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Permalink

<https://escholarship.org/uc/item/05g3449t>

ISBN

9780822391340

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Publication Date

2010-03-01

DOI

10.1515/9780822391340-015

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CHAPTER 12

Exiled by Law

Deportation and the Inviability of Life

A Rampart Division CRASH [Community Resources Against Street Hoodlums] officer pursuing a case against a 15-year-old accused of a fatal double shooting attempted to arrange the deportation of a high-profile activist whose testimony could clear the youth of murder charges, the activist says. . . .

Alex Sanchez, who is being held at the federal immigration detention facility in San Pedro, said his Jan. 21 arrest by Rampart Officer Jesus Amezcua came after months of threats and harassment against him and other activists in Homies Unidos, a group working to end gang violence. . . .

Sanchez and others say Jose Rodriguez, the teenager accused of murder, was at a Homies Unidos meeting at the time the shooting took place in August. . . .

The arrest of Sanchez—whose detention has made him something of a cause celebre—is the most recent example of what critics say is Rampart Division officers' use of immigration issues to eliminate troublesome witnesses by having them deported. . . .

In an interview, Sanchez said he and Amezcua were well-acquainted by the time the officer arrested him. Last summer, Amezcua stopped him and photographed him, saying he looked suspicious, Sanchez said.

A few weeks later, on Aug. 6, Amezcua kicked open the door at a birthday party for Sanchez's fiancée, along with another officer who shoved a girl's face against the wall several times and hit Sanchez in the head with a baton, Sanchez said.

He said he next saw Amezcua after the slaying, at a Juvenile Court hearing for Rodriguez. After that, according to Sanchez, Amezcua began to stop him

routinely on the street and search him, sometimes punching him in the groin, telling him: “We’ll see who wins the court trial—his gang or our gang.”

Sanchez and others said Amezcua was one of the officers who regularly harassed many members of Homies Unidos, stopping them on their way to and from the group’s Thursday night meetings at Immanuel Presbyterian Church on Wilshire Boulevard.

He said Amezcua was one of several officers who went to the church in September just hours before state Sen. Tom Hayden (D–Los Angeles) was to hold a nighttime hearing on harassment of the group. Sanchez said the officers asked if they could hide in the church during Homies Unidos meetings.

Church custodian Victor Cosme said LAPD officers did show up at the church one day in September, but he could not remember the day or their names.

“They wanted to hide in a room where a meeting was taking place, perhaps in a closet. I said no,” he recalled. “They asked where Homies Unidos met. I showed them the room. I never saw them again.”

A group of LAPD officers, including Amezcua, appeared that night at the Hayden hearings, where Sanchez testified, according to Rocky Rushing, Hayden’s chief of staff.

When Amezcua saw Sanchez on the street later, he said “he was going to see me behind bars, and he gave Homies Unidos six months to live,” Sanchez alleged. . . .

Not long before his arrest, Sanchez said, Amezcua searched him and a friend, Ricardo Hernandez, who was arrested on a minor charge and then held because of his own illegal immigration status.

Then at 8 p.m. Jan. 21, Amezcua stopped Sanchez and told him he was wanted by the INS, saying: “It’s over. You can take Homies Unidos and shove it.” . . . [were his] exact words,” Sanchez said. . . .

He said Amezcua refused to let him call a lawyer or Hayden’s office. He was taken to Men’s Central Jail but not booked, then transported to Parker Center, he said.—Anne-Marie O’Connor, “Activist Says Officer Sought His Deportation”

Alex Sanchez’s experience of being arrested and placed in deportation proceedings after having spent most of his life in the United States is unusual in that he was the leader of a gang violence prevention program, he had the support of respected public officials such as California state senator Tom Hayden, and his case became part of the controversy over the Rampart scandal, in which officers in the Los Angeles Police Department were convicted of violence and the falsification of evidence against alleged gang members (Zilberg 2002, 2004). At the same time, his ex-

perience is not unusual in that deporting aliens with criminal convictions has increasingly been a goal of both immigration and crime control policies in the United States (Coutin 2005). Further, U.S. antigang policies, which assign gang membership based on tattoos, association, and dress style, forbid suspected gang members from congregating in particular areas, and increase penalties for those deemed to be gang members, have been exported to Central American nations and other countries, making life for deported gang members difficult at best (Zilberg 2007c).

In this chapter, I analyze how the transnational conjuncture of immigration and criminal justice policies constitutes “criminal aliens” or *émigrés* as expendable and indeed exiles them not only from particular legal territories but also from the social domains that make life itself viable. In the United States, removal—the legal term for deportation—has emerged as a seemingly benign technique for extricating seemingly problematic (“illegal,” “criminal”) noncitizens from U.S. territory. The neutrality of the term hides the violence that removal wreaks on individuals, families, communities, and the law itself. Through removal, individuals are legally stripped of their *de facto* or *de jure* (i.e., legal permanent residency) membership in the United States and are constituted as fully alien. They are then sent to countries where they are *de jure* citizens, but where, as long-term *émigrés* who were convicted of crimes, many lack social connections or clearly recognized legal rights. In fact, antigang policies in their countries of origin may drive them out—and back to the United States—once more. Such departures are akin to a *de facto* or unofficial deportation, in that law enforcement policies, lack of economic opportunity, and social stigmatization lead them to leave their “home” countries (Zilberg 2007c). By constituting “criminal aliens” as so-called enemies whose right to exist is in question, nations claim to have bolstered public security (De Genova 2007). In fact, however, such policies may contribute to insecurity by rendering the law itself unstable.¹

To analyze the ways that criminal justice and immigration policies constitute certain noncitizens as expendable others, I interweave accounts of Alex Sanchez’s experiences with analyses of U.S. and Salvadoran government policies. I have chosen to focus on Alex Sanchez both because of the variety of his experiences—he was deported to El Salvador in 1994, he returned to the United States in 1996, and he was placed in removal proceedings again in 2000—and because his immigration case draws attention to the violence and persecution experienced by former gang members. I also draw on fieldwork conducted in El Salvador and Los

Angeles between 2000 and 2004, consisting primarily of interviews with Salvadoran immigrants in the United States, immigrant rights advocates and government officials in the United States and El Salvador, and deportees affiliated with Homies Unidos in El Salvador. This fieldwork suggests that noncitizens who have been convicted of crimes are facing a transnational injunction of sorts, such that they are not permitted to exist anywhere (see also Ngai 2004). Their lives are rendered inviable as they are pushed underground either figuratively, in that they must live as fugitives, or literally, in that they are subjected to violence that can lead to their deaths.

I [Alex Sanchez] was born in San Salvador. It was a little town, on the outskirts of San Salvador going towards Cojutepeque. From San Martin. . . I remember the scene where I lived. The area, the streets, the railroad tracks and this bridge and the cliff on the back of the house I lived in. So I remember most of that stuff, but in a blur, you know. It was all in a blur. . . .

I mean, the country [of El Salvador] was in conflict, and my dad had family that was involved in the movement. And, well, he had us. He had children. So he wanted something else for us. And then the area right there where we lived was like the spot where they'd throw bodies. You know, so he really wanted to get us out of there. . . .

We flew to, I think, Mexico. From Mexico City, I think, I'm not too sure. I know we went on train from, I guess, Mexico to another place. And then, then there was this other friend. The same people that was taking us, took us across the border in a van. . . . I remember it was real scary. . . .

I started 3rd grade. And I went to the school, Wilshire Crest. And it was really an experience because it was about speaking English and I didn't know anything. But I kind of, I mean there wasn't no ESL classes. And there wasn't, you know, that much help. And there weren't that many people around that were immigrants during that time. You know? It was mostly Chicanos or white. There weren't many blacks around that area. But I hanged around with these Chicanos and started learning English pretty fast. So then I went to 4th grade, I came to Hobart, and by that time I knew a lot of English. . . .

But when I actually really felt it was when I was in 6th grade. When people used to ask me, "Well, where are you from?" And I would say, "El Salvador." And "What place?" And I would say, "San Salvador." "But where in San Salvador?" I would say, "I don't know. I just know that I'm from down there and that's it." I felt kind of frustrated that I didn't know where exactly I was from. But at the same time I felt proud of being a Salvadorean. I had pride in it. I would never deny it. . . .

I didn't know the place [El Salvador]. They talk about los Chorros, they talk about Apulo, they talked about la Costa del Sol, all these places. Las piscinas. And I just didn't know. Los volcanes de San Vicente. And so many things they talked about that I just didn't relate to that. And I even ended up, kind of, losing my slang through years. Salvadorean slang. So you lose a lot of things. But during the time that I came, there weren't that many Salvadoreans here in L.A. So it was, like in . . . '85, '86, the schools were filled with Salvadorean kids by then, you know. There were a lot of people from El Salvador. And so I started kind of getting my slang back. And that's when I found out about this neighborhood, this gang that was a Salvadorean gang! You know, I related, I really related to it. And . . . I liked being with them because they spoke Spanish, they weren't always speaking English. Because I still had a little bit of trouble with pronunciations? So sometime I'd rather speak Spanish than English. So I felt more comfortable being with these guys and speaking Spanish. It wasn't like they were like the other crowd I was with that only spoke English. In a way it helped me because I learned it faster than anything because, you know, I wasn't speaking Spanish all the time. And I was learning, trying to learn it too so I could have a conversation with them, you know. But that's when I found out about the gang, Mara Salvatrucha, and the relationship with El Salvador. Because I didn't even know what a Salvatrucha was, a mara, you know, I didn't. And I found out and I said, "Wait a minute. This is me. This is the people I belong with." (Interview, May 8, 2001)

The complex belongings that Alex Sanchez described in my interview with him are belied by legal constructs that assign citizenship to a single nation. Noncitizens can be removed from the United States because, even if they are legal permanent residents, they lack incontrovertible membership in the U.S. polity. If they are apprehended by U.S. immigration authorities or if they are convicted of crimes that make them ineligible for legal permanent residency, they can be removed to their site of legal citizenship. In the case of Alex Sanchez, that site was El Salvador, a place that he left at age seven and remembered only as "a blur." During his childhood, Sanchez, like many other immigrants, was situated in multiple places and nowhere at the same time. He "lost" something of El Salvador—his memories, his slang—even as he found the United States somewhat unwelcoming. There were few services for immigrant children in the public schools of Los Angeles, and though he learned English quickly, he "still had a little bit of trouble with pronunciations." As a teenager, he found himself most at home with the Mara Salvatrucha, a gang that was made up of people

who, like him, were from El Salvador, spoke both Spanish and English, and were somewhat set apart from Anglo and even Chicano or Mexican American society. Such complex positionings—as outsiders within their country of origin and residency, yet members of youth subgroups belonging in some sense to both places—cannot be acknowledged by laws that elevate a legal origin as citizen over other measures of belonging, and that treat the presence of noncitizens as always, in some sense, probationary (Kanstroom 2000).

Officially, removing a noncitizen—at the time, Sanchez was undocumented—from the United States is not considered to be a punishment but is deemed merely to place individuals who are not “legally” part of the polity outside U.S. territory. Unlike incarceration and other criminal penalties, which ostensibly “correct” (i.e., rehabilitate) while also punishing an individual for his or her wrongdoing, removal is simply the consequence of lacking the right to enter or remain within U.S. territory. Therefore, although the United States does not sentence citizens to exile or deportation, noncitizens can, in essence, be exiled. As Daniel Kanstroom points out, “Federal deportation laws based on post-entry criminal conduct require a theoretical explanation for why banishment is a punishment when applied to citizens, but is not a punishment when applied to lawful resident aliens. This explanation . . . derived from the status of alienage being seen as an increasingly tenuous claim to any rights against deportation” (2000, 1909). As individuals who have tenuous claims, noncitizens are placed in the position of supplicant—they must request the right to be present. Removal is the default position and, though it may have devastating consequences for the individuals involved, does not carry the due process protections (such as the right to a state-appointed attorney) that accompany criminal proceedings (Cole and Dempsey 2002).

In the United States, removal has become increasingly common as criminal justice and immigration policies have converged (Welch 2002). In 1996 the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) expanded the definition of aggravated felony for immigration purposes, creating a situation that the legal scholar Nancy Morawetz referred to as “Alice-in-Wonderland-like.” Morawetz explains, “As the term is defined, a crime need not be either aggravated or a felony. For example, a conviction for simple battery or for shoplifting with a one-year suspended sentence—either of which would be a misdemeanor or a violation in most states—can be deemed an aggravated felony” (2000, 1939).² Legal permanent residents who are convicted of such aggravated felonies are

stripped of their residency and made deportable. Before 1996, noncitizens with criminal convictions could request waivers by arguing that their equities—relatives, lengthy period of residence, educational history—in the United States weighed against their deportation. The 1996 laws eliminated such challenges, made both detention and removal mandatory, and applied this new policy retroactively to convictions that occurred before 1996 (J. Hafetz 1998).³ Noncitizens were made a particular target of law enforcement practices, and criminals were made a target of deportation policies. As Kanstroom points out, “Deportation policy . . . has aimed increasingly at permanently ‘cleansing’ our society of those with undesirable qualities, especially criminal behavior” (2000, 1892).

The convergence between immigration and criminal justice policies extends the logic of mass-incarceration policies to immigrant populations. Correctional practices have recently moved from a rehabilitation model to what Malcolm Feeley and Jonathan Simon (1992) term “risk management.” Instead of attempting to reform socially deviant individuals, prisons now attempt to “manage” dangerous persons, who are then “warehoused” as part of ever-growing prison populations. Prisons are conceptualized as a space *outside* society (Schinkel 2002), as evidenced by the increasing use of the term “reentry” to refer to being released from prison (Petersilia 2003). Targeting noncitizens who have been convicted of crimes extends this spatialized logic in that such individuals are physically removed from U.S. society and territory, initially through detention centers and eventually through deportation. Warehousing offenders and deporting noncitizens with criminal convictions also have similar social consequences. In both cases, individuals are removed from communities, family members are subjected to lengthy separations, and populations are excluded from the electoral process (felons are often disenfranchised, and noncitizens cannot vote in the United States). A Bureau of Justice Statistics report attributed 14 percent of the growth in the federal prison population between 1985 and 2000 to increases in the incarceration of immigration offenders (Scalia and Litras 2002). The 1996 laws had an immediate and dramatic effect on the number of noncitizens forcibly removed from the United States, as table 1 shows.

The number of noncitizens forcibly removed increased by a dramatic 37 percent in 1996, when IIRIRA and AEDPA were passed, followed by even larger increases of 64 percent and 53 percent in 1997 and 1998 respectively. Subsequently, removals remained at high levels, with the exception of 2001, which remained stable, and 2002, in which there was a small decrease. Cumulatively, between 1996 and 2007, deportations more than

TABLE 1. Aliens Expelled, 1991–2007

YEAR	FORMAL REMOVALS	PERCENT INCREASE	TO EL SALVADOR	PERCENT INCREASE
1991	33,189		1,496	
1992	43,671	31%	1,937	29%
1993	42,542	-3%	2,117	9%
1994	45,674	7%	1,900	-10%
1995	50,924	11%	1,932	2%
1996	69,680	37%	2,493	29%
1997	114,432	64%	3,900	56%
1998	174,813	53%	5,465	40%
1999	183,114	5%	4,160	-24%
2000	188,467	3%	4,736	14%
2001	189,026	0%	3,928	-17%
2002	165,168	-13%	4,066	4%
2003	211,098	28%	5,561	37%
2004	240,665	14%	7,269	31%
2005	246,431	2%	8,305	14%
2006	280,974	14%	11,050	33%
2007	319,382	14%	20,045	81%

Source: U.S. Department of Homeland Security, *2007 Yearbook of Immigration Statistics*, tables 36 and 37d, and earlier DHS and INS statistical yearbooks.

quadrupled. Strikingly, in the year 2007 alone, deportations to El Salvador increased by 81 percent.

Although criminal justice and immigration policies attempt to resituate noncitizens who are convicted of crimes in a space outside the U.S. territory and polity, such individuals may in fact have myriad ties to the United States, whether or not they are physically present. As Elana Zilberg notes, “Banished though they may be from the U.S., these deported youth and young adults remain linked to that landscape through, among other things, ongoing ties with family. . . . Deportees remain an integral part of the ‘structure of feeling’ [of] the *barrio*, of its internal relations and the everyday practices of its residents” (2007b, 495; Williams 1992, 128–35; see also Zilberg 2004). The individuals who are subjected to removal may have relatives in the United States; they may have attended U.S. schools, worked in the United States, developed fluent English skills, acclimated to U.S. culture (particularly to youth subcultures), and envisioned futures within this country. In the earlier interview excerpt, Alex Sanchez names the Los Angeles public schools that he attended as a young child. The

landscape of Los Angeles pervades his personal history. As Judge Learned Hand wrote about a Polish deportation case in 1926, “Whether the relator came here in arms or at the age of ten, he is as much our product as though his mother had borne him on American soil. He knows no other language, no other people, no other habits, than ours; he will be as much a stranger in Poland as any one born of ancestors who immigrated in the seventeenth century” (quoted in Kanstroom 2000, 1890). Forcible removal requires reconstituting such complexly situated individuals as alien.

Alan Diamante, Sánchez’s attorney, indicated that during his youth his client was involved in a Mara Salvatrucha gang that operated on 8th Street and Normandie Avenue.

He also said that when he was 18 years old, Sánchez already had a criminal record. On his rap sheet there appears a conviction for car theft, accusations of weapons possession and of intimidating witnesses.

“For committing certain crimes and for having a criminal history, they deported him in 1994,” stated Diamante.

During his stay in El Salvador, Sánchez received threats, was persecuted and detained, according to his attorney.

Those factors and the fact that a son of his was born, motivated him to abandon gangs and return to the United States, Diamante noted.

“He supposedly entered in an illegal fashion,” he noted, adding that his defense only has two legal avenues.

One, the attorney said literally, is to solicit suspension of removal [from the country], as a political case, and the other is to base the case on international law against torture, which states that a person cannot be sent to a country when there is sufficient proof that if he is returned, he will be tortured at the hands of the government or other groups. (Linares 2000)⁴

The process of removal officially transforms *de facto* community members into aliens with no right to remain in the United States. Noncitizens who are subjected to deportation may find this transformation shocking. A Homies Unidos member who was interviewed for this project after having been deported to El Salvador could not imagine that he could never return “legally” to the United States: “You can’t just say, ‘You’re expelled for life. You’re deported for life.’ I mean, I hope not!” Of course, deportation is not supposed to *transform* individuals. Rather, it is supposed to be a consequence of already being both alien and unauthorized. Note that in Alex Sanchez’s case, his only legal option when faced with deportation was to demonstrate that he could not safely return to El Salvador

and therefore had to remain in the United States. Despite having lived in this country for more than two decades and having U.S. citizen relatives (including a wife and son), his criminal convictions, prior deportation, and unauthorized reentry defined him as alien and his presence as illicit. Nonetheless there is a sense in which the process of deportation *produces* the very “alienage” and “illegality” from which it is supposed to flow.

The transformative nature of deportation is demonstrated by the experiences of King (a pseudonym), whom I interviewed in El Salvador in 2001. King came to the United States in the early 1980s at age four or five and became a legal permanent resident in the late 1980s, when he was approximately nine or ten. As a teenager, he began to have trouble with the law and served time in juvenile hall, but he was not concerned about immigration consequences: “Because I had the residency, I figured, oh, shssh, I got it made, you know, a resident.” King was incarcerated in 1993, and in 1996 he learned about the passage of AEDPA and IIRIRA: “I *always* watched the news in prison. . . . And then after that Timothy McVeigh blew up that building? They passed a law, . . . instead of, you know, going after the guys that did that, they decided to wash their hands and throw it out from all the [immigrants] and residents, uh-huh. They called ‘em, uh, ‘a terrorist threat! To them, we’re a terrorist threat. Just because of what Timothy, Timothy McVeigh did.” An immigration hold was placed on King, and when he completed his prison sentence, he was transferred to an immigration detention center, where he unsuccessfully fought his deportation case for six months. Although King had projected a future in the United States, he was ordered deported.

Before being deported, King was transferred to a holding cell, where conditions were difficult: “We were there all night, and we were cold.” From the holding cell, he and others were bused to Arizona, where, in shackles, they were flown to Houston, Texas. In Texas, they were processed for deportation and then taken to a county jail, which King described as “messed up. . . . They wouldn’t let us buy nothing at the store or nothing, so we didn’t have no deodorant, no razor, no toothbrush. And they wouldn’t, uh, give us any, because they were treating us like lower, you know what I mean? Like, you’re getting deported anyways, you don’t need none of that.” Being treated as “lower” continued as King was placed in another holding cell: “And it was like hot, moisture. Like everything starts sweating, you know, with the body heat. And the water was no good. There was no drinking water. Only a shower to shower. The toilets were messed up, there was no pressure.” King was in the holding cell for four

or five days. King found these conditions dehumanizing, telling one of the sergeants, “Look, Sergeant, man, what’s going on? We don’t get rec, yard, nothing. You know? You’re treating us like animals, man!” Finally King and other deportees were shackled and placed on one of the oldest planes that King had ever seen: “And we took off. Fshshshshoooooooooooo! All shackled up. T-t-t-t. And then, like, they give us, like, a tore-up sandwich and stuff? To eat up there? You know, I wasn’t hungry, I didn’t eat nothing. That’s the least thing I had on my mind was food after leaving, you know, the country you were raised in.” King found the shackles particularly debasing: “They think they can treat you like you don’t know your rights, you know what I mean? Even if you’re deportable, you still got rights, human rights.”

King’s account of deportation is replete with references to humiliating experiences, to being treated as an animal, as debased, as lacking rights. The shackles—which King reported were removed before landing, after flying out of U.S. airspace—were a particularly vivid marker of criminalized “illegality” and alienage. King experienced deportation not as a *return* but as a *departure*, “leaving, you know, the country you were raised in.” Deportation officially transformed King in ways that he experienced bodily (heat, cold, shackles, and deprivation). Officially he was not only a noncitizen of the United States but also a citizen of El Salvador. Unofficially, however, deportees’ membership in their countries of origin can also be questioned.

I [Alex Sanchez] just said, “I’ve always wanted to know how El Salvador looks like.” I mean, I could have fought it [deportation] for a while but I still wanted to know where I was from. I wanted to know where exactly in San Salvador I was from. So I signed it [the paperwork] and got deported. . . .

I was anxious to smell the air. I was anxious to go see that curve and the railroad tracks and the bridge that I remembered. I wanted to see the scene from that cliff on the back of where we lived that had the view of the mountains over by San Vicente and el Lago de Apulo en Ilopango. We had that view from up there. And I wanted to, I wanted to go. I mean when I got off there, I was like, riding in the back of a truck. There was nobody waiting for me. Nobody. Nobody knew I was going over there. . . .

I was in the back of this truck going towards this address that I had in this envelope. I was just enjoying the view and everything green and nice and beautiful. You know, you can’t ride in a pickup truck standing up in back, here [in the United States]. So I was like, standing up and getting all that air.

And all of a sudden, you know, I was enjoying the view and I seen like this big rock coming up out of the mountain. And it had some writing on it. And it said, "MS-13." It had my gang name on it. And that's what I said, "I can't get away from them." (Interview, May 8, 2001)

Although they are deported as citizens of El Salvador, Salvadoran deportees who have lived in the United States for considerable periods may find themselves alienated within El Salvador. In the interview excerpt, Sanchez hoped that being deported would enable him to reencounter places that he remembered only dimly, and thus to know where he was from. He returned, however, without anyone knowing. No one met him at the airport. He only had the address of a relative, written on the back of an envelope. Such experiences are not unusual. King, whose experiences were described earlier, found that when he first returned to El Salvador, "I was *lost*, man! I was like, if I was busted again, if I was in *jail!* Because I was like, I knew a place that, I knew how it was, and I knew I could be there [in the United States], and I knew I had family, and people I know there. I wouldn't face the facts, you know, reality, that I was here [in El Salvador], you know what I mean?" Although they may have childhood memories, and although their networks may span U.S. and Salvadoran territory (as when Sanchez encountered the name of his gang on a rock), El Salvador is also, for many deported long-term U.S. residents, alien territory.

Such alienation assumes a quasi-legal form. Having been deported from the United States for being undocumented, deportees may also, somewhat surprisingly, find themselves undocumented in El Salvador, their country of legal citizenship. Deportees were issued a provisional Salvadoran passport, which was then taken from them at the airport when they arrived. Those who had been outside El Salvador for many years might lack Salvadoran identity documents. Obtaining such documents could be difficult, as their appearance and language skills might make them appear foreign. One interviewee, who had been adopted by a U.S. family as an infant, then been convicted of crimes and (as his parents failed to apply for his naturalization) subsequently deported, described his difficulties:

Here they wanted ID in order for me to get ID from here. . . . I spent about a *month* trying to get my paperwork. Of running from here to there, waiting in lines, not understanding what they're telling me, buying things that I don't need. I get to the window, "No, this is not what you need. You need to go back and you need to wait in line. And you need to do this again." Every now and then I would find someone who spoke English to help me out a little. But it was a very long process to get your *cédula* [national ID card].

Though his experiences may have been more frustrating than most, problems obtaining Salvadoran identity documents are common among deportees who immigrated to the United States as children. An NGO member who worked with deportees reported, “The authorities don’t want to give [them] cédulas. . . . In some cases, we have been told that they have to conduct an identity trial. Bring witnesses to say, ‘He was born here, he left at a certain age.’” Another NGO member characterized deportees as *doblemente mojados*, doubly “illegal,” given their undocumented status in the United States and their difficulties obtaining identity documents in El Salvador.

The alienation and stigmatization that makes officials doubt deportees’ Salvadoranness can also exclude deportees from other domains of social life. Within El Salvador, deportees are generally suspected of being criminals and possibly gang members (Zilberg 2007c, forthcoming). Those who have tattoos and wear the baggy clothing typical of U.S. youth cultures are especially stigmatized. Employers may be reluctant to hire such individuals, neighbors may reject deportees, and even relatives are not always welcoming. A lack of cultural and social knowledge exacerbates these problems; as an NGO member reported, “It’s like a child who doesn’t know, they don’t have any idea what the country is like, how it works.” By the late 1990s, social programs, such as migrant shelters, limited financial assistance (e.g., bus fare), an orientation course, and vocational training, provided some assistance to returnees; however, the scope of such aid was limited (Coutin 2007; Zilberg 2002).⁵ The predominant governmental response to deportees, however, has been subsumed within a broader antigang initiative known as Super Mano Dura, or “super heavy hand.” Instead of welcoming deportees, Super Mano Dura focuses on incarceration (Zilberg 2007c).

The Chief of Police of San Salvador, Alfonso Linares, arrives today in Los Angeles to testify about the dangers that activist Alex Sánchez can face in the event that he is deported to El Salvador.

Linares will go before the federal court as of Wednesday, July 26, where he will serve as a witness in relation to the assassinations of three members of Homies Unidos. Those crimes occurred in the last 16 months, after they were deported, said Rocky Rushing, chief administrator in the office of Senator Tom Hayden. . . .

According to documents obtained by *La Opinión* about the testimony of Linares, he will speak about the deaths that have occurred in El Salvador at the hands of death squads.

"It is believed that the assassinations have been the work of . . . those groups, which dedicate themselves to social 'cleansing.' This group is similar to those death squads known as La Sombra Negra, an extremist group that has terrorized the country with its extrajudicial killings," stated Linares' written declaration.

Moreover, this establishes that he considers "it certain that Alex could be killed if he returns to El Salvador. I do not think that the law can protect him."

"Alex Sánchez has the profile of a victim. He is an ex-gang member and currently advocates for the rights of other gang members in his organization Homies Unidos. In fact his photograph has appeared in the paper and he has been characterized as a gang-member," stated the declaration that Linares will present to the court next week. (Delgado 2000)

The death squads that San Salvador chief of police Linares referred to in his testimony in Alex Sanchez's deportation case are perhaps the most extreme version of the antigang climate generated by policies adopted in El Salvador beginning in the late 1990s. The Salvadoran government does not condone death squads, but between 1999 and 2005, it criminalized gang membership, increased police presence in areas of high gang activity, mobilized soldiers alongside police in antigang units, rounded up suspected gang members, and increased prison terms for convicted suspects. These policies, known during the presidency of Francisco Flores as "Mano Dura" or "Heavy Hand" and during the presidency of Tony Saca as "Super Mano Dura" or "Super Heavy Hand," responded to a crime wave that struck El Salvador during the postwar years.⁶ In 1994 the homicide rate in El Salvador reached 138 per 100,000 residents, as compared to 30 per 100,000 residents in the prewar years (Dalton 2002a, 2002b),⁷ and by 1996, according to World Bank statistics, El Salvador was considered the most dangerous country in the Americas (Dalton 2001a). By 2001, an average of fourteen cars were being stolen and six homicides were being committed daily (Dalton 2001b), and a survey conducted in 2002 found that 25 percent of all Salvadorans reported having been the victim of an assault or robbery in the previous four months (El Diario de Hoy 2002). While crime in El Salvador assumed many forms, including "minor urban crime, private and public corruption, white collar financial embezzlement of large fraudulent financiers, organized crime (like the international bands of car thieves and drug smugglers), intrafamily and youth violence, massacres of entire families, the activities of assassins and the aftermath, pseudo-political or not, of kidnappers who cling to the

past" (Bejar 1998, 98), publicly gangs were blamed for the crime problem. In 2004, when Super Mano Dura was launched, newspaper advertisements announced, "¡A los pandilleros se les acabó la fiesta! Hoy sí tenemos Súper Mano Dura" (The gang members' party is over! We now have Super Mano Dura).⁸

Government antigang policies have made it difficult for deportees who may be or resemble gang members to survive within El Salvador. These initiatives created a temporary special security regimen to contend with the emergency created by gangs and high crime (see also D. Goldstein 2007). Within this regimen, gangs were defined as "illicit associations," making gang membership—as evidenced by displaying tattoos, throwing hand signs, or obeying gang leaders—a crime. Soldiers joined police in the fight against gangs, resulting in the detention of 19,275 suspected gang members (FESPAD and CEPES 2004). This public effort was accompanied by the securitization or militarization of private space. In El Salvador, it was common for businesses, offices, banks, stores, fast-food restaurants, gas stations, pharmacies, car repair shops, and even homes (in the case of affluent individuals) to hire security guards who prominently displayed their guns (see also Caldeira 2000). Owners of small, street-side shops sometimes sold their products to customers through barred windows (Godoy 2005). Homes were frequently behind walls or, in the case of those who were economically advantaged, behind gates with security systems and armed guards. Public discourse conflated crime with gangs, and gangs with deportation, as one NGO member who worked with deportees noted during an interview: "Here, we (Salvadoran society) blame the deportees for everything bad that happens. For crime, for murders, for drug problems, for gang problems, for everything. There is an extreme stigmatization, which the communication media contribute to as well. There will be an article in the paper—'100 murderers deported,' or '100 gang members deported.' Salvadoran society closes its doors to the reinsertion of deportees."

Such security measures and public discourse made it hard for deportees to pursue everyday activities such as traveling, shopping, working, socializing, or going to school. One deportee interviewed in 2004 explained, "Let's say that you apply for a job and they see that you speak English. Then they won't want to know anything else about the situation here. They'll just say, 'How did you learn English? How long were you there? Oh, you were deported? What for?' and then they think that it's better not to hire you for the job." Another deportee, who worked with Homies Unidos, commented during an interview in 2004 that almost all

deportees who stay in El Salvador are in prison. "Or," he said, "they stay in prisons of their own, locking themselves in their houses and remaining hidden. They can only be gang members inside their homes. When they go out, they have to wear elegant clothing, get elegant haircuts." In these circumstances, deportees (particularly those with criminal convictions) had few options. Immigrant advocates who worked with deportees in El Salvador estimated that between 40 and 60 percent of deportees returned without authorization to the United States, where they faced incarceration if apprehended. The near impossibility of living in the United States or in El Salvador placed deportees with criminal convictions outside the bounds of the citizenry of each nation, and indeed almost outside the bounds of humanity.

I [Alex Sanchez] was like stuck during that time, I was stuck in El Salvador. By this time I had been there for six months and I was stuck. It was like this warfare [between gangs and death squads]. And I was like, "Man, I've got to get out of here." So yeah, so we had a lot of people being killed. And the target was mostly the guy that had been deported. And the thing was, everything that happened in El Salvador that was a crime, it was blamed on gangs. . . . It's kind of sort of [like] here, you know. Because I mean, which politician doesn't use gangs for their campaign? Or immigration? . . .

Not all the gang members have to carry a gun or shoot people. They don't. Out of ten probably one or two are the ones that really evolve into serious violence and like really want to put their name up high because they want to be recognized. Probably one out of ten. The rest are just a bunch of followers that do what this person tells them to. With these [Three Strikes] laws that came in [in the United States], yeah, it scared some of these followers, but they weren't doing anything first of all. The majority were just followers or they were youth at risk and they said, "Oh, my god." But they were not the ones. They probably get arrested for doing drugs, or petty theft or maybe a, stealing a car. Not a carjacking but maybe just stealing a car just for joy ride. All of sudden these guys are scared, of course, they're not seriously involved in violence. But what about the one person or that two persons out of that ten? You know, he's been involved with violence all his life. He's hard, you know. All of a sudden, though, this guy's probably getting out of jail, you know, a two-striker. "You get one more strike, you're through, Mister." This guy gets out, you know, what's out there for him? I mean, "Yeah. They threatened me. I'm a two-striker. What the hell am I going to do? There's no jobs. I try to work someplace. They say I'm a two-striker. Been in prison. They're not going to give me the job!" So they have all

these problems, you know. They get desperate. They get really desperate, you know. . . .

It gets them into a certain situation, a desperate situation, when they go ahead and get desperate and go and do it. And sell drugs to maintain or to do something or get drunk and get in a fight, you know. And all of a sudden, you know, they're carrying a gun and that's a strike. . . . You put them in situations where—bam! if I get busted. You're not thinking about getting busted, but you're thinking about, "Man, if the police get me, then that's it." So all of a sudden you have the police right there, what are you going to do? You're going to try to get away because now all of a sudden you're thinking about the third strike.

I go crazy sometimes just thinking about things like this because I look at 'em in a different way. (Interview, May 8, 2001)

In this interview excerpt, Alex Sanchez details ways that, by making people desperate to avoid additional convictions, harsh criminal justice policies can fuel rather than reduce violence. In the United States, increased penalties for illegal entry, stiffened border enforcement, reductions in the available means of legalizing, expanded definitions of offenses for which one becomes deportable, and the elimination of waivers that would prevent deportation have given rise to an abject class of individuals who could be deported if apprehended. This abject class includes undocumented individuals, as well as former legal permanent residents who have been deported and returned "illegally" to the United States. Similarly, in El Salvador, stiffened antigang policies have made life nearly impossible for deportees who have been convicted of crimes in the United States or resemble gang members. Whether they are located in El Salvador, the United States, or somewhere in between, members of this class have few legal options. Denied work authorization in the United States, subjected to employment discrimination in El Salvador, and made targets of police activity in both countries, such individuals face great difficulties in entering the legal economy. Members of this subgroup must often work under the table or enter the illicit economy. Such policies affect not only unauthorized immigrants but also, as Sanchez notes, anyone who develops a criminal record and for whom an additional strike can mean a lengthy or perhaps perpetual prison sentence. Policies that deny unauthorized migrants and other excluded individuals access to employment, social domains, and even national territories can fuel the very sorts of lawlessness that they are designed to combat, thus doing violence to the law itself. Such policies also have deadly effects on the unauthorized, pushing them

into illicit domains, unlawful activities, and dangerous spaces where their lives are in jeopardy, whether from the hazards of migrating “illegally,” the lack of access to health care and social services, or violence at the hands of those (not excluding officials) caught up in networks of illegality. In short, deportation can remove people not only from national territory but also from any legal means of supporting themselves and finally even from life itself.

An immigration judge granted political asylum yesterday to the activist Alex Sánchez, an ex-gang member who now is the director of the program Homies Unidos, who helps young people leave the criminal life.

It is the first time that immigration authorities overlooked or removed the criminal history of an ex-gang member to give him haven in this country, said Alan Diamante, attorney of Sánchez. . . .

Sánchez, Diamante explained, was able to demonstrate to the immigration judge that his life was in danger if he was deported to El Salvador, his country of origin. (Amador 2002)

POSTSCRIPT

On June 24, 2009, Alex Sanchez was rearrested and charged with federal racketeering and conspiracy charges. Authorities allege that he failed to sever his ties with the Mara Salvatrucha and that he conspired to commit a murder in 2006 (Glover and Winton 2009). Supporters contend that he is innocent of these charges and that he was targeted due to his work as a gang interventionist. Prior to his arrest, Alex Sanchez directed the gang violence prevention group Homies Unidos in Los Angeles, where he counseled youths, gang members, and their families, and advocated for the rights of immigrants and of noncitizens convicted of crimes. In the days following his arrest, supporters raised 1.2 million dollars in bond securities and solicited 110 letters attesting to his character. A statement posted on the Homies Unidos website reads:

The Homies Unidos Board stands united in full support, behind our executive director, Alex Sanchez and his family. For the past 11 years, Alex has been committed to helping bring about change in his community. He is an exemplary leader, respected colleague and dedicated husband and father. Just as we are confident in Alex’s innocence, we are confident that Los Angeles and the nation will remember that an indictment is an allegation only. As stated in the FBI press release, “Every defendant is presumed to be innocent until proven guilty in court.” (Homies Unidos 2009)

NOTES

I am grateful to Homies Unidos and to the individuals who were interviewed for this project for all their assistance. I am particularly grateful to Alex Sanchez for so generously sharing his experiences. The research on which this paper is based was supported by a grant from the National Science Foundation's Law and Social Science Program (awards SES-0001890 and SES-0296050) and a research and writing grant from the John D. and Catherine T. MacArthur Foundation. I thank Nathalie Peutz and Nick De Genova for inviting me to participate in this volume and for their comments on an earlier draft, and I am grateful to Elana Zilberg for conversations about the issues discussed in this chapter and for her comments on an earlier draft. Ester Hernandez also assisted with interviews for this project.

1. Antigang policies, can, for example, encourage police harassment or even, as occurred in the Rampart scandal, fabrications of evidence by authorities. Such policies can thus bolster insecurity rather than security (see, e.g., González-Portillo 2000).

2. An infraction is punishable by a fine, whereas a misdemeanor can be punished by a fine, jail time for up to one year, or both.

3. In *Immigration and Naturalization Service v. St. Cyr.*, 2001, 533 U.S. 289, the U.S. Supreme Court provided limited relief to aliens who pled guilty before 1996 on the grounds that the immigration consequences of a guilty plea were altered retroactively. In this case, the court reasoned, "Now that prosecutors have received the benefit of plea agreements, agreements that were likely facilitated by the aliens' belief in their continued eligibility for 212(c) relief, it would be contrary to 'familiar considerations of fair notice, reasonable reliance, and settled expectations' to hold that IIRIRA's subsequent restrictions deprives them of any possibility of such relief" (2292). See also *Fernandez-Vargaz v. Gonzales*, No. 04-1376, Supreme Court of the United States, 126 S. Ct. 2422; March 22, 2006, argued, June 22, 2006, for a discussion of the retroactivity of the 1996 laws.

4. Unless otherwise noted, translations of Spanish sources are mine.

5. This assistance was provided as part of a program known as *Bienvenidos a Casa*, or Welcome Home. *Bienvenidos a Casa* was conceptualized through the Conferencia Regional de Migración (Regional Migration Conference), a regional governmental effort to coordinate migration and migration policies in North and Central America, and grew out of concern about the effects of deportations on receiving countries and on migrants themselves (see Mahler 2000). The program was initiated in 1999 with institutional support from the Salvadoran government, funding from the U.S. government, and technical assistance from governmental and nongovernmental entities in San Salvador and was administered by Catholic Relief Services, an NGO. In 2002 the Salvadoran government assumed responsibility for this program and in 2005 placed another NGO, Programa La Fundación de Desarrollo Integral (FUNDI), in charge of administering it (see República de El Salvador 2007).

6. For a comparison of Mano Dura and Super Mano Dura policies, see FESPAD and CEPES 2004. Zilberg 2007c also provides a history of these policies.

7. By 2002 the homicide rate had declined to 60 per 100,000 residents (Dalton 2002a).

8. See advertisement published by the Ministerio de Gobernación in *La Prensa Gráfica*, September 8, 2004, 21.