insecure. He was perceptibly anxious from living in a restrictive and hostile environment.

Axel lives in one of the most crime-ridden departments of the area. The region is known for criminal groups that engage in drug trafficking and fight for control over territory. It is also an area where these groups forcibly recruit children to participate in criminal activities.

In 2014, Axel's 12-year-old nephew was kidnapped from his home and his older brother was killed while trying to find his nephew. After the murder of his brother, Axel and his 19-year-old sister, as well as another of his nephews (the brother of the boy who disappeared), were threatened by members of the 18th Street gang that operates in the area.

Axel and his relatives did not have an explanation for why they were victimized, and came to think that they had been mistaken for members of the MS-13, the rival gang of the 18th Street gang in their dispute over control of the area.

Due to this kidnapping and murder, Axel and his sisters decided to move. However, the threats persisted and they eventually returned to the neighborhood where the violent events occurred.

Axel's relatives reported both the disappearance of his nephew and the murder of his brother to the authorities. However, the authorities did not follow up on either case. Faced with this situation, the family chose not to pursue the cases legally for fear of retaliation, since they believed that the local police were controlled by these criminal groups.

Axel's mother and other family members live in the United States. According to Axel, his mother had already planned to have her children come to the United States. However, the threats forced them to hasten the decision. The urgency of the situation meant that Axel left without hiring a coyote. His 19-year old sister and her son accompanied him.

Axel reported that he was detained in Tapachula, Mexico, by authorities of the National Institute of Migration. He was asleep on the bus, when suddenly people were forced to get off at a bus terminal. His sister told him to stay inside the bus as they passed the inspection.

> *"My sister told me to stay on the bus, that maybe it was just going to be a quick inspection and that they would not realize I was there, but then an immigration agent got on the bus and took me off."*

After the arrest, they were taken to a place known as "el Corralón" and then to the Siglo XXI Migrant Holding Center. Axel explains that they were not informed of their right to apply for asylum or shelter, even though they possessed documents related to their case.

> *"It was clear that they [the immigration agents] only wanted to deport us to Honduras, regardless of our situation."*

During his detention at the migrant holding center, Axel says he had no contact with Honduran consular authorities.

Return from Mexico

Axel, his sister, and his nephew were deported by land. They were received at the Center for Assistance to Migrant Children and their Families, at the Belén shelter in San Pedro Sula, Honduras. He was interviewed by a psychologist and saw a doctor. The process was quick. During his stay at the shelter, he was approached by staff from Casa Alianza de Honduras, an NGO that has a program of assistance and follow up for returned migrant children. They offered Axel and his family protection due to the gravity of their case. The three left the government facility the same day.

After being deported, Axel, his sister, and his nephew would have had to return to their home where the violence had occurred. As a strategy to confront this situation, Axel's family entered the family reintegration program of Casa Alianza de Honduras as a preventive measure. They remain confined to the house, trying not to expose themselves much, because the threats in their neighborhood. Their situation does not address the family's need for a durable solution. They continue without access to justice and have little chance of remaking their lives as long as they are threatened. School, work, and even religious participation remain out of the question as security is their number one concern.

> *"Can you believe I even stopped going to church, because the gang members who threaten us live nearby, so I'm scared and I'd better not leave the house."*

They were offered the option of entering the Casa Alianza de Honduras residential program in Tegucigalpa. But, they remain unsure about this possibility. They continue to feel completely unsafe in their community and country. They are considering trying, once again, to reach the United States through irregular migration.

Jennifer

Current age: 15 years

Jennifer is an adolescent who was pregnant at the time of the interview. She is a cheerful, dynamic, intelligent, persevering, courageous, and driven young woman who has a close affective bond with her mother.

Jennifer's family is made up of her two parents, her younger brother, and herself. Her mother, Doña "Maritza" works hard and has two jobs. She works in the cafeteria of a *maquila* and in the evenings, she cooks at a street stand. Her father, a security guard, was run over by a car in March 2016. He underwent an operation and is still in recovery, making it difficult for him to work. Additionally, during the interview, Jennifer's mother revealed that her partner has problems with alcohol and, at times, drug abuse.

La colonia Planeta is a sector of the municipality of La Lima in the department of Cortés that has become, due to the presence of the Barrio 18 gang, a high crime neighborhood in the Valley of Sula. The area is disputed territory with other gangs that operate in neighboring sectors, mainly the Mara Salvatrucha (MS-13). It is a sector where drug sales, arms trafficking, and extortion take place and it serves as both the residence and hiding place for members of the Barrio 18 gang. There have also been cases of forced recruitment of children for criminal activities, mainly as lookouts that alert the gang to the presence of the police or rival gang members, and to transfer drugs and firearms from one house to another.

In 2013, Jennifer was harassed at school by a group of teenage girls, supporters of the Barrio 18. Jennifer reported her classmates to the school authorities. In retaliation, the young women told their boyfriends, members of the Barrio 18, that Jennifer had reported them. The young women handed Jennifer over to the young men who sexually assaulted her at the school. As a result of the rape, Jennifer became pregnant. However, she miscarried after six months.

Following the rape, the gang members continued threatening to kill Jennifer's family if they did not leave the neighborhood, often leaving threatening notes in the window of Jennifer's bedroom.

Jennifer's mother states that they did not report the rape, because they were afraid of the repercussions for them and their family, including an aunt and sister who also live in the neighborhood.

Because of the constant threats, Jennifer's family was displaced internally. Their first destination was the city of La Ceiba. But economic problems forced them to return to La Lima. They later moved a second time to the sector of Ticamaya, in Choloma, Cortes. But, again their neighborhood had gang presence.

> *"We went to stay at my mother's house, who lives in Ticamaya. She has a grocery store and I helped her. One day, a boy came to buy some soda and something about him was strange to me. When he gave me the money, the sleeve of the shirt went up and I saw some tattoos of the 18 gang on his arm. I froze. I knew they had already found us."*

As soon as Jennifer's mother realized that the gang members had found them, she decided to migrate to the United States immediately, to get as far away from her persecutors as possible.

Jennifer and her family traveled with a female coyote. In addition to the woman who took them, Jennifer traveled with her mother, an uncle, and the uncle's wife. In addition to Jennifer's family, there was a group of about 30 people travelling with them, including 13 children from other parts of Honduras, as well as Nicaragua, El Salvador, and Guatemala.

During the trip, Jennifer and her family moved in groups as they were instructed by the coyote. They stayed in different hotels in the transit cities. Throughout the trip, Jennifer always remained

close to her family to avoid being a victim of any kind of aggression. Jennifer's mother said that while they were in a hotel in Mexico, they were victims of a robbery. In Tapachula, they were abducted by a group of five heavily armed men, who took them off the bus and into trucks to a two-story house. When they arrived, one of the men said they would let them go, since there were too many children in the group.

> *"They took us to a street that was a little empty. There was a house with two floors and a white door. When the truck stopped there, this little girl was crying, 'Mom, look,' she said, 'Who knows what these men are going to do us . . .' and one of the men came down and said: 'Look, I do not know why, but I'm going to let you go, you've got too many kids with you, you've got a lot of children. If you want my advice, go back to your country, because it's ugly here and it's only going to get worse the further you go along.'"*

They were detained in the state of Oaxaca, Mexico. At a National Institute of Migration checkpoint, their bus was stopped, and after being apprehended, they were transferred to the Siglo XXI Migrant Holding Center in Tapachula, Chiapas, Mexico.

While there, Jennifer's mother reports having felt threatened by the other people who had been detained. There were people who had been waiting for months to be deported and "felt like they owned the place." She explains that in the process of being detained, they were informed of their right to apply for asylum in Mexico by the immigration authorities, who told her about the Mexican Commission for Assistance to Refugees (COMAR). Taking the advice of her brother, Jennifer's mother decided not to apply for asylum in Mexico. He advised that it was better to return to Honduras to migrate at a later time because he believed that applying for refugee status in Mexico meant they could not travel to the United States. They believed that without family support, there would be no way to remake a life in Mexico.

They also had contact with the Honduran consul in Tapachula while they were in detention, which informed them that nothing could be done to help their case and that it was best to be deported to Honduras.

Like Axel, they were deported by land through the Tapachula holding center. They then ended up in Belen Migrant Shelter. They were quickly processed through an interview with a psychologist, received a medical check-up and their personal information was taken. As in Axel's case, they too were approached by Casa Alianza and offered the possibility of protection due the gravity of their case.

The Casa Alianza reintegration program does not offer them options outside of returning to their homes. The Barrio 18 gang members who raped Jennifer have now been killed or are currently in jail. However, their girlfriends who encouraged the rape still live in the sector, so the threat is still standing for Jennifer and her family. They do not have the economic means to leave the area and no government services are available to help them successfully relocate. Their everyday lives will either have to accommodate the constant threat or they will need to restrict their movements to avoid coming into contact with the people who threaten them.

Maria Josefa and Her Daughter, Johana

Current age: 59 years

Doña Maria Josefa is a 59-year-old woman who, with much effort, managed to complete her primary education as a child. She does not have a formal job and makes a living preparing food, pickles, and cleaning houses for a living.

She is single, has seven children, and 22 grandchildren, four of whom live with her in a cinderblock house with only two bedrooms. The bathroom is outside the house, and the plot of land is near a ravine.

As Maria Josefa explains, they are a very poor family: "*We often eat only once a day and on other days we don't have enough to eat.*" Two of her grandchildren have not been able to continue with their education because they must work to help their grandmother financially. Her daughter Johana is being held at an immigration center in the United States.

This family had no one in the United States to offer them support. The urgent departure of Doña Maria Josefa and her family was the result of a serious episode of which she was a victim of ensuing persecution.

The Chamelecón sector has some of the highest crime rates in the Valley of Sula, since for years it has been under the control of rival gangs that operate in the sector and that fight for control over the territory. The conflict, mainly between the Barrio 18 Gang and the Mara Salvatrucha (MS-13), is specifically over the control of drug sales, as well as extortions and contract killings. It is reported that the sector contains "*casas locas*," or sites where gang members execute their victims after torturing them.

The forced migration of Doňa Maria Josefa and her family is directly linked to the violent acts of which her daughter, Johana, was a victim. In 2014, she was abducted by members of the Barrio 18 gang that operates in the Chamelecon sector. She was taken to a *casa loca* for approximately a week, during which her captors sexually assaulted her. In the house, there were more women in the same situation. They were under almost permanent surveillance by their captors and there was a woman who "looked after" them.

> *"While she was kidnapped, my daughter witnessed another woman being killed in the house, she was a member of the rival gang, and that's why they took her to the house to kill her. It was horrible for my daughter."*

Doña Maria Josefa explained how Johana managed to escape her captors just at the moment a police patrol was passing by and she asked for help. She told them what was happening. The police went into the house and arrested the perpetrators.

After being rescued, Johana reported her abduction and testified against her aggressors after three of the gang members had been captured. Johana was a protected witness but the protection system failed. Barrio 18 gang members threatened her with death. So, she decided to move to Doña Maria Josefa's house.

But, when the gang found her again and threatened her, she decided to migrate to the United States along with her mother, her four children, and her brother, Jonathan. Their trust in the protection from state authorities was completely broken.

Doña Maria Josefa traveled with her two children and four grandchildren. Because of the urgency of the trip, they traveled alone.

They did not report having been victims of any violent acts during this first trip, though later Johana fled Honduras once again and was the victim of an attempted kidnapping in Mexico. A group of heavily armed individuals stopped her bus, forcing out passengers and setting the bus on fire. During the attack, her daughter was shot in the abdomen. She was hospitalized in Mexico and was deported after her recovery.

María Josefa explained that they were arrested somewhere near the border between Mexico and the United States by authorities of the National Institute of Migration. When they were arrested, Maria Josefa explained her daughter's case to the authorities, requesting to begin the process of applying for asylum. However, the authorities did not respond to her request and they were transferred to the Siglo XXI Migrant Holding Center in Tapachula, Chiapas, Mexico.

During her detention at the migrant holding center, Maria Josefa reported having had contact with the Honduran consul in Tapachula, who knew of her daughter's case, including her kidnapping. However, he told them that he could do nothing, that there was no other alternative but to deport them. Maria Josefa remembers the Honduran consul as very inappropriate in his manner: "*He did not seem like a consul, he had his feet on the desk and was smoking*." She had little recourse but to follow his advice.

Return to Fear

María Josefa, along with her daughter Johana, her other son, and four grandchildren were not offered protection or reintegration of any kind by the Honduran government. They had no means by which to secure a new home, or economic productivity elsewhere, and no access to justice for the ongoing threats that were a result of Johana's victimization and participation in the judicial process.

After the first deportation, Johana left for the United States a second time. It was on that occasion that the attempted kidnapping and murder took place, for which she was hospitalized in Mexico. Maria Josefa indicates that at that moment the Mexican authorities offered her daughter the option of entering the asylum program. However, she did not accept because her objective was to get to the United States after having suffered extreme violence in Mexico and Honduras.

After her recovery, Johana was deported to Honduras, and later left for the third time. On this occasion, she managed to arrive in the United States, where she was stopped by the US border authorities. Currently Johanna is in a migrant detention center in the United States, while Maria Josefa and her grandchildren are in Honduras, exposed to constant threats.

The case of Maria Josefa, her daughter Johana, and her grandchildren is significant since Johana is a victim who survived a kidnapping and sexual violence by gang members. But it highlights another issue, i.e., the family process in deciding that not all of the family can leave and seek safety. Johana has a chance at remaking her life in the United States, but her family, who first tried to leave with her, remains at significant risk.

Return and Integration: Revictimization and Individual, Family and Communal Security Strategies

Doña María Josefa, along with her daughter Johana, her other son, and four grandchildren were deported by land from the Siglo XXI Migrant Holding Center in Tapachula, Chiapas. Because they were a family unit, they were received at the Albergue Belén, in San Pedro Sula, where they were approached by the staff of Casa Alianza de Honduras, who offered to assist her grandchildren.

Casa Alianza de Honduras has provided comprehensive support to both the children and their grandmother. They exhibit high levels of stress and constant concern due to the threats.

CONCLUSION

The refugee crisis in Central America has been decades in the making, beginning with conflict in the 1980s in which poor refugees from the Northern Triangle fled political unrest, conflict, and authoritarian regimes. The absence of strong institutions in these countries, a product of impunity and political corruption stemming from that era, results in their continued failure to protect their citizens from harm and has allowed organized crime to flourish.

The stories of the refugees presented in our study demonstrate how they see the situation, as they have little trust in their governments or in other countries providing them protection. The family structure has taken the place of government protection for most refugees fleeing the Northern Triangle, although families themselves have limits in what they can provide. In many cases, families — parents, siblings, children — become the targets and victims of these gangs, which are relentless in attempting to harm and kill persons they have targeted.

The persons interviewed were unaware of their rights and were not informed of them during their journey. Because of the narrative, promulgated by elected officials and others, that they are criminals, many relied on smugglers and undertook dangerous journeys to avoid capture and detention. Instead of obtaining protection, they felt criminalized.

The returnees continue to be deprived of their rights and to live in fear for their lives. Such conditions violate the principle of *non-refoulement*.

Finally, in all the cases of returnees the study found that basic liberties and rights — the freedom of movement, the right to work and access education, and the basic right for protection and justice — were unavailable. The returnees continue to be deprived of their rights and to live in fear for their lives. Such conditions violate the principle of *non-refoulement*.

The ultimate solution to this crisis is effectively rooting out the push factors driving this migration — organized crime and the violence and death they produce; the lack of economic opportunity and evidence-based violence prevention programming, especially for youth; and judicial and law enforcement systems that function and protect the citizenry. There also are transnational forces at play that drive the instability, including the lucrative drug trade which profits from an ever-growing US market and the availability of weaponry from the United States and Mexico. In short, the more powerful nations in the region have dirty hands that have helped generate this crisis.

As a result, nations in the region have a responsibility to fill the protection gaps that the Northern Triangle states are unable to fill, both for humanitarian reasons and to meet their international legal obligations. The use of deterrence policies to stem the flow only exacerbates the suffering which the world has witnessed and our interviews with returnees have exhibited. Ultimately, these policies will fail, as the threats confronting citizens of the Northern Triangle will remain stronger than the risk of fleeing in search of safety. We urge these nations and the global community to reverse course and replace enforcement and deterrence policies with those of assistance and protection.

REFERENCES

American Immigration Council. 2015. *The Criminalization of Immigration in the United States*. Washington, DC: American Immigration Council.

Amnesty International 2010. *Invisible Victims: Migrants on the Move in Mexico*. Mexico City: Amnesty International.

———. 2016. *¿Hogar dulce hogar? El papel de Honduras, Guatemala y El Salvador en la creciente crisis de refugiados*. London: Amnesty International.

Arnold, Lynnette, and Miranda Cady Hallett. 2017. "Locking Up Families is Inhumane — and Unconstitutional." *Sapiens*, March 17. http://www.sapiens.org/culture/family-detention-unconstitutional/.

Bonello, Deborah. 2013. "Los Zetas reclutan a migrantes vulnerables en México." *Agence France Presse*, July 17. https://es.noticias.yahoo.com/los-zetas-reclutan-migrantes-vulnerables-en-m%C3%A9xico-201011086.html.

CS Working Group (Civil Society Working Group on Internal Displacement). 2017. "Internal Displacement by Violence and Crime in El Salvador: 2016."

DHS (US Department of Homeland Security). 2014. "DHS Releases End of Year Statistics." Washington, DC: DHS. https://www.dhs.gov/news/2014/12/19/dhs-releases-end-year-statistics.

———. 2016. "DHS Releases End of Year Fiscal Year 2016 Statistics." Washington, DC: DHS. https://www.dhs.gov/news/2016/12/30/dhs-releases-end-year-fiscal-year-2016-statistics.

Dominguez, Lara, Adrienne Lee, and Elizabeth Leiserson. (2016). *U.S. Detention and Removal of Asylum Seekers: An International Human Rights Law Analysis*. New York: Human Rights First. https://law.yale.edu/system/files/area/center/schell/document/human_rights_first_-_immigration_detention_-_final_-_20160620_for_publication.pdf.

Gaborit, Mauricio, Mario Zetino Duarte, Carlos Ivan Orellana, Larissa Brioso, Mercedes Rodriguez, and Dilsia Avelar. 2016. *Atrapadas en la tela araña: Migración irregular de niñas y niños salvadoreñas hacia los Estados Unidos*. San Salvador: Universidad Centroamericana José Simeón Cañas.

IASC (Inter-Agency Standing Committee). 2016. *Inter-Agency Standing Committee Policy on*

Protection in Humanitarian Action. Geneva: IASC. https://interagencystandingcommittee.org/protection-priority-global-protection-cluster/documents/inter-agency-standing-committee-policy

Medecins Sans Frontieres. 2017. *Forced to Flee Central America's Northern Triangle: A Neglected Humanitarian Crisis*. https://www.doctorswithoutborders.org/sites/usa/files/msf_forced-to-flee-central-americas-northern-triangle.pdf.

UNHCR (United Nations High Commissioner for Refugees). 1979. *Handbook on Procedures and Criteria for Determining Refugee States under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*. Geneva: UNHCR. http://www.unhcr.org/4d93528a9.pdf.

———. 2011. *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status*. Geneva: UNHCR. http://www.unhcr.org/3d58e13b4.pdf.

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