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Jose Hernandez (above, right)
Why the State Department sends Salvadoran refugees home to die

In October of 1982, 22 Salvadorans were found locked in the airtight trailer of a refrigerated tractor truck just outside of Edinburg, Texas. They had been abandoned by smugglers who had brought them into the country illegally. Four had died of asphyxiation. The rest were handed over to immigration officials, who promptly deported them, as they do virtually all other Salvadorans whom they catch within our borders.

There is some question as to whether 19-year-old Jose Hernandez was among those found in the trailer. But there is no question that he was among those held at the detention center that the Immigration and Naturalization Service (INS) maintains near Port Isabel, when the Brownsville Herald sent a reporter there to follow up on the fate of those taken from the truck. The resulting story featured a picture of Jose and his cousin, with whom he had made the long trek from their native country. Jose had been a wounded government soldier whose family was threatened by guerrilla rebels. "I'm scared," Jose told the Herald. "I know the guerrillas are looking for me. But I guess this is God's will. He knows what He is doing and why He does it."

Not long after he was deported, another picture of Jose Hernandez appeared in Brownsville. Jose's brother, who had recently entered illegally himself, brought the picture to Linda Yanez, a Brownsville attorney who devotes half her time to helping Salvadorans in trouble with Immigration. The picture showed Jose lying in a coffin, his head attached by a white cloth to the rest of his body. There were three bullet wounds in his chest.

BY JONATHAN ROWE
It happened that the day the picture arrived, Yanez was in Washington, D.C., meeting with Elliot Abrams, President Reagan's assistant secretary of state for human rights, trying to impress upon him the need for us to show more concern for Salvadoran refugees like Hernandez. Abrams has primary responsibility for our policy in this area, and he has persistently maintained that the Salvadoreans we send back face no particular danger. Yanez sent copies of the pictures to Abrams and asked him to investigate. A month later she received a call, she says, from one of Abrams's subordinates. They were unable to confirm anything, they said. "But we are acting in good faith," the aide added. The administration's policy went on as before. It continues to deny that the vast majority of Salvadoreans have any legitimate reason to flee their country, or that we have any responsibility to help them when they arrive.

Yet Salvadoreans continue to flee, by the thousands. By most estimates, there are 300,000 to 500,000 in the United States at this moment, and half of these may have crossed the border since the outbreak of civil war there in 1980. It is not hard to understand why people are leaving. They are caught in the middle between a brutal and ugly government, linked to paramilitary organizations and death squads, and perhaps equally brutal guerrillas with apparent links to Cuba. From January to June of this year, the Christian Legal Aid organization recorded 324 "forced disappearances" among civilians, which left 554 children orphaned, and 2,823 arbitrary executions, of which the nation's armed forces were responsible for 1,657. (Like most statistics regarding El Salvador, these must not be taken as precise.) Ten percent of the population have been routed from their homes, more than during the Vietnam war at its worst. If these people have not fled, they are probably living in refugee camps, or at sanctuaries like Refugio La Baslica, in the capital city, San Salvador, where 300 people have been living for two to three years. A 14-year-old girl named Beatriz told a Pacific News Service reporter that she has spent one day outside this sanctuary since she was 11.

It is the special terror of El Salvador today that nobody escapes the polarizing field of the bloody conflict. You are a doctor treating suspected insurgents, or even just refugees? You must be a sympathizer yourself. Ricardo Perez volunteered to care for refugees in church-run refugee camps. He was picked up by the National Guard and spent three weeks in jail. You are a teacher raising questions about the present regime? A terrorist group like the Rightwing Terrorist Army (one of whose slogans is "Dialogue is Treason") may set off a bomb at your house, as it has done to teachers at the Jesuit-run University of Central America. You are a 16-year-old male and not enlisted in the army? "Almost all the young men who have not entered military service have been killed or have been forced to flee, because they are presumed to be guerrillas or sympathizers with the opposition," said Jose Rosales, a 27-year-
old former sergeant who fled because, in his words, “I did not agree with the current government’s policies of kidnapping, torture, and murder of innocent civilians, under the guise of fighting subversion.” Women and children are not treated with any favor. Last November 19, Reuters reported that the Salvadoran Atlcatl Battalion had herded 20 women and children into a house and shot them. The sole survivor, ten-year-old Aquilano Gravier, said he had fallen under his mother’s body and “played dead until the soldiers left.”

A gang war has consumed this entire country. Gretta Siebentritt, at the Central American Refugee Center (Carecen) in the Adams Morgan section of Washington, D.C., rolls off the kinds of cases that come to them every day. There was the young man whose girlfriend’s former boyfriend was both jealous and a member of the National Guard. The young man was classified a “subversive” He fled. There was the young man who was away working in San Salvador the day unidentified men came looking for him at his home. Not finding him, the men ransacked the house, and then loaded the man’s father and sister into a truck. The mother screamed with such vehemence that they threw the daughter off; but the father they took away and killed. Friends contacted the older son in San Salvador, and he fled promptly to the U.S. He made enough money to bring his brothers and sisters. The INS has apprehended all of them, and sent them back.

If ever there were a deserving object for our generosity and concern, these fleeing Salvadorans would seem to be it. This is especially so because our own government is up to its neck in this conflict (“using our own tax dollars” as our president might remind us in other contexts). Instead of striving to protect innocent civilians from atrocities on both sides, and instead of putting all of our influence towards finding a livable resolution, our government has weighed in squarely behind the present Salvadoran government, to the tune of a quarter of a billion dollars a year, mostly in military and related “economic” aid. That is twenty-fold more than we were giving as recently as 1979, and a draft report of the Kissinger Commission is urging that we raise that by another $150 million. We are training many of the government’s troops as well.

It is not necessary to say that the conflict is “all our fault,” which it certainly is not, or that the guerrillas are somehow “right,” to suggest that we might summon some generosity for those who flee these nightmarish conditions for which we at least share the responsibility. And indeed, our law makes ample provision for cases such as these. We have adopted, for example, the 1951 United Nations Convention on the Status of Refugees, which requires—not permits; requires—us to admit any person who is outside of his or her country “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.” Our commissioner of immigration can, in addition, defer action in cases where immediate deportation would be “unconscionable or result in undue hardship.” The commissioner can also grant something called “extended voluntary departure” in cases of a “temporary inability to return to one’s country on account of civil war or catastrophic circumstances.” This status is presently enjoyed by Ethiopians, Poles, Lebanese, Afghans, and Ugandans. We used it in the past to help those fleeing both Pinochet and Allende in Chile. It seems tailor-made for the plight in which Salvadorans find themselves now.

The Reagan administration does not think so, however. Despite our laws, despite the bloody war in El Salvador and our role in it, the administration has been rounding up these people and deporting them just as fast as it can. In 1982 it
began deportation proceedings against 10,000 Salvadorans. Between January 1 and March 31 of 1983, of the 1,457 Salvadorans who formerly sought asylum here, only 2 percent received it. Large numbers were muscled off before they even had a chance to assert this claim. These were not the decisions of lower-level functionaries. "We are following a policy set for us at the top," one district director in the Immigration Service told a United Nations commission investigating our treatment of Salvadorans here.

The reason, moreover, is a mindset of rigid ideology that makes the Reagan administration unable to see something as simple and tangible as the suffering of our neighbors.

It is roughly 2,000 miles from the El Salvador border to the Rio Grande—that's the distance from Chicago to L.A.—and the trip is not one you would take for a lark. If you are wealthy, of course, you can probably get a visa, hop on a plane, and enter the United States legally. But the El Salvador government ceased permitting most visas to the United States long ago, knowing full well what most people had in mind. Those who are middle class and below must therefore get tourist visas to Mexico, gather up their savings, assemble the addresses of friends and relatives in the U.S., and board a bus. Some hitchhike. In Mexico they contend with Mexican immigration officials, who are notorious for their shakedowns.

"When we got to Mexico City," one of two sisters recalled for the Christian Science Monitor, "we were stopped by officers in green uniforms with badges. They said give them all our money or they would rape us." When these girls asked what they were supposed to do without money, they were told they could become prostitutes. At Benjamin Hill, 75 miles south of the border crossing in Nogales, there is an infamous "double checkpoint." Salvadorans and others are stripped of their money at first, but told they can continue. Then, at the second, they are arrested.

If the refugees are lucky, they will link up with someone like Jim Corbett, a retired U.S. rancher and a Quaker, who runs a sort of underground railroad in his old Chevy pickup truck. Corbett averts checkpoints through circuitous back routes, arranges borrowed IDs, and shepherds Salvadorans to, among other places, the 70-odd U.S. churches that are now granting sanctuary to these refugees in defiance of U.S. law. Corbett has brought in roughly 300 refugees this way. (He has become so well known through feature stories in such publications as People magazine and The Washington Post that he now limits his role mainly to coordinating the efforts of others.) The less lucky will link up with a "coyote," or paid smuggler, such as the one who abandoned the 22 Salvadorans near Edinburg. One woman, now living in Washington, D.C., was threatened several times by the National Guard, and finally paid a coyote $3,000 to smuggle her two oldest children over the border. The children were nailed into packing crates with slits on the bottom so they could breathe, and loaded onto a flatbed truck. Many take their chances wading the river and crawling through the grass the way Mexicans do every day.

Once here, Salvadorans make their way to centers like Los Angeles, New York, and Washington, where they can join relatives and blend in with the crowd. Forty thousand have congregated in this way on Long Island alone. They can get jobs and live here for months, even years, in constant fear of any contact with authority that might betray their illegality. Check a restaurant, a hotel, an office-cleaning or landscaping crew in one of the above cities, and you are likely to find a Salvadoran that the immigration authorities would like to find also. Frequently, they do.

Once apprehended, a Salvadoran has a right to a deportation trial, at which he or she can plea for asylum. But the administration has been doing everything it can to get those captured to sign "voluntary departure" forms by which they waive any such right and "agree" to depart on their own. The testimony of Doris Elia Estrada in a recent lawsuit protesting the administration's practices is instructive: "The INS official told me that I could not get political asylum in the United States and that I would have to remain in jail for a long period of time," Estrada recalled. "Moreover, he told me that I would be placed in a cell with men, leaving me with the impression that I would be sexually molested. He also told me that [not] only [would] my political asylum application be denied, but that they would inform the authorities in El Salvador of all the information that I had given them." One plaintiff in the lawsuit, Jose Adilman Barahona, asked specifically to apply for asylum. He was told that such protection is not available.

Those who refuse to sign the form are held until their trial at one of several detention centers the Reagan administration has established. The aim seems to be to make life as miserable as possible. The center at Port Isabel, for example, is called by Salvadorans "El Corralon"—"The Big Corral." The United Nations investigation com-
A 17-year-old Salvadoran woman in a detention center (left) keeps wet towel over her head for relief from the burning Texas sun. Passing time at the Bayview detention center (below, bottom).
mission reported that "some [of the detainees] said they would prefer returning to El Salvador, even if this meant facing death." At the Los Fresnos Center, officials confiscated papers containing the names and addresses of friends, and even refused to make pens and pencils or other writing materials available. (A court order has put a halt to some of these practices.) "We can't go public with some of the nicer, more humane things we do," said INS District Director Hal Boldin, in the agency's defense. "That would be an invitation to unlawful entry."

It is possible for those taken to detention centers to get out on bond. The administration has set these bonds at $5,000 to $7,500, higher than we demand, say, of Mexicans. Many manage to scrape the money together nevertheless, from relatives and friends. In the border towns, you hear of notary publics who insert themselves as middlemen, pumping the detainee's relatives for well over the amount of the bond and pocketing the excess themselves. (In Latin America, "Notarios" are high-powered attorneys, and refugees assume that our notary publics are similarly important here.)

Salvadorans who stay in detention get their cases heard first. Those out on bond go to the end of the line. Given the enormous backlog of over 150,000 asylum cases (not all of which are active, however), it can take six months, even a year, before a case is called. Those who parried with their draft boards during the sixties will recognize the ways immigration lawyers try to play out the string: asking for a change in venue, seeking a postponement, one thing or another that can put off the day of reckoning by months, even more.

That day does arrive, however, and it is not likely to impress upon newcomers to our shores the fairness of the American legal system. Asylum claims come before something called an immigration judge. These judges used to be part of the INS itself, and a good many are former INS prosecutors who rose up through the ranks. They have spent their careers trying to think up reasons why the aliens shouldn't get in. A few years ago, the judges were moved into a separate agency, but most of them simply brought their old attitudes with them. They tend to be not overly sympathetic.

Paula Perlman, who represents Salvadorans at the detention center in El Centro, California, recalls the time she tried to show the judge there a gunshot wound on a Salvadoran's body, and had a surgeon testify that the wound in question was, in fact, that. No good, the judge said. He would accept nothing less than the opinion of a qualified forensic expert who had actually witnessed the shooting. This, the refugee had difficulty arranging. The judge, who is a former immigration clerk, has granted only two asylum applications in the last five years, Perlman says.

The root of the problem, however, goes back to the State Department, to the heart of the Reagan administration. During the Nixon years, the State Department began the practice of offering its opinion on each and every asylum claim. That sounds reasonable enough. After all, isn't the department our foreign policy expert? The problem is, the State Department's consuming passion is to avoid offending governments we consider our friends. This is especially so with a regime like that in El Salvador, which the Reagan administration is trying so desperately to prop up. To grant asylum to refugees from this country might not seem awfully flattering either to El Salvador's government, or to our support of it.

Then too, there is the mindset represented by human rights chief Elliot Abrams. Abrams is a candid and engaging man who worked for Democratic Senators Henry Jackson and Daniel Patrick Moynihan before campaigning for Ronald Reagan in 1980. He adheres to that school of foreign policy thinking called "neoconser-

To grant asylum to refugees from El Salvador would undermine the administration's elegant distinction between 'totalitarian' governments to whom asylum is readily granted, and those fleeing governments that are merely 'authoritarian.'
Elliot Abrams, assistant secretary of state for human rights and humanitarian affairs.

The department has assigned this task to one Jules Bassin, a retired official who comes in three days a week for that purpose. Testifying under oath in a lawsuit last September, Bassin conceded that he had been in El Salvador but once in his life, in 1942, that he had never read a book on the country, and that most of his reading on the subject consisted of articles in magazines such as Newsweek and Time, along with irregular State Department telegrams. In the course of his testimony, Bassin was asked about his knowledge of the fate of the Salvadorans we deport:

Q. Do you have any other information as to what happens to deportees in El Salvador?
A. No information, no.
Q. And have you, yourself, made any inquiry?
A. No, I haven't.
Q. And why is that?
A. Because it is not my job to make inquiries of Salvador. They have to be made by others.
Q. Have you made any inquiry of the State Department or any person within the State Department?
A. No.
Q. And why is that?
A. I did not have the occasion or the need to do it.

Bassin was also asked if he considers himself well-versed on the subject of death squads and political violence in El Salvador. His job, after all, is to determine whether those we deport might be subject to such violence. "No" was his reply.

The State Department commonly sends back the asylum applications with a cryptic remark about their being "frivolous" or the like, and the judge follows this recommendation in virtually every case. No one ever gets to ask why the application was found undeserving.

But wait, the administration says. We are only enforcing the law. Look at the standard for asylum again. It offers our protection to any person who has a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group, or political opinion." There are two things to note. First, the way the administration reads those words, Salvadorans must demonstrate that they have been singled out for such treatment. As State Department spokesman Alvin Drischler put it, apparently without realizing the cutting irony, most of the Salvadorans we send back "would not face upon return any more danger than is

Elliot Abrams, assistant secretary of state for human rights and humanitarian affairs.
faced by their compatriots who never left the country? In other words, since just about everybody is in danger down there, it is difficult for any one individual to demonstrate that he or she has been singled out for special harm. The message to tyrants is clear. Make your atrocities random enough, and spare yourself the embarrassment of having your subjects qualify for asylum in the United States.

But surely many are subject to special danger. Abrams concedes as much. "Lord knows, there are such people," he told the House immigration subcommittee. The question is, how do they prove it? This is catch number two. The administration interprets the words "well-founded" to mean a documented legal case. But how many refugees arrive at our borders with a portfolio of internal government or guerrilla documents demonstrating that somebody is out to get them? How would you begin to prove the kind of threats that are the daily reality in El Salvador; that, for example, you were dragged off a bus, and almost killed, as befell one young painter, because government soldiers saw the paint on his pants and concluded he had been painting antigovernment slogans?

Even given the administration’s niggardly reading of the asylum law—which the words themselves do not seem to require—it is truly remarkable how little effort it has made to find out whether its assumptions about the relative safety of those we deport is in fact the case. Bassin is not the only administration official who has shown little curiosity in this regard. Peter Romero, who until August was the State Department’s El Salvador desk officer and who now heads up the administration’s efforts to promote its Central American policies to the public, conceded in the same lawsuit that he also had made no effort to ascertain the truth of what the administration claims we already know. "Do you know if any effort has ever been made to determine who are the sorts of people who are the victims [of violence]?" Romero was asked. "No," he replied. "Not by the American government?" The answer was "no" again.

Actually, Romero wasn’t being quite fair to his own department. There have been gestures at assembling this information, and Patricia Fagin of the Washington-based Refugee Policy Group was in San Salvador and got a glimpse of it firsthand. "This woman at the embassy had a list of 138 people who had left the U.S.," Fagin recalls. "The list didn’t show whether they were deported, or whether they had left ‘voluntarily.’ For many, the listed address was just a post office box, and for others, it was in an area that was considered dangerous." Regarding the latter, the embassy person said, "I don’t intend to go to those." Abrams concedes that the department has made only "ad hoc" efforts to determine the fate of those it is deporting. Why? "Given the pressures on the embassy, all the things it has to do," he replied, "it’s a question of how much time they should spend on something we think is ridiculous!" In one of the lawsuits mentioned above, the administration actually argued that the court should ignore any factual evidence regarding conditions in El Salvador that contradicted what the State Department was discovering through exercises such as these.

Not everyone thinks it "ridiculous" to try to find out what happens to the Salvadorans we deport. But the administration has been making things exceedingly difficult for human rights groups who would like to try to assemble this information on their own. It took the ACLU three years of court battles, for example, to obtain a list of the people we have deported so it could match this list against published reports of deaths there. Without this list, making such a study is exceedingly difficult, since Salvadorans are wary
of providing information that could be taken as a sign of disloyalty. Nevertheless, death accounts in the El Salvador press occasionally mention that the victim had recently returned from the U.S. Such reports suggest that in at least some cases, the dangers facing everybody there are multiplied for those who bear the stigma of having tried to escape.

There was, for example, Santana Chirino Amaya, who lived out an illegal refugee's worst fears. He was stopped for making a wrong turn at a traffic light outside of Washington, D.C., turned over to the INS, and deported. A month later his body was found at a crossroad known locally as the "Road of Death" because of the Salvadoran army that patrols the area. His sister Christina described the scene on a WGBH-TV "Frontline" report entitled Sanctuary: "His body had been burned and his legs were tied with steel wire. He was practically naked, with cigarette burns all over his body. And... he had been beheaded."

There was also Jose Humberto Santacruz Elias, who was deported on January 15, 1981, and never heard from again. And there was, of course, Jose Hernandez. These were just cases that people stumbled upon in the press. "God knows how many other times the press failed to mention that the person had recently returned from the U.S.,” says Amit Pandya of the ACLU's asylum project.

Jose Rosales, the former army sergeant, has said that on at least some occasions, deportees are singled out by the authorities at the San Salvador airport. One would think that information such as this would trigger a little concern in anyone who had the slightest inclination for such concern. (Pandya, by the way, suspects that the administration is going to hustle out a new study, to preempt the ACLU's project.)

While the administration says it has simply been enforcing the law regarding the Salvadorans, it seems to be interpreting this law very differently regarding those who seek safety here from other countries. Are conditions in Czechoslovakia, say, or Afghanistan, so much worse than in El Salvador, that we would admit 71 percent and 92 percent, respectively, of those seeking refuge from the former two, while we admit only 2 percent of the asylum seekers from the latter? In 1982 we granted asylum to almost 70 percent of those from the Soviet Union who sought it. Again, are conditions there that much worse than in El Salvador? Or is something else going on here?

Abrams insists that cold warfare has nothing to do with it. "We are not concerned," he told the immigration subcommittee, "with whether the government in question is friendly or unfriendly." But that was not what came through when "Frontline" compared the fate of two asylum seekers, one from Poland and the other from El Salvador. Yarek Hruziwicz was an active member of Solidarity. His asylum application was granted in a week. Luis Dominguez was a leader in El Salvador’s aborted land-reform program who was fired in 1980 for criticizing that program and who had received threats from death squads. His asylum application languished for two years, and was turned down. (After the "Frontline" interview, the State Department invited him to resubmit it.) While Salvadorans are expected to produce documented proof of the special dangers confronting them, Hruziwicz recalled that "just my statement and my story was taken as proof." A double standard? "I don't believe that because that's not the way we do it," Abrams said. A reporter then confronted Abrams with an internal INS report confirming that "certain nationalities appear to benefit from presumptive status while others do not," despite a 1980 law that supposedly eliminated such bias.

"I don't care who says it—it's false," was Abrams's reply.

When it is not arguing that Salvadorans can't prove they've been singled out for persecution, the administration has been asserting that the
refugees want is safety, they could find it. Do people tend to find a better life here. But if we would end up admitting virtually nobody at all. Un. countries along the way, such as Honduras—never mind that the refugee camps there have not been safe from attack. Beneath all these tortured arguments is a simple fact. The administration's harping about “economic refugees” in the context of El Salvador is in large measure a distinction without a difference. One's livelihood, no less than anything else, is often caught up in the hostilities. Perlman, the El Centro attorney, for example, had a client whose father refused to sell his land to a man connected to the army. The father was killed, and the son, who was next in line, fled to this country. An “economic” refugee? (The State Department thought so, and he was deported.) Yes, people do tend to find a better life here. But if we disqualified people on that account, then we would end up admitting virtually nobody at all. The administration has a host of other arguments. For example, we are told that if all these refugees want is safety, they could find it in countries along the way, such as Honduras—never mind that the refugee camps there have not been safe from attack. Beneath all these tortured arguments is a simple fact. The administration is invested heavily in El Salvador, and it doesn't want to listen to, let alone acknowledge, anything that might raise embarrassing questions about that investment. But merely to let these desperate people in, until the hostilities die down, would not necessarily reflect ill upon our overall policy there. It would merely acknowledge reality. Jose Hernandez, remember, was not fleeing the government or the death squads. He was fleeing the rebel guerrillas. To have granted him asylum would be as much a criticism of those guerrillas, as of the government which could not ensure his safety.

Nor is this merely—if that's the word—a question of humanitarian concern. What the people of this hemisphere think about us is not unrelated to our foreign policy aims, nor to our desire to promote democracy as superior to the Soviet model. Is the administration sending the right message? Luis Dominguez, for example, was asked if he was surprised when his asylum petition was turned down. “Yes,” he said, “because you always know that the United States is an example for the democracy and human rights and all that. And when they told you they can't give you political asylum, really, it's a big surprise.” To top it all off, we say to such people, and to the rest of the world, “If you come from a communist country, then we let you in. If you don't, sorry. We don't want you.” Do we want such people to root for the commies in their own countries? If you are going to have to put up with brutality anyway, why not choose that form of it which would at least give you a chance of getting into the United States?

The administration could be much more generous in granting asylum. But case-by-case is not the way to deal with this crisis. It is like trying to deal with an avalanche by inspecting every rock. The case-by-case approach is also creating massive congestion in our system of immigration justice. The answer is to allow Salvadorans as a group to stay temporarily in our country (“extended voluntary departure”) as both houses of Congress have urged the president to do. Abrams replies that granting this status would be a “magnet” for the Salvadoran hordes. Indeed, the spectre of the “feet people” has become a prime argument for the administration's whole El Salvador policy. Ten percent of the Latin American population will swarm to our borders, the State Department warns in a study, if a “loss” in El Salvador sets the dominoes falling. What the department omits to mention is that roughly 10 percent of El Salvador's population has come here already, fleeing not a communist regime, but ones which we ourselves have supported. The hordes are coming now. If we grant them temporary legal asylum, we will at least know who they are. To be sure, to do so would cause us inconvenience. Immigration is always a messy business, especially when it concerns the porous border along the Rio Grande. But a little inconvenience would not necessarily be a bad thing. A New York Times/CBS poll taken last year showed that only 25 percent of those questioned even knew that our government was supporting the government in El Salvador. We could use a greater sense of urgency here regarding our policy in that part of the world.

The question that we have to ask is, who is doing more for our stature in this hemisphere: people like Jim Corbett, with his underground railroad for the refugees, or the administration, with its insistence that we should turn these people away?