# Proving fear: the corporeal witness and its role in asylum seeking

***Arturo Esquivel***

Arturo Esquivel, Assistant Professor, Department of Sociology, Bishop's University, Sherbrooke, Canada, ORCID: 0009-0006-6644-2030

***Abstract:*** *This article examines the cases of two Central American asylum seekers at the US-Mexico border. It argues that their bodies, marked by scars, mutilations, or other forms of trauma, emerge as credible witnesses in support of asylum seekers' claims. Through their scars, fear becomes visible, quantifiable and relatable. It further argues that despite the "objective" quality of the credible fear test, the credibility of asylum claimants' stories hinges on the acknowledgement or disavowal of their fear, suggesting the impossibility of establishing fear as an "objective fact", speaking instead to a lack of responsiveness and responsibility towards others.*

***Keywords:*** *embodiment, acknowledgement, the credible fear test, asylum seekers, US-Mexico border, photography*

The key hit the lock. The sound signaled new arrivals waiting outside the shelter's gate. I was working the door that night. *Migrantes*[1] crowded the corridor on their way in and out of the shelter. The smell of fried beans hung in the air while *migrantes* sat in the shelter's courtyard eating dinner. The new arrivals, a group of deportees and a Haitian family of three, stood in line outside of the shelter. I began the intake process with the family. Two women and a two-year-old traveled from Haiti with long sojourns in Brazil and Chile before saving enough money to make their way north to the US-Mexico border. Tijuana was their last stop in their quest for asylum in the US. It was a cold night, and they were only wearing t-shirts. The mother of the two-year-old handed her child to her sister and walked with another volunteer to the *cuarto de ropa*[2] for sweaters. The intake process required potential shelter residents to disclose chronic illnesses. – *Do you have a chronic illness?* She hesitated and replied something in Creole I did not understand. I reformulated the question: *Do you suffer from a chronic illness?* She looked at me in eye – *Yes, sir*…, and pulling back her braided hair, uncovered her ears. Both of her helixes were unevenly jagged, as though they had been cut with scissors. The helix on her left ear was almost entirely gone. – … *I always [still] suffer.*[3] She and the rest of her family escaped an alcoholic husband, marital violence and rural poverty in Haiti.

A conversation about chronic illness led to one about chronic suffering. The following day,

1 Spanish for "migrant". At the shelter, "migrante" was the common denominator to refer to shelter residents.

2 *Cuarto the ropa*, literary "room of clothes", is the term shelter workers used to refer to the storage room where the shelter kept donations of second-hand shoes and clothes.

3 We carried out the conversation in French. I asked: *Est-ce que vous avez une maladie chronique?* / I rephased: *souffrez-vous d'une maladie chronique?* She responded: *Oui monsieur (pause) je souffre toujours.* In English it loses the nuance of how my rephasing the question led her to interpret it in terms of chronic suffering, and not chronic illness.

at the shelter's legal office, Jeanne, the woman with the mutilated ears, told her story. The lawyer transcribed the details of her life in Haiti, the hunger, and violence, and their travels through Latin America. The story, though recounted with temporal breaks and lapses in memory, gained linear chronicity on paper. The shelter's lawyers shaped, in other words, a fragmented narrative into a chronologically coherent story to render it legally legible. Yet Jeanne's and her family's narrative was not enough to secure their refugee status in the US. Corroborating evidence was essential in making her case stand a chance in court. Her scars provided a credible witness to back her story. Photos of her ears spoke to the violence inflicted on her. Fassin and D'Halluin (2005) suggest that refugees' bodies carry a double temporality: one inscribed by the exercise of power, another etched by truth – the truth that bears witness to the power inflicted on their bodies by the institutions of refugees' (or in this case, asylum-seekers') host countries. This double imprint, as Fassin and D'Halluin argue, faces two paradoxical situations: (a) one that arises from refined methods of torture that leave little physical evidence, and (b) the expectation of physical evidence from the state accompanied with the lack of confidence in asylum seekers' ability to demonstrate it. In this context, medical expertise takes on the authoritative role to prove it: "The medical certificate leads to a reification of the asylum seeker's body. Detached from the lived experience of the victims of persecution, it attempts their objectification through experts' words and ends up in *desubjectifying* them" (p.598, my emphasis).

Rather than tracing the "desubjectification" that medical certificates create for asylum seekers, the separation of their lives from their bodies, this paper teases out the return of people's lives to their bodies through the words they employ to narrate the photographs of their bodies in support to their asylum-seeking claims. Photographs, much like medicate certificates, reify, objectify, and fix the fear of torture or persecution asylum seekers must prove their bodies bear to gain refugee status. Can we think of a process of "*re*-subjectification"[4] as asylum-seekers tell their stories through their photographs rather than their photographs representing their fear, suffering and distress for them? Here, the implication is that photographs are part of a broader narrative about their lives, not the "credible witness" to them. And that, as I attempt to show, as they narrate their lives through their photographs, they allow for the return of their words to their bodies. This return, a return to their ordinary lives, unfolds through people's reclaiming their voices. What I have in mind when I suggest that people "reclaim their voices" sits close to the pedagogical practice at the heart of Wittgenstein's confessional mode of philosophizing and living (Monk, 1991, pp.366-367). Wittgenstein eschews a picture of self-knowledge as a form of self-revelation or disclosure of the "inner". For Wittgenstein, an autobiographical disclosure that is coherent and "whole" is akin to self-deception. Instead, the "subject in relation to itself must continually work on its self on the understanding that such work is worthwhile but is never completed and that, inescapably, as such subjects 'we' return to ourselves everyday" (Peters, 2000, p.357). This writing of self or the continuous return to the self is the process I trace in this article through the narratives asylum seekers tell around the photographs of their and other people's bodies. The photographs do not *speak* for them. Photographs, against the "desubjectifying"

4 Didier Fassin uses the idea of subjectification to foreground the process of subject formation: "the production of subjects and subjectivities that hold political significance within the framework of social interaction" (2008, p.533). Both in the case of Palestinians who suffer from PTSD (2008) and racialized immigrants and their children in Paris (2013) subjectification through interpellation allows people to learn what they represent, or "who they are in the gaze of others" (2013, p.7). This is not how I pursue the idea of *re-subjectification*. Although there is an important sense of becoming people engage in the process of asylum seeking (something close to what Foucault called in the second volume of the History of Sexuality "the arts of existence"), I want to propose instead that narrating their lives through photographs of their bodies or their loved ones allow people seeking asylum to, in Veena Das's words, "achieve the everyday" (Das, 2020, pp.168-169). The idea is simple: people who have suffered through violence, torture, horror, and loss must learn, once again, to inhabit their everyday lives. In living through extreme experiences of violence, there is a break between the world and the word. How do asylum seekers bridge that gap, if at all? The literature pays little attention to the day-to-day struggles of asylum seekers. This essay is an attempt to re-center the focus to approach how people navigate and negotiate fear and loss in the long waits between appointments with immigration officials and court dates, often stretching over for years.

impulses of asylum-seeking processes, in short, are a vehicle through which asylum seekers return to their selves and re-create their own narratives while reworking their past.

The migrant shelter where I conducted fieldwork for 15 months provided asylum seekers with the material and legal resources to navigate their asylum-seeking process in the US. Stuck in Tijuana, many asylum seekers eventually left the shelter. Their lives unfolded between waiting for the next court date, finding jobs, and learning to adapt to the difficulties of living in Tijuana. While working at the shelter, I witnessed their daily struggles to secure refugee status in the US. In this article, I employ the notion of witnessing in a double sense: in the connection between knowledge/evidence that asylum-seeking processes convey, and in witnessing as a dimension of people's ordinary lives. In the second sense, witnessing is an act through which people engage each other. What I mean by this aligns closely with what Al-Mohammad (2010) suggests as an ethics of being-*with*. An ethics of being-with pays attention to how living with others fosters "bonds of care and interest" (p.436). By emphasizing the -*with*, Al-Mohammad seeks to sidestep conceptualizations of ethics that revolve around the ethics of the self and instead foregrounds how our ethical lives and responsibilities are located outside of ourselves and enmeshed in the lives of others (p. 441). In a sense, the return to the ordinary is also a moral project. A project that involves people's return to the everyday by revising and rewriting the self while interacting with others as they face up to "the difficulty of reality" (Diamond, 2003, p.2).

In processes of asylum seeking, there is a disconnect between these two dimensions of witnessing (one institutional, embedded in bureaucratic-legal processes; the other, as a dimension of people's everyday lives). Asylum applicants' credibility, or being judged credible by judges and immigration officials, hinges on "subjective" and "objective" criteria (Kim, 2021). The subjective component refers to the (subjective) fear asylum seekers feel of past and future persecution, while the objective component points at the *objective situation* the asylum seeker demonstrates to substantiate their mental state (their fear) (p. 193). Asylum seekers, in other words, should prove their fear by proxy. Kim suggests that that courts struggle to apply the objective component of the well-founded fear test, conflating the burden of proof of persecution in terms of probability of future persecution with the criteria people must fulfill to attain refugee status. Be that as it may, the fact remains that immigration officials must believe asylum seekers narratives of persecution. This raises the question of what makes a story credible. Connie Oxford (2023) suggests that detailed statements, testimony, and asylum seekers' demeanor play a pivotal role in achieving credibility – often at the expense of retraumatizing asylum seekers in the process of disclosing the "gory details" (p.206). Here, I engage with the gory details not behind the closed doors of the asylum hearings or immigration courts, but at the shelter and in people's homes. In these cases, asylum seekers tell their stories not with the intent of meeting the standard of credibility to achieve refugee status, but to make sense of them. Their bodies, if sometimes in their absence, are a metonymy for the fear, anguish, and terror they experienced.

## 1. The body as witness or witnessing through the body?

Two lawyers headed the legal office at the shelter, each one in charge of different immigration and asylum-seeking processes in Mexico and the United States. The UN Refugee Agency financed the hiring of a second lawyer to support the asylum claims before COMAR.[5] Many Central Americans under the MPP (Migrant Protection Protocols) who had grown tired of attending asylum hearings (*cortes*) across the border, opted for requesting asylum in Mexico. In late 2018 when the migrant caravans continued to trek to cities in northern Mexico, the Lopez

5 Mexico's Commission for Refugee Assistance (Comisión Mexicana de Ayuda a Refugiados).

Obrador government handed out one-year humanitarian visas that provided with legal standing to those waiting at Mexican border cities for their interview with an asylum officer or, if the asylum officer found that the person had a credible fear of persecution or torture, their asylum hearing before an immigration judge. Mexico's good political will cloaked the risks inherent in the Migrant *Protection* Protocols in making asylum claimants wait in Mexico. Such risks are well documented (Doctors Without Borders, 2020) and surfaced in most initial interviews with the shelter's lawyers. Many migrants who did not have "strong cases" – cases where they could prove credible fear – by virtue of having been victims of a crime in Mexico and reporting it, they became eligible for a one-year humanitarian visa. Many so-called "economic migrants" used this legal recourse to remain in Mexico.

Trying to reduce the odds of being deported, either from Mexico or the United States, many Central Americans who arrived at the shelter often engaged in parallel asylum-seeking processes, requesting asylum in Mexico and the US simultaneously. The long waiting times between asylum hearings in the US and their precarious outcomes were an important factor in this calculated decision. They made this choice with the lawyers' warning that if either of the countries became aware of an open process of requesting asylum elsewhere, they risked losing their potential refugee status. The legal process for attaining asylum differs in Mexico and the US. But they overlap in the definition of what an asylum seeker is, of the criteria a person must meet to attain the status of refugee: to have fled their home country in fear of persecution or torture (UNHCR, 2010). Asylum-seekers provide evidence during the qualifying process to substantiate their fear. How this evidence is documented, framed, and narrated marks the difference between what makes it credible or not. The documentation of the fear of persecution or torture was one of the key tasks of the shelter's legal office. Notarized witness accounts, photographs of their homes ransacked, videos of confrontations with gang members and threats to their lives accompanied people's stories. A powerful witness in this body of evidence was the claimant's body itself. Scars, scar tissue, broken bones, and mutilated limbs and cartilage were credible witnesses.

*Guadalupe*

Guadalupe was a short but stocky man. He arrived from work early that evening. The lawyer waited for us outside her office. She explained to Guadalupe that I would be the one taking the photos to complete his application dossier. He and I entered the office, I shut the blinds and asked him to show me his scars. The camera was sitting on a desk next to the window. Guadalupe dropped his denim backpack on the floor, and removed his white, sweat-stained baseball cap. – *Look, here's the biggest one, but you'll have to get closer because [it is on my scalp] and my hair covers it.* He parted his hair with the palms of his hands, uncovering a long line that ran across his mid-scalp to the crown of his head. The office's dim light made it difficult to focus the lens. He sat down and bent forward all the while with his hands on this scalp. – *Are you able to get it now? – Yes, I got it. – You see, the night of my father's wake, a car repair shop in my town was robbed.* He stood up from the chair and began unbuttoning his shirt, revealing a white tank top. He folded the shirt and lay it on a desk next to him. – *When I got home, a few men were waiting for me, blaming me for breaking in and stealing forty thousand Quetzales and a handgun.* He removed his tank top and pointed to a protruding scar visible in its discolored pigmentation. – *Here, look, they got me here with a butcher's knife. It bled a lot; I first thought it had gone through my ribcage.* I approached him as he lifted his right arm above his head, feeling his scar with his left hand. I focused the lens and snapped the shutter, *click, click, click* – he paused talking while the camera's shutter went off. – *So I called the police, what else was I supposed to do? When they*

*arrived, they told me that they couldn't do anything for me. They'd caught wind that a local gang had already been hired to "handle me" if I didn't pay what I'd stolen. The police told me that I better paid them; they weren't going to get involved.*

Guadalupe turned around, with his back towards me, lifting his right arm over his head with his elbow to the ceiling, attempting to feel a few scars on his upper back. – *I think I put on weight; I can't reach them anymore ha-ha. – I see them, don't worry. Click, click, click, click.* Unsure about the number of photos that he would need, I took multiple photos in different angles of each scar. *– I tried to talk to the gang leader, and he tells me someone snitched I had taken money from the car repair shop, and they expected me to repay in the next days.* He turned around, unbuckled his belt, pulled his pants down and pointed at two sunk bolt-shaped scars on his left thigh. He raised his head searching my eyes – *Ice pick, can you tell? –Sure seems like it. Click, click. – Wait, I have more on my calf, see? It went right through. A week later, three men were waiting for me outside my house and attacked me. The only reason I made it alive is because I managed to get in my car and drove away. Oh yes, I almost forgot my hands.* With his pants down, staggering, he sat on a chair and extended his arms displaying the palms of his hands. – *See them?* Crooked deep cuts ran from his palms to his forearms. He traced them with his index fingers and winced as though reliving the pain. – *I drove myself to the hospital and that same day, I left. And now I'm here.* I photographed a few smaller scars on his arms and neck before he got dressed. – *Now what? My court date is in a week.* In fact, what he had the following week was his credible fear interview with an US immigration officer. And only if the immigration officer determined that he had a "significant possibility" of fear of persecution or torture, would he be relayed to an immigration judge to continue with his application process. – *Now I'll pass on these photos to the lawyer, and she'll explain to you what to do next.*

Someone called out his name from the central patio. He had *aseo*.[6] He grabbed his backpack and left. A few days later, the lawyer asked me for help translating his nephew's notarized witness account (affidavit) of the events that unfolded the day the car repair shop was robbed. His story, the photos of his scars, and his nephew's affidavit were the core of his case to argue that he had credible fear of persecution. But the day of his interview he was sent back to Tijuana with a deportation order in hand. The asylum officer did not find grounds for believing he had a credible fear of persecution or torture. Legally, he had the right to request that the asylum officer's decision be reviewed by an immigration judge. But he did not know he had that right, nor did the asylum officer mentioned it before issuing the deportation order. That day, Guadalupe was judged and sentenced "not only in innocence but also in ignorance" (Benjamin, 2019, p. 60). When I asked about his case to the shelter's lawyer, she nodded with a wry smile when I told her about his deportation order. – *It is part of how asylum system works. I've had people who arrived at their credible fear interview, and they say, up front, that they just want to go to the United State to work – they are not at risk, and they do get a court date. Sometimes people who have good chances of winning their cases are rejected at the beginning of their process, and those who do not stand a chance move on to see immigration judges. What for? Well, just to get rejected—officially.*

Guadalupe refused to request asylum in Mexico. He thought the gang commissioned to "deal with him" had members in Tijuana. Not long after he and other two *migrantes* struck a deal with a *coyote*[7] to cross into the US. He left one evening without saying anything. Two weeks later, he arrived at the shelter. The *coyote* got lost in *el hongo*, the dry hills that cut across the city of Tecate and the US-Mexico border. They wandered off for four days before the border patrol

6 In shelter jargon, *aseo* (to tidy up) is the term shelter workers used to refer to the daily cleaning tasks shelter residents performed as part of their stay at the shelter.

7 Term used to refer to people smugglers that operate across the US-Mexico border.

picked them up. He was in bad shape. He had blisters across his face, his arms and neck. He had holes on his shoe soles and limped from the pain caused by the rubbing of the blisters on the soles of his feet against the ground. While in migratory detention, he received no medical treatment nor a change of clothes. He reeked of smoke and sweat, of dirt. We made our way to the second floor to get him a change of clothes. He faltered up the stairs supporting his weight against the handrail. I held open a black garbage bag while he undressed and put his "desert clothes" in it and peeled off what was left of his shoes. A layer of musty dust colored his exposed skin only becoming visible in contrast to the rest of his bare body. – *What happened to you? –We got lost in [Tecate's] hills. The coyote did not know where to go to anymore!* He showered, bandaged the wounds on his feet, and limped his way out of the shelter – *I need to try [to cross] again. This time I will try through the ocean; I won't set foot in those hills again.* He gave me his denim backpack with his asylum dossier, including the photos I took of him, for safekeeping.

## 2. Bridging the body/mind split: responsiveness towards others

Photography's role in enabling to keep accurate records of people stretches back to the early nineteenth century. John Tagg (1988), for instance, argues that the development of photography coincides with the institution of the police in England. Photographs provided a cheap means to keep criminal records and evidence. This "faithful" record of reality spread to other institutions such as schools, the army, and mental asylums. To explain the proliferation of photographs from the realm of art to the halls of police stations and beyond, Walter Benjamin (2019) suggests that photography had to lose its "aura" for its exhibition value began to replace its cult value. That is, the mechanical reproduction of the photograph stripped away its cult-value and, arguably, obscured the performative process behind its framing (Shusterman, 2012). What I want to foreground here is how photography's end-product (the photograph) and the fixed and objectified presentation of the self it renders visible and infinitely reproduceable contrasts with Guadalupe's somatic awareness of this body as he tells his story. Through feeling his warped skin in narrating the violence that led him to the shelter, he engages in an ongoing project of self-fashioning and self-understanding. His self-exposure before the camera, in other words, allowed him find out who he was (Shusterman, 2012, p.70).

Incomplete and partial as this process was, it paradoxically made his body into an object. Under the banner of "asylum seeker", the photographs gave Guadalupe's rendering of the self permanence: "this mutilated body is the body of an asylum seeker". As Benjamin argues, in the transition from art to means of establishing evidence, photographs could no longer be objects of free-floating contemplation. Captions began accompanying photographs as "signposts" (p.177). Photographs, in other words, needed framing for people to interpret them. The standardized images produced by police photographers were "more than a picture of a supposed criminal. [They were] the portrait of the product of a disciplinary method: the body made object; divided and studied (…) made docile and forced to yield up its truth" (Tagg, 1998, p.76). The photographs I took of Guadalupe's scars that day had the aim of extracting the truth. It is in this Foucauldian sense that the evidence or knowledge that the photography captured presented a "perfect and faithful record" (Tagg, 1998, p.78) of his present and future fear.

Through the objectified images of his body, we could "know" Guadalupe's inner self – as if from a distance. In this context, an important question arises: what is to know another mind? This is a question Stanley Cavell (1979) engages in his discussion of the skepticism of other minds. Cavell grapples with the possibility of knowing (having the certainty of) what another person is thinking and feeling. The skeptic would argue that since we cannot know what another

person is feeling, say pain or fear, we cannot know them. They are opaque to us. This conclusion, people's impenetrability, relies on the dualism between body (outside) and mind (inside). For the skeptic, knowing another person would require bridging the gap between expression or behavior and the mind. But Cavell rebukes this conclusion. In following Wittgenstein's admonition that "the human body is the best picture of the human mind" (PI, Part II § IV), Cavell suggests that we can and often do know other people. The body is the only thing we have to go on in understanding a human being. Think of pain. When Guadalupe displayed his scars to me and traced the line of the knife's path on his skin and winced, as though relieving the pain, I *knew* his pain. I knew it not because I could feel it, or because the scars on his forearms "evidenced" his pain, but because his pain was its expression. As Cavell puts it:

> "My references to my pain are exactly my expressions of pain itself; and my words refer to my pain just because, or to the extent, that they are (modified) expressions of it (…) [T] he picture of a connection needing to be set up between an experience and the words for it is symbolic of the giving of expression to the experience, *giving vent to it*." (Cavell, 1979, p.342, my emphasis)

Are Guadalupe's scars the picture of his pain? Hardly so. They are flesh bearing marks. But "knowing" his pain depends on something more intricate than displaying an "objective" picture of the gory bits at the heart of his asylum claim. Knowing the other, in our separateness, entails acknowledgement. Cavell argues that acknowledgement "goes beyond knowledge" (p.428) in the sense that it is not only knowledge of the other that is at stake –their fear, happiness, or horror – but our *response* to this knowledge. Expressions and behavior, in other words, place a claim on us (Moi, 2017, p.207). His claim on me was to witness his self-revelation, displayed in revealing his body to show me his fear. In the move from knowledge to acknowledgement, Cavell raises an ethical question: who am I in relation to you? That day, I witnessed Guadalupe's fear. In paying attention to his words that escaped the narrow frame of the camera, and documenting his scars, I was-*with* him.

The probable fear test casts doubt over this ethical dimension. Like Cavell's skeptic, the probable fear tests assumes that we cannot know with certainty the inner lives of others. Asylum seekers might lie or fake it. This is why standard of credibility rely on "objective" elements, like photographs or forensic psychological reports, and on narratives of persecution where people show their (possible and future) fear. But even then, and especially difficult when testimonies involve traumatic memories, credibility relies on standard of consistency, the provision of details, and "believable" displays of emotions that are hard to meet (Oxford, 2023). What counts as proof, the "objective" and "subjective" criteria – something outer that should prove the reliability of the inner – reinforces the Cartesian dualism between body and mind. For a body/mind to be legible to the legal-bureaucratic processes of asylum seeking it must fit a particular idea of what an asylum seeker is, looks like, and behaves (and *feels* too). There is wrapped in the asylum-seeking process, in other words, an aesthetic dimension.

At the shelter's legal office, the two lawyers prepared asylum seekers to meet the expectations US immigration officers would have of what an asylum seeker was and was not. People requesting asylum had to correspond to that idea. Their acknowledgement depended on a process of aesthetic self-creation, "to give [their] own li[ves] a certain form in which [they] could recognize [themselves], [and] be recognized by others" (Foucault, 1988, p.49). But, as in Guadalupe's case,

sometimes it was not enough. Yet what is clear is that the body poses a challenge to the law in general and asylum law in particular. How are bodies translated into law?

## 3. Bodies at the threshold of the law

*Irma*

Stray dogs panting in the shade barked when I rang the bell. Irma opened a dark, iron-barred door and let her head out to see who was standing at the gate. – *just a second!* We walked through a courtyard with children's toys scattered in the dirt. A queen-size mattress leaned against the wall under the midday sun next to the steps that led up to her door. – *Poor children, I need to get them another mattress. The bedbugs eat them alive every night. But what can you do? The house was infested when we moved in.* We sat in the kitchen of a one-bedroom apartment. Her 5-year-old daughter and 13-year-old son shared the living room, while she and her boyfriend slept in a little room next to the bathroom. She opened a taupe paper folder with newspaper cuttings and a few photographs. She spread them on the kitchen table. A young boy, aged 14 at the time, appeared in all of them.

*He was big! 6'2 when he turned 14! I still remember what he was wearing the day he asked permission to go to the corner store. I knew he shouldn't go; I told him he shouldn't go. But I had to go to work, his siblings to school, and there was nothing for him to do at home. Irma stood up and went into the kitchen for a glass of water. He liked going to the corner store because there was an Arcade. That's how the gang located him. I forbade him to return to the corner store after the gang approached him to recruit him. They told him "you join or you die". But it was the middle of the day, and a couple of months had passed since their attempt at recruiting him. So he went and never came back home. They shot him in the back of the head.*

Irma started reading out load one of the press clippings on the table: "Another gang-related killing…". The clipping shrunk under the weight of tears dripping from her chin. Irma lost herself in grief after her son's murder. Her other two children went to live with her mother. For three months, she remained locked in her house. She slowly recovered and returned to work. One day, as she walked to the bus stop, a car rolled up on her. A man with his face covered in tattoos came out of the passenger's sit, handgun tucked between his belt and jeans, and opened the back door –*get in, what are you waiting for?* She hesitated. – *I'm not asking again.* Irma got in the car. A man dressed in a suit shook her hand and apologized for accosting her. He explained that he had been keeping tabs on her for a while, and he wanted her to "be with him". – *He was nothing like the two other people in the car. He smelled nice, was sharply dressed, and was extremely polite.* She refused, and nervously quipped that she was late for work. – *no need to worry, we'll drive you.* They knew where she worked.

This was only the first approach. Irma began seeing the car parked outside of her house at night. The third time the car rolled up on her she received a deadline: she had a week to decide. – *He made sure I understood that refusing meant not being able to choose anymore; for me and my children.* That night, Irma and her children left Honduras. They took a bus to the Honduras-Guatemala border, and then a series of local buses to the Guatemala-Mexico border. – *We didn't sleep for days. After we crossed the Suchiate River, I thought we would be safe or feel safe, at least.* Their reception into Mexico broke her expectations. Mexican immigration officers sent her and her children to Siglo XXI, an immigration detention center in Tapachula, to wait out their process. The three of them shared a bunkbed, without sheets or pillows. The wait was long and the food scarce. They waited for four months to meet with a COMAR officer. Her desperation grew as her youngest child fell sick, and she could not leave the detention

center to buy antibiotics – *she was going down the toilet!* They escaped during a mutiny at the detention center and paid for a ride out of Tapachula in a private car to avoid being stopped at the immigration checkpoints outside the city.

In Tijuana, Irma began a romantic relationship with a Mexican deportee. He worked remotely for a call center while Irma cleaned hotel rooms in *Zona Rio* – the city's business center. After three court dates, *del otro lado*[8] and two years in waiting, Irma had lost hope of attaining asylum in the US. She was unable to produce the body of her dead child despite the press clippings, narratives of grief, disbelief and horror, and the coroner's report in her dossier. The missing body of her murdered child did not immediately fulfill the objective and subjective criteria to prove credible well-founded fear of persecution or torture. Her narrative, manufactured at the shelter's legal office, sought to produce the body. And through it, by proxy, embody and display the fear of a similar future awaiting her two other children. Matthew Unger (2022) argues that the law requires translation of the mundane world to render it legible. The writ of *habeas corpus*, for instance, incorporates the body into the law by providing it with legal personhood– from the flesh into and under the protection of the law. But the *habeas corpus*, akin to the legal protections Roman law prescribed to bodies in tombs, acts as a fulcrum that protects the "shell" around which the body is enveloped. *Habeas corpus*, in other words, protects the sacred space of the law, not the body. For Unger, "this signifies (…) something of the way that the body functions through the history of the law – that law acts as a sacred shroud around which the body becomes legible, whether the body is intact, present, or able to speak" (p. 81). Irma's son was not able to speak. Yet Irma summoned the immateriality of his body to request asylum. Irma's son's absent body and her fear stood in waiting at the threshold of the law.

## 4. Between spaces

In Kafka's *The Trial* (2009), the parable "before the law" foregrounds the liminal space the body occupies in the law. Kafka tells the story of a man from the country who seeks the law but is unable to access it. The man waits at its gates until he finally dies. But in his final moments, he asks the doorkeeper: "[e]veryone seeks the Law (…) so how is it that in all these years no one apart from me has asked to be let in" and the doorkeepers replies "[n]o one else could be granted entry here, because this entrance was intended for you alone. I shall now go and shut it" (p.155). The asylum seekers I have portrayed in this article, like the man from the country, stood outside of the law. What we face in Kafka's parable is the elusiveness of the law in applying to all but without being within reach. This is why Unger calls it an "absent presence". We are all subjects to it but cannot access it.

I have responded to the *no place* (Beardsworth, 1996, p.29) that is the law with the narratives of asylum seekers that, standing at its gates, narrate it. These narratives unsettle its desubjectifying and universal force. For, as Derrida (2018) suggests, the law operates in such a way that it should not have a history, genesis, or derivation to maintain its authority (p.35). Asylum seekers emplace the law by engaging with it through their embodied narratives. Their narratives, as I have argued, are also part of asylum seekers' return to the self. In returning to the self, they rework their experiences while making sense of them. This is a moral project. Asylum seekers share their stories with others, making a claim on them to listen, and pay attention to their ongoing struggle to sensing their lives.

The asylum system in the US and beyond, however, leans towards privileging asylum seekers' bodies at the expense of their voices. The discredit of asylum, as Fassin (2011) suggests, hinges

8 *Del otro lado* (on the other side) is a colloquial term to refer to the US side of the US-Mexico border.

on the redefinition of a refugee from someone who fears for their life to someone who bears the scars of violence. As this tendency becomes widespread, it disadvantages asylum seekers whose persecution has left no scars or lack access to medical or psychological resources to document them (p.288). In this redefinition of what constitutes an asylum seeker, centered around the body, a different idea of who is worthy of protection is at play. This change speaks to the reconfiguration between fact/knowledge, the body and ethics at the center of the idea of asylum seeking. To how "all our ethical concepts and norms (and even the very notion of humanity that underwrites them) depend on social forms of life involving the way we experience our bodies and the way others treat [respond to] them" (Shusterman, 2006, p.5). To bridge the separation between their lives and their bodies, asylum seekers narrate their stories between spaces – in an obscure office in the back of the shelter, at people's home's kitchen's tables – that often escapes what is ethnographically visible (Farmer, 2004) – not only because it is not always in front of us, but because of a lack of attention to others.

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