



Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador

**United Nations High Commissioner for Refugees (UNHCR)
March 2016
HCR/EG/SLV/16/01**

NOTE

UNHCR Eligibility Guidelines are issued by the Office to assist decision-makers, including UNHCR staff, Governments and private practitioners, in assessing the international protection needs of asylum-seekers. They are legal interpretations of the refugee criteria in respect of specific profiles on the basis of social, economic, security, human rights and humanitarian conditions in the country/territory of origin concerned. The pertinent international protection needs are analysed in detail, and recommendations made as to how the applications in question relate to the relevant principles and criteria of international refugee law as per, notably, the UNHCR Statute, the 1951 Refugee Convention and its 1967 Protocol, and relevant regional instruments such as the Cartagena Declaration, the 1969 OAU Convention and the EU Qualification Directive. The recommendations may also touch upon, as relevant, complementary or subsidiary protection regimes.

UNHCR issues Eligibility Guidelines to promote the accurate interpretation and application of the abovementioned refugee criteria in line with its supervisory responsibility as contained in paragraph 8 of its Statute in conjunction with Article 35 of the 1951 Convention and Article II of its 1967 Protocol and based on the expertise it has developed over the years in matters related to eligibility and refugee status determination. It is hoped that the guidance and information contained in the Guidelines will be considered carefully by the authorities and the judiciary in reaching decisions on asylum applications. The Guidelines are based on in-depth research, information provided by UNHCR's global network of field offices and material from independent country specialists, researchers and other sources, rigorously reviewed for reliability. The Guidelines are posted on UNHCR's Refworld website at <http://www.refworld.org>.

Table of Contents

ABBREVIATIONS	3
I. INTRODUCTION	4
II. OVERVIEW OF THE SITUATION IN EL SALVADOR	4
A. BACKGROUND.....	4
B. STRUCTURES AND PATTERNS OF ORGANIZED VIOLENCE	7
1. <i>Levels of Violence</i>	7
2. <i>Armed Actors</i>	9
a) <i>Gangs</i>	10
b) <i>Smuggling Structures (Transportistas)</i>	18
c) <i>State Security Forces</i>	21
C. ABILITY AND WILLINGNESS OF THE STATE TO PROVIDE PROTECTION.....	22
1. <i>Overview</i>	22
2. <i>Trends in Internal and External Displacement and Returns</i>	26
III. ASSESSMENT OF INTERNATIONAL PROTECTION NEEDS OF ASYLUM-SEEKERS FROM EL SALVADOR.....	28
A. REFUGEE PROTECTION UNDER THE 1951 CONVENTION	28
1. <i>Persons perceived by a gang as contravening its rules or resisting its authority</i>	29
2. <i>Persons in professions or positions susceptible to extortion, including those involved in informal and formal commerce as business owners, their employees and workers, or as street vendors; public transport workers; taxi and mototaxi (tuc-tuc) drivers; public sector employees; children and adults who receive remittances from abroad; and certain returnees from abroad</i>	30
3. <i>'Informants', witnesses and victims of crimes committed by gangs and other organized criminal groups, or by members of the security forces</i>	32
4. <i>Family members, dependants and other members of the household of gang members or other organized criminal groups; inhabitants of areas where gangs operate; and others who are perceived to be affiliated with a gang</i>	33
5. <i>Gang 'traitors' and former members; criminal turncoats</i>	34
6. <i>Children and youth with certain profiles or in specific circumstances</i>	35
7. <i>Women and girls with certain profiles or in specific circumstances</i>	37
8. <i>Individuals of diverse sexual orientations and/or gender identities</i>	38
9. <i>Journalists and human rights defenders, especially those working on issues relating to organized crime and corruption</i>	39
10. <i>Teachers and educators working in public schools and educational institutions</i>	40
11. <i>Former members of the police and armed forces</i>	40
12. <i>Other public officials, especially those engaged in investigating or confronting organized crime, including judges, prosecutors and attorneys</i>	41
13. <i>Family members, dependants, other members of the households, and employees of persons falling within the previous risk profiles</i>	42
B. REFUGEE STATUS UNDER UNHCR'S BROADER MANDATE CRITERIA, UNDER THE CARTAGENA DECLARATION OR UNDER ARTICLE I(2) OF THE 1969 OAU CONVENTION AND PROTECTION ON OTHER GROUNDS	42
1. <i>Refugee Status under UNHCR's Broader Mandate Criteria</i>	43
2. <i>Refugee Status under the Cartagena Declaration</i>	44
3. <i>Refugee Status under Article I(2) of the 1969 OAU Convention</i>	44
4. <i>Eligibility for Subsidiary Protection under the EU Qualification Directive</i>	44
C. CONSIDERATIONS RELATING TO THE APPLICATION OF AN INTERNAL FLIGHT OR RELOCATION ALTERNATIVE	45

1. <i>Relevance of IFA/IRA</i>	45
2. <i>Reasonableness of IFA/IRA</i>	45
D. EXCLUSION FROM INTERNATIONAL REFUGEE PROTECTION	46

Abbreviations

ARENA	National Republican Alliance (<i>Alianza Republicana Nacionalista</i>)
B-18	<i>Barrio-18</i> . The B-18 gang is also referred to as the 18th Street Gang.
CEAR	Comisión Española de Ayuda al Refugiado
FMLN	Farabundo Martí Front for National Liberation (<i>Frente Farabundo Martí para la Liberación Nacional</i>)
IACHR	Inter-American Commission on Human Rights
IUDOP	El Instituto Universitario de Opinión Pública
LAWG	Latin America Working Group
MS	<i>Mara Salvatrucha</i> . The MS is also referred to as the MS-13.
ORMUSA	Organización de Mujeres Salvadoreñas por la Paz
PNC	Civilian National Police (<i>Policía Nacional Civil</i>)
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime

I. Introduction

Over the last few years, Salvadorian nationals have been seeking international protection as refugees in the region of the Americas and beyond in increasing numbers. These Eligibility Guidelines provide guidance on deciding claims for international protection lodged by Salvadorian asylum-seekers who fall within certain risk profiles or who find themselves in certain circumstances. The risk profiles outlined in this document are based on UNHCR's legal assessment of available country of origin information and informed by UNHCR's experience in working with asylum-seekers from El Salvador.

This document is based on information available to UNHCR up to December 2015, unless otherwise stated.

II. Overview of the Situation in El Salvador

A. Background

The increasing exodus of Salvadorians in search of international protection is rooted in the human rights, social, political and economic impact of the increasing reach, power and violence of organized criminal groups in El Salvador. The extent of the violence is reflected in the fact that the small and densely-populated country of El Salvador presently has the highest rate of homicides of any country in the world.¹ This surge of violence is driven by the activities of powerful rival and conflictive street gangs that operate across El Salvador and also by the severe response of the State security forces. At the same time, the influence of other organized crime groups, as well as widespread domestic and societal abuse of women and children, also fuels the flight of Salvadorians seeking international protection.

The origins of the current violence can be traced to the brutal civil war that affected El Salvador between 1980 and 1992.² This conflict produced over 70,000 deaths and widespread forced displacement³ in a population that today still only numbers just over six million.⁴ It contributed to the large present-day Salvadorian diaspora that is based mainly in the United States of America (USA) but present also in Italy and Spain. The 1992 peace accords between the government and the guerrilla army of the Farabundo Martí Front for National Liberation (*Frente Farabundo Martí para la Liberación Nacional* - FMLN) reintegrated the FMLN into civilian life as a political party, recreated the formerly highly militarized security forces under new civilian control, and introduced a raft of social measures.⁵ Despite positive advances since then, the legacy of conflict and poverty also provided fertile conditions for growing institutional corruption, the consolidation of organized drug- and people-smuggling structures, and the prevalence of violence committed by non-State actors.⁶

The violent street gangs in present-day El Salvador are a consequence of, among other factors, the deportations of Salvadorian gang members back from the USA to El Salvador. Through the 1990s and 2000s, deported gang members built up violent rival street gangs based on the Californian gang

¹ La Prensa Gráfica, *El Salvador con más homicidios en C. A.*, 3 January 2016, <http://www.laprensagrafica.com/2016/01/03/el-salvador-con-mas-homicidios-en-c-a>; Insight Crime, *El Salvador is the Most Violent Nation in Western Hemisphere*, 4 January 2016, <http://www.insightcrime.org/news-briefs/el-salvador-is-most-violent-nation-in-western-hemisphere>.

² UN Security Council, *From Madness to Hope - The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, 1993, <http://www.usip.org/sites/default/files/file/ElSalvador-Report.pdf>. See also UNHCR, *The State of the World's Refugees 2000: Fifty Years of Humanitarian Action*, 2000, <http://www.unhcr.org/3ebf9baf0.html>, pp. 121-131.

³ Although most displacement remained internal, the number of Salvadorian refugees peaked at approximately 304,800 in 1981: UNHCR, *The State of the World's Refugees 2000: Fifty Years of Humanitarian Action*, 2000, <http://www.unhcr.org/3ebf9baf0.html>, Annexes.

⁴ In 2014, the World Bank estimated the population of El Salvador at 6,108,000 people. See, World Bank, *Data: El Salvador*, <http://data.worldbank.org/country/el-salvador> (date accessed: 19 January 2016).

⁵ Chapultepec Peace Agreement, signed at Mexico City on 16 January 1992 between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional, http://peacemaker.un.org/sites/peacemaker.un.org/files/SV_920116_ChapultepecAgreement.pdf.

⁶ World Bank, *El Salvador: Estudio Institucional y de Gasto Público en Seguridad y Justicia*, 14 June 2013, <http://www.transparenciaactiva.gob.sv/wp-content/uploads/2013/05/Estudio-Institucional-y-sobre-Gasto-Publico-en-Seguridad-y-Justicia-El-Salvador-Banco-Mundial.pdf>.

model.⁷ Given the relative institutional weakness and corruption of the State in post-war El Salvador and social deprivation among former combatants and other Salvadorian youth, these gangs rapidly consolidated themselves in many poorer neighbourhoods and quickly spread throughout the territory of El Salvador. Most of these gangs are affiliated to one of the two main gang structures also imported from the USA, the *Mara Salvatrucha* (MS) - also commonly referred to as the MS-13 and - its rival *Barrio-18* (B-18) - also commonly referred to as the 18th Street Gang.⁸

During the 2000s, the Salvadorian State responded to the gangs' increasing territorial dominance and escalating violence and extortion by implementing a series of 'Firm Hand' (*mano dura*) policies based on increasingly repressive security measures. These began in El Salvador with the *mano dura* 2003 Anti-Mara Law, and were ramped up further with the 2004 'super' *mano dura* plan, a special regime giving the authorities greater powers to arrest and prosecute suspected gang members, with fewer judicial guarantees and harsher punishments.⁹ Yet the *mano dura* strategy demonstrably failed to eliminate or contain the gangs or to reduce the rising homicide rate. Instead this strategy is reported to have provided the impetus for gangs to become more organized and ruthless, whilst at the same time engendering among members of the security forces a lack of respect for the human rights of youth suspected of being gang members.¹⁰

In 2009, after 20 years of government by the right-wing National Republican Alliance (*Alianza Republicana Nacionalista* - ARENA) party, the left-wing FMLN party of President Funes was elected to power. This government reportedly sought to distinguish itself from the previous ARENA regimes by adopting policies that encouraged a more preventative and social approach to tackling crime and insecurity, including a focus on crime prevention and the rehabilitation of convicts.¹¹ However, the shooting and burning of a bus in Mejicanos on 20 June 2010, killing 14 passengers inside and injuring another 12, illustrated the gangs' growing power and brutality.¹² This widely condemned act was characterized by the government as an act of 'terrorism' by the gangs and prompted the adoption of a new 'Anti-Mara' law in September 2010 that remains in force today.¹³ The Funes administration also began investigating citizens and public officials linked to sophisticated drug-smuggling structures operating in El Salvador, such as *Los Perrones* and the Taxis Cartel, albeit with relatively limited success.¹⁴

In March 2012, the government and MS and B-18 gang leaders endorsed a truce pact that allowed 30 gang leaders to be transferred from maximum-security to less restrictive prisons.¹⁵ It is reported that

⁷ See also Section II.B.2.a below.

⁸ Sala Negra de El Faro, *La letra* 13, 8 August 2013, <http://www.salanegra.elfaro.net/es/201208/cronicas/9302>; Sala Negra de El Faro, *El origen del odio*, 6 August 2012, <http://www.salanegra.elfaro.net/es/201208/cronicas/9301/>.

⁹ Anti-Mara Law, *El Salvador: Ley Anti Maras*, Decreto No. 158, 22 January 2016, <http://www.refworld.org/docid/56a24ceb4.html>. This law was struck down as unconstitutional by the Constitutional Court. See also Special Law to Combat the Criminal Activities of Illicit Groups or Associations, *El Salvador: Ley para el Combate de las Actividades Delicuenciales de Grupos o Asociaciones Ilícitas Especial*, Decreto No. 305, 2 April 2004, <http://www.refworld.org/docid/56a24c624.html>.

¹⁰ Insight Crime, *Tracing the History of Failed Gang Policies in US, Northern Triangle*, 3 December 2015, <http://www.insightcrime.com/news-analysis/tracing-the-history-of-failed-gang-policies-in-us-northern-triangle>; Congressional Research Service, *Gangs in Central America*, 20 February 2014, <https://www.fas.org/sgp/crs/row/RL34112.pdf>; United Nations Development Programme (UNDP), *Regional Human Development Report 2013-14: Citizen Security with a Human Face – Evidence and Proposals for Latin America*, 2013, pp. 181-184, http://hdr.undp.org/sites/default/files/citizen_security_with_a_human_face_-_executive_summary.pdf; Insight Crime, *How "Mano Dura" Is Strengthening Gangs*, 21 November 2010, <http://www.insightcrime.org/investigations/how-mano-dura-is-strengthening-gangs>.

¹¹ See, for instance, Ministerio de Justicia y Seguridad Pública, *Política nacional de justicia, seguridad pública y convivencia*, 2010, <http://www.aecid.org.sv/wp-content/uploads/2014/01/Pol%C2%B4tica-Nacional-de-Justicia21.pdf?5b637b>; Ministerio de Justicia y Seguridad Pública, *Estrategia nacional de prevención de la violencia*, 2013, <http://www.aecid.org.sv/wp-content/uploads/2013/07/ENPV-Final-12-Nov-2012.pdf?5b637b>.

¹² *La Prensa*, *Pandilleros dejan 17 muertos en El Salvador*, 22 June 2010, <http://www.laprensa.com.ni/2010/06/22/internacionales/28721-pandilleros-dejan-17-muertos-en-el-salvador>.

¹³ Law Banning Maras, Gangs and Criminal Groups, Associations and Organizations, *El Salvador: Ley de proscripción de maras, pandillas, agrupaciones, asociaciones y organizaciones de naturaleza criminal*, Decreto No. 458, 10 September 2010, <http://www.refworld.org/docid/56a24bd44.html>.

¹⁴ BBC, *Los Perrones, el poderoso grupo criminal que pocos conocen*, 28 August 2014, http://www.bbc.com/mundo/noticias/2014/08/140820_el_salvador_perrones_transportistas_cocaina_jcps; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

¹⁵ El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>. See also, Latin America Working Group (LAWG), *El Salvador's Gang Violence: Turf Wars, Internal Battles and Life Defined by Invisible Borders*, 10 February

the national murder rate decreased by 40 per cent as a result of this truce pact, although the practice of extortion by gangs against the population continued unabated.¹⁶ Over the following year, other parties also adhered to the truce pact, including the Organization of American States, the Catholic Church and a number of smaller gangs.¹⁷ However, in May 2013, the Constitutional Court declared that the government had acted unconstitutionally in appointing the architect of the truce (then Defence Minister David Munguía Payés) and other military officials to public security posts.¹⁸ His civilian replacement tried to continue negotiations with the gangs, using a Spanish priest as an intermediary who tried to include NGOs and municipal mayors in a process of local pacification.¹⁹ However, from mid-2013, homicide rates began rising again. This was seen as a reflection of a lack of faith in a truce pact that had always been considered as controversial by some sectors of Salvadorian society and which now was increasingly criticized.²⁰

In June 2014, a new FMLN government took office under the presidency of Salvador Sánchez, who from the outset rejected calls to continue dialogue with the gangs.²¹ Through 2014 and into 2015, the truce between the MS and B-18 gang structures looked ever more fragile as homicide rates increased significantly.²² In early 2015, reportedly in an attempt to force the government back to the negotiating table, the gangs killed bus drivers who had disobeyed the gangs' proclaimed public transport strike. The gangs also targeted and killed increasing numbers of police officers, with the police responding in kind.²³ The truce definitively ended in April 2015 when the Sánchez government returned the gang leaders to isolation cells in Zacatecoluca maximum-security prison.²⁴ Since then open warfare has prevailed between the different gangs and between the gangs and the security forces, impacting directly on the lives of local inhabitants with the homicide level in 2015 higher than during the country's civil war.²⁵

2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1579-el-salvadors-gang-violence-turf-wars-internal-battles-and-life-defined-by-invisible-borders>.

¹⁶ The Guardian, *El Salvador Sees Most Deadly Month in 10 Years as Violence Overwhelms Nation*, 6 April 2015, <http://www.theguardian.com/world/2015/apr/06/el-salvador-violence-end-to-gang-truce-proves-deadly>; Insight Crime, *El Salvador's Gang Truce: Positives and Negatives*, 11 June 2013, <http://www.insightcrime.org/investigations/el-salvadors-gang-truce-positives-and-negatives>.

¹⁷ Sala Negra de El Faro, *La Tregua redefinió el mapa de asesinatos de El Salvador*, 9 March 2015, <http://www.salanegra.elfaro.net/es/201503/cronicas/16490/La-Tregua-redefini%C3%B3-el-mapa-de-asesinatos-de-El-Salvador.htm>; El Heraldo, *Cinco pandillas menores se unen a tregua de maras en El Salvador*, 7 April 2014, <http://www.elheraldo.hn/mundo/603700-217/cinco-pandillas-menores-se-unen-a-tregua-de-maras-en-el-salvador>.

¹⁸ La Prensa Gráfica, *Sala declara inconstitucional nombramientos de Salinas y Payés*, 17 May 2013, <http://www.laprensagrafica.com/sala-declara-inconstitucional-nombramientos-de-salinas-y-payes>.

¹⁹ El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>. The cornerstone of the pacification process was the creation of 'special peace zones', known initially as 'sanctuary municipalities', in eleven municipalities. See, Sala Negra de El Faro, *La Tregua redefinió el mapa de asesinatos de El Salvador*, 9 March 2015, <http://www.salanegra.elfaro.net/es/201503/cronicas/16490/La-Tregua-redefini%C3%B3-el-mapa-de-asesinatos-de-El-Salvador.htm>.

²⁰ Insight Crime, *El Salvador Murders Fall Slightly for 2013, but Rising Again*, 14 January 2014, <http://www.insightcrime.org/news-briefs/el-salvador-murders-fall-slightly-in-2013-but-rising-again>.

²¹ El Faro, *Sánchez Cerén: "Nosotros no podemos volver al esquema de negociar con las pandillas"*, 5 January 2015, <http://www.elfaro.net/es/201501/noticias/16434/S%C3%A1nchez-Cer%C3%A9n-%E2%80%9CNosotros-no-podemos-volver-al-esquema-de-negociar-con-las-pandillas%E2%80%9D.htm>.

²² Insight Crime, *El Salvador Homicides Skyrocket after Gang Truce Unravels*, 9 January 2015, <http://www.insightcrime.org/news-analysis/el-salvador-homicides-skyrocket-after-gang-truce-unravels>.

²³ El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>; Insight Crime, *El Salvador Gangs and Security Forces Up the Ante in Post-Truce Battle*, 22 October 2014, <http://www.insightcrime.org/news-analysis/el-salvador-gangs-security-forces-battle-truce>.

²⁴ Sala Negra de El Faro, *Más represión, más asesinatos, más armas, más reclutamientos*, 20 September 2015, <http://www.salanegra.elfaro.net/es/201509/cronicas/17376/M%C3%A1s-represi%C3%B3n-m%C3%A1s-asesinatos-m%C3%A1s-armas-m%C3%A1s-reclutamientos.htm> (English version available at: <http://www.insightcrime.org/news-analysis/el-salvador-more-weapons-more-recruits-more-chaos>).

²⁵ On average, during the civil war, there were 16 homicides per day. In 2015, the average was 18 homicides per day. See Sala Negra de El Faro, *Los salvadoreños cruzan fronteras de guerra a diario*, 4 January 2016, <http://www.elfaro.net/es/201601/salanegra/17702/Los-salvadore%C3%B1os-cruzan-fronteras-de-guerra-a-diario.htm>; Insight Crime, *Living Within the Boundaries of El Salvador's Gang 'War'*, 7 January 2016, <http://www.insightcrime.org/news-analysis/living-within-the-boundaries-of-el-salvador-gang-war>. See also, Insight Crime, *Assessing El Salvador's Gangs in a Post-Truce Context*, 20 November 2015, <http://www.insightcrime.org/news-analysis/assessing-el-salvador-gangs-in-a-post-truce-context>; Insight Crime, *70% of El Salvador Murder Victims Not Linked to Gangs: Police*, 17 November 2015, <http://www.insightcrime.org/news-briefs/two-thirds-of-el-salvador-murder-victims-not-linked-to-gangs>.

B. Structures and Patterns of Organized Violence

1. Levels of Violence

Currently, El Salvador is the country with the highest homicide rate in the world, reporting 6,640 homicides between 1 January and 31 December 2015, comparable to an annual rate of approximately 103 homicides per 100,000 inhabitants in 2015.²⁶ These figures are not an anomaly in the context of Central America, where four of the five countries with the highest homicide rates in the world are located. Rather, for El Salvador the year 2015 represents a return to the decade-long trend of rapidly escalating murder rates that had been interrupted primarily due to the effect of the 2012 truce pact.²⁷ The year 2015 has seen a dramatic rise also in ‘multiple homicides’, with 89 per cent more double-homicides and 148 per cent more triple-homicides registered by October 2015 than for the whole of 2014.²⁸

Despite some variation over the last ten years, the homicide rate is relatively evenly distributed across the four regions of El Salvador.²⁹ In 2015, 92 per cent of the homicides took place across 100 municipalities containing 77 per cent of El Salvador’s population; however, 70 per cent occurred in just 50 of those municipalities (60 per cent of the population).³⁰ Disaggregated data from the period before the truce (2009-2011) shows that every year there were more than 25 municipalities with in excess of 100 homicides per 100,000 inhabitants; in some cases, the annual homicide rate exceeded 150 per 100,000 inhabitants and one municipality recorded 303.3 homicides per 100,000 inhabitants.³¹

The territorial dynamics of extreme violence in El Salvador can shift relatively rapidly. For instance, some areas of the country that were extremely violent before the truce pact are now less so, whilst some zones that were calm before the truce are now violence hotspots again.³² In 2015 the metropolitan area of the capital San Salvador no longer had the highest homicide rate; instead the central zones of El Salvador (Cuscatlán, La Paz, Cabañas and Usulután departments) were most severely affected.³³ However, violence on public transport – on which 80-85 per cent of the

²⁶ La Prensa Gráfica, *El Salvador con más homicidios en C. A.*, 3 January 2016, <http://www.laprensagrafica.com/2016/01/03/el-salvador-con-mas-homicidios-en-c-a>. For comparison, homicide rates in North America over the last decade have averaged around 1.5 per 100,000 inhabitants in Canada and 5 per 100,000 inhabitants in the USA. UN Office on Drugs and Crime (UNODC), *Global Study on Homicide 2013: Trends, Contexts, Data*, 10 April 2014, https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.

²⁷ The Huffington Post, *These 10 Countries Have the World's Highest Murder Rates*, 4 October 2014, http://www.huffingtonpost.com/2014/04/10/worlds-highest-murder-rates_n_5125188.html. The five countries are Guatemala, El Salvador, Belize, Venezuela and Honduras. This ranking – and the trends for El Salvador over time – is based on data from 2012, the most recent year for which comparable global data on homicide figures were published by UNODC, *Global Study on Homicide 2013: Trends, Contexts, Data*, 10 April 2014, https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf, p. 126.

²⁸ By October 2015, 370 double-homicides and 57 triple homicides had been registered in El Salvador, as compared to 196 double-homicides and 23 triple-homicides registered for the whole of 2014. See La Prensa Gráfica, *83 masacres ocurridas hasta octubre de 2015*, 3 October 2015, <http://www.laprensagrafica.com/2015/10/03/83-masacres-ocurridas-hasta-octubre-de-2015>.

²⁹ Traditionally, the region of Oriente had lower annual homicide rates than the other three regions, but since 2013 it has overtaken the region of Occidente. See La Prensa Gráfica, *50 municipios concentran más violencia y población*, 25 June 2015, <http://www.laprensagrafica.com/2015/06/25/50-municipios-concentran-mas-violencia-y-poblacion>.

³⁰ La Prensa Gráfica, *50 municipios concentran más violencia y población*, 25 June 2015, <http://www.laprensagrafica.com/2015/06/25/50-municipios-concentran-mas-violencia-y-poblacion>.

³¹ Fundaungo, *Atlas de la violencia en El Salvador (2009-2012)*, November 2013, http://fundaungo.org.sv/pdf/2014/Atlas_de_violencia.pdf, pp. 113-115, 125. The figure of 303.3 homicides per 100 000 inhabitants was recorded for Nahulingo municipality in Sonsonate department in 2009 (ibid., p. 99).

³² Sala Negra de El Faro, *La Tregua redefinió el mapa de asesinatos de El Salvador*, 9 March 2015, <http://www.salanegra.elfaro.net/es/201503/cronicas/16490/La-Tregua-redefini%C3%B3-el-mapa-de-asesinatos-de-El-Salvador.htm>.

³³ Sala Negra de El Faro, *La Tregua redefinió el mapa de asesinatos de El Salvador*, 9 March 2015, <http://www.salanegra.elfaro.net/es/201503/cronicas/16490/La-Tregua-redefini%C3%B3-el-mapa-de-asesinatos-de-El-Salvador.htm>. Note, however, that San Salvador continues consistently to register the highest number of homicides overall (i.e. as distinct from homicide rates that reflect the relative size of the population). For instance, between April and June 2015, San Salvador department registered 567 (32.6%) of the total of 1738 homicides in all fourteen departments of El Salvador. See Instituto de Medicina Legal, *Homicidios de abril a junio del año 2015 según Instituto de Medicina Legal y datos consolidados con la Fiscalía General de la República y la Policía Nacional Civil*, 2015, <http://www.transparencia.oj.gob.sv/Filemaster/InformacionGeneral/documentacion/c-40/5849/HOMICIDIOS%20do%20TRIMESTRE%20ABRIL%20JUNIO%202015.pdf>. Indeed, some analysts argue that San Salvador (rather than Caracas as commonly reported) was actually the city with the highest homicide rate in the world in 2015. See El Faro, *La ciudad más violenta del mundo*, 26 January 2016, <http://losblogs.elfaro.net/cronicasguanacas/2016/01/la-ciudad-m%C3%A1s-violenta-del-mundo.html>.

Salvadorian workforce relies – remains prevalent and increased in frequency during 2015, with 79 transportation employees killed just between January and October 2015.³⁴

The vast majority of homicide victims are reported to be male and between the ages of 15 and 34.³⁵ In this respect, it is notable also that El Salvador was recorded in 2012 as having the highest rate of homicide victims among children and adolescents aged 0 to 19 years per 100,000 population of any country in the world.³⁶ Here again, a gendered division of the homicide victims is evident, with the homicide rate for boys at 42 per 100,000 and that for girls at 11 per 100,000.³⁷ Homicide is the leading cause of death among adolescent boys in El Salvador.³⁸ Domestic abuse of children, both boys and girls, is also relatively widespread in El Salvador.³⁹

In 2011, El Salvador also reported a large number of forced disappearances, mostly of young men, as a result of growing gang violence.⁴⁰ Although the number of reported forced disappearances fell in 2012 and 2013, it again significantly increased in 2014 with increasing numbers of young women among the victims.⁴¹ This upward trend appeared to be continuing in 2015, with San Salvador continuing to be the main location for forced disappearances (followed by Santa Ana and La Libertad), 90 per cent of those disappeared were later found dead.⁴² Since the late 2000s, the frequency of kidnappings in El Salvador has also been reported to be increasing, with the majority carried out by gangs, mostly by the MS.⁴³

Violence against women is reported to be prevalent.⁴⁴ A five-fold rise in ‘femicides’ (murders of women because of their gender) was reported during the 2000s, coinciding with the spread of gangs but also reflecting wider gender inequality, that gave El Salvador the highest recorded rate of femicide in the world between 2004 and 2011.⁴⁵ After a decrease in 2012-2014, the number of femicides again increased drastically in 2015.⁴⁶ Presently, domestic violence is considered the leading form of

³⁴ El Diario de Hoy, *Policía registra 129 asesinatos en transporte público en el año*, 3 October 2015, <http://www.elsalvador.com/articulo/policia-registra-129-asesinatos-transporte-publico-ano-89126>.

³⁵ Figures from 2009 to 2012 show consistently that around 86 per cent of homicide victims were male; of whom over two-thirds were between the ages of 15 and 34. Fundaungo, *Atlas de la violencia en El Salvador (2009-2012)*, November 2013, http://fundaungo.org.sv/pdf/2014/Atlas_de_violencia.pdf, pp. 33, 37.

³⁶ United Nations Children’s Fund (UNICEF), *Hidden in Plain Sight: A Statistical Analysis of Violence against Children*, 3 September 2014, http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf, pp. 35-37.

³⁷ UNICEF, *Hidden in Plain Sight: A Statistical Analysis of Violence against Children*, 3 September 2014, http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf, p. 197.

³⁸ UNICEF, *Hidden in Plain Sight: A Statistical Analysis of Violence against Children*, 3 September 2014, http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf, p. 165.

³⁹ Procuraduría para los Derechos Humanos, *Informe especial sobre el impacto de la violencia en los derechos de las niñas, niños y adolescentes en El Salvador*, 2013, http://www.redlamyc.info/images/stories/INFORME_ESPECIAL-2.pdf. Twenty per cent of the Salvadorian children in the USA who were interviewed for a UNHCR study disclosed abuse in the home. UNHCR, *Children on the Run; Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, 2014, http://www.unhcrwashington.org/sites/default/files/1_UAC_Children%20on%20the%20Run_Full%20Report.pdf, p. 31.

⁴⁰ Insight Crime, *Surge in Disappearances Reflects Gang Violence in El Salvador*, 11 January 2012, <http://www.insightcrime.org/news-briefs/surge-in-disappearances-reflects-gang-violence-in-el-salvador>.

⁴¹ Organización de Mujeres Salvadoreñas por la Paz (ORMUSA), *Violencia social*, 2014, <http://observatoriodeviolencia.ormusa.org/violenciasocial.php>; El Diario de Hoy, *2014: 1,843 desaparecidos*, 1 April 2015, <http://www.elsalvador.com/articulo/sucesos/2014-1843-desaparecidos-68966>.

⁴² La Prensa Gráfica, *Cuatro personas son reportadas desaparecidas a diario en el país*, 4 September 2015, <http://www.laprensagrafica.com/2015/09/04/cuatro-personas-son-reportadas-desaparecidas-a-diario-en-el-pais>; El Diario de Hoy, *Cinco personas desaparecen cada día en El Salvador*, 18 July 2015, <http://www.elsalvador.com/articulo/sucesos/cinco-personas-desaparecen-cada-dia-salvador-82091>.

⁴³ La Prensa Gráfica, *MS con más secuestros en tres años*, 13 October 2012, <http://www.laprensagrafica.com/ms-con-mas-secuestros-en-tres-anos>.

⁴⁴ LAWG, *How Violence Affects Women in El Salvador*, 22 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1590-how-violence-affects-women-in-el-salvador>; UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>.

⁴⁵ LAWG, *How Violence Affects Women in El Salvador*, 22 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1590-how-violence-affects-women-in-el-salvador>; BBC, *El país donde ser mujer se paga con la muerte*, 8 March 2013, http://www.bbc.com/mundo/noticias/2013/03/121102_femicidio_femicidio_salvador.shtml; Insight Crime, *El Salvador Sees Epidemic of Violence against Women*, 23 May 2011, <http://www.insightcrime.org/news-analysis/el-salvador-sees-epidemic-of-violence-against-women>; Geneva Declaration, *Global Burden of Armed Violence 2011*, October 2011, Chapter Four, http://www.genevadeclaration.org/fileadmin/docs/GBAV2/GBAV2011_CH4.pdf, p. 120.

⁴⁶ ORMUSA, *Indicadores de Violencia: Femicidios en aumento durante el 2015*, 2015, <http://observatoriodeviolencia.ormusa.org/femicidios.php> (date accessed: 22 December 2015). Indeed, overall, El Salvador is reported to have had the world’s second highest increase in female homicide rates between 2011 and 2014, surpassed only by Honduras. See Geneva Declaration, *Global Burden of Armed Violence 2015*, October 2015, Chapter Three, http://www.genevadeclaration.org/fileadmin/docs/GBAV3/GBAV3_Ch3_pp87-120.pdf, p. 95.

violence against women, followed closely by violence perpetrated by gang members.⁴⁷ Indeed, women linked with one gang are reported to be considered a target for rival gangs and they and other women are reported to be abused, (gang) raped and killed as part of gang initiation rites or if they try to leave the gang to which they belong or with which they are affiliated.⁴⁸ Meanwhile, 97 per cent of human-trafficking cases registered in the last few years in El Salvador have reportedly involved sexual exploitation.⁴⁹

Alongside homicides, forced disappearances, kidnappings, and widespread forms of violence against women, a range of other types of violent crimes are prevalent in El Salvador. Many of these are less easily documented than homicides and are known to be underreported, because victims do not report these crimes to the police for fear of retribution and due to a lack of confidence in the authorities.⁵⁰ Extortion, usually by gangs, is a particularly prevalent example of these other forms of violent crime. Indeed, despite being the smallest country in Central America, the population of El Salvador is reported to pay the highest amount of extortion money, estimated conservatively at around US\$400 million per year, and it is reported that those who do not pay are commonly killed or see their businesses burned down as a reprisal.⁵¹ Whereas homicide levels fell during the truce pact reportedly due to orders from the gang leaders to reduce killings, extortion and other forms of violent crime are reported to have continued unabated and may even have increased.⁵²

2. Armed Actors

The current dynamics of violence in El Salvador stems from the presence and activities of three main forms of armed actors: gangs, including the *Barrio-18* and the *Mara Salvatrucha*; drug-smuggling structures (*transportistas*); and the State security forces, particularly the police and the army.

⁴⁷ La Prensa Gráfica, *Pandillas segunda causa de violencia contra mujer*, 13 November 2015, <http://www.laprensagrafica.com/2015/11/13/pandillas-segunda-causa-de-violencia-contra-mujer>.

⁴⁸ LAWG, *How Violence Affects Women in El Salvador*, 22 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1590-how-violence-affects-women-in-el-salvador>; Insight Crime, *Report Details How El Salvador Gangs Use Rape as a Weapon*, 7 November 2014, <http://www.insightcrime.org/news-briefs/el-salvador-gangs-rape-sexual-violence-femicides>; New York Post, *El Salvador's Horrifying Culture of Gang Rape*, 6 November 2014, <http://nypost.com/2014/11/06/the-youth-are-theirs-el-salvadors-horrifying-culture-of-gang-rape/>; Interpeace, *Violentas y violentadas: Relaciones de género en las maras Salvatrucha y Barrio 18 del triángulo norte de Centroamérica*, 14 May 2013, http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf; Comisión Española de Ayuda al Refugiado (CEAR), *Maras en Centroamérica y México*, 28 January 2013, <http://cear.es/wp-content/uploads/2013/10/CENTROAMERICA.-2013.-Maras.pdf>; New York Post, *El Salvador's horrifying culture of gang rape*, 6 November 2014, <http://nypost.com/2014/11/06/the-youth-are-theirs-el-salvadors-horrifying-culture-of-gang-rape/>; Insight Crime, *The Mara Women: Gender Roles in CentAm Street Gangs*, 5 September 2013, <http://www.insightcrime.org/news-analysis/centam-street-gangs-reject-rely-on-women-study>; George W. Knox, *Females and Gangs: Sexual Violence, Prostitution, and Exploitation*, 2008, Chicago, IL, National Gang Crime Research Center, <http://www.ngcrc.com/ngcrc/proffem2.htm>; Global Voices, *Las mujeres y las maras: otra vuelta de tuerca en el complejo mundo de las pandillas centroamericanas*, 3 December 2015, <https://es.globalvoices.org/2015/12/03/las-mujeres-y-las-maras-otra-vuelta-de-tuerca-en-el-complejo-mundo-de-las-pandillas-centroamericanas/>; Prensa Libre, *Mareros se centran en reclutar a jovencitas*, 17 April 2014, http://www.prensalibre.com/noticias/Mareros-centran-reclutar-jovencitas_0_1121887819.html.

⁴⁹ Insight Crime, *The Crime No One Fights: Human Trafficking in the Northern Triangle*, 4 June 2015, <http://www.insightcrime.org/news-analysis/human-trafficking-northern-triangle>. The majority of the trafficking victims identified in El Salvador in recent years have been women and girls. United States Department of State, *2015 Trafficking in Persons Report - El Salvador*, 27 July 2015, <http://www.refworld.org/docid/55b73bf5c.html>.

⁵⁰ A survey among small businesses reported that 97 per cent were extorted but did not report it due to lack of confidence in the police. See La Prensa Gráfica, *Policía calcula que extorsiones solo suman \$7.9 millones*, 28 September 2014, <http://www.laprensagrafica.com/2014/09/28/policia-calcula-que-extorsiones-solo-suman-79-millones>. See also, LAWG, *How Violence Affects Women in El Salvador*, 22 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1590-how-violence-affects-women-in-el-salvador>.

⁵¹ La Prensa, *"Imperios de la extorsión" están en Honduras y El Salvador*, 1 July 2015, <http://www.laprensa.hn/honduras/854572-410/imperios-de-la-extorsion-están-en-honduras-y-el-salvador>.

⁵² El Diario de Hoy, *Buseros pagan \$3 millones mensuales en extorsiones*, 19 January 2014, <http://www.elsalvador.com/articulo/sucesos/buseros-pagan-millones-mensuales-extorsiones-47667>; Insight Crime, *El Salvador's Gang Truce: Positives and Negatives*, 11 June 2013, <http://www.insightcrime.org/investigations/el-salvadors-gang-truce-positives-and-negatives>; Inter-American Commission on Human Rights (IACHR), *Violencia contra Personas Lesbianas, Gays, Bisexuales, Trans e Intersex en América*, 12 November 2015, OAS/Ser.L/V/II.rev.1, <http://www.refworld.org/docid/56669c6f4.html>, esp. paras 279-281.

a) Gangs⁵³

Despite being the smallest country in Central America, El Salvador is the nation reported to be the most affected by the violence of street gangs (*pandillas*) and reportedly has the highest concentration of gang members of any country in the region.⁵⁴ Across most of the departments that make up the territory of El Salvador, many hundreds of local street gangs are reported to operate in both urban and rural zones, with between 30,000 and 60,000 active members in total.⁵⁵ These gangs are considered to be the main force that has been driving the increase of violence in El Salvador over the last decade and the surge in murders and population displacement over the past couple of years.⁵⁶ Official statistics show that 65 per cent of the murders registered in the country between January and mid-November 2015 were committed by gang members.⁵⁷

As noted above, although El Salvador has a long history of street gangs, the street gangs presently operating in the country are reported to have their origins in the violent California-style gang culture brought back by Salvadorian gang members deported from the United States of America from the 1990s onwards.⁵⁸ These gangs are usually based in poor or lower middle-class urban or rural zones, sometimes comprised of just a single neighbourhood (*colonia*) or a few such neighbourhoods. However, despite a culture of identification with their home territory, these gangs are also considered capable of great mobility and can rapidly expand their influence to nearby neighbourhoods. They may also relocate to new neighbourhoods to seek refuge from offensives against them by the security forces or other gangs. Similarly, while physical reference points such as streets, streams and graffiti or markings often mark the dividing lines between gang territories,⁵⁹ these boundaries can reportedly also shift literally overnight as one gang pushes into, or disputes, the territory of another.

Salvadorian gangs are reported to pursue a strategy of exclusive control over their home territories, using violence to repel other gangs or challengers. Within its own territory, each gang tries to control

⁵³ UNHCR treats gangs as ‘the relatively durable, predominantly street-based groups of young people for whom crime and violence is integral to the group’s identity. The term is also used to refer to organized criminal groups of individuals for whom involvement in crime is for personal gain (financial or otherwise) and their primary “occupation”’. See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, pp. 1-2.

⁵⁴ UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 29.

⁵⁵ Recent and reliable estimates of the numbers of active gang members in El Salvador are always difficult to establish. A 2013 police study estimated that there were 32, 310 active gang members distributed across 567 local gangs in El Salvador, of whom 10,961 were imprisoned. However, a study by the Ministry of Justice and Security the same year estimated the figure instead at 58,783 active gang members. La Prensa Gráfica, *Hay 32,310 pandilleros en el país: Antipandillas*, 27 December 2013, <http://www.laprensagrafica.com/2013/12/27/hay-32310-pandilleros-en-el-pais-antipandillas>. In October 2015, the Minister of Defence alluded to an unsubstantiated figure of 60,000 gang members in El Salvador, more than the approximately 50,000 members of the State’s own police and armed forces. Panam, *Pandilleros de El Salvador superan en número a efectivos de seguridad*, 23 October 2015, <http://es.panampost.com/thabata-molina/2015/10/23/pandilleros-de-el-salvador-superan-en-numero-a-efectivos-de-seguridad/>.

⁵⁶ LAWG, *No Life Here: Internal Displacement in El Salvador*, 18 February 2016, <http://lawg.org/action-center/lawg-blog/69-general/1588-no-life-here-internal-displacement-in-el-salvador>; Refugees International, *It’s a Suicide Act to Leave or Stay: Internal Displacement in El Salvador*, July 29, 2015, <http://www.refugeesinternational.org/reports/2015/9/30/its-a-suicide-act-to-leave-or-stay-internal-displacement-in-el-salvador>; D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, No. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 39-42. The situation in El Salvador coheres with that across Central America, with gang violence identified as the driver for the rapid increase in homicide rates in some countries from 2007 to 2011. See UNODC, *Global Study on Homicide 2013: Trends, Contexts, Data*, 10 April 2014, https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf, pp. 40, 43, 45. See also Section II.C.2 below.

⁵⁷ Wilson Center, *Four Questions and Observations about El Salvador’s Deteriorating Security Situation*, 15 December 2015, <https://www.wilsoncenter.org/article/four-questions-and-observations-about-el-salvadors-deteriorating-security-situation>; Insight Crime, *El Salvador Attorney General: Two-Thirds of Homicides Gang-Related*, 2 December 2015, <http://www.insightcrime.org/news-briefs/el-salvador-attorney-general-two-thirds-of-homicides-gang-related/>; La Prensa Gráfica, *FGR: pandillas cometen el 65 % de homicidios*, 1 December 2015, <http://www.laprensagrafica.com/2015/12/01/fgr-pandillas-cometen-el-65-de-homicidios?ref=hnp>.

⁵⁸ Sala Negra de El Faro, *El juego del parque Libertad*, 17 October 2011, <http://www.salanegra.elfaro.net/es/201110/cronicas/5650/>. It is estimated that 100 ex-convicts were deported to El Salvador each week. See, Insight Crime, *Profile: Mara Salvatrucha (MS13)*, undated, <http://www.insightcrime.org/el-salvador-organized-crime-news/mara-salvatrucha-ms-13-profile> (date accessed: 22 December 2015). Many of the leaders were experienced fighters from the Salvadorian army or the rebels during the civil war. See Washington Post, *U.S.-Style Gangs in El Salvador Build Free Trade in Crime*, 28 August 1995, <https://www.washingtonpost.com/archive/politics/1995/08/28/us-style-gangs-build-free-trade-in-crime/2f6cb1ed-2e82-4fa6-96da-0848f0f9d827/>.

⁵⁹ Sala Negra de El Faro, *Los salvadoreños cruzan fronteras de guerra a diario*, 4 January 2016, <http://www.elfaro.net/es/201601/salanegra/17702/Los-salvadore%C3%B1os-cruzan-fronteras-de-guerra-a-diario.htm>; Insight Crime, *Living Within the Boundaries of El Salvador’s Gang ‘War’*, 7 January 2016, <http://www.insightcrime.org/news-analysis/living-within-the-boundaries-of-el-salvador-gang-war/>; Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside/>. The territorial presence and control of the different gangs in the capital San Salvador in late 2015 was mapped by a group of journalists. El Diario de Hoy, *Maras controlan la capital salvadoreña*, 19 December 2015, <http://www.elsalvador.com/articulo/sucesos/maras-controlan-capital-salvadorena-96558>.

the localized criminal enterprises which sustain members' livelihoods, such as extortion, drug-selling, prostitution and other crimes.⁶⁰ Businesses, (public) transport routes and even homes in other nearby (and often wealthier) neighbourhoods may also be targeted for extortion by the gang.⁶¹ Presently, the main source of revenue for most gangs is reported to be extortion (*renta*),⁶² which is increasingly directed and carried out by phone from within prisons by incarcerated gang members.⁶³

Each local gang is reported to have its own active membership that can range in size from a handful to a hundred or more initiated 'soldiers' under the leadership of senior members (*palabrer*os). Gangs in El Salvador are predominantly male and largely composed of youth and young adults, although senior members are often older.⁶⁴ Following initiation, members traditionally identified themselves through gang-related tattoos and style of dress and appearance, although there is apparently a move now towards discouraging these visible practices as they also helped to identify members to the security forces.⁶⁵ A distinctive special vocabulary, hand signs and other body signs and even written codes are still apparently used by gangs in El Salvador.⁶⁶ Imprisoned gang members are reported to remain active and increasingly direct the activities of those on the street.⁶⁷

Once initiated into a gang, members must follow the rules established by their *palabrer*os.⁶⁸ The violation of different rules is reported to lead to different punishments, commonly serious beatings or death.⁶⁹ Lifelong loyalty to the gang is required and those who desert or cooperate with the security forces or rival gangs are reported to be routinely pursued and killed by their own gang as a punishment. It is reported that even those former gang members who are sheltered under State-run protection programmes often do not escape punishment.⁷⁰ The gangs are reportedly assisted by many 'anonymous' voluntary or involuntary collaborators in the territories where they operate, including

⁶⁰ D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, No. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 40. UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 28.

⁶¹ D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 40. Bus companies face increasing extortion and, in 2014, estimated that it costs between 10 and 25 per cent of their monthly income, especially as along some transport routes they are extorted multiple times by different gangs. See El Diario de Hoy, *Buseros pagan \$3 millones mensuales en extorsiones*, 19 January 2014, <http://www.elsalvador.com/articulo/sucesos/buseros-pagan-millones-mensuales-extorsiones-47667>.

⁶² La Prensa Gráfica, *Pandilleros tienen sitiado Mejicanos*, 18 June 2013, <http://www.laprensagrafica.com/pandilleros-tienen-sitiado-mejicanos>; Insight Crime, *MS-13's "El Barney": A Trend or an Isolated Case?*, 11 June 2013, <http://www.insightcrime.org/investigations/ms-13-drug-trafficker-points-to-gangs-future>.

⁶³ La Prensa Gráfica, *Pandilla obtenía \$20,000 al mes por extorsión en playas*, 31 October 2015, <http://www.laprensagrafica.com/2015/10/31/pandilla-obtenia-20000-al-mes-por-extorsion-en-playas>; Insight Crime, *How "Mano Dura" is Strengthening Gangs*, 21 November 2010, <http://www.insightcrime.org/investigations/how-mano-dura-is-strengthening-gangs>.

⁶⁴ Women and girls do participate in Salvadorian gangs, albeit that the roles within the gang are strongly gendered. See Interpeace, *Violentas y violentadas: Relaciones de género en las maras Salvatrucha y Barrio 18 del triángulo norte de Centroamérica*, 14 May 2013, http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf. See also, LAWG, *El Salvador's Gang Violence: Turf Wars, Internal Battles and Life Defined by Invisible Borders*, 10 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1579-el-salvadors-gang-violence-turf-wars-internal-battles-and-life-defined-by-invisible-borders>.

⁶⁵ Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>.

⁶⁶ For examples, see Comisión Española de Ayuda al Refugiado (CEAR), *Maras en Centroamérica y México*, 28 January 2013, <http://cear.es/wp-content/uploads/2013/10/CENTROAMERICA.-2013.-Maras.pdf>, Annexes III-VI; Insight Crime, *Hidden Meanings of Honduras Mara Gang Tattoos Explained*, 3 September 2014, <http://www.insightcrime.org/news-briefs/hidden-meanings-honduras-mara-gang-tattoos>.

⁶⁷ El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>; Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>.

⁶⁸ Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>.

⁶⁹ Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>. For instance, the gang may give the 'green light' (*la luz verde*) to impose a punishment of death in cases where a member is suspected of serious insubordination or desertion. Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 27.

⁷⁰ Sala Negra de El Faro, *Asesinaron al Niño de Hollywood (y todos sabíamos que eso ocurriría)*, 30 November 2015, [http://www.salanegra.elfaro.net/es/2014/11/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-\(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa\).htm](http://www.salanegra.elfaro.net/es/2014/11/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa).htm). Permission to leave the gangs, e.g. on religious grounds, is given much less frequently than in the past and those few who are able to leave peacefully and become 'calmado' are considered merely 'inactive' members who still have ties and duties to the gang in certain circumstances. See R. Brenneman, *Homies and Hermanos: God and Gangs in Central America*, Oxford University Press, 2012, pp. 117-152; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 27; Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>.

family members and younger children from the neighbourhood, who are not gang members but act as lookouts, help to collect and launder extortion money and perform other tasks, and who sometimes collect a salary from the gang.⁷¹ The authorities estimated that in 2013 there were 470,000 people affiliated with the gangs in El Salvador, as family members, friends or others; by mid-2015 this figure had risen to between 600,000 and 700,000 people (i.e. 10 per cent of the population).⁷²

Gangs are reported to exercise extraordinary levels of social control over the population of their territories (and, to a lesser extent, over other territories where they practise extortion). In these zones, inhabitants are reportedly required to ‘look, listen and keep quiet’ (*‘mirar, oír, callar’*) and often face a plethora of gang-imposed restrictions on who they can talk with and what about, what time they must be inside their homes, where they can walk or go to school, who they can visit and who can visit them, what they can wear, and even, reportedly, the colour of their hair.⁷³ It is equally forbidden for inhabitants to show ‘disrespect’ for the gang, a subjective evaluation on the part of gang members that can reportedly encompass a multitude of perceived slights and offences, such as arguing with a gang member or refusing a request, resisting a child’s recruitment into the gang, or rejecting the amorous attentions of a gang member.⁷⁴

Gangs in El Salvador are reported to achieve this degree of social control principally through the use of threats and violence to create a pervasive atmosphere of fear among inhabitants, especially amongst those without family or other links to the local gang.⁷⁵ They reportedly exploit this control in many ways. For instance, some local gangs are reported to have required their local community councils (*directivas comunales*) to apply to the municipality for permission to close and blockade streets, which hamper entry and pursuit by the police, or to issue an authorization to create private security schemes that are then manned by the gang members and afford an additional source of income through extorting fees from local residents.⁷⁶ Others are reported to have installed gates at the entrance to the neighbourhoods where they review the identity documents of passers-by to control who is able to enter, or have taken over local businesses that residents are then obliged to use for their purchases of bread or bottled water.⁷⁷

Persons who resist the authority of the local gang or who even just inadvertently cross it, or who collaborate with the security forces or with rival gangs, are reportedly subjected to swift and brutal

- ⁷¹ El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>; Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>; La Prensa Gráfica, *Pandilleros tienen sitiado Mejicanos*, 18 June 2013, <http://www.laprensagrafica.com/pandilleros-tienen-sitiado-mejicanos>.
- ⁷² La Prensa Gráfica, *Pandilleros salvadoreños imputados incrementan un 13.5% en 2015 respecto 2014*, 9 October 2015, <http://www.laprensagrafica.com/2015/10/09/pandilleros-salvadoreos-imputados-incrementan-un-135-en-2015-respecto-2014>; La Prensa Gráfica, *Las mascotas de la pandilla*, 21 July 2014, <http://www.laprensagrafica.com/2014/07/21/las-mascotas-de-la-pandilla>.
- ⁷³ Prensa Libre, *La violencia trastorna estilo de vida de jóvenes en Centroamérica*, 30 October 2015, <http://www.prensalibre.com/guatemala/justicia/la-violencia-trastorna-estilo-de-vida-de-jovenes-en-centroamerica>; La Prensa Gráfica, *La paranoia de La Margaritas*, 31 May 2015, <http://www.laprensagrafica.com/2015/05/31/la-paranoia-de-las-margaritas>; El Diario de Hoy, *Maras proliferan en San Salvador*, 29 January 2015, <http://www.elsalvador.com/articulo/sucesos/maras-prolifera-san-salvador-72783>; Sala Negra de El Faro, *Se busca a policías dispuestos a ir a la guerra*, 25 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16507/Se-busca-a-polic%C3%ADas-dispuestos-a-ir-a-la-guerra.htm>; Sala Negra de El Faro, *Huir de las pandillas ante la mirada de la Policía Antipandillas*, 21 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16500/Huir-de-las-pandillas-ante-la-mirada-de-la-Polic%C3%ADa-Antipandillas.htm>; D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 46-48; La Prensa Gráfica, *Pandilleros provocan que familias dejen colonia*, 21 June 2013, <http://www.laprensagrafica.com/pandilleros-provocan-que-familias-dejen-colonia>; Sala Negra de El Faro, *Las maras trastocan la matemática del fútbol*, 28 November 2011, <http://www.salanegra.elfaro.net/es/201111/cronicas/6687/>.
- ⁷⁴ D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 46-48. La Prensa Gráfica, *Pandilleros tienen sitiado Mejicanos*, 18 June 2013, <http://www.laprensagrafica.com/pandilleros-tienen-sitiado-mejicanos>.
- ⁷⁵ Indeed, residents of other neighbourhoods and towns have been killed simply for the ‘offence’ of entering the gang’s territory without permission and by accident. See La Prensa Gráfica, *Las mascotas de la pandilla*, 21 July 2014, <http://www.laprensagrafica.com/2014/07/21/las-mascotas-de-la-pandilla>; La Prensa Gráfica, *Matan a mujer por llegar de visita a zona de pandillas*, 11 November 2014, <http://www.laprensagrafica.com/2014/11/11/matan-a-mujer-por-llegar-de-visita-a-zona-de-pandillas>.
- ⁷⁶ La Prensa Gráfica, *FGR investiga a pandilleros que trabajan como vigilantes*, 16 July 2013, <http://www.laprensagrafica.com/fgr-investiga-a-pandilleros-que-trabajan-como-vigilantes>; La Prensa Gráfica, *Pandilleros laboran como vigilantes*, 15 April 2013, <http://www.laprensagrafica.com/pandilleros-laboran-como-vigilantes>.
- ⁷⁷ La Prensa Gráfica, *La paranoia de La Margaritas*, 31 May 2015, <http://www.laprensagrafica.com/2015/05/31/la-paranoia-de-las-margaritas>; La Página, *Mareros controlan el comercio de productos en colonia Las Margaritas*, 6 January 2015, <http://www.lapagina.com/sv/nacionales/102457/2015/01/05/Mareros-controlan-el-comercio-de-productos-en-colonia-Las-Margaritas>.

retaliation from the gang.⁷⁸ Not only are such persons killed by the gangs but their family members are often targeted as well.⁷⁹ Moreover, especially in the current context of heightened confrontation, the gangs reportedly sometimes impose collective threats and punishments on whole communities – or parts of them – where they believe that the community bears some share of responsibility for the perceived infraction or disloyalty. This is reported to have generated group displacement events involving dozens of families from certain neighbourhoods.⁸⁰ Finally, the strongly *macho* ethos of the Salvadorian gangs expresses itself on an everyday basis through their reported virulent hatred and ill-treatment of persons based on their perceived sexual orientation and/or gender identity⁸¹ and in the widespread sexual and gender-based violence experienced by women and girls living in their territories.⁸²

Mara Salvatrucha (MS) and Barrio-18 (B-18) gang structures

The vast majority of local gangs in El Salvador are reported to be affiliated with either the *Barrio 18* (B-18) or the *Mara Salvatrucha* (MS),⁸³ and often reference this affiliation in their gang name.⁸⁴ B-18 and MS are large transnational gang structures or identities that have their origins in the Californian gang scene, where B-18 was formed by Mexicans and MS by the children of Salvadorians fleeing the civil war.⁸⁵ Both B-18 and MS are themselves affiliated in turn with the Southern (*Sureño*) gang movement: this reportedly unites Hispanic gangs from southern California under the aegis of the powerful Mexican Mafia and is reported to offer a form of collective security (against attack by non-Sureño gangs) for members of these gangs when incarcerated in the USA.⁸⁶ However, on the street both in the USA and in El Salvador, B-18 and MS have long been implacable enemies.

During the 2000s, a large number of B-18 and MS gang members were imprisoned as part of the government's *mano dura* response.⁸⁷ However, hundreds of deaths during gang confrontations in the overcrowded prisons reportedly led to B-18 and MS members being sent to different prisons, giving the gang leaders the chance to organize themselves and enforce more hierarchical command structures

⁷⁸ La Prensa Gráfica, *Dos panaderos y octogenaria entre las víctimas de asesinatos hoy*, 21 August 2015, <http://www.laprensagrafica.com/2015/08/21/dos-panaderos-y-octogenaria-entre-las-victimas-de-asesinatos-hoy>; La Prensa Gráfica, *Matan a mujer por llegar de visita a zona de pandillas*, 11 November 2014, <http://www.laprensagrafica.com/2014/11/11/matan-a-mujer-por-llegar-de-visita-a-zona-de-pandillas>.

⁷⁹ UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>; Sala Negra de El Faro, *La legión de los desplazados*, 1 October 2012, http://www.especiales.elfaro.net/es/salanegra_desplazados/.

⁸⁰ El Diario de Hoy, *Familias abandonan sus casas por amenazas de pandillas en Sonsonate*, 1 September 2015, <http://www.elsalvador.com/articulo/sucesos/familias-abandonan-sus-casas-por-amenazas-pandillas-sonsonate-86174>. AP, *El Salvador: campesinos abandonan sus casas por amenazas de las pandillas*, 6 May 2015, <http://latino.foxnews.com/latino/espanol/2015/05/06/el-salvador-campesinos-abandonan-sus-casas-por-amenazas-de-las-pandillas/>.

⁸¹ UNHCR, *Stabbed 58 Times, Transgender Woman Flees El Salvador*, 8 December 2015, <http://www.refworld.org/docid/5666f75d4.html>; IACHR, *Violencia contra Personas Lesbianas, Gays, Bisexuales, Trans e Intersex en América*, 12 November 2015, OAS/Ser.L/V/II.rev.1, <http://www.refworld.org/docid/56669c6f4.html>, esp. paras 279-281.

⁸² La Prensa Gráfica, *Pandillas segunda causa de violencia contra mujer*, 13 November 2015, <http://www.laprensagrafica.com/2015/11/13/pandillas-segunda-causa-de-violencia-contra-mujer>; UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>; Insight Crime, *Report Details How El Salvador Gangs Use Rape As A Weapon*, 7 November 2014, <http://www.insightcrime.org/news-briefs/el-salvador-gangs-rape-sexual-violence-femicides>; New York Post, *El Salvador's Horrifying Culture of Gang Rape*, 6 November 2014, <http://nypost.com/2014/11/06/the-youth-are-theirs-el-salvadors-horrifying-culture-of-gang-rape>.

⁸³ The *Barrio-18* (18 Street) gang structure is sometimes also referred to as '*Mara 18*', reflecting the common tendency in general parlance also to refer to both MS and B-18 (and sometimes other gangs as well) as '*maras*', a Central American shorthand for gangs. Note, however, that B-18 members do not generally refer to B-18 as a '*mara*', a term which they see as associated with their hated rival, the *Mara Salvatrucha*. The term '*salvatrucha*' derives from the Salvadorian origin of the founders and many original members of the MS in the USA.

⁸⁴ For example, an MS-affiliated gang will usually reference this through a suffix, as in the case of an MS clique called the Criminal Mafia Salvatruchos (*Criminal Mafiosos Salvatruchos*).

⁸⁵ Sala Negra de El Faro, *La letra 13*, 8 August 2013, <http://www.salanegra.elfaro.net/es/201208/cronicas/9302>; Sala Negra de El Faro, *El origen del odio*, 6 August 2012, <http://www.salanegra.elfaro.net/es/201208/cronicas/9301/>.

⁸⁶ Thus, both MS and B-18 add the number 13 after their gang names to reference their *Sureño* gang affiliation status and connection to the Mexican Mafia – The M (*La Eme*), as M is the 13th letter of the alphabet. By contrast, Northern (*Norteño*) gangs from northern California use the number 14 as N is the 14th letter. See Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>.

⁸⁷ Insight Crime, *How "Mano Dura" Is Strengthening Gangs*, 21 November 2010, <http://www.insightcrime.org/investigations/how-mano-dura-is-strengthening-gangs>.

run from within the prisons.⁸⁸ Their apparent consolidation has coincided with a growing level of confrontation and violence that was interrupted in 2012-2013 only by the B-18/MS truce pact.

In El Salvador, B-18 is believed to be slightly smaller than its arch-enemy, the MS, but it is also considered to be less sophisticated and more undisciplined, “trigger-happy” and unpredictable.⁸⁹ Even so, B-18 reportedly has a loose hierarchy in which its imprisoned *palabrer*os (or *tabos* or *ranfleros*) coordinate the criminal activities of the gang and give the orders to the *palabrer*os on the street and authorize relevant activities, such as increases in extortion demands.⁹⁰ In early 2015, there were reported to be 28 B-18 tribes (*tribus*) in El Salvador, each composed of dozens or hundreds of B-18 members.⁹¹ These are reported to operate across many smaller local territorial gang divisions known as ‘fields’ (*canchas*) that make up a tribe.⁹² In 2005, B-18 split into two warring factions that call themselves *Sureños* (Southerners) and *Revolucionarios* (Revolutionaries).⁹³ Reports indicate that within these factions, disputes and gang-wars also sometimes arise, such as the bloody local war within the B-18 *Revolucionarios* faction in Zacatecoluca department in 2014.⁹⁴

Meanwhile, the MS gang structure is traditionally seen as more bureaucratic and disciplined than the B-18 but it is no less violent.⁹⁵ In El Salvador, now sometimes considered the spiritual home of the MS franchise, MS is reported to be directed by a circle (*ranfla* or *rueda*) of imprisoned *palabrer*os, above whom sits the national leadership.⁹⁶ The MS is considered to be a diffuse and fluid organization but has a more intimate and coordinated structure than B-18: this is comprised of some 246 cliques (*clikas* or *clickas*), each with up to a few dozen members.⁹⁷ A number of MS cliques are often grouped together under each MS ‘programme’ (*programa*), which is under the control of a mid-level *palabrer*o.⁹⁸ Powerful MS *palabrer*os can reportedly control a large number of cliques, who pay ‘tribute’ (financial quotas from criminal activities) to them.⁹⁹ It is reported that MS in El Salvador has

⁸⁸ Insight Crime, *How “Mano Dura” Is Strengthening Gangs*, 21 November 2010, <http://www.insightcrime.org/investigations/how-mano-dura-is-strengthening-gangs>.

⁸⁹ Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>; D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 41; Insight Crime, *Barrio 18*, undated, <http://www.insightcrime.org/honduras-organized-crime-news/barrio-18-honduras> (date accessed: 22 December 2015).

⁹⁰ El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>; Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>.

⁹¹ Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>.

⁹² El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>. Note, however, that some accounts suggest the reverse nominative hierarchy, i.e. that several tribes may make up a field (*cancha*). See Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>.

⁹³ Sala Negra de El Faro, *La Revolución en Mariona*, 25 October 2011, <http://www.salanegra.elfaro.net/es/201110/cronicas/5917/>; Sala Negra de El Faro, *Todas las muertes del Cranky*, 13 October 2011, <http://www.salanegra.elfaro.net/es/201110/cronicas/5645/>. Note that the *Sureños* faction of B-18 in El Salvador is distinct from the *Sureños* gang movement that originated in southern California and in which both B-18 and MS participate.

⁹⁴ In the dispute in Zacatecoluca, it is reported that the rebel gangs fighting against their former allies in the *Revolucionarios* faction were assisted surreptitiously by gangs from the *Sureños* faction. See Sala Negra de El Faro, *La rebelión por la que sangra Zacatecoluca*, 3 November 2014, <http://www.salanegra.elfaro.net/es/201411/cronicas/16173/La-rebeli%C3%B3n-por-la-que-sangra-Zacatecoluca.htm>.

⁹⁵ Sala Negra de El Faro, *Más represión, más asesinatos, más armas, más reclutamientos*, 20 September 2015, <http://www.salanegra.elfaro.net/es/201509/cronicas/17376/M%C3%A1s-represi%C3%B3n-m%C3%A1s-asesinatos-m%C3%A1s-armas-m%C3%A1s-reclutamientos.htm>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

⁹⁶ D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf; Sala Negra de El Faro, “¿Vos desharías tu familia? La Mara Salvatrucha no se va a deshacer”, 8 October 2012, <http://www.salanegra.elfaro.net/es/201210/entrevistas/9844/>.

⁹⁷ Insight Crime, *Barrio 18 in El Salvador: A View from the Inside*, 25 March 2015, <http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside>; Insight Crime, *Profile: Mara Salvatrucha (MS13)*, undated, <http://www.insightcrime.org/el-salvador-organized-crime-news/mara-salvatrucha-ms-13-profile> (date accessed: 22 December 2015).

⁹⁸ La Prensa Gráfica, *Pandilla obtenía \$20,000 al mes por extorsión en playas*, 31 October 2015, <http://www.laprensagrafica.com/2015/10/31/pandilla-obtenia-20000-al-mes-por-extorsion-en-playas>; Insight Crime, *MS-13’s “El Barney”: A Trend or an Isolated Case?*, 11 June 2013, <http://www.insightcrime.org/investigations/ms-13-drug-trafficker-points-to-gangs-future>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

⁹⁹ Revista Factum, *El Viejo Santos y la revitalización de las clicas de Maryland*, 13 July 2015, <http://revistafactum.com/el-viejo-santos-y-la-revitalizacion-de-las-clicas-de-maryland/>.

formed an unusual alliance in 2015 with the *Sureños* faction of B-18 to wage war against the *Revolucionarios* faction of B-18.¹⁰⁰

B-18 and MS gangs reportedly live primarily from extortion, although some MS cliques are also now reported to be heavily involved in selling and distributing illegal firearms in El Salvador.¹⁰¹ Despite the 2012 USA designation of MS as a ‘transnational criminal organization’,¹⁰² MS and B-18 gangs have reportedly focused mainly on taking over the small drug distribution markets in their local territories as opposed to transnational activities.¹⁰³ Even so, some local gangs have an *ad hoc* relationship with larger drug-trafficking organizations and are reported to have provided minor services for them, such as acting as local ‘muscle’ escorting drug shipments through their territories or carrying out assassinations.¹⁰⁴ MS appears to have substantially more contact with these larger criminal organizations than B-18.¹⁰⁵ However, during 2015, MS reputedly attempted to wrest control over local cocaine-trafficking routes from Salvadorian *transportista* structures, reportedly contributing to a bloody retaliatory war between MS and corrupt officials in the security forces who are said to be linked to these structures.¹⁰⁶

Certain powerful imprisoned MS leaders in El Salvador are also reported to have a relationship with MS cliques along the east coast of the USA, where they reportedly masterminded a violent MS expansion in 2009 and even ordered a killing there, with monetary ‘tribute’ from illicit activities including extortion and prostitution flowing back to the leaders in El Salvador.¹⁰⁷ This development accompanied a reported reversal in the earlier relationship between MS in the USA and in El Salvador, with orders now apparently travelling from the leadership in El Salvador to North America rather than vice versa.¹⁰⁸ In 2015, MS reportedly sought to bolster its presence on the east coast of the

¹⁰⁰ Center for Strategic and International Studies, *Central American Gangs as a “Wicked Problem”*, 24 November 2015, <http://csis.org/blog/central-american-gangs-wicked-problem>.

¹⁰¹ La Prensa Gráfica, *Desmantelan red de tráfico de armamento*, 18 June 2015, <http://www.laprensagrafica.com/2015/06/18/desmantelan-red-de-trafico-de-armamento>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

¹⁰² In October 2012, the US Treasury Department designated the MS as a transnational criminal organization, the first time this power had been used for a street gang. US Department of the Treasury, *Press Center: Treasury Sanctions Latin American Criminal Organization*, 11 October 2012, <https://www.treasury.gov/press-center/press-releases/Pages/tg1733.aspx>. Thereafter, the Treasury Department designated six senior MS figures in El Salvador as subject to sanctions in 2013. US Department of the Treasury, *Press Center: Treasury Sanctions Significant Members of MS-13*, 5 June 2013, <https://www.treasury.gov/press-center/press-releases/Pages/j11971.aspx>. Another three senior MS figures were subjected to sanctions in 2015. US Department of the Treasury, *Press Center: Treasury Sanctions Leadership of Central American Gang MS-13*, 16 April 2015, <https://www.treasury.gov/press-center/press-releases/Pages/j110026.aspx>.

¹⁰³ El Faro, *Maras y narcotráfico*, 19 March 2014, <http://www.elfaro.net/es/201403/opinion/14978/> (English version available at: <http://www.insightcrime.org/news-analysis/rethinking-the-el-salvador-mara-drug-trafficking-relationship>). (The case of ‘El Barney’, an MS leader in El Salvador who was involved in trafficking drugs to the US, appears exceptional and based primarily on his family links to drug-trafficking organizations rather than his gang affiliations. See Insight Crime, *MS-13’s “El Barney”: A Trend or an Isolated Case?*, 11 June 2013, <http://www.insightcrime.org/investigations/ms-13-drug-trafficker-points-to-gangs-future>. Similarly, it appears that the famous ‘Medio Millón’, sometimes asserted to be an MS leader with strong cartel connections, is not in fact an MS member and acts rather as an arms supplier for one local MS clique and its bridge to drug-trafficking organizations such as the Taxis Cartel. See Insight Crime, *El Salvador Gets Another Chance to Prosecute MS13 Affiliate “Medio Millon”*, 15 September 2015, <http://www.insightcrime.org/news-briefs/el-salvador-captures-ms13-affiliate-medio-millon>. See also, LAWG, *El Salvador’s Gang Violence: Turf Wars, Internal Battles and Life Defined by Invisible Borders*, 10 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1579-el-salvadors-gang-violence-turf-wars-internal-battles-and-life-defined-by-invisible-borders>.

¹⁰⁴ These larger regional organizations include the Salvadorian Perrones and Taxis Cartel, the Guatemalan Temerarios and the Mexican Zetas. See El Diario de Hoy, *Las pandillas, los nuevos actores en la venta de droga*, 28 June 2015, <http://especiales.elsalvador.com/2015/ruta-narcotrafico/nota03.html>; La Página, *Algunos empresarios y los pandilleros trabajan para los narcos en la región, confirma GAFIC*, 28 November 2014, <http://www.lapagina.com.sv/nacionales/101592/2014/11/28/Algunos-empresarios-y-los-pandilleros-trabajan-para-los-narcos-en-la-region-confirma-GAFIC>; La Prensa Gráfica, *Cartel de Sinaloa contrató a MS para vengar robo de droga*, 8 May 2014, <http://www.laprensagrafica.com/2014/05/08/cartel-de-sinaloa-contrato-a-ms-para-vengar-robo-de-droga>; El Diario de Hoy, *Cártel Los Temerarios abastece de marihuana a cárceles y escuelas salvadoreñas*, 12 April 2014, <http://www.elsalvador.com/articulo/sucesos/cartel-los-temerarios-abastece-marihuana-carceles-escuelas-salvadorenas-48713>; Insight Crime, *MS-13’s “El Barney”: A Trend or an Isolated Case?*, 11 June 2013, <http://www.insightcrime.org/investigations/ms-13-drug-trafficker-points-to-gangs-future>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

¹⁰⁵ D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

¹⁰⁶ Center for Strategic and International Studies, *Central American Gangs as a “Wicked Problem”*, 24 November 2015, <http://csis.org/blog/central-american-gangs-wicked-problem>.

¹⁰⁷ Revista Factum, *El Viejo Santos y la revitalización de las clicas de Maryland*, 13 July 2015, <http://revistafactum.com/el-viejo-santos-y-la-revitalizacion-de-las-clicas-de-maryland/>.

¹⁰⁸ Revista Factum, *Los rufianes de la mara*, 22 July 2015, <http://revistafactum.com/los-rufianes-de-la-mara/>; Revista Factum, *El Viejo Santos y la revitalización de las clicas de Maryland*, 13 July 2015, <http://revistafactum.com/el-viejo-santos-y-la-revitalizacion-de-las-clicas-de-maryland/>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

USA as a means of generating more revenue and creating a more disciplined and structured organization.¹⁰⁹ MS members have also been arrested in recent years in countries such as Mexico, Chile, Italy, Peru and Spain, reportedly pointing to a strategy of expansion to new territories.¹¹⁰

The Salvadorian B-18 and MS gangs are also reported to maintain ties with their counterparts in other countries of Central America and Mexico, via social networks and other media, who are used to arrange for the safe passage of drugs and weapons.¹¹¹ Especially following increased police pressure after the breakdown of the truce, gang members from El Salvador are reported to have also travelled to neighbouring countries to seek sanctuary with affiliated gangs there, whom they have trained on how to transmit coded messages, or in isolated zones near the border, where they exercise control and recruit new members.¹¹² Gang members are also sometimes 'lent' between affiliated gangs from neighbouring countries to carry out assassinations and other criminal activities.¹¹³

The enduring enmity between – and sometimes within – B-18 and MS is deeply rooted. However, of all the countries where B-18 and MS are present, it was in El Salvador that the local gang leaders exerted sufficient organizational influence over their affiliated local gangs at the national level to negotiate a 2012 truce pact that was endorsed by the government. Even if not all affiliated gang leaders on the street agreed with the truce,¹¹⁴ the pact showed the apparent ability of the gangs to cooperate in lowering (or raising) the national murder rate in an instant.¹¹⁵ Even prior to the truce pact, contact between B-18 and MS leaders reportedly produced also concerted action in other areas,¹¹⁶ such as the tabling of common public positions by the gangs and the enforcing of public transport strikes.¹¹⁷ However, from at least early 2014, as the truce began to fragment, it was reported that B-18 and MS gang leaders simultaneously started to prepare for a return to war, directing their members to prioritize the purchasing of firearms and to increase extortion demands as necessary.¹¹⁸

By late 2015, the B-18 and MS affiliated gangs were reportedly more heavily armed than ever, with assault rifles and military hardware commonplace. Since the unravelling of the truce pact they are reported to have also engaged in the mass recruitment of new members, especially youth and children

¹⁰⁹ Insight Crime, *Salvador Gang MS-13 Increasing Activity in US: Reports*, 20 November 2015, <http://www.insightcrime.org/news-briefs/salvador-gang-ms13-increasing-activity-in-us>.

¹¹⁰ Prensa Libre, *Italia desbarata pandilla de salvadoreños en Milán*, 22 September 2015, <http://www.prensalibre.com/internacional/policia-italiana-desbarata-pandilla-de-salvadoreos-del-barrio-18-en-milan>; La Prensa Gráfica, *España detiene a 35 miembros de la MS-13*, 26 March 2014, <http://www.laprensagrafica.com/2014/03/26/espaa-detiene-a-35-miembros-de-la-ms13>; El Universal, *Mara Salvatrucha, casi erradicada, pero aún latente en Chiapas*, 25 August 2013, <http://www.informador.com.mx/mexico/2013/480984/6/mara-salvatrucha-casi-erradicada-pero-aun-latente-en-chiapas.htm>; D. Farah and P. Phillips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTTCOs.pdf.

¹¹¹ LAWG, *Arming the Conflict: El Salvador's Gun Market*, 16 February 2016, <http://lawg.org/action-center/lawg-blog/69-general/1585-arming-the-conflict-el-salvadors-gun-market>; Action on Armed Violence, *The Devil's Trade: Guns and Violence in El Salvador*, October 2014, https://aoav.org.uk/wp-content/uploads/2014/11/the-devils-trade_lr.pdf; El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>.

¹¹² It appears that the MS moves most commonly to Honduras and B-18 to Guatemala. See Prensa Libre, *Pandilleros usan al país como su guarida*, 7 August 2015, <http://www.prensalibre.com/guatemala/pandilleros-usan-al-pais-como-su-guarida>; La Prensa, *Honduras: Terror en La Virtud por mareros salvadoreños*, 26 April 2015, <http://www.laprensa.hn/honduras/834780-417/honduras-terror-en-la-virtud-por-mareros-salvadore%C3%B1os>; El Diario de Hoy, *Honduras alerta por la llegada de jefes de maras*, 22 April 2015, <http://www.elsalvador.com/articulo/sucesos/honduras-alerta-por-llegada-jefes-maras-71365>; Insight Crime, *El Salvador Gangs Teach Honduras Counterparts Secret Codes*, 26 August 2014, <http://www.insightcrime.org/news-briefs/el-salvador-gangs-honduras-secret-codes>; La Prensa Gráfica, *El Salvador en riesgo de migración de pandilleros*, 13 January 2014, <http://www.laprensagrafica.com/2014/01/13/el-salvador-en-riesgo-de-migracion-de-pandilleros>.

¹¹³ Prensa Libre, *Pandilleros usan al país como su guarida*, 7 August 2015, <http://www.prensalibre.com/guatemala/pandilleros-usan-al-pais-como-su-guarida>.

¹¹⁴ Sala Negra de El Faro, *"Hay cipotes que solo matar saben; no es tan sencillo calmarse de un día para otro"*, 7 August 2012, <http://www.salanegra.elfaro.net/es/201208/entrevistas/9256/>.

¹¹⁵ The murder rate was reduced by 40 per cent during the truce and rose steadily as the truce fragmented. See Sala Negra de El Faro, *La Tregua redefinió el mapa de asesinatos de El Salvador*, 9 March 2015, <http://www.salanegra.elfaro.net/es/201503/cronicas/16490/La-Tregua-redefini%C3%B3-el-mapa-de-asesinatos-de-El-Salvador.htm>; UNODC, *Global Study on Homicide 2013: Trends, Contexts, Data*, 10 April 2014, https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf, pp. 40, 43, 45. This power was evidenced again, temporarily, in the sudden but short-lived fall in homicides after 17 January 2015 when influential MS and B-18 gang leaders gave the order to reduce killings. See El Faro, *"Ranflas" de MS-13 y Barrio 18 ordenan reducir asesinatos*, 23 January 2015, <http://www.elfaro.net/es/201501/noticias/16516/Ranflas-de-MS-13-y-Barrio-18-ordenan-reducir-asesinatos.htm>.

¹¹⁶ As yet, fears expressed by the government that MS and B-18 will combine to create a single structure remain unrealized. See El Universal, *Amenaza a frontera sur alianza entre maras*, 12 August 2015, <http://www.eluniversal.com.mx/articulo/mundo/2015/08/12/amenaza-frontera-sur-alianza-entre-las-maras>.

¹¹⁷ Insight Crime, *El Salvador Implements New Gang Law*, 1 November 2010, <http://www.insightcrime.org/news-analysis/el-salvador-implements-new-gang-law>.

¹¹⁸ El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>.

as young as 11-12 years.¹¹⁹ Following the decision by the Sanchez government in April 2015 to return the gang leaders to isolation cells in Zacatecoluca maximum-security prison, in both B-18 and MS the local-level affiliated gangs have reportedly been allowed to operate with almost complete autonomy in adopting an unprecedented degree of aggression towards security forces, the rival gangs and the local community, without needing to consult incarcerated leaders on big decisions such as whether or not to kill a person or to attack a rival gang.¹²⁰ The rival gangs are also reported to have embarked on an aggressive expansion to new territories, turning much of the country into an apparent free-fire zone disputed by the gangs.¹²¹

Especially within MS, since the breakdown of the truce there is also an apparently growing military sophistication that is increasingly transforming the affiliated local gangs into a force that can combat the State and hold territory.¹²² In some zones, MS cliques have reportedly been ordered to locate and monitor police officers living in their territory and to kill a specified number, with officers from special police units as a priority and prosecutors and other judicial officials to be targeted if no police officers are found.¹²³ In just the first four months of 2015, 24 police officers were reportedly killed by the gangs, often when they were off-duty and unarmed, and a total of 44 were killed by August 2015.¹²⁴ Moreover, in the second half of 2015 a number of State institutions were targeted by car bombs and other improvised explosive devices, with the MS and B-18 gangs as the principal suspects.¹²⁵ Additionally, according to the police 32 per cent of all homicide victims registered between the start of 2014 and mid-September 2015 had links with the gangs,¹²⁶ a figure that presumably includes gang-on-gang killings and killings by the security forces.

Finally, as evidenced over the past few years, one of the most remarkable changes occasioned by the truce has been the dramatically increasing political sophistication with which the leaders of B-18 and MS have come to couch their grievances with the government and assert their increasingly overt political ambitions.¹²⁷ The gangs reportedly continue to decide which political parties can campaign on their territories and they are also reported to have control of several local churches.¹²⁸ Indeed, the MS and B-18 gangs claim to be able to influence the elections in El Salvador and, in February 2015,

¹¹⁹ El Nuevo Diario, *Aumentan en un 52 % los menores pandilleros procesados en El Salvador en 2015*, 12 October 2015, <http://www.elnuevodiario.com.ni/internacionales/373365-aumentan-52-menores-pandilleros-procesados-salvado/>; Sala Negra de El Faro, *Más represión, más asesinatos, más armas, más reclutamientos*, 20 September 2015, <http://www.salanegra.elfaro.net/es/201509/cronicas/17376/M%C3%A1s-represi%C3%B3n-m%C3%A1s-asesinatos-m%C3%A1s-armas-m%C3%A1s-reclutamientos.htm>; El Diario de Hoy, *Maras proliferan en San Salvador*, 29 January 2015, <http://www.elsalvador.com/articulo/sucesos/maras-prolifera-san-salvador-72783>; La Prensa Gráfica, *Las mascotas de la pandilla*, 21 July 2014, <http://www.laprensagrafica.com/2014/07/21/las-mascotas-de-la-pandilla>; La Página, *Pandilleros se arman mejor que la Policía salvadoreña*, 21 April 2014, <http://www.lapagina.com.sv/nacionales/94792/2014/04/20/Policias-piden-mejores-condiciones-ante-constant-ataques-de-pandilleros>; La Prensa Gráfica, *Pandilleros tienen sitiado Mejicanos*, 18 June 2013, <http://www.laprensagrafica.com/pandilleros-tienen-sitiado-mejicanos>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

¹²⁰ Sala Negra de El Faro, *Más represión, más asesinatos, más armas, más reclutamientos*, 20 September 2015, <http://www.salanegra.elfaro.net/es/201509/cronicas/17376/M%C3%A1s-represi%C3%B3n-m%C3%A1s-asesinatos-m%C3%A1s-armas-m%C3%A1s-reclutamientos.htm>.

¹²¹ Center for Strategic and International Studies, *Central American Gangs as a “Wicked Problem”*, 24 November 2015, <http://csis.org/blog/central-american-gangs-wicked-problem>; El Diario de Hoy, *Maras proliferan en San Salvador*, 29 January 2015, <http://www.elsalvador.com/articulo/sucesos/maras-prolifera-san-salvador-72783>.

¹²² Center for Strategic and International Studies, *Central American Gangs as a “Wicked Problem”*, 24 November 2015, <http://csis.org/blog/central-american-gangs-wicked-problem>.

¹²³ La Prensa Gráfica, *Pandilla en La Libertad ordena matar dos policías por clica*, 8 April 2015, <http://www.laprensagrafica.com/2015/04/08/pandilla-en-la-libertad-ordena-matar-dos-policias-por-clica#sthash.6NY6nlbG.dpuf>.

¹²⁴ El Mundo, *Muerte de policía eleva a 44 los agentes asesinados en 2015*, 22 August 2015, <http://elmundo.sv/muerte-de-policia-eleva-a-44-los-agentes-asesinados-en-2015/>; El Mundo, *Policías y soldados han repelido 251 ataques de pandillas*, 15 May 2015, <http://elmundo.com.sv/policias-y-soldados-han-repelido-251-ataques-de-pandillas/>.

¹²⁵ Insight Crime, *The Mystery Behind El Salvador’s IEDs*, 9 October 2015, <http://www.insightcrime.org/news-analysis/the-mystery-behind-el-salvador-ieds>.

¹²⁶ El Diario de Hoy, *En siete de cada diez homicidios las víctimas no son de pandillas*, 15 November 2015, <http://www.elsalvador.com/articulo/sucesos/siete-cada-diez-homicidios-las-victimas-son-pandillas-93242>.

¹²⁷ Center for Strategic and International Studies, *Central American Gangs as a “Wicked Problem”*, 24 November 2015, <http://csis.org/blog/central-american-gangs-wicked-problem>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

¹²⁸ El Diario de Hoy, *Maras proliferan en San Salvador*, 29 January 2015, <http://www.elsalvador.com/articulo/sucesos/maras-prolifera-san-salvador-72783>.

issued a communique asserting that the ruling FMLN almost lost the 2014 presidential election because it lacked their support.¹²⁹

Other gangs

Other gangs exist in El Salvador that are not affiliated to MS or B-18. Indeed, whilst 70 per cent of gang members deported from the USA were MS or B-18, other deportees belonged to other *Sureño* structure gangs in California.¹³⁰ Some attached themselves to MS or B-18 once back in El Salvador, whilst others left the gang life and tried to avoid confrontations with the existing gangs.¹³¹ Of the smaller *Sureño* gangs that tried to establish themselves again, only *Mirada Locos 13* reportedly still survives and is the third strongest gang in El Salvador, based in San Miguel.¹³² However, other deportees reportedly joined together as the *Sureños* gang, composed of members from many different *Sureño* gangs in California, and set up in territories not dominated by MS or B-18 and in businesses that did not interest the bigger gangs (such as the trade in methamphetamines and ecstasy).¹³³ The *Sureños* gang has reportedly been racked by internal conflicts and killings in recent years.¹³⁴

Alongside the *Mirada Locos 13* gang and the *Sureños* gang, other notable non-MS and non-B-18 street gangs currently operating in El Salvador reportedly include, among others, the *Mao Mao* and *La Máquina* – both of which emerged during the civil war of the 1980s – as well as the gangs of *La Raza* and *Mara Desorden*.¹³⁵ In numerical terms, none of these gangs comes close to comparing with either B-18 or MS, although some of the larger ones reportedly dispute territories with local gangs that are B-18 or MS affiliates.

b) Smuggling Structures (Transportistas)

Alongside the widespread street gangs in El Salvador, there are other organized criminal structures that are linked closely to the dynamics of cross-border smuggling and trafficking of goods and people. These smuggling structures (*transportistas*) developed during the civil war of the 1980s when they moved contraband and illicit goods along the country's unguarded Pacific coast.¹³⁶ Later, as El Salvador became a key transit point for drug smuggling from the Andean region,¹³⁷ Salvadorian *transportista* groups reportedly developed specialized drug-trafficking networks along specific routes in El Salvador.¹³⁸ They reportedly work for whichever larger regional drug-trafficking organization hires them to receive, store and transport drugs through El Salvador, mostly to Mexico but sometimes directly to the United States.¹³⁹ As a result, they are reported to have become increasingly tied to Mexican drug-smuggling cartels.¹⁴⁰

¹²⁹ La Página, *Maras responden al gobierno: "No le tenemos miedo a Zacatraz"*, 27 February 2015, <http://www.lapagina.com.sv/nacionales/104434/2015/02/27/Maras-responden-al-gobierno-%E2%80%9Cno-tenemos-miedo-a-Zacatraz%E2%80%9D>.

¹³⁰ Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>.

¹³¹ Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>.

¹³² Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>.

¹³³ Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>. Note that this small *Sureños* gang is distinct from the *Sureños* faction of B-18 and derives its name from, but does not directly represent in El Salvador, the wider *Sureño* gang movement in southern California that operates under the aegis of the Mexican Mafia.

¹³⁴ Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>.

¹³⁵ El Heraldo, *Cinco pandillas menores se unen a tregua de maras en El Salvador*, 7 April 2014, <http://www.elheraldo.hn/mundo/603700-217/cinco-pandillas-menores-se-unen-a-tregua-de-maras-en-el-salvador>; A. Marroquín Parducci, *Pandillas y Prensa en El Salvador*, 2013, <http://www.insyde.org.mx/wp-content/uploads/2013/09/pandillas%20y%20prensa.pdf>, p. 79.

¹³⁶ BBC, *Los Perrones, el poderoso grupo criminal que pocos conocen*, 28 August 2014, http://www.bbc.com/mundo/noticias/2014/08/140820_el_salvador_perrones_transportistas_cocaina_jcps; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

¹³⁷ D. Farah, 'Organized Crime in El Salvador: Its Homegrown and Transnational Dimensions', in C.J. Arns and E.L. Olson (eds), *Organized Crime in Central America: The Northern Triangle*, 2011, https://www.wilsoncenter.org/sites/default/files/LAP_single_page.pdf.

¹³⁸ LAWG, *El Salvador's Gang Violence: Turf Wars, Internal Battles and Life Defined by Invisible Borders*, 10 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1579-el-salvadors-gang-violence-turf-wars-internal-battles-and-life-defined-by-invisible-borders>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf. Nowadays, the main cocaine-trafficking routes are along the Pacific coast and northern and eastern borders, and the marijuana-trafficking routes are located in western and northern El Salvador. Insight Crime, *Counting the Cost of Cocaine Passing through El Salvador*, 3 January 2012, <http://www.insightcrime.org/news-analysis/counting-the-amount-of-cocaine-passing-through-el-salvador>.

¹³⁹ BBC, *Los Perrones, el poderoso grupo criminal que pocos conocen*, 28 August 2014, http://www.bbc.com/mundo/noticias/2014/08/140820_el_salvador_perrones_transportistas_cocaina_jcps; S. Dudley, 'Drug Trafficking

These smuggling structures are considered to be more sophisticated organizations than the street gangs. They are reportedly based around complex horizontal networks of connected persons and do not usually pursue exclusive control of the territories where they are based (nor practise extortion there), but rather work to move goods along particular smuggling routes.¹⁴¹ They are reported to rely primarily on corruption and bribery of local and national political, police and judicial authorities to secure protection for their activities, although violent means are reportedly also used where this is deemed necessary.¹⁴² Assassinations and threats by these organizations usually appear to be limited largely to disputes or punishments of those involved in the structures,¹⁴³ or others who pose a direct risk.¹⁴⁴ Although drug trafficking is a lucrative source of income for these smuggling structures, they reportedly also operate other illicit businesses based around the smuggling of other goods and of people.

The oldest of these smuggling structures is ‘*Los Perrones*’, which reportedly began smuggling food and clothes in La Unión department in south-eastern El Salvador during the civil war in the 1980s.¹⁴⁵ It is now reported to be principally involved in drug smuggling, money-laundering and other profitable illicit activities,¹⁴⁶ and reportedly works with Mexican drug-trafficking organizations, especially the Sinaloa cartel.¹⁴⁷ It reportedly has a horizontal structure, rather than a clear vertical chain of command, such that it can adapt flexibly to arrests and change.¹⁴⁸ Indeed, at some point the structure split into two divisions that continue to work closely together: ‘*Los Perrones Orientales*’ are based in the east around San Miguel, Usulután and La Unión departments and ‘*Los Perrones Occidentales*’ are based around Santa Ana department in the west of El Salvador.¹⁴⁹

Through bribery and corruption, *Los Perrones* has reportedly built up a sophisticated intelligence network within the Salvadorian State and it can call on an extensive network of collaborators in local and national government, including politicians, police, prosecutors and judges.¹⁵⁰ The structure is also reported to have links with some MS and B-18 cliques in the areas where it operates.¹⁵¹ Police

Organizations in Central America: Transportistas, Mexican Cartels, and Maras’, in C.J. Arnsion and E.L. Olson (eds), *Organized Crime in Central America: The Northern Triangle*, 2011, https://www.wilsoncenter.org/sites/default/files/LAP_single_page.pdf.

¹⁴⁰ D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

¹⁴¹ D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 41-42; Insight Crime, *Profile: Perrones*, undated, <http://www.insightcrime.org/el-salvador-organized-crime-news/perrones-profile> (date accessed: 22 December 2015).

¹⁴² BBC, *Los Perrones, el poderoso grupo criminal que pocos conocen*, 28 August 2014, http://www.bbc.com/mundo/noticias/2014/08/140820_el_salvador_perrones_transportistas_cocaina_jcps; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 26; El Faro, *El Cártel de Taxis*, 16 May 2011, <http://www.elfaro.net/es/201105/noticias/4079/>.

¹⁴³ El Faro, *Otro concejal de Metapán vinculado por las autoridades al tráfico de drogas*, 27 January 2012, <http://www.elfaro.net/es/201201/noticias/7378/Otro-concejal-de-Metap%C3%A1n-vinculado-por-autoridades-al-tr%C3%A1fico-de-drogas.htm>.

¹⁴⁴ For instance, it appears that MS cliques have recently begun to violently dispute the control of certain smuggling routes with *transportistas* in El Salvador, who have enlisted the support of their ties to political elites and the police and military structures – including, apparently, death squads – as a means of combatting this threat. See Center for Strategic and International Studies, *Central American Gangs as a “Wicked Problem”*, 24 November 2015, <http://csis.org/blog/central-american-gangs-wicked-problem>.

¹⁴⁵ S. Dudley, ‘Drug Trafficking Organizations in Central America: Transportistas, Mexican Cartels, and Maras’, in C.J. Arnsion and E.L. Olson (eds), *Organized Crime in Central America: The Northern Triangle*, 2011, https://www.wilsoncenter.org/sites/default/files/LAP_single_page.pdf.

¹⁴⁶ D. Farah, ‘Organized Crime in El Salvador: Its Homegrown and Transnational Dimensions’, in C.J. Arnsion and E.L. Olson (eds), *Organized Crime in Central America: The Northern Triangle*, 2011, https://www.wilsoncenter.org/sites/default/files/LAP_single_page.pdf.

¹⁴⁷ D. Farah, ‘Organized Crime in El Salvador: Its Homegrown and Transnational Dimensions’, in C.J. Arnsion and E.L. Olson (eds), *Organized Crime in Central America: The Northern Triangle*, 2011, https://www.wilsoncenter.org/sites/default/files/LAP_single_page.pdf.

¹⁴⁸ BBC, *Los Perrones, el poderoso grupo criminal que pocos conocen*, 28 August 2014, http://www.bbc.com/mundo/noticias/2014/08/140820_el_salvador_perrones_transportistas_cocaina_jcps.

¹⁴⁹ UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 26; Insight Crime, *Profile: Perrones*, undated, <http://www.insightcrime.org/el-salvador-organized-crime-news/perrones-profile> (date accessed: 22 December 2015).

¹⁵⁰ El Migueleño, *Desarticulan organización transnacional vinculada al narcotráfico*, 30 July 2014, <http://www.sanmiguel.com.sv/desarticulan-organizacion-transnacional-vinculada-al-narcotrafico>; Insight Crime, ‘*Chepe Luna, the Police and the Art of Escape*’, 21 February 2014, <http://www.insightcrime.org/investigations/chepe-luna-the-police-and-the-art-of-escape>; D. Farah, ‘Organized Crime in El Salvador: Its Homegrown and Transnational Dimensions’, in C.J. Arnsion and E.L. Olson (eds), *Organized Crime in Central America: The Northern Triangle*, 2011, https://www.wilsoncenter.org/sites/default/files/LAP_single_page.pdf.

¹⁵¹ El Faro, *Fiscalía embiste al ala sureña del Barrio 18 y a remanente de los Perrones*, 30 July 2014, <http://www.elfaro.net/es/201407/noticias/15778/>; El Migueleño, *Desarticulan organización transnacional vinculada al narcotráfico*, 30 July 2014, <http://www.sanmiguel.com.sv/desarticulan-organizacion-transnacional-vinculada-al-narcotrafico>; Insight Crime, *Operation*

investigators and other individuals who pose a threat to the structure or competition for its routes have reportedly been killed.¹⁵² Newspaper journalists investigating the structure are reported to have received threats.¹⁵³ Despite ongoing arrests of its members, including the jailing of many of the original leaders, the structure is reported to have managed to regroup, expand and increase its transport capacity and continues to operate today.¹⁵⁴

A more recent and powerful structure to emerge in northwest El Salvador is the so-called Taxis Cartel (*Cartel de Taxis*). Based originally in Texistepeque and Metapán, Santa Ana department, the Taxis Cartel is reported to operate a cocaine- and people-smuggling route known as *El Caminito* that runs from Honduras to Chalatenango department in north-central El Salvador and then northwest through Sonsonate department to Guatemala.¹⁵⁵ It has reportedly been involved in transporting drugs and other contraband merchandise for Sinaloa Cartel operatives in Honduras, for the Gulf Cartel and for the Zetas.¹⁵⁶ However, it reportedly also has connections with other drug-trafficking structures such as the Guatemala-based ‘*Los Temerarios*’,¹⁵⁷ which also operates sporadically in El Salvador.¹⁵⁸ Presently, the Taxis Cartel is reportedly organized into four main groups dedicated to different illicit activities: transporting cocaine from Panama to Mexico; selling and distributing drugs; car theft; and money-laundering.¹⁵⁹

The Taxis Cartel is reportedly comprised of a ring of individuals with strong ties to El Salvador’s political and business elites, giving them a veneer of respectability,¹⁶⁰ although it relies also on the connections brought by incarcerated drug-traffickers of the 1980s.¹⁶¹ The structure reportedly wields tremendous political power in the territories where it operates and even up to the national level, including important links with politicians, police and judges that allow it to operate with a degree of impunity.¹⁶² However, in 2015 the Prosecutor’s Office convicted several Taxis Cartel members, including one relatively high profile individual.¹⁶³ Taxis Cartel members appear to avoid direct

Chameleon in El Salvador: Anatomy of a Failure, 4 March 2014, <http://www.insightcrime.org/investigations/operation-chameleon-anatomy-of-a-failure>.

¹⁵² Insight Crime, *Operation Chameleon in El Salvador: Anatomy of a Failure*, 4 March 2014, <http://www.insightcrime.org/investigations/operation-chameleon-anatomy-of-a-failure>; El Diario de Hoy, *Los narcos del oriente salvadoreño ahora reciben droga de submarinos y lavan dinero en Cuba*, 12 November 2011, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=6379442.

¹⁵³ El Faro, *Narcotraficantes infiltraron a la PNC*, 11 May 2009, http://archivo.elfaro.net/secciones/noticias/20090511/noticias_20090511.asp.

¹⁵⁴ Insight Crime, *How an El Salvador Drug Trafficker Smuggled Cocaine Into the US*, 5 March 2014, <http://www.insightcrime.org/investigations/how-an-el-salvador-drug-trafficker-smuggled-cocaine-into-the-us>.

¹⁵⁵ D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 26.

¹⁵⁶ Insight Crime, *El Salvador Investigation Outlines How Taxis Cartel Works*, 15 October 2013, <http://www.insightcrime.org/news-briefs/el-salvador-investigation-outlines-how-taxis-cartel-works>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 26; El Faro, *El Cártel de Taxis*, 16 May 2011, <http://www.elfaro.net/es/201105/noticias/4079/>.

¹⁵⁷ La Prensa Gráfica, *Cartel de Taxis con amplia base en Guatemala*, 14 September 2013, <http://www.laprensagrafica.com/2013/09/14/cartel-de-taxis-con-amplia-base-en-guatemala>.

¹⁵⁸ El Diario de Hoy, *Cártel Los Temerarios abastece de marihuana a cárceles y escuelas salvadoreñas*, 12 April 2014, <http://www.elsalvador.com/articulo/sucesos/cartel-los-temerarios-abastece-marihuana-carceles-escuelas-salvadorenas-48713>.

¹⁵⁹ La Prensa Gráfica, *Perdono: Cartel Taxis es una red compleja*, 15 October 2013, <http://www.laprensagrafica.com/2013/10/15/perdono-cartel-taxis-es-una-red-compleja>.

¹⁶⁰ Insight Crime, *El Salvador Investigation Outlines How Taxis Cartel Works*, 15 October 2013, <http://www.insightcrime.org/news-briefs/el-salvador-investigation-outlines-how-taxis-cartel-works>; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 27; Insight Crime, *Profile: Taxis Cartel*, undated, <http://www.insightcrime.org/el-salvador-organized-crime-news/taxis-cartel-profile> (date accessed: 22 December 2015).

¹⁶¹ La Prensa Gráfica, *El asocio que facilitó el tráfico de Taxis*, 14 October 2013, <http://www.laprensagrafica.com/2013/10/14/el-asocio-que-facilito-el-trafico-de-taxis>.

¹⁶² Insight Crime, *The Fixer and El Salvador’s Missed Opportunity*, 6 March 2014, <http://www.insightcrime.org/component/content/article?id=5233:the-fixer-and-el-salvadors-missed-opportunity>; D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf; El Faro, *Otro concejal de Metapán vinculado por las autoridades al tráfico de drogas*, 27 January 2012, <http://www.elfaro.net/es/201201/noticias/7378/Otro-concejal-de-Metap%C3%A1n-vinculado-por-autoridades-al-tr%C3%A1fico-de-drogas.htm>.

¹⁶³ La Prensa Gráfica, *Condenan a 17 integrantes del Cartel de Taxis*, 2 October 2015, <http://www.laprensagrafica.com/2015/10/02/condenan-a-17-integrantes-del-cartel-de-taxis>; La Prensa Gráfica, *Condenan a 35 años de cárcel a “El Burro” Herrera*, 21 September 2015, <http://www.laprensagrafica.com/2015/09/21/condenan-a-35-aos-de-carcel-a-el-burro-herrera>.

involvement in violence and rely instead on the protection of local authorities.¹⁶⁴ The Taxis Cartel reportedly also has close connections with local MS cliques along the routes that it operates which protect the drugs and carry out assassinations for hire.¹⁶⁵ There are a number of killings that appear to be associated with the cartel.¹⁶⁶ Newspaper journalists investigating the cartel are reported to have received death threats.¹⁶⁷

c) State Security Forces

The security forces of the Salvadorian State are reported to have contributed directly to the current dynamics of violence in the country. These include the Civilian National Police (*Policía Nacional Civil* - PNC), a civilian institution created in the aftermath of the civil war to maintain public order whilst ensuring respect for human rights, and the Armed Forces (*Fuerza Armada*), which are subject to civilian control and encompass the national Army, Air Force and Navy.¹⁶⁸ As well as territorial units, the PNC has a number of more specialized units, such as the anti-gang unit, and a separate police oversight body (*Inspectoría*).¹⁶⁹ Alongside their national defence function, the Armed Forces have reportedly been used for many years to support the police and other State institutions dealing with the security situation inside El Salvador, especially in zones with a strong presence of organized criminal groups.¹⁷⁰

The deteriorating security situation following the breakdown of the gang truce is reported to have prompted a strong response from politicians and the security forces. In January 2015, high-ranking police officers and politicians were reported to have authorized members of the security forces to use their weapons against criminals “without fear of any consequences”.¹⁷¹ In February 2015, the Police Inspector General reportedly characterized the confrontations between the gangs and the security forces as a ‘war’, arguing that gang members killed during such confrontations do not count as executions.¹⁷² A total of 3,000 soldiers have also been deployed specifically to support the PNC in high-crime areas within El Salvador.¹⁷³ In the first four months of 2015, there were reportedly more than 250 shootouts between the police and the gangs, or an average of more than two per day, and bulletproof vests were distributed to security forces operating in particularly dangerous areas.¹⁷⁴ The PNC claimed that the gang members killed as a result of this strategy of armed engagement with the

¹⁶⁴ Insight Crime, *Profile: Taxis Cartel*, undated, <http://www.insightcrime.org/el-salvador-organized-crime-news/taxis-cartel-profile> (date accessed: 22 December 2015).

¹⁶⁵ D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf. Note, however, there are reports of a recent attempt by MS cliques to wrest control of certain routes from *transportista* groups. See Center for Strategic and International Studies, *Central American Gangs as a “Wicked Problem”*, 24 November 2015, <http://csis.org/blog/central-american-gangs-wicked-problem>.

¹⁶⁶ El Faro, *Otro concejal de Metapán vinculado por las autoridades al tráfico de drogas*, 27 January 2012, <http://www.elfaro.net/es/201201/noticias/7378/Otro-concejal-de-Metap%C3%A1n-vinculado-por-autoridades-al-tr%C3%A1fico-de-drogas.htm>.

¹⁶⁷ D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf.

¹⁶⁸ Constitution of the Republic (*Constitución de la República*), Legislative Decree Vol. 38, 15 December 1983, published in Diario Oficial No. 234, Tomo No. 281, 16 December 1983, <http://www.refworld.org/docid/3db96c864.html>, Article 159.

¹⁶⁹ See Estructura Organizativa, Policía Nacional Civil, http://www.pnc.gob.sv/portal/page/portal/informativo/institucion/estructura_organizativa (date accessed: 22 December 2015).

¹⁷⁰ This power is granted on an exceptional basis to the president of El Salvador by the Constitution. See Constitution of the Republic (*Constitución de la República*), Legislative Decree No. 38, 15 December 1983, published in Diario Oficial No. 234, Tomo No. 281, 16 December 1983, <http://www.refworld.org/docid/3db96c864.html>, Article 168(12). However, this power has been renewed annually for a number of years, at least since 2008, most recently in 2015. See *El Salvador: Decreto No. 61 de 2015, Reforma al Decreto Ejecutivo No. 60 de fecha 28 de septiembre de 2009, mediante el cual se dispone de la Fuerza Armada, con el propósito de apoyar a la Policía Nacional Civil, en operaciones de mantenimiento de la paz interna*, 21 May 2015, <http://www.refworld.org/docid/56a247914.html>.

¹⁷¹ Insight Crime, *Wanted: Police Willing to Go to War in El Salvador*, 10 February 2015, <http://www.insightcrime.org/news-analysis/wanted-police-willing-to-go-to-war-in-el-salvador>; Sala Negra de El Faro, *Se busca a policías dispuestos a ir a la guerra*, 25 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16507/Se-busca-a-polic%C3%A1s-dispuestos-a-ir-a-la-guerra.htm>.

¹⁷² La Prensa Gráfica, *“Aquí estamos en guerra”*, 19 February 2015, <http://www.laprensagrafica.com/2015/02/19/aqui-estamos-en-guerra>.

¹⁷³ Insight Crime, *Need for Police Reform in El Salvador at All-Time High*, 20 August 2015, <http://www.insightcrime.org/news-analysis/police-reform-in-el-salvador>.

¹⁷⁴ Insight Crime, *Assessing El Salvador’s Gangs in a Post-Truce Context*, 20 November 2015, <http://www.insightcrime.org/news-analysis/assessing-el-salvador-gangs-in-a-post-truce-context>; El Mundo, *Policías y soldados han repelido 251 ataques de pandillas*, 15 May 2015, <http://elmundo.com.sv/policias-y-soldados-han-repelido-251-ataques-de-pandillas/>.

gangs account for the majority of registered homicides,¹⁷⁵ although this is not supported by the official figures.¹⁷⁶

Moreover, since 2014, reports have begun to emerge of death squads and vigilante groups with possible connections to the security forces engaging in the extrajudicial killing of suspected gang members in El Salvador.¹⁷⁷ In 2015 this pattern became more evident with reports of death squads dressed like policemen killing suspected MS gang members and other, mostly young, residents of MS gang-controlled neighbourhoods in different parts of the country.¹⁷⁸ The police, prosecutors and other institutions of the Salvadorian State have reportedly not made any efforts to investigate these killings.¹⁷⁹ Extrajudicial executions by the PNC of gang members and persons supposed to be affiliated with the gangs have also been reported.¹⁸⁰ The security forces reportedly also carried out mass arrests without legal basis and made excessive and arbitrary use of detention, especially of youth suspected of being gang members.¹⁸¹ The security forces have reportedly subjected suspected gang members in their custody to severe physical mistreatment.¹⁸² Newspaper journalists reporting on these stories have reportedly received death threats.¹⁸³

C. Ability and Willingness of the State to Provide Protection

1. Overview

A number of laws in El Salvador are directed at combatting organized crime. A new law banning gangs and criminal organizations was adopted in 2010.¹⁸⁴ In March 2015, a new anti-extortion law was approved that allows police to investigate extortion without waiting for a complaint, introduces longer sentences for the crime of extortion and attempts to prevent extortion phone calls from prisons.¹⁸⁵ In August 2015, the Supreme Court confirmed the constitutionality of the 2006 anti-terrorism law, which provides for special measures against ‘terrorist’ organizations and harsher

¹⁷⁵ ContraPunto, *PNC: La mayoría de víctimas y victimarios de homicidios son pandilleros*, 6 April 2015, <http://www.contrapunto.com.sv/sociedad/violencia/pnc-la-mayoria-de-victimas-y-victimarios-de-homicidios-son-pandilleros>.

¹⁷⁶ Recent statistics indicate that 32 per cent of the homicides are gang members, which must include those killed during these clashes but also in inter- and intra-gang violence. See El Diario de Hoy, *En siete de cada diez homicidios las víctimas no son de pandillas*, 15 November 2015, <http://www.elsalvador.com/articulo/sucesos/siete-cada-diez-homicidios-las-victimas-son-pandillas-93242>.

¹⁷⁷ La Prensa Gráfica, *PNC reporta dos masacres en zona rural de Usulután*, 11 May 2015, <http://www.laprensagrafica.com/2015/05/11/pnc-reporta-dos-masacres-en-zona-rural-de-usulután>; Sala Negra de El Faro, *Se busca a policías dispuestos a ir a la guerra*, 25 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16507/Se-busca-a-polic%C3%ADas-dispuestos-a-ir-a-la-guerra.htm>; Insight Crime, *Has Gang Violence in El Salvador Sparked a Death Squad Revival?*, 23 May 2014, <http://www.insightcrime.org/news-briefs/gang-violence-el-salvador-sparked-death-squad-revival>. Note, however, that gang members sometimes also wear counterfeit uniforms, although apparently with the motive of attacking police. See La Prensa Gráfica, *PNC incauta uniformes a pandilleros en Soyapango*, 1 May 2015, <http://www.laprensagrafica.com/2015/05/01/pnc-incauta-uniformes-a-pandilleros-en-soyapango>. Death squads targeting suspected gang members also reportedly emerged in response to the wave of deportations from the USA in the 1990s. Fusion, *Meet One Man Who Escaped El Salvador's Cycle of Violence*, 27 May 2015, <http://fusion.net/story/138876/meet-one-man-who-escaped-el-salvadors-cycle-of-violence/>.

¹⁷⁸ El Diario de Hoy, *Atribuyen a grupos de exterminio 14 muertes en varias zonas del país*, 8 November 2015, <http://www.elsalvador.com/articulo/sucesos/atribuyen-grupos-exterminio-muertes-varias-zonas-del-pais-92556>.

¹⁷⁹ Insight Crime, *Death Squads in El Salvador Kill, Face No Investigation: Report*, 10 November 2015, <http://www.insightcrime.org/news-briefs/death-squads-in-el-salvador-kill-face-no-investigation-report>; El Diario de Hoy, *Atribuyen a grupos de exterminio 14 muertes en varias zonas del país*, 8 November 2015, <http://www.elsalvador.com/articulo/sucesos/atribuyen-grupos-exterminio-muertes-varias-zonas-del-pais-92556>.

¹⁸⁰ Sala Negra de El Faro, *La Policía masacró en la finca San Blas*, 22 July 2015, <http://www.salanegra.elfaro.net/es/201507/cronicas/17205/La-Polic%C3%ADa-masacr%C3%B3-en-la-finca-San-Blas.htm> (English version available at: <http://www.insightcrime.org/news-analysis/the-police-massacre-in-san-blas-el-salvador>); United States Department of State, *2014 Country Reports on Human Rights Practices - El Salvador*, 25 June 2015, <http://www.refworld.org/docid/559bd56d28.html>.

¹⁸¹ UN Human Rights Council, *Report of the Working Group on Arbitrary Detention, Addendum: Mission to El Salvador*, UN Doc. A/HRC/22/44/Add.2, 11 January 2013, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.44_en.pdf; United States Department of State, *2014 Country Reports on Human Rights Practices - El Salvador*, 25 June 2015, <http://www.refworld.org/docid/559bd56d28.html>.

¹⁸² Sala Negra de El Faro, *"Aquí ya no caben más: mátenlos"*, 2 July 2015, <http://www.salanegra.elfaro.net/es/201507/cronicas/17148/Aquí-ya-no-caben-más-mátenlos.htm>; United States Department of State, *2014 Country Reports on Human Rights Practices - El Salvador*, 25 June 2015, <http://www.refworld.org/docid/559bd56d28.html>.

¹⁸³ El Faro, *El Faro denuncia amenazas contra sus periodistas*, 13 August 2015, <http://www.elfaro.net/es/201508/noticias/17263/El-Faro-denuncia-amenazas-contra-sus-periodistas.htm>.

¹⁸⁴ Law Banning Maras, Gangs and Criminal Groups, Associations and Organizations, *El Salvador: Ley de proscripción de maras, pandillas, agrupaciones, asociaciones y organizaciones de naturaleza criminal*, Decreto No. 458, 10 September 2010, <http://www.refworld.org/docid/56a24bd44.html>.

¹⁸⁵ Special Law Against the Crime of Extortion, *El Salvador: Ley especial contra el delito de extorsión*, Decreto No. 953, 23 March 2015, <http://www.refworld.org/docid/56a24b454.html>.

sentencing for ‘terrorist’ crimes, in their application to gangs.¹⁸⁶ The judgment confirmed that MS, B-18 and other similar groups constitute ‘terrorist organizations’ under the anti-terrorism law and that their ‘leaders, members, collaborators, apologists and funders’ are considered ‘terrorists’.¹⁸⁷

Despite the existence of this legal framework, weaknesses and corruption in the Salvadorian security forces and the judiciary reportedly contribute to creating a high level of impunity for crimes in El Salvador.¹⁸⁸ As early as 2004, *transportista* smuggling structures and gangs had reportedly penetrated the State through the police force.¹⁸⁹ Bribes are reportedly also paid by the smuggling structures to political operators to guarantee the free operation of such criminal networks and the free passage of their merchandise.¹⁹⁰ Policemen who investigated high-level drug smugglers have reportedly had their investigations shelved and were instead investigated themselves on minor charges by the Attorney General.¹⁹¹ The gangs reportedly have their own infiltrators in the police and the military, including certain elite units and the General Staff, who warn them about anti-gang operations and with access to intelligence, weapons and uniforms.¹⁹²

Between 2009 and 2015, the PNC was the State institution about which the highest number of complaints was made regarding human rights abuses.¹⁹³ In 2014 alone, 900 police officers were reported to have been sanctioned for misconduct, with this figure likely representing only a fraction of those who committed abuses.¹⁹⁴ It is reported that overall public opinion in El Salvador tends to view the police as driven by aggressive and vindictive motives rather than by professional ethics.¹⁹⁵ Indeed, individual officers and entire local forces within the police reportedly sometimes take one or the other side in disputes between rival local gangs.¹⁹⁶ Moreover, it is reported that neither the police nor any other State authorities have investigated recent murders carried out by uniformed and heavily armed death squads that give the appearance of having official links.¹⁹⁷

¹⁸⁶ Special Law Against Acts of Terrorism, *El Salvador: Ley especial contra actos de terrorismo*, Decreto No. 108, 17 October 2006, <http://www.refworld.org/docid/56a24ab74.html>.

¹⁸⁷ Sala de lo Constitucional de la Corte Suprema, *Comunicado de Prensa: Sala declara como grupos terroristas a pandillas denominadas MS y 18*, 24 August 2015, [http://www.csj.gob.sv/Comunicaciones/2015/AGO_15/COMUNICADOS/42.%20Comunicado%2024-VIII-2015%20terrorismo.pdf](http://www.csj.gob.sv/Comunicaciones/2015/AGO_15/COMUNICADOS/42.%20Comunicado%202024-VIII-2015%20terrorismo.pdf). El Salvador: Corte Suprema de Justicia, *Sentencia No. 22-2007, 22-2007/42-2007/89-2007/96-2007*, 24 August 2015, <http://www.refworld.org/docid/56a8f6c94.html>.

¹⁸⁸ UN Human Rights Council, *Report of the Working Group on Arbitrary Detention, Addendum: Mission to El Salvador*, UN Doc. A/HRC/22/44/Add.2, 11 January 2013, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/101/63/PDF/G1310163.pdf?OpenElement>; United States Department of State, *2014 Country Reports on Human Rights Practices - El Salvador*, 25 June 2015, <http://www.refworld.org/docid/559bd56d28.html>.

¹⁸⁹ Insight Crime, *The Infiltrators: Corruption in El Salvador's Police*, 21 February 2014, <http://www.insightcrime.org/investigations/the-infiltrators-a-chronicle-of-el-salvador-police-corruption>. Criminal organizations were financing political campaigns, first at the local level and then at national level, including the 2009 presidential elections. See Insight Crime, *The Fixer and El Salvador's Missed Opportunity*, 6 March 2014, <http://www.insightcrime.org/component/content/article?id=5233:the-fixer-and-el-salvadors-missed-opportunity>.

¹⁹⁰ Insight Crime, *The Fixer and El Salvador's Missed Opportunity*, 6 March 2014, <http://www.insightcrime.org/component/content/article?id=5233:the-fixer-and-el-salvadors-missed-opportunity>.

¹⁹¹ H. Silva, ‘El síndrome Snowden en El Salvador’, *Revista Factum*, 21 October 2015, <http://revistafactum.com/el-sindrome-snowden-en-el-salvador/>.

¹⁹² Insight Crime, *480 Gang Members Infiltrated El Salvador Security Forces: Report*, 22 February 2016, <http://www.insightcrime.org/news-briefs/did-480-gang-members-infiltrate-el-salvador-security-forces>; La Prensa Gráfica, *Eugenio Chicas reconoce infiltración de pandillas en policía y ejército*, 12 December 2015, <http://www.laprensagrafica.com/2015/12/12/eugenio-chicas-reconoce-infiltracion-de-pandillas-en-policia-y-ejercito>; El Diario de Hoy, *393 pandilleros lograron infiltrar la Fuerza Armada*, 29 November 2015, <http://www.elsalvador.com/articulo/sucesos/393-pandilleros-lograron-infiltrar-fuerza-armada-94591>; El País, *El gobierno salvadoreño investiga la penetración de las maras en el ejército*, 6 May 2014, http://internacional.elpais.com/internacional/2014/05/06/actualidad/1399339408_436415.html; La Prensa Gráfica, *Pandillas buscan infiltrar FAESy PNC: Perdomo*, 6 May 2014, <http://www.laprensagrafica.com/2014/05/06/pandillas-buscan-infiltrar-faesy-pnc-perdomo>; Insight Crime, *The Fixer and El Salvador's Missed Opportunity*, 6 March 2014, <http://www.insightcrime.org/component/content/article?id=5233:the-fixer-and-el-salvadors-missed-opportunity>.

¹⁹³ EFE, *Cuerpos de seguridad, los más denunciados por violar los DD.HH. en El Salvador*, 9 December 2015, <http://www.eleconomista.es/politica-eAm/noticias/7208919/12/15/Cuerpos-de-seguridad-los-mas-denunciados-por-violar-los-DDHH-en-El-Salvador.html>; Procuraduría para la Defensa de los Derechos Humanos, *Informe de labores 2013-2014*, <http://www.pddh.gob.sv/component/jdownloads/finish/3-informes-de-labores/175-informe-de-labores-2013-2014?Itemid=64>, p. 122.

¹⁹⁴ Insight Crime, *Need for Police Reform in El Salvador at All-Time High*, 20 August 2015, <http://www.insightcrime.org/news-analysis/police-reform-in-el-salvador>.

¹⁹⁵ Insight Crime, *Need for Police Reform in El Salvador at All-Time High*, 20 August 2015, <http://www.insightcrime.org/news-analysis/police-reform-in-el-salvador>.

¹⁹⁶ Sala Negra de El Faro, *La rebelión por la que sangra Zacatecoluca*, 3 November 2014, <http://www.salanegra.elfaro.net/es/2014/11/cronicas/16173/La-rebelion-C3%B3n-por-la-que-sangra-Zacatecoluca.htm>.

¹⁹⁷ El Diario de Hoy, *Atribuyen a grupos de exterminio 14 muertes en varias zonas del país*, 8 November 2015, <http://www.elsalvador.com/articulo/sucesos/atribuyen-grupos-exterminio-muertes-varias-zonas-del-pais-92556>.

In 2015, there was a small increase in the number of prosecutions of gang members compared to 2014.¹⁹⁸ Proportionally many more children were prosecuted for gang-related crimes in 2015 than in the previous year.¹⁹⁹ In general, though, intimidation and violence against complainants reportedly continues to contribute to a climate of impunity from criminal investigation and prosecution.²⁰⁰ Victims are particularly averse to reporting crimes perpetrated by gangs for fear of reprisals. For example, a survey indicates that 84 per cent of businesses that were subjected to extortion did not lodge a complaint with the police or other authorities due to threats by gangs and the gangs' practice of killing those who do report them to the authorities.²⁰¹ Complaints to the police about gang extortion are reportedly often relayed back to the gangs, which then exact severe retribution on the complainants.²⁰²

It is reported that the police – even the elite Anti-Gang Unit in high-profile cases – are usually not seen as offering a sufficient form of protection for those residents who are threatened by gangs, since their presence is only temporary and the gangs will return once the police move on after a few hours or days.²⁰³ Reports indicate that often the most that police are able to do is to provide an escort out of the neighbourhood for those who have received threats.²⁰⁴ Even police officials who live in areas where the gangs operate are reported to acknowledge their fear at the inability of the State to protect them from assassination in their homes or on the way to work.²⁰⁵

The judicial system is reported to be particularly inefficient and subject to corruption, a practice that in turn contributes to high levels of impunity for crimes in El Salvador, where the criminal conviction rate reportedly is less than 5 per cent.²⁰⁶ In 2012 alone, there were reports of ongoing investigations into complaints against 487 of the 600 serving judges in El Salvador.²⁰⁷ The Salvadorian penal system is reported to have a history of particular weakness when it comes to prosecuting high-level drug-traffickers.²⁰⁸ Even specialized anti-mafia judges have reportedly been arrested on charges of receiving bribes from organized criminal groups.²⁰⁹

In 2006, El Salvador adopted a law that provides for protection and support to victims and witnesses of crimes.²¹⁰ Each year, the programme created by this law reportedly supports around 1000 victims or witnesses, about 50 of whom are 'protected witnesses' (i.e. criminal turncoats), through measures

¹⁹⁸ La Prensa Gráfica, *Pandilleros salvadoreños imputados incrementan un 13.5% en 2015 respecto 2014*, 9 October 2015, <http://www.laprensagrafica.com/2015/10/09/pandilleros-salvadoreos-imputados-incrementan-un-135-en-2015-respecto-2014>.

¹⁹⁹ Compared with 2014, there was an increase of 52% of minors being prosecuted for gang-related crimes in 2015, leading to calls among some politicians to try such cases as adults rather than under the more favourable penal framework applied to minors. El Nuevo Diario, *Aumentan en un 52 % los menores pandilleros procesados en El Salvador en 2015*, 12 October 2015, <http://www.elnuevodiario.com.ni/internacionales/373365-aumentan-52-menores-pandilleros-procesados-salvado/>.

²⁰⁰ United States Department of State, *2014 Country Reports on Human Rights Practices - El Salvador*, 25 June 2015, <http://www.refworld.org/docid/559bd56d28.html>.

²⁰¹ ContraPunto, *Medianas, pequeñas y micro empresas piden más seguridad*, 30 January 2014, <http://www.contrapunto.com.sv/covuntura/medianas-pequenas-y-micro-empresas-piden-mas-seguridad>.

²⁰² El Diario de Hoy, *Buseros pagan \$3 millones mensuales en extorsiones*, 19 January 2014, <http://www.elsalvador.com/articulo/sucesos/buseros-pagan-millones-mensuales-extorsiones-47667>.

²⁰³ Sala Negra de El Faro, *Huir de las pandillas ante la mirada de la Policía Antipandillas*, 21 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16500/Huir-de-las-pandillas-ante-la-mirada-de-la-Polic%C3%ADa-Antipandillas.htm>;

La Prensa Gráfica, *60 familias huyen por temor a pandillas*, 15 January 2015, <http://www.laprensagrafica.com/2015/01/15/60-familias-huyen-por-temor-a-pandillas>.

²⁰⁴ D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 63; Sala Negra de El Faro, *La legión de los desplazados*, 1 October 2012, http://www.especiales.elfaro.net/es/salanegra_desplazados/.

²⁰⁵ Sala Negra de El Faro, *La rebelión por la que sangra Zacatecoluca*, 3 November 2014, <http://www.salanegra.elfaro.net/es/201411/cronicas/16173/La-rebeli%C3%B3n-por-la-que-sangra-Zacatecoluca.htm>.

²⁰⁶ United States Department of State, *2014 Country Reports on Human Rights Practices - El Salvador*, 25 June 2015, <http://www.refworld.org/docid/559bd56d28.html>.

²⁰⁷ La Prensa Gráfica, *CSJ acumula 1,085 de denuncias contra jueces*, 31 August 2012, <http://www.laprensagrafica.com/el-salvador/judicial/280431-csj-acumula-1085-denuncias-contra-jueces.html>.

²⁰⁸ Insight Crime, *Powerful El Salvador Kingpin "Repollo" Gets 77 Years*, 25 November 2014, <http://www.insightcrime.org/news-briefs/powerful-el-salvador-kingpin-repollo-gets-77-years>.

²⁰⁹ El Diario de Hoy, *El viernes Fiscalía presentará cargos contra jueces antimafia capturados en San Miguel*, 14 August 2014, <http://www.elsalvador.com/articulo/sucesos/viernes-fiscalia-presentara-cargos-contra-jueces-antimafia-capturados-san-miguel-62165>.

²¹⁰ Special Law for the Protection of Victims and Witnesses, *El Salvador: Ley especial para la protección de víctimas y testigos*, Decreto No. 1029, 25 May 2006, <http://www.refworld.org/docid/56a24a234.html>.

such as the offer of a safe house or a sporadic subsistence stipend.²¹¹ However, there are well-documented examples of these witnesses, especially the protected witnesses, being tracked down and killed by gangs and other organized criminal groups, including after trial judges allowed or ordered their identities to be revealed during trial proceedings.²¹²

Fear, shame and lack of confidence in what is generally considered an ineffective and unsupportive justice system reportedly come together to prevent many women from reporting domestic or gang violence.²¹³ Moreover, a particular issue reported to exacerbate women's vulnerability is the fact that the penal code in El Salvador prohibits abortion in all circumstances such that, between, 2000 and 2011, it is reported that 129 women were prosecuted for crimes relating to abortion, 23 of whom were convicted of abortion and 26 of homicide.²¹⁴ By contrast, despite the fact that Salvadorian women, men and children are at risk of trafficking (for forced labour as well as sexual exploitation), the police in El Salvador are reported to have made only 96 arrests for human trafficking between 2012 and 2015, of which only 35 cases ended in conviction.²¹⁵

Conditions in the prison system are reported to be harsh and life threatening due to gross overcrowding, unhygienic conditions, and gang activities.²¹⁶ While the prisons are built to hold around 8,500 persons, the current prison population is reported to be in excess of 32,000, of whom 74 per cent are convicts and 26 per cent are awaiting trial, with homicide as the most common offence.²¹⁷ Around 38 per cent of the current prison population report being members of a gang.²¹⁸ Even though members of the MS and B-18 are sent to separate prisons to minimize confrontations, violence in the prisons continues. In August 2015, 14 members of the B-18 *Revolucionarios* faction were reportedly murdered in an internal purge in Quezaltepeque prison.²¹⁹

²¹¹ Sala Negra de El Faro, *Asesinaron al Niño de Hollywood (y todos sabíamos que eso ocurriría)*, 30 November 2015, [http://www.salanegra.elfaro.net/es/201411/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-\(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa\).htm](http://www.salanegra.elfaro.net/es/201411/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa).htm).

²¹² Sala Negra de El Faro, *Asesinaron al Niño de Hollywood (y todos sabíamos que eso ocurriría)*, 30 November 2015, [http://www.salanegra.elfaro.net/es/201411/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-\(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa\).htm](http://www.salanegra.elfaro.net/es/201411/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa).htm); Sala Negra de El Faro, *Los más miserables de los traidores*, 8 July 2013, <http://www.salanegra.elfaro.net/es/201307/cronicas/12600/>; Prensa Gráfica, *FGR denuncia desprotección de testigos*, 12 December 2011, <http://www.laprensagrafica.com/el-salvador/judicial/236615-fgr-denuncia-desproteccion-de-testigos.html>.

²¹³ LAWG, *How Violence Affects Women in El Salvador*, 22 February 2016 <http://www.lawg.org/action-center/lawg-blog/69-general/1590-how-violence-affects-women-in-el-salvador>; La Prensa Gráfica, *Pandillas segunda causa de violencia contra mujer*, 13 November 2015, <http://www.laprensagrafica.com/2015/11/13/pandillas-segunda-causa-de-violencia-contra-mujer>; El Instituto Universitario de Opinión Pública (IUDOP), *La situación de seguridad y la justicia 2009-2014*, September 2014, http://www.uca.edu.sv/iudop/wp-content/uploads/libro_la_situaci%C3%B3n_de_la_seguridad.pdf, p. 26; United States Department of State, *2014 Country Reports on Human Rights Practices - El Salvador*, 25 June 2015, <http://www.refworld.org/docid/559bd56d28.html>. See also the examples documented in ORMUSA, *Impunidad y acceso a la justicia*, undated, <http://observatoriodeviolencia.ormusa.org/impunidad.php> (date accessed: 22 December 2015).

²¹⁴ Women who suffer miscarriages or stillbirths are sometimes suspected of inducing an abortion and can be prosecuted accordingly. See Al Jazeera America, *In El Salvador, a Pregnancy Complication Followed by a Prison Sentence*, 22 April 2015, <http://america.aljazeera.com/articles/2015/4/22/in-el-salvador-a-pregnancy-complication-followed-by-a-prison-sentence.html>; Amnesty International, *El Salvador: Report on the State of the World's Human Rights 2014/15*, 25 February 2015, <https://www.amnesty.org/en/countries/americas/el-salvador/report-el-salvador/>; Human Rights Watch, *Dispatches: 17 Women in El Salvador Need Help This Holiday Season*, 11 December 2014, <https://www.hrw.org/news/2014/12/11/dispatches-17-women-el-salvador-need-help-holiday-season>; The Guardian, *El Salvador: Meet the Women Who Dare to Challenge the Anti-Abortion State*, 17 April 2014, <http://www.theguardian.com/global-development/2014/apr/17/beatriz-case-resistance-el-salvador-abortion-law>; Centre for Reproductive Rights, *Marginalized, Persecuted, and Imprisoned: The Effects of El Salvador's Total Criminalization of Abortion*, February 2014, <http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/El-Salvador-CriminalizationOfAbortion-Report.pdf>; BBC, *El Salvador: Where Women May be Jailed for Miscarrying*, 18 October 2013, <http://www.bbc.co.uk/news/magazine-24532694>.

²¹⁵ United States Department of State, *2015 Trafficking in Persons Report - El Salvador*, 27 July 2015, <http://www.refworld.org/docid/55b73bf5c.html>; Insight Crime, *The Crime No One Fights: Human Trafficking in the Northern Triangle*, 4 June 2015, <http://www.insightcrime.org/news-analysis/human-trafficking-northern-triangle>.

²¹⁶ United States Department of State, *2014 Country Reports on Human Rights Practices - El Salvador*, 25 June 2015, <http://www.refworld.org/docid/559bd56d28.html>.

²¹⁷ Several thousand additional detainees are held in 64 police stations around the country, where capacity is also greatly exceeded. See Dirección General de Centros Penales, *Estadísticas penitenciarias al 30 de noviembre de 2015*, http://www.dgcp.gob.sv/images/stories/Estadistica%20Penitenciaria/2015/Noviembre/Estadistica_General_30-11-2015.pdf; UNDP, *Análisis sobre Violencia e Inseguridad en El Salvador*, 4 September 2014, <http://www.refworld.org/docid/569f39dd4.html>, p. 25; UN Human Rights Council, *Report of the Working Group on Arbitrary Detention, Addendum: Mission to El Salvador*, UN Doc. A/HRC/22/44/Add.2, 11 January 2013, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/101/63/PDF/G1310163.pdf?OpenElement>.

²¹⁸ UNDP, *Análisis sobre Violencia e Inseguridad en El Salvador*, 4 September 2014, <http://www.refworld.org/docid/569f39dd4.html>, p. 25.

²¹⁹ La Página, *Purga en la pandilla 18 deja 14 reos muertos en penal de Quezaltepeque*, 24 August 2015, <http://www.lapagina.com.sv/nacionales/109589/2015/08/23/Purga-en-la-mara-18-deja-14-reos-muertos-en-penal-de-Quezaltepeque>.

In January 2015, the new government outlined its five-year US\$2.1 billion ‘Secure El Salvador Plan’ (*Plan El Salvador Seguro*), which includes an increased focus on the country’s 50 most violent municipalities and also emphasizes crime prevention and reform of the criminal justice system.²²⁰ However, although the plan was officially launched in July 2015, its implementation is reported to remain contingent on legislative approval of security budget proposals.²²¹ The Sánchez Ceren administration also proposed a gang rehabilitation law in April 2015 that would be the first of its kind in El Salvador;²²² it was presented to the Legislative Assembly in October 2015.²²³ However, in the current political climate this proposed law is reportedly expected to face serious challenges in gaining the requisite political backing.²²⁴

2. Trends in Internal and External Displacement and Returns

No government system exists to register internally displaced persons or to monitor the dynamics of internal displacement in El Salvador. Nonetheless, academic surveys carried out in El Salvador report that in 2012 alone 2.1 per cent of its total population were newly displaced within the country due to criminal violence and threats.²²⁵ Scaled up to the total population of El Salvador, this equates to approximately 130,000 people newly displaced in 2012 alone. Around one-third of those displaced were reportedly displaced twice within 2012.²²⁶ In 2014, the same survey found that 4.6 per cent of the population were displaced in that year on the same grounds,²²⁷ equating to about 275,000 people. Of these, 1.8 per cent was reportedly forced to change homes six times during that year to escape unrelenting threats and fears of violence.²²⁸

Government figures on the number of children dropping out of the public education system in El Salvador each year appear to corroborate the magnitude of the crisis of violence and forced displacement in the country.²²⁹ These figures show that in 2014, approximately 1 per cent of children in the public education system dropped out and reported ‘insecurity’ as the reason, more than twice as many as in 2009. Moreover, some of the other reasons given by children for dropping out of school in 2014, such as ‘change of home’ (2.2% of all public school children), ‘leaving country’ (1.2%) and ‘change of school’ (0.3%), are thought to also be related to threats and forced displacement.²³⁰

One of the reported reasons for multiple displacements is that displaced persons often have little choice but to relocate to areas that are also controlled by gangs.²³¹ If they move to an area controlled by the same gang, their problems are likely to follow them to the new location; if they move to an area

²²⁰ Plan El Salvador Seguro: Resumen Ejecutivo, *Consejo Nacional de Seguridad Ciudadana y Convivencia*, 15 January 2015, <http://www.presidencia.gob.sv/wp-content/uploads/2015/01/El-Salvador-Seguro.pdf>.

²²¹ La Prensa Gráfica, *Benito Lara afirma que "mano dura" no dio resultado contra violencia*, 21 October 2015, <http://www.laprensagrafica.com/2015/10/21/benito-lara-afirma-que-mano-dura-no-dio-resultado-contra-violencia#sthash.7Atxu11H.dpuf>.

²²² El Faro, *Gobierno tiende la mano por primera vez a quienes quieren abandonar pandillas*, 26 April 2015, <http://www.elfaro.net/es/201504/noticias/16907/Gobierno-tiende-la-mano-por-primera-vez-a-quienes-quieran-abandonar-pandillas.htm>.

²²³ El Diario de Hoy, *Seguridad presenta a la Asamblea Ley de Reinserción de Pandillas*, 26 October 2015, <http://www.elsalvador.com/articulo/nacional/seguridad-presenta-asamblea-ley-reinsercion-pandillas-91224>.

²²⁴ Insight Crime, *El Salvador Proposes Gang Rehabilitation Law*, 29 October 2015, <http://www.insightcrime.org/news-briefs/el-salvador-proposes-gang-rehabilitation-law>. Moreover, in November 2015, the Constitutional Division of the Supreme Court of El Salvador issued a judgment confirming the legality of designating gangs as ‘terrorist organizations’, which also suggests that those parts of the proposed gang rehabilitation law which offer benefits to persons who have committed serious crimes may be untenable constitutionally. See El Diario de Hoy, *Ley de reinserción de pandillas choca con fallo de Sala Constitucional*, 1 November 2015, <http://www.elsalvador.com/articulo/sucesos/ley-reinsercion-pandillas-choca-con-fallo-sala-constitucional-91893>; El Mundo, *Señalan vacíos en proyecto de ley de reinserción de pandillas*, 6 January 2016, <http://elmundo.sv/senalan-vacios-en-proyecto-de-ley-de-reinsercion-de-pandillas/>.

²²⁵ IUDOP, *Encuesta de evaluación del año 2012: consulta de opinión pública de noviembre de 2012*, December 2012, <http://www.uca.edu.sv/publica/iudop/archivos/informe131.pdf>, p. 35, table 37.

²²⁶ *Ibid.*, p. 35a, table 38.

²²⁷ IUDOP, *Evaluación del país a finales de 2014*, 9 December 2014, <http://www.uca.edu.sv/iudop/wp-content/uploads/144.pdf>, p. 10, cuadro 25.

²²⁸ *Ibid.*, p. 10, cuadro 26.

²²⁹ El Faro, *La deserción escolar por inseguridad se duplicó en los últimos cinco años*, 24 August 2015, <http://www.elfaro.net/es/201508/noticias/17252/La-desercion-escolar-por-inseguridad-se-duplico-en-los-ultimos-cinco-anos>; La Prensa Gráfica, *68 Estudiantes abandonan la escuela cada día por la delincuencia*, 26 August 2015, <http://www.laprensagrafica.com/2015/08/26/68-estudiantes-abandonan-la-escuela-cada-dia-por-la-delincuencia#sthash.cvwME5E3.dpuf>.

²³⁰ *Ibid.*

²³¹ Sala Negra de El Faro, *Huir de las pandillas ante la mirada de la Policía Antipandillas*, 21 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16500/Huir-de-las-pandillas-ante-la-mirada-de-la-Policia-Antipandillas.htm>.

controlled by a different gang, they are likely to be challenged by this gang as rival gangs usually do not accept persons coming from areas controlled by other gangs settling in their home territory.²³² Where gangs and other criminal groups have serious problems with a person or believe that the person in question could represent an ongoing threat, they are reported to make efforts to try and track the person down even after they have fled their home.²³³ Moreover, because persons who flee their homes due to threats or gang-related violence often have to do so rapidly, they usually incur substantial economic losses as they have little time to make arrangements to sell or rent their houses and businesses or even to collect all of their belongings.²³⁴ There is no government programme for assisting displaced persons and so each new displacement is reported to exacerbate the downward spiral in their living conditions.²³⁵

Salvadorians affected by the present dynamics of violence are also fleeing El Salvador in increasing numbers to seek asylum outside the country. As at the end of 2014, 10,965 Salvadorians were recognized as refugees, the majority by the United States of America and Canada (10,006); another 18,037 asylum applications by Salvadorians remained pending a decision at the year's end. The number of asylum applications by Salvadorians has increased significantly, with 11,742 applications lodged in 2014,²³⁶ almost twice the number of applications lodged in 2013 (6,601 applications)²³⁷ and three times the number of applications in 2010 (3,810 applications).²³⁸ In the first six months of 2015, the number of asylum applications by Salvadorians in the United States of America increased by 125 per cent compared to the same period in 2014, with a total of 8,700 applications.²³⁹ In 2014, 32.7 per cent of all decisions taken on Salvadorian asylum applicants resulted in recognition under the 1951 Convention, while the total protection rate was 38 per cent.²⁴⁰

The majority of claims for asylum by Salvadorians are lodged in the United States of America (USA).²⁴¹ Although many of these claims are lodged by adults,²⁴² from 2011 onwards the southern border of the USA also saw a surge in unaccompanied child arrivals from children fleeing El Salvador and the other Northern Triangle countries, many of whom claimed asylum.²⁴³ Interview data from 2013 indicates that 72 per cent of the children from El Salvador claim to have left because of violence in society, with 63 per cent specifying gangs as the source of harm, while 20 per cent of the children mentioned domestic violence as a relevant factor.²⁴⁴

Although some Salvadorian migrants have voluntarily returned to the country, the number of Salvadorian refugees voluntarily repatriating to El Salvador in recent years is negligible.²⁴⁵ However,

²³² Sala Negra de El Faro, *Huir de las pandillas ante la mirada de la Policía Antipandillas*, 21 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16500/Huir-de-las-pandillas-ante-la-mirada-de-la-Polic%C3%ADa-Antipandillas.htm>.

²³³ D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 54-55, 59.

²³⁴ D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 54-55.

²³⁵ D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 54-55.

²³⁶ UNHCR, *UNHCR Global Trends 2014: World at War*, 18 June 2015, <http://www.refworld.org/docid/558292924.html>, Annex, Table 11.

²³⁷ UNHCR, *UNHCR Statistical Yearbook 2013*, 13th edition, 2 February 2015, <http://www.refworld.org/docid/54d369094.html>, Annex, Table 11.

²³⁸ UNHCR, *UNHCR Statistical Yearbook 2010: Trends in Displacement, Protection and Solutions*, 27 December 2011, ISSN 1684-9051, <http://www.refworld.org/docid/4f06ecf72.html>, Annex, Table 11.

²³⁹ UNHCR, *Mid-Year Trends 2015*, June 2015, <http://www.unhcr.org/56701b969.html>, pp. 10-12.

²⁴⁰ UNHCR, *UNHCR Global Trends 2014: World at War*, 18 June 2015, <http://www.refworld.org/docid/558292924.html>, Annex, Tables 11 and 12.

²⁴¹ In 2014, for example, 10,093 of the 11,742 asylum applications lodged by Salvadorians were made in the United States of America. The next largest numbers were in Mexico (418), Costa Rica (303), Canada (135), and Italy and Nicaragua (105 each): see UNHCR, *UNHCR Global Trends 2014: World at War*, 18 June 2015, <http://www.refworld.org/docid/558292924.html>, Annex, Tables 11 and 12.

²⁴² From 2009 onwards there has been an increase in the number of Salvadorian adults claiming asylum. See UNHCR, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, 13 March 2014, <http://www.refworld.org/docid/532180c24.html>, p. 4.

²⁴³ UNHCR, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, 13 March 2014, <http://www.refworld.org/docid/532180c24.html>; The Conversation, *Gangs: The Real 'Humanitarian Crisis' Driving Central American Children to the US*, 22 August 2014, <https://theconversation.com/gangs-the-real-humanitarian-crisis-driving-central-american-children-to-the-us-30672>.

²⁴⁴ In some cases, multiple motives were mentioned by the children interviewed. See UNHCR, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, 13 March 2014, <http://www.refworld.org/docid/532180c24.html>, pp. 31-32.

²⁴⁵ Four Salvadorian refugees were recorded as voluntarily repatriating in 2014. UNHCR, *UNHCR Global Trends 2014: World at War*, 18 June 2015, <http://www.refworld.org/docid/558292924.html>, Annex, Table 2. Another two were recorded in 2010. UNHCR, *UNHCR Statistical*

a large number of Salvadorian nationals are deported each year from the USA and Mexico by air and land, either pursuant to a deportation order following conviction for criminal activities or due to their irregular migration status.²⁴⁶ Deportees are reported to be easily identifiable by gang members at the point of return to El Salvador, putting deportees who had left El Salvador because of specific problems with a gang at particular risk.²⁴⁷ In some cases, deportees and other returnees who left the country due to insecurity or threats have been killed by gangs shortly after arrival in El Salvador.²⁴⁸ Deportees and returning migrants who bring resources from overseas are also reported to be an identifiable target for extortion by the gangs and thus face heightened threats, as are children and other persons in El Salvador who receive remittances from family members living and working overseas.²⁴⁹

III. Assessment of International Protection Needs of Asylum-seekers from El Salvador

A. Refugee Protection under the 1951 Convention

This Section outlines a number of potential risk profiles for asylum-seekers from El Salvador. UNHCR considers that asylum-seekers from El Salvador falling within one or more of these risk profiles may be in need of international refugee protection under Article 1A of the 1951 Convention relating to the Status of Refugees (1951 Convention), depending on the circumstances of the individual case. Potential risk profiles are based on UNHCR's legal assessment of available country of origin information at the time of writing as referred to in Section II and the present section.

Examination of claims by asylum-seekers in this context should include a full analysis of applicable Convention grounds.²⁵⁰ In the particular context of El Salvador, where gangs are reported to exercise high levels of social control over all aspects of life of members of the population in the areas under the gangs' control (see Section II.B.2.a in particular), it would frequently be appropriate for applications for international protection from applicants who flee gang-related forms of persecution to be analysed in relation to the ground of (imputed) political opinion.²⁵¹ The ground of political opinion needs to reflect the reality of the specific geographical, historical, political, legal, judicial, and socio-cultural context of the country of origin. In contexts such as that in El Salvador, expressing objections to the activities of gangs may be considered as amounting to an opinion that is critical of the methods and policies of those in control and, thus, constitute a "political opinion" within the meaning of the

Yearbook 2010: Trends in Displacement, Protection and Solutions, 27 December 2011, ISSN 1684-9051, <http://www.refworld.org/docid/4f06ccf72.html>, Annex, Table 4.

²⁴⁶ In 2014 alone, El Salvador registered receiving 22,317 persons deported by land and 28,942 persons deported by air, giving a total of 51,256 persons. See Dirección General de Migración y Extranjería, *Salvadoreños deportados vía terrestre: del 01 de enero al 31 de diciembre de 2014 comparado con 2013*, <http://api.gobiernoabierto.gob.sv/documents/102179/download> (date accessed: 22 December 2015). Dirección General de Migración y Extranjería, *Salvadoreños deportados vía aérea: del 01 de enero al 31 de diciembre de 2014 comparado con 2013*, <http://api.gobiernoabierto.gob.sv/documents/102180/download> (date accessed: 22 December 2015).

²⁴⁷ Interviews with Salvadorian child returnees in the migrant return centre in El Salvador indicates that 59% of boys and 61% of girls identified gangs and violence as the primary reasons for leaving El Salvador. See Perspectives, *No Childhood Here: Why Central American Children Are Fleeing their Homes*, July 2014, http://www.immigrationpolicy.org/sites/default/files/docs/no_childhood_here_why_central_american_children_are_fleeing_their_homes_fi nal.pdf. There are also indications of MS presence in migrant processing centres in countries such as the USA. Washington Times, *Violent gang taking advantage of immigration crisis, using border as recruiting hub*, 11 July 2014, <http://www.washingtontimes.com/news/2014/jul/11/violent-gang-ms-13-taking-advantage-immigration-cr/>.

²⁴⁸ The Guardian, *US Government Deporting Central American Migrants to Their Deaths*, 12 October 2015, <http://www.theguardian.com/us-news/2015/oct/12/obama-immigration-deportations-central-america>; Perspectives, *No Childhood Here: Why Central American Children Are Fleeing their Homes*, July 2014, http://www.immigrationpolicy.org/sites/default/files/docs/no_childhood_here_why_central_american_children_are_fleeing_their_homes_fi nal.pdf, p. 6; D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 45-46.

²⁴⁹ Perspectives, *No Childhood Here: Why Central American Children Are Fleeing their Homes*, July 2014, http://www.immigrationpolicy.org/sites/default/files/docs/no_childhood_here_why_central_american_children_are_fleeing_their_homes_fi nal.pdf, p. 6; D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 47.

²⁵⁰ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, in particular paras. 29-51 on relevant Convention grounds.

²⁵¹ *Ibid.*, paras 45-51.

refugee definition.²⁵² For example, individuals who resist being recruited by a gang, or who refuse to comply with demands made by the gangs, such as demands to pay extortion money, may be perceived to hold a political opinion.²⁵³

Not all persons falling within the risk profiles outlined in this Section will necessarily be found to be a refugee. Conversely, these risk profiles are not necessarily exhaustive. A claim should not automatically be considered as without merit simply because it does not fall within any of the identified profiles. There is no hierarchy implied in the order in which the profiles are presented. All claims by Salvadorian asylum-seekers need to be considered on their own merits in fair and efficient status determination procedures and based on up-to-date country of origin information. There is a certain degree of overlap between some of the profiles, and the particular circumstances of an individual asylum-seeker may mean that two or more profiles may be applicable to the applicant.²⁵⁴

Where relevant, particular consideration should be given to any past persecution to which applicants for refugee status may have been subjected.²⁵⁵ In light of the context of organized crime and human rights abuses in El Salvador, the applicability of the exclusion clauses may need to be considered in certain cases.

1. Persons perceived by a gang as contravening its rules or resisting its authority

Gangs in El Salvador reportedly perceive a wide range of acts by residents of the area under the gang's control as demonstrating 'resistance' to their authority. Acts commonly construed as challenging a gang's authority reportedly include but are not limited to: criticizing the gang; refusing a request or 'favour' by a gang member; arguing with or looking mistrustfully at a gang member; refusing to participate in gang activities or to join the gang; rejecting the sexual attention of a gang member; having (perceived) links with a rival gang or a zone controlled by a rival gang; refusing to pay extortion demands; wearing certain clothing, tattoos or other symbols; participating in civil, religious or other organizations viewed as undermining the gang's authority; and passing on information about the gang to rivals, authorities or outsiders.²⁵⁶ In some cases, a stranger accidentally turning up uninvited in a gang zone is reportedly taken as a serious affront to the gang's authority.²⁵⁷ Persons who live in localities that serve as 'invisible' boundaries between the territories of rival

²⁵² Ibid., paras 46.

²⁵³ Ibid., paras 50-51.

²⁵⁴ Based on the specific country information relating to El Salvador, these risk profiles develop those identified in general terms by UNHCR in its typology of victims of organized gangs. See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, pp. 4-6.

²⁵⁵ See relevant considerations on the impact of past persecution in paragraph 26 of the following guidelines; UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, <http://www.unhcr.org/refworld/docid/3f2791a44.html>.

²⁵⁶ Insight Crime, *Living Within the Boundaries of El Salvador's Gang 'War'*, 7 January 2016, <http://www.insightcrime.org/news-analysis/living-within-the-boundaries-of-el-salvador-gang-war>; Sala Negra de El Faro, *Los salvadoreños cruzan fronteras de guerra a diario*, 4 January 2016, <http://www.elfaro.net/es/201601/salanegra/17702/Los-salvadore%C3%B1os-cruzan-fronteras-de-guerra-a-diario.htm>; Prensa Libre, *La violencia trastorna estilo de vida de jóvenes en Centroamérica*, 30 October 2015, <http://www.prensalibre.com/guatemala/justicia/la-violencia-trastorna-estilo-de-vida-de-jovenes-en-centroamerica>; La Prensa Gráfica, *La paranoia de La Margaritas*, 31 May 2015, <http://www.laprensagrafica.com/2015/05/31/la-paranoia-de-las-margaritas>; El Diario de Hoy, *Maras imponen reglas de maquillaje en Villa Mariona*, 14 May 2015, <http://www.elsalvador.com/articulo/sucesos/maras-imponen-reglas-maquillaje-villa-mariona-72508>; El Diario de Hoy, *Maras proliferan en San Salvador*, 29 January 2015, <http://www.elsalvador.com/articulo/sucesos/maras-prolifera-san-salvador-72783>; Sala Negra de El Faro, *Se busca a policías dispuestos a ir a la guerra*, 25 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16507/Se-busca-a-polic%C3%ADas-dispuestos-a-ir-a-la-guerra.htm>; Sala Negra de El Faro, *Huir de las pandillas ante la mirada de la Policía Antipandillas*, 21 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16500/Huir-de-las-pandillas-ante-la-mirada-de-la-Polic%C3%ADa-Antipandillas.htm>; D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 46-47; La Prensa Gráfica, *Pandilleros provocan que familias dejen colonia*, 21 June 2013, <http://www.laprensagrafica.com/pandilleros-provocan-que-familias-dejen-colonia>; La Prensa Gráfica, *Pandilleros tienen sitiado Mejicanos*, 18 June 2013, <http://www.laprensagrafica.com/pandilleros-tienen-sitiado-mejicanos>; Sala Negra de El Faro, *Las maras trastocan la matemática del fútbol*, 28 November 2011, <http://www.salanegra.elfaro.net/es/201111/cronicas/6687/>.

²⁵⁷ La Prensa Gráfica, *Las mascotas de la pandilla*, 21 July 2014, <http://www.laprensagrafica.com/2014/07/21/las-mascotas-de-la-pandilla>; La Prensa Gráfica, *Matan a mujer por llegar de visita a zona de pandillas*, 11 November 2014, <http://www.laprensagrafica.com/2014/11/11/matan-a-mujer-por-llegar-de-visita-a-zona-de-pandillas>.

gangs, or where the control of one gang is being disputed by another gang, also face a heightened risk of being perceived (sometimes by both sides) as having links with the rival gang.²⁵⁸

The nature of retaliation for perceived acts of ‘resistance’ or ‘disloyalty’ by inhabitants is reported to vary to some degree depending on the ‘character’ of the local gang and the form of ‘resistance’ involved. However, most perceived contraventions of these gang-imposed rules are dealt with severely: individuals whom the gang members suspect of resisting their authority are reported often to be killed without prior warning,²⁵⁹ although sometimes the killing is reportedly preceded by threats and/or other attacks against the person concerned.²⁶⁰ Religious leaders, and other formal and informal community leaders, who represent an alternative source of authority to the gangs and who oppose them, or are perceived by the gangs as doing so, are equally at risk of violent retaliation.²⁶¹ Since the breakdown of the gang truce, and particularly throughout 2015,²⁶² the gangs have reportedly escalated their use of extreme violence against the local population to unprecedented levels.²⁶³

Depending on the particular circumstances of the case, UNHCR considers that persons perceived by a gang as contravening its rules or resisting its authority may be in need of international refugee protection on the grounds of their (imputed) political opinion,²⁶⁴ membership of a particular social group,²⁶⁵ or on the basis of other Convention grounds.²⁶⁶

2. *Persons in professions or positions susceptible to extortion, including those involved in informal and formal commerce as business owners, their employees and workers, or as street vendors; public transport workers; taxi and mototaxi (tuc-tuc) drivers; public sector employees; children and adults who receive remittances from abroad; and certain returnees from abroad*

Extortion is reported to be pervasive in El Salvador and the regular extortion quotas imposed by the gangs can be crippling. Those subject to extortion demands for money, goods and services include, but are not limited to, persons involved in informal and formal commerce as business owners, their employees and workers, or as street vendors; public transport workers; taxi and *mototaxi* (tuc-tuc)

²⁵⁸ LAWG, *El Salvador's Gang Violence: Turf Wars, Internal Battles and Life Defined by Invisible Borders*, 10 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1579-el-salvadores-gang-violence-turf-wars-internal-battles-and-life-defined-by-invisible-borders>; El Diario de Hoy, *Maras controlan la capital salvadoreña*, 19 December 2015, <http://www.elsalvador.com/articulo/sucesos/maras-controlan-capital-salvadorena-96558>.

²⁵⁹ See, for example, La Prensa Gráfica, *Dos panaderos y octogenaria entre las víctimas de asesinatos hoy*, 21 August 2015; <http://www.laprensagrafica.com/2015/08/21/dos-panaderos-y-octogenaria-entre-las-victimas-de-asesinatos-hoy>; Sala Negra de El Faro, *Huir de las pandillas ante la mirada de la Policía Antipandillas*, 21 January 2015, <http://www.salanegra.elfaro.net/es/201501/cronicas/16500/Huir-de-las-pandillas-ante-la-mirada-de-la-Policia-ADa-Antipandillas.htm>; La Prensa Gráfica, *Matan a mujer por llegar de visita a zona de pandillas*, 11 November 2014, <http://www.laprensagrafica.com/2014/11/11/matan-a-mujer-por-llegar-de-visita-a-zona-de-pandillas>; La Prensa Gráfica, *Pandilleros provocan que familias dejen colonia*, 21 June 2013, <http://www.laprensagrafica.com/pandilleros-provocan-que-familias-dejen-colonia>.

²⁶⁰ Ibid. See also Sala Negra de El Faro, *La legión de los desplazados*, 1 October 2012, http://www.especiales.elfaro.net/es/salanegra_desplazados/.

²⁶¹ Infobae, *El alcalde de un municipio en El Salvador patrulla las calles y se enfrenta a las pandillas*, 8 January 2016, <http://www.infobae.com/2016/01/08/1781670-el-alcalde-un-municipio-el-salvador-patrulla-las-calles-y-se-enfrenta-las-pandillas>; El Diario de Hoy, *Pastor rehabilitaba mareros, pero toda su familia tuvo que huir*, 6 November 2015, <http://www.elsalvador.com/articulo/nacional/pastor-rehabilitaba-mareros-pero-toda-su-familia-tuvo-que-huir-92302>; El Diario de Hoy, *Barahona, un cantón que se niega a permitir el ingreso de pandillas*, 12 September 2014, <http://www.elsalvador.com/articulo/sucesos/barahona-canton-que-niega-permitir-ingreso-pandillas-57168>;

²⁶² See Sections II.A and II.B.2(a) above.

²⁶³ Sala Negra de El Faro, *Más represión, más asesinatos, más armas, más reclutamientos*, 20 September 2015, <http://www.salanegra.elfaro.net/es/201509/cronicas/17376/M%C3%A1s-represi%C3%B3n-m%C3%A1s-asesinatos-m%C3%A1s-armas-m%C3%A1s-reclutamientos.htm>.

²⁶⁴ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, particularly paras 45-51.

²⁶⁵ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, particularly paras 34-44.

²⁶⁶ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, particularly paras 32-33; see also N. Rodríguez Serna, ‘Fleeing Cartels and Maras: International Protection Considerations and Profiles from the Northern Triangle’, *International Journal of Refugee Law*, Vol. 28, 2016, section 6.1; See also Canada: Federal Court, *Aparicio De Jesus Aleman Aguilar (aka Aparicio de Jes Aleman Aguilar) v. Minister of Citizenship and Immigration*, 2013 FC 809, 23 July 2013, <http://www.refworld.org/docid/56e6e81c4.html>; Canada: Federal Court, *Melvin Alberto Tobias Gomez et al. v. Minister of Citizenship and Immigration*, 2011 FC 1093, 23 September 2011, <http://www.refworld.org/docid/56e6e5e14.html>.

drivers; public sector employees,²⁶⁷ returnees who return from abroad with financial resources; children and adults who receive remittances from family members who live and work abroad; and even schoolchildren for the little money they may carry.²⁶⁸

The level of extortion payments are reportedly often raised steeply and without warning by gangs, sometimes with the apparent intention of bankrupting a business so that the gang can take it over.²⁶⁹ Moreover, extortion victims may have to simultaneously pay extortion money to two or more gangs, especially where a business operates across one or more territories where these gangs practise extortion.²⁷⁰ It is reportedly not unusual for victims to lose their livelihood due to excessive extortion demands by gangs, which are reported to have risen sharply since 2014.²⁷¹ Extortion demands reportedly sometimes take the form of a requirement to purchase at an inflated price (poor quality) goods or services from businesses controlled by the gangs.²⁷²

Extortion is reportedly the lifeblood of most local gangs in El Salvador and the refusal to pay extortion demands is usually construed by gang members as a serious act of resistance to the authority of the gang itself.²⁷³ Individuals who refuse to pay extortion demands – or who delay in meeting their ‘quotas’ because they are unable to pay – are reportedly subjected to threats and violence against them, as well as against their employees, business partners and family members. The threats and violence reportedly swiftly escalate with any continuing delay or refusal to pay, with persons in these circumstances reportedly commonly being killed by the gangs.²⁷⁴ Persons found by the gangs to have reported extortion demands to the authorities are also reportedly subjected to severe retribution.²⁷⁵

- ²⁶⁷ La Página, *Transportistas estiman que han pagado \$26 millones en extorsión en 2015*, 29 December 2015, <http://www.lapagina.com.sv/ampliar.php?id=113295>; La Prensa Gráfica, *Pandilla obtenía \$20,000 al mes por extorsión en playas*, 31 October 2015, <http://www.laprensagrafica.com/2015/10/31/pandilla-obtenia-20000-al-mes-por-extorsion-en-playas>; La Prensa, *“Imperios de la extorsión” están en Honduras y El Salvador*, 1 July 2015, <http://www.laprensa.hn/honduras/854572-410/imperios-de-la-extorsion-están-en-honduras-y-el-salvador>; La Prensa Gráfica, *Pandilleros MS usaron granadas extraídas de la FAES para ataques*, 24 April 2015, <http://www.laprensagrafica.com/2015/04/24/pandilleros-ms-usaron-granadas-extraidas-de-la-faes-para-ataques>; El Diario de Hoy, *Maras asesinan al tercer panadero en cinco días*, 7 December 2014, <http://www.elsalvador.com/articulo/sucesos/maras-asesinan-tercer-panadero-cinco-dias-64069>; La Prensa Gráfica, *Policía calcula que extorsiones solo suman \$7.9 millones*, 28 September 2014, <http://www.laprensagrafica.com/2014/09/28/policia-calcula-que-extorsiones-solo-suman-79-millones>; El Diario de Hoy, *Buseros pagan \$3 millones mensuales en extorsiones*, 19 January 2014, <http://www.elsalvador.com/articulo/sucesos/buseros-pagan-millones-mensuales-extorsiones-47667>; La Página, *Niños, motoristas y vendedores conforman red de informantes de la MS*, 1 October 2014, <http://www.lapagina.com.sv/nacionales/99654/2014/10/01/Ninos-motoristas-y-vendedores-forman-la-red-de-informantes-de-la-MS>; La Prensa Gráfica, *Pandilleros tienen sitiado Mejicanos*, 18 June 2013, <http://www.laprensagrafica.com/pandilleros-tienen-sitiado-mejicanos>.
- ²⁶⁸ La Página, *Asesinan de al menos 10 disparos a despachadora de taxis en Mejicanos*, 6 January 2016, <http://www.lapagina.com.sv/nacionales/113482/2016/01/06/Asesinan-de-al-menos-10-disparos-a-despachadora-de-taxis-en-Mejicanos>; MAS.SV, *La matan a balazos*, 6 November 2015, <http://mas.sv/mas/articulo.aspx/75355/10068704/la-matan-a-balazos>; La Prensa Gráfica, *Temer en la escuela*, 4 October 2015, <http://www.laprensagrafica.com/2015/10/04/temer-en-la-escuela>; La Página, *Asesinan a motorista cerca del cuartel central de la PNC*, 19 June 2015, <http://www.lapagina.com.sv/nacionales/107708/2015/06/18/Cabecilla-de-mara-eliminada-en-enfrentamiento-con-policias-en-Apopa>; La Prensa Gráfica, *Extorsiones afectan entrega de paquetes escolares*, 19 February 2015, <http://www.laprensagrafica.com/2015/02/19/extorsiones-afectan-entrega-de-paquetes-escolares>; D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 46-47; Perspectives, *No Childhood Here: Why Central American Children Are Fleeing their Homes*, July 2014, http://www.immigrationpolicy.org/sites/default/files/docs/no_childhood_here_why_central_american_children_are_fleeing_their_homes_final.pdf, p. 5; La Prensa Gráfica, *FGR investiga a pandilleros que trabajan como vigilantes*, 16 July 2013, <http://www.laprensagrafica.com/fgr-investiga-a-pandilleros-que-trabajan-como-vigilantes>; La Prensa Gráfica, *Pandilleros laboran como vigilantes*, 15 April 2013, <http://www.laprensagrafica.com/pandilleros---laboran-como-vigilantes>.
- ²⁶⁹ La Prensa Gráfica, *La paranoia de La Margaritas*, 31 May 2015, <http://www.laprensagrafica.com/2015/05/31/la-paranoia-de-las-margaritas>; La Página, *Mareros controlan el comercio de productos en colonia Las Margaritas*, 6 January 2015, <http://www.lapagina.com.sv/nacionales/102457/2015/01/05/Mareros-controlan-el-comercio-de-productos-en-colonia-Las-Margaritas>; D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 47.
- ²⁷⁰ El Diario de Hoy, *Buseros pagan \$3 millones mensuales en extorsiones*, 19 January 2014, <http://www.elsalvador.com/articulo/sucesos/buseros-pagan-millones-mensuales-extorsiones-47667>.
- ²⁷¹ El Faro, *Inversiones Barrio 18 S.A. DE C.V.*, 24 May 2015, <http://www.especiales.elfaro.net/es/extorsion/investigaciones/17007/Inversiones-Barrio-18-SA-DE-CV.htm>; La Prensa, *“Imperios de la extorsión” están en Honduras y El Salvador*, 1 July 2015, <http://www.laprensa.hn/honduras/854572-410/imperios-de-la-extorsion-están-en-honduras-y-el-salvador>.
- ²⁷² La Página, *Mareros controlan el comercio de productos en colonia Las Margaritas*, 6 January 2015, <http://www.lapagina.com.sv/nacionales/102457/2015/01/05/Mareros-controlan-el-comercio-de-productos-en-colonia-Las-Margaritas>.
- ²⁷³ D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 46-47. See also Section III.A.1 above.
- ²⁷⁴ El Diario de Hoy, *Policía registra 129 asesinatos en transporte público en el año*, 3 October 2015, <http://www.elsalvador.com/articulo/policia-registra-129-asesinatos-transporte-publico-ano-89126>; La Prensa, *“Imperios de la extorsión” están en Honduras y El Salvador*, 1 July 2015, <http://www.laprensa.hn/honduras/854572-410/imperios-de-la-extorsion-están-en-honduras-y>

Depending on the particular circumstances of the case, UNHCR considers that persons in professions or positions susceptible to extortion, including but not limited to those involved in informal and formal commerce as business owners, their employees and workers, or as street vendors; public transport workers; taxi and *mototaxi* drivers; public sector employees; and certain returnees from abroad may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of their membership of a particular social group, or on the basis of other Convention grounds.²⁷⁶

3. *'Informants', witnesses and victims of crimes committed by gangs and other organized criminal groups, or by members of the security forces*

Witnesses and victims of crimes committed by gangs and other organized criminal groups in El Salvador have reportedly been killed by the perpetrators to ensure their silence, even when they have not sought to formally denounce those crimes to the authorities.²⁷⁷ Those who do denounce the crimes, or who otherwise cooperate with the authorities against gangs or other organized crime groups as 'informants', are reportedly pursued for their 'betrayal', often along with their family members, even when placed in a witness protection programme.²⁷⁸ Persons giving evidence against corrupt members of the security forces have also reportedly been targeted and killed, even as protected witnesses.²⁷⁹

Depending on the particular circumstances of the case, UNHCR considers that 'informants', witnesses and victims of crimes committed by gangs and other organized criminal groups or by members of the security forces may be in need of international refugee protection on the ground of their (imputed)

[el-salvador](http://www.laprensagrafica.com/2015/04/24/pandilleros-ms-usaron-granadas-extraidas-de-la-faes-para-ataques); La Prensa Gráfica, *Pandilleros MS usaron granadas extraídas de la FAES para ataques*, 24 April 2015, <http://www.laprensagrafica.com/2015/04/24/pandilleros-ms-usaron-granadas-extraidas-de-la-faes-para-ataques>; ContraPunto, *Medianas, pequeñas y micro empresas piden más seguridad*, 30 January 2014, <http://www.contrapunto.com.sv/covuntura/medianas-pequenas-y-micro-empresas-piden-mas-seguridad>; La Página, *Asesinan a vendedor de tamales por negarse a pagar "la renta"*, 25 October 2014, <http://www.lapagina.com.sv/nacionales/100516/2014/10/25/Asesinan-a-vendedor-de-tamales-por-negarse-a-pagar-la-renta>; El Diario de Hoy, *Buseros pagan \$3 millones mensuales en extorsiones*, 19 January 2014, <http://www.elsalvador.com/articulo/sucesos/buseros-pagan-millones-mensuales-extorsiones-47667>.

²⁷⁵ El Diario de Hoy, *Buseros pagan \$3 millones mensuales en extorsiones*, 19 January 2014, <http://www.elsalvador.com/articulo/sucesos/buseros-pagan-millones-mensuales-extorsiones-47667>.

²⁷⁶ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 12(c), 17, 39 and 41; N. Rodríguez Serna, 'Fleeing Cartels and Maras: International Protection Considerations and Profiles from the Northern Triangle', *International Journal of Refugee Law*, Vol. 28, 2016, section 6.6. US jurisprudence applying the *Acosta* rationale has recognized that occupational groups may constitute particular social groups in the context of asylum claims based on the refusal to cooperate with criminal organizations. See, for example, United States Court of Appeals for the Seventh Circuit, *Escobar v Holder*, 10-3751, 7 September 2011, (657 F.3d 537, p. 546), <https://casetext.com/case/escobar-v-holder-8>. A similar approach has been adopted in the context of gang extortion claims by the Australian Refugee Review Tribunal in *RRT Case No. 1109206*, [2012] RRTA 248, 12 April 2012, <http://www.refworld.org/docid/4faa27af2.html> and *RRT Case No. 0906782*, [2009] RRTA 1063, 24 November 2009, <http://www.refworld.org/docid/4b5708f42.html>.

²⁷⁷ La Prensa Gráfica, *Matan a mujer que presencié homicidio*, 1 May 2015, <http://www.laprensagrafica.com/2015/05/01/matan-a-mujer-que-presencio-homicidio>; El Diario de Hoy, *Dos masacres contra transportistas vinculadas a grupos de narcos*, 31 March 2015, <http://www.elsalvador.com/articulo/sucesos/dos-masacres-contra-transportistas-vinculadas-grupos-narcos-72215>; D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 45; La Página, *Asesinados por el "pecado" de haber sido testigos*, 9 February 2011, [http://www.lapagina.com.sv/nacionales/46899/2011/02/09/Asesinados-por-el-pecado-de-haber-sido-testigos-\(y-III-entrega\)](http://www.lapagina.com.sv/nacionales/46899/2011/02/09/Asesinados-por-el-pecado-de-haber-sido-testigos-(y-III-entrega)); La Página, *Cuando haber presenciado un homicidio es una sentencia de muerte*, 9 February 2011, [http://www.lapagina.com.sv/nacionales/46788/2011/02/09/Cuando-haber-presenciado-un-homicidio-es-una-sentencia-de-muerte-\(I-entrega\)](http://www.lapagina.com.sv/nacionales/46788/2011/02/09/Cuando-haber-presenciado-un-homicidio-es-una-sentencia-de-muerte-(I-entrega)).

²⁷⁸ El Diario de Hoy, *'Pandilleros asesinan a testigo bajo régimen de protección'*, 24 February 2015, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=9484818; El Diario de Hoy, *'Matan a policía que testificó contra mareros en juicios'*, 6 January 2015, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=9369278; D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 45; El Diario de Hoy, *'Testigo asesinado colaboraba en caso de narcotráfico'*, 7 March 2013, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47654&idArt=7739666; La Prensa Gráfica, *'Matan a testigo protegido en caso de homicidio'*, 18 October 2012, <http://www.laprensagrafica.com/matan-a-testigo-protegido-en-caso-de-homicidio>; El Diario de Hoy, *'Matan a joven que era testigo en proceso penal'*, 27 August 2012, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=7203642; El Diario de Hoy, *'Matan pariente de testigo que declaró contra un pandillero'*, 28 November 2011, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=6421720.

²⁷⁹ Sala Negra de El Faro, *Asesinaron al Niño de Hollywood (y todos sabíamos que eso ocurriría)*, 30 November 2015, [http://www.salanegra.elfaro.net/es/201411/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-\(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa\).htm](http://www.salanegra.elfaro.net/es/201411/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa).htm).

political opinion, or on the basis of their membership of a particular social group, or on the basis of other Convention grounds.²⁸⁰

4. Family members, dependants and other members of the household of gang members or other organized criminal groups; inhabitants of areas where gangs operate; and others who are perceived to be affiliated with a gang

Persons suspected by one gang of supporting or having links with a rival gang are reportedly subjected to threats and violence. Persons with a family member (or family members) in a gang, as well as other persons perceived to be affiliated with members of gangs or other organized criminal groups, are reportedly treated with suspicion and have been attacked and killed.²⁸¹

At the same time, male inhabitants of zones where the gangs operate and persons otherwise perceived – whether correctly or not – to be affiliated with the gangs by members of the security forces or by members of reputed death squads have also reportedly been attacked and killed by these armed actors.²⁸²

Depending on the particular circumstances of the case, UNHCR considers that family members, dependants and other members of the households of gang members may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.²⁸³ Inhabitants of areas where gangs are known to operate, and other persons perceived to be affiliated with gang members or members of other organized criminal groups, may

²⁸⁰ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 12(d) and 17; N. Rodríguez Serna, 'Fleeing Cartels and Maras: International Protection Considerations and Profiles from the Northern Triangle', *International Journal of Refugee Law*, Vol. 28, 2016, section 6.7. US jurisprudence has also recognized that witnesses against violent gangs in Central America may constitute a particular social group. See, for example, United States Court of Appeals for the Ninth Circuit, *Henriquez-Rivas v. Holder, Attorney General, No. 09-71571 Agency No. A098-660-718*, 13 February 2013, (707 F.3d 1081), <http://www.refworld.org/docid/51caebd94.html>; United States Court of Appeals for the Third Circuit, *Garcia v Attorney General United States*, 10-1311, 28 November 2011, (665 F.3d 496, p. 504), <https://casetext.com/case/garcia-v-attorney-gen-of-the-united-states>; United States Court of Appeals for the Fourth Circuit, *Crespin-Valladeres et al. v Holder, Attorney General, No. 09-1423*, 16 February 2011, (632 F.3d 117, p. 124-6), <http://www.refworld.org/docid/4f68b4cf2.html>. See also Canada: Federal Court, *Jonatan Guzman Portillo v. Minister of Citizenship and Immigration*, 2012 FC 678, 4 June 2012, <http://www.refworld.org/docid/56e6eb564.html>; Canada: Federal Court, *Samuel Arturo Barrios Pineda v. Minister of Citizenship and Immigration*, 2011 FC 403, 1 April 2011, <http://www.refworld.org/docid/56e6ecae4.html>.

²⁸¹ El Diario de Hoy, *Familias abandonan sus casas por amenazas de pandillas en Sonsonate*, 1 September 2015, <http://www.elsalvador.com/articulo/sucesos/familias-abandonan-sus-casas-por-amenazas-pandillas-sonsonate-86174>; El Blog, *Matan a padre e hijo por tener lazo familiar con pandillero en San Pedro Perulapán*, 8 March 2015, <http://elblog.com/notas/?p=4869>; Diariol, *Estudiantes de enfermería asesinadas por ser novias de pandilleros rivales*, 3 February 2015, <http://diariol.com/nacionales/2015/02/estudiantes-de-enfermeria-asesinadas-por-ser-novias-de-pandilleros-rivales/>; Diariol, *Ahora las pandillas matan a sus enemigos y a familiares*, July 2014, <http://diariol.com/nacionales/2014/07/ahora-las-pandillas-matan-a-sus-enemigos-y-a-familiares/>; J. Aguilar, *Las maras o pandillas juveniles en el triángulo norte de Centroamérica*, undated, http://www.oea.org/dsp/documentos/pandillas/2sesion_especial/IUDOP/Las%20maras%20o%20pandillas%20juveniles%20en%20el%20tri%C3%A1ngulo%20norte%20de%20Centroam%C3%A9rica....pdf (date accessed: 22 December 2015), pp. 8-9.

²⁸² El Diario de Hoy, *Atribuyen a grupos de exterminio 14 muertes en varias zonas del país*, 8 November 2015, <http://www.elsalvador.com/articulo/sucesos/atribuyen-grupos-exterminio-muertes-varias-zonas-del-pais-92556>; El Diario de Hoy, *Alto porcentaje víctimas estarían siendo ejecutadas*, <http://especiales.elsalvador.com/2015/muertes/articulo6.asp>; El Diario de Hoy, *Una familia diezmada por la ejecución de cuatro hijos en un solo mes*, 2015, <http://especiales.elsalvador.com/2015/muertes/articulo4.asp>; El Diario de Hoy, *Cientos de asesinados no son mareros*, 2015, <http://especiales.elsalvador.com/2015/muertes/articulo1.asp>. The Latin America Working Group notes that, "For security forces, it seems the line between those living in gang-controlled neighborhoods and those in a gang has become blurred, casting such a wide net in their operations that anyone could be targeted, but particularly young boys." LAWG, *El Salvador's Security Policy is Increasing Extra Judicial Killings and Abuse*, 12 February 2016, <http://lawg.org/action-center/lawg-blog/69-general/1581-el-salvadors-security-policy-is-increasing-extrajudicial-killings-and-abuse>.

²⁸³ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 15, 17 and 20. US jurisprudence also recognizes refugee status in cases of persecution based on family associations, including in the context of persecution by organized criminal groups such as gangs. See United States Court of Appeals for the Seventh Circuit, *Hassan v. Holder, Attorney General, No. 08-1535*, 2 July 2009, (571 F.3d 631), <http://www.refworld.org/docid/4b43656c2.html>; United States Court of Appeals for the Fourth Circuit, *Crespin-Valladeres et al. v Holder, Attorney General, No. 09-1423*, 16 February 2011, (632 F.3d 117), <http://www.refworld.org/docid/4f68b4cf2.html>; United States Court of Appeals for the First Circuit, *Rita Nelly Constanza de Abarca v. Holder, Attorney General, 13-1081*, 9 July 2014, (757 F.3d 334), <http://www.refworld.org/docid/53e47d5a4.html>; United States Court of Appeals for the Fourth Circuit, *Wildon Manfredo Aquino Cordova v. Holder, Attorney General, 13-1597*, 18 July 2014, (759 F.3d 332), <http://www.refworld.org/docid/53e4a5fe4.html>; United States Court of Appeals for the First Circuit, *Aldana Ramos v Holder*, 13-2022, 8 August 2014, (757 F.3d 9), <http://www.refworld.org/docid/56cc10f24.html>.

also be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.²⁸⁴

5. Gang ‘traitors’ and former members; criminal turncoats

Gangs and other organized criminal groups reportedly track down those whom they consider to have betrayed them. The gangs are reported to usually pursue and kill their own ‘traitors’, including not only the so-called *pecetas* (turncoats) but also those who leave a gang without permission or otherwise seriously breach the rules of the gang.²⁸⁵ The family members of these ‘traitors’ are reportedly also often attacked.²⁸⁶ At the same time, an individual who has left a gang reportedly continues to face an undiminished risk of assassination by members of rival gangs, and by members of his/her own former gang if s/he refuses to collaborate with such demands as they may make from time-to-time of the ex-member.²⁸⁷

Depending on the particular circumstances of the case, UNHCR considers that gang deserters and former gang members, including turncoats, may be in need of international refugee protection on the basis of their membership of a particular social group, or on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.²⁸⁸ Claims by persons of this profile may give rise to the need to examine possible exclusion from refugee status.²⁸⁹

²⁸⁴ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, para. 42.

²⁸⁵ Sala Negra de El Faro, *Asesinaron al Niño de Hollywood (y todos sabíamos que eso ocurriría)*, 30 November 2015, [http://www.salanegra.elfaro.net/es/2014/11/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-\(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa\).htm](http://www.salanegra.elfaro.net/es/2014/11/cronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-(y-todos-sab%C3%ADamos-que-eso-ocurrir%C3%ADa).htm); Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>; D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 45; Sala Negra de El Faro, *Los más miserables de los traidores*, 8 July 2013, <http://www.salanegra.elfaro.net/es/2013/07/cronicas/12600/>; J. Aguilar, *Las maras o pandillas juveniles en el triángulo norte de Centroamérica*, undated, http://www.oea.org/dsp/documentos/pandillas/2sesion_especial/IUDOP/Las%20maras%20o%20pandillas%20juveniles%20en%20el%20tri%C3%A1ngulo%20norte%20de%20Centroam%C3%A9rica...pdf (date accessed: 22 December 2015), p. 10. The lengths to which gangs are reported to go to pursue perceived traitors is illustrated by the fact that nationals from Honduras who fled abroad because they were perceived as traitors by gangs in Honduras were reportedly killed within days of their repatriation to Honduras. D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 55-56. There are regular reports of Salvadorian deportees from the U.S. being killed shortly after their return to El Salvador: see Perspectives, *No Childhood Here: Why Central American Children Are Fleeing their Homes*, July 2014, http://www.immigrationpolicy.org/sites/default/files/docs/no_childhood_here_why_central_american_children_are_fleeing_their_homes_final.pdf, p. 5; La Prensa Gráfica, *La tragedia de todo un país*, 15 June 2014, <http://www.laprensagrafica.com/2014/06/15/la-tragedia-de-todo-un-pais>; La Prensa Gráfica, *Asesinan a pandillero deportado de EUA en Tejutla*, 21 May 2014, <http://www.laprensagrafica.com/2014/05/21/asesinan-a-pandillero-deportado-de-eua-entejutla>; El Salvador.com, *Matan a una mujer por pleito entre pandilleros*, 29 April 2014, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=8741481; El Salvador.com, *Matan a pandillero deportado de EE. UU.*, 24 January 2014, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=8503815.

²⁸⁶ D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 45.

²⁸⁷ El Blog, *Pandilleros asesinan a exmiembro de su estructura criminal en La Unión*, 30 July 2015, <http://elblog.com/notas/?p=30005>; El Blog, *Expandillero es asesinado a tiros mientras hacía una fosa séptica en San Miguel*, 20 June 2015, <http://elblog.com/notas/?p=22626>; Interpeace, *Violentas y violentadas: Relaciones de género en las maras Salvatrucha y Barrio 18 del triángulo norte de Centroamérica*, 14 May 2013, http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf; La Prensa Gráfica, *Dos líneas de investigación en asesinato de expandillero*, 8 March 2013, <http://www.laprensagrafica.com/Dos-lineas-de-investigacion-en-asesinato-de-expandillero>; El Diario de Hoy, *Ex pandilleros bajo amenaza*, 12 December 2004, <http://archivo.elsalvador.com/vertice/2004/051204/deportada.html>.

²⁸⁸ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 13 and 17; N. Rodríguez Serna, ‘Fleeing Cartels and Maras: International Protection Considerations and Profiles from the Northern Triangle’, *International Journal of Refugee Law*, Vol. 28, 2016, section 6.2. The particular social group of ‘former gang members’ in El Salvador has been expressly recognized also in US jurisprudence. See, for example, United States Court of Appeals for the Seventh Circuit, *Benítez Ramos v Holder*, 09-1932, 15 December 2009, (589 F.3d 426, p. 429), <https://casetext.com/case/ramos-v-holder-3>; United States Court of Appeals for the Sixth Circuit, *Urbina-Mejía v Holder*, 09-3567, 5 March 2010, (597 F.3d 360, p. 366-367), <https://casetext.com/case/urbina-mejia-v-holder>. The same applies to the particular social group of ‘MS-13’ or ‘former MS-13 members’. See United States Court of Appeals for the Fourth Circuit, *Martínez v Holder*, 12-2424, 27 January 2014, (740 F.3d 902), <https://casetext.com/case/martinez-v-holder-40>; United States Court of Appeals for the Fourth Circuit, *Julio Ernesto Martínez v Holder, Attorney General*, 23 January 2014, (740 F.3d 902), <http://www.refworld.org/docid/52fa3e6a4.html>; United States Court of Appeals for the Sixth Circuit, *Chacon v. INS*, 02-3273, 18 August 2003, (341 F.3d 533, p. 549), <http://www.refworld.org/docid/4b6bflac2.html>.

²⁸⁹ For further analysis on exclusion considerations, see Section III.D.

6. Children and youth with certain profiles or in specific circumstances

Children and youth suffer multiple types of violence in El Salvador. Children may fall into any of the profiles listed in these Eligibility Guidelines. However, children in El Salvador may also be at risk of child-specific forms of persecution.²⁹⁰ Domestic abuse of children, both boys and girls, is reported to be relatively widespread in El Salvador.²⁹¹ Moreover, the upsurge in gang violence since the early 2010s has reportedly given the country the highest rate of homicide among children and adolescents in the world, and homicide is the leading cause of death among adolescent boys in El Salvador.²⁹² Since the early 2010s gangs have reportedly been responsible for the forced disappearance of a significant number of children and youth, with the majority of victims later found murdered.²⁹³

The fact that children, particularly those living in territories where the gangs operate, are frequently a target of gang violence is partly the result of the reported large numbers of youth in the gangs themselves. Children and youth who have not been recruited by a gang but who live in territories where gangs operate reportedly find it difficult to avoid coming into contact with the local gang, its members and its activities (e.g. being asked to do the gang a ‘favour’, receiving the amorous attention of a gang member, etc.) or being (mis)taken for a member or affiliate of the local gang by rival gangs.²⁹⁴ Students who go to school in an area that is controlled by a different gang than the gang that controls the area where they live are reportedly at risk of being targeted for violence by the rival gangs at school and while they travel to school.²⁹⁵ Children equally face such risks when they travel to visit relatives or attend a health centre, etc., in an area controlled by a different gang.²⁹⁶ The gangs are reported to have a presence in schools and some schools have been forced to close due to the violence of the gangs.²⁹⁷

²⁹⁰ UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/09/08, 22 December 2009, <http://www.refworld.org/docid/4b2f4f6d2.html>.

²⁹¹ Procuraduría para los Derechos Humanos, *Informe especial sobre el impacto de la violencia en los derechos de las niñas, niños y adolescentes en El Salvador*, 2013, http://www.redlamyc.info/images/stories/INFORME_ESPECIAL-2.pdf. Twenty per cent of the Salvadorian children in the USA who were interviewed for a UNHCR study disclosed abuse in the home. UNHCR, *Children on the Run; Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*, 2014, http://www.unhcrwashington.org/sites/default/files/1_UAC_Children%20on%20the%20Run_Full%20Report.pdf, p. 31.

²⁹² UNICEF, *Hidden in Plain Sight: A Statistical Analysis of Violence against Children*, 3 September 2014, http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf, pp. 35-37 and 165. See also Section II.B.1 above.

²⁹³ La Prensa Gráfica, *Cuatro personas son reportadas desaparecidas a diario en el país*, 4 September 2015, <http://www.laprensagrafica.com/2015/09/04/cuatro-personas-son-reportadas-desaparecidas-a-diario-en-el-pais>; El Diario de Hoy, *Aumenta la desaparición de niños y adolescentes*, 11 July 2015, <http://www.elsalvador.com/articulo/sucesos/aumenta-desaparicion-ninos-adolescentes-81299>; Insight Crime, *Surge in Disappearances Reflects Gang Violence in El Salvador*, 11 January 2012, <http://www.insightcrime.org/news-briefs/surge-in-disappearances-reflects-gang-violence-in-el-salvador>. See also Section II.B.1 above.

²⁹⁴ Prensa Libre, *La violencia trastorna estilo de vida de jóvenes en Centroamérica*, 30 October 2015, <http://www.prensalibre.com/guatemala/justicia/la-violencia-trastorna-estilo-de-vida-de-jovenes-en-centroamerica>; MAS.SV, *La matan a balazos*, 6 November 2015, <http://mas.sv/mas/articulo.aspx/75355/10068704/la-matan-a-balazos>.

²⁹⁵ El Diario de Hoy, *Aumenta la desaparición de niños y adolescentes*, 11 July 2015, <http://www.elsalvador.com/articulo/sucesos/aumenta-desaparicion-ninos-adolescentes-81299>; La Prensa Gráfica, *68 Estudiantes abandonan la escuela cada día por la delincuencia*, 26 August 2015, <http://www.laprensagrafica.com/2015/08/26/68-estudiantes-abandonan-la-escuela-cada-dia-por-la-delincuencia#sthash.cvwM5E3.dpuf>;

El Faro, *La deserción escolar por inseguridad se duplicó en los últimos cinco años*, 24 August 2015, <http://www.elfaro.net/es/201508/noticias/17252/La-desercion-C3%B3n-escolar-por-inseguridad-se-duplica-C3%B3-en-los-C3%BAltimos-cinco-a-C3%B1os.htm>; El Diario de Hoy, *Sacan a estudiante de instituto para matarlo*, 10 June 2015, <http://www.elsalvador.com/articulo/sucesos/sacan-estudiante-instituto-para-matarlo-79375>; La Página, *Alumnos abandonan escuela capitalina por amenazas de pandillas*, 23 April 2015, <http://www.lapagina.com.sv/nacionales/105950/2015/04/22/Alumnos-abandonan-escuela-capitalina-por-amenazas-de-pandillas>; El Diario de Hoy, *Asesinan estudiante por resistirse a integrarse a pandilla*, 28 March 2015, <http://www.elsalvador.com/articulo/sucesos/asesinan-estudiante-por-resistirse-integrarse-pandilla-73970>; El Diario de Hoy, *FGR investiga nueva forma de reclutar de las pandillas*, 6 December 2014, <http://www.elsalvador.com/articulo/sucesos/fgr-investiga-nueva-forma-reclutar-las-pandillas-59629>; El Diario de Hoy, *Pandilla amenaza a alumnos de una escuela unionense*, 20 February 2014, <http://www.elsalvador.com/articulo/comunidades/pandilla-amenaza-alumnos-una-escuela-unionense-48684>.

²⁹⁶ Sala Negra de El Faro, *Los salvadoreños cruzan fronteras de guerra a diario*, 4 January 2016, <http://www.elfaro.net/es/201601/salanegra/17702/Los-salvadorenos-C3%B1os-cruzan-fronteras-de-guerra-a-diario.htm>; Insight Crime, *Living Within the Boundaries of El Salvador's Gang 'War'*, 7 January 2016, <http://www.insightcrime.org/news-analysis/living-within-the-boundaries-of-el-salvador-gang-war>; El Diario de Hoy, *Pandillas someten al sistema educativo*, 22 September 2013, <http://www.elsalvador.com/articulo/sucesos/pandillas-someten-sistema-educativo-38805>.

²⁹⁷ El Mundo, *Escuelas golpeadas por accionar de pandillas*, 7 September 2015, <http://elmundo.sv/escuelas-golpeadas-por-accionar-de-pandillas/>; El Diario de Hoy, *Escuelas asediadas por maras y violencia*, 27 March 2014, <http://www.elsalvador.com/articulo/comunidades/escuelas-asediadas-por-maras-violencia-49313>.

Recruitment by gangs of local children and youth – particularly boys but sometimes also girls – reportedly starts from an early age.²⁹⁸ Efforts by gangs to recruit new members from the children and youth have reportedly seen a significant increase since the early 2010s.²⁹⁹ New members are reportedly often required to prove their value through acts of violence, despite their young age.³⁰⁰ Girls are reportedly increasingly targeted from a young age by gangs with demands to become “wives” or girlfriends of gang members.³⁰¹ The refusal to join a gang or to collaborate with its members by a child or youth and/or their family is reportedly usually interpreted as a challenge to the gang’s authority or as a ground for suspicion of some rival affiliation,³⁰² resulting in threats and violence directed against the child or youth and/or their family members. Even if the child leaves the area where the gang operates, family members who remain there reportedly may continue to face threats and violence.³⁰³

Depending on the particular circumstances of the case, UNHCR considers that children, in particular but not limited to those from areas where gangs operate or from social milieus where violence against children is practised, may be in need of international refugee protection on the basis of their membership of a particular social group, or on the basis of their (imputed) political opinion or on the basis of other Convention grounds.³⁰⁴ Asylum claims made by children, including any examination of exclusion considerations for children formerly associated with a gang or other organized criminal group, need to be assessed carefully and in accordance with the UNHCR Guidelines on child asylum claims.³⁰⁵

- ²⁹⁸ El País, *Desplazados forzosos por la violencia*, 8 July 2015, http://elpais.com/elpais/2015/07/03/planeta_futuro/1435915408_807581.html; La Prensa Gráfica, *Las mascotas de la pandilla*, 21 July 2014, <http://www.laprensagrafica.com/2014/07/21/las-mascotas-de-la-pandilla>; La Página, *Pandilleros de Apopa reclutan a niños desde cuarto grado*, 30 September 2013, <http://www.lapagina.com/sv/nacionales/87403/2013/09/27/Pandilleros-de-Apopa-reclutan-a-ninos-desde-cuarto-grado>; El Diario de Hoy, *‘Reclutamiento: Matan alumnos por negarse a maras’*, 2011, <http://www.elsalvador.com/especiales/2011/sucesos/20110414-reclutamiento-alumnos.asp>.
- ²⁹⁹ Sala Negra de El Faro, *Más represión, más asesinatos, más armas, más reclutamientos*, 20 September 2015, <http://www.salanegra.elfaro.net/es/201509/cronicas/17376/M%C3%A1s-represi%C3%B3n-m%C3%A1s-asesinatos-m%C3%A1s-armas-m%C3%A1s-reclutamientos.htm>; El Diario de Hoy, *Maras proliferan en San Salvador*, 29 January 2015, <http://www.elsalvador.com/articulo/sucesos/maras-prolifera-san-salvador-72783>.
- ³⁰⁰ La Prensa Gráfica, *Las mascotas de la pandilla*, 21 July 2014, <http://www.laprensagrafica.com/2014/07/21/las-mascotas-de-la-pandilla>; El Diario de Hoy, *Maras proliferan en San Salvador*, 29 January 2015, <http://www.elsalvador.com/articulo/sucesos/maras-prolifera-san-salvador-72783>.
- ³⁰¹ LAWG, *How Violence Affects Women in El Salvador*, 22 February 2016 <http://www.lawg.org/action-center/lawg-blog/69-general/1590-how-violence-affects-women-in-el-salvador>; El País, *Ellas ven, oyen y callan*, 26 August 2015, http://elpais.com/elpais/2015/08/25/planeta_futuro/1440515739_660469.html; Diario1, *Estudiantes de enfermería asesinadas por ser novias de pandilleros rivales*, 3 February 2015, <http://diario1.com/nacionales/2015/02/estudiantes-de-enfermeria-asesinadas-por-ser-novias-de-pandilleros-rivales>; La Página, *Marero MS mata a novia de 17 años por celos*, 22 January 2016, <http://www.lapagina.com/sv/nacionales/114022/2016/01/22/Marero-MS-mata-a-novia-de-17-anos-por-celos>; El Mundo, *Profesores peregrinos por amenaza de pandillas*, 7 September 2015, <http://elmundo.sv/profesores-peregrinos-por-amenaza-de-pandillas/>; Diario Libre, *Violación de mujeres, otro sello de las pandillas*, 8 November 2014, <http://www.diariolibre.com/noticias/violacin-de-mujeres-otro-sello-de-las-pandillas-1-de-2-AHDL870761>; La Página, *Marero mató a su novia de 23 puñaladas porque ella terminó la relación*, 2 October 2014, <http://www.lapagina.com/sv/nacionales/99687/2014/10/02-Marero-mato-a-su-novia-de-23-punaladas-porque-ella-termino-la-relacion>; MAS.SV, *Matan a familia*, 19 March 2014, <http://mas.sv/mas/articulo.aspx/75394/8639636/matan-a-familia>. It should be noted that in El Salvador, the Family Code protects the union of unmarried couples. See El Salvador, *Código de familia*, Decreto No. 677, https://www.oas.org/dil/esp/Codigo_de_Familia_El_Salvador.pdf, Art. 118. In common usage, terms such as “wife” may be used to refer to women who are formally married as well as women in a “common law marriage”.
- ³⁰² D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 46-47. See also Section III.A.1 above.
- ³⁰³ *Al pequeño David los pandilleros no le respetaron ni siquiera el entierro*, 15 July 2014, <http://diario1.com/nacionales/2014/07/al-pequeno-david-los-pandilleros-no-le-respetaron-ni-siquiera-el-entierro/>; D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 46-47; El Diario de Hoy, *‘Reclutamiento: Matan alumnos por negarse a maras’*, 2011, <http://www.elsalvador.com/especiales/2011/sucesos/20110414-reclutamiento-alumnos.asp>.
- ³⁰⁴ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 12(a)-(b) and 15; N. Rodríguez Serna, ‘Fleeing Cartels and Maras: International Protection Considerations and Profiles from the Northern Triangle’, *International Journal of Refugee Law*, Vol. 28, 2016, sections 6.1 and 6.3. For further guidance, see UNHCR, *Guidelines on International Protection No. 2: “Membership of a Particular Social Group” Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, <http://www.refworld.org/docid/3d36f23f4.html>. Established US jurisprudence applying the *Acosta* test recognizes age as an ‘immutable characteristic’. See, for example, United States Board of Immigration Appeals, *Matter of S-E-G-*, et al., 24 I&N Dec. 579 (BIA 2008), 30 July 2008, <http://www.refworld.org/docid/4891da5b2.html>, pp. 583-584. See also Canada: Federal Court, *Melvin Alberto Tobias Gomez et al. v. Minister of Citizenship and Immigration*, 2011 FC 1093, 23 September 2011, <http://www.refworld.org/docid/566e5e14.html>.
- ³⁰⁵ UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/09/08, 22 December 2009, <http://www.refworld.org/docid/4b2f4fd2.html>. For further analysis on exclusion considerations, see Section III.D.

7. Women and girls with certain profiles or in specific circumstances

Discrimination and violence against women and girls is reported to be prevalent in El Salvador.³⁰⁶ The country has one of the highest recorded rates of femicides in the world,³⁰⁷ and young women are reportedly increasingly represented among the victims of forced disappearances.³⁰⁸ Domestic violence is reportedly considered the leading form of violence against women and girls in El Salvador, followed closely by violence perpetrated by gang members.³⁰⁹ There are reported cases of domestic violence by gang members against their wives and other female members of their own household; women and girls in this situation are often trapped as any attempt to report the violence or to escape the situation in the home would likely lead to targeting for violence by gang members, and may also put the woman's family members at risk.³¹⁰ Some women and girls also face stigma and prosecution as a result of the government's restrictive approach to abortion.³¹¹

In the territories where the gangs operate, sexual and gender-based violence against women and girls is reportedly widespread, as is the recruitment of girls to carry out tasks for the gangs.³¹² Women and girls perceived as being linked with a particular gang are reportedly also a target for rival gangs and they and other women and girls are reportedly abused, raped and killed as part of gang initiation rites, or if they try to leave the gang to which they belong or with which they are affiliated, or if they are seen to resist its authority in other ways, including by rejecting the sexual advances of a gang

- ³⁰⁶ UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>; Procuraduría para la Defensa de los Derechos Humanos, *Pronunciamento del Procurador para la Defensa de los Derechos Humanos en el marco de la conmemoración del día internacional de la mujer*, 10 March 2015, <http://www.pddh.gob.sv/menupress/645-pronunciamento-del-procurador-para-la-defensa-de-los-derechos-humanos-en-el-marco-de-la-conmemoracion-del-dia-internacional-de-la-mujer>, and, *Informe especial sobre el femicidio, una violación a los derechos humanos de las mujeres, y la respuesta de las instituciones del Estado*, 2012, <http://www.pddh.gob.sv/menupress/menuprensa/446-pronunciamento-del-pddh-en-el-dia-internacional-de-la-no-violencia-contra-la-mujer-2012>; Instituto Salvadoreño para el Desarrollo de la Mujer, *Informe sobre el estado y situación de la violencia contra las mujeres*, 2014, November 2014, http://www.isdemu.gob.sv/index.php?option=com_content&view=article&id=1074%3Aisdemu-presenta-informe-sobre-el-estado-y-situacion-de-la-violencia-contra-las-mujeres-2014-en-el-salvador&catid=1%3Anoticias-ciudadano&Itemid=77&lang=es;
- ³⁰⁷ BBC, *El país donde ser mujer se paga con la muerte*, 8 March 2013, http://www.bbc.com/mundo/noticias/2013/03/121102_femicidio_femicidio_salvador.shtml; Geneva Declaration, *Global Burden of Armed Violence 2015*, October 2015, Chapter Three, http://www.genevadeclaration.org/fileadmin/docs/GBAV3_Ch3_pp87-120.pdf, p. 95.
- ³⁰⁸ Organización de Mujeres Salvadoreñas por la Paz (ORMUSA), *Violencia social*, 2014, <http://observatoriodeviolencia.ormusa.org/violenciasocial.php>; El Diario de Hoy, *2014: 1,843 desaparecidos*, 1 April 2015, <http://www.elsalvador.com/articulo/sucesos/2014-1843-desaparecidos-68966>.
- ³⁰⁹ La Prensa Gráfica, *Pandillas segunda causa de violencia contra mujer*, 13 November 2015, <http://www.laprensagrafica.com/2015/11/13/pandillas-segunda-causa-de-violencia-contra-mujer>.
- ³¹⁰ El País, *Ellas ven, oyen y callan*, 26 August 2015, http://elpais.com/elpais/2015/08/25/planeta_futuro/1440515739_660469.html; Diario1, *Estudiantes de enfermería asesinadas por ser novias de pandilleros rivales*, 3 February 2015, <http://diario1.com/nacionales/2015/02/estudiantes-de-enfermeria-asesinadas-por-ser-novias-de-pandilleros-rivales/>; La Página, *Marero MS mata a novia de 17 años por celos*, 22 January 2016, <http://www.lapagina.com.sv/nacionales/114022/2016/01/22/Marero-MS-mata-a-novia-de-17-anos-por-celos>; El Mundo, *Profesores peregrinos por amenaza de pandillas*, 7 September 2015, <http://elmundo.sv/profesores-peregrinos-por-amenaza-de-pandillas/>; Diario Libre, *Violación de mujeres, otro sello de las pandillas*, 8 November 2014, <http://www.diariolibre.com/noticias/violacin-de-mujeres-otro-sello-de-las-pandillas-1-de-2-AHDL870761>; La Página, *Marero mató a su novia de 23 puñaladas porque ella terminó la relación*, 2 October 2014, <http://www.lapagina.com.sv/nacionales/99687/2014/10/02/Marero-mato-a-su-novia-de-23-punaladas-porque-ella-termino-la-relacion>; MAS.SV, *Matan a familia*, 19 March 2014, <http://mas.sv/mas/articulo.aspx/75394/8639636/matan-a-familia>.
- ³¹¹ See LAWG, *How Violence Affects Women in El Salvador*, 22 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1590-how-violence-affects-women-in-el-salvador>; Amnesty International, *El Salvador: Report on the State of the World's Human Rights 2014/15*, 25 February 2015, <https://www.amnesty.org/en/countries/americas/el-salvador/report-el-salvador/>; The Guardian, *El Salvador: Meet the Women Who Dare to Challenge the Anti-Abortion State*, 17 April 2014, <http://www.theguardian.com/global-development/2014/apr/17/beatriz-case-resistance-el-salvador-abortion-law>; Amnesty International, *El Salvador: On the Brink of Death: Violence against Women and the Abortion Ban in El Salvador*, 2014, <https://www.amnesty.org/download/Documents/4000/amr290042014en.pdf>; BBC, *El Salvador: Where Women May be Jailed for Miscarrying*, 18 October 2013, <http://www.bbc.co.uk/news/magazine-24532694>. For abortion-related legal provisions, see *El Salvador: Código Penal*, 26 April 1997, available at: <http://www.refworld.org/docid/46d6d0982.html>, arts 133 et seq. See also Section II.C.1 above.
- ³¹² LAWG, *How Violence Affects Women in El Salvador*, 22 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1590-how-violence-affects-women-in-el-salvador>; La Prensa Gráfica, *Pandillas segunda causa de violencia contra mujer*, 13 November 2015, <http://www.laprensagrafica.com/2015/11/13/pandillas-segunda-causa-de-violencia-contra-mujer>; UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>; Prensa Libre, *Mareros se centran en reclutar a jovencitas*, 17 April 2014, http://www.prensalibre.com/noticias/Mareros-centran-reclutar-jovencitas_0_1121887819.html; Insight Crime, *Report Details How El Salvador Gangs Use Rape As A Weapon*, 7 November 2014, <http://www.insightcrime.org/news-briefs/el-salvador-gangs-rape-sexual-violence-femicides>; New York Post, *El Salvador's Horrifying Culture of Gang Rape*, 6 November 2014, <http://nypost.com/2014/11/06/the-youth-are-theirs-el-salvadors-horrifying-culture-of-gang-rape/>; Interpeace, *Violentas y violentadas: Relaciones de género en las maras Salvatrucha y Barrio 18 del triángulo norte de Centroamérica*, 14 May 2013, http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf.

member.³¹³ Women and girls may be seen by gang members as their partners, even when a woman or girl has never consented to being in a couple. Women and girls in this situation are reported to be subjected to persistent violence, while being unable to seek protection due to the authority exercised by their “partner” in the area controlled by the gang.³¹⁴ Family members of women and girls who have problems with the gangs are also often targeted on the basis of their affiliation to the woman or girl in question.³¹⁵

Depending on the particular circumstances of the case, UNHCR considers that women and girls, in particular but not limited to women and girls from areas where gangs operate or those from social milieus where violence against sexual and gender-based violence against women and girls is practised, may be in need of international refugee protection on the basis of their membership of a particular social group, and/or their (imputed) political opinion, or on the basis of other Convention grounds.³¹⁶

8. *Individuals of diverse sexual orientations and/or gender identities*

Discrimination against individuals of diverse sexual orientation and/or gender identities is reportedly widespread in El Salvador and such persons have consistently been targeted for attacks and murder by the gangs and other sectors of society, including by the police and other public authorities.³¹⁷ As noted

- ³¹³ Global Voices, *Las mujeres y las maras: otra vuelta de tuerca en el complejo mundo de las pandillas centroamericanas*, 3 December 2015, <https://es.globalvoices.org/2015/12/03/las-mujeres-y-las-maras-otra-vuelta-de-tuerca-en-el-complejo-mundo-de-las-pandillas-centroamericanas/>; MAS.SV, *La matan a balazos*, 6 November 2015, <http://mas.sv/mas/articulo.aspx/75355/10068704/la-matan-a-balazos>; Insight Crime, *Report Details How El Salvador Gangs Use Rape as a Weapon*, 7 November 2014, <http://www.insightcrime.org/news-briefs/el-salvador-gangs-rape-sexual-violence-femicides>; New York Post, *El Salvador's Horrifying Culture of Gang Rape*, 6 November 2014, <http://nypost.com/2014/11/06/the-youth-are-theirs-el-salvadors-horrifying-culture-of-gang-rape/>; New York Post, *El Salvador's Horrifying Culture of Gang Rape*, 6 November 2014, <http://nypost.com/2014/11/06/the-youth-are-theirs-el-salvadors-horrifying-culture-of-gang-rape/>; Insight Crime, *The Mara Women: Gender Roles in CentAm Street Gangs*, 5 September 2013, <http://www.insightcrime.org/news-analysis/centam-street-gangs-reject-rely-on-women-study>; Interpeace, *Violentas y violentadas: Relaciones de género en las maras Salvatrucha y Barrio 18 del triángulo norte de Centroamérica*, 14 May 2013, http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf; Comisión Española de Ayuda al Refugiado (CEAR), *Maras en Centroamérica y México*, 28 January 2013, <http://cear.es/wp-content/uploads/2013/10/CENTROAMERICA.-2013.-Maras.pdf>; George W. Knox, *Females and Gangs: Sexual Violence, Prostitution, and Exploitation*, 2008, Chicago, IL, National Gang Crime Research Center, <http://www.ngcrc.com/ngcrc/proffem2.htm>. See also Section III.A.1 above.
- ³¹⁴ El País, *Ellas ven, oyen y callan*, 26 August 2015, http://elpais.com/elpais/2015/08/25/planeta_futuro/1440515739_660469.html; Diario1, *Estudiantes de enfermería asesinadas por ser novias de pandilleros rivales*, 3 February 2015, <http://diario1.com/nacionales/2015/02/estudiantes-de-enfermeria-asesinadas-por-ser-novias-de-pandilleros-rivales/>; La Página, *Marero MS mata a novia de 17 años por celos*, 22 January 2016, <http://www.lapagina.com.sv/nacionales/114022/2016/01/22/Marero-MS-mata-a-novia-de-17-anos-por-celos/>; El Mundo, *Profesores peregrinos por amenaza de pandillas*, 7 September 2015, <http://elmundo.sv/profesores-peregrinos-por-amenaza-de-pandillas/>; Diario Libre, *Violación de mujeres, otro sello de las pandillas*, 8 November 2014, <http://www.diariolibre.com/noticias/violacin-de-mujeres-otro-sello-de-las-pandillas-1-de-2-AHDL870761>; La Página, *Marero mató a su novia de 23 puñaladas porque ella terminó la relación*, 2 October 2014, <http://www.lapagina.com.sv/nacionales/99687/2014/10/02/Marero-mato-a-su-novia-de-23-punaladas-porque-ella-termino-la-relacion>; MAS.SV, *Matan a familia*, 19 March 2014, <http://mas.sv/mas/articulo.aspx/75394/8639636/matan-a-familia>.
- ³¹⁵ UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>; Sala Negra de El Faro, *La legión de los desplazados*, 1 October 2012, http://www.especiales.elfaro.net/es/salanegra_desplazados/.
- ³¹⁶ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 12(b), 16 and 17; N. Rodríguez Serna, ‘Fleeing Cartels and Maras: International Protection Considerations and Profiles from the Northern Triangle’, *International Journal of Refugee Law*, Vol. 28, 2016, section 6.4. See: UNHCR, *Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/01, <http://www.refworld.org/docid/3d36f1c64.html>, and UNHCR, *Guidelines on International Protection No. 2: “Membership of a Particular Social Group” Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, HCR/GIP/02/02, <http://www.refworld.org/docid/3d36f23f4.html>. Recent US jurisprudence has also recognized domestic violence as a form of persecutory harm for reasons of the woman’s membership of such particular social groups as ‘married women living in domestic relationships that they cannot leave’. See United States Board of Immigration Appeals, *Matter of A-R-C-G- et al.*, 26 I&N Dec. 388 (BIA 2014), 26 August 2014, <http://www.refworld.org/docid/5400846f4.html>, p. 390.
- ³¹⁷ LAWG, *LGBTI Salvadorians: Winning Legal Advances But Facing Unchecked Violence*, 24 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1594-lgbti-salvadorians-winning-legal-advances-but-facing-unchecked-violence>; Al Jazeera, *LGBT in El Salvador: Beatings, Intolerance, Death*, 12 August 2015, <http://www.aljazeera.com/indepth/features/2015/08/lgbt-el-salvador-beatings-intolerance-death-150805075132892.html>; United States Department of State, *2014 Country Reports on Human Rights Practices - El Salvador*, 25 June 2015, <http://www.refworld.org/docid/559bd56d28.html>; La Página, *Fiscalía se niega a investigar asesinatos de homosexuales expresan activistas LGTB*, 9 June 2015, <http://www.lapagina.com.sv/nacionales/107397/2015/06/09/Fiscalia-se-niega-a-investigar-asesinatos-de-homosexuales-expresan-activistas-LGTB>; La Página, *Organización LGBTI denuncia supuesto ataque de PNC a oficinas*, 21 February 2015, <http://www.lapagina.com.sv/nacionales/104218/2015/02/21/Organizacion-LGBTI-denuncia-supuesto-ataque-de-PNC-a-oficinas>; IPS, *LGBTI Community in Central America Fights Stigma and Abuse*, 8 February 2015, <http://www.ipsnews.net/2015/02/lgbti-community-in-central-america-fights-stigma-and-abuse/>; Procurador para la Defensa de los Derechos

above, the Salvadorian gangs are reported to possess a strong *macho* ethos, which reportedly expresses itself on an everyday basis through their virulent hatred and ill-treatment of persons based on their perceived sexual orientation and/or gender identity.³¹⁸ Transgender individuals, in particular transwomen, are reported to be at particular risk of violence.³¹⁹

Depending on the particular circumstances of the case, UNHCR considers that individuals of diverse sexual orientations and/or gender identities may be in need of international refugee protection on the basis of their membership of a particular social group, or on the basis of other Convention grounds.³²⁰ It should be emphasized that individuals of diverse sexual orientations and/or gender identities cannot be expected to change or conceal their identity in order to avoid persecution.³²¹

9. Journalists and human rights defenders, especially those working on issues relating to organized crime and corruption

Journalists and human rights defenders, especially those working on issues relating to organized crime and corruption in El Salvador have reportedly been the subject of threats, attacks and even killings by criminal elements.³²²

Humanos, *Posicionamiento ante los recientes homicidios contra la población LGBTI en El Salvador*, del Procurador para la Defensa de los Derechos Humanos y del Coordinador Residente del Sistema de las Naciones Unidas, 24 September 2014, <http://www.pddh.gob.sv/menupress/menuprensa/622-posicionamiento-ante-los-recientes-homicidios-contra-la-poblacion-lgbti-en-el-salvador-del-procurador-para-la-defensa-de-los-derechos-humanos-y-del-coordinador-residente-del-sistema-de-las-naciones-unidas>;

Assessment Capacities Project, *Otras situaciones de violencia en el Triangulo del Norte Centroamericano, impacto humanitario*, May 2014, <http://acaps.org/news/other-situations-of-violence-in-the-northern-triangle-of-central-america>, pp. 41-42; CONCAVI Trans, *Informe para la Audiencia ante la Comisión Interamericana de Derechos Humanos sobre la situación de violencia contra la población de mujeres trans en El Salvador*, 29 October 2013, <http://www.pasca.org/userfiles/ES%20Informe%20CIDH%20trans%202013.pdf>; Procuraduría para la defensa de los Derechos Humanos, *Posicionamiento ante los recientes homicidios contra la población LGBTI en El Salvador*, del Procurador para la Defensa de los Derechos Humanos y del Coordinador Residente del Sistema de las Naciones Unidas, 2013, <http://www.pddh.gob.sv/menupress/menuprensa/622-posicionamiento-ante-los-recientes-homicidios-contra-la-poblacion-lgbti-en-el-salvador-del-procurador-para-la-defensa-de-los-derechos-humanos-y-del-coordinador-residente-del-sistema-de-las-naciones-unidas>;

Solicitors' International Human Rights Group, *Violación de los derechos humanos que afectan a la comunidad lesbiana, gay, bisexual, transgénero e intrasexual (personas LGBTI) en El Salvador*, undated, <http://www.comcavis.org.sv/archivos-categorizados/61.pdf?1437229231> (date accessed: 22 December 2015).

³¹⁸ UNHCR, *Stabbed 58 Times, Transgender Woman Flees El Salvador*, 8 December 2015, <http://www.refworld.org/docid/5666f75d4.html>; IACHR, *Violencia contra Personas Lesbianas, Gays, Bisexuales, Trans e Intersex en América*, 12 November 2015, OAS/Ser.L/V/II.rev.1, <http://www.refworld.org/docid/56669c6f4.html>, esp. paras 279-281.

³¹⁹ LAWG, *LGBTI Salvadorians: Winning Legal Advances But Facing Unchecked Violence*, 24 February 2016, <http://www.lawg.org/action-center/lawg-blog/69-general/1594-lgbti-salvadorians-winning-legal-advances-but-facing-unchecked-violence>; El Mundo, *Mujeres trans, ni justicia ni identidad reconocida*, 8 December 2015, <http://elmundo.sv/mujeres-trans-ni-justicia-ni-identidad-reconocida/>; Human Rights Campaign, *Transgender Human Rights Activist Murdered in El Salvador*, 12 June 2015, <http://www.hrc.org/blog/transgender-human-rights-activist-murdered-in-el-salvador>; Contra Punto, *Condenan ataques contra población transexual*, 2 June 2015, <http://www.contrapunto.com.sv/sociedad/genero/condenan-ataques-contra-poblacion-transexual>; El Salvador Noticias, *Asesinan en Sonsonate a defensor de derechos LGBTI*, 31 May 2015, <http://www.elsalvadornoticias.net/2015/05/31/asesinan-en-sonsonate-a-defensor-de-derechos-lgbti/>; La Página, *Comunidad trans pide esclarecer 149 "crímenes de odio"*, 29 March 2014, <http://www.lapagina.com.sv/nacionales/94148/2014/03/29/Comunidad-trans-pide-esclarecer-149-crimenes-de-odio>; COMCAVIS, *Informe sobre la situación de los Derechos Humanos de las Mujeres Trans en El Salvador*, May 2013, <http://www.comcavis.org.sv/archivos-categorizados/59.pdf?1449139541>.

³²⁰ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, para. 12(g). For further guidance, see UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, 23 October 2012, HCR/GIP/12/01, <http://www.refworld.org/docid/50348afc2.html>; UNHCR, *Guidelines on International Protection No. 2: "Membership of a Particular Social Group" Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 7 May 2002, <http://www.refworld.org/docid/3d36f23f4.html>. It is well-established in US jurisprudence that sexual orientation or gender identity can form the basis of a particular social group and that claims based on the imputation of such characteristics can also succeed. See United States Board of Immigration Appeals, *Matter of Toboso-Alfonso*, 20 I. & N. Dec. 819, 12 March 1990, <http://www.refworld.org/docid/3ae6b6b84.html>; United States Court of Appeals for the Third Circuit, *Kwasi Amanfi v. John Ashcroft, Attorney General*, Nos. 01-4477 and 02-1541, 16 May 2003, (328 F.3d 719), <http://www.refworld.org/docid/47fdfb2c1a.html>.

³²¹ UNHCR, *Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees*, 23 October 2012, HCR/GIP/12/01, <http://www.refworld.org/docid/50348afc2.html>. See also, for example, Court of Justice of the European Union, *X, Y, Z v Minister voor Immigratie en Asiel*, C-199/12 - C-201/12, 7 November 2013, <http://www.refworld.org/docid/527b94b14.html>.

³²² Animal Político, *El Faro de El Salvador denuncia amenazas en contra de sus periodistas*, 13 August 2015, <http://www.animalpolitico.com/2015/08/amenazan-a-periodistas-de-el-faro-en-el-salvador/>; Inter-American Commission on Human Rights (IACHR), *CIDH condena asesinato de defensora de derechos humanos de las personas trans en El Salvador*, 8 June 2015, <http://oas.org/es/cidh/prensa/comunicados/2015/063.asp>; Asociación de Periodistas de El Salvador, *Informe de libertad de prensa 2015*, 11 May 2015, <http://www.apes.org.sv/sitioapes/?s=informe+libertad+prensa+2015>; Reporteros Sin Fronteras, *Un año de gobierno de Sánchez Cerén: Un año de deterioro de la libertad de información*, 4 June 2015, <http://es.rsf.org/el-salvador-un-ano-de-gobierno-de-sanchez-04-06->

Depending on the particular circumstances of the case, UNHCR considers that journalists, other media professionals and human rights defenders who are working on issues perceived to be sensitive by either State or non-State armed actors, including but not limited to organized crime and corruption, may be in need of international refugee protection on the ground of their (imputed) political opinion, or on the basis of other Convention grounds.³²³

10. Teachers and educators working in public schools and educational institutions

Due to the youthful membership of the gangs in El Salvador, gangs reportedly often seek to exert influence in and on public schools and educational institutions in the zones where they operate. Gang members may also be present as students in these schools and educational institutions. Teachers and other educators working in parts of the country where gangs are present reportedly often find themselves subject to extortion demands.³²⁴ Moreover, those teachers and educators who represent an alternative source of authority or resist or oppose the gangs and their recruitment of local youth have reportedly been threatened and killed by the gangs.³²⁵

Depending on the particular circumstances of the case, UNHCR considers that teachers and educators working in public schools and educational institutions may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.³²⁶

11. Former members of the police and armed forces

Members of the PNC and armed forces have long represented a target for attack by gang members and other organized criminal groups, especially since lower-ranking officials often live in the same neighbourhoods as gang members.³²⁷ However, since the breakdown of the gang truce,³²⁸ some local gangs have reportedly been ordered to kill a specified number of police officers living in their

[2015.47966.html](http://www.refworld.org/docid/5523d2cf15.html); Freedom House, *Freedom in the World 2015 - El Salvador*, 31 March 2015, <http://www.refworld.org/docid/5523d2cf15.html>. UN Human Rights Council, *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of Council resolution 16/21 : El Salvador*, 21 July 2014, A/HRC/WG.6/20/SLV/3, <http://www.refworld.org/docid/55b9f9e64.html>, paras 52-54; La Página, *PDDH condena asesinato de periodista y amenazas a otro en El Salvador*, 19 July 2014, <http://www.lapagina.com.sv/nacionales/97490/2014/07/19/PDDH-condena-asesinato-de-periodista-y-amenazas-a-otro-en-El-Salvador->

Moreover, in December 2015, a high-level PNC official urged the Attorney General's Office to initiate an investigation against journalists reporting on gang activities in the capital for being 'apologists for terrorist acts', a serious criminal offence punishable upon conviction by up to ten years' imprisonment: Insight Crime, *El Salvador Official Levels Terrorism Accusations Against Newspaper*, 14 January 2016, <http://www.insightcrime.org/news-briefs/police-official-el-salvador-newspaper-accuse-terrorism-charges>.

³²³ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 12(f), 16 and 17; N. Rodríguez Serna, 'Fleeing Cartels and Maras: International Protection Considerations and Profiles from the Northern Triangle', *International Journal of Refugee Law*, Vol. 28, 2016, sections 6.5 and 6.10.

³²⁴ La Prensa Gráfica, *Temer en la escuela*, 4 October 2015, <http://www.laprensagrafica.com/2015/10/04/temer-en-la-escuela>.

³²⁵ La Prensa Gráfica, *Temer en la escuela*, 4 October 2015, <http://www.laprensagrafica.com/2015/10/04/temer-en-la-escuela>; La Página, *Un maestro se juega la vida en una escuela asediada por las pandillas*, 26 January 2015, <http://www.lapagina.com.sv/nacionales/103335/2015/01/26/Asi-se-juega-la-vida-un-maestro-en-una-escuela-asediada-por-las-pandillas>; El Mundo, *El Salvador, donde estudiar y dar clases es un peligro*, 28 August 2014, <http://biblioteca.utec.edu.sv/hemeroteca/svdem/2014/DEM20140820.pdf>, 21; El Diario de Hoy, *Más de 1,200 maestros amenazados y extorsionados*, 28 November 2013 http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=8361972; El Diario de Hoy, *Escuela de El Paisnal suspende clases por amenazas de pandillas*, 10 July 2013, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=8028978; El Diario de Hoy, *Matan a maestro y catedrático de la UES en el primer día del año escolar*, 21 January 2013, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=7622102. See also Section III.A.1 above.

³²⁶ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, p. 5, paragraph 12(f). US jurisprudence applying the *Acosta* rationale has recognized that occupational groups may constitute particular social groups in the context of asylum claims based on the refusal to cooperate with criminal organizations. See, for example, United States Court of Appeals for the Seventh Circuit, *Escobar v Holder*, 10-3751, 7 September 2011, (657 F.3d 537, p. 546), <https://casetext.com/case/escobar-v-holder-8>. A similar approach has been adopted in the context of gang extortion claims by the Australian Refugee Review Tribunal in *RRT Case No. 0906782*, [2009] RRTA 1063, 24 November 2009, <http://www.refworld.org/docid/4b5708f42.html>, and *RRT Case No. 1109206*, [2012] RRTA 248, 12 April 2012, <http://www.refworld.org/docid/4faa27af2.html>.

³²⁷ D.J. Cantor, 'The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico', *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, p. 47.

³²⁸ See Sections II.A and II.B.2(a) above.

territories.³²⁹ As a result, in 2015 the targeted assassination of policemen and soldiers, often off-duty, by the gangs reportedly escalated sharply.³³⁰ In 2015, a number of State institutions were also targeted by improvised explosive devices, in attacks that were reportedly coordinated by the gangs.³³¹

Depending on the particular circumstances of the case, UNHCR considers that members of the PNC and armed forces may be in need of international refugee protection on the basis of their membership of a particular social group, or on the basis of other Convention grounds.³³²

In view of the need to maintain the civilian and humanitarian character of asylum, applications for international refugee protection by combatants should not be considered unless it is established that they have genuinely and permanently renounced military and armed activities.³³³

Claims by persons of this profile may give rise to the need to examine possible exclusion from refugee status.³³⁴

12. *Other public officials, especially those engaged in investigating or confronting organized crime, including judges, prosecutors and attorneys*

Judges, prosecutors and attorneys engaged in investigating or confronting organized crime, including the gangs, have reportedly been threatened and attacked.³³⁵ Moreover, since the breakdown of the gang truce,³³⁶ some gangs have reportedly ordered their members to kill judicial officials in their territories if no police officers – reportedly the gangs’ principal target – are found there.³³⁷ Other public officials, including both local and national government employees, who are working in

³²⁹ LAWG, *El Salvador’s Security Policy is Increasing Extra Judicial Killings and Abuse*, 12 February 2016, <http://lawg.org/action-center/lawg-blog/69-general/1581-el-salvadors-security-policy-is-increasing-extrajudicial-killings-and-abuse>; La Prensa Gráfica, *Pandilla en La Libertad ordena matar dos policías por clica*, 8 April 2015, <http://www.laprensagrafica.com/2015/04/08/pandilla-en-la-libertad-ordena-matar-dos-policias-por-clica#sthash.6NY6nlbG.dpuf>.

³³⁰ Procurador para la Defensa de los Derechos Humanos, *Procurador condena y repudia ataque contra elementos de la FAES, policías y agentes municipales*, 22 June 2015, <http://www.pddh.gob.sv/menupress/menuprensa/663-procurador-condena-y-repudia-ataque-contra-elementos-de-la-faes-policias-y-agentes-municipales>; El Mundo, *Policías y soldados han repelido 251 ataques de pandillas*, 15 May 2015, <http://elmundo.com.sv/policias-y-soldados-han-repelido-251-ataques-de-pandillas/>; El Mundo, *Muerte de policía eleva a 44 los agentes asesinados en 2015*, 22 August 2015, <http://elmundo.sv/muerte-de-policia-eleva-a-44-los-agentes-asesinados-en-2015/>; El Mundo, *Policías y soldados han repelido 251 ataques de pandillas*, 15 May 2015, <http://elmundo.com.sv/policias-y-soldados-han-repelido-251-ataques-de-pandillas/>; Contra Punto, *La muerte de Wendy: un golpe a la PNC, un golpe a las mujeres*, 22 April 2015, <http://www.contrapunto.com.sv/reportajes/la-muerte-de-wendy-un-golpe-a-la-pnc-un-golpe-a-las-mujeres>; La Prensa Gráfica, *Pandilla en La Libertad ordena matar dos policías por clica*, 8 April 2015, <http://www.laprensagrafica.com/2015/04/08/pandilla-en-la-libertad-ordena-matar-dos-policias-por-clica#sthash.6NY6nlbG.dpuf>; El Diario de Hoy, *Pandilleros matan a policía de unidad élite en Apopa*, 6 January 2015, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=9367795; Sala Negra de El Faro, *La rebelión por la que sangra Zacatecoluca*, 3 November 2014, <http://www.salanegra.elfaro.net/es/201411/cronicas/16173/La-rebeli%C3%B3n-por-la-que-sangra-Zacatecoluca.htm>. Police officers were reported to have resigned from the PNC in record numbers in 2015, at least in part in response to threats against members of their families. La Prensa Grafica, *358 Policías renunciaron a la PNC el año pasado*, 28 January 2016, <http://www.laprensagrafica.com/2016/01/28/358-policias-renunciaron-a-la-pnc-el-ao-pasado>; Insight Crime, *Record Number of El Salvador Police Quit as Violence Takes its Toll*, 28 January 2016, <http://www.insightcrime.org/news-briefs/el-salvador-police-quitting-amid-threats-violence>.

³³¹ Insight Crime, *The Mystery Behind El Salvador’s IEDs*, 9 October 2015, <http://www.insightcrime.org/news-analysis/the-mystery-behind-el-salvador-ieds>.

³³² See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 12(e) and 17; N. Rodríguez Serna, ‘Fleeing Cartels and Maras: International Protection Considerations and Profiles from the Northern Triangle’, *International Journal of Refugee Law*, Vol. 28, 2016, section 6.9. The recognition by long-established US jurisprudence such as *Matter of Fuentes*, 19 I. & N. Dec. 658 (1988), p. 662, that these profiles may constitute particular social groups based on past status in line with the *Acosta* rationale has been more recently reaffirmed in decisions such as United States Court of Appeals for the Ninth Circuit, *Tapia Madrigal v. Holder, Attorney General*, 10-73700, 15 May 2013, (716 F.3d 499), <http://www.refworld.org/docid/51c2fd4b4.html>.

³³³ UNHCR Executive Committee, *Conclusion on the civilian and humanitarian character of asylum, No. 94 (LIII)*, 8 October 2002, <http://www.unhcr.org/refworld/docid/3dafdd7c4.html>. For guidance on how to establish the genuineness and permanence of renunciation, see UNHCR, *Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum*, September 2006, <http://www.unhcr.org/refworld/docid/452b9bca2.html>.

³³⁴ For further analysis of exclusion considerations, see Section III.D.

³³⁵ La Prensa Gráfica, *Jueces demandan seguridad tras el atentado en tribunales*, 11 April 2015, <http://www.laprensagrafica.com/2015/04/11/jueces-demandan-seguridad-tras-el-atentado-en-tribunales>; MSN, *Pandilleros asesinan a responsable fiscalía en El Salvador*, 8 March 2015, <http://www.msn.com/es-xl/noticias/mundo/pandilleros-asesinan-a-responsable-fiscal%C3%ADa-en-el-salvador/ar-AA9vIjX>; La Página, *Confusión sobre estado crítico de jueza baleada por pandilleros*, 19 February 2015, http://mobile.lapagina.com.sv/detail.php?news_id=104170.

³³⁶ See Sections II.A and II.B.2(a) above.

³³⁷ La Prensa Gráfica, *Pandilla en La Libertad ordena matar dos policías por clica*, 8 April 2015, <http://www.laprensagrafica.com/2015/04/08/pandilla-en-la-libertad-ordena-matar-dos-policias-por-clica#sthash.6NY6nlbG.dpuf>.

territories where the gangs operate have reportedly also received death threats due to their work, or have been subjected to extortion demands by the gangs.³³⁸

Depending on the particular circumstances of the case, UNHCR considers that public officials, especially those engaged in investigating or confronting organized crime – such as judges, prosecutors and attorneys – may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.³³⁹

13. Family members, dependants, other members of the households, and employees of persons falling within the previous risk profiles

Family members, dependants, other members of the households of individuals with any of the profiles above, as well as employees of such individuals, can reportedly also be a target for attacks and assassination by gangs, sometimes even after the person who was initially targeted by the gang in question has fled or has already been killed.³⁴⁰

Family members, dependants, other members of the households, and employees of individuals with any of the profiles above may also be in need of international protection for reason of their association with individuals at risk on the basis of their (imputed) political opinion, or on the basis of their membership of a particular social group, or other Convention grounds.³⁴¹

B. Refugee Status under UNHCR’s Broader Mandate Criteria, under the Cartagena Declaration or under Article I(2) of the 1969 OAU Convention and Protection on Other Grounds

The 1951 Convention forms the cornerstone of the international refugee protection regime. The criteria for refugee status contained in the 1951 Convention need to be interpreted in such a manner that individuals or groups of persons who meet these criteria are duly recognized and protected under that instrument. Only when an asylum-seeker is found not to meet the refugee criteria in the 1951 Convention, for example because the feared persecution is not for reason of a Convention ground, or the threshold for applying the 1951 Convention definition is not otherwise met, should broader

³³⁸ El Diario de Hoy, *Pandillas impiden entrega de recibos de servicios básicos*, 21 February 2015, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=9479028; La Prensa Gráfica, *Extorsiones afectan entrega de paquetes escolares*, 19 February 2015, <http://www.laprensagrafica.com/2015/02/19/extorsiones-afectan-entrega-de-paquetes-escolares>; El Diario de Hoy, *Socorristas piden a pandillas permiso para Semana Santa*, 28 January 2015, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=9421327; El Diario de Hoy, *Pandilla 18 amenaza de muerte a empleados de Centros Penales*, 13 May 2013, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=47859&idArt=7886975.

³³⁹ See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 12(e) and 17.

³⁴⁰ La Prensa Grafica, *358 Policías renunciaron a la PNC el año pasado*, 28 January 2016, <http://www.laprensagrafica.com/2016/01/28/358-policias-renunciaron-a-la-pnc-el-ao-pasado>; Insight Crime, *Record Number of El Salvador Police Quit as Violence Takes its Toll*, 28 January 2016, <http://www.insightcrime.org/news-briefs/el-salvador-police-quitting-amid-threats-violence>; UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>; D.J. Cantor, ‘The New Wave: Forced Displacement Caused by Organized Crime in Central America and Mexico’, *Refugee Survey Quarterly*, Vol. 33, 2014, <http://rsq.oxfordjournals.org/content/33/3/34.full.pdf+html>, pp. 45, 47; Sala Negra de El Faro, *La legión de los desplazados*, 1 October 2012, http://www.especiales.elfaro.net/es/salanegra_desplazados/.

³⁴¹ UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, www.refworld.org/docid/4bb21fa02.html, paras 6, 17, 20, 40 and 51. US jurisprudence also recognizes refugee status in cases of persecution based on family associations, including in the context of persecution by organized criminal groups such as gangs. See United States Court of Appeals for the First Circuit, *Aldana Ramos v Holder*, 13-2022, 8 August 2014, (757 F.3d 9), <http://www.refworld.org/docid/56cc10f24.html>; United States Court of Appeals for the Fourth Circuit, *Wildon Manfredo Aquino Cordova v Holder, Attorney General*, 13-1597, 18 July 2014, (759 F.3d 332), <http://www.refworld.org/docid/53e4a5fe4.html>; United States Court of Appeals for the First Circuit, *Rita Nelly Constanza de Abarca v. Holder, Attorney General*, 13-1081, 9 July 2014, (757 F.3d 334), <http://www.refworld.org/docid/53e47d5a4.html>; United States Court of Appeals for the Fourth Circuit, *Crespin-Valladeres et al. v Holder, Attorney General*, 09-1423, 16 February 2011, (632 F.3d 117), <http://www.refworld.org/docid/4f68b4cf2.html>; United States Court of Appeals for the Seventh Circuit, *Hassan v. Holder, Attorney General*, 08-1535, 2 July 2009, (571 F.3d 631), <http://www.refworld.org/docid/4b43656c2.html>.

international protection criteria contained in UNHCR's mandate and regional instruments be examined.³⁴²

1. *Refugee Status under UNHCR's Broader Mandate Criteria*

UNHCR's mandate encompasses individuals who meet the refugee criteria under the 1951 Convention and its 1967 Protocol,³⁴³ but has been broadened through successive UN General Assembly and ECOSOC resolutions to a variety of other situations of forced displacement resulting from indiscriminate violence or public disorder.³⁴⁴ In light of this evolution, UNHCR's competence to provide international protection to refugees extends to individuals who are outside their country of nationality or habitual residence and who are unable or unwilling to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or other events seriously disturbing public order.³⁴⁵

In light of the information provided in Section II above, UNHCR considers that most if not all violence in Salvadorian society is *discriminate*, targeting individuals or groups of individuals for specific reasons. Where these reasons are related to one or more of the 1951 Convention grounds, it is appropriate to consider eligibility for refugee status under the 1951 Convention.

While the need to consider eligibility for refugee status under UNHCR's broader mandate on the basis of *indiscriminate* violence is thus unlikely to arise, there may be exceptional cases where it is necessary to assess the threat to life, physical integrity or freedom resulting from events seriously disturbing public order. In the exceptional circumstances of El Salvador, relevant considerations in this regard include the fact that in certain parts of the country the Government has lost effective control to gangs or other organized criminal groups and is unable to provide protection to civilians.³⁴⁶ In the context of El Salvador, the available information indicates that the exercise of control over key aspects of people's lives in areas controlled by gangs is repressive, coercive and undermines an *ordre public* based on respect for the rule of law and human dignity.³⁴⁷

Relevant indicators to assess the threat to life, physical integrity or freedom resulting from events seriously disturbing public order include: (i) high rates of murders, disappearances, attacks, kidnappings, sexual, gender-based and other forms of violence, particularly in areas where gangs are active (see Section II.B); and (ii) the number of people who have been forcibly displaced due to criminal violence, whether in urban or in rural settings (see Section II.C.2); (iii) the extensive measures of control, including social, economic, and political control, over local populations by gangs in certain parts of the country, including by means of threats, intimidation and extortion, thereby seriously affecting the State's ability to provide protection; (iv) the ability of gangs and other organized criminal groups and government officials to commit violent crimes, extortion and a range of human rights abuses with impunity; (v) the forced recruitment of youth and others by gangs; (vi) the impact of organized criminal violence on the humanitarian situation as manifested by poverty and the systematic undermining of livelihoods in urban and rural settings; and (vii) systematic constraints on access to education and other basic services as a result of insecurity.³⁴⁸

Against this background, UNHCR considers that individuals who have been found not to meet the

³⁴² Note in particular that in some armed conflicts or other situations of violence, harm may appear to be indiscriminate. However, the underlying causes, character and/or impact of the violence causing harm may reveal that it is in fact discriminate. UNHCR, *Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and Other Situations of Violence; Roundtable 13 and 14 September 2012, Cape Town, South Africa*, 20 December 2012, <http://www.refworld.org/docid/50d32e5e2.html>, para 17.

³⁴³ UN General Assembly, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, <http://www.refworld.org/docid/3ae6b3ae4.html>.

³⁴⁴ UNHCR: *Providing International Protection Including Through Complementary Forms of Protection*, 2 June 2005, EC/55/SC/CRP.16, <http://www.refworld.org/docid/47dfb49d.html>; UN General Assembly, *Note on International Protection*, 7 September 1994, A/AC.96/830, <http://www.refworld.org/docid/3f0a935f2.html>.

³⁴⁵ See for example, UNHCR, *MM (Iran) v. Secretary of State for the Home Department - Written Submission on Behalf of the United Nations High Commissioner for Refugees*, 3 August 2010, C5/2009/2479, <http://www.refworld.org/docid/4c6aa7db2.html>, para. 10.

³⁴⁶ See Section II.C.1 and references therein.

³⁴⁷ See Section II.B.2.a and references therein.

³⁴⁸ For general considerations (not specific to El Salvador), see UNHCR, *Summary Conclusions on International Protection of Persons Fleeing Armed Conflict and Other Situations of Violence; Roundtable 13 and 14 September 2012, Cape Town, South Africa*, 20 December 2012, <http://www.refworld.org/docid/50d32e5e2.html>, paras 10-12.

refugee criteria contained in the 1951 Convention and who originate from areas where organized criminal groups, particularly gangs, have a strong presence and are operating, may, depending on the individual circumstances of the case, be in need of international protection under UNHCR's broader mandate criteria on the grounds of serious threats to life, physical integrity or freedom resulting from events seriously disturbing public order.

2. *Refugee Status under the Cartagena Declaration*

Salvadorian asylum-seekers who seek international protection in any of the countries that have incorporated the refugee definition included in the 1984 Cartagena Declaration on Refugees (Cartagena Declaration)³⁴⁹ into their national legislation may qualify for refugee status on the grounds that their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances that have seriously disturbed public order.³⁵⁰

Following similar considerations as for UNHCR's broader mandate criteria, UNHCR considers that individuals who have been found not to meet the refugee criteria contained in the 1951 Convention but who originate from areas in El Salvador controlled by gangs or where gangs otherwise have a strong presence and are operating, may, depending on the individual circumstances of the case, be in need of international protection under the terms of the refugee definition of the Cartagena Declaration, on the grounds that their lives, safety or freedom were threatened by one or more of the objective situations listed in that definition. Whether these criteria are met in a specific area needs to be assessed in each case at the time of adjudication.

3. *Refugee Status under Article I(2) of the 1969 OAU Convention*

For the same reasons as above, UNHCR considers that individuals who have been found not to meet the refugee criteria contained in the 1951 Convention but who originate from areas in El Salvador where street gangs have a strong presence and are operating, may, depending on the individual circumstances of the case, be in need of international protection under the terms of Article I(2) of the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention).³⁵¹

4. *Eligibility for Subsidiary Protection under the EU Qualification Directive*

Persons originating from El Salvador who seek international protection in Member States of the European Union and who are found not to be refugees under the 1951 Convention may qualify for subsidiary protection under Article 15 of the Qualification Directive (recast), if there are substantial grounds for believing that they would face a real risk of serious harm in El Salvador.³⁵²

³⁴⁹ *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, <http://www.refworld.org/docid/3ae6b36ec.html>. Unlike the OAU Convention [see below], the Cartagena Declaration is not a binding legal instrument; its provisions acquire the force of law only through incorporation in national legislation. For guidance on the interpretation of the Refugee Definition in the Cartagena Declaration, see: UNHCR, *Summary Conclusions on the Interpretation of the Extended Refugee Definition in the 1984 Cartagena Declaration; Roundtable 15 and 16 October 2013, Montevideo, Uruguay*, 7 July 2014, <http://www.refworld.org/docid/53c52e7d4.html>.

³⁵⁰ *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*, 22 November 1984, <http://www.refworld.org/docid/3ae6b36ec.html>, para. III(3).

³⁵¹ Organization of African Unity, *Convention Governing the Specific Aspects of Refugee Problems in Africa ("OAU Convention")*, 10 September 1969, 1001 UN Treaty Series 45, <http://www.refworld.org/docid/3ae6b36018.html>.

³⁵² Serious harm for the purposes of the Qualification Directive is defined as (a) the death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or (c) serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict. European Union, *Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 13 December 2011, <http://www.refworld.org/docid/4f06fa5e2.html>, Articles 2(f), 15. In light of the information presented in these Protection Considerations, applicants may, depending on the individual circumstances of the case, be in need of

In light of the information provided in Section II above, UNHCR considers that most if not all violence in Salvadorian society is discriminate, targeting specific individuals or groups of individuals for specific reasons. Where these reasons are related to one or more of the 1951 Convention grounds, it is appropriate to consider eligibility for refugee status under the 1951 Convention. In these circumstances, the need to consider eligibility for international protection under Article 15(c) of the Qualification Directive (recast) is unlikely to arise.

C. Considerations Relating to the Application of an Internal Flight or Relocation Alternative

Assessment of the possibility of the application of an internal flight or relocation alternative (IFA/IRA) requires an evaluation of the relevance as well as reasonableness of the proposed IFA/IRA.³⁵³

1. Relevance of IFA/IRA

Where the claimant has a well-founded fear of persecution at the hands of the State and/or its agents, there is a presumption that consideration of an IFA/IRA is not relevant.

Where the agents of persecution are non-State agents, consideration must be given to whether the persecutor is likely to pursue the claimant in the proposed area of relocation. Considering the small territorial size of El Salvador, and given the ability of the gangs and other organized criminal groups to operate country-wide, and indeed internationally – both independently and as part of international criminal networks – a viable IFA/IRA is unlikely to be available to individuals at risk of being pursued by such actors. It is particularly important to note the operational capacity of certain organized structures, particularly the MS and B-18 and the larger smuggling structures, to carry out attacks in any part of El Salvador, irrespective of territorial control of the specific zone. Further consideration should be given to: (i) the reach and ability of organized criminal networks to trace and target individuals, both in rural areas and in urban centres, including in the capital city of San Salvador, and including individuals who are covered by State-run protection programmes; (ii) the profile of the asylum-seeker and the existence of any reasonable grounds to believe that he or she will be traced and targeted; and (iii) the profile of the asylum-seeker and the existence of any reasonable grounds to believe that he or she will attract adverse attention and be targeted anew by organized criminal groups, especially gangs, that control the proposed area of relocation or which have a strong presence and operate there.

2. Reasonableness of IFA/IRA

Whether an IFA/IRA is “reasonable” is determined on a case-by-case basis, taking into account the personal circumstances of the applicant, including the impact of any past persecution.³⁵⁴ Other factors that must be taken into account include the safety and security situation in the proposed area of relocation; respect for human rights in that area, and the possibilities for economic survival,³⁵⁵ in order to evaluate whether the individual would be able to live a relatively normal life without undue hardship in the area of relocation, given his or her situation.

UNHCR considers that particular attention must be given to: (i) the level of violence and general security conditions in the area of proposed relocation, including the presence of organized criminal

subsidiary protection under Article 15(a) or Article 15(b) on the grounds of a real risk of the relevant forms of serious harm, either at the hands of the State or its agents, or at the hands of non-State armed actors.

³⁵³ The decision-maker bears the burden of proof of establishing that an analysis of relocation is relevant to the particular case. If considered relevant, it is up to the party asserting this to identify the proposed area of relocation and provide evidence establishing that it is a reasonable alternative for the individual concerned. See UNHCR, *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, <http://www.refworld.org/pdfid/3f2791a44.pdf>, paras 33-35.

³⁵⁴ UNHCR, *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, HCR/GIP/03/04, 23 July 2003, <http://www.refworld.org/docid/3f2791a44.html>, paras 25-26.

³⁵⁵ *Ibid.*, paras 24, 27-30.

groups; (ii) the scale of forced displacement in the area of proposed relocation; (iii) the availability of basic infrastructure and access to essential services in the proposed area of relocation; (iv) the availability of housing in the proposed area of relocation; (v) the presence of livelihood opportunities in the proposed area of relocation; (vi) the general lack of government support for persons displaced by the violence; (vii) the extent to which the applicant can expect to receive genuine support from any members of his or her (extended) family who may be living there and, for women and children, the possible impact of widespread domestic violence and abuse; and (viii) the overall sustainability of the relocation in light of the fact that displaced persons in El Salvador are frequently forced to displace multiple times.

D. Exclusion from International Refugee Protection

Among nationals or habitual residents of El Salvador seeking international protection, there may be individuals who have been associated with acts falling within the scope of the exclusion clauses provided for in Article 1F of the 1951 Convention.³⁵⁶ Exclusion considerations would be triggered, in particular, in cases involving possible participation in acts of violence, including extortion, robbery, murder, homicide, violent assaults, rape, prostitution, kidnapping and trafficking in people, drugs and arms, and other violent crimes. In all such cases, it will be necessary to examine carefully any issues of individual responsibility for crimes which may give rise to exclusion from international refugee protection. Given the potentially serious consequences of exclusion from international refugee protection, the exclusion clauses need to be interpreted restrictively and applied with caution. Mere membership in a criminal group or organization is not a sufficient basis to exclude. A full assessment of the circumstances of the individual case is required in all cases.³⁵⁷

In view of the particular circumstances and vulnerabilities of children, the application of the exclusion clauses to children needs to be exercised with great caution.³⁵⁸ Where children associated with a gang or other organized criminal group are alleged to have committed crimes, it is important to bear in mind that they may be victims of offences against international law and not just perpetrators.³⁵⁹

³⁵⁶ UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees*, 4 September 2003, HCR/GIP/03/05, <http://www.unhcr.org/refworld/docid/3f5857684.html>.

³⁵⁷ In some cases, individual responsibility for excludable acts may be presumed if membership and participation in the activities of a particularly violent group is voluntary. Detailed guidance on the interpretation and application of Article 1F of the 1951 Convention can be found in UNHCR, *Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees*, HCR/GIP/03/05, 4 September 2003, <http://www.refworld.org/docid/3f5857684.html>; and *Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees*, 4 September 2003, <http://www.refworld.org/docid/3f5857d24.html>.

³⁵⁸ For further guidance on the application of the exclusion clauses to children, see UNHCR, *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/09/08, 22 December 2009, <http://www.refworld.org/docid/4b2f4f6d2.html>, paras 58-64.

³⁵⁹ The Paris Principles, which concern children associated with armed forces or armed groups, provide useful guidance by analogy for children associated with gangs. The Principles state: "Children who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups should be considered primarily as victims of offences against international law; not only as perpetrators. They must be treated in accordance with international law in a framework of restorative justice and social rehabilitation, consistent with international law which offers children special protection through numerous agreements and principles". See UNICEF, *The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups*, February 2007, <http://www.refworld.org/docid/465198442.html>, paras 3.6 and 3.7