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Crossing Borders: The Journey of A Transgender Asylum Seeker

The Nightmare Started from There

Ishalaa Ortega arrived at the Otay Mesa Port of Entry at the border of Tijuana and San Diego around 2 a.m. on a balmy Friday in July 2013. She was wearing a black shawl over a melon colored dress with a black belt. The dress went over her 6 ft frame down to her knees over her black fishnets and black high heels. That was one of Ortega's more comfortable outfits. "I thought the nicer I looked, the better treatment I would have," she says.

"I looked so nice," recalls Ortega longingly, before giggling. "Whatever," she continues flippantly. She still has the dress.

For weeks someone had been leaving threatening voice mail messages on her home phone in Tijuana. Those threats had escalated and become physical. After an attack leaving a meeting with an LGBT activist group in downtown Tijuana, Ortega knew she had to start thinking about leaving again. Though she felt scared and depressed after the attack, she had obligations in Mexico. She had a show scheduled in Mexico City. She was scheduled for a press conference. It was Pride month, after all.

After over a week, Ortega's anxiety returned when she went back to Tijuana. She closed her small internet cafe business that she ran outside of an extra room in her house. She had an ex-boyfriend take her car. She called a friend that night and said she needed a ride. She didn't tell him where they were going until they were on their 35-minute drive to the border.

"As soon as I got there, I asked for the asylum," says Ortega. "[Border patrol agents] put me in a little room, they checked me out. They [examined] me everywhere and the nightmare started there. A big one."

Ortega was escorted to a waiting room. The room was situated like a theater with chairs facing a television screen, though the TV was off. A receptionist sat in front of the crowd of about 20 people seated in the chairs. On Ortega's right was a solid wall, on her left were about six computer stations. Because it was the middle of the night, only two border administrators were there to take information. Ortega's was told to sit at the front with the receptionist in front of everyone, both families and individuals who had either surrendered themselves at the border, or who had been caught attempting to cross without documentation. Ortega stood out due to her heavy makeup, black heels, and the black

shawl over her bright mango dress. Others were dressed in shorts and jeans—more comfortable clothing to make an escape to the United States.

“Come with me, everything will be all right,” a female officer told her.

The officer took Ortega into a room for a strip search, for which they brought in a male guard. The female officer stayed as she was strip searched. They made her remove her heels and her black wig. Ortega’s own hair had once reached down to the middle of her back, but when she had begun receiving death threats, she cut off her hair in an effort to be unrecognizable. “Short like a man,” she says.

Ortega was brought back to waiting room where other asylum seekers were provided rubber mattresses that were only slightly thicker than a yoga mat. Ortega received no such luxury. She sat at the intake desk while others were sleeping. Officers gave her no reason for the special treatment. Ortega figured this was the best policy they could come up with to dealing with transgender immigrants.

Transgender Women in Detention Facilities

It’s difficult to determine just how many trans detainees come through the Mexican/U.S. border in any given year. According to the Transgender Law Center, statistics documenting how many trans Mexican asylum-seekers is difficult to determine because of fear of persecution based on gender identity. For similar reasons, there are no statistics for the trans population in Mexico.

San Diego-based sociologist Nielan Barnes has testified in over 50 transgender rights cases in the past 10 years. Her research mostly focuses on violent backlash when LGBT people receive new rights.

According to Barnes, about 5 percent of US asylum claims are based on persecution due to gender identity or sexual orientation, and she cites a 2013 report from the Williams Institute that estimates about 267,000, or 2.7 percent of adult undocumented immigrants, identify as LGBT.

Immigration Equality, a New York based LGBT immigrants rights organization, has served over 800 migrants in 38 states within 2015 alone.

According to the most recent numbers from the Department of Justice, of approximately 3,200 transgender people in jails and prisons, 40 percent of surveyed transgender prisoners reported that they had experienced sexual abuse. By comparison, only 14 percent of gay, lesbian and bisexual prisoners report sexual assault and only 3.1 percent of heterosexual prisoners report the same. While these numbers are not specifically for immigration detention facilities, those facilities are included in this data they’re the closest numbers we have for these cases.

Until this past year, transwomen were generally classified by their assigned birth gender, which means they were housed in men’s facilities. This has led to violence and mistreatment. Trans women have reported to Human Rights Watch incidences of male guards subjecting them to unnecessary strip searches, substantial use of solitary

confinement as a disciplinary tool or for protection, and frequent denial of medical attention.

Immigration and LGBT activists have also widely criticized the medical care available in detention. Transgender detainees have reported being subjected to the same lack of treatment. The Inspector General suggested in a 2015 study that medical screenings at the facilities are not always conducted by properly trained personnel. In the HRW report, trans detainees reported difficulty accessing gender-affirming hormone replacement therapy. According to the World Professional Association for Transgender Health, lack of access to hormone replacement can be a medical necessity that could lead to depression, dysphoria or self-harm.

Ortega's Life before the US

"I never came out as nothing," Ortega says over the phone, when asked when she came out as trans. "I've been dressing up as a woman as long as I can remember."

Ortega later clarified that she wasn't in an environment that allowed her to dress in women's clothes on a daily basis, but everyone perceived her as a gay person from a young age. "I always had this femininity," she said.

"When I was very young, I heard my father say that if I was a fag he would hang me from a tree."

Trying to hide who she was caused her to attempt suicide by drowning at 7 years old. Although her family rescued her from the attempt, Ortega began to hide her nature even more. When she was 12 years old she read a translation of a book about the Stonewall riots, the rebellion against a police raid of a gay bar in New York in 1969 that set off the modern gay rights movement. The book allowed Ortega to identify the way she was feeling and why she was different.

Ortega was born in Tijuana, Mexico. She will only say she's over 30, and doesn't give her birth name as she feels it's not necessary and may subject her to ridicule within the LGBT community.

"I don't want anyone to call me my [birth] name in public at any moment," she says. "When I am walking on the street or something and someone comes up to me and says 'you're not this one you're that one is going to trigger me,'" she says.

When she was six years old, her family moved to Sinaloa a state almost 1,000 miles from Tijuana in the state of Baja California. where she went to school through high school and then started a career as a apiculturist, or beekeeper and first saw signs of public hostility and violence toward her gender non-conformity. Her parents separated when she was a teen, and she moved to Chihuahua with her aunt, where systemic violence was even worse.

"If you for any reason dressed like a girl, you were automatically put in jail," Ortega recalls. She went back to Tijuana in 2000 where she was stopped by the police specifically because she was dressed as a woman. They handcuffed her, threw her in the back of their truck, and jerked the car as they were driving to brutalize her.

“That was the first real shit that happened to me,” she said. While she was being jerked around in the back of the police van, Ortega says she barely had time to think anything, she just felt the physical pain.

In 2001, Ortega traveled for three days through the desert from La Rumorosa, Mexico, to cross into California. She began living as a woman on a daily basis the first time in San Diego by March of 2003. That month on a Friday night after performing a drag show at a local bar she was approached by two men in Vista, California, who hit her in the head with a hammer. She immediately lost consciousness and woke up in Fallbrook, a city 26 minutes away by car, later that night in a lemon farm, lying on the floor of the car. The two men forced Ortega to fellate them. She was wearing pantyhose and a bodysuit that the men couldn't figure out how to open as she lay over the front passenger seat. While she was performing oral sex on the assailant in the driver's seat, the other was outside the car with the passenger door open struggling to undress her.

“Hurry up,” said the assailant who was outside the vehicle.

“Let me finish and then we'll kill him.” was the accomplice's response.

“I cannot translate everything they said,” Ortega says. “I can only tell you that whatever they said was with God behind it,” meaning they felt there was a religious defense to their actions.

When one of them pulled a gun, Ortega's fear pushed her to fight back.

Grabbing a hammer from one of her assailants, she swung it at them and ran.

She ran barefoot through a forest of palm trees before falling into a nest of palms and puncturing her inner thigh on a palm. It went through her skin. She got up and kept running until she found help with a local friend.

Because Ortega was undocumented, doctors wouldn't treat her at the hospital until the police arrived. She sat in the ER for 12 hours being questioned by officers, who asked if she had AIDS, if she was undocumented and if she was a prostitute.

When Sergeant Nelson Prosper finally arrived at the hospital, he was polite and helpful. His policy was to not to report a victim to immigration. She was finally able to file a police report.

Sergeant Prosper drove Ortega to the scenes of the crime and bought her a burrito on the way, the first thing she had eaten since the attack. The police department requested that she stay in Vista while the investigation was ongoing, but when they didn't find the perpetrators, Ortega moved to Las Vegas.

Ortega arrived in Las Vegas to pursue a performance career. After working at one club performing and doing makeup for a year she realized she wasn't going to fit in because she wasn't a partier and she didn't do drugs. She was lonely, homesick and felt just as vulnerable to attack. Ortega returned to Mexico.

“If I cannot be myself here, [or] in Mexico, I prefer to not be myself in Mexico where I can at least see my family.” She resolved. Ortega went home and presented male, to work, wore men's clothing and began a relationship with a gay man.

“I had to leave my femininity out and start working as a man. I had a relationship as a gay guy and I dressed up sometimes for shows that fulfilled me,” Ortega says.

“I did that for seven years. Until I could *not* do it again.”

She moved to Mexico City in 2011 after a series of LGBT friendly laws were passed, laws that, according to Ortega, did not affect real change for trans people. In

2009, Mexico City's Legislative Assembly legalized same-sex marriage, adoption for same-sex couples, inheritance laws and sharing of insurance policies. She spent a year there before returning to Tijuana.

In June of 2013, Pride month was approaching and Ortega had become a poster child for LGBT rights in Tijuana and had been receiving threats regarding her outspoken trans activism. In the same month, Ortega was invited by the United States Consulate in Tijuana to discuss the effects of LGBT rights on Northern Mexico. Ortega refused to meet at the Consulate because she had appeared on television and on the news there. People knew what she looked like. Because the threats had now been appearing on her answering machine, she was afraid to be seen any place where she had appeared publicly as an activist.

The representatives from the consulate agreed to meet with her at the offices of one of the organizations she worked with, which was downtown and closer to her home. When the meeting was over, at around 9 p.m., she began to walk home. She had her earbuds in and someone walked towards her. She could hear him yelling over the music on her earbuds so she took them off to hear him better.

"I took my earbuds out and I heard him saying the same thing I was being told through my phone calls: "Te voy a levantar or "I'm going to pick you up."

The phrase in colloquial Mexican Spanish has threatening implications: "The meaning is "I'm gonna pick you up and whatever place you are, put you in a truck, kill you, and wrap you up with a blanket and throw it away," said Ortega. They also threatened genital mutilation. Mostly equivalent to "I'm gonna fuck you up" or "I'm gonna make you disappear," said Ortega.

Shortly after the attack, Ortega had to fulfill obligations related to her theater and activism work that took her to Mexico City, a city where the tourism industry paints as a safe mecca for LGBT people. Ortega was there for about two weeks before she returned to Tijuana, where her anxiety about the attack made her lock all her doors and . She spent two days doing intensive research on her computer at home about how to seek asylum in the US. Because she had helped other trans people seek asylum doing her activist work and could read English, the process was easy for her to understand. Still, she knew that applying for asylum would be an arduous process and might involve detention.

"I heard horror stories about people staying in detention for years," Ortega says. "But that was the only option that I had."

Mexico City, A Gay Mecca?

The earliest strides in gay liberation in Mexico were when sodomy acts were decriminalized in 1971. Since the emergence of the LGBT movement in the country in the early 1970s, pride parades have been celebrated. In 2007, the government amended Article 1 of the Federal Constitution prohibiting discrimination and major cities perform same-sex marriages. It sounds like a nice liberal and safe space to be LGBT.

However, according to a 2016 report from the Transgender Law Center, "Violence and discrimination against the LGBT community remains pervasive throughout Mexico. Legal recognition of same-sex couples has increased societal awareness of the LGBT community and made LGBT people much more visible.

Ironically, increased awareness of LGBT people appears to have produced significant backlash.”

The same report states that there are six factors that lead to the violence against trans women. (1) Family Rejection (2) Gender-based violence—violence against women is prevalent (3) An 83 percent population of self-identified Roman Catholics (4) Economic Marginalization (5) Lack of gender-affirming documents--also making the task of identifying the population of trans people in Mexico difficult and (6) Lack of adequate health care due to fear and prejudice from healthcare professionals.

“The irony is that the backlash is really about same sex marriage legislation and the high visibility announcement by the supreme court in Mexico last year as well as the shooting down of DOMA here in the US,” says sociologist Nielan Barnes. Essentially, as trans people become more visible, violence against them increases..

The Transgender Murder Monitoring Project has been keeping statistics on anti-trans murders since 2005. This year has been the deadliest for trans people—Brazil has the most murders counted, at 689, followed by Mexico with 194 and the US with 108.

“I do believe it is something we can link to the higher visible nature of sexual minority issues in the public eye around same-sex marriage. Sadly, same-sex marriage does not benefit transgender individuals. It’s not their issue,” Barnes says.

“There Is No Space for Us”

Ortega sat in the front of the room at the intake center for two days. She would lean on the wall on her right side to get some sleep. The next night, for the first time in 36 hours, officers allowed Ortega to lay down. She slept for about an hour before they woke her to move her to a new facility. They handcuffed her, put her in a van to a second port of entry to pick up more migrants, they drove her 15 miles to a San Diego Correctional Facility, owned and operated by the Correction Corporation of America which is both a federal prison and a immigration detention center. A general facility with prisons for male and female populations. Ortega was housed in the male facility. She thought she would be in the center until she was granted asylum or be let go because she didn’t have a criminal record. Ortega was wrong on both counts.

When they arrived, Ortega’s handcuffed hands had turned purple because they had been so tightly secured. Ortega saw an officer whom she perceived to be a lesbian, based on her short blonde hair and “butch” demeanor, and thought that the officer would be understanding enough to take off her handcuffs, as she was the only detainee who was still shackled.

The officer walked toward a second male C.O. who had transported Ortega’s group.

“Why is she still handcuffed?” she asked.

The male C.O. looked at her and laughed.

She returned to Ortega, uncuffed her, and walked away without saying a word.

The first thing Ortega did when she got to the all-male facility was take a shower. She was given her uniform, a blue jumpsuit, to indicate that she was a “low risk” for violence and went to fill out intake. They took inventory of her clothes and belongings and asked for her sexual preference and gender identification. When she said she was a trans person, the officer asked. “Are you afraid to be in the general population?”

“Yes,” replied Ortega.

“Don’t say that, because if you say that I have to put you in solitary confinement,” he said.

“That’s what they offered me as a safe space,” she said.

A report from HRW explains that extended stays in solitary confinement or other standard isolation practices can be traumatizing, but authorities say it’s a way to protect trans and other detainees from others.

“Because I don’t want to turn into a crazy person, I said no I’m not afraid of the general population.” Ortega says. “I didn’t want to be treated like a killer.”

Within the general population, there were three to four cells by the bathrooms where officers placed gay, bisexual and trans detainees. That’s where the cameras were.

But Ortega assumes that officials didn’t read the intake forms that identified her as transgender. She was placed in a cell with a non-LGBT detainee. If they’d read her forms, Ortega believes she would have been housed with another gay or trans person. The subject of her trans identity came up after three days with her first non-LGBT cellmate. Ortega confirmed that she was trans. Her cellmate suspected as much and he was understanding. He was released that week.

The second inmate was harder to get along with and he was moved within two days. The final person was a closeted detainee.

“If my life was sad and traumatic at that point, his past was horrible.” In the meantime, she made friends with four other gay and trans cellmates. They would go to meals and yard time together. In the third week, one of those trans detainees, Jessica, was released and went to say goodbye to Ortega. Her friend cried and gave Ortega a hug. An officer saw and asked why she was hugging “*him*.”

“It’s not he, it’s she. And she’s my friend,” Jessica told the officer.

When Ortega explained that she did identify as trans, she was ordered to move to an LGBT cell.

Ortega worked in the kitchen at the facility for one dollar a day. She ate unhealthy commissary food at night, the only food available between 5p.m. and 5a.m. Ortega’s sister in the United States put money in her commissary so she had a bit more than her one dollar a day for food. She fell into a deep depression from hopelessness and says she gained 40 lbs in the two months she was there, from a diet of chips, soda, off-brand kool-aid, meat by product and cornbread.

About a month into Ortega’s stay in the facility, she was asked who would sponsor her when she was out on bond. Her sister was a U.S. citizen so she gave the facility her sister’s contact information and officials reached out to tell her sister that Ortega could be released on bond. After another month, Ortega’s sister was able

to put a lien on her truck to pay the \$2,000 bond to get her out of the detention facility.

Policy for treatment of Trans Detainees

In order to seek asylum in the US, Ortega first had to prove that she was being persecuted in Mexico or facing torture. When a person is facing violence because of race, nationality, political opinion or membership in a social group they are eligible to seek asylum in the United States. Asylum seekers come to a border entry and declare that they are seeking asylum due to one of the aforementioned qualifications. The asylum seekers are put in detention centers until the court makes the final decision on their claim, or be deported for civil immigration violations. At the time of Ishalaa's detention, it was customary to house transgender detainees with their sex assigned at birth, which has proven to be dangerous for transgender people.

After a six-month agency Working Group that discussed specific issues of violence and seeking input from transgender individuals, U.S. Immigration Customs Enforcement issued their transgender care memorandum in July 2015. The memorandum declares that ICE "Will provide a respectful, safe and secure environment for all detainees, including those individuals who identify as transgender."

To paraphrase the updates highlighted by ICE: Data Systems: appropriate data systems will be updated to record an individual's gender identity, assisting the agency in data collection and informed decision-making, Identification and Processing: comprehensive officer training and tools will be provided to ensure an individual's gender identity can be identified early in the custodial life cycle to ensure care in accordance with the new guidance, and Housing Placements: the memorandum includes a voluntary ICE detention facility Contract Modification that calls for the formation of a facility-based multidisciplinary Transgender Care Classification Committee that will be responsible for making decisions related to searches, clothing options, housing assignments, medical care, and housing reassessments for transgender individuals

Jennicet Gutiérrez, a California-based transgender activist, heckled President Barack Obama during a speech given for LGBT rights in June 2015, a month before the memorandum was released, demanding that the administration change its deportation policies. Gutiérrez feels the ICE memorandum is political rhetoric, with no proof of success or implementation.

"On paper it looks nice but when it comes to practice, if we go outside of a detention center in Texas, Arizona, or California and wait for someone who identifies as transgender, you will hear the treatment they were receiving. Even if this memo [had been] released a year ago."

Gutiérrez wants trans people to be subjected to less humiliation within the system. She doesn't believe they asked the transgender inmates as ICE suggests. At press time, ICE has not returned requests for comment.

ICE is opening Prarieland Detention Facility in Avendano, Texas this month. The facility will house about 700 detainees, with a unit of 36 beds for transgender individuals.

The Work is Going to Be Harder

In January 2016, Ortega had her final day in court reviewing her asylum claim. She recounted her story again for the final time in the court before she was told she was granted asylum at which point she cried tears of joy.

“You’ve been through all of this, and this is when everything ends and a new beginning starts,” she says of her thoughts in the moment.

Her time since that new start has not been without challenges. She must present male in order to find work. Ortega applied as a trans person seven times, with no success. She now has a job as a cook at a high end hotel but must present male.

“It’s a price that I’m paying to not become a sex worker,” she says. “I’m paying this price, and in paying this price I mean not being myself 24/7, but at least I can be myself as much as I can.”

Ortega wants to eventually become an immigration lawyer, to help LGBT immigrants. To reach that goal, she needs her undergrad degree first. She’s studying theater at La Guardia Community College in Queens and volunteers with the Audre Lorde Project. Once a month she performs a drag show at a Mexican bar in the Village.

Although a wave of fear may have engulfed many in the immigrant and LGBT communities on Nov. 8 in the wake of the election of Donald Trump, Ortega is unwavering.

“As soon I knew he won Florida, I figured out that [Clinton] lost and I was like ‘my freaking shit,’” Ortega says, referring to election night. “The work’s going to be harder. Like a lot harder.”

Though she is concerned about the Republican majority in Congress, she remains as feisty and indelible as ever.

“I’m luckily to be legally in the United States. I don’t fear that much. Also, because I’m an activist, I know how to fight back. I’ve been through that many many times already,” she says.

Her life in New York has afforded her more stability and has renewed her faith in people. She was especially comforted by Mayor Bill de Blasio’s statements that he would protect the immigrant community in the wake of the election.

“I know that this person will do a lot of shit to our community. To everything that is not white and Christian, but there is a lot of us. I don’t feel like I’m all by myself with the world against me anymore,” she says.

“There is a lot of things that we can do, a lot of organizing we could do and a lot of fighting back that we could do. And it is going to be up to us.”