



## 70 Million S3 E4 Annotated Transcript: How the Asylum Process Became Another Carceral Matrix

The Trump administration has issued numerous policies to systematically dismantle asylum as a legal right. They're also locking up asylum seekers for months or years, until they either win their case, are returned to their home countries, or self deport. Reporters Valeria Fernández and Jude Joffe-Block follow two asylum seekers as they endure detention, legal cases, and family separation in the US, where they sought refuge.

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Mitzi Miller: 70 million adults in the United States have a criminal record. In Season Three, we'll explore how our rapidly changing reality is impacting those in custody, and the policies that keep them there. I'm Mitzi Miller.

*Audio of [children](#) inside a U.S. Customs and Border Patrol Protection facility.*

Miller: The sounds of children crying out for their families will be difficult to remove from our minds. And the reality that our country separated thousands of families seeking refuge will haunt us for generations.

Those cries you heard are from audio ProPublica obtained in 2018 of children who had just been separated from their parents by immigration authorities.

According to a Department of Health and Human Services [report](#) from last year, "the total number of children separated from a parent or guardian by immigration authorities is *unknown*."

Adding to this is an unfolding asylum crisis. Since coming to office, the Trump administration has issued numerous policies that are dismantling asylum as a legal right. The administration has made it nearly impossible for people to gain protection. Arriving asylum seekers remain detained — sometimes for months, or even years.

Then COVID-19 hit immigration detention centers and local jails that have contracts with ICE, and these facilities became virus hotspots.

Thousands of people who fled to the U.S. fearing for their lives faced a brand new threat.

Miller: Last April, reporter Valeria Fernández started getting phone calls from dozens of asylum seekers detained in the privately-run La Palma Correctional Center in Arizona. The callers were from Mexico, Cuba, Venezuela and El Salvador. They said the detention center was a ticking time bomb.

*Claudio: Es una bomba de tiempo. Todos los días me levanto con miedo.*

Miller: They described waking up scared ...

*Edmundo: Ya todo el mundo anda desesperado.*

Miller: And feeling desperate. Javier de Jesus Zelaya, who fled El Salvador fearing for his life, had been locked up for nearly a year.

*Javier de Jesus Zelaya:*

*Es desgarrador saber que aquí estamos con una incertidumbre que vamos a vivir o vamos a morir aquí detenidos.*

Translation: It's heart wrenching to be here with the uncertainty of whether we would live or die in detention.

Miller: But asylum seekers were not always locked up like this. Reporters Valeria Fernández and Jude Joffe-Block spent a year following the cases of asylum seekers and tracking changes in asylum policy. Their story explains how we got here. Valeria starts us off.

Valeria Fernández: In March, just as the COVID-19 pandemic hit the United States, Jude and I drive to Sonoyta, Mexico, a border town. We've been tracing the cases of two asylum seekers from Guatemala—a 22-year old woman named María and her 5-year-old child.

*It's interesting that we are heading to Sonoyta this morning...*

It is almost the one-year anniversary of María and her child coming through Sonoyta, and presenting themselves at the port of entry on the Arizona side of the border and asking for protection.

*What does that make you think about?*

*Jude Joffe-Block: I'm just thinking that we are driving right now to the place where their journey began...*

*Internet cafe music*

Joffe-Block: We arrive at an internet cafe that María once visited. It's a bright purple storefront that draws a young crowd, mostly local students from a nearby school. The kids come for the video games and tostilocos, a favorite snack. But María came for different reasons...

*Alexa Tamar Smith: It's the only place I know of in town where we can print, uh, and photocopy and email.*

Joffe-Block: That's Alexa Tamar Smith, an American border activist and volunteer who spends a lot of time here in Sonoyta helping asylum seekers — including María and her child.

*Smith: The first time I met María and her little girl was at a migrant shelter...*

Joffe-Block: Alexa Tamar describes María as petite and often shying away from attention. The little girl is outgoing. We aren't using María's last name or her child's name for their own safety.

*Smith: I was introduced to the little girl by María as her daughter and I, I always saw their relationship as that of a mother and daughter.*

Joffe-Block: Alexa Tamar didn't realize it right away but came to learn that the girl is actually María's niece. When her niece was a baby, her mother, María's sister, was killed by a gang in Guatemala. María became the child's guardian since she was her closest living relative.

*Smith: María is the only family member that this girl has any memories of.*

Joffe-Block: María wanted to apply for asylum in the US, but volunteers warned her she and the girl could be detained or separated. If they were lucky, they would be released. Border agents had a lot of discretion. The year before, in 2018, a federal judge had barred the Trump administration from [separating parents and children](#) at the border. But there was no guarantee it wouldn't happen to María and her niece. María hoped for the best, but volunteers helped her prepare for the worst.

Here at the purple internet cafe, volunteers helped arm María with documents that showed her relationship to the girl. Birth certificates, death certificates. Plus a letter in both English and Spanish stating that she did not consent to be separated. Among these legal documents was a particularly hard one for María to sign.

*Smith: I remember we were sitting inside...at that time María didn't know how to read. Um, so we were going through it line by line and making sure that she understands every line and as a whole what the document meant... And I*

*could just sort of like see her face blanch as we were going through it and kind of her eyes glaze. And I think I can only assume, I think in that moment, sort of the enormity of what she was about to do was sinking in and she wasn't, she was having trouble like absorbing what was going on.*

Joffe-Block: If María's worst-case scenario came to pass, and US officials did not release them, and instead detained María — the document gave an attorney permission to track María down in the country's sprawling immigration detention system.

*Do you have a sense of what her biggest fear was at that moment, of what could happen?*

Smith: *Being separated from her little girl.*

*(fade out Burbujas music)*

Fernández: Just a few days before the girl's 6th birthday in March 2019, María and her niece held hands as they walked up to the Lukeville, Arizona port of entry to ask for asylum. They were immediately [detained](#). María tells us what happened next, during a phone call from the Eloy Detention Center in Central Arizona.

*(sound of phone call) Oprima uno para aceptar la llamada. Para no...Gracias por usar Telmate.*

María: Hola.

Fernández: María says that a day after she and her niece were detained, they were sleeping in a room when a border official came in and pulled the girl out of María's arms and took her away. She says a female guard told her...

María: *'Te la vamos a quitar, y ya no te la vamos a entregar.'* Le dije yo: *'Ustedes no pueden hacer, sin que yo no de la autoridad.'* *'Sí, no, claro que sí puedo,' me dijo.*

Translation: 'We are going to take the girl, and not give her back.' I told her: 'You can't do that without my authorization.' 'Yes, of course we can,' she told me.

Joffe-Block: When María and her niece present themselves at the port of entry in 2019, the Trump administration is in the midst of turning the asylum system on its head.

[Trump](#): The biggest loophole drawing illegal aliens to our borders is the use of fraudulent or meritless asylum claims to gain entry into our great country.

Joffe-Block: U.S. Immigration and Customs Enforcement did not respond to our request for an interview, but in the months before María arrived at the border, President

Donald Trump accused asylum seekers of being gang members and making fraudulent claims.

[Trump](#): My administration is finalizing a plan to end the rampant abuse of our asylum system.

Joffe-Block: The asylum system — designed to protect people from harm — became one that inflicts harm. One way is by locking up asylum seekers for months or years until they either win their case, are deported, or give up.

Trump: We are going to no longer release. We are going to catch. We're not gonna release. They are going to stay with us until the deportation hearing or the asylum hearing takes place.

Joffe-Block: Trump has said that detaining asylum seekers ensures they will attend their [court hearings](#) — but [government records](#) show that the vast majority do so anyway when they're released.

Michael Tan: The reason why, I mean the administration is doing this, you know, just to be explicit about it. I think it's fairly obvious...

Joffe-Block: Michael Tan is an attorney with the ACLU.

Tan: They know detention has a coercive effect. I mean being in jail... puts a lot of pressure on people, um, to give up their asylum claims even if they know in their hearts that they have real fears of being sent back to their home countries that their lives and their safety are in danger.

Joffe-Block: ICE detains asylum seekers in a network of more than 200 immigration detention facilities, including detention centers run by private corporations and dozens of county jails. It's hard to pinpoint exactly how many detained are asylum seekers like María.

By September 2019, more than 50,000 adult immigrants are held in this matrix of detention centers, according to ICE data. About a quarter of them, more than 13,000, have passed a screening saying they fear persecution or torture in their home countries, which is often a first step for asylum or other protection claims.

Fernández: I meet María for the first time at the Eloy Detention Center. It's been six months since María and her niece were separated at the border. And she still can't grasp why she is being detained.

María: *No he hecho nada, solo el error nada más fue, solo por pedir asilo y cruzar este país.*

Translation: I didn't do anything, my only mistake was simply to ask for asylum and come into this country.

Fernández: Jude and I are reporting on her case for *The Guardian* and I visit her with volunteers who know her from the shelter in Mexico. It's a hot September morning. María is wearing a dark green uniform, and a white rosary around her neck. She hides her head in her hands to cry when she speaks about her family. Later in the day, we continue talking by phone.

María: *Toda mi familia está muerta y la única familia que tengo es la niña de mi hermana.*

Translation: All my family is dead and the only family I have is my sister's daughter.

### *Music*

Fernández: María left Guatemala after a series of deadly attacks against her family over a land dispute. A local gang in her rural town killed her mother in front of her when she was a teenager. Years later, in 2013, they murdered her dad and sister.

María: *Como yo me corri es como no me mataron en ese día cuando a mi padre lo mataron.*

Translation: Because I ran, that's how they didn't kill me, the day they killed my father.

Fernández: She managed to escape and call the police. When she returned later that evening, she found her sister's eight-month-old baby near death, with blood in her mouth, her little legs bound. Since then she's raised her as her own daughter.

María: *Yo no sabía qué hacer con la nena porque yo nunca había tenido un bebe y para mi era muy difícil. Lo único que me quedaba era llorar con ella, cada vez que ella lloraba yo lloraba.*

Translation: I didn't know what to do with her, I'd never cared for a baby before, and it was very difficult. The only thing I had left to do was to cry with her. When she cried, I cried too.

Fernández: After her niece was taken away from her at the port of entry in Arizona, María learned the child was sent to New York to foster care. It was only later that she understood New York was a state more than twenty four hundred miles away.

María: *Sin ella siento que todo se terminó. Me siento muy sola sin ella.*

Translation: Without her I feel like everything is over, I feel very lonely without her.

Fernández: María panicked — fearing she might lose her niece forever. She thought that she would be deported and the girl would be adopted. The volunteers María met in Mexico rallied to help. They located her niece, and got an organization that advocates for children to arrange phone calls between them.

María: *Le dije que espero que muy pronto nos dejen salir a las dos. Pero ella está muy afligida porque ella piensa que ella ya no me va a ver a mí.*

Translation: I told her that I hope they would release both of us soon. But she is suffering because she thinks that she won't see me again.

Fernández: When they speak, María tells her niece that soon they'll be together, even if she doesn't know how.

María: *Es lo que ella anda pensando que ya no la quiero yo a ella. Pero yo le dije que sí la quiero, no es porque no la quiero que estoy lejos de ella.*

Translation: She thinks that I don't love her, but I tell her that I do. It's not because I don't love her, it's that I'm far away from her.

Fernández: They dream about a reunion.

María: *Con una varita mágica va a venir a mí para poder estar juntas. Me dice voy a desaparecer con la varita mágica.*

Translation: With a magic wand she will come so we can be together. She says she will disappear with the magic wand.

Joffe-Block: By the time María is detained in 2019, a legal fight against the system that keeps thousands of asylum seekers locked up indefinitely is growing. One person challenging asylum detention is a Haitian man named Ansly Damus.

Ansly Damus: *Hi!*

Joffe-Block: *Hi Ansley. This is Jude*

Damus: *How are you?*

Joffe-Block: *I'm good. We're joined by Philippe, who is a Creole speaker...*

We are speaking with Ansly through Zoom. He's a tall man in his 40s. Since he is still learning English we are joined by a Creole interpreter.

In Haiti, Ansly was a teacher and taught ethics. In 2014, during a seminar with students, he criticized a local politician for corruption. Later that day, an armed gang with ties to the politician threw a rock at Ansly, beat him up, and set his motorcycle on fire. Then he got death threats.

*Damus: Et puis, apres dix jours mwen oblige kite peyi ya. Mwen kite Ayiti avek ampil dlo nan je m parce que mwen kite deux pitit: yon fillette de quatre ans et yon garconnet de cinq mois.*

Interpreter: 10 days later, I had to leave Haiti. It's with tears I left my country. Leaving two kids behind. My little daughter, four years old. My little son, five months old.

Joffe-Block: And his beloved wife. Ansly first went to South America, and eventually made it to Calexico, where he presented himself at the port of entry in October 2016. He was taken into custody, and eventually wound up outside of Cleveland, in a windowless cell in the Geauga County Jail.

*Damus: Ce yon grand sal ki prend soixante moun. Ou pa ka oue soleil. Sa vle dire ce yon espace ki hermétiquement ferme seulement de l'air artificiel.*

Interpreter: It's a big room that can occupy 60 people...In this large windowless room with no ventilation and no fresh air, one could not see sunlight.... It was air conditioned however.

Joffe-Block: The jail had a contract with ICE to hold immigrants and asylum seekers. Ansly was shocked that this is what asking for asylum would lead to.

*Damus: Mwen pa oue pou ki reson pou yo fe moun saa pase kombien de temps nan prison prive de liberte.*

Interpreter: It does not make any sense to me that they would throw people who are looking for protection in jail.

### *Music*

Joffe-Block: If Ansly had arrived a few years earlier, it is almost certain he would have been released on parole — and would have been able to live freely while fighting his asylum case. Here's attorney Michael Tan.

Tan: Under the Obama administration, DHS put a directive in place about a decade ago called the [parole directive](#) that generally prohibits the detention of asylum seekers...



- Joffe-Block: The overwhelming majority of arriving asylum seekers were granted parole in the years immediately after the policy took effect.
- Tan: Because you know, there was just a recognition: it didn't make sense to lock up asylum seekers while they're fighting their cases. A lot of these people go on to win asylum. So are we putting them in jail?
- Joffe-Block: But as more asylum seekers started coming during the Obama administration, parole grants became less common. In early 2017, ICE denied Ansly's bid for parole. That same year, at the regional ICE office closest to Ansly, the new Trump administration also denied 98 percent of all parole requests from asylum seekers. The numbers were similar in other parts of the country.
- Not all [asylum seekers](#) have lawyers, but Ansly managed to get one. After he had been jailed for six months, his lawyer [helped him win asylum](#) from an immigration judge. The victory should have meant Ansly would be freed. But ICE appealed the ruling; and Ansly learned he'd have to stay in jail in the meantime — even though he'd won.
- Damus: Et puis, mwen te senti m affole d'esprit. Mwen te senti san ap monte nan nin m. Mwen monte yon kaban map rele.*
- Interpreter: And I started to panic. At that point, I felt like blood was coming out of my nose. I got on my bed and there was nothing I could do but yell.
- Joffe-Block: Ansly had no way to communicate with his family in Haiti. He prayed, and remembered Nelson Mandela.
- Damus: Li pase tete 27 ans nan prison. Apres sa li devenus president.*
- Interpreter: He spent 27 years in jail. And yet later he became president.
- Joffe-Block: Ansly won his asylum case a second time, but ICE appealed it again. Then an American couple in Cleveland Heights offered to help him try to get out of [custody](#).
- Melody Hart: We had a friend contact us, she's really involved in immigration and she asked us if we would be willing to sponsor an asylum seeker...So, we kind of looked at each other and said, yes, we would do it...we kind of felt it was, we were being called to do it.
- Gary Benjamin: We thought it was outrageous — un-American even — that Ansley had been locked up for, at that point 14 months. He had no contact with his family, no way to exercise, nothing really to do in this big dormitory room with no windows.

Joffe-Block: That's Melody Hart and Gary Benjamin, a couple in their 60s. They talked to us from their home. They agreed to be Ansly's sponsors, so he could live with them if ICE released him. Ansly told us it was a happy surprise the day Melody and Gary showed up to visit him.

Damus: *Youn nan bagay ki te plus interese mwen ce parce que yo te ekri mwen et yo montre m ki kantite moun kap priye pou mwen pou aide m kemben la foi.*

Interpreter: The thing that got to me is when they sent me letters and they told me, or it's not just them, there was a whole army who were praying for me and ready to help me. And I knew I was in good hands.

Joffe-Block: Melody and Gary formed a group called Ansly's Army .

Hart: They would send him cards and send him encouragement. And if we were gone, they would come in our place to visit [him](#) and talk to him.

Joffe-Block: But even with Melody and Gary as willing sponsors, ICE *still* denied Ansly's second parole request. At that point, Ansly became the lead plaintiff in an ACLU class action lawsuit challenging the Trump administration's blanket denials of parole to asylum seekers. In July 2018, Ansly's lawsuit got a [favorable ruling](#).

[NPR](#): A federal judge in Washington, D.C., has [ruled](#) that the Trump administration cannot arbitrarily detain people seeking asylum.

Joffe-Block: ICE was violating its own policies, the judge found. He ordered ICE officials in five regional offices, including Ansly's, to review each individual case to determine whether asylum seekers qualified for parole. Next, Ansly applied for parole a third time. His application included an ACLU petition with 27 thousand signatures calling for his release. And Melody and Gary assembled a packet of letters of support.

Hart: There are local officials like judges and council members and there were doctors...

Benjamin: We were looking to make it Bulletproof.

Joffe-Block: But ICE still said no. This time, ICE officials did submit the denial in writing. They checked 3 boxes on a form: Ansly had not proven he was not a flight risk, he had not proven he had substantial ties to the community, and he hadn't convinced ICE that if he got out on parole, he would still show up at his remaining immigration hearings.

Hart: And we were shocked because we thought we'd done everything possible to get them to agree.

Benjamin: And I think the phrase shocked, but maybe not so surprised. Cause that's the way they were acting towards asylum seekers.

Joffe-Block: Ansly, with the help of the ACLU, once again sued in federal court. This time it was a Habeas Corpus lawsuit that argued Ansly's detention was unconstitutional and asked a federal judge to release him. The federal government countered that Ansly was a flight risk with no ties to the US.

*Sound of bus ride.*

Joffe-Block: But all of Ansly's new friends were determined to prove otherwise. They drove three hours from Cleveland Heights to the federal hearing in Michigan.

Hart: We rented a bus and then we pack the bus with people from Ansley's army and people interested in the case. And we went up to Ann Arbor and packed the courtroom so that they had to bring in extra chairs because there weren't enough seats.

Joffe-Block: Their presence proved that Ansly *did* have ties to the community. ICE agreed to finally grant Ansly parole as long as he wore an ankle bracelet. He was released right around Thanksgiving 2018.

Photographers captured the moment as he hugged Melody and Gary and thanked his lawyers.

*VIDEO of Damus: (laughing) Thank you, thank you, I'm really, really, really happy.*

Joffe-Block: By then, he had been jailed for more than two years. He then lived with Gary and Melody, and recently moved into an apartment he shares with another asylum seeker. His asylum case is still unresolved, and he can't get visas for his family, so they are still in Haiti. He gave ICE his current address, and checks in regularly. He has a full-time job at a foundry.

*Damus: Pou mwen mim, jou Dimanche lan ce jou ke mwen off. Ce lheur saa mwen mim mal l'eglise, mwen vin parle avek fanmi mwen, asoue mwem prepare nourriture pou m fe semaine lan pou m al travay. Map etudie angle nan yon l'ecole secondaire.*

Interpreter: On Sundays I go to church.... I am taking an English class at a high school.

Joffe-Block: Attorney Michael Tan worked on the class action lawsuit Ansly brought challenging ICE's parole policies under Trump. He says the suit made a difference. It helped at least 3500 arriving asylum seekers get parole who might not have otherwise.

Tan: I can tell you overall parole grants went up after the court order. I mean they could only go up given that they were at zero at the time we brought the case. But compliance with the court order has been quite uneven.

Joffe-Block: The Trump administration has created other [hurdles](#) to getting asylum, though some efforts have been blocked by federal courts. They started forcing tens of thousands of asylum seekers to remain in Mexico until their cases were resolved. They even sent some people [to wait in Guatemala](#). And a new policy said asylum seekers who crossed a third country before getting to the US, had to apply for asylum there first. Federal courts have since struck down that [policy](#). But in the meantime...

Sarah Pierce: The numbers of people coming up to the Southern border to apply for asylum drastically decreased during 2019.

Joffe-Block: Sarah Pierce is a policy analyst at the Migration Policy Institute.

Pierce: And we do think that is because of the...set of [interlocking policies](#), the administration put into place at the [Southern border](#).

### *Music*

Fernández: Back in Arizona, at the Eloy Detention Center in 2019, María is feeling a similar despair that Ansly felt.

*María: Estoy muy deprimida. Muy ya. Ya no sé que. Ya tengo mucho tiempo encerrada.*

Translation: I'm very depressed. Very...I don't know what to do anymore. I've been locked up for so long.

Fernández: Her only escape is to sleep. But when she does...

*María: Siento como que alguien me va a atrapar.*

Translation: I feel like someone is going to trap me.

Fernández: She also worries about her niece living with a strange family in New York.

*María: Yo soy la única que la puedo cuidar mejor que otras personas.*

Translation: I'm the only one who knows how to take care of her, better than anyone else.

Fernández: Her only way to reunite with her niece is to fight for asylum. Like Ansly, María needs an attorney. But she can't afford to pay for one.

Sean Wellock: Almost literally every attorney, or at least literally every attorney we spoke to who is in Arizona said we are at capacity: we have cases, many cases, just like María's. We want to take this case but we have exponentially more clients than we're supposed to have.

Fernández: Sean Wellock is a brand-new immigration attorney who heard about María's case from volunteers. He initially agrees to just give legal advice, but ends up taking on the case pro bono because no one else will. He is disturbed by how much tragedy María has endured.

Wellock: I kept expecting to find out at some point, "wait, ok, ok there's been a misunderstanding, everything we thought we knew about the facts is wrong or there's some massive deception here..." But the more we talked to her, the more we were: This person's been put through hell and she needs help.

Fernández: So Sean, along with his associate German Herrera, apply for asylum for María. María faced death threats in Guatemala, and the immigration judge explains in his ruling she is credible. But he denies her asylum request.

María: *No quiso darme el asilo. No se porque.*

Translation: He didn't want to grant me asylum. I don't know why.

Fernández: Asylum is only available to people who can prove they fit into certain categories — like persecution on religious or political grounds, or for belonging to a specific social group. The judge doesn't think María's situation fits within the very narrow application of asylum laws.

María: *Me sentí muy triste porque a pesar de todas las cosas que me han pasado no me quiso dar el asilo...*

Translation: I felt very sad that despite all the things that have happened to me he didn't want to give me asylum...

Fernández: Her attorneys think she still has grounds to appeal. That leaves María with a difficult decision. She can decide to appeal the judge's ruling and ask for parole, on humanitarian grounds, so she can reunite with her niece ...or, if she can't stand waiting and being detained any longer, she can choose to be deported. It's overwhelming for María to make up her mind.

María: *Pues he decidido que sí la voy a apelar voy a hacer todo lo posible solo por la niña...porque yo no quiero perder la única en mi familia... Voy a hacer toda la posibilidad por ella...*

Translation: I've decided I'm going to appeal because I want to do as much as I can for the girl...I don't want to lose the only person I have in my family.

Fernández: Her attorneys ask for her to be released on parole, and María waits anxiously for ICE's decision.

*María: No sé si me va a dar parole el oficial de deportación.*

Translation: I don't know if the deportation officer will grant me parole.

Fernández: Things start looking up when a stranger volunteers to sponsor her.

Anita Romero: I figured we have the room for her and her daughter and I called my husband. And then I called my mother and asked, I told them about the story and, and it was, you know, an overwhelming: Yes. Ever since.

Fernández: Anita Romero, a retiree in New York, heard volunteers were collecting letters of support to convince ICE to release María but she wanted to do more. And just like Melody and Gary had hosted Ansly, Anita will house María if ICE agrees to let her out.

Romero: I sent her some photos of the family and told her, we're all waiting for her, you know, for both of them anxiously and, and, um, that seems to really bring her spirits up.

Fernández: Anita's grandparents are from Puerto Rico. She tells us that she has spent her life working with underserved communities. Anita also speaks Spanish so she's able to talk on the phone with María. Despite Anita's offer to sponsor her, María is denied parole.

Romero: Her heartbreak became our heartbreak and you know, it took, it took, a month or so, you know, while she processed it and, and, made her decision about whether to press forward. And I'm so glad she did decide to keep on fighting.

Fernández: By December 2019 supporters of María and her niece collect [letters and petitions](#) calling for María to be released and reunited with her niece. But ICE denies her parole for the third time.

*Sound of press conference.*

*Kelli Butler: Hi everyone. And good morning. I am Kelli Butler from legislative district 28 in Phoenix, Arizona.*

Fernández: It's a sunny day right before Christmas and lawmakers and clergy hold a press conference outside the Arizona State Capitol to ask ICE to reconsider María's

parole request. Then James Pennington of First Congregational United Church of Christ takes a turn at the podium.

James Pennington: They are causing further pain, trauma, mental, physical, spiritual health issues that will extend far beyond just this moment in time. This is the definition of inhumane treatment.

Fernández: ICE's position doesn't change. María's attorneys use some of the same arguments in Ansly's court ruling to get María released. Basically, they ask for ICE to review her individual circumstances to make a decision.

We talk to veteran immigration attorney Suzannah Maclay, who joined María's legal team pro bono.

Fernández: *(interview) What was the rationale for ICE to deny her parole?*

Suzannah Maclay: It was a form letter and they had checked two boxes on the form letter and the first box, it was, you know, we're denying your parole request for, you haven't shown that you're not a flight risk and you haven't shown that your release would be in the public interest. It's exactly the same form letter that they gave us for the last two requests.

Fernández: We ask ICE to explain the reasoning behind the parole denial. In response, ICE's spokesperson, Yasmeen Pitts O'Keefe sends us a statement reciting the facts of the case, but no explanation as to why María was turned down.

Fernández: María's next step is to appeal, we ask Suzannah how long the appeal process could take.

Maclay: Well, the appeal could be anywhere from 60 days to over a year, two years. It's very hard to say.

Fernández: There is one more option though. María's attorneys prepare to file a habeas corpus petition, that's the same type of federal lawsuit that helped Ansly get out of detention. Basically, they want to argue that María's prolonged detention is violating her constitutional rights.

María spends Christmas and New Years in detention, away from her niece. She says they gave her a bar of chocolate and a Pepsi, and afterwards they were all in lock down.

Joffe-Block: By January, it's been 10 months since María has been in custody and away from her niece, so we visit her at the detention center.

*Ambient sound of car.*

*Fernández: There it is, so visitor parking, attorney parking... We go left there right there, right -*

*Joffe-Block: For visitors...*

*Joffe-Block: It's a Saturday, early morning. The Eloy Detention Center is ribboned with uninviting concertina wire and doesn't look any different than a prison. It's actually run by CoreCivic, the largest private prison corporation in the US. They have contracts at all levels of government for more than 45 [facilities](#), including county jails, federal prisons, and immigrant detention centers. In 2019, [CoreCivic](#) revenue was nearly \$2 billion dollars.*

*Fernández: She should be expecting us, cause we set up this interview through the official process, the channels with ICE, but unfortunately we've been told we can only bring a pen and pad.*

*Joffe-Block: And no recorder, so this is the moment when we're going to shut this recording off and pick back up, once we see María.*

*Sound of car doors slamming.*

*Joffe-Block: We're back at the car. We just visited with María.*

*Fernández: We were allowed to shake hands with her, she was uncuffed, wearing a green uniform and black shoes and her hair was pulled back*

*Joffe-Block: She thanked us for coming and, and we sat across this table from her, in this little tiny room on these blue plastic chairs.*

*Fernández: María told us that she, um, had a conversation over the phone with her attorney and she told him that she really wants to be deported.*

*Joffe-Block: María's lawyers had planned to file the habeas corpus lawsuit in the hopes of getting her out. But María tells us she can't stand being in detention any longer. She says the food makes her sick, the guards are harsh and racist, there are fights in her pod and she is often locked-down in a tiny cell.*

*But most of all, María tells us she thinks deportation at this point is the fastest way to be reunited with her niece. Her plan is to stay in Guatemala with a friend she met in detention.*

*(sound of phone call) Automated call...press one. Oprima una para aceptar la llamada, para no. Gracias por usar Telmate.*

*Fernández: Ten days later I get to talk to María on the phone from Eloy. I ask her how she is.*



María: *Pues, aquí. Siempre.*

Translation: Well, I'm here. As always.

Fernández: I ask her about her decision to be deported.

María: *Porque como los jueces, y los ICE, saben que estar encerrada aquí es un lugar feo entonces se lo tratan de negar y negar uno para que uno decida deportarse. Eso es lo que ellos quieren que se deporte uno.*

Translation: The judges and ICE know that you're locked up in an awful place. That's why they deny you and deny you so we decide to deport ourselves. It's what they want, for you to deport yourself.

Fernández: María's deportation flight is scheduled for March 11, 2020 almost one year after she and her niece had asked for asylum. That day, the World Health Organization declares a worldwide pandemic due to [COVID-19](#).

Immigrants and asylum seekers in ICE custody panic that they will get sick. I speak to dozens of men detained down the road from the Eloy Detention Center, at the La Palma Correctional Center.

Wildredo Tamayo: *Yo mande la solicitud de parole y me la denegaron.*

Translation: I sent my parole request and it got turned down.

Fernández: Wilfredo Tamayo is a Cuban asylum-seeker with asthma. He is one of at least eight men I speak to who tells me he was denied parole before the pandemic, and is denied again after COVID-19. It's the same obstacles Anslly and María faced, but now the stakes of staying detained are even higher.

In response to the pandemic, the head of the [CDC issues a ban](#) that closes the border to some categories of immigrants. [Asylum seekers](#) who attempt what María and her niece did — walk up to a port of entry and ask for protection — now are typically turned away or [flown back](#) to the countries they fled.

Pierce: The asylum system at the Southern border is effectively shut down.

Fernández: Sarah Pierce from Migration Policy Institute again.

Pierce: The Trump administration has used the pandemic as an opening to accomplish more [on asylum](#) in just one move than they could have done in years.

*Sound of stereo.*

Niece: *Hola, mami.*

María: *Hola, nena.*

Niece: *Quiero muchos juguetes!.*

María: *Y cual es el juguete que te gusta.*

Joffe-Block: That's María and her niece back in Guatemala talking about all the toys the child wants. It's mid-August and it's been five months since they were reunited at the airport and deported together. María keeps in touch with us and her friends via WhatsApp.

María: *No se encuentra trabajo acá todo está cerrado por la cuarentena. Están cerrados los restaurantes, todos. Está todo cerrado, y la pandemia no se quiere quitar.*

Translation: There's no work here, everything is closed because of the quarantine. The restaurants are closed, all of them. Everything is shut down, and the pandemic doesn't want to go away.

Joffe-Block: Days after she arrived, Guatemala's president ordered a [lockdown](#). Large parts of the [economy](#) were closed, she was lucky to find a temporary place to stay with her friend. She tried to bring a sense of normalcy to their new life together. During their first days they went to church, they went to eat Guatemala's classic Pollo Campero. They celebrated the girl's 7th birthday.

María: *¿Quieres estudiar? ¿Te gusta? Te gusta mucho la escuela?*

Niece: *Mmh..*

María: *Y qué quieres hacer?*

Niece: *Pintar y dibujar.*

Fernández: Her niece really wants to go to school, even talks about becoming a doctor one day.

Fernández: But schools are all closed.

Niece: *Doctora!!*

María: *Le estoy enseñando palabras cómo se unen las palabras para que ella, cuando vaya la escuela, ya no le cuesta mucho leer. Ya no le cuesta mucho aprender, así como me costó mucho a mi.*

Translation: I'm teaching her words, how to join words together so when she goes to school it won't be hard to read, it won't be hard to learn, like it was for me.

Fernández: María taught herself how to read during all those months in the Eloy Detention Center, and now she is teaching her niece.

María: *El encierro, bueno, fue una escuela privada para mí, en una escuela privada, que es donde fui a aprender a leer.*

Translation: Detention was like a private school for me, where I learned to read.

Fernández: María says she is relieved to have left before COVID-19 hit the Eloy Detention Center. But she fears being back in the same country as the gang that tried to kill them.

María: *Mami, me dice, ¿porque nos mandaron de regreso a Guatemala?*

Fernández: Her niece asks: Why did they send us here.

María: *Sí aquí es muy peligroso, me dice...es muy malo este lugar, porque nos mandaron de regreso. Yo le digo que fue la decisión del juez él era que tomaba la decisión, no era mía por eso nos regresaba...Yo le digo no va a pasar nada. Me dice, pero mami pero no quiero que te pase algo porque no quiero quedar sola, me dice...Y yo le digo que no va a pasar nada, todo va a estar bien. Pero ella me dice, Mami, yo no quiero perderme de ti, me dice, no quiero quedarme sola.*

Translation: She says, Mami, why did they send us back to Guatemala? It is too dangerous here, she tells me. It's a bad place. I tell her it was the judge's decision. It wasn't mine. I tell her everything will be OK. But she says to me, Mami, I don't want anything to happen to you, I don't want to wind up alone.

Fernández: María always tries to explain but it's hard. Now that she is homebound, because of the pandemic, it reminds her of being in detention. But it's completely different. She has what's most important right next to her: her daughter.

### *Music*

Miller: The number of people in [ICE custody](#) has fallen by more than half compared to a year ago. Apprehensions are down. Because new asylum seekers are turned away and border crossers are expelled, fewer people are going into ICE custody. And ICE did release some people due to the [pandemic](#), others got out due to federal lawsuits. But fears about the virus spreading in these facilities have come true.

By early September, more than five thousand detained immigrants had tested positive for [COVID-19](#). Six died. And the people still detained include nearly 3,000 asylum seekers — people who came here hoping for protection.

Valeria Fernández and Jude Joffe-Block reported this episode. Some of the reporting originally appeared in the Arizona Center for Investigative Reporting and The Guardian. Some audio from the Ansly Damus section came from an ACLU video available on [YouTube](#). Thanks to Eline Gordts, Brandon Quester, Philippe Pardo, Grecia Ortiz, Yasmeen Pitts-O’Keefe, Emily Saunders, Ana Adlerstein, Nujavi Ramirez, and Francisco Flores.

Thank you for listening. For more information, toolkits, and to download the annotated transcript for this episode, visit [70millionpod.com](#).

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