

**The Disobedience of the Masses:
Unauthorized Migration of Central Americans
to the United States as an Act of Civil
Disobedience**

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ABSTRACT

Around 12 million unauthorized immigrants live in the United States. This situation raises pressing questions that have received four types of answers in academia: 1) the response that complains about poor design of immigration policies, 2) the response that states that there is a clash between the transnational process of globalization and the old nationalistic immigration policies, 3) the response which historicizes the process of illegalization of immigrants, and 4) the response that is based on diverse forms of citizenship and national membership in which illegalization does not have the power of absolute exclusion. The present work seeks to make a contribution to this line of responses. My presentation of unauthorized migration as an act of civil disobedience is more intelligible within the framework of this debate. In my attempt to reframe the migrants' non-authorized crossing of borders and their remaining in the United States, I seek to use civil disobedience as a category that can be given fresh significance through the study of the migrants' struggle for inclusion. I want above all to stress the active role of the undocumented and the political significance of their actions. This work seeks to offer a perspective that makes visible the political nature of actions that are not usually considered such. The questioning that runs through this whole study is the following: What moves social change when it appears that nothing is moving? What makes for inclusion of this group of the excluded? The first chapter is an elaboration of my instruments through a type of archeological work that helped me to design the language for the third and fourth chapters. This preparatory work also helped me to give a name to the actions, to expose the traditions in which that language is inserted, and to reveal the ruptures that deepen the concepts I needed. After centuries of thinking with the categories of a tradition that restricts the confines of politics, extra effort is needed to give the political elements visibility in those places where they have taught us there is no politics. It is for that reason that the first chapter dedicates so much space to tracing the tradition back and to analyzing how and why it restricted the space for political actions and actors. At the end of the first chapter I explain my choice of civil disobedience as a way of framing the noncompliance of the immigrants, I reframe the noncompliance of the undocumented as "performative civil disobedience", and I make an attempt at producing the translation between two (or more) traditions of thought by reflecting on different theories of civil disobedience and situating the contributions of Scott, Bayat, Foucault, Thompson, Rawls, and others within a current that breaks with the tradition and expands the field of acts and actors that can be considered political.

The second chapter presents the forces that reject the immigrants: the policies and the actors, their interests and their contradictions. I start from the most general—the policies—and then continue with a thematic development that includes topics of more immediate relevance: the importance of geopolitics in migration policies, the violence in Central America as a reason for the migrations and for the granting of asylum, and the banopticon and the situation on the border. Instead of proposing that the anti-immigrant policies and their application provide the macro-vision in a holistic text, I present them as a backdrop that helps us to understand the dimensions of the challenge faced by an undocumented person. Examination of these policies also serves as a counterbalance to chapters three and four, which might give the impression that most of the surrounding conditions favor the undocumented. The third chapter is

central to the work because it is dedicated to the actions of the immigrants themselves and because it is the chapter for which I did the archeological digging of the first chapter.

In the third chapter I explain what I call “civil disobedience in everyday life”: those actions which advance the inclusion of undocumented immigrants in U.S. society and which therefore counteract the restrictions that impede such inclusion, as described in the second chapter. By performing such actions the undocumented engage in a daily struggle to gain for themselves the asylum that the U.S. government denies them. Such actions are not carried out in a collective or organized way, but their cumulative effect gives them decisive political weight. They are the prior condition for any pro-immigration activism. The undocumented are not passive subjects. This third chapter makes Marx’s politicization of the material world the backbone of my recasting of “material” actions as political actions. However, I have tried to enhance the Marxist contribution with the thought of authors who pay more attention to other, non-material dimensions.

In the fourth chapter I chose three realms to illustrate how the performative civil disobedience of the undocumented is a form of citizenship in the making by virtue of its performative effectiveness and that of its support systems. They are support systems through whose reiteration and impacts, measured through interviews and participatory observation, seem substantial to me. Churches and migrant organizations are two of the main supports. The other is state heterogeneity, a recurrent element that at times has a visible presence and at other times sneaks in subtly or is barely discernible in the background. Addressing them independently allows me to complement the second chapter, where the excluding will of the state appears in a presentation true to reality – as can be inferred from the collection of data that support it, even though it is not complete. Churches, migrant organizations and state heterogeneity are three spheres of legitimation, and the lattermost, one of legal validation. The way is paved for the neutralizing the exclusions that I analyze in the second chapter by a combination of forces: some immigration legislation, heterogeneous bureaucratic regulations, discretionary enforcement of regulations, the solidarity work of the church, and that of the organizations of migrants themselves.

In my fieldwork and my analysis I concentrate on undocumented Central American immigrants. Even though this study is focused on Central Americans, I believe that most of my exposition is valid also for migrants from other places, especially for Mexicans, who are the most numerous nationality both among Latinos and among foreigners in general. I concentrate on Central Americans in order to make a contribution and to set limits. I want to make a contribution because undocumented Central Americans in the United States are an immigrant group that, in comparison with other Latin Americans in the country, has scarcely been studied. In addition, they constitute the fastest-growing foreign group during the period between the last two national censuses, faster even than Latinos as a whole.

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INTRODUCTION

1. The unauthorized migration of Central Americans and its political aspect

Around 12 million unauthorized immigrants live in the United States. Even for a country of more than 300 million inhabitants, the presence of this enormous number of undocumented person—to whom the government has never given permission to enter, to remain, or to work—raises the kind of strong questions that often receive very weak answers, as Boaventura de Sousa Santos complained.¹ How can a liberal political system in which the rule of law prevails function with so many persons consigned to a legal status that ratifies their position of exclusion or, in the best of cases, of inequality before the law? Are these elevated numbers of unauthorized persons an anomaly of the migratory system or its finest fruit? Is the government losing control? Is the United States possibly ceasing to be a “modern rational-legal state, with a clear monopoly of power, able to deliver unambiguous rights and duties to its citizens who comprise a nation of strangers”²? Is the sovereignty of nation-states and their dominion over a defined territory being eroded? Are their policies evidence of excessive tolerance (allowing so many immigrants to enter and remain) or of exceptional intolerance (refusing to regularize them)? What interests lie hidden behind the policies of exclusion and non-expulsion? What are the major routes or paths by which these undocumented persons might cease to be such: general amnesty, gradual and selective regularization, massive deportation, or slow and steady expulsion? To what instance can the undocumented appeal in order to attain their objective of remaining in the country: a juridical system in the process of being globalized, the national interests of politicians and businesspeople, or validation of their vital presence in the nation’s daily life?

These pressing questions have received four types of answers in academia:

1. The first response remains within the limits of the strict rule of law: the present policies do not work because they fail to yield the results they were designed to achieve. The growing volume of undocumented persons is clear proof of the failure of migratory restrictions. The implementation of these policies has thus far been concentrated in the area of expensive, very fallible controls.

¹ Santos, 2009, p.13.

² Urry, 2001, p.163.

Policy makers, while recognizing that the market needs immigrant labor, should insist that the government must take the bull by the horns and not tolerate what it has not authorized. Accordingly, the best policies should focus on the area of employment with three types of measures: 1) Apply the full weight of the law by punishing employers who hire illegal workers and also by defending the rights of workers independently of their legal status so as to penalize employers who hire them for purposes of exploitation. 2) Lighten the burden of the law by allowing more flexibility in formal employment and relieving employers of the heavy costs of social benefits that motivate them to seek irregular laborers. 3) Finally, take measures to saturate the labor market with workers who are already in the country, by incorporating into the labor market either a) groups with low participation, such as women, minorities, the elderly, and the poorly educated; or b) legal immigrants, by means of temporary migration programs that mimic some of the characteristics of illegal migration, with a selection of unskilled workers and with flexibility of time periods, application costs, and requirements.¹

Documents emanating from the Migration Policy Institute, a conservative think tank, are the best example of this response, and they are one of the steadiest sources of information for members of Congress. These studies lavish great praise on biometric tests and new security systems, but they also warn about their vulnerability to fraud and errors. Their solution is more international collaboration, homogenization of standards, and bilateral and multilateral agreements.² They extol the effort to create a virtual wall along the southwestern border—with a combination of towers, sensors, and aerial surveillance—but they criticize the high costs of such an effort and its vulnerability to technical faults. Since they recognize that immigration is a variable that is dependent on labor demand, they propose that, rather than spend so much effort on costly and ineffective control mechanisms (whether physical or virtual), the best way to stop illegal migration is to prosecute employers who hire undocumented workers.³

The diagnosis behind this vision is in harmony with proposals found in neoclassical economics: external and internal migrations are caused by geographical differences between labor supply and demand. In the case of international migrations, the wage differences activate the migratory flow, with workers traveling from low-wage countries to those with high wages, that is, to countries with a small labor force and large amounts of capital.⁴ However, since these

¹ Sumption, 2011.

² Papademetriou, 2011.

³ Koslowski, 2011.

⁴ Rocha, 2006, p.13.

advocates of the rule of law are zealous defenders of legality, they differ from the pure neoclassicists insofar as they are unwilling to wait for market forces to bring about a point of equilibrium. By combining rigorous implementation of immigration law and manipulation of the present labor law—a sort of perverse Keynesianism—they seek to induce saturation of the market, penalize the hiring of undocumented workers, and eliminate their advantages.

2. The second response, which takes globalizing processes into consideration, proposes “that international migrations are a function of larger geopolitical and transnational economic dynamics.”¹ These factors “have an impact on the formation and direction of migration flows. They produce conditions under which poverty, unemployment, or lack of opportunities for advancement can become activated as migration push factors. For example, the development of commercial agriculture and export oriented standardized manufacturing have dislocated traditional economies and eliminated small producers. They also contribute to the conditions under which immigrants can enter the labor markets of receiving countries. For example, increased competitive pressures from the internationalization of production cause businesses to favor low-wage workers at the expense of unions, in order to remain competitive with cheap third-world imports.”² In a world where capital and business pursue the most lucrative strongholds with no restraint, labor markets have also become globalized so that, by emitting sufficiently attractive signals, they are able to absorb workers from all latitudes. This development negatively affects two of the most distinctive attributes of nation-states, their sovereignty and their exclusive control over a territory. Sassen argues that “globalization under these conditions has entailed a partial denationalizing of national territory and a partial shift of some components of state sovereignty to other institutions, from supranational entities to the global capital market.”³ The ones most benefited by this de-nationalization are those who have “economic citizenship,” namely, the firms, corporations, and financial markets that can operate in tax-free zones and fragment their productive processes among many countries by using flexible overseas subcontractors.⁴

Workers have not been able to benefit in the same way that businesses have because they are treated with different norms. They lack “economic citizenship.” This dualism presents a

¹ Sassen, 1995, pp.66-67.

² Sassen, 1995, p.76.

³ Sassen, 1995, p.XII.

⁴ Sassen, 1995, pp.XIII-XIV and pp.8-9.

problem: “The existence of two different regimes for the circulation of capital and the circulation of immigrants, as well as two equally different regimes for the protection of human rights and the protection of state sovereignty, poses problems that cannot be solved by the old rules of the game.”¹ There are transnational organizations working in this context, and their directives limit the sovereignty and autonomy of modern states and whose deregulation initiatives reveal a decline in state power.² However, that does not mean that the nation-state is disappearing; it has been and it continues to be a platform of globalization. It does mean, however, that “a national state may have the power to write the text of an immigration policy, but it is likely to be dealing with complex, transnational processes that it can only partly address or regulate through immigration policy as conventionally understood.”³ Each country experiences this complexity in a different way. In the case of the United States, there has been increasing openness with successive pieces of legislation: the 1975 Helsinki Accords requiring that barriers to the free movement of people and ideas be lowered, the Foreign Relations Authorization Act of 1977, the Moynihan-Frank Amendment of 1987, and the 1980 Refugee Act.⁴ Sassen argues that the de facto transnationalization of migration policy was evident in several areas: in the increasingly frequent recourse that immigration judges had to international legal instruments to resolve migrant and refugee cases, in the formation of a privatized regimen for the circulation of service sector workers, and in the extensive collaboration in the US-Mexico Bi-national Immigration Commission.⁵ At the other pole, however, individual states reacted by renationalizing immigration policies. They complained that, while the federal government decides immigration policies, it pays little heed to the substantial costs of providing health services, education, and detention facilities for migrants. The states receiving the most migrants claim that they have been disproportionately burdened with the putative costs of immigration because of ill-conceived or poorly enforced immigration legislation. Their solution has been to renationalize immigration policies, a move quite in keeping with the trend to restore powers to the states.⁶ The implication is that the anti-immigrant policies were a reaction on the part of the states to the burdens imposed on them by the presence of migrants. Such an assumption is valid when policies are decided solely in terms of

¹ Sassen, 1995, p.XVI.

² Sassen, 1995, pp.13-14 and 29.

³ Sassen, 1995, p.75.

⁴ Sassen, 1995, pp.68-69.

⁵ Sassen, 1998, p.6.

⁶ Sassen, 1998, pp.11-12.

perceptions, and in this case the perception is that the migrants are a net cost to the state and not a source of revenue.

Since the texts in which Sassen expounded his ideas about globalization and its effects on migration and migratory policies appeared before 9/11,¹ they do not take into account the federal assault on immigration that came about with the creation of the Department of Homeland Security and the belligerent behavior of Immigrations and Customs Enforcement (ICE). Nevertheless, his diagnosis regarding the decision of states to pass migratory legislation turned out to be a very accurate forecast. The federal government's failure to pass migratory reform in 2006 motivated the states to take migratory policies into their own hands. During the first seven months of 2007, fifty state senates debated 1,404 bills designed to block undocumented persons from having access to social services and the labor market. One hundred seventy of the bills were approved.² In any case, the dynamics deployed at both federal and state level corroborate Sassen's thesis that migratory policies work in favor of re-nationalization. By reinforcing the controls and the brakes on labor mobility, such policies form a current which runs counter to the new transnationalized economic regimen, to international human rights accords, and to the international extension of social and political rights to immigrants.³ Since the phenomenon is inextricably connected with the conditions produced by economic internationalization, the solution for what many people understand as a "crisis of migratory control" is not to be found in conventional migratory policies. Fortunately, this situation contains elements of equilibrium, as has been demonstrated by the history of migrations, for these follow patterns and cycles that do not ordinarily exceed 20 years.⁴ At the present time there is evidence that return migration and circular migration are larger than is usually thought, and they might possibly be even greater if controls were removed. While the cycle is coming full circle, bilateral and multilateral agreements in different areas—especially between sending and receiving countries—can help to resolve problems in ways that fully respect the human rights of immigrants.⁵

In some aspects the points of dissonance between Sassen's diagnosis and the vision of the rule of law are not excessive. There is a lack of control; there are employers who need undocumented labor (because of economic globalization in one case, to reduce labor costs in the

¹ *Losing control?* in 1995, *Globalization and its discontents* in 1998, and *Regulating immigration in a global age* in 2000.

² Clemens, 2008, p.255.

³ Sassen 2000, p.73.

⁴ Sassen, 1999, p.XV.

⁵ Sassen, 2000, pp.74-75.

other); there are bad policies, which for the Migration Policy Institute are expensive and fallible and which for Sassen are inadequate because they do not respond to the complexity of international dynamics. The solution in both visions is framed within the rule of law and brought about by bilateral and multilateral agreements. For the consultants of the Migration Policy Institute, however, those agreements serve mainly as instruments for improving the controls. They are merely secondary elements that complement the forceful line of action: making individual employers and workers responsible for compliance and punishing them for infractions.¹ Sassen discounts policies based on individual responsibility and places the emphasis instead on transnational accords: bilateral and multilateral treaties aimed at guaranteeing human rights and providing legislation for a globalized world.

3. The third response, which historicizes the process of rendering migrants illegal, is most fully expounded by Nicholas de Genova and Aviva Chomsky. Sassen and the Migration Policy Institute examine the economic causes of migration and understand illegality in terms of faulty policies. They claim that the policies are scratching where there is no itch: they focus on the borders instead of on the workplaces, and they blame individuals instead of the processes of economic globalization. In both cases illegality is a given, an independent variable, a problem to be solved. Calling into question this naturalization of illegality, De Genova and Chomsky explore its origins in their effort to dismantle a political construction whose main aim is to pave the way for dominating and exploiting migrants. As Chomsky expresses it, “increasingly convoluted webs of laws, restrictions, and discrimination ensure that migrants remain in a subject position, exploitable and exploited. Today, the system works by drawing or forcing them into a status deemed illegality.”²

De Genova also views the category of “illegal alien” as tremendously useful and lucrative; it serves to create and maintain a reserve labor force that is legally vulnerable since it lives under threat of deportation and is therefore cheap and highly malleable.³ It is the threat of deportation and not deportation itself that makes migrant labor a disposable commodity.⁴ But De Genova goes beyond considerations of political economy, understanding the production of “migrant illegality” as a process profoundly rooted in the racialization practices which have historically molded

¹ Workers in general, because the policies which reduce employers’ obligations by introducing greater labor flexibility will affect all workers.

² Chomsky, 2014, p.86.

³ De Genova, 2005, p.214.

⁴ De Genova, 2005, p.247.

“Americanness” by means of inclusions and exclusions.¹ Whiteness and citizenship were fused together from the moment in 1790 when the first Congress of the United States decreed that any person who wished to become naturalized as a U.S. citizen should be white.² The indissoluble connection that exists in the United States between white supremacy and “Americanness” leaves Mexicans—the population De Genova studied in Chicago—without any realistic hope of being assimilated and assured a future as “Americans.”³ The same can be said of Central Americans and South Americans. These “brown” populations occupy a contested space between “whites” and “blacks.” In order to contest this intimate amalgamation of whiteness and citizenship, there is a need not only to condemn the idea of whiteness as a product of racist ideology, as Roediger proposed,⁴ but also to repudiate the very idea of “Americanness.”⁵ De Genova holds that the whiteness/citizenship fusion is ultimately sustained not just by the intervention of law; it is also the ideological effect of a discursive formation that encompasses both political struggles and the whole realm of public debate.⁶

The exclusion founded on “Americanness” produces exploitation: “The law has always been utilized to exclude some people from rights—often to the advantage of employers, who can then exploit those who are excluded.”⁷ Labor power that has been arriving in the country over many years is labeled “illegal” by the government as a service to employers. In order to make sure that immigrants remain a source of cheap labor, legislation has historically deprived the children of immigrants of access to education.⁸ Immigrants have been placed outside the law so that they can be more effectively exploited. In view of this, De Genova believes, “the predicaments of migrant labor invoke the analogies of slavery and apartheid.”⁹

The theses of Chomsky and De Genova go beyond the findings of Sassen because they show that there is not only globalization but also illegalization. What Sassen calls “renationalization of migration policies” is only one piece of the illegalization posited by Chomsky and De Genova. Renationalization is an anti-immigrant reaction that becomes crystallized in juridical instruments and in policies that naturalize illegality “as an irreducible social fact,

¹ De Genova, 2005, p.216.

² De Genova, 2005, p.216.

³ De Genova, 2005, pp.208-209.

⁴ Roediger, 1994.

⁵ De Genova, 2005, p.209.

⁶ De Genova, 2005, p.228.

⁷ Chomsky, 2007, p.XVIII.

⁸ Motomura, 2014.

⁹ De Genova, 2012, p.144.

produced as an effect of the practical materiality of the law.”¹ Sassen overlooks the fact that the undocumented are not a problem that the laws need to deal with; rather, they occupy a status produced by the laws. The illegalization precedes the status of being undocumented. In other words, lack of documentation is not a category outside the law; rather, it is precisely the labeling device that is used to criminalize certain acts which were not previously considered offenses and which at some junctures were even encouraged by the government. De Genova and Chomsky fail to see that that this process exists within a global dynamic and that U.S. migration policies are perhaps inadequate to deal with this phenomenon. The policies are instead falling under the sway of an inveterate racism since they are reacting to—and going against—the forces of economic internationalization. Combining both theories could yield a position which advocates 1) mutual reinforcement of the labor flows produced by globalization and 2) illegalization of part of those flows as a way of regulating them.

But De Genova adds racialization to the mix, thus making the combination problematic. By presenting racialization as a historical constant, De Genova introduces static into a theory that is seeking to explain a relatively new process. His theory would be more consistent if he were to assume Johnson’s thesis about the “huddled masses” myth² and Kanstroon’s ideas about an ever-existing “deportation nation.” With these theories and others it is possible to understand the historical circumstances in which successive U.S. governments—making use of racialization, but also of gender discrimination,³ anti-communist hysteria, and the craving for purity that seeks to be rid of the sick, the poor, and the sexually “deviant”—have argued for and implemented illegalization.⁴

If racialization has always been a dominant and decisive element of U.S. migration policies throughout the country’s history, not only would it cease to be a factor explaining some present-day particularities—which I believe it is—but it would be difficult to explain why we are witnessing the increasing deterioration of the situation of Latinos in the United States (or of Mexicans, which is the group that De Genova has studied). Also, if the combination of whiteness and Americanness leaves no room for integration and the equitable exercise of social, civil, and political rights, then the immigrants would be caught up in a spiral of discrimination and unspeakable exploitation,

¹ De Genova, 2005, p.227.

² Johnson, 2004.

³ On this topic: Luibhéid, Eithne, *Entry Denied: Controlling Sexuality at the Border*, University of Minnesota Press, Minneapolis and London, 2002.

⁴ Kanstroon, 2007.

forced to deal with a government that “has refined those tactics to generate even more severe constraints for the undocumented,”¹ constraints from which they could be delivered only by a *deus ex machina*. There is no doubt about the overwhelming power of that combination of whiteness and Americanness. We will see its mordant aspect when we analyze the situation on the border, where many Latinos—including some who are U.S. citizens—are treated as undocumented persons. Although my historical review will not be exhaustive, I hope to show that the history of migrations has left behind sediment that will impede the spiraling effort to exclude, and that it also has other elements that are not directly linked to racialization.

I believe that De Genova’s historicization is a fallacy that misinterprets historical reality. His review is circumscribed to the significant but limited sphere of internal policies: the Constitution, migration policies, and legislation. There is no doubt but that the close association of whiteness and citizenship in those legal instruments has increased the rigor of the conditions allowing the integration of migrants, but as I explain in the second chapter, it is necessary also to historicize the foreign policy of the United States and its strategies for defending its geopolitical interests in Mesoamerica. These factors are additional explanatory elements that do much to determine people’s reasons for migrating and the discourses and actions of pro- and anti-immigration actors. This “external” historicization must be complemented by “internal” historicization of the legislation beneficial to migrants that is the fruit of struggles waged by civil society. These struggles are a factor that sometimes breaks the ascending spiral of discrimination. We realize this when we scrutinize the history of how already established groups support new generations of migrants: the more migrants there are in a group, the more likely it is that there will be informal networks and formal organizations that pave paths or even major highways toward inclusion. It is precisely these other types of internal and external historicization that deliver us from the funnel through which an ever increasing discrimination negates the possibilities of integration. In this way we can understand the back-and-forth swings between policies of illegalization and policies that open the way toward amnesties, asylum quotas, family reunion measures, temporary worker programs, temporary protective status, and gradual regularization processes that eventually include the millions of now undocumented persons. We could speak of an instrumental opening, as happens when the admission of migrants is inspired by a country’s geopolitical interests or by the pressure of groups that want to make sure that politicians and parties have the ethnic clientele they need. We could also speak of an opening of

¹ De Genova, 2005, p.227.

solidarity, as when groups of civil society succeed in abolishing anti-immigrant policies and even pass laws that allow for the massive admission of refugees.

Neither the quota law of 1924 nor the “revolving door policy, whereby mass deportations would be concurrent with an overall, large-scale importation of Mexican migrant labor”—which De Genova explains and stresses¹—can be considered policies that best characterize U.S. migration policies longitudinally, at least if we understand by migration policies not only their mechanisms of selection and rejection but also their concessions of refuge, asylum, residency, citizenship, temporary permits, sanctuary cities, and other consequences deriving from the diversity of state laws. And that is without mentioning the policies which Sassen² with good reason considers to have affected migratory flows, such as commercial treaties and political and military activities oriented by geopolitical interests that range from invasions to dollar diplomacy. Indeed, if the policies that sought to maintain the proportion of whiteness of the 1890 census had prevailed, or if they had been even more rigorous and were the only force shaping immigration flows, Latinos would never have come to constitute 16.6% of the population of the United States, nor would they represent 39% of all foreigners naturalized, nor would they have obtained 42% of the permanent residencies extended to foreigners between 1920 and 2013.³ Neither would it be the case that in the capital of the United States Salvadorans are the most numerous nationality among Latinos despite coming from a small country and being relatively recent migrants.⁴ In synthesis: the process of legalization/illegalization functions in ways and produces results that cannot be explained simply by exclusion and racialization. Illegalization has to do with the instrumental opening of the country and with the opening in solidarity.

I consider the diagnoses of Chomsky and De Genova to be very incisive in their exposition of the dynamics that are essential for understanding the reason for the huge number of undocumented persons in the United States and for the persistence of same. However, their diagnoses give rise to disproportionate affirmations, such as when Aviva Chomsky observes that “people without documents live behind another kind of border, a baffling and sometimes terrifying border that separates them from those around them and the country and society in

¹ De Genova, 2005, pp.222-223.

² Sassen, 1995, p.73.

³ U.S. Department of Homeland Security, “2013 Year Book of Immigration Statistics,” Washington, D.C., 2014; and U.S. Census Bureau, U.S. Dept of Commerce, American FactFinder, <http://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

⁴ Ennis, Ríos-Vargas, and Albert, 2011, p.8.

which they live.”¹ In another text Chomsky seems to find no exit from the iniquitous system: “It’s no coincidence that in periods when rights have been expanded to previously excluded sectors of the population, businesses have sought new sources of exploitable labor.”² As I will show, the labor scene is more complex: there are not always unscrupulous employers on one side and helpless workers on the other. As we will see, a large proportion of the undocumented are self-employed, or they are employed by other own-account immigrants who have no influence on migration policies, or they are employed by persons whose profits are closely linked to assuring that immigrant workers are treated with dignity. The panorama painted by Chomsky, for all its value as critique, is easy to visualize, perhaps because it oversimplifies. There is a great temptation to segment workers by class and productive sector, but except for a couple of significant instances, such as the weapons industry and private prisons, it is impossible to align an entire sector in a monolithic anti-immigrant position, and there are entire industries that actively promote amnesty for immigrants.

We could say that the presentations of both De Genova and Chomsky neglect to consider the actions of the dominated against their domination. De Genova makes use of Agamben’s category of “bare life,” indicating a life lived “in contrast to the plenitude of ways in which human beings really live.”³ He maintains that “bare life” should not be understood as a biological entity existing in the state of nature prior to sovereign power; it should rather be understood as a product of political machinery: “Bare life, in other words, is for Agamben the degradation and debasement of the species specificity of human life.”⁴ De Genova points out that “human existence, while yet alive, is nonetheless stripped of all the encumbrances of social location and juridical identity, and thus bereft of all the qualifications for properly political inclusion and belonging.”⁵ “Bare life” is a type of political dispossession that indicates a tendential horizon, but it has no empirical exemplars to represent it. Therefore, the position of those who “go hunting for convincing exemplars of an ‘authentic’ bare life”⁶ is inadmissible. Although there is some plausibility in discounting an essentialist position, no theory can be exempted from what Thompson calls the “necessary empirical dialogue” without being subjected to his criticism of

¹ Chomsky, 2014, p.86.

² Chomsky, 2007, p.14.

³ De Genova, 2012, p.132.

⁴ De Genova, 2012, p.134.

⁵ De Genova, 2012, p.133.

⁶ De Genova, 2012, p.133.

Althusserianism, namely, that it is a position that “offers an a-historical theoreticism”.¹ If the tendency to strip people of every political attribute does not find expression in a political system, then it lacks explanatory validity, no matter how valuable it might be as a metaphysical wake-up call. Even if we consider the relevance and correctness of De Genova’s historicizing the illegalization of migrants as a process (for me, only partly) linked to racialization, his conclusion—that we are dealing with “bare lives” devoid of the encumbrances of social location and juridical identity and lacking all qualifications for proper political inclusion and belonging—does not reflect the situation of the undocumented in the United States.

At the macroeconomic level, on the other hand, the thesis that unauthorized international migrations contribute to the enlargement of a reserve army which allows capital to avoid union turmoil and to pay depressed wages has a sound scientific basis. But concentrating exclusively on the economic dimension, and on this aspect in particular, in order to explain the role played by unauthorized migrations both internationally and in the U.S. would be as reductionist as arguing that the Central American guerrillas of the '70s and '80s were mainly (or only) puppets of the prosperous arms industry. Such a reduction is possible only by shuttering the window that views the political dimension. When expounded without further commentary, both the “bare life” thesis and the thesis of the “reserve army” and the submissive proletariat convey the idea that the dominated engage in no action against their domination and that they do nothing to oppose their illegalization and to favor their inclusion. It was by examining structures that Marx was able to explain the proletariat’s protagonistic role and to justify paying attention to their development as the core of his methodology. In a contradictory turn, attention is now being paid to overall tendencies but without the benefit of Marxist dialectic; all the protagonism of the proletariat is thus transferred to big capital, leaving a migrant proletariat that is reduced to being merely a victim and a marionette of structural forces. In Marx the master/slave dialectic implies the subjection of capital to a dynamic that constrains its dominance and eventually confounds it completely. Why must we think of workers simply as puppets of the globalizing forces who are doing nothing to escape from being recruited into the reserve army and from being confined by national capital to the narrow limits of their native countries and the even narrower ones of their rundown slums and rural villages? With no absolute certitude about the future but with a more nuanced vision of the present, the fourth response offers a vision that completes the panorama by giving the full picture and answering the questions: what are the migrants and other forces are

¹ Thompson, 1995, pp.5-6.

doing to promote inclusion and oppose total illegalization? what degree of inclusion they have already achieved? and what is the resulting situation of political dispossession in which the undocumented actually find themselves?

4. The fourth response, then, is based on diverse forms of citizenship and national membership in which illegalization does not have the power of absolute exclusion. This is a vision that can absorb the theses of Sassen, Chomsky, and De Genova. It is not incompatible with including either the structural forces of globalized markets and other globalizing forces or the processes of illegalization. Its inquiries are only momentarily concerned with why the undocumented exist and how they came to be so numerous, for its attention is focused instead on how integrated the undocumented already are and how well they succeed in being included despite the government's rejection. The 12 million undocumented persons are not a lapse in the migratory system; they are a demonstration of how it is currently functioning. From their perspective, the government is not the decisive forces in the processes by which citizenship is achieved. Gaining membership takes other paths in this age when the government is not the only speaker.

As far as I have been able to trace, Yasemin Soysal, in her analysis of European migration, was the first person to speak of a "post-national model of membership": she showed how guestworkers are incorporated into many of the rights and privileges that constitute the basis of citizenship. From that finding she deduced that "national citizenship is no longer the main determinant of individual rights and privileges, and that these rights are now codified in a different scheme, one that emphasizes universal personhood rather than nationality."¹ Her discovery was of capital importance for subsequent reflection on the theme, but her post-nationalism was not taken up by the other authors I will mention. In analyzing migration in the United States, a presentation focused on post-nationalism would have to leave aside not only Martin's valuable reflection on the models of migration policies that have been in competition in space and time throughout U.S. history² but also Zolberg's study on the filters used by the government apparatus to "design" a nation.³

Susan Bibler Coutin subsequently studied other forms of membership, such as the "illegitimate" citizenship that the undocumented create for themselves: "Undocumented immigrants have sometimes assumed the authority to make these decisions themselves, and

¹ Soysal, 1994, pp.119 and 136.

² Martin, 2011.

³ Zolberg, 2006.

sometimes have even authenticated their actions (such as a decision to work without authorization) by manufacturing their own documentation. When individuals who have engaged in such illicit practices acquire legal status at least in part because of these activities, then illicit practices are themselves at least somewhat legitimized.”¹ Coutin argues that illegal practices are a step prior to legal migratory status and that the undocumented—before acceding, and precisely in order to accede, to “legitimate” nationalized citizenship—live in a denationalized, extra-state, and/or transnational domain of “illegitimate” citizenship.² It may be that the original intuition for this finding was suggested to Coutin by the sector that opposes migration because in another text she states that “advocates of restrictive immigration measures argued that migrants exhibited illegitimate forms of agency, that migrant women, for example, sneaked across the U.S.-Mexico border to have U.S.-citizen children.”³ Coutin views such behavior as something positive and recognizes the proactive role of immigrants.

Following Coutin and Soysal, Sassen speaks of “informal citizenship” and of an “informal social contract” to refer to the fact that the undocumented are “unauthorized but still recognized” since they manage to legitimize effective extra-state forms of belonging: “The everyday practices of these undocumented immigrants are in some way the practices of citizens, and their identities as members of a residential community take on some of the traits, the practices, and the identities associated with the condition of citizenship. Their civic practices are in fact sufficient to make them worthy of full membership.”⁴ For Sassen as well, irregular status is a step prior to formal citizenship, but she does not mention that it is a step filled with illegal practices. Sassen adds by way of conclusion: “What is first and most important from my viewpoint is that we are witnessing the strengthening, or even a process of constitutionalization, of new civil rights that allow citizens to make requests and demands of government and to claim new forms of autonomy in the formal political scene. This process can be viewed as a further widening of the distance between the formal apparatus of the state and the truly proper institution of citizenship.”⁵ In her mention of constitutionalization and making requests and demands of government, we can see that Sassen has already taken some distance from Soysal’s post-nationalist position, a distance that could

¹ Coutin, 2000, p.591.

² Coutin, 2000, p.591.

³ Coutin, 2003, p.517.

⁴ Sassen, 2003, p.100.

⁵ Sassen 2003, p.106.

already be seen in her *Losing Control*.¹ She has adopted a more nuanced position based on the recognition that “the epochal transformation we call globalization is taking place inside the national to a far larger extent than is usually recognized” because “territory, law, economy, security, authority, and membership all have largely been constructed as national in most of the world, albeit rarely with the degree of autonomy posited in national law and international treaties.”² This valorization of the national is also present in Sassen’s opposition to the viewpoint which understands “immigration as the consequence of emigrants’ individual actions” and views the “receiving country as a passive agent, one not implicated in the process.”³

Stressing the receiving country’s importance and adhering closely to the constitutional historians, Bosniak interprets citizenship as a divided construct. His aim is to establish that citizenship is not an all-or-nothing affair, but a construct that is internally complex and segmented: “This notion of citizenship as divisible, compromisable—indeed, fragmented— helps to capture the relationship aliens maintain to constitutional citizenship. The fragmentation of citizenship results in diverse sorts of partial citizenship identities, including the anomalous identity of the alien citizen.”⁴ Even when they lack formal citizenship, the undocumented can exercise partial forms of citizenship, which entail a wide range of entirely distinguishable sorts of entitlements and protections. They can be visualized better by making “distinctions between civil, political, social, and (more recently) economic conceptions and practices of citizenship.”⁵ Citizenship is a practice that implies rights and the formal status of national membership. It is possible to exercise the former even while lacking the latter.

Hondagneu-Sotelo and Ruiz observe that “binary categories of legal and illegal no longer accurately describe, if they ever did, contemporary realities that include many ‘in-between’ categories” and that “modern societies of immigrant and refugee destination are complex nation-state bureaucracies that produce a panoply of official state-sanctioned legal-status categories.”⁶ Cecilia Menjivar probed deeper in theorizing the diverse categories. She coined the concept “liminal legality” to “blur the black-and-white distinction between legal and undocumented statuses and...to examine what living in this gray area may be like for immigrants.”⁷ This liminal

¹ Sassen, 1995.

² Sassen, 2008, p.1.

³ Sassen, 1995, p.65.

⁴ Bosniak, 2006, p.82.

⁵ Bosniak, 2006, p.81.

⁶ Hondagneu-Sotelo and Ruiz, 2014, p.247.

⁷ Menjivar, 2006, p.1032.

legality is an in-between status that affects the individual's social networks and family, the place of the church in the immigrants' lives, and the broader domain of artistic expression. Menjívar makes use of Victor Turner's classic concept of liminality to capture the transitional-being of undocumented immigrants and "to express the temporariness of this condition, which for many Central Americans has extended indefinitely and has come to define their legal position."¹ But that does not mean that the transition is unidirectional and linear nor that it is, as in the case of Coutin and Sassen, a phase in the movement from undocumented to documented status, because some persons can at a determined moment move in a reverse direction, such as when they gain temporary legal status which then expires. Menjívar's position is that "what states do through their immigration policies still matters a great deal."²

Although Menjívar has many points of agreement with De Genova and with his emphasis on illegalization, I situate his theses in this fourth group because his concept of liminal illegality places us on the same plane of complexity regarding the condition of the immigrants as included/excluded, and also because it rescues the artistic creations and the church participation of the undocumented as their means for resisting exclusion and for highlighting the role of the society in the receiving country.³ Among other achievements, Menjívar states that "religious institutions have been pivotal in easing the anxiety of these immigrants' legal limbo."⁴ Besides freeing us from "black-and-white distinctions" and from the conception of citizenship as an "all-or-nothing affair," all these theories agree in attributing to the migrant subjects a greater role in achieving their integration into society, although the emphasis and the empirical material differ considerably from one author to another. All of them refrain from presenting immigrants as inert pieces that can be moved indifferently about by chess players such as the economic system and its rich capitalists or the political system and its bureaucrats. Instead of "bare lives," therefore, what we find among the undocumented are illegitimate forms of agency, authority to make decisions for themselves, liminal legality, and forms of citizenship that are illegitimate, partial, or informal. Insofar as these theories and findings highlight the actions of both migrants and the receiving society, and insofar as they illustrate the diverse forms of membership and exercise of rights, they

¹ Menjívar, 2006, p.1008.

² Menjívar, 2006, p.1032.

³ Bailey et al. speak of "permanent temporariness" and Goldring et al. of "precarious legal status," notions related to "liminal legality," but their presentations emphasize the aspect of legal limbo and fail to make clear the degree of agency possessed by the undocumented. Bailey, Wright, Muntz, and Miyares, 2002, pp.125-44. Goldring, Berinstein, and Bernhard, 2009, pp.239-65.

⁴ Menjívar, 2006, p.1024.

provide what Butler was calling for: “We need more complex ways of understanding the multivalence and tactics of power to understand forms of resistance, agency, and countermobilization that elude or stall state power.” Butler adds that if our language uses words like “sovereignty” and “bare life” as key terms, then “we deprive ourselves of the lexicon we need to understand the other networks of power to which it belongs.”¹ These theories have provided an indispensable lexicon for understanding better the complexity of what it means to live in the U.S. without official authorization—and also for understanding how that country has accumulated 12 million undocumented residents.

The present work seeks to make a contribution to this line of responses. My presentation of unauthorized migration as an act of civil disobedience is more intelligible within the framework of this debate, precisely as a contribution that seeks to emphasize the following thesis: if the illegalization of migrants does not submerge us in an “all-or-nothing affair,” it is because the actions of the migrants, the receiving society, and the government do not allow that to happen. I want above all to stress the active role of the undocumented and the political significance of their actions. De Genova and Chomsky show how illegalization takes precedence over the existence of the migrants who are categorized as undocumented. That is a chronological fact. A longitudinal truth, however, is not an immediately pertinent truth. To mistake one for the other is a variant of the etymological fallacy, because it is to assume that the historical meaning of illegalization is necessarily equal to its actual enactments and circumstances. The present reality is that undocumented persons are now fully aware that their entry is prohibited. They assume that they will be committing a crime from the moment they decide to migrate to the United States. If the fact of talking about “illegal immigrants” has the effect of naturalizing that status and of making law seem an unchangeable, transhistorical reality that is taken for granted,² then historicization which emphasizes only the relative, ephemeral character of laws makes transgression seem innocuous and lessens its defiant character. But it also runs the risk of forgetting that the immigrants’ opposition to and noncompliance with certain laws—a noncompliance that is not always open but is always practical—is a very effective form of contributing to the broad public debate and the political struggles. However, those efforts of the immigrants have not been taken into account, perhaps because we academicians sometimes fail to distinguish between our being activists and our being analysts. Such failure can be seen when the negation of the validity of a

¹ Butler and Spivak, 2007, p.42-43.

² De Genova, 2005, p.228.

principle—illegalization, for example—leads to the denial of some of the consequences of the principle as social facts, such as the defiance involved in unauthorized border crossings. Illegalization not only shapes the conditions in which some people migrate, but it is also contested and challenged by the immigrants. The migrants' entry into and remaining in the country are no longer intrinsically legal acts on which the government arbitrarily places the external label of illegality. They are acts that were unauthorized at birth. That is what I am referring to when I say that longitudinal truth is not immediately pertinent truth: the first deals with how illegalization is produced, the second with migrants who become illegalized. The migrants' challenge to government authority is immediately obscured when the two levels are confused and when it is assumed that historicizing illegalization negates the fact that the migrants are acting in a context in which illegalization has been naturalized. It matters not that the migrants' unauthorized presence in the United States "does not involve a crime against anyone" and "stands only for a transgression against the sovereign authority of the nation-state".¹ The fact is that there is a violation of the law. If a group of activists burn the United States flag, they cannot argue, "It was just a flag, we did not hurt anyone". Since the burning of the flag was a provocation, they will assume the gravity of their crime and will not seek to belittle it. Depoliticization impoverishes the understanding of reality and disempowers those who undertake political actions. In the case of migrants, it is understood that they act out of need and with no intention to provoke. That is why their defenders excuse their offense as if it were the act of a hungry person who steals a couple of apples from the teeming garden of Donald Trump. However, the material motivation of their actions should not blind us to their defiant nature or to their intrusion into the realm of politics, a theme I will treat more fully in the first chapter.

The struggle to establish the principle that the unauthorized border crossings should not be treated as felonies is quite just, but it should be treated as just one more datum in the political debate about migration. It should not be considered the historical reality of illegalization make the act of crossing the border innocuous. I agree with De Genova's point that the enforcement of migration legislation makes the "illegality" seems an objective "thing in itself."² However, for reasons of social action and the consequences and reactions it provokes (analysis among them), this fetish is an objective entity in itself. The tradition of studies on the theme, like Anderson's works on nationalism, have shown us that we are dealing with very weighty cultural artifacts that

¹ De Genova, 2005, p.237.

² De Genova, 2005, p.248.

possess objectivity insofar as “they have come into historical being” and “command such profound emotional legitimacy”.¹ Illegalization also has a historical existence and an emotional legitimacy.

Serious consideration of the objectivity of this political-juridical artifact helps us to visualize the objectivity of noncompliance. If illegalization is discounted, noncompliance is made something banal. As I will explain in the second chapter, illegalization is an exclusionary political-juridical construction that is linked to the fierce economic interests of the security industry. Its objectivity is consequently more visible and more palpable. It is also longer lasting. There are strong private interests molding government action and dictating who can be included and who must be excluded. But the interests of the security industry do not represent all the reactions of the business world, and not all government policies are exclusionary. The pluralist character of government and civil society is what makes politics possible: there are always disagreements, debates, opposed positions. That is why there are various kinds of membership and why the integration of American society is not an “all-or-nothing affair.” In this context the noncompliance of the migrants—their entering without permission and remaining without authorization—takes on political meaning because it is the first step toward dissent as the different forces take their positions. The support the migrants receive helps to sustain that first provocation and to make it snowball until it becomes dissent. The undocumented status of 12 million persons is not just the effect of illegalization, inadequate policies, or the contrivances of businesses. It is an expression of dissent. It shows that society is divided regarding its options for inclusion and the means to achieving it. But the ones producing that dissent are the migrants who are entering without having been authorized. It is among them that the originating political action is to be found. Their noncompliance is not a one-time action: it takes place along with other actions which day by day achieve inclusion, although not in its fullness. That is what I aim to explain with this work: the profoundly political challenge of everyday actions embedded in material life.

I want to make it clear that I, like Coutin, consider that illicit practices are the path toward regular status but that those practices need to be seen as embedded in the world of material production and as presenting a challenge to government power. Like Menjívar, however, I am aware that this process is not unidirectional in individual cases and that there is no historicist determination that guarantees either massive or gradual regularization for the major part of the undocumented. Moreover, the achievements are not transferable from one generation to another: the struggle is never definitive. It is not a struggle to change the system. My thesis is that

¹ Anderson, 2006, p.4.

each new generation of undocumented persons, feeling the need for inclusion, reactivates the struggle for the recognition of their right to have rights. All the same, the reactivation does not start each time from zero. The new generations are reaping some of the gains won by their predecessors.

In my fieldwork and my analysis I concentrate on undocumented Central American immigrants. By “undocumented” I understand those immigrants who do not have a valid permission to remain in the United States, independently of whether they entered the country with the permission of the migration authorities or without it. I will use the terms “undocumented” and “unauthorized” interchangeably. Even though they represent two different situations, the law treats them equally. Immigration and Customs Enforcement (ICE) considers both categories to be liable to apprehension, imprisonment, and deportation. The “undocumented” are those who lack documents. But the diversity of situations in the United States means that no immigrants are totally without documents: some have driver’s licenses, others have tax numbers, etc. In one way or another all the persons I interviewed had accreditation with some government entity. The case of someone with absolutely no documents cannot exist because all migrants can go to the consulates of their native countries to obtain a passport. The “unauthorized” include a wide and varied gamut: persons who entered with a student or tourist visa and stayed longer than the time allowed by the visa, persons who were detained and are awaiting a decision regarding their migratory status, persons who entered without authorization but then gained a temporary permission or asylum that subsequently expired. In any case, the undocumented and the unauthorized are overlapping categories: both lack authorization to reside in the United States, and both lack valid documents to authorize their presence before the immigration authorities.

By “Central Americans” I am referring exclusively to Guatemalans, Salvadorans, Hondurans, and Nicaraguans, the national groups of the isthmus which have the greatest presence in the United States. Central American are the foreign group that has grown fastest during the period between the last two censuses, faster even than Latinos as a whole. Latinos are responsible for over half of the 27.3 million population increase in the United States between 2000 and 2010. In contrast with a total U.S. population growth of less than 10%, Latinos increased by 43%: from 35.3 million to 50.5 million. Mexico contributed over two-thirds of that growth, adding 11.2 million more Mexicans to the US population. But the relative growth of Mexicans (54%) was lower than the 137% relative growth of Central Americans—from 1.7 to nearly 4 million. Nicaraguans

doubled their presence, from 177,684 to 348,202, and the next greatest relative growth was of Hondurans (191%), despite being the nationality most harassed by roundups and most filtered by migratory controls; they were followed by Guatemalans (180%) and Salvadorans (152%). Part of that growth is due to natural increase, but the most important part is due to immigration. The US immigrant population grew at a rate of one immigrant every 45 seconds; or put differently, 1,920 immigrants a day and 57,600 a month.¹ The major part of this growth has been of undocumented persons. According to official estimates, there are 11,510,000 unauthorized immigrants in the U.S. (34% of the total number of foreigners), of whom 6.8 million are Mexicans (58% of all immigrants born in Mexico), 660,000 Salvadorans (54%), 520,000 Guatemalans (63%) and 380,000 Hondurans (73%).²

Even though this study is focused on Central Americans, I believe that most of my exposition is valid also for migrants from other places, especially for Mexicans, who are the most numerous nationality both among Latinos and among foreigners generally. I concentrate on the group of Central Americans in order to make a contribution and to set limits. I want to make a contribution because undocumented Central Americans in the United States are a group that has been very little studied. The valuable studies of De Genova are focused on Mexicans; his frequent mention of Central Americans are limited to the most readily available information. The still unsurpassed works of Susan B. Coutin³ and Cecilia Menjivar⁴ on Salvadorans and the just published work of Sussane Jonas and Néstor Rodríguez⁵ on Guatemalans are examples of the kind of work that needs to be done, and they are also the exceptions that prove the rule. In other works that follow thematic lines—religion, care of gardens—Central Americans make sporadic appearances, but they move offstage before their presence is very noticeable. I believe that it is important to study this group of migrants that showed the fastest growth in the last intercensal period; such study can provide a strategic perspective on this latest surge of migratory growth. The study of Central Americans as a specific group is important for four reasons: 1) there are laws and policies in the United States which since the '80s have given distinctive treatment to migrants from the

¹ U.S. Census Bureau, U.S. and World Population Clocks. Downloaded on October 31, 2011, from <http://www.census.gov/main/www/popclock.html>

² The figures on undocumented migrants were taken from Hoefler, Michael; Nancy Rytina, and Bryan Baker, 2012, p.5. The figures of those born abroad (11,711,103 Mexicans, 1,214,049 Salvadorans, 830,824 Guatemalans and 522,581 Hondurans) are official figures of the US Census Bureau, 2006-2010 American Community Surveys (ACS), Table B05006 "Place of Birth for the Foreign-Born Population."

³ Coutin, 2007.

⁴ Menjivar, 2000.

⁵ Jonas and Rodríguez, 2014.

region and from particular nations in the region; 2) Central Americans have developed their own informal networks and their own organizations; 3) in some important localities of the United States they are beginning exercise considerable influence, with settlement patterns that differ significantly from other groups that surpass them in number and antiquity, such as Mexicans, Puerto Ricans, Dominicans, and Cubans; and 4) some of the dynamics driving the migration reflect the specific politico-economic situation of the isthmus and the particular relation the United States has historically maintained with Central America. I concentrate on Central Americans also in order to set some limits. Researching figures, laws, interviews, and studies on other Latin American nationalities would have been a desirable endeavor, but also titanic. I believe that by concentrating on Central Americans I have been able to get to know a representative volume of the bibliography, the statistics, and most importantly, the migrants themselves.

2. Methodological considerations concerning the fieldwork and the handling of information

This is a theoretical work. It seeks to offer a perspective that makes visible the political nature of actions that are not usually considered such. This does not mean that the work is lacking an empirical basis. It means, rather, that it is not enough simply to use the same instruments and to follow a series of research protocols in order to reach similar conclusions, just as there are no procedures that can lead us to inescapable conclusions about the existence of alienation, modernity, the Protestant ethic, or the fungible nature of money. In order to see these phenomena we need conceptual frameworks that have been constructed both in continuity and in discontinuity with one or several traditions of thought. Without well defined conceptual frameworks those phenomena are not “visible.” Kant observed that “thoughts without content are empty, intuitions without concepts are blind.”¹ This work attempts to create a framework that overcomes our blindness. But the framework by itself is not enough. Lest this theoretical work be empty of content, I have amassed information from diverse sources. Included is a review of the relevant literature, whose extent will be seen as the work develops.

All the empirical material that I use comes from fresh fieldwork: it was gathered during two and a half months of fieldwork in different cities of the United States, between February and April 2014 and in September 2014. The criterion I used for selecting the localities was the high concentration of Central Americans or, in the case of the border cities, the intensity of their transit

¹ Kant, 2000, pp.193-194.

through them. My sample was poor as regards Nicaraguans, a deficiency I had foreseen from the start and could have corrected if I had included the city of Miami. But the time I had available was limited, and I was familiar enough with the literature about Nicaraguans in Miami to know that they are a group that enjoys relatively privileged conditions; including them in the sample would have been like loading the dice. At the beginning of my fieldwork I spent time in Washington D.C., Maryland, and Virginia (Fairfax County and Prince William County), and toward the end I was in Los Angeles and San Francisco. Between the work in the east and the work in the west, I traveled from the Gulf coast to the Pacific coast along the southwestern border: Brownsville, El Paso, Nogales, and San Diego. Twice I had to take flights to save time, and twice I took long trips on the same buses that the migrants use, having as companions some undocumented persons who had just recently entered the country. In Fairfax County and Los Angeles I lived among undocumented Central Americans: in Fairfax County with immigrants from Honduras and Guatemala, in Los Angeles with Quichés from the Guatemalan highlands. When I visited the more “exclusive” gathering places of migrants, such as McArthur Park, my Latino look—a reverse type of “profiling”¹—guaranteed that they would take me for an undocumented person and make me all kinds of offers: false documents, prayers to “la Santa Muerte,” health services, and legal advice.

In all I conducted 105 interviews, 98 with individuals and 7 in a group. Fifty-five of the interviews were with NGO functionaries (promoters, directors, lawyers, religious workers), and 50 were with immigrants, most of them undocumented. Twenty-nine interviews were not recorded, and 76 were, yielding a total of 79.5 hours of recordings. Among the 54 NGO personnel interviewed, about one-third were also immigrants, and I asked some of them questions about their dual role as functionaries and as immigrants. Of the 50 interviews with immigrants, 44 were with individuals: 33 with men and 11 with women. There is much variation in the duration and the quality of the interviews. All the interviews with the NGO personnel were semi-structured. The discussions revolved around the same themes, but they varied depending on the type of work and the past experience of each person. The interviews with lawyers were especially enlightening and provided me information on legal topics about which I had no prior knowledge. Among the immigrants I conducted a number of formal interviews, in which interviewer and interviewee were guided by a structured or semi-structured questionnaire. However, most of my interviews with undocumented persons were a type of “ero-epic” dialogue.²

¹ Foucault, 2012, p.174.

² Girtler, 2015.

As can be deduced from the number of quotations taken from the interviews, the cited material is only a small part of the whole, but all the material collected has been subjected to analysis. Finding himself in a similar situation, the anthropologist Nigel Barley wrote: “I remembered having read somewhere that gold-mining consisted of shifting three tons of rubbish for each ounce of gold extracted; if this was true, fieldwork had much in common with gold-mining.”¹ Obviously, 105 interviews provide a gigantic quarry to mine. Instead of saturating the reader with repetitions on the same theme, I have decided to make a selection of clear statements that give something of the “flavor” of the experience of undocumented persons. These were my nuggets. The criteria for my selection were these: the relevance to the theme, the representative nature of the experiences described, the clarity of formulation, and the granting of consent both before and after. All the persons consented to be interviewed, and when the interviews were recorded, they gave their consent to the recording. All those who are cited extensively—migrants and functionaries—received copies of the complete section where their words appear. They were able to read their own words and my interpretation of what they said. All of them confirmed their statements, and some expressed great satisfaction with and interest in the way I used their contributions. In the trial of the researcher that Duneier imagines, if they were to ask me the question, “Are there people or perspectives or phenomena within the sample that, when brought before the jury, would feel they were caricatured in the service of the ethnographer's theory or line of argument?”², I hope that these interlocutors who gave their prior and posterior consent would be witnesses for the defense, even if possibly they do not share all my views.

In this study no balances of any type were sought: not of genders, not of ages, not of occupations, not of places of residence, not of national origins. The selection of persons for interviewing followed the method of “chain referral sampling” or “snowballing.”³ Some immigrants recommended me to others. Except for the case of a soup kitchen for migrants in Nogales and that of the Dreamers at the University of San Francisco, my conversations with migrants were not arranged through formal institutions, nor were they programmed ahead of time. This procedure involves risks, and it has a price, but it also brings delightful surprises. When I arrived in Los Angeles, I had only two phone numbers of persons I didn't know and a vague response to an electronic message. After just two hours I had a full agenda that kept expanding so that I was busy from 7am to 1am during the whole week.

¹ Barley, 2000, p.108.

² Duneier, 2011, p.8.

³ Biernacki & Waldorf, 1981, pp.141-163.

Organizations were selected with a view to including different types: grassroots organizations, grassroots organizations, universities, law offices, pro bono attorneys, and churches. I sought out institutions that were in contact with the undocumented, independently of whether their vision and mission required such contact or not. I believe that this decision, at first intuitive and later premeditated, helped me to get a more complete panorama of the many kinds of support that the undocumented receive. My interaction with the organizations was usually limited to the interviews, but there were a few exceptions: the University of San Francisco gave me lodging, provided several contacts, and asked me to give a talk; a parish in El Paso gave me lodging; and the soup kitchen/hostel in Nogales, Sonora, hosted me for a week while I helped them attend to migrants who were in transit.

Participant observation was an instrument I used to describe either positions that were not verbalized by the subjects or practices about which the subjects had not reflected a great deal or which they thought were irrelevant for a researcher. For this reason I had to devote time to working with the migrants, to accompanying them to the doctor's office, and even to melding into the masses as one more participant in the annual independence celebration in Los Angeles, which starts out from Pico Union—cradle of the notorious Central American gangs, la 13 and la 18—and ending at McArthur Park, the principal market, meeting place, and networking hub for Central Americans. That celebration was perhaps the moment when my own perceptions diverged most from those of my interviewees: where they saw only a festive celebration, I perceived the panoply of negotiations that lay behind the event, and I was able to feel how power was being contested in that counter-theater of the dominated. Another aspect that set me apart was their assimilation to what I call Edison's creed, that is, their conviction that in American society a retributive justice prevails that rewards effort and fierce competition. In the course of the interviews I collected many value judgments that immigrants made about themselves and about others that reflect how much they have internalized Edison's belief. Also, much of their discourse was sprinkled with racist and male chauvinist comments. My aim in the section titled, "A day in the life of three Central American migrants," is to give at least a little evidence of such comments.

That was one of the many choices I had to make in dealing with the enormous amount of material I had. Very often my interlocutors expounded their views with complete liberty, their discourse guided by nothing more than their everyday concerns. Lucien Febvre was opposed to the doctrine prevailing in his student days, which prohibited historians from choosing among facts. Choosing was seen as the negation of scientific work. Febvre claimed that all history involves

selection, either because happenstance destroys some facts and preserves others; or because documents inevitably simplify, abbreviate, or introduce emphases; or because “the historian creates his materials or recreates them.” The historian—and the social scientist in general—operates like the histologist: “The essence of his work consists in creating”; therefore, “describing what is seen is not a big deal, but seeing what is to be described—that is what is difficult. Establishing the facts and then working with them.”¹ Febvre immediately adds: “To elaborate a fact is to construct. It is to provide solutions for a problem, if you will. And if there is no problem, there is nothing.”² My concern is to show that there are political actions and political actors where supposedly there are only compulsive acts and worker-consumers. I have used facts taken from everyday life but examined under a different prism, with the knowledge that concepts help us to view everyday actions as political deeds—and to make them such. I obtained the facts I describe by engaging in conceptual archeology. That is, I finally succeeded in seeing what I had to describe.

3. Structure, logic, and some limitations of the text

Analysis is one thing, the order of exposition is another. As regards the presentation, rather than making a selection, I have separated the facts into excluding forces and including forces. I hope that this division is an aid to pedagogical clarity and that it will help to move the reader little by little from more familiar themes and approaches (chapter two) to a less common treatment of the facts (chapter three). The first chapter is an elaboration of my instruments, which is placed at the beginning even though the instruments are designed to treat the material and the themes of chapter three, namely, the ways in which immigrants carry out their noncompliance in everyday life and the significance of those actions as political struggle. As I reviewed the literature on migrations and attempted to extract the nuggets from my material, I became aware that most of the concepts being used did not allow me to demonstrate the political character of those actions. It is for this reason that the first chapter engages in a little archeology of Western political thought, the purpose of which is trace the origins of the reductions in the political sphere that have historically defined labor, the actions of the dominated, and everyday material as outside the realm of politics. This archeological investigation was not foreseen at the start, but I judged it essential as I went about assembling facts that were not considered political.

¹ Febvre, 1982, p.22.

² Febvre, 1982, p.23.

After centuries of thinking with the categories of a tradition that restricts the confines of politics, extra effort is needed to make the political elements apparent in those places where they have taught us there is no politics. It is for that reason that the first chapter dedicates so much space to tracing the tradition back and to analyzing how and why it delimited the space for political actions and actors.

At the end of the first chapter I explain why I chose the reflections on civil disobedience as a way of framing the noncompliance of the immigrants, and I make an attempt at producing the translation between two (or more) traditions of thought that Sousa wanted. I hope that I have succeeded in situating the contributions of Scott, Bayat, and others within a current that breaks with the tradition and expands the field of acts and actors that can be considered political.

The second chapter presents the forces that reject the immigrants: the policies and the actors, their interests and their contradictions. I start from the most general—the policies—and then continue with a thematic development that includes topics of more immediate relevance: the importance of geopolitics in migration policies, the violence in Central America as a reason for the migrations and for the granting of asylum, and the banopticon and the situation on the border.

Instead of proposing that the anti-immigrant policies and their application provide the macro-vision in a holistic text, I present them as a backdrop that helps us to understand the dimensions of the challenge faced by an undocumented person. Examination of the policies also serves as a counterbalance to chapters three and four. In the second chapter I tried to concentrate on my strong points, the aspects about which I am most knowledgeable: the history of Central Americans seeking refuge in the United States, and some aspects of U.S. foreign policy. The situation of the undocumented is a spatialized sociopolitical condition,¹ and that is why so much of my analysis is dedicated to the border.

The third chapter is central to the work because it is dedicated to the actions of the immigrants themselves and because it is the chapter for which I did the prior archeological digging of the first chapter. I believe that its major challenge is that of avoiding the facile tautology of presenting every act of the undocumented as an act of defiance and civil disobedience. I agree with Bayat that “the lack of a clear concept of resistance ... often leads writers in this genre to overestimate and read too much into the acts of the agents. The result is that almost any act of the subjects potentially becomes one of ‘resistance.’”² The same applies to civil disobedience,

¹ De Genova, 2005, p.215.

² Bayat, 2010, p.55.

even when it is considered as an ideal type. That is why I refer to and apply some of the findings of the theories of civil disobedience, always keeping in mind that they can be discarded depending on how we view the reality. Parodying a little Woody Allen sketch about Abraham Lincoln, I can say: “How long must a theory be? Long enough to reach the ground!” Concepts were a criterion for avoiding tautology, but they were meaningful and had that effect only when they could name realities. That is, they were effective only when they could point out practices of parrhesia, legitimization, massification of noncompliance, similarities with traditional acts of civil disobedience, attainment of perlocutionary effects, and the exercise of rights that express the efficacy of civil disobedience and proclaim de facto inclusion.

The fourth chapter includes the forces which validate and support the immigrants’ civil disobedience in day-to-day life. I do not offer a history of the organizations of Central Americans in the United States because that is not my precise theme. However, I could not avoid expatiating a bit because even books on Salvadorans as significant as Susan Bibler Coutin’s *Nation of Emigrants* make no mention of the Central American Resource Center (CARECEN). Also, I felt a need to show that the immigrants are constantly creating new, informal, autonomous institutions with agendas molded by their everyday needs and free of the influence of the big foundations.

The section on the heterogeneity of state policies is professedly aimed at refuting the thesis that illegalization is the government’s basic position and that the immigrants encounter only hostile forces in the area of law enforcement and the public sector in general. It can be shown, as I make clear in the second chapter, that undocumented immigrants are a segment of the working class that is “subjected to excessive and extraordinary forms of policing [and] denied fundamental human rights,” as De Genova maintains.¹ Nevertheless, the evidence collected does not corroborate the thesis that undocumented persons (not to speak of the group of Mexican immigrants studied by De Genova) are “consigned to an always uncertain social predicament, often with little or no recourse to any semblance of protection from the law.”² Among the first to refute this affirmation would be the tens of thousands of lawyers who earn their living by taking the cases of undocumented persons in the immigration courts and other venues. They belong to an industry that has prospered thanks to the great complexity and the many restrictions of immigration legislation. They often despair that their work can succeed in such complicated conditions, but they manage to win cases against the ICE, the prosecutors, and abusive employers.

¹ De Genova, 2005, p.229.

² De Genova, 2005, p.229.

If the government were a monolithic entity uniformly hostile toward the immigrants and if having recourse to the law were useless, then their small individual battles would be lost causes, and the telephone directory would undergo a severe procedure of liposuction.

As is obvious, when I present information about the opinions of Border Patrol officers or ex-officers, I depend exclusively on secondary sources. If I had had direct contact with those “on the other side,” there is no doubt that valuable elements would have been added to the analysis and these would have given more vitality to the exposition. But I do not believe that they would have persuaded me to make any substantial changes in my arguments. On the other hand, I regret that I did not interview any functionaries whose social work put them in contact with the undocumented. The section on street-level bureaucracy contains both intuition and concept, as Kant desired, and it also has the life that the migrants breathed into it in the interviews, but it is lacking the other perspective, which in this case would have been decisive. I became aware of these missing elements too late, only when I was reflecting on the interviews. But let the defect be taken as a benefit: having the Atlantic between us was an excellent disincentive, preventing me from adding interminable annexes to the fieldwork and enabling me to bring this work to a happy conclusion.

CHAPTER 1. POLITICAL ACTS AND THE POLITICS OF THE PEOPLE WITHOUT POLITICS

A tradition of thought that extends far, in both time and space, has placed ordinary persons on the fringes. The recovery for history and for political consideration of the everyday activities of common people has been a long, slow process, and it is still far from being a smooth, well-traveled road to political analysis. The activities of plain folk are the object of study, but with labels such as customs, moral codes, consumption, exchange, forced migration, street violence, superstition, or religious practice. Such labels set the activities apart from the political sphere, unless perhaps they are seen as the effects of other more important factors, or as purely dependent variables, or as activities whose effects are of interest to economists only because they can be distilled into an aggregate, measurable form. There is little comprehension of how those activities, despite their marked ambivalence, can harbor an emancipatory potential. For the longest time—and still, in the dominant worldview—those activities have not been considered as simply places where power is gestated, negotiated, and challenged. A cinematographic vision of politics has become commonplace: the plot is what is done by a few protagonists (practiced politicians, organized groups) while the masses are extras that are slaughtered in battle; they are in the background, the guests who are either boisterous or quiet but in either case indistinguishable; they are the passersby who hurriedly move about to give a realistic touch to the story but whose actions hardly ever affect the turn of events. This indifference to the world of the everyday, which in my view forms part of what Boaventura de Sousa Santos calls the waste of experience fostered by the hegemony of reason, results from a choice that is made on the basis of the (not always explicit) demarcations that define what is to be considered the object of political analysis and what is thought suitable for entering into history. These demarcations are:

- a) a hierarchical classification of the human faculties, a classification that feminists identify – according to Federici¹ – as a powerful instrument of domination that reinforces patriarchal power and consolidates the submission not only of women but of diverse other groups;
- b) the distribution of social labor on the basis of that categorization: there are three great fields—contemplation, action, labor—that have their proper specialists—intellectuals, politicians, workers—whence it is inferred that both thinking and properly political action

¹ Federici, 2009, p.15.

are beyond the competency of workers, or that, at best, workers can engage in them only in exceptional circumstances;

- c) the reduction of the sphere of politics to the public, as opposed to the private, realm—a reduction that has had the effect of restricting theoretical reflection on the emancipatory potential of the everyday (private) activities of the common people.

The actions of common people have been disqualified on the grounds of the three reductions: domestic tasks are private and inferior; they are nearly automatic acts, proper to persons removed from the world of politics and thought; in a word, determining the inscription on a gravestone is a pedestrian act without public repercussion. I will call the first a “verticalist” reduction, the second a “reduction into watertight compartments,” and the third a “dichotomous reduction.” The object of this chapter will be to analyze the roots and the mechanisms of these reductions and to propose their dismantlement.

With the attention being paid to the people’s habits, customs, and practices and with the attempts being made to impose a new order of day-to-day life (an area in which the Christian churches had abundant experience in the western hemisphere, exercising their dominion over the most recondite parts of the private sphere, such as sexual practices), there were unsystematic suspicions that the control and the direction of history were not being disputed solely on the fields of battle and in palace intrigues but also on marriage beds, in servants’ protocols, in clothing styles, and in eating habits—that is, in what the masses were doing every day.

1. The tradition of Western political thought and the people without politics

In a brief article written in 1890, Peter Kropotkin deplored the hierarchy that produces a division between manual labor and intellectual labor.¹ Arendt explores this theme in *Karl Marx and the Tradition of Western Political Thought*. Carrying her archeological research into the origins of Western political thought, Arendt found that “politics in the original Greek sense of the word began with the liberation from labor, and in spite of many variations [it] remained the same in this respect for nearly 3,000 years.” Slavery freed a certain group of men from the tedious task of earning their daily sustenance; it “was therefore not a part of Greek political life but the condition

¹ Kropotkin, 1890, pp.456-475.

of *politeuein*.”¹ The citizens could develop a political existence by virtue of their rule over the slaves, whom Aristotle classified as “live tools” and “live articles of property.”² Work was disdained as an activity “low in the scale of humanity”³ because physical labor was associated with a poor use of language; it was the labor of other gregarious animals who have no capacity for language, or else the labor of barbarians governed not by deliberations but by violence.⁴ Work was also associated with the lack of freedom of discourse (*parrhêsia*)⁵, a quality that slaves lacked but that made men into political animals who could express their ideas about what was good or bad, right or wrong.⁶ Merely being subjected to work was degrading “for the mechanic or artisan is under a sort of limited slavery.”⁷ Workers never managed “to escape the coercive necessities of biological life.”⁸

A reading of Aristotle shows us how highly esteemed was emancipation from those compelling needs. A person’s distance from the constraints of coercion was indicative of the stratum he occupied in the hierarchic scale of social differentiation established among the oligarchs. Among free men a distinction was made between slaves and those who were genuinely free, those “who did not need to work and did not depend on another person for their living but had the means to devote their lives to a ‘liberal education,’ ‘free occupations,’ politics, and service to the community.”⁹ For Aristotle the contemplative life was the most perfect life. The active life, which was inferior to the contemplative, consisted more in business and other affairs that had nothing to do with the peace and calm of understanding, or indeed with its independence, for “contemplative virtue would also seem to need little in the way of external equipment, or less than does moral virtue.”¹⁰ After all, just and generous persons need money to exercise their virtues, and brave persons need power. Activities dictate needs: “the greater and nobler the actions are, the more things would be needed.”¹¹ Contemplation has no need of things; it requires no equipment. Rather, things are an impediment. Through its independence of things, contemplation leads to happiness. Of course, the highest category of active life was the political

¹ Arendt, 2002, p.285.

² Aristotle, 1959, p.15.

³ Aristotle, 1959, p.9.

⁴ Arendt, 1961, p.23.

⁵ Raaflaub, 2004, p.43.

⁶ Aristotle, 1959, p.11.

⁷ Aristotle, 1959, p.65.

⁸ Arendt, 2002, p.303.

⁹ Raaflaub, 2004, p.42.

¹⁰ Aristotle, 2011, p.226.

¹¹ Aristotle, 2011, p.227.

life, intermediate between contemplation and work. Politics was considered more dignified than work because it was oriented to doing things that were ends in themselves, not to making things that had use value alone.¹ Greek thought, Arendt tells us, cast a curse on the sphere of private life, “whose ‘stupidity’ consisted in being exclusively dedicated to survival.”²

According to Arendt, the most serious problem was the abyss that immediately opened between thought and action and that has never since been closed.³ As a result, action “became meaningless, the realm of the accidental and haphazard upon which no great deeds any longer shed their immortal light.”⁴ In her view, the Roman experience gave the lie to this argument, but it did not prevail since Christianity adopted the Greek categories and hierarchies. Starting in the fourth century after Christ, free men dedicated themselves to the contemplation of eternal truths and the salvation of their souls. The Greek hierarchy had transcended the centuries and received strong backing from convention and the dominant ideology.

These distinctions and hierarchies reached the liberalism of the 19th century almost intact. We find them without substantial modifications in the three ways of life identified by Benjamin Constant: the common life which, with its common duties and pleasures, was a mirror of the active life; the intellectual life, corresponding to the contemplative life and to Aristotle’s *bios theoretikos*; and the combination of these two, uniting the disadvantages of each of them so that “the intellectual faculties turn into a dreaded light illuminating the plainness of common life, while the duties and concerns of common life weigh painfully on the intellectual faculties and suffocate them.”⁵

The French Revolution was the time when these and other counterpoised points of view were disputed—with words and muskets. “Universal” suffrage proved no hindrance for keeping access to formal politics limited. Citizens were classified into the two great categories adopted by the French National Assembly in 1789: passive citizens and active citizens. The former were excluded from the right to vote but not from the right to own property. My concern here is to stress that the French Revolution was a time of extreme tension and debate which brought the struggle for inclusion/exclusion not only into the courtroom but onto the barricades, and it was a struggle whose terms were not deducible from the tradition of Western political thought. The

¹ Aristotle, 1959, p.17.

² Arendt, 1995, p.55.

³ Arendt, 2002, p.297.

⁴ Arendt, 2002, p.297-298.

⁵ Constant, 2008, pp.93-94.

three restrictions that the Western tradition had imposed on politics were called into question: domestic work was not degrading and did not close the door to politics; politics was everybody's business; and the public/private dichotomy no longer allowed for compartments that restricted the sphere of politics. The debate about these restrictions, however, did not reach a consensus; it was a disputed terrain. It formed part of a debate in a moment of strong and lethal dissension, which is, as I will explain later, the essence of politics. There was no closed case then, as there was not in classical antiquity—and as there can never be if the topic is made political.

2. Marxism as rupture and return to the Western tradition: the entry into history of those without politics

When Napoleon with his cannons was fanning the winds of the French Revolution across most of Europe the politico-juridical conditions were created for the rupture of the restrictive aspect of Western tradition since it could not be harmonized with a world in which the working class could take part in politics without considerations of property or personal qualifications.¹ The industrial revolution had now created the material conditions. Marx grasped this development and did everything possible to deepen its radical aspects. According to Arendt, “the emancipation of labor, both as the glorification of the laboring activity and as the political equality of the working class, would not have been possible if the original meaning of politics—in which a political realm centered around labor would have been a contradiction in terms—had not been lost.”² Marx detected that the conditions had been created that made feasible the emancipation of the working class, and that realization distinguished him from the socialists he criticized as utopian. According to Arendt, the principal defect of the utopian current was not its lack of scientific method, as Marx believed, but “its assumption that the laboring class was an underprivileged group.”³ Marx did not view workers as helpless. He fiercely attacked Max Stirner for identifying the proletariat with impoverishment.⁴ He was firmly convinced that human labor had undergone a decisive change: it was not only the source of wealth but the destiny of all human beings since everyone who wished to avoid being judged a mere parasite was destined to become a worker, regardless of their class of origin.⁵ The most original and anti-traditional facet of Marxism was his

¹ Arendt, 1961, p.18.

² Arendt, 2002, p.286.

³ Arendt, 2002, p.278.

⁴ Marx, Karl and Frederick Engels, 1975, p.202.

⁵ Arendt, 2002, p.279.

praise of labor and his reinterpretation of the role that was played—in act and not just in potency—by a social group that was proverbially despised by the tradition of Western thought: the workers.¹

The most radical consequence of this revolutionary position with regard to work, and the consequence that reveals the true extent to which Marx wanted to deepen this advance and dismantle the tradition, is the reasoning with which he invalidated the three restrictions of the political sphere with regard to labor: labor is not an inferior activity, labor does not disqualify a person from involvement in politics because there is no specialization in politics, and labor is not confined to the private sphere. This was how Arendt expressed it: “It was not the political emancipation of the working class, the equality for all that for the first time in history included menial workers, that was decisive, but rather the consequence that from now on labor as a human activity no longer belonged to the strictly private realm of life: it became a public political fact of the first order. By this I do not refer to the economic sphere of life; this sphere as a whole always was a matter of public concern. But this sphere is only to a very small extent the sphere of labor.”² Nothing qualified a person for politics more than labor. The future belonged to human beings in their role as animals who labor³—and by “future” is meant the protagonism between history and politics.

Marx and Engels found a new formulation for the abyss which, according to Arendt, opens up between thought and action. They attributed the abyss to the impoverishment of knowledge and the falsification of consciousness and political action. They held that the division in labor reached its clearest and most complete manifestation in the separation of physical from intellectual labor.⁴ The tradition of Western thought deriving from Plato and Aristotle experienced a shocking reversal when Marx reassessed ordinary day-to-day affairs and made Queen Philosophy a handmaid of a reinstated Cinderella: “The end came with Marx's declaration that philosophy and its truth are located not outside the affairs of men and their common world but precisely in them, and can be ‘realized’ only in the sphere of living together”.⁵

For Marx the world of labor was at the heart of the processes of social change, and class struggle was the engine of history. It is for this reason that Arendt, who considered Marx “the

¹ Arendt, 1995, p.92.

² Arendt, 2002, p.284.

³ Arendt, 2002, p.310.

⁴ Marx and Engels, 1975, p.45.

⁵ Arendt, 1961, p.17.

greatest of the labor philosophers,”¹ asserts that he inverted the traditional hierarchy that placed the *vita contemplativa* above the *vita activa* when he wrote about “elevating action above contemplation” and about “changing the world instead of just interpreting it.”²

The novelty of Marx was his discovery of the political protagonism exercised by the proletariat within the sphere of production rather than in conventional politics, and he discovered this by treating systematically the same materials and intuitions that others also had at their disposal. Marx did not create the concept of social classes or that of the proletariat. The superiority, if one can speak of it as such, is the superiority that derives from a group’s protagonism in social changes. It does not refer to the consciousness of the proletariat or to the qualities of the individuals who make up that variegated group; it refers rather to their position in the productive process (and it must be added: in the circuits of consumption, to which Marx did not pay enough attention even though the French Revolution featured countless confrontations between consumers and speculators).³

Marx should not be accused of having inverted the hierarchy by exaggerating the role of the proletariat: “When socialist writers ascribe this world-historic role to the proletariat, it is not at all, as Critical Criticism pretends to believe, because they regard the proletarians as gods. Rather the contrary.”⁴ It was because they were so immersed in the task of satisfying their basic needs. Marx stressed instead that the inversion he proposed was based on the proletariat’s productive role and its position in the world of labor: “Not in vain does it go through the stern but steeling school of labour. ... It is a question of what the proletariat is, and what, in accordance with this being, it will historically be compelled to do. Its aim and historical action is visibly and irrevocably foreshadowed in its own life situation as well as in the whole organisation of bourgeois society today.”⁵

In some aspects relative to political reflection, Marx’s rupture was wasted. By saying it was wasted, I am not referring to insufficient exploration and exploitation of the new vein for political thought, namely, what dominated groups do on a day-to-day basis, given their position as a social group, to subvert the established order or to reinforce it. It was an opportunity lost partly because of the failure of Marxists to perceive the nature of the tradition with which Marx had broken and

¹ Arendt, 1987, p.31.

² Arendt, 1995, pp.66-67.

³ McPhee, 2012, p.73.

⁴ Marx, Karl and Frederick Engels, 1975, p.36.

⁵ Marx, Karl and Frederick Engels, 1975, p.37.

so to understand the implications of that rupture, and partly because of certain lacunae and twists in Marxist thought itself. Marx did not penetrate sufficiently into the cultural aspects of labor and the fascinating world of consumption; these would have opened up for him revealing vistas of how the popular sectors used those platforms of domination and resistance. More serious still was Marx's yielding to what we now, with hindsight, can consider a classical temptation of technocrats and political leaders: making concrete individuals responsible for achieving the great ends of humanity, as if they were the "final product of a manufacturing process, in the same way that a table is clearly the final product of the activities of a carpenter."¹ People can more or less successfully plan some of their goals, but they cannot "produce" their destiny.

Marx sacrificed his great discovery—the force for change and the power relations exercised by workers because of their place in the productive structure—to his vision of history, which required a visualizable goal and some visionary messiahs. This happened because Marx was able to challenge the tradition, but he could not do so in terms that were radically different from those provided by the tradition. That task was left for other thinkers who penetrated further—and in different directions—the breach that Marx had opened up.

The Marxist legacy of rupture with tradition was not taken up straight away within the ranks of Marxism. Giving continuity to the rupture required waiting for historians with the stature and originality of Eric J. Hobsbawm and E.P. Thompson. In a wave of revised ideas about the role of the pariahs in history, Hobsbawm performed a tremendous feat by showing that the efforts of the Luddites was not as destructive, irrational, or ineffective as historians had thought until then.² What interests me most about this discovery of the entry of the pariahs into history is the emergence of a new way of viewing politics, another form of conceiving what is threatening and what constitutes subversion against power.

3. Concepts for broadening the notion of political actions and political actors

As the political scientist Guillermo O'Donnell observes, political analyses are generally focused on "questions referring to institutions, the Congress, political parties, elections, and public opinion."³ Such depoliticized analyses prescind from power and evince an "empiricism that is sophisticated

¹ Arendt, 1995, p.61.

² Hobsbawm, 1984, pp.7-26.

³ O'Donnell, 2010, p.74.

but quite hollow and ultimately conservative with respect the idea of imposing limits.”¹ Unfortunately these studies, which are the “principal or dominant currents of contemporary political science,” demonize or ignore the state or reduce it to a monolithic, bureaucratic apparatus. No mention is made of the broader complex of relations, the short-term or long-term exogenous factors, the state’s legal dimension and its co-constitution by diverse relations of power, or the actions of ordinary people who are endowed with rights and freedoms.² This last-mentioned dimension of politics is extremely important because “the micro-foundation of democracy is the citizens and not simply the voters,” as a more conventional view of politics would have it.³ Concentrating on the diverse interests of citizens, those beyond the narrow formalities of representative democracy, means working on “the dynamic frontiers of politics.”⁴ O’Donnell attributes the impoverishment of political analysis to the imposition of rigid limits on the ambit of politics. He maintains that “there is not and there will never be an a priori agreement or a final, decisive agreement about where such limits should be placed. On the contrary, the central focus of political struggle is where those limits are situated, how they advance, and how they often recede.”⁵ Political struggle consists partly in challenging the borders of what is considered political, and only a very conventional vision will reduce the sphere of politics with its actors and actions. For O’Donnell there is no definitive border: “I believe that this uncertainty inherent to democracy, this dynamic of its borders, this permanent contest to see how far the borders can be stretched, unsettles and angers certain simplistic mentalities that want to resolve the problem with some a priori equation that gives a definitive answer to these uncertainties.”⁶

French philosopher Jacques Rancière understood this and explained it clearly, going even further than O’Donnell in identifying the struggles for the limits of politics with the struggles for political inclusion/exclusion: “Tracing a line between a political sphere of citizenship and a social sphere ruled by private arrangements also means deciding who is able and who unable to address public affairs.”⁷ To show how decisive the dividing line is, Rancière has recourse to the same example O’Donnell used: the prolonged prohibition of labor unions on the grounds that politics should not reach that point because “the labor contract was considered a free and private

¹ O’Donnell, 2010, p.82.

² O’Donnell, 2010, pp.75-76.

³ O’Donnell, 2010, p.78.

⁴ O’Donnell, 2010, p.79.

⁵ O’Donnell, 2010, p.80.

⁶ O’Donnell, 2010, p.83.

⁷ Rancière, 2010, p.58.

agreement between free worker and capitalist and therefore belonged to the sacrosanct realm of the private, into which the politics of the state had no reason to enter.”¹ The restriction of the world of labor to the private realm and its exclusion from politics had its source, as we saw, in the Greek tradition and was rationalized by Aristotle.

Much time was needed to break down the frontiers of politics and to reach the point where the struggle of labor unions was considered an explicitly political matter. Something similar is happening now with regard to gender relations. In the case of labor struggles we are dealing with a realm that Marx had already shown to be the scene of political struggle and the object of analysis that was not satisfied with epiphenomena. I am going to call that realm the “world of labor,” a term I take from historian Eric J. Hobsbawm in order to keep my distance from the economism of orthodox Marxism. Accordingly, I do not speak of the economy and the mode of production as determining factors, and I avoid the fatalism and defeatism of those who treat the theme of production only for the sake of revealing the abuses committed by capital against the laboring masses. Hobsbawm does not give a precise definition to the “world of labor,” but the variegated content of the themes included under this umbrella gives some idea of its complexity and of the many angles from which it is possible to treat the relations of workers among themselves, with capital, and with the state. These include the enormous variety of the traits and interests of the diverse groups that make up the world of labor, the formation of class consciousness, the role of religious beliefs in labor dimensions, the rituals of work, the peculiar idiosyncrasy of each trade as an element explaining the forms it adopts, the resources employed by each labor group in its political activity, the pressures of the labor market, etc.² By displaying this broad spectrum that includes many cultural elements, Hobsbawm demonstrates to us the benefits of expanding the borders of political struggle so as to include the world of work.

This form of understanding politics and its dynamic borders is especially important in the case of undocumented immigrants, whose ordinary activities appear to take place outside of politics but whose condition of being included/excluded places them at the heart of the political sphere. Rancière called the immigrant “the newcomer, whose inclusion defines the horizon of a 'democracy to come'.”³ Rancière agrees with Arendt’s thesis that politics deals with inclusion and that, therefore, situations where the tensions of exclusion/inclusion come into play, as is the case with migrations, are clearly political matters: “Politics exists when the natural order of domination

¹ O’Donnell, 2010, p.79.

² Hobsbawm, 1984.

³ Rancière, 2010, p.53.

is interrupted by the institution of a part of those who have no part.”¹ I believe that undocumented migrants carry this political dynamic to an extreme because, besides being newcomers, they are considered illegal by the state and even suffer persecution. Moreover, they arouse a series of reactions in the receiving societies which expose shared and unshared values; they give rise to the most profound kinds of consensus and dissension.

But there is still another reason. Rancière claims that democracy raises a fundamental political question, “that of the competence of the ‘incompetent’, of the capacity of anybody at all to judge the relations between individuals and the collectivity, present and future.”² What happens, he asks, when everyone can pass judgment and express himself about what is good and bad, correct and incorrect? Considered from the perspective of political and juridical qualifications, no one is more incompetent than the undocumented with regard to having a say about the administration of collective affairs. They can claim neither birth nor wealth, not even a document that certifies their recognition by the state. Nevertheless, every day by their very presence they are passing judgment about their inclusion. That is why their actions—and the reactions they provoke—are a privileged vantage point for understanding how politics and democracy function. By their activities and the diverse forms in which their judgments are expressed, they take part in a struggle in which they obtain what they exercise because a key aspect of political struggle is the recognition of who has the right to speak and the extent to which they exercise it. For that reason it is important to know not only what forms of speech are legitimized as political speech, but also what times and spaces are appropriate for speaking, painting, singing, or acting out those forms of speech. Arendt held that the possibility of exercising speech is at the heart of political activity.³ The denial of people’s right to express their own opinions has the effect of depoliticizing subjects. The forms speech can take are quite varied. Those who are dominated, as well as those who dominate them, can utter speech in various forms: clear, occult, satirical, comical, and theatrical. All forms offer opportunities for negotiating, for expounding their own worldview, and for challenging hegemony.

¹ Rancière, 1999, pp.11-12.

² Rancière, 2014, pos.62.

³ Arendt, 1964, p.296.

3.1 Foucault: the courage to be a parrhesiast

Foucault has rescued and restored the concept of parrhesia (fearless speech), which was quite current in the cultured world of ancient Greece from the fifth century B.C. onward.¹ Euripides coined the neologism in the tragedy “The Phoenician Women,” in which Jocasta and Polyneices discourse about the political conditions of exile: “Jocasta: What is an exile’s life? Is it great misery?/(...) Polyneices: The worst is this: right of free speech does not exist./Jocasta: That’s a slave’s life—to be forbidden to speak one’s mind.”²

The absence of parrhesia, “free speech,” is due to the fact that those who find themselves in a political entity of which they are not citizens are deprived of their rights and so cannot participate in the political arena or put any limits on power. Having or lacking parrhesia was a consequence of political status. By that measure, foreigners were on the same plane as slaves: they could not oppose the power of the rulers.³ Parrhesia was an essential characteristic of Athenian democracy, constituting a right and an ethical attitude of citizens. The agora was the place for exercising parrhesia in a democracy, and the court was the place for exercising it in a monarchy.⁴

Foucault’s reflections on parrhesia provide good support for a broadening of the political sphere because they describe well the many risks and challenges involved in having something to say about power and discovering that such speech can be enunciated by very diverse means. For Foucault the essence of parrhesia is speaking frankly, without adulation, without concern for the rules and ornaments of rhetoric, and without the rules of philosophical demonstration. Unlike the rhetoricians, the parrhesiast believes in what he says and says only what he believes.⁵ The parrhesiast “is opposed also to demonstration, to the rigor of proofs.”⁶

Foucault emphasizes that the Cynics practiced parrhesia by their lives and by their dramatic gestures, an example of which was Peregrinus who, to show his indifference to death, committed suicide by setting himself on fire immediately after the Olympic games in the year 167 A.D.⁷ The specific aim of the Cynical philosophers’ parrhesia was “to proclaim the truths they

¹ Foucault, 2001, p.11.

² Foucault, 2015, pp. 219-253, p.225.

³ Foucault, 2001, p.29.

⁴ Foucault, 2001, pp.22-23.

⁵ Foucault, 2011, pp.10 and 13.

⁶ Foucault, 2015, p.238.

⁷ Foucault, 2001, p.116.

accepted in a manner that would be accessible to everyone; they thought that their teachings had to consist in a very public, visible, spectacular, provocative, and sometimes scandalous way of life.”¹ Their practice was the discourse and technique of communication. Their life was their means for expressing their opinions about matters that affected the community. Their life was their politics. This is Bayat’s view, as we will see. That is why Foucault maintains that “cynicism appears as this way of manifesting the truth, of practicing alethurgy, the production of truth in the form of life.”² The point here is that the procedures for telling the truth are multiple. Foucault’s theories are the basis for an epistemological structure that makes use of the diverse ways in which the dominated speak their truth; this is a structure that has been developed by Scott. As we will see, Scott agrees with Foucault in identifying verbal and non-verbal procedures of alethurgy, but he also includes hidden procedures, which Foucault considers opposed to parrhesia. Hidden discourse and its relation with public discourse are important for understanding the political participation of the dominated.

3.2 Scott: the weapons of the weak, the infrapolitics of hidden transcripts

Anthropologist James C. Scott starts off from the fact “that most subordinate classes throughout most of history have rarely been afforded the luxury of open, organized, political activity.”³ Open rebellions, which usually have a high cost in the lives of workers and peasants, are short-lived . Most of the time the struggle against the system is carried on using little known paths that traverse the terrain of infrapolitics, which “is essentially the strategic form that the resistance of subjects must assume under conditions of great peril.”⁴ Scott also defines infrapolitics as the “insubordination of the powerless”⁵ that encompasses a “wide variety of low-profile forms of resistance that dare not speak in their own name.”⁶ Infrapolitics is quite elusive because it “is the silent partner of a loud form of public resistance.”⁷ It is therefore very difficult to determine where submission ends and resistance begins, “as the circumstances lead many of the poor to clothe

¹ Foucault, 2001, p.117.

² Foucault, 2011, p.218.

³ Scott, 1985, p.XV.

⁴ Scott, 1990, p.199.

⁵ Scott, 1990, p.XIII.

⁶ Scott, 1990, p.19.

⁷ Scott, 1990, p.199.

their resistance in the public language of conformity.”¹ Since infrapolitics includes a large part of the cultural and structural support for the most visible political actions on which our attention is focused,² studying it will help us to move beyond epiphenomena and to glimpse as well the more open and belligerent rebellions of the future.³ Researchers who fail to observe carefully what is happening here or who lack appropriate conceptual instruments will run the risk of inferring that the dominated are a political nonentity. This is the position of those who let the experience of everyday rebellion go to waste. Countering this wastefulness, Scott prefers to dedicate his study to “the prosaic but constant struggle between the peasantry and those who seek to extract labor, food, taxes, rents, and interest from them.”⁴ Their regular weapons are “foot dragging, dissimulation, desertion, false compliance, pilfering, feigned ignorance, slander, arson, sabotage, and so on.”⁵ Some of these forms have been frequently used by the lumpen-proletariat that Marx despised. Such methods of struggle require little or no coordination; they rely on implicit understandings and informal networks; they often take the form of individual self-help and avoid direct confrontation with authority.

As an example of earlier interest in these forms of struggle, Scott cites the focus on the millenarian movements, whose defiant character is recognized by Marc Bloch. Such forms of resistance are not like those waged against slavery by great heroes like Nat Turner or John Brown. They do not appear in the headlines of newspapers. Rather, they are like the millions of polyps that create a coral reef: “the multiple acts of peasant insubordination and evasion create political and economic barrier reefs of their own.”⁶ Their activity is rhizomic, similar to the activity that Castells describes in the social movements that make use of communications media as tools.⁷ Perhaps the internet has accelerated and made more evident to middle-class social strata various forms of rebellion that formerly relied on more rudimentary and less visible devices. Old-fashioned rumors and scandalous gossip nowadays parade around as Tweets.

For Scott class resistance “includes any act(s) by member(s) of a subordinate class that is or are intended either to mitigate or deny claims (for example, rents, taxes, prestige) made on that class by superordinate classes (for example, landlords, large farmers, the state) or to advance its

¹ Scott, 1985, p.289.

² Scott, 1990, p.184.

³ Scott, 1990, p.19.

⁴ Scott, 1985, p.XVI.

⁵ Scott, 1985, p.XVI.

⁶ Scott, 1985, p.XVII.

⁷ Castells, 2012, p.140.

own claims (for example, work, land, charity, respect) vis-a-vis those superordinate classes.”¹ He considers this definition to have the advantage of focusing on the intentions of the dominated and not on their achievements. He finds, however, that discerning a clear and consistent intention is complicated by the fact that a theft, a work slowdown, or a desertion from an army led by a despot can have immediate benefits that sully the purity of intention required of rebels. What is worse, even the fall of the czarist regime—the result not of dubious everyday resistance but of a famous revolution waged by identifiable protagonists—could be devalued since it resulted from massive desertions from the army. That is why Scott states: “there is no necessary relationship between the banality of the act of self-preservation and of family obligations, on the one hand, and the banality of the consequences of such acts, on the other.”² Therefore, “to ignore the self-interested element in peasant resistance is to ignore the determinate context not only of peasant politics, but of most lower-class politics.

It is precisely the fusion of self-interest and resistance that is the vital force animating the resistance of peasants and proletarians.”³ Nevertheless, Scott also considers the consequences to be problematic: strikes called to increase wages can bring about job-eliminating mechanization, revolutions can lead to dictatorships, etc.⁴ Intentions and results can serve the purpose of comparative analysis but not as criteria for determining what constitutes resistance. The principal criterion is that these are not rare and isolated acts but fit within a consistent pattern in which personal need and defiance of the system are intertwined: “The intrinsic nature and, in one sense, the ‘beauty’ of much peasant resistance is that it often confers immediate and concrete advantages, while at the same time denying resources to the appropriating classes, and that it requires little or no manifest organization. The stubbornness and force of such resistance flow directly from the fact that it is so firmly rooted in the shared material struggle experienced by a class.”⁵

As we have seen, one of the principal weapons of the weak is their discourse, but it is discourse that rarely allows itself to be openly insubordinate. Rather, it seeks ways to disguise itself so as to avoid penalization by the dominators. Scott speaks of public and hidden transcripts. The former are destined for onstage performance while the latter are recited backstage or

¹ Scott, 1985, p.290.

² Scott, 1985, p.294.

³ Scott, 1985, p.295.

⁴ Scott, 1985, p.295.

⁵ Scott, 1985, p.296.

become public only in cryptic form. Every subordinate group has a hidden discourse that contains a critique of power which it speaks behind the backs of the dominators, but it also possesses a public discourse that expresses submission. The impact of power can be observed on a daily basis in acts and discourses that show deference, express subordination, and seek to gratify the powerful.¹

The hidden transcripts are a constellation of discourses that put us on the track of social changes. I am interested in them not only for their hidden character but as a form of infrapolitics, that realm where everyday resistance gets expressed in ways that are not usually considered political. Such expressions of resistance do not always pretend to be such; they are uttered in everyday life, in spheres that are apparently non-public and not explicitly political. In this sense Scott supersedes the restrictions imposed by the tradition of Western thought on the political realm. Although Scott does not trace the history of the long tradition from which he is breaking, he has the advantage of being the first to mention explicitly his interest in exploring the infrapolitical realm.

3.3 Bayat: the silent encroachment of non-movements yields “life as politics”

Bayat advances the expansion of the scope of political action in four basic aspects. First, he makes explicit a broader conception of politics, as expressed in the title of his major work, *Life as Politics*. Politics consists of the daily acts of survival in the world of labor (migrants who work without authorization), in the world of consumption (squatters who appropriate lots and connect to the electrical system illegally), and in the gender struggles (Muslim women who do not dress as the imams prescribe). Without dealing with political action in the relations of production, Bayat carries the break with tradition to the point of reconsidering the broadening of politics. Both Bayat and Scott raise to the condition of political act the actions performed by persons “driven by the force of necessity,”² that is, the actions that Aristotle had located on the level nearest to pure animality. While Scott speaks of acts done out of self-interest, Bayat claims that “these actors carry out their activities not as deliberate political acts; rather, they are driven by the force of necessity—the necessity to survive and improve life. (...) Yet these very simple and seemingly mundane practices tend to shift them into the realm of contentious politics.”³

¹ Scott, 1990, p.28.

² Bayat, 2010, p.58.

³ Bayat, 2010, p.58.

Second, Bayat establishes as political subjects the non-movements, which he defines as “collective actions of non-collective actors; they embody shared practices of large numbers of ordinary people whose fragmented but similar activities trigger much social change.”¹ The inclusion of the noun “movements” indicates that non-movements are embarked on social change, but unlike what happens in social movements, the individuals who “participate” in non-movements do not need to reach agreement or be guided by a program or an ideology. They are more flexible and fluid and produce their individual strategies.² They do not lobby or publish flyers. Their main instrument is the “art of presence,” which presupposes prolonged actions.³ Non-movements do not engage in a politics of protest but in a politics of practice. Their power rests on their great numbers because a practice becomes normalized and acquires legitimacy when many individuals do it, even if in an atomized way. The sum total of these oft-repeated acts creates spaces for cultivating, consolidating, and reproducing counter-power.⁴ The numerical force in repeatedly performing the same action has an impact in itself; it operates without symbolic intermediations “through direct actions in the very zones of exclusion.”⁵ Bayat is more optimistic than Foucault: once inserted in the mass of a non-movement, the individual achieves freedom of speech; in other words, the parrhesiastic subject is the mass itself, that political non-actor disdained by tradition and its aristocratic minions.

Third, the street emerges as a metaphor for the descent of politics to the domain of the masses; it becomes the locus of politics. Bayat insists that the street is a privileged—and politicized—place for expressing discontent. Public spaces are used not only passively but actively in a manifestation of what Bayat calls “street politics,” the alternative for those who lack institutional channels for communicating and making themselves heard.⁶ By street politics Bayat means “a set of conflicts and the attendant implications between a collective populace and the authorities, which are shaped and expressed episodically in the physical and social space of the ‘streets’, from alleyways to the more visible street sidewalks, public parks, and public sport facilities.”⁷ We could say that parrhesiastic practice is made possible by the selection and appropriation of strategic venues. The street is the agora where the pariahs can have their say or,

¹ Bayat, 2010, p.14.

² Bayat, 2010, p.16.

³ Bayat, 2010, pp.26 and 45.

⁴ Bayat, 2010, p.20-21.

⁵ Bayat, 2010, p.5.

⁶ Bayat, 2010, p.11.

⁷ Bayat, 2010, p.62.

as in the case of the sidewalk vendors whom Bayat uses as an example, secure immediate improvement in their living conditions.

Fourth, the direct action of the masses, their quiet encroachment, gets direct results instead of just making symbolic gestures of defiance. Quiet encroachment “describes the silent, protracted, but pervasive advancement of the ordinary people on the propertied, the powerful, or the public, in order to survive and improve their lives.”¹ Like Scott, Bayat thinks that such action of the dominateds can subvert the dominant ideology that renders them second-class citizens.² But he is more optimistic than Scott for he insists that non-movements succeed in determining the destiny of the dominated, improving their living conditions, and transforming cities.³ The poor provide for themselves what the state denies them: “in non-movements actors directly practice what they claim, despite government sanctions.”⁴ Separate individual actions obtain immediate benefits. At the same time, the impact of such actions transcends their practical, immediate, individual nature and makes itself felt in the social order: the more women project themselves in public spaces, the more besieged will be the patriarchal bastions; the more squatters invade urban premises, the less control the elites will have in the governance of cities. That powerful dynamic surpasses the sum of individual acts.⁵ Non-movements can reduce the state’s ability to govern by disregarding the instruments that the state employs: norms, rules, institutions, and relations of power.⁶ However, these achievements do not in themselves guarantee social transformation. Here Bayat takes a turn toward conventional politics, stating that only “the larger national movements have the capacity for such a transformation.”⁷

Although I think Scott has until now offered the most complete framework for orienting our incursions into the diffuse field of infrapolitics, I believe that Bayat makes substantial contributions to a more inclusive analysis of a politics of action (quiet encroachment), of actors (non-movements), of methods of struggle (art of presence), and of spaces (street politics). These conceptual tools allow us to get a better grasp of the silent advance of social changes.

3.4 Thompson: the theater of the gentry and the plebeian counter-theater

¹ Bayat, 2010, p.56.

² Bayat, 2010, pp.25-26.

³ Bayat, 2010, p.15.

⁴ Bayat, 2010, p.20.

⁵ Bayat, 2010, pp.20-21.

⁶ Bayat, 2010, pp.24-25.

⁷ Bayat, 2010, p.64.

The works of Thompson and Bajtin can be considered to be, *avant la lettre*, essential contributions to this exploration of the diverse manifestations of infrapolitics. They advanced two forms of parrhesia, theater and folklore, whose political character remained invisible. Their exceptional richness attained the utopia that Hobsbawm longed for: “to produce the historical equivalent of those Picasso portraits which are simultaneously displayed full-face and in profile.”¹ I will not do justice to these riches here since I will limit myself to reviewing succinctly those ideas of theirs that complement the analytical framework of Scott. Thompson deepened the Marxist rupture with tradition by separating himself from prevailing Marxist thought. With his thesis that there is class struggle even when no class exists,² he undertook a heterodox return to the Marxist thesis regarding the power of the proletariat by reason of its position in the system of productive relations, but he complemented it by paying unusual attention to the cultural elements—the great silence of Marx, Thompson thought³—which showed traces of the ideological battles. The premise of his approach was that it is not possible to consider relations of power and strategies of social change while abstracting from culture.⁴

Thompson revealed that many struggles of the industrial revolution were waged as much about customs as about wages and working conditions, for “in the eighteenth century custom was the rhetoric of legitimation for almost any usage, practice, or demanded right.”⁵ When the culture of the dominated was rendered opaque to the prying eyes of the upper classes, the customs also became less visible; they formed part of the hidden manuscripts, and appeal was made to them only furtively, by acts that reinstated the custom or penalized its violation. Thompson thus broadened the conception of political action so that it included all acts of resistance to the order imposed by capitalism, including acts that demonstrated moral conscience and creative imagination.⁶

Such acts included “theater,” a notion that Thompson developed in *Customs in Common*. Theater served as an instrument of political control because “much in the political life of contemporary societies can be understood only as a contest for symbolic authority.”⁷ The effort to control draws on theatrical expression in order to regain dominion over minds: “Such hegemony

¹ Hobsbawm, 1971, p.32.

² Thompson, 1978, pp. 133-165.

³ Mattelard, 2004, p.40.

⁴ Mattelard and Neveu, 2004, p.38.

⁵ Thompson, 1993, p.6.

⁶ Mattelard and Neveu, 2004, pp.41-42.

⁷ Thompson, 1993, p.74.

can be sustained by the rulers only by the constant exercise of skill, of theater and of concession.”¹ The most dramatic settings for this type of theater were the 18th-century gallows and other sites where criminals were subject to public punishment and even execution—but not all criminals, only those whose punishment could be used to exemplary effect. According to Thompson, the terrorizing effect that theater had on class control depended on local advertising, which was provided by the crowd’s witnessing of the procession to the gallows, the subsequent gossip in market and workplace, and the sale of leaflets with the victim’s “last words before dying.”²

Thompson uses the concept of “theater” to examine the forms of political control employed by the dominant class in the 18th century, but he warns that “theater is an essential component both for political control and for protest, including rebellion.”³ The dominated also responded with theatrical political actions. One counter-theatrical action of the poor consisted in having letters published in the newspapers. Shielded by anonymity, in a sort of braid woven of hidden/public transcripts, the working class issued warnings, made plain their discontent, and reminded high officials of their obligations.⁴ No sooner would the powerful assert their hegemony with their calculated theatrical style than the dominated would establish their own presence on the stage through threats and acts of sedition: burning of effigies, hanging of boots in the gallows, illumination of windows (or breaking of those not illuminated), ballads with political double entendres, and other acts—part satire, part threat—replete with ritual significance. In the streets the people made known their approval or repudiation of officials, of laws, and of judicial verdicts. Using the cover of the anonymous masses, they could declare their opinions publicly in the streets and thus avoid the repression reserved for organized movements. With such a shield they could destroy machines, damage mills, and intimidate employers and contractors.⁵ These acts of sabotage, like those mentioned by Scott as an example of the weapons of the weak, were effective because of their theatrical effect.

4. Civil disobedience as everyday politics and ideal type of expressing the struggles for inclusion

¹ Thompson, 1993, p.86.

² Thompson, 2000, p.28.

³ Thompson, 2000, p.26.

⁴ Thompson, 1974, pp.399-400.

⁵ Thompson, 1974, pp.400-401.

The concepts of Scott, Bayat, and Thompson, as well as the prisms of Marx and Hobsbawm, are useful tools for rescuing the political experience of the dominated from the trashcan to which they are consigned by a restricted conception of political actors and actions. Those concepts and prisms are inadequate, however, because they were conceived in geographical and historical contexts very different those in which the Central American migration is taking place. Their potential for rescuing the political speech of these actors can be exploited best if they are made concrete by focusing on the chronotope.

4.1 Why civil disobedience?

I chose civil disobedience for several reasons. The first has to do with the need to provide a category that is sociological and political but at the same time susceptible to a connection with juridical logic. Until now the juridical treatment of the cases of immigrants who violate U.S. laws has been decisive, but it unfortunately has had an individual focus. It does not matter whether the migrants are seeking family reunification, improvement of living conditions, or safe refuge from violence—or even all three. In the courts their cases are examined with some attention to context but with absolutely no consideration—despite its collective character—of the trait that is shared by millions and the very one that put them on the dock of an immigration court: the fact that they entered illegally and stayed without authorization. Juridical logic refuses to recognize their spontaneous membership in a group, preferring to see each case as an individual transgression. Such treatment has historically constituted a warrant for giving legal recognition to civil disobedience.

When viewed as acts of civil disobedience, we can group together these spontaneous, atomized behaviors, as Bayat did with his non-movements, under a juridico-political label that defines the type of struggle by the insertion that unifies them. And it unifies them to the point where they appear to be operating with a common objective.

My second reason for focusing on civil disobedience relates to the role it has played in the United States whenever legal dilemmas produced a political split: the Northerners who defied the Fugitive Slave Act by creating an elaborate logistical infrastructure to help fleeing slaves, the persistent refusal of Jehovah's Witnesses to salute the flag, the struggle for civil rights, and the protests against the U.S military intervention in Vietnam.¹ If we include the Boston Tea Party (the

¹ Dworkin, 1985, p.104.

original one), we find that disobedience was one of the founding acts of the republic. In the United States civil disobedience has been a mechanism for expressing dissent which, according to Rancière, is active at the core of politics and negotiation to produce a new balance of power. Although its validity is still debated—and nothing is better than debate to make clear its political value—civil disobedience has been a privileged locus of politics in the United States. Considering the place that the tradition has won in political life, Dworkin in the mid-’80s argued “that Americans accept civil disobedience as a legitimate if informal place in the political culture of their community.”¹ Arendt had gone further years earlier when she stated that “although the phenomenon of civil disobedience is today a world-wide phenomenon and even though it has attracted the interest of jurisprudence and political science only recently in the United States, it still is primarily American in origin and substance; no other country, and no other language, has even a word for it; and that the American republic is the only government having at least a chance to cope with it—not, perhaps, in accordance with the statutes, but in accordance with the *spirit* of its laws.”² In summary, civil disobedience in the United States has developed a reputation as a political tradition which makes it a form of struggle—sometimes exceptional, sometimes ordinary—especially suited to demonstrating political behaviors. In American society it serves to frame “life in politics” so as to make its political aspect more evident.

I have a third reason that complements the preceding one: civil disobedience is an expression of dissent about who should be included in the great national community. Disobedience has historically been a mechanism for expressing dissent about exclusion and for gaining the inclusion of those who have been left out. This is the case with migrants who enter and who remain without authorization. The undocumented are striving day by day to be recognized as members of the national community of the United States. They are the largest group seeking inclusion, and they have the potential for stymieing the political possibilities of the two major political parties. Civil disobedience has been the form of struggle used by African Americans, women, and gays and lesbians to achieve all the rights that belong to truly included members of a society. Kevin R. Johnson’s summary historical review makes it clear that the exclusion and deportation of racial minorities, political undesirables, poor people, delinquents, lesbians and gays—as well as the marginalization of women under the Immigration and Nationality Laws—do not correspond to the verses of Emma Lazarus’ poem, “The New Colossus,” that are inscribed at

¹ Dworkin, 1985, p.105.

² Arendt, 1972, p.83.

the foot of the Statue of Liberty: "Give me your tired, your poor, / Your huddled masses yearning to breathe free." But it is no less true, as Johnson also states, that such treatment is inextricably linked to the efforts of domestic minorities "to remove the racism, political censorship, classism, sexism, and homophobia from the U.S. immigration laws."¹ Civil disobedience has been an important resource of these groups for securing civil rights and full membership in U.S. society. It has also been a mnemonic for making society aware of who exercises real sovereignty and whom the state must include in order to embody a genuinely representative collective will. The excluded sectors that make use of civil disobedience are in the same position with respect to the state as the undocumented are, and that is what creates politics according to Rancière: "It is this exclusion of what 'is not' that constitutes the police-principle at the core of statist practices. The essence of politics consists in disturbing this arrangement by supplementing it with a part of those without part, identified with the whole of the community. Political dispute is that which brings politics into being by separating it from the police, which causes it to disappear continually either by purely and simply denying it or by claiming political logic as its own.

4.2 Civil disobedience as an ideal type

I use the concept of civil disobedience in the same way that Bauman and Arendt use the concept of republic: as a concept that denotes an ideal horizon and at the same time as a phenomenon that has had historical embodiments. Those embodiments have been and are so diverse that, as we will see in the next chapter, they do not always appear to have come out of the same mold. The conceptual form I will use corresponds to the function of the ideal types of Weber. They are ideal images of an event. Weber knew that the basic principles of an exchange economy, such as free competition and rigorously rational behavior, help us to think in terms of a consistent system, though this is simply a construct, a sort of utopia at which we arrive by accentuating only certain elements of the reality. Its relation with empirical data is confirmed by the fact that there are political or socioeconomic relations which to a certain point exist in reality and whose existence the abstract construct helps us to discover or surmise. The role of the social scientist is to make the characteristics of those relations pragmatically clear and comprehensible by referring them to the ideal type. Weber recommends this procedure for heuristic and expositive purposes. He warns that the ideal type is not a hypothesis but a guide for the construction of a hypothesis. It is not a description of the reality but a means for disambiguating the forms in which that description is

¹ Johnson, 2004, p.176.

expressed. The concept of a modern society based on an exchange economy or that of a medieval “city economy” are ideal types. They do not pretend to reflect an average of all the economic structures of the actually existing cities. The ideal type is formed by accentuating one or more points of view and by synthesizing many individual phenomena that are concrete, diffuse, more or less present, occasionally absent; these are organized by one-sidedly emphasizing certain viewpoints until a unified analytic construct is achieved. In its conceptual purity, Weber warns us, the mental construct (*Gedankenbild*) cannot be found empirically in any part of reality. In that sense it is a utopia. The task of historical research is to determine to what point each specific ideal type approaches or diverges from the reality.¹

Thompson understands social classes as a kind of ideal type, to cite a previously mentioned example: the working class does not have “a real existence, which can be defined almost mathematically— so many men who stand in a certain relation to the means of production”.² It is not possible to find an “average proletarian.” But there can be no question that the concept was of great heuristic value, besides being a powerful political spur. Such also is the function that Stéphane Dufoix assigns to the concept of diaspora: “the ideal type was not a description of reality but a conceptual tool used to better understand it. Such a usage of ‘diaspora,’ which is more conceptual than descriptive, makes it possible to stress a population’s common characteristics without giving it a global definition as a ‘true diaspora.’”³ In keeping with this form of objectivity, I am not seeking some “average disobedience” in the empirical behavior of the migrants: civil disobedience is an ideal type that I use for analytical and expositive purposes to reveal the aspects of the infrapolitics and the undocumented migrants’ defiance of the state in actions which are normally characterized in ways that divest the subjects of their political role: as performed, for example, simply to satisfy basic needs or in dutiful obedience to the great macroeconomic variables or other irresistible forces. I therefore make use of civil disobedience in the same sense in which Laclau uses the notion of populism: as “a certain way of construing what is political.”⁴ Just as populism breaks with the administration of the status quo that Laclau calls institutionalism, civil disobedience is opposed to the status quo of exclusion. In the following sections I will review the practices and the conceptualizations of civil disobedience, keeping in mind that in order to break with the status quo there is a need for “actors who were not

¹ Weber, 1949, pp.89-90.

² Thompson, 1966, p.10.

³ Dufoix, 2008, p.34.

⁴ Laclau, 2010, p.47.

contemplated in the traditional scheme of things.”¹ In the case with which I am concerned, those actors are the unauthorized migrants.

4.3 Historicization of the concept of civil disobedience and its practice

4.3.1 Its relation to the politics of those without politics: Henry David Thoreau and Mahatma Gandhi

Thoreau’s exhortation to civil disobedience appears in print for the first time in May 1849, three years after the experience that inspired it: his confinement in the Concord prison for refusing to pay the tax for the electors in the talks discussing the slave status of Texas and the U.S. war with Mexico, which ended with the annexation of the California and New Mexico territories to the United States.² Thoreau knew that his taxes were not going to make much difference in the matter of slavery or the war with Mexico, but his imprisonment did have great effect. The son of his friend Emerson intuitively interpreted that theatrical touch: “It was the act of a poet rather than a logician.”³ But he had made his statement, and although it was an act of individual conscience, Thoreau did not renounce the perlocutionary effect of his private/public action. Thus, when his friend Emerson came to visit him and greeted him with the words, “Henry, why are you here?”, Thoreau replied with another question: “Why are you *not* here?”⁴

Thoreau sought that perlocutionary effect more explicitly in *Civil disobedience* (1849), *Slavery in Massachusetts* (1854), *A plea for Captain John Brown* (1859), *After the death of John Brown* (1859), *The last days of John Brown* (1860), and *Life without principle* (1863). In these texts Thoreau urged people to follow his example in order to save lives: “If a thousand men were not to pay their tax-bills this year, that would not be a violent and bloody measure, as it would be to pay them, and enable the State to commit violence and shed innocent blood. This is, in fact, the definition of a peaceable revolution, if any such is possible. If the tax-gatherer, or any other public officer, asks me, as one has done, ‘But what shall I do?’ my answer is, ‘If you really wish to do anything, resign your office.’”⁵ Obedience presupposes an obligation, and the only obligation that Thoreau recognized was that of doing what was right. We are human beings before we are

¹ Laclau, 2010, p.59.

² Tauber, 2001, p.189.

³ Emerson, 1917, p.64.

⁴ Salt, 1890, p.100.

⁵ Thoreau, 1906, p.371.

citizens. The justification for disobedience is that “It is not desirable to cultivate a respect for the law, so much as for the right.”¹ The authority of the state is restricted by the conscience of individuals and the will of the governed.

That limit can be embodied in a minority that is opposed to the laws that the majority has approved. The electoral game, to which Thoreau conceded no more dignity than to a game of backgammon,² usually imposes the will of the majority, but not because the majority has reason on its side: if the majority is permitted “to rule it is not because they are most likely to be in the right, nor because this seems fairest to the minority, but because they are physically the strongest.”³ However, a government in which all issues are decided by the majority cannot function justly unless it possesses mechanisms that allow individuals in the minority to manifest the dictates of their conscience. In Thoreau’s judgment, since government failed to provide channels for this to happen, “its very Constitution is the evil.” When forced in such a situation to collaborate with injustice, Thoreau exclaimed: “Break the law. Let your life be a counter-friction to stop the machine.”⁴ He also urged people to carry the fight to the arena of consumption, pointing out that readers’ subscriptions were supporting journals that were in favor of the support Massachusetts was providing for the fugitive slave law.⁵

Thoreau’s writings contain the essential elements for justifying civil disobedience that have been taken up by later theorists: the struggle against injustice, the primacy of individual conscience over law, the limits that must be placed on every government, and the right of minorities to make their petitions heard through non-compliance when legal means have been exhausted. At the center of his reasoning on civil disobedience is a subjectivist justification that is based exclusively on individual conscience. This pivot presents a weak flank: the always feasible situation that the conscience of another person is not bothered by that with which I cannot live. If civil disobedience derives its status as such and its political force from individual conscience, it is difficult to understand how an egalitarian would be more assisted by the law than a segregationist. In politics the force of numbers that Thoreau despised is decisive. The disobedient measure their strength in the size of the group. A reasoned argument—as just as it may be—is no more than an opinion when confronted with the mass of humanity. As such, Arendt would say, it is

¹ Thoreau, 1906, p.358.

² Thoreau, 1906, p.363.

³ Thoreau, 1906, p.358.

⁴ Thoreau, 1906, p.368.

⁵ Thoreau, 1906, p.399.

indistinguishable from other opinions, and its force is not derived from conscience but from the number of persons with which it is associated. That is why Arendt thought that the greatest fallacy in the debate over civil disobedience was the supposition that it was best exemplified by individuals acting subjectively.¹ Political effectiveness requires collective exposition in the face of social pluralism. In other words, if disobedience is not embodied in a movement or a non-movement, it is simply conscientious objection or a private, isolated case of non-compliance without political significance. Nevertheless, the social character of the act does not negate the fact that the judgment and the decision are made by an individual.

A follower acclaimed and despised: Mahatma Gandhi

Gandhi first developed his form of struggle in South Africa. When he returned to India, his campaigns were directed against three main impositions: the imperial monopoly of salt production (1930-34), India's involvement in the Second World War (1940-41), and British domination of India (1942).² The heroism with which Gandhi opposed them is widely acknowledged. Seeking a name for his form of struggle, he called it *satyagraha* (truth force), and its morally and physically courageous and disciplined practitioners he referred to as *satyagrahi*.³ But in a 1942 letter to Franklin D. Roosevelt, Gandhi confessed how much he had profited from reading Thoreau and Emerson.⁴ In an open letter to Americans he acknowledged: "You have given me a teacher in Thoreau, who furnished me through his essay on the 'Duty of Civil Disobedience' scientific confirmation of what I was doing in South Africa."⁵ Gandhi formulated his disobedience in terms that unmistakably evoke the words of Thoreau: "It is my firm belief that in the complex constitution under which we are living, the only safe and honourable course for a self-respecting man is, in the circumstances such as face me, to do what I have decided to do, that is, to submit without protest to the penalty of disobedience. I venture to make this statement not in any way in extenuation of the penalty to be awarded against me, but to show that I have disregarded the order served upon me not for want of respect for lawful authority, but in obedience to the higher law of our being, the voice of conscience."⁶

¹ Arendt, 1972, p.98.

² Brown, 2009, p.44.

³ Brown, 2009, p.43.

⁴ Gandhi, 1998, p.27.

⁵ Gandhi, 1998, p.291

⁶ Gandhi, 2009, pos.492.

Despite the bold efforts of many biographers, there is a patina of skepticism about Gandhi's effectiveness. The British historian Judith M. Brown passed the following judgment: "In retrospect it is clear that civil resistance never made British rule impossible (...).It was essentially the Second World War which drove the British to grant independence to the subcontinent."¹ During Gandhi's lifetime as well, some sectors of the left rejected the method of non-violent disobedience. In an explanatory letter addressed to Reverend Iorwerth Jones in April 1948, George Orwell noted the criticism of Gandhi's ineffective methods: "It was always admitted in the most cynical way that Gandhi made it easier for the British to rule India, because his influence was always against taking any action that would make any difference." And the writer added: "As to the conquest of England, Gandhi would certainly advise us to let the Germans rule here rather than fight against them—in fact he did advocate just that. And if Hitler conquered England he would, I imagine, try to bring into being a nationwide pacifist movement, which would prevent serious resistance and therefore make it easier for him to rule."² Orwell wrote this letter five years before the end of British rule of India. Seven years later and one year after Gandhi's death, he repeated the same arguments, adding that for the Indian multitudes Gandhi's calls to conversion were preferable to the confiscations of socialists and communists.³ Orwell ended by recognizing that Gandhi's "main political objective, the peaceful ending of British rule, had after all been attained."⁴ However, this final verdict of his did not dispel the fog of skepticism and ridicule contained in Orwell's article about that "humble, naked old man, sitting on a praying-mat and shaking empires by sheer spiritual power." Nor did he fail to mention that "the things that one associated with him—homespun cloth, 'soul forces' and vegetarianism—were unappealing, and his medievalist programme was obviously not viable in a backward, starving, overpopulated country."⁵

4.3.2 The contemporary development of concepts about civil disobedience

Contemporary reflection on civil disobedience has centered on a) the justification of disobedience and its legal status in the juridico-political system; b) the features that accredit it as such, with fierce differences about whether it can be violent; c) its penalization, whether it applies, and

¹ Brown, 2009, p.45.

² Orwell, 1968, pp.80-81.

³ Orwell, 1968a, p.464.

⁴ Orwell, 1968a, p.470.

⁵ Orwell, 1968a, p.463.

whether the disobedient should accept it; d) the social order on which it has an effect; and e) its typology. In what follows I will present the principal arguments in each of these debates.

Justification of civil disobedience and its juridical status

The main question regarding justification is whether there is a right to civil disobedience or not. How is it possible to admit the existence of a right to disobey laws? Legitimizing that right appears to be an oxymoron. The theory of civil disobedience has centered on distinguishing this type of noncompliance from other forms of illegal activity, such as those that occur in criminal gangs, civil wars, or anarchist groups. A basic division exists between those who justify disobedience by reason of its content and those who seek to make its justification a basic principle of the functioning of the political system. An exponent of the first type is the Italian philosopher Norberto Bobbio, who emphasized the civil character of disobedience, as something inspired by the duties of citizens and their right to resistance. He was convinced that to be a good citizen, one should in some circumstances disobey rather than obey. For Bobbio disobedience is justified when it defies laws that are unjust, illegitimate (decreed without due authority), or invalid (unconstitutional). In the first case the law is not substantially a law, in the second case it is not a law in any sense, and in the third case it is not a law formally. These are situations in which juridical reciprocity is broken: if the legislator has the right to be obeyed, the citizen has the right to be governed wisely by established laws.¹ Joseph Raz coincides with Bobbio: in a liberal society the legitimacy of civil disobedience depends on whether the motivating cause is correct. Its plausibility is based on the justice of the political goal. Otherwise it is not justified, because a liberal society offers diverse legal mechanisms for expressing dissent. There should be no need to go to the extreme of breaking the laws in order to demand their modification.²

Arendt pointed out the Achilles' heel of this justification: any given cause can find convinced defenders and also convinced opponents. Both can disobey: "the result is that conscience will stand against conscience."³ For Arendt, it is obvious that this subjective principle cannot be generalized. If we place this objection within the trajectory of Arendt's reflections, we will be able to see the direction in which she is moving. As with many other topics, the theme of disobedience is one in which Arendt was immersed by her own life experience, for she could not understand what had happened to the friends who during the Third Reich had helped her as a Jew.

¹ Bobbio, 1998, pp.335 and 338.

² Raz, 1979, p.273.

³ Arendt, 1972, p.64.

As a result of this tragedy, Arendt proposed the principle of not complying with authority when it requires conduct that goes against one's conscience. Responsibility and judgment are at the heart of disobedience. In "Some Questions in Moral Philosophy," she postulates the same motive for disobedience that she rejects as a justification for civil disobedience: since the substance of each person is rooted in his memories and thoughts, the awareness that he has to live with himself imposes limits on what he allows himself to do.¹ Without formulating it as such, Arendt obviously believes that she is dealing with two very different phenomena: one is the situation of disobeying an oppressive regime, such as the Third Reich, and the other is the situation where it is possible to change the law, such as in the civil rights struggles or the protests against the war in Vietnam (when the results were still uncertain). Arendt's experience in the United States made her compare these two experiences. In the state of emergency imposed by the Third Reich, thinking ceased to be a marginal affair in political matters.² There was no question of changing the law but only of preventing a criminal law from being implemented.

In the United States the struggle was to change the laws in a context that was relatively favorable. Arendt starts from the fact that the law is not immutable and that the possibility of changing it is always available to the citizens. She knew this from her analysis but also because of the obligation she had, once naturalized as a U.S. citizen, to serve on a jury. As she declared in a letter to Jaspers, the judge told the jury: "If you don't like the law, there is nothing you can do about it as a juror. You still have to decide by it. You can change the law as a citizen but not now in your role as juror."³ Certainly Arendt heard in the judge's statement the echoes of Kant's distinction between the public and the private: in their private role as functionaries, they must obey the laws; in their public role as citizens, they can change the laws. That public role has its own demand, namely, that conscience be transformed into the sum of consciences. Only in this way can conscience have political weight because "what had been decided in *foro conscientiae* has now become part of public opinion, and although this particular group of civil disobedients may still claim the initial validation –their consciences- they actually rely no longer on themselves alone."⁴ To use the language of Scott, Bayat, and Gramsci: it is only in this form that the unified murmurings pose a challenge to hegemony.

¹ Arendt, 2003, p.101.

² Arendt, 2003, p.188.

³ Arendt and Jaspers, 1992, p.666.

⁴ Arendt, 1972, p.68.

Such justification displaces the debate about civil disobedience from its content toward the principle that legitimizes it. Michael Walzer elaborates an interesting justification based on a group foundation. He bases his proposal on a theory of consent, which suggests a non-substantive, procedural ethics; in other words, he is not concerned with the moral content of obligations but with how persons acquire what they consider to be their obligations. This means focusing on what an individual has agreed to do, but it tells us nothing about what he should or should not have accepted to do.¹ Using this procedural focus, Walzer makes us realize that laws make up only some of the rules we should observe and some of the obligations we incur. Moral obligations emerge from a moral biography. This means that persons determine their obligations by examining their own consent or various conflicting consents. Walzer states that governments derive "their just powers from the consent of the governed," adopting the same phrase that Jefferson used to rationalize the overthrowing of tyrants who governed without the consent of the people but that would later come to form part of an ideology compliant with the established order.² If we assume that democracy is based on such consent, we are induced to obey. Walzer turns the argument around: we have consented to disobey the law because democratic pluralism allows for the formation and flourishing of groups with their own rules and values. Some of these groups can claim that their rules, at least on certain occasions, have greater binding force than some legal rules, even though they recognize the supremacy of most of the rules of the legal system. Although membership in some of these groups may be inherited and then reinforced by voluntary participation, the hereditary character can give it more force.³ These groups may be analogous to the state in their structures; they have constitutions and may possess very elaborate structures for formulating their rules. They differ from the state mainly in that they can claim authority over only a limited fragment of the inhabitants of a country and then over only a portion of their conduct. Belonging to one of these groups involves obedience to its rules with equal or greater force than to the laws of the great group called the state. Walzer even argues that, although the Constitution establishes that the federal government is legally superior to all other governments, there is no clause regarding the moral supremacy of the government in relation to non-governmental groups. The state can be described as an external limit of group action that sometimes overreaches its proper sphere and needs to be restricted.⁴ On this basis Walzer thinks

¹ Walzer, 1970, p.X.

² Walzer, 1970, p.3.

³ Walzer, 1970, p.10.

⁴ Walzer, 1970, p.18.

that each person can decide when he should disobey a law that enters into conflict with the laws of his particular group.

Walzer's theory was criticized as superficial and even absurd.¹ And it is superficial and absurd if it is considered to be a justification, because in that case his enthusiasm for civic associations, which Tocqueville anticipated, reaches the extreme where associations are not just complementary powers counterbalancing state power; they are parallel, alternative powers. Since for Walzer the state is simply one group among many, the resultant procedural ethics conceding primacy and autonomy to different groups can be used to justify both the suicidal People's Temple sect² and the civil rights movement. In fact, the former can be more easily justified than the latter since its membership had a greater sense of belonging and a more sophisticated canon of beliefs. But Walzer's argument makes sense and has force if it is considered to be an analysis of the justifications for disobedience. His argument is a theory that proposes not an ideal horizon but a procedural explanation. It is totally realistic in that it describes what happened and what is still happening in the churches that welcome migrants: since the churches are not limited by the borders that correspond to the nation-state, they grant primacy to the duty of welcoming their neighbor over the federal laws that reject that neighbor. Walzer explains an important element: the disobedient share a system of values, and they obey norms that they hold in higher esteem than they do government directives. But he assumes that the groups exist previous to their noncompliance. The advantage that Arendt has over Walzer is that she does not assume that the groups are previously constituted. Her perspective allows me to concur more with authors who do not submit to the rationalist paradigm.

Another theorist who opted for a procedural justification was Habermas. As a justification for civil disobedience in liberal regimes, he claims to provide an argument that is not juridico-political but juri-philosophical: the exceptional claims to legitimacy made by the rule of law, which requires free and voluntary acceptance of juridical order, assume that the laws are debated, approved, and promulgated by competent bodies. By means of this procedural legitimization the laws obtain positive validity and a sphere of application. What is legal becomes legitimate. The underlying principle here is that only those norms can be justified that express an interest susceptible to being generalized, that is, they are norms which in theory receive the voluntary

¹ Horowitz, 1970, p.174.

² Urged on by their leader, James Warren, 909 members of his sect committed collective suicide in November 1978, killing in the process almost 300 children.

approval of all those affected by them. This means that the democratic rule of law does not base its legitimacy on pure legality and so can demand only qualified, not unconditional obedience.

This limitation which the rule of law places on itself is an expression of the precautions it takes against itself due to its recognition of the fallibility of reason and corruptibility of human nature. The rule of law therefore relies on mechanisms of self-correction: parliamentary discussion, juridical findings, strikes, plebiscites, etc. Civil disobedience is one of the mechanisms by which the rule of law seeks to legitimize itself. By practicing it, citizens exercise a plebiscite function which makes an appeal to the majority in order to correct errors and find innovative ways of applying the laws. Without practices of this type, the living republic loses legitimacy and the ability to innovate. That is what Josiah Ober pointed out when writing about the ideological function of *Homonoia* (being “of one mind”) in ancient Greece’s political system. Ober argued that “*Homonoia* was the very antithesis of freedom since perfect and long-term political consensus was not only impossible but dangerous. (...) If the citizenry is of a single mind, debate and discussion become irrelevant. But without debate, how could the Athenians be sure they had considered all options and selected the best policy? A politics of pure consensus could easily lead to stagnation and the loss of political initiative, since only simplistic or unimportant issues were likely to yield a complete consensus.”¹

As we saw, at the opposite extreme from Habermas is Raz, for whom there is simply no justification for the practice of civil disobedience in the rule of law except in cases of provable injustice. Raz states that civil disobedience is usually and wrongly justified on the grounds of the right to dissent, an idea which some theorists have used as a justification for breaking the law for moral or political reasons. If such a right exists, it is reasonable to assume that it should be given juridical recognition, but Raz believes that it should not be granted that status.

Raz is in agreement with Bobbio who, though he considers civil disobedience to be one of the new political practices along with self-determination and exercise of the veto, refuses to grant it the status of a right because that would be meaningless: laws establish the obligation of obedience. General and constant obedience to law is the condition and the proof of the legitimacy of a political order or what Weberian language would describe as a legitimate power, one whose orders are obeyed as such, independently of their content.² But that does not prevent either civil disobedience or the veto from being used as *de facto* powers: “In the case of civil disobedience,

¹ Ober, 1989, p.298.

² Bobbio, 1998, p.335.

for example, one could cite a situation where the number of people who refuse to comply with an order issued by the authorities, or for that matter a parliamentary law, is so great that it makes repression practically impossible.”¹ Numerical force imposes itself, as Bayat points out and Arendt also established. That status implies that “precisely because de facto powers are involved such tactics require either extreme force or particularly favourable exceptional circumstances to be effective.”²

The English philosopher Ronald Dworkin also opts for a procedural justification, basing it on reasonable doubt and the necessarily changing nature of laws. Dworkin does not base the right to civil disobedience on the premise that some laws are unjust. The appropriateness of civil disobedience does not derive from the faultiness of the laws. Such a supposition would engulf reflections on disobedience in an interminable discussion, one in which every analyst would insist on his own opinions—favorable or unfavorable—regarding particular laws. There is no way to know beforehand which side is right. But that does not mean that the opinion that sides with the law is the correct one: Dworkin is opposed to the positivist aphorism according to which “the law is what the courts say it is” because “though the courts may have the last word in a particular case about what the law is, the last word is not for that reason alone the right word.”³ Nevertheless, disobedience is based on conscience because conscientious motivation is what distinguishes it from mere violation of the law.⁴ Civil disobedience is a right because independent persons with a sense of justice can disagree about “the substantive moral and strategic conviction in play.”⁵ Laws may be dubious, hovering between validity and non-validity. Laws change, sometimes very quickly, giving evidence of their relative character. Such a situation leads to reasonable doubt: it is permissible to disagree reasonably about different political directives and juridical principles. If a law endangers moral convictions—contravening, say, a principle of equality, justice, or freedom—then it brings up constitutional questions. The law and the constitution enter into conflict. If it can be reasonably assumed that a law violates a constitutional principle or that it will soon lapse because of citizen pressure and a court ruling, then disobeying it is legitimate. What this means in the case of the undocumented, as we will see in the section on state heterogeneity, is that one modality of civil disobedience consists in finding support in state or corporate bodies that ignore

¹ Bobbio, 1987, p.77.

² Bobbio, 1987, p.77.

³ Dworkin, 1985, pp.115-116.

⁴ Dworkin, 1978, p.206.

⁵ Dworkin, 1985, p.106.

the question of migratory status and grant the same rights to the undocumented, to residents, and to citizens.

Typologies of civil disobedience

In Bobbio's typology, civil disobedience is a form of rebellion, encompassing a broad category of actions that can be omissive or commissive, individual or collective, clandestine or public (depending on whether they are announced or not before being executed), violent or non-violent, aimed at changing a norm or an entire social order, passive or active (depending on whether the agents are opposed to a law but recognize the right of the state to punish them, or whether they are also opposed to the preceptive and punitive part of the law and seek to escape punishment). The combinations and permutations of these types are numerous. Conscientious objection to military service is omissive, individual, public, pacific, partial, and passive. Regicide is commissive, individual, clandestine, violent, total, and active. Civil disobedience is omissive, collective, public, pacific, not necessarily partial (Gandhi's was a revolutionary action), and not necessarily passive (those fighting discrimination did not recognize the right of the state to punish them).¹ According to Bobbio's typology, Thoreau's resistance does not qualify as an act of civil disobedience despite his appeal to the conscience of other citizens.² Bobbio made other interesting distinctions apart from those mentioned. Disobedience in itself can be negative or positive depending on whether it involves omissive or commissive behaviors. Not obeying a law which forbids a positive action (doing something which others have a right to do, such as blacks sitting in a part of the bus or eating in restaurants reserved for whites, or demonstrators assembling despite being denied permission to do so) is not the same as not executing a binding law; the latter consists in an omission or an abstention, such as refusing to pay taxes or do military service. Likewise, not doing what is ordered is not the same as doing the opposite of what is ordered, for example, sitting on the ground when ordered to leave a public square. The different forms of civil disobedience should be distinguished from non-violent pressure tactics that directly attack economic interests, such as strikes or boycotts or the occupation of land, dwellings, or factories. Also belonging to another species are what Bobbio calls exemplary actions, such as a prolonged fast or self-immolation, which involve exercising extreme violence on oneself. Despite their differences, all these forms of struggle have in common the principal goal of paralyzing, neutralizing, and obstructing the adversary rather than vilifying or destroying him. The aim is to prevent him from attaining his

¹ Bobbio, 1998, pp.336-337.

² Bobbio, 1998, p.337.

objectives or to make it more difficult for him to do so. In a word, they do not confront power with counter-power but reduce power to impotency.¹

Joseph Raz uses the term “disobedience” to describe three forms of rebellion: revolutionary disobedience, civil disobedience, and conscientious objection. Revolutionary disobedience is when the law is broken for political motives and the goal is to change the government or the system of government. Civil disobedience pursues changes in laws or in policies, or it expresses protest and dissent with respect to laws and policies. The conscientious objector contravenes a norm because he considers it morally wrong to obey it. This nomenclature is a simplified version of Bobbio’s. I find more original his distinction between civil disobedience which is effective (since it forms part of a plan that can directly change a law) and that which is expressive (since it is ineffective but is justified as an expression of protest).² Also interesting is his distinction between disobedience in liberal societies and disobedience in non-liberal societies. In the latter there is a moral right to exercise disobedience because the state denies citizens the political rights that are the normal channels for settling political differences. In the former an exceptional political action like civil disobedience can be justified only by a just end. The disobedience should be exceptional because in liberal states it is an action to which there is no right: if the legal system provides for pluralism, then in principle there should be no need for dissent from the law. However, that does not mean that civil disobedience should be an extreme recourse. It may better—or at least less harmful—than other licit means, such as a national strike.³ I will return to this line of reasoning in the third chapter because it is an argument conceived in a liberal framework that proves to be inconsistent in the case of the immigrants, who are persons denied their political rights by a pluralist society.

The German theorist Theodor Ebert started out from a slightly narrower perspective than did Bobbio and Raz since he was concerned only with non-violent forms of rebellion. Although he was inspired by the American civil rights movement,⁴ he made some interesting distinctions that were not part of the U.S. theoretical tradition. Distinguishing between confrontative and constructive actions (I will use boldface for the latter), he defined three levels of non-violent campaigns: 1) bringing the issue into the public arena (protesting by demonstrations, vigils, petitions; **presentation of alternatives, demonstrating alternatives, teach-ins**); 2) legal actions

¹ Bobbio, 1991, pp.199-200.

² Raz, 1979, pp.264-265.

³ Raz, 1979, pp.272-275.

⁴ Grosse, 2015, pp.65-80.

(non-cooperation in the form of strikes or consumer boycotts;¹ **legally innovative activities such as fair trade, free schools, alternative economy**); and 3) illegal actions aimed at redirecting power, which can take the form of civil disobedience (confrontative actions that include sit-in demonstrations, blockades, tax resistance, strikes, and war resistance) or **civil usurpation (constructive actions that include the sanctuary movement, pirate radio, reverse strike, nonviolent intervention)**.² I will return to some of these distinctions in the third chapter.

Ronald Dworkin concentrates exclusively on civil disobedience and distinguishes three types: integrity-based, justice-based, and policy-based. The first is the disobedience practiced by a person who, guided by conscience, disobeys a law that obliges him to act immorally. People helping fugitive slaves who called at their door and soldiers refusing to fight in unjust wars were faced with situations in which their personal integrity was at stake. In such cases, one cannot wait until the legal recourses for annulling the law are exhausted, as Raz supposes. There is a need to make a decision and act. This is the kind of disobedience that Arendt would like to have seen spread in Third Reich Germany: people judge a situation and act according to what their conscience dictates and not according to the law. It was this choice that Arendt explicitly associated with civil disobedience;³ it is the option of those who prefer to die rather than “to live together with murderers—themselves.”⁴ The second type, justice-based disobedience, is exercised for the purpose of opposing or reversing programs and laws that are thought to be unjust. Dworkin’s example is picturesque: when blacks sat next to whites in restaurants where they were not welcome, their integrity was not at stake. Their objective was not the dubious privilege of enjoying greasy hamburgers elbow to elbow with people who despised them; it was rather to frustrate compliance with a law that allowed an oppressive majority to discriminate against a minority. Finally, policy-based disobedience is exercised by those who oppose policies not because they are immoral or unjust but because they are stupid and dangerous, both for the majority and the minority. An example of this type is the opposition to the installation of U.S. missiles on German soil. The activists did not think that their government by making this decision was favoring a majority and harming a minority but rather that they were harming everybody. They were

¹ These are what Bobbio calls non-violent pressure techniques that focus directly on economic objectives.

² This classification is based on Eric Bachman’s translation from German into English of the “Chart of escalation of nonviolent actions” on page 37 of *Gewaltfreier Aufstand — Alternative zum Bürgerkrieg* (Nonviolent Rebellion — Alternatives to Civil War) by Theodor Elbert, Waldkircher Verlagsgesellschaft mbH, 1978. War Resisters’ International, 2009, p.48.

³ Arendt, 1972, p.63.

⁴ Arendt, 2003, pp.44 and 47-48.

appealing not to people's sense of justice but to their common sense.¹ Dworkin admits that these distinctions are useful mainly for analysis and have obvious limitations since groups practicing civil disobedience are made up of persons with differing motivations; it is even possible for one individual to have various motivations, such as opposing the war in Vietnam as being both unjust and stupid.

Justice-based obedience and policy-based disobedience can each be subdivided into two categories, persuasive or non-persuasive, depending on the strategy used. The persuasive type "hopes to force the majority to listen to arguments against its program, in the expectation that the majority will then change its mind and disapprove that program." The persuasive type is equivalent to Ebert's constructive actions. The non-persuasive type "aims not to change the majority's mind, but to increase the cost of pursuing the program the majority still favors, in the hope that the majority will find the new cost unacceptably high."² When persuasive strategies do not work because of an unfavorable context and when non-violent non-persuasive techniques have the possibility of succeeding without being counterproductive, non-persuasive civil disobedience is justified.³ Normally persuasive disobedience is more justifiable because it does not violate the principle that the majority decides: it appeals to the majority not with force but with reasoning, seeking to change their way of thinking and to convince them with arguments.⁴

It should be noted that neither Bobbio nor Ebert consider non-persuasive strategies to be part of civil disobedience. Bobbio allows only non-violent pressure tactics, and Ebert allows only confrontative actions that are legal; they differ in that Bobbio excludes from the category of civil disobedience some actions, such as blockades and refusal to pay taxes, while Ebert includes them. These are only a few of the discrepancies that exist among the different typologies. No less important is the disagreement about whether civil disobedience should itself be considered as a strategy, a technique, or a modality of rebellion (or only of resistance). The diverging views about the justifications and the features of civil disobedience reappear here as criteria that determine what actions are *not* civil disobedience and why they fall into another category of the forms of rebellion. To repeat: this way of manifesting dissent entails dissent—political struggle—about its very definition. Nevertheless, all the typologies help to illuminate the different aspects, nuances, strategies, and means of struggle of civil disobedience and other forms of rebellion. I will treat

¹ Dworkin, 1985, pp.107-108.

² Dworkin, 1985, p.109.

³ Dworkin, 1985, p.110.

⁴ Dworkin, 1985, p.111.

some of these distinctions in an attempt to name and highlight the politically disobedient character of some of the actions of the undocumented.

4.4 Performative civil disobedience as infrapolitics of resistance, quiet encroachment, and street politics

Except for some brief comments, the abovementioned typologies do not touch on the role of the excluded in the exercise of disobedience. For example, the actions of the abolitionists are discussed but not those of the slaves even though it is obvious that the flight of the slaves was the prior condition of the abolitionists' moral dilemma and that the slaves' disobedience had potentially lethal consequences for the fugitive slaves and for other slaves who collaborated with them.¹ Similarly, no mention is made of the extreme strategies the slaves used to sabotage their masters economically or to deprive their masters of control over them by suicide.² These theorists generally use the America civil rights movement as a point of reference, but their commentaries on it do not give details about its various modalities and its forms of struggle.

It is perhaps because of that bias that most of the abovementioned authors speak of disobedience in a negative and selective sense (not doing what is ordered) and not in a broad and positive sense (doing what is prohibited). As a result, some of their justifications are rather contrived. In an effort to simplify the difficulties presented by the justifications and to reconcile them, I propose to start from the acknowledgment that the excluded have a right to demand the same rights as the majority, to suppress the privileges monopolized by a minority, and to eliminate the deprivations imposed on particular groups. This is a perspective that places the persons affected and the struggle against exclusion at the heart of civil disobedience. Disobedience is justified when exclusion exists and the action undertaken seeks to eliminate it and to provide for a minority the same rights that the majority possess. This implies collateral actions aimed at forcing inclusion and achieving a perlocutionary effect.³

¹ Flight implied the collaboration of other slaves and their subsequent punishment, according to the testimony of Harriet Jacobs, who in 1861 authored one of the first biographies written by African Americans. Jacobs, 2000, p.123.

² The Louisiana Insurance Company used to insure slaves according to the principal reasons for their loss: insurrection, elopement, suicide, and natural death. Bonnell Phillips, 2004, pos.176.

³ This formulation eliminates scholastic discussions about what conscience dictates to different people. It also moves the discussion toward a criterion that is both more political and more morally defensible, at least in presumably liberal societies. Some of the criteria mentioned earlier seem quite plausible, but they do not meet the test for diversity of types of noncompliance. To take just one example: was it licit to violate the law of prohibition? According to the criteria of Dworkin it was indeed licit since the law was finally suppressed.

On the basis of this assumption, I use several criteria to distinguish between forms of civil disobedience. From the perspective of their objectives, we can divide acts of civil disobedience into reformist-permanent (those acts seeking a permanent change in some law, such as in the struggle for assisted suicide or legalization of marijuana), reformist-episodic (those seeking to change a temporally limited law or policy, as with the war in Vietnam),¹ remonstrative (those seeking to create awareness about key aspects of the system, such as the actions of Occupy Wall Street), partial-revolutionary (those proposing to change at least one key aspect of the system, such as the length of the workday or the right to unionization), and inclusive-revolutionary, which is where I locate those acts aimed at gaining for a marginalized group the civil rights of an established group; these are acts which expand the recognition of citizenship, such as the struggle for civil rights or the granting of those same rights to immigrants and the granting of residency and citizenship to the undocumented. From the perspective of the relation between the nature of the protest and the content of the law, I distinguish between positive-proactive disobedience (doing what the law prohibits without causing further problems, such as the Israeli woman who would not sit behind the rows reserved for men),² positive-obstructive (doing what the law prohibits and causing further problems, such as blocking traffic), and omissive (not doing what the law requires, such as not serving in the military or not paying taxes).

I want to propose one additional typology that is based on the relation between means and ends. Besides being simple, this typology allows me to connect better with the justification of civil disobedience I proposed, to dialogue more effectively with some of the concepts that broaden the definition of political actions (Foucault, Bayat, Thompson, Scott), and to stress the importance of the ordinary actions the excluded perform in order to become included. I distinguish four ways of relating the means employed and the ends desired.

1. The indirect-instrument relation is one in which there is no intrinsic connection between means and end. The acts of disobedience are disconnected from the change itself but are carried out as

We can show, after the fact, that the dubious benefits of the law were rightly questioned by those who broke it. To understand the change in legislation, however, it is obvious that many things need to be considered before conceding that the violation of the law was justified, such as the crimes to which the law led, the economic interests involved, and the pragmatism of the legislators' reasoning.

¹ This struggle was inspired partly by pacifist principles, but in the interest of gaining broad support, it did not oppose all wars.

² Such actions can have costs, but the costs do not derive directly from the action but from the reaction. When Tanya Rosenblit, considered the Rosa Parks of Israel, boarded a bus and sat in one of the front rows, the uproar and the arguments of the Orthodox Jews brought the bus to a halt. Lemberg, 2011.

means to bring about the change: blocking a street (which does not have permanent blocking of traffic as a goal), sitting-in in front of the White House, etc. These are examples of the illegal actions that Ebert groups together under the umbrella of civil disobedience. They are mechanisms for applying pressure to provoke change; Dworkin classifies such pressure tactics as non-persuasive disobedience since they are aimed at increasing the cost of maintaining policies that the disobedient activists oppose.

2. The direct-instrumental relation, which is a variation of the previous one, involves exerting pressure directly on the arena of conflict; it is applied as a way of punishing—generally financially—those who hold power and refuse to change policies or even to negotiate. Examples are abstaining from payment of taxes to advance a cause, or striking to force management to grant a wage increase or to recognize the right to unionize. The best example is the bus boycott carried out by African Americans in Montgomery County in their struggle for civil rights. The losses of Montgomery City Lines, averaging 22 cents a mile or \$12,000 a month, plus a decline in purchases of merchandise by African Americans led to the formation of a businessmen’s group known as the Men of Montgomery, which speeded up the negotiations. Many housewives contributed to the boycott by providing transport for their maids and cooks.¹

3. The symbolic relation is one in which the actions are executed as emblems, previews, or representations of the change desired. For example, an interracial banquet or mass would announce and symbolize the end of segregation. Such actions do not bring an end to segregation, but they anticipate it and prefigure it in a ritualized, homeopathic form. This is what Raz call expressive disobedience, that is, disobedience that is not effective in itself but has a persuasive function such as Dworkin, Rawls, and Habermas proposed. Many of the actions that Ebert classifies as constructive fall within this category. Symbolic disobedience can contain much that is theatrical, including the counter-theater of the excluded; it can also contain the alethurgical elements, which Bobbio calls exemplary actions though he also excludes them from civil disobedience.

4. The relation is performative when the means of civil disobedience achieve the object of the disobedience directly and immediately. In such cases the disobedience consists in behavior that simply disregards legislation that excludes people. The political actors—who are mainly but not exclusively made up of the persons affected—behave as though the legislation they are attacking

¹ Marsico, 2012, pp.59-61.

has already been abolished. Their behavior makes actual something that is still only potential. I call this a “performative relation” by allusion to the theories of Austin as applied by Butler to the concept of gender. Butler speaks of gender as performative to indicate that its character is conditioned by what is done and what is said: the “appearance” of gender is confused with an inherent truth, thus obscuring the fact that the reproduction of gender is a disputed territory in which persons can call into question compliance with the norms that reproduce gender and require definitions in a binary mode. Gender is not a metaphysical substance that precedes its expression.¹ Expressions are what expand social existence, though they do not exhaust it. If gender does not impose itself until there are expressions that achieve its enactment, the act of excluding is neutralized when those who are supposed to be excluded do not act as such, with the collaboration of others. This is what happens with performative disobedience: it inhibits exclusion, that is, it deprives it of its effectiveness. My use of the category “performative” is not restricted to acts of speech. The disobedience I call “performative” consists of acts that actually produce what they are demanding by being performed: they bring about the end by performing the means. The disobedience is a pronouncement, but one that consists in annulling *de facto*, but not *de jure*, the prohibition that weighs upon the excluded. This form of disobedience has the effect of creating a situation similar to the eschatological tension of the *already/not yet*.²

The exclusion has been neutralized by one sector of society, but it has not been corroborated by law. The inclusion has legitimacy *already*, but it does *not yet* have legal validity. The depth reached by that “already” depends on its performative efficacy. There are many performative acts that fail: orders that nobody hears or obeys, promises that are addressed to nobody. They are acts without effects. Performative acts are effective when they bring about what they say and when a sum of effects derive from those acts.³ Those who practice civil disobedience usually seek such a perlocutionary effect because disobedience is not successful unless it shapes public opinion so as to oppose exclusion.

Using Raz’s terminology, this performative efficacy can also be called effective civil disobedience. More precisely it is immediate-effective disobedience because, although it forms part of a plan to change the situation in the future, it also bring about the change *ipso facto*. The actors behave as if the change has already occurred; they adopt as customary what the law still defines as noncompliance. Examples would include African Americans who sit in the part of the

¹ Butler, 2010, p.147.

² This formulation comes from theologian Geerhardus Vos. Menn, 2013, p.34.

³ Butler, 1997, pp.16-17.

bus assigned to whites, those who eat greasy hamburgers in restaurants they are not allowed to enter, conscientious objectors who resist recruitment, homosexual couples who have de facto unions, etc. This is the type of obedience that has greater performative effectiveness. The action stages the change that is desired. Moreover, it is perlocutionary because it requires the participation or contribution of others to make the change effective.

Racial segregation on the buses of Montgomery County was subjected to two forms of civil disobedience, direct-instrumental and performative. The first was led by Martin Luther King, who used the bus boycott as his touchstone: the Montgomery Improvement Association (MIA), established in 1955,¹ organized a complex system of donations to keep in circulation the car pools that replaced the buses as a means of transportation for the African Americans.² The disobedience had a powerful perlocutionary effect because it called attention to segregation and the struggle to abolish it, it generated a spirit of solidarity, and it even provoked the self-interested reactions of housewives and the business sector. Performative civil disobedience is what was practiced by Rosa Parks on that afternoon of December 1, 1955, when, returning home after a hard day's work and some Christmas shopping, she ignored the threats of the driver and refused to give up her seat to some white who had just got on the bus.³

The foregoing examples were drawn from practice. Unlike the cases studied by Habermas, Walzer, and Arendt, the group identity in these examples did not emerge from an organizational program. If we can speak of any type of cohesion in such spontaneous disobedience, it is the cohesion that emanates from shared suffering rather than concerted principles. That is why the disobedience practiced by the African Americans targets the very heart of exclusion. They attack it directly. According to Habermas, who in this point follows Rawls, civil disobedience has a symbolic character and should be practiced only as a way of appealing to the reasonableness and the sense of justice of the majority. In many cases, according to him, the disobedience ruptured norms in a calculated way.⁴ This way of thinking forgets about Rosa Parks and many of the others who have disobeyed, especially those excluded persons whose disobedience consisted in appealing to the majority's sense of justice by acting as if the excluding norm did not exist. Such performative civil disobedience was effective and not only expressive; it was not instrumental but direct since

¹ Marsico, 2012, p.35.

² Williams, 2006, p.143.

³ Hull, 2007, pp.5-6.

⁴ Habermas, 1985, p.99.

breaking of law was not only a means but it embodied the very practice for which legalization was being sought. Moreover it was positive because it did what the law prohibited.

The disobedience of undocumented migrants is of the same sort. It is not defensive or negative but positive-proactive. It consists in doing what the law prohibits: entering, remaining, and working where they are not allowed to do so. They are seeking and forcing inclusion, and since they want to avoid punishment, it is active. Just as Rosa Parks remained in her seat in violation of the Jim Crow laws and despite the threats of the driver, the migrants enter the United States and remain there in violation of the migratory laws and in defiance of their enforcement by the Department of Homeland Security. Their perseverance in making use of rights that are denied them has the overpowering effect of a non-movement and spurs diverse movements to act in solidarity with them. The spontaneity of their acts resembles more the improvised noncompliance of Rosa Parks than the planned boycott of Martin Luther King, as if these represented two modalities of civil disobedience: spontaneous and atomized or organized by a group, performative or direct-instrumental. Both can be taken as what they in fact were: two stages of the same struggle. The quiet encroachment of the undocumented resembles the civil disobedience that was practiced during the civil rights struggle in at least three important ways: 1) the state prohibits people and treats them unequally; 2) there is confrontation with the state; 3) there is a struggle to escape from a segregated political status.

Bobbio's categories help us to think about this kind of disobedience. Making use of his distinctions, we can say that performative disobedience is that which is commissive and commissive: it does what is permitted to others, and it tries to avoid punishment. Even more significant than those traits are two qualities that Bobbio attributes to civil disobedience and that we find most clearly in performative disobedience: rendering power impotent and then paralyzing the adversary. When people behave as if no exclusion existed and sway public opinion by living "as if" they were already legally admitted, they are practicing a non-movement strategy for neutralizing opponents and preventing them from achieving their objectives. There are opponents. Their resources, tactics, and activities will be developed at length in the following chapter. Those opponents are not the Republicans nor xenophobic public opinion nor white racism. Not even Donald Trump with his anti-Hispanic cackling presents an obstacle. The opponents are U.S. migratory policies (including an outdated refugee policy that fails to recognize the impact of geopolitics, the war industry, and the U.S. drug market on the Central American

countries), and the industrial complexes that profit richly from the militarization of the border and the enforcement of migratory policies.

CHAPTER 2. THE STATE AND THE IMMIGRATION POLICIES

Of the almost 52 million Latinos living in the United States, 2 million were born in El Salvador or can trace their origins to Salvadoran ancestors (in 3rd place among Latinos), 1.2 million are Guatemalans (in 6th place), 702,000 are Hondurans (in 9th place)¹, and 395,000 are Nicaraguans.² This accumulation has been the product of a prolonged quiet encroachment which has had to face migratory policies shaped by the geopolitical agenda, swerves and ambivalences in asylum concessions, a booming obsession over national security intersecting with the interests of the great capital invested on the security industry, and the predicaments of party politics. This is part of the background – the adverse side – in which undocumented migration occurs. Through its recount I want to show how the illegalization described by De Genova and Chomsky spells out, and why racial discrimination is not enough to explain illegalization, even though it is an element without which it cannot be explained.

The treatment of these policies and actors adverse to migration is thematic and not chronological because I consider that in this way I can make a more comprehensible discussion and also offer a clearer indication of which are my specific contributions to the knowledge about the constrictions suffered by Central American migrants. I begin with the policies that explicitly target Central Americans, touching on their well-known connection to geopolitical interests. My contribution here consists in underscoring this connection, and its results, by contrasting policies directed to Nicaraguans with those directed to the rest of Central Americans (Salvadorans, Guatemalans and Hondurans). Afterwards, I turn to the most burning issue in current migration: the massive arrival of unaccompanied Central American children, which has taken place during the last six years. After playing down some of the activists' assumptions, I historicize the topic of refuge, asylum and refuge quotas in the United States in comparison to other countries', and above all, the violence in the Central American isthmus, which has increased migration. My contribution is the historization and contextualization of the arrival of new refugees: the connections of the current violence with American imperial geopolitics and arms and drugs markets. Neither the texts that I quote below, nor the most recent publications³ establish this connection. Hence, activists are losing the opportunity of making the vindicatory claim proposed

¹ López et al., 2013, p.3.

² Brown and Patten, 2013, p.1.

³ McPherson and Cashin, 2015. Stinchcomb and Hershberg, 2014.

by Bosniak so that immigrants are presented as “victims rather than malefactors.”¹ Bosniak’s argument, which includes all undocumented and is based on their contributions to American society, applies with even greater force to the specific group of victims of violence and is based on what the United States has done and still does in their countries of origin.

In the section about the border I offer a vivid image of what policies of expulsion mean in the setting where they are applied with greater roughness. I have applied the most recent theorization about “irregular mobility”, “enlarged borderzones” and surveillance, perspectives that I have complemented with my own explanation for the Border Patrol’s poor results, a topic that needs further exploration judging by insufficient explanations and gaps I identified. Finally, I address the Gordian knot of the links between migratory policies and party politics: who can take hold of – and who is afraid of – the Latin vote. I consider this as the source of the main obstacles in the concession of a general migratory amnesty, and a topic that the literature on the undocumented has overlooked. The undocumented are exposed, day to day, to the decisions of all these actors, to their interests and to the application of the policies here described. But these are not the central themes of my thesis. I have given them a relatively detailed treatment because they are the background without which one cannot understand – nor perceive the dimensions of – the challenge of undocumented migration. By presenting in this chapter the constraints immigrants have to deal with, I aim to facilitate a better appraisal of their achievements, to be presented in the following chapter: the overcoming of the excluding forces during the undocumented crossing and in their day to day.

1. Geopolitics and immigration policies toward Central Americans

1.1 The intersection of foreign policy and asylum policy

I’ll concentrate on certain socio-demographic features and, above all, migratory status and its causal factors and consequences, a field we could call “the juridical conditions of migration,” because it’s the legal area that has supported the oscillating but—in recent years—unstoppable tendency to outlaw migration, as affirmed by Daniel Kanstroom with overwhelming historiographic evidence in *his Deportation nation: Outsiders in American history* (2007)² and

¹ Bosniak, 2014, p.230.

² Kanstroom, 2007.

Nicholas De Genova in *Working the boundaries: Race, space and "illegality" in Mexican Chicago* (2005).¹ The cumulative amounts for each Central American nationality, which I mentioned at the beginning, are the result of unequal policies. I will contrast them in order to show some features of American migratory politics, mainly the potent influence of geopolitical strategies. The first divergence to be emphasized is that in the early 1980s Nicaraguan migration to the United States was largely by the upper and middle classes, which expanded with members of the working class at the end of that decade. Salvadoran and Guatemalan migration, in contrast, began with poor refugees. Moreover, the first three waves of those Nicaraguan immigrants benefited from anti-Castro Cubans lobbying their Republican politician friends as an expression of solidarity toward those with whom they felt ideological affinity as opponents of the Sandinista regime.² This was a pristine example of what Susan Gzesh, from the University of Chicago, called the intersection of foreign policy and asylum policy³, which, in turn, is an example of how *realpolitik* conditions the various branches of governmental policy and how, as Dutch sociologist Saskia Sassen explains, "...international migrations are a function of larger geopolitical and transnational economic dynamics."⁴

As a corollary, although migration policy has rarely been explicitly recognized as a component of US foreign policy, imperialism's foreign aid and military ventures have had a wide-ranging impact on migration.⁵ The policy of welcoming Nicaraguan migrants was a domestic complement to the foreign policy of providing technical assistance and financial support to the armed counterrevolution actively undertaken by the Reagan administration in Nicaragua within the framework of the Cold War's death throes. This geopolitical opportunity harvested beneficial conditions for the Nicaraguan immigrants with effects we can still trace today. We see the importance of a regularized initial migratory wave as a basis for future migrations in the fact that 70% of Nicaraguans who obtained permanent residency in 2012 did so by claiming immediate family ties with previously nationalized Nicaraguans. That step towards permanent residency was only used by 59% of Hondurans, 45% of Salvadorans and 43% of Guatemalans.⁶ This long protective shadow of Nicaraguan migrations from the eighties has also had other visible impacts.

¹ De Genova, 2005.

² Portes and Stepick, 1993.

³ Gzesh, 2006.

⁴ Sassen, 1995, pp.66-67.

⁵ Sassen, 1995, p.73.

⁶ U.S. Department of Homeland Security, *2012 Yearbook of Immigration Statistics*, Office Statistics, Table 10: Persons obtaining legal permanent resident status by broad class of admission and region and country of birth: fiscal year 2012.

For example, 20% of Nicaraguans in the United States aged 25 and older have a university degree, compared with 7% of Salvadorans and Guatemalans and 8% of Hondurans¹; and 62% of Nicaraguans aged five and older speak fluent English, compared to 48% of Salvadorans, 47% of Hondurans and 43% of Guatemalans.²

Although the Nicaraguans' favorable situation in these indicators is partly due to their mostly urban and middle or upper class origins, Nicaraguans have tended to be less subjected to deportations and more likely to be granted permanent residence and citizenship, as the figures in the table eloquently show. There are two ways to demonstrate this relative privilege in proportional terms. The first is to expand the number of deported Nicaraguans in line with that of each of the other Central American nationalities' residents. Applying a simple rule of three and taking into account the proportional number from each country living in the United States: 1,383 deported Nicaraguans in 2013 would be equivalent to 4,201 Guatemalans, 2,457 Hondurans and 7,000 Salvadorans being deported. But these numbers are in sharp contrast with the 47,769 Guatemalans, 37,049 Hondurans and 21,602 Salvadorans who actually were deported in 2013.³ This indicator's greatest explanatory weakness is that it doesn't adjust for the dimensions of the current flow, as it is based on an aggregate over time that doesn't necessarily coincide with today's influx of migrants. Nor does it take into account any other immigrant policy apart from deportation, despite a legal environment where "illegal" and its complementary antithesis "regularized" are at play in the granting of residence and citizenship, and in the temporary protection and temporary workers programs, refugee and asylum-seeker quotas, etc. The combination of these two limitations leaves this indicator based on a figure (the total of those currently living in the US) that is the result of policies, not a reflection of flow: if there are only 702,000 Hondurans in the US, it doesn't mean that the flow of Hondurans has been just 35% of the flow of Salvadorans. The dimensions of the aggregate reflect a combination of factors: the size and longevity of its flow as well as selection and rejection policies. But even with these precautions, this indicator provides us some interesting pointers. There's a clear disparity in the yardstick by which Nicaraguans and the other Central Americans are measured.

A second method of calculation, which attempts to overcome these weaknesses, is to compare the numbers of Central Americans who have been granted permanent residence with the number of deportees. This calculation can be complicated through the inclusion of those receiving

¹ López et al., 2013, p.8.

² López et al., 2013, p.9.

³ U.S. Immigration and Customs Enforcement, ERO Annual Report, FY 2013 ICE Immigration Removals p.4.

temporary protection status, temporary worker programs, naturalizations, etc., but the contrast between the numbers of deportees and those receiving permanent residence is enough to give an idea of how the migration policy filter is treating each nationality at any given time. This comparison is preferable because it measures the two extremes of the anti-migrant mood: the narrowing of acceptance (relative decline in residents) and the expansion of rejection (increase in deportees). And it has the advantage of sidestepping the thorny, hard-to-resolve issue of measuring the volume of migration flows, assuming that both positive and negative contact with migration authorities is proportional to the volume of migrants: the greater the flow, the more migrants in contact with migration authorities, both to regularize their status and for deportation. Admittedly this contrast is impossible to measure “at a given moment.” Deportations are dealt with by only relatively expeditious processes, which could take a few days, months or even more than a year. The latter was the case with 3% of those detained by US Immigration and Customs Enforcement (ICE) in 2009. Including the days before and after the deportation order, the whole process took 114 days on average in 2009.¹ On the other hand, the process of obtaining permanent residency often lasts several years and varies depending on the applicants’ virtues and defects: the way they enter, family ties with US citizens or residents, their work situation, their interests as an investor and their relationship with different US government bodies (especially the Army) and other background information.² Taking that time gap into account, my indicator contrasts the quotient of residencies granted in 1999 and deportations in 2002 with the quotient of deportations in 2013 and residencies issued in 2010. The results are reflected in this table, with Hondurans and Nicaraguans representing the two extremes.

	Deportees		Residents		Contrast 1 1999/2002	Contrast 2 2010/2013
	2002	2013	1999	2010		
Guatemala	5,396	47,769	9,861	10,263	1.8	4.7
Honduras	4,946	37,049	5,851	6,381	1.2	5.8
El Salvador	4,066	21,602	22,301	18,547	5.5	1.2
Nicaragua	468	1,383	18,258	3,476	39.0	2.5
Total	14,876	107,803	56,271	38,667	3.8	3.0

Source: Author's calculations based on the statistics of the U.S. Immigration and Customs Enforcement

¹ Kerwin and Yi-Ying, 2009, pp.16-17.

² For example, entrepreneurs who invest one million dollars – or at least half a million – in a poor area with high unemployment rates in the United States, are eligible. U.S. Citizenship and Immigration Services, Green Card Through Investment, <http://www.uscis.gov/green-card/green-card-through-job/green-card-through-investment>

From 1999 to 2002, 1.2 Hondurans obtained residence for every 1 deported. From 2010 to 2013, the situation was reversed in which the implementation of migration policies resulted in 5.8 Hondurans deported for every 1 granted residence. At the other extreme are the Nicaraguans, who obtained 39 residences for every deportation in the first period. Their numbers never “went into the red” in the second period but they did drop to 2.5 residencies obtained for every deportation. This is the only nationality where the last column of the table continues to represent the number of residencies granted for every deportation. For their regional neighbors to the north, that column records deportations for every residency. Although this rate is quite imprecise and may seem an exceedingly defective reflection of the effects of migration policies (among other reasons because of the elastic time gaps explained above), it is consistent with figures from the Pew Hispanic Center based on the 2011 American Community Survey’s tables: 53% of immigrants with Nicaraguan origins have US citizenship, a rate placing them far above Salvadorans (29%), Guatemalans (23%) and Hondurans (22%).¹ Consequently, as there’s a correlation, albeit surely ambiguous, between migration status and household income, it also needs to be looked at. The average annual income per household among Nicaraguans in the United States is \$46,700. Although it doesn’t greatly exceed the \$40,000 of Salvadorans, it leaves the Guatemalan \$36,400 and Honduran \$31,000 in the dust, and is close to the national average of \$50,000.² The poverty rate among Nicaraguans is 18%, over 10 points below Guatemalans (29%) and Salvadorans (33%).³ Finally, while 31% of Nicaraguans say they don’t have social security, 46% of Hondurans and Guatemalans say they don’t.⁴

The roots of these double standards must be unearthed from the thorny ground of the eighties, which was fertilized by Cold War geopolitics. As with the Afghans and Iraqis today, Nicaraguans in the eighties benefited from adhering to the Republican government’s anti-communist creed. The Salvadorans and Guatemalans who began to arrive as refugees weren’t as well received because the Reagan administration reckoned, rightly so, that most of them didn’t

¹ Brown and Patten, 2013, a2013, b2013, c2013.

² López et al., 2013, p.10.

³ López et al., 2013, p.10.

⁴ López et al., 2013, p.11.

share its belief. Furthermore, admitting as citizens the refugees from countries whose governments were receiving US military and economic support would have been a tacit admission that the Reagan administration had established alliances with human rights violators. In *Nations of Emigrants: Shifting boundaries of citizenship in El Salvador and the United States*, the much published socio-cultural anthropologist, Susan Bibler Coutin, points out: “The State Department, which was required to weigh in on asylum cases, routinely advised INS [Immigration and Naturalization Service] district directors to deny Salvadorans and Guatemalans asylum cases. These recommendations were generally followed.”¹

As with migrations by other Latin Americans, Central American migrations were, as investigative journalist Juan González noted so well in *Harvest of Empire: A history of Latinos in America*², the harvest of an Empire’s major intervention in the economic, political and military of the Central American countries’ affairs, in which the migration policies were responsible for separating the anti-Sandinista wheat from the revolutionary chaff. Salvadorans, lacking sponsors, hardly obtained 2-3% approval rates from their asylum applications.³ Guatemalans were even a percentage point lower. Nicaraguans, on the other hand, were rewarded with high approval rates, reaching a peak of 84% in 1987. A State Department spokesperson backed this prerogative by stating: “The Sandinistas, however, have developed Nicaragua’s legal system, mass organizations and armed forces into instruments of repression. The State Security Directorate in the Ministry of Interior has institutionalized human rights abuse with the national police system and the security prisons.” These substantial approval rates were reduced to a meager 19% in 1990, as soon as government officials noticed that the new applicants were “only” fleeing economic conditions or seeking family reunification.⁴ In fact, the attitude was modified by the Sandinistas’ electoral defeat and the change in the Nicaraguan government’s political-ideological model.

1.2 The three migration models and the consequences of going from one model to another

Migration expert and professor at Georgetown, Susan F. Martin, states in *A Nation of Immigrants* that the United States was populated during British colonization using three different migration models that persist right up to today. In the Virginia colony immigration was equivalent to the

¹ Bibler Coutin, 2007, p.48.

² González, 2001.

³ Jonas, 2007.

⁴ Wasem, 1997.

arrival of workers, who had few recognized rights. Massachusetts received with open arms those who shared the same religious vision as the founders but excluded all those whose beliefs challenged the prevailing orthodoxy. Pennsylvania, in contrast, had a high regard for pluralism, a trait that made it the most diverse colony with respect to religion, language and culture.¹ US migration policies in the eighties followed a secular version of the migration selection model applied in Massachusetts. It was Reagan's sieve, which strained out rebels and welcomed fugitives from communist regimes. Besides the contrast between nationalities, recent figures also show a marked descent from the pedestal on which migration policies had earlier placed Nicaraguans and a deteriorated situation for all Central Americans. Nicaraguan deportations went from 468 in 2002 to 1,383 in 2013. In the same period they made an Olympic leap from 5,396 to 47,769 for Guatemalans, from 4,946 to 37,049 for Hondurans and from 4,066 to 21,602 for Salvadorans. In total, deportations from these Central Americans countries went from 14,876 to 107,803.² And those figures aren't about a greater flow producing more deportations. With more migrants, proportionally fewer residence applications were successful, falling from 56,271 to 38,667. At each end of the funnel, migration policies exacerbated its dominant traits: narrower to enter and wider to expel.

The decline of the "Massachusetts model" didn't clear the way for a more balanced model with policies less welcoming to Nicaraguans and less antagonistic to Salvadorans, Guatemalans and Hondurans. Rather it was replaced by the "Virginia model," that of workers with very few rights, applied with indiscriminate severity. Nicaraguans stopped being pampered by migration policies. Despite what the figures indicate at first glance, they are now as hard hit as the region's other nationalities. The positive indicator of 2.5 residents for every deportee only expresses inertial movement: a relatively high volume of legal migration has been maintained through family reunification based on a large group of previously established, authorized migrants. Among all admission categories, authorized migrants' family members represented about 66% of those admitted as permanent residents for all nationalities in the broad span between 2002 and 2012.³ This means that today's migrants are reaping the fruits sown by previous migrations. That's why Hondurans seem to be the most affected by deportations and have less access to residence. Unlike Nicaraguans, Guatemalans and Salvadorans, Hondurans weren't included in the Nicaraguan Adjustment and Central American Relief Act of 1997, better known as the NACARA law. Nor were

¹ Martin, 2010.

² U.S. Immigration and Customs Enforcement, ERO Annual Report, FY 2013 ICE Immigration Removals, p.4.

³ Monger and Yankay, 2013, p.3. Monger and Randall, 2010, p.3. Jefferys, 2007, p.2. Rytina, 2005, p.3.

they included in the ABC law, so called because it derived from American Baptist Churches v. Thornburgh, the suit the Baptist Churches won in 1990 against the US attorney general and the INS director for violating national and international laws by denying asylum to Salvadorans and Guatemalans who arrived in the US fleeing political repression in the eighties.¹ The ABC ruling *ipso facto* stopped deportation of these nationalities, benefiting those who hadn't been included in the amnesty known as the Immigration Reform and Control Act (IRCA) of 1986. It covered some 190,000 Salvadorans and 50,000 Guatemalans.² ABC and NACARA were forms of amnesty, belligerent regularization processes that between 1990 and 2000 officially reduced the number of undocumented Nicaraguans from 50,000 to 21,000 and of Salvadorans from 298,000 to 189,000. The arrival of new migrants, however, increased the net number of undocumented Guatemalans from 118,000 to 144,000 in that same time period, while the number of undocumented Hondurans, excluded from these initiatives, jumped from 42,000 to 138,000.³

We can hypothesize from these figures that the policies are no longer favoring Nicaraguans, even in an attenuated way, are moderately affecting Salvadorans and Guatemalans and hitting Hondurans the hardest. While some deportations may be proportional to the flow and have some chance of regularization depending on the situation each nationality's migrants have accumulated over time, the United States, simply put, didn't want to pay, in migration legislation, for the services Honduras provided as a military base during the eighties. As the operational base and R&R area for US soldiers and armed anti-Sandinista counterrevolutionaries, Honduras didn't figure as a war zone. Today, its migrants are at a relative disadvantage as the residue of geopolitical-migratory history. Certain nationalities are less affected due to favorable remnants: established migrants on which family reunification can be built, greater familiarity with bureaucratic procedures and greater networks to communicate this knowledge. Countering disproportionate faith in public policies, it is due far less than assumed to their governments lobbying US politicians.

Migration to the United States began to decline in 2009, the year after the onset of the financial crisis and what has been called "the job drought."⁴ But that decline has been less drastic, fluctuating between 26% and 32% a year. In February 2011, researchers from the Pew Hispanic Center talked about a decline in the number of undocumented migrants, attributed to a fall in

¹ U.S. Department of Justice, 1990.

² Eig, 1998.

³ Office of Policy and Planning, p.17.

⁴ Krugman, 2012, p.16.

Mexican migration.¹ A year later they spoke about “zero migration” of Mexicans and a slowdown in Central American migration.² The Mexican Interior Ministry’s National Institute of Migration said the flow of Central Americans was stabilizing, which it attributed to the effect of restrictive policies.³ Anti-migrant policies, specifically the implementation of the Department of Homeland Security’s “Secure Communities Program,” were identified as the decline’s causal elements. The resurgence of Operation Gatekeeper was of high importance.⁴ The volume of deportations had allegedly reached a historic peak of 395,000 in 2009.⁵ The economic crisis was also assumed to have given potential newcomers negative signals and encouraged their voluntary return, according to findings from a workshop on economic cycles, demographic change and migrations that the International Organization for Migration quickly put together.⁶

However, regarding migration to the United States, subsequent evidence showed that Central American migration to this country had not necessarily begun a new cycle but rather had perhaps entered a small depression within the great, long and ascending, migration wave. In September 2013 the Pew Hispanic Center released a new report in which it announced a migration surge of undocumented non-Mexican groups in 2011 and 2012, with a strong presence of Central Americans.⁷ This was due to the economic crisis motivating migration through its effects on Central American countries, whose economies are dependent on the US; especially El Salvador, whose symbiosis with the US economy has been firmly fixed by dollarization of its currency since 2001. Another spur to migration was shown to be the growing levels of violence in Honduras, Guatemala, and El Salvador, statistically associated with intentions to emigrate.⁸ A December 2013 survey by the Jesuit’s Reflection, Research and Communication Team (ERIC) in Honduras revealed that 36% of those interviewed wanted to emigrate.⁹ We will see this in detail in the following section about asylum and violence.

If the illegalizing machinery fails to stem migration even in times of crisis, what does it achieve? Policies are a sieve, not a dike. What do they strain out and what do they let through?

¹ Passel and Cohn, 2011.

² Passel, Cohn, and Gonzalez-Barrera, 2012.

³ Rodríguez, Berumen and Ramos, 2011.

⁴ Nevins, 2010.

⁵ López et al., 2011, p.11.

⁶ IOM, 2012, p.36.

⁷ Passel, Cohn, and Gonzalez-Barrera, 2013, p.16.

⁸ Hiskey, Malone, and Orcés, 2014.

⁹ ERIC, 2014, p.12.

There are clear indications that there's a filter, but we don't know how much systemic/automatic premeditation and/or malice aforethought is embodied in the policies. Does the destination impose a requirement that means only those who can afford a coyote's expensive services and, therefore, those who have had access to more education tend to go to the US? Or does illegality work like a "scarlet letter" limiting access to better paid neighborhoods, schools, incomes and occupations? We can see this in information that comes from my fieldwork. Up to now, this inquiry does show that there was a filter with ideological criteria in the eighties: an open door to those who shared the same beliefs. Geopolitical criteria continue to be applied to nations at war, such as Iraq and Afghanistan, and are blatantly flaunted in the expedited path to residence for Iraqi or Afghani interpreters who assisted US officials and those employed by the US government for at least one year since 2001 (for the Afghans) or since 2003 (for the Iraqis), as established in the Afghan Allies Protection Act of 2009 and the National Defense Authorization Act, a federal law stipulated in the Defense Department's budget.¹ But this filter has ceased to be applied to Central Americans, whose "illegalization" or acceptance has undergone an ideological change in migration policy: From a geopolitical to a nationalist/racist focal point? To a focus on class? To the "Virginia model," where the market imposes its demand for labor or for "clients" in private migrant detention centers?

An increase in undocumented migrants is connected to a shift in the legality line, reflected in chronological evolution. The dark side to the increase in undocumented migrants is that it provides an opportunity for big capital to avail itself of a reserve army while holding down salaries. As anthropologist Nicholas De Genova pointed out, the "illegal alien" classification is enormously profitable because it serves (not always) to provide cheap labor. This crucial finding is so well established it's irrefutable, but in itself, this isn't enough because it doesn't examine—and therefore normalizes—the origin of this legal status, which De Genova calls the "illegalization" of the migrant.² This illegalization also has a flip side: it increases the number of those who defy the State, with the census revealing that Nicaraguan migrants react by assuming illegality, not avoiding it. In this illegalization process, migrants have assumed illegality, with all its risks and challenges. Some experts' appeals for universal citizenship, and the semantic battle attempting to eliminate—

¹ U.S. Citizenship and Immigration Services, Green Card for an Iraqi Who Assisted the U.S. Government, <http://www.uscis.gov/green-card/green-card-through-job/green-card-through-special-categories-jobs/green-card-iraqi-who-assisted-us-government> U.S. Citizenship and Immigration Services, Green Card for an Afghan Who Assisted the U.S. Government, <http://www.uscis.gov/green-card/green-card-through-job/green-card-through-special-categories-jobs/green-card-afghan-who-assisted-us-government>

² De Genova, 2005, p.214.

or delegitimize, so showing its spurious origin—the stigma of “illegal” that the State stamps on undocumented migrants can’t erase the fact that the foundational act in the relationship of most Central American migrants with the United States is a transgression of that country’s laws.

2. Violence and Central Americans in search of asylum

The peace accords that the conflicting forces signed between 1988 and 1996 appeared to have tossed the concept of refugee into the corner reserved for anachronistic junk. The “Contra” and the Sandinista National Liberation Front (FSLN) opened that string of accords in Sapoá, while the Guatemalan National Revolutionary Unity (URNG) and the government of Guatemala tied it off with the “Firm and Lasting Peace Accord” whose pompous yet encouraging name stressed the rhetorical opening to an unprecedented era that would make continued talk of refugees irrelevant. But contrary to all forecasts, asylum-seeking has returned. The expelling compulsion attributed to the market’s invisible hand is ceding importance to the visible—although unpredictable and therefore more dangerous—armed hand of the military, drug traffickers, hit men, common criminals and youth gang members.

The refuge is the United States. Those fleeing are Hondurans, Guatemalans and Salvadorans, including children. The evidence for this tendency is overwhelming. The United Nations’ refugee agency, UNHCR, and the United States Conference of Catholic Bishops (USCCB) are the most conspicuous, although by no means only, actors to have noted the abrupt jump in the average annual number of unaccompanied minors detained by US immigration authorities from 6,800 in 2004-2011 to 13,000 in 2012 and more than 24,000 in 2013.¹ A figure of between 60,000 and 90,000 was expected in 2014, according to an interagency memo from a Border Patrol official quoted in *The New York Times*.² There were 68,631 in 2014. The arrival of undocumented minors in early June 2014 was so great it outstripped the capacity of the institutions that usually receive them. With that, the Pentagon converted the military bases of Fort Sill (Oklahoma), San Antonio Lackland (Texas) and Ventura County (California) to house 1,800 unaccompanied minors.³ Under pressure due to the sudden increase, President Obama called for a coordinated federal effort to address what he called an “urgent humanitarian situation.”⁴

¹ USCCB 2013: 23.

² Belson, 2014.

³ Departamento 19, 2014,

⁴ Lovelace, 2014.

In 2014, 75% of the unaccompanied minors apprehended were Guatemalan, Honduran and Salvadoran, a percentile whose disproportionate weight is only evident when compared to the fact that these same nationalities only represented 49% of 486,651 apprehended by the Border Patrol.¹ In the 2008-2011 period the number remained relatively stable—between 4,444 and 3,304—but then shot up to 10,146 in 2012, doubled to 20,805 in 2013, and more than doubled to 51,705 in 2014.

Unaccompanied immigrant minors who were apprehended by the Border Patrol

	2008	2009	2010	2011	2012	2013	2014
El Salvador	1,391	1,221	1,910	1,394	3,314	5,990	16,404
Guatemala	1,388	1,115	1,517	1,565	3,835	8,068	17,057
Honduras	1,578	968	1,017	974	2,997	6,747	18,244
Total of Central Americans	4,357	3,304	4,444	3,933	10,146	20,805	51,705
Total of unaccompanied minors	8,041	19,668	18,634	16,056	24,481	38,833	68,631
Percentage of Central Americans	54	17	24	24.5	41	54	75

Source: U.S. Customs and Border Protection²

Mexico’s National Migration Institute also registered an increase, although a much less marked one, of unaccompanied minors among the Central Americans it deported from that country, with the figure rising from 1,946 in 2009 to 5,389 in 2013. The total number of minors deported in the same period rose from 3,985 to 8,180, with 44% of them from Honduras. The weight of minors in the total number of deportees jumped from 6% to 11% and the proportion of unaccompanied minors among the total number of minors rose by 17%, from 49% to 66%. The country with the highest percentage of unaccompanied minors among its total minors is Guatemala, with 74% in 2013.³

There is a correlation between the migration of minors and the polymorphous violence currently affecting Honduras, Guatemala and El Salvador. A USCCB report revealed that over 50% of the children from those three countries detained by the US authorities in 2010 said they were fleeing violence.⁴ The same report showed that 25% of a random sample of all minors placed in USCCB Migration and Refugee Services care between 2007 and 2011 had directly witnessed

¹ U.S. Immigration and Customs Enforcement, 2013, p.4.

² U.S. Customs and Border Protection, 2012, 2014. UNHCR, 2014, p.16.

³ Centro de Estudios Migratorios, 2013, pp.128 y 131.

⁴ USCCB, 2012, p.7.

violent crimes, generally committed with firearms. This rate reached 50% among the Hondurans.¹ The report also mentions an increase in female migration from Guatemala to the United States, attributable to the need to escape violence, rape and torture, a tendency the United Nations Children's Fund (UNICEF) detected in 2009, with organized crime and youth gangs causing panic and anxiety among the under-18 population.² In 2013, the USCCB conducted a new survey among detained children and sent a delegation headed by the archbishop of El Paso, Texas, to Mexico and Central America to visit migrant shelters and do interviews. The delegation found that of a total of 140 minors from Mexico, Guatemala, El Salvador and Honduras benefited by the USCCB's family reunification services in 2011, 41% said they had emigrated to flee from violence.³

But these findings run up against a persistent insistence in Central America itself that this emigration is economic in nature. For example, an opinion survey by the Jesuits' Reflection, Investigation and Communication Team (ERIC) in Honduras revealed that 55.1% of the young people interviewed didn't want to emigrate, while 44.8% did. Among those who indicated a preference for emigrating abroad, the largest percentage of both females (78%) and males (82%) said the reason was "the bad economy and lack of opportunities to improve their income in the country."⁴ A survey by the International Organization for Migration (IOM) and UNICEF, conducted in 2010, also found that 51.7% of Guatemalans migrated to improve their economic situation, 37.2% in search of employment and only 0.6% due to violence.⁵

The interesting study titled "La esperanza viaja sin visa" (Hope travels without a visa) by the Central American University of El Salvador and United Nations Population Fund reveals that Salvadorans emigrate due to "lack of opportunities for employment, a decent life or education; violence does not always appear as a direct expelling factor, but rather as a macro conditioning factor."⁶ This vision was partially corroborated by the Americas Barometer Insights 2014 issue dedicated to "Violence and Migration in Central America." While it concludes that crime does appear to contribute to the migratory wave, particularly if increased numbers of people directly experience it, it also notes 2012 figures showing limited victimization levels among Hondurans (23.2%), an extremely low propensity to feel unsafe in their own neighborhoods (18.9%) and minimal intentions to migrate (11.4%). Paradoxically, this report found victimization only (17.5%)

¹ *Ibíd.*, pp.8-9.

² *Ibíd.*, p.4. UNICEF Guatemala, 2009, p.8.

³ USCCB, 2013, p.6.

⁴ Cardoza, 2014, p.9.

⁵ UNICEF-OIM, 2011, p.62.

⁶ Gaborit, 2012, p.12.

higher in Honduras, considered the most dangerous country in Central America, than in Costa Rica, generally regarded as one of the safest but where the perception of insecurity (29.7%) is 6.5% higher than in Honduras.¹ On the face of it, this implausible contrast between Honduras, which in 2013 earned the sad reputation of being the most violent in the world (with 90.4 homicides per 100,000 inhabitants)² and Costa Rica, renowned as “the Switzerland of Central America” (with 8.5 homicides per 100,000 inhabitants)³ suggests that Hondurans are the most irresponsibly unapprehensive people on the planet and Costa Ricans the most jumpy. A less subjective possibility is that the surveys were badly designed or, in an excessive desire for statistical representativeness, not designed to take the geography of fear into account.

2.1 Figures on the geography of fear: The relationship between violence and migration

National perception averages are usually misleading because violence tends to have a very unequal geographical distribution within a country. Although Guatemala and El Salvador—with 39.9 and 41.2 homicides per 100,000 inhabitants, respectively—appear far removed from the scythe-bearing Grim Reaper hovering over Honduras, it should be borne in mind that the homicide rates in the three countries’ capitals are all very high and not so different: 116.6 in Guatemala City (2010), 102.2 in Tegucigalpa (2011) and 89.9 in San Salvador (2011).⁴ It is therefore reasonable to suppose that many Salvadorans and Guatemalans also emigrate to escape violence, and that national averages dissimulate an unequal distribution of that violence.

As for Honduras, prioritizing a territorially balanced sample in the surveys could cover up the fact that violence is concentrated in what drug trafficking-related jargon terms “hotspots.” For this reason, a sample in which San Pedro Sula, located in the northern coastal area, is considered only relative to its demographic weight and not its victimization levels and weight in the migratory flow will produce an incomplete image of the specter of violence and its influence on migrations. For the third consecutive year, San Pedro Sula nailed its position as the world’s most violent city in 2013 with 187 homicides per 100,000 inhabitants.⁵ Considered Honduras’ economic capital, San

¹ Hiskey, 2014, p.3.

² BBC Mundo, 2014.

³ United Nations Office on Drugs and Crime, 2014, p.126.

⁴ *Ibíd.*, p.146.

⁵ Ortega, 2014.

Pedro Sula hit first place in 2011 with 125 homicides per 100,000 inhabitants and remained there in 2012 with an increase to 174 homicides. Its reputation has earned it sinister headlines in internationally circulating newspapers: “San Pedro Sula convulsed with violence,” “Seven at night, the most dangerous time in San Pedro Sula,” “Central America’s kidnap capital,” “An earthly hell called San Pedro Sula,” “A city turned morgue”...

The population couldn’t remain indifferent to San Pedro Sula’s “heating up.” Signs of this include, for example, that 51 of the 238 Honduran migrants (21%) fed at the Kino Border Initiative’s soup kitchen in Nogales in the Mexican state of Sonora between September 2013 and March 2014 were from San Pedro Sula. That is clear over-representation given that projections based on the last census indicate that only 9% of Hondurans live in that city.¹ There’s a correlation between this over-representation and another, according to 2005 data: 27% of the total arms registered in Honduras were located in San Pedro Sula.² Yet another sign of the correlation between violence and migration explained by the geography of fear is the fact that the most Hondurans attended by the Kino Border Initiative come from the most violent departments identified by Honduran sociologist Julieta Castellanos in 2011 based on the number of murders per 100,000 inhabitants: Atlántida (149), Cortés (127), Copán (114), Colón (103), Ocotepeque y Yoro (97) and Francisco Morazán (88).³

Another reason national public opinion or even victimization averages require a disaggregated analysis to establish their impact on migrations is the very diverse distribution of victimization and risks by sex and age groups, which the following figures for El Salvador evidence clearly: in 2005, the general death rate per 100,000 inhabitants was 392 for males between the ages of 15 and 29 in El Salvador, compared to 84 for females of the same age range. This difference is more pronounced when the homicide rates for that age range are examined: El Salvador’s overall homicide rate per 100,000 inhabitants was 62.2 for the same year, but for males it was 223 and for females only 20.⁴⁵ In Honduras, all we know is that young men and women between the ages of 15 and 24 accounted for 25.7% of the total homicide victims in 2007.⁶

¹ Estimates for 2010. Instituto Nacional de Estadística, 2001

² Registro Nacional de Armas de la Dirección General de Investigación Criminal. Quoted by CIPRODEH, n.d.

³ Castellanos, n.d.

⁴ CEPAL, 2008, pp.54 y 57.

⁵ United Nations Office on Drugs and Crime, p.126.

⁶ CEPAL, 2008, p.91.

Homicides throughout Latin America are concentrated among young people between the ages of 15 and 29, which is the same age range of those who migrate most.¹ But that doesn't mean that only youths or even only young men have violence-related motives for emigrating. Violence doesn't only have the face of a hit man with a revolver in his hand. It also has the face of a rapist, very occasionally superimposed over that of a youth gang member and far more often camouflaged beneath the "protective" visage of a father, stepfather, cousin or uncle. Or else it has the face of a pimp, in which case girls and female adolescents are its most frequent victims, although it can be suspected that machismo gags any accusations from boys.

In El Salvador, most victims of abuse and commercial sexual exploitation are females aged 10-17 years old.² In Honduras, a daily average of two cases of the rape of under-14s was registered in 2010 in Tegucigalpa alone.³ Of the cases reported the following year—as always a small proportion of those actually committed—only 31% ended up investigated by the public prosecutor.⁴ The picture for Guatemala is very similar, where a report by Médecins Sans Frontières says that 93% of rape survivors cared for in 2011 were female and 64% were 12- to 17-year-olds for whom the rape was their first sexual experience.⁵

These are precisely the ages of the unaccompanied minors arriving in such large numbers in the USA. In other words, they are the demographic dividend in which the technocrats place such vaunted and vain hopes.⁶ And given that the Central American countries are "heating up," they are moving away in search of "cooler" places. My conclusion regarding the underestimation of the relationship between migration and violence is that national percentages can't be used to weight variables being correlated with migration. Migration is a phenomenon whose actors don't represent the national averages, but rather have a certain profile being chiseled out by the multiple faces of violence and certain opportunities.

When survey-takers armed with questionnaires containing variables that aren't mutually exclusive press the migratory subjects themselves to exclusively identify a simplifying reason for having left their country, it puts them in a real predicament. Among the emigrants cared for by the Kino Border Initiative in a seven-month period starting in September 2013, only between 4% and 7% said they migrated due to violence. The rest focused on lack of work and family reunification.

¹ United Nations Office on Drugs and Crime, p.28.

² Consejo Nacional de la Niñez y de la Adolescencia, 2013, pp.81-82.

³ Silvestrucci, 2010.

⁴ Casa Alianza, 2013, p.37.

⁵ Médicos Sin Fronteras, 2011.

⁶ ECLAC, 2008, pp.143-169.

But my long one-on-one conversations with young migrants there showed me a repeated archetypal story: the plan to be reunited with a mother who has been living for years in Los Angeles or Maryland because in Guatemala or Honduras they're more likely to get a bullet in the head like other people they knew than to get a decent job, which almost nobody they knew ever ends up with. These three motivations—to avoid violence, find employment and reunite the family—can coexist in the same emigrant. Sometimes motives are so tightly braided they're interwoven into a single strand, as observed by Jeremy Slack, a researcher at the University of Arizona, who often finds it nearly impossible to clearly delimit the motivations. For example extortion—the various “taxes” different groups charge back home for “protection” or other “services”—overlaps both violence and economics.¹

While some downplay violence as a motivation for the migration of Central Americans, other sources corroborate the current link. Based on a survey of 404 unaccompanied 12- to 14-year-old migrants in the custody of the US Department of Health and Human Services' Office of Refugee Resettlement, the UNHCR report “Children on the run” revealed that 44% of the Hondurans said they had been threatened by or were direct victims of armed criminals, including youth gang members, cartels and thieves. The same was true for 66% of the Salvadorans who, like the 35% of Salvadorans attended by the Kino Border Initiative, could well have come from San Salvador, El Salvador's most violent city.² The method UNHCR used to establish the link between violence and migration is obviously more effective than the sophisticated statistical models of Americas Barometer Insights. UNHCR gathered the testimonies of people who had already migrated rather than the perception of people still in the country expressing migratory intentions. Moreover, its design encompasses the plurality of motives for migrating.

2.2 USA: A none-too-generous Mecca for Central America asylum seekers

According to a 2013 UNHCR report, of the 612,700 asylum petitions registered in the 44 industrialized countries in 2013, the 88,400 requests in the United States make that country the second most sought by asylum candidates after Germany. The 25% increase in the US total for 2013 over 2012 (17,590 more requests) was due to an increase in Hondurans seeking asylum there. The report states that “About 30% of all asylum claims in the country were lodged by asylum-seekers from Mexico and Central America. Violence generated by transnational organized

¹ Interview with the author, April 4, 2014.

² UNHCR, 2014, pp.9-10.

crime, gang-related violence and drug cartels in some parts of Central America may be among the contributing factors leading to the consistent high number of individuals from this region requesting refugee status in the United States of America.”¹

Rated according to its geographical dimensions with a little help from a UNHCR indicator that reflects the willingness to welcome asylum seekers, the US doesn't seem a particularly generous or hospitable host. In 2009-2013 it received only one asylum petitioner per 1,000 inhabitants, which placed it 29th in a ranking headed by Malta with 20.2 applicants per 1,000 inhabitants and Sweden with 19.2.² From the perspective of another index based on territorial dimensions, the US position doesn't get any better: it had 28 refugees per 1,000 km², which is insignificant compared to Malta (26,351), Lebanon (12,968), Jordan (3,359), Rwanda (2,300), Holland (2,049), Pakistan (1,869), Bangladesh (1,686), Germany (1,657), Burundi (1,545), Switzerland (1,233), Luxemburg (1,114), Kenya (966), Uganda (816), Belgium (720), Serbia (649), Austria (618), England (614), Yemen (563), Ecuador (481), Togo (411), Turkey (342), Ethiopia (332), Panama (231), Sweden (208) and Norway (134), among many other countries great and small, rich and poor and with high and low population densities that have acted with greater largess, overcoming territorial, demographic or economic pressure to grant asylum.³

The Central American migrants running from violence have headed toward a tree that shelters few refugees. And the backing their aspirations receive from international organizations is dangerously varied. The response to their hopes blow hot and cold. In an interview with the Univision Spanish language television network, IOM spokesperson Niurka Piñeiro said her organization promotes campaigns “to inform both the young people and their parents of the dangers and of the truth about the United States. And that means that there isn't going to be such an amnesty.”⁴ On the other hand, UNHCR reported that 56% of the minors it interviewed require international protection. Meanwhile, Central Americans continue arriving in the US, including an increasing number of children. In the next installment we'll examine the chances of their hopes being satisfied and whether the violence in Central America provides a basis for their asylum demands.

¹ UNHCR, 2013, p.11.

² *Ibíd.*, p.15.

³ UNHCR, 2012, pp.166-168.

⁴ Appearance of Niurka Piñeiro (Spokeswoman of IOM) in Univisión.

<http://noticias.univision.com/article/1994240/2014-06-18/inmigracion/noticias/wola-propone-un-asilo-temporal>

There have been Central American refugees in the United States for a long time. The large numbers of children currently crossing the Mexico-US border are what have caught the world's attention and triggered statements by international organizations, churches, the media, NGOs and political officials in several countries. The attention was deserved and the statements urgently needed. Nonetheless, we shouldn't forget that the 20,805 Guatemalan, Honduran and Salvadoran minors arrested by border guards in 2013 only represent 19.5% of the total number of detainees from these three countries. On top of that are all the immigrants who haven't been arrested, some children and many more adults, and are spread out throughout the US, swelling the ranks of the undocumented but dynamizing the economy of a country that by turns treats them like indispensable enemies and criminals or the core of the national creed.

The "irregular" US population is still growing, with two new undocumented migrants for each deportee. With the State's grudging consent or evading the Immigration and Customs Service patrols, sensors and helicopters, children and adults have continued a tradition significantly heightened if not begun by Central Americans in the 1980s. They are fulfilling the prediction that Susan George put in the mouth of the experts charged with saving capitalism in her fact-based fictional document, "The Lugano Report II": "We are going to see an increase in migration pressure, millions of people will try to escape from their places of origin when conditions become impossible. The majority will move to other regions of their own countries but many will try to reach rich northern countries. Up until now, Europe and North America have responded forcefully to migrations, exclusively using the military and the police. Nevertheless, estimates of the number of migrants who have illegally crossed their borders suggest that those efforts have failed: at least 11 million illegal immigrants from Mexico and the rest of Latin America in the United States and tens of thousands in the European Union."¹

Many arrested immigrants request "defensive asylum" in their hearings with immigration judges, the narrow door to asylum for those who are caught.² The problematic circumstances of these requests lead to lower approval rates than for "affirmative asylum" requests made through

¹ George, 2013, pp.50-51.

² "An alien may apply for asylum in one of two ways: with an INS asylum officer, or, if apprehended, with an immigration judge as part of a deportation or exclusion hearing. Aliens who appear at the ports of entry without proper documents and request asylum are referred for exclusion hearings. The data reported in this section pertain only to asylum cases filed with INS asylum officers. An alien denied asylum by the INS may renew the asylum claim with an immigration judge." U.S. Immigration and Naturalization Service, 1997, p.77.

voluntary presentation to the asylum offices.¹ Immigration lawyers, including those who provide their services pro bono and who can be assumed to have the best intentions, know that gang victims or those escaping drug traffickers and street violence have very little chance of being granted asylum. Mimicking the first article of the UN Convention Relating to the Status of Refugees², the US Refugee Act demands that those requesting asylum demonstrate that they have been persecuted or have a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion.³ Lilia Velásquez, lecturer at the California Western School of Law and a practicing immigration lawyer in San Diego, is well aware of the difficulties faced even by the victims of multiple traumas. “A 37-year-old man wrote to me from prison. He is transgender, has no money, is poor and his family wants nothing to do with him. He told me he had been raped by his cousins since he was seven and by police officers when he was 12. He’s HIV positive; that is, he has the virus. He asked for asylum and was refused. They deported him. Afterwards he returned and was kidnapped. Now he’s in jail and doesn’t qualify for bail. He has been arrested everywhere. Because there’s torture in his home country, which has been documented, they can’t send him back. Deportation and asylum cases are incredibly complicated.”⁴

The instability of legal resources makes the cases very difficult to argue. The common law system increases the lawyers’ work and their number of sleepless nights. Originating in England then exported to the colonies, this system gives enormous weight to legal precedent in establishing law. Immigration lawyers have to keep up to date with new decisions that, by establishing precedents, shift the balance one way or another. The results of a number of trials have made being targeted by gangs less and less admissible as a reason for being granted asylum. In some cases, being the victim of homophobia is accepted but there’s no guarantee of success and even less of cases being dealt with urgently. It’s quite normal for a year to pass between hearings before an immigration judge.

¹ Affirmative asylum cases granted have always exceeded defensive asylum cases. They raised from 5,672 in 1990 to 17,506 in 2012. Nowadays, in the same period, the number of defensive asylum cases has increased quickest from 2,800 to 11,978. U.S. Department of Homeland Security, 2013. Affirmative asylum was sought by Central Americans mostly in the first half of 90s. Between 1990 and 1996, citizens from Guatemala, El Salvador and Nicaragua presented first or second time 441,296 asylum applications before the Immigration and Naturalization Service. U.S. Immigration and Naturalization Service, 1997, p.79.

² UNHCR, 1967.

³ U.S. 96th Congress, 1980.

⁴ Interview with the author, March 31, 2014.

The statistics speak eloquently about the complicated nature of the cases. In 2013, 11,598 Central Americans requested asylum in the US: 4,649 Salvadorans, 4,314 Guatemalans and 2,635 Hondurans.¹ Their countries of origin were in fourth, fifth and seventh place, respectively, on the list of nationalities requesting asylum. The United States is Central Americans' "natural" refuge and priority destination, receiving 95% of the 12,197 asylum requests made to industrialized countries by citizens of these three nationalities. In the cases of El Salvador and Guatemala, the numbers of applications are very close to those in the mid-1990s, just after the official end of the internal conflicts.

Hondurans are facing a relatively new but explosively growing phenomenon. In 1996 there were 1,266 new asylum requests by Hondurans then between 2000 and 2005 the numbers ranged from only 236 to 373. A watershed moment came in 2011 when the number of requests more than doubled the previous year's figure, jumping to 1,351, but that was moderate compared to the 2,066 requests in 2012.² Nevertheless, only 141 applications for affirmative asylum and 93 for defensive asylum were accepted in 2011. The next year, 11,598 Guatemalans, Salvadorans and Hondurans applied but only 1,097 were accepted.³ Some Central Americans explored a less random route, requesting refuge before arriving in the US: under US law, asylum requests are made once in the country, refuge is requested from outside. The Central American refugee centers in the US are empty. Central Americans aren't eligible for refugee status a priori, so they seek it a posteriori.⁴

2.3 The United States bears great responsibility: Our violence must be historicized

The loud refrain in defense of children fleeing chaotic violence has the effect of making the US seem no more than a chance oasis, whose only relation to the dramatic situation is that it is a prosperous nation and a peaceful haven. Nevertheless, there is no escaping the relationship between the US and violence in Central America. The US government has direct responsibility for the production of the anti-insurgent orientation that permitted the growth of the criminal forces that foment and use violence, as can be shown from the testimony of migrants and any serious effort to historicize violence and its instruments, both weapons and humans. Violence must be

¹ UNHCR, 2014, p.40.

² UNHCR, 2005; 2014, p.40.

³ U.S. Department of Homeland Security, 2012.

⁴ U.S. Department of State, 2012.

historicized so the continuity can be seen. A focus on “minors” glosses over this historicization and its political causes. It allows the new refugees to be treated as people with no history, who aren’t asked what caused the problems they’re trying to escape.

Optimism about the peace dividend, both financial and social, is based on the assumption that violence is a feature of primitive stages of human development and that, insofar as a society advances to higher stages of civilization, high murder rates and other types of violence become a thing of the past. These are ideological assumptions without any empirical basis, mere wishful thinking. The pogroms, the Nazi holocaust and, to cite a recent example, the war in Kosovo have demonstrated the reality of the theoretically unthinkable coexistence of modernity and brutality, civilization and holocaust, democracy and increasing murder. Sociologist Hans Joas recommends that those who investigate violence should not only distance themselves from faith in progress but should also seek to immerse themselves in the history of violence, “which makes clear the tortuous and insecure nature of all roads to progress and how the retrospective tracing of straight lines from the past to a good present or an even better future are more often than not nothing but optical illusions.”¹

Central American countries are suffering the paradox of Brazilian democracy as analyzed by James Holston: just when democracy is trying to put down roots, violence, injustice, corruption and impunity have grown dramatically. As a result, many Brazilians, and Central Americans, feel less safe under representative democracy, achieved with such difficulty, and are more physically threatened by everyday violence than they were by repressive dictatorships and military regimes. A similarity with a previous era presents an ominous sign of the times: from 1982 to 1984, in the middle of the armed struggle, the murder rate per 100,000 young Salvadoran men was 249.3. Two decades later, in 2005 in times of “peace,” it was 223.² According to Holston, at the same time that a generation of insurgent citizens was democratizing urban space and key aspects of planning, creating unprecedented access to resources in Brazil, public spaces began to be permeated by a climate of fear and incivility, leading to their abandonment, the fortification of residential areas, criminalization of the poor and support for police violence.³

The principal manifestations of violence from which the elites are escaping to their marble-barred citadels and lower-income people to the US are very complicated. They can’t be

¹ Joas, 2005, p.14.

² The ranks do not make a perfect match: the rank in 2005 was made to include 15 to 29 year olds, while the rank in the 80s included 15 to 24 year olds. CEPAL, 2008, pp.57 y 355.

³ Holston, 2009, p.13.

explained just in economic, moral or developmental terms. In our secularized world, material motivations such as poverty, greed, inequity, competition for limited resources and others present in violent societies have gained relevance as explanations of social actions¹, but they don't have much explicative value regarding the "how" or the meaning of violence for the protagonists, nor do they explain how their victims experience and deal with it.

The characteristics of violence are as important as its causes. One of the most significant is the democratizing of violence as a consequence of increasing numbers of weapons and the decline of the State. Dutch academics Dirk Kruijt and Kees Koonings argue that the end of the wars in Latin America was followed by a period in which the State lost its monopoly on violence and we entered a stage in which the means and exercise of violence became widely disseminated.² The war provided the means and the know-how. The postwar period brought the reduced role of the State as an employer and weakened in its both its harsh patriarchal and motherly welfare aspects, losing coercive power and reducing its social spending.³

This characteristic highlights the lack of "motives" that can be offered as a rational basis for asylum requests. Materialistic explanations are insufficient. Salvadoran Jesús López explains it this way: "Before, people weren't happy if nobody died. When people heard there had been a death they said it meant fresh meat, because there were tamales and coffee at the wake. That was the only happiness people had in that town. Do you think those people feared God? They didn't love life. The military used to arrive with bombs. Boom! They tossed a bomb into a party: suddenly people with no eyes, no feet, dead bodies without their guts, some with extra guts. There's a canton called El Palón [in Lolotique, San Miguel] where not long ago five people were killed with an AK-47. Drunks. Just some of those bums who play cards in the street, who sit around in little groups. They're people accustomed to looking for a little place with rocks they can sit on to play cards. A group of those gang members went by and killed five people with an AK-47. It's their only motto: kill people. Nobody knew who did it or why."⁴

This democratization has consequences for refuge. The migrants are "innocent" but in the sense used by Arendt: a total absence of responsibility, the mark of a lack of rights and loss of their

¹ Waldmann, 2007, p.62.

² Kruijt, 1999, p.11.

³ On the reproduction in the State apparatus of this archetypal division of masculine and feminine roles, see Bourdieu, 2002.

⁴ Interview with the author, April 24, 2011.

political status.¹ They haven't been involved in political activities that could lead to their persecution but their bigger problem relative to current asylum laws is that they can't allege that they belong to any of the groups that are the specific target of persecution. The democratization of violence, the characteristic that makes it so unpredictable and ubiquitous, gives it the terrifying particularity that it strikes anyone without distinction. What Arendt calls the "all-pervading unpredictability" of violence can be seen here in full force.² No religious, political or ethnic group can convincingly claim to be at the center of the spiral of violence. Consequently, each case has to be dealt with individually. The requirement of group prosecution a priori blocks any attempt at mass asylum.

Many of the testimonies I heard during my interviews in the United States are like that of Sofía Villatoro from Quetzaltenango, stories of escape from depoliticized, democratized and ubiquitous violence, signs also of a *communitas* in a process of recomposition... or decomposition. "I came here in 1999 when I was nine. My granny sent me with a coyote. She thought it was dangerous to stay in Guatemala and that I was old enough. More than anything, I never went out of the house because my granny was worried I would be kidnapped because people knew my parents were here in the US. We had already been robbed at gunpoint in our house five times. That's why my granny was very concerned about me."³ For the time being, Sofia is protected by the Convention Against Torture (CAT), the measure the judge used to close her deportation case; not because she was a minor but rather because of her violent environment in Guatemala, and possibly also because her case had been publicized in the local media.

The mass dissemination of weapons

Arendt said that violence "always needs implements."⁴ The democratization of violence is made possible by the spread of weapons. Castellanos⁵ and Godnick⁶ have argued that the Central American peace agreements and subsequent disarmament failed to anticipate the degree to which weapons would flow from the rebel groups, paramilitaries and military into the hands of private citizens.⁷ The result is an unknown number of unregistered private weapons. Many of

¹ Arendt, 1964, p.295.

² Arendt, *On Violence*, 1969, p.5.

³ Interview with the author, April 14, 2014.

⁴ Arendt, 1969, p.4.

⁵ Castellanos, 2000.

⁶ Godnick, 2002.

⁷ Cruz, 2001, p.213; Castellanos, 2001, p.264.

those currently circulating among criminals, gangs, hit men and ordinary citizens are left over from the war. For anthropologist Jon Wolseth, a specialist on Honduras' variant of the particularly virulent Central northern American gangs known as "maras," these remnants of the war explain how criminals can supplement the omnipresent pistols, revolvers and home-made guns with heavy automatic and semi-automatic weapons such as AK-47s, Uzis, grenades and even bazookas.

¹ But the weapons aren't just war leftovers. There's a bustling illegal weapons trade that defies regulation and channels ammunition and weapons from law enforcement agencies to the public. Mexican journalist Diego Enrique Osorno explains that "the gun shows in frontier cities are the principal sources of AK-47s, AR-15 rifles and Beretta pistols. This is no secret. We aren't talking about underground groups. Over 100,000 permit holders legally sell weapons all along the border."² And from there they flow to the drug traffickers and further south.

In her book *El tráfico de armas en México*, Magda Coss Noguera relates how "it is easier to buy a gun than to get gasoline in Texas, close to the Mexican border," how "almost two thousand firearms enter Mexico every day, coming mainly from the US" (five million illegal weapons entered between 2000 and 2008) and how many of those that were traced have been found in Guatemala. The Tepito cartel has at least 35 places where it sells weapons, either coming from the US or stolen from Mexico's National Defense Secretariat (SEDENA), which amount to 60% of the ones seized. In 1994, "40 tons of weapons acquired by SEDENA in the US and transported in military airplanes went to drug traffickers." Of the weapons traced after being illegally introduced into Mexico, 40% came from Houston, Dallas and McAllen, Texas.³ But weapons from Asia and Europe also reach Central America, where Guatemala and Nicaragua are the two countries that Coss Noguera says has the most gaps in their surveillance.⁴ The US also has an important and growing role in the region's legal arms trade, particularly in El Salvador where military supplies spending increased from US\$473,000 in 2006 to US\$3.3 million in 2013, accounting for 47% of all the country's purchases of arms and munitions.⁵

¹ Wolseth, 2011, p.13.

² Osorno, 2012, p.263.

³ Coss 2011, pp.74, 103, 110-111 y 117-120.

⁴ *Ibíd.*, p.126.

⁵ Global research, 2014.

Are gangs the biggest threat? Where did the maras come from?

Taking advantage of the availability of weapons, the region's maras have cultivated a fearsome reputation, making it easy for their critics to create a dark legend that has spread around the world in documentaries, BBC reports, terrifying profiles on the History Channel and books like *De los maras a los Zetas* by Jorge Fernandez Menendez and Victor Ronquillo. Unscrupulous hacks claim that mara members have received terrorist training in Afghanistan and are creating a corridor from Colombia to Los Angeles for drug and people trafficking.¹ The maras have been presented officially to public opinion as the main threat to public security and even as new urban insurgents capable of taking control of the State.² The creation of these exaggerated ideas is intentional, leading to the criminalization of young people out of all proportion to their actual participation in violence. Above all, it is intrinsically related to certain national myths³, to the generation of stereotypes to mold public discourse⁴ and to a wish to revive the militarized State of the recent past.⁵ It also avoids proper consideration of a very poorly understood phenomenon⁶, instead painting the darkest of pictures and fueling a punitive populism that makes or breaks political careers.⁷

As we now know, the maras came about through the hybridization of local gangs with a transnational strand.⁸ The term was first applied to the Mara Salvatrucha, formed by Salvadorans in Los Angeles. For a cohort of Salvadorans who emigrated during the final years of the civil war and received a hostile welcome from Latino groups already established in the Pico-Union area of Los Angeles, this gang became an institutional means of reasserting themselves. It eventually came to control the area of 13th Street, becoming known as Mara 13, and engaged in confrontations with the 18th Street gang members (Barrio 18, which had existed since the 1960s)⁹ in a rivalry that turned a nationalist focus into a territorial one.¹⁰

Through a thus far poorly understood process, these maras absorbed the small gangs that previously existed in Guatemala, Honduras and El Salvador until their trans-national corporate

¹ Fernández 2007, pp.40 y 178.

² This is stated in the document that Westpoint uses to train privates on the issue. Manwaring, 2005.

³ Oettler, 2011, p.274.

⁴ Hume, 2009, p.24.

⁵ Torres-Rivas, 1981, pp. 71-112.

⁶ Bellanger and Rocha, 2008, pp.137-152.

⁷ Also know as penal populism. Roberts, 2003.

⁸ Rodgers and Rocha, 2013, p.47.

⁹ Wolf, 2009, p.86.

¹⁰ Lara, 2006.

brand imposed itself on the myriad of local gangs. This process gave birth to what were perhaps the first “glocal” gangs; functioning like a network of small local gangs that maintained their autonomy despite their transnational relations.¹ This fusion was facilitated by the massive deportation of mara members among the Central Americans facing criminal charges who were expelled from the US between 1993 and 1998: 7,223 Salvadorans, 4,274 Hondurans and 3,638 Guatemalans, who respectively made up 41%, 25% and 24% of the deportees of those nationalities.² This origin left vestiges in an umbilical cord that continues to link the Central American maras to their counterparts in Los Angeles through the active circulation of members, rules, directives, international backing and funds to purchase weapons.³

In the context of this glocal reorganization, those stigmatized made that stigma into a badge of honor. Zygmund Bauman explains some aspects of their violence as a reaction by excluded youths to the changes in the postmodern world that discriminate against and marginalize them as outsiders, stripping them of their personal uniqueness, the only thing that obstructs the stereotypes and overcomes or mitigates the reductionist impact of the law, including criminal law.⁴ Given that rejection and exclusion by the commissar-State actively seeks that those who are rejected and excluded come to accept their imperfection and social inferiority, Bauman finds it unsurprising that the victims defend themselves. Rather than submit to their rejection and convert the official act into an act of self-rejection, they prefer to reject those who have rejected them.⁵

Drug traffickers: a legacy of the 1980s

Organized crime uses violence as a selective tool to regulate the market in an industry the State classifies as illegal.⁶ In simple terms: when one group exercises a market monopoly or there is equilibrium between several players, the level of violence is considerably lower. Drug-related violence is neither inevitable nor unpredictable. It obeys a fairly easily observable pattern: the struggle to control the market leads to the decapitation of cartels and the groups arranged around them and consequently to a recurring shift in the correlation of forces. This is a powerful explanation for the relative lack of violence in postwar Nicaragua as compared to neighboring

¹ Wolf, 2010, p.259.

² U.S. Immigration and Naturalization Service, 2000, pp.221 y 225.

³ González Candía, 2002, p.55.

⁴ Bauman, 2003, pp.140-141.

⁵ Bauman, 2003, pp. 163-164.

⁶ Friman, 2009.

countries, as one group has monopolized the market and levies “tolls” on the various cartels. High levels of drug-related violence tend to be found in places where the market is actively disputed.

Drugs trade expert Eduardo Buscaglia holds that the Mexican “narcocracy” has extended its tentacles and its fights beyond its borders. As he described in 2010, “When Mexican criminal groups such as Los Zetas enter Guatemalan territory and go to places such as Zacapa, the first thing they do is buy off the local authorities. Not only that but, given that it is a country with very weak governance, they also go to the office of Alvaro Colom [President of Guatemala at the time of his writing] and buy his advisers and close officials; they even bug his office. This causes political instability. There have been attempts to carry out a coup against Colom by political groups bought by Los Zetas or, alternatively, by the Sinaloa cartel, two groups that have been vying for power in Guatemala for a long time.”¹ In this deadly quicksand, many Central Americans struggle to earn their daily bread with their lives hanging by a thread.

DEA agent Héctor Berrelles, who led Operation Leyenda, also witnessed the links between the CIA and drug trafficking. When he informed his superiors about the bases where CIA planes transferred drugs, they told him in no uncertain terms: “Keep away from those bases. They are training camps, special operations.”² A little further south, Carlos Lehder Rivas, co-founder of the Medellín cartel, confessed that his “company” had been given access to Mena airport in Arkansas by the CIA in exchange for providing the contras with US\$10 million.³

We should remember that, in 1989, when current Secretary of State John Kerry was a senator, he led a commission that revealed the sharp white tip of the iceberg. Under oath, Colombian drug trafficker Jorge Morales told Senator Kerry that in 1984, when he was being tried for drug trafficking, two CIA agents offered him freedom in exchange for a monthly payment of US\$250,000 to the contras. By the time the war ended, Morales said he had given them US\$3 million. Kerry confirmed the truth of this statement. Morales’ pilots made repeated flights carrying weapons to Central America and drugs to the US, giving the contras profits of at least US\$ 40 million.

Companies made in the USA: Kaibiles & co., Atlacatl Inc., Escuadroneros Ltd.

The nexus between US anti-insurgent policy, militarism and drug traffickers is the missing link between the past and present of the Central American drugs trade. The death squads and the

¹ Hernández, 2010, p.571.

² Hernández, 2010, p.110.

³ Hernández, 2010, pp.115-116.

elite military forces (Guatemala's Kaibiles and El Salvador's Atlacatl Battalion) trained by the US Army to conduct operations against rebel forces are nowadays key pieces of the regional drugs jigsaw.¹ Given that the growth of militarism went hand in hand with the growth of US military presence, Robert Holden prefers to talk about US-Central American military power. In this he makes clear the true extent and reach of US military power in the region, with which the empire supported and fomented the Central American oligarchs' counter-offensive.²

The US provided US\$1.2 billion in military aid to El Salvador during the 1980s and half that amount to Honduras. From the 1960s, Guatemala received almost all its pistols and rifles from the US before Israel became its principal supplier. In total, the US provided US\$2.3 billion in direct military aid.³ This support led to a fusion between the State and militarism. "From a long-term perspective, the Guatemalan State has been a military power" and during "thirty years of systematic anti-popular repression (1954-1985) and fewer years of armed conflict ... the military's role was redefined as the Praetorian guard of the bourgeois order."⁴

Both the armed conflict and the peace process were possible not only because of internal factors but also because they suited US interests.⁵ In the first place, Latin America was a bastion against communism but with the fall of the Berlin Wall it stopped being a Cold War battlefield.⁶ Consequently, Torres-Rivas concludes that "democratization wasn't a transition but rather the result of pacts between factions of the military, business and political elite guided by 'the Embassy's' initiatives."⁷ But it wasn't possible to stop the war dynamic with a decree. Central America's armies had grown. Guatemala's, which had 27,000 members at the end of the 1970s, had reached 55,000 by the mid-1980s, not counting members of the militarized police or the paramilitaries. Its reduction to 15,500 soldiers in 2004 was a time bomb.⁸ What should be done with the demobilized men?

While there were 55,000 soldiers, the number of paramilitaries reached 1.2 million, most of them, according to Dutch social scientist Dirk Kruijt, "indigenous auxiliary troops licensed to kill, rape, burn and destroy."⁹ What could be done with those even more uncontrollable paramilitary

¹ Scanbill, 2008, p. 161.

² Holden, 1993, pp.283-285.

³ Holden, 1993, pp.304-306 y 311.

⁴ Torres-Rivas, 2010, pp.134-138.

⁵ Kruijt, 2009, p.25.

⁶ Kruijt, 2009, p.260.

⁷ Torres-Rivas, 2010, pp.52-6, p.57.

⁸ Kruijt, 2009, p.71.

⁹ *Ibíd.*, pp.70-71.

forces and with the wake of resentment and potential vendettas? Kruijt estimates that around a third of the combatants from both sides—soldiers, paramilitaries and guerrillas—went to the United States as either legal or undocumented immigrants to escape their desperate situation.¹

Other ex-combatants remained, forming part of an unwanted legacy. Viewed from the second decade of the 21st century, this legacy doesn't seem clear, unlike in the mid-1990s when Edelberto Torres-Rivas wrote: "One of the most expressive forms of disorder in several of the region's societies can be seen in the violent acts of warriors who don't want to rest because they consider themselves, at the limits of subjectivity, the victims of unrewarded heroism. Dozens of young men went to war expecting some kind of recompense. The demobilized Nicaraguan contras, both the Sandinista and Salvadoran soldiers discharged following the Peace Accords and the retired FMLN guerrillas make up a negatively defined homogenous group: they are formerly young, largely ex-peasants who had no chance to gain any kind of professional qualification. They are the human results of negation by a system they defended or threatened that now can't incorporate them. Contrary to their rights, they constitute a factor of repeated disorder."²

What makes the legacy even more ominous is that the collaboration between drug traffickers and the military isn't limited to retired soldiers. Francisco Goldman points to the cross-fertilization of the military and organized crime: "Members of Guatemala's Army grew rich through criminal activities such as drug trafficking, kidnapping, car theft, smuggling, extortion and others."³ According to reporters for the Mexican magazine *Proceso*, "Out of reach of the Mexican government, Joaquín el Chapo Guzmán moved freely in Guatemala and Honduras with "military" protection, personally directing the movement of drugs from Central America to Mexico and the US."⁴

Regional re-militarization: Putting out fires with gasoline

The numerical reduction of the Central American militaries didn't imply an associated dismantlement of their political influence or culture. Their bayonets throw a long shadow. Wolseth holds that the presence of American military advisers in Honduras created an environment in which authoritarian and armed tactics were the norm among Honduran military and police (bodies that were separate until the 1990s). Recently declassified CIA information

¹ *Ibíd.*, p.232.

² Torres-Rivas, 1996, p.160.

³ Goldman, 2009, p.315.

⁴ Carrasco, 2012, p.151.

reveals that, while US ambassador in Honduras during the 1980s, John Negroponte had encouraged the military to use dirty military tactics against the Honduran population and arranged for Argentine military to train the Honduran forces. According to Wolseth, this training and dirty war are commonplace in today's Honduras in the form of extrajudicial executions of poor, homeless children and youths.¹ The zero tolerance policies and use of the special ops police "Los Cobras" give formal backing to this legacy of authoritarianism and exercise of power through violence. From this point of view, violence is a legacy and extension of the war. The perpetrators of violence reproduce a culture based on the know-how they absorbed in the 1970s and 1980s. The de facto powers can accept being out of the limelight but not the abandonment of their methods or the loss of the levers of control that enable their primitive accumulation of resources.

A curious, paradoxical effect of the increasing violence and drug-related activities is the buttressing of the power of a military that still, as in the past, enjoys Uncle Sam's blessing and patronage. Everything happens under the ideological umbrella of public security, which feeds on mixophobia, liquid fears and uncontrollable surveillance, leading to the loss of autonomy of penal justice, now subordinated to punitive populism. The 2010 edition of the Comparative Atlas of Defence in Latin America and the Caribbean reports that the Salvadoran defense budget increased by almost 20% between 2006 and 2010. In the same period Guatemala's defense budget increased by almost 16% and Honduras' by 64%.² During 2011, the Pentagon increased its military spending in Honduras by 71% over the year before, spending US\$53.8 million. According to the US State Department, Washington's annual aid to Central America to fight drug trafficking increased by 75% from 2008 to 2012, reaching a total of US\$496 million, with another US\$107 million in 2013 bring it up to more than US\$600 million.³ This funding provides the foundations for the region's remilitarization. Given that it reinforces the base of the disease the US says it wants to cure, it's a strategy of putting out fires with gasoline.

Guatemala has many symptoms that presage a return to the past of rifles, cartridge belts and bayonets, or at least show it's resisting its demise. The Peace Accords' key actors failed to internalize the norms of transitional justice.⁴ The murder of Bishop Juan Gerardi in April 1998 made clear the Guatemalan military leadership's resistance to these agreements and to the

¹ Wolseth, 2011, pp.12-13.

² Donadio, 2010, p.52.

³ Trucchi, 2012.

⁴ Oettler, 2006, p.5.

clarification of crimes and responsibilities.¹ Other examples include the murder of businessman Edgar Ordóñez Porta, who was competing with the military in oil refining; the extrajudicial execution and disappearance, respectively, of Quekchí peasants Rosa Pec Chub and Carlos Coc Rox by land-grabbling property owners; the disappearance of Mayra Gutiérrez for revealing illegal adoption networks; and the numerous victims of social cleansing and other epidemic manifestations of the corporate mafia State, that nefarious alliance between traditional oligarchs, some 'new businessmen,' elements of the police and the army and common criminals. All this was denounced by Amnesty International in its significantly titled report "Guatemala's Lethal Legacy: Past Impunity and Renewed Human Rights Violations."² It provides a homeopathic sample in the 21st century of the anti-insurgent cures of the 1970s and 1980s. The ascent to the presidency in 2012 of retired General Otto Pérez Molina, responsible for repression in the 80s, was the institutional consecration of the option for the model "firm hand, head and heart", as was trumpeted by his campaign slogan.

In Honduras, the coup of 2009 put together the more conservative sectors of bipartisanship and the Armed Forces³, which subsequently resulted in increased amounts of power from the military, perceptible in the creation in 2013 of the Tropa de Inteligencia y Grupos de Respuesta Especial de Seguridad (Tigres) and the Military Police commissioners for the fight against drug trafficking and beneficiaries of training programs by US and Colombian agents.⁴ The Coup scratched in the rhetorical veneer of security discourses and showed that the resources of the new model of public safety did not differ from those applied by the model of national security: disproportionate use of force by the coercive apparatus of the state, arrests illegal and arbitrary, repeated application of torture, indiscriminate introduction of states of emergency and suspension of constitutional guarantees, inefficient justice system and drastic censorship of freedom of expression.⁵

The anti-mara policies, whose hooks destroy gang members and non-members alike, are another dimension of Central America's remilitarization. In El Salvador, they are a sign that the National Civilian Police—which emerged from the Peace Accords but from the outset included

¹ Hernández Pico, 1998.

² Hernández Pico, 2002. Falla, 2012. Amnistía Internacional, 2002.

³ Barahona, 2014, p.114.

⁴ U. S. Department of State 2014.

⁵ Chinchilla Mejía 2014, pp.151-155.

many ex-soldiers who had fought the guerillas with torture and massacres—follows a tradition marked by authoritarianism, disdain for human rights, lack of investigative capacity and abuse.¹

First outcome: militarism has gained ground. It hasn't regained the ability to call all the shots but its logic and methods, superficially renewed with the conceptual varnish of public security, have imposed themselves as the most expeditious means of bringing order to Central America's unstable and tumultuous postwar environment. Second outcome: in the grip of multiple fears, many Central Americans have turned to private security, a permanently buoyant business administered, advised and/or owned by current and former members of the military. In Guatemala in 2008, there were 120,000 private security guards compared to only 19,974 police officers. In Honduras the respective figures were 60,000 and 12,301 and in El Salvador, 21,146 and 16,737.² With 611 private guards per 100,000 inhabitants in 2008, Central America was one of the areas of the continent with the greatest hiring of private security, well ahead of Mexico with 435, Colombia with 427 and Venezuela with 240.³ Third outcome: the gains in these two areas place the military in a better position to strengthen their drug business. Violence continues, and so does asylum seeking.

The object of this catalogue of dramas, which may seem like a drawn-out digression, is to explain that the cruelest manifestations of violence in Central America are associated with the US relationship to the region and the events that have marked it: deportation of gang members; the drug market (the consumers are in the US and the CIA acted as godmother); the empowering of the military; the creation and training of repressive organizations, first engaged in "legitimate" crimes then dedicated to illegal crime; and an arms trade that supplies organized crime. If the right to asylum could be claimed on the basis of moral responsibility and the historical record, the leading role of the US as a drug market, arms supplier and "narco-military" trainer would make it an almost exclusive and obligatory refuge.

2.4 The Central Americans' dilemma: give themselves up to the Migra or disobey

Many Central American migrants who recently crossed the Mexican-US border as well as those who have lived in the United States for months or even years now face a dilemma: give

¹ Wolf, 2008, p.52.

² Florquin, 2011, pp.100-133, pp.104-105.

³ Argueta, 2010, p.11.

themselves up to the Migra or make their own way at their own risk; apply for improbable asylum, betting on the lottery represented by the US Immigration and Customs Enforcement (ICE) officials, or run from them like the plague, living with the uncertainty of being undocumented, not knowing if tonight will cut short their American dream.

The combination of thistles that bristle with obstacles and petals that are smoothing immigration policy has created this dilemma; it's hard to give a definite answer to everyone. Benito, a Guatemalan Quiché who has lived in Los Angeles for more than seven years, asked me: "What do you think will happen if I go to the Migra and give myself up so I can apply for asylum? My people experienced genocide and are still suffering violence." I took his question to a lawyer who's a migration expert highly committed to helping Central Americans. He didn't hesitate in answering: his recommendation is to hold out, carry on as is until the immigration reform helps them regularize their status.

The Law only makes an exception for clear DACA (Deferred Action for Childhood Arrivals) cases. This is the memorandum Obama used to suspend deportation for migrants aged 15 or over, high school graduates (or those about to become so) who arrived in the United States before they turned 16 and before June 2012 who pay the \$465 application fee. Fewer than 10% of undocumented migrants are potential DACA beneficiaries. What the lawyer's opinion indicates—absurd to some and even an excuse for the crime of sidestepping it to others—is that something that might be a solution for some migrants isn't necessarily one for all.

The 1980 refugee act: Few admissions, many rejections

The history of the institution of refuge and its figures shows us that official acceptance as asylum seekers or refugees is not a benefit to which the bulk of Central Americans arriving in the United States without papers can aspire. The refugee is a relatively recent figure. It appeared after the First World War when peace treaties and the fall of the Russian, Austro-Hungarian and Ottoman empires changed the demographic and territorial order of east central Europe. In a very short time, a million and a half white Russians, 700,000 Armenians, 500,000 Bulgarians, a million Greeks and hundreds of thousands of Germans, Hungarians and Romanians left their countries. In the United States, refuge was legally validated very late on.

The 1980 refugee act was the first comprehensive amendment of the immigration act in the United States. According to Maurice A. Roberts, known as “the dean of immigration law,”¹ it was designed to provide a clear-cut policy and flexible solutions to meet the rapidly shifting developments of new armed conflicts in a turbulent world. Nonetheless, success rates for asylum applications and arguments put forward by humanitarian organizations, which appeal to pity for migrant children who arrive at the border unaccompanied rather than to the substance of the refugee act, are not an indicator of its clarity and flexibility. Nor do immigration lawyers share the optimism of the man who was one of the brains behind this law. Figures show that asylum cases won by Central Americans are almost insignificant compared to the thousands of applications.

Asylum cases granted to Central Americans in 2003-2012

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
El Salvador	121	162	248	593	556	487	322	303	259	327
Guatemala	320	383	387	632	675	546	507	460	480	536
Honduras	43	51	83	91	105	95	85	116	132	234
Nicaragua	16	7	24	35	43	51	39	35	32	35
Total	500	603	742	1,351	1,379	1,179	953	914	903	1,132

Source: United States. Department of Homeland Security. Yearbook of Immigration Statistics: 2012. Washington, D.C.: U.S. Department of Homeland Security, Office of Immigration Statistics, 2013

In general terms, admission rates for asylum and refuge in the United States are low and have shown a marked downward trend. President Carter ended his term with 55% and averaged 50% throughout his administration. In 1980 he granted refuge to 207,116 people fleeing different armed conflicts, a historical record unbeaten to this day. Reagan reduced admissions to 27% in his first term and ended his second with 37%, despite the fact that his office started after the 1980 refugee act came on the scene.

The membrane that filters refugees has become less porous during the last two administrations, with the US government appearing to have decided that the era of refugees is over. Although Salvadorans, Guatemalans and Hondurans are among the ten nationalities most benefited by asylum in the United States, together with Chinese and Mexicans (a deplorable ranking if we consider the gap between the size of these two countries’ populations and the

¹ Roberts, Maurice A., The U.S. and refugees: the refugee act of 1980, Issue: A Journal of Opinion, Vol. 12, No. 1/2, African Refugees and Human Rights. (Spring-Summer, 1982), pp. 4-6, p.4.

populations of the tiny Central American nations), diminishing admissions resulting from an ever increasing number of applications indicates an insufficient willingness to receive them.

As the table above shows, in the ten years between 2003 and 2012 the United States approved a meager 9,656 applications from the four countries most affected by wars in the eighties and by today's violence. During those ten years it deported 623,408 people belonging to these nationalities. This gives us an idea of their message: refugee status is not a gateway but rather a miniscule hatch for the selected few. To appreciate just how narrow the selection is, let's look at the series between 2006, the year in which the United Nations High Commissioner for Refugees started providing enough detailed data, and 2012. During that period, the United States received 48,550 applications for asylum from Salvadorans, Guatemalans and Hondurans, approving only 7,541 applications, 15.5% of the total. The number of applications increased every year, but admission rates fell from 27% in 2006 to 9% in 2011 and 10% in 2012.

In some ways, US asylum policy can be associated with a tacit admission of its responsibility in the conflicts. For this reason, granting asylum is linked to geopolitical calculations and to the pressure of internal conditions. In the absence of pressure, immigration courts haggle over asylum, appealing to the demanding intricacies of the law rather than its flexibility. For this reason, the US government granted refuge to as little as 3% or fewer Salvadoran and Guatemalan applicants in the eighties on the grounds that they weren't refugees. That continued until a civil society coalition led by Protestant churches filed a petition approved in January 1991: *American Baptist Churches v. Thornburgh Settlement*, known as the ABC Agreement. After nearly six years of tough, complex arguments, the churches twisted the arms of the attorney general and migration director just to get them to apply the refugee act, a triumph supported in essence by the barbarous repression Guatemalans and Salvadorans were suffering in their countries, which the US government hadn't acknowledged until then.¹

It isn't clear whether the current approach to unaccompanied minors reaching the border—a minority among Central Americans fleeing violence—is a better tactic. The only thing that is clear is that this one point scored by US civil society in favor of Salvadoran and Guatemalan refugees aimed at the heart of the refugee act: to receive victims of violence. William, a Salvadoran who lives in Los Angeles and advises a group of young Quiché Guatemalans, appealed to the ABC agreement. He came to the United States when he was 16 and is now 50. Whenever

¹ Blum, 1991.

he could, he took advantage of ABC rather than any initiative that might benefit underage migrants.

The insistence on the minors' drama has so muddied the waters of the immigration debate that, for the moment, only Republicans have obtained any gains. When Attorney General Eric Holder announced that a partnership with Ameri-Corps, a federal program offering legal representation to undocumented minors, would guarantee "the rights of the most vulnerable members of society" and that "how we treat those in need, particularly young people who must appear in immigration proceedings—many of whom are fleeing violence, persecution, abuse or trafficking—goes to the core of who we are as a nation,"¹ he didn't make an effective statement. Rather he fanned the xenophobic flames of those such as Ryan Lovelace, a columnist in the *National Review*, who are of the opinion that these statements and the possibility of suspending deportation processes by using DACA would act as a magnet for attracting undocumented migrants.²

Perhaps Mr. Lovelace isn't wrong: the disproportionate number of minors detained in the United States and Mexico is remarkable. Unaccompanied minors from Guatemala, Honduras and El Salvador represent a much greater percentage of the total number detained in the United States. In 2013, they represented 20,805 of 106,420 deportees (19.5%), and 5,389 out of 77,232 (7%) in Mexico. The previous year the percentages had respectively been 11% and 4% in the United States and Mexico.³ Does this mean that some migrants are putting themselves in the hands of the migration authorities, appealing to legislation and some temporarily benevolent procedures? It's possible. If so, it was an effective tactic until the Obama administration backed down and once again made a show of the rigor with which it can apply the law, insisting that children be returned to their country of origin.

To become without voice as asylum seeker or to go without papers? That is the question

In *The Origins of Totalitarianism*, Arendt stated that "the fundamental deprivation of human rights is manifested above all in disallowing people to have a place in the world where their opinions mean something and their actions are effective." Those who lack human rights are deprived "not of the right to think whatever they please, but of the right to opinion."⁴ This vision returns to the

¹ Lovelace, 2014.

² *Ibidem*.

³ UNHCR, 2014a, p.16. Centro de Estudios Migratorios, 2013, p.131.

⁴ Arendt, 1964, p.296.

portrait of banishment portrayed by Euripides in his tragedy *The Phoenician Women*, in the dialogue between the banished Polyneices and his mother Jocasta on the hardships of exile:

Jocasta: "What is it like? What is it galls the exile?"

Polyneices: "One thing most of all; he cannot speak his mind."¹

Parrhesia, a figure of speech that means to speak freely, to say everything without restrictions, implying not only freedom of speech, but the obligation to speak the truth for the common good, even at personal risk, distinguished Greek citizens from slaves and barbarians. According to Foucault, a parrhesiastes, i.e. a person who says what must be said, disconcerts others not so much because of what is being said, but because it calls them to task and transmits an incitement that requires truth to enter into action towards oneself, obtaining conditions for one's own care, like a friendly hand that accompanies and challenges.²

But a parrhesiastes can speak the truth because he or she has the right. The circumstance of exiles is that they are denied that right. Those without papers become those without voices. They are denied the right even to voice the words that concern their own destiny, which is the thing Polyneices considers their greatest deprivation. If you don't have the right of free speech, Foucault holds, detailing Polyneices argument, you are unable to exercise any kind of power and thus are in the same situation as a slave.³

This is what happens, according to Giorgio Agamben, in the nation-state system where "the so-called sacred and inalienable rights of man show themselves to lack every protection and reality at the moment in which they can no longer take the form of rights belonging to citizens of a state."⁴ The supposed universality of human rights thus remains constrained by historical function: the inscription of natural life in the juridical-political order of the nation-State. For the purposes of this bio-politics, birth is the immediate bearer of sovereignty but the human being as such, the supposed bearer of these rights, dissolves into a different category: the citizen.⁵ Birth appears as the basis of all rights, but their exercise is associated with the nation. Thus the refugee, in whom birth and nation are at odds, displays the hidden vulnerability of "bare life," according to

¹ Eurípides, 1979, p.114.

² Foucault, 2004, p.28.

³ Foucault, 2004, p.56.

⁴ Agamben, 1998, p.126.

⁵ Agamben, 2000, pp.20-21.

Agamben, “representing the first and only real appearance of the man without the citizen’s mask that constantly veils him.”¹

The refugee is an unsettling figure because it shows how the judicial ordering of the nation-State breaks the identity between human being and citizen. Starting with the premise that the exile is the life figure in its immediate and original relation with sovereign power, Agamben maintains that the refugee is the only category in which we can glimpse today the forms and limits of the political community to come. The refugee could, in his opinion, be the only figure based on which political philosophy can be rebuilt, once we unreservedly decide to abandon the fundamental concepts by which, up till now, we have represented political subjects: human beings, citizens with rights, the sovereign people, the worker...² Agamben’s argument loses its capacity to explain not because it’s useless when he talks about the total lack of rights, as the critics who refute him maintain, calling on the inalienable right to possess rights which, according to Arendt, helps everyone.³ It is rather for having chosen the wrong metaphor: the condition of exile doesn’t refer to bare life but to lack of a voice, to being unable to discuss and decide one’s own destiny, to a political condition beyond politics, like that of the slave in ancient Greece, according to what Euripides maintained through Polynieces’ mouth over 2,400 years ago.

Most Central Americans who enter the United States opted not to give up this voice; that was their choice when faced with the dilemma of “seeking asylum” or “going undocumented.” The difference between the millions of undocumented who evaded immigration control and the thousands of applicants for asylum is that the applicants have given immigration judges and other officials the last word on their possibility of staying in the United States. Undocumented migrants didn’t give up this word. Most Central Americans are becoming refugees by their own hand. The undocumented women and men scattered through thousands of cities in the United States have in common the fact that they haven’t given up speaking their word. They refuse to be “homo sacer” (sacred man), consecrated to the death their deportation sometimes becomes. They didn’t give over to the State all rights to decide on their immediate future.

Agamben states that “only in a world in which the spaces of states have been thus perforated and topologically deformed and in which the citizen has been able to recognize the refugee that he or she is—only in such a world is the political survival of humankind today

¹ Agamben, 1996, p.46.

² Agamben, 2000, p.16.

³ Arendt, 1964, p.296. Owens, 2011, pp.133-150.

thinkable.”¹ What’s happening is that it is the undocumented migrants who perforate and penetrate the spaces of the States and recognize the potential citizens they themselves are. In the meantime, they are taking over spaces by their own hand. The 11,598 Central Americans who sought asylum in the United States last year probably represent a bare 3% of those who entered without papers the same year. Mexican migration authorities calculate that for every detainee, three migrants escape from the elongated sieve Mexico has become, thanks to the will of its politicians.² In the United States, an average of 180,000 migrants a year was expelled between 1990 and 2010, but 8 million managed to enter during that same period, almost 381,000 a year.³

Nor is asylum the main penultimate rung before residency: the 3,623 Salvadoran refugees/asylum seekers who obtained an adjustment to their status as residents barely represented 2.5% of the 146,980 Salvadorans who settled legally in the United States between 1991 and 1996. Not even in its golden age with the implementation of the 1980 refugee act was asylum/refuge a wide open road to legal settlement in the United States. Between 1987 and 1996, only 31,921 Central Americans refugees and asylum seekers achieved permanent residence.⁴ This figure represents barely 5% of the 589,577 Central Americans admitted legally, a figure that includes Central Americans who entered through the big open door for immediate family members of US citizens (spouses, children or parents). It is also equal to only 3.5% of the undocumented in 1996, which gives an idea of how far this adjustment to status was from being a solution to the lack of documents. In fact, Central Americans who between the 1970s and 2004 used the refugee route as a way to achieve residency equal barely 6% of the 660,000 undocumented Central Americans in 1996.⁵ While Republicans and Democrats are locked in a continuing battle, Central Americans who deserve refuge for so many reasons and to whom it is granted with lukewarm stinginess continue winning those spaces for themselves, with their own voices and hands.

¹ Agamben, 2000, p.26.

² Coss, 2011, p.127.

³ U.S. Department of Homeland Security, ENFORCE Alien Removal Module (EARM), January 2011, Enforcement Integrated Database (EID), December 2010. Passel, Jeffrey, D’Vera Cohn and Ana Gonzalez-Barrera, “Population Decline of Unauthorized Immigrants Stalls, May Have Reversed”, Pew Hispanic Center, Washington, DC, September 2013, p.6.

⁴ U.S. Immigration and Naturalization Service, 1997, p.99.

⁵ U.S. Immigration and Naturalization Service, 1997, p.198.

3. Solid and liquid border vigilance

“Liquid” vigilance: The banoptic model

The surveillance operations of the policies designed to repel immigrants have both “solid” and “liquid” expressions, often more theatrical than effective, that are executed to “thicken” the borders. “Solid” vigilance draws on the idea of the panopticon: a form of architecture that allows surveillance, imprisonment, monitoring, confinement and control. According to sociologist Zygmunt Bauman, that model is alive and well and has been electronically reinforced, but is no longer the universal pattern of domination, as it is now restricted to prisons, psychiatric hospitals, camps and other institutions. It’s no longer used to incapacitate bodies.¹

When the poor escape their neighborhoods and flee their countries, the surveillance efforts add another strategy, known as the “banopticon,” a model applied to the world’s marginalized. This neologism, coined by Didier Bigo, Professor at King’s College London Department of War studies, and based on the word “ban” (exclusion), refers to a strict vigilance exercised through profiling using computer technology.² The banopticon fulfills two functions: building exclusion and applying measures. Using the terminology of feminist philosopher Judith Butler, we can describe it as “performative exclusion,” in which the excluded group is created by applying a certain treatment to it. The administrative measures subject those who are excluded so as to label them and that subjection in turn generates a duly classified group.

The banopticon allows those of artisanal origin to be reproduced and expanded until they achieve greater sophistication and become tools of the bureaucracy in the search to build an ordered universe: a nation that is not a random collection of individuals, but rather a coherent community of citizens.³ In that imagined community, Mexicans have played a role in the US hierarchical racial organization in different ways throughout history. De Genova has studied them as being in the crossfire of the polarity between whites and blacks established by the US racial economy. In the past three decades, Central Americans have been incorporated into that group. Migrating to the United States subjects them to racialization as Mexicans and to similar measures of control and rejection. In other words, it subjects them to the panopticon and the banopticon.

¹ Bauman and Lyon, 2013, p.64.

² Bauman and Lyon, 2013, p.69.

³³ De Genova, 2010, p.216. Anderson, 2006, p.121.

Bauman sustains that “the surge in the global mass of exiles, refugees, asylum seekers—or seekers of bread and drinking water—may indeed boost both kinds of surveillance technology.”¹ But each of them has different mechanisms and effects. The panopticon is useful for controlling those already identified and confined, for keeping them inside and fenced in, disciplined in confinement, while the banopticon repels them at a distance, excluding them with security measures.² The panopticon used to be accompanied by physical violence, which implied visual—albeit asymmetrical—and physical contact, while the banopticon privileges computerized contact, based as it is on the meticulous classification of populations into categories destined for different treatments.³ Banoptic mechanisms are more useful for containing migration because their function is “to promptly spot individuals who show signs of unwillingness to fall into line or who plot to breach those binding patterns.”⁴ Those that most challenge such control are migrants and *coyotes*. That’s why the laws on illegal trafficking and their dissemination through organizations such as the International Organization for Migration (IOM) and UN agencies, which operate under the glossy varnish of a heroic campaign against trafficking, form part of the long legal and organizational arm implementing the banopticon and seeking to subject those disobedient people.

The way the banopticon complements the panopticon is not merely a question of added value. It implies a qualitative transformation because it restores vigilance in the field of liquid modernity, which is the paradigm Bauman uses to explain the specificities of what others call postmodernity, late modernity, the risk society or cognitive capitalism. It’s in this field in part because it’s exercised in a de-localized way. According to David Lyon, surveillance power, as exercised by government departments, police agencies and private corporations, is more liquid: national borders no longer have just a geographical location; they now appear in databases.⁵ These bases are ubiquitous; they levitate in cyberspace. Lyon sustains that “although the paraphernalia of checkpoints or Customs and Immigration offices may be at border crossings, the use of remote databases and telecommunications networks means that the crucial—and consequential—checking happens extraterritorially or at least in multiple locations whose actual whereabouts is immaterial...”⁶

¹ Bauman and Lyon, 2013, p.72.

² Bauman and Lyon, 2013, pp.71-72.

³ Bauman and Lyon, 2013, p.86.

⁴ Bauman and Lyon, 2013, p.72.

⁵ Bauman and Lyon, 2013, p.14.

⁶ Bauman and Lyon, 2013, p.99.

The three characteristics of the banopticon—de-localization, remote acting and automation—become the most comprehensive product of bureaucratic government’s impersonality, according to Hannah Arendt’s famous characterization: “bureaucracy, or the rule by an intricate system of bureaux in which no men, neither one nor the best, neither the few nor the many, can be held responsible, and which could be properly called the rule by Nobody.”¹ Automation, distance and de-localization remove passion from the control; they depersonalize it.

But we will see that, as Lyon accurately observes, solid vigilance still exists and matters because, although power is global and extraterritorial, politics continues to be local and incapable of acting at a planetary level.² To compensate for that weakness, borders have been extended inward and outward for each nation-State. In the post-9/11 world in which experts and politicians from the liberal democracies assume that security is a central value threatened by global terrorism, migratory policies tend to build thicker borders.³ Inside, the State applies military technology in the desert areas next to the border⁴, performs national espionage operations that violate basic citizens’ rights⁵ and breaks down the barrier between public and private by appropriating private information to track criminals and terrorists.⁶ Outside, the US government has been resoundingly successful in transnationalizing (in)security through a series of military and diplomatic alliances that allow it to engage in long-distance patrolling. It isn’t just a question of inspections in airports and globalized police round-ups, or biometric techniques that allow disciplining and punishment beyond its borders.⁷

3.1 The United States as a Border Patrol Nation

The over 2,000 miles that divide Mexico and the United States make up the most extensive binational border and have the greatest movement in the world.⁸ Its natural barrier of rock and sand and its artificial, 687.3-mile wall⁹ reinforce the division of two zones already separated by one of the world’s most gigantic income gaps.¹⁰ In a given year, 350 million cross this border

¹ Arendt, 1969, p.38.

² Bauman and Lyon, 2013, pp.13-14.

³ Guild and Didier Bigo, 2010, p.260.

⁴ Guild and Didier Bigo, 2010, p.260.

⁵ Stanley, 2004.

⁶ Whitaker, 2006, p.147.

⁷ Bigo, 2008, p.21.

⁸ Hernández, 2010a, p.37.

⁹ Núñez and García, 2014, p.17.

¹⁰ Anderson, 2008, p.1.

legally and an unknown number cross without documents.¹ In a not totally failed attempt to shape the surroundings and migration flows, US immigration authorities have divided the southwestern US border with Mexico into 9 sectors and 71 Border Patrol stations in order to manage the surveillance of this vast and diverse territory. From west to east we have the San Diego sector (60 land and 114 coastal miles with 8 stations including San Diego, the sixth most populated city in the United States); El Centro (70 miles and 4 stations), Yuma (126 miles, 3 stations, sand dunes and military reserves); Tucson (260 miles, 8 stations including the cities of Tucson, Phoenix and Nogales); El Paso (268 miles including 88 miles along the Rio Grande, which at that point starts being the border line, 11 stations, some in New Mexico and others in Texas); Big Bend (whose 510 miles of land border make it the largest sector and 10 stations), Del Río (210 miles and 9 stations, dotted with farms and ranches); Laredo (171 miles and 9 stations, which includes the city of Dallas and numerous rivers that flow into the Río Grande); and Río Grande Valley (currently the most transited by Central Americans, with 316 miles of border between river and coastline on the Gulf of Mexico, 9 stations and the cities of Brownsville, Río Grande City, Corpus Christi and Kingsville).²

The region is being punished economically by the surveillance obsession. Prolonged and unpredictable waiting periods at customs have impacted the competitiveness of many border industries and some have opted to relocate in Asia. The consequences are multiple. Bilateral trade grew at a rate of 17% between 1993 and 2000, then dropped to just 4.5% between 2000 and 2008.³ In the midst of a depressed zone with unemployment rates higher than the national average (11.9% versus 9.6% in 2010), unemployment in Imperial Valley reaches almost 30%.⁴ The percentage of people living under the poverty line in these border states is also higher than the 15.3% national average: New Mexico 20.4%, Texas 17.9%, Arizona 17.4% and California 15.8%.⁵

Another point of contention is the treatment of indigenous communities, which are subjected to repeated insults by border patrol agents. They are the brownest of the brown in a region where being brown isn't just perceived by skin color but also by language, clothing, social life, places frequented and other practices and customs. Inhabiting a nation that includes 76 miles of border with Mexico (29% of Tucson's migratory), their lands have been identified as among the

¹ Ambrosek, 2008, p.37. Cave, 2013.

² GAO, 2012, p.6.

³ Lee et. al, 2013, p.67.

⁴ Lee et al., 2013, p.36.

⁵ Lee et al., 2013, p.39.

most vulnerable areas for non-authorized entrance onto US soil and as a total threat to national security.¹

The testimonies of Jaime Diaz, other migration attorneys and citizens—indigenous, Latinos and even Caucasians—who live on the border as well as the declarations of activists who, like Michael Siefert, promote demilitarization of the border reveal various transformations. First is the application of the banoptic: being brown and non-English-speaking are the factors that most alert the border vigilance bureaucrats. Application begins in public spaces with street bureaucracy. In this terrain of its first application, new technologies are not needed. The banoptic is in the memes—replicators of human conduct²—of the Border Patrol agents, whose racial prejudices, at times exacerbated because they are members and seek to distinguish/distance themselves from the ethnicity that so torments them, put in motion a process in which a certain feature becomes a stigma. The citizenry's genotype is somewhat hidden. The Border Patrol agent has before him only a phenotype of brown. On the basis of this preverbal presence, the first unfavorable hypothesis is formed. When an identity document is shown on demand, the authenticity of the genotype "citizen" is investigated. The first indicator is language. More scrutiny is applied if the person carrying the identity document speaks defective English. If investigation reveals that the person came into this world with the assistance of a midwife, not in a properly accredited hospital or clinic, the suspect has now passed the threshold of a lengthy legal process that can result in expulsion. Only in the second moment does the banoptic consist of a review of documents passing through the screen of identification statistics based on particular, potentially criminal, behavior and features: not speaking English, born with a midwife or in hospitals where registries were lost, can't explain their situation, parents aren't native-born, etc. The system receives this information with the automation of a soda machine dispenser, emitting cancelations of citizenships.

The second transformation of the border is the combination of browning and the 9/11 attacks. The browning of the border—the sustained increase of the Latino population to the point of becoming the majority, a feature all US border populations have in common—has been accompanied by a deterioration of the treatment for native-born, legal residents, tourists and undocumented alike. Some academics, among them Tony Payán, have concluded that the issue of security and the resultant vigilance has injected more vulnerability and loss of rights into the US migration legal system than ever before and has given rise to a generalized caste system among

¹ Miller, 2014, p.120.

² Dawkins, 1994, p.251.

various social groups, where whiteness and money are key factors. Tijuana/San Diego and Ciudad Juárez/El Paso, which are sites for *maquilas* [assembly plants for re-export across the border] and residences for workers and administrators, are and have been points of numerous and everyday border crossings. But these crossings are accompanied by inspections at the border and its surrounding areas. This means daily discrimination and a distrusting use of urban spaces: streets, buses and shops are sites where one risks being taken for undocumented.¹ Color, associated with race and social class, carries more weight than ethnicity. There are academics who consider that ideas about race, class, ethnicity and nationalism are fluid categories that have changed with time, while the color hierarchy has been passively and silently maintained since colonialism: “colorism” is more resistant than racism. The prison of color persists in our times with a long tradition that reinforces the stigma.² Visitors’ common compliment to the border’s inhabitants is mention of their whiteness. History books emphasize that not only on the gringo side but also in Sonora there were women famous for being tall, white and the most beautiful in all of Mexico. Nineteenth-century visitors such as Marie Robinson Wright contributed to this image, writing that Sonoran women had “light colored hair, predominantly blue eyes and many beautiful heads full of brown hair like Cleopatra.”³

Historian Kelly Lytle Hernández coined the expression Mexican Brown as a rhetorical and conceptual tool to underscore the fact that “regardless of immigration or citizenship status, it was Mexican Browns rather than abstract Mexicans who lived within the Border Patrol’s sphere of suspicion.”⁴ According to Hernández, all documents related to the Border Patrol, from correspondence and official archives to cultural artifacts—humoristic vignettes, jokes and autobiographies—reflect the tacit distinctions of gender, class and complexion that constitute the Border Patrol’s target. In the sarcastic words of one agent: the primary objective of the Border Patrol is “a Mexican male; about 5.5” to 5.8”; dark brown hair; brown eyes; dark complexion; wearing huaraches... and so on.”⁵

A third transformation of the border: the plenary powers granted to the DHS have resulted in a degradation of the sovereignty of local powers and ethnicities with the most dramatic effect being the expulsion of citizens. The fact that local documents are worth little to nothing to

¹ Lugo, 2008, p.116.

² Lugo, 2008, p.61.

³ Tinker, 2010, p.58.

⁴ Hernández, 2010a, p.10.

⁵ “Hernández, 2010a, p.10.

the statistical filters of border vigilance not only relegates the state authorities that issue these documents to second place as effective governors and guarantors of the official identity of citizens but also nullifies the authority, credibility, actions and words of other bureaucracies: police who opt not to collaborate with Immigration and Customs Enforcement (ICE), churches bearing witness for members of their congregations and giving shelter to the homeless regardless of migratory status and law firms representing the cases of their clients, among others.

The upshot of applying the banoptic—a brown border in the post 9/11 era and the nullification of local bureaucracies—is the expulsion of one’s own people who haven’t been entirely incorporated. Based on interesting case studies, Payán sustains that citizenship makes those who possess it immune from deportation: even if they are carrying drugs, trafficking arms, “they will never be deported”¹, but we can establish the contrary: even full-blown citizens with a Mexican Brown phenotype are far from immune in a region subjected to racial prophylaxis.

The fourth transformation of the border is militarization. The banoptic, war on crime and persecution of the undocumented couldn’t exist without militarization, which is blatant in the growing use of drones and other military technologies. Clausewitz points out: “Fighting has determined everything appertaining to arms and equipment, and these in turn modify the mode of fighting; there is, therefore, a reciprocity of action between the two.”² In the military sphere, means shape the end and the nature of the actions. More than an official declaration, the military implements and the number of troops and their conduct are what advise us of war and militarization. The perception of the Tohono O’odham people of the Border Patrol as an “occupation army” finds an empirical base in its implements, prerogatives and determination to subordinate local powers. The militarization of the border as if it is a war zone, with the de facto suspension of civil rights, warrants scrutiny. While CNN and other big television networks turn their cameras and microphones to abuses committed by Putin in Russia, Castro in Cuba and Maduro in Venezuela, the critical situation of people living on the southwestern border of the United States is not newsworthy, becoming as foreign as Ugaritic Bible to the average US citizen. The war being waged on the border barely captures major media attention even though—or perhaps because—it compromises real democracy and is linked to financial interests that want to prolong it.

¹ Payán, 2012, pp.61-78, p.74.

² Clausewitz, 2007, p.73.

In his essential book, *The militarization of the US-Mexico border 1978-1992*, Timothy J. Dunn documents the increasing investment in border control by the US federal government during the eighties to stop Central American migration. Between 1978 and 1992 the Border Patrol team grew from 2,580 to 4,948, while its funding increased from US\$78 to US\$326 million.¹ Of that, the funding for border patrol agents increased by 92%, for border patrol by 317% and for deportations 355%. These operations and new laws produced even greater growth. Between 1992 and 2005 the number of Border Patrol agents doubled, reaching nearly 11,000, of whom 9,633 were on the southern border and only 1,031 on the northern border. There was another 83.5% increase in Border Patrol members between 2005 and 2014 on the southern border alone, where the legion grew to the 18,156 agents it currently has. In the 21 years between Operation Blockade and 2014, the number of Border Patrol agents on that border increased 427%, almost four times the 111% increase it registered in the 44 years between 1941 and 1985.² Militarization of the border isn't really new, but it was very gradual for most of the 20th century, making a substantial jump only in the early 90s, right after the fall of the Soviet bloc marked the end of what Eric Hobsbawm designated in his 1994 book by the same name "*The Era of Extremes: The Short 20th Century*."³

3.2 The Mexico-US border: A very lucrative theater of surveillance

To enter the United States, Central American migrants must pass through one of the most patrolled regions on Earth. They're confronted by an armed legion of massive proportions at distinct levels of both the territory and the anti-migrant bureaucracy. Not only are there about 20,000 Border Patrol agents. The Department of Homeland Security (DHS) has some 200,000 staff members, which journalist Todd Miller contends must be added to the 650,000 police officers trained or working under the command of Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) in order to get an idea of the immense army dealing with the country's security. It has become a kind of second Department of Defense.⁴ This army for domestic security can only be maintained through investments that nurture a network of companies, has quite rightly labeled the Border Security Industrial Complex.⁵ In the decade

¹ Dunn, 1997, pp.180-182.

² Nevins, 2002, p.197.

³ Hobsbawm, 1995.

⁴ Miller, 2014, pp.17-18.

⁵ Miller, 2014, p.27.

following 9/11 the US government spent \$90 billion on border security, most of which came to rest in these companies' bank accounts.¹

The market of fear and the Border Security Industrial Complex

The Border Security Industrial Complex is a term that parodies Eisenhower's oft-quoted speech at the end of his presidential term on January 17, 1961. Current ties between the Pentagon and private contractors—such as Lockheed Martin and General Atomics, who provided military equipment and services in the Iraq and Afghanistan wars—are a small example of how we haven't yet turned the page of history warned by Eisenhower. The spy operations contracts he arranged flourished, protected by the almost non-existent restrictions of the Pentagon's clandestine programs.²

What's been imposed on the southwest US border is a war economy. The Sun Belt has become the Gun Belt: The Costa del Sol is now the Costa de Colt, producing, selling and using weapons in its territory. In 2002-2013, trade in guns and military services grew 45.5% worldwide, amounting to US\$402 billion in sales. The United States is the world's biggest dealer, absorbing more than half this trade. Six of the largest armaments and military services companies are headquartered in the US: Lockheed Martin, Boeing, Raytheon, Northrop Grumman and United Technologies. A large part of their production is for domestic purchase—by the State—but not for domestic use: they're for firing overseas.³ Some of these companies have invested in lobbying for more stringent migration laws and include reinforcing border militarization. Dennis L. Hoffman, a professor at Arizona State University specializing in the defense industry's future market potential, has concluded: "This push towards border security fits very well with the need to create an ongoing stream of revenue."⁴

The armaments companies are chasing after the DHS budget: US\$61 billion dollars in 2014.⁵ The DHS has been contracting them since at least 2006, the year Boeing was chosen to build a virtual wall on the border. In 2013, *The New York Times* showed a photograph of a Border Patrol agent alongside a tower with radar facility, a laser pointer and surveillance cameras that work day and night. The ensemble was built and sold to the DHS by Boeing, the second largest

¹ Miller, 2014, p.26.

² Mazzetti, 2013, pp.102, 105 and 115.

³ Fleurant, 2013, p.3.

⁴ Lipton, 2013.

⁵ Planas, 2015.

armaments-producing company in the world and the largest producing military appurtenances and providing military services. It boasted of 168,400 employees in 2013 and a total sales volume of over US\$86.6 billion, US\$30.7 billion of it in armaments sales. Profits: US\$4.585 billion.

The US armaments industry has suffered a decrease in sales since 2011 due to the decline in the Pentagon's military spending. In this adverse climate, Boeing continued growing because it exploited another niche in the market: security on the southwest border.¹

Game of Drones: "Between dirty hands and empty bellies"

General Atomics, ranked 44th in the military industry's market, negotiated a US\$443 million contract with the DHS in 2015 so that its reconnaissance drones—field tested in mapping Iranian military bases—could comb the border.² This company positioned its brand in the border security niche with the provision of Predator and Reaper drones, devices the CIA used in 2006-2013 against the Al Qaeda³ high command and over 1,900 insurgents in tribal areas of Pakistan.⁴ Its new contracts are a window to the future of border vigilance. General Atomics has already sold 10 Predators B to CBP at a cost of \$4,500 million. The cost of maintaining these drones in the air is US\$3,234 an hour, bringing each one's sustained flight for one year up to \$28.5 million. CBP intends to have 18 drones in 2016 and 24 in subsequent years, according to the agreement signed in 2012 with General Atomics.⁵ Perhaps it's banking on the 58% US public approval of the drone strikes in Pakistan, Yemen and Somalia, according to the Pew Research Center.⁶

Prussian military theorist Carl von Clausewitz (1780-1831) included as wars both extermination processes and simple armed observation, which is what takes place on the border.⁷ That's why it's legitimate to point out that this war economy is creating war zones. That shift is evident in the treatment of migrants as enemies, patrolling increasingly being conducted as a military action and the border administered as an occupied zone. This dynamic's end isn't in sight, fueled as it is by numerous economic interests. Border Patrol and its activities are only a part of this industrial chain. Its steel links must provide some detainees—raids and immigration courts provide others—for the prison-industrial complex's thriving migration branch, filling beds

¹ Fleurant and Perlo-Freeman, 2014, pp.3-4.

² Rogers, 2008, p.178.

³ Mazzeti, 2013, p.145.

⁴ Bauman and Lyon, 2013, p.23.

⁵ Miller, 2014, p.28.

⁶ Pew Research Center, May, 2015.

⁷ Clausewitz, 2007, p.21.

mandated and budgeted for by law: 34,000 of them, on average. Reducing the number of detainees would result in budgetary reduction, which ICE wants to avoid at all costs. And, so far, the detainees are paying this cost, facing onerous bureaucratic procedures aimed at prolonging their captivity until Migration hunts down another one to fill the bed. The private prison industry is investing in towns from New Mexico to New Jersey, which are eager for detention centers to be installed so federal money will flow their way, creating jobs.¹ Many others are also involved in the border vigilance industry with solid—and also liquid—financial interests: the wall’s construction companies, those who train patrol officers, those who develop vigilance technologies and others. All prosper. However, some Border Patrol results are inversely proportional to their budgetary voracity. Rousing panic about an unprotected border, the DHS makes scurrilous appeals on its webpage to raise public support for its corporate sustainability.² A question emerges: Does curbing migration really depend on increased budget and patrols?

How can so much ineffectiveness be explained?

In 1956 C. Wright Mills warned that the military “has become the largest and most expensive feature of government, and, although well versed in smiling public relations now has the grim and clumsy efficiency of a sprawling bureaucratic domain.”³ Border Patrol presents this same clumsy efficiency of a sprawling domain. Its border vigilance has undergone qualitative transformation and obtained quantitative staff and budgetary support without achieving the promised increase in effectiveness. On the contrary, there’s been a remarkable decrease in its performance.

In 1926 Border Patrol made 22,326 detentions on the southwest border and apprehended 33,159 immigration law violators on both borders⁴; with 104 agents at the time, that means a productivity of 319 apprehensions per agent.⁵ Productivity remained steady over the decades, with 322 in 1992 and 352 in 1993. Since then—precisely when the number of agents multiplied and its budget soared—productivity plummeted. In two decades (1993-2012), the southern border’s number of agents and budget respectively increased 438.5% and 874%. In contrast, effectiveness recorded an inverse growth rate: in 2012, Border Patrol agents on this same border only made 29% of the 1993 captures and their productivity was only 5.5% of 20 years earlier, going from 352 to 18 per agent. This means that the cost of each capture went from \$150 in 1993 to

¹ Miller, 2014, p.230.

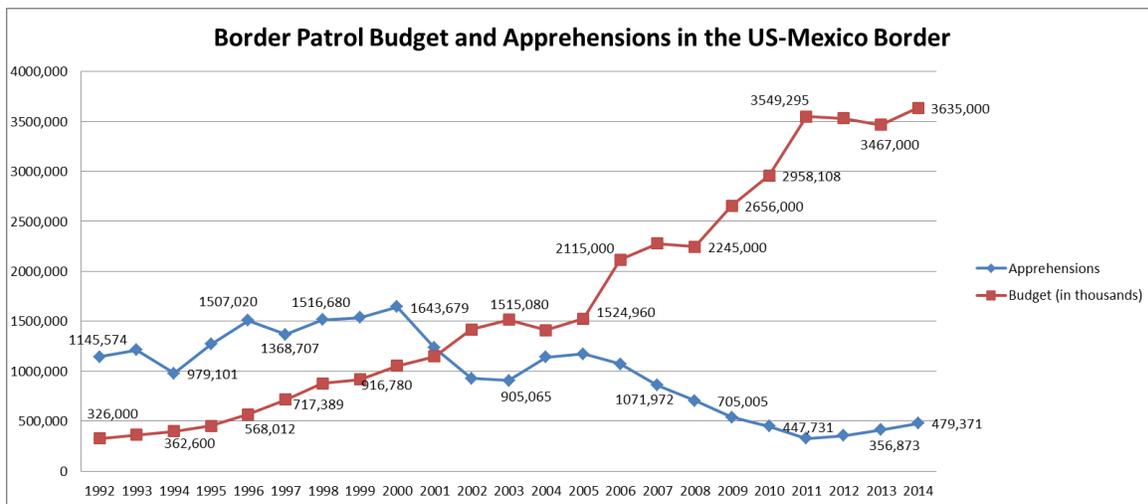
² Kerlikowske, 2015.

³ Wright Mills, 2000, p.7.

⁴ Hernández, 2010a, p.52.

⁵ Hernández, 2010a, p.37.

\$2,754 in 2012, if calculations were based on a single agent’s \$53,000 salary and immigrants were the Border Patrol’s exclusive mission.¹ But the increased bureaucracy and the cost of the vigilance technologies provided by the large armaments companies, among other direct and indirect costs, means that the cost of each capture actually rose from \$300 to almost \$10,000.² No private company could support such dire extravagance for long. The strongest and most sustained budget increase was between 2006 and 2013, which is also the period of greatest decline in productivity. Although Border Control had been showing signs of declining productivity since 1993, it was precisely in 2001—the 9/11 year—that its budgetary endowment parted company from effectiveness and crossed over to declining achievements and growing budget.

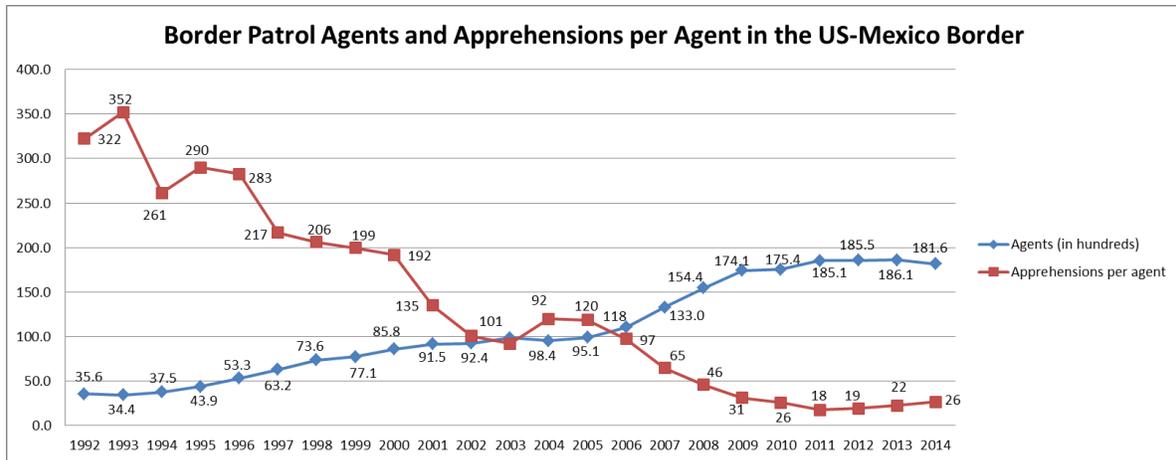


Source: Own calculation based on the U.S. Customs and Border Protection statistics³

¹ GAO, July 2005, p.9.

² U.S. Customs and Border Protection, <http://www.cbp.gov/newsroom/media-resources/stats>

³ U.S. Customs and Border Protection, <http://www.cbp.gov/newsroom/media-resources/stats>



Source: Own calculation based on the U.S. Customs and Border Protection statistics¹

Despite the much-vaunted Central American exodus, the fall in productivity continued. The average patrol agent needs almost two weeks to make an apprehension.² The apprehension rate varies according to sector and station, ranging from 50 apprehensions in Río Grande Valley to 4.2 in El Paso. In the latter, each agent needs three months to identify and detain an undocumented person, a rate presumably reflecting the migrant flow.³ The hypothetical correlation between apprehensions and illegal crossings is the main premise in concluding that the decline in captures is due to a decline in migration flow caused by the economic crisis and the persuasive effect of border patrolling, a theory held by governmental consultants⁴ and echoed by civil society organizations.⁵ But if there's truly a dwindling flow, why increase patrol agents? The truth is that this theory doesn't hold up if we compare apprehension figures and the number of undocumented persons as calculated by the Pew Research Center, an institution that bases its migration flow calculations on its own surveys and not on apprehensions. There is no such correlation. The numbers of undocumented migrants are decreasing not necessarily because fewer are arriving but because those who already did are gradually becoming legalized through temporary or permanent residence, through DACA, TPS, etc.

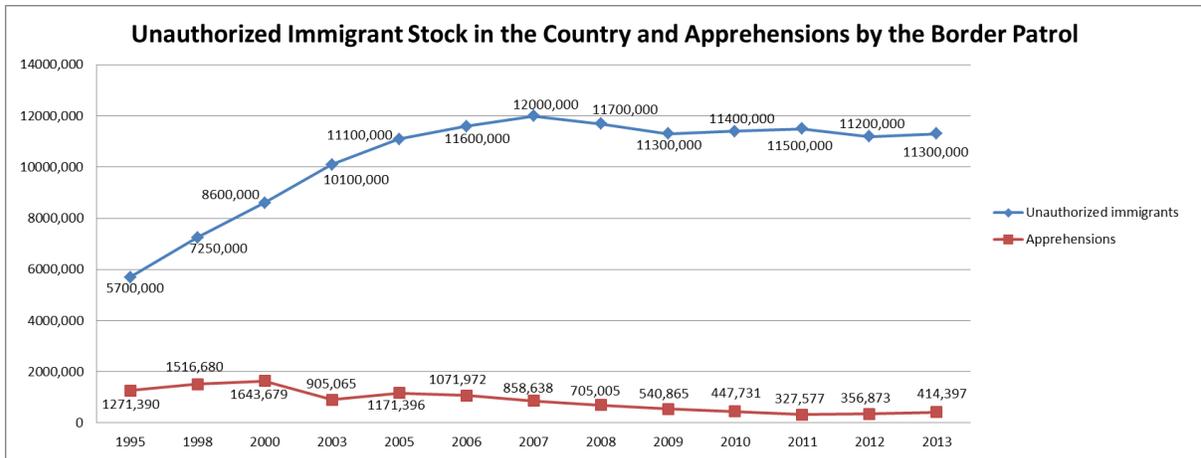
¹ U.S. Customs and Border Protection, <http://www.cbp.gov/newsroom/media-resources/stats>

² U.S. Customs and Border Protection, 2013.

³ Schladen, 2014.

⁴ Haddal, 2010, p.14.

⁵ Meyer, 2013.



Source: Own calculation based on the U.S. Customs and Border Protection and Pew Research Center statistics¹

Like any other figure concerning a somewhat clandestine population, this data has to be taken as a rough guide.² And apprehension data must be taken with no less care: the figure shows events, not individuals. Congressional consultants favoring migration controls contemplate that apprehensions may over-represent the number of people crossing³, but seem to ignore that they may also underestimate it: migrants sometimes manage to use blind spots for a long time before Border Patrol detects them. They also sometimes make fewer crossings per year, as was the case with temporary Mexican migrants who changed status to being permanent migrants. They're an example of why the number of unauthorized crossings can diminish but not the number of unauthorized migrants who cross each year. Douglas Massey, a US sociologist specializing in immigration, noted that Mexicans have stopped visiting their families for Christmas and Easter.⁴ He also showed that in the 1990s one in every three migrants returned to Mexico every year, which implies that 70% of Mexican migrants returned within five years.⁵ Here we have an unsuspected and ironic effect of migration control: temporary migration changing into permanent settlement. The costs and dangers of crossing the border lead many migrants to opt for a permanent crossing. We would therefore have fewer migrants crossing but more unauthorized migrants.

An additional element in the fallibility of apprehensions as an indicator of flow is the fact that Mexico's National Migration Institute recorded an increase of 121% in the flow of Central

¹ Passel, Cohn, Krogstad, and Gonzalez-Barrera, 2014, p.14.

² Passel and Cohn, 2008.

³ Haddal, 2010, p.12.

⁴ Massey, 2011.

⁵ Massey, 2005, p.9.

Americans between 2002 and 2005.¹ Yet in that period, apprehensions of Central Americans by Border Patrol increased by only 26%.² What was the real flow: 121% or 26%? From these figures and considerations we can infer an indisputable fact: if the flow has declined, it hasn't necessarily done so in the same proportion as apprehensions. Other explanations for Border Patrol's declining productivity are needed. I'll discuss some explanations by way of hypothesis. The first is a variant of what economists call the fallacy of composition³, which in this case is expressed as the impossibility of 18,546 agents making 6.5 million apprehensions where 3,444 agents made 1.2 million. It isn't only because the migrant flow isn't that big or because inevitably there's been a decline in flow—in which case the increase in agents would be superfluous—but because the increase in agents doesn't directly and necessarily translate into more thorough and widespread coverage. Irrespective of increases in the number of agents, inhospitable areas will remain poorly patrolled and migrants will continue entering using false or authentic but rented passports, or other fraudulent means of seeking vigilance-free access. A large staff increases the probabilities of agents being situated in safe areas and less rational use being made of man-hours. It's proven that the number of agents doesn't affect some crossing strategies (false documents, tunnels, secondary roads)⁴ and that not enough hours are spent patrolling the border. Patrolling has many weak points. The checkpoints aren't permanent and Border Patrol doesn't even record the hours an agent spends at a specific checkpoint.⁵ Federal investigations have shown that migrants wait in the area covered by Border Patrol for the 8-hour closing—which takes place every fortnight—so as to cross without risk of being captured.⁶

Golash-Boza argues that a mere increase in agents isn't enough, because ICE is working flat out but lacks vehicles, and detention centers as well as the judges, lawyers and other migration laws operatives needed to increase deportations.⁷ But the reality is simpler: there aren't enough detentions. It's not just about a predictable decline of marginal utility—there wasn't a proportionate increase in captures for each agent added⁸—but of absolute utility: there're more agents and fewer captures. Only a vigilance-obsessed State can afford to ignore the curve of the

¹ Rodríguez, Berumen and Ramos, 2011, p.2.

² Casillas, 2012, pp.52-53.

³ "The fallacy of assuming that what holds for individuals also holds for the group or the entire system." Samuelson and Nordhaus, 2010, p.662.

⁴ Seghetti, 2015, p.3.

⁵ GAO, 2005, pp.6 y 52.

⁶ GAO, July 2005, p.25.

⁷ Golash-Boza, 2009, p.11.

⁸ Krugman and Wells, 2006, p.271.

marginal product of labor: the relationship between costs and the amount of labor. A rational businessman, eager to maximize his profits, would choose the number of employees whose marginal product of labor equals the market's wage rate.¹ Instead of that, Border Patrol increases the number of agents and uses new technologies that—against all predictions—need more staff: 20 Border Patrol agents are needed to operate a single drone² and up to 2,000 analysts are required to process the information it collects.³ Border Patrol is in no way governed by capital's logical paradigm: the cost-benefit calculation. Its possibilities of maintaining this sprawling domain policy is played out in an arena that has nothing directly to do with economic logic.

Added to the reasons given for the decline in apprehensions is that migrants and their *coyotes* are always searching for paths untraveled by agents. They relocate to areas where vigilance is more complicated. They take advantage of the reduction in air patrols.⁴ They find small roads and local byways where they can dodge the patrols. They change their routes faster than Border Patrol changes its strategies. And this partly explains why more agents and more migrants aren't mutually exclusive: patrol agents weren't situated on the migrants' new routes, where there were more Central Americans. Judging by the apprehensions of non-Mexican undocumented migrants—of which Central Americans are the majority—the Río Grande Valley sector (which covers McAllen and Brownsville) has risen in importance as a port of entry: 10,742 to 192,925 captured by border patrols in 2000 and 2014. The Tucson sector—whose main customs point is in Nogales—rose from 2,201 to 19,045. Laredo jumped from 3,336 to 17,509.⁵ The Río Grande Valley sector is also, along with Big Ben, the one with the highest percentage of known successful entries: 39% in 2009 and 31% in 2013.⁶ Migration hasn't shown the same flexibility in moving its troops: it stubbornly stays in Tucson, where it had 4,052 agents in September 2014, and doesn't patrol much in the Rio Grande Valley sector, where it only placed 3,064 agents.⁷

Guided by the volume of apprehensions in 1998-2012—a period when Tucson was the main unauthorized port of entry—Border Patrol placed 22% of its agents there in 2014 and made 18% of its captures, while the 17% of its agents placed in the Rio Grande Valley were responsible

¹ Krugman and Wells, 2006, p.537.

² Miller, 2014, p.28.

³ Bauman and Lyon, 2013, p.24.

⁴ Seghetti, 2014, p.19.

⁵ U.S. Customs and Border Protection, <http://www.cbp.gov/newsroom/media-resources/stats>

⁶ GAO, 2012, pp.74-82. Meyer and Isacson, 2015, p.17.

⁷ Meyer and Isacson, 2015, p.7.

for 53.5% of the apprehensions on the southwest border. In 2003-2006, the numbers of Mexicans captured averaged over 1 million a year and in 2014 just 226,771. But in 2003-2014, captures of Guatemalans went from 10,355 to 81,116; Hondurans from 16,632 to 91,475 and Salvadorans from 11,757 to 66,638.¹ Those of Nicaraguans rose from 1,055 to 2,712 in 2003-2013.² In 2014, the numbers of Central Americans apprehended exceeded those of Mexicans for the first time in Border Patrol history.³ If captures are an indication of flow, as the official position claims, Border Patrol should have located its agents at the crossing points of the group of nationalities with increasing entries. But it continues over-patrolling Tucson, as in the old days (1995-2010) of high Mexican migration and numerous crossings in this area.

Another far from negligible element explaining Border Patrol's poor performance is corruption, facilitated by the fact that agents usually patrol alone and their closest colleague may be 10-20 miles away.⁴ Border expert Tony Payán argues that US agents' corruption—although less widespread and systematic than in the Mexican police—has a huge impact: one corrupt Border Patrol agent is enough to enable the introduction of tons of drugs generating hundreds of millions of dollars for a cartel.⁵ The corruption of US agents is much more profitable than that of Mexicans. If we apply Payán's findings about drug trafficking to migrants, we can see that one agent making deals with a few *coyotes* can clear the way for thousands of migrants in a matter of days or even hours. This is the subject of the film "The Border" (1982), where agent Charlie Smith (Jack Nicholson) faces a group of corrupt Border Patrol colleagues in El Paso who have a trafficking network and detain and kill the competition's traffickers.

Attrition among patrol agents has shown an upward trend since 1995, adding more than a little grain of sand to Border Patrol's desert of effectiveness. The dropout rate averaged 5% in 1990-1994 but exceeded 10% in 1995-2001. The following year it jumped to 18%. In 2005 it fell to 4%, only to rise back to 10% in 2007-2009. The slight increase in agents in 2011-2013 and decrease from 2013 to 2014 wasn't scheduled but followed the impact of attrition⁶: the new contracts didn't add agents; they merely replaced those who had decided to stop being "the US

¹ U.S. Customs and Border Protection, 2014, p.1.

² Simanski, 2014.

³ Krogstad and Passel, 2014.

⁴ Department of Homeland Security, OFFICE OF INSPECTOR GENERAL, CBP Use of Force Training and Actions To Address Use of Force Incidents, p.3.

⁵ Payán, 2006, p.876.

⁶ Haddal, 2010, pp.34-35.

frontline” and “protecting the United States against terrorists and the instruments of terror.”¹ A congressional investigation identified four main reasons for desertion: dissatisfaction with the type of work, low wages compared to other enforcement branches, poor working conditions and a lack of vertical and lateral mobility.² There’s evidence that abuse and the climate of mistrust are other, not insignificant factors. For example, in July 2009 agent Bryan González became victim to Border Patrol’s prevailing climate of mutual vigilance, Cold War and partisan thinking. He was dismissed for commenting about how the demand for drugs in the US boosts drug trafficking in Mexico and other opinions indicating a certain level of sociological thought and comprehension of the migrants’ motivation.

Finally, I offer another important factor bringing down Border Patrol’s effectiveness: the dramatic evolution of the southwest border. Borders aren’t static: they expand and contract according to economic, social and military dynamics, in keeping with the pressures of capital and xenophobia. The 1994 North American Free Trade Agreement (NAFTA) tripled trade between the United States and Mexico, with border crossings multiplying in the last 20 years.³ In 2010 some 300,000 Mexican workers (“transnational citizens”) crossed the border every day or at least once a week with work permits and thousands more crossed with border passes.⁴ Between 1995 and 2014 the number of trucks checked on the US borders with Mexico and Canada went from almost 8 to over 11 million and pedestrians from 33.5 to 41.6 million.⁵ More than \$1 billion in merchandise crossed the border every day. Binational trade by land went from \$71 billion in 1995 to \$255 billion in 2010.⁶

To avoid losing control of this dynamic, Border Patrol increased its agents from 4,945 to 20,863 at that time, a privileged and exceptional situation in a state agency that nationally reduced its employees from 4.4 to 4.2 million.⁷ This body of patrol guards and their colleagues in

¹ U.S. Customs and Border Protection, “America’s frontline” U.S. Customs and Border Protection, Vision and strategy 2020. U.S. Customs and Border Protection Strategic Plan, <http://www.cbp.gov/sites/default/files/documents/CBP-Vision-Strategy-2020.pdf>

² Haddal, 2010, pp.34-35.

³ Zolberg, 2008, p.448.

⁴ Nevins, 2010, p.8.

⁵ U.S. Department of Transportation, Border Crossing/Entry Data http://transborder.bts.gov/programs/international/transborder/TBDR_BC/TBDR_BCQ.html [25/02/2015]

⁶ Lee et al., 2013, p.31.

⁷ U.S. Office of Personnel Management, Data, Analysis & Documentation, Federal Employment Reports, Historical Federal Workforce Tables, <http://www.opm.gov/policy-data-oversight/data-analysis-documentation/federal-employment-reports/historical-tables/total-government-employment-since-1962/> U.S. Customs and Border Protection, <http://www.cbp.gov/newsroom/media-resources/stats>

CBP have had a sustained increase that in recent decades has no correlation with border movement. After 9/11, the flow of merchandise and passengers shows a sharp decline: from 49.6 to 41.6 million pedestrians between 2003 and 2014.¹ The slight increases in other areas are offset by the increase in agents, so that if in 2003 a CBP official oversaw 72 loaded containers, 471 trucks and 2,129 pedestrians, in 2014 he was only dealing with 34 containers, 188 trucks and 699 pedestrians. However, these flat figures don't reflect qualitative changes: 678,941 people entered every day in 2014 by one or other of the land borders. With more border miles to cover and very diverse activities to be monitored—from controlling disease in imported meat to finding cocaine, from intellectual property rights to permits for importing pharmaceuticals and the neutralization of Osama Bin Laden's disciples—the processing of these entries was the responsibility of 59,544 officials spread over 328 ports of entry.² Land vigilance's profusion of functions has produced changes on the border. It hasn't just become longer with respect to passengers and miles to be covered; it's also become more banoptic, armed, metallic and multicolored: traffickers, smugglers, migrants, drug dealers, terrorists, etc. In 2005, Border Patrol agents only had effective coverage of 288 miles (15% of the border) while in 2010 it was increased to 1,107 miles (57% of the border), a figure that arouses confusion about the decline in apprehensions.³

The growth of the border and Border Patrol's post-9/11 tasks makes the scrupulous check-ups—on which territorial control depends—materially unfeasible or at least incompatible with the demands for accelerated mobility of merchandise. In 1995, a senior Migration officer said of the not yet so congested border: "If we examined every truck for narcotics arriving into the United States along the southwest border... Customs would back up the truck traffic bumper-to-bumper into Mexico City in just two weeks.... That's 1,177 miles of trucks, end to end."⁴ It's no secret that NAFTA greatly boosted the cocaine trade. Let's bear in mind that over 70% of the colossal Mexican-US trade crosses the border in trucks.⁵ NAFTA paved the way for illegal drugs to cross into the United States in those thousands of trucks, and Border Patrol is only able to inspect a very small fraction of them.⁶ The same is true of migrants, who not only enter through the blind spots—now almost non-existent because of the new technologies—but also hidden in trucks or

¹ U.S. Department of Transportation, Border Crossing/Entry Data
http://transborder.bts.gov/programs/international/transborder/TBDR_BC/TBDR_BCQ.html [25/02/2015]

² U.S. Customs and Border Protection, January 2015.

³ Rosenblum, 2012, p.23.

⁴ Nevins, 2010, p.13.

⁵ Lee et al., 2013, p.62.

⁶ Payán, 2006, p.872.

very visibly in cars, waving from the passenger seat, showing their false passports or rented real passports, putting themselves in the hands of fate and the border lottery.

CHAPTER 3. CIVIL DISOBEDIENCE IN EVERYDAY LIFE

What I call “civil disobedience in everyday life” are those actions which advance the inclusion of undocumented immigrants in U.S. society and which therefore counteract the restrictions that impede such inclusion, as described in the last chapter. By performing such actions the undocumented engage in a daily struggle against the banopticon, and in this way they gain for themselves the asylum that the U.S. government denies them. Such actions are not carried out in a collective or organized way, but their cumulative effect gives them decisive political weight. They are the prior condition for any pro-immigration activism. Without quiet encroachment and its cumulative effect there can be no successful activism. The undocumented are not passive subjects hoping to receive alms like the blind man of Jericho (to cite the apt analogy used by an undocumented person to describe the situation he is trying to avoid). The coalescence of disobedient immigrants into a non-movement is something the political parties both crave and fear. Their desires either to win that force over or to make it disappear have not caused a stalemate in immigration policies; rather, they have given rise to ambivalent dealings at the federal level, so that there are noticeable differences among the various federal institutions and a kaleidoscope of policies at all other levels.

The scenario in which the non-movement of the undocumented will crown its efforts with success is envisioned in various ways by the different actors, as we will see in the fourth chapter. In this chapter my aim is to show that maintaining the day-to-day disobedience is a great achievement because it enacts the “already but not yet” that forms the raw material of citizenship in the making. The sustainability of that non-compliance and the multiplication of the ways of achieving inclusion—as well as neutralizing the exclusionary forces—lead toward more elaborate forms of organization (from non-movement to movement) and of disobedience (from performative civil disobedience to explicit civil disobedience). In order to show this sequence I have divided this chapter into three sections. The first treats of making the decision to cross and actually crossing the border. This is the moment when the migrants, without using the term “civil disobedience,” let themselves be carried by the “wind of thought” and, obeying the dictates of their conscience, decide to break the migration laws of several nations. Their reasoning is closely related to that of the great theorists of disobedience insofar as they formulate the right that justifies them even as they nullify the laws and institutions that would exclude them. The second section begins with the journey of three Central American immigrants; it gives an account of a

single day that I spent accompanying them, reproducing what they said and describing what they did. This offers us a concrete micro-vision of actions that are performed massively, and it allows us above all to penetrate into the migrants' thinking, which is less trammled with concepts. It also provides a rough idea of how I drew close to the lives of migrants during my fieldwork. Considering the statements of those migrants and my own observations, as well as the statements of other migrants, I reassert the Marxist intuition which maintains that the position one holds in the system of the material reproduction of life has all the force of a political position. Here I divide the position one holds in the system into 1) the position one has in the world of work and 2) the position one has in the world of consumption. One's position in the world of work is in turn subdivided into work as commodity and work as a structure of collective life. The third section treats of the use that immigrants make of two platforms (churches and public spaces) and of the movement formed by one segment of the undocumented, the Dreamers. These three instances provide the occasion or the space for the undocumented to receive support, to practice parrhesia, and to become conscious of their disobedience, sometimes in very explicit ways. In summary, then, this chapter treats 1) the decision by which the migrants win control of mind and body, 2) the material aspect of civil disobedience (the immigrants as workers and as consumers), and 3) civil disobedience as an exercise of parrhesia in public spaces. I begin with the world of work and consumption, where the disobedience is more sustained and effective but less explicit than it is in the murals, the demonstrations, the church practices, or movements like the Dreamers, where the counter-theater of the dominated displays a multiplicity of highly creative talents.

1. Challenging the mental barriers and the physical frontiers

In his interesting review of new forms of social change and political struggle, the Spanish sociologist Manuel Castells argues that "power relationships are constitutive of society because those who have the power construct the institutions of society according to their values and interests."¹ From this premise, Castells distinguishes two areas of change and struggle between power and counter-power: "Power is exercised by means of coercion (the monopoly of violence, legitimate or not, by the control of the State) and/or the construction of meaning in people's minds, through mechanisms of symbolic manipulation."² These dual aspects of power—persuasion and coercion, hegemony and violence, manipulation and physical subjection—mostly work

¹ Castells, 2012, pp.4-5.

² Castells, 2012, pp.4-5.

together. I have separated them only for chronological and analytical reasons, taking advantage of the fact that it is more obvious that in the country of origin the potential migrants' desire for mobility must exceed, above all, the barrier of mental control, and the entry to the United States involves the trespassing of a physical barrier that has been augmenting its means and capacity to detect, capture, detain and reject migrants through the numerous and increasingly voluminous mechanisms possessed by the national security industry, the conglomerate of enterprises specialized on the control of bodies that I analyzed in the second chapter. According to Castells, overcoming both mental and physical borders is in itself counter-power's deployment and confrontation with power, i.e. an exercise in "the capacity of social actors to challenge the power embedded in the institutions of society for the purpose of claiming representation for their own values and interests."¹ Below I will discuss how people do come to consider that the imperative of improving their living standards preempts the ban on crossing several borders and settling in another country without the requisite authorizations.

1.1 The making of the decision and the expansion of the possibilities: Challenging the construction of meaning in people's minds

Unquestionably, the State's power to monopolize legitimate violence is an indispensable core element of power. However, as Castells notes, "the construction of meaning in people's minds is a more decisive and more stable source of power...the way people think determines the fate of the institutions, norms and values on which societies are organized. Few institutional systems can last long if they are based just on coercion. Torturing bodies is less effective than shaping minds."² When people change their thinking in a way that contradicts the State's norms and values, the implementation of policies faces an impasse and produces social change, although, as Castells points out, not necessarily in the direction and manner expected by the agents of change. In any case, this change can achieve the neutralization Italian philosopher of law and politics Norberto Bobbio, a liberal socialist, spoke about: it renders the State unable to achieve its objectives.

The banoptic starts as ideological rather than physical and operates on minds before it does on bodies. This intangible banoptic is embodied in some campaigns and programs. In its tiresome proliferation of "development" programs that criminalize migration by presenting it as inextricably linked to AIDS and organized crime networks trafficking in people and drugs, the US

¹ Castells, 2012, p.5.

² *Ibíd.*

Agency for International Development uses campaigns, studies, research and films to infuse terror.¹ An example of this can be found in a text by Luis Mora, an UNFPA official, who states that “results show that most migrants are youth who travel alone and adopt risk practices that favor the dissemination of HIV in urban frontier contexts where sexual commerce is habitual. It is also interesting to observe the indirect vulnerability of house wives whose partners cross the border and resort to sexual workers and, occasionally, to sex with men.”² Another example of these anti-migration campaigns, dressed up as humanitarian campaigns, was the promotion of the film – fictional but with a documentary flair – “El camino”, promoted by the IOM to show how migration pays off: a little boy ends up lost in the frontier jungle and the girl ends as a sexual slave to a paedophile foreigner.³ Campaigns, studies and movies are artefacts employed to imbue terror. As Georgi and Schatral point out, the United Nations and the IOM, in alliance with different governmental administrations, have not hesitated in promoting the anti-trafficking perspective, working on minds rather than bodies and promoting this anti-trafficking approach at the expense of migrants’ human rights, such as the right to free mobility and to not be coerced with frightening publicity.⁴ Those campaigns are disseminating the uncertainty that brings an element of danger to every change, as Boaventura de Sousa Santos would say.⁵

This isn’t the first or most ideologically resistant barrier migrants have to overcome, although it’s very significant and results in well-planned action. The first is usually internalized and reinforced by “organic” intellectuals in what German sociologist Ulrich Beck calls “the national outlook.”⁶ The life project of teachers, priests, pastors, development project promoters and political party activists, among many others, is contained within the limits of the nation, parish or village. Their work and often their utopic projects are territorially circumscribed and don’t extend beyond the nation-State’s borders. Their project is to build a better society within the reduced geographic space assigned to them by their church, party or NGO.

Migrants have to break away from this perspective. Through talking with many of them I’ve seen that this break means understanding that loyalty to the homeland—the mythology of which is cultivated in Central America through the extremely fervent independence celebrations—

¹ US Census 2000 y CDC HIV Surveillance Report 2003 quoted in UNIDOS Network of Capacity Building Assistance Providers, 2004.

² Mora, 2003.

³ Rocha, 2013, p.42.

⁴ Georgi and Schatral, 2012.

⁵ Santos, 2006, 2006, p.30.

⁶ Beck, Ulrich, 2006, p.24.

doesn't exclude seeking other horizons to improve their living conditions. The conviction that we belong to the place where our umbilical cord was buried or, put another way, where Providence destined us to be, doesn't entirely disappear but migrants perceptibly struggle to break with the hegemonic rationale that anchors possibilities within the boundaries of their original nation-State.

This isn't about celebrating migration per se, but rather about considering the creative potential of new possibilities resulting from mobility that transcends borders; the willingness to overcome what Portuguese sociologist Boaventura de Sousa Santos calls "the limited horizon of possibilities." Santos maintained that "considering the three modal categories of existence—reality, necessity and possibility—hegemonic rationality and knowledge focus on the first two and neglect the third entirely."¹ Migrants dare to exceed their horizon of possibilities in a space forbidden to them. To better show the agony and reflections involved in this endeavor, I collected the testimony of Ernesto Serna, a 40-year-old Honduran immigrant with two sojourns in the United States: the first from 2005 to 2007 and the second from 2013 to date, both times in Fairfax, Virginia, a county with 58,591 Central Americans, 8,898 of them Honduran. Both times he shared a 9 x 6-foot room with a brother and sister, maximizing austerity to stretch their savings. When travelling he stayed in Mexican religious communities, where he received room and board, telephone calls and money.² On his second trip he was responsible for two 16-year-old boys who were fleeing from violence. Ernesto is a peasant from the mountains. He was born in Dulce Nombre de Culmí, department of Olancho, and grew up in Minas de Oro, department of Comayagua. He handles a machete with the skill of someone who has worked with one all his life and can husk a coconut in a blink of an eye. He has a candor that's raw and unrelieved. In Honduras, he was a development project promoter in a Catholic NGO and his wife directs a vocational training school for the same Catholic congregation.

"Why did you decide to emigrate?" I asked him. "Normally, you can look at people's environment and see it in them," he began. "I had two people as reference points on work issues. I looked at them and thought: 'when I get older, I'm gonna end up just like that, with no economic base to survive on.' And I told myself: 'I have to live from my own resources and work because I want to.' I don't like being forced to do a job because I need money so I can eat and whenever the boss feels so inclined, he says that's it and I'm out on the street, drifting where chance takes me or takes pity on me. If people feel compassion, that's fine, but normally they feel pity and ask you to

¹ Santos, 2006, p.30.

² Díaz, 2011, pp.95-98.

do a day's or half a day's work, chopping out and cleaning a piece of land. That what got me thinking and I made up my mind. I had to work on my family gradually, explaining to them that things were tight economically and we didn't have enough to live on. Both my wife and I were earning but it wasn't enough. She earned 7,500 lempiras (US\$375) and I earned 8,000 (US\$400). But both of us were studying in the university, my daughter Vilma was in fifth grade and Marcela was in third grade. We also helped my son Alfonso. The money wasn't enough for educational expenses, food and the house. We had enough to survive on but the global economic crisis came and they had to let some people go in our workplaces. Furthermore, there was the threat that those funding the social projects were looking to Africa where there are droughts, famines and wars. You know, they teach you to smell reality and on that basis to make decisions. Also, I don't think my decisions were so hare-brained. I had my study plan. I wanted to get a degree in sociology but because I had to take distance courses I had to study pedagogy. Anyway, I needed to know some pedagogic issues for my work. I studied on Saturdays after 2pm and on Sunday mornings. But this distance education takes a really long time. I had only finished 3 out of 50 subjects. When I told my colleagues I was going to the United States again, they criticized me. The strongest comment was: 'Curses! Now this one's going! Instead of forming him we've de-formed him.' They thought there was a "deformation" in the accompaniment they had given me... You'd have thought those who said this were discerning people since the administrator made this comment in front of the deputy director. At the time you feel annoyed because you know they have their life all set up; they have visas and can go to the US whenever they want; they can go to Spain because they have a visa and have built up an economic base that enables them to move about. They can travel whenever they plan to. What I'm really sure about is that it isn't deformation. Quite the opposite, it's the training they've given me that enables me to see reality as it is. But they want to keep me like the blind man of Jericho, with my hand outstretched forever. They'd prefer not to let this guy go find out if he can build what his perspective is telling him to do. I used the NGO's motorbike to get around but when the crisis hit they sold it to me so I had to do the maintenance and put in the fuel. I had activities in some very distant communities, even on weekends and I paid for all the fuel. Then I saw that contracted intellectuals were coming and began earning US\$1,000. This really annoyed us Hondurans who'd been working there some time. Just look how it's going for me here. Dreaming costs nothing, it's realizing those dreams that costs."

The context motivating Ernesto's emigration was repercussions from the economic crisis on the NGO where he worked, the cutbacks they made and were anticipating making. Ernesto was one of many thousands of Hondurans who emigrated in 2013 and also one of the 36,526 of them who were deported from the US that same year.¹ Some—like Ernesto—didn't wait long before heading north again. He had also been one of 2,173,746 unauthorized immigrants who managed to enter the United States between 2006 and 2013.² For them the crisis wasn't a factor that made the US less attractive; it didn't mark a turning point in the migratory cycle, interwoven into the recipient country's economic phases.³ The effect of the crisis on the Eurozone, the funding source for the NGO Ernesto worked for, rebounded on a sector very dependent on external cooperation. Ernesto didn't lose his job and his salary was over the 6,822 lempiras (US\$341) assigned to his sector (which was communal, social and personal services).⁴ But he made a forecast peppered with class unrest: his salary compared to that of his intellectual colleagues made him unhappy given his level of expenses and he was also unhappy with the staff cutbacks affecting his class, those he rightly identifies as his reference points.

Over the course of our interviews, Ernesto talked again and again about the class conflict with a countryman's freedom of speech and with a test—I'm going to call it "the social commitment test"—to which he subjected even the NGO's director. "I wanted to see if you can really count on people who say they're intellectuals and practice social accompaniment. I did an experiment to see if they walk the walk or just talk the talk. I'm not convinced by talk for its own sake. I like to see whether they really try in practice. That's why I invited them to the hill where my mother lives. There's a road for vehicles, but I took them on foot in order to evaluate them better. There's a man called José who walked up carrying a 100-lb. sack of corn, while we were only carrying a little backpack. You can't make it with just a little backpack yet you say reality has to change, has to transform; that we need commitments? Transform how, from an office? Or visiting people from the communities on a motorbike or in a car, forgetting about their reality? I don't think so. I think that we have to know the reality of the people who live there to be able to make real proposals."

¹ Department of Homeland Security, 2013 Yearbook of Immigration Statistics, Washington, D.C., 2014, p.114, http://www.dhs.gov/sites/default/files/publications/ois_yb_2013_0.pdf

² Meyer and Isacson, 2015, p.17.

³ Sassen, 1999, p.XV.

⁴ Banco Central de Honduras, Honduras en cifras 2011-2013, p.43, http://www.bch.hn/download/honduras_en_cifras/hencifras2011_2013.pdf

The subject of the harsh reality of real men and women compared to the comforts and inconsistencies of the NGO's best-paid officials—with an “economic condition that enables them to move about”—was too recurrent a theme to take a back seat in Ernesto's decision. This class struggle, which Ernesto could only openly engage in with his social commitment test, usually took place in whispers (hidden transcripts) among similarly situated employees. The test was his response to an institution that applied the neoliberal model of reducing costs through outsourcing¹ while demanding conscientiousness from its employees. It was his “experiment” to expose inconsistencies in an institution that's progressive in some aspects but engages in markedly unequal treatment. But it only offered a fleeting moment of denunciation that distanced him from the thick and thin versions of false consciousness.² Ernesto refused to consent or resign himself to the subordinate position of the blind man of Jericho. Ernesto couldn't change this situation but he wanted to broaden his horizon of possibilities and break with what Nicaraguan political scientist Andrés Pérez-Baltodano calls the “resigned pragmatism” rooted in Latin American culture.³ Migration was for Ernesto a pivotal moment where the struggle resulted in a decision, but still not one free of inner conflict, as is apparent from the fact that he is committed to philanthropy and an interest in community development, because he's been instilled with the Christian and leftist idea that decisions for personal gain are selfish and despicable. The conflict arising before and after taking the decision is that there's an uncertainty at the very heart of that ethos, which isn't based on conforming to binding and well-nigh universally accepted norms but on the enormous personal cost of resisting them.⁴

Lest Ernesto start forgetting the lesson, his bosses reminded him. His senior colleagues in the NGO couldn't understand the needs of a man like him and made him pay for his “deformation” with comments before he left. When Ernesto told them he had arrived safely in the US they told him “Remember, don't forget your family” and other comments loaded with undisguised disapproval: “The first time I came they were certain I had done so because I wanted to leave my wife. They actually said I didn't have the guts to leave her back there and came here to separate from her. I get the impression they still think I came because I wanted to avoid responsibilities, when it's quite the contrary. “I came here because I want them all to get a university degree and if at any time my family has to leave the country, it be because they want to and not out of

¹ Rifkin, 1995, p.34.

² Scott, 1990, p.72.

³ Pérez-Baltodano, 2004.

⁴ Bauman and Lyon, 2013, pp.129-130.

economic need. I want to give them a foundation so they can study as far as they want to go. I don't want them to leave their family to come to make money." The desire for independence, the Aristotelian ideal of liberating oneself from the forces of mere compulsion—and in Ernesto's case of liberating his daughters and son—launched him into a maelstrom. However, it also showed a critical independence that German-born US political theorist Hannah Arendt identifies with: "The manifestation of the wind of thought is not knowledge; it is the ability to tell right from wrong, beautiful from ugly. And this indeed may prevent catastrophes, at least for myself, in the rare moments when the chips are down.... The consequence of this peculiarity is that thinking inevitably has a destructive, undermining effect on all established criteria, values, measurements for good and evil, in short on those customs and rules of conduct we treat of in morals and ethics. These frozen thoughts, Socrates seems to say, come so handy you can use them in your sleep; but if the wind of thinking, which I shall now arouse in you, has roused you from your sleep and made you fully awake and alive, then you will see that you have nothing in your hand but perplexities, and the most we can do with them is share them with each other."¹ By daring to think beyond the boundaries set by his NGO and against some of its values, with the cool wind of thought, Ernesto broke the mind control, the "governance-mentality" as French philosopher Michel Foucault called it, that limited his horizon of possibilities to a national universe. His mainstay was the contrast between the ideals they preached and what he calls the reality of actual people.

In Ancient Greece, the concept of *parrhesia* (freedom of speech) was *homonoiia*: consensus, literally "same-minded-ness." Although held in high esteem by the Athenians and valued by Demosthenes as a core social virtue, *homonoiia* implied that all citizens thought alike and their social and political differences were submerged in a unified community of interests—such as in nationalism with its false homogeneity and neoliberalism when it reduces problems to technical issues and denies class conflicts. The State could then function as if one mind and will. As the US classical political theorist Josiah Ober warns: "Homonoiia is the very antithesis of freedom. When the citizenry was 'of one mind' there was no need for freedom of speech, thought or action.... But perfect and long-term political consensus was not only impossible but dangerous. If the citizenry is of a single mind, debate and discussion become irrelevant."² Automatism, the acritical acceptance of customs and rules, is the most apolitical and depoliticizing. Ernesto broke

¹ Arendt, 2003, pp.159-189, pp.175-176.

² Ober, 1989, pp.297-298.

with that homogeneity of mind and his independent criteria led him to formulations against the sovereignty principle:

“I believe that they’ve no right to stop us. It’s been said that borders shouldn’t exist, that there should be free transit of people, just like the free transit of rice, beans, sugar, soap and produce. I think they should be concerned about whether a person wants to cause harm or not. That of course should be prevented. But who comes here from our countries to cause harm? Those who come usually only want to improve their economy and their life, for themselves and their families. And this is being frustrated. There are thousands of frustrated people. Those of us who were lucky enough to not be mistreated, raped, killed, kidnapped or deported... here we are.”

Ernesto’s statement, that of a mountain man from Olancho, is very similar to that of the Dutch-US sociologist Saskia Sassen. It shows the spread of a counter-hegemonic way of thinking about migrations that clashes with policies and ideologies. Sassen says: “The clash of two very different regimes—one for the circulation of capital and one for the circulation of immigrants—poses problems that cannot be solved through the old rules of the game.”¹ For Ernesto that clash is another form of inconsistency: in Honduras it was propounded by officials who didn’t know the reality of the people they said they were working for; in the US it embodies a set of rules that are unevenly applied. This is the basis of his disobedience: he can’t obey what isn’t consistent. Inconsistency invalidates the law. María García, a Salvadoran immigrant, gave me an historical argument to justify her disrespect for US migratory law: “This is a country of immigrants. The only natives are the Indians. All the rest have come from somewhere else. California, San Francisco, Los Angeles and San Diego were part of Mexico. All were taken from the Mexicans by trickery, just as they took Alaska from the Russians.” This is most likely an a posteriori justification. María reveals another aspect of this counter-hegemonic thinking being spread to ideologically underpin the entry and stay of unauthorized immigrants.

Ernesto and María justified their entry into the United States by appealing to the illegitimacy of nation-states’ sovereign control principle and questioning the “native” population’s right to consider itself as such. They didn’t ask for asylum, which is the right of those coming from extremely violent countries such as theirs; they knew they don’t qualify under the refugee law’s strict criteria. In 1985 María didn’t apply nor even think of applying for asylum, even to get legal residence for her daughters, who were brought in two by two. Neither did the young men Ernesto was responsible for in 2013. They were granted the shelter they needed, believing that their

¹ Sassen, 1999, p.XX.

action could be motivated by values they placed above those of the State. They made their determination independent of the ideological forces that confined them in one country and rejected them in another. The immigrants placed what was right for them above what is legal. María García's disrespect for migratory law was based on the dictates of her conscience, which many share, as Arendt and Dworkin insist, but in this case it is a conscience shared by a multitude, a series of group convictions, as Walzer states, which oppose the principle of territorial sovereignty. In this case the group to some degree precedes the act and to some degree succeeds it. It precedes it in a Marxist sense: these individuals share a series of positions in the productive system and consequently there's a coincidence in their convictions about the law that helps them and the needs driving them. It doesn't matter that Ernesto was a promoter and had begun studying for a degree in pedagogy. The fragility of his economy was more akin to that of the bus fare collectors Calvin Paguada and Zacarías Orellana, mentioned in the second chapter, than to that of his professional NGO colleagues. They belong to the same group. But this group also comes afterward because not all those who share this fragility migrate. The non-movement of undocumented immigrants only holds until the series of disparate decisions converge in actions whose similarity and coincidence in time and space confers on the actors a group character. In this sense, the group of disobedient migrants only manages to "meld" a posteriori.

1.2 The rupture with legality: Challenging the banopticon's control of the body

According to Israeli historian Reviel Netz, "areas enter into history through impeding movement."¹ Areas are politicized in the sense Max Weber meant: power is exercised by administering the ways space is used and some manage to impose limits on others the location of their bodies in an "inside" and "outside." Barbed wire has played a fundamental role in this administration of spaces. In the US barbed wire was an instant commercial success. Just six years after being patented, 100 million pounds of barbed wire already fenced in some 50,000 miles. ² At the far southern end of the continent the situation was no different: "It's estimated that in 1907 there was already enough barbed wire in Argentina to wrap around the perimeter of the republic 140 times."³ According to Polish historian and journalist Ryszard Kapucinski, the barbed wire surrounding the Soviet Union formed a tangled mass "so thick that not even a mouse could squeeze through" to Poland, China

¹ Netz, 2013, p.13.

² Netz, 2013, p.45.

³ Netz, 2013, p.56.

or Iran. Its continuous replacement was an endeavor that enabled Kapuscinski to “assume that a major part of the Soviet metallurgical industry is only dedicated to the manufacture of barbed wire.”¹ Noting the overwhelming success of this and other enclosures, Netz added: “The enormous scope of barbed wire throughout history (ranging from agriculture to war and human repression, and from one end of the world to the other) is due to the simple and immutable equation between flesh and iron. Flesh necessarily yields to iron and its inevitable consequence is pain. The history of violence and pain transcends species, and also did the history of modernity.”² It’s that violence and pain that undocumented immigrants must overcome. The history of crossing borders is one of overcoming pain and that’s why it’s a history of the ploys to avoid pain and circumvent fences, walls and enclosures.

During its 28 years of existence, the Berlin Wall was the setting for the killing of only between 86³ and 126 people, according to different, never exact estimates. Three quarters were shot when they tried to escape and the rest died in the crossfire or by accident.⁴ The 1960s were the worst years: 1,000 wounded and 72,000 confined for trying to escape.⁵ But the Berlin Wall was also the setting for successful escapes. It was breached by thousands of people who attempted illegal crossings by excavating 39 tunnels, flying balloons and homemade planes, piloting a submarine, buying fake passports, hiding in compartments of vehicles, availing themselves of pulley systems or crashing trucks, trains, excavators and armored buses against the wall.⁶ It was a wall that served the panopticon. Intuitively, Ronald Reagan knew the difference between panopticon (to keep locked inside) and banopticon (to exclude and keep out) and in his memoirs, before he lost his memory to Alzheimer’s, he recalled saying to Gorbachov that American fence “was meant to stop illegal immigration by people who wanted to join our society because it offered democratic and economic opportunities—that was hardly the same thing as building the Berlin Wall, which imprisoned people in a social system they didn’t want to be part of.”⁷ Reagan didn’t mention that the zeal of the US barrier’s banoptic surveillance—intended to keep out and

¹ Kapuscinski, 2003, pp.96-98.

² Netz, 2013, p.15.

³ Manghani, 2008, p.138.

⁴ Major, 2010, p.148.

⁵ Major, 2010, p.147.

⁶ Major, 2010, p.144.

⁷ Reagan, 2011, pos.676.

prevent the entry of those who wanted to enjoy the democratic and economic opportunities—has been much more lethal than the Berlin Wall.¹

There are hundreds of deaths every year on the Mexican-US border. There's enormous violence and pain there. Just in the area covered by the Medical Examiner's Office of Pima County, Arizona, they have examined the mortal remains of 2,413 people, presumably immigrants, who perished crossing the border between 1990 and 2013.² One study estimated there had been 1,034 deaths in the five years from 1993 to 1997 along the whole southwestern border.³ The study covering the most remote period calculated 3,676 deaths between 1984 and 1998.⁴ If we add to those the 5,766 deaths Border Patrol recorded in 1999-2013⁵, we get a total of 9,442 deaths from 1984 to 2013. The principal and immediate causes of the deaths between 1999 and 2003 were primarily heat exposure (35%), drowning crossing the river (21%), car accidents (11%) and exposure to cold (3%).⁶ As the main cause of death is hyperthermia, most of the deaths occurred between May and August (55%).⁷ These are the material causes. The policies and surveillance are the efficient causes, to use Aristotle's term. Others perish beyond the border, as did 19 migrants who died in 2003 from asphyxiation, dehydration and heat in a trailer trying to pass the second border: the checkpoints between the border line and cities such as Houston, Dallas, Phoenix and Los Angeles.⁸ To these dangers must be added aggression by immigration agents: physical abuse (4.76% of immigrants), verbal abuse (12%), permanent confiscation of their belongings (3.17%) and the less common but existing cases of sexual abuse and use of lethal force.⁹ Then there are the dangers in Mexico, which the expelled doubly endure when the US Immigration Customs Enforcement (ICE) deports them to areas controlled by drug traffickers, as it often does.¹⁰

Very few of the Central Americans I interviewed said they had passed through the desert. Perhaps they're avoiding its dangers, which is why we see that only 7.5% of those apprehended in 2014 in the Tucson sector—where the desert is the scariest—were Central Americans. On the other hand, it's where 30% of Mexicans detained on the southwest border fell into the

¹ Rogers, 2008, p.3.

² Martínez, 2014, p.257.

³ Eschbach, Hagan, Rodriguez, Hernandez-León, and Bailey, 1999, p.440.

⁴ Guette, 2007, p.34.

⁵ Brian, 2014, p.54.

⁶ Guette, 2007, p.101.

⁷ Guette, 2007, p.133.

⁸ Ramos, 2006, pp.XIII and 33.

⁹ Orraca Romano, 2014, pp.16 and 25.

¹⁰ Isacson and Meyer, 2014.

immigration authorities' hands. Among Mexicans, at least since 2000, this sector remains the primary unbeatable port of entry into the United States. It only attained percentage significance for Central Americans between 2008 and 2011, years when it peaked at 32% and didn't drop below 24%. For Mexicans the San Diego, El Centro and El Paso sectors have a diminished but persistent importance: respectively 12%, 5.5% and 4% of Mexicans were captured at these points while less than 1% of Central Americans were picked up in any of them. This means that Central Americans don't blindly follow the Mexican migration routes or follow them in different volumes. Most arrests of Central American took place in the Río Grande Valley (76%), one of the two sectors—the other is Del Río—where in 2014 more Central Americans were detained than Mexicans: 192,925 versus 63,468, a number that was decisive in making 2014 a milestone as the first year when total apprehensions of Central Americans exceeded those of Mexicans: 252,600 versus 226,771.¹ The evidence provided by my interviewees shows that many Central Americans travel almost exclusively with Central American coyotes or else risk it alone. Central Americans have also switched their entry points more. Perhaps because Mexicans comprise a large number of temporary workers who have entered and left several times, they are more faithful to their routes and less likely to change their entry patterns, which often rely on accumulated knowledge and contacts.²

Changing routes doesn't avoid all the dangers, which are multiple and also metamorphose, but it is one of the many strategies that avoid and reduce their impact and one of many ways immigrants make the banopticon ineffectual and neutralize the forces denying them entry. In response to the fabulous resources deployed to block their entry, immigrants use tactics that have managed to wrest control of the border from the State: coyotes, false documents, clandestine routes... María García used one such tactic to cross the border. She always went through Tijuana/San Diego, a less dangerous area than most women immigrants must now pass through.³ Neither the Border Patrol before nor the wall today are impassable barriers, although immigrants have to make many attempts, just as this Salvadoran woman did. María arrived in the US 40 years ago when she was 29 years old, fleeing from the war, and has been living there ever since. Back then the Mexican police levied a toll on Central American immigrants: every time a

¹ U.S. Customs and Border Protection, <http://www.cbp.gov/newsroom/media-resources/stats>

² Perhaps this is also because Mexican migration has been in descent, and an "industry" in decline is less prone to seek innovation, searching ways of accommodating itself to the "known evils rather" than to unknown uncertainties.

³ Guerette, 2007, p.67.

police officer stopped the bus she was travelling in with other Salvadorans she paid \$20 and continued on her way.

“Do you know how much they charged you to cross the border then? US\$200. Now it costs\$5-10,000. The first time I couldn’t pass because they left me lost in the middle of the night and we’d only got about halfway there, two and a half hours. It was night and cloudy. I’d wanted to go pee and they gave me permission, but when I got back, the group was gone. They thought I’d fallen asleep on the way. But I hadn’t. My God, you come from El Salvador and know nothing about how it goes; what to do. I knew the US was ahead and Mexico was behind. I decided to go back. It began to rain and I suffered a lot alone but I walked and walked. Day caught me and I was alone. I could hear the helicopters: they went up and down, like now, but today they have cameras everywhere so it’s worse. I remembered the neighborhood we’d stayed in and the house number. As it was already dawn, I hid behind some little trees. I waited all day without eating, without water to drink. It rained and I opened my mouth and drank. I waited until night and walked another two hours. I went through puddles, into holes full of mud. Suddenly I saw a road and in the distance were some signs in Spanish: here is Mexico. A taxi passed and I made a sign. It was about two in the morning. I told him a lie: I came to visit an aunt and got lost. He didn’t believe me. He saw that I was all muddy. When I got to the house everyone was amazed. The next night we crossed the border again. Immigration authorities caught us all because they were in helicopters and the trucks came. I didn’t give them my right name. I kept really quiet. Back then they used to send you back to Tijuana, not to El Salvador. The third time, the same thing: they caught me again. By now they knew me. I was well-known in the immigration offices. I knew where to sit. ‘Are you back here again? Here’s your chair,’ they told me. I said my name was María. When they called me, they said María García. Even when I was sleeping, I knew that was me. I had learned. I also said I was Mexican. I was very smug and even said I’d lived in Chapultepec. The problem was that one day I said I was from Guasaca. Write ‘Oaxaca’, they said. I still don’t know how to write. One of the immigration officials took me aside and said: You aren’t Mexican. I want you to know you haven’t fooled me. You aren’t Mexican and your name isn’t María. I kept quiet. By then I had begun to lose my fear of them and I said: ‘I can’t read much. I don’t know how because I come from the country. I didn’t learn to read much.’ I was very humble, fearful; I wasn’t brave but, as God is my witness, the five children I had left behind gave me courage. They caught me four times and let me go. After each attempt I had about three days’ rest because I suffered a lot: going like that, running, diving down, coming back... it’s horrible.”

“Crossing is horrible. The fourth time I managed to get through. It wasn’t through the backcountry, but through the immigration checkpoint, with false papers, a false resident’s ID we used to call the mica, which could be a driving license or a social security or green card. They made them with your own photos. They had all that back then. They put your photo on top of another’s or of someone similar. They were real IDs but for someone else. That’s how they do passports now. I had to say what the card said my name was while they were looking at me. I managed to pass but then I stupidly stayed looking to where the coyote was and made signs to him. I know it was really foolish. I don’t know how I picked myself up again afterwards, perhaps through the knocks life gives. It was nerves that got me caught again, the fourth time. They put me back in the office and even laughed. All the immigration officials knew me by then: Here’s this girl back again, María García. I have to cross, I thought. After borrowing the money and with five children, you have to cross... The fifth time we went through the backcountry, always at night. We passed through some barbed wire and I got cut. I was bleeding. The coyote came and took off his shirt and I put it on. I was bleeding but I got through on the fifth try. After that I lost my fear. I went back to El Salvador to see my children every two years, always wetback, but by then I went through the immigration checkpoints with false documents. When I came back I brought two others who wanted to come with me. I already knew the way and told them what to say. The first time I brought two women, a friend and a cousin. I told them everything because I’d noticed everything and had my strategy: don’t think we went straight to Tijuana; we said we were going elsewhere; we made detours but came back to the route to Tijuana. Every two years I brought more people. Many paid me for the trip. On my second visit to El Salvador it was already wartime and I brought my three oldest children. I’d already lost my fear by then and if they caught me, so what? If anything happens to you, you have to say ‘So what.’ That was my mantra and it gave me strength. If they caught me, it didn’t matter; it’s not the end of the world, they aren’t going to kill me; they aren’t going to do anything to me. Of course, if those who thought I was a coyote had caught me, I would have got about five years in prison. Now I look on those interviews with immigration as a game: they interview you and you have to answer. Now that I’m older, I see it as a game. I was gaining experience in all this and that’s why it was easier for me to bring in other people. You know how to read what I said between the lines and can imagine the rest, the truth.”

María doesn’t boast of her audacity nor is hers an exceptional case in migratory history. However, she didn’t take long to become an unrepentant rebel. She made an unusual transition from being a timid first-time immigrant to becoming an experienced coyote who knew and even

created stratagems to circumvent the Mexican and US immigration authorities. She became expert in the least risky method of crossing: using the green card or passport of a relative, friend or even stranger who rented it to her.¹ At first she succumbed to small pitfalls but only two years later was ready to become a guide for other immigrants. In her theatrical game with immigration—in a typical hidden discourse tactic—she first played a stereotypically dominated role (inhibited, illiterate and ignorant) to later give them the slip. In her first attempts she could have repeated the same answer as that given by an immigrant about to cross the desert where one day earlier they had found a friend's body: "Our needs are greater than our fears."² Later she could almost have sung along with Vicente Fernández: "Immigration can't get the best of me." María's justification for her repeated disrespect of migratory law is that the United States is a country of immigrants who dispossessed the real natives and today the real natives aren't the ones stopping her from entering. Having laid her fears to rest, bringing in more immigrants became her mission.

In saying she eventually saw the immigration interviews as a game, María García concurs with the Spanish philosopher María Zambrano: "Especially history, if it's tragic, has an aspect that belongs to the same tragedy, which is the game. Although surprising at first glance, the most serious history has at times been made by playing. Games and seriousness aren't incompatible."³ Zambrano added: "Many children's games have vestiges of very old decisive situations in human life. There are certain games that consist in going from one square to another without stepping on a line, in a kind of grid drawn on the ground. They're undoubtedly symbolic of human life, where you go from one stage to another, from one age to another, one situation to another: in short, symbolic of human life as history. They also indicate that history isn't always something a person wants or invents, but something spontaneously generated by one's own life. And the more spontaneous life is; the more it's full of stories, the more immersed and determined it is by history."⁴ María García's life is full of stories, which she's thinking of putting in a book. She already has the title: That's the way it was. She's certain the game with immigration enabled her to pass from one stage of her history, in which she stopped being a "foolish" 29-year-old girl to become the woman who married a US citizen, gradually brought her five children to the US, was widowed early and became a pivotal figure so that the immigrant non-movement could mobilize many more

¹ De Genova, 2005, p.244.

² Nevins, 2008, p.189.

³ Zambrano, 2004, p.61.

⁴ Zambrano, 2004, p.96.

rebels. With her rebellion, María stopped being carried away by the wind of thought, a situation diametrically opposed to that of those who follow with blind faith, as Hannah Arendt describes them: “If your action consisted in applying general rules of conduct to particular cases as they arise in ordinary life, then you will find yourself paralyzed because no such rules can withstand the wind of thought.”¹ In María’s case, this wind of thought had effects on body control. Her experience is significant because it shows us how immigration multiplies upon defeating the power’s control devices.

The groundwork for this defeat was laid decades ago and is still working, yielding remarkable results. In 2013, on the border with Mexico, Border Patrol knew about 171,050 successful illegal crossings. The previous year they recorded 103,811. Between 2006 and 2013, there were a total of 549,380 known non-authorized crossings just in the Río Grande Valley sector. According to their own records, in these same eight years, not even all the Border Patrol sectors bordering with Mexico could prevent the entry of 2,173,746 unauthorized immigrants.² Those 2 million-plus immigrants succeeded in making an area—bodies, to be more precise—that escaped state control. Such control is unviable because it’s impossible to prevent the existence of blind spots and to thoroughly check the enormous number of vehicles, people and documents that cross every day. And since crossing the border isn’t the only way to circumvent body control, the success of disrespecting the principle of territorial sovereignty is far greater. To these more than 2 million unauthorized immigrants who successfully crossed the border in 2006-2013 must be added those who not only evaded the jails of ICE and its subcontractors, but also its statistics: those who entered without Border Patrol having any idea they had passed over the border. And we must also add the “overstayers”: those who entered legally and stayed on after the period expired that had been assigned them on their visa or on entering. A prepared statement by Bernard L. Schwartz, a senior fellow of the Council on Foreign Relations, titled “Measuring the Effectiveness of Border Enforcement,” which was commissioned by the US Senate’s Committee on Homeland Security and Governmental Affairs in 2013, estimates that over 40% of unauthorized immigrants living in the US that year hadn’t illegally crossed the border but had arrived legally with a tourist, student, business or other visa then violated the terms of the visa by staying on in the US.³ Another, more recent study, titled “Border Security: Immigration Inspections at Ports of Entry” prepared by the Congressional Research service and dated January 2015, calculated the overstayers at 30% and

¹ Arendt, 2003, p.176.

² GAO, 2012, pp.74-82. Meyer and Isacson, 2015, p.17.

³ Alden, 2013, p.9.

50%.¹ These figures give an idea of the success of the undocumented immigrant non-movement. It's based on their networks communicating information about reliable coyotes, less dangerous routes, shelters, churches, etc., and repeatedly resorting to certain infrastructure, which is its assets, the migratory chains' material base. These channels of communication enable coordination and emphasize the spontaneity of the coordinated chain.² The non-movement is that critical mass created—and strengthened by—accumulated migratory processes that develop stable networks.³ Therefore transnationality doesn't lead only to "new standards of action, cultural environments, local economies, social networks"⁴, but also to a new social subject, one that refuses to remain like the blind man of Jericho with his hand outstretched waiting for the US government to give him asylum.

1.3 Unauthorized crossing as massive disobedience: There are millions of Ernestos and Marías

I have described and analyzed two challenges. If in the breaking away from mind control we were seeing the questioning of hegemony, in illegally crossing the border and staying without authorization we're witnessing what Castells calls challenging the bureaucratic norms on the use of space.⁵ In a sense, the border acts like the revolutionary movements' barricades: they can't really stop the enemy but they do define an "us" and "them," an "inside" and "outside." As the experience of dealing with border control contains the inclusion/expulsion relationship, considering the border an area of marginality can show its political aspect, because it's a strategic place where there's transgression and resistance.⁶ Although the wall is erected by the State, it also fulfills the function of uniting the undocumented immigrants in circumventing it, with no need for them to belong to a movement or organization. Getting around the wall and dodging surveillance, for all that so many stories emphasize its biological and psychological dimensions, has a political aspect in which crossing is the message: we know it's forbidden, but we have the right and we can. From a political standpoint, overcoming physical obstacles matters because of the attitude it has toward laws: an attitude of civil disobedience, of denying the State the right to stop them.

¹ Seghetti, 2015, p.2.

² Pries, 1999, p.61.

³ Pries, 1999, pp.62-63.

⁴ Pries, 1999, p.65.

⁵ Castells, 2012, p.10.

⁶ Parker, 2009, p.585.

This disobedience occurs massively because the undocumented immigrants' non-movement is numerous and, while spontaneous, acts as if it were implementing a series of concerted acts. It's made up of millions of Ernestos and Marías. The undocumented immigrants undertake these crossings in a relatively fragmented way, generally in small groups. However, these individual actions—implemented without agreement and in some way as rebellious as those of the conscientious objectors—add together to acquire a public character and a potential for changing the law, as if they were concerted acts of rebellion. When the Iranian political sociologist Asef Bayat developed his non-movement concept, he said he “had in mind the protracted processes in which millions of men and women embark on long migratory journeys, scattering in remote and often alien environs, acquiring work, shelter, land and living amenities.” Bayat mentions that “refugees and international migrants encroach on host States and their provisions, the rural migrants on the cities, the squatters on public and private lands or ready-made homes, and the unemployed, as street subsistence workers, on the public space and business opportunity created by shop keepers.”¹ According to Bayat, this epidemic of the political use of public spaces triggers surveillance and repression by the authorities. But these flows can't be stopped unless the State normalizes the use of violence, erecting walls and check points, which is what the US government has done.² But it doesn't work either. The liquidity and solidity of surveillance have combined to make the crossings more arduous but have failed to prevent them. The State's alarm and reactions testify to the political clout of the migrants' disobedience. Castells argues that for a movement (or a non-movement of undocumented immigrants) to be influential the state actors have to consider it capable of facilitating or hindering their own objectives.³ All the security gadgetry shows is that the undocumented immigrants' non-movement has set off an alarm and is indicative of the resonance—in some cases negative, in others positive—of its actions. Immigrants remain in the global surveillance spotlight. Only by understanding what this implies can we know the dimensions of their challenge, which isn't limited to border crossing. Also—and especially—their challenge takes place in the terrain of everyday life, in their sustained rebellion of staying to live, work, pay taxes, use public services... in a terrain not so controlled by a State that wanted to block their entrance and could expel them today, verily as you were reading this text.

¹ Bayat, 2010, pp.56-57.

² Bayat, 2010, p.12.

³ Castells, 2012, p.235.

2. The performative effectiveness of disobedience: the “already but not yet” of every day

Most persons of Central American origin who live in the United States were born on the isthmus: 60% of Nicaraguans and Salvadorans, 64% of Guatemalans and Hondurans. This is in sharp contrast to the 36% of the Latino population as a whole who were born outside the U.S.¹ In other words, the majority of the Central Americans who live in the United States are first-generation immigrants. This is not because Central American migration is something recent but because the strength of new migration keeps exceeding the slow growth of the already established immigrants. Even though there is speculation that the migration is slowing down,² it continues relentlessly and is predominantly unauthorized. Non-compliance has become steadily stronger. The migration’s increasingly massive character, according to Bayat, is a form of self-legitimizing because the overall effect of non-collective actions consolidates and reproduces the counter-power.³ The consolidation is effective, however, only because of what happens after the migrants enter: they practice a sustained disobedience which to a certain point consists in acting as if they were persons possessing the full rights of citizens. The immigrants’ disobedience is not just momentary, an unauthorized crossing; rather, it is sustained because those who enter remain against the will of the government. Moreover, they perform a series of illegal acts: they work without permission, they obtain licenses for small companies, they manage businesses of various sizes, they make use of government resources, and they also pay taxes that increase those resources. These are all collective actions of a non-collective actor, and the social implications of these actions (access to a certain type of dwelling, a certain level of consumption, cultural benefits, a kind of employment) are interwoven with the political implications because they enact an illegal citizenship that produces inclusion.⁴ The immigrants do not disregard authority but challenge it boldly in order to compel their inclusion; it is as if they pragmatically declared their illegal status and accepted the consequences by reasserting their non-compliance.

In this section I will show how such disobedient actions, performed out of sheer necessity because of the immigrants’ position in the material world, have a significant impact on politics. This is true whatever may be the reason: whether it is because the immigrants’ actions effectively

¹ López et al., 2013, p.7.

² Rodríguez, Berumen, and Ramos, 2011.

³ Bayat, 2010, p.20-21.

⁴ Rancière maintains that “a political movement is always a movement that blurs (...) the accepted boundary of the political and the social.” Rancière, 2014, p.84.

delegitimize government authority in daily life; whether it is because they encourage the complicity of others who act in favor of the “deportables”; whether it is because they establish the undocumented as “indispensable enemies” (like the 19th-century Chinese immigrants¹) in the marketplace of labor and consuming; whether it is because their work takes on a personalized form or develops such obvious connections with social structures as to make all talk of the “shadow lives”² of the undocumented simply ridiculous; or whether it is a combination of any number of these factors. All such actions bring about inclusion. All of these cases, including the complicity rooted in crass selfishness, involve a display of dissent, which according to Rancière “is not a conflict of interests, opinions or values; it is a division inserted in ‘common sense’: a dispute over what is given and about the frame within which we see something as given.”³ In other words, what is fundamentally being challenged is the government’s pretension of classifying certain workers as illegal. It may be that those who hire them for purely mercenary motives are not contributing to the debate on immigration legislation—though some do, and do so significantly, as we shall see—but certainly their employers do not consider the undocumented workers to be in the state of illegality envisioned by government, nor do they think that they are committing a crime in hiring them. They are operating in a different framework and with a different way of thinking, quite foreign and even contrary to the coordinates defined by the legislation. In order to achieve greater clarity in my analysis of the forms and implications of non-compliance and its social validation, I will separate labor from consumption. My analysis of labor will in turn be divided in such a way that the modality of self-employment, which overlaps with informal labor and other forms of work, is treated separately since it is the modality where immigrants are most visible.

2.1 A day in the life of three Central American migrants

Three migrants, three lives, three windows on the world of Central Americans in the US: Kelvin Orellana, Gisel Morazán and Lito Melgar. All three are relatively happy and all are undocumented. They work hard, learn about and use the world they move in. They have dreams; they’re bold; and they have a future. During my visit to Maryland and Virginia, three Central Americans talked to me about the often tightly interwoven areas that burn their souls: work, documents, emotions and

¹ Saxton, 1971.

² This is one of the most frequently occurring images. Burns, Garcia, and Wolgin, 2013. Lowenstein, 2012. Passel, 2015.

³ Rancière, 2010, p.69.

God. I savored their words and took careful notes like a solicitous clerk, asking almost nothing, recording almost everything. I accompanied them during their work days and their rest times, learning and, I hope, understanding. I enjoyed it and hope I was accepted. Now I want to share what I saw and heard, what moved me.

A day in the life of Kelvin

I met Kelvin in Maryland, three days after landing at the Ronald Reagan airport at the start of my fieldwork this past February. He went to meet me at a central point at the request of his wife, Yadira, whom I'd met over 20 years earlier in the village of Bajo Aguán, Honduras, when she was nine years old. Her father Ceferino was at the time a tireless lay preacher who invited me to share exhausting days with him visiting Flores and Jazmines de Oriente, the most remote villages on the left bank of Río Aguán, which are accessed by walking hours on dirt roads over several hills—dusty in the dry season and muddy in the rainy one—from the point where even four-wheel drive vehicles can't go any further. Back from our trips I would enjoy succulent Honduran tamales called *ticucos*, crack up at the funny stories pouring out of Ceferino's mouth and swap jokes with the marimba of children God had blessed him and his wife Fernanda with, year after year, with unfailing regularity for a dozen years. Kelvin took me to the apartment he shares with Yadira and their three US-born children in a multifamily building inhabited by undocumented migrants and a few Afro-descendants. Our dinner was pure Honduran-style: cabbage and tomato salad, rice and refried beans, stewed chicken with potatoes, Copan tortillas and a touch of green courtesy of a delightful avocado.

This is how we eat every day. We buy everything at a store less than ten minutes from here where they have all kinds of Honduran goods, even more than in my village. That's why Mr. Ceferino and Miss Fernanda don't get homesick when they visit us. We make them baleadas [a thick wheat flour tortilla folded in half and filled with mashed fried beans and a choice of other ingredients], tamales, atol [a sweet cornstarch or masa-based drink served hot], tortillas... Back there we have avocados only a few months a year but here we have them all year round. They came to stay five months here and, thanks to Ceferino, it was five months of constant joking around. They went to the US Embassy and got a ten-year visa because my brother-in-law, who's got papers and has been living here for 20 years now, gave them a call. We took them to see a lot of places and sometimes Mr. Ceferino went out by himself, to walk about and visit another

daughter, but I told him that it's not like back home here. You can easily get lost here so we only go out in our vehicles.

We moved into the living room where an enormous Honduran flag covers the wall over the flat-screen TV and a towel with the Sacred Heart of Jesus is hung on the next wall. We settled down on two sofas and drank Corona beer, a taste Central Americans have acquired from the Mexicans. The children chattered among themselves in perfect English but only spoke Spanish to the adults. Seven-year-old Bryan, their youngest son, soon worked up his confidence to come over to ask me to read him some episodes from *Diary of a wimpy kid*, a children's bestseller. Kimberley played the clarinet in the middle of the room.

Kimberley can play clarinet. They teach it at school and she practices in the evenings. It's a public school but they learn many things and she likes music. Bryan's fanatical about those books. Whenever he sees another in the series he asks Yadira to buy it for him. See there? Bryan had a heart operation but there was no fuss about paying for the surgery. The hospitals have different rates; we applied for the lowest one and they gave it us. That's how it is here. There's something to suit everybody's pocket.

The talking didn't go on much longer. Kelvin had a long working day and the next day, Saturday, he'd be busy with his own contracts, which often pay better. After a half-hour Skype call to Miss Fernanda in Las Mojarras, Honduras, we said goodnight. I shared a room with Chico Guerra, who's married to Kelvin's sister and has two children in Honduras. Almost all the families have a recently arrived brother-in-law, cousin or sister. Either to summon or deter sleep, Chico whispered from his bed recalling for me his transit through Mexico.

I sometimes traveled on the train, but not always, because it's hard work and very dangerous. You have to keep your wits about you. I once saw them shoot someone in the head because he didn't have money to pay the toll. It was eight gangsters who boarded the train. Pleading with them made no difference. There's no mercy. You pay or they take it out of you. Many get thrown off the train. They don't think twice about it or listen to reason. They get drugged up to be able to do it. In their right mind they wouldn't dare. When they get on the train, they're already well loaded. That's why it's better to pay. The coyote [facilitator paid to help people cross borders/countries illegally] had our payment and he just handed over portions of it at the roadblocks to the gangs, the garroters, the police...

I slept with those images: the train frantically rolling along, gangsters holding the body at their mercy, a youth on the threshold of becoming a statistic of the mutilated, the dead... The next

day, Kelvin surprised me with a kind invitation to join him all day. We were going with his brother-in-law and another colleague in one of the many vans the migrants use for interior remodeling. We went into a 7 Eleven, which some Central Americans call: "Latino restaurant, gringo bar." The largest glass wall was covered by a poster showing the 7 Eleven logo on a cardboard cup, haloed by signs advertising: \$1 *medium coffee, Wednesdays, Try our Guatemalan Santa Rosa Blend*. A lot of solid men in heavy jackets were clustered around the coffee machines. The weather forecast was for six inches of snow, but they knew from experience that the forecast could be ignored if there's an early snowfall. Kelvin paid for the coffees and bread of our choice. Back in the vehicle, he became more talkative with the coffee buzz.

I arrived here 13 years ago. Right here, to Maryland. My wife's brothers paid for my trip. My father-in-law told them 'Take Kelvin with you,' so they got together the dough to pay the coyote. That Mr. Ceferino doesn't mess about. I owe this life to him. After three years I sent for Yadira and now we have three children, three little gringos who don't look like gringos: Kimberley is 10 years old, Kevin is 9 and Bryan 7. Now we have my brother-in-law Chico with us in the house. He works laying lawns. He came here four months ago and they're already paying him over \$20 an hour. When he works 12 hours straight, he comes back with \$250, almost what he earned in a month back there. But lawn work is bad, it's seasonal and he's been laid off for two months now. In winter there's no movement, except if it snows more than four inches, then they shovel snow; but once spring comes the money's going to pour in. This is how it is for people here who put their back into it. At first I was a bit lazy, always asking the boss to explain things to me, until one time he said 'Just do what you can.' And I did. 'You see? You can do it,' he told me. And when I went to get paid at the end of the day, he gave me \$12 an hour instead of the \$9 I'd been getting before. He told me that that would be my salary from then on.

I come from a small town in Danlí. How I'm living now is nothing like my life before. I remember in the village, old Eleuterio almost always paid us to go buy his cigarettes. He spat on the ground, burning hot in the sun, and told us: 'If this saliva dries before you return, you won't get paid.' He's older now and not so feisty. I knew about hard work from very young. My uncle had a cheese business and kept me busy doing everything: 'Come load the trucks; Go move that handcart; Collect that invoice'... He later came to the US where he had a daughter living because back there they wanted to kill him over his debts... After three years I got fed up with the low pay and all the work. He came looking for me at my father's house and tried to convince me, he even offered to turn the business over to me in the future. Pure lies. As I knew how to make cheese, I

went to Las Mojarras to work in a cheese business two houses down from Mr. Ceferino. That's where I met Yadira; we got married and my life changed. I'd never thought about coming to the US. How could I? How can you make a web if you don't have a spider? But Mr. Ceferino saw I was a worker and helped me.

We drove to a neighborhood where only African Americans live, judging from the people we saw on the street. We went into a four-unit apartment building, one of which was in primeval chaos, and began to remove the dust and debris: stained carpets, chipped washbasins, rotting cupboards, rusty heaters... Later Kevlin showed me the neighboring apartment, which was already almost finished. Everything was sparkling: perfect finishes, heating ventilators set into the ceiling, gleaming showers, polished washbasins, beautifully plumbed trim, immaculate well-laid carpets...

This is our work, it's what we do; I learned it here. I finally shook off my sloppiness, my lack of initiative. But it cost me. First I worked for six years in a Korean supermarket. I didn't have even a day off. They paid me just enough to keep going. Then I went into gardening, which I learned here too, but by abuse. There was this Mexican who kept yelling at me: 'Get on with it, asshole!' And me, perched up at the top of a tree, struggling not to fall. I had been afraid of my uncle and now he says it's thanks to him that I'm here. Yeah, thanks to me running away. Now my bosses here respect me. They listen to what I say and like my ideas. The black guy who owns the apartment building was upset because he didn't know where to put the heater and air conditioning. 'There's no place for it now,' he told me. And I told him: 'We can put one of them in the ceiling.' But he was still uneasy: 'We can't put the AC motor there because it gets too hot.' 'We'll put it on the roof then,' I said. You should have seen how happy he was. We just came today to do some small jobs. We still need to connect up the heating and install a lock. The other small jobs are plastering and fixing the damage left by those who put in the heating ventilators. We'd already left everything just about ready, but they came with some slabs and broke the edges. They ought to fix it but they'd rather pay us to do it. So we get another little contract.

In the course of the morning we made two trips to the Giant Hardware Store, which lived up to its name. I went as porter, but didn't know what I was carrying or its purpose. At the cash register some employees wore badges that said "I speak Spanish." The parking lot was filled with Latino men of over 40, anxiously hoping for a last-minute job.

They don't feel any pride in their work. They drink booze all weekend and get in late on Mondays, or don't go in at all, and do it repeatedly until they get fired. Or they steal and get thrown out. Or they can't learn and never grasp what steady work is and stay just doing casual

jobs. If you aren't lazy or sloppy you can always get work and get ahead. It's all about figuring out the game. Once you get a van like this you're on your way: contracts pour in. I realized that and got one that can hold all my tools, ladders and even a work crew. Then the company that hired me helped me get my license. Now I'm registered with my own company here in Maryland.

He showed me a certificate headed "State of Maryland License, 90 County." The next line says "Orellana Construction Inc.," followed by an address, a number and some columns itemizing costs: \$3.75 for registering the construction firm and \$2 for issuing a certificate valid for three months. In bold letters at the bottom it warns: "This license must be publicly displayed and expires on April 30, 2014."

Now I have to take out two kinds of insurance. I already have one for the van but I need one for property damage and another for workers' comp. Contracts are better paid when you have these three but some people want us to have insurance then try to pay us the same as if we didn't. The owner of these apartments is a good boss and pays well. For the work we're doing here he's paying \$7,000 per apartment just for labor, plus another \$11,000 in materials. He gave me a credit card and I buy what I need with it but the invoices go to him so he can keep a check. One time he paid me \$3,500 to fix a roof, which I did in one day with an assistant. He's a senior official for the Washington DC subway. He inherited several apartments from his father and it looks like he's been buying more. He has apartments all over the city and we do the maintenance.

At midday we left for DC. We got a sandwich and coke at a Crown Fried Chicken, located on a busy corner between H Street and Northeast 8th. Once again Kelvin paid for everything. Afterward we waited at the door for his employer, who pulled up 40 minutes late in a Ford pickup with the Washington Metro emblem. He handed over the key for the next job and asked for a brief progress report on the last one. A few blocks from the fast food place we went into an apartment that was inhabited but in total disarray, with dirty clothing hanging from the table, chairs and doorknobs.

American women live in these apartments and look at that! She's left her panties scattered about everywhere and she knew we're coming today to fix her washing machine. Look what they wear. That's how gringo women go out, almost naked. They put on panties with very thin straps, so you can see what they've got and what they don't. But here you can't make jokes about such things. When I'd just arrived, my cousin told me: 'Brother-in-law, don't stare at that girl if you don't want the police picking you up. Here you can't go about ogling the girls.'

The tenant entered in gym clothes. She gave a friendly greeting and went out again, confident that her belongings were safe. After confirming that the problem with the washing machine required specialized attention, we returned the key and the respective report to the owner, who appeared at the workplace; our day's work was over.

The gringo girl asked me if that streak on the roof is dangerous and I told her it's just tape. But the truth is that if we don't do something soon, the ceiling's going to come down. That's how our day is. Today we had it easy. Sometimes, when we have to hand over an apartment, Yadira helps me with the final clean-up. And so we go, with one contract after another. The important thing is to have the van and papers. I bought this one second-hand, with 6,800 miles on it. A van like that could cost \$4,000. The windshield was broken and it had other damage. For another \$2,000 I had it like new. Anyone who buys one of these is on his way. You put the ladder on top and fill the inside full of materials. That's why there are so many in and around DC. When you see one, look close and you'll see it's being driven by a Central American. The papers are necessary. I drove without a driver's license for five years. It's no big deal until a cop stops you for some infraction; you can lose your vehicle, the police keep it as a perk. Now I have a license, a credit card and even a license for my construction company. Undocumented migrants here in Maryland can take out a driver's license as long as they can show they live in Maryland and pay taxes. While papers are important, it's more important to eat. And having papers doesn't help you if you don't have get up and go. Lots of people have papers but don't have a job. Sheer laziness.

A day in the life of Gisel

Gisel is Yadira's older sister by one year. She was 10 when I knew her in Las Mojarras. Her life is split between two countries. She turned 31 this year: 19 of those years in Honduras and 12 in the US. She's had two children. One lives in Honduras and the other in the US because she's been married twice, once in each country. I often used to help her grind corn to make tortilla dough. Now she helps me figure out where I am in the city using the GPS on her smartphone. She lives in Fairfax County, Virginia, an hour by subway from her sisters Yadira and Celia and her brothers Wilson and Chico. She can get to the Pentagon or the White House in less time than it takes to go from Las Mojarras to Tocoa or Trujillo, the cities closest to the village where she was born and the first access points to a paved road. She does child care in her own apartment. We met up at the entrance to the East Falls Church subway station with plans to go to the last station in Maryland. She came with her smiling, talkative son Carlos, and began talking in the subway car.

I told them I'm taking the day off today. No problem with that. Occasionally my brothers and sisters and I meet up and I use the days I'm entitled to. I used to have up to two weeks paid vacation but now they don't give vacations; instead they pay me for all the holidays and other days I don't work. I took today off in lieu of a holiday. I just told the parents 'I'll be closed tomorrow' and they look for someone else to mind their child for them. I give them two days' notice, which is enough time for them to find someone. I even helped them get another babysitter for today, plus which I often help when they have an emergency and have to go out, like when there's snow and they have to go out shopping... I often do them favors like that. After all, they're like my children and I take care of them. That's why I don't think twice about doing them a favor. And they give me whatever they can for it. Here's our stop...

Yadira picks us up at Shady Grove station, at one end of the red line. In 15 minutes we're at a supermarket full of Central American products: Honduran red beans ("Really soft beans") at \$3.25 for a pound and a quarter, rice imported from Thailand and distributed by Distribuidora Cuscatlán at \$2.59 a pound, pineapple pastries and rice flour quesadillas at \$1.25 each, Salvadoran rice cakes and shells at \$0.79, Honduran hard cheese at \$5, coconuts at \$3, La Perfecta sour cream at \$3.29 a pound, pupusas at \$2.89 a packet of four, tortillas, corn on the cob, tamales, ground corn turnovers called *riguas*, baked ripe plantains, Central American squashes and vegetables, iguana stew, pineapples, mangos and other tropical fruit... even Honduran beers: Salva Vida and Port Royal. Shopping didn't interrupt the conversation.

I got married back in Las Mojarras and I left my first son there. He's a big boy already. My first husband is here; he came too. I'm now with a man who loves and respects me and I became a Jehovah's Witness for him. He gets off work at 3 pm and sometimes helps me with the afternoon ones or takes a nap until the children leave. Together we take the children to the mall so they can play, to the park in the summer, or to Chuck E Cheese, a really fun place where they give the children pizza. I earn more than my husband, which is why he sometimes says he's going to stop working. But he's just kidding. We can't. It takes almost one complete wage just to pay for the apartment.

From the supermarket we went to Yadira's apartment where she began making a huge pot of soup with the vegetables and beef she bought. Gisel continued describing her work.

My job is to mother a handful of children. I take care of five, sometimes seven kids. My apartment's small but it's not a problem because I don't have all the children at the same time. I

get two boys at 6:45 am. One of them goes to school so I get breakfast for him and have to get him to the bus stop by 7:30. After he's on the bus I stay with the other, who leaves before 12. A girl comes at 10 and stays until 3:30 in the afternoon. Then the other two children arrive after school and I stay with them until 10:30 or 11 at night. One boy is only two years old and he just sleeps when his mother leaves him. He drinks his milk then sleeps. He doesn't wake up until 5:30 or 6 in the afternoon, which is why he isn't sleepy at night. I only have two at the weekend; the ones who come at 3:30 pm. So on Saturdays and Sundays I'm free until 3 pm. Their mothers work weekends so I take care of them on Saturdays and Sundays, but they don't come on Mondays and Tuesdays. These are mothers who have two, three children and aren't with their husband. Or they are but say they're single to get aid. A woman here has to say 'He doesn't help me,' or 'I don't have a husband' to get support. That's why they apply for it.

I take care of one girl where it's the father that has her; she's only seven months old. They brought her to me two weeks ago so I'm getting to know her. She's sickly but doesn't want to eat; it makes her stomach hurt. Once I get to grips with her and she gets used to me, she won't be any trouble. I have to see if this is one of her little ways or if she's crying because she wants to cry or wants to be held. I'll get her to change her ways. Her mother left her and the government gave him support because he's the father... But they'd rather the baby be with a sitter than with the father, plus he has to work. They take all that into account here. As he earns very little they gave him aid very quickly. They base it on how little you earn. I try to send this little girl back very clean because I know she only has a father and when she gets back with him it won't be the same. I always bathe her, put on her cream and leave her very clean. I give her soup with vegetables. I put it in a little machine and half-blend it. She loves the little soups I make. I feel sorry for her because she doesn't have a mother. She looks at me with those little eyes... And I hug her and squeeze her, and pet her and kiss her and you should see how I rub her so she can feel the love she doesn't have; well, I have it for her. But she feels her mother's absence.

Yadira intervenes: It makes my hair stand on end. You leave a man but take the children. I wouldn't leave any children with the man. It's better for him to stay alone and you take the children along with you. But it could be something else: it could be that the government took the girl from the mother. If a woman mistreats her children, they take them away from her. That's how it is here in the US.

While Yadira prepares some *baleadas* to tide us over until the soup is ready, Gisel tells the story.

I'll tell you what happened with this little girl. They lived in Boston and came here but after being here for two months she wanted to leave. She liked partying and going out a lot and wanted to go back because all her drinking buddies were there. He didn't want to go and even less did he want to go back to that lifestyle. So she took off and left the baby with him. He seems like a fool but he's not: he quickly went to the welfare office and they gave him aid. They asked him for proof that the mother drank and had abandoned the child, as he claimed. So you know what he did? He went on Facebook and there on her page was all the information he needed: this Sunday we're going to such a place to drink, everything she was doing ... 'Here's the proof,' he told them. That's all the evidence they needed. That's one of the fathers. I have two others. I only have three fathers and they're all very easygoing. It's nicer with Latinos because you understand them. Gringo men are more problematic, and the blacks, they're really something; they even want you to supply the food for free.

Yadira endorsed this view: *There's a black woman living below, on the first floor. When we came here, we saw the mess but didn't know what was up. Who knows what problem she had with her husband for him to call the police. He threw all her stuff out, all her clothes and shoes in black bags. When the police came they found her out there in the street with the bags. Now the police come round all the time because the school bus leaves her kids and they have to go on foot. She just wants to stay in the house and doesn't take them to the bus stop. Every day I put the boy on the bus.*

Gisel continued: *That's why we need baby-sitters so much. You should see how these children are so well-behaved and well-cared for with me. You'll see no crying here. Sometimes the mothers bring them to me early because they say they can't put up with them; the kids are desperate to come be here with me. And why wouldn't they when they eat better in my house than in their own and are better treated? But that's also why this work is so exhausting. You see the bags under my eyes? I only have some free time but never a whole day off. That's why I don't think I'll keep going for much longer in this work. I dream of only working during the day, not at night. The problem is that I can't increase the number of children because the space is limited, so I have to do several shifts. The advantage I have is that I only have one child of my own. Social workers count all the children who're going to be in the house. If you have three children, and your*

space can take eight, you can only mind five more. It's also not advisable because one person can't really mind lots of children. You can control five but more... one person can't do it alone. That's why there's both a child limit and a time limit. A child can't be more than 12 hours in your home. Those I have are never here longer than seven hours. The county pays me \$37 per day for a baby and \$35 for a 2-year-old. They pay me \$20 just for putting that five-year-old boy who goes to school on the bus. I have him for one hour, give him breakfast and put him on the bus, and my job with him is done. And the pay doesn't go under \$30 for the other children. I get paid from Fairfax County and the State of Virginia.

There are other jobs caring for children with Down's syndrome but I don't dare do it. You have to hand feed them and take them to the bathroom and everything. And some of them come out dreadful. They may already be old and they're always shouting. And it would mean further training. You have to train to get a permit for this work. Before getting one I had to go on a training course where they taught me how to care for children, how to deal with them, how to play with them... For example, the food: if they don't want to eat, you can play games with the food, make little drawings with it so they eat it. They also teach you how to prepare healthy foods: protein, carbohydrates. Everything, absolutely everything must be right. The social worker visits me every four months about the food: to see if I'm giving them food, to see if they want it... I buy the food with my own money then they reimburse me at the end of the month. They give me a fixed amount depending on the children I have. They don't like me buying the cheapest food and the social worker checks on this. She makes surprise visits. She just says 'I'm going to come in February' but not which day. There you are waiting, expecting the visit, poking about cleaning up every corner because she notices cleanliness a lot.

Don't think I only have to give them food. I have to keep an account of everything. For example, each child has a number and alongside that number I have to note down if they came or not, if I gave them the morning or afternoon snack... I have to write down every little thing. At the end of the month I sign the paper and it's sent to the county so they can pay me. Each child has a folder and that's where the vaccination record is kept and there's a page for emergencies, which I have to fill out if the child gets sick, so I can take him to the doctor and show the child's social security number, the parents' authorization, etc. ... I have to have one for each child. The social worker told me it's very important to have them because if a child gets sick, I can go to the hospital or clinic with all the information about the child. With that they'll attend to you. Next week, she warned me, I'm going to call and ask you if you've done it yet.

And I don't only have to prepare myself; I also have to have the house ready. Firefighters came to check out if I have fire safety measures and emergency exits. The social worker comes to see how the children will be here: what I'm like, where they might get hurt, if there are dangerous things lying about, if the electrical outlets are covered... The social worker helps me go over how to work with children before renewing the annual contract or when children move out of the county. Then she works out the contract with me. She calls and tells me: You're so-and-so and this guy tells me he wants you to take care of his child. Once she's spoken to the child's parent she calls me, as she has my number. My name's on a webpage. People are always looking for the closest sitters. If they drive they can come from a little further away, but those who don't drive prefer someone nearby. If I have space, the parent comes and calls the social worker. You may get Americans or Latinos or whoever calls. I've only gotten Latinos so far.

With bachata music playing in the background, we sat down to eat the soup made using Miss Fernanda's recipe. More food followed. *Don't be ashamed to eat*, they urged me. *'Remember back there when you rode horses up into the mountain?'* We also recalled when Mr. Ceferino made both sisters lick his back, smeared with salt, as punishment for fighting. Afterwards they had to swallow a ball of corn dough to ease the penetrating salt residue.

Migration documents aren't needed for this work. All I had to show was my passport and tax ID to start the process and get my permit. Once I passed everything, the courses, the apartment inspection and the checkup by the firefighters and social workers, they said 'Yes, she can mind children,' then gave me the permit. They didn't ask for any papers from Migration. They weren't interested. The only thing they asked for was the addresses of whoever else lives in the house to be sure they don't have a police record. If they find out that anyone in the house has problems, they can't issue the permit. Because the number I have is legal and they didn't find anything criminal on me, they accepted me even though I'm not a legal resident and also don't have Temporary Protected Status (TPS). I filled out one form for myself and another for my husband and sent them in along with all my data and that of those who live in the house: if I have a child, how many children and so on. If the children are 13 or older, they need a paper for each one; if they're minors I don't have to fill one out. Then they decide to approve me or not. I had to fill out a bunch of applications and send them in. These are their rules.

They have their rules and you have to follow them. You can't have a lot of people living in the apartment. You have to send in a check for \$14-\$15 with each application. What they're most insistent about is that you take the first aid classes so you can help if a child chokes or swallows

something or whatever. It's an eight-your course and they give us the telephone numbers of teachers who are accredited. The course can cost \$80 but if the group is large, it's cheaper: it drops to \$50, \$40. But it takes a lot longer if the class is big. I called a man who charged me \$85 and I passed the course in two and a half hours. Much quicker.

Once you're in the process, the county sends you papers every month. For example, they send you ones that say on such a day they're giving some class with three, four hours of credit... They don't charge us for the class or require that we to go to any specific one, but it's useful to go because we learn more. For example, they gave us a two-hour course on food preparation. While you aren't obliged to take every class, you do have to complete 14 hours of courses each year to get your permit renewed, and if you can't show them a certificate saying you did, they'll annul your permit and take the children away. You get a certificate from the teachers with your name on it and all the classes you've passed—they give us tests in the class—and how many hours each class is worth. Everything is free, we' don't have to pay anything. They even sent me congratulations.

At 3 pm we set aside the feast, which had started at 11 am, to visit another sister. From there I accompanied them to a clinic where they have an appointment with an Indian nutritionist who has designed a diet for them. The number of notices in Spanish on the office walls may be an indication of the predominance of a Latino clientele. So is the list of foods to avoid: *chicharrones* [deep-fried pork skin], tamales, pupusas, *riguas*, etc. After paying \$90 for the consultation, we go on another bout of shopping.

My social worker is from India too, just like the diet lady. She helped me when I showed interest in the job and told me it'll work if I want it to and that it's very valuable work. Now when she comes, she asks how many children I have and I tell her five and she's impressed because it's a lot of work every month. You have to fill out the food forms. The county makes out the menu. They have a nutritionist who prepares it so it's varied, with vegetables, proteins... The food mustn't be oily, it must be healthy. They send you a menu and you go ticking it off. If I have to give the kids an apple and don't have one, I give them a pear or other fruit instead and I mark it down. If the menu says 'You must give them grilled beef this afternoon' and I don't have it, I can give them chicken, then I mark in the code for chicken. They send a copy of the children's menu for the week to the parents too, the same as at school. That's how I know the children don't want to miss class on Fridays, because they get pizza that day and they like it.

Some people get sick from all this work. Paola, a fellow babysitter, got stressed out by all the paperwork. She got depressed. Óscar, my husband, told me "You're going to end up sick too."

He sees all that I do. Yesterday it was his turn to fax in some papers because I couldn't. I put some in the mail; take others and leave them at the office and others I fax. I could also send them by email, but that's harder for me because they all have to be done on a computer. So you know what I do? I just don't let things pile up. I start filling out forms, marking and ticking them, in the morning. Before I know it, I've finished. It's hard at first but you get used to it. Besides, I've always liked taking care of children.

Are these parents undocumented? If they are, why does the government spend so much on them?

The parents are undocumented but the children were born here. The key isn't the parents, it's the children. The parents don't matter to the government here. They can do what they want but the children are a different story because they're from this country and they take care of children here like you wouldn't believe. They don't care if the parents have papers or not. It's the children they're helping.

Yadira drove, in total control of the steering wheel and the complicated geography of DC and surrounding area. She offered to leave Maryland and take us to our counties in Virginia. Is there some problem?

My license is restricted but I can use it to drive anywhere in the country. It doesn't let me get it in to see Obama. It doesn't serve as an ID but it does let me drive. I'm not interested in other papers. I'd just use them for the toilet. What I'm interested in is having work so my children can eat and go to school.

A day in the life of Lito Melgar

I met Lito in February 1990, when he was three years old. He was playing with plastic dolls on a dirt floor, next to the room where his grandmother was dying. He lived in a settlement on a small plateau built by Plan Padrino, an NGO, for an agricultural cooperative of people displaced by the war. His father was a guerrilla, who later migrated twice to the United States but after some years he returned to El Salvador where he now lives growing corn on just over a sixth of an acre that Lito's paying for at a rate of \$80 a month for ten years. Back then Lito had never even heard the words "United States," except perhaps in bitter, contemptuous tones. Three months before I met him the Salvadoran Army, financed and advised by the US government, had led a military

counteroffensive that killed thousands of Salvadorans, among whom I specially grieve for six young people from this cooperative.

I worked in this community for four years as a member of the Jesuit Service for Refugees. Our presence was supposed to make the Army realize it had international support and prevent threats of further repression. I spent two or three days a week there, sometimes more, and that's how I became friends with Lino's family. I'm godfather to two of his sisters and one brother. I visit them almost every year although I wish it were every week. I watched Lito grow up: go to school, pluck piñuela flowers for the porridge, dance at parties, take part in the Way of the Cross, sing Chayanne's songs like any enraptured teenager at his sisters' 15th birthday parties [considered a girl's "coming of age" in many Latin American countries], go through his first amorous setback, walk two hours a day to high school in La Libertad and leave for the United States in November 2005, a peak deportation year. In February of this year, exactly 24 years after our first meeting, we had a warm father-son embrace in the Vienna metro stop, the end of the orange line in Washington, where Lito had come to pick me up "good and early in the morning" as true Salvadorans say.

Do you remember taking me to the port of La Libertad, the last time we saw each other in El Salvador? I asked you then what the United States was like and you said 'It's another world.' Now I know how true that is. Winter was just starting when I arrived, the hardest for many years. I began going to the stores and understood what another world this all was: the shops, apartments all well-painted with carpets, kitchens with cabinets, a sofa, a fireplace... Wow, that's so cool, I thought. My father, who was here then, took me to a laundry and explained: 'You wash your clothes here in these machines and fold them like this.' During the day he took me to cut trees in a frozen forest. He used a chainsaw and I carried the logs to the car. He had loaned me some wet gloves that I was ashamed to take off. I was shivering and all hunched up. My father said, 'What's the matter? Are you cold? Well, that's how it is here. Get used to it. You wanted to come. Well, this is the United States. Man up.'

People say the first two years here are the hardest. It's very different, so lonely. Here they always say the family doesn't exist. They say that when you first come, perhaps so you'll take responsibility for yourself. And little by little you find out that it's so, and end up agreeing that it's true. My half-brother once told me: 'Look, Carlos, when you want a car, all you have to do is tell me and I'll get you plates.' I eventually bought a car and, and as I couldn't get insurance and plates, I asked him to do me the favor since he's legal. He's got a TPS permit and works driving garbage

trucks. He pays \$500 to renew his permit every year. But he told me: 'My work is very complicated, and if anything happens they'll take my license away.' So for whatever reason he didn't help me, and he was totally in his right not to. Now I get it: nobody wants to stick their neck out for someone else. When I was in El Salvador I didn't understand why people here don't call you up. How come they don't have five minutes to call and just say: 'Hey, how are you?' It's incredible, incomprehensible. But life here moves very quickly. You feel so engrossed.

Some days I've had up to 100 calls on my cell; 100 problems to solve. I usually eat in the car. I sometimes leave at 5 in the morning and get back at 11 at night. I leave the children sleeping and come home to find them sleeping. This is what I want to change when I get my papers. My wife is raising the children, she doesn't work. All income depends on me. We want to put up a daycare someday. She knows a lot about it and we need the money. Sometimes I find myself sitting here wondering how I got into all this. I worry just thinking about my credit cards; I owe on nearly all of them. The minimum interest on this one is 16%, and it's the lowest. The first one I got was Capital One, then American Express and Discovery. And I did it to prepare myself for the future. In total, I owe these companies \$3,000 and then there's \$7,000 for the big car I'm also paying for. The other, smaller one, cost me \$3,000, and is already paid for. Here everybody lives like this, in debt.

We traveled in a pickup truck with the logo "Transfiguración Services Inc." and the inscription: "Reglaze and Refinishing Services, info@transfiguración-services.com, Bathtubs-Sinks-Vanities-Cabinets-Kitchen Countertops-Tile Walls and Floors." We headed straight to the apartment where Lito had to work that morning. We'd both had breakfast. Together with a Honduran and a Guatemalan—also undocumented—I was staying with, I'd eaten a massive cinnamon bun, part of the ration the parish of St. Anthony of Padua in Falls Church distributes twice a week to the "homeless," who are really Latinos who, like me, don't mind eating day-old bread from the exquisite bakeries that can't sell them and donate them to the churches. These bakery goods and other food we're so generously given considerably reduced my research costs and undoubtedly do the same for the finances of many migrants. We unloaded the materials and Lito began to paint.

I said to myself that when I got there I was going to get three jobs. The first one I had, some Mexicans picked me up at 6 in the morning and left me back at 10 at night. They were contractors who made houses out of 'shiroc' [Sheetrock, or drywall]. My God, what a job! I was wrecked when I got home. They taught me to use stilts to reach the highest sheets and told me:

'Toughen up, son of a bitch. Break a sweat, don't be a wimp!' The hardest part is that Hispanics with power are the most racist, whether in the police, in organizations or at work. Another Mexican told me about another company: *'Go with them, they won't screw you around.'* I went there with some others and learned a little more. Then I worked in air conditioning. Then I went to Pennsylvania with another Salvadoran. They taught me quickly but said they couldn't pay me more. They got work that paid \$18 an hour and only gave me \$10 so they turned a nice profit. I left that and got into restaurants, working in a steakhouse at night. I learned how to cook meat there: medium, medium rare, rare, well cooked and almost burned. I earned \$10.70 an hour but only worked four hours a day. During the day I cleaned houses with my future mother-in-law. I went to help her, to learn how to clean houses here, because it's not the same as back there. With that I thought: *Man, if I ever get married, I already know how to cook and clean house. I was fine there but a friend was leaving to start up his own Indian restaurant so he told me: 'Come with me. You'll have Saturdays and Sundays free and earn \$700 a week.'* Wow! What a deal! I started work at 10 in the morning and left at 10:30 at night. That was in Rosslyn, close to Washington, and I lived in Manassas. I commuted every day in my green Nissan. It was very stressful. I wasn't used to this kind of life.

I was stopped by the police twice, once because I fell asleep at the traffic lights. The light turned green, I stayed there and when I woke up it had turned red again. When I hit the gas, a cop was waiting and stopped me. I have a Maryland license and can't say I live here in Virginia, so I invented a story: 'I'm coming from work and came to visit some friends here.' *'OK, be careful,'* and he didn't give me a ticket that time. In fact, they only paid me \$350 a week and I did work weekends. I only had Monday or Tuesday free. It came out at \$5 an hour and I did everything: cleaning, cooking, chopping, preparing... The restaurant was just starting up and had to make headway. I finally left; the owner was a decent person but also a sharp businessman.

Then came painting bathtubs. I contacted an undocumented Salvadoran I met named Rubén, who's with a minister named Mr. Miguel, and he got me a job in a company called Bluestone, owned by a terrific Venezuelan guy. I worked there four years and left last year to come to Transfiguración, a company Rubén and another boy named Leonardo founded about three years ago. I'm doing okay here. I'm the company supervisor. It's complicated because many of them don't accept me since I came in after the company was formed and there are people who've been working there since day one. But while they've been there longer I have more time than them learning the work. I do the best I can and try to get on well with everyone but there are always

those who, seeing only the negatives, try to bring out the Indian in you; make you angry. But I go and check their work and tell them, 'This isn't right, you have to do it again.' I think maybe they put me in this job because they know me, but they don't know me all that well and they also know the other boys. They know a little about my history and I think they believe I'm good because I'm in their church, I know how to talk to people and I'm serious and responsible. It isn't the same as when you're single, leaving things in God's hands and doing whatever you want. You're more focused with a family and two children and think things through before doing anything. I've been leading a youth group and I know how to talk to people, how to act with people and say things in a way that won't hurt others. The man who was here before was very heavy handed and employees left. That's why the owner found me.

I order and distribute the materials, which takes a lot of my time and is the only bad part. I start at seven in the morning and from then I don't stop getting phone calls: this one doesn't have materials, the lady has a complaint, there's not enough material to finish, the bathtub got damaged... A lot of calls about problems I have to solve, because that's my job. I also have to paint bathtubs to make more money. My bosses don't want me painting bathtubs; they just want me to supervise and get more contracts so there's more work, but then I'll only earn eight hours a day and that's not enough. So I paint bathtubs. Two tubs counts as eight hours, and I can do three and even four or more, which means that I can earn 16 hours in a day and only work 8. That works for me, but it's not steady. It depends on the number of contracts and right now I can't just be finding new contracts because I'm in the process of getting my papers fixed, have a lot of debts and need to get together as much money as I can. I always send a little to my family in El Salvador so we're all living as decently as possible. Work has gone down a lot lately. Let's see what happens. I hope it improves. We currently have contracts in Maryland, Virginia, DC and even Baltimore, close to Philadelphia. And even in Winchester.

Lito spent the morning painting. He mixed the paint, put protective paper on the walls, and activated the extractor. At midday a group of African Americans entered the apartment led by a lady who smiled warmly and was visibly impressed with the work. "That's amazing," she kept saying. The people with her were a couple of potential tenants.

Only blacks live here in this building. They don't leave the house when we paint, they hang around. They like that smell. I paint bathtubs with a spray gun and the finish is like on a car. They taught me here and now I teach others. We use masks but the smell is very, very strong... So

strong that if you're in a bathroom without a mask, you could die. I want to quit because I feel it's affecting me a lot. I've been doing the work for nearly six years but I haven't found another, better job and furthermore they pay me twice the minimum wage. Transfiguración has a policy of always paying over the minimum. I get \$16 an hour, which is the highest pay after Raúl, one of the company's two owners. The Dominican earns the least, \$12 an hour, but as the work is paid by completed task and each task is rated at a fixed number of hours, he can earn up to 20 hours a day, which equals \$240. The Guatemalan earns \$13 an hour. There are six workers in all.

I want to start my own company, make something of myself, but two things I don't have are papers and English. I began studying third level basic on January 7, a month and a half ago, and I go twice a week. I'm learning English and already know how to say: How are you? I almost never speak English with my wife and if she says something to me in English, I don't understand her. It's our fault that we don't practice but I'm studying to prepare for the future because our daughter will soon be starting school and we have to be able to talk to the teachers. It's a little easier for me because they taught English back in high school—not much but it helps. Sometimes I put on films in English with English subtitles and I'm making progress that way.

We headed out to another apartment because Lito got an SOS, asking for more thinner. The call was from the Dominican twins and Lito used the opportunity to check their work. The atmosphere became livelier as the Dominicans taunted each other and sprinkled all their words with Spanglish: 'I told him that he shouldn't *tochar* that because it was *frizado* and it would be better to move back to continue *weldiando*.' We had to work our way around hills of snow to get back to the pickup and on the way we continued talking.

The boss in the last company was a good person. For my honeymoon, he gave me tickets to Disneyworld in Orlando, Florida, and we went by road because I already had my driver's license. Twelve hours driving. At that time I liked to drive fast—when you're young it's rather exciting—and I was fined in Georgia for going 99 in a 70 mph zone. They gave me a \$450 ticket. That was tough. I've paid a lot of money to the court for traffic violations. I've learned a little because I haven't had a ticket for two years now. Before it was constant and almost always for speeding, but I've learned and am still learning. And I've always taken the blame: no matter what the police nab me for, I tell them okay, but let me go. It's how you think when you see a cop: You want to give me a ticket? Do it then, but let me go. Whatever.

I understand a lot of English but I don't speak it. The problem is that I can't explain myself and that's why the police do what they want. I've seen that when people speak English and give a good explanation, the cop sometimes doesn't write out the ticket. Those people can defend themselves well and even persuade the police; they aren't afraid of anything; they talk freely. I want to be like that, to be able to talk, to have the right to say anything. One time the police stopped a kid who was going 10, 15 miles over the speed limit and he just told them he'd been talking by phone and hadn't realized he was going at that speed; he thought he was just within the limit, and they didn't give him a ticket. Another boy, who didn't speak English, came along that same day and they did give him one. He had a license and everything, but he didn't speak English well and looked Hispanic so they gave him a ticket. In fact he was following someone who was going at the same speed. The police stopped both of them and gave one a ticket and not the other. Both were Salvadorans but the one who didn't get the ticket was whiter and grew up here, and he spoke perfect English.

We got to the house and in his comfortable living room Lito told me more about why his situation is complicated. Years ago a traffic cop stopped him saying that the air-freshener hanging from the rear view mirror was blocking his view. Mistakenly, on the advice of a supposedly more experienced friend, Lito identified himself with a false name. The cop was distrustful and after a careful inspection he found a complete set of false documents: driver's license, social security card and green card. He arrested Lito who was tried for fraud, a felony that stayed on his record like a scarlet letter. Although he's married to a US citizen of Salvadoran origin, his path to regularization has stumbled on this obstacle.

Many of our rights are violated by being without papers. You often say nothing or let something pass just so they don't ask if you have papers or not. You never stop feeling like a criminal. They shout at you when they feel like it and you feel you have a lot less dignity. That's why I've started to take out my papers. I've already gone through most of the stages. I'm requesting pardon for having come in illegally and having broken the law. I've already paid more than \$ 5,000 to a process lawyer to get to the stage of requesting pardon. If it's approved, I'll ask for a waiver and will have to go to El Salvador. I didn't process the papers earlier because I wasn't sure that if I applied I wouldn't have to go wait in El Salvador for an indefinite period of time. It was very complicated but this situation has been relieved since last year when Obama approved legislation that you don't have to leave to wait for anything. If I go now, I can return and won't have to wait for anything; just take the paperwork to the US embassy in El Salvador. Let's see

what happens. It's been expensive and slow. I paid \$800 twice for a psychological examination to show the damage the children would suffer from family separation if I have to go to El Salvador and wait for ten years, as the law required.

My father had told me he wasn't afraid of the police here and assured me there's no problem with Migration here in Manassas. But we did have anti-immigrant legislation for a time. They began to collaborate with the feds asking for documents about legal status. Because of it migrants began to move to other areas of Virginia and to Maryland, and businesses felt their absence. Supermarkets were empty; diners had no customers, foremen couldn't find bricklayers. The county had to backtrack. That's when the opportunity came up to get plates and a driver's license in Maryland. That improved the situation a lot but for my plans I need residency.

If I manage to get papers and a high school diploma, it will open many doors for me. I've even thought about going into the army after getting my high school diploma. I can follow any dream if I have papers and I've heard that those who are serving the country have a lot of benefits... I've been thinking about it because I don't have health insurance. I have a driver's license and tax ID but no social security. Neither does my wife; only the children. They have the right because they were born here and I think it lasts until they're 18 years old. You have to apply and qualify because if you earn more than \$30,000 or so a year, they're no longer eligible. It depends on how many family members there are. They count everything. And you have to renew it every year. It's quite a process but, Thank God, that insurance for them is a big help.

When Janet was pregnant with Josué she applied for insurance and they helped us with it. That insurance covered the whole pregnancy and childbirth. We didn't have to pay anything. It covered medicine and medical care but not milk. You have to earn really little in order for them to give you food. You have to be dying of hunger. We wouldn't even be able to live here. You have to be in one room with the whole family and earn about \$200 a week. My father-in-law manages a Greek restaurant and he helped us get this apartment. It's in his and my wife's name because when the police caught me with those documents I ended up with a police record for 10 years and can't apply for anything. I can't buy a house. I know I can't because I tried. I can't even buy a car. When you go to buy one, they check your credit. You give your number, they check your credit history and everything comes out. When it came up that I had presented false documents, nobody wanted to give me anything. All this information stays in the system and only they know how it is.

We ate some delicious pupusas Janet made with cheese, loroco [a vine flower bud found in Central America], beans and shredded pork. Then we rested. The next day Lito took me on a

tour of several churches. His friend José Manuel, the Honduran in whose house I'm staying, also came, carrying a statue of the Virgin Mary that he placed at the doors to the churches on the table where they have leaflets about spiritual retreats.

I felt such scorn and humiliation at not having papers but, Thank God, I joined this church group and there I understood better what it is to be a person from the spiritual point of view. Previously I valued people by what they have. I was bouncing from job to job but, Thank God, joining the church group and then starting to meet good people gave me greater stability and helped me not to get lost in drugs and vices. Everyone in the group is Hispanic. That's where I met Janet and where we fell in love. That's also where I found work. Transfiguración, the company I work for, is owned by two members of Mr. Miguel's congregation. Mr. Miguel, who was ordained when he was 20 years old, encouraged me to begin the legalization process. Start, he said, because otherwise you'll never do it. The reason I didn't begin was that I didn't have the money so he lent us \$2,500; that's how I began to get my papers fixed. I'm paying him back for that loan. I try to pay regularly to keep the door open. He also paid to get me out when they held me for the false papers and even left \$150 so I could get here because they took all the money I had on me and the car. He's helped us a lot. Lupe, also undocumented, uses the car, which is in Mr. Miguel's name. Lupe and José Manuel stay in this house; it belongs to the congregation but Mr. Miguel doesn't want you to say anything about that. He says that if he has a lot of people in the house, they could accuse him of promoting trafficking in undocumented migrants. He doesn't want problems with migration. We go to mass in the All Saints church in Manassas but I move through virtually the whole area. The group I go to promotes silent retreats for men over 18 years of age. Previously, I worked directly with Mr. Miguel, who works with adolescents, but now we've formed a group of married men and work with them on silent retreats. We've seen that society needs silence. Therefore we go around winning men for God so they can have a weekend of silence. We go to several parishes. I know almost all the churches here in Northern Virginia and we always invite the Hispanic community.

We stayed up late that night talking about what holiness is, if the army is a good or bad option, the uncertainty of the regularization process, his dreams of being independent and starting up his own business... The talks continued over new get-togethers and work days, and now through Skype. And Lito continues to build his history with the materials the world makes available to him, his own measure of disobedience and adaption, his dreams and his audacity.

2.2 Disobedience in the world of work and citizenship through labor

In 1972 the controversial Chicano writer, activist, and lawyer Oscar Zeta Acosta described the inhabitants of his California neighborhood thus: “Riverbank is divided into three parts, and in my corner of the world there were only three kinds of people: Mexicans, Okies and Americans. Catholics, Holy Rollers and Protestants. Peach pickers, cannery workers and clerks.”¹ In the past forty years the Latinos, who were then almost exclusively Mexicans, have changed religion and occupation. They continue to be mostly Catholic, but Catholics are now only 66% of the total.² And most definitely they are no longer only peach pickers. Only 4.5% work in the primary sector. The largest number work in restaurants and hotels (14.4%), followed by social services (14.1%), construction (13.1%), and manufacturing (11.8%). Central Americans are more concentrated in construction (16.2%) and restaurant work (14.7%). The percentage working in construction varies by state and by country of origin. In Virginia, for example, 34% of Hondurans work in construction, whereas only 2% work in the primary sector, a much smaller percentage than the 7.6% of Mexican who do.³ As a result of the greater concentration of Central Americans in the cities and the ongoing nature of their migration, they have tended to find work in construction and the services; even those with rural origins are working as masons, nannies, domestics, and waiters.

In 2007 undocumented workers in general reached a peak of 5.4% of the labor force, a rate that varies widely from state to state. In Nevada, California, Texas, and New Jersey the undocumented in 2012 represented respectively 10.2%, 9.4%, 8.9%, and 8.2% of persons over the age of 16 who were working or seeking work. Nor are the unauthorized immigrants mainly peach pickers. Only 5% work in agriculture and mining, whereas 13% are employed in manufacturing, 16% in construction, and 22% as professionals, business people, or service workers. Their absence would cause the economic sectors where they are most concentrated to collapse. Such is the case in landscaping (where they are 24% of the workforce), domestic work (23%), apparel manufacturing (20%), crop production (20%), laundry and dry cleaning (19%), and building maintenance (19%).⁴ I will refer later to some representatives of several of these occupations, such as Lito Melgar, who remodels interiors; Kelvin Orellana, who works in construction and

¹ Acosta, 1989, p.78.

² Espinosa, 2014, p.4.

³ U.S. Census Bureau, 2011-2013 3-Year American Community Survey, S0506: SELECTED CHARACTERISTICS OF THE FOREIGN-BORN POPULATION BY REGION OF BIRTH: LATIN AMERICA. U.S. Census Bureau, 2011-2013 3-Year American Community Survey, S0201: SELECTED POPULATION PROFILE IN THE UNITED STATES.

⁴ Passel, 2015.

remodeling; his brother-in-law Chico Guerra, who does landscaping; and the Guatemalan tailors of Los Angeles. None of them would have hurt a flea in their native land, but now they live illegally in the United States, a country with a police apparatus and a judicial system far more effective than the ones that exist in their own countries.

The substantial role that the undocumented play in the U.S. labor market could be seen graphically in the film, "A Day Without a Mexican," produced by Sergio Arau in 2004. The film's box-office failure does not invalidate its basic premise: the extreme dependency of the U.S. economy on Latino (and undocumented) labor. Certain sectors are far more dependent on undocumented labor than the overall proportion of unauthorized workers in the labor force (4%) would indicate. Although there are many indications of the extent to which U.S. society depends on persons who are legally excluded, their economic weight does not always provide them opportunities to increase their parrhesia. The world of labor is an arena in which one can never be fully a parrhesiast. The immigrants did not exercise that role in their own countries, nor are U.S.-born citizens always given to parrhesia. There is always something to be gained by holding one's tongue, or at least nothing is lost thereby. However, it cannot be said that the undocumented are deprived of the opportunity for parrhesia. Even before the labor struggle calls strikes or takes to the streets and the factories, it is fought in other spaces and with other means. Demands presented to the Labor Commissioner's Office are one way of taking advantage of the differing regulations from state to state. The right to desert is exercised repeatedly by changing jobs and ascending in position and earnings. These are mechanisms for practicing what Heater calls "civil citizenship," that is, the "right to hold property and establish contracts, and the right to justice."¹ These mechanisms are complemented by other opportunities to practice parrhesia and to give more visibility to the work of undocumented immigrants so that its specific contribution will be worthily rewarded. This happens especially when their work is valued not only for its quantitative weight but also for its qualitative excellence. This distinction finds its inspiration in the twofold nature of commodity and labor postulated by Marx: "At first sight a commodity presented itself to us as a complex of two things—use value and exchange value. Later on, we saw also that labour, too, possesses the same twofold nature."² Labor as commodity abstracts from its use value, its social utility, its insertion into the social structure. The social relations into which labor is inserted are opaque, but they exist, as Marx makes clear: "Commodities come into the world in the shape

¹ Heater, 2007, p.207.

² Marx, 1996, p.51.

of use values... and they acquire this reality [as depositories of value] only in so far as they are expressions or embodiments of one identical social substance, viz., human labour.”¹ This aspect of labor I will call “labor as commodity,” whereas the labor in which the social relations are more apparent I will call “labor as a structure of collective life.” Every kind of labor has exchange value and use value, a quantitative as well as a qualitative weight. It seems to me, however, that the opaqueness of labor’s insertion into a structure of social relations is not the same for a restaurant employee and a childcare worker, or for someone sewing pants for unknown wearers and a tailor who deals face to face with his customers. The latter type of work requires and obtains greater complicity in the exercise of performative civil disobedience. I make use of this analytical distinction to bring out the different aspects of undocumented labor as performative civil disobedience and to demonstrate the characteristics of its social validation.

2.2.1 The undocumented worker as commodity

Standing argues that “commodification takes place when something is bought and sold without agency.”² The original sense of the word, however, seems to me to refer to labor that is reduced simply to its facet of exchange value, that is, to time and effort exchanged for a wage. Marx pointed out that “capital as self-expanding value embraces not only class relations, a society of a definite character resting on the existence of labour in the form of wage labour. It is a movement ... it can be understood only as motion, not as a thing at rest.”³ On this basis I will treat of the wage relationship and the terms of exchange in this section on labor as commodity. Like many other workers, immigrants make an effort to escape from what the mere wage relationship is. Many of them make use of social networks to exhibit their work and to provoke commentary about its esthetic value. Diego González, for example, displays the dresses he makes in the anonymity of his workshop; he takes photos of them and posts them immediately on Facebook. In this way he saves his creations from being treated merely as instances of exchange value. He breaks with commodification since this takes effect only when “his commodity possesses for himself no immediate use value.”⁴ Diego puts his own stamp on his product: before it can become an abstract wage entity, it can be appreciated by hundreds of his networked contacts, and they can give him feedback. This process of “personalization” and appropriation of labor happens in a very limited

¹ Marx, 1996, p.57.

² Standing, 2009, p.145.

³ Marx, 1997, p.110.

⁴ Marx, 1997, p.95.

way. Most of the links in the commercial chain by which the dress reaches its final user will not know who Diego is. The social relations in the chain are opaque: it would appear that his dresses “go to market and make exchanges of their own account.”¹ In that sense Diego, as a laborer in a workshop, has very limited opportunity for parrhesia. That is not the case, however, with childcare workers and the self-employed, for whom there can be no abstraction from their use value nor any possibility of dissociating the laborers from the social utility of the goods they produce or the services they provide. For that reason I treat of them in other sections.

But that does not mean that parrhesia ceases to exist when labor is a mere commodity. The dominated have many forms of discourse, and as Marx has shown, their very position in the material world exercises a certain eloquence and has systemic weight. Those diverse modes of expressing convictions and exercising political power have been overlooked by some very valuable analyses.² The undocumented workers’ denunciations of oppression are necessary: low salaries, poor working conditions, and other types of abuse are very frequent realities, although these are not always motivated by lack of documentation. Some studies, with the best of intentions, amalgamate the condition of the undocumented and that of unskilled workers, and they identify these two vulnerabilities as basic. However, labels such as “unskilled,” “low-skilled,” or “less-skilled,” which are found even in presumably pro-immigration literature,³ exercise a symbolic violence that legitimizes exclusion by branding the labor as dispensable or at least interchangeable. Such labels also misrepresent the situation because the migrants bring with them highly specialized skills and they learn new ones in order to situate themselves better in the labor market.⁴ Achieving due recognition of their abilities is part of the struggle of the undocumented, as is stated clearly in the declarations of pro-immigrant activist Luis Gutiérrez: “Simply because you’re a doctor or a dentist or a scientist, your labor is worth something. But you know what is also worth something? The labor of that gardener is also worth something. What about the harvester? His labor is also worth something. And the women who clean hotels? Their labor is also valuable. All kinds of labor are valuable because all human beings are equal, and we demand justice for them.”⁵

¹ Marx, 1996, p.94.

² Chomsky, 2014. De Genova, 2005.

³ Anderton, 2015, p.4.

⁴ It would be more correct to speak of skills acquired apart from formal education.

⁵ Coutin, 2007, pp.155-183, p.155.

To deny immigrants the full range of employment opportunities by declaring them to be merely exploitable economic subjects is equivalent to seeing the entry of women into the labor market as just another chance to exploit them; it means denying the reality of the political platform provided them by their position as laborers. There is a need to progress from the monovalence to the ambivalence and the polyvalence of social realities. Many social scientists tend to think that something with an economically regressive valence will also have a politically regressive valence: the entry of women into the labor market (which means greater exploitation insofar as their paid labor is added on to their domestic labor) was in 1980s Nicaragua the platform that opened up greater political space for women. The entry of migrants into the labor market, despite conditions of exploitation, is a tool they can use to move themselves closer to residency and citizenship. Standing states that “the family and the education system had provided mechanisms of social solidarity that gave groups the means of developing agency and a distance from market forces.”¹ Such networks are of great value, but for the undocumented—who relate to market forces in Marx’s sense, as the material for making history—it is not their distance from the market forces but their role within them that provides them with potency and agency.

Marx did not present things in such a flat and linear manner, but rather dialectically. Let us consider what he wrote in *The Communist Manifesto*: “Not only has the bourgeoisie forged the weapons that bring death to itself; it has also called into existence the men who are to wield those weapons—the modern working class—the proletarians.”² Here there is a dialectical movement in which the master fashions the slave. The originating movement corresponds to the bourgeoisie, but it is clear that the incubator of the protagonism of the proletarians is their location in the mode of production. That is what happens in genuine politics. The business people who hire the immigrants make performative civil disobedience possible. When the Naturalization Act of 1790 permitted the naturalization only of white migrants but did not prevent employment of non-white workers,³ the entry and permanence of workers became the first step toward citizenship. And it continues to be that.

That is why entry into the labor has political significance. In the marketplace the principle of sovereignty is more clearly distributed among diverse actors. It is there that migrants achieve legitimization, in spite of the process that De Genova calls “illegalization.” The process of legitimization takes place through the slow and often painful insertion in a labor market where the

¹ Standing, 2009, p.145.

² Marx, 1975, p.490.

³ De Genova, 2005, p.221.

immigrants are at first extremely exposed to fraud and low wages. This is an important element of my reflection in this section, where I consider wages as the expression of labor as commodity. We saw that Lito was defrauded and made a victim of what U.S. writer Thomas Pynchon calls “the aggressive dialect of Mexicans in California, with plenty of ‘fucks’ and ‘faggots’.”¹ A group of Quiché tailors from San Antonio Sija in Totonicapán—Diego González among them—keep trying to find their way into the labor market while in the meantime they receive low wages and avoid being defrauded. “Our accent betrays us,” one of them told me; “immediately they want to take advantage of us.” All those who were defrauded, however, have complained to the Labor Commissioner’s Office, including Eladio Ixoteyác, another indigenous Guatemalan of whom I will speak later in greater detail. All of them won their cases and were treated in court as if they were citizens. Sometimes they had only to pronounce the magic words, “Labor Commissioner’s Office,” to make their employers back down from some abuse they were about to commit.

Ernesto Serna shared with me his employment itinerary: “I had a job where they paid me \$1,600 a month. I got the customers, I brought them water, and at the end I gave them the bill. They taught me how to accept credit cards. After that it was cleaning. The problem was that I was working 12 hours a day six days a week, which was the norm, but then the restaurant owner was asking me to do a couple of hours extra. Sometimes I was leaving my house at 7 in the morning and wasn’t getting home till 10:30 at night. And he never even thanked me. The most he would do was take me to a 7-Eleven and buy me a coffee. And the times when they cleaned out the filters in the restaurant, which was done every three or four months, we used to finish at one in the morning. And they never even gave me advanced warning. I would go in at the normal hour, and what would he come out with? He would pat me on the shoulder and tell me: ‘You know, we need you to stay here because we’re going to clean, and I’m sick.’ From 10 am until 1 am, and what did he give me? Sometimes he gave me 10 dollars, but 10 dollars to be working from 10 in the morning until 1 am—do you think that’s pay? I was suffocating. I was here, but I still had some social conscience, some idea of exploitation. You let yourself be screwed as long as you want, but the moment comes when you decide that if another opportunity arises, you’ll take it. Another companion who lives here in this house was telling me that we were getting screwed, that there were other job opportunities. And there are.” María García, Lito Melgar, Gisel Morazán, Kelvin Orellana, and Fredy Melgar (and other whom I will soon mention: Benjamín Lux, Eladio Ixoteyac, and Reynaldo Campos) have similar stories. They began with poor paying jobs and experienced

¹ Pynchon, 2008, p.7.

awful abuse, but they gradually got better paying jobs and appealed to agencies and organizations that could help them assert their rights. In such cases there is none of the commodification that Guy Standing describes. Ernesto waged a war of attrition, showing how that weapon of the dominated is inspired by a whole series of reflections.

As workers possessing skills that were in demand, they held a position in the labor market that outweighed the fact that they were undocumented. They were like the Superman in the Jorge Lerma ballad: “He doesn’t have a visa or permission to fly / and I bet not even social security.”¹ Like Ernesto Serra, most immigrants do not use false documents: “I just keep working and moving from job to job, and so far I haven’t got my *chuecos*.² Here they usually get *chuecos* to apply for work; they cost between 150 and 200 dollars. I didn’t get them so I’m at great risk. I can send that 150 dollars to my family for food. I’m doing it the hard way, but the whole procedure is really stupid. There are companies that require those papers even though they know they’re false. As soon as they put them in the system, they know they’re false. Still, they want to have you identified. You’re there in the system, with your own name or some other name. Up till now I’ve been working without needing documents since I’m paid in cash, so I haven’t got them. Some people pay me with checks, but they’re personal checks. I don’t go to the bank to cash them; someone cashes them for me. I don’t have any problem, so I haven’t needed the *chuecos* until now.” Others like Yadira renounce all papers: “The only paper I use is to go to the bathroom. The only thing I’m interested in is having work so that my kids can eat and go to school.” Kelvin Orellana explains this attitude well: “If you’re not a hard worker and street-smart, the documents won’t help you.” Citizenship helps, but it is no guarantee in a society where opportunities open up in the world of work. Citizenship cannot supply what work fails to provide. Following the Kantian terminology employed by Onfray,³ where legality is the noumenon, we can say that the immigrants know that their phenomenological reality (Mexican brown) can negate their noumenal reality (citizenship, permanent residency). That is why their best support is their labor reality. The undocumented rely on a kind of labor citizenship, which is an aspect of “economic citizenship”.⁴

¹ David, 1993, p.411.

² *Chuecos* are false documents. A set of them usually includes a driver’s license, a social security number, and a certificate of residency.

³ Onfray, 1999, p.28.

⁴ Sassen uses this concept as theoretical provocation since it is alien to the generally accepted concept of citizenship. Sassen coined the concept as a strategic notion for research; it does not form part of the historical or theoretical work citizenship as conventionally understood, but it may be considered a possibility because of the changes economic globalization has produced in the institution of citizenship. Economic citizenship empowers people and demands accountability of governments. According to Sassen, economic

Hence the slogans used in the demonstrations of undocumented workers: “I am not a terrorist. I am the cook in your favorite restaurant!”

The fraction of abstract labor called taxes: “The IRS says my taxes are legal”¹

Labor as commodity, transmuted into wages, is transformed into purchasing power (as I will explain below) and into taxes. Taxes make it clear that labor is a structure of collective life, but still at an abstract level. If wages are the monetary expression of labor as commodity, then taxes are the expression of labor as part of the structures of collective life. Taxes give evidence of the immigrants’ insertion into a society that is under the jurisdiction of a nation-state whose tax-policy laws they have accepted as a bureaucratic step in their integration process. The undocumented are not unaware that the government is committing a performative contradiction in collecting taxes from persons whom it has declared illegal. One immigrant formulated this inconsistency by sporting a poster in a demonstration that read: “The IRS says my taxes are legal!” The undocumented have no problem with this duplicity because being taxpayers confirms their labor citizenship and puts them on the road toward full citizenship, as Honduran immigrant Reynaldo Campos explained to me: “Paying taxes helps me rent an apartment, but I got my tax ID mainly because I wanted to get my documents. I’ve been paying taxes for seven years. The first five years I didn’t pay them, or I paid only the state taxes using a phony number, but that doesn’t help you at all. When I was earning \$24,000 in a supermarket, I was paying \$4,000 in taxes. That’s the way things go in this country if you want to do things right.” That is why the immigrants say that they are “paying a lot of *biles* [bills].”

Since the immigration laws require five years’ proof of paying taxes prior to naturalization, undocumented workers are motivated to file their annual income tax returns, realizing that it is an important step toward citizenship.² It is estimated that the fiscal contribution of undocumented workers each year is between \$90 and \$140 billion in federal, state, and local taxes.³ A study of the Institute on Taxation and Economic Policy (ITEP) found that undocumented immigrants “contribute significantly to state and local taxes, collectively paying an estimated \$11.84 billion in

citizenship belongs not to citizens but to “the firms and markets—specifically, the global financial markets—and it is located not in individuals, not in citizens, but in mostly corporate global economic actors.” Sassen, 1995, pp. XIII-XIV. I extend his application of the concept.

¹ Internal Revenue Service (IRS).

² Lipman, 2006, p.25.

³ Casey, 2014, p.269.

2012.”¹ An official estimate is that unauthorized immigrant workers and their employers paid \$13 billion in payroll taxes for Social Security in 2010.² The projected net benefit to the Social Security trust fund is estimated to be almost \$500 billion for the years 1998–2022.³ A simple calculation of the contribution of undocumented Central Americans gives us an approximate total of between \$12.8 and \$20 billion a year for all taxes (in 2012 state and local taxes alone came to \$1.68 billion) and \$71 billion as the projected net benefit to the Social Security fund.⁴

The history of these contributions reveals profound injustice. Social Security numbers (SSNs) were issued to workers starting in 1935, and until the early 1980s they could also function as Taxpayer Identification Numbers (TINs). Beginning in 1982, Social Security cards issued to unauthorized workers were marked “Not Valid for Employment.” According to Lipman, “in an effort to stop unauthorized workers from being hired, Congress enacted the Immigration Reform and Control Act of 1986. This Act, among other things, required employers to have all new employees prove their identity and work authorization with specific documents. Congress listed the Social Security card as an acceptable document evidencing proof of work authorization. As a result of this mandatory obligation, there is now widespread use of counterfeit Social Security cards among unauthorized workers, making it more common and easier than ever for undocumented workers to enter and function in the U.S. labor market.”⁵ A decade later, the Social Security Administration (SSA) limited Social Security numbers (SSNs) to citizens and legally admitted aliens. However, so as not to lose the growing population of unauthorized workers, the Internal Revenue Service (IRS) introduced a new taxpayer identification number (Individual Taxpayer Identification Number, ITIN). To obtain an ITIN it is sufficient to present an original passport (or certified copy of same), a driver’s license, a birth certificate, an identity card, or immigration documentation. The IRS was careful to warn people that the ITIN is “for tax purposes only and [does not] affect immigration status, authorize work in the United States or provide eligibility for Social Security benefits.”⁶ As a result, all the revenue contributed to Social Security by the undocumented can end up being money lost; in fact, as of 2001, some \$421 billion had

¹ Gardner, 2015.

² Goss, Wade, Skirvin, Morris, Bye, and Huston, 2013.

³ Lipman, 2006.

⁴ The calculation is simple because it does not give due weight to immigrant dependents; the percentage for undocumented Central Americans who work does not necessarily coincide with the percentage of the totality of undocumented workers. The calculation consists of a rule of three, estimating a total of 11 million undocumented persons, of whom 1.56 million are Central Americans.

⁵ Lipman, 2006, p.23.

⁶ Lipman, 2006, p.23.

accumulated in the fund that did not correspond to valid SSNs.¹ There was a radical shift when President Bush signed the Social Security Protection Act of 2004 (Pub. L. No. 108-203, 118 Stat. 493). This law reaffirmed that every worker is required to have work authorization at the time the SSN is issued, but it added the proviso, “or at some later time”. This meant that if the undocumented workers “achieve lawful status, work authorization, and a valid SSN, they may then apply for Social Security benefits based on all Social Security-covered earnings regardless of their work status during the earning period.”² Lipman points out that “while confusing and obscure, this treatment is clearly separate and unequal.”³ He is quite right, but the present situation also acts as an incentive for the undocumented to become legalized, to keep resisting, and to persist in their performative civil disobedience, that is, to conduct themselves more and more as if they already could exercise all their rights, even though they still have to put up with some of the disadvantages of the “not yet.”

On the other hand, because they are paying taxes and making Social Security payments that cannot (for the moment) be recovered, social justice becomes part of their motivation for performative civil disobedience: the inclusion of this group of workers must now be formalized because the government treasury has contracted a debt with them. Bosniak points out that “vindicatory amnesty claims might rest on the idea that, because the receiving society directly reaps the benefits provided by the irregular migrant population, it owes these migrants recognition and membership in return. The argument focuses mainly, though not exclusively, on the economic contribution made by the immigrants to the receiving society. Immigrant rights’ organizations commonly call for ‘full legalization for all people who work and pay taxes’. The underlying ethic here could be framed as one of contractarian reciprocity.”⁴ In the vindicatory model of amnesty, according to Bosniak, “those to whom amnesty is extended are approached now as victims rather than malefactors.”⁵ But I think that model goes even further: it does not present the undocumented workers as victims but as already integrated, because their taxes are a “clear and present” realization of their legality; in that sense, demanding regularization on the basis of taxes paid is to declare that what the IRS has already declared *de facto* must also be enacted *de iure*. The taxes are an expression of the diverse relationships they maintain: if they pay

¹ Lipman, 2006, p.24.

² Lipman, 2006, p.25.

³ Lipman, 2006, p.26.

⁴ Bosniak, 2014, pp.241-24.

⁵ Bosniak, 2014, p.230.

taxes, they are inserted into the labor market, they are contributing to the collectivity, and they are respecting the law. Amnesty granted on the basis of taxes is vindicatory in the sense that it rectifies an anomalous situation of exclusion/inclusion.

Why are taxes so important? We should remember that one the most commonly used arguments of the champions of anti-immigrant policies is that the undocumented are a net burden on government: they enjoy public benefits and evade taxes. Stated summarily: since they don't contribute, they don't deserve to stay. This is the argument that the vindicatory amnesty turns upside down: if they *do* pay taxes, then they are already becoming integrated into society, and we owe them citizenship. Vindicatory amnesty is a present-day echo of the revolutionary cry, "No taxation without representation!" The fact that some pro-immigrant organizations base their call for vindicatory amnesty on the tax contributions of the undocumented is an indication of the perlocutionary effect and the effectiveness of their performative civil disobedience. In this case, their principal act of rebellion consists in combining their non-compliance with their behavior as model citizens who are fully integrated. They manifest their rebelliousness by presenting themselves as citizens before a government that denies them that status and by getting the government to accept that equivocal situation. Paying taxes is their way of inducing the government to accept (along with their money) their condition of citizens in the making. As a result of that performative contradiction, that fraction of abstract labor which is taxes crystallizes into an element of integration because it shows that labor is also a structure of the collective life.

Included? Between disobedience and assimilation

The immigrants make serious efforts to become integrated into American society, but not all their efforts have the same effectiveness or the same political character, nor do they all correspond to a strategy of civil disobedience. For example, Yadira Morazán and Kelvin Orellana, like many other immigrants, registered their children with Anglo names: Kimberley, Bryan, and Kevin. These names do not even remotely resemble the names of their maternal grandparents, Nicasio and Fidelia. A person's name has a performative efficacy in the sense that it can be transformative, bestowing on the person "a certain possibility for social existence".¹ The implications of that power of naming have to do with social identity "for the designation is supposed to confer singularity"² and

¹ Butler, 1997, p.2.

² Butler, 1997, p.29.

“constitutes one socially”.¹ The implications are also economic, as Levitt and Dubner demonstrated when they discovered that “an overwhelming number of parents use a name to signal their own expectations of how successful their children will be.”² It is if they intuitively recognized that a correlation exists between a baby’s name and the parents’ socioeconomic status, income, and ethnic group. When American parents name their children, they show certain patterns that reflect only their level of education, which is the really decisive variable.³ Immigrants have mimicked this strategy because they know that the name is a passport that facilitates entry or else they feel that their children’s U.S. citizenship demands an Anglo name.

Education constitutes another strategy of integration. Several indigenous Guatemalans from San Antonio Sija, all of them quite young, are finishing secondary school and registering in different courses. They accumulate diplomas; the last one they got as a group was obtained in at Loyola Marymount University in Los Angeles. Stiglitz stresses the importance of formal education for integration: “There may be other important externalities associated with education. Public education may have played an important role in integrating new immigrant groups into American culture. Public education may have been essential in making the melting pot work. The benefits of this accrued not only to individuals but to the nation as a whole.”⁴ This integrative effect is possible because the universities treat the undocumented immigrants as citizens. Since the government bureaucracy does not hinder them from entering schools, there is no chain of requirements beginning with government approval. In this instance the government cedes its sovereignty at least partially so that a space is opened up for the direct sovereignty of civil society. However, the foundational act of these other spaces of integration is the immigrants’ insertion into the labor market from which they are legally excluded. Only afterward come the educational insertion and the diplomas that accredit them in the labor market.

The immigrants pay taxes, they show themselves to be docile workers, and some even baptize their children with Anglo names. They thus appear to have renounced the acts of sabotage that form part of the occult practices and discourses of passive resistance and the infrapolitics of the dominated. Since they are undocumented, however, this apparent submission is the most effective form of rebellion because it leads toward what the system denies them. Their acts are the obedience of the disobedient, and it is obedience that knows the requirements for being

¹ Butler, 1997, p.31.

² Levitt, 2005, p.204.

³ Levitt and Dubner, 2005, p.193.

⁴ Stiglitz, 2006, p.427.

granted citizenship: paying taxes, behaving properly, learning English. That is why immigrants “mimic” those traits and identify themselves in the national censuses as more white or more educated than they are. There is a certain level of strategic opportunism here: they yield what they must and take what they can. What Lenin said about history in general can be said about the history of undocumented migrants: “History as a whole, and the history of revolutions in particular, is always richer in content, more varied, more multiform, more lively and ingenious than is imagined by even the best parties, the most conscious vanguards of the most advanced classes”.¹ Even though the government often imposes its controls, such as when it launches raids, the undocumented maintain a margin of decision-making power because they operate with the same flexibility that Lenin attributes to the revolutionary class (in the text following the just cited passage): “In order to accomplish its task the revolutionary class must be able to master all forms or aspects of social activity without exception... the revolutionary class must be prepared for the most rapid and brusque replacement of one form by another.”² The immigrants’ alternation between complying and not complying is a continuum. The jurisdiction of government is a sphere which they enter and which they leave according to their needs.

All theorists agree that civil disobedience is not a path leading to the creation of an entirely new order. The non-compliance of the undocumented, limited to a specific area, is in accord with the partial challenging of the system that forms part of the tradition of civil disobedience. If all their actions were non-compliant, then their acts of disobedience would cease to be an appeal for inclusion and would become instead an option for a permanently marginal condition. Such acts would be counterproductive since they would fail to have a persuasive effect on the majority, which—according to Rawls, Ebert, and Habermas—should be the principal objective of civil disobedience.

But these concessions to legality do not mean lessening their efforts or becoming less radical. Civil disobedience presents daily challenges. Assembling at 7-Elevens or in hardware store parking lots—where their presence is only too obvious because everyone knows that they are undocumented—is, as Butler states, a way of saying: we are the labor you need, we are the labor you rely on, watch what happens to your stores when we don't go to work; we are part of the system of production and circulation and distribution and your economy is not functioning without

¹ Lenin quoted in Feyerabend, 1993, p.9.

² Lenin, 1974, pp.17-117, p.96.

us and that gives us a certain kind of power.”¹ And I would add: see what happens if we don’t pay our taxes.

2.2.2 Work as a structure of collective life

The politicization of the world of work is based on what Rancière calls “the constitution of work as a structure of collective life wrested from the sole reign of the law of private interest.”² This politicization forms part of the broadening of the sphere of politics: activities that previously were understood as private are now presented as public matters because their multiple connections with the life of the community are evident. Wollin stresses other aspects of labor that situate it in the political sphere: “Though it begins with need, labor in practice acquires its own value, which is expressed in one’s dedication to a professional career, in the pride one takes in a job well done, in the sense of camaraderie in the workplace. All these things compete with the values of citizenship.”³ In the following section and also in the one dedicated to self-employment, I will show still other values of labor which are as important for collective life as those mentioned by Wollin and which transform labor into a platform for economic citizenry. All kinds of labor have aspects that can be analyzed as elements of the structure of collective life, but that trait is especially obvious in some kinds of work, such as childcare. I chose Gisel Morazán’s labor as a childcare worker because it allows me to single out those aspects and show how they contribute to citizenship in the making.

Childcare worker in Fairfax: Gisel Morazán

When Gisel crossed the southern border of the United States, in an area near Tucson, the first thing she said was: “And this scrubland is the United States?” She went to live in Fairfax County, Virginia, a landscape very different from that of Arizona. Gisel is one of the 10,676 Honduran women living in Virginia, out of a total of 26,038 native Hondurans. Like half of that population, she has not finished secondary school.⁴ Of the 8,898 persons of Honduran origin who live in Fairfax County, Gisel is among the 5,563 who are not citizens, the 5,250 (79%) who are employed, the

¹ Butler, 2007, p.113.

² Rancière, 2014, pp.56-57.

³ Wollin, 2003, p.109.

⁴ U.S. Census Bureau, 2006-2010 American Community Survey, B01003: TOTAL POPULATION - Universe: Total population. U.S. Census Bureau, 2011-2013 3-Year American Community Survey, S0201: SELECTED POPULATION PROFILE IN THE UNITED STATES.

1,109 with a child under six years of age, the 247 (4.7%) who work for the government, and the very small group of 56 (1.1%) who work at home.¹ Fairfax is a locality with a low rate of unemployment: only 4.1% of the 627,615 persons in the active labor force are without work.² Gisel is one of the 1,312,700 persons working in childcare in the U.S., as recorded by the Bureau of Labor Statistics in 2012. The average pay in this occupation is \$19.38 an hour. Even though Gisel does not have the high-school diploma that such work supposedly requires, her annual income is above the \$19,510 which is the average income of childcare workers in the U.S.³

Gisel is one of the few undocumented persons who work for the government. Fairfax County and the state of Virginia are the entities that contract her services. Her general data can be seen on the webpage of the local Fairfax government, along with that of other childcare workers, documented or not, immigrants or native-born: <http://www.fairfaxcounty.gov/ofc/providers/reston.htm>. It says nothing there about her being undocumented. That is not a matter of concern to those who hire her, to the children she cares for, or to the children's parents. But it is a fact that Gisel does not hide. It is known by the social worker that the county government regularly sends to visit her to make sure that she is properly trained and is complying with safety and hygiene norms. Her situation is not a neutral datum because, although it seems not to matter to the government, the person who embodies the government for Gisel (the social worker) does take her migratory status into account and advises her accordingly, telling her how to avoid problems with other inspectors, how to resolve problems with parents in complicated situations, and how to fill out forms so that her employer does not demand more information. There are no hidden transcripts in the disobedience of childcare workers. I found evidence of this in the information Gisel gave me about the social worker's openness to her suggestions and the social worker's sympathy with her situation. I discovered more general evidence of this in a study done among immigrant caregivers in the U.K., Ireland, Canada, and the U.S. The study revealed that in the U.S. this class of workers suffers less from

¹ U.S. Census Bureau, 2006-2010 American Community Survey, DP03: SELECTED ECONOMIC CHARACTERISTICS.

² Bureau of Labor Statistics, U.S. Department of Labor, Local Area Unemployment Statistics (LAUS), Labor Force Data by County, 2014 Annual Averages, <http://www.bls.gov/lau/#ex14> <http://www.bls.gov/lau/#ex14>

³ Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, 2014-15 Edition, Childcare Workers, on the Internet at <http://www.bls.gov/ooh/personal-care-and-service/childcare-workers.htm> (visited November 01, 2015).

“lack of assertiveness” even though they have extremely poor English-language skills.¹ They are allowed a greater margin for parrhesia.

Childcare is exhausting work, so to avoid problems and delays Gisel relies on the help of her husband. Some of the children are from the neighborhood. Her work has made her one of the best-known persons there. Many of the children Gisel cares for are children of other unauthorized immigrants. The irony is sublime: the government is paying one undocumented person to take care of the children of other undocumented persons. She also cares for the children of immigrants who have legal migratory status and even for the children of non-Latinos, who have great confidence in a Latina nanny. She has become the key figure in a web of relationships.

Gisel’s labor cannot be commodified. The relationships that it involves resist any form of opaqueness. This personalization of services is characteristic of the self-employed, but it is especially the case with childcare workers. For the parents, the children, and the social worker, Gisel offers a type of labor with distinctive qualities that are not easily replaced. As a service provider, Gisel also has a relationship with the government, one that is quite singular, being mediated by the regular visit of a state functionary. Gisel’s labor is not seen as an abstract value. Marx used a very significant phrase to illustrate the relations underlying all commercial exchange: “It is plain that commodities cannot go to market and make exchanges of their own account.”² In the case of the labor of childcare workers like Gisel, these relations cannot be subsumed into a wage value. Gisel does not deliver dresses or pants to the marketplace. She is integrally involved in her labor as a human being, and she can offer her services only on the condition of establishing very close relationships. Her services are offered and consumed simultaneously. There is no way that she can be dissociated from her labor. Her qualities and abilities can only be favorable or unfavorable, but never neutral. Those who contract caregivers prefer to hire immigrants like Gisel; they report that it is hard to find native-born workers with the right skills (60%) and that foreign-born workers are highly committed to caring occupations (72%).³

Marx highlights another feature of mercantile relations: exchanges take place within the framework of a series of juridical arrangements. The provision of this type of service reveals more clearly the nature of exchange and its juridical forms because it is the culminating point of a series of acceptance rituals. The government establishes conditions for providing the service: “Childcare

¹ Spencer, Martin, Bourgeault, and O’Shea, 2010, p.55.

² Marx, 1996, p.94.

³ Spencer et al, 2010, pp.48 and 52.

workers must meet education and training requirements” and must receive annual training.¹ Since it says not a word about migratory status, it reinforces the kind of tacit recognition that this contractual relationship shares with other forms of legitimization. The government seems willing to compartmentalize migratory status and employment status, as if they were no link between them, thus purposely ignoring that fact that the contracted person is lacking permission to work. The presumably excluded person, who has no permission to work or even to reside in the country, nevertheless has a formal relationship with the government, a relationship sanctioned by a law that supposedly excludes illegal persons. What we have here is the same type of flagrant inconsistency that existed in the French Revolution when, according to Olympe de Gouges, women had the right to the tribune because the law recognized their right to the gallows. The inconsistency in this case is that the same person who has a right to be deported has gained the right to be employed but not the right to citizenship or legal residence. The reverse side of the negative aspect is that this is the type of performative contradiction which, according to Butler, opens up space for performative effectiveness:² inclusion (in the labor market) is exercised by making use of what is prohibited, namely, work. And here the further legitimization is that the excluding institution (the government) becomes the including one. Those who were formerly unrecognized gain acknowledgment through a type of labor citizenship.

Here there are no “shadow lives”: undocumented childcare workers are on the government’s webpage. Payment for their services transforms the juridical relationship that the government has with them. This is an evident aspect of the consequences of labor outside the productive sphere, as noted by Gorz: “what [the worker] does cannot and should not be reduced simply to the immediately productive labor act that he performs, abstracting from the consequences and secondary effects that this act produces in the social environment.”³ The exchange with the government transforms the political position. The local government, intent on attending to immediate needs and sensitive to the demands of its electorate, legitimizes undocumented childcare workers because their labor makes a valuable contribution to the collective life of the community. The relation that Gisel and other childcare workers have with the government as service providers is superimposed on the relation they have as lawbreakers. Their

¹ Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, 2014-15 Edition, Childcare Workers, on the Internet at <http://www.bls.gov/ooh/personal-care-and-service/childcare-workers.htm#tab-4> (visited November 01, 2015).

² Butler, 2007, p.67.

³ Gorz, 1999, p.57.

situation is similar to that of the African Americans who were not entirely excluded from society; rather, they were partially excluded, partially included.

As Butler wished, this complicates the analysis. However, in this case there is no need to leave the perspective of sovereignty, as she proposed, in order to stop making repeatedly the same description.¹ What she calls the multivalence of power and its tactics opens up here a space of legal recognition. The sieve of state employment moves social legitimization closer to juridical validation. And in this case the excluded persons—with the aim of ceasing to be such—are not avoiding state power but are taking refuge in its principle of sovereignty. By means of taxes and state employment, the immigrants are practicing civil disobedience that does not challenge the legal apparatus as a whole but only its excluding aspects. According to Butler, if we speak about privation of rights only in terms of sovereignty and naked life, we deny ourselves the vocabulary that we need to understand other networks of power and its redistribution. In the present case, I can keep the argument within the conceptual framework centered on sovereignty, but my aim is to show that the principle of sovereignty can include a sovereign divided by dissent which is able to grant rights to “illegals” and thus indirectly to give a posteriori legitimization to the disobedience of the undocumented. If we accept Raz’s finding that civil disobedience is legitimate in a non-liberal order, then there is all the more reason that it should be exercised within a political system that behaves erratically, simultaneously excluding persons as citizens but including them as taxpayers and service providers. The system should be disobeyed insofar as it denies people rights, and at the same time it should be legitimately and legally obeyed insofar as it becomes an accomplice of performative civil disobedience by accepting the labor of those who have no right to work. The government has collaborated, Bobbio would say, in its own failure to achieve its exclusionary objectives. The performative civil disobedience of the undocumented receives support from one segment of government, just as happened with the African Americans in Little Rock, Arkansas, and in certain aspects with those engaged in the boycott in Montgomery County, Alabama.

Whether labor is considered in its purely mercantile aspect or as a structure of collective life, the effectiveness of the world of work as a highway toward integration into American society and as a platform for social validation and for the exercise of performative civil disobedience receives negative confirmation in the statements of C. Stewart Verdery Jr. a former Homeland Security official. Verdery insists that federal officials should focus on making it harder for illegal

¹ Butler, 2007, pp.42-43.

immigrants to work in the United States: “Where are you going to get the biggest bang for the buck? Enforcement of the workplace is probably the best area to invest more dollars.”¹ Those of us analyzing the situation of the undocumented must give more importance to a sphere that anti-immigrant forces consider vital: labor in all its modalities is exercising the right that the undocumented are demanding, and that is why it is performative civil disobedience. What has historically brought about the triumph of civil disobedience is persistence: not yielding your seat to whites who entered after you, not paying and then reentering the bus by the back door, using buses like any other citizen. For the undocumented it means continuing to produce the perlocutionary effect that their presence as labor power has carried as far as the government. Because who is going to carry out raids among government employees? Who is going to deprive the government of its employees and rob the community of labor that is so intimately woven into the structures of collective life?

2.3 Self-employment and the informal economy in the Free Agent Nation

According to the data of the U.S. Census Bureau employment survey, there are more Central American who are self-employed (9.7%) than there are Latinos (8.4%) or American workers generally (7.7%).² From the perspective of the “requiem for the working class” that Rifkin intoned in *The End of Work*,³ this figure could be seen as an indication of the weak position of the undocumented in the labor market. Rifkin mentions the outsourcing of work as a means used by employers to avoid unionization, reduce health-care coverage and overhead costs, and lay off workers quickly in response to seasonal—or even monthly and weekly—trends in the market.⁴ Gorz also notes that a company that resorts to outsourcing keeps its subcontractors in a state of dependency which “allows it to impose continual price reductions on them and pass on fluctuations in demand.”⁵ The subcontractors function as peripheral employees whose services the company can dispense with at any moment and whose labor charge fluctuates without limits. These peripheral workers are “supposedly 'self-employed' operatives, paid on a sessional basis or on piece work, whose workload varies according to the needs of the moment. These 'freelancers'

¹ Lipton, 2013.

² U.S. Census Bureau, 2011-2013 3-Year American Community Survey, S0506: SELECTED CHARACTERISTICS OF THE FOREIGN-BORN POPULATION BY REGION OF BIRTH: LATIN AMERICA.

³ Rifkin, 1995, p.181.

⁴ Rifkin, 1995, pp.179, 190, 191, and 192.

⁵ Gorz, 1999, p.47.

are not covered by labour law, have no social insurance and are exposed to all the commercial and economic risks which the company offloads onto them.”¹ Besides laying bare the social conditions of subcontracting, Gorz points out how such subcontracting can overlap with certain kinds of self-employment and with informal labor more generally.

A large part of the outsourced work that involves undocumented immigrants consists in contracting businesses which they own themselves and in which they are, for all practice purposes, their own employers. Some of these are legally registered while others have no more “formality” than a calling card and flashy signs on the vehicles the owners use to move around. All these businesses involve a rationalization of working conditions which is different from that of wage employment.² In effect, they exist outside the sphere of formality if that is conceived as “a world of salaries, monthly mortgage payments, clean credit ratings, fear of the tax authorities, regular meals, good health coverage, pension contributions, school fees and summer holidays.”³ The owners of such businesses form part of that urban sub-proletariat to which Hart referred in 1973 when he invented the concept of informal economy. This sub-proletariat of the informal economy is a grouping that used to be described as “a passive, exploited majority,” but Hart has shown it to be—in the case of Ghana—a migrant force that can “look to the prospect of accumulation, with or without a job, in the informal economy of the urban slums.”⁴

Until recently social theory associated informality with less developed economies and “their inability to attain full modernization, to stop excess migration to the cities, and to implement universal education and literacy programs.”⁵ When informality was found in developed countries, it was associated with “immigration from the Third World and the replication there of survival strategies typical of the home countries of migrant workers.”⁶ Arguing against those who blame immigrants for the growing informalization of U.S. economy and who want to control immigration in order to eradicate the informal economy, Sassen maintains that “the conditions in the economy at large are primary.”⁷ For Sassen, the increasing informality is something inevitable in the current phase of advanced economies, due mainly “to the decline of the manufacturing-

¹ Gorz, 1999, p.48.

² Hart, 2010, p.145.

³ Hart, 2010, pp.142-153, p.142.

⁴ Hart, 1973, pp. 61-89, p.88.

⁵ Sassen, 1998, p.153.

⁶ Sassen, 1998, p.154.

⁷ Sassen, 1998, p.155.

dominated industrial complex of the post-war era and the rise of a new, service-dominated economic complex.”¹

Informality is not a newcomer to the U.S. economic scene. In 1985 underground economic activities accounted for between \$300 and \$600 billion per year.² In large part they consisted of socially accepted practices such as garage sales, babysitting, and dog-walking. They are longstanding, institutionalized modalities for reselling goods and for selling services in ways that escape state control. Starting in the 1980s, however, we begin to notice the changes that Sassen points out. They ceased to be simply a range of relatively marginal activities and became the main source of income for a growing number of households. They became more structured and more numerous thanks to the re-engineering of businesses and the dissociation between state jurisdiction and effective regulation that some call “liberalization.” According to Aviva Chomsky, even “jobs that used to be in the formal sector—like factory jobs—have sunk into the informal sector through elaborate systems of subcontracting.”³ Hart states it succinctly: “To the extent that neoliberalism has succeeded in reducing state controls, the world economy itself has become largely an informal zone.”⁴ At the beginning of the 1990s the informal economy in the United States accounted for between 6.7 and 13.9% of the GDP, depending on the form of calculation, and it averaged 9.2% for most of the decade.⁵ A new estimate of informal activity made in 2011 yielded a total of \$2 trillion, which is equivalent to 18-19% of personal income⁶ or about 13% of GDP for that year.⁷ Whether the reason is the increase in self-employment or the growth in the informal economy (the two realities often overlap), the number of persons applying for an Individual Taxpayer Identification Number (ITIN) increased by 1.5 million a year between 2006 and 2011.⁸

Bayat refers to this informal sector as the perfect incarnation of quiet encroachment. One of the best examples is that of the vendors who take over the streets. Certainly they have developed an industry of tremendous proportions whose economic value is only too obvious: in

¹ Sassen, 1998, p.154.

² Fernández-Kelly, 1989, pp.247-264, p.254.

³ Chomsky, 2007, p.36.

⁴ Hart, 2010, p.152.

⁵ Schneider and Enste, 2004, pp.35-36.

⁶ Feige and Cebula, 2011, p.17.

⁷ My own calculation, based on data of the World Bank. World Bank, GDP (current US\$), <http://data.worldbank.org/indicator/NY.GDP.MKTP.CD>

⁸ Gold, 2014, p.168.

Los Angeles alone there are 50,000 micro-businesses with street sales of \$504 million.¹ Its accelerated development is assisted by rapid urbanization and by the dynamics that Sassen explains. Hart observes that “the hectic growth of cities over the last two centuries could not be organized immediately as ruling elites would like. The informal economy is one way of pointing to how people devised their own means of survival and sometimes of prosperity in the urban markets that spring up spontaneously to meet their needs.”² When people devise their own means in this way, the consequence is what Bayat envisioned: the intensification of “the growth of subjectivities, social space, and terrain of political struggles that are coming to characterize the cities of the developing world.”³ This is happening as well in the cities of the United States and other industrialized countries. That is the sector in which a large number of immigrants find work. Considering that a well-established correlation exists between migration and the informal labor market⁴ but also that “conditions in the economy at large are primary,”⁵ I offer the hypothesis that the immigrants create their own possibilities for integration and survival using the very materials that their socio-economic conditions provide them. Seizing on the opportunities that come their way, they insert themselves into the sectors they can enter most easily since they are highly dynamic sectors that have great demand for workers with precisely their characteristics.

Here qualifications are needed to correct the pejorative way in which the informal sector is treated in most analyses. In his most recent book Standing states that “one other factor has played a role in expanding the precariat. This is variously known as the shadow, grey or black economy... where much of the precariat survives, facing exploitation and oppression.”⁶ It is not the case, however, that informality expands the size of the precariat, nor are the borders between the formal and the informal economies neatly drawn. “Informal sector” and “informal zone” are expressions that convey an erroneous idea of duality in the market, and for that reason I have preferred to avoid them. It is not true either that on one side everything is fine and on the other side everything is bad. What distinguishes the two sides is not exploitation or tax evasion; rather, it is regulation or its absence. There is exploitation and tax evasion in the formal sector.⁷ In contrast, the exploitation, tax evasion, and precariousness that Vogel associates with informal

¹ Yen Liu, Burns, and Flaming, 2015.

² Hart, 2010, p.152.

³ Bayat, 2010, p.64.

⁴ Bosh and Farré, 2013.

⁵ Sassen, 1998, p.155.

⁶ Standing, 2011, p.56.

⁷ Hart found that “‘formal’ incomes came from regulated economic activities and ‘informal’ incomes, both legal and illegal, lay beyond the scope of regulation.” Hart, 2010, p.145.

activities was rarely found among the undocumented immigrants with whom I did my fieldwork.¹ The immigrants sometimes registered their businesses, as was the case with Kelvin, and in all the cases I investigated, they paid their taxes. However, they do not follow strict accounting procedures, nor do they necessarily report all their revenues to the IRS. They swim in both the freshwater lakes of formality and the salty seas of informality. The same is true of their liminal legality: they maintain strong relations with some institutions and steer clear of others. Informality does not mean low returns: the volume of their income can exceed \$6,000 a week for long periods, but it is very irregular. Exploitation is not always present, but precariousness is: they may earn \$4,000 in eight hours for replacing a roof and then go many days without employment. Such precariousness, however, is no greater than that of a U.N. consultant or a freelance journalist.

It is not true either that informality is always illegal or caters only to the poor, as is the case with the sale of pirated films or the classic stands that sell hotdogs or tacos in the street. Robert Merton associated illegal consumption with the demand for goods and services that are either illegal or too expensive to obtain legally; such a demand arises “where the cultural emphasis upon pecuniary success has been absorbed” but there is a “relative absence of opportunity for achieving...monetary and power types of success.”² This is sometimes the case, but it is also true that many services offered informally are those which were formerly of the “do it yourself” variety but which now cannot be done by overworked fathers and mothers who feel strong social pressure to dedicate time to raising their children.³ Besides, many of these services are needed urgently and are obtained much more quickly through informal channels because they come right to the door: shoveling snow, repairing a shower, removing a mountain of leaves, etc. In such cases there is not much haggling: the pay is generous because it frees up people’s time. The middle class has become one of the great bulwarks of informal businesses.

Nor is it necessarily true that “few workers join the informal labor force voluntarily—the vast majority are recruited primarily through economic desperation unmitigated by even a minimal social safety net.”⁴ Many homes have members working in both sectors in order not to put all their eggs in one basket. Or else, as in Kelvin’s case and in other cases we will examine below, many undocumented persons have—either permanently or for a time—one person in a

¹ Vogel, 2006.

² Merton, 1968, p.132.

³ Hondagneu-Sotelo, 2014, pp.77-78.

⁴ Vogel, 2006.

regulated business and another in a non-regulated one.¹ The first helps to guarantee a regular source of income, and the second helps to increase the volume of income.

Structural pressures toward informalization are very globalized, and immigrants play a role in the process. Those who doubt this need only take a look at its ideological and celebratory arm: the extensive literature singing the virtues of self-employment. Some titles speak for themselves, such as “Born Entrepreneurs? Immigrant Self-Employment in Spain”² and “A New Brand of Expertise: How Independent Consultants and Free Agents are Transforming the World of Work.”³ Other texts make irresistible offers, such as those of “Tax Power for the Self-Employed: maximize your deductions, establish your retirement plan, defer capital gains, qualify for a home office, and avoid audits.”⁴ Obviously not all own-account workers are avoiding regulation, but the fact is that the very same services are being offered by both regulated and non-regulated businesses, and we know which offers more advantages. If a middle-class couple wants to remodel their kitchen, repair their roof, or landscape their yard, contracting an informal business will save them thousands of dollars, and they won’t have to sacrifice quality, although they will have to assume some risks, as we will see shortly.

In this economy that is tending strongly toward informalization, therefore, we have immigrants who insert themselves into a certain niche that satisfies the market’s systemic need for labor that is available only in certain conditions. Many immigrants are among the workers who wait every morning for people to hire them in the parking lots of 7-Elevens or hardware stores; their wages hardly reach the federal poverty threshold.⁵ Here I want to refer to a relatively well-off segment of this quiet encroachment (thus agreeing with Hart, who does not identify the informal economy with a class⁶), namely, the tailors who are invading Beverly Hills, the Mayan Indians who are taking over the soccer fields in the middle of Los Angeles, the gardeners swamped with contracts, and the maintenance men who deal with their associates as if they were construction magnates. They are all contributing to the restructuring of labor relations in such a way that their inclusion in society is validated by their participation in the labor market. My aim now is to show how they find support for their performative civil disobedience.

¹ Gold, 2014, pp.167-190, p.168.

² Irastorza, 2010.

³ McGovern and Russell, 2001.

⁴ Parker, 2005.

⁵ Gold, 2014, p.173.

⁶ Hart, 2010, p.145.

Reynaldo, a man for all seasons: planting in spring, trimming in summer, raking in autumn, shoveling in winter

Reynaldo Campos is one of the 8,898 Hondurans who live in Fairfax County and one of the 26,038 persons born in Honduras and now living in the state of Virginia.¹ According to the International Labor Organization, in 2000 some 58% of the persons working in informal personal and related services in the United States were immigrants from Latin America.² The ILO does not offer more recent figures. As a landscape worker, Reynaldo forms part of that 58%, which is perhaps even a larger percentage now. He is one of the thousands of workers in that occupation, 24% of whose workforce in 2012 was made up of undocumented persons.³ Landscaping is a business with great economic potential, and it has been growing steadily since the 1970s. In Los Angeles alone the number of gardeners doubled from 1980 to 1990.⁴ Spending on lawn and landscape services in the U.S. jumped from \$21 billion in 2001 to \$45 billion in 2006, but it was an activity severely affected by the economic crisis, falling to only \$30 billion in 2009.⁵ It continues, however, to be a sector where demand is high, and there are two reasons for this according to Chomsky: “First, the ranks of the super-rich who hire landscaping companies to maintain their palatial grounds have increased. Second, middle- and upper-middle-class suburban families, who a generation ago might have maintained their own yards, are now busier than ever and contracting out services that they used to provide for themselves, or that their children used to provide.”⁶ The difficulty of the work scares many people away, and the pay is quite variable: for regular twice-a-week service, property owners usually pay \$200-300 a month.⁷ Among those who are employed by a company, I found that wages varied from \$10 to \$25 an hour.⁸

Reynaldo is the owner, manager, administrator, and often the only worker of “Campos Landscaping Services,” a company without legal registration or insurance but with all the equipment necessary for landscaping and, if needed, for masonry and carpentry as well. His three

¹ U.S. Census Bureau, 2006-2010 American Community Survey, B01003: TOTAL POPULATION - Universe: Total population. U.S. Census Bureau, 2011-2013 3-Year American Community Survey, S0201: SELECTED POPULATION PROFILE IN THE UNITED STATES.

² International Labour Office, “Women and Men in the Informal Economy: A Statistical Picture,” International Labour Office, Geneva, 2013, p.45, http://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms_234413.pdf

³ Passel and Cohn, 2015, p.12

⁴ Chomsky, 2014, pp.22-23.

⁵ Hondagneu-Sotelo, 2014, p.76.

⁶ Chomsky, 2014, p.22.

⁷ Hondagneu-Sotelo, 2014, p.231.

⁸ Chomsky, 2014, p.22. Wilkinson, 2014.

vehicles (two pick-ups and a car) are registered in the name of a religious congregation. Reynaldo created a logo with the name of his company, which he prints on his business cards and paints on his vehicles. This kind of mimicking of the big companies has a healthy effect on his income. Reynaldo has personally experienced the kind of stratification described by Hondagneu-Sotelo: "Gardening is a stratified occupation, in which some gardeners remain mired in minimum-wage jobs, while the 'route owner' gardeners who own the trucks and tools earn better incomes by combining entrepreneurship and manual labor."¹ In addition to the tools and the vehicles, I would include publicity techniques (logos, signs), affable relations, and knowledge of the market's workings: what services to offer, what to charge for them, how to deal with customers, and how to make suggestions to them. Certainly in this market niche the immigrants are not unskilled workers: anyone who dares to print a card that states "Landscaping Services" is already quite expert in the area where he is offering his skills.

What Hondagneu-Sotelo states about the gardens of California can be said as well about the ones in Virginia, where Reynaldo works: "The invisibility of garden labor is reproduced in garden books and magazines and is thrown into relief in Southern California, where thousands of perfectly manicured gardens are maintained by Latino immigrant gardeners."² Several working days spent with Reynaldo allowed me to see something of that labor that has been made invisible. One morning we went to a middle-class neighborhood where we were welcomed into the spacious home of a Pakistani-American couple. As soon as we entered, they offered us something to drink and showed us the deference that helps to create a certain degree of horizontality in the relationship. Although Reynaldo did everything possible to conceal his primitive English, busily measuring the yard and answering questions with not always pertinent monosyllables, the couple quickly became aware of his predicament, one that they no doubt were already familiar with. Their friendly attitude did not change, and they proceeded to close a deal worth thousands of dollars. They had not known Reynaldo previously, but they had been given very good references regarding his work. The situation was very relaxed, so that Reynaldo was encouraged to venture further phrases in English. Later he told me, "Depending on the situation, I take a few risks."

Other visits were quite similar. They were rituals that began to create confidence. There are no written contracts for informal labor, so that trust depends completely on the word of both parties. Those who think that these agreements are advantageous only for the middle class are

¹ Hondagneu-Sotelo, 2014, p.14.

² Hondagneu-Sotelo, 2014, p.11.

forgetting that hiring illegal workers involves countless risks, and more so if an oral contract is made with an undocumented person who can be deported at any moment or who may simply decide to return to his homeland. Even though there is no possibility of making legal claims with regard to oral contracts, their frequency shows that they are by no means unusual. Such contracts have even been commended by economists as a mechanism that by relying on informal constraints helps to reduce the transaction costs.¹ The problem is that the relationship between an undocumented gardener and a middle-class U.S. citizen does not provide informal restraints that are effective enough to eliminate a high degree of moral hazard. Both sides run great risks. What is the advantage? Reynaldo explained it to me: “If they contract a company that is completely regulated, they get eaten alive. The company charges whatever is the going rate. That’s why they seek out contractors like us. They know we won’t fleece them. Some customers are really bad; they pay poorly, and they ask us for three types of insurance. One type is property insurance, in case something breaks. Another type is car insurance; since I have a commercial vehicle, they want me to have commercial insurance, which covers more than the personal type. And the third type of insurance is workmen’s compensation because they don’t want to be responsible if a worker is injured. Those types of insurance cover damages up to two million dollars.” Most informal companies do not have all those types of insurance. Reynaldo has two: vehicle insurance and property insurance.

The relationship is very similar to the one that was established between the African American domestics who took part in the Montgomery bus boycott and their employers. Of course, the employers then were motivated by their own personal interests, but their support was as effective as the car pools, and it complemented them. In order to understand how the sheer force of need produced something more than a change in behavior, one must consider how great a break in tradition it was for fine Southern ladies suddenly to become the chauffeurs for their domestic servants. Similarly, those who contract informal businesses run by undocumented workers are obliged to overcome their prejudices regarding class, ethnicity, and legal status. Otherwise there could be no trusting the other’s words. The agreements that I observed did not involved unfair advantage to either side; they were mutually beneficial accords whose starting point was a recognition of Reynaldo’s right to work and a determination not to exploit. Reynaldo’s twofold illegality—migratory and commercial—presupposes a high degree of complicity on the

¹ North, 1990, p.41.

part of his customers, and such complicity validates Reynaldo's inclusion in American society despite government policies.

Thanks to this complicity and his own tremendous effort, Reynaldo has put together a respectable bit of capital: "I started working in a supermarket run by Koreans, earning \$6.25 an hour, which was then the minimum wage. For overtime they gave me \$10.50. That was in Maryland, where I lived for seven years. After that I worked for a year in construction. I earned good money there because they helped me with expenses. They gave me \$1,300 a month for food and rent, and my wages were apart from that: \$11 an hour and \$16.50 for overtime. I did a whole lot of overtime. Sometimes I got 20 hours a week of overtime, and my check would come out at \$700 for the week. I make much more money working now in landscaping. I do whatever work comes along, hauling mulch, cutting trees, chopping wood, mowing lawns... Now I want to get my business license so that things will go better for me. That way I can get big jobs. In order to carry out my project of setting up a company, it's better to have documents or at least have a partner who has them." Despite his lofty aspirations, Reynaldo is of the same opinion as Kelvin: "A friend got his documents as a 'Dreamer'. He works at Sears, but they give him only 35 hours, and they pay poorly. Regarding documents, many people think that their problems will be solved when they have them and they won't have to work hard. What matters is knowing how to work. The documents help, but only if you know how to work. If you don't have documents, you search about and you find good work. I'm never lacking work during the year: in spring I sow flowers, in summer I trim plants, in autumn I rake leaves, and in winter I shovel snow. Before, the snows left me without work, and they seemed to me disastrous. Now I can make hundreds of dollars in one day with a good snowfall."

The complicity of the customers of the informal businesses is shared by the formal businesses that depend on undocumented labor. The California Landscape Contractors Association (CLCA), with 2,000 authorized contractors as members, complains about the lack of labor force, a problem which could readily be solved by legalizing undocumented workers. Such a move would guarantee the workers a minimum of \$15-20 an hour plus benefits. The CLCA advocates immigration reform that would include a general amnesty. It argues that "the landscaping industry relies heavily on an immigrant labor force. Landscaping is physically demanding work. It is performed in hot, cold, and sometimes rainy weather. Some landscaping jobs are seasonal. American-born workers increasingly are not attracted to such jobs. Because landscaping work involves outdoor manual labor, it is to some extent young persons' work. Yet America has an aging

workforce. At the same time, the landscape industry is growing and therefore has a need for more workers, partly because this same aging population tends to enlarge the market for landscaping services. Immigrants, who tend to be young, address this unmet need for younger workers in the landscape industry.”¹ The CLCA demands a return to the rule of law, but it makes clear the conditions that should prevail: “CLCA supports reasonable enforcement against employers if comprehensive immigration reform is achieved.” Having established that the landscaping industry now has and, *ceteris paribus*, will continue to have a structural dependence on immigrant labor, the CLCA affirms its posture of disobedience, claiming that it will continue to hire undocumented workers. It does not reject legality but will allow “reasonable” application of the law only if the proposed change is achieved. And although it does not say so explicitly, it is fighting for that change on a daily basis through its massive employment of the undocumented. That labor power has systemic force: if an industry that is experiencing a shortage of workers is threatened with losing almost a fourth of its manpower, then it has a strong motive to disobey and to make its position known. The contractors are acting as spokespersons for the immigrants. They exercise their *parrhesia* indirectly. Although the coincidence of interests is only partial, there is nevertheless significant coincidence, and at times there is also extreme complicity in support of the disobedience of the undocumented, such as when landscaping contractors advance money to the immigrants so that they can pay coyotes who help them travel back to their native countries and then return to the U.S. One contractor could only lament the negative effect that deportations have had on his company: “I lost a key man,” he said, “a skilled stone mason who couldn't get back in the country.”² His argument for disobedience was not based on justice or integrity; it was plainly materialist: he recognized that he had a skilled worker that he really needed.

Quiché tailoring for Beverly Hills celebrities: the case of Eladio Ixcoteyac

Persons of Guatemalan origin are a group that is growing rapidly in Los Angeles county. In 2000 there were 100,341, in 2010 the number had increased to 214,939, and by 2013 they numbered 261,603, of whom 176,732 were immigrants. Of those born in Guatemala, more than one-third (35.5%) entered in the year 2000 or later, and 64.5% entered before 2000. Some 17.4% have their

¹ California Landscape Contractors Association, “Positions On Essential Worker Immigration Issues,” <http://clca.org/immigration/view.php>

² Wilkinson, 2014.

own businesses.¹ Just in the city of Los Angeles there are 121,255 Guatemalan immigrants; of these, 59% entered before 2000, 55.5% are male, and 21.3% own their own businesses.² One of these is Eladio Ixcoteyac, 35, native of San Antonio Sija, Totonicapán; he is a tailor by trade and belongs to a family of tailors. He arrived in Los Angeles in 1995 at the age of 15. He paid a thousand dollars to a coyote who had him enter by Nogales and spend three days crossing the desert in Arizona: “After that I took a plane from Arizona to Los Angeles. It was easy then, not like now after the 9/11 attacks.” Eladio has four children, one in Guatemala and three born and raised in Los Angeles. His life is triply precarious due to informal employment, running his own business, and lack of documentation. He is one of the many undocumented tailors who in 2012 represented some 20% of the labor force in the apparel manufacturing industry, which is another industry that would perish if it were not for undocumented workers.³ Undocumented labor sustains not only the apparel industry but the whole of Los Angeles’s buoyant informal economy, which in 2005 absorbed 15% of the labor force. Some 60% of informal workers are undocumented.⁴

The apparel manufacturing industry has grown rapidly in Los Angeles, but unfortunately most of the hard data come only from the formal sector. In 1944 there were 900 clothing manufacturers in the city, employing 28,000 workers; in 1975 there were 2,269 workshops with 66,000 employees, most of whom were Hispanic women.⁵ In 1984 there were 81,400 employees just in the formal sector. Sales in 1983 reached \$3.5 billion, with 30-50% contributed by the informal economy.⁶ In the 1990s there were an estimated 94,634 formal and informal workers, 47% of whom were undocumented immigrants.⁷ In 2011 the 30 largest companies were hiring 45,540 employees, and apparel manufacturing became the second most competitive industry in Los Angeles County.⁸ In the first quarter of 2015 the Bureau of Labor Statistics reported that 2,106 formal establishments with 42,477 employees paid out \$359 million in wages.⁹ The industry is a

¹ U.S. Census Bureau, 2000 Census, PCT001-Population Group-Guatemalan (222): TOTAL POPULATION [1] - Universe: Total population. U.S. Census Bureau, 2010 Census, PCT1-Population Group-Guatemalan (222): TOTAL POPULATION-Universe: Total population. U.S. Census Bureau, 2011-2013 3-Year American Community Survey, S0201: SELECTED POPULATION PROFILE IN THE UNITED STATES.

² U.S. Census Bureau, 2013 American Community Survey, S0201: SELECTED POPULATION PROFILE IN THE UNITED STATES.

³ Passel and Cohn, 2015, p.12.

⁴ Chomsky, 2007, p.37.

⁵ Fernández-Kelly and García, 1989, p.258.

⁶ Fernández-Kelly and García, 1997, p.219.

⁷ Joassart-Marcelli, 2002.

⁸ Cooper, Sedgwick, and Mitra, 2013, pp.38 and 44.

⁹ Bureau of Labor Statistics, Quarterly Census of Employment and Wages, Private, NAICS 315 Apparel manufacturing, All Counties 2015 First Quarter, All establishment sizes,

strong one, sustained both by mass consumption and by high fashion. The immigrants work in both economies, formal and informal, and in both industries, mass and elitist. They produce both for the masses whose numbers they themselves inflate and for the opulent clientele of a city ever awash in the wealth of millionaires.¹ Against my intuitions, I found no correlation either between formality and luxury or between informality and mass consumption. I found instead every possible combination. The small workshops in downtown Los Angeles produce for both the formal and informal markets in a complex pulley system that avoids saturation. The informal status of Eladio Ixcoteyac does not prevent him from having access to the haute couture market.

One morning Eladio invited me to his place of work. As my imagination struggled to anticipate what it would be like, I visualized a humble workshop at the end of a narrow alley, with poor lighting and inadequate ventilation. Eladio picked me up in an enormous van that is registered in his name even though he has a Guatemalan license and could lose the vehicle if he were stopped by the police. He had already lost three vehicles in the 19 years he had lived in Los Angeles, not a bad record. One time he tried to escape, but they located him with a helicopter. First he treated me to breakfast, and then we headed to his workshop, which consisted of two second-floor rooms with a spectacular view of the most touristic street in Beverly Hills. As we conversed, he made alterations on a suit with incredible speed. He disassembled the suit and changed its dimensions, making slight incisions with a razor and realigning the stitching and some small pads inside the suit. Then he hanged the suit on a rack and covered it with a protective cloth. After he had dressed himself quite formally, we took the garment to a Burberry store located just 150 meters from his workshop. On the way we passed shops of Valentino, Roberto Cavalli, Saint Laurent, Stefano Ricci, Cartier, and Bulgari. At Burberry's the staff welcomed Eladio with all the deference due to a trusted, highly skilled acquaintance. While Eladio handed over the suit, I amused myself by looking at the \$450 scarves that I will never buy.

As we left I learned what the deal was. Eladio had just turned over the suit of Sylvester Stallone, an actor who has one of the biggest mansions in Beverly Hills. This is how the transaction went: Stallone arrived at Burberry's with a suit he had bought in Italy. There was no way that it could be a perfect fit for him, and that was where Eladio came in. Whenever they need him, he comes ready with his measuring tape. Sometimes he goes directly to the customers' houses: "I've been in the house of William Barron Hilton, the hotel guy. I've been in the houses of Orlando

http://www.bls.gov/cew/apps/table_maker/v4/table_maker.htm#type=1&year=2015&qtr=1&own=5&ind=315&supp=0

¹ Davis, 2006, p.102.

Bloom and Aaron Paul, as well as movie producers—even the star of that movie where they remove the eyes and hearts of children in India. They don't order suits from me. They buy them in Italy, where the best tailors are. They just have me do the alterations. They call the big-name stores, and the stores call me. Fine work is appreciated. It's more difficult to repair a suit than to make a new one." Eladio is the stand-in tailor for several businesses. They pay him quite well, but they charge their customers even more.

The situation of Eladio Ixcoteyac is by no means exceptional. He is not the only immigrant making use of his skills to provide luxurious goods and services, nor is clothing is the only industry that demands specialized artisans like Eladio. Sassen observes that "high-income gentrification generates a demand for goods and services often unsuitable for mass production or mass retailing."¹ The effect of that demand is seen in the food products available in upscale grocery stores, which are patronized by customers dissatisfied with the standardized products in the supermarkets. But we can also include clothing, footwear, ethnic cuisine, and other services provided by undocumented immigrants. It is by consuming such items that the elites draw the clear line that divides them from the average consumer. In a serious effort to personalize their consumption, more and more members of the elites are seeking out traits that distinguish them not only as a group but also as individuals: they "like clothes which 'suit their personality'".² That is why Bulgari and other upscale retailers contract Eladio, whose alterations personalize clothing so that it fits flawlessly.

The pay is consequently generous, in marked contrast with Guatemala: "We earn in an hour here what we would earn in a whole day in Guatemala. On a very bad day the least we earn here is eighty dollars. That's why we came. If a lawyer and a small farmer [in Guatemala] have to decide where to live, the lawyer doesn't want to leave his job, but the small farmer does. He has nothing to lose because he earns only enough to feed himself. He cannot support two other mouths, and if he tries to do so, all three of them end up malnourished. He comes here, and he begins to earn more than the lawyer back home. Working hard is no problem for us. We are industrious people accustomed to hard work. Here we also earn well, but there we do a lot of unpaid work: hauling water, cutting wood... All that means time spent with no recompense. Here we end up ahead just by not having all that unremunerated work."

¹ Sassen, 1998, pp.160-161.

² Bourdieu, 1984, p.82.

Eladio is aware that he made both a quantitative leap (from a low wage to a high one) and a qualitative leap (from unremunerated labor to paid labor).¹ Actually, Eladio made another qualitative leap: from anonymous labor to labor where both the product and the artisan are visible and are held in high esteem. The personalized nature of his work has implications that take us back to the Marxist critique of the capitalist system. Marx denounced the fact that labor was “abstracted from the producers,” an idea he took from “An Inquiry into the Principles of the Distribution of Wealth Most Conducive to Human Happiness,” a work by William Thompson, an Irish economist and social reformer.² Personalized consumption breaks with the mass consumption that Thompson criticized, as Marx notes in citing him: “The annually produced and consumed masses, like the eternal and incalculable waves of a mighty river, roll on and are lost in the forgotten ocean of consumption.”³ And it does so because personalization does not allow for the “total abstraction from use value” that characterizes the simple exchange of merchandise.⁴ Marx adds that “If we make abstraction from [a product’s] use value, we make abstraction at the same time from the material elements and shapes that make the product a use value; we see in it no longer a table, a house, yarn, or any other useful thing. Its existence as a material thing is put out of sight. Neither can it any longer be regarded as the product of the labour of the joiner, the mason, the spinner, or of any other definite kind of productive labour.”⁵ Sometimes Eladio remains in the shadows, but often—and ever more frequently—not only his tailoring is visible but he is himself. Through the direct contacts he already has he gathers more clients: “I have my own clientele. I make clothes for the Mexican boxer Canelo Álvarez and for Ryan Seacrest, the host of ‘American Idol.’ I have clients who come from Europe: Spain, Italy, Switzerland ... Many of them are writers and actors.” Eladio can present his own style of work and gather a faithful clientele.

Gorz argues that the advantages of self-employment are reserved to what Rifkin calls “the elite of knowledge workers,” that is, the consultants, business lawyers, computer and other high-level experts who represent less than one per cent of the workforce. For other workers, unless they are well organized, “the post-job era merely means companies are free to fish out from a well-stocked pool of service-providers of all kinds those who offer the best service at the lowest

¹ However, he does not mention that this change does not apply to his wife, who continues to do unremunerated work. He mentions only the work performed by both sexes, not the cooking and cleaning that in his milieu are exclusively women’s work.

² Marx, 1997, p.322.

³ Marx, 1997, p.322.

⁴ Marx, 1996, p.47.

⁵ Marx, 1996, p.48.

price.”¹ We have seen, however, that Reynaldo and especially Eladio have succeeded as self-employed workers, one providing services for the middle-class and the other for the elites; they both have solid incomes and work that gives them some distinction. What Žižek, following Marx, calls their objective social position² shows itself to be a negation of the abstraction of work. That negation takes the form of a struggle “as class” and not “between classes.” We should recall that for Marx class position places one in a struggle against capital rather than against the bourgeoisie (according to E.P. Thompson, this latter form of struggle has occurred only at certain moments of history). The class struggle of self-employed workers consists in a struggle against the alienation of labor. Abstract labor implies the massification that, according to Bourdieu, “underlies working-class experience of the world, whereby his labour and the product of his labour, *opus proprium*, present themselves to the worker as *opus alienum*, ‘alienated’ labour.”³ When the tailor is recognized as the creator of a particular work and his clients sing his praises, that is *opus proprium*.

On several occasions Eladio Ixoteyac repeated a complaint that reveals how important it was for him that his work be distinctive: “They call all of us ‘Mexican people.’ That’s what Americans call all of us. We Guatemalans are ‘Mexican people.’ We also inherit labels like ‘wetbacks’ and ‘welfare’ because they say that we sponge off the welfare state. But that is not true, because the people who come here want to work, and they don’t even know what rights they have. Only the ones who speak English and have been here a long time can ask for government assistance. Still, they judge us that way. There’s discrimination in Beverly Hills, but it’s not that strong. The main thing they want is that a person be presentable and respectful. They make room for you. Here I’ve made a name for myself.”

The advantages that accrue to large companies through informality and outsourcing have been profusely and accurately described by Gorz, Rifkin, and many others. This does not mean that the informal labor involved is left only with disadvantages. At first Eladio would have preferred a formal job that gave him stability and a regular income. That was his situation when he had just recently arrived in Los Angeles. He worked in a large clothing chain and attended fashion shows where “there were no Latinos, only white models and white designers. Sometimes the security agents said to me, ‘Pardon the question, but what are you doing here?’” But later on he decided to create his own future with the materials that history made available to him. He has rejected offers in the formal sector. As an undocumented person, being “wedded” to one of the

¹ Gorz, 1999, p.51.

² Žižek, 2006, p.554.

³ Bourdieu, 1984, p.390.

big businesses would be a very complicated matter for him because the bigwigs are terrified of bad publicity. If they were seen to be hiring undocumented workers, there would be scandal, even in this highly hypocritical setting where people pretend that the emperor is fully clothed. Still, cooperation is not impossible: Bulgari could hire Eladio and deny that they knew that the social security number he gave them was phony. But that would leave Eladio in a position much worse than the one he is in now: with more danger and less income. Besides running the risk of being caught committing a felony, compared to which being undocumented is a venial sin, Eladio would see his net income reduced because he would no longer be able to work for other businesses and because his employer would lower his pay to compensate for the cost of social benefits. To top it off, he would never be able to make use of his social security contributions, which would end up as money lost (for Eladio, though not for the public fund). The contributions would simply be fattening an erroneous account, one whose number does not exist or does not agree with the tax ID. Accordingly, the most mutually advantageous solution is disobedience on both sides, a complicity that compounds migratory irregularity with employment irregularity. Eladio continues to clothe the princely figures of Hollywood who do not know, or pretend not to know, that their tailor is naked when it comes to documents.

Quiché Indians in the cosmopolis of Los Angeles: Clothing and sports leagues

Like many other Guatemalans, Benjamín Lux came to work in the clothing factories. Now he is partnered with his brother, who owns a small workshop and invests in sports. He knows the three different worlds: Guatemala, the factories of Los Angeles, and the autonomy of working for oneself. He is an advocate of the informal economy and self-employment. He has his reasons, and he explains them: “There in Guatemala, from the time we were young they made us believe that we were Indians, we were useless, we couldn’t do anything. I studied in a place called San Carlos. The people there have Spanish or European roots. They are tall and blond. My dad used to tell me: ‘They’ll mistreat you there, and you’ll suffer. Better to stay here.’ But I went anyway, and it’s true, they always treated me as an Indian. They did it to humiliate me. That’s why many [Quiché speakers] say: ‘I don’t speak that dialect. I don’t even know what that is.’ But as soon as they speak, their accent is apparent. It’s true that racism exists here in the United States, but not as much as in other countries. If we compare the United States with Europe, there is more racism in Europe. I’m well aware of that. If you work with a gringo, he pays you better. He gives you a good wage and treats you well. Here the ones who mistreat workers are the Asians, like the Chinese or

the Koreans. They exploit people. If we're talking about the clothing industry, most of the workers are indigenous Guatemalans. Of every 10 Indians, 8 are working in clothing, but there are also many Mexicans. That's where we all go when we arrive. The work is poorly paid. They pay so many cents per piece. In order to earn 80 or 90 dollars a day you have to turn out 3,000 pieces. It's very hard work. If we complain to the Labor Commission, they close the factory and we're left without work or we lose several days of work. But that work is better than other kinds. The clothing worker earns more than someone working in McDonald's. And a tailor earns even more if he is independent. The clothing worker earns according to production. One person does the hem, another attaches the collar, still another sews on the buttons... A tailor knows how to do everything, and his work is better paid. Even when doing poorly, a tailor earns \$180, \$200, or \$250 a day as a worker. And if he's the owner, like Eladio, he earns much more."

Benjamín and his brother have learned how to get ahead with businesses that are informal but solid: "My brother has a workshop with five employees in Hollywood. He doesn't have papers, but he has a number for paying taxes and social security. He also has two sporting goods stores, eight playing fields, and a soccer league registered in his name. The league has four divisions—major, super major, premier, and professional—and each division has about 40 teams. So there are more than 100 teams, and each team has 20-25 players. Each player has to play about \$15, so that there's revenue of \$300 for each game. Each game lasts an hour and a half, and they go from 6am to 9pm. There are several games every day on each one of the eight fields. There's a lot of money coming in. He pays to rent the fields and maintain them. If the teams don't arrive, there are fines. If a player is given a red card, the team owner may have to pay \$40 so that he can play in the next game." This type of league is successful, according to Shinn, because "to love *fútbol* is essentially to take part in what it means to be, or not be, culturally 'Latino' in the Americas."¹ The Los Angeles leagues include Latina women (though only about 10%), and they have produced such famous players as the Salvadoran Mauricio Cienfuegos, who now plays for the Los Angeles Galaxy.² Of course there are other soccer league entrepreneurs besides Benjamín and his brother. "Most U.S. soccer clubs notably reside in metropolitan areas in which Latinos constitute a significant proportion of the population: the Los Angeles Galaxy, the New York/New Jersey MetroStars, the Miami Fusion, the San Jose Clash, the Chicago Fire, the Dallas Burn, and the D.C.

¹ Shinn, 2002, pp.240-251, p.242.

² Shinn, 2002, pp.242-243.

United, among others.”¹ To get a better idea of the dimensions of a league with more than 100 teams and 4,000 players, such as the one managed by Benjamín’s brother, we consider worthy of mention the Hispanic League of Seattle with its 36 teams and 600 players (some of them Nicaraguan).²

Before they left Guatemala, the farthest Benjamín and his brother had gone from home was to Totonicapán, the capital of the department of the same name. Now they are owners of workshops, playing fields, and soccer leagues in the cosmopolis of Los Angeles. They are entrepreneurs in the clothing and sports industries. In contrast to Eladio, they work for the masses: their clients are immigrants, many of them undocumented. But the services and goods they provide them are also relatively personalized. They work in industries where irregular migratory status has not prevented them from getting ahead; rather, it did provided them an incentive for finding something better than wage labor as a path toward prosperity and integration into society and the marketplace.

The adventurous itinerary of Kelvin Orellana: from the cheese-making workshops of Las Mojarras to remodeling interiors in the D.C. area

Kelvin Orellana was born in Honduras and lives now in the state of Maryland; he shares those two characteristics with 20,042 other persons. He forms part of the 26% of Hondurans in Maryland who work in construction,³ an industry where in 2012 undocumented workers provided 12% of the labor.⁴ Construction is a sector which escapes from government control almost everywhere in the world: even in Denmark it stands out for its informality, with 48% of its workers failing to report their income in the 12 months prior to a survey done in 2012.⁵ Kelvin had no experience whatsoever in that area. In Honduras he had milked cows and driven a truck for a cheese-making concern. Now he works for a D.C. Metro official who owns several apartments and needed someone to maintain them. Kelvins job is to replace roofs, remodel interiors, and repair cooling and heating units. There are many apartments, and their residents may require emergency service at any hour any day of the week: a falling ceiling, a water leak, a broken washing machine, etc. Kelvin is generously paid for each intervention. If the owner of the apartments were to contract a

¹ Shinn, 2002, p.244.

² Shinn, 2002, pp.246 and 249.

³ U.S. Census Bureau, 2011-2013 3-Year American Community Survey, S0201: SELECTED POPULATION PROFILE IN THE UNITED STATES.

⁴ Passel and Cohn, 2015, p.29.

⁵ Schneider, 2012, p.30.

large formal business, “he’d be eaten alive,” according to Reynaldo. It is a mutually advantageous relationship, but one that obviously does not produce a balance of power.

Kelvin’s other source of contracts is a large construction company whose manager advised him to register his own business. After consulting, Kelvin set up his business, the costs for which were covered by his contractor. His construction license, which he shows off with evident pride, permits him to offer his services to several of biggest contractors in construction. His business is one of the 15,900 construction firms that the Bureau of Labor Statistics reported as registered in the state of Maryland in 2015, and of the 2,382 such firms in Montgomery County. As of January 2015, construction firms were employing 143,745 workers in Maryland and 22,643 in Montgomery County, for an average of 9-9.5 workers per firm, a figure that suggests to us that Kelvin’s one-person enterprise could be a typical case.¹ Kelvin sometimes uses the title and sometimes does not: he sometimes operates as a formal business and sometimes as an informal one. For the Metro official Kelvin is informal.

Kelvin does these jobs in his free time. His main job is working as a mason for a company that pays him by the hour. When there is a heavy flow of contracts, he works exclusively in his own business. For the moment his business does not keep him occupied every working day, but it can do much more than keep him financially afloat: in an afternoon he can earn several thousand dollars. Kelvin’s annual income exceeds \$53,450, the average income in 2012 of construction and building inspectors, an occupation that requires a high-school diploma or the equivalent.² He earns far more than the \$35,210 that is the average pay of general maintenance and repair workers, who do the same kind of work I saw Kelvin doing; there are some 1,325,100 such workers in the whole country.³

Kelvin does not appear to feel what Venkatesh calls “the pressures of ownership” in a situation where “the choice to participate in the shady world...is made in a social context shaped by concentrated poverty, low consumer demand and high commercial insolvency, pervasive

¹ Bureau of Labor Statistics, Quarterly Census of Employment and Wages, Private, Construction, All Counties in Maryland, 2015 First Quarter, http://www.bls.gov/cew/apps/table_maker/v4/table_maker.htm#type=2&st=24&year=2015&qtr=1&own=5&ind=1012&supp=0

² Bureau of Labor Statistics, Occupational Outlook Handbook, Construction and Extraction Occupations, <http://www.bls.gov/ooh/construction-and-extraction/home.htm>

³ Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, 2014-15 Edition, General Maintenance and Repair Workers, on the Internet at <http://www.bls.gov/ooh/installation-maintenance-and-repair/general-maintenance-and-repair-workers.htm> (visited November 02, 2015).

institutional discrimination, and neglect by the city.”¹ Like many other self-employed persons who work informally—and also formally when appropriate—Kelvin has escaped from the anonymity of abstract labor and has established highly personalized relationships with the Metro official, with the large company that sponsored his construction license, and with other contractors. The trust placed in him by these partners compensates for some of the limitations associated with his being undocumented. Not only does his contractor heed his suggestions but he provides him with a credit card, which involves taking a risk: if Kelvin deceives him or leaves the country, whether deported or on his own, the contractor will be unable to sue him for abuse of confidence or anything similar. Neither the large company nor the Metro official would want their relationship with an undocumented worker to be known, but every day they are supporting his performative civil disobedience: his right to work, to set up a business, to earn a decent income, and to feel included. By their contracts and the risks they assume, they are voting on a daily basis for the inclusion of undocumented persons and are denying the government the power, the right, and the ability to exclude persons whom they have already included. They have neutralized the exclusionary effects of the principle of territorial sovereignty. It is obvious that they benefit greatly from Kelvin’s skilled labor and gain even greater advantage from the fact that his tiny company is registered. Such a situation involves risks for Kelvin since it is quite probable that during a severe economic crisis he will no longer receive contracts from the construction firm or that the contracts will be fewer and less well paid. But the severe crises do not affect only the marginal workers. Few jobs are immune, not even those in the public sector, as the last depressive cycle demonstrated. For Kelvin and his informal sector businesses, the last, relatively slight crisis had the effect of bringing in more contracts because the big businesses opted for more labor flexibility, thus preferring to hire workers who have a van and well-developed skills.

Despite the advantages for contractors in hiring informal workers, it is not a zero-sum relationship, and the advantages are not measured only in cash: Kelvin has made a leap toward a form of legitimacy. His determination not to be “left behind” and his decision to enter an irregular market after an irregular entry into the country have unleashed a perlocutionary effect in key actors whose collaboration is essential so that he can practice his performative disobedience. The registration of his business and the contracts he receives allow him to behave as if he possessed full rights as a member of that society. Kelvin showed me his license as if he were showing me his “green card” or his certificate of citizenship. He has all the documents he needs. He can therefore

¹ Venkatesh, 2006, p.161.

say: “When you have a van like this one, you’re on your way.” Hondagneu-Sotelo says something similar about gardeners: “Their tool-laden trucks and mowers and blowers serve as their passports.”¹ Kelvin has not only his van as his passport but also the registration of his company. That is why he can say: “I don’t have documents, but my business does!”

Self-employment and disobedience

Undocumented persons who are self-employed have reversed the finding that André Gorz made in the late 1960s: “The demands of self-management that are born of productive praxis cannot be left outside the door of factories, laboratories, or offices. Persons who cannot be given orders in their work will not be able to submit indefinitely to orders in their lives as citizens nor will they submit to rigid decisions coming from a central administration.”² Undocumented persons who are self-employed did not submit to the decisions of a rigid administration before seeking self-management. Immigrants do not cause their own informality, but they use it nevertheless as material for constructing their future and making their history. Such material is therefore not politically fortuitous: both informality and lack of documentation maintain a similar (elusive) relationship with government bureaucracy. Informality is the economic correlate of migratory irregularity. They are the two aspects in which the migrants are not being regulated by the government. This type of analogous correlation does not mean that a majority of the immigrants are in the formal sector; it means simply that informal self-employment offers a kind of independence—freedom from regulation—that is a good match for migratory irregularity.

Such an analogy accords well with a very insightful conclusion of Sassen: we can no longer speak of regulatory “violations” but only of regulatory “fractures” because they increase the extent to which the economic processes diverge from the model for which the regulations were designed.³ Migratory irregularity also presupposes regulatory “fractures,” but that is not because the migratory regulations were designed for an obsolete migratory model (in the second chapter I showed how the banopticon fits well with the investments in security and prisons that have been made by powerful groups that have succeeded in molding politics in accord with their interests). Rather, the reason is that the regulations fit poorly with the factors of the material world—that is, with politics in the Marxist sense—that have the final word about who is to be included and that limit the determination to exclude. Informality multiplies those factors. Labor flexibility is the

¹ Hondagneu-Sotelo, 2014, p.14.

² Gorz, 1976, p.200.

³ Sassen, 1998, p.155.

material with which the undocumented have made more supple the rigor of migratory directives. The fractures in migratory regulation are widened by the immigrants' performative civil disobedience, which sometimes is reinforced by the fractures in economic regulation. As a result, the principal determinant in the process for integrating newcomers is not the legal model for regulating migration. Rather, it is a political model in which the performative civil disobedience and the social validations of the undocumented have given them a space in which their business licenses, their recognized skills, their personalized labor, their financial advances, and the vans that serve as their passports make them indispensable and, to that extent, less excludable. They granted them economic citizenship.

It can be assumed that some of the situations described here happen frequently. We should not lose sight of the fact that the 9.7% of the Central American labor force in the United States that is self-employed means more than 210,000 workers. This quiet encroachment of the self-employed is small but it is growing. It may even be larger than the figures suggest: for example, Kelkin and Eladio do not describe themselves as self-employed in the census. Those working in the informal sector have turned the stigma into a badge. They have transformed the misery of the present into the richness of the possible, to use the words of Gorz, for whom this situation is not regrettable: "The work which is disappearing is 'abstract labour', labour that is measurable, quantifiable and detachable from the person who 'provides' it; work which can be bought and sold in the 'labour market'."¹ If undocumented workers have as much weight in the informal sector as is indicated in various studies, it means that the "shady world" of labor irregularity removes them from the invisibility and concealment of the "shady world" into which they are thrust, according to some authors, by migratory irregularity. By escaping from abstract labor and engaging in their *opus proprium*, they have the chance to stand out as individuals. Paradoxically, it is the world of self-employment that makes migrants more visible and more indispensable. The immigrants do not stand out as much in the packing plants, the factories, the strawberry fields, or even the diners where they cook, bag, and dispense fast-food, as they do when they are gardeners, plumbers, electricians, nannies, maids, or shovelers of snow. In such occupations they enter into direct contact with a middle-class clientele who are becoming every day more aware that these immigrants are lowering the costs of a wide range of goods and services and that they are not at all the unskilled workers that news reports say they are.

¹ Gorz, 1999, p.55.

My aim is not to defend self-employment or economic informality but to offer an analysis based on empirical evidence. Such evidence reveals that immigrant workers are making progress in the world of labor by using the materials left to them by recent history (informality, self-employment, outsourcing) and also by recognizing that they will achieve political freedom not in the absence of restrictions but in knowing how to overcome them. Informality and self-employment may be accompanied by a certain level of risk and of exclusion from the legal mainstream, but they also grant some autonomy and fulfill the dream of independence that many immigrants share. It is perhaps for that reason that the political role of the self-employed is more difficult to envision. Self-employment is seen as weakening the organizing potential of factory workers,¹ and the self-employed are seen as defectors from the proletariat, but what Marx said applies to them as well: “The domination of capital has created for this mass a common situation, common interests.² And this situation, for better or for worse, is increasingly common; it is as if the capitalist tide were now reestablishing the world of artisans that it dismantled when it first began to rise. As this situation becomes more common and more widespread, it will constitute the non-collective actor to which Bayat refers. In the case of undocumented immigrants, the non-collective actor is constituted reciprocally with another non-collective actor, namely, the clients who recognize them and legitimize them because they want personalized products and because they want to deal face to face with those who provide them. It is not clear whether the collective actions of this other non-collective actor will be anti-hegemonic or whether they will always sing the praises of entrepreneurship, but the support they provide for the non-movement of the undocumented, by neutralizing the exclusion imposed by anti-immigrant policies and making the undocumented feel included, is a major triumph. It means 365 victories a year.

2.4 Disobedience in the market and citizenship in consuming

The world of consuming has been assailed for both intellectual and moral reasons. It is associated with lack of wisdom and abundance of vices. A broad current of criticism, nourished by traditional Christianity’s negative views of commerce and money, has surfaced again and again in the history of ideas and of political systems.³ The accumulated diatribes of centuries, reinforced by the restricted vision of politics coming from ancient Greece, has maintained belief in the political

¹ Rifkin, 1995, p.192.

² Marx, 1976, p.211.

³ Escotado, 2013, pp.19-29.

irrelevance of persons as consumers. The most negative views arise from the dualities of consumption/alienation or consumption/conformity, which are modern formulations of the classical strategy of “bread and circuses”—portrayed by Juvenal as a way to buy votes and to govern the unruly crowds of Remus.¹ The resulting tradition, which has become the commonly accepted view, has tended to disdain and even demonize consumption. In ordinary language, as Néstor García Canclini points out, “consumption is usually associated with useless expenditures and irrational compulsions.”² And he adds: “There are still some who fault the poor for buying televisions, video players, and cars when they don't even own a home. How can one make sense of families who squander their Christmas bonuses on parties and presents when they don't have enough to eat and dress themselves throughout the year? Don't these media addicts know that newscasters lie and that telenovelas distort real life?”³ Although Lipovetsky's characterization of the society of hyper-consumption has some merit, one notices in his writings a poorly dissembled homiletic moralism—with aristocratic tinges—when he laments that “living better has become a passion of the masses” and that political militancy has been supplanted by hedonism, nationalist passion by desire for comfort, and revolution by entertainment.⁴ Illustrious intellectuals take on the role of political commissars in their denunciations of the consuming masses. In former times, according to Rancière, people were portrayed as seduced by electrical appliances and by a system that at once exploited them and inspired their dreams. In our own day individuals are the ones being blamed for the democratic tyranny of consumption, as Rancière states: “the laws of capitalist accumulation, and the type of production and circulation of commodities they require, have become the simple consequence of the vices of those who consume these commodities, and especially of those who have the least means to consume.” The law of return on capital prevails because “democratic man is a being of excesses, an insatiable devourer of commodities, human rights and televisual spectacles.”⁵

Despite this trend, García Canclini observes the emergence of an opposed tendency: “Men and women increasingly feel that many of the questions proper to citizenship—where do I belong, what rights accrue to me, how can I get information, who represents my interests?—are being answered in the private realm of commodity consumption and the mass media more than in the

¹ Juvenal, 2010, p.43.

² García Canclini, 2001, p.37.

³ García Canclini, 2010, p.37.

⁴ Lipovetsky, 2007, p.7.

⁵ Rancière, 2014, p.88.

abstract rules of democracy or collective participation in public spaces.”¹ In view of these considerations, García Canclini cites the studies of cultural citizenship “in which citizenship is seen not only in relation to rights accorded by state institutions to those born within their territorial jurisdiction, but also as social and cultural practices that confer a sense of belonging, provide a sense of difference, and enable the satisfaction of the needs of those who possess a given language and organize themselves in certain ways.”²

García Canclini’s proposal for conceptualizing consumption was already anticipated by Michel de Certeau in his study of contemporary everyday life in France. De Certeau rejected the myth of the passive consumer and posited instead “consumption as production,” which highlighted people’s creativity in adapting the products of mass consumption (from furniture to TV dramas) to their personal needs.³ This conceptual framework recalls the argument made by Castells that consumption is another battleground of class conflict, one rooted in unequal participation in production but extending also to the distribution and appropriation of commodities. André Gorz went further than Castells when he pointed out that capital’s domination can no longer be exercised directly over living labor by means of hierarchical constraints: “The factory and the workplace then cease to be the main arena of the central conflict. The battle lines of that conflict will be everywhere: information, language, modes of life, tastes and fashions are produced and shaped by the forces of capital, commerce, the state and the media; in other words, everywhere the subjectivity and ‘identity’ of individuals, their values and their images of themselves and the world, are being continually structured, manufactured and shaped.”⁴

If we follow the Marxist tradition, therefore, we have to consider that the political scene is not only in the factory and that the basic reason for the conflict between the powerful and the dominated has not been exclusively wages (which are actually purchasing power) but also the world of consuming, at least since the Paris Commune of 1871 and the Glasgow strikes of 1915. Both these events began as rent strikes waged against real estate speculators.⁵ Unfortunately, though, their historical reconstruction was injected with much ideology by Marx himself and by the correspondents on whom he depended for information. As a result, a municipal revolution

¹ García Canclini, 2010, p.15.

² García Canclini, 2010, p.20.

³ Burke, 1990, p.81.

⁴ Gorz, 1999, p.42.

⁵ Castells, 2012, p.11.

provoked by a rent strike and partly led by women was transmuted into a proletarian proto-revolution, even though at that time Paris, which had few industrial workers among its inhabitants, did not measure up to such a reality.¹ Perhaps because of the inertial force of that original sin, García Canclini conjectures, Marxist studies on consumption continue to exaggerate the decisive force exercised by corporations on consumers and audiences.²

We should nevertheless remember that it was Marx who first made us aware of the power that material activities have for helping us to understand what is happening in politics beyond the epiphenomena. He laid the groundwork for being as concerned about consumption as we are about production. Consuming is competing for what society produces. Consumption becomes political from the moment it is linked to the struggle for wages, and its political character is made quite explicit in a conventional sense when the candidates in electoral contests promise to reduce inflation, broaden access to credit, and lower taxes.³

Consumption is now a space for interaction among consumers, who are not passive recipients seduced by the siren calls of advertising. There are many ways to explore that interaction. One of them is to stress the relevance of being undocumented for the citizenship/consumption relationship. Nevertheless, I will not treat in detail the equation “citizenship = consumption” even though it is not an entirely mistaken equation. To give just one example of it, access to and consumption of certain cultural goods (books, songs, and TV programs in English) open up opportunities for integration in a society where mastery of English is as important as a U.S. passport—or even more important! (Remember that ICE agents stop U.S. citizens who present their passports but do not speak English, and the inverse happens as well: undocumented persons who speak English pass through the checkpoints without showing their documents). That equation does not suffice, however, because what I want to treat here are acts of civil disobedience or acts that function as such. That is why I am emphasizing consumption as a means of practicing performative civil disobedience and as an instrument of boycott, or what Ebert would respectively call constructive action and confrontative action. As we will see, the decisions made by the undocumented about where to live and what to buy are a powerful economic stimulus to which the politicians react. That is the source of the constructive and confrontative power of the undocumented. Mike Davis has studied home improvements made by Latinos as an achievement that has transformed and appropriated the urban landscape of Los

¹ Castells, 2012, p.16.

² García Canclini, 2010, p.39.

³ García Canclini, 2010, p.39.

Angeles.¹ It is the Latino version of the appropriation of space that African Americans practiced in 1927 when they bought lots and organized parties on the beaches of Santa Monica.² Both cases involved performative civil disobedience in the act of consumption, the African Americans by making use of beaches traditionally reserved for whites, and the Latinos by remodeling their homes even while being undocumented, that is, while being excluded not only from a residential zone but from the whole country.

Latinos and the entertainment industry

The market provides the “Latino menace” with various types of support in areas that are vital to the native-born population and the general functioning of the American system. Latinos living in the United States represent an important consumer market, and their participation in that market has had and continues to have consequences for their status in society. This has been highlighted by the academic Frances Negrón-Muntaner: “No one knew it then, but the new Latino cultural scene began in 1995, when singer Selena Quintanilla was killed by Yolanda Saldívar, president of her fan club. Despite the tragic aspect—in the classic sense—of the episode, the explosion of visibility that followed gave many Latinos a new sense of optimism, possibility and self-esteem. The editor of *People* magazine, for example, got a taste of that vast appetite for cultural citizenship of more than 30 million Latinos (and their \$190 billion of purchasing power) when it sold close to a million copies of the special issue dedicated to Selena in just 24 hours. At that moment, the glances of capital and the longing for recognition of the Latinos came together in a prolonged kiss of possibilities, and the current cultural boom ‘exploded’.”³ That purchasing power has also been recognized by the businesses in Pasco, Washington, which are sponsoring soccer league teams with names like “Albertsons,” “Budweiser,” or “Best Foods.”⁴ Mattel has been aware of this power since 1968, when it came out with a doll called “Spanish Speaker,” a Barbie with a Mexican accent. Later, in 1980, the company launched its first “Hispanic Barbie,” dressed in a pseudo-Spanish costume called “fiesta-style.”⁵ Similarly, Warner Music Company fell in love with

¹ Davis, 2001, pp.61-62.

² Flamming, 2005, pp.273-274.

³ Negrón-Muntaner, 2006, pp.129-130.

⁴ Shinn, 2002, p.248.

⁵ Negrón-Muntaner, 2002, p.54.

the Buena Vista Social Club when it realized how profitable it could be to idealize prerevolutionary Cuba.¹

There is a very clear connection between that boom and the public stands taken by singers and actors on migratory policies. When Jan Brewer, the governor of Arizona signed anti-immigration law SB 1070 on 23 April 2010, Latinos and their defenders didn't stand idle with arms crossed and mouths shut. Many quickly got on the Internet and sent out messages calling for renewal of the boycott against Kimberly Clark (the company behind the Scott, Kotex, Huggies and other brand names) for its corporate links with Republican Senator James Sensenbrenner, author of the notorious bill HR-4437 (the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005), more commonly known as the Sensenbrenner bill. There were early displays of solidarity from many famous people. Unequivocal declarations came from singers Shakira, Ricky Martin, Gloria Estefan, Marco Antonio Muñiz, Danny Rivera and Paulina Rubio. Sharp comments were made by actors Eva Longoria, Gael García Bernal and George López. Cinematographer Robert Rodríguez even improvised an allusive trailer. We are light years away from the time when immigrants bowed down and obeyed the law without talking back. Without calling into question the political convictions of these and other artists, one shouldn't belittle the benefits they reap by staying on the good side of the millions of Latinos who consume the cultural goods whose production and sale contribute to their fame and fortune. There will be no backpedaling on this issue. Other voices will be raised out of devotion either to Latinos or to Lord Lucre, that powerful knight who elevates both noble and beggar and makes the outsider his own. Here we have seen in action the power of Latinos—millions of whom are undocumented—by virtue of their position, not in the system of production, but in that of consumption. It is a force that provokes reactions among persons who exercise greater parrhesia and are ready to use it to help the cause of the undocumented. A recent contribution of the entertainment industry that benefited the undocumented was the film, "Who is Dayani Cristal?" (2013), starring Gael García Bernal. The documentary narrates the story of a Honduran migrant who died in the Sonora Desert in Pima County after crossing the border. The story of the dead migrant was reconstructed on the basis of forensic data, a mapping of his journey, and an enigmatic tattoo that read "Dayani Cristal," the name of one of his daughters. The documentary was widely acclaimed so that its website became a platform for collecting the stories of migrants (helping them speak out), for finding migrants who had disappeared, and for opposing the system of detention and deportation; it also helped to raise

¹ Katerí Hernández, 2002, pp.61-72, p.66.

funds for the organizations in Tucson that help the undocumented, for the “Hermanos en el Camino” shelter, and for those lobbying in favor of work visas.¹

The world of sports offers another example of the intense love affair between capitalist enterprise and Latino talent, but it has also produced strong statements on U.S. migration policies. The U.S. boxer of Mexican origin, Óscar de la Hoya, whose income depends heavily on the Latin market, says in his memoir: “In my 2006 fight against [Nicaraguan] Ricardo Mayorga, I was wearing on my shorts a proposal for the coming elections, stating my solidarity with the undocumented workers.” Backing proposals similar to those of the Migration Policy Institute but even more favorable for the undocumented, de la Hoya insists that his responsibility was like that of “anyone caught in the middle of one of the hottest topics in the country: immigration. I can’t turn my back on a problem that affects so many people whose roots are just like mine. ... The present system is not working, and there is tremendous chaos on the border. I am not saying we should open the doors and let everybody come who wants to, but neither do I think that we should shut the doors permanently. Many of the people crossing the border only want to work and have a better future for themselves and their families. It is true that there are a few bad apples who manage to give immigrants a bad image, and when that is the case, they should be punished severely. The best thing would be to deport them. But I propose a more diplomatic strategy for the rest. ... If they want to come to work, we should give them documents so that they can work for six months, and then they could stay another six months. If after one year they have behaved as good citizens, paid their taxes, and contributed to the economy, they could begin the process of becoming citizens. Every person should have that possibility. ... Regarding the illegal immigrants who are here already, I don’t think we should deport them. I’m not saying that we should stamp their passports and forget about the past, but we should find some way to legalize them. We should give them an opportunity to take part in the system and become citizens so that they can continue pursuing the American dream. ... Getting immigrants to come out of hiding would be a tremendous achievement for all Americans since it would bring security for the undocumented immigrants and for the country as a whole. ... I believe the people of this country would benefit. I believe the economy would also benefit, and so would the different organisms responsible for law enforcement, health, and education.”²

¹ “Who is Dayani Cristal?,” <http://whoisdayanicristal.com/>

² de la Hoya and Springer, 2015, pos.114-115.

De la Hoya is constantly seeking to find a position midway between being pro-immigration and respecting the law. He repeats clichés that everybody knows are false, such as the one about “getting immigrants to come out of hiding,” but most importantly, he speaks in terms that are well received by his many fans. Although de la Hoya’s Mexican roots make him especially sensitive to this issue and shape his opinions in this regard, it cannot be denied that his statements are also inspired by economics. Óscar de la Hoya relates that Richard Schaefer, a banker of Swiss origin, decided to become his financial adviser in order, he told him, “to get involved in the marvelous opportunity you have of being a true Mexican American icon and of capturing this country’s growing Hispanic market in a way no one else can.” De la Hoya adds: “I was aware of the increased purchasing power of Hispanics in the United States, and I thought that, being Mexican American, I would be doubly attractive, both for Anglos and Hispanics.”¹ Under Schaefer’s direction, de la Hoya invested in sports equipment, sports magazines, tequila brands, Univision (the Hispanic television network), and Frontera Productions (a movie-making business whose clientele is the Spanish-speaking public). He also invested in the ImpreMedia corporation, which owns several Hispanic newspapers: *Hoy Nueva* of New York, *La Opinión* of Los Angeles, *La Raza* of Chicago, *El Mensajero* of San Francisco, *La Prensa* of Orlando and Tampa, the *Rumbo* newspaper chain of Texas, and *El Diario La Prensa* of New York, which was founded around 1913 and is the oldest Hispanic newspaper in the United States. Future investments will include a bank and an insurance company for Hispanics.² Óscar de la Hoya’s statements and investments are an excellent scale for gauging the economic heft of the niche market created by Latino migrants.

An erupting market: the purchasing power of undocumented Central Americans

My field work allowed me to witness firsthand the heft of that market. The workdays of undocumented immigrants always included purchases at hardware stores, fast-food chains, Central American restaurants, supermarkets, and large wholesale and retail stores. Latinos made up a large part of the clientele of all these businesses, and in some geographical locations the majority of their customers were Central Americans. The breakfasts at 7-Eleven were de rigueur. Their Guatemalan coffee and Salvadoran quesadillas could be found in almost all my urban excursions with the undocumented. “In all the 7-Elevens there are tons of people,” Fredy Melgar told me. “And even more when it gets cold. I’ve never tasted coffee as good as 7-Eleven’s. The

¹ de la Hoya, 2015, pos.152.

² de la Hoya, 2015, pos.156-157.

thing is, you fix it yourself right there. I used to throw everything in: I added milk, I added those little cream things that smell delicious ... vanilla. I used to go there every morning to look for work, waiting for somebody to hire me.” As Lito told me, that chain is really a “Latino restaurant, a gringo bar.” Its parking lot functions as a hiring hall. In the neighborhoods, cities, and counties where Central Americans have considerable demographic presence, they constitute the clientele and the workforce behind a dynamic economy with not a few aspects of enclave. The streets near MacArthur Park in Los Angeles are sprinkled with Central American bakeries selling Salvadoran *alfajores*, Honduran *semitas*, Guatemalan *champurradas*, and Nicaraguan *polvorones*. In Hempstead on Long Island (New York) there are many stores with Salvadoran *nuégados* and *chocobananos*. In San Francisco the Nicaraguan diners have *nacatamales* and *lengua en salsa*. In Pico Union some grocery stores display large signs advertising “Delicious Nicaraguan *chicha*.” Salvadoran *riguas* and Honduran *baleadas* are plentiful in several counties of Virginia and Maryland.

My visit to a supermarket with Gisel and Yadira gave me a chance to observe the attractiveness of what I will call the “market basket of memory,” which contains products from “there” sold at prices of “here.” Included are such items as Honduran red beans (“really soft beans”) at \$3.25 for 20 ounces, rice imported from Thailand and distributed by Distribuidora Cuscatlán at \$2.59 a pound, and La Perfecta sour cream from Nicaragua for \$3.29 a pound. I append here a more detailed list that is by no means exhaustive, but it provides a good idea of the products and prices.

Market basket of memory

Items	Prices in US dollars
Three mangos	3.60
Bag of "flor de pito"	3.00
28 ounces of jocotes	6.60
One avocado	1.80
One pound of bananas	0.80
20 ounces of black beans	2.70
20 ounces of red silk beans	3.25
20 ounces of big red beans	2.50
Five big rosquillas	5.00
16 ounces of rosquillas	3.20
8 ounces of quesadillas	3.00
Four lemons	1.00
One coconut	2.20
One melon	2.60
One papaya	1.20
8 ounces of marquesote	2.60
Four champurradas	2.60
One pound of cheese to make pupusas	5.70
1.4 pounds of dry cheese	8.00
One pound of 'hard white' cheese	7.00
One pound of classic cheese	7.00
Half pound of cuajada	8.20
Four tamalitos	4.50

To these traditional food items must be added the occasional dinners, the weekend visits, and the celebrations with family and friends in restaurants that serve from a "Nostalgia Menu." A typical such menu contains items such as those shown in the following table.

Nostalgia Menu

Dishes	Prices in US dollars
One pupusa	2.00
Two baleadas	8.60
Pork steak	9.00
Beef steak with onions	9.30
Fried mojarra (fish)	10.70
Chicken with onions	8.00
Stuffed bell pepper	9.00
Tres catrachos	8.00
Grilled steak	10.70
Fajitas	12.80
Mondongo soup	9.40
Fried banana	6.00
Atol	2.70

The data in the first table were obtained in February 2014 in San Miguel Market and those of the second table in San Miguel Café, both located on Leesburg Pike in Arlington County, Virginia. They give us some idea of the market that exists for Central American products, and these same products, according to Yadira, make up their daily diet. Like other ethnic groups in the U.S., Central Americans have managed to reproduce their native diet in the country to which they have migrated. Formerly, the “Made in USA” label was a magnet for Central American consumers, and it continues to be one for those who are still in Central America. But those who have migrated are demanding “homegrown flavor” and are willing to pay \$7 for a half-pound of cheese from Chontales, \$15 for breaded fish filet with tomato sauce, \$20 for a tender Nicaraguan-style steak, \$7.25 for a plate of fried plantain and cheese, \$3 for a pound of marquesote, \$3.25 for silk beans from Morazán, and \$2.89 for a frozen package of four “authentic” *pupusas* from Planes de Renderos which were actually produced and packaged in New Jersey by Goya Foods. This diet provides a strong stimulus to the food industries, which take the lion’s share of the value added in the productive chain and are not necessarily Central American.

Careful reading of the fine print on the labels reveals that many of these industries import their raw materials from different places (including Thailand, which provides the banana leaves used for Salvadoran tamales and Nicaraguan nacatamales); the processing and packaging takes place in California or Colorado. Goya Foods is one of the largest companies producing Central American items; in fact, the inclusion of those items has helped the company to expand the number of its products from 900 to 2,200 over the last decade. Founded in Manhattan in 1936 by a Spanish immigrant, Goya Foods began by selling olive oil and olives from Spain. Now headquartered in New Jersey, it cans and bottles Central American nances, yuccas, pacayas, lorocos, refried black beans, silk beans, palmitos, pejivalle, tender mangos, elotes, jocotes, Salvadoran curtidos, frozen guava, tortillas, and pipianes. Nearly all of them were most likely packed in the 600,000 square-foot plant that Goya Foods opened in New Jersey in return for an \$82 million tax break. As could only be expected, Goya Foods is a great friend of Latinos: with profits of more than a billion dollars a year,¹ it supports the National Council of La Raza, an association that brings together 268 organizations dedicated to defending the rights of Latinos, regularizing their migratory status, and resolving their labor problems.

Motivated by this appetite for old-time flavors and the sales opportunities it produces, Central American companies have followed the migrants. The Pico Union outlet of the Guatemalan

¹ Morley, 2015.

firm “Pollo Campero” shares a gigantic building with the Curacao company. Fully aware of Salvadorans’ passion for its products and of the immense possibilities of transnational consumption, the company’s latest venture has been hugely successful: “Order here, we deliver in El Salvador.” On 23 April 2002, the day that Pollo Campero inaugurated its franchise in Los Angeles, hundreds of Central American lined up from early in the morning in order to taste—as manager and founder Francisco Pérez de Antón put it—“a piece of their own country in a foreign land.” In 48 days the company managed to set a sales record in the fast-food market of one million dollars.¹

But there are still many other opportunities in this immigrant market. In order to obtain over-the-counter medications without consulting a physician, Central Americans trust in tradition and shop at the mini-markets that offer products from the small pharmaceutical companies of the region. These products, whose effectiveness has been affirmed by generations of users, include Sapuyulo Oil, Bear Oil, Esencia Coronada, Bacaolina, Desempacho, 7 Spirits, Parasitol, SanaTos, Angidol, Mentevital Forte, Zorritone, Broncolín, Komilón, Sinestrés, Tiro Seguro (for the treatment of pinworms), Neurofosfatón, Neurocampolón, and Globulón.

Many stores have specialized in typical Mesoamerican articles such as piñatas and all the items that are needed for the quinceañera celebrations, including rental of dresses, tables, and chairs. Other stores specialize in religious articles, where the most requested images are those of the Lord of Esquipulas and the Virgin of Suyapa, but they leave space also for the (no longer exclusively) Mexican *Santa Muerte* devotion, the reading of Tarot cards, spiritual sorcery, personalization of amulets, and cleansings with egg, rue, rosemary, fire, or flowers. Strategically located near these stores are the ubiquitous offices of the shysters who contrive and arrange insurance policies, proofs of paternity, completed income tax forms, marriage certificates, permissions for minors, corrected birth certificates, payments of fines, political asylum applications, divorce filings, and police records. Their signs—like those that hang outside the offices of dentists, nutritionists, and gynecologists—almost always include the three magic words that invariably attract Latino clients: “Se habla español.”

Whether you are strolling around Hempstead, crossing through San Francisco’s Mission District on the 48 bus line (Quintara/24th St.), walking down César E. Chávez Avenue, or visiting a neighborhood near Echo Park in Los Angeles, on every street you will find various businesses that send remittances “in minutes” and that ship packages of all shapes and sizes to Central American

¹ Pérez de Antón, 2002, p.220.

countries. With names like “Transportes Jireh,” “Xela Express,” and “Mi Patria Express,” they transport blenders, bicycles, stoves, and even vehicles “right to the door of your house.” Prices vary according to the size of the package and the destination. A 30” by 30” box costs \$200 to ship to Guatemala, \$250 to El Salvador, and \$300 to Honduras. You can also send according to weight, at a rate of \$7 per pound.

Central Americans have also helped to invigorate the housing sector, an industry that was severely affected by the economic crisis and the rapid deflation of the housing bubble that began in the fall of 2005.¹ Seven years later David Harvey commented that “the current signs in the United States are not encouraging. The housing sector is not reviving, and new housing production is depressed and stagnant. There are signs it is heading for a dreaded ‘double-dip’ recession, as Federal monies dry up and unemployment remains high. Housing starts have plunged for the first time to below pre-1940s levels. As of March 2011, the unemployment rate in construction stood above 20 percent, compared to a rate of 9.7 percent in manufacturing that was very close to the national average. There is no need to build new homes and fill them with things when so many homes stand empty.”² When applied to the country as a whole, Harvey’s statement is correct: between 2000 and 2012 employment in the construction industry rose just 15%, from 8,801,507 jobs to 10,115,885. The number of occupied dwellings in the United States went from 105,480,101 to 132,452,249, an increase of only 25.6% in the whole period or 2.13% per year. The impact of this crisis—as happens with every crisis—affected people very differently. The construction industry is one in which Latinos, especially Central Americans, have a high rate of participation both as workers and as consumers. In 2010 construction employed only 6.8% of the U.S. population, but provided jobs for 25% of Hondurans, 19% of Guatemalans, 15% of Salvadorans, and 11% of Nicaraguans living in the U.S., or a total of 457,111 Central Americans. In 2000 that sector employed only 120,490 Central Americans. Thus, in one decade the number of Central Americans working in construction increased by 279%, or almost 28% per year, even though the industry went through a recession. This increase exceeded the mark reached in Milwaukee, where between 1980 and 2000 the number of Latinos working in construction increased 156% (7.8% per year).³ The recent boom in employment, despite the crisis, was not due solely to the arrival of more Central Americans and to their increased concentration in that sector (in 2000 about 12% of Central Americans were employed in construction while in 2010 about 17.5% were). The increased

¹ Krugman, 2009, p.166.

² Harvey, 2012, p.52.

³ Pawasarat, Quinn, and Stetzer, 2006, p.11.

need for masons, welders, electricians, carpenters, plumbers, and painters derived also from the demand for housing generated by the arriving Central Americans. Migration in itself is a multiplier of the demand for housing. In just 12 years the housing units occupied by persons born in Central America, whether as owners or renters, increased 74%, that is, from 598,650 to 1,039,555.

Housing units occupied by Central American immigrants

Country of origin	2000	2012	Increase %
El Slavador	278,120	476,470	71
Guatemala	158,000	283,410	79
Honduras	89,915	182,871	103
Nicaragua	72,615	96,804	33
Total	598,650	1039,555	74

Source: US Census Bureau

When my experienced guides, Kelvin Orellana and Lito Melgar, took me to hardware stores in the heart of Washington DC and in several counties of Maryland and Virginia, the sheer number of Central American customers showed me firsthand how involved they are in building and maintaining houses. New companies are always being born, like Transfiguration Services Inc., dedicated to reglazing bathtubs and sinks and refinishing cabinets, kitchen countertops, tile walls, and floors of all kinds. For Central American immigrants, construction continues to be a dynamic industry, and their demand for rental units is a major stimulus. The statistics of the U.S. Census Bureau reveal that 95% of the dwellings occupied by Central Americans are owned or rented by migrants. We can conjecture that the impact of the financial crisis would have been much greater if it had not been for the migration of Latinos to the U.S. The upheavals that took place in U.S. cities during the 1960s, as Harvey explains, were the result of confining minorities to cities and denying them access to the prosperity and consumerism of suburbanites.¹ What is taking place now is a silent upheaval, the kind Bayat describes, as the presence of immigrants in the consuming sector acquires more weight and visibility.

It is difficult to calculate the economic dimensions of what Central Americans consume in the sectors of food and housing, but they are in any case impressive. The figure provided by Pollo Campero can give us an idea of how much value Central American immigrants add to the food market in the cities and counties where they have significant presence. The figures for housing expenses can also help us to get an idea of that sector’s importance. Calculations must take into

¹ Harvey, 2012, pp.9-10.

account the fact that in 2010-2011 undocumented consumers made up 55% of all Latino immigrants (20,849,710) and 63% of all Central American immigrants (2,481,927).¹ This high percentage of undocumented persons has had political consequences since those cannot vote at the ballot box vote instead with their feet and their wallets. In the following sections we will see more clearly how consuming can be politicized when the quiet encroachment of a multitude functions as an effective boycott.

The boycott of consumer-voters: Pedro Urdemales in Prince William County

Prince William County, Virginia, is the seventh richest county in the United States.² In 2014 it had 43,850 inhabitants of Central American origin, including 36,746 Salvadorans, 5,962 Hondurans, 5,240 Guatemalans, and 1,401 Nicaraguans. The Salvadorans nearly doubled the number of Mexicans, of whom there were 18,788. Between the census of 2000 and that of 2010 the number of Central Americans had increased from 7,400 to 32,334. In 2014 Central Americans made up 8% of the county's total population, 38% of its foreign-born population, and 71% of its Latino immigrant population. Thus, being a Latino immigrant in Prince William County meant mainly being a Central American. There was a short period, however, when that growing presence of Central Americans was interrupted and even reversed. With the same kind of quiet encroachment they had used in coming north, the immigrants began to withdraw from the county in reaction to changes in immigration policies that were intent on expanding the banopticon within the national borders.

The city of Manassas finds itself within that zone. Between 2000 and 2010 it has seen the number of Central Americans grow from 1,410 to 5,529, some 15% of the population. Of these, about 70% were Salvadorans, numbering 3,870 and making up 10% of the city's population. One of the Salvadorans was Fredy Melgar, 58, a former guerrilla who had migrated to the U.S. for a second time, after returning to his homeland voluntarily for what he thought would be a permanent repatriation. It was Fredy who made me aware of how thoroughly the banopticon

¹ The figures for the number of undocumented persons were taken from Hoefer, Rytina, and Baker, 2012, p.5. The figures for foreign-born persons (1,173,364 Salvadorans, 809,784 Guatemalans, and 498,779 Hondurans) are the official figures of the U.S. Census Bureau, *2008-2010 American Community Survey, S0201: SELECTED POPULATION PROFILE IN THE UNITED STATES*. This last set of statistics are not the most recent ones but are the ones closest to the estimated number of undocumented persons, who at that time numbered about 11.5 million in total, including 660,000 Salvadorans, 520,000 Guatemalans, and 380,000 Hondurans.

² Davis, 2009, p.5.

tactics had penetrated into the country: “When I arrived in 2004, Manassas was a quiet place. Things started to turn ugly in 2006 when new laws required the police to cooperate with migration authorities. When the police saw small groups walking down the street, they stopped them and asked them for their papers. If they didn’t have documents, they were carried off to jail. At that time, when you went to jail, you passed by a booth, and immigration was right there. So all we had to do was walk down the street, and the police would stop us and ask us for our papers. And since we didn’t have any, we were sunk. ‘Come along,’ they would tell us, ‘now you have to deal with immigration.’ At night they would go to apartments where there were a lot of migrants, ask for papers, and take them away. There were even raids. But that wasn’t happening in other parts of Virginia, which is a big place. Fairfax is next to Manassas; a river divides them. Whenever the Manassas police arrived, we’d swim across the river and then we were in Fairfax, where the police don’t bother people. They just looked at us and didn’t say anything—even when we were drinking. The only time they were strict was when we left litter behind. When the Mannasas police were gone, we swam back over.”

Fredy Melgar was referring to the 2007 ordinance approved by the Prince William County authorities. In December 2006 the Board of County Supervisors asked for an assessment to be made of the cost of county services to illegal immigrants. One month later county supervisor John Stirrup had drafted a proposed law which would prevent undocumented persons from having access to those services. In July 2007 the county board unanimously passed resolution 07-609, which directed the police to inquire about the immigration status of anyone detained for violating a state law or county ordinance, including a traffic violation, if there was probable cause to believe that the person was violating federal immigration law. The ordinance also directed the police to enter into an agreement with the U.S. Department of Homeland Security, and it required county staff to determine legal grounds for restricting illegal immigrants from receiving county-provided public benefits and services. In October 2007 the Board of County Supervisors, thinking these measures insufficient, passed Resolution 07-894, which authorized 1) the creation of a Criminal Alien Unit within the police department, 2) directed staff to implement policies consistent with state and county law to prevent business licenses from being issued to persons who cannot demonstrate legal status, and 3) further directed staff to develop policies for restricting persons who cannot demonstrate legal status from receiving certain county services.

These directives were only two of the many local reactions to the failure of comprehensive immigration reform and in particular to the failure of Republican representative James

Sensenbrenner's initiative (HR 4437) in 2006.¹ They were a local echo of the overlapping of immigration policies with penal legislation. The federal government had already begun to move in that direction before it was clear that comprehensive immigration reform would fail. In November 2005, the Department of Homeland Security (DHS) announced a plan called Secure Border Initiative, aimed at strengthening the implementation of migration policies to reduce "illegal" migration. In April 2006, the DHS revealed a previously unknown feature of the plan: ICE would expand its operations to capture all undocumented workers and individuals who might have violated immigration laws, including refugees, migrants with permanent legal residency, and those who, though permitted to reside in the United States, might have been accused of any of the offenses detailed in an extensive list, including non-violent robbery, theft, drug consumption or trafficking, counterfeiting, receiving stolen property, perjury, fraud, deceit, or tax evasion. Any of these crimes would be sufficient cause for detention and deportation under the Antiterrorism and Effective Death Penalty Act and the Illegal Immigrant Reform and Immigrant Responsibility Act, two laws that were passed in 1996 but were being fully implemented only ten years later. Legal residents were deprived of the hearings to which they could previously turn. And ICE began to use the category of "immigration fugitives"—echoing the category of "fugitive slaves" and recalling the Fugitive Slave Act of 1850—to refer to those who were given a deportation order but refused to obey it. These federal dispositions would remain ineffective without enforcement by a local authority, but the ordinances of Prince William county, by merging penal and immigration legislation, provided a solid alliance between the police and the DHS that guaranteed enforcement. Armando Navarro, an expert in immigration studies, described this policy as another of the "efforts to create 'ethnic cleansing' legislation" in a number of counties and cities in the "old South."²

At his moment of triumph in July 2007, John Stirrup, the supervisor of the Gainesville district and intellectual author of the resolutions, declared to the media: "Citizens will no longer accept that our hands are tied and that responsibility lies with the federal government."³ And in another interview he was even more explicit: "I do believe that this does send a strong message to those who promote and profit from illegal immigration that Prince William County is no longer friendly terrain. This is probably a place we do not want to send our, quote, unquote, 'our clients' anymore to take advantage of the public services there and the system and the, obviously, what

¹ Lorentzen, 2014, p.XIV.

² Navarro, 2009, p.295.

³ Miroff, 2007.

they perceived as a friendly atmosphere. And I think that the welcome sign or the welcome mat has been pulled in for future illegal aliens to move to the county.”¹ Stirrup’s words were music to the ears of the members of “Help Save Manassas,” a belligerent association that lobbied against immigrants and created a polarized atmosphere. This association, which belonged to a coalition of seven anti-immigrant groups called “Save the Old Dominion,” had a legislative committee that worked with a member of the Prince William County Board of Supervisors.² This battle in Manassas was won by a sort of refurbished Confederate Army as membership in Help Save Manassas grew from 690 to 1453, “making it by far the largest anti-illegal-immigration group in the Washington area.”³

Help Save Manassas complained of the deterioration in county services because of excess demand: there was too much trash in the streets, too many children in the schools, and too much time waiting to be treated in the hospitals. Their complaint had some basis: a study indicated that the county’s population had doubled between 1980 and 2006. The real cause for alarm, however, was that in that same period the number of immigrants had increased fourteen-fold.⁴ During just the six years from 2000 to 2006 the Latino population had tripled. The number of Central Americans had increased fivefold; they were attracted by the relatively favorable housing costs, which were increasing but were still lower than in northern Virginia. The housing boom decentralized the demand for labor regionally because the larger population increased demand in the service sector. As a result, the number of jobs in the county grew from 55,000 in 1990 to 104,000 in 2006. Little by little Central Americans, and Latinos more generally, began to arrive, first as workers and soon thereafter as residents, assisted by housing loans.⁵ Some statistical data reveal the evident change in the type of population to be seen on the streets: in the 1980s the residents of Prince William County were predominantly non-immigrant whites, but in the period 2000-2006 the percentage of native whites decreased ten points (from 88% to 78%) while Latino increased from 10% to 20% of the population. The prior residents associated the increased Latino presence with a decline in the prices of their properties,⁶ even though the decline was generalized and was caused by the bursting of the housing bubble. Politicians reacted, fearing that the

¹ Martin, 2007.

² ADL, 2008, pp.6-7.

³ Falconer, 2007.

⁴ Singer, Wilson, and DeRenzi, 2009, p.11.

⁵ “35% of Hispanics received purchasing loans from subprime lenders on average, which is much higher than the average percentage for whites in our target area.” Cadogan, Choi, and Stevenson, 2009. Singer, Wilson, and DeRenzi, 2009, pp.11-14.

⁶ Falconer, 2007.

increasing Latino coloration of the streets might be an indication that ballot boxes would also change in color from Republican red to Democrat blue. Rozell maintains that “in Prince William County, anti-immigrant backlashes have resulted in many of the nation’s harshest policies toward illegal immigrants. Yet the growth in the Latino population in Prince William County and other areas of the state portends some significant shifts in the future for Virginia politics, perhaps pushing the state another step away from its former status as a Republican ‘red’ state.”¹

The immigrants reacted quickly. Fredy Melgar related to me the story of non-collective actor who became the protagonist of collective political action through various individual actions: “In Manassas things were going from bad to worse for me. Then I remembered the story about Pedro Urdemales [Mischief-maker]. Pedro and Quevedo were brothers, but Quevedo was worse than Pedro for creating mischief. One day they set out in hopes of finding fortune. They talked together as they walked along until they come to a crossroad. Pedro said, ‘Dear brother, we have to make a decision. Whatever happens, we have to deal with life. Let’s see how things go for us. We can’t continue on together because it’s dangerous. I’ll take this road, and you take the other one.’ Pedro went one way and came to a cattle ranch. He asked for work, and they gave it to him, but to get to where the cattle were he had had to pass through a lot of barriers because the lord of that ranch was the king. In order to get through he dressed as a woman, and since he was so pretty, they let him pass. ... The story is a long one, but what I want to tell you is that I told this story to Lito, and I told him that Quevedo and Pedro Urdemales had agreed to meet again three years later, at that same crossroad where they had separated. So they met up again at the crossroad and so continued with their lives. That’s what I was telling Lito. ‘That’s the same thing that’s happening to us today,’ I told him. So this is what we’re going to do: you go live in Warrenton because the situation here is miserable. If the immigration police come here, in any case ... well, if I have to go back to El Salvador, then you stay here. That was how we got separated. We got divided from one another because of the law itself. I stayed there, and he went to the house in Warrenton that a niece of mine had bought. Warrenton is a ways off, but Manassas is packed with Latinos.”

The strategy devised by Fredy worked, and it was used by many other Latinos as well. Fredy was able to describe the strategy by relating it to a folk tale which featured the Renaissance poet Quevedo and a fictional character, Pedro Urdemales. It is a classic story about the resistance of underdogs, and it has traveled through time and space: from Renaissance Spain it crossed the

¹ Rozell, 2010, p.151.

Atlantic and is being reenacted in 21st-century America. Urdemales is the protagonist in one of the comedies of Miguel de Cervantes, who has him traveling to America and returning to Spain, stealing alms from priests, and defrauding his masters. Cervantes underscores the cleverness and eloquence of Urdemales: he could “enter into difficult situations and, without fear of discredit, extract himself by using his tongue with honor, delight, and advantage.”¹ The feats by which Urdemales confounded the bosses and overseers of the great estates have been recounted in every part of Central America. When I was helping with the National Literacy Campaign in Nicaragua in 1980, I heard tales of Pedro’s adventures from the peasant farmers in Chontales. They usually began with the misfortunes of his brother Juan Dundo [Dummy John], who was easy prey for the rapacious greed of unscrupulous bosses. The climax of the stories came with the intervention of Pedro Urdemales, who with great ingenuity and eloquence would turn the situation completely around so that underdogs triumphed and the oppressors were completely devastated. The Urdemales tales belong to those traditions which, according to Thompson, “are perpetuated in large part through oral transmission and which include a larger repertory of anecdotes and narrative examples.”² In the present case, it takes the form of a tradition that is defying established power; it constitutes resistance on the level of infrapolitics, but it has consequences for politics in the traditional sense. Urdemales is a hero in the resistance struggle being waged by the dominated. He always gets the better of the boss, even though the boss has all the means necessary to crush him. In 2006 the villainous boss was the “migra” and the ordinances of Prince William County.

Fredy was adopting a tradition of resistance much like the ones described by Bajtin. His aim was to foil the authorities, or rather, since he and Lito had already foiled them by entering the country illegally, his strategy was designed to avoid the authorities’ sanctions and to survive unscathed. By drawing on folklore Fredy was able to discern the similarity between the predicament in which he and Lito found themselves and the time when Pedro Urdemales and Quevedo came to the crossroad of life, expressed as a parting of ways. In this way he is able to structure reality, as Lakoff would say, within a coherent conceptual framework with which he is quite familiar. By giving new significance to an old story he is able to find a solution to his problem.³ In this particular case the tradition helps him to see his disobedience as reasonable and to insert it within a moral context that makes it plausible; after all, his strategy is simply the

¹ Cervantes Saavedra, 1995, p.849.

² Thompson, 1995, p.20.

³ Lakoff and Johnson, 2003, pp.7 and 226.

modern equivalent of the picaresque ingenuity of the irreverent and disobedient Urdemales. Fredy’s strategy, expressed in terms of popular wisdom, is a form of struggle that emerges from a folkloric way of understanding the problem, and it allows him to come up with a solution that has the support of tradition. The strategy of Lito and Fredy was adopted by thousands of Latinos, as we can see in the following table.

Population in Prince William County by type

	2000	2005	2006	2007	2008	2010	2000 to 2010	2006 to 2008
Total	280,813	346,790	357,503	360,411	364,734	402,002	121,189	7,231
Natives	248,627	279,674	279,132	283,996	291,728	316,090	67,463	12,596
Immigrants	32,186	67,116	78,371	76,415	73,006	85,912	53,726	-5,365
Born in Latin America	15,008	39,307	42,216	41,472	37,153	45,278	30,270	-5,063
Born in Central America	7,400	23,345	25,346	23,421	19,938	32,334	24,934	-5,408

Source: US Census Bureau¹

Between 2006 and 2008 the total population of Prince William County, which had been increasing by about 12,000 inhabitants a year, grew by only 7,231 despite an increase of 12,596 in the native population. The Central Americans, the group with the greatest proportion of undocumented persons, were the principal reason for the decline. A simple look at the U.S. Census Bureau statistics makes the lopsided impact of immigration policies clear. Similar information can be found in a three-year study (2006-09) done by the Prince William County Police Department and the University of Virginia. The conclusion of the study, which cost \$385,000² was that “the net decrease in illegals could plausibly be anywhere between 3,000 and 6,000 persons.”³

The directives of Prince William County were only part of a long list of xenophobic actions by local governments, and their calamitous effects on the economies under their jurisdiction soon made themselves felt. In 2007 Oklahoma passed H1804, which prompted about 90,000 undocumented migrants to leave the state and caused a loss of about \$1.9 billion to the state’s economy. In 2006 Georgia passed S529, which caused a shortage of workers in the agriculture and hospitality sectors.⁴ Phil Gordon, who since 2004 has been mayor of Phoenix, the capital and the largest city of Arizona, told CNN that the boycotts against Arizona’s SB1070 had cost the state

¹ There is no table for the year 2009 that has the data distributed by region of origin.

² Buske, 2010.

³ Guterbock, Koper, Vickerman, Taylor, Walker, and Carter, 2010, p.76.

⁴ Menjivar, 2014, p.199.

more the \$150 million just in the first ten days of May.¹ Some of the inhabitants of Prince William County remember the damage caused to the local economy by the anti-immigrant ordinance and the consequent flight of undocumented persons.² The *Washington Post* reported that “Latino shops are on the brink of bankruptcy, church groups are hemorrhaging members, neighborhoods are dotted with for-sale signs, and once busy strip malls have been transformed into ghost towns.”³ According to Aviva Chomsky, “in Prince William County, Virginia, in 2007 a local ordinance required police to stop and question anyone they suspected of being undocumented. Although the ordinance was eventually repealed, the acrimonious anti-immigrant mobilization surrounding it, as well as fear of its implementation, caused many immigrants to leave. As businesses closed, schools and neighborhoods emptied, and the housing market collapsed, white Americans became more dubious about the supposed benefits of expelling the undocumented.”⁴ The consequences of the ordinance are as controversial as the ordinance itself: for groups like Help Save Mannasas and for people like Stirrup, the statistics says that the policy was successful; for the immigrants, their allies, and business owners (whose profit motives were impugned by Stirrup), the policy was a disaster. But there is no doubt that the immigrants’ practice of the “art of absence” brought about a change in policies: in April 2008 the Board of County Supervisors unanimously passed resolution 08-500, which prohibited police from inquiring into the immigration status of a person unless the person was arrested. Apart from the foreseeable costs, just the installation of video cameras to protect officers against accusations of racial profiling must have cost three million dollars.⁵

Bayat maintains that “the massive public demonstration of illegal migrants in Los Angeles on March 26, 2006, to demand a legislation to protect them represents perhaps a more striking potential of episodic collective protest of the otherwise atomized agents of non-movements. Of course it is always possible that the subjects may, instead of engaging in immediate confrontation, rationally choose to resort to the ‘war of attrition’—a temporary compliance in times of constraint while carrying on with encroachments when the right time arrives.”⁶ That “war of attrition” functioned as a formal boycott (an act of confrontational disobedience) whose conditions of possibility were consumer power and diversity of jurisdictions. In 1997 Gorz pointed out that “the

¹ Gordon, 2010.

² Constable, 2013.

³ Aizenman, 2008.

⁴ Chomsky, 2014, p.27.

⁵ Mack, 2008.

⁶ Bayat, 2010, p.24.

front of the conflict extends everywhere, and the radicalization of the conflict in the cultural sphere (education, formation, city, leisure, lifestyle) is the condition for its radicalization in the sphere of work. Therefore, to be effective, unionization can no longer be centered exclusively on the workplace or be concerned mainly with defending workers who have stable employment.”¹ The struggle for inclusion was carried out on the terrain of consumption, using purchasing power as a coercive mechanism for neutralizing the rival, as Bobbio would say, to the point not only of making it impossible for him to attain his objective but of forcing him to beat a retreat. Today Prince William County has more Central Americans and more undocumented inhabitants that it had in 2006. The table above shows that the number of Central Americans increased in 2010, reaching a total of 32,334. Their return to the county was followed by an increase in housing prices.² Lito returned to Manassas, where he is currently living. He is married to a U.S. citizen of Salvadoran origin, and after a torturous journey through the entrails of bureaucracy, he has gained permanent residence and is on the way to becoming a citizen.

What happened in Prince William County (the anti-immigration policies, the flight of the immigrants, the economic decline, the change of policies, and the return of the immigrants) was an exercise in economic citizenship, a concept which Sassen coined to refer to the power of businesses, corporations, and financial markets,³ but which I apply to the broader power exercised by workers and consumers. Using Tiebout’s hypothesis about local communities competing with each other “to be able to satisfy [consumers] in the same sense that a private goods market does,”⁴ Stiglitz maintains that “communities that provide the services individuals like and provide them efficiently will experience an influx of individuals; communities that fail to do so will experience an outflux. Such migration (with its consequent effect on property values) provides essentially the same kind of signal to city managers that the market provides to a firm’s managers (a firm that fails to provide a commodity individuals like will find its sales declining; a firm that succeeds will find its sales increasing). Politicians, sometimes under pressure from the electorate, respond to these signals in much the same way as a firm’s managers respond to market signals.”⁵ The politicians of Prince William County had to respond to the pressure of the economic electorate, made up largely of undocumented persons. In this case the immigrants voted with

¹ Gorz, 1999, p.53.

² Orton, 2013.

³ Sassen, 1995, pp.XIII-XIV and pp.8-9.

⁴ Tiebout, 1956, pp.417-418.

⁵ Stiglitz, 2006, p.736.

their feet, demanding more considerate treatment of the undocumented. That is why it makes sense to talk about “economic citizenship.” By virtue of their position in the market and their ability to vote with their feet, the immigrants changed the policies of Prince William County.

Tiebout knew that his hypothesis was founded on assumptions that exist in reality only in a limited, imperfect way: “Consumer-voters do not have perfect knowledge and set preferences, nor are they perfectly mobile.”¹ And he adds: “There has been very little empirical study of the motivations of people in choosing a community.”² But here we are dealing with a case in which it was easy for the consumer-voters to gather the information they needed to make a decision: every day the immigration police were sending out clear and distinct signals. The immigrants chose to move to less dangerous zones. They voted to move to the places where the local politicians offered them the product they wanted: citizenship in the making. Their motivation was clear. They were able to maintain their position by means of a boycott—an instrument of civil disobedience—which resembled the “car pools” which the African Americans in Montgomery County used to boycott public transportation until segregationist policies were changed. The Montgomery Bus boycott that Martin Luther King led in 1955 to oppose the policy of racial segregation on the public transport system enjoyed support at the national level, and it received financial support for the network of car pools that supplied transport services at a cost of \$200 a day. Churches in New York, Philadelphia, Mobile, Tuscaloosa, Tuskegee, and other localities organized collections to support the boycott.³ In the present case of the undocumented Central Americans, however, the boycott was not centrally planned, nor was there any financial support from funds collected around the country. The “car pools” used by the undocumented were in effect the counties that did not enforce policies of exclusion. The protesters did not need subsidies: their family networks and their performative civil disobedience covered the costs. Their boycott was the work of a non-collective actor: it was carried out by thousands of Pedro Urdemales, each of whom designed a strategy, either independently or together with friends or close relatives. Despite the lack of close coordination, their diverse actions had all the effectiveness of a well organized group that was carrying out carefully laid plans.

Following Dworkin’s terminology, we can say that the exodus of the undocumented was a strategy that was partly persuasive and partly non-persuasive. It forced the Prince William County authorities to rescind their anti-immigration measures, but it also sent a very persuasive message

¹ Tiebout, 1956, p.423.

² Tiebout, 1956, p.423.

³ Williams, 2006, p.143.

to other immigrants and to other municipal authorities, demonstrating to the former the great extent of their power and warning the latter about the consequences of adopting measures like those of Manassas. What happened in Prince William County was a public exercise of dissent. It was quiet encroachment that created a lethal economic vacuum and caused the revenues of the local government to drop sharply, thus reducing its ability to govern well. Arendt argued that the tacit assent that an individual gives to a set of rules can be called voluntary if there is also the right to dissent. By their practice of dissent, the immigrants lent substance to Arendt's contention that the social contract between the individual and the society may not be a mere fiction when both the mobile subject and the welcoming community renew it through internal migration.¹ In Prince William County the local government presumed to withdraw the welcome mat that had been extended by part of the society, and the undocumented responded by withdrawing their vital presence.

The market is a cultural route that Latinos will continue to travel. An example from the past is the boycott against James Sensenbrenner, great-grandson of the creator of Kotex sanitary napkins, heir of Kimberly Clark, Republican representative for the state of Wisconsin since 1978, and author of an anti-immigrant bill that caused controversy and fury in 2006.² The Latino immigrants called for a boycott against Kimberly Clark, which markets such brands as Little Swimmers, Kleenex, Scott, Huggies, Pull-Ups, Kotex Poise, Viva, Cottonelle, and Depend. That organized boycott was not effective. What was effective was the boycott of Prince William County because the necessary conditions existed there: the jurisdictional diversity that made it possible for the immigrants to use other counties as "car pools" where they could exercise their purchasing power. But there was also the pressure of the activists. While the immigrants practiced the art of absence, groups of activists issued statements and won favorable coverage in the media. They held several demonstrations with T-shirts reading, "Not with my taxes. Not in my name", "Rescind the resolution", "Immigrants are part of our community", and "Immigrants are workers."³ Thanks to the combination of explicit politics and the infrapolitics of the market boycott, the exclusionary policies were eliminated. The art of presence in the market had a decisive effect in bringing about the change of policy. But it was not only the local politicians who took part in this affair. When Democratic presidential candidate Barack Obama visited Manassas on 3 November 2008, he was attracted by the symbolism of the place (two great battles against slavery had been waged there),

¹ Arendt, 1972, p.88.

² Arnold, 2011, pp.303-304.

³ Mack and Miroff, 2007.

but he no doubt also realized that Prince William County was an anti-immigrant battlefield. He “was well aware that he spoke on symbolic ground, hallowed by an ancient war yet incompletely redeemed from the legacy of slavery.”¹ In his discourse he alluded to the problem only indirectly: “Black, white, Hispanic, native American, Asian, Democrats and Republicans, young and old, rich and poor, gay and straight, disabled and not disabled, all of us have something to contribute.”² But his campaign had sent clear messages about his commitment to immigration reform. He was in the right place at the right time, and he defeated the GOP in a place that took pride in being one of the last Republican strongholds in northern Virginia: “Virginia’s voters, including the good burghers of Prince William, gave Barack Obama a 52.7 per cent victory in the state, and a 57.6 per cent margin in the county—a whopping 12-point improvement over 2004.”³ From 1948 until then, Lyndon Johnson had been the only Democratic candidate to gain an electoral victory in that area. According to Davis, Obama’s victory both in Virginia and in North Carolina was based on an alliance between African Americans and white professionals, reinforced by immigrants and university students.⁴ Latinos also spoke through the ballot box, making their demographic weight felt there as well. Their interests coincided with a campaign that presented the democrats as “the party of suburban pain as well as ethnic diversity.”⁵

Consumption as political action

Bauman has a purely negative view of the role of consumption as a means for social integration: “It is ultimately for that reason that the passing of a consumer test is a nonnegotiable condition of admission to a society that has been reshaped in the likeness of the marketplace. Passing that test is the non-contractual precondition of all the contractual relations that weave and are woven into the web of relationships called the ‘society of consumers’. It is that precondition, with no exception allowed and no refusal tolerated, that welds the aggregate of seller/buyer transactions into an imagined totality; or which, more exactly, allows that aggregate to be experienced as a totality called ‘society’ – an entity to which the capacity of ‘making demands’ and of coercing actors to obey them can be ascribed – enabling the status of the ‘social fact’ in the Durkheimian

¹ Davis, 2009, p.6.

² Obama Speeches, 2008.

³ Davis, 2009, p.7.

⁴ Davis, 2009, p.14.

⁵ Davis, 2009, p.24.

sense to be imputed.”¹ I agree with him on one point: commercial relations do not exhaust social reality. They cannot be presented as the “total social facts” of Durkheim and Mauss. But neither can it be denied that they are part of the materials and mechanisms that are available to both dominators and dominated for the exercise of power. They are the materials that history has placed at the disposition of the dominated so that they can construct their history. To neglect the political aspect of consumption and of the role of the dominated as consumers is to squander a tremendously rich political realm. What is more, it means yielding to a pre-Marxist interpretation of politics, one that assumes that politics exists mainly in some other sphere, one that is different from material production and access to what is produced. It basically negates the protagonism of the material conditions of life, and in this case of the exchange, the acquisition, the possession, and the use of the means of life.

The world of consuming is the material which is readily available to immigrants and opens up for them the way to political citizenship. Each concept and statement in the above quote from Bauman speaks of opportunity for the migrants. The immigrants pass the consumer test, which is a test they did not seek out but which they in part created since they generate demand for the very products that pave the way to social acceptance. Or perhaps we should say that, in a society modeled in the image and likeness of the market, their act of consuming signifies that they are commercially and therefore socially acceptable. Since their lack of documentation places them outside the American social contract, they have recourse to the non-contractual preconditions in their role as consumers. They enter the hall of political citizenship through the door of consumption, as became evident in the impact that naturalized Latinos had in the election of Obama. History is full of examples of non-political mechanisms that open the doors of political citizenry to outsiders. At the height of the Know Nothing movement, the strong support of the Irish for the Democrats was rewarded when the politicians granted market licenses to foreign merchants in 1843, thus breaking the business monopoly held by the native-born and setting the groundwork for the economic empowerment of the social base of the Democratic Party.²

Just as in those days commercial licenses were a vital concern, what proves to be controversial these days is the granting of driver’s licenses or licenses for companies that work in construction or offer services, precisely because these licenses are the bureaucratic authorizations that merge the world of work and consuming with the realm of politics. As documents that

¹ Bauman and Lyon, 2013, pp.33-34.

² Desmond, 2012, p.34.

concede much more than what is bureaucratically established, the licenses are the keys to inclusion. The most obvious reason why driver's licenses are so important is that in many areas public transportation is so bad that a vehicle and a license to drive it are essential.¹ One study about the efforts of immigrants to get driver's licenses in Tennessee made it clear that the license is closely linked to the right to move freely and to have personal identification, so that the "current campaigns for access to the driver's license are one part of a pre-legal, pre-institutional process that is helping to incubate novel rights claims appropriate for the new economy."² The license is not a substitute for the Green Card, but it is another step forward in the "already but not yet." The lack of a driver's license is usually an indication of irregular migratory status.³ The converse also applies: possessing a license is an indication of legal residence. Having a license means in a very real way being documented. In fact, many Dominicans enter the United States pretending to be Puerto Ricans: since no passport or visa is required for travel between the island and the United States, a Puerto Rican driver's license is sufficient.⁴ That is why the topic of driver's licenses has caused such great controversy and division in different states of the union. Some states, like North Carolina, have come up with compromise solutions that have been criticized, such as giving unauthorized immigrants special driver's licenses that are marked "no lawful status."⁵ In Tennessee the struggle to get driver's licenses was successful because "the Latino population had reached sufficient critical mass to create free spaces for communication and planning—in places like Latino groceries, Hispanic church services, scattered radio stations and small newspapers around the state."⁶ As a result, "agricultural employers, the Nashville Chamber of Commerce and the police chiefs of several major cities were on our side, in addition to more accustomed allies like church groups, service providers, civil rights organizations, labor unions and social justice groups."⁷ But what most helps migrants is their determination to act as if they were already citizens, for that is what strengthens the processes of resistance.⁸

Consumer society supersedes political society and imposes its own priorities. This facet of liquid modernity has its shadowy aspects, as Bauman has often pointed out, but it sets up a force field within which migrants can use the market as a tool for attaining political citizenship. In fact,

¹ Ansley, 2010, p.168.

² Ansley, 2010, p.174.

³ De Genova, 2005, p.246.

⁴ Donnelly, 2014, p.96.

⁵ Silver, 2014, p.265.

⁶ Ansley, 2010, p.170.

⁷ Ansley, 2010, p.170.

⁸ Mezzadra, 2012, p.159.

Latino absenteeism in elections may indicate, among other things, that voting is not among their highest aspirations. They may be making a political error, but it may also mean that they prefer to fight their battles, as Gorz observes, on firmer ground that better known to them; they want to play in a game in which they are more skilled. In this arena the immigrants appear more skilled because they are playing on a field that allows them more control: they create demand that only migrant labor can satisfy. They generate both demand and supply, which mutually fuel and legitimize one another: they process the food they consume, they rehab the houses they live in, they work in the restaurants they patronize, they stitch together the T-shirts they wear, they manage the soccer fields they play on ... Their flow into cities and counties increases the demand for housing, but immediately they also supply the labor to build more houses; they increase the demand for public services, but they also pay taxes that cover the costs. The Latin immigrants are creators of a market—that of nostalgia—which only they can sustain and on which the economic growth of entire counties depends. The transnational firms, taking note of this economic muscle, flock to the massive gatherings of Central Americans with their gaudy stands: S&W Beans, Western Union, Delta, Telscape, IDT, Curacao, Goya, Coleman, and Tigo, to name just a few. The Latin immigrants work in those firms and/or consume their products.

Being a consumer does not mean becoming a citizen, as Bauman stresses quite rightly, but being a unauthorized consumer broadens the realm of dissent into a new scenario. There is currently open dissent in the Congress, where for more than a decade the Republicans and Democrats have been unable to reconcile their differences about what immigration reform should look like. The immigrants carry this discussion onto the terrain of consuming: without being legally admitted, they continue to live in a country whose market has already incorporated them and whose political system and political class are highly sensitive to their vote as consumers. Although officially they should not be present at all, they are actively present in the supermarket, in the music industry, in the industries that produce for the market of nostalgia, and in countless other places. To penetrate further into the meaning of all this, I went back to the concept of “economic citizenship” that Sassen uses to refer to the power of businesses, corporations, and financial markets.¹ By extending its meaning to include the sector of workers/consumers, I argued that economic citizenship can also be exercised by those whom Tiebout calls “consumer-voters” but who for the same reasons are also producer-voters or, more generally, worker-voters. If the global citizenship of businesses is based on their economic role, then it is also possible to say that the

¹ Sassen, 1995, pp.XIII-XIV and pp.8-9.

ways in which the dominated use their economic power—the heft of their art of presence and their weight in the market—is economic citizenship, and this is especially true if in their exercise of that power they achieve a better position on the political playing field. This economic citizenship reveals its facet of civil disobedience in the constructive action of ordinary consuming: the immigrant acquires goods in the same way any citizen does. Economic citizenship was exercised as confrontative action when the non-movement of the undocumented used their tactic of quiet encroachment—which was actually noisy flight—to twist the arms of those imposing anti-immigrant policies in a very conservative Virginia county. The boycott was carried out without meetings, without flyers, without barricades, without shouting in the streets... Voting with wallets is a form of suffrage that has been practiced at will ever since boycotts were invented.

The undocumented made their power prevail in the areas of consumption and production. They made use of a force similar to the one used by the elites in C. Wright Mills's account, but they did so in a more authentically political way. As part of the anonymous mass, they have no special privileges which allow them just to knock on the door and communicate informally with the big-time politicians. Nor are they given to palace intrigues that are concocted behind closed doors and kept from public scrutiny, thus completely evading politics as understood by Arendt. The undocumented exert their force on what Marx considered the proper terrain of politics, the terrain where the means for sustaining life are produced and exchanged, but their influence reaches party politics also in indirect ways: they provoke dissent—which is for Rancière the core of politics—by means of their perlocutionary effect on the mass media, the NGOs, the churches, and the artists who perform in concerts supporting amnesty for immigrants, massive documentation, and a stop to deportations. Although the market and the lever of consumption seem to be the silent guests in politics, they are also the sphere in which the elites assert and enjoy their power. Central Americans do likewise, wielding their consumer power as a tool for embedding themselves in the marketplace. Immigrants have shown that, for the exercise of parrhesia, the market is a platform that is as effective as the public square—or perhaps more so—and certainly more effective than the ballot box.

3. Parrhesia of the disobedient: exercising global citizenry in the church, taking over public spaces and publicizing Dreamers in the communications media

In this section I present three examples where the undocumented practice civil disobedience and exercise parrhesia in the most explicit way. They are environments (the church, the street, the media/partisan politics) where they express themselves and build actors (church goers, artists/demonstrators, Dreamers). These actors are not necessarily ruled by the compulsion for material needs, like in the two previous chapters, but resort to countertheatre to power, a sense of humor and other resources of the subjugated. The section is built in a way that it maintains a certain symmetry and complementarity with the next chapter: the parrhesia of the undocumented in confessional spaces has its counterpart in the global citizenry that ecclesial groups are promoting, the parrhesia in public spaces is possible in a context of state heterogeneity, and the Dreamers' movement, with its multiple exercise of parrhesia, is a sign of the power of the organizations of the immigrants.

3.1 Parrhesia and global citizenry in the churches

The support that the immigrants find in the churches for integrating into US society, and being confirmed in their liminal citizenship, or in other words in their performative civil disobedience, adopts very different forms: shelters along the way, refuges to avoid deportation, places to meet and organize as groups of undocumented, learning English, lobbying to get pro-immigration policies, and lawsuits against state institutions that violate human rights, among many other forms of daily and episodic support. The details of some of this support and its significance will be developed more fully in the next chapter. Here I will focus on the forms in which the undocumented exercise parrhesia in virtue of their participation as members of ecclesial communities. Parrhesia is a form of civil disobedience in itself: it is the practice of free speech on the part of those who, it is not only assumed do not have that right, but should not even be there without saying a word. At the heart of this practice is an essential concept that I just mentioned: confessional groups constitute ecclesial communities, and in that sense, fulfill some of the functions that are the responsibility of the national community. That is why Walzer identifies religious groups as one of the principal entities for the practice of civil disobedience. Their values and rules can oppose the values of the State, and their members can prioritize between the two sets of values and rules, moving towards those of the ecclesial group.

The minimalist version of this daily practice means that that faithful of a church are not asked about their legal migratory status. The ecclesial communities grant, as a minimum, the right to stay and integrate themselves, which the State, that governs the national community, has denied them. The religious Green Card – maybe I should say naturalization – is within reach of all immigrants. These confessional communities are a segment of the national community that, by reason of their practices, has assimilated them and considers them members with full rights. The Baptist churches ask their members that they share a creed and a series of rituals, it does not matter whether they are Vietnamese or Salvadorans, whether they are citizens or do not have papers. The churches practice a type of global citizenship, that obviously has limits, but they do not coincide with the political divisions of nation-states, even though sometimes they may take them as reference points, like in the case of the dioceses of the Catholic Church. The faithful tend to act in accordance with this principle of global citizenship, even though not all may be very proactive.

The maximalist version of this principle means that the undocumented assume a major role in the ecclesial community, and that their practices of parrhesia get multiplied from there. I want to refer to those practices in this chapter, offering examples that I experienced during my field work. I am focusing on those examples under the supposition that the passive attendance at worship, or the reception of “old” bread (from the previous day), that some churches give out in their backyards, do not have the same level of inclusion and parrhesia, as the assumption of posts, coordination of groups, representation of the ecclesial institutions in important events, etc.

Lito Melgar was on the point of becoming a member of a Catholic religious congregation. It is a very small congregation, whose only community in the United States is in Virginia. While he was in the vocational process, Lito met the woman who is now his spouse and changed his mind. But he continues participating in the activities of the congregation. In the youth groups that that congregations serves, Lito met his wife, the godgather of his children, a religious who has been like a father to him, his work colleagues and even the owners of the business where he works, two of whom are members of the congregation. Work, religious practice, affective life and friendships have been tightly interwoven in the life of Lito in the United States, and that congregation has functioned as a node of connections. In his ecclesial practice Lito has matured and has become a leader. Now he gives speeches, directs retreats and has a Sunday radio program. Compared with other faithful of the Catholic Church that limit their religious practice to Sunday mass, or to the big

rites of passage like baptisms and funerals, Lito would be not only the equivalent of a citizen, but the spokesman for the mayor's office.

No other institution nor people supported as much the establishment of Lito in US society as that congregation and its members. When he committed a minor traffic infraction – an air-freshner hung on the rear view mirror – aggravated by having shown false documents, Lito was freed from jail and his fine was paid by the members of the congregation. He was able to begin and maintain his long road to residency – that was granted in March 2015 – because the congregation gave him loans to pay the lawyers office that took on his case. The congregation also gave him work in a micro-enterprise that works on remodelling home interiors. The employee/employer relationship is not free of tensions, because Lito's interests as a wage earner clash with the business motives of maximizing profits, which the congregation does not apply in savage-capitalism style, because it follows the principle of always paying above minimum wage. In spite of the tensions, religious practice for Lito has been the terrain on which he has struggled for his inclusion up to permanent residency, starting from his condition as an undocumented person with the scarlet letter of a felony. Lito cannot tell his story in the United States, his process of integration and the regularization of his migratory status, without explaining all the support that he has received from the congregation.

Reynaldo Campos and Lupe Guerra live in the house that the congregation uses for retreats, located in West Falls Church, Fairfax County, Virginia. Both are undocumented, the former from Honduras, the latter from Guatemala. Reynaldo has the "Campos Landscaping Services" microenterprise, without legal status, without insurance and without any more documents than the business cards that he himself printed. But with internet, telephones, three vehicles (two pickups and a car), mowers, blowers and leaf shredders, power washers and all the tools that a gardener uses. Everything that needs a legal registration is registered as the property of the congregation or of the members of the congregation who have regularized their migratory status. Lupe works as a waiter in a restaurant, and also has various vehicles that are in the name of the superior of the congregation. Cars are the fixed capital of many undocumented people. They are a piggy bank that can be taken without much paperwork wherever they want to establish their domicile. The congregation is the front for the undocumented, a role that it tries to play with the utmost secrecy.

The biggest secret is that the retreat house – where they put me up out of solidarity – normally is inhabited by the undocumented. The last thing that the superior of the congregation

wants is that it be made public that he has a house full of undocumented people. The congregation does not want to be associated with the undocumented, in spite of the fact that their members, as well as their partners, and the youth that they work with do not even have TPS. The congregation does not have a preferential option for the undocumented. It does not even have a political position about it. It does not have a position about any political issue, because it is an institution with a very conservative religiosity, and it sails under an apolitical flag. It simply works with the youth that respond to their announcements. And it happens that they are the non-authorized immigrants, because the neighborhoods where the congregation works is full of them.

The congregation does not distinguish between citizens, residents and the undocumented. It acts with the criteria of universality of many religious confessions. But it is very aware that it is working in a medium – especially in Virginia – where migratory status is a controversial issue, and a criteria for selecting to include or exclude. That is why it adopts measures to avoid risks, but it continues lodging, including, employing, giving them the voice and being the front for the undocumented. Their disobedience of the US legislation is obedience to the commandments of the law of God, as Michael Walzer indicated as the inspiration/justification of the groups for disobeying. Paradoxically, in this case support for the undocumented derives precisely from traditional religiosity: an ideology that could have inspired behavior adapted to the established order, but it turns out that it is the basis for the acts in contempt of the law. The dissent that the members of the congregation do not show in speech, they express in practice. Sticking strictly to the rules of their congregational group, the members of the congregation practice and reinforce the performative civil disobedience of the undocumented, in other words, the actions that express the “already/not yet”. The political position that the congregation de facto adopts, locating itself on the dissent side, consist in the inclusion of the undocumented as if there was no legislation that rejected them, but it also consists in a chain of infractions of the law – in the framework of legality – to annul the exclusion imposed by the State. So the rupture with the exclusion is a twofold rupture, because it includes constructive actions and confrontational actions, even though the latter remain as the hidden transcripts that the subjugated use as a weapon.

One of the more definitely inclusive actions that this congregation does is the radio program, where the undocumented have the microphone. It cannot be said that it is a limited exercise of parrhesia, because they do not address the topic of undocumented status, nor do they criticize immigration policies. But it is an exercise of parrhesia in so far as it is a space where they can discuss and report on the experience of culture shock, adaptation to a different society, labor

conflicts, legislative novelties and other topics, that in different ways work the polymorphous and very broad topic of inclusion. The radio programs is one of the most effective instruments of communication among Latinos. They tend to listen while driving to work, cooking dinner, working or talking with a group of friends. That is why it is very common among Central Americans to express themselves on the radio, be it as a listener that calls in by phone to communicate with the host and the rest of the audience, be it as radio hosts that coordinate a program. The group from the Dolores Huerta Community Garden, about which I will give more details in the fourth chapter, also has their radio program. The Dreamers also have one, whose origin and achievements are the topic of the end of this chapter. All are confessional radio programs. The churches not only have given them voice in their churches, but they have also multiplied the spaces for expanding the perlocutionary effect. On these radio spaces and in the religious ceremonial events, Lito, Reynaldo, Lupe and the Dreamers have had and have free speech. And even though the Dreamers – we will see why and how – address the topic of their undocumented status, on the radio many undocumented Central Americans denounce employers, NGOs and lawyers who have cheated them and violated their rights.

In summary, the churches have been a favorable environment for the development and support of the performative civil disobedience of undocumented Central Americans. The treatment as citizens, and the creation of spaces to make their parrhesia possible, are elements without which the substantial advances in their inclusion in US society could not be conceived. The importance of that inclusion in the churches could be very powerful in a society that, according to Phillips, is markedly theocratic.¹ The practical repercussions of this support are evident in the details that I succinctly described, but its ideological impact could be better appreciated in underlining the symbolic effectiveness that Bourdieu gives to religion.² The churches are places of legitimation, not just because of the quantity of their members, but also as producers of coherent cosmovisions with large followings. Economic citizenship in the churches is reinforced by that ecclesial citizenship. To restrict my treatment of this topic to the general purpose of my investigation, I have left to one side many ambivalent elements: the churches are a scenario where the theatre of power and that of the subjugated is represented. Obviously, not all religious practice is emancipatory and inclusive, but in respect to the undocumented, the theatre of ecclesial power has broadcast unmistakable signals. In this chapter I have mentioned the small

¹ Phillips, 2006, p.88.

² Bourdieu, 2009, p.146.

daily details by which ecclesial institutions contribute to the “already/not yet” of the citizenship of the undocumented Central Americans. The motivations and the meaning of this support and other heroic support, as well as a brief history of them will be treated in the first part of the next chapter. The scope of ecclesial global citizenship also will be discussed there.

3.2 Parrhesia in public physical spaces

Performative civil disobedience has more explicit moments when the undocumented take the floor and make use of public spaces to – staging insertion – present about their exclusion. Castells has insisted recently of the importance of the use and appropriation of space as an instrument of protest: “Occupied spaces are not meaningless: they are usually charged with the symbolic power of invading sites of state power, or financial institutions. (...) The control of space symbolizes the control over people’s lives.”¹ For that reason the mere apparition as non-movement of the undocumented is a challenge to the territorial control of the State. In fact, the relationship of the undocumented with US state power started as a dispute over space: unauthorized entry, violation of the principle of territorial sovereignty, elusion of the patrols and the mechanisms for controlling the space. Since it is about a confrontation with a very distinct symbolic dimension, the struggle continues with a dramatization of the access, use and appropriation of space.

In this chapter I will concentrate on two forms of that dramatization of the use of public space that also imply the exercise of parrhesia: the murals painted on the streets, and the popular festivals with the manifest presence of undocumented Central Americans. Even though both are uses of space spread through many cities in the United States, I will focus on the murals of San Francisco, and the celebration of independence that the Central Americans organize yearly in Los Angeles. Both are forms of occupation and even appropriation of space, with a more permanent effect in the case of the murals. Both resort to the histrionic and irreverent elements that Bajtin studied as attacks of those subjugated to power. Both are expressions of what Bayat categorized as street politics: the expression of conflict in the streets, the participatory use (as opposed to the passive use) of space, the visibility of quiet encroachment in public places, and the “wish to gain support and solidarity beyond the confines of their institutions among the general public.”² That participatory use, and that visibility, is the type of conflictive expression in itself – in which Butler

¹ Castells, 2012, pp.10-11.

² Bayat, 2010, p.62.

finds a performative contradiction “that leads not to impasse but to forms of insurgency”¹ because it means that those who should not be there take the microphone in events – or the paintbrush in murals – with perlocutionary effect, at times with the tolerance of the authorities, at times challenging the bureaucratic norms of the use of the space.²

3.2.1 Murals: the plasticity of the word, and the esthetics of politics

One of the most representative slogans of May 1968 in Paris was “the walls have the floor” because it summarized a vehicle for communication and politization frequently used in that struggle.³ The undocumented Central Americans have the floor in the murals of Chicago, New York, Los Angeles, San Diego and San Francisco, among other cities. The simple people and artists have worked in collaboration so that daily occurrences would be the source of the artistic motifs, and that the collective would be the authors of the murals that adorn the Latino neighborhoods and other zones of these cities. The immigrants have reinvented the metropolis, as Davis observed, and their reinventing has politicized them, because the murals are political analysis and proposals, like what happened with the frescos of the Italian painter Ambrogio Lorenzetti, whose proposals for good government and denouncements of bad government were the object of study of Quentin Skinner. The British political scientist focused on the cycle of frescos that Lorenzetti painted between 1337 and 1339 in the Sala dei Nove of the Palazzo Pubblico in Siena. In terms of the murals, I maintain the same as Skinner asserted about the frescos of Lorenzetti: “Although it is obvious that these paintings do not constitute a text of political theory in the conventional sense, it is equally obvious even to the casual observer that they are basically intended to convey a series of political messages.”⁴ Orwell had already stated that “All art is propaganda.”⁵ In that sense, the murals are an exercise of parrhesia that complement the site of politics. He takes it from the Greek agora, the medieval court or the contemporaneous assemblies of Congress people about street demonstrations. The murals are another form of street politics that Bayat analyzed. But it is a street politics that is not limited to being established in a park with a cigaretter or candy stand, but that locates its word in the street through plastic arts and exercises politics with esthetics. The “Nulla aethetica sine ethica” is changed in the streets for a “Nulla ethica sine aethetica”.

¹ Butler and Spivak, 2007, p.63.

² Castells, 2012, p.10.

³ Besancon, 1970.

⁴ Skinner, 2004, p.39.

⁵ Orwell, 2009, pos.58.

Given that the murals are the fruit of a process – at times communitarian – the murals are appropriated by the inhabitants of the neighborhoods, in addition to being a way of appropriating the city. Their message is unavoidable, because the murals and graffiti, as Caldeira observed about those in São Paulo, “they flood the city, they do not leave any space empty, and in this way they keep the citizens from having a place for diverting their gaze.”¹ Following Sennett, I maintain that the murals belong to one of those uses of disorder that inject life in the cities, and go against the puritanism of urban planning that fears and flees the unknown, the divergent, and the uncontrollable.² We can say that if the virtuous and respectable orders of the city are a theatre of power, the countertheatre of the subjugated dramatizes a rupture with that puritanism and the depersonalization of space, emblematically denounced in graffiti that was in Marburg in the beginning of the 90s: “Beton ist Koma” (Concrete is coma).³ The “disorder” of muralism interrupts urban planning, and in that way its very presence is an irruption into politics, because they snatch the power to administer urban space from capital, the politicians and the technocrats. They are, in themselves, an expression of dissent against puritanism in urban planning, and by their content, they manifest dissent against various aspects of public policies.

Duque thinks that “one of the lines that leads to public art comes from romantic individuality, that takes the *merveilleux* to extravagance, either to protest against the circuit of production and consumption of art, established and repeated *ad nauseam*, or to defend those “without voice”, lending them its own.”⁴ Duque brings up *Les Misérables* of Victor Hugo – oscillating between the elitism of the artist moved to pity by the suffering – and populism – more or less committed – of the Mexican murals. He compares this art with the hunting trophies hung in English mansions. I believe that the design of the contemporaneous murals is more related to the distrust of politicians by trade, and the desire to not be the voice of those without voice, but the occasion where the people speak their own voice, as Feenberg and Freedman pointed out and summarized quoting another slogan from 1968: “Do not serve the people. They will serve themselves.”⁵

¹ Caldeira, 2010, p.121.

² Sennett, 1992.

³ Forty, 2005, pp.75-95, p.75.

⁴ Duque, 2001, p.111.

⁵ Feenberg and Freedman, 2001, p.74.

Murals of Central Americans and/or about Central America in Balmy Alley

The murals that the Chicanos first, and the Central Americas later, have painted on the walls of US cities, not only have been a means of reinventing the city¹; they have also been the product of a process that has included the involvement of the community and/or an insertion of the artists in the midst of the immigrants to get steeped in their reality, and communicate the problems of the Latinos, from the tribulations that they experience in the neighborhood, to the tormentous transformation of their history. With this purpose some muralists in San Francisco have associated themselves with Precita Eyes Muralists, located in the heart of the Mission District, an initiative that organizes trips through the streets illustrated with murals, grant recognition to the outstanding muralists, raise funds from foundations and philanthropists, organize talks and courses, sell reproductions of murals in portable formats (post cards, posters), negotiate agreements with the mayor's office, and assume responsibility for the restoration and maintenance of the murals when they enter into a phase of deterioration. Certainly Precita Eyes Muralists apply what Chase said of the murals of San Francisco, that it "an eminently accessible art form that perfectly reflects the city's synergy of ethnic diversity, political activism, artistic talent and financial support."² Susan Cervantes, author of many of the most beautiful and meaningful murals, is the lead singer – or the principal painter – in this association, that she founded with her husband, who also is a muralist, and the sculptor Luis Cervantes. In their website (www.precitaeyes.org) we can appreciate some elements of her design that, in the best tradition of muralism, maintains the contact between artists and the community: "A mural is a bridge to the community. The artists communicate with the people; meetings are held to discuss the issues. The result is a reflection - a mirror of that community." And also: "Precita Eyes is art for the people. Precita's murals are thought-provoking and really speak to issues of class struggle, racism, oppression and other relevant issues to communities of color." And finally emphasis is placed on art's accessibility which is why they are committed to murals: "Murals are the people's art, because you don't need to have money to appreciate them, just walk down the street and take a look, learn, share and understand the story, the message."

¹ Davis, 2001, pp.61-62.

² Chase, 1995.



One of the most well known and captivating murals of Susan Cervantes is “Indigenous Eyes: War or Peace” that Cervantes painted in 1990 in Balmy Alley on a garage door, inspired by the struggles of the Central American indigenous. Latorre states that “On the pupil of the left eye we see a skeletal figure dressed as a soldier (...) In the right eye, we find the dove of peace flying toward the sky. These two motifs reflect the contradictory life of the contemporary Maya people, who are caught between the violence of state repression and the peacefulness of their cultural practices.”¹ In the form of the content of the pupils appear the actors of good and bad government, in the manner of Lorenzetti, in this case embodied in the soldiers that the empire finances, and the dove that refers to the Mayan worship of nature, and embodies a widely known peace symbol.

The location of this mural could not be more appropriate. San Francisco is a city with an abundance of murals. By 1995 there were 450 public murals documented in San Francisco alone, with at least 100 more in the East Bay cities of Oakland and Berkeley, turning that city into what one critic has called “the highest per capita mural output in the world.”² But perhaps the tiny Balmy Alley already had then – in 1995 – the greatest concentration of murals per linear meter, which motivated Nan Chase of the Washington Post to write, “Balmy Alley, where nearly every garage door and back-yard fence has become a canvas for the Latin American community's pride and anger -- 40 murals in nearly as many styles.”³ Balmy Alley is an art gallery. Guisela Latorre defines it as “a short and narrow street that stretches from Twenty-fourth to Twenty-fifth Street in the Mission, sandwiched between Harrison Street and Treat Avenue. (...)With its close proximity to other arts organizations, Balmy Alley contributes to a visibly significant reclamation of the urban space.”⁴ I have known this unique gallery since Lois Lorentzen showed it to me in 2008, a professor

¹ Latorre, 2008, pp.169-170.

² Chase, 1995.

³ Chase, 1995.

⁴ Latorre, 2008, p.164.

at the University of San Francisco and an expert in migration. Her explanations allowed me to understand the meaning of some murals and the strength with which they resounded for the Mission District community.

More than any other of the street-galleries of San Francisco, Balmy Alley is committed to the history of Central America. This is due to the involvement of PLACA, that was developed there in 1984, through nine fertile months. Ray Patlan called together 36 artists and neighbors to paint murals committed to peace in Central America, and especially the indigenous struggles against military regimes strongly controlled or influenced by the US government.¹ One of those murals was dedicated to the Nicaraguan Literacy Campaign. Jane Norling painted it in 1984, using as a model a photograph of the journalist Margaret Randall. It was named “Darles Armas Y Tambi3n Ensearles a Leer” (Give Them Arms and Also Teach Them to Read), a quote from Carlos Fonseca Amador, founder of the FSLN. One day the owner knocked down the wooden fence that had served as the canvas for the mural. Norling took her painting, fragmented into as many pieces as the fence had planks, and put it in her backyard, where it has been able to survive past its life expectancy, and that mural now over thirty years old can be admired by visitors. Another mural reproduced – in three languages – a poem of the Nicaragua poet Daisy Zamora. I was able to photograph it in 2008, a little before it was removed or replaced.



The PLACA project was the fruit of a desire to make known the connections between the empire’s geopolitics and the growing Central America diaspora, graphically supporting these theses with which asylum was obtained for thousands of Guatemalans and Salvadorans through the American Baptist Churches v. Thornburgh (ABC) Settlement Agreement. The tradition of historicizing Central American immigration and politicizing it through its association with imperial geopolitics, even though in decline or even outmoded among grassroots organizations, has been

¹ Latorre, 2008, pp.165-166.

continued by the muralists in Balmy and other streets of San Francisco. The next mural is titled “Un Pasado que Aún Vive/A Past That Still Lives”. Joel Bergner painted it after working some months as a teacher in El Salvador. According to Ramírez and Perla, “the central image at the far left depicts a woman carrying her son in the back of a truck, looking towards a violent past. A woman clutches a letter from her husband who has moved to the United States to find work. Bergner reminds the viewer of how common families were painfully separated because many migrated to the United States in search of jobs, a better quality of life, an issue still relevant around the world.”¹

The PLACA project marked a highpoint for the inclusion of Central America in the murals of a US city. The key rested in the fact that the tribulations of the Central American indigenous were associated with those of Mexican and North American indigenous, and that is why, Latorre points out, “Balmy Alley became one of the first mural sites to expound an Indigenist aesthetic that transcended a Chicana/o-centric Indigenism while simultaneously making meaningful connections between the Central American struggle and the Chicano Movement’s indigenous consciousness.”² The arrival of Central American refugees helped to strengthen those connections. One of those refugees was the Salvadoran Isaiás Mata. He arrived in San Francisco and in 1992 contributed to the murals with “500 Years of Resistance”, a mural that covers the lower right quadrant on the façade of St. Peter's Church of San Francisco, close to Balmy Alley, a church that served as a sanctuary to provide refuge to undocumented migrants that were fleeing the repression in the isthmus. Side by side on that mural are rebellious figures from the history of the church in Mexico, United States and Central America: Martin Luther King, Monseñor Oscar Arnulfo Romero, Miguel Hidalgo y Costilla, Sor Juana Inés de la Cruz and Bartolomé de las Casas. Like other murals, it links the tradition of Central American resistance with that of the United States and Mexico, seeking empathy and solidarity in the Anglo-Saxon, African American and Chicano communities.



¹ Ramírez, 2012.

² Latorre, 2008, p.166.

Carrying on the tradition started by the PLACA project, the mural segmented into two parts between which is placed this paragraph is called “A Tribute to Monseñor Oscar Romero” and was painted by Jamie Morgan in 2001. It also deals with good and bad government, as well as violence in the country of origin and in the destination place. Sprague describes it this way: “Reminiscent of Cervantes’ Indigenous Eyes, a large skeletal soldier dominates the right hand of the painting (bottom right), accompanied by fire and neutralized by two adjoining cans of red and blue paint, offering art as a solution both for global warfare and local gang violence. The imagery is juxtaposed by the blazing sun and thriving agriculture on the right, including symbols of a glowing heart and a photographed image of Archbishop Oscar Romero.”¹



The new muralists are inspired by the motifs of the most recent local history, the migratory policies and the histories that have captured the attention of the journalists. Also located in this Central American gallery which is Balmy Alley, the following mural that Josue Rojas painted in 2010 is titled “Enrique’s Journey” and was inspired by a book by Sonia Nazario of the same title, a book for which Nazario – then a reporter for the Los Angeles Times – won a Pulitzer prize, among other recognitions. The book deals with a 17 year old boy who travels from the mountains around Tegucigalpa in Honduras to meet up with his mother in the United States.² The mural, according to Sprague, shows Enrique’s journey “from rural Central America (portrayed in the right of the mural), to the United States. The boy travels via train, and meets various people along the way, and his grandmother (portrayed in a welcoming purple hue), awaits his arrival on the other side. Uncle Sam and the Immigration and Customs Enforcement (ICE) skeletons reach out to grab the young boy (Above left). Enrique is safe, however, as he is guided on his journey by an angel (Above right).”³

¹ Sprague, 2012.

² Nazario, 2007, pos.44.

³ Sprague, 2012.



The mural contributes to the more disseminated image of the unaccompanied Central American migrant children, and forms part of a long series of murals that challenge the US migration policies and praises the struggles of the undocumented for transforming those policies.



Covering a side wall of a well known Latino cafeteria—Grandmas Deli—that is on Mission Street, this mural is representative of the new generation of muralism in San Francisco. The complete caption reads “No human being is ilegal”. The fragment that I selected shows the detention, along the wall of the southeast border, of a young female migrant by an Immigration and Customs Enforcement agent (ICE) that has Latino features, as in fact many agents of the Border Patrol have – because they are Latinos. It is a denouncement and a call to ethnic solidarity.

Up front appears a Latino showing what is being done and what has to be done against bad government: organized struggle, that the mural that I include below also depicts.

Another fragment of the same mural shows a series of tombs in the desert, that are not just the dead by hyperthermia because of the bad policies, as a graffiti that explains the mural clarifies: “Dedicated to: The 28 souls that were killed by Border Patrol since 2010, to the 500 migrants who were swallowed up by the Sonora desert, the 2 million too many migrant people deported since 2008 and to all the victims of the OBAMA administration’s ABUSIVE immigration policy.” And another fragment shows a woman carrying a microphone and dressed in a shirt with the caption “I am Anastasio Rojas”, in memory of Anastasio Hernández Rojas, an immigrant who it is presumed was beaten to death on May 31, 2010 and who, in any case, died on the third day of being in the custody of the ICE agents. Even though the final verdict resolved the migration agents of any responsibility¹, a video shows that it was a police lynching.² The mural was the work of the muralist Pancho Peskador and 16 youth involved in “67 Sueños”, a project directly dedicated to the pro-immigrant cause, and inspired by the history of the young undocumented immigrants, that are estimated to be 67% of the youth in the Bay Area, they are the Dreamers to whom the following section is dedicated.³ The slogan of this initiative is “No human being is illegal and each one has a dream.” The proclamation “We have a voice, we have a story” –that heads its website (www.67suenos.org)- is a declaration of parrhesia that is exercised on the walls and fences of the city. With the murals of the project, the undocumented had a voice and paintbrush, and bestowed an esthetical dimension on the ethical and political cause of the Dreamers. They also attracted solidarity: Quakers Concerned with Immigration Justice, through the American Friends Service Committee, granted 67 Sueños a fund of nearly \$40,000 dollars to expand the mural series. Each time that 67 Sueños paints a mural, there is a publicity exhibition so that the neighbors and other people can witness the process from the beginning to the end, and so they can dialogue with the artists and their 50 collaborators.

The expression and permanence of the discourse in the mural makes it possible for the message to be communicated even when the messenger is no longer there to dialogue. The following mural transmits an argument similar to that of María García: “We didn’t cross the

¹ Department of Justice, Federal Officials Close the Investigation into the Death of Anastasio Hernandez-Rojas, November 6, 2015, <http://www.justice.gov/opa/pr/federal-officials-close-investigation-death-anastasio-hernandez-rojas>

² SBCC Media, 2012.

³ Jobin-Leeds, 2015, pp.90-91.

border. The border crossed us!” The murals not only defend the rights of the undocumented, but also provide arguments that justify their disobedience of the US law. All those who refer to California as Aztlán, the promised land in Aztec mythology, fulfill this function.



Mexican muralism, that arrived in San Francisco at the beginning of the 1930s with Rivera y Siqueiros¹, has been reintroduced by Central American and/or US muralists that paint motifs that we can call Central American, because they refer to the struggles in Central America or those that Central American immigrants are fighting – above all undocumented ones – in the United States. This new current of muralism has been faithful to the collectivist directives that Siqueiros postulated: “It is evident that mural painting, a work of great material proportions, cannot be done by just one man, in other words, it cannot be an individual work. It requires many hands.”² And not only have they carried out a collective work. The collectivity involved has been the inhabitants of the neighborhoods where the murals are painted, and the undocumented immigrant youth. The motif and the doers have merged to produce a work that does not give voice to the voiceless, but where that is possible because they do have their own voice, and do not need to talk through third parties. There is another aspect that the collective production of a mural entails: it is also a form of dramatizing who constitute that “we”, what is it that is common, and how a group appropriates the city. Like all theatre in the sense of Thompson, its impact is not measured by the immediate effectiveness, but by its capacity to transmit a message with a perlocutionary effect, in other words, a message that unleashes a series of reactions, some favorable, others hostile, all generating policies. And here the medium does become the message, because the very establishment by the undocumented makes it be performative – and also a practice of performative civil disobedience- the message of one of the most painted slogans in the murals: “we are here, and we are not leaving”.

Bayat maintains that for the multitudes that make up a non-movement “space clearly provides the possibility of mutual recognition —a factor that distinguishes them from such

¹ Stein, 1994, p.74.

² Alfaro Siqueiros, 1979, p.40.

fragmented groups as illegal immigrants, who may lack the medium of space to facilitate solidarity formation unless they come together in the same workplaces, detention centers, or residential compounds. These latter groups rely often on mass media, rumors, or distanced networks—that is, knowing someone who knows someone who knows someone in a similar position—a process that facilitates building ‘imagined solidarities’.”¹ In the United States the spatial mobility of the undocumented migrants is not as limited as Bayat assumes, probably influenced by the series of suggestive but inexact metaphors that the media and the brochures of the NGOs have disseminated with remarkable success: those who live in the shadows, the invisible, the underground, etc. I think that the undocumented not only have the opportunities that Bayat mentions to coincide in space and express that mutual recognition: the churches, the organizations that they themselves build and those that involve them, the collective demonstrations and festivals, among many other occasions of making themselves very visible and reinforcing their complicity. The murals are one more space for this recognition, with the advantage that the work of making the mural is a stage of mutual immediate recognition, and the permanence of the mural is an opportunity for deferred recognition.

Gentrification as loss of parrhesia

A negative proof that the murals are a vehicle for practicing parrhesia, expressing dissent, manifesting presence and appropriating space is the effect that the gentrification of the Mission District has had on them. In general terms, gentrification has been defined as “the transformation of a working-class or vacant area of the central city into middle-class residential and/or commercial use.”² It also has been defined as “the new urban colonialism.”³ The issue is much more complex, because gentrification began many years before the word was coined, and it has taken numerous forms. They include the revitalization of the city through the acquisition and renovation of buildings that were going to be demolished in the 1950s (known as “red-brick chic” in San Francisco)⁴, to the gentrification in Castro street (San Francisco) which was a strategy for countering a housing market that broadly discriminated against gays and lesbians.⁵ The gentrification that is taking place in the Mission District is the transformation of a working class

¹ Bayat, 2010, p.22.

² Lees, 2008, p.XV.

³ Atkinson, 2005.

⁴ Lees, Slater, and Wyly, 2008, p.6.

⁵ Smith, 2005, p.102.

community inhabited by working class and low-income immigrants, and later generations of those immigrants' families, into an area of middle class and upper-middle class residents. In this case I agree with DeSena when she says that "gentrifiers create segregation by social class, which perpetuates the current system of social stratification and ultimately reproduces social inequality. Thus, gentrification creates greater social inequality."¹ One of the more obvious forms in which this happens is through the displacement of Latinos, that automatically has repercussions on the vitality of the businesses whose owners are Latinos and who see themselves forced to sell their better-located places in the Mission District, which reinforces the gentrification. This closing of businesses replicates what happened a decade ago in Harlem with the small businesses of African Americans.²

In April 2014 I went through the streets of the Mission District of San Francisco with the sociologist Susanne Jonas, an expert in how imperial geopolitics has affected the history of Guatemala and the Mission District, where she lived for a number of years. Jonas showed me the sites where the murals have disappeared, and how the Latino community was being gradually replaced by the Yuppies. In that trip we saw the gate whose photograph is inserted below. It is only 10 streets from Balmy, surrounded by murals, on 239 Osage Street. That fortified residence is an example of the transformation of the urban landscape that is taking place in the Mission District.

In many scenes of Mission District we found this type of enclave, more and more numerous, at times flanked by simple homes, whose gates still exhibit murals. In this muted struggle around who controls space resound echoes of what the African Americans fought at the beginning of the 20th century over property, and the use of the beaches of Santa Monica and its surroundings. Henry Morales, from El Salvador, ex-gangmember and social promoter of the Central American Resource Center (CARECEN) of San Francisco in 2014, explained to me how the inhabitants of the Mission District are experiencing gentrification: "Here racism is felt a lot, because now we are living alongside someone who has a Mercedes Benz. And right next door is a group of Latinos with 10 to 15 people living in two rooms, and the contrast between wealth and poverty is seen a lot. They do not want us here. The truth is that they are getting rid of us. And since they have the businesses, they can talk to the mayors, the city lawyers and federal officials, and tell them, We have these problems here, we want you to get these gangs out of here because

¹ DeSena, 2009, p.9.

² Maurrasse, 2006, p.70.

they are affecting our businesses, our commerce.’ That is racism. They grab anything to get rid of us. The parents of a friend, who have lived here for more than 20 years, if they make noise, the domestic comes over to tell them that this is their last chance.”

Metzi Henriquez, who came from El Salvador when she was two years old, and works as a Mental Health Specialist in the Second Chance Tattoo Removal Program of CARECEN, summarized the process: “This neighborhood has changed a lot. Before it was the first place all the immigrants would go to, because San Francisco has been and continues being a Sanctuary City. All of us came here, we grew up here, but our families can no longer pay the rent. It all began with Silicon Valley in the 90s. Many companies came in. Since then, families who have lived here for 15 years, we have moved. Then there was a pause because of the depression. Then came Google, Twitter...that now is in its peak, and once again there is another wave of removing those who survived the 90s. The owners rent out or sell the apartments to corporations and they build completely new condominiums, with solar energy and ...” Morales adds “...very green. Now it is more expensive to live here than in Manhattan. But there is still a lot of poverty here. For me the injustice is that there is a lot of money, but no one wants to help the children, nor repair the schools. This happens in any country. But here there is a ton of money. Here there are loads of millionaires. There is a war against the poor, but not against poverty. This year we have seen many attacks on the murals. And they are taggers that are not from the culture of the taggers, that have been here in San Francisco for ages and have never touched the murals. And now we see that the taggers are painting over the murals, but they are not taggers from the community, they are part of the new generation of youth that have come in. They do not understand nor respect muralism, that represents our culture, struggles and roots.”

Henriquez qualifies the attitude of the gentrifier toward the Latinos: “Those who come in like the food, the music and this architecture. But they do not like that we are here. It is fashionable. Even in the media you see that the gringos like rap. It is happening to us like it did the African Americans. They like our traditions, but not us. Right now families are coming in who like that their children learn Spanish, and they put them in bilingual schools, they live in the neighborhood, they want the Latino woman to take care of their child, they like the murals, they go to the pupuserías, but they are throwing us out.” Morales concluded: “There is no cultural exchange. That is why we say that it is colonization, because they are buying and evicting. If we were indigenous, it would be clearer that we are suffering colonization. But we really are the natives here and now we are dispersed. Mission is not going to continue being a politically powerful

community. And the politicians cannot help, because what can a politician do against the corporations? Not even the mayor can do anything. Big Business is winning. And since Big Business is the owner of the prisons, it is in their interest that we lose services and go to jail.”

The class struggle is a struggle for space that is in a decisive moment in the Mission District. CARECEN and other organizations have reacted with programs that reduce the stigmatization of Latinos and their vulnerability: removing tatoos, gathering them around socially acceptable activities and regularizing their migratory status. Muralism continues its expansion, and has taken up this banner of struggle. Balmy Alley once again provides space to speech to respond to the gentrification. Below are two fragments of one of the most recent Balmy murals, where the two moments of gentrification are presented.



The mural is the plastic version of what Morales and Henriquez explained to me. Like the frescos of Lorenzetti, this mural expresses two stages of bad government: the criminalization of the youth because of their involvement – real or just feared – in gangs, and the neighborhood once it is gentrified. In the first fragment appears the opening of the process: the stigmatization of the Latino youth and their police detention. The principal scene alludes to the Yuppies of Silicon Valley, represented by a person who is writing with a computer. On the right, behind the young

man with the red shirt with the number 80 on it, is “Discolandia”, a place where Latino youth used to gather, now gone as a consequence of the gentrification. The lower fragment shows a moving truck and a blond gentrifier who is climbing the stairs of her new home. The houses have acquired the typical architecture of the more opulent zones of San Francisco. In the first plane is a policeman in an attitude diametrically opposed to the attitude he had toward the Latinos: relaxedly drinking coffee – Starbucks type? – next to another blond woman. The persistent poverty is represented by the homeless who are resting on the sidewalk on some cardboard, in the face of an indifferent community. The “uan wey” and “otro wey” signs are a Spanglish that plays with the hispanic spelling of the Anglo Saxon phonics, with the picaresque addition of a taunt toward the policeman, because the sign “otro wey” that points to him can also sound like – in hispanic phonics – like “otro buey”, a typically Mexican pejorative expression. The “uan wey” and “otro wey” are a round trip into Hispanic and Anglo Saxon phonics and spelling, that mark the shifting moment of the community and its ethnic transition. The lush greenery that frames the mural probably alludes to the ecological aspirations of those who buy solar energy, but do not hesitate to displace the “natives” that made the Mission District what it is.

Castells observed that “often, buildings are occupied either for their symbolism or to affirm the right of public use of idle, speculative property. By taking and holding urban space, citizens reclaim their own city, a city from where they were evicted by real estate speculation and municipal bureaucracy.”¹ The murals can be taken as an artistic sublimation of a desire for occupation. In any case, the muralist movement and the graffitists can snatch the dominion that the gentrifiers and new owners claim over their private spaces, because muralists and graffitists, Caldiera points out, “proclaim that any surface facing outward is public. (...) So, they challenge the limits of private property and the distinctions between public and private.”² They certainly continue being a means to protest over gentrification, a desire to keep a presence in public spaces and a way of conserving the Latino character of the neighborhood. Mural experts have maintained that “a mural becomes a symbol of a neighborhood, defining its character in the eyes of both its residents and outsiders. (...) Murals become landmark, part of the oral geography of an area.”³ The murals, therefore, help to define the identity of a neighborhood – whether it is a Latino community or Yuppies from Silicon Valley – because they form part of the means with which a community is imagined, and a sense of belonging cultivated. In spite of the transformations of

¹ Castells, 2012, p.11.

² Caldeira, 2010, p.121.

³ Cockcroft, Pitman Weber, and Cockcroft, 1998, p.86.

globalization, we continue in a world in which, as Castells wrote, “ethnicity becomes the foundation for defensive trenches, then territorialized in local communities.”¹ On this shifting terrain, the muralists have the word, even though not the only, nor the last word, because Latinos continue dwindling, and because the danger of cooptation is strong, as can be inferred from the fact that the acceptance of the murals does not go hand in hand with acceptance of Latinos.

Gentrification gives capital back dominion over urban space, and allows a return to the puritanism of urban planning. But also, in a muted but visual territorial battle, gentrification is an indicator that the use of the space is an important platform where inclusion and the exercise of parrhesia are in play. It is the negative confirmation of the power of muralism that it has served the undocumented to send their message and to not be excluded. It has been a creative, irreverent and humorous message, like that analyzed by Bajtin, and generator of an educational process about civil disobedience, like Ebert wanted. The murals have been a staging of civil disobedience in defense of the undocumented by giving voice to those who it is assumed should not have it, and because of the content: denunciations of the “migra” that arrest and murder Latinos, proclamations about the rights of the Honduran child to be reunited with his mother, the connection between imperial geopolitics and migration.

There is no doubt that, in spite of its permanent public exposition, the murals – like any other – are a vehicle of public discourse with many limitations: they are not always collective, and even in the collectives, the inhabitants of the neighborhood had to implement a sketch preconceived by the artist (even though with a certain margin for their contributions), they are not always located in the most well travelled sites, and even though they may be very expressive, their message is not always accessible to the profane. Also the influence of those etched with which Cranach and Durero promoted the reform had obvious limits, but that did not keep them from being a type of social-media, so that the message of Luther might go viral, as was pointed out by Tom Standage. Luther himself remarked that “without images we can neither think nor understand anything.”² In the case of the murals of the undocumented, their effectiveness as an instrument of disobedience comes from the fact that they followed the law of May 10, 1968: “First, disobey; then write on the walls.”

¹ Castells, 2010, p.63.

² Standage, 2013, pos.59.

3.2.2 The Street politics of patriot parades

On September 15, 1821 the acts of independence of the Capitanía General of Guatemala were signed, under whose jurisdiction were most of the current Central American nations. By happy coincidence it happened that on September 16, 1810 the priest, Miguel Hidalgo y Costilla, led an indigenous uprising against the Spanish crown, the initial act of Mexican independence known as the Cry of Dolores, named after the place where the uprising happened. Chicanos began the tradition of celebrating the Cry of Dolores in Las Vegas, New York and Los Angeles. The closeness to the date of Central American independence, the similarity of the celebratory costumes, and the enormous number of Central Americans in Los Angeles, were factors that came together for Central Americans to begin to celebrate independence day in that city. Of the nearly 10 million inhabitants of Los Angeles county half are Latinos, of whom 16% are Central Americans: 404,070 Salvadorans, 254,750 Guatemalans, 49,856 Hondurans, and 42,617 Nicaraguans.¹ They are some nice numbers to turn any street celebration into a massive event.

In September 2014 my second stay in Los Angeles coincided with this celebration. On September 14 I was exploring the terrain, already very crowded. Opening a path through the multitude, my Latin look worked the same effect in each one of my previous incursions into the proximities of MacArthur park: I was offered false documents at 80 dollars for Mica, 10 dollars for Social Security or a driver's license. The entire park was an altar to nationalist dieties: flags, shields, names of Central American cities, and even of their soccer teams, but no image of the heroes of independence. In fact the very word "independence" was not written on any of the banners, flyers or floats. The next day a group of Quiché indigenous from San Antonio Sija invited me to accompany them and see them march in a parade dressed as indigenous and Spanish colonists. With the expert help of a Salvadoran hairdresser, in a tiny place, they put on their disguises – dull masks, gigantic sombreros, various capes with sequins and golden ornaments –in which they cooked themselves for two hours in a slow walk and a lot of dancing, under an inclement sun unhindered by a clear sky. A politician of Guatemalan origins, alongside whose red sports car they had to perform their dances, invited them to what was their first experience as participants in a patriotic parade. The exchange did not cease to be ambivalent: an act of manipulation, that also was an opportunity to launch into public spaces. Ambivalent or not, the

¹ U.S. Census Bureau, 2009-2013 5-Year American Community Survey, B03001: HISPANIC OR LATINO ORIGIN BY SPECIFIC ORIGIN - Universe: Total population.

disguise created a paradox: the indigenous have disguised themselves as their ancestors, even though they might not have much in common, not even with their peers that stayed in San Antonio Sija. They were dramatized to be what they had quit being, maybe to be it a little bit, in their eyes or in the eyes of others.

Folklore for recreating the imagined communities

This is one of the interpretations that fits and responds to the question that Butler set forth in one of his books: “Who sings to the Nation-State?” Those who want to acquire group identity and recreate the imagined community of origin sing to it. These singers of the independence day celebrations are in a position that appears to be diametrically opposed to that of those who motivated Butler’s question: the Latinos in 2006 that recorded a Spanish version of the US National anthem, against which George W. Bush hurried to claim that “the national anthem can only be sung in English”, and in so doing –according to Butler- he restricted the nation to a linguistic majority.¹ Bush reacted to the irate protests to the adulteration of a national symbol, setting the limits that Spanglish multiculturalism must respect, limits that he himself had crossed illegally and without any scruples during his campaign: Phillips states that, when visiting cities like Chicago, Milwaukee, or Philadelphia, Bush “would drop in at Hispanic festivals and parties, sometimes joining in singing ‘The Star-Spangled Banner’ in Spanish”.² With these precedents the position of the celebrators in Los Angeles to a certain extent is in conflict with those who latinized the US national anthem, but it is above all a continuation of a tense dialogue. Now that Latinos cannot “assimilate” in their own way the US symbols, the Central Americans took the avenues between Pico-Union and MacArthur Park in Los Angeles to reconstitute and proclaim their identities of origin. They did not sing the notes of a Central American anthem, because there is none. A Pan-Central American identity does not exist in the isthmus (not even a Pan- Mayan one). The bureaucratic efforts of the Central American Integration System (SICA) to approximate a regional government rest precariously on waning funds from the European Union, go against the grain of indifference of the popular sectors, that continue to lack information and enthusiasm about it. The hero of regional unity after independence – Francisco Morazán – is remembered through the official iconography in Honduras and El Salvador, even though in life his cause did not find a reception among the elites of any of these two countries. Nor can it be said that in Los

¹ Butler and Spivak, 2007, p.59.

² Phillips, 2004, p.142.

Angeles that regional identity has been promoted. Each float, key chain, flag, banner, stand, tshirt and hat bore the name of one nation, pure from any mixture with others.

Nevertheless, the different nationalities united in one celebration, and in this way spoke their say about the nationalist symbology: we are recovering our origins, we sing to – we parade to – other Nation-States. The festivity is adapted to the notion of García Canclini of popular cultures as the “result of an unequal appropriation of cultural capital, a unique elaboration of their living conditions and a conflictive interaction with hegemonic sectors”.¹ But in that celebration, except for a handmade sign against ARENA, the Salvadoran right wing party, there was no conflictive interaction with the powerful of their countries of origin.

The dialogue was held with a US audience through the celebration that in itself was a manifestation of power, through the notable presence of numerous organizations, and through their numerous messages, among which the floats suggestive of migratory motifs were the most prominent: the evocation of the Bestia (the train on which many migrants cross Mexico), the protest that “Freedom has no borders”, the denouncements against ICE, and more.

The tshirts, headbands and coffee cups for sale complemented the denouncements, but took them to a comical plain that the subjugated manage masterfully. Tshirts abound with comical and challenging messages, some using contempt of the law as an instrument of civil disobedience, and trivialization as a weapon to stand up to power. The sayings on tshirts and cups were a practice of parrhesia because they were converted into vehicles for political speech. Clothing became a vector in the infection of a new common sense: “I am not an illegal, I am a tourist”, “Would Jesus deport?”. In daily objects, transmuted into souvenirs, blasphemy against the established order and the exaltment of being Latinos took place.

The placement of political messages on commercial objects is an act of irreverance in itself with the tradition of western political thought, maybe one of the most disseminated modalities around the world. The objects that are sold to satisfy material needs, are also the props for political messages, they are homemade mass media to communicate a position about migratory and other policies. This intersection of political and commercial purposes also became visible in some service providers, like the lawyer who presents himself as Dr. Desalojo [Dr. Eviction], in reference to the victims of gentrification and those evicted by the banks, that constitute his clientele.

¹ García Canclini, 2002, p.91.

This fusion of politics and commerce is carried out in a carnival atmosphere, a kind of high moment of “quiet encroachment” that in this context adopted the form of a clamorous encroachment, with all the dangers entailed by the broadcast of signs of strength and big numbers, that tend to rouse the alarm of individuals and groups disposed to feel themselves threatened by the growing presence of Latinos. But also with all its benefits, because the carnival legitimizes the presence of the Central Americans who are there not just as an anonymous mass, but with associations that represent them and attest to their appropriation of organizational cultural capital.

The carnival, according to Bajtin, was an occasion so that “not only the school children and the clerics, but also the hierarchy and the doctors in theology would allow joyful distractions during which they would let go of their serious piety”, because the carnival “would force them to a certain extent renounce their official condition.”¹ In other words, they let go of the mask of officials that Scott mentions as the prison of the dominant.² The politicians who authorize and attend the carnival, and the police who ensure its security, play their bureaucratic roles, but claiming that they are unaware that those who are participating there, and having fun – like the Guatemalans who I joined – are undocumented. Without ignoring it, they contribute to the fact that the carnival is turning the world upside down. Their pretense rests on the “fungibility”³ of the documented and undocumented Latinos, that on the border, works to the detriment of the citizens with the “Mexican Brown” look, and in the interior works to the benefit of those who do not have documents. In this way the police participated in this counter-theatre of resistance to the anti-immigrant policies, that respond to the theatre of domination that takes place on the border, and also in the interior of the country. The Los Angeles police, who were so despised in the 70s by the Latino community due to the murder of the journalist Rubén Salazar and their harassment in the Latino neighborhoods⁴, become a tactical ally within the framework of this theatrical dramatization. This “alliance” has limits, as does the scope of the drama. In a carnival context, it constitutes a prefiguration of a different social order in that sacred time that – according to Eliade – breaks with ordinary time and its hierarchical limitations⁵ and that, in this case, emerges as rupture from exclusion, even though it be under the form of a temporary interruption.

¹ Bajtin, 2003, p.18.

² Scott, 1990, pp.10-11.

³ The state of being interchangeable.

⁴ Thompson, 1980, pos.121.

⁵ Eliade, 1957, p.68.

The imagined community becomes flesh in space

A result of these festivities, derived from their nationalist symbolism and the fact that they are an occasion for gathering for those who share a similar origin in the past, and a similar situation in the present, is the constitution of a people that are betting on a better future. Žižek insists on the potential of popular demonstrations to create a people, regardless of their temporary nature, with arguments similar to those of Thompson to recover the strength of the counter-theatre of the subjugated: “The issue is not then the displacement of the power relations and domination among real social and political agents, the redistribution of social control, etc., but the very fact of transcending – or rather of suspending for a moment – that very control, the emergence of a completely new terrain of “collective will”, a pure “meaning event” in which all the differences are left annulled, become irrelevant.”¹ This is what Žižek calls “becoming a People”. The more explicitly political demonstrations, which intentionally seek changes in migratory policies, build on these festival exercises that recreate the imagined communities. The symbology, the histrionic appeals, the dramatization, the intention of parrhesia, the political use of the streets, the t-shirts, the banners and even the floats are the same.

If equating undocumentedness to clandestinity can have some validity², it is evident that participation in demonstrations, carnivals and massive festivals are forms of leaving clandestinity. And even though it is obvious that diluting themselves into a mass of Central Americans or Latinos whose legal status is indistinguishable is a way of maintaining clandestinity – because the hidden transcript is replaced by a public transcript, but pronounced by a hidden actor -, the event entails a very significant challenge in itself. The murals and the celebration of independence are very big challenges because they put into question who the territorial sovereign is, who administers the use of public spaces. I will come back to this aspect shortly. But the challenge is more significant because of the performative contradiction: the migrants fight for a use of the space with free mobility, and their tool of the struggle is their demonstration in the space. Butler maintains that “once we reject the view that claims that no political position can rest on performative contradiction, and allow the performative function as a claim and an act whose effects unfold in time, then we can actually entertain the opposite thesis, namely, that there can be no radical politics of change without performative contradiction. To exercise a freedom and to assert an

¹ Žižek, 2010, pp.44-45.

² Coutin, 1999, pp.53-63.

equality precisely in relation to an authority that would preclude both, is to show how freedom and equality can and must move beyond their positive articulations.”¹ This exercise of freedom and affirmation of equality that we find in the murals and parades is what I call performative civil disobedience. To the extent that these mechanisms are able to be a true exercise of parrhesia, the performative contradiction opens the door to a performative effectiveness, or performative prefiguration, where the “not yet” only refers to legal validity, but is left subsumed by an “already” underpinned by legitimation. Returning to the field of space, Butler recognizes that the singers of the anthem in English “are not singing from a state of Nature. They're singing from the streets in San Francisco and Los Angeles. And this means that they alter not just the language of the nation but its public space as well.”² We can say the same of the muralists and parade marchers. The symbolic and performative effectiveness of their acts is reinforced by the means chosen: the public spaces, that are the scenario of state sovereignty.

Butler adds that there is a gap between the claim of liberty and its exercise, but he also points out that “to make the demand on freedom is already to begin its exercise and then to ask for its legitimation is to also announce the gap between its exercise and its realization.”³ Demanding is a beginning of exercising. If freedom is exercised in acts – that also include discourse – it fulfills its proclamation, even though the gap might continue existing between the “already/but not yet” between its exercise and realization. The habitual exercise, that each day wins more legitimacy, is closing the gap. But the existence of the gap is what gives it political force: if he who speaks the truth does not have the right to say it, that act of disobeying has a more parrhesiatic character, because the one who speaks puts himself in a situation of risk, using a right that the law has not recognized he has.

Nevertheless, the effectiveness of these actions is not guaranteed in itself, and their achievements are not irreversible. Even though Latorre maintains that “the Balmy murals continue to be, for the most part, testaments of oppositional consciousness and Indigenist aesthetics that reflect the still predominantly Chicana/o/Latina/o cultural makeup of the Mission District”⁴, the flood of tourists that visit Balmy Alley can entail a risk of making them politically harmless, just to mention one of the possible forms of decaffeinating – incorporating into the mainstream – the instruments of counter hegemonic struggle. Murals as well as festivals can suffer the scourge of

¹ Butler, 2007, pp.66-67.

² Butler, 2007, p.67.

³ Butler, 2007, p.68.

⁴ Latorre, 2008, p.165.

time and be absorbed as colorful elements of the existing order. Žižek warns about the possibilities of cooptation, and shows himself to be pretty skeptical about the carnival expressions that are not able to institutionalize themselves: “A democratic explosion reconfigures the hierarchically established “political” order of the social space; it offers (...) a different distribution of the public space. In the current “society of spectacle”, such esthetic reconfiguration has lost its subversive dimension: its appropriation by the existing order is too easy (...) even though everyone likes democratic rebellions, spectacular/carnival explosions of the popular will, anxiety becomes evident when that will wants to persist, institutionalize itself...”¹

The opportunities for these counterhegemonic acts to become institutionalized are limited. But their effectiveness does not depend on that institutionalization. It depends on the reactions (the perlocutionary effect) whose direction and dimensions no actor can completely control. If the newspapers, artists, bureaucrats that design and apply the migratory policies, and the politicians do not directly access the “words” of the murals and the celebrations of independence, those words can get to them through intermediaries: the tourists that pass by, the academics that study these expressions, the bureaucrats that have to grant the permits for the installation of the murals and the parade routes. The possibility of this effectiveness and a change in the policies also depends on the margins for action that the state heterogeneity allows, which I will discuss in the fourth chapter. It depends on the imagined community dovetailing with a tradition or various traditions in the destination country, and on that terrain I believe that the Central Americans have made a commendable effort to take up again the struggles of César Chávez, the symbols of the Chicanos and the discourse of a country of immigrants. It also depends on a convincing work of publicity, whose greatest achievement – to be discussed in the following section – are the Dreamers, a conquest still in process, but that seems irreversible, even though limited in its demographic and temporal scope. With all these conditions, the murals and the celebrations have made a contribution to the integration of the non-movement of the undocumented, to their integration becoming more visible, practicing parrhesia, finding itself and recognizing itself as a collective with common interests.

3.3 The undocumented form a movement: Parrhesia and civil disobedience explain the Dreamers

¹ Žižek, 2010, p.45.

The “Dreamers” are a particular group of the undocumented, among whom Central Americans have a significant presence. The term comes from the DREAM Act (Development, Relief, and Education for Alien Minors Act), originally sponsored by Senators Orrin Hatch of Utah and Richard Durbin of Illinois in 2001. This bipartisan bill sought to facilitate the entry into institutions of higher education those illegal immigrant minors who have obtained a high-school diploma. According to Susan Martin, “these students were barred legally from seeking employment and were constrained from pursuing additional education because of the high costs of out-of-state tuition. The DREAM Act would authorize states to determine residency for higher education purposes, regardless of an individual’s immigration status. It also would suspend removal of students who were admitted to an institution of higher education or joined the military. After a six-year wait, the immigrant could gain permanent residence status.”¹ The acronym resonates with known slogans like “the American dream”, and “I have a dream” of Martin Luther King. Its purpose was to pave the way for the legal education and residence of a segment of the undocumented who show tangible signs of potential. The original version of the bill, submitted to a vote in 2006 as part of the Comprehensive Immigration Reform Act of 2006 (CIRA), possibly would have benefitted 2.1 million undocumented people.²

This bill did not win a consensus, but led to different bills that imitated its logic: granting conditional status to undocumented youth – of proven good conduct –access to in-state tuition for university studies, and eventually legal residency. The Congressional Budget Office issued a report in which it estimated that the December 7, 2010 version of the DREAM Act (H.R. 9467) would increase revenues by \$1.7 billion and would reduce deficits by about \$2.2 billion over the 2011-2020 period.³ Referring to the 2011 version (S.952 and H.R.1842), that modified – among other parameters – the maximum age and the application cost, a study conducted by the Center for American Progress estimated that if passed, the DREAM Act “would add \$329 billion to the U.S. economy and create 1.4 million new jobs by 2030.”⁴ One alternative to the DREAM Act was the Studying Towards Adjusted Residency Status (STARS) Act of 2012 (H.R. 5869)⁵, that further restricted the group of potential beneficiaries, increasing the application costs and reducing the maximum application age from 33 to 19 years of age. Created by the conservative Republican

¹ Martin, 2010, pp.280-281.

² Camarota, 2007.

³ Congressional Budget Office, 2010.

⁴ Guzmán and Jara, 2012.

⁵ Library of Congress, 2011-2012.

Senator, member of the Tea Party Movement, and current candidate for the Presidency, Marco Rubio, the STARS Act also extended the period of conditional status, that is, the time to access residency, beyond the end of university studies. One month after the promotion of the STARS Act, President Barack Obama announced that his administration would stop deporting young undocumented individuals who match certain criteria previously proposed under the DREAM Act. So the Deferred Action for Childhood Arrivals (DACA) program began, that could end up benefitting 1.7 million undocumented individuals already present in the United States,¹ or up to 1.76 million, according to another calculation, that estimated 1.3 million beneficiaries from Mexico and Central America.² In reality it could benefit many more, if we take into account that the program has been accepting newcomers.

Prior to this program in July 2011, the state of California enacted the California DREAM Act, giving undocumented immigrant students –who entered the USA under the age of 16, and have attended school on a regular basis- access to funded financial aid for higher education. A Berkeley Law School’s study mentioned that 400,000 undocumented children reside in California, the majority of whom were brought to the United States before the age of 12. Few of them can get access to Higher education, since the cost of college is the most prohibitive barrier for undocumented students. According to this School of Law, only 1,620 undocumented students enrolled in 2005 in the University of California and California State University systems benefited from in-state tuition provided by California’s Assembly Bill 540. Different studies have emphasized the consequences of this legal vulnerability in terms of access to university education and other types of training.³ This situation reduces the projected income for this particular population, since “a worker with a bachelor’s degree will, on average, earn \$1 million more over her lifetime than a high school graduate.”⁴ Therefore, it is assumed that the law that California approved will have a domino effect on a more appropriate labor force for future economic challenges, will increase consumption, and will provide more tax income.

The Dream Acts create a category: the label makes the actor

¹ Passel and Lopez, 2012, p.6.

² Batalova and Mittelstadt, 2012.

³ Goździak, 2014, pp.145-173. Bean, Leach, Brown, Bachmeier, and Hipp, 2011, pp.348–385.

⁴ Gonzales and Kohli, n.d.

Among the Central Americans who benefitted from DACA is Sofía Villatoro, a 26 year old Guatemalan, who I mentioned in the previous chapter. First, she was a beneficiary of the Convention Against Torture (CAT), and now is a beneficiary of DACA. But in 2005, to the surprise of her teachers and classmates who knew her above all as a dedicated and outstanding student, she was on the verge of being deported. Her father entered the country as an undocumented person in 1991. Sofía did it eight years later. She came to the United States at the age of nine, fleeing the violence, and sent by her grandmother without any accompaniment other than the coyotes who she paid for her trip, and who left her at the door of her astonished parents home in the Mission District of San Francisco. In 2005 her father wanted to start his own janitorial business. Becoming legal was essential, and to achieve it, he paid some thousands of dollars to some shyer lawyers who did a terrible job, leaving Sofía on the brink of deportation. Her case attracted the attention of the San Francisco Chronicle, and the story on her attracted a chain of favorable reactions.

But this did not completely solve the problem. She was only one of the 60,000 undocumented students that graduate each year from secondary school.¹ Among the people that migrated from Central America, they were in a relatively small group: the relative weight of Central Americans with a high school degree goes from 21% of Guatemalans up to 26% of Nicaraguans and Hondurans, with Salvadorans at 25%.² Many do not plan on going on to university. Sofía had that dream since she was little. In a dining hall for the staff of the University of San Francisco, she told me about her unusual path to higher education, “I always wanted to go to this university. I used to help my Dad work, and would come by here on the way to work. We are very Christian and that is why my Dad would tell me that if I wanted to go to this school, God would make it happen. He would say to me, “if you really believe it, I challenge you to get down and go pray there next to the wall.” Sofía was embarrassed that passerbys would stare at her. “They are going to say that I am crazy. I was 14 years old. But I did it for many years. He would stop at Fulton Street and I would get down and put my hands on the wall, “Of course I am going to go to this university. I do not know how, nor with what money, because I do not have the money, but I am going to come here.” The people looked at me like they were thinking “what’s wrong with her?”. I would pray and my Dad would be looking at me, and that is where he believed me and said, “Wow, you really want to go there.” And I applied. They accepted me, and one of the priests of the university wanted to meet me. He knew about my case, because in my application I

¹ Garcia, 2006, p.4.

² López et al., 2013, p.8.

included the article about my case that appeared in the San Francisco Chronicle, so that they might see that it was not a lie that I did not have the money. And I got income, a job, everything... And I graduated in Psychology last year. It is a dream come true. And now every time I pass by Fulton Street, I remember this.” It took Sofia a lot of effort to get her bachelor’s degree, because her father got sick, and at night she had to go to work with her family cleaning restaurants, the work of her parents, and the only source of income for the family. Now she is studying for a Master’s degree, and has a job at the University of San Francisco.

Sofia undocumented condition awakened a series of reactions of solidarity. In large part because she was a Dreamer, a label coined in 2001, but did not get legal validation until 2012. Its history is a reflection of the impact created by the best label ever invented by the immigrants and their allies, for multiplying their possibilities of social acceptance and legal validation. As Nicolls points out, “Before 2001 ‘Dreamers’ did not exist as a political group. There were hundreds and thousands of undocumented youth facing a unique set of problems resulting from their position of being ‘in-between’ countries.”¹ The Dreamers are a social-political construction that aspires to achieve its legal implementation. The Dreamers category has shown itself to be a powerful ideological device to fight for the inclusion of the immigrants. In the same way that those practicing civil disobedience in the 60s invented a victim of segregation when Rosa Parks went to prison, those practicing immigration disobedience invented some victims when they broke the Dreamers off from the group of non authorized immigrants. Even though segregation and its resistance existed for some time, before Rosa Parks and before she was murdered by the police, and even though for the African Americans it was an everyday thing, King as well as the National Association for the Advancement of Colored People (NAACP) realized immediately the enormous media potential from the jailing of Rosa Parks. The case of Parks gave them the opportunity to present segregation to journalists under a bright light. It was a publicity coup. The practice of civil disobedience needed the impact of these jolts. The non-movement of the undocumented achieved this jolt through the construction of the figure of the Dreamers. In both cases, the labels fulfilled the function of making visible what was passing unnoticed, and abnormal, what had become accepted through the inertia of custom.

As William and Iliana Pérez observed, “most recently, students across the country have adopted the label ‘DREAMers’. These new labels and political identities help students not only conceal their stigmatized status but also reinforce their merits as students through their activism.

¹ Nicholls, 2013, p.47.

Under these new labels, students organize, recruit others, and share resources. Unintentionally, AB540 and the DREAM Act have shaped the political identities of undocumented student activists. To them, these laws not only represent access to higher education and legal status, but they are also a formal recognition of their earned belonging in society and signal support for their endeavors.”¹ Not since the collective of “sanctuary” was created in the 80s, over which the American Baptist Churches and their allies fought the Attorney General in court, has such a politically effective label been created.

We can measure its effectiveness through its effect on the communications media. With the ingenious and meaningful title “Covering immigration” the anthropologist Leo Chavez published a book in 2001 on the media images and migratory policies. Based on an analysis of magazine covers, Chavez shows that the media images both reflect the popular attitude toward migration, and mold the national discourse on the issue. Chavez wants to show how the media have cultivated the fear that the public feels toward immigration. Their selection of front covers and headlines is irrefutable: America’s Uneasy New Melting Pot (Time, 13 June 1983), The World’s Poor Flood the U.S., The Economic Consequence of a New Wave (Business Week, 23 June, 1980), The New Refugees. Should America Take Them In? (U.S. News and World Report, 23 October, 1989), What will the U.S. be like when whites are no longer the majority? America’s changing colors (Time, 9 April, 1990), Tired? Poor? Huddled? Tempest-Tossed? Try Australia. Rethinking Immigration (National Review, 22 June, 1992), Immigration and the new American dilemma: Black vs. Browns (The Atlantic, October 1992), Immigration Backlash. A Newsweek poll: 60% Americans say immigration is ‘bad for the country’ (Newsweek, 9 August, 1993), Go back where you came from. Since the very beginning, many Americans have wanted this to be our immigration policy. Is it starting to happen? (American Heritage, March 1994), Border crisis. Illegal aliens out of control? (U.S. News and World Report, 25 April, 1977), Time bomb in Mexico. Why there’ll be no end to the invasion by “illegals” (U.S. News and World Report, 4 July, 1977, Illegal aliens. Invasion out of control? (U.S. News and World Report, 29 January, 1979), Invasion from Mexico (U.S. News and World Report, 7 March, 1983), and The disappearing border (U.S. News and World Report, 19 August, 1985).²

The above are a pair of the covers that Chavez mentions in his book. The panic over the loss of control of the border, the uncomfortable effects of the ethnic melting pot and the – not

¹ Perez and Perez, 2014, p.289.

² Chavez, 2001, pp.61, 76, 115, 135, 137, 146, 156, 162, 175, 220, 222, 225, 231, and 237.

always hidden – desires for a turn toward some deliberately anti-immigrant policies are Leitmotifs of the covers and the articles. This tendency continues and even gets worse after 9/11, as we can see in the cover on the left of the two illustrations below.

That cover is from September 20, 2004, done in a way that it can be said that on the one hand reflects a verdict of public scrutiny on Operation Blockade (later renamed “Hold the Line”), Operation Gatekeeper, Operation Safeguard and Operation Rio Grande and similar ones that were applied in the 90s and reinforced after the attacks, tripling the number of Border Patrol agents. On the other hand, it advocates for – and justifies – the 2004 Intelligence Reform and Terrorism Prevention law that authorized the contracting of 2,000 new agents per year for the following five fiscal years, and the construction of more border barriers. In his next book Chávez mentions this illustration, “In this image, the flag represented both the fabric of the nation, which was being torn apart, and the border between safety and terrorists trying to enter the country. The implicit message was that this shredding of the nation’s border and the flag must be stopped. The new threat of terrorism resulted in calls for controlling the border as a means of improving homeland security.”¹ In contrast with this image, eight years later, Time broke away from its tendency to an image on the right (June 2012). This time the magazine did not limit itself to an image and a text. Time proposed the undocumented migrant as their person of the year, and for that purpose released a video where a number of undocumented youth defended their Americanness in impeccable English. Even though the title was won by Barack Obama, the “Undocumented Immigrants” won a very respectable third place.²

The issue is: To what undocumented migrant was Time referring? The video did not leave room for doubt: they were the Dreamers. The political label became a media label. A lot of the media began to talk about the “Undocumented Americans”, a term that did not have an official definition, but that the American Psychological Association publicized and explained through an eloquent 10 minute video on their web site.³ These undocumented Americans are a fragment of those who the Cuban academic and immigrant Rubén Rumbaut baptized in the 80s as the 1.5 generation.⁴ Rumbaut describes them as “born abroad but brought at an early age to the United States” and that they “are understandably more likely to retain their parents’ nationality as their own self-identification”.⁵ Since being in school and not having entered puberty are relatively floating foundations, the statistical analyses located them as migrants

¹ Chavez, 2013, pp.38-39.

² Khan, 2012.

³ American Psychological Association, 2015.

⁴ Rumbaut and Ima, 1988, p.22.

⁵ Portes and Rumbaut, 2001, pp.24 and 186.

that arrived between 0-12 years of age, the age that Rumbaut himself arrived.¹ This has been a very useful analytical label. But it alone acquired its capacity to reappear – in a more restricted version – as Dreamers. In fact among academics the association of the 1.5 generation with the youth gangs is very well established.² Just as they have been selected by the different versions of the Dream Act, the Dreamers are the “healthy” segment of the 1.5 generation. Nevertheless, , even though they may have acted as a purging process, the successive Dream Acts were also a politization process. The 1.5 generation went from being an analytical concept, to functioning as a social-political category that begat a movement. From the enormous non-movement of the undocumented, policy makers, activists, academics and journalists have broken off a fraction disposed to taking the form of a movement. The label has created the actor. And this actor was capable of arousing greater social acceptance than the entire group of undocumented, because they condensed a series of shared values and characteristics of the good citizen and the assimilated immigrant: effort, good conduct, years of residency, mastery of English, educated in the US system and, the most importantly, not having broken even the migration laws, because they were “forced” to migrate by their parents when they could not object (this is a topic that I will take up again later on).

But this construction, that first started from activists and policy makers, caused a change in the media. Note the contrast between the last two covers of Time magazine. Between one and the other movies and documentaries favorable to the undocumented had multiplied, and the entertainment industry had acquired greater awareness about the purchasing power of Latinos. The media had moved to being a much more propitious terrain for taking up and projecting the “Dreamers” label. Introducing the label in the media was as important or more important than introducing it into Congress. There the perlocutionary effect could be multiplied. Castells maintains that the media “are not the Fourth Estate. They are much more important: they are the space of power-making. The media constitute the space where power relationships are decided between competing political and social actors. Therefore, almost all actors and messages must go through the media in order to achieve their goals. They have to accept the rules of media engagement, the language of the media, and media interests.”³ The label played on that field and received wide coverage.⁴ Once catapulted by the media, it produced formidable results. The power of the media was such that this sector of the undocumented became a full parresiastes that made the journey from “From the Streets to Congress”, as Gleeson significantly titled a paragraph of the

¹ Portes and Rumbaut, 2006, p.232.

² Vigil, 2008, p.57.

³ Castells, 2009, p.194.

⁴ Perez and Perez, 2014, p.289.

article in which he describes different forms of the parrhesia of the Dreamers: “mobilizations for these victories have ranged from online petitions, to sit-ins at congressional offices, to mass marches, and even to a 540-mile bike ride from UCLA to UC Berkeley to raise scholarship money for undocumented students and push for immigration reform.”¹ But right after the debut in the media, this exercise of parrhesia occurred, and about which Perez and Perez said: “In efforts to claim rights and a political voice, undocumented student activists speak at press conferences; organize petitions; send letters to elected officials with their personal stories; testify in favor of in-state tuition laws before legislative committees; and stage public actions such as fasting, vigils, and civil disobedience that have received broad media coverage. (...) As a result, there are growing numbers of identified undocumented student groups across the United States.”²

The category “Dreamer” was a political, legal and media construction. In the ideological battles – that know how to make use of influential archetypes – the effectiveness of this label can be weighed in contrast to the associations of war veterans that demonstrate every Sunday, wearing their resplendent military uniforms and shiny medals, on the Tijuana/San Diego border and other points along the southwest border. The most important group are the “Veterans Without Borders”, that in Tijuana is composed of 30 war veterans deported for having committed some crime. All were residents, all consider themselves citizens with full rights for having risked their lives for the United States, even though now they cannot even collect their military pensions, nor access medical benefits, nor social security.³ They asked for an audience with the White House. According to their own declarations, Alex Murillo served in the army from 1996 to 2000, is 36 years old and has four children (17, 14, 12 and 8 years of age). He used to live in Phoenix, Arizona, when he was deported in 2006. “A number of us veterans from different countries around the world were deported, but we are Americans. We are veterans of the US armed forces. We belong to the United States and we should be at home. Now we are fighting to return to our country and our families. The army washes its hands of us, puts the blame on the President or the immigration laws. What happens is that when a crime is committed in which your sentence is longer than 365 days, and you are not an American citizen, you are deported after having paid your debt to society. We are paying the debt with the same society for which we were willing to give our lives as members of the armed forces.” Héctor López, a 50 year old veteran deported in 2007, adds, “By Federal law, when we die they have to bury us in the veteran’s cemetery in the United States. We will be able to return dead, but not alive.” I asked him, “What war did you fight in?”

¹ Gleeson, 2014, p.218.

² Perez and Perez, 2014, p.289.

³ Cortez, 2015.

He responded, “In Reagan’s.” Never better stated. The war did not appear to be an institutional matter of a state, that one day asked them to risk their lives, and now has nothing to do with them.

The different versions of the DREAM Act have paved the way toward legal residency for the unauthorized immigrants who enrolled in college or serve in the military. But also in all its versions it includes the requirement of good conduct. Up to two misdemeanors can be tolerated, but the third misdemeanor, or just one felony, would be enough to disqualify the applicant. The expelled veterans – originally in a better position than the Dreamers – are 3,000 legal residents who ended up being treated as the most undesirables of the illegals. They were affected by the excessive overlap between penal legislation and migration legislation: once a “foreign born” resident commits a crime, the court reviews their migratory history, and the fact of having been born in another country annuls their right to reside in the United States and dismisses the services that they provided in Vietnam, Panama, Kosovo, the Gulf War, Iraq and Afganistan. They are another segment of the 1.5 generation. Some arrived as nursing babies and had lived in the United States for 30, 40 years. Some had to learn or relearn Spanish. They had not obtained parrhesia: the label “Veteran” has not been powerful enough for them to get an audience at the White House and their appearances in the media were reduced to an annual appearance in the local newspapers.

The Dreamers and civil disobedience on an explicit level

As soon as the Dreamers differentiated themselves from the mass of the undocumented – when they formed a subgroup within that gigantic non-movement – they were able to form themselves into a movement. So they began to make use of the parrhesia acquired with the label and its dissemination in the media. The Dreamers used the label and their clean record to fight for the undocumented in general. Gleeson maintains that “one of the central questions emerging from the undocumented student movement has been whether individuals who were brought to the United States as children should be ‘punished for the sins of their parents.’”¹ This could have led to a dangerous dicotomy: guilty parents and children forced to migrate, parents who do not speak English and children who spoke it like any native, parents without education and children with the prospects of being university students. A dangerous dividing line was being drawn in the non-movement of the undocumented, one that would separate the legalizables ones from the non-legalizables, a line – Nicholls maintains - “between immigrants who deserve legalization and those who deserve deportation.”² But immediately a fight was

¹ Gleeson, 2014, p.218.

² Nicholls, 2013, pp.57-58.

undertaken to include the parents. That is why “many DREAMers have fought to reframe the typical labeling of undocumented students as innocent, versus the undocumented parents who brought them as criminal. Recent mobilizations have further complicated the image of high-achieving DREAMers as the only subjects worthy of rights. In addition to engaging in civil disobedience to push for legislative reform and launching petitions to protest the detention and deportation of fellow DREAMers, activists have also highlighted the tragedy of family separation, and the devastating impact of ongoing deportation for entire communities.”¹

The Dreamers took advantage of the fact that the support for a segment of the undocumented was in the process of becoming politically correct. This was the sign that Time magazine sent with its cover, its campaign and its video. The Dreamers were an advance party of the great non-movement of the undocumented. They did not allow them to be broken off from the group, because they refused to moralize the right to inclusion. As if they had realized that that was the Achilles heel of the deported veterans, they have not accepted the dichotomy that politicians, analysts, academics and journalists were building, a distinction with moral overtones to branch off the legal fates of the two fractions of the non-movement of the undocumented. But they did use their label and their acquired parrhesia as a movement to speak about the entire whole. Definitely, a segment was able to increase social acceptance in a sector of the media and a group of Congresspeople, a movement was formed, and used that power to benefit the entire non-movement to which it continues to belong.

The passage from non-movement to movement implied a leap from performative civil disobedience to a civil disobedience that presents itself explicitly as such. In the University of San Francisco there is a group of Dreamers who are studying there, meet regularly, and have come to form a group, the San Francisco Working Project. Gabriela García belongs to this group, 23 years old, a student of international relations there, a beneficiary of DACA. As part of her activism as a Dreamer, Gabriela has practiced civil disobedience to pressure the government to stop the deportations and expand coverage of DACA. On April 11, 2014 she sat down in the cross section of the principal avenues of San Francisco, blocking a major intersection, shaking with fear, but certain she was fulfilling her duty.

In reality her first act of disobedience was three years before, when she crossed the border as a family decision, with her disobedient parents, as she implicitly acknowledged to a journalist who covered her defiance of the law and attended the civil disobedience training of Gabriela along with 20 other Dreamers. “Though García isn't telling her mom about the civil disobedience just yet, she says it's

¹ Gleeson, 2014, pp.218-219.

her mom's own story that's making her do it.”¹ Three days later, in an interview that she did on the campus of her Alma Mater, Gabriela was more specific, “This, the government has always interested me a lot, my situation. I knew about César Chávez and Dolores Huerta. I would think, “Wow, how cool! But if you stop to think about what they achieved, maybe it is not much, because there are still a lot of things to change. When they interviewed me, I told them, “I am here showing my face. But this is not just my story. This is the story of my parents, that had the courage to cross the border against the prohibition. My Mom was the first rebel. Everything I am is because of them, because they never gave up.”² Gabriela establishes the relationship behind her rebellion. She specifies that her civil disobedience finds its roots in the defiance of her parents, a chain where some political acts beget others, because the decisions of the first generation of immigrants shaped the political condition of the 1.5 generation.

According to Marquardt and Vásquez, the partial successes – for the moment – of the Dreamers (the attention of the Obama administration and the sympathy of many U.S. citizens) “can be attributed in large part to the strategic use of practices of peaceful civil disobedience, including marches and sit-ins, as well as the widespread use of compelling testimonials, which groups like United We Dream borrowed from the civil rights movement.”³ The Dreamers knew how to connect to a well established tradition of civil disobedience as a tool for struggle to include the excluded. Their passage through the school and the university, the relationships that they harvested after the media attention, and their protection against deportation as a segment of the undocumented to benefit from DACA, placed them in conditions of knowing and practicing civil disobedience. And that practice has kept their presence in the media and confirmed for the politicians that they are a political actor of growing importance. This recognition they obtained when Nancy Pelosi visited them at the University of San Francisco. She is a Democratic Congresswoman who has been characterized by her pro-immigrant positions, even during the discussion of thorny issues like the review of the cases of Haitian immigrants and the barriers to immigrants with HIV.⁴ They also got it when Obama said that the Dreamers are “Americans in their hearts, in their minds, in every single way but one: on paper”.⁵ But above all they got it with the success in the most costly of their struggles: the expansion of DACA to cover more than half of the non-movement of the undocumented through an executive order announced on November 20, 2014. In short, the non-movement of the undocumented did practice a militant civil disobedience and increased

¹ Campbell, 2014.

² Interview with the autor, San Francisco, 14/04/2014.

³ Marquardt and Vásquez, 2014, p.317.

⁴ Peters and Simon Rosenthal, 2010, p.39.

⁵ Marquardt and Vásquez, 2014, p.317.

their freedom of expression for having turned themselves into a movement, emerged from anonymity, cultivating a catchy label and exploiting the opportunities of the state heterogeneity, an issue that I will develop in the last section of the next chapter.

CHAPTER 4. A CITIZENSHIP IN THE MAKING: THREE REALMS OF VALIDATION OF CIVIL DISOBEDIENCE AND “ILLEGAL” CITIZENSHIP

The performative civil disobedience of the undocumented needs fertile ground that makes possible its daily practice and enactment in forms that connect with policy change. I do not intend to describe all the support efforts nor all the steps of the change process. The objective of this work is to show the force for change of the collective actions of these non-collective actors who are the undocumented. This chapter pursues that objective. The mention of other actors is not exhaustive, but it is the occasion to obtain a fuller vision of a non-movement that would not have the opportunity of operating nor of getting out of legal marginality without significant support. In the previous chapter some of this support appeared: communications media, universities and academics, artists and other figures of show business, organizations and activists, churches, business people, etc. I chose three to illustrate how and through whom the performative civil disobedience of the undocumented, through its performative effectiveness and that of its supports, is a citizenship in the making. They are supports through whose reiteration and impacts, measured through interviews and participatory observation, seem substantial to me. Churches and migrant organizations are two of those supports. The other is state heterogeneity, a recurrent element that at times has a visible presence and at other times sneaks in subtly or is barely in the background. Addressing it independently allows me to complement the second chapter, where the excluding will of the state appears in a presentation true to reality – as can be inferred from the collection of data that support it, even though it is not complete.

Churches, organizations and state heterogeneity are three spheres of legitimation, and the latter, one of legal validation. Some legislation and heterogeneous bureaucratic requirements, or requirements applied with a certain amount of discretionality, the solidarity work of the churches and that of the organizations of the migrants themselves pave the way for neutralizing the exclusions that I analyzed in the second chapter: a policy not much inclined to receive refugees, and subordinated to a geopolitical agenda, a partisan politics that blocks the path to massive legalization because the electoral quarry is segmented by ethnic niches, and the military industrial complex and the prison industrial complex conspire in the manufacture of enemies to justify a persistent rise in profits based on the privatization of security.

Another common denominator of these three platforms and their practices is the institutionalization of prior conflicts between unauthorized entry and US migration policies. One conclusion is drawn from its lengthy shadow over time. The newcomers come to harvest the

crystallizations of past struggles, many of them waged in the 80s: the work of the churches, the total sum of the organizations and the institutionalization of their achievements in the state structure. Performative civil disobedience has this historical sediment as the condition for its possibility and effectiveness. Therefore, adverse policies are not the only elements that history has bequeathed the undocumented, but rather an enormous wealth of pro-migrant actors, political culture, ideological elaboration, informal and formal norms, leaders, experience and instruments of constructive and confrontative peaceful struggle. The actors that support them can appeal – like the disobedient of Walzer – to very deep-rooted traditions and to their group belongings and specific creeds. Their convictions in favor of the undocumented are founded on their memberships and fidelity to churches, to non-confessional organizations and to civic values that operate within a diverse and inclusive state apparatus.

In this chapter I have tried to maintain symmetry with the last section of the previous chapter. The religious actors, the state, and the organizations of the immigrants are the fertile ground for the undocumented to fight for their integration, and obtain support as church members, civil disobedients in the public physical spaces and Dreamers that cannot be deported. The reasons for this symmetry: a) what the migrants get in the churches would not be possible without the accumulation – that began in the 80s – and the practice of the religious citizenry of the churches; b) what the migrants can achieve in their public, physical spaces (murals and demonstrations) is possible because of the state heterogeneity; c) the most polished and successful accomplishment of the organizations of migrants is the Dreamers, the movement of undocumented with which I concluded the previous chapter.

1. Religious citizenship and churches in civil disobedience

Undocumented migrants aren't alone. They wouldn't be able to enter and stay in the United States without sustained daily support. Who are the "criminals" who help them violate the law? Are they "coyotes" crouching in the bushes? Hot-headed anarchists ready to take on the State and rage against all authority? Should we seek them in the shadowy networks of drug traffickers, terrorists and gangs, as some suggest?¹ Among the main accomplices of those who slip past the border controls and sit at a table to which they were not invited are the faithful from different religions. It makes more sense to look toward altars, search in pious brotherhoods, snoop around temples and stir up sacristies than to seek them in the shadows. They are in the churches, confessional NGOs and explicitly Christian

¹ Fernández Menéndez and Ronquillo, 2007, pp.40 and 178.

universities. They are priests and nuns, presbyters and pastors, imams and rabbis. They are the most active catechists and worshipers. They don't wear the red star but rather rosaries and scapulae. They aren't moved by the financial gain many seek, nor are they held back by a much feared hell. They're moved by such diverse motives as only acquire meaning and value through their convergence in a political framework of tension between disrespect for the law and the fact of anti-immigrant legislation. The significance of their actions is played out in a scenario where the universal citizenship represented by belonging to a global church is put to the test by earthly policies that deny and constrict inclusion and fraternity in the tight straightjacket of nationality.

Who are these accomplices of crime? What do they plot in their rebellious secret councils? Why do they work against the law and erode state sovereignty? Why are they so stubborn and disobedient? What do they think? I can offer you some answers by doing a quick review of their actions on behalf of undocumented migrants. They all demonstrate political effectiveness and defiance and represent merely a sample of hundreds of similar actions throughout the extensive territory of the United States. Regrettably, my direct experience is limited to the spheres of the Catholic Church, but I know that Protestant and other churches, as well as many non-Christian groups, share the same ideals and do similar work.

1.1 The Kino Border Initiative

My travels along the routes of the disobedient begin in Nogales, a two-headed metropolis of 235,000 inhabitants split by the border line. One head is Nogales, Sonora, in Mexico and the other is Nogales, Arizona, in the United States. One people settled across two nations: more than 21,000 in the United States and "the rest" in Mexico, separated by a barrier judged impassable. On the Mexican side, barely a stone's throw from the Mariposa Gate Port, an entry and exit post in that barrier, is a diner where the Marist Missionary Sisters and the Jesuits feed migrants twice a day. This is the Kino Border Initiative diner, coordinated by the Jesuit priest Sean Carroll. On the other side of the street, across which hangs a brand new metal sign welcoming you to Nogales, the sisters have a dormitory for women who need to stay a relatively long time. A bit further on, coming into the city center, is the San Juan Bosco hostel, which in its 31 years of untiring service has sheltered more than a million migrants. The Christian La Roca Hostel, located in another district, was raided by 20 state and municipal police on July 9 last year. The police arrived at 11 pm, hooded and armed to the teeth. They pointed guns at the 20 migrants staying there and at the Salvadoran family that runs the hostel. They made them kneel and with shouts of "The first one who moves, we'll fuck your mother!" stole their money, mobile phones and any

valuable belongings. When they left with the booty, one migrant picked up the phone and reported the raid to the nearest police headquarters. That only ensured that the same crew, alerted to the call by the same police, returned to look for the accuser, took photos of all the migrants one by one and threatened to kill them if they tried to report them again.¹

The next morning, at the Kino Initiative diner, the haggard and still trembling migrants recounted what had happened. It was just part of that day's violence, one report among those that Sister María Engracia collects daily. She founded this mission in 2007, a follow-up to the tamales a group of women would cook and distribute among the migrants every month. Sister Engracia recounts, "Many migrants used to sleep in the cemetery, on the tombs, because the police didn't bother them there; they used to stay there for up to three months because they didn't have any money." It's still where those who stay in Nogales for longer than the three nights offered them by the San Juan Bosco hostel spend the night.

When it started, the diner was no more than Sister Engracia, handing out lunches she extracted in a dizzying blink of an eye from the back of a pick-up truck parked on the hard street with a bridge for shade. That was during the boom era for deportations through this border post. She fed more than 200 migrants a day, with the miniscule resources she was able to scrape together. Sister Engracia doesn't succeed in hiding the impetuous and welcoming inner strength inside her diminutive person; it's as if being a native of Jalisco means that tequila fire runs crazily through her veins. Does she know she risks her life daily? Undoubtedly, but risk is no issue to treat with solemnity. The closeness and daily occurrence of violence give it another flavor. A migrant in transit tells her that tomorrow he's going to try and cross the border for the second or third time. "See how it goes," she says with the experience that knows all about danger and fate. She arrived in Nogales after a journey that didn't anticipate this destiny: "I worked in schools, then I looked after my mother for four years. I went to Brazil and that's where I analyzed my practice. According to the analysis, I hadn't been able to do anything because I had worked with the lumpen proletariat... and that isn't the social class with which one should engage in revolution," she adds with an ironic edge to her voice. "The revolution must be made with another sort of person. I became convinced it was necessary to work with people from a different level. So I gave Bible classes throughout the country. Then I was a vicar of my congregation and spent five years in the center of power. But I felt I was getting too comfortable and wanted to return to the edge where I started, so that's how I set off for Nogales to work with migrants."

¹ Fundar, 2014.

Working with the bare necessities and occasional volunteers went on for four years. With support from the Society of Jesus and the diocese, the diner now has a building and a substantial team. Mariana and Armando are the first to arrive each morning, after getting their children off to school. They are a married couple who migrated from Puebla and vibrate with this work. In a matter of minutes, Mariana can scramble seventy eggs in a gigantic frying pan then warm the respective tortillas at the same time as supervising the enormous coffee pot. She's barely ruffled by the chaos unleashed by infinite administrative screw-ups. Posted at the metal gate with a sturdy, intimidating presence but a sweet tone of voice and gentle words, Armando is careful to filter out unsavory human traffickers and con men. His clinical eye never fails. Once the migrants are seated, Sister Alicia offers a quick prayer then leads them in a role-play: they're sailing on imaginary rafts and have to put on some paper life jackets; they must touch their left ear with their right hand and their nose with their left index finger and then the other way round. In surroundings shot through with mortal danger, this triviality seems like a surreal afterthought. But it works: everyone laughs, the ice melts, the tension drops, conversations start with table companions and for the moment they forget that each one is anyone, dragging past troubles and well-founded fears. At the end of the day, everyone is on the same raft, even though the life jackets are as flimsy as paper. Sister Alicia works a miracle every day: she repeats her role-plays with the same passion and fresh pleasantries as the first time.

Next, Sister Engracia speaks. She invites them to report violations of their human rights. This is how they collect stories that contribute data to FUNDAR, an investigation center that advocates for human rights. This observatory shows that not only unemployment and re-uniting with family moves them to seek other lands. Violence with its many faces from their point of origin—domestic, political, institutional, criminal, gangster, mafia—also comes up as a motivating force. Among Central Americans, postwar fangs are still sunk deep into a region that isn't managing to rise from the depths: drug barons with right of entry to the police, sky-high bribes, repressive military bodies from the 1980s recycled into cocaine guards, *kaibiles* training The Zetas in the art of brutal murders as their main persuasive tactic. In Mexico, the violence of drug trafficking is undiminished and even fanned by military operations destined to curtail it with the application of an eye for an eye. In the past two presidential terms it developed an irresistible ejector force. Other sources tell us that many, although not the majority, travel by train. Even those who use this means of transport don't use it for the entire journey. Central Americans who

cross Mexico by train only account for between 10% and 14% of all Central Americans who cross this country. Buses are the most used and safest means of transport.¹

Many of those who have already been deported—the biggest group of those served by the diner—traveled up the East coast and entered the United States through Tamaulipas into Texas. Some entered via McAllen, others through Laredo. Nogales, which is now the main crossing point for Central Americans rather than the Tucson area, is located in McAllen. Nonetheless, Tucson, with its terrifying desert, is still the area that takes most lives and where many deportations occur given the strategy of splitting groups up to discourage them from re-entering. Some guests at the hostel had been captured in Calexico or McAllen, separated from the family and/or friends they were traveling with then transported to Nogales to be deported through the Deconcini Gate Port. They are among the last to be deported through this border post. In October 2014, the Mexican government inaugurated the extended Mariposa gate port, the one closest to the diner, which cost \$200 million.² Here they have fitted out a kilometer-long tunnel with bars to evacuate those detained by the Immigration and Customs Enforcement (ICE), otherwise known as “*la migra*.” In single file and without a return ticket, men, women and children will walk unarmed, in the bowels of a colossal iron cage that seems to have been designed to contain the excesses of a legion of Cannibal Hannibals.

Information such as the above continues to fall in drops as the migrants eat a substantial breakfast, served by the Green Valley Samaritans, two Jesuit novices and three young volunteers, one from the United States, one US-Colombian and another who came from the faraway Czech Republic; she had been a curator at the Prague Castle museum. They all work in other services, and this chopping of tomatoes and chilies to better preserve them in the form of a succulent red sauce is neither the least deserving nor most humble task. With their coordinator Marla Conrad, they all carry on fraternal conversations with the migrants, treating them not as a mass of deportees but as the human beings they once were: mother of two children at high school, musicians in a small band, catechists, seamstresses, bakers, children looking for their mothers, taxi drivers looking for a better future...

Christopher Boitano, one of the novices, tells me how he ended up there: “In the spiritual exercises I reflected and discovered that Jesus was a migrant. That’s why I came here. I was also concerned about the dehumanizing effect of migration: the same words Dominicans use for Haitians are used in the United States to refer to Mexicans and Central Americans. People have a right to migrate. Borders are

¹ Rodríguez Chávez, 2011, p.6.

² La Voz Arizona, 2014.

nothing more than imaginary lines in the sand.”¹ During the conversation, the additional services the diner provides get underway. They distribute personal care items and clothes and shoes in excellent condition. The novice who is also a doctor provides medical care. The Mexican consul subsidizes return tickets for Mexicans, taking their fingerprints and other information because their government will give them this gift only once in their life.

A gringo looking like a member of the beat generation hands out a treasure for walkers: shoelaces. An elderly couple collects milk and other products about to pass their sell-by date donated by supermarkets and gas stations. The organization “No More Deaths,” which must hold the record of members in prison for leaving food and water in the desert on the migrants’ route, gives telephone calls to those split up by the *migra* and deported through different exits to facilitate their possibility of reuniting. In a flash they cross “to the other side,” the gringo side, to cash the checks the US government gives deportees to replace the money they were carrying. Since the migrants have no way to cash the check in Mexico, it effectively represents a confiscation, a compulsory tax exceeding the millions obtained by the Zetas through extortion. Parodying David Harvey’s accumulation by dispossession², No More Deaths discusses this form of dispossession by deportation in its third major human rights report, “Shakedown: How Deportation Robs Immigrants of Their Money and Belongings.” It is a thoroughly researched report overflowing with accusations, the most shocking of which is this one: immigration authorities failed to return their money and/or other belongings to a third of the 400,000 people they deported in 2013. Most of them lost around \$100, but others lost more. A large part of the money was directly stolen by agents and another part was returned in the form of pre-paid debit cards or personal checks impossible to cash in Mexico except in greedy banks that charge a 25% commission. As a result of this expropriation, 81% of those interviewed couldn’t buy a return ticket home, 77% couldn’t buy food, 69% couldn’t pay for accommodation and 53% were exposed to danger. Those benefiting from this accumulation are the US Treasury Department; NUMI Financial, the company that issues the prepaid debit cards; and the ICE agents or local police who don’t report the illegally obtained money. This dispossession has occurred in millions of cases, except for the 1,481 attended by the No More Deaths Property Recovery Assistance Project between 2011 and 2014.³ If \$37,025 was either prevented from being lost or was recovered in 165 properly documented cases mentioned in “Shakedown,” we could be looking at almost \$90 million for the 400,000 deportees in 2013.

¹ Interview with the autor, Nogales, Sonora, 23/03/2014.

² Harvey, 2004, p.144; 2014, p.78.

³ No More Deaths, 2014, pp.5-7.

According to Marla Conrad, No More Deaths has Christian origins. John Fife, a retired Presbyterian minister, who is a co-founder, created the Samaritan patrol as well, to help migrants in transit, and also founded the Sanctuary Movement in 1982.¹ Sanctuary was born on March 24, 1982, on the second anniversary of the assassination of Monsignor Romero, when members of the Tucson Presbyterian Church announced to the Reagan government that they were prepared to violate migration laws by turning their churches into sanctuaries for Central Americans fleeing the death squads. Fife hid hundreds of Salvadoran and Guatemalan migrants and helped them cross the country and get to Canada. He was spied on and accused in 1986 of “human trafficking” in violation of federal laws. He and nearly a dozen others had 71 charges filed against them, including conspiracy, transporting and sheltering illegal aliens and encouraging unauthorized immigration.² Six of them, including Fife, were sentenced in a trial that once again put civil disobedience on the table.³

In 2004, together with other religious leaders, Fife founded No More Deaths and the “New Sanctuary Movement.”⁴ Since 2008, No More Deaths has been a ministry of the Tucson Unitarian Universalist Church.⁵ Alicia Dinsmore, a No More Deaths promoter and collaborator on the shocking Shakedown report⁶, tells me that they have lawyers fighting deportations in Tucson and that a team travels to Mexico to provide different services and items to those who are about to cross the border: three telephone calls, Vaseline to reduce friction and prevent blisters, water filters and chlorine so they can get rid of bacteria in the water. “I think that to a great extent,” says Alicia, “we’re the reason Central Americans and Mexicans migrate so it’s unfair to make the migration process so difficult and deadly. The United States is the main one at fault here. We make the policies that bring them here and we also have the jobs that attract them, then we make it almost impossible for them to cross over. Our laws have many ridiculous features in order to exclude them.”⁷

The Kino Initiative diner is located in what appears to be a no man’s land, but isn’t. It has owners; two owners. On the Mexican side the “hawks” monitor even the most minimal movements. “Hawks” or “points” are the names given to the cartel operators who lurk around and report on any gaps in border vigilance in order to sneak through drug shipments. They complement their income by charging migrants a toll. The US side belongs de facto to the Border Patrol, with a license to dispose of

¹ Interview with the author, Nogales, Sonora, 22/03/2014.

² Rowley, 1985.

³ Chicago Tribune, 1986.

⁴ Bosque, 2014.

⁵ No More Deaths, About No More Deaths, <http://forms.nomoredeaths.org/about-no-more-deaths/>

⁶ Interview with the author, Nogales, Sonora, 23/03/2014.

⁷ Interview with the author, Nogales, Sonora, 23/03/2014.

lives and property. They demonstrate this when they shoot at civilian pedestrians on the Mexican side, an increasingly common practice that took the life of José Antonio Elena Rodríguez, a 16-year-old student gunned down by a Border Patrol agent. On the night of October 10, 2012, after a basketball game, José Antonio was walking along the sidewalk of Calle Internacional, which runs parallel to the border fence. People in the neighborhood heard between 14 and 30 gunshots. From a watchtower, an agent hit José Antonio with 2 deadly bullets and finished him off with 8 more, most of them in the back. The US government hasn't even disclosed the identity of the killer.¹ But the youth's mother filed a claim with support from the American Civil Liberties Union. Natalia Serna, one of the volunteers from the diner, dedicated one of her most beautiful and moving songs to José Antonio. "My name is José Antonio" starts like this: "The country on the other side / is a coward and a thief. / It stole my life and didn't want to show its face. / How much life they took / on that night of horror. / They kept my life, / but not my heart."²

Nogales is dominated by the drug traffickers and Border Patrol, two lethal presences representing the migrants' worst nightmare. One group due to its concept of duty: the duty to defend a dividing line they understand not as a political convention but as a battleground. The other group due to its business model, for whom migrants are merchandise, as Father Alejandro Solalinde puts it so well. He is the director of another refuge for migrants, the Brothers on the Road hostel, located in Ixtepec, Oaxaca, in southern Mexico: "They're victims of human voraciousness. That's what it is, more than anything else. They don't see the migrants, because they haven't been educated to see them as people, to take care of them; rather they see them as merchandise. So they have to get money out of them in any way possible, with beatings, whatever, all to get money out of them."³

Between these two fires, the Kino Initiative diner, the women of La Patrona in Veracruz who throw lunches to the migrants traveling on the train known as "The Beast," the San Juan Bosco and Hermanos en el Camino hostels, the Posada Belén managed by Father Pedro Pantoja and many others are all oases that make it possible for the migrants to disregard the border every day and renew their energy and hopes while they are carried by people who risk their skins to breathe life and universal fraternity into the world. Without those supportive people and that route of hostels, which is also a route of the disobedient, it would be much harder to cross the fence, that enormous vertical border that Mexico represents for Central Americans, and slip through its holes.

¹ Police State USA, 2014.

² Boren, 2013.

³ Márquez Covarrubias, 2014, p.186.

Before leaving Nogales, I accompany Pete Neeley, the Jesuit Superior in Nogales, to the San Miguel School belonging to the Silesians in Tucson. The project called “The other side” has invited him to give a short talk. Pete starts with a joke about the proverbial enmity Jesuits and Silesians have kept up throughout their history and how odd it is that he’s there. As an observation perhaps a little exaggerated, but well suited to catch the students’ attention: here Jesuits and Silesians have a common cause with that of the migrants, to get to the other side.

1.2 A priest in the Sacred Heart parish, Casa Tabor, and Annunciation House in El Paso/Ciudad Juárez

At the other end of the border, in El Paso, Texas, is the Sacred Heart parish church, under Jesuit responsibility since it was founded in 1893. The church gives classes in citizenship to those who are residents and teaches English to both documented and undocumented. This is where Father Donald Ballinger works as the person in charge of migrant issues. Following a life devoted to secondary education in Jesuit schools, Ballinger was sent to do parish work in Paraguay, where for 15 years he was an active and fearless opponent of General Alfredo Stroessner, Paraguay’s dictatorial ruler for 35 years. During Pope John Paul II’s visit to that country in May 1988, during Stroessner’s eighth and final term, Ballinger was detained along with a group of peasants he was accompanying on a hunger strike protesting crimes against human rights.¹ At that time he was 60. I met Father Ballinger 16 years later when he was the parish priest of Arcatao in Chalatenango, El Salvador.² He possessed an overwhelming energy and used to burst with enthusiasm for his work among the still smoldering scenes of the civil war. A decade later, in March 2014, we met again in El Paso. Now 86 years old, wearing a Chalatecan guayabera, he was still waging far from negligible battles. I visited Ciudad Juárez several times with him. Ballinger crosses the road distractedly while he reads messages on his mobile phone and angry drivers shout intricate, point-blank insults about his mother. He gets on buses with no idea of the cost of the fare and is baffled when his frail purse does not contain the required sum. The driver ends up accepting any amount and Ballinger reaches his destination, divorced from the world’s hubbub and its pedestrian monetary cares. In a further, even more roundabout, some would say “miraculous” way, he manages to return unharmed and in time for the community Mass, putting divine power and patience to the test.

In the truck, as they call busses in Mexico, a trendy ballad blares out: “They think that because I crossed the line / I’m a drug trafficker / that’s enough of a thousand humiliations / just for being an

¹ Suro, 1988.

² Baxter Magolda and Kind, 2004, p.163.

immigrant / I'm singing for all my people / don't forget it, bear it in mind / that those who were not wanted / are today elected President."¹ In Lomas de Poleo, a greyish slum on the edge of Ciudad Juárez where every drop of water is liquid gold devoured by a greedy sun almost as soon as it emerges from the faucet, is Casa Tabor, a community of contemplation and political action. It is as nomadic as its founders, the nun Betty Campbell of the Sisters of Mercy and Carmelite priest Peter Hinde, who also founded CRISPAZ, Christians for Peace, in El Salvador in 1984, together with a Lutheran pastor and a Quaker activist who wanted to provide a refuge for those displaced by the civil war.² Casa Tabor was founded in 1973 in Washington DC, then moved to San Antonio in Texas and found its final resting place, at least so far, in Ciudad Juárez in 1995. Hinde tells me there are fewer migrants in Juárez since the wave of violence, but they do still come. At 80 and 91 years old, respectively, Campbell and Hinde belong to an endangered generation of revolutionaries. Hinde, a pilot in the Second World War, crosses El Paso every Friday to protest the US government's military invasions. In Casa Tabor he and Campbell receive pilgrims and teach them about life on the border, lethal US foreign policy and violence in Ciudad Juárez.

Hinde recommends I read *The Beast*, the English version of *Los migrantes que no importan* by Oscar Martínez: "If you read his book you get the impression that it's a miracle anyone can get across this border without falling into the hands of Mexican drug traffickers or the 'security forces,' who are in league with the traffickers." Then he tells me a bit about Casa Tabor: "When Casa Tabor, which came out of the Christian Base Communities, was in Washington DC at the end of the seventies and start of the eighties, we used to receive refugees from Chile, Argentina, Bolivia and then El Salvador and Guatemala. We set up solidarity committees with the different countries. In 1981 we moved to San Antonio, Texas, so we could travel overland to Mexico, and then to Ciudad Juárez." It continues to be a moral reference point and a mecca to which many leftwing faithful make pilgrimages in search of spiritual nourishment and counsel. Sister Betty shows me the collective murals they are making in memory of those murdered in Central America and the dead of Juárez. They are very expressive mosaics.

"Did you know," Donald Ballinger asked me when we return, "that when I left El Salvador in 2005 I was in contact with a people trafficker? We were negotiating to make the journey from El Salvador to the United States with a group of migrants. At first he asked me for US\$5,000. But I told him I wanted to go as chaplain to celebrate Mass with the people and all that. So he cut the price to \$1,000." Donald burst into one of his resounding guffaws in celebration of his victory. "The New

¹ Calibre 50, 2015.

² Frontera List, 2012. [Sandoval, 2010. CRISPAZ, 2015.](#)

Orleans Provincial first said no and then he said yes,” Ballinger went on. “But the Central American Provincial told me: ‘No way whatsoever, because if I give you permission, everyone will want to go.’ It was my way of going with the migrants, accompanying them.” That’s Donald for you, I thought, a leopard that doesn’t change his spots. His life is as non-conformist as those messages that graffiti artists as daring as he have painted on the channel walls of the Rio Bravo/Grande, glimpsable through the holes in the fence caging the Paso del Norte international bridge that both unites and separates Ciudad Juárez from El Paso: “Walls can never hold back the spring,” “On this side there are also dreams” (signed: Ciudad Juárez Poetry Action), “Rubén was murdered by a migration agent and justice was never done, *migra* assassins.”

On reaching the other side, we went to Annunciation House¹, set up in 1978, according to Ballinger, when a group of “young Catholics and idealists met in El Paso looking for a higher purpose, something that might make them feel they were fulfilling a mission.” The Catholic diocese in El Paso lent them premises for providing shelter to the homeless. Rubén García, the hostel’s future director and at that time director of the diocesan Office for Young Adults, reflects on the unexpected convergence between the consequences of geopolitics and his commitment: “The house was set up in 1978, at the time when the Sandinistas were overthrowing Somoza in Nicaragua and taking control of the country. It was also when the guerrillas in El Salvador and Guatemala threw themselves into the hope that they too could achieve a change in government, which, as we know, didn’t happen. But the civil war caused a flood of exiled migrants and El Paso was one of the border crossings where they arrived; which is why we received them here.” The sheltered homeless ended up being the countryless Central Americans who fled the civil war. Currently Annunciation House shelters those fleeing the recent violence in Central America, violence that’s an aftereffect of the war and the harvest of the arms industry and drug trafficking activity.

Its mission has placed Annunciation House in such a tense relationship with the immigration authorities that one morning the far-reaching claws of violence reached its own doors. On February 22, 2003, one of its guests, Juan Patricio Peraza, a 19-year old Mexican from Mexicali, was murdered by Border Patrol agents when he was putting out the trash close to the hostel. Eight agents surrounded the young man and one of them, Vernon Billings, pulled the trigger at point-blank range. Juan Patricio’s parents filed a case against the US government, but the Border Patrol went to the police station and

¹ Annunciation House, 2014.

threatened to deport the eight witnesses, all guests in Annunciation House.¹ In July 2014, in marked contrast to this extreme episode, Rubén García got a call from the ICE representative. The number of Central American migrants who were minors detained in the Río Grande area in southern Texas, had greatly exceeded the immigration authorities' capacity to process them. The agent asked García: "Several planes with 140 passengers each are going to arrive at the processing center in El Paso. We're going to release them on parole. Can you take in the ones who have nowhere to go?"²

Since its founding, Annunciation House has received more than 125,000 people in its two hostels. They get about three new migrants a week. At least half are Central Americans, mostly from Guatemala, Honduras and El Salvador. If they come seeking asylum, they can stay several months and are referred to the Las Americas legal assistance and the Diocesan Migrant & Refugee Services. Ten volunteers look after them and organize the work. Julia, who is one of them, explains her reasons for giving a year of her life to this work: "I was an English teacher at a school in Wisconsin and most of my students were migrants who had crossed the border. That's how I started to take notice of migration and the US immigration system. I saw a lot of injustice committed by our system. Who are we to say: 'You can't come into our country' to those who want to better their lives? I wanted to change the migration system, but as I can't do that, I looked for a way to help and learn more about the border and migration and that's how come I decided to look for a volunteer program here."³

The night before leaving El Paso I met with the Labor Justice Committee, a group of attorneys who support migrants in their labor demands and organize protests against the migration authorities' human rights abuses. They meet once a week in a room in the Sacred Heart parish church. If my subconscious hoped to hear some pious statement from them, it was disappointed. They're a rather warlike group that puts the fragile tools of the law at the service of migrants in an inauspicious field: firstly, because the Border Patrol in El Paso has a very aggressive marketing strategy when it comes to selling itself as a benefactor of the community and secondly, because Texas enjoys a wage policy that allows for paying below the federal minimum level. Not satisfied with this comparative advantage, the region's employers have committed labor abuses against 98% of undocumented migrants, according to the Committee.⁴ The attorneys organize marches, pickets, fasts and other, ever more media-grabbing events against these conditions. In March, 2014, six of them joined the We Belong Together fast for

¹ Rocha, April 2010.

² Truax, 2014.

³ Interview with the autor, El Paso, Texas, 14/03/2014.

⁴ Arellano, 2013.

migration reform and against deportation.¹ Carlos León, a counselor and former El Paso police chief, accompanied them in the session. In impeccable Spanglish, he invited them to look for him: “When you have a problem, talk to me to get proceedings started. I know what it is to fight to get a job to maintain a family. I’m not going to say much. I’m not a good speaker. If there’s anything I can do... What I told everybody: I’m your employee. I was elected by you to serve you, not the other way around. I’m your servant. That’s why I’m here. I’m going to pass around my card, please, talk to me. I don’t back down.”²

After the meeting, Donald finished off by clarifying his position: “It doesn’t matter that migrants break the law; I’m going to help them get in. If I can help them, I’ll do it, because people have a right to improve their lives. All people have a right to do that. I’m coming to the point of view that countries shouldn’t exist. We have the right to cross any border to earn our living. When an astronaut looks down on the world, they don’t see borders. God made the world without them.”³

1.3 Resurrection of the Sanctuary Movement

In September, 2014, 40 churches in Illinois and other states declared their support for migrants in danger of being deported. “The movement is gaining strength and we’re not alone in our call to the consciences of all those who believe in God,” said the priest José Landaverde of the United American Catholic Church. He added: “It’s a mandate of the Gospel and the Bible” to give sanctuary to those who need it: “We should respect God’s orders and call on the federal authorities to declare a moratorium on deportations.”⁴ Dozens of churches have opened their doors to migrants in danger of being deported. “To open the doors of a church, a synagogue or a mosque and declare it a sanctuary is a serious matter. Religious leaders and their congregations don’t take this decision lightly,” said the Reverend Noel Andersen, coordinator of the immigrants’ rights area of Church World Service.⁵ The eighth person to seek refuge in a church was Ángela Navarro, a Honduran resident in Philadelphia. Captured by the *migra* when she crossed the border in 2003 at age 17 and now after 11 years living in Philadelphia, bearing two US children currently 9 and 11 years old, Ángela decided to take refuge in the West Kensington Ministry to resist the deportation order that had hung over her head for 10 years.⁶ After

¹ We Belong Together, 2015.

² El Paso, Texas, 18/03/2014.

³ Interview with the author, El Paso, Texas, 17/03/2014.

⁴ Departamento19, 29/09/2014.

⁵ Mass, 2014.

⁶ Wallace, 2014.

two months and 6,000 signatures of support, her case was reviewed, the deportation was annulled and Ángela was able to go back to her family and job.

It's no coincidence that churches are giving their support to migrants. I've related some examples in Catholicism, but among Protestants, Muslims, Jews and Hindus there are also similar approaches, episodes and activities. The affirmation by Landaverde and Anderson of the divine mandate and seriousness of the decision find support in the Judeo-Christian tradition. The entire Torah orders it, as does the Bible: "Do not oppress an alien; you yourselves know how it feels to be aliens, because you were aliens in Egypt" (Exodus 23, 9). "When you harvest the grapes in your vineyard, do not go over the vines again. Leave what remains for the alien, the fatherless and the widow. Remember that you were slaves in Egypt. (Deuteronomy 24: 21).¹ They are valuable precepts both for Jews and Christians. The specifically Christian tradition returns to this legacy. The gospel of Matthew includes a beatitude for those who help migrants: "Come, you who are blessed by My Father; take your inheritance the kingdom prepared for you since the creation of the world. For... I was a stranger and you invited me in." (Matthew 25, 34-35).²

Subsequent development of Christian practice and doctrine also took up the torch. A mandate for hospitality towards strangers appears in chapter 53 of the Rule of Saint Benedict: "But let the poor, and strangers especially, be diligently entertained with all care, because in them Christ is more truly received. For the simple fear of the rich doth beget them honor."³ The US Catholic Church received this particular task in "Ecclesia in America," Pope John Paul II's exhortation to US Catholics: "... to help them settle in their new land and to foster a welcoming attitude among the local population, in the belief that a mutual openness will bring enrichment to all." It reminds them that "the Church in America must be a vigilant advocate, defending against any unjust restriction of the natural right of individual persons to move freely within their own nation and from one nation to another. Attention must be called to the rights of migrants and their families and to respect for their human dignity, even in cases of non-legal immigration."⁴

¹ Saravia, 2004, pp.62-63.

² Saravia, 2004, p.48.

³ "Pauperum et peregrinorum maxime susceptioni cura sollicite exhibeatur, quia in ipsis magis Christus suscipitur; nam divitum terror ipse sibi exigit honorem." The Latin Library, Capítulo LIII. REGULA S.P.N. BENEDICTI, 2015.

⁴ Juan Pablo II, 1999, pp.108-109.

Historical reasons

Obviously, the degree of commitment varies and all commands for solidarity with the poor and against the accumulation of wealth that will be corrupted by moths and woodworm (Matthew 6,19) don't often produce changes in the conduct of the most self-confessed and self-satisfied Christians. "God helps those who help themselves" is a condensed version of the popular wisdom regarding believers' ambivalent reaction towards doctrine and the omnipresent gap between theory and practice in the religious world. Religious commands may have several readings and applications, according to each context. In addition to the doctrinal-religious tradition, there is a historical-political tradition with which it is interlinked, since this is where one finds its expression and the possibilities of the Kingdom of God on earth.

In the United States a historical link exists between the Catholic Church and recent arrivals: Irish, Italians, Polish, Mexicans and now Central Americans. A long tradition places official Catholicism on the side of the migrants. "Go to any church on a Sunday morning," a Protestant pastor said in 1887, "and you will see lawyers, physicists, traders and businessmen with their families... but the worker and his household are not there." According to historian Arthur Schlesinger, of all the ancient religions only Catholics and Jews knew how to attract and keep the workers and immigrants recently arrived in the United States at the end of the 19th century.¹ The Catholic Church particularly attracted the Irish, German, Austro-Hungarians, Italians, Polish and francophone Canadians.² Between 1850 and 1900 Catholics in the United States increased from 1.606 million to 12.410 million, a substantial component of which was 5 million migrants.³ Fully conscious of immigrants' potential religiosity, Protestant groups started engaging in missionary work in the Atlantic ports to care for the immigrants' religious needs and practices. Schlesinger writes that in 1883 the interdenominational American Home Missionary Society organized specialized departments for Germans, Scandinavians and Slavs. According to him, the Protestant churches became well known for doing philanthropic and educational work among the poor and churchless once they took note of their potential as regular practitioners.⁴ Immigrants have represented a fertile field for proselytes that churches cannot ignore on pain of expiry due to the decrepitude and shrinking of the faithful. Put in demographic terms: no church can sustain itself if it looks only to mere vegetative growth, often limited to the replacement rate; it needs new acolytes. The migratory and religious history of the United States shows an electrifying dialectic tension in which

¹ Schlesinger, 1932, p.533.

² Schlesinger, 1932, p.544.

³ Tracy Ellis, 1969, p.88.

⁴ Schlesinger, 1932, p.539.

proselytizing among immigrants responded to a biblical and doctrinal base and the charisma and values of inviting strangers in and feeling compassion for the vulnerable fell on very favorable politico-religious soil. This trend makes it possible for the churches' claim of universality to be updated in a multi-dimensional theocracy¹ that has been revitalized by successive political negotiations and openings.

The political effectiveness of religious citizenship: Religious citizenship vs national citizenship

The claim of universality has been effective and has enjoyed renewed and creative re-editions. In *God Needs No Passport*, US sociologist Peggy Levitt maintains that "some people do not live according to an atlas, or at least not the sort that most of us are used to. These people imagine themselves living in a religious landscape... They are not nationals or cosmopolitan, but rather members of faith communities made up of those all over the planet who share their creed. Religious global citizenship implies rights and responsibilities that complement, supplement and occasionally contradict other forms of belonging. For this group, these rules are more important."² Michael Walzer has already pointed out this. They don't ignore political borders, but "they think of themselves as people who live in an alternative topography, with residents, rules and landmarks that are more important than their secular equivalents."³ For some people, Levitt tells us, one earth, one membership card and one identity are a secular version of the Holy Trinity⁴, and for many more the sacred spaces are more important than current political geography.⁵ This claim of many memberships, which does not mean dismissing political citizenship, assumes an acceptance that more and more people possess religious and global passports as well as national ones.⁶ Because of this, "religious global citizens want the right to live in accordance with their interpretation of religious law."⁷

Levitt's arguments are convincing, her insight about religious landscapes superimposed on political ones is thought-provoking and her metaphor of global religious citizenship is powerful and in certain circles might find much empirical evidence to support it. But I think that in order to investigate what's happening with this citizenship, it's necessary to explain that only its collision with political citizenship, not its parallel existence with it, could show us its symbolic and political effectiveness. As Bourdieu stated, "the actual symbolic power of the Church can only be effective in relation to certain

¹ Philips, 2006.

² Levitt, 2007, p.83.

³ Levitt, 2007, p.83.

⁴ Levitt, 2007, p.67.

⁵ Levitt, 2007, pp.12-13.

⁶ Levitt, 2007, p.68.

⁷ Levitt, 2007, p.86.

pre-existing provisions, which are not produced, strictly speaking, by the Church itself.”¹ These pre-existing conditions in the case at hand are migrations as a historical constant, the US political system and its opening up to civil disobedience, as well as xenophobic reactions and its other, inseparable face: the relationship of patronage created by churches and political parties in ethnic and confessional niches of recently arrived migrants.

The examples Levitt chose to present global religious citizenship don't immediately manifest their conflict with national citizenship because the comments she collected from the mouths of Pakistani, Brazilian and Irish migrants in Boston could have been made by any of their fellow countrymen or women, without ever having set foot outside their villages: religious authorities are more important for them than secular ones: they care more about what the pope or their imam says than what the President says; the members of their religious community, not their fellow nationals, are their brothers...² Global citizenship only exists if it's put to the test, if it's measured against the constraints of political citizenship. Otherwise, it's a self-image lacking in political effectiveness. Because politics, as Jacques Ranciere stated, is born of disagreement and in this case it's a disagreement related to the equivocal nature of citizenship: a universally inclusive one vs. a nationally restricted one. The conditions making this disagreement possible are lost in the mists of time.

From the side of the Christian churches it should be emphasized that many centuries have passed since the “Render unto Caesar the things that are Caesar's, and unto God the things that are God's” with which the first Christian communities expressed their will to keep separate the two spheres, the earthly and the heavenly. The vision of human beings as pilgrims on earth has always been powerful; Arendt believes it to be fundamental to any truly Christian philosophy.³ But it ceased to inspire behavior regarding political matters when Christians stopped considering the second coming of Christ as imminent. Since then, and even more so with the marriage of Church and State, worldly affairs have mattered a lot. When Christians noticed that the Kingdom of God wasn't just around the corner, they began to turn their thoughts more seriously to earthly matters. Their practice had already taken the lead. That's why it's necessary to indicate that global religious citizenship emerges as an authentically political element not when it ignores national citizenship, as those would do who are no more than pilgrims on earth, but rather when it fights to extend itself and undermine national citizenship's exclusive devices. If global religious citizenship exists at a more tangible than metaphorical level of

¹ Bourdieu, 2009, p.146.

² Levitt, 2007, pp.83, 84, and 85.

³ Arendt, 1995, p.50.

reality, it's not about simply coexisting with, albeit turning its back on, national citizenship, but rather negotiating, challenging or even colliding with it head on. This is where its political effectiveness lies.

This occurs beyond the radicalness of the subjects' positions, which vary hugely because each one has reasons that only the heart understands. The cases of support for migrants are purposefully and representationally diverse and the commitment levels of the people involved cover a very wide spectrum, ranging at least from Ballinger's anarcho-cosmopolitanism to the timorous attitude of the head of a nearly extinct religious congregation in Virginia that allows undocumented migrants among its members, but fails to concern itself in any way with their legal condition. Close to Ballinger's position is that of Alicia Dinsmore and Natalia Serna: one works in one of the most belligerent organizations and the other is preparing a CD with songs that descend to incredibly human details without losing the thread of the denunciation. Somewhere in the middle is the pious couple that takes milk about to pass its use-by date to the Kino diner one day and to an old people's home another day. Somewhere else in that same middle is the novice who works with migrants because Jesus did, although, as far as we have reliable news, this historical Jesus limited his movements to such a restricted geographic constituency, without crossing its political territories, that I'm not sure he deserves this accolade. At yet another point is Annunciation House, which started as a hostel for homeless people and by little more than the jerks of US geopolitics and its effect on Central America, turned into a hostel for political refugees and thus into a project located in the eye of the hurricane in an especially convulsive period.

All have in common what Levitt calls global religious citizenship and I call a universal claim. But not all are equally aware of the non-observance of US laws their activities on behalf of the migrants are charged with. The presence of the most radical and aware in this gamut of actors is not negligible. It gives a good idea of how today's migrants are benefitting from the organizational solidarity infrastructure amassed over decades. That infrastructure also involves other accumulations. Veterans such as Ballinger, Hinde and Fife, for example, are nourished by their ideology and their revolutionary trajectory of the seventies and eighties. They continue vibrating with the liberation theology that some, Peter Hinde among them, learned directly from the inspiring words of Gustavo Gutiérrez in Peru. At the same time that the empire was moving its pieces on the great game table of world geopolitics, there was a flowering of solidarity organizations with the third world, with Latin and Central America, with their refugees and even their guerrilla movements. With time the requests for asylum lessened and geopolitics adopted another script, but those organizations persisted and are now the platform of activism for the migrants: CARECEN, Maryland House, Tabor House, Annunciation House... The geopolitics of those times produced some antibodies that continue reproducing and challenging the

State in other terrains. It's curious how geopolitics has become the midwife of a civil disobedience that orchestrates the inclusion of those without politics. The politicized of yesterday paved the way for those who aren't exactly politicized today to move and act.

This gamut also includes youthful volunteers nourished by their direct contact with the migrants. These young people are inspired by flesh and blood migrants or by those they imagine through the idealized versions presented to them by their catechist, parish priest or religious superior. They say they don't encourage the migrants to migrate. And if you ask, they are all there for humanitarian reasons: for their Christian faith, because as children they played with the immigrants from their neighborhood, because Jesus was a migrant or because in Minnesota they gave English lessons to Latinos and the stories their students told them made them want to come and volunteer. The disobedience of Fife and Ballinger goes without saying, while Julia's is less declaratory and more contextual. And that's why we see different levels of consciousness and radicalism but similar levels of effectiveness and expressiveness. In fact, no organization has anything like a declaration of principles about the migrants, yet their petitions—always having to do with the moment rather than with structural explanations—contain both explicit and tacit positions regarding very specific aspects. Their track record amounts to a proposal that membership in imagined nations be subordinated to the universality of the religious community (that was actually Landaverde's message). Such universality is at the core of their efficacy. And so is the universality of their message: *la migra* and other bureaucrats who apply the migratory legislation speak—as do neurotics—a very particular jargon that borrows from the nationalist vocabulary to legitimize itself. But by its universality, the language of the religious institutions obtains greater effectiveness with respect to social validation. While there's no scale to measure the weight of that effectiveness, there's also no doubt that religious pressure was behind the migratory relief offered more than 5.2 million undocumented people when President Obama suspended their deportation in November of 2014.

The declarations of many religious officials didn't conceal what Bourdieu attributes to—and presents as a *conditio sine qua non* of—religious symbolic efficacy, i.e. that religious specialists must necessarily hide the fact that their struggles have political interests.¹ To the contrary, there was a clear call to civil disobedience with the offer of converting churches into refuges for the deportable. The declarations of these disobedient activists converted the implicit civil disobedience of the less politicized activists who were practicing daily charity into explicit civil disobedience. And thus was

¹ Bourdieu, 2009, p.68.

produced the crucible that founds all civil disobediences: that of the retired priests who are dedicating their last energies and years to the undocumented, that of Sister Engracia who left the center of religious power to work in the peripheries, that of those old people who simply take milk from US gas stations to the diner in Nogales rather than see it thrown out because of its expiration date... They are all part of the great refusal to go along with the program designed at the top. They all inspire and breathe life into their religious communities because they give them a cause to fight for, a living Christ, always crucified and always resurrected. They all believe that God needs no Passport. And that his sons and daughters don't either.

2. The State: Its heterogeneity and its Street-level Bureaucracy

Bourdieu warns scholars of the danger of being nothing more than an instrument used by the state to think about itself, which happens when analysts apply categories constructed by the performance of the bureaucracy. It is an astute warning, but suggests that the state is foreign, dissociable, and a net enemy of society and each one of the individuals that compose it, excepting maybe those who benefit from power, or those who are "imposing a particular vision of the state, a vision in agreement with the interests and values associated with the particular position of those who produce them in the emerging bureaucratic universe."¹ This proposal assumes that the state is a type of autonomous entity, the only independent variable in the political equation that produces itself, and if it does so with our assistance, it is because it has formed and manipulated us. In another text Bourdieu presents a proposal more in agreement with the basic premise that orients this section, while quoting the thesis of the Neo Marxist Joachim Hirsch, who "insists in the fact that the state is the place for the class struggle, that the state is not simply the instrument of the hegemony of the dominant class. In the heart of the state there are people who support the liberal side, or, in contrast, the state side. It is a large territory of confrontation. If we translate this in terms of political division, we will have the socialists on one side and the liberals on the other." ² My premise is that confrontation exists in the present, but that it also existed in the past with a disagreement among state actors and also between them and those toward whom these policies were directed, and that that confrontation has given way to bureaucratic uses, jurisdictional borders, distribution of powers and a diversity of policies that have left a variegated state. Therefore, thinking with the categories of the state can also be thinking from the struggles that have been waged in that state.

¹ Bourdieu, Wacquant, and Farage, 1994, p.3.

² Bourdieu, 2014, pp.27-28.

The US federalists (Madison, Hamilton, Jay) instituted the principle of the division of state power inspired by Locke, Bolingbroke and Montesquieu. They sought separation, independence and balance of powers. Tocqueville reflected *in extenso* about the US political system and proclaimed that that separation constituted one of its most distinctive characteristics, because the separation was not limited to the three classic powers, but to the power wherever it is found – municipal, regional, national – to ensure freedom and prevent abuses through vigilance and reciprocal controls. Separation implies: the partition into two of the sovereignty that the constitutional monarchies have applied, while attributing to the people the legislative branch, and to the king the executive branch; b) the distinction of functions that had emerged with the rationalization of the bureaucracy in the absolute state, but that in the United States was not applied as a mere administrative distribution, but as a plurality of autonomous branches and balance of functions. The system works so that no branch is imposed on the other branches. The independence must be real and formal, in fact and by right.¹ That independence happens among different arms of the state, between different branches of the executive and between different geographical levels and localities. The possibility that the state might be diverse on the geographic and corporate plane has resulted in the fact that in its heart different and conflicting postures are displayed. Lakoff characterizes them as “Strict Father morality”, and “Nurturant Parent morality”, that I depicted in the second chapter.² Bellah presents them as utilitarian individualism and expressive individualism. The former emphasizes the individual effort directed toward the accumulation of material wealth, the sacrifice of everything for professional or business success. Expressive individualism is embodied in the immediate enjoyment of life, a life full of experiences, open to all types of people, exuberant in the sensual aspect as well as in the intellectual, an “I” identified with other people and nature and ultimately with the universe.³ From the former come policies based on a retributive ethos and respect for the law. From the latter come policies open to multiculturalism. The utilitarian individualist emphasizes respect for the law and the obligation of earning citizenship. The expressive individualist is more open to cosmopolitanism. Neither exists in its pure state. There are some underground currents under the policies. If these and other positions are embodied in policies and bureaucratic procedures, we have a situation where state heterogeneity is the disagreement expressed in a spatial and institutional distribution. It is temporarily frozen dissent. I am not saying “fossilized dissent”, because the locations, levels and issues are open to include change over time. I am going to deal with two forms of heterogeneity (horizontal and vertical), and Street-level bureaucracy, that can be considered a

¹ García-Trevijano, 2015, Pos.28.

² Lakoff, 2002, pp.187-188.

³ Bellah, Madsen, Sullivan, Swidler, and Tipton, 1989, p.57.

heightening of vertical heterogeneity. I will illustrate these three forms of heterogeneity with examples taken especially from the previous chapter.

2.1 Horizontal heterogeneity: Independence of functions and powers between federal entities and between geographic zones of an equivalent rank

The most frequent cases of what I call horizontal heterogeneity, those that I witnessed or those that I received news about from their protagonists, can be grouped into two types that I call corporate heterogeneity and geographic heterogeneity. Corporate heterogeneity is that which happens when those who, being pursued by the Department of Homeland Security and lacking permission to work – because the migratory authorities would never give it to those who cross the border without authorization, or exceed the time they were granted to stay in the country – can go to the Labor Commissioner’s Office, be hired by the state as childcare workers, and pay taxes. We could speculate that the migrants are benefitting from that which Bourdieu refers to as “the essential ambiguity of the state”, which “derives in part from the fact that in its very structure, with the opposition between financial ministries and spending ministries, between its paternalist, familialist, protective right hand, and its socially oriented left hand, it [the state] reproduces the archetypal division between male and female.”¹ The Quichés from San Antonio Sija, and Gisel with her hiring as a childcare worker, are some examples of how the non-movement of the undocumented supports itself in this heterogeneity. In another text Bourdieu maintains that “to understand the interest of the technical bodies in an attitude that we could call ‘progressive’, you have to suppose that they show an interest of a body linked to progressive positions. They are not defending a progressive position because it is progressive, but because they belong to a body that is linked to a form of progressive regulation.”² This applies to the Labor Commissioner's Office, which defends the rights of the undocumented because by its nature it is committed to the rights of workers, regardless of their migratory status. The state commitment – the form of regulation to which it is linked – is the provision of those services. The hiring of Gisel is a collateral effect that has nothing to do with the attitude of the state toward her, but with the impossibility of getting sufficient adequate labor force among the natives and authorized migrants. The state hired her because it needed her. And the same thing is happening with the millions of undocumented who are taxpayers: the financial and masculine arm of the state – treats the migrants as if they were not excluded because it needs their money. Thus the heterogeneity can have a bit of

¹ Bourdieu, 2002, pp.87-88.

² Bourdieu, 2014, pp.27-28.

corporate progressivism and administrative opportunism whose most exquisite formulation is “The IRS agrees my taxes are not illegal”. Regardless of its structural roots in a corporate progressivism or in a financial instrumentalization, this heterogeneity makes possible the performative civil disobedience because it gives legal backing to the art of presence of the undocumented.

I call geographic heterogeneity that which results from the diverse relationships between the local authorities and the federal authorities, and between their different policies. In terms of the migratory policies, we have an enormous array of types of jurisdictions: jurisdictions have sought to deter illegal immigration by imposing their own restrictions upon unauthorized aliens’ access to housing, employment, or municipal services; jurisdictions have assisted federal authorities in apprehending and detaining unauthorized immigrants (including pursuant to 287 agreements with federal immigration authorities); jurisdictions have actively sought to deter the presence of illegal immigrants within their territory; jurisdiction have communicated on the legal status of its population with federal immigration enforcement officers under limited circumstances; and jurisdictions have been unwilling to assist the federal government in enforcing measures that distinguish between legal and non-legal residents of the community. Among the latter are jurisdictions that have adopted formal or informal policies limiting cooperation with federal immigration authorities.¹ The failures of comprehensive immigration reform have led to more legislative and administrative diversity of migrations that deepens a heterogeneity *in crescendo*. According to Martin, 300 bills were introduced and 38 laws were enacted in 2005, 570 bills were introduced and 84 laws were enacted in 2006, and 1,562 bills were introduced and 240 laws were enacted in 2007.² This geographic heterogeneity was taken advantage of by Lito Melgar and the thousands of immigrants that moved from Manassas and Prince William County to cities and counties that were not collaborating with ICE, or only gave them lukewarm support. It had a theatrical dramatization in the skirmishes of Fredy Melgar and his friends, who would cross over to the side of the Bull Run River to evade the Prince William County police under their very noses. That is where the first great battle of the Civil War took place (the First Battle of Bull Run), 155 years later the migrants theatrically fought against a local police ally of the DHS. The murals of San Francisco and other cities are possible because the heterogeneity gives space to municipalities that promote them, municipalities that do not criminalize them, municipalities that prohibit them, but owners that promote them and have legal backing.

¹ Garcia, 2009.

² Martin, 2010, p.284.

The most proactive modality for the cause of the non-movement of the undocumented is the heterogeneity that turns into sanctuary, that takes place with the existence of sanctuary cities, counties and states, so-called because they are jurisdictions where the local authorities refuse to collaborate with federal anti-immigrant policies, and even grant a number of rights to the undocumented that cover a wide spectrum: from voting to state scholarships, driver's licenses and many social benefits. These are called sanctuary policies, and have been applied since the U.S. Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996. Neither the sanctuary policies nor the sanctuary cities are defined by federal statute or regulation.¹ Nevertheless, frequently the sanctuary policies are written, and adopt the form of a resolution, ordinance or administrative action, general or special orders, or departmental policies. The states of Maine and Utah in 2004 and 2011 approved directives that allow the undocumented to live and work.² There are also informal sanctuary policies, that are not written, but that are sanctioned by custom: sheriffs that do not collaborate with DHS and order their subordinates to do the same, mayors that hire undocumented in public projects, city administrators and other officials that denounce the ICE raids. Among the places with sanctuary policies are Tucson in Arizona, New York City, the 64 counties of Colorado, nearly 40 cities in California and 14 cities in Florida. Gerson and Yadira in Maryland, María García in San Diego, and the Dreamers in San Francisco benefit from formal sanctuary policies. The Quichés in Los Angeles benefit from informal sanctuary policies.

Sanctuary cities have been denounced in Congressional reports for limiting arrests for federal immigration violations, limiting information-sharing with federal immigration authorities, limiting police inquiries into persons' immigration status, declining to honor immigration detainers, shielding unlawfully present juveniles from federal detection, modifying criminal sentences to avoid immigration consequences.³ That same report located the origin of this bureaucratic contempt: "While state or local measures limiting police participation in immigration enforcement existed beforehand, many of the recent 'sanctuary'-type initiatives trace their lineage back to actions by U.S. churches that provided refuge to unauthorized Central American aliens fleeing civil unrest in the 1980s. A number of states and municipalities issued declarations in support of these churches' actions. Others went further and enacted more substantive measures intended to limit police involvement in federal immigration enforcement activities."⁴

¹ García, 2009.

² Most of the Senators from Utah are Republicans.

³ García and Manuel, 2015.

⁴ García and Manuel, 2015, p.8.

Indeed the sanctuary cities find inspiration in the same concept as the churches that in the 80s received Central Americans in their temples whom the government refused to recognize as refugees. The churches resumed, to the benefit of the Central Americans, a tradition that – according to Haymes and Vidal - in the antebellum era “took the form of an underground railroad that moved fugitive slaves to northern free states and Canada. Following World War II, church-based immigrant advocates argued for the admission of thousands of displaced persons from Europe, and through voluntary associations helped to resettle people leaving countries with communist governments during the Cold War era. During the Vietnam War era, sanctuary was offered to war resisters in American churches.”¹ The support that began in the churches was passed on to local governments. Ordinances and directives declared public spaces as sanctuaries. The irregular migrants were able to leave the ecclesial catacombs and go into open spaces. Berkeley, California; Madison, Wisconsin; and Cambridge, Massachusetts enacted local resolutions declaring sanctuary for Central American refugees. These ordinances suddenly extended these benefits to all the unauthorized immigrants, creating a climate of municipal challenges to federal policies.² The sanctuary cities are an institutionalization – crystallization in the state – of the old struggles, clearly connected to support for Central American refugees. If the Dreamers in San Francisco can hold sit-ins, in part it is because the state apparatus was molded by large waves of the non-movement of the undocumented, whose most recent generation is harvesting fruit from old trees. In fact the current conquests of the Dreamers vary a lot from one place to another. They depend on the material that history – embodied in sanctuary policies – has left at their disposition.

The sanctuary cities have been harassed and accused; accused that they are a breeding ground for crime. But there are studies that show that, in fact, they are safer.³ They are also harassed by a reduction in state funds. Some proposals punish jurisdictions that do not provide information to ICE on the immigration status of aliens. One such proposal passed the House on July 23, 2015 (Enforce the Law for Sanctuary Cities Act, H.R. 3009). The amendments adopted during the House Committee on Appropriations mark-up of the FY2016 Department of Homeland Security appropriations bill, and the House consideration of the Commerce, Justice, Science and Related Agencies Appropriations Act, 2016 (H.R. 2578) will also punish sanctuary cities. According to Kandel and Seghetti, “the former would prohibit Federal Emergency Management Agency funds, while the latter would do so for State and Local Law Enforcement Assistance grant funds. The Senate is expected to consider the Stop Sanctuary Policies and Protect Americans Act (S. 2146). S. 2146 would make sanctuary jurisdictions ineligible for certain

¹ Haymes and Vidal de Haymes, 2014, p.257.

² Haymes and Vidal, 2014, p.263.

³ Harkinson, 2015.

federal law enforcement grants and funding from the Community Development Block Grant Program.”¹ Some agencies on the federal level have put a price on the heads of the undocumented, and those who continue supporting them have to pay it. The sanctuary cities will have to pay with less access to federal funds. It is the same story with the prisons of ICE, but the reverse: they buy the collaboration of poor towns installing detention centers, they punish the sanctuary cities denying them resources. This situation will turn sanctuary policies into a bigger and more militant challenge.

2.2 Vertical heterogeneity: Between institutions and levels (country, states, counties, cities)

Vertical heterogeneity is that which is produced between levels that are connected for the application of migration policies. The federal level has preeminence on this issue, but without the support of any local policy, no arm of the law is long enough to reach the ground. Policies reach the ground in everyday life, neighborhoods, and work centers. Without a bureaucracy that reaches there, the policies are worthless pieces of paper. New Orleans is not a sanctuary city. But in 2010 its police department refused to collaborate with ICE. Unless it directly sent its agents to do raids – something that rarely happens – ICE did not have any chance to get hold of one of the many undocumented that every day look for work on the street corners of New Orleans. The same thing happens in Fairfax County, where Fredy Melgar and his friends would swim over to keep themselves safe from the police of Prince William County. Fairfax County was not, nor is now, a sanctuary county, but their police do not collaborate with ICE. Without the collaboration of numerous police departments, and access to their databases, the Secure Communities Program had limited results.

Sassen maintained that “the particular combination of power and legitimacy we call sovereignty is being decentered, partly redistributed onto other entities, particularly supranational organizations, international agreements on human rights that limit state autonomy, and the emergent private international legal regime for business transactions. With all this happening, what is the basis for the usual presumption that the state has exclusive authority over the entry of non-nationals?”² But power has also been decentralized downwards: toward lesser territorial entities, like states, counties and cities. The distribution of sovereignty, that limits the possibilities of excluding and including, is not new in the United States. In 1957 Eisenhower had to send the army to escort the first nine African

¹ Kandel and Seghetti, 2015.

² Sassen, 1995, p.61.

American students that wanted to use their right to go to a desegregated high school that Brown vs. Board of Education granted them. Maybe the inclusive force of local sovereignty is new. In the United States the undocumented obtain more rights through downward decentralization (sanctuary cities, heterogeneity of local policies, non-collaboration with ICE) than through upwards decentralization, like what was expected from the UNHCR and the IOM.

These local entities are, by omission or commission, those that show tolerance or active support for the undocumented. Bayat maintains that “Third World states seem to be more tolerant of quiet encroachment than are those in the industrialized countries, such as the United States, where similar activities, albeit very limited, also take place. The industrial states are by far better equipped with ideological, technological, and institutional apparatuses to conduct surveillance of their populations. In other words, people have more room for autonomy under the vulnerable and ‘soft states’ of the global South than in the advanced industrialized countries.”¹ I hope to have shown that state heterogeneity in the United States offers a lot of terrain for quiet encroachment to prosper, and even be strengthened. In the USA the undocumented not only are able to avoid controls in the areas where their civil disobedience is staged, and not only by effect of tolerance. They also have the complicity of state actors. This complicity acquires a more active character, even though less institutional, when the migrants deal directly with street-level bureaucrats, a special case of vertical heterogeneity.

The disobedience of street-level-bureaucrats

If the federal level has a limited capacity for enforcement when it lacks the grounding that the local institutions are, their effects can be even more limited – also very diverse – when we descend to the street-level bureaucrats. Since Lipsky formulated his thesis on street-level bureaucracy, it has been solidly established that teachers, social workers, health workers, public lawyers, superintendents, police officers, judges, jailers, and other public employees who provide government services, enforce the law, and distribute public benefits to citizens directly, are “de facto policy makers” due to their discretionary decisions.² Since those who form part of the “bureaucratic universe”³ are not one homogenous actor, the application of policies has a variation margin from one to another bureaucrat. Not even their formation and training achieve complete uniformity. The replacement of their idiosyncratic language by the standardization of prepared formulas, and the repetition of procedures that think along the same lines, and reject novelties and the rough places of everyday life, do not eliminate the person, their

¹ Bayat, 2010, pp.60-61.

² Lipsky, 2010, p.24.

³ Bourdieu, Wacquant, and Farage, 1994, p.3.

history, their ideology, their judgments and their dissent, that can have even more urgency than what Dworkin attributed to integrity-based, justice-based and policy-based disobedience.¹ The bureaucracy is never fully the government of anyone, and this Arendt knew through her own experience. She had been liberated by an agent of the Gestapo that sympathized with her, although she would not come to theorize about that episode maybe for considering it an exception to the norm.

Bourdieu peeked at this issue when, after pointing out that administrative law proclaims that it is neutral and that “any action by a public bureaucracy which individually benefits a private person is suspect if not illegal”, observed that “the sociological vision cannot ignore the discrepancy between the official norm as stipulated in administrative law, and the reality of bureaucratic practice, with all its violations of the obligation of disinterestedness, all the cases of ‘private use of public services’ (from the diversion of public goods and functions to graft and corruption). Nor can it ignore the more perverse abuses of law and the administrative tolerances, exemptions, bartering of favors, that result from the faulty implementation or from the transgression of the law.”² Bourdieu coincides with Castells in that “democracy as a social and institutional practice is not the same as the ideology of democracy, let alone the equivalent of the ideals of liberal democracy.”³ But Bourdieu only presented examples where the bureaucratic practice is at the service of corruption and the margin of freedom of officials was damaging to the public good.

Field work among the undocumented revealed to me that the bureaucrats also can use their discretionary power for altruistic purposes, or for the purpose of countervailing the letter of the law so that its spirit might prevail. Gisel Morazán receives support from the social worker who visits her that goes beyond the functions that she has been assigned. Jesús López, who informed me about the tactics of the drug dealers, now lives in Virginia and benefitted from the discretionality of street-level bureaucrats: “I had recently arrived when my daughter got sick. They had to operate on her. It was a complicated operation on her brain. And I did not have neither papers nor a job. No social security. The operation costed many thousands of dollars. Dozens of thousands. They told me to go to the social worker. I went and she asked me many questions. She felt sorry for me. In the end I only had to pay like a thousand dollars, in payments, when I was able.” Lito Melgar was saved from tickets and from being turned over to ICE thanks to police who did not collaborate. On one occasion he was saved from the fine because the young man who was his co-driver spoke English: the command of English is an essential tool for dealing better with street-level bureaucrats.

¹ Dworkin, 1985, pp.107-108.

² Bourdieu, Wacquant, and Farage, 1994, pp.17-18.

³ Castells, 2009, p.194.

In my crossing through the desert in a bus that went from Nogales to Tucson, a young, undocumented Guatemalan woman and her two children were headed to San Bernardino, California. They had been detained by ICE, and were awaiting to be summoned by the migration court that would assess their petitions for asylum. They were not supposed to travel. When we got to a check point, two Border Control agents got on to check the documents. I could hear that the agent was telling the young woman in a friendly way that she should not be traveling, while he gave her a nice look and gave her the paper that ICE had issued her. Something similar was experienced by María García: “The one who told me that I was not from Mexico was serious, but with a half-smile. And I had a half-smile on my face as well, that I had fooled him and that I had not fooled him, because he grabbed me to separate me from all the immigrants that they were taking in a truck like caged prisoners for deportation. He grabbed me like that from behind and told me, ‘I want you to know that you have not fooled me’. I pretended I was not understanding him; I played stupid. And he looked the other way.”

Examples like this are multiple and daily. They are not a novelty. With his irreverent and provocative style, the Chicano lawyer and writer Oscar “Zeta” Acosta left documentary proof of his discretionality in the 70s when he was a public lawyer in Los Angeles and helped single mothers that were not able to get help from the state: “Once the lie is put before the court, the divorce is granted. Just like that. I have won every single case. And now the poor old woman with the cane can apply for welfare assistance for her kids... which is all she wanted in the first place. She hasn’t seen her old man in five years, but the social worker told her she couldn’t apply unless she filed for a divorce first. This social worker logic I no longer contest. When I first passed my Bar I *tried* to obey the law. But that was twelve months ago. Now I simply ask a few questions and my secretary does the rest.”¹

But just as the street-level bureaucracy can benefit, it also harms migrants, like when the Border Control shoot at migrants or rape them. These are not cases of contempt or discretionary application of the law, but of a bureaucrat that applies an extrajudicial penalty, or commits an offense, abusing the position of power that their responsibility confers on them. The most prevalent cases of authentic discretionality damaging the immigrants are the rulings of judges. Kanstroom registers that over 30% of the nearly 600,000 cases sent to the immigration judges in 2003-2004 involved some form of discretionary assistance. Many judges tend to be generous to ensure they aren’t making a mistake. But the system exerts pressure and looks suspiciously on judicial generosity, so they can’t go too far in granting discretionary assistance. Of the 36,000 asylum cases presented to the immigration courts in 2004, 74% were rejected. Only 3% of the applications of the Convention against Torture—whose deliberation

¹ Acosta, 1989, p.20.

implies a high degree of discretion—are successful, and the figures vary alarmingly from one judge to another, and one region to another.¹

It is the street-level bureaucracy and not the legislature that defines the severity – and the arbitrariness – with which the migratory legislation is applied. The law gets part of its legitimacy, or is denied its legitimacy, depending on whether it is applied with more or less zeal. Its enforcement is the second to last link of social validation (the last is the public in general). Bureaucrats’ daily decisions are the amendments that the law receives over time, perhaps because, as Howard Zinn wrote, “You can’t be neutral on a moving train.” The lack of obedience of the street-level bureaucrats is the day to day dissent, exercised by state officials who Kant wanted to be obedient, but who take advantage of the margin that the law provides them to apply it according to their interpretation. On that street level is defined whether the migrant is a total outsider, an illegal to capture and penalize, or a quasi-citizen, whose liminal citizenship has rights, and whose performative civil disobedience achieves its objective.

2.3 Heterogeneity, disobedience and liminal citizenry

As I pointed out when I presented Dworkin’s theories, a form of civil disobedience consists in supporting itself on geographic or corporate state entities that ignore legal status, or concede the same rights to the undocumented, residents and citizens. The existence of such a possibility automatically puts the law into question. Laws can be questioned not by reference to a hypothetical change in the future, but to the change that already occurred in another state or in the neighboring city. If a law is in doubt, Dworkin says, the person who does not obey it because they follow their own judgment, does not commit an unjust act, and the government has the duty to protect them, even though it does not ensure them immunity.² State heterogeneity issues unambiguous signals that plant uncertainty: the laws that penalize the unauthorized are questionable laws. If in Maryland the state issues driver’s licenses for the undocumented, and in Arizona lucrative fines on those who transport them in their vehicles, it is obvious that both states manage their treatment toward the undocumented by divergent principles. The heterogeneity plants the doubt that justifies the disobedience. What is the correct principle? People have to refer to their own judgment. And that is what the bureaucrats, natives and the undocumented are doing in daily life.

¹ Kanstroom, 2007, p.239.

² Dworkin, 1978, p.215.

Dworkin highlights a characteristic of civil disobedience that matches the relationship that the migrants have with state heterogeneity: “Civil disobedience involves those who do not challenge authority in so fundamental a way. They do not think of themselves –and they do not ask others to think of them- as seeking any basic rupture or constitutional reorganization. They accept the fundamental legitimacy of both government and community.”¹ The disobedience of the undocumented is not total. It is not a total rejection of the state, an art of not being governed and a form of relationship with power that evades its control, like what James C. Scott proposes. The undocumented violate some state laws – out of obedience to the dictates of their conscience, some values and some needs -, but they recognize the authority of the state. That is why I characterize their resistance as an act of civil disobedience: they are not betting on a rupture or a disavowal, but rather an inclusion.

I do not believe, in contrast to Bayat, that success is in operating at the margins of the state “in a quest for an informal life.” As I tried to present in the previous chapter, it is not true that the undocumented – who are an extreme case among those who elude state control – are some marginals that “tend to function as much as possible outside the boundaries of the state and modern bureaucratic institutions.”² The “already but not yet” requires a skillful game, like what Lenin suggests. This does not mean supposing that the concentration of the legal capital of the state³ has everything to say when we talk about citizenship in the making, but that it does have the word that confers legal validation, and that establishes many of the coordinates in which social legitimation can be displayed.

If the concepts of informal citizenship or liminal citizenship have anything to say about the reality, it can only be by reference not just to an expansion of the concept of formal citizenship and the spaces in which inclusion is obtained, but also by reference to state heterogeneity. Because the heterogeneity is the invalidation of the argument that the philosopher Michel Onfray puts in the mouth of Eichmann: “when the law legally organizes the juridical extraterritoriality of certain individuals or a category of individuals, those individuals or that category cannot expect to benefit from the law’s help or appeals”.⁴ State heterogeneity opens the door so that the undocumented can appeal to the law.

To take up the peculiar relationship that the undocumented migrants have with the US state apparatus we must keep in mind that the undocumented pay taxes, in Maryland they can vote in local elections and are counted in the census that serves as the basis for the assignment of subsidies, taxes and the number of representatives in the House. The excluded and illegal are partially included and have

¹ Dworkin, 1985, p.105.

² Bayat, 2010, p.59.

³ Bourdieu, Wacquant, and Farage, 1994, p.9.

⁴ Onfay, 2009, p.67.

a liminal legality. In the judgment of Habermas, civil disobedience must move in that uncertain threshold between legality and legitimacy.¹ This threshold describes appropriately the liminal situation of the undocumented. During the boycott in Montgomery County the drivers of the car pools were taken to court and absolved. The African Americans were able to take advantage of the fact that the deprivation of their rights was not complete. There is a lot that is in play in the margins of that partial use of rights and public institutions. That is the terrain on which the undocumented move. The heterogeneity are the “spaces that are available to enhance their life-chances” that the undocumented, in their quiet encroachment, use with “courage and creativity to assert collective will in spite of all odds, to circumvent constraints.”² In the USA the undocumented use state heterogeneity to exercise rights and make their art of presence be a citizenship in the making.

3. Three organizations of Central Americans in the USA: between movements and non-movements

Organizations providing undocumented immigrants with real, ongoing support have been recognized—and rightly so—as areas that resist exclusion and smooth the way to alternative forms of citizenship because they offer empowerment, community and inclusion on a daily basis.³ Anti-immigrant forces have identified them as an opposing force with an agenda and actions that help neutralize the implementation of immigration policies. A government report to the US Congress established that the activities of pro-undocumented immigrant organizations “concern those who believe that the humanitarian aid, no matter how well intentioned, assists unauthorized immigrants in their efforts to subvert immigration laws and enter the country.... A possible oversight issue for Congress concerns whether some of the activities of these humanitarian groups present an obstacle to the Border Patrol as it carries out its enforcement of immigration laws along the border. If so, Congress may decide what, if anything, can be done to curtail those specific activities by civilian border groups that negatively impact the Border Patrol.”⁴ In this sense, these groups are a very visible challenge to the State. If these findings apply to organizations working “with” immigrants, then they much more logically and forcibly apply to associations “of” immigrants.

¹ Habermas, 1985, p.106.

² Bayat, 2010, pp.25-26.

³ Rasmussen, 2011, pp.64-66.

⁴ Haddal, 2010, p.33.

Central American immigrants who came to the US in the 1980s adopted a long-standing US civil tradition: they created associations so as to become more visible and audible, form a community and lobby for inclusion. Some brought organizational experience honed in the hostile terrain of authoritarian regimes. Others were novices. All embraced a tradition that had caught the attention of French liberal political thinker and historian Alexis de Tocqueville in 1831. Tocqueville acknowledged US associations as platforms for competing and persuading through arguments and legal activities.¹ As an aristocrat who still remembered with fear and trembling the mobs of *sans-culottes*, he saw association as a buttress against the tyranny and excesses of the all-powerful masses.² In all events, he knew he was up against a world-class political force.

3.1 Associations and their challenge to the state

According to the prominent US political theorist Michael Walzer, these associations are the bedrock of civil disobedience because they cultivate a sense of loyalty to their regulations that trumps the obedience due to the State's laws.³ If that's the case, Tocqueville's prediction would be fulfilled: associations can weaken the State.⁴ This proposition partly agrees with a finding by German historian Reinhart Koselleck, who said that in the 16th century, "Putting aside ethical values or religious beliefs in the private sphere reinforced the State's power, which confiscated and absorbed the *res publica*."⁵ The State was strengthened but also became more vulnerable: values rationalized in the private sphere could undermine the authority of the prince, the principles of his government and the logic of the State. In fact, Roger Chartier, a French historian, noted that new forms of sociability in the 18th century, particularly the Masonic lodges, were built on moral tenets, applying to the State the same moral criteria that the State had relegated to the private sphere. The distinction between individual conscience and state authority thus turns against the very mechanism it had installed.⁶ Koselleck found that "apolitical" venues (such as stock exchanges, clubs, salons, cafés and colleges) not subject to State authority, turned into institutions that gained "a powerful political character and, insofar as they now influence state policy and legislation, they became indirect political powers."⁷

¹ Tocqueville, 2014, p.210.

² Tocqueville, 2014, p.208.

³ Walzer, 1970, p.10.

⁴ Tocqueville, 2014, pp.211-212.

⁵ Chartier, 2007, p.70.

⁶ Chartier, 2007, p.71.

⁷ Koselleck, 2007, p.68.

The State's appropriation of public areas and the concomitant and paradoxical politicization of the private area Koselleck found in Europe were even more dynamic in the United States, where the craving for association had several impetuses. The political incentive was the struggle against the tyranny of the masses, but there was also a religious incentive, highlighted by US sociologist Theda Skocpol: competition to win over converts in a nation that had emerged without a State-confirmed church monopoly. The Methodists were pioneers in organizing an itinerant clergy that moved from one town to the next identifying local leaders who they guided on how to establish and maintain new congregations. Their methodology was soon cloned by other religious and non-religious groups.¹ Volunteer groups and other kinds of civil associations have taken many forms in the US: moral reform movements, laborers and farmers' unions, philanthropic fraternities, independent women's associations, veterans groups and ethnic associations. They continue to be considered an important factor, critical to US democratic vitality.² The membership of more than 50 of these associations exceeded 1% of US adults at some point. Even those groups in the big leagues have quite varied motivations, as can be inferred just from their names: Ancient and Accepted Free Masons (founded in 1733), Independent Order of Good Templars (1851), National Teachers Association (1857), National Rifle Association (1871), Women's Christian Temperance Union (1874), American Bowling Congress (1895), Aid Association for Lutherans (1902), Boy Scouts of America (1910), Greenpeace USA (1971) and Mothers Against Drunk Driving (1980). Others, now extinct, were also large and diverse: American Temperance Society (1826-1865), American Anti-Slavery Society (1833-1870), National American Women's Suffrage Association (1890-1920), German American National Alliance (1901-1918) and the second manifestation of the Ku Klux Klan (1915-1944).³

The good health of these associations and a generalized craving for associating were the subject of Robert D. Putnam's book (2000) *Bowling Alone: The collapse and revival of American Community*. He asked: Are US Americans losing interest in associating?⁴ Theda Skocpol gave a rather discouraging reply in 2002: "Average Americans also had chances to participate and work their way up in associations that built bridges across classes and places, between local and translocal affairs. Now the bridges are eroding. Ordinary citizens have fewer venues for membership in associations with real clout. Meanwhile, the most powerful Americans are interacting—and arguing—almost exclusively with one

¹ Skocpol, 2002, pp.115-116.

² Skocpol, 2002, p.104.

³ Skocpol, 2002, pp.108-109.

⁴ Putnam, 2000.

another.”¹ Skocpol laments that inter-class associations aren’t emerging, because formerly “Most classic U.S. voluntary groups recruited members across class lines.”² But this isn’t entirely true. On the one hand, churches still practice a mixed recruitment approach. Although the geographic jurisdiction of the parishes often reproduces residential segregation, the growing trend of congregating in mega-churches is a return to a sort of social melting-pot where the impersonality of the mammoth religious services is balanced by participation in activities in small cells. On the other hand, participation in multi-class groups isn’t the only way to influence politics. This is what I want to stress in the following pages by explaining the experience of three immigrant organizations.

Grassroots organizations working with or made up of immigrants can be studied from different angles. One is their contribution to the process by which immigrants acquire more rights and, in that sense, are approaching citizenship. Their contribution, like that of religious organizations, is indispensable to the effectiveness of immigrants’ civil disobedience. They are, therefore, platforms challenging immigration policies and the determination to exclude. In the case of the United States, these organizations are communication channels to other influential sectors. For example, they can connect undocumented immigrants with academia, the media and party politics or link the movements of and by immigrants with undocumented immigrants’ non-movements. The movements are major initiatives and organizations, generally led by second-generation or already established first-generation immigrants: the Immigrant Rights Movement with its 2006 marches of 3.7 to 5 million immigrants in 160 cities against the Sensenbrenner bill³, the Dream Activist Network and Dreamers Adrift with its www.thedreamisnow.org⁴, the Labor Immigrant Organizing Network (LION)⁵, the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) and The Earth is for Everyone.⁶

The non-movement concept was coined by Iranian sociologist Asef Bayat to refer to “the collective actions of non-collective actors; they embody shared practices of large numbers of ordinary people whose fragmented but similar activities trigger much social change”⁷—such as needy people who gradually take over vacant lots in a city center or immigrants who cross the border and settle in the United States without permission. Because their actions are in unison they have the force of a concerted act and sometimes appear to result from well-planned collusion, although each of those

¹ Skocpol, 2002, p.135.

² Skocpol, 2002, p.105.

³ Gleeson, 2014, p.208.

⁴ Gleeson, 2014, pp.218-219.

⁵ Gleeson, 2014, p.221.

⁶ Díaz and Rodríguez, 2007, p.98.

⁷ Bayat, 2010, p.14.

involved is acting separately, without a program or ideology and with a rather cursory knowledge of the accumulated effect and added value of their actions. That's why non-movements are more flexible and fluid and their strategy is self-generated.¹ Theirs is a practical not a political protest. Although not in a sustained way, some Central American organizations interweave this massive force of non-movements with acts led by the movements or a hybrid combining features of both. Let's look more closely at some of the most important organizations.

3.2 The Central American Resource Center (CARECEN) in Los Angeles and San Francisco

CARECEN began in 1981 as the Central American Refugee Center in the city of Washington. Founded by Salvadoran refugees to secure legal status for many thousands of Central Americans who fled from civil war in the 1980s, CARECEN is the best known and most transnational of the Salvadoran organizations, followed by El Rescate (The Rescue) and The Romero Clinic, three organizations that reflected factions in the Farabundo Martí National Liberation Front (FMLN).² CARECEN opened offices in Los Angeles in 1983 and started branches in San Francisco, Houston and New York in 1985. It was renamed the Central American Resource Center when the issue of refuge took second place to the more urgent need of diversifying services to the very voluminous immigrant population. It's a non-profit organization that currently offers low-cost legal services, counseling on housing, community education programs, group organization (parents, young people, workers, etc.) and advocacy on immigration policies, educational reform and labor rights.³ Decades ago it extended its attention and links to Guatemalans, with an alliance between CARECEN-Los Angeles and the Association of Guatemalan Fraternities (AFG), which has a political action committee that nominates local election candidates.⁴ It has currently expanded even further, to the point where Lariza Dugan-Cuadra, of Nicaraguan-Irish extraction, is the executive director of CARECEN-San Francisco.

The journalist and political scientist Ricardo Calderón, former dean of journalism and secretary general in the University of El Salvador and one of the historic founders of CARECEN-San Francisco, recalls that this branch of the organization was conceived in 1985 but actually came into being in 1986: "The idea arose of reviewing the situation of immigrants here, especially of Salvadorans. Three of us—Salvadorans, former university professionals—joined together with three Anglo professional women,

¹ Bayat, 2010, p.16.

² Miller, 2011, p.56.

³ CARECEN, Quiénes somos/Historia, <http://espanol.carecen-la.org/historia>

⁴ Popkin, 2003, p.115.

one of them a lawyer, to see what we could do for the community. It was a terrible time in the civil war in El Salvador. We wanted to create something that would enable our communities here to fix their immigration status, partly because we saw that notaries were making money at the expense of our people without doing the proper preparation. They even invented stories and evidence to present as proof for political asylum, which was what the people applied for.”¹ With some lies, those notaries managed to stitch up asylum cases. Once the case was presented, the immigration authorities— inundated by the avalanche of applications and urged to provide at least a temporary decision—would issue a work permit. But it was just a temporary solution that could end in deportation. CARECEN’s arrival in the midst of the shysters’ apparent success created hostility in the community, among lawyers and between organizations. It only survived thanks to bargain-basement office equipment based on second-hand typewriters and two years of voluntary work by its founders. They began by earning nothing. Later, they earned just \$600 a month. At the beginning the salaries didn’t reflect hierarchy or responsibility. A director’s income was the same as that of an employee who was a single mother with three children. This austerity gave them the edge over other institutions with large salaries and gleaming equipment. And so began a journey that has now been going for 30 years, overcoming financial obstacles and national, ideological and organizational differences, including those reflecting its members’ affinities with different FMLN organizations.

CARECEN had established links with the Farabundo Marti Liberation People’s Forces (FPL) and other insurgent groups. The researcher Eric Popkin noted that CARECEN supported the FMLN, mobilizing voters against the US government’s intervention in El Salvador.² These links created dilemmas, for example whether or not to help Nicaraguans fleeing from the Sandinista regime. Later on, said Calderón, “We had another conflict: Temporary Protection Status (TPS) for Salvadorans in 1991 and growing remittances. Helping Salvadorans here meant helping the Nationalist Republican Alliance (ARENA) in El Salvador. How? Through remittances, because ARENA was in power and remittances benefitted its administration. We had this conflict and other organizations attacked us about it: you’re helping ARENA, they told us.” The only way out of this conflict was either to start arguing or to walk away from the issue and just fight for the welfare of the Central American community in the US.

In order to help the community, its members had to be given legal status. They had thousands of applications and started to resolve them one by one. Legal advice consisted of carefully reviewing the case to put together all the evidence required for granting asylum. Once the package was ready, it was

¹ Interview with the author, San Francisco, 16/4/2014.

² Popkin, 2003, p.89-122, p.114.

sent to law firms who handled such cases pro bono. Nowadays it's less common to find experienced lawyers who are willing not to charge. Those remaining are former activists and collaborators, like Robert Foss, who was a lawyer for CARECEN-Los Angeles and now has his own firm and directs the legal services of the International Institute of Los Angeles, founded in 1914 to help recently arrived immigrants. When we and a group of Guatemalan Mayas had dinner together, I asked him how much he charged. "When I meet someone like this," he replied, putting his hand on the shoulder of one of the boys, "with the face of a good person, coming from Guatemala or El Salvador and perhaps linked to some organization, I don't charge." CARECEN and other similar organizations cultivate links with these increasingly scarce lawyers because legal work is still the most important. In CARECEN-Los Angeles, 67% of the staff works in legal services, compared to 12.5% in administration, 10% in the education and community organization team, 6% with parents and young people, and 4% on labor organization.¹

The one-by-one solution wasn't good enough in the 1980s and it still isn't. In the 1980s CARECEN found it very hard to lead an advocacy initiative for those fleeing the war because the stigma of being associated with guerillas hampered their most overtly political activities. According to Calderón, "We had a fantastic relationship with the religious sector and the Baptist churches told us 'We can do it.' They threw themselves into putting together the ABC proposal [so called because it was the American Baptist Churches that sued the attorney general and the Immigration and Naturalization Service for not granting asylum to Salvadorans and Guatemalans] as an anti-immigration lawsuit. We recommended lawyers but didn't have to participate directly. Incidentally, they won the ABC suit in 1990 and the TPS for Salvadorans was also passed in the 1990s. We went into 1991 with two eligibility programs for Salvadorans." They later pushed for the Nicaraguan Adjustment and Central American Relief Act (NACARA) which was less generous with Salvadorans than with Nicaraguans and Cubans.

Calderón stressed that CARECEN retains grassroots popularity through its closeness to the people, its unassuming promoters "who wear baseball caps and are seen as comrades" and its lawyers—"two young women who deal with legal cases in the Court. They strongly identify and even suffer with people when they hear their stories. They cry and everything. 'And you, why don't you cry?' they ask me. I've been in this thing for 27 years now but there have been times when they've made me suffer. I've now got a shell like a turtle or an armadillo." At the other extreme are the funding agencies that "see the client as a statistic. We don't like it but we need the funding and have to add up the numbers. The rest of it doesn't matter to them. For example, we have three sensational cases: people who were

¹ CARECEN, Staff, <http://www.carecen-la.org/staff>. Unfortunately CARECEN-San Francisco has no detailed information on its staff by program in its web site.

to be deported and we've managed to stop it happening. This represents hours and hours of work, reviewing the law, making contact with Immigration and city officials to stop the deportation; all for just two people. It takes up a lot of our time but it has to be done. It was the right thing." The other problem is the media shows the agencies sometimes want CARECEN to put on or the kind of cases they suggest it take on, such as those related to homophobia or domestic violence, which aren't part of CARECEN's accumulated knowledge although it's gradually gaining experience about them. Nevertheless, CARECEN manages to stick to its agenda and its links with city and county politics. Thanks to local government support, CARECEN-San Francisco managed to get legal status. It has also, unwittingly, been the platform for building political careers, as is evident in the case of a former executive director who successfully stood as an alternate local government candidate.

3.3 The CASA of Maryland and its links to partisan politics

This organization began 20 years ago as the Central American Solidarity Association of Maryland, founded by US and Central Americans to provide assistance to people fleeing from war in El Salvador, Guatemala, Honduras and Nicaragua in the 1980s. The current executive director is Gustavo Torres, a Colombian by birth. The fact that he spent time in Nicaragua during the 1980s is exploited by anti-immigrant sectors with gross distortions, such as that of Ann Corcoran in an article from the *Potomac Tea Party Report* titled "Gustavo Torres: Just your friendly Sandinista warrior next door," in which her venomous pen screamed: "The Sandinistas are communists, they are in the United States, they are in Maryland. Gustavo Torres is one of them."¹ Corcoran based her article on information in an interesting but very ambivalent article in *The Washington Post* headlined "A man with a plan," a very eloquent title but one designed to make the anti-immigrants' skin crawl. In this report David Montgomery mentioned Torres' activism in Colombia and his years in Nicaragua as a collaborator in the Center for Research and Studies on Agrarian Reform (CIERA) and in *El Tayacán*, a weekly publication about grassroots education that was Christian-inspired and sympathetic to the revolutionary process.²

Gustavo Torres came to pick me up on March 5 of last year at the Takoma metro station, near the CASA of Maryland headquarters. He had just been in a meeting with Nancy Pelosi, Minority Leader of the US House of Representatives, which is perhaps why our conversation immediately zeroed in on immigration policy's major issues. In those days expectations about immigration reform were running hot (we later found out that Obama's people were preparing the decree to stop the deportation of over 5 million undocumented immigrants, thus opening the first door to their legal residence). "Immigration

¹ Corcoran, 2011.

² Montgomery, 2011.

reform is our main priority at this time,” explained Torres at that time. “There are 500,000 undocumented immigrants close to the metropolitan area and many of them are our members. Because our priority is to pass immigration reforms, we organize big civil disobedience marches at the White House and the Capitol. We’ll have a large civil disobedience march in front of the White House on May 1 because we think the President has a key role to play and stopping deportations is easy. He can use his executive power to do it. Immigration reform is the final solution. It can only be passed by Congress but the President can stop deportations tomorrow, just as he did with the Dreamers in 2012 because of the pressure we put on but also because it was a crucial political moment. We were all over the electoral process. It was crucial for him to promote, encourage and motivate the Latino community to vote for him and 71% of us did because of what he did for the Dreamers. At that time, in 2012, he stopped the deportations and about a million young people have benefitted. We did a legal analysis and have already given it to him. We found that, as President, he has the administrative discretion to implement laws in a certain way; in this case, he can decide that these people won’t be deported because they don’t have a criminal record, or have been here for some time, are the Dreamers’ parents, have children in this country... We proposed various categories. We had already done the math. Basically, if the President issues a decree in favor of all the categories I just mentioned, almost nine million people won’t be deported until the President leaves office in 2016. And by then we hope to have already passed the immigration reform. That’s our strategy.”

The strategy Gustavo Torres described that day was only partially successful. The proposal was essentially the one Obama ended up implementing the following November, but with considerably less coverage—five instead of nine million. Obama sent memorandums to the immigration authorities to stop the deportations of undocumented persons who are the parents of US Americans, don’t have police records and pay taxes. CASA of Maryland showed that it has the President’s ear. Former CASA president Thomas Pérez is the current labor secretary and Cecilia Muñoz, a former CASA board member, is the director of the White House Domestic Policy Council and previously served as the White House Director of Intergovernmental Affairs, the main link between Obama and state, local and tribal governments. This relationship has facilitated work with the Obama administration and undoubtedly helped them. But it’s not enough: Obama’s memos were challenged and his administration maintained the rapid deportation rate so as not to lose credibility. Muñoz has been booed by Latinos and activists because the deportations continue imprisoning children and separating families.¹ Working with the

¹ Peña, 2015.

Republicans is still essential. And in fact, against all odds, the work with Bush wasn't fruitless. Torres is more positive than other activists about Bush's position on the immigration issue: "Bush was very pro-immigrant. The reason was simple: he's from Texas, where the Latino community is immense and he's been living and working with the Latino community. He's sincerely pro-immigrant and this is very important."

The CASA of Maryland experience shows that Latinos' demographic clout and their participation in the labor market are determining factors for achievements favoring undocumented immigrants, as are politicians with a vision that transcends the local area to encompass national objectives: "We haven't achieved immigration reform because we still don't have the power and capacity to influence the Republican Party in some states controlled by whites. In many districts 90-95% of voters are white and they don't give a fig about immigration. They just care about their district's issues. Missouri's District 18 is totally white. If you go and talk to its representative about voting for the reform, he'll die laughing. Because we Latinos have no presence in his district, He'll tell you 'Illegal, I don't want to talk to you.' It's the voters from that district who will elect him and they have no relationship with immigrants and zero interest in immigration reform. Those representatives have a totally localized focus, but others have a national vision. They know that if they want access to the White House, they have to at least say 'Welcome' to the Latinos. It's not because that'll get them reelected, but it enables them to say 'Look, we're not that bad.'"

The clout CASA of Maryland has acquired, encouraged from its humble beginnings by CARECEN, has made it an inexorable political mouthpiece with a national perspective. The new CASA of Maryland's headquarters is imposing: a Georgian Revival mansion built in 1924 by a prominent Washington architect for the McCormick-Goodharts, a similarly prominent family whose fortune started with the invention of the McCormick Reaper in 1834. The mansion remained in the family until 1947 and in 1963 was bought by a real estate syndicate that turned it into an apartment complex. Over time the surrounding 565-acre estate belonging to the family, which they named Langley Park, was subdivided into a community of low-income residences that took on the mansion's name and has become home to an extremely diverse immigrant community—72% foreign occupation. While the mansion itself was of sound construction, neglect, vandalism and water damage made it a poor real estate deal, although an inventory conducted by the Historic Preservation Commission described it as being "of considerable historical and architectural significance...one of the last great country houses of the 1920's." After Sawyer Realty LLC donated the almost 3,372-square-yard mansion to CASA of Maryland (to be precise,

sold it for one dollar), they began to renovate it. With \$13.8 million raised during the economic crisis, a mixture of governmental and corporate funding such as from Adventist Healthcare and the Bank of America, the ostentatious mansion had been converted into offices, classrooms for teaching English, job training and legal advice.¹ The National Trust for Historical Preservation describes it as “a state of the art, ‘green’ Multicultural Center offering educational, vocational, and advocacy services to disadvantaged immigrant populations’ adding that “this LEED Gold-certified project features geothermal energy and a green roof.”

The new CASA headquarters opened its doors for business in 2010.² By the following year the organization boasted more than 90 employees and an annual budget of \$6 million. Most of its funding comes from large foundations but it also has contributions from 50,000 associated members³ which, at US\$25 a year per head, gives CASA of Maryland a solid, independent base to operate from and to maintain its services, outstanding among which are—to the pride of some and scandal of others—legal assistance to over a thousand cases a year and its employment bureau, which placed 18,989 undocumented workers in temporary jobs and 248 in permanent ones in 2010.⁴ Its large stash of independent funding created CASA in Action, a \$100,000 project that backs political candidates with pro-immigrant programs. This compartmentalization, free from the ties of state funding, enables more aggressive incursions into party politics. Perhaps these are the kind of tactics that earned Torres his evil genius fame.⁵

During the March 5, 2014, interview, Gustavo Torres told me that political work has afforded them notable achievements: “For example, last year we managed to pass the Development, Relief and Education for Alien Minors Act (known as Dreamers), which ensures that undocumented young people can go to university without being charged out-of-state fees. When you’re within the state they charge you a fee but if you come from outside they charge you an additional \$6-8,000, an enormous difference. It was actually passed via a referendum. We took it to the elections and 60% of the population, 1,800,000 people, voted in favor. “Another victory related to advocacy is the minimum wage. We passed it in February 2014 in Montgomery County—the 4th richest county in the country—and here in Prince George County, where we have our headquarters. We succeeded thanks to a large coalition of

¹ Ford, 2007.

² Izadi, 2010.

³ Montgomery (2011), The Washington Post’s journalist, gives a number of 100,000, but Gustavo Torres mentioned 50,000 in an interview with the author.

⁴ Montgomery, 2011.

⁵ Montgomery, 2011.

Afro-Americans, progressive whites and Latinos. As you know, the minimum wage here is \$7.50 an hour. We're getting it to rise by annual increments of \$1 until it hits \$11.50 an hour by 2017. It's another big victory for our people, regardless of their immigration status."¹

The work of CASA of Maryland, in coalition with other organizations and State Governor Martin O'Malley's interest in pleasing the growing Latino population, has resulted in conditions unparalleled in other states: irrespective of their immigration status, immigrants in Maryland are entitled to a lawyer and to vote in local elections. But achievements come at a price. CASA of Maryland has been bitterly criticized. As it receives funds from different governmental levels, it has been accused of using taxpayers' contributions to support undocumented immigrants and, in this sense, sponsoring the breaking of laws. That is to say, it supports unauthorized immigrants' everyday civil disobedience. Its advocacy work, the publication of pamphlets informing undocumented immigrants of their rights, peaceful street protests and the defense of workers' rights have been enough for CASA of Maryland to rack up innumerable enemies. They are not above inventing links between CASA of Maryland and the American Communist Party, Free the Cuban Five Committee, the FMLN, Socialist Workers Party, Black Panther Party, the Muslim Brotherhood and even with Hugo Chávez, among many other "dangerous liaisons."² This might seem like comical nonsense. In fact, they seem like a new version of the joke where a man is stopped for drunken driving and tells the officer a bizarre story about dismembered bodies in his trunk, resulting in such an absurd-sounding police report that the police chief lets the offender go free. But the nonsense in this case has inspired literally incendiary behavior: the CASA of Maryland offices in Shady Grove were subject to an arson attack in their first month of functioning.³ A line often wrongly attributed to Don Quixote, although he had enough reasons for saying it, could well be used by Torres: "They're barking, Sancho; a sign we're on horseback."

3.4 The "Dolores Huerta Community Garden" as a place of resistance and political meetings

The 1980s' organizational belligerence left a residue of Guatemalan organizations in the US that usually worked in isolation and were often sectarian. Some were created by activists linked to the Guatemalan National Revolutionary Unity (URNG) while others had religious or ethnic affiliations.⁴ Such insularity surely became unviable for organizations with large aspirations and dwindled funding as Guatemala

¹ Interview with the author, 5/03/2014.

² Simpson, 2011.

³ Montes, 2007.

⁴ Jonas and Rodríguez, 2014, p.73.

stopped being front page news. But that accumulated capital fed a series of networks that eventually managed to join forces in a common cause: the legalization of Guatemalan immigrants. In January 1998 Guatemalan activists organized the first national march for immigrants' rights, attracting 3,000 participants. That same month they organized an assembly in Chicago that included organizations from the most varied ideological and ethnic spectrum: CORN-Maya in Indiantown (Florida); fraternities (hometown associations) from Massachusetts and Los Angeles; the Anastasio Tzúl/Guatemala Support Network of Houston and Anastasio Tzúl/Casa Guatemala of Chicago refugee organizations; the Guatemalan American Chamber of Commerce (Chicago), the Guatemalan American Committee of Long Island, NY; the Guatemalan American Association (AGA) of Miami; the Association of United Guatemalans (AGU) of San Francisco and the Guatemalan Unity Information Agency (GUIA) with offices in Los Angeles and Washington. According to researchers Susanne Jonas and Nestor Rodríguez, the latter organization was founded on the initiative of the Guatemalan consul in Los Angeles and that government link marked a contrast with the refugee organizations whose members had arrived in the US fleeing Guatemalan army repression.¹ Nonetheless, they joined forces to form GUATENET, a network of agencies that fell apart the following year, floundering between ethnic and ideological differences. Some of its organizations and others soon formed the Coalition of Guatemalan Immigrants in the US (CONGUATE), which still exists. Aside from CONGUATE, there are a great many community networks with Maya identity, among them the Bi-National/International Maya League headquartered in Vermont and its counterpart in Guatemala, the Organization of Maya in Exile in Florida and the Maya Various Interpreting Services and Indigenous Organizing Network, which provides translation services in asylum application hearings. As Jonas and Rodríguez observed, these groups deal with social and cultural issues, not political campaigns for legalization, but they do work on the exercise of rights and legal immigration services. Their ethnic and national coverage has expanded and their issue range has varied.² Both the more varied range of their services and their limited ideologizing are symptoms of a turnabout, perhaps a transformation, that responds to new needs or greater attention to the everyday ones of those who have a clearer future in the United States.

Despite their insertion in Los Angeles, it can't be said they've been uprooted, to use the metaphor of US historian Oscar Handlin.³ Their place of origin continues to exert a gravitational force. Guatemalans in Los Angeles have many organizations patterned on the geographical divisions of their home villages. Indigenous Guatemalans from San Antonio Sija are divided by *parajes*, the territorial

¹ Jonas and Rodríguez, 2014, p.81.

² Jonas and Rodríguez, 2014, p.85.

³ Handlin, 1973.

units in Maya villages. They regularly invest in communal assets back home: cobbling the streets and paving the roads, buying land for schools and the cemetery, enlarging their Catholic church and repairing two convents, improving the football field, building communal rooms and a retaining wall in Chonimacorrall.¹ They have financed the celebration of Independence Day every September 15 in Camposeco, Pajul and Chonimacorrall. Since 1991 associations help their native communities celebrate their patron saints' festivals with plenty of funding for Mexican and Guatemalan musical groups whose fame transcends the borders: Lalo Tzul and his marimba orchestra Ecos Manzaneros, Fidel Funes, Los Internacionales Conejos, Alma Tuneca, Checha y su India Maya Caballero, etc. Each concert costs US\$4-6,000, depending on whether the group is Mexican or Guatemalan.²

These investments in cultural events, construction and buying land in their villages show the importance of their origins. No less symptomatic of this importance is the fact that the institution that overwhelmingly attracts and unites them is the fund for taking the dead back to their homeland, the only one with regular, undeniable contributions that guarantee the return of deceased members to "where their umbilical cord was buried." If US associations distinguished themselves by rising from local to national level without losing their roots, these groups manage to be binational/local, i.e. very locally focused but with a presence and activities in two nations. In this they differ from typical US associations, whose structure reproduces the local/state/national one of the US federal government.³

These kinds of socially and culturally motivated organizations opened the way to the new generation's more flexible groups, which from the outset seemed to be entities without ideological orientation or political alignment. Perhaps also, as often happens, the upcoming generation noted the adults' organizational resource and its many possibilities, but found no space in it for their activism so created their own organization... their own way. An example is the association I'll call the Dolores Huerta Community Garden, a pseudonym used by the sociologist Pierrette Hondagneu-Sotelo in her book *Paradise transplanted* to refer not to the group but to its garden.⁴ It brings together more than 30 Mayan young people between 16 and 30 years of age, most of them ethnically Quiché from the village of San Antonio Sija. It's a very informal organization, halfway between a movement and a non-movement. It doesn't have legal status. It was created with ties to the Catholic Church, but is non-

¹ González y González, 2006, pp.68-69.

² González y González, 2012, p.30.

³ Skocpol, 2002, p.105.

⁴ Hondagneu-Sotelo, 2014, p.118.

denominational. And it doesn't have a formally established hierarchical structure or a mission that transcends its members or guides their activities towards a utopian goal.

The obligations of both female and male members aren't specified in a code. Its agenda is extremely fluid, often *ad hoc* in nature and unconstrained by specific programs. Although there are regular scheduled meetings, the members mostly interact during spontaneous encounters, in an ice-cream parlor or a Thai restaurant, where the number of participants varies and their experiences of the day lead to a very horizontal discussion in which veterans may explain how they confronted similar problems but never pontificate about the best behavior. They have all the ideological plurality of a non-movement. The iconography the group puts on its Facebook page combines the most traditional religious motifs with allusions to the struggles of the 1980s and a belligerent veneration of Monsignor Romero. Sometimes its discourse reflects a sexual morality marked by extreme Catholic conservatism, but this doesn't stop the men from putting hundreds of selfies on their Facebook pages together with the myriad Miss Guatemala candidates with voluptuous cleavage produced by every neighborhood, event and business enterprise. Nor does it preclude any girl from switching boyfriends or regularly going out with a member of the group while clearly telling him—to his extreme perplexity—that she has no intention of establishing a formal or exclusive relationship. The Italian Marxist theoretician Antonio Gramsci identified this kind of disconnection—not practicing what one preaches—as an unequivocal sign of a newly emerging hegemony.¹ There's surely plenty of that in this duplicity, in this particular case reflecting a cultural gap between a supportive yet burdensome past and a hard-to-assimilate present. We need to recognize that these young people have made a transition from a rural village of 6,641 inhabitants in 2002 to the mega-city of Los Angeles with its 3,792,621 inhabitants in 2010.² The change is similar to the one Nestor Rodríguez alludes to with the stark contrast between San Cristóbal de Totonicapán, a rural village of artisans and farmers, and Houston, an area of advanced industrialization, the starting and settlement points for another Quiché group.³

As members of the 1.5 generation (born in Guatemala but migrated as children), some of these young people “appear more concerned with their lives and prospects in the United States and, at this point, do not seem likely to continue to sustain long-term ties to their parental homeland,” as Cecilia Menjívar rightly pointed out in *Living in two worlds: Guatemalan-origin children in the United States and*

¹ Gramsci, 2007, p.165.

² González y González, 2002, p.8. US Census Bureau, American FactFinder, http://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml

³ Rodríguez and Hagan, 2000, p.197.

emerging transnationalism.¹ They are in a state of cultural liminality (a time-space ambiguity when on the threshold of political and cultural transition) in which the old hierarchies are suspended.² This creates many disorienting implications for their learned moral code: new practices that don't match the old discourse.

A non-movement accommodates a wide range of positions, perhaps very appropriate for young people in liminality who are groping for an emancipation without an ideology to provide a substitute lifeline. It leaves individual women and men to examine what their own pressing needs are, using the means their own personal history affords them. The French philosopher and social theorist Michel Foucault said that "identities are defined by personal history."³ For the young men and women of the Dolores Huerta Community Garden, their group is an opportunity to meet those with very similar histories, allowing them to form a community together in the liminality. They are no longer *chapines* (from Guatemala) or Mayas from the Guatemalan highlands, or even Quichés from San Antonio Sija. I suspect that their predominant problems wouldn't be understood by their contemporaries back home: how to avoid the immigration authorities; when to go to the Labor Ministry; what to do about the inundation of pornography that's circulating; how to act to around girls who are not the shy, domineered ones they're familiar with; what to tell bully-boys who want submission like back home and how to react when encountering a polymorphous family that could take the form of a heterosexual couple without children, lesbians who adopt, permanent bachelors, or homes where the woman earns as much as her husband. However, they aren't Angelinos either. Although a city that fascinates them, Los Angeles is too immense a sprawling metropolis with too complex a history for young people who came here less than a decade ago to assimilate. There's no name for their and other Central Americans' liminality, something akin to *Chicanos*, long applied to Mexican immigrations from the same generational/migratory bracket.

I must acknowledge that my expectation of meeting young people confined to a geographical ghetto and caught up in relationships marked by inbreeding was shattered by the evidence of multiple relationships and extensive knowledge of Los Angeles' most extreme hidden corners, from those of honored academics to German millionaires, from Sylvester Stallone's house in Beverly Hills to the flop houses where the wandering lumpenproletariat pass around hard drugs. Considering that most of them aren't fluent in English and some feel that their Quiché accent betrays them with every word they speak

¹ Menjívar, 2002, p.547.

² Turner, 1977, p.94.

³ Eribon, 1995, p.24.

in Spanish, this broad spectrum is impressive. I think this urban erudition and colorful range of relationships is the group's achievement. The Dolores Huerta Community Garden has been a platform to deal with this cultural liminality and the liminality of their immigration status, cultivating more than just incipient integration.

The support young people receive from William Pérez, a Salvadoran catechist who came to Los Angeles fleeing military repression in the early 1980s, is multifaceted. His role in the group is extremely subtle. He can be a counsellor with invaluable experience, a public relations manager or just another comrade talking about his intimate problems. William infuses the meetings with a relaxed approach and a lot of humor. The informal talks address the boys' pressing problems: being adolescents, being indigenous Mayas who live in a very different cultural milieu, regaining their roots, promiscuity, harassment from youth gangs, girls from their village who behave differently now they're in Los Angeles. Also the problems they encounter in the world of work, the stigma they feel for having practically zero English fluency and not much in Spanish, speaking with an unmistakable accent, all of which is music to the ears of swindlers and unscrupulous bosses.

The fact that their program isn't constrained doesn't mean they don't have one. Their regular activities bear witness to that: Friday meetings, training courses, catechism, collective gardening as an exercise in psychological therapy, self-esteem and spirituality workshops such as the one called "Healing the Inner Child" given by a visiting psychologist from San Francisco el Alto... The group is consistent even in its spontaneous encounters and informal meetings.

This garden is located in the heart of Pico Union, one of the most densely populated areas of Los Angeles and even anywhere else in the United States¹; also very close to the birthplace of Maras 13 and 18. The garden isn't exclusively their idea; the city has a tradition of communal gardens, where Mexicans, Salvadorans and Guatemalans have managed to reproduce their countries' vegetables, fruits, herbs and medicinal plants: chayotes, pápalos, chipilíns, epazote, bananas, papayas and mangos, among others.² They are semi-spontaneous platforms for getting together for different reasons, as happens with non-movements. As Pierrette Hondagneu-Sotelo and José Miguel Ruiz noted in *"Illegality" and Spaces of Sanctuary* "": these gardens serve as palliative sanctuaries for lives steeped in marginality and illegality (...) provide sites where people alleviate the hardships and suffering of illegality."³ They obviously fulfill a nostalgic need too and, as in this case, may also have a religious, economic or

¹ Hondagneu-Sotelo and Miguel Ruiz, 2014, p.146.

² Hondagneu-Sotelo and Ruiz, 2014, p.147.

³ Hondagneu-Sotelo and Ruiz, 2014, p.246.

psychological appeal. To these must be added another dimension: geography professor Adrian J. Bailey, who has written extensively on transnational migration and migrant identity, argues that illegality is accompanied by spatial acts of strategic visibility.¹ Hondagneu-Sotelo and Ruiz point out that because illegality is related to other exclusions—class, ethnicity, gender, nation—these spaces are important as reinvented places for engaging in resistance.² Urbanist Mike Davis talked about this reinvention 15 years ago, offering the example of Los Angeles neighborhoods that had been revitalized and tropicalized through the remodeling of houses by Mexicans and Salvadorans in the 1980s and 1990s.³ The gardens are yet another way to reinvent and appropriate the city, a way to force inclusion and thus a resistance I call civil disobedience, which is acting as if they were citizens, accentuated by acts seeking strategic visibility. Because of illegality's spatial aspect, the transformation of neighborhoods and gardens are platforms for engaging in alternative ways of belonging.⁴ In this sense they are political places because there people can enjoy integration and visibility not envisaged in the status imposed by the State's bureaucracy. These areas acquire greater political implications and are more necessary in a context where restrictive immigration legislation isn't only applied on the border but also within the country.⁵

They are more controversial areas when the determination to expel and all the devices of the banopticon (where profiling technologies are used to determine who to put under surveillance) have greater geographic penetration. Hondagneu-Sotelo and Ruiz mention that these gardens are meeting places for undocumented immigrants and Central Americans with different immigration status. I emphasize what's most obviously deduced from their research: they are areas for encounters with academics, people well established in US society, with sound and magnificent credentials in the world of work, consumption, higher education, the exercise of rights and legal status. People who can say everything they think (*parrhesia*) and know how to say it; citizens with exceedingly good connections with other citizens and institutions, and who therefore sometimes act as communication hubs and channels.

Among other activities, I accompanied the boys—the *bichos* (brats) as William Pérez calls them, in Salvadoran slang—to a presentation of the book *Paradise transplanted*, a fundraiser for the Dolores Huerta Community Garden, which took place in author Pierrette Hondagneu-Sotelo's home. The activity was set within a cozy garden of cactus and succulents, very appropriate for a city where a large part of

¹ Hondagneu-Sotelo and Ruiz, 2014, p.250.

² Hondagneu-Sotelo and Ruiz, 2014, p.250.

³ Davis, 2001, pp.61-62.

⁴ Hondagneu-Sotelo and Ruiz, 2014, p.147.

⁵ Hondagneu-Sotelo and Ruiz, 2014, p.250.

the water travels hundreds of miles in aqueducts from the Colorado River and the Sierra Nevada mountains. Stones from its rivers still ring from old disputes between Southern and Northern California and with Arizona, brawls filled with corrupt incidents such as the one “more syncretic than fictional”—as Mike Davis called it in his book *City of Quartz. Excavating the Future of Los Angeles*—as dramatized in Roman Polanski’s film *Chinatown*¹, or the massive closure of wells (40% contaminated) in the late 1980s, which it was estimated would cost US \$2-40 billion and take three decades to clean.² We got to this garden, which looks like a bonsai version of an oasis, at five in the afternoon on the hottest day of the year. I think the boys and I all felt a little like fish out of water or perhaps I did more because the boys had been there before; or maybe I’m only projecting my own feelings of strangeness. Little by little Pierrette’s colleagues began to arrive, most of them teachers at the University of Southern California, maybe some were neighbors. There were drinks and some Mexican-style snacks on two tables, and a place for selling the book (the revenues went to the Dolores Huerta Community Garden).

The presentation ceremony was small and pleasant. Pierrette was introduced by her husband and spoke about the book with great modesty, especially for a prize-winning researcher with a C. Wright Mills Award among other honors. At the end she opened the floor to the boys and William, who talked about their efforts to insert themselves in the United States and the importance of the garden. Afterwards we spread out around the garden tables and talked. Time was set aside for the academics to learn about the life of young, undocumented Mayas in Los Angeles. But the relaxed conversation, wandering over various subjects, was—like the whole event—a setting for the “right now but still not yet” used in scatological reflections about the Kingdom of God: it’s being built but still hasn’t been fully realized. This happens with integration: it’s being built now but doesn’t get as far as legal validity.

Perhaps the contrast with other countries highlights the rationale behind these kinds of encounters: in neither Germany nor Nicaragua would the house of a university professor be used as a meeting and fundraising venue to aid a group of undocumented immigrants. What does this mean? If gardens are places for neutralizing a determination to exclude, their effectiveness is even more evident in the contact with academics who consider them places of resistance and subsequently carry their commitment into extracurricular areas: inviting the immigrants into their homes, presenting them to their friends, fundraising, etc. To the extent that they bring about a series of actions undermining bureaucracy’s excluding preserves, these gardens aren’t only what Hondagneu-Sotelo and Ruiz call

¹ Davis, 2006, p.114.

² Davis, 2006, p.199.

“seeds for resistance and social transformation”¹, but also sites of political struggle. That’s where the immigrants’ lack of respect and their aspirations to inclusion have an impact, creating a domino effect of events with multiple ramifications. These encounters succeed in giving the academics a grounding and greater awareness of everyday demands.

They also succeed in eventually getting practical demands met. Some of these boys migrated because of violence and sometimes they make surveys about their credentials in order to qualify as candidates for asylum. My farewell dinner, organized in a Pico Union fast food place, was attended by all the boys I had interviewed and more, as well as by the lawyer Robert Foss. While the rest of us were wrapped up in a noisy and chaotic talk, he raised his voice like a medical expert who identifies the disease from a few symptoms and knows the remedy, and said: “William, we’ve got a DACA [Deferred Action for Childhood Arrivals] program case here.”

3.5 Immigrant organizations as communication hubs and channels toward partisan politics, academy, and mass media

Much of the activism in favor of Central Americans—both their own organizations and those run by third parties to benefit them—is rooted in the struggles of the 1980s. Their knowledge and social capital were accumulated in interesting times. Some started out linked to insurgent movements from their countries of origin but over time they have been diversifying. The end of the Cold War ushered in a new era of the Pax Americana where most of the conflicts previously attributed to racism, inequality, exploitation and injustice, are now presented, according to Slovenian philosopher Slavoj Žižek, as problems of intolerance.² Liberalism’s change of direction—in order to sweep the conflicts under the carpet, along with a make-over and reinforcement of domination—has a positive consequence in the variety of activists who we would never have formerly thought to find working side by side and/or for the same cause: men who daily attend Mass, women lawyers from Berkeley, disenchanted former guerrillas, lifelong activists, inveterate hippies, muralists, Salvadoran journalists, grassroots educators, Maya tailors and many others. I deliberately inserted the colossal CASA of Maryland into the same article as the tiny Dolores Huerta Community Garden: the first is a mixture of a movement and a top-down organization; the second falls within the boundaries of a non-movement. This array has produced a variety of organisms and profiles: different in size, financial movement, levels of formalization, membership and services.

¹ Hondagneu-Sotelo and Ruiz, 2014, p.251.

² Žižek, 2010, p.5.

But they have one thing in common: all these organizations were formed from the bottom up—the Dolores Huerta Community Garden was even formed from the bottom sideways, and CASA of Maryland from the bottom to very much up—motivated by common interests, elaborating on a feature Gramsci identified over fifty years ago: “Today, by contrast, collective man is formed essentially from the bottom up, on the basis of the position that the collectivity occupies in the world of production.”¹ These organizations’ members are united by their position in production, the consumer world, ethnic identity and, above all, their situation as undocumented immigrants who have the courage to act as if they weren’t undocumented. That’s why they succeed in creating institutions close to the interests of the excluded, grounded and responsive to the needs of individual women and men. If they have to undermine the hegemony, they’ll do it from far below. But this grounding has led to some break-ups. For CARECEN the struggle by Central Americans in the US meant breaking from ideological ties that anchored it in a time and a region. Its willingness to “devote itself to the community” was an expression of the tensions coming from a dual sense of belonging, reflecting the confinement in the national panorama and the methodological nationalism that Ulrich Beck challenges because it limits perspective by conceiving of modern society and politics as organized in a nation-State.² In this case, that meant assuming that political struggles primarily or even exclusively gravitate around the country of origin. There has been tension between ideological and party loyalty and the imperative of responding to the needs of individual women and men whose lack of documentation made them subject to political exclusion. The Dolores Huerta Community Garden, newly minted and free from ideological constraints as a non-movement, didn’t experience this tension. CASA of Maryland experiences it permanently, although not as a tension between a national and transnational framework, but through its dual character as an organization with grassroots and grasstops features.

It’s possible that the closer they keep their condition to that of a non-movement, the greater their sensitivity and flexibility. The Dolores Huerta Community Garden is much more autonomous and self-managing than CARECEN and CASA of Maryland, which now depend on many foundations with interests that influence their agenda. The Garden’s small size enables it to rapidly and effectively put together the “operations” its members need to move towards inclusion. The traditional religiosity of their language can be misleading. The symbolic framework of traditional religiosity can be the *lingua franca* of the dominated. It’s a language used to create fellowship among young people in liminality, but doesn’t necessarily reflect their practice. It’s often the language of conformity that lightly varnishes

¹ Gramsci, 2007, p.165.

² Beck, 2006, p.24.

over an everyday life punctuated by acts of disobedience: staying without documents, avoiding the round-ups protected by a crucifix, crossing immigration check points clinging to a rosary, etc.

The bottom-up origins of CASA of Maryland and CARECEN, or the Dolores Huerta Community Garden's bottom-up origins with sideways expansion and impact, empower them in their role as a hinge between the mass of undocumented immigrants and the large organizations and well-structured activities, such as the immigrants' large movements, demonstrations, NGOs, academia and the media. Their function as a hub is to react to the demands of the non-movements and cause reactions in institutions and persons in positions of power with possibilities of making their voice heard and getting their message across, thus practicing parrhesia. The event in Pierrette's home had a lot of theatricality: it was a setting for the including anti-establishment to challenge the excluding power. That's where it derives its effectiveness to produce an impact and spark reactions, and where it gets the clout that enables undocumented immigrants to have their say in different areas. The links that many groups (Border Angels, the Dolores Huerta Community Garden, the Líderes Campesinas group¹) have with academia, the links and political effectiveness of CASA of Maryland, and the media impact of the Dreamers' associations represent a counter-attack that contains some elements of movement and others of non-movement, some of concerted activities and a lot of spontaneous actions. It's a counter-attack on conservative thinking's very calculated ideological production denounced by Susan George in *Hijacking America: How the Secular and Religious Right Changed What Americans think*, in which she reveals their multimillion dollar funding. These groups are undertaking an unequal battle in this war of ideas, because even CASA of Maryland doesn't have remotely comparable financial resources to those of the large conservative agencies such as the Templeton, Bradley, Olin, Scaife and Smith-Richardson foundations.² But it has triggered a far-reaching domino effect in time, space and subjects. We can easily trace the "illegalization of immigrants," "religious citizenship" and "liminal legality" concepts that sprang from the personal experiences and direct contacts of Nicholas De Genova³, Peggy Levitt⁴ and Cecilia Menjivar⁵ with groups of undocumented immigrants, some very similar to the Dolores Huerta Community Garden. With these and other links immigrants are engaging in freedom exactly as Marx understood it: not as an absence of constrictions but as the ability to fight against them.

¹ Rocha, 2008.

² George, 2008, pp.181-184.

³ De Genova, 2005, p.214.

⁴ Levitt, 2007, p.68.

⁵ Menjivar, 2006, p.1008.

Through these groups, immigrants manage to go further in their challenge to the State, using their political right to organize, establishing alliances between immigrants with different immigration statuses and of different generations, keeping within the law but promoting the inclusion of those who have been illegalized. If they are more explicitly politicized, like CASA of Maryland, they channel the immigrant non-movements' force towards the offices of high-ranking politicians and their spontaneous force into media acts, expressing them in the language progressive politicians understand. They do it through the peaceful resistance German theorist Theodor Ebert calls "civil usurpation," a set of constructive actions contained in the sanctuary movement and other initiatives that don't enable the State's excluding hand to act effectively, and that sends it signals.

None of these associations justify the apprehensions that inspired Tocqueville, as an aristocrat fearful of the Jacobin and Cordeliers clubs, regarding the concept of associations: they neither pose a threat to the State that can lead to anarchy nor do their members adhere to them with the acritical submission of those who abdicate their free will and accept a tyranny more unbearable than that of the government.¹ But they do confirm Kosellek's findings: they are "apolitical" groups whose values question the State and limit its capacity to exercise power. Theirs are disobedient actions—sometimes explicit, like Gustavo Torres'—that contain legal changes towards apprentice citizenship and/or frustrate actions rejecting undocumented immigrants. They procure what Norberto Bobbio recognizes as the main objective of peaceful rebellion: to neutralize the opponent, place the adversary in difficulties rather than debase or destroy it, preventing or hampering it from achieving its ends. These actions don't confront power with a counter-power, they reduce it to impotence. The report to Congress isn't therefore so very misguided: these groups do negatively affect excluding policies on the border and within the country.

¹ Tocqueville, 2014, pp.211-212.

FINAL REMARKS

“12 million undocumented” speaks to us of discrimination. But that gross figure, waving like a flag of denunciation, does not speak to us of the levels and scope of discrimination, and much less of the challenge, resistance and support, spaces and instruments of insertion. In order to see that, I have reframed the illegal crossing of the Mexico-United States border and the unauthorized stay in United States territory as a political action: as a very specific act of civil disobedience. In so doing, I tried to contribute to the theories that state that citizenship, membership and documentation in the United States is not an “all-or-nothing affair”. This text interprets the actions of migrants using a political and legal category that is legitimate for the citizens of the destination society and has been a historic tool to fight for inclusion. There are two predominant interpretations of the recent undocumented migration to the United States (the first two I mentioned in the introduction). One of them explains this migration as a series of actions that form part of the dynamics of expulsion/attraction generated by the expansion of capital, the new geographical location of the means of production and the battle to expand markets. Usually, this interpretation is complemented by an analysis of the effects of illegalizing immigration on the labor rights of undocumented immigrants whose vulnerability derives in lower salaries and reduced access to social services, which are precise traits of capital’s unscrupulous search for higher profit. Another perspective –a liberal one- views migration within the framework of the globalization of labor markets in an increasingly interconnected world, but one that still does not anticipate this type of change and is not well prepared to deal with it. The speed of this transformation demands social engineering changes to increase the governability of migrations through public policies that promote temporary work programs, circular migration, selective amnesties and other legal instruments oriented towards a compromise between some of the affected human rights of migrants, and the right of a nation state to preserve the sovereign use of its territory.

Both focuses share a common emphasis: migrant populations emerge as the playing pieces of a backwards and barely understandable chess game of structural forces. Polls reveal that migrants are pushed to migrate for economic reasons, and due to the habitual violence and political instability in their countries of origin, thus it is most “natural” to see them as silent instruments of these structural forces. A long tradition of western thought, that belittles actions derived from the compulsion to survive, nourishes this perspective. These actions are not examined in political terms. Although the paradigm of a rational person, one who takes sensible economic decisions guided by cost/benefit calculations, may attempt to go beyond the structuralist vision, the traditional perspective continues,

constricting the meaning of these types of actions to that of economic compulsion, in which actions to survive are only intelligible according to an economic rationale. In both traditions, vital needs and their closeness with animal instinct obscure the political aspects of everyday life.

These views on migration neglect the political aspects of its massive illegality: more than 60 percent of the immigrants from Mexico and Central America that presently reside in the United States are undocumented.¹ The undocumented population has a relatively important impact in the areas where they are concentrated: in 2010, this group represented more than six percent of the population in the states of Nevada, California, Texas, New Jersey and Arizona². In these locations, six percent of the inhabitants do not live within the legal system, and these large numbers of people can narrate a history of ongoing rebellion. Nevertheless, a vision focused exclusively on the origins and the economic nature of migration overlooks the insistence and flagrancy of these transgressions.

Hannah Arendt observed that the public meanings of acts are not determined by individual actions but by the context in which these actions occur, in the summation of acts and their effects. No single person is the absolute owner of the meaning of his or her actions. Taking Arendt's theory, I sustain that, seen in its totality, the microeconomic decisions to migrate and to remain in the United States without documents represent a challenge to the sovereignty of the United States. The legal context of the United States bestows new meaning to the acts of survival. Nicholas de Genova and Aviva Chomsky noted the long process of illegalization of migrations. The result of the process is a changing context that grants new meaning to migrating without documents, which far from diminishing, only accentuates the challenge of entering a national territory without the authorization of the bureaucracy in charge of selecting the individuals (and the number of individuals) that are welcome.

In this process of illegalization, migrants have taken on that illegality, with its risks and challenges. Some intellectuals, activists and religious leaders appeal to universal citizenship, and fight a semantic battle against the stigma of "illegals" applied to undocumented immigrants by the government, a label which they attempt to eliminate or delegitimize, showing its spurious origin. Nonetheless, this does not erase the fact that the starting point of the relationship established between undocumented migrants with the United States is based on the transgression of the laws of that country. The rituals of legal admission, at a later stage, take on that infraction, obliging residency candidates to wash their original sin by requesting pardon, and stating their contrition for having entered without authorization.

¹ Hoefler, Rytina, and Baker, 2012, p.5

² Passel and Cohn, 2011, p.14.

Nevertheless, such actions of good faith delete the political nature of the insertion of unauthorized migrants. The appeal to that true although demagogical statement by Woodrow Wilson, that the United States is a nation of immigrants, ignores the terrible fact that it is also a *Deportation Nation* (as states the title of Daniel Kanstroom's book), which recurrently has imposed rigorous filters to successive waves of immigrants. The United States, since its foundation and on a path bristling with obstacles, is a nation that is open to dissent: a republic according to Arendt's definition. The presence of undocumented migrants appeals precisely to this dissent and to the precarious balance of powers and counter-powers.

One cannot affirm that undocumented migration dramatizes a lack of obligation to the legal system of the country where people seek residence. The unauthorized entrance and stay of migrants is an act of disobedience and adaptation, a challenge to – and the acceptance of – certain rules, because it is not a revolutionary act. It does not aspire to (or have a possibility of) constructing a new system. It only rehearses a political game, and faces the consequences of certain given rules. However, it constitutes a challenge to a medullar aspect, the territorial control that any state demands as an expression of its sovereign power. Undocumented migration also represents a challenge to the powers that oppose undocumented migration: the anti-immigration legislation; the ferociously xenophobic –but mostly theatrical- sheriffs such as Joe Arpaio; opportunist businessmen; paramilitary groups such as the Minute Men; racist propaganda; the rigid bureaucracies that take laws literally instead of understanding their meanings; and the ominous lobby of powerful military-industrial complex and the prison-industrial complex (the economic forces of the banoptic) that seek to profit from managing private prisons and selling surveillance devices and services which view these almost twelve million undocumented persons as potential clients and targets.

Nevertheless, despite this challenge, migrants are not abandoned to their fate. They enjoy the daily support of common citizens and the tenacious work of activists, NGOs and churches, academic investigations, aided by images developed in some of the mass media, including movies, theater and music, among others. No less important is the fact that migrants carry their own weight in the labor market, in the sustainability of the system of social security and in the consumption of goods and services. To interpret the tension between challenge and adaptation, between transgression and insertion, I framed their everyday acts as civil disobedience, a category of the United States political and legal system.

The explanatory power of this phenomenon is circumscribed to, and potentiated by, the context described, as it would not be in other circumstances. The explanation would not suffice in a nation

where the access to the full realization of citizenship – of the government’s recognition of rights – had not resulted from political actions that included civil disobedience as a resource that the government and an important number of citizens resisted, but also legitimized. The explanation would fail in a context in which civil disobedience had not generated social change or expressed the tension between rejection and acceptance of a political system. The United States philosopher John Rawls reflected broadly and sharply on civil disobedience in his book *A Theory of Justice*. He sustained that “by acting in this way one addresses the sense of justice of the majority of the community and declares that in one’s considered opinion the principles of social cooperation among free and equal men are not being respected.”¹ We could therefore affirm that the conditions of inclusion are not respected. Undocumented migration presents the same tenor of resistance to adaptation as civil disobedience, because, in Rawls’ words, civil disobedience “expresses disobedience to law within the limits of fidelity to law, although it is at the outer edge thereof. The law is broken, but fidelity to law is expressed by the public and nonviolent nature of the act, by the willingness to accept the legal consequences of one’s conduct.”²

Rawls sustains that the person who is civilly disobedient calls to abolish fundamental principles that were trampled by laws and policies, through the action of disobedience. In the case of migrants, they seek to halt the application of certain laws. For migrants, their hope is that the system will reconsider or take special measures to modify their legal status. That is why an act of civil disobedience seeks a perlocutionary effect. Habermas posited that a political or legal state disposition can have “legal validity” while lacking “legitimacy”. The first comes from passing a law, and the second occurs when the law or the policy emerges from consensus, taking into account diverse interests. Legitimacy is the basis of any stable political system because policies and laws, if they transcend the formality, should result from inter-subjective negotiations. The members of the legal community, with their multiple interests and values, should endorse state dispositions so that these can be sustainable as an embodiment of political will. The jobs (including works in the state), hospitality, memberships in churches, militancy in organizations, and all the support given to these transgressors, undocumented persons, can be understood as a type of dissent that discredits the government policies that seek their punishment through the restriction of their freedoms and rights, and eventually through their removal. The support given to migrant persons refers to a constellation of actions that legitimizes their unauthorized presence, thus it constitutes a social authorization that confronts a government prohibition. Here there

¹ Rawls, 1999, p.320.

² Rawls, 1999, p.322.

is a point of convergence between Rawls, Ebert, Dworkin, Bobbio, and Habermas: social validation legitimizes a behavior and that validation is fundamental to the success of civil disobedience.

This support is political in that it confronts the government, and its power of validation, by the stance it takes on a public issue, going against state dispositions to favor of a group of non-citizens who violated the laws. This social validation is visible in diverse ways. The ordinary citizens who allow undocumented persons to stay or work in their homes, or who treat their undocumented neighbors politely and with solidarity, are enacting social validation. An employer supports undocumented immigrants when he or she does not take advantage of the vulnerability of an unauthorized migratory status by reducing the workers' rights or cutting their salaries. There is also the social validation of the faithful from different religious denominations who embrace undocumented persons in their small communities and even undertake actions to facilitate their efforts to gain citizenship. Priests, pastors, imams and rabbis construct legitimacy when they preach the rights of migrants or implement programs to favor them. Activists on migratory reform practice civil disobedience in favor of undocumented immigrants in their efforts to transform the greater United States community into a niche of welcoming and protection of those who immigrate, even when the government does not give that right. On a daily basis, these individuals and collectives defy the anti-immigrant government dispositions and endorse undocumented persons' acts of civil disobedience. They grant religious, informal, illegal and economic citizenship in everyday life. All these acts of social validation recognize that undocumented persons did not commit a crime –a common violation of the law- but carried out an act of disobedience appealing to a greater good, and about which the nation should pronounce in daily life and through advocacy work to change public policies.

The support to migrants amounts to a street-level or neighborhood-level referendum. All of them make citizenship not to be an “all-or-nothing affair” and construct spaces of membership and inclusion. The conjunction of these expressions of inclusiveness is validation on a day-to-day level and consolidates multiple levels of validation with an enormous political potential. For example, this support takes on a very public form in the interest shown towards murals – such as the well-developed ones in the city of San Francisco – where migrants can have parrhesia by expressing their stories and their current struggles, and through them, become part of these cities, transform them and communicate with their inhabitants to produce a perlocutionary effect. The everyday support converges in the validation of grass-root and non-governmental organizations that serve as a platform in the struggle for citizenship. The support of employers is the foundation of economic validation and economic citizenship. Likewise, the social validation undoubtedly sustains the growing support to migrants on

behalf of the cultural industry and the media –although commercial interests are also involved–, establishing a meaningful tendency to construct a favorable image for undocumented immigrants (for example, the June 25, 2012 cover of *Time Magazine* read: “We are Americans: Just not Legally.”) Another validation that derives from this support is visible in partisan politics, which regards migrants as a political force that is clearly capable of awarding or punishing political positions on undocumented persons, migratory reform and the route to citizenship it offers to the almost twelve million undocumented persons. There is also the validation by academics, whose historical, sociological, political and economic arguments seek to dismantle xenophobic myths, monitor the rights of migrants and support the legitimacy of their presence and integration.

These multiple validations have crystalized –through complex communicating vessels– within the government-level heterogeneity that is manifested in actions of legal and political legitimation which reflect historic struggles: sanctuary cities, the refusal to apply e-verify in California, the granting of driver’s licenses to undocumented persons in different states of the union, the access of undocumented youth to higher education and state scholarships, the rights granted to the Dreamers, the support from street-level bureaucrats, among others. On a historical level, diverse actors and constellations of actors have confronted the government in order to make that heterogeneity possible. The support of those – and with those- who confront the state is of a political nature. It is not merely an act of assistance. Assistance-based support alone has a highly beneficial effect on immigrants, but when it directly assists those proscribed by the law, it acquires political characteristics, since it implies a position on public administration and directly confronts those who condemn it. Rawls points out that the final appeals court is not the Supreme Court, Congress or the president, but the entire electorate. He who is civilly disobedient appeals to this body. Obviously, once immigrants evade migratory controls, they are appealing to this highest level of social tribunal: the businesses that hire them, the NGOs that defend them, the activists that take the streets to defend their rights and the academics that applaud the cultural wealth nourished by their presence, among many others.

They make this appeal in the day to day and in actions that are not taken as political actions, but as acts of necessity. Drop by drop a series of unconnected actions converge to represent a greater challenge to the principle of territorial sovereignty. This accumulation of individual acts is what erects a challenge and creates dissent, because you provoke support and rejection in that supreme tribunal. That tribunal is “forced” to pronounce its daily verdict in the face of the quiet encroachment of the undocumented. Its verdict is not issued in the courts, but in the work place, in the murals of the city, in the recognition –through making specific products- of new subjects in the market, and even in the

swings of local politics, that are highly sensitive to the opinion of their current and potential electorate. Their actions mould the form of being interpellated. According to Butler, “interpellation is an act of speech whose ‘content’ is neither true nor false: it does not have description as its primary task. Its purpose is to indicate and establish a subject in subjection, to produce its social contours in space and time. Its reiterative operation has the effect of sedimenting its ‘positionality’ over time.”¹ The actions of material life and also in other spheres are changing the interpellation, replacing the label “illegals” with workers, consumers, refugees, muralists, etc. The world of the reproduction of life moulds the form of interpellating. Promoting positive appeals, the migrants in the demonstrations hold posters that read, “I am not an illegal. I am the cook that prepares your favorite food.”

Bayat refers this way to the accomplishments that this art of presence is constructing in different spheres: “This kind of spread-out and encroachment reflects in some way the non-movements of the international illegal migrants. There exist now a massive border check, barriers, fences, walls, and police patrols. And yet they keep flooding— through the air, sea, road, hidden in the back of trucks, trains, or simply on foot. They spread, expand, and grow in the cities of the global North; they settle, find jobs, acquire homes, form families, and struggle to get legal protection. They build communities, churches or mosque groups, cultural collectives, and visibly flood the public spaces. As they feel safe and secure, they assert their physical, social and cultural presence in the host societies.”² This belligerency, in the case of the United States as destination and the Central American region as the place of origin affected by violence, means that the migrants decided to grant themselves the asylum that the state denied them. They forced that state – that had already entered into a relationship with them in their countries of origin by effect of the violence in which it was implicated – to re-enter into a relationship with them in the territory under its jurisdiction. They are not indifferent to the state, and therefore are not reduced to their biological side, which is characterized by the absence of the political side. The state tracks them and expels them, tries to stop their entry through walls and traps, but also defends their rights in the face of unscrupulous employers, shyster crooks, abusive husbands and greedy landlords; it offers them jobs, medical assistance and free education; it issues driver’s licenses to their benefit, legalizes their construction businesses and recognizes their unions as stable de facto unions; and even in some regions they allow them to vote. Neither in a negative nor in a positive sense do the undocumented live in the margins of the state. Their undocumented is not just positive, nor just negative. It is an in-between category, between legal and illegal, that expresses the dissent within the

¹ Butler, 1997, pp.33-34.

² Bayat, 2010, p.15.

state and society. But that does not reduce them to bare lives. The support and state heterogeneity do not result in bare lives. Agamben coined the term “bare life” as a conceptual horizon for understanding better the trending lack of rights of the refugees. I propose civil disobedience to reframe the actions of the migrants in contempt of the law, to show their political nature and to show the tendency to gestate a citizenship and the negotiations game that takes place in the streets, markets, work places, murals, headlines and front pages of the communications media. As workers and as consumers they cannot have bare lives. Nor as members of churches and organizations, as muralists in community and as demonstrators. In all these spaces they have a word to express. There is where they can exercise parrhesia, without which there is no active participation in politics. With parrhesia there is citizenship in the making. From the theories of James Scott, I reclaim above all the idea that political speech can have multiple forms of expression. Parrhesia is not limited to formal grassroots organizations, political tribunals and parliaments. Murals, festivals, demonstrations and consumer boycotts are other forms of “pronouncing” a speech.

Incorporating these speech forms and other political actions presumes a rupture with the tradition of western political thought. This thinking started with an elitist vision of who makes history and politics: the transforming actor was always an elite or an elite-actor. The mass-actor, above all if he/she does not belong to an organization, is left at the margins of politics. I have endeavored to have my research distance itself from that vision with the support of the rupture that Marx undertook, a necessary rupture to avoid the waste of political experience. My way of addressing that rupture again is understanding the presence of the undocumented in the world of work and consumption as an act of civil disobedience. The daily actions – of survival – of the migrants that submit their case to the opinion of the tribunal of US society are those that constitute a performative civil disobedience: the contempt of the law that consists in acting as if the excluding policies had already been abolished and, in this way, produce an inclusive perlocutionary effect. They are actions that produce an “already, but not yet” of citizenship, that expand the intermediate zones between citizenship and their undocumentedation.

According to the distinctions of Bobbio, the migrants practice a positive disobedience by commission, and avoid the negative disobedience by omission, because they fulfill all their civic obligations, including the payment of taxes. In the terminology of Ebert, that disobedience resorts to constructive strategies (creation of small businesses, creation of employment and all types of work, above all work useful to the state), and confrontational strategies (unauthorized crossing of the border, abrupt changes in residence to avoid raids, boycotts against places with excluding legislation). The purpose of the disobedience of the undocumented is to change the law, or, in the least successful of cases, keep an unjust and

discriminatory law from being applied, through a behavior that denies -but does not ignore- the existence of such laws. In the labor field, disobedience does not always have the same meaning. Labor is not developed the same way in all trades and industries. The variety of types of work makes the fact of hiring migrants have different political connotations. The annulment of abstract work where the employee is left invisible makes certain jobs to more clearly be platforms for exercising parrhesia on a daily basis.

If we listen to the justifications and cases of civil disobedience that Dworkin presents, a theoretician of civil disobedience, we will see that the invalidity of the law is the key principle. Dworkin does not require that the conscientious objectors have certainty about the fact that the law they are not following lacks validity. The important thing is that the objectors have beliefs that provide firm support to the conviction that the law is on their side. If they do not formulate it this way, it is due to the fact, in most cases, that they do not have legal knowledge. Dworkin only requires that the person that disobeys believes that he/she is acting correctly in not respecting a law whose goal is doubtful, like the case of Ernesto Serna, who believes that there is no right to detain people, and allows the merchandize to pass through. Or the case of María García, who denies the right of possession of the US territory to those who are neither indigenous nor Mexican. Dworkin goes beyond that, and points out that nothing authorizes us to make a distinction between more and less informed disobedients.¹ Consequently, even though we might think that Ernesto and María are not representative cases because of their cultural capital, Dworkin's theory only asks of the practice of civil disobedience the conviction that they are acting correctly by crossing the border and working in the United States. And that is a very representative conviction.

With the theory of Raz something similar occurs: it does not matter whether the actor conceives himself/herself or not as a civil disobedient. It only matters that they present themselves as someone who is convinced of having acted well, because the majority of the disobedient fall into the category of "cases of occasional disobedience": violations of the law that the people think are normally permitted due to the circumstances.² But here there is a nuance to make to Raz's theory. In line with western political tradition, Raz deals with disobedience with explicit moral motivations. The acts of the migrants do not lack moral motivation – ensuring that the children study, supporting a community project, taking care of small children or sick family members – but they are "contaminated" by need. Nevertheless, the disobedience of the migrants can also be conceived as an act with moral motivation according to the

¹ Dworkin, 1978, p.215.

² Raz, 1979, p.263.

assumptions of Raz. This author distinguishes between liberal societies and non liberal ones. In the latter, the right to political participation is not protected by law. In this context, Raz recognizes the right to ignore the legal dispositions that transgress that moral right: “members of the illiberal state do have a right to civil disobedience which is roughly that part of their moral right to political participation which is not recognized in law.”¹ Something similar happens with the migrants: they moved to a society whose Nation-state does not recognize their political rights. They are part of a society with a liberal state that treats the undocumented as members of an illiberal state. In this situation of “illiberality” they make use of their moral right to ignore the legal dispositions that prohibit them from working, housing themselves, driving vehicles, owning businesses, etc. Consequently, we can say that the undocumented can base their right to civil disobedience on the two arguments which in the theory of Raz are presented as valid justifications: in liberal societies (in the justice of their objective) and in non liberal societies (in the moral right to not recognize legal dispositions that deny them their political rights). With this state that, in part, functions like an illiberal state with them, the migrants negotiate, but their negotiations do not take place in the courts, but above all in the streets, markets and work places. What is not negotiated in the street, will not be able to be obtained in the courts. What happens there, in the quiet encroachment and with the art of presence, is the raw material for the changes toward inclusion. Without this, there is nothing. And that is a lot. It is the basis for change, and in large measure is the change itself, if we are to believe what Castells says about the process being the aim.² If we consider it for a moment, we will see that in this case it is, because there is no more radical parrhesia – and at the same time, sign of disobedience – than taking the floor where it has not been conceded.

This disobedience could be considered as transnational civil disobedience, taking into account that the immigrants are disobeying the law of a Nation-state whose nationality they do not have. I think that this reason is only partially valid for adding the adjective “transnational” to that disobedience. In the beginning of my research I considered, following social contract theory, that in the case of migrants, it’s not about certain individuals violating the contract as a way of renouncing it, but rather of forcing their inclusion against the contract’s reluctance to let them in. As a result, the argument for classifying migrants’ irregular entry as civil disobedience could be framed in a paradigm in which such acts are set within the context of a transnationalization of civil disobedience. This cosmopolitan conception involves a transposition of civil disobedience to a transnational legal scenario. That transposition cannot be based on a supranational authority to which migrants can appeal—the United Nations, for example,

¹ Raz, 1979, p.273.

² Castells, 2012, p.144.

doesn't defend them against abuses of the untouchable national legislation. What Sassen maintains in *Losing Control* is not so much what is happening: that the supranational organizations are impacting state policies and their implementation. The UNHCR is not able to even have an impact on the quotas of refugees and has shown itself to not have much influence on the defense of the unaccompanied Central American minors. But it does happen that that discourse on transnational rights is taken up by some migrants as a justification. Ernesto and others maintain that there should not be borders, that they should have the same rights regardless of their migratory status. The discourse has permeated more than the practice. The migrants have not been in contact with the UNHCR, nor with other United Nations agencies, but they do have contact with the discourse of the universality of rights, some of them in religious realms. Just as the French revolution was preceded by a dissemination of discourses that undermined the divine basis for monarchical authority¹, the disobedience of the migrants is accompanied by a discourse that undermines the sovereign rights to deny entry and permanence. In that sense we can talk about transnational civil disobedience.

But currently the undocumented immigrants are appealing to the country's citizenry and also to a Nation-state. The immigrants are not appealing only to the population, but to the law and customs in force in the territory under the jurisdiction of a state. They appeal to an entity that sustains and applies that juridical body: the state. In synthesis, the civil disobedience is transnational because those who practice it come from another nation – the transnational character goes that far – but not because their universal rights are going to be validated by a supranational body. Those rights are validated by national political actors. As disobedients, their lack of formal citizenship does not invalidate them for disobeying a state that is not extraneous to them since they stepped on US soil. That is why I have placed my support on a theoretical constellation that considers that formal citizenship is only one form of citizenship, and that the state is not the only one empowered in practice to accredit membership. There are other aspects of citizenship that cannot be granted by the state, or that can be granted only in a formal way by the state. There is another reason to argue that that state is not extraneous to them: in the course of the investigation I found that the state has such a degree of heterogeneity – in general and in its relationship with the immigrants – that its recognition of the rights of the undocumented and their membership is so blatant in some of its branches that neither can it be said that the state opts monolithically for exclusion, but rather that it expresses dissent within itself. The state, therefore, recognizes them – even in a fragmented fashion – as members of the national community.

¹ Statobinski, 1988.

This disobedience begins by being performative and not explicit. It is an art of presence that acquires a great part of its legitimacy in the world of the material reproduction of life, in the world of needs, whose political nature Marx revealed. Bayat observed that “the struggles...of the international migrants constitutes neither an organized and self-conscious social movement nor a coping mechanism, since people’s survival is not at the cost of themselves but of other groups or classes. These practices also move beyond simple acts of everyday resistance, for they engage in surreptitious and incremental encroachments to further their claims.”¹ The sum of encroachments leads to a non-movement. As we saw, a fraction of this non-movement was able to form itself into a movement and explicitly practice civil disobedience with the help of several actors.

Some of these actors and their purview are: the churches with the practice of religious citizenship, the organizations of the migrants, halfway between movements and non-movements (they partially were the inventors of the “Dreamers” category, a Trojan horse), the state heterogeneity (without this heterogeneity, that reflects an accumulation of accomplishments obtained in old battles, the United States’ political system would not find room for the margin of action of the performative civil disobedience of the migrants, nor of the actors who validate them). Just as in the Arab Spring uprisings the evolution of each movement depended in large measure on the reaction of the state², the possibilities of the disobedience of the undocumented depends in part on the composition of the state, and the possibilities of obtaining their objectives will depend on the reactions of the state. That transformation was the effect of the support of the undocumented in the churches, organizations and in the favorable terrain of state heterogeneity. On those supports emerged an image of a sector of the undocumented that many communications media publicized, even those who previously did not have a pro-immigrant commitment, or that even tended to be anti-immigrant. The Dreamers were a fantastic segmentation to make the undocumented “digestible”: the undocumented that arrived as children and that are going or aspire to go to college. They are more acceptable, and after their legalization comes that of their parents, and they are so acceptable that for the first time in history magazines like Time – liberal but that always has condemned illegal migration – have presented some undocumented under a very favorable light. In this way the collective, unorganic disobedience moved to collective action and from proto-civil disobedience to explicit civil disobedience.

At the moment of finishing this text, Immigration and Customs Enforcement is welcoming 2016 with a new operative of raids in Latino neighborhoods throughout the country. The objective is to

¹ Bayat, 2010, p.16.

² Castells, 2012, p.96.

deport Central American families to discourage the migration of Central American children, a not very credible justification taking into account the decrease of unaccompanied minors apprehended in 2014-15, a period in which the Salvadorans decreased from 16,404 to 9,389, Guatemalans from 17,057 to 13,589, and Hondurans went from 18,244 to 5,409.¹ The measure does not satisfy neither Tyrians nor Trojans: “pro-immigration groups that called it heartless, and anti-immigration advocates who dismissed it as window dressing”.² Maybe the latter are not mistaken: it is a theatre, but one that produces a lot of pain. The operatives will not produce a significant reduction of immigrants. But they will sow perplexity among that group of potential voters that both parties want to capture. A perplexity and a distrust like that that Ernesto Serna shared with me, “Meanwhile they [the politicians] are in their politics and in their power struggle, fighting and devouring one another, saying that they want and they do not want to approve migratory reform that would be beneficial for the undocumented. It will have to be seen what type of reform they want to promote. In reality they do not want to promote any reform. They continue giving it to one another there. They are like in Honduras or Nicaragua where they strike a blow on the nationals and the liberals, the Republican and Democrats are like that, some hit others and the others hit them back. If Obama wanted to, he could. What you have there is a ton of excuses. They say yes, but in reality it is no. Have you heard the song of Ricardo Arjona? He says “give me a no, but that really is a yes.” And they say yes, but it is a no. That is how I see this game.”

¹ U.S. Customs and Border Patrol, Southwest Border Unaccompanied Alien Children Statistics FY 2015, <http://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2015>

² Harris, 2015.

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