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SCHOOL OF INTERNATIONAL STUDIES
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TASK FORCE REPORT



The Cycle of Violence:
Migration From The Northern Triangle

2017



The Cycle of Violence

Migration from the Northern Triangle

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Henry M. Jackson School of International Studies

In partnership with El Rescate and the UW Information School

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Methodology

Intake Form Data and Analysis

Our analysis of migration trends from the Northern Triangle of Central America (NTCA) is based partially on the analysis of intake forms from legal advisory sessions offered by El Rescate, a non-profit immigrant rights organization based in Los Angeles, California. Data was compiled from 1,374 casefiles from January 2013 to May 2016, each containing the information of a single client, gathered before and during their meeting with an attorney, in order to seek asylum or other immigration papers. All the cases in question include clients originally from El Salvador, Honduras, Guatemala, and Mexico.¹ The 105 cases that were not from these four countries have been excluded from the data set for the explicit purposes of this report. Data from these casefiles were analyzed to explicate trends in the demographics of El Rescate's clients, their reasons for migration, and the correlation of fear of return to their country of origin, among other variables. Due to inconsistencies in the collection of personal information on the intake forms, the population sizes of all the variables analyzed in this study differ for each variable. Furthermore, very few of the cases have a complete set of data which may lead to discordant findings.²

Our team manually digitized these hand-written intake forms through a digital survey form that we developed.³ To ensure confidentiality, case numbers replaced all client names and all telephone numbers, email addresses, and home addresses were discarded. The only use of names was to determine the gender of the client, which was crucial to analyzing violence trends in gendered terms.⁴ In order to make quantitatively valid fields for some of the variables with multiple answers for the same field, we used a priority system that categorized variables based on one of the answers given.⁵ For example, with type of family in the U.S., we created a binary metric of immediate and extended family where if any of the immediate family options (Child, Parent, or Sibling) were noted, it would be classified as immediate regardless of the other family members stated. For the 'Violence Type' variable, we categorized the qualitative accounts of clients who responded 'Yes' to having a fear of returning to their country of origin, based on key words that qualified a specific type of violence that

¹ Data from clients originating from Mexico are included in our analysis to compare trends and demographics transnationally.

² All the population sizes as well as variable definitions are in Appendix B.

³ This survey did not include all the fields of the original El Rescate intake form for the purposes of data collection and analytics. Excluded fields include: the current and birth location of a migrant's spouse, the town of birth, parent birth location, marriage location, migration status of spouse, fines to leave detention, past immigration services received, court dates set/appearances in the past, welfare status, etc.

⁴ This was because the original intake form not having a field for gender. In cases where the name or gender was indeterminable, we left that as a missing field.

⁵ See the definitions in Appendix B to note which variables used a priority system for categorization.

occurred against them.⁶ For detailed breakdown of El Rescate’s data and demographic findings, refer to Appendix B. For the tables containing specific statistics in each graph, refer to Appendix C.

Intake Form Quotes

Throughout this report, we inserted quotes from El Rescate’s intake forms to shed light on the reasons migrants are fleeing their homes. Of the 994 who answered the question, ‘Are you afraid to return to your country?’ 81% answered ‘Yes’. Each member of our team transcribed and translated handwritten responses to the preceding and succeeding questions: ‘Why did you come to the U.S.?’ and ‘Why (are you afraid of returning)?’ where clients elaborated on their credible fear claims. These short testimonies reveal the trauma, pain, loss, and injustice that they faced in their countries of origin, and will continue to be subjected to if repatriated, if not worse. Below is an example of these testimonies:

Because I received death threats

...

Because despite paying extortion, the gangs evicted me from my home, kidnapped my son and disappeared him. I am afraid for my little girls who still live there and must live in random places to avoid threats.”

Porque vino a los Estados Unidos?: <u>Por que tenia amenazas de muerte</u>
Tiene miedo regresar a su pais: <u>X</u> Si <u> </u> No
Porque: <u>por que pagaba estorcion y me sacaron de mi casa y despues secuestraron un mi hijo y me lo desaparecieron y tambien tengo miedo por mis hijas que estan aya porque tienen que andar viviendo en varios lugares uyendo de amenazas</u>

Asylum seeker from Guatemala, May 2014

⁶ This was the only variable that use qualitative data to create quantitative metrics. The words necessary to fit into each of the categories were standardized and are listed in Appendix B, along with the population size. If there was no discernable category, the case was slotted into a ‘None’ variable (many of these cases cited economic reasoning).

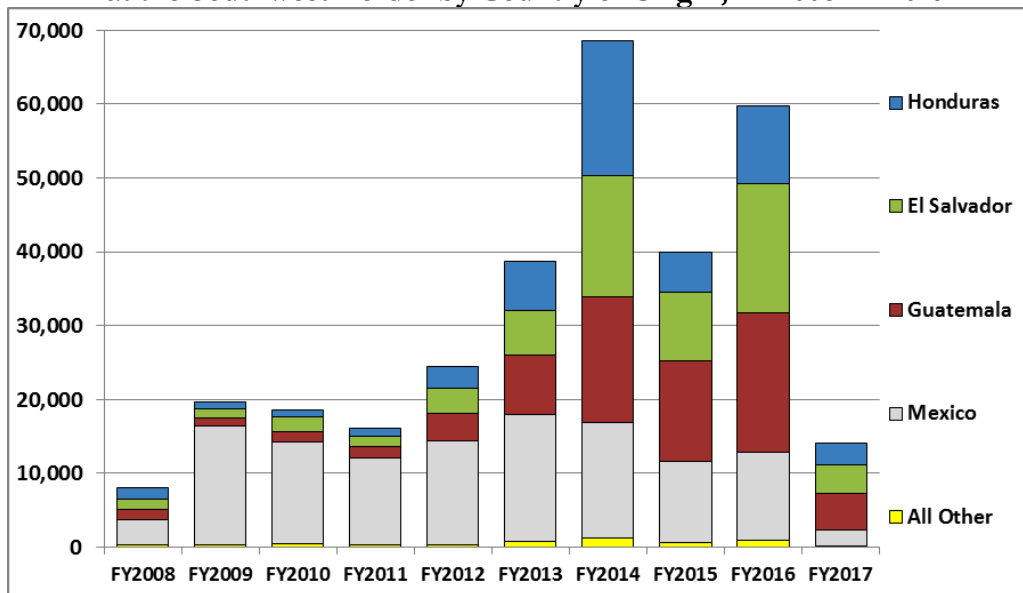
Executive Summary

This report documents the brutal and pervasive abuses suffered by Central American migrants in efforts to seek refuge from gang and state violence, government corruption, social exclusion, and endemic poverty. The cyclical nature of this violence – that is, the tendency of its victims to be caught in a cycle of forced migration, deportation, and remigration – reflects that the involved governments have collectively failed in both resolving its underlying causes and stemming its devastating effects. For instance, reintegration programs that might afford deportees the opportunity to rebuild their lives are thoroughly lacking in the NTCA; and simultaneously, U.S. and Mexican immigration officials are routinely neglecting their legal obligations to screen apprehended migrants for asylum claims before summarily deporting them. Our aim is to explicate factors such as these, which reveal long-standing patterns of impunity for criminal organizations and corrupt officials, negligence, and a lack of political-will which perpetuate what has become a deepening cycle of human rights abuses. By using data from the cases of Salvadoran, Guatemalan, Honduran, and Mexican clients who sought legal counsel at El Rescate – as well as scholarly works, government figures, and the findings of various non-governmental organizations – our report sheds light on the policies and practices that have systematically marginalized those compelled to flee the Northern Triangle.

Background

In the summer of 2014, an unprecedented number of children and families from El Salvador, Guatemala, and Honduras were apprehended at the U.S. southern border, as depicted in Figure 1.1.⁷ At a time when attempts by Mexican nationals to illegally enter the U.S. has reached historic lows,⁸ the humanitarian crisis of forced migration from the NTCA continues to worsen. By tracing significant events in each of its countries’ histories, we recognize systemic patterns of violent insecurity, negligence, and impunity entrenched in the communities migrants are fleeing.

Figure 1.1 – Unaccompanied Minors Apprehended at the Southwest Border by Country of Origin, FY2008-FY2017



Source: Congressional Research Service, 2017.

The passage of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) resulted in the transfer of gang members and felons from U.S. jails into the NTCA with no plan to monitor, rehabilitate, or reintegrate them.⁹ Thus it was that gangs – or *maras* – such as *Mara Salvatrucha* (MS-13) and *Barrio 18* (18th Street) were relocated to the region during a time of post-war instability, with the civil wars in El Salvador (1980-1992) and Guatemala (1960-1996) having created large power

⁷ William A. Kandel, “Unaccompanied Alien Children: An Overview,” *Congressional Research Service*, January 18, 2017; For FY2008-FY2013: “Juvenile and Adult Apprehensions—Fiscal Year 2013,” *U.S. Department of Homeland Security, United States Border Patrol*; For FY2014-FY2017, “Southwest Border Unaccompanied Alien Children,” *Customs and Border Protection*. Note: this FY2017 statistics only include apprehensions from October to November 2016.

⁸ 267,885 were apprehended in 2015, as compared with 517,472 in 2011 and 1,057,219 in 2006; “2015 Yearbook of Immigration Statistics.” Office of Immigration Statistics, December 2016.

⁹ José Miguel Cruz, “Global Gangs in El Salvador: *Maras* and the Politics of Violence,” (paper presented at the Global Gangs Workshop, Centre on Conflict, Development, and Peacebuilding, May 14-15, 2009), 3.

vacuums, facilitating efforts by these gangs to propagate transnational criminal networks.¹⁰ To address the rise in crime, *mano dura* (iron fist) policies were enacted to curtail rampant gang activity with a zero tolerance approach,¹¹ through police and military crackdowns, mass incarceration, citizen arrests, extrajudicial killings, and neighborhood security forces. Between 2004 and 2008, the population of imprisoned gang members rose from around 4,000 to over 8,000, with prisons pushed to 320% capacity and separated by gang membership to prevent violent riots.¹² This in turn institutionalized criminal operations from within prisons, where gang leaders coordinated extortions, kidnappings, homicides, and other crimes.¹³

Furthermore, the NTCA's combination of ex-military operatives, their evolution into gang collaboration, a lack of an independent judiciary, and the corruption of the state created an environment that allowed gangs to strengthen – permeating the daily lives of Central Americans. In 2009, the Honduran military orchestrated a coup d'état when the government was on the brink of bankruptcy, which weakened security institutions, such as the municipal police departments, to the point where some relied on organized crime to supplement income and provide funds for equipment. The same pattern of enabling crime syndicates to thrive occurred in El Salvador and Guatemala, where “organized crime grew by using structures created by the far-right paramilitary and leftist guerillas during the war.”¹⁴

The United Nations and U.S. Southern Command estimate that there are approximately 70,000 gang members in the NTCA: 36,000 in Honduras, 10,500 in El Salvador, and 14,000 in Guatemala.¹⁵ Between demand in the North and supply in the South, the NTCA has become a pipeline for drug, labor, and sex trafficking carried out by *maras*,¹⁶ wherein disputes regarding access to various routes and territories have become yet another source of violence.¹⁷ The pervasive influence commanded by gangs is reflected in the accounts of migrants who have fled the NTCA. Figure 1.2 shows that 83.3% of El Rescate's clients from NTCA countries cited that they were afraid to return to their country of

¹⁰ Jennifer Burell, “The Post–Cold War Anthropology of Central America,” *Annual Review of Anthropology*, 2017.

¹¹ Steven Dudley, “How ‘Mano Dura’ Is Strengthening Gangs,” 2017.

¹² Peter J. Meyer, “Central America Regional Security Initiative: Background and Policy Issues for Congress - R41731,” Section: 78.

¹³ John A. Booth, Christine J. Wade, and Thomas W. Walker. *Understanding Central America: Global Forces, Rebellion, and Change*, Sixth edition (Boulder: Westview Press, 2014).

¹⁴ Douglass Farah, “Central America's Northern Triangle: A Time for Turmoil and Transitions,” *PRISM* 4, No. 3, 2015.

¹⁵ Steven S. Dudley, “Drug Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels, and Maras,” in *Organized Crime in Central America: The Northern Triangle*, ed. by Eric Olson and Cynthia Arnson (Washington D.C.: Woodrow Wilson International Center for Scholars, 2011) 104-139.

¹⁶ “Home Sweet Home? Honduras, Guatemala and El Salvador's Role in a Deepening Refugee Crisis,” *Amnesty International*, 2016.

¹⁷ Douglas Farah and Army War College, “Transnational Organized Crime, Terrorism, and Criminalized States in Latin America: An Emerging Tier-one National Security Priority,” *Strategic Studies Institute*, Carlisle, PA: Strategic Studies Institute, U.S. Army War College, 2012.

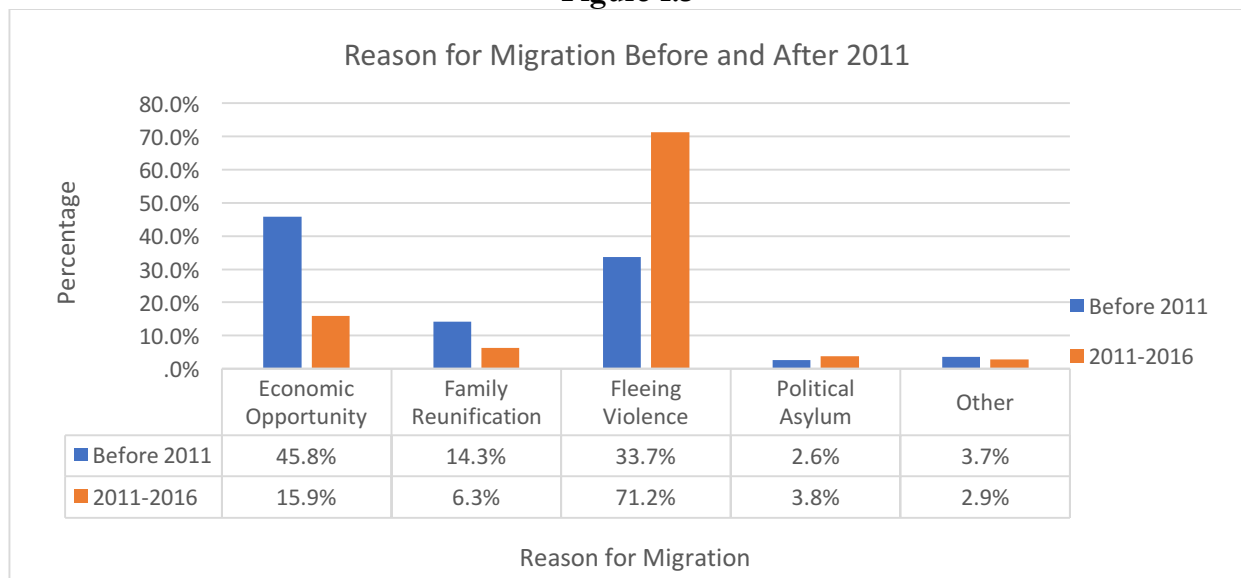
origin.¹⁸ In Figure 1.3, an increase of violence is seen in the past six years with clients reporting ‘fleeing violence’ as a reason for migration twice as often as they had before 2011.

Figure 1.2



Source: El Rescate data

Figure 1.3



Source: El Rescate data

In response to the 2014 humanitarian crisis, the U.S. approved funding for the Alliance for Prosperity Plan, a five-year initiative aimed at reducing incentives to migrate by providing security and economic opportunities for vulnerable populations. U.S. funding is contingent on the NTCA nations implementing reforms to the effect of combatting trafficking, improving border security, facilitating return, effective repatriation and reintegration of apprehended and undocumented migrants, as well as warning potential migrants of the dangers in the journey to the southwest border of the U.S. The plan also intends to attract foreign, private investment to and increase security initiatives with increased US military and police assistance. Funding for 2016 was approved for \$750 million, more than double

¹⁸ Total population size for NTCA fear of return is 731.

its 2014 contribution.¹⁹ There is skepticism regarding the ability to track funding between multiple US organizations and multiple Central American governments, causing concern for a lack of accountability.²⁰ The plan has been critiqued by human rights advocates, who believe the aid will merely exacerbate push factors causing forced migration by ramping up militarized police forces, with its \$349 million allocated to the Central American Regional Security Initiative (CARSI).²¹ In addition, it is not apparent whether funding can compensate for the NTCA's historic lack of support for youth, especially education.²²

Though this aid is meant to create opportunities for a better life at home, it is accompanied with increased pressure from the U.S. on Mexico and Guatemala to secure its southern border by streamlining deportations with no due process.²³ Many migrants rely on *coyotes*²⁴ to guide them through Mexico and into the U.S., but with recent crackdowns on illegal immigration, smuggling routes have become more dangerous and expensive.²⁵ Deterrence through increase border security has led to profit-making for migrant smugglers in a trafficking industry operated by criminal gangs, and for corrupt authorities who charge fees for turning a blind eye.²⁶

Recent apprehension rates indicate that this humanitarian crisis will endure, with 21,621 unaccompanied minors and 51,410 family units apprehended at the U.S. border from October 1, 2016 to January 31, 2017,²⁷ despite increased border security and U.S. economic assistance to the NTCA. The governments of the NTCA continue to fail at addressing their emigration crisis because of pervasive corruption and a lack of political will, due in part by their reliance on migrants' remittances as a form of economic aid, as well as complicity in criminal activities.²⁸ As a result, the lives of fleeing migrants are continuously put into danger by authorities and criminal groups, as responsibility is deflected along each phase of the cycle.

¹⁹ Office of the Press Secretary, "Fact Sheet: The United States and Central America: Honoring Our Commitments," *The White House*, January 14, 2016.

²⁰ Alexander Main, "Will Biden's Billion Dollar Plan Help Central America?" *NACLA* February 27, 2015.

²¹ Mary H. Johnson, "National Policies and the Rise of Transnational Gangs," *Migration Policy Institute*, April 1, 2006.

²² According to 2012 estimates, each country spending significantly less than Latin America's average 2.6% of GDP, with Guatemala spending 1.8%, El Salvador 1.6% and Honduras 0.5%; "Panorama Social de América Latina," *Comisión Económica para América Latina y el Caribe (CEPAL), Naciones Unidas*, 2014, p. 17.

²³ Alexander Main, "Will Biden's Billion Dollar Plan Help Central America?"

²⁴ Migrant smugglers who are oftentimes gang-affiliated, but some can be independent.

²⁵ Clare Ribands Seelke, "Trafficking in persons in Latin America and the Caribbean," *Latin American Affairs, Congressional Research Service*, 2016, p. 3.

²⁶ "Easy Prey: Criminal Violence and Central American Migration," *International Crisis Group* (2016): i.

²⁷ "U.S. Border Patrol Southwest Border Apprehensions by Sector," *U.S. Customs and Border Protection*, February 27, 2017.

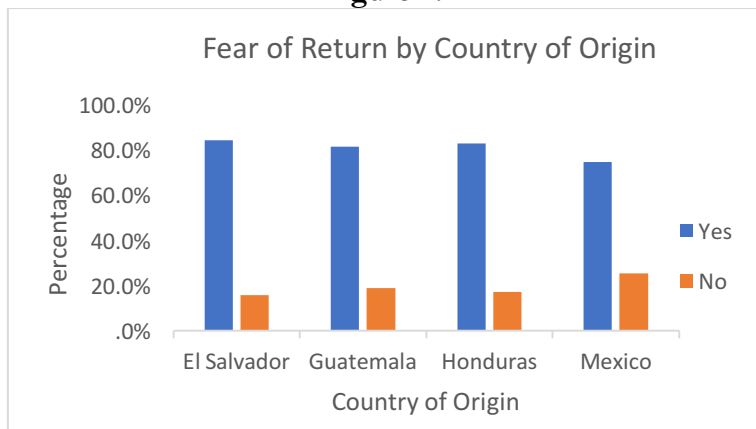
²⁸ "Easy Prey," *International Crisis Group*, 23.

Countries of Origin

Trends Across the Northern Triangle

Figure 2.1 shows a drastically higher percentage of cases who answered ‘Yes’ to the question ‘Are you afraid to return to your home country?’, however, Mexico has the largest proportion of ‘No’ responses.

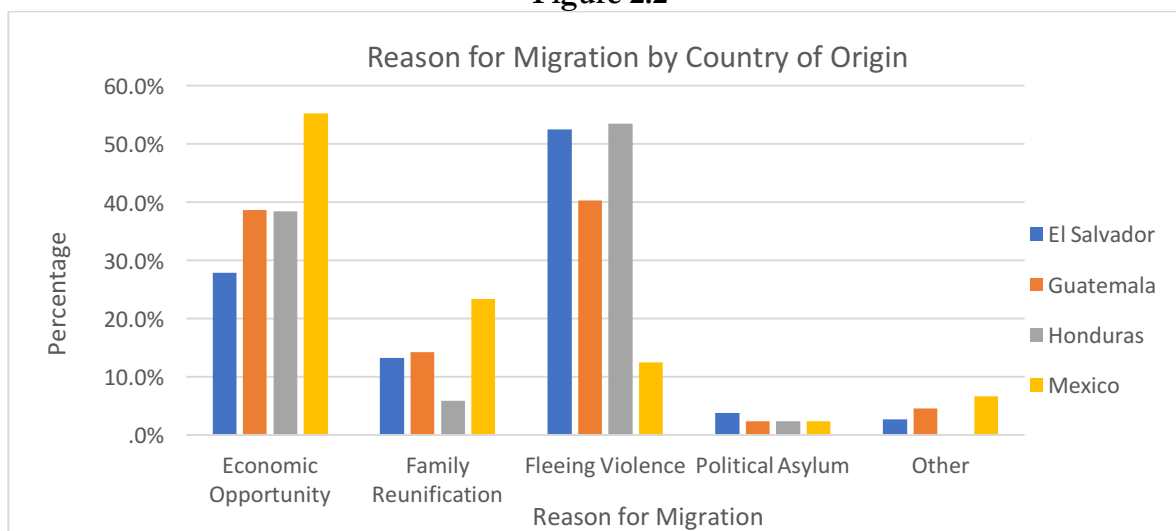
Figure 2.1



Source: El Rescate data

As seen in Figure 2.2, clients from the NTCA cited ‘fleeing violence’ for their reasons for migration at higher rates than Mexican clients, who instead cited ‘economic opportunity’ or ‘family reunification’ more often.

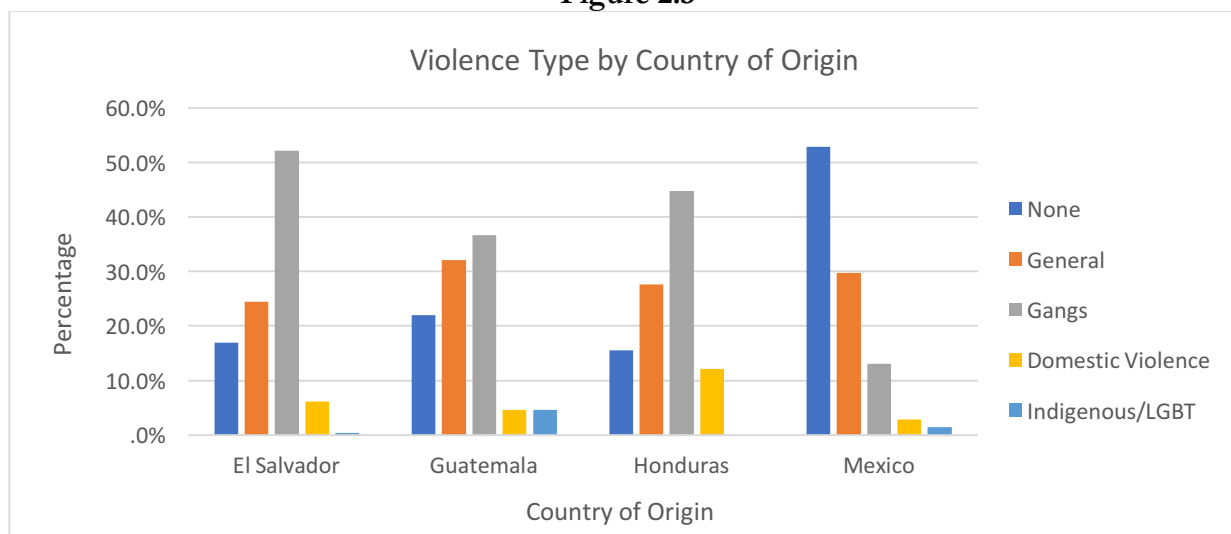
Figure 2.2



Source: El Rescate data

Trends in violence type were also found through looking at the reasoning behind the cases which answered ‘Yes’ to fear of returning to their home country.²⁹ As shown in Figure 2.3, gang violence is the top reason for all of the NTCA countries, with El Salvador being particularly pronounced at 52.2%. The ‘None’ field signifies that although they do fear returning to their country of origin, that fear is not rooted in any form of physical violence, but is oftentimes an economic reason. ‘None’ was not a prominent field for any of the NTCA countries, however it makes up 52.2% of all of the Mexican cases. This reinforces the trend that NTCA migrants have a higher fear or incidence of physical violence than those from Mexico.

Figure 2.3



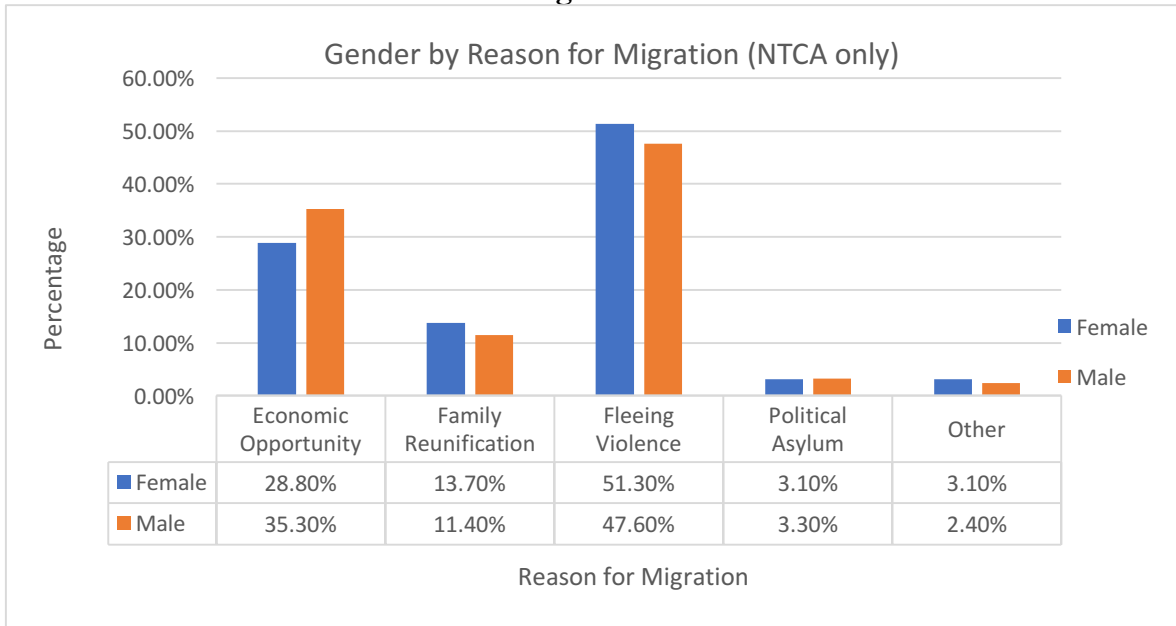
Source: El Rescate data

Figure 2.4 shows a trend of gendered violence, with female NTCA clients were more likely than males to cite ‘fleeing violence’ as a reason for migration. This could be attributable to domestic violence or a broad pattern of gender-based violence in the NTCA such as *femicidios* (femicide), women killed for reasons of their gender, which is high in all three countries. Honduras registers the largest total number of *femicidios* in Latin America, totaling 531 registered deaths in 2014, and Guatemala follows in second place. El Salvador has the highest rate of *femicidios* in the region.³⁰ Women and girls are also particularly vulnerable to human trafficking and sexual harassment or abuse.

²⁹ These cases were coded by sorting the qualitative variables using key words written in each client’s short testimony, which detailed why they feared returning home. Keywords for each category of violence can be found in Appendix A, along with their limitations. This was the only field that used qualitative answers to generate quantitative data.

³⁰ “País por país: el mapa que muestra las trágicas cifras de los feminicidios en América Latina,” *BBC Mundo*, November 12, 2016.

Figure 2.4



Source: El Rescate data

Endemic Violence and Insecurity

El Salvador has been listed as the most violent country in the Western Hemisphere, representing 35.3% of Central America's homicides, although it only makes up 13.6% of Central America's population.³¹ The country has one of the highest murder rates of any nation not at war, where 99 homicides were recorded in the first ten days of 2017 alone.³² Violence perpetrated by state and non-state actors in El Salvador rivals civil war levels of violence during the years leading up to the conflict.³³ While the most vulnerable populations are youth, women, and LGBTI people, violence permeates most aspects of society and has grown sharply in recent years.³⁴

The Universidad de Centroamérica José Simeón Cañas' Institute of Public Opinion (IUDOP) found that in 2014, 8% of those polled reported someone in their house had to move due to threats.³⁵ By 2015, this figure had increased to 11.4%, and by 2016 it had more than doubled, with 17.2% reporting the necessity to move due to violence.³⁶ In 2015, the Internal Displacement Monitoring Centre estimated that there were 289,000 internally displaced persons (IDPs) in El Salvador.³⁷ The government has also been unable to respond to the rampant violence at the root of this issue, and has yet to officially acknowledge the existence of IDPs within its borders.³⁸ This lack of recognition impedes the ability to implement comprehensive programs and official policy to protect these people.

Figure 2.2 illustrates the factors contributing to the migration increase, showing that 52.5% of Salvadorans cited fleeing violence as the reason for their migration, while 27.9% cited economic opportunity, and 13.2% said family reunification. Regardless of stated reason for migration, 84.3% of Salvadorans said they were afraid to return to their country (Figure 2.1). Among those who feared returning to El Salvador, 52.2% stated that they were fleeing gang-related violence (Figure 2.3).

³¹ Arron Daugherty, "El Salvador is Most Violent Nation in Western Hemisphere," *Insight Crime*, January 4, 2016.

³² Irvin Alvarado, "El 2016 Inicia Violento con 72 Muertes en Primeros Tres Días," *La Prensa Gráfica*, January 4, 2016; Elizabeth Malkin, "A remarkable event in El Salvador: A day without murder," *The New York Times*, January 13, 2017.

³³ Kathleen Dingeman-Cerda and Susan Bibler Coutin, "The Ruptures of Return: Deportation's Confounding Effects" in *Punishing Migrants: Policy Politics, and Injustice*, ed. Charis E. Kubrin, Marjorie S. Katz, and Ramiro Martínez, Jr. (New York: NYU Press, 2012), 119.

³⁴ "Home Sweet Home?" *Amnesty International*.

³⁵ "Evaluación del país a finales de 2014," *José Simón Cañas Universidad Centroamericana, Instituto Universitario de Opinión Pública*, El Salvador, November 2014, 7-14.

³⁶ "Los salvadoreños evalúan la situación del país a finales de 2016," *José Simón Cañas Universidad Centroamericana, Instituto Universitario de Opinión Pública*, January 1, 2017.

³⁷ "El Salvador Country Information 2015," *Internal Displacement Monitoring Centre*, Accessed January 23, 2017.

³⁸ "Conferencia de Prensa, Desplazamiento Forzado en El Salvador," *FESPAD*, 2016.

Gang Recruitment of Youth

Minors are leaving the country to avoid rampant violence and gang recruitment, with one local study showing that 59% of boys and 61% of girls listing crime, gang threats or violence as a reason for emigration, compared to only 1 in 3 citing family reunification.³⁹ Of just those apprehended at the U.S. southern border, the toll has steadily risen from 5,990 unaccompanied minors from El Salvador in 2013, to 17,512 in 2016, with the US Border Patrol already registering 3,800 by the end of January, 2017.⁴⁰ Gangs primarily recruit young boys, which explains the sadness associated with turning thirteen, marking one as an adolescent.⁴¹ Youth are also primary victims of violence, with the 540 murders of minors in 2016 making up more than 10% of the nation's total homicides, 95% of these victims are between the ages of 12 and 17.⁴²

School desertions have increased, with the number of students who cited violence as a reason for dropping out more than doubling from 2009 to 2014, with that year showing one in every hundred students leaving school due to violence. The Ministry of Education claims that the rate is far higher than what is shown, with reports of over 20,000 students changing their address or school, hiding the full weight of this issue. Taking these other causes of attrition into account, around 3.5% of all those enrolled in public education have left due to violence.⁴³

In surveys conducted by the IUDOP regarding general perceptions of security, 52.7% of respondents expressed feeling somewhat or very safe, while 47.3% reported feeling somewhat or very unsafe about the possibility of being a victim of crime. These perceptions vary significantly based on context and environment, with "public spaces such as roads, markets, plazas, and parks" being the places where people feel the most vulnerable.⁴⁴ This illustrates the choke-hold that gangs have on communities' freedom of movement. Public transport is particularly targeted, where seven out of every ten regular public transport riders reported that they did not feel not very safe or not safe at all when riding the public transport routes.⁴⁵

Economic Insecurity

Maras sustain their operations through extortion of local business and restricting freedom of movement within their territories. The damage they cause in monetary loss is severe: Salvadorans pay

³⁹ Elizabeth Kennedy, "No Childhood Here: Why Central American Children Are Fleeing Their Homes," *American Immigration Council*, August 24, 2016.

⁴⁰ "U.S. Border Patrol Southwest Border Apprehensions by Sector," *U.S. Customs and Border Protection*, January 18, 2017.

⁴¹ Elizabeth Kennedy, "No Childhood Here," *American Immigration Council*.

⁴² Tristan Clavel, "540 Children were Murdered Last Year in El Salvador: Report," *Insight Crime*, January 31, 2017.

⁴³ Jimmy Alvarado, "La Deserción Escolar Por Inseguridad Se Duplicó En Los Últimos Cinco Años," *El Faro*, August 24, 2015.

⁴⁴ Jeannette Aguilar and Laura Andrade, "Encuestas, Boletines," *University Institute for Public Opinion (IUDOP)*, Central American University Jose Simeon Cañas. 2013-2016. Accessed January 31, 2017.

⁴⁵ Ibid.

\$756 million a year to gangs, amounting to about 3% of the country's GDP.⁴⁶ The study estimates that the total cost of violence, including the amount households spend on extra security and the lost income of people deterred from working, is nearly 16% of GDP, the highest level in Central America.⁴⁷ This violence effects all business, but mostly targets small-business owners, who are extorted to pay *la renta*, a "protection" fee, to the local gang. *Renta* usually ranges between 20-30% of the target's income, calculated by the gang of its surveillance of the business.⁴⁸ Trends over the past three years indicate a decline in feelings of safety, and an increase in desire to migrate. A survey conducted with micro and small enterprises reveals that 37.4% of businesspeople interviewed disclosed to having been victims of a crime in the year leading up to the interview. This percentage represents a significant increase from the level of 29.5% reported in 2013. According to the businesses affected, in 69.7% of the cases these crimes were motivated by the commercial aspects of their business.⁴⁹

"...we were constantly persecuted by gang members. I had a stable business for over 15 years and they demanded money in exchange for our personal integrity...my oldest son who studied at the university was harassed to join these gangs. They wouldn't let him study anymore. I want stability for my children and family."

Government Responses to Gang Violence

Despite laws on the books condemning gangs and organized crime, there is little enforcement to mitigate their violence.⁵⁰ Presidents Francisco Flores (1999-2004) and Tony Saca (2004-2009) pushed *mano dura* and *super mano dura* policies, but they have been wholly ineffective. The policies called for the immediate imprisonment of gang members, classified broadly as anyone with "gang-related tattoos or flashing signs." The majority of these members were subsequently released when the law was overturned in courts two years later, but the increased divisiveness accelerated retaliatory violence between rival gangs.⁵¹ During this period, extortion rose to an estimated \$60 million per year.⁵² The oppressive measures taken with *mano dura* policies also failed to address the roots causes of gang violence, and shifted attention and political will away from strengthening local democratic institutions or social programs, providing no long-term solution to the systemic violence.⁵³

⁴⁶ Margarita Peñate, Kenny De Escobar, Arnulfo Quintanilla, and César Alvarado, "Estimación del Costo Económico de la Violencia en El Salvador 2014," *Banco Central de Reserva de El Salvador*, April 2016.

⁴⁷ Ibid.

⁴⁸ "El Salvador: Information Gathering Mission Report," *Immigration and Refugee Board of Canada*, September 2016.

⁴⁹ Aguilar and Andrade, "Encuestas, Boletines," IUDOP.

⁵⁰ "National Legislation - El Salvador." *Observatorio Interamericano de Seguridad, Organization of American States (OAS)*, September 28, 2010.

⁵¹ Mo Hume, "Mano Dura: El Salvador Responds to Gangs," *Development in Practice* 17, no. 6 (2007): 739-751.

⁵² Douglas Farah and Pamela Phillips Lum, "Central American Gangs and Transnational Criminal Organizations: The Changing Relationships in a Time of Turmoil," *International Assessment and Strategy Center*, 2013, 6-7.

⁵³ Ana Arana, "How the Street gangs took Central America," *Foreign Affairs*, May/June 2005, 98-110.

“The father of my child is a police officer in our country and gang members have threatened our family. I fear of assassination due to the threats received because of him.”

In March 2012, under the Mauricio Funes administration (2009-2014), the government facilitated a clandestine truce between Barrio 18 and MS-13.⁵⁴ While it was shown that the homicide rate in the country lowered initially, these figures have been called into question upon later discovery of hidden mass graves. Despite this debate, the truce failed to address the issue of extortion, which provides the largest source of income for most gangs.⁵⁵ When the government involvement in the truce became public, gang leaders were implicitly legitimized as political actors in El Salvador, who had a seat at the table regarding security policy. This truce shows the level of desperation that the federal government reached, as they resorted to an extraordinary measure. In 2016, with the support of a coalition of four political parties in El Salvador, the Commission for Public Security and the Fight against Drug-Trafficking plans to extend the “extraordinary measures” against gangs instituted in April 2016, until 2018.⁵⁶ This plan is moving forward despite the program’s lack of public support and effectiveness to date, leading to speculation that officials are once again holding secret negotiations with gangs.

Government Corruption and Low Confidence in Institutions

The Salvadoran government is complicit in this violence due in part to its negligence and rampant corruption, which has long been characteristic of the state both before and after the civil war.⁵⁷ El Salvador received a score of 36 this past year from Transparency International, on a scale where anything below a 50 indicates governments are failing to tackle corruption.⁵⁸ As recent as January 31, 2016, Transparency International has called for an investigation regarding illegal phone tapping of its national chapter *Fundación Nacional para el Desarrollo*, (FUNDE, National Foundation for Development).⁵⁹ This points to the trend of human rights organizations and protectors being targeted in order to protect the government’s long-standing culture of impunity.

Public perception of the government is characterized by an overwhelming lack of confidence in governmental institutions’ ability to protect their citizens. In regards to the anti-gang measures implemented in 2016, 58% of those polled did not believe the plan was producing good results.⁶⁰ There was also pessimism regarding how well the measures would fare long-term, with 59% believing

⁵⁴ Chris Van der Borgh and Wim Savenije, “De-Securitizing and Re-Securitizing Gang Policies: The Funes Government and Gangs in El Salvador,” *Journal of Latin American Studies* 47, no. 1, February 1, 2015, 149–176, doi:10.1017/S0022216X14000741.

⁵⁵ Ibid.

⁵⁶ Leonardo Goi, “El Salvador to Extend ‘Extraordinary Anti-Gang Measures until 2018,” *Insight Crime*, February 8, 2017.

⁵⁷ Chris Van der Borgh and Wim Savenije, “De-Securitizing and Re-Securitizing Gang Policies.”

⁵⁸ “El Salvador Country Profile,” *Transparency International*, accessed February 7, 2017.

⁵⁹ Ibid.

⁶⁰ David Gagne, “Pessimism Pervades El Salvador as Security Crisis Continues,” *Insight Crime*, May 30, 2016.

they would not result in a “real and sustained” improvement to public security.⁶¹ One recent initiative to mitigate the violence, *Plan El Salvador Seguro* (Plan for a Safe El Salvador), has been implemented without success.⁶² The plan was introduced in Ciudad Delgado as a flagship of the program, and despite the expected success touted by the Minister of Security and Justice Benito Lara, murders have only increased in the area. 115 homicides and 9 disappearances have been recorded since the plan’s implementation, 20 more than before the launch of *Plan El Salvador Seguro*.⁶³ Of those polled this past year, 65% believed that the plan has brought little to no results.⁶⁴

“There are many gangs and as a teenager there are many risks. [I need to] help my parents who are very poor and to be able to give a better life to my little brother.”

To compound the absence of proactive policy to prevent violence, there is a lack of access to justice for victims of crime. The system is so discredited that only 1 of every 3 people affected by a criminal episode decided to report it to the authorities.⁶⁵ In over 70% of the reported cases, no satisfactory resolutions were produced for the victims.⁶⁶ This perpetuates a culture of impunity, and leads to a general distrust in the justice system. In reviewing the functions of the justice system as a whole, 19.9% reported that they were not satisfied at all, and 50.2% reported little satisfaction.⁶⁷ *La Fiscalía General de la República* (Prosecutor’s Office) also suffers from a similar lack of trust, shown by the 16.3% of citizens who thought it was not likely at all that the office would investigate a grave crime committed in the country, 61.4% though it was slightly, or somewhat likely an investigation would take place.⁶⁸ This past year, just under half of those polled believed there was considerable corruption in *La Fiscalía*,⁶⁹ which has repeatedly refused to act on organized crime cases that have connections with certain political groups.⁷⁰

There are few prospects for resettlement for victims of crimes, and those that exist are relatively small-scale efforts initiated by civil society organizations.⁷¹ In fact, government agencies are known to regularly call members of one such organization, the Roundtable on Forced Displacement, to ask for their help in finding shelter and supporting families.⁷² This demonstrates a complete lack of capability

⁶¹ Ibid.

⁶² Dan Adler, “El Salvador’s ‘Plan Seguro’ Failing to Make Communities Safe: Report,” *Insight Crime*, March 28, 2016.

⁶³ Ezequiel Barrera, “El municipio que resiste para ser un lugar seguro,” *La Prensa Gráfica*, March 24, 2016.

⁶⁴ Jeannette Aguilar and Laura Andrade, “Encuesta de evaluación del año 2015,” *Instituto Universitario de Opinión Pública (IUDOP)*, Universidad Centroamericana José Simeón Cañas. January 2016: 139.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ “Los salvadoreños evalúan la situación del país a finales de 2016,” *IUDOP*.

⁶⁹ Ibid.

⁷⁰ Iris Ventura, “The Rise of Human Trafficking in Central America,” *Law Student Scholarship*, Seton Hall University, 2016.

⁷¹ Sarnata.Reynolds, “It’s Suicide to Leave or Stay: IDP in El Salvador,” *Refugees International*, July 20, 2015.

⁷² Ibid

on part of the government to attend to citizens' needs. While the government continues to ignore the issue, civil society groups are left to the task of identifying and paying the rent on safe houses, delivering food, toiletries, and medicine, connecting families to legal assistance, and finding medical and psychological care for them.⁷³ One such organization, *La Mesa de Sociedad Civil* (The Civil Society Table), registered and attended to 146 cases of forced displacement in 2015 alone. Of these cases, they noted that 19 had been provoked by actions of the armed forces and eight by the National Civil Police.⁷⁴ The government's choice to ignore this issue is not only one of negligence, but a move to prevent implicating itself as one of the causes.

The deadly combination of government incompetence, negligence, and gang impunity has put marginalized Salvadorans into a perilous situation, where migration is the most appealing option. In 2013, 28.4% of those polled indicated a desire to migrate out of the country, but by 2016 this percentage had grown to 40.3%, the highest that percentage has been in a decade.⁷⁵ This drastic increase indicates that the problem is not going away.

⁷³ Ibid.

⁷⁴ "Informe Sobre Situación de Desplazamiento Forzado En El Salvador (2014-2015)," *Movilidad Humana, La mesa de Sociedad Civil contra el Desplazamiento Forzado por Violencia y Crimen Organizado de El Salvador*, 2016, 4.

⁷⁵ "Los salvadoreños evalúan la situación del país a finales de 2016," *José Simón Cañas Universidad Centroamericana, Instituto Universitario de Opinión*.

Honduras

Violence

Homicide in Honduras peaked in 2011, with a reported 86.5 per 100,000⁷⁶ people killed, and despite declining since then with a reported 79 in 2014,⁷⁷ the country still has one of the highest rates in Latin America. In comparison, 2014 homicide rates in El Salvador and Guatemala were 68.6 and 31 per 100,000 people respectively,⁷⁸ while the 2015 rate for the USA was 5.0 per 100,000.⁷⁹ Some dispute homicide rates are a low estimate: in 2013 alone there was a discrepancy of around 700 missing homicides when comparing NGO reported numbers with the number of registered cases.⁸⁰ Most murders were committed against men, however, women are at risk of assault and make up 88.1% of reported sexual assault cases.⁸¹

Gang Recruitment and Trafficking

Children are oftentimes coerced to join gangs through threats to their families' lives or themselves, intimidation, and violence. The social exclusion resulting from gang membership oftentimes prevents them from social, economic and political participation in society.⁸² While young boys are primary targets for gang recruitment, 20% of gang members are female and face a high risk of violence due to the expectation of sexual submission.⁸³ For those who do not want to participate in this system, fleeing is one of the only viable options. Vast gang networks like MS-13 and Barrio 18 have become so ingrained into the daily lives of Hondurans, that government attempts at control are ineffective and even the police force is at risk.

Honduras is a haven for drug trafficking and thus sees violence from both the drug traffickers and law enforcement, with the most violent regions of Honduras along the coast and border with Guatemala, two areas in which terrain and access make it a “trafficker’s paradise”.⁸⁴ For example,

⁷⁶ IUDPAS – UNAH Instituto Universitario de Democracia, Paz y Seguridad. “Observatorio de la Violencia Mortalidad y Otros,” *Boletín Nacional*, 24, March 2012.

⁷⁷ IUDPAS – UNAH Instituto Universitario de Democracia, Paz y Seguridad. “Observatorio de la Violencia Mortalidad y Otros,” *Boletín Nacional*, 32, February 2014.

⁷⁸ “A Guide to Children Arriving at the Border: Laws, Policies, and Responses,” *American Immigration Council*, June 26, 2015, 2.

⁷⁹ “Crime in the United States,” *United States Department of Justice, Federal Bureau of Investigation*, Table 16, September 2015.

⁸⁰ David Gagne, “¿Está Honduras Disfrazando Sus Tasas de Homicidio?” *Insight Crime*, August 13, 2014.

⁸¹ “Mortalidad y Otros”, 11.

⁸² “Situación de Maras y Pandillas En Honduras,” *Honduras: Programa Nacional de Prevención, Rehabilitación, y Reinserción Social*, 2012, 57.

⁸³ “Situación de Maras y Pandillas En Honduras,” 68.

⁸⁴ Julie Marie Bunck and Michael Ross, Fowler, “Honduras,” In *Bribes, Bullets, and Intimidation: Drug Trafficking and the Law in Central America*, (University Park: Penn State University Press, 2012), 256.

“The father of my first daughter belonged in the gangs. He hit me, abused me, threatened to kill me and took my daughter away.”

along the coast in the province of Gracias a Dios, murders increased from 4 in 2009 to 54 in 2013.⁸⁵ Migrants are at risk from smugglers who claim to offer safe passage to the U.S. but instead entrap victims into human trafficking by claiming they owe enormous amounts of money.⁸⁶ Criminal networks exploit women, men, and children through labor and sex trafficking, bolstered by the complicity of corrupt officials who provide false documents or allow illegal border crossing.⁸⁷

Low standards of living

In 2014, 62% of Hondurans were reported as being below the poverty line,⁸⁸ and of the Honduran clients at El Rescate, 38% cited ‘economic opportunity’ as a reason for entering the United States (Figure 2.2). Poverty in Honduras can be attributed to a lack of industry coupled with an economy that relies heavily on foreign investment and remittances from family members living outside of the country.⁸⁹ While the government does provide health care, only 60% of Hondurans are willing or able to take advantage of it due to the large urban-rural divide, and the toll that this has on society is seen in the rise of AIDS and high malnutrition rates.⁹⁰ An additional effect of the urban-rural divide are low education rates: in 2013, 50% of children aged 3-17 attended school. Reasons for absence ranged from the need for children to work to the constant threat of gang violence prohibiting them from leaving their homes, or needing to move to a safer area. An estimated 174,000 were internally displaced in Honduras by the end of 2015, with violence among the top three reasons cited.⁹¹ Internal displacement drastically affects quality of life: approximately 20% of displaced households do not have access to education and 80% are not covered by health care.⁹²

Government Responses, Corruption, and State Violence

Since taking office in 2014, President Juan Orlando Hernández has increased the presence of military police, ostensibly as a temporary measure while the National Police undergoes review and reform as per the agreement outlined in the Alliance for Prosperity Plan.⁹³ In 2016, an anti-corruption task force

⁸⁵ “Corridor of Violence: The Guatemala-Honduras Border,” *International Crisis Group*, Latin America Report, June 4, 2014, 3.

⁸⁶ Jasmine Garsd, “In Central America, Human Smugglers Entrap Women in Sex Trafficking,” *All Things Considered*, NPR, January 28, 2016.

⁸⁷ Iris Ventura, “The Rise of Human Trafficking in Central America.”

⁸⁸ “Poverty Headcount Ratio at National Poverty Lines (% of Population),” *World Bank*, 2014.

⁸⁹ “Easy Prey,” *International Crisis Group*.

⁹⁰ Juan Luis, Bermúdez-Madriz María del Rocío Sáenz, Jorine Muiser, and Mónica Acosta. “Sistema de Salud de Honduras,” *Salud Pública de México* 53, January 2011, 209–219.

⁹¹ Paola Bolognesi and Russel Garay, “Caracterización del Desplazamiento Interno en Honduras,” *Comisión Interinstitucional para la Protección de las Personas Desplazadas por la Violencia*, November 2015, 12.

⁹² *Ibid.*

⁹³ Dana Frank, “Just Like Old Times in Central America,” *Foreign Policy*, March 9, 2015, 2017; “Fact Sheet: Support for the Alliance for Prosperity in the NT,” *The White House*, March 3, 2015.

began official review of the National Police force. The long-term effects remain to be seen, but as of the end of 2016 more than 1,500 officials had been evaluated, and over 600 officers had been fired, suspended, or voluntarily resigned.⁹⁴ The military police have been reported using unnecessary force against civilians, especially activists who oppose the government's views. To cite a few examples: in 2014, the director of a non-profit, *Casa Alianza* (Alliance House), was beaten and detained by military police, which he believed was a result of his advocacy for children's rights.⁹⁵ In October of 2013, the military police trashed the home of Edward Espinal, an opposition activist in Tegucigapa, forcing him into hiding.⁹⁶ The murder of environmental activist, Berta Cáceres, has also been questioned as the result of military police after evidence emerged that she was on a military hit list.⁹⁷

“Threats in my country are so bad that I couldn’t continue my studies. I received threats at school and feared for my life and the life of my family. That’s why I had to abandon my school and move to a different place out of fear.”

Honduras’ judiciary is relatively powerless in the face of violence, despite a 2007 law guaranteeing witness protection. Witnesses do not enter because they feel that they are in danger due to high impunity rates and few prosecutions, or are neglected while under the witness protection program.⁹⁸ In 2015, the president of the Honduran Prosecutors’ Association publicly condemned Honduran officials for failing to prevent the deaths of key witnesses on government watch.⁹⁹ There have been multiple cases in which the government has been slow to protect witnesses, the most recent example being Gustavo Castro, who was present during the murder of Berta Cáceres but was prevented from leaving Honduras despite threats to his life.¹⁰⁰ The Public Ministry has committed to a revised and more accessible witness protection program in their 2015-2020 Strategic Plan, but as of now witnesses to violence remain in danger. Many flee the country because they fear that aiding the police will get them killed. Efforts to stem human trafficking have recently been implemented with the formation of the Interinstitutional Commission Against Commercial Sexual Exploitation and Human Trafficking, however, the judiciary still struggles with effective prosecution due to intervention by corrupt officials to protect traffickers.¹⁰¹

⁹⁴ David Gagne, “¿Puede Honduras Manejar El Enorme Número de Casos de Corrupción Policial?” *Insight Crime*, September 22, 2016.

⁹⁵ “URGENT ACTION: Childrens’ Rights Defender Beaten, Detained,” *Amnesty International*, May 12, 2014.

⁹⁶ Dana Frank, “The Thugocracy Next Door,” *Político Magazine*, February 27, 2014.

⁹⁷ Nina Lakhani, “Berta Cáceres Murder: International Lawyers Launch New Investigation,” *The Guardian*, November 15, 2016.

⁹⁸ Nicholas Phillips, “In Honduras, Going from Door to Door to Prosecutors,” *The New York Times*, March 4, 2014.

⁹⁹ “Niveles de Inseguridad Acechan La Vida de Testigos Protegidos,” *Diario El Heraldo*, July 12, 2015.

¹⁰⁰ “Deep Failures in Investigation into Honduras Activist’s Killing Put Many at Risk,” *Amnesty International*, March 9, 2016.

¹⁰¹ “Gobierno anuncia campaña para combatir el delito contra la trata de personas,” *Gobierno de la República de Honduras*, June 5, 2014; Iris Ventura, “The Rise of Human Trafficking in Central America,” 15.

The Honduran government has failed to create a safe living environment for its citizens through both the direct infliction of violence by state actors, and complacency and systemic flaws that undermine sincere efforts to curb violence committed by gangs. Portions of congress, public prosecutors, and police, among other sectors, are allegedly linked with organized crime and drug trafficking. As a result, Honduras has an estimated impunity rate of 95-98%.¹⁰² The government has produced concrete strategies to protect citizens and combat general violence, but once implemented many are found to be inefficient due to funding – which would normally be supplied by taxpayers – being diverted to *maras* through extortion.¹⁰³ The government has created programs designed to stop drug trafficking, but as with other sectors, witness the same pattern of corrupt officials overseeing underfunded programs.¹⁰⁴ Intergovernmental programs such as the Alliance of Prosperity Plan and the recent anti-corruption task force created in partnership with the Organization of American States (Mission to Support the Fight Against Corruption and Impunity in Honduras) show that the government is keenly aware of the issues affecting citizens. However, the lack of follow through regarding such agreements and its own policies has pushed its citizens to the point at which migration is necessary.

¹⁰² “Preliminary Observations Concerning the Human Rights Situations in Honduras,” *The Organization of American States*, December 5, 2014.

¹⁰³ “Situation of Human Rights in Honduras,” Country Report, *LACHR*, December 31, 2015, 131.; Joanna Mateo, “Street Gangs of Honduras,” in *Maras*, ed. Thomas Bruneau, Lucía Dammert, and Elizabeth Skinner (Austin: University of Texas Press, 2011), 88.

¹⁰⁴ Bunck, *Bribes, Bullets, and Intimidation*, 262.

The Civil War's Violent Legacy

Decades of human rights violations during the civil war (1960-1996), named the “longest and one of the most brutal and bloody conflicts in Latin America,” deeply wounded Guatemala’s social fabric.¹⁰⁵ During this 36-year period, approximately 200,000 people were killed, and 1.5 million were forced to flee their homes.¹⁰⁶ The current violence in the region is associated with the lasting occurrence of the same issues that prompted the internal conflicts years ago, including extreme poverty, inequality, and social exclusion.¹⁰⁷ In the absence of reliable, transparent, and trustworthy democratic institutions, the Guatemalan government fails to attend to its citizens’ basic demands and rights to protection. Their institutions lack accountability and are corrupted by a combination of illicit and official individuals who use coercion and shady alliances to obtain social legitimacy, and gain economic and legal benefits.¹⁰⁸

Many of the illicit networks emerged during the armed conflict as part of the state’s repressive counterinsurgency apparatus, as private entities of elites determined to eliminate political opponents, or as a combination of public and private sector elements.¹⁰⁹ Despite efforts of the Peace Accords and international pressures pushing the government to eliminate the illegal groups, these networks were never dismantled.¹¹⁰ With a blurred line dividing legal from criminal, a combination of elites and authorities engage in both kinds of activities, including politicians, public functionaries, businessmen, and military personnel.¹¹¹ As a result, the public lacks access to justice and a trustworthy civilian police force, and confidence in the law and authorities.

Contemporary Guatemala is experiencing a continuation of many of the social injustices that triggered and occurred during the 36-year civil war. Income distribution is greatly imbalanced: while 59.5% of the total income is allocated to the richest quintile, the poorest quintile receives 2.9%.¹¹² Conversely, poor socioeconomic conditions plague the majority population: approximately 54% of the population lives in poverty, while 13% live in conditions of extreme poverty.¹¹³ Additionally, public investment in

¹⁰⁵ Thomas Bruneau, Lucía C. Dammert, and Elizabeth Skinner, *Maras: Gang Violence and Security in Central America* (Austin: University of Texas Press, 2011), 75.

¹⁰⁶ Bruneau et al, *Maras: Gang Violence and Security in Central America*, 75.

¹⁰⁷ “The International Commission Against Impunity in Guatemala,” *WOLA*, July 1, 2015, 3.

¹⁰⁸ “The International Commission Against Impunity in Guatemala,” *WOLA*, 5.

¹⁰⁹ *Ibid.*

¹¹⁰ *Ibid.*

¹¹¹ Bruneau et al, *Maras: Gang Violence and Security in Central America*, 75.

¹¹² Bruneau et al, *Maras*, 76.

¹¹³ Center for Gender and Refugee Studies. *Childhood and Migration in Central and North America: Causes, Policies, Practices, and Challenges*. (Buenos Aires: CGRS, 2015) 8.

health and education remains low: 30% of the adult population is considered illiterate, and only one-third of Guatemalan children are enrolled in secondary education.¹¹⁴

Gang Violence and Youth Recruitment

Guatemala has become one of the most violent countries in the world, with a historically high homicide rate of 34.03 per 100,000 inhabitants in 2013.¹¹⁵ 81.3 % of El Rescate's clients from Guatemala reported a fear of returning to Guatemala, with 40.3 % of respondents indicating fleeing violence as the reason for migration (Figures 2.2 and 2.3). Gangs terrorize society with extortion and violent threats, frequently targeting small business owners, transportation workers, and poor communities monitored under constant surveillance.¹¹⁶ While the proliferation of MS-13 and Barrio 18 in Guatemala is linked with the deportations of convicted gang members in the 1990s, it is important to acknowledge the prior existence of local youth gangs which emerged in the 1980s during a time of authoritarian rule and a civil war rooted in historical inequality, discrimination, and exclusion.¹¹⁷

In the absence of effective law enforcement, drug traffickers have become “de facto authorities” in some areas, providing jobs and humanitarian assistance but also threatening and corrupting local officials.¹¹⁸ Competitive drug networks through Central America that have traditionally existed under the radar have become disrupted due to drug lords’ struggle for routes and pressure from the Mexican government’s offensive to counter cartels.¹¹⁹ Recent alliances between drug trafficking organizations and local gangs have further exacerbated the “spike in crime” and violence.¹²⁰ Los Zetas in particular, a Mexican drug cartel, is rapidly expanding into Central America by contracting with local gangs resulting in a corresponding rise of “violence, extortion, kidnapping, sexual assault, physical assault, trafficking and murder.”¹²¹

In a context where illegality benefits from impunity, opportunities are scarce, and the majority population lives in marginal urban or semi-urban regions, gangs may offer tempting alternatives to disempowered youth.¹²² Entering at an average age of 14.7 years old, adolescent youth can become attracted to gangs as a source of friendship, brotherhood, solidarity, and power, or they may be compelled to join a gang as a result of complex social, familial, cultural, communal, and individual

¹¹⁴ Bruneau et al, *Maras*, 76.

¹¹⁵ Rodrigo Baires Quezada, “Diez Años de muertes violentas en Guatemala,” *Plaza Pública*, November 2, 2014.

¹¹⁶ “Home Sweet Home?” *Amnesty International*, 6.

¹¹⁷ Bruneau et al, *Maras*, 74.

¹¹⁸ “The Corridor of Violence: The Guatemala-Honduras Border,” *International Crisis Group*, 2014, i.

¹¹⁹ *Ibid.*

¹²⁰ “Mission to Central America: The Flight of Unaccompanied Children to the United States,” *United States Conference of Catholic Bishops*, 2014.

¹²¹ “Mission to Central America,” *USCCB*, 4.

¹²² Bruneau et al, *Maras Gang Violence and Security in Central America*, 78.

conditions.¹²³ Countless others are forcibly recruited against their will, especially young boys. The stakes are high for those who try to leave gangs ‘legally’, as some are forced to complete violent tasks as payment, ranging from robbery to homicide. Failure to abide by these rules results in “green-lighting”: death warrants or extortion.¹²⁴ As noted by the International Center for the Human Rights of Migrants, “when faced with violent organized crime, the two options are forced recruitment, or to leave,” causing people to move within the country, or force them to flee north to Mexico or the United States.¹²⁵ Guatemala has the highest total number of unaccompanied minors fleeing to the U.S. southern border, peaking at 18,913 apprehensions in 2016.¹²⁶

“I refused to pay the gangs la renta and they sent me and my family death threats.”

Discrimination Against Indigenous People

The effects of poor social conditions are intensified for indigenous communities, who have become the principal victim of social exclusion and ethnic discrimination. Indigenous people have faced a long history of marginalization and persecution, suffering from abuses deemed acts of genocide by a UN Truth Commission in the 1980s, and brutal pacification campaigns during the 1960s and 1970s.¹²⁷ The statistics indicate that 40% of the population is indigenous, mostly of Mayan origin, however, the exact percentage is difficult to track because many may not want to self-identify as such.¹²⁸ The high level of ethnic diversity differentiates the Guatemalan case from other NTCA sending countries; however, there are no reliable figures on the breakdown distinguishing Guatemalan from indigenous Maya and ladino (mixed) migrants.¹²⁹ Although it is unclear exactly how many migrants fleeing Guatemala are of indigenous descent, the increased demand and shortage of Mayan language interpreters in American courts indicates rising levels of incoming indigenous migrants. In 2013, Quiché was rated number 25 among the top languages used in immigration courts.¹³⁰ By 2015, Mam, spoken by over 500,000 indigenous people in Guatemala, ranked ninth in the top ten languages used in US immigration court, and Quiché ranked eleventh.¹³¹

Indigenous communities have fewer opportunities for education, employment, and basic needs. A

¹²³ Ibid.

¹²⁴ Deborah T. Levenson, “Open Ending,” in *Adios Niño: the gangs of Guatemala City and the politics of death* (Durham: Duke University Press, 2012), 130-139.

¹²⁵ “Situation of Human Rights in Guatemala: Diversity, Inequality and Exclusion,” *LACHR* (2015): 136.

¹²⁶ From FY 2014 to 2016, the total UACs from Guatemala apprehended is 49,559, the highest total number in the NTCA. FY 2014 saw 17,057 apprehended, and FY 2015 saw 13,589; “Unaccompanied Alien Children Encountered by Fiscal Year,” U.S. Customs and Border Patrol, accessed February 25, 2017.

¹²⁷ “The Corridor of Violence,” *International Crisis Group*, 13.

¹²⁸ CGRS, *Childhood and Migration in Central and North America*, 163.

¹²⁹ Susanne Jonas, “Guatemalan Migration in Times of Civil War and Post-War Challenges,” *Migration Policy Institute*, 2013.

¹³⁰ Hansi Lo Wang, “Wave of Guatemalan Migrant Children Presents Unique Challenges,” *National Public Radio*, June 27, 2014.

¹³¹ Cindy Carcamo, “Ancient Mayan languages are creating problems for today’s immigration courts,” *Los Angeles Times*, August 9, 2016.

“They murdered my uncle and I was scared because they were going to kill me too. If I didn’t join [the gang], they were going to kill me and that’s why I decided to come here. My mom sent me to this country.”

report by the Center for Gender and Refugee Studies observes that the majority of young Guatemalan migrants are members of the indigenous population, residing in Guatemala’s extremely poor regions, often lacking access to food and medicine.¹³² According to the United Nations Development Program, 49.8% of children under the age of five suffer from chronic malnutrition, and among indigenous children, 65.9% are malnourished.¹³³ Obtaining recognition and support from authorities proves to be another challenge for indigenous people, as the government continually

fails to protect its people. Discrimination is so deeply embedded in Guatemalan society that they justify and reinforce inequality for indigenous populations in a country with a history of attempts to destroy indigenous cultures and identities.¹³⁴

Gender Inequality and Gender-based Violence

Girls face greater barriers to accessing education and employment due to constant pressures to marry and raise a family, and partake in domestic work, causing many to drop out of school.¹³⁵ Sexual abuse and violence against women is another prominent threat, associated with structural gender-based violence rooted in socio-cultural patterns of discrimination.¹³⁶ Women face a variety of forms of violence in the home and in the broader society, including physical, psychological, and sexual violence, economic abuse, and social exclusion.¹³⁷ Sexual violence is commonplace, with young girls face the risk of forced recruitment to become ‘girlfriends’ of gang members.¹³⁸ Girls are also recruited by brothels, bribed by cash and then become indebt to their exploiters. Oftentimes, recruiters are young women seeking to fulfill a “quota” by convincing others from the same town to join, advertising their new clothes and cellphones as attractive benefits.¹³⁹ Indigenous women and girls suffer from “double discrimination.”¹⁴⁰

Rates of homicide committed against women are high; according to the United Nations, in Guatemala, an average of two women are murdered daily.¹⁴¹ In 2013, the United Nations High Commissioner for Human Rights cited 198 cases of femicide, in addition to 31,836 complaints of other types of violence

¹³² CGRS, *Childhood and Migration in Central and North America*, 8.

¹³³ *Ibid*, 36.

¹³⁴ CGRS, *Childhood and Migration in Central and North America*, 163.

¹³⁵ *Ibid*, 156.

¹³⁶ *Ibid*, 158.

¹³⁷ CGRS, *Childhood and Migration in Central and North America*, 147.

¹³⁸ “Mission to Central America,” USCCB, 7.

¹³⁹ “Easy Prey,” *International Crisis Group*, 14.

¹⁴⁰ *Ibid*, 8.

¹⁴¹ “Human Rights Violation,” *United Nations Secretary-General’s UNiTE Campaign to End Violence Against Women*, accessed January 10, 2017.

against women.¹⁴² Yet, victims are oftentimes barred from accessing justice or protection, with women refusing “to use the legal system...because alimony laws will not be enforced and women are economically dependent.”¹⁴³ Perpetrators operate with impunity due the police and judges’ lack of enforcement of domestic violence laws and restraining orders, instead justifying inaction by citing the need to protect the rights of the perpetrators.¹⁴⁴ This pattern of negligence and apathy is seen throughout the rest of legal system.

Discrimination Against the LGBTI Community

In Guatemala, there is no express recognition of the rights of the LGBTI community.¹⁴⁵ In 2014, the Office of the United Nations High Commissioner for Human Rights-Guatemala reported several instances of “discrimination against LGBTI persons, in addition to cases of domestic violence and sexual and workplace harassment.”¹⁴⁶ According to the Inter-American Commission on Human Rights (IACHR), between January 2013 and March 2014, three transgender women were murdered in Guatemala. With 39 cases recorded, Guatemala is ranked the sixth by the Observatory on Murdered Trans Persons in absolute numbers; in relative terms, Guatemala ranks second, with an average of 2.83 trans persons murdered per 1,000,000 inhabitants.

Members of the LGBTI community, and those perceived as such, are regularly assaulted and harassed, including raids on their organizations.¹⁴⁷ One of El Rescate’s clients explains that she was compelled to leave the country due to discrimination against her identity: “I am a lesbian and my neighbor sexually assaulted me because of my sexual orientation.”¹⁴⁸ A similar claim was made by a gay rights activist who stated that there are “no human rights protections” for members of the LGBTI community, explaining that “discrimination exists against me with local authorities.”¹⁴⁹ Furthermore, within the El Rescate data, in looking at the type of violence for cases indicating a fear of returning to their country of origin, the majority of the few cases that cited LGBTI or indigenous discrimination originated in Guatemala (Figure 2.3).¹⁵⁰

Human Trafficking

Most human trafficking occurs along Guatemala’s border with Belize, El Salvador, Honduras, and Mexico. Groups of people who are particularly at-risk include women, children and adolescents,

¹⁴² CGRS, *Childhood and Migration in Central and North America*, 158.

¹⁴³ Cecilia Menjivar and Shannon D. Walsh, “Subverting Justice: Socio-Legal Determinants of Impunity for Violence against Women in Guatemala,” *Laws* 5, 31 (2016): 1-2.

¹⁴⁴ *Ibid.*

¹⁴⁵ OAS, *Situation of Human Rights in Guatemala: Diversity, Inequality and Exclusion*, 144.

¹⁴⁶ *Ibid.*, 145.

¹⁴⁷ “Situation of Human Rights in Guatemala: Diversity, Inequality and Exclusion,” *OAS*, 145.

¹⁴⁸ El Rescate intake form, April 2016.

¹⁴⁹ El Rescate intake form, August 2013.

¹⁵⁰ The population size for this field was only 8.

“The person who raped me threatened to kill me if I went to the authorities. As indigenous people, we don’t have a vote nor voice. The authorities don’t support us and the abusers know that [they] won’t help. That’s why they threaten me, to silence me, and took advantage of me many times. I am afraid.”

members of the LGBTI community, and indigenous persons. Women continue to be the main targets, making up 66% of trafficked victims in 2013, almost half of whom are girls. Many cases of trafficking in Guatemala involve networks that recruit victims to be sold to brothels for commercial sexual exploitation.¹⁵¹ Gangs and other criminal networks exploit women and girls in sex trafficking, and coerce and threaten young males to sell or transport drugs, commit extortion or murder. Indigenous Guatemalans are particularly at risk of forced labor trafficking; children are recruited and exploited in forced labor as beggars and street vendors namely in

Guatemala City, and along the country’s borders.¹⁵²

Human trafficking offenses are also carried out by authorities. Recent investigations have connected police, military, and elected officials with paying children for sexual acts, facilitating child sex trafficking, and protecting venues where trafficking occurs.¹⁵³ Reports also indicate the direct involvement of government officials in human trafficking networks. For example, in 2013 the Special Prosecutor’s Office for the Crimes of Violence Against Women and Human Trafficking publicized the detention of *Instituto Nacional de Migración* (National Migration Institute) officials and other public servants involved with human trafficking.¹⁵⁴

Despite efforts to expose the state’s involvement in trafficking, investigations and convictions of perpetrators are constrained by inadequate training of justice system officials, the lack of clear instructions regarding criminal investigation of human trafficking offenses, and the failure to include all forms of trafficking in guidelines directing investigations. Between 2010 and 2014, only 30% of 1,285 cases reported were brought to trial, and only 7% of the total complaints ended with a “judgment being handed down by a judicial body.”¹⁵⁵ An inadequate system of governing has long exacerbated the vulnerability of Guatemalans facing numerous structural challenges in accessing justice and security, in addition to the impunity of various violent perpetrators.

¹⁵¹ Ibid, 140.

¹⁵² “Trafficking in Persons Report,” *Office of the Under Secretary for Civilian Security, Democracy, and Human Rights, Department of State* (2015): 171.

¹⁵³ Ibid.

¹⁵⁴ José Knippen, *An Uncertain Path*, 20.

¹⁵⁵ “Situation of Human Rights in Guatemala: Diversity, Inequality and Exclusion,” *OAS*, 142.

In Transit: Mexico

Abuses in Transit

Migrants are vulnerable to sex and labor trafficking along the Guatemalan border with Mexico, and are victims of extortion, kidnapping, ransom demands, and rape by criminal gangs, as well as by authorities.¹⁵⁶ An increasing number of migrants are women, 20% in 2011 and 35% in 2015, and when travelling unaccompanied face a greater risk of being kidnapped and forced into sexual slavery along the border region.¹⁵⁷ Due to the lack of fluency with Mam, an indigenous Mayan language, among Mexican border officials, many indigenous migrants are easy targets, especially if they cannot speak Spanish themselves. Migrants tend to be abducted in small groups or individually by transnational gangs that use coercion and deceit to force people off trains and buses, even out of hotels.¹⁵⁸ In other instances, gangs force smugglers to hand over migrants at certain checkpoints along the route to hold migrants ransom, or to exploit them through forced labor, while other times gang members abduct migrants to deter them from drug trafficking routes.¹⁵⁹

Oftentimes, migrants become victims of human trafficking because of their inability to pay their smugglers, and as a result are forced to pay off their debt through various forms of labor, including sex work or as “mules” in marijuana or poppy fields of drug trafficking networks.¹⁶⁰ There is overwhelming distrust of authorities due to a fear of being deported, resulting in underreported crimes and human rights abuses when in transit. Increased security and detention efforts has led to more circumvention away from security forces, resulting in increased contact with human and drug traffickers. This has risen the level of profitability for crime syndicates who force women into prostitution once they cannot afford the lengthy trip around authorities, or for corrupt border agents who demand fees for turning a blind eye.¹⁶¹

Deterrence Strategy

Mexico has been deploying an aggressive border enforcement strategy which includes increased order surveillance, internal checkpoints, and immigration raids.¹⁶² In 2015, after the implementation of the

¹⁵⁶ Ximena Suarez-Enriquez, José Knippen, and Maureen Meyer, “A Trail of Impunity: Thousands of Migrants in Transit Face Abuses amid Mexico’s Crackdown,” *WOLA*, October 20, 2016.

¹⁵⁷ “Easy Prey,” *International Crisis Group*.

¹⁵⁸ José Knippen, Clay Boggs, and Maureen Mayer, “An Uncertain Path: Justice for Crimes and Human Rights Violations against Migrants and Refugees in Mexico,” *WOLA* (2015): 19.

¹⁵⁹ *Ibid.*

¹⁶⁰ *Ibid.*, 20.

¹⁶¹ *Ibid.*

¹⁶² “Migrants Deported from the United States and Mexico to the NT: A Statistical and Socioeconomic Profile,” *Migration Policy Institute*, August 31, 2015.

Programa Frontera Sur (Southern Border Program), Mexico deported 166,000 migrants back to the NTCA. Much of the decrease in the U.S.'s border apprehension statistics in 2015 correlates with the increase of security and enforcement at Mexico's southern border, however, apprehensions rose again in 2016.¹⁶³ These policies were specifically drafted to detain Central American migrants who frequented bus stops, restaurants, or places of business (e.g. hotels). As the Migration Policy Institute asserts:

Rising apprehensions in Mexico alongside falling apprehensions in the U.S. means that a larger share of Central Americans are being apprehended in Mexico, before reaching the U.S. border. This growth in Mexican apprehensions is likely a result of Mexico's implementation, partly under pressure from the U.S., of the Southern Border Program...¹⁶⁴

Mexican authorities implemented other stipulations on mechanisms of travel provided by the country as part of a deterrence strategy. *La Bestia* (The Beast), freight train networks reaching south of the U.S. border, is one of the most dangerous, illegal, and yet dependable modes of transportation for migrants in transit. Recently, however, the Mexican government revoked the private company's working permit for the rail service claiming that better security measures and updated surveillance equipment such as drones and walls to impede migrants must be installed.¹⁶⁵

Once detained in facilities like *Siglo XXI* in Chiapas, migrants face similar, if not worse conditions than those experienced in U.S. facilities' prison-like conditions. Men, women, and children are held separately for safety reasons, tearing families apart. Unaccompanied children are turned over to child protection officials, where their fate is then slowly decided by the state. Adolescents, many of whom have already had their education disrupted by gang threats or recruitment, cannot access supplemental education while in detention. These conditions have traumatic psychological impacts on the emotional, mental, and physical health of minors in detention, making voluntary deportation and renewed migration attempts in hopes of bypassing detention more alluring than waiting for their eventual day in court.¹⁶⁶

Policies to Protect Migrants

The Mexican government has drafted and passed various acts aimed at creating better conditions for incoming immigrants and refugees. According to the Migration Policy Institute:

...in 2011, Mexico enacted an unprecedented new migration law as a more explicit answer to

¹⁶³ "Unaccompanied Alien Children Encountered by Fiscal Year," "Southwest Border Total Apprehensions," *U.S. Customs and Border Patrol*, Accessed February 25, 2017.

¹⁶⁴ *Ibid.*

¹⁶⁵ Suarez-Enriquez et al, "A Trail of Impunity," *WOLA*, 8.

¹⁶⁶ "Easy Prey," *International Crisis Group*, 17.

deteriorating circumstances for migrants in transit, recognizing its own obligation to ensure humane conditions for migrants through Mexico.¹⁶⁷

“My cousin was killed in my country. I was kidnapped in Mexico and my dad had to pay the ransom for me to leave and come to the U.S.”

Thus, while both the U.S. and Mexico, in response to increased migration from the NTCA, have readily increased their border security and apprehension programs, only Mexico can boast even modest improvements to its migrant assistance capacity. For instance, the *Comisión Mexicana de Ayuda a Refugiados* (COMAR, Mexican Commission to Help Refugees) has implemented a coordination unit to better monitor and improve the process of determining the status of refugees.¹⁶⁸ In contrast, the U.S. has not answered its own backlog crisis, especially in the face of 100 immigration judges retiring in 2015 since the surge of unaccompanied minors and family units in 2014. Many judges handle more than 3,000 cases due to the lack of resources available for U.S. courts, resulting in delayed hearings until 2019 for migrants waiting in detention.¹⁶⁹

In late 2014, the Peña Nieto administration lobbied Mexican political parties for *Pacto por Mexico* (Pact for Mexico), a pledge promising universal healthcare, pension for all adults, unemployment insurance, and other life insurance proposals. These efforts, in combination with migration assistance reforms, may signify conditions in Mexico are shifting towards a friendlier approach to NTCA migrants. However, when it comes to the policing and civil management of migrants, Mexico is being accused of double-speak. This revelation comes just in time as the U.S. President, Donald Trump, campaigned on the message of deporting undocumented Mexican nationals; rhetoric that has received lambasting from President Peña Nieto himself.

In general, however, Mexico’s capacity to fairly process migrant applications is severely lacking, the norm being that asylum seekers are expeditiously and summarily returned to the dangerous situations from which they fled.¹⁷⁰ In 2013, of the 80,757 detained, 214 were granted asylum. By mid-2016, of the 86,641 detained, only 1,149 were granted asylum. As it stands today, there has only been a 4-8% increase in asylum statuses granted to NTCA refugees.¹⁷¹

Widely regarded as the buffer between the NTCA and the U.S., Mexico is increasingly becoming a destination rather than a transit zone, with refugee applications doubling in Mexico since 2014.¹⁷² Recent developments within the U.S., including the Trump administration’s executive orders on

¹⁶⁷ Francisco Alba, “Mexico: The New Migration Narrative.” *Migration Policy Institute*, April 24, 2013.

¹⁶⁸ *Ibid.*

¹⁶⁹ Molly Hennessy-Fiske, “Immigration: 445,000 Awaiting a Court Date, Which Might Not Come for 4 Years,” *Los Angeles Times*, May 16, 2015.

¹⁷⁰ *Ibid.*

¹⁷¹ Dolia Estevez, “New Report Incriminates Mexico’s Treatment of Central American Immigrants,” *Forbes Magazine*, September 20, 2016.

¹⁷² Kirk Semple, “Migrating North, but to Mexico, Not the U.S.,” *The New York Times*, February 12, 2017.

immigration, race relations in the U.S., and Mexico's increased commitment to improve their refugee processing system have incentivized migrants to shorten their journey.

Destination Country: USA

Policy Responses

The United States is continuing a policy of “prevention through deterrence” at its southern border, which aims to reduce the inflow of unauthorized migrants by maintaining an increasingly formidable security apparatus along heavily trafficked points of entry, as well as instituting harsh penalties on those who are apprehended (Figure 4.1).¹⁷³ Faced with an influx of Central American migrants in 2014, the Obama administration reaffirmed its commitment to this policy, vowing “to deter both adults and children from this dangerous journey, increase capacity for enforcement and removal proceedings, and quickly return unlawful migrants to their home countries” (Figure 4.2).¹⁷⁴

The administration subsequently lowered the ceiling for refugee admissions from the ‘Latin America/Caribbean’ region from 5,000 in 2014 to 3,000 in 2016,¹⁷⁵ while simultaneously promoting its Alliance for Prosperity Plan aimed at preventing further migration by improving security and foreign investment in the NTCA. It also initiated the Central American Minors (CAM) Refugee/Parole Program in December 2014, described by former Citizenship and Immigration Services Ombudsman Maria Odom as “one of the most important programs DHS has developed in the last four years.”¹⁷⁶ The goal of the program is to provide certain qualified children and their parents from the NTCA “a safe, legal, and orderly alternative to the dangerous journey” that tens of thousands have been undertaking.¹⁷⁷

Just over 2,400 of the more than 11,000 who have applied for the program have been admitted into the U.S. as of February 22, 2017,¹⁷⁸ though a large portion of these people have been accepted as parolees rather than refugees,¹⁷⁹ meaning they are both ineligible for services from the Office of Refugee Resettlement, and can have their status easily revoked by the U.S. Government. The CAM program has also been criticized for its lengthy processing times, which are usually endured by children in high-risk situations; at least one child from the NTCA was killed while waiting for their application

¹⁷³ Carla N. Argueta, “Border Security: Immigration Enforcement Between Ports of Entry,” *Congressional Research Service*, April 19, 2016.

¹⁷⁴ “The Obama Administration’s Government-Wide Response to Influx of Central American Migrants at the Southwest Border,” *The White House*, August 1, 2014.

¹⁷⁵ “Proposed Refugee Admissions,” *U.S. Department of State*, 2014-2016.

¹⁷⁶ Maria Odom, “Recommendation on the Central American Minors (CAM) Refugee/Parole Program.” *Citizenship and Immigration Services Ombudsman*, December 21, 2016.

¹⁷⁷ U.S. Department of State. “Central American Minors (CAM) Program.” Accessed April 22, 2017.

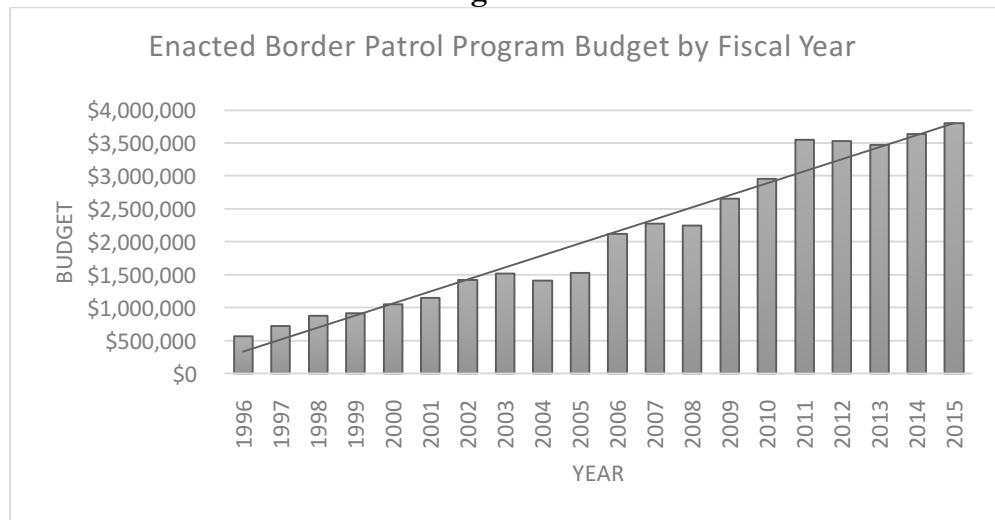
¹⁷⁸ Frances Robles and Kirk Semple. “Trump’s New Ban Leaves Few Spots for Refugees, Even the Hunted.” *The New York Times*, March 7, 2017.

¹⁷⁹ Odom, “Recommendations on the Central American Minors (CAM) Refugee/Parole Program.”

to process.¹⁸⁰

The program was halted by the Trump administration, which recently enacted an executive order that suspends all refugee admissions and drastically lowers the maximum number of refugees that can be admitted into the U.S. (“Executive Order: Protecting the Nation from Foreign Terrorist Entry...”). Moreover, this executive order and the two others that shortly preceded it demonstrate the Trump administration’s intent to adopt and expand further upon the deterrence strategy. The orders include provisions that mandate a substantial increase in border personnel, the empowerment of state and local law enforcement agencies to perform functions of immigration officers, the termination of practices that allow those apprehended for illegal entry to be released without being detained, the construction of additional detainment facilities, and in general, the deployment of “all lawful means...to prevent further illegal immigration into the United States, and to repatriate illegal aliens swiftly, consistently, and humanely”.¹⁸¹

Figure 4.1

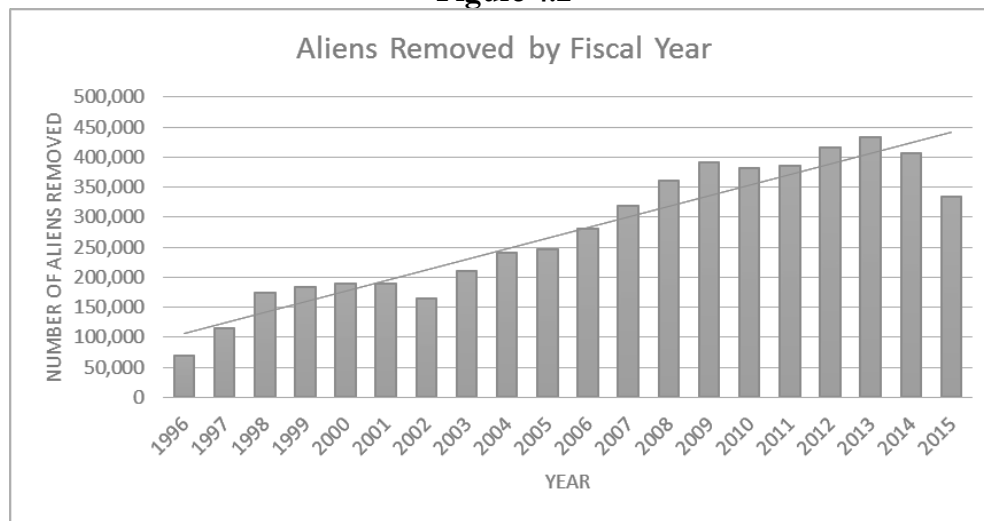


Source: U.S. Customs and Border Patrol

¹⁸⁰ “Central American Minors (CAM) Program: In-Country Refugee/Parole Processing for Minors in El Salvador, Guatemala and Honduras.” *Lutheran Immigration and Refugee Service*, June 1, 2016.

¹⁸¹ “Executive Order: Enhancing Public Safety in the Interior of the United States.” *The White House*, January 25, 2017; “Executive Order: Border Security and Immigration Enforcement Improvements,” *The White House*, January 25, 2017.

Figure 4.2



Source: U.S. Department of Homeland Security

Asylum Laws in Policy and Practice

Deportation laws in the U.S. function to preclude unauthorized migrants from obtaining legal recourse. The “expedited removal” provision of the Immigration and Nationality Act allows apprehended individuals who are deemed ‘inadmissible’ by an immigration officer to be summarily deported “without further hearing or review.”¹⁸² Given that the overwhelming majority of deportations from the U.S. consist of either expedited removals or reinstatements of prior removal orders – neither of which are subject to legal review – it is unsurprising that few deportees ever see a judge.¹⁸³ The relative handful that do are those deemed eligible for an asylum hearing. To qualify, an apprehended migrant must first indicate “either an intention to apply for asylum...or a fear of persecution,” at which point he or she must be referred to an asylum officer for a “credible fear” interview.¹⁸⁴ It should be emphasized that there exists *no legal distinction* between individuals intending to apply for asylum, and individuals who express a fear of returning to their country of origin (our data only makes this distinction because it shows what respondents cited as their reason for migrating). Both must be recognized as asylum seekers, and both are entitled to a credible fear interview with an asylum officer.

Many apprehended migrants who should be legally recognized as asylum seekers, however, are never given the opportunity to appeal to an asylum officer, let alone a judge. This can be attributed in part to a poor understanding of U.S. asylum laws. Elizabeth Kennedy, who conducted interviews with

¹⁸² 8 U.S. Code § 1225(b)(1)(A)(i)

¹⁸³ Ryan Baker and Christopher Williams, “Immigration Enforcement Actions: 2014,” Department of Homeland Security, January 2016; Elizabeth Kennedy (scholar), phone interview by Noah Schramm, January 27, 2017; “American Exile: Rapid Deportations That Bypass the Courtroom,” *ACLU*, December 2014.

¹⁸⁴ 8 U.S. Code § 1225(b)(1)(A)(ii)

hundreds of NTCA deportees, reports that the majority had no idea that they might have been eligible for asylum, nor did they know when or to whom they should have expressed their concerns about being repatriated.¹⁸⁵ These findings are surprising given that U.S. law requires that Border Patrol agents read to apprehended migrants the following statement (using language interpretation assistance if necessary):

“U.S. law provides protection to certain persons who face persecution, harm or torture upon return to their home country. If you fear or have a concern about being removed from the United States or about being sent home, you should tell me so during this interview because you may not have another chance. You will have the opportunity to speak privately and confidentially to another officer [an asylum officer] about your fear or concern.”¹⁸⁶

If deportees, then, do not know when and where to express their fears or concerns about being repatriated, it is because border patrol agents illegally fail to inquire about them. Indeed, a study by the American Civil Liberties Union in which 89 deportees were interviewed found that only 28% were asked if they had a fear of returning to their country of origin. Moreover, of those who did express such a fear, 40% were not referred to an asylum officer before being summarily deported.¹⁸⁷ This is corroborated by Human Rights Watch, who reports persistent allegations that U.S. Border Patrol agents not only ignore requests by asylum seekers to secure protection, but also harass, threaten, and attempt to dissuade them from doing so.¹⁸⁸ The net effect of these practices is to coerce large numbers of migrants who have fears of returning to their country of origin into accepting their summary deportation, thereby precluding them from being considered legally as asylum seekers. Figure 1.2 illustrates that while 83.3% of the NTCA migrants in our data expressed a fear of return, only 25,741 of the 283,400 (9%) NTCA migrants who were apprehended in Fiscal Year (FY) 2014 were referred to a credible fear interview.¹⁸⁹

Detainment

Article 31 of the 1951 Refugee Convention affirms that Contracting States “shall not impose penalties” upon asylum-seekers “on account of their illegal entry or presence.” The UNHCR stipulates its recognition that “the seeking of asylum can require refugees to breach immigration rules,” for which asylum-seekers “should not be penalized,” and goes on to list “prohibited penalties” which

¹⁸⁵ Elizabeth Kennedy (scholar), phone interview by Noah Schramm, January 27, 2017.

¹⁸⁶ 8 C.F.R. 235.3(b)(ii)(2); Lara Domínguez, Adrienne Lee, and Elizabeth Leiserson, “U.S. Detention and Removal of Asylum Seekers: An International Human Rights Law Analysis,” *Allard K. Lovenstein International Human Rights Clinic*, Yale Law School, June 20, 2016.

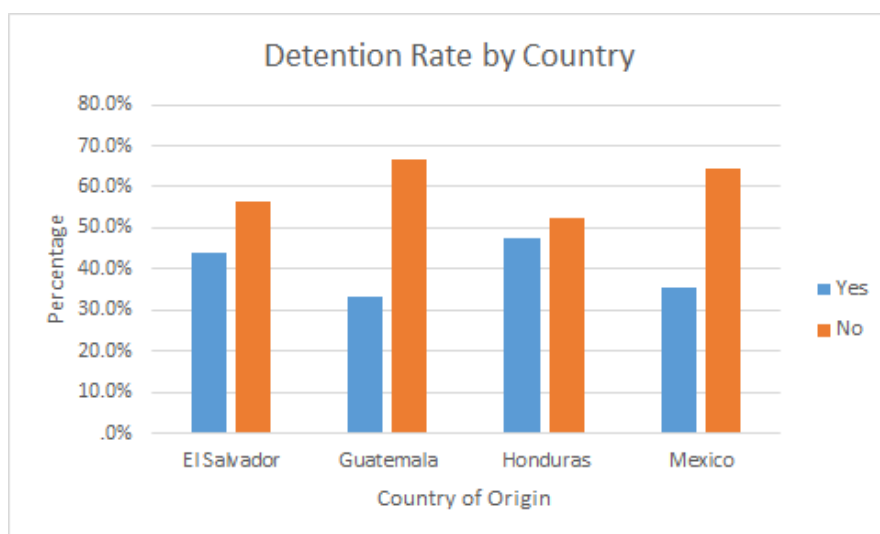
¹⁸⁷ “American Exile,” *ACLU*.

¹⁸⁸ “‘You Don’t Have Rights Here’: US Border Screening and Returns of Central Americans to Risk of Serious Harm,” *Human Rights Watch*, October 16, 2014.

¹⁸⁹ “Detained Asylum Seekers--Fiscal Year 2014 Report to Congress,” *Department of Homeland Security*, September 9, 2015; Baker and Williams, “Immigration Enforcement Actions: 2014,” *Department of Homeland Security*.

“might include being charged with immigration or criminal offences relating to the seeking of asylum, or being arbitrarily detained purely on the basis of seeking asylum.”¹⁹⁰ The U.S. Department of Homeland Security states that “many defensive [asylum] applicants – and nearly all aliens who request asylum during ER [expedited removal] processing – are detained for at least some portion of the processing of their immigration cases.”¹⁹¹ According to official data, the U.S. detained 44,270 asylum seekers in FY 2014, 30,076 of which were from the NTCA. 8,300 asylum-seekers were detained for longer than three months, several for over a year.¹⁹² Among El Rescate’s clients, El Salvador and Honduras both have higher percentages of previously detained clients than Guatemala and Mexico, at 43.8% and 47.5% respectively (Figure 4.3).

Figure 4.3



Source: El Rescate Data

The facilities in which these people find themselves are mostly privately-run; by summer of 2016, when the average daily detainee population was exceeding 37,000, about 73% of detained immigrants were held by private corporations.¹⁹³ Two such corporations – Corrections Corporation of America (CCA) and GEO Group – operate 72% of the privately contracted ICE immigrant detention beds, and control 8 of the 10 largest immigrant detention centers.¹⁹⁴

Detention Center Conditions

Reports of serious human rights abuses during detainment have persisted for years. A study of six

¹⁹⁰ “Convention and Protocol Relating to the Status of Refugees.” *UNHCR*.

¹⁹¹ “Detained Asylum Seekers--Fiscal Year 2014 Report to Congress,” *Department of Homeland Security*.

¹⁹² *Ibid.*

¹⁹³ Carl Takei, Michael Tan, and Joanne Lin, “Shutting Down the Profiteers: Why and How the Department of Homeland Security Should Stop Using Private Prisons,” *ACLU*, September 2016.

¹⁹⁴ Bethany Carson and Eleana Diaz, “Payoff: How Congress Ensures Private Prison Profit with an Immigrant Detention Quota,” *Grassroots Leadership*, April 2015.

prisons by the Southern Poverty Law Center found that immigrant detainees experience “significant and life-threatening denials of medical, dental and mental health care,” with many detainees reporting having not received prescribed medication “because facility staff delayed, refused, or forgot to distribute it.”¹⁹⁵ Human Rights Watch investigated 18 cases of migrants who died in the custody of U.S. immigration authorities from 2012 to 2015, and concluded that substandard medical care, as well as violations of several detention standards, “probably contributed to the deaths of 7 of the 18 detainees, while potentially putting many other detainees in danger.”¹⁹⁶

The American Civil Liberties Union detailed similar findings from 2010 to 2012, where eight deaths of migrants in ICE custody were due to non-compliance with ICE medical standards. To name just one, Anibal from El Salvador died of liver failure five days after being detained. The extreme symptoms he had been showing – repeatedly falling down, vomiting, involuntary bowel movements, and extreme disorientation – all went unaddressed, and he received no medical care. In fact, non-medical facility staff interfered with recommendations from nurses, who were saying that he should be transferred to emergency care; Anibal was 35 years old.¹⁹⁷ Lastly, Human Rights Watch carried out 28 interviews with detained transgender women (most were from Mexico and the NTCA) many of whom reported being unable to access medically necessary hormone replacement therapy due to interruptions and restrictions imposed by facility staff. These women, who incidentally could make some of the strongest cases for asylum, were also subjected to invasive strip searches by male guards, repeated sexual harassment and assault, and indefinite solitary confinement.¹⁹⁸

Legal Representation for Asylum Seekers

The American Convention on Human Rights guarantees “the inalienable right to be assisted by counsel provided by the state, paid or not as the domestic law provides,” as well as the right “to communicate freely and privately” with such counsel.¹⁹⁹ With specific regard for asylum, the UNHCR has concluded that “persons in detention must be given access to asylum procedures,” and that “detention should not constitute an obstacle to an asylum-seeker’s possibilities to pursue their asylum application.”²⁰⁰ U.S. law regards immigration as a civil matter, not a criminal one. Thus, while individuals facing deportation are permitted “the privilege of being represented (at no expense to the Government),” they do not enjoy the right; and as a practical matter, most do not enjoy the privilege.²⁰¹ A 2015 study by the University of Pennsylvania Law Review, drawing on data from over 1.2 million

¹⁹⁵ “Shadow Prisons: Immigrant Detention in the South,” *Southern Poverty Law Center (SPLC)*, November 2016.

¹⁹⁶ “US: Deaths in Immigration Detention,” *Human Rights Watch*, July 7, 2016.

¹⁹⁷ Takei et al, “Fatal Neglect,” *ACLU*.

¹⁹⁸ “Do You See How Much I’m Suffering Here?” *Human Rights Watch*, March 23, 2016.

¹⁹⁹ “American Convention on Human Rights ‘Pact of San Jose, Costa Rica,’” *Organization of American States (OAS)*, November 22, 1969.

²⁰⁰ “Detention Guidelines: Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum-Seekers and Alternatives to Detention,” *UNHCR*, 2012.

²⁰¹ 8 U.S. Code § 1362

deportation cases, found that only 37% of all immigrants secured representation between 2007 and 2012. For detained immigrants, it was 14%, reflecting the added challenge of acquiring and maintaining legal counsel while in detention.²⁰² This is due in large part to restrictive detention center policies such as severely limiting phone access, and refusing to allow attorneys to meet privately with their clients.²⁰³

Detainees are also frequently transferred to other facilities—almost invariably so without the knowledge of the attorneys representing them.²⁰⁴ In FY 2014, 79% of asylum seekers were transferred at least once, 37% at least twice; 96 individuals were transferred more than ten times.²⁰⁵ As Human Rights Watch reports, attorneys will “often spend days, even weeks tracking down the new location of their clients,” which can be “hundreds or thousands of miles away.”²⁰⁶ Such a pervasive lack of access to legal representation among detained immigrants renders it even more necessary that these people are equipped with the tools they need to represent themselves, however, many are systematically deprived of such tools. The Southern Poverty Law Center found that legal materials in the law libraries of six detention centers, such as vital parts of asylum applications, were “very outdated,” and that few of the materials were available in Spanish. Detainees also reported difficulties with sending and receiving mail, including documents they needed for their legal cases.²⁰⁷

Strains on the availability of translators has frequently led to delays in immigration hearings, and in some cases, asylum seekers are deported because of the absence of a qualified interpreter, despite their right to one in immigration court. Many Mayan language speakers living in the US are ineligible to serve as interpreters in court due to their undocumented status. In the absence of indigenous language interpreters, Spanish interpreters often appear in critical court hearings, a language which many indigenous persons do not speak.²⁰⁸ Inadequate interpretation poses the risk of an incorrectly communicated credible fear testimony.

“I worked for the national police as a consultant and received requests from criminals to do things outside of the law. When I declined, I received threats, so I came [to the U.S.] for a while and would later return, but [the gangs] have been calling my family so I was advised not to go back.”

²⁰² Ingrid Eagly and Steven Shafer, “A National Study of Access to Counsel in Immigration Court,” *University of Pennsylvania Law Review*, December 2015.

²⁰³ “Written Statement to IACHR regarding Human Rights Situation of Child and Family Migrants and Immigration Detention in the United States,” *ACLU*, April 4, 2016.

²⁰⁴ “Locked Up Far Away: The Transfer of Immigrants to Remote Detention Centers in the United States,” *Human Rights Watch*, December 2, 2009.

²⁰⁵ “Detained Asylum Seekers--Fiscal Year 2014 Report to Congress,” *Department of Homeland Security*.

²⁰⁶ “Locked Up Far Away,” *Human Rights Watch*.

²⁰⁷ “Shadow Prisons: Immigrant Detention in the South,” *Southern Poverty Law Center*, November 2016.

²⁰⁸ Molly Smith, “Increase in Guatemalan Migrants Spurs Need for Mayan Speaker,” *Reporting Texas*.

Unaccompanied Children Seeking Asylum

The UNHCR states that, pursuant to Articles 3 and 22 of the Convention on the Rights of the Child (CRC), “the best interests of the child shall be a primary consideration in all actions affecting children, including asylum-seeking and refugee children,” and further, that “the extreme vulnerability of a child takes precedence over the status of an ‘illegal alien.’”²⁰⁹ While the U.S. is alone in the world in not ratifying the CRC, it is, as a signatory, “obliged to refrain from acts which would defeat the object and purpose” of the convention.²¹⁰ To some extent, the U.S. does indeed comport with the “best interests of the child” standard: the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) requires that applications for asylum “take into account the specialized needs of unaccompanied alien children”; and unlike their adult counterparts, unaccompanied children who are apprehended at the border cannot be deported without a hearing.²¹¹

TVPRA, however, excludes Mexican children from this latter requirement; and while there are provisions mandating that Border Patrol officers screen them for asylum claims, the ACLU describes the screening process as “ineffective at best.” As is the case for adults during expedited removal, “law enforcement officers put the burden on the child to speak up and articulate their claims for relief.”²¹² Moreover, those immigrant children who are afforded deportation hearings usually lack the legal counsel they need to make sense of them. Elizabeth Kennedy, having provided expert testimony in many of these hearings, asserts that children routinely must represent themselves at trials that tend to be adversarial. She recalls how one child for whom she was testifying, and who did not understand what was being said in the hearing, asked her if he could pray.²¹³

Children in Detention

International courts, treaty bodies, and experts have consistently called for the release of detained immigrant children.²¹⁴ The UNHCR concludes that children “should in principle not be detained at all,” and Article 37 of the CRC requires that detention “be used only as a measure of last resort and for the shortest appropriate period of time.”²¹⁵ Nevertheless, the U.S. began detaining thousands of immigrant families in 2014, originally explained as an express deterrent to other Central Americans considering migration, now as a precaution against “flight risk or danger to the community.”²¹⁶ It is

²⁰⁹ “Detention Guidelines,” *UNHCR*.

²¹⁰ “Vienna Convention on the Law of Treaties,” May 23, 1969.

²¹¹ 8 U.S. Code § 1232 (d)(8); 8 U.S. Code § 1232 (a)(5)(D)(i)

²¹² “Written Statement to IACHR,” *ACLU*.

²¹³ Elizabeth Kennedy (scholar), phone interview by Noah Schramm, January 27, 2017.

²¹⁴ Lara Domínguez, Adrienne Lee, and Elizabeth Leiserson, “U.S. Detention and Removal of Asylum Seekers: An International Human Rights Law Analysis,” *Allard K. Lowenstein International Human Rights Clinic*, Yale Law School, June 20, 2016.

²¹⁵ “Detention Guidelines,” *UNHCR*.

²¹⁶ “Written Statement to IACHR,” *ACLU*.

widely recognized that detention is harmful for both children and families.

Human Rights First met with 15 detained mothers who all reported depressive and anxiety symptoms in their children, some of whom had been detained for only a few weeks.²¹⁷ At the Berks County Residential Center in Pennsylvania, some female immigrants detained with their children began a hunger strike over their length of stay. A letter signed by 22 mothers being held at the Center stated that, “On many occasions our children have thought about suicide because of the confinement and desperation that is caused by being here.”²¹⁸ To the extent that detained children are released and are unaccompanied, concerns have been raised regarding the failure of authorities to perform necessary background checks, home visits, and check-ins on their adult sponsors. A six-month investigation found that some children were being released into the care of individuals involved in criminal activities and human trafficking.²¹⁹

Conclusion

Of the 632,606 NTCA migrants who were apprehended from FY 2013 to FY 2015, the U.S. has granted asylum to 7,603 of them – or 1.2 %.²²⁰ Given that the overwhelming majority of NTCA migrants do not get a hearing, this proportion says little about how U.S. courts regard the asylum cases of this population. It says far more about how U.S. immigration policies and practices function as a highly restrictive set of filters, which work in tandem to prevent such cases from ever being considered. It is unlikely that increasing recognition of NTCA migrants as refugees will be a significant feature of U.S. immigration, as the Trump administration has lowered the cap on refugee admissions to 50,000—a notable departure from the 84,994 people who were granted asylum status in FY 2016, of which only 1,340 were from the region ‘Latin America/Caribbean’.²²¹

²¹⁷ “Family Detention Still Happening, Still Damaging,” *Human Rights First*, October 2015.

²¹⁸ Renée Feltz, “Mothers at US Immigration Center on Hunger Strike to Protest Year in Custody,” *The Guardian*, August 15, 2016.

²¹⁹ Muzaffar Chisti and Faye Hipsman, “Increased Central American Migration to the United States May Prove an Enduring Phenomenon,” *Migration Policy Institute*, February 17, 2016.

²²⁰ “2015 Yearbook of Immigration Statistics,” *Department of Homeland Security*, December 2016.

²²¹ “Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States,” *The White House*, January 27, 2017; “Historical Arrivals Broken Down by Region (1975 – Present),” *Refugee Processing Center*, 2016.

Deportation and Repatriation

Increased Vulnerability to Violence

Upon repatriation, NTCA deportees face increased vulnerability to the threats that prompted them to flee in the first place. Interviews conducted by the American Immigration Council reveal the harsh realities faced by deported women, who are recurrently threatened by gangs with extortion, forced disappearance of loved ones, and death. While some can adopt informal means of protection, such as paying for “private security” services or seeking out shelter with family members, others have little choice but to live completely isolated: says Gabriela from El Salvador, “I don’t have the protection of anyone and it’s very scary. There are a lot of gang members here everywhere on the corners of my neighborhood...so that’s why I stay home almost all the time, because I’m very afraid of going out alone.”²²²

Research shows that such fears are well founded. Elizabeth Kennedy, after compiling numerous local news reports of NTCA deportees who have been murdered since January 2014, has concluded that these deportees face, on average, about a tenfold increased risk of being killed.²²³ This statistic should be understood in the context of homicide rates in the NTCA, which are among the highest in the world. Héctor Hernández, who runs a morgue in San Pedro Sula, Honduras, laments that within six months, at least five, perhaps as many as 10 of the 42 children slain were recent U.S. deportees. “There are many youngsters who only three days after they’ve been deported are killed, shot by a firearm,” he said. “They just return to die.”²²⁴

Ex-gang members who had fled to escape green-lighting – death warrants from gangs for attempting to leave without fulfilling their demands, which usually consist of violent acts such as homicide or paying extortion rents – face the same death warrant upon return. Ex-gang members attempting to flee their country is doubly offensive to *maras*, who see them as defectors leaving their territorial control. Edgar Chocoy was fourteen when he decided to leave MS-13 and escaped to the US after receiving demands to pay three thousand quetzals a week to prevent being green-lighted. The following year, after his asylum claim was denied, he was deported and killed within two-and-one-half weeks of hiding in Guatemala City.²²⁵

²²² Guillermo Cantor, Ph.D. and Tory Johnson, “Detained, Deceived, and Deported: Experiences of Recently Deported Central American Families,” *American Immigration Council*, May 18, 2016.

²²³ Elizabeth Kennedy, interview by Noah Schramm. January 27, 2017.

²²⁴ Cindy Carcamo, “In Honduras, U.S. Deportees Seek to Journey North Again,” *Los Angeles Times*, August 16, 2014.

²²⁵ Levenson, *Adios Niño*, 138-139.

Financial Burden

NTCA migrants are also likely to experience serious financial difficulties upon repatriation. Salvadorans who had been removed shortly after arriving in the U.S. reported having incurred substantial debt to pay for their previous migration attempt. For those who were able to find a job, their wages were not nearly sufficient to support their families or pay off migratory debt.

Enrique, who was deported a month after migrating to the U.S., expressed his frustration three years after the fact: “The problem is that there are eight people living in my house... [and] together we make like \$120 each week. It is very hard. And it is hard work too. I am not happy. I face a critical financial situation and I don’t know what I can do anymore”.²²⁶ Maria, who was deported to Honduras with her two children twenty-four days after seeking asylum in the U.S., lamented, “...I don’t have much, don’t have many resources. The reality is I am much poorer now... I invested all my money in going there.”²²⁷ Guatemalan migrants too must often incur significant debt for the journey north. The cost of just hiring a coyote, the preferred method of travel for many migrants, is often as much as \$4,000 USD: more than twice the median annual income in Guatemala.²²⁸

Social Stigma and Discrimination

Difficulties with social and labor reintegration also arise, especially among those who have lived abroad the longest. Migrants who were forcibly repatriated face greater difficulties reintegrating into their country of origin than those who voluntarily repatriated themselves.²²⁹ This phenomenon is closely related to changes in U.S. immigration policy following the passage of IIRIRA in 1996, which resulted in the conflation of deportee status – identifiable by certain attributes garnered by living in the U.S. or Mexico for many years – and criminality.

The same study that looked at financial difficulties faced by repatriated Salvadorans compared two groups of Salvadoran deportees – ‘adult migrants’, most of whom were removed within a year of arriving in the U.S., and ‘child migrants’, whose average length of stay in the U.S. was eighteen years. While the former group claimed that they were not treated any differently by regular citizens, police officers, or gang members, the latter group reported high levels of stigmatization, asserting that, having spent most of their lives in the U.S., physical attributes such as their accents, style of dress, and visible tattoos had made them easily identifiable as deportees. These child migrants say they are given dirty

²²⁶ Kathleen Dingeman and Rubén G. Rumbaut. “The Immigration-Crime Nexus and Post-Deportation Experiences: Encountering Stereotypes in Southern California and El Salvador,” *University of La Verne Law Review*, Vol. 31:2 (2010): 363-402.

²²⁷ Cantor and Johnson, “Detained, Deceived, and Deported.”

²²⁸ J. D. Bengtson, J. S. Chase, J. E. Long, and J. Monterroso Montenegro, "Reintegration and Remigration: A Study on Social Stigmas and Labor Discrimination Against Guatemalans Deported from the United States," *The Migrant Peacebuilding Project*, June-August 2013.

²²⁹ Jacqueline Hagan, Brianna Castro, and Nestor Rodriguez, “The Effects of U.S. Deportation Policies on Immigrant Families and Communities: cross-border perspectives,” *North Carolina Law Review* Vol. 88 (2010): 1799-1824.

“I fled discrimination (I was beaten and humiliated) for my Maya-Quiche ethnicity and to try and survive and support my family. After being deported I was kidnapped and tortured until I was able to escape and enter again into the U.S. to save my life.”

looks, targeted by both police and gangs, and are frequently denied employment due to lacking Salvadoran educational credentials or having tattoos that suggest gang membership.²³⁰ A similar conflation is seen in Honduras, where there is a perception that deportees have been ‘polluted’ by serving prison sentences in the US, and that they are a cause of social ills. Consequently, deportees become victims of disgrace, shame, and speculation, no longer perceived as remittance providers but rather economic burdens.²³¹

In Guatemala, a 2013 study found that deportees experience social and labor discrimination, which manifests itself in complex and multifaceted ways. There is ‘direct’ discrimination: for example, several interviewed employers – many of whom said they would generally not hire someone they knew to be a deportee – suggested that returned migrants were lazy, disrespectful, and generated subversive work environments. There is ‘incidental discrimination’, where tangible characteristics such as tattoos, mannerisms, speech patterns, and modes of dress are associated with returned migrants – who are perceived as being criminal for the same reasons as in El Salvador and Honduras. Lastly, structural discrimination was reported by the study as being the most widespread, this referring to the difficulty experienced by deported migrants of reintegrating into the Guatemalan labor market, owing to a lack of local work experience and references.²³²

Reintegration Services

El Salvador has a variety of government-funded programs that work in tandem to provide various services to repatriated migrants. *Bienvenido a Casa* (Welcome Home), El Salvador’s largest provider of these services, offers food, medical assistance, transportation subsidies, adult education, and job training for repatriated deportees. Individuals can, for example, take part in the program’s *Instituto de Modalidades Flexibles de Educación* (Flexible Modes of Education Institute): an adult education program which aims to raise the educational level of those who have not finished elementary or secondary school, in addition to providing skills training courses.²³³

Consejo Nacional de la Niñez y de la Adolescencia (National Council of Children and Adolescents) oversees the repatriation process for children, providing legal counsel for children through El Salvador’s consular representations abroad, coordinating the reunion of deported children with any family they

²³⁰ Dingeman and Rumbaut, “The Immigration-Crime Nexus and Post-Deportation Experience.”

²³¹ Ninna Nyberg Sørensen, “Migration between social and criminal networks: Jumping the remains of the Honduran migration train,” in *The Migration Industry and the Commercialization of International Migration*, ed. Thomas Gammeltoft-Hansen and Ninna N. Sørensen, (Hoboken: Taylor and Francis, 2012): 240.

²³² Bengtson et al, “Reintegration and Remigration.”

²³³ Victoria Rietig and Rodrigo Dominguez Villegas, “Stopping the Revolving Door: Reception and Reintegration Services for Central American Deportees,” *Migration Policy Institute*, 2015.

have in El Salvador, and providing psychological evaluations;²³⁴ 2,771 children were served in the period from July 2014 to April 2015.²³⁵ *Instituto Salvadoreño para el Desarrollo Integral de la Niñez y la Adolescencia* (ISNA, The Salvadoran Institute for the Integral Development of Children and Adolescents) also provides child services, though they are more long-term and oriented towards reintegration. These include mental health and educational services, as well as family economic support programs such as family strengthening plans and job workshops. ISNA also operates centers for immediate care, which offer food, clothing, and medical care to children in need.²³⁶ *Red Nacional de Emprendedores Retornados de El Salvador* (National Network of Returned Entrepreneurs of El Salvador) provides a job network for Salvadoran deportees, and further aims to reduce the stigma of deportation through awareness campaigns, and advocate for deportee rights.²³⁷ *Instituto Salvadoreño del Migrante* (INSAMI, Salvadoran Institute of Migrants) works to promote the rights of deportees, advocates for changes in public policy, campaigns to improve relations with authorities, and remediates negative stigmas of returned migrants.²³⁸

In Honduras, *Centro de Atención a Migrantes Retornados* (CAMR, Center for Returned Migrants) provides reception services for deportees arriving at the main airport in San Pedro Sula, the country's second largest city. In addition to documenting returnees, CAMR offers transportation, medical checkups, a free phone call, and some limited educational reintegration initiatives. The program assisted nearly 40,000 returnees in 2014, with a budget of roughly \$231,000 USD.²³⁹ Also in San Pedro Sula, *Dirección Nacional de la Niñez y la Familia* (DINAF, National Directorate for Childhood and Families) coordinates the repatriation process, and ostensibly works to protect and reintegrate unaccompanied migrant children and their families. In practice, children can only stay for 24 hours at DINAF's 'El Eden' migrant reception center, and are only allotted a single meal.²⁴⁰ There are often *coyotes* waiting outside this shelter who will attempt to convince children to make the return journey soon after deportation, especially if the child is not picked up by family members.²⁴¹ Repatriated adolescent boys, who are the most deported and most vulnerable to gang violence and recruitment, do not even receive reintegration services.²⁴²

²³⁴ "Cartilla de Ruta de Atención y Protección a Niñez y Adolescencia Migrante," Consejo Nacional de la Niñez y de la Adolescencia (CONNA), 2016.

²³⁵ "Situación de Niñas, Niños y Adolescentes Retornados," Consejo Nacional de La Niñez y de La Adolescencia (CONNA), April 21, 2015.

²³⁶ Rietig and Villegas, "Stopping the Revolving Door."

²³⁷ *Ibid.*

²³⁸ "Programa de Promoción de los Derechos Humanos de Población Migrante Retornada de El Salvador," *Instituto Salvadoreño del Migrante (INSAMI)*.

²³⁹ *Ibid.*

²⁴⁰ "Informe Estadístico de las Personas Repatriadas/ Retornadas a Honduras," *Centro Nacional de Información del Sector Social*, 2014.

²⁴¹ Luis Gerardo Rivera, José Guadalupe Ruelas, Ubaldo Herrera Cuello, Jaime Flores, and Carlos Flores Pinto, "Honduras," in *Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges*, 2015.

²⁴² *Ibid.*

In Guatemala, the IACHR reports that while the deportations of people including children and adolescents “create serious difficulties with respect to care, protection, and their reintegration into their country...the State appears to have done very little to integrate these people into either society or the labor market.”²⁴³ This is corroborated by the fact that the integration programs which do exist are given relatively little in the form of government funding. Guatemala’s biggest and most visible reception program is *Bienvenido a Casa* (BAC-G), whose goal is to help adult deportees reinsert themselves into society and the labor market, received only \$63,000 USD in funding, and served 2,500 deportees from November 2013 to April 2014. Though BAC-G boasts extensive private sector involvement, with more than 100 member companies collaborating to provide job placement, the program is very poorly funded, and lacks transparency and impact evaluation.²⁴⁴ The federal agencies involved in receiving repatriated, unaccompanied children and adolescents – the Secretary of Social Welfare and the Procurator General of the Nation – provide inadequate screening, unsanitary temporary housing, few in the way of services, and little to no follow-up.²⁴⁵

Also in Guatemala, *Casa Nuestras Raíces* (Our Roots House), which received \$105,000 USD of government funding in 2014, provides immediate reception services to deported children, offering food, clothes, and basic hygiene products, and psychological services. The first ten months of 2015 saw more than 5,000 children served in just one of the organization’s two shelters – a significant increase from earlier years.²⁴⁶ In general, the government agencies charged with overseeing this and other smaller-scale programs have been accused of inadequate screening, poor-quality social services, and non-existent follow-up.²⁴⁷

While the NTCA governments and international organizations – to varying degrees of success – provide basic necessities such as food, medical services and transportation to repatriated deportees, the majority are not structured to assist with long-term reintegration, development, and most importantly, protection against violence.²⁴⁸ Whether this is a result from meager political will, a scarcity of government funds, or corruption, the profound failure to address the needs of such a vulnerable population is the main driver of remigration, creating circular migration patterns.²⁴⁹

²⁴³ “Situation of Human Rights in Guatemala,” *IACHR*.

²⁴⁴ Rietig and Villegas, “Stopping the Revolving Door.”

²⁴⁵ Rivera et al, “Honduras,” in *Childhood and Migration in Central and North America*.

²⁴⁶ Rietig and Villegas, “Stopping the Revolving Door.”

²⁴⁷ Karen Musalo,, et al, "Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges." 2015.

²⁴⁸ Rietig and Villegas, “Stopping the Revolving Door.”

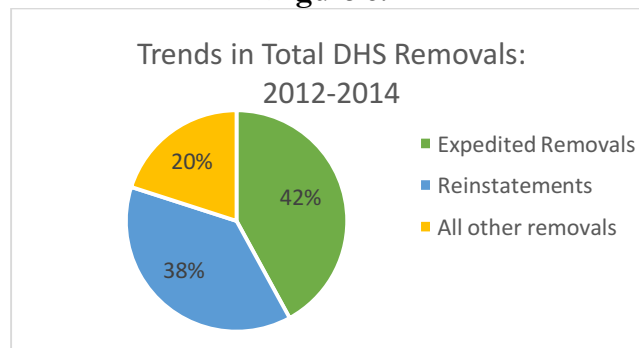
²⁴⁹ Jacqueline Hagan, Karl Eschbach and Nestor Rodriguez, “U.S. Deportation Policy, Family Separation, and Circular Migration,” *The International Migration Review*, Vol. 42, No. 1 (Spring 2008), 64-88.

Remigration

Expedited Removals

While there are no reliable estimates as to the number of NTCA migrants who attempt to migrate again after being deported, data from the DHS Office of Immigration Statistics can provide a sense of scale. Figure 6.1 shows annual statistics on reinstatements of prior removal orders represents instances when someone who had been previously deported was deported once again. In FY 2014 (the most recent data on reinstatements available), 96% of the 414,481 removals for that year were of individuals from Mexico and the NTCA; and of those removals, 41% were reinstatements. For FY 2013 and FY 2012, the proportions of reinstatements were around 38% and 35% respectively.²⁵⁰

Figure 6.1



Source: U.S. Department of Homeland Security

There is no publicly available data showing whether these proportions differ significantly between Mexican migrants and those from the NTCA, however the large share of reinstatements supports the notion that many who are deported while attempting to enter the U.S. through its southern border will attempt to do so again.

This is corroborated in a study conducted by the International Organization for Migration, the International Labor Organization, and the United Nations Children's Fund, which found that children and adolescents from Mexico and Central America who are returned to their country of origin will make as many as three attempts to re-migrate.²⁵¹ While investigating the reasons for child migration from El Salvador, Elizabeth Kennedy reported that over half of the 500 children and family members she interviewed intended to attempt migrating again, with the majority of these children citing violence as the primary cause for their emigration.²⁵²

²⁵⁰ Baker and Williams, "Immigration Enforcement Actions: 2014," *Department of Homeland Security*.

²⁵¹ "Situation of Human Rights in Guatemala," *LACHR*.

²⁵² Elizabeth Kennedy (scholar), phone interview by Noah Schramm, January 27, 2017.

U.S. Remigration Policy

U.S. immigration policy is designed to penalize deportees who attempt to reenter the country. Similar to expedited removal, individuals who violate a prior deportation order can be summarily removed without a hearing before an immigration judge. The difference with reinstatement is that it can result in federal prosecution, with punishments including fines, imprisonment, and bans on entering through legal channels.²⁵³ After having their removal reinstated, individuals are “not eligible and may not apply for any relief under” the Immigration and Nationality Act, and “shall be removed under the prior order at any time after the reentry”.²⁵⁴ The only recourse available to most facing reinstatement is to express a fear of returning to their country, at which point they are referred to an asylum officer who ascertains whether they have a reasonable fear – not a credible fear – of persecution or torture.²⁵⁵

The distinction between the reasonable and credible fear clauses is crucial. Because illegal reentry is classified as an “aggravated felony,” individuals who violate prior removal orders are initially ineligible for asylum.²⁵⁶ They must first establish “a reasonable possibility that he or she would be persecuted...or...tortured in the country of removal”.²⁵⁷ U.S. courts have recognized that establishment of this ‘reasonable’ fear demands a significantly greater standard of proof than what is required to establish the ‘credible’ fear that is a prerequisite for asylum.²⁵⁸ Thus, in order to be given an asylum hearing in the U.S., returning individuals must overcome a higher threshold than others solely by virtue of having been previously deported.

While it might be said that this accelerated deportation process for reinstatement orders constitutes an institutional safeguard that prevents the repeated abuse of U.S. courts by individuals who have no legitimate claim to immigrate, it can also be said that many who perhaps *do* have a legitimate claim are never given the chance to make it. Moreover, given how prevalent fears of return were among NTCA migrants in our data, it is likely that many of those seeking asylum to contest a reinstatement of their prior removal order were also seeking asylum to contest their initial deportation, but were not afforded a meaningful opportunity to express their concerns about being repatriated.

²⁵³ 8 CFR 241.8, 8 U.S. Code § 1326

²⁵⁴ INA § 241(a)(5)

²⁵⁵ 8 CFR 241.8

²⁵⁶ 8 USC § 1101(a) (43); 8 U.S. Code § 1158 (b)(2)(ii)

²⁵⁷ 8 C.F.R. §§ 208.31(c)

²⁵⁸ “American Exile,” *ACLU*.

Conclusion

The surge in Central American unaccompanied minors and families seeking refuge in the U.S. and Mexico is proving to be a lasting humanitarian crisis. Joint efforts to deter this migration through increasing border security; holding apprehended migrants in detention centers under horrific conditions designed to compel voluntary repatriation; and conducting summary deportations with scarce opportunity for appeal; all constitute a transnational system that denies migrants protection they desperately need, while eroding their basic rights and dignity. Moreover, the governments of the Northern Triangle have utterly failed to protect vulnerable communities from gang and state violence, in large part due to their corrupt judicial systems where impunity is the norm. The lack of resources and political will to reintegrate deportees, support and protect vulnerable youth and other marginalized communities, and enforce the rule of law forces migrants to continuously repeat the cycle of violence until they can find some measure of security.

Recommendations

➤ **United States Government**

- Fund and support education and job training programs for youth in the NTCA countries and ensure that all economic aid is contingent on adherence to human rights standards and transparency.
- Increase the cap on refugee admissions from the Latin America/Caribbean region and expand the Central American Minors (CAM) refugee/parole program.
- Recognize the asylum claims of migrants who arrive at the southern border and guarantee a hearing with an asylum officer for those with a ‘credible fear of persecution.’
- Guarantee due process for unaccompanied minors including access to legal counsel and provide basic services and humane treatment for all asylum seekers.
- Take steps to stabilize the NTCA immigrant communities in the U.S by continuing to renew TPS (Temporary Protected Status) for eligible Salvadorans and Hondurans, and respect the legal immigration status of DACA recipients.

➤ **Northern Triangle of Central America**

▪ **Government**

- Increase funding and support for reintegration services, for victims of crimes and for witness protection.
- Utilize Alliance for Prosperity funding for education and job training, and ensure that funding for citizen security is contingent on respect for human rights and improvements in accountability and transparency.

▪ **Service Providers and Civil Society**

- Increase and improve reintegration programs and opportunities for repatriated migrants. Increase educational and job training programs for vulnerable youth including former gang members and those ready to forsake criminal activities.

➤ **Mexican Government**

- Respect the human rights of all migrants, including humanitarian treatment of detainees and deportees, and increase services for asylum applicants and caps on refugee admissions.

➤ **International Organizations**

▪ **United Nations Human Rights Commission (UNHCR), Organization of American States (OAS), Inter-American Commission on Human Rights (IACHR), Regional Conference on Migration (RCM)**

- Issue statements on migration from NTCA calling for respect for and protection of migrants and reminding member nations of their obligations under the 1967 Refugee Protocol.
- Resolve to expand the definition of “refugee” beyond the political persecution paradigm to include those fleeing generalized violence.

Appendix A

Additional Findings and Variable Descriptives

I. Univariate Trends

The gender breakdown for the overall data set is relatively even, with only a 4.8% difference and more cases being female (Figure A.1). When gender is looked at by country of origin the percentage gaps between male and female remain small with the largest being 8.2%. Furthermore, every country except for Guatemala had a slightly larger number of clients identifying as female.

Figure A.1

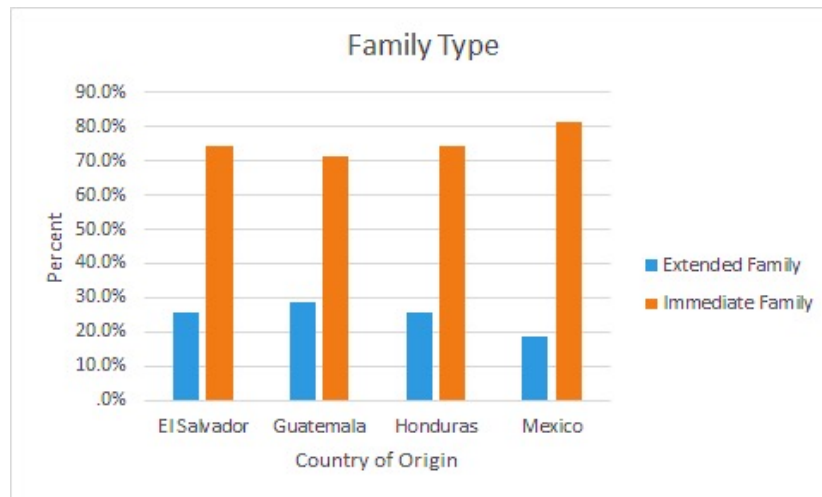
Gender			
		Frequency	Percent
Valid	Female	720	52.4
	Male	654	47.6
	Total	1374	100.0

Figure A.2

	Frequency	Valid Percent
No	799	84.7
Yes	144	15.3
Total	943	100.0

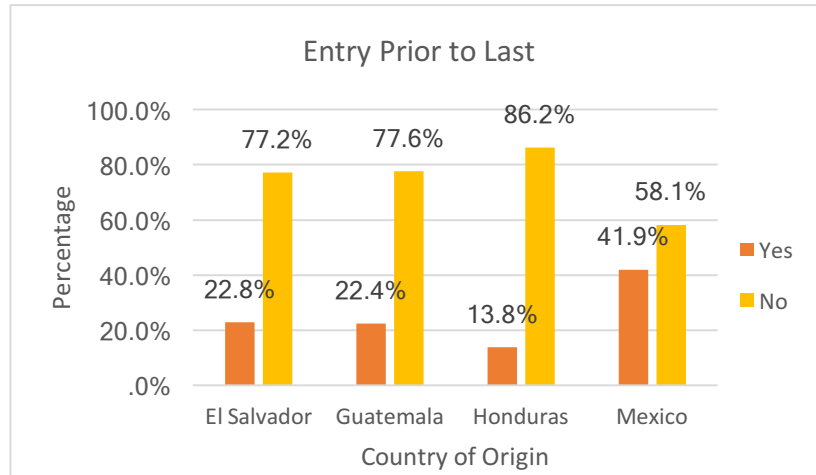
Within the dataset, a clear majority of the cases, 75.6%, had some form of immediate family in the U.S. and this trend did not differ throughout the various countries of origin (Figure A.2). 84.7% of all cases have never been convicted of a crime and 60.2% of the overall cases have never been held in a detention facility (Figures A.3 & 4.3).

Figure A.3 – Conviction Rates



Another interesting and consistent trend is that among the NTCA country cases, a majority of them had not been to the U.S. before their last entry, with 86.2% of Honduran having never been to the U.S. (Figure A.4).

Figure A.4



Other descriptive trends that we found in the overall data set include a majority of cases of clients that never been detained, with only 39.8% having been detained in immigration facilities either in the U.S. or in Mexico (Figure A.5). Very few of the cases had entered the U.S. legally with 82% having entered without documentation or the knowledge of the federal government (Figure A.6). And only 15.3% of the cases having been convicted of a crime prior to their meeting with the lawyers at El Rescate (Figure A.7).

Figure A.5 Detention

	Frequency	Valid Percent (%)
No	675	60.2
Yes	447	39.8
Total	1122	100.0

Figure A.6 Legal Entry

	Frequency	Valid Percent (%)
No	1049	82.0
Yes	230	18.0
Total	1279	100.0

Figure A.7 Conviction

	Frequency	Valid Percent (%)
No	799	84.7
Yes	144	15.3
Total	943	100.0

Over 44% of the children in the data were born in the U.S. this indicates that many of these migrants have been in the U.S. for a sizable amount of time with only 37.1% having children solely born in Mexico or one of the NTCA countries.

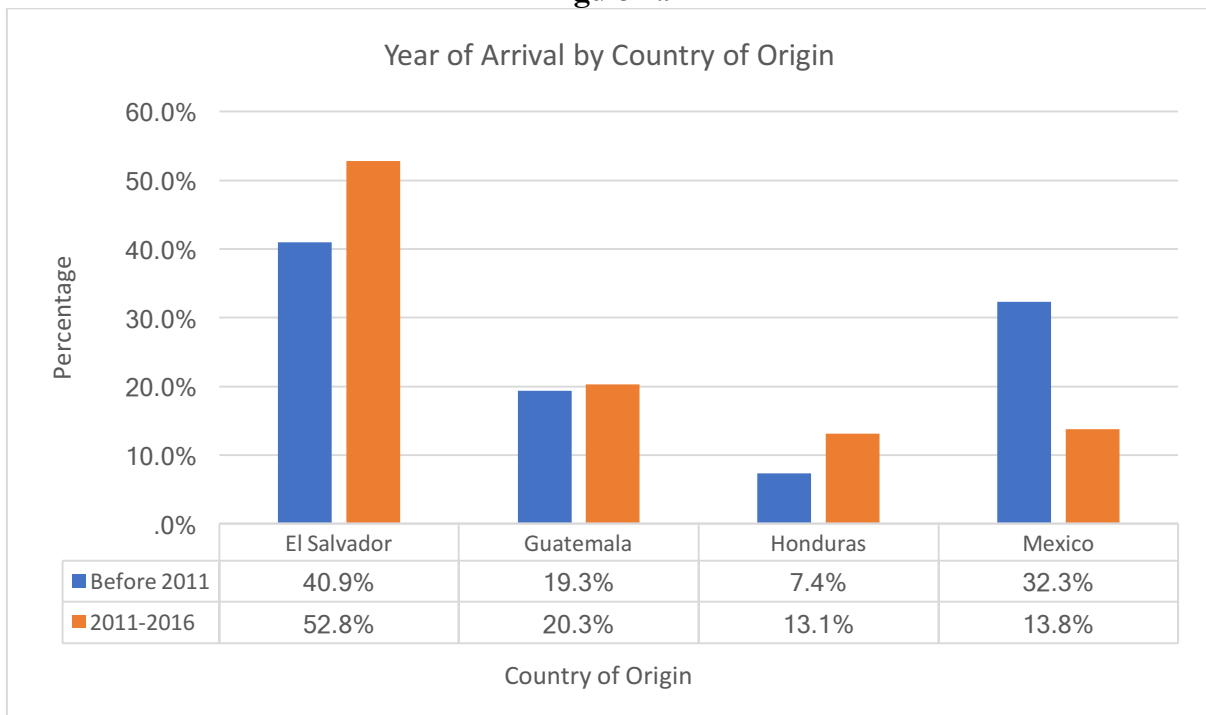
Figure A.8

Children Birth Location		
	Frequency	Valid Percent %
US	438	44.6
Mexico	51	5.2
Guatemala	67	6.8
El Salvador	196	19.9
Honduras	51	5.2
Mexico/US	60	6.1
Guatemala/US	29	3.0
El Salvador/US	68	6.9
Honduras/US	14	1.4
Other	9	.9
Total	983	100.0

II. Bivariate Trends

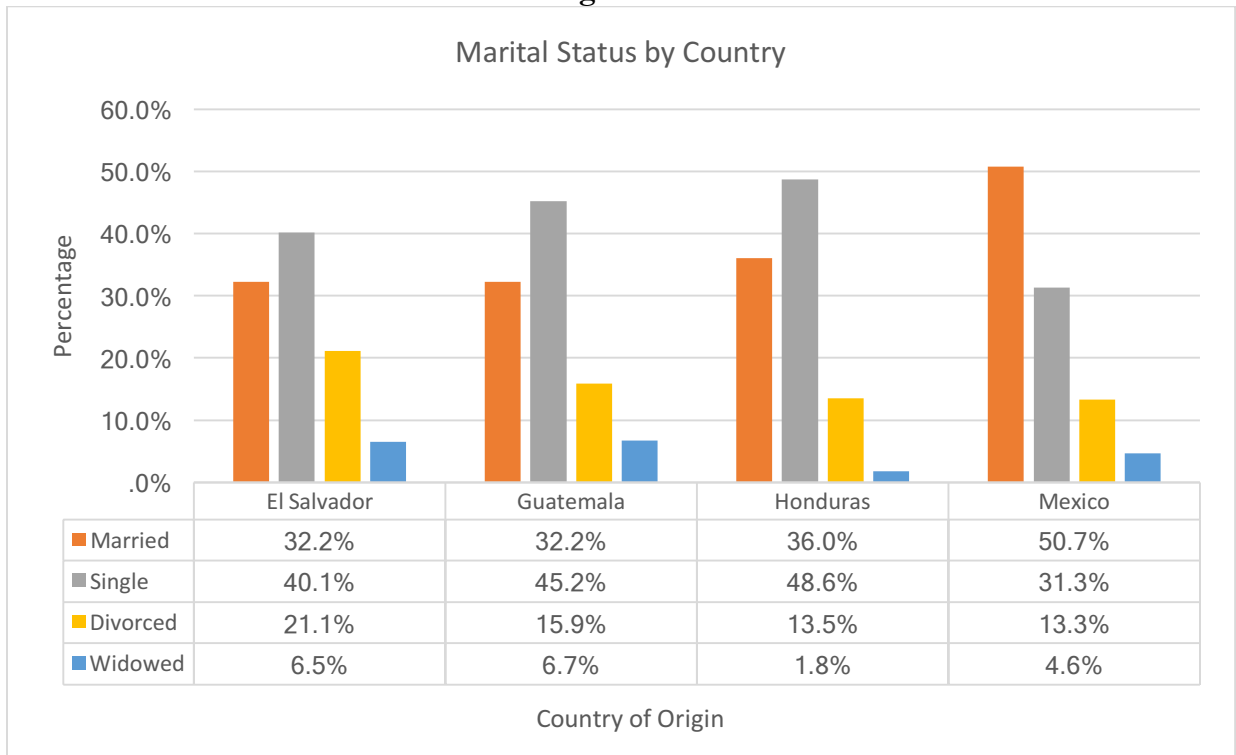
One variable comparison that showed a noticeable trend that was not discussed in the report, but may be of some interest to its readers, is the year the client last entered the U.S. by their country of origin. In this comparison as seen in Figure A.9, more cases are coming from the NTCA countries than from Mexican migrants, with 32.3% of the cases coming before 2011 being from Mexico and only 13.8% of the more recent cases were from Mexico. This is the opposite for the NTCA countries which make up larger proportions of the 2011-2016 arrival dates, particularly with El Salvador, which makes up 52.8% of the 2011-2016 cases, but only 40.9% of the cases before 2011.

Figure A.9



Another comparison of interest is found in looking at the breakdown of marital status within every country of origin. In this comparison, we see a distinct difference between the migrants from the NTCA countries and those from Mexico. Over 50% of all of the people leaving Mexico identify as married. Whereas, in each of the NTCA countries, there is a higher percentage of single migrants than married migrants, with Guatemala having the highest percentage gap of 13% more single migrants than married. One reason for this may be that the migrants coming from the NTCA countries are on average younger in age, although this is just conjecture and we cannot be certain about the causality of the trend we are seeing.

Figure A.10



Appendix B

Data Definitions and Limitations

Figure A.6 is an explanation of all of the data gathered and variables used in the report. This includes the shortened variable name used most often in the report, the valid population sizes for each variable, as well as the missing population sizes. 1,374 is the total number of cases in the data set. This table also includes the coding protocol used in crating many of the variables as well variable options for the multi-category variables, and any other notes pertaining to the gathering and limitations of each variable in the set. This information is critical to understanding the function of each variable as well as the limitations in population size across all categories. The scattered input of the data fields for each case does place certain limitations on the data garnered; given that we cannot make assumptions for the whole data set only for the populations of each variable.

Figure B.1 Data Collection and Variables

Variable	Valid Population Size	Missing Population	Coding Definition	Other Notes
Country of Origin	1,374	0	Variable Options: Mexico, El Salvador, Guatemala, Honduras.	Only El Salvador, Guatemala, Honduras, and Mexico were kept in the data set
Gender	1,374	0	"What is your Gender?" Yes-No metric.	**Since this was not a field on the intake form, we manually determined gender based off of name.
Marital Status	1,263	111	Variable Options: Married, Single, Widowed, Divorced.	
Children YN	1284	80	"Do you have children?" Yes-No metric.	
Number of Children	948	426	0 = discarded given that the lack of children was accounted for in the Yes-No Variable 10 = a catch all 10 or higher metric. No all in this category are 10 exactly.	*7 child population size = 13 *8 child population size = 9 *9 child population size = 2 *10+ child population size = 3
Children Birth Location	983	391	Ten Variable Options: U.S. Only, Mexico Only, Guatemala Only, El Salvador Only, Honduras Only, a combination of Mexico and the U.S., a combination of Guatemala and the U.S., a combination of El Salvador and the U.S., a combination of Honduras and the U.S.,	*The Other population size = 9 *The Honduras/US population size =14

			And Other.	
			Other= All other single country or country combination for birth location not included in the previous 9 variables.	
Family in US YN	1,286	88	"Do you have Family in the US?" Yes-No Metric.	
Kind of Family	1,125	249	Immediate Family= Any answer that included: child, sibling, or parent.	This coding protocol was used because several cases had multiple answers in this field. We prioritized immediate family in order to look at asylum implications with immediate family members in the country. Any case that included ANY immediate family was coded accordingly and any case with ONLY extended family was coded accordingly.
			Extended Family= Any answer that ONLY included: Uncle/Aunt, Cousin, Niece/Nephew, or grandparent.	
Family Papers YN	1,153	221	"If you have family in the U.S., do they have papers?" Yes-No metric.	
Type of Papers	958	416	Variable Options: Legal Residency (LR), Citizenship (Cit), Work Permit (WP), LR & WP, LR & Cit, WP & Cit, All three	Many cases had combinations of legal paper types so all possible combinations were included as category options.
Legal Entry YN	1,279	95	"Was your last entry into the US legal?" Yes-No metric	
Entry Prior to Last YN	1,156	218	"Have you been to the US prior to your latest entry?" Yes-No metric	
Exit Since Prior Entry YN	1,111	263	"Since you entered previously have you left?" Yes-No metric.	
Year of Last Entry	889	485	Variable Options: Before 2011 2011-2016	We chose to divide year of most recent entry to look specifically at the migrants coming in the last six years. This population is a representation of the migrants fleeing due to current factors in the NTCA.
			This was calculated through sorting the "Date of most recent entry category"	
Years Between by Decimal	141	1,233	This is the time difference in years between entries for the cases that included both "date of most recent entry" and "date of prior entry"	
Months Between Previous and Current Visit	144	1,230	This is the time difference in months between entries for the cases that included both "date of most recent entry" and "date of prior entry"	
Age at Most Recent Entry	532	842	This is the time difference in years between entries for the cases that included both "date of most recent entry" and "Birthday"	**The "Birthday" field in the EI Rescate intake form only began being offered in the middle of 2014.

Age at Visit to El Rescate	749	625	This is the time difference in years between entries for the cases that included both "Date of Visit" and "Birthday"	**The "Birthday" field in the El Rescate intake form only began being offered in the middle of 2014.
Detention YN	1,122	252	"Have you ever been detained?" Yes-No metric.	
Detention Location	354	1,020	Variable Options: Mexico U.S.	
Conviction YN	943	431	"Have you ever been convicted of a crime?" Yes-No metric.	
Fear of Return YN	994	380	"Are you afraid to return to your home country?" Yes-No metric.	
Reason for Migration	942	432	Variable Options: Economic Opportunity, Family Reunification, Fleeing Violence, Political Asylum, Other. In 10 cases there were multiple categories filled out all with fleeing violence as one the options. Given the hesitancy for migrants to put fleeing violence that past studies have shown, we categorized all of these cases into the "Fleeing Violence" category.	
Violence Type	584	790	Only cases who responded "Yes" to the Fear of Return variable Only cases who responded to the "If you are afraid why?" variable that provided most of the qualitative data for this report. Variable Options: General Violence, Gangs, Domestic Violence, Indigenous/LGBTI Violence, None.	The cases were coded by sorting the qualitative variables using key words: General: violence without a specific perpetrator, including threats Gangs: maras, cartels, drogas, or delinuencia Domestic violence: anything relating to family and spousal abuse Indigenous/LGBTI: anything related to sexuality or indigenous discrimination

*The population size is under 20.

**The data field was not fully filled out due to changes in the El Rescate Intake form over the time period we surveyed.

Appendix C

Figure C.2.1 – Fear of Return by Country of Origin

Origin Country	Fear_of_Return_YN			
	No		Yes	
	Count	Row N %	Count	Row N %
El Salvador	70	15.7%	376	84.3%
Guatemala	36	18.8%	156	81.3%
Honduras	16	17.2%	77	82.8%
Mexico	67	25.5%	196	74.5%
Total	189	19.0%	805	81.0%

Figure C.2.2 – Reason for Migration by Country of Origin

	Origin Country							
	El Salvador		Guatemala		Honduras		Mexico	
	Count	Column N %	Count	Column N %	Count	Column N %	Count	Column N %
Economic Opportunity	118	27.9%	68	38.6%	33	38.4%	142	55.3%
Family Reunification	56	13.2%	25	14.2%	5	5.8%	60	23.3%
Fleeing Violence	222	52.5%	71	40.3%	46	53.5%	32	12.5%
Political Asylum	16	3.8%	4	2.3%	2	2.3%	6	2.3%
Other	11	2.6%	8	4.5%	0	.0%	17	6.6%
Total	423	100.0%	176	100.0%	86	100.0%	257	100.0%

Figure C.2.3 – Violence Type by Country of Origin

	none		General		Gangs		Domestic Violence		Indigenous/LGBTI	
	Count	Row N %	Count	Row N %	Count	Row N %	Count	Row N %	Count	Row N %
El Salvador	47	16.9%	68	24.5%	145	52.2%	17	6.1%	1	.4%
Guatemala	24	22.0%	35	32.1%	40	36.7%	5	4.6%	5	4.6%
Honduras	9	15.5%	16	27.6%	26	44.8%	7	12.1%	0	.0%
Mexico	73	52.9%	41	29.7%	18	13.0%	4	2.9%	2	1.4%
Total	153	26.2%	161	27.6%	229	39.2%	33	5.7%	8	1.4%

Figure C.5.4 – Detention Rate by Country of Origin

Origin Country	Detention_YN					
	No			Yes		
	Count	Row N %	Column N %	Count	Row N %	Column N %
El Salvador	280	56.2%	41.5%	218	43.8%	48.8%
Guatemala	147	66.8%	21.8%	73	33.2%	16.3%
Honduras	53	52.5%	7.9%	48	47.5%	10.7%
Mexico	195	64.4%	28.9%	108	35.6%	24.2%
Total	675	60.2%	100.0%	447	39.8%	100.0%

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8 C.F.R. §§ 208.31(c)
8 CFR 241.8, 8 U.S. Code § 1326
8 CFR 241.88 USC § 1101(a)(43)
8 U.S. Code § 1158 (b)(2)(ii)
8 U.S. Code § 1225(b)(1)(A)(i)
8 U.S. Code § 1225(b)(1)(A)(ii)
8 U.S. Code § 1225(b)(1)(B)(v)
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