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**APPENDIX**

# Immigration from Guatemala: Two Case Stories

POLICIES & POLLING ON THE  
CORONAVIRUS AND AMERICA'S  
IMMIGRANT DETENTION CRISIS

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I traveled to Guatemala in the summer of 2019, in part to try and learn *why* immigration to the U.S. was surging under the present Administration. I am a practicing criminal defense and immigration attorney, and for ten years I have been a Clinical Professor of Law at the University of Colorado Law School in Boulder, CO. Law students in my clinic represent noncitizens in a variety of different legal matters, ranging from asylum defense to criminal defense in misdemeanor court and the collateral consequences that a criminal conviction might bring to an immigration petition.

In June of 2019, I visited a small town in Guatemala near the Mexican border named Chajul. The residents of Chajul are largely members of the Maya Ixil people and many of the older adults do not speak Spanish. The town of Chajul had been experiencing an unprecedented exodus of the population over the previous 18 months. Almost every male between the ages of 16 and 45 had already left for the U.S. or was planning to do so imminently. I wondered why people in Chajul believed that the time to come to the U.S. was *now*, given the news of family separations at the border and mass deportations by the Trump Administration. In speaking with several members of the community, I learned that there were two firmly held beliefs that influenced their behavior: First, they believed that you would be admitted to the U.S., if you had a child with you; and, second, that the U.S./Mexico border would soon close, so the time to go was now. Instead of stemming the flow of prospective immigrants to the U.S., the Trump Administration's policies have had the exact opposite effect. They sparked a sense of urgency that caused people to at least *try* and get to the U.S., sometimes by any means necessary.

I heard one horror story of a single, 45-year-old man in Chajul who had paid his neighbors a sizable sum of money to essentially “rent” their 12-year-old daughter to take with him to the U.S. He believed that having a child with him would maximize his chance of entry, and that she too, would be permitted to stay. He was half right. U.S. immigration agents quickly ascertained that the man and the girl were not related and deported the man back to Guatemala almost immediately. A month later, the family of the 12-year-old girl had no idea where their daughter was. I later learned that the family had been able to speak to their daughter on the phone and she was able to communicate, in Ixil, with her parents that she was in a jail of some kind. She could not tell her parents where in the U.S. she was being detained, if she had a lawyer, or what would happen to her next. The Correctional staff in the facility did not speak Ixil, nor did they attempt to secure an interpreter who did. When I left Chajul, the family was still at a loss as to their daughter's whereabouts.

What we do know is that when she was separated from the man who had brought her, she was jailed in a U.S. detention facility. This twelve-year-old girl was put in a cage with hundreds of other children who had also been separated from the adults they had traveled with, and she was there for *weeks*, if not longer. And for what legitimate government purpose?

Today, with the Coronavirus pandemic a brutal reality, her release, along with any other child in immigration detention, is necessary to protect her safety and the larger public as well.

When I returned to the U.S., I began the Fall semester at the Law School ready to assign our pending asylum cases to a new batch of student attorneys. Before the semester began, I had first met one of our clients, a woman and her adolescent daughter who had fled violence in Guatemala, in the summer of 2018. They had finally been released from detention and were living with family members in a suburb of Denver in Colorado. The specifics of their asylum claim are not the main story here; suffice to say that their persecution in Guatemala was more than enough to convince an immigration judge to grant their claim and allow them to stay. We won their asylum case before a Federal Judge in immigration court just last month on the merits of the case.

What all of us need to know is that our government detained this mother at our southern border, separated her from her 12-year-old daughter, charged her with the criminal misdemeanor of unlawful entry, and then held her in immigration detention for over a month. The mother had no criminal record and she gave sufficient evidence of persecution in her home country to get her through the credible fear interview with immigration authorities when she first arrived.

She was separated from her daughter because the Trump Administration is charging every immigrant who enters our country without a Visa, even those with valid asylum claims, with the federal misdemeanor crime of unlawful entry. She was taken into federal criminal custody, where she pled guilty to the misdemeanor charge and was immediately sentenced to probation. Her daughter could not go with her because children cannot be placed in criminal detention facilities with adults. The mother was then “released” to immigration authorities, where she was held, separately from her daughter, for over a month to await processing of her civil claims. Our client told us that the guards at the detention facility in Texas refused to tell her where her daughter was, telling her that she was only separated from her child because she was a “criminal,” and laughing at her tears. Our client described the detention facility as dirty, bare, and freezing cold.