



# NEXO

The Official Newsletter of The Julian Samora Research Institute  
The Midwest's Premier Latino Research Center

## IN THIS ISSUE

### From The Director

Census 2020: The Citizenship Question - 2

### Book Reviews

*Chicana Movidas* - 4

*Evicted* - 5

### Articles

Murder and Prison Gangs - 6

Modernizing United States Jurisprudence - 20

Manmade Immigration Crisis - 30

### ¿Qué está pasando en el instituto?

Farm Management Course - 14

Dr. Alberto G. Mata - 15

JSRI's 30th Anniversary - 16

New Faces - 17

Latina/o Voter Turnout - 18

Martin Solis Jr. Honored - 19

*JSRI's mission is to generate, disseminate, and apply knowledge to serve the needs of Latino communities in the Midwest and across the nation.*

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Julian Samora Research Institute

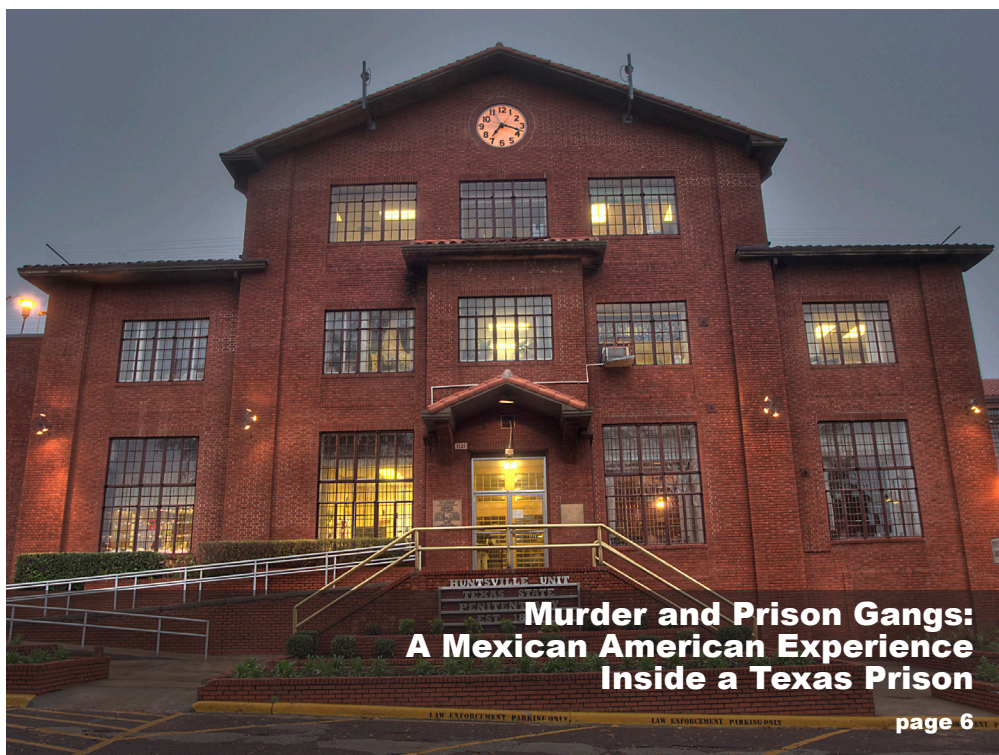
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**Murder and Prison Gangs: A Mexican American Experience Inside a Texas Prison**

page 6



**Modernizing United States Jurisprudence to Comply with International Law in Adjudicating Central American Asylum Claims**

page 20

# NEXO

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JSRI at Michigan State University is committed to the generation, transmission, and application of knowledge as it relates to Latinos and Latino communities throughout the Midwest and the nation.

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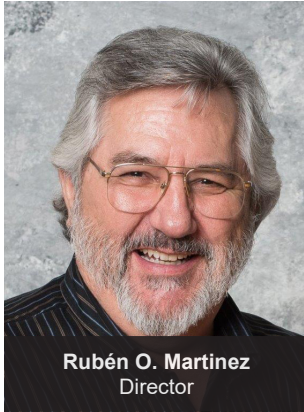
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## Census 2020: The Citizenship Question



Rubén O. Martínez  
Director

Census 2020 will soon be underway and it is still unclear whether or not it will contain the citizenship question. Article 1, Section 2 of the U.S. Constitution required that a census of the population be conducted within three years of the first meeting of the U.S. Congress, and then every ten years hence. Census data are used to apportion representatives from the states to the U.S. House of Representatives, to draw political districts, and to allocate federal, state, and local funds. Although the Framers of the Constitution called for an enumeration by a full count of “free Persons,” they also called for counting only three-fifths of all other persons. Amendment XIV to the U.S. Constitution was passed in 1868, and provided that Representatives are to be apportioned by counting “the whole number of persons,” except for “Indians not taxed,” in each state. Although special censuses were conducted of Native Americans, it was not until 1924 that they were granted citizenship by Federal statute, and since then have been included in the decennial census.

The citizenship question was included in every census from 1820 through 1950, except for that of 1840. Since the 1960 Census, the citizenship question has not been asked of every respondent, and the position of the Census Bureau has been that use of the question would make it difficult to count “hard-to-count” groups such as noncitizens, who are not likely to participate due to fear that the data might be used against them or their families. Since 1950, the Census Bureau has conducted extensive research and development as it plans for each decennial census. Today, the controversy over the use of the citizenship question has brought to the fore both the purpose of the question and the adequacy of testing conducted by the Census Bureau.

Inclusion of the question in the 2020 Census is sometimes attributed to Steve Bannon, former White House chief strategist. As early as February 2017, he apparently had a discussion with Secretary of Commerce Wilbur Ross, who oversees the Census Bureau, in which he suggested inclusion of the question in the questionnaire. In March 2017, Secretary Ross directed the Bureau to include the question. With Bureau staff concerned that the request by Ross would not stand legal muster, staff members sought to get another Federal agency to request inclusion of the question. This went on for several months, with Bureau staff meeting with members of the Department of Justice, and Ross meeting with Attorney General Jeff Sessions. Interestingly, discussions also occurred with Kris Kobach, then Kansas Secretary of State and nationally known conservative legal activist with strong anti-immigrant views. Ross, himself, had telephone and email conversations with Kobach, who suggested specific wording for the citizenship question as early as July 14, 2017.

Collectively, these discussions led to the rationale that the citizenship question was needed to enforce the Voting Rights Act, and the Department of Justice “got” on board to request that the question be included in Census 2020. While Ross claimed that the Department of Justice had requested that the question be added to the questionnaire, the reality is that he and Census Bureau personnel actively sought both the support of the Department of Justice and a rationale for using the question. Those came in the form of a letter in December, 2018 by Arthur Gary, General Counsel, Justice Management Division, requesting that the citizenship question be reinstated in the “long form” of the census on the basis that the data are needed for the enforcement of Section 2 of the Voting Rights

Act, which prohibits discrimination on the basis of race, color, or membership in a language-minority group. In particular, Gary argued that data on voting age citizens were necessary for assessing “vote dilution” and establishing whether or not violations of Section 2 are occurring in which a voting-age population of a racial minority group that is a majority in a jurisdiction is continually defeated at the polls because its voting-age majority has been divided.


Interestingly, the ostensible reason for using the citizenship question is to prevent racial discrimination that occurs through the redistricting process. Yet, the letter was drafted by John Gore, a Trump appointee with a history of defending Republican state redistricting plans challenged as racial gerrymandering by opponents. In other words, he was defending redistricting plans that favored Republicans, most likely by diluting the votes of ethno-racial minority voting-age populations. The rationale provided in the letter is astonishing, but not surprising given that the Trump Administration and political conservatives are widely known to be less concerned with eliminating racial discrimination and more concerned with supporting voter suppression, while implementing anti-immigrant and anti-immigration policies and practices. In fact, efforts by political conservatives to include the citizenship question in the census go back more than a decade. For example, in 2009, then Senator David Vitter from Louisiana attempted to amend the Commerce, Justice, Science Appropriations bill by adding language that would require asking all persons their citizenship and immigration status in the 2010 census. Having failed at that, Vitter again made legislative efforts to identify non-U.S. citizens in 2014 and 2016. Both failed.

Efforts by the Trump Administration to use the citizenship question have recently been stalled by court cases initiated by several states that oppose inclusion of the question. On January 15, 2019, in the first major ruling on the issue, Judge Jesse Fuhrman, Southern District of New York, held that that Secretary Ross violated the Administrative Procedures Act (APA) and the Census Act of 1946 in the way that he went about adding the citizenship question to the census questionnaire. Judge Fuhrman vacated Ross’ decision to include the question in the Census 2020 questionnaire, prohibited him from including the question, and remanded the matter back to the Secretary of Commerce for further consideration in accordance with the Court’s decision.

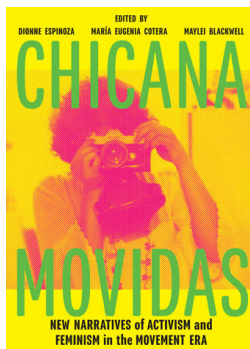
In short, the Judge agreed in part with the plaintiffs in the case, “Governmental plaintiffs” and “non-governmental organizations,” that argued that Secretary Ross had violated the APA by acting in a “capricious and arbitrary” manner, and that he had violated the Due Process Clause of the Fifth Amendment because his decision was “motivated in part by invidious discrimination against immigrant communities of color.” Judge Fuhrman agreed with the plaintiffs that Ross had violated the APA, but held that the plaintiffs had not proven

that the Secretary was motivated by invidious discrimination, basically because they were unable to depose Ross due to the Supreme Court’s decision that stayed an earlier decision by Fuhrman that Ross could be deposed in the matter.

Fuhrman agreed with the plaintiffs that the harms from including the citizenship question on the Census 2020 questionnaire would include: 1) a significant reduction in the response rates among immigrant and Hispanic households; 2) a reduction in the quality of census data; and 3) the loss of power and funds as a result of differential undercount of certain segments of the population. Additionally, Fuhrman held that Ross violated the APA in multiple ways: 1) the decision was arbitrary and capricious in that he had failed to take into account several important aspects of the problem; 2) either ignored or badly misconstrued the evidence regarding the potential effects of its use; 3) failed to act rationally given the evidence regarding the use of the question; and 4) failed to justify his departure from past Bureau policies and practices. Finally, Fuhrman held that Ross had violated the Census Act by failing to inform Congress at least three years in advance of the “subjects proposed to be included, and the types of information to be compiled.” While Ross reported to Congress in March of 2017 that the subjects would be the same as those included in Census 2010, he did not include the citizenship question. It was not until December 2017 that he reported to Congress the inclusion of the citizenship question, and on March 26, 2018, he again directed the Census Bureau to reinstate the question in the Census 2020 questionnaire. More recently, Judge Richard Seeborg, U.S. District Court, Northern District of California, like Fuhrman, ruled against Ross.

Since Fuhrman’s decision, the Trump administration asked the 2nd U.S. Circuit Court of Appeals to review the case, then requested the Supreme Court to bypass the Court of Appeals and render a final decision by June, when the census questionnaire has to be finalized. The Supreme Court has agreed to review Fuhrman’s ruling, and will hear arguments in April. Given the recent changes in the composition of the Court, it is difficult to predict whether or not the Justices will decide in favor of the Trump Administration. It is clear that the Federal Government has the authority to include the question, but it is also clear that it should not be done for political purposes or in violation of the APA and the Census Act. Finally, it is evident that Ross’ rationale for including the citizenship is a pretext for something else—perhaps promoting voter dilution among immigrants and Latinos? 

## ***Chicana Movidas: New Narratives of Activism and Feminism in the Movement Era***



Edited by Dionne Espinoza, María Eugenia Cotera, and Maylei Blackwell. 2018. Austin, TX: University Texas Press.

Reviewed by Richard Cruz Davila

In their introduction to *Chicana Movidas*, editors Cotera, Blackwell, and Espinoza contend that conventional histories of social movements often emphasize the “major” events, figures, and organizations, at the expense of “minor” strategies and tactics embedded within and between larger movements” (p. 3). They thus seek to shift focus from “movements” to “*movidas*.” As Cotera, Blackwell, and Espinoza note, the term “*movida*,” or “move,” carries multiple connotations including “the strategic and tactical but also the undercover, the dissident, the illicit—that which is not part of approved and publicly acknowledged political strategies, histories, and economic and social relations” (p. 2). Occurring in marginal spaces—“backrooms and bedrooms, hallways and kitchens”—*movidas* are “collective and individual maneuvers, undertaken in a context of social mobilization, that seek to work within, around, and between the positionings, ideologies, and practices of publicly visible social relations” (p. 2). Seeking to uncover the “minor” strategies and tactics employed by Chicanas in the movement era, the essays in *Chicana Movidas* “track an archive of resistance to reveal a broader women of color praxis articulated and mobilized in and between the movements, actions, and organizations that have come to define in retrospect the political narratives of the 1960s and 1970s” (p. 2).

*Chicana Movidas* is divided into four sections that map “interconnected and overlapping sites of struggle and resistance” (p. 12). The first section, “Hallway Movidas,” uses the metaphor of marginal spaces such as hallways and kitchens to consider “*movidas* undertaken within and between movements


that did not always address the full array of issues impacting women of color” (p. 12). For instance, Anna NietoGomez documents the early history of Chicana activism through the case of Francisca Flores, whose efforts beginning in the late-1950s brought visibility to Chicana issues and led to the formation of important organizations such as the League of Mexican American Women and the Comisión Femenil. In the first of several essays that expand the geographical scope beyond the Southwest, Leticia Wiggins details the history behind the 1972 Adelante Mujer conference in South Bend, IN, organized partially in response to women’s exclusion from the agenda-setting process of the 1972 Mi Raza Primero conference in Muskegon, MI.

The second section, “Home-Making Movidas,” considers the ways by which Chicanas tried to make “space for Chicana feminism to live and develop” (p. 12), including “both [Chicanas] organizing work within existing Chicano movement projects and their efforts to create separate and independent Chicana institutions” (p. 16). Blackwell’s essay on Chicana visual artist Ester Hernández, as well as her interview with Chicana *lesbiana* filmmaker and poet Osa Hidalgo de la Riva, address the role of aesthetics in home-making *movidas*. Other essays in this section consider “Chicana institution-building *movidas*” (p. 19) through the examples of El Centro de la Raza in Seattle, WA, Radio KDNA in Washington’s Yakima Valley, the East Los Angeles Welfare Rights Organization, and the Chicana Research and Learning Center in Austin, TX.

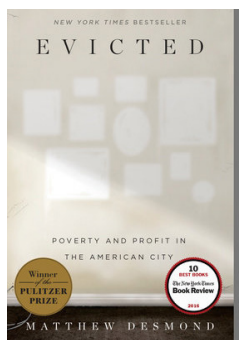
“Movidas of Crossing” traces Chicana *movidas* “between, beyond, and across multiple borders, including those of nationalisms, cultures, social movements, nation-states, histories, languages, and group identities” in pursuit of social justice (p. 21). Alejandra Marchevsky, for instance, documents the sometimes tense coalitional efforts of Chicanas and African American women organizing for welfare rights in Los Angeles. Other essays in this section consider the development of Chicana/third world woman identities through the examples of Chicana activists Elizabeth “Betita” Martínez, María Jiménez, and Olga Talamante, as well as the participation of

Chicanas at the 1971 Indochinese Women’s Conference in Vancouver, Canada.

The final section, “Memory Movidas,” considers the use of collective memory “to forge new political spaces and identities for [Chicanas], mobilizing practices of countermemory (either collective or personal) to highlight the unique perspective of subjects at the intersection of multiple oppressions” (p. 24). Chapters from Cotera and Marisela R. Chávez consider the possibilities and limitations of archives in recovering and preserving Chicana memory. Chapters from Deanna Romero and Inés Hernández-Ávila employ memoir/*testimonio* to tackle questions of intersectionality: for Romero, her negotiation of Chicana womanhood and queer identity, and incorporating spiritual practices into her work as a healthcare professional; for Hernández-Ávila her work as an activist and scholar moving “within and between Chicano and indigenous communities” (p. 27).

*Chicana Movidas* is an excellent collection that deepens our understanding of the vital but often unacknowledged roles of Chicanas in the Chicano and Women’s movements, as well as the processes by which Chicanas developed their own praxis of resistance that challenged their marginalization in both movements. The collection offers a strong mix of scholarly research and first-person accounts of movement activity that creatively confronts the absence or invisibility of Chicanas in movement archives, in the process greatly expanding the archive and becoming an invaluable resource for future researchers. A further strength of the collection is its geographic range; true to its emphasis on Chicana praxis on the periphery of social movements, multiple essays are dedicated to activity in the Midwest and Pacific Northwest, areas often treated as peripheral to the Southwest in movement historiography. The book is highly recommended for both researchers and students interested in the history of the Chicano movement and women of color feminisms. 

## ***Evicted: Poverty and Profit in the American City***



by Matthew Desmond.  
2016. New York: Crown  
Publishers.

Reviewed by  
Jean Kayitsinga

Matthew Desmond's *Evicted: Poverty and Profit in the American City* focuses on the housing eviction of eight families in Milwaukee. Being evicted is not only an indication of poverty, but it also exacerbates poverty. Desmond shows that "losing a home sends families to shelters, abandoned houses, and the street. It invites depression and illness, compels families to move into degrading housing in dangerous neighborhoods, uproots communities, and harms children" (p. 5).

Conceptually, what distinguishes *Evicted* to previous seminal books on poverty is that it uses a relational perspective on inequality that links two agents in different hierarchical social spaces, in this case landlords and tenants. Desmond argues that "poverty is a relationship that involves poor people and rich people alike," and eviction is "a process that binds poor and rich people together in mutual dependence and struggle" (p. 317).

*Evicted* draws on ethnographic fieldwork, digitally recorded conversations, observations, notes, and photographs, followed by interviews of renters and defendants in eviction courts, along with analysis of secondary sources such as news reports, medical and eviction court records, and mortgage files. *Evicted* also relies on third parties that corroborate information collected including the Wisconsin Department of Children and Families and Milwaukee Public Schools and interviews of landlords, court officers, social workers, building inspectors, property managers, and other people throughout the city.

The narratives of tenants such as Arleen Belle and Vanetta Evans reflect everyday stories of many low-income families in the U.S. who live paycheck to paycheck while


struggling to make ends meet, and do not have a stable home. In January 2008, Arleen was evicted from her apartment after a stranger damaged her door. She moved with her sons to a homeless shelter, then to a house with no water and "unfit for human habitation" (p. 2). She then moved to an apartment complex in the inner city, which was a "haven for drug dealers" (p.3). She was on welfare, receiving an annual income of \$7,536 and had no housing assistance. She was penalized by her social worker for missing an appointment and her benefits were reduced.

Soon after, she fell behind on her rent and was evicted again. The reason for her second eviction was not due to her wrong doing, but instead because the police were called for domestic violence to her apartment complex and the landlord was going to lose her apartments for nuisance reasons. After three weeks, she was again evicted because the police came to her place looking for her son who kicked a teacher at school and ran home. She went on and stayed with her friend who was later evicted, and then she moved to live with her sister. Making the situation worse, Arleen's welfare case was closed after she missed three appointments.

Apparently, appointment letters were being sent to an old address from which she was previously evicted. She then moved to another apartment where she was robbed at gunpoint and her caseworker decided the place was no longer safe, and she found herself with her two boys once again in a shelter. Within a year, Arleen and her sons had moved multiple times, mostly for low-income reasons and lack of housing assistance, but at other times, for unfortunate and involuntary reasons.

Vanetta Evans received a monthly check of \$673 from welfare and \$380 in food stamps. Her troubles began when her hours of work were reduced from five days a week to one day a week. She could not pay her electricity bill. "We Energies threatened disconnection unless she pays \$705. There was no way she could pay that amount and the rent. But she worried that Child Protective Services would take her kids away if her lights and gas were shut off" (p. 244). As expected, she fell behind in rent and later received an eviction notice. The worse part was when Vanetta,

her friend, and boyfriend robbed using a gun two women at a Blockbuster Video and were arrested. After her hearing, Vanetta was fired and then evicted, and then took her kids to the shelter. At the shelter, she met Crystal and they agreed to look for an apartment exclusively on the Hispanic South Side of the city and even considered the white neighborhoods. They refused to consider the North Side which was predominantly black. They wanted to leave the ghetto, but landlords turned them away. Their rental application was rejected because of their arrest and eviction history.

In summary, *Evicted* describes in detail the social life of families in poverty and highlights the eviction process. According to Desmond, "Losing a home and possessions and often your job; being stamped with an eviction record and denied government housing assistance; relocating to degrading housing in poor and dangerous neighborhoods; and suffering from increased material hardship, homelessness, depression, and illness—this is eviction's fallout" (p. 298), and this a story of many low-income American families. Poverty is caused by multifaceted forces and requires multifaceted solutions. Poverty can be eliminated if the right policies and programs are enacted. Housing should be considered a basic need for everyone and a human right. Poverty and the eviction processes will likely persist if there are no mechanisms or policies for people to increase their earned incomes and if there is no supplemental government assistance, including housing assistance, to deal with rising housing and other household expenses. Policies that propose to increase the minimum wage and public benefit are crucial and necessary. However, such policies are not sufficient, especially if housing costs also rise along with them. A supplemental housing assistance program, such as giving housing vouchers is needed. Finally, landlords exploit and get rich off the poor. This is a must-read book on poverty, rental housing, and eviction, especially for students in sociology, social work, and other social sciences courses that focus on social stratification and inequality. 



## Murder and Prison Gangs: A Mexican American Experience Inside a Texas Prison

Alfredo Aguilar\*

Prison gangs have existed in the Texas prison system since at least the 1970s. They developed, rose, and gained their power through the demise of the building tender system. Prison officials argued prison gangs grew because the collapse of the building tender system created a power vacuum. The downfall of the building tenders was brought on by the success of the legal court case *Ruiz v. Estelle*. This case began in the early 1970s through the efforts of an inmate writ-writer named David Resendez Ruiz and ultimately exposed the unconstitutionality of the Texas prison system. Ruiz claimed the Texas Department of Corrections' (TDC) prison system violated the U.S. Constitution's 8<sup>th</sup> Amendment which prohibited cruel and unusual punishment. The unconstitutional findings exposed by the court ruling uncovered issues within the Texas prison system such as overcrowding, inadequate security (collapsed the building tenders), inadequate healthcare, unsafe working conditions, and severe punishment policies.

Building tenders were inmates who were tasked with monitoring and ultimately controlling the rest of the inmate population. Building tenders were also selected from the inmate population pool who were deemed more aggressive and violent

to ensure strict control through violence and fear. Crucially, this process of selection was also highly racialized. The wardens, staff, guards, and building tenders were predominately White. Mexican Americans did not hold many of these positions, if any at all. In fact, the building tender system had purposely ignored Mexican Americans as potential candidates based on racial ideas. Furthermore, since the rapid growth of prison gangs in the late 1970s and early 1980s, prison gangs in Texas were responsible for several dozen homicides, hundreds of assaults on other inmates and staff, and have had a stranglehold on power in Texas prisons since then. David Weeks, a special prison prosecutor stated, "more than 90 percent of inmate homicides are gang-ordered and more than one-half of the assaults are the result of gang warfare" (Klimko, 1987). Regardless of what skeptics may argue, they engage in various illicit criminal activities such as the drug trade, prostitution, robbery, and extortion within the walls of Texas prison units (Fair, 1988).

Even while considering the institution's perception of the strength of prison gangs, they still largely lacked broad exploration in historical scholarship. Fields such as criminal justice, sociology,

and criminology have provided vast research into prison gangs, and more specifically Mexican American prison gangs. This study is also meant to highlight not only Mexican American prison gangs but the overall Mexican American experience for inmates and guards within the confines of the world of prisons. This topic also continues to lack historical focus within mass incarceration and prison studies. Mexican American prison gangs are the focus of this study as they have been the most disruptive and most influential in impacting Texas prison institutions and administrations. Historians have lagged behind attempts to historicize prison gangs into the larger historical context. In this case, exploring the Mexican American experience within the development of the Texas prison system has broad implications. This study provides exploration of the varying Mexican American experiences within prisons as victimized inmates, as stifled prison guards, and also as prison gangs or security threat groups who employed efforts to demonstrate their own autonomy, regardless of the problematic legal and ethical quandaries through prison gangs.

Prison gangs commit homicides and assaults to establish dominance. These acts also garner the most attention as violence is habitually presented by the media, and more commonly consumed by the public. Thus, the public generally perceives prison gangs and their activity to be violent. However, there was another way in which prison gangs pursued and successfully maintained their power. They undermined, and ultimately controlled many prison guards making them do their biddings, even outside the confines of the prisons as extensions of their economic enterprises. The process of this type of coercive manipulation was a unique type of influence pursued by prison gangs in the prison system and highlights the nuance and complexity behind prison gang activity. The case of Luis H. Sandoval, a prison guard in Texas during the 1980s who became allegedly involved in criminal activity for the Texas Syndicate emphasizes this complicated multi-faceted Mexican American experience within the prison setting.

The Texas Syndicate or *Syndicato Tejano* was the first prison gang to heavily impact the prison system in Texas. Formed in the California prison system in the 1970s by incarcerated *Tejanos*, the Texas Syndicate sought protection against *Californios*. *Tejanos* were being preyed upon by California prison gangs in some of the most notorious California prisons including San Quentin and Folsom. Here is also where the earliest prison gangs were formed. The Mexican Mafia for example, was formed in 1957 in the Deuel Vocational Institution in Tracy, California and is one of the earliest formed prison gangs to still exist, and continues to exhibit power inside and outside prisons.

The tension between *Tejanos* and *Californios* also illustrated

the restrictive and complicated parameters of membership for prison gangs. While both were considered Mexican Americans, state identity was also an important restriction along with ethnic identity. Membership was tied to their regional home state and in this case trumped ethnicity as the only restriction towards membership. For incarcerated Mexican Americans from Texas, *Tejano* identity was seen as an important component by the Texas Syndicate for admission. State identity also occurred as a form of 'othering' by the California prison gangs which did not extend membership to non-*Californios*. Mexican Americans were informed by their ethnic identity, but also by state identity as prison gangs formed. Similar parameters also included the Mexican Mafia or *La Eme*, which formed in California and did not recognize the Texas Mexican Mafia, also known as *Mexikanemi* from Texas. The Aryan Brotherhood which also formed in California is not related to the Aryan Brotherhood of Texas. While these prison gangs relied primarily on ethnicity and racial identity for membership, state identity informed their inclusion as well and should be noted.

Ethnicity and state identity likewise impacted Luis H. Sandoval's relationships with inmates. Associations principally began because of his shared ethnic background with many of the inmates, where their ethnic kinship was highlighted and then thusly exploited by the inmates. Like Sandoval, many inmates were both Mexican Americans and Texas residents, thus a sense of comfortability existed between inmate and guard. Familiarity was both good and bad. This new type of exploitation of the guards was also facilitated because many new guards had been hired as mandated by law as prison rights gains were made through several prominent legal court cases, primarily *Lamar v. Coffield*. Prison guards were rapidly hired. Another important factor was the hiring of many people of color and women to work for the Texas Department of Criminal Justice (TDCJ). The larger pool of applicants paved the way for many new minority employees such as Mexican Americans to join the staff of the Texas prison system.



State officials inspect prisoner conditions at a state prison.  
Photo credit: William Wayne Justice Papers, [tarlton.law.utexas.edu](http://tarlton.law.utexas.edu)

Sandoval was hired as part of the new guard force that was coming in and was separate from the old guard who had largely stayed to themselves, was predominately white, and had strong rapport with the building tenders. Since the removal of the building tender system many of the old guard force resigned and left many “green” guards to come in and figure out the new and changing Texas prison system. Additionally, it is also crucial to highlight why Sandoval became a prison guard in the first place. New employment opportunities were too good to pass up for Sandoval and broadly speaking, for Mexican Americans. His brief story represented the limited social and economic opportunities that impacted many *Tejanos*; the continuance of a larger, repeated, and unceasing story in Texas.

### Sandoval's Early Beginnings

Like many Mexican Americans in the U.S. Southwest, Sandoval was unacquainted with racial groups other than his own. He was also unfamiliar with the environment of a prison. He was part of the new guard that was rapidly hired which attempted to respond to overcrowding and the resignation of the old guard. Sandoval grew up in Alice, TX, a city with a population of approximately 20,000. Contemporarily, its population numbers have been consistent and Alice has historically also largely been populated primarily by people of Mexican descent. Blacks had a virtual non-existent population in Alice, and the greater South Texas region for that matter. It was claimed that “Sandoval felt more at home with fellow Hispanics than with the Black inmates, who terrified him” (Statistical Atlas, 1991). This problematic worldview clouded his outlook as a prison guard.

In South Texas, Sandoval primarily interacted with Mexican American friends from the barrios and the housing projects of Kingsville, TX. He also met his future wife Veronica in the tenements across the street from Texas A&I University which became Texas A&M University–Kingsville, where Sandoval attended college for three years” (Draper, 1991). He did not complete his college education although he went farther than many Mexican Americans from this region. He married Veronica on Saturday June 22, 1985. He was twenty-one and she was fifteen. This marriage took place only after Sandoval was able to attain job security with the Texas Department of Corrections as a correctional officer in Huntsville. Securing employment, it seemed, was more important at that moment than securing a college degree. Employment opportunities were not plentiful in South Texas, and so “the next day, a Sunday [June 23], the newlyweds threw their possessions into a suitcase and a grocery bag, and drove Sandoval’s Datsun to Conroe” (Draper, 1991). After his short stop off at Conroe, they made their way to Huntsville, the

capital of the Texas Department of Corrections, and since 1989 known as the Texas Department of Criminal Justice. “On Monday [June 24], at eight in the morning, Sandoval reported for duty at the Ellis I training academy in Huntsville” (Draper, 1991) where he eventually secured employment with the TDC as a prison guard after completing several weeks of mandatory training.

Unbeknownst to Sandoval, he was entering as a prison guard during a transitional period from 1979-1986 for the TDC dubbed a ‘Broken System,’ as many court cases had upended the autonomous power of the prison administration during this period. It was also the most violent period for Texas prisons, which proved to be a difficult adjustment not just for the state but for Sandoval as well. There were approximately sixty prison gang related homicides between 1984-1985. These homicides were in part, primarily caused by the war between the Texas Syndicate and the newly formed Texas Mexican Mafia who sought to gain the reins of power as the building tender system was being demolished. The Texas Mexican Mafia was initially formed in 1984 as a response to the predatory nature of the Texas Syndicate against non-member inmates. The cycle of predatory violence against non-gang members had continued to historically breed new prison gangs. Both prison gangs were identified as Mexican American prison gangs, yet developed at odds with each other, even while representing and emphasizing their Texas state identity. Sandoval experienced the escalated violence in the summer of 1985 first hand as he initiated his career as a correctional officer.

Soon after he began his work as a correctional officer, Sandoval witnessed his first homicide at the Ellis I Unit. The details of exactly who he saw murdered were not clear but according to homicide records, the victim was probably Cesario Gonzales who was killed on August 31, 1985. Gonzales was a Texas Mexican Mafia member and was allegedly killed by members of the Texas Syndicate (Buentello, 1986). Robert Draper, a journalist for the Texas Monthly provided an apt description of this homicide scene:



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“‘Help me, Boss!’ Turning around, Sandoval saw a Hispanic inmate [Cesario Gonzales] standing behind a hallway crash-gate, clinging to the bars with both hands. His neck had been slashed; his head was all but severed. A long, metal object—a homemade knife, or shank—protruded from his jugular. The assailant was nowhere in sight” (Draper, 1991). After this incident Sandoval soon realized it was the inmates who ran the prison, not the guards, and surely not the state of Texas. The Gonzales homicide was merely one representative example of the larger problem of violence stemming from the war between the Texas Syndicate and the Texas Mexican Mafia that raged inside the walls of the prison units.

These prison gang related homicides from the war between the Texas Syndicate and the Texas Mexican Mafia were not only happening in the Ellis I unit, it stretched beyond and consumed the entirety of Texas prison units. Just a few weeks before the Cesario Gonzales homicide that Luis Sandoval witnessed, Arturo ‘Astro’ Aguilar, a Texas Mexican Mafia member was murdered on August 22, 1985 in the Eastham Unit by the Texas Syndicate. On September 2, 1985 Raymond Delgado, a Texas Mexican Mafia member was murdered in the Ramsey II Unit, by the Texas Syndicate. A week later, a well-known event called Bloody Sunday occurred on September 8, 1985. At about 7:30 pm in the evening at the Darrington Unit day room in Rosharon, TX three Texas Mexican Mafia members Lloyd Vasquez, Jose Arturo Garcia, and Albert Carrillo were all fatally stabbed by Texas Syndicate members Lee R. Castro and Rogelio Cantu who were detained afterwards. Charles Brown, a TDCJ spokesman said, “an 8-inch long flat piece of metal and a boning knife were recovered at the scene,” likely the murder weapons (Graczyk, 1985).

With the Texas prison administration on alert with the rise of homicides, unit officials had to respond quickly to disturbances. Prison gangs used this to their advantage as they pursued a more diversionary approach to committing acts of homicide. Just a day later, at the Ramsey II Unit on September 9, 1985 a disturbance occurred which consisted of two inmates in the process of a fight. However, after the disturbance was quelled, in an adjacent room, Leonel Perez’s body was found. Perez was found stabbed approximately fifteen times in his upper torso and back (Graczyk, 1985). The fight was merely a distraction. He was fatally stabbed by confirmed Texas Syndicate member Antonio Hernandez who was serving a seventeen-year burglary conviction (Buentello, 1986). While violence is demonstrably visible here, the larger picture was that an economic free market was being fought over for control of the drug trade as well as other illicit economic endeavors. Along with this, something else was happening.

Many of these Mexican American inmates who became

prison gang members had to submit to a serious requirement for membership and could only leave the gang through their death. This was the “blood in and blood out” membership oath which stipulated that membership was predicated on members either assaulting or murdering someone which was tasked by the prison gang to get in. The expiration of membership or getting out only occurred upon the member’s death. Relinquishing membership was not allowed. Jose Lopez, founding member of the Texas Mexican Mafia stated, “once you know you get out well you’re marked by the gang for extermination” (Riggs, 2011). Many prison gang members were sentenced to prison on non-homicide charges and were incarcerated for charges such as burglary. Correspondingly, Vasquez, Garcia, and Carrillo who were the earlier victims were all incarcerated for robbery or burglary convictions. The pressure to commit murder for prison gangs was necessary for them to gain and continue membership. When the task was not accepted or completed by a member, then they were ‘green lit’ which meant they became a target within their own prison gang because they refused to follow orders (Riggs, 2011).

One former prison gang member, Jesus Valverde reflected on the toxic pressure to commit violence for a prison gang and exposed the problems it forced on these Mexican American prison gang members. Valverde who renounced his former prison gang stated, “I had to do a hit on another inmate. So, I started realizing that if I did that I was going to stay here a lot longer, so I started thinking about my family and the world [and realized] they need me more than the family I was here with in this game” (Riggs, 2011). These inmates came in for robberies and burglaries but had to either graduate to murder or be murdered. A former Texas Mexican Mafia member, Joe Morales, explained this process of escalation. Morales explains, “he gets a life sentence and he ends up doing thirty-five, forty years, or whatever before he even comes up for parole. Either he comes out an old man or he doesn’t come out at all. And all he came down with was a five-year sentence” (Riggs, 2011). They are led to believe they must join a prison gang for protection and in the process of believing this, they eventually secure longer terms of incarceration. Their longer sentences mean they must continue to do the bidding of the prison gangs because they will have a longer stay and cannot escape the gang. Their exit does not exist and the prison gang has now also gained a member that will remain in their proximity for the duration of their sentence, equivalent to their life.

This process was an exploitative tactic that many prisoners faced and continue to face in prisons. The method was also wed with ideas of race because prison gangs are primarily built within racial structures. A false sense of belief existed for an inmate who joined with his racial or ethnic group and that protection occurred

through their ethnic solidarity. The pursuit of ethnic solidarity was also encapsulated within Luis Sandoval's experiences, but as a prison guard and as a witness to these violent acts. His experiences, however, exposed other problems for Mexican Americans.

Sandoval's exposure to this initial shocking experience was predicated on his need for quick employment. Historically, the Mexican American population in Texas had been wrought with unfair legal and social practices that had negatively impacted this marginalized population for over a century. With the lack of social mobility due to economic constraints, Mexican Americans were forced into what limited opportunities were afforded to them. In the 1980s, one employment pursuit was prisoner guard positions in Texas, positions which were not glowingly sought after. These positions were, however, opening in Texas due to the loss of the veteran prison guards. Additionally, many prison units were being constructed as the state and the rest of the country saw a rise in inmate populations. Scholars have employed the phrase "mass incarceration" to explain and define this increased surge of incarceration in the U.S. that affected people of color, in particular African Americans. Mexican Americans were also affected by mass incarceration, particularly in the U.S. Southwest. This group has lacked examination within the frameworks of mass incarceration scholarship, even as these studies continue to exponentially grow. The complicated history of Whiteness in U.S. history has been explored in the scholarship on Mexican American history but is virtually non-existent in mass incarceration scholarship. This complicates mass incarceration scholarship which primarily rests along the Black and White binary of American history. Mexican Americans exist in a difficult space as a protected group under the "White" category but not Black, such as reflected in the ruling of *Hernandez v. Texas*. Sandoval's whole experience within Texas prisons was encased within these various historical processes. While violence was a problem for both guards and inmates, there were also non-violent measures explored by prison gangs.

From the time that Sandoval began as a "new boot" in the summer of 1985 until late 1986, he began to be enveloped into a slippery process of criminal activity that began with something as commonplace as the lighting of an inmate's cigarette. His kinship and his familiarity with Mexican American inmates brought him to become close to them. Away from his home and in a foreign environment, it was easy for him to fall in and develop relations with them. Sandoval may have seen these interactions as encouraging, but inmates instead saw vulnerabilities and took advantage. Inmates used this perceived racial brotherhood to manipulate Sandoval for the gains of the prison gang's illegal activity by initiating the common process in prisons called "downing

the duck" (Bedard, 2013).

The process of "downing the duck" is described as an inmate or a group of inmates manipulating a guard or staff member into undertaking very small tasks perceived to be innocuous. For Sandoval, this was the lighting of an inmate's cigarette, a task perceived in the outside world as nonthreatening, but inside the walls of a prison, a very dangerous act. It was also against the guidelines of the Texas prison system. Once the guard had completed the innocuous task that was against the policies of the prisons, the inmate(s) continue to slowly press the guard or staff member into other obligations that eventually lead to illegal acts. If the guard or staff member refused or rejected the task, the inmate(s) then informed them that they would notify prison administrators of previous favors (Bedard, 2013). The guard or staff member is now confronted with facing possible repercussions from prison administrators. Their options were either possibly losing their job, or continue assisting the inmates and they would remain silent.

Ellis I Unit prison guard Patrick Ware described a similar tactic used by inmates related to "downing the duck." "Ware and numerous other current and former guards testified that gang members commonly try to influence prison officers to smuggle drugs to them. If an officer fails to cooperate, a gang has non-violent ways of retaliating [...]. 'They start rumors to your supervisor that you're bringing in drugs, or they'll bring bogus grievances against you,' Ware said. 'There are a lot of ways they can get you in trouble'" (McKay, 1991). The non-violent ways prison gangs wielded their multi-faceted agency beyond merely employing violent means is often overlooked. Furthermore, the ability of inmates to force the prison administrators to hear their grievances was developed from the successes of prison reform.

Sandoval had lit the cigarette for newly befriended Armando Garcia (name changed) and another inmate named "Vicente." The process had begun for Sandoval. Garcia was not a member of the Texas Syndicate. He had an arranged agreement with them where profits from drug trafficking into the prison were split between himself and the Texas Syndicate. Garcia hoped that Sandoval would become his golden goose as he convinced Sandoval to light his cigarette (Draper, 1991). The favor increased from the lighting of a cigarette to mailing letters for the inmates as they claimed to lack stamps to do so. Letters may have contained coded messages concerning drug trafficking or other illicit activity. Stamps are also a form of currency within prisons. He was digging himself deeper into their clutches and soon found himself processing a money order of two hundred and fifty dollars and was paid a percentage of that. He had graduated quickly from menial tasks to more important tasks. He also placed phone



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calls for them to the outside world and relayed “harmless,” though highly likely coded, messages for their illicit activity. Lastly, he had finally gotten to the point where they tasked him with “muling” drugs into the prison and participating in package drop-offs that likely contained illegal drugs to be brought into the prison units. (Draper, 1991)

At this point Sandoval, along with other guards, or staff members became “the duck” and were now leveraged against by the inmates as the victims or “co-conspirators” dug themselves deeper into the clutches of the inmate’s bidding as a representative of a prison gang. Sandoval as a Mexican American “new boot,” at the ripe age of twenty-one, during the most violent period of Texas prison history succumbed and became a duck as employment for Mexican Americans was not taken for granted. Eventually, he became their golden goose.

Historically, prison gangs had been built along strict racial guidelines regarding membership, but also for those who participated in gang activity. Prison gangs were generally very isolated and closed off to non-members which generally also meant separation from non-ethnic members. This influenced who the prison gang incorporated into their monetary endeavors. In the case of Luis Sandoval, while he was not a member, the “Texas Syndicate preferred that Garcia deal directly with Sandoval, a fellow Hispanic.” Sandoval’s acceptance and willingness to acquiesce was alleged in part, because as one inmate stated “Sandoval always seemed to be hurting for money” (Draper, 1991). Their gang activity in this case was approved because of racial kinship. It simultaneously illustrated that race was crucial to membership, belonging, and trust, but it was also used as a predatory and manipulative tool to further advance their objectives of revenue creation. Ethnicity played various roles in prisons.

A myriad of factors may have explained why Sandoval took on the tasks by the Texas Syndicate. He quite simply may have wanted or needed the money. Other factors that were possible

motivators were being part of an economically disadvantaged social group, the reality of low wage work as a prison guard, or merely feeling trapped because of the fear of reprisal by prison gang members. Amidst Sandoval’s alleged deeper involvement with this gang activity, he faced a larger problem.

Under Sandoval’s watch on December 17, 1986 Joe Arredondo, a Texas Syndicate member was found murdered. He was stabbed approximately twenty times in the B-Wing of the Ellis I Unit in Huntsville. But, soon after the murder of Joe Arredondo, Sandoval was charged with the crime and inmates who were allegedly present provided corroborating details. Some inmates who testified against him were prison gang members including those who were eventually convicted of the murder. He became the first guard to be charged with homicide. “Sandoval was charged with criminal homicide under state law that provides penalties for persons who aid in a killing but do not actually participate in the act” (Buentello, 1987). He was eventually terminated from the Texas Department of Corrections. But the circumstances surrounding the murder also exposed internal issues of the prison system which the trial brought to light.

“Authorities said Sandoval unlocked a door to a hallway between a chapel and recreation yard at the Ellis I Unit and then left his post so gang members could attack Arredondo” (Fair, 1991). The murder took place in a corridor of the prison unit that was hidden from the view of prison guards. Steve Fischer [Sandoval’s attorney], however, “contends that Sandoval had not unlocked the door and that officials there knew that guards frequently left the door unlocked” (Fair, 1991). During Sandoval’s trial, “witnesses told a Walker County jury that doors in the Ellis I prison unit’s south end were routinely left unlocked by guards in 1986. Testifying for murder defendant and former Ellis I guard Luis Sandoval, a string of prison employees said the doors were left open despite a policy requiring that they be locked at all times” (McKay, 1991). On the other side of the argument, “prosecutors contend that Sandoval left open a hallway and allowed the Texas Syndicate to carry out the planned murder of Joe Arredondo” (McKay, 1991).

While the lawyers made their arguments for and against Sandoval’s case, Sandoval expressed the state’s impetus to charge him which he argued was based on an entirely different motivation. He claimed the state’s justification in charging him was based on the fear of a lawsuit. Sandoval “contends that the door was kept unlocked and that he was framed because officials at the prison feared they would be held liable in Arredondo’s death” (“News Briefs,” 1991). A lawsuit against the Texas prison system and Sandoval was underway by Arredondo’s family. He charged that Texas prison officials “have a very big stake in finding me guilty, because it will take the liability off them in the lawsuit.” Sandoval

“testified that Arredondo’s family filed a \$2 million lawsuit against him and the Texas Department of Criminal Justice” (McKay 1991).

The earlier allegations explored in the section on the “downing the duck process” was brought up by the prosecution. It however, only played a brief part of the court proceedings of Sandoval’s murder trial. Sandoval’s lawyer Steve Fischer argued for their removal from the murder trial. He wanted the removal of “any evidence of extraneous acts or offenses that are not directly related to the current charge, unless the defendant Sandoval has been duly convicted of such offense” (The State of Texas vs Luis H. Sandoval, 1991). The charges leveraged were allegations that “Sandoval smuggled drugs into the prison, was involved in illegal drugs or an illegal drug transaction, and that Sandoval acted as a messenger or delivery boy for any gang member” (The State of Texas vs Luis H. Sandoval, 1991). His lawyer argued that these allegations were “extremely prejudicial and are solely calculated to provoke anger and hate for the defendant by the jury.” In certain ways, Fischer contended that these allegations “criminalized” Sandoval for illegal activities he may or may not have committed, but had not been convicted of, a process easy for Mexican Americans to succumb to and for the rest of the general population to accept (The State of Texas vs Luis H. Sandoval, 1991). This exposed the longer historical process of Mexican Americans in United States history being perceived as bandits and criminals without full legal recourse. These incidents were also discussed with the journalist Robert Draper. However, Sandoval later recanted the statements he made to Draper concerning these acts.

Before Sandoval could stand to face trial though, he fled. He crossed into Mexico into Ciudad Juarez and allegedly stayed with an uncle there. “Sandoval claimed he skipped the court date and hid out for three weeks in California because he feared prison officials. He alleged that internal affairs investigators had beaten him when he was arrested on the murder charge” (McKay, 1991). While Sandoval hid from authorities prior to the trial he wrote and sent a 24-page letter to his mother Delia Sandoval, whom he asked to then send it to members of the media. In the letter, he was critical of the Texas prison system. This was especially insightful because it was written with the viewpoint of a prison guard. Sandoval’s letter was a scathing criticism of the “TDCJ’s good ol’ boy system, which Sandoval claimed ‘has ruled with an iron fist since the penal system was first established’ (Draper 1991).

Sandoval also highlighted the racial issues that Mexican American prison staff faced. “Hispanic guards, he said, were ‘either coerced into quitting or found doing something wrong.’ He also stated supervisors treated inmates ‘like animals’ (Draper, 1991). He further wrote, “I am not the only one who worked there that

knows that TDCJ is linked to the gangs and their illegal activities. Inside the walls of each prison is drugs, prostitution, gambling, extortion, and grand theft, but no investigation into any of these things has ever been made” (Draper, 1991). These allegations of internal issues of the TDCJ leveraged by Sandoval may not have been directly addressed, however, a new development became the designated base where prison officials addressed criminal concerns inside the walls of Texas prisons. It was the recently formed arm of the TDCJ that investigated Sandoval’s involvement in the murder. The roots of its foundation were directly connected to prison gangs.

### **The Special Prison Prosecution Unit**

The prosecution of Sandoval occurred through a new development in the Texas prison system. Sandoval was charged with the murder of Joe Arredondo through the special prison prosecution unit which was founded in 1984 to directly combat the escalation of prison gangs’ activity. This occurred amidst the war between the two prominent Mexican American prison gangs that forced the state to act. Prior to the creation of this new prosecutorial arm of the Texas prison system, individual prison units handled internal criminal or objectionable acts and handed out punishment that they perceived fitting for the crime outside the confines of courtrooms. Some of these punishments for example were longer durations behind bars, beatings enacted by the building tenders, or being sent to solitary confinement.

Sandoval was eventually found not guilty on May 29, 1991 after jurors deliberated for only approximately half an hour. Travis McDonald, the prison prosecutor for Texas stated, “It’s hard to try a case against a guard in Huntsville. People here don’t want to believe a guard would do something like that” (McKay, 1991). And while Sandoval was acquitted, his criminal proceeding unleashed denunciation. Immediately after the trial, the community responded. “On Wednesday, May 29, the jurors milled around outside the courtroom and vented their disgust with the state’s case to the media” (Draper, 1991). Their criticism may have largely rested on the divisiveness of race. In fact, “one juror phoned Sandoval’s brother that afternoon and told him that in her view the case against Sandoval was racially motivated. A week later another juror wrote Sandoval a four-page letter, expressing her chagrin that he had been put through all the agony” (Draper, 1991). These members expressed their concern, similar to those leveraged by Sandoval in his 24-page letter, that the state used Sandoval as a Mexican American scapegoat for the corruption and problems occurring in the prison system as they became visible to the public during a tumultuous period following Texas prison reform.

Another trial focused on the parties who were responsible for the murder of Arredondo was underway. Carlos Rosas, a 31-year old from Dallas, a Texas Syndicate sergeant was tasked with the murder and fulfilled the “hit” for his prison gang, the Texas Syndicate. Arredondo had been ineffective for the prison gang, and failed them on several occasions. He largely failed in attempts to procure streams of revenue, namely from drug trafficking for the Texas Syndicate. Rosas eventually “confessed to actually stabbing Arredondo but was offered a favorable deal in exchange for his testimony [against Sandoval]; and Ruben Ortiz, a convicted murderer and TS sex slave [...] was paroled after he agreed to testify” (Draper, 1991). Ortiz was the cellmate of John A. Hernandez, a high-ranking member of the Texas Syndicate. In his testimony, Ortiz alleged that while in his cell with Hernandez, he was told about Sandoval’s role of leaving his post and leaving the door unlocked (Fair, 1991). “Hernandez, who was serving a life sentence plus eight years for Travis County convictions of attempted capital murder and illegal possession of a firearm, was the second-in-command of the Texas Syndicate prison gang. He convened a meeting at which members voted to have Arredondo killed, according to prosecutor Tuck Tucker” (Fair, 1991). Hernandez was eventually “sentenced to 25 years for the murder of Joe Arredondo” (Fair, 1991). Sandoval’s attorney, Steve Fischer, had helped Sandoval in his trial by successfully eliminating the option for the prosecutor to illustrate the connection of Sandoval to the criminal activity. The jurors in Sandoval’s trial “weren’t convinced that Sandoval worked for or with the gang in any way” (McKay, 1991).

Sandoval’s case was unique as the only guard to be charged with a homicide at this point, but other guards were charged with other crimes. In 1991, for example, a prison guard who worked at the Ellis I unit where Sandoval had once worked was indicted with “drug muling.” In fact, from roughly 1986 to 1991, the special prison prosecution unit charged at least sixty Texas prison guards with felony offenses (Draper, 1991). Two guards, Joel Lambright Jr. and Alex Torres, were also charged in 1994 with murder after Sandoval was charged and convicted (Smith, 1994). Both were also newly employed prison guards, a continuation of the 1980s-increased-hiring-wave. Travis McDonald, the primary prosecutor for the state’s recently developed prosecution unit headed this charge against crime inside of prisons. The issues of guards becoming corrupted continued and continues well into the 2010s.

## Conclusion

The Sandoval and Arredondo incident illustrated the complexity that went into relations between Mexican American guards and

inmates. Luis Sandoval’s interactions and troubled story highlight the importance of race within the Texas prison system between Mexican American inmates and Mexican American guards, but also largely under a white prison administration. This moment was set during the height of prison gang violence that struck the TDCJ during the mid-1980s. This story illustrates the harsh reality of prison gang violence, but also the non-violent ways prison gangs influenced guards. These actions were either through bribery, profit, blackmail, and even threats of violence to the guards or their families. This would also provide an insight into the reach of prison gangs like the Texas Syndicate towards prison guards.

Ironically, this historical and troubling development came on the heels of the significant victories of prison reform cases which were meant to curtail the conditions of prisons, yet set the stage for prison gangs and gang violence to foment. When prison gang violence arose, the state was quick to blame the reforms as the cause of the violence. Sandoval was caught in the crossfire of prison changes. While Sandoval was found not guilty and was vindicated, it came at a cost. He ultimately lost his job, his wife divorced him, he was in a car crash during this period that left him in debt and suffering from the injuries. He could not return to employment at the Texas Department of Criminal Justice. But Sandoval, Mexican American prison gangs, and the larger story of the Mexican American experience within the context of prisons illustrate themes of criminalization, hegemony, and self-determination, topics wholeheartedly important to Mexican American history. Ultimately, as the histories of prison continue to expand, the inclusion of Mexican Americans as an integral population to its history is necessary; we grow to contest the views of Mexican Americans as a criminalized population, discern an increased incarcerated population, and also recognize them becoming institutional operatives of the prison system itself. 🇲🇽

\*Alfredo Aguilar is a doctoral candidate in the department of history at Texas Tech University

## References

- Buentello, S. *Texas Syndicate: A Review of Its Inception, Growth in Violence and Continued Threat to the TDC*. Un-published manuscript, Texas Department of Corrections, 1986.
- Draper, Richard. “A Guard in Gangland.” *Texas Monthly Press*, August 1991. Accessed on October 10, 2018. <https://www.texasmonthly.com/articles/a-guard-in-gangland/>
- Klimko, Frank. “TDC guard indicted in 1986 slaying of inmate.” *Houston Chronicle*. November 13, 1987.
- Riggs, Robert. “Robert Riggs Reports “Blood In. Blood Out, Texas Prison Gangs.” Accessed December 1, 2018. <https://www.youtube.com/watch?v=e2SjyCPZ-NU>
- Statistical Atlas. “Race and Ethnicity in Alice, TX. Accessed on December 12, 2018. <https://statisticalatlas.com/place/Texas/Alice/Race-and-Ethnicity>
- The State of Texas vs Luis H. Sandoval Case No. 14764 03/20/1991 278TH Judicial District Court

## Pioneering Farm Management Course for Spanish-speaking Farmers Developed at JSRI

Based on its mission to work with Latina/o communities, the Julian Samora Research Institute (JSRI) developed an educational program on farm management for Latina/o farmers last spring. The course targets mostly blueberry producers with small farming operations located in the state's southwest region. Marcelo Siles and Filiberto Villa are teaching a two-course sequence in Spanish at Lake Michigan College (LMC) in South Haven through its Community & Continuing Education program. The facilities at LMC are equipped with advanced technological equipment and computers for each participant. Developed under the guidance of Dr. Rubén Martínez, the course promotes a holistic understanding of farm management within the context of American agricultural systems. Michigan Food & Farming Systems (MIFFS) and the National Immigrant Farming Initiative (NIFI) joined JSRI in support of the program shortly after it got underway.

Sixteen Latina/o farmers attended the first course, which started on September 8 and concluded on December 1, 2018. Participants in the program include women who are in charge of or work on their family farms. The second course is underway this spring and requires completion of the first course as a prerequisite. The themes covered in the first semester included an overview of the U.S. agriculture sector; introduction to a business plan; farm planning and marketing development; record keeping; financial planning; farm management; and security and produce storage. Second semester topics include credit and loan management; tax filing; hiring and managing workers; developing networks; the importance of relationships and social capital; and basic leadership skills. At the end of the two semesters, the program participants will present a business plan related to their farms.


At the beginning of the semester, each student received a course packet with material in Spanish related to each subject covered in class. Each of the participants demonstrated high interest in all the topics presented in class and the instructors encour-

aged participants to ask questions and share their own farming experiences. This resulted in very interesting conversations that helped others obtain valuable ideas to implement at their farms and expand their business networks.

Statewide and nationally known experts have served as guest instructors. Armando Ojeda, CEO of Cadena LLC, (an environmental risk mitigation company) and Co-Chair of the Detroit Chapter of SCORE, a non-profit organization that delivers mentoring services to small business owners, was a guest speaker. Ojeda shared his experience developing small businesses and its application to the farming sector. Hexxon Villa-Padilla, who has experience working with computers in the private sector, provided a session on the software program Excel and its utility for record-keeping and developing and monitoring budgets. The instructors are planning to invite other experts to visit the class during the current semester.

Related to the themes covered in the courses, participants were interested to learn about different subjects related to their farming needs and to share their own experiences on farming practices. Participants expressed interest in ways to improve their agricultural practices, new farm management skills for a successful operation, new farming technologies for crops, food safety issues, working with computers, hiring and working with farmworkers, agricultural finance, credit programs for new farmers, and a course on learning English.

Some of the comments from the participants about the course were; "I thought the course was going to be only about farms, but we are learning much more than that; it's about running a business." Other comments include: "The contents are helping me learn how to work within the system"; "I consider the course very necessary," and "The course needs to continue in Spanish." Finally, the farmers participating in the course commented, "the classes were very understandable and they helped us a lot," and "I liked the course; it focused on businesses in general and I would like to continue."

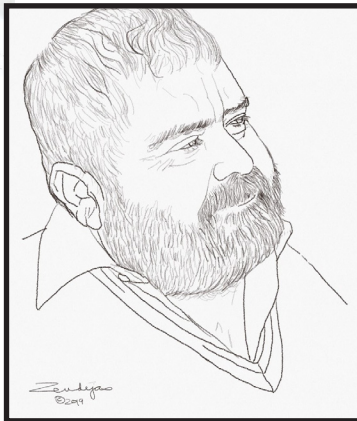
Dr. Rubén Martínez awards a Certificate of Completion to everyone who completes the requisites established in the course syllabi at the end of each semester. Given the success of the first course, many other Latina/o farmers in the area have expressed their interest in participating in future courses. JSRI and its partners are planning to continue offering these courses in the near future. 



## Dr. Alberto G. Mata, Scholar, Educator and Humanitarian Passes Away\*



**Alberto G.  
Mata**



**June 29, 1949**  
-  
**Dec. 22, 2018**

I met Alberto in the fall of 1973 at Notre Dame where we both studied for graduate degrees. Al was a gregarious Chicano who hungered for knowledge and social justice. He was a very good friend to so many, a valued teacher to thousands, and a genuine humanitarian. Dr. Alberto Guardiola Mata Jr. of Lawton, OK passed away of kidney failure Saturday December 22, 2018 at the age of 69.

Born in El Paso, TX, Al earned his BA and MA (1970, 1971), from the University of Oklahoma. He received his Ph.D. in sociology from the University of Notre Dame in 1978. Albert was the first in his family to obtain each level of degree. He studied with Dr. Julian Samora, our nation's first Mexican American sociologist, at ND.

In 2013, Dr. Mata retired as professor emeritus from the University of Oklahoma. He led an illustrious career, was a National Institute of Health Post-Doctoral Fellow, and served as a professor of Sociology for over 30 years. He taught at the University of Wisconsin, Texas, California (Berkeley), Arizona State University and Northeastern.

Alberto was well known to Chicano@ and Latino@ scholars across the country as he presented his work at NACCS conferences for many years. Alberto had an indomitable spirit and dedicated his career to improving people's lives through his

research on gangs, drugs and HIV and their effects on community. He had over four dozen publications; we published jointly in the *Journal of the National Cancer Institute*.

Dr. Mata was a staunch and articulate advocate who served on advisory boards including Oklahoma Department of Health, National Community AIDS Partnership, National Institute of Mental Health and the National Institute of Drug Abuse. In 1987, he was selected to serve on the Presidential Commission on HIV Epidemic as a Senior Adviser. He taught classes for the Department of Defense traveling worldwide to teach service members, as he grew up in a military family.

Most importantly, Alberto was a kind, generous, engaging, bilingual human being. His infectious, hearty laugh often followed his own ironic, sarcastic and witty observations of human folly. He would give you the shirt off his back and he never met a stranger. He treated everyone like family and his family was the community, no exceptions. Al opened his home to students who didn't have a place on holidays.

Alberto taught thousands over the course of his career and these students are part of his lasting legacy. We will always miss and remember Alberto as our cherished friend, colleague, advisor, teacher, and keen, witty, entertaining jokester. He is survived by his brothers Antonio, Armando, Arturo (Sheryl) and sisters Martha Torres and Lydia (Phillip Easton). Alberto Mata, presente! 🌟



\*Written by and photos provided by Estevan Flores, Ph.D. of Denver, CO. Estevan was a life-long friend of Alberto's. Estevan is retired and was formerly professor of Sociology at the University of Colorado Boulder and Executive Director of the Latino/a Research & Policy Center at the University of Colorado at Denver.

## JSRI's 30th Anniversary Approaches

In 1988, five Michigan State University Deans were appointed by then-Provost David Scott as members of the “Task Force on the Hispanic American Institute,” or “Hispanic Research Task Force,” as it was also known. The Task Force members, Gwen Andrew, Joe Darden, John Eadie, Judith Lanier, and Ralph Smuckler, were keenly aware of the emerging interest, particularly in the Midwest, of Latina/os’ social, political, and historical contributions. Together they formally looked at the University’s need for a Latina/o-based research institute.

In November 1988, the Task Force officially recommended that a Hispanic research center be established at MSU. The Task Force identified five primary issues that the newly-formed Hispanic research institute should focus on: employment development, education, political empowerment, health and family welfare, and cultural awareness and enrichment. These topic areas, the Task Force wrote, would “provide the basis for establishing a comprehensive program of research to inform policies, interventions, and teaching.”

Four months after the Task Force made its recommendation to the Provost, and after MSU’s Executive Committee of the Academic Council endorsed the creation of a “Midwest Center for Latino Research,” the Institute was created on Feb. 7, 1989. The Task Force further recommended that the newly-formed institute be named for Dr. Julian Samora, a pioneer in Mexican American research whose scholarly works on Midwestern Latina/os were already nationally recognized. In November 1989, JSRI held its inaugural event, which is the temporal reference point for celebrating its anniversary.

Samora, a co-founder of the Southwest Council of La Raza, which later became the National Council of La Raza and today is UnidosUS, believed that research was inadequate if the results, efforts, and recognition were not shared with the broader community. He was a professor of sociology at MSU and Notre Dame, and is recognized for having supported and mentored more than 50 Latina/os graduate students in a broad range of fields during his lifetime. Many of those men and women are, today, noted scholars and researchers carrying on the scholastic legacy and tradition of mentorship.

Since its early days, JSRI has worked closely with community, state, and philanthropic organizations, as well as developing research ties with academic institutions in the Midwest and beyond. In efforts to improve the status of Latina/os in Michigan, JSRI has worked with the Cristo Rey Church, Cristo Rey Community Center, the Michigan Partnership for Economic Development Assistance, the Michigan Hispanic Chamber of Commerce, the Michigan Department of Commerce, El Concilio, Farmworker Legal Services, Michigan Migrant Legal Aid, the Michigan Interagency Migrant Services Committee, and many other public and community organizations. Academic ties were held with the Midwest Consortium for Latino Research, the Mexico-US Consortium for Academic Cooperation, the Council on Western Hemispheric Studies, the Michigan Educational Opportunity Fund, and the Michigan Nutrition Network.

JSRI seeks to develop research that is of practical use to Latina/o-informed groups and individuals in the Midwest, as well as in other parts of the nation. To that end, the Institute produces a variety of publications each year and makes these reports readily available to the public via its website, [jsri.msu.edu](http://jsri.msu.edu). These publications include demographic summaries and analyses for Michigan and the Midwest; working papers presenting preliminary findings from JSRI research projects; Latina/os in Michigan, a series of research reports based on data collected by JSRI researchers; and Cifras, a series of statistical briefs. In addition, JSRI has published several books focusing on Latina/o issues. The Institute also keeps the public informed of ongoing activities and opportunities through its biannual newsletter, *NEXO*.

Another important contribution of JSRI is its commitment to preserving the history and experiences of Latina/os in the Midwest. With the MSU Museum, JSRI has sponsored exhibits and symposia, “Our Journeys/Our Stories: Portraits of Latino Achievement,” “Settling Out, Settling Down, and Settling In,” and for its 25<sup>th</sup> Anniversary, the “Latina/o Auto Workers.” Over



**“Latina/os and the Renewal of U.S. Democracy”**

**October 31 - November 2, 2019**




the years, the Institute has conducted oral history projects with the goal of documenting the Latina/o experience in Michigan. In 1998, in a project entitled “Mexican Voices, Michigan Lives,” JSRI researchers collected 19 oral histories documenting the Mexican/Chicano experiences in Michigan since the 1920s. Currently, another oral history project, entitled “Oral History of Latina/os in Michigan,” preserves the life accounts of Michigan Latina/os.

JSRI continues its work to foster research-informed transformative practices. In July 2009 it hosted a Statewide Summit on Latina/o Issues, which brought together more than 80 persons representing different institutional sectors and geographic areas of Michigan for a one-day event to identify and prioritize the challenges facing Latina/os in Michigan. In November 2009, it celebrated its 20<sup>th</sup> anniversary by organizing a national conference that showcased the research of scholars on the experiences of and challenges faced by Latina/os. It did so again for its 25<sup>th</sup> anniversary, and is currently planning one for its 30<sup>th</sup> anniversary.

In November 2009, JSRI hosted the first organizational meeting of the North Central Education/Extension and Research Activity (NCERA 216), titled “Latina/os and Immigrants in Midwestern Communities.” NCERA 216 is an interstate initiative that encourages and fosters multidisciplinary research, education, and outreach efforts on Latina/os and immigrants in the region. This initiative seeks to establish and maintain regional linkages among researchers and outreach specialists, promote community development, and develop plans to identify and obtain funding for single and multi-state projects relating to Latina/os and immigrants. JSRI is planning to host a meeting of NCERA 216, now in its 10<sup>th</sup> year, at its 30<sup>th</sup> anniversary celebration conference.


Through its research, community outreach, and student mentorship, JSRI continues its commitment to the original mandates of its founders, as well as the spirit and ethos of Julian Samora himself. The Institute’s focus on research-informed transformative practices has been, and continues to be integral to its contributions to Latina/o communities, Michigan, the Midwest, and the nation. As the Latina/o population in the Midwest and the U.S. continues to grow, more and more people are recognizing that the future of the region and the nation is intimately connected to the experiences of Latina/os. JSRI has been holding a series of Black Brown Dialogues to promote mutual awareness and collaboration in shaping a better society. In order to improve the future of Latina/os and the nation as a whole, JSRI continues to collect and disseminate research that contributes to the improvement of Latina/o lives, support and assist community outreach projects, and mentor future Latina/o leaders and scholars.

JSRI will hold its 30<sup>th</sup> anniversary celebration conference at the East Lansing Marriott on October 31 – November 2, 2019. The theme of the conference is “Latina/os and the Renewal of U.S. Democracy.” The conference will include scholarly panels and presentations, keynote speakers, exhibits, films, a music concert, and an attendee reception. It will also feature a graduate student paper competition, with the author of the winning entry presenting at the conference. The deadline for the submission of paper abstracts and panel descriptions is July 1, 2019, and that for the graduate student paper competition is August 2, 2019. All submissions should be made electronically. Please submit them to [jsamorai@msu.edu](mailto:jsamorai@msu.edu). For more information please call 517.432.1317. Information is also available at [jsri.msu.edu](http://jsri.msu.edu). 

## New Faces




**Estephanie Lopez-Diaz** is a senior at Michigan State University majoring in Social Relations and Policy, and minoring both in Chicano/Latino Studies, and Caribbean and Latin American Studies. She grew up in Grand Rapids and plans on attending law school after graduation to earn a law degree with a specialty in immigration. She is a member of Delta Tau Lambda Sorority,

Inc. She is very passionate about immigration rights and about helping Latino communities in the United States. Estephanie is a student employee at JSRI assisting with bilingual transcriptions on the Oral History of Latina/os in Michigan project. 



**Maria Fabian** is a junior at Michigan State University majoring in Molecular Genomics and Genetics and minoring in Health Promotion. She originates from Florida and came to MSU through CAMP. Her goal after graduation is to attend medical school and become an Obstetrics and Gynecologist. She is a member of Sigma Lambda Gamma National Sorority Inc., and holds three

e-board positions: the VP for scholarship chair, VP of the Multicultural Greek council, and the VP for Marketing for Dia de La Mujer Conference committee. In her free time, she loves to hang out with her sorority sisters, go to the gym, and read. 

## Latina/o Voter Turnout in the 2018 Midterm Elections

In the lead-up to the 2018 midterm elections, much was made of the possible impact of the Latina/o population, whose share of eligible voters has increased significantly but whose voter turnout has remained relatively low. According to the Pew Research Center, from 1986 to 2018 the number of eligible Latina/o voters nearly quadrupled from 7.5 million to 29.1 million, representing a record high of 12.8% of all eligible voters. Four million Latina/os became eligible to vote just between the 2014 and 2018 midterm elections. About 75% of the growth since 2014 is attributable to U.S.-born Latina/os coming of age, while other sources of growth include naturalization of foreign-born Latina/os, as well as from Puerto Ricans moving to the mainland United States. But Latina/o voter turnout in midterm elections has not kept pace, with 2.9 million Latina/os voting in the 1986 midterms and only rising to 6.8 million voting in the 2014 midterms, with a decrease between 2006 and 2014 in Latina/o turnout relative to the total Latina/o population. Speculation around a possible surge in Latina/o voter turnout hinged on the election of Donald Trump, who ran a presidential campaign based on anti-immigrant, anti-Latina/o rhetoric, and whose policies in office have targeted immigration from Latin America. But did the surge in Latina/o voters actually materialize?

Early results seem to indicate that Latina/o voter turnout did increase significantly over previous midterm elections. With Latina/os accounting for 12.8% of all eligible voters, exit polls estimated that Latina/os were approximately 11% of all votes cast, almost equal in proportion to their percentage of all eligible voters. In the days after the election, Rep. Ben Lujan, chairman of the Democratic Congressional Campaign Committee, claimed that Latina/o voter turnout had increased by 174% from the 2014 midterms, and 157% for African Americans, whose rates of voter turnout have typically been higher than for Latina/os. Over a quarter (27%) of Latina/os that voted in the 2018 midterms said

they were voting in a midterm for the first time, compared to 18% for African Americans and 12% for Whites.

In the 2018 midterm elections, Latina/os voted largely in favor of Democratic candidates. In congressional races, 69% of Latina/os voted Democratic, compared to 29% for Republican candidates. The percentage of Latina/os who voted Democratic in congressional races was much higher than the percentage of Whites who voted for Democrats (44%), but lower than the percentage of Asian Americans (77%) and African Americans (90%) who voted for Democrats. There was, however, a 10-point gap in voting preference in congressional races between Latino men and Latinas, with 73% of Latinas voting Democratic compared to only 63% of Latino men. White women and White men also had a 10-point gap, with 49% of White women and only 39% of White men voting Democratic, compared to only a 4-point gap between African American women (92%) and African American men (88%).

The American Election Eve Poll from Latino Decisions suggests a correlation between increased Latina/o voter turnout and the rhetoric and policies of the current federal administration. Of Latina/os polled, 73% of voters felt angry and 72% disrespected by things Trump has said or done, compared to 79% and 83% for African Americans, and 57% and 47% for Whites. Thirty-three percent of Latina/os polled believed that Trump has a negative impact on the Latina/o community, and another 44% believed that Trump is a racist whose policies are intended to hurt the Latina/o community, compared to only 18% of Latina/os who believed that Trump has a positive impact on the Latina/o community. Poll results indicate that these beliefs may extend to the Republican party in general: 78% of Latina/os polled expressed belief in the statement, “Trump and the Republicans are using toxic rhetoric to divide us from one another.” Likewise, only 27% of Latina/os polled felt that the Republican Party is doing a good job of reaching out to the Latina/o community, compared to 33% who felt that the Republican Party does not care much about Latina/o voters, and another 37% who felt that the Republican Party is hostile to Latina/os.

In addition to increased Latina/o voter turnout in the 2018 midterm elections, Latina/o candidates also fared well in the midterms. Ten Latina/os—nine Democrats, and one Republican—were elected to their first term in Congress, raising the total number of Latina/os in the House and Senate to a record high 42—38 in the House and four in the Senate. Among the Latina/os elected in congressional races were Sylvia Garcia and Veronica Escobar, the first Latina congresswomen from Texas, and Alexandria Ocasio-Cortez, the youngest woman ever elected to



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the House of Representatives. Despite these gains, Latina/os are still underrepresented in both the House and Senate. With Latina/os accounting for 17.8% of the total United States population, they would need to hold 77 seats in the 435-member House (about twice as many as they currently hold) and 18 in the 100-member Senate (more than four times as many as they currently hold) in order for Latina/o representation to become proportionate.

In the run-up to federal elections, predictions are regularly made that Latina/os will emerge as a powerful voting bloc, but until the 2018 midterm elections, Latina/o voter turnout tended to remain low. With increased Latina/o voter turnout in the 2018 midterms, political analysts are already speculating on the impact

Latina/os could have in the 2020 election. The Pew Research Center, for instance, predicts that the Latina/o share of eligible voters will rise to 13.3% of all eligible voters by 2020, making Latina/os the largest ethnic minority group in the U.S. electorate for the first time. Combined with African and Asian Americans, people of color will account for approximately one-third of all eligible voters in the 2020 election. Foreign-born voters are also predicted to account for one in ten voters in the 2020 election, the highest number since 1970. However, the question of how many Latina/os will turn out to vote is difficult to predict—as in midterm elections, Latina/o voter turnout in presidential elections has also been low relative to the number of eligible Latina/o voters, with the number of eligible Latina/os who did not vote exceeding the number who did in every presidential election since 1996. Though Latina/o voter turnout increased significantly in the 2018 midterm elections, both major parties will need to direct serious outreach efforts to the Latina/o community if they want to harness the power of Latina/o voters. Latino Decision's Election Eve poll suggests one way to do this is to nominate a Latina/o presidential or vice presidential candidate—according to the poll, 44% of Latina/os would be much more likely and 12% more likely to vote Democrat if the Democratic Party nominates a Latina/o for either President or Vice President. 🌟

## Martin Solis Jr. Honored with Michigan Heritage Award

In February of this year, the Michigan Traditional Arts Program of the Michigan State University Museum announced the winners of the annual Michigan Heritage Awards, which honor exceptional bearers of family or community folk traditions. One of three awardees this year is Martin Huron Solis, Jr., a vocalist and *bajo sexto* player in the Texas-Mexican *conjunto* style, who was profiled in the article, “Mi Música: An Introduction to *Música Tejana* in Michigan,” featured in the Fall 2018 issue of *NEXO*. Born in San Antonio, TX in 1929, Solis moved with his family to Michigan in 1942 as part of the stream of migrant farmworkers that brought large numbers of Texas-Mexicans, along with their cultural traditions to Michigan.

After performing as guitarist and lead vocalist of Trio Los Primos, modeled after the internationally renowned Trio Los Panchos, in the 1950s Solis took an interest in *conjunto* music and taught himself to play *bajo sexto*, a Mexican twelve-string bass guitar, which combined with the accordion defined the *conjunto* sound. Solis's *conjunto* in the 1950s and early 1960s, Conjunto Los Primos, was one of the first established *conjuntos* in the Detroit area. With a large repertoire built on the latest songs coming up from Texas, the heart of the *conjunto* industry, Solis remained a popular performer in Southeast Michigan for many years.



Photo credit: Richard C. Davila

Though no longer performing, over the past year Solis has found greater recognition for his decades-long musical career, starting with his induction in January of 2018 into the Tejano R.O.O.T.S. Hall of Fame in Alice, TX, the first ever induction of a Michigan-based musician. In recognition of this, Mayor Stacy L. Bazman declared January 17<sup>th</sup>, 2018 “Martin Huron Solis, Jr. Day” in Melvindale, MI, where Solis has resided for many years. A number of reel-to-reel recordings of Solis were also recently discovered, and those tapes are now being compiled onto an album to be released by Third Man Records. 🌟



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## Modernizing United States Jurisprudence to Comply with International Law in Adjudicating Central American Asylum Claims

Brenda P. Garcia\*

### Background and Introduction

An exorbitant number of citizens from El Salvador, Guatemala, and Honduras are fleeing their countries as gangs control their communities through corruption, extortion, and drug trafficking. These three countries continue to be ranked amongst the most violent in the world, where about ninety-five percent of crimes go unpunished in some areas and annual extortion fees range from \$61 million to \$390 million (Labrador & Renwick, 2018). Children can no longer freely attend school or have a safe childhood because they are forcefully recruited into gangs or forced to become sexually exploited by gang members. This pressing issue and the desperate pleas from those affected are what prompted interest on this topic.

This paper examines the stark challenges asylum seekers face, especially those pertaining to the Northern Triangle: El Salvador, Honduras, and Guatemala. An exploration of how Central American claims have been treated historically provides insight on past discrimination, the political climate that impeded individuals from being classified asylum seekers, the attempts to redress the discrimination, and the beginning of an era that

refuses to extend asylum status. Reviewing the negative treatment and how it has funneled down to the present day makes it easier to understand the current deterrence and discrimination in place. An analysis of various areas of the government shows the subtle ways policies, reform in case law, statutes, and lack of legal representation have been implemented to work against asylum seekers. In addition, a brief section will explain the current U.S. government's response to asylum seekers and how a dark, dim future awaits asylum claims. Finally, an argument is made to modernize the United States jurisprudence, so it aligns with the true commitment made by the 1951 Refugee Convention. Different approaches are suggested including removing recent restrictions in case law for particular social groups, expanding the political opinion to include gang-based asylum claims, and adopting a humanitarian approach with appointing legal representation and multidisciplinary professionals to asylum claims.

### Overview of how Central American Claims have been Treated Historically

Looking at the history of how Central Americans have been treated in the immigration system can be divided into three time

periods: the first in the 1980s, when Central Americans were labeled as economic immigrants; the second, in the 1990s when the civil wars in El Salvador and Guatemala ended; and lastly, in the 2000s when Central Americans fled gang violence.

### The Political Climate in the 1980s that Labeled some Central Americans Economic Immigrants

In 1980, the Refugee Act expanded the definition of refugee to not only individuals fleeing communist countries, but also to individuals fleeing non-communist countries. During this same period, individuals from El Salvador and Guatemala were fleeing civil wars and became targets of repression. Many human rights advocates were concerned about the violations occurring in Central America and sought aid for the victims by helping them apply for asylum. The Reagan administration, however, believed that Salvadorans and Guatemalans were economic immigrants rather than refugees. They were primarily labeled economic immigrants because of the drastic deterioration of conditions in El Salvador and Guatemala. U.S. officials were concerned that a large influx of immigration could result if the asylum law was interpreted to also include Salvadorans, Guatemalans, and Hondurans. Despite the U.S. being one of the 148 countries to ratify the 1951 Refugee Convention, a key international document that expects countries to cooperate to ensure the rights of refugees are protected and to abide by fundamental principles most notably non-discriminatory, non-penalizing, and non-refoulement this did not change the sentiment or behavior of U.S. officials towards Salvadoran and Guatemalan asylum seekers.

In 1984, during a U.S. congressional hearing on the status of Salvadorans and Guatemalans, Assistant Secretary of State Elliot Abrams described these immigrants as being different from other undocumented immigrants because El Salvador was a country with a history of large-scale illegal immigration to the United States. The fundamental principle of non-penalization in the 1951 Convention protected refugees from being penalized for their illegal entry or stay and for countries to understand that seeking asylum may require refugees to violate immigration laws. This fundamental principle in the 1951 Convention did not stop U.S. officials from spreading their rhetoric and beliefs about Central American asylum seekers.

Moreover, in that same congressional hearing Immigration and Naturalization Service (INS) Commissioner Alan Nelson asserted that if Central Americans were granted asylum then that would open the floodgates for the world's poor and of course, everyone would have a better life in U.S. These types of attitudes from U.S. officials influenced government agencies' decision making and ultimately the outcome of asylum claims.



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For example, the U.S. State Department was required to make recommendations on asylum applications and typically advised INS district directors to deny Salvadoran and Guatemalan asylum cases. In fact, during the early 1980s, asylum applications filed by Salvadorans and Guatemalans were denied at rates of 97 and 98 percent, respectively (Coutin, 2011, p. 576).

In 1988, advocates continually saw high denial rates, which prompted a law suit to be filed by the Center for Constitutional Rights on behalf of eight religious organizations against the U.S. Attorney General and the head of the INS alleging a systematic bias in denial of Salvadoran and Guatemalan asylum claims. The lawsuit was ultimately settled (known as the 1991 ABC settlement) and many of the refugees who were originally denied asylum had the opportunity to seek legal asylum and the INS agreed to re-adjudicate claims for refugee status which had been denied after 1980.

### The Band-Aid over the Bias and Discrimination Wound of the 1990s

The second period in which Central Americans have been denied refugee eligibility was in the 1990s, when civil wars in El Salvador and Guatemala came to an end. The legal mechanisms available to Central Americans during this time period included Temporary Protective Status (TPS) and the 1991 ABC Settlement. Unfortunately, the thousands of ABC asylum applications and the complexity of the settlement created an administrative backlog and delays that resulted in adjudications beginning until 1997. A permanent solution was implemented in 1997 with the alliance of immigrant-rights advocates, U.S. and Central American officials, and Nicaraguan, Guatemalan, and Salvadoran immigrants and their supporters, who were able to unite and secure passage of the Nicaraguan Adjustment and Central American Relief Act (NACARA).

These groups came together because the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) contained provisions that would negatively affect not only Salvadorans and Guatemalans that qualified under ABC asylum status, but also Nicaraguans who had been allowed to remain in the United States without a permanent status even if they were denied asylum. Although Nicaraguans are Central Americans, they were not previously discriminated because they were fleeing a leftist Sandinista government, as oppose to Salvadorans and Guatemalans who were fleeing right-wing governments. It could be assumed that if it were not for the 1996 IIRIRA provisions also negatively affecting Nicaraguans perhaps NACARA would not have also been extended to Salvadorans and Guatemalans.

The implementation of NACARA provided extraordinary benefits to Central American asylum seekers but it did not entirely resolve or address the disparate treatment of different groups of Central Americans. The effects of the 1980s denial of asylum impacted Salvadorans and Guatemalans who after several years became NACARA beneficiaries and ultimately did not become legal permanent residents (LPR) of the United States until the early 2000s. Unfortunately, many learned too late that LPR status still subjects them to deportation and those who were convicted of crimes were stripped of their legal permanent residency. The 1996 IIRIRA tightened immigration laws and was less forgiving to immigrants who committed crimes. If Central American immigrants and their families had been granted asylum during the 1980s, when they first fled their countries of origin, or even in the 1990s when the ABC settlement was reached, then it is possible they would not have been LPRs and would become vulnerable to deportation under the 1996 laws.



*The 2000s Halt and Blind Eye to Central American Asylum Claims*

The third period when Central Americans fell outside the category of refugee was during the 2000s when gang violence and recruitment rose in that region. The fear of granting asylum to these immigrants stems from the continued belief that the floodgates will be unleashed. The gangs in Central America, particularly those in El Salvador, Honduras, and Guatemala, have *de facto* control over their governments and the entire nations, causing great fear among the citizens. The United Nations High Commissioner for Refugees (UNHCR) is the only international, intergovernmental United Nations organization entrusted by the UN General Assembly to provide international protection to refugees. In order for UNHCR to complete its mission in providing international protection and direct assistance to refugees throughout the world it needs the support, cooperation and participation of nations around the globe like the United States.

UNHCR has been documenting the increasing numbers of individuals fleeing gang violence in Central America, specifically El Salvador, Guatemala, and Honduras, while focusing on the stresses that these individuals need international protection. The number of people fleeing the Northern Triangle, including adults and unaccompanied children, has reached levels not seen since the region was wracked by armed conflicts in the 1980s. Out of all the countries in the region, the U.S. has the highest number of new asylum applications by individuals from the Northern Triangle. Moreover, Mexico, Panama, Nicaragua, Costa Rica, and Belize combined have also received a 435% increase in the number of asylum applications from the Northern Triangle. The UNHCR issues reports on the conditions for the Northern Triangle countries, detailing guidelines for international protection and shedding light on the particular groups of individuals who are targeted. Unfortunately, UNHCR's pleas or reports do not automatically grant international protection to the individuals who are identified and seek protection abroad. It is ultimately up to the country where the asylum seeker is asking for protection to decide whether or not to grant asylum. Like the two-previous time periods, the U.S. has continued to use different methods to avoid granting asylum to Central Americans from the Northern Triangle.

**Deterrence and Discrimination toward Central American Asylum Seekers**

Within the United States there have been different areas within the government, including administrative, trial and appellate processes, and legislative, that have made it difficult for individuals from the Northern Triangle to be granted asylum. An analysis in these three areas will reveal the administrative tactics to dissuade asylum seekers, the disparity in rates of granted asylum among

immigration courts, the undermined appellate process, and lastly the laws punishing good Samaritans for aiding asylum seekers.

### Administrative Dissuasion through Policies

Administrative opposition has been present since the 1980s, when Central Americans from the Northern Triangle were labeled economic immigrants and were actively denied asylum. In 2014, when there was a surge of women and children fleeing the Northern Triangle to the U.S., the Department of Homeland Security (DHS) used the case *Matter of D-J-* to implement the policy no bond, high bond in order to deter others from coming to the U.S to seek protection. The Assistant Director of Enforcement and Removal Operations, Phillip Miller, at the time of the policy confirmed the administration's reasoning for implementing the no bond or high bond policy was to significantly reduce the unlawful mass migration of Guatemalans, Hondurans, and Salvadorans. Moreover, Gillian Christensen, the spokeswoman for Immigration Custom Enforcement (ICE) also asserted that the administration believed if immigrants were released on bond, they would not return for deportation proceedings and that it was ultimately best for the immigrants to be detained. This form of deterrence favored punishment over administrative processing.

In addition, the Department of Homeland Security (DHS) promptly expanded its practice of family detention in lockdown facilities. Prior to the summer of 2014, families arriving at the U.S. border seeking asylum were allowed to be released to live in the community while waiting for their immigration hearing. From June 2014 to February 2015, nearly all individuals who received a favorable determination in their credible fear interview or reasonable fear interview (interviews conducted by immigration officials to determine whether the immigrant has a possibility of succeeding on the merits of their asylum claim) were kept in detention rather than being released under a bond or other non-monetary condition like a supervision program.

In December 2014, advocates brought a class-action lawsuit, challenging the practice of categorically detaining asylum-seeking families for deterring future migrants. A district court judge issued a preliminary injunction forbidding DHS from using deterrence as a reason for detaining families or as a factor in custody determinations. The court also asserted that immigration detention is a civil procedure and must be justified by a legitimate government interest other than punishment, and that divesting families of their liberty as a deterrence for other migrants was impermissible. Although, DHS announced it would engage in individualized custody determinations rather than across-the-board deterrence it still continued implementing its policy of no bond or high bond along with the development of more family



detention facilities. All together these are some of the ways various administrations have manipulated their powers to make it difficult for Central American asylum seekers. The typical approach from the U.S. is not how to help a humanitarian crisis at their door step, but rather how to deter and make it more difficult for the vulnerable victims.

### The Trial and Appellate Process for Asylum Cases

The trial and appellate process for asylum claims has also posed a significant obstacle for asylum seekers fleeing from the increased gang violence in the Northern Triangle. The immigration courts through the biases and personal factors of immigration judges have made it challenging through the disparity in grant rates for asylum claims. The Board of Immigration Appeals (BIA) has also contributed through its reform in case law and adding two requirements to a long-established precedent for particular social groups. In addition, the BIA appellate review is minimized by different reforms and power struggles. Lastly, the federal circuit court of appeals likewise have a disparity in remand rates depending on the region.

### *Immigration Courts Disparity in Grant Rates*

Through disparity in grant rates due to biases and other personal factors immigration judges have made it challenging for adjudicating asylum claims. A large amount of disparity in grant rates is seen between immigration courts and between immigration judges within the same court. For instance, the national average for Chinese asylum claims during 2000 and 2004 was forty-seven percent (Gupta, 2016, p. 40). During that time period those asylum claims had a seven percent chance of success before the Atlanta Immigration Court (Gupta, 2016, p. 40). During that same time period Chinese asylum seekers had a seventy-six percent chance of success in the Orlando Immigration Court (Gupta, 2016, p. 40). This shows how the geographic location where an asylum seeker

files their claim has an impact on its success, but even in courts where there are higher success rates there may be disparities among judges in the same court. For example, in the New York Immigration Court the grant rate fluctuated depending on the judge: one judge granted six percent, another seven percent, and three other judges granted at eighty percent, eighty-nine percent, and ninety-one percent of their cases, respectively (Gupta, 2016, p. 40). These are troubling disparities because although the judges are applying the same asylum laws to each case their biases can influence their decisions and go unchecked.

There are several factors that relate with a judge's personal experience and background that can influence the adjudication of successful asylum claims. One factor includes gender where female immigration judges' grant rate is forty-four percent higher than that of male judges (Gupta, 2016, p. 41). A second factor that impacts a lower grant rate is immigration judges who previously worked in government positions specifically for the DHS or its predecessor the Immigration and Naturalization Service (Gupta, 2016, p. 41). On the other hand, immigration judges who worked as immigration lawyers in a private practice, had experience as a law professor, or served on the staff of a nonprofit organization have higher grant rates (Gupta, 2016, p. 41). A third factor can be an immigration judge's lack of understanding of the cultural, ethnic, and linguistic backgrounds of asylum seekers. (Gupta, 2016, p. 42). These significant misunderstandings could jeopardize a case for something as simple as the judge believing the applicant is not credible because he refuses to make eye contact but in reality, this is a sign of respect in the applicant's culture. A fourth factor is the lack of independence of immigration judges because they operate under the Department of Justice (DOJ).

The BIA which reviews immigration court appeals also operates under the DOJ, and attorneys from that same department represent the government in appeals from BIA decisions to the federal circuit courts. Immigration judges also have the obligation to develop the record in *pro se* cases, including conducting the direct examination and cross-examination of witnesses. With these many roles and the lack of any real independence immigration judges are left without guidelines on appropriate behavior and it leaves the door open for implicit biases to go unchecked and contribute to discrimination in cases. Finally, the other factor that could lead to bias is the heavy caseloads in the immigration docket. On average per year an immigration judge handles about 1,300 cases which far exceeds the caseloads of other judges (Gupta, 2016, p. 43). Immigration judges are not able to dedicate the desired time that complex immigration and asylum cases need. For instance, the former president of the National Association of Immigration Judges perfectly described how high stakes these cases were

and the amount of time taken to adjudicate them: "I adjudicate what in effect can be death penalty cases (when I may have to deport someone to a country so violent and/or poverty stricken that they may die) in a setting that most closely resembles traffic court in volume of cases and lack of resources." All these factors contribute to a disparity in grant rates, making the adjudication of asylum claims uncertain.

#### *The Board of Immigration Appeals Reform in Particular Social Groups and the Attorney General's Role*

The BIA and the federal circuit courts have resisted to connect most gang-based claims with one of the five U.N. convention protected grounds (race, religion, nationality, membership in a particular social group, or political opinion). Many asylum advocates have desperately tried to articulate and argue particular social group (PSG) claims for asylum seekers but throughout the years the courts have refined the requirements. The original standard for a PSG originated from *Matter of Acosta* decided in 1985, where the applicant showed his membership in a particular social group by immutable characteristics shared by all group members. In 2006, the BIA's decision in *Matter of C-A-* added two additional requirements to *Acosta's* immutable characteristic standards: social distinction (formerly visibility) and particularity. These two new requirements diverted from the BIA's long-standing *Acosta* precedent and made it challenging for gang-related claims to formulate cognizable particular social groups.

The BIA has emphasized that the cases involving gangs should not be a blanket rejection, but rather fact specific case-by-case analysis. Even with this standard in place to review each case individually the case law is unfavorable for individuals fleeing gang persecution in the Northern Triangle. It has left advocates with very little hope and thus having to rely on their creativity in articulating as many PSG claims for their clients. The recent development in adding two new requirements to an already established precedent can be seen as a way to limit relief for asylum seekers and not open "the floodgates," as referenced by many government actors, especially to a large group of asylum seekers like those from the Northern Triangle.

There have also been reforms and power struggles in the BIA that have caused a lack of meaningful appellate review. For example, former Attorney General John Ashcroft incentivized BIA members to write short, summary affirmances or affirmances without opinion when evaluating immigration judge decisions. This resulted in what used to be three-member BIA decisions to primarily be replaced with one-member summary affirmances. An Attorney General also has the power to review BIA decisions by certifying them to himself or accepting the decision by referral. If



the Attorney General reviews a case from the BIA, the decision made by the BIA is no longer final, reviewable by a federal court, or relied on as precedent because the decision of the Attorney General becomes final and is the precedent for future cases.

There is no issue with having the Attorney General oversee the BIA to maintain control and ensure consistency. The issues arise when there are no procedural safeguards in place to keep tabs on the Attorney General. For instance, Jeffrey Sessions, former Attorney General, implemented various immigration policies through his powers that had detrimental consequences for asylum seekers. One significant change he made was to eliminate a requirement that allowed asylum seekers to get a full hearing before an immigration judge. Now immigration judges can reject asylum applications without a full hearing if they believe the application is fraudulent or not likely to succeed. Critics believe this new change does not make the system more efficient by taking people's due process rights because it will only create more litigation. The former Attorney General also referred himself three immigration cases in 2018, a drastic rate that has stunned experts and advocates. This is an exercise of power seldom used; in fact, between 1999 and 2009 an Attorney General referred BIA decisions about 1.7 cases annually (Trice, 2010, p. 1771). Those decisions by the former Attorney General are alarming because he publicly voiced his anti-immigrant rhetoric.

#### *Federal Circuit Courts of Appeals Disparity*

In addition to the BIA making it challenging for asylum seekers and their advocates, the federal circuit court of appeals has also been another obstacle. There are disparities in the remand rates for asylum claims in the circuit courts depending on the region. For example, the Fourth, Fifth, and Eleventh Circuits, which are located in the South and deemed more conservative, have remand rates under 5%, whereas the Seventh Circuit, located in the Midwest, has a remand rate of 31% (Ramji-Nogales, 2007, p. 375). It is unfair for there to be disparate treatment of asylum claims depending on where an asylum seeker files their application, despite the judges applying the same national asylum law.

#### Legislative Opposition to Samaritan Aid

The laws in the United States also make it difficult for good Samaritans to help those fleeing for their lives and arriving at the southern border of the U.S. after enduring a torturous journey to find safety. For some it is natural to want to provide humanitarian assistance to people who are suffering and in despair. Unfortunately, laws in the U.S. criminalizes acts such as giving a ride to someone without a valid visa and prohibits concealment and harboring of unauthorized aliens. Harboring is

not statutorily defined and has led the federal courts to interpret it expansively. Samaritans may be prosecuted for providing meals, offering a place to stay, or transporting an unauthorized immigrant to a hospital for medical attention regardless if the efforts are for humanitarian reasons.

An example of this prohibition occurred in the 1980s when a Quaker rancher in Arizona founded the American Sanctuary Movement and provided humanitarian aid to Central Americans from the Northern Triangle seeking refuge in the United States. The sanctuary workers believed they had a moral obligation to help, especially since the U.S. was denying asylum to the majority of individuals from the Northern Triangle. In the eyes of the sanctuary workers they believed the Central Americans were entitled to protection under the 1949 Geneva Convention despite the U.S. denying them asylum and labeling them mere economic migrants.

The federal government responded to this movement by creating "Operation Sojourner" where investigators were deployed to act as church volunteers infiltrating the American Sanctuary Movement. The investigators gathered evidence over ten months and the Department of Justice used the evidence to prosecute sixteen sanctuary workers. Ultimately, the sanctuary workers were found guilty of violating the anti-smuggling statute for providing food, shelter, and comfort to unauthorized migrants (the despaired Central Americans from the Northern Triangle fleeing civil wars). Legislation of this type leaves good Samaritans with their hands tied and with little hope that the government will be able to respond in a humane way when asylum seekers come to the U.S. southern border. Unfortunately, the same sentiment among government actors in the 1980s towards Central Americans from the Northern Triangle is still felt today.



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### Current Response to Central American Asylum Seekers

The sentiment throughout the years toward Central Americans from the Northern Triangle has continued to be the same regardless of political parties; the fear of opening the floodgates and jeopardizing the existing social order. With the Trump administration there has been more vocal hostility through the conveyance of social media, executive orders, and memos towards refugees, asylum seekers, and immigrants in general. For the 2018 fiscal year, the current administration will drop the admission of refugees around the world from the 2017 mark of 110,000 to 45,000. This includes only 1,500 refugees from Latin America and the Caribbean. This reduction has been a historic low since 1986 when the cap was 67,000. Even though the cap is now 45,000 it could be possible that at the end of the fiscal year that fewer refugees are admitted, as occurred after the 9/11 attacks, when the cap in 2002 was 70,000 but only 27,131 refugees were allowed into the country. A decrease in refugees being admitted was seen in January 2018 when only 1,385 refugees were admitted in contrast to the 6,777 that were admitted in January 2017, and 4,376 in January 2016.

Moreover, the administration has emphasized ensuring that parole and asylum provisions of the federal immigration laws are not illegally exploited. In a memo issued April 6, 2018, President Trump has ordered the end of the practice “catch and release,” which refers to releasing undocumented immigrants into the country while they await immigration hearings. The memo also directed other enhancement to immigration enforcement, which included allocating resources to establish more facilities to detain aliens (also including military facilities), sending asylum officers to immigration detention facilities to determine credible or reasonable fear, and returning removable aliens to their home countries within 60 days, among other provisions. Many of the memo’s provisions were previously stated in the controversial Executive Order 13767 from January 2017.

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This April 2018 memo, however, was released in response to the migrant caravan of over 1,000 Central Americans traveling to the U.S. border to seek asylum. The caravan is organized by “Pueblos sin Fronteras” (People without Borders) with the hope that a large group of individuals enduring the treacherous journey to the U.S. border would be more prone to lure off the criminal gangs and cartels that target migrants. Via Twitter and public remarks, President Trump threatened to send military troops to guard the border and warned Mexico to do something about the caravan or face the repercussions in the negotiation of the North American Free Trade Agreement (NAFTA). The caravan was eventually halted, but the response from President Trump sheds light on the prospects Central Americans from the Northern Triangle face in trying to seek asylum. There are 33 countries in Latin America and the Caribbean and for the 2018 fiscal year the cap for refugees from those countries is 1,500. The chances for asylum to be granted to individuals from the Northern Triangle are very slim.

### Modernizing United States Jurisprudence

The following explores possible solutions to revamp and modernize U.S. jurisprudence, so it complies with international law when adjudicating Central American asylum claims, specifically those from the Northern Triangle. The first section covers the 1951 Refugee Convention and how many fundamental principles are not truly being followed by the U.S. The second proposes eliminating two recent requirements for the protected ground of particular social groups. The third suggests characterizing gang-based claims to fall under a political opinion so this opens another avenue in the protected grounds. Finally, the last section proposes providing federal funds to appoint attorneys for asylum seekers and to also incorporate multidisciplinary professionals to strengthen asylum claims.

#### Abiding by the 1951 Refugee Convention

To find a solution for Central American asylum seekers, specifically those from the Northern Triangle, it is crucial for the United States to truly abide by the 1951 Convention Relating to the Status of Refugees (“The Convention”). The United States made a commitment when it signed the 1967 Protocol and ultimately bounded itself to the obligations of the Convention to protect refugees. The Convention upholds itself upon a number of fundamental principles, most importantly non-discrimination, non-penalization, and *non-refoulement*. Unfortunately, these principles have not fully been abided by the U.S. and there has been documented discrimination of asylum seekers from Central Americans in the Northern Triangle, most notably in the 1980s when the denial rate was about 97-98% and ultimately led to the

ABC settlement (Coutin, 2011, 676). Penalization of individuals seeking asylum is also present through policies like no bond/high bond, detention as a deterrence, and now a significant reduction in the number of refugees allowed from Latin America and the Caribbean for the 2018 fiscal year. The principle of *non-refoulement* provides that no one should be expelled or returned against his or her will to a territory where he or she fears threats to life or freedom. This principle is not closely followed because individuals who face threats to their life and liberty from gangs are being deported to the country they fled and this does not shock the conscious of the U.S. courts or policy makers.

The Convention is an international instrument that was drafted to give rights and protection to vulnerable individuals. The U.S. needs to reevaluate the true meaning of its commitment to the Convention and how it could change its rhetoric and sentiment towards asylum seekers from the Northern Triangle. A closer examination into its current policies towards asylum seekers and the gravity of the country conditions in the Northern Triangle is needed. It is unfortunate that because of political ideologies, fear, and bias towards a group of people, who so desperately needs protection from the United States, people are being discouraged from coming to the United States.

#### Eliminating the Two Recent Requirements in Particular Social Groups

A second way the United States could modernize their jurisprudence would be to assist the Northern Triangle asylum seekers by returning to the 1985 *Acosta* definition of a particular social group and eliminating the two recent requirements from 2006: social distinction and particularity. These two recent requirements have caused conflicting and confusing circuit court decisions, which advocates have highly criticized as duplicative and illogical reasoning. Although the BIA believed it issued clarifications through the decisions *W-G-R* and *M-E-V-G*, the

cases continue to inflict requirements that are unreasonable interpretations of statute and inconsistent with prior BIA precedent. The Third and Seventh Circuit courts have not explicitly addressed the BIA's newest articulations of social distinction and particularity, and whether they require a different outcome, though both circuits have analyzed particular social groups without referencing the two additional requirements. Advocates assisting in asylum claims in these two circuit courts have been advised to argue the two new requirements are inconsistent with what is needed to prove the other grounds for asylum and violate the principle of *ejusdem generis* ("El Salvador: Documentation," 2016, p. 13). Some arguments include that particularity is basically the same thing as social distinction, where particularity is an unnecessary requirement as a group must be clearly defined for it be recognized in society ("El Salvador: Documentation," 2016, p. 15-16). Secondly, the new definition of a particular social group creates difficult obstacles and disadvantages for *pro se* litigants. Lastly, the two requirements do not align with the object and purpose of the 1951 Refugee Convention and its 1967 Protocol relating to the Status of Refugees. The conflicting decisions and uncertainty from the federal circuit court of appeals jeopardizes the lives of asylum seekers who desperately need protection.

Furthermore, abandoning the two recent requirements will eliminate substantial obstacles for asylum seekers in the Northern Triangle and align more with the original intent of international law's interpretation of particular social groups. When Congress enacted the 1980 Refugee Act it did so with the intent to mirror the United Nations' definition of refugee. International law and scholarly commentaries interpreted particular social groups broadly as a catchall for refugee claims that did not fall into the narrow grounds of race, religion, nationality, or political opinion. The removal of these two requirements will not grant automatic asylum. An individual will still need to prove the nexus requirement, provide country conditions and reasonable evidence per the Real ID Act, demonstrate the government from their home country cannot protect them, not be subject to any statutory grounds of denial for asylum, and be subject to the discretion of the immigration judge.

#### Expanding Political Opinion to Include Gang-based Claims

Another option the United States could undertake to assist the Northern Triangle asylum seekers is validating claims made under the protected ground of political opinion. Currently, the legal precedent does not recognize an individual fleeing gang violence or recruitment as a political opinion. A significant case in 2008 was *Matter of S.E.G.*, where one of the Salvadoran applicants asserted his political opinion was his opposition to the gangs and it was for that reason he was persecuted. The immigration judge



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and the BIA rejected the claim stating the applicant did not show a political motive in resisting the gang recruitment and there was no nexus between the political ground and the persecution. The BIA is interpreting these types of claims with the legal lenses of political theory of asylum, government v. the people, rather than contemporary political opinion, non-government actors v. the people (Locasio, 2015, p. 47). The United Nations High Commissioner for Refugees (UNHCR) in its reports and guidance notes has advised taking into consideration a political opinion that reflects “the reality of the specific geographical, historical, political, legal, judicial, and socio-cultural context of the country of origin” (Locasio, 2015, p. 48).

Typically, a political opinion is thought of as being manifested through protests, strikes, public meetings, or campaigns but UNHCR has stressed that the situation in the Northern Triangle requires a different analysis. The UNHCR notes that often times objecting to the gang’s activities or the state’s gang-related policies may be compared to an opinion that criticizes methods of those in power, thus resulting in a political opinion within the meaning of the refugee definition. The UNHCR emphasizes considering that in the Northern Triangle the gangs like 18 Street and MS-13 are powerful agents that control society through *de facto* power and are closely intertwined with the State or individual government officials. With the guidance of UNHCR reports, the United States could take them into consideration to be able to reform the adjudication of Northern Triangle asylum cases.

A comparison can be made with Colombian applicants with political opinion asylum claims against the Revolutionary Armed Forces of Colombia (FARC) and Northern Triangle applicants with political opinion asylum claims against the gangs. Colombia has identified the FARC as a narco-terrorist organization with funding between \$500 million and \$600 million annually (Greenberg, 2016, p. 477). The group’s criminal activities have forced more

than five million Colombians from their homes (Greenberg, 2016, p. 477). The Seventh Circuit court in *Martinez-Buendia v. Holder*, recognized the applicant was being persecuted by the FARC on account of her actual and imputed political opinion. Some factors that persuaded the court were the applicant’s refusal to cooperate with the FARC because of her political views and the fact that the FARC viewed her as a member of a rival group. The FARC and gangs in the Northern Triangle share many things in common with regards to posing a significant threat in their countries, large weapon supply, operating revenues in the millions for the FARC, and in the billions for the gangs. There are compelling reports including from the UNHCR providing evidence and country conditions that demonstrate that the gangs in the Northern Triangle are political actors. Nevertheless, courts have refused to identify the Northern Triangle gangs as criminal organizations. If the courts changed direction similarly to how the Colombians did with FARC claims, it would help change the outcome for asylum seekers from the Northern Triangle.

Many asylum seekers end up representing themselves pro se; in fact, a national study found that about 63 percent of immigrants in removal proceedings were unrepresented and of those in detention facilities about 86 percent were unrepresented (Ardalan, 2015, 1002).

Another way the courts could view gang-based claims as a political opinion would be if the gang were officially denounced as a terrorist group. In October 2012, the U.S. Department of Treasury classified MS-13 as a transnational criminal organization (TSO). Similarly, in 2015 the Salvadoran government classified the MS-13 and 18 Street gangs as terrorist groups. President Trump and his administration vowed to dismantle MS-13 affirming the gang was one of the most violent gangs and could qualify as a terrorist organization. Having the U.S. officially label MS-13 as a terrorist group could have pros and cons for asylum seekers from the Northern Triangle. A significant con in labeling MS-13 as a terrorist group is the possibility of being barred from asylum or other humanitarian protections if an individual has provided material support to the terrorist organization. BIA precedent has concluded that there is no implied duress exception to the material-support bar. This could jeopardize many asylum seekers from the Northern Triangle since one of the principle sources of income for the gangs is through extortion of the citizens. Nevertheless, a different avenue could be pursued to make an exception, pardon, or



waiver for payments of extortion. The significant pro with the U.S. labeling MS-13 as a terrorist organization would be recognizing the group as a political actor. This could facilitate the process for individuals from the Northern Triangle claiming asylum on account of their political opinion. It is important to note that individuals will not automatically be granted asylum; they will need to show how they have opposed the gang for an anti-gang political-opinion claim, in addition to all the other statutory requirements.

### Humanitarian Approach for Asylum Seekers

In addition to the changes that could be done bureaucratically, other resources could be added to positively improve the process for asylum seekers. For the U.S. to uphold its commitment to the 1951 Refugee Convention in assisting refugee and asylum seekers it is crucial to appoint funds to have attorneys represent this group of immigrants. Currently, asylum seekers depend on non-profit organizations, law school clinical programs, and *pro-bono* attorneys to represent them because many cannot afford a private attorney. Even with all these diligent attorneys working on behalf of asylum seekers there still exists a shortage in legal representation. Many asylum seekers end up representing themselves *pro se*; in fact, a national study found that about 63 percent of immigrants in removal proceedings were unrepresented and of those in detention facilities about 86 percent were unrepresented (Ardalan, 2015, 1002). These staggering numbers reveal the critical lack of legal representation and the dire consequences it can pose for asylum seekers since those without representation are five times less likely to win in immigration court than those with representation (Ardalan, 2015, 1003). Discretionary federal funding could be a way to finance a system to have appointed representation for asylum seekers with justification that these are efforts to actively abide by the 1951 Refugee Convention.

Also, adopting a multidisciplinary approach in incorporating language services, social work, mental health services, expert services, and investigative services to collaborate with attorneys would enhance the representation of asylum seekers (Ardalan, 2015, 1032). About eighty percent of asylum seekers suffer from post-traumatic stress disorder (PTSD) and are not always able to accurately articulate their stories in a detailed manner to persuade U.S. adjudicators (Ardalan, 2015, 1020). With the assistance from other professionals, any gaps or inconsistencies that could undermine the credibility of the asylum seeker could be resolved through these professionals. With asylum seekers it is common for there to be trauma, language-barriers, cross-cultural differences, or misunderstandings and having professionals from different disciplines address these concerns would facilitate the process for the attorney representing the asylum seeker and for

the adjudicator. This approach of multidisciplinary representation for asylum seekers has been successfully implemented in some law school clinics and non-profit organizations. With federal funds used to appoint attorneys and other professionals from different disciplines to assist asylum seekers would result in effective, high quality representation to determine adjudication. This type of approach would be a positive humane change that would truly demonstrate the commitment to assist asylum seekers who face torture or even death if returned to their country.

### Conclusion

The United States has come a long way with its negative treatment of asylum seekers from the Northern Triangle. It is clear through the analysis of the different areas of government and their treatment of asylum claims that there are discrimination and deterrence efforts. The constant sentiment and fear of opening the floodgates are things that need to be pushed aside to truly address this issue in a humanitarian way. As history has shown dismissive behavior does not solve the problem. At a minimum the implementation of appointed legal representation and multidisciplinary professionals to asylum seekers would create a drastic, positive change. This step could be the beginning to a positive direction that could cause a ripple effect to other areas of government. The United States made an international commitment that must be truly upheld to ensure asylum seekers are protected. Now is the time to answer the desperate pleas of individuals from the Northern Triangle. 🌍

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### References

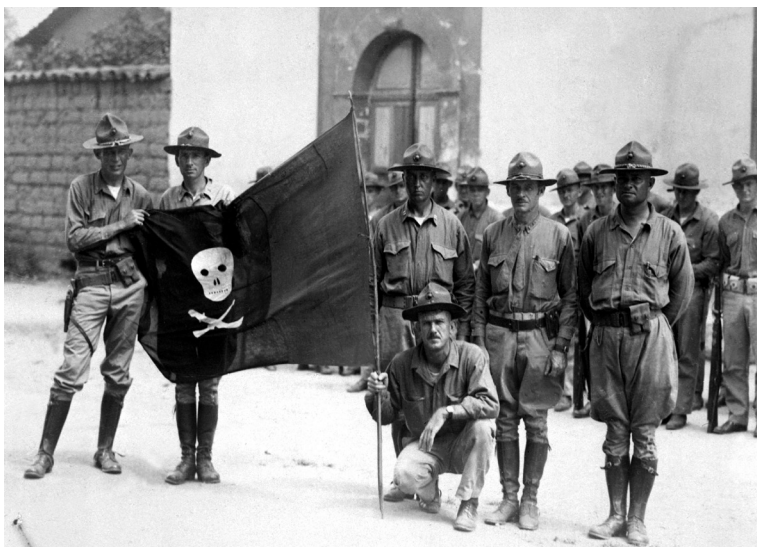
- Ardalan, S. (2015). Access to Justice for Asylum Seekers: Developing an Effective Model of Holistic Asylum Representation, *University of Michigan Journal of Law Reform* 48(1001).
- Coutin, S. B. (2011). Falling Outside: Excavating the History of Central American Asylum Seekers, *Law & Social Inquiry* 36(3).
- El Salvador: Documentation in Support of Asylum Applicants Based on Gang-Related Persecution. 2016. Center for Gender & Refugee Studies.
- Greenberg, T. (2016). The United States is Unwilling to Protect Gang-Based Asylum Applicants, *New York Law School Law Review* 61(473).
- Gupta, A. (2016). Dead Silent: Heuristics, Silent Motives, and Asylum, *Columbia Human Rights Law Review* 48(1).
- Labrador, R. and Renwick, D. (2018). Central America's Violent Northern Triangle, Council on Foreign Relations. Retrieved from <https://www.cfr.org/backgrounder/central-americas-violent-northern-triangle>
- Locasio, K. (2015). The Modern Refugee: Crafting A New Asylum Policy to Address the Realities of Today's Refugee Oppressors, *Loyola Journal of Public Interest Law* 17(1).
- Ramji-Nogales, J., et al., (2007). Refugee Roulette: Disparities in Asylum Adjudication, *Stanford Law Review* 60(295).
- Trice, L. (2010). Adjudication by Fiat: The Need for Procedural Safeguards in Attorney General Review of Board of Immigration Appeals Decisions, *New York University Law Review* 85(5).

## Manmade Immigration Crisis Caused by U.S. Intervention in Latin America

On February 13, 2019, the newly appointed United States Special Envoy to Venezuela, Elliott Abrams testified to the Congressional Committee on Foreign Affairs. Abrams, a convicted felon for his role in the Iran-Contra Affair, was appointed by the Trump Administration to lead in what they describe as inevitable regime change in Venezuela. U.S. Representative from Texas and member of the Committee on Intelligence, Joaquin Castro questioned Abrams' role and objectives given his record: "In Nicaragua, you were involved in the effort to covertly provide lethal aid to the Contras against the will of Congress. You ultimately pled guilty to two counts of withholding information from Congress in regard to your testimony during the Iran-Contra scandal."

In understanding the U.S. imperialist and paternalistic meddling in Latin America over the past two centuries, Abrams appears to be the right man for the job, as American foreign policy in Latin America has historically benefited the U.S. at the cost of impoverished communities that have struggled and continue to struggle for stability, survival, and dignity. This has forced millions of Latin Americans to leave their homeland in search of new opportunities in the U.S. and in other countries. Today, a segment of Americans is concerned over the high number of immigrants seeking asylum and new beginnings in the U.S., yet many have limited understanding on why Central Americans are fleeing their home countries. Due to the political divisiveness of the topic, a rational conversation based on substantive argument and logic cannot occur in a country that presumptuously touts itself as being the most advanced in the region.

With the signing of the Monroe Doctrine in 1823, the U.S. positioned itself for influence, power, and control in the Americas, while opposing further European colonization of Latin America.



By 1826, these nations, with the exceptions of Cuba and Puerto Rico, had achieved independence from their European overseers. Weakened and ravaged by warfare and stunted by political infighting and other growing pains that debilitate young nations, Latin American countries became subject to U.S. influence and control. U.S. actions with its Latin American neighbors ranged from humanitarian efforts, to economic exploitation, to outright occupation. In 1848, Mexico lost over half of its territory to its northern neighbor. This allowed the U.S. to partially fulfill its quest for Manifest Destiny, controlling from Atlantic coast to Pacific coast. Yet, cleverly masking U.S. imperialist notions, Manifest Destiny also called for the U.S. to rule from North Pole to South Pole.

In 1893, U.S. historian Fredrick Jackson Turner in his Frontier Thesis argued that U.S. democracy was born out of the frontier experience which had not been corrupted by the European mentality of the Eastern U.S. Turner forced Americans and historians alike to wonder what was to follow given that there was no frontier left on the mainland for Americans to expand to. Losing no time, the U.S. shifted attention and expanded its influence beyond continental North America during the end of the 19<sup>th</sup> and the beginning of the 20<sup>th</sup> century. Puerto Rico became a U.S. colony as a result of the Spanish-American War in 1898. Also resulting from this conflict, Cuba under the Platt Amendment became subjugated politically, militarily, and economically by the U.S. This relationship lasted until the 1959 Cuban Revolution and the rise of Fidel Castro's regime. Both islands, along with the acquisition of Guam, the Philippines, and Hawaii, became home to important military installations and symbolic of U.S. imperialism in Latin America and beyond.

In 1901, William Sydney Porter, known by his pen name O. Henry, coined the term "Banana Republics" after living in Honduras and witnessing the exploitation perpetrated by the United Fruit Company and the Standard Fruit Company. American foreign policies such as the Roosevelt Corollary signed in 1904 ensured that "the U.S. would intervene as a last resort to ensure that other nations in the Western Hemisphere fulfilled their obligations to international creditors, and did not violate the rights of the U.S. or invite 'foreign aggression to the detriment of the entire body of American nations.'" These U.S. fruit corporations exploited natural resources and workers, while receiving tax exemptions and contributing very little to local economies. The same was true in Guatemala, El Salvador, Nicaragua, the Dominican Republic, and Panama, among other nations. Through military


interventions in what are known as the “Banana Wars,” and by coopting and corrupting political systems, the U.S. brought these young nations under its control. When these countries resisted and challenged these abusive U.S. relationships, democratically elected governments were overthrown by U.S.-led interests.

American foreign policy in Latin American affairs during the Cold War prioritized the preservation of a communist-free region subject to oppressing any movement regarded as leftist or that challenged the status quo which ensured U.S. capitalist agendas and investments. After fifty years of exploitation by the United Fruit Company, Guatemala democratically elected Jacobo Arbenz in 1951 who called for the redistribution of land. Without credible evidence based on any remote intelligence, the heads of United Fruit Company convinced President Eisenhower that Arbenz was to align Guatemala with the Soviet Union, prompting a CIA-led overthrow in 1954. Honduran President Ramon Villeda Morales faced removal by military coup as well in 1963 after being democratically elected and creating policies that favored the working class and the poor at the cost of U.S. interests. One of the most notable military coups occurred in 1973 in Chile where democratically elected President Salvador Allende was overthrown by a CIA-aided operation that led to the installation of brutal neoliberal dictator Augusto Pinochet. In Nicaragua, the U.S. supported dictators such as Anastacio Somoza and terrorist groups such as the Contras to suppress political mobilization of



the masses. Under the Reagan Administration, Elliott Abrams was involved in the Iran-Contra Affair and, under the guise of preserving human rights, unleashed lethal tactics against leftist groups in Guatemala, El Salvador, and Nicaragua.

Over the last three decades, the international recession deeply impacted Latin America allowing the International Monetary Fund to step in and demand countries seeking loans to adopt policies that promote free-market fundamentalism that consequently widened the wealth gap between the rich and the poor throughout Latin America. As Latin American economies have struggled, youth have turned to the lucrative drug underworld. Coincidentally, the rhetoric in U.S. foreign policy in Latin America has shifted from preserving and promoting democracy in the region to fighting the war on drugs, which continues to produce further instability in Latin America. In turn, the American appetite for drugs has given rise to drug cartels and gangs throughout Latin America. Likewise, the production, potency, and affordability of drugs in Latin America has also contributed to the growing drug demand in the U.S. This has led to a drug war in Mexico that accounts for an estimated 200,000 dead and disappeared persons, and which has given rise to lawlessness not only in Mexico, but in Guatemala, El Salvador, and Honduras, countries where local gangs have been recruited to work for drug cartels.

Over the past century and a half, the U.S. has extended its power and influence throughout Latin America while benefitting from their weaknesses as dependent nations. Mexican dictator and U.S. ally Porfirio Díaz described it best when explaining Mexico’s relationship to the U.S., “¡Pobre México, tan lejos de dios y tan cerca de los Estados Unidos!” (“Poor Mexico, so far from God yet so newar to the United States!”) The same can be said about the rest of the Americas and if the immigration issue is to be solved the U.S. must address the negative effects of centuries of oppressive policies and actions that have depleted Latin American nations of their natural resources, wealth, and human potential. 

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- The **Julian Samora Endowed Scholarship Fund**, which supports two awards annually to undergraduate and graduate students with research and teaching interests on Latino issues;
- The **P. Lea Martinez Endowed Scholarship Fund**, which supports students studying health issues among Latinos;
- The **JSRI Scholarship Fund**, which supports students with short-term financial needs;
- Or any combination thereof.

### INDIVIDUAL COMMITMENT LEVELS

- Platino Circle ~ \$5,000 or more  
(payable over two years)
- Padrinos/Madrinas Circle ~ \$2,500 to \$4,999  
(payable over two years)
- Amigo/Amiga Circle ~ \$1,000 to \$2,499
- Aficionado/Aficionada ~ \$100 to \$999

### CORPORATE COMMITMENT LEVELS

- Platino Circle ~ \$10,000
- Padrinos/Madrinas Circle ~ \$7,500
- Amigos/Amigas Circle ~ \$5,000
- Aficionados/Aficionadas Circle ~ \$2,500

**If you need additional information on giving to JSRI, including planned giving, please contact:**

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