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THE HARROWING, TWO-YEAR DETENTION OF A TRANSGENDER ASYLUM SEEKER

By Murat Oztaskin October 31, 2019



In early June, officials from ICE took photographs of the transgender detainees at Cibola to share with the media. "It was a whole big lie," Alejandra Barrera said.

Photograph by Ron Rogers/ U.S. Immigration and Customs Enforcement via AP

The Cibola County Correctional Center, an Immigration and Customs Enforcement detention facility, is situated at the edge of Milan, New Mexico, about eighty miles west of Albuquerque. It sits behind a Shell gas station, cut off from the rest of town by a bend in I-40. Behind it lies an

expanse of the New Mexican highlands, mostly yellow grass and rusted conifers. Cibola is the only ICE facility in the country with a unit reserved exclusively for transgender women. The trans pod, as it's known, opened in 2017, and can house up to sixty people, though the population is usually around half that. In late June, twenty-nine detainees in the pod sent an open letter to a Phoenix-based advocacy group, Trans Queer Pueblo, reporting deficient medical care in the facility and abuse by its staff. The letter, which was written in Spanish, said that the medical staff did not provide proper treatment to individuals who are H.I.V.-positive, disabled, or in need of routine medical treatment.

Most of the pod's detainees signed the letter with their legal names—José, Gilberto, Edwin—and added their chosen names in parentheses—Yoselin, Ruby, Karla. Among the signatures was that of Alejandra Barrera. Barrera was one of the trans pod's first detainees. At the time of the letter, Barrera had been inside for more than a year and a half, the longest a trans detainee had ever been held at Cibola. Trans migrants spend an average of ninety-nine days in ICE custody, which is more than double the length of other migrants' detentions, a Center for American Progress report found last year. The long detention periods are primarily a result of the fact that nearly all trans detainees apply for asylum and must wait for immigration judges to rule on their applications. Under the Trump Administration, growing backlogs in immigration courts have slowed this process further.

During Barrera's initial asylum interview, a Department of Homeland Security official determined her to have a "credible fear" of persecution were she to return to her home country, El Salvador. Barrera also had a worsening medical condition, which was diagnosed when she arrived in detention. (She declined to specify for reasons of privacy.) Rebekah Wolf, one of Barrera's attorneys, told me that the illness is chronic, negatively affects Barrera's cognition, and, if left untreated, is likely fatal.

While Barrera remained in detention, she watched dozens of other trans migrants enter Cibola and be granted parole within months, sometimes weeks. Nearly all trans asylum seekers at Cibola are released on humanitarian

parole, and most are eventually granted asylum. However, in twenty-two months, beginning in November, 2017, Barrera was denied parole five times and denied asylum. The rulings by ICE, which administers parole, and the immigration judges, who decide asylum, baffled her lawyers. At the very least, she fell victim to Trump-era immigration policies and practices that were designed to limit all manners of entry into the country. She may also have been a casualty of bias and rank incompetence.

In late August, I met Barrera at Cibola, in a windowless room that I later learned served as the courtroom for her asylum proceedings, which took place via video conference with an immigration judge in Denver. During our conversation, she was poised, polite, and confident. She also appeared tired—not sluggish or drowsy so much as suffering from a kind of permanent fatigue. She spoke about growing up in San Salvador, her home country’s capital, and recognizing her gender identity early. “I am sure that, as of the moment I started going to school, that’s when I started developing that woman that is inside of me,” she told me.

Barrera, who turned forty-four in April, was one of eight children. Her mother became her main support system—though her mother “never really agreed with it,” Barrera said, referring to her gender identity. For decades, she kept her feelings secret. As an adult, she worked as a beautician, and later got involved in trans activism, educating members of El Salvador’s L.G.B.T.Q. community about disease prevention and visiting terminally ill AIDS patients in local hospitals. It was perilous work. “We were afraid of reprisals from the government, and also from conservative sectors,” she told me.

Barrera spoke steadily, often with her palms pressed together; her nails were unpainted and carefully manicured, descending in length from her thumbs to her pinkies. She punctuated her speech by regularly flipping her straight black hair, which reached down the length of her back. Her two front teeth were missing; I learned later that she’d had a total of six pulled while in ICE detention, which she described as the result of poor dental care.

Before fleeing to the U.S., Barrera was sexually assaulted by members of the

Salvadoran military and the transnational gang MS-13—which has roots in El Salvador—who targeted her based on her transgender identity and outspoken activism. Between 2013 and 2016, MS-13 members beat her five times, leaving scars on her face, scalp, and one of her legs. She told me that she loved her activist work, but, amid constant danger, and unable to find protection in local law enforcement, she feared for her life. In November, 2017, she journeyed to the U.S. border, with her niece Zulay, who is also transgender. They presented themselves to Customs and Border Protection officials at the San Ysidro port of entry, in Southern California, to request asylum. Twelve days later, they were transferred to the trans pod at Cibola.

VIDEO FROM THE NEW YORKER

The Company Offering Detained Migrants Freedom—at a Price

Wolf, now an attorney with the Immigration Justice Campaign, took on Barrera's case pro bono. At the time, ICE was administering blanket denials of parole for asylum seekers in its El Paso district, of which Cibola is a part. Anticipating a denial, Wolf did not apply for parole until June, 2018, when her client's medical situation worsened into what she called "an emergency." (A month later, a federal court blocked the practice of blanket denials, which had been occurring in five ICE districts, though news organizations have reported that the practice has continued.)

Cibola's medical staff claimed that they had been providing Barrera with appropriate treatment for her condition since her arrival at the facility, seven months earlier. Barrera and Wolf contend that, although Barrera's medical documents show that she was prescribed medication, she was never actually given it. In the hope of winning Barrera's release, Wolf requested that a doctor at the University of New Mexico's School of Medicine review Barrera's medical records and produce an affidavit. The doctor found that Barrera was administered two treatment courses in a four-month period, beginning in December, 2017, neither of which produced a "clinically satisfactory response." The doctor also concluded that the disease had likely begun infecting Barrera's vital organs. In the eighteen months since then, Barrera has received no specialized treatment for her illness.

In June, ICE denied Barrera's application for humanitarian parole, in part because it had denied Barrera parole once before, the agency said, and nothing in the current request adequately changed the circumstances of her case. Wolf was shocked. According to her records, this was Barrera's first parole application. Wolf inquired how Barrera could have been denied previously, and ICE sent her a rejection letter dated March 13, 2018. She came to the conclusion that ICE officials had fabricated the document. For one, the senior official who signed it wasn't in his position on March 13th. Furthermore, the day that ICE claimed Barrera had her original parole interview happened to be Wolf's birthday, all of which she spent with Barrera, mostly in court; there was no parole interview. (Barrera's first four parole-denial letters state three different dates for when this original parole interview supposedly occurred.) Wolf said that each subsequent parole denial was based, in part, on this fabricated document. Barrera has no criminal history in the United States and had multiple sponsors willing to take her in upon her release, satisfying two main criteria for parole. According to ICE's own rules, Wolf argued, Barrera should have been released. (ICE did not respond to requests for comment regarding Barrera's legal case.)

On the same day, Barrera learned that an immigration judge had denied her asylum claim. During her asylum hearing, in April, 2018, Barrera recounted

the abuse that led her to seek asylum. The government's attorneys, who were in Denver alongside the judge, noted chronological discrepancies between that day's testimony and what she had stated during her original asylum interview, in 2017. It is D.H.S.'s general practice to share the Department's notes from initial asylum interviews with asylum seekers, but Barrera and Wolf didn't receive the notes from Barrera's interview until after the evidentiary hearing was closed, five months later; as a result, Wolf couldn't contest the government's arguments. (A spokesman for U.S. Citizenship and Immigration Services, the D.H.S. arm that handles asylum applications, declined to comment on Barrera's case, citing confidentiality rules.)

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Echoing a position common among immigration attorneys and L.G.B.T.Q. activists, Wolf argued that Barrera, as a trans asylum seeker, should never have been detained in the first place. Despite the judge's doubts about Barrera's "credibility," Wolf told me, "everyone concedes that she is, in fact, a trans woman from El Salvador," one of the five most dangerous countries in the world for women, and where trans women have been consistently targeted. Transgender asylum seekers, particularly those from Central America, are a vulnerable population: they have "a higher rate of chronic diseases," Wolf told me, and "a higher rate of issues related to trauma than even the average asylum-seeker population." Zulay, Barrera's niece, was granted asylum during her hearing, which had occurred on the same day as Barrera's. Shortly afterward, she was released and taken in by an advocacy

organization in Phoenix. Barrera remained in detention.

ICE—which currently has more than fifty thousand migrants in its custody, an all-time high—records a detainee as transgender if that person identifies as such. At any given time, transgender detainees are held across some twenty different facilities, and, outside of the Cibola pod, trans women are likely to be housed with cisgender men, leading to outsized rates of sexual abuse. A letter sent to D.H.S. last year by thirty-seven members of Congress noted that, if each reported attack involved a separate victim, L.G.B.T.Q. migrants were roughly a hundred times more likely to suffer sexual abuse than other detainees.

Many trans detainees also require consistent access to health care, which detention centers largely fail to offer. ICE guidelines state that hormone therapy will be provided to trans detainees who are already receiving treatment when they are taken into custody, and that they shall receive “other transgender-related health care and medication based on medical need.” But Wolf said that “things like H.I.V. medication, epilepsy medication, and antibiotics for other kinds of chronic diseases are really hit or miss.” On September 25th, fourteen human-rights groups demanded that ICE release all L.G.B.T.Q. migrants in its custody and any detainees with H.I.V., citing the agency’s failure to provide adequate health care to these populations. “By the Department of Homeland Security’s own count, three hundred individuals identifying as transgender have been in [ICE] custody” in the past year, Roger Coggan, of the Los Angeles L.G.B.T. Center, said. “Lack of medical and mental-health care, including lack of H.I.V. care, is the norm.”

Earlier this year, a twenty-five-year-old trans woman named Johana Medina León, who was detained for more than a month at New Mexico’s Otero County Processing Center, was repeatedly denied medical treatment as her health “rapidly deteriorated,” according to a claim filed by her family against the federal government. Medina León, a nurse from El Salvador, who was H.I.V.-positive, eventually requested deportation, as a means to receive medical care. Shortly afterward, she was found unconscious in the ICE facility and taken to a hospital in El Paso, where she died, four days later, of

pneumonia. ICE has said that it granted Medina León humanitarian parole the same day she was taken to the hospital. (Before Medina León's death, Otero was the subject of a letter by the A.C.L.U. and other advocacy groups decrying the facility's treatment of trans women and gay men. It has also been at the center of a force-feeding controversy.)

Barrera told me that she routinely had to wait weeks, sometimes months, for Cibola's medical staff to answer or act upon her medical requests. When she did receive medical attention, she said, it often was "not . . . because I have requested it" but because someone else had intervened—namely, Wolf or Alma Rosa Silva-Bañuelos, the New Mexico program director at TransLatina Coalition, a national advocacy group, who counsels trans inmates at Cibola. Barrera recalled a time when she was vomiting, beset with migraines and nosebleeds, and experiencing extreme sensitivity to light—potential symptoms of a dangerous progression in her illness—for days on end. The Cibola medical staff didn't see her until a week and a half had passed, and only after Wolf and other advocates appealed directly to ICE. All told, Barrera had requested medical attention six times during that period. She told me that, on most occasions, the resulting treatment course was simply a ten-day supply of Tylenol.

Cibola is operated by CoreCivic, a private, for-profit prison-management company. For sixteen years, CoreCivic ran the complex as a federal penitentiary, but, in July, 2016, the Bureau of Prisons cancelled its contract, spurred by an investigation that found that gross medical negligence had resulted in the deaths of several inmates. Three months later, CoreCivic received its ICE contract for the same facility, rehiring, as Wolf told me, "a lot of the same guards." When I asked Barrera if she'd witnessed any abuse from the guards, she sighed. "*Muchas*," she said. She described how a Cibola guard pepper-sprayed the length of one of the pod's hallways, after two detainees were separated after a fight. It seeped into several of the detainees' unventilated rooms, including Barrera's; six of the women had to go to the medical ward for immediate treatment, and Barrera had to keep a moist washcloth over her mouth until the end of the following day, including to

sleep. She also described being denied water, because, she said, quoting a guard, she was an immigrant who does “not have any rights.” (ICE did not respond to requests for comment regarding Barrera’s medical treatment or the alleged abuse and neglect at Cibola.)

In early June, officials from ICE, which does not have a constant presence at the facility, took photographs and video of the trans pod to share with the media. They show the women watching television, playing volleyball in the yard, getting haircuts, meeting with asylum officers. “It was a whole big lie,” Barrera said. “They opened up the recreation area. They opened up everything. . . . We could be in the hallway, we could be in the barbershop, in the library. But, in reality, they really never have them open.” ICE told the women that the photos and videos were for internal purposes, and not for release—“so that we could look happy.” “That’s when all of us girls got united,” Barrera said, “and we started sending the letters.”

Barrera had been shy and withdrawn when she first arrived in detention. As the months passed, though, she began to assume a mentor role with the other detainees. Perpetually the eldest member of the Cibola pod, she was also by far the longest-serving. From that position, she became a source of support to other women, helping to orient new arrivals and advising them on how to advocate for themselves.

During our interview, she proudly produced original copies of letters that the pod had sent to various advocacy groups. On one such letter, Barrera’s was the first signature. “This is the continuation of my activism,” she said.

After ICE rejected Barrera’s initial asylum appeal, Wolf reached out to Tania Linares Garcia, a litigator with the National Immigrant Justice Center, a nonprofit. In January, Linares Garcia filed an appeal for Barrera in federal court. In June, the court granted Barrera a stay of removal, insuring that she could not be deported while her appeal was ongoing. It was the first legal breakthrough in her case. At that point, her lawyers filed another parole request to ICE, her fifth. The request, too, was denied. All the while, Barrera’s health continued to deteriorate.

In July, her legal team filed a petition for a writ of habeas corpus, which called on D.H.S. to defend, to a federal judge, the reasons for Barrera's continued detention. They expected that a judgment could take several months. But, on September 6th, Barrera was unexpectedly released on parole. That night, she was transferred from Cibola to ICE's Albuquerque field office, where she was greeted in the parking lot by Silva-Bañuelos, Wolf, and four former trans-pod detainees, all of whom she'd been inside with and three of whom now have asylum. They brought Barrera a bundle of flowers and a tres leches cake.

A week later, I met Barrera and Silva-Bañuelos at a small TransLatina Coalition office space on Albuquerque's east side. Barrera wore jeans, a gray striped T-shirt, and a large, blue-gray rosary. On her right ankle, above a blue cloth sandal, was a black monitoring bracelet. She described sitting alone after learning that she would finally be released, following twenty-two months at Cibola. After a little while, she told her best friend in detention. "We began to scream, and got excited, and we began to hug, and we cried," she said. "We went through all the emotions together." Soon, the whole pod rallied around her, congratulating her and celebrating the news. For months, Barrera had watched trans women whom she had mentored be released from Cibola. This time, it was her turn.

That first night, Silva-Bañuelos put Barrera up in a hotel. The following day, Barrera moved into the home of Silva-Bañuelos, who had offered to sponsor Barrera if she were granted parole; Barrera will live with Silva-Bañuelos, in Albuquerque, until her asylum case is resolved. On Barrera's third night in the house, Silva-Bañuelos organized a party for her, with around twenty people who had all, in some way, been involved with her case. The group grilled outside, mixed aguas frescas, and made pupusas, stuffed flatbreads native to El Salvador. It was Barrera's first opportunity to cook in nearly two years. She described the past week as pure happiness. "Now I finally have space. I have a bed I can sleep in. I have the things that I need—I have my privacy, one of the things I needed most," she told me. She was able to speak with Zulay, her niece, on the phone, too, a conversation she described as very sad and very happy—"both emotions coming at the same time."

Barrera's asylum appeal is pending in federal court. She said that the trauma of detention is still with her, may always be with her. But she described trying to channel it, to make it work to her advantage. "It will stay with me because that will be a motivation to go on fighting and fighting, so that there is no other Alejandra in detention," she said. "I have the opportunity to speak about what happened to me inside, and what's still happening to my *compañeras* inside."

On October 16th, Barrera travelled with Linares Garcia and Silva-Bañuelos to Washington, D.C., where she was invited to address congressional leaders at a panel on the dangers that trans migrants face in ICE detention. Wearing a bubble-gum-pink blazer atop a floral shirt, she read from a prepared statement. "I am here this afternoon because I want you to know about the inhumane conditions I was subjected to," she said. "Thank God nothing is forever."

Murat Oztaskin is a member of The New Yorker's editorial staff. [Read more »](#)

Video

Best of Luck with the Wall

A visualization composed of two hundred thousand satellite images shows the 1,954-mile stretch of land where Donald Trump promised to build his border wall.

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