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Publication Date

2020

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UNIVERSITY OF CALIFORNIA

Los Angeles

Refugee Children or Immigrant Teenagers?

The Precarious Rights and Belonging of Central American Unaccompanied Minors

in the United States.

A dissertation submitted in partial satisfaction of the

requirements for the degree Doctor of Philosophy

in Sociology

by

Chiara Galli

2020

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ABSTRACT OF THE DISSERTATION

Refugee Children or Immigrant Teenagers?

The Precarious Rights and Belonging of Central American Unaccompanied Minors
in the United States.

by

Chiara Galli

Doctor of Philosophy in Sociology University of California, Los Angeles, 2020

Professor Roger Waldinger, Chair

This dissertation sheds light on a facet of migration world-wide that prior research, focused almost exclusively on adults, has largely neglected: the rise of unaccompanied child migration. In the past 10 years alone, over 400,000 children migrated to the U.S. without their parents, with 2019 seeing Central American unaccompanied minors once again arriving in record numbers. Based on ethnographic research in legal clinics and in-depth interviews with unaccompanied minors and their advocates, I trace these youths' experiences from the moment of their escape from violence in Honduras, El Salvador, and Guatemala, during their interactions with the U.S. immigration agencies that process and detain them, as they navigate legal struggles with the support of immigration attorneys to apply for refugee status, and as they experience the impact of these legal struggles on their subjectivities and on multiple facets of their lives as

young immigrants in the United States. My research builds on scholarship in the fields of international migration and the sociology of law by examining how protections based on age in U.S. immigration law shape immigrants' access to legal status and incorporation.

Unaccompanied minors inhabit dual legal and social positions in the US. On the one hand, as minors –and children who enter the US alone, without their parents—, they are seen as deserving and protected by policies that grant them more favorable access to the asylum process than adults. However, as non-citizens –and immigrants from the Global South—, like adults, the state perceives them as suspicious asylum-claimants and even criminalizes them as potential gang members, seeking to exclude them. My research shows how these two forces —protection and exclusion —are in tension with one another in the volatile U.S. context, as advocates' demands that the state respect human rights norms and protect vulnerable children compete with state prerogatives to limit overall levels of immigration. Protection continuously ebbs and flows, crucially affecting the life outcomes of immigrant youths and their odds of obtaining asylum at any given moment in time. These odds have become increasingly slim as the Trump administration intervenes to systematically dismantle the rights of unaccompanied minors and asylum-seekers. To obtain refugee status and other humanitarian forms of relief, unaccompanied minors must satisfy narrowly defined legal criteria and comply with a series of behavioral restrictions. Youths who cannot do so remain unprotected, undocumented, and at risk of deportation, despite their vulnerability. By exposing the gaps between protections for unaccompanied minors on the books and their implementation, this research has important implications for immigration policy and for the lives of children who migrate on their own.

The dissertation of Chiara Galli is approved.

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2020

Para los jóvenes que cruzan fronteras en búsqueda de una vida mejor

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List of Acronyms

CBP: Customs and Border Protection

LPR: Legal Permanent Resident

ORR: Office of Refugee Resettlement

SIJS: Special Immigrant Juvenile Status

TVPRA: Trafficking Victims Protection Act

UNHCR: United Nations High Commissioner for Refugees

USCIS: United States Citizenship and Immigration Services

UAC: Unaccompanied Alien Child

Acknowledgments

The road to getting my Ph.D. has been both immensely rewarding and extremely challenging. I want to take this space to thank the many people who helped me along the way. I didn't always know that I wanted to pursue an academic career. I figured out that I loved doing research during my Masters Program at Universidad of Granada in Spain. I want to thank my fellow students and the professors there, in particular my thesis advisor Carmen Lizarraga who was the first person who pointed out to me that I might be cut out for this. I am grateful for her mentorship and for putting me on this path. I also want to thank my former colleagues at IDOS/European Migration Network in Rome, for their generosity and continued support, and for their important work as scholars and as advocates for the immigrant community there.

At UCLA, I found a wonderful intellectual community, and I was privileged to work with an amazing dissertation committee. I could not have asked for a better mentor than Roger Waldinger, who believed in my work and generously supported me from day one, pushing me to excel and be ambitious. His critical insights have crucially shaped how I think and write about migration and sociology. I will very much miss our stimulating conversations and enjoyable office chats. I am grateful to Ruben Hernandez Leon for his sharp and critical feedback on my writing and for his generous support as I navigated many job market dilemmas, when he kindly reminded me to think about my happiness. Cecilia Menjivar was already a fantastic mentor even before she came to UCLA, who generously read my work and knew better than me why it was important. Her research is an inspiration and a model for my own. Stefan Timmermans has been a great teacher who taught me how to do serious ethnography and how to write my first peer-reviewed article, among many other things. With his characteristic sense of humor, he also tried to teach me that the Ph.D. is marathon and not a sprint, although I'm not quite sure I learned that lesson. And finally, I want to thank Susan Terrio, whose book on unaccompanied minors introduced me to child migration in the U.S. and who has been a supportive and kind mentor who is always enthusiastic about my research. Other UCLA Sociology professors I want to thank for their support over the years are: Gail Kligman, Karida Brown, Aliza Luft, Lauren Duquette-Rury, and Kevan Harris. I was lucky enough to find some generous mentors beyond the Sociology Department and UCLA as well, and, in particular, I want to thank Leisy Abrego, David Fitzgerald, David Cook Martin, Filiz Garip, Marjorie Orellana, and Hiroshi Motomura.

The UCLA migration working group has been a fantastic collegial and critical space where I have been able think through research with my brilliant fellow grad student colleagues during the past six years. While I do not have the space to thank all of my friends and colleagues here, I want to mention at least some. A special shout-out to my cohort-mates Molly Fee and Andrew Le. Thank you both for your support and good humor, it was crucial to be able to hold each others' hands and motivate each other as we went through all the hoops of this long process together. I also want to thank others among my fellow UCLA migration scholars for their support and friendship during this journey, as well as for their willingness to read my work and challenge me to improve it: Tianjian Lai, Estefania Castaneda Perez, Fernando Villegas, Nihal Kayali,

Leydy Diossa, Flavia Maria Lake, Irene Vega, Tahseen Shams, Phi Su, Deisy Del Real, and Peter Catron. Thanks also to my broader UCLA community for being wonderful friends and colleagues—and for often accompanying me in the endeavor of acting like just normal human beings and not grad students!—, in particular: Matias Fernandez, Juan Delgado, Wisam Alshaibi, Eleni Skaperdas, Alina Arseniev, Luis Manuel Holguin, Mirian Martinez Aranda, Nada Ramadan, Nathan Hoffman, and Ariana Valle. Beyond UCLA, a special thanks for your friendship and support, and for some amazing conversations every time we caught up at conferences, to Rawan Arar, Blanca Ramirez, and Angel Escamilla Garcia. Thanks also to my childhood friend Angelica Federici, who got her Ph.D. in Art History at Cambridge, and who I can always count on to vent about academia, over the phone and across too many time zones. I am so grateful to be a part of this wonderful new generation of scholars, and I look forward to having you all as my colleagues for what will hopefully be long and exciting careers.

I want to thank everyone who generously supported and participated in this research. I unfortunately cannot thank by name the many immigration attorney, NGO staff, and fearless advocates who work with unaccompanied youth in Los Angeles. I am indebted and grateful to them for teaching me so much about this phenomenon, and for helping me decipher the complex realm of the law. This research would not have been possible without their help. And, of course, I want to thank all of the immigrant youths and their families who shared their stories with me for this research, and with whom I laughed and cried over the years. Telling their stories is a privilege and a great responsibility. I hope I have done them justice.

And last, but certainly not least, I want to thank my family who I always miss, with the perpetual homesickness that all immigrants have. *Grazie mamma e papà*, for always believing in me. My parents, Francesca and Piero, are the most hard working and good people I know. They brought me to this country as a kid, and they gave me wings to fly. I have been privileged to explore the world thanks to them. They taught me to be curious and ask questions, and to always have an opinion about everything. Our dinner table has been the site of wonderful conversation and impassioned debates. I am especially grateful to my mother, for raising me as a feminist and instilling in me my love for books. Finally, I want to thank Pedro, my partner of 12 years and the one constant in my uprooted life, with whom I have been truly lucky to have many adventures, and without whom I would have never been able to survive the ups and downs of these past six years. *Gracias Pedro*, for following me to the other side of the world so I could get my Ph.D., for always being by my side and supporting me so generously, for tolerating me when I was an insufferable workaholic, and for always reminding me to have fun, *que nos quiten lo bailao*.

My dissertation research was generously supported by the National Science Foundation—through the graduate research fellowship program and the dissertation improvement grant—, as well as by the Haynes Foundation, the Latino Center for Leadership Development, the California Immigration Research Initiative, and the P.E.O. sisterhood. Chapter 5 of the dissertation is a version of a published article: Galli, Chiara. 2019. “The ambivalent US context of reception and the dichotomous legal consciousness of unaccompanied minors.” *Social Problems*. In press.

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Introduction

In the summer of 2018, the Trump administration garnered national attention with its infamous policy of family separation targeting Central American asylum-seeking families at the U.S.-Mexico border. Small children were taken away from their parents and detained in separate facilities for unaccompanied minors; they were miles apart, with no ability to contact each other. As evocative photos and articles overtook the news cycle, people flocked to the streets nationwide to protest what was framed as a shocking and “un-American” policy. Parents and children held up signs that read “*families belong together.*” There was an outpouring of support from private citizens, church organizations, and even businesses.

We saw this support first hand at the legal aid organizations that represent unaccompanied minors in Los Angeles where I did my research. These migrant-serving non-profit organizations received a veritable storm of donations. Rideshare companies donated credit for car rides and food delivery, Silicon Valley start-ups donated cell phones with prepaid plans, churches donated money and goods, their congregants opened up their homes to those in need. The floors of legal aid organizations were filled with bags containing clothing for small children, toys, backpacks, school supplies, and diapers. Everybody wanted to help the children.

And yet, the clients that these legal aid organizations had long been serving, indeed the vast majority of unaccompanied minors that migrate to the U.S., were not young children but teenagers. Over the course of the four years –between 2015 and 2019– that I did research and worked as a volunteer alongside immigration attorneys and other advocates for unaccompanied minors, I witnessed how these teenagers received a far more lukewarm welcome.

Following the surge in arrivals of Central American unaccompanied minors and families that first made the headlines in the summer of 2014, when the Obama administration declared that a “humanitarian crisis” was underway, these teenagers were portrayed in the news with narratives as starkly contrasting as: scared and helpless victims of gang violence; threatening immigrant “others” deviously trying to “cheat” their way into the country by taking advantage of protective laws and misplaced U.S. generosity; and even dangerous gang members.

These youths are migrating on their own to escape from violence and deprivation in Central America, to join their families, and to seek refuge in the United States. What follows is an account of their experiences as they navigate the state systems and bureaucracies that apprehend and identify them, detain them, and evaluate whether they should be allowed to remain in the U.S. based on a grant of humanitarian protection. The youths in my study undertook these arduous legal battles with the indispensable help of immigration attorneys and others working in migrant serving organizations in Los Angeles. The legal system that these youths and their attorneys navigate is one that distinguishes and discriminates between different categories of immigrants. Immigration enforcement efforts have overwhelmingly been focused on Latin American immigrants who cross the U.S.-Mexico border on foot, without authorization. There, those apprehended and categorized by the state as “illegal” immigrants, asylum-seekers, or unaccompanied minors are treated in different ways.

As the only country that never ratified the 1989 Convention on the Rights of the Child (CRC), the U.S. stands in contrast to other receiving countries that apply a children’s rights-based approach to the treatment of immigrant children, such as Italy, which does not involuntarily expel any immigrant minors from its territory. The U.S. government argued that

ratifying the CRC would undermine parental authority since the *best interests of the child* principle grants children more autonomy from their parents. By not ratifying the convention, the U.S. is not legally obligated to enforce its provisions in domestic law, and courts can decide in each case whether to privilege the interests of the child, raising the question, “*which child is worthy of the best interest approach?*” (Chavez and Menjivar 2010). The U.S. generally treats undocumented immigrant children like adults, while making ad-hoc exceptions from enforcement and deportation for specific subcategories of children.

One example are children brought to the U.S. by their parents at a young age who have been granted temporary legal status through Deferred Action for Childhood Arrivals (DACA). This group of youths is framed as deserving and innocent because they excel in school and played no role in their parents’ illicit migration decisions (Patler and Gonzales 2015). Unaccompanied minors are the group of undocumented immigrant children who benefit from the highest level of exemption from punitive immigration enforcement in the U.S. immigration and asylum system. This is thanks to a legal framework created through decades of litigation and advocacy to protect vulnerable minors –those under age 18– who migrate on their own. Yet even the protections in place for these youths are precarious in a U.S. context characterized by limited compassion, where humanitarianism –the universalistic desire to alleviate the suffering of vulnerable others (Wilson and Brown 2011)– is inherently at odds with state prerogatives to control immigration.

Unaccompanied minors simultaneously occupy two legal and social positions. As non-citizens –and undesired immigrants from the Global South– like adults, the state seeks to *exclude* them. As legal minors –and children who enter the U.S. alone, without their parents– they are seen as deserving of *protection*. These two forces are in tension with one another, and the former

category takes primacy: the U.S. immigration system considers unaccompanied minors to be *immigrants first*, and *children second*. From their liminal legal and social position, unaccompanied minors must embark on complex and lengthy legal journeys to demonstrate that they are worthy of the *protection* afforded to children, rather than the *exclusion* reserved for immigrants. With help of immigration attorneys, they apply for asylum or a visa for abandoned, abused, or neglected children in hopes of being allowed to remain in the U.S. with legal status.

Of course, the legal context these youths navigate is not static. Rather, it evolves over time and has shifted significantly historically and during my fieldwork, which took place during the Obama and Trump administrations. The balance between the forces of *exclusion* and *protection* in the legal context of reception is crucially influenced by the lawyering practices I will describe in the Chapters that follow. The goal of this manuscript is, first, to examine how these legal battles shape what I call the *space of protection*, in other words, the policies and practices that exempt certain groups of undocumented immigrants from punitive immigration enforcement. Second, I analyze how the contradictory U.S. legal context of reception, characterized by *exclusion* and *protection*, stratifies the undocumented immigrant experience, shaping the lives of unaccompanied minors, unlike those of other migrant youths and adults.

1.1 Who are unaccompanied minors today?

Unaccompanied child migration is not a new phenomenon. Children have migrated alone throughout history to pursue employment, opportunity, and adventure (Kandel and Massey 2002, Hernández León 1999, Horváth 2008, Lopez Castro 2007), and fleeing war, natural disasters, and separation from family members (Heidbrink 2014, Ressler, Boothby, and Steinbock 1988). This

is, however, a phenomenon that is growing in magnitude and visibility. Half of the world’s forcibly displaced people today are children. The United Nations High Commissioner for Refugees (UNHCR) estimates that 111,000 unaccompanied children fled violence in 2018, and the number of children seeking asylum alone has been steadily increasing worldwide (UNHCR 2014b, UNHCR 2019) and in the U.S. context (Table 1.2).

Table 1.1 Apprehensions of Unaccompanied Minors at the U.S. Mexico Border by Country FY 2009-2020

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020*
El Salvador	1,221	1,910	1,394	3,314	5,990	16,404	9,389	17,512	9,143	4,949	12,021	1,405
Guatemala	1,115	1,517	1,565	3,835	8,068	17,057	13,589	18,913	14,827	22,327	30,329	5,413
Honduras	968	1,017	974	2,997	6,747	18,244	5,409	10,468	7,784	10,913	20,398	2,327
Mexico	16,114	13,724	11,768	13,974	17,240	15,634	11,012	11,926	8,877	10,136	10,487	5,238
Total	19,418	18,168	15,701	24,120	38,045	67,339	39,399	58,819	40,631	48,325	73,235	14,383
<i>COMBINED TOTAL: 457,583</i>												

Source: U.S. Border Patrol Southwest Border Apprehensions Statistics, Unaccompanied Alien Children (www.cbp.gov)

* Fiscal Year 2020, partial data through February

Table 1.2 Unaccompanied Minor Asylum Applications in the U.S. (Asylum Office) FY 2009-2019

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019*
Cases filed	414	1,019	862	740	1,095	3,448	15,032	15,755	20,297	18,229	7,332
% Approved	64.2%	59.6%	56.7%	58.9%	63.6%	70.1%	43.4%	40.2%	39.5%	28.1%	39.9%

Source: USCIS Quarterly Stakeholder Meetings Minor Principal Applicant Reports (www.uscis.gov)

*Fiscal Year 2019, partial data through March

USCIS does not disaggregate this data by nationality. However, one USCIS (2015) report notes that 92% of these asylum applications are filed by unaccompanied minors from El Salvador, Guatemala and Honduras.

In the past 10 years, over 450,000 unaccompanied minors have been apprehended at the U.S.-Mexico border (Table 1.1). Until 2013, Mexicans constituted the vast majority of arrivals of unaccompanied minors. That year, they were first surpassed by Central Americans from El

Salvador, Guatemala, and Honduras; 95% of unaccompanied minors in the U.S. are now from these three countries (Table 1.3). According to the UNHCR (2014a), most of these children have a valid claim to international protection. They are migrating in response to violence in El Salvador, Guatemala, and Honduras, which rank among the countries not at war with the highest murder rates in the world. As I will explain in Chapter 2, violence in the region is patterned along the dimensions of age and gender, and teenagers are especially at risk. Between 2011 and 2017, roughly 8% of the entire demographic of 17-year-olds emigrated from these three countries (Clemens 2017). Not surprisingly, most unaccompanied minors in the U.S. are older teenagers ages 15 to 17 (Table 1.3), who find themselves in a liminal state between childhood and adulthood. Unlike previous flows of independent youth migration to the U.S., which were almost exclusively composed of males (Kandel and Massey 2002), roughly one third of Central American unaccompanied minors today are females.

Table 1.3 Characteristics of unaccompanied minors in ORR custody 2014-2019

		2014	2015	2016	2017	2018	2019
Gender	Male	66%	68%	67%	68%	71%	66%
	Female	34%	32%	33%	32%	29%	34%
Age	0-12	21%	17%	18%	17%	15%	16%
	13-14	16%	12%	12%	13%	12%	12%
	15-16	36%	38%	37%	37%	37%	37%
	17	27%	30%	31%	32%	35%	35%
Country of Origin	Honduras	34%	17%	21%	23%	26%	30%
	Guatemala	32%	45%	40%	45%	54%	45%
	El Salvador	29%	29%	34%	27%	12%	18%
	Other countries	5%	9%	5%	5%	7%	7%

Source: ORR data (www.acf.hhs.gov/orr/about/ucs/facts-and-data)

Today's exodus of youths from Central America presents several elements of historical continuity with the Salvadoran and Guatemalan refugee flows of the 1980s, yet it also differs in important ways because of the advocacy work that has been done since. Both migratory waves were met with stepped-up enforcement measures. Both then and now, the U.S. tried to decrease the number of arrivals by transferring funds to Mexico to externalize migration control and apprehend and deport Central American migrants en route to the United States. Today, roughly 40% of Central American unaccompanied minors are apprehended in transit and deported by Mexico (Clemens 2017).

Migratory flows in both historical periods were addressed with the instatement of wide-scale detention of children and families as a means to deter future arrivals, despite the fact that there is little evidence that such measures are effective (Hiskey, Cordova, and Orces 2018). Until 1984, U.S. policy had been to release unaccompanied minors to family members to await the outcomes of their immigration proceeding. That year, the government responded to the large-scale migration of children fleeing the Salvadoran civil war on their own¹ by systematically detaining unaccompanied minors for the first time (Terrio 2015). A lawsuit filed by advocacy organizations challenged this new policy using the case of Jenny Lisette Flores, a 15-year-old unaccompanied girl from El Salvador. The result was the *Flores Settlement*, which established protections for all children in immigration detention that still endure to this day. This historical advocacy work expanded the space of protection for immigrant children in the United States. In recent years,

¹ Approximately 2,000 to 5,000 unaccompanied minors from El Salvador, Guatemala, Honduras, and Nicaragua were apprehended each year in the 1980s (Urrutia-Rojas and Rodriguez 1997).

advocates' lawsuits have been safeguarding this protective space from attempts from both the Obama and Trump administrations to limit the scope of *Flores* or to rescind it.²

In both time periods, the U.S. has been largely unwilling to recognize Central Americans as refugees (Coutin 2000). The Bush and Reagan administrations (1981-1993) granted only about 2% of the asylum cases of Salvadorans and Guatemalans fleeing civil war and the persecution of right-wing military governments backed by U.S. funding (Coutin 2000, Hamlin 2014). In response, civil society mobilized in the Sanctuary Movement to demand that the U.S. government provide a safe haven and political recognition as refugees to Central Americans (Coutin 1994). This movement established the foundation of legal aid organizations that are still fighting for the rights of asylum-seekers and unaccompanied minors to this today. This advocacy work consolidated the space of protection by creating the asylum bureaucracy that exists today.³ Because of this, the legal context awaiting Central Americans of all ages who arrived in recent years, but particularly unaccompanied minors, has been considerably more favorable than it was the past, with asylum grant rates ranging between 17% and 70% (TRAC 2019, Table 1.2).

This was true at least until the Trump administration took office and began trying to essentially end asylum and refugee resettlement in the United States (CLINIC 2019, Fee and Arar 2019). Perhaps its most draconian policy to date is the so-called "Migrant Protection Protocols," which force Central American asylum-seekers to apply for refugee status from tent-courts that have been haphazardly set up in Mexico, where due process is farcical and the grant

² For a full list of class action lawsuits in response to these restrictive changes, see AILA (2019). At the time of writing, none of these changes have been implemented, and the *Flores* Settlement remains in place.

³ The most important victory resulting from the legal advocacy of the sanctuary movement was the 1991 nationwide class action lawsuit *American Baptist Church (ABC) versus Thornburg*, representing over 500,000 Guatemalan and Salvadoran asylum seekers. The lawsuit established that these cases had not received a fair assessment and would be reassessed (Coutin 2000), and it formally created the asylum office that exists today with a designated corps of bureaucrats trained to assess eligibility for refugee status based on the wording of the UN Definition.

rate is virtually zero. Unaccompanied minors are the only group of migrants who are exempted from this policy that violates human rights and international law and, at the time of writing, is being litigated in the Ninth Circuit Court with the case *Innovation Law Lab v. McAleenan*. Conversely, unaccompanied minors have not been exempted from the Trump administration's Third Country Bar, which "renders individuals ineligible for asylum if they arrived in the United States through the southern border on or after July 16, 2019 after having passed through another country en route to the United States, unless they applied for and were denied asylum in at least one other country through which they traveled" (CLINIC 2019). This policy, which could potentially have devastating effects on Central Americans' access to asylum, is also being litigated in the Ninth Circuit Court, at the time of writing.

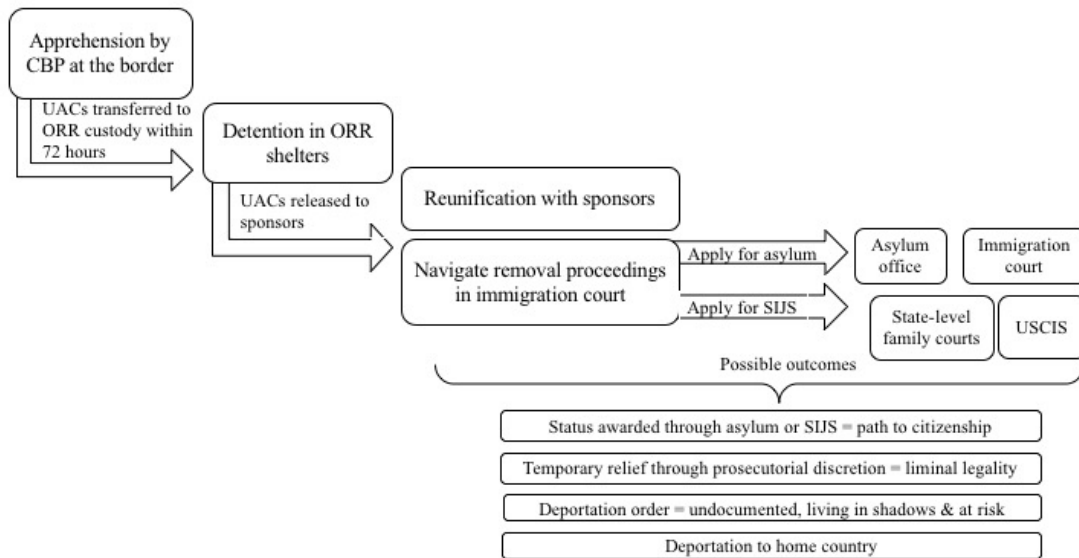
The most important piece of U.S. legislation that has consolidated the space of protection and continues to benefit Central American unaccompanied minors today is the 2008 Trafficking Victims Protection Act (TVPRA). This law contains provisions that protect immigrants who are categorized as 'Unaccompanied Alien Children' (UACs) (from now on, unaccompanied minors), defined in U.S. immigration law as: "*individuals with no lawful immigration status, under age eighteen, for whom no parents or legal guardians are available in the U.S. to provide care and physical custody*" (6 U.S.C. 279(g)(2)). Washington advocates for immigrant children's rights were able to lobby Congress to include in the TVPRA various protective provisions for unaccompanied minors that had failed in previous bills (Terrio 2015).

The TVPRA established that unaccompanied minors are exempted from credible fear screenings⁴ for asylum-seekers at the border. They are instead automatically paroled into the U.S. and placed in the custody of the Office of Refugee Resettlement (ORR). Importantly, this provision only applies to unaccompanied minors from non-contiguous countries, which means that Mexicans are excluded. Officially, Mexican minors are screened by the Border Patrol to determine whether they are victims of trafficking or have a credible fear of persecution before they are deported through an expedited process called “voluntary return.” In practice, however, these screenings have been denounced by advocates as inadequate, and most Mexican children are summarily removed (Carlson and Gallagher 2015), which explains why there are so few Mexican children in ORR custody (Table 1.3).

It is, of course, no coincidence that the most numerous nationality group of unaccompanied minors when the TVPRA legislation was approved was explicitly excluded from this provision. This was a means to keep overall levels of child migration low and to limit the reach of the space of protection. Lawmakers did not anticipate that the increased numbers of arrivals of eligible Central Americans years later would translate into an expansion of the protective space. Indeed, during the Obama administration, lawmakers tried, unsuccessfully, to once again narrow the space of protection by amending the TVPRA (Carlson and Gallagher 2015).

⁴ Credible fear screenings are interviews, conducted in person or over the phone, during which asylum officers assess whether (adult) asylum-seekers have a credible fear of being harmed and persecuted if returned to their home countries. The standard to determine that the fear is “credible” has historically been that there is 1 in 10 chance that the migrant will be harmed if returned. The Trump administration changed the standard to “more likely than not,” a much higher chance of being harmed, over 50%.

Figure 1. The multi-step bureaucratic process unaccompanied minors navigate in the U.S.



Being categorized as unaccompanied minors activates a series of protections that cause this group of immigrant youths to navigate a unique multi-step trajectory in different bureaucracies in the U.S. context (Figure 1). First, at the U.S.-Mexico border, Customs and Border Protection (CBP) agents apprehend immigrants and identify unaccompanied minors. Most Central American unaccompanied minors cross the U.S.-Mexico border at the Rio Grande Valley in Texas (CBP 2019). They are either apprehended or turn themselves in to the Border Patrol (part of CBP). Less commonly, they present themselves at an official port of entry and are processed by CBP’s Office of Field Operations. Second, within 72 hours of apprehension, these youths are transferred to the custody of the Office of Refugee Resettlement (ORR), where they are held in detention facilities reserved only for unaccompanied minors. In 2019, the average length of time youths were detained in ORR facilities was 66 days. Third, ORR releases youths to individuals residing in the U.S. who serve as their sponsors. At this stage, the legal label “unaccompanied” is effectively a misnomer because ORR releases 90% of youths to their family members (ORR 2019), who, in the vast majority of cases, are themselves undocumented immigrants. Finally, to

avoid deportation, unaccompanied minors must navigate formal removal proceedings in immigration court and successfully apply for humanitarian relief through different agencies of the U.S. Federal immigration bureaucracy and/or State-level courts.

The TVPRA improved unaccompanied minors' chances of accessing legal status through two key forms of humanitarian relief: asylum and Special Immigrant Juvenile Status (SIJS). The latter status provides a path to legal permanent residency for undocumented children who have been abandoned, abused, or neglected by their parents, when return to the country of origin is not in the *child's best interest* (Table 1.4). The TVPRA expanded SIJS eligibility to children abandoned, abused or neglected by *just one parent*, who are eligible to apply until age 18 (children abandoned, etc. by *both parents* can apply until age 21). For asylum, the TVPRA established that unaccompanied minors who are apprehended at the border can first petition for asylum at the U.S. Citizenship and Immigration Services (USCIS) asylum office rather than being sent directly to immigration court like adults.

Indeed, asylum-seekers interact with two separate bureaucracies in the United States. Those apprehended and placed in removal proceedings apply for *defensive asylum* during adversarial hearings in immigration court. Those who have *not* been apprehended apply for *affirmative asylum* during non-adversarial interviews with USCIS asylum officers, who either grant refugee status directly or deny it and pass the case on to be newly assessed by an immigration judge during the adversarial hearing in court. According to Rebecca Hamlin (2014, 69) “[*this*] two-tiered system was created because [...] affirmative applicants were seen as more legitimate, and therefore more deserving, of a thorough system of administrative justice.” This discrepancy is in line with the broader trend of focusing enforcement efforts at the U.S.-Mexico border so that

immigrants who cross the border on foot are the ones who encounter the most obstacles to legalize their status, more so than comparatively wealthier migrants who overstay their visas (Menjivar, Abrego, and Schmalzbauer 2014, Gomberg-Muñoz 2015). Tellingly, unaccompanied minors are deemed deserving of due process protections that not all asylum-seekers have. The odds of accessing legal status are more favorable for unaccompanied minors at the asylum office than they are for adult asylum-seekers or even for accompanied children from Central America in immigration court. However, these odds have worsened significantly during the Trump administration, due to a series of draconian measures that I will discuss in Chapter 4.

There are different potential outcomes to the legalization process. Youths may be awarded legal status through asylum or SIJS. In this case, they will be on the path to legal permanent residency and U.S. citizenship. They could be granted temporary deportation relief and a work permit through prosecutorial discretion. However, the Trump administration eliminated this form of temporary relief in 2017. They may be denied relief and either appeal these decisions or remain undocumented and living in the shadows. Finally, they can be deported back to home countries where their lives may be in danger. One Human Rights Watch (2020) report documented 138 cases of Salvadorans, including unaccompanied minors, who were killed in recent years after deportation from the United States.

Table 1.4 Total number of SIJS applications (all nationalities) 2014-2019

Fiscal Year	2014	2015	2016	2017	2018	2019	Total
Tot. SIJS applications filed at USCIS	5,776	11,500	19,475	20,914	21,800	20,721	100,186

Sources: USCIS Special Immigrant Juvenile Progress Reports FY2014-19 (www.uscis.gov) (USCIS does not disaggregate SIJS applications data by national origin)

1.2 Literature review

Using the case of Central American unaccompanied minors, this study examines the core ambiguities that lie at the heart of classifying migration flows. Are they deserving refugees or “illegal” immigrants? Are they passive, innocent children to be protected or agentic, threatening teenagers on the cusp of adulthood to be subjected to immigration enforcement? Immigration bureaucracies are the sites where the tug of war that is answering these questions takes place: immigration attorneys and advocates try to pull youths in the former direction, while State actors concerned with limiting migration flows try to pull them in the latter.

Young Central American immigrant newcomers to the U.S. navigate complex lives that cannot be reduced to, but are deeply influenced by, the process of being categorized as unaccompanied minors at the border, and, as a result, undergoing apprehension, detention in special facilities, and applications for asylum and other forms of humanitarian relief. Some scholars have warned against reifying immigration categories by conducting studies of particular legal categories of immigrants (Berger Cardoso et al. 2017). And yet, these forms of state legal categorization are immensely consequential in shaping the trajectories and the life outcomes of immigrants. Indeed, others have argued that legal status is a “new axis of inequality” (Menjívar and Kanstroom 2003, Menjívar 2006) that stratifies the immigrant experience, in the same way as (Dreby 2016, Enriquez 2017), or to a greater extent than (Gonzales 2016, Gonzales and Burciaga 2018), other dimensions of an individual’s social position, such as gender, class, and race. Unlike forms of legal discrimination based on gender or race, however, citizenship is the only form of inequality enforced through law that is widely deemed acceptable (Brubaker 2015).

The state *produces* migrant “illegality” through its laws by deciding which immigrants are deserving of legal status and relegating the rest to a subordinate status in society (De Genova 2002). In the U.S. context, there are almost 11 million undocumented immigrants (Massey, Durand, and Pren. 2014); their “deportability” –the constant threat of deportation– serves as a disciplining force (De Genova 2002). Punitive enforcement practices constrain the lives of immigrants categorized as “illegal,” and those with temporary and liminal legal statuses (Menjívar 2006), by restricting their opportunities for cross-border mobility (Massey et. al. 2016) and family reunification (Dreby 2010, Menjívar et. al. 2016), and making them vulnerable to exploitation (De Genova 2002). The merging of the criminal justice and immigration systems has associated immigrants with the category of criminal, stigmatizing them (Flores and Schachter 2018), and leading to over-policing and profiling in immigrant communities (Armenta 2017), and higher rates of deportation, which is a gendered process that predominantly affects men (Golash-Boza and Hondagneu-Sotelo 2013) and disproportionately targets immigrants from Mexico, Honduras, Guatemala, and El Salvador (Menjívar, Abrego, and Schmalzbauer 2016).

Menjívar and Abrego (2012) coined the concept of “legal violence” to theorize about how states exercise power over migrants’ lives through punitive and exclusionary immigration laws. They argue that immigration enforcement is a form of structural violence because the suffering it imposes on immigrants is concealed and exerted without identifiable perpetrators. Since this suffering is imposed through laws and formal regulations (i.e., it is legal), it is also normalized so it seems legitimate, commonplace, and inevitable, not only to the mainstream population, but also to immigrants themselves. By normalizing this suffering, immigration enforcement also exerts “symbolic violence,” on other words, the violence that can be exercised on members of

subordinate social groups—in this case, immigrants—with their unknowing complicity because these individuals are socialized to internalize dominant categories of thought and existing unequal social hierarchies. (Bourdieu and Wacquant 2004, Bourdieu 2004).

This literature has made a crucial contribution to migration theory by examining how immigration enforcement dehumanizes those immigrants who are considered undesirable, or economic and ethnoracial “threats” to the nation, and blocks their access to legal status and membership rights. And yet, by focusing only on punitive immigration laws, this scholarship has overlooked the fact that not all undocumented immigrants are treated equally by the state. I am interested in how humanitarian protections for specific groups of immigrants considered to be especially vulnerable—unaccompanied children and refugees—interact with punitive immigration enforcement laws to shape claims-making and access to legal status. Claims-making is the key dimension of immigrant incorporation, in other words, the process by which immigrants adapt to and gain membership in the nation-state (Brown 2011). I examine claims-making on two levels. First, I analyze the practices of legal brokers (i.e., immigration attorneys and legal assistants) who mediate unaccompanied minors’ access to legal status. Second, I analyze how migrant youths themselves claim belonging and rights in the country of reception.

State policies and discourses construct a ‘moral economy of illegality’ that shapes the structure of opportunities for undocumented immigrants, positioning some more favorably than others in terms of treatment and potential acquisition of legal status and membership rights (Chauvin and Garcés-Mascreñas 2012). Indeed, immigrant rights activists tend to focus on narrowly defined subgroups precisely because not all undocumented immigrants have equally strong legal and normative grounds to claim belonging and rights (Nicholls 2013). For the legal

brokers in this study, U.S. policies that protect unaccompanied minors and societal conceptions of deserving childhood present both opportunities and constraints that structure the frames and arguments they can rely on to help their clients apply for legal status.

If enforcement laws inflict legal violence and suffering on immigrants and exclude them, humanitarian immigration laws instead reflect the intention to alleviate the suffering of immigrants considered vulnerable and provide them a path to legal status on these grounds. Humanitarian admissions to the polity “*confirm and reify the identity of the nation as good, prosperous, and generous*” (Dauvergne 2005, 4). The ‘humanitarian ethos’ –the sentiment embedded in civil society and formalized in law that taps into the emotional nature of compassion based on the notion that suffering is a universal human experience (Wilson and Brown 2011)– to some extent, constraints state interests to exclude foreigners, providing opportunities for certain groups of immigrants to seek inclusion on the basis of compassion.

Deserving refugees: de facto lived experiences of escape from violence vs. de jure definitions

In normative theoretical debates about the ethics of immigration control (Carens 1987, Walzer 2008), refugees are the one category always deemed deserving of exceptional treatment, even by those who privilege state closure and immigration restriction (Walzer 2008). In practical terms, most rich democracies in the Global North, including the U.S., have signed the United Nations Refugee Convention and Protocol and have agreed to limit their sovereignty by adhering to the legal principle of *non-refoulement*, which establishes “*that no one shall expel or return a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears*

threats to life or freedom” (UNHCR 1956). This legal commitment poses a challenge to the state’s goals of controlling immigration to keep out undesired immigrants from the Global South.

Yet defining who is a refugee is a complex and contested issue. In their seminal book *Escape from Violence*, Zolberg, Astri, and Aguayo (1989, 274) make a fundamental distinction, “*the sociological existence of the refugee [...] is independent of the legal recognition that may be extended, or withheld, for a variety of political reasons in addition to the claimant’s sufferings.*”

In other words, we can understand who is a refugee in one of two ways: from a sociological perspective, based on an individual’s circumstances of migration, or from a legal perspective, based on who has formally been recognized by the state and granted refugee status, with all the benefits it entails. The process though which individuals are *recognized* by states as refugees is not neutral but fraught with national interests and geopolitical considerations (Betts 2013). Different nation-states and bureaucrats exercise significant discretion in making these decisions (Ramji-Nogales, Schoenholz, and Schrag 2007). Therefore, as scholars, if we consider refugees to be only those who have been formally recognized as such by a particular state or by the UNHCR, we risk legitimizing existing state practices because “*these classificatory struggles create and sustain the refugee category*” (FitzGerald and Arar 2018).

Existing definitions of who is a refugee based on circumstances of migration have reproduced two problematic dichotomies. Distinguishing analytically between *political* refugees and *economic* migrants ignores the fact that political and economic migration drivers interact (Crawley and Skleparis 2018); the state’s failure to protect its citizens, political turmoil, and widespread social violence overlap with and can exacerbate dire economic conditions and vice versa. Distinguishing between *forced* refugees and *voluntary* migrants is similarly problematic.

Zolberg and colleagues (1989, 31) argue that “*movement is most clearly involuntary when [...] it occurs as a response to life threatening violence. [...] The more immediate and intense the life-threatening violence is, the more clearly a person is a refugee rather than a migrant. This introduces the notion of a degree of need, and it follows that any categories established on this basis are not dichotomous but located along a continuum.*”

Migration decisions occur along a continuum because of conditions in sending countries (e.g., more or less violence or political turmoil), as well as because, while all migratory actors exercise some degree of agency, structural forces constrain the mobility of individuals in ways that are stratified along class, age, gender, geographical, and ethnoracial dimensions. There is therefore a continuum between the behavior of those who seek to maximize net advantage (i.e., “proactive migration”) and the behavior of those whose choices and degrees of freedom are severely constrained (i.e., “reactive migration”), and all individuals fall somewhere between these two poles (Richmond 1993). Following Zolberg and colleagues, I adopt a sociological definition of *de facto* refugees as individuals who escape from life threatening violence. By critically examining the classificatory struggles that Central American asylum-seeking youths undergo in the U.S. asylum bureaucracy, I juxtapose the lived experiences of *de facto* refugees with the *de jure* refugee definition to highlight the mismatches that frequently occur, leading individuals to be denied political recognition and legal status by the State.

From a legal (de jure) perspective, a refugee is any person outside their country of origin who is “*unable or unwilling to return [...] owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion*” (UN Refugee Convention and Protocol). This definition was developed in the European

context in the aftermath of World War II and the Holocaust, and it therefore has a specific and historically contingent meaning (Betts 2013). It was crafted from the onset to create only a narrow space of protection and grant legal status on an exceptional basis. This is most apparent in the selection of the legal criterion of persecution, which does not extend protection to “*victims of egregious exploitation*” (Zolberg, Astri, and Aguayo 1989, 25) and those who suffer as a result of structural violence, including extreme poverty and deprivation (Rodriguez 2017). The persecution criterion reinforces the problematic distinction between political and economic migration drivers. Moreover, the persecution criterion ensures that the legal refugee definition only narrowly applies to individuals “*singled out as targets of extraordinary malevolence,*” while excluding “*victims of what might be called nefarious political routine [...] that includes most of the citizens of repressive states and societies*” (Zolberg, Astri, and Aguayo 1989, 25).

In receiving countries of the Global North, like the U.S., asylum-seekers are subjected to individualized scrutiny to determine whether their experiences satisfy the *de jure* refugee definition (Bohmer and Shuman 2008), which is interpreted narrowly to keep admission levels low. Conversely, in developing countries in the Global South, where 85% of all displaced people are located, the legal category of refugee is interpreted more broadly and assigned to groups of individuals. For instance, the Organization for African Unity has codified this broader refugee definition: “*every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge.*”

International refugee governance is thus characterized by a system where the least prosperous nations of the Global South host the most refugees and apply the most generous interpretation of

the definition, while the most prosperous nations of the Global North “*do more to cause forced migration than to stop it, through enforcing an international economic and political order that causes underdevelopment and conflict*” (Castles 2003, 18). It is important to stress this point to underscore ethical considerations of who can and should be responsible for refugees and to put into perspective the claims of countries like the U.S. that evoke a language of crisis to say that they are being they are overwhelmed, swarmed, or invaded by asylum-seekers. This language of crisis was mobilized by both the Obama and Trump administrations to try to restrict the space of protection for Central American asylum-seekers and unaccompanied minors. And yet, what we are witnessing in the Global North today is not a migration management crisis but, rather, a *crisis of solidarity* (Lindley 2014, Mayblin 2017).

It has been well documented that rich democracies like the U.S. externalize migration control by enacting a complex web of policies and bilateral agreements that restrict human mobility (Fitzgerald 2019), and fund refugee camps and international organizations aimed, not only at aiding, but also at containing refugees in the Global South (Cuellar 2006, Arar 2017). In this way, these receiving countries reduce arrivals of all immigrants, including individuals seeking asylum. These states invest so many resources in repelling asylum-seekers because, once they reach their territories, they are obligated to assess their asylum claims to comply with the *non-refoulement principle*. Governments are held accountable to these legal commitments by civil society and legal advocates, and democracies must at least perform compliance with these norms because they espouse the rule of law and universalistic human rights as the cornerstone of their political ideologies (Joppke 1997).

The legal category “Unaccompanied Minor” and the social category of “childhood”

As exemplified by the outpouring of support during the family separations of 2018, few today would dispute the notion that children should be protected. In the 20th century, the concept of “childhood” emerged in the West as the social value of children shifted from being understood in terms of economic utility to the family to a sentimental conception of the value of childhood as “priceless” and a time to be protected by adults (Aries 1962, Zelizer 1985).

In sociological terms, scholars have problematized the idea that childhood is a “*natural*’ *phase of life or a given of biological age*” and noted that “*immigrant children, like all children, are, to some extent, dependent on adults for physical, economic, and emotional care. However, just how children of different ages and genders are seen as dependent, and how their perceived needs are met, is culturally constructed*” (Orellana et. al. 2001, 587). What’s more, cultural constructions of “childhood” also “*intersect with structural conditions, the life-course, and characteristics such as gender, ethnicity and class*” (Bloch et al. 2014, 35). Central American unaccompanied minors find themselves in limbo, not only between the categories of “illegal” immigrant and refugee, but also between those of adult and child. Throughout the manuscript, I refer to my study participants as “youths” rather than “children,” not only because they are teenagers, but also to highlight their “liminal” status, suspended between multiple legal categories and social statuses (Turner 1969). I examine how their individual experiences and narratives complement or clash with cultural constructs of childhood.

Legal categories in different countries codify culturally specific notions of who is a child, with age 18 demarcating the end of minor status in the U.S. context for the purposes of legal capacity, voting, and more. Unaccompanied minors –those migrate without their parents before

age 18– are a special legal category of immigrants that are protected both in the U.S. and in other countries of reception. Legal Scholar Jackeline Bhabha (2014) has characterized policy responses to this population as both infantilizing and punitive because they reflect two opposing sentiments: the compassion that motivates humanitarian and human rights law and the self-interest that motivates exclusion. Receiving state approaches to unaccompanied minors are “*ambivalent*,” because “*we are torn, obligated to protect migrant ‘children,’ but frightened and resentful of alien juveniles*” (14). When youths are framed as juveniles, they are viewed through an immigration enforcement lens and considered, like adults, as deviant subjects who have broken the law (Heidbrink 2013). Thus, unaccompanied minors are deemed deserving of protection only in so far as they satisfy cultural constructs of childhood as a time of dependency on adults and lack of agency. By examining the experiences of Central American unaccompanied minors in the U.S. context, this manuscript tackles broader theoretical questions about how legal and cultural constructs of childhood influence immigration enforcement and the implementation of humanitarianism in the nation-state.

The scholarship on migration and youth

The existing literature on independent youth migration has examined what is quantitatively and qualitatively distinct about these migratory flows today, suggesting four key trends. First, while children have always been an important component of refugee flows, in the past, they remained in refugee camps or arrived through government sponsored resettlement programs (Steinbock 1989, Ressler, Boothby, and Steinbock 1988). Today, more minors than ever are seeking asylum alone in receiving countries in the Global North (UNHCR 2014b). Second,

increasing border controls have made undocumented parents unable to visit children left behind in the home country. As a result, the only way to pursue family reunification is for children to migrate alone, outside of legal channels, to join parents in the host country (Chavez and Menjivar 2010, Heidbrink 2014). Third, the transformation of traditional gender roles in the family has made children more independent from their parents and, thus, prone to migrate alone. In the case of Morocco, Jimenez (2003) found that single-mother households were more likely to produce unaccompanied youth migration to Spain because women were less likely to be able to provide for their children and to exercise control over them. Finally, opportunities for a traditional coming of age in migrant sending countries (e.g., through entrance in the labor market or marriage) have diminished (Checa et al. 2006), and this has created a youth-specific “culture of migration” (Kandel and Massey 2002). The migration of adolescents has been conceptualized as a “rite of passage” through which children transition to adulthood, by embarking on an adventure that allows them to emancipate themselves from adult control, or by accessing resources in the receiving country to support their families and thus gaining prestige in their countries of origin (Hernández León 1999, Horváth 2008, Lopez Castro 2007, Martinez 2019). Notably, however, these studies focused on migration flows composed almost exclusively of males and generalized this theory based only on their experiences.

Unlike previous male-dominated flows of independent migrant youth to the U.S. (Kandel and Massey 2002), roughly one third of Central American unaccompanied minors today are females. The feminization of this migration flow provides us with both an opportunity and a need to update existing theories of youth migration to account for gendered dynamics. I will discuss how Central American youths’ migration experiences are patterned by gender, both in their home

countries and in the U.S., in Chapters 2 and 6 respectively. Further, I will demonstrate that unaccompanied minors' experiences are distinct from accounts of youth migration as a "rite of passage" because undergoing the U.S. asylum process is not an emancipatory and empowering process but rather is an infantilizing and victimizing "rite of reverse passage" (Galli 2018), through which teenagers are made to associate themselves with the social category of childhood in order to seek belonging and rights.

There is surprisingly little scholarship on unaccompanied minors in the U.S. context. A notable exception are the two ethnographies of ORR detention facilities for unaccompanied minors conducted by Susan Terrio (2015) and Lauren Heidbrink (2014). Both studies find that unaccompanied minors are simultaneously infantilized and adultified by social workers in these facilities, which have dual and contrasting mandates: to care for children and to control immigrants. What's more, these bureaucrats pathologize the immigrant populations they work with by viewing both the migration of parents who leave children behind and the independent migration of youths as destructive of "normal" nuclear family structures. To help the state manage independent youth migration, these bureaucrats mediate family reunification by making normative decisions regarding the "suitability" of homes and family member caretaker arrangements in the United States. These assessments often contrast with youths' own understandings of their family relationships and their ideals of care, obligation, and relatedness.

Conversely, a vast scholarship has examined the experiences of other groups of immigrant youths in the U.S. context, developing theories about how stage in the life cycle at migration and the role of family-level characteristics affect various dimensions of youth assimilation. Scholarship has examined the assimilation outcomes of the U.S. citizen children of immigrants

born in the U.S. (i.e., the 2nd generation) (Portes and Rumbaut 2001; Luthra, Soel, and Waldinger 2018), of those who migrate as undocumented immigrants with their parents at an early stage in the life cycle (i.e., the 1.5 generation) (Abrego and Gonzales 2010, Gonzales 2011), and, more recently, of those who arrive independently as teenagers but remain outside of state systems because they are never apprehended and categorized as unaccompanied minors (Canizales 2015, 2019). These scholars have placed a special emphasis on processes of acculturation, such as those that occur in school, in other words, how youths are socialized to “Americanize” or acquire U.S.-specific cultural values and English language skills, becoming more similar to the “mainstream” native-born population. This, in turn, aids them in achieving socioeconomic mobility. Unlike the focus of this prior scholarship on *acculturation*, I am interested in examining the processes of *legal socialization* that immigrant youths undergo. Unlike other cohorts of immigrant youths, unaccompanied minors interact intensively with different branches of the U.S. immigration bureaucracy from the moment when they first step foot on U.S. soil. Therefore, their socialization as new immigrants in the U.S. context cannot be understood separately from the legal and bureaucratic processes they are exposed to during their incorporation, as they navigate legal struggles to remain and access legal status.

Legal socialization is the “*process whereby people develop their relationship with the law via the acquisition of law-related values, attitudes, and reasoning capacities*” (Trinkner and Tyler 2016, 417). Because the law is a key institution that structures society and guides individual behavior, learning about the law is an important part of growing up in society. This can be understood as part of the broader developmental process that all children and youths undergo. While the internalization of law-related values and legal attitudes occurs in various institutions

based on rules and relationships of authority (e.g., school, family), legal institutions and state bureaucracies are key. For example, U.S. citizen youths socialized in punitive legal institutions, such as the juvenile justice system, can develop “legal cynicism” (i.e., a view of the law as unfair) and become disenfranchised citizens, distrusting of the state.

In the immigration context, Ryo (2016, 1003) has similarly highlighted the importance of detention centers as sites where the legal socialization of long-term adult detainees occurs: they develop legal cynicism and a pessimistic view of their rights as immigrants. Undocumented and liminally legal immigrant adults living in the shadows view the state with fear and are likewise unlikely to believe that they have any rights to claims (Abrego 2011, Menjivar and Abrego 2012). Conversely, Menjivar and Lakhani (2016, 1826) find that, when undocumented adults interact with attorneys over the years to seek legalization, they learn what types of “deserving” behaviors are most likely to be rewarded with citizenship, and they make lasting life decisions to improve their chances of legalization. Unlike the immigrants in Menjivar and Lakhani’s (2016) study, who slowly acquire law-related values over the course of ten or more years, unaccompanied minor’s *legal socialization* occurs quickly. As I will demonstrate, this socialization process takes place as unaccompanied minors interact with state actors in multiple U.S. immigration bureaucracies and with the legal brokers who help them apply for legal status.

Legal brokers and immigration lawyering

Legal brokers exercise a “legal translation” role: they mediate legalization processes by reducing gaps in meaning between the institutions of the receiving country and newly arrived immigrants, who have limited knowledge about complex immigration laws and bureaucracies

(Lakhani 2014). Susan Coutin (2000) argues that, as they help their immigrant clients apply for legal status, legal brokers act as “agents and critics of the law,” who simultaneously reinforce and challenge official legal categories. For analytical purposes, I find it more helpful to unpack these two roles (agents vs. critics) to think about how and under what circumstances legal brokers can play each role as they mediate the classificatory struggles that sort immigrants into one “box” or the other (e.g., “illegal” immigrant, refugee, UAC, abandoned child etc.).

Some past studies provide examples of legal brokers working as “critics of the law.” For example, Coutin (2000) characterizes the lawyers who worked with Salvadoran asylum-seekers largely excluded from relief in the 1980s as having an understanding of the law akin to that of critical race scholars who view that “*law is one thing, justice is another.*” They therefore advocated for policy change, transforming the U.S. asylum system and creating some new opportunities for Central Americans to access legal status. Legal brokers who implemented the IRCA⁵ legalization process carried out an activist role, implementing “street-level revisions” to expand the definition of eligibility criteria and promote access to legalization beyond policymakers’ intentions (Hagan and Baker 1993).

Conversely, other studies suggest that legal brokers act as “agents of the law” when they acknowledge legal definitions as the “rules of the game,” thus reproducing narrow legal categories instead of advocating for policy change that would expand access to legal status (Bhuyan 2008). Legal brokers may even create *additional* barriers for immigrants’ access to legal status. For example, in her ethnography of undocumented victims of domestic violence applying

⁵ The Immigration Reform and Control Act of 1986 (IRCA) was the last large scale legalization program in the U.S., which allowed undocumented immigrants to become legal permanent residents if they met a residency requirement.

for U.S. citizenship through VAWA,⁶ Villalon (2010) shows that lawyers reinforced exclusion by selecting to represent only clients who demonstrated a sufficient level of recovery from their experiences of victimization and whose narratives corresponded to adjudicators' victimizing expectations about battered women.

In past work, I have examined under what circumstances lawyers who help undocumented immigrants apply for different forms of humanitarian relief can play one role or the other (Galli 2019a). After they determine eligibility, legal brokers determine whether each immigrants' case is 'strong' or 'weak' (i.e., more or less likely to acquire legal status). They do this based on an evaluation of what I call the immigrants' "humanitarian capital," a form of symbolic capital⁷ that is activated relationally as legal brokers recognize specific instances of suffering, give them value, and make them legible to adjudicators by drawing on their expertise to mine formal legal definitions and by anticipating the subjective element of humanitarian adjudication. They then recommend legalization strategies to their clients by assessing to what extent each immigrant is at risk of deportation. They manage this risk by recommending conservative legalization strategies to immigrants living in the shadows, for whom applying for relief would mean making themselves visible to the state. In these cases, legal brokers have no choice but to act as "agents of the law" who reinforce narrow legal categories by selecting only the strongest cases, with the "most" suffering, to apply. They do this to protect their clients from heightened risk of deportation if their cases were to be denied. Conversely, legal brokers challenge legal categories

⁶ The Violence Against Women Act (VAWA) allows the spouses of U.S. citizens, who have been victims of abuse at their hands, to continue their petitions to become U.S. citizens independently from their marital relationship.

⁷ "Symbolic capital" is defined as those resources that exist because they are "perceived by social agents endowed with categories of perception, which cause them to know [them], recognize [them], and give [them] value" (Bourdieu 1986, 47).

as “critics of the law” by interpreting legal categories broadly to apply for relief for clients who were already visible to the State in removal proceedings, to protect them and delay deportation. In this manuscript, I identify how structural and organizational constraints and an evolving political context shape opportunities for legal brokers working with unaccompanied minors to play one role or the other.

Finally, past scholarship on lawyering has focused almost exclusively on immigrant adults, while ignoring legal brokerage with immigrant youths. One exception is Statz’s (2018) study of immigration lawyers working with Fujianese unaccompanied minor trafficking victims in the United States. Statz argues that legal brokers adopt a *guardian ad litem* model of lawyering by assuming that youth are not capable of determining their own best interests, as opposed to the client approach to lawyering common with adults, where lawyers pursue legal outcomes agreed upon with their clients. To be sure, as compared to legal brokerage with adults, the power asymmetry between legal advocate and immigrant petitioner is heightened in the mediation of youths claims, and legal brokers’ narratives overpower those of youths in asylum case construction (Galli 2018).

Yet, in the chapters that follow, I will demonstrate that the work that legal brokers do with unaccompanied minors is far more multifaceted and complex: legal brokers play a key role in youth’s legal socialization, educating them about the law; they may act either as agents or as critics of the law, depending on structural constraints and resource availability; and they enact lawyering as care practices as they try to attenuate some of the negative and traumatizing effects that navigating immigration bureaucracies has on their young clients.

1.3 Methodology: access, ethics, and positionality

I started this research somewhat serendipitously in January 2015. I initially wanted to study the implementation of the expanded DACA program,⁸ and I gained access to a legal aid organization in Los Angeles by offering to volunteer in addition to doing research. Since the organization was characteristically working under severe resource constraints, they welcomed me as a fluent Spanish speaker who could help translate legal documents. Reflecting the precarious rights of immigrant youths in the contradictory U.S. context of reception, just weeks into my fieldwork, an injunction blocked the implementation of the expanded DACA program.

This was shortly after the surge in arrivals of Central American unaccompanied minors and families in the summer of 2014, and the legal aid organization was processing high volumes of their asylum cases. These cases needed to be filed quickly, due to strict deadlines imposed by the Obama administration in what lawyers appropriately nicknamed the *docket rockets*. The director of the organization invited me to sit in as staff prepared these asylum applications. While I first observed as legal brokers prepared the cases of adults and children (Galli 2018, 2019a), I later decided to concentrate on the experiences of unaccompanied minors.

Soon enough, I went from just observing case preparation and translating legal documents, to being fully immersed in the organization's legal work with unaccompanied minors, a participant in the process that I was studying. As I developed my own identity as an advocate for these youths through my work as a volunteer, I was increasingly glad that this research had "found" me. The sense of urgency I felt to witness and document this important phenomenon would keep

⁸ This program was meant to expand initial DACA eligibility and provide a renewable temporary work and residency permit to those who had been living in the U.S. since 2012 and who were under age 16 when they arrived. Concurrently, the DAPA program had also been established to grant temporary deportation relief to the parents of U.S. citizens or permanent residents. Both programs were never implemented.

me in the field for the next four years. I helped legal brokers prepare cases for asylum and other forms of humanitarian relief by translating documents, compiling evidence, and gathering information from youths and their families. I interviewed youths to fill out their I-589 asylum applications and to help write their declarations. I also worked as a volunteer Spanish-English interpreter, both in legal clinics and at the asylum office.⁹

I gradually expanded my project to conduct research and volunteer with legal brokers in other legal aid organizations in Los Angeles and follow them to immigration court. I disclosed that I was both a researcher and volunteer to the immigrant clients of legal clinics and obtained consent from them. Youths were accompanied to their appointments by their parents or caretakers, and I also obtained consent from these adults for the participation of minors in the study. The vast majority of immigrants allowed me to sit in on their cases; they knew I had been vetted by their attorneys and was trustworthy. Since I spoke fluent and ambiguously accented Spanish, many assumed that I was a light-skinned Latina, often guessing that I was from Colombia or Argentina or asking me questions about where I was from.

In total, 7 immigration attorneys, 7 legal assistants, and 3 caseworkers (i.e., staff members in legal aid organizations who help youths navigate challenges outside the legal realm) participated in the ethnographic component of this study, allowing me to shadow them while they did their work. I observed (and sometimes participated in case preparation) as they interacted with 78 Central American unaccompanied minors, 55 of whom were applying for asylum and the rest for SIJS. Reflecting the high volumes of caseloads and hectic nature of work in these legal aid organizations, I was often unable to follow cases entirely from start to finish but I could

⁹ Unlike the legal clinics, I did not have research access at the asylum office, and could not take field notes there. Nonetheless, volunteering at the asylum office allowed me to develop a better understanding of this phenomenon.

sometimes learn of case outcomes from legal brokers. To protect the confidentiality of my study participants, as approved by the IRB, I refer to all the immigrants whose stories feature in the manuscript with pseudonyms, I do not name the legal aid organizations where I conducted research, and I also anonymize details about the individual legal brokers who worked there.¹⁰

I complemented this ethnographic research by conducting in-depth semi-structured interviews with: immigration attorneys (n=28); other NGO staff (n=10); current or former asylum officers (n=2); unaccompanied minors (n= 45); and their family members (n=10). I recruited legal service provider interviewees through my contacts at legal clinics and snowball sampling. I recruited immigrant participants through a variety of organizations that work with unaccompanied minors in Los Angeles. I interviewed youths who had been released from ORR custody and had been summoned to removal proceedings in immigration court. All of my study participants were living in Southern California, and their cases were under the jurisdiction of the Los Angeles immigration court and the LA asylum office (located in Anaheim, California). They were at different stages of the process of applying for immigration relief: some had applied and had yet to be interviewed by adjudicators; others were waiting for the results of their cases; others cases had been denied, and they were either appealing decisions or they were undocumented and living in the shadows. I designed interviews with youths to gain insight on their perspectives on the legal process and to collect retrospective information about their experiences in spaces where I did not have research access, such as ORR and border detention facilities. In some cases, I stayed in touch with interviewees over a longer period of time or also

¹⁰ For youths, I eliminated details that were too specific and could identify them. For the legal brokers, I do not describe their individual characteristics. I removed references to their gender as this could help identify organizations. To do so, I refer to all legal brokers using the pronoun “she.” I made this decision because most of the legal brokers who work with unaccompanied minors are female.

observed parts of their case preparation or learned of their case outcomes. Tables 1.5 and 1.6 summarize the characteristics of youth interviewees.

Table 1.5 Formal Interviewee Characteristics (n=45): Country of Origin and Age

Country of origin		Gender		Age (time of entry)		Age (time of interview)	
<i>El Salvador</i>	17	<i>Male</i>	25			<i>18+</i>	31
<i>Guatemala</i>	16	<i>Female</i>	20	<i>17</i>	14	<i>17</i>	5
<i>Honduras</i>	11			<i>15 to 16</i>	23	<i>15 to 16</i>	4
				<i>12 to 14</i>	8	<i>12 to 14</i>	2

Table 1.6 Formal Interviewee Characteristics (n=45): ORR Sponsor, Occupation, Legal Application

ORR sponsor		Occupation		Legal application		Application Status	
<i>Parent/s</i>	25	<i>Studying</i>	25	<i>Asylum</i>	25	<i>Approved</i>	17
<i>Other relative</i>	18	<i>Working</i>	13	<i>SIJS</i>	8	<i>Pending</i>	21
<i>Foster care</i>	2	<i>Both</i>	5	<i>Asylum & SIJS</i>	8	<i>Denied</i>	7
		<i>Neither</i>	2	<i>T-visa/U Visa</i>	3		
				<i>None/aged out</i>	2		

As the main destination for unaccompanied minors in the U.S. (ORR 2020), Los Angeles was an ideal location to conduct this study. Between 2014 and 2019, nearly 20,000 unaccompanied minors were released from ORR to sponsors residing in Los Angeles and the other 9 Counties that fall under the jurisdiction of the Los Angeles Immigration Court¹¹ (ACF 2019). Los Angeles is a favorable receiving context for immigrants, as compared to the rest of the country. Due to availability of Federal, State, and County funding, and to the existence of a network of advocates dating back to the sanctuary movement of the 1980s, this area is relatively well served by legal

¹¹ The LA immigration court has jurisdiction over the cases of immigrants who are not detained and reside in the following counties: Los Angeles, Orange, Riverside; San Bernardino, Santa Clara, Kern, Ventura, Santa Barbara, and San Luis Obispo. There is a separate court for detained adults.

aid organizations. Indeed, 64% of minors whose cases were pending in the Los Angeles immigration court were represented by attorneys, compared to the national average of 56% (TRAC 2017). Due to the difficulties inherent in accessing this population for research purposes, LA's relatively favorable environment and its consolidated network of organizations made this study feasible. It also better allowed me to observe, not only the punitive and exclusionary forces that have been the focus of past scholarship, but also the protective forces at work in the U.S. context, which may have been obscured in a more anti-immigrant part of the country.

Questions about research ethics were ever present in my mind as I conducted this study in an increasingly hostile political climate. In particular during the Trump administration, the rights of unaccompanied minors and asylum-seekers were under attack. These youths and their families became increasingly vulnerable and fearful of the punitive state. In a context where the President himself demonized asylum lawyering as “*big fat con job*” (Washington Post 2019), legal brokers also felt under attack and were understandably defensive. I am grateful to the many immigrants and advocates who put their trust in me to sit down for interviews and allow me to shadow them. This was certainly not research that I could do with the presumption of neutrality. In his famous essay “*Whose side are we on?*,” Howard Becker (1967) thus tackles the important question of neutrality, ethics, and politics in ethnographic research:

“When sociologists undertake to study problems that have relevance to the world we live in, they find themselves caught in a crossfire. Some urge them not to take sides, to be neutral and do research that is technically correct and value free. Others tell them their work is shallow and useless if it does not express a deep commitment to a value position. This dilemma, which seems so painful to so many, actually does not exist, for one of its horns is imaginary. For it to exist, one would have to assume [...] that it is indeed possible to do research that is uncontaminated by personal and political sympathies. [...] The question is not whether we should take sides, since we inevitably will, but rather whose side we are on.”

My positionality in the field was defined not only by my ethnicity, gender, politics, and immigrant background but also, crucially, by my work as a legal volunteer. This work clearly positioned me “on the side” of both asylum-seeking youths navigating legal struggles for refugee recognition and the professionals helping them. My work as a volunteer allowed me to build trust and relationships with legal advocates through reciprocity and shared experience that facilitated access in the long term. Taking part in preparing asylum cases also provided invaluable information for this research by helping me understand first-hand how difficult it is to obtain information from traumatized youths and to craft a successful asylum case.

Working in legal clinics was emotionally challenging. Oftentimes, the stories I heard were so devastating that I could barely bring myself to write up field notes in the evening when I got home. I understood the burnout and vicarious trauma legal brokers talked about because I felt it myself. I very much admired these individuals who cared deeply for their immigrant clients and were often driven by strong social justice motivations. Indeed, most of the legal brokers I shadowed had a personal connection to this phenomenon as Latinx immigrants and refugees themselves, or as the children of immigrants and refugees, and many chose their professions because they wanted to help other immigrants. They had their own critical analysis of the U.S. immigration system and, sometimes, of their own lawyering practices as well.

In the space of the legal clinic, I learned so much from youths about their lives in Central America, as we made sense of their experiences together. However, my positionality as a legal volunteer structured my interactions with youths and restrained the types of questions I could ask them. This was the reason why, two years into the project, I decided to conduct in-depth interviews with unaccompanied minors outside the space of the legal clinic. I interviewed youths

in a place of their choosing so they would feel comfortable, usually neighborhood parks, coffee shops, or their homes. I broke the ice by sharing stories of my own experience as an immigrant child to the U.S. to let them know that, like them, I understood what it meant to encounter a strange new land, with an intimidating new school. Of course, we were also very different. As a researcher, someone older, and a privileged middle-class immigrant with a high-value European passport, I did not live through and could not presume to understand first-hand what these young asylum-seekers experienced as they suffered violence in their home countries, and navigated dangerous journeys to the U.S. and arduous legal struggles for refugee recognition.

It was paramount for me that the tone of these research interviews be different from the tense, anxiety-ridden interviews that legal brokers do to prepare youths' cases for humanitarian relief. I used some methodological strategies to this end. I started interviews by asking warm up questions (e.g., tell me about your personality, what have you learned about the U.S. since you arrived), and next transitioned to asking about youths' lives in the U.S. (e.g., school, work, family). I only later delved into the topic of interactions with state bureaucracies, and left for last discussions of why youths fled their homes. Before broaching each new topic, I reiterated that youths did not have to answer questions when they did not feel comfortable doing so; for example, some decided not to talk about why they fled their homes. Leaving this topic for the end was helpful to ensure that interviews were not re-traumatizing, and, in some cases, to overcome the rehearsed asylum narratives youths had practiced so often with legal brokers. The familiarity with which youths treated me gave me confidence that I was doing no harm and collecting valuable information about their points of views. What follows is my best attempt to represent the voices of unaccompanied minors and their advocates who I spent so much time

with over the course of four years, both as I interpreted them, empathetically and critically, and as they stand on their own.

1.4 Outline of the manuscript

The manuscript is structured as follows. Chapter 2 describes youths' experiences in El Salvador, Guatemala, and Honduras, discussing how youth migration is spurred by multiple forms of violence that is patterned in gendered and age-specific ways. I examine migration decision-making by showing how youths assess and manage risk to plan migration to the U.S., with varying degrees of help from their family members. These youths and their families exercise limited agency in the context of numerous constraints, including those produced by decades of restrictive U.S. immigration and asylum policy that limits the mobility and family reunification rights of Central Americans. I make the case that Central American unaccompanied minors are *de facto* or sociological refugees, individuals who escape from life threatening violence in their home countries. Nevertheless, they still face long legal struggles to obtain political recognition as refugees in the United States.

These legal struggles are precisely what the rest of the manuscript examines. Chapter 3 describes what happens when Central American unaccompanied minors are summoned for removal proceedings in immigration court in Los Angeles. I discuss how legal brokers from non-profit organizations introduce youths and their families to existing humanitarian protections in U.S. immigration law during free legal orientation presentations. I next explain how unaccompanied minors secure legal representation. Even in the relatively favorable Los Angeles context —where a professional field of immigration attorneys specialized in working with

unaccompanied minors has developed—the demand for free and low cost legal services exceeds the supply. Organizations manage the limited resources at their disposal to represent youths through two organizational practices: (1) the *triage model*, where lawyers select the cases that are, not only the most likely to be successful, but also are the most “compelling,” an evaluation that reflects a U.S.-centric system of values and expectations about childhood, refugeehood, and agency; (2) the *quasi-universal representation model*, which approximates universal representation because the client is essentially assigned or able to choose the organization. I argue that the former model not only further exacerbates the victimizing and infantilizing nature of the asylum process but it also creates additional barriers, making it more difficult for youths who have not suffered “enough” and for older teenagers to secure legal representation. This chapter underscores the detrimental effects of limited resource availability, and it can help make the case for funding universal access to free legal representation for all children and asylum-seekers in removal proceedings, which the U.S. government currently does not provide.

Chapter 4 examines how legal brokers help youths apply for legal status under protected categories in U.S. immigration law, which are interpreted in increasingly narrow ways as immigration control and securitization overshadow humanitarian concerns. I trace the process of case construction from the first stage of eligibility screening to the preparation for the final stage of status adjudication interviews. I theoretically explore the mismatches between the sociological refugee experiences discussed in Chapter 2 and the formalistic legal definitions of refugee and abandoned, abused, or neglected child. I discuss how attorneys frame youths’ experiences of victimization and escape from violence to fit the legal molds available to them and the multiple challenges that arise in this process. I examine the different dimensions of the work that legal

brokers do with their young clients and the implications this has in shaping the space of protection for unaccompanied minors and asylum-seekers in the United States. Finally, I discuss how the balance between the forces of *exclusion* and *protection* has shifted in the contradictory legal context during the shift from the Obama to the Trump administration, as the rights of unaccompanied minors and asylum-seekers have come under attack. I show how legal brokers have altered their strategies to respond to these changes and to continue to protect their young immigrant clients.

Chapter 5 examines these legal struggles from the perspectives of unaccompanied minors, discussing the process of legal socialization that youths undergo as they navigate different spaces of the U.S. immigration bureaucracy. I show how these bureaucratic encounters shape youths' commonsense understandings of the law (i.e., their legal consciousness) (Merry 1990). Reflecting the contradictory context of reception, youths come to view their position in U.S. society in dichotomous ways, as both a stigmatized and deserving social group. They simultaneously feel fearful of the state's punitive immigration branch, and trusting of its legal institutions and their protective potential. Despite learning about the law from their attorneys, youths' understanding of the complex laws that affect them and of their rights remains partial and sometimes incorrect. They conflate their legal obligations with the normative behavioral expectations of "good" youth and migrant citizenship that they internalize while interacting with legal brokers, immigration bureaucrats, and even their family members. This dichotomous legal consciousness informs how youths claim belonging and rights. They do so, not only by leveraging information about the law, but also by reproducing, and distancing themselves from, stigmatizing narratives about their peers, co-ethnics, and other asylum-seekers. I reflect on the

negative potential implications of this disempowering legal process for group based solidarity and claims-making.

Chapter 6 widens the analytic lens beyond the legal process to explore other dimensions of Central American unaccompanied minors' lives in the United States. I demonstrate how the condition of inhabiting multiple liminal spaces —between childhood and adulthood, between protected refugee status and “illegality”— shapes the trajectories of these youths. I unpack the interactions between the barriers youths face during their applications for legal status and the challenges they face in their everyday lives as adolescents on the brink of adulthood navigating school, work, and conflict during reunification with family after long periods of separation. What happens in these realms, in turn, can impact the outcomes of youths' petitions for relief because they are being subjected to intense state scrutiny as they are evaluated for refugee status. I discuss how case managers and family members help youths overcome these challenges and mediate their incorporation. Finally, I describe how youths experience their coming of age.

The conclusion synthesizes the study contributions and provides a critique of current U.S. policies affecting unaccompanied minors and asylum-seekers, while also suggesting avenues to move forward and better protect these vulnerable youths who migrate on their own.

Chapter 2

Central American Youth Migration to the US: migration decision-making in a context of violence

We tend to think about migration decisions in dichotomous terms, categorizing individuals on the move as either voluntary (economic) migrants or involuntary (political) refugees. Much has been theorized about the migration decisions of the former. Neoclassical models offer an explanation that hinges on potential migrants' rational evaluations of wage differentials in sending and receiving countries (Piore 2008). New Economics of Labor Migration (NELM) scholars argue that families diversify risk and pursue socio-economic mobility by investing in the migration of one of their members, awaiting future rewards from remittances (Taylor 1999). Migrant networks theorists have pointed to the crucial role that information and resources circulating between immigrants in receiving countries and potential emigrants in sending countries play in facilitating migration by lowering its costs (Massey et al. 1990).

Conversely, there has been surprisingly little theorization on the migration decisions of refugees. Scholars have limited themselves to labeling some migratory flows as *forced*, listing macro-level societal push factors to justify those decisions. Yet the fact that such forces compel individuals to leave their homes does not imply they exercise no agency in the process. We should pay attention to how individuals make migration decisions while managing the risks associated with violence and the costs of unauthorized migration. Fitzgerald and Arar (2018) argue that scholars should apply micro-level theories of international migration to understand the migration decisions of refugees. Using migrant networks theory and NELM insights on family-

level risk management, I examine the migration decision-making of Central American youths who migrate alone from contexts of violence to join family in the United States.

Based on the levels of widespread violence in El Salvador, Guatemala, and Honduras, this Chapter takes as its starting point the claim that we should consider these youths as *de facto* or sociological refugees, *individuals who escape from life-threatening violence*. According to Zolberg and colleagues (1989) *violence* can be understood as both immediate physical violence and coercive measures with similarly threatening effects; and *life* is both biological and social existence, and the basic material and organizational conditions necessary to maintain it. The more immediate and intense the life-threatening violence is, the more clearly we can understand migration decisions as forced. By introducing the notion of the costs (or risk) of staying, this approach challenges the forced versus voluntary dichotomy and suggests that all migration decisions occur along a “continuum of compulsion” (Fitzgerald and Arar 2018).

This chapter has two goals. First, I identify how violence and exposure to risk in Central America is patterned along the dimensions of age and gender, as reflected in the high rates of criminal victimization of minors, the forcible gang recruitment of teenage boys, and gendered exposure to violence within the home. Second, I explain how micro-level migration decisions take place in this context, as youths and their families manage the risks associated to violence in the home country while also attempting to overcome the constraints imposed by restrictive U.S. immigration policy, which crucially shapes the composition of transnational Central American families and intergenerational migration flows within them.

The denial of political recognition to the first wave of sociological refugees from El Salvador and Guatemala in the 1980s, and the subsequent hindered access to legal status for these two

nationality groups, as well as for Hondurans (Coutin 2000, Galli 2019a, Menjivar, Abrego, and Schmalzbauer 2016), has had long-standing effects on the Central American immigrant communities into which unaccompanied minors migrate today. Indeed, the vast majority of unaccompanied minors' parents and relatives are undocumented or relegated to states of "liminal legality" in the U.S. (Menjivar 2002). I found that, even when the first generation of parents had migrated to the U.S. to escape from violence, and could thus be considered sociological refugees, they were still denied recognition and legal status. This restrictive policy context has produced long term family separations by prohibiting parents from legally reunifying their children or even traveling to visit them (Massey et. al. 2014, Chavez and Menjivar 2010).

Central American families' reunification decisions today are informed by the underlying desire of families to be together and by the need to manage risk and extract youths from danger, with more or less urgency. The only option these families have to reunite is for children to migrate outside of legal channels by relying on the services of *Coyotes* (i.e., brokers in the illicit "migration industry") (Hernandez Leon 2013). One exception was the Obama-era Central American Minors Program (CAM), which allowed a small group of eligible youths to apply for refugee resettlement to the U.S. from their home countries and thus reunify legally with their parents. However, I will argue that this program was an inadequate fix because the youths who applied were subjected to "legal violence" (Menjivar and Abrego 2012) as they were made wait at length for their cases to be evaluated in violent home countries, where their lives were at risk.

While some unaccompanied minors migrate entirely on their own, without notifying caretakers, in most cases, youth migration from Central America is a family-level risk management strategy. Parents and relatives, based in the U.S. and in the home country, help

youths manage risk and facilitate their migration to different degrees depending on resource availability —such as, savings to pay *Coyotes*— and on how much information they have about how violence is affecting their children’s lives. When families have limited funds to pay smuggling fees and more than one child faces danger, they must make imperfect risk assessments to determine which child is most at risk, to help them migrate first. When migration cannot be planned quickly to extract youths from danger, youths may go into hiding, sometimes for prolonged periods of time. Those youths inhabit what Susan Coutin (2000) calls the “space of non-existence,” where they may be biologically alive but they lack the basic conditions to maintain their “social existence” (Zolberg, Astri, and Aguayo 1989).

2.1 Historical legacies of violence and U.S. foreign policy and asylum policy

Violence in Central America today is a legacy of decades of civil war, during which insurgent groups rebelled against the starkly unequal distribution of wealth produced by Spanish colonialism. During the conflicts of the 1970s and 1980s, at least 70,000 citizens were killed and millions displaced from El Salvador, and at least 200,000 citizens were killed —80% of whom were Mayan—and approximately one million were displaced from Guatemala (Manz 2008). U.S. intervention leading up to, during, and after these conflicts has been well-documented. In the 1980s, the U.S. provided military funding to right-wing dictatorships persecuting their citizens in El Salvador and Guatemala and used Honduras as a training ground for the Contras fighting the communist Sandinista government in neighboring Nicaragua (Booth, Wade, and Walker 2005).

Peace treaties were signed in the early 1990s but the disarmament process was largely unsuccessful, leaving weapons readily available in a society with large numbers of unemployed

men who formerly fought on both sides of the war, a widespread culture of impunity, and weakened state capacity to enforce the rule of law (Bruneau, Dammert, and Skinner 2011). Scholars have traced the historical continuity of violence from the postwar period to today, noting that “*wartime violence has given way to ‘violent pluralities’ [...] of state and non-state actors through organized crime, corruption, gang violence, lynching, and paramilitarism, in which the lines between political violence and criminal violence have become blurred*” (Vogt 2013). As we will see in Chapters 3 and 4, this blurriness between political (state) and criminal (private) actors raises important challenges for Central Americans attempting to obtain political recognition as refugees today. Arguing that children victimized by non-state persecutors are *de jure* refugees is a contentious legal struggle that has become increasingly challenging as asylum case law becomes more restrictive under Trump.

Scholars have also argued that the disparate historical treatment of Central Americans in the U.S. contributes to explaining the geography of violence that exists in the region today (Rocha 2011). While Nicaraguans –mostly middle and upper class individuals– who fled the Sandinistas were recognized as refugees by the Reagan administration, 98% of the lower class Salvadorans and Guatemalans who fled right wing military regimes supported by the U.S. were denied refugee status. While Nicaraguans had legal status and greater financial stability, their Salvadoran counterparts raised undocumented children in poor neighborhoods in Los Angeles, where the MS-13 (Mara Salvatrucha) street gang was born also as a result of youths’ need to protect themselves from ethnic conflict (Rocha 2011). U.S. gang culture was introduced in Central America in the 1990s as a result of the widespread incarceration of gang members during the war on drugs and the targeting of Salvadoran gang members for deportation. Unchecked by

weak and corrupt state institutions, transnational gangs and narcotrafficking networks are currently proliferating in region and victimizing its citizens (Council on Foreign Relations 2018). Today, El Salvador, Honduras, and Guatemala rank among the most violent countries in the world, with homicide rates of 81.2, 59, and 27.3 per hundred thousand respectively (Gagne 2017). In 2015, El Salvador became the world's most violent country not at war, when the homicide rate peaked at 103 as the truce between the country's two rival *maras* – MS-13 and Barrio 18 – fell apart. By comparison, the homicide rate in the U.S. that year was just 4.9.

2.2 Transnational family composition and the migration of the first generation

The transnational composition of Central American families shapes both youth's exposure to violence in the home country and migration decision-making dynamics. Virtually all youths eventually categorized as unaccompanied minors have family members in the U.S. at the time of their migration. Nationwide, 60% of unaccompanied minors reunify with one or both parents and 31% with other family members (ORR 2016). Table 2.1 below maps out my respondents' transnational family composition at the time of migration. The most common type of transnational family (42%) was that of youths who lived with non-parent relatives in their home countries and migrated to join their mothers in the United States. These mothers had migrated years before and were the main breadwinners of their transnational families

Table 2.1 Transnational family composition at the time of migration

Family in US	Mother	Father	Both parents	Other relatives	No relatives
<i>Family sending country</i>					
<i>No parent (lived w/ relatives)</i>	34 (42%)	4 (5%)	5 (6%)	3	2
<i>Mother</i>	-	4 (5%)	-	7 (9%)	2
<i>Both Parents</i>	-	-	-	21 (26%)	0

*Out of 81: Includes formal interview respondents and legal clinic observations (with full family info)

Tables 2.2 and 2.3 show who youths lived with in the sending country and which of their family members were in the U.S. at the time of migration. The latter family members usually became youths' ORR sponsors, securing their release from federal detention facilities. Notably, on both sides of the border, many unaccompanied minors lived with non-parent caretakers and few lived in households with fathers present. In their home countries, only about a quarter of youths lived in a household with both parents, while the rest either lived with only their mothers or with non-parent caretakers, usually grandparents or aunts and uncles. Only four youths I met over the course of this research had no family at all in the U.S. at the time of their migration, while 53% youths migrated to join one parent, 6% joined both, and 37% joined other relatives.

Table 2.2 Family member(s) youths lived with in the sending country at the time of migration

	Number	% of respondents*
Lived with one parent (mother)	13	16%
Lived with one parent (father)	0	
Lived with both parents	21	26%
Lived with neither parent	47	58%

*Out of 81: Includes formal interview respondents and legal clinic observations (with full family info)

Table 2.3 Family composition in the United States at the time of migration

	Number	% of all respondents*
Mother in the US	34	43%
Father in the US	8	10%
Both parents in the US	5	6%
Other relative in the US (total)	30	37%
<i>Older sibling</i>	8	
<i>Aunt, uncle, cousin, brother in law</i>	17	
<i>Distant relative</i>	2	
No relatives in the US	4	5%

*Out of 81: Includes formal interview respondents and legal clinic observations (with full family info)

Using the examples of two families, I will now discuss the intergenerational migration patterns of Central American families in cases when children migrated alone to join one or both of their parents in the U.S. (59%). In both families, the parent(s) of unaccompanied minors had migrated to escape from violence and could thus be considered sociological refugees. Yet, mirroring past trends, they were denied recognition, legal status, and family reunification rights. In reading the stories that follow, keep in mind this counterfactual: had the U.S. government recognized the first generation of Central Americans as refugees, as it did for example with the Vietnamese –recognizing its ethical responsibility toward those displaced as a result of U.S. military intervention in Vietnam and resettling them in large numbers– these families would not have experienced separation, their children would have been able to legally join them in the U.S., and they would not have been exposed to violence in their home countries.

Jose and Rafael were two Salvadoran siblings who migrated to the U.S. at the height of the 2014 “humanitarian crisis,” at ages 17 and 16, to join their parents who had been living in Los Angeles for over 10 years. Their father Pedro migrated from El Salvador for the first time during the civil war, after being targeted by the government due to his involvement in the guerrilla.

Pedro was among the 98% of claimants denied refugee status by the Reagan administration. He hired an attorney to appeal the decision but his appeal was unsuccessful, and he remained an undocumented immigrant. Pedro was somewhat unique in that he had personally been a part of the earlier exodus from the civil war because he was older than most unaccompanied minors' parents. However, both Central Americans who fled in the 1980s and those who stayed behind have been affected by the conflict and its legacies in a myriad of ways (Abrego 2017). After the peace accords were signed in 1992, Pedro returned to El Salvador, where he fathered his two children. In the year 2000, he decided to go back to the U.S. to work and support his family. The following year, however, violence struck the family once again. Jose and Rafael's mother Juana started receiving death threats after she witnessed a murder in El Salvador. She fled to the U.S., where, despite having escaped from violence, she never applied for asylum, perhaps due to Pedro's unsuccessful attempt years before. She remained an undocumented immigrant as well.

Jose and Rafael stayed in El Salvador in the home of abusive grandparents. The lack of protection at home left them more exposed to violence outside, in particular, when they reached the risky age of adolescence. Jose was dating a girl in his high school, where there was a heavy gang presence. When they split up, and she started dating a gang member, Jose and his family were targeted. Jose was intimidated, followed home from school, physically assaulted, and threatened by gang members on multiple occasions. His close friend, who had been recruited by the gang, was assassinated. Jose's grandmother received threatening phone calls and extortion requests. After these multiple instances of criminal victimization, the siblings' grandmother decided it was no longer safe for the boys to live in El Salvador. She told Pedro and Juana about the threats they were facing, asking for help and resources to plan their migration.

As undocumented immigrants or, perhaps more accurately, unrecognized refugees, Pedro and Juana had no means to legally reunify their children, leaving them no other option but to rely on a smuggler to help them reach safety in the United States. Like both their parents had done in the past, Jose and Rafael escaped from violence, positioning them as sociological refugees. Unlike their parents, however, once in the U.S., they faced better odds in an adjudication bureaucracy that had been positively impacted by years of advocacy work (Garcia 2006), and they were both granted political recognition in the U.S. asylum process.

Several unaccompanied minors migrate to join their mothers in the United States. Some of these mothers had migrated to support their children because the father had abandoned them. Others had migrated to flee abusive domestic relationships. Indeed, gendered violence structured intergenerational migration patterns in key ways, as El Salvador, Guatemala, and Honduras are dangerous places for women and girls. Domestic violence, rape, and sexual kidnapping are key reasons fueling outmigration from the region, where femicide rates are the highest in all of Latin American and among the worst in the world (Gutierrez Rivera 2017). According to the UN Global Database on Violence Against women, based on a series of surveys undertaken in 2000, 26% of women in El Salvador, 22% in Honduras, and 18% in Guatemala experienced physical and/or sexual intimate partner violence at least once during their lifetimes (Women UN 2016). Violence against women has since increased (Manz 2008): in Guatemala, over 2,500 women and girls were murdered between 2001 and 2006; in Honduras, between 2005 and 2013, femicide rates increased by over 250% and one woman is murdered every 14 hours; in El Salvador, between 1999 and 2006, the rate of femicide almost doubled from 6.22 to 12.17 (per 100,000). What's more, there is a large gap between protections on the books and police enforcement in

instances of domestic violence and sexual abuse (Manz 2008). In practice, women are not protected by the state, and male perpetrators commit crimes with impunity, a clear example of the blurring of political and criminal forms of violence in the region today.

In the year 2000, Kevin's mother Maria migrated from Guatemala to escape domestic violence. Kevin's father was sexually and physically abusive, and he threatened to kill Maria if she reported him to the police. Maria's mother convinced her to leave her two young children in her care to migrate to the U.S. and save her life. Despite the danger she had been in, Maria could not overcome the feeling that she had abandoned her children, and she recounted struggling with that guilt over ten years later, *"it was with pain in my soul that I had to come to this country, I never thought I would. People talked about it but I was happy with my kids, my job, we had food, we could survive. I think no woman wants to leave her children."* When I asked Maria if she knew about asylum and had ever thought to apply, she explained, *"no, I was ignorant, I didn't know there were laws for women here."*

Unbeknownst to Maria, around the time she arrived in the U.S., other women who had escaped domestic violence like her were engaged in lengthy legal battles that would expand the space of protection for asylum-seekers in the United States. After two victories for individuals claimants from Guatemala (Matter of R-A- in 2009) and Mexico (Matter of L-R- in 2010), in 2014, the Board of Immigration Appeals issued precedent setting case law in Matter of A-R-C-G- that officially recognized domestic violence as a valid grounds for asylum (Center for Gender and Refugee Studies 2014). This belatedly brought U.S. asylum case law up to par with existing protections for women and children in neighboring countries like Canada (Hamlin 2014). This expansion of the U.S. interpretation of the refugee definition would benefit several

unaccompanied minors during my research, who became eligible for asylum based on child abuse in the home country, until the Trump administration tried to newly restrict the refugee definition in 2017, as we will see in Chapter 4.

Unsurprisingly unaware of the complex legal struggles that were favorably altering the legal context in the country that provided her physical refuge from harm, Maria remained a sociological refugee who escaped from domestic violence yet lacked political recognition as a *de jure* refugee. Such recognition would have given her freedom from the preoccupation that still loomed large over her life: that her deportation would be a death sentence at the hands of her abusive ex-partner in Guatemala. Crucially, it would have also given her the right to legally reunify her children. Instead, as an undocumented immigrant, Maria worked hard to support her children in Guatemala but, from afar, she had little means to protect her son Kevin from the danger he would face upon reaching adolescence.

Kevin's grandmother was a loving caretaker. However, following a common pattern in these transnational families, she was elderly by the time Kevin reached the dangerous age of forcible gang recruitment, and she was unable to protect him from dangers outside the home. Thus, patterns of gendered violence would once again shape exposure to risk in the sending country and prompt migration in this family. When Kevin turned 13, his father –an incarcerated gang member– began to contact him from prison to try to involve him in criminal activities, a sinister rite of passage through which young boys are made to become men. Conversely, Kevin's older sister was never singled out by their father to this end because of the gendered ways in which gangs target youths, as we will see below. Kevin had previously had little contact with his father, who had victimized his mother and had been incarcerated for most of his childhood for reasons

unknown to him. Hoping to reestablish a relationship with this man he had been told so little about, Kevin naively accepted when his father asked him for a “*small favor.*”

He unwittingly became involved in lower level gang activities as a courier, picking up extortion money from his neighbors. He started to realize something was wrong when he noticed a new fear in his neighbors’ eyes. As the realization of what he was doing became concrete, Kevin grew increasingly desperate, a desperation reflected in the self-harm behaviors and enduring trauma that he and his mother would later tell me about. Kevin did not feel that he could confide in his elderly grandmother for fear of putting her life at risk, nor in his mother, with whom he had lost familiarity because he had not seen her in 10 years. Without support from his unknowing caretakers, Kevin told me he organized his own escape, at age 14, “*I didn’t recognize myself anymore, I thought, if I keep this up, I will eventually die.*”

What are the implications of these historical and intergenerational migration patterns for youth migration from Central America today? The parents of unaccompanied minors overwhelmingly lack legal status in the United States. Even when violence played a role in the migration of the first generation, as we saw for Maria, Pedro, and Juana, these sociological refugees were denied political recognition and the ability to legally reunify their children. Children are left behind in the home country with caretakers who are sometimes loving and other times abusive. In the latter cases, violence within the home can push youths to migrate, and it makes them more vulnerable to violence outside the home, making them easier prey for gangs. In the former cases, loving caretakers, who are oftentimes grandparents, can become too elderly or ill to care for youths, similarly exacerbating youths’ vulnerability to violence outside the

home. In the current U.S. policy context, the only means for Central American families to reunite and be safe, is for children to join their relatives in U.S., migrating outside of legal avenues.

2.3 Risk exposure in the home country: violence patterned by gender and age

Quantitative studies on El Salvador, Guatemala, and Honduras have found a direct link between the frequency of instances of criminal victimization and increased propensity to report intentions to migrate among adults (Hiskey, Cordova, and Orces 2018) and a correlation between increases in homicide rates and volumes of out-migration among unaccompanied minors (Clemens 2017). Not only do short-term increases in violence immediately prompt increased outmigration, their effects also “*cause waves of migration that snowball over time, continuing to rise even as violence levels do not*”(1). According to a survey of adult migrants from El Salvador, Guatemala, and Honduras, conducted by Doctors Without Borders (2020), more than two-thirds of migrants had experienced the murder, disappearance, or kidnapping of a relative before their fleeing their homes, and 75.8% of those traveling with children reported fleeing because of violence. The most common forms of criminal victimization these migrants reported were: direct assaults on themselves or their families (20.8%); extortion (14.9%); threats (14.3%), attempted forced recruitment by gangs (10.5%); and confinement (5.5%).

So many unaccompanied minors told me that their family, friends, and neighbors had been murdered. They recounted experiencing similar instances of criminal victimization but forced gang recruitment was among the most common, due to their age. This section examines the different *types* of risk youths are exposed to in their home countries, as well as how the perceived *degree* of risk prompts their migration decisions. Instances of criminal victimization accumulate

to make the risks of staying higher. As we will see in Chapter 4, the *type* and *degree* of risk and suffering youths are exposed to in their home countries prior to migration are key in determining the outcomes of their asylum cases, which can oftentimes play out in contradictory ways.

Victimization by transnational gangs or *maras* has a particularly strong impact on youths in El Salvador, Honduras, and Guatemala. Criminologists agree that, not only is most street crime committed by young men ages 15 to 24, it also primarily victimizes peers in the same age group (Steffensmeier et al. 1989; Finkelhor 2008; UNDOC 2014). The *maras* can draw from a large recruitment pool of young men because El Salvador, Guatemala, and Honduras are demographically young countries, where economic hardship is rampant (Bruneau, Dammert, and Skinner 2011). Forcible recruitment into MS-13 is an extremely dangerous affair because the *maras* distinguish themselves for the use of brutal violence during initiation, subjecting youths to manipulation, humiliation, beatings, and death threats. Refusal to join can and does result in death, and youths recounted losing family and friends to such refusals. It is no coincidence that most unaccompanied minors migrate to the U.S. as teenagers ages 15 to 17 (ORR 2017), since becoming teenagers exposes youths to victimization at the hands of the *maras* in Central America. Schools were often sites of gang activity and recruitment, making these dangerous spaces. Commutes to school through rival gang territories likewise exposed youths to dangerous interactions with gang members by signaling them as potential informants. These threats often caused youths to stop going to school months or even years prior to their migration.

Cadmael was a Guatemalan Maya youth whose problems with the gangs started in school when he was a teenager. Gangs members tried to recruit him by telling him that joining the gang was his only option because people “*like him*” [read: indigenous people] *need to disappear*” and

“*never get good jobs.*” They threatened to kill him if he refused to join. After gang members severely beat him up after school one day, Cadmael decided that he wanted to leave the country to join his father in the United States. His mother was initially reticent to let him leave because she knew all too well that the journey was dangerous. Cadmael’s father had migrated to Los Angeles when he was a small boy to support the family. There was no work in their town for Mayan families, who suffer deep-seated discrimination from the Spanish-descendent population at all levels of society, from school to the workplace. Cadmael migrated to escape immediate physical violence and future risks to both his *biological life* and his *social existence*. The latter was under threat, not only due to his age, but also due to his indigenous background. The conditions that had already pushed his father to migrate years earlier had been further exacerbated by violence. Cadmael hoped that, in addition to finding refuge from physical harm in the U.S., he would be able to keep studying to “*make something of [him]self.*”

And yet, Cadmael would have a difficult journey ahead to pursue his goal. Having lost two years of schooling between the violence he suffered in Guatemala, the journey to the U.S., and his detention in ORR, he was disadvantaged as a student. By the time he was released from government custody he was closely nearing his 18th birthday, which meant that he was unable to enroll in high school in Los Angeles, and he had to attend adult school instead. There, he was taking English classes instead of working towards high school completion. Cadmael’s ability to pursue a full *social existence* was further and most crucially delayed because his case was denied at the asylum office. He was appealing the decision in court the last time we spoke. Once again, we see a case of a sociological refugee denied political recognition by the U.S. government.

The violence inflicted on youths in Central America by the *maras* is also gendered. As we saw in the example of Kevin, young boys are more at risk of forcible recruitment into gang activities than girls. Teenage girls living in gang-controlled areas are at risk of experiencing sexual violence at the hands of gang members. For example, Alicia fled from El Salvador at age 16 after being followed and harassed by a gang member who would try to grab and touch her forcefully each time she left the house where she lived with her grandmother. One day, the gang member threatened to kidnap her if she did not become his “girlfriend.”

Alicia and her family in El Salvador knew these threats were credible. Years earlier, her cousin had also been approached by a gang member who wanted her to be his “girlfriend.” After she refused, she and her sister were brutally murdered in retaliation, as Alicia recounted, “*the gangs killed them both, they cut their heads off, and stabbed them over 40 times.*” Alicia’s family in El Salvador determined that the risk of staying was far too great, and her older sister used all her savings to help her quickly organize her trip to the U.S.

Conceptualizing migration decision-making as a family-level risk management strategy, following an assessment of violence in the home country, we might consider that Alicia fled somewhat preemptively in anticipation of a credible future risk of death based on the gang’s brutal assassination of her cousins. While this does not discount her experience as a sociological refugee, attorneys may struggle with such cases because they provide less lived experiences of suffering to use as “humanitarian capital” to support the asylum case (Galli 2019a). Like Cadmael, Alicia lost her asylum case and was denied political recognition as a refugee. While neither I nor Alicia’s attorney knew why her case was denied,¹² it might have been due to the

¹² Alicia’s case was denied at the asylum office, which does not publish written decisions, so the exact rationale for case denial is most often unknown to youths and their attorneys. For more on this, see Chapter 4.

preemptive nature of her flight, organized before she could fall victim to sexual violence or death. These denials are reminiscent of the historical treatment of Central American's asylum claims. Then and now, asylum-seekers face a frightening catch-22: *"if they escape, their survival suggests that their lives are not really in danger; if they are killed, the danger is proven, but too late for them to gain asylum"* (Coutin 2011, 577).

Of course, there is no way of knowing what would have happened to Alicia had she stayed. Despite the fact that accurately anticipating risk in a context of violence is based largely on luck, the timing of escape has key implications for youth's chances of success in the U.S. asylum process, as we will see in Chapter 4. The case of a Guatemalan youth named Hector who was able to save his life against all odds, seemingly miraculously, is emblematic of the sheer luck that is often involved in making it out of violent contexts alive. Gang members had targeted Hector and his two best friends for recruitment. After enduring abuse and beatings, the boys had received an ultimatum: if they did not join, the gang would kill them. After this, the situation quickly escalated. Hector's two friends were murdered on two subsequent days. The mother of one the boys had paid for a Coyote to smuggle out her son, but it was too late, the boy was murdered the night before he was scheduled to leave. She contacted Hector and urged him to use this passage to save his life and leave that same day. Too afraid to tell anyone, Hector disappeared immediately, without telling his caretaker in Guatemala or his mother in the U.S., and he showed up at the border after months, when his family thought he was dead.

Other girls I met during my fieldwork had migrated *after* having suffered sexual violence. 15-year-old Esperanza was raped repeatedly by a gang member in her own home in El Salvador, where she lived alone with her 11-year-old brother. When Esperanza's parents migrated to the

U.S., the siblings had initially lived with family members. However, these caretakers were physically abusive, and they neglected Esperanza and her brother, for example, by not using the remittances their parents sent to buy them clothing or shoes. Because of this, Esperanza's parents decided that their children would be better off living on their own. They did not predict that this living arrangement would place Esperanza at risk. For months, Esperanza was too scared to tell anyone that she was being raped because the gang member had threatened her life and that of her brother. Esperanza only worked up the courage to tell her mother what she had been enduring months later when she became pregnant. Her parents found a way to bring both siblings to the U.S. immediately, borrowing money from a relative to pay for a *Coyote*, one strategy families use to facilitate youth migration. Unlike Alicia, Esperanza's asylum case, which was based on the multiple instance of violence and rape that eventually led to her pregnancy, was approved.

To be sure, teenagers are not the only ones at risk in Central America. Sometimes, youths were not targeted directly by the gangs but were still exposed to risk because their family members were being targeted. This was the case for victims of extortion. Based on asylum-seekers' accounts, the *maras* seemed to be strategic in targeting families they thought could pay extortion fees. They targeted families who owned businesses; having a small chicken farm was enough to subject one boy's family in El Salvador to extortion and threats. They also targeted those with migrant relatives in the U.S. since they received remittances. For example, the family of Beatriz, an unaccompanied minor who fled El Salvador at age 13, began to be extorted shortly after her father migrated to the U.S., leaving her behind with her two older sisters, and their mother. The family received several threatening notes and phone calls with extortion requests

until they eventually decided to use the money they had to send Beatriz and her older sister, who had a baby, to join their father in safety in the United States.

Individuals of all ages and genders who witnessed violent crimes committed by gang members were likewise exposed to grave danger, highlighting the “violent pluralities” (Vogt 2013) in Central America, where political and criminal violence interact and become blurred. Youths and adults may be victimized by so-called private actors, like gang-members, but their lives are at risk because the police is not able to protect them or may even be allied with criminals. Alejandro’s story is a case in point. Alejandro was 17 when he witnessed the murder of his best friend, 15-year-old Daniel, whose commute through rival gang territory was enough to signal him as a potential informant. This was a death sentence. Alejandro recounted the day MS-13 shot and murdered Daniel before his eyes, *“I told him to wait for me to get help but he told me not to leave him alone, he was afraid they would come back. He asked me to stay with him. I took him in my arms, and he died like that.”*

Alejandro was initially wary of cooperating with the police in the investigation of Daniel’s murder because he feared retaliation from the gang members. The police approached him several times and promised him that they would arrest the gang members and protect him. Yet, after only two months, the police released the gang members from jail, supposedly because they lacked sufficient evidence against them. Alejandro’s testimony, which had put him in so much danger, had seemingly been discounted. Alejandro thus commented on the broken promises of the police, *“that’s what happens with the police, they set them free. They said they would protect me but I never once saw a police car outside the house.”* When I met him at a legal clinic in Los Angeles, Alejandro showed a paralegal and myself the form that the police had given him, which read

“interview with protection protocol,” where he was referred to with a code to protect his identity as a witness. Alejandro knew he was protected on paper but not in practice, and he fled to save his life after he learned of the gang members’ release.

Despite the very real danger victims of gang violence face in Central America, their lived experiences often fail to satisfy the *de jure* refugee definition, as it is narrowly interpreted in the United States. Youths’ experiences of forcible recruitment by gangs are especially prone to being discounted as the wrong “type” of suffering, one that is not considered meritorious of relief by existing U.S. asylum case law, which contradicts the position of the UNHCR that considers that all forced recruitment by violent groups amounts to persecution. As we will see in Chapter 4, depending on circumstances that sometimes had little to do with the degree of current risk (or perceived future risk) youths faced in the home country (e.g, whether gang violence was experienced by the youth directly or by a family member) cases could be denied or granted.

Unlike interactions with gangs, which may highlight the agency of teenagers, experiences of domestic violence in the home country reify notions of dependent children without agency and are more likely to satisfy U.S. child-specific interpretations of the refugee definition. Domestic violence certainly was another driver of youth migration from Central America. As we saw in the cases of Jose, Rafael, and Esperanza, when parents leave their children behind to migrate to the U.S., the adult family members entrusted with caring for them are sometimes abusive. Youths living with their parents in the home country also sometimes suffered domestic violence. For instance, Brayan, who left Guatemala at age 15, had endured years of abuse from his alcoholic father who beat him and often kicked him out to sleep on the streets. For Brayan, dreaming of

migrating to the U.S. to join his older brother –who left years before– was a respite from the abuse he suffered, a source of hope that got him through difficult moments.

Domestic violence risks within the home were also patterned by gender. While both boys and girls were at risk of child abuse, gender norms could compound these risks in the cases of girls. Strict expectations for girls' participation in household labor was sometimes enforced through physical punishment. What's more, as we saw in the case of Kevin's mother Maria, domestic violence continued to be a risk for women of all ages. As noted previously, youths subjected to abuse within the home were also at greater risk of violence outside because of their unstable home environments. These cumulative risks prompted the migration decisions of youths. Jose, Rafael, Brayan and others like them fled after their lives were threatened by the gangs but they had endured years of victimization in their own homes prior to their flight; these experience of victimization inside the home would position their asylum cases as more likely to obtain relief.

Youths also migrated to leave conditions of deprivation and economic hardship in Central America. As noted in the Introduction, these experiences are explicitly excluded from the legal criterion of persecution. While in dichotomous conceptions of migration, these youths might be readily categorized as economic, and thus voluntary, migrants, their decisions to leave also ranged from more to less voluntary on the “continuum of compulsion” (Fitzgerald and Arar 2018), and they usually combined “proactive” and “reactive” migration strategies (Richmond 1993). Some youths, in particular from Guatemala –where the homicide rates are lower than Honduras and El Salvador in some parts of the country– told me that they left for two reasons, *“to help my family and because of the violence.”* For these youths, migration was both a preventative strategy so they would not risk falling victim to violence in the future and a

“proactive” strategy, based on the aspiration and desire to have more opportunities to help their families. Even in the very small minority of cases when youths presented economic considerations as the most salient, the dimensions of choice and coercion could overlap to inform migration decisions. This was particularly true among extremely poor families in Guatemala that subsist on agriculture. When these families engage in “debt-financed migration,” this strategy places them at risk by producing a *“cycle of migration and deportation [with] each attempt compounding the conditions that instigated migration in the first place”* (Heidbrink 2019).

It is crucial to note that it is precisely individuals at the bottom of the social hierarchy in El Salvador, Honduras, and Guatemala, due to their social class and indigenous background, who are most at risk of being victimized by gangs or family members and who are unprotected by the state. All the families whose stories I described were working class, poor, and/or indigenous families, either sustained mostly by remittances from the U.S. or living in conditions of dire poverty, dependent on the labor of all family members, including small children, for survival. In the context of a changing world where cross-border displacement is fueled less by authoritarian regimes and more by weak states that fail to guarantee basic human rights and leave their citizens in conditions of severe deprivation (Betts 2013), structural and other forms of violence interact. Yet when poor people flee from violence, they are more readily perceived as economic migrants and criminalized as “bogus” refugees who are applying for asylum to “cheat the system” in countries of reception in the Global North (Fassin 2011).

Exposure to violence in Central America is patterned along the dimensions of class, indigenous background, gender, and age. Taken together with restrictive U.S. immigration policy, this patterned violence severely constrains the set of choices that are available to Central

American unaccompanied minors. Despite these extreme constraints, however, these youths and their families exercise some agency in migration-decision making.

2.4 Migration-decision making as a family-level risk management strategy

The literature on youth migration as a “rite of passage” has presented youths as individual actors making migration decisions independently from family members. Conversely, the literature on the children of immigrants has largely ignored the agency of youths as migratory actors (for a notable exception see, Zúñiga and Hamann [2014]), assuming them to be mere dependents of parents transported across borders like “luggage” (Orellana et al. 2001). Both of these strands of prior work mischaracterize youth migration by making assumptions about familial involvement a priori instead of empirically examining to what extent families actually participate in the migration of their children. In this section, I examine the role of family and migrant networks in facilitating youth migration in contexts of violence.

Migrant networks theory notes that contacts with immigrants in the receiving country in the form of both “weak” (friends and extended family) and “strong” (immediate family) ties lower the costs of migration by providing resources to fund migration and information about the migratory process and life in the receiving country (Wilson 1998). In the cases of migrant youths from Central America, the vast majority of whom migrate into well-established immigrant communities in the U.S., migrant networks are crucial. I found that strong ties to immediate family in the U.S. were especially important to ease the constraints on migration from Central America, in particular those produced by restrictive U.S. immigration policies.

Of course, to be able to help plan migrations, family members had to be aware of the violence youths faced. However, youths were not always willing to share this information. As we saw in the case of Kevin, youths who had long been apart from their parents did not always feel close enough to them to tell them about the risks they faced. Youths were sometimes scared to talk about such delicate topics over the phone because they felt their every move was being scrutinized and any misstep could put their lives and their families' lives in even greater danger. Parents in the U.S. might also be unaware of their children's suffering at the hands of caretakers because children sometimes feared that, if their caretakers found out they told their parents, abusive situations could worsen for them.

Families were involved in facilitating youth migration to the U.S. to varying degrees. At one extreme were cases where children were not consulted and even surprised by migration decisions made for them by parents and caretakers on both sides of the border who thought it was safer to get them out of the country quickly, with as few people knowing as possible, so they would not risk being detected. This type of arrangement was uncommon but more frequent in the cases of younger children. When relatives deemed that the level of danger was low enough to allow time for this, they involved children by negotiating these decisions or at least discussing them over the phone. At the other extreme were youths like Kevin and Hector who migrated without notifying or getting the consent of their U.S.-based parent(s) and home country caretakers.

As compared to youths with parents in the U.S., youths who had non-parent relatives in the U.S. were generally less likely to be in touch with them, making them less able to access resources and information from migrant networks that could ease constraints on their migration. This was the case for Sofia, who lived with both of her parents in Guatemala and whose father

was severely abusive. Gangs members started trying to recruit Sofia when she was 13. They beat her and threatened to kill her and her family if she did not join the gang. These beatings led Sofia to be hospitalized with a broken leg. She told me, *“I have a scar, and it will never go away, not even in my heart, because it was so terrible what happened.”* With no support at home, when she could walk again, Sophia left without telling anyone, bringing her backpack and schoolbooks with her when she left her house so nobody would suspect that she was leaving the country. She left without knowing where she was headed, working and begging for money along the journey, asking other migrants for directions. It took her over a year to reach safety and reunite with her brother in Los Angeles, whom she was able to locate and contact only after she was detained in ORR. Her brother was surprised to learn he would have to take in his younger sibling who had shown up in the U.S. alone and without warning.

In most cases, family members’ involvement in youth migration fell somewhere between these two extremes. When parents and relatives *did* have information about the risks their children were exposed to in the home country, they usually participated in migration planning by providing resources and helping youths assess and manage the risks associated with violence in the home country. The dynamics of how families managed risk and strategized migration in contexts of violence were most apparent in cases where more than one child was exposed to danger, and family members could not afford to pay for the services of a *Coyote* to smuggle out all the children at once. These families had to make decisions about which child was most at risk, and should migrate first, by relying on imperfect risk assessments of the unpredictable course of violence, based on limited information.

Central American family reunification decisions were informed by both the need to extract youths from danger and the underlying desire of families to be together. While the pre-existing desire for family reunification sometimes meant that parents had been able to plan and save resources to fund migration ahead of time, violence quickly accelerated migratory decision making. The ways in which these two forces –the need to manage the risk of violence in the home country and the need and desire to be together– interact to shape family level migration decision-making is illustrated by the case of Victor and his three older siblings.

When Victor was four years old, his father left the family. Victor’s mother Lucia migrated to the U.S. to support her children as the single breadwinner of the household, leaving them in the care of their maternal grandmother in El Salvador. Lucia’s dream was to live with her children in the U.S., a dream that she would pursue by planning to bring one child at a time in subsequent years. Victor explained, “*my mom decided she would do it like that because she didn’t have enough money to bring us all at once.*” In 2013, Lucia decided to bring her eldest child to the U.S. first, her daughter, who was 18 at the time and pregnant. Lucia wanted her daughter to have her baby in the U.S., where she could help her.

Soon after Lucia brought her daughter, the situation in their hometown in El Salvador became more dangerous. Lucia’s second-eldest child started having problems with the gangs. Lucia’s mother participated in the family’s risk assessment and migration planning by speaking on the phone with Lucia and providing information about what was happening. In 2014, after her second-eldest child was extorted and beaten by gang members attempting to recruit him, Lucia paid for his passage to the United States, with a *Coyote*. The family’s risk determination strategy was, unsurprisingly, to extract from danger the youth who had been the direct target of threats

first. After her second-eldest child left, however, the gang shifted their recruitment efforts to Lucia's third-eldest child, also a son. This was a common pattern in the stories I heard. Siblings would be targeted, in turn, from eldest to youngest, and those who stayed behind when their siblings fled were at risk of retaliation from the gangs.

The following year, in 2015, Lucia paid for her third-eldest child to migrate to safety in the United States. He was 17 years old at the time, and thus, he happened to arrive in the U.S. as an unaccompanied minor, unlike his older brother who had just turned 18 before his arrival, and who was thus processed as an adult at the U.S.-Mexico border. The different treatment of asylum-seeking unaccompanied minors and adults under U.S. law was apparent in the case of these two siblings, who had such a small age difference. The 17-year-old, who was categorized as an unaccompanied minor and thus benefitted from special protections, had already won his asylum case when I interviewed Victor in 2017, whereas the 18-year-old, who was processed as an adult, had also applied for asylum but was still in legal limbo and waiting for his day in court, about three years after his arrival in the United States.

Seeing his three siblings leave one by one in subsequent years, Victor had rationalized that he would have to wait until 2016 for his own turn to migrate to the U.S. to join his family. In the meantime, however, the risks had become exacerbated: gang members approached Victor's house on more than one occasion to ask where his two older brothers had gone. Without involving Victor, who was just 13 years old at the time, in the decision, his mother and grandmother planned his escape and effectively surprised him. Just one month after his 17-year-old brother left, Victor told me that he overheard the news that he was to leave the next day, *"I was eating breakfast, when the Coyote called my abuela. I overheard that he told her I needed to*

be ready to leave because he would come the next day. She told me, 'stay home, don't go to school.' I asked her, 'why don't you want me to go?'" Victor had to ask this to his grandmother repeatedly. At first, she did not want to tell him why she wanted him to stay home. Maybe it was too painful for her to admit that her favorite grandson, who she affectionately called her "*payasito*" [her little clown] because he was always made her laugh, would leave her the next day, and they would likely never see each other again. Like his 17-year-old brother, Victor would arrive in the U.S. as an unaccompanied minor and would win his asylum case.

The story of Victor and his siblings illustrates how families assess risk to plan migration, by identifying which youth finds him or herself in the most danger. In this case, this was the youth who was directly targeted by the gang because he was the oldest. Other families made similar decisions, for instance choosing to extract boys from violence before girls because the former were targeted by the gangs for recruitment and were thus believed to be most at risk. In the context of domestic violence within the home, families sometimes made the opposite gendered assessment, extracting girls rather than boys because they were deemed to be at greater risk of staying. In the context of the existence of an underlying desire of families to be together, escalating threats prompted an assessment of increased risk that accelerated migration decision-making. Victor did not know how his mother had come up with the money to pay the *Coyote* in such a short amount of time. Perhaps, like other parents who shared their stories with me, she might have requested a loan from family or from an employer to quickly pay for his trip since she had no time to save in advance.

Families attempted to assess and manage home country risks but these assessments were inherently imperfect because, as we saw in the case of Hector's chance escape after the murder

of his two best friends, violence often strikes in sudden and unpredictable ways. Indeed, the time to plan migration and save money for transit was a luxury that youths and their families often did not have. One way to manage risk and cope with violence, while trying to buy time to plan and save money for migration was for youths to go into hiding. This was the case for Brayan, who went into hiding at his cousin's house in Guatemala, when the danger he was in due to his father's abuse became even further exacerbated when the gangs started trying to recruit him. Brayan lived in hiding for over one year. That was how long it took for his cousin to locate Brayan's brother in the U.S., and organize and finance his trip. Brayan told me that he had been so depressed and stressed during that time that he cut himself because the physical pain took his mind off the things that were happening to him. When I met him in Los Angeles, he showed me his forearms, which were lined with small white scars. The self-harm behaviors that Brayan described were not unique, and other youths had coped with fear and trauma in similar ways. Indeed, the experience of waiting, while feeling fear and uncertainty, in violent contexts had enduring traumatic effects on youths. Protracted hiding in conditions such as these is an experience that is itself fraught with violence.

2.5 The CAM Program: a safe and legal path to the U.S.?

In 2018, I interviewed an unaccompanied minor named Gael who spent over two years in hiding in El Salvador before migrating to the U.S. for an altogether different reason: he was among the ostensibly privileged few who qualified for the Central American Minors (CAM) program. Unlike the majority of my respondents, who did not qualify because their parents were

undocumented, Gael's mother Larissa had Temporary Protected Status (TPS).¹³ Established by the Obama administration in 2015, the CAM program recognized —and was meant to overcome — the impossible situation that Central American parents found themselves in as de facto long term residents (and, sometimes, unrecognized refugees) who lacked family reunification rights. The idea was that CAM would provide a safe and legal migration pathway for unaccompanied minors by allowing parents with legal permanent residency or temporary legal statuses to reunify their children under age 21 who were at risk in Honduras, El Salvador, and Guatemala.

The CAM program was an important symbolic victory for the Central American community, which gained official recognition as it was designated as deserving of refugee resettlement to the U.S. for the first time. Unfortunately, however, when it came to its implementation, the CAM program fell short of its promises. As of March 2017, only 2,600 youths had been approved for refugee resettlement, out of 11,500 CAM applications submitted nationwide: 43% were awarded refugee status, while the remaining 57% were awarded only a temporary permit through humanitarian parole (Taylor 2017). What's more, CAM had the unintended consequence of putting the lives of youths like Gael in even more danger. The complex and lengthy application process¹⁴ that took place in the very same sending countries where youths were living in day-to-day situations of risk and violence ignored the fact that youths often did not have the luxury to wait for the slow bureaucratic process to run its course.

¹³ 86,000 Hondurans and 200,000 Salvadorans have Temporary Protected Status (TPS), a renewable work permit granted, respectively, following Hurricane Mitch (1999) and a series of earthquakes (2001).

¹⁴ First, parent/s filled out an application in the U.S. at a Resettlement Agencies. Second, children were summoned for a preliminary interview at the International Organization for Migration office in the home country. Third, both parent and child took a DNA test to prove their biological relationship. Fourth, children were summoned to a final interview in the country of origin with a DHS official who determined the application outcome. Only then, in case of a positive evaluation and after passing a medical exam and receiving cultural orientation, could the minor travel by plane to the United States.

Gael's mother Larissa had heard about CAM shortly after it was launched from her brother, who was applying for his own children. At the time, Larissa's eldest son had just been murdered by MS-13 gang members in El Salvador, after being deported from the United States. He had migrated as a teenager and lived with Larissa as an undocumented immigrant until he was arrested for stealing. Larissa did what she could to save her son from deportation to a country she knew was becoming increasingly dangerous but she was defrauded by the attorney she hired to represent him, who charged her \$5,500 but filed no applications for relief on his behalf. Larissa felt guilt and heartbreak for her deported son's murder and extreme worry for Gael, who was living in El Salvador and had now become a target of the gang. Larissa hoped CAM would be a means to bring Gael to the U.S. through legal channels so, unlike his older brother, he would be protected from deportation. When I interviewed her, Larissa told me that she had been sorely disappointed by the CAM program, which she likened to being defrauded by her eldest son's immigration attorney.

Both Larissa and Gael expressed the anguish they felt during the long wait for their application to be evaluated. Gael was deeply traumatized by the experience. After members of the gang that killed his brother threatened him, he changed schools but, even there, they found him. As a result, he spent over two years hiding in his grandmother's house. During the last eight months, he was completely alone, after his grandmother fled because she too had been threatened. With teary eyes, Gail recounted that he stayed alive solely thanks to the occasional visits of a relative who brought him food and the company of a family pet, *"it was like I was in prison because I wasn't free to leave. I had a dog, and I think maybe that's why I didn't go crazy [...] I spent almost a year alone, I almost never ate. [...] since I spent so much time alone,*

sometimes, now, I still prefer being alone.” When I asked Gael how waiting for the result of his CAM application in El Salvador made him feel, his response was devastating, *“how can I explain it to you. How would you feel if someone told you, ‘you might be able to live and now you’re waiting for the answer, to know if you can live or not.’?”*

Like other youths who coped with violence by going into hiding, Gael and Brayan inhabited what Susan Coutin (2000) has called the “space of non-existence” to describe the condition faced both by potential migrants living in danger in their home countries and by unrecognized refugees in host countries. Both are physically present and biologically alive in a certain country. Yet, it can be as if they do not exist because their legal and social personhood are erased. For Gael, staying alive depended on such an erasure of his personhood, which could be sought only in hiding, completely isolated from the outside world. He, and other youths like him, are clearly sociological refugees, whose lives in their home countries were at existential risk because they lacked the basic material and organizational conditions necessary to maintain their social existence (Zolberg, Astri, and Aguayo 1989). Gael’s social existence was erased in El Salvador, and his coming of age was frozen as he ceased to be a young student finishing high school to become an invisible person.

After waiting for over two years, Gael was once again summoned to make the lengthy and dangerous trip to the capital where CAM applications were processed. The Trump administration had just terminated the CAM program and suspended all approvals of pending cases, one of its first draconian immigration reforms. In an office in San Salvador, Gael was told by an American bureaucrat that he had not been recognized as a refugee, and he would not be able to migrate legally to the United States. Larissa and Gael were not rewarded for attempting to use legal

migration channels. Instead, recognition as a *de jure* refugee was denied to a youth who was, unquestionably, a sociological refugee. The waiting imposed on families applying for CAM –a humanitarian program ostensibly meant to protect vulnerable unaccompanied refugee children– was instead a stark expression of receiving state power and “legal violence” over the lives of Central American families (Menjívar and Abrego 2012). After learning that the state would not support her, Larissa took matters into her own hands to protect her son from violence, and she quickly gathered money to bring Gael to the U.S. with a *Coyote* by taking out a loan.

2.6 Migrant Networks & the Migration Industry: resource provision

In the context of severe constraints on mobility to the U.S., the migration industry and migrant networks interacted to facilitate youth migration. The migration industry allows Central Americans to circumvent what David Fitzgerald (2019) calls the “architecture of repulsion,” an intricate combination of geographical and physical barriers, draconian policies, visa restrictions on air travel, and bi-lateral collaborations with so-called buffer countries that rich democracies in the Global North use to keep out poor and undesired immigrants from the Global South. Thus, these countries also block access to asylum for those who find themselves in danger. Scholars agree that restrictive immigration control creates the conditions for a thriving migration industry and opportunities for entrepreneurial brokers like *Coyotes* to provide their services (Gammeltoft-Hansen and Sorensen 2013; Hernández-León 2005, 2013).

The journey to the U.S. has become increasingly costly and risky as the U.S. government externalizes migration control by providing funding to the Mexican and Guatemalan governments to apprehend, detain, and deport migrants transiting through their territories. By

2015, Mexico was deporting more Central Americans than the U.S. (Rosenblum and Ball 2016), thanks to U.S. funding for border enforcement through Programa Frontera Sur. This program also put pressure on Mexico and Central American sending country governments to limit the mobility of minors traveling without a parent in other ways. Since 2014, minors are required to have a visa to enter Mexico and written parental permission to cross any Central American border unaccompanied. This policy has had the effect of making the *authorized* migration of unaccompanied minors in the region all but impossible (Escamilla Garcia 2019). Indeed, two youths I interviewed who were traveling without a Coyote told me that they had to bribe officers at the border with Guatemala to be allowed out of Honduras. One youth had to do this despite having a written note from his father granting him permission to travel with his aunt. Trapping minors in countries where they are being persecuted is a form of exit control that undermines the fundamental basis of the international refugee regime: an individual's right to seek asylum.

Research has also demonstrated that less experienced migrants are generally more likely to rely on smugglers to make the journey north (Massey, Durand, and Pren 2014b). It is thus not surprising that unaccompanied minors, many of whom had never even left the towns where they were born, were all the more reliant on the help of adults –both in their informal networks and in the migration industry– to make the journey to the United States. In some cases, when adult family members were traveling north, they brought children and teenagers with them. Some of my study participants had aunts or grandmothers who accompanied them during part, or all, of the journey. If these youths made it to the border with these adult caretakers, they would then be

separated from them, categorized as unaccompanied minors, and detained separately.¹⁵ While being categorized as an unaccompanied minor is advantageous in the legal process, these separations were nonetheless frightening and confusing for youths who did not know where their relatives were being taken and whether they would ever see them again. In other cases, when no adults could make the journey, groups of minors sometimes travelled together, and teenagers were entrusted with younger siblings or relatives, a responsibility they took very seriously.

Smuggling services were even more important in cases when the help of older relatives could not be secured. Youths usually relied on family members to pay for these services. Immigrants reported paying amounts ranging from \$3,000 to \$10,000 per person for a trip to the United States. Based on youths and family members' accounts, it also appeared that Coyotes offered a two-tiered service: a more expensive one that supposedly allowed migrants to avoid apprehension; and a less expensive one for those who were "crossed over" in points with heavy Border Patrol presence, where they would likely be apprehended. According to one mother, for a trip from Guatemala in 2016, the former service cost \$6,000 and the latter \$3,000. One heavily patrolled area where over 56% of unaccompanied minors were apprehended between 2012 and 2015 was the Rio Grande Valley in Texas (CBP 2016).

Brokers in the illicit migration industry might be fashioning their services to capitalize on provisions that allow unaccompanied minors from non-contiguous countries to be initially paroled into the United States. However, for family members, the decision of which service to pick was usually merely financial. They had little or no correct knowledge of what would happen

¹⁵ Separating minors from caretakers who are *not* their parents or legal guardians has always been U.S. policy. This was the case even before family separations made the headlines in the summer of 2018 and the U.S. government started taking children away from their parents as well.

to their child after they crossed the border. For example, a Salvadoran mother recounted that, when she had time to plan ahead and save for the migration of two of her children, she paid \$7,250 for each of them to join her in Los Angeles, “*el señor delivered them to me in 8 days, and they weren’t caught by immigration or anything. They were perfect, they had been well taken care of.*” When her younger son later faced immediate danger, she paid \$5,000 to a *Coyote* for him to be taken only as far as the border because she could not afford the more expensive option. She did not have a long-term plan to bring this child to the U.S., and because she did not anticipate the risk he would be in, she only had \$2,000 in savings when the need to urgently extract him from violence arose. She had to ask for two loans to make up the rest of the money quickly, one from a bank and another from her employer. She was unaware of the protections in place for unaccompanied minors in the U.S. but she hoped that her child would be admitted. She was surprised that her son’s apprehension by the Border Patrol turned out being what she characterized as “*un beneficio*” [a benefit] because he was ultimately able to secure pro-bono legal representation and qualify for Special Immigrant Juvenile Status (SIJS) because he had been abandoned by his father. Conversely, his older siblings who were never apprehended, never interacted with the U.S. immigration bureaucracy. They were thus unaware that they might have also qualified for this form of relief, until they were too old to apply.

While the adults involved in facilitating youth migration knew about the options provided by the migration industry, they seemed to know a less about U.S. immigration laws protecting unaccompanied minors. Some youths and their family members possessed the vague notion, sometimes acquired from *Coyotes*, that they would be “let in” but they did not know that they would be put into removal proceedings and would have to apply for asylum or SIJS to avoid

deportation. Indeed, while it seemed that Coyotes played an information provision role, they did so by providing partial or incorrect information. For example, one boy told me that a Coyote explained that if he turned himself into the Border Patrol it would be “*easier to find his mom,*” which is a partial truth because ORR indeed works to reunite minors with family member sponsors. However, this information is also misleading because it makes the process seem straightforward and obscures the period of detention and the long legal battles youths face in immigration proceedings.

Families were more knowledgeable about U.S. child-specific and humanitarian laws when they had themselves interacted with the U.S. immigration bureaucracy or, even more so, when they or their neighbors or family members had already sponsored other children through the process for unaccompanied minors. In these cases, more information flowed through migrant networks. For example, a Salvadoran youth named Yesenia had parents who frequented a church where more than one congregant had recently brought their children to the United States. These children had applied for, and won, their asylum cases. As Yesenia recounted, “*my mom knew, that’s why we came like that to immigration, because otherwise, it’s harder, it’s more expensive.*” Another boy who had an older sibling who had already gone through the process was told by his U.S.-based mother to pack his birth certificate because he would need to show the Border Patrol identification and to memorize her number so he could call her from the border because, if he carried it on a piece of paper, he risked losing it during the journey.

Youths who had little or no contact with smugglers or U.S.-based family members were the least likely to know anything about asylum or the fact that they would be paroled into the U.S. as unaccompanied minors. These youths were terrified that they would be deported if apprehended

at the border. One Guatemalan youth believed that he was being kidnapped when he was transferred in a van from the holding facility at the border to the ORR shelter. He told me, “*I was scared, the whole time I was thinking, ‘where are they taking us? Are they going to steal us?’*” With lesser access to information from U.S.-based migrant networks, it is not surprising that these youths knew so little about what they were getting themselves into.

As reflected in Table 2.4, the majority of my youth interviewees had only vague, incorrect, or no knowledge of U.S. immigration law prior to migration. Indeed, most of the legal socialization, not just of newly arrived youths, but also of their undocumented family members, started with the arrival of the unaccompanied minor, as youths and their families were made to navigate the bureaucratic process that I will describe in the next chapters. These immigrants began to learn about U.S. laws and protections for unaccompanied minors upon being summoned to immigration court in Los Angeles. There, they heard presentations about the forms of relief that unaccompanied children qualify for in the U.S., which I describe in Chapter 3.

Table 2.4. Youths’ pre-migration knowledge about protections for UACs at U.S.-Mexico Border

<i>No information about US protections n=22 (49%)</i>	
<i>Some = vague and/or inaccurate understanding (40%)</i>	
Some (learned from coyote)	8
Some (learned from family)	7
Some (learned in home country - peers)	3
<i>High = concrete understanding and information is accurate (11%)</i>	
High (learned from coyote)	1
High (learned from family)	3
High (learned in home country - peers)	1

Data from n=45 formal interviews with unaccompanied minors

2.7 Concluding remarks

This chapter demonstrated how Central American youths and their families make migration decisions in contexts of violence, where exposure to risk is patterned along the dimensions of gender and age, as well as class and indigenous background. Due to the long history of Central American migration to the U.S., almost all youths eventually categorized as unaccompanied minors by the U.S. government have family members who live in the U.S. and over half migrate to join one or both of their parents. These families reunite outside of legal channels after long periods of separation because parents are undocumented immigrants without the right to reunify their loved ones and “caged into” their country of residence (Massey, Durand, and Pren 2014). This is true even when the parents of unaccompanied minors had themselves migrated to escape from violence. For the first generation of sociological refugees, the substantive refuge of political recognition and family reunification rights were denied in an asylum process characterized by an anti-Central American bias originating in the Cold War, which, to some extent, still endures to this day, and by the late and precarious recognition of domestic violence as valid grounds for asylum, only in 2014.

Violence in El Salvador, Honduras, and Guatemala is patterned along the dimensions of gender and age for both the first and second generations. Women and girls are at risk of sexual violence and physical abuse both in and outside the home. Similarly to the first generation of migrant mothers who fled abusive partners, the second generation of daughters fled domestic violence and child abuse in their homes and sexual violence at the hands of gang members. Boys are also vulnerable to domestic violence. When youths were abused at home or when they received little support for other reasons, such as when their caretakers were no longer able to

care for them due to old age and illness, this also made them more vulnerable to violence outside the home. The age of adolescence exposes youths to the risky and extremely violent reality of forcible gang recruitment, from which they are not protected by the police in their home countries. While both boys and girls may be recruited into gang activities, overall, this was more likely to be a risk for boys. Youths' adult family members are also at risk in Central America. Families are targeted for extortion requests and witnesses of crimes of all ages risk their lives. When family members are targeted this, in turn, can put youths at risk as well. In Chapter 4, we will see the contradictory ways in which individual-level youth victimization versus family-level victimization play out in U.S. asylum proceedings.

Family composition and household dynamics in these transnational families are not only consequential in shaping youths' exposure to violence but also crucial in structuring migratory strategies. Indeed, quantitative research has shown that migrant networks play an even more important role in easing constraints on migration in violent sending contexts as compared to peaceful ones (Liu 2019). I found that "strong ties" to close family based in the U.S. (Wilson 1998), in particular to parents, played a more salient role in facilitating youth migration than ties to non-parent relatives. This is unsurprising as parents will, of course, be much more likely to be involved in child rearing across borders than non-parent relatives. As a result, they will be more likely to have access to information about the circumstances of violence that affect youths' daily lives, which is necessary to help assess risk and plan migration. Yet youths do not always feel they can confide in parents because they fear reprisals from their victimizers or because the long years of geographical distance have produced emotional distance in these relationships as well.

When parents and relatives are aware of the risks youths face, they participate in planning their migration by helping youths assess risk and by providing information about the migration process, limited information on U.S. laws, and contacts and resources that allow young people inexperienced in travel to secure smuggling service and make dangerous journeys to the United States. However, these same families are living without legal status in the U.S. and, therefore, often working exploitative jobs, which means they have limited resources and savings available on short notice when the sudden need for migration arises in contexts of violence. In these cases, families plan the subsequent migration of individuals by making assessments about the degree of risk each child is in, based on their individual circumstances, age, and gender. In all of these migration decisions, time is of the essence, and when migrations cannot be quickly planned, youths must go into hiding and renounce their social existence to stay alive.

Youths who are unable to tap into resources and information provided by migrant networks are left on their own, and theirs are tales of escape based on luck, as I could discern from the many stories I heard from youths about peers, friends, and family members who had *not* been lucky enough to survive. Migrant networks and ties to close family are crucial in giving young people choices and a way to make it out of violent contexts. As a 16 year old Salvadoran girl named Carla commented, with her characteristic intelligence, *“sometimes some young people don’t have the opportunity to come all the way here [to the U.S.], so their decision is that its better to go with [the gangs], so nothing will happen to them. I think they would like to come here instead too, but since they can’t, that’s what makes them get involved.”* As we saw in the case of Hector’s friends, the other option, refusal to join, can be a death sentence.

Central American unaccompanied minors are sociological refugees who migrate in response to various forms of violence patterned by age and gender that threaten their biological and social existence. They do so after having personally suffered victimization or having witnessed the victimization of others, which leads them and their families to decide that the risks of staying in the home country are too great. Nonetheless, unaccompanied minors face arduous legal struggles to obtain political recognition as refugees. In the next two Chapters, I will show how the lived experiences of escape from violence of these *de facto* refugees clash with narrowly defined *de jure* categories of refugee and abandoned, abused, or neglected child in the United States.

Chapter 3

How Unaccompanied Minors Start Learning about the Law and Find Legal Representation

The last chapter discussed why and how Central American unaccompanied minors migrate, managing migration decisions and journeys in the context of violence in the home country and severe constraints on mobility imposed by U.S. immigration policies. I now shift focus to unaccompanied minors' experiences in the U.S., where they are *pushed* into the immigration system as soon as they arrive. Apprehended at the border without their parents, they are categorized as "Unaccompanied Alien Children" (UAC), and transferred to the custody of the Office of Refugee Resettlement (ORR), where they are temporarily detained in supposedly "child-friendly" shelters. Upon release from ORR custody to their family members, youths receive letters that initiate their formal removal proceedings, summoning them to immigration court in Los Angeles, where they start to learn about U.S. immigration law.

Removal proceedings are the formal bureaucratic process through which the State categorizes and sorts individual immigrants, channelling them into different legal categories, trajectories, and outcomes: they will either be subject to deportation or they will be considered eligible for and deserving of different forms of legal status, in the case of Central American unaccompanied minors, usually asylum and Special Immigrant Juvenile Status (SIJS). During these proceedings, the Department of Homeland Security (DHS) Trial Attorney defends the interests of the government by arguing for the deportation of the immigrant. Unaccompanied minor and adult immigrants alike are only allowed to remain if they are able to demonstrate that they qualify for exemption from deportation and legal status under humanitarian provisions of

U.S. immigration law, a complex and technical task that requires the intermediation of experts in immigration law or legal brokers (i.e., immigration attorneys and legal assistants).

Being apprehended and pushed into removal proceedings means that unaccompanied minors are more visible to the receiving country's immigration enforcement branch and at greater immediate risk of deportation as compared to undocumented immigrants who evade apprehension and may live in the shadows for years (Galli 2019a, 2019b). Yet, at the same time, this also causes youths to interact with legal brokers who can help them access legal status and to undergo a process of legal socialization as they learn about immigration law and their rights, which will contribute to shaping their "legal consciousness" or commonsense understandings of the law (Merry 1990). A key site of youths' legal socialization are introductory courses or legal orientation presentations taught by legal brokers in the Los Angeles immigration court and in non-profit legal aid organizations. Similar presentations are sometimes also previously taught in ORR shelters but, notably, very few of my youth interviewees remembered learning about the law and their rights in that space, where they instead reported learning about normative conceptions of "proper" youth behavior and deserving citizenship, as we will see in Chapter 5.

The first part of this chapter examines the "legal translation" (Lakhani 2013) work that legal brokers carry out during legal orientation presentations by explaining the eligibility criteria for asylum, SIJS, and other forms of humanitarian relief, in simple ways so they are understandable for unaccompanied minors and their sponsors. These are immigrants who obviously have no formal legal training. As we saw in Chapter 2, they generally have little or no knowledge of U.S. immigration law nor experience interacting with U.S. bureaucracies. While they are important sites of legal socialization, the free legal orientation presentations offered by non-profits are

purely informational. No number of such courses would be sufficient for unaccompanied minors to effectively represent themselves in court and secure deportation relief. This is not surprising given the formalistic legal definitions and complex bureaucratic procedures that humanitarian claimants must navigate, as we will see in Chapter 4. Research shows that having legal representation drastically increases unaccompanied minors' chances of being allowed to remain in the U.S., from 15% to 73% (TRAC 2014).

Unaccompanied minors must therefore find an attorney who will represent them in removal proceedings in immigration court, and the second part of this chapter discusses how they do so in the Los Angeles context. Unlike countries like the UK, where all asylum-seekers are represented at the expense of the government (Bohmer and Schuman 2008), immigrants in removal proceedings in the U.S. are not guaranteed access to free legal representation. Even advocates' attempts to argue that all immigrant *children* should have the right to government funded legal representation have failed on multiple occasions, including, most recently, in 2018, when a lawsuit filed by the American Civil Liberties Union (ACLU) was denied by the 9th Circuit Court (C.J.L.G. v. Sessions). While some cities like New York have stepped up to locally provide universal legal representation (Vera 2018), no such system exists at the federal level, and Los Angeles does not have a universal representation program. At the same time, however, the creation of the UAC legal category and the corresponding special protections for this group of immigrant children in U.S. immigration law, combined with the existence LA County, California State, and Federal funding for the legal representation of this specific population, has fostered the development of a professional field of legal brokers specialized in working with unaccompanied minors. Because of this funding and the existence of a network of legal advocates dating back to

the Sanctuary Movement of the 1980s, Los Angeles is relatively rich in non-profit legal service providers, as compared to other parts of the country. Indeed, 64% of unaccompanied minors whose cases were pending in the Los Angeles immigration court were represented by attorneys, compared to a national average of 56% (TRAC 2017). Nonetheless, even in Los Angeles, unaccompanied minors' demand for legal services continues to exceed the supply.

Past sociolegal studies have analyzed how legal brokers mediate immigrants' access to legal status. Some scholars have highlighted the role of legal brokers in facilitating or expanding access to relief (Lakhani 2013, 20124, Coutin 2000, Hagan and Baker 1993). Others have instead shown that legal brokers and other actors in the humanitarian field may limit access to relief and perpetuate a restrictive humanitarian system that is compatible with the State's goals of immigration control (Bhuyan 2008, Villalon 2010, Ticktin 2011, Fassin 2012, Augustin 2010). In the former examples, legal brokers act as "critics of the law" and, in the latter, they work as "agents of the law" who, respectively, either challenge or reinforce existing legal categories (Coutin 2000). What these studies have not considered is how resource constraints and organizational practices shape lawyering strategies and immigrants' chances of securing legal representation and legal status on humanitarian grounds.

This chapter demonstrates how non-profit legal service providers manage the limited resources available for the representation of immigrants by implementing two organizational models to select their unaccompanied minor clients, which, in turn, have different implications for youths' access to relief. The first is the *triage model*, where lawyers select the cases that are both most likely to be successful (i.e., "strong cases") and the most "compelling," an evaluation that reflects a U.S.-centric system of values and expectations about childhood, refugeehood, and

agency. The second is the *quasi universal representation model*, where the client is either assigned or able to choose the organization that represents them, and the eligibility bar for taking cases is low, in other words, cases have to be eligible but not necessarily “strong.” I argue that the *triage model* exacerbates the limited compassion of “discretionary humanitarianism” in the immigration system (Fassin 2011), where only the most severe cases of suffering, which have the most “humanitarian capital” (Galli 2019a), are deemed meritorious, not just of legal status, but also of access to free legal representation. Taken together, resource constraints and an organizational model based on *triage* make it more difficult to find an attorney and to apply for relief for older teenagers and for those whose lived experiences do not conform to subjective evaluations of deservingness and to existing narrow interpretations of the legal categories of refugee and abandoned, abused, or neglected child.

3.1 Legal Translation during Orientation Presentations: Teaching Youths about the Law

During legal orientation presentations, legal brokers from non-profit organizations introduced youths and their families to their rights and obligations under U.S. immigration law, explaining what immigration proceedings are, what types of relief from deportation unaccompanied minors are commonly eligible for, and providing advice on how to find an attorney. One morning, the juvenile docket of the Los Angeles immigration courtroom, where immigration judges hear only the cases of unaccompanied minors, was characteristically packed. Fourteen youths sat in the benches, as well as several adults who were accompanying them, most of whom were their ORR family members sponsors. A few others, smartly dressed in suits, were the immigration attorneys representing youths who had already secured legal representation. Before the judge entered the

courtroom to hear the cases on the docket that day, a legal broker from a local non-profit started off the presentation, in Spanish, by asking, “*do any of you know what it means to be in removal proceedings?*” After a moment of silence, one of the adults in the courtroom suggested, “*they send you back to your country?*” Nodding in agreement, the legal broker explained, “*basically, the government says young people can’t stay or, maybe, they could stay, if they qualify.*”

The legal broker next proceeded to introduce the different bureaucrats that would take part in this important decision, by pointing out who sits where in the courtroom. At the central stand, the immigration judge sits in the middle, the interpreter sits to the right, and the clerk to the left. On one end of the courtroom is the desk where the DHS Trial Attorney sits. Discussing the role of each of these bureaucrats, the legal broker noted, “*don’t be afraid of the Judge. The Judge works for the Justice Department and not for immigration. [...] the government’s attorney is the one making an argument for la Migra,¹⁶ arguing that you should be expelled.*” Next, the legal broker pointed out the table at the other end of the courtroom, which had two large sets of earphones on it and three chairs around it, explaining that this would be where the minor would sit, alongside her attorney and sponsor, listening to the proceedings through the interpreter’s translation.

Presentations like this one first focused on the *obligations* of unaccompanied minors and their sponsors vis-à-vis the state. The importance of showing up to immigration court was particularly emphasized. Indeed, this obligation is part of the contract that sponsors sign with ORR to obtain custody of their children. The onus of going to court is placed on the adult sponsors rather than on the youth. While immigration judges often waived the presence of minors after they attended court for the first time, if sponsors missed court, the minor could

¹⁶ *La Migra* is a Spanish slang term for the US immigration enforcement branch.

receive a deportation order in absentia.¹⁷ This requirement was a source of preoccupation for family member sponsors, the vast majority of whom were undocumented, particularly during the Trump administration, as spaces immigrants previously assumed to be safe became potential targets for raids. For example, soon after Trump was elected, Kevin’s mother Maria, who we met in Chapter 2, suddenly became fearful of accompanying her son to court. Maria was a confident and talkative woman who, despite being undocumented, and thus by definition vulnerable to deportation, initially seemed comfortable with her life in the United States. Displaying a new preoccupation at the prospect of her first appointment in court under newly elected President Trump, Maria asked her son’s attorney, *“Can’t I send a family member with him?”* She knew Kevin could be ordered deported if she did not show up but she was now worried that going to court might result in her own deportation and separation, not just from Kevin, but also from her U.S.-born children. Maria was especially worried since she had a *“record”* with immigration, and she had been ordered deported in absentia herself in the past.

Kevin’s lawyer offered little in terms of reassurance, telling Maria that she could only miss court with *“a good excuse, like if you’re really sick.”* Attorneys who represent unaccompanied minors cannot give legal advice to their parents or sponsors. Oftentimes, the interests of these two parties are at odds with each other. In this case, protecting the son meant exposing the mother. Thus, instead of providing legal advice, attorneys limited themselves to acknowledging the catch-22 situation parents found themselves in. That day, the lawyer told Maria, *“ICE has been to court, so I can’t tell you that you’ll be fine. But if the judge said so, you have to go.”*

¹⁷ A deportation order can be issued “in absentia” when the respondent does not show up for court. This is, essentially, formal warrant for the immigrants’ apprehension and deportation. Once unaccompanied minors turn 18, they are expected to attend court themselves. If minors find an attorney to represent them, the judge may decide to waive their presence and allow the attorney to attend instead.

Later on during the Trump presidency, when the initial surge of anxiety in the immigrant community became somewhat subdued as they grew accustomed to living in the new “normal” of heightened uncertainty and risk, legal brokers might also provide imperfect reassurances that sponsors would be fine, such as, “*we always go to court and we have never seen anything happen.*” In other cases, instead of providing reassurance, legal brokers pressured parents into complying with phrases like, “*if the minor doesn’t show up, and he gets a deportation, when they come looking for him, it can put the whole family at risk if they don’t have papers.*”

This seemed to play into immigrants’ fear, positioning the work of legal brokers as *agents of the law*, who not only reinforce narrow legal categories but can also work as intermediaries who help impose state power and scrutiny on immigrants’ lives. Legal intermediaries used a combination of care/reassurance and fear/control to encourage youths’ and sponsors’ compliance with immigration law and with the expectations of the state. This was a common thread throughout my data, and it reflects the contradictions inherent in the context of reception characterized by both the exclusion, enforcement laws, and “legal violence” (Menjivar and Abrego 2012) that target most adults, and by partial exemptions from this punitive approach for unaccompanied minors and asylum-seekers (i.e., the space of protection).

During legal orientation presentations, legal brokers next introduced immigrant youths and their families to courtroom etiquette, in other words, how they would be expected to behave when attending court. Immigrants were told to speak clearly, not have side conversations, to be punctual and not “*arrive running or all sweaty,*” and to never eat, drink or chew gum in court. In sum, legal brokers told immigrants to adopt a demeanor of respect for the adjudicators in this institutional space that would exercise so much power over their lives and decide whether they

would be allowed to stay in the U.S. and be considered worthy new members of the polity. These presentations were also among the first of many times that youths would hear recommendations about how to dress in these formal spaces, including this advice that I heard repeated over and over during the course of my fieldwork, *“dress as if you are going to church.”*

During one presentation in a legal clinic in Los Angeles, a volunteer showed a room full of teenagers a PowerPoint presentation with a picture of a young, light-skinned boy, who looked about 8 years old, wearing khaki pants and a blue polo shirt. She suggested that this young man was a model for how to dress appropriately, while clothing such as low-cut shirts, ripped jeans, shorts, and baseball caps, should be avoided. The subtext was that those items signaled deviant or sexually provocative youth behavior. Clothing choices should instead convey an image of a “good,” well behaved, conservative citizen, who is as child-like as possible. In providing these recommendations, legal brokers forewarned youths about the assumptions they believed adjudicators were likely to make about them, in particular as teenagers in a liminal state between childhood and adulthood and as Latinx youths who are easily criminalized in the U.S. context. Aesthetic and performative considerations can indeed factor into the subjective element inherent in discretionary humanitarian adjudication (Noll 2005, Ticktin 2011).

On a different slide, the PowerPoint presentation featured a cartoon image of Pinocchio. Pointing to the screen, the volunteer asked the crowd, *“why do we have Pinocchio here?”* There was silence in the room. *“Because it’s very important that you say the truth. The judges have been doing their jobs for a long time, and they are going to know if you lie to them, and everything is being recorded.”* The importance of telling the truth is stressed, not only during these presentations, but in several spaces, including: the U.S.-Mexico border, where border patrol

officers question the veracity of unaccompanied minors' age; in ORR shelters; on the contracts youths sign to hire immigration lawyers; during youths' meetings with legal brokers when their asylum declarations and SIJS testimonies are prepared; at the asylum office; and in immigration court. Legal intermediaries warn youths not to lie by mistake by trying to "guess" the answer to the judge's question because this could produce inconsistencies in the record that may later be interpreted as a lack of credibility, which can be grounds for denial in asylum proceedings. As we will see in Chapter 5, the continuous reiteration of this message to newly arrived immigrant youths leads them to internalize the idea that state bureaucrats perceive them as suspicious actors, who are assumed to be lying unless proven otherwise.

In addition to transmitting information about legal obligations and the behavior expected from deserving future citizens, these presentations taught newly arrived immigrant youths and their family member sponsors about the rights and protections afforded to them under U.S. immigration law. In this way, legal brokers carried out legal translation work to make formalistic legal definitions intelligible to immigrant youth and adults with no formal legal training and little prior access to accurate information about U.S. laws. Legal brokers explained the complex and evolving provisions of immigration law by using short stories as examples of circumstances that might qualify youth for each type of relief. These intuitive strategies allowed youths to begin thinking about the work that lawyers do, in other words, matching their lived experiences of suffering with the formal requisites of legal categories, and to learn what forms of relief they might be eligible for. Because these legal orientation presentations were catered specifically to unaccompanied minors, legal intermediaries first discussed the two forms of relief these youths are most commonly eligible for, asylum and SIJS, followed by those that less youths generally

qualified for, the T-visa, U-visa, and family reunification. Following the order used by legal brokers, I will now highlight how they translated eligibility criteria for each legal category.

Asylum was incorporated into U.S. domestic law with the 1980 Refugee Act, which defines *de jure* refugees as: “*individuals unable or unwilling to return to [...] their home country because of persecution or a well-founded fear of persecution on account of their race, religion, nationality, political opinion or membership in a particular social group.*” During one legal aid presentation, a legal broker “translated” this formalistic legal definition in these simple words:

“we hear a lot about asylum but, perhaps, this is the most complicated. To qualify, I need to be afraid because I was harmed or I would be harmed if I return to my country [...] Careful! The reason for the harm is important! It needs to be a protected reason. For example, if you are indigenous, if you have a specific religion, if you are suffering because you are someone’s son, because of your sexual orientation, because you are part of a political family.”

The legal broker first outlined a key concept in asylum law: fear of return to one’s home country. This concept was straightforward and intuitive for youths because it connected directly with their lived experiences of escape from violence, described in Chapter 2. However, the legal intermediary also cautioned that qualifying for asylum would be far more “*complicated,*” explaining that fear of return, by itself, is not sufficient to qualify. Instead, the reason *why* youths are afraid must fit into one of the five protected grounds under asylum law, which the legal broker exemplified as follows: political opinion (“*you are part of a political family*”); race (“*you are indigenous*”); membership in a particular social group (PSG) (“*because of your sexual orientation,*” “*if you are suffering because you are someone’s son*”).

The particular social group (PSG) eligibility grounds is especially ambiguous and difficult to “translate” because definitions of PSGs are constantly evolving, and U.S. case law determines which kinds of experiences of escape from violence are eligible. Central American asylum-

seekers, both youths and adults, are by far most likely to apply for asylum under the PSG grounds, which is one of the reasons why preparing their asylum-cases is so challenging. The legal broker mentioned the example of the sexual orientation PSG because U.S. case law for LBGTQ+ claimants has been particularly favorable (Vogler 2016). However, this PSG does not apply to many unaccompanied minors. As we will see in Chapter 4, the two most commonly used and successful PSGs for unaccompanied minors' asylum claims were family membership and domestic violence. Indeed, the legal broker above also mentioned the family membership PSG, or as she put it, *“if you are suffering because you are someone's son.”* She provided an explanation of family membership asylum eligibility by using this fictional story:

“Carlota's family suffers violence from the “mara roja” [fictional red gang], they threaten them and say they will kill them if they don't pay an extortion fee. The family denounces the threats to the police but the police does nothing. The mara burns Carlota's house down and her mom and sister die. What does Carlota qualify for?”

The fictional Carlota is harmed because her family was targeted, and she continues to be at risk because she is a member of this family. At the time of this presentation, in 2018, a case like this based on family membership was likely to succeed at the asylum office. Providing this information in all introductory presentations was helpful but it also had the unintended effect of reifying child-specific interpretations of U.S. asylum law, which ignore youth agency and instead reward the passive victim, the child who is dependent on her family, even when it comes to the cause of the persecution she suffers. While it is true that some youths are at risk because their family members are targeted, we saw in Chapter 2 that many youths are instead personally targeted by the *maras*, precisely due to their age. In the example above, the legal intermediary paints a picture of Carlota as a child with no agency or even protagonism in the story, the most

salient characteristic being that she suffered harm indirectly because her mother and sister were harmed. In the next chapter, I will demonstrate how lawyers frame unaccompanied minors' cases and construct PSGs to argue that youths' lived experiences fit under the protected grounds of asylum law, privileging particular "types" of suffering that reinforce Western constructions of childhood as a time of dependency and lack of agency. In doing so, they act as *agents of the law*.

Special Immigrant Juvenile Status (SIJS) is the other form of relief that unaccompanied minors most commonly apply for. It provides protection for unmarried immigrant children under age 21 who have been abandoned, abused or neglected by both of their parents –or to children under age 18 if abandoned, etc. by one parent –, for whom reunification with their parent(s) in the home country is not in the *child's best interest*. The SIJS application is a complex process that involves a two-steps in different bureaucracies, State-level family courts and Federal-level immigration agencies, and combines State (in this case, California) child welfare laws with Federal immigration law. Without going into the intricacies of all the complex steps involved in applying for this form of relief, legal intermediaries focused on "translating" the key eligibility criteria for SIJS, which they referred to, in Spanish, as *la visa juvenil* (the youth visa).

They used fictional examples to describe the three eligibility categories –abandonment, abuse, or neglect– as defined under California law. With these stories, legal brokers described a series of home country situations and scenarios and prompted Central American youths and their family members to rethink what a "normal" childhood should look like, under the legal frame of *best interest of the child*. For instance, one legal broker explained neglect by using an example of child labor and parents described as clearly irresponsible: "*Juanito left school when he was 9. We have a little kid like this* [makes a gesture of a short child's height with his hand], *working in the*

fields in dangerous conditions, with a machete, cutting himself. When he gets home, his dad is drunk [...] I know in some countries it's common for minors to work but, here in the U.S., it's illegal." Another fictional story reflected the abuse and abandonment eligibility categories: *"Carlos' mom died when he was little and his dad drank a lot of alcohol and did not work. He hit Carlos when he got drunk. In Carlos' country it's normal for parents to hit their kids and the police does nothing. What does he qualify for?"*

An older man who was listening to the presentation offered asylum as an answer, explaining, *"because he's scared of going back."* Reflecting his understanding of the fear of return concept introduced earlier in the presentation, this man thought that fictional Carlos qualifies for asylum because he fears returning to the country where he was abused. However, the legal broker corrected the man, asking, *"but is there a reason for the persecution?"* The group of immigrants listening to the presentation that day answered, *"no,"* in chorus, and the legal broker explained that this would be a stronger SIJS case because fictional Carlos was abused by his dad and because his mom died, which can be considered abandonment under California law.

This conversation took place during a legal orientation presentation in 2018, soon after Attorney General Jeff Sessions issued his decision in *Matter of A-B-*, which overturned existing asylum case law that had been in place since 2014 with *Matter of A-R-C-G-*, disqualifying domestic violence as a valid grounds for asylum for women and children. If the presentation had taken place just weeks earlier, the man's answer would have been correct, as abuse had indeed been a valid grounds for asylum for immigrant children. Indeed, in addition to translating legal categories in U.S. immigration law so they would be comprehensible to immigrants, the uncertain legal context under Trump required legal brokers to transmit complex information

about changes in the interpretations of these categories and quickly evolving case law to immigrants. It was challenging for attorneys themselves to keep up with constant changes in policy implementation and case law, which were taking place at an exhausting speed. These changes made the already complex issue of asylum eligibility immensely more difficult to grasp for immigrants. Under Trump, asylum-seeking youth were provided with more cautious assessments of the likely outcomes of their cases and more ambiguous explanations of the law from their lawyers. For example, after the Matter of A-B- decision, a legal broker thus discussed domestic violence and asylum eligibility during a legal orientation presentation, *“this is a complicated case because the law used to allow one to qualify [for asylum] based on domestic violence. We are optimistic that this might still work. So, if anything like this happened to you, make sure you tell your attorney.”*

Finally, the last three forms of relief that were only very briefly touched upon at the end of legal orientation presentations were the ones Central American unaccompanied minors were least likely to qualify for: the T-visa for victims of trafficking; the U-visa for victims of crimes committed in the U.S. who cooperate with and help law enforcement to prosecute their victimizer; and family reunification. Legal brokers explained the T-visa through examples, such as, *“if you were forced to come to the U.S. based on threats or lies and forced to work or have sex,”* and, *“sometimes coyotes force young people to transport drugs.”* In the presentations I observed, no youths ever thought they were eligible for the T-visa, nor did they request additional information about this type of relief. Indeed, the T-visa is an underused path to legal status for immigrants of all ages, and it is currently the only humanitarian category in U.S. immigration law with no backlog because the numbers of applications do not exceed the

availability of visas. According to my attorney interviewees, applying for the T-visa is uncommon for all immigrants, including Central American unaccompanied minors, due to the challenges involved in satisfying the trafficking definition, which requires part of the trafficking to have occurred in the United States.

The fictional examples legal brokers used to describe U-Visa eligibility were like this one: *“what happens sometimes is that young people haven’t suffered as victims of a crime but their parents or older siblings did. So, if Juanito’s mom suffered domestic violence and she’s bleeding [...] if she qualifies [for the U-Visa], then Juanito qualifies too.”* Reflecting a denial of youth agency similar to that of the asylum example of fictional Carlota above, once again, the youth is not the protagonist of the story. Instead, Juanito qualifies as a dependent of his victimized mother. Interestingly, during the course of my fieldwork, I never met recently arrived unaccompanied minors who had applied for the U-Visa through their parents who had been victimized in the United States. Conversely, I met five unaccompanied minors who were eligible for the U-Visa because they had *themselves* been victims of crime.¹⁸ These were teenage boys who lived in dangerous neighborhoods and who had been mugged or assaulted with a weapon or aggressively bullied by local gangs in their schools in Los Angeles. While the example of Carlota reflects the child-specific biases of existing U.S. asylum case law, it was unclear to me why the intermediary would choose this adult-centric story in the case of the U-Visa, while talking to a room full of teenagers just as likely to be victims of crime as adults.

¹⁸ These youths usually nonetheless applied for another form of relief (asylum or SIJS) even if they were eligible for the U-Visa. Their lawyers recommended this because of the lengthiness of that application process; it could take about 10 years to become a permanent resident through the U-Visa process.

As the form of relief unaccompanied minors were by far the least likely to qualify for, due to the curtailed paths to legal status and the denial of refugee recognition for past generations of Central Americans in the U.S. discussed in Chapter 2, family reunification was glossed over only very briefly at the end of these presentations. Legal brokers only mentioned family reunification to clarify who was *not* eligible. They explained that non-parent family members who became youths' ORR sponsors, and who were thus both entrusted with caring for youths and legally responsible for them vis-à-vis the immigration bureaucracy, were nonetheless ineligible to legally reunify them. This was true even in cases when these non-parent sponsors were legal permanent residents or U.S. citizens. This reflects how U.S. family reunification policies reify nuclear conceptions of the biological family (Menjivar, Abrego and Schmalzbauer 2016) that usually clash with the transnational families that Central American unaccompanied minors are part of, which often do not include both biological parents and in which other relatives on both sides of the border are often entrusted with caring for youths (Tables 2.1, 2.2, and 2.3).

3.2 Securing legal representation: supply and demand in the Los Angeles context

Legal orientation presentations ended with advice on how to find legal representation. One morning in the Los Angeles immigration court, a legal broker asked for a show of hands to see how many minors present in the courtroom did not yet have an attorney. Most youths raised their hands. The legal broker handed out two sheets of paper to them, a flyer with a list of free nonprofit and private Los Angeles based legal service providers and a green form. She explained, *“those of you who do not have an attorney, the judge will ask you if you want an extension. Say yes. This can be a long or short amount of time, it depends on the judge. If the judge tells you*

that you have court in three months, do not wait until the last day to look for a lawyer. Try this afternoon! You should try to contact at least one lawyer every day.” Lifting up the green form so everyone in the courtroom could see it, she added, *“this is a tool that we’ve created that the judges accept. Each time you try to contact an attorney, write it down on this piece of paper, so you can show the judge. So, if the judge tells you to come back to court in one month, how many lawyers should you try to contact?”* An older woman sitting in the benches –one of the minor’s sponsors– replied, *“2 or 3 at most.”* Like a teacher running out of patience, the legal broker corrected her, *“no! 30 attorneys, you should try a different one each day. In Los Angeles there are resources but it is not easy, you have to make an effort.”*

Legal brokers created the green form to help immigrants without legal representation successfully ask the immigration judge for a continuance so they would have more time to find an attorney to prepare their cases. Since its validity had been negotiated with the judges on the juvenile dockets, the green form was an effective means for immigrants without legal training or assistance to document their efforts at contacting different attorneys in a formalized way tangible in the realm of immigration law, where “papereality” (Dery 1998) serves to lend legitimacy to what immigrants say and do. Asking family members sponsors to spend time each day adding names to the green form was a means to encourage them to secure legal representation for the children in their care. It also reflected the new salience the law would suddenly take in the everyday lives of these undocumented immigrants who had previously hid from the immigration branch of the state and were now being told to completely shift their mindset to act as brokers in their children’s applications for humanitarian relief.

The urgency legal brokers transmitted in these presentation was not unwarranted. While Los Angeles is a relatively favorable receiving context for unaccompanied minors as compared to other parts of the country, the demand for free legal services still exceeds the supply. Local legal aid organizations that provide free representation almost always had long wait lists to take on new cases. This is not surprising since Los Angeles County is the main destination for unaccompanied minors in the U.S., and the Los Angeles immigration court has a significant backlog. The backlog increased significantly during the time of my research from just under 51,000 cases when I started fieldwork in 2015, to 79,721 pending cases in 2019, about half of which were cases of unaccompanied minors and adults from El Salvador, Honduras, and Guatemala (TRAC 2020). Throughout this time, legal aid organizations struggled with high volumes of cases.

Finding legal representation while avoiding falling victim to fraud and malpractice, like we saw in the example of Gael's mother Larissa in Chapter 2, was challenging for unaccompanied minors and their sponsors. Misinformation and rumors circulated in immigrant communities about which lawyers should be considered competent and trustworthy. For example, it was rumored that free legal services were not high quality and that, if attorneys were being paid, they would pay more attention to the case and obtain relief more quickly. Indeed, the legal orientation presentations addressed this rumor directly; one lawyer thus reassured immigrants that lawyers working at non-profits, *"do have a salary, we just don't charge anything to our clients, or we charge a small amount."* During legal orientation presentations, legal brokers handed out lists of *"abogados de confianza"* (lawyers you can trust). Both legal brokers in non-profits and immigration judges stressed that immigrants should ask attorneys to show them their Bar license

cards to make sure they were not hiring *notarios*, actors who charge immigrants to fill out legal applications, without a law degree or authorization to practice law. Hiring *notarios* can cause immigrants who might otherwise obtain legal status to file applications incorrectly, to be found ineligible for relief, and, potentially, to be fast tracked for deportation. Nonetheless, over the course of four years of fieldwork, I never saw youths or their relatives ask attorneys to provide credentials or otherwise verify their competence to take on their case.

Like adults, unaccompanied minors can obtain three types of legal representation: pro-bono, low-bono, and full price services at private practice (Table 3.1). Pro-bono legal representation is completely free and provided by attorneys on staff at non-profit legal aid organizations funded by a combination of public and private funds, or by volunteer attorneys who work in private practice and take on cases under the supervision of a managing attorney at the non-profit. The latter are less experienced private practitioners who take on the cases of children to learn about new aspects of the law and/or for humanitarian motivations. During interviews, lawyers pointed out some of the challenges of coordinating these volunteers to whom they had to provide training so they could successfully represent new and unfamiliar cases. They noted this could be a waste of resources because some pro-bono volunteer attorneys tired of and abandoned the cases assigned to them, which were taking increasing amounts of time to be resolved.

Low-bono legal representation is carried out by non-profits or individual attorneys motivated by humanitarian and social justice concerns rather than profit. These legal brokers charged small fees to clients, usually much less than what attorneys in private practice would charge. Nonetheless, covering even those lower fees could still be challenging for immigrant families who had just paid significant amounts of money to brokers in the illicit migration

industry (i.e., *Coyotes*) for their children’s trips to the U.S., which could range from \$3,000 to \$10,000 per person, as we saw in Chapter 2. Particularly for unaccompanied minors who did not count on any financial support from their U.S.-based relatives, even paying for low-bono legal representation by themselves was a significant struggle and an additional burden in their already challenging lives as new immigrants in Los Angeles. To give one example of the price of low-bono legal services, in 2015, an asylum application for an unaccompanied minor cost \$700, plus a \$250 fee each time the attorney attended court with or on behalf of the youth. Youths unable to access pro-bono or low-bono legal representation had no other option but to hire attorneys in private practice, who could charge between \$2,500 to \$4,000 to prepare an application or even just one component of an application. For example, they might prepare just the asylum office component of an asylum claim, but not the appeal if the case was denied, or just half of a SIJS case, either the USCIS component or the California State court component. These were prohibitive amounts of money for most unaccompanied minors and their families.

Table 3.1 Types of legal services that unaccompanied minors can access

	Who offers it?	Cost
Pro-bono representation	Non-profit organizations that employ full time legal staff and/or supervise attorney volunteers	Entirely free or free except for some fees paid directly to the government
Low-bono representation	Non-profit organizations that employ full time legal staff and/or supervise attorney volunteers Individual attorneys motivated by humanitarian considerations rather than profit	Fees paid to government and legal service provider (affordable relative to private practice)
Full price services	Individual attorneys in private practice motivated by profit	Extremely costly for unaccompanied minors

In the absence of funding for universal legal representation for immigrants in removal proceedings, non-profit legal aid organizations have to find ways to distribute the scarce resources at their disposal to represent unaccompanied minors. I found that they do so by selecting their clients through two different organizational models: the *quasi-universal representation model* and the *triage model*. The *quasi-universal representation model* meant that organizations selected clients using a low eligibility bar, in other words cases needed to be eligible for relief but not necessarily “strong” (i.e., deemed likely to win relief). For asylum, this essentially meant not having a frivolous case: if youths claimed a fear of returning to their home country, this was considered sufficient to apply. For SIJS, any eligible experience of abuse, abandonment, or neglect would be considered enough to apply. Low-bono legal service providers adopted this model, taking on all clients who could afford to pay their reduced services fees and who met the low eligibility bar. Youths were usually connected with these legal services providers by friends, family, and members of their communities, church, or neighborhood who had themselves used these legal services, for example, to apply for or renew their TPS status.

Pro-bono legal service providers adopted either the *quasi-universal representation model* or the *triage model*. When they used the former, organizations sometimes had contracts with certain ORR shelters that connected them with unaccompanied minors detained there who would thus become their clients. In these cases, youths’ access to an attorney hinged somewhat on luck, depending what shelter they were assigned to, which, in turn, usually depended merely on the availability of beds in a certain shelter at any given moment.¹⁹ Similarly, some funding sources limited pro-bono service providers to serving only clients that resided in a certain area. For

¹⁹ Unaccompanied minors are also sorted into 3 different types of shelters ranging from high to low security, for more on this, see Terrio (2015).

example, organizations using the LA Justice Fund could only represent clients who lived in certain zip codes in Los Angeles, making access to legal representation contingent on where unaccompanied minors' sponsors lived. Yet immigrants from many other parts of Southern California also attend court in Los Angeles, and, for them, securing legal aid was more challenging due to these organizational constraints and the need to travel longer distances to access services and attend court. Unaccompanied minors released to sponsors in similarly underserved parts of the country also clearly face these struggles.

Despite these limitations, organizations implementing the *quasi-universal representation model* were able to represent unaccompanied minors with an array of diverse experiences who could apply for relief if they met the low eligibility bar, as determined in initial screenings. Lawyers working in organizations that adopted the *quasi-universal representation model* were thus enabled and more likely to work as *critics of the law*, engaging in creative lawyering by filing cases that did not necessarily closely correspond to pre-existing case law. This strategy allowed legal brokers to manage risk and protect their clients who risked deportation and feared for their lives if returned to their home countries by, at the very least, trying to buy them some time during which they could safely live in the U.S. or by trying to obtain some lesser level of temporary protection for them (Galli 2019a). Indeed, during the Obama administration, in 2015 and 2016, Central American families and minors who did not win their asylum or SIJS cases could still qualify for a form of Prosecutorial Discretion that allowed them to stay in the U.S. on a temporary basis with a renewable two year work and residency permit if the immigration judge found their cases to have merit on humanitarian or other grounds. Filing “weaker” cases thus also had the benefit of facilitating access to at least temporary deportation relief for certain clients.

Further, this approach allowed legal brokers to file asylum cases that challenged narrow interpretations of U.S. asylum law in hopes of creating new expansive precedents in case law to obtain political recognition for lived experiences of escape from violence that were previously discounted. They could also file new and different types of SIJS cases with the goal of increasing the scope of *best interest of the child* considerations in U.S. immigration law. Working as *critics of the law*, attorneys who implemented the *quasi-universal representation model* in pro-bono and low-bono legal aid organizations were able to try to expand the space of protection for unaccompanied minors and asylum-seekers. Representing the cases of those who feared returning to their home countries because they escaped from violence, these legal brokers effectively adopted an outlook that corresponded to the sociological refugee definition and gave those individuals a chance to seek asylum. As one lawyer working at this kind of organization noted, “*we try to get as creative as possible to fit into this very rigid law we have.*”

Conversely, the *triage model* involved managing limited resources for the legal representation of immigrants by identifying and selecting those clients who, based on assessments made during brief interviews, were perceived to be most likely to succeed in their claims for humanitarian protection vis-à-vis the state (i.e., “strong cases”) and otherwise deserving of compassion. This model resembled the practice of medical practitioners who manage their patients by “*assessing severity*” and “*deciding what suffering needs to be taken care of first and with what resources*” (Farmer 2017). Attorneys determined whether each case was more or less likely to acquire legal status –“strong” or “weak”– based on an evaluation of what I call the immigrants’ “humanitarian capital,” a form of symbolic capital that is activated relationally as legal brokers recognize specific instances of immigrant suffering and give them

value to prepare claims so suffering is legible to adjudicators in the immigration bureaucracy (Galli 2019a). “Symbolic capital” can be defined as those resources that exist because they are “*perceived by social agents endowed with categories of perception, which cause them to know [them], recognize [them], and give [them] value*” (Bourdieu 1998, 47). Legal brokers assessed each immigrant’s humanitarian capital by drawing on their professional knowledge to mine formal legal definitions but also by anticipating the subjective element characteristic of humanitarian adjudication. For unaccompanied minors, these assessments reflected and reified culturally specific conceptions of innocent, passive children who are seen as deserving of compassion as opposed to agentic teenagers who are deemed to be deviant and undeserving.

While most of my observations of case preparation took place in organizations using the *quasi-universal representation* model, I was able to observe eligibility screenings (and client selection) using both organizational models. The contrast between the two highlighted how resource constraints shape lawyering practices and youths’ access to legal representation. In the *triage model*, eligibility screenings were high-stakes encounters during which youths needed to disclose as much information as possible in a short amount of time to convince legal brokers to take on their cases. Thus, youths’ lived experiences of suffering were important, not just when their humanitarian petitions for legal status were being assessed by adjudicators, but also previously during these eligibility screenings, as legal brokers selected clients based on the amount of “humanitarian capital” they were deemed to possess. This not only exacerbated the victimizing and infantilizing aspects of legal brokerage with immigrant youths but it also had the effect of commodifying youths’ suffering, which became a currency of sorts that could “buy” them access to the scarce and coveted good of free legal representation. To implement the *triage*

model, legal brokers did two things during very short interviews, usually lasting no more than 10 minutes: (1) they determined whether the youth was eligible for relief by matching her lived experiences to formal legal categories; (2) they decided whether to take the case.

To illustrate this process, I present the case of Jonathan and Darwin, two siblings from El Salvador who migrated at ages 17 and 16 to join their mother, an undocumented immigrant who had been living in Los Angeles for many years. Having arrived as an unaccompanied minor, Jonathan turned 18 on the day he was released from ORR custody to his mother. The siblings were interviewed to determine their eligibility for relief just two months after they arrived in Los Angeles. The paralegal interviewed the eldest sibling first and the youngest second. Both boys told us the same story about why they left: they were living with their grandmother who became too elderly and ill to care for them. When, their aunt took them in, they changed neighborhoods, which exposed them to threats and forcible recruitment from the gangs. Their mother tried to protect them from the U.S. by moving them from the dangerous public school to an expensive private school but, even so, they continued to receive threats. The gangs approached them to recruit them on two occasions, threatening that there would be repercussions if, on the third attempt, they did not join. As Darwin recounted, attempting to state the unspeakable, *“they warned us, they said that we knew what was going to happen to us if we refused a third time [...] we saw cases that didn’t end well, so we decided to come here.”* This account clearly suggests that the siblings received some kind of threat but, as is often the case, they were both initially reticent to describe this explicitly as a death threat. It was frightening for youths to relive these moments and verbalize the interactions that caused them to flee, fearing for their lives. After hearing this story from each sibling, in turn, the paralegal asked them these follow up questions:

To Jonathan - the 18 year old.

Paralegal: *Did they [gang members] ever hit you?*

Jonathan: *No, but once they came to our house, they were outside screaming, and I was too afraid to go out.*

Paralegal: *What was your relationship like with your grandma?*

Jonathan: *She was like our second mom. We told her everything, we haven't talked in the past two months because she died.*

Paralegal: *I'm sorry.*

Jonathan: *Thank you [keeps talking]. She was like our mom. My dad never helped us.*

Paralegal: *Did you ever work?*

Jonathan: *Sometimes, in a bread shop, just to pay for our books. [...]*

Paralegal: *So you never met your dad?*

Jonathan: *We know who he is but he never helped us, we never had a relationship.*

Paralegal: *Did anyone else hurt you?*

Jonathan: *No.*

Paralegal: *Are you scared to go back to your country?*

Jonathan: *Yes, that's part of why I don't want to go back.*

Paralegal: *It's difficult now to get asylum based on gangs, you're going to need police reports about what happened, or news reports, or you're going to need to talk about other people that you know, someone in your family who went through similar things.*

To Darwin - the 17 year old.

Paralegal: *When the gangs threatened you, did they have weapons?*

Darwin: *Yeah.*

Paralegal: *Where is your dad?*

Darwin: *No idea.*

Paralegal: *You never met him?*

Darwin: *Yeah, I've met him but he's never helped us. Ever since I can remember, it's just been my mom who helps us. He even had a letter prepared to say that he wasn't going to take responsibility for us.*

Paralegal: *You could have an asylum case but right now cases based on the gangs are really hard because a lot of people come for the same reason and it needs to be due to something particular.*

Darwin [interrupting]: *Yes, but like I was telling you, our grandmother who took care of us, she died.*

Paralegal: *That could qualify you for SIJS. You have 1 year to apply before you turn 18.*

The first set of questions the paralegal asked (*did they ever hit you? when the gangs threatened you, did they have weapons?*) served the purpose of *quantifying suffering* to assess the

brother's "humanitarian capital" by determining the degree or amount of instances of victimization that the two brothers suffered at the hands of the gangs and determine their asylum eligibility. The paralegal was assessing whether the siblings' *amount* of suffering was likely to meet the bar of persecution. As noted in the Introduction, the legal criterion of persecution was purposefully created to be narrow and grant protection to limited numbers of cases, excluding victims of the "*nefarious political routine*," while favoring those, "*singled out as targets of extraordinary malevolence by some agent*." (Zolberg, Astri and Aguayo 1989, 25).

The paralegal engaged in legal translation as she explained the narrowness of the persecution criteria to the brothers by saying, "*a lot of people come for the same reason, and it needs to be due to something particular*," and telling them that their story needed to be unique, standing apart from those of others who flee the region. As victims of gang violence, the boys could be considered victims of the nefarious routine. What's more, as we will see in Chapter 4, U.S. asylum case law discounts experiences of forcible gang recruitment, which are common for Central American youths who escape from violence, as eligible for asylum. Experiences like this have not been recognized in U.S. asylum law because the perception is that doing so would clash with the State's goal of keeping asylum approval rates low. The paralegal used her knowledge of U.S. asylum case law to determine that the brothers did not have a strong asylum case, and she let them know their odds of success were low, "*it's difficult now to get asylum based on gangs*."

However, as the paralegal explained the narrowness of the law itself, the brothers perceived her to be discounting their experiences of flight. Darwin pushed back by telling her that they were hurt for a unique reason: their grandmother passed away and could not care for them anymore. Of course, the paralegal was merely translating the law, and it is U.S. asylum case law

that discounts Darwin and Jonathan's experiences of victimization at the hands of the gangs. There is nothing inherently problematic with simply assessing that the siblings' case for asylum was likely weak. What was problematic was the fact that this assessment was also grounds for the organization *not* to represent their case. When organizations reproduce narrow U.S. interpretations of the law to decide whether to represent cases, they inevitably work as *agents of the law* who reinforce narrow interpretations of legal categories. In doing so, they limit youths' access to free legal representation and, ultimately, their chances of obtaining protection.

The paralegal also determined that the organization would not take the siblings' case after asking these questions to determine eligibility for SIJS: *how was your relationship with your grandmother?* and *did anyone else hurt you?* to screen for potential abuse; *did you have to work?* to screen for potential child labor, legally considered neglect; *did you know your father?* to screen for potential abandonment. Both siblings acknowledged that their father effectively abandoned them, even signing paperwork that formalized his refusal to provide for them. Abandonment is one of the legal criteria that qualify youths for SIJS. However, because eligibility for SIJS is also based on age cut-offs (i.e., 18 years old for those applying for SIJS based on abandonment by one parent), the paralegal determined that only 17-year-old Darwin was eligible. Despite the fact that the two siblings were just one year apart and had lived through virtually identical experiences, the hard line of the age eligibility cut-off excluded 18-year-old Jonathan, leaving him only the option of applying for asylum with a weak case. If Jonathan –who aged out while he was detained– had enjoyed access to an attorney in ORR, he might have been able to apply for SIJS before aging out. However, unaccompanied minors can usually only secure legal representation if and when they are released from ORR. During the course of my

fieldwork, I often saw cases of vulnerable and seemingly eligible individuals who were excluded from relief due to issues of timing that penalized them for something as arbitrary as the exact date of their birthday or arrival in the U.S., or due to bureaucratic or scheduling issues.

Importantly, implementing the *triage model*, this organization did not decide to represent even just Darwin's SIJS case. This was, in part, due to a pragmatic or "client management" strategy (Villalon 2010), as these organizations chose to take on few or no clients over 16 for SIJS. Since they were already managing significant caseloads, these cases could present an additional stress due to their looming deadline, which might require putting other cases on hold to file applications for youths like Darwin before they aged out. However, this type of strategy also had the effect of making it harder for older unaccompanied minors to access legal representation and immigration relief. Further, by privileging the cases of younger children, these non-profits reified considerations about compassion, which younger children are overwhelmingly considered to elicit more strongly since they are seen as more innocent and distant from adulthood and the loss of exemption from immigration enforcement that becoming an adult entails.

In dealing with the same type of case, the *semi-universal representation model* would have dictated a very different outcome. The attorney assigned to the case would have prioritized filing Darwin's time sensitive SIJS application immediately before he aged out, and then moved on to applying for asylum for Johnathan, and possibly also for Darwin, depending on what the attorney determined to be best strategy given the legal context at the time, an assessment I discuss in detail in Chapter 4. What's more, the facts and supporting documents that the paralegal mentioned would be necessary to build a stronger asylum case by consolidating Johnathan's humanitarian capital –including, "*police reports about what happened, or news reports, [...]*

other people you know, someone in your family who went through similar things”– are not meant to be insurmountable barriers to access legal representation. Rather, these are things that legal brokers routinely compile, over time, as they prepare asylum applications.

The two boys and their mother were confused by the paralegal’s determination that day. The mother was upset, and she asked several times that the paralegal explain why Jonathan could not apply for SIJS like his brother. She did not understand why the two boys, so close in age and experience, would be treated differently under the law. The boys failed to understand why the paralegal had said that their lived experiences of escape from violence were unlikely to satisfy the legal requisites for asylum. Situations such as these, with siblings who lived through virtually identical experiences falling in or out of eligibility for relief in somewhat arbitrary ways, reflect the capriciousness of humanitarian protections for children in U.S. immigration law based on age cut-offs and the denial of recognition as refugees to individuals escaping violence in Central America today. These dynamics are likely to produce even more mixed-status immigrant families in the U.S., as some recently arrived, usually younger, unaccompanied minors secure legal status but their older siblings may not. That day, this particular family left the meeting at the legal clinic without legal representation and with only the discouraging information that both brothers had slim odds of winning their asylum cases and that Darwin had to quickly apply for SIJS before turning 18. In order to at least attempt to apply for humanitarian relief, the brothers would have to find legal representation elsewhere as soon as possible, which would prove challenging since their mother told us they could not afford to pay for this.

Another key limitation of the *triage model* as a way to select which cases to represent was the limited amount of time available for youths to disclose information that could potentially be

relevant to their cases. Indeed, not all youths were as apt to quickly disclose information as Johnathan and Darwin, who made the paralegal's job relatively easy by recounting their story in a clear, detailed, and linear fashion. In the *triage model* approach, the lived experiences of suffering that youths disclosed in the narrow temporal window of a 5 or 10 minute eligibility screening interview were the ones that would potentially "buy" them access to relief if they were considered to yield enough "humanitarian capital." Yet, as I will describe in the next chapter on case preparation, a significant amount of time was usually necessary for attorneys to build rapport with youths and obtain information from them. This meant meeting with youths on multiple occasions, gaining their trust, explaining laws multiple times, and working with their family members to obtain information relevant to the case. New and valuable information that shifted a case significantly from being deemed "weak" to "strong" often only emerged after several meetings. This was both because youths needed time to understand the legal requisites of applications and what information was relevant to disclose and because, as compared to adult asylum-seekers, the discursive agency of asylum-seeking youth is limited.

Observing interactions between legal intermediaries and both youth and adult asylum-seekers at the beginning of this research allowed me to identify the unique challenges involved in working with younger humanitarian claimants. It quickly became apparent that, overall, adult humanitarian claimants volunteered information more spontaneously, and they were more responsive to questioning than youths. As compared to adults, younger claimants also generally had less access to information, especially about events that occurred during their childhood, and they had more difficulty remembering and verbalizing their personal experiences of suffering, particularly due to the stronger effects of trauma on young and developing minds (Given-Wilson,

Herlihy, and Hodes 2016). Legal intermediaries tried to overcome these challenges to obtain the details necessary for asylum cases by using different interviewing strategies in their daily work, which I describe in detail in Chapter 4.

The case of 16-year-old Estefania from Guatemala reflects the negative effects of having limited time available for the disclosure of information in client selection using the *triage model*. After listening to a legal orientation presentation, Estefania sat down for her eligibility screening interview, and she told the paralegal that she thought she qualified for asylum and SIJS.

Paralegal: “*why did you say SIJS?*”

Estefania: “*because my mom died, you said that’s abandonment.*”

Paralegal: “*what about asylum?*”

Estefania: “*When she died, the gangs threatened me.*”

Paralegal: “*how did she die?*”

Estefania: “*She had a tumor at first, then it became cancer.*”

Paralegal: “*How old were you?*”

Estefania: “*I was 14.*”

Paralegal: “*what about your dad?*”

Estefania: “*he has been here [in the U.S.], since I was born.*”

Paralegal: “*who did you live with when your mother died?*”

Estefania: “*My older brother.*”

Paralegal: “*Who supported you?*”

Estefania: “*My dad sent money, my brother worked.*”

Paralegal: “*How was your relationship with your mother? Did she ever hurt you?*”

Estefania: “*Maybe, just when I behaved really bad*”

Paralegal: “*How did she hit you?*”

Estefania: “*With her hand.*”

Paralegal: “*Okay, I think you qualify for the visa juvenil [SIJS] since your mom died and you’re under 18, would it be difficult for you to pay for an attorney?*”

Estefania, nods, yes.

Legal assistant: “*Are you scared to go back?*”

Estefania: “*Yes.*”

As I observed the above interaction, I checked off Estefania’s eligibility in my mind as it had become second nature for me after years shadowing legal brokers, thinking: death of mother, qualifies her for SIJS; threats to her family and fear of return, qualifies her for asylum. The

paralegal also determined that Estefania was eligible for SIJS. However, for asylum, in order to qualify, the paralegal said that Estefania would need to have a conversation with her older brother to ascertain more details, including why they were being threatened and what exactly was happening in Guatemala. Estefania had told us that she fled Guatemala with her 18-year-old brother after he was threatened by gang members. Like Darwin and Johnathan, after their mother's death, Estefania and her brother were left without the support of a caretaker. As we saw in Chapter 2, this can make youths more vulnerable to gang violence.

Estefania and her brother had been separated at the U.S.-Mexico border: Estefania (a minor) was paroled in, while her older brother, who was over 18, was immediately deported. They had not spoken since shortly after his return to Guatemala, and Estefania was no longer sure where he lived. She thought that he had likely gone into hiding because his life was in danger. Estefania had limited knowledge about the threats they received because her older brother was the one who had direct interactions with the gangs. Indeed, it was not at all uncommon for loving caretakers and family members to shield younger children from such painful or frightening information.

The paralegal's concerns about needing details to build a strong asylum case were, of course, warranted. I had often observed how, to obtain the detailed facts necessary to determine asylum eligibility and for case preparation, legal brokers in organizations using the *quasi-universal representation model* requested information from family members, particularly adults but also other youths, like older siblings. Families both in the U.S. and Central America provided information for youths' asylum cases. Obtaining information from family members in the home country was extremely challenging, and it required lot of time and patience but it was often possible thanks to technology. For example, one afternoon, an attorney, a young asylum-seeker,

and I spent almost one hour trying to reach the boy's father in El Salvador who was waiting for our call. After we made about 10 calls over speaker phone, all of which were cut off after a few minutes and resulted in nearly inaudible short conversations, we were able to reconstruct a one paragraph account of the threats the family had received after the boy left, which the attorney submitted as part of the asylum dossier. Obviously, tracking down Estefania's brother during a 10 minute interview to determine whether she met the asylum eligibility bar necessary for this organization to accept her case would not have been feasible. By selecting clients in this way, however, these organizations are assessing whether youths should be their clients based on insufficient information and only a very partial picture of what youths experienced in their home country. The fact that Estefania was likely eligible for asylum was dismissed by this organization because she did not immediately have and disclose the necessary amount of information.

What surprised me that day was that Estefania, who was also eligible for SIJS, was so promptly dismissed as a potential client, first, by the paralegal and, then, by the supervising attorney. This assessment was made because the suffering she disclosed in the context of the brief meeting was determined not to yield sufficient "humanitarian capital" to "buy" her access to free legal representation. I asked the supervising attorney why they were not considering her case for free legal representation despite the fact that she was also eligible for SIJS. The attorney explained that they only chose eligible clients for SIJS if neither parents was in the U.S., which gave them more time to prepare applications (i.e., until they turn 21), for the "client management" considerations mentioned above or, importantly, *"if it's something very compelling, like, not just abandonment by death, but for instance if there was abuse."*

In organizations using the *triage model*, there was little talk about eligibility and, instead, terms like “compelling case” and “sensitive case” were used. When I asked legal brokers what they meant by this, I was particularly struck by one of the answers I received. An attorney and a legal assistant, talking simultaneously, volunteered a list of examples to explain: “*if there is self harm,*” “*sexual violence,*” “*LGBTQ cases,*” “*health problems.*” Then the attorney said to the legal assistant, “*remember that kid without the hand?*” After nodding to the attorney, the legal assistant looked at me, and offered an even more “compelling” example, “*we once had a kid missing both arms and legs,*” clearly implying that this was an even better case, which they ranked higher in the hierarchy of suffering that legal brokers use to compare the cases they have worked on.

With limited time to obtain facts about lived experiences of suffering and victimization from the youth, which could be used to substantiate “humanitarian capital,” and many potential cases to choose from, the case of Estefania was dismissed with an immediacy that I found both surprising and alarming. While the suffering of the child missing body parts was embodied through a stark physical expression and was thus easier to read and translate into humanitarian capital, the limited information Estefania possessed about the threats that she and her older brother received was not taken as an indicator of the need to do more fact finding, as attorneys working in organizations using the *quasi-universal representation* model would have done. Instead, it was quickly determined to be insufficient to meet the higher bar of suffering that securing access to legal representation through the *triage model* requires. After a limited amount of time spent gathering information, the organization had dismissed Estefania’s asylum case. Her SIJS case was also dismissed because it was based on “just” abandonment and was not

sufficiently “compelling.” This is notable as my interviews with attorneys revealed that, while it may be slightly more challenging than other types of SIJS cases, it is possible to win a SIJS case on “just” abandonment by death, based on California law. That day, Estefania told her story but since her suffering did not yield “enough” humanitarian capital, she left without the coveted good of free legal representation and with just a list of private attorneys that she could not afford. This case illustrates how legal brokers implementing the triage model play a more salient role as *agents of the law*. As they select only a handful of cases, they perpetuate a humanitarian immigration process that rewards only the most extreme cases of suffering as deserving of relief.

3.3 The implications of scarce resources for youths’ access to protection

In her ethnography of women immigrants’ access to immigration relief based on domestic violence, Villalon (2010) notes that legal intermediaries can exacerbate exclusion from legal status because of their own biases and “client management” strategies. I found that the organizational models that legal aid nonprofits use to select clients crucially structure lawyering practices. Client management strategies and hierarchies of deservingness play a more salient role in shaping access to relief in the *triage model* as compared to the *quasi-universal representation model*. Organizations implementing the *triage model* reinforce barriers in access to relief by requiring a higher level of “humanitarian capital” from youths to decide that they are meritorious of access to free legal representation, without which, those with limited resources are unlikely to fare well. A consideration of the immigrants’ financial need was not taken into account during eligibility screenings beyond asking “*can you afford an attorney?*” Even after immigrants admitted they could not, this did not affect the decision about whether to take the case. Lawyers

who implemented the *triage model* were not unaware of its problematic effects; for example, one lawyer told me she thought it would be more desirable to move toward a universal representation system because she worried that their use of discretion introduced bias in case selection and did not allow them to adequately serve children in need.

The selection criteria used in the *triage model* further exacerbate the narrow ways in which humanitarian legal categories are interpreted, discouraging attorneys from working as *critics of the law*. Conversely, the *quasi-universal representation model* enables attorneys to work as *critics of the law* by filing a more diverse array of cases that do not necessarily correspond to existing case law. The latter is a more inclusive means to select clients because it uses a lower eligibility bar and does not reproduce narrowly interpreted legal categories a priori as a criterion to select cases. And yet, even access to relief through this model was limited due to resource constraints, and it could depend on factors outside of youths' control, such as, in which ORR shelter they had been detained or whether they could pay low-bono application fees.

This chapter has underscored the detrimental effects of limited resource availability. When only limited amounts of funding are available for organizations to represent small numbers of clients, this creates a context in which free legal aid becomes a scarce resource to be distributed. The less funding is available to fund legal representation, the more this dynamic becomes exacerbated as the supply of free or affordable legal services shrinks. Even in relatively service-provider rich Los Angeles, demand for legal services always exceeds the supply, with problematic effects. This produces an additional, significant initial barrier that youths have to overcome —by disclosing enough humanitarian capital to “buy” access to legal representation— before even dealing with the humanitarian adjudication process itself. When organizations can

only represent limited amounts of clients, due process is undermined because not all youths will be able to secure access to legal representation to apply for relief they may ultimately qualify for. This evidence make a clear case for the need to fund universal access to legal representation for all immigrants in removal proceedings in the U.S. to guarantee due process and access to protection in humanitarian proceedings, as well as to allow for lawyering strategies that can promote the expansion of narrowly defined legal categories so they may eventually more closely correspond to individuals' lived experiences of escape from violence.

In the next chapter, I discuss what happens *after* youths have secured legal representation, examining how legal intermediaries prepare unaccompanied minors' applications for asylum and SIJS. I collected almost all the data I present in the next chapter while shadowing attorneys and paralegals who worked in organizations where the *quasi-universal representation* model was used, and who therefore represented youths with a broad array of different types of experiences. This made the mismatches between youths' lived experiences and the stringent criteria of legal categories all the more apparent. It made clear that the state construes legal status on humanitarian grounds a scarce resource to be distributed restrictively by maintaining generally low grant rates, a culture of suspicion, and a legal definition of asylum that is far more narrow than the sociological refugee definition.

Chapter 4

Legal Brokerage with Unaccompanied Minors: Helping Youths Obtain Legal Status

After youths overcome the challenges involved in obtaining legal representation described in Chapter 3, they apply for asylum and/or Special Immigrant Juvenile Status (SIJS). This chapter examines how legal brokers help Central American unaccompanied minors navigate processes of state legal categorization so they may obtain recognition under these protected categories in U.S. immigration law, which are interpreted in increasingly narrow ways as immigration control takes primacy over humanitarianism, most starkly during the Trump administration. I demonstrate how legal brokers prepare youths' claims by strategically selecting, reframing, and interpreting their lived experiences of suffering and victimization to satisfy narrow legal categories in humanitarian immigration law.

I highlight the tensions between the sociological definition of refugee –an individual who escapes life threatening violence (Zolberg, Astri, and Aguayo 1989)– and the legal refugee definition. Child-specific U.S. asylum case law validates only those experiences of escape from violence, such as child abuse, that reify notions of childhood as a state characterized by lack of agency and dependency on adults, while discounting those that position youths as agentic actors, such as forcible gang recruitment. It is important to highlight that the U.S. interpretation of asylum law contradicts the position of the UNHCR (2010), which deems that forcible recruitment by any violent group constitutes persecution. As we saw in Chapter 2, gang recruitment and victimization are key reasons why youths flee from Central America.

These *de jure* interpretations of deserving refugeehood clash with youths' own interpretations of the reasons for their escape. Youths must therefore work with legal brokers to learn how to reinterpret their experiences and verbalize them in ways consonant to the law to the immigration bureaucrats who will adjudicate their claims, an arduous task with mixed results. What's more, not all youths have experienced the "right" *types* of suffering that satisfy the child-specific expectations of asylum case law. These youths face slim odds of securing refugee protections if their experiences cannot be reframed in ways that will be deemed deserving. Sometimes, when youths escaped from violence for the "wrong" reasons, they are encouraged by attorneys to apply for SIJS instead. I argue that youths who escaped from violence in Central America –sociological refugees–fail to obtain political recognition as refugees, not only when their asylum cases are denied, but also when they obtain legal status through other forms of relief, or when they obtain asylum for reasons that clash starkly with youths' own understandings of why they fled. Of course, the most important thing for the individual youth is to obtain substantive relief and legal status through any path possible. However, excluding those experiences that fail to conform to infantilizing child-specific interpretations of asylum-law in individual cases serves to uphold the overall restrictive nature of the asylum system, in which bureaucrats exercise "discretionary humanitarianism" (Fassin 2011), granting legal status to few applicants who fit narrow criteria while excluding most and stigmatizing them as "bogus refugees." In this restrictive context, legal brokers carry out the difficult feat of challenging humanitarian categories in U.S. immigration law by using the language of the same law to obtain relief for their clients.

The chapter is structured as follows. First, I examine how legal brokerage with asylum-seeking youths and adults differs, highlighting the child-specific strategies that legal brokers use

to elicit detailed narratives of escape from violence from their young clients, whose discursive agency is often curtailed. Second, I discuss the strategies attorneys use to recommend the “best” path to legal status to each client, which they expect will be most likely to yield positive results. Third, I trace asylum case preparation from start to finish, examining interactions between youths and legal brokers as they co-construct asylum narratives that demonstrate the right “amount” and “type” of suffering, and leading up to interviews with asylum officers and immigration judges, the bureaucrats who will determine whether youths are eligible for discretionary asylum relief. Finally, I examine the SIJS application process, which, unlike asylum, centers *best interest of the child* determinations to make undocumented youths eligible for legal status. To prepare SIJS cases, legal brokers reinterpret youths’ lived experiences in Central America through a U.S.-centric perspective by using California State child welfare, labor, and family laws to determine whether these experiences would constitute parental abandonment, abuse, or neglect in the United States.

This chapter builds on the literature on lawyering and humanitarianism by examining the different dimensions of the work that legal brokers do with their unaccompanied minor clients. I consider how the balance between the forces of *exclusion* and *protection* in the contradictory legal context of reception has shifted during the Obama and Trump administrations, and how legal brokers have adjusted their lawyering strategies in turn. I discuss the implications that these strategies have, not only in facilitating each individual client’s access to legal status, but also for expanding or safeguarding the space of protection for unaccompanied minors and asylum-seekers in the United States.

4.1 The challenges of legal brokerage with young humanitarian claimants

Existing scholarship has examined almost exclusively the profession of legal brokers (Coutin 2000, Lakhani 2013, 2014, Villalon 2010, Bhuyan 2008) and other humanitarian actors (Ticktin 2011, Fassin 2011, Fassin and d'Halluin 2011, Augustin 2007, Ong 2003) who work with immigrant adults to facilitate their access to legal status and aid and mediate their incorporation. However, working with young humanitarian claimants poses unique challenges. As compared to adults, youths generally have more difficulty remembering and verbalizing traumatic experiences, they are less responsive to questioning, they are less likely to volunteer information spontaneously, and they have more difficulty contextualizing their personal experiences in the context of broader social and political home country dynamics. I identified these differences by comparing legal brokerage with asylum-seeking adults and youths at the beginning of this research (Galli 2018). Legal brokers try to overcome youth's curtailed discursive agency by using different interviewing strategies. In my role working as a volunteer in legal clinics, I also used these strategies myself as I interviewed youths to help prepare their asylum cases, which made me particularly aware of the challenges involved in brokering youths' cases. Yet as an observer and researcher, I was able to take analytical distance and identify the unintended effects of the strategies legal brokers use to elicit information from their young clients.

As noted in Chapter 3, younger claimants generally had less access to information than adults, especially about events that occurred during their childhood. To obtain the detailed facts necessary for asylum case preparation, legal brokers requested information from family members, particularly adults but also other youths, like older siblings. While adults helped fill information gaps, their presence during interviews could also work to silence youths' voices and

exacerbate their curtailed discursive agency. Indeed, youth did not always feel close enough to their U.S. caretakers to discuss sensitive issues in front of them, particularly when they had been separated from their parents for long periods of time or when they were living with other relatives they barely knew. Other times, youths did not wish to speak poorly about caretakers in their home countries, for example, in instance of abuse or neglect, for fear of offending or upsetting their family members. Aware of this problem, legal brokers sometimes advised adults to wait outside during youth's interviews, and then interviewed adults separately to obtain the information necessary for the youth's case.

In these cases, young claimants would then need to be made aware of the facts that adults had disclosed because, if they entered their asylum declarations, they might be asked about these during adjudication interviews. I thus observed how, in the space of the legal clinic, youths discovered painful stories that they had been previously been sheltered from them by their protective parents and caretakers. These Central American caretakers were behaving exactly as parents would be expected to according to Western conceptions of "priceless childhood" (Zelizer 1985), by considering childhood as a time during which innocence should be safeguarded. Ironically, during their asylum applications, youths were simultaneously infantilized, and depicted as lacking agency, and adultified, as they were made aware of painful details that only adults had previously been privy to. It was during these conversations in legal clinics between caretakers and youth, as youths became aware of the experiences their parents had gone through, that I discovered the intergenerational patterns of forced migration discussed in Chapter 2.

In some cases, it was necessary to obtain information from adult caretakers in the home country, which posed unique challenges of its own. This would have to be done over the phone,

either by the youth or the legal broker. When the responsibility for calling family back home was placed on youths, they did not always follow up and provide the information requested. Participating over speaker phone, I was able to observe how technology made interactions with family members in the home country possible but these interactions were anything but ideal. Difficult conversations that involved disclosing painful and frightening details took on an even more impersonal character over the phone, exacerbating the already unpleasant nature of these interactions. Poor cell phone connections could make these conversations near impossible, particularly when family members lived in remote locations in the home country.

Even when youths did have access to information about events that occurred in their home countries, they generally had more difficulty than adults disclosing their lived experiences of suffering and violence. Indeed, research has found that asylum-seekers experience post traumatic stress disorder (Bohmer and Shuman 2008), which makes remembering and sharing stories difficult. Because of developmental characteristics of the brain and how younger minds retain and process information, this dynamic is exacerbated for children and youths as compared to adults (Given-Wilson et. al. 2016). Youths applying for both asylum and SIJS also had difficulty understanding what information was relevant to disclose to their attorneys because many of the experiences they had gone through could seem commonplace from their perspectives, and they had often normalized the violence that shaped their lives in their home countries.

Time was key when it came to gathering information because it was necessary to build rapport with youths so they would trust legal brokers enough to tell them their stories and so they could understand complex legal criteria well enough to know what to disclose. Meeting with youths on multiple occasions and gradually gathering information over time was the best strategy

to overcome this challenge. While eligibility screenings could sometimes take as little as five minutes, interviews to prepare written declarations for asylum and SIJS cases took multiple two to four hour meetings. However, in all legal aid organizations, legal brokers worked within severe time and resource constraints during the four year time span that this research took place (2015-2019). During the Obama administration, cases had to be filed quickly because recently arrived Central American unaccompanied minors and families were designated as the first processing priority in the immigration courts' "*rocket-dockets*." This was a measure ostensibly intended to dissuade future migration flows by quickly deporting those who lost their cases. Legal brokers also had to file cases before youths aged out of eligibility for relief. Finally, the fast pace of work was due to the high caseloads all legal aid organizations had, where each individual attorney could be responsible for between 40 and 70 cases at a time.

Under these less than ideal circumstances, the interviewing strategies legal brokers used to quickly obtain information from youths were not likely to be listed as examples of best practices in a manual on interviewing youths. Legal brokers used an interviewing strategy that I call *potential scenario provision* that consisted in citing examples of relevant things that could have happened to youths. Legal brokers drew these examples from legal definitions and from their past experience working with other clients. Their young clients could then "select" from these potential scenarios to disclose what happened to them in their home countries and move the testimony forward, as this example from an eligibility screening shows:

The paralegal pointed to a row of smiley faces on a print-out, which were lined up from most to least happy (each labelled with the ratings excellent, good, so so, bad, very bad), and asked, "*which of these represent your life in Guatemala?*"

The 16-year-old boy chose 'good.'

The paralegal asked, "*Did your parents ever hit you?*" (The boy nodded, yes.)

Paralegal: “*How often?*”

Youth: “*Every once in a while.*”

Paralegal: “*What did they hit you with?*”

The youth misunderstood the question and replied, “*if I didn't want to bring him water.*”

Paralegal asked again, with emphasis, “*what did they hit you with? A belt? Shoe?*”

Youth: “*A belt.*”

During this interaction, the challenges of youths' curtailed discursive agency were further compounded by the fact that the boy being interviewed by the paralegal (in Spanish) was indigenous and spoke little Spanish. The legal intermediary quickly moved from general questions to specific examples with the *potential scenario provision* strategy. When asked generally to describe his life in Guatemala, the youth chose the “good” smiley face, which was of little use to move the interview forward. The paralegal transitioned to asking specifically about abuse, which could determine eligibility for both asylum and SIJS. When the youth agreed that he was indeed abused, with a nod, to evaluate the extent of the abuse, the paralegal asked, “*what did they hit you with?*” and then provided potential scenarios: with a belt or a shoe. The youth ‘selected’ the example relevant to him, allowing the legal broker to obtain information despite the youth’s curtailed discursive agency.

Towards the end of my fieldwork, I attended a training for legal brokers where a psychiatrist specialized in working with children and youths discussed strategies for interviewing them in ways that would not cause discomfort or be re-traumatizing. One of the key recommendations provided during the session was something that directly contradicted the *potential scenario provision* strategy. The psychiatrist recommended using open-ended questions, like the ones researchers use to conduct semi-structured interviews, the types of questions I asked while doing interviews with youths for this research outside the setting of the legal clinic. The recommendation to ask questions like, “*tell me about your relationship with your parents,*”

starkly contrasts with the example provided above. Legal intermediaries rationalized that providing potential scenarios helped move interviews forward more quickly. Since young claimants did not quite know what to disclose, having options to pick from did seem to help.

However, the *potential scenario provision strategy* was also inherently pathologizing and victimizing. The underlying assumption was that youths were going to have something to report because we were dealing with “problematic” families. While caretaker abuse and neglect in the home country certainly were migration drivers in some cases, as we saw in Chapter 2, this was not, by any means, true for all youths. There were certainly many who had grown up in loving homes in Central America, whether or not these included their parents. When asked these pathologizing questions in legal screenings, youths sometimes pushed back. As volunteers, we were trained to ask these types of questions multiple times. For example, when I interviewed 15 year old Geovanny from Honduras to prepare his asylum case, he frowned and grew visibly offended when I asked him whether his grandmother had been abusive. When I asked again, this time about his grandfather, he responded firmly, “*No. I called my abuelita, mama, and my abuelito, papa, they were like our parents.*” While we asked these questions to ascertain valuable information that could help youths access legal status, I was troubled by the subtext to these questions during my work as a legal volunteer. That day, I wondered if I had implied to Geovanny that being loved by someone rather than your parents was somehow a less legitimate way of growing up or a less “appropriate” family.

On the other hand, legal brokers did follow other recommendations for working with children and youths that were provided during the psychiatrist’s course. Some of these recommendations were especially important, for example: reading body language to anticipate when the young

person was getting overwhelmed by the interview; offering chances to take breaks; and empowering youths to ask for those breaks when they needed them. Importantly, these recommendations were also included in the asylum office manual on how to interview children (USCIS 2009, 25). Yet time and resource constraints sometimes limited even recourse to these strategies during legal brokers' meetings with their young clients. For example, on one occasion, a boy started crying during his interview with his attorney who was preparing his SIJS case. The attorney, who was typing up notes on her laptop as the boy answered questions, had not noticed that her questions about the boy's father were making him upset. The boy's case was based on abandonment by his father, and the fact that he had very little contact with his father throughout his life made him *feel* abandoned, so this was an upsetting topic for him. Once the attorney noticed the boy had started crying, she apologized, noting, *"I'm so sorry, this is a sensitive topic. I should have explained why I need to ask you these things. I know it's not nice or fun to talk about but I need to know so I can help you, so your life here with your family can be safe."*

In this way, the attorney tried to remedy the situation by stopping the interview. She empathized with her client and explained that the legal process would entail talking about unpleasant things and that she would rather not have to ask him about these but she needed to, in order to help him. Legal brokers working with unaccompanied minors truly cared about the wellbeing of their clients. I found that they engaged in different types of *lawyering as care strategies* to try to mitigate the negative effects of the victimizing and re-traumatizing legal process on their young clients. For example, another legal brokers empathized with a group of youths during a legal orientation presentation, as she prepared them for what awaited them, *"not*

today, but soon, you will have to tell your stories and repeat them many times. That's hard but, if you go to therapy, that can help you recharge your batteries."

During the psychiatrist's course, the legal brokers present were especially excited to hear about some easily implementable strategies for working with young clients, such as: providing something tactile for youths to fidget with during the interview, like a slinky; and having drawing materials and toys at hand for them to play with. Legal brokers animatedly participated in the discussion by volunteering examples of other props they had used, like stuffed animals, stress relief toys, even soap bubbles. While I saw these props in child-friendly legal aid offices, I seldom observed legal brokers who worked under strict time constraints actually incentivize the use of toys, gadgets, or art. Indeed, I only saw toys being used on one occasion by an 11 year old while his older sibling was being interviewed. This recommendation seemed to be merely cosmetic to me. As I listened to the psychiatrist's training, I wondered whether it is possible for legal brokerage to evolve to be truly sensitive to the substantive needs of children and youths, beyond measures like having toys sitting in an office where one is working mostly with older teenagers. Perhaps, in the context of all of the constraints that currently exist on the work of legal brokers who mediate humanitarian claims for legal status, this is an unattainable goal. Even the psychiatrist giving the talk admitted that, to a certain extent, legal brokers just had recognize that their work inevitably had "*side effects*," which is to say that interviews to prepare humanitarian petitions for legal status are inherently re-traumatizing. The psychiatrist noted that the best thing legal brokers could do was to explain to youths that, if they endured these preparatory interviews, their asylum or SIJS adjudication interviews, the visits to court, and all the rest required, this could reap real rewards: legal status and a secure life in the United States.

4.2 Choosing the best path to legal status: asylum, SIJS or both

As they interviewed their Central American unaccompanied minor clients, legal brokers determined their eligibility for relief and strategized the best path toward legalization by matching each immigrant's complex lived experiences to existing legal categories in U.S. humanitarian immigration law, most commonly, asylum and SIJS. Due to the narrowness of these humanitarian provisions, however, youths could fall out of eligibility in arbitrary ways. For instance, the hard line of age-based eligibility cut-offs often excluded vulnerable young people from relief. As we saw in the example of Salvadoran brothers Darwin and Johnathan in Chapter 3, Johnathan was unable to apply for SIJS, despite having been abandoned by his father, because he aged out by turning 18 while detained in ORR, where he did not have access to an attorney.

To further complicate matters, age eligibility cut-offs changed over time, as policies were implemented in different ways by different administrations. For instance, before 2013, to be eligible for special asylum protections for unaccompanied minors —i.e., the ability to apply during non-adversarial proceedings at the asylum office— youths needed to be under age 18 at the time of their applications. With the 28 May 2013 USCIS memorandum, having been designated as an “Unaccompanied Alien Child” (UAC) upon arrival at the border became sufficient to access these protections, and youths no longer aged out of special asylum provisions after turning 18. It was in the context of this policy that I carried out most of my fieldwork. This was an important protection because, as exemplified by Johnathan's case, it takes time for youths to be released from federal custody and find legal representation. Aging out can be quite common as about a third of unaccompanied minors arrive in the U.S. as 17 year olds. Starting in 2019, however, the Trump administration again stripped youths of their protective UAC

designation, and they lost access to asylum protections for unaccompanied minors if they applied after turning 18.²⁰ After this change, legal brokers had to rush to file asylum applications as they already rushed to file SIJS cases, placing an additional time crunch on their work.

As we saw in Chapter 3, unlike the hard line of age-based eligibility cut-offs, whether or not youths' experiences qualified them to apply under the eligibility criteria for asylum or SIJS could be interpreted in narrow or broad ways as attorneys worked as *agents* or *critics of the law*, respectively. The next sections examine these legal criteria in detail, showing how legal brokers worked to construct cases in ways that would convince adjudicators of youths' eligibility for these forms of humanitarian relief. Once they established eligibility, the strategies legal brokers used to decide what form of relief unaccompanied minors should apply for shifted during the course of the four year period when this research was conducted. Until about a year after Trump took office, the most common strategy was to advise youths to apply for their "best" relief first, the one for which they had the "strongest" case. If both cases were deemed equally strong, legal brokers prioritized the application that was most time sensitive, if youths were about to age out of eligibility. The second application would then be a plan-B in case the first was denied. This strategy allowed legal clinics to save resources because each application for relief is complex and time-consuming. It also eased the burden on youths and their caretakers who had to take time off school and work to attend meetings in legal clinics, and who would have to pay additional fees for each new application when youths had low-bono (or private) legal representation.

That being said, during 2015, not all immigration attorneys were well acquainted with the SIJS application process, which requires in depth knowledge of California State law, so asylum

²⁰ This restrictive change was introduced with Matter of M.A.C.O., see also CLINIC (2019).

applications were sometimes prioritized simply because the attorney did not have SIJS expertise. By 2016, however, applications for SIJS had become much more widespread. As legal brokers increasingly applied for SIJS for their young clients nationwide, SIJS applications surpassed the yearly per-country statutory limits, set at less than 700 visas per country. This created long backlog for applicants from the high demand countries of El Salvador, Honduras, Guatemala, and Mexico, reaching a record level of 33,830 pending cases in 2018 (TRAC 2020). Starting in 2016, youths applying for SIJS had to wait for two or three years to become legal permanent residents. In that context, attorneys privileged asylum when possible since it had shorter resolution times, and also because pending asylum applications confer a work permit. Conversely, youths who have pending SIJS applications are prohibited from working, which causes problems that I discuss in Chapter 6. By using this strategy, legal brokers helped their clients avoid lengthy legal limbo and enabled them to work legally.

When possible, legal brokers also adapted their strategies by selecting to pursue the application that would allow them to enact *lawyering as care practices*. For example, an attorney representing an unaccompanied girl who had been raped strategized that she would apply for SIJS if her asylum case was denied. At the asylum office, the girl had been interviewed one-on-one by a female asylum officer during a non-adversarial interview. If her case were denied, she would have to recount her experience in immigration court in a trial setting, which would take place in front of an audience, including the adversarial figure of the Trial Attorney who would be trying to attack her credibility to argue for her deportation. That would most certainly be a traumatizing encounter. By strategizing to pursue a SIJS application, which would not require testimony about sexual abuse in the home country, instead of an asylum appeal in court as a plan-

B if this circumstance occurred, the lawyer chose the strategy that sheltered her client from a hostile bureaucratic space. In this way, the legal broker enacted *lawyering as care* by thinking about her client’s emotional wellbeing in addition to her changes of obtaining legal status.

In 2018, after the Trump administration had implemented several draconian reforms to reduce the space of protection for unaccompanied minors and asylum-seekers in the U.S., legal brokers changed their strategy and no longer applied for the “best” case first. Instead, they began to concurrently file multiple applications for their eligible clients. As the likelihood of success of each individual application became more uncertain, and case resolution times, not only for SIJS, but also for asylum, became more drawn out, this new strategy was a means to mitigate risk in the legal process. Legal brokers also filed multiple applications to preserve the record in an increasingly hostile immigration court so that the Trial Attorney could not later argue that the unaccompanied minor should be deported because he or she had not initially pursued a certain form of relief, which could be misconstrued as suggesting that the youth was now applying solely to buy time. This new strategy of applying for multiple types of relief at the same time, however, meant that already overworked legal brokers were having to put in even more hours, and this placed additional stress on already scarce organizational resources.

4.3. Asylum eligibility: the right ‘amount’ and ‘type’ of suffering

Unlike adults, the TVPRA allows unaccompanied minors to first petition for asylum at the asylum office. This is a key protection. Between the years 2015 and 2017, the grant rates for Central American unaccompanied minors at the asylum office, which ranged between 28% and 43% (Table 4.1), were significantly higher than those of all Central Americans in immigration

court, which ranged between 17% and 28% (TRAC 2019). These discrepancies in grant rates can, in part, be explained by the different nature of the proceedings in the “two-tiered” U.S. asylum system (Hamlin 2014). While the immigration court setting requires providing more supporting evidence and involves heightened scrutiny of the case during adversarial proceedings, the asylum office adjudicates cases during one-on-one interviews with a bureaucrat trained in asylum law that, at least officially, are not meant to be adversarial.

Table 4.1 Unaccompanied minor asylum cases and approvals nationwide vs. LA (2009-2019)

Fiscal Year	Cases filed (US)	% Approved	Cases filed (LA)	% Approved
2009	414	64.2%	109	54.0%
2010	1,019	59.6%	357	41.7%
2011	862	56.7%	290	45.3%
2012	740	58.9%	202	50.4%
2013	1,095	63.6%	196	61.5%
2014	3,448	70.1%	592	65.8%
2015	15,032	43.4%	2,157	56.7%
2016	15,755	40.2%	2,327	61.3%
2017	20,297	39.5%	3,156	64.0%
2018	18,229	28.1%	2,746	45.6%
2019*	7,332	39.9%	1,015	50.0%

Sources: USCIS Quarterly Stakeholder Meetings Minor Principal Applicant Reports FY 2014-2019 (www.uscis.gov/outreach/notes-previous-engagements) * FY 2019, partial data through March

As shown in Table 4.2, grant rates for unaccompanied minors’ cases also varied between asylum offices. The Los Angeles office, which had a reputation for being staffed by relatively liberal and young officers, some of whom had gone to law school or had previously represented immigrants, was among the most favorable places to apply for asylum nationwide. These

discrepancies in grant rates between asylum offices correspond to findings from past research that have shown that individual immigration judges’ past experiences and personal political orientations are key determinants of asylum case outcomes in a highly discretionary process (Ramji-Nogales, Schoenholtz, and Schrag 2007; Miller, Keith, and Holmes, 2014).

Table 4.2 Unaccompanied minor cases across asylum offices FY 2017

Asylum Office	Cases Pending	Cases filed	% Approved
Arlington	1,243	2,314	31.8%
Boston	453	694	17%
Chicago	1,675	2,156	26.5%
Houston	2,421	2,413	20%
Los Angeles	1,857	3,156	64%
Miami	1,500	2,812	21.3%
Newark	991	1,844	38%
New York	709	1,869	25.9%
New Orleans	764	905	51.9%
San Francisco	2,137	2,134	65.4%
Total	13,750	20,297	39.5%

Source: USCIS Asylum Division Quarterly Stakeholder Meetings (www.uscis.gov/)

To have a “strong” asylum case, the extent of harm youths suffered in their home countries had to be determined to be “enough” to meet the eligibility bar of persecution. When working with asylum-seeking youths, immigration attorneys *quantified their suffering* to determine whether their “humanitarian capital” would be deemed sufficient to merit relief by the bureaucrat adjudicating their claims (Galli 2019a). The higher grant rates at the asylum office, as compared to immigration court, reflect the protective discretion that asylum officers could use when adjudicating unaccompanied minors’ claims. Asylum officers received training on child-specific

interpretations of refugee law, which, crucially, prompted them to take into account that the *amount* of harm suffered could be less than the bar used for adults and still be considered persecution in the cases of minors. These guidelines were part of the USCIS (2009) manual for working with asylum-seeking children, which was used to train asylum officers until the Trump administration took office. According to an asylum officer interviewed for this research, this type of training was no longer provided after 2018.

What's more, simply having suffered a certain *amount* was not enough to qualify for asylum. Instead, youths had to demonstrate that they experienced certain *types* of suffering that are sanctioned as legitimate under one of the five protected grounds (political opinion, religion, race, national origin, or membership in a particular social group [PSG]) of the U.N. Refugee definition, as it is interpreted in the United States. This is what legal scholars call the "nexus" requirement. Starting in 2018, asylum officers also no longer received training in child-specific interviewing strategies, which served to make adjudication interviews more "child-friendly" and less adversarial. Instead, they were being trained to conduct credibility screenings with minors, just as they did in the cases of adults. Conducting credibility screenings with minors meant that the existence of inconsistencies and cases when the testimony did not clearly spell out the nexus requirement were now more likely to result in negative case outcomes than before.

Thus, while satisfying the nexus requirement, in other words, explaining the *type* of suffering that youths experienced and *why* they were persecuted in the home country, had always been important, in the new restrictive context, it became more important than ever. Crucially, not all types of suffering are deemed equally deserving of protection in the U.S. asylum process. Thus, establishing who would be recognized a *de jure* refugee was far more complex and very different

from defining who is a *de facto* or sociological refugee based on their lived experiences of escape from life-threatening violence. As one attorney put it, it is in the process of establishing nexus that it becomes most apparent that “*asylum law does not make common sense.*”

To satisfy the nexus requirement, youths had to articulate their persecutors’ motivation for hurting them in detail. This motivation was usually not readily apparent to youths. Deducing it instead required the additional critical and creative work of interpretation on the part of legal brokers, as one attorney explained:

“You have to be very creative with kids. From the beginning when you interview them, they always say similar things like, ‘[the gangs] wanted me to join,’ but our job as attorneys is dig more and more because, most of the time, there is an underlying reason that is not necessarily clear to the minor. As attorneys, we have the legal tools to explore, explore, explore and come up with new arguments and new PSGs (Particular Social Groups) that are not necessarily clear from the first intake, just to keep digging.”

In practice, this “digging” involved asking youths to recount their interactions with their persecutors in the utmost detail. Asking youths questions about why they fled was likely to prompt answers that were intuitive to youths but incompatible with successful case law, such as “they wanted me to join” (i.e., forcible gang recruitment). Therefore, attorneys asked youths to recount conversations that had taken place between them and their persecutors with the goal of finding evidence of the persecutor’s motive. One attorney reflected on the challenges this posed:

“[you ask] why did that person want to hurt you? because you have to prove [nexus]. But the most important fact to a person who was in great danger is the danger they lived through. [...] They have a lot of trouble understanding why you keep wanting to shift the conversation to what was their [persecutor’s] motivation for wanting to hurt them. That’s just not something that makes a lot of intuitive or logical sense.”

Thus, access to protection seemed to depend on asylum-seeking youths’ capacity to accurately recollect and recount conversations they had with their persecutors. These were

conversations that induced fear, likely with enduring traumatic effects. Having to ask youths these types of questions made the interaction of the asylum declaration interview itself violent and re-traumatizing. Expecting youths to remember details about traumatic events also goes against research on the effects of trauma on memory (Given-Wilson et. al. 2016). What's more, access to protection paradoxically also depended on whether persecutors in the home country ever verbalized their motives for hurting their victims, since recollections of such conversations became key facts in support of asylum cases. As one attorney put it, "*gang members will have to be like, 'Oh. You're anti-violence and I have to attack you because you're anti-violence.'* [...] *it's like saying that the persecutor knew about this, and [this is why he] did this.*" If these conversations did not occur or youths could not recall them, as is often the case, the reason *why* the persecution took place had to be deduced through the interpretation work of lawyers.

The persecutor's motive also had to fit within a protected grounds recognized by U.S. asylum case law; the vast majority of Central Americans today apply on the particular social group (PSG) grounds. In my interviews with attorneys, I asked what kinds of lived experiences constituted PSGs likely to win asylum recognition for unaccompanied minors. Their answers reflected the narrow ways in which asylum eligibility is construed in the U.S., causing many youths who escaped from violence in Central America to fall out of eligibility for *de jure* refugee protections. One important caveat is that the attorneys I interviewed were basing this assessment mostly on cases they had represented at the asylum office. Most lawyers working with unaccompanied minors had represented mostly (or only) cases at the asylum office and not in immigration court. This was because unaccompanied minor's cases were either granted at the asylum office or, if denied, they had not yet been scheduled in the immigration court due to high

backlogs. Unlike immigration court, the asylum office does not provide written decisions detailing *why* particular cases are granted or denied, making it difficult to determine exactly why a certain case was successful. This reflects the broader indeterminacy of the humanitarian field. In addition to expertise and past experience, legal brokerage involved guesswork to establish the strength of a case and to interpret why a certain past case was granted. Indeed, immigration attorneys typically tried to come up with as many arguments for grounds and PSGs as they could for each case, in hopes that the asylum officer would pick at least one and grant the case. As a result, they did not know for certain on which grounds each case won.

Nevertheless, the consensus among attorneys was that cases based on family membership and child abuse PSGs were “easy” cases to win at the asylum office, whereas cases based solely on forcible gang recruitment would almost surely be denied, unless they could be reframed in different ways. In general, PSG framings that negated youth agency and portrayed children as victims and passive dependents of adults were more likely to win relief as compared to those that presented youths as actors with their own independent agency or political views. Throughout the duration of my fieldwork (2015-2019), immigration attorneys noted that unaccompanied minors’ asylum cases would be granted if they could argue a PSG based on family membership.²¹ This meant that youths could be granted asylum if their family members in the home country had been victimized, which, in turn, had put them at risk. In family claims, the asylum-seeking youth is not the protagonist of the story but, rather, is a victim by virtue of her relationship with and dependence on older family members. Examples of such claims, as cited by attorneys were:

“My relative had a store, the gang went to the store, was extorting money from my relative. They said you have to pay all this money. My relative couldn’t pay. They said

²¹ On July 29, 2019, the family PSG was challenged in Matter of L-E-A-, 27 I&N Dec. 581 (CLINIC 2019)

they're going to kill the whole family. They mentioned me by name as somebody they were going to kill. That would be an example of a strong family-based claim."

"There were a lot of family [cases]. Like a family member was part of a gang. Or a family member tried to leave the gang. Or my family member stopped paying [extortion fees]. Or they were extorting me because of my family member in the US."

Child abuse was the other PSG deemed to be most successful by attorneys. In 2015, Matter of A-R-C-G- recognized domestic violence as a valid basis for asylum, expanding asylum eligibility in the U.S. to mirror that existing in other countries of asylum, like Canada (Hamlin 2014). This, in part, corrected the gender bias in asylum law, which was created after World War II and privileged the experiences of males escaping the persecution of oppressive regimes (Gibney 2004), while largely ignoring the age and gender specific ways in which violence affects the lives of asylum-seekers (Bhabha 2014), like those I discussed in Chapter 2. In expanding asylum eligibility for women, Matter of A-R-C-G- also expanded asylum eligibility for children. Lawyers were able to argue that, just as A-R-C-G- had been persecuted as a woman because of her subordinate position in society and her inability to leave her domestic relationship with an abusive husband, children should also be granted asylum due to similar dynamics in cases of caretaker abuse and children's inability, as dependents, to leave these abusive relationships.

To complicate matters, evolving case law and shifting interpretations at the asylum office meant that the same reasons for escaping, and ways of framing cases, did not always qualify over extended periods of time. As one former asylum officer explained:

"It's varied in the last four years [2014-2018] what has been recognized at the asylum office. When I first started, some more creative PSGs worked. So, for example, I had one where it was young teenage boys who went to this particular school. But that's not like recognizing any major case law. And that has not since worked. We also used to have cases where the PSG was lacking parental protection. Like kids who resided in a household without their parents, and therefore were targeted by gangs because [gangs]

treat them like orphans. Then we no longer recognized it. Forced gang girlfriends worked for a hot period but it doesn't anymore. So really, the last two years [2016-2018] the two [PSGs] that worked were family-based claims. Usually, the closer the family relationship, the stronger. So, like a nuclear family or a child of somebody that the gangs were going after. Or a matter of A-R-C-G- type of claim where you were being harmed by an adult caretaker [...] It's not clear yet whether the second one is going to work anymore because new case law [Matter of A-B-] specifically talks about how domestic violence is generally not a claim to asylum. But it didn't really say anything about child abuse”

Prior to the passage of Matter A-R-C-G-, attorneys would argue that children were victims of violence, both due to child abuse in the home and to gang recruitment and other forms of victimization outside the home, because they did not benefit from the protection of their parents, since the Los Angeles asylum office accepted a PSG defined as “lacking parental protection.” This PSG framing fits the narratives presented in Chapter 2 quite closely as children left behind by parents who migrated to the U.S., or whose relatives in the home country could not care for them (e.g., because they were too elderly), could become more vulnerable to violence outside the home. After Matter of A-R-C-G-, the narrower experience of domestic violence replaced the broader idea of children and youths being vulnerable due to the lack of parental protection.

The former asylum officer also remarked on a broader shift. Initially, the asylum office accepted a number of “creative” PSGs as justification for the reasons why youths fled, which more closely corresponded to an array of different lived experiences of escape from violence (e.g., *teenage boys who went to this particular school, forced gang girlfriends*). This is notable since, unlike immigration court, the asylum office does not, in principle, have the ability to create new case law to grant “original” cases, and it is instead reliant on existing case law established by the courts to grant cases. As the asylum officer notes, soon enough after the 2014 “crisis,” the acceptable PSGs in the Los Angeles office were consolidated under only the two relatively

narrowly defined criteria of family and child abuse. Both of these PSGs reify the notion of the child-victim who lacks agency and is dependent on adults, creating an incentive for lawyers to file cases in these ways. Notably, this narrowing of the space of protection occurred under Obama, which might explain why fewer cases of unaccompanied minors were granted by the asylum office in 2016 and 2015, as compared to 2014 (Table 4.1).

The former asylum officer's account of the ever-shifting interpretations of asylum law was characteristic of the uncertainty that defined the humanitarian field throughout the duration of my research. This uncertainty became greatly exacerbated during the Trump administration, and the asylum officer commented on the uncertain future of children's asylum cases after Jeff Sessions issued his decision in *Matter of A-B-* in 2017. This decision discounted even the previously successful domestic violence PSG as a valid grounds for asylum. It also stated that when a "private actor" is the persecutor, the U.S. government would deny those asylum cases. As we saw in Chapter 2, virtually all Central American children, but also adults, are persecuted and harmed by so-called "private" rather than state actors. Indeed, scholars of Central America have argued that one of the legacies of the civil wars is precisely that "*the lines between political violence and criminal violence have become blurred*" (Vogt 2013).

The long legal battles fought by legal brokers over years to expand the space of protection for children and asylum-seekers were being quickly overturned by the Trump administration. As one attorney put it, "*it's definitely trying to close the door on asylum, Matter of A-B-. It took 20 years to have asylum based on being a victim of domestic violence and, in one decision, Sessions basically tries to throw it out the window.*" Since I conducted most of my interviews shortly after the *Matter of A-B-* decision came out, attorneys were still unsure exactly how this would affect

their unaccompanied minor clients. Would child abuse be considered like domestic violence for women? Lawyers themselves had made legal arguments in the past saying that these two forms of abuse were alike to expand A-R-C-G- protections to children. However, this time, the same legal argument could backfire and have the opposite effect of limiting access to relief. If the child abuse PSG was invalidated, would the asylum office go back to accepting the lacking parental protection PSG to grant asylum to unaccompanied minors? These were the questions that legal brokers were asking themselves at the time. More than one attorney speculated, and hoped, that since child abuse was a type of case that asylum officers and immigration judges granted even before Matter of A-R-C-G-, they would continue to be “*more sympathetic*” to those types of cases. For this reason, even without favorable case law in place, legal brokers’ strategy was to continue to file these cases in hopes that adjudicators would continue to grant them or that new favorable precedents could be established by impact litigation. By continuing to file these types of cases in the new uncertain context, lawyers representing unaccompanied minors worked to safeguard the space of protection.

Conversely, unfavorable case law pertaining to gang violence has long been a constant in the U.S. asylum process (see also, Coutin 2011), contradicting the position of the UNHCR. As we saw in Chapter 2, forcible recruitment and gang victimization commonly motivated the flight of youth from Central America. Immigration attorneys overwhelmingly remarked critically on narrow U.S. case law on gang violence during interviews, for example:

“Some of the judges in Los Angeles are just, like, callous, and they see these kids who suffer violence all the time. So they're just like, ‘Okay. It's just another one of these [gang] cases that I'm gonna deny.’

“Maybe 75% of children in El Salvador are being recruited by gangs at the moment. So if the government acknowledges that PSG as viable then it opens up the door possibly to many children qualifying for asylum. I think that should be the case but maybe the government doesn’t.”

Forcible recruitment and victimization by gangs is not considered a deserving *type* of suffering because it is seen as too commonplace, raising concerns about volumes of asylum applications deemed to be excessive by the state. As the lawyers’ remarks suggest, restrictive and convoluted case law effectively serves to exclude the bulk of asylum-seeking children from protection and recognition as refugees. Legal brokers had to reframe experiences of gang victimization so they would satisfy nexus based on other established or “creative” PSGs. As one attorney noted, this type of legal framing is often misconstrued as problematic lawyering:

“I had more than one case where the thing that actually pushed them out the door wasn’t the thing that made their asylum case winnable. [...] I’m starting to feel a little nervous saying that to an outsider because I think that plays into the narrative that this administration is trying to push, that asylum claims are somehow fraudulent. That people are asking for asylum on a basis that is different from what actually brought them there. But to me instead what it does is it exposes the illogic of asylum law. That a person can be legitimately terrified and a child can have every right to claim a safe place to live from a common-sense perspective but not have that right from a legal perspective.”

Rather than raise questions about lawyering ethics, this highlights the constraints that legal brokers working with unaccompanied minors face in the contradictory U.S. context of reception. On the one hand, legal brokers could play a role as *critics of the law* by filling applications based on forcible gang recruitment, thus seeking to expand narrow legal definitions that exclude certain lived experiences of escape from violence. On the other hand, however, in practice, when minors fled after being subjected to gang violence, they had much better odds of accessing relief if their cases could be constructed based on a child abuse or family PSG, if there were some such elements in their narratives, even if the main reason or the exacerbating event that led the minor

to flee was not related to the latter grounds. Thus, the legal strategy that most benefited the individual client's chances of obtaining legal status was also the one that reified child-specific interpretations of asylum law and kept the space of protection narrow.

For example, siblings Jose and Rafael, whom we met in Chapter 2, escaped from El Salvador due to forcible gang recruitment and were granted asylum at the asylum office. The siblings characterized gang threats as the main reason they fled, yet this likely was not the reason they won their cases. While I cannot know for certain the rationale the asylum officer used to grant their case, it is most likely that the boys accessed protection either because their grandparents were abusive (child abuse PSG) or because their grandmother had also been threatened by the gangs (family PSG). Of course, the most important thing for the siblings was to be able to obtain legal status and stay in the U.S. with their parents. Yet a broader recognition of the reason for their escape would allow more youths who had been victimized by gangs like them but who, unlike them, had *not* been abused at home to access relief. Indeed, legal brokers could use only the facts available, as recounted to them by youths, and their legal and sometimes also quite sociological interpretation of these facts to construct cases. This meant that not all gang based cases could be reframed in ways that would win.

The commonsense understanding of asylum as a form of protection for people in life-threatening danger is, in fact, nothing like the way the asylum law in action works. When legal formalism and meeting complex and narrow definitions are the main criteria to access asylum, instead of protecting people, case outcomes can play out in particularly cruel ways. This dynamic was especially apparent in the cases of siblings. Since the family PSG was considered valid while the gang recruitment PSG was not, the siblings of those who suffered forcible gang

recruitment or victimization were much more likely to win asylum than the youths who were actually targeted. These types of outcomes underscore the mismatch that exists between *de facto* and *de jure* refugeehood, as lived experiences of escape from violence fail to procure political recognition as refugees for youths targeted by gangs. These outcomes are particularly incomprehensible to those youths and their families who are affected by these decisions who cannot not fathom why the young person who had been victimized and was still traumatized because of this was denied while the (usually younger) sibling was granted.

As we saw in Chapter 2, siblings may indeed be targeted and flee, in turn, from eldest to youngest. Thus, of course, it makes sense to use the family PSG to extend protections to younger siblings in victimized families who are either at immediate risk or are likely to be at risk soon after. Conversely, using this same criterion to exclude youths from access to relief reflects the broader overall restrictiveness of the asylum process, in which discretion is used in a negative sense to deny cases, and even being an unaccompanied minor only slightly attenuates the “legal violence” that asylum-seekers face (Menjívar and Abrego 2012). This type of outcome is also especially contradictory since, from a legal perspective, the persecution criterion should apply to individuals “*singled out as targets of extraordinary malevolence by some agent*” (Zolberg, Astri, and Aguayo 1989, 25). Yet, in the cases of children, dependency and passive victimization (and greater distance from the gang) are rewarded over the active victimization and recruitment. The former experience more closely coincides with the ideal of the passive child-victim, as opposed to the teenager singled out by and actively resisting violent actors.

What's more, cases based on gang violence also posed problems because they risked associating youths with the criminalizing rhetoric linking Central Americans to MS-13. For

example, Attorney General Sessions went as far as arguing that asylum-seeking youths are “*gang members who come to this country as wolves in sheep’s clothing*” (Dezenski 2017). Even though most youths fled precisely because they did *not* want to join the gangs and, according to asylum law, some initial minor gang involvement should not disqualify them from obtaining asylum, during the Trump administration, the criminalization of asylum-seeking youth became official policy, as one attorney recounted:

“A year ago [in 2017], we started seeing an increase in the amount of questions that the asylum officers would ask about gangs. [...] like 15 minutes asking about gangs. Like, have you ever done anything for a gang? Have you ever sold drugs? Were there any gang members in your school? Did you ever know any gang members? Did you talk to any gang members in your school? Are there any gang members in your family? So just a lot of really intrusive questions trying to find any tie possible between the client and gangs.”

Starting in 2017, all asylum cases of Central American unaccompanied minors were automatically sent to increased background screenings, which delayed case outcomes for months, prolonging youths’ legal limbo and leading to more case denials.²² There was a lot of uncertainty, amongst immigration attorneys and even at the asylum office, regarding who was conducting these background checks and what exactly they would be looking for. One thing that was clear was that youths’ social media accounts would be now checked. Legal brokers tried to anticipate or guess what type of content might be construed as problematic and advised their clients to remove it. This policy change reflected an increased scrutiny of asylum-seeking youths, and not just of the home country experiences that make them eligible for protection, but also of their lives in the U.S., based on the assumption that Latinx youths are deviant.

²² All cases of asylum-seekers from from the Middle East were also automatically sent to increased background checks during the Trump administration. These asylum-seekers are criminalized, but in a different way than unaccompanied minors, as terroristic threats.

When they had clients who fled due to forcible gang recruitment or victimization whose cases could not be reframed under the family or child abuse PSGs, attorneys tried to present arguments based on religion or political opinion. Religion cases could be successful if minors frequented church often or had stated that they did not want to join the gangs because of their religious beliefs, which said that gang activity was sinful. One attorney told me that she reframed a gang case as religion case to help a young Salvadoran girl who was being sexually harassed by a gang member (an experience similar to that of Alicia, discussed in Chapter 2):

“I had a case where gang members were harassing a young Salvadorian girl. Sexualizing her, wanting her to be their girlfriend. And that was what was going on. I knew that case wasn’t going to win. [...] So I presented a religion claim. Because of all of the threats, sexualization, and objectifying happened as she was going to and from church. So, I made the argument that she was being victimized because she was practicing her religion”

Conversely, attorneys agreed that, when they tried to present youths’ resistance to recruitment from gangs as political opinion, this was not generally not an effective way to win the case. Having and verbalizing a political opinion is an inherently agentic act that fails to satisfy the conception of immigrant children as deserving of protection in the asylum process only insofar as they are passive victims without any agency. According to legal scholar Jacqueline Bhabha (2014), the concept of political act in asylum law is insufficiently age and gender inclusive. Out of all the cases of unaccompanied minors that I observed in legal clinics, besides rarely used political opinion claims that tried to present youths as anti-gang activists, the only ones that presented an emancipatory and empowering argument, as opposed to an infantilizing and victimizing one, were the claims of indigenous claimants based on race, which is another one of the five grounds of persecution in the formal refugee definition. These types of cases were less common as compared to those based on child abuse or family PSGs.

The challenging aspect of preparing cases based on the legal grounds of race for indigenous claimants was that Central American unaccompanied minors did not generally arrive in the U.S. with an indigenous rights language or a historical critique of Colonialism that the legal arguments for these types of cases centered on. Instead, youths understood their situation in terms of class or poverty, and they had to be prompted to think about it in terms of persecution based on race or their indigenous origin. This was the case with 16 year old Sofia, the Guatemalan Maya girl whose story I presented in Chapter 2. I helped interview Sofia for her asylum declaration. She recounted that she had a difficult life in Guatemala, her family was very poor, she did not own any shoes, and her clothes were tattered. She told me this story over and over again during our meeting, recounting that it was humiliating when the other kids at school made fun of her for being poor. She said her teachers only wanted to help the “rich” students and never defended her. I asked Sophia, “*who the poor people were back home, was it the Mayas? And who were the rich people?*” She said that it was kids with lighter skin, like mine and explained that she was treated badly, “*because they didn’t like that we had dark skin, they called us negros.*”

After having been prompted to think about her situation in terms of her indigenous origins, other important details emerged. Sofia’s family had been targeted during the civil war, and her grandfather was among those killed in the Mayan genocide. Sofia’s parents were discriminated against in Guatemala for speaking K’iche’, so they never taught their children the language. Sometimes, having been sheltered by parents who did not teach them their language was the reason why youths did not strongly identify as indigenous. Since they had not reflected on how being indigenous shaped their experiences in their home countries, it was difficult for youths to verbalize their accounts of escape from violence in those terms. When youths had trouble

articulating a discourse based on their indigenous identity, their cases were especially vulnerable to denial. Below is an example of a conversation that took place between an attorney, a legal assistant, and an indigenous youth named Francisco as they prepared his asylum case.

The attorney asked, *“Who are the Ladinos?”*

Francisco explained, *“People who are different from us, they have more experience, they know more. Since we come from the mountains, we know less, we are ignorant.”*

The attorney corrected him, *“when you say who they are, here’s some things you can think about: are they descendants of the Spanish? Because they are not like you, and you are part of an indigenous group.”*

Francisco, said, reflecting out loud, *“they have a different culture.”*

The legal assistant intervened to ask, *“Are they Catholic?”*

Francisco, *“I don’t know, I don’t think so.”*

The attorney noted, *“Most people there are Ladinos right? Not indigenous.”* (Francisco nodded, yes) *“You can say Ladinos speak Spanish and identify with the majority population.”*

The Latina legal assistant chimed in again, pointing to her skin tone to provide context to her question, *“Ladinos, they are mestizos right? They are like me?”*

Francisco looked confused, paused to think, and then said, *“my family says that Ladinos do not have indigenous blood.”*

Attorney, *“OK, that is good, you can say that they don’t have indigenous blood and they don’t identify as indigenous.”*

Next, the attorney suggested that Francisco rephrase his earlier statement “we are ignorant” and the legal assistant asked, *“what do you mean by that?”*

Francisco explained, *“because we live in the mountains and we don’t know the culture of our country. That is what they tell us. They tell us and it sticks in your head.”*

The legal assistant asked the attorney, in English, *“is it good if he says it like that?”*

The attorney addressed Francisco to explain, *“it’s better if you say that this is what people think because otherwise it will seem like you think this is true, and you don’t think this right? I want to present to the court that you have a political opinion, that you think your people should have their own government, autonomy.”*

Legal assistant, *“do you know what autonomy is?”*

Francisco, *“not really, I don’t know much. Is it having your own laws?”*

Legal assistant, *“exactly”*

Attorney, *“It’s more or less like what you have already but the Ladinos are stealing your land. You want your people to have their own land, right?”*

Francisco exclaimed, convinced, *“yes!”*

Attorney, *“At the interview, I want you to be like an activist for indigenous rights.”*

Francisco, *“Like an activist? I don’t really understand.”*

Legal assistant, *“You are like a voice representing your community.”*

Attorney, *“Like your uncle, he is an activist.”*

Legal brokers attempted to reconstruct the dynamics of the sending context with Francisco so that he could articulate his experience of persecution based on the legal grounds of race to the adjudicator. Francisco found it challenging to describe who Ladinos are and why they occupy a privileged position in Guatemalan society. He was puzzled by the legal assistant's reference to skin color and by the attorney's remarks on the history of Spanish Colonialism. Instead, he repeated the demeaning language the dominant group used to describe his indigenous group because it was "*stuck in his head.*" The attorney suggested that he instead use more emancipatory language that does not reflect his internalization of symbolic violence but rather an awareness of racial hierarchies and his political opinion in opposition to the Ladino's dominance in his community, which allows them to steal indigenous lands with impunity.

The problem is that the legal brokers used a conceptual vocabulary (i.e., indigenous rights activism, colonialism, autonomy etc.) that Francisco completely lacked. The meetings Francisco had in the legal clinic were not, by any means, sufficient for him to gain an understanding of such complex issues. His case was denied in immigration court. Some of the counter-arguments that the Trial Attorney made to discount his case included: the fact that discrimination (based on being indigenous) does not amount to persecution; that Francisco did not articulate a political opinion; and that race was not a grounds for persecution because the persecutor was a member of the same racial group. The first two arguments reflect that fact that Francisco did not internalize an indigenous rights language, and he had difficulty articulating and verbalizing his claim in terms of race or political opinion in court. What's more, to dismiss the claim, the Trial Attorney argued Francisco did not suffered *enough*. His humanitarian capital did not rise to the level of persecution but, rather, should be considered "just discrimination."

During a long conversation with me, Francisco's attorney criticized the last point made by the Trial Attorney, noting that it reflected a lack of understanding of racial hierarchies in Central America. A Ladino threatened Francisco and his family but, because this person had indigenous relatives, the Trial Attorney said they belonged to the same racial group. Yet unlike in the U.S. where race is constructed in terms of the "one-drop rule," in Latin America, those who intermarry are considered mestizos and blend into the dominant group. The attorney's legal argument was based on the fact that this dominance allowed this man to persecute and threaten Francisco and his family and steal their land with impunity. A lack of understanding of the social, political, and historical context in sending countries on the part of adjudicators, and youths' difficulties internalizing and verbalizing the emancipatory racial discourses that their attorneys try to teach them combine to make these cases particularly vulnerable to denial, irrespective of the violence youths suffered in their home countries.

4.4 Preparing the asylum case

The asylum interview is a high stakes encounter. Francisco, for instance, met in person with his attorney on two occasions for multiple hours just to practice for his interview in court, in addition to all the prior meetings and phone calls they had to prepare his I-589 asylum application and declaration. Despite all this preparation, his case was denied. Even when youths were better able to explain the reasons for their persecution, asylum case preparation was still a complex and lengthy process. Declarations had to be carefully prepared to clearly present the case in a way that argued nexus, in one or more of the terms explained above. Information that positioned youths as entrepreneurial or agentic actors, as opposed to victims had to be avoided,

since the latter are more likely to elicit the adjudicator's compassion. Youths had to internalize and practice verbalizing their narratives, learning to tell their stories, not as they understood them, but in the language of asylum law.

To illustrate this delicate process, I present the case of Edgar, a 17-year-old unaccompanied minor from El Salvador whose case I followed from start to finish. In addition to observing his case as a researcher, I played an active role in the case preparation by serving as a Spanish-English interpreter to help his attorney who did not speak Spanish. My active participation in this particular case allowed me to draw important insights and, because of this, I also include my personal reflections in the account that follows. The attorney and I met with Edgar on over five occasions to prepare his case. I wrote 40 single spaced pages of field notes just on the meetings for Edgar's case, reflecting the enormous amount of work that goes into asylum case preparation. As we met over time, I observed that Edgar became better acquainted with us, that he smiled more often and began to relax, that he articulated himself more clearly and seemed less anxious, and that he was more willing to talk about what happened, all aspects that underscore the importance of rapport building when working with asylum-seeking youth. When it was time for his interview at the asylum office, Edgar asked me to accompany him because he had acquired familiarity with me, and he saw me as a source of moral support.

Compared to other youths I met during the course of my fieldwork, Edgar was especially articulate. The son of a police officer, he was studying in a private school in El Salvador, and he had never had to work. He was of a higher socioeconomic status than many other unaccompanied minors. Already during our first meeting, despite the fact that he was visibly nervous and speaking quickly, Edgar was able to tell us his story in a linear fashion. He

explained the reason why he fled without being prompted: MS-13 targeted him and threatened to kill him because his father was a police officer. The gang had verbalized that this was the reason why they were targeting him on several occasions, and this allowed us to establish nexus based on a family PSG, as well as on a more specific PSG, family members of police officers.

We first met with Edgar to fill out his “barebones” asylum application. These were basic applications with minimal information that attorneys submitted to the court when they were pressed for time. Attorneys filed barebones applications to meet deadlines and then supplied additional materials and a detailed testimony at a later time. They used this strategy in the “*rocket-dockets*” of the Obama administration, when the cases of Central American unaccompanied minors were processing priorities and had to be filed quickly. It became even more widely used during the Trump administration when aging out of asylum protections became a problem. When youths were about to turn 18, it was important to file their asylum application as soon as possible to avoid the risk of them losing their UACs status, which allowed them to apply at the asylum office. It was also especially important to file at least a barebones application when youths were about to turn 18 while detained in ORR because the Trump administration regularly transferred youths who aged out to adult detention facilities. Having a pending asylum application improved the odds of youths being released—even if the paperwork to secure a sponsor was taking too long—because the attorney could make the argument that the youth was applying for asylum, and thus could be expected not to abscond. Indeed, 95% of unaccompanied minors who have legal representation show up for their immigration proceedings (American Immigration Council 2016).

To prepare Edgar's "barebones" application, we filled out his I-589 asylum application form, where one must tick the boxes of all applicable eligibility grounds. The attorney asked Edgar some questions to determine whether he also qualified based on grounds other than the family PSG, according to the usual legal strategy legal brokers used: to present as many PSGs as possible to increase the odds of winning. The attorney used the *potential scenario provision* interviewing strategy to translate the grounds for asylum in the definition by giving short story examples of each grounds to Edgar: "*political is like, if you disagree with the ruling party of your country and express this; religious is being targeted because you are from a different religion than everyone else in your area; you can also be granted for being gay whether or not you act upon it [a PSG]; being of a Mayan origin in a place where everyone else is not [race].*" None of these applied in Edgar's case, so he selected none of the attorney's examples, and she checked only the PSG box on the application.

During a later meeting, when the attorney had developed a more in depth understanding of Edgar's particular circumstances, she once again used the *potential scenario provision* strategy to probe whether she could also frame the case in terms of political opinion:

Attorney: Did you ever talk to anyone about the threats you received from the gangs? Like to someone besides your parents. Did you ever mention that you didn't agree with the gangs and their illicit activities? Did you ever mention that you agree with the police?

Edgar: Like to who? No, I didn't really talk about these things.

Attorney: I'm asking because sometimes if you believe something strongly, that it's against your ideals, and you are very vocal about it and active in the community. You can be a target for that reason.

Edgar: No, I never did that. If I had done that, they would have killed me for sure. They kill those people.

Attorney: OK, the reason why I'm asking is to see whether we can also include an argument about political opinion in your case. So you never had any of those conversations?

Edgar: No, the truth is I never did.

The attorney asked Edgar if he had ever been vocal about his views. During our meetings, Edgar had told us that he thought his father was doing important police work to try to stop gang violence. If he had verbalized this in his home country, it would have given us more material to frame his case on the grounds of political opinion. The attorney first asked a vague question (*Did you ever talk to anyone about the threats you received from the gangs?*) and then provided a more concrete *potential scenario*, explaining that if you believe something strongly, if it is against your ideals, and you are very vocal about it, you can become a target. Edgar noted that this *potential scenario* did not apply to his case. In fact, the reason why he was never vocal was precisely because his life was already in danger. If he had been outspoken about his thoughts, instead of trying to attract the least amount of attention possible, he would have been killed for sure. Thus, the political opinion framing never entered the paperwork in Edgar's asylum case.

Interestingly, however, Edgar later articulated his opinion about the police very eloquently during his interview at the asylum office, raising concerns for the state of his country and voicing his admiration for the work of police officers like his father who risked their life to enforce the rule of law. A smart young man, Edgar demonstrated how his legal socialization had transformed him, in just a few months, from someone who "*doesn't even know what asylum is*" –in the words of the CBP officer Edgar interacted with at the border, as he told us– into someone with a sophisticated understanding of asylum law. This shines light on the key role legal brokers play in unaccompanied minor's legal socialization, a process I describe in more detail in Chapter 5.

Each time we met with Edgar, the attorney asked new follow-up questions, which served the purpose of clarifying the narrative and avoiding inconsistencies. Examples of questions she asked during these meetings are: *Did your dad always live with you?*; *Did he ever talk you about*

his job?; Did he tell you it was dangerous?; Did he ever tell you to keep it a secret that he is a police officer?; Did he ever think you might be in danger? The additional information she acquired with these types of questions was important because more detailed asylum claims are deemed more credible by adjudicators (Bohmer and Schuman 2008). For the same reason, inconsistencies must be avoided because they can be used to deny claims since they are interpreted, not as mistranslations or misunderstandings but, rather, as evidence that the asylum seeker was lying. A key aspect of case preparation that risks introducing inconsistencies is linguistic translation. For example, during one of our meetings with Edgar, I mistranslated one word from Spanish to English (neither are my first language), which caused some confusion:

In describing where he hid for a few days with a relative, Edgar told us it was a small room where there was only space for his relative's bed and "*su cocina*." Kitchen is the literal translation of *cocina*, so I translated this as, "*there was only space for his bed and his kitchen*." The attorney was puzzled about how a room could both be small and also have space for a kitchen. She asked me what I meant by kitchen.

I explained, "*you know, where you cook*," and I asked Edgar, "*así los fuegos de la cocina no?*" [the burners on the *cocina*/kitchen] Edgar: "*Si eso chiquito que se pone encima de la mesa*." [Yes, that small thing that you put on top of the table]

Starting to understand, I replied: "*Si esas pequeñas que son como para acampar, de dos fuegos*." [Oh yes, those small ones that are like, for camping, with two burners]. Edgar and I had understood each other.

The attorney intervened, "*a kitchen is a room, what do you mean by kitchen, a stove?*"

I replied, "*Yes, well isn't a stove, like an oven too? I mean like the thing with the two fires where you put food on top to cook it*."

The attorney says, "*that's a stove*," and she wrote this in the declaration. To check, I Googled "stove," and I saw that is the whole thing, the oven with the burners on top. So I explained exactly what Edgar meant, which is more like a camping stove.

While this conversation might seem trivial, even small inconsistencies must be avoided in asylum claims. It has been documented by past work that the inconsistencies produced by mistranslations usually remain uncorrected and can lead to case denial (Jacquemet 2009). This one tiny detail, which was not central to Edgar's case in any way, prompted a fairly long

clarification conversation and a Google search. By the time we went to Edgar's asylum interview, we had had plenty of time to practice and avoid these misunderstandings. Yet youths' asylum cases are seldom prepared in such ideal circumstances as the availability of volunteer interpreters is sporadic, and youths might interact with more than one to prepare their case. In many cases, of course, attorneys themselves speak Spanish fluently and do not need to rely on an interpreter to prepare cases. Indeed, in Los Angeles, the vast majority of legal brokers working at legal aid organizations spoke Spanish fluently or as their first language. While this scenario is ideal as it allows for a more fluid conversation and better rapport building between the youth and the legal broker, it also meant that youths did not have a chance to practice working with an interpreter before their interviews at the asylum office. Indeed, when I worked as a volunteer interpreter at the asylum office, youths often spoke too quickly and did not pause often enough, so I had to ask them several times to repeat themselves, thus protracting already long interviews.

Another reason why details are crucial to prepare asylum cases is because they allow legal brokers to *quantify suffering* in youths' testimonies. Legal brokers obtain details and use these to show how intangible emotions, such as fear, had tangible effects on the lives of claimants. In this way, legal brokers transform these emotions and experiences into "humanitarian capital" so that they can be "read" by the adjudicator to determine that the youth has suffered "enough" to meet the eligibility bar of persecution. In Edgar's case, who had been threatened on multiple occasions, it was important to *quantify suffering* to give concreteness to his feeling of fear and to portray the escalating nature of the threats against him:

The attorney spent a long time figuring out what happened between two incidents with the gangs. She asked Edgar, "*how scared did you feel? why didn't anything else happen to you?*" She remarked that there was a tension between the fact that Edgar said he was

scared but then he also said that he was calmer because the police were patrolling the area. Edgar replied, *“I was scared, but knowing that the police were patrolling the area made me a bit less scared.”* He still saw gangs near the house, he knew he was in danger. The attorney asked how many times Edgar saw the gangs during this period. Edgar thought about it, then suggested, *“maybe 3 times.”* The attorneys wrote the number of times down in the declaration. Later during the meeting, the attorney asked about the second incident, *“Why did you take the threat more seriously this time? Did it feel more severe? More real?”* Edgar replied, *“because this time, it was with a gun, they pointed a gun at my chest.”* The attorney asked, *“Did the gun touch you?”* Edgar pointed to his chest, *“Yes, it touched me here.”* The attorneys added these details, writing that the gun touched his chest.

The attorney *quantified* Edgar’s suffering by asking him how scared he felt and why the second threat he received was worse than the first. These details served to present his fear as real and “objectively” plausible. According to USCIS, asylum claims based on “*general ambiguous fears*” are insufficient. Instead, *“an applicant must have a genuine fear of persecution and that fear must be objectively reasonable”* (as cited in Galli 2018). After all of these questions, Edgar told us that a gun was pointed at his chest, something that would make anyone afraid. Thus, the attorney obtained a visible detail, the gun, that allowed her to contextualize Edgar’s fear, and make it visible and concrete to the adjudicator. The attorney also asked why Edgar felt calm and threatened at the same time (a contradiction) when the police were patrolling his street. Edgar explained these contradictory feelings: seeing police cars made him calmer but seeing gang members hang out around the house and surveil it made him fearful. The attorney then *quantified* the fear further by asking him how many times he saw the gang members outside his house. In addition to providing details in the testimony, providing documentary proof was essential to *quantify suffering*. For example, Edgar had a police report describing the victimization he suffered. Not all Central American asylum-seekers are able to provide this type of proof (Galli

2019a). Oftentimes, they had been too scared to approach the police. Even when they had, the police sometimes refused to give them reports, either because they feared the gangs or because they were corrupt and colluding with the gangs. Perhaps it was possible for Edgar to obtain the report since his father was a police officer in El Salvador.

In preparing asylum narratives, it was also important to make sure that the youth did not say things that could be misconstrued by the asylum officer and work against his or her claim. For example, during one meeting, Edgar mentioned that he saw on the news that things were getting worse in El Salvador. He said, *“the police are losing control, there have been reports on TV of grenades being thrown into police buildings.”* The attorney asked him, *“when you say getting worse do you mean in your neighborhood, your city, or the country?”* Edgar replied, *“everywhere, the whole country is dangerous.”* The attorney cautioned Edgar, *“we don’t want to say that everything everywhere is dangerous in El Salvador. We want to make the case that you were in danger because of your relationship with your father, which is the truth.”*

The attorney thus taught Edgar that it was key for him to convey the particularity of his own circumstances to avoid being seen as one among many in a bulk of similar applications. However, this conversation also reflects the contradictory nature of asylum law. On the one hand, the attorney cautioned Edgar to be careful in saying that everywhere in El Salvador is dangerous to better highlight the specific dangers in the town he hailed from and that he faced personally due to his particular situation as the son of a police officer. Indeed, the lawyer argued Edgar’s case using a narrowly defined PSG (i.e., family of police officers), which is more specific than the family PSG. This narrow framing serves to meet the demands of an asylum system that

rewards the particularity of circumstances (Bohmer and Schuman 2008), as opposed to common circumstances, which are more readily discounted to keep admissions levels low.

On the other hand, however, one of the standard questions that youths are asked at the end of their asylum interviews is whether they could safely relocate elsewhere in their country of origin if they were to be deported. Of course, the answer to this last question must be no to bolster the asylum-seeker's claim of fear of return so the case can be granted. Noting that all of El Salvador is dangerous is therefore helpful to answer this question. In sum, the home country must be dangerous enough, in all places, so that return and relocation to safety would not be possible, producing the need for international protection. Yet danger must not be perceived as too routine or pervasive throughout the entire country so as to discount the special and unique nature of a specific case or raise concerns of "opening the floodgates" to asylum arrivals. These types of catch-22 situations highlight the convoluted ways in which *de jure* refugeehood is constructed, making it complex for sociological refugees —individuals who escape from life threatening violence— to obtain political recognition as refugees.

In preparing asylum narratives, it was also key not to include details in the testimony that would associate the youth with agentic identities. Legal intermediaries worked to construct narratives that distanced youths from identities that emphasize agency and instead associate them with those that exemplify the passivity and victimhood expected of children. Depicting unaccompanied minors as passive actors satisfies the infantilizing nature of U.S. asylum case law, as well as adjudicators' assumptions and subjective expectations about refugee children as individuals lacking any agency. These legal constructions discursively situate teenage youths who find themselves in a liminal state between worthy childhood and deviant near-adulthood

more closely with the former identity so they will be seen as deserving of protection. For example, when preparing youths to answer questions about relocation in their home countries, legal brokers usually asked them if there were any adult relatives there who could care for them and keep them safe if they were to go back:

Attorney: Do you have other family in El Salvador?

Edgar: My grandmother

Attorney: Does she live by your parents?

Edgar: Yeah, just a bit further down the street.

Attorney: Could you support yourself if you went back to El Salvador? To live on your own, elsewhere, could you work?

Edgar: No, well, I want to be prepared before I start working. I want to study because I want to get a good job, I don't want to break my back to make super little money.

Attorney: well, we don't want to mention that because the point is that you can't survive (with emphasis) if you go back. Not that you don't want to do a particular type of job.

Edgar did not have family he could live with in El Salvador away from the place where he was victimized. The attorney asked him if he could work to live elsewhere on his own, to see if his answer would satisfy the adjudicator's expectations for child-like behavior: that children cannot provide for themselves. Edgar, however, did not understand the goal of the question, and he noted that he would not want to have to support himself because he wanted to go to college first. The irony of this interaction is telling. On the one hand, unaccompanied minors are held to middle-class standards in the U.S. –get an education, go to college– and expected to achieve them, even when the odds are stacked against them. Yet, at the same time, if they come to the U.S. with middle-class aspirations and verbalize them at the wrong moment, like during an asylum interview, this can dangerously position away from the victim asylum-seeker frame. Of course, Edgar would be in danger if he were deported to El Salvador but he also had aspirations for the future and ambition, those same aspirations expected of youths seeking to integrate as

young immigrants in the United States. In practice, these two things are not mutually exclusive. Yet, these two points become incompatible in the asylum narrative where there is no space for complexity (i.e., *“the point is that you can't survive”*), and child-victims must be portrayed one-dimensionally as helpless and lacking any kind of agency. Similarly, asylum-seeking youths from poor families had to be careful not to mention their desire to work in the U.S. or else they risked being associated with the economic migrant frame, which could likewise lead to case denial.

A few days before his interview at the asylum office, the attorney and I met with Edgar again to practice his narrative once more. The attorney reiterated the importance of telling the truth during the interview, *“you are going to be asked to swear that you are telling the truth. It's very important to tell the truth.”* She explained that the interview would have three steps. First, the asylum officer would go over his I-589 asylum application form, to check that all the information was correct. Second, *“the asylum officer asks you questions about your story. Supposedly, the interview is not meant to be adversarial, but it always depends on the interviewer that you get. Some of them are nice, others are not.”* Third, *“some asylum officers let attorneys ask closing questions or give closing remarks, and others don't. We'll see what happens in your case.”* By explaining how the day would unfold, the attorney reassured Edgar to minimize his anxiety surrounding this high stakes encounter and prepared him for a potentially hostile officer.

Finally, underscoring the importance of the performative aspect of the asylum interview, the attorney discussed attire with Edgar. It was important that he look the part to convey with his body the same things he would convey with his words. His attire had to reflect his respect for the asylum process and not signal him as a deviant teenager but as a “good” kid. The day the attorney offered this advice, Edgar looked far too fashionable in blue jeans, a DKNY T-shirt, a

baseball cap that read L.A., and a metal chain necklace. The attorney made sure to tell him that this was not an appropriate outfit for the asylum interview, and she singled out this last item as something to definitely not wear because it might suggest gang jewelry. They discussed what the clothing he should choose, something formal but not too adult-like, so as not make Edgar, who was tall and big, look older, and potentially less compassionate:

Attorney: *Wear something nice for the interview, like what you would wear to church.*

Edgar: *Ok*

Attorney: *What do you wear to church?*

Edgar: *Like a shirt, a dress shirt* [makes a gesture of buttons down along the front].

Attorney: *Ok perfect. What about pants?*

Edgar: *I wear jeans or, if it's a more formal event, dress pants.*

Attorney: *Do you have dark jeans?*

Edgar: *No, just this color* [blue jeans]

Attorney: *Ok, do you have dress pants?*

Edgar: *No, but if it's important I could buy them.*

Attorney: *No, it's ok you can wear jeans if you don't have dress pants. We also don't want you to look older than your age. Because, you know, part of the protection you are getting is because you are young.*

Edgar smiles and touches his face: *Ok, I'll shave then.*

Attorney, also smiling: *Yes, and no hat at the interview.*

On the day of Edgar's asylum interview, I arrived at the asylum office at 6:45am. There were very few people in the waiting room but Edgar and his aunt Luisa —his ORR sponsor— were already there, visibly anxious. They had been at there since 6 a.m. before the office opened because they were worried about traffic. They were also worried about us not showing up. Luisa had already called the attorney to ask her where she was. I asked Edgar how he was doing, and Luisa answered for him, "*he is nervous.*" Edgar agreed, "*yeah, I'm nervous.*" She added, "*we didn't sleep well because we knew we had to wake up so early.*" Edgar had taken his attorney's advice and was smartly dressed, wearing plain black Nike sneakers, black dress pants, and a nice

button-down shirt with thin white and blue stripes. *“You look elegant,”* I told him to make small talk and take his mind off the tension. With a serious expression, he replied, *“thank you.”*

The attorney arrived slightly late, which she was apologetic about. She was also dressed smartly but had deep black circles under her eyes, poorly hidden by her makeup. She looked exhausted, which was a look I saw on her often. In previous occasions, she had confessed feeling tired and burned out by her job, a feeling shared by many legal brokers, particularly during the hectic and uncertain context of the Trump administration. Soon after arriving, she excused herself and sat in a corner away from us to finish preparing for the interview. I made small talk, mostly with Luisa, since Edgar was, understandably, not feeling very talkative that morning.

We spent a long time waiting in the freezing air conditioned room that morning. Edgar was fidgeting, playing with his phone. While we were waiting, several of Edgar’s family members, both in the U.S. and El Salvador, called to ask how the interview went. *“Your uncle says good luck,”* Luisa told Edgar, reading the text message on her smartphone. *“Tell him that I say thank you and that I love him,”* Edgar replied. Then, Edgar’s father and grandmother called from El Salvador, and Luisa explained that we were still waiting. When she hung up, she told me, *“back home, they are worried too.”* After a while, the attorney sat next to us, and she told Edgar, *“if you feel emotion, that’s OK, don’t try to repress it. If you feel like crying that’s OK. In fact that’s good, it shows that your fear is real. [In El Salvador] did you cry?”* Edgar replied, *“Yes, I cried often, sometimes I still cry when I think about it.”* Edgar was more willing to admit his vulnerability than other male teenage asylum-seekers whose cases I followed, who denied crying because this behavior clashed with their understandings of masculinity (Galli 2018).

At a certain point, it seemed like the appointment would have to be rescheduled; the attorney

spent some time talking to a bureaucrat at the sign-in window explaining that we would all rather get this over with, especially since it was not the first time the interview was postponed. Commenting on the poorly functioning bureaucracy, the attorney said, *“I think it's good for you to see this [for your research], the way the bureaucracy works.”* With so much at stake, making people wait for their interviews at length becomes an especially cruel manifestation of the power asymmetry between the asylum-seeker and the state. After waiting for four hours, we were finally called in for the interview. Due to the confidentiality of interviews at the asylum office, I could not take detailed notes during Edgar’s interview. However, I later wrote some general reflexive notes informed by this experience that highlight important general aspects of the case preparation process that culminates in the interview at the asylum office.

First, this experience and others that I had as a volunteer interpreter made apparent the “legal violence” of the asylum interview interaction. With such long interviews, which usually take place after long waits, the level of burn out of all parties involved is notable: for the asylum seeker who is giving an emotional testimony; for the asylum officer who has to keep track of a story that she just read for the first time just before the interview; for the interpreter, the level of fatigue compounds the potential for errors that can produce inconsistencies. Towards the end of this 4 hour interview, I was exhausted and having a trouble translating. Research shows that the quality of interpreters’ work decreases over time due to physiological stress and the high level of concentration required (Moser-Mercer et. al. 1998). An accurate and precise linguistic translation of the asylum-narrative from Spanish to English is key in order to convey the complex legal and discursive strategies that the asylum-seeker and his attorney have carefully constructed together.

Second, it was crucial that the attorney and Edgar had time to prepare the case and practice

working as a team. Having multiple meetings with his attorney allowed Edgar to better understand the law as it applied to his asylum case, what details he needed to disclose, and how to verbalize his asylum narrative. The importance of the legal socialization work that legal brokers can do with youths was apparent in this case. Edgar was clearly receptive to the training, and he performed well during the interview, speaking clearly, waiting for the translation, explaining things in detail. He volunteered information, bringing up things that we had discussed and were in the declaration but were not tied to the narrow question that the officer asked. Edgar was able to perform well despite the fact that he was anxious and glassy eyed, and at a certain point, breathing with difficulty. He demonstrated his legal socialization by giving the officer all the information that the attorney told him was important to disclose. Edgar was educated, he was an older teenager, and was more knowledgeable about the political situation in El Salvador than many other youths. He was able to articulate his case, and he had excellent legal representation. Not all applicants fare so well. The importance of high quality legal representation is key. Even Edgar, a smart and articulate older teenager, could have never presented his own case at the asylum office. Not all cases were prepared so thoroughly since legal aid organizations are often pressed for time. What's more, a lot of the case preparation is often carried out, not by lawyers, but by legal assistants, some of whom were volunteers like myself.

Not all asylum-seekers are accompanied by their attorney on the day of the interview. For youths with private or low-bono attorneys, they may be charged an additional fee for this service. When the attorney is present, she usually delivers closing statement that ties the facts of the particular case the relevant case law, potentially making it easier for the asylum officer to grant the case. In their closing statements, attorneys argue, first, that the applicant experienced the

right *amount* of suffering: the harm suffered in the home country rises to the level of persecution. They argue that the severity of the suffering does not have to be same for children and adults: children need less humanitarian capital to build a meritorious asylum case. Second, attorneys argue that their clients experienced the right *type* of suffering: the reason for the persecution satisfies the nexus requirement and at least one eligibility grounds. They argue that children can be granted asylum even if there are inconsistencies and if the testimony does not clearly spell out nexus. In sum, attorneys reiterate the child-specific legal arguments and training recognized at the asylum office to hold the officer accountable to implementing these child-specific criteria.

As mentioned previously, the Trump administration tried to limit the exercise of protective discretion for children at the asylum office by encouraging officers to conduct credibility screenings with minors, as they did with adults. Legal brokers tried to respond to this by changing how prepared unaccompanied minors' cases. Asylum declarations now had to be *detailed enough* to be deemed credible, but not *too detailed* because this could make it more likely for youths to misreport details (e.g., specific dates, the number of people present) during their interviews, which would now be evaluated more harshly and could be grounds for denial.

After we finished Edgar's four-hour interview that day, we stood outside the asylum office together. We were all exhausted. In total, without counting the long commute from their house to Anaheim, Edgar and his aunt had spent about nine hours at the asylum office. Luisa asked the attorney how she thought it went. Cautiously, the attorney said, "*I think [Edgar] did a good job, you said everything that you needed to, everything that I wanted you to say. I think you did the best you could, and I did everything I could.*" Then she added that, in the current political context, she could not make any guarantees about Edgar's case because policies were changing

continuously, and it was impossible to predict what would happen. This type of cautious assessment was a typical of how legal brokers had adapted their strategies under Trump, as they made their clients aware of the uncertain legal context and managed their expectations about the outcome of their cases. That day, we went our separate ways day hoping the case would be granted but unsure and anxious in the uncertain context of the Trump administration. Months later, we heard the happy news that Edgar was granted asylum, obtaining the recognition as a *de jure* refugee to match his lived experiences of escape from violence.

4.5 SIJS: translating home country experiences as abandonment, abuse and neglect

Central American unaccompanied minors also applied for Special Immigrant Juvenile Status (SIJS). This is the only legal instrument in U.S. immigration law that enshrines the principle of international law that is the centerpiece of the Convention of the Rights of the Child, the *child's best interest*. The SIJS application is a two-step process involving different bureaucracies. First, youths must first obtain the "SIJS order" from a State-level family, dependency, or probate court. The SIJS order places youths under the custody of a state agency or individual after determining that they have been abandoned, abused, or neglected by one or both of their parents and that return to the country of origin is not in the *child's best interest*. However, a grant of the "SIJS order" in State courts does not confer legal status automatically. The second stage of the SIJS application is adjustment of status to legal permanent resident (LPR) through USCIS, which took increasing amounts of time, over two or even three years as the number of SIJS applications from El Salvador, Honduras, and Guatemala exceeded statutory visa availability in 2016.

Judges in state courts have the expertise necessary to make *best interest of the child* determinations, unlike immigration bureaucrats at USCIS. Each State implements SIJS in different ways, depending on how State child welfare laws define the legal criteria of abuse, abandonment, or neglect. Lawyers prepare SIJS cases by eliciting details about youth's lived experiences in the home and interpreting these through the lens of State law as abandonment, abuse, or neglect. The first stage of the SIJS application must be completed before age 18 when the child was abandoned, abused or neglected by *one parent* but reunifies with the other in California, or before age 21 when the child was abandoned, abused, or neglected by *both parents*. However, for the State courts to have jurisdiction over SIJS cases, youths must first have resided in the area for 6 months, which effectively pushes the age-cut off deadline further back.

As we saw in Chapter 2, it is fairly common for youths to reunify with one of their parents in the U.S., usually with their mothers. These mothers either fled abusive domestic relationships or migrated to work in the U.S. because the fathers of their children abandoned them. These types of scenarios would qualify youths for a one-parent SIJS application based on abandonment by father but the SIJS order had to be obtained before the youth turned 18. This meant that there was not always sufficient time to apply for older teenagers like Johnathan, who arrived in the U.S. on the verge of aging out. When youths had no parents in the U.S. and reunified with other relatives, another common scenario, they had until age 21 to obtain the SIJS order. In 2018, the Trump administration attempted to restrict access to SIJS by lowering the eligibility age for those youths from 21 to 18. Public Council sued the government to challenge this policy, and the lawsuit is pending at the time of writing. When youths had no parent in the United States, it could be difficult to find a SIJS guardian. As we will see in Chapter 6, youths who reunified with non-

parent sponsors were more likely than youths who reunified with parents to report conflict in their families. These conflicts could create problems for SIJS applications if youths' relationships with the sponsors serving as their guardians became tense, leading youths to leave the homes of their sponsors to live elsewhere. When such situations arose, it was sometimes necessary to postpone hearings until another family member or other adult agreed to become the guardian.

The case of Evans illustrates how attorneys decided to pursue SIJS, and how these cases were prepared. Evans was from Honduras, and he arrived in the U.S. at age 16 to reunify with his father, who had migrated to Southern California when he was 7 years old. In Honduras, Evans lived with his mother and two younger siblings. Evans secured legal representation at age 17, only eight months prior to his 18th birthday. His attorney determined that his best case was a one-parent SIJS application based on neglect by his mother in Honduras. The attorney's rationale was to apply for SIJS for two reasons. First, this was a time-sensitive application, Evans needed to obtain the "SIJS order" in family court before turning 18. Second, she assessed that Evan's asylum case was weak. This is yet another example of how Central American youths' lived experiences of escape from violence fall out of the narrowly interpreted refugee definition, denying them political recognition as refugees. Evans told us that he fled after gang members shot and killed his best friend in front of him during a birthday party. Since he was a witness, the gangs threatened to kill him if he did not leave the country. He immediately went into hiding at a relative's house while the family put together enough money for this trip. After hearing this story of escape from violence, I was surprised that Evans was not applying for asylum immediately, and I asked his attorney whether he would apply.

The attorney explained, *“If he had a really strong asylum case, then he could apply for that, and we would try to do it quickly, but he just witnessed the death.”* The attorney’s rationale in making this determination was that there was nothing to show that Evans was personally targeted and that the gang members could find him to carry out their threat. The attorney explained that, if the gang members had gone back to his house to look for him, it would have been different but, since Evans left, it would be difficult to argue that he was at risk because we did not know what would have happened if he remained at home. Once again, we can see the catch-22 situations asylum-seekers find themselves in. The longer youths stay in their home country, the more proof they might have that their persecutors tried to carry out their threats. But who would stay put after receiving a death threat in a country with so much violence and impunity if they had the means to flee? Also, staying in the home country for too long, and being lucky enough to survive without suffering substantial harm, could, conversely, be construed as proof that the danger was not real. This highlights how youths’ migration decisions, their assessment of the level of risk in the home country, and the timing of their escape –all issues explored in chapter 2– play out in fundamental ways shape their recognition as refugees in the U.S. asylum system. While Evans’ flight after witnessing a murder and receiving a death threat can hardly be considered preventative, his attorney still determined that his asylum case was weak.

What’s more, Evan’s asylum case was weak because it was based on the wrong “type” of suffering since victimization at the hands of gangs is not recognized as a valid grounds for asylum under U.S. case law. Instead of bringing these cases to the asylum office, attorneys experienced with SIJS would strategize to apply for SIJS first when the youth was eligible. This legal strategy did not make common sense to applicants themselves, as one attorney explained:

“It’s hard for some clients to understand why we’re bringing a SIJS case saying that their father, who they don’t really know or care about [abused, abandoned or neglected them]? They are like, ‘why are, we making this about my dad? If I go back, the gangs will kill me.’”

The attorney began Evan’s SIJS declaration interview by asking him basic biographical questions about where he was born, where and with whom he lived in Honduras. Evans lived with his mother who would be framed as the neglectful parent for the purposes of the SIJS application, while his father would be his guardian parent. The attorney asked questions about his relationship with his father during the nine years they were separated:

Attorney: Did he provide for you? Did he send money?

Evans: Sometimes.

Attorney: Did you speak to him?

Evans: On the phone, sometimes.

Attorney: Did you feel like he was in your life growing up?

Evans: No, I barely remembered him. When I saw him in the U.S., I had to get used to him. Now, I am much more attached to him.

Attorney: Do you like living with him now?

Evans: Yes. I like living with him here.

Evan’s attorney explained to me that she *could* argue that his dad abandoned him since he moved to California when he was a small child, and, at first glance, it appeared that he might not have remitted to the family much, although she did not verify this. However, since the father would be his guardian, the goal was to explain that Evans liked living with his father, who was now providing for him. The attorney’s reasoning reflects that the choice of the ‘culprit’ parent for the purposes of the SIJS application was somewhat flexible. Lawyers could employ different legal strategies, selecting which parent or relative to construe as culpable for the child’s suffering (depending on the particular circumstances of each case) to best obtain relief for their clients. Whomever legal brokers select as the “culprit parent,” all youths awarded LPR through

SIJS permanently forfeit their family reunification rights, and they are unable to bring their parents and siblings to the U.S. and/or legalize their status. This is true for both parents, no matter the circumstances of youths' relationship with them. In this case, Evans would never be able to bring his "negligent" mother to the U.S. nor to regularize the status of his undocumented father who became his primary caretaker and SIJS guardian. The principle underlying SIJS is that children claiming this form of relief must be shorn of kinship ties and placed under the protection of the state (Heidbrink 2014).

In legal clinics, I observed how attorneys explained to SIJS applicants this key limitation to their future family reunification rights as LPRs and U.S. citizens. Yet even when attorneys were diligent in explaining their legal strategies to their clients, youths often remained confused and did not fully understand what was being done on their behalf. Indeed, I was troubled to find that some of the unaccompanied minors who I interviewed had applied for SIJS but they did not seem to be aware of this limitation. They had aspirations to reunify their parents that they had left behind to bring them legally to the U.S.. This reflects the fact that legal brokers are not always able to fully translate complex legal provisions for their young clients and teach them about the law, which contributes to making the legalization process disempowering for unaccompanied minors who often did not fully understand their rights, as we will see in the next Chapter.

The interview to prepare Evan's SIJS declaration centered on his relationship with his mother and his experience growing up in Honduras. The attorney used the *potential scenario provision* and *quantification strategies* to obtain details to satisfy the definitions of abandonment, abuse, or neglect under California State law. The attorney first asked about abuse, "*Did your mother ever hit you?*" Evans replied no. Then, the lawyer asked, "*Did she ever hit you because of something,*

so that maybe you thought you deserved it? Like as a punishment?” Using the *potential scenario provision strategy* the attorney addressed the normalization of child abuse by providing an examples of what she perceived to be a common situation in Central America: that parents hit children as a punishment, and children think that this is normal if they did something to warrant the punishment. Evans admitted that his mother hit him once with a belt when he broke a vase.

The attorney next applied the *quantification strategy* to assess the extent of the abuse, asking, “*Just that one time?*” Since Evans said that it was only one time, the attorney did not make an argument about abuse in his application. For other SIJS cases, I have seen attorneys assess whether there was abuse, and to what extent, by using the *potential scenario provision strategy* and asking questions, such as: *in addition to using the belt, did they hit you with other things?; Did they throw things at you or talk to you using strong hurtful words?; Did they hit you in your back, your legs, your arms?; Did they just use the belt or did they also throw their shoes at you?*. They also used the *quantification strategy* by asking questions, such as: *how many days a week did they hit you?; Did they ever leave marks?*. Asking these pathologizing questions may be a somewhat necessary evil because California law has specific definitions of what type of corporal punishment parents can inflict on their children.

In Evans’ case, the attorney did not pry in depth with such pathologizing questions. Instead, she decided that it would be enough to argue his case on neglect since he was working while under a certain age and in dangerous conditions, which constitutes parental neglect under California law. She then reassured Evans about the questions she was asking in order to present his mother as the ‘culprit parent,’ telling him, “*I understand it might be a bit weird to hear these questions, you don’t have to say anything bad about your mom.*” Evans told us that he did feel

bad about talking poorly about his mother. In this way, the attorney exercised a *lawyering as care strategy*, taking into account the comfort of the young man she was working with by explaining why she would ask certain questions about his mother and by prioritizing an application based on neglect rather than abuse, which Evans did not want to claim.

To establish neglect, the caretaker does not need to have had an intent to harm the child. As one attorney put it, to establish whether a youth had a viable SIJS case based on neglect, they would ask themselves, *“if the kid were here in the U.S., and they were doing what they were doing in their home country, would the Department of Child and Family Services step in and intervene? If the answer is yes, we usually use that as an argument for neglect.”* The contradictions of these evaluations were not lost on legal brokers. For example, one attorney told me that, to prepare SIJS cases, they had to interpret youth’s lives with, *“somewhat of a Western-Centric view. And so, we often discuss it [with other attorneys in the NGO] because we also don't want to judge the culture our clients come from, but [this is] for the sake of arguing and advocating for them in front of our State Court Judges.”*

Lawyers argue neglect based on State-level education, labor, and penal codes, looking for details in youths’ home country lived experiences that violate provisions in these laws, such as: the prohibition of underage work; the prohibition of minors’ work in agriculture and use of dangerous equipment or chemicals; and truancy charges (i.e., when a child below the mandatory schooling age does not go to school). The attorney’s line of questioning in Evan’s case centered on looking for details of these types of events to establish neglect under California Law:

Attorney: *How many hours did you work?* [in construction]

Evans: *Like 8, 9*

Attorney: *How many days?*

Evans: *Every day.*

Attorney: *Did you ever get hurt?*

Evans: *Once.*

Attorney: *How?*

Evans: *I feel and scraped my knee*

Attorney: *Was it bad?*

Evans: *No, just a little scrape.*

Attorney: *Anything else?*

After some conversation about the work Evans did in Honduras, he discloses that he operated dangerous heavy machinery to make cement. [...]

Attorney: *Did you ever get hurt working in the fields?*

Evans: *No*

Attorney: *Did you use pesticides?*

Evans: *Yes.*

Attorney: *Did they burn you?*

Evans: *No*

Attorney: *Did you use gloves? A mask?*

Evans: *No. My hands got all white.*

Attorney: *Did it hurt?*

Evans: *Yes, it burned.*

Attorney: *How did you feel that you had to work?*

Evans: *Good, I liked it.*

Attorney: *Did your mom tell you that you had to work?*

Evans: *No, but I felt that I should work.*

Attorney: *what did you use the money for? Did you provide for your family?*

Evans says he did not make much money. He paid for his clothes and, sometimes for food. A few times, he gave his mother the money he made.

Attorney: *Would you ever go hungry?*

Evans: *Just a few times.*

The conditions that constitute neglect based on California legal definitions of underage work and labor exploitation may very well be normalized by youths since it is fairly common for underage children in poor families to work Central America. The attorney carried out her *legal translation role* by pointing out that, according to U.S. law, Evans' experience was illegal. When Evans was not responsive to the question about whether he ever got hurt while working, the attorney used her repertoire of past work experience on SIJS cases, and knowledge of California labor protections for minors, to provide *potential scenarios* and screen for facts that would

constitute neglect: using pesticides; working without protective gloves; operating heavy machinery; and working long hours.

When the attorney moved beyond gathering facts about work to ask how Evans *experienced* his circumstances in Honduras, she ran into Evan's resistance to the narrative that re-interpreted his experience in a U.S.-centric lens by means of California Law. Evans told her that he liked work, and he did not feel like his mother was coercing him to work. He did not see his life through a Western frame that sees childhood as a time of innocence. From Evans' perspective, in Honduras, he was a young man and not a child so it was quite normal that he worked full time. Indeed, entering the workforce is a rite of passage into adulthood, particularly for boys. It is not surprising that Evans said he liked to work. Many of my male study participants relished the independence afforded to them by work and even enjoyed the work experience itself, despite the fact that they often worked in strenuous and even exploitative conditions. Upon more questioning, Evans conceded that he also thought he should work because he needed the money for clothes and food, and, sometimes, as the oldest child in the family, he would give his wages to his mother to help buy food for the family. Evans' attorney thought that his case would be approved based on his working conditions in Honduras.

According to the attorneys I interviewed, cases like this based only on neglect were the ones most likely to encounter resistance at the state-court level because the judges could consider youths' circumstances to reflect "*just poverty*" instead of going against the *best interest of the child*. If this occurred, attorneys would remind judges that their role was not to make a determination of whether a certain facts might be "normal" in Honduras, but, rather, whether these facts met California legal definitions of neglect. In this way, attorneys and adjudicators

took youths' lived experiences in the home country and transformed them through the definitions of California law, reading childhood *there* through the lens of childhood *here*, as a time to be protected and sheltered, to play and study. By making this discursive move, attorneys were able to obtain the significant protections for their clients, putting youths on the path to LPR.

Overall, attorneys agreed that SIJS was the “easier” relief to apply for, compared to the narrowly interpreted and convoluted provisions of asylum. California State court judges were well acquainted with child protection laws and increasingly prepared to apply these to the experiences of Central American immigrant youths. Attorneys representing unaccompanied minors had worked over the years to educate judges in Southern California about SIJS as this became an increasingly common form of relief for unaccompanied minors. Rather than problems satisfying legal definitions, the backlog and long wait times to transition to LPR were the main challenges for SIJS cases. However, during the Trump administration, even SIJS cases became more difficult to win. Whereas USCIS previously usually granted SIJS cases based on the *best interest of the child determination* made by the state courts, they were beginning to question these decisions by issuing Requests for Evidence and Notices of Intent to Deny.

Requests for Evidence required submitting more paperwork or even resubmitting things that had already been in original applications. For example, one attorney recounted being asked for more details about the best interest determination, going against previous USCIS policy, which was to defer to the state courts' expertise in these matters. Another attorney complained, “*USCIS wants evidence that a judge considered alternative placement options for the child in their home country. So, for example, did the judge think about whether or not the kid could live with their other relative in whatever other city before it issued the finding that it's against the kid's best*

interest to return to their home country?” In this example, USCIS appears to be inappropriately applying the relocation and fear of return assessment typical of asylum adjudication to the best interests of the child determination central to SIJS in order to deny the case.

Notices of Intent to Deny meant that USCIS was warning applicants that it was going to deny their case. In 2018, USCIS began to deny cases with SIJS orders that had been previously approved during the Obama administration, causing youths who thought they were on the path to legal status to fall out of eligibility for relief. For example, one attorney recounted that her client received a Notice of Intent to Deny from USCIS two years after the state court had approved her SIJS order because her father was not listed on her birth certificate. USCIS was arguing that this meant that the applicant did not know the identity of her father, and therefore no longer qualified for SIJS. According to her attorney, this was a *“bogus argument.”* The reason for her client’s SIJS eligibility *was* that her father had abandoned her at birth, and this was why he was on the birth certificate. Another youth whose SIJS order had been previously approved in 2016 had her case denied because she did not know the identity of her father. It in this case, it was because her mother was raped, as her attorney explained:

“the USCIS decision [said that youths] cannot have SIJS status if the identity of the father is not known [...] This severely prejudices a huge group of our kids. In this particular case, the mom was raped and that is we didn't know the identity of the father. It doesn't say anywhere in the INA that those cases cannot be granted SIJS. In fact, it might be one of the ones where these kids most need protection.”

Lawyers had to write to USCIS to provide more information for Requests for Evidence and to contest Notices of Intent to Deny. This created additional delays in case resolution, attorneys spent more time and resources preparing cases, and youths spent more time in legal limbo. As one attorney put it, taken together, all the changes implemented by the Trump administration

meant that, “*many more legal hours go into a single case, which means that, on the whole, you can represent fewer people.*” Legal brokers believed that the administration was instrumentally using bureaucratic and procedural hurdles to slow case resolution and grant SIJS cases at lower rates, restricting the space of protection for unaccompanied minors. It is worth noting that the Obama administration set the stage for some of these restrictive changes, for example, by centralizing the adjudication of all SIJS cases in an office in Missouri. Before this, the USCIS field office in Los Angeles had adjudicated cases, where attorneys had established relationships with local bureaucrats. They could send emails to provide details quickly and work together to move cases forward if issues arose. One attorney remarked on this change, “*we used to be able to walk down the street and [...] officers in L.A. were amenable to helping us out in those urgent situations.*” By centralizing case adjudication, the SIJS application process became faceless. Interactions occurring only through formal letters led to delays, more time spent preparing cases, and to cases that used to be straightforward grants being denied.

Finally, during the Obama administration, immigration judges administratively closed the cases of claimants with an approved SIJS order who were waiting to become LPRs when a visa number became available. This had been a means to save court resources by not wasting time summoning these youths to court. Yet the Trump administration no longer allowed judges to administratively close these cases, and it even ordered that previously closed cases be reopened. These changes placed youths in yet another difficult situation. Technically, an approved SIJS order does not count as a relief from deportation. To avoid deporting the youths on their dockets who were waiting to become LPRs, judges urged their attorneys to file asylum applications, which are a form of protection from deportation. Ironically, in this way, it seemed that the

administration was itself partaking in saturating an already overwhelmed asylum system and promoting the use of the asylum process to “buy time” to delay deportation. Of course, only youths who feared returning to their home country could apply for asylum. Youths whose asylum cases were initially deemed weak by their attorneys, and had therefore applied for SIJS instead, like Evans, now had to apply for asylum. In some cases, however, they had in the meantime turned 18 and had aged out of special asylum protections for unaccompanied minors under the new restrictive policies of the Trump administration. Taken together, these draconian changes significantly restricted the space of protection for unaccompanied minors in the United States.

4.6 Formalistic legal criteria & the narrowing space of protection

This chapter has shown how immigration attorneys work as brokers between unaccompanied minors and the state bureaucracies that adjudicate their humanitarian claims for relief from deportation and legal status based on asylum and SIJS. I identified multiple dimensions of the work that immigration attorneys do as they broker the cases of unaccompanied minors. Like legal brokers working with adults, immigration attorneys who represent unaccompanied minors carry out a *legal translation role* (Lakhani 2014) as they explain complex legal provisions in simple ways, educate youths about the law, and thus facilitate their access to the protections in place for immigrant children in the United States. As compared to legal brokerage with adults, working with youths presents unique challenges. To overcome youths’ curtailed discursive agency and elicit the details they need to prepare cases, legal brokers use child-specific interviewing strategies and obtain information from family members and caretakers. As they carry out asylum and SIJS preparation interviews, legal brokers inevitably reproduce official

encounters with the state that are inherently pathologizing, infantilizing, and victimizing. Yet, they also try to to mitigate the negative “side effects” of their work by enacting *lawyering as care practices*, by empathizing with clients and choosing legal strategies that would shield youths, to the extent possible, from re-traumatizing interactions in a humanitarian immigration bureaucracy that is characterized by “legal violence” (Menjivar and Abrego 2012).

Legal brokers match youths’ lived experiences of suffering to the formalistic criteria of legal categories to determine eligibility and prepare narratives for asylum and SIJS. To prepare SIJS cases, attorneys elicit information regarding home country experiences of abuse or underage work that may have been normalized by children, and reframe these using California legal definitions of abandonment, abuse, and neglect. To prepare asylum cases, legal brokers *quantify* youths’ lived experiences of suffering to show that their humanitarian capital is *enough* to meet the bar of persecution, a legal criterion that was historically established precisely so asylum protections would apply only to narrow groups of individuals (Zolberg, Astri, and Aguayo 1989). The U.S. asylum office has since come to interpret persecution in a slightly less narrow way for children to take into account what we know about how children and youth are different from adults based on research in psychology. Traumatic experiences affect children more than adults, and their developing brains function differently at a cognitive level, creating added challenges for remembering, interpreting, and recounting experiences of trauma (Bhabha and Young 1999, Given-Wilson et. al. 2016). Yet, this protective exercise of discretion at the asylum office has been undermined by the restrictive policies of the Trump administration.

Having suffered *enough* is important but demonstrating the right *type* of suffering is also key to obtain asylum. Legal brokers help youths satisfy the “nexus-requirement” by showing that that

the reason for their persecution falls under at least one of the protected grounds of the refugee definition. I discussed how the space of protection for women and children has been narrowly defined by U.S. asylum case law, affecting Central America unaccompanied minors' chances of securing asylum. As one of my attorney respondents put it, "*asylum law does not make common sense.*" Certain experiences of victimization and escape from violence are discounted while others are validated and considered meritorious of protection. On the whole, particular social groups (PSGs) are constructed successfully only when they reify the notion of the child as a victim who lacks agency and is inherently dependent on adults, when the persecution occurs due to family membership or abuse. Conversely, PSGs that center on forcible gang recruitment targeting youths or on emancipatory discourses based on political opinion or race are frequently discounted. Immigration attorneys must reframe Central American unaccompanied minors' diverse experiences of escape from violence to fit these narrow legal frames. Then, during high-stakes asylum interviews, youths must successfully verbalize their experiences in the language of the law to access political recognition as refugees.

In mediating the asylum process, legal brokers could play a role as *critics of the law*, and they did so when they filed applications for cases that challenged narrow child-specific U.S. asylum case law. However, their clients had much better odds of accessing relief if their cases could be reframed to satisfy existing case law. Thus, the legal strategy that most benefited the individual youth's chances of obtaining legal status was also the one that kept the space of protection narrow. This constrained opportunities for legal brokers to work as *critics of the law* and instead created strong incentives for them to work as *agents of the law*, who reproduce existing legal categories and reify child-specific interpretations of asylum law.

Due to the contradictory nature of asylum law, youths found themselves in various catch-22 situations that legal brokers tried to help them resolve through discursive moves while preparing applications. Youth had to flee their home countries at the right time, staying long enough to experience instances of victimization that would demonstrate that their persecutors harmed them, but not too long because this could be construed as proof that the danger they faced was not real. Their countries of origin had to be dangerous enough everywhere to make it impossible for youths to safely return, but not so homogeneously dangerous so as to make an individual's experience seem too commonplace. The reason why youths were persecuted had to be narrow enough so that their cases seemed particular and deserving of protection (e.g., family PSG, family of police officers PSG) but not too unique, like the "creative PSGs" (e.g., boys who attend a certain school) that may have more closely corresponded to youths' experiences but were increasingly being denied at the asylum office, already during the Obama years.

Taken together, these issues highlight how asylum law is narrowly applied in the U.S. context to prioritize state prerogatives to keep overall admission levels low over international norms and ethical obligations to protect vulnerable asylum-seeking children. The mismatch between the lived experiences of escape from violence of these *de facto* or sociological refugees and the narrow legal criteria used to determine who is a *de jure* refugee, means that, in practice, many vulnerable asylum-seeking children are excluded from protection. They remain undocumented and at risk of deportation. In other cases, youths who escape from violence but do not have the right *type* of suffering – like Evan's – apply for SIJS instead, or they may be granted asylum for a reason other than what actually precipitated their flight. The result is that they might obtain

substantive protections (i.e., legal status) but not *political recognition* as refugees that would validate their experiences of flight and open the door to other Central American youths like them.

During the Trump administration, existing case law has been attacked with the goal of interpreting legal provisions in even more narrow ways and numerous additional bureaucratic hurdles have been introduced, making already arduous paths to legal status even more complex and challenging. Ever changing policies have produced higher levels of uncertainty in the humanitarian field. Legal brokers managed this new situation by diversifying risk and changing their legal strategies. As a result, they took on more work, for instance, by filing multiple applications for relief at once to maximize their clients' chances of success. This has placed further strain on the already meager resources of non-profit legal aid organizations that represent unaccompanied minors. Legal brokers expressed disillusionment, burn out, and frustration at the new constraints on child and refugee protection imposed by the Trump administration. With increasing uncertainty in the humanitarian field, legal brokers managed their young clients' expectations, preparing them for increasingly long periods of legal limbo and higher odds of denial for both asylum and SIJS, while also trying not to undermine their hope and faith in the legal process.

Class action litigation gives us some hope for the future of child and refugee protection. For example, the *Grace vs. Whitaker* ruling established that Attorney General Jeff Sessions' decision in *Matter of A-B-* undermined women and children's rights by ignoring established case law that determined that domestic and gender based violence is a valid basis for asylum. The Sixth Circuit Court decision in *RFM vs. Nielsen* blocked the implementation of the age restrictions for youths aged 18 to 21 applying for SIJS, deeming that this contradicted the language of the

statute. Against the backdrop of impact litigation that can affect national-level policy, direct representation attorneys continue the important work of preparing individual unaccompanied minors' cases. These are two key levels of advocacy through which legal brokers work as *critics of the law* to counter the draconian reforms of the Trump administration and safeguard the space of protection for unaccompanied minors and asylum-seekers in the United States.

Chapter 5

How Unaccompanied Minors Understand the Law and Claim Rights and Belonging

Chapters 3 and 4 examined the legalization process for unaccompanied minors in the U.S., while centering the perspectives and strategies of the legal brokers who help them apply for relief. I now shift attention to how Central American unaccompanied minors themselves perceive navigating U.S. immigration bureaucracies and a family reunification process mediated by the state. Compared to teenagers who migrate independently but are never apprehended, thus remaining outside of state systems (Canizales 2015), and to undocumented adults who may live in the shadows for years (Galli 2019a), unaccompanied minors' legal socialization in the U.S. occurs quickly. This is because youths categorized as "Unaccompanied Alien Children" (UACs) are subjected to receiving state vigilance from the moment when they first enter the country of reception, and they interact intensively with different branches of the U.S. immigration bureaucracy. This chapter guides the reader through four key spaces where unaccompanied minors are socialized, learning about the law and the behavioral norms expected of young immigrants deemed deserving of membership in the United States. I examine how this process of legal socialization shapes youths' "legal consciousness" or commonsense understandings of the law (Merry 1990), which, in turn, informs how they claim rights and belonging.

Each bureaucratic (or state-mediated) space that unaccompanied minors navigate has its own distinct mandate, which reflects different combinations of the forces of *exclusion* and *protection* in the contradictory context of reception. First, at the U.S.-Mexico border, unaccompanied minors interact with bureaucrats from Customs and Border Protection (CBP), an agency with the

mandate of *policing state sovereignty*. There, they learn about the suspicion reserved for Central American youths and for humanitarian claimants, and they internalize the associated stigma of the “bogus” minor or refugee. Second, unaccompanied minors are detained in Office of Refugee Resettlement (ORR) facilities, an agency with *dual mandates of care and control* (Heidbrink 2014, Terrio 2015) (i.e., to care for them because they are children and to control them because they are immigrants). In ORR, youths interact with social workers who transmit notions about desirable teen and migrant behavior, and they learn to distance themselves from the stigma identities of “bad” immigrant and deviant Latino youth. These normative notions of deserving citizenship combine with, and become inseparable from, youths’ understandings of the law. Third, the state continues to exercise control over unaccompanied minors after they are released from ORR custody to their mostly undocumented, immigrant family members who carry out a mandate of *delegated care and control*. Paradoxically, the state simultaneously constructs the “illegality” of family members (De Genova 2002), while also entrusting them to monitor youths’ behavior and compliance with immigration law. Upon release to family, unaccompanied minors’ legal consciousness is influenced by the misinformation and fear of the state that circulate in their communities. Fourth, unaccompanied minors’ legal consciousness is shaped as they pursue legalization in bureaucracies that exercise a mandate of “*discretionary humanitarianism*” (Fassin 2011), granting status to few while discrediting most to limit overall levels of immigration. In this process, youths learn to signal their deservingness for discretionary humanitarian relief by distancing themselves from the stigma of “bogus refugees” who cheat the system.

Existing scholarship has focused on the effects of immigration law and legal categorization (e.g., “illegal” immigrant, see De Genova [1992]) on adults rather than minors, leading scholars

to focus on enforcement policies and conceptualize the exercise of state power through immigration law as “legal violence” (Menjívar and Abrego 2012). Legal violence has structural and symbolic dimensions. Exclusion is structurally embedded in immigration enforcement laws that police the state’s sovereign borders to limit unauthorized entries and its national membership boundaries to limit access to legal status and citizenship. In doing so, these laws inflict suffering on immigrants who cross the U.S.-Mexico border on foot and are deemed undesirable. Because this suffering is imposed through laws and formal procedures (i.e., it is legal), it is normalized so it seems commonplace, legitimate, and inevitable. State power thus also manifests itself as “symbolic violence,” as dominant categories of thought are imposed on subordinate groups (in this case, immigrants) who, not only internalize existing unequal social hierarchies, but also unintentionally contribute to their perpetuation (Bourdieu & Wacquant 2004). Given the contradictory legal context of reception for undocumented youths categorized as unaccompanied minors, characterized by not only by *exclusion* but also by *protection*, this chapter asks: How does state power play out in bureaucratic encounters in state agencies at the micro-level? How do these interactions shape youths’ understandings of law? How do these understandings, in turn, affect how youths claim rights and belonging?

I examine how the symbolic dimension of legal violence operates at the micro-level by demonstrating how normative behavioral models of citizenship, which are construed in opposition to societal stigma, are imposed from the top-down and internalized and reproduced by immigrants from the bottom-up. According to Goffman (1963), stigma identities are attributed to certain categories of individuals through social interaction, at three different levels: social identity (i.e., how society sees you); personal identity (i.e., who you are and what people know

about you); and felt identity (i.e., how you think about yourself). This chapter traces the socialization process through which immigration bureaucrats and family members transmit stigmatizing notions about the social identity of immigrants and Latino youths to unaccompanied minors, thus shaping how these youths present their personal identity and experience their felt identity. Similarly to other stigmatized social groups (Seccolme et. al 1998, Waters 1999, Brown 2011), unaccompanied minors engage in stigma distancing mechanisms: they signal their own deservingness by presenting themselves in opposition to the stigma associated with their social group. I argue that this process has significant consequences. As they claim rights and belonging vis-à-vis the state and in everyday social interactions, unaccompanied minors unintentionally perpetuate stigma about co-ethnics.

5.1 Policing state sovereignty: socialization during interactions at the US-Mexico Border

The 2008 Trafficking Victims Protection Act (TVPPRA) grants unaccompanied minors from countries other than Mexico the right to be initially admitted to the United States without needing to pass a credible fear interview like asylum-seeking adults do. Rather than attempting to evade apprehension at the U.S.-Mexico border, most of my interviewees recounted actively seeking out border patrol agents. This was sometimes because they were afraid of making their way through the desert alone. Other times, as we saw in Chapter 2, it was because youths had some pre-migration legal consciousness, usually limited to partial information on U.S. policies acquired from relatives and/or *Coyotes* (i.e. smugglers) about the fact that they would be allowed entry rather than being immediately deported (Table 2.4). Cecilia, a 15-year-old Salvadoran asylum-seeker, noted that she wanted to be apprehended and was amazed that she had to wait

several hours after crossing the Rio Grande for the border patrol to find her, “*there are people who don’t want to be seen, and they find them in a couple minutes. I had to walk until it was dark!*” The act of willingly declaring their presence to CBP reflects the trust these young migrants place in the receiving state, expecting or hoping it will protect them. However, once apprehended, migrant trust is immediately met with state suspicion, and CBP officers commonly accused my respondents of lying, in particular regarding their age, an accusation with significant implications: misclassifying a minor as an adult is a means to deny her entry rights established by TVPRA. Alicia, who we met in Chapter 2, recounted how officers questioned her age, attempting to illegally coerce her into signing a deportation order.

[Alicia]: “*The officer didn’t believe my name or age. I was 16, and he thought I was, like, 21. He asked me for my fingerprints and said, ‘you’re going to sign and leave. You know that if you’re lying, we can put you in prison for so-many years?’ I said, ‘I’m not going to sign because I have rights to stay here.’ I told him I didn’t want to go back to my country, and he said, ‘I don’t care why you came here, just give me your identifying information.’ It was really ugly because they were angry, and they treated people as if they were not people, just because they were from immigration, and they had their uniforms. Many people signed but I didn’t because I wasn’t going to let them intimidate me. If I lose my case that’s different but I wasn’t going to leave then.*”

Alicia challenged CBP’s mistrust and questioning of her identity by affirming her rights, despite relating that she felt treated as if she were “*not a person*” by officers who accused her of fraudulently trying to pass as a minor. Alicia fled El Salvador after a gang member had tried to force her to be his girlfriend; her cousins were brutally murdered after similar interactions. By claiming he was not interested in Alicia’s story, which would have clearly flagged her as a rights-holding humanitarian claimant, but only in her identifying information, the officer positioned Alicia solely as an alien body to be registered and monitored by the state. Indeed, Alicia arrived without any documentation, posing a challenge to CBP’s mandate of policing state sovereignty,

which inflicts legal violence on immigrants. Despite her resistance in the face of intimidation at the border, Alicia was acutely aware of the state's power over her ultimate acceptance in the US. Reflecting her understanding of "discretionary humanitarianism" (Fassin 2011), she no longer mentioned rights when speaking about the adjudication process, acknowledging that her petition may be denied. Alicia's was not an isolated case. Indeed, in 2014, the ACLU filed a complaint denouncing 116 similar instances of CBP misconduct and rights violations toward minors.

In contrast to Alicia, a Guatemalan youth named Manuel was carrying his birth certificate when apprehended. Yet he was also faced with officers who denied he was a minor. When I met Manuel at a legal clinic as I was helping him fill out his asylum application, he showed me the birth certificate he had shown the officer, which looked exactly like many others I have seen, making it unclear why its authenticity would be questioned if not to deny his rights.

[Manuel]: *"One of the agents didn't believe I was 17. He said I was 18, that I was lying. They put me in this small room, by myself, which was like a punishment so that I would tell the truth. It was cold, they didn't give me water or anything to eat. I felt hungry when they took me out to ask me again. I always told them I was 17. It was the whole truth."*

Manuel had no prior knowledge of U.S. protections for unaccompanied minors. Thus, unlike Alicia, his reaction was not so much an affirmation of the rights that (he did not know) were denied to him but, rather, an affirmation of his identity, even in the face of punishment that violates legal standards for the detention of minors. Eventually, CBP processed him as a minor, and it was unclear to Manuel what made them change their minds. Yet he remained deeply marked by the suspicion he was treated with. Indeed, when I asked if he would change something about the legal process during a later interaction, I was expecting a response about the treatment he received from US institutions like CBP, which I knew had been punitive. Instead, he

replied by positioning himself in the role of the immigration bureaucrat, reproducing the “bogus” minor stigma, and distancing himself from it to perform his own worthiness as a truth-teller:

[Manuel]: *“Others sell a different story each time, different to what they lived, and they let them stay. But I prefer to say the truth, stick to my word, not like those who spend time inventing lies to pass as a different person. I don’t like that about certain people.”*

During their very first interactions with the state, unaccompanied minors face CBP, an agency that inflicts legal violence as it exerts state power coercively while policing sovereign borders and that has been denounced for violating minors’ rights (ACLU/IHRC 2018). As bureaucrats trained to implement this mandate, CBP officers negated youths’ identities to deny them entry and imposed dominant categories of thought that discredit youths’ credibility. While youths reacted to these interactions and gained admission either by using the law to claim rights or by asserting their true identities, they also learned lasting lessons: their social category is deemed untrustworthy in the U.S. (“bogus” minors/refugees), and they must position themselves as truth-tellers, a deserving exception to the supposed norm. Youths internalize and reproduce the stigmatizing discourses imposed on them by bureaucrats tasked with guarding access to the territory. In this way, they unwittingly become complicit in symbolic violence, lending legitimacy to the state’s exclusionary practices as they reproduce such tropes.

5.2 Dual mandates of care and control: socialization during custody in ORR

The TVPRA officially stipulates that unaccompanied minors must be released from detention at the border after a maximum of 72 hours and transferred to the custody of the Office of Refugee Resettlement (ORR), an agency that is tasked with the dual mandates of care (for

children) and control (of immigrants) (Terrio 2015).²³ ORR detains unaccompanied minors in facilities called “shelters” (i.e., supposedly child-friendly sites where only unaccompanied minors are detained), which serve as key spaces of legal socialization where staff teach youths, not only about US laws, but also about desirable behaviors expected from future citizens and “good” rather than deviant teenagers. My interviewees’ disparate characterizations of being in ORR custody reflected the agency’s dual mandates. Some described shelters as “exasperating,” “sad,” “like being an orphan” or “like being a prisoner,” reflecting ORR’s control mandate. In contrast, reflecting ORR’s care mandate, others experienced shelters as safe havens, where some indeed received important services, such as access to therapy, with one youth going so far as to claim, “*I was in love with that place. All of them were super good people.*” 14-year-old Cesar’s account illustrates how interactions with ORR social workers reflect both of ORR’s contradictory mandates:

[Cesar]: “[The social worker] *told me, ‘everything will be fine here son. You won’t have any problems here, unless you look for problems.’ And he always asked me how I was doing, if I wasn’t behaving badly, things like that.*”

The social worker exercised the care mandate as he reassured Cesar of his future life in the U.S. and asked about his current wellbeing. At the same time, he exercised the control mandate as he monitored Cesar’s conduct, designating him as responsible for avoiding “deviant” youth behaviors. Indeed, Cesar, who fled El Salvador after gang members tried to forcibly recruit him, was worried about gangs in the United States. As his social worker reassured him, he also taught him a lesson, noting that, if anything bad happened to him in the U.S., it would be his own fault for “*look[ing] for problems.*” These institutional encounters taught newly arrived immigrant

²³ I found evidence of rights violations during my interviews, with some youths recounting that they were held in border detention facilities for over the 72 hour maximum established in the TVPRA.

youths expectations about how they should behave, both in the shelter and after release. As Terrio (2015, 134) notes in her ethnography of ORR, youths who accepted behavioral restrictions in shelters “*were rewarded with extra food or recreation, stepped down to low-security shelters, and fast tracked for release,*” while those who challenged authority, “*were categorized as security, terroristic or criminal threats, transferred to more restrictive facilities and detained for longer.*” Thus, “good” youths were exempted from enforcement and “bad” youths targeted by it.

Melvin, who migrated at age 17 from Honduras, recounted the advice he received from ORR staff on the importance of good behavior after release, which he expected would be rewarded with acceptance and/or legal status:

[Melvin]: “*They told me the most important thing was to behave well, to show the government we’re good people who came here for a good life. That we’re not coming, like many others, to hurt people. I don’t know why they hurt innocent people like that.*”

Through seemingly benevolent advice, ORR staff actively policed membership boundaries by transmitting normative models of appropriate behavior that reify notions of deserving citizenship and perpetuate stigmatizing discourses about minority groups (i.e. the “bad immigrant” stigma). Melvin reproduced the social workers’ stigmatizing discourse during our interview, and leveraged it to claim his own belonging as someone who came to the U.S. for a better life, in opposition to “*many*” other immigrants who “*hurt innocent people.*” As youths like Melvin manage stigma through distancing mechanisms by reproducing discourses that disenfranchise people in their social category, they inadvertently become complicit in symbolic violence.

From the viewpoint of the state, reflected in ORR’s control mandate, unaccompanied minors are on the brink of adulthood and, as such, potentially deviant subjects (Heidbrink 2014). The structure of life in ORR shelters teaches youths compliance with authority and discipline,

through the enforcement of numerous rules and a tight schedule, which from respondents' descriptions appeared militaristic. Some rules seemed meant to teach compliance itself:

[Cecilia]: *“The girls couldn't brush each other's hair or give each other hugs, those things made them angry. [...] They said those were the laws of that place. Girls couldn't brush each other's hair, except once a week, on beauty day. But in our room, we couldn't do it. They said these were the laws of that place and we needed to respect them”*

Cecilia called the rules enforced inside ORR facilities *leyes*, which translates to laws rather than rules. As social workers taught immigrant youth to respect the “laws” of the facility, they prepared them to comply with the laws of the country, by going to court and being traceable by the government. Other rules marked specific behaviors, such as promiscuity, as unacceptable:

[Cecilia]: *“On Saturday, they did a dance, and they would take the boys to that too, but they were separated from the girls. They could dance together but [...] the staff walked between them, so they wouldn't get any closer than one meter.”*

Cecilia migrated to the US with her 14-year-old brother but was separated from him and placed in a shelter for girls, while he was placed in the neighboring boy's shelter. One of the few opportunities for interaction with the opposite sex was during the weekly supervised dance where rules that Cecilia deemed silly were enforced. Nonetheless, exposure to such rules, and to advice, served to teach youths that adults are suspicious when they associate with their peers, and not only those of the opposite sex. For instance, another respondent recounted that social workers warned her of the dangers she risked because *“there is a lot diversity in this country and a lot of fun as well,”* reflecting racialized notions that perceive minority youths as a dangerous “others”.

These messages continued to influence youths' dispositions after their time in ORR. When I asked Dominic, a Guatemalan unaccompanied minor who had left the shelter three years earlier, who he was living with, he felt the need to let me know that he was staying away from the

“problem behaviors” that social workers warned youths against. This was particularly important since he was sharing an apartment in Los Angeles with his teenage immigrant friends, who he thus described as “good” kids: *“my friends are chill. They don’t drink or smoke, or do anything. Sometimes, if we get bored at home, we go play [soccer].”* In an increasingly hostile receiving context where Central American youths are not only stigmatized but also criminalized as gang members, and even risk deportation on these grounds, Dominic’s demeanor is understandable.

To conform to the normative behavioral models they internalized in ORR, youths sometimes went beyond merely presenting their actions in certain ways, and they altered their coming of age objectives away from pre-migration goals. Luis, who migrated from Guatemala at age 17 recounts how, during his stay in ORR, his future plans shifted from work to school:

[Luis]: *“I came here to work, make money. When I got here, things changed. Every time lawyers came to us, they said: ‘if you want to stay here, you need to study because life is not easy, if you want to fight your case, the only thing you have to do is study.’ I’m obeying the law they told me about; it’s what I have to do. I have to study because I want to do something with my life.”*

School attendance is pushed by ORR (and immigration attorneys) as an indicator of good future citizenship and an appropriate coming of age objective, according to its care mandate that enshrines middle class norms that see childhood as a time for school rather than work (Heidbrink 2014). When I interviewed him, at age 22, Luis was about to complete his high school degree. However, he was undocumented and had aged out of eligibility for any form of immigration relief for children. Despite the fact that there is no law mandating that adults complete high school or any immigration benefits for students apart from Deferred Action for Childhood Arrivals, for which Luis was ineligible, he referred to the *advice* he received in ORR as *law*. He framed his decision to go to school as obeying the law, as well as something he wished to do to

fulfill his ambitions. Knowledge about laws and notions about desirable behavior learned by interacting with different state agencies often become so entwined that youths cannot tell laws, rules, and advice apart. Yet all this coalesced information combines to form the *dichotomous legal consciousness* of unaccompanied minors, characterized by both misinformation and information, and by both stigma and deservingness, shaping how youths claim belonging.

5.3 Delegated care and control: socialization during state-mediated interactions with family

To comply with the 1997 Flores Settlement, which introduced protective standards for the detention of immigrant children, ORR releases the vast majority of unaccompanied minors to parents (60%) or other family members (31%) (ORR 2014). To take custody of their children, family members assume both of ORR's contradictory mandates: care and control. They sign "sponsor care agreements" committing to: financially support the minor; sign her up for school; provide for her physical and mental health (care functions); as well as, ensure the minor shows up for appointments with the immigration bureaucracy and complies with a removal order if she were to lose her case (control functions).

However, family members were sometimes wary of interacting with state institutions like ORR because they are usually undocumented or have only temporary permits, their legal consciousness characterized by fear of the state rather than trust (Abrego 2011). For example, Lisette, an undocumented Guatemalan immigrant, feared declaring her presence to the state to take custody of her 15-year-old son:

[Lisette]: *I was worried because I have two children here, and sometimes people say that I can't take him out, and I wonder what will happen to me with my children. I'm scared for them, and I told the social worker my situation, everything.*

[Author]: *Was the social worker nice? Did he try to reassure you?*

[Lisette]: *Yes, he did, the social worker helped me.*

The main breadwinner of a transnational family, Lisette felt torn between her obligations to her teenage children in Guatemala and her younger U.S. citizen children. Her lack of legal status made her fearful that claiming her recent immigrant son would put her at risk of deportation. However, she ultimately overcame her fear and confided in the ORR social worker who gave her the confidence necessary to request her son's custody. Through interactions such as these, the state positions itself between youths and their families, gaining the trust of adult undocumented immigrants before delegating its *care* and *control* functions to them. Paradoxically, the same legal regime that constructs Lisette's "illegality" (De Genova 2002) also designates her as an agent of immigration control, responsible for her son's compliance with the law. This positions parents either as brokers in their children's access to humanitarian protections (when cases are approved) or complicit in their deportation, the most severe form of exclusion and state legal violence (when cases are denied). Importantly, Lisette took custody of her son during the Obama administration. After Trump took office, it effectively became riskier for undocumented family members to obtain custody of unaccompanied minors from ORR. A new policy introduced in 2018 required family members and all the immigrants living in their household where the youth would be released to be fingerprinted and vetted more thoroughly. This had the effect of putting undocumented potential sponsors and their families at increased risk of being targeted by immigration enforcement, deterring some families from requesting custody of their children and prolonging the amount of time youths spent detained in ORR.

When unaccompanied minors were released to family members, they were influenced by the fear and misinformation that circulate in their migrant networks, which contributes to shaping

their *dichotomous* legal consciousness, characterized by both fear and trust in the state and by a combination of misinformation and information about its laws and policies. When I asked Jesus, who migrated from Honduras at age 16, who helped him most since he arrived in the US, his response reflected the role his mother played in his legal socialization:

[Jesus]: “*My mom has helped me, in many ways. [...] She told me that I shouldn’t do bad things because, here, laws are very strict, with just one thing that you do, they can deport you. She tells me that I shouldn’t misbehave with this country.*”

An undocumented immigrant who has lived in the US for over 10 years, Jesus’ mother transmitted her fear of state power and acted as an intermediary between her recent immigrant son and the receiving country, carrying out her control function. Indeed, Jesus, who was awarded the significant protections of refugee status, nonetheless demonstrated fear and awareness of the law and state power, bringing up the advice he received from his mother and in ORR multiple times during our interview. This advice includes an admonishment that US laws are strict, as regards the control of immigrants, and that, if he misbehaved, he can be deported. Reflecting his internalization of his mother’s fear, Jesus described state power over his life in a way that resembles an unforgiving parent who will not pardon any mistakes.

Yet, at the same time, having fled from home country contexts where they were unprotected by the state to a receiving country context where laws offer them some protections as unaccompanied minors, allowed youths to retain trust in the state despite their family’s fear. When asked what they learned about the US since they arrived, youths signaled their trust in US institutions as they commented on feeling: “*at peace*”; secure in a country where “*laws protect children*”; and having more opportunities than in their home countries. As we saw in Chapter 4, youths’ interactions with attorneys while navigating the legal process also contributed to

fostering these perceptions. In working with both asylum and SIJS applicants, attorneys juxtaposed the “bad”/lawless home country and the “good”/lawful host country when assembling applications and probed youths to reflect on their relative safety and rights in each context.

The experience of Danny, a Honduran asylum-seeker who migrated at age 15, reflects the combination of trust and fear, of misinformation and information, which characterizes unaccompanied minors’ *dichotomous* legal consciousness:

[Danny]: “*I talked to my aunt about how I was going to get out of [ORR] [...] She got a lawyer because [other immigrants] were saying that you needed to be a resident to take out a minor. [...] My friends were taken out by uncles, cousins, friends, the ones who had papers [...] While I was there, waiting so long, I thought they weren’t going to be able to take me out. [...] My uncle said, ‘I have [Temporary Protected Status], I’m not a resident, I can’t take you out’. My aunt said, ‘I’ll do it.’ Her husband, who is a citizen, said, ‘I’ll support you too.’ So they put the papers in with the lawyer and, the truth is, they didn’t ask them for documents, they just let me out. My aunt told me, ‘I adopted you.’”*

As he moved through the various sites of the immigration bureaucracy, Danny’s *dichotomous legal consciousness* was configured as he oscillated between trust and fear of the state. He first expressed trust by voluntarily turning himself in at the border. Once in ORR custody, he was influenced by misinformation circulating in his migrant networks (i.e. only permanent residents can take children out of ORR) and feared being detained indefinitely. Yet, upon release, Danny once again placed his trust in the state when he decided to appear in immigration court when summoned for his formal removal proceedings, despite having been exposed to ulterior misinformation from migrants who had been deported or had returned to Honduras who advised him to abscond because he would eventually be deported in any case.

Further, it is quite interesting that Danny reported that his aunt believed she was adopting him when she agreed to become his sponsor. While this is incorrect, as ORR sponsors only

become minors' temporary guardians, it reflects his aunt's awareness of the importance of her agreement with the U.S. government, which designates her as responsible for the recently arrived immigrant youth. Indeed, my interviews suggested that most sponsors took their care and control responsibilities seriously, and several youths were subject to strict surveillance at home to ensure their compliance with behavioral models of "good" rather than deviant youths. While undocumented immigrant families may commonly control their children to protect them, in the case of unaccompanied minors, this control is formally mandated by the state through the ORR-sponsor contract. The stakes involved are also considerably higher because unaccompanied minors are highly visible in removal proceedings, where non-compliance with behavioral norms could mean case denial and deportation. Alicia thus described how ORR staff encouraged her mother's control:

[Alicia]: [The social worker] *told my mom that she should always check on me: who was at home with me, who I was going out with, who my friends were [...]* My mom calls me all the time, to see if I got to school, if I ate lunch, when I get out of school. [...]

[Author]: *Do you mind that she calls you very often?*

[Alicia]: *No, because she pays attention to me, something that didn't happen in El Salvador. My mom is so kind, she gives me too much, she takes care of me, she's really protective of me. I always say she's just like the social worker said she should be.*

Alicia noted that her mother called her constantly to check on her. Indeed, as we sat at Starbucks, we paused the interview twice in less than two hours when her mother called her. Alicia was 18 when I interviewed her; therefore, legally speaking, an adult, as well as an adolescent who might wish to exercise greater independence from her parent as a marker of her coming of age. Therefore, I was surprised at her answer when I asked her if she minded receiving all those phone calls from her mother. After years of separation, Alicia perceived her mother's control as a means to catch up for the lost time when she was not able to receive her care, and it

was a source of joy to have a mother who was attentively following the social worker's instructions for monitoring her appropriate behavior. In this way, Alicia actively reinterpreted the state's motivation for her mother's control (i.e. keeping a potentially deviant teenage immigrant in check) by perceiving it as an act of love.

Not all the youths I met were content with (or begrudgingly accepted) complying with their family members' control. As we will see in the next Chapter, male youths were more likely to leave the home of their sponsors after a falling out or to have greater independence. This reflects a broader gendered pattern in my findings: male youths more commonly perceived family involvement in their lives as control or surveillance, while females more commonly perceived it as an act of love and a means to catch up for lost time. Julio, a Salvadoran asylum-seeker who migrated at age 17, reflects the male pattern:

[Julio]: *Basically, since I've been here, I've been living alone. I didn't live with my family for long because I didn't really like how they treated one another. I've learned to take care of myself. I never counted on family members for my legal case. At most, they were a name. I paid for everything for my case, I've been in charge of it myself.*

[Author]: *You said you didn't like living with your family. What did you dislike?*

[Julio]: *In my aunt's house, she interfered with my life too much. There wasn't one day I came home from work that I didn't notice some change in my room. Sometimes I would leave the laptop recording, and I could see when she went in. She observed absolutely everything! And, well, I didn't like that, so I left.*

When I met him at age 19, Julio had left two family members' households and was sharing a small house with two older immigrants. To be independent, he started working in construction almost immediately once he arrived in the United States. While he claimed his self-sufficiency proudly, he also recounted that he missed his family in El Salvador and felt overwhelmed having to navigate the legal process alone. He also sometimes missed the care he received in the ORR shelter, which he strikingly claimed he did not want to leave when his 3-week stay was over. Yet

as a young, independent migrant worker, Julio was not conforming to ORR expectations. While he said he would like to go to school, it was difficult for him to find the time since he finished working late, and he could not financially rely on family to help him pursue coming of age goals that conform to middle-class ideals of childhood as a time for school rather than work.

Sometimes, control of youths was motivated by undocumented family members' fear of the state rather than the control mandate entrusted to them by ORR. For instance, Melvin was placed in the custody of his undocumented uncle who disregarded his sponsor agreement and took him out of school after a linguistic misunderstanding, when Melvin got in trouble in class for using his phone, and his teacher called school security to intervene, instead of relying on the teaching assistant who confirmed he was using his phone to complete the assignment:

[Melvin]: “[The teacher] *called security, and they took me away. [...] The teacher told [my uncle] the police had taken me away. I don't know if she could explain because she doesn't speak Spanish and my uncle doesn't speak English. My uncle didn't want to ruin his record. Since he is my guardian, he didn't want me to ruin my record. He thought I ruined it because she said the police took me away. He got angry and took me out of school. He said, 'if you stay, you're going to ruin your record. I want you to be clean.'*”

Upon hearing mention of the “police,” which was actually school security, Melvin's uncle became fearful for his standing with the US government, as well as that of his nephew, for whom he assumed responsibility. Although using a cell phone in class is hardly a crime, the uncle escalated the implications of his nephew's conduct and took him out of school to distance him from scrutiny that, in his mind, would inevitably cause him to eventually ruin his criminal record. Melvin was upset because he loved school, where he was getting good grades, making friends, and learning English. Yet, he ultimately took on the blame for what happened and internalized the “criminal youth” stigma learned from his family member and the teacher:

[Melvin]: *“It’s really important to preserve our record. The whole time I’ve been here, the police never stopped me. I always try not to stay out late at night so my uncle won’t get angry. I have friends who have been here for barely a year, and they already have it on their record, like 8 times, that they were caught by the police. I really believe they don’t value the opportunity they have to be in this country, they don’t put a lot of interest in school. I go to church, so now I have new friends. I don’t go out with my friends that ruined their record. It’s like they have a magnet for the police, they always get stopped!”*

Like other youths I interviewed, Melvin navigated the US context characterized by racialized notions of young Latino immigrants as deviant by curtailing his mobility and not staying out late to avoid police surveillance, his uncle’s anger, and being perceived as a “bad kid.” He presented his own exemplary conduct by reproducing, and then distancing himself from, the stigma of “criminal” Latino youth, which he saw expressed in his friends’ lack of academic excellence and criminal record. He placed responsibility for the latter on his friends: it is the teenagers who are “*magnets*” for the police, rather than minorities who are profiled by law enforcement.

To protect youths and their own vulnerable positions in the US, mostly undocumented family members ensure that youths comply, not only with the requirements of immigration law, but also with normative models of deserving youth and immigrant behavior, which are construed in opposition to stigmatizing discourses about “bad” immigrants and deviant Latino youths. Unaccompanied minors internalize these behavioral norms, as well as fear of the state and misinformation about U.S. laws from their families, all of which shape their legal consciousness.

5.4 Discretionary humanitarianism: learning while navigating adjudication bureaucracies

While the TVPRA grants Central American unaccompanied minors the right to enter the U.S., in order to avoid deportation and acquire legal status, they must successfully petition for humanitarian relief. As we saw in Chapter 4, youths interact with different bureaucracies

depending on the legalization path they pursue. For the purposes of this discussion, I am interested in highlighting the mandate that all of these adjudication bureaucracies share: they implement “discretionary humanitarianism” (Fassin 2011), granting legal status to limited numbers of individuals while discrediting most by stigmatizing them as fraudulent claimants or “bogus refugees.” In a context characterized by limited approval rates, unaccompanied minors’ interactions with the immigration bureaucracy require that they convince officers of their own exceptional deservingness and trustworthiness. They do so, not by challenging the stigma identity “bogus refugee,” but by distancing themselves from it by reclaiming truth-telling as part of their personal identity, which marks them among those who deserve to remain in the U.S., in a context in which few are allowed to do so.

When asked what his experience being interviewed at the asylum office was like, Danny immediately felt compelled to qualify that his story was true, *“I told my story, which, by the way, was true, and they still asked for proof, and I turned it in. I think that helped a lot, since I had proof and my story was real, not fake.”* Danny, who came from what he described as a *“political family,”* was especially savvy and had a far more developed pre-migration understanding of the law than other youths, as he already knew what asylum was before he came to the United States. Once in the U.S., like other unaccompanied minors, he interacted with attorneys who participated in his legal socialization by teaching him more about the U.S. asylum process. Indeed, he rightly identified proof as one factor that enabled him to win his case. Yet, like other unaccompanied minors whose cases were awarded, he identified truth-telling, rather than credibility (i.e., the officer’s perception of the veracity of his account), as the most important reason he was awarded status. Youths assumed that immigration bureaucrats who make

credibility determinations in asylum cases could determine whether their stories are true, an assumption with little grounding in scientific evidence that instead shows that individuals are not skilled at detecting lies (Bohmer & Schuman 2008). Interestingly, Danny was also perceived as suspicious because he was providing what was considered to be too much information, given his young age:

[Danny]: *Whether they affect you or not, [asylum officers] just ask you questions directly. [...] Several times they were really surprised and they said things like, 'it can't be a story like this.' But I told them, 'I have proof.' They asked me, 'how do you know this?' I told them that it's not like they think, in Honduras, children already know lots of things. I think that helped me a lot, to stay informed about what happens in my country.*

[Author]: *It sounds like they were incredulous or even suspicious of you.*

[Danny]: *Well, they can't have a friendly demeanor or anything like that. Because if they do, then you think that they are telling you it's a yes, that they are going to approve your case. So I think that their work necessarily has to be like this.*

Danny pushed back when the asylum officers infantilized him, stating that people his age have sophisticated understandings of politics in Honduras. However, possibly precisely because he did not consider himself a child, he found it normal that bureaucrats interviewing minors ask questions that affect them emotionally and have a suspicious demeanor, adversarial characteristics that advocates would denounce as inadequate ways of working with minors who have undergone traumatic experiences. In contrast, youths whose cases were denied, like Hector, the 16-year-old Guatemalan asylum-seeker who we met in Chapter 2, denounced the harsh treatment they received:

[Hector]: *I told [the asylum officer] I fled my country because they were going to kill me, and he said something else. He was very intimidating when he asked questions. He tried to confuse me, talked to me like he was angry, like he didn't want to see me sitting there. He said he didn't care what happened to my friends, he only cared what happened to me.*

[Author]: *How did it make you feel when he said that?*

[Hector]: *It made me feel bad because those friends, I loved them like brothers, because we knew each other since we were little.*

Hector described a dehumanizing interaction with an asylum officer who coercively discredited him by seemingly deliberately distorting his story, producing contradictions that ultimately resulted in a negative credibility determination and denial of refugee status. Unlike Danny, Hector thought the officer's "*angry*" disposition toward him was not age-appropriate, and he did not feel at ease disclosing sensitive information to him. The officer further dehumanized Hector when he noted that he did not care about his friends, who were murdered by gang members. The three boys were given a deadline to join, and the gang killed one boy each day. After his friends were killed, Hector escaped to save his life. Since these facts were directly relevant to Hector's case, by willfully ignoring them, the asylum officer inflicts legal violence as he implements the clearly exclusionary dimension of discretionary humanitarianism.

Having positive or negative experiences in the legal process shapes youths' legal consciousness by enhancing the trust in the state of those awarded relief like Danny, while positioning those denied relief, like Hector, "against the law" (Ewick & Silbey 1998), in other words, causing them to become acutely aware of their place in the disenfranchised group of those considered unworthy of humanitarian protections and distrusting of the legal process. When I met him, Hector's attorney had advised that he seek relief from deportation and the certain death he felt awaited him in Guatemala with SIJS. However, after his trust was undermined by his experience at the asylum office, he felt little optimism about the outcome. While, like all adolescents, he had dreams for the future, he put them on hold while his case is pending:

[Author]: *When you imagine a future here in the US, what is that future like?*

[Hector]: *Finishing high school, going to college, having a good job, helping my family.*

[Author]: *What would you like to study?*

[Hector]: *To become a lawyer. An immigration lawyer, to help people like me.*

[Author]: *Do you have a specific college in mind?*

[Hector]: *No. Since they denied my case, I stopped making plans. I have no hope about anyone or anything, I don't want to anymore. I'm just waiting now, to see what they tell me.*

Hector experienced legal violence so acutely that this effectively froze his coming of age. He could only contemplate his life goals to obtain higher education, work and help his family (all markers of adulthood) in abstract, when I asked him to *imagine* his future. On the contrary, when I asked him a specific question about *planning* for that future, he told me that he cannot because he has lost hope. Youths' experiences while navigating the legal process (e.g. being denied or granted relief, facing hostile or kind bureaucrats) inform the degree of trust/mistrust in the state they have during each stage of the legal process, shaping their *dichotomous legal consciousness*. While trust and protections attenuate the effects of legal violence, when protection is denied to youths and trust is diminished, the legal violence unaccompanied minors experience negatively affects their perception of their rights and position in U.S. society.

5.4 How unaccompanied minors understand the law and claim rights and belonging

This chapter contributes to existing conceptualizations of state power in the immigration context, which have been developed focusing mainly on the effects of law and “legal violence” on the experiences of undocumented adults (De Genova 1992, Menjivar and Abrego 2012). The U.S. context of reception for unaccompanied minors is “ambivalent” (Bhabha 2014), in other words, concurrently characterized by laws that *exclude* and inflict legal violence on them (as undocumented immigrants) and by laws that *protect* them (as unaccompanied children), as well as by state institutions with contrasting mandates that reflect these contradictions. I examined how state power plays out in bureaucratic encounters in state agencies in this contradictory

context, which serve both as sites of legal socialization, teaching youths the laws and behavioral norms of the receiving country, and as sites of state power, where legal violence is inflicted.

At the U.S.-Mexico border, unaccompanied minors interact with CBP officers who question their age and discount their experiences of flight to deny their right to enter the U.S. as unaccompanied minors, encoded in the TVPRA, since this right is at odds with the agency's mandate of *policing state sovereignty* by excluding non-citizens. Youths react to these manifestations of state legal violence by claiming their rights as unaccompanied minors and by reclaiming truth-telling as part of their personal identities. Yet, during these bureaucratic interactions, they also internalize the "bogus" minor/refugee stigma. Next, unaccompanied minors' socialization while in ORR custody is shaped by this agency's *dual mandates of care and control* (Heidbrink 2014, Terrio 2015). Entrusted with protecting minors, ORR staff members carry out the care function by providing services that, according to some interviewees, reflected a true commitment to their wellbeing. Yet, as an institution that simultaneously controls immigrants, ORR staff members also enforce strict rules and offer seemingly benevolent advice that serve to teach compliance and transmit normative behavioral models that perpetuate societal stigmas about deviant Latino teenagers and "bad" immigrants. Youths internalize and reproduce these stigmatizing tropes, unwittingly becoming complicit in "symbolic violence" (Bourdieu & Wacquant 2004). Upon release from federal custody, unaccompanied minors' lives remain subject to state vigilance as ORR *delegates care and control* to mostly undocumented family members who are made responsible for youths' compliance with immigration law and behavioral norms. Families control youths to protect them but also out of fear of the state and a sense of obligation under the contract incurred with ORR to obtain custody. Through interactions with

family, youths further internalize normative models of “good” teen and migrant behavior, as well as the fear of the state and misinformation about U.S. laws that circulate in their communities. Subsequently, unaccompanied minors apply for relief from deportation by navigating adjudication bureaucracies that implement “*discretionary humanitarianism*” (Fassin 2011), granting legal status to few individuals. To gain membership through this process, unaccompanied minors learn they must signal their deservingness by distancing themselves from humanitarian applicants stigmatized as fraudulent or “bogus” refugees.

Compared to undocumented immigrant adults (Galli 2019a) and unaccompanied teenagers (Canizales 2015) who are not apprehended and remain outside of state systems, youths categorized as unaccompanied minors are socialized as they interact intensively with multiple state institutions since they first begin their incorporation processes in the United States. These socialization processes shape their dichotomous “legal consciousness” (Merry 1990). Reflecting the contradictions inherent in the “ambivalent” (Bhabha 2014) milieu that receives them, I have argued that the *dichotomous legal consciousness* of unaccompanied minors is characterized by: (1) a combination of trust and fear in the state; (2) concurrent feelings of deservingness/rights and stigma/subordination; (3) information and misinformation about US laws. As youths navigate the multi-step bureaucratic process reserved for unaccompanied minors, they experience both trust/deservingness/information and fear/stigma/misinformation, with positive experiences reinforcing the former and negative experiences the latter. When trust is enhanced and protection granted, youths perceive their rights and position in U.S. society in more positive ways. Yet, when trust is undermined and protection denied, they experience the effects of legal violence. As the Trump administration continues to limit legal protections for unaccompanied

minors, unaccompanied minors' legal consciousness will likely skew toward mistrust and fear, more similarly to undocumented adults.

In the context of their unequal power relationship with the state, unaccompanied minors claim belonging by leveraging information about the law and their rights, norms about desired behaviors, and societal stigmas learned during bureaucratic interactions. As they navigate the multi-step process that culminates with their applications for legal status, unaccompanied minors claim belonging, both within the humanitarian adjudication bureaucracy and in everyday social interactions, by enacting distancing mechanisms that allow them to signal their own deservingness in opposition to stigma: positioning themselves as truth-tellers and worthy humanitarian claimants, as opposed to “bogus” minors/refugees who cheat the system; as well behaved young people, as opposed to criminal, possibly gang affiliated, youths or “bad immigrants.” Youths also claim belonging by making coming of age decisions that comply with normative models of deserving teen and migrant behavior learned from the state and their families, which become inseparable from their understandings of law. However, not all youths are able to conform to coming of age models that reflect middle-class receiving state norms (e.g. privileging school over work), due to lack of resources or familial support. Similarly to members of other subordinate social groups who internalize existing unequal social hierarchies and claim belonging through stigma management (Brown 2011; Seccolme et. al. 1998; Waters 1999), I have shown that unaccompanied minors are able to claim rights and belonging rights vis-à-vis the state but only at the price of perpetuating stigmatizing tropes that discredit other immigrants like them, with troubling consequences for group-based claims-making and solidarity.

Chapter 6

Coming of Age under the Scrutiny of the State

This chapter explores the everyday lives of Central American unaccompanied minors as they come of age and adapt to their new homes in Los Angeles. As discussed in the previous chapters, during their processes of incorporation, these youths experience heightened state scrutiny and undergo quick legal socialization as they interact intensively with their attorneys and with different immigration agencies during the legalization process. This chapter takes the analysis further to show how the increasingly lengthy legalization process spills over to affect other facets of youths' lives as they navigate school, work, and challenges during reunification with family after long periods of separation. Because unaccompanied minors inhabit both a state of legal limbo and a liminal space between childhood and adulthood, they undergo a precarious incorporation. Unlike past cohorts of, mostly male, independent migrant youth whose migration has been conceptualized as a "rite of passage" through which children transition to adulthood by searching for adventure, emancipation from adult control, and employment in the receiving country (Hernández-León 1999, Massey et al. 1999, Monsutti 2007), unaccompanied minors who navigate the U.S. asylum and SIJS process, undergo an infantilizing and victimizing "rite of reverse passage," as they are made to regress to childhood rather than move forward to adulthood (Galli 2018). Their experiences of coming of age and incorporation are also patterned by gender.

This chapter has two goals. First, I discuss the challenges that unaccompanied minors face beyond the legal realm, and how the barriers produced by the legal process and by "liminal legality" (Menjívar 2011) challenge youth's "social existence" (Coutin 2000) in the U.S., even

after they have found physical safety from violence. As we will see, these unique dynamics position unaccompanied minors to have both similarities and differences from other cohorts of immigrant children and youth studied in prior scholarship on incorporation, assimilation, and acculturation (Portes and Rumbaut 2001; Luthra, Soel and Waldinger 2018; Abrego and Gonzales 2010; Gonzales 2011; Canizales 2015, 2019) but, overall, this population experiences “cumulative disadvantages” and additional challenges (Berger Cardoso et. al. 2019).

Second, I discuss how youths attempt to overcome these challenges, both on their own and with the help of extra-legal support staff who work in certain legal aid organizations. As the professional field of legal brokerage with unaccompanied minors expands, some organizations have hired support staff called case managers to help youths navigate challenges outside the legal realm, which can sometimes have direct and indirect effects on their cases. This has somewhat freed attorneys who work with unaccompanied minors from “wearing multiple hats” (Statz 2018) so that they can focus mainly on their area of expertise. Like attorneys, case managers can also be conceptualized as brokerage figures working in the humanitarian and immigration realms (Ticktin 2011, Fassin 2007, Fassin and d'Halluin 2007, Lakhani 2013, 2014, Coutin 2000, Agustin 2007) who facilitate unaccompanied minors’ access to state services and public benefits, as well as aid from individuals and non-profits. Not all legal aid organizations have case managers. Thus, unaccompanied minors whose attorneys work at organizations that have these types of services are somewhat advantaged because they have support from professionals who help guide their “bureaucratic incorporation” (Marrow 2009) in different state systems.

My observations shadowing case managers as they tried to help unaccompanied minors navigate challenges outside the legal realm revealed important information about how different

institutions beyond the immigration bureaucracy, such as school, work, family, and the health care system, operate to include or exclude this relatively new population of immigrant youths. These interactions between case managers and youths also made apparent the pressures and expectations that are imposed on unaccompanied minors as they navigate paths to legal status and seek belonging in their new homes while under the scrutiny of the state. Reflecting the contradictory context of reception, similarly to attorneys, case managers worked both to control and empower youths. On the one hand, usually with the benevolent goal of protecting youths, case managers not only educated them about their legal obligations but also transmitted very specific messages about how unaccompanied minors should look and behave to gain acceptance and support. As brokers who mediate the contradictory context of reception, the support they lent youths inevitably reflected the contradictory expectations for unaccompanied minors in the U.S. and reproduced normative assumptions about deserving childhood and citizenship. On the other hand, case managers were also advocates and allies who empowered youths by educating them about their rights under the law as California residents and about the benefits they could access notwithstanding their legal status.

6.1 Case management: helping youths in need, extraordinary achievers, & sweet kids

Even in legal aid organizations that offered case management services, case managers had heavy caseloads, even heavier than those of attorneys, which made it impossible for them to provide individualized support to each young client of the non-profit. As was the case with legal representation, case managers were faced with challenging work in the context of scarce resources. They had to find ways to manage these limited resources. They did so by prioritizing

work with those youths who they or attorneys deemed to be most in need or who were experiencing certain emergency situations, such as homelessness. They also worked to help their “favorite” clients, “*sweet kids*” and extraordinary achievers who somehow inspired and motivated them to do their jobs. These clients met the strict behavioral expectations of deserving citizenship that unaccompanied minors are expected to meet as they incorporate and come of age in the U.S., such as academic achievement. Finally, case managers carried out an important rights education work by providing most clients who met with attorneys at the legal clinic with basic information about their rights in school and about their eligibility for public benefits like MediCal health insurance.

In the context of high caseloads and limited resources, in addition to helping extraordinary achievers who stood out from the bulk of their caseload and those perceived to have urgent needs, case managers employed some “client management strategies” (Villalon 2010). They helped youths who verbalized their need for a particular service and who were sufficiently communicative, answering their phone calls, and providing enough information to move their requests along quickly, while also not taking up what case managers perceived was too much time. For example, in the case of one 17-year-old who won her asylum case, a case manager explained that she was able to help her enroll in health coverage under MediCal because she was “*on top of things*,” and provided information quickly. This allowed the caseworker to help her apply despite the fact that the organization stopped providing services to youths 30 days after they won their cases. This same young woman had previously been difficult to work with for the paralegal who prepared her case because she was “*acting tough*,” and she was initially not disclosing information regarding the abuse she suffered for her asylum case preparation.

She then later became easy to work with for the case manager when it came to applying for Medical because this was a benefit was interested in obtaining. Case managers agreed that when youths understood the benefits they were receiving in concrete terms, they were much more likely to want to access these benefits and invest the effort necessary to do so. Case managers were well prepared to assist clients in enrolling in health coverage under MediCal, which all children in California under the age of 19 had been eligible for since 2016, no matter their immigration status. Conversely, when it came to other public benefits or non-profit aid programs, providing youths with clear and accurate information could be challenging because sometimes even case managers had limited information about these programs. For example, the case managers at this legal aid organization was still compiling a list of shelters for homeless youths at the time. This is not surprising since the role of the case managers is still relatively new and is becoming slowly professionalized. Notably, staff members working in the role of case managers were usually not trained social workers with experience working in Southern California.

When youths followed up or asked for help more often than case managers deemed appropriate, however, they were perceived to be problematic, taking up too much individual attention and diverting it from other cases. One such example was that of 19-year-old Linda from Honduras who had no family anywhere in the United States. As such, Linda very much relied on her attorney and the case managers at the legal aid organization. Because she was correctly perceived to have a great need, staff members were happy and, initially, enthusiastic, to help her. Indeed, they went out of their way to do so. After a while, however, they tired of her questions about MediCal, school, and work, and they wished that she would be more independent and fend for herself. Indeed, that was exactly what Linda was doing when I last spoke to her, she was

living with a friend and looking for a job to support herself after school. This was made all the more difficult because Linda could not legally work since she was a SIJS applicant and, unlike a pending asylum case, a pending SIJS cases do not confer a work permit, creating many challenges for youths, as we will see.

Linda also caught my attention because she became a negative example of one type of favorite client, which staff referred to as the “*sweet kid*.” The “sweet kid” was a client who staff members knew would be a good face for the organization because he or she was likely to be seen with compassion by those wanting to donate resources to help unaccompanied minors. As mentioned in the Introduction, in the aftermath of the Trump administration’s separation of Central American families at the border, legal aid organizations in Los Angeles received a veritable outpouring of support from other non-profit organizations, churches, private businesses, and concerned citizens, all of whom wanted to help the small children separated from their parents. Of course, at the time, legal aid organizations worked mostly with unaccompanied minors who were teenagers, and not children, although some organizations later took on family separation cases as well. Therefore, organizations had to find ways to manage donors’ expectations while ensuring that money, resources, time, and expertise would continue to flow in to support their clients. This was something case managers did expertly.

To establish durable partnerships with this variety of actors, case managers strategically initiated interactions with donors and volunteers by using a case of a “*sweet kid*” as the first case they would advocate for. This allowed them to present a compelling image of the unaccompanied child to donors, which, while not exactly corresponding to image of the children separated from their parents at the border that they saw in the news, was at least not too discordant from it. In

this way, they secured resources both for that particular client and for future ones. Linda was one of the clients selected to this end. Not only was Linda in great need of support because she was completely alone in the U.S. but she was also a pretty and petite 19-year-old who looked younger than her age and had demonstrated to be “*on top of things.*” A group of potential donors had reached out wanting to support youths with in-kind donations, which would be funded through an Amazon wish list account. The case manager asked Linda to go on the Amazon website to create a “wish list” with items that she needed. A few days later, after seeing the list of items Linda had selected, the case manager member laughingly and incredulously recounted to me, “*you have no idea the things she sent me! Like black stilettos, and 5-inch platforms, and super short mini skirts. And all of that is fine by me but people aren't going to donate that! The idea is that she is an unaccompanied minor [with emphasis]. I thought she could ask for sanitary pads because then people are going to be like, ‘she needs that and can't afford it, poor thing.’*”

Wary of the liminal status between childhood and adulthood that unaccompanied minors inhabit, the case manager did not want 19-year-old Linda to be perceived as a menacing teenager who dressed in a way that signaled her as a seductive woman (i.e., miniskirt, stilettos). The case manager recommended that Linda present herself as a “poor kid” because she predicted that only that image would elicit compassion and aid from the donors. I do want to emphasize that, by telling Linda to pick a different set of items, the case manager was not doing so in a way that reflected her own beliefs about “appropriate” female behavior, nor was she making these recommendations uncritically. Rather, the case manager was mindful that, particularly for the types of initial requests, the innocent self-presentation of youths helped to ensure future support to fill gaps and supplement the organization’s scarce resources. She strategically advised Linda

to perform her innocence and need as a “poor kid” as a pragmatist trying to help as many clients as possible and as someone who was well aware of the limited and conditional compassion unaccompanied minors elicit, even more so in the anti-immigrant context of the Trump administration. Indeed, this case manager and I had discussed the limitations of compassion for unaccompanied minors on more than one occasion. I did not have to point out to her the contradictions of the liminal position these youths inhabit in the contradictory context of reception. She was experienced in working with unaccompanied youths and well-attuned to them herself, as this interaction shows:

The floor of the office was becoming increasingly full of donations with bags of clothing for much smaller children than those that the organization serves. This made the donations difficult to distribute quickly, and they sat on the floor until enough smaller children or petite teenagers came to the office to collect them. I commented on this, noting, *“if this was for teenagers, this stuff would be long gone already.”*

The case manager replied, *“I know but this donor organization only serves children up to age 12.”* A colleague suggested, *“We could just give the individual items to our clients, I feel like most of that stuff isn’t for small kids necessarily, there’s towels, backpacks and other useful things in the bags.”*

The case manager said, *“Yeah, we could do that, I guess. I think they don’t want us to give it to the kids [i.e. the teenagers]. But how would they find out? Right?”*

I chimed in, *“it’s interesting that this NGO that specializes in things for babies is donating to an organization that largely serves teenagers.”*

The case manager replied with an ironic tone, *“you know, with all the family separation coverage in the media, they wanted to donate stuff for the little brown kids at the border.”*

I responded, *“Teenagers are less sympathetic right?”*

The case manager said, *“You know it.”*

With a limited set of tools at their hands, case managers learned to play the game to secure what resources they could within the constraints that existed. They tried to be pragmatic and strategic in accruing donations like those described above because they could also benefit older

clients who did not fit into the clothing but could use other items donated by these organizations, such as, shampoo, towels, backpacks, and school supplies. What's more, since some unaccompanied minors were parents, they could take advantage of the donations for smaller children, including small clothing, diapers, and formula. To secure resources like these, case managers used the strategy of presenting the stories of "sweet kids." While the case manager above did not personally agree with the gendered messages about how deserving youths should look and behave, by instrumentally telling Linda how to conform to the "sweet kid" behavior, she inevitably transmitted and reified predominant notions of childhood deservingness based on innocence. For girls, appearing innocent could be easier than for boys, who are readily criminalized in the U.S. context, as long as they did not demonstrate a woman-like sexuality. The case manager reminded Linda that, as an unaccompanied minor, she was allowed needs but not desires, particularly not those desires that signaled her sexuality and adulthood in any way.

A few months later, another female client named Cristina who was from El Salvador, failed to meet the behavioral expectations of the "sweet kid." A volunteer from a local church had offered to house Cristina who had recently turned 18 because she had been left alone in Los Angeles after her ORR sponsor aunt left the country to care for a sick relative in El Salvador. The case managers received a phone call from the volunteer who was hosting Cristina who wanted to report an incident that happened when they were shopping together. Apparently Cristina had taken pictures of herself in her underwear and sent them to boys. The volunteer said, over the phone, *"I'm not at all saying this in an uptight or judgemental way but we just thought that you should know."* After another occasion when Cristina skipped school to hang out with her friends and lied about her where she was, the case manager complained that cases like this made the

organization look bad and presented an unacceptable strain on the limited resources available to help so many clients in need:

“on the one hand, I get it, she’s a teenager. On the other hand though, with this time crunch, she needs to step up and take responsibility because otherwise it’s not fair to all the other clients I have. [I told her] ‘you don’t have the privilege to do that, you are representing all unaccompanied minors now. You can’t lie to me, if you lie again I won’t help you [...] We found you housing for a month but if you don’t cooperate, you realize you will be homeless after that?! It’s not my job to find you a place to stay, it’s yours.’”

Helping unaccompanied minors like this who were on their own without any family support in the U.S. posed unique challenges for the case managers, particularly so when their behaviors did not correspond to the ideal child who elicits compassion but rather signaled that of the deviant teenager, needing to be disciplined. When youths were over 18, and thus legally speaking adults, who could have been self-sufficient but did not always have the tools and resources to do so, case managers struggled with how much and in what ways to both help and discipline them. They also struggled to decide how “parental” to be in these interactions. Like Linda, Cristina depended on aid to survive because she was a SIJS applicant and did not have a work permit. While Linda was looking for a job, Cristina was still in school yet struggling to stay focused and advance due to what case managers suspected was a learning disability. They were worried that Cristina would not fare well now that her she longer could rely on her aunt.

I repeatedly observed case managers genuinely worry about their clients while managing multiple difficult situations, including risk of homelessness, at the same time. Similarly to immigration lawyers, they had a stressful job that included emotional labor and the toll of the sense of responsibility they felt for their young clients, which could lead them to experience burnout. At the same time, however, in serving as brokers in the contradictory context of

reception, characterized by limited compassion, case managers inevitably transmitted narratives of deserving citizenship and reinforced youths' understandings that, to be found deserving of support and to claim belonging, they had to embody an ideal type of innocent unaccompanied minor and not behave like teenagers. As the case manager told Cristina, "*you are representing all unaccompanied minors now.*" The presence of the state's gaze in youths' lives was amplified during these interactions, which served to reinforce youths' impressions that their actions were high stakes and were being continuously scrutinized by the state. As reflected by the words of Linda, most unaccompanied minors experienced this scrutiny strongly:

"You have to be really careful [in the U.S.]. You have to follow the laws. There are lots of things that one can't do [...] immigration is seeing the things that I'm doing. They have my case number, they have all my information, they know everything I'm doing."

To be sure, unaccompanied youths *are* subjected to intense scrutiny as they navigate removal proceedings, and making just one mistake can have high stakes, including their deportation. Thus, reinforcing behavioral restrictions was, on the one hand, a way to protect their clients from being subjected to immigration enforcement. As mentioned in Chapter 4, attorneys also counseled youths about their appearance and about how to behave in the spaces where they were particularly visible to the state, especially during court hearings and asylum interviews. They made youths aware that their demeanor could have important effects, pushing their cases toward denial or approval based on discretionary criteria. Thus, both case managers and attorneys made youths aware that their bodies signaled their deservingness. For example, when mostly male youths had tattoos, attorneys and case managers would point them out and ask youths when and why they got them. They told youths that tattoos could signal them as "bad" kids or even be read

as an indication of gang affiliation. They advised their clients to get tattoos removed and connected them with organizations that would do so for free.

Similarly to the examples of ORR staff in Chapter 5, case managers and attorneys also transmitted messages to youths about behavioral restrictions surrounding their relationships with peers. These not only had to do with complying with laws but also with strict societal norms that police minority youths in the United States. For example, from a legal perspective, youths were reminded that, while Marijuana is legal in the State of California, it is illegal under Federal law, and this meant that, as immigrants, it was illegal for them. Case managers warned youths not to use drugs and not to hang out with peers who did because they might find themselves at the wrong place at the wrong time and get into trouble. When background checks were implemented at the asylum office during the Trump administration, youths' online presence likewise had to be monitored to ensure they did not post anything that could signal behaviors that could incriminate them or be perceived as indicators of their "deviance" or non-compliance to strict societal norms about deserving immigrant youth behavior. Youths were told to be careful posting photos wearing clothes of certain colors or patterns that could be affiliated with gangs, not to make certain gestures, and to be careful who they were photographed with.

Case managers also had awkward conversations about sex with youths, most often boys, who were nearing age 18. They informed them that, under U.S. law, having sex with a minor is considered statutory rape, and this could get them in trouble. One day, a case manager had this conversation with two Salvadoran brothers, ages 16 and 18. The younger brother looked absolutely mortified, blushing and looking down at his feet, while the older brother, whose name was Marcos, laughed loudly and said, *"that's not a problem for me, my girlfriend is 18."* The

case manager replied, “*OK then, just make sure you treat her well so you don’t get in trouble.*” Tellingly, the case manager notes that Marcos should treat his girlfriend with respect, not to have a conversation about consent, but rather to make sure that he stays away from trouble that could negatively affect his chances of securing immigration relief. The criminalization narratives that affect male unaccompanied minors are particularly apparent in this example as the case manager warns the young man against committing an illegal act of domestic violence. While Linda’s sexuality was seen as problematic because of her “seductiveness,” Marcos’ sexuality is framed as potentially violent and problematic in criminal terms. These gendered frames and narratives of threat around sexuality resonate with other historical examples of perceptions of immigrants and minorities in the U.S. (Cisneros 2013, Golash-Boza and Sotelo 2013). This is just one of the many messages that unaccompanied minors receive about how they should behave from state actors and the brokers who mediate their relationships with the state.

Due to the issues mentioned in Chapter 4, unaccompanied minors with pending SIJS cases could wait up to three years to become legal permanent residents, and there was an increasingly long wait for asylum applications as well during the Trump administration. This prolonged unaccompanied minors’ state of legal limbo, making it all the more important for them to conform to these behavioral restrictions because of what Chauvin and Garces Mascarenas (2012) call the “*probationary logic of legalization.*” The longer the period of limbo lasted, the more challenging it became for youths to comply with state-mandated restrictions. One key example is the fact that, unlike asylum-seekers who receive a work permit while their cases are pending, youths with pending SIJS cases like Linda and Cristina are not allowed to work. As an immigration relief designed to protect the *best interests of the child*, SIJS enshrines the Western

notion that childhood is a time for school rather than work, and effectively suspends applicants in the phase of childhood, even after they turn 18 years old. Some attorneys and case managers counseled youths with pending SIJS cases not to work. However, others, aware that youths had to work to support themselves and help their families, were willing to indirectly recognize this and give youths more nuanced advice, for example, *“so I’m going to remind you that you can’t work but, for me, the most important thing is that you don’t work with fake papers because that can affect your case.”* This way, case managers and attorneys acknowledged it was inevitable that many of their clients had to work, and they let them know that while using fake or “borrowed” papers to work was illegal, and could harm their chances of securing relief, work without authorization itself was more of an extra-legal gray zone.

Attorneys were motivated to keep doing their jobs despite burnout and the challenges they faced on a daily basis when they won relief for one of their clients. Similarly, case managers found motivation for their difficult work, which involved hearing innumerable stories of unaccompanied minors’ struggles, by celebrating and supporting the accomplishments of clients who were exemplary achievers. This was unsurprising as they came across truly inspiring stories of resilient youths who had managed to succeed against all odds, despite bringing with them the *“cumulative disadvantages”* (e.g., interrupted schooling, traumatic experiences in the home country and during transit migration) that position unaccompanied minors *“differently and at a greater disadvantage than past cohorts of childhood arrivals”* (Berger Cardoso et al. 2017).

These disadvantages were further compounded by the challenges youths faced during their incorporation processes as they navigated a series of systems not designed to welcome or accommodate them. Case managers and attorneys were often angered by what most perceived to

be injustices that youths faced in receiving country institutions. In the context of their difficult work and genuine preoccupation for the well-being of the young people they worked with, the cases of exemplary youths gave case managers hope and confidence in youth resilience. From the perspective of case managers, extraordinary achievers were youths who satisfied middle class expectations for young people in the United States. They excelled in school, getting good grades in high school, and, in some cases, making plans to attend college. They were the ones who, similarly to the Dreamers, were able to claim belonging based on meritocratic discourses that reward educational attainment and hard work as an expression of the American Dream (Patler and Gonzales 2015).

A Salvadoran unaccompanied minor named Juan who migrated at age 16 was one of the extraordinary achievers. During his senior year of high school, Juan asked for a case manager's help as he was filling out his college admissions application. Juan had applied for both asylum and SIJS more than six months earlier and was awaiting the results of both applications. He did not understand how to fill out the box on the application that asked about immigration status. He asked the case manager, "*can I say that I am a resident?*" This was a complex question because Juan was caught in a catch-22 situation. He was potentially eligible to become a legal permanent resident through both asylum and SIJS. Indeed, his SIJS order had already been granted by the state court judge. However, getting legal permanent residency under both SIJS and asylum was taking increased amounts of time, and was becoming increasingly difficult and uncertain, in the context of the Trump administration. Legal permanent residents qualify for in-State tuition and Federal aid fellowships. Because of the timing of his college application, however, the potential

of future permanent residency for Juan had no value. He was unable to fill out a FOIA application to get the financial aid he needed to pay for his tuition.

While Juan had a work permit due to his pending asylum case, his personal coming of age goal was to focus on school rather than work. He wanted to go to college and only work part-time to help his mother pay for his books and tuition. Despite Juan's academic merit, he was a recently arrived unaccompanied minor who had spent less than three years in a California high school, the minimum necessary to qualify for in-state tuition through the California Dream act, like other undocumented youths. This piece of legislation was passed to support a different, bigger, and more visible population of 1.5 generation children brought to the U.S. at a young age by their parents and educated and socialized in U.S. schools (Gonzales 2016, Patler and Applebaum 2011). These were protections obtained after years of advocacy work by immigrant youth activists (Nicholls 2013) but, as with all forms of protection for immigrant children in the U.S. context, their achievements benefited only a specific and narrowly defined group.

Juan, like most unaccompanied minors, fell outside of eligibility for this protection for immigrant youth in the realm of education. Therefore, he was classified as a foreign student and expected to pay expensive tuition as such. This would be an onerous burden for his single mother caretaker. The college application process was confusing and daunting, not only for Juan, who had recently arrived from El Salvador, where he was used to navigating a completely different educational system, but also for his high school counsellor and the college admissions officers. Neither of them were accustomed to working with this new population of immigrant youths. They did not understand how Juan could have a work permit and yet be neither a resident nor a DACA recipient.

The case manager inserted herself as broker between the school and the youth to aid access to higher education for this exemplary client. To advocate on Juan's behalf, the case manager decided with Juan to disclose information about his case (i.e., a pending asylum application) to the admissions officer, to educate her about his situation of legal limbo. She used his inspirational story, hoping to convert her into an advocate for Juan and to perhaps convince the college to waive part of his tuition. During a phone call with the admissions officer, she clearly noted that Juan numbered among her favorite clients, *"he came to the U.S. two years ago, he is a stellar student, he has a 3.6 or 3.7 GPA [...] honestly, he is like top 2 out of hundreds of clients. I just want to make sure he can continue his education."* The case manager also thought ahead that, if this did not work, the organization could start a Gofundme campaign to circulate among their donors and volunteers to put together money for Juan's tuition.

Juan was grateful for the special support he received from the legal aid organization staff, and the case manager noted that he was *"sweet"* in expressing this, which made it all the more rewarding to work on his case. One day, Juan texted the organizations' staff a thank you message, *"Thank you so much! [crying smiley face emoticon], I don't know what I would do without you."* To this, the case manager replied, *"Juan, don't make me cry. People like you inspire me, so thank YOU. But yes, let's keep in touch about this and we'll figure it out together!"* Reflecting the staff members' enthusiasm, I regularly received updates on this young man's path toward higher education as he chose which community college to attend and navigated challenges regarding admission and tuition expenses. Like the organization's staff, I was also inspired by his story and proud of his achievements.

Yet, at the same time, his exceptional story made the contradictions of the expectations imposed on unaccompanied minors all the more apparent. These young immigrant newcomers constantly receive messages from state actors (ORR, immigration judges, asylum officers) and from the brokers who mediate their interactions with the state (i.e., their attorneys and other NGO staff) about models of deserving youth citizenship that reflect middle-class values that privilege school (and higher education) over work and normative measures of successful youth assimilation centered on educational attainment. Yet, the state does almost nothing to support unaccompanied minors so they can actually graduate from high school and go to college. For most, this remains an unattainable goal. Unaccompanied minors are thus caught in legal limbo and in a liminal state, falling outside of categories eligible for substantive support (e.g., funding for undocumented 1.5 generation students). Instead, they must succeed against the high odds stacked against them. They are left with the mark of middle class expectations, and the idea they must behave this way to belong and, for some, a sense of inadequacy if they are incapable of meeting the near impossible goals imposed on them.

Juan was one of the few extraordinary unaccompanied minors who completed high school and applied to community college. To do so, he overcame barriers that caused many others to fall out of the educational pipeline. To begin, unaccompanied minors face obstacles when it comes to enrolling in school. Sometimes youths were ineligible to enroll because they entered the U.S. at age 17, were detained for months in ORR custody, and had turned 18 by the time they were released. Those youths had reached the marker of adulthood that legally disqualified them from enrolling. However, nationwide, schools were illegally keeping youths who were still minors out of school, despite the protections in *Plyler v. Doe*, the Supreme Court decision that guarantees

access to K-12 schooling to all children, irrespective of immigration status. In 2016, the Associated Press released a report finding that, in several cities, recently arrived Central American unaccompanied minors were not allowed being allowed to enroll because they lacked legal status or other documents proving physical presence (Burke 2016).

Juan's mother Julia described their initial interactions with school staff at their neighborhood high school as negative and discriminatory. Juan was first placed in the wrong grade, and then he was encouraged to leave by one of his teachers because he was not the "*right age.*" His teacher had begun to wrongly suspect that Juan was 19 instead of 17. Julia told me that this deeply pained Juan who had always loved school, "*He would come home and cry, he couldn't sleep or eat because he would tell me, 'mami what am I going to do about my studies? What am I going to do here? Nobody is supporting me.'* He would ask questions and get no information [...] that was until I went to the teacher and I told her, '*that's it! He can either be here or not. But the attitude that you all have here is rude, discriminatory, and you are making my boy sick.*'" Julia said that, after this interaction, the teacher admitted that she had never actually checked Juan's paperwork or age and had instead just assumed he did not belong in high school.

Julia felt empowered to advocate on her son's behalf, which was certainly not something that all undocumented parents and relatives felt. Having a mother who was a strong advocate would prove indispensable for Juan's access to and ultimate integration in his high school. Julia was well aware that nobody would have helped Juan had she been "*una madre descuidada*" (a careless mother). Julia eventually found an ally in a Salvadoran counselor who helped Juan change grades so he would have time to get enough credits to graduate, and helped him choose a lesson plan that he would excel in. As has been found consistently in prior literature on 1.5

generation immigrant youths' K-12 education in the U.S. (Gonzales, Terriquez, and Ruszczyk 2014), the presence of supportive school counselors and teachers was also key to help unaccompanied minors integrate in their schools, feel accepted and welcomed, learn English, understand class materials, and complete their education. For example, many youths told me that their English-Spanish bilingual teachers and teaching assistant were key figures that had supported them in this sense. In sum, in addition to his smarts, Juan had key resources in the U.S. that enabled him to succeed and that other unaccompanied minors often lack: a mother who advocated on his behalf and an ally among school staff.

Juan also brought the academics skills necessary to succeed in school with him from El Salvador, where he had already finished his *bachiller*, the equivalent of a high school degree. This was also not the case for many other unaccompanied minors whose schooling in the home country had been interrupted. As we saw in Chapter 2, interrupted schooling is one of the consequences of violence in El Salvador, Guatemala, and Honduras. Neighborhood commutes to school and even schools themselves could expose youths to dangerous interactions with gang members. These threats often caused youths to drop out of school. Similarly, poor and indigenous youths often had to drop out of school at a young age to help support their families. For indigenous youths who arrived in the U.S. speaking no English and, sometimes no Spanish either, catching up was extremely difficult in the context of limited support. Unaccompanied minors who lacked Juan's resources often had little to do in high school except attend English Language courses for newcomers. These classes did not count as credit toward high school completion. Youths who accumulated little progress toward the high school degree at age 18 were often pushed out of school by administrators who have an interest in keeping graduation

rates high, for issues tied to concerns about funding. Other times, youths were pushed out at age 18 for no apparent reason, even if they were doing well. In interviews, legal brokers and other NGO staff reported several instances of youths being pushed out of school in Los Angeles, and I had come across this happening several times over the course of my fieldwork. In conversations and interviews with case managers and attorneys, we often discussed how this constituted a violation of rights and imposed an additional barrier on unaccompanied minors' access to education. Youths nearing 18 who found themselves in this situation were far more likely to be able to stay in school if they had the support of case managers or legal brokers and had benefited from their rights education work.

Indeed, case managers felt particularly strongly about educating youths about their rights in school. Under California law, if minors enroll in public high school before age 18, they have the right to stay to finish their degrees until age 21. Reflecting this type of rights education work, one case manager thus counseled a 15-year old client and her mother, *“you’re still a bit young but I want to tell you this because I want you to know what your rights are. You have the right to stay in high school until you turn 21. Sometimes schools tell students that they have to leave when they turn 18. In fact, it happened to one of our clients just this morning. This is against the law. I want you to know that you do have rights here in the US. There are certain basic rights that you have, and it doesn’t matter that you don’t have papers.”* Sounding slightly surprised, the mother replied, *“oh, good, thank you.”*

Sometimes, we were able to observe the results of this rights education work. For example, when the school principal threatened to kick out 18-year-old Antonio from El Salvador, he demonstrated his knowledge of his rights and used it to push back against the principal's

discriminatory behavior and threats. The principal wanted to kick Antonio out of school as punishment after a school official mistakenly reported him for a minor violation of school rules about parking. That day, Antonio called the case manager to report this episode and angrily recounted how the principal responded when he mentioned his right to stay in school, *“he said to me, ‘your attorneys might have their rules, but we have our own rules at school. You are over 18 so we are giving you the privilege to stay in school. If you mess up, we will kick you out. We have done it before to a kid just two weeks from graduating.’”*

The case manager intervened to defend Antonio, who had changed several households of different family members in the U.S. and did not have another supportive adult figure who would advocate on his behalf. After this phone call, the case manager was angered by the school’s treatment of Antonio and was brooding for most of the remainder of the afternoon. She expressed her frustration, noting that schools were supposed to be helping her clients but instead they were making it impossible for them to get an education. Her frustration reflects the contradictions of a context where unaccompanied minors are simultaneously being transmitted messages that promote middle-class values of schooling as a means to seek acceptance through commendable citizenship, yet are also being denied access to these same institutions. The case manager later told Antonio’s attorney what had happened. The attorney was impressed that Antonio had claimed his rights and exclaimed, *“good for him!”* To cheer her up, I added, *“this really speaks to the legal education work you are doing here.”* With these encouraging words, we managed to bring the smile back on the case manager’s face.

When unaccompanied minors received this type of rights education from brokers at non-profit organizations, they knew their rights and could feel more empowered to defend

themselves. As mentioned previously, however, not all legal aid organizations (and no private attorneys) provide extra-legal support services. When youths lack this support, they are more vulnerable to being pushed out of school and to being denied resources. For example, Yesenia's case was prepared by a low bono organization with high case loads and no case management or extra-legal support services. Yesenia reunified with both of her parents in Los Angeles and had aspirations to go to University to study medicine. She was just a couple classes shy of graduating when she was pushed out of high school at age 18 and told to enroll in adult school. Neither Yesenia nor her mother thought to protest because they were unaware of their rights.

Education around MediCal was also particularly important. Case managers notified youths that they were eligible for MediCal until age 19. They explained the documents they needed to qualify, helped them fill out applications, and handed out information about the health care providers nearest to them, all while encouraging youths to use MediCal to take care of their physical and mental health needs. The expansion of MediCal in 2016 to undocumented immigrants under age 19 really benefitted unaccompanied minors. When I started my fieldwork in 2015, youths had to rely on the services of mental health NGOs with limited resources or pay for the psychological evaluations necessary to document their trauma or PTSD, which they sometimes submitted as proof for their asylum cases. MediCal gave unaccompanied the option of accessing mental health care and addressing their other health needs in ways they could not previously have done. Case managers also educated unaccompanied minors and their parents about AB-60, a law introduced in 2015 that allows undocumented immigrants to apply for a license and drive legally with a license in the State of California. Youths were often unaware of this law before case managers mentioned it, and in some cases, had been driving without a

license, which could expose them to all the potential problems that occur if an immigrant is stopped by the police.

In sum, the rights education work that brokers at legal aid organizations carry out is crucial and yields visible results. For these young immigrants who arrive in the U.S. during a liminal stage in the life cycle, between childhood and adulthood, and on the verge of aging out of eligibility for support (e.g., age 19 for Medical and age 18 for enrollment in high school), accessing government resources and services promptly is crucial. Working with case managers can provide unaccompanied minors and their families with indispensable information to do so. Just like legal brokers worked as intermediaries between youths and the state's immigration enforcement branch, case managers worked as intermediaries who helped youths navigate access to other state systems that support different dimensions of their incorporation in the U.S. beyond the attainment of legal status. The needs of unaccompanied minors could be better met by increasing resources for legal aid organizations to provide extra-legal support.

6.2 Youths' experiences navigating family reunification: conflict, love, and support

Beyond their brokerage vis-à-vis state institutions, another challenging task that case managers sometimes took on was mediating conflicts between youths and their families. One case manager who did not have a background in social work commented on feeling unprepared for this, *"we're not trained for this! At least if we were family therapists, it would still be hard but we would have more tools and skills to work with."* With limited training, case managers did their best to manage these situations, usually by taking the side of the minor. They particularly struggled with those family member sponsors they perceived as *"unreasonable"* because they did

not help them carry out their work supporting youths. For example, a case manager remarked on her frustrations after working with the step-mother of a 19-year-old Salvadoran youth, venting to me, characteristically, *“I found a place for the kid to do therapy near their house and now [the step-mother] says that she doesn't want to take him there because it's too close to her house and she doesn't want to be seen there because of the stigma associated to getting mental health services, in those types of places”* (with emphasis). This young man has requested help getting therapy after he came out as gay to his attorney, unbeknownst to his step-mother. Despite the fact that this 19-year-old was, legally speaking, an adult, his step-mother made the case manager's work more challenging as she positioned herself as an unwanted and uncooperative intermediary between her and the youth, rather than allowing them to interact directly. The case manager eventually conceded to the *“unreasonable”* stepmother and spent more time to find a place where he could do therapy further away from their home. Case managers preferred to interact with youths directly both because this made their jobs easier but also because they were trying to help youths take ownership over their lives and make decisions independently from their caretakers. These type of empowering strategy and adult-like expectations, of course, directly contradicted other messages that incentivized youths to be as child-like as possible, once again reflecting mixed expectations in the contradictory context of reception.

Case managers characterized sponsors as *“bad”* when they perceived that they were not caring for youths well enough. For example, Cristina's aunt, who we met above, was characterized as a *“bad”* caretaker, even before she left her alone to return to El Salvador. The aunt was very involved with her niece's case but was also perceived to be unduly harsh and controlling. For example, she once reprimanded Cristina several times in front of the case

manager, saying, “*she doesn't listen in school, she doesn't do what she is told.*” The case manager intervened to tell her to take it easy on Cristina, and to let them speak alone so Cristina would feel comfortable about expressing herself. It is telling that the case manager went from defending Cristina to being similarly frustrated by her behavior after her aunt left. Without her aunt present during the meeting that day, Cristina went from silent to very talkative, telling us all about her life, and reporting in a matter-of-fact way on all of the rules she had been taught since she arrived in the United States:

“the [ORR] social worker explained the rules of this country, that I need to go to court and respect my elders. That I should listen to my attorney. [...] My aunt also explained the rules to me, she said I shouldn't dress, like, sexy, that I shouldn't be a flirt, that I shouldn't wear makeup, that I should only wear long skirts. Now, I have to sleep with a long night gown.”

That Cristina rebelled to all these rules and expectations once her aunt left is unsurprising. Indeed, according to the case manager, clients followed one of two patterns when reacting to exacting rules and control from their caretakers, “*they either all out rebel or overcompensate and follow rules even more than what sponsors expect because they know the sponsor owes them nothing and so they behave like this because they are grateful they are taking them in.*” In my interviews with youths, I found that compliance was much more common than rebellion. The feelings of gratitude that the case manager mentioned were particularly common in cases when youths lived with non-parent sponsors who were supportive. However, sometimes youths felt guilty to receive this support or out of place in their new homes. Furthermore, not all youths were placed in supportive homes, leading them to leave the homes of non-parent sponsors, and sometimes those of parents as well, as we will see next (Table 6.2).

In some cases, it was family members who asked attorneys and case managers to step in to help them mediate conflict with youths, to provide what could be characterized as a parenting support function of sorts. Family members struggled to discipline recently arrived teenagers and to navigate new living arrangements that disrupted established family dynamics. Caretakers also were concerned about youths, "*hanging out with the wrong crowd.*" They feared, not only that this could put the youth in danger, but also affect the broader family, which usually had one or more undocumented members. While case managers might intervene by telling youths to listen to their caretakers, they usually made it clear that, "*they are the ones who are our clients, so we are going to meet with them alone, to understand their point of view.*" They thus usually positioned themselves as youths' allies and thus enacted an important form of care work.

Table 6.1 Family member unaccompanied minors initially lived with in the U.S.*

	% of all respondents*
Mother	43%
Father	10%
Both parents	6%
Other relative in the US (total)	37%
<i>Older sibling</i>	<i>10%</i>
<i>Aunt, uncle, cousin, brother in law</i>	<i>21%</i>
<i>Distant relative</i>	<i>2%</i>
No relatives in the US	5%

*N=81 Includes formal interviews and subset of legal clinic observations (with full family information)

As mentioned above, not all unaccompanied minors had access to case managers who could intervene to mediate conflict that could arise during family reunification. These youths needed to

navigate these challenges on their own, and the outcome of these struggles was important since family is a key institution that mediates immigrant incorporation. Once released from ORR custody, the vast majority of unaccompanied minors reunified with family members. They entered two types of families in the U.S. (Table 6.1), each of which presented different dynamics. Some reunified with one or both of their parents, from whom they been separated for long periods of time (53%). Others reunified with other family members, whom they usually had never met or barely knew (37%). These relatives were aunt, uncles, cousins, and older siblings who sometimes also already had children of their own to care for, both in the U.S. and in their home countries. Youths living in both types of families recounted having both positive and negative experiences in their new homes but overall, there seemed to be more conflict for youths reunifying with non-parent sponsors, as compared to youths reunifying with parents. Family reunification experiences were also gendered: boys were more likely than girls to report conflict with their sponsors (Table 6.2).

Table 6.2 Coming of age & family experiences in the US by gender (n=45 formal interviews)

Experiences in the US	Male	Female
Unaccompanied minor is a parent (has USC child)	2	3
Falling out with non parent sponsor	10	0
Falling out with parent sponsor	0	3
Reports conflict with family	12	4
Reports support with family	16	18
Working	11	2
Studying	8	15
Both working and studying	6	0
Neither working nor studying	0	2

After experiencing conflict or lack of support, youths sometimes left the homes of their sponsors. Based on my interviews (n=45), a total of 13 youths had left their sponsors' households: in 10 cases, this was a non-parent, and, in 3 cases, this was a parent (table 6.2). Girls tended to leave sponsors' homes less often than boys. This can be understood in terms of traditional gender norms that tie females more closely to the family than males, as documented in the gender and migration scholarship (Abrego 2009, Curran and Saguy 2001, Curran and Rivero-Fuentes 2003, Dannecker 2005, De Jong 2000, Kandel and Massey 2002). In the male cases, all youths had left the home of relatives other than their parents, such as cousins, uncles, and brothers in law. There were two motivations for them leaving. Sometimes, youths resented the control their relatives wanted to exercise over their lives. Other times, their family members were often unable to financially support them, which made youths feel abandoned. These youths either moved to the house of a different relative or started to work to be able to pay their own rent and live separately from family, usually sharing an apartment with other immigrants, like we saw in the case of Julio in Chapter 5.

In five cases, after a falling out with caretakers, boys had moved into a youth shelter that housed immigrant minors (under age 18) in Los Angeles. All of their stories were strikingly similar. They were indigenous and hailed from Guatemala, where they lived with both parents, and they had left due to a combination of violence and poverty. As the first of their nuclear families to migrate to the U.S., they had reunified with a family member who had initially agreed to support them. However, after their release from ORR, these family members had told youths that they would need to work to support themselves. These youths never showed up for their hearings in immigration court. Some feared they would be deported if they showed up without

attorney, and they did not have money to pay for one. For others, their sponsors never showed them the Notice to Appear letter with the time and date of their court hearings. When they entered the care of the youth shelter, a space they were connected to through their peer networks, these youths started going to school again and were connected to legal aid organizations that, when possible, reopened their cases to help them apply for relief.

Felipe was one of them. He had come to the U.S. with hopes of going to school but his uncle could not support him because he was already providing for his children in Guatemala. They shared a small apartment in Los Angeles with four other immigrants, taking turns to sleep and shower. Paying rent, expenses, and the \$7,000 debt he owed for his journey was difficult for Felipe since the only work he was able to find was as a day laborer, sporadically picking up jobs outside of Home Depot. Employers did not want to hire this minute 15 year old who seemed *“too small to work,”* and Felipe worked only about 2 or 3 times a week, making 9 dollars an hour. He put off his dreams of going to school for two years, until he eventually left his uncle’s house and entered the youth shelter, finding the support he needed to finish high school. When I met him at age 21, Felipe was about to graduate from high school and was working a better paying job as a busboy in a Beverly Hills restaurant. Despite pressures to work full time from his parents in Guatemala, Felipe chose to prioritize school over working more hours and making more money to send his family. He had plans to attend community college.

Only three females reported a falling out with caretakers, and all three left the homes of their parents. One of them was Yeimy, an unaccompanied minor from El Salvador, who lived with her father and step-mother until she ran away from home. While she had a conflictual relationship with her father, Yeimy told me that her step-mother had been supportive of her. However, she felt

like she was a burden on this woman who was already caring for her own young children and who she did not know well. According to Yeimy, the conflictual relationship between her father and step-mother, who eventually separated due to her father's drinking problems, made her life even harder. After many fights with her father, Yeimy decided to run away from home, and she transitioned back and forth between being homeless and living with her boyfriend's family.

Indeed, finding affordable housing in an expensive city like Los Angeles was a common challenge for unaccompanied minors who could not rely on family. Case managers often intervened to prevent or address homelessness. However, finding a shelter for homeless youths over age 18 –who did not not qualify for minors' shelters like the one that had taken in Felipe– was especially complex. To be able to get a bed in a long term youth shelter, it was a requirement for youths to either be working or actively searching for work. As already noted, not all unaccompanied minors can legally do so. In particular, SIJS applicants cannot work during the two or three years their cases are pending, and they are therefore placed at increased risk of homelessness. In this way, a humanitarian provision ostensibly meant to protect children instead exacerbates unaccompanied minors' vulnerabilities and undermines their ability to meet their basic needs.

Lilian was another female who had a falling out with her caretaker. Lilian was pregnant when she arrived in the U.S. to reunify with her mother, from whom she had spent 14 years apart. Lilian had great hopes for her relationship with her mother, who had promised to support her. However, once she arrived in Los Angeles, Lilian felt excluded because her mother had made a new life for herself, with a new partner and a step-daughter, whom Lilian felt she preferred to spend time with. The night before her asylum interview, Lilian had a fight with her mother, who

kicked her out. Lilian was distressed and spent a few days sleeping on a friend's couch, missing her asylum interview. Her attorney had to file a formal request for the interview to be rescheduled, explaining what had happened. When I interviewed her, Lilian was living at home with her child and older brother, and had since tried to make amends with her mother. The two were still in touch, and her mother sometimes watched Lilian's baby but spent most of her time at her partner's house. The way Lilian spoke of their relationship conveyed a raw pain. Lilian told me that she wanted to win her asylum case so she would not be separated from her daughter, who was born in the U.S., because she did not want her to grow up without her mother like she had. Months later, I received the news that Lilian won her asylum case.

Most youths described both receiving support from and navigating conflict with their families (Table 6.2). Notably, the cases of youths falling out and leaving the homes of family members were a minority. Indeed, when asked the question, *who helped you most since you arrived in the U.S.?*, many youths mentioned their parents or other relatives. Most families stuck together, usually overcoming initial distance or conflict, and providing important support for youths. Those youths who reunified with parents after spending over ten years described emotional first encounters with parents, often at the airport where they were flown in and dropped off by an ORR shelter worker. These were followed by a transition period that was sometimes filled with conflict or a lack of closeness, which youths and parents tried to overcome over time, a process they characterized as *"retomar la confianza"* (taking back trust). They would do so by re-establishing a parent-child relationship, which in some cases meant taking control of "rebellious teenagers" who did not want to listen to them, but also just by spending time together, doing fun activities, and beginning to talk, not only about their daily lives but also about the difficulties

they had each endured during their time apart. These conversations were painful but brought many closer together. Children learned they had not been left behind because their mothers did not want to be with them. For example, one mother who migrated to flee an abusive relationship with her children's father told me that having a conversation about this with her children, who were now older, made them aware of and helped them better understand the family situation, becoming less resentful of her and overcoming their feelings of abandonment.

Parents and relatives provided material support so youths could attend school full time, they helped youths find jobs, and, of course, they provided love, care, and emotional support as youths started to get used to their new lives in the United States. Parents and relatives, who usually had already resided in the U.S. for 10 to 15 years also served as brokers vis-à-vis receiving country institutions, enrolling their children in school, taking them to seek needed healthcare, helping them find attorneys, covering legal expenses, and accompanying them to their appointments with attorneys and to immigration court and the asylum office when necessary. Family is a crucial social institution, and unaccompanied minors who lived in supportive homes that had the resources necessary to help them were much better positioned to overcome the challenges that arose as they incorporated in the United States.

6.3 Truly unaccompanied UACs

A much smaller group of unaccompanied minors –9% nationwide– are not released from ORR custody to their family members (ORR 2017). These youths either have no family in the U.S. or their family members are either unable or unwilling to sponsor them or they are ineligible to do so under ORR criteria. In these cases, older youths are at risk of being transferred to adult

detention centers and fast-tracked for deportation upon turning 18. This became a more common and widespread practice during the Trump administration. Conversely, unaccompanied minors age 16 or younger had a better chance of being placed in long term foster care facilities. In these facilities, they had housing, attended school, and accessed free legal aid. If their SIJS order (i.e., the first component of the SIJS application, granted in state court) or their asylum case had been approved before they turned 18, these youths also qualified for the Unaccompanied Refugee Minors (URM) program, which allowed them to stay in foster care until age 21. The URM program has an integration mission, with the goal of supporting youths' schooling and preparing them for adulthood and independence by helping them find jobs.

However, while youths with a pending SIJS order qualified for URM, they could not benefit from URM employment support services because they were not legally authorized to work. This reflects the contradictions between overlapping systems with conflicting agendas, which had negative effects on youths. The slowness of immigration bureaucracy impeded youths' timely access to protection and imposed a prolonged state of legal limbo. For teenagers in the stage of the life-cycle defined by the transition from childhood to adulthood, the experience of waiting for their immigration cases to be evaluated also imposed an experience of waiting on their coming of age itself. To benefit from state support through programs like URM, youths with pending SIJS cases had to abide by the laws prohibiting them from working, unlike youths outside of foster care who could find work in the informal economy. Complying with this requisite meant that, in the words of youths themselves, they were "stuck" in their childhood. This restriction on work for SIJS applicants imposed by the immigration bureaucracy not only

went against youths' goals of independence but also against the mission of URM program to promote the integration of refugees in U.S. society by fostering economic self-sufficiency.

After they turned 18, youths could choose whether to opt out of URM to leave foster care and live on their own. This meant losing access to housing and assistance for their basic needs. Yet, for youths with pending SIJS cases, it also meant gaining independence and, effectively, the ability to work, like other undocumented immigrants. Youths who found themselves in this situation were made to choose between two starkly different positions: a precarious independence as young adults, with no support from state or family; or a prolonged and imposed childhood, accompanied by contradictory state support. I interviewed two youths who qualified for URM, and both were SIJS applicants who had decided to opt out to live on their own.

A Guatemalan unaccompanied minor named Fernando, who migrated at age 15, was one of them. He was 19 when I interviewed him and had left foster care the previous year. While he was detained in ORR, Fernando had tried to reunify with an uncle who lived in Florida but was unable to because, "*he had some sort of problem with the law,*" and was thus ineligible according to ORR criteria. Fernando also had another uncle in Southern California who had already sponsored another unaccompanied minor and felt that he could not take responsibility for two youths. After six months passed, Fernando's ORR social worker asked him if he wanted to stay in the U.S. with a foster family. Fernando, who was eager to leave the shelter and did not want to return to Guatemala, agreed. He was eventually placed in foster care in California, far away from Florida, where his uncle and several migrants from his hometown lived. Fernando recounted his experience in foster care in negative terms. He moved around a lot and lived with three different families, making it difficult to settle in and causing him to miss several months of school.

Having secured an approval for his SIJS order, Fernando qualified for the URM program and could have remained in foster care until age 21 but he decided to leave because he resented all the rules imposed there, and he wanted to be able to work. The rules in foster care were also what pushed out the second youth who I interviewed, despite the fact that she wanted to keep studying to finish high school. She recounted that her foster mother policed her behavior harshly, allowing her no independence, and even threatening her by telling her that if she was 20 minutes late returning home from school, her immigration case would be denied. This threat was false but it nonetheless caused the youth, who thought her foster mother yielded such power, to experience a great deal of anxiety.

Fernando left foster care to live in a small town in Southern California. He first worked in construction but this work was too sporadic for him to be able to support himself and send money home. He next got a job at a restaurant through another immigrant. He and his foster mother had different views about what an appropriate coming of age looked like. The foster mother valued middle-class models of coming of age through school. Conversely, Fernando had a different idea about what becoming an adult should entail. Not only did he want to make money to support his mother in Guatemala, who was counting on him, but he also found value and satisfaction in work. He described the tension between these two points of view:

“She would tell me that, if I didn’t study, I would be a nobody here. You know what I think? You don’t have to study to make something of yourself [salir adelante]. With a job in a kitchen, in construction, wherever, the important thing is that you like the job and you use your intelligence well. You can’t just work and work and spend the money because then you won’t be able to do anything. But, if you work and you save, and you help your family in your country, and you help yourself, I think that means you are making something of your life.”

For youths like Fernando, staying in foster care meant prolonging the experience of heightened state scrutiny that all unaccompanied minors experience while in ORR custody. As an independently minded youth who made a long and dangerous journey to the U.S. alone and had clear expectations and goals for his migration experience, being in long term foster care was infantilizing. He emphasized the claustrophobic nature of this arrangement over the state support he would have received by staying in URM, and he left to seek independence and continue his transition to adulthood.

The coming of age models that Central American unaccompanied minors chose to pursue in the U.S. were gendered: girls were more likely to conform to societal expectations and prioritize school over work, while the opposite was true for boys (Table 6.2). Overall, however, it was a common experience for all of these youths to find that their own coming of goals and aspirations were at odds with the path that they were expected or allowed to pursue as young immigrants in the United States. Not only did youths who wanted to work face normative pressures to study and obstacles in obtaining work permits, youths who aspired to study also encountered countless obstacles in school and often lacked the resources and support they needed to succeed.

6.4 Concluding remarks: coming of age under the scrutiny of the state

Unaccompanied minors simultaneously find themselves in legal limbo and in limbo between childhood and adulthood. Case managers in legal aid organizations were aware of the challenges their young clients faced as a result of inhabiting this dual liminal space. They worked to help youths navigate multiple state systems and access state services and aid from private donors. Like attorneys, case managers were advocates for unaccompanied minors who carried out a form

of care work by positioning themselves as youths' allies and defending them during the challenges they faced in schools and with their families. They educated youths so that they would know their rights as California residents and so they would not commit mistakes that could negatively influence their immigration cases. Aware of the liminal space on the verge of adulthood that their clients occupied, case managers also counseled youths to behave and look in ways that signaled child-like innocence so they would be seen as deserving in a context characterized by limited compassion and secure additional support and aid through individual fellowships and donations. This pragmatic strategy also allowed case managers to develop relationships with donors and secure resources and aid for other clients of the organization. In these ways, however, case managers also inevitably reproduced normative expectations that infantilized youths and negatively sanctioned behaviors perceived as deviant or too adult-like. Educating youths about their legal obligations and about the behaviors expected from them as deserving young citizens also served to make the gaze of the State on youths' lives more salient.

Nonetheless, in tandem with attorneys, case managers provided a crucial support system for unaccompanied minors, helping them navigate the multiple dimensions of their processes of incorporation, with their knowledge of state systems. Case managers filled gaps and provided support that families with scarce resources could not provide, and they advocated for youths who did not have family support. However, resource constraints, and even higher case loads than those that attorneys had, limited the attention case managers could devote to every client. Therefore, not all youths who received legal aid even in organizations with case management services, received this support. Working with high caseloads, case managers did their best to help clients most in need and facing the more urgent problems, such as a risk of homelessness. They

also went out of their way to help extraordinary clients who inspired them by achieving success against all odds in educational and other systems not designed or willing to support them.

For the majority of unaccompanied minors who are unable to receive extra-legal support services, since not all legal aid non-profit organizations provide these, family is the primary source of support. Recently reunited families had to overcome the distance, resentment, and conflict produced by the lack of familiarity and the prolonged periods of geographic distance, which had been imposed on them by the punitive U.S. immigration system that keeps families apart. In some cases, this was impossible, and youths were left to fend for themselves in an especially precarious situation, either in shelters, strict foster care facilities, or at risk of homelessness. In most cases, however, families stuck together. Both parents and non-parent caretakers provided emotional and material support, assisting youths in their desired coming of age trajectory when possible, by helping them complete school or find work. Family members who were more knowledgeable of U.S. systems than newly arrived youths also served as brokers, helping them enroll in school and supporting their applications for legal status, thus easing some of the challenges that this vulnerable population of newly arrived immigrants face during their incorporation. Nonetheless, since they reunify with vulnerable undocumented family members with scarce resources at their disposal, integration is no easy feat for Central American unaccompanied minors who arrive with “*cumulative disadvantages*,” as compared to other cohorts of immigrant children (Berger Cardoso et al. 2017). Increasing the availability of services to support unaccompanied minors and their families beyond the legal realm could help youths find more than physical refuge from harm and pursue a full “social existence” (Coutin 2000) in the United States.

Conclusion

Unaccompanied asylum-seeking minors from Central America inhabit a liminal state. As teenagers, they are in limbo between the social status of childhood and adulthood. Their own understandings of these social categories are contested and transformed as they cross international borders during their journeys from their home countries in Central America, in transit through Guatemala and Mexico, and during their arduous struggles for legal status in the U.S., as they apply for asylum and Special Immigrant Juvenile Status (SIJS). In the contradictory U.S. context of reception, characterized by *exclusion* and *protection*, to be seen as a deserving of protection, aid, and legal status, it is to their advantage to be perceived as children rather than teenagers or adults. This is because agency is associated with deviance and “illegal” immigration, rather than inclusion in the space of protection for unaccompanied minors and asylum-seekers, which grants exemptions from exclusionary immigration control.

For some unaccompanied minors, being perceived as children clashes with their self-understandings. They view themselves as independent young adults, who sometimes worked in their home countries to support their families, who lived in isolation or independence in contexts of violence, and who made dangerous journeys to the U.S. with little help. Even for others, more dependent on families or more focused on school in the home country, arriving in the U.S. means encountering protracted expectations for child-like behaviors –and prohibitions on work for SIJS applicants– that can make them feel “stuck” in their childhood.

And yet, despite these societal expectations for their child-like dependency on adults, there is limited compassion and little support from the state to aid the integration of this group of migrant

youths in the U.S., which would help them overcome the “cumulative disadvantages” they face upon arrival as compared to other groups of immigrant youths. These result from the trauma, deprivation, interrupted schooling, and violence these young migrants endured in the home country and en route to the United States (Berger Cardoso et. al. 2019). Unaccompanied minors are instead expected to “succeed,” according to U.S.-centric middle class values, largely on their own, for example, by achieving academic excellence, which is an indicator of deserving youth citizenship. As we saw in Chapter 6, youths’ coming of age trajectories in the U.S. are gendered, and girls are more likely than boys to conform to these societal expectations and prioritize school over work. However, in schools not prepared or willing to welcome them, even those unaccompanied minors who want to pursue educational goals face significant challenges. Unaccompanied minors are often unable to progress in their desired coming of age trajectory, whether it be through school or work. They undergo a victimizing and infantilizing “rite of reverse passage” during their migrations (Galli 2018), instead of a process of emancipation and transition to adulthood, like other cohorts of independent migrant youths (Hernández-León 1999, Massey et al. 1999, Monsutti 2007, Martinez 2019).

To be sure, when it comes to immigration and asylum proceedings, these youths are the group of undocumented immigrants afforded the highest level of protection, thanks to their “Unaccompanied Alien Child” (UAC) designation. However, this protected legal status tied to age and circumstances of migration is inherently precarious. Vulnerable migrant youths living through nearly identical experiences may arbitrarily fall in or out of eligibility for UAC protections due to the shifting ways in which age-based eligibility criteria are interpreted and to factors outside of youths’ control, such as how long it took them to overcome the “barbican” of

externalized immigration control in transit countries (Fitzgerald 2019) and reach the U.S., and whether their 18th birthday took place days before or after crossing the U.S.-Mexico border.

Unaccompanied minor status has become increasingly liminal and contested, already during the surge in arrivals of children and families from Central American in the Obama years, as legislation was introduced, ultimately unsuccessfully, to challenge the provisions of the Trafficking Victims Protection Act (TVPRA). The space of protection for unaccompanied minors has more overtly and forcefully come under attack during the Trump administration, as efforts have been made to strip youths of their protective UAC designation. Legal brokers and advocates have played a key role historically in creating and expanding protections for unaccompanied minors, and they work tirelessly to safeguard this protective space and hold the government accountable to its legal commitments through both direct representation and impact litigation.

The importance of the legal protections in place for unaccompanied minors in the U.S. context must not be understated. Being able to present one's claim at the asylum office during a non-adversarial interview with a trained bureaucrat is a key protection. It takes into account the developmental differences between youths and adults in processing trauma and in the recollection and narration of past experience (Given-Wilson et. al. 2017). Thanks to the exercise of protective discretion during interviews with youths, grant rates for unaccompanied minors at the asylum office are higher than those for Central Americans in immigration court. Access to the asylum office is also a fundamental due process protection, and, as such, it should be afforded to all children and, indeed, to all asylum-seekers. The dual asylum system that discriminates between border-crossers and claimants who overstay their visas, and sees the latter as "*more deserving, of a thorough system of administrative justice*" (Hamlin 2014, 69), is part of a broader

immigration system that disproportionately focuses its enforcement efforts and punitive measures on the U.S.-Mexico border region (Menjivar, Abrego, and Schmalzbauer 2016), thus effectively discriminating in terms of geographic origin, ethnicity, and class.

The fact that unaccompanied minors from non-contiguous countries are allowed to be automatically paroled into the U.S. is likewise an important protection in the TVPRA. This protection eliminates the discretion of the Border Patrol in determining which unaccompanied minors should be allowed entry on humanitarian grounds, a task that an agency mandated with policing state sovereignty cannot be entrusted to implement. Its effects are clearly reflected in the low numbers of Mexican unaccompanied minors who make it into the U.S. after Border Patrol screenings (ORR 2017), despite having experienced similar forms of violence and victimization as Central Americans (UNHCR 2014). Excluding Mexican unaccompanied minors from this protection in the TVPRA constitutes a violation of article 2 of the Convention of the Rights of the Child, which prohibits discriminatory treatment based on children's country of birth.

While existing legal protections for unaccompanied minors are undoubtedly impactful and important for the narrow group of youths they benefit, they do not change the fact that even unaccompanied minors are considered *immigrants first* and *children second* in the U.S. context. As the only country not to have ratified the Convention of the Rights of the Child, the U.S. does not apply a children's rights frame in immigration law. It only limitedly applies *best interests of the child* considerations in immigration proceedings, solely for SIJS applicants. As such, like immigrants of all ages, to be able to remain in the U.S., safe from physical harm and able to pursue a full social existence, without the looming threat of deportation, unaccompanied minors must seek to exception to exclusionary immigration enforcement on humanitarian grounds.

As a result, unaccompanied minors also inhabit a state of “liminal legality” (Menjívar 2006). As they navigate removal proceedings in immigration court, they are in limbo between different legal and bureaucratic outcomes with immensely consequential real-life implications: a case grant, legal status, and path to citizenship through asylum or SIJS; a grant of temporary legal status through prosecutorial discretion, which can be revoked; or a case denial, which can result in a life as undocumented immigrants living in the shadows or in deportation to countries where their lives may be in danger. One Human Rights Watch (2020) report documented 138 cases of Salvadorans, including unaccompanied minors, who were killed after deportation from the U.S. since 2013. The legally liminal state that unaccompanied minors inhabit is becoming more temporally protracted as case resolution times are increasingly drawn out. This state is also becoming more precarious as the legal categories of asylum and SIJS are interpreted more restrictively, with the goal of shrinking the space of protection for unaccompanied minors and asylum-seekers in the U.S., and instead privileging goals to control borders and restrict immigration. As I demonstrated throughout the manuscript, the multiple dimensions of liminality that unaccompanied minors inhabit interact with and compound one another to shape the experiences of this group of immigrant youth who escape from violence to seek physical and legal refuge and join their families in the United States.

In Chapter 2, I demonstrated how Central American transnational family composition shapes youth migration. The separation of Central American families today is a product of decades of punitive U.S. immigration and asylum policy, which has historically denied political recognition as refugees to the vast majority of Central American sociological refugees who escaped from violence in the 1980s and after. While the U.S. bears responsibility in creating the migratory

push factors and violence in Central America today, through decades of foreign policy intervention and its deportation of gang members to El Salvador in the 1990s (Abrego 2017, Rocha 2011, Garcia 2006, Zolberg et. al. 1989), it has failed to recognize its responsibility. This restrictive position is not an inevitability. The U.S. adopted a far more welcoming stance in the context of the Vietnamese exodus in the 1980s by resettling refugees in large numbers.

These historical dynamics and their legacies have had nefarious intergenerational effects for Central American families. Today's unaccompanied minors are sometimes the children of parents who escaped from violence but were denied refugee protections. A clear example are the experiences of mothers who escaped domestic violence, leaving their children behind in Central America, like Kevin's mother Maria, who we met in Chapters 2 and 3. The parents and relatives of unaccompanied minors are almost always long term U.S. residents, suspended states of "illegality" or "liminal legality" (De Genova 1992, Menjivar 2006). With no family reunification rights, and an inadequate fix through the Central American Minors Program created by the Obama administration and ended by Trump, family members based in the U.S. have no choice but to bring their children to safety and reunify outside of authorized legal channels.

Unaccompanied child migration from Central America today is a flow characterized by youths who have, most commonly, been raised by single mothers and other relatives. Poor and indigenous youths are especially exposed to violence in El Salvador, Guatemala, and Honduras, where murder rates rival those of active war zones. Children without supportive caretakers to rely on can be at an even greater risk of falling victim to violence outside the home, especially gang victimization, when they reach the dangerous age of adolescence. Exposure to violence in Central America is also gendered, while boys are more at risk of forcible recruitment by gangs,

girls are at more at risk of sexual violence. Both boys and girls are vulnerable to violence at the hands of caretakers within the home, but for girls, becoming women is no shelter from these threats, since Central America is a dangerous place for women, with femicide rates ranking among the highest in the world.

Some Central American youths plan their migration alone, or escape in seemingly miraculous ways, without notifying their caretakers. However, it is far more common for youths to have some support from family members. Past research has shown that migrant networks are even more important to facilitate migration in contexts of violence as compared to peaceful contexts (Liu 2019). I found that “strong ties” to close family members based in the U.S. (Wilson 1998), in particular ties to parents, played a more salient role in facilitating youth migration as compared to ties to non-parent relatives. Parents were more likely to be privy to information about the victimization and violence their children experienced in their home countries, which is necessary to help plan escape. However, not all youths felt comfortable or safe sharing this frightening information with caretakers at home or abroad. Overall, having parents, and to lesser extent, other relatives in the U.S. provided youths with information and resources that lowered migration costs and helped them plan migration in contexts of violence.

Because Central American families must fund costly unauthorized migrations to extract youths from harm, it was oftentimes impossible to organize the migration of more than one youth who was at risk at the same time. Families and youths attempted to assess and manage risk in the sending country through imperfect strategies, as violence can be sudden and difficult to predict. Yet the timing of escape, and the quantity and type of experiences of victimization suffered before, will have significant implications for the results of youths’ asylum applications in the

United States. Preemptive flight is the best option in terms of youths' wellbeing and to minimize the long term effects of trauma. Importantly, this also reflects the swift actions of loving and protective caretakers, rather than parents who "abandoned" their children, as social workers in the U.S. pathologize the families of unaccompanied migrant youth (Terrio 2015). Yet preemptive flight also poses challenges in the asylum process if youths have not accumulated "enough" experiences of suffering to substantiate the "humanitarian capital" they need to be found deserving of relief in the U.S. immigration bureaucracy (Galli 2019a). In these bureaucracies, youths' home country experiences are re-interpreted and assessed through the lens of U.S. asylum and child welfare laws. Most of the youths in my study navigated these processes of state legal categorization, to seek legal status and political recognition to match their lived experiences of escape from violence, with the help of immigration attorneys.

However, as Chapter 3 showed, unaccompanied minors' demand for free and affordable legal services exceeds the supply, even in the relatively well-served Los Angeles context. While legal protections for unaccompanied minors and special funding sources have led to the development of a professional field of legal brokers specialized in working solely or mostly with this population, non-profit legal aid organizations still lack the resources to be able to guarantee universal legal representation to all unaccompanied minors. Only about 64% of unaccompanied minors in removal proceedings in the Los Angeles immigration court are represented by an attorney, and their odds of being allowed to remain are drastically higher than those who are not (TRAC 2017). Organizations must manage the limited resources at their disposal to represent immigrant youths, and they implement different strategies to do so. Some organizations try to approximate universal representation by implementing a *quasi universal representation model*,

representing all clients that are assigned to them or that can pay small fees for their services who meet policy eligibility criteria interpreted in broad terms. Conversely, other organizations implement the *triage model*, choosing to represent only those cases perceived to be both most likely to obtain relief and most “sympathetic.” The latter criterion reflects subjective evaluations that reify the infantilizing nature of humanitarian proceedings, where only innocent children are seen as deserving of protection. Youths who are not lucky enough to be connected with a *quasi-universal representation model* organization, and older teenagers and those who do not have sufficient “humanitarian capital” to be selected by *triage model* organizations are excluded from access to free or affordable legal representation.

Legal brokers who implement the *quasi-universal representation model* are enabled and more likely to work as *critics of the law* because they can represent clients whose lived experiences do not fit narrowly interpreted existing legal categories (Coutin 2000, Galli 2019a). Conversely, lawyers implementing the *triage model* are constrained to work as *agents of the law*, who reinforce narrowly defined legal categories, by reproducing the anticipated evaluations of adjudicators and selecting to represent only clients whose experiences satisfy existing interpretations of the law. Resource constraints and organizational models thus clearly shape lawyering practices and can enable or constrain the legal advocacy work that serves to expand the space of protection for unaccompanied minors and asylum-seekers in the United States.

Because the space of protection remain narrow, and exempts only a small group of immigrants from exclusionary immigration control and “legal violence” (Menjívar and Abrego 2010), adjudicators behave as if compassion is a scarce resource to be distributed. Limiting access to legal representation further exacerbates this dynamic. When only youths who present

the most extreme cases of suffering have enough “humanitarian capital” to gain access to the scarce and coveted good of free legal aid, this creates an additional barrier in youths’ access to legal status. These findings underscore the detrimental effects of limited resource availability for the legal representation of humanitarian claimants. They can help make the case for funding universal access to legal representation, not just for all unaccompanied minors, but for all immigrants in removal proceedings. This is crucial to ensure due process and to improve access to existing protections in the imperfect U.S. humanitarian system, which has been characterized as a “refugee roulette” (Ramji-Nogales, Schoenholtz, and Schrag, 2017).

Chapter 4 traced the experiences of Central American unaccompanied minors after they obtain legal representation, as they navigate arduous legal battles to remain in the U.S., with the help of immigration attorneys. I demonstrated how immigration attorneys work as brokers between unaccompanied minors and the state bureaucracies that adjudicate their humanitarian claims for relief from deportation and legal status based on asylum and SIJS. Building on the scholarship on legal brokerage, which has focused almost exclusively on lawyering with adult immigrants (Coutin 2000, Lakhani 2014, 2015, Villalon 2010, Bhutan 2008), I identified multiple dimensions of the work that immigration attorneys do as they broker the cases of unaccompanied minors. Like legal brokers who work with adults, they carry out a *legal translation role* (Lakhani 2014), as they explain complex legal provisions in simple ways to inform and educate youths about the law. They thus participate in youths’ legal socialization and facilitate their access to protections for immigrant children and refugees in the United States.

As compared to legal brokers who work with immigrant adults, who generally have less difficulty remembering and verbalizing their experiences, legal brokers working with

unaccompanied minors must find ways to overcome youths' curtailed discursive agency to be able to elicit the details they need to prepare their humanitarian petitions. They do this through different interviewing strategies, for example, by requesting information from family members, and by providing *potential scenarios* of things that might have happened to youths to obtain details and move interviews forward. The latter strategy, however, also means that legal brokers address their clients through a series of pathologizing questions (e.g. *did your grandmother hit you? did she use a shoe or a belt?*). In this way, they inevitably reproduce the victimizing and re-traumatizing nature of humanitarian proceedings. Yet, they also try to mitigate the negative "side effects" of their work by enacting *lawyering as care practices*, such as empathizing with their young clients and choosing legal strategies that shield youths, to the extent possible, from distressing and anxiety-provoking interactions in an immigration bureaucracy characterized by "legal violence" (Menjivar and Abrego 2012).

Legal brokers match youths' lived experiences of suffering to the formalistic criteria of legal categories to determine their eligibility and prepare narratives for asylum and SIJS cases. For SIJS, attorneys elicit information regarding home country experiences of abuse or underage work that may have been normalized by children, and strategically re-frame these using California legal definitions of abandonment, abuse, and neglect. Youths' own understandings of their home country experiences often do not match these legal criteria, for instance, when youths worked at a young age to help support their families. When possible, attorneys sometimes strategize to pursue SIJS instead of asylum for youths who escaped from violence but who do not meet the child-specific criteria of asylum case law. This strategy, which reifies narrow interpretations of asylum law, is also the one most likely to yield positive case outcomes and a path to legal status

for individual clients. While youths like these may access substantive protections, which, to be sure, is the most important thing for youths' wellbeing and safety, they are nonetheless being denied political recognition as refugees by the U.S. government, continuing the long history of U.S. failure to recognize Central Americans as refugees.

In preparing asylum cases, legal brokers *quantify* youths' lived experiences of suffering and victimization to show that they have suffered the right "amount" to yield sufficient "humanitarian capital" that meets the bar of persecution. This legal criterion was historically established to exclude those who are not personally targeted by violence and those who experienced deprivation, so that the protective space of asylum would remain narrow (Zolberg, Astri, and Aguayo 1989). Legal brokers also help youths demonstrate the right "type" of suffering to satisfy the "nexus-requirement" by showing that the reason for their persecution falls under at least one of the protected grounds of the refugee definition. U.S. asylum case law discounts those lived experiences of escape from violence that center youths' agency while validating those that reify the notion of the child as a victim who lacks agency and is inherently dependent on adults and thus deserving of protection.

Indeed, particular social groups (PSGs) based on family membership and abuse have been the most successful for Central American unaccompanied minors' asylum cases. Conversely, PSGs based on experiences of forcible gang recruitment have not been deemed deserving of relief, despite being –or, perhaps precisely because they are – common experiences that youths face in Central America, where many adults are also being victimized by gangs. This narrow interpretation of gang-based claims as ineligible for protection in the U.S., however, contradicts the position of the UNHCR (2010), which considers that any forcible recruitment by violent

groups amounts to persecution. Asylum cases centering emancipatory discourses based on political opinion or race can also backfire for youths since their experiences fail to satisfy the notion of “political act” in asylum law, which is still insufficiently attuned to age and gender (Bhabha 2014) and has historically privileged the experiences of males fleeing the persecution of state actors (Gibney 2004). Indeed, another legacy of the historical refugee definition created in the aftermath of World War II is the fact that victimization from so-called private actors is readily discounted as constituting persecution. This poses a significant challenge for asylum-seekers of all ages who are exposed to “violent pluralities” in Central American (Vogt 2013), where the line between political and criminal violence has become blurred.

Immigration attorneys must interpret and reframe Central American unaccompanied minors’ diverse experiences of escape from violence to fit these narrow legal frames. Then, during high-stakes asylum interviews, youths must successfully verbalize their experiences of flight to adjudicators, not as they understand them, but in the language of the law, to access political recognition as refugees. Yet framing narratives successfully is impossible for youths whose lived experiences of escape from violence do not contain the necessary elements. I highlighted the mismatches between Central American unaccompanied minors’ *de facto* refugee experiences and *de jure* definitions of refugee status, which cause youths to fall out of eligibility for relief and risk deportation to countries where their lives are in danger.

On the one hand, the narrow space of protection for unaccompanied minors and asylum-seekers in the U.S. is fundamentally compatible with restrictive immigration control while also allowing the state to maintain at least a facade of compliance with international and domestic human rights and humanitarian norms (Dauvergne 2005, Ticktin 2011). On the other hand,

however, protections for unaccompanied minors are important and consequential, and they should not be discounted. They have been put place through decades of legal advocacy work on behalf of unaccompanied minors and asylum-seekers. They give legal brokers the tools to hold the government accountable to the commitments it has made to human rights, for instance under the *principle of non-refoulement*, and to the rights of children, for instance those codified in the Flores Settlement. Despite its limitations, humanitarianism –the desire to protect vulnerable others and alleviate their suffering (Brown and Wilson 2011)– does constrain the state’s ability to keep out undesired migrants from the Global South, exclude them from the polity, and inflict legal violence on them. Taken together, humanitarian provisions and human rights guarantees, as they are enforced and upheld through the work of legal brokers, undeniably serve as a check on state power. At the moment, these benefit certain groups of immigrants much more so than others, with unaccompanied minors presenting a key case to study the interaction between exclusionary citizenship and legal violence and humanitarianism and protection.

Chapter 5 shifted focus from the perspectives of the legal brokers who prepare youths’ cases, to those of unaccompanied minors themselves. I examined how youths experience undergoing the multi-step legal process for youths categorized as unaccompanied minors in the United States. They navigate four key institutions and bureaucracies, with contrasting mandates: encounters with the border patrol at the U.S.-Mexico border, and agency mandated to police state sovereignty; encounters with social workers in ORR shelters for unaccompanied minors, an agency with the dual mandate to care for children and to control immigrants (Terrio 2015); interactions with their family members “sponsors” mediated by the state, who exercise a mandate of delegated care and control and are made responsible for youths’ compliance with immigration

law; and interactions with immigration and asylum bureaucracies, which exercise a mandate of “discretionary humanitarianism” (Fassin 2011), granting status to few while excluding most and stigmatizing them as “bogus” refugees who are trying to cheat the system. I examined how interactions in each of these spaces teach youths about U.S. laws and behavioral norms expected of young claimants deemed deserving of humanitarian protection. These normative behavioral models are construed in contrast to discourses that stigmatize youths’ co-ethnics —Central Americans and other Latinx immigrants— as “bad” immigrants.

Through these bureaucratic interactions, unaccompanied minors undergo a quick process of legal socialization that other recently arrived immigrants are not subjected to. This socialization process shapes youths’ sense of belonging and their commonsense understanding of the law or “legal consciousness” (Merry 1990). I argued that the “legal consciousness” of unaccompanied minors is dichotomous and characterized by: (1) a combination of trust and fear in the state; (2) concurrent feelings of deservingness/rights and stigma/subordination; (3) both information and misinformation about U.S. laws. This dichotomous legal consciousness informs how youths claim belonging and rights in their applications for legal status and in everyday social interactions. To signal their own belonging and deservingness, youths leverage information about their rights and normative notions about desirable teen and migrant behavior. Yet, in the process, they also inadvertently perpetuate stigma, as they distance themselves from their co-ethnics and peers to claim belonging in a context of reception where compassion is a scarce resource that vulnerable immigrants must effectively compete for. This strategy that youths adopt, largely unaware, has worrying implications for the group-based solidarity and claims-making of asylum-seekers and Central Americans in the U.S. context.

Chapter 6 widened the analytic lens to discuss how the legal process spills over to affect other dimensions of youths' lives and incorporation in the U.S., including access to public benefits, coming of age through school or work, and family reunification after long periods of separation. The prolonged legal limbo that unaccompanied minors find themselves in causes many problems, including the inability to work, the increased resulting risk of homelessness, and increased exposure to state scrutiny, which can lead to potential case denial. Case managers help youths manage these challenges. Just like legal brokers work as intermediaries between youths and the state's immigration enforcement branch and humanitarian adjudication bureaucracy, case managers work as intermediaries who help youths navigate access to other state systems that can support different dimensions of their incorporation in the U.S., beyond the attainment of legal status. As young migrants who arrive in the U.S. during a liminal stage in the life cycle, between childhood and adulthood, and on the verge of aging out of eligibility for support (e.g., age 19 for health insurance through MediCal and age 18 for enrollment in high school), accessing government resources promptly is crucial for unaccompanied minors. Working with case workers can provide unaccompanied minors and their families with indispensable information to do so. The rights education work that brokers in legal aid organizations carry out is also crucial. For example, they educate youths about their right to stay in California high schools and finish their degrees until age 21. This extra time is precious for unaccompanied minors who arrive as older teenagers with no English language skills, and often with interrupted schooling, and cannot be expected to finish high school degrees in just a couple of years. In this way, advocates and youths can work together to hold institutions like schools accountable and make them more inclusionary of this population of immigrant newcomers. The needs of unaccompanied minors

could be better met by expanding resources for legal aid organizations to provide this kind of extra-legal support.

Unaccompanied minors who lack this support rely entirely on their family members, who are overwhelmingly undocumented or living in states of “liminal legality” (Menjivar 2006). These caretakers are therefore themselves inherently vulnerable because of their “deportability” (De Genova 1992). They often work in exploitative jobs and lack the material resources to support youths. They do not always have the knowledge necessary to mediate youths’ “bureaucratic incorporation” (Marrow 2009), as individuals who have lived in the shadows and have eschewed contact with the state to avoid immigration enforcement. Central American unaccompanied minors and their families also navigate challenges as they reunify after long periods of separation. Conflict and jealousy can arise in these newly reconfigured families that must work to regain familiarity and heal from the trauma of past separation. While most families are able to overcome these challenges, some youths are left entirely on their own, with no support from adults. These youths are most starkly simultaneously adultified, needing to find employment to cover expenses for rent and legal fees on their own, and infantilized by a process that only sees them as compassionate if they are child-like and innocent. All unaccompanied minors are tugged in these opposite directions in the contradictory U.S. context of reception, characterized by *exclusion* and *protection*. From their precarious social and legal position, they must navigate arduous struggles to seek belonging and rights.

We can and should be doing more to support this vulnerable group of immigrant youths and their families. How the courts decide on the Trump administration’s draconian and illegal policies—including the “Third Country Ban,” which disqualifies all who arrived at the U.S.-

Mexico border after July 2019 and after transiting through other countries from applying for asylum (CLINIC 2019), and the “Migrant Protection Protocols,” which force adults to apply for asylum in tent courts in Mexico where grant rates are near-zero (Solis 2019)— will, not only determine the fate of humanitarian admissions and asylum in the U.S., but will also have key implications for the state of democracy in this country. The courts should restore access to the asylum system and block all future attempts to close off borders that disregard human rights and international law, including the most recent *refoulement* of unaccompanied minors that has been taking place at the U.S.-Mexico border, as of April 2020, under the pretext of stemming the COVID-19 pandemic (Hesson and Rosenberg 2020), all the while the U.S. continues its deportations of migrants, which can spread the virus to other countries (Reuters 2020).

The U.S. should ratify the Convention on the Rights of the Child, finally catching up to the rest of the world and abiding by international legal commitments that provide basic human rights to all immigrant children. The practices of CBP should be subjected to scrutiny by external observers to enforce this agency’s compliance with child protection norms in U.S. law. This is necessary to guarantee that unaccompanied minors are being adequately identified, avoiding situations like those that Alicia and Manuel faced, both of whom, as we saw in Chapter 5, might have been denied entry if they had allowed CBP agents to intimidate them after questioning their age. This is also paramount to protect the rights of immigrant children detained at the U.S.-Mexico border, which are guaranteed in the Flores Settlement, but have been repeatedly found to be violated (ACLU/IHRC 2018). In the presence of these rights violations, at least seven children have died while in CBP custody in the past year (ACLU 2019). What’s more, TVPRA protections at the border that allow UACs to be paroled into the U.S. should not discriminate

based on nationality. Not only does this violate the Convention on the Rights of the Child but it also it increases the discretion of CBP, a punitive agency that cannot be expected to implement humanitarian provisions that protect children. TVPRA protections at the border should be extended to unaccompanied minors of all nationalities, including Mexicans, in compliance with international children's rights norms.

Free legal representation should be guaranteed to all immigrants, as no child should be tasked with representing herself in the adversarial context of immigration court. Nor should adults be expected to do so, as they likewise have little to no understanding of complex U.S. legal provisions and convoluted asylum law, which "*does not make common sense.*" Refugee law should be interpreted more expansively to reflect today's causes of forced migration and adequately protect the lives of children, youths, and adults who flee their home countries. It should be more attuned to the age and gender specific ways in which violence affects individuals in their home countries, discussed in Chapter 2. Central Americans should be fully treated as refugees and granted integration support services, like those that resettled refugees receive, to help them as they overcome trauma and navigate school, work, and new state systems in the unfamiliar country of reception. Protections for immigrant children and unaccompanied minors should be *supplemental* to a baseline of protections for all immigrants in a more humane and just U.S. immigration system, as opposed to what they are today: narrow exceptions to the restrictive, exclusionary, and legally violent norm. Only in this way, can a rich democracy like the U.S. meet its responsibility and ethical obligation to ensure that Central American immigrant youths do not just survive but are enabled to thrive and pursue a full social existence in their new homes.

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