



# **Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Guatemala**

**United Nations High Commissioner for Refugees (UNHCR)**

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**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>.

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## Abbreviations

B-18	<i>Barrio-18</i> . The B-18 gang is also referred to as the 18th Street Gang or <i>Mara 18</i> , or as Pandilla 18.
CIACS	<i>Cuerpos Ilegales y Aparatos Clandestinos de Seguridad</i> ('Illegal Clandestine Security Apparatuses')
CICIG	<i>Comisión Internacional contra la Impunidad en Guatemala</i> (United Nations International Commission against Impunity in Guatemala)
CIDH / IACHR	<i>Comisión Interamericana de Derechos Humanos / Inter-American Commission on Human Rights</i>
FNC	<i>Frente de Convergencia Nacional</i> (National Convergence Front)
IDPs	Internally Displaced Persons
MS	<i>Mara Salvatrucha</i> . The MS is also referred to as the MS-13 or <i>Mara 13</i> .
OAS	Organization of American States
PANDA	<i>Unidad de Acción Nacional contra el Desarrollo Criminal de las Pandillas</i>
PP	<i>Partido Patriota</i> (Patriotic Party)
UDEFEGUA	<i>Unidad de Protección a Defensoras y Defensores de Derechos Humanos de Guatemala</i> (Protection Unit for Human Rights Defenders of Guatemala)
UNDP	United Nations Development Programme
UNE	<i>Unidad Nacional de la Esperanza</i> (National Unity of Hope)
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, Guatemalan 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 Guatemalan 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 Guatemala.

This document is based on information available to UNHCR up to September 2017 unless otherwise stated.

## II. Overview of the Situation in Guatemala

### A. Background

The contemporary exodus of Guatemalans 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 linked to international drug-trafficking and a multitude of street gangs, as well as repressive measures taken by the State security forces. At the same time, societal conflicts over land and politics, as well as widespread domestic and societal abuse of women and children, also fuels the flight of Guatemalans seeking international protection.

The population of Guatemala is estimated to be 16.7 million people.<sup>1</sup> In 2012, the latest year for which data are available, 51 per cent of the population were reported to live in rural areas.<sup>2</sup> People of mixed Spanish and indigenous descent comprise an estimated 59.4 per cent of the population; indigenous *Mayans* make up over 40.3 per cent of the population; and indigenous *Xincas*, afro-descendent *Garífunas* and others comprise an estimated 0.3 per cent. The majority of this sizeable indigenous (and afro-descendent) population is reported to live in rural areas.<sup>3</sup> The *Maya* indigenous ethnic group is reported to be comprised of 22 distinct socio-linguistic communities; 24 indigenous languages are reportedly spoken in Guatemala alongside Spanish.<sup>4</sup>

Despite being the largest economy in Central America, Guatemala reportedly has one of the highest inequality rates in the region, with some of the worst poverty, malnutrition and maternal-child mortality rates, especially in rural and indigenous areas.<sup>5</sup> Guatemalan official statistics show that the proportion of the population living below the poverty line increased from 51.2 per cent in 2006 to 59.3 per cent in 2014.<sup>6</sup>

In the 20<sup>th</sup> century, Guatemala's history was marked by extended periods of dictatorship, *coups d'état* and an internal armed conflict that lasted from 1960 until 1996 when a peace agreement was concluded between the government and the left-wing insurgency.<sup>7</sup> During this civil war, widespread and systematic human rights violations were reported to have been committed by State security forces and

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<sup>1</sup> UN Department of Economic and Social Affairs, Population Division, *World Population Prospects: The 2015 Revision* (custom data acquired via website), <https://esa.un.org/unpd/wpp/DataQuery/>.

<sup>2</sup> Instituto Nacional de Estadística, *Caracterización estadística de la República de Guatemala 2012*, November 2013, <https://www.ine.gob.gt/sistema/uploads/2014/02/26/5eTCcFIHErnaNVeUmm3iabXHaKgXtw0C.pdf>, p. 13.

<sup>3</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2013*, 31 January 2014, <http://www.pdh.org.gt/documentos/informes-anales/finish/15-informes-anales/1131-iac-2013-situacion-de-los-derechos-humanos-en-guatemala.html>, p. 254.

<sup>4</sup> Inter-American Commission on Human Rights (IACHR), *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 23.

<sup>5</sup> World Bank, *Guatemala: Overview*, undated, <http://www.worldbank.org/en/country/guatemala/overview> (date accessed: 4 May 2017); Organization of American States, *IACHR Wraps Up On-Site Visit to Guatemala*, 4 August 2017, [http://www.oas.org/en/iachr/media\\_center/PReleases/2017/114.asp](http://www.oas.org/en/iachr/media_center/PReleases/2017/114.asp).

<sup>6</sup> Instituto Nacional de Estadística, *Encuesta Nacional de Condiciones de Vida 2014*, December 2015, <https://www.ine.gob.gt/sistema/uploads/2015/12/11/vjNVdb4IZswOj0ZtuivPicaAXet8LZqZ.pdf>.

<sup>7</sup> The two agreements pertaining to the Guatemala peace process were signed by the Peace Commission of the Government of Guatemala (COPAZ) and the General Command of the Unidad Revolucionaria Nacional Guatemalteca (URNG) on 29 December 1996. UN Security Council, *Agreement on a Firm and Lasting Peace*, 7 February 1997, [http://peacemaker.un.org/sites/peacemaker.un.org/files/GT\\_961229\\_AgreementOnFirmAndLastingPeace.pdf](http://peacemaker.un.org/sites/peacemaker.un.org/files/GT_961229_AgreementOnFirmAndLastingPeace.pdf), p. 1.

paramilitary groups against rural and indigenous communities.<sup>8</sup> These atrocities reportedly included the systematic targeting of rural *Mayan Ixil* and other socio-linguistic communities during the successive *de facto* governments of Romeo Lucas García (1979- 1982) and Efraín Ríos Montt (March 1982-June 1983).<sup>9</sup> The civil war and its aftermath reportedly saw a rise in institutional corruption, the consolidation of drug-smuggling structures, and high levels of violence committed by State and non-State actors.<sup>10</sup>

Through the 1980s and 1990s, Colombian drug-trafficking organizations are reported to have begun moving shipments of cocaine through Guatemala on the route northwards,<sup>11</sup> relying on the collaboration of local Guatemalan smugglers, military officials and politicians.<sup>12</sup> As a result, new local Guatemalan drug-trafficking structures are reported to have emerged to facilitate this drug trafficking trade with Colombian drug-trafficking organizations and then with Mexican drug-trafficking organizations.<sup>13</sup> The aftermath of the civil war also saw the consolidation of so-called ‘Illegal Clandestine Security Apparatuses’ (*Cuerpos Ilegales y Aparatos Clandestinos de Seguridad*, CIACS):<sup>14</sup> powerful clandestine networks, often reportedly including both former and current high-level military officials, which carry out sophisticated criminal activities or offer their services to other organized crime groups.<sup>15</sup>

In the same period, violent street gangs are reported to have emerged in Guatemala as a consequence of, among other factors, the deportations of Guatemalan gang members from the United States.<sup>16</sup> During the 1990s and 2000s, deported gang members are reported to have consolidated violent rival street gangs based on the Californian gang model, who rapidly took over existing local gangs to assume control of many poorer neighbourhoods in the larger cities of the country.<sup>17</sup> The vast majority of these street gangs are reported to be affiliated to one of the two main gang structures, reflecting the gang structures in the United States: the *Mara Salvatrucha* (MS) – also commonly referred to as the MS-13 in Guatemala – and its rival *Barrio-18* (B-18) – also commonly referred to as the 18 Street Gang or Mara 18.<sup>18</sup>

During the 2000s, the Guatemalan authorities are reported to have responded to the escalating gang violence and extortion by implementing a series of *mano dura* (‘Firm Hand’) policies, although the legislature is reported to have consistently voted against proposals to adopt a specific anti-gang law.<sup>19</sup> The first *mano dura* element was the adoption in 2003 of a policing strategy, Plan Sweep (*Plan Escoba*). This was followed by the creation of a special anti-gang unit in the national police force, which

<sup>8</sup> IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 27-30.

<sup>9</sup> There were reportedly multiple large-scale killings in the Ixil region and at least 70 per cent of Ixil villages were destroyed. Comisión para el Esclarecimiento Histórico, *Memoria del silencio*, June 1999, [http://www.undp.org/content/dam/guatemala/docs/publications/UNDP\\_gt\\_PrevyRecu\\_MemoriadelSilencio.pdf](http://www.undp.org/content/dam/guatemala/docs/publications/UNDP_gt_PrevyRecu_MemoriadelSilencio.pdf), pp. 42-43.

<sup>10</sup> Insight Crime, *Guatemala*, last updated: 9 March 2017, <http://es.insightcrime.org/noticias-sobre-crimen-organizado-en-guatemala/guatemala#> (date accessed: 4 May 2017).

<sup>11</sup> UN Office on Drugs and Crime (UNODC), *The Globalization of Crime: A Transnational Organized Crime in Central America and The Caribbean, a Threat Assessment*, September 2012, [https://www.unodc.org/documents/data-and-analysis/Studies/TOC\\_Central\\_America\\_and\\_the\\_Caribbean\\_english.pdf](https://www.unodc.org/documents/data-and-analysis/Studies/TOC_Central_America_and_the_Caribbean_english.pdf), pp. 38-42.

<sup>12</sup> J. López, ‘Guatemala’s Crossroads: The Democratization of Violence and Second Chances’, in C.J. Arns and E.L. Olson (eds), *Organized Crime in Central America: The Northern Triangle*, September 2011, [https://www.wilsoncenter.org/sites/default/files/LAP\\_single\\_page.pdf](https://www.wilsoncenter.org/sites/default/files/LAP_single_page.pdf) (hereafter: Arns and Olson (eds), *Organized Crime in Central America*).

<sup>13</sup> See also Section II.B.2.b below.

<sup>14</sup> Insight Crime, *CIACS*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/ciacs> (date accessed: 4 May 2017).

<sup>15</sup> S.S. Dudley, ‘Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*’, in Arns and Olson (eds), *Organized Crime in Central America*, pp. 34-35; J. López, ‘Guatemala’s Crossroads: The Democratization of Violence and Second Chances’, in Arns and Olson (eds), *Organized Crime in Central America*, pp. 156-157; CICIG, *Informe de la Comisión Internacional contra la Impunidad en Guatemala con ocasión de su octavo año de labores*, 13 November 2015, [http://www.cicig.org/uploads/documents/2015/COM\\_085\\_20151113\\_VIII.pdf](http://www.cicig.org/uploads/documents/2015/COM_085_20151113_VIII.pdf), p. 13; Insight Crime, *CIACS*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/ciacs> (date accessed: 4 May 2017); Plaza Pública, *#CasoSAT: ¿la punta del iceberg?*, 20 April 2015, <https://www.plazapublica.com.gt/content/casos-at-la-punta-de-iceberg>.

<sup>16</sup> Council on Foreign Relations, *Central America’s Violent Northern Triangle*, 19 January 2016, <http://www.cfr.org/transnational-crime/central-americas-violent-northern-triangle/p37286>; InSight Crime, *Part II: Gangs, Deportation and Violence in Central America*, 24 November 2012, <http://www.insightcrime.org/investigations/part-ii-gangs-deportation-and-violence-in-central-america>; Migration Policy Institute, *National Policies and the Rise of Transnational Gangs*, 1 April 2006, <http://www.migrationpolicy.org/article/national-policies-and-rise-transnational-gangs>.

<sup>17</sup> See also Section II.B.2.a below.

<sup>18</sup> Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>; Sala Negra de El Faro, *El día de la traición*, 12 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10145/>.

<sup>19</sup> Insight Crime, *Tracing the History of Failed Gang Policies in US, Northern Triangle*, 3 December 2015, <http://www.insightcrime.org/news-analysis/tracing-the-history-of-failed-gang-policies-in-us-northern-triangle>.

reportedly resulted in mass arrests of suspected gang members – although few of them were subsequently convicted – and extrajudicial executions.<sup>20</sup> The *mano dura* strategy reportedly failed to eliminate or to contain the gangs, while it engendered among members of the security forces a lack of respect for the human rights of youths suspected of being gang members.<sup>21</sup>

During the administration of President Álvaro Colom (2008-2012) of the National Unity for Hope party (*Unidad Nacional de la Esperanza* – UNE), organized crime reportedly continued to have a negative impact on both the State and society. In 2008, the Mexican Zetas cartel reportedly began a violent offensive into Guatemala, with the aim of gaining exclusive control of the country’s lucrative trafficking routes.<sup>22</sup> The resulting violence and killings are reported to have pushed the Guatemalan drug-trafficking organizations into a state of flux.<sup>23</sup> At the same time, street gangs operating in the cities reportedly expanded their violent extortion practices.<sup>24</sup> During the period 2006-2009, homicide rates are reported to have increased to levels not seen since the height of the civil war, before beginning to decrease from 2009 onwards.<sup>25</sup> 98 per cent of homicides during this period are reported to have occurred with impunity.<sup>26</sup>

In this period, widespread corruption was reported in Guatemala’s institutions, with even the Public Ministry (*Ministerio Público*) acknowledged to be infiltrated by organized crime.<sup>27</sup> Against this background, the United Nations (UN)-mandated International Commission Against Impunity in Guatemala (*Comisión Internacional contra la Impunidad en Guatemala*, CICIG) was established in 2007 and began functioning in 2008.<sup>28</sup> Notwithstanding widespread criticism of the CICIG from political conservatives and actors linked to organized crime, the CICIG is reported to have helped to investigate and resolve many complex and politically sensitive cases, and to expose the extent to which the so-called CIACS had permeated government institutions.<sup>29</sup> The resulting institutional crisis and ensuing chain of events contributed to the appointment in late 2010 of a new Attorney-General who actively investigated, prosecuted and in some cases extradited key drug-traffickers and other organized crime figures.<sup>30</sup>

The administration of retired army general President Otto Pérez Molina (2012-2016), leader of the Patriotic Party (*Partido Patriota*, PP) was notable for its large number of former or active members of

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<sup>20</sup> 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>.

<sup>21</sup> Insight Crime, *How “Mano Dura” Is Strengthening Gangs*, 21 November 2010, <http://www.insightcrime.org/investigations/how-mano-dura-is-strengthening-gangs>; E.C. Ranum, *Pandillas juveniles transnacionales en Centroamérica, México y Estados Unidos: Diagnóstico Nacional Guatemala*, 2006, [http://interamericanos.itam.mx/maras/docs/Diagnostico\\_Guatemala.pdf](http://interamericanos.itam.mx/maras/docs/Diagnostico_Guatemala.pdf).

<sup>22</sup> Insight Crime, *Guatemala: The Changing Face of Drug Trafficking*, 30 July 2013, <http://www.insightcrime.org/news-analysis/guatemala-the-changing-face-of-drug-trafficking>; Insight Crime, *The Zetas in Guatemala*, 7 September 2011, <http://www.insightcrime.org/investigations/the-zetas-in-guatemala>.

<sup>23</sup> Plaza Pública, *Guatemala: la cambiante cara del narco*, 18 July 2013, <https://www.plazapublica.com.gt/content/guatemala-la-cambiante-cara-del-narco>.

<sup>24</sup> Insight Crime, *The Hidden Dimensions of Extortion in Guatemala*, 1 December 2014, <http://www.insightcrime.org/news-analysis/hidden-dimensions-guatemala-extortion>.

<sup>25</sup> InSight Crime, *Homicidios en Guatemala: Análisis de los datos*, 10 April 2017, <http://es.insightcrime.org/investigaciones/homicidios-en-guatemala>; Insight Crime, *Guatemala’s Homicides: A Visual Comparison*, 13 January 2016, <http://www.insightcrime.org/news-briefs/guatemala-homicides-a-visual-comparison>. See also Section II.B.1.

<sup>26</sup> Human Rights Brief, *International Commission against Impunity in Guatemala*, 4 December 2009, <http://hrbrief.org/2009/12/international-commission-against-impunity-in-guatemala/>.

<sup>27</sup> Insight Crime, *Corruption Scandals Threaten to Undermine Guatemala President*, 15 September 2016, <http://www.insightcrime.org/news-briefs/corruption-scandals-threaten-to-undermine-guatemala-president-morales>; Insight Crime, *Guatemala’s Government Corruption Scandals Explained*, 21 June 2016, <http://www.insightcrime.org/news-analysis/guatemala-s-government-corruption-scandals-explained>.

<sup>28</sup> CICIG, *Por una Cultura de Legalidad*, 2011, [http://cicig.org/uploads/documents/brochure/brochure\\_es.pdf](http://cicig.org/uploads/documents/brochure/brochure_es.pdf). For further information on the historical background of the CICIG, the CICIG’s mandate, legal framework and functions, as well as the cases investigated by the CICIG, see: World Bank, *Background Paper for the World Development Report 2017, Guatemala’s International Commission Against Impunity: A Case Study on Institutions and Rule of Law*, 2017, <https://openknowledge.worldbank.org/bitstream/handle/10986/26194/112904-WP-PUBLIC-WDR17BPGuatemalaInternationalCommissionAgainstImpunity.pdf>.

<sup>29</sup> Open Society Justice Initiative, *Against the Odds: CICIG in Guatemala*, 21 March 2016, <https://www.opensocietyfoundations.org/sites/default/files/against-odds-cicig-guatemala-20160321.pdf>; International Crisis Group, *Crutch to Catalyst? The International Commission against Impunity in Guatemala*, 29 January 2016, <http://www.crisisgroup.org/~media/Files/latin-america/Guatemala/056-crutch-to-catalyst-the-international-commission-against-impunity-in-guatemala.pdf>.

<sup>30</sup> Insight Crime, *The War of Paz y Paz: The Revolution*, 23 April 2014, <http://www.insightcrime.org/investigations/the-war-of-paz-y-paz-the-revolution>.



the military.<sup>31</sup> Faced with many of the same problems as his predecessors, including violence, corruption, and organized crime, President Pérez took an increasingly militarized approach to internal security. In an effort to restore public order in high-crime areas, large numbers of military troops were reported to have been directed to undertake joint patrols with law enforcement agencies.<sup>32</sup>

By 2013, the offensive by the Mexican Zetas cartel into Guatemala had reportedly largely failed, due in part to the pursuit of its members by the new Attorney-General. Many established Guatemalan drug-trafficking organizations were also weakened, whether as a result of the Zetas' action or the prosecution and extradition of their leading members. However, subsequently a range of new drug-trafficking groups is reported to have emerged to take their place (see also Section II.B.2(b)).<sup>33</sup> Overall, homicide rates in Guatemala reportedly fell year-on-year during the Pérez presidency (see also Section II.B.1).

However, corruption reportedly remained a structural problem that permeated the highest levels of political society.<sup>34</sup> In April 2015, in the 'La Línea' case, the authorities reportedly revealed the existence of a network involved in a large-scale customs fraud and in which it was alleged that President Pérez, Vice-President Roxana Baldetti and other high-ranking officials participated.<sup>35</sup> In May 2015, a separate investigation reportedly uncovered widespread corruption in the Guatemalan Social Security Institute.<sup>36</sup> These reports generated a strong public backlash, with crowds of people having taken to the streets in protest.<sup>37</sup> Vice-President Baldetti resigned in May 2015 and, following a motion of impeachment, President Pérez resigned in September 2015; both were arrested and face trial on criminal charges.<sup>38</sup> In April 2016, it was reported that both politicians were linked to a new corruption case.<sup>39</sup>

<sup>31</sup> Plaza Pública, *La historia del capo de un cartel político-militar*, 21 September 2015, <https://www.plazapublica.com.gt/content/la-historia-del-capo-de-un-cartel-politico-militar>.

<sup>32</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <http://www.pdh.org.gt/biblioteca/file/2744-informe-anual-circunstanciado-2016.html>, pp. 26-28; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, p. 45; OHCHR, *Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/28/3/Add.1, 12 January 2015, <http://www.refworld.org/docid/55083b4b4.html>, p. 11. OHCHR reported that in 2016 "the government has not taken perceptible steps to withdraw the military from civil security tasks." OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of his Office in Guatemala*, 11 January 2017, A/HRC/34/3/Add.1, <http://www.refworld.org/docid/58ad60184.html>, p. 8, para. 29. See also, CRS Report: *Guatemala: Political, Security, and Socio-Economic Conditions and U.S. Relations*, August 2014, <https://www.fas.org/sgp/crs/row/R42580.pdf>, p. 10.

<sup>33</sup> Prensa Libre, *Gobernación identifica tres grupos en control del narcotráfico*, 18 May 2016, <http://www.prensalibre.com/guatemala/comunitario/gobernacion-identifica-tres-estructuras-en-control-del-narcotrafico>; Insight Crime, *The War of Paz y Paz: The Revolution*, 23 April 2014, <http://www.insightcrime.org/investigations/the-war-of-paz-y-paz-the-revolution>; Insight Crime, *Guatemala's New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>.

<sup>34</sup> CICIG, *Caso Cooptación del Estado de Guatemala*, 2 June 2016, [http://www.cicig.org/index.php?mact=News.cntnt01\\_detail\\_0&cntnt01\\_articleid=723&cntnt01\\_returnid=67](http://www.cicig.org/index.php?mact=News.cntnt01_detail_0&cntnt01_articleid=723&cntnt01_returnid=67).

<sup>35</sup> Centro de medios independientes, *Guatemala: Pérez Molina, "el Número 1", está involucrado en otro caso de sobornos (Jaguar)*, 25 August 2015, <https://cmiguate.org/opm-el-numero-1-esta-involucrado-en-otro-caso-de-sobornos-jaguar>; Prensa Libre, *Guatemala: Otto Pérez y Roxana Baldetti recibieron sobornos de TCQ*, 15 April 2016, <http://www.prensalibre.com/guatemala/justicia/perez-y-baldetti-recibieron-sobornos-de-tcq>. See also, Insight Crime, *Judge in Guatemala Corruption Case Charged with Taking Bribes*, 9 December 2015, <http://www.insightcrime.org/news-briefs/judge-in-guatemala-corruption-case-charged-with-taking-bribes>; InSight Crime, *Guatemala's Customs Scandal Reaches Private Sector*, 16 October 2015, <http://www.insightcrime.org/news-briefs/guatemala-customs-scandal-reaches-private-sector>.

<sup>36</sup> IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 33.

<sup>37</sup> Diarior1.com, *Guatemaltecos marchan exigiendo la renuncia del presidente Otto Pérez Molina*, 27 August 2015, <http://diarior1.com/zona-multimedia/2015/08/guatemaltecos-marchan-exigiendo-la-renuncia-del-presidente-otto-perez-molina>; La Noticia, *Centenares de guatemaltecos marchan exigiendo la renuncia del Presidente Otto Pérez*, 28 August 2015, <http://lanoticia.hn/politica/centenares-de-guatemaltecos-marchan-exigiendo-la-renuncia-del-presidente-otto-perez>; OHCHR, *A Guatemalan Awakening: The Revolt for Justice and Change*, 8 June 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/AGuatemalanawakening.aspx>.

<sup>38</sup> BBC, *Former Guatemala Leader Otto Pérez Molina to Face Trial*, 28 October 2017, <http://www.bbc.com/news/world-latin-america-41786239>; InSight Crime, *Guatemala's Government Corruption Scandals Explained*, 21 June 2016, <https://www.insightcrime.org/news-analysis/guatemala-s-government-corruption-scandals-explained/>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 33-35.

<sup>39</sup> La Prensa Gráfica, *El Salvador: Pérez y Baldetti vuelven al banquillo por otro caso de corrupción*, 15 April 2016, <http://www.laprensagrafica.com/2016/04/15/perez-y-baldetti-vuelven-al-banquillo-por-otro-caso-corrupcion>; Soy502, *Guatemala: Caso TCQ: El otro negocio fraudulento de Otto Pérez y Roxana Baldetti*, 15 April 2016, <http://www.soy502.com/articulo/asi-operaba-otto-perez-roxana-baldetti-caso-puerto-quetzal>; CICIG, *Caso de Cooptación del Estado de Guatemala*, 2 June 2016, [http://www.cicig.org/index.php?mact=News.cntnt01\\_detail\\_0&cntnt01\\_articleid=723&cntnt01\\_returnid=67](http://www.cicig.org/index.php?mact=News.cntnt01_detail_0&cntnt01_articleid=723&cntnt01_returnid=67); Insight Crime, *Guatemala's Government Corruption Scandals Explained*, 21 June 2016, <http://www.insightcrime.org/news-analysis/guatemala-s-government-corruption-scandals-explained/>; Insight Crime, *Corruption Scandals Threaten to Undermine Guatemala President*, 15 September 2016, <http://www.insightcrime.org/news-briefs/corruption-scandals-threaten-to-undermine-guatemala-president-morales>; BBC, *Guatemala Ex-President and Deputy Face Fresh Corruption Charges*, 17 June 2016, <http://www.bbc.com/news/world-latin-america-36556259>; Prensa Libre, *Capturan a agente y auxiliar fiscal del Ministerio Público*, November 2015, <http://www.prensalibre.com/guatemala/justicia/capturan>

On 14 January 2016,<sup>40</sup> Jimmy Morales, the presidential candidate of the right-wing National Convergence Front (*Frente de Convergencia Nacional*, FNC), a party founded by ex-military personnel, took office as the newly-elected President of Guatemala.<sup>41</sup> Nevertheless, the legacy of the civil war continues to impact on contemporary Guatemalan politics and society, with the (re-)trials of Ríos Montt and others accused of genocide and grave crimes during the civil war<sup>42</sup> reportedly giving rise to a backlash against individuals seeking justice and the defence of human rights (see also Section III.A.12). Moreover, State and non-State actors reportedly continue to commit acts of violence and intimidation against members of indigenous communities involved in social protests and land disputes.<sup>43</sup> Meanwhile, new spirals of violence are reportedly generated by the newer Guatemalan drug-trafficking structures,<sup>44</sup> as well as by the gang war between B-18 and MS which was reportedly reignited in mid-2015 and the continued extortion of local businesses and inhabitants by the gangs.<sup>45</sup>

## B. Structures and Patterns of Organized Violence

### 1. Levels of Violence

Between 2006 and 2015, the average annual rate of intentional homicides per 100,000 inhabitants in Guatemala was around 39.<sup>46</sup> The high rate of intentional homicides over the past decade is not out of place in the regional context of Central America, where four of the five countries with the highest homicide rates in the world are reportedly located.<sup>47</sup> The intentional homicide rate in Guatemala is

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[a-agente-y-auxiliar-fiscal-del-ministerio-publico](#); La Hora, *Dejan en libertad a trabajadores del MP*, 6 November 2015, <http://lahora.gt/dejan-en-libertad-a-trabajadores-del-mp/>.

<sup>40</sup> Following President Pérez's resignation in September 2015, Alejandro Maldonado briefly took up the presidency.

<sup>41</sup> Insight Crime, *Tracing the Evolution of Military-Criminal Networks in Guatemala, El Salvador*, 8 January 2016, <http://www.insightcrime.org/news-analysis/tracing-evolution-military-criminal-networks-in-guatemala-el-salvador>.

<sup>42</sup> Following the lifting of parliamentary immunity for Ríos Montt in 2012, he was eventually convicted of genocide and crimes against humanity in 2013. However, this judgment was overturned by the Constitutional Court and a retrial ordered, which began in 2016. See Human Rights Watch, *World Report 2017: Guatemala*, 12 January 2017, <http://www.refworld.org/docid/587b584313.html>; El Periódico, *Inicia juicio por genocidio*, 16 March 2016, <http://elperiodico.com.gt/2016/03/16/pais/inicia-nuevo-juicio-por-genocidio>; Federación Internacional de Derechos Humanos, *Genocidio en Guatemala: Ríos Montt culpable*, July 2013, [https://www.fidh.org/IMG/pdf/informe\\_guatemala613esp2013.pdf](https://www.fidh.org/IMG/pdf/informe_guatemala613esp2013.pdf). In March 2017, a judge determined that there was sufficient evidence to send Ríos Montt to trial for the killing of over 200 residents of Las Dos Erres in early December 1982. It is the second trial Ríos Montt faces on charges of genocide and crimes against humanity. International Justice Monitor, *Ríos Montt to Face Second Genocide Trial for the Dos Erres Massacre*, 3 April 2017, <https://www.ijmonitor.org/2017/04/rios-montt-to-face-second-genocide-trial-for-the-dos-erres-massacre/>; Reuters, *Former Guatemalan Dictator Rios Montt to Face Second Genocide Trial*, 2 April 2017, <https://www.reuters.com/article/us-guatemala-rights-montt/former-guatemalan-dictator-rios-montt-to-face-second-genocide-trial-idUSKBN17402W>. Others have been convicted for crimes committed during the civil war in Guatemala. See, for example, New York Times, *Guatemala Arrests Former Military Officers in Connection with Massacres*, 6 January 2016, <http://www.nytimes.com/2016/01/07/world/americas/guatemala-arrests-former-military-officers-in-connection-with-massacres.html>; Plaza Pública, *Prisión para jefes policiales del régimen de Mejía Victores*, 24 September 2013, <https://www.plazapublica.com.gt/content/prision-para-jefes-policiales-del-regimen-de-mejia-victores>; La Nación, *Condenan a 40 años a dos exjefes policiales por desaparición en Guatemala*, 20 September 2013, [http://www.nacion.com/mundo/Condenan-exjefes-policiales-desaparicion-Guatemala\\_0\\_1367263404.html](http://www.nacion.com/mundo/Condenan-exjefes-policiales-desaparicion-Guatemala_0_1367263404.html).

<sup>43</sup> El Periódico, *Activista que denunció contaminación en río La Pasión es asesinado*, 19 September 2015, <http://elperiodico.com.gt/2015/09/19/pais/activista-que-denuncio-contaminacion-en-rio-la-pasion-es-asesinado>; Prensa Libre, *Matan a líder de alcaldía indígena de San Juan Cotzal*, 11 September 2015, <http://www.prensalibre.com/guatemala/quiche/pobladores-repidian-muerte-de-lider-indigena-de-san-juan-cotzal>; Soy 502, *Activistas piden esclarecimiento de asesinato de líder comunitario*, 12 April 2015, <http://www.soy502.com/articulo/activistas-piden-esclarecimiento-asesinato-lider-comunitario>.

<sup>44</sup> El Periódico, *Narcotráfico se reacomoda en Guatemala bajo la sombra del "Chapo" Guzmán*, 18 May 2016, <http://elperiodico.com.gt/2016/05/18/pais/narcotrafico-se-reacomoda-en-guatemala-bajo-la-sombra-del-chapo-guzman>; Insight Crime, *Guatemala Massacre Points to Post-Zetas Scramble*, 10 February 2014, <http://www.insightcrime.org/news-briefs/north-guatemala-massacre-highlights-continued-post-zetas-turmoil>.

<sup>45</sup> La Hora, *Operativo a gran escala en contra de mareros del Barrio 18*, 10 June 2016, <http://lahora.gt/operativo-a-gran-escala-en-contra-de-mareros-del-barrio-18/>; Prensa Libre, *PNC registra alza de riñas entre pandillas*, 4 November 2015, <http://www.prensalibre.com/pnc-registra-alza-de-riñas-entre-pandillas>. See also Section II.B.2.a.

<sup>46</sup> The average homicide rate was calculated using the figures elaborated by C. Mendoza using data from the *Policía Nacional Civil* (PNC, National Civil Police) and *Instituto Nacional de Estadísticas* (INE, National Statistics Institute). These provide an approximate rate of intentional homicides per 100,000 inhabitants in Guatemala between 2000 and 2015 as follows: 26 (2000); 28 (2001); 31 (2002); 35 (2003); 36 (2004); 42 (2005); 45 (2006); 43 (2007); 46 (2008); 46 (2009); 41 (2010); 39 (2011); 34 (2012); 34 (2013); 32 (2014); 30 (2015). See Insight Crime, *Guatemala's Homicides: A Visual Comparison*, 13 January 2016, <http://www.insightcrime.org/news-briefs/guatemala-homicides-a-visual-comparison>. These figures largely align with those reported by UNODC for the year between 2000 and 2012, with the exception of that for 2012, which it reports as 39.9. 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](https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf), p. 126. The official Guatemalan figure for 2012 was 34.02, according to the INE. See the figures disaggregated by sex available here: <https://www.ine.gob.gt/index.php/estadisticas/tema-indicadores>. According to C. Mendoza, the 2012 UNODC figure is based on an error in the calculation. See Plaza Pública, *Error de ONUDC en cifras de violencia homicida de Guatemala*, 14 July 2014, <http://ca-bi.com/blackbox/?p=9231>.

<sup>47</sup> The Economist, *The World's Most Dangerous Cities: The Cities with the Highest Homicide Rates Are Once Again Nearly All in Latin America*, 31 March 2017, <https://www.economist.com/blogs/graphicdetail/2017/03/daily-chart-23>; The Huffington Post, *These 10 Countries Have the*

reported to have increased steadily from a low in the early 2000s of around 26 homicides per 100,000 inhabitants to reach a peak of over 46 homicides per 100,000 inhabitants in 2008 and 2009.<sup>48</sup> However, subsequent years have reportedly witnessed a steady general decline in homicide rates in Guatemala.<sup>49</sup> By 2015, different official sources calculated the annual homicide rate in a range of between 30 and 37 homicides per 100,000 inhabitants;<sup>50</sup> in 2016, this dropped to between 27 and 35 homicides per 100,000 inhabitants.<sup>51</sup>

The available official figures show that the vast majority of homicide victims are male.<sup>52</sup> Moreover, these figures indicate that the overwhelming majority of homicides are carried out using a firearm.<sup>53</sup> Since 2014, homicides involving decapitation or dismemberment of the body are reported to be on the increase,<sup>54</sup> a tactic reportedly used by gangs and other organized criminal groups as a means of sending messages to rivals and instilling fear among the population.<sup>55</sup> Lynching of suspected criminals by mobs is also regularly reported.<sup>56</sup> National politicians are reported to have suggested repeatedly that a high proportion of homicides in Guatemala are linked to the activities of organized criminal groups (either gang-related or drug trafficking-related homicides), although clear statistical data in support of this assertion is lacking.<sup>57</sup>

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*World's Highest Murder Rates*, 4 October 2014, [http://www.huffingtonpost.com/2014/04/10/worlds-highest-murder-rates\\_n\\_5125188.html](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 is based on data from 2012, the most recent year for which comparable global data on homicide figures were published by the UNODC. 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](https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf), p. 126.

<sup>48</sup> Insight Crime, *Guatemala's Homicides: A Visual Comparison*, 13 January 2016, <http://www.insightcrime.org/news-briefs/guatemala-homicides-a-visual-comparison>.

<sup>49</sup> InSight Crime, *Homicidios en Guatemala: Análisis de los datos*, 10 April 2017, <http://es.insightcrime.org/investigaciones/homicidios-en-guatemala>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, pp. 28-30; Insight Crime, *Guatemala's Homicides: A Visual Comparison*, 13 January 2016, <http://www.insightcrime.org/news-briefs/guatemala-homicides-a-visual-comparison>.

<sup>50</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, p. 45. The lack of recent census data in Guatemala, such that population estimates are used in calculating homicide rates, contributes to questions about the exact homicide rate in the country. See Prensa Libre, *Tasa de homicidios aumentó en el 2015*, 3 January 2016, <http://www.prensalibre.com/guatemala/justicia/tasa-de-homicidios-aumento-en-el-2015>. See also, El Ministerio de Gobernación, *Tasa interanual de homicidios es la más baja desde hace 172 meses*, 6 August 2016, <http://mingob.gob.gt/tasa-interanual-de-homicidios-es-la-mas-baja-desde-hace-172-meses/>; Grupo de Apoyo Mutuo, *Informe de monitoreo de violencia homicida en Guatemala January – August 2016*, August 2016, <http://www.albedrio.org/htm/otrosdocs/comunicados/GAM-violenciaHomicida-agosto2016.pdf>.

<sup>51</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html> p. 28-30; Insight Crime, *Guatemala's Homicides: A Visual Comparison*, 13 January 2016, <http://www.insightcrime.org/news-briefs/guatemala-homicides-a-visual-comparison>.

<sup>52</sup> Between 2009 and 2013, the years for which official figures are available, the proportion of homicide victims for each year who are male has consistently been around 88%. See figures produced by INE, available at: <https://www.ine.gob.gt/index.php/estadisticas/tema-indicadores>.

<sup>53</sup> Between 2009 and 2013, the years for which official figures are available, the proportion of homicide victims killed each year by firearms has not dropped below 80%. See figures produced by INE, available at: <https://www.ine.gob.gt/index.php/estadisticas/tema-indicadores>. See also, Insight Crime, *Homicides in Guatemala: The Challenge and Lessons of Disaggregating Gang-Related and Drug Trafficking-Related Murders*, October 2016, [http://www.insightcrime.org/images/PDFs/2017/Gang-and-DTO-Homicides-in-Guatemala-Final-Report\\_CARSI-USAID-InSight-Crime](http://www.insightcrime.org/images/PDFs/2017/Gang-and-DTO-Homicides-in-Guatemala-Final-Report_CARSI-USAID-InSight-Crime), pp. 26, 31.

<sup>54</sup> Prensa Libre, *Los homicidios se mantienen en país*, 7 May 2016, <http://www.prensalibre.com/guatemala/los-homicidios-se-mantienen-en-pais>.

<sup>55</sup> La Hora, *Muertes por desmembramiento reflejan una sociedad violenta*, 31 December 2015, <http://lahora.gt/muertes-por-desmembramiento-reflejan-una-sociedad-violenta/>.

<sup>56</sup> Procurador de los Derechos Humanos, *Retenciones multitudinarias y linchamientos, casos y víctimas, De 2005 al 30 de abril de 2016*, 2 June 2016, <https://www.pdh.org.gt/biblioteca/investigacion/file/2509-retenciones-multitudinarias-y-linchamientos-casos-y-victimas-2005-al-30-de-abril-de-2016.html>.

<sup>57</sup> Government statements repeatedly posit that 40 to 50 per cent of the violence in Guatemala is linked to either the drugs trade or due to drug-traffickers and gangs, although the basis for these estimates is unclear and homicide data released by the PNC do not provide clear support for such affirmations. See El Periódico, *Narcotráfico se reacomoda en Guatemala bajo la sombra del "Chapo" Guzmán*, 18 May 2016, <http://elperiodico.com.gt/2016/05/18/pais/narcotrafico-se-reacomoda-en-guatemala-bajo-la-sombra-del-chapo-guzman/>; Plaza Pública, *Vacíos de información y espacios de (des)información sobre las drogas y la narcoactividad en Guatemala*, 18 September 2014, <https://www.plazapublica.com.gt/content/vacios-de-informacion-y-espacios-de-desinformacion-sobre-las-drogas-y-la-narcoactividad-en>; Insight Crime, *Mapping Guatemala's Murder Hotspots*, 31 January 2013, <http://www.insightcrime.org/news-analysis/guatemala-murder-hotspots-mapping>. A 2016 study conducted by Insight Crime in Zona 18 (gang area) based on officers' reports and media reports found that 63 of the 154 homicides (41 per cent) for which they had preliminary police reports during 2014-2015 were possibly gang-related; 10 cases were attributed to organized crime. Insight Crime, *Homicides in Guatemala: The Challenge and Lessons of Disaggregating Gang-Related and Drug Trafficking-Related Murders*, October 2016, [http://www.insightcrime.org/images/PDFs/2017/Gang-and-DTO-Homicides-in-Guatemala-Final-Report\\_CARSI-USAID-InSight-Crime](http://www.insightcrime.org/images/PDFs/2017/Gang-and-DTO-Homicides-in-Guatemala-Final-Report_CARSI-USAID-InSight-Crime), p. 32. See also, Insight Crime, *Homicides in Guatemala: Conclusions and Recommendations*, 20 April 2017, <http://www.insightcrime.org/investigations/homicides-in-guatemala-conclusions-and-recommendations>.



Even so, homicides tend to be concentrated in the zones of Guatemala where organized criminal groups operate.<sup>58</sup> The most recent official figures show that between 2009 and 2015, while around half of Guatemala's 22 departments registered comparatively low homicide rates, there were other departments that recorded consistently high homicide rates.<sup>59</sup> In particular, the department of Guatemala, where the three most populous urban centres of the country are located (the national capital Guatemala City and the urban spill-over municipalities of Mixco and Villa Nueva), is reported to have registered persistently high homicide rates.<sup>60</sup> Street gangs are reported to have the strongest presence in these three urban zones.<sup>61</sup>

Between 2009 and 2015, the other departments with homicide rates that were much higher than the national average were clustered mostly along the eastern border with Honduras and the eastern part of Guatemala's southern coast (Izabal, Zacapa, Chiquimula, Jutiapa, Santa Rosa and Escuintla), but also included the vast northern expanse of Petén department that borders Belize and Mexico.<sup>62</sup> In this period, these relatively more rural departments reportedly served as important areas of operation and transit for powerful and competing drug-trafficking groups.<sup>63</sup>

Violence against women is reported to be a serious problem.<sup>64</sup> This includes violence perpetrated by family members (domestic violence, including sexual violence),<sup>65</sup> and violence perpetrated by gangs and members of organized criminal networks. In 2014, the most recent year for which comparative figures are available, Guatemala had the second highest absolute number of femicides (murders of

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<sup>58</sup> See, for example, the qualitative comparison between the municipalities of Puerto Barrios, Izabal department, with that of Sibinal, San Marcos department. Plaza Pública, *Donde más y donde menos*, 21 August 2014, <https://www.plazapublica.com.gt/content/donde-mas-y-donde-menos/>.

<sup>59</sup> According to the National Statistics Institute (Instituto Nacional de Estadística Guatemala, INE), in 2015 a total of 4,778 were recorded; the five departments with the highest homicide rates were: Guatemala (1,550), Escuintla (600), Petén (326), Izabal (259) and Chiquimula (286). See figures produced by INE on homicide rates per department, available here: <https://www.ine.gob.gt/index.php/estadisticas/tema-indicadores>. Based on data from the National Civil Police and the INE, Mendoza reports that in 2016, there were a total of 4,520 homicides recorded nationwide. The same five departments recorded the highest percentage of homicides during 2016: Guatemala (37.8%); followed by Escuintla (11.0%); Petén (6.5%), Izabal (5.7%) and Chiquimula (5.1%). Reportedly, around 40 per cent of homicides happened in 10 municipalities: Guatemala, Villa Nueva, Mixco, Puerto Barrios, Escuintla, Villa Canales, San Juan Sacatepéquez, Masagua, Chinautla, and Morales. E. Espinoza, C. Mendoza, *Informe Sobre la Violencia Homicida en Guatemala, 2016*, 13 Marzo 2017, <http://www.dialogos.org.gt/informe-sobre-la-violencia-homicida-en-guatemala-2016/>, p. 4. According to the Procurador de los Derechos Humanos, in 2016 the departments Escuintla, El Progreso, Guatemala, Zacapa y Chiquimula recorded homicide rates that exceed 60 or 70 homicides per 100,000 inhabitants. See Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, p. 30.

<sup>60</sup> Between 2009 and 2015, the homicide rate per 100,000 inhabitants for populous Guatemala department has varied between 46.2 (2015) and 86.7 (2009). See figures produced by INE and available here: <https://www.ine.gob.gt/index.php/estadisticas/tema-indicadores>. In 2015, it registered a homicide rate of 60 per 100,000 inhabitants. See Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, p. 49; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, p. 30.

<sup>61</sup> La Hora, *GAM: Zona 18, Villa Nueva y Mixco, las áreas más violentas*, 3 October 2014, <http://lahora.gt/gam-zona-18-villa-nueva-y-mixco-las-areas-mas-violentas/>. See also section II.B.2.a.

<sup>62</sup> See figures produced by INE and available here: <https://www.ine.gob.gt/index.php/estadisticas/tema-indicadores>. According to the INE data, in 2015 the homicide rates per 100,000 inhabitants were highest in Escuintla (78.8), Zacapa (77.8), Chiquimula (70.4), Izabal (56.8), Santa Rosa (50.4). See also Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, pp. 48-49.

<sup>63</sup> International Crisis Group, *Corridor of Violence: The Guatemala-Honduras Border*, 4 June 2014, [http://www.crisisgroup.org/~media/Files/latin-america/Guatemala/052-corridor-of-violence-the-guatemala-honduras-border.pdf](http://www.crisisgroup.org/~/media/Files/latin-america/Guatemala/052-corridor-of-violence-the-guatemala-honduras-border.pdf); Insight Crime, *Escuintla: Guatemala's New Murder Capital*, 18 November 2013, <http://www.insightcrime.org/news-briefs/escuintla-guatemala-s-new-murder-capital>. See also section II.B.2.b.

<sup>64</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>; El País, *El último refugio de las niñas víctimas de trata*, 11 March 2016, [https://elpais.com/elpais/2016/03/08/planeta\\_futuro/1457450990\\_491408.html](https://elpais.com/elpais/2016/03/08/planeta_futuro/1457450990_491408.html); BBC, *Where Women are Killed by Their Own Families*, 5 December 2015, <http://www.bbc.com/news/magazine-34978330>; The Washington Post, *Child Victims of Sexual Abuse in Guatemala are Giving Birth at an Alarming Rate. These Are Some of the Young Mothers*, 19 August 2015, <https://www.washingtonpost.com/news/insight/wp/2015/08/19/child-victims-of-sexual-abuse-in-guatemala-are-giving-birth-at-an-alarming-rate-these-are-some-of-the-young-mothers/>.

<sup>65</sup> Diario de Centro América, *Analizan casos de violencia intrafamiliar*, 7 September 2017, <https://dca.gob.gt/noticias-guatemala-diario-centro-america-analizan-casos-de-violencia-intrafamiliar/>; WOLA, *Niños y familias huyen de la violencia en Centroamérica*, 30 March 2017, <https://www.wola.org/es/analisis/ninos-y-familias-huyen-de-la-violencia-en-centroamerica/>; 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>, p. 25. There are also reports of domestic violence against men, with over 2,000 reported cases from 2013 to 2015. A decrease in the number of reported cases has been attributed to the shame associated with reporting this form of violence. Prens Libre, *Más de dos mil hombres denuncian violencia doméstica*, 10 February 2016, <http://www.prensalibre.com/mas-de-dos-mil-hombres-denuncian-maltratos>.

women because of their gender) in Central America,<sup>66</sup> and the third highest rate of femicide in the world.<sup>67</sup> In 2015, the rate of female homicides per 100,000 inhabitants in Guatemala had reduced slightly from the peak of 2008 and 2009 but remained high.<sup>68</sup> Indeed, while the overall general homicide rate has witnessed a steady decline, the percentage of women who suffer violent deaths as well as incidents of sexual violence has reportedly increased in recent years.<sup>69</sup> New forms of gang-related violence have emerged, with women and girls linked with one gang reportedly considered a target for vengeance by rival gangs, or women and girls being 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 or forced to collaborate.<sup>70</sup>

Guatemalan women, girls, and boys are also reportedly exploited in sex trafficking within the country, as well as in Mexico, the United States, Belize and elsewhere.<sup>71</sup> Disappearances connected to violence against women and trafficking in persons were also reported to take place in the country.<sup>72</sup> Moreover, domestic violence against children, both boys and girls, is also reported to be a serious problem.<sup>73</sup>

Alongside homicides and widespread forms of violence against women and children, a range of other types of violent crimes are reported to be prevalent in Guatemala. Many of these forms of violence, such as extortion by gangs and other criminals, are less easily documented than homicides. They are also known to be underreported, as victims refrain from going to the police for fear of retribution and due to a lack of confidence in the authorities.<sup>74</sup> Extortion is reported to affect the transport sector in particular,<sup>75</sup> but also reportedly impacts upon other sectors of society, including owners and workers in

<sup>66</sup> The figures compare only 14 countries in Latin America but include many of those where rates of femicide have traditionally been high. See UN Comisión Económica para América Latina y el Caribe (CEPAL), *Femicidio*, 16 November 2015, <http://www.cepal.org/es/infografias/femicidio>.

<sup>67</sup> BBC, *Violencia contra las mujeres en Guatemala: "Nos están matando nuestros padres, hermanos y padrastros"*, 14 December 2015, [http://www.bbc.com/mundo/noticias/2015/12/151211\\_guatemala\\_violencia\\_contra\\_mujer\\_femicidio\\_mes](http://www.bbc.com/mundo/noticias/2015/12/151211_guatemala_violencia_contra_mujer_femicidio_mes).

<sup>68</sup> The rate in 2015 was reported to be 9.13 per 100,000 of population. See Grupo Guatemalteco de Mujeres, *Muertes Violentas de Mujeres 2000-2015. En la República de Guatemala*, undated, <http://ggm.org.gt/wp-content/uploads/2012/08/Muertes-Violentas-de-Mujeres-MVM-2000-2015.pdf> (date accessed: 4 May 2017).

<sup>69</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, pp. 30, 32-34.

<sup>70</sup> Diario Avanzada, *Cada vez son más jóvenes las mujeres asesinadas en Guatemala*, 17 May 2016, <http://www.diarioavanzada.com.mx/index.php/mundo/17803-cada-vez-son-mas-jovenes-las-mujeres-asesinadas-en-guatemala>; 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](http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf); La Hora, *Las mujeres de las zonas rojas: violadas, desaparecidas o desmembradas*, 29 April 2013, <http://lahora.gt/hemeroteca-lh/las-mujeres-de-las-zonas-rojas-violadas-desaparecidas-o-desmembradas/>.

<sup>71</sup> United States Department of State, *2017 Trafficking in Persons Report: Guatemala*, 27 June 2017, <http://www.refworld.org/docid/5959ecc5c.html>; United States Department of Labor, *2015 Findings on the Worst Forms of Child Labor: Guatemala*, 30 September 2016, <http://www.refworld.org/docid/57f4e86b2.html>, p. 2; CICIG/UNICEF, *Human Trafficking for Sexual Exploitation Purposes in Guatemala*, 2016, [http://www.cicig.org/uploads/documents/2016/Trata\\_Ing\\_978\\_9929\\_40\\_829\\_6.pdf](http://www.cicig.org/uploads/documents/2016/Trata_Ing_978_9929_40_829_6.pdf); International Crisis Group, *Easy Prey: Criminal Violence and Central American Migration*, 28 July 2016, <http://www.refworld.org/docid/579b50394.html>, pp. 13-14.

<sup>72</sup> According to the National Civil Police, between 2003 and 2014, 25,000 persons disappeared; of these, 13,000 were women. IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 67.

<sup>73</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; CICIG/UNICEF, *Human Trafficking for Sexual Exploitation Purposes in Guatemala*, 2016, <http://www.refworld.org/docid/584aaec4.html>, pp. 72-75.

<sup>74</sup> La Hora, *La impunidad se suma a la violencia que enluta a los transportistas*, 22 January 2015, <http://lahora.gt/la-impunidad-se-suma-la-violencia-que-enluta-los-transportistas/>; Insight Crime, *The Hidden Dimensions of Extortion in Guatemala*, 1 December 2014, <http://www.insightcrime.org/news-analysis/hidden-dimensions-guatemala-extortion>. Many estimates suggest that the gangs are responsible for 30 to 35 per cent of the extortion in Guatemala. See Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; Insight Crime, *Guatemala Extortion Generates \$61 Mn A Year: Govt*, 18 July 2014, <http://www.insightcrime.org/news-briefs/guatemala-extortion-generates-61-mn-a-year-govt>. However, some estimates suggest the figure is as high as 90 per cent. See Plaza Pública, *Ni juntos ni revueltos*, 22 February 2011, <https://www.plazapublica.com.gt/content/ni-juntos-ni-revueltos>. The three Guatemalan municipalities most affected by extortion demands are reported to be Guatemala City, Mixco and Villa Nueva, all areas with a strong gang presence. See Insight Crime, *Guatemala Extortion Generates \$61 Mn A Year: Govt*, 18 July 2014, <http://www.insightcrime.org/news-briefs/guatemala-extortion-generates-61-mn-a-year-govt>.

<sup>75</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, pp. 31-32; Grupo de Apoyo Mutuo, *Informe sobre Profesiones mas vulnerables en los últimos 8 años años 2008 al 2015*, 15 June 2016, [http://areadetransparencia.blogspot.co.uk/2016/06/informe-sobre-profesiones-mas\\_16.html](http://areadetransparencia.blogspot.co.uk/2016/06/informe-sobre-profesiones-mas_16.html); Insight Crime, *Attacks on Guatemala Bus Drivers Persist*, 4 March 2015, <http://www.insightcrime.org/news-analysis/attacks-on-bus-drivers-in-guatemala-persist>; La Hora, *La impunidad se suma a la violencia que enluta a los transportistas*, 22 January 2015, <http://lahora.gt/la-impunidad-se-suma-la-violencia-que-enluta-los-transportistas/>; New Republic, *The Most Dangerous Job in the World*, 4 June 2013, <https://newrepublic.com/article/113293/900-bus-drivers-dead-guatemala-city-worlds-most-dangerous-job>. It is estimated that approximately

formal and informal businesses, street vendors and workers, children and adults who receive remittances from abroad, schoolchildren and their parents, householders, politicians and public sector workers, including teachers, and certain returnees.<sup>76</sup> Those who do not pay extortion demands by the gangs are at risk of being murdered. For instance, it was estimated that approximately 20 per cent of all of the murders committed in 2014 were as a result of the victims' failure to pay such extortion demands.<sup>77</sup>

## 2. Armed Actors

The current dynamics of violence in Guatemala reportedly stems from the presence and activities of four main types of armed actors: gangs, particularly the *Barrio 18* and the *Mara Salvatrucha*; drug-smuggling structures; the State security forces, particularly the police and the army; and private security groups, Local Security Boards (*Juntas Locales de Seguridad*) and vigilantes.

### a) Gangs<sup>78</sup>

While Guatemala is seriously impacted by violent gang activity, estimates of gang membership in Guatemala vary considerably; in 2017 it was reported that according to Guatemalan law enforcement sources, there were approximately 15,500 Barrio 18 gang members and 13,950 Mara Salvatrucha gang members.<sup>79</sup> Estimates of gang membership are further complicated by the difficulty of distinguishing between initiated active members, inactive members, aspirant members and collaborators.<sup>80</sup> Gangs are reported to have a strong presence across large parts of Guatemala's three most populous urban centres: Guatemala City, the national capital, and its surrounding municipalities of Mixco and Villa Nueva, as well as other nearby municipalities of Guatemala department.<sup>81</sup> However, the presence of gangs in

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70 per cent of public transport routes in the country are subject to extortion by the gangs. See Prensa Libre, *Bandas extorsionan a vendedores y usuarios*, 12 October 2015, <http://www.prensalibre.com/guatemala/justicia/bandas-extorsionan-a-vendedores-y-usuarios>. See also Section III.A.2 below.

<sup>76</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, pp. 35-36; Prensa Libre, *Matan a trabajador de Salud en la zona 18*, 7 July 2016, <http://www.prensalibre.com/guatemala/comunitario/matan-a-trabajador-de-salud-en-la-zona-18>; La Hora, *Operativo a gran escala en contra de mareros del Barrio 18*, 10 June 2016, <http://lahora.gt/operativo-a-gran-escala-en-contra-de-mareros-del-barrio-18/>; El Periódico, *Desarticulan estructura vinculada a extorsiones y asesinatos*, 3 May 2016, <http://elperiodico.com.gt/2016/05/03/pais/desarticulan-estructura-vinculada-a-extorsiones-y-asesinatos/>; La Hora, *Golpe a clica que extorsionaba a trabajadoras sexuales*, 8 December 2015, <http://lahora.gt/golpe-a-clica-que-extorsionaba-a-trabajadoras-sexuales/>; La Hora, *Familiares de migrantes son víctimas de extorsión*, 2 December 2015, <http://lahora.gt/familiares-de-migrantes-son-victimas-de-extorsion/>; La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; Prensa Libre, *Maestros suspenden clases por extorsión*, 3 February 2015, <http://www.prensalibre.com/noticias/comunitario/maestros-extorsion-colonia-enriqueta-villa-nueva-0-1296470451.html>.

<sup>77</sup> Insight Crime, *700 Extortion-Related Murders in Guatemala through July 2014: NGO*, 15 August 2014, <http://www.insightcrime.org/news-briefs/guatemala-700-homicides-extortion-2014>.

<sup>78</sup> 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](http://www.refworld.org/docid/4bb21fa02.html), pp. 1-2.

<sup>79</sup> In 2017, the United States Department of State reported that according to law enforcement sources, there were approximately 15,500 Barrio 18 gang members and 13,950 Mara Salvatrucha gang members. United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>. In late 2015 a figure of 16,000 members was quoted; see Prensa Libre, *"Las pandillas se han fortalecido"*, 6 November 2015, <http://www.prensalibre.com/guatemala/justicia/las-pandillas-se-han-fortalecido>. In late 2014 a figure of 19,000 was quoted: La Hora, *Informe: Hay 19 mil pandilleros en el país; sin opciones de reinserción*, 1 December 2014, <http://lahora.gt/informe-hay-19-mil-pandilleros-en-el-pais-sin-opciones-de-reinsercion/>. However, other earlier estimates exist. In 2012, the UN Office on Drugs and Crime (UNODC) estimated there to be 20,000-22,000 members of the B-18 and MS gangs in Guatemala: UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, pp. 27-28. This is also the figure quoted by the International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, 6 April 2017, <http://www.refworld.org/docid/58e74ed64.html>, p. 11. By contrast, another 2012 report quotes official sources as estimating gang membership at 8,000 individuals, not including collaborators. See El Universal, *Maras, el organigrama de la delincuencia*, 29 December 2012, <http://archivo.eluniversal.com.mx/internacional/80745.html>. As early as 2006, the US Agency for International Development (USAID) suggested that there were around 14,000 gang members in Guatemala. See USAID, *Central America and Mexico Gang Assessment*, April 2006, [http://pdf.usaid.gov/pdf\\_docs/PNADG834.pdf](http://pdf.usaid.gov/pdf_docs/PNADG834.pdf), p. 17.

<sup>80</sup> In December 2014, there were reported to be 1,026 active gang members imprisoned alongside 526 inactive members, in a total prison population of around 18,400 prisoners. See La Hora, *Informe: Hay 19 mil pandilleros en el país; sin opciones de reinserción*, 1 December 2014, <http://lahora.gt/informe-hay-19-mil-pandilleros-en-el-pais-sin-opciones-de-reinsercion/>; La Hora, *87 pandilleros condenados: ¿seguirán delinquiendo desde la cárcel?*, 19 November 2014, <http://lahora.gt/87-pandilleros-condenados-seguiran-delinquiendo-desde-la-carcel/>.

<sup>81</sup> La Hora, *Enfrentamiento entre maras: una guerra sin tregua*, 11 September 2015, <http://lahora.gt/enfrentamiento-entre-maras-una-guerra-sin-tregua/>; Prensa Libre, *Mara 18 operan en casi toda el área metropolitana*, 6 August 2015,

towns and population centres of more ‘provincial’ departments, including Jutiapa, Chimaltenango, Santa Rosa, Escuintla and Quetzaltenango, has reportedly increased rapidly in recent years due, in part, to gang members moving due to anti-gang operations by authorities in Guatemala City.<sup>82</sup>

As noted above, although Guatemala has a long history of street gangs, the gangs presently operating in the country are reported to have their origins in the violent California-style gang culture, which was brought back to the country by Guatemalan gang members who were deported from the United States from the 1990s onwards.<sup>83</sup> These gangs are reported usually to be based in poor or lower middle-class urban or rural zones, sometimes comprised of just a single neighbourhood or a few such neighbourhoods. However, despite a culture of identification with their home territory, these gangs are also reportedly considered capable of great mobility and can rapidly expand their influence to nearby neighbourhoods. They may also reportedly relocate to new neighbourhoods to seek refuge from offensives against them by the security forces or other gangs.<sup>84</sup> Similarly, while physical reference points such as streets, streams and – in some cases – graffiti or other markings mark the dividing lines between gang territories,<sup>85</sup> these boundaries can reportedly also shift literally overnight as one gang encroaches onto, or disputes, the territory of another.<sup>86</sup>

Guatemalan 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 reportedly tries to control the localized criminal enterprises that sustain members’ livelihoods, such as extortion, drug-selling, contract killing and other crimes.<sup>87</sup> Businesses, (public) transport routes and even homes in other nearby (and often wealthier) neighbourhoods may reportedly also be targeted for extortion by the

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<http://www.prensalibre.com/guatemala/justicia/mara-18-operan-en-casi-toda-el-area-metropolitana>; Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>.

<sup>82</sup> Prensa Libre, *Preocupa incremento acelerado de pandillas en la provincia*, 13 September 2015, <http://www.prensalibre.com/guatemala/jutiapa/preocupa-incremento-de-presencia-de-pandillas-en-la-provincia>; La Hora, *Buscan sentar precedente en caso contra pandilleros*, 30 October 2014, <http://lahora.gt/buscan-sentar-precedente-en-caso-contra-pandilleros/>; Insight Crime, *Informants Shed Light on Structure of MS13 in Guatemala*, 24 September 2014, <http://www.insightcrime.org/news-briefs/informants-reveal-structure-ms13-guatemala>; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 29.

<sup>83</sup> Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <https://web.archive.org/web/20130402043250/http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>; J. Aguilar and M. Carranza, *Las maras y pandillas como actores ilegales de la región*, 2011, [https://www.oas.org/dsp/documentos/pandillas/2sesion\\_especial/IUDOP/Las%20maras%20y%20pandillas%20como%20actores%20ilegales%20de%20la%20regi%C3%B3n.pdf](https://www.oas.org/dsp/documentos/pandillas/2sesion_especial/IUDOP/Las%20maras%20y%20pandillas%20como%20actores%20ilegales%20de%20la%20regi%C3%B3n.pdf), p. 3.

<sup>84</sup> El Periódico, *Ejército mantendrá apoyo a labores de seguridad interna*, 5 July 2016, <http://elperiodico.com.gt/2016/07/05/pais/ejercito-mantendra-apoyo-a-labores-de-seguridad-interna>; Prensa Libre, *Preocupa incremento acelerado de pandillas en la provincia*, 13 September 2015, <http://www.prensalibre.com/guatemala/jutiapa/preocupa-incremento-de-presencia-de-pandillas-en-la-provincia>; La Hora, *Enfrentamiento entre maras: una guerra sin tregua*, 11 September 2015, <http://lahora.gt/enfrentamiento-entre-maras-una-guerra-sin-tregua/>; Plaza Pública, *Diez años de muertes violentas en Guatemala*, 11 February 2014, <https://www.plazapublica.com.gt/content/diez-anos-de-muertes-violentas-en-guatemala>.

<sup>85</sup> Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>. The territorial presence of certain Barrio 18 gangs in the capital city of Guatemala in 2015 has been mapped. See Prensa Libre, *Mara 18 operan en casi toda el área metropolitana*, 6 August 2015, <http://www.prensalibre.com/guatemala/justicia/mara-18-operan-en-casi-toda-el-area-metropolitana>.

<sup>86</sup> UNODC, *The Globalization of Crime: A Transnational Organized Crime in Central America and The Caribbean, a Threat Assessment*, September 2012, [https://www.unodc.org/documents/data-and-analysis/Studies/TOC\\_Central\\_America\\_and\\_the\\_Caribbean\\_english.pdf](https://www.unodc.org/documents/data-and-analysis/Studies/TOC_Central_America_and_the_Caribbean_english.pdf), pp. 27-30.

<sup>87</sup> La Hora, *Operativo a gran escala en contra de mareros del Barrio 18*, 10 June 2016, <http://lahora.gt/operativo-a-gran-escala-en-contra-de-mareros-del-barrio-18/>; La Hora, *Golpe a clica que extorsionaba a trabajadoras sexuales*, 8 December 2015, <http://lahora.gt/golpe-a-clica-que-extorsionaba-a-trabajadoras-sexuales/>; 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.



gang.<sup>88</sup> Presently, the main source of revenue for most gangs is reported to be extortion,<sup>89</sup> which is reportedly increasingly directed by phone from within prisons by incarcerated gang members.<sup>90</sup> Different affiliated cliques are reported to sometimes work together to carry out extortion.<sup>91</sup>

Each local gang or clique (*clica*) is reported to have its own active membership that can range in size from a handful to fifty or more initiated ‘soldiers’ under the leadership of senior members.<sup>92</sup> Gangs in Guatemala are reported to be predominantly male and largely composed of youths and young adults.<sup>93</sup> Following initiation into a gang, members traditionally used to identify themselves through gang-related tattoos and style of dress and appearance, although some gangs – particularly among the *Mara Salvatrucha* – reportedly now discourage such visible practices so as not to draw unwanted attention to the illicit activities of gang members.<sup>94</sup> A distinctive vocabulary, hand signs and other body signs and even written codes are still apparently used by gangs in Guatemala.<sup>95</sup> Imprisoned gang members are reported to remain active and to direct the activities of those on the street.<sup>96</sup>

<sup>88</sup> La Hora, *Operativo a gran escala en contra de mareros del Barrio 18*, 10 June 2016, <http://lahora.gt/operativo-a-gran-escala-en-contra-de-mareros-del-barrio-18/>; El Periódico, *Desarticulan estructura vinculada a extorsiones y asesinatos*, 3 May 2016, <http://elperiodico.com.gt/2016/05/03/pais/desarticulan-estructura-vinculada-a-extorsiones-y-asesinatos/>; 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. In 2015, it was estimated that 70% of public transport routes in Guatemala were subject to extortion and that the gangs receive from Q300 million to Q500 million (US \$ 40 million to US \$65 million) per year in income from criminal activities. See Prensa Libre, *Las pandillas se han fortalecido*, 6 November 2015, <http://www.prensalibre.com/guatemala/justicia/las-pandillas-se-han-fortalecido>; Prensa Libre, *Bandas extorsionan a vendedores y usuarios*, 12 October 2015, <http://www.prensalibre.com/guatemala/justicia/bandas-extorsionan-a-vendedores-y-usuarios>. In an interview with the International Crisis Group in Guatemala City on 1 September 2016, Marco Antonio Castillo, director of CEIBA, a foundation that works with former gang members in Guatemala and Honduras, stated, “In poor areas of Guatemala City, gang members have displaced families and drug traffickers have temporarily used their homes as warehouses.” International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, 6 April 2017, <http://www.refworld.org/docid/58e74ed64.html>, p. 14.

<sup>89</sup> Prensa Libre, *Gobernación se enfoca en la desarticulación de pandillas*, 5 May 2016, <http://www.prensalibre.com/guatemala/justicia/gobernacion-prepara-mas-operativos-para-desarticular-pandillas>; Prensa Libre, *Pandillas “miden” la reacción del Gobierno*, 12 April 2016, <http://www.prensalibre.com/guatemala/justicia/las-maras-y-el-gobierno-de-guatemala-mantienen-un-pulso>; Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; Insight Crime, *Guatemala Extortion Generates \$61 Mn A Year: Govt*, 18 July 2014, <http://www.insightcrime.org/news-briefs/guatemala-extortion-generates-61-mn-a-year-govt>.

<sup>90</sup> According to information from an interview conducted by International Crisis Group in Guatemala City on 8 November 2016: “Estimates in Guatemala suggest that 80 per cent of extortions are coordinated from prisons, while an official in the attorney general’s Anti-Extortion Unit reports that a phone belonging to a prisoner was used 400 times in one day to make blackmail calls.” International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, 6 April 2017, <http://www.refworld.org/docid/58e74ed64.html>, p. 13. See also, La Hora, *87 pandilleros condenados: ¿seguirán delinquiendo desde la cárcel?*, 19 November 2014, <http://lahora.gt/87-pandilleros-condenados-seguiran-delinquiendo-desde-la-carcel/>; Insight Crime, *How “Mano Dura” is Strengthening Gangs*, 21 November 2010, <http://www.insightcrime.org/investigations/how-mano-dura-is-strengthening-gangs>.

<sup>91</sup> La Hora, *Golpe a clica que extorsionaba a trabajadoras sexuales*, 8 December 2015, <http://lahora.gt/golpe-a-clica-que-extorsionaba-a-trabajadoras-sexuales/>.

<sup>92</sup> International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, 6 April 2017, <http://www.refworld.org/docid/58e74ed64.html>, p. 13; Insight Crime, *MS-13 Use of Guns in Guatemala Shows Modus Operandi*, 8 May 2013, <http://www.insightcrime.org/news-briefs/ms-13-used-just-32-guns-to-kill-over-200-people-in-guatemala>. Local gangs that are affiliated with *Barrio 18* appear to have a larger membership than those of the *Mara Salvatrucha*. For example, the two largest *Barrio 18* cliques (*clicas*) in Guatemala – the *clica Solo Raperos* and the *clica Little Psycho Criminal* – were estimated in 2011 to have 120 initiated members and 200 initiated members respectively. See Plaza Pública, *Ni juntos ni revueltos*, 22 February 2011, <https://www.plazapublica.com.gt/content/ni-juntos-ni-revueltos>.

<sup>93</sup> Women and girls do participate in Guatemalan gangs, albeit that the roles within the gang are strongly gendered, particularly in the *Mara Salvatrucha*. *Barrio 18* in Guatemala appears more open to recruiting women, who can be initiated into the gang as members and were estimated to represent approximately 15 to 25 per cent of the membership in 2011. By contrast, *MS* is reported to use women and girls only for tasks such as collecting extortion money with 90 per cent of the membership as men in 2011. 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](http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf); Plaza Pública, *Ni juntos ni revueltos*, 22 February 2011, <https://www.plazapublica.com.gt/content/ni-juntos-ni-revueltos>. Indeed, the doubling of the Guatemalan female prison population in the eight years between 2005 and 2013 suggests that girls and women play an increasingly role within gangs where they are used for collecting extortion, intelligence-gathering and recruitment activities, an inference supported by the fact that 80% of those detained on suspicion of extortion were female. See Insight Crime, *Women in Guatemala Jails Doubled in 8 Years*, 19 March 2013, <http://www.insightcrime.org/news-briefs/number-of-women-in-guatemalan-jails-has-doubled-in-8-years>.

<sup>94</sup> Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; El Universal, *Maras, el organigrama de la delincuencia*, 29 December 2012, <http://archivo.eluniversal.com.mx/internacional/80745.html>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>.

<sup>95</sup> 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.

<sup>96</sup> La Hora, *Informe: Hay 19 mil pandilleros en el país; sin opciones de reinserción*, 1 December 2014, <http://lahora.gt/informe-hay-19-mil-pandilleros-en-el-pais-sin-opciones-de-reinsercion/>. See also Prensa Libre, *Hospital Roosevelt: “Fueron cinco minutos de terror”, relata testigo de ataque*, 16 August 2017, <http://www.prensalibre.com/guatemala/sucesos/hospital-roosevelt-fueron-cinco-minutos-de-terror-relata>.



Once initiated into a gang, members reportedly must follow the established rules and communicated decisions of their leaders.<sup>97</sup> The violation of different rules is reported to lead to different punishments, commonly serious beatings or death.<sup>98</sup> Lifelong loyalty to the gang is reported to be required and those who desert (even to raise a family) or are believed to cooperate with the security forces or rival gangs are reported to be routinely pursued and killed by their own gang as a punishment.<sup>99</sup> The gangs are reportedly assisted by many ‘anonymous’ voluntary or involuntary collaborators in the territories where they operate, including family members and 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.<sup>100</sup>

Gangs are reported to exercise considerable 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 reportedly must stay ‘silent’ about the gang and may face a plethora of gang-imposed restrictions on whom they can talk to and what about, where they can walk or go to school, whom they can visit and who can visit them and what they can wear.<sup>101</sup> Many gangs are reported to forbid 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 an extortion demand, resisting a child’s recruitment into the gang, or rejecting the amorous attentions of a gang member.<sup>102</sup>

Gangs in Guatemala 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.<sup>103</sup> The gangs reportedly exercise this control in many different ways. For instance, some local gangs are reported to have required bus drivers to accept mobile phones on which gang members can then call them to make extortion demands, killing those

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[testigo-de-ataque](http://www.bbc.co.uk/news/world-latin-america-40959833); BBC News: *Guatemala City Hospital ‘Gang Attack’ Leaves Seven Dead*, 17 August 2017, <http://www.bbc.co.uk/news/world-latin-america-40959833>.

<sup>97</sup> Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; El Universal, *Maras, el organigrama de la delincuencia*, 29 December 2012, <http://archivo.eluniversal.com.mx/internacional/80745.html>.

<sup>98</sup> Diario Digital, *Las preguntas sin respuesta sobre el video del “Barrio 18”*, 17 March 2016, <http://diariodigital.gt/2016/03/las-preguntas-sin-respuesta-sobre-el-video-del-barrio-18/>; Plaza Pública, *Ni juntos ni revueltos*, 22 February 2011, <https://www.plazapublica.com.gt/content/ni-juntos-ni-revueltos>. 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. UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 27.

<sup>99</sup> El Periódico, *Desarticulan estructura vinculada a extorsiones y asesinatos*, 3 May 2016, <http://elperiodico.com.gt/2016/05/03/pais/desarticulan-estructura-vinculada-a-extorsiones-y-asesinatos/>; El Periódico, *Las estrangularon por crearlas “espías” de los “Salvatrucha”*, 3 February 2016, <http://elperiodico.com.gt/2016/02/03/pais/las-estrangularon-por-crearlas-espias-de-los-salvatrucha/>; Sala Negra de El Faro, *El día de la traición*, 12 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10145/>. 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. Brennenman, *Hombres 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.

<sup>100</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, p. 36; Prensa Libre, *La MS: ¿De pequeños extorsionadores a narcotraficantes internacionales?*, 16 September 2015, <http://www.prensalibre.com/guatemala/justicia/la-maduracion-de-la-mara-salvatrucha-de-pequeos-extorsionadores-a-narcotraficantes-internacionales/>; El Universal, *Maras, el organigrama de la delincuencia*, 29 December 2012, <http://archivo.eluniversal.com.mx/internacional/80745.html>.

<sup>101</sup> 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/>; El País, *El barranco de las pandillas*, 30 September 2015, [http://elpais.com/elpais/2015/09/29/planeta\\_futuro/1443525680\\_735932.html](http://elpais.com/elpais/2015/09/29/planeta_futuro/1443525680_735932.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. 46-48; La Hora, *Amenazas, muertes y éxodo: la realidad de las zonas rojas*, 6 February 2012, <http://lahora.gt/hemeroteca-lh/amenazas-muertes-y-exodo-la-realidad-de-las-zonas-rojas/>.

<sup>102</sup> La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; 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 Hora, *Amenazas, muertes y éxodo: la realidad de las zonas rojas*, 6 February 2012, <http://lahora.gt/hemeroteca-lh/amenazas-muertes-y-exodo-la-realidad-de-las-zonas-rojas/>.

<sup>103</sup> La Hora, *Amenazas, muertes y éxodo: la realidad de las zonas rojas*, 6 February 2012, <http://lahora.gt/hemeroteca-lh/amenazas-muertes-y-exodo-la-realidad-de-las-zonas-rojas/>. Indeed, persons who are not part of the community have been killed simply for the ‘offence’ of entering the gang’s territory without belonging to the community. See El País, *El barranco de las pandillas*, 30 September 2015, [http://elpais.com/elpais/2015/09/29/planeta\\_futuro/1443525680\\_735932.html](http://elpais.com/elpais/2015/09/29/planeta_futuro/1443525680_735932.html).

who refuse to take the phone.<sup>104</sup> Parents living in some gang-controlled neighbourhoods reportedly have to make monthly extortion payments to ensure their daughters are not sexually assaulted by the gang.<sup>105</sup> In the 2015 national elections, politicians from different political groupings reportedly had to ask permission from the gangs to carry out political activities or hold political gatherings in the neighbourhoods controlled by the gangs or face extortion demands and death threats.<sup>106</sup>

As noted above, 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 violent retaliation from the gang, which may include being killed.<sup>107</sup> It is reported that their family members are often targeted as well.<sup>108</sup> These dynamics have reportedly resulted in thousands of inhabitants fleeing from zones where the gangs operate, with the abandoned houses sometimes taken over by the gangs.<sup>109</sup> Finally, the strongly *macho* ethos of the Guatemalan gangs expresses itself on an everyday basis through their reported widespread ill-treatment of persons based on their (perceived) sexual orientation and/or gender identity<sup>110</sup> and in the widespread sexual and gender-based violence experienced by women and girls living in the gangs' territories.<sup>111</sup>

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

As noted above (see Section II.A), the overwhelming majority of local gangs in Guatemala are reported to be affiliated with either the *Barrio 18 (B-18)* or the *Mara Salvatrucha (MS)*.<sup>112</sup> Indeed, most of the figures on gang membership presented above refer, either expressly or implicitly, to the members of these two gang structures.<sup>113</sup> Estimates vary as to the relative scale of the two structures and the number of local gangs (cliques) affiliated with each one, due in part to the historically relatively clandestine nature of *MS* in Guatemala in comparison to the more visible B-18.<sup>114</sup> However, most recent

<sup>104</sup> El Periódico, *Líderes pandilleros ordenaban matar a pilotos si no recibían celulares*, 11 May 2016, <http://elperiodico.com.gt/2016/05/11/pais/lideres-pandilleros-ordenaban-matar-a-pilotos-si-no-recibian-celulares/>. According to an interview conducted in Guatemala City by the International Crisis Group, businesses may seek to shield themselves by working with local distributors linked to the gang, as these negotiated agreements can sometimes lead to a "more discriminating use of violence", such as a verbal reminder to pay a missed payment of an extortion demand rather than a killing. International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, 6 April 2017, <http://www.refworld.org/docid/58e74ed64.html>, p.16.

<sup>105</sup> La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>.

<sup>106</sup> Guatevision, *Pandilleros extorsionan a políticos*, 19 March 2015, <http://www.guatevision.com/pandilleros-extorsionan-a-politicos/>.

<sup>107</sup> Fox News, *Gang members Throw 12-Year-Old Boy off Bridge after He Refused to Kill Bus Driver*, 15 October 2015, <http://latino.foxnews.com/latino/news/2015/10/15/gang-members-throw-12-year-old-boy-off-bridge-after-refused-to-kill-bus-driver/>; Prensa Libre, *Sancionan a menor por asesinato de director de Las Gaviotas*, 10 November 2015, <http://www.prensalibre.com/guatemala/justicia/menor-pasara-cinco-aos-presos-por-ataque-contra-director-de-gaviotas/>; La Prensa Gráfica, *Condenan a pandilleros por asesinato de funcionario en Guatemala*, 15 October 2013, <http://www.laprensagrafica.com/2013/10/15/condenan-a-pandilleros-por-asesinato-de-funcionario-en-guatemala/>; La Hora, *Amenazas, muertes y éxodo: la realidad de las zonas rojas*, 6 February 2012, <http://lahora.gt/hemeroteca-lh/amenazas-muertes-y-exodo-la-realidad-de-las-zonas-rojas/>; Human Rights Watch, *World Report 2012: Guatemala – Events of 2011, 2012*, <https://www.hrw.org/world-report/2012/country-chapters/guatemala>.

<sup>108</sup> 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>.

<sup>109</sup> La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; La Hora, *Amenazas, muertes y éxodo: la realidad de las zonas rojas*, 6 February 2012, <http://lahora.gt/hemeroteca-lh/amenazas-muertes-y-exodo-la-realidad-de-las-zonas-rojas/>.

<sup>110</sup> IACHR, *Violencia contra Personas Lesbianas, Gays, Bisexuales, Trans e Intersex en América*, 12 November 2015, OAS/Ser.L/V/IL/rev.1, <http://www.refworld.org/docid/56669c6f4.html>, esp. paras 279-281.

<sup>111</sup> 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>; La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>.

<sup>112</sup> 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*. See, for example, Plaza Pública, *Ni juntos ni revueltos*, 22 February 2011, <https://www.plazapublica.com.gt/content/ni-juntos-ni-revueltos>. The term '*salvatrucha*' derives from the Salvadorian origin of the founders and many original members of the MS in the USA.

<sup>113</sup> See Section II.B.2.a (gangs) above.

<sup>114</sup> It was reported in 2011 that B-18 in Guatemala had twice the number of cliques as MS and a 2012 report estimated that in Guatemala the membership of B-18 was 15,000-17,000 individuals whilst that of MS was only 5,000. See, respectively, Plaza Pública, *Ni juntos ni revueltos*, 22 February 2011, <https://www.plazapublica.com.gt/content/ni-juntos-ni-revueltos>; and UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, pp. 27-28. However, the Guatemalan police in 2012 equally admitted that the MS remained an enigma to the extent that they were aware of the existence of MS cliques but knew almost nothing about them. For twelve of these MS cliques, they did not even know the name of a single member. See Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>.

pronouncements by government officials consistently report having identified around 65 to 70 local cliques across Guatemala, divided more-or-less equally between the two main gang structures.<sup>115</sup>

Both B-18 and MS are reported to be large transnational gang structures 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.<sup>116</sup> Both B-18 and MS were themselves originally reported to be affiliated with the Southern (*Sureño*) gang movement: this reportedly unites Hispanic gangs from southern California under the aegis of the powerful Mexican mafia to offer a form of collective security (against attack by non-*Sureño* gangs) for members of these gangs when incarcerated in the United States.<sup>117</sup>

B-18 arrived first in Guatemala, creating its first clique in 1993 in Guatemala City, and then went on to recruit heavily throughout the 1990s to become the dominant gang in the prisons, where it and other gangs, including the MS, observed a “*Sureño* truce”. However, in the late 1990s, the Guatemalan MS broke its link with the Californian MS, and in 2005 launched simultaneous attacks on B-18 and other *Sureño* gangs in prisons across Guatemala and on the street, which resulted in many deaths. Following these attacks and a violent internal purge within B-18, young war-like leaders took control of B-18 in Guatemala and outright rejected the *Sureño* gang rules. In the streets and prisons of Guatemala, B-18 and MS are reported to be implacable enemies.<sup>118</sup>

Despite internal disputes within B-18 and within MS in Guatemala during the 1990s and 2000s, the trend has reportedly been towards increasing centralized coordination between cliques in each structure.<sup>119</sup> Moreover, by separating gangs from the general prison population in 2003, and B-18 prisoners from MS prisoners in 2005, the authorities are reported to have provided the gang leaders with space to organize more hierarchical command structures from within the prisons.<sup>120</sup> Thus, by the 2010s, B-18 and MS reportedly each had established their own council of powerful (and largely imprisoned) clique leaders who meet regularly to take important decisions.<sup>121</sup> Each clique also has its own internal hierarchy of initiated members, who may be imprisoned or on the street, followed by aspirants and other collaborators, with specialist roles including assassinations, finances, logistical support and contact with lawyers.<sup>122</sup>

<sup>115</sup> In 2014, sources identified 70 gang cliques in Guatemala, 33 of which were affiliated with MS and listed by name. See, for example, La Hora, *Origen de la Mara Salvatrucha: jóvenes desempleados, con educación limitada e historial delictivo*, 1 September 2014, <http://lahora.gt/origen-de-la-mara-salvatrucha-jovenes-desempleados-con-educacion-limitada-e-historial-delictivo/>. In 2015, a source identified 65 cliques in Guatemala, of which 33 were affiliated to B-18 and 32 to MS. See La Hora, *Enfrentamiento entre maras: una guerra sin tregua*, 11 September 2015, <http://lahora.gt/enfrentamiento-entre-maras-una-guerra-sin-tregua/>. In April 2016, a source identified 62 gang cliques, of which 28 were affiliated to B-18 and 34 to MS. However, a month later, in May 2016, the same institution identified 65 cliques, of which 30 were affiliated to B-18 and 35 to MS. See, respectively, La Hora, *62 clicas delinquen por falta de prevención y control en cárceles*, 10 April 2016, <http://lahora.gt/62-clicas-delinquen-por-falta-de-prevencion-y-control-en-carceles/>; and Prensa Libre, *Gobernación se enfoca en la desarticulación de pandillas*, 5 May 2016, <http://www.prensalibre.com/guatemala/justicia/gobernacion-prepara-mas-operativos-para-desarticular-pandillas>. It is unclear whether the variation in the total number of cliques, and their relative distribution between the two structures, reflects a relative weakening of B-18 and strengthening of MS in the past two years or simply the difficulty of gathering and analysing information on the different local gangs.

<sup>116</sup> 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/>.

<sup>117</sup> 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/>.

<sup>118</sup> Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>; Sala Negra de El Faro, *El día de la traición*, 12 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10145/>.

<sup>119</sup> Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>; Sala Negra de El Faro, *El día de la traición*, 12 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10145/>. See also Crónicas Chapinas, *La Clica SR del Limón*, 21 May 2012, <http://cronicaschapinas.blogspot.co.uk/2012/05/la-clica-sr-del-limon.html>.

<sup>120</sup> La Hora, *Informe: Hay 19 mil pandilleros en el país; sin opciones de reinserción*, 1 December 2014, <http://lahora.gt/informe-hay-19-mil-pandilleros-en-el-pais-sin-opciones-de-reinsercion/>; La Hora, *87 pandilleros condenados: ¿seguirán delinquiendo desde la cárcel?*, 19 November 2014, <http://lahora.gt/87-pandilleros-condenados-seguiran-delinquiendo-desde-la-carcel/>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>; Sala Negra de El Faro, *El día de la traición*, 12 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10145/>.

<sup>121</sup> In B-18 in Guatemala, this gathering or committee is called the *Rueda del Barrio* (Circle of the Barrio) and, in 2013, was said to be composed of 16 individuals. The Guatemalan MS has the *Consejo de los Nueve* (Council of the Nine) that was reported, in 2013, to be made up of 37 leaders. See El Universal, *Maras, el organigrama de la delincuencia*, 29 December 2012, <http://archivo.eluniversal.com.mx/internacional/80745.html>.

<sup>122</sup> For instance, in MS, it is reported that the clique leaders (*ranfleros*) and sergeants-at-arms (*llaveros*) on the street answer to the council of leaders and are, in turn, served by their own hierarchy, including initiated ‘soldiers’ (*homies brincados*) of different ranks and functions and, below them, the aspirants (*chequeos*) and a range of other local collaborators, including family members. Each level of the hierarchy receives



B-18 is well-established as a violent street gang in Guatemala, with a particularly strong historical presence in Guatemala City that has reportedly spread to surrounding urban and rural parts of Guatemala department, as well as to other departments.<sup>123</sup> B-18 in Guatemala is reported generally to be considered less sophisticated but more aggressive and unpredictable than its arch-enemy, MS.<sup>124</sup> B-18 in Guatemala has a younger, strident leadership and is reported to be a more subsistence-based structure than MS, operating largely like a stereotypical street gang in its vision and tactics.<sup>125</sup> Especially since 2005, extreme and cruel vengeful violence is reported to be a core element of B-18's identity and *modus operandi* in Guatemala, with such violence being directed as much at the communities that it dominates as at its hated MS rivals and the Guatemalan security forces.<sup>126</sup>

The MS gang structure in Guatemala is a more clandestine gang structure that is reported to have a presence across two-thirds of the national territory,<sup>127</sup> although it appears to be most entrenched in Guatemala City and the surrounding urban centres of Guatemala department.<sup>128</sup> The secretive MS in Guatemala prefers to operate largely from the shadows and is reported to be much more strategic, calculating and disciplined than B-18.<sup>129</sup> Guatemalan MS gangs have also reportedly moved beyond mere subsistence crime and begun operating as a more sophisticated organized crime structure, laundering money across Guatemala, investing in legal businesses as a facade for its activities, purchasing property in exclusive areas and sending members to private schools or university.<sup>130</sup>

B-18 and MS gangs are reported to live primarily from extortion, particularly of the transport industry, sex workers and other local businesses and sectors of the population, killing those who do not pay.<sup>131</sup>

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a different salary from the gang. See Prensa Libre, *La MS: ¿De pequeños extorsionadores a narcotraficantes internacionales?*, 16 September 2015, <http://www.prensalibre.com/guatemala/justicia/la-maduracion-de-la-mara-salvatrucha-de-pequeos-extorsionadores-a-narcotraficantes-internacionales>; Insight Crime, *Guatemala Identifies MS-13 Leadership*, 1 April 2013, <http://www.insightcrime.org/news-briefs/guatemala-identifies-ms-13-leadership>; El Universal, *Maras, el organigrama de la delincuencia*, 29 December 2012, <http://archivo.eluniversal.com.mx/internacional/80745.html>.

<sup>123</sup> For a relatively recent listing of names of B-18 cliques and the areas of the capital and surrounding parts of Guatemala Department where they operate, 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>. However, compare with Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; and Prensa Libre, *Mara 18 operan en casi toda el área metropolitana*, 6 August 2015, <http://www.prensalibre.com/guatemala/justicia/mara-18-operan-en-casi-toda-el-area-metropolitana>. For examples of southern departments where B-18 cliques also operate, see El Periódico, *Desarticulan estructura vinculada a extorsiones y asesinatos*, 3 May 2016, <http://elperiodico.com.gt/2016/05/03/pais/desarticulan-estructura-vinculada-a-extorsiones-y-asesinatos/>.

<sup>124</sup> Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>.

<sup>125</sup> Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>; Insight Crime, *MS-13 Guatemala's More 'Elegant' Gang: Report*, 8 August 2012, <http://www.insightcrime.org/news-briefs/ms-13-guatemalas-more-elegant-gang-report>; Plaza Pública, *Ni juntos ni revueltos*, 22 February 2011, <https://www.plazapublica.com.gt/content/ni-juntos-ni-revueltos>.

<sup>126</sup> Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>;

<sup>127</sup> La Hora, *Buscan sentar precedente en caso contra pandilleros*, 30 October 2014, <http://lahora.gt/buscan-sentar-precedente-en-caso-contrapandilleros/>.

<sup>128</sup> For a relatively recent listing of names of MS cliques and the areas of the capital and surrounding parts of Guatemala Department where they operate, 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>. However, compare with Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>.

<sup>129</sup> Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>. For instance, MS tends to use more clandestine tactics, avoiding gang clothing and visible tattoos and formally registering cars and weapons rather than using stolen ones. See Insight Crime, *MS-13 Guatemala's More 'Elegant' Gang: Report*, 8 August 2012, <http://www.insightcrime.org/news-briefs/ms-13-guatemalas-more-elegant-gang-report>.

<sup>130</sup> Prensa Libre, *La MS: ¿De pequeños extorsionadores a narcotraficantes internacionales?*, 16 September 2015, <http://www.prensalibre.com/guatemala/justicia/la-maduracion-de-la-mara-salvatrucha-de-pequeos-extorsionadores-a-narcotraficantes-internacionales>; La Hora, *Origen de la Mara Salvatrucha: jóvenes desempleados, con educación limitada e historial delictivo*, 1 September 2014, <http://lahora.gt/origen-de-la-mara-salvatrucha-jovenes-desempleados-con-educacion-limitada-e-historial-delictivo/>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>. These are reported to include water purification businesses, cable television services, chains of local stores, fleets of *mototaxis* and vehicle importers. MS is also reported to have collected extortion payments by bank transfer, which were then laundered across the country as local remittances. See Prensa Libre, *La MS: ¿De pequeños extorsionadores a narcotraficantes internacionales?*, 16 September 2015, <http://www.prensalibre.com/guatemala/justicia/la-maduracion-de-la-mara-salvatrucha-de-pequeos-extorsionadores-a-narcotraficantes-internacionales>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>.

<sup>131</sup> Prensa Libre, *Gobernación se enfoca en la desarticulación de pandillas*, 5 May 2016, <http://www.prensalibre.com/guatemala/justicia/gobernacion-prepara-mas-operativos-para-desarticular-pandillas>; Prensa Libre, *Pandillas "miden" la reacción del Gobierno*, 12 April 2016, <http://www.prensalibre.com/guatemala/justicia/las-maras-y-el-gobierno-de-guatemala-mantiene-un-pulso>; Prensa Libre, *Asesino en serie de prostitutas había huido de Nicaragua*, 25 January 2016,

In its area of operation, one B-18 clique was reported to extort public transport businesses, distribution lorries, taxis, shops, *torillerías*, *mototaxis*, hardware stores, butchers, bakers, restaurants, lorries, garbage-men, food businesses, internet cafes, bookshops, families and others.<sup>132</sup> B-18 has reportedly even sought to extort prison visitors.<sup>133</sup> Extortion demands are reported to have extended in 2015 to new and increasingly poverty-stricken sectors.<sup>134</sup> Both structures are also reported to derive income from drug dealing on the street and in prisons.<sup>135</sup> However, despite the 2012 United States designation of MS as a ‘transnational criminal organization’,<sup>136</sup> MS and B-18 gangs have reportedly focused on control of the small drug distribution markets (*narcomenudeo*) in their local territories as opposed to transnational activities.<sup>137</sup>

The leaders of the Guatemalan B-18 and MS gangs are reported to maintain ties with their other Central American counterparts via social networks and other media, with whom they discuss strategy and for whom they arrange the safe passage of weapons and other contraband.<sup>138</sup> There are also reports of B-18 and MS gang members in El Salvador and elsewhere seeking shelter with affiliated gangs in Guatemala to evade law enforcement in El Salvador.<sup>139</sup> Gang members are also sometimes reportedly ‘lent’ between affiliated gangs from neighbouring countries to carry out assassinations.<sup>140</sup>

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<http://www.prensalibre.com/guatemala/justicia/asesino-en-serie-de-prostitutas-habia-huido-de-nicaragua>; La Hora, *Golpe a clica que extorsionaba a trabajadoras sexuales*, 8 December 2015, <http://lahora.gt/golpe-a-clica-que-extorsionaba-a-trabajadoras-sexuales/>; Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; Insight Crime, *700 Extortion-Related Murders in Guatemala through July 2014: NGO*, 15 August 2014, <http://www.insightcrime.org/news-briefs/guatemala-700-homicides-extortion-2014>.

<sup>132</sup> La Hora, *Operativo a gran escala en contra de mareros del Barrio 18*, 10 June 2016, <http://lahora.gt/operativo-a-gran-escala-en-contra-de-mareros-del-barrio-18/>; El Periódico, *Desarticulan estructura vinculada a extorsiones y asesinatos*, 3 May 2016, <http://elperiodico.com.gt/2016/05/03/pais/desarticulan-estructura-vinculada-a-extorsiones-y-asesinatos/>.

<sup>133</sup> El Periódico, *La rebelión de los Paisas que dejó 17 muertos en el reclusorio Canadá*, 1 December 2015, <http://elperiodico.com.gt/2015/12/01/pais/la-rebelion-de-los-paisas-que-dejo-17-muertos-en-el-reclusorio-canada/>.

<sup>134</sup> For example, ambulatory vendors who make their living selling sweets, pencils, food and other items on buses are now receiving extortion demands from gangs. See Prensa Libre, *Bandas extorsionan a vendedores y usuarios*, 12 October 2015, <http://www.prensalibre.com/guatemala/justicia/bandas-extorsionan-a-vendedores-y-usuarios>. Vendors have been forced to shut down their businesses due to the increasing demands for extortion. See, for example: Prensa Libre, *Extorsión persiste en mercados de colonias*, 23 September 2016, <http://www.prensalibre.com/guatemala/justicia/extorsion-persiste-en-mercados-de-colonias>; Prensa Libre, *Mercado de Jocotales cierra por extorsiones*, 12 August 2016, <http://www.prensalibre.com/guatemala/comunitario/mercado-de-jocotales-cierra-por-extorsiones>.

<sup>135</sup> Prensa Libre, *Gobernación se enfoca en la desarticulación de pandillas*, 5 May 2016, <http://www.prensalibre.com/guatemala/justicia/gobernacion-prepara-mas-operativos-para-desarticular-pandillas>; Prensa Libre, *Pandillas “miden” la reacción del Gobierno*, 12 April 2016, <http://www.prensalibre.com/guatemala/justicia/las-maras-y-el-gobierno-de-guatemala-mantienen-un-pulso>; Insight Crime, *Leader of MS-13 Cell Arrested in Guatemala*, 5 April 2013, <http://www.insightcrime.org/news-briefs/leader-ms-13-cell-arrested-guatemala>.

<sup>136</sup> 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>.

<sup>137</sup> Prensa Libre, *La MS: ¿De pequeños extorsionadores a narcotraficantes internacionales?*, 16 September 2015, <http://www.prensalibre.com/guatemala/justicia/la-maduracion-de-la-mara-salvatrucha-de-pequeos-extorsionadores-a-narcotraficantes-internacionales>. In 2012, there were reports that the gangs had contact with Mexican drug-trafficking organisations but no robust relationship appears to have developed subsequently. See D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, [http://www.strategycenter.net/docLib/20130224\\_CenAmGangsandTCOs.pdf](http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf); El Herald, *Los Zetas reclutan a miembros de la Mara Salvatrucha*, 8 April 2012, <http://www.elheraldo.hn/mundo/602146-217/los-zetas-reclutan-a-miembros-de-la-mara-salvatrucha>. Indeed, MS in Guatemala reportedly rejected any ties with such Mexican drug-trafficking groups and obtains the drugs it sells locally through other sources. Insight Crime, *6 Common Misconceptions about the MS13 Street Gang*, 25 February 2016, <http://www.insightcrime.org/news-analysis/6-common-misconceptions-ms13-gang>.

<sup>138</sup> Prensa Libre, *Pandilleros usan al país como su guarida*, 7 August 2015, <http://www.prensalibre.com/guatemala/pandilleros-usan-al-pais-como-su-guarida>; Sala Negra de El Faro, *“Si enviamos representantes de la pandilla a explorar la Tregua de El Salvador”*, 26 July 2012, <http://www.salanegra.elfaro.net/es/201207/entrevistas/9233/%E2%80%9C%C3%AD-enviamos-representantes-de-la-pandilla-a-explorar-la-Tregua-de-El-Salvador%E2%80%9D.htm>.

<sup>139</sup> B-18 in El Salvador is reported to move more frequently than MS 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>; Insight Crime, *‘El Salvador Gang Members Flee to Honduras, Guatemala’*, 28 April 2015, <http://www.insightcrime.org/news-briefs/el-salvador-gang-members-flee-to-honduras-guatemala>. There are reports of a Nicaraguan MS leader seeking refuge with an affiliated MS gang in Guatemala. See Prensa Libre, *Asesino en serie de prostitutas había huido de Nicaragua*, 25 January 2016, <http://www.prensalibre.com/guatemala/justicia/asesino-en-serie-de-prostitutas-habia-huido-de-nicaragua>.

<sup>140</sup> D. Farah and P. Philips Lum, *Central American Gangs and Transnational Criminal Organizations*, 24 February 2013, [http://www.strategycenter.net/docLib/20130224\\_CenAmGangsandTCOs.pdf](http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf).

In general, violence by MS gangs often appears more direct and predictable and less impulsive or arbitrary than that of B-18, with MS gangs killing, for example, rival gang members, perceived informants or others who offend against MS.<sup>141</sup> This instrumental use of violence can reportedly take extreme forms.<sup>142</sup> In contrast, B-18 reportedly actively promotes its reputation for the impulsive use of excessive violence with sometimes arbitrary consequences.<sup>143</sup> Similarly, MS gangs are reported to avoid direct armed confrontation with the State security services, whereas B-18 reportedly reacts aggressively towards the Guatemalan authorities.<sup>144</sup> MS and B-18 gangs are reported to have access to military-grade weaponry.<sup>145</sup> Moreover, ever-younger children are reportedly forcibly recruited to carry out extortion and killings, including girls, partly because minors cannot be prosecuted for criminal offences.<sup>146</sup> In 2014, homicide cases involving child assassins reportedly rose six-fold compared to the previous year.<sup>147</sup>

Since the start of 2015, confrontations between the rival structures of B-18 and MS have become steadily more evident, particularly in prisons and on the streets of Guatemala City and surrounding urban centres of Guatemala department, with increased attacks and violence between affiliated gangs.<sup>148</sup> This apparent escalation in hostilities between B-18 and MS has reportedly been accompanied by increased aggression on the part of B-18 towards the Guatemalan police force, including reported assassinations and direct assaults on police stations in or near gang-controlled zones in these areas.<sup>149</sup>

<sup>141</sup> Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>.

<sup>142</sup> One such example is the reported kidnapping and decapitation of four citizens at random from the capital that was ordered by MS leaders, with the four heads left in different locations around the city, as a calculated measure to demonstrate discontent with security measures implemented by the government. See La Hora, *Perito: Pandilleros cometieron crímenes para causar terror*, 23 July 2014, <http://lahora.gt/perito-pandilleros-cometieron-crímenes-para-causar-terror/>.

<sup>143</sup> Siglo 21, *MS domina trece zonas y Mara 18 lo hace en siete*, 8 September 2014, <http://www.s21.com.gt/nacionales/2014/09/08/ms-domina-trece-zonas-mara-18-hace-siete>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>. For example, B-18 gang members reportedly killed 11 people in a rural indigenous community simply because one local business refused to pay their extortion demands. See Sipse, *Detienen a 8 maras por matanza de indígenas en Guatemala*, 9 October 2013, <http://sipse.com/mundo/detienen-a-8-imaras-i-por-matanza-de-indigenas-en-guatemala-55383.html>. B-18 have also used grenades and rocket-propelled grenades to carry out attacks in public places. See Fusion, *How a Guatemalan gang profits from deadly grenade attacks*, 24 March 2015, <http://fusion.net/story/108451/how-a-guatemalan-gang-profits-from-deadly-grenade-attacks/>.

<sup>144</sup> Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>;

<sup>145</sup> In 2014, B-18 members were captured with remote-controlled explosive devices and MS members with an arms cache including explosives, high calibre weapons, fragmentation grenades, bulletproof vests (one of which bore the logo of the PNC) and clothing resembling police uniforms. See Insight Crime, *Guatemala Arms, Explosives Seizures Point to Gang Sophistication*, 28 August 2014, <http://www.insightcrime.org/news-briefs/guatemala-weapons-explosives-seizures-point-to-street-gang-sophistication>. In 2015, it was reported that a B-18 clique was using radio-transmission equipment as a new mode of communication. See La Hora, *Autoridades dan golpe a clicas "Little Psycho Criminal"*, 2 December 2015, <http://lahora.gt/autoridades-dan-golpe-a-la-clica-little-psycho-criminal/>. See also, Insight Crime, *A Bomb Explodes, a Gang Purges Its Own, Guatemala Scratches Its Head*, 19 August 2016, <http://www.insightcrime.org/news-analysis/gang-bomb-leaves-guatemala-confused>.

<sup>146</sup> El País, *El barranco de las pandillas*, 30 September 2015, [http://elpais.com/elpais/2015/09/29/planeta\\_futuro/1443525680\\_735932.html](http://elpais.com/elpais/2015/09/29/planeta_futuro/1443525680_735932.html); La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; La Hora, *Alerta ante reclutamiento de jóvenes por grupos criminales*, 7 February 2014, <http://lahora.gt/hemeroteca-lh/alerta-ante-reclutamiento-de-jovenes-por-grupos-criminales/>; Insight Crime, *Guatemalan 'Schoolgirl Assassins' Arrest Highlights Use of Minors for Crime*, 25 February 2013, <http://www.insightcrime.org/news-briefs/schoolgirl-assassins-use-minors-guatemalan-crime>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>;

<sup>147</sup> Insight Crime, *How Guatemala's Increase in Youth Assassins Relates to Migration*, 25 August 2014, <http://www.insightcrime.org/news-briefs/increase-guatemala-youth-assassins-child-migrant-exodus>.

<sup>148</sup> Prensa Libre, *Pandilleros mataron a dos mujeres*, 8 March 2016, <http://www.prensalibre.com/guatemala/justicia/maras-mataron-a-dos-mujeres>; Prensa Libre, *PNC registra alza de riñas entre pandillas*, 4 November 2015, <http://www.prensalibre.com/pnc-registra-alza-de-rias-entre-pandillas>; Prensa Libre, *Maras actúan sin control en penales*, 18 August 2015, <http://www.prensalibre.com/guatemala/justicia/maras-actuan-sin-control-en-penales>; Prensa Libre, *Pandilleros se disputan la zona 6*, 26 January 2015, [http://www.prensalibre.com/noticias/justicia/Pandilleros-disputan-zona\\_6\\_0\\_1291671048.html](http://www.prensalibre.com/noticias/justicia/Pandilleros-disputan-zona_6_0_1291671048.html). Such disputes have also been reported between the gangs in other parts of the country, such as in the departmental capital of Chimaltenango department, where one group has newly arrived to dispute the collection of extortion money from the other gang that was already present there. See La hora, *Chimaltenango, bajo asedio de la delincuencia*, 3 October 2015, <http://elperiodico.com.gt/2015/09/24/pais/chimaltenango-asediado-por-pandilleros/>.

<sup>149</sup> Insight Crime, *Barrio 18 Members Arrested in Series of Attacks on Guatemala Police*, 21 March 2017, <http://www.insightcrime.org/news-briefs/barrio-18-members-arrested-series-attacks-guatemala-police>; Guardian, *String of Attacks Across Guatemala Lead to Deaths of Three Policemen*, 21 March 2017, <https://www.theguardian.com/world/2017/mar/21/guatemala-police-stations-attacked-detention-center-riot>; Reuters, *Three Killed, Eight Wounded in Attacks on Guatemalan Police*, 21 March 2017, <https://www.usnews.com/news/world/articles/2017-03-21/two-killed-eight-wounded-in-attacks-on-guatemala-police>; Prensa Libre, *Pandilleros atacan y matan a subjefe de la PNC*, 6 July 2016, <http://www.prensalibre.com/guatemala/comunitario/pandilleros-atacan-y-matan-a-subjefe-de-la-pnc>; Prensa Libre, *Gobernación se enfoca en la desarticulación de pandillas*, 5 May 2016, <http://www.prensalibre.com/guatemala/justicia/gobernacion-prepara-mas-operativos-para-desarticular-pandillas>; El Periódico, *Desarticulan estructura vinculada a extorsiones y asesinatos*, 3 May 2016, <http://elperiodico.com.gt/2016/05/03/pais/desarticulan-estructura-vinculada-a-extorsiones-y-asesinatos/>; Prensa Libre, *Maras se disputan*



The increase in high impact crimes in 2016 is reported to be an effort by the gangs to test the response of the State authorities.<sup>150</sup> Moreover, overall, the gangs are reported to have strengthened in recent years and expanded their territories outside Guatemala City.<sup>151</sup>

### **Other street gangs**

During the deportations of gang members from the United States in the 1990s, members of many other *Sureño* gangs from California are also reported to have arrived in Central America.<sup>152</sup> However, in Guatemala, these other gangs reportedly found themselves in a quickly-decreasing minority, especially in relation to the rapidly expanding B-18 presence.<sup>153</sup> After the large-scale killings perpetrated by MS in 2005 and the greatly increased animosity between B-18 and MS,<sup>154</sup> little trace appears to remain of most of these smaller *Sureño* gangs.<sup>155</sup> Similarly, a number of other Guatemalan street gangs were reported to exist in the 2000s; it cannot be discounted that elements of these and other local identity-based gangs that are unaffiliated with either B-18 or MS remain active at the local level in Guatemala.<sup>156</sup>

#### *b) Drug-trafficking organizations*

Guatemala has reportedly long been home to organized criminal structures dedicated to cross-border drug-trafficking. Since Colombian groups started using Guatemala as a transit point for their cocaine shipments in the 1980s,<sup>157</sup> the country is reported to have become an essential stage of the cocaine distribution chain, with an estimated 90 per cent of the cocaine produced in the Andean region passing through Guatemala on its way northwards.<sup>158</sup> Most cocaine shipments now reportedly enter by land from Honduras, although more recently an increase by sea has been reported.<sup>159</sup> Poppy (for heroin) and methamphetamines, smuggled north via Mexico, are also reportedly produced in south-west Guatemala.<sup>160</sup> The increased influence of Mexican drug cartels from the late 1990s, particularly the

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*colonia El Milagro*, 4 November 2015, <http://www.prensalibre.com/guatemala/maras-se-disputan-colonia-el-milagro>; El Periódico, *Maras declaran guerra a PNC guatemalteca*, 1 October 2015, <http://elperiodico.com.gt/2015/10/01/pais/maras-declaran-guerra-a-pnc-guatemalteca/>.

<sup>150</sup> Prensa Libre, *Pandillas "miden" la reacción del Gobierno*, 12 April 2016, <http://www.prensalibre.com/guatemala/justicia/las-maras-y-el-gobierno-de-guatemala-mantienen-un-pulso>. See also, Reuters, *At Least Seven Dead in Suspected Gang Attack at Guatemala Hospital*, 16 August 2017, <https://www.reuters.com/article/us-guatemala-violence/at-least-seven-dead-in-suspected-gang-attack-at-guatemala-hospital-idUSKCN1AW2DM>.

<sup>151</sup> Prensa Libre, *"Las pandillas se han fortalecido"*, 6 November 2015, <http://www.prensalibre.com/guatemala/justicia/las-pandillas-se-han-fortalecido>;

<sup>152</sup> Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>.

<sup>153</sup> Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>; Sala Negra de El Faro, *El día de la traición*, 12 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10145/>.

<sup>154</sup> See for example Prensa Libre, *Maras se enfrentan en Penales*, 16 August 2005, <http://www.prensalibre.com/hemeroteca/maras-se-enfrentan-en-penales>.

<sup>155</sup> Information from 2012 makes reference to a White Fence clique in El Limón in Guatemala City, although it is unclear whether this clique still exists. See Crónicas Chapinas, *La Clíca SR del Limón*, 21 May 2012, <http://cronicaschapinas.blogspot.co.uk/2012/05/la-clica-sr-del-limon.html>. Factions of the Salvadorian *Sureños* gang (a different entity to the wider *Sureño* structure) were also reported to have gone to Guatemala in 2012, although no information is provided on what happened subsequently. See Revista Factum, *Sureños, los otros pandilleros*, 4 November 2014, <http://revistafactum.com/surenos-los-otros-pandilleros/>.

<sup>156</sup> These gangs were reported to include *Diamante*, *6x10*, *Killers*, *Batos Locos*, *Calvario*, *Palo Gordo*, *Repers*, *El Pollo* and *Batos Locos*. See M.M. Correa Letelier, 'Maras en Guatemala: una mirada desde el sur', *Diplomacia*, Vol. 119, April-June 2009, <http://www.corteidh.or.cr/tablas/R22949.pdf>, p. 69. Note, however, that there is also a clique of B-18 in Guatemala with the name *Vatos Locos*. See, for example, El Periódico, *Caen cinco Vatos Locos por bombazo en autobús*, 3 April 2014, <http://elperiodico.com.gt/2016/04/03/pais/caen-cinco-vatos-locos-por-bombazo-en-autobus/>.

<sup>157</sup> J. López, 'Guatemala's Crossroads: The Democratization of Violence and Second Chances', in Arnson and Olson (eds), *Organized Crime in Central America*, pp. 148-151, 163.

<sup>158</sup> UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 39; Insight Crime, *The Zetas in Guatemala*, 8 September 2011, [http://www.insightcrime.org/images/PDFs/2016/InSight\\_Crime\\_The\\_Zetas\\_in\\_Guatemala.pdf](http://www.insightcrime.org/images/PDFs/2016/InSight_Crime_The_Zetas_in_Guatemala.pdf).

<sup>159</sup> Prensa Libre, *Gobernación identifica tres grupos en control del narcotráfico*, 18 May 2016, <http://www.prensalibre.com/guatemala/comunitario/gobernacion-identifica-tres-estructuras-en-control-del-narcotrafico>; International Crisis Group, *Corridor of Violence: the Guatemala-Honduras Border*, 4 June 2014, <http://www.refworld.org/docid/539014d84.html>, pp. 3-4; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 19.

<sup>160</sup> In 2011, it was estimated that Guatemala was a producer of methamphetamines and already the second highest producer of poppy in the region after Mexico, with most poppy production taking place in the mountainous area of San Marcos department on the border with Mexico. In 2014, it was reported that the Sinaloa cartel was believed to have moved most of its methamphetamine production south to Central America, with Guatemala reportedly playing an increasing role from 2015. See Insight Crime, *Guatemala Meth Labs Highlight Growing Production Role*, 16 February 2015, <http://www.insightcrime.org/news-briefs/guatemala-meth-labs-highlight-growing-production-role>; Insight Crime, *Guatemala's '2nd Biggest' Meth Lab Points to Sinaloa Cartel Migration*, 8 May 2014, <http://www.insightcrime.org/news-briefs/guatemalas-2nd-biggest-meth-lab-points-to-sinaloa-cartel-migration>; S.S. Dudley, 'Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*', in Arnson and Olson (eds), *Organized Crime in Central America*, pp. 31-34. Guatemala-based groups such as

Sinaloa and Gulf cartels, reportedly culminated between 2008 and 2012 in a violent but ultimately failed offensive into Guatemala by the Mexican Zetas cartel to try and take control of smuggling routes through the country.<sup>161</sup>

A sizeable number of Guatemalan drug-smuggling structures are reported to be involved in moving the cocaine shipments through the country and in producing other drugs.<sup>162</sup> Their strongholds are reportedly located in particular zones on or near the main Guatemalan smuggling routes, notably on the eastern border with Honduras,<sup>163</sup> the south-west border with Mexico,<sup>164</sup> the southern Guatemalan coast<sup>165</sup> and the northern departments of Alta Verapaz<sup>166</sup> and Petén.<sup>167</sup> Moreover, near the Honduran border in particular, certain groups are reported to perpetuate the practice of violent thefts (*tumbes*) of drug

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*Los Temerarios* are also reported to be smuggling marijuana into El Salvador. See Insight Crime, *Bust Highlights El Salvador, Guatemala Criminal Cooperation*, 14 April 2014, <http://www.insightcrime.org/news-briefs/bust-highlights-el-salvador-guatemala-criminal-cooperation>.

<sup>161</sup> Insight Crime, *Guatemala's New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; Insight Crime, *Zetas Fight Sinaloa Cartel for Guatemala Drug Routes: Perez*, 14 January 2013, <http://www.insightcrime.org/news-briefs/zetas-fight-sinaloa-cartel-guatemala-perez>; S.S. Dudley, 'Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*', in Arnson and Olson (eds), *Organized Crime in Central America*, pp. 31-34; J. López, 'Guatemala's Crossroads: The democratization of Violence and Second Chances', in Arnson and Olson (eds), *Organized Crime in Central America*, pp. 152-153, 163.

<sup>162</sup> UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, pp. 23-25; S.S. Dudley, 'Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*', in Arnson and Olson (eds), *Organized Crime in Central America*, p. 25.

<sup>163</sup> See Insight Crime, *Guatemala Authorities Capture Ex-Military Turned Drug Trafficker*, 2 May 2016, <http://www.insightcrime.org/news-briefs/guatemala-authorities-capture-ex-military-turned-drug-trafficker>; Insight Crime, *Guatemala Captures Brother of 'Heroin King'*, 25 August 2015, <http://www.insightcrime.org/news-briefs/guatemala-captures-brother-of-heroin-king>; Plaza Pública, *De la traición de los hijos y la venganza del padre*, 22 April 2015, <https://www.plazapublica.com.gt/content/de-la-traicion-de-los-hijos-y-la-venganza-del-padre>; Sala Negra de El Faro, *Tres relatos breves de cómo cayeron tres capos guatemaltecos*, 20 October 2014, <http://www.salanegra.elfaro.net/es/201410/cronicas/16063/Tres-relatos-breves-de-c%C3%B3mo-cayeron-tres-capos-guatemaltecos.htm>; Insight Crime, *Gap Left by Fallen Guatemala Drug Lords Filled by Competing Clans*, 10 June 2014, <http://www.insightcrime.org/news-briefs/gap-left-by-fallen-guatemala-drug-lords-filled-by-competing-clans>; Plaza Pública, *9 apuntes sobre el panorama del narcotráfico sin "El Chapo"*, 24 February 2014, <https://www.plazapublica.com.gt/content/9-apuntes-sobre-el-panorama-del-narcotrafico-sin-el-chapo>.

<sup>164</sup> See Reuters, *Guatemala Declares Emergency in Border Areas to Fight Heroin Trafficking*, 12 May 2017, <https://www.reuters.com/article/us-guatemala-heroin/guatemala-declares-emergency-in-border-areas-to-fight-heroin-trafficking-idUSKBN1882GB>; Dialogo, *Guatemala to Shore Up its Borders to Cut Off Drug-Trafficking Routes*, 4 April 2017, <https://dialogo-americas.com/en/articles/guatemala-shore-its-borders-cut-drug-trafficking-routes>; Insight Crime, *Guatemala Captures Brother of 'Heroin King'*, 25 August 2015, <http://www.insightcrime.org/news-briefs/guatemala-captures-brother-of-heroin-king>; Insight Crime, *Guatemala Captures 'Poppy King'*, 15 May 2015, <http://www.insightcrime.org/news-briefs/guatemala-captures-poppy-king>; S.S. Dudley, 'Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*', in Arnson and Olson (eds), *Organized Crime in Central America*, pp. 26, 32.

<sup>165</sup> See Insight Crime, *Guatemala's New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; Plaza Pública, *El ABC de los narco, según la embajada de EEUU*, 31 August 2011, <https://www.plazapublica.com.gt/content/el-abc-de-los-narcos-segun-la-embajada-de-eeuu>; Persona de interés, *Allende del Mar Sarceño Castillo*, undated, <https://www.personadeinteres.org/personas/1508> (date accessed: 4 May 2017).

<sup>166</sup> By the mid-2000s, Horst Walter Overdick ('*El Tigre*') reportedly operated a drug-trafficking structure from Cobán in Alta Verapaz and later became the principal local ally of the Zetas cartel after it entered Guatemala, helping them to usurp control of the Zacapa corridor from the Leones and providing a foothold for their incursion into the territory of the Mendozas in the Petén. In 2012, Overdick was extradited to the USA. See Plaza Pública, *Guatemala: la cambiante cara del narco*, 18 July 2013, <https://www.plazapublica.com.gt/content/guatemala-la-cambiante-cara-del-narco>; Insight Crime, *Guatemala Extradites Drug Kingpin Walther Overdick to US*, 11 December 2012, <http://www.insightcrime.com/news-briefs/guatemala-extradites-drug-kingpin-walther-overdick>; Insight Crime, *The Zetas in Guatemala*, 8 September 2011, [http://www.insightcrime.org/images/PDFs/2016/InSight\\_Crime\\_The\\_Zetas\\_in\\_Guatemala.pdf](http://www.insightcrime.org/images/PDFs/2016/InSight_Crime_The_Zetas_in_Guatemala.pdf), pp. 3-5, 15.

<sup>167</sup> The influence of the reputedly 'untouchable' Mendoza family structure reportedly extended from their hometown of Morales, Izabal department, to the Petén, where they owned large tracts of land. Originally, an agreement known as the Petén Pact (*Pacto de Petén*) reportedly existed between the Mendozas and the Lorenzanas, guaranteeing free transit in the Petén to all without fear of attack by the other. As an ally of the Gulf cartel, the Mendozas were the object of attack by the Mexican Zetas cartel during 2010 and lost key territories to the Zetas. Most family members reportedly fled from Petén, with some using Belize as a refuge. The structure reportedly remains operational but weakened, with the arrests of key figures taking place between 2014 and 2016. Other drug-smuggling structures, including those run by Otto Turcios and by Mario Ponce, are reported to have operated in the Petén. See Insight Crime, *The Mendozas*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/los-mendoza> (date accessed: 4 May 2017); Prensa Libre, *Catorce detenidos por despojo de tierras en Petén e Izabal*, 6 April 2016, <http://www.prensalibre.com/guatemala/justicia/cicig-y-mp-dirigen-operativos-contrala-familia-mendoza>; Insight Crime, *Guatemala Arrests Alleged Leader of Mendoza Criminal Clan*, 6 April 2016, <http://www.insightcrime.org/news-briefs/guatemala-arrests-alleged-leader-of-mendoza-criminal-clan>; Insight Crime, *Gap Left by Fallen Guatemala Drug Lords Filled by Competing Clans*, 10 June 2014, <http://www.insightcrime.org/news-briefs/gap-left-by-fallen-guatemala-drug-lords-filled-by-competing-clans>; Insight Crime, *Guatemala Massacre Points to Post-Zetas Scramble*, 10 February 2014, <http://www.insightcrime.org/news-briefs/north-guatemala-massacre-highlights-continued-post-zetas-turmoil>; Insight Crime, *Guatemala's New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, pp. 24-25. See also, Foreign Policy, *From Cocaine Cowboys to Narco-Ranchers*, 8 July 2016, <http://foreignpolicy.com/2016/07/08/guatemala-cocaine-central-america-drug-forest-maya-biosphere-reserve-cattle-ranching/>.



shipments.<sup>168</sup> Fighting over control of local drug distribution within Guatemala is also reported to be on the increase.<sup>169</sup>

Many of the Guatemalan drug-trafficking structures, even those that are nominally ‘independent’, are reported to have close links with one (or more) larger regional drug-trafficking organizations.<sup>170</sup> Presently, the Sinaloa cartel is reported to be the Mexican drug-trafficking organization with the greatest influence in Guatemala, through its manifold alliances with local Guatemalan structures.<sup>171</sup> From 2013 onwards, despite the failure of its long and violent offensive to take control of smuggling routes in Guatemala, the Zetas cartel was reported to remain a buyer at a distance.<sup>172</sup> The Mexican Gulf cartel, despite its historical alliance with structures in Petén, has reportedly virtually disappeared from Guatemala.<sup>173</sup>

<sup>168</sup> Plaza Pública, *Chiquimula, el hub de la cocaína y un reino de corrupción*, 18 October 2017, <https://www.plazapublica.com.gt/content/chiquimula-el-hub-de-la-cocaína-y-un-reino-de-corrupcion>; El Periódico, *Byron Lima, los tumbes de droga y su vínculo con el capo Byron Linares Cerdón*, 15 October 2017, <https://elperiodico.com.gt/investigacion/2017/10/15/byron-lima-los-tumbes-de-droga-y-su-vinculo-con-el-capo-byron-linares-cordon/>; Insight Crime, *Guatemala’s New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; 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, *The Zetas in Guatemala*, 8 September 2011, [http://www.insightcrime.org/images/PDFs/2016/InSight\\_Crime\\_The\\_Zetas\\_in\\_Guatemala.pdf](http://www.insightcrime.org/images/PDFs/2016/InSight_Crime_The_Zetas_in_Guatemala.pdf), p. 9.

<sup>169</sup> Rising consumption rates are reported in Guatemala City, where the leaders of the most prominent local drug distribution network – the *Caraduras* – run their operations from prison. This network reportedly functions through family alliances and controls territory in Guatemala City, having fought and won a war with two of the other main drug-distribution groups in Guatemala City, led by alias ‘Marioco’ and alias ‘Maco’. It is reported that the *Caraduras* also undertake contract killings and have recruited many youths as lookouts or assassins, and have support from the local police that patrol their territory. See Prensa Libre, *Detienen a presunto líder de estructura Los Caradura*, 27 February 2014, <http://www.prensalibre.com/noticias/justicia/los-caradura-lider-detenido-allanamiento-luis-fernando-gomez-0-1092490894.html>; Insight Crime, *Guatemala’s New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; Persona de interés, *Francisco Edgar Domínguez Higueros “Caradura”*, undated, <https://www.personadeinteres.org/personas/1525> (date accessed: 4 May 2017).

<sup>170</sup> For instance, even the structure run by Jairo Orellana, although ‘independent’ and involved in stealing drug shipments from a number of organizations, had strong connections for a period of time with the Mexican Zetas cartel and may also have sold to the Sinaloa cartel. See Insight Crime, *Guatemala’s New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; El Faro, *Jairo Orellana Morales, el Rey del Tumbé y las extorsiones*, 20 February 2013, <http://www.elfaro.net/es/201302/internacionales/11096/Jairo-Orellana-Morales-el-Rey-del-Tumbe-y-las-extorsiones.htm>.

<sup>171</sup> For over twenty years, the Sinaloa cartel has reportedly operated and expanded its control in Guatemala through negotiating with local Guatemalan drug-smuggling groups. It is reported to present itself as bringing “benefits” to the local communities, including for example by killing criminals who are found operating in these communities. It reportedly works by developing numerous, local alliances such that it is able to keep operating even if one ally is removed. Following the disintegration of the Zeta presence in Guatemala by 2013, the Sinaloa cartel reportedly remains as the main buyer in the country. See Business Insider UK, *Cocaine Seizures Are at a 10-Year High in a Latin American Trafficking Hub*, 5 January 2017, <http://uk.businessinsider.com/guatemala-cocaine-trafficking-seizures-10-year-high-2017-1>; El Periódico, *Narcotráfico se reacomoda en Guatemala bajo la sombra del “Chapo” Guzmán*, 18 May 2016, <http://elperiodico.com.gt/2016/05/18/pais/narcotrafico-se-reacomoda-en-guatemala-bajo-la-sombra-del-chapo-guzman/>; BBC, *La imparable invasión de carteles mexicanos a Centroamérica*, 15 June 2016, <http://www.bbc.com/mundo/noticias-america-latina-36529920>; Plaza Pública, *9 apuntes sobre el panorama del narcotráfico sin “El Chapo”*, 24 February 2014, <https://www.plazapublica.com.gt/content/9-apuntes-sobre-el-panorama-del-narcotrafico-sin-el-chapo>; Insight Crime, *Guatemala’s New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; S.S. Dudley, ‘Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*’, in Arnsen and Olson (eds), *Organized Crime in Central America*, pp. 32-33.

<sup>172</sup> The Zetas cartel – formed originally of Mexican ex-special forces soldiers – was initially the armed wing of the Gulf cartel but reportedly began to operate with greater independence following the capture of the Gulf cartel leader in 2003 before finally splitting definitively in 2010. After entering Guatemala via Huehuetenango in 2007, the Zetas cartel based its operatives in Alta Verapaz department, reportedly entering into an alliance with the Overdick family trafficking structure, and in 2008 began conducting exceedingly violent armed offensives to take control of other Guatemalan territories located on strategic drug-trafficking routes, attempting to wrest them from the control of Guatemalan allies of the Gulf and Sinaloa cartels. The Zetas cartel initially used its own operatives and, the Overdick alliance aside, rarely negotiated with local Guatemalan drug-trafficking organizations and instead sought to establish its exclusive territorial control over relevant routes. In territories that they seized, their operatives reportedly extorted local business and killed those who challenged them. The Zetas cartel was reportedly known locally for its excessive violence, instability and untrustworthiness, with social upheaval and violence against women widespread in the areas they controlled. In the face of a sustained government effort to pursue the group and some of its local collaborators, the Zetas structure was largely dismantled by 2013. See Insight Crime, *Guatemala’s New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; Insight Crime, *The Zetas in Guatemala*, 8 September 2011, [http://www.insightcrime.org/images/PDFs/2016/InSight\\_Crime\\_The\\_Zetas\\_in\\_Guatemala.pdf](http://www.insightcrime.org/images/PDFs/2016/InSight_Crime_The_Zetas_in_Guatemala.pdf); S.S. Dudley, ‘Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*’, in Arnsen and Olson (eds), *Organized Crime in Central America*, pp. 32-33; J. López, ‘Guatemala’s Crossroads: The Democratization of Violence and Second Chances’, in Arnsen and Olson (eds), *Organized Crime in Central America*, pp. 192-195.

<sup>173</sup> Plaza Pública, *Guatemala: la cambiante cara del narco*, 18 July 2013, <https://www.plazapublica.com.gt/content/guatemala-la-cambiante-cara-del-narco>. The Gulf Cartel has reportedly been slowly losing power in Mexico and across the region. Insight Crime, *Cartel del Golfo*, last updated 18 June 2015, <http://es.insightcrime.org/noticias-sobre-crimen-organizado-en-mexico/cartel-del-golfo-perfil>. However, there are also reports of its continued presence in Guatemala. See BBC, *La imparable invasión de carteles mexicanos a Centroamérica*, 15 June 2016, <http://www.bbc.com/mundo/noticias-america-latina-36529920>; Soy502, *Las narcopropiedades del guatemalteco ligado al Cartel del Golfo*, 20 August 2015, <http://www.soy502.com/articulo/narco-propiedades-guatemalteco-ligado-al-cartel-golfo>.

Some Guatemalan drug-smuggling organizations – particularly the more established ‘traditional’ ones – are reported to be relatively powerful and complex structures, comprised of as many as hundreds of persons led by a tight-knit nucleus of family members.<sup>174</sup> Some of these families were reportedly formerly landowners,<sup>175</sup> while many had a history of involvement in cattle-rustling and other forms of cross-border smuggling.<sup>176</sup> Each structure reportedly has an armed element that carries out enforcement and security operations as required.<sup>177</sup> Although cocaine trafficking is reported to be a lucrative source of income (as is heroin production for a few groups), some of the Guatemalan drug-smuggling organizations also reportedly engage in other illicit businesses,<sup>178</sup> including appropriation of lands in some rural areas,<sup>179</sup> and involvement in prostitution and sex-trafficking rings.<sup>180</sup>

Most Guatemalan drug-smuggling groups are reported to rely on corruption and bribery of both national and local political, (ex-)military, police and judicial authorities to secure protection for their activities.<sup>181</sup> In general, threats and assassinations appear to be limited largely to disputes or punishments of those involved in the structures, or others who are deemed to represent a challenge to the groups.<sup>182</sup> Small landowners who decline to sell their lands to these groups are reported to face violence,<sup>183</sup> as may other persons who are deemed to oppose the interests of these groups.<sup>184</sup> However, the more established

<sup>174</sup> UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, pp. 23-25.

<sup>175</sup> The Mendozas were reportedly landowners who became involved in drug-smuggling. See UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 24.

<sup>176</sup> Among three of the most powerful ‘traditional’ structures, prior to entering the drugs trade, the Leones were reportedly formerly car thieves and cattle-rustlers, whilst the Lorenzanas and (allegedly) the Mendozas were reportedly involved in contraband smuggling. The same is reportedly true also of some newer groups such as the Samayoa family structure (*Huistas*). See Insight Crime, *Guatemala Elites and Organized Crime*, September 2017, [http://www.insightcrime.org/images/PDFs/2016/Guatemala\\_Elites\\_Organized\\_Crime](http://www.insightcrime.org/images/PDFs/2016/Guatemala_Elites_Organized_Crime); Insight Crime, *The Leones*, last updated 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/los-leones> (date accessed: 4 May 2017); Insight Crime, *The Lorenzanas*, last updated 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/los-lorenzana> (date accessed: 4 May 2017); Insight Crime, *The Mendozas*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/los-mendoza> (date accessed: 4 May 2017); Insight Crime, *Guatemala Elites and Organized Crime: The ‘Huistas’*, 1 September 2016, <http://www.insightcrime.org/investigations/guatemala-elites-and-organized-crime-the-huistas>; Insight Crime, *Guatemala’s New Narco-Map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; S.S. Dudley, ‘Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*’, in Arnsen and Olson (eds), *Organized Crime in Central America*, pp. 25-26.

<sup>177</sup> El Faro, *Jairo Orellana Morales, el Rey del Tumbe y las extorsiones*, 20 February 2013, <http://www.elfaro.net/es/201302/internacionales/11096/Jairo-Orellana-Morales-el-Rey-del-Tumbe-y-las-extorsiones.htm>; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, pp. 24-25.

<sup>178</sup> The Lorenzanas, for instance, were reportedly linked to arms trafficking. See Plaza Pública, *De la traición de los hijos y la venganza del padre*, 22 April 2015, <https://www.plazapublica.com.gt/content/de-la-traicion-de-los-hijos-y-la-venganza-del-padre>.

<sup>179</sup> Prensa Libre, *Catorce detenidos por despojo de tierras en Petén e Izabal*, 6 April 2016, <http://www.prensalibre.com/guatemala/justicia/cicig-y-mp-dirigen-operativos-contr-la-familia-mendoza>; Plaza Pública, *Desplazar para no ser desplazados: palma, narcos y campesinos*, 30 September 2012, <https://www.plazapublica.com.gt/content/desplazar-para-no-ser-desplazados>; Sala Negra de El Faro, *Ser un nadie en tierra de narcos*, 3 November 2011, <http://www.salanegra.elfaro.net/es/201110/cronicas/6451/Ser-un-nadie-en-tierra-de-narcos.htm>; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 25.

<sup>180</sup> CICIG/UNICEF, *Human Trafficking for Sexual Exploitation Purposes in Guatemala*, 2016, [http://www.cicig.org/uploads/documents/2016/Trata\\_Ing\\_978\\_9929\\_40\\_829\\_6.pdf](http://www.cicig.org/uploads/documents/2016/Trata_Ing_978_9929_40_829_6.pdf), pp. 85-91. The Zetas Cartel reportedly engages in human trafficking in Guatemala. CICIG/UNICEF, *Human Trafficking for Sexual Exploitation Purposes in Guatemala*, 2016, [http://www.cicig.org/uploads/documents/2016/Trata\\_Ing\\_978\\_9929\\_40\\_829\\_6.pdf](http://www.cicig.org/uploads/documents/2016/Trata_Ing_978_9929_40_829_6.pdf), p. 87; International Crisis Group, *Easy Prey: Criminal Violence and Central American Migration*, 28 July 2016, <http://www.refworld.org/docid/579b50394.html>, pp. 12-13.

<sup>181</sup> Contrapoder, *Jairo Orellana: el narco que hizo caer al ministro*, 13 July 2015, <http://contrapoder.com.gt/2015/07/13/jairo-orellana-el-narco-que-hizo-caer-al-ministro/>; Insight Crime, *Guatemala’s New Narco-Map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; S.S. Dudley, ‘Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*’, in Arnsen and Olson (eds), *Organized Crime in Central America*, pp. 34-35; Insight Crime, *The Lorenzanas*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/los-lorenzana> (date accessed: 4 May 2017); Insight Crime, *The Mendozas*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/los-mendoza> (date accessed: 4 May 2017).

<sup>182</sup> 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.

<sup>183</sup> D.J. Cantor, *ibid.*, p. 48; Plaza Pública, *Desplazar para no ser desplazados: palma, narcos y campesinos*, 30 September 2012, <https://www.plazapublica.com.gt/content/desplazar-para-no-ser-desplazados>; Sala Negra de El Faro, *Ser un nadie en tierra de narcos*, 3 November 2011, <http://www.salanegra.elfaro.net/es/201110/cronicas/6451/Ser-un-nadie-en-tierra-de-narcos.htm>.

<sup>184</sup> For instance, the Mendozas have reportedly been involved in anti-union violence and other attacks against local farm workers. See UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, pp. 24-25; Insight Crime, *The Mendozas*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/los-mendoza> (date accessed: 4 May 2017).

structures have reportedly mostly bought the tolerance of local populations by investing in local businesses and financing community events.<sup>185</sup>

While the smuggling routes have reportedly continued to operate and the flow of cocaine has continued undiminished,<sup>186</sup> recent years have seen considerable upheaval among the Guatemalan drug-smuggling organizations as a result of infighting, the proxy war between Mexican cartels<sup>187</sup> and the capture and extradition of a number of the leaders of these structures by the government.<sup>188</sup> By 2013, many of the longer-established ‘traditional’ Guatemalan structures were reported to be greatly weakened and splintered,<sup>189</sup> whilst an increasing number of new – and often more violent – structures had emerged to compete for control in the drug-trafficking trade or to start stealing drug shipments.<sup>190</sup> These disputes

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<sup>185</sup> Sala Negra de El Faro, *Tres relatos breves de cómo cayeron tres capos guatemaltecos*, 20 October 2014, <http://www.salanegra.elfaro.net/es/201410/cronicas/16063/Tres-relatos-breves-de-c%C3%B3mo-cayeron-tres-capos-guatemaltecos.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>, p. 42; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, pp. 24-25; Insight Crime, *The Lorenzanas*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/los-lorenzana> (date accessed: 4 May 2017). Within a context of competitive violence between gangs and a lack of state protection, it is reported that the “service” provided by gangs is sometimes tolerated and even reluctantly welcomed by businesses, some of whom have established regular payment systems to gangs to protect themselves from more predatory rivals. Information from an interview by the International Crisis Group with a manager and chief of transportation of a large food distribution firm in Guatemala City in November 2016, as well as with a business owner in Guatemala City municipal market on 11 November 2016. International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, 6 April 2017, <http://www.refworld.org/docid/58e74ed64.html>, p. 15.

<sup>186</sup> Insight Crime, *CentAm Still Dominant Cocaine Route into US: State Dept*, 5 March 2016, <http://www.insightcrime.org/news-analysis/central-america-still-dominant-cocaine-route-us-state-department-report>.

<sup>187</sup> Prensa Libre, *Gobernación Identifica tres grupos en control del narcotráfico*, 18 May 2016, <http://www.prensalibre.com/guatemala/comunitario/gobernacion-identifica-tres-estructuras-en-control-del-narcotrafico>.

<sup>188</sup> Insight Crime, *Arrest of Top MS13 Gang Leader in Guatemala Highlights Cooperation*, 11 April 2017, <http://www.insightcrime.org/news-briefs/arrest-top-ms13-gang-leader-guatemala-highlights-cooperation>; Insight Crime, *Guatemala’s New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; Plaza Pública, *Guatemala: la cambiante cara del narco*, 18 July 2013, <https://www.plazapublica.com.gt/content/guatemala-la-cambiante-cara-del-narco>.

<sup>189</sup> The Leonos disappeared, whilst the Lorenzanas and Mendozas (and the organization of Juan Chamale) were significantly weakened and, in some cases, fractured. See above and also Insight Crime, *Guatemala Arrests Alleged Leader of Mendoza Criminal Clan*, 6 April 2016, <http://www.insightcrime.org/news-briefs/guatemala-arrests-alleged-leader-of-mendoza-criminal-klan>; Insight Crime, *Guatemala’s New Narco-Map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; Plaza Pública, *Guatemala: la cambiante cara del narco*, 18 July 2013, <https://www.plazapublica.com.gt/content/guatemala-la-cambiante-cara-del-narco>.

<sup>190</sup> By June 2013, the Guatemalan authorities had identified 54 drug-smuggling organizations in the country, some of which operated independently whilst others were effectively branches of larger regional organisations. In 2015, the authorities reported that 16 such structures operated in the country. The composition and even names of some of the newer structures are not publicly known. Until his capture in 2014, the most important of these emerging groups was reported to be that run by Jairo Orellana (‘El Pelon’) from the Honduran border zones. His principal rival, Marlon Monroy (‘El Fantasma’), an ex-military official with links to the Sinaloa cartel and who is also renowned for his extreme violence towards enemies and allies whom he believed had betrayed him, was captured in 2016. The ensuing power vacuum is reported to be filled by Rony Álvarez (‘Komander’), Orellana’s second-in-command. In May 2016, the authorities reported the existence of three emerging drug-trafficking structures, one of which was that of *El Fantasma*. See El Periódico, *Narcotráfico se reacomoda en Guatemala bajo la sombra del “Chapo” Guzmán*, 18 May 2016, <http://elperiodico.com.gt/2016/05/18/pais/narcotrafico-se-reacomoda-en-guatemala-bajo-la-sombra-del-chapo-guzman/>; Insight Crime, *Guatemala Authorities Capture Ex-Military Turned Drug Trafficker*, 2 May 2016, <http://www.insightcrime.org/news-briefs/guatemala-authorities-capture-ex-military-turned-drug-trafficker>; Prensa Libre, *Mingob investiga a redes del narcotráfico*, 25 November 2015, <http://www.prensalibre.com/guatemala/justicia/mingob-investiga-a-redes-del-narcotrafico>; Insight Crime, *Guatemala Captures Brother of ‘Heroin King’*, 25 August 2015, <http://www.insightcrime.org/news-briefs/guatemala-captures-brother-of-heroin-king>; Sala Negra de El Faro, *Las lecciones que nos dejó la masacre de Salcajá*, 21 September 2014, <http://www.salanegra.elfaro.net/es/201409/cronicas/15874/Las-lecciones-que-nos-dej%C3%B3-la-masacre-de-Salcaj%C3%A1.htm>; Insight Crime, *Gap Left by Fallen Guatemala Drug Lords Filled by Competing Clans*, 10 June 2014, <http://www.insightcrime.org/news-briefs/gap-left-by-fallen-guatemala-drug-lords-filled-by-competing-clans>; Insight Crime, *Guatemala’s New Narco-Map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; Univision, *En Guatemala operan 54 grupos de narcotraficantes*, 11 June 2013, <http://www.univision.com/noticias/narcotrafico/en-guatemala-operan-54-grupos-de-narcotraficantes#axzz2W1MX1VLD>; Insight Crime, *Fragmentation of Guatemala’s Underworld Fuelling Violence: Prosecutors*, 10 June 2013, <http://www.insightcrime.org/news-briefs/fragmentation-of-guatemalas-underworld-fuelling-violence-prosecutors>; El Faro, *Jairo Orellana Morales, el Rey del Tumbé y las extorsiones*, 20 February 2013, <http://www.elfaro.net/es/201302/internacionales/11096/Jairo-Orellana-Morales-el-Rey-del-Tumbe-y-las-extorsiones.htm>.



are reportedly pushing new dynamics of violence in certain territories,<sup>191</sup> which in turn has an impact on their populations.<sup>192</sup>

### c) State Security Forces

The Army (*Ejército*) of Guatemala is ultimately subject to civilian control through the President of the Republic and Ministry of National Defence (*Ministerio de la Defensa Nacional*).<sup>193</sup> In 2014, the national Land, Air and Sea Forces reportedly comprised an estimated 22,300 troops.<sup>194</sup> From the early 2000s onwards, alongside its national defence function, the Army has reportedly been increasingly used in joint patrols to support the police in dealing with the security situation inside Guatemala, especially in zones affected by organized criminal groups.<sup>195</sup>

The 35,000-strong National Civilian Police (*Policía Nacional Civil*) is located under the Government Ministry (*Ministerio de Gobernación*).<sup>196</sup> In October 2015, a new Urban Security Plan (*Plan de Seguridad Urbana*) was launched, involving joint patrols by police officers and soldiers in zones of central Guatemala department affected by gang violence.<sup>197</sup> However, despite the large-scale recruitment of new police officers into the national civilian police force in recent years, the force reportedly remains seriously underfunded – in stark contrast to the increasing resources budgeted for the Army – and is reported to lack the necessary operational capacity.<sup>198</sup>

<sup>191</sup> El Periódico, *Narcotráfico se reacomoda en Guatemala bajo la sombra del “Chapo” Guzmán*, 18 May 2016, <http://elperiodico.com.gt/2016/05/18/pais/narcotrafico-se-reacomoda-en-guatemala-bajo-la-sombra-del-chapo-guzman/>; Insight Crime, *Guatemala Massacre Points to Post-Zetas Scramble*, 10 February 2014, <http://www.insightcrime.org/news-briefs/north-guatemala-massacre-highlights-continued-post-zetas-turmoil/>; Insight Crime, *Guatemala’s New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos/>; Insight Crime, *Fragmentation of Guatemala’s Underworld Fuelling Violence: Prosecutors*, 10 June 2013, <http://www.insightcrime.org/news-briefs/fragmentation-of-guatemalas-underworld-fuelling-violence-prosecutors/>.

<sup>192</sup> La Prensa, *Frontera Honduras con Guatemala es una coladera para narcos*, 20 July 2015, <http://www.laprensa.hn/honduras/860716-410/frontera-honduras-con-guatemala-es-una-coladera-para-narcos/>; International Crisis Group, *Corridor of Violence: the Guatemala-Honduras Border*, 4 June 2014, <http://www.refworld.org/docid/539014d84.html>.

<sup>193</sup> Guatemala, *Ley constitutiva del ejército de Guatemala*, Decreto no. 72-90, 13 December 1990, [http://www.oas.org/juridico/spanish/mesicic2\\_gtm\\_decreto\\_72-90.pdf](http://www.oas.org/juridico/spanish/mesicic2_gtm_decreto_72-90.pdf), Art. 13.

<sup>194</sup> Red de Seguridad y Defensa de América Latina, *Atlas comparativo de la defensa en América Latina y Caribe: edición 2014, 2015*, [http://www.resdal.org/assets/ad\\_2014\\_cap\\_19\\_guatemala.pdf](http://www.resdal.org/assets/ad_2014_cap_19_guatemala.pdf), p. 198.

<sup>195</sup> Despite promises by the State to reduce the number of army troops involved in civilian policing functions (*Escuadrones Especiales de Reserva para la Seguridad Ciudadana*), in actual fact the numbers have reportedly increased in recent years, from 2,743 in 2012 to 4,438 by October 2016. Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, pp. 26-28. See also, Prensa Libre, *Fuerzas combinadas son atacadas durante operativos antinarcóticos*, 17 February 2016, <http://www.prensalibre.com/guatemala/san-marcos/fuerzas-combinadas-son-atacadas-durante-operativos-antinarcoticos/>; Prensa Libre, *Fuerzas combinadas efectúan operativos contra la delincuencia*, 20 January 2016, <http://www.prensalibre.com/guatemala/justicia/despliegan-plan-de-seguridad-en-zona-7-capitalina/>; Prensa Libre, *Despliegan 350 militares en Villa Nueva para apoyar en seguridad*, 5 February 2015, <http://www.prensalibre.com/noticias/comunitario/Ejercito-brinda-apoyo-PNC-maestros-Villa-Nueva-0-1298270234.html>; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/28/3/Add.1, 12 January 2015, <http://www.refworld.org/docid/55083b4b4.html>, p. 11, paras 41-42; Ministerio de Defensa Nacional, *Plan Operativo Anual 2015*, [http://www.dip.mindef.mil.gt/poa\\_2015.pdf](http://www.dip.mindef.mil.gt/poa_2015.pdf), pp. 19-21; United States Congressional Research Service, *Guatemala: Political, Security, and Socio-Economic Conditions and U.S. Relations*, 7 August 2014, R42580, <http://www.refworld.org/docid/540dacc24.html>, p. 10.

<sup>196</sup> Guatemala, *Ley de la Policía Nacional Civil* (Law on the National Civilian Police), Decreto no. 11-97, 4 March 1997, [https://www.oas.org/juridico/MLA/sp/gtm/sp\\_gtm-mla-leg-police.pdf](https://www.oas.org/juridico/MLA/sp/gtm/sp_gtm-mla-leg-police.pdf). In 2016, the number of police personnel totalled 35,214, a reduction since 2015. Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, p. 24. At the beginning of December 2015, the PNC was reported to have 37,023 personnel: Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, p. 36.

<sup>197</sup> La Información, *Guatemala lanza plan de seguridad en zonas afectadas por pandillas*, 19 October 2015, [http://noticias.lainformacion.com/politica/seguridad-nacional/guatemala-lanza-plan-de-seguridad-en-zonas-afectadas-por-pandillas\\_BWM6z4ZGbu9pliAToJAI2/](http://noticias.lainformacion.com/politica/seguridad-nacional/guatemala-lanza-plan-de-seguridad-en-zonas-afectadas-por-pandillas_BWM6z4ZGbu9pliAToJAI2/).

<sup>198</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, pp. 22-24, 27; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/documentos/informes-anales/finish/15-informes-anales/3548-informe-anual-circunstanciado-2015.html>, pp. 37-43; La Hora, *PNC graduó más de 14 mil agentes, pero no se mejoró la infraestructura*, 14 December 2015, <http://lahora.gt/pnc-graduado-mas-de-14-mil-agentes-pero-no-se-mejoro-la-infraestructura/>; Insight Crime, *Report Puts Guatemala National Police Under the Microscope*, 26 March 2014, <http://www.insightcrime.org/news-analysis/report-puts-guatemala-national-police-under-the-microscope/>. In 2015, it was reported that no more than 4,200 police officers were able to undertake patrolling at any one time, and out of these just over 2,400 were assigned to guard specific premises or persons, while another 337 were assigned to support the penitentiary system. Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, pp. 36-37. In 2016, at least 2,527 officers were assigned to the guarding of specific persons or premises. Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, p. 24.

The security forces are reported to have contributed directly to the current dynamics of violence in the country. Despite increasing militarization as a key component of the security strategies adopted by the Guatemalan government,<sup>199</sup> the civilian authorities are reported to have sometimes failed to maintain effective control over the security forces.<sup>200</sup> Members of the security forces are reported to have engaged in arbitrary or unlawful killings of journalists, human rights activists, political candidates and trade unionists, as well as extrajudicial arrests, illegal detentions, abuse and mistreatment.<sup>201</sup> Children and adolescents living on the street or suspected of being gang members are reported to have been subjected to abusive and discriminatory treatment by the security forces, including assaults and arbitrary and unlawful detentions.<sup>202</sup> Police officers are reported to have also abused gay and transgender individuals, and harassed and extorted those whom they believed to be sex workers.<sup>203</sup> Intimidating and abusive military and police operations are reported to have been conducted to quell public protests by indigenous communities engaged in land disputes.<sup>204</sup>

As noted above (see Section II.A), active and former military officers and high-level government officials are reported to be involved in the powerful CIACS, which carry out sophisticated criminal activities or offer their services to other organized crime groups.<sup>205</sup> While the power of some historical figureheads of certain CIACS has reportedly dissipated in recent years, partly due to the work of the CICIG (see Section II.A), other CIACS are reported to remain influential in politics with links to the criminal underworld.<sup>206</sup> Using their military contacts, former Army officers are reported to have also emerged as the heads of prominent local drug-trafficking organizations,<sup>207</sup> whilst others are reported to have directed bribery rings and other criminal activities.<sup>208</sup>

<sup>199</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, pp. 44-45. Despite proposals to the contrary, the participation of the military in internal policing was reaffirmed in July 2016. See *El Periódico*, *Ejército mantendrá apoyo a labores de seguridad interna*, 5 July 2016, <http://elperiodico.com.gt/2016/07/05/pais/ejercito-mantendra-apoyo-a-labores-de-seguridad-interna/>.

<sup>200</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, p. 45.

<sup>201</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, p. 24.

<sup>202</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; *El Periódico*, *Golpiza de soldados a dos muchachos fue en Yepocapa, Chimaltenango*, 3 August 2015, <http://elperiodico.com.gt/2015/08/03/pais/golpiza-de-soldados-a-dos-muchachos-fue-en-yepocapa-chimaltenango/>.

<sup>203</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 145.

<sup>204</sup> IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 78-79, 133. See also, Cultural Survival (US)/Asociación Sobrevivencia Cultural (Guatemala), *Observations on the State of Indigenous Human Rights in Guatemala, Prepared for the 20<sup>th</sup> Session of the UN Human Rights Council Universal Periodic Review*, March 2017, [https://www.culturalsurvival.org/sites/default/files/UPRGuatemala2017\\_Eng-final.pdf](https://www.culturalsurvival.org/sites/default/files/UPRGuatemala2017_Eng-final.pdf), pp. 4-8.

<sup>205</sup> Insight Crime, *CIACS*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/ciacs> (date accessed: 4 May 2017); S.S. Dudley, 'Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*', in Arnsion and Olson (eds), *Organized Crime in Central America*, pp. 34-35; J. López, 'Guatemala's Crossroads: The Democratization of Violence and Second Chances', in Arnsion and Olson (eds), *Organized Crime in Central America*, pp. 156-157. See also, Insight Crime, *Guatemala Elites and Organized Crime*, September 2017, [http://www.insightcrime.org/images/PDFs/2016/Guatemala\\_Elites\\_Organized\\_Crime](http://www.insightcrime.org/images/PDFs/2016/Guatemala_Elites_Organized_Crime).

<sup>206</sup> One of the well-known CIACS – the 'Brotherhood' (*Cofradía*) – was reported in 2011 to have split, with some factions working in private security and others in politics. See S.S. Dudley, 'Drug-Trafficking Organizations in Central America: *Transportistas*, Mexican Cartels and *Maras*', in Arnsion and Olson (eds), *Organized Crime in Central America*, p. 34. However, in 2015, it was reported that the *Cofradía* worked together with a competitor CIACS – the Syndicate (*Sindicato*) – during the presidency of Pérez Molina, who is himself alleged to form part of the *Sindicato*, and that such networks continue to be relevant. See Insight Crime, *Tracing the Evolution of Military-Criminal Networks in Guatemala, El Salvador*, 8 January 2016, <http://www.insightcrime.org/news-analysis/tracing-evolution-military-criminal-networks-in-guatemala-el-salvador/>; Plaza Pública, *La historia del capo de un cartel político-militar*, 21 September 2015, <https://www.plazapublica.com.gt/content/la-historia-del-capo-de-un-cartel-politico-militar>; Insight Crime, *After Guatemala President's Fall, Reconfiguration or Status Quo for Military Criminal Networks?*, 3 September 2015, <http://www.insightcrime.org/news-analysis/after-guatemala-president-fall-underworld-reconfiguration-or-status-quo>.

<sup>207</sup> This is reported to be the case, for example, with alias 'El Fantasma'. See *El Periódico*, *Gobernación señala nexos militares de "El Fantasma"*, 21 June 2016, <http://elperiodico.com.gt/2016/06/21/pais/gobernacion-senala-nexos-militares-de-el-fantasma/>.

<sup>208</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>; Insight Crime, 'Bishop's Killer Ran Bribery Ring in Guatemala', 4 September 2014, <http://www.insightcrime.org/news-briefs/bishops-killer-ran-prison-crime-ring-in-guatemala>.

Police officials are reported to be involved in extortion, kidnapping for ransom, trafficking in persons and other abuses and crimes against the local population.<sup>209</sup> Moreover, corrupt members of the Guatemalan police force are reported to have been involved in the theft and resale of drug shipments (*tumbes*).<sup>210</sup> One such structure within the national police force, known as the *Charola Cartel*, is reportedly estimated to have more than 1,000 active members, including two former deputy police directors and other high-level members.<sup>211</sup> These drug thefts on the part of corrupt police officers are reported to have sometimes led to violent retaliations by the affected drug-trafficking organizations.<sup>212</sup>

d) *Private Security Groups, Local Security Boards and Vigilantes*

The proliferation of private security agencies, private justice structures and vigilantism in Guatemala over the past decade reflects the high levels of insecurity, the weakness or absence of the State security forces in certain parts of the country, and distrust of the State security apparatus and frustration with its high levels of impunity.<sup>213</sup> These different private security actors each contribute to the dynamics of violence in Guatemala.

Recent estimates suggest that there are between 43,000 and 48,000 private security guards working for registered security companies in Guatemala, alongside an estimated additional 30,000 to 40,000 guards working clandestinely or for illegal security firms. Moreover, the vast majority of guards working for registered security companies lack individual certification as required by law.<sup>214</sup> Many private security firms are reported to be run by ex-Army intelligence and high-ranking officers, including those with links to organized crime.<sup>215</sup> Some private security firms are reported to collaborate with CIACS, often at the service of organized crime, and they are thought to be one of the main purchasers of illegally-

<sup>209</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Insight Crime, *Nearly 200 Guatemalan Police Removed for Criminal Ties in 2012*, 19 February 2013, <http://www.insightcrime.org/news-briefs/guatemala-police-reform-to-crack-down-in-2013>.

<sup>210</sup> Plaza Pública, *Chiquimula, el hub de la cocaína y un reino de corrupción*, 18 October 2017, <https://www.plazapublica.com.gt/content/chiquimula-el-hub-de-la-cocaina-y-un-reino-de-corrupcion>; El Periodico, *Byron Lima, los tumbes de droga y su vínculo con el capo Byron Linares Córdón*, 15 October 2017, <https://elperiodico.com.gt/investigacion/2017/10/15/byron-lima-los-tumbes-de-droga-y-su-vinculo-con-el-capo-byron-linares-cordon/>; La Hora, *Detienen a ocho policías por presunta vinculación al narcotráfico*, 9 August 2015, <http://lahora.gt/detienen-a-ocho-policias/>; Insight Crime, *The Zetas in Guatemala*, 8 September 2011, [http://www.insightcrime.org/images/PDFs/2016/InSight\\_Crime\\_The\\_Zetas\\_in\\_Guatemala.pdf](http://www.insightcrime.org/images/PDFs/2016/InSight_Crime_The_Zetas_in_Guatemala.pdf). Whilst some corrupt police officers run their own 'tumble' operations, others have reportedly teamed up with organized criminal groups such as the Marroquín family group, which is dedicated to this practice. See Insight Crime, *Guatemala's New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>.

<sup>211</sup> Insight Crime, *'Intelligence Report' Details Role of Guatemala Police in Drug Trade*, 14 October 2014, <http://www.insightcrime.org/news-briefs/intelligence-report-details-role-of-guatemala-police-in-drug-trade>.

<sup>212</sup> Insight Crime, *'Intelligence Report' Details Role of Guatemala Police in Drug Trade*, 14 October 2014, <http://www.insightcrime.org/news-briefs/intelligence-report-details-role-of-guatemala-police-in-drug-trade>; Sala Negra de El Faro, *Las lecciones que nos dejó la massacre de Salcajá*, 21 September 2014, <http://www.salanegra.elfaro.net/es/201409/cronicas/15874/Las-lecciones-que-nos-dej%C3%B3-la-masacre-de-Salcaj%C3%A1.htm>.

<sup>213</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Human Rights Watch, *World Report 2016: Guatemala – Events of 2015*, 2016, <https://www.hrw.org/world-report/2016/country-chapters/guatemala>; El País, *Los linchamientos y la impunidad se retroalimentan en Centroamérica*, 28 April 2014, [http://internacional.elpais.com/internacional/2014/04/16/actualidad/1397664791\\_353323.html](http://internacional.elpais.com/internacional/2014/04/16/actualidad/1397664791_353323.html); Insight Crime, *100s of Guatemalan Community Police Groups Operate Illegally: Study*, 20 June 2013, <http://www.insightcrime.org/news-briefs/guatemala-vigilante-groups-operate-illegally-study>.

<sup>214</sup> In 2014, it was reported that there were 48,240 security guards working for 141 registered private security companies, of which fewer than 500 were individually certified. See OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/28/3/Add.1, 12 January 2015, <http://www.refworld.org/docid/55083b4b4.html>, p. 11, para. 41; Insight Crime, *Just One Percent of Guatemala Private Security Guards Operate Legally*, 14 July 2014, <http://www.insightcrime.org/news-briefs/just-one-percent-of-guatemala-private-security-guards-operate-legally>. A 2015 source estimated that there were 43,500 security guards working for registered companies. See La Hora, *PNC: 35 mil agentes; guardias privados: 43 mil 500 agentes*, 17 March 2015, <http://lahora.gt/pnc-35-mil-agentes-guardias-privados-43-mil-500-agentes/>. In 2015, the number of private security companies reportedly increased to 163; 79 were regularized and 40 were suspended for failing to comply with the legal framework. See OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, 19 February 2016, A/HRC/31/3/Add.1, <http://www.refworld.org/docid/56ead0734.html>, p. 8, para 32. "As at November [2016], 173 private security companies were already, or were in the process of becoming, compliant with the law that regulates private security services (decree 52-2010) – up from 163 in 2015. However, 37 per cent are still not compliant with the law." OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, 11 January 2017, A/HRC/34/3/Add.1, <http://www.refworld.org/docid/58ad60184.html>, p. 8, para. 30.

<sup>215</sup> S.S. Dudley, 'Drug-Trafficking Organizations in Central America: Transportistas, Mexican Cartels and Maras', in Arnson and Olson (eds), *Organized Crime in Central America*, p. 33.



trafficked arms in the country,<sup>216</sup> sometimes also selling them on to gangs.<sup>217</sup> Individual private security guards are reported to have been involved in kidnapping, executions, theft, extortion, sexual assault and other crimes in recent years.<sup>218</sup>

It is reported that some private security agencies owned by, or connected with, serving or retired members of the Army have been hired by companies interested in carrying out extractive projects on indigenous lands. Employees of these private security agencies are reported to have been involved in violence against members of the indigenous communities engaged in these land disputes, and to have taken part in joint operations with members of the State security forces including the detention of civilians, court-ordered evictions, as well as extrajudicial evictions of the members of such communities.<sup>219</sup>

Distinct community-based structures, known as Local Security Boards (*Juntas Locales de Seguridad*) or Citizen Security Committees (*Comités de Seguridad Ciudadana*), were first established in 1999 to provide community policing and, by 2012, it was reported that over 1,000 such groups existed, although one-third were unregistered and thus illegal.<sup>220</sup> Many of these local neighbourhood groups were reported to have gained a substantial degree of autonomy and to engage in executions, extortion and kidnappings, impose curfews, carry out illegal arrests and enforce their own vigilante-style popular justice, against individuals accused – rightly or wrongly – of criminal activities.<sup>221</sup> Using terror as their principal strategy, these local security boards or committees were reported to commit extrajudicial executions with impunity, sometimes disguised as ‘gang violence’.<sup>222</sup>

From 2004 onwards Guatemala has also reportedly seen a significant increase in the number of incidents of “mob justice”, including lynchings, unlawful detentions and other forms of violence.<sup>223</sup> Most of the

<sup>216</sup> Insight Crime, *Just One Percent of Guatemala Private Security Guards Operate Legally*, 14 July 2014, <http://www.insightcrime.org/news-briefs/just-one-percent-of-guatemala-private-security-guards-operate-legally>; Insight Crime, *Extrajudicial Killings on the Rise in Guatemala*, 4 July 2013, <http://www.insightcrime.org/news-briefs/extrajudicial-killings-on-the-rise-in-guatemala>.

<sup>217</sup> Prensa Libre, *Guardias privados proveían armas a pandilleros*, 20 April 2016, <http://www.prensalibre.com/guatemala/justicia/guardias-privados-proveian-armas-a-pandilleros>.

<sup>218</sup> OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/31/3/Add.1, 19 February 2016, <http://www.refworld.org/docid/56ead0734.html>, p. 8, para. 32; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/28/3/Add.1, 12 January 2015, <http://www.refworld.org/docid/55083b4b4.html>, p. 11, para. 44; Insight Crime, *Extrajudicial Killings on the Rise in Guatemala*, 4 July 2013, <http://www.insightcrime.org/news-briefs/extrajudicial-killings-on-the-rise-in-guatemala>. In 2016, while the Directorate-General of Private Security Services reportedly took some positive steps, such as increasing the monitoring of private security companies, serious challenges in relation to State control over these companies reportedly remained, including in relation to arms control and illegal arms trafficking. OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, 11 January 2017, A/HRC/34/3/Add.1, <http://www.refworld.org/docid/58ad60184.html>, p. 8, para. 30.

<sup>219</sup> IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 70-71.

<sup>220</sup> Insight Crime, *100s of Guatemalan Community Police Groups Operate Illegally: Study*, 20 June 2013, <http://www.insightcrime.org/news-briefs/guatemala-vigilante-groups-operate-illegally-study>. These are sometimes referred to also as Committees for the Security of Citizens (*Comités de Seguridad Ciudadana*). See Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2014*, 12 February 2015, [http://www.pdh.org.gt/archivos/descargas/Biblioteca/Informes%20Anuales/inf\\_2014.pdf](http://www.pdh.org.gt/archivos/descargas/Biblioteca/Informes%20Anuales/inf_2014.pdf), p. 17.

<sup>221</sup> British Journal of Photography, *Photographing the Patrulleros – The Violent Vigilantes of Guatemala*, 23 June 2015, <http://www.bjp-online.com/2015/06/photographing-the-patrulleros-the-violent-vigilantes-of-guatemala/>; El Heraldo, *Guatemala: delgada línea entre protección y represión*, 7 April 2014, <http://www.elheraldo.hn/opinion/615317-210/guatemala-delgada-linea-entre-proteccion-y-represion>; Insight Crime, *Extrajudicial Killings on the Rise in Guatemala*, 4 July 2013, <http://www.insightcrime.org/news-briefs/extrajudicial-killings-on-the-rise-in-guatemala>; Insight Crime, *100s of Guatemalan Community Police Groups Operate Illegally: Study*, 20 June 2013, <http://www.insightcrime.org/news-briefs/guatemala-vigilante-groups-operate-illegally-study>; Insight Crime, *Extrajudicial Killings on the Rise in Guatemala*, 4 July 2013, <http://www.insightcrime.org/news-briefs/extrajudicial-killings-on-the-rise-in-guatemala>; Otto Argueta, *Private Security in Guatemala: The Pathway to Its Proliferation*, September 2010, [https://www.giga-hamburg.de/en/system/files/publications/wp144\\_argueta.pdf](https://www.giga-hamburg.de/en/system/files/publications/wp144_argueta.pdf), pp. 23-25. A similar tendency has been reported in some communities for the Community Development Committees (*Comités Comunitarios de Desarrollo*) and the Municipal Prevention Commissions (*Comisiones Municipales de Prevención*). See Prensa Libre, *Poderes paralelos de seguridad amenazan*, 26 September 2015, <http://www.prensalibre.com/poderes-paralelos>.

<sup>222</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2014*, 12 February 2015, [http://www.pdh.org.gt/archivos/descargas/Biblioteca/Informes%20Anuales/inf\\_2014.pdf](http://www.pdh.org.gt/archivos/descargas/Biblioteca/Informes%20Anuales/inf_2014.pdf), p. 17.

<sup>223</sup> This tendency reportedly reached its peak in 2013 and 2014. See Procurador de los Derechos Humanos, *Retenciones multitudinarias y linchamientos, casos y víctimas, De 2005 al 30 de abril de 2016*, 2 June 2016, <https://www.pdh.org.gt/biblioteca/investigacion/file/2509-retenciones-multitudinarias-y-linchamientos-casos-y-victimas-2005-al-30-de-abril-de-2016.html>. See also El Salvador Times, *Guatemala: 323 linchamientos entre 2008 y 2017*, 16 July 2017, <http://www.elsalvadorintimes.com/articulo/internacional/guatemala-323-linchamientos-2008-2017/20170714134826025471.html>; Procurador de los Derechos Humanos, *Plan de estratégico 2017-2022 atención de los de derechos humanos en Guatemala*, April 2017, <http://old.congreso.gob.gt/Docs/DerechosHumanos/CDH-25/Plan%20PDH%202017%20-%202022%20%20ABRIL%202017%20Completo%20y%20versi%C3%B3n%20final.pdf>; Deguate.com, *Los linchamientos en Guatemala*, 26 April 2017, [http://www.deguate.com/artman/publish/seguridad\\_actualidad/Linchamientos-en-Guatemala.shtml](http://www.deguate.com/artman/publish/seguridad_actualidad/Linchamientos-en-Guatemala.shtml); United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>;

victims are male, and those who are killed are reportedly often tortured beforehand.<sup>224</sup> In some localities, businesses and inhabitants are reported to have organized themselves to violently combat extortion and other forms of crime, as in the city of Quetzaltenango where some 300 families were reported to have displayed signs threatening to lynch anyone who attempts to extort them.<sup>225</sup> In 2015, a mayor in Sololá department was reportedly lynched and set on fire by a mob who believed him to be responsible for an armed attack against a political rival.<sup>226</sup> In instances of mob violence, police officers have reportedly refused to intervene due to fears for their own safety.<sup>227</sup>

## C. Ability and Willingness of the State to Provide Protection

### 1. State Response to Gang Violence and Organized Crime

Guatemala lacks a legal framework specifically on anti-gang measures and proposals to create a specific anti-gang law have consistently failed to be voted into law.<sup>228</sup> Even so, during the 2000s the Guatemalan authorities implemented a number of anti-gang policies and initiatives, which resulted in large numbers of arrests but few convictions.<sup>229</sup> However, the Guatemalan government has created special structures intended to deal more effectively with the impact of organized crime. Since 2009, specially-constituted High-Risk Courts in Guatemala have heard cases involving ‘high-risk’ crimes such as drug-trafficking, corruption and organized crime, as well as genocide and war crimes.<sup>230</sup> In October 2014, a landmark trial judgment by one of the High-Risk Courts that simultaneously convicted 86 of 93 supposed MS gang members of various crimes and sentenced them to jail terms ranging from two to 122 years in prison, set a legal precedent through its juridical characterization of MS as a criminal organization.<sup>231</sup>

In 2009, the government also created a specialized anti-gang group (*Unidad de Acción Nacional contra el Desarrollo Criminal de las Pandillas*, ‘PANDA’) within the police that was dedicated to investigating gangs and extortion, as well as an anti-extortion unit in the Public Ministry (*Ministerio*

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República, Guatemala: 310 personas murieron linchadas entre 2008 y 2016, 1 June 2016, <http://republica.gt/2016/06/01/guatemala-310-personas-murieron-linchadas-entre-2008-y-2016/>; United States Department of State, 2015 Country Reports on Human Rights Practices: Guatemala, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>.

<sup>224</sup> IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 69. See also Procurador de los Derechos Humanos, *Retenciones multitudinarias y linchamientos, casos y víctimas, De 2005 al 30 de abril de 2016*, 2 June 2016, <https://www.pdh.org.gt/biblioteca/investigacion/file/2509-retenciones-multitudinarias-y-linchamientos-casos-y-victimas-2005-al-30-de-abril-de-2016.html>, table 3.

<sup>225</sup> Insight Crime, *Guatemala Citizens Fight Back Against Expanding Extortion Tactics*, 24 July 2014, <http://www.insightcrime.org/news-briefs/guatemala-citizens-fight-back-against-expanding-extortion-tactics>. For similar trends in other parts of the country, see also Prensa Libre, *Vecinos se organizan contra la delincuencia*, 20 October 2015, <http://www.prensalibre.com/guatemala/suchitepequez/vecinos-se-organizan-contra-la-delincuencia>. By contrast, a community in Villa Nueva, Guatemala, is reported to have allied with a drug-trafficking group in order to get rid of a particularly heavy-handed local gang, which the drug-trafficking group exterminated. See 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. 52.

<sup>226</sup> La Prensa, *Alcalde guatemalteco es asesinado y quemado por una turba enfurecida*, 12 October 2015, [http://www.prensa.com/mundo/Alcalde-guatemalteco-asesinado-quemado-enfurecida\\_0\\_4321817897.html](http://www.prensa.com/mundo/Alcalde-guatemalteco-asesinado-quemado-enfurecida_0_4321817897.html).

<sup>227</sup> United States Department of State, 2016 Country Reports on Human Rights Practices: Guatemala, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>.

<sup>228</sup> Insight Crime, *Tracing the History of Failed Gang Policies in US, Northern Triangle*, 3 December 2015, <http://www.insightcrime.org/news-analysis/tracing-the-history-of-failed-gang-policies-in-us-northern-triangle>.

<sup>229</sup> Ibid.

<sup>230</sup> Guatemala, *Ley de competencia penal en casos de mayor riesgo*, Decreto 21-2009, 3 September 2009, [http://www.cicig.org/uploads/documents/reforma\\_institucional/REFOR-INST\\_DOC20\\_20111125\\_ES.pdf](http://www.cicig.org/uploads/documents/reforma_institucional/REFOR-INST_DOC20_20111125_ES.pdf). These courts have handled close to 30 cases per year. See Insight Crime, *The War of Paz y Paz: The Revolution*, 23 April 2014, <http://www.insightcrime.org/investigations/the-war-of-paz-y-paz-the-revolution>. See also The Center for Justice & Accountability, *Guatemalan Court for High Risk Crimes*, undated, <http://cja.org/where-we-work/guatemala/related-resources/general-rios-montt-trial-in-guatemala-2/guatemalan-court-for-high-risk-crimes-2/> (date accessed: 4 May 2017); International Justice Monitor, *Guatemala Opens a New Court to Hear Cases Related to Grave Crimes*, 4 November 2015, <https://www.ijmonitor.org/2015/11/guatemala-opens-a-new-court-to-hear-cases-related-to-grave-crimes/>.

<sup>231</sup> La Nación, *Guatemala condena a 86 pandilleros a prisión*, 1 December 2014, [http://www.nacion.com/mundo/centroamerica/Guatemala-condena-pandilleros-prision\\_0\\_1448655158.html](http://www.nacion.com/mundo/centroamerica/Guatemala-condena-pandilleros-prision_0_1448655158.html); Insight Crime, *86 Gang Members Sentenced in Historic Guatemala Case*, 4 November 2014, <http://www.insightcrime.org/news-briefs/86-gang-members-sentenced-guatemala-case>. Some sources reported the number of convictions at 87: Prensa Libre, *Tribunal sentencia a 87 pandilleros y absuelve a seis*, 31 October 2014, [http://www.prensalibre.com/noticias/justicia/sentencia-pandilleros-condena-asesinatos\\_0\\_1239476194.html](http://www.prensalibre.com/noticias/justicia/sentencia-pandilleros-condena-asesinatos_0_1239476194.html); Europapress, *Penas de hasta 122 años de cárcel contra 87 miembros de la Mara Salvatrucha en Guatemala*, 31 October 2014, <http://www.europapress.es/internacional/noticia-penas-122-anos-carcel-contra-87-miembros-mara-salvatrucha-guatemala-20141031093529.html>; La Hora, *Dan condenas de hasta 122 años a 87 pandilleros*, 30 October 2014, <http://lahora.gt/dan-condenas-de-hasta-122-anos-87-pandilleros/>.



*Público*).<sup>232</sup> From the early days of his administration in 2012, President Pérez Molina also created new dedicated elite task forces to address the security situation and reduce homicides in designated territories,<sup>233</sup> to combat drug-trafficking,<sup>234</sup> or to address specific crimes such as extortion.<sup>235</sup>

A number of institutional reforms in Guatemala have been implemented pursuant to recommendations by the UN-mandated CICIG that began operating in 2007.<sup>236</sup> (See also Section II.A.) The CICIG has a mandate to investigate, and to help the Guatemalan authorities to disband and punish, ‘illicit security forces and clandestine security organizations’ (i.e. CIACS), and to make public policy recommendations to eradicate them and prevent their re-emergence.<sup>237</sup> The CICIG also acts as a complementary prosecutor and has assisted the State authorities in investigating and prosecuting cases of extrajudicial executions, extortion, trafficking in persons, corruption and drug-trafficking.<sup>238</sup>

In recent years, these efforts on the part of the Guatemalan authorities have reportedly had a tangible impact on certain organized crime groups. With the assistance of the CICIG, the Prosecutor’s Office (*Fiscalía*) has prosecuted various criminal networks linked to the State and is also reported to have made progress in investigating violent crimes and extortion.<sup>239</sup> Particularly during the period that Claudia Paz y Paz was Attorney General (December 2010 – May 2014),<sup>240</sup> the authorities are also reported to have disrupted several powerful drug-trafficking structures operating in Guatemala and

<sup>232</sup> Insight Crime, *The Hidden Dimensions of Extortion in Guatemala*, 1 December 2014, <http://www.insightcrime.org/news-analysis/hidden-dimensions-guatemala-extortion>.

<sup>233</sup> Grupo de Apoyo Mutuo, *Informe de evaluación de Fuerzas de Tarea 2014*, 8 December 2014, <http://areadetransparencia.blogspot.co.uk/2014/12/informe-de-evaluacion-de-fuerzas-de.html>.

<sup>234</sup> Infodefensa, *Guatemala crea la Fuerza de Tarea Aérea contra el narcotráfico con seis helicópteros UH-1H*, 25 June 2014, <http://www.infodefensa.com/latam/2014/06/25/noticia-guatemala-fuerza-tarea-aerea-combate-narcotrafico.html>.

<sup>235</sup> La Hora, *Crean fuerzas de tarea contra extorsiones, asesinatos y robos*, 16 January 2012, <http://lahora.gt/hemeroteca-lh/crean-fuerzas-de-tarea-contra-extorsiones-asesinatos-y-robos/>. In an interview with the International Crisis Group in Guatemala City on 18 October 2016, Emma Patricia Flores, Raúl Figueroa and Claudia Palencia, attorneys in charge of the Anti-Extortion Unit stated: “A distinct approach to gang violence is being attempted in Guatemala, where the attorney general’s office said it is committed to ending law enforcement strategies based on destruction of the enemy. It created in April 2015 a specialised office to combat extortions with separate units dedicated to the MS-13 and the B-18. A hotline to report extortions is permanently available and provides support to victims, while a smartphone app is freely downloadable to prevent extortions. The app uses and updates the attorney general office’s database of phone numbers detected as belonging to extortion racketeers, and can record calls and save the numbers for later criminal investigations.<sup>[117]</sup> Three big hits against extortion rackets were carried out in Guatemala in 2016, producing 225 captures in total. The joint police and judicial operations ‘Rescue of the South’, ‘Rescuing Guatemala’, and ‘Guatemala is Ours’ were based on investigations carried out over several months.” International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, 6 April 2017, <http://www.refworld.org/docid/58e74ed64.html>, p. 20.

<sup>236</sup> See *Agreement between the United Nations and the State of Guatemala to Establish the International Commission against Impunity in Guatemala (“CICIG”)*, 12 December 2006, [http://www.cicig.org/uploads/documents/mandato/cicig\\_acuerdo\\_en.pdf](http://www.cicig.org/uploads/documents/mandato/cicig_acuerdo_en.pdf).

<sup>237</sup> CICIG, *Mandate*, undated, <http://www.cicig.org/index.php?page=mandate> (date accessed: 4 May 2017).

<sup>238</sup> United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>; CICIG, *Informe de la Comisión Internacional contra la Impunidad en Guatemala con ocasión de su octavo año de labores*, 13 November 2015, [http://www.cicig.org/uploads/documents/2015/COM\\_085\\_20151113\\_VIII.pdf](http://www.cicig.org/uploads/documents/2015/COM_085_20151113_VIII.pdf); CICIG, *CICIG participation in criminal proceedings*, 11 September 2013, <http://www.cicig.org/index.php?page=cases>.

<sup>239</sup> OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, 11 January 2017, A/HRC/34/3/Add.1, <http://www.refworld.org/docid/58ad60184.html>, p. 3, paras 3-5; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/31/3/Add.1, 19 February 2016, <http://www.refworld.org/docid/56ead0734.html>, pp. 4, paras 11-12; Human Rights Watch, *World Report 2016: Guatemala – Events of 2015*, 2016, <https://www.hrw.org/world-report/2016/country-chapters/guatemala>.

In mid-November 2016, Guatemala, El Salvador and Honduras launched a joint task force – the Tri-National Anti-Gang Task Force – to carry out operations along the border regions dividing the three countries targeting gang activity, drug trafficking and human smuggling. Insight Crime, *Amid Elite Crime Scandals, CentAm Continues Anti-Gang Focus*, 13 September 2017, <http://www.insightcrime.com/news-briefs/elite-crime-scandals-centam-anti-gang-focus>; Dialogo, *Guatemala to Shore Up its Borders to Cut Off Drug-Trafficking Routes*, 4 April 2017, <https://dialogo-americas.com/en/articles/guatemala-shore-its-borders-cut-drug-trafficking-routes>. “In August 2016, Guatemala and El Salvador reportedly established a High-Level Security Group to improve information exchange and implement joint programs in their fight against transnational organized crime.” International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, 6 April 2017, <http://www.refworld.org/docid/58e74ed64.html>, p. 24, citing Ministerio de Relaciones Exteriores de El Salvador, *Guatemala y El Salvador crean Grupo de Alto Nivel en Seguridad*, 13 August 2016; Advocacy for Human Rights in the Americas (WOLA), *Inside Central America’s New Anti-Gang Joint Task Force*, 1 December 2016, <https://www.wola.org/analysis/inside-central-americas-new-anti-gang-joint-task-force/>; Insight Crime, *Amid Elite Crime Scandals, CentAm Continues Anti-Gang Focus*, 13 September 2017, <http://www.insightcrime.com/news-briefs/elite-crime-scandals-centam-anti-gang-focus>. In September 2017, the PNC reported that 420 arrests have been made through local operations in Guatemala, and on 11 September 2011 the Attorney General’s department announced 163 arrests as part of this transnational operation against extortion. See Ministerio Público, *Operación Escudo: 163 capturas, incautaciones, conducción de menores, resultado de la Lucha Frontal contra las Extorsiones*, 11 September 2017, <https://www.mp.gob.gt/noticias/2017/09/11/operacion-escudo-163-capturas-incautaciones-conduccion-de-menores-resultado-de-la-lucha-frontal-contra-las-extorsiones/>; Policía Nacional Civil, *Operación Escudo deja una decena de cabecillas capturados*, 12 September 2017, <http://www.pnc.gob.sv/portal/page/portal/informativo/novedades/noticias/Operaci%F3n%20Escudo%20deja%20una%20decena%20de%20cabecillas%20%20capturados>; France 24, *Guatemala Police Nab 170 in Swoop on Extortion Rings*, 11 September 2017, <http://www.france24.com/en/20170911-guatemala-police-nab-170-swoop-extortion-rings>.

<sup>240</sup> Insight Crime, *The War of Paz y Paz: The Revolution*, 23 April 2014, <http://www.insightcrime.org/investigations/the-war-of-paz-y-paz-the-revolution>.

extradited a number of their leading figures to stand trial for drug-related offences in Mexico and the United States.<sup>241</sup>

However, in certain parts of the country the Government has lost effective control to gangs and other organized criminal groups and is unable to provide protection to inhabitants. For example, even where the police force has a presence in the urban zones where gangs operate, the police force reportedly often fails to provide adequate protection to residents who are threatened by gangs.<sup>242</sup> Similarly, where the security forces carry out temporary operations to provide security to gang-affected neighbourhoods, these are reported merely to have the effect of displacing the gangs to other nearby zones.<sup>243</sup> In 2015, it was reportedly acknowledged by the Guatemalan authorities that only ten per cent of the reported extortion-related murder cases are resolved by the justice system, with a high proportion of this type of murders apparently never even reported in the first place due to a fear of retribution and lack of trust in the authorities.<sup>244</sup>

Impunity for violence against women and girls, including domestic violence, is reported to remain a serious problem; stigma, fear of retribution and further violence, and lack of confidence in the justice system reportedly dissuades many women from reporting sexual or domestic violence.<sup>245</sup> Moreover, despite the existence of specialized tribunals dealing with femicide and violence against women, women in rural areas reportedly do not have access to them.<sup>246</sup>

Impunity is reported also to be a particularly acute problem in relation to violence and other crimes committed against a range of other sectors of society, such as human rights defenders, legal and judicial professionals, indigenous populations, children and adolescents, individuals of diverse sexual orientations and/or gender identities, journalists and other media workers.<sup>247</sup> Moreover, there are reports of criminal law provisions being frequently used by the authorities as a means of intimidating and harassing members of indigenous communities engaged in land disputes, legal and judicial professionals, human rights defenders and journalists.<sup>248</sup>

<sup>241</sup> See, for example, Sala Negra de El Faro, *Tres relatos breves de cómo cayeron tres capos guatemaltecos*, 20 October 2014, <http://www.salanegra.elfaro.net/es/201410/cronicas/16063/Tres-relatos-breves-de-c%C3%B3mo-cayeron-tres-capos-guatemaltecos.htm>; Insight Crime, *The War of Paz y Paz: The Revolution*, 23 April 2014, <http://www.insightcrime.org/investigations/the-war-of-paz-y-paz-the-revolution>; Insight Crime, *Guatemala's New Narco-map: Less Zetas, Same Chaos*, 16 September 2013, <http://www.insightcrime.org/news-analysis/guatemalas-new-narco-map-less-zetas-same-chaos>; Plaza Pública, *Guatemala: la cambiante cara del narco*, 18 July 2013, <https://www.plazapublica.com.gt/content/guatemala-la-cambiante-cara-del-narco>.

<sup>242</sup> La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; La Hora, *La impunidad se suma a la violencia que enluta a los transportistas*, 22 January 2015, <http://lahora.gt/la-impunidad-se-suma-la-violencia-que-enluta-los-transportistas/>.

<sup>243</sup> Reuters, *Guatemala Police Raid Rival Gangs, More Than 100 Arrested*, 15 July 2016, <http://www.reuters.com/article/us-guatemala-crime/guatemala-police-raid-rival-gangs-more-than-100-arrested-idUSKCN0ZU2N5>; El Periódico, *Ejército mantendrá apoyo a labores de seguridad interna*, 5 July 2016, <http://elperiodico.com.gt/2016/07/05/pais/ejercito-mantendra-apoyo-a-labores-de-seguridad-interna>; Prensa Libre, *Preocupa incremento acelerado de pandillas en la provincia*, 13 September 2015, <http://www.prensalibre.com/guatemala/jutiapa/preocupa-incremento-de-presencia-de-pandillas-en-la-provincia>; La Hora, *Enfrentamiento entre maras: una guerra sin tregua*, 11 September 2015, <http://lahora.gt/enfrentamiento-entre-maras-una-guerra-sin-tregua/>; Plaza Pública, *Diez años de muertes violentas en Guatemala*, 11 February 2014, <https://www.plazapublica.com.gt/content/diez-anos-de-muertes-violentas-en-guatemala>.

<sup>244</sup> La Hora, *La impunidad se suma a la violencia que enluta a los transportistas*, 22 January 2015, <http://lahora.gt/la-impunidad-se-suma-la-violencia-que-enluta-los-transportistas/>; Insight Crime, *700 Extortion-Related Murders in Guatemala through July 2014: NGO*, 15 August 2014, <http://www.insightcrime.org/news-briefs/guatemala-700-homicides-extortion-2014>. See also, Insight Crime, *Guatemala Struggles to Prosecute Extortion in Capital*, 28 June 2016, <http://www.insightcrime.org/news-briefs/guatemala-struggles-to-prosecute-extortion-in-capital>.

<sup>245</sup> Oxford Human Rights Hub, *Velásquez Paiz et al v Guatemala: Femicide in Guatemala – Part II*, 12 August 2016, <http://ohrh.law.ox.ac.uk/velasquez-paiz-et-al-v-guatemala-femicide-in-guatemala-part-ii/>; United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>.

<sup>246</sup> OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/28/3/Add.1, 12 January 2015, <http://www.refworld.org/docid/55083b4b4.html>, p. 13, para. 52; K. Musalo and B. Bookey, 'Crimes Without Punishment: An Update on Violence Against Women and Impunity in Guatemala', *Hastings Race and Poverty Law Journal*, 2013, Vol. 10, [https://cgrs.uchastings.edu/sites/default/files/Musalo\\_Bookey\\_CrimesWithoutPunishment\\_2013.pdf](https://cgrs.uchastings.edu/sites/default/files/Musalo_Bookey_CrimesWithoutPunishment_2013.pdf), p. 290.

<sup>247</sup> United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 89-174.

<sup>248</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, pp. 423-429; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 95-103, 130-132; OMCT/FIDH, "Smaller than David": *The Struggle of Human Rights Defenders*, February 2015, <http://www.refworld.org/docid/55140b4a4.html>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2014*, 12 February 2015, <http://www.pdh.org.gt/component/jdownloads/finish/15-informe-anuales/2784-informe-anual-circunstanciado-2014.html?Itemid=0>, pp. 132-136 and 243-244; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2013*, 31 January 2014,

In 1996, Guatemala adopted a law that created an office for the provision of protection and support to witnesses in criminal processes,<sup>249</sup> which benefitted from capacity-building by the CICIG from 2009 onwards.<sup>250</sup> In 2014, the programme reportedly provided financial support to an estimated 551 witnesses and family members, who benefitted from temporary protection measures.<sup>251</sup> However, information revealing the identity of protected witnesses is reportedly sometimes released by the authorities, there is reported to be limited follow-up by the authorities on the situation of these witnesses after the criminal trial is concluded, and it is reportedly not uncommon for such witnesses to be threatened, attacked and even murdered.<sup>252</sup>

Conditions in the Guatemalan prison system are reported to be harsh and potentially life threatening due to overcrowding, unhygienic conditions, violence, abuses by prison officials, and the influence of organized crime in prisons.<sup>253</sup> Although the official prison capacity is for around 6,700 detainees, in September 2016 the prison population was reported to be over 20,000 persons; prison authorities reported being unable to guarantee prisoners' safety.<sup>254</sup>

## 2. Corruption and Human Rights Violations by State Agents

Corruption within Guatemalan institutions is reported to be a widespread and structural problem.<sup>255</sup> In the political sphere, it reportedly affects all levels, from local to national politicians, including former President Pérez Molina and his vice-President Roxana Baldetti (see also Section II.A).<sup>256</sup> The police and the armed forces have been accused of involvement in serious criminal activities and human rights

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<http://www.pdh.org.gt/documentos/informes-anuales/finish/15-informes-anuales/1131-iac-2013-situacion-de-los-derechos-humanos-en-guatemala.html>, pp. 345-350.

<sup>249</sup> Guatemala, *Ley para la protección de sujetos procesales y personas vinculadas a la administración de justicia penal*, Decreto no. 70-96, 27 September 1996, <http://www.refworld.org/docid/59d387b24.html>. See also, UN Human Rights Council, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston. Addendum: Follow-up to Country Recommendations: Guatemala*, 4 May 2009, A/HRC/11/2/Add.7, <http://www.refworld.org/docid/4a0932270.html>, paras 38-39.

<sup>250</sup> CICIG, *Protección a testigos: una herramienta necesaria para la administración de justicia*, 27 September 2011, <http://www.cicig.org/index.php?page=0046-20110927>.

<sup>251</sup> La Hora, *Testigos se convierten en víctimas ante la falta de protección del Estado*, 2 September 2014, <http://lahora.gt/testigos-se-convierten-en-victimas-ante-la-falta-de-proteccion-del-estado/>.

<sup>252</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; La Hora, *Testigos se convierten en víctimas ante la falta de protección del Estado*, 2 September 2014, <http://lahora.gt/testigos-se-convierten-en-victimas-ante-la-falta-de-proteccion-del-estado/>.

<sup>253</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/categoria/9-informes-anuales.html>, p.51-52.

<sup>254</sup> Between January and 5 September 2016, at least 55 inmates reportedly died of unnatural causes while in prison. United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>. See also, Prensa Libre, *Hospital Roosevelt: "Fueron cinco minutos de terror", relata testigo de ataque*, 16 August 2017, <http://www.prensalibre.com/guatemala/sucesos/hospital-roosevelt-fueron-cinco-minutos-de-terror-relata-testigo-de-ataque>.

<sup>255</sup> International Crisis Group, *Guatemala: Young Blood, Old Vices*, 14 November 2016, <http://www.refworld.org/docid/582b0d324.html>; Insight Crime, *CICIG: Guatemala Faces Challenge of 'Structural Corruption'*, 7 June 2016, <http://www.insightcrime.com/component/content/article?id=7791:cicig-guatemala-faces-challenge-of-structural-corruption>; United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>.

<sup>256</sup> Insight Crime, *Guatemala Investigates Another Top Official of Pérez Molina Govt*, 20 July 2017, <http://www.insightcrime.org/news-briefs/guatemala-investigate-corruption-top-official-perez-molina-govt/>; Insight Crime, *Guatemala Arrests Fmr Congresswoman Linked to Drug Group*, 10 March 2017, <http://www.insightcrime.org/news-briefs/guatemala-arrests-fmr-congresswoman-linked-drug-group/>; Insight Crime, *Defining a Mafia State: The Case of Guatemala*, 3 March 2017, <http://www.insightcrime.org/news-analysis/defining-mafia-state-case-guatemala/>; Insight Crime, *US Indicts Fmr Guatemala VP, Fmr Interior Minister on Drug Charges*, 24 February 2017, <http://www.insightcrime.org/component/content/article?id=8592:us-indicts-fmr-guatemala-vp-fmr-interior-minister-on-drug-charges/>; Insight Crime, *Murdered Guatemala Mayor Allegedly Linked to Drug Traffickers*, 27 October 2016, <http://www.insightcrime.org/news-briefs/murdered-guatemala-mayor-allegedly-linked-to-local-dto/>; Insight Crime, *Corruption Casts a Shadow Over Another Guatemala President*, 20 September 2016, <http://www.insightcrime.org/news-analysis/corruption-casts-shadow-another-guatemala-president/>; Insight Crime, *Corruption Scandals Threaten to Undermine Guatemala President*, 15 September 2016, <http://www.insightcrime.org/news-briefs/corruption-scandals-threaten-to-undermine-guatemala-president-morales/>. Imprisoned former Guatemalan President Otto Pérez Molina and former Vice President Roxana Baldetti reportedly continued to exert power within the criminal structures they helped establish. Insight Crime, *Guatemala Ex-President and VP Still Wield Power From Jail: Report*, 20 December 2016, <http://www.insightcrime.org/news-briefs/guatemala-ex-president-and-vp-still-wield-power-from-jail-report/>; Insight Crime, *Guatemala's Government Corruption Scandals Explained*, 21 June 2016, <http://www.insightcrime.org/news-analysis/guatemala-s-government-corruption-scandals-explained/>; Insight Crime, *Ex-President of Guatemala Facing More Corruption Charges*, 3 June 2016, <http://www.insightcrime.org/news-briefs/guatemala-authorities-allege-ex-president-led-illegal-campaign-finance-network/>; Insight Crime, *Ex-Mayor's Arrest Kicks Off Guatemala Anti-Corruption Campaign*, 22 January 2016, <http://www.insightcrime.org/news-briefs/ex-mayor-arrest-kicks-off-guatemala-anti-corruption-campaign/>; Plaza Pública, *La historia del capo de un cartel político-militar*, 21 September 2015, <https://www.plazapublica.com.gt/content/la-historia-del-capo-de-un-cartel-politico-militar>; El Periódico, *"La Patrona", el alcalde, y la batalla por Moyuta*, 30 August 2015, <http://elperiodico.com.gt/2015/08/30/domingo/la-patrona-el-alcalde-y-la-batalla-por-moyuta-2/>.



abuses,<sup>257</sup> which the government reportedly lacks effective mechanisms to investigate and punish.<sup>258</sup> Corruption is reported to be particularly widespread in the police force,<sup>259</sup> sectors of which are reported to use extortion or work with organized crime groups to facilitate the trafficking of drugs.<sup>260</sup> Corrupt officials in the Public Ministry have reportedly also leaked information about investigations to drug-trafficking structures.<sup>261</sup> Gangs such as MS are reported to have installed sympathisers within certain government agencies, such as the National Persons Register (*Registro Nacional de Personas*), in order to expedite false identity documentation for gang members.<sup>262</sup>

The judicial system is reported to be particularly inefficient and subject to corruption, intimidation, and delays, which in turn contributes to high levels of impunity for crimes in Guatemala, including those committed by police and military officials and organized criminal groups.<sup>263</sup> In 2012, the CICIG named 18 ‘judges of impunity’ whom it considered to have consistently made rulings that favoured organized criminal groups;<sup>264</sup> further names were added to that list in subsequent years.<sup>265</sup> In 2015, a judge was charged with accepting bribes in the large-scale ‘La Linea’ customs fraud case that precipitated the resignation of President Pérez Molina.<sup>266</sup> Judges, prosecutors, plaintiffs and witnesses – especially those engaged in proceedings concerning gangs and other organized criminal groups, corruption or transitional justice – are reportedly subjected to threats, intimidation, attacks and surveillance.<sup>267</sup>

Notwithstanding his support for the extension of the CICIG's mandate until September 2019,<sup>268</sup> in August 2017 President Morales declared the head of the CICIG, Ivan Velásquez, *persona non grata* and ordered his expulsion from the country.<sup>269</sup> The Constitutional Court blocked this order, ruling that

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<sup>257</sup> See Section II.B.2.c.

<sup>258</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>.

<sup>259</sup> *Ibid.*

<sup>260</sup> Insight Crime, *Guatemala Ex-Minister Used Police to Escort Cocaine Shipments: US*, 28 June 2017, <http://www.insightcrime.org/news-analysis/guatemala-ex-minister-used-police-escort-cocaine-shipments-us>; Insight Crime, *Guatemala Country Profile*, last updated: 9 March 2017, <http://www.insightcrime.org/guatemala-organized-crime-news/guatemala> (date accessed: 4 May 2017); Insight Crime, *Guatemala's Mafia State and the Case of Mauricio López Bonilla*, 15 December 2016, <http://www.insightcrime.org/investigations/guatemala-mafia-state-case-of-lopez-bonilla>; Insight Crime, *CIACS*, last updated 9 October 2016, <http://es.insightcrime.org/noticias-sobre-crimen-organizado-en-guatemala/ciacs>; Insight Crime, *The Hidden Dimensions of Extortion in Guatemala*, 1 December 2014, <http://www.insightcrime.org/news-analysis/hidden-dimensions-guatemala-extortion>.

<sup>261</sup> Prensa Libre, *Abogados y personal del MP filtraron información al crimen organizado*, 4 November 2015, <http://www.prensalibre.com/guatemala/justicia/detienen-a-personal-del-mp-que-filtraba-informacion-al-crimen-organizado>.

<sup>262</sup> La Hora, *87 pandilleros condenados ¿seguirán delinquiendo desde la cárcel?*, 19 November 2014, <http://lahora.gt/87-pandilleros-condenados-seguiran-delinquiendo-desde-la-carcel/>.

<sup>263</sup> CICIG, *Comunicado de Prensa 071, Primera declaración de exmagistrado de la CSJ por tráfico de influencias*, 8 Septiembre 2017, <http://www.cicig.org/index.php?mact=News.cntnt01.detail.0&cntnt01articleid=839&cntnt01returnid=157>; Insight Crime, *Nearly All Crimes in Guatemala Go Unpunished: CICIG*, 06 April 2017, <http://www.insightcrime.org/news-briefs/guatemala-impunity-levels-beyond-97-cicig>; International Justice Monitor, *Human Rights Groups to Inter-American Court: Impunity is Alive and Well in Guatemala*, 28 March 2017, <https://www.ijmonitor.org/2017/03/human-rights-groups-to-inter-american-court-impunity-is-alive-and-well-in-guatemala/>; United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 167-168; Insight Crime, *Justice and the Creation of a Mafia State in Guatemala*, 15 September 2014, <http://www.insightcrime.org/investigations/justice-and-the-creation-of-a-mafia-state-in-guatemala>.

<sup>264</sup> CICIG, *Los jueces de la impunidad*, 28 November 2012, <http://kpbs.media.clients.ellingtoncms.com/news/documents/2012/12/07/COM-093-20121129-DOC01-ES.pdf>.

<sup>265</sup> See, for example, CICIG, *Comisión presenta otras dos denuncias contra jueces*, 11 April 2013, <http://www.cicig.org/index.php?mact=News.cntnt01.detail.0&cntnt01articleid=354&cntnt01returnid=67>.

<sup>266</sup> Insight Crime, *Judge in Guatemala Corruption Case Charged with Taking Bribes*, 9 December 2015, <http://www.insightcrime.org/news-briefs/judge-in-guatemala-corruption-case-charged-with-taking-bribes>; InSight Crime, *Guatemala's Customs Scandal Reaches Private Sector*, 16 October 2015, <http://www.insightcrime.org/news-briefs/guatemala-customs-scandal-reaches-private-sector>.

<sup>267</sup> IACHR/OAS, *Resolution 1/17: Human Rights and the Fight Against Impunity and Corruption*, 12 September 2017, <http://www.oas.org/en/iachr/decisions/pdf/Resolution-1-17-en.pdf>; United States Department of State, *2015 2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Insight Crime, *Head of Guatemala's CICIG Goes on Offensive Amid Smear Campaign*, 14 February 2017, <http://www.insightcrime.org/news-analysis/head-guatemala-cicig-offensive-amid-smear-campaign>; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, 11 January 2017, A/HRC/34/3/Add.1, <http://www.refworld.org/docid/58ad60184.html>, p. 4, para 8; International Crisis Group, *Guatemala: Young Blood, Old Vices*, 14 November 2016, <http://www.refworld.org/docid/582b0d324.html>; Insight Crime, *Guatemala AG Says She's Afraid for the First Time*, 21 June 2016, <http://www.insightcrime.org/news-briefs/guatemala-attorney-general-says-afraid-for-the-first-time>; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/31/3/Add.1, 19 February 2016, <http://www.refworld.org/docid/56ead0734.html>, p. 5, para. 14; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 101.

<sup>268</sup> Human Rights Watch, *World Report 2017: Guatemala*, 12 January 2017, <http://www.refworld.org/docid/587b584313.html>.

<sup>269</sup> “In a televised statement, Morales claimed that Velásquez had exercised ‘illegitimate, illegal, and unconstitutional’ pressure on the Guatemalan Congress by advocating in favor of the constitutional reforms currently under discussion. He also said that Velásquez had violated the right to the presumption of innocence by publicly announcing the cases that CICIG is investigating. [...] The national human rights commissioner,

the declaration was improperly issued.<sup>270</sup> In recognition of the crucial role of the CICIG, on 12 September 2017 the Inter-American Commission on Human Rights issued a resolution on ‘Human rights and the fight against impunity and corruption’, observing that the decision to expel the head of the CICIG casts doubt on the Guatemalan government’s commitment to fight corruption.<sup>271</sup>

## D. Trends in Internal and External Displacement and Returns

Guatemala does not have a government system to register internally displaced persons or to monitor the dynamics of internal displacement.<sup>272</sup> 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.<sup>273</sup> 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.<sup>274</sup> There is no government programme for assisting displaced persons and each new displacement is thus reported to exacerbate the downward spiral in their living conditions.<sup>275</sup>

Guatemalans affected by the present dynamics of violence are also fleeing Guatemala in increasing numbers to seek asylum outside the country. As at the end of 2016, 12,554 Guatemalans were

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the solicitor general, and the national comptroller all issued statements expressing their disagreement with the president. Several senior administration officials resigned in protest, including the minister for public health and social assistance, the national commissioner for competitiveness, the country’s three deputy health ministers, and the vice-minister for foreign affairs.” Human Rights Watch, *Guatemala: Presidential Order Threatens Rule of Law*, 28 August 2017, <http://www.refworld.org/docid/59afe1934.html>. See also, BBC, *Guatemalan President Orders Out UN Anti-Corruption Investigator*, 28 August 2017, <http://www.bbc.co.uk/news/world-latin-america-41066686>; CNN, *Presidente de Guatemala declara no grato a titular de la CICIG*, 28 August 2017, <http://cnnespanol.cnn.com/2017/08/27/presidente-de-guatemala-declara-no-grato-a-titular-de-la-cicig/>; UN News Service, *Guterres 'Shocked' by Guatemala's Decision to Expel UN Anti-Corruption Official*, 27 August 2017, <http://www.refworld.org/docid/59b680c04.html>.

President Morales’s decision followed investigations by the CICIG into illegal campaign financing by the President’s party and a petition by the CICIG to lift the President’s immunity from prosecution. In September 2017, the Guatemalan Congress voted not to lift President Jimmy Morales’s immunity. New York Times, *President of Guatemala Wins Vote to Preserve His Immunity*, 12 September 2017, <https://www.nytimes.com/2017/09/12/world/americas/guatemala-morales-immunity-corruption.html>; see also, Brookings, *What Guatemala’s Political Crisis Means for Anti-Corruption Efforts Everywhere*, 7 September 2017, <https://www.brookings.edu/blog/order-from-chaos/2017/09/07/what-guatemalas-political-crisis-means-for-anti-corruption-efforts-everywhere/>; New York Times, *Guatemala’s Democratic Crisis Point*, 6 September 2017, <https://www.nytimes.com/2017/09/06/opinion/guatemala-democracy-organized-crime.html>; CNN Guatemala, *CSJ da trámite a antejuicio contra el presidente Jimmy Morales: ¿cuáles son los pasos a seguir?*, 5 September 2017, <http://cnnespanol.cnn.com/2017/09/05/csj-da-tramite-a-antejuicio-contra-el-presidente-jimmy-morales-cuales-son-los-pasos-a-seguir/>;

Prensa Libre, *Cicig empieza nuevo mandato en medio de amparo en contra de renovación*, 4 September 2017, <http://www.prensalibre.com/guatemala/politica/cicig-inicia-extension-de-su-mandato-solicitado-por-el-presidente-jimmy-morales>; Prensa Libre, *Las 10 cosas que molestaron de Cicig al Gobierno*, 2 September 2017, <http://www.prensalibre.com/guatemala/politica/las-10-cosas-que-molestaron-de-la-cicig-al-gobierno-de-guatemala>; El Espectador, *¿Por qué los poderosos le temen tanto a la CICIG en Guatemala?*, 30 August 2017, <http://www.elespectador.com/noticias/el-mundo/por-que-los-poderosos-le-temen-tanto-la-cicig-en-guatemala-articulo-710681>; Human Rights Watch, *Guatemala: Presidential Order Threatens Rule of Law*, 28 August 2017, <http://www.refworld.org/docid/59afe1934.html>; Insight Crime, *Corruption Scandals Threaten to Undermine Guatemala President*, 15 September 2016, <http://www.insightcrime.org/news-briefs/corruption-scandals-threaten-to-undermine-guatemala-president-morales>.

<sup>270</sup> Herald Communications, *Guatemala Extends UN Anti-Corruption Official’s Visa*, 17 October 2017, [http://www.heraldextra.com/news/world/guatemala-extends-un-anti-corruption-official-s-visa/article\\_67240c88-10cd-5fc0-8e86-a06fbc4e3e1.html](http://www.heraldextra.com/news/world/guatemala-extends-un-anti-corruption-official-s-visa/article_67240c88-10cd-5fc0-8e86-a06fbc4e3e1.html);

International Justice Resource Centre, *Guatemalan Court Blocks President’s Attempt to Expel Anticorruption Leader*, 5 September 2017, <http://www.ijrcenter.org/2017/09/05/guatemalan-court-blocks-presidents-attempt-to-expel-anticorruption-panel-leader/>;

Prensa Libre, *CSJ da trámite a antejuicio contra presidente Jimmy Morales*, 4 September 2017, <http://www.prensalibre.com/guatemala/justicia/csj-da-tramite-a-antejuicio-contra-presidente-jimmy-morales>; BBC, *La Corte Constitucional de Guatemala "suspende definitivamente" la expulsión del comisionado de la Cicig Iván Velásquez ordenada por el presidente Morales*, 30 August 2017, <http://www.bbc.com/mundo/noticias-america-latina-41092123>;

Prensa Libre, *MP y Cicig pide antejuicio contra Jimmy Morales por financiamiento electoral ilícito*, 25 August 2017, <http://www.prensalibre.com/guatemala/politica/ministerio-publico-cicig-solicitan-antejuicio-jimmy-morales-fcn-nacion>;

International Crisis Group, *Guatemala Stumbles in Central America’s Anti-corruption Fight*, 1 September 2017, <http://www.refworld.org/docid/59ae99664.html>; New York Times, *Guatemala’s Top Court Says President Can’t Expel Chief of Anticorruption Panel*, 29 August 2017, <https://www.nytimes.com/2017/08/29/world/americas/guatemala-corruption-morales-constitutional-court.html>.

<sup>271</sup> IACHR, *IACHR Publishes Resolution on Human Rights and the Fight Against Impunity and Corruption*, 12 Sep 2017, <https://reliefweb.int/report/world/iachr-publishes-resolution-human-rights-and-fight-against-impunity-and-corruption>. For the full text of Resolution 1/17 see: IACHR/OAS, *Resolution 1/17, Human Rights and the Fight Against Impunity and Corruption*, 12 September 2017, <http://www.oas.org/en/iachr/decisions/pdf/Resolution-1-17-en.pdf>.

<sup>272</sup> See CIDH, *Situación de derechos humanos de familias y niños no acompañados refugiados y migrantes en los Estados Unidos de América*, 24 July 2015, <https://www.oas.org/es/cidh/informes/pdfs/Refugiados-Migrantes-EEUU.pdf>.

<sup>273</sup> 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.

<sup>274</sup> *Ibid.*, pp. 54-55.

<sup>275</sup> *Ibid.*

recognized as refugees, the majority by the United States (11,328); another 46,227 asylum applications by Guatemalans remained pending a decision at the year's end. The number of asylum applications by Guatemalans has increased significantly, with 26,657 applications lodged in 2016,<sup>276</sup> almost three times the number of applications lodged in 2014 (9,260 applications)<sup>277</sup> and over six times the number of applications lodged in 2012 (4,406 applications).<sup>278</sup>

The majority of claims for asylum by Guatemalans are lodged in the United States.<sup>279</sup> Although many of these claims are lodged by adults,<sup>280</sup> from 2011 onwards there was a surge in arrivals from unaccompanied children and families fleeing Guatemala and the other Northern Triangle countries arriving at the United States' southern border, many of whom claimed asylum.<sup>281</sup> Interview data from 2013 indicates that 20 per cent of the children from Guatemala said that they left because of violence in society, while 23 per cent of the children mentioned domestic violence as a relevant factor.<sup>282</sup>

Although some Guatemalans migrants are reported to have voluntarily returned to the country, no Guatemalan refugees have voluntarily repatriated in recent years.<sup>283</sup> However, a large number of Guatemalan nationals are deported each year from the United States and Mexico by air and land, either pursuant to a deportation order following conviction for criminal activities or due to their irregular migration status.<sup>284</sup> Deportees and returning migrants who bring resources from overseas are also reported to be identifiable targets for extortion, as are children and other persons in Guatemala who receive remittances from family members living and working overseas.<sup>285</sup>

### III. Assessment of International Protection Needs of Asylum-seekers from Guatemala

#### A. Refugee Protection under the 1951 Convention

This Section outlines a number of potential risk profiles for asylum-seekers from Guatemala. UNHCR considers that asylum-seekers from Guatemala 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

<sup>276</sup> UNHCR, *Global Trends: Forced Displacement in 2016*, 21 June 2017, <http://www.refworld.org/docid/594aa38e0.html>, p. 67, Annex, Table 2. See also figures in UNHCR's Population Statistical Database, [http://popstats.unhcr.org/en/persons\\_of\\_concern](http://popstats.unhcr.org/en/persons_of_concern) (date accessed: 3 October 2017).

<sup>277</sup> See data available in UNHCR's Population Statistical Database, [http://popstats.unhcr.org/en/persons\\_of\\_concern](http://popstats.unhcr.org/en/persons_of_concern) (date accessed: 3 October 2017).

<sup>278</sup> Ibid.

<sup>279</sup> In 2015, for example, 16,419 of the 16,727 asylum applications lodged by Guatemalans were made in the United States of America. The next largest numbers were in Belize (108) and Mexico (102): see UNHCR, *UNHCR Global Trends: Forced Displacement in 2015*, 20 June 2016, <http://www.unhcr.org/uk/statistics/country/576408cd7/unhcr-global-trends-2015.html>, Annex, Tables 11 and 12.

<sup>280</sup> From 2009 onwards there has been an increase in the number of Guatemalan 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.

<sup>281</sup> 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>. The United States report that 18,913 unaccompanied children reached its borders in 2016 (fiscal year: 30 October 2015 – 1 September 2016) compared to 1,565 in 2011; the number of arrivals of family units rose from 12,820 in 2015 to 23,067 in 2016. US Customs and Border Protection, *United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016*, 18 October 2016, <https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016>.

<sup>282</sup> 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. 34-35.

<sup>283</sup> No Guatemalan refugees were recorded as voluntarily repatriating in 2015 or 2016. UNHCR, *Global Trends: Forced Displacement in 2016*, 21 June 2017, <http://www.refworld.org/docid/594aa38e0.html>, p. 67, Annex, Table 2; UNHCR, *UNHCR Global Trends: Forced Displacement in 2015*, 20 June 2016, <http://www.unhcr.org/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html>, Annex, Table 2.

<sup>284</sup> In 2015 alone, Guatemala registered receiving 73,729 persons deported by land and 31,443 persons deported by air, giving a total of 1095,172 persons. See Prensa Libre, *Deportados 105 mil guatemaltecos este año*, 29 December 2015, <http://www.prensalibre.com/guatemala/migrantes/deportados-105-mil-guatemaltecos-este-ao>. See also CIDH, *Derechos humanos de los migrantes y otras personas en el contexto de la movilidad humana en México*, 30 December 2013, <http://www.oas.org/es/cidh/migrantes/docs/pdf/Informe-Migrantes-Mexico-2013.pdf>, paras 64, 216.

<sup>285</sup> La Hora, *Familiares de migrantes son víctimas de extorsión*, 2 December 2015, <http://lahora.gt/familiares-de-migrantes-son-victimas-de-extorsion/>; 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.

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.<sup>286</sup> In the particular context of Guatemala, 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.<sup>287</sup> 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 Guatemala, 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 refugee definition.<sup>288</sup> 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.<sup>289</sup> In addition, applicants who flee gang-related forms of persecution may also be analysed in relation to the ground of membership of a particular social group.

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 Guatemalan 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.<sup>290</sup>

While past persecution is no requirement for recognizing an applicant as a refugee, where relevant particular consideration should be given to any past persecution to which applicants for refugee status may have been subjected.<sup>291</sup> In light of the context of organized crime and human rights abuses in Guatemala, the applicability of the exclusion clauses may need to be considered in certain cases.

### ***1. Persons perceived by a gang or other organized criminal group as contravening its rules or resisting its authority***

Gangs in Guatemala 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 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; participating in community policing groups; refusing to pay extortion demands; wearing certain clothing, tattoos or other symbols; and passing on information about the gang to rivals, authorities or outsiders.<sup>292</sup>

<sup>286</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://www.refworld.org/docid/4bb21fa02.html), in particular paras 29-51 on relevant Convention grounds.

<sup>287</sup> *Ibid.*, paras 45-51.

<sup>288</sup> *Ibid.*, paras 46.

<sup>289</sup> *Ibid.*, paras 50-51.

<sup>290</sup> 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](http://www.refworld.org/docid/4bb21fa02.html), pp. 4-6.

<sup>291</sup> 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.refworld.org/docid/3f2791a44.html>.

<sup>292</sup> 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>; El País, *El barranco de las pandillas*, 30 September 2015, [http://elpais.com/elpais/2015/09/29/planeta\\_futuro/1443525680\\_735932.html](http://elpais.com/elpais/2015/09/29/planeta_futuro/1443525680_735932.html); Prensa Libre, *Pandilleros matan y dejan mensaje junto a cadáver de patrullero*, 10 June 2015, <http://www.prensalibre.com/guatemala/justicia/mueren-baleados-dos-hombres-en-chinaulta-y-villa-nueva>; La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; D.J. Cantor, 'The New Wave:



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 any wider gang structure with which it is affiliated) and the form of ‘resistance’ involved.<sup>293</sup> Most perceived contraventions of gang-imposed rules are reportedly dealt with severely by the gangs of Guatemala: individuals whom the gang members suspect of resisting their authority are reported often to be killed without prior warning, although sometimes the killing is reportedly preceded by threats and/or other attacks against the person concerned.<sup>294</sup>

Persons living in areas where other organized criminal groups such as drug-trafficking organizations operate are also reported to face threats and attacks if they are seen as resisting the authority of the local group, for example, by refusing when required to collaborate or to sell lands to the group, or otherwise provoking or opposing the group.<sup>295</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, persons perceived by a gang or other organized criminal groups as contravening its rules or resisting its authority may be in need of international refugee protection on the grounds of their (imputed) political opinion,<sup>296</sup> membership of a particular social group,<sup>297</sup> or on the basis of other Convention grounds.<sup>298</sup>

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

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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 Hora, *Amenazas, muertes y éxodo: la realidad de las zonas rojas*, 6 February 2012, <http://lahora.gt/hemeroteca-lh/amenazas-muertes-y-exodo-la-realidad-de-las-zonas-rojas/>.

<sup>293</sup> See 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; Swedish International Development Cooperation Agency (Sida), *Maras y pandillas, comunidad y policía en Centroamérica*, October 2007, <http://www.policia.gob.ni/cedoc/sector/reinter/maras%20y%20pandillas%20comunidad%20y%20policia%20en%20centroamerica.pdf>, pp. 24-28, 48-49.

<sup>294</sup> UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Guatemala, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>; Fox News, *Gang Members Throw 12-Year-Old Boy off Bridge after He Refused to Kill Bus Driver*, 15 October 2015, <http://latino.foxnews.com/latino/news/2015/10/15/gang-members-throw-12-year-old-boy-off-bridge-after-refused-to-kill-bus-driver/>; Prensa Libre, *Sancionan a menor por asesinato de director de Las Gaviotas*, 10 November 2015, <http://www.prensalibre.com/guatemala/justicia/menor-pasara-cinco-aos-presos-por-ataque-contra-director-de-gaviotas>; La Prensa Gráfica, *Condenan a pandilleros por asesinato de funcionario en Guatemala*, 15 October 2013, <http://www.laprensagrafica.com/2013/10/15/condenan-a-pandilleros-por-asesinato-de-funcionario-en-guatemala>; La Hora, *Amenazas, muertes y éxodo: la realidad de las zonas rojas*, 6 February 2012, <http://lahora.gt/hemeroteca-lh/amenazas-muertes-y-exodo-la-realidad-de-las-zonas-rojas/>; Human Rights Watch, *World Report 2012: Guatemala – Events of 2011, 2012*, <https://www.hrw.org/world-report/2012/country-chapters/guatemala>.

<sup>295</sup> 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. 48; Plaza Pública, *Desplazar para no ser desplazados: palma, narcos y campesinos*, 30 September 2012, <https://www.plazapublica.com.gt/content/desplazar-para-no-ser-desplazados>; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, pp. 24-25; Sala Negra de El Faro, *Ser un nadie en tierra de narcos*, 3 November 2011, <http://www.salanegra.elfaro.net/es/2011/10/cronicas/6451/Ser-un-nadie-en-tierra-de-narcos.htm>.

<sup>296</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://www.refworld.org/docid/4bb21fa02.html), particularly paras 45-51.

<sup>297</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://www.refworld.org/docid/4bb21fa02.html), particularly paras 34-44.

<sup>298</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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>.



***their parents; householders; politicians; public sector workers, including teachers; and certain returnees***

Extortion is reportedly widespread in Guatemala and the regular extortion quotas for money, goods and services imposed by the gangs can be crippling.<sup>299</sup> The transport sector is reported to be a principal target for extortion.<sup>300</sup> It is reported that 1,723 public transport workers, including taxi and *mototaxi* (tuc-tuc) drivers, have been murdered between 2009 and 2015, with a sharp increase in numbers in 2015, the vast majority for resisting extortion.<sup>301</sup> Owners, employees and workers in formal and informal businesses, including street vendors and workers, are also reported to be frequently extorted in the territories where gangs and *bandas* operate.<sup>302</sup> Many gangs are also reported to extort a wider range of inhabitants in the territories where they operate, particularly children and adults who receive remittances from abroad, but also schoolchildren and their parents; householders; politicians; public sector workers, including teachers; and certain returnees.<sup>303</sup>

The level of extortion payments can reportedly be raised steeply and without warning by gangs, for example as a measure taken in retaliation against local community members following police operations

<sup>299</sup> La Hora, *La impunidad se suma a la violencia que enluta a los transportistas*, 22 January 2015, <http://lahora.gt/la-impunidad-se-suma-la-violencia-que-enluta-los-transportistas/>; Insight Crime, *The Hidden Dimensions of Extortion in Guatemala*, 1 December 2014, <http://www.insightcrime.org/news-analysis/hidden-dimensions-guatemala-extortion>.

<sup>300</sup> PublineWS, *Piloto de tuc tuc deja a dos niños en la orfandad*, 22 July 2017, <https://www.publineWS.gt/noticias/2017/07/22/piloto-tuc-tuc-deja-dos-ninos-la-orfandad.html>; Human Rights Brief, *The Situation of Extra-Urban Transport Workers in Guatemala*, 20 March 2017, <http://hrbrief.org/hearings/situation-extra-urban-transport-workers-guatemala/>; El Periódico, “El Smurf” y “el Lobo” sospechosos de ordenar ataques a taxistas, 17 February 2017, <https://elperiodico.com.gt/nacion/2017/02/17/nota-7-8/>; El Periódico, *PNC tras patrón común en asesinato de taxistas*, 16 February 2017, <https://elperiodico.com.gt/nacion/2017/02/16/pnc-tras-patron-comun-en-asesinato-de-taxistas/>; Insight Crime, *A Bomb Explodes, a Gang Purges Its Own, Guatemala Scratches Its Head*, 19 August 2016, <http://www.insightcrime.org/news-analysis/gang-bomb-leaves-guatemala-confused/>; The San Diego Union Tribune, *77 People Face Charges in Anti-Extortion Operation in Guatemala*, 20 June 2016, <http://www.sandiegouniontribune.com/hoy-san-diego/sdhoy-77-people-face-charges-in-anti-extortion-2016jun20-story.html>; Prensa Libre, *Bandas extorsionan a vendedores y usuarios*, 12 October 2015, <http://www.prensalibre.com/guatemala/justicia/bandas-extorsionan-a-vendedores-y-usuarios/>; Insight Crime, *Attacks on Guatemala Bus Drivers Persist*, 4 March 2015, <http://www.insightcrime.org/news-analysis/attacks-on-bus-drivers-in-guatemala-persist/>; La Hora, *La impunidad se suma a la violencia que enluta a los transportistas*, 22 January 2015, <http://lahora.gt/la-impunidad-se-suma-la-violencia-que-enluta-los-transportistas/>; New Republic, *The Most Dangerous Job in the World*, 4 June 2013, <https://newrepublic.com/article/113293/900-bus-drivers-dead-guatemala-city-worlds-most-dangerous-job>.

<sup>301</sup> Grupo de Apoyo Mutuo, *Informe sobre profesiones mas vulnerables en los últimos 8 años años 2008 al 2015*, 15 June 2016, [http://areadetransparencia.blogspot.co.uk/2016/06/informe-sobre-profesiones-mas\\_16.html](http://areadetransparencia.blogspot.co.uk/2016/06/informe-sobre-profesiones-mas_16.html). See also, J.J Cruz, *Impact of Gang Violence on “Transporte Colectivo Público Urbano” in Guatemala City*, Thesis presented to the Faculty of Architecture and Planning, Columbia University, May 2017, <https://academiccommons.columbia.edu/catalog/ac:pc866t1g39>, pp. 31-35.

<sup>302</sup> Monitoreo de Medios, *Pandillas se asocian a pequeños empresarios para blanquear dinero en Guatemala*, 16 September 2017, <http://www.monitoreodemedios.gt/wp/tag/pandilleros/>; Grupo de Apoyo Mutuo, *Informe sobre profesiones mas vulnerables en los últimos 8 años años 2008 al 2015*, 15 June 2016, [http://areadetransparencia.blogspot.co.uk/2016/06/informe-sobre-profesiones-mas\\_16.html](http://areadetransparencia.blogspot.co.uk/2016/06/informe-sobre-profesiones-mas_16.html); La Hora, *Operativo a gran escala en contra de mareros del Barrio 18*, 10 June 2016, <http://lahora.gt/operativo-a-gran-escala-en-contra-de-mareros-del-barrio-18/>; El Periódico, *Desarticulan estructura vinculada a extorsiones y asesinatos*, 3 May 2016, <http://elperiodico.com.gt/2016/05/03/pais/desarticulan-estructura-vinculada-a-extorsiones-y-asesinatos/>; La Hora, *Golpe a clics que extorsionaba a trabajadoras sexuales*, 8 December 2015, <http://lahora.gt/golpe-a-clics-que-extorsionaba-a-trabajadoras-sexuales/>; Prensa Libre, *Extorsionistas matan a repartidor de agua*, 19 July 2016, <http://www.prensalibre.com/guatemala/comunitario/matan-a-repartidor-de-agua-en-la-zona-12/>; Prensa Libre, *Bandas extorsionan a vendedores y usuarios*, 12 October 2015, <http://www.prensalibre.com/guatemala/justicia/bandas-extorsionan-a-vendedores-y-usuarios/>; Insight Crime, *The Hidden Dimensions of Extortion in Guatemala*, 1 December 2014, <http://www.insightcrime.org/news-analysis/hidden-dimensions-guatemala-extortion/>; CR Hoy, *Recolectores de basuras y prostitutas, nuevas víctimas extorsión en Guatemala*, 29 July 2013, <http://www.crhoy.com/recolectores-de-basura-y-prostitutas-nuevas-victimas-extorsion-en-guatemala/>.

<sup>303</sup> Prensa Libre, *Matan a trabajador de Salud en la zona 18*, 7 July 2016, <http://www.prensalibre.com/guatemala/comunitario/matan-a-trabajador-de-salud-en-la-zona-18/>; La Hora, *Operativo a gran escala en contra de mareros del Barrio 18*, 10 June 2016, <http://lahora.gt/operativo-a-gran-escala-en-contra-de-mareros-del-barrio-18/>; El Periódico, *Desarticulan estructura vinculada a extorsiones y asesinatos*, 3 May 2016, <http://elperiodico.com.gt/2016/05/03/pais/desarticulan-estructura-vinculada-a-extorsiones-y-asesinatos/>; El Periódico, “*Muchos maestros son extorsionados por sus propios alumnos*”: Lucrecia de Palomo, 15 March 2016, <http://elperiodico.com.gt/2016/03/15/pais/muchos-maestros-son-extorsionados-por-sus-propios-alumnos-lucrecia-de-palomo/>; La Hora, *Familiares de migrantes son víctimas de extorsión*, 2 December 2015, <http://lahora.gt/familiares-de-migrantes-son-victimas-de-extorsion/>; Guatevisión, *Pandilleros extorsionan a políticos*, 19 March 2015, <http://www.guatevision.com/pandilleros-extorsionan-a-politicos/>; La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; Prensa Libre, *Maestros suspenden clases por extorsión*, 3 February 2015, [http://www.prensalibre.com/noticias/comunitario/maestros-extorsion-colonia-enriqueta-villa-nueva-0\\_1296470451.html](http://www.prensalibre.com/noticias/comunitario/maestros-extorsion-colonia-enriqueta-villa-nueva-0_1296470451.html); Insight Crime, *The Hidden Dimensions of Extortion in Guatemala*, 1 December 2014, <http://www.insightcrime.org/news-analysis/hidden-dimensions-guatemala-extortion/>; Insight Crime, *700 Extortion-Related Murders in Guatemala through July 2014: NGO*, 15 August 2014, <http://www.insightcrime.org/news-briefs/guatemala-700-homicides-extortion-2014/>; 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 Hora, *Deportados sufren extorsiones al retornar a Guatemala*, 18 July 2008, <http://lahora.gt/hemeroteca-lh/deportados-sufren-extorsiones-al-retornar-a-guatemala/>.

in the territory,<sup>304</sup> and it is reportedly not unusual for victims to lose their livelihood due to excessive extortion demands by gangs. Moreover, extortion victims reportedly may have to simultaneously pay extortion money to two or more gangs.<sup>305</sup>

Extortion is reported to be a principal source of income for most local gangs in Guatemala 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.<sup>306</sup> 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, which swiftly escalate with any continuing delay or refusal to pay; persons in these circumstances are reportedly commonly killed by the gangs.<sup>307</sup> In 2014, it was reported that an estimated 20 per cent of all of the murders committed in Guatemala were related to the failure to pay such extortion demands.<sup>308</sup> Persons found by the gangs to have reported extortion demands to the authorities can reportedly expect severe retribution.<sup>309</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, 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 or workers; children and adults who receive remittances from abroad; schoolchildren and their parents; householders; politicians; and public sector workers, including teachers; and certain returnees 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.<sup>310</sup>

### 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 Guatemala have reportedly been killed by the perpetrators to ensure their silence.<sup>311</sup> Those who do denounce the crimes, or who otherwise cooperate with the authorities against gangs or other organized crime groups

<sup>304</sup> Prensa Libre, *Pandilla amenaza a fiscales*, 31 December 2014, <http://www.prensalibre.com/noticias/justicia/autoridades-buscan-restos-humanos-en-la-isla-villa-lobos-uno-y-dos-pandilleros-policia-0-1276072500>; 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. 50.

<sup>305</sup> El Periódico, *Abrumados por las extorsiones*, 9 February 2017, <https://elperiodico.com.gt/opinion/2017/02/09/abrumados-por-las-extorsiones/>; La Hora, *Amenazas, muertes y éxodo: la realidad de las zonas rojas*, 6 February 2012, <http://lahora.gt/hemeroteca-lh/amenazas-muertes-y-exodo-la-realidad-de-las-zonas-rojas/>; Procurador de los Derechos Humanos, *PDH informó acerca de extorsiones*, 7 January 2014, <http://www.pdh.org.gt/component/allvideoshare/video/pdh-informo-acerca-de-extorsiones.html>.

<sup>306</sup> 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; Human Rights Watch, *World Report 2012: Guatemala – Events of 2011*, 2012, <https://www.hrw.org/world-report/2012/country-chapters/guatemala>. See also Section III.A.1 above.

<sup>307</sup> Prensa Libre, *Extorsionistas matan a repartidor de agua*, 19 July 2016, <http://www.prensalibre.com/guatemala/comunitario/matan-a-repartidor-de-agua-en-la-zona-12>; Diari.ol, *Matan en Guatemala a empresario y dejan mensaje: Esto le va pasar al que no pague la extorsión*, 1 June 2016, <http://diario1.com/mundo/matan-en-guatemala-a-empresario-y-dejan-mensaje-esto-le-va-pasar-al-que-no-pague-la-extorsion/>; Human Rights Watch, *World Report 2012: Guatemala – Events of 2011*, 2012, <https://www.hrw.org/world-report/2012/country-chapters/guatemala>.

<sup>308</sup> Insight Crime, *700 Extortion-Related Murders in Guatemala through July 2014: NGO*, 15 August 2014, <http://www.insightcrime.org/news-briefs/guatemala-700-homicides-extortion-2014>.

<sup>309</sup> La Hora, *La impunidad se suma a la violencia que enluta a los transportistas*, 22 January 2015, <http://lahora.gt/la-impunidad-se-suma-la-violencia-que-enluta-los-transportistas/>.

<sup>310</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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. 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>.

<sup>311</sup> 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.

as ‘informants’, are reportedly routinely pursued for their ‘betrayal’, often along with their family members, even when placed in a witness protection programme.<sup>312</sup>

Persons giving evidence against corrupt members of the security forces and political figures have sometimes also reportedly been killed, even as protected witnesses.<sup>313</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, ‘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) political opinion, or on the basis of their membership of a particular social group, or on the basis of other Convention grounds.<sup>314</sup>

#### **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 or organized criminal group are reportedly subjected to threats and violence. Persons with a family member (or family members) in a gang or other organized criminal group, as well as other persons perceived – even incorrectly – to be affiliated with members of a gang or other organized criminal group, are reportedly treated with suspicion by rivals; there are reports of such persons having been attacked and killed.<sup>315</sup>

At the same time, members of the security forces are reported to attack and arbitrarily detain children (boys and girls) and youths living in zones where the gangs operate, on the basis of a perceived affiliation with the gangs.<sup>316</sup> Children (boys and girls) and youths suspected of being gang members have also reportedly been lynched and killed in Guatemala by vigilantes and mobs.<sup>317</sup>

<sup>312</sup> La Hora, *Testigos se convierten en víctimas ante la falta de protección del Estado*, 2 September 2014, <http://lahora.gt/testigos-se-convierten-en-victimas-ante-la-falta-de-proteccion-del-estado/>; 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.

<sup>313</sup> Siglo 21, *Asesinan a testigo protegido*, 9 June 2016, <http://www.s21.gt/2016/06/asesinan-a-testigo-protegido/>; La Hora, *Testigos se convierten en víctimas ante la falta de protección del Estado*, 2 September 2014, <http://lahora.gt/testigos-se-convierten-en-victimas-ante-la-falta-de-proteccion-del-estado/>.

<sup>314</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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>.

<sup>315</sup> El Periódico, *Desarticulan estructura vinculada a extorsiones y asesinatos*, 3 May 2016, <http://elperiodico.com.gt/2016/05/03/pais/desarticulan-estructura-vinculada-a-extorsiones-y-asesinatos/>; El Periódico, *Las estrangularon por crearlas “espías” de los “Salvatrucha”*, 3 February 2016, <http://elperiodico.com.gt/2016/02/03/pais/las-estrangularon-por-crearlas-espias-de-los-salvatrucha/>; Emisoras Unidas, *Condenan a pandilleros por muerte de estudiantes del INCA*, 1 June 2015, <https://emisorasunidas.com/noticias/nacionales/condenan-pandilleros-muerte-estudiantes-inca/>; 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. 49; La Hora, *Las mujeres de las zonas rojas: violadas, desaparecidas o desmembradas*, 29 April 2013, <http://lahora.gt/hemeroteca-lh/las-mujeres-de-las-zonas-rojas-violadas-desaparecidas-o-desmembradas/>; Sala Negra de El Faro, *El día de la traición*, 12 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10145/>; Human Rights Watch, *World Report 2012: Guatemala – Events of 2011*, 2012, <https://www.hrw.org/world-report/2012/country-chapters/guatemala>.

<sup>316</sup> El Periódico, *Golpiza de soldados a dos muchachos fue en Yepocapa, Chimaltenango*, 3 August 2015, <http://elperiodico.com.gt/2015/08/03/pais/golpiza-de-soldados-a-dos-muchachos-fue-en-yepocapa-chimaltenango/>.

<sup>317</sup> Diario Avanzada, *Cada vez son más jóvenes las mujeres asesinadas en Guatemala*, 17 May 2016, <http://www.diarioavanzada.com.mx/index.php/mundo/17803-cada-vez-son-mas-jovenes-las-mujeres-asesinadas-en-guatemala/>; El Diario, *Linchan a dos supuestos pandilleros en Guatemala*, 25 February 2016, [http://diario.mx/Internacional/2016-02-25\\_8a4498ae/linchan-a-dos-supuestos-pandilleros-en-guatemala-/](http://diario.mx/Internacional/2016-02-25_8a4498ae/linchan-a-dos-supuestos-pandilleros-en-guatemala-/); CNN, *Video of Mob Burning Teen Alive in Guatemala Spurs Outrage*, 29 May 2015, <http://edition.cnn.com/2015/05/27/americas/guatemala-girl-burned-mob/>; Trome, *Guatemala: Queman viva a joven de 16 años acusada de matar a taxista*, 24 May 2015, <http://trome.pe/actualidad/guatemala-queman-viva-joven-16-anos-acusada-matar-taxista-2049778/>; El Diario de Hoy, *Linchan y queman en Guatemala a dos presuntos pandilleros extorsionistas*, 5 December 2014, <http://www.elsalvador.com/articulo/internacional/linchan-queman-guatemala-dos-presuntos-pandilleros-extorsionistas-62256>.



Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, 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.<sup>318</sup> 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 also be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.<sup>319</sup>

##### 5. *Gang and criminal ‘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.<sup>320</sup> The family members of these ‘traitors’ are reportedly sometimes also the object of reprisals.<sup>321</sup> At the same time, an individual who has left a gang with permission 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.<sup>322</sup> Drug-trafficking groups are also reported to track down and kill those whom they consider to have betrayed them.<sup>323</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, deserters and former members of gangs and other organized criminal groups, 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.<sup>324</sup>

<sup>318</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://www.refworld.org/docid/4bb21fa02.html), paras 14, 15 and 17. 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, <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, <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, <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, <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, <http://www.refworld.org/docid/56cc10f24.html>.

<sup>319</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://www.refworld.org/docid/4bb21fa02.html), para. 42.

<sup>320</sup> Diario Avanzada, *Cada vez son más jóvenes las mujeres asesinadas en Guatemala*, 17 May 2016, <http://www.diarioavanzada.com.mx/index.php/mundo/17803-cada-vez-son-mas-jovenes-las-mujeres-asesinadas-en-guatemala>; Diario Digital, *Las preguntas sin respuesta sobre el video del “Barrio 18”*, 17 March 2016, <http://diariodigital.gt/2016/03/las-preguntas-sin-respuesta-sobre-el-video-del-barrio-18/>; 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; UNODC, *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012, <http://www.refworld.org/docid/569f3aaa4.html>, p. 27; Plaza Pública, *Ni juntos ni revueltos*, 22 February 2011, <https://www.plazapublica.com.gt/content/ni-juntos-ni-revueltos>.

<sup>321</sup> 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.

<sup>322</sup> 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](http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf); R. Brenneman, *Homies and Hermanos: God and Gangs in Central America*, Oxford University Press, 2012, pp. 117-152.

<sup>323</sup> 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.

<sup>324</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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 certain Central American countries has been recognized also in US jurisprudence. See, for example, United States Court of Appeals for the Seventh Circuit, *Benitez 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-Mejia 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’



Claims by persons of this profile may give rise to the need to examine possible exclusion from refugee status.<sup>325</sup>

## 6. Children and youths with certain profiles or in specific circumstances

Children and youth suffer multiple types of violence in Guatemala. Children may fall into any of the profiles listed in these Eligibility Guidelines. However, children in Guatemala may also be at risk of child-specific forms of persecution.<sup>326</sup> Domestic abuse of children, both boys and girls, is reported to be a serious problem in Guatemala.<sup>327</sup>

Children, particularly those living in territories where the gangs operate, are frequently a target of gang violence. This is partly the result of reported efforts by gangs to recruit growing numbers of new collaborators and members from among children and youth, efforts that have reportedly intensified since 2014.<sup>328</sup> Girls are reportedly targeted from a young age by gangs with demands to become “wives” or girlfriends of gang members.<sup>329</sup>

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.<sup>330</sup> 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.<sup>331</sup> The gangs are reported to have a presence in the public schools of these urban areas,

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or ‘former MS-13 members’. See United States Court of Appeals for the Fourth Circuit, *Martínez v Holder*, 12-2424, 27 January 2014, <https://casetext.com/case/martinez-v-holder-40>; United States Court of Appeals for the Fourth Circuit, *Julio Ernesto Martinez. v Holder, Attorney General*, 23 January 2014, <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/4b6bf1ac2.html>.

<sup>325</sup> For further analysis on exclusion considerations, see Section III.D.

<sup>326</sup> 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>.

<sup>327</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, pp. 79-82. 23 per cent of the Guatemalan children in the USA who were interviewed for a UNHCR study disclosed abuse in the home. 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. 34.

<sup>328</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, p. 36. “Gangs in Guatemala, including transnational criminal organizations, use children to commit illegal acts such as stealing and transporting contraband; gangs recruit near educational centers, and some of these children are reported to be victims of human trafficking.” United States Department of Labor, *2015 Findings on the Worst Forms of Child Labor: Guatemala*, 30 September 2016, <http://www.refworld.org/docid/57f4e86b2.html>, p. 2. See also, El País, *El barranco de las pandillas*, 30 September 2015, [http://elpais.com/elpais/2015/09/29/planeta\\_futuro/1443525680\\_735932.html](http://elpais.com/elpais/2015/09/29/planeta_futuro/1443525680_735932.html); La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; Insight Crime, *Guatemalan ‘Schoolgirl Assassins’ Arrest Highlights Use of Minors for Crime*, 25 February 2013, <http://www.insightcrime.org/news-briefs/schoolgirl-assassins-use-minors-guatemalan-crime/>; Sala Negra de El Faro, *Los dos caminos de las hermanas*, 13 November 2012, <http://www.salanegra.elfaro.net/es/201211/cronicas/10161/>.

<sup>329</sup> Diario Avanzada, *Cada vez son más jóvenes las mujeres asesinadas en Guatemala*, 17 May 2016, <http://www.diarioavanzada.com.mx/index.php/mundo/17803-cada-vez-son-mas-jovenes-las-mujeres-asesinadas-en-guatemala/>;

<sup>330</sup> Plaza Pública, *Bienvenido Argueta: “Los jóvenes tienen dos opciones: ser víctimas o victimarios”*, 14 July 2017, <https://www.plazapublica.com.gt/content/bienvenido-argueta-lo-jovenes-tienen-dos-opciones-ser-victimas-o-victimarios>. The “shut-in youth” form a majority of the population in Guatemala City’s shanty towns, according to an anthropologist. “They seek refuge in television, internet, radio, and cell phones. They practically do not socialize in person with their peers, nor do they belong.” International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, 6 April 2017, <http://www.refworld.org/docid/58e74ed64.html>, p. 22, citing Denis Roberto Martínez, *Youth under the Gun: Violence, Fear, and Resistance in Urban Guatemala*, PhD dissertation, University of Texas at Austin, December 2014; Emisoras Unidas, *Condenan a pandilleros por muerte de estudiantes del INCA*, 1 June 2015, <https://emisorasunidas.com/noticias/nacionales/condenan-pandilleros-muerte-estudiantes-inca/>; La Hora, *Las mujeres de las zonas rojas: violadas, desaparecidas o desmembradas*, 29 April 2013, <http://lahora.gt/hemeroteca-lh/las-mujeres-de-las-zonas-rojas-violadas-desaparecidas-o-desmembradas/>.

<sup>331</sup> El País, *La escuela que frena a las pandillas en Guatemala*, 7 July 2016, [http://elpais.com/elpais/2016/07/06/planeta\\_futuro/1467800364\\_713158.html](http://elpais.com/elpais/2016/07/06/planeta_futuro/1467800364_713158.html); La Opinión, *El asilo especial para menores centroamericanos que huyen de la violencia*, 1 February 2016, <https://laopinion.com/2016/02/01/menores-centroamericanos-logran-asilo-al-escapar-de-la-violencia/>; El Faro, *La violencia trastorna el estilo de vida de los jóvenes que residen en zonas de maras*, 31 October 2015, <https://elfaro.net/es/201510/internacionales/17502/La-violencia-trastorna-el-estilo-de-vida-de-los-j%C3%B3venes-que-residen-en-zonas-de-maras.htm>.

where they engage in extortion armed disputes and other activities.<sup>332</sup> Many children threatened by gangs reportedly withdraw from school.<sup>333</sup>

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, resulting in threats and sometimes fatal violence directed against the child or youth and/or their family members.<sup>334</sup> Even if the child leaves the area where the gang operates, family members who remain there reportedly may continue to face threats and violence.<sup>335</sup> Moreover, children suspected – even mistakenly – of involvement with gangs also face discrimination and violence from the State security services and from vigilante groups and mobs.<sup>336</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, 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.<sup>337</sup>

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.<sup>338</sup>

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

Discrimination and violence against women and girls is reported to be widespread and systematic in Guatemala by members of gangs and other organized criminal groups, the security services and other individuals.<sup>339</sup> According to figures published in 2015, the country had the second highest absolute

<sup>332</sup> La Prensa Gráfica, *Tres heridos en ataque de pandillas en escuela de Guatemala*, 28 July 2015, <http://www.laprensagrafica.com/2015/07/28/tres-heridos-en-ataque-de-pandillas-en-escuela-de-guatemala>; HispanTV, *Amenazas de pandilleros retrasan ciclo escolar en Guatemala*, 12 February 2015, [https://www.youtube.com/watch?v=S2ByHx0\\_jYE](https://www.youtube.com/watch?v=S2ByHx0_jYE); Diario Digital, *Cierran colegio en zona 6 producto de extorsiones*, 22 August 2016, <http://diariodigital.gt/2016/08/las-extorsiones-tambien-tocan-la-puerta-de-las-escuelas/>. See also, Feature Shoot, *Growing Up amid Violence in Guatemala City*, 28 February 2017, <https://www.featureshoot.com/2017/02/growing-amid-violence-guatemala-city/>.

<sup>333</sup> La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>.

<sup>334</sup> Child Soldiers International, *Alternative Report to the Committee on the Rights of the Child: Guatemala*, June 2017, <http://www.refworld.org/docid/5949020c4.html>, p. 9; Diario Avanzada, *Cada vez son más jóvenes las mujeres asesinadas en Guatemala*, 17 May 2016, <http://www.diarioavanzada.com.mx/index.php/mundo/17803-cada-vez-son-mas-jovenes-las-mujeres-asesinadas-en-guatemala>; Estrella TV, *Pandilleros ejecutan a estudiantes-Noticiero con Enrique Gratas*, 6 August 2015, <http://cierredeedicion.estrellatv.com/noticias/pandilleros-ejecutan-a-estudiantes-noticiero-con-enrique-gratas-2/>; La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; 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.

<sup>335</sup> 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.

<sup>336</sup> See section III.A.4 above.

<sup>337</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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*, 23 September 2011, <http://www.refworld.org/docid/56e6e5e14.html>.

<sup>338</sup> 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>. For further analysis on exclusion considerations, see Section III.D.

<sup>339</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp.105-111; UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>.

number of femicides in Central America.<sup>340</sup> The forced disappearance of women and girls in Guatemala is reportedly connected with violence against women and trafficking in persons.<sup>341</sup> Trafficking for sexual exploitation is reported to be a major problem in Guatemala, affecting poor women and girls in particular, especially those from indigenous backgrounds.<sup>342</sup>

In the territories where the gangs operate, sexual and gender-based violence against women and girls is reportedly widespread, as is the forcible recruitment of girls to carry out tasks for the gangs.<sup>343</sup> Women and girls perceived as being linked with a particular gang are reportedly also a target for vengeance by 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 member.<sup>344</sup>

- <sup>340</sup> The figures compare only 14 countries in Latin America but include many of those where rates of femicide have traditionally been high. See UN Comisión Económica para América Latina y el Caribe (CEPAL), *Femicidio*, 16 November 2015, <http://www.cepal.org/es/infografias/femicidio>. According to figures from the Ministerio Público, between January and October 2016 there were 168 cases of femicide, a decrease from 195 in 2015. Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, p. 30. See also, Small Arms Survey, *A Gendered Analysis of Violent Deaths*, November 2016, [http://www.smallarmssurvey.org/fileadmin/docs/H-Research\\_Notes/SAS-Research-Note-63.pdf](http://www.smallarmssurvey.org/fileadmin/docs/H-Research_Notes/SAS-Research-Note-63.pdf), p. 2; BBC, *Violencia contra las mujeres en Guatemala: "Nos están matando nuestros padres, hermanos y padrastrós"*, 14 December 2015, [http://www.bbc.com/mundo/noticias/2015/12/151211\\_guatemala\\_violencia\\_contra\\_mujer\\_femicidio\\_mes](http://www.bbc.com/mundo/noticias/2015/12/151211_guatemala_violencia_contra_mujer_femicidio_mes).
- <sup>341</sup> CICIG/UNICEF, *Human Trafficking for Sexual Exploitation Purposes in Guatemala*, 2016, [http://www.cicig.org/uploads/documents/2016/Trata\\_Ing\\_978\\_9929\\_40\\_829\\_6.pdf](http://www.cicig.org/uploads/documents/2016/Trata_Ing_978_9929_40_829_6.pdf); IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 67.
- <sup>342</sup> United States Department of State, *2017 Trafficking in Persons Report: Guatemala*, 27 June 2017, <http://www.refworld.org/docid/5959ecc5c.html>. For a detailed overview of trafficking of persons, including women and girls in Guatemala, see: Procurador de los Derechos Humanos, *Informe de situación de trata de personas en Guatemala 2016*, 11 May 2017, <https://pdh.org.gt/biblioteca/informes/category/10-informes-especiales.html>. UNODC reports that in 2015 there were 104 detected female victims of trafficking, 44 male victims and 334 child victims. UNODC cites data from the Policía Nacional Civil, the Ministerio de la Gobernación and the Ministerio Público, disaggregating the number of trafficking cases by type of exploitation, when recorded. Between 2014 and 2015, there were 176 cases of sexual exploitation, 156 cases of forced labor and 65 irregular adoptions. UNODC, *Global Report on Trafficking in Persons 2016 - Central America and the Caribbean*, 22 December 2016, <http://www.refworld.org/docid/585ba3274.html>, p. 14. See also, CICIG/UNICEF, *Human Trafficking for Sexual Exploitation Purposes in Guatemala*, 2016, [http://www.cicig.org/uploads/documents/2016/Trata\\_Ing\\_978\\_9929\\_40\\_829\\_6.pdf](http://www.cicig.org/uploads/documents/2016/Trata_Ing_978_9929_40_829_6.pdf); International Development Research Centre, *Violence Against Women Rooted in Conflict Over Land*, 17 November 2016, <https://www.idrc.ca/en/article/violence-against-women-rooted-conflict-over-land>; Siglo 21, *La trata de personas se duplicó en un año*, 30 July 2016, <http://www.s21.gt/2016/07/la-trata-personas-se-duplico-en-ano>; International Crisis Group, *Easy Prey: Criminal Violence and Central American Migration*, 28 July 2016, <http://www.refworld.org/docid/579b50394.html>, p. 14; Prensa Libre, *El país es un paraíso para turismo sexual*, 5 June 2016, <http://www.prensalibre.com/guatemala/solola/el-pais-es-un-paraiso-para-turismo-sexual>; Revista Perro Bravo, *Almas sin cupero: Las niñas invisibles*, 14 March 2014, <http://www.revistaperrobravo.com/almas-sin-cuerpo-las-ninas-invisibles/>; Servindi, *Denuncian explotación sexual de mujeres indígenas de chiapas*; Procurador de los Derechos Humanos, *Violencia sexual en contra de niñas, adolescentes y mujeres en Guatemala*, 29 October 2012, <https://pdh.org.gt/biblioteca/informes/category/10-informes-especiales.html?start=20>, p. 21.
- <sup>343</sup> Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, p. 35; Diario Avanzada, *Cada vez son más jóvenes las mujeres asesinadas en Guatemala*, 17 May 2016, <http://www.diarioavanzada.com.mx/index.php/mundo/17803-cada-vez-son-mas-jovenes-las-mujeres-asesinadas-en-guatemala>; UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Guatemala, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>; La Hora, *Éxodo, deserción escolar y violencia afectan a la niñez y la juventud en zonas rojas*, 17 February 2015, <http://lahora.gt/exodo-desercion-escolar-y-violencia-afectan-la-ninez-y-la-juventud-en-zonas-rojas/>; 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](http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf); La Hora, *Las mujeres de las zonas rojas: violadas, desaparecidas o desmembradas*, 29 April 2013, <http://lahora.gt/hemeroteca-lh/las-mujeres-de-las-zonas-rojas-violadas-desaparecidas-o-desmembradas/>. See also Relato, *Así te convertís en marero (pandillero, para no ser peyorativo)*, 3 April 2017, <http://www.relato.gt/historia-del-dia/esto-medite-en-el-trafico-de-resurreccion>.
- <sup>344</sup> Kids in Need of Defense, *Neither Security nor Justice: Sexual and Gender-based Violence and Gang Violence in El Salvador, Honduras, and Guatemala*, May 2017, [https://supportkind.org/wp-content/uploads/2017/05/Neither-Security-nor-Justice\\_SGBV-Gang-Report-FINAL.pdf](https://supportkind.org/wp-content/uploads/2017/05/Neither-Security-nor-Justice_SGBV-Gang-Report-FINAL.pdf), p. 4; Relato, *Así te convertís en marero (pandillero, para no ser peyorativo)*, 3 April 2017, <http://www.relato.gt/historia-del-dia/esto-medite-en-el-trafico-de-resurreccion>; 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/>; 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](http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf); La Hora, *Las mujeres de las zonas rojas: violadas, desaparecidas o desmembradas*, 29 April 2013, <http://lahora.gt/hemeroteca-lh/las-mujeres-de-las-zonas-rojas-violadas-desaparecidas-o-desmembradas/>; 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>; National Gang Crime Research Center, *Females and Gangs: Sexual Violence, Prostitution, and Exploitation*, 2008, <http://www.ngcrc.com/ngcrc/proffem2.htm>. See also Section III.A.1 above.



Women and girls may be seen by individual gang members as their partner, even when a woman or girl has never consented to being in a couple.<sup>345</sup> 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.<sup>346</sup> 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.<sup>347</sup>

As noted above (see Section II.B.1), domestic violence against women reportedly continues to be a serious problem,<sup>348</sup> prompting the reactivation in 2016 of the National Coordination Office for the Prevention of Domestic Violence and Violence against Women (*Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y Contra las Mujeres*; CONAPREVI).<sup>349</sup>

There are reported cases of domestic violence by gang members against their wives and other female members of their own household; the victims 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.<sup>350</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, women and girls, in particular but not limited to women and girls from areas where gangs operate or those from social milieus where sexual and gender-based violence against women and girls is practised, may be in need of international refugee protection on

<sup>345</sup> UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Guatemala, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>, pp. 38.

<sup>346</sup> Relato, *Así te convertiste en marero (pandillero, para no ser peyorativo)*, 3 April 2017, <http://www.relato.gt/historia-del-dia/esto-medite-en-el-trafico-de-resurreccion>; 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](http://www.interpeace.org/latinoamerica/wp-content/uploads/sites/7/2015/08/2013_05_14_Central_Am_Violentas_y_Violentadas_es.pdf), pp. 41-42.

<sup>347</sup> UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Guatemala, and Mexico*, 26 October 2015, <http://www.refworld.org/docid/56307e2a4.html>.

<sup>348</sup> The Advocates for Human Rights, *Guatemala: Violence Against Women*, undated (2017), [http://www.theadvocatesforhumanrights.org/uploads/guatemala\\_28th\\_upr\\_vaw\\_2.pdf](http://www.theadvocatesforhumanrights.org/uploads/guatemala_28th_upr_vaw_2.pdf); Diario de Centro América, *Analizan casos de violencia intrafamiliar*, 7 September 2017, <https://dca.gob.gt/noticias-guatemala-diario-centro-america/analizan-casos-de-violencia-intrafamiliar/>; WOLA, *Niños y familias huyen de la violencia en Centroamérica*, 30 March 2017, <https://www.wola.org/es/analisis/ninos-y-familias-huyen-de-la-violencia-en-centroamerica/>; United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>; El País, *El último refugio de las niñas víctimas de trata*, 11 March 2016, [https://elpais.com/elpais/2016/03/08/planeta\\_futuro/1457450990\\_491408.html](https://elpais.com/elpais/2016/03/08/planeta_futuro/1457450990_491408.html); BBC, *Where Women are Killed by Their Own Families*, 5 December 2015, <http://www.bbc.com/news/magazine-34978330>; 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>, p. 25; The Washington Post, *Child Victims of Sexual Abuse in Guatemala are Giving Birth at an Alarming Rate. These Are Some of the Young Mothers*, 19 August 2015, <https://www.washingtonpost.com/news/insight/wp/2015/08/19/child-victims-of-sexual-abuse-in-guatemala-are-giving-birth-at-an-alarming-rate-these-are-some-of-the-young-mothers/>.

<sup>349</sup> The reactivation of CONAPREVI in 2016 followed its deactivation in 2012. Ministerio de Gobernación, *Reactivan la CONAPREVI*, 6 October 2016, <http://mingob.gob.gt/reactivan-la-conaprevi/>. See also, Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, pp. 105-106; ChapinTV.com, *Reactivan funcionamiento de Conaprevi*, 20 April 2016, <http://www.chapintv.com/actualidad/reactivan-funcionamiento-de-conaprevi-34811>. In addition, a ten-year strategy for the prevention of violence includes a section on domestic violence: Ministerio de Gobernación, *Estrategia Nacional de Prevención de la Violencia y el Delito, 2017-2027*, July 2017, <http://upcv.gob.gt/wp-content/uploads/2017/07/ESTRATEGIA-DE-PREVENCIÓN.pdf>, pp. 51-54. See also CEDAW, *Consideration of Reports Submitted by States Parties under Article 18 of the Convention, Eighth and Ninth Periodic Reports that States Parties Were Supposed to Submit in 2015: Guatemala*, 11 January 2016, CEDAW/C/GTM/8-9, <http://www.refworld.org/docid/582d7957310.html>, paras 11, 26, 36. CONAPREVI was established in 2000 as a body to monitor the implementation of the The Law to Prevent, Punish and Eradicate Intrafamily Violence, which entered into force in 1996. The Advocates for Human Rights, *Guatemala: Violence Against Women*, undated (2017), [http://www.theadvocatesforhumanrights.org/uploads/guatemala\\_28th\\_upr\\_vaw\\_2.pdf](http://www.theadvocatesforhumanrights.org/uploads/guatemala_28th_upr_vaw_2.pdf), p. 4.

<sup>350</sup> Kids in Need of Defense, *Neither Security nor Justice: Sexual and Gender-based Violence and Gang Violence in El Salvador, Honduras, and Guatemala*, May 2017, [https://supportkind.org/wp-content/uploads/2017/05/Neither-Security-nor-Justice\\_SGBV-Gang-Report-FINAL.pdf](https://supportkind.org/wp-content/uploads/2017/05/Neither-Security-nor-Justice_SGBV-Gang-Report-FINAL.pdf), p. 5; Siglo 21, *Las maras: fenómeno social*, 27 March 2017, <http://www.s21.gt/2017/03/las-maras-fenomeno-social/>; Guardian, “It’s a Crime to be Young and Pretty”: Girls Flee Predatory Central America Gangs, 23 November 2016, <https://www.theguardian.com/global-development/2016/nov/23/central-america-gangs-migrants-sexual-exploitation-prostitution>; BBC, *Where Women Are Killed by their Own Families*, 5 December 2015, <http://www.bbc.com/news/magazine-34978330>; Oficina de Derechos Humanos del Arzobispado de Guatemala (ODHAG), *Violencia en Guatemala – Una comparación de violencia y victimización entre Guatemala y Quetzaltenango*, July 2015, <http://www.odhag.org.gt/pdf/ViolenciaenGuatemalaXela.pdf>.



the basis of their membership of a particular social group, and/or their (imputed) political opinion, or on the basis of other Convention grounds.<sup>351</sup>

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

There are no explicit references in Guatemala's anti-discrimination laws to discrimination on the basis of sexual orientation or gender identity.<sup>352</sup> Discrimination against individuals of diverse sexual orientation and/or gender identities is reportedly widespread in Guatemala and such persons have reportedly been targeted for abuse, attacks and murder by gangs and other sectors of society, including by the police and other public authorities.<sup>353</sup> Transgender individuals, in particular transwomen, are reported to be at particular risk of violence.<sup>354</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, 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.<sup>355</sup> 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.<sup>356</sup>

## 9. *Judges, prosecutors and lawyers, especially those engaged in proceedings concerning gangs and other organized criminal groups, corruption or transitional justice*

Judges, prosecutors and lawyers, especially those engaged in proceedings concerning gangs and other organized criminal groups, corruption or transitional justice, are reported to be subjected to threats,

<sup>351</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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.

<sup>352</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>. The Constitution includes general provisions on equality before the law for men and women, on equality in the application of the law, and on the prohibition of discrimination based on race, gender, religion, political opinion, national origin or citizenship, social origin, disability, age, or language. *Constitución Política de la República de Guatemala*, 31 May 1985, <http://www.refworld.org/docid/3dbef6c764.html>.

<sup>353</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>. The Ministerio Público reported that while in 2015 it received only 8 complaints from individuals of diverse sexual orientations, between January and 31 October 2016 there were reportedly 174 complaints, including threats (46), minor injuries (26), violence against women (16), discrimination (12), rape (9), and aggravated rape (2). Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anales.html>, p. 63.

<sup>354</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 144-145.

<sup>355</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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>.

<sup>356</sup> 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*, C199/12 - C201/12, 7 November 2013, <http://www.refworld.org/docid/527b94b14.html>.

intimidation, attacks and surveillance.<sup>357</sup> Reports indicate that between 2012 and May 2015, 26 lawyers were killed in Guatemala,<sup>358</sup> while between March 2015 and mid-July 2016, 13 lawyers were killed.<sup>359</sup> Lawyers defending gang members have also reportedly been assassinated by the gangs in retaliation for unfavourable outcomes in their legal cases.<sup>360</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, judges, prosecutors and lawyers, especially those engaged in proceedings concerning gangs and other organized criminal groups, corruption or transitional justice, may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.<sup>361</sup>

## 10. Persons with certain political profiles

In the political campaigning leading up to the 6 September 2015 primaries in Guatemala, 352 acts of violence were recorded across 163 of the country's 340 municipalities. The violence was reportedly concentrated principally around elections to political office at the municipal (i.e. mayoral), rather than the national level and resulted in 25 homicides of candidates for political office and others linked to the political parties. It is reported that this election violence tends to reflect conflicts over political control at the municipal level by local powers that, particularly in the border regions, are often linked to organized criminal groups or entities backing controversial mining or hydroelectric projects.<sup>362</sup>

Outside of electoral campaigning, there have been occasional reports of death threats and killings of mayors linked to apparently political motives.<sup>363</sup> Other mayors are reported to have been threatened and attacked in circumstances that apparently suggest a link to organized crime, including drug-trafficking organizations.<sup>364</sup>

<sup>357</sup> IACHR/OAS, *Resolution 1/17: Human Rights and the Fight Against Impunity and Corruption*, 12 September 2017, <http://www.oas.org/en/iachr/decisions/pdf/Resolution-1-17-en.pdf>; Comisión Internacional de Juristas, *La CIJ hace un llamado al Secretario General de las Naciones Unidas para que una misión de alto nivel visite Guatemala*, 30 August 2017, <http://www.refworld.org/es/docid/59c15faa4.html>; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, 11 January 2017, A/HRC/34/3/Add.1, <http://www.refworld.org/docid/58ad60184.html>, p. 4, para. 8; Insight Crime, *Guatemala AG Says She's Afraid for the First Time*, 21 June 2016, <http://www.insightcrime.org/news-briefs/guatemala-attorney-general-says-afraid-for-the-first-time>; El Periódico, *Fiscal General se manifiesta por ataques de poderes ocultos*, 19 June 2016, <http://elperiodico.com.gt/2016/06/19/pais/fiscal-general-se-manifiesta-por-ataques-de-poderes-ocultos/>; Prensa Libre, *Juez Miguel Ángel Gálvez denuncia intimidaciones*, 10 May 2016, <http://www.prensalibre.com/guatemala/justicia/juez-miguel-angel-galvez-denuncia-intimidaciones>; United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/31/3/Add.1, 19 February 2016, <http://www.refworld.org/docid/56ead0734.html>, p. 5, para. 14; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 101, 174-186; La Hora, *Amenazan de muerte a fiscales en Suchitepéquez*, 17 May 2015, <http://lahora.gt/amenazan-de-muerte-fiscales-en-suchitepequez/>; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/28/3/Add.1, 12 January 2015, <http://www.refworld.org/docid/55083b4b4.html>, p. 7, para. 19; Prensa Libre, *Pandilla amenaza a fiscales*, 31 December 2014, <http://www.prensalibre.com/noticias/justicia/autoridades-buscan-restos-humanos-en-la-isla-villa-lobos-uno-y-dos-pandilleros-policia-0-1276072500>.

<sup>358</sup> Diario Digital, *A la fecha, 26 abogados han sido asesinados*, 3 June 2015, <http://diariodigital.gt/2015/06/a-la-fecha-26-abogados-han-sido-asesinados/>.

<sup>359</sup> Fox News, *Asesinan a balazos a un abogado en el departamento guatemaltecode Jalapa*, 13 July 2016, <http://elsiglo.com.pa/internacional/asesinan-balazos-abogado-jalapa/23950571>. For other recent cases, see W Radio, *Asesinan a presidente de asociación de abogados en Guatemala*, 26 April 2016, <http://www.wradio.com.co/noticias/internacional/asesinan-a-presidente-de-asociacion-de-abogados-en-guatemala/20160426/nota/3117738.aspx>; Prensa Libre, *Hallan muerto a abogado del sindicato del Congreso*, 5 February 2016, <http://www.prensalibre.com/guatemala/comunitario/denuncian-desaparicion-de-abogado-y-fiscal-del-partido-ucn>.

<sup>360</sup> El Periódico, *Procurador es asesinado en comercial de la zona 13*, 9 February 2016, <http://elperiodico.com.gt/2016/02/09/pais/procurador-es-asesinado-en-comercial-de-la-zona-13/>.

<sup>361</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://www.refworld.org/docid/4bb21fa02.html), paras 12(e) and 17.

<sup>362</sup> Plaza Pública, *Muerte y destrucción: la cara vergonzosa de las elecciones*, 21 October 2015, <https://www.plazapublica.com.gt/content/muerte-y-destruccion-la-cara-vergonzosa-de-las-elecciones>.

<sup>363</sup> La Prensa, *Alcalde guatemalteco es asesinado y quemado por una turba enfurecida*, 12 October 2015, [http://www.prensa.com/mundo/Alcalde-guatemalteco-asesinado-quemado-enfurecida\\_0\\_4321817897.html](http://www.prensa.com/mundo/Alcalde-guatemalteco-asesinado-quemado-enfurecida_0_4321817897.html).

<sup>364</sup> El Periódico, *"La Patrona", el alcalde, y la batalla por Moyuta*, 30 August 2015, <http://elperiodico.com.gt/2015/08/30/domingo/la-patrona-el-alcalde-y-la-batalla-por-moyuta-2/>; Diario1, *Misterioso atentado y fuga de alcalde vinculado con narcos*, 22 October 2014, <http://diario1.com/zona-1/2014/10/misterioso-atentado-y-fuga-de-alcalde-vinculado-con-narcos/>. On the corruption of local and national political office-holders and their links to organized crime, see also Insight Crime, *Ex-Mayor's Arrest Kicks Off Guatemala Anti-Corruption Campaign*, 22 January 2016, <http://www.insightcrime.org/news-briefs/ex-mayor-arrest-kicks-off-guatemala-anti-corruption-campaign>; Plaza

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, persons with certain political profiles may be in need of international refugee protection on the basis of their (imputed) political opinion, and/or their membership of a particular social group, or on the basis of other Convention grounds.<sup>365</sup>

Claims by persons of this profile may give rise to the need to examine possible exclusion from refugee status.<sup>366</sup>

## 11. *Journalists and other media professionals, especially those working on issues relating to organized crime, social justice and corruption*

Journalists and other media professionals, especially those working on issues relating to organized crime, social justice and corruption in Guatemala, are reported to have frequently been threatened, attacked and killed by gangs, organized criminal groups and elements of the security services.<sup>367</sup> Threats from organized criminal groups and heavy-handed politicians have reportedly created an environment of censorship and self-censorship among such media professionals in Guatemala.<sup>368</sup>

In 2016, eight journalists were reported to have been killed.<sup>369</sup> Reported acts of violence and aggression against journalists and media workers rose from 35 cases in 2012, to 73 in 2014 and to at least 133 in 2015, with the majority of such attacks reportedly carried out by public servants and particularly by police officers.<sup>370</sup> Between January and mid-November 2016, there were 87 reports of violence and

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Pública, *La historia del capo de un cartel político-militar*, 21 September 2015, <https://www.plazapublica.com.gt/content/la-historia-del-capo-de-un-cartel-politico-militar>; CERIGUA, *54 municipalidades señaladas de cometer ilícitos*, 10 May 2015, <https://cerigua.org/articulo/54-municipalidades-senaladas-de-cometer-ilicitos/>.

<sup>365</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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>.

<sup>366</sup> For further analysis of exclusion considerations, see Section III.D.

<sup>367</sup> United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>; Human Rights Watch, *World Report 2016: Guatemala – Events of 2015, 2016*, <https://www.hrw.org/world-report/2016/country-chapters/guatemala>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 122-133; Prensa Libre, *Amenazan a periodistas en Mazatenango por captura de policías*, 26 June 2015, <http://www.prensalibre.com/guatemala/justicia/periodistas-denuncian-amenazas-tras-captura-por-crimen-comunicadores/>; La Hora, *Detienen a presunto responsable por asesinato de comunicador*, 27 March 2015, <http://lahora.gt/detienen-presunto-responsable-por-asesinato-de-comunicador/>; Insight Crime, *Guatemala Journalists Killed by Drug Transport Gang: Govt*, 17 March 2015, <http://www.insightcrime.org/news-briefs/guatemala-journalists-killed-by-drug-gang-says-govt/>; Journalism in the Americas, *Environment of Fear Affects Electoral Coverage in Guatemala*, 17 February 2015, <https://knightcenter.utexas.edu/blog/00-15926-environment-fear-affects-electoral-coverage-guatemala>; Committee to Protect Journalists, *Who is Killing Central America's Journalists?*, 30 September 2014, [https://cpj.org/reports/central\\_america2014-english%20%283%29.pdf](https://cpj.org/reports/central_america2014-english%20%283%29.pdf); International Crisis Group, *Corridor of Violence: the Guatemala-Honduras Border*, 4 June 2014, <http://www.refworld.org/docid/539014d84.html>, pp. 20-21; Prensa Libre, *Dan último adiós a periodista Carlos Orellana Chávez*, 22 August 2013, [http://www.prensalibre.com/suchitepequez/Dan-periodista-Carlos-Orellana-Chavez\\_0\\_979102324.html](http://www.prensalibre.com/suchitepequez/Dan-periodista-Carlos-Orellana-Chavez_0_979102324.html).

<sup>368</sup> United States Department of State, *2016 Country Reports on Human Rights Practices: Guatemala*, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; Committee to Protect Journalists, *Guatemalan Journalist Faces Threats, Intimidation*, 30 June 2017, <http://www.refworld.org/docid/596f4bf30.html>; Freedom House, *Freedom of the Press 2016: Guatemala*, 28 September 2016, <http://www.refworld.org/docid/57f361e5c.html>; Insight Crime, *Guatemala Most Dangerous Country for Journalists in Central America*, 15 January 2014, <http://www.insightcrime.org/news-briefs/guatemala-most-dangerous-country-for-journalists-in-central-america-report>.

<sup>369</sup> Committee to Protect Journalists, *Journalists Killed in 2016 - Motive Unconfirmed: Álvaro Alfredo Aceituno López*, 31 December 2016, <http://www.refworld.org/docid/586e044f13.html>; Reporters Without Borders, *Guatemala: Prospects for the Media in a Country Torn by Violence*, 30 November 2016, <http://www.refworld.org/docid/583ed4174.html>; Reporteros Sin Fronteras, *Violencia contra la prensa en Guatemala: RSF da la voz de alarma*, 8 June 2016, <https://rsf.org/es/noticias/violencia-contra-la-prensa-en-guatemala-rsf-da-la-voz-de-alarma>. See also, La Hora, *MP: 26 periodistas muertos de forma violenta en los últimos 15 años*, 12 March 2015, <http://lahora.gt/mp-26-periodistas-muertos-de-forma-violenta-en-los-ultimos-15-anos/>.

<sup>370</sup> United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016, <http://www.refworld.org/docid/57161262e.html>; La Hora, *MP: 26 periodistas muertos de forma violenta en los últimos 15 años*, 12 March 2015, <http://lahora.gt/mp-26-periodistas-muertos-de-forma-violenta-en-los-ultimos-15-anos/>.



aggression against journalists.<sup>371</sup> Threats and attacks against journalists and other media workers are reported to intensify during electoral periods.<sup>372</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, journalists and other media professionals who are working on issues perceived to be sensitive by either State or non-State armed actors, including but not limited to organized crime, social justice and corruption, may be in need of international refugee protection on the ground of their (imputed) political opinion, and/or their membership of a particular social group, or on the basis of other Convention grounds.<sup>373</sup>

## 12. Human rights defenders and other social and political activists

Human rights defenders and other social and political activists who are working on issues perceived to be sensitive have reportedly been the frequent subject of harassment, threats, attacks and murder by gangs, organized criminal groups, elements of the security services and powerful political groups.<sup>374</sup> Those who are subject to such mistreatment reportedly include but are not limited to persons working for the defence of human rights in general, the rights of indigenous peoples, the rights of victims of the Guatemalan civil war, as well as land and environmental activists, trade unionists and defenders of the civic movement that stemmed from the 2015 institutional crisis.<sup>375</sup>

Between 2000 and August 2014, it is reported that 174 human rights defenders were murdered.<sup>376</sup> In 2014 seven human rights defenders were reportedly murdered, 13 in 2015, and 14 in 2016; in the first half of 2017 seven such murders were recorded.<sup>377</sup> In 2013, 657 attacks were recorded against human

<sup>371</sup> United States Department of State, 2016 Country Reports on Human Rights Practices: Guatemala, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>.

<sup>372</sup> Journalism in the Americas, *Environment of Fear Affects Electoral Coverage in Guatemala*, 17 February 2015, <https://knightcenter.utexas.edu/blog/00-15926-environment-fear-affects-electoral-coverage-guatemala>; Aletheia, "Guatemala: El periodismo, profesión de riesgo", 22 January 2015, <http://es.aleteia.org/2015/01/22/guatemala-el-periodismo-profesion-de-riesgo>.

<sup>373</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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.

<sup>374</sup> A report submitted to the Inter-American Commission on Human Rights documented 10 different cases where human rights defenders have faced human rights violations: Business and Human Rights Resource Centre, *Guatemala: Derechos humanos e Hidroeléctricas*, March 2017, [https://www.business-humanrights.org/sites/default/files/documents/19\\_03\\_17\\_Guate\\_Hidro.pdf](https://www.business-humanrights.org/sites/default/files/documents/19_03_17_Guate_Hidro.pdf). See also International Association for Environmental Defense (AIDA), *Attacks Against Guatemalan Human Rights Defenders Denounced*, 20 March 2017, <http://www.aida-americas.org/release/attacks-against-guatemalan-human-rights-defenders-denounced>; United States Department of State, 2016 Country Reports on Human Rights Practices: Guatemala, 3 March 2017, <http://www.refworld.org/docid/58ec8a3015.html>; World Organisation Against Torture (OMCT), *European Parliament Mobilises for Human Rights Defenders in Guatemala*, 16 February 2017, <http://www.omct.org/human-rights-defenders/statements/guatemala/2017/02/d24211/>; Unidad de Protección a Defensoras y Defensores de Derechos Humanos de Guatemala (UDEFEFUGA), *Informe General 2016: Informe sobre situación de Defensoras y Defensores de Derechos Humanos (Enero a Diciembre de 2016)*, January 2017, <http://udedefgua.org/wp-content/uploads/2017/05/Informe-Genaral-2016-FINAL6.pdf>; OMCT, *Guatemala: Preocupación por la campaña de ataques contra UDEFEFUGA*, December 2016, <http://www.omct.org/es/human-rights-defenders/urgent-interventions/guatemala/2016/12/d24107/>; OMCT, Joint Report: *Criminalización de defensores de derechos humanos: un preocupante fenómeno en América Latina - Lanzamiento de Informe*, February 2016, <http://www.omct.org/files/2016/02/23630/criminalisationobsangocto2015bassdef.pdf>, pp. 11-13; Procurador de los Derechos Humanos, *Declaración en relación a la situación de defensores y defensoras de derechos humanos*, February 2016, <https://www.pdh.org.gt/biblioteca/category/87-mecanismos-internacionales.html?download=2580:declaracion-en-relacion-a-la-situacion-de-defensores-y-defensoras-de-derechos-humanos-31-sesion-consejo-de-derechos-humanos>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 89-99; OMCT/FIDH, "Smaller than David": *The Struggle of Human Rights Defenders*, February 2015, <http://www.refworld.org/docid/55140b4a4.html>.

<sup>375</sup> OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, 11 January 2017, A/HRC/34/3/Add.1, <http://www.refworld.org/docid/58ad60184.html>, pp. 9-10, paras 35-36; Amnesty International, "We are Defending the Land with our Blood" - *Defenders of the Land, Territory and Environment in Honduras and Guatemala*, 1 September 2016, AMR 01/4562/2016, <http://www.refworld.org/docid/57c839a74.html>, pp. 7-8; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/31/3/Add.1, 19 February 2016, <http://www.refworld.org/docid/56ead0734.html>, p. 10; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 89-99; OMCT/FIDH, "Smaller Than David": *The Struggle of Human Rights Defenders*, February 2015, <http://www.refworld.org/docid/55140b4a4.html>.

<sup>376</sup> IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 89. It is reported that more than 70 trade unionists were killed between 2004 and 2015. See Human Rights Watch, *World Report 2016: Guatemala – Events of 2015*, 2016, <https://www.hrw.org/world-report/2016/country-chapters/guatemala>.

<sup>377</sup> UDEFEFUGA, *Informe sobre Situación de Defensoras y Defensores de Derechos Humanos en Guatemala: Un Reflejo del Deterioro de los Derechos Humanos en el País (Enero a Junio de 2017)*, August 2017, <http://udedefgua.org/wp-content/uploads/2017/10/201709-Sit-Defensores-DH-SEMESTRAL-FIN.pdf>, p. 7; UDEFEFUGA, *Informe General 2016: Informe sobre situación de Defensoras y Defensores de Derechos Humanos (Enero a Diciembre de 2016)*, January 2017, <http://udedefgua.org/wp-content/uploads/2017/05/Informe-Genaral-2016>



rights defenders; this figure rose to 813 attacks in 2014 before falling to 493 attacks in 2015 and to 263 in 2016.<sup>378</sup> However, the first half of 2017 showed a sharp upward trend, with 236 attacks recorded in just six months, or 90 per cent of the total number registered during the whole of 2016.<sup>379</sup> A large proportion of these attacks are reportedly directed against those working on the rights of indigenous peoples and environmental and land rights issues.<sup>380</sup> Attempts to intimidate human rights defenders reportedly frequently include prosecutions based on the misuse of criminal law provisions, arbitrary arrests and prolonged use of pretrial detention, as well as defamation campaigns by powerful special interest groups.<sup>381</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, human rights defenders and other social and political activists who are working on issues perceived to be sensitive by either State or non-State armed actors may be in need of international refugee protection on the ground of their (imputed) political opinion, and/or their membership of a particular social group, or on the basis of other Convention grounds.<sup>382</sup>

### 13. *Leaders and members of indigenous communities working to defend community land and other community assets*

Alongside efforts by indigenous communities to recover ancestral lands taken from them during the civil war, many indigenous communities across Guatemala are reportedly involved in efforts to stop the exploitation of natural resources in or around ancestral indigenous territories – i.e. predominantly mining, hydroelectric and oil exploration projects.<sup>383</sup> The predominantly rural and indigenous communities involved in such conflicts represent a sector of the population that already faces high levels of exclusion, inequality, discrimination and poverty.<sup>384</sup>

[FINAL6.pdf](#), p. 9; UDEFEGUA, *Informe 2015: Informe sobre situación de Defensoras y Defensores de Derechos Humanos (Enero a Diciembre de 2015)*, [http://udedefegua.org/wp-content/uploads/2015/08/informe\\_final\\_2015.pdf](http://udedefegua.org/wp-content/uploads/2015/08/informe_final_2015.pdf), p. 30; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 92-94. See also, for example, International Federation for Human Rights, *Guatemala: Alert Regarding the Escalation of Aggressions Against Human Rights Defenders*, 21 December 2016, <http://www.refworld.org/docid/585baf74.html>; Front Line Defenders, *Guatemala: Assassination of Human Rights Defender Brenda Marleni Estrada Tambito*, 23 June 2016, <https://www.frontlinedefenders.org/en/file/2551/download?token=2J5epIrN>; FIDH, *Guatemala: Asesinato de Diego Choc Pop*, 16 June 2016, <https://www.fidh.org/es/temas/defensores-de-derechos-humanos/guatemala-asesinato-de-diego-choc-pop>; Front Line Defenders, *Guatemala: Asesinato del defensor de derechos humanos Walter Méndez Barrios*, 22 March 2016, [https://www.frontlinedefenders.org/es/file/1890/download?token=ZJA\\_noNB](https://www.frontlinedefenders.org/es/file/1890/download?token=ZJA_noNB).

<sup>378</sup> UDEFEGUA, *Informe General 2016: Informe sobre situación de Defensoras y Defensores de Derechos Humanos (Enero a Diciembre de 2016)*, January 2017, <http://udedefegua.org/wp-content/uploads/2017/05/Informe-Genaral-2016-FINAL6.pdf>, p. 9.

<sup>379</sup> UDEFEGUA, *Informe sobre Situación de Defensoras y Defensores de Derechos Humanos en Guatemala: Un Reflejo del Deterioro de los Derechos Humanos en el País (Enero a Junio de 2017)*, August 2017, [http://udedefegua.org/wp-content/uploads/2017/10/201709-Sit-Defensores-DH-SEMESTRAL.FIN\\_.pdf](http://udedefegua.org/wp-content/uploads/2017/10/201709-Sit-Defensores-DH-SEMESTRAL.FIN_.pdf), pp. 6-7.

<sup>380</sup> UDEFEGUA, *Informe 2015: Informe sobre situación de Defensoras y Defensores de Derechos Humanos (Enero a Diciembre de 2015)*, January 2017, [http://udedefegua.org/wp-content/uploads/2015/08/informe\\_final\\_2015.pdf](http://udedefegua.org/wp-content/uploads/2015/08/informe_final_2015.pdf), p. 26; Amnesty International, *Guatemala 2015/2016*, 2016, <https://www.amnesty.org/en/countries/americas/Guatemala/report-Guatemala/>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 91.

<sup>381</sup> Amnesty International, *Amnesty International Report 2016/17: Guatemala*, 22 February 2017, <http://www.refworld.org/docid/58b033f74.html>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, p. 196; UDEFEGUA, *Informe General 2016: Informe sobre situación de Defensoras y Defensores de Derechos Humanos (Enero a Diciembre de 2016)*, January 2017, <http://udedefegua.org/wp-content/uploads/2017/05/Informe-Genaral-2016-FINAL6.pdf>, pp. 24-25; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 95-99; OMCT/FIDH, "Smaller than David": *The Struggle of Human Rights Defenders*, February 2015, <http://www.refworld.org/docid/55140b4a4.html>.

<sup>382</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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.

<sup>383</sup> OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, 11 January 2017, A/HRC/34/3/Add.1, <http://www.refworld.org/docid/58ad60184.html>, p. 12; Front Line Defenders, *Environmental and Indigenous Rights Defenders of Huehuetenango Released*, 29 July 2016, <https://www.frontlinedefenders.org/en/case/environmental-and-indigenous-rights-defenders-huehuetenango-released-0>; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 187-212; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/28/3/Add.1, 12 January 2015, <http://www.refworld.org/docid/55083b4b4.html>, p. 14.

<sup>384</sup> Amnesty International, "We are Defending the Land with our Blood" - *Defenders of the Land, Territory and Environment in Honduras and Guatemala*, 1 September 2016, <http://www.refworld.org/docid/57c839a74.html>, p. 20; Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2016: Guatemala*, 12 July 2016, <http://www.refworld.org/docid/5796083133.html>; United States Department of State, *2015 Country Reports on Human Rights Practices: Guatemala*, 13 April 2016,

Land disputes related to large-scale extractive projects are reported to have led to serious unrest in several parts of Guatemala, generating social protests and sometimes violent incidents. State security forces are reported to have responded to such incidents with disproportionate use of force, accompanied by repressive and intimidating operations aimed at silencing the voices of the communities.<sup>385</sup> Moreover, leaders and members of these communities are frequently reported to have been subjected to a wide range of abuses by members of the security forces and private security companies, including harassment, threats, physical attacks, arbitrary detention, to violent and unlawful evictions and killings, as well as restrictions on their freedom of movement, the burning of their crops and houses, and the arbitrary use of criminal law provisions against them. Private security companies engaged in these acts are reportedly hired by companies and others with financial interests in the projects opposed by local communities.<sup>386</sup>

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, leaders and members of indigenous communities working to defend community land and other community assets may be in need of international refugee protection on the basis of their membership of a particular social group, their (imputed) political opinion and/or their race, or on the basis of other Convention grounds.<sup>387</sup>

#### **14. Family members, dependants and other members of the households of persons falling within the previous risk profiles**

Family members, dependants, other members of the households of individuals with any of the profiles above can reportedly also be a target for attacks and assassination by gangs, organized criminal groups and elements of the security forces, sometimes even after the person who was initially targeted has fled or has already been killed.<sup>388</sup>

<http://www.refworld.org/docid/57161262e.html>; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/31/3/Add.1, 19 February 2016, <http://www.refworld.org/docid/56ead0734.html>, p. 12; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, pp. 44-57.

<sup>385</sup> IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 133-135. See also, Cultural Survival (US)/Asociación Sobrevivencia Cultural (Guatemala), *Observations on the State of Indigenous Human Rights in Guatemala, Prepared for: The 20<sup>th</sup> Session of the UN Human Rights Council Universal Periodic Review*, March 2017, [https://www.culturalsurvival.org/sites/default/files/UPRGuatemala2017\\_Eng-final.pdf](https://www.culturalsurvival.org/sites/default/files/UPRGuatemala2017_Eng-final.pdf).

<sup>386</sup> North American Congress on Latin America, *20 Years of "Peace" in Guatemala*, 1 April 2017, <https://nacla.org/news/2017/01/04/20-years-%E2%80%9Cpeace%E2%80%9D-guatemala>; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2016*, 31 January 2017, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, pp. 113-123, 198; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, 11 January 2017, A/HRC/34/3/Add.1, <http://www.refworld.org/docid/58ad60184.html>, pp. 9-10; Guardian, *Top Guatemalan Beauty Spot Mired in Indigenous Rights Conflict*, 17 December 2016, <https://www.theguardian.com/environment/andes-to-the-amazon/2016/dec/17/top-guatemalan-beauty-spot-mired-in-indigenous-rights-conflict>; OHCHR, *Annual Report of the United Nations High Commissioner for Human Rights on the Activities of His Office in Guatemala*, A/HRC/31/3/Add.1, 19 February 2016, <http://www.refworld.org/docid/56ead0734.html>, p. 10; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2015*, 1 February 2016, <http://www.pdh.org.gt/biblioteca/file/113.html>, pp. 423-429; IACHR, *Situation of Human Rights in Guatemala*, 31 December 2015, <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2016-en.pdf>, p. 91; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2014*, 12 February 2015, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, pp. 132-136 and 243-244; OMCT/FIDH, "Smaller than David": *The Struggle of Human Rights Defenders*, February 2015, <http://www.refworld.org/docid/55140b4a4.html>, pp. 23-25, 28-39; Procurador de los Derechos Humanos, *Informe Anual Circunstanciado 2013*, 31 January 2014, <https://www.pdh.org.gt/biblioteca/category/9-informes-anuales.html>, pp. 345-350.

<sup>387</sup> See UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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>.

<sup>388</sup> UNHCR, *Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, 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;.

Against this background, and taking into account the limitations on the ability and willingness of State agents to provide protection to civilians (see section II.C), UNHCR considers that depending on the particular circumstances of the case, family members, dependants and other members of the households of individuals with any of the profiles above may also be in need of international protection on the basis of their association with individuals at risk for reason of their (imputed) political opinion, or on the basis of their membership of a particular social group, or other Convention grounds.<sup>389</sup>

## **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 international protection criteria contained in UNHCR's mandate and regional instruments be examined.<sup>390</sup>

### ***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,<sup>391</sup> 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.<sup>392</sup> 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.<sup>393</sup>

In light of the information provided in Section II above, UNHCR considers that most if not all violence in Guatemalan 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

<sup>389</sup> UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, 31 March 2010, [www.refworld.org/docid/4bb21fa02.html](http://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 Seventh Circuit, *Hassan v. Holder, Attorney General*, 08-1535, 2 July 2009, <http://www.refworld.org/docid/4b43656c2.html>; United States Court of Appeals for the Fourth Circuit, *Crespin-Valladeres et al. v Holder, Attorney General*, 09-1423, 16 February 2011, <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, <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, <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, <http://www.refworld.org/docid/56cc10f24.html>.

<sup>390</sup> 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.

<sup>391</sup> 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>.

<sup>392</sup> UNHCR: *Providing International Protection Including Through Complementary Forms of Protection*, 2 June 2005, EC/55/SC/CRP.16 <http://www.refworld.org/docid/47fdb49d.html>; UN General Assembly, *Note on International Protection*, 7 September 1994, A/AC.96/830, <http://www.refworld.org/docid/3f0a935f2.html>.

<sup>393</sup> 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.

to assess the threat to life, physical integrity or freedom resulting from events seriously disturbing public order. In the exceptional circumstances of Guatemala, relevant considerations in this regard include the fact that in certain parts of the country the Government has lost effective control to gangs and other organized criminal groups and is unable to provide protection to inhabitants.<sup>394</sup> In the context of Guatemala, the available information indicates that the exercise of control over key aspects of people's lives in areas controlled by gangs and some other organized criminal groups is repressive, coercive and undermines an *ordre public* based on respect for the rule of law and human dignity.<sup>395</sup>

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.D); (iii) the extensive measures of control, including social, economic, and political control, over local populations by gangs and certain other organized criminal groups 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 youths 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.<sup>396</sup>

Against this background, UNHCR considers that individuals who have been found not to meet the refugee criteria contained in the 1951 Convention and who originate from areas where organized criminal groups 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*

Guatemalan 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)<sup>397</sup> 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.<sup>398</sup>

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 Guatemala controlled by gangs or certain organized criminal groups, or where they 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

<sup>394</sup> See Section II.C and references therein.

<sup>395</sup> See Sections II.B.2.a and II.B.2.b and references therein.

<sup>396</sup> For general considerations (not specific to Guatemala), 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.

<sup>397</sup> *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>.

<sup>398</sup> *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).



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 Guatemala where gangs or certain other organized criminal groups 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).<sup>399</sup>

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

Persons originating from Guatemala 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 Guatemala.<sup>400</sup>

In light of the information provided in Section II above, UNHCR considers that most if not all violence in Guatemalan 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.<sup>401</sup>

### 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 Guatemala, 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

<sup>399</sup> 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>.

<sup>400</sup> 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 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.

<sup>401</sup> 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.

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 drug-trafficking structures, to carry out attacks in any part of Guatemala, 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 Guatemala City and surrounding municipalities, 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.<sup>402</sup> 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,<sup>403</sup> 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 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 and the absence of a relevant legal framework and protection mechanisms 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; (viii) for members of indigenous communities in particular, the presence of members of the relevant indigenous community in the proposed area of relocation; and (ix) the overall sustainability of the relocation in light of the fact that displaced persons in Guatemala are often forced to displace multiple times.

## **D. Exclusion from International Refugee Protection**

Among nationals or habitual residents of Guatemala 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.<sup>404</sup> Exclusion considerations would be triggered, in particular, in cases involving possible participation in acts of violence, including murder, torture and other forms of ill-treatment, kidnappings, rape and other forms of sexual violence, extortion, robbery, violent assaults and other violent crimes, forced displacement and recruitment and use of children. 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

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<sup>402</sup> 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.

<sup>403</sup> *Ibid.*, paras 24, 27-30.

<sup>404</sup> 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.refworld.org/docid/3f5857684.html>.

is not a sufficient basis to exclude. A full assessment of the circumstances of the individual case is required in all cases.<sup>405</sup>

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.<sup>406</sup> 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.<sup>407</sup>

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<sup>405</sup> 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>.

<sup>406</sup> 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.

<sup>407</sup> The Paris 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