MIGRATION & ASYLUM LAB

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GUATEMALA

COUNTRY CONDITIONS BULLETIN

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The Migration and Asylum Lab seeks to inform immigration courts about country conditions in Latin America through the use of the most up-to-date and rigorous research on issues relevant to asylum cases. The scholars involved in the lab are supremely qualified to provide current and dependable information on country conditions in the context of asylum proceedings. They include political scientists, data analysts, historians, and international relations scholars. They have decades of experience in their field and are widely recognized for their work, which includes peer-reviewed books published by university presses and articles in the top academic journals.

The Lab's mission is to provide thorough, dependable country conditions information to help adjudicators to make well informed decisions as to the merit of claims for asylum protection. Our role as expert witnesses is not to act as advocates, but rather to conduct impartial analysis of country conditions based on a wide range of sources, including academic scholarship, government and non-government reports, and media reporting from inside the country and the international press.

GUATEMALA

2023 Country Conditions Bulletin

Chapter One: Guatemala Country Profile

Rates of Homicide, Femicide and Impunity

2022 Official Homicide Rate: 17.3 per 100,000 (Pop. 17,109,746)

- Diálogos Observatorio de Violencia publishes annual reports compiling homicide data from the National Civil Police in Guatemala. In their latest report, published in August 2023, Diálogos registered 1,657 homicides by the start of August.[1]
- 3,004 homicides registered in Guatemala in 2022, a 5.7% rise from the 2,843 registered in 2021 by the Guatemalan government's Center for National Economic Research (Centro de Investigaciones Económicas Nacionales - CIEN).
- Source: InSight Crime Yearly Homicide Round-Up (released every February)
  Also gives basic info by country about reasons for spikes/drops in homicide rates and new criminal actors.[2]

Impunity for Homicides

- 95% impunity rate (2017) as reported by the now defunct Comisión Internacional Contra la Impunidad en Guatemala (CICIG).[3]
- Further information on cases of impunity in Guatemala can be found at the committee's archived website.[4]

Femicides: 1.6 per 100,000 women.[5] (Rate of violent deaths of women is higher- UN Women found the rate of violent deaths among women to be 9.7 per 100,000 in 2013.[6])

- In 2022, Guatemalan think tank CIEN (Centro de Investigaciones Económicas Nacionales) registered 624 violent deaths of women and 157 femicides, which the

[1] Marco Robles, Carlos Mendoza, and Gabriela Morales, "Información sobre la violencia homicida en Guatemala," Observatorio de la Violencia Diálogos, Aug. 2023, https://dialogos.org.gt/wp-content/uploads/2023/08/Informe-Homicidios-julio-2023.pdf
[2] "Insight Crime's 2022 Homicide Round-Up," Insight Crime, Feb. 8 2023, https://insightcrime.org/news/insight-crime-2022-homicide-round-up/#Guatemala.
[3] Steven Dudley, "Homicides in Guatemala: Collecting the Data," InSight Crime, April 20, 2017, https://insightcrime.org/investigations/homicides-in-guatemala-collecting-the-data/#ftn1.
[4] Comisión Internacional Contra la Impunidad en Guatemala, Archivo histórico de la CICIG hasta el 3 de septiembre 2019, https://www.cicig.org/.
[5] "Comunicado de Prensa: Hablemos de Femicidio," CIEN, Feb. 22, 2023, https://cien.org.gt/index.php/comunicado-de-prensa-hablemos-de-femicidio/
[6] "Guatemala," UN Women: Americas and the Caribbean, http://lac.unwomen.org/en/donde-estamos/guatemala.

organization differentiates as the murder of a woman explicitly related to her gender, by a man.[7]

Impunity for Femicides

- In 2022, CIEN reported that since the crime of femicide was officially recognized by the Guatemalan state in 2008, 2,168 femicides have been recorded, with 71% of these crimes remaining in impunity.[8]

Major Criminal Actors:

- Los Huistas
- Maras (MS-13 and Barrio 18)
- Cartel Jalisco Nueva Generación (MX)
- Zetas (MX)
- Sinaloa Cartel (MX)

History

Guatemala has suffered from a violent history since at least the CIA-backed overthrow of its democratically elected president Jacobo Arbenz in 1954. The military ruled directly or through puppet governments since then until 1996 when a peace process demobilized the leftist guerillas. The 36-year civil war in Guatemala provided a fertile breeding ground for the emergence and expansion of criminal activity, where small family-run gangs of human traffickers and drug smugglers cropped up in border areas. These operations were able to operate freely in collusion with security forces (military and police), who also took advantage of these illegal networks.[9] According to the official report of the Commission for Historical Clarification, during the Civil War from 1960-1996, 200,000 people were killed in a bloody civil war that targeted mainly indigenous people. The Commission found that 93% of the killings were committed by state forces and paramilitary groups associated with the state.[10] Although the peace process officially ended the civil war, Guatemalan society continues to be wracked by violence perpetrated by state forces and increasingly by drug trafficking cartels and gangs that operate throughout Central America and Mexico.

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[7] "Comunicado de Prensa: Hablemos de Femicidio," CIEN, Feb. 22, 2023, https://cien.org.gt/index.php/comunicado-de-prensa-hablemos-de-femicidio/.
[8] "71% of murders of women in Guatemala go unpunished," *Infobae*, March 23, 2022, https://www.infobae.com/en/2022/03/23/71-of-murders-of-women-in-guatemala-go-unpunished-2/.
[9] Laura Sanz-Levia; Fernando Jimenez-Sanchez, "Breaking democracy: illegal political finance and organized crime in Guatemala," Crime, Law and Social Change 75, no. 1 (January 2021): 25.
[10] Commission for Historical Clarification, *Guatemala, Memory of Silence: Report of the Commission for Historical Clarification* (Guatemala: Commission for Historical Clarification, 1996), 20.

Current Security Situation

The U.S. State Department lists Guatemala's crime situation as "critical" and in its 2022 Security Report concluded, "Guatemala's high murder rate is driven by narcotrafficking activity, gang-related violence, a heavily armed population, and a law enforcement and judicial system unable to hold criminals accountable." This same report notes that state authorities, including the police and military, are unwilling or unable to combat drug trafficking and gang violence.[11] The 2022 State Department report (published in 2023) on human rights in Guatemala indicates that the situation has not shown any improvement in terms of gang-related killings and corruption among police and the judiciary.[12] In 2022, the country recorded 3,004 homicides, a 5.7% rise from the 2,843 registered the year prior, for a rate of 17.3 per 100,000 people. Civil society groups such as the Mutual Support Group (GAM) argue that government data is faulty and recorded 3,609 homicide victims for 2022, noting a 7% rise in homicides from January to October 2022 compared to the same period in 2021. GAM's findings also revealed a spike in the number of murder victims who showed signs of torture, from 104 in all of 2021 to 164 in the first 10 months of 2022.[13] Extreme violence also appeared to be on the rise in 2021; the number of torture victims in 2021 nearly doubled from 2020.[14]

The Overseas Security Advisory Council (OSAC) at the State Department wrote in its 2022 Report that "Guatemala remains among the most dangerous countries in the world. Endemic poverty, an abundance of weapons, a legacy of societal conflict, and the presence of organized criminal gangs like Barrio 18 (18th Street) and Mara Salvatrucha (MS13) all contribute to violent crime."[15] To give a sense of comparison, the US murder rate throughout the last decade has hovered around 5 per 100,000, although since 2020 has increased to 6-7 per 100,000. Organized crime in Guatemala includes gangs and cartels, but other private and state actors also operate throughout the country. According to *Insight Crime*, "criminal elements of Guatemala's military and intelligence apparatus are collectively named the Illegal Corps and Clandestine Apparatus (Cuerpos Ilegales y Aparatos Clandestinos de Seguridad- CIACS)," indicating the level of criminal infiltration within the state's security

[11] OSAC, "Guatemala Country Security Report," Aug. 15 2022, https://www.osac.gov/Country/Guatemala/Content/Detail/Report/2013f384-296b-4394-bfcb-1c9c40b9c7df

[12] United States Department of State, "Guatemala 2022 Human Rights Report," https://www.state.gov/wp-content/uploads/2023/03/415610_GUATEMALA-2022-HUMAN-RIGHTS-REPORT.pdf

[13] "Insight Crime's 2022 Homicide Round-Up," Insight Crime, Feb. 8 2023, https://insightcrime.org/news/insight-crime-2022-homicide-round-up/#Guatemala

[14] "Insight Crime's 2021 Homicide Round-Up," Insight Crime, Feb. 1 2022, https://insightcrime.org/news/insight-crimes-2021-homicide-round-up/.

[15] OSAC, "Guatemala Country Security Report," Aug. 15 2022, https://www.osac.gov/Country/Guatemala/Content/Detail/Report/2013f384-296b-4394-bfcb-1c9c40b9c7df.

apparatus.[16] On May 19, 2023, a U.S. judge accepted the guilty plea of a former Guatemalan colonel, who admitted his involvement with the Cartel Jalisco Nueva Generación's cocaine trafficking operations in Guatemala, confirming the presence of Mexico's most powerful cartel and the military's role in assisting criminal organizations. Before the arrest of the colonel and other Guatemalan soldiers in connection to trafficking operations linked to the CJNG, Guatemalan military personnel had been found to have worked with both the Sinaloa and Zetas cartels.[17]

Current Political Situation

On August 20, 2023, leftist Bernardo Arevalo and son of Juan Jose Arevalo, Guatemala's first democratically-elected president, won a surprising run-off election against Sandra Torres, conservative candidate of the institutional UNE party. The election cycle was rife with legal battles, criminal investigations and other attempts to undermine the results. In February, before the first round of voting, the country's electoral commission used false accusations to bar three candidates from participating. In the first election round, Arevalo came in second behind Torres, leading to efforts by the current government to disqualify his progressive party Semilla (investigating supposed fraud in the vote count, attempting to dissolve the Semilla party, police raids on the party's headquarters).[18] After Arevalo's victory was certified by Guatemala's electoral tribunal magistrates, Movimiento Semilla's legal status as a party was temporarily suspended based on a judge's order. Many worry that these legal actions against Arevalo and his progressive party, spearheaded by Attorney General Consuelo Porras, are an effort to block Arevalo's transition of power in January 2024, indicating a desire from the current political elite to maintain their holding on executive power in the country.[19]

Annual and Semi-Annual State Department Reports

- OSAC, "Guatemala Country Security Report," released yearly, last updated August 15, 2022. https://www.osac.gov/Country/Guatemala/Content/Detail/Report/2013f384-296b-4394-bfcb-1c9c40b9c7df

[16] "Guatemala Profile," Insight Crime, 28 Feb. 2021, https://www.insightcrime.org/guatemala-organized-crime-news/guatemala/.
[17] Henry Shuldiner, "Guatemala Ex-Colonel Says Military Helped CJNG Run Drugs," InSight Crime, May 24, 2023, https://insightcrime.org/news/guatemala-ex-colonel-says-military-helped-cjng-run-drugs/.
[18] Daniel Judt, "Bernardo Arevalo's Unexpected Victory Brings Guatemala Another Democratic Spring," *The Nation*, Aug. 22, 2023, https://www.thenation.com/article/world/bernardo-arevalo-guatemala-election/.
[19] Sandra Cuffe, "'There is no work': Guatemala political crisis spotlights calls for change," *Al Jazeera*, Sept. 4, 2023, https://www.aljazeera.com/news/2023/9/4/there-is-no-work-guatemala-political-crisis-spotlights-calls-for-change.

- State Dept. Country Reports on Human Rights Practices, released yearly, last update March 20, 2023. Includes analysis of human rights situation for prison conditions, politically motivated crimes, judicial freedom, govt. Corruption, ethnic violence, indigenous people, women, LGBT individuals https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guatemala
- Guatemala Travel Advisory, last updated March 1, 2023. Gives information on security situation, including by department/state and travel bans for government employees due to high insecurity. https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/guatemala-travel-advisory.html
- United States Department of State, Bureau of International Narcotics and Law Enforcement Affairs: International Narcotics Control Strategy Report, released yearly, latest release March 2023. Country by country report on drug trends and assessment of local government successes at combating illicit drug consumption and trafficking. https://insightcrime.org/wp-content/uploads/2023/03/INCSR-2023-Vol-1.pdf

InSight Crime (Organized Crime Think Tank) Country Reports

- "Guatemala Profile," updated 28 Feb. 2021, https://www.insightcrime.org/guatemala-organized-crime-news/guatemala/.
- Latest Crime News: https://insightcrime.org/guatemala-organized-crime-news/

Local Guatemalan Government and Independent Sources

- Centro de Investigaciones Económicas Independientes (CIEN): independent think tank with reports on homicide rates, femicide, impunity, public safety etc.: https://cien.org.gt/
- Comisión Internacional Contra la Impunidad en Guatemala: UN mandated committee created to study and eradicate impunity and crimes committed by corrupt state officials, generally known as cuerpos ilegales y aparatos clandestinos de seguridad (ciacs). Terminated by the Guatemalan state in 2019: https://www.cicig.org/
- Grupo de Apoyo Mutuo (GAM): Local NGO focusing on forced disappearances stemming from the Guatemalan civil war, also publish data on homicides and femicides among other human rights issues: https://grupodeapoyomutuo.org.gt/

- Grupo Guatemalteco de Mujeres (GGM): Local NGO promoting women's rights, publish data on femicide and other crimes against women: https://ggm.org.gt/ Find monthly statistics on femicide and violence against women at this page: https://ggm.org.gt/publicaciones/

Regional Violence by State

Chiquimula

Chiquimula is a primarily rural area in the eastern region of the country. Located near the border with Honduras and El Salvador, Chiquimula is also an important corridor for contraband, illegal drugs, human smuggling and other illegal activities. Those living in poverty make up sixty percent of the population, with thirty percent in extreme poverty; these marginalized groups are often susceptible to gang recruitment.[20] Chiquimula has also long been one of the most homicidal places in the country. Between 2001 and 2014, the municipality averaged 78 murders a year, according to police data. An *InSight Crime* report analyzing homicide trends throughout different departments in Guatemala concluded that, although important drug-trafficking operations are responsible for violence in the area, many homicides in Chiquimula can be traced back to land disputes or long-standing family feuds. According to the report, when "one family takes the life of another, a chain of retribution can begin that can last for years."[21] The head of the Chiquimula prosecutor's office, Hugo Rosales, told InSight Crime in an interview: "In the majority of homicides or assassinations that we've done, it's a fight over land…The thing is that the boundaries are not well marked, and the neighbors can't reach an agreement, and that's why they take violent actions." Police investigators in Chiquimula also told InSight Crime that they had no clear strategy to mediate these land disputes, opening the door to increased violence in the region.[22]

Escuintla

In Nueva Concepción, Escuintla, waves of violence have made news headlines and displaced local residents for at least a decade. In 2014, community leaders from Nueva Concepción spoke to Guatemalan newspaper *Prensa Libre* about local crime groups that had completely taken over the territories of Trocha 10, 11, 12 and the town of Tecojate. The criminal groups were said to control the town entrances and work with local police. One resident noted how innocent victims were often taken down with gang rivals, with the gangs seeming not to care.

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[20] "A Visual Analytics Approach to Understanding Poverty Assessment through Disaster Impacts in Latin America and Africa," United Nations Office for Outer Space Affairs (2011), http://www.un-spider.org/sites/default/files/RIVAF%20%20Final%20Report.pdf.

[21] Steven Dudley, "Homicides in Guatemala: Analyzing the Data," InSight Crime, April 20, 2017, https://www.insightcrime.org/investigations/homicides-in-guatemala-analyzing-the-data/.

[22] Steven Dudley, "Homicides in Guatemala: Analyzing the Data," InSight Crime, April 20, 2017, https://www.insightcrime.org/investigations/homicides-in-guatemala-analyzing-the-data/.

These interviews came after gang members murdered four family members in a home in Nueva Concepción in May 2014.[23] Just one of the local gangs active in the region is los Herreras, who engage in crimes such as violent robbery and homicide, as was discovered when a gang member alias "Pablito" was captured in Trocha 1 in 2018.[24] During police raids in July 2018, dozens of illicit firearms and munitions were discovered in La Trocha, indicating the continued presence of organized crime and local gangs in the region.[25]

Huehuetenango

Huehuetenango is a primarily rural area located in the northwest corner of the country on the border with Mexico. The border location of Huehuetenango has made the state a frequent site for drug trafficking and clashes between cartels and gangs spread across Central America and Mexico. In 2008, seventeen people died on the border in a turf battle between "narcosicarios" (narco hitmen) and a local organized crime group called Los Huistas, and several other massacres have been noted in following years attributed to the same group.[26] 73.8% of the population in Huehuetenango lives in poverty, 28.6% in extreme poverty, and 56% of the population is indigenous, these marginalized groups often being susceptible to gang recruitment.[27]

Quiché

In the majority indigenous department of Quiché, 86% of residents live in poverty and 30% of residents live in extreme poverty. Because of this, the Quiché department has seen the largest number of residents forced to leave the country in recent years.[28] In the region of Quiché specifically, where forty years ago the government massacred, disappeared and committed genocide against Mayan residents, the territory is now being invaded by megaprojects sponsored by corrupt government officials who provide licenses and contracts while committing human rights violations against local indigenous populations and targeting

[23] Enrique Paredes, "Masacran a cuatro miembros de familia en Nueva Concepción," *Prensa Libre*, May 21, 2014, https://www.prensalibre.com/ciudades/escuintla/masacran-cuatro-miembros-familia-violencia-nueva-concepcion-escuintla-0-1141686044/.

[24] "Capturan a alias "Pablito" sindicado de varios delitos e integrante de los Herreras," Policía Nacional Civil, Gobierno de Guatemala, Aug. 29, 2022, https://mingob.gob.gt/capturan-a-alias-pablito-sindicado-de-varios-delitos-e-integrante-de-los-herreras/.

[25] Jarbin Yelmo, "Hallan armas y municiones durante allanamientos en caserío de Escuintla," *Diario de Centro America,* July 26, 2018, https://dca.gob.gt/noticias-guatemala-diario-centro-america/hallan-armas-y-municiones-durante-allanamientos-en-caserio-de-escuintla/.

[26] "Guatemala elites and organized crime: The 'Huistas,'" InSight Crime, 1 Sept., 2016, https://www.insightcrime.org/investigations/guatemala-elites-and-organized-crime-the-huistas/

[27] "Guatemala elites and organized crime," InSight Crime, 1 Sept 2016, https://www.insightcrime.org/investigations/guatemala-elites-and-organized-crime-the-huistas/

[28] Paolina Albani, Elsa Coronado, Carlos Melgar, "Un conflicto político, una obra millonaria y un municipio pobre," *Revista Factum*, May 22, 2019, https://www.revistafactum.com/complejo-abandono-nebaj/.

indigenous resistance leaders. Companies such as HidroXacbal in Chajul have been implicated in bribing high-ranking government officials to carry out their projects; HidroXacbal received "energy distribution contracts" after bribing the Minister of Energy and Mines. The municipal mayor of Nebaj, Virgilio Gerónimo Bernal Guzmán, has also been accused of corruption and illicit activities, including approving the construction of electric towers rejected by residents. After numerous complaints from residents and other politicians led to an investigation of Bernal Guzmán by the Public Ministry, the community of Nebaj held a popular assembly in December 2021 denouncing the mayor and demanding his immediate resignation.[29] A communique released by the Ixil indigenous authorities on September 4, 2022 details physical attacks that their group has suffered at the hands of Bernal Guzmán's government, alongside his failure to protect women's rights and his grave violations of indigenous rights throughout his terms. Finally, the indigenous authorities blamed Bernal Guzmán for the disappearance of sacred indigenous relics, which they see as part of his attempt to illegitimately usurp the municipal government from the people and their indigenous authorities.[30]

[29] Giovanni Batz, "25 Years After the Peace Accords, Democracy Weak in Guatemala," NACLA, Jan. 21, 2022, https://nacla.org/25-years-after-peace-accords-democracy-weak-guatemala.
[30] Andrea Solórzano, "Exigen renuncia de alcalde de Nebaj por desalojo de autoridades indígenas," *La Hora*, Sept. 4, 2022, https://lahora.gt/nacionales/andrea-solorzano/2022/09/04/exigen-renuncia-de-alcalde-de-nebaj-por-desalojo-de-autoridades-indigenas/.

Chapter Two: Gang Violence in Guatemala

Overview

In 1954, the United States government backed a military coup that ousted socialist Guatemalan president Jacobo Árbenz, initiating a brutal civil war that killed as many as 200,000 citizens.[31] During the early 1980s, the Guatemalan military government, with the support of the United States, targeted rural Mayan communities under the pretext that these rural communities supported communist guerrilla forces. The government dispatched elite units with orders to torture and kill, in the process razing entire villages to the ground, raping women and children and inflicting genocidal practices on Indigenous Guatemalans, many who lived in the Alta Verapaz department.[32]

One woman from the Mayan village Sepur Zarco, Maria Ba Caal, recalls how the army created an outpost in her town in 1982, killing all the men and forcing the women into sexual slavery: "When my husband and my fifteen-year-old son were taken away, they were working men. The army came in the afternoon and took them away . . . I don't remember the date, but that was the last time I saw my husband and son."[33] Due to the extreme violence of the civil war, exemplified by the story of Maria Ba Caal, thousands of Guatemalans, among other Central Americans escaping civil wars in their own countries, fled to the United States. These refugees came escaping bloodshed and a crumbling economy due to the violence in the region. By 1985, between three-quarters of a million to 1.3 million Central Americans were living in the United States; approximately one-fifth being Guatemalans.[34]

Many of these refugees arrived in Los Angeles, where they settled in gang-ridden, violent neighborhoods. Gangs such as the Mexican-American 18th Street (Barrio 18) offered these young refugees a way to gain respect, friendship, and protection.[35] In 1996, the same year

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[31] Kirsten Weld, *Paper Cadavers: The Archives of Dictatorship in Guatemala* (Duke University Press, 2014), 2.
[32] Deborah T. Levenson, *Adios Niño: The Gangs of Guatemala City and the Politics of Death* (Duke University Press, 2013), 25, 34–38.
[33] UN Women, "Sepur Zarco Case: The Guatemalan Women Who Rose for Justice in a War-Torn Nation," 2018, https://www.unwomen.org/en/news/stories/2018/10/feature-sepur-zarco-case; Jeff Abbott and Julia Hartviksen, "Justice for the Women of Sepur Zarco," The North American Congress on Latin America (NACLA), 2016, https://nacla.org/news/2016/03/11/justice-women-sepur-zarco; The Borgen Project, "Justice for the Abuelas of Sepur Zarco, Guatemala," *Borgen Magazine*, 2021, https://www.borgenmagazine.com/abuelas-of-sepur-zarco/.
[34] Nora Hamilton and Norma Stoltz Chinchilla, "Central American Migration: A Framework for Analysis," *Latin American Research Review* 26, no. 1 (1991): 99.
[35] Antohony W. Fontes, *Mortal Doubt: Transnational Gangs and Social Order in Guatemala City* (University of California Press, 2018), 80.

that the civil war ended in Guatemala, the US Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act, leading to the deportation of thousands of gang members back to Guatemala and other countries throughout Central America. These deportees returned to a country that had been torn apart by over three decades of civil war, and with the lasting scars of gang life in Los Angeles. By the end of Guatemala's armed conflict, over 1,500,000 people had been dislocated; many children and youth had been orphaned and raised in chaos; and thousands of citizens had become accustomed to violence. Street gangs such as Barrio 18 began to replace the military as agents of violence and torture in the region.

Local gangs affiliated with the *maras*, MS13 and Barrio 18, have since proliferated in Guatemala, and gang members often target returnees because of the gangs' need to maintain political and social control over the populace. The *maras* have gained considerable political and social control in Guatemala and constitute violent transnational criminal organizations. Criminal organizations such as the Maras often seek revenge against those who betray them as a way to enforce discipline and maintain control.

The Strategic Studies Institute reported in 2010 that the dominant maras in Guatemala are the Mara Salvatrucha 13 (MS-13) and the Barrio 18 (18th Street) gangs. Both gangs are said to have a strong presence throughout northern Central America and Mexico, and enjoy working relationships with various Mexican and Colombian drug traffickers. According to author Hal Brands, MS-13 is thought to be particularly close to the Sinaloa cartel and its enforcers.[36] Former MS-13 gang members testifying as protected witnesses in October of 2019 confirmed that El Salvador's MS-13 faction had strategically sent gang members into Guatemala and Mexico in order to establish ties with drug trafficking organizations there.[37] According to the British government's travel advisory for Guatemala, "the majority of serious crime involves local gangs."[38]

Other small gang groups also exist, such as the Vatos Locos, White Fence, Chapines 13, Eleven Street, Harpies, and others; however, U.S. and Guatemalan government sources attribute most of the gang dynamics in Guatemala currently to be related to MS-13 and Barrio 18. Estimates from a variety of government sources including the United Nations

[36] Hal Brands, "Crime, Violence and the Crisis in Guatemala: A Case Study in the Erosion of the State," Strategic Studies Institute, US Army War College *(2010),* https://www.jstor.org/stable/resrep11425?seq=1#metadata_info_tab_contents
[37] "'Se enviaron pandilleros a Guatemala y México': Mara Salvatrucha expandió su poderío desde El Salvador y buscó alianzas con carteles," *Prensa Libre*, Oct. 10, 2019, https://www.prensalibre.com/internacional/se-enviaron-pandilleros-a-guatemala-y-mexico-mara-salvatrucha-expandio-su-poderio-desde-el-salvador-y-busco-alianzas-con-carteles/.
[38] Ignacio Marin, "Abandoned: gangs in Guatemala replace families," *Guardian,* March 24, 2021, https://www.theguardian.com/global-development/2021/mar/24/left-behind-where-guatemala-gangs-replace-families-in-pictures.

Office on Drugs and Crime (UNODC) and Congressional Research Service put the number of gang members in Guatemala around 22,000. Research conducted by InSight Crime in 2018 determined that street gangs are present in 23 of the 25 zones in Guatemala City, with MS-13 cliques in 21 zones of the capital, and Barrio 18 cliques present in eight, including Zona 18, one the largest zones of Guatemala City. In addition, street gangs have a significant presence in other cities in the country, such as Quetzaltenango, Escuintla, and Retalhuleu. According to USAID analysis, the universal rivalry between MS-13 and Barrio 18 shapes most of the gang dynamics in Guatemala, both within the gangs and their relationships with communities and the territory. Most gang members trace that rivalry to the fallout of the Rompimiento del Sur ("Rupture of the South") in 2005, which ended a nonaggression pact between the two gangs in the Guatemalan prison system.[39]

Control of territory is central to the operations of MS and rival Barrio 18 as well as smaller local gangs in Guatemala. This need for territorial control also derives from the collection of rent within a given space in the form of extortion and other revenue, leading to a need to establish physical boundaries. According to a report commissioned by the Department of Justice, "this has led to what are referred to as "invisible boundaries" ("fronteras invisibles"), which residents understand are meant to mark gang-controlled areas." This territorial control is where the gangs derive their political, social and economic power, and they closely monitor and often punish those that come from rival territories.[40] Observers from inside and outside of Guatemala have concluded that street gangs constitute important actors in the levels of insecurity and violence. The AmericasBarometer, a survey conducted by Vanderbilt University, found that in 2019, perceptions of insecurity in Guatemala increased significantly in the last seven years. In the 2017 survey, the AmericasBarometer found that 36.2 percent of interviewees said that gangs affected their communities, and that the presence of gangs played a role in people fleeing to the United States.[41]

The legitimate government of Guatemala, either at the weakest link at the state and local level, or at the strongest link at the federal level, has failed to provide adequate protection. The criminal organizations, gangs and cartels operate as pseudo-governments in large swaths of Guatemala and thus there is no institutional challenge to their exertion of power. By

[39] Jose Miguel Cruz, Manolya Tanyu, Yulia Vorobyeva, Yemile Mizrahi, Andi Coombes, Josué Sánchez, Chandler Hill, and Patricia Campie, "A study of gang disengagement in Guatemala," American Institutes for Research & Florida International University, Dec. 2020, https://pdf.usaid.gov/pdf_docs/PA00X5GZ.pdf.
[40] InSight Crime and American University Center for Latin American and Latino Studies, "MS13 in the Americas: How the World's Most Notorious Gang Defies Logic, Resists Destruction," Department of Justice, https://www.justice.gov/eoir/page/file/1043576/download.
[41] Jose Miguel Cruz, Manolya Tanyu, Yulia Vorobyeva, Yemile Mizrahi, Andi Coombes, Josué Sánchez, Chandler Hill, and Patricia Campie, "A study of gang disengagement in Guatemala," American Institutes for Research & Florida International University, Dec. 2020, https://pdf.usaid.gov/pdf_docs/PA00X5GZ.pdf.

collecting taxes, providing protection and employment, and keeping order in communities, the street gangs and cartels have usurped the normal functions of the state. Police in these communities are either afraid of working against the gangs and cartels and/or are being paid off by these criminal organizations to work with them. No local government maintains a sufficiently robust or corruption-free police or military force that could pose any obstacle to the criminal organizations. Finally, at the federal level, the criminal organizations have sufficiently infiltrated law enforcement agencies and the military, such that there would be no protection provided to citizens.

The violence in Central America has reached epidemic proportions, causing people to flee to the United States in search of protection and stability. Since 2007, the homicide rate through Central America has steadily increased, largely a result of organized crime and drug trafficking.[42] While each gang and transnational criminal organization in Guatemala has its own history, structure, and particular relationship to the state in which it operates, they all operate with robust impunity. The financial resources amassed through their illegal activities have been strategically invested in infiltrating political and policing institutions as well as military-grade weaponry. Drug cartels and the more dominant street gangs pose a formidable political and military threat to the federal government of Guatemala, and have largely prevented the federal government from enforcing rule of law norms.

What is often referred to as a gang problem in the Central American countries of Honduras, El Salvador, and Guatemala is actually a political and social crisis involving transnational criminal and drug trafficking organizations that have wreaked havoc on the political infrastructure and social fabric of those countries, rendering them nearly ungovernable. These countries represent what can only be understood as "failed-states" given the general inability to exercise the legal capacity of the state, the consequences of which have led to the proliferation of transnational criminal organizations, drug cartels and street gangs.[43] Organized criminal associations are increasingly engaged in widespread recruitment, extortion, kidnapping, sexual violence, and murder.

Gang Resisters

"Gang resisters" are unlikely to find state sanctioned protection and are a particularly vulnerable population because they stand out in society for defying, and thus "disrespecting"

[42]"Transnational Organized Crime in Central America and the Caribbean," United Nations Office on Drug and Crimes, September 2012.
[43] Daniel Thurer, "The 'Failed State' and international law," *International Review of the Red Cross,* No. 836, December 31, 1999, https://www.icrc.org/en/doc/resources/documents/article/other/57jq6u.htm.

or "insulting" the gang.[44] Simply the act of resisting gang recruitment is viewed as "anti-gang" political activity and presents a serious risk to dissenters. According to one study by Sonja Wolf, "violence is no longer used exclusively against rivals but is also used in internal paybacks and attacks against prison guards, as well as on civilians suspected of collaborating with the police."[45] Members of the population who resist gang activity, even just by reporting crimes to police, are readily identified in society. This is because a critical means of maintaining the gangs' power is their ability to identify those who resist them, and to co-opt members of the broader society to identify those persons to them.

Refusing the gang does not simply mean refusing to become a gang member. As far as the gangs are concerned, there is no room for neutrality: you are either with them, or against them. For people who live in gang-controlled areas, that means that any interaction, no matter how minor, can escalate into a situation that threatens their lives, and their families' lives. That is because when a gang member gives an ordinary citizen an order, or makes a request, it's not just about that situation itself –it's about the gang's power and control. It is not just the violence within Guatemala and other Central American countries that is causing a surge in immigration to the United States; it is that the very fact of fleeing and seeking asylum indelibly marks those who flee in the eyes of society in general and, more importantly in the eyes of gang members and cartels, as resisters, precisely because they have disobeyed the organization and fled.

Threats from criminal organizations or collaborators do not diminish over time. Being able to carry out threats even after a long period of time allows criminal organizations to send the message that their victims are unable to escape their threats regardless of location or time elapsed. As stated by Dr. Thomas Boerman, who has studied organized crime in Central America, "At times, threats are acted on immediately whereas in other instances, there may be a passage of time—even a significant amount of time—before the targeted individual is subjected to harm."[46] Because most criminal organizations are defined by a group identity and solidarity, members generally will act on behalf of their associates, and are able to carry out threats against enemies even if the individual ordering the attack is imprisoned. This means that targeted individuals and their loved ones and family members are at risk from the entire criminal organization in question, not just the individual that specifically threatened to harm them.

[44] "Guidance Note on Refugee Claims Relating to Victims of Organized Gangs," The UN Refugee Agency, March 2010.
[45] Sonja Wolf, "Street Gangs of El Salvador," in *Maras*, ed. Lucía Dammert and Elizabeth Skinner Thomas Bruneau (Austin: University of Texas Press, 2011), 48.
[46] Thomas Boerman, "Family as a Social Construct in El Salvador, Honduras, and Guatemala: Visibility and Vulnerability of Family Members of Individuals Targeted by Organized Criminal Groups," *Immigration Briefings: 19-12*, December 2019.

Police as Gang Targets

Police officers and their family members have repeatedly been targeted by gangs in Guatemala, oftentimes in direct acts of revenge for operations carried out against gang members. In March 2017, attacks against police officers, stations and patrol cars erupted across Guatemala City and Quetzaltenango hours after authorities attempted to subdue a gang riot in a juvenile detention center. During the attacks, three policemen were killed and seven officers wounded.[47] Journalist and researcher Héctor Silva Ávalos has explained how MS-13 and Barrio 18 directly attack police officers throughout Central America: "If you kill a 'pig,' or a police officer, you're more respected in these gangs. That's the policy — using death as exchange currency."[48] Because police in Guatemala are tasked with dismantling these criminal structures, including receiving training and funding from the United States government to accomplish this aim, police officers are perceived as anti-gang for arresting, killing or raiding gang members during their work. Because of this political opinion, police officers and their families are often targeted indiscriminately, and rampant corruption and lack of funding in the force means that vulnerable officers are not offered sufficient protection from revenge attacks.

Gangs Target Religious Guatemalans and the Church

The church often provides an alternative to gang membership in marginalized communities, and is thus also a target of the Maras. Given the absence of state-funded programs to offer an alternative to gangs in Central America, the Church provides one of the most meaningful ways for youth to leave gangs and feel empowered and part of a community. In his article "Safety and Sanctuary: Pentecostalism and Youth Gang Violence in Honduras," Jon Wolseth shows how the Church provides a psychological safety net for youth in neighboring Honduras who want to leave gangs. However, his article also points to instances where belonging to a Church can lead to gang violence.[49] By providing an alternative to gangs, the Church acts as a rival for the loyalty of young men and therefore Church adherents may be targets of violence. In 2014, one Swedish missionary working in Central America spoke

[47] "Three killed, eight wounded in attacks on Guatemalan police," *Reuters*, March 21, 2017, https://www.reuters.com/article/us-guatemala-violence/three-killed-eight-wounded-in-attacks-on-guatemalan-police-idUSKBN16S0FU.

[48] Kevin Sieff, "It's so dangerous to police MS-13 in El Salvador that officers are fleeing the country," *Washington Post*, March 3, 2019, https://www.washingtonpost.com/world/the_americas/its-so-dangerous-to-police-ms-13-in-el-salvador-that-officers-are-fleeing-the-country/2019/03/03/e897dbaa-2287-11e9-b5b4-1d18dfb7b084_story.html.

[49] Jon Wolseth, "Safety and Sanctuary: Pentacostalism and Youth Gang Violence in Honduras, *Latin American Perspectives* Vol. 35, No. 4 (Jul. 2008): 96-111.

about the ways in which violence was directed at the Church and its members. As she said, "Violence and crime has come to the doors of the Church – it's getting extorted by gangs, members of churches are being victims of crime and people are being assassinated."[50] Religious Guatemalans who demonstrate a moral and religious unwillingness to align with criminal organizations in their community often become targets for local gangs and cartel affiliates.

Evangelical Christians traditionally reject violence and because of their faith refuse cooperation with illegal activities practiced by gangs and other criminal organizations. According to researcher Robert Kirkland, "Their religious convictions further endanger them because their resistance to threats is a moral imperative. In their neighborhoods, evangelicals often express their Christian beliefs strongly and openly to gang members, attempting to convert them to Christianity and away from gang life. Evangelicals also have active programs to prevent young men in particular from joining gangs... Gangs such as MS-13 and M18 see Evangelical Christian groups as a threat to their retaining or gaining gang members. Throughout Central America, gangs have targeted Evangelical Churches for attack. Gangs also work to penetrate these churches by inserting members into these organizations in order to inform fellow gang members of activities or undermine these churches' anti-gang activities." Kirkland has also noted how Christian groups often associate themselves with right-wing conservative parties, which have been antagonistic towards gangs and have pushed for "iron fist" or hard-handed policies against gang violence. Thus, Kirkland asserts, "gang members view these Christian groups as extensions of far-right anti-gang movements which clearly pose a threat to them."[51]

U.S. Army War College Professor Max G. Manwaring has stated that MS-13 "control[s] expressions of political and religious activities… [and that] a religious leader who is perceived as resistant to gang control would be punished as any other member of the populace."[52] In the United Nations High Commissioner for Refugees (UNHCR) Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers, the UNHCR has stated that "participating in civil, religious, or other organizations [are] viewed as undermining gang authority." In addition, the UNHCR has emphasized that "religious leaders…who represent an alternative source of authority to the gangs and who oppose them or are perceived by the

[50] Carey Lodge, "A missionary's life in Honduras: 'Crime has come to the doors of the church,'" *Christian Today*, 22 May 2014, http://www.christiantoday.com/article/the.church.in.honduras.must.wake.up.says.tearfund.worker/37566.htm

[51] Robert Kirkland, "Evangelicals and Gangs in Central America," *American Immigration LLC, ILW* April 22, 2019, http://discuss.ilw.com/articles/articles/390548-article-evangelicals-and-gangs-in-central-america-by-robert-kirkland#2.

[52] Robert Kirkland, "Evangelicals and Gangs in Central America," *American Immigration LLC, ILW* April 22, 2019, http://discuss.ilw.com/articles/articles/390548-article-evangelicals-and-gangs-in-central-america-by-robert-kirkland#2.

gangs as doing so…are at risk of violent retaliation."[53] As suggested by one study about the persecution of Christian churches by organized crime groups, churches are seen as a direct threat to the gang's power because they tend to ask for the loyalty of their members, in direct contrast to the totalitarian outlook of the gang. According to the study, "Especially in rural areas, churches are a threat to criminal organizations when they refuse to collaborate with them. This refusal of collaboration can be explicit or implicit. It is explicit when pastors publicly denounce the activities of these mafias. However, this is not very common because of fear of repression of most church leaders, particularly in areas where there is no rule of law. More often, the refusal of collaboration is implicit, for instance by not allowing their members to get enrolled in paramilitary organizations."[54]

Evangelical Christians form a recognizable social group in Guatemala that can be widely recognized by society due to their attendance of Church services as well as their adherence to strict rules against alcohol. Regular attendance at Church services is easily monitored by people in close-knit neighborhoods, and refusal to drink alcohol amid frequent social establishments where alcohol is served makes Evangelicals stand out in a society where alcohol consumption in bars and restaurants is customary. Furthermore, members of the population who resist recruitment in gangs or gang activity are readily identified in society because the gangs will target them for retaliation. Survival in such communities depends on staying on the right side of the gangs and therefore people will inform each other about who has crossed the gang in order to steer clear of them. In summary, individuals who openly participate in Christian Churches, and those who have fled their countries to resist and renounce gang and criminal organizations are, if returned, likely to suffer violent reprisals by these gangs and criminal organizations.

Extortion

In Guatemala specifically, extortion schemes have led to widespread violence at the hands of both gang members and police in recent years. According to InSight Crime, both MS-13 and Barrio 18 run extortion rackets targeting everyone from bus drivers to small business owners, but active duty police officers, as well as smaller copycat groups posing as gang members to instill fear in their victims, have also been found to run large scale extortion schemes. In November 2019, police officers were shot at as they investigated colleagues for demanding payments from local gang members, underscoring the breadth of extortion in Guatemala. The officers were following up on a report that their colleagues belonging to an

[53] United Nations High Commissioner for Refugees (UNHCR) Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador (March 2016), https://www.refworld.org/docid/56e706e94.html
[54] Dennis P. Petri, "Interface of Churches and Organised Crime in Latin America," *World Watch Research*, 2012, http://opendoorsanalytical.org/wp-content/uploads/2014/10/Interface-of-Churches-and-Organised-Crime-in-Latin-America-2012.pdf.

elite unit from the 14th precinct of the National Police were extorting gang members in the area. Between January and October of 2019, authorities in Guatemala registered 13,203 cases of extortion, a 32 percent increase from the 9,939 cases that were recorded in all of 2018, according to an investigation from *Prensa Libre*.[55]

In an interview with *National Public Radio*, El Flaco, a member of MS-13, said that extortion pressure often works as follows: "We have a saying: If you don't pay, we won't hurt the father, sadly, it's the children who'll pay. We send them a letter. Then we surveil their kids. We ask for $5,000 to $13,000, depending on the kind of business he's in. If he doesn't pay, we kidnap his wife or a child, and we kill them. Then we send him body parts showing him we mean business, and we keep kidnapping family members until he pays."[56] This description also underscores the extent to which gangs target the family members of their victims in order to exact revenge. Gangs often threaten family members as a way to extort or pressure those who are seen as anti-gang.

In April 2018, a Guatemalan army colonel, Arias Salvador de León, was arrested for allegedly laundering extortion proceeds for MS13. Salvador de León was supposedly laundering extortion proceeds by buying and selling vehicles and vehicle oil. According to an *Insight Crime* report about extortion in Central America, "evidence of corruption within state security institutions and agencies cause people to worry that information they share may be leaked to criminal actors. The participation of police in extortion rackets also reduces people's willingness to appeal to them for help."[57] Extortion continues to be one of the main sources of violence in Guatemala's capital. As observed by *InSight Crime* during a major investigation released in 2019, MS13 and Barrio 18 have annual earnings of around three or four million dollars from extortion alone in Guatemala.[58]

In Guatemala City, in contrast to the gangs' policies in El Salvador, the two largest gangs that control the Kennedy neighborhood in Zone 18, announced that they would pardon extortion payments for one week only due to the health emergency caused by COVID-19. According to research by *InSight Crime*, "The measures imposed by authorities to contain the virus have also threatened extortion, which is the principal revenue stream for criminal

[55] Parker Asmann, "Cops Battle Their Own as Extortion Spikes in Guatemala," *InSight Crime*, Nov. 28, 2019, https://www.insightcrime.org/news/brief/cops-battling-their-own-as-extortion-spikes-guatemala/.
[56] John Burnett, "Private Assassins Target Gangs in Guatemala," *NPR*, Dec. 22, 2008, https://www.npr.org/templates/story/story.php?storyId=98593139.
[57] "A Criminal Culture: Extortion in Central America," *InSight Crime-Global Initiative*, May 2019, https://globalinitiative.net/wp-content/uploads/2019/05/Central-American-Extortion-Report-English-03May1400-WEB.pdf.
[58] Maria Alejandra Navarrete and Anastasia Austin, "Capital Murder: 2019 Homicide Rates in Latin America's Capital Cities," *InSight Crime*, March 5, 2020, https://www.insightcrime.org/news/analysis/2019-homicides-latin-america-capital/.

groups like MS13 or Barrio 18. This means these gangs may ramp up violence to collect extortion payments from communities already under severe economic strain from the coronavirus lockdown."[59] In the wake of the COVID-19 pandemic, gangs throughout Central America temporarily suspended extortion payments in certain neighborhoods, recognizing that closed businesses would not be able to pay. Such actions, in addition to helping to enforce lockdown orders by force, indicate the extent to which gangs act as quasi-governments in Central America.[60]

Ineffective Witness Protection in Guatemala

Gangs often retaliate against individuals who report them to the police, or generally "snitch" on their activities. Witnesses to crimes and those who report crimes to police are seen as threats by criminals, gangs and corrupt government officials. Witnesses are often subject to violence by these criminal organizations, fearing that they will report illegal acts to legitimate authorities. One clandestine security force, known as CIAC by its Spanish acronym, has been linked to the murders and intimidation of witnesses, judges and investigators. As one analyst put it, "crime didn't infiltrate the Guatemalan state. It is the state that organizes crime in Guatemala." Simply being a witness to a crime or murder can be imputed by criminal actors to be an act of complicity with law enforcement, and thereby viewed as a threat. Although the UN-backed CICIG (Commission Against Impunity in Guatemala) pushed for the creation of a witness protection program, it has been ineffective due to lack of support and open hostility to the CICIG by top government leaders, including the current president.[61]

In 1996, the Guatemalan Congress passed a law creating an office "for the provision of support and protection for witnesses in criminal processes."[62] Since 2009, the office was aided by the CICIG, reportedly providing financial support to an estimated 551 witnesses and their family members by 2014. According to a 2022 study on citizen collaboration with police in Guatemala however, "the witness protection program remains anemic, and cooperation with the police in Guatemala can be dangerous."[63] Witnesses in criminal trials

[59] Maria Alejandra Navarrete, "Coronavirus Affects Extortion Payments in Mexico and Central America," *InSight Crime*, April 13, 2020, https://www.insightcrime.org/news/analysis/coronavirus-extortion-mexico-central-america/.
[60] Kate Linthicum, Molly O'Toole and Alexander Renderos, "In El Salvador, Gangs are Enforcing the Coronavirus Lockdown with Baseball Bats," *Los Angeles Times*, 7 Apr. 2020, https://www.latimes.com/world-nation/story/2020-04-07/el-salvador-coronavirus-homicides-bukele.
[61] International Crisis Group, "Saving Guatemala's Fight Against Crime and Impunity," 24 Oct. 2018, p. 6-7, 12https://d2071andvip0wj.cloudfront.net/070-saving-guatemalas-fight-against-crime-and-impunity.pdf.
[62] UN High Commissioner for Refugees (UNHCR). "Eligibility Guidelines for Assessing the International Protection Needs of asylum-seekers from Guatemala," Jan. 2018, p. 35, https://www.refworld.org/docid/5a5e03e96.html.
[63] Elaine K. Denny, David A. Dow, Wayne Pitts, Eril Wibbles. "Citizen Cooperation with the Police: Evidence from Contemporary Guatemala. *Comparative Political Studies* vol. 56, no. 7. 2022. Accessed via *Sage Journals*. https://doi-org.library.lcproxy.org/10.1177/00104140221139379.

have reported threats, intimidation and surveillance.[64] In 2016, the US State Department reported that the judicial system had failed to fully protect witnesses in criminal proceedings from intimidation and threats. Authorities have reportedly released information revealing the identity of protected witnesses. Additionally, authorities provide limited follow-up to witnesses post-trial. As a result, witnesses are at times threatened, attacked or even murdered after the conclusion of the criminal trial.[65]

One report by the Washington Office on Latin America noted that the witness protection program in Guatemala was "not well-regulated and lack[ed] the economic and logistical resources needed to train agents and run the program. . . . All this created a situation in which the safety of the witnesses and their families cannot be guaranteed."[66] The U.S. State Department's 2020 Report on Human Rights Practices in Guatemala found that, "The judicial system generally failed to provide fair or timely trials due to inefficiency, corruption, and intimidation of judges, prosecutors, and witnesses. Judges, prosecutors, plaintiffs, and witnesses continued to report threats, intimidation, and surveillance, most often from drug trafficking organizations."[67] In sum, witnesses to crime are recognized by Guatemalan law as a particularly vulnerable group, but the efforts to protect those witnesses have failed, and the government has been openly hostile to such programs.

Impossibility of Relocation

Given the extensive presence of Barrio 18, MS-13, and other offshoot gangs throughout Guatemala, and the ability of the gangs to learn about the location of people deported there through corrupt state actors providing them access to official databases, gang resisters and victims of gang violence are generally not safe anywhere in Guatemala. Gang members are capable of carrying out assassinations or other violent acts even in parts of the country controlled by their rivals. Even people seeking refuge from gang violence in other countries have continued to be hunted down, as gangs have increasingly utilized social media and Facebook to track down victims. As one migrant advocate reported, "When [immigrant teens] come to the United States, there's always a way to be found unfortunately. . . . They start cross-referencing by cell phone numbers. You can look up someone's Facebook profile

[64] US Department of State, "2022 Country Reports on Human Rights Practices: Guatemala," *Bureau of Democracy, Human Rights, and Labor*, 2023, Executive Summary, Section E, https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guatemala
[65] UN High Commissioner for Refugees (UNHCR). "Eligibility Guidelines for Assessing the International Protection Needs of asylum-seekers from Guatemala," p. 35, Jan. 2018, https://www.refworld.org/docid/5a5e03e96.html.
[66] Washington Office on Latin America, *The International Commission Against Impunity in Guatemala*, June 2015, https://www.wola.org/sites/default/files/Citizen%20Security/2015/WOLA_CICIG_ENG_FNL_extra%20page.pdf.
[67] "2020 Country Reports on Human Rights Practices: Guatemala," U.S. Dept of State, p. 7, https://www.state.gov/wp-content/uploads/2021/03/GUATEMALA-2020-HUMAN-RIGHTS-REPORT.pdf.

with their cell phone number alone." Social media and cell phones have increasingly allowed gang networks to communicate in "real time," and more easily track victims, while immigrants who choose to stay in touch with family members back in Central America unknowingly make their online footprint easier to follow. Central American gangs often prioritize finding victims who flee abroad to send a message that it is difficult to escape the gang's wrath.[68] Although these gangs operate in the United States, the social and political context here as well as the strength of democratic and judicial institutions makes the danger in El Salvador, Honduras and Guatemala far greater.

Researchers at Duke University have found that deportees to Guatemala are often re-victimized upon their return home, to communities where "gang violence, police harassment, employer stigma against deportees, and loan shark intimidation persist." Rather than leading to reintegration, survey participants told researchers that these factors often lead them to flee the country again.[69] Professor Angel Escamilla García at Northwestern University has published recent research demonstrating that international migration is often a course of action taken only after internal relocation leads victims "into contexts of poverty and violence similar to those they [sought] to escape." Based on interviews with 24 young migrants from the Northern Triangle who had attempted to relocate within their home countries before ultimately fleeing internationally for safety, Escamilla García found that: "When they relocated, the youths still found themselves experiencing gang threats or unfavorable labor conditions—the same issues from which they originally fled." Many of the interviewees found that upon relocating within their country, they called attention to gang members as an outsider coming into a new community, and were newly threatened by criminal organizations.[70]

The fact that gangs control many neighborhoods throughout Central America, combined with the complicity and/or ineffectiveness of the legitimate state authorities, means that gangs act as quasi-governments in many areas of Guatemala, El Salvador and Honduras. Gangs collect taxes, enforce discipline and order through extralegal violence, and provide jobs. The legitimate governments of these countries, either at the weakest link at the state and local level, or at the strongest link at the federal level, have failed to provide adequate protection to their citizens. The criminal organizations, gangs and cartels operate as pseudo-governments in large swaths of Central America and thus there is no institutional

[68] Joyce Hackel, "Salvadoran gangs use Facebook to track down victims," *Public Radio International*, May 26, 2016, https://www.pri.org/stories/2016-05-26/salvadoran-gangs-use-facebook-track-down-victims.
[69] "Impacts of Deportation on Guatemalans," Duke University, https://bassconnections.duke.edu/virtual-showcase/impacts-deportation-guatemalans
[70] Angel Alfonso Escamilla García, "When Internal Migration Fails: A Case Study of Central American Youth Who Relocate Internally Before Leaving Their Countries," *Journal on Migration and Human Security* Vol. 9, 4 (2021): 297-310.

challenge to their exertion of power. No local government maintains a sufficiently robust or corruption-free police or military force that could pose any obstacle to the criminal organizations. Finally, at the federal level, the criminal organizations have sufficiently infiltrated law enforcement agencies such that there would be no reasonable expectation of protection provided to an individual fleeing harm.

Chapter Three: Corruption of State Authorities in Guatemala

Overview

Violence is rife in Guatemala, not only linked to the presence of street gangs and international drug trafficking organizations, but also due to the participation of state agents in these illicit markets and the entrenchment of crime and corruption up to the highest echelons of the Guatemalan government. As explained by historian J.T. Way, in Guatemala "the state often bears a degree of culpability in what appear to be personal cases of violence not just because of its negligence in providing citizens with protection or justice, but also because the status of being an agent or quasi-agent of the state seeps into the [layers] of identity of many historical actors—a situation exacerbated by political decentralization, spreading criminality, and the corruption of the body politic."[71]

For years, Guatemala's leaders have undermined the rule of law and democracy in an effort to avoid accountability for widespread corruption. This led to the creation of a unique judicial watchdog commission created by a 2007 agreement between conservative former president Oscar Berger and the United Nations, the International Commission Against Impunity in Guatemala (Comisión Internacional contra la Impunidad en Guatemala – CICIG.) With an unprecedented mandate to promote accountability and strengthen the rule of law, the CICIG worked with the Attorney General's Office and other national security entities in order to enhance criminal investigation efforts. The most celebrated accomplishments of the CICIG arguably occurred in 2015, when an investigation exposed multiple corruption schemes, implicating officials in all three branches of government. In one case, 30 government officials were charged for organizing a customs fraud scheme. On August 25, 2015, the Supreme Court unanimously approved a motion by the Attorney General to impeach the President, and the resulting two weeks of popular protest led to the resignation of Otto Perez Molina on September 2 and his arrest a day later. Prior to Perez Molina's ousting, the corruption scheme had already led to the resignation of Vice President Roxana Baldetti. In 2017, Guatemala City's mayor was added to the growing list of politicians under investigation for corruption, and finally in 2018 Perez Molina's successor Jimmy Morales became embroiled in another corruption scandal amid accusations of campaign

[71] J.T. Way, "Any of Those Things Can Be True: Layers of Identity and Risk Factors for Social Violence in Guatemala," *Columbia University's Center for Mexico and Central America Regional Expert Paper Series* no.7 (April 2023): 17, https://ilas.columbia.edu/content/regional-expert-paper-series.

finance irregularities.[72] As a response, Morales ousted the UN-backed international commission in 2019, and his successor, Alejandro Giammattei, has since worked with Congress, the high courts and the attorney general's office to block the remaining investigations, removing the last few independent judges and packing the Constitutional Court with political allies.[73]

In late February of 2018, former President Jimmy Morales replaced the head of police and his top advisors who were participating with the United Nations-backed CICIG in a clear attempt to shield the president and his allies from anti-corruption criminal investigations.[74] In August 2018, Morales announced he would not renew the CICIG's mandate when it expired in September 2019, and blocked the head commissioner from entering the country.[75] Despite these obstacles, investigations by the CICIG and the Attorney General's Office continued to expose more than 60 corruption schemes, implicating officials in all three branches of government.[76] Both Morales and current President Alejandro Giammattei, sworn in in January 2020, have been subjects of past CICIG investigations. On July 23, 2021, the Guatemalan attorney general fired the head of the Special Prosecutor's Office Against Impunity (FECI), Juan Francisco Sandoval, who was about to prosecute high-ranking government officials on corruption charges. Hours later, Sandoval fled the country for his own safety, making him the fifth such law enforcement official to do so in three years.[77] In February 2022, another prosecutor with the FECI, Carlos Antonio Videz Navas, fled the country after releasing information implicating President Giammattei in a multi-million-dollar bribe scandal. With allegations of corruption mounting against the president, the country's former Attorney General, Consuelo Porras, continued to ramp up her crackdown on prosecutors such as Sandoval and Videz Navas.[78]

Giammattei's past record is far from clean; as prisons director for former President Óscar Berger, Giammattei was overseeing Guatemala's prisons in 2006 when seven inmates at the

[72]Patricio Navia, Lucas Perelló, and Vaclav Masek, "The Determinants of Perception of Corruption in Guatemala, 2006-2016," *Public integrity* 22, no. 5 (2020): 429.
[73] Tyler Mattiace and Juan Pappier, "In Guatemala, A Fresh Crackdown on Prosecutors," *Americas Quarterly*, Feb. 28, 2022, https://www.americasquarterly.org/article/in-guatemala-a-fresh-crackdown-on-prosecutors/.
[74] Héctor Silva Ávalos, Felipe Puerta, and Kelly Grant, "Ousting of Police Director May Shift Guatemala's Balance of Power," InSight Crime, March 2, 2018, https://www.insightcrime.org/news/analysis/guatemala-removes-police-leadership-amid-anti-corruption-controversy/ .
[75] "World Report 2019: Guatemala, Events of 2018," Human Rights Watch, https://www.hrw.org/world-report/2019/country-chapters/guatemala.
[76] "World Report 2019: Guatemala, Events of 2018," Human Rights Watch, https://www.hrw.org/world-report/2019/country-chapters/guatemala.
[77] Sonia Pérez D., "Anti-Corruption Prosecutor Praised by US Flees Guatemala,"*AP News*, 24 July 2021, https://apnews.com/article/guatemala-65df7392334755e69796386d26256295.
[78] Alex Papadovassilakis, "Crackdown on Guatemala Prosecutors Intensifies Amid Presidential Corruption Claims," InSight Crime, Feb. 23, 2022, https://insightcrime.org/news/guatemala-prosecutor-crackdown-corruption/.

Pavón prison were massacred. He spent ten months in jail in 2010 during the investigation into the Pavón killings, in which he was alleged to have been complicit but was never charged. Giammattei was also prisons director in February 2007, when four police officials jailed on accusations of killing three Salvadoran congressmen were shot dead at El Boquerón prison.[79] Giammattei's tight links to the old Guatemalan political elite and former military officials help explain his continued role in corruption schemes among high-ranking officials.

Since the CICIG's departure, judges, prosecutors and civil society actors have increasingly been the targets of attacks, threats, lawsuits, and defamation campaigns for their prior support of the CICIG and continuing commitment to tackling corruption.[80] According to Carmen Rosa De Leon, a director of the Institute for Teaching for Sustainable Development in Guatemala City, "Without the CICIG, we will see more links between officials and drug traffickers in illicit financing because there will be less vigilance and more penetration of organized crime involving officials, political parties and public administration."[81] Due to the rampant corruption among the police, military and political elite in Guatemala, it is reasonable to believe that legitimate state authorities are both unable and unwilling to protect citizens from violence. In many cases, police and military officers have been found to work with street gangs and cartels in drug trafficking and extortion operations, indicating that Guatemalan citizens would not find protection from these criminal actors among state authorities.

Long-standing military-criminal networks, composed of former and active members of the military and intelligence apparatus, also known as Illegal Corps and Clandestine Security Apparatus - (Cuerpos Ilegales y Aparatos Clandestinos de Seguridad or CIACS) thrived throughout the 36-year civil war working alongside long-time smugglers and human traffickers. The peace process, which culminated in the 1996 Peace Accords, was clearly insufficient in eradicating these networks. Since the Peace Accords, these groups have mutated into more complex and intertwined networks connecting illegal criminal groups with political and economic elites, who secretly collaborate to exercise political control and generate profits. These networks, according to corruption experts Laura Sanz-Levia and Fernando Jimenez Sanchez, bring together political leaders, public officials, justice and legal professionals, the military, and entrepreneurs, working closely with the government to facilitate their businesses. Due to the state's weak nature and limited checks and balances,

[79] Héctor Silva Ávalos, "Guatemala's New President Dogged by His Past and Security Challenges," InSight Crime, Jan. 14, 2020, https://www.insightcrime.org/news/analysis/guatemala-president-haunted-by-past/.
[80] "Freedom in the World 2021: Guatemala," Freedom House, https://freedomhouse.org/country/guatemala/freedom-world/2021.
[81] Adriana Barrera, Sofia Menchu, "Drug cartels' ties to politics in spotlight as Guatemala votes," *Reuters*, June 13, 2019, https://www.reuters.com/article/us-guatemala-election-feature-idUSKCN1TF0B6.

these networks have no interest in blatantly controlling or overthrowing the State apparatus, since it is thoroughly infiltrated and beholden to criminal interests.[82]

Political Corruption and Electoral Violence

Political violence is common in Guatemala, where election cycles often provoke an increase in murders of party activists and politicians at the local and municipal levels. During the 2011 elections, 36 politically-motivated murders were recorded, with two mayoral candidates killed and a third injured all in the span of ten days in one municipality alone.[83] During an earlier 2007 election season, 46 candidates, family members, and supporters were murdered in total. The director of the Center of Human Rights of the Archbishop of Guatemala explained that many of these violent crimes were associated with the interests of diverse narcotrafficking or organized crime groups.[84] Speaking of the 2007 electoral violence, Iduvina Hernandez, an analyst at a Guatemalan research group called Security in Democracy, said, "Controlling the political system is [drug traffickers'] goal. If they can control a small town, they can build a landing strip there and use it as a base. If they have someone in Congress, all the better."[85]

According to an InSight Crime report analyzing the violence sparked by presidential election cycles, "Many of these murders are linked to organized criminal interests who are determined to win influence through having the candidate of their choice elected, especially in local positions of power like mayorships." There is a long tradition of criminal groups in Guatemala buying off politicians. Building ties to mayors, who have influence on security policies and control budgets at the municipal level, is often a priority for these groups.[86] According to an International Crisis Group report describing electoral violence, "As drug cartels battle over transit routes, competition in those areas for the local government posts whose collusion facilitates trafficking may be particularly fierce."[87] A 2016 InSight Crime

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[82] Laura Sanz-Levia; Fernando Jimenez-Sanchez, "Breaking democracy: illegal political finance and organized crime in Guatemala," Crime, Law and Social Change 75, no. 1 (January 2021): 25.
[83] Hannah Stone, "Drug Gangs Cast Shadow over Guatemala Campaign Funding," InSight Crime, Sept. 6, 2011, https://insightcrime.org/news/analysis/drug-gangs-cast-shadow-over-guatemala-campaign-funding/.
Marcelo Colussi, "Violencia electoral en Guatemala," *HispanTV Nexo Latino,* June 26, 2011, https://www.hispantv.com/noticias/opinion/179474/violencia-electoral-en-guatemala
[84] Ricardo Martínez Martínez, "Violencia política y clima de inseguridad, a horas de los comicios generales en Guatemala," *La Jornada*, Sept. 8, 2007, https://www.jornada.com.mx/2007/09/08/index.php?section=mundo&article=021n1mun.
[85] Marc Lacey, "Drug Gangs Use Violence to Sway Guatemala Vote," *New York Times*, Aug. 4, 2007, https://www.nytimes.com/2007/08/04/world/americas/04guatemala.html.
[86] Hannah Stone, "Drug Gangs Cast Shadow over Guatemala Campaign Funding," InSight Crime, Sept. 6, 2011, https://insightcrime.org/news/analysis/drug-gangs-cast-shadow-over-guatemala-campaign-funding/.
[87] "Guatemala's Elections: Clean Polls, Dirty Politics," International Crisis Group, June 16, 2011, https://www.crisisgroup.org/latin-america-caribbean/central-america/guatemala/guatemala-s-elections-clean-polls-dirty-politics.

report found that "Drug trafficking funds political campaigns at both the local (mayors, deputies) and national (presidents, courts, legislators) levels. It also co-opts military officials located in strategic trafficking zones and police structures to the point of becoming an insecurity factor for drug traffickers themselves."[88] Public policy analyst and political scientist Laura Sanz-Levia and Fernando Jimenez Sanchez have studied how corruption in Guatemala operates through a system of "institutional permeability," where criminal networks have had to develop more intricate forms of corruption beyond mere bribes, to infiltrating the entire state apparatus from security forces to local authorities to the private sector. These quid pro quo arrangements often occur around the time of election campaigns, and around the appointments of key public figures in local government, the judiciary or security forces.[89]

One example of the strong ties between drug trafficking organizations and local politicians can be found in the case of Los Huistas, a powerful trafficking organization, and the department of Huehuetenango where they primarily operate. InSight Crime reporters have found that the Huistas finance some municipal activities such as festivals and even some infrastructure/public works projects within the department. Mayoral candidates in Huehuetenango have historically been silent about the presence of the Huistas in order to avoid conflict with the group, although occasionally these relationships have become strained. In 2010 for example, the mayor of La Democracia was assassinated because he began to use the town's ambulance to transport drugs from Guatemala City to Huehuetenango, and eventually tried to act autonomously. InSight crime has found that the Huistas' links with the political elite are not just limited to the municipal level, and the organization maintains relationships with representatives and officials within the executive branch as well. Several local sources in Huehuetenango have asserted that the group financially backed Emilenne Mazariegos' congressional campaign in 2011.[90]

The direct tie between electoral violence and drug trafficking organizations has continued in more recent years, with both presidential candidate Mario Estrada and congressional candidate Julio Jose Rosales arrested during the 2019 campaign on charges of links to Mexico's Sinaloa drug cartel. Nine out of the 158 lawmakers elected for the 2019 legislative period could not assume their seats due to legal proceedings ranging from corruption, money laundering and illicit enrichment, influence paddling and attempted homicide. According to former president Alfonso Portillo, drug trafficking networks place their

[88] "Guatemala Elites and Organized Crime," InSight Crime, Sept. 1, 2016, https://insightcrime.org/investigations/guatemala-elites-and-organized-crime-series/.
[89] Laura Sanz-Levia; Fernando Jimenez-Sanchez, "Breaking democracy: illegal political finance and organized crime in Guatemala," Crime, Law and Social Change 75, no. 1 (January 2021): 23.
[90] "Guatemala Elites and Organized Crime," InSight Crime, Sept. 1, 2016, https://insightcrime.org/investigations/guatemala-elites-and-organized-crime-series/.

candidates in municipalities that are key to facilitating the transit of drugs.[91] The Washington Office on Latin America (WOLA) has reported that "Costly election campaigns have further corroded the political system, leaving politicians winning financing from, and finding themselves indebted to criminal interests or powerful business elites looking to gain access to public resources and contracts."[92] According to a 2015 report published by the CICIG, Guatemala's political parties receive approximately half of their financing through unreported donations intended to buy influence. Some 25 percent of this illicit financing comes from wealthy elites and businesses, 25 percent from organized crime, and the other 50 percent from state contractors.[93] Politicians from all levels of government clearly rely on these relationships with drug trafficking organizations and gangs to remain in power, and electoral violence in Guatemala is often a direct product of these power negotiations.

A report published by the Guatemalan newspaper *El Periodico* indicated that the municipalities with the highest incidences of misappropriated funds from local budgets are also those where criminal groups are more firmly entrenched and were identified by the Guatemalan office of Human Rights as the most likely to experience political violence during election cycles. For example, in Huehuetenango, where a cell of the Sinaloa Cartel is believed to operate, 28.6 million quetzales ($3.7 million USD) were unaccounted for in 2011; in Coban, Alta Verapaz, where the government launched a "state of siege" intended to dispel the Zetas, an estimated 14.4 million quetzales ($1.9 million USD) were believed to have been misappropriated.[94] Investigations carried out by the public prosecutor's office and the CICIG unearthed the profound impact that illicit campaign contributions had during the 2015 presidential campaign. Investigators uncovered millions of dollars in undeclared campaign contributions in the form of cash contributions, donations of equipment and vehicles (including helicopters), and in-kind services. The amount of undeclared contributions to the political party *Líder* totalled more than $2.8 million (Q21 million), and other parties such as UNE and FCN-Nación were also implicated.[95]

In a 2021 report, Freedom House ranked Guatemala's political rights as 21 on a scale of 1 to 40. The report concluded that: "Verbal harassment and physical violence against voters are

[91] Adriana Barrera, Sofia Menchu, "Drug cartels' ties to politics in spotlight as Guatemala votes," *Reuters*, June 13, 2019, https://www.reuters.com/article/us-guatemala-election-feature-idUSKCN1TF0B6.
[92] Adriana Beltran and Adeline Hite, "Corruption in the Guatemalan Political System and the 2019 Elections," WOLA, June 12, 2019, https://www.wola.org/analysis/corruption-in-the-guatemalan-political-system-and-the-2019-elections/.
[93] Adriana Beltran and Adeline Hite, "Corruption in the Guatemalan Political System and the 2019 Elections," WOLA, June 12, 2019, https://www.wola.org/analysis/corruption-in-the-guatemalan-political-system-and-the-2019-elections/.
[94] Elyssa Pachico, "Why Violence Could Boil Over in Guatemala Elections," InSight Crime, June 20, 2011, https://insightcrime.org/news/analysis/why-violence-could-boil-over-in-guatemala-elections.
[95] Adriana Beltran and Adeline Hite, "Corruption in the Guatemalan Political System and the 2019 Elections," WOLA, June 12, 2019, https://www.wola.org/analysis/corruption-in-the-guatemalan-political-system-and-the-2019-elections/.

common during elections, and can deter political participation. Weak campaign finance regulations have historically permitted lopsided resource advantages, as well as financing of candidates by special interests and organized criminal groups, distorting the political choices of citizens...Observers reported that armed groups and criminal organizations have attempted to sway the results of local races. Direct vote buying is also common."[96] While Freedom House deemed Guatemala's 2019 election results credible, electoral observers noted "irregularities including disturbances, ballot burning, voter intimidation, and acts of violence."[97] Electoral crimes prosecutor Óscar Schaad fled Guatemala days before the first round of elections in June 2019 after he and his family were threatened, and he resigned in November. Additionally, a number of local races were nullified or rescheduled by the Supreme Electoral Tribunal due to death threats against electoral officials and violent incidents.[98]

These incidents prove that electoral violence and political corruption have not improved, with each subsequent presidential election marking a clear pattern of politically-motivated violence enacted by criminal actors. The *Mirador Electoral*, an electoral observation group made up of Guatemalan civil society organizations, identified a high number of municipalities across the country vulnerable to electoral violence during the most recent 2019 election season. The group found 254 municipalities to be at high risk of electoral violence, with the most high-risk areas concentrated in border zones where there is a lack of state presence. By June 4, 2019 ten candidates for public office had been killed, with the People's Liberation Movement (*Movimiento para la Liberación de los Pueblos*, MLP) being the party with the highest number of assassinations.[99]

Ahead of the upcoming June 25, 2023 general elections, the corrupt political elite in Guatemala have continued to oust candidates working against their agenda, as was most recently demonstrated by a court ban against leading presidential contender, Carlos Pineda Sosa. According to InSight Crime's analysis, "Corrupt networks have steadily co-opted the main branches of Guatemala's justice system in recent years, tightening their grip over the political and judicial sectors with the aim of maintaining the status quo of corruption and

[96] "Freedom in the World 2021: Guatemala," Freedom House, https://freedomhouse.org/country/guatemala/freedom-world/2021.
[97] "Freedom in the World 2021: Guatemala," Freedom House, https://freedomhouse.org/country/guatemala/freedom-world/2021.
[98] "Freedom in the World 2021: Guatemala," Freedom House, https://freedomhouse.org/country/guatemala/freedom-world/2021.
[99] Adriana Beltran and Adeline Hite, "Corruption in the Guatemalan Political System and the 2019 Elections," WOLA, June 12, 2019, https://www.wola.org/analysis/corruption-in-the-guatemalan-political-system-and-the-2019-elections/.

impunity."[100] The control wielded by corrupt political mafias over the court system, allowing them to sway court decisions over the participation of not only Pineda Sosa but several politicians running for office this election season, indicates the blurred line between the judicial and political sectors. Two other politicians ousted by court rulings ahead of the June elections are both anti-corruption figures and outspoken critics of current President Giammattei. According to Mike Allison, a Central America expert who chairs the political science department at Scranton University, "The instability and the chaos in the political system, and its discrediting, really does serve the purpose of organized crime groups and elites in the country."[101]

Police Violence and Corruption

Within the police force, there have also been numerous accounts of violence towards citizens and rampant corruption. According to the U.S. State Department, "The police lack sufficient personnel and training to accomplish their mission. They suffer from a lack of supplies (e.g. vehicles, fuel, and ammunition) with little improvement from year to year. More often than not, a police investigation fails to result in an arrest, much less a conviction."[102] In November 2019, a firefight broke out between two branches of the National Police (PNC) as one group attempted to investigate another elite squad's alleged extortion of gang members. The incident, which left five police officers injured, suggests the depths of corruption and violence in the PNC.[103] In 2018, a court in Guatemala charged the former Minister of the Interior with torture and four former PNC agents with extrajudicial killings.[104] The National Civilian Police (PNC) has repeatedly been accused of representing Guatemala's most corrupt institution, and in 2007 police chief Erwin Sperisen estimated that 40 percent of the PNC was corrupt. Sperisen himself was convicted in November 2019 for his involvement in the Pavón prison massacre, which occurred when he was acting as police chief.[105]

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[100] Mike Lasusa, "Guatemala Elites Flex Muscle, Excluding Leading Presidential Contender," InSight Crime, May 26, 2023, https://insightcrime.org/news/guatemala-elites-flex-muscle-excluding-leading-presidential-contender/.
[101] Mike Lasusa, "Guatemala Elites Flex Muscle, Excluding Leading Presidential Contender," InSight Crime, May 26, 2023, https://insightcrime.org/news/guatemala-elites-flex-muscle-excluding-leading-presidential-contender/.
[102] OSAC, "Guatemala 2019 Crime and Safety Report," February 27, 2019, https://www.osac.gov/Content/Report/5f31517e-62bb-4f2c-8956-15f4aeaab930.
[103] Parker Asmann, "Cops Battle Their Own As Extortion Spikes in Guatemala," InSight Crime, 28 Nov. 2019, https://www.insightcrime.org/news/brief/cops-battling-their-own-as-extortion-spikes-guatemala/.
[104] "Procesan a un exministro guatemalteco por tortura y a expolicías por ejecucions," *EFE* 27 Nov. 2018, https://www.efe.com/efe/america/politica/procesan-a-un-exministro-guatemalteco-por-tortura-y-expolicias-ejecuciones/20000035-3825221
[105] Héctor Silva Ávalos, "Guatemala's New President Dogged by His Past and Security Challenges," InSight Crime, Jan. 14, 2020, https://www.insightcrime.org/news/analysis/guatemala-president-haunted-by-past/.

In April 2018, a Guatemalan army colonel, Arias Salvador de León, was arrested for allegedly laundering extortion proceeds for MS13 by buying and selling vehicles and vehicle oil. According to an Insight Crime report about extortion in Central America, "evidence of corruption within state security institutions and agencies cause people to worry that information they share may be leaked to criminal actors. The participation of police in extortion rackets also reduces people's willingness to appeal to them for help."[106] High levels of violence in the countryside and corruption among the rural police have further led to low-levels of confidence by the public. One study by AmericasBarometer showed that trust in the police was about 40% in 2014.[107] The impunity rate in Guatemala was 95 percent in 2017 and reached an astounding 98 percent by 2018 according to the United Nations backed International Commission Against Impunity in Guatemala (Comisión Internacional contra la Impunidad en Guatemala — CICIG).[108]

Given widespread police corruption in Guatemala, as well as state cooperation with criminal organizations, victims of organized crime cannot expect protection from police officers or other state authorities. Reports from Guatemala point to the role that police officers have played in extorting the general populace and working with traffickers to facilitate the movement of drugs, indicating that victims of violence and crime cannot rely on police officers to protect them in Guatemala. The levels of corruption and inability of the government to control large swaths of its territory means that the Guatemalan government cannot guarantee the safety of its citizens.

[106] "A Criminal Culture: Extortion in Central America," InSight Crime-Global Initiative, May 2019, https://globalinitiative.net/wp-content/uploads/2019/05/Central-American-Extortion-Report-English-03May1400-WEB.pdf.
[107] "Susan Berk-Seligson, et al., *Impact Evaluation: Guatemala Country Report*, Latin American Public Opinion Project, Dec. 2014, https://www.vanderbilt.edu/lapop/carsi/CARSI_GUATEMALA_final_report_v8c_Shortversion_W_02.17.16.pdf, p. 57.
[108] Parker Asman, "Guatemala Impunity Report Shows Limits of Anti-Graft Body," Insight Crime, 18 June 2019, https://www.insightcrime.org/news/brief/guatemala-impunity-report-limits-anti-graft-body/.

Chapter Four: Gender-Based Violence in Guatemala

Overview

Violence is especially targeted towards women in Guatemala, where in 2022, 624 women died violent deaths and 157 femicides were registered.[109] Between 2008 and 2017, more than 7,357 violent killings of women were tallied, with thousands more having been beaten and/or raped. In 2016, eight years after Guatemala recognized femicide, the gender-motivated killing of women, and other forms of violence against women as a specific crime, the government said it had received over 456,000 reports since 2008, with 65,543 made in 2016 alone.[110] In October 2020, protests broke out across Guatemala after a 20-year-old social work student was abducted and murdered in Teculutan, just one week after the murder of 22-year-old Laura Daniela Hernandez, a primary school teacher.[111] According to the National Institute of Forensic Sciences in Guatemala (INACIF), there were 140 violent female deaths between March and June 2020 alone. Approximately 49 percent of them have been femicides, according to an independent analysis by the Guatemalan Group for Women.[112]

Between January and August 2021, reported femicides increased 31% compared to the same period in 2020, according to a report released by the humanitarian entity Grupo de Apoyo Mutuo. The non-governmental organization detailed that in those eight months of 2021, 396 women were murdered in Guatemala. During the first eight months of 2021, the Women's Observatory of the Public Prosecutor's Office registered 58,975 different crimes against women and children. Meanwhile, the Directorate of Victim Attention (DAV) of the National Civil Police (PNC) registered 11,486 complaints of domestic violence against women between January and August 2021, 3,393 more than the same period in 2020.[113] The

[109] "Comunicado de Prensa: Hablemos de Femicidio," *CIEN*, Feb. 22, 2023, https://cien.org.gt/index.php/comunicado-de-prensa-hablemos-de-femicidio/.
[110] Cora Currier, "Trump Administration's Limits on Asylum for Domestic Violence Put Guatemalan Women in Peril," *The Intercept*, November 2, 2018, https://theintercept.com/2018/11/02/guatemala-domestic-violence-asylum/.
[111] Sandra Cuffe, "'I am tired of it': Femicides spark outrage across Guatemala," *Al Jazeera*, Oct. 10, 2020, https://www.aljazeera.com/news/2020/10/10/i-am-tired-of-it-femicides-spark-outrage-across-guatemala.
[112] Miranda Mazariegos and Melisa Rabanales, "COVID Has Caused Extra Harm for Guatemala's Victims of Gendered Violence," *VICE*, Aug. 25, 2020, https://www.vice.com/en/article/88974v/covid-has-caused-extra-harm-for-guatemalas-victims-of-gendered-violence.
[113] "Femicides increase by 31% in Guatemala during 2021," *Rio Times,* Sept. 15, 2021, https://www.riotimesonline.com/brazil-news/mercosur/central-america/femicides-increase-by-31-in-guatemala-during-2021/.

Guatemalan Office of the United Nations High Commissioner for Human Rights stated that, "femicide and gender-based violence are 'of utmost concern' and that '[t]he cruelty with which some of these crimes [have been] perpetrated [in Guatemala] shows how deeply rooted patterns of discrimination are in society, and also reveals the lack of institutional measures to tackle them."[114]

The UN has stated that the leading cause behind gender-based violence in Central America is *machismo*, or pervasive sexist attitudes linked to male aggression and violence. As described in a report by the Organization of the American States: "Violence against women occurs because other forms of discrimination are allowed to flourish. To address this violence it is necessary to also address the underlying discrimination factors that give rise to and exacerbate the violence."[115] These patriarchal attitudes and deeply-rooted discriminatory stereotypes against women mean that Guatemalan society condones violence against women, particularly if it is in response to resistance to a man's authority. The UN Women's report on Guatemala noted that violence against women is a result of "patriarchal and conservative culture added to a fragile security and legal system that breeds impunity."[116] Gabriela Monroy, a psychologist working at a home for abused girls in Guatemala City has said, "The man is the master, the head, the boss of the family and the home. And this is so deep in our culture that it justifies that the man has physical and sexual access to his wife, his daughters."[117]

As explored by Guatemala expert J.T. Way in a 2023 journal article exploring risk factors for violence related to certain cultural identities, including that of women and indigenous women in Guatemala, violence against women is culturally linked to a "patriarchal socio-political structure that dates to its colonial era," where "gender roles and norms are strictly proscribed." Culturally, explains Way, women are expected to labor in the domestic sphere, with less access to healthcare, education, housing and the judicial system. This cultural context leads to state authorities relying on the idea of women's basic inferiority when justifying crimes committed against them. In this way, not only does the state's failure to prosecute crimes against women contribute to their lack of protection, but also to the continuance of violence against them.[118]

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[114] Musalo, Karen, and Blaine Bookey, "Crimes Without Punishment: An Update on Violence Against Women and Impunity in Guatemala" 10 (n.d.): 28.
[115] Inter American Commission on Human Rights, "Violence, Inequality and Impunity in Honduras," 2016, http://www.oas.org/en/iachr/multimedia/2016/honduras/honduras-en.html.
[116] "Guatemala," *UN Women: Americas and the Caribbean*, http://lac.unwomen.org/en/donde-estamos/guatemala.
[117] Cora Currier, "Trump Administration's Limits on Asylum for Domestic Violence Put Guatemalan Women in Peril," *The Intercept*, November 2, 2018, https://theintercept.com/2018/11/02/guatemala-domestic-violence-asylum/.
[118] J.T. Way, "Any of Those Things Can Be True: Layers of Identity and Risk Factors for Social Violence in Guatemala," *Columbia University's Center for Mexico and Central America Regional Expert Paper Series* no.7 (April 2023): 17, https://ilas.columbia.edu/content/regional-expert-paper-series.

Gender-related violence in the country is thus a product of pervasive sexist attitudes, a lack of institutional protection for women, and tolerance of this violence among the wider population. According to a Guatemalan government survey, 81.6% of men answered that women needed to ask permission to leave the house, 58.9% that they required asking for the use of contraceptives; 67.0% for managing the household money and 77.8% to perform other activities (like work or study outside the home). Additionally, 82.7% of men answered that family problems should only be discussed with family members and 49.2% believed that a man needs to show that he is the one who is in command of the household.[119] Guatemalan women who transgress community norms by working outside the home, challenging the authority of male partners or declining their sexual advances can be considered to have asserted a feminist political opinion. These acts of autonomy, deciding to work outside the home, spending time with friends or family outside the home and refusing the demands of a male partner, would be considered a challenge to gender norms. In such cases, when men respond with threats or violence, the man is seen as enforcing community norms and the woman is often blamed for the violence they experience.

Widespread Impunity for Perpetrators of Domestic Violence

Guatemala has a long history of tolerating violence towards women and impunity for related crimes stands around 71%, according to a 2022 report published by the Center for Independent Economic Research based in Guatemala. Since the crime of femicide was legally established in Guatemala in 2008, 2,168 femicides had been reported by March 2022. The report also found that in 40% of these femicide cases, there was a complaint of violence by the victims in the two years prior to their murder.[120] It has been proven that many instances of violence against women in Guatemala occur in the domestic sphere. While domestic violence in Guatemala is rampant, many women are afraid to report abuse, and the legal system often fails to hold perpetrators accountable.[121] Although the judicial system has created specialized victim's care, investigation and criminal prosecution units to address the impunity with which gender-based violence is committed in Guatemala, many cases of domestic violence are still tried in regular courts.

[119] "Guatemala," *UN Women: Americas and the Caribbean*, http://lac.unwomen.org/en/donde-estamos/guatemala.
[120] "71% of murders of women in Guatemala go unpunished," *Infobae*, March 22, 2022, https://www.infobae.com/en/2022/03/23/71-of-murders-of-women-in-guatemala-go-unpunished-2/.
[121] The Advocates for Human Rights, "Guatemala: Submission to the Human Rights Committee," 19 October- 6 November 2015.

Unfortunately, given the pervasive *machista* attitudes in Guatemala, domestic abuse is often considered a "private matter" and men or other family members are rarely prosecuted for violently mistreating women or girls. In fact, women who file reports about domestic abuse are often put in even greater danger when police refuse to take immediate action against their abusers, who are then given the opportunity to seek retribution. The director of the Center for Gender and Refugee Studies (CGRS) at the University of California's Hasting College of Law has reported that many women do not report domestic violence due to a lack of "confidence in the justice system to provide protection and a just result," as well as lack of economic opportunities and shelters.[122] Restraining orders in Guatemala are rarely enforced by police or public prosecutors and alert abusers to the fact that they've been reported. Women's rights lawyer and activist Hilda Morales Trujillos has documented cases where women are discouraged from proceeding with denunciations against their abusers by officials, and judges have told them that they must have provoked the abuse in the first place.[123]

When perpetrators of violence against women operate in a climate of near total impunity, there is little incentive for them to change their behavior. The human rights ombudsman concluded that Guatemala is suffering from a psychological problem at a national level, where crimes against women are not recognized, investigated, or brought to justice. In a report on femicide in Guatemala, the ombudsman reported: "In Guatemala, only 15% of the bodies are hidden, and the rest are left in a public place or in the victim's home, which indicates that the victimizers are not attempting to hide the crime."[124] The act of fleeing from an abuser is viewed as an act of resistance, which often results in the abuser violently retaliating against his victim with violence, including assault or killing.

In matters of domestic violence, police have proven to be ineffective and obstructionist while handling cases, according to the CGRS. When contacted with complaints of domestic violence, police are "slow" to respond and sometimes they fail to appear at all. The CGRS director has stated that many police officers do not see violence against women as a serious crime. Moreover, authorities who receive domestic violence complaints often fail to refer them for investigations to the Public Prosecutor's Office. Multiple sources indicate that the police force lacks training on how to deal with victims of domestic violence.[125] The U.S. State

[122] Canada: Immigration and Refugee Board of Canada, *Guatemala: Domestic violence, including legislation, state protection, and services available to victims*, 14 May 2012, GTM104067.E, available at: https://www.refworld.org/docid/4fc4aa872.html
[123] Cora Currier, "Trump Administration's Limits on Asylum for Domestic Violence Put Guatemalan Women in Peril," *The Intercept*, November 2, 2018, https://theintercept.com/2018/11/02/guatemala-domestic-violence-asylum/.
[124] Guatemala Human Rights Commission/USA (GHRC), "Guatemala's Femicide Law: Progress Against Impunity?," May 2009, https://www.ghrc-usa.org/Publications/Femicide_Law_ProgressAgainstImpunity.pdf.
[125] Canada: Immigration and Refugee Board of Canada, *Guatemala: Domestic violence, including legislation, state protection, and services available to victims*, 14 May 2012, GTM104067.E, available at: https://www.refworld.org/docid/4fc4aa872.html

Department's Human Rights report from 2019 states that "police had minimal training or capacity to investigate sexual crimes or assist survivors of such crimes, and the government did not enforce the law effectively."[126] Given this level of corruption among the police and other authorities in Guatemala, victims of domestic or sexual violence cannot rely on law enforcement to protect them from their abusers. Rural justice systems that operate in communities without a police presence have traditionally been led by men and have discriminated against women. Although there have been recent efforts for women to take on leadership in these communities and to address gender-related violence, there is no evidence that women are protected by these systems any more than the official justice system in Guatemala.[127]

There is ample evidence that domestic violence crimes are underreported, and the existing data likely reflects only a small percentage of actual assaults. Furthermore, a 2015 Advocates for Human Rights report stated that out of the 8,871 cases of sexual and physical assault reported only 304 had convictions, demonstrating the high rates of impunity for domestic violence crimes.[128] Moreover, professors Cecilia Menjivar and Shannon Drysdale Walsh mention that some forms of violence towards Guatemalan women are not recognized because they are non-physical. According to Menjivar and Drysdale, the "justice system contributes to normalizing violence in the lives of women and how officials in this system subsequently interpret the laws in ways that often reinscribe the normalization of this violence."[129] The Office of Attention to the Victim (Oficina de Atención a la Víctima, OAV) was established in 1996 to provide specialized resources to victims of abuse. Hector Ruiz of the CGRS has found that although this resource was created, the reality is that "it is often impossible for a victim to even be reached by a police officer after she calls for help, because many police commissaries do not account on necessary resources, such as gas for their police cars."[130] Ruiz also mentions that even when police officers were able to reach women who were facing domestic violence, they tended to ignore or downplay the women's complaints due to an ingrained culture of machismo where domestic violence is normalized.

It is clear that victims cannot turn to the police for protection, because gender-related domestic violence largely goes unpunished in Guatemala, especially in the case of indigenous

[126] United States Department of State, "Guatemala: Human Rights Report," 2019, https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/guatemala/.
[127] Rachel Seider, "The Challenge of Indigenous Legal Systems: Beyond Paradigms of Recognition," *The Brown Journal of World Affairs* (Spring Summer 2012) Vol, 18, No. 2, https://www.jstor.org/stable/24590866, 108-109.
[128] The Advocates for Human Rights, "Submission to the Human Rights Committee for the 11th Session," 2015.
[129] Cecilia Menjivar and Shannon Drysdale Walsh, "Subverting Justice: Socio-Legal Determinants of Impunity for Violence against Women in Guatemala," *MDPI Law,* July 11, 2016, https://www.mdpi.com/2075-471X/5/3/31/htm
[130] Hector Ruiz, "No Justice for Guatemalan Women: An Update Twenty Years after Guatemala's First violence Against women Law," *Hastings Women's Law Journal*, 2018 https://cgrs.uchastings.edu/sites/default/files/Hector%20Ruiz_Guatemala%20VAW%20Article_2017.pdf

women. The corruption and ineffectiveness of police in Guatemala have led to widespread citizen distrust of the police and other Guatemalan security forces. Judging by the extreme amount of violence that women face on a daily basis in Guatemala, and the high level of impunity for abusers, it is likely that victims would face revenge violence from their abusers if returned to the country, and can expect little to no state protection.

Violence Towards Indigenous Women in Guatemala

Violence against women is also a direct legacy of the Guatemalan Civil War, when rape and the torture of Indigenous women were used by the military as a counterinsurgency tactic. The Commission for Historical Clarification (CEH) has identified 9,411 female victims of human rights violations and documented a total of 1,465 reported sexual assaults against women during the civil war, and has estimated that the total number of sexual assaults is even higher. This type of violence was inflicted principally against Indigenous Mayan women, who made up 88.7 percent of the cases. A report presented to the UN Human Rights Commission has stated that this violence was intended to "destroy the social fabric of indigenous communities," and has resulted in ongoing ostracism and discrimination towards these communities. According to the 2012 report on the Violations of Women's Human Rights: "Guatemalan Indigenous women face the triple threat of discrimination based on social origin, race and gender. Perhaps the most glaring example of the State's failure to protect them from such discrimination can be found in the culture of impunity that has arisen with respect to the extensive violence being practiced against women based on their status as Indigenous. Violence against Indigenous women in Guatemala arises in the context of the country's alarmingly high rates of violence based on social origin, race and gender, intra-family violence and femicide." Additionally, government statistics demonstrate that women constitute the overwhelming majority of the victims of domestic violence in Guatemala, and approximately a quarter of such victims are Indigenous women.[131]

For poor women, especially in rural areas, access to justice is even more difficult given their general exclusion from the legal system and widespread police discrimination. A Vanderbilt University study (2004-2014) found that trust of the national police in rural areas was at around 40 on a scale of 0-100, with 0 representing no trust at all. In particular, researchers found that the lack of police officers who spoke Indigenous languages created a sense of

[131] UN Human Rights Committee, "Report on Violations of Women's Human Rights in Guatemala," March 2012, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/GTM/INT_CCPR_NGO_GTM_104_8960_E.pdf.

distrust and lack of access for Indigenous people.[132] The 2019 US State Department Crime and Safety Report for Guatemala noted that the sporadic police presence in rural areas caused underreporting of crimes, particularly sexual assault.[133]

Academic researchers studying violence towards indigenous women in Guatemala have found that women in rural communities are often denied protection or face insurmountable barriers to achieve justice from state authorities, and often face continued discrimination or violence from local indigenous authorities when reporting violent crimes. According to anthropologist Lynn Stephen in her analysis of Mam women in Huehuetenango, "Local cultures of masculinity, which often validate the authority of fathers over children and husbands over wives, can make it challenging for women to find support to defy this authority."[134] Given the cultural priority that is often given to men over women in both local and state justice systems in Guatemala, it is understandable that indigenous women are often afraid to report sexual assault or domestic violence, and are further afraid that authorities would not protect them.

An analysis of case studies of sexual violence involving indigenous women by the Ombudsman for the Indigenous Woman in Guatemala found that "cultural assumptions about honor, female and male sexuality, and the private nature of sexual crimes result in high levels of impunity." The report found that many women do not bother to report cases of sexual violence against themselves or fellow women, in part due to barriers related to distance, cost and institutional discrimination, and also because the victims are often blamed themselves for causing the assault. One interviewee told researchers, "When women go to denounce a crime, the first thing the people say is that we have nothing better to do and that women do not put up with it as before. They say that we are no longer good for anything, that we are bad women, that we do it because we like being in the street, that we are sluts, and finally that we have lovers."[135] Many crimes therefore go unreported, in an attempt to protect a woman's honor before her family or community and avoid blame for provoking her own assault. According to anthropologist Sarah England, "even when women do dare seek

[132] Susan Berk Seligson, et al, "Impact Evaluation: Guatemala Country Report," Latin American Public Opinion Project, Vanderbilt University, December 2014, https://www.vanderbilt.edu/lapop/carsi/CARSI_GUATEMALA_final_report_v8c_Shortversion_W_02.17.16.pdf, 57, 74.
[133] United States Department of State, "Guatemala 2019 Crime & Safety Report," https://www.osac.gov/Content/Report/5f31517e-62bb-4f2c-8956-15f4aeaab930.
[134] Lynn Stephen, "Fleeing rural violence: Mam women seeking gendered justice in Guatemala and the U.S.," *Journal of Peasant Studies*, 2019, Vol. 46, No.. 2, 229–257 https://doi.org/10.1080/03066150.2018.1534836.
[135] Sarah England, "Protecting a Woman's Honor or Protecting Her Sexual Freedom? Challenging the Guatemalan Patriarchal State through Reforms to Sexual Violence Legislation," *Latin American Perspectives*, January 2014, Vol. 41, No. 1: Violence Against Women in Latin America, pp. 124-142, https://www.jstor.org/stable/24573980.

out the agents of justice and denounce a crime of sexual violence they are often dismissed because they must prove physical violence and harm, they are not found to be 'honest,' and there is a presumption of male rights of access to the sexuality of women with whom they claim to have had a relationship."[136]

Protecting women's "honor" is of primary importance in Guatemala's patriarchal society. What honor means in this context is protecting women from having sex before marriage. If a woman has had sex. or been forced to have sex, her family might insist that the man marry the woman to protect her honor. This is especially true in cases where sex results in a pregnancy that would make public the fact that the woman had sex. The 1973 Penal Code in Guatemala, in fact, enshrined these notions in the law, declaring that punishment for crimes of *violación* (rape), *estupro* (statutory rape), *abusos deshonestos* (dishonest abuse) , and *rapto* (abduction) would be "extinguished upon the legitimate marriage of the victim with the offender." Although this article was declared unconstitutional in 2006, these same cultural attitudes persist in society.[137]

These patriarchal notions of honor have existed for a long time in Guatemala and are rooted deeply in the culture. Historian Cindy Forster reported on cases from 1936-56 in Guatemala in which indigenous women who were raped were dismissed by courts who sided with the perpetrators who alleged an intimate relationship existed. In one case, a Maya Kechi woman was drugged and raped. The court in Guatemala found that the relationship of *noviazgo* (engagement) negated the possibility of rape. First, the woman in this case denied the existence of an engagement, and in any case, the engagement would not have negated an act of rape.[138] In another case, a 13 year-old Kiche girl was raped by a 38 year-old man. The perpetrator convinced the prosecutor to drop the case because he insisted the relationship was consensual, which the girl denied. Although the man could have been accused of *estupro* (statutory rape), the judge declared that this could not be considered *estupro* based on the abuser's indication that a prior relationship existed.[139] What both of these cases demonstrate

[136] Sarah England, "Protecting a Woman's Honor or Protecting Her Sexual Freedom? Challenging the Guatemalan Patriarchal State through Reforms to Sexual Violence Legislation," *Latin American Perspectives*, January 2014, Vol. 41, No. 1: Violence Against Women in Latin America, pp. 124-142, https://www.jstor.org/stable/24573980.
[137] Sarah England, "Protecting a Woman's Honor or Protecting Her Sexual Freedom? Challenging the Guatemalan Patriarchal State through Reforms to Sexual Violence Legislation," *Latin American Perspectives*, January 2014, Vol. 41, No. 1: Violence Against Women in Latin America, pp. 131-32, https://www.jstor.org/stable/24573980.
[138] Sarah England, "Protecting a Woman's Honor or Protecting Her Sexual Freedom? Challenging the Guatemalan Patriarchal State through Reforms to Sexual Violence Legislation," *Latin American Perspectives*, January 2014, Vol. 41, No. 1: Violence Against Women in Latin America, pp. 132, https://www.jstor.org/stable/24573980.
[139] Cindy Forster, "Violent and Violated Women: Justice and Gender in Rural Guatemala, 1936-56," *Journal of Women's History* 11(3): 55-77, as cited in Sarah England, "Protecting a Woman's Honor or Protecting Her Sexual Freedom? Challenging the Guatemalan Patriarchal State through Reforms to Sexual Violence Legislation," *Latin American*

is that girls or women who are raped, but are considered by the courts to have engaged willingly in such a relationship, are denied any recourse.

There is also tremendous pressure towards Mayan girls to marry early and bear children, even from their own communities and parents. Almost 40 percent of indigenous girls enter a formal union before the age of 18, which is twice the percentage of non-indigenous girls. There is a profound ignorance among Mayan girls about sexual reproduction and their own bodies. Sex education is not offered at most schools and families often don't teach their daughters the basic information about sexual reproduction or health. As Silvia Tum, a Mayan leader who has worked with Mayan adolescents put it, "I think culture is a very strong issue in the communities. . . . For example, if adolescents want to access condoms in the community, they aren't going to find them. And if they go to a place where they do have them, they won't sell them to the adolescent Maya girl; they don't give them condoms because they are young, because they are girls, and because they are indigenous. But I think if there were access, it would still be difficult because of the embarrassment and what parents would say."[140] This situation means that Mayan girls often find themselves having unwanted pregnancies and face pressure by their families to formalize the unions with the men with whom they have had sex, either willingly or not. Historian J.T. Way notes that forced child marriage remains a common phenomenon, not only in the indigenous Western highlands of Guatemala, but throughout the country. This cultural practice, Way explains, is "intimately related to structural poverty and inequality produced and reproduced by the logic of the global and national economy." These cultural factors of identity also greatly increase the risks of future harm for indigenous women and girls; from partners, gangs, human trafficking, etc.[141]

Traditional gender roles dominate in Mayan communities, with men and women occupying different roles. Maya women tend to perform work in the domestic realm, including cooking, cleaning, childcare and weaving. Men perform agricultural work or work outside the home. Women who work outside the home may be stigmatized for breaking gender norms, or viewed as loose and sexually available. If such a woman is the victim of sexual assault or rape, they are often forced out of their communities and abandoned by their families. As Kirthi Jayakumar has written in an article entitled "Sexual Violence and Motherhood in the Mayan

Perspectives, January 2014, Vol. 41, No. 1: Violence Against Women in Latin America, pp. 133, https://www.jstor.org/stable/24573980.

[140] Heather Wehr and Silvia Ester Tum, "When a Girl's Decision Involves the Community: The Realities of Adolescent Maya Girls' Lives in Rural Indigenous Guatemala," *Reproductive Health Matters*, Vol. 21, No. 41 (May 2013), 139, https://www.jstor.org/stable/43288969.

[141] J.T. Way, "Any of Those Things Can Be True: Layers of Identity and Risk Factors for Social Violence in Guatemala," *Columbia University's Center for Mexico and Central America Regional Expert Paper Series* no.7 (April 2023): 17, https://ilas.columbia.edu/content/regional-expert-paper-series.

Ixil Community," "For many of the women who were thrown out of the house and spurned by their families, the only option available was to leave their community, rather than spending the rest of their lives in an ostracized state."[142]

Sexual Abuse of Children

Sexual abuse of children and girls is alarmingly prevalent in Guatemala, with few state mechanisms in place to support victims or prosecute abusers. In 2018, the Guatemalan Public Ministry reported 8,930 cases of child abuse, triple the number of child abuse cases from the previous year. In spite of such a high number of cases, the Human Rights Ombudsman of Guatemala found that only a total of 5,635 minors were recognized as victims of sexual abuse or violence in Guatemala in 2017. The same report estimated that 1,718 children and 2,858 adolescents, primarily girls, were victims of sexual violence. In 2017, 1,180 women were reported missing and 5,531 abduction or disappearance alerts for girls specifically (52% adolescents and 17% young girls) were broadcast on the news and radio. The Guatemalan National Statistics Institute found in a 2017 study on violence against women that rape and abuse affect 3 out of every 10 girls aged 0 to 17 in Guatemala, with adolescents being the group most vulnerable to being victims of rape. 29 out of 10,000 adolescent girls reported that they were sexually assaulted in 2017. Statistics from official sources likely underestimate the true number of child abuse cases, as there is considerable stigma around reporting abuse and limited pathways for seeking justice.[143]

Despite the prevalence of abuse, investigations are infrequent and impunity for abusers is the norm. In 2016, the Ministry of the Interior's unit for prosecution of child abuse investigated only 1,280 sex crimes against children and 1,429 cases of child abuse in Guatemala City. From January to August of 2018, there were only 82 convictions for child abuse throughout the entire country. A national study conducted by United Nations International Children's Emergency Fund (UNICEF) on the situation of domestic violence against children found that more than 45% of Guatemalans do not even know where to access justice in cases of child abuse.[144] Given the high rates of sexual abuse against minors in Guatemala, and

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[142] Kirthi Jayakumar, "The Impact of Sexual Violence on Indigenous Motherhood in Guatemala," in *Mothers of the Nations: Indigenous Mothering as Global Resistance, Reclaiming and Recovery*, Eds. D Memee Lavell-Harvard and Kim Anderson (Demeter Press, 2014),p. 140, https://www.jstor.org/stable/j.ctt1rrd993.11.

[143] Lauren Heidbrink, Sandra Chuc Norato, and Maria García Maldonado, "Conditions of Children and Youth in Guatemala," Colombia University's Center for Mexico and Central America: Regional Expert Series No. 1, March 2022, https://ilas.columbia.edu/content/regional-expert-paper-series.

[144] Lauren Heidbrink, Sandra Chuc Norato, and Maria García Maldonado, "Conditions of Children and Youth in Guatemala," Colombia University's Center for Mexico and Central America: Regional Expert Series No. 1, March 2022, https://ilas.columbia.edu/content/regional-expert-paper-series.

widespread impunity for abusers, it is likely that girls who have previously suffered from abuse would remain at risk of sexual assault, and would not be protected by state authorities.

Impossibility of Relocation

It is difficult for victims of gender-based violence to relocate safely to another part of Guatemala. Aside from the limitations imposed by poverty and lack of resources, Guatemala is a small country, and it's not easy to escape from someone. Giovanna Lemus, the director of a network of women's shelters, has said that authorities can be bribed for information or paid to track a woman down. Those associated with criminal organizations especially can pay others to do this work for them. "When the abusers have more resources, they do more," Lemus said. After helping women from rich and powerful families, Lemus said her group ended up under surveillance, with cars circling their offices, sex workers placed outside to watch the door, and their phones tapped. Norma Cruz, director of Survivors' Foundation, a shelter and legal services provider in Guatemala City confirmed this fear: "When the women want to leave, they believe that the only way to get away from the violence is to get out of the country. And I believe them. Justice is very slow. They can't stay shut up in a shelter the whole time." In extreme situations, Survivors' Foundation finds places where women can stay for up to 15 days in isolation, without a phone and without leaving the premises, to hide from their abusers. Occasionally the women themselves don't know where they are in these situations for protection. Unfortunately, that situation is not permanent and the network of shelters in Guatemala is small and insufficient to the number of women needing help. For instance, the Grupo Guatemalteco de Mujeres (Guatemalan Women's Group, or GGM) which runs a national network in Guatemala, had not received any government financing for the year of 2018 by August. They complained about "lack of funds, contradictory legal developments, and bureaucratic slow-walking." [145]

The very fact of fleeing Guatemala or other Central American countries and seeking asylum in the United States indelibly marks those who flee in the eyes of society as dissenters, precisely because they have resisted and fled. This is especially true for women who are victims of domestic violence. Their abusers often retaliate because these women have resisted their authority and escaped. Media accounts in both the U.S. and Central America make clear that the vast majority of refugees from domestic violence in Central America lived in small villages or close-knit neighborhoods within larger cities, and have close ties with members of their extended families, both in their home communities and throughout their countries. As a result of these ties and the thick network of horizontal information

[145] Cora Currier, "Trump Administration's Limits on Asylum for Domestic Violence Put Guatemalan Women in Peril," *The Intercept*, November 2, 2018, https://theintercept.com/2018/11/02/guatemala-domestic-violence-asylum/.

networks in these countries, familial and town gossip, it is readily known when a person has fled to the U.S., and just as readily known when she returns following deportation. These people are broadly recognized as people who have escaped. Domestic and sexual violence is pervasive and normalized in Guatemalan society due to entrenched *machismo* values, and victims are offered no protection from the corrupt authorities. In many cases in Guatemala, reporting domestic violence only makes victims more vulnerable to increased threats from their abusers.

Chapter Five: Persecution of Indigenous Guatemalans

Historical Persecution of Indigenous Guatemalans

Guatemala has suffered from a violent history since at least the CIA-backed overthrow of its democratically elected president Jacobo Arbenz in 1954. The military ruled directly or through puppet governments from then until 1996 when a peace process demobilized the leftist guerillas. According to the official report of the Commission for Historical Clarification, during the Civil War from 1960-1996, 200,000 people were killed in an internal armed conflict that targeted mainly indigenous people, with an additional 1.5 million people displaced, 150,000 of whom were forced to seek refuge in Mexico. The Commission found that 93% of the killings were committed by state forces and paramilitary groups associated with the state.[146] The Guatemalan Truth Commission Report has identified indigenous groups as victims of genocide perpetrated by the government during the Civil War, noting that 83% of the roughly 200,000 wartime casualties were indigenous Guatemalans.[147] The Commission for Historical Clarification further concluded that the Guatemalan army committed genocide against four indigenous Mayan groups in particular: the Ixil Mayas, the Q'anjob'al and Chuj Mayas, the K'iche' Mayas of Joyabaj, Zacualpa and Chiché, and the Achi Mayas.[148]

Particularly brutal were the tactics of military dictator José Efraín Ríos Montt, a general who ruled Guatemala from March 1982 to August 1983. In an attempt to cut off social support for the leftist guerrillas in the Guatemalan countryside, Montt implemented a violent counterinsurgency campaign known as the "scorched earth" policy or "Operation Sofia," sending the military into Mayan communities in a deliberate attempt to massacre thousands of unarmed indigenous peasants. According to the Guatemala Human Rights Commission, between 70-90% of all Ixil villages were fully razed between 1981 and 1983, with an estimated 5.5% of the entire Ixil population murdered in the process.[149] During this period, according to the organization Cultural Survival, "the military systematically destroyed

[146] Commission for Historical Clarification, *Guatemala, Memory of Silence: Report of the Commission for Historical Clarification* (Guatemala: Commission for Historical Clarification, 1996), 20.
[147] "Guatemala: Violence and discrimination drive indigenous migration elsewhere," *Minority Rights*, 2018, https://minorityrights.org/guatemala-violence-and-discrimination-drive-indigenous-migration-elsewhere/.
[148] "Genocide in Guatemala," Holocaust Museum Houston, https://hmh.org/library/research/genocide-in-guatemala-guide/.
[149] "Genocide in the Ixil Triangle," Guatemala Human Rights Commission, https://www.ghrc-usa.org/our-work/2014-annual-report/genocide-cases/genocide-in-the-ixil-triangle/.

virtually all of the rural settlements surrounding the municipalities of Santa Maria Nebaj, San Gaspar Chajul and San Juan Cotzal - the three points of what is often called the 'Ixil Triangle.' Any survivors fled into the mountains, to Mexico or to urban centers."[150] This process was replicated in many Mayan communities throughout the Western highlands of Guatemala.

Forced disappearance policies during this time included secretly arresting or abducting people, who were often killed and buried in unmarked graves. Other tactics of the "scorched earth" strategy employed by the army included destroying and burning buildings and crops, slaughtering livestock, ruining water supplies and violating sacred places and cultural symbols. Many of these actions were undertaken by the army, specifically through special units known as the Kaibiles, in addition to private death squads, acting under military orders.[151]

In 2018, a Guatemalan court ruled that Ixil Mayans were victims of genocide and crimes against humanity during the internal armed conflict in a trial concerning the murder of 1,771 individuals from the Ixil community between 1982 and 1983. The court's judgment established that the Guatemalan army used brutal techniques of violence against civilians, including killings, torture and cruel and inhuman treatment, sexual violence and forced displacement, and ultimately caused partial destruction of the Ixil population.[152] The trial also established that the targeting of Mayan communities occurred specifically because of the indigenous identity of their residents, unrelated to any potential support of guerrilla forces or political ideology. One of the most damning and convincing arguments supporting the charge of genocide during the trial was the evidence of the military's brutalization and targeting of Mayan children. Witnesses at the trial described unborn babies cut from their mothers' wombs, infants speared and smashed against trees until dead, or shot, stabbed and burned alive.[153] According to the truth commission's report, "state violence has been fundamentally aimed against the excluded, the poor, and the Maya, as well as those who struggled in favor of a just and more equitable society… Thus a vicious circle was created in

[150] "Counterinsurgency and the Development Pole Strategy in Guatemala," *Cultural Survival Quarterly Magazine*, Sept. 1988, https://www.culturalsurvival.org/publications/cultural-survival-quarterly/counterinsurgency-and-development-pole-strategy-guatemala.
[151] "Genocide in Guatemala," Holocaust Museum Houston, https://hmh.org/library/research/genocide-in-guatemala-guide/.
[152] "Guatemala: UN experts welcome court ruling that Ixil Mayans were victims of genocide and urge the State to prosecute and punish the perpetrators," UN Human Rights Office of the High Commissioner, Oct. 22, 2018, https://www.ohchr.org/en/press-releases/2018/10/guatemala-un-experts-welcome-court-ruling-ixil-mayans-were-victims-genocide.
[153] "Genocide in the Ixil Triangle," Guatemala Human Rights Commission, https://www.ghrc-usa.org/our-work/2014-annual-report/genocide-cases/genocide-in-the-ixil-triangle/.

which social injustice led to protest and subsequently to political instability, to which there were always only two responses: repression or military coups."[154]

Continued Persecution of Indigenous Guatemalans

The Office of Human Rights in Guatemala has denounced the continued discrimination, racism and trafficking abuses of indigenous communities since the official end of the civil war. Cited among the factors causing this ongoing exploitation were "rising indices of poverty, marginalization, discrimination, inequality of opportunities, and lack of access to education, health and justice" for indigenous Guatemalans. Another major problem faced by indigenous communities in Guatemala is displacement from agricultural lands that they rarely own.[155] The level of inequality between indigenous and non-indigenous Guatemalans is clear in the case of land ownership. According to the agricultural census of 2003, fewer than 2% of the producers had access to more than half of the land, while 92% of producers had access to less than 22% of land, with many landowners being non-indigenous Ladinos.[156]

Historical racism continues to directly impact conditions today, placing indigenous Guatemalans in precarious situations where they are more vulnerable to violence, and less likely to receive institutional protections. As found by historian J.T. Way, "New research indicates that Guatemalans from the demographic sectors denigrated as *shumos, mucos, mozos, nacos*, and *indios*—or frequently, simply as *castas*—run an outsized risk of suffering all kinds of violence, including: forced childhood labor, gang recruitment, and "robada"-type "marriage"; extortion; and human trafficking and sexual exploitation. They are among the least powerful and most vulnerable people in Guatemalan society," speaking of indigenous or more generally racialized Guatemalans.[157]

In 2016, 75% of indigenous Guatemalans lived in poverty while only 36% of the ladino (non-indigenous, including white and mestizo) population lived in similar conditions.[158] According to Jorge Peraza, chief of mission for the Central America office of the International Organization for Migration, "In Guatemala, the economy has increased, but inequality is huge, particularly in indigenous communities. You see living standards only

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[154] Commission for Historical Clarification, *Guatemala, Memory of Silence: Report of the Commission for Historical Clarification* (Guatemala: Commission for Historical Clarification, 1996), 21-22.
[155] "Los indigenas de Guatemala sufren discriminacion, racismo y trata,"*El Diario*, Jan. 31, 2019, https://www.eldiario.es/politica/indigenas-Guatemala-sufren-discriminacion-racismo_0_863013734.html
[156] "Indigenous political representation in Guatemala," *Global Americans*, Oct. 13, 2017, https://theglobalamericans.org/2017/10/indigenous-political-representation-in-guatemala/
[157] J.T. Way, "Any of Those Things Can Be True: Layers of Identity and Risk Factors for Social Violence in Guatemala," *Columbia University's Center for Mexico and Central America Regional Expert Paper Series* no.7 (April 2023): 17, https://ilas.columbia.edu/content/regional-expert-paper-series.
[158] Pueblos indigenas: diversidad, desigualdad y exclusion en Guatemala,"*CIDH*, https://www.oas.org/es/cidh/multimedia/2016/guatemala/guatemala.html

comparable with regions in Africa."[159] A report published by *Al Jazeera* found that "desperate financial circumstances have seen some turn to kidnapping and extortion" in mainly rural, indigenous zones across Guatemala.[160] Researcher Lauren Heidbrink asserts that 95 percent of those under the age of 18 who flee the country are indigenous. This is a result of the extreme poverty facing predominantly indigenous departments, those "on the margins of state policy," and the resulting surge of gang violence that directly impacts them.[161] Having few other options, many residents are susceptible to gang recruitment or are targeted for extortion or kidnapping.

Four out of five indigenous Guatemalans live below the poverty line, with limited access to health care, education and other basic services. The political disenfranchisement of indigenous populations in Guatemala is also widespread. For the 2016–20 legislative term in the Guatemalan Congress, only 19 out of the 158 legislators identified as indigenous, or 12 percent, despite indigenous peoples comprising between 40 and 60 per cent of the total population. At the local level, this leaves indigenous residents with little in the way of official protection when faced with violence or intimidation.[162] According to international Indigenous rights organization Cultural Survival, "The Guatemalan military and police forces have been deployed to protect transnational business interests, rather than the protection of citizens, especially when these citizens are Indigenous and rural."[163] The Capital Area Immigrants' Rights Coalition notes in a report on gang-based violence in Central America that indigenous groups in Guatemala and even organizations that support them face "intimidation and abuse similar to that facing other human rights groups."[164]

More than 25 years after the signing of the Peace Accords officially ended the internal armed conflict in Guatemala, state institutions remain rife with corruption and especially in indigenous communities, peace has not been achieved. Some root causes of the war, such as structural and land inequality, and the marginalization and discrimination of indigenous people still continue. Corrupt politicians collaborate with narcotraffickers and accept

[159] Nina Strochlic, "How this quiet region in Guatemala became the epicenter of migration," *National Geographic*, July 26, 2019, https://www.nationalgeographic.com/culture/2019/07/how-quiet-guatemala-region-became-migration-epicenter/.
[160] "Guatemala: The indigenous population too poor to stay," *Al Jazeera,* 26 March, 2016, http://www.aljazeera.com/indepth/features/2016/03/guatemala-indigenous-population-poor-stay-160310120053955.html
[161] "Guatemala: The indigenous population too poor to stay," *Al Jazeera*, 2016.
[162] "Guatemala: Violence and discrimination drive indigenous migration elsewhere," *Minority Rights*, 2018, https://minorityrights.org/guatemala-violence-and-discrimination-drive-indigenous-migration-elsewhere/.
[163] Cultural Survival, "Observations on the State of Indigenous Human Rights in Guatemala," March 2017, https://uprdoc.ohchr.org › uprweb › downloadfile.
[164] Capital Area Immigrants' Rights (CAIR) Coalition, "Seeking Asylum from Gang-Based Violence in Central America: A Resource Manual," August 2007, 29.

lucrative bribes from private corporations, while the few institutional protections against corruption have been gutted in recent years.[165]

[165] "World Report 2019: Guatemala, Events of 2018," *Human Rights Watch*, https://www.hrw.org/world-report/2019/country-chapters/guatemala.

Chapter Six: LGBT and HIV-Positive in Guatemala

Overview

Among the LGBT community in Guatemala, police brutality and failure to investigate crimes against its members are two of the most pressing concerns. Homophobia, transphobia and human rights violations are widespread and systematic, and many LGBT rights activists have been subject to threats and physical violence. This violence is so extreme that Amnesty International has classified violence towards LGBT people in Guatemala as an 'epidemic.'[167] The human rights organization OASIS has reported multiple attacks and murders against members of the queer community, and many of these attacks are under-reported because victims fear institutional discrimination and social rejection. Between 1996 and 2011 at least 70 LGBT people were murdered in Guatemala because of their sexual identity.[168] In 2020, the Ombudsperson's Office reported that at least 19 people with queer identities were murdered. The following year, three LGBT+ people were murdered within the span of one week, one of them being Andrea González, the legal representative and a leader of the LGBT rights organization OTRANS Queens of the Night (*OTRANS Reinas de la Noche*).[169] There were 21 killings of LGBT persons from January to September 2021 in which the violence was likely related to the victims' sexual orientation or gender identity.[170] This context has led Human Rights Watch to the following conclusion: "LGBT people in Guatemala face a complex web of violence and discrimination that threatens their physical safety, limits their life choices, and in some cases leads them to flee their country."[171]

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[166] Additional research contributed by Leo Bernstein-Newman

[167] "Americas: 'No safe place': Salvadorans, Guatemalans and Hondurans seeking asylum in Mexico based on their sexual orientation and/or gender identity." Amnesty International, 27 Nov. 2017, https://www.amnesty.org/en/documents/amr01/7258/2017/en/

[168] "The Rights of LGBT people in Guatemala," Sida, November 2014, https://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/LGBT/rights-of-lgbt-persons-guatemala.pdf.

[169] "Guatemala: 3 Killings of LGBT People in a Week," Human Rights Watch, June 22, 2021, https://www.hrw.org/news/2021/06/22/guatemala-3-killings-lgbt-people-week.

[170] United States Department of State, "2022 Country Reports on Human Rights Practices: Guatemala," https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guatemala.

[171] "It's What Happens When You Look Like This; Violence and Discrimination Against LGBT People in Guatemala," Human Rights Watch, March 2021, https://www.hrw.org/sites/default/files/media_2021/03/%E2%80%9CIt%E2%80%99s%20What%20Happens%20When%20You%20Look%20Like%20This%E2%80%9D_0.pdf

According to the US State Department's 2022 Country Reports on Human Rights Practices, "Violence against LGBT persons remained a persistent issue." The State Department's report found that "police regularly engaged in extortion and harassed male and transgender individuals whom they alleged to be sex workers," and that there was "a lack of will on the part of police to fully investigate hate crimes and violence against LGBT+ persons." The State Department reports that on July 2, 2021 an assailant shot and killed Nancy Suc, an Indigenous transgender woman who was a member of the Transgender Women Sexual Workers Collective of Trebol. The murderer had previously attempted to extort Suc, according to the criminal complaint that Suc filed days before the attack. Suc's alleged killer was arrested, but fellow sex workers continued to be threatened and extorted and they claimed Suc's criminal complaint to the Public Ministry reporting the death threats against her was not taken seriously.[172]

Police Fail to Protect LGBT Individuals

There is a long history of violent attacks against LGBT individuals in Guatemala, many times perpetrated by police officers. In 2006, two prominent trans activists were shot at by police officers, one killed and the other gravely wounded. After the attack, the surviving victim and other trans activists reported heightened police surveillance and harassment.[173] On December 17, 2005, four men in police uniforms stopped two transgender women at an intersection in Guatemala City, shooting both of them and killing one. Another trans woman who witnessed the shooting was threatened with death. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions noted that "There has been impunity for murders motivated by hatred towards persons identifying as gay, lesbian, transgender, and transsexual." In approximately 34% of cases of violent crimes against transgender women, the assailants could be identified, but there is little evidence of charges ever being brought.[174] LGBT people in Guatemala are often denied protection when they come to the police, with officers routinely ignoring their complaints or reports. Guatemala's Attorney General's Office told Human Rights Watch they had records of 51 criminal complaints between 2016 and 2019 in which an LGBT person was the victim, and only four of these crimes had

[172] United States Department of State, "2022 Country Reports on Human Rights Practices: Guatemala," https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guatemala.
[173]"The Rights of LGBT people in Guatemala," Sida, November 2014, https://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/LGBT/rights-of-lgbt-persons-guatemala.pdf.
[174] "Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Guatemala: A Shadow Report, Submitted for consideration at the 104th Session of the Human Rights Committee, New York," Organización Trans Reinas de la Noche Organizacion (OTRANS), et.al., March 2012, https://www.heartlandalliance.org/gihr/wp-content/uploads/sites/12/2016/07/guatemala-shadow-report.pdf.

resulted in convictions.[175] Oftentimes LGBT people face numerous challenges when denouncing their abusers including fragile institutions, corruption and gang influence, and the stigma and discrimination from law enforcement agencies that are supposed to protect them.[176]

LGBT Individuals Targeted by Gangs in Guatemala

Gangs intentionally target vulnerable populations, which means that people living in low-income communities and people with marginalized identities – such as LGBT individuals – are more susceptible to gang violence and extortion. Furthermore, gang culture is one of "machismo" and hypermasculinity, which breeds intolerance for queer and transgender individuals.[177] Homophobia and anti-LGBT sentiments are so prevalent in gang culture that Barrio 18 massacred three of their own members for being homosexual in 2019.[178] Violent transphobia and homophobia can be found in other Guatemalan gangs as well; InSight Crime reported that MS13 has absolutely forbidden queer members.[179] An ex-Barrio 18 member spoke to Insight Crime in 2016, stating that "The worst part is when you realize that someone in your gang has been labeled a homo. For me, it was hard [to see this] because... I mean, when someone is in a gang, it's absolute and it's unforgivable. It means death."[180] A 2022 study explores how Barrio-18 and MS-13 employ a social cleansing strategy targeted at those who do not fit into a traditional gender binary.[181] Transgender people, especially transgender women, are especially vulnerable to gender based violence from *maras*, and may be specifically targeted because they are recognized as transgender.

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[175] "'Every Day I Live in Fear,'" Human Rights Watch, October 7, 2020. https://www.hrw.org/report/2020/10/07/every-day-i-live-fear/violence-and-discrimination-against-lgbt-people-el-salvador.

[176] "It's What Happens When You Look Like This; Violence and Discrimination Against LGBT People in Guatemala," Human Rights Watch, March 2021, https://www.hrw.org/sites/default/files/media_2021/03/%E2%80%9CIt%E2%80%99s%20What%20Happens%20When%20You%20Look%20Like%20This%E2%80%9D_0.pdf

[177] Smith, Cory. "Addressing the Sex and Gender-Based Violence in Guatemala, Honduras, and El Salvador Fueling the U.S. Border Crisis: Corruption, Impunity, and Violence Against Women and Girls," University of Notre Dame, 2020, https://pulte.nd.edu/assets/383519/report_sgbv_cory_smith.pdf.

[178] "Barrio 18 masacró a tres pandilleros por ser homosexuales |." *Diario1*, March 10, 2020, http://diario1.com/nacionales/barrio-18-masacro-a-tres-pandilleros-por-ser-homosexuales/.

[179] Avelar, Bryan, "The El Salvador Gang That Kills Its Gay Members," Insight Crime, Jan.18, 2017, https://insightcrime.org/news/analysis/the-gang-that-kills-its-gay-members/

[180] Avelar, Bryan, "The El Salvador Gang That Kills Its Gay Members," Insight Crime, Jan.18, 2017, https://insightcrime.org/news/analysis/the-gang-that-kills-its-gay-members/

[181] Rodríguez Madera, S. L., From Necropraxis to Necroresistance: Transgender Experiences in Latin America. *Journal of Interpersonal Violence*, *37*(11–12), 2022. https://doi.org/10.1177/0886260520980393

Societal and Legislative Discrimination

Gay and bisexual Guatemalans are not only subject to police and gang violence, but also to intolerance and discrimination from society in general. The conservative views held by religious groups, indigenous communities and the dominant political parties on LGBT rights is reflected by the general public, as represented by a 2010 survey indicating that 85% of the population opposed same-sex marriage.[182] In 2022 a bill was passed by the Commision on Education, Science and Technology within Guatemalan congress, banning the dissemination of any information about transgender identity in school sex education curricula. Human Rights Watch responded that the bill risks adding to the existing prejudice and stereotypes that often fuel violence against trans individuals in Guatemala. The pending Life and Family Protection Bill further stigmatizes LGBT people in Guatemala, describing "sexual diversity" as "incompatible with the biological and genetic aspects of human beings." It also establishes that "freedom of conscience and expression" protects people from being "obliged to accept non-heterosexual conduct or practices as normal," a provision that could be used to justify discriminatory denial of services.[183] The marginalization of LGBT people in cultural and social status plays out in a lack of political and legal rights. For example, unlike the United States where there is a well-established network of non-profit groups to defend the rights of sexual minorities, queer people are largely absent from the political process in Guatemala. Organizations supporting the rights of LGBT individuals are weak or non-existent. The few organizations that do serve the LGBT community in Guatemala are subjected to discrimination, harassment, and violence.

A 2012 report to the UN Human Rights Committee detailed the ways in which LGBT individuals lack access to healthcare, education services, and fair treatment within the justice system in Guatemala.[184] According to Americas Director at Amnesty International Erika Guevara-Rosas "People are facing vicious discrimination in Central America due to their gender identities, and have absolutely nowhere to run for safety."[185] In Guatemala, there is no

[182]"The Rights of LGBT people in Guatemala," Sida, November 2014, https://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/LGBT/rights-of-lgbt-persons-guatemala.pdf.
[183] "Guatemala: Anti-Trans Bill Threatens Rights," Human Rights Watch, Jan. 24, 2022, https://www.hrw.org/news/2022/01/24/guatemala-anti-trans-bill-threatens-rights.
[184]"Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Guatemala: A Shadow Report, Submitted for consideration at the 104th Session of the Human Rights Committee, New York," Organización Trans Reinas de la Noche Organizacion (OTRANS), et.al., March 2012, https://www.heartlandalliance.org/gihr/wp-content/uploads/sites/12/2016/07/guatemala-shadow-report.pdf.
[185] "Mexico/Central America: Authorities turning their backs on LGBTI refugees," Amnesty International, Nov. 27, 2017, https://www.amnesty.org/en/latest/press-release/2017/11/mexico-central-america-authorities-turning-their-backs-on-lgbti-refugees/.

way for transgender people to change their gender markers on official documents.[186] A bill was introduced in 2017 to amend this issue, but it was given an unfavorable opinion by the Women's Commission and the Legislative Commission and never made it to Congress.[187]

Specific Risks and Stigma Towards Transgender Individuals

Transgender people in Guatemala also suffer from a distinct lack of access to healthcare and education. For transgender people, hormones and sex reassignment surgery can provide life-saving relief, but restrictions in Guatemala make them difficult to access.[188] Access to health services is also limited by individuals working in the healthcare system. For instance, on two separate occasions in 2011, staff at a principal state hospital turned away transgender women seeking basic assistance, declaring that they were ineligible for any medical care.[189] Transphobia and discrimination are also barriers for transgender people in education. For instance, a transgender woman passed the entrance exam at El Instituto Técnico de Capacitación y Productividad (INTECAP) but was then barred from admission to the school after the director of the school learned about her transgender identity, stating that the school was for "only men and women."[190] Galilea Monroy of the activist group Red Multicultural de Mujeres Trans de Guatemala has described how transgender people experience difficulties accessing the same public services that are available to cisgender people: "The transgender population constantly suffers from discrimination surrounding access to public services, including health services and protection provided by security forces."[191]

Unequal education rates compounded by employment discrimination make it more difficult for transgender individuals to attain employment than their cisgender counterparts.

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186 "It's What Happens When You Look Like This; Violence and Discrimination Against LGBT People in Guatemala," Human Rights Watch, March 2021, https://www.hrw.org/sites/default/files/media_2021/03/%E2%80%9CIt%E2%80%99s%20What%20Happens%20When%20You%20Look%20Like%20This%E2%80%9D_0.pdf

187 Dulce Rivera, "Ley de identidad de género recibe dictamen desfavorable", *Guatevision*, August 29, 2018, https://www.guatevision.com/noticias/nacional/ley-identidad-genero-dictamen-desfavorable.

188 "Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Guatemala: A Shadow Report," OTRANS, RED LACTRANS, IGLHRC, The Heartland Alliance for Human Needs & Human Rights, The George Washington University Law School International Human Rights Clinic, March, 2012, p.11, https://www.heartlandalliance.org/gihr/wp-content/uploads/sites/12/2016/07/guatemala-shadow-report.pdf.

189 Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Guatemala: A Shadow Report," OTRANS, RED LACTRANS, IGLHRC, The Heartland Alliance for Human Needs & Human Rights, The George Washington University Law School International Human Rights Clinic, March, 2012, p.11, https://www.heartlandalliance.org/gihr/wp-content/uploads/sites/12/2016/07/guatemala-shadow-report.pdf.

190 Human Rights Violations of Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Guatemala: A Shadow Report," OTRANS, RED LACTRANS, IGLHRC, The Heartland Alliance for Human Needs & Human Rights, The George Washington University Law School International Human Rights Clinic, March, 2012, p.12, https://www.heartlandalliance.org/gihr/wp-content/uploads/sites/12/2016/07/guatemala-shadow-report.pdf.

191 Nancy Alvarez, "Comunidad trans de Guatemala demanda fin de discriminación," *Publinews*, October 8, 2019, https://www.publinews.gt/gt/noticias/2019/10/08/comunidad-trans-guatemala-fin-discriminacion.html/.

Candidates are frequently denied employment because of their gender identity or sexuality, with 22% of LGBTQ people surveyed in Guatemala, "certain they had been denied employment based on their sexual orientation or gender identity" and another 23% denied employment for reasons they said "may have been linked to their sexual orientation or gender identity."[192] Even if employment is obtained, LGBTQ people have a higher likelihood of being fired because of their identity.[193] A 2021 study examining employment and job retention among gay men and transgender women in three Guatemalan cities found that transgender women have a notably difficult time gaining and retaining jobs: "Job opportunities were particularly limited for transgender women due to discrimination related to gender identity," the study determined.[194] These results are corroborated by a 2016 study examining gay men and transgender women with HIV living in Guatemala City, which determined that this group of people had limited employment opportunities.[195] A lack of reliable job opportunities means that transgender women often turn to sex work as a source of income.[196] Such work is often dangerous and puts them at risk for sexual violence and STIs, including HIV. Transgender women who are involved in sex work, in comparison to gay men who are not sex workers, "are three times as likely to be discriminated against, seven times as likely to be physically abused and eight times as likely to be forced to have sex."[197]

These intersecting forms of violence and discrimination must not be viewed as isolated events, but rather as part of a larger system in which "trans people frequently live through a complicated panorama shaped by multiple forms of oppression, extreme violence (e.g., stoning, beheadings, burnings, genital mutilation), and micro-aggressions (indirect or unintentional discrimination including expressions of heteronormative bias and misgenderism)," as found by researcher Sheilla L. Rodríguez Madera of Florida International

[192] "It's What Happens When You Look Like This; Violence and Discrimination Against LGBT People in Guatemala," Human Rights Watch, March 2021, https://www.hrw.org/sites/default/files/media_2021/03/%E2%80%9CIt%E2%80%99s%20What%20Happens%20When%20You%20Look%20Like%20This%E2%80%9D_0.pdf, p.49.
[193] "It's What Happens When You Look Like This; Violence and Discrimination Against LGBT People in Guatemala," Human Rights Watch, March 2021, https://www.hrw.org/sites/default/files/media_2021/03/%E2%80%9CIt%E2%80%99s%20What%20Happens%20When%20You%20Look%20Like%20This%E2%80%9D_0.pdf, p.49.
[194] Alexandra J. Munson, Dirk A. Davis, and Clare Barrington, "'There are no other options for us because of who we are': employment and retention in care among gay and bisexual men and transgender women living with HIV in Guatemala," *Culture, Health and Sexuality*, 25 Mar 2020, p. 1, https://doi.org/10.1080/13691058.2020.1718212.
[195] Clare Barrington et al., "HIV Diagnosis, Linkage to Care, and Retention among Men Who Have Sex with Men and Transgender Women in Guatemala City," *J Health Care Poor Underserved*, 1745–1760, 2016, doi:10.1353/hpu.2016.0160.
[196] Romina Ruiz-Goiriena, "Teacher by day, prostitute by night: Guatemalan transgender woman lives in two worlds," *Toronto Star*, September 21, 2012, https://www.thestar.com/news/world/2012/09/21/teacher_by_day_prostitute_by_night_guatemalan_transgender_woman_lives_in_two_worlds.html.
[197] William Meihack Miller, "Contextual factors that contribute to increased risk of HIV among transgender and MSM sex workers and recommendations for service delivery" University of North Carolina at Chapel Hill, 2015, p. 5, https://www.proquest.com/openview/9d61de726cd22e5e2a6c884fa6434f48/1?pq-origsite=gscholar&cbl=18750.

University.[198] These overlapping forms of oppression cultivate a culture that has resulted in Latin America being the deadliest region in the world for transgender people, according to data counting homicides of transgender and gender non-conforming people from 2022[199] The murders and abuse of transgender women in Guatemala are the product of an environment that has for many years been fostered to discourage social nonconformity, especially within gender roles.

Premature transgender deaths, whether by homicide or suicide, are caused by a social environment that "[devalues] trans people, affecting their sense of worth, and positioning them as unwanted in society," finds Professor Rodríguez Madera.[200] Everyday acts of discrimination that isolate transgender people as socially deviant, are as much of a problem as overt violence because they are often the root cause that allows such violence to happen. Such occurrences can take the form of recurrent acts of humiliation—such as misgendering, sexual propositioning stemming from the perceived role of transgender people in society, being forced to present in a way that does not match a person's gender, or use of slurs—physical assault, or bullying. A system of continual messaging, whether subliminal or explicit, of the worthlessness of transgender individuals has a psychological effect that makes violence socially permissible. Despite some gains to reform discriminatory legislation, transgender women in Guatemala report continued harassment by police, disrespect by health workers and job discrimination.

Risks to HIV-Positive Guatemalans

The lack of medical care for HIV positive people has only worsened in Guatemala since 2019 as a result of the Covid-19 pandemic. According to a 2021 article published in the *International Journal of Infectious Diseases*, "The COVID-19 pandemic is having a substantial impact on HIV care in Guatemala. Diagnostic services for HIV have been severely affected and deaths from opportunistic infections have increased."[201] According to the US State Department's 2022 Human Rights report, "Social discrimination and stigma around AIDS and HIV continued to be problematic and contributed to not only the spread of the disease but also mortality rates. Some government authorities required citizens to reveal HIV and

[198] Sheilla L. Rodríguez Madera, "From Necropraxis to Necroresistance: Transgender Experiences in Latin America", Journal of Interpersonal Violence, June 2022, doi: 10.1177/0886260520980393, 3.
[199] "TMM Update TDoR 2022," *Transrespect vs Transphobia*, November 8, 2022, https://transrespect.org/en/tmm-update-tdor-2022/.
[200] Sheilla L. Rodríguez Madera, "From Necropraxis to Necroresistance: Transgender Experiences in Latin America", Journal of Interpersonal Violence, June 2022, doi: 10.1177/0886260520980393, 6.
[201] Narda Medina, et al. "Impact of the COVID-19 pandemic on HIV care in Guatemala." *International Journal of Infectious Diseases,* Vol. 108 (2021): 422-427. doi:10.1016/j.ijid.2021.06.011.

AIDS test results to receive certain public benefits, and some employers required similar disclosure to be hired. Discrimination against LGBTQI+ persons with HIV or AIDS was particularly common and affected access to HIV-prevention programs, especially for transgender individuals."[202] A 2021 study published in *Culture, Health & Sexuality* reported a correlation between employment status and retention of HIV care among transgender women and men who have sex with men.[203] Transgender women report finding work outside of the "informal sector" (restaurants, bars, selling food) to be virtually impossible due to stigma surrounding HIV. This study identified low wages and unreliable income as the primary barrier to retention of care. In order to receive and retain treatment, those living with HIV must be able to afford the cost of transportation to their nearest HIV clinic.

Conclusion

The academic studies cited above along with frequent news reports and the high incidence of LGBTQ homicides suggest that Guatemalans still discriminate against the LGBTQ community and the government is unwilling or unable to provide protection for these groups. Historically, gay and trans individuals and their families have faced discrimination and stigma in Guatemala and there is no meaningful government protection afforded to this minority subgroup. Especially for LGBTQ individuals, levels of discrimination and abuse within the police force towards sexual minorities means that they cannot rely on state authorities for protection. Although there have been efforts by the state to provide legal protections for LGBTQ people, these protections are frequently denied. Also, given the deep levels of corruption within the military and criminal justice system, it is often state agents who further stigmatize and exploit LGBTQ people. Such individuals are subjected to different levels and types of violence and other harm without meaningful state protection.

[202] US State Dept., "Guatemala 2022 Human Rights Report," March 21, 2023, https://gt.usembassy.gov/guatemala-2022-human-rights-report/.
[203] Alexandra J. Munson, et. al. "'There are no other options for us because of who we are': employment and retention in care among gay and bisexual men and transgender women living with HIV in Guatemala." *Culture, Health & Sexuality*, Vol. 23 (2021): 608-623.

Chapter Seven: Standard of Living and Public Services in Guatemala

Healthcare

Chronic underfunding in public hospitals means that there is a general lack of medical technology and shortage of services in Guatemala. In 2008, the Guatemalan government only spent $97 per person on public healthcare, while the United States spent $7,825.[204] In practice, this means that many local health posts are understaffed and understocked, without essential supplies and medications. This has the greatest impact on low-income families who cannot afford private clinics. In 2015, four out of the 44 state hospitals in the country couldn't afford to pay medical staff and shut down all but emergency services, leaving thousands without medical care. In addition, many secondary services such as x-rays and blood work are not available at public health clinics and have been outsourced to private companies, making them largely inaccessible. Medical services are also concentrated in wealthier urban areas, as 80% of doctors in Guatemala work in Guatemala City, making technical or specialized tests even more inaccessible to those living in rural areas.[205]

In 2021, the population of Guatemala was over 18 million people, with eight million living in rural areas. According to the Centers for Disease Control and Prevention (CDC), there were approximately nine doctors for every 10,000 people on average, equating to about 16,000 doctors total throughout the country. In comparison, the State of New York has a similar population with more than 53,000 doctors registered in the state.[206] USAID has found that overall, six million people or approximately 35% of the population in Guatemala lack basic health and nutrition services in direct conflict with Guatemala's constitution, which states that every citizen has a universal right to health care.[207] Health care spending in Guatemala and other Central American countries remains low compared to the United States, which invests approximately 7,000 dollars per person on public healthcare. According to recent

[204] Tatiana Petrovick, "Five Reasons Why the Guatemalan Health System is in Deep Crisis," Mayan Families, February 2, 2016, https://www.mayanfamilies.org/blogs/entry/3594.
[205] Tatiana Petrovick, "Five Reasons Why the Guatemalan Health System is in Deep Crisis," Mayan Families, February 2, 2016, https://www.mayanfamilies.org/blogs/entry/3594.
[206] "Common Hope Addresses Health Care Needs," Common Hope, Jan. 13, 2022, https://www.commonhope.org/healthcare-in-guatemala/.
[207] "Guatemala: Health and Nutrition," USAID, https://www.usaid.gov/guatemala/our-work/health-and-nutrition.

data from Macrotrends, Guatemala spends $260 on healthcare–lower than the neighboring countries of Belize, El Salvador, and Costa Rica.[208]

Mental Health

Because of the violence plaguing Guatemala and the surrounding countries, it is not uncommon for residents to suffer from anxiety and other disorders such as PTSD, trauma and depression after being threatened or suffering acts of brutality. In a study exploring the associations between violence, mental health, and substance abuse in post-civil war Guatemala, medical researchers found that over 90 percent of respondents reported being afraid that they might be hurt by violence, over 40 percent screened positive for depression, 50 percent screened positive for PTSD, and 23 percent screened positive for alcohol dependence. The researchers concluded that these higher than expected rates are a result not only of ongoing trauma from the civil war, but also the ongoing violence and fear of the post-conflict period.[209]

A study conducted by Heartland Alliance International in 2016 focusing on mental health issues among Central Americans, found that traumatic life experiences, ongoing exposure to violence, and ruptured family structures were central issues contributing to issues like depression and PTSD among migrants fleeing their home countries. Interviewees from the study reported profound social isolation, anxiety, a climate of fear, and irregular development as a result of trauma in their lives. If conditions such as severe anxiety and PTSD are left unattended, physicians reported, individuals are left at risk for developmental, emotional, and behavioral difficulties.[210]

Education

Many teachers and schools in Guatemala are unequipped to deal with children who have previously been educated in the United States. On top of language difficulties, many parents have difficulties navigating Guatemala's education system and most Guatemalan schools don't accept transcripts from the United States. In order to enroll in school, children must have Guatemalan documents, and even then personal information often gets lost or confused. One 13-year-old US citizen who returned to

[208] "Common Hope Addresses Health Care Needs," Common Hope, Jan. 13, 2022, https://www.commonhope.org/healthcare-in-guatemala/.
[209] "An exploration of violence, mental health, and substance abuse in post-conflict Guatemala," *US National Library of Medicine National Institutes of Health*, May 2013, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5095616/
[210] Leora Hudak, "Trauma of a Generation: The urgent need for specialized mental health solutions in Central America's Northern Triangle," *Heartland Alliance International,* May 2016, https://www.heartlandalliance.org/wp-content/uploads/2016/01/Trauma-of-a-Generation_HAI-2016.09.pdf

Guatemala with her deported mother never obtained a correct identification number, leading her to be enrolled in adult night school which she promptly stopped attending.[211]

Wages and Standard of Living

In accordance with healthcare and education standards, job opportunities and standards of living in Guatemala are poor in comparison to the United States. Guatemala has one of the highest inequality rates in Latin America, with some of the worst poverty, malnutrition and maternal-child mortality rates in the region. Unemployment is high and many jobs are extremely low paying. In 2014 the poverty rate was 59.3%, and 52% of those living in poverty were indigenous.[212] In 2016, the estimate for a gross living wage was 2,689 Quetzales ($359), between 60-100% higher than the typical prevailing wages in the country. Prevailing wages are a better measure than national minimum wage in Guatemala, as 69.3% of the population is employed in the informal sector. Alarmingly, 10% of children under 15 are also active in the workforce.[213]

In 2023, Guatemala raised the minimum monthly wage to the equivalent of $444 USD for non-agricultural and manufacturing workers, who earn approximately $432 USD and $408 respectively in monthly wages. These wages are below what Guatemala considered the basic cost of living ($485 USD monthly) in October 2022, and insufficient to purchase what the Guatemalan state considers essential household staples for a family of five. There is also a marked difference in wages earned by men and women, with a 2021 study finding that the average $300 USD earned monthly by a working woman in Guatemala is 8% less than the national average.[214] Approximately half of the Guatemalan population earns less than the monthly minimum wage and women who work in the informal sector earn on average less than half that amount, according to Guatemala's Statistics Institute 2019 National Employment and Income Survey.[215] Given the salaries and standard of living there, and the high costs of medical treatment and specialized services, returnees to Guatemala are often confronted with situations of violence and poverty, and unable to access quality healthcare or social services for illness, disabilities or protection from harm.

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[211] Katya Cengel, 'I Want to Go Back': In Guatemala, US-Born Kids Struggle After Their Parents' Deportation, *Vice News*, April 13, 2016, https://news.vice.com/en_us/article/neykzg/american-born-kids-sent-back-to-guatemala-after-parents-deported

[212] The World Bank, October 4, 2018, http://www.worldbank.org/en/country/guatemala/overview.

[213] "Living Wage Report: Rural Guatemala," *Global Living Wage Coalition*, March 2018, https://www.isealalliance.org/sites/default/files/resource/2018-04/2018_Guatemala_Final_Report.pdf.

[214] Maria Longo, "Unequal Salaries/Wages," Revista EntreMundos, https://www.entremundos.org/revista/economy/unequal-salaries-wages/?lang=en#:~:text=For%202023%20the%20Guatemalan%20government,%243%2C327.56%20(%24%20444%20approx.).

[215] "The Neediest and the Hardest to Reach: Informal Workers Face the Pandemic," Inter-American Development Bank, 2020, https://www.iadb.org/en/improvinglives/neediest-and-hardest-reach-informal-workers-face-pandemic.