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**GUATEMALA
GANG VIOLENCE**

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GUATEMALA

GANG VIOLENCE

Executive Summary

Guatemala is one of the most violent countries in the Americas and the world. It is also among the three countries of Central America with the most severe gang problem. The government has attempted to deal with the problem through periodic law enforcement operations, increased arrests, and police presence in troubled neighborhoods. However, several anti-gang bills have not passed because they have been deemed to be unconstitutional, and the police have been accused of using repressive measures, including arbitrary detention and extrajudicial killing, in their efforts to reduce gang activity. The government has implemented several programs to prevent crime, assist at-risk youth and former gang members, and reduce police corruption. The government has also created several programs aimed at investigating and dismantling criminal organizations; however, it has been criticized for overwhelmingly favoring investments in short-term law enforcement to the neglect of long-term preventive programs that address the root causes of the problem.

I. Background of Gangs in Guatemala

Guatemala is one of the three countries of the Central American northern triangle with severe gang problems. Estimates of gang membership in the country vary considerably, but according to the United Nations Office on Drug and Crime (UNODC) there are approximately 14,000 gang members in Guatemala.¹ The largest youth gangs in the country are the Mara Salvatrucha (MS-13), with an estimated 80% of the country's gang members, and the 18th Street Gang (Barrio 18), with an estimated 15% of the country's gang members. The remaining 5% consists of various smaller gangs. According to the National Civilian Police, there are approximately 340 gangs in the country.² The Guatemalan Human Rights Commission/USA (GHRC) indicates in its Fact Sheet on Gangs in Guatemala, 2011 that "[g]ang members are involved in robbery, extortion, drug dealing, human trafficking, and turf wars with rival gangs. Recently, gang members have also hired themselves out as "hit men" to Mexican cartels."³ According to the Human Rights Watch World Report 2012, Guatemala has one of the highest

¹ CLARE RIBANDO SEELKE, CONG. RESEARCH SERV., RL34112, GANGS IN CENTRAL AMERICA 5 (Jan. 2011).

² USAID, CENTRAL AMERICA AND MEXICO GANG ASSESSMENT 64 (Apr. 2006), http://transition.usaid.gov/gt/docs/guatemala_profile.pdf.

³ Fact Sheet, Guatemala Human Right Commission/USA, Gangs in Guatemala, <http://www.ghrc-usa.org/Publications/GangFactSheet.pdf>.

violent crime rates in the Americas.⁴ USAID’s Central America and Mexico Gang Assessment also indicates that since Guatemala signed the Peace Accords that ended a 36-year civil conflict in 1996, the country has been designated as one of the most violent countries in the region and the world.⁵ The Office of the Human Attorney (Procurador de los Derechos Humanos) in its annual report on the country’s human rights for 2011 indicates that during that year there were 5,681 homicides, which corresponds to 39 homicides per 100,000 inhabitants.⁶ The Human Rights Watch World Report 2012 indicates that illegal armed groups as well as criminal gangs “significantly contribute to violence and intimidation, which they use to further political objectives and illicit economic interests, including drug-trafficking.”⁷ The same source reports that “[t]he gangs use lethal violence against those who defy their control, including gang rivals, former gang members, individuals who collaborate with the police, and those who refuse to pay.”⁸ According to information from the Associated Press, secret jailhouse recordings and a turncoat kidnapper describe a pact between gang leaders and the Zetas, the brutal Mexican paramilitary drug cartel. This cartel operates drug-trafficking routes from South America to the United States in a large part of the Guatemalan rural north.⁹

It is a widely accepted theory that the deportation by the United States of thousands of convicted, jailed gang members to Central America at the end of their sentences in the early to mid-1990s contributed to gang consolidation in Guatemala.¹⁰

According to available sources, the Guatemalan judicial system has been unable to reduce violence and contain criminal gangs and mafias. Official figures reveal that there was 95 percent impunity in 2010. Deficient and corrupt prosecutorial and judicial systems and police, as well as the lack of an effective witness protection system are factors in the low prosecution rate.¹¹

II. Government Efforts to Protect Citizens

Guatemala has not passed any anti-gang or organized-crime legislation.¹² Legislation similar to the Mano-Dura anti-gang laws passed in El Salvador was introduced in the

⁴ HUMAN RIGHTS WATCH, WORLD REPORT 2012 at 247, available at <http://www.hrw.org/world-report-2012/guatemala>.

⁵ USAID, *supra* note 2, at 62.

⁶ Immigration and Refugee Board of Canada, *Guatemala: Violence Perpetrated by Criminal Gangs and Cases of Popular Justice; Protection Offered by the State (2008–March 2012)* at 1 (May 7, 2012), available at <http://www.unhcr.org/refworld/country,,,GTM,,4fc4a9962,0.html>.

⁷ HUMAN RIGHTS WATCH, *supra* note 4.

⁸ *Id.*

⁹ Romina Ruíz-Goiriena, *Mara Salvatrucha, Zetas Joining Forces? Guatemala Authorities See Disturbing Evidence*, HUFF POST WORLD (last updated Apr. 10, 2012), http://www.huffingtonpost.com/2012/04/07/mara-salvatrucha-zetas_n_1409814.html.

¹⁰ USAID, *supra* note 2, at 64.

¹¹ HUMAN RIGHTS WATCH, *supra* note 4, at 248.

¹² USAID, *supra* note 2, at 79.

Guatemalan legislature in 2003, but it did not pass.¹³ In 2011, Congressman Oliverio García Rodas, president of the Legislative Commission on Constitutional Issues, indicated that the Commission did not pass four anti-gang bills because they were unconstitutional and they violated the International Convention on the Rights of the Child.¹⁴ Although there is currently no specific anti-gang legislation, the government “has launched periodic law enforcement operations to round up suspected gang members.”¹⁵ USAID’s Central America and Mexico Gang Assessment indicates that the government has intensified efforts to control violence and dismantle gang networks. The standard government response to the presence of organized crime in poor urban areas has been to increase arrests and/or police presence.¹⁶ Four thousand reserve army troops have been placed in troubled neighborhoods of the capital city.¹⁷ The government has been accused by human rights organizations of “using social cleansing tactics or turning a blind eye to the use of such tactics by rogue elements in the police force.”¹⁸ Another issue of concern has been the joint police-military action of patrolling civilian areas with high crime rates. This has prompted the government’s Human Rights Ombudsman to send observers on police patrols to watch for potential abuses of police power.¹⁹ According to the Human Rights Watch World Report 2012, police “have used repressive measures to curb gang activity, including arbitrary detentions and extrajudicial killings.”²⁰

III. Government Response

A. Gang Prevention Program

In June 2005, the government adopted the National Policy on the Prevention of Youth Violence,²¹ which is being implemented under the direction of the National Commission of Violence Prevention and Integral Promotion of the Values of Coexistence (*Comisión Nacional de Prevención de la Violencia y Promoción Integral de Valores de Convivencia* (CONAPREPI)).²² According to USAID’s Central America and Mexico Gang Assessment, the plan seems to center its attention on socioeconomic risk factors such as youth unemployment, poor education, and weak social capital.²³ The Child Rights International Network indicates that

¹³ RIBANDO SEELKE, *supra* note 1, at 10.

¹⁴ María José España, *Cuatro Iniciativas de la Ley Antimaras han sido Rechazadas*, LA HORA (Aug. 26, 2011), <http://www.lahora.com.gt/index.php/nacional/guatemala/actualidad/142188-cuatro-iniciativas-de-ley-anti-maras-han-sido-rechazadas>.

¹⁵ RIBANDO SEELKE, *supra* note 1, at 10.

¹⁶ USAID, *supra* note 2, at 79.

¹⁷ Steven C. Boraz & Thomas C. Bruneau, *Are the Maras Overwhelming Governments in Central America?*, MILITARY REVIEW, Nov.–Dec. 2006, at 38, <http://www.dtic.mil/dtic/tr/fulltext/u2/a483853.pdf>.

¹⁸ USAID, *supra* note 2, at 79.

¹⁹ *Id.* at 79.

²⁰ HUMAN RIGHTS WATCH, *supra* note 4, at 248.

²¹ *Id.* at 80.

²² Gobierno de Guatemala, Política Nacional de Prevención de la Violencia Juvenil, at 13, http://www.segeplan.gob.gt/2.0/index.php?option=com_remository&Itemid=274&func=startdown&id=260.

²³ USAID, *supra* note 2, at 80.

a national policy on the prevention of violence is being conducted at the municipal level. Moreover, it indicates that the country “has a plan to protect children at risk and prevent them from becoming street children” and that an “institutional unit offers economic-assistance programs to promote education and fellowship among young people.”²⁴ Another source also reports that the country has programs for preventing crime and assisting at-risk youths and former gang members.²⁵ However, the “government investments to address the gang problem overwhelmingly favor short-term law enforcement, to the neglect of long term prevention-oriented programs that address the root causes of the problem.”²⁶

The US government has funded a series of crime prevention programs since 2002. One of the most significant, the Consortium for Crime Prevention (APREDE), “fell apart in 2004 amid accusations that the police were bribing gang members and selling weapons, drugs, and protection to them.”²⁷

B. National Civilian Police (PNC) Reform

The Guatemalan government has taken important steps to deal with police corruption, including the implementation of several programs, among them the “Crime Prevention Laboratory” in Villa Nueva. In 2004 Guatemalan and American diplomats created this pilot crime-prevention program in the municipality of Villa Nueva (Guatemala’s third most populous city), which would then be implemented in other parts of the country. The so-called Model Police Station Program involved changes to the existing police force and the creation of a special investigations team and permanent crime-information system, as well as making patrols more effective, focusing attention especially on gang-targeted school areas. In the final phase of the plan an anonymous system of crime reporting was created to avoid fear of retaliation, which was one of the main reasons for the underreporting of crime. As a result, the “Tell it to Waldemar” hotline was established and extended to the national level in 2008.²⁸ In 2005 and 2006 the police reform strategy focused on upgrading equipment, training and communications, and field professionalization programs.²⁹ The International Commission Against Impunity in Guatemala (CICIG) was created in 2007 with the support of the United Nations to assist the government in investigating and dismantling the violent criminal organizations responsible for widespread crime and paralysis of the country’s justice system. The CICIG’s work made possible the conviction of fourteen leaders of Los Zetas in September 2010.³⁰ Similarly, “in its first three years, the CICIG-supported investigation and infiltration of organized crime in state institutions

²⁴ CHILD RIGHTS INTERNATIONAL NETWORK (CRIN), GUATEMALA: CHILDREN’S RIGHTS REFERENCES IN THE UNIVERSAL PERIODIC REVIEW at 4 (June 2008), <http://www.crin.org/resources/infodetail.asp?id=17128>.

²⁵ Boraz & Bruneau, *supra* note 17, at 38.

²⁶ USAID, *supra* note 2, at 35.

²⁷ Guatemala Human Right Commission/USA, *supra* note 3, at 2.

²⁸ *Id.*

²⁹ USAID, *supra* note 2, at 80.

³⁰ US SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL, RESPONDING TO VIOLENCE IN CENTRAL AMERICA 38, 112th Congress, 1st. Sess. (Sept. 2011), <http://www.grassley.senate.gov/judiciary/upload/Drug-Caucus-09-22-11-Responding-to-Violence-in-Central-America-2011.pdf>.

contributed to the dismissal of around 1,700 police officers and several senior prosecutors.”³¹ As a consequence of an investigation into police participation in extrajudicial executions in 2010 and 2011, two former members of the National Police’s Criminal Investigation Division were sentenced to twenty-five years in prison in June 2011 for the enforced disappearance of an alleged extortionist in October 2009. The CICIG assisted in the prosecution.³² The USAID’s Central America and Mexico Gang Assessment comments that “[w]hile there is currently political will behind the much needed reforms at the highest levels of the government of Guatemala and national police, given the deep-seated nature of corruption, progress in this area will require a sustained commitment over a number of years and additional funding for implementation.”³³

IV. Concluding Remarks

Guatemala has adopted a law-enforcement operations strategy to deal with gang violence. According to available sources no specific anti-gang or organized-crime legislation has been promulgated. Several anti-gang bills were not approved by Congress because they were considered unconstitutional. The government has implemented various gang-prevention programs, but most of its investments have been on short-term law enforcement. Available sources indicate that the judicial system has been unable to curb violence and contain criminal gangs and mafias.

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³¹ *Id.*

³² HUMAN RIGHTS WATCH, *supra* note 4, at 248.

³³ USAID, *supra* note 2, at 80.