LIVING WITH Matter of S-E-G-

by Benjamin Casper, with Regina Germain and Ilana Greenstein*

In 2008, the Board of Immigration Appeals (BIA) threw close to a quarter century of established caselaw into disarray with the publication of Matter of S-E-G-.¹ In “The evolution convolution of particular social group law: from the clarity of Acosta to the confusion of S-E-G-,” published elsewhere in this manual, we presented a brief history of the evolution of the social group category and a discussion of S-E-G-’s effect on it. In S-E-G-, the BIA abandoned without explanation the “immutable characteristic” approach to defining social group membership that it adopted in Matter of Acosta,² a 24-year old precedent that set the standard internationally for social-group based asylum claims. In its place, the BIA adopted an unwieldy standard with no textual basis that is flatly contrary to the treaty obligations of the United States, and all but eliminates social group membership as an independent ground for asylum. In these practice pointers, we make practical suggestions for challenging or limiting S-E-G-’s scope and for crafting winning arguments in its wake.

- **Delineate the Group.** As preface, it might be worthwhile to note the BIA’s admonition in Matter of A-T-³ that the applicant must provide an “exact delineation” of any particular social group to which he or she claims to belong.

- **Keep it Simple.** Although the proffered group must be carefully and clearly defined, it also should be defined as simply as possible. Try to limit the number of defining factors that you include, to avoid the appearance that your group is contrived and specifically tailored to your client. Keep in mind that, although Acosta framed the social group category as the most flexible of all of the protected grounds, and as the one intended to fill in the gaps in coverage left by the other four,⁴ the BIA’s more recent interpretations reveal a discomfort with the persecution itself becoming the defining factor in the group, and with the proposed social groups appearing contrived.

KNOW YOUR JUDGE OR ADJUDICATOR

For most lawyers, if not all, the goal in any asylum claim is to win, and not necessarily to do so with an esoteric articulation of a social group worthy of a law review article. One way to increase your chances is to

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⁴ Id. ("It has been suggested that the notion of a ‘social group’ was considered to be of broader application than the combined notions of racial, ethnic, and religious groups and that in order to stop a possible gap in the coverage of the United Nations Convention, this ground was added to the definition of a refugee.").
“know” your immigration judges (IJ)\(^5\) and asylum officers.\(^6\) Learn about their track records. What types of cases have they granted and how was the social group formulated? Also, learn what types of social groups they have rejected and revise or distinguish your social group accordingly. You also can put your conscience at ease, stay true to your convictions, and preserve appellate review by making your cutting edge social group arguments in the alternative in your legal brief and your closing argument.

**MAKE MULTIPLE SOCIAL GROUP ARGUMENTS**

Given the state of the law, with viable challenges to social visibility and particularity requirements, and the possibility of Particular Social Group (PSG) rulemaking or even legislation, one should not by shy about offering multiple, carefully crafted PSGs.

**USE UNCONVENTIONAL SOURCES**

As the BIA noted in Matter of Acosta, the particular kind of group characteristic that will qualify “remains to be determined on a case-by-case basis.”\(^7\) Advocates are not required, as some adjudicators erroneously believe, to show that their formulation of a social has been recognized in case law. Social groups are cutting edge legal arguments limited only by the facts of case and the creativity of legal counsel. Advocates should use all available sources of information on suggested social groups. These sources include:

- The Asylum Officer Basic Training Course.\(^8\)
- Unpublished BIA and IJ decisions.\(^12\)

\(^5\) Finding out information about the judge assigned to your case is a bit easier. First, call the automated court line at 1-800-898-7180, enter your client’s A number, and under option “1” you will learn which judge has been assigned the case, even before the master calendar hearing. Next, find out more about your judge’s asylum record by locating asylum statistics for your judge. These statistics are available at http://trac.syr.edu/immigration/reports/judgereports/. After reviewing these statistics, observe the immigration judge (IJ) conduct an asylum hearing, preferably in a case involving a social group argument. Usually you can find out when an asylum case will be heard by that judge by polling AILA attorneys on your chapter list serve and asking for permission to observe. You can also call the immigration court clerk. Ask local practitioners for information about their past cases before that judge and what social group arguments have been successful in the past and which have been rejected by the judge in your case.

\(^6\) How can you find out which asylum officer is assigned to your case? After you receive your interview notice, call the asylum office and ask. For a list of asylum offices and their telephone numbers, see USCIS website at https://egov.uscis.gov/crisgw/go?action=offices.type&OfficeLocator.office_type=ZSY. Usually, asylum officers are assigned to a case prior to the interview. Try calling the asylum office at least one week before your interview to give yourself time to prep for your oral closing statement at the end of the interview. If you are not familiar with the officer assigned to interview your client, contact asylum lawyers in the jurisdiction of the asylum office to find out what the experience of others has been with the officer for your case. Use list serves, use AILA mentor lists, and contact your fellow AILA members for advice. Ask about cases the officer has granted and cases that she or he has rejected. Cases may vary by nationality or gender. If your officer is new, however, you may get little or no information of use to you prior to the interview. Take meticulous notes and jot down your impressions of the officer for future reference. Asylum officers often question attorneys and share their impressions of legal arguments with attorneys. Your insights may be of use to future asylum claimants. Learn what types of cases are “red flags” and must be referred to asylum headquarters. A list of those cases may be found on AILA InfoNet. See USCIS Asylum Division, “Quality Assurance Referral Sheet” (revised 1/23/09), published on AILA InfoNet at Doc. No. 09012378 (posted Jan. 23, 2009). A referral to headquarters usually means a substantial delay in receiving a decision.

\(^7\) 19 I&N Dec. 211, 233 (BIA 1985).

\(^8\) Available at www.uscis.gov or at http://www.rmscdenver.org/legal_aobtc2.html.

\(^9\) Available at http://www.unhcr.org/3d58de2da.html.

\(^10\) Available at http://www.unhcr.org/3d58e13b4.html.

\(^11\) Available at www.unhcr.org.
- Decisions from other countries.\(^{13}\)
- Law review articles on social groups.

**AVOID SOCIAL VISIBILITY AND PARTICULARITY STUMBLING BLOCKS**

**Try to limit S-E-G-**

Can *Acosta* and *S-E-G-* be reconciled? The answer (as is the answer to many questions) is, simply, perhaps. The U.S. Department of Homeland Security (DHS) has taken the position in some cases that “socially visible” means literally visible to the naked eye; any member of a given society, according to DHS, must be able to recognize an individual as a member of a particular group in order for it to constitute a social group under the Immigration and Nationality Act.\(^{14}\) Such an expansive interpretation goes far beyond what the BIA actually held in *S-E-G-*, and is utterly incompatible with *Acosta’s* broad, flexible definition.

A more limited reading of *S-E-G-*, however, might not be so difficult to reconcile. If “socially visible” simply means that the common, immutable trait in question could be recognized as such by members of the society in which the group exists, it might fit basically within *Acosta’s* bounds. But requiring that the trait which members of that group share literally be visible to the naked eye, and recognizable by anyone who passes the group member on the street, is quite a different matter. How often, after all, is a shared experience\(^{15}\) visible to the naked eye? What about sexual orientation\(^{16}\) or family ties?\(^{17}\) Would people who passed one another on the street be able to tell that one had undergone female genital mutilation?\(^{18}\) Equating the “social visibility” test with a “naked eye” test would, in a very real sense, decimate *Acosta*.

**Emphasize Distinctions**

With social visibility arguments, especially where the applicant would not be recognizable on the street as belonging to group, be sure to emphasize how the group to which he or she asserts membership would be understood as distinct within the society of the home country.

**Gather Evidence from Experts**

More general background literature and press reports offered to establish visibility will often leave the IJ and BIA much leeway to either accept or reject your assertion as to the degree of social perception present in the society, and any review you seek on this fact question will be entitled to high deference. For this reason, after *S-E-G-*, having an expert testify who can offer an explicit opinion that the group is indeed perceived as such within the relevant society may be important if not indispensible.

**Avoid Narrow and Broad Groups**

The BIA’s current requirement of particularity is mushy and overlaps conceptually with social visibility. Stating too narrow a grouping to satisfy particularity concerns may set you up for rejection under social visibility/perception, but articulating too broad a group sets you up for rejection under the BIA’s ironically amorphous “amorphousness” test. Seek a formulation that is narrower (e.g., indigenous Guatemalan women) than other options (e.g., Guatemalan women) but one that is not so narrowly tailored to your client’s exact circumstance that it will be rejected on visibility/perception grounds (indigenous Guatemalan women of X village who oppose Y practice).


\(^{13}\) How another country decided a similar type of claim can be persuasive to an IJ or reviewing court. The following links collect information on asylum decisions in other countries: [www.refugeelawreader.org](http://www.refugeelawreader.org) and [www.refugeecaselaw.org](http://www.refugeecaselaw.org).

\(^{14}\) Immigration and Nationality Act of 1952 (INA), Pub. L. No. 82-414, 66 Stat. 163, (codified as amended at 8 USC §§1101 et seq.).


\(^{17}\) *Gebremichael v. INS*, 10 F.3d 28 (1st Cir. 1993).

COMMON MISTAKES

Circularity—Common Trap

A group cannot be defined by the persecution it has suffered.

Floodgates

Particular social groups can be large. They can consist of more than one-half of the population of a country. Realistically, a large social group conjures up fears of a mass influx of asylum-seekers and arguments that Congress did not intend to make a law that would protect most of the world’s populations. Clues that the IJ, asylum officer, or U.S. Immigration and Customs Enforcement attorney will find that the social group is too large are: their questions to the applicant about the number of people that fall within their group; and even, more bluntly, whether the United States should allow everyone in their group to seek asylum in the United States. The unfounded fear adjudicators hold is that their decision will act as a magnet and draw waves of asylum-seekers to the United States. There are cases in which the best way of framing our client’s group is by defining it in broad terms; courts have recognized groups as large as Somali women, homosexuals, former child soldiers, and many, many more. The simple fact that a group has a large membership does not render it lacking in particularity; the particularity analysis turns on whether a group is clearly defined—that is, whether it is too amorphous to be clearly recognizable, or whether its members’ shared traits are readily apparent. “Particular,” in other words, means “clearly defined,” not “small.”

Failure to Show Singled Out

To the extent that a judge has concerns about the practicality of recognizing a broadly defined social group, it is important to keep in mind that recognizing a large group does not mean that every member of that group would have a cognizable claim to asylum. Each applicant still needs to prove not only that he or she is a member of that group, but that he or she would be singled out for abuse on account of that membership, that the abuse which he or she fears would be so serious as to constitute persecution, that he or she could not avoid it by relocating within the country in question, and that the state would be unwilling or unable to control her feared persecutors.

Previously Rejected Groups

Some advocates relish the opportunity to re-argue a social group formulation rejected in precedent decisions in their case, recognizing that it is not a winning argument at the immigration court level, but could set the stage for a strong appeal. Too many advocates fail to conduct basic social group research. They may argue a group formulation that has been rejected by the BIA and several circuit court decisions, and waste the opportunity to reformulate the group, based on their client’s own unique facts, into a winning social group. At the same time, the social visibility test potentially could be used to help to prove the existence of social groups that previous courts have rejected for a failure of proof. Just because a court has held, for example, that homeless Honduran children are not socially visible, if you have evidence establishing that they are, in fact, seen by Honduran society as a discrete, recognizable group, you might be able to prevail where others have failed. In this sense, expert testimony likely will be increasingly important to us as we deal with S-E-G-.

19 Mohammed v. Gonzales, 400 F.3d 785, 798 (9th Cir. 2005) (finding that Somali females may constitute a particular social group).
20 Mohammed v. Gonzalez, 400 F.3d 785 (9th Cir. 2005); Hassan v. Gonzales, 484 F.3d 513 (8th Circuit 2007).
21 Karouni v. Gonzalez, 399 F.3d 1163 (9th Cir. 2005).
23 Indeed, arguing that a large group should be excluded from protection simply because it is large is akin to arguing that individuals who are persecuted on account of their religion should only be protected if they follow small, obscure religions simply because recognizing that followers of a major religion that may be a protected group would invite a flood of applications.
Gangs in Central America

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December 4, 2009
Summary

The 111th Congress has maintained an interest in the effects of crime and gang violence in Central America, and on the expanding activities of transnational gangs with ties to that region operating in the United States. The violent Mara Salvatrucha (MS-13) and its main rival, the “18th Street” gang (also known as M-18) continue to threaten citizen security and challenge government authority in Central America. Gang-related violence has been particularly acute in Honduras, El Salvador, and Guatemala, which have among the highest homicide rates in the world. Governments in those countries appear to have moved away, at least on a rhetorical level, from repressive anti-gang strategies. However, they have yet to implement effective anti-gang policies that include an emphasis on prevention and rehabilitation of former gang members.

U.S. officials have expressed concerns about the expanding presence of the MS-13 and M-18 in cities across the United States, as well as reports that these gangs may be evolving into more sophisticated transnational criminal enterprises. Between February 2005 and September 2009, U.S. officials arrested some 2,572 alleged MS-13 members in cities across the United States, many of whom were subsequently deported. Evidence suggests, however, that previously deported members of both the MS-13 and the M-18 often reenter the United States illegally across the U.S.-Mexico border.

Several U.S. agencies have been actively engaged on both the law enforcement and preventive side of dealing with Central American gangs. An inter-agency committee worked together to develop a U.S. Strategy to Combat Criminal Gangs from Central America and Mexico, first announced at a July 2007 U.S.-Central American Integration System (SICA) summit on security issues. The strategy, which is now being implemented, states that the U.S. government will pursue coordinated anti-gang activities through five broad areas: diplomacy, repatriation, law enforcement, capacity enhancement, and prevention.

In recent years, Congress has increased funding to support anti-gang efforts in Central America. Congress appropriated roughly $7.9 million in FY2008 and $5 million in FY2009 in global International Narcotics Control and Law Enforcement (INCLE) funds for anti-gang efforts in Central America. Congress provided additional support for anti-gang efforts in the region through the Mérida Initiative, including, by CRS calculation, at least $22 million in FY2008 supplemental assistance and close to $19 million in FY2009 funding. For FY2010, the Obama Administration requested $7 million in global INCLE funds for gang activities in Central America, and another $100 million for Mérida programs in Central America, including funding for gang-related programs. The House-passed version of the FY2010 State Department/Foreign Operations Appropriations Act, H.R. 3081, would provide $8 million in global INCLE for gang programs and $83 million for a new Central America Regional Security Initiative (CARSI), whereas the Senate Appropriation Committees’ version of the bill, S. 1434, would provide $90 million to Central America through the existing Mérida framework.

This report describes the gang problem in Central America, discusses country and regional approaches to deal with the gangs, and analyzes U.S. policy with respect to gangs in Central America. For more information on the Mérida Initiative, see CRS Report R40135, Mérida Initiative for Mexico and Central America: Funding and Policy Issues. For information on Central American gangs in the United States, see CRS Report RL34233, The MS-13 and 18th Street Gangs: Emerging Transnational Gang Threats?, by Celinda Franco.
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Introduction

In recent years, analysts and U.S. officials have expressed ongoing concerns about the increasing rates of violent crimes committed by drug traffickers, organized criminal groups, and gangs in Central America.¹ U.S. concerns about gangs have accelerated as the Mara Salvatrucha (MS-13), a particularly violent group with ties to Central America, has increased its presence and illicit activities in the United States.² Policy-makers in countries throughout the region, including in the United States, are struggling to find the right mix of suppressive and preventive policies to confront the gang problem. Most agree that a comprehensive, regional approach to gangs is necessary to prevent further escalation of the problem.

Congress has maintained an interest in crime and gang violence in Central America, and in the related activities of Central American gangs in the United States.³ Congress has considered what level of U.S. assistance is most appropriate to help Central American countries combat gang activity and what types of programs are most effective in that effort. Members of Congress have also taken an interest in the effects of U.S. deportations of individuals with criminal records to Central America on the gang problem, as well as the evolving relationship between Mexican drug trafficking organizations and the gangs. Congress has funded anti-gang efforts in Central America through global funds appropriated to the State Department’s Bureau of International Narcotics Control and Law Enforcement (INCLE). In June 2008, Congress increased country and regional anti-gang assistance by approving initial funding for the Mérida Initiative, an anti-crime and counterdrug foreign aid package for Mexico and Central America.⁴

The 111th Congress appropriated a second tranche of Mérida funding for Central America in the FY2009 Omnibus Appropriations Act (P.L. 111-8), enacted in March 2009, and is currently considering how much assistance to provide for the region for FY2010. Congress is likely to exercise oversight over the implementation of the Mérida Initiative, with a particular interest in how agencies are coordinating their various anti-gang efforts. Congress may also help influence the design of whatever follow-on program is proposed for the region in President Obama’s FY2011 budget request.

This report describes the gang problem in Central America, discusses country and regional approaches to deal with the gangs, and analyzes U.S. policy with respect to gangs in Central America. It concludes with a discussion of policy issues that Members of Congress may consider as they continue to address aspects of U.S. international anti-gang efforts.

¹ The Central American countries include Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. This report focuses on the “northern triangle” countries of Central America where the gang problem has been most acute, which include El Salvador, Guatemala, and Honduras. It refers to the other countries and governments in the region periodically for comparative purposes.
³ For information on Central American gangs active in the United States, see CRS Report RL34233, The MS-13 and 18th Street Gangs: Emerging Transnational Gang Threats?, by Celinda Franco.
⁴ For more information on the Mérida Initiative, see CRS Report R40135, Mérida Initiative for Mexico and Central America: Funding and Policy Issues, by Clare Ribando Seelke.
Background on Violent Crime in Central America

Latin America has among the highest homicide rates in the world, and in recent years homicide rates in several Central American countries have significantly exceeded the regional average (see Table 1). According to figures cited in a recent U.N. Development Program (UNDP) report, in 2005, Latin America’s average homicide rate stood at roughly 25 homicides per 100,000 people, almost three times the world average of 9 homicides per 100,000 people.\(^5\) That same year, average homicide rates per 100,000 people in El Salvador, Guatemala and Honduras reached approximately 62, 44, and 37, respectively. Whereas homicide rates in Colombia, historically the most violent country in Latin America, have fallen in the past few years, homicide rates have remained at elevated levels in El Salvador, Guatemala, and, to a lesser extent, Belize. Homicide rates have increased significantly in Honduras. By 2008, the estimated murder rate per 100,000 people stood at roughly 32 in Belize, 52 in El Salvador, 48 in Guatemala, and 58 in Honduras. In Costa Rica, Nicaragua, and Panama, the corresponding figures were 11, 13, and 11, respectively.\(^6\)

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Central America—particularly the “northern triangle” countries of Guatemala, El Salvador, and Honduras—exhibit many risk factors that have been linked to high violent crime rates. For example, studies have shown that high levels of income inequality and social exclusion are often strong predictors of high violent crime rates. Latin America has been among the most unequal in terms of income and levels of social exclusion and most violent regions in the world.\(^7\) This linkage holds true in Central America except for the case of El Salvador, a country with relatively low inequality but high crime rates.\(^8\) With the exceptions of Belize and Costa Rica, Central American countries have also had a long history of armed conflicts and/or dictatorships, which has inhibited the development of democratic institutions and respect for the rule of law. Protracted armed conflicts also resulted in the widespread proliferation of illicit firearms in the

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\(^6\) Ibid.


\(^8\) UNDP, October 2009.
region, as well as a cultural tendency to resort to violence as a means of settling disputes.\textsuperscript{9} Other traits that make some Central American countries vulnerable to violent crime include highly urbanized populations, growing youth populations, and high unemployment rates. Guatemala, Honduras, and El Salvador, which have large percentages of their populations living in the United States, have reportedly suffered more from the negative effects of emigration (such as family disintegration and deportations) than other countries.\textsuperscript{10}

According to the U.N. Office on Drugs and Crime (UNODC), Central American countries are particularly vulnerable to violent crime fueled by drug trafficking and corruption because they are geographically located between the world’s largest drug producing and drug consuming countries.\textsuperscript{11} In 2008, some 84\% of the cocaine shipped from the Andes to the United States flowed through Mexico and Central America. Stepped up enforcement efforts in Mexico has reportedly led traffickers to use Central America as a primary transshipment point for Andean cocaine bound for the United States.\textsuperscript{12} Low criminal justice capacity, corruption, and an absence of political will to fight crime in a holistic manner have hindered countries’ abilities to respond to violent crime. These problems may be most pronounced in Guatemala, a country struggling, with U.N. assistance, to confront sophisticated organized criminal groups and drug traffickers that have been aligned with some of the country’s most powerful political, military, and business actors.\textsuperscript{13}

\section*{Scope of the Gang Problem in Central America}

In recent years, Central American governments, the media, and some analysts have attributed, sometimes erroneously, a significant proportion of violent crime in the region to youth gangs or \textit{maras}, many of which have ties to the United States.

\section*{Defining Gangs}

Academics and other experts on gangs continue to debate the formal definition of the term “gang” and the types of individuals that should be included in definitions of the term.\textsuperscript{14} There is general agreement that most gangs have a name and some sense of identity that can sometimes be indicated by symbols such as clothing, graffiti, and hand signs that are unique to the gang. Gangs are thought to be composed of members ranging in age from 12 to 24, but some gang members are adults well over the age of 24. Typically, gangs have some degree of permanence and organization and are generally involved in delinquent or criminal activity. Gangs may be involved in criminal activities ranging from graffiti, vandalism, petty theft, robbery, and assaults to more

\textsuperscript{9} Facultad Latinoamericana de Ciencias Sociales (FLACSO), \textit{Armas Pequeñas y Livianas: Amenaza a la Seguridad Hemisférica}, 2007.
\textsuperscript{10} UNDP, October 2009.
\textsuperscript{12} Testimony of Mark L. Schneider, Senior Vice President of the International Crisis Group, before the House Subcommittee on the Western Hemisphere hearing on “Assessing U.S. Drug Policy in the Americas,” October 15, 2009.
\textsuperscript{14} This section was drawn from CRS Report RL33400, \textit{Youth Gangs: Background, Legislation, and Issues}, by Celinda Franco.
serious criminal activities, such as drug trafficking, drug smuggling, money laundering, alien smuggling, extortion, home invasion, murder, and other violent felonies.

Gangs are generally considered to be distinct from organized criminal organizations because they typically lack the hierarchical leadership structure, capital, and manpower required to run a sophisticated criminal enterprise. Gangs are generally more horizontally organized, with lots of small subgroups and no central leadership setting strategy and enforcing discipline. Although some gangs are involved in the street-level distribution of drugs, few gangs or gang members are involved in higher-level criminal drug distribution enterprises run by drug cartels, syndicates, or other sophisticated criminal organizations.

When referring to gangs in Central America, some studies use the term *pandillas* and *maras* interchangeably, while others distinguish between the two. Studies that make a distinction between the two types of Central America gangs generally define *pandillas* as localized groups that have long been present in the region, and *maras* as a more recent phenomenon that has transnational roots.

### Transnational Gangs in Central America

The major gangs operating in Central America with ties to the United States are the “18th Street” gang (also known as M-18), and their main rival, the *Mara Salvatrucha* (MS-13). The 18th Street gang was formed by Mexican youth in the Rampart section of Los Angeles in the 1960s who were not accepted into existing Hispanic gangs. It was the first Hispanic gang to accept members from all races and to recruit members from other states. MS-13 was created during the 1980s by Salvadorans in Los Angeles who had fled the country’s civil conflict. Both gangs later expanded their operations to Central America. This process accelerated after the United States began deporting illegal immigrants, many with criminal convictions, back to the region after the passage of the Illegal Immigrant Reform and Immigrant Responsibility Act (IIRIRA) of 1996. Between 2000 and 2004, an estimated 20,000 criminals were sent back to Central America, many of whom had spent time in U.S. prisons for drug and/or gang-related offenses. Many contend that gang-deportees have “exported” a Los Angeles gang culture to Central America and that they have recruited new members from among the local populations.

Estimates of the overall number of gang members in Central America vary widely, but the U.S. Southern Command has placed that figure at around 70,000, a figure also cited by the United Nations. The gang problem is most severe in El Salvador, Honduras, and Guatemala. Estimates of Central American gang membership by country also vary considerably, but UNODC cites country membership totals of some 10,500 in El Salvador, 36,000 in Honduras, and 14,000 in Guatemala. These figures are compared to 4,500 in Nicaragua, 1385 in Panama, and 2,660 in Costa Rica.

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17 IIRIRA expanded the categories of illegal immigrants subject to deportation and made it more difficult for immigrants to get relief from removal.


19 Testimony of General Bantz J. Craddock, Commander, U.S. Southern Command, before the Senate Armed Services (continued...)
Nicaragua has a significant number of gang members, but does not have large numbers of MS-13 or M-18 members, perhaps due to the fact that Nicaragua has had a much lower deportation rate from the United States than the “northern triangle” countries.20

While MS-13 and M-18 began as loosely structured street gangs, there is evidence that both gangs, but particularly the MS-13, have expanded geographically and become more organized and sophisticated. By early 2008, for example, Salvadoran police had found evidence suggesting that some MS-13 leaders jailed in El Salvador were ordering retaliatory assassinations of individuals in Northern Virginia, as well as designing plans to unify their clicas (cliques) with those in the United States.21 Studies have shown that, as happened in the United States, gang leaders in Central America are using prisons to recruit new members and to increase the discipline and cohesion among their existing ranks.22

Press reports and some current and former Central American officials have blamed MS-13 and other gangs for a large percentage of violent crimes committed in those countries, but some analysts assert that those claims may be exaggerated.23 Gang experts have argued that, although gangs may be more visible than other criminal groups, gang violence is only one part of a broad spectrum of violence in Central America.24 In El Salvador, for example, officials have blamed gangs for 60% of all murders committed annually, but UNODC contends that evidence to support that conclusion is lacking. In Guatemala, the regions of the country that have the highest murder rates tend to be those without a significant gang presence, but where organized criminal groups and narco-traffickers are particularly active.25

Although the actual percentage of homicides that can be attributed to gangs in Central America remains controversial, the gangs have been involved in a broad array of other criminal activities. Those activities include kidnapping; human trafficking; and drug, auto, and weapons smuggling. Gangs have also been involved in extortions of residents, bus drivers, and business-owners in major cities throughout the region. In San Salvador, for example, gangs regularly demand that citizens pay “war taxes.” Failure to pay often results in harassment or violence by gang members.

While some studies maintain that ties between Central American gangs and organized criminal groups have increased, others have downplayed the connection. In recent years, there have been some reports of gang activity in Mexico and along the U.S.-Mexico border. Until Hurricane Stan hit in October 2005, MS-13 members were active in southern Mexico where they often charged migrant smugglers to let their groups pass and sometimes worked in collaboration with Mexican drug cartels. MS-13 members are reportedly being contracted on an ad-hoc basis by Mexico’s

(...continued)
20 Rodgers et al., 2009.
24 Testimony of Geoff Thale, Program Director of the Washington Office on Latin America, before the House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, June 26, 2007.
Gangs in Central America

warring cartels to carry out revenge killings. Regional and U.S. authorities have confirmed increasing gang involvement in drug trafficking and drug-related violence.26

Notably, analysts have found no links between Central American gangs and Al Qaeda or other terrorist groups.27

Factors Exacerbating the Gang Problem in Central America

Poverty and a Lack of Educational and Employment Opportunities

Several organizations working directly with gang members have asserted that the combination of poverty, social exclusion, and a lack of educational and job opportunities for at-risk youth are perpetuating the gang problem. In Honduras, for example, close to 30% of the population is youth ages 15-24. Those youth who have very limited opportunities in a country where some 65% of the population lives on less than $2 a day and the unemployment rate was 25% in 2005. A 2007 World Bank risk assessment for Honduras states that the country has large numbers of unemployed youth who are not in school and, unable to develop the skills required for attending a university or obtaining skilled employment, provide a ready pool of gang recruits.28 In the absence of familial and community support, many marginalized youth have turned to gangs for social support, a source of livelihood, and protection.

Societal Stigmas

Societal stigmas against gangs and gang-deportees from the United States have made the process of leaving a gang extremely difficult.29 A State Department report on youth gangs in El Salvador identifies religious conversion, marriage, enlistment in the military, or enrollment in a substance abuse rehabilitation program as the few options available for those who seek to leave a gang. Many organizations that work with former gang members, particularly those with criminal records, say that offender reentry is a major problem in many countries. Ex-gang members report that employers are often unwilling to hire them. Tattooed former gang members, especially returning deportees from the United States who are often native English speakers, have had the most difficulty finding gainful employment. In El Salvador, several hundred gang members have gone through complete tattoo removal, a long and expensive process, which many feel is necessary to better blend into Salvadoran society.30

27 Testimony of Chris Swecker, Assistant Director, Criminal Investigation Division, Federal Bureau of Investigation, before the Subcommittee on the Western Hemisphere of the House Committee on International Relations, April 20, 2005. Testimony of David Shirk, Professor and Director of the Trans-Border Institute, before the House Appropriations Subcommittee on Commerce, Justice and Science, and Related Appropriations, March 24, 2009.
29 Demoscopia S.A. 2007.
Role of the Media

Many studies have observed that sensationalist media coverage of the gang phenomenon in Central America has contributed to a sense of insecurity in the region and may have inadvertently enhanced the reputation of the gangs portrayed. For example, a 2006 USAID gangs assessment found that rival gangs in Honduras often compete to see who can portray the most brutal and/or delinquent activities in order to capture the most media attention. Exaggerated media reports may have also contributed to the popular perception, which has been backed by some politicians in Guatemala, Honduras and El Salvador, that youth gangs are responsible for the majority of violent crime in those countries. This sentiment, however erroneous, has led many Central American citizens to support tough law enforcement measures against gangs, hire private security firms, and, in isolated cases, take vigilante action against suspected youth gang members.31

Anti-gang Law Enforcement Efforts

While tough law enforcement reforms (discussed below in the section “Mano Dura”) initially proved to be a way for Central American leaders to show that they were cracking down on gangs, recent studies have cast serious doubts on their effectiveness. In response to law enforcement roundups of any and all tattooed youth, gangs are now changing their behavior to avoid detection. Many gang members are hiding or removing their tattoos, changing their dress, and avoiding the use of hand signals, making them harder to identify and arrest. A regional study concluded that, largely in response to recent law enforcement tactics, gangs have developed into more sophisticated military and business organizations.32 Those findings are similar to the conclusions of a 2006 regional study which asserted that the repressive policing techniques adopted by many Central American governments may have contributed to gangs “becoming more organized and more violent.”33

Prisons in Need of Reform

The implementation of aggressive anti-gang roundups has overwhelmed prisons in Central America. Prison conditions in the region are generally harsh, with severe overcrowding, inadequate sanitation, and staffing shortages. Many facilities that were already teeming with inmates have been filled beyond their capacities with thousands of suspected gang members, many of whom have yet to be convicted of any crimes. In El Salvador, for example, as of December 2008, some 19,814 inmates were being held in prisons designed to hold a maximum of 8,227 people.34

Due to a lack of security within the prisons, gangs are often able to carry out criminal activities from behind bars, sometimes with assistance from corrupt prison officials. As previously

31 Testimony of Lainie Reisman before the House Committee on Foreign Affairs Subcommittee on the Western Hemisphere, June 26, 2007. For more on the politicization of the gang problem, see Lainie Reisman, “Breaking the Vicious Cycle: Respond to Central American Gang Violence,” Sais Review, Vol. 26, Summer 2006. The State Department Human Rights Reports covering Guatemala and Honduras for 2008 include references to NGO reports that vigilante torture and even killings of youths have continued to occur. NGOs in both countries have asserted that these abuses may have been perpetrated by groups that included current and former members of the security forces.


Gangs in Central America

mentioned, there is evidence that gangs have become larger, better organized, and more cohesive within the confines of many of the region’s prisons. Some observers have described prisons as “gangland finishing schools”\(^{35}\) where, rather than being rehabilitated, first-time offenders often deepen their involvement in illicit gang activities.

Disputes between members of rival gangs, between gang and non-gang inmates, and between gangs and prison guards regularly occur. Between January and October 2008, the Honduran Ministry of Security reported 39 inmate deaths, a majority of which occurred as a result of inter-gang violence.\(^{36}\) Prisoner abuse and torture is also not uncommon.

**U.S. Deportations to Central America and the Gang Problem**

Policymakers in Central America have expressed ongoing concerns that increasing U.S. deportations of individuals with criminal records is worsening the gang and security problems in the region.\(^{37}\) The Central American countries of Honduras, Guatemala, and El Salvador have received the highest numbers of U.S. deportations (after Mexico) for the last several fiscal years. Despite the large numbers of deportees repatriated to the region, the Central American countries have typically had a lower percentage of criminal deportees than other top receiving countries (see Table 2). In FY2008, for example, criminal deportees accounted for just 19% of Guatemalans and Hondurans deported. In contrast, criminal deportees accounted for 79% of Jamaican deportees and 55% of Dominican deportees. In FY2009, however, the percentage of Central American deportees with criminal records increased significantly. This may be due to increasing efforts by U.S. Immigration and Customs Enforcement (ICE), in partnership with local and state officials, to identify illegal immigrants subject to deportation.

**Table 2. U.S. Deportations to Top Receiving Countries: FY2007-FY2009**

(Including Annual Percentage of Deportees with Criminal Records)

<table>
<thead>
<tr>
<th>Country</th>
<th>FY2007</th>
<th>% Crim.</th>
<th>FY2008</th>
<th>% Crim.</th>
<th>FY2009</th>
<th>% Crim.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mexico</td>
<td>176,815</td>
<td>42.7%</td>
<td>251,875</td>
<td>33.8%</td>
<td>274,577</td>
<td>37.9%</td>
</tr>
<tr>
<td>Honduras</td>
<td>30,227</td>
<td>17.6%</td>
<td>29,758</td>
<td>18.8%</td>
<td>27,566</td>
<td>25.1%</td>
</tr>
<tr>
<td>Guatemala</td>
<td>26,429</td>
<td>15.3%</td>
<td>28,866</td>
<td>18.5%</td>
<td>30,229</td>
<td>21.5%</td>
</tr>
<tr>
<td>El Salvador</td>
<td>21,029</td>
<td>24.2%</td>
<td>20,949</td>
<td>27.4%</td>
<td>21,049</td>
<td>30.0%</td>
</tr>
<tr>
<td>Dom. Republic</td>
<td>3,709</td>
<td>56.4%</td>
<td>3,776</td>
<td>55.4%</td>
<td>3,824</td>
<td>56.8%</td>
</tr>
<tr>
<td>Brazil</td>
<td>3,708</td>
<td>10.0%</td>
<td>3,640</td>
<td>10.7%</td>
<td>3,229</td>
<td>11.7%</td>
</tr>
<tr>
<td>Colombia</td>
<td>3,239</td>
<td>37.7%</td>
<td>2,823</td>
<td>39.7%</td>
<td>2,617</td>
<td>42.8%</td>
</tr>
<tr>
<td>Ecuador</td>
<td>1,612</td>
<td>27.4%</td>
<td>2,478</td>
<td>23.6%</td>
<td>2,503</td>
<td>25.7%</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>2,310</td>
<td>22.7%</td>
<td>2,334</td>
<td>23.4%</td>
<td>2,142</td>
<td>28.6%</td>
</tr>
<tr>
<td>Haiti</td>
<td>1,572</td>
<td>34.2%</td>
<td>1,649</td>
<td>25.8%</td>
<td>687</td>
<td>67.8%</td>
</tr>
</tbody>
</table>

\(^{35}\) Arana, 2005.

\(^{36}\) Ibid.

<table>
<thead>
<tr>
<th>Country</th>
<th>FY2007</th>
<th>% Crim.</th>
<th>FY2008</th>
<th>% Crim.</th>
<th>FY2009</th>
<th>% Crim.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jamaica</td>
<td>1,451</td>
<td>81.2%</td>
<td>1,599</td>
<td>78.9%</td>
<td>1,620</td>
<td>77.3%</td>
</tr>
</tbody>
</table>

**Source:** Prepared by CRS with information provided by the Department of Homeland Security, Immigration and Customs Enforcement, Office of Detention and Removal. Figures include “removals,” but not voluntary returns. FY2009 figures are not yet available.

For the past several years, Central American officials have asked the U.S. government to consider providing a complete criminal history for each criminal deportee, including whether or not he or she is a member of a gang. While ICE does not provide a complete criminal record for deportees, it may provide some information regarding an individual’s criminal history when specifying why the individual was removed from the United States. ICE does not indicate gang affiliation unless it is the primary reason why the individual is being deported. However, law enforcement officials in receiving countries are able to contact the Federal Bureau of Investigation (FBI) in order to request a criminal history check on particular criminal deportees after they have arrived in that country. With support from the Mérida Initiative, ICE and the FBI have developed a pilot program called the Criminal History Information Program (CHIP) to provide more information about deportees with criminal convictions to officials in El Salvador, Honduras, and Guatemala.

The types of support services provided to deportees returning from the United States and other countries vary widely across Latin America. While a few large and relatively wealthy countries (such as Colombia and Mexico) have recently established comprehensive deportee reintegration assistance programs, most countries provide few, if any, services to returning deportees. In Central America, for example, the few programs that do exist tend to be funded and administered by either the Catholic Church, non-governmental organizations (NGOs), or the International Organization for Migration (IOM). The U.S. government does not currently support any deportee reintegration services programs in Central America, although it has in the past.38

### Country Anti-Gang Efforts

Country efforts to deal with gangs and gang-related violence has varied significantly. In general, governments in the “northern triangle” countries have adopted more aggressive law enforcement approaches than the other Central American countries. These policies, which will subsequently be discussed, failed to stave off rising crime rates in the region and had several negative unintended consequences. As a result, recent studies maintain that governments appear to be moving away from “enforcement-first” policies towards “second-generation” anti-gang programs. Newer programs have emphasized, among other things, prevention programs for at-risk youth, interventions to encourage youth to leave gangs, and the creation of municipal alliances against crime and violence.39

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38 Testimony of Maureen Achieng, Chief of Mission for the International Organization for Migration (IOM) in Haiti before the House Subcommittee on the Western Hemisphere, July 24, 2007.

Mano Dura (Heavy-Handed) Anti-Gang Policies

*Mano Dura* is a term used to describe the type of anti-gang policies initially put in place in El Salvador, Honduras, and, to a lesser extent, Guatemala in response to popular demands and media pressure for these governments to “do something” about an escalation in gang-related crime. *Mano dura* approaches have typically involved incarcerating large numbers of youth (often those with visible tattoos) for illicit association, and increasing sentences for gang membership and gang-related crimes. A *Mano Dura* law was passed by El Salvador’s Congress in 2003, followed by a *Super Mano Dura* package of anti-gang reforms in July 2004. These reforms outlawed gang membership, enhanced police power to search and arrest suspected gang members, and stiffened penalties for convicted gang members. Similarly, in July 2003, Honduras enacted a penal code amendment that made *maras* illegal and established sentences of up to 12 years in prison for gang membership. Changes in legislation have been accompanied by the increasing use of joint military and police patrols to round-up gang suspects. Guatemala introduced similar legislation in 2003, but the legislation never passed. Instead, the Guatemalan government has launched periodic law enforcement operations to round up suspected gang members.

What Have Been the Effects of *Mano Dura* Policies?

*Mano Dura* reforms initially proved to be a way for Central American leaders to show that they were getting tough on gangs and crime, despite objections from human rights groups about their potential infringements on civil liberties and human rights. Early public reactions to the tough anti-gang reforms enacted in El Salvador and Honduras were extremely positive, supported by media coverage demonizing the activities of tattooed youth gang members. Tony Saca was elected to the presidency of El Salvador largely on the basis of his promises to further crack down on gangs and crime. *Mano Dura* enabled police to arrest large numbers of suspected gang members, including some 14,000 youth in El Salvador between mid 2004 and late 2005. In addition, according to Salvadoran officials, even though many suspects were eventually released, gang detainees provided law enforcement officials with invaluable sources of intelligence information that those officials have since used to design better anti-gang strategies.40

Despite the early apparent benefits of *Mano Dura* policies, effects on gangs and crime have been largely disappointing. This may be because a large percentage of violent crime in Central America is not actually gang related. Six years after the implementation of *mano dura* policies, it has become apparent that

- Violent crime remains at extremely elevated levels in El Salvador, Guatemala, and Honduras, making them among the most violent countries in the world.
- Most youth arrested under *mano dura* provisions have been subsequently released for lack of evidence that they committed any crime. Salvadoran police estimated that more than 10,000 of 14,000 suspected gang members arrested in 2005 were later released.41
- Some youth who were wrongly arrested for gang involvement have been recruited into the gang life while in prison.

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Gangs in Central America

- Gang roundups have exacerbated prison overcrowding and inter-gang violence within the prisons has resulted in several inmate deaths.
- There have been credible reports that extrajudicial youth killings by vigilante groups have continued since mano dura went into effect, including alleged assassinations of gang suspects and gang deportees from the United States.
- Finally, in response to mano dura, gangs are changing their behavior to avoid detection.

Alternative Approaches

Although their efforts have received considerably less international attention than El Salvador, Honduras and Guatemala, other Central American countries have developed a variety of programs to deal with the gang problem. In Panama, the Ministry of Social Development, in coordination with other government entities and several NGOs, administers gang prevention programs, as well as a program to provide job training and rehabilitation services to former gang members. In 2006, the Inter-American Development Bank (IDB) approved a $22.7 million loan to Panama to fund that and other programs aimed at preventing youth violence in four of the country’s largest municipalities. Nicaragua has adopted a national youth crime prevention strategy that, with the active involvement of the police, focuses on family, school, and community interventions. With support from other countries and NGOs, the Nicaraguan National Police’s Juvenile Affairs Division runs at least two anti-gang activities a month. The Ministry of the Interior is administering a five-year program, which is supported by funding from the IDB, to target at-risk youth in 11 different municipalities. While less is known about Costa Rica’s gang prevention efforts, the country has adopted a prison model based on rehabilitation. As of 2006, some 33% of prisoners in Costa Rica studied and 70% worked, primarily in agriculture.42

Prospects for Country Prevention and Rehabilitation Efforts

In the last few years, Central American leaders, including those from the “northern triangle countries, appear to have moved, at least on a rhetorical level, towards more comprehensive anti-gang approaches. In mid-December 2007, then-Salvadoran President Tony Saca opened a summit of the Central America Integration System by stating that the gang problem had shown the importance of coordinated anti-crime efforts, with the most important element of those efforts being prevention.43 All of the Central American countries have created institutional bodies to design and coordinate crime prevention strategies and have units within their national police forces engaged in prevention efforts. In general, however, government-sponsored gang prevention programs have tended, with some exceptions, to be small-scale, ad-hoc, and underfunded. Governments have been even less involved in sponsoring rehabilitation programs for individuals seeking to leave gangs, with most reintegration programs funded by church groups or NGOs.

Central American government officials have generally cited budgetary limitations and competing concerns, such as drug trafficking, as major factors limiting their ability to implement more

extensive prevention and rehabilitation programs. Experts have asserted, however, that it is important for governments to offer educational and job opportunities to youth who are willing to leave gangs before they are tempted to join more sophisticated criminal organizations. It is also critical, they argue, for intervention efforts to focus on strengthening families of at-risk youth.\(^44\)

Research has shown that successful anti-gang efforts involve governments working in close collaboration with civil society, the private sector, churches, mayors, and international donors in order to leverage limited public resources.\(^45\) In fact, many successful anti-gang programs have developed as a result of community-driven efforts to respond to particular problems which are then supported by capacity-building programs for leaders from those communities. Although these types of programs may benefit from financial contributions from local and/or national governments, they may also need non-financial support, including "training, information sharing, leadership, or simply the provision of a dedicated space for programming or meetings."\(^46\)

**Regional and Multilateral Efforts**

**Central American Integration System (SICA)**

Some analysts maintain that the emergence of gangs as a regional security threat has led the Central American countries to “engage in unprecedented forms of regional cooperation.”\(^47\) For the last several years, Central American leaders and officials have regularly met, often accompanied by their U.S. and Mexican counterparts, to discuss ways to coordinate security and information-sharing on gang members and other criminal groups. Most of these regional security meetings have been organized by the Security Commission of the Central American Integration System (SICA).\(^48\) The leaders of the SICA members states and the President-elect of Mexico began developing a regional security strategy in October 2006, which was subsequently adopted at a summit held in August 2007.\(^49\) The strategy identifies eight threats to regional security, including organized crime, drug trafficking, deportees with criminal records, gangs, homicide, small arms trafficking, terrorism, and corruption. In the strategy, the leaders vow to: designate transnational gang liaison offices in each country that will compile and share information, conduct joint investigations, and establish a regional database on gangs.

Up until this point, however, most regional anti-gang cooperation has occurred on a declarative, rather than an operational level. At least one youth violence prevention project is now being implemented by the Secretariat, based in El Salvador, in cooperation with the U.S. Agency for International Development (USAID).\(^50\) SICA has estimated that the costs to implement its

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\(^{44}\) Kliksberg, 2007.


\(^{46}\) See the section by Caterina Gowis Roman in “Daring to Care: Community-Based Responses to Youth Gang Violence in Central America and Central American Immigrant Communities in the United States,” *WOLA*, October 2008.

\(^{47}\) Ibid.

\(^{48}\) The Central American Integration System (SICA) is a regional organization with a Secretariat in El Salvador that is comprised by the governments of El Salvador, Guatemala, Nicaragua, Honduras, Belize, and Panama. The Security Commission was created in 1995 to develop and carry out regional security efforts.

\(^{49}\) A copy of the strategy is available at http://www.state.gov/p/wha/rls/93586.htm.

\(^{50}\) USAID, “Press Release: USAID-SICA Regional Youth Alliance Offices Inaugurated,” April 9, 2008, available at (continued...)
regional security plan could exceed $953 million, including $60 million for anti-gang efforts. Some observers think that more regional anti-gang cooperation is possible, but others predict that political differences among Central American governments and instability in particular countries is likely to inhibit future efforts.

**Organization of American States (OAS)**

On June 7, 2005, the OAS passed a resolution to hold conferences and workshops on the gang issue and to urge member states to support the creation of holistic solutions to the gang problem. In the past four years, the OAS has hosted meetings and conferences on the gang problem in Latin America and conducted a study on how to define and classify the types of gangs operating in the region. On June 5, 2007 the OAS General Assembly passed a resolution to promote hemispheric cooperation in confronting criminal gangs that instructs the General Assembly to support country anti-gang efforts and the Permanent Council to create a contact group of member states concerned about the gang issue. On January 12, 2008, the OAS Permanent Council held a special session devoted to the problem of criminal gangs.

**Inter-American Coalition for the Prevention of Violence (IACPV)**

The IACPV is a multilateral group formed in 2000 to promote prevention as a viable way of addressing crime and violence in Latin America. IACPV member organizations include the OAS, World Bank, Pan American Health Organization (PAHO), Inter-American Development Bank (IDB), USAID, Centers for Disease Control and Prevention (CDC), and the United Nations Educational, Scientific, and Cultural Organization (UNESCO). The IACPV has helped municipalities in Central America develop violence prevention plans, developed a user-friendly violence indicators document, hosted a major conference on gang prevention, and provided technical and financial assistance to help form a counterpart organization within the region, the Central American Coalition for the Prevention of Youth Violence.

**Multilateral Development Banks and Donor Agencies**

The U.N. Development Program (UNDP), the IDB, and the World Bank are some of the multilateral donors involved in supporting violence reduction and anti-gang programs in Central America. UNDP, for its part, has supported small arms control; police reform; violence reduction; and disarmament, demobilization, and reintegration programs in Central America. UNDP has also conducted research projects on the costs of violence in El Salvador, as well as a comprehensive regional study published in October 2009 on security challenges facing Central America. The IDB has executed significant violence reduction loans in El Salvador, Guatemala, Honduras, and Panama. On May 24, 2007, the IDB, in coordination with UNODC and the OAS, hosted a seminar in Washington, DC, on crime and violence in Central America. The World Bank has produced analytical studies, with a particular emphasis on identifying best practices in reducing crime and violence; introduced crime and violence prevention components into existing Bank-
funded projects in urban areas; and developed a program to give small grants to community-based violence prevention initiatives.

U.S. Policy

In recent years, Administration officials and Members of Congress have expressed ongoing concerns about gangs and violence in Central America and their spillover effects on the United States. In September 2009 congressional testimony, FBI Director Robert Mueller stated that “criminal gangs ... are of increasing concern for domestic and international law enforcement ... [and that] the MS-13 [in particular] continues to expand its influence in the United States.”52 U.S. officials are striving to coordinate anti-gang initiatives on both the domestic and international fronts, taking into account their likely impacts on domestic security, on the one hand, and on foreign relations with the countries of Central America and Mexico, on the other.

Congressional Interest

Congress has expressed increasing concern about the problem of transnational gangs and interest in the effectiveness of U.S. international anti-gang efforts. In the 110th Congress, interest in the topic of gangs and violence in Central America included concerns about the unintended consequences of mano dura policies, the relationship between gangs and drug cartels, and the effects of U.S. deportation policy on the gang problem. On October 2, 2007, the House passed H.Res. 564 (Engel) supporting expanded cooperation between the United States and Central America to combat crime and violence.

During its first session, the 110th Congress also enacted the FY2008 Consolidated Appropriations Act, P.L. 110-161, which included $7.9 million in global INCLE funding for the State Department Bureau of International Narcotics and Law Enforcement Affairs (INL) anti-gang programs. In October 2007, the Bush Administration proposed the Mérida Initiative, a new anticrime and counterdrug program for Mexico and Central America. During its second session, the 110th Congress considered the proposal, eventually appropriating $60 million for the Central America portion of the Mérida Initiative in the FY2008 Supplemental Appropriations Act, (P.L. 110-252). As compared to the Bush Administration’s budget request, Congress shifted the bulk of Mérida funding for anti-gang programs from law enforcement to institution building, rule of law, and development programs.

The 111th Congress appropriated another $5 million in global INCLE funding for INL efforts in Central America, as well as $100 million in Mérida funding for the region in the FY2009 Omnibus Appropriations Act (P.L. 111-8) in March 2009, including $12 million for ESDF programs. For FY2010, the Obama Administration requested $7 million in global INCLE funds for INL programs in Central America, as well as $100 million for the Central American portion of the Mérida Initiative. The House-passed version of the FY2010 State Department/Foreign Operations Appropriations Act, H.R. 3081, would provide $8 million in global INCLE funds for anti-gang efforts. It would also provide $83 million for a new Central America Regional Security Initiative (CARSI). The Senate Appropriation Committees’ version of the bill, S. 1434, would

52 Testimony by Robert Mueller, Director, Federal Bureau of Investigation (FBI), U.S. Department of Justice, before the Senate Judiciary Committee, September 16, 2009.
provide $90 million to Central America through the existing Mérida framework. Congress is likely to exercise oversight over the implementation of the Mérida Initiative, and may also help influence the design of whatever follow-on program is proposed for the region in President Obama’s FY2011 budget request.

**U.S. International Anti-Gang Efforts**

For at least the last five years, several U.S. agencies have been actively engaged on both the law enforcement and preventive side of dealing with Central American gangs. In 2004, the FBI created an MS-13 Task Force to improve information-sharing and intelligence-gathering among U.S. and Central American law enforcement officials. In 2005, the Bureau of Immigration and Customs Enforcement (ICE) within the Department of Homeland Security created a national anti-gang initiative called “Operation Community Shield.” In addition to arresting suspected gang members in the United States, ICE began working more closely with its offices overseas to coordinate with foreign governments also experiencing gang problems. Since February 2005, ICE has arrested more than 2,572 suspected MS-13 members in the United States.53 Also in 2005, the U.S. Agency for International Development (USAID) undertook a comprehensive assessment of the gang problem in Central America and Mexico. In that assessment, USAID found that while a few U.S. programs addressed some aspects of the gang phenomenon, several new initiatives would be needed in the areas of prevention, law enforcement, and rehabilitation/reintegration.

Throughout 2005 and 2006, an inter-agency committee worked together to develop a U.S. Strategy to Combat Criminal Gangs from Central America and Mexico, which was announced at a July 18, 2007 U.S.-SICA summit on security issues.54 The strategy acknowledged that, based on previous U.S. and regional experiences, future anti-gang efforts should be holistic, comprehensive, and regional in scope. It called for active engagement with governments in the region, the OAS, and the SICA. The strategy stated that the U.S. government will pursue coordinated anti-gang activities in five broad areas: diplomacy, repatriation, law enforcement, capacity enhancement, and prevention. Selected current initiatives by U.S. agencies to implement the international components of that strategy are discussed below.

**State Department**

Over the last several years, the State Department’s INL Bureau has provided training and technical assistance to law enforcement officials throughout Central America, sponsored anti-gang workshops at the International Law Enforcement Academy (ILEA)55 in San Salvador, and implemented a “model precinct” to improve policing and police-community relations in Villanueva, Guatemala. Some initial funding for these programs came from $16 million in unspent Andean Counterdrug Program funds that were reprogrammed in September 2007 to support INL’s drug interdiction operations, anti-gang efforts, and demand reduction initiatives in

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55 The International Law Enforcement Academy (ILEA) based in San Salvador, El Salvador is one of four regional law enforcement training academies funded by the State Department’s INL Bureau. The ILEA in San Salvador offers training and technical assistance to law enforcement officials from throughout Latin America. In 2009, the ILEA conducted five anti-gang courses.
Central America. Since FY2008, INL programs have also been funded by a line item in the Foreign Operations budget designated for “Criminal Youth Gangs.” Funding for this program totaled $7.9 million in FY2008 and an estimated $5 million in FY2009.

In January 2008, INL sent a Regional Gang Advisor to El Salvador to coordinate its Central American gang programs. In July 2008, that Advisor produced a detailed assessment of the gang problem in Honduras, El Salvador, and Guatemala and a work plan focusing on six key areas: investigative capacity, legal capacity, intelligence capacity, community policing, prevention, and prisons. Since that time, the Regional Gang Advisor has initiated country and regional prevention activities, sponsored trainings and technical exchanges for police and prison officers from across the region, taught an ILEA anti-gang course, and identified sites for community policing programs to be established in El Salvador and Honduras.\(^{56}\)

Additionally, the Department of State, which is charged with coordinating the implementation of the Administration’s Mérida Initiative in Central America, has identified gangs as one of the critical threats facing the citizens of Central America, and has allocated resources accordingly to the Department of Justice and the U.S. Agency for International Development to enable these implementing agencies to counter the impact of gangs in the region.

**Department of Justice**

Within the Department of Justice (DOJ), the FBI is implementing several programs to improve the capacity of law enforcement in Central America to carry out investigations and share intelligence on gang suspects. The Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) has also provided some training on prosecuting gang-related cases to judicial officials in the region. The deployment of a Bureau of Alcohol, Tobacco, Firearms and Explosive (ATF) Regional Advisor to San Salvador will also enable ATF to support transnational gang investigations involving U.S. origin firearms. Many FBI, OPDAT, and ATF programs are supported by the Mérida Initiative or other State Department funding and are carried out in collaboration with INL. Recent programs include

- **Central American Fingerprinting Exploitation (CAFÉ):** a criminal file/fingerprint retrieval initiative that has incorporated more than 72,000 fingerprints from gang members from Mexico, El Salvador, Belize, Honduras, and Guatemala into the FBI’s Integrated Automated Fingerprint Identification System since 2006. The data are accessible to Central American police officials. FY2009 Mérida funding will be used to expand this program to all countries in the region.

- **Transnational Anti-Gang (TAG) Units:** a program that began in El Salvador in October 2007 involving the creation of vetted police units that work with FBI agents stationed in San Salvador on investigating gang-related cases. TAG activities are being expanded into Guatemala with FY2009 Mérida funding, and further expansion into Honduras is expected to occur once the political situation in that country permits renewed levels of U.S.-Honduran law enforcement cooperation.

- **Central American Law Enforcement Exchange (CALEE):** a joint FBI/INL program that recently began to bring law enforcement officials from Central

\(^{56}\) U.S. Department of State, INL, “FY2010 Program and Budget Guide.”
America together with their counterparts from several large U.S. cities to share information and intelligence.

- **Repatriation-Criminal History Information Program (CHIP):** a joint FBI/ICE, Mérida Initiative-funded program to provide more complete criminal history information on U.S. deportees to Central American law enforcement officials in receiving countries. CHIP will begin in El Salvador in 2010, and then be expanded to Guatemala and Honduras.\(^{57}\)

**USAID**

USAID has provided $2.8 million for a regional anti-gang program cosponsored by SICA, known as the “Regional Youth Alliance USAID-SICA.” The program, which began in April 2008, involves: 1) the creation of public-private partnerships to support prevention and rehabilitation programs in Guatemala, Honduras, and El Salvador; 2) an assessment of the juvenile justice systems in each of those countries followed by efforts to reform those systems; and, 3) collaborating with SICA to evaluate each of these initiatives and to create and implement new policy responses. As part of its efforts to sponsor community-based programs, the Regional Youth Alliance aims to provide 45 sub-grants to local NGOs in targeted communities, many of which are offering computer-based job training to at-risk youth. Those sub-grants aim to reach some 300 community leaders and 3,000 youth.

USAID is also implementing country and regional anti-gang programs with support from the Mérida Initiative Economic and Social Development Fund (ESDF) for Central America that was created by P.L. 110-252, the FY2008 Supplemental Appropriations Act. With ESDF funding, USAID plans to support Community Action Fund (CAF) activities that provide at-risk youth in high-crime communities with basic or secondary education and job training. CAF activities will be modeled after the Regional Youth Alliance program. USAID will also support Community Crime and Gang Prevention Programs (CCGP) that focus on strengthening the role of local governments in developing citizen security and anti-gang programs. ESDF will also fund community policing activities.

One problem currently being encountered in the region relates to the timely delivery of funds for anti-gang programs. For instance, many Mérida-funded efforts are just getting underway, as FY2008 supplemental funding did not arrive to most of the USAID Missions in Central America until August 2009. Mérida programs in Honduras have yet to begin because of the termination of some USAID assistance to that country in the wake of President Manuel Zelaya’s ouster in late June 2009.

**Policy Approaches and Concerns**

Most policy-makers agree that finding regional solutions to the gang problem is essential. Many also concur that in order to effectively reduce gang-related crime, a holistic approach to the problem must be developed that addresses its root social, political, and economic causes. There is

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disagreement, however, over the proper level and combination of preventive and suppressive policies that should be used in Central America to address the gang problem and over what U.S. agency is best equipped to oversee those efforts.

Debates regarding the relative merits of prevention and suppression methods reemerged when the 110th Congress considered the Bush Administration’s FY2008 supplemental budget request for the Mérida Initiative. As previously mentioned, Congress increased funding for rule of law, prevention, and development programs and reduced funding for some police training and equipment programs as compared to the budget request. It did so by earmarking $25 million in Economic Support Funds (ESF) for the creation of an Economic and Social Development Fund (ESDF) for Central America. Congress also increased the amount of funds appropriated to USAID vis-à-vis INL and other law enforcement agencies by stipulating that of the FY2008 ESF funds provided, $20 million are to be administered by USAID. The 111th Congress included another $12 million for the ESDF in the FY2009 Omnibus Appropriations Act (P.L. 111-8) to support USAID programs in violence-prone communities.

Proponents of law enforcement solutions maintain that Central American law enforcement officials lack the capacity and resources to target gang leaders effectively, share data, and conduct thorough investigations that lead to successful prosecutions. In addition to supporting specialized anti-gang units, the Mérida Initiative seeks to address these issues by providing funding for police training to build investigative capacity and communications equipment for police forces. The Initiative does not include funds to support large-scale police reform, even though corruption within law enforcement is a major obstacle to current anti-gang efforts. It does, however, aim to improve police-community relations, which have been very poor in many communities, through support for community policing programs modeled after the successful U.S.-funded program in Villanueva, Guatemala.

While most U.S. observers argue that the State Department and FBI should take the lead in assistance to improve law enforcement capacity, others see a possible role for the U.S. Southern Command in training regional security forces. In recent years, the U.S. Southern Command has taken a leading role in discussing the problem of citizen security in Central America, both within the U.S. inter-agency community and with Central American officials. Critics of U.S. military involvement in anti-gang efforts have noted that it is the State Department’s role to provide security assistance to foreign governments, subject to human rights and democracy concerns. They have expressed satisfaction that the Mérida Initiative emphasizes regional cooperation by civilian agencies on public security issues through the U.S.-SICA dialogue, with no explicit role established for the U.S. Southern Command or the region’s militaries.

Based on the experiences of cities throughout the United States, proponents of more prevention-based interventions argue that localities that provide social services to at-risk youth have been more effective in preventing gang violence than those that have relied only on law enforcement approaches. These findings mirror the results of several studies previously cited in this report.

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58 The only military component in the Administration’s proposal for Mérida was the $21 million requested in FY2009 to support Enduring Friendship, a Department of Defense program to provide naval equipment to Central American countries so that they can work with the U.S. Coast Guard and Navy on maritime drug interdiction efforts.


that focus on reducing gang violence in Central America. As a result, human rights groups urged Congress to include more of an emphasis on prevention and rehabilitation in the Mérida Initiative than the Bush Administration had originally proposed. As previously stated, Congress increased funding for prevention programs, as well as economic and social development programs, in the FY2008 Supplemental Appropriations Act (P.L. 110-252) and the FY2009 Omnibus Act (P.L. 111-8).

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Latin America and the Caribbean: Illicit Drug Trafficking and U.S. Counterdrug Programs

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Summary

Drug trafficking is viewed as a primary threat to citizen security and U.S. interests in Latin America and the Caribbean despite decades of anti-drug efforts by the United States and partner governments. The production and trafficking of popular illicit drugs—coca, marijuana, opiates, and methamphetamine—generates a multi-billion dollar black market in which Latin American criminal and terrorist organizations thrive. These groups challenge state authority in source and transit countries where governments are often fragile and easily corrupted. Mexican drug trafficking organizations (DTOs) largely control the U.S. illicit drug market and have been identified by the U.S. Department of Justice as the “greatest organized crime threat to the United States.” Drug trafficking-related crime and violence in the region has escalated in recent years, raising the drug issue to the forefront of U.S. foreign policy concerns.

Since the mid-1970s, the U.S. government has invested billions of dollars in anti-drug assistance programs aimed at reducing the flow of Latin American-sourced illicit drugs to the United States. Most of these programs have emphasized supply reduction tools, particularly drug crop eradication and interdiction of illicit narcotics, and have been designed on a bilateral or sub-regional level. Many would argue that the results of U.S.-led drug control efforts have been mixed. Temporary successes in one country or sub-region have often led traffickers to alter their cultivation patterns, production techniques, and trafficking routes and methods in order to avoid detection. As a result of this so-called “balloon effect,” efforts have done little to reduce the overall availability of illicit drugs in the United States. In addition, some observers assert that certain mainstays of U.S.-funded counterdrug programs, particularly aerial spraying to eradicate drug crops, have had unintended social and economic consequences.

The Obama Administration has continued U.S. support for Plan Colombia and the Mérida Initiative, but is gradually broadening the focus of those aid packages to address the societal and institutional effects of the drug trade and related criminality and violence, rather than mainly funding supply control efforts. Newer programs like the Caribbean Basin Security Initiative (CBSI) include more of an emphasis on rule of law, anti-corruption, and community and youth development programs. In order to complement these international efforts, President Obama and his top advisers have acknowledged the role that U.S. drug demand has played in fueling the drug trade in the region and requested increased funding for prevention and treatment programs.

Congress has influenced U.S. drug control policy in Latin America by appropriating certain types and levels of funding for counterdrug assistance programs and conditioning the provision of antidrug funding on the basis of human rights and other reporting requirements. Congress has also sought to ensure that counterdrug programs are implemented in tandem with judicial reform, anti-corruption, and human rights programs. During the 111th Congress, the House passed and the Senate introduced legislation that would have established a commission to review U.S. drug policy in the Western Hemisphere, H.R. 2134 (Engel) and S. 4011 (Menendez). The 111th Congress also held multiple oversight hearings evaluating drug assistance programs and related domestic initiatives. Congress is likely to maintain an interest in U.S.-funded antidrug efforts in the region, particularly those aimed at reducing drug trafficking-related violence in Mexico and Central America.

This report provides an overview of the drug flows in the Americas and U.S. antidrug assistance programs in the region. It also raises some policy issues for Congress to consider as it exercises oversight of U.S. antidrug programs and policies in the Western Hemisphere.
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An Overview of Illicit Drugs in Latin America and the Caribbean

In recent decades, Latin America has played a central role in several major global illicit drug markets. Multiple aspects of the drug supply chain take place in the region, including drug crop cultivation, drug production, drug trafficking, and, ultimately, drug consumption. Today, South America is the sole producer of cocaine for the global market; Mexico and Colombia are the primary sources of opiates in the United States; Mexico and the Caribbean are major foreign sources of cannabis (marijuana) consumed in the United States; and Mexico is the primary source of foreign methamphetamine in the United States. Marijuana and methamphetamine are also produced domestically.

Major drug crops in Latin America include coca bush, used to produce cocaine, and opium poppy, used to produce opiates, including heroin. Source zones for coca bush cover the Andean region of South America, particularly Colombia, Peru, and Bolivia. Source zones for opium poppy include Mexico, Colombia, and to a lesser extent, Guatemala. Cannabis is cultivated in virtually all countries in the region, mainly for local consumption, but notable cannabis exporters include Mexico and Jamaica. Drug processing and refining may take place in source zones as well as along transit routes. Key chemical ingredients used to process coca bush and opium poppy into their refined, finished products, as well as those used to produce methamphetamine, are legally manufactured for legitimate industry purposes, but diverted clandestinely for use in the illegal drug trade. According to the State Department, major Latin American source countries for such chemical products include Argentina, Brazil, Chile, and Mexico.

Drug consumption in Latin America remains low, compared to the primary global consumption markets led by the United States, Canada, and Western Europe. In recent years, however, data indicates that drug consumption, particularly cocaine use, within the region has grown, mainly along trafficking transit pathways en route to the core consumption markets. According to the most recent data from the U.N. Office on Drugs and Crime (UNODC), increases in cocaine use

1 Prepared by Liana Sun Wyler, Analyst in International Crime and Narcotics.
2 In recent years, U.S. government estimates indicate that marijuana and opium poppy cultivation in rural Mexico has expanded significantly. At the same time, despite Mexican government import restrictions on precursor chemicals, the production of methamphetamine in clandestine labs also appears to have increased significantly. U.S. Department of State, INCSR, March 2010; Charlie Savage and Michael R. Gordon, “Administration Puts Off Release of a Drug Report,” New York Times, June 9, 2010.
3 The amount of marijuana produced in the United States is unknown. According to the U.S. Department of Justice’s National Drug Intelligence Center (NDIC), however, “eradication data and law enforcement reporting indicate that the amount of marijuana produced in the United States appears to be very high, based in part on the continual increases in the number of plants eradicated nationally.” NDIC, National Drug Threat Assessment, February 2010. Methamphetamine is also produced in the United States. Again, according to NDIC, “When methamphetamine production in Mexico was disrupted in 2007 and 2008, production in the United States increased as users and distributors compensated for the reduced foreign supply. However, even as production in Mexico increased in 2009, production in the United States showed no decline. In fact, U.S. methamphetamine laboratory seizures in 2009 exceeded seizures in 2008.”
4 Precursor chemicals are also imported from third countries like China and India. For this reason, Mexico banned all imports of pseudoephedrine and ephedrine in 2008.
have been reported in Venezuela, Ecuador, Brazil, Argentina, Uruguay, Guatemala, Honduras, Jamaica, and Haiti. These countries are notably located along major cocaine transit routes.

The primary pathway today for illegal drugs entering the United States from abroad is through the Central America-Mexico corridor (see Figure 1). According to 2008 estimates, 90% of all cocaine entering the United States flowed through Mexico or its territorial waters, with at least 42% of that cocaine having first stopped in Central America. More recent estimates suggest that the use of the Central America-Mexico corridor for drug trafficking continues to grow. A large, but unknown proportion of opiates, as well as foreign-produced marijuana and methamphetamine also flow through the same pathways. The overwhelming use of the Central America-Mexico corridor as a transit zone represents a major shift in trafficking routes. In the 1980s and early 1990s, for example, drugs primarily transited through the Caribbean into South Florida.

The Caribbean-South Florida route continues to be active, and although currently less utilized than the Central America-Mexico route, some observers have warned that activity along this route may surge once more in the near future. As U.S. counternarcotics cooperation with Venezuela has diminished since 2005, Venezuela has become a major transit point for drug flights through the Caribbean—particularly Haiti and the Dominican Republic—into the United States as well as to Europe. Elsewhere in the Caribbean, the Bahamas continues to serve as a major transit country for both Jamaican marijuana and South American cocaine.

Besides going to the United States, Latin American drugs, particularly cocaine, are also shipped to Europe. An increasing percentage of drug shipments from Latin America to Europe now transit West Africa. The European Police Organization, EUROPOL, estimates that approximately 250 metric tons of cocaine (between 25% and 30% of global cocaine production) from Latin America enters European markets annually. Drugs destined for Europe mainly depart Latin America via Venezuela through the Caribbean or via the eastern coast of Brazil. While Europe has long been the second-largest cocaine consumption market after North America, UNODC reports that the number of European users has been increasing over the last decade as the number of North American users has declined.

Latin America’s central role in the illicit drug market stems largely from the Andean region’s unique position as the world’s only source region for coca and cocaine. Another major factor contributing to the region’s prominence in today’s drug trade is its proximity to the United States, a major drug consumption market. Underlying factors that have allowed drug trafficking to flourish include poverty and a lack of viable alternative livelihoods for farmers; corruption; weaknesses in law enforcement and justice-sector capacity to deter drug traffickers; the presence of insurgent groups involved in drug production and trafficking in some countries; and the geographical impediments to interdiction, including difficult-to-monitor political borders and maritime terrain. Uneven political support for counterdrug efforts may also fuel drug trafficking.

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6 U.N. Office on Drugs and Crime (UNODC), World Drug Report, 2010. Brazil and Argentina have historically been the largest consumption markets in Latin America.

7 INCSR 2010.

8 CRS Report R40838, Illegal Drug Trade in Africa: Trends and U.S. Policy, by Liana Sun Wyler and Nicolas Cook.


Latin American drug trafficking organizations (DTOs) control various aspects of the drug supply chain and vary in terms of capabilities, organizational structure, and level of associated violence. Some of the more sophisticated groups possess extensive paramilitary and counterintelligence capabilities that allow them to rival state security forces and operate with relative impunity through deep networks of corrupt officials in key offices. Some of the most successful groups operating today have also shifted from a hierarchical, personality-driven leadership that
dominated the Pablo Escobar-type “cartels” in the 1980s and 1990s to a networked and more fluid organizational structure that is more resilient in the face of law enforcement pressure.\footnote{Pablo Escobar (1949-1993) was a notorious Colombian drug lord and leader of the Medellin Cartel, which largely controlled the global cocaine market in the late 1980s.} Many smaller drug trafficking organizations in the hemisphere nevertheless remain family-based, operating in a limited territory and specializing in a particular aspect of the drug trade.

The most prominent DTOs in the region are of Mexican and Colombian origin. Combined, Mexican and Colombian DTOs reportedly “generate, remove, and launder” between $18 billion and $39 billion in wholesale drug proceeds annually, according to the U.S. Department of Justice.\footnote{NDIC, 2009 National Drug Threat Assessment, December 2008. The 2010 National Drug Threat Assessment does not contain a more recent estimate of the wholesale drug proceeds generated by Mexican and Colombian DTOs. Another, more recent, U.S. government study found that between $19 billion and $29 billion in illicit proceeds flow from the United States to Mexican DTOs each year. See U.S. Department of Homeland Security (DHS), United States-Mexico Bi-National Criminal Proceeds Study, June 2010.} They operate not only in the Western Hemisphere, but are known to be aggressively transnational, seeking to expand their consumer markets and explore new transit routes and safe havens with low law enforcement capacity and high corruption. News and various government reports suggest that Mexican and Colombian DTOs have a presence throughout Europe, West Africa, and the Asia-Pacific regions.\footnote{See for example, U.S. Department of State, Bureau for International Narcotics and Law Enforcement Affairs, and U.S. Department of Homeland Security, Immigration and Customs Enforcement, Chair’s Report: Trans-Pacific Symposium on Dismantling Transnational Illicit Networks, February 2010; Silvia Otero et al, “Carteles de Mexico Toman El Continente,” El Universal, January 29, 2010.} They are also known to participate in a diversity of criminal enterprises and to collaborate with other organized crime and terrorist elements.

U.S. government reports have characterized Mexican drug trafficking organizations as representing the “greatest organized crime threat” to the United States today.\footnote{NDIC, 2009 National Drug Threat Assessment, December 2008. See also INCSR 2010.} Mexican DTOs have expanded their U.S. presence by increasing their transportation and distribution networks, as well as displacing other Latin American traffickers, primarily Colombians.\footnote{NDIC, 2010 National Drug Threat Assessment, February 2010.} Seven major Mexican drug trafficking organizations control trafficking routes into the United States, including the Arellano Felix Organization (Tijuana), Beltran Leyva Organization, Los Zetas, Sinaloa (La Federación), Carillo Fuentes Organization (Juárez), Gulf, and La Familia Michoacana.\footnote{While several Mexican DTOs are colloquially described as “drug cartels,” they are not necessarily engaged in price-fixing and other forms of collusive economic behavior ascribed to cartels.} Drug trafficking-related violence has surged in Mexico since late 2006, when Mexican President Felipe Calderón began to increase security pressure against drug trafficking organizations (see \textit{Figure 3}). The brutality of the Mexican DTOs has escalated as an increasing number of groups have battled each other and the Calderón government for control of lucrative drug trafficking routes into the United States.\footnote{CRS Report R41576, \textit{Mexico’s Drug Trafficking Organizations: Source and Scope of the Rising Violence}, by June S. Beittel.} Prior to the beginning of President Calderon’s campaign, the Gulf Cartel was generally considered the most powerful Mexican DTO.\footnote{Since then, the Gulf Cartel’s primary “security enforcers,” Los Zetas, originally composed of elite airborne special forces members of the Mexican Army, have split off and formed a separate drug trafficking organization which is now active in Central America and competing with the Gulf Cartel for control of drug trafficking routes in northeastern Mexico. Samuel Logan and John P. Sullivan, “Los Zetas: Massacres, Assassinations, and Infantry Tactics,” \textit{The Counter Terrorist}, November 24, 2010.} Today, the Sinaloa organization,
composed of a network of smaller drug trafficking groups, is now widely believed to be the dominant Mexican DTO, controlling by one estimate as much as 45% of the drug trade in Mexico.\(^{19}\)

Prior to the Mexican drug trafficking organizations’ rise to prominence, Colombian DTOs, primarily the Cali and Medellín drug cartels, reigned. Since their height in the late 1980s and early 1990s, several generations of DTOs have followed. Immediately following the Cali and Medellín’s dismantlement, the Norte del Valle DTO emerged from the vacuum. Less hierarchical and more decentralized than its predecessors, Norte Del Valle has been described as being composed of many smaller organizations, or “baby cartels.”\(^{20}\) In addition, right-wing paramilitary groups and left-wing insurgent groups, which both looked to the drug trade as a source of financing, variously expanded their involvement in the drug trade.

The largest right-wing paramilitary group in Colombia (also a State Department-designated Foreign Terrorist Organization, or FTO), the United Defense Forces of Colombia (AUC), began the process of demobilization in 2003; however, it appears that former and non-disbanded paramilitary elements are increasingly involved in the drug trade, forming new illegally armed groups broadly described by the Colombian government as *bandas criminales* (criminal gangs).\(^{21}\)

The two main left-wing insurgent groups (also State Department-designated FTOs), the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), are also primarily funded through drug production and trafficking operations. While the two groups differ in terms of size and territorial reach, both have increased their involvement in the drug trade from levying “taxes” on coca harvesters and mid-level buyers to directly controlling multiple aspects of the drug supply chain.\(^{22}\) The FARC, in contrast to the smaller ELN, is particularly known for its international contacts and relationships with foreign terrorist groups, transnational organized crime groups, and even some state actors.\(^{23}\)

Colombia’s AUC, FARC, and ELN are not the only so-called narco-terrorist groups active in the Western Hemisphere. In Peru, the previously dormant *Sendero Luminoso* (Shining Path) has revived its involvement in both terrorist and drug activity, launching small-scale attacks on Peruvian police and military forces. At the same time, *Sendero Luminoso* has begun to re-establish its relationship with Peruvian coca growers, taxing the coca industry in its area of

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\(^{21}\) The AUC has often been described as having been composed of a heterogeneous constellation of actors, variously including local warlords, drug barons, organized crime, and other local elites. Not all aspects of the AUC have been disbanded, with some factions having opted against participating in the demobilization process. See Human Rights Watch, *Colombia – Paramilitaries’ Heirs: The New Face of Violence in Colombia*, February 2010.


\(^{23}\) The U.S. Department of Treasury, for example, alleges that Hugo Armando Carvajal Barrios, the director of Venezuela’s Military Intelligence Directorate, assisted the FARC by protecting its drug shipments from being seized by Venezuelan authorities. See U.S. Department of the Treasury, “Treasury Targets Venezuelan Government Officials Supporting the FARC,” September 12, 2008. See also Doug Farah, *The FARC’s International Relations: A Network of Deception*, NEFA Foundation, September 22, 2008; and Farah and Glenn Simpson, *Ecuador at Risk: Drugs, Thugs, Guerillas, and the Citizens’ Revolution*, International Assessment and Strategy Center, January 2010.
operation in exchange for providing coca growers protection from drug trafficker violence and ensuring fair prices for their coca crops.\textsuperscript{24}

International terrorist groups, including Hamas and Hezbollah, have also reportedly raised funding for their terrorist activities through linkages formed with DTOs in South America, particularly those operating in the tri-border area (TBA) of Brazil, Paraguay, and Argentina.\textsuperscript{25}

**Drug Trafficking-Related Crime and Violence**

The Latin America and the Caribbean region has among the highest crime rates, including violent crime rates, of any region in the world. In February 2010, the UNODC released an updated analysis of global homicide rates, which found that in sharp contrast to a global trend of decreasing or stabilizing homicide rates, homicides in Latin America and the Caribbean had, on average, increased from 19.9 per 100,000 people in 2003 to 32.6 per 100,000 people in 2008 (see Figure 2).\textsuperscript{26} In addition, the level of kidnappings, assaults, and other manifestations of organized violence appear to have risen.

![Figure 2. Average Homicide Rates by Global Region: 2003-2008](image)

**Source:** U.N. Office on Drugs and Crime (UNODC), *Homicide Statistics*, February 2010.


\textsuperscript{25} See, for example, the statement of Anthony P. Placido, Assistant Administrator for Intelligence, United States Drug Enforcement Administration, before the House Oversight and Government Reform Subcommittee on National Security and Foreign Affairs hearing on Transnational Drug Enterprises, March 3, 2010.

Notes: Data derives from public health and police statistics. Homicide is defined as the intentional, unlawful death purposefully inflicted on a person by another person. North America includes Bermuda, Canada, and the United States. While the average percentage of homicides related to drug trafficking is unknown, a number of studies suggest that drug trafficking has become a major contributing factor behind the rising homicide rates in many countries in Latin America and the Caribbean. See, for example, UNODC and the World Bank’s Latin America and Caribbean Region office, Crime, Violence, and Development: Trends, Costs, and Policy Options in the Caribbean, Report No. 37820, March 2007 and UNODC, Crime and Development in Central America: Caught in the Crossfire, May 2007. Graphic prepared by Liana Sun Wyler, Analyst in International Crime and Narcotics.

Recent studies have shown that, while other factors like income inequality are still contributing factors, criminality, particularly related to drug trafficking, has replaced political and regional conflicts as a major source of violence in many Latin America and Caribbean countries. Some violence is directly associated with the protection of drug trafficking routes and syndicate power struggles. Other violence occurs as DTOs corrupt and undermine local police and criminal justice institutions as well as societal institutions, weakening respect for the rule of law. Criminality directly associated with the illegal drug trade increases the prevalence of related crimes, including kidnapping, murder, money laundering, and firearms trafficking. Involvement in the drug trade also negatively affects licit economic development.

In Latin America, drug trafficking-related violence is particularly concentrated in drug production and drug transit zones, affecting the Andean cocaine and heroin production region—particularly Colombia—as well as the drug transit zones through Mexico, Central America, the Caribbean, Venezuela, and Brazil. Drug trafficking-related violence has surged most dramatically in Mexico, as heavily armed drug traffickers have battled each other and the Mexican government for control of drug smuggling routes into the United States. Targets most often include rival DTOs or affiliated gang members, but have also included Mexican police, military and government officials; journalists; and civilians, including Americans. Escalating violence in northern Mexico has raised concerns among some U.S. officials about the potential for “spillover violence” seeping into the United States (see Figure 3). While Colombia has made significant progress in reducing crime and violence since 2002, in a few parts of the country, drug-related murders are reportedly rising once more. Drug trafficking has also contributed to high levels of violence in several other countries in the region, including Belize, Brazil, El Salvador, Guatemala, Haiti, Honduras, Jamaica, and Venezuela. According to UNODC, Central American

29 On March 13, 2010, gunmen killed an American consular officer and her husband who had recently attended a children’s birthday party in Ciudad Juárez, Mexico. Mexican officials have arrested at least one suspect for the murders who is a member of the Barrio Azteca gang, which has ties to the Juárez DTO. “Suspect Says Juárez Killers Had Pursued Jail Guard,” New York Times, April 1, 2010.
31 See, for example, Sara Miller Llana, “Medellin, Once Epicenter of Colombia’s Drug War, Fights to Keep the Peace,” Christian Science Monitor, October 25, 2010.
countries are particularly susceptible to violent crime fueled by drug trafficking because they are geographically located between the world’s largest drug producing and drug consuming countries. Stepped up enforcement efforts in Mexico has led traffickers to use Central America, particularly Guatemala and Honduras, as transhipment points for Andean cocaine, increasing the already endemic levels of violence in those countries.

Figure 3. Rates of Drug Trafficking-Related Killings in Mexico by State
(January - November 3, 2010)

Source: Crime Indicator Database at the Trans-Border Institute (TBI) at the University of San Diego, adapted by CRS. The data represented are from Reforma newspaper.

U.S. Antidrug Assistance Programs in Latin America and the Caribbean

For at least 30 years, combating drug production and trafficking in Latin America and the Caribbean has been a major focus of U.S. international drug control efforts. Amid a broad array of policy tools available to combat drugs, the provision of U.S. counternarcotics assistance to foreign countries has been a key component of the U.S. counterdrug strategy. The central premise of counternarcotics assistance has been to halt drug production and trafficking at the foreign source, both through assistance to eliminate drug crops or to interdict drug shipments, as well as through assistance to address related economic, social, and institutional vulnerabilities that made drug source and transit countries susceptible to the drug trade in the first place.

While the White House Office of National Drug Control Policy (ONDCP) oversees the overall strategy related to U.S. drug control efforts, both domestically and internationally, counterdrug assistance programs in the region are funded by the U.S. Department of State, the U.S. Agency for International Development (USAID), and the U.S. Department of Defense (DOD). The State Department is responsible for coordinating all counterdrug assistance programs in the region and funding most aspects of those programs aside from alternative livelihood programs and some rule of law initiatives supported by USAID. DOD has its own legislative authorities to provide certain counterdrug assistance to train, equip, and improve the counternarcotics capacity and capabilities of relevant agencies of foreign governments. Additional agencies, including various aspects of the U.S. Department of Justice, as well as private contractors, implement the assistance programs.

From 1980 to 2008, U.S. antidrug obligations (actual expenditures) from the State Department, USAID, and DOD to Latin America and the Caribbean totaled roughly $13.1 billion (see Figure 4). U.S. State Department appropriations for programs classified under the “counternarcotics” budget objective totaled $740.8 million in FY2009.

U.S. drug control programs in Latin America and the Caribbean were first authorized by Congress in the mid-1970s, coinciding with national policy debates on the so-called “war on drugs.” At that time, U.S. assistance primarily focused on the drug source countries of Colombia, Bolivia, Peru, and later Mexico, with training and equipment to eradicate illicit drug crops and strengthen counternarcotics law enforcement capabilities. Calls by many policymakers, including by

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34 Prepared by Clare Ribando Seelke, Specialist in Latin American Affairs and Liana Sun Wyler, Analyst in International Crime and Narcotics.

35 For a discussion of the full range of counterdrug policy tools, see CRS Report RL34543, International Drug Control Policy, by Liana Sun Wyler.

36 See for example Statement by the White House Press Secretary on the issuance of Presidential Decision Directive 14 (on counternarcotics), November 3, 1993.

37 This estimate was calculated by CRS using data from the U.S. Agency for International Development’s (USAID) Greenbook on U.S. Overseas Loans and Grants.

38 Final FY2010 appropriations totals will be included in President Obama’s FY2012 budget request.

39 In 1971, Congress enacted a chapter in the Foreign Assistance Act of 1961 (FAA) to define U.S. policies and authorities relating to international narcotics control. P.L. 92-226, Section 109; added Ch. 8, International Narcotics Control, to the FAA (P.L. 87-195; 22 U.S.C. 2291 et seq.). Also in 1971, President Richard Nixon famously coined the term “war on drugs” and identified illicit drugs as “public enemy number one.” Such rhetoric and concepts emerged in a time when U.S. drug abuse was becoming increasingly visible in society and was manifesting itself as a priority law enforcement issue.
Members of Congress, for the inclusion of the U.S. military in foreign anti-drug efforts began in the 1970s, spurring a lively debate on DOD’s role and mission in counternarcotics that would continue decades later. U.S. aid to the region increased gradually, albeit unevenly, through the 1980s, with increased funding provided for interdiction efforts in transit countries, particularly the Caribbean and Eastern Pacific regions. Pressure for U.S. military involvement increased throughout the 1980s, as U.S. officials grew concerned that law enforcement personnel were ill-equipped to effectively combat well-armed drug cartels and operate in conflict situations in drug source countries. Despite objections from top DOD officials, the U.S. military increasingly participated in interdiction operations in the early 1980s and became sporadically engaged in training, equipping, and transporting foreign anti-narcotics personnel in the mid-to late 1980s.

Figure 4. U.S. Counternarcotics Obligations to Latin America and the Caribbean, FY1980-2008
(In millions constant 2008 $US)


Notes: Due to the fact that the Department of State did not include a line item specifically for counternarcotics assistance until 2006 and the need for a consistent method to compare U.S. counternarcotics assistance levels over time, the Department of State/USAID figures include all funds obligated under the International Narcotics Control and Law Enforcement (INCLE) and Andean Counterdrug Initiative (ACI) accounts; they do not include any other funds that may have been obligated for counterdrug purposes under other accounts.

In the 1980s and 1990s under Presidents Ronald Reagan and George H. W. Bush, the threat of international drug trafficking, particularly drugs sourced in Latin America, further emerged as a national security priority for the United States. On April 8, 1986, President Reagan issued National Security Decision Directive 221 (NSDD-221), which declared narcotics trafficking a U.S. national security concern, identifying the Western Hemisphere as particularly affected. On August 21, 1989, President Bush issued National Security Directive 18 (NSD-18), which explicitly states that the “first priority of our international drug control strategy will be to enhance...
greatly our counternarcotics programs in the Andean region.” In addition, NSD-18 directed the Secretary of Defense to redefine the Pentagon’s mission to include counternarcotics as one of its core priorities. In the same year, President Bush launched the “Andean Initiative” to bolster counternarcotics support to Colombia, Peru, and Bolivia, and Congress provided DOD with its first major counternarcotics authority, identifying DOD as the lead federal agency for the detection and monitoring of aerial and maritime transit of illegal drugs from abroad into the United States.40 As U.S. counternarcotics engagement in the Andean region continued through the 1990s, Congress authorized DOD to provide a broad range of counternarcotics support, as well as assistance to train and equip foreign governments.

In FY2000, counterdrug assistance to South America increased significantly after the Clinton Administration proposed, and Congress began funding, a multi-year assistance package to complement Colombian President Andres Pastrana’s counterdrug initiative, Plan Colombia.41 That aid package, then called the Andean Counterdrug Initiative (ACI), aimed to provide a broad variety of counternarcotics assistance—manual and aerial eradication, alternative development, interdiction, and institutional capacity building and support to civilian and military institutions—for Colombia and six neighboring countries. Through ACI, Colombia, along with Peru and Bolivia, received the bulk of U.S. counterdrug aid to the region until Congress increased assistance for Mexico through the Mérida Initiative beginning in FY2008.42

The Mérida Initiative developed in response to the Calderón government’s request for U.S. counterdrug cooperation and assistance. It was jointly proposed by the George W. Bush and Calderón Administrations in October 2007 as a new package of U.S. counterdrug and anticrime assistance for Mexico and Central America that would begin in FY2008 and last through FY2010. The Mérida Initiative, as originally conceived, sought to (1) break the power and impunity of criminal organizations; (2) strengthen border, air, and maritime controls; (3) improve the capacity of justice systems in the region; and, (4) curtail gang activity and diminish local drug demand.

U.S. State Department-funded drug control assistance programs in the Western Hemisphere are currently undergoing a period of transition. Counterdrug assistance to Colombia and the Andean region is in decline, after record assistance levels that began with U.S. support for Plan Colombia in FY2000. Conversely, antidrug funding for Mexico, Central America, and the Caribbean has increased as a result of the Mérida Initiative, which began in FY2008, and two related programs that received initial funding in FY2010, the Central American Regional Security Initiative (Carsi) and the Caribbean Basin Security Initiative (CBSI). The strategy undergirding the Mérida Initiative has broadened from primarily providing equipment and training to Mexican officials engaged in combating DTOs to place more of an emphasis on building democratic institutions. It also includes a new focus on facilitating “secure flows” of people and goods through the U.S.-Mexico border and promoting social and economic development in violence-prone communities. Similarly, Carisi and CBSI include some anti-drug components as part of broader regional security packages that are also aimed at institutional strengthening and community development. Each of these programs is coordinated by the State Department, but

41 The first appropriations legislation for Plan Colombia was located in the Military Construction Appropriations Act, 2001 (P.L. 106-246, Title III, Chapters 1 and 2).
42 The first appropriations legislation for the Mérida Initiative was located in the FY2008 Supplemental Appropriations Act (P.L. 110-252).
implemented by a wide range of U.S. agencies. Separately, DOD counternarcotics assistance and support continues in the region. (See Table A-1 in the Appendix of this report.)

The following sections provide broad overviews of the current major U.S. antidrug initiatives in Latin America and the Caribbean. Most sections contain appropriations figures through FY2010, as well as the FY2011 budget request for each program. In the absence of FY2011 appropriations legislation, Congress has passed a series of continuing resolutions (P.L. 111-242 as amended) to fund government programs, with the latest extension set to expire on March 4, 2011. The Continuing Resolution, as amended, continues funding most foreign aid programs at the FY2010- enacted level, with some exceptions.

Plan Colombia and the Andean Counterdrug Program

Background

The Andean region has been the focus of intense counterdrug efforts by the United States for more than two decades. The major components of U.S. strategy for the region have been coca crop eradication, interdiction of cocaine, and alternative development programs. Eradication and interdiction efforts in the 1980s and 1990s pushed coca cultivation from Peru and Bolivia—then the largest suppliers—to Colombia, which is now the world’s largest producer of both coca leaf and cocaine. Complicating the fight against drug trafficking in Colombia has been the linkage between the drug trade and terrorist organizations, particularly the armed insurgency of the FARC that has lasted more then 45 years and the right-wing paramilitaries active since the 1980s. Both leftist and rightist groups in Colombia have financed their belligerent activities with drug profits.

Unveiled in 1999 by the government of Andrés Pastrana (1998-2002), “Plan Colombia” was designed as a comprehensive strategy to strengthen democratic institutions; combat drug trafficking and terrorism; promote human rights and the rule of law; and foster economic development. Plan Colombia also aimed to reduce cultivation, processing, and distribution of illicit drugs by 50% over six years—a goal not met for coca and cocaine, although met for opium and heroin, a newer, smaller, less entrenched component of the Colombian drug trade. More recent gains have been made in bringing down coca yields and estimates of potential production. With the election of President Uribe in 2002 (re-elected in 2006), Plan Colombia was reinforced with a strategy of “democratic security” that focused on confronting illegally armed groups and improving public security.

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43 Prepared by June S. Beittel, Analyst in Latin American Affairs. For more information, see CRS Report RL32250, Colombia: Issues for Congress, by June S. Beittel.
46 According to the U.S. government, Colombia’s production of pure cocaine has decreased by 61% since 2001—from an estimated 700 metric tons potential cocaine production to only 270 metric tons in 2009. Using a different methodology, the U.N. reports that pure production of cocaine in Colombia fell by 34% between 2001 and 2009, from an estimated 617 metric tons to a reported 410 metric tons. ONCDP, Press Release, “New Data Show Cocaine Market Under Significant Stress,” December 9, 2010; UNODC, World Drug Report, 2010.
In 2007, Uribe’s security strategy further evolved to focus on “integrated action,” a whole-of-government, sequenced approach applied in contested zones where poverty, violence, and illicit crop cultivation converge. Under this approach, security forces enter a contested zone to stabilize and hold the area so that civilian agencies can provide social services such as justice, education, health, and housing to assert a positive state presence. Formally launched in March 2009, Colombia’s National Consolidation Plan targets 15 priority zones where Colombian agencies seek to consolidate a continuing government presence and move marginal communities toward better security, lasting drug eradication, and socio-economic development. The U.S. program to align with this plan, the Colombia Strategic Development Initiative (CSDI), has been implemented to better focus resources as funding for Plan Colombia winds down.

Plan Colombia and follow-on strategies received more than $7 billion in U.S. support from FY2000 through FY2010 from State Department and DOD accounts, with aid to the Colombian military and police conditioned upon vetting requirements for trainees and meeting human rights conditions. Neighboring countries (including Bolivia and Peru, and to a lesser extent Brazil, Panama, Ecuador, and Venezuela) have also received significant U.S. assistance through the Andean Counterdrug Initiative account.47 Because narcotics trafficking and the guerrilla insurgency in Colombia had become intertwined problems, in 2002 Congress granted the State Department and DOD flexibility to use U.S. counterdrug funds for a unified campaign to fight drug trafficking and terrorist groups. However, Congress also capped the number of U.S. military personnel and civilian contractors that can be stationed in Colombia at 800 and 600 respectively.48

Most analysts agree that Plan Colombia has significantly improved security conditions in Colombia. Proponents and U.S. officials say that Plan Colombia dramatically reduced violence that once threatened to undermine the state, rolled back the power of the illegally armed groups that are largely funded by drug profits, and reduced the role of illegal narcotics in the Colombian economy.49 However, some observers, while acknowledging the gains made through manual eradication and advances against the FARC, maintain that aerial spraying has had detrimental effects. Those include the displacement of vulnerable populations, environmental damage, and the dispersal of coca cultivation.50 Critics also argue that U.S. policy has not rigorously promoted human rights, provided sustainable economic alternatives for drug crop farmers, or reduced the amount of drugs available in the United States.

Current Policy and Future Prospects

The U.S. and Colombian governments are committed to locking in existing gains as the United States gradually transfers responsibility for security and counterdrug programs to the Colombians. In its April 2009 Report to Congress on the Multiyear Strategy for U.S. Assistance Programs in

47 The ACI was re-named the Andean Counterdrug Program (ACP) in FY2008. In the FY2010 request, the Obama Administration shifted ACP funds back into the International Narcotics Control and Law Enforcement (INCLE) account. Venezuela stopped receiving ACI assistance in FY2005.

48 The FY2005 National Defense Authorization Act (H.R. 4200; P.L. 108-375), raised the military cap from 400 to 800 and the civilian cap from 400 to 600. The cap does not apply to personnel conducting search and rescue operations, or to U.S. personnel assigned as part of their regular duties to the U.S. embassy.


Colombia, the U.S. State Department maintains that two of its core goals for the Colombia program are to “pursue the ‘nationalization’ of security and counternarcotics programs, while strengthening social, economic and rule of law programs; and [to] stabilize U.S. programs at levels sufficient to sustain the progress that has been achieved.” Thus far, the State Department has reduced the number of U.S. contractor personnel in country, withdrawn some U.S. helicopters and spray aircraft, and transferred other equipment and aircraft to the Colombian government. Nationalization plans are to turn over all U.S. Department of State counternarcotics support programs to the Colombian army by 2012, while continuing FMF programs, as well as to continue turning over more programs to the Colombian National Police. USAID programs are also being transferred to Colombian nongovernmental organizations and agencies. The nationalization efforts are not intended to end U.S. assistance, but rather to reduce it to pre-Plan Colombia levels adjusted for inflation.  

In 2008, there was significant debate in Congress about the proper balance between so-called “hard-side” security assistance (i.e., equipment and training to the Colombian military and police) and “soft-side” traditional development and rule of law programs. Since FY2008, Congress has reduced and rebalanced assistance between security-related programs and economic and social aid in the annual foreign assistance appropriations legislation. In the Administration’s FY2011 budget request, aid to Colombia is proposed to decline by approximately 9%, from an estimated $512 million appropriated in FY2010 to $465 million requested for FY2011, with the balance between “soft-side” development assistance and “hard-side” security and counterdrug assistance moving closer to 50/50.

**Mérida Initiative and U.S. Assistance to Mexico**

Background

In the 1970s, the United States began providing Mexico with equipment and training to eradicate marijuana and opium poppy fields, but bilateral cooperation declined dramatically after Enrique Camarena, a U.S. DEA agent, was assassinated in Mexico in 1985. From the mid-1980s through the end of the 1990s, bilateral cooperation stalled due to U.S. mistrust of Mexican counterdrug officials and concerns about the Mexican government’s overall tendency to accommodate drug leaders. At the same time, the Mexican government was reluctant to accept large amounts of U.S. assistance due to its opposition to U.S. drug certification procedures. The Mexican government was reluctant to accept large amounts of U.S. assistance due to its opposition to U.S. drug certification procedures.  

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51 U.S. Department of State, *Report on the Multiyear Strategy for U.S. Assistance Programs in Colombia*, Report to Congress, April 2009. The report notes that future assistance will maintain “high impact” programs such as police interdiction and eradication, support for police aviation, the rural police program and maritime interdiction.


53 Under this system, arrests and eradication took place, but due to the effects of widespread corruption, the system was “characterized by a working relationship between Mexican authorities and drug lords” through the 1990s. Francisco E. González, “Mexico’s Drug Wars Get Brutal,” *Current History*, February 2009.

54 Beginning in 1986, when the U.S. President was required to certify whether drug producing and drug transit countries were cooperating fully with the United States, Mexico usually was criticized for its efforts, which in turn led to increased Mexican government criticism of the U.S. assessment. Reforms to the U.S. drug certification process enacted in September 2002 (P.L. 107-228) essentially eliminated the annual drug certification requirement, and instead required the President to designate and withhold assistance from countries that had “failed demonstrably” to make substantial counternarcotics efforts.
government also expressed opposition to the DEA and other U.S. agencies carrying out operations against DTOs in Mexican territory without authorization.

U.S.-Mexican cooperation began to improve and U.S. assistance to Mexico increased after the two countries signed a Binational Drug Control Strategy in 1998. U.S. assistance to Mexico, which totaled some $397 million from FY2000-FY2006, supported programs aimed at interdicting cocaine; combating production and trafficking of marijuana, opium poppy, and methamphetamine; strengthening the rule of law; and countering money-laundering. In 2007, the Government Accountability Office (GAO) found that while U.S. programs had helped improve Mexico’s counterdrug efforts, seizures in Mexico remained relatively low, and corruption continued to hinder bilateral efforts.55

Development and Implementation of the Mérida Initiative

In the last decade, the percentage of Andean cocaine flowing through the Mexico-Central America transit zone grew from roughly 66% in 2000, to 90% from 2006 onward.56 At the same time, violence perpetrated by DTOs and other criminal groups has posed an increasing threat to citizen security in Mexico and Central America.57 U.S. officials have been increasingly concerned about the possibility of violence in Mexico spilling over into the United States.58

Upon taking office in December 2006, Mexican President Calderón made combating DTOs a top priority of his administration. In response to the Calderón government’s request for U.S. cooperation and assistance, in October 2007 the United States and Mexico announced the Mérida Initiative, a new package of U.S. counterdrug and anticrime assistance for Mexico and Central America that would begin in FY2008 and last through FY2010. The Mérida Initiative, as it was originally conceived, sought to (1) break the power and impunity of criminal organizations; (2) strengthen border, air, and maritime controls; (3) improve the capacity of justice systems in the region; and, (4) curtail gang activity and diminish local drug demand. Congress appropriated roughly $1.3 billion to support the Mérida Initiative in P.L. 110-252, P.L. 111-8, and P.L. 111-32. Each of these acts contained human rights conditions on 15% of certain law enforcement and military assistance provided.

The Mérida Initiative was based on the premise that all of the countries involved will have to accept their “shared responsibility” to tackle domestic problems contributing to drug trafficking and organized crime in the region, including U.S. drug demand. From the beginning, the Mérida Initiative has included a focus on reforming Mexican institutions, particularly the judiciary and police, so as to improve respect for the rule of law in the country. Border security is also a key component of the Mérida Initiative. As a result, implementation of the Initiative involves a wide range of U.S agencies, including the Departments of Justice and Homeland Security under the

55 GAO, U.S. Assistance Has Helped Mexican Counternarcotics Efforts, but the Flow of Illicit Narcotics into the United States Remains High, October 2007, GAO—08215T.
57 For background information on drug trafficking-related violence in Mexico, see CRS Report R41576, Mexico’s Drug Trafficking Organizations: Source and Scope of the Rising Violence. For information on drug trafficking and crime in Central America, see UNODC, Crime and Development in Central America: Caught in the Crossfire, May 2007.
58 For more information, see CRS Report R41075, Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence, coordinated by Kristin M. Finklea.
leadership of the State Department. Unlike Plan Colombia, the Mérida Initiative does not include a large role for DOD.

Perhaps because of the large number of countries and U.S. agencies involved, Mérida implementation has gotten off to a slow start, particularly in Central America. On December 3, 2009, the GAO issued a report for Congress showing that by the end of September 2009, only $26 million of the $1.3 billion in Mérida funds that had been appropriated for Mexico and Central America as of that time had been spent. Progress has been made in Mérida implementation since the release of the December 2009 GAO report, particularly with respect to Mérida programs in Mexico. According to the State Department, a total of roughly $326.5 million worth of equipment and training had been provided to Mexico by December 3, 2010. Another $500 million worth of equipment and training are to be provided in 2011.59

In the FY2010 Consolidated Appropriations Act (P.L. 111-117), Congress appropriated another $210.3 million for Mexico under the Mérida Initiative. Congress also approved $175 million in funds for justice sector programs in Mexico in the FY2010 Supplemental Appropriations Act (P.L. 111-212). Both of these Acts contained human rights conditions similar to P.L. 111-8 and reporting requirements (see Table A-2). With the FY2010 supplemental appropriations, total U.S. assistance to Mexico under Mérida reached roughly $1.5 billion.

**New “Four Pillar” Strategy for Mérida Initiative Programs in Mexico**

Even though the implementation of Mérida-funded programs is likely to continue for several more years, budgetary support for the Initiative as it was originally conceived ended with the FY2010 budget cycle. As a result, the Obama Administration and the Mexican government have agreed to a new strategic framework for security cooperation. This was formally announced after Secretary of State Hillary Clinton led a high-level delegation to Mexico on March 23, 2010. The four pillars of the new strategy include (1) disrupting organized criminal groups; (2) institutionalizing the rule of law; (3) building a 21st-century border; and (4) building strong and resilient communities. Pillar four of the new strategy appears to indicate the U.S. and Mexican governments’ intent to move beyond counterdrug efforts to address underlying societal problems, such as poverty and unemployment, that have allowed the drug trade to flourish.60

In terms of funding priorities, the Administration plans to move away from providing equipment to Mexican security forces to supporting institutional reform programs in Mexico with training and technical assistance. It intends to provide assistance to one or two border cities—including Ciudad Juárez—as U.S. assistance is expanded from the federal to the state and local levels. The FY2011 request included $310 million for these programs.

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Mérida Initiative/Central American Regional Security Initiative (CARSI)

In contrast to the wide range of programs funded in Mexico, U.S. counterdrug programs in Central America have traditionally focused on interdiction, with some anti-money laundering programs in Panama. Prior to the Mérida Initiative, the vast majority of U.S. counterdrug assistance to Central America had gone to Guatemala and Panama, traditionally the two primary drug transit countries in the region. A 2008 GAO report found that although U.S. assistance had helped Guatemala, Panama, and six other transit countries participate in antidrug operations and prosecute drug-related cases, a lack of political will, budget constraints, and corruption in recipient countries hindered the sustainability of U.S. efforts.61

In the FY2010 Consolidated Appropriations Act (P.L. 111-117), Congress separated funding for Central America from the Mérida Initiative by creating a new Central American Regional Security Initiative (CARSI). Funds for CARSI in P.L. 111-117, which totaled $83 million, are subject to the same human rights conditions as those provided in P.L. 111-8. Some analysts specializing in Central American security issues hope that by splitting Central America away from U.S.-Mexican security cooperation programs, the sub-region will receive more focus, funding, and attention from Congress and the Administration. CARSI builds upon existing programs in Central America (including the Mérida Initiative), both on a bilateral and regional basis. Its five primary goals are to: (1) create safe streets for the citizens in the region; (2) disrupt the movement of criminals and contraband within and between the nations of Central America; (3) support the development of strong, capable, and accountable Central American governments; (4) reestablish effective state presence and security in communities at risk; and, (5) foster enhanced levels of security and rule of law coordination and cooperation between the nations of the region.62 The Obama Administration requested $100 million for CARSI in FY2011: $70 million in Western Hemisphere Regional INCLE funds and $30 million in Western Hemisphere Regional ESF funds.

Caribbean Basin Security Initiative (CBSI)63

Because of their geographic location, many Caribbean nations are transit countries for illicit drugs from South America and the Caribbean destined for the U.S. and European markets. Currently, of the 16 countries in the Caribbean region, President Obama identified four—the Bahamas, the Dominican Republic, Haiti, and Jamaica—as major drug-producing or drug-transit countries in September 2010 pursuant to annual legislative drug certification requirements. Many other Caribbean nations, particularly in the Eastern Caribbean, are also vulnerable to drug trafficking and associated crimes because of their geographic location.

The United States has provided antidrug assistance to Caribbean countries through bilateral assistance programs, USAID’s Caribbean Regional Program, and the State Department’s Western Hemisphere Regional Program. The Bahamas has cooperated extensively with the United States

61 GAO, Cooperation with Many Major Drug Transit Countries Has Improved, but Better Performance Reporting and Sustainability Plans Are Needed, July 2008, GAO-08-784.
63 Prepared by Mark P. Sullivan, Specialist in Latin American Affairs.
on interdiction efforts through Operation Bahamas and Turks and Caicos (OPBAT), a multinational interdiction effort first established in 1982. The Dominican Republic has carried out joint counternarcotics operations with the U.S. Coast Guard, received police training from the State Department, and judicial reform assistance from USAID. U.S. counternarcotics efforts in Haiti have focused on providing equipment and training support for the Haitian National Police (HNP), largely in cooperation with the United Nations Stabilization Mission in Haiti (MINUSTAH). The United States has provided training and material support to strengthen Jamaica’s counterdrug and anti-corruption capabilities and improve the country’s capacity to investigate, arrest, and prosecute organized crime.

Although not included in the original Mérida request, Congress dedicated $2.5 million in INCLE funding for Haiti and $2.5 million for the Dominican Republic in P.L. 110-252 and the same amounts again in P.L. 111-8. In Haiti, Mérida funds are being used to install a secure communications network for the HNP, support the HNP’s drug interdiction efforts, and provide training for Haitian judicial officials. In the Dominican Republic, Mérida funds are being used to support police professionalization programs, provide logistical support to interdiction units, and train judicial authorities in implementing the new criminal procedure code.

The Obama Administration did not include Haiti and the Dominican Republic in its FY2010 request for Mérida. Instead, the Administration requested $45 million in initial funding for projects that were developed as part of a new security dialogue with Caribbean Community (CARICOM) member states and the Dominican Republic. When President Obama announced the new security cooperation plan, the Caribbean Basin Security Initiative (CBSI), at the Summit of the Americas in April 2009, he said that it would likely involve increased U.S. assistance to help the region address challenges such as transnational crime, illicit trafficking, and maritime and aviation security. Congress provided “not less than” $37 million in FY2010 for the CBSI in P.L. 111-117, of which “not less than” $21 million should be for social justice and education programs. Subsequently, however, the Administration maintained that it had worked with Congress to identify over $45 million in funding (the amount originally requested) for FY2010.

The CBSI has been developed through a process of dialogue with Caribbean nations, which are expected to establish complementary programs with their own funding. Initial U.S.-Caribbean meetings were held in Suriname, Barbados, and the Dominican Republic in 2009. In May 2010, U.S. and Caribbean representatives held the inaugural Caribbean-U.S. Security Cooperation Dialogue in Washington D.C. and approved a declaration of principles, a framework for engagement, and a broad action plan.

- In the declaration of principles, Caribbean countries and the United States pledged to work together in three strategic priorities: (1) to substantially reduce illicit trafficking in the Caribbean (including measures to counter and reduce narcotics trafficking, trafficking in small arms and light weapons, trafficking in persons, and money laundering); (2) to advance public safety and security (including measures to deal with crime and violence, organized gangs and gang-related activities, border security, illegal undocumented migration, human smuggling, terrorism threats, criminal deportees, and natural disasters); and (3) to further promote social justice (including crime prevention, justice sector reform, and anti-corruption measures).

- In the joint framework, countries set forth the mechanisms for security cooperation engagement, including an annual security cooperation dialogue, the establishment of a commission responsible for preparing for the annual dialogue
and monitoring implementation, and the establishment of ad hoc technical working groups as needed.

- In the action plan on security cooperation, countries set forth specific measures in each of the three strategic areas—reducing illicit trafficking, advancing public safety and security, and promoting social justice—in order to strengthen commitment and accountability and ensure greater support for implementation.

The Administration’s FY2011 request for CBSI is for $79 million, with $17 million in ESF, $18.2 million in FMF, $37.5 million in INCLE, and $6.4 million in Nonproliferation, Antiterrorism, Demining, and Related Programs (NADR). About 43% of the requested assistance is for counternarcotics efforts. As noted in the State Department’s FY2011 Congressional Budget Justification for Foreign Operations, CBSI assistance in FY2010 was part of the State Department’s and USAID’s regional funding programs, but in FY2011 would be part of a separate State Department operating unit for the CBSI. As noted above, FY2011 funding generally has been continued at FY2010 enacted levels under a series of short-term continuing resolutions through March 4, 2011 (P.L. 111-242).

**DOD Counternarcotics Assistance Programs**

The U.S. Department of Defense provides a broad range of counterdrug support to Latin America and the Caribbean, including training and equipping assistance for security forces engaged in counterdrug efforts. Although DOD is a provider of international counterdrug assistance, the Foreign Assistance Act of 1961, as amended, vests responsibility for coordinating all U.S. counterdrug assistance with the Secretary of State. As a result, DOD counterdrug programs generally complement existing foreign assistance programs run mainly by the State Department. However, due to its independent authorities and counterdrug missions, DOD programs are not necessarily integrated into the policy planning and the budgeting process for State Department-led counterdrug assistance programs. Within DOD, the Office of the Deputy Assistant Secretary of Defense for Counternarcotics and Global Threats is the primary source of counternarcotics policy. Two regional combatant commands bear responsibility for DOD operations in the Western Hemisphere: the U.S. Southern Command (SOUTHCOM), which covers Latin America, and the U.S. Northern Command (NORTHCOM), which includes Mexico.

Since Latin America has been the source of most illicit drugs arriving into the United States, DOD’s role in the hemisphere has been long-standing. In FY1990, Congress mandated that DOD be the lead federal agency for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. DOD’s lead agency responsibilities extend to support for foreign law enforcement agencies in the detection and monitoring of drugs flowing toward the United States. Support in its current form has evolved over time to include not only detection and monitoring, but also U.S. military deployments, infrastructure support, intelligence support, and operational support. Two legislative authorities define the types of foreign assistance

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64 Prepared by Liana Sun Wyler, Analyst in International Crime and Narcotics.
68 See Paul Wolfowitz, Deputy Secretary of Defense, Memorandum on Department of Defense International Counternarcotics Policy, October 3, 2003, Appendix C, Department International Counternarcotics Support, in House (continued...)
support that DOD can provide for counternarcotics purposes—Sec. 1004 of P.L. 101-510, the National Defense Authorization Act (NDAA) of 1991 as amended through FY2011, and Sec. 1033 of P.L. 105-85, the NDAA of 1998 as amended through FY2011, which allows DOD to provide additional support to certain countries.69

**Legislative Authorities Regarding DOD’s Role in Providing Counterdrug Assistance**

Under Section 1004 of P.L. 101-510, the National Defense Authorization Act (NDAA) of 1991 as amended through FY2011, DOD can provide assistance for (1) transporting U.S. and foreign personnel for the purpose of facilitating counterdrug activities within or outside the United States; (2) establishing and operating bases of operations or training facilities for the purpose of facilitating counterdrug activities within or outside the United States; (3) training law enforcement personnel from foreign countries in how to conduct counterdrug efforts; (4) aerial and ground reconnaissance and detection, monitoring, and communication of air, sea, and surface trafficking en route to the United States; (5) construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States; and, (6) the provision of linguist and intelligence analysis services.

Under Section 1033 of P.L. 105-85, the NDAA of 1998 as amended through FY2011, DOD can provide support to certain countries through the (1) transfer of nonlethal protective and utility personnel equipment; (2) transfer of, as well as repair and parts for, nonlethal specialized equipment, including navigation equipment, communications equipment, photo equipment, radar equipment, and night vision systems; (3) transfer of nonlethal components, accessories, attachments, parts (including ground support equipment), firmware, and software for aircraft or patrol boats, and related repair equipment; transfer of riverine patrol boats; and, maintenance and repair of equipment of the government that is used for counterdrug activities.

For more information, see: CRS Report RL34543, *International Drug Control Policy*, by Liana Sun Wyler.

Colombia has historically been the focus of most DOD counterdrug efforts in the region, providing the military aspect of U.S. support for Plan Colombia. DOD counterdrug assistance to Colombia has included training and equipping of both the Colombian military and police, including the Colombian Army’s Counternarcotics Brigade, assisting the Colombian Ministry of Defense with the development of a modern budget and logistics organizations, assisting the Colombian government with demobilization programs, and providing humanitarian assistance to local populations affected by the drug situation. Since FY2002, Congress has given DOD a country-specific authority to pursue a “unified campaign” against narcotics trafficking and against designated terrorist organizations operating in Colombia—the FARC, ELN, and AUC.70

The tendency of DOD to concentrate most of its counternarcotics assistance programs in Colombia appears to be shifting. (see Table A-1 in the Appendix for an overview of DOD assistance to the region from FY2003-FY2011.) In SOUTHCOM’s FY2010 posture statement to Congress, for example, SOUTHCOM’s Combatant Commander argues for the expansion of

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69 DOD currently is authorized to assist 22 foreign countries with additional counternarcotics support. Of the 22 countries for which DOD is authorized to provide Sec. 1033 counterdrug assistance, half of them (11) are located in Latin America. They include Peru and Colombia (Sec. 1033, P.L. 105-85); Bolivia and Ecuador (Sec. 1021, P.L. 108-136); Guatemala, Belize, and Panama (Sec. 1022, P.L. 109-364); Mexico and the Dominican Republic (Sec. 1022, P.L. 110-181); and El Salvador, and Honduras (Sec. 1024, P.L. 110-417).

70 Sec. 305, P.L. 107-206; while this authority was not granted for FY2003, it was subsequently reauthorized in FY2004 in Sec. 1023, P.L. 108-136, as amended through FY2010.
DOD’s authority to pursue a unified campaign against drugs and terrorism in more countries in the region than just Colombia. Similarly, Defense Secretary Robert Gates and Chairman of the Joint Chiefs of Staff Admiral Mike Mullen recently traveled to Mexico along with Secretary Clinton to offer increased military assistance and collaboration to their Mexican counterparts. It remains to be seen, however, the degree to which DOD counterdrug assistance to Mexico, Central America, and the Caribbean will be coordinated with Mérida and follow-on assistance programs in those countries and sub-regions. Since DOD counterdrug assistance is obligated out of global accounts and the agency is not required to submit country-specific requests to Congress for its programs, obtaining recent data on DOD programs and plans for the region can be difficult.

Foreign Assistance Prohibitions and Conditions

In addition to defining the authorities by which the State Department and DOD fund counterdrug efforts and determining the types and levels of funding to appropriate for those efforts, Congress requires that the provision of that assistance be conditioned on certain counterdrug-related performance measures. Such aid conditions are intended to discourage aid recipients from shirking their commitments to combating drugs, as well as to ensure that they are cooperating with the U.S. government on related foreign policy priorities, including human rights and anti-corruption efforts.

Annual Drug Certification Process

Beginning in 1986 (P.L. 99-570), Congress introduced an annual procedure to withhold certain types of bilateral foreign assistance, not including counternarcotics assistance, to major drug producing and major drug transit countries worldwide, commonly termed the “drug majors.” In the past, this certification process had generated both criticism for the severity of its penalties as well as praise for its ability to improve political will internationally to combat drugs. Today, however, it is widely viewed as having lost much of its strength as a diplomatic tool.

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71 Posture Statement of General Douglas M. Fraser, Commander, U.S. Southern Command before the Senate Armed Services Committee, March 11, 2010.
72 Prepared by Liana Sun Wyler, Analyst in International Crime and Narcotics.
73 Drug majors are statutorily defined in Sec. 481 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 1191(e)) as a country in which (1) 1,000 hectares or more of illicit opium or coca is cultivated or harvested during a single year; (2) 5,000 hectares or more of illicit cannabis is cultivated or harvested; (3) there is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; or (4) drugs or other controlled substances are transiting.
74 Current law provides two certification procedure options from which the President can choose in order to determine which countries will be sanctioned. The selection of which certification procedure to use is widely understood to have implications on the severity and strength of this counterdrug policy tool. In the original procedure, codified at 22 U.S.C. 2291j, the President was required to decertify all drug majors that had not proven to “cooperate fully” in international efforts to combat drug trafficking. Beginning in FY2002, subsequently codified at 22 U.S.C. 2291j-1, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (P.L. 107-115) allowed for the suspension of the prior certification procedures and their replacement with a new set of procedures. In place of the “cooperate fully” threshold, the new certification procedure allows the President to designate and withhold assistance from only the worst-offending drug majors – those that were determined by the President as having “failed demonstrably” to make substantial efforts to combat drugs. The change in standards from whether a country had “cooperated fully” to “whether it had “failed demonstrably” effectively shifted the “burden of proof to an assumption that foreign nations were cooperating with the United States and had to be proven otherwise to trigger the restrictions” in foreign assistance.
The President is required annually to issue a presidential determination to identify which countries are to be included in the list of drug majors for the following fiscal year. For FY2011, President Barack Obama identified 20 drug majors—75% of which are countries in the Western Hemisphere. Of the Latin American and Caribbean countries identified this year have been on the drug majors list for at least the past decade, including the Bahamas, Bolivia, Colombia, the Dominican Republic, Ecuador, Guatemala, Haiti, Jamaica, Mexico, Panama, Peru, and Venezuela. Three are new to the drug majors list: Costa Rica, Honduras, and Nicaragua.

The drug majors are then evaluated on the basis of their effort to combat drugs and cooperate with the U.S. government on drug policy issues. The President must accordingly “certify” to Congress that drug majors have either “cooperated fully” or have “failed demonstrably” in U.S. and international counternarcotics efforts. If the President does not certify a drug major country, it is “decertified” and ultimately subject to possible sanction from receiving certain types of bilateral assistance. Decertification can have implications for country eligibility for other assistance programs, including eligibility for debt relief. For FY2011, three drug majors were “decertified” after the President determined that they “failed demonstrably” at cooperating with the U.S. government and international community on counternarcotics measures. Two of the three are countries in the Western Hemisphere: Bolivia and Venezuela.

The President, however, reserves the discretion to waive the foreign assistance prohibition that decertification triggers if it is of vital national interest that U.S. aid continue to those countries. In the case of both Bolivia and Venezuela, President Obama waived the aid sanctions, thus allowing for bilateral assistance to continue in the case of Bolivia and assistance related to democracy promotion programming to continue in Venezuela.

Conditions on Counternarcotics Assistance

Several conditions on counternarcotics assistance exist in current law, including general and country-specific prohibitions on providing aid to security forces (potentially including counterdrug forces) and drug eradication-related conditions. In order for the counterdrug funding to be released, these conditions require the Secretary of State to certify that the countries in question have achieved certain performance criteria. These assistance restrictions have been variously viewed as either supplements to the drug certification process, providing additional diplomatic pressure to support counternarcotics and related foreign policy goals, or additional bureaucratic obstacles to overcome. In the case of aid conditions on counternarcotics assistance for Mexico through the Mérida Initiative, for example, the delay of funds has become a source of policy frustration.

Human Rights Prohibitions on Assistance to Security Forces

Congress has taken measures to ensure that U.S. security assistance not be provided to foreign security forces that have been associated with gross human rights violations. Human rights

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76 The GAO identified “statutory conditions on the funds” as one of three factors that have slowed down implementation of the Mérida Initiative. U.S. Government Accountability Office (GAO), Status of Funds for the Mérida Initiative. December 3, 2009. GAO 10-253R.
conditions restrict foreign assistance to security forces authorized under the Foreign Assistance Act of 1961 (FAA), as amended, and the Arms Export Control Act (AECA), as amended. Specifically, units of a foreign country’s security forces are prohibited from receiving assistance if the Secretary of State receives “credible evidence” that such units have committed “gross violations of human rights.”77 In response to these provisions, the State Department has developed vetting procedures for potential security force trainees. A modified and non-codified, but similar, provision restricts DOD training of foreign security forces in FY2010 in cases where the Secretary of Defense receives “credible evidence” that units of foreign security forces have committed “gross violations of human rights.”78 While the term “security forces” is not defined in the FAA, AECA, or the FY2010 DOD appropriations measure (P.L. 111-118), in practice these provisions often affect assistance to foreign counternarcotics units.

Country-Specific Prohibitions on Certain Counterdrug Assistance

For FY2010, the provision of certain counterdrug-related aid to 10 countries in the Americas is conditioned on the Secretary of State reporting to Congress on a range of human rights, corruption, and rule of law issues. The 10 countries are Haiti, Mexico, Colombia, and the Central American countries of Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. (See Table A-2 for a list of country-specific prohibitions on counterdrug aid included in the FY2010 Consolidated Appropriations Act (P.L. 111-117) and the FY2010 Supplemental Appropriations Act (P.L. 111-212).

Drug Eradication-Related Conditions

Colombia, the only country in the world to which the U.S. government provides assistance for eradicating drug crops through the aerial application of herbicide, is also subject to several aerial eradication-related conditions (sec. 7046 of P.L. 111-117). Legislation caps total assistance to the Colombian national police for the procurement of chemicals for aerial coca and poppy eradication programs at 20% until the Secretary of State submits a report to Congress. That report must certify that the herbicide is being used in a manner that complies with Environmental Protection Agency standards and Colombian law, and that it does not pose unreasonable risks or adverse effects to humans or the environment. Further, funds for eradication are not available until the Secretary of State certifies to Congress that complaints related to fumigation are thoroughly evaluated and compensation provided in the case of meritorious claims. In addition, funds for eradication are not available unless alternative development programs are being implemented, where security permits, for small-acreage growers and communities targeted by aerial eradication.

77 Sec. 620J of the Foreign Assistance Act of 1961, as amended. This aid condition originated in a provision first introduced by Senator Patrick Leahy as an amendment to the 1997 Foreign Operations Appropriations Act (P.L. 104-208) restricting International Narcotics Control assistance to foreign security forces found to have committed gross violations.

78 Sec. 8061 of P.L. 111-118.
Issues for Congress\textsuperscript{79}

Congress is playing an active role in shaping the design of U.S. antidrug programs in Latin America at a time when regional support for U.S. counternarcotics policy appears to be at a crossroads. The United States enjoys sustained counterdrug partnerships with countries like Peru and Colombia in South America and multilateral support from the U.N. and Organization of American States,\textsuperscript{80} as well as expanding relationships on drug issues with Mexico, Central America, and the Caribbean through the Mérida Initiative, CARSI, and CBSI. While many governments continue to support U.S. drug control efforts, some policymakers in the region have concluded that the current U.S.-led counterdrug approach needs to be re-evaluated. Criticism of U.S. drug activities has translated into a reduction in U.S. participation in counternarcotics efforts in certain countries, particularly Bolivia and Venezuela, as well as a growth in support in some countries for a range of alternative drug policy approaches, including drug decriminalization.\textsuperscript{81}

There has been increasing criticism of U.S. drug policy coming from prominent observers in countries that have been key partners in the struggle against illicit drug trafficking. In February 2009, for example, an independent study group called the Latin American Commission on Drugs and Democracy—co-chaired by former presidents from Brazil, Colombia, and Mexico—issued a report concluding that the current U.S.-led international drug control regime, which has focused on criminalizing drug production and use, has largely failed. The report urged the United States and other governments to accelerate efforts to reduce drug demand and treat drug use as a matter of public health, focus repressive efforts on the illicit activities of organized criminal groups, and increase support for viable alternative development programs.\textsuperscript{82} These recommendations are similar to some of the suggestions that have been made by U.S. drug policy experts.\textsuperscript{83}

Congress has influenced aspects of U.S. counterdrug assistance programs in Latin America through the appropriations process, in oversight hearings, and in stand-alone legislation. During the 111\textsuperscript{th} Congress, congressional action focused on the appropriations process by, for example, ensuring that assistance provided to Colombia, Mexico, and Central America was balanced between support for supply control programs, on the one hand, and funding for institution-building and rule of law programs, on the other. Additionally, the 111\textsuperscript{th} Congress conducted a significant number of oversight hearings on U.S. drug control programs in Latin America and on confronting the increased drug trafficking-related violence occurring along the U.S.-Mexico border. The House-passed H.R. 2134, the Western Hemisphere Drug Policy Commission Act (Engel), would have created a commission to review U.S. drug policy in the region and identify options to improve international and domestic efforts. In December 2010, similar legislation was introduced in the Senate, S. 4011 (Menendez).

\textsuperscript{79} Prepared by Liana Sun Wyler, Analyst in International Crime and Narcotics and Clare Ribando Seelke, Specialist in Latin American Affairs.

\textsuperscript{80} For recent information on the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OAS), see: Betty Horwitz, “The role of the Inter-American Drug Abuse Control Commission (CICAD) in Confronting the Problem of Illegal Drugs in the Americas,” \textit{Latin American Politics and Society}, vol. 52, no. 2 (Summer 2010).


\textsuperscript{83} See, for example, International Crisis Group, \textit{Latin American Drugs II: Improving Policy and Reducing Harm}, March 14, 2008.
The 112th Congress is likely to consider several questions as it oversees the design and implementation of current and future U.S. drug control programs in Latin America and the Caribbean. Some of these questions might include what, if anything does the growing regional support for alternatives to the current counterdrug policy mix suggest in terms of U.S. drug policy priorities and strategies? How might the U.S. government better plan, implement, and evaluate counterdrug assistance programs in Latin America? What should be the future of eradication and alternative development programs in the Andes? To what extent are U.S. domestic drug policy efforts complementing counterdrug assistance programs in Latin America?

An Integrated Approach to Counternarcotics in the Region?

Some Members of Congress have raised questions regarding whether there is the need for a more integrated approach to counternarcotics policies in the region. Members have expressed concern that the overall effectiveness of hemispheric counterdrug efforts has been hindered by “fragmented management, unclear reporting chains, and duplicative and overlapping agendas” among the many agencies charged with implementing aspects of antidrug programs in the region. Some Members have argued that a more integrated effort might include having the State Department develop a multi-year drug strategy for the region that would seek to avoid the so-called “balloon effect” in which successful efforts in one area drive drug-related activities to another area. The FY2010 Supplemental Assistance Act (P.L. 111-212) contained a condition on assistance provided to Mexico requiring the Secretary of State to submit a report to the Appropriations Committees containing a “multi-year, interagency strategy to address the causes of drug-related violence and other organized criminal activity in Central and South America, Mexico, and the Caribbean.” Members have also urged the Administration to establish a coordinator within the State Department to oversee the planning and implementation of the various counterdrug assistance programs in Latin America. Some observers have praised these proposals, while others feel they would be unnecessary given that there are already mechanisms in place by which the State Department develops and coordinates its regional counterdrug programs and policies.

Another aspect of developing a more integrated approach to counterdrug efforts in Latin America involves ensuring that non-aid programs related to drug policy complement the goals of U.S. counterdrug assistance programs. Non-aid programs include narcotics kingpin sanctions, trade preferences, and U.S.-led military and law enforcement interdiction and criminal investigative operations.

Non-Foreign Assistance Efforts to Combat Drugs in Latin America

- **Drug Kingpin Sanctions:** The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) targets and blocks financial assets, subject to U.S. jurisdiction, of drug kingpins and related associates and entities. First instituted in 1995 to block assets owned by principal figures of the Colombia’s Cali Cartel (E.O. 12978), a second, expanded sanctions program was later introduced in 1999, which has a global scope (Foreign Narcotics Kingpin Designation Act). Targets from Latin America and the Caribbean are a central focus of both programs, with traffickers centered in Colombia constituting the entirety of E.O. 12978 and Latin American and Caribbean kingpins representing 64% of all listed kingpins since 2000.

- **International Trade Incentives to the Andes:** Through the 1991 Andean Trade Preference Act (ATPA) and its subsequent replacement, the 2002 Andean Trade Preference and Drug Eradication Act (ATPDEA), as amended, the U.S. government has historically sought to offer trade benefits to four partner nations in the Andes—Colombia, Ecuador, Peru, and Bolivia—as part of a broader effort to combat drug production and trafficking in the region. The program was suspended for Bolivia in December 2008, because it failed to meet one of the eligibility requirements for the program. Specifically, the President determined that Bolivia “failed demonstrably” to make substantial efforts to uphold its international commitments to combat drugs. The benefits to Peru expired at the end of 2010 and were not renewed because Peru has entered into a free trade agreement with the United States, which was implemented in February 2009. The most recent extension of ATPA for Colombia and Ecuador took place late in December 2010 when the 111th Congress enacted legislation for a six-week extension of benefits until February 12, 2011 (H.R. 6517).

- **Intelligence and Law Enforcement Activities:** U.S. efforts to identify and dismantle drug networks include intelligence and law enforcement activities that are not categorized as foreign assistance. DOD plays a key role in collecting, analyzing, and sharing intelligence on illegal drug flows through its regional operational assets, including the Joint Interagency Task Force-South (JIATF-South), which coordinates multi-agency drug intelligence; and Forward Operating Locations (FOLs), where drug interdiction aircraft can be deployed close to drug production sources and transit zones. International drug interdiction efforts in the Western Hemisphere account for approximately 81% of all cocaine interdictions worldwide. The U.S. Drug Enforcement Administration (DEA) maintains 37 country or regional DEA offices at U.S. embassies in Latin America and the Caribbean. DEA, with the support of other law enforcement agencies, use a variety of legal tools to ensure that international criminals are prosecuted to the fullest extent of the law, including extradition and extra-territorial law enforcement authorities to investigate and prosecute drug offenses overseas.

For more information, see: CRS Report RL34543, *International Drug Control Policy*, by Liana Sun Wyler.

These non-foreign aid programs have figured prominently in U.S. counterdrug efforts in Latin America for some time. Yet it remains a challenge for policymakers to evaluate how such programs—conducted by a variety of U.S. agencies and offices, with separate budgets, planning procedures, and priorities and missions—may improve, detract from, or prove ineffective in the overall U.S. approach to combating drugs in the region. As Congress evaluates U.S. drug policy towards Latin America, it may choose to consider whether it is feasible and desirable to incorporate non-foreign assistance programs into a counterdrug strategy for the region.

The ability to monitor progress and make adjustments in programs that are not achieving their intended results has been identified as another key component of a well-integrated drug policy. Supply control programs have traditionally been evaluated by calculating the acreage of crops eradicated, drugs interdicted, or DTO leaders arrested, or by examining the price and purity of drugs in the United States. These measures, though important, can sometimes fail to capture...
progress that has taken place in terms of advancing bilateral or regional cooperation on anti-drug efforts and/or problems in existing policies. Measuring the effects of institution-building and development programs may prove to be even more difficult, particularly in the short term. Across the U.S. government, there has historically been a tendency to calculate the impact of particular programs by measuring “outputs,” such as the number of individuals trained by a justice sector program or served by a particular development program. The GAO and others have urged U.S. officials, particularly those carrying out so-called “soft-side” institution-building and development programs, to develop performance indicators that attempt to measure the societal “outcomes” that occur as result of U.S. efforts.\(^{86}\) Congress may suggest new ways for the Administration to assess the effectiveness of drug control programs across different agencies, funding streams, and jurisdictions. Congress might also consider including more funding for program evaluations in foreign appropriations measures.

The Future of Drug Eradication and Alternative Development in the Andes\(^{87}\)

In recent years, Congress has increased funding for drug interdiction programs in Mexico, Central America and the Caribbean, but has gradually reduced funding for eradication and alternative development programs in the Andean region. Eradication has been a long-standing but often controversial U.S. drug control tool, particularly in Latin America. As recently as 2008, the State Department had asserted that “drug crops are the weakest link in the drug production chain” and that source-zone eradication remained “the cornerstone of U.S. supply reduction strategy.”\(^{88}\) More recently, some U.S. officials have argued that there are certain situations, including in conflict or post-conflict environments like the current situation in Afghanistan, in which eradication might be ineffective, or even counterproductive. When the late Ambassador Richard Holbrooke, then the Obama Administration’s Special Representative for Afghanistan and Pakistan, halted U.S.-funded eradication programs in Afghanistan, he echoed the arguments made by many Andean drug policy experts regarding the importance of having “alternative livelihoods”\(^{89}\) and some level of security conditions in place before eradication programs are undertaken.\(^{90}\) Without those

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\(^{86}\) GAO, \textit{Cooperation with Many Major Drug Transit Countries Has Improved, but Better Performance Reporting and Sustainability Plans Are Needed}, GAO-08-784, July 2008.


\(^{88}\) INCSR, March 2008. More recent INCSR reports have not placed as much of an emphasis on crop eradication.

\(^{89}\) This term is often used to describe programs geared at providing alternatives to drug crop cultivation for farmers in source countries. U.S.-funded alternative development programs, most of which are administered by USAID, began in the 1970s in Bolivia and the 1980s in Peru as relatively simple crop substitution programs. As a result of the limited effects of those efforts, alternative development programs gradually evolved into broader initiatives aimed at expanding roads, infrastructure, healthcare, and other government services in coca-growing areas, many of which were poor and isolated. Francisco E. Thoumi, \textit{Illegal Drugs, Economy, and Society in the Andes}, Baltimore: The John Hopkins University Press, 2003.

\(^{90}\) In July 2009, Ambassador Holbrooke, the Obama Administration’s Special Representative for Afghanistan and Pakistan, announced that the U.S. government would no longer participate in eradication efforts in Afghanistan. Holbrooke called Western eradication policies in Afghanistan “a failure” and stated that the United States has “wasted hundreds and hundreds of millions of dollars” funding them. At the heart of Holbrooke’s argument was the concern that eradication policies, particularly in conflict zones and in the absence of viable alternative livelihood options, can alienate poor farmers and peasants and drive them into the hands of insurgent and rebel groups, in turn providing such anti-government movements a lucrative and consistent source of funding. Richard C. Holbrooke, “Holbrooke’s Briefing on Trip to Pakistan, Afghanistan, and Brussels, July 2009,” July 29, 2009. For more information, CRS Report (continued...)
conditions in place, analysts have warned that eradication programs, particularly of an involuntary nature, risk alienating poor farmers and peasants and driving them into the hands of insurgent groups like the FARC in Colombia and the Shining Path in Peru. In some parts of Colombia and Peru, anti-government groups continue to provide security and protection to peasant farmers growing illicit drug crops, while in others, farmers have sought government assistance for alternative crop cultivation so as to free their communities from the influence of drug traffickers and allied criminal groups. Given these concerns, Congress is likely to continue evaluating the amount of foreign assistance devoted to eradication in the Andes and the circumstances under which eradication programs are carried out, as well as how eradication efforts should be sequenced with alternative development programs.

Eradication of drug crops occurs through manual removal, which involves the physical up-rooting and destruction of crops, mechanical removal, which involves the use of tractors and all-terrain vehicles to harrow the fields, or by aerial spraying, which involves the spraying of fields with herbicide mixture. Eradication can be conducted with the voluntary agreement of growers, or involuntarily. The United States supports programs to eradicate coca, opium, and marijuana in several countries in Latin America, primarily in Colombia, but also in Bolivia, Peru, Guatemala, and Mexico. Manual eradication is the preferred method for eradicating in areas where illicit plants have been interspersed with licit crops, such as in national parks. Aerial eradication is only permitted in Colombia, where proponents of the practice say it remains the safest and most effective means to defoliate large areas being used for drug crop cultivation. U.S. officials have credited years of repeated aerial spraying with reducing the productivity of coca plants and fields in Colombia. However, since 2006, the percentage of illicit crops eradicated through aerial spraying in Colombia has declined vis-à-vis the percentage eradicated by manual eradication.

Despite eradication’s perceived benefits, it has also been a subject of long-standing criticism. Manual eradication requires significant time and human resources and aerial application of herbicide is not legal or feasible in many countries and is expensive to implement where it is permitted. Eradication remains a high-risk activity, as spray planes and manual eradication crews are often targeted by drug traffickers. Critics have also asserted that aerial spraying in Colombia has caused negative human, animal, and environmental damage. However, a series of reports produced by the Inter-American Drug Abuse Control Commission of the Organization of American States have concluded that the herbicide chemical used for aerial fumigation in Colombia has not caused damage to humans or wildlife. The Secretary of State has reported similar findings to Congress.

In the case of eradication in Colombia, results have been mixed. Crop eradication efforts provided short-term instances of success in the early 2000s when aerial spraying was first permitted. In the

(...continued)

91 Testimony of Vanda Felbab-Brown, Fellow, the Brookings Institution, before the House Oversight and Government Reform Domestic Policy Subcommittee, April 14, 2010.
92 See, for example, UNODC, Peru: Coca Cultivation Survey, June 2009, which describes the success that alternative development programs supported by the Peruvian government and USAID have had in the San Martin area of Peru.
93 INCSR 2010, p. 206.
94 See, for example, Washington Office on Latin America (WOLA), Chemical Reactions, February 29, 2008.
following years, however, farmers adapted to eradication efforts through a variety of strategies that essentially involved farmers moving cultivation locations or growing practices, but not reducing the overall harvest size. Footnote 96 Some of these coping strategies included replanting or pruning back coca plants after spraying and increasing the number of harvest cycles per season. Other coping strategies, such as interspersing licit crops with coca crops and growing coca plants under dense foliage as well as in national parks, proved to make detection much more difficult. Nevertheless, both U.S. and U.N. estimates for 2008 showed dramatic declines in overall coca cultivation and cocaine production projections. Footnote 97 For 2009, the U.N. again reported declines in estimated coca cultivation and potential production and U.S. figures showed a decline in potential production (U.S. cultivation estimates are not yet available). Footnote 98

In the absence of the credible threat of eradication, critics question what alternative strategies exist to effectively deter drug producers from cultivating drug crops in the first place. The development of licit livelihood options in drug producing areas is often raised as an alternative option to eradication. Essentially, such a strategy would provide a positive incentive for farmers to abandon their drug crops, rather than serve as a negative deterrent. However, policymakers have been challenged to find viable income alternatives in often remote, underdeveloped regions for impoverished peasants who lack basic skills. In conflict regions, where insecurity prevails, alternative development may not even be an option. In best case scenarios, alternative development can take years to show results, rendering it an ineffective short-term solution.

Alternative development need not be a zero-sum drug policy option. With regard to Colombia, for example, recent studies have found that the combination of jointly implemented eradication, alternative development, and interdiction is more effective than the independent application of any one of these three strategies. Footnote 99 In La Macarena, Colombia, for example, the Colombian government has had success by focusing its efforts on improving security conditions and government services in that area and by coordinating eradication with food security for farmers and then with alternative livelihoods projects. Footnote 100 As previously mentioned, many analysts have suggested that the likelihood of success would increase if there were modifications in the sequencing of eradication and alternative development strategies, implementing alternative development programs first and eradication programs later. Footnote 101 Others have urged Andean governments, as well as USAID, not to disqualify an entire community from participating in an alternative development project if a few families are found to be producing coca. Footnote 102

Footnotes:

97 INCSR 2010, p. 206.
100 USAID Front Lines, “Colombia Increases Security, Services in La Macarena to Overturn Coca and Conflict,” press release, June 2009.
102 Testimony of Vanda Felbab-Brown, Fellow, the Brookings Institution, before the House Oversight and Government Reform Domestic Policy Subcommittee, April 14, 2010.
U.S. Domestic Initiatives to Counter Drug Demand

Congress has also taken an increasing interest in the extent to which U.S. domestic initiatives to counter drug demand affect counterdrug assistance efforts in Latin America. During the 111th Congress, the House passed H.R. 2134, the Western Hemisphere Drug Policy Commission Act (Engel), which would have established a commission to review U.S. antidrug efforts in Latin America, but also domestic demand reduction programs. The 111th Congress also considered the interplay between domestic and international drug control efforts during oversight hearings on the budget for ONDCP and on U.S. domestic efforts to support the Mérida Initiative. The 112th Congress may choose to rebalance funding for international and domestic drug control programs as it considers the Obama Administration’s current and future drug control budget proposals.

The U.S. drug control budget has, until recently, emphasized supply-side programs, including drug crop eradication in source countries, interdiction, and domestic law enforcement efforts. From FY2002 through FY2009, for example, funding for supply side programs reportedly increased by 64%, whereas support for demand reduction efforts increased by only 9%. By FY2009, supply-side programs constituted nearly two-thirds of the drug control budget.

In recent years, analysts from a range of organizations have called for a new U.S. counternarcotics policy focused on reducing demand as well as supply. Some studies have shown that addressing drug demand through a combination of treatment programs for heavy users and prevention programs is a more successful and cost-effective way to combat drug trafficking than through supply reduction programs. At the same time, others argue that further emphasis on supply-side drug control activities is warranted, as transnational drug trafficking organizations continue to pose serious threats to U.S. interests, citizen security, and, in some cases, government stability in Latin America.

High-ranking Administration officials and experts alike have acknowledged that U.S. domestic demand for illegal drugs is a significant factor driving the global drug trade, including the drug trafficking-related crime and violence that is occurring in Mexico and other source and transit countries. The Obama Administration released its 2010 National Drug Control Strategy report on May 11, 2010, which includes an increased focus on reducing U.S. drug demand, particularly among youth. Drug policy experts have praised the Administration’s focus on reducing consumption, but criticized its budget request for including a relatively modest increase in funding for treatment programs of 3.7% as compared to FY2010. They further maintain that

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107 See, for example, Testimony of John T. Carnevale, President, Carnevale Associates, before the House Oversight and Government Reform Subcommittee on Domestic Policy, April 14, 2010. For an overview of the proposed FY2011 National Drug Control Budget, see Executive Office of the President of the United States, “National Drug Control (continued...)
while the request includes an increase in funding for prevention efforts of 13.4%, the funds requested are still less than what was spent in the early 2000s and 5.3% lower than what the Bush Administration funded in FY2009. Some have questioned whether the federal government allocates enough of the drug budget to adequately address the demand side; the FY2011 drug budget proposes to continue to spend a majority of funds on supply reduction programs including drug crop eradication in source countries, interdiction, and domestic law enforcement efforts. It is important to note, however, that many state, local, and non-profit agencies also channel funds toward demand reduction.

(...continued)


108 Ibid.
### Appendix. Appendix Tables

**Table A-1. DOD Counternarcotics Support to Latin America and the Caribbean, FY2003-2011**

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Latin America and the Caribbean: Illicit Drug Trafficking and U.S. Counterdrug Programs

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Notes: This data reflects non-budget quality estimates of DOD counternarcotics support provided or efforts in these nations/regions; DOD does not budget counternarcotics programs by regions/countries, but by program. These figures reflect both “direct” support to those countries (e.g., training, equipment, information sharing, infrastructure and other categories) and “indirect” support via DOD and other U.S. Government counternarcotics operations with regard to those countries (e.g., transportation, communications, intelligence analysis, radar, air and maritime patrol, liaison personnel, and other categories) as well as operation of Forward Operating Locations.

Table A-2. Country-Specific Prohibitions on Drug-Related Assistance for FY2010

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<th>Source</th>
<th>Assistance Affected</th>
<th>Reporting Requirement</th>
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<tr>
<td>Haiti</td>
<td>Sec. 7045(b)(3), P.L. 111-117</td>
<td>INCLE funds barred from use to “transfer excess weapons, ammunition, or other lethal property of an agency of the United States Government to the Government of Haiti for use by the Haitian National Police” until the reporting requirement is fulfilled.</td>
<td>The Secretary of State must report to Congress that “any members of the Haitian National Police who have been credibly alleged to have committed serious crimes, including drug trafficking and violations of internationally recognized human rights, have been suspended.”</td>
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<tr>
<td>Mexico</td>
<td>Sec. 7045(e)(2), P.L. 111-117</td>
<td>15% of INCLE, FMF, and ESF funds, not including assistance for judicial reform, institution building, anti-corruption, and rule of law activities, may not be obligated until the reporting requirement is fulfilled.</td>
<td>The Secretary of State must report to Congress that the Government of Mexico is continuing to: (1) “improve the transparency and accountability” of the Federal police forces and State and municipal police forces; (2) regularly consult “with Mexican human rights and civil society organization on recommendations for the implementation of the Mérida Initiative”; (3) ensure that “members of the Federal police and military forces who have been credibly alleged to have violated internationally recognized human rights” are investigated and prosecuted in the civilian justice system, with full cooperation of the Federal police and military forces; and (4) enforce the prohibition on the “use of testimony obtained through torture or other ill-treatment.”</td>
</tr>
<tr>
<td></td>
<td>Sec. 1010 (a) and (b), P.L. 111-212</td>
<td>15% of INCLE may not be obligated until the reporting requirements are fulfilled.</td>
<td>(a) Same as above. (b) The Secretary of State must also submit a report to the Committees on Appropriations detailing a coordinated, multi-year, interagency strategy to address the causes of drug-related violence and other organized criminal activity in Central and South America, Mexico, and the Caribbean.</td>
</tr>
<tr>
<td>Country/Sub-Region</td>
<td>Source</td>
<td>Assistance Affected</td>
<td>Reporting Requirement</td>
</tr>
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</tr>
<tr>
<td>Colombia</td>
<td>Sec. 7046(b), P.L. 111-117</td>
<td>Up to 70% of assistance in P.L. 111-117 for the Colombian Armed forces may be obligated prior to the certification and reporting requirement and up to 15% of such aid may be obligated only after certification and reporting requirement.</td>
<td>The Secretary of State must consult with, and subsequently certify and submit a written report to Congress that: (1) all members of the Colombian Armed Forces who have been “credibly alleged to have committed violations of internationally recognized human rights” or who have” aided, abetted or benefitted from paramilitary organizations or successor armed groups” are suspended, investigated, and prosecuted in the civilian justice system with full cooperation of the Colombian Armed Forces; (2) the Colombian Government has “taken all necessary steps to sever links with paramilitary organizations or successor armed groups”; (3) the Colombian Government is “dismantling paramilitary networks” and “returning land and other assets illegally acquired by such organizations or their associates to their rightful occupants or owners”; and (4) the Colombia Government “respects the rights of human rights defenders, journalists, trade unionists, political opposition and religious leaders, and indigenous and Afro-Colombian communities, and that Colombian Armed Forces are implementing procedures to distinguish between civilians, including displaced persons, and combatants in their operations.”</td>
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<td>Central America, defined as Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama</td>
<td>Sec. 7045(f)(1), P.L. 111-117</td>
<td>15% of INCLE and FMF funds may not be obligated until the reporting requirement is fulfilled.</td>
<td>The Secretary of State must report to Congress that the governments of these countries are continuing to: (1) “support police complaints commissions with authority and independence to receive complaints and carry out effective investigations;” (2) “implement reforms to improve the capacity and ensure the independence of the judiciary; and” (3) “investigate and prosecute members of the Federal police and military forces who have been credibly alleged to have committed violations of internationally recognized human rights.”</td>
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**Source:** Division F, Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, of the Consolidated Appropriations Act, 2010, P.L. 111-117 (December 16, 2009).

**Notes:** INCLE=International Narcotics Control and Law Enforcement; FMF=Foreign Military Financing; and ESF=Economic Support Fund.
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Mark P. Sullivan, Specialist in Latin American Affairs, and Peter J. Meyer, Analyst in Latin American Affairs, contributed to this report.
Human Rights Council
Seventeenth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo

Addendum

Follow-up mission to El Salvador

Summary

The present report contains the findings of the Special Rapporteur on violence against women, its causes and consequences, following her follow-up mission to El Salvador, last visited by the mandate in 2004 (E/CN.4/2005/72/Add.2). She explores the extent to which the recommendations made in the previous report have been implemented by examining the most prevalent forms of violence encountered currently by women and girls in El Salvador, the State response to such violence, and the main remaining challenges.

Despite the Government’s intention to fulfil its due diligence obligations in the area of gender equality and violence against women, significant challenges remain. As the previous mandate holder pointed out, the failure of authorities to investigate, prosecute and punish those responsible for gender-based violence contributed to an environment of impunity that resulted in little confidence in the justice system; impunity for crimes, socio-economic disparities and the machista culture fostered a generalized state of violence, subjecting women to a continuum of multiple violent acts, including murder, rape, domestic violence, sexual harassment and commercial sexual exploitation. The discussions held and the information received during the visit suggested that the situation has changed little in El Salvador. In addition to the effective implementation of the law, remaining challenges relate to sexual and reproductive rights, in particular with regard to the consequences of the absolute ban on abortions, and the need to establish a comprehensive

* The summary of the present report is circulated in all official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission and in Spanish only.
system on data collection to guide policy and monitor progress in the field of violence against women.

In the light of the information received, the Special Rapporteur considers the recommendations in her predecessor’s report still relevant and applicable, and thus supports and reiterates the need to take action in five ways: (a) to create a gender-sensitive information and knowledge base, including through the creation of a statistical commission; (b) to ensure the protection of women and girls through legislative, investigative and judicial reforms, including through the establishment of a specialized investigation and prosecution unit on femicides; (c) to strengthen institutional infrastructure, including through the allocation of appropriate resources, to ensure sustainability and effectiveness; (d) to initiate further training and awareness programmes; and (e) to monitor the implementation of and enforce international and regional human rights standards.
Annex

Report of the Special Rapporteur on violence against women, its causes and consequences, on her follow-up mission to El Salvador (17-19 March 2010)

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<td>VII. Conclusions and recommendations</td>
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I. Introduction

1. At the invitation of the Government, the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, conducted a follow-up visit to El Salvador from 17 to 19 March 2010, visited by the previous mandate holder in 2004 (E/CN.4/2005/72/Add.2). The objective of the current visit was to review progress made on the recommendations provided by the previous mandate holder by assessing the current situation of violence against women, the State response to such violence and the remaining challenges. The visit was preceded by the first regional consultation of civil society organizations from Central America, Mexico and the Caribbean with the Special Rapporteur.

2. During the mission, consultations were held in San Salvador with ministers and high-ranking officials at the ministries of foreign affairs, Salvadorians living abroad, justice and public security; governance, education, health, labour and social security, as well as with the First Lady and the Secretariat for Social Inclusion, the National Institute for the Advancement of Women and the National Institute for the Comprehensive Development of Children and Adolescents. Meetings were also held with representatives of the Supreme Court of Justice, the Legislative Assembly, the Office of the Procurator-General, the Office of the Attorney General and the National Civil Police. She also met with the Office of the Procurator for the Protection of Human Rights and his Deputy on women’s human rights, representatives of civil society organizations, including women’s groups, representatives of United Nations agencies and representatives of the Council of Ministers for Women of the Central American Integration System, a political entity comprising ministers in charge of women’s rights and gender equality in the region. The Special Rapporteur had the opportunity to speak with the staff and women survivors of violence at a women’s shelter in San Salvador and to hear the testimonies of women and girls in Colony San Jacinto and the rehabilitation centre for women in Ilopango.

3. The Special Rapporteur expresses her deep appreciation to the Government of El Salvador for its full cooperation. She is also grateful to the United Nations country team and Regional Office for Central America of the Office of the United Nations High Commissioner for Human Rights for the support given prior to and throughout the visit. She looks forward to a fruitful and continued dialogue with the Government and other stakeholders on the implementation of the recommendations.

II. Main findings of the report of the previous mandate holder

4. During the visit by the previous mandate holder to El Salvador in 2004, partly motivated by allegations of an emerging pattern of murders and systematic impunity for perpetrators in the Central American region, she acknowledged the significant progress made in the field of gender equality and violence against women in the post-conflict era, particularly at the legislative and institutional levels.

5. In her report, the previous mandate holder highlighted the failure of authorities to exercise their due diligence obligation to investigate, prosecute and punish perpetrators of gender-based violence, thus contributing to an environment of impunity that resulted in little confidence in the justice system. She found that impunity for crimes, socio-economic disparities and the machista culture fostered a generalized state of violence, subjecting women to a continuum of multiple violent acts, including murder, rape, domestic violence, sexual harassment and commercial sexual exploitation. The main challenges identified to address violence against women effectively included the lack of effective implementation of legislation, obstacles such as gender discrimination in the justice system, inconsistencies
in the interpretation and implementation of legislation, and lack of access to sexual and reproductive rights.

6. In the light of these challenges, the Special Rapporteur called on the Government to take action in five areas: (a) to create a gender-sensitive information and knowledge base; (b) to ensure the protection of women through legislative, investigative and judicial reforms; (c) to strengthen institutional infrastructures; (d) to initiate training and awareness programmes; and (e) to enforce and monitor international labour standards, particularly in the informal sector.

III. National context and implications for the status of women

7. El Salvador has come a long way in institution-building and human rights protection since the end of the 12-year civil war and the signature of the peace accords in 1992. By acceding to numerous international human rights treaties, El Salvador has shown its commitment to placing the human rights of individuals at the centre of its policies, laws and institutions. The presidential elections held in March 2009 led to the establishment of a new Government in the country.

8. Despite the return to peace and the establishment of democratic institutions, high rates of poverty, inequality and unemployment, together with alarming levels of crime, impunity and declining trust in public institutions, are significant challenges to the country’s consolidation of democratic governance and human development.

9. El Salvador continues to face severe socio-economic inequalities: approximately 40 per cent of the population lives in poverty, and roughly 40 per cent of national income is earned by the wealthiest 10 per cent in the nation. Living conditions have progressively deteriorated in recent years as a result of an economic model that has fostered the privatization of essential public services and allocated limited resources to social development. While the official unemployment rate is 7.2 per cent, underemployment, particularly among women, is believed to be very high. Data from the Central Reserve Bank show that El Salvador leads the region in remittances per capita, with inflows equivalent to 16.4 per cent of GDP (figures for 2009). Today, 48 per cent of households receiving remittances are headed by women.

10. With a homicide rate of over 65 per 100,000 inhabitants1 – the highest rate in Central America – and alarming levels of other expressions of violence, including injuries, robberies, extortions, and domestic and gender-based violence, El Salvador is considered to be among the most violent countries in the world today. The proliferation of small and light weapons and the actions of violent gangs (maras) contribute to such levels of violence. Homicide rates for women have also increased alarmingly in recent years and are currently the highest in the region.

11. Deeply rooted patriarchal attitudes and the pervasiveness of a machista culture that reinforces stereotypes about the roles and responsibilities of women and men in the family, the workplace and society constitute serious obstacles to women’s rights, in particular their right to be free from all forms of violence. The disadvantaged situation of women is patent at all levels of society, from education and employment to political participation, contributing to the decline of their economic status and to greater vulnerability to violence and exploitation. Particularly worrying is the growing feminization of rural poverty as a

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result of a major crisis in the agricultural sector and the increase in poor rural households headed by women.

12. Women and girls disproportionately face significant levels of illiteracy, in particular in rural areas, with persistent high dropout and repetition rates at different levels of schooling. According to official figures for 2008, while the national illiteracy rate is 14.1 per cent, 16.4 per cent applies to females and 11.5% to males.\(^2\) In an alternative report submitted to the Committee on the Elimination of Discrimination against Women in September 2008, the Latin American and Caribbean Committee for the Defence of Women's Rights (CLADEM) indicated that women’s participation in the labour market is largely concentrated in low-skilled and low-paid industries, such as wholesale and retail trade, manufacturing (principally in maquila plants) and domestic service, and in public, social or health services. Unemployment also affects women disproportionately, including as a result of their predominance in the informal sector and confinement to the home doing household work and taking care of children. According to a study conducted by CLADEM in 2005, the contribution of unpaid domestic work to the country’s economy accounted for 32 per cent of GDP. Female representation in decision-making positions remains low: only 19 per cent of the total number of seats in the Legislative Assembly, 11 per cent of mayoral positions and 15 per cent of cabinet minister positions are currently held by women.

IV. Manifestations of violence against women

13. Despite notable achievements at the institutional and legislative levels in the post-conflict era, significant challenges persist in the area of violence against women and girls. Impunity for crimes, socio-economic disparities and the machista culture continue to foster a generalized state of violence, subjecting women to a continuum of multiple violent acts, including murder, rape, domestic violence, sexual harassment and commercial sexual exploitation.

14. In its first national report on the situation of violence against women, the National Institute for the Advancement of Women recognized that the State had disregarded and undermined the pervasiveness of the phenomenon, thus rendering the suffering of women and the impunity that surrounds that violence almost invisible. Along these lines, the Office of the Procurator for the Protection of Human Rights also points to the State’s failure to take positive and effective measures to prevent and punish violence and discrimination against women.\(^3\)

15. In 2008, the Committee on the Elimination of All Forms of Discrimination against Women expressed concern at the high incidence of violence against women prevailing in El Salvador, notably intra-family violence, sexual violence and abuse, rape and sexual harassment in schools and in the workplace. The Committee was particularly alarmed at cases of extreme violence manifested by the murder of women motivated by gender-specific causes.\(^4\)

16. In the sections below, the Special Rapporteur raises concerns about the weak enforcement of existing provisions criminalizing the main forms of violence against women, insufficient investigations into reported cases and the widespread impunity enjoyed by perpetrators.

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\(^2\) A/HRC/WG.6/7/SLV/1, para. 40.
\(^3\) A/HRC/WG.6/7/SLV/3, para. 15.
\(^4\) CEDAW/C/SLV/CO/7.
**A. Domestic violence**

17. High levels of domestic violence remain of utmost concern in El Salvador. Despite the prohibition of domestic violence through the adoption of legal and policy measures, including the Intra-Family Violence Law of 1996, which calls for sentences ranging from six months to one year, violence within the family remains largely concealed by prevailing social attitudes that condone it and by the reluctance of victims to report abuse.

18. According to the 2008 national survey on family health, 31 per cent of women interviewed declared having been subjected to physical violence before the age of 18. The same study revealed that 44 per cent of women who had been married or lived with a partner had suffered psychological violence, 24 per cent physical violence and 12 per cent sexual violence. The family relations improvement programme of the Institute for the Advancement of Women reported an increase in domestic violence cases against women and girls from 3,698 in 2004 to 6,073 in 2008.5

19. Children, and in particular girls, are particularly exposed to domestic violence. A survey carried out by UNICEF revealed that 7 out of 10 children reported having been abused in their homes. Data provided by the National Institute for the Comprehensive Development of Children and Adolescents indicate that 65 per cent of children receiving support at the Institute live in an atmosphere of domestic violence.6 Incest remains a serious concern. According to the Committee against Torture, over half the complaints involving rape or incest come from victims who were minors when the offence was committed.7

20. Research shows that domestic violence and sexual abuse of women and girls in the private sphere remain largely invisible and are consequently underreported. In addition, and in contrast with the increase in the number of cases registered by the Institute for the Advancement of Women, recent years have witnessed a steady decline in the number of judicial procedures for cases of intra-family violence initiated in family courts, falling from 4,890 in 2003 to 1,240 in 2007.8 According to the Office of the Attorney General, only 26.25 per cent of administrative complaints reach the judicial stage.

21. The reasons behind such underreporting are manifold: family and community pressure not to reveal domestic problems; economic dependency; fear of retaliatory violence by partners; poor awareness of rights among victims; lack of sufficient support services; and low confidence in the justice system, mainly as a result of discriminatory responses and inconsistency in the application and interpretation of the law.9

**B. Sexual violence and sexual harassment**

22. Figures on sexual violence, including statutory rape, remain a cause of great concern. Data provided by the Institute of Forensic Medicine shows an increase from 3,368 sexual violence cases in 2007 to 4,120 in 2008; of these, the number of statutory rape cases almost doubled, from 209 in 2007 to 378 in 2008. Research by the Institute for the Advancement of Women indicates that higher levels of sexual violence are found among girls and women aged between 10 and 29 years, and that family members and relatives or acquaintances, including school and university teachers, are the main perpetrators. The

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5 Paso a paso. Hacia la igualdad de género en El Salvador.
6 A/HRC/WG.6/7/SLV/3, para. 20.
7 CAT/C/SLV/CO/2.
8 Paso a paso. Hacia la igualdad de género en El Salvador.
9 “¿Por que las mujeres no denuncian la violencia de pareja en cuatro municipios: Zacatecolua, Santa Tecla, Berlin y San Salvador?”, Las Dignas, 2008.
Special Rapporteur also heard disturbing accounts of sexual violence perpetrated in public buses by armed men, particularly against schoolgirls.

23. Despite the lack of comprehensive statistics, sexual harassment at school and at the workplace, be it in private or public institutions, has become progressively acknowledged as a pervasive manifestation of violence. The Special Rapporteur welcomes in this regard the recent statement made on 25 November 2009 by President Funes during his speech marking the International Day for the Elimination of Violence against Women, in which he announced the dismissal of any public official found to be involved in incidents of sexual harassment. The Special Rapporteur reiterates that addressing impunity for acts of violence occurring in the private sphere is also part of the due diligence obligation of the State.

24. Factors contributing to high levels of underreporting include the lack of recognition of sexual abuse within the family and sexual harassment at work as wrongdoings; victims’ fear of being held responsible and subsequently outcast; ineffective responses by law enforcement officials leading to low numbers of prosecutions and convictions; and insufficient support services.

C. Violent murders of women (femicides)

25. Extremely violent murders of women and girls, highlighted as a major concern in the previous mandate holder’s report, have increased alarmingly over recent years, reaching a situation that many of the Special Rapporteur’s interlocutors described as reflecting a culture of hatred towards women and an indicator of the failure of the criminal justice system. All governmental bodies in charge of the analysis and investigation of such cases, as well as non-governmental organizations doing research on the subject, were unanimous about the disturbing proportions that this phenomenon has reached and the urgency of stepping up efforts to address it.

26. Particularly appalling is the level of brutality inflicted on the victims’ bodies, sometimes involving mutilation, torture and decapitation, and often accompanied by kidnapping and sexual violence. Over half of registered murders followed a similar pattern, in which victims aged between 10 and 29 years disappeared and were later found murdered, in parks or wasteland. The majority of these murders took place in San Salvador, La Libertad, Santa Ana and San Miguel. A civil society analysis of the femicides reported in four major national newspapers from January to June 2009 showed that, owing to the brutality of the murder, 45 of 164 victims could not be identified. The study also showed that perpetrators were only identified in 14 of the above murders, despite the presence of witnesses at the crime scene in at least 41 per cent of cases. The fact that only seven murders were clearly associated with gang members and that the majority of identified perpetrators were men known to the victims contradicts some official claims that gangs are the primary perpetrators of such crimes.

27. Discrepancies in official data concerning this phenomenon continue to raise a number of questions about the accuracy of the data collected by the different institutions involved. According to the National Civil Police, the number of violent crimes against women has nearly doubled in recent years, from 253 in 2008 to 465 in 2009. Reports provided by the Institute of Forensic Medicine indicate that the number of such crimes

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increased from 260 in 2004 to 579 in 2009, the highest number of femicides recorded in 11 years.\textsuperscript{11}

D. Attacks against lesbians, bisexuals and transgender persons

28. According to civil society organizations, El Salvador is also facing an escalating level of violence against the gay, lesbian, bisexual, transgender and intersex communities, with murders increasing from 4 in 2003 to at least 12 in 2009.\textsuperscript{12} High level of societal homophobia is particularly reflected in employment, in society generally, but also in the intolerance portrayed by the media.

29. In a meeting with the Special Rapporteur, interlocutors shared their accounts of widespread discrimination and violence, generally overlooked by the Government, including brutal gang rapes and family violence owing to their sexual orientation or gender identity (see case study below). Concern was particularly expressed at the attempt to introduce discriminatory amendments to the Constitution, including the definition of marriage as the union between a man and woman or the explicit prohibition of adoption by same-sex couples. Transgender persons also noted difficulties in legally changing their gender in official identity papers.

Case study

Paula’s story (assumed name) illustrates the level of violence endured by the lesbian, gay, transgender, bisexual and intersex communities in El Salvador. Paula was brutally attacked and shot by a group of men when she was leaving a nightclub in San Salvador. While in hospital, she faced harsh treatment and disdain from health-care personnel because she was transgender and HIV-positive. A few months after leaving hospital, she was detained and put in a male prison for two years for attempted homicide, although she claimed to have acted in self-defence; Paula was released after the man she had attacked admitted that this was the case. In prison, she was put in a cell with members of gangs (\textit{mara}) and was raped more than 100 times, sometimes with the complicity of prison officials. Upon her release from jail, she was again attacked by \textit{mara} members who found out that she was HIV-positive and that some of those that had raped her in jail had been infected.

E. Violence and harassment at the workplace

30. The disadvantaged situation of women in the labour market, as reflected in significant wage gaps, occupational segregation or difficulty in access to decision-making positions, result in different manifestations of gender-based discrimination, including unsuitable working conditions and exposure to violence and harassment. While this situation affects the private and public sectors, in this section the Special Rapporteur will focus on the situation of women and girls in the domestic and maquila sectors, including those working in their homes for maquilas without a contract. Tending to escape regulation, these sectors often entail poor and dangerous working conditions, low or non-existent job security and a high risk of exploitation.

\textsuperscript{11} \textit{Report on El Salvador presented at the first regional consultation of the mandate with civil society organizations from Central America, Mexico and the Caribbean, San Salvador, 16-17 March 2010.}\textsuperscript{11}

\textsuperscript{12} A/HRC/WG.6/7/SLV/3, para. 16.
1. Maquila plants in export processing zones

31. Appalling working conditions and absence of trade union rights in maquila plants located in the country’s export processing zones continue to be a subject of concern. According to official figures provided by the Salvadorian Institute for Social Security, the maquila sector employs about 66,000 people, 68 per cent of whom are women. A large majority of the women come from rural areas, are unmarried mothers or live in unstable relationships and have a low level of education, which limits their employment options.

32. The concerns expressed by the previous mandate holder in her report about the labour conditions and the violations of women’s rights in the maquilas remain relevant. Female maquila workers who shared their testimonies with the Special Rapporteur referred to recurrent violations of their rights, including verbal and physical abuse by supervisors, sexual harassment, being subjected to mandatory pregnancy tests and subsequent denial of employment or dismissal of pregnant women. Working conditions, characterized by the requirement to work beyond ordinary hours, without extra pay and threats of dismissal, and the unsanitary and harsh working environment, were compared by some interlocutors to forced labour13 and a modern form of “human slavery”. In a context conducive to the development of serious health problems, the lack of medical coverage, despite the payment of insurance contributions, is particularly worrying. Of serious concern also is the situation of many women working from home for maquilas, without any contract or social protection. Maquila workers and non-governmental organizations working for the protection of their rights unanimously emphasized the need for stricter and regular inspections by the Ministry of Labour, the only governmental authority authorized to conduct them and to enforce international standards. To date, not one case of withdrawal of free-zone privileges for companies responsible for human rights violations has been reported.

33. In 2008, the Committee on the Elimination of Discrimination against Women expressed concern at the critical situation of women’s labour rights in the maquilas, in particular the lack of access to social security, unsatisfactory working conditions and the exposure to violence and sexual harassment. The Committee urged the Government to effectively monitor women’s working conditions, punish violators of women’s rights in the maquilas and enhance women’s access to justice.14

2. Domestic work in private homes

34. The Labour Code excludes domestic workers from many basic labour rights, such as the right to the eight-hour workday or the 44-hour work week guaranteed by law, or the right to minimum wages that are statutorily determined, as applicable to other sectors of employment. This situation denies domestic workers equal protection before the law and has a disproportionate impact on women and girls, who account for more than 90 per cent of the country’s approximately 108,000 domestic workers. State officials unanimously acknowledged the seriousness of the situation and referred to the recent adoption of policy measures aimed at providing social security coverage to domestic workers. It was unclear whether this policy decision was of a limited nature and for a limited period only.

35. Many children, particularly girls, working as domestic workers in private homes live in very difficult and degrading conditions and are highly vulnerable to physical and/or sexual abuse. The International Programme on the Elimination of Child Labour of the

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14 CEDAW/C/SLV/CO/7.
International Labour Organization (ILO) concluded that approximately 21,500 youths between the ages of 14 and 19 work in domestic service; of these, some 20,800 (more than 95 per cent) are girls and women. The Programme also noted that a quarter of all domestic workers begin working between the ages of 9 and 11, and that more than 60 per cent are working by the age of 14. Even though the Programme concluded that such work outside the home was among the worst forms of child labour, the Government has not identified domestic labour as a priority area in the fight against child labour. In 2009, the ILO Committee of Experts on the Application of Conventions and Recommendations recommended that public authorities should take effective and time-bound measures to protect child domestic workers from the worst forms of child labour.\(^{15}\)

**F. Violence relating to trafficking and sexual commercial exploitation**

36. El Salvador is a source, transit and destination country for women and children trafficked for the purposes of commercial sexual exploitation and forced labour. Most victims are Salvadorian women and girls trafficked within the country, from rural to urban areas, for commercial sexual exploitation. The majority of foreign victims are women and children from Colombia, Guatemala, Honduras, Mexico and Nicaragua who travel to El Salvador in response to job offers, but are subsequently forced into sexual commercial exploitation or domestic servitude.\(^{16}\)

37. Civil society organizations working with victims of human trafficking highlighted the fact that the phenomenon continues to be largely underreported, mainly owing to insufficient measures to ensure victim and witness protection, ineffective responses by law enforcement officials and lack of support services.

38. In 2008, the Committee on the Elimination of Discrimination against Women expressed concern at the insufficient investigations conducted into cases of trafficking in women and girls, and at the subsequent low number of prosecutions and convictions. It called on State authorities to ensure that trafficked women and girls received adequate support to be in a position to testify without fear against their traffickers. It also encouraged the Government to develop awareness-raising programmes, to conduct research on the root causes of trafficking, and to provide comprehensive training to lawyers, criminal justice workers, health-care providers and law enforcement officials in all matters concerning sexual exploitation and trafficking.\(^{17}\)

**G. Women in detention**

39. Concern has been expressed in recent years at humiliating anal and vaginal body searches, often conducted by unqualified persons, including personnel without medical training, on both female inmates and women visiting places of detention.\(^{18}\) Female prisoners with whom the Special Rapporteur spoke in Ilopango rehabilitation centre showed no indication of such violence, and were mostly concerned with the overcrowding and unsanitary conditions in which they lived.

40. The Ilopango rehabilitation centre has a capacity to house 220 inmates and 25 to 30 children. While in 2004 the number of prisoners was 650, there are now 1,344 female

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\(^{15}\) ITUC, Internationally recognised core labour standards in El Salvador.

\(^{16}\) Trafficking in persons report, Department of State, United States of America, 2009.

\(^{17}\) CEDAW/C/SLV/CO/7.

\(^{18}\) CAT/C/SLV/CO/2.
prisoners, including 24 pregnant women, 25 boys and 25 girls (mostly babies less than one year of age). The overcrowding and unsanitary conditions are of general concern. Particularly worrying is the overcrowding of the mother-child section, where women in the advanced stages of their pregnancy sleep on the floor, and mothers sleep on very small mattresses with their newborn babies in an unsanitary environment. The conditions in the dormitories in the section hosting the convicted inmates is also of concern, with limited ventilation and only one toilet and one shower for approximately 30 inmates.

V. Achievements in the State response to violence against women

A. Developments in the legislative framework


42. Since 2004, a number of law reform proposals on violence against women, equal opportunities and the promotion and protection of the rights of children and adolescents have been introduced in order to strengthen domestic legislation and bring it into line with relevant international and regional human rights instruments.

43. Discussions are currently ongoing on the formulation of a comprehensive law on violence against women, including the codification of femicide as a crime. Such measures go beyond the prohibition of violence in the family as contemplated by the 1996 Intra-Family Violence Law. In a meeting with parliamentarians, mostly from the Commission on Family, Women and Childhood, the Special Rapporteur encouraged an in-depth and inclusive reflection on the draft law to ensure that it is comprehensive and multidisciplinary, criminalizes all forms of violence against women – including marital rape – and that such a law encompasses issues relating to prevention, protection, victim empowerment and support, as well as adequate punishment for perpetrators and the availability of effective remedies for survivors.

44. Civil society organizations expressed concern at the lack of inclusive consultations throughout the various stages of the drafting process. In their view, this had contributed to a draft law that lacks conceptual clarity, in particular with regard to such key distinctions as femicide versus feminicide. Moreover, it was argued that the current draft excludes the realities of violence of some women, such as women victims of human trafficking for the purpose of sexual exploitation, and is not sufficiently precise with regard to protection measures and related institutional responsibilities, as well as the co-responsibility of public
officials failing to act with due diligence. It was argued that, if these elements are not properly addressed, it could lead to further weaknesses in the investigation and prosecution of cases of violence, thus reinforcing the climate of impunity.

45. Another draft currently before the Legislative Assembly is for a law on equality, equity and the elimination of discrimination against women. The draft contains important provisions to ensure equal opportunities and non-discrimination in the areas of education, employment, health or public life, and makes specific reference to particularly vulnerable groups of women, including domestic workers, older women, women suffering from high social or economic vulnerability, such as indigenous women or women living in extreme poverty, women living in rural areas or women being forced into sexual commercial exploitation or being trafficked. The draft contemplates the creation of an independent institution on equality and non-discrimination with the task of ensuring the observance of the right to gender equality and non-discrimination in the light of international and national instruments, including through the examination of individual alleged violations of equality and non-discrimination rights.

46. Another recent noteworthy development was the enactment of the law on the comprehensive protection of children and adolescents on 27 March 2009. The law sets up a new system of protection and foresees the creation of specialized courts for children and adolescents. It also marks a groundbreaking development in the country’s legal framework by explicitly recognizing the State’s obligation to ensure access to sexual and reproductive health programmes and services to children and adolescents, as well as the inclusion of sexual and reproductive education in national school curricula. Importantly, it also establishes the State’s obligation to ensure that teenage mothers, pregnant girls and adolescents and girl victims of violence can continue attending school without discrimination. During the examination in 2010 of the El Salvador periodic report by the Committee on the Rights of the Child, the State delegation recognized the non-conformity of the law with the Convention on the Rights of the Child with regard to corporal punishment, which is not explicitly prohibited, and noted the importance of engaging in discussions in the context of possible future amendments.

47. Other recent significant legislative reforms include amendments to the Penal Code criminalizing trafficking in persons and sexual harassment in the workplace, and amendments to the Labour Code prohibiting medical examinations and pregnancy tests as a condition of employment and dismissal on the grounds of pregnancy. In the area of family violence, despite recent amendments to the Code of Criminal Procedure, article 32 of the Code still contemplates the possibility of conciliation in misdemeanour cases. This is problematic, since cases of domestic violence are often minimized to the level of a misdemeanour.

48. The lack of specific national legislation on trafficking, despite its classification as an offence by the Penal Code and the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, was regarded by some interlocutors as a matter deserving priority attention.

B. Developments in institutional and policy frameworks

49. Positive developments at the institutional and policy levels in the areas of gender equality and violence against women in the last five years included the adoption of the 2005-2009 national policy on women, which covered, in addition to violence against

19 CRC/C/SLV/CO/3-4.
women, a broad spectrum of areas, including education, health, employment and political participation. Also significant was the inter-institutional approach adopted by the Government in the elaboration and monitoring of policies and plans through the establishment of inter-ministerial committees, such as the National Committee against Human Trafficking, and the creation of gender units and offices within various entities. The latter included the gender unit of the Supreme Court of Justice, aimed at institutionalizing throughout the judiciary a gender-sensitive vision of justice, and the special unit of the Ministry of Labour, which addresses gender issues and the prevention of discriminatory labour practices.

50. The Institute for the Advancement of Women, established in 1995 as the national governmental mechanism to oversee the implementation of the national policy on women, has accomplished a number of achievements over the years, including the launch in 2009 of the first national report on the situation of violence against women; the provision of technical support for the drafting process of laws on violence against women and gender equality; several campaigns aimed at promoting equality and non-discrimination; the provision of gender-sensitive training to public officials; and the establishment of enhanced cooperation with civil society organizations and also the Office of the Procurator for the Protection of Human Rights. From 2004 to March 2009, the Institute’s family relations improvement programme provided 103,453 counselling sessions and 51,228 group therapy sessions, assistance by social workers to 64,563 people, temporary shelter to 879 victims, and phone assistance to 215,273 victims. Nonetheless, the Institute still faces the political, institutional and budgetary weaknesses mentioned in the report of the previous mandate holder, as illustrated by its inability to advocate for the ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the lack of funding to participate in key international forums, such as the meetings of the Commission on the Status of Women. The Special Rapporteur was also concerned about the lack of conceptual clarity in respect of the mandate of the Institute, particularly with regard to whether its role was one of oversight, policy development or implementation, or all three. The independent status and separation of powers from other ministries was also unclear to the Special Rapporteur.

51. The Institute for the Comprehensive Development of Children and Adolescents, the leading agency for the implementation of the national policy for the comprehensive development of children and adolescents, operates a national network of 12 shelters that provide secure housing, 24-hour medical attention, psychological counselling and vocational workshops to victims of abuse, including trafficking victims. In 2008, the Institute registered a monthly average of 315 cases of children and adolescents requiring protection from violence. Pending the entry into force of the law on the comprehensive protection of children and adolescents, which will transform the Institute into a research and statistical body, discussions are ongoing on how to ensure the proper transfer of approximately 15,000 protection files from the Institute to the three specialized courts for children that will be created under the law.

52. Important steps in the area of trafficking include the creation, in 2005, of the National Committee against Trafficking in Persons, the development of the national policy against trafficking in persons (2008-2017) and the establishment of a unit against trafficking within the National Civil Police and a unit against trafficking and smuggling of migrants within the Office of the Procurator-General. A number of challenges remain, however, including the drafting of legislation relating to trafficking in persons, the establishment of permanent mechanisms ensuring institutional coordination, the creation of

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20 A/HRC/WG.6/7/SLV/1.
shelters for adult victims of trafficking, and the establishment of a system to monitor and follow up on cases of trafficking.

53. In July 2009, the National Secretariat for the Family was replaced by the Secretariat for Social Inclusion. This new entity, chaired by the First Lady, is responsible for addressing the needs of specific population groups, including women, children, young people, the elderly, the disabled, and indigenous peoples. Discussions held during the mission indicate that gender mainstreaming in public policies, targeted at the family, form the cornerstone of the Secretariat’s work.

54. The National Civil Police has introduced a gender-sensitive approach in its work, including by means of the training of staff on gender equality and the advancement of women’s human rights. A major axis of its institutional strategic plan for the period 2009-2014 includes ensuring the protection and promotion of women’s human rights, including through the promotion of equal opportunities within the institution. In this respect, the Special Rapporteur commended the increase in the number of women in senior positions inside the police force, in particular within the General Inspectorate and its monitoring and human rights units.

55. The police academy has continued to develop a human rights programme that includes training on policing, gender equality and women’s human rights for public security officials of all grades. Commendable developments in the past year include the establishment of internal structures responsible for developing awareness-raising campaigns on gender equality and ensuring that a gender perspective is introduced into all activities of the academy. Another positive development was the effective implementation and monitoring of Circular No. 8/2009 by the Director-General of the police academy, which prohibits sexual harassment and other forms of gender-based violence and provides for clear policies to address such violations, sanctions for perpetrators and remedies for victims.

56. The Special Rapporteur also welcomed the work of Office of the Procurator for the Protection of Human Rights, an independent national human rights institution that includes the position of a Deputy for women’s rights. Despite limited material and human resources, the Office has been monitoring the human rights situation throughout the country, including with regard to women’s rights, and conducted comprehensive studies on the right to education in situations of adolescent pregnancy, the situation of women confined to penitentiaries with their children, and sexual violence against girls.

VI. Main remaining challenges

57. In her report, the previous mandate holder identified the effective implementation of the law and access to health and reproductive rights as the main challenges remaining to effectively address and combat violence against women. As the section below illustrates, these challenges remain and require urgent attention. In addition, the establishment of a comprehensive and coordinated system on data collection and further training initiatives are also necessary.

A. Effective implementation of the law

58. Commendable developments in legislation, policies and programmes over the past five years contrast with significant weaknesses in the investigation and prosecution of cases of violence against women and girls, as in inappropriate sentencing patterns. The failure of the authorities to prevent, investigate, prosecute and punish those responsible for gender-
based violence has contributed to an environment of impunity that has resulted in low levels of confidence in the justice system.

59. The pervasiveness of patriarchal attitudes in the law enforcement and justice system, coupled with a lack of resources and insufficient knowledge on existing applicable legislation, has led to inadequate responses to cases of violence against women and the persisting social acceptance of such acts. The testimonies of victims of domestic violence who attempted to find access to the legal system show that, unless violence results in serious physical injuries, the police, prosecutors and justices of the peace tend to minimize offences in the belief that domestic violence is a private matter. As such, they discourage victims from pursuing cases and promote conciliation, thus returning victims to situations of abuse.\(^{21}\) Cases of domestic violence are often treated as administrative rather than criminal offences, or are classified as misdemeanours.

60. Civil society organizations researching the phenomenon of femicide expressed concern at the lack of proper standards of investigations into reported cases. In their view, this is primarily due to the absence of institutional coordination among the Office of the Procurator-General, the National Civil Police and the Institute of Forensic Medicine, the absence of a reliable structure for the protection of victims and witnesses, and the reluctance of law enforcement and judicial structures to recognize the gender-based nature of such violence.\(^{22}\) The Office of the Procurator for Human Rights noted that the majority of the 2,660 cases of murder of women recorded from 2001 to May 2009 remain under investigation and unpunished.\(^{23}\) Relatives of victims of brutal murders referred to instances where their requests for investigation were treated with disregard and indifference by police and prosecution and judicial authorities.

61. Impunity for perpetrators of sexual violence crimes appears to be widespread, sometimes owing to fear of social stigma and revictimization by victims and witnesses, but also to weaknesses in investigation and prosecution processes. Data show that, of the 2,057 cases of sexual violence brought to court by the Office of the Procurator-General in 2008, 812 were provisionally dismissed, 385 were definitively dismissed and 700 went to trial. According to the most recent figures available, the trials have resulted in 200 convictions and 153 acquittals.\(^{24}\) Impunity resulting from the low number of prosecutions and convictions in sexual violence cases also contributes to an increase in the rate of incidents.

62. The still unresolved case of the rape and murder of 9-year old Katia Miranda in April 1999, characterized by disconcerting irregularities and omissions that resulted in the acquittal of the accused, was referred to by many as emblematic of the climate of widespread impunity for perpetrators, especially those with high political and social status. The Special Rapporteur reminded interlocutors that accountability and addressing impunity are also part of the due diligence obligations of the State, and reiterates the call of the previous mandate holder to review the case further.

63. Despite recent improvements at the institutional level, several interlocutors expressed their concern at the low number of prosecutions and convictions in trafficking cases. In 2008, the Government’s special anti-trafficking police and prosecutorial units brought charges in 15 cases of human trafficking, securing eight convictions with sentences

\(^{21}\) “¿Por que las mujeres no denuncian la violencia de pareja …”.


\(^{23}\) Ibid. See also A/HRC/WG.6/7/SLV/3.

\(^{24}\) Primer informe situacional sobre violencia sexual en niñas y adolescentes, Procuraduría para la Defensa de los Derechos Humanos, 2009.
ranging from four to ten years of imprisonment. These figures compare with 46 prosecutions and 5 convictions secured in 2007.25

64. The main causes for low levels of reporting include weaknesses in the criminal justice system, also in measures for victim and witness protection, and the lack of adequate training of law enforcement officials to register and investigate complaints and support prosecutions (for example, see the case study below).

Case study

Maria’s case (assumed name) is illustrative of the revictimization faced by victims of domestic violence within the law enforcement system. After years of physical and psychological violence inflicted by her husband, Maria reported the situation to a justice of the peace and obtained a protection order for her and her three children. Following the procedure, she was referred to the psychosocial attention centre of the Supreme Court of Justice, where she was accused of provoking the violence and persuaded to stay in the marriage because of the “obedience she owed to her husband”. Maria’s daughter, aged 9, went through significant emotional distress as she was questioned about her mother’s alleged “boyfriends and lovers”. For months, Maria’s husband continued to harass her and her children physically and verbally, systematically violating protection measures, without any intervention by the police or the Office of the Procurator General despite her numerous complaints. With the support of women’s rights organizations, Maria filed for divorce, which she obtained after months of bureaucratic procedures and psychological tests. While she obtained the custody of her three children and a monthly amount of $200 for child alimony, Maria received no compensation of any kind for the violence endured throughout her marriage. Her precarious earnings have forced her to sell her belongings to pay the school fees of her two youngest children and move to a smaller apartment. Her oldest son lives with his father and is reportedly replicating his violent behaviour towards women.

B. Access to sexual and reproductive rights

65. With regard to access to health care for women, the area of reproductive rights remains one of particular concern. While induced abortion has always been an unlawful act in El Salvador, therapeutic abortion, abortion following rape and abortion on eugenic grounds have been illegal since 1999, when the Constitution was amended to recognize the human person from the moment of conception. The interpretative conflict between the constitutional provisions and those of the Penal Code protecting the right to life of embryonic human beings has led to the criminalization of abortion. This has a direct impact on the current high rates of maternal mortality and adolescent pregnancies, and thus denies women and girls the right to control over their bodies and lives.

66. The absolute prohibition of abortion means that women and girls are condemned to continue pregnancies and to face revictimization by family and society. It has also led women and girls impregnated as a result of rape or incest to resort to unsafe and clandestine abortion practices, sometimes with fatal consequences. According to the Ministry of Health, maternal mortality rates among adolescents was 15.3 per cent in 2003, 26 per cent in 2004 and 21.4 per cent in 2005, becoming the second of the 10 main causes of female mortality in El Salvador. According to a report of the Procurator for the Protection of

25 Trafficking in persons report, Department of State, 2009.
67. The high rate of teenage pregnancies reveals the ineffectiveness of the preventive and awareness-raising measures taken by State institutions. According to the 2007 population and household survey, at least 48,000 girls between the ages of 12 and 19 years have at least one baby. While the highest percentage of teenage pregnancies is among girls from 15 to 19 years old, it is reported that 2,731 girls between the ages of 12 and 14 years have already had their first baby. The overwhelming majority of girls in the latter category has dropped out of school and is not benefiting from any formal or informal educational programme or training that could facilitate their return to school in the future. A national poll conducted in 2008 indicated that such high levels of teenage pregnancy could be significantly reduced if sex education and family planning were generally and openly addressed in school curricula. This also applies to the prevention of the reported feminization of HIV/AIDS and other sexually transmitted diseases in the country.

68. The Special Rapporteur was informed of several cases in which women who had suffered a miscarriage or had a complicated delivery with no medical assistance and where death occurred were automatically accused of aggravated homicide, penalized and punished by the Penal Code by from 30 to 50 years of imprisonment (see case studies below).

Case study

The weaknesses in prosecution and the passing of inappropriate sentences in alleged cases of illegal abortion are illustrated by the case of Isabel Cristina Quintanilla, who was sentenced to 30 years of imprisonment despite the fact that the evidentiary burden was not satisfied. In August 2005, Ms. Quintanilla was sentenced for aggravated homicide of her newborn child. On 12 June 2009, after years of laudable efforts by women’s rights organizations, the Supreme Court of Justice revised the sentence, reducing it from 30 to three years. The Court held that the sentence imposed on the defendant was excessive, severe and particularly disproportionate, and considered that there were sufficient reasons, based on moral, justice and equity standards, that justified such a revision. This included the fact that the justice of the peace dealing with the case had in the first hearing dismissed it on the grounds that the evidentiary burden was not sufficient to attribute the newborn’s death to the mother.

Case study

Yolanda (assumed name) is a 20 year-old girl from a very poor background serving a sentence of 30 years of imprisonment for the aggravated homicide of her newborn baby. According to her testimony, her baby was stillborn, strangled by the umbilical cord. Because of severe health complications following the delivery, she was brought to the hospital by the woman for whom she worked as a domestic worker, and subsequently taken to prison. Her right to due process was violated when she was advised by a public lawyer not to attend the hearing of her case. She later learned about the uncorroborated testimony of her employer, who accused her of perpetrating the crime. Yolanda had been advised to hire a private lawyer if she wanted to seek a revision of her sentence. Her inability to pay

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26 Primer Informe situacional sobre embarazo en adolescentes y su impacto en el derecho a la educación, Procuraduría para los Derechos Humanos, 2009.
27 Ibid. See also Normas técnicas para la atención educativa de las adolescentes embarazadas, Ministry of Health, 2008.
28 CEDAW/C/SLV/CO/7.
for a private lawyer, lack of participation in the trial and acceptance of unchallenged testimony, among other factors, all reflect a violation of her right to due process.

C. Statistics and data collection

69. In the absence of an institution responsible for integrating and systematizing all statistical information on gender-based violence, several institutions, including the Institute of Forensic Medicine, the Institute for the Advancement of Women and Office of the Procurator-General, gather their own statistics using different methodologies and categorizations of forms of gender-based violence. The existence of multiple, divergent statistics often leads to data fragmentation and duplication and therefore to misleading information.

70. Failure to produce complete and comprehensive national statistics on violence against women and more generally on gender-based discrimination, a concern highlighted in the report of the previous mandate holder, continues to be a serious obstacle to efforts to ascertain the extent of the problem and to monitor the progress and challenges of measures taken. The Special Rapporteur takes note of the Government’s acknowledgement of the problem and its commitment to work to create a comprehensive and unified statistical system.29

71. Divergent information received from different institutions within the criminal justice system on manifestations of violence against women, particularly on violent murders, not only raises concerns about the accuracy of the information collected but also points to the lack of effective coordination between these institutions to investigate, prosecute and convict. Several interlocutors highlighted the fact that the absence of “femicide” as a category of crime in statistics and in police reporting methodologies contributed to making the phenomenon invisible and therefore to perceptions of impunity for crimes of femicide.

72. Despite the fact that the Office of the Procurator-General and the Ministry of Health and Social Assistance are responsible for monitoring the implementation of the Intra-Family Law, the statistics they collect do not contain specific information on violence against women and not all of their data is disaggregated by sex. Another weakness relates to the lack of registration of pregnancies among girls as cases of violence, thus rendering any investigation into cases of statutory rape non-existent. Reportedly, despite the rise in the number of hate-motivated crimes against lesbian, gay, bisexual and transgender persons, no institution compiles statistics on such victims of discrimination and violence.

73. The lack of sufficient human and material resources for data collection is also a concern; for instance, the Office of the Procurator-General has only one unit dealing with the registration of cases of intra-family violence based in San Salvador. This not only limits dramatically the capacity to gather information in a timely and diligently manner, but also seriously hinders access to justice and information for victims from rural areas.

74. While calling on El Salvador to put in place a comprehensive system of data collection to assess trends in the situation of women, the Committee on the Elimination of Discrimination against Women recently invited the State party to pay special attention to the collection of data relating to the most vulnerable groups of women, including rural and indigenous women, migrant women, domestic workers and women working in the maquila industry.30

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29 A/HRC/14/5.
30 CEDAW/C/SV/CO/7.
VII. Conclusions and recommendations

75. Despite the establishment of democratic institutions since the end of the civil war in 1992, high rates of poverty, inequality and unemployment, together with alarming levels of crime, impunity and declining trust in public institutions, represent significant challenges for the consolidation of democratic governance and human development in El Salvador today.

76. In the area of gender equality and violence against women, in spite of legal, institutional and policy developments that reflect the Government's intention to fulfil its due diligence obligations, challenges remain. Impunity for crimes, socio-economic disparities and the machista culture continue to foster a generalized state of violence, subjecting women to a continuum of multiple violent acts. Other major persisting challenges relate to sexual and reproductive rights, in particular the impact and consequences of the total ban on abortions and the lack of a comprehensive system of data collection to guide policy and monitor progress in the field of violence against women.

77. In the light of the information received, the Special Rapporteur considers the recommendations in the report of the previous mandate holder still applicable and relevant, and reiterates the need for the Government to:

(a) Establish a comprehensive, gender-sensitive information and knowledge base, including through the creation of a statistical commission, in order to:

(i) Improve data collection and analysis of incidents of violence and discrimination against women in all sectors concerned, particularly those relating to labour, health, education and the criminal justice system, while ensuring safety and privacy rights throughout the process;

(ii) Ensure common, reliable and transparent recording methods on all forms of violence against women, its causes and consequences. Such data should be disaggregated by sex, age, race, ethnic origin and other socio-economic variables that increase women’s and girls’ vulnerability to violence. This is particularly relevant for indigenous women and women living in rural areas;

(iii) Develop indicators on the State response to violence against women, illustrating the realization of rights through prevention and protection measures, as well as remedies. Their accuracy will largely depend on ensuring that all reported and identified cases are recorded and can be traced through an effective tracking system;

(iv) Institutionalize means and methods to share information on patterns, trends and State response to cases of violence with a diversity of actors, including Government bodies, academia and international and non-governmental organizations;

(b) Ensure the protection of women and girls through legislative, investigative and judicial reforms, including by:

(i) Devising a comprehensive, coordinated and properly resourced State policy that removes all remaining obstacles to the effective implementation of existing laws, including the categorization of violence against women as a criminal offence. Effective investigation and monitoring mechanisms for all instances of alleged violence should include measures to institutionalize cooperation and information-sharing among investigative institutions,
particularly the Office of the Procurator-General and the National Civil Police. The design and implementation of protocols to facilitate and promote effective, uniform and transparent investigations is crucial;

(ii) Recognizing femicide as a separate category of crime. The Committee of Experts of the Mechanism for Follow-up on the Implementation of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women stated in its declaration on femicide of 15 August 2008 that States must guarantee increased and enhanced access to justice for women by improving the system for criminal investigation and the protection of women affected by violence, by including forensic expertise, enhancing court proceedings to eliminate impunity for perpetrators and adequately punishing public officials who do not exercise due diligence in those proceedings;

(iii) Taking specific measures to ensure the protection of women who are victims of discrimination and violence on account of their sexual orientation or gender identity;

(iv) Ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights and the Rome Statute of the International Criminal Court;

(v) Bringing national legislation into line with the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, as well as with other international human rights instruments addressing violence and discrimination against women. This includes further amendments to the Code of Criminal Procedure to ensure that conciliation is prohibited in all cases of intra-family violence, and the explicit prohibition of corporal punishment against children. Furthermore, it is essential that a national dialogue on the current legislation on abortion be launched, in order to consider exceptions to its general prohibition, particularly in cases of therapeutic abortion and pregnancies resulting from rape or incest;

(vi) Ensuring, in consultation with civil society organizations, the elaboration of a comprehensive law on violence against women that criminalizes all forms of violence and encompasses issues relating to prevention, protection, victim empowerment and support, including the availability of remedies for survivors and adequate punishment for perpetrators. It is essential that the justice system be allocated adequate budgetary and human resources to ensure effective implementation and monitoring mechanisms;

(vii) Adopting laws to provide protection to victims of trafficking in accordance with international human rights standards and the effective prosecution of users and abusers of trafficked persons;

(c) Strengthen institutional infrastructure, including through the allocation of appropriate resources to enable sustainability and effectiveness, by:

(i) Establishing a specialized investigations and prosecutions unit on femicides to combat the pattern of impunity in gender-based violent murders and conduct effective criminal investigations;

(ii) Ensuring adequate funding to improve existing infrastructure to support victims of gender-based violence and to create new centres that provide psychosocial, legal and residential services throughout the country, paying
special attention to the increased vulnerability of indigenous women and women living in rural areas;

(iii) Building the capacity of institutions such as the National Institute for the Advancement of Women, the National Civil Police, the Office of the Procurator-General, the Supreme Court of Justice and the Institute of Forensic Medicine by increasing their human and material resources;

(iv) Supporting the Office of the Procurator for Human Rights, including through institutional recognition of its authority and providing sufficient resources to ensure the effectiveness of its operations and independence;

(v) Strengthening the institutions responsible for addressing the advancement of women and gender equality, in line with the Beijing Declaration and Programme of Action, by providing them with clearly defined mandates, power and authority, visibility and human and financial resources, thereby improving their capacity to coordinate and monitor actions at the local and national levels;

(d) Initiate further training and awareness-raising programmes, including by:

(i) Supporting further gender-sensitive training with a focus on women’s human rights for public officials involved in prosecuting cases of violence and discrimination against women, in order to conduct proper and efficient investigations and prosecutions while respecting the integrity and dignity of victims and their families throughout the process;

(ii) Institutionalizing gender-sensitive training with a focus on women’s human rights for civil servants in other sectors addressing violence and discrimination against women, including in the areas of health, education and labour, to ensure that they can respond effectively to all forms of violence against women;

(iii) Ensuring that all job generation and poverty alleviation strategies and programmes are gender-sensitive, and that women, particularly indigenous women and those from rural areas, have full access to adult literacy and vocational training programmes;

(iv) Conducting awareness-raising campaigns, with the support of sensitized media, aimed at eliminating stereotypical attitudes and cultural norms about the roles and responsibilities of women and men in the family, society and the workplace;

(v) Integrating a gender equality perspective into school textbooks and curricula, including on sexual and reproductive rights, and providing gender training for teachers with a view to changing patriarchal attitudes and gender stereotypes;

(e) Monitor the implementation of and enforce international and regional human rights standards generally, with a special focus on the labour sector, by:

(i) Exercising due diligence to combat violence, harassment and violations of labour standards in the workplace, including through the adoption of legislative, administrative and other measures to guarantee access to social security and other labour benefits, monitor labour standards, particularly in maquilas and private homes, investigate complaints and bring perpetrators to justice.;
(ii) Including domestic work in the ILO definition of the “worst forms of child labour” and take measures to eliminate it.
COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 6 of the provisional agenda

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Report by Mr. Doudou Diène, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Addendum* **

MISSION TO GUATEMALA

* The summary of this report is being circulated in all official languages. The report itself, which is annexed to this document, is being reproduced in the language of submission (French) and translated into English and Spanish.

** The reason for the late submission of this report is to reflect the latest information.
Summary

From 26 June to 2 July 2004, the Special Rapporteur visited Guatemala as part of a mission to the Central American region that also took him to Honduras and Nicaragua (see E/CN.4/2005/18/Add.5 and Add.6). He visited the country at the invitation of the Government of Guatemala and in pursuance of his mandate. The regional mission was prompted by the need for the Special Rapporteur to help to shed light on two particularly significant factors in the problem of racism: (1) the depth of the historical legacy of racism and racial discrimination, the ideological underpinning of the slave-holding and colonial systems, which has had a deep influence on the structure of societies in the region; and (2) the impact of the political violence that has marked the recent history of Central America on communities of indigenous people and people of African descent, which have historically experienced discrimination. The three countries have similar ethnic and demographic features and common historical and political legacies and, as countries in transition towards peace-building, social cohesion and the consolidation of democracy, are of particular interest with respect to the structuring and management of ethnic, racial and cultural pluralism.

The Special Rapporteur observed three trends in all three countries that reveal the existence of deeply rooted discrimination: (1) a troubling correlation between poverty-stricken areas and areas inhabited by communities of indigenous people and people of African descent; (2) the marginal involvement of representatives of those communities in power structures - the government, parliament and the judiciary - as well as their insignificant presence in decision-making positions in the media; and (3) their treatment in the media as objects of folklore. He also found, to varying degrees in the three countries, a lack of awareness of how extensive and deeply rooted discrimination is, among both the political authorities and the population as a whole.

The Special Rapporteur notes, by contrast, statements by civil society actors he spoke with, as well as testimony from members and representatives of all the peoples and communities concerned, that the societies in Guatemala, Honduras and Nicaragua remain deeply imbued with racial prejudice and discriminatory practices against such peoples and communities. Their situation is a legacy of the colonial conquest and the slave-holding system, which, by subjugating these peoples and communities and belittling their identities and cultures on the basis of an openly racist ideology, have effectively marginalized them in a lasting way at the political, social, economic and cultural levels. Despite principled claims of being multicultural, the Hispanic legacy and identity of these countries are highlighted to the detriment of the legacies of indigenous peoples or people of African and indigenous descent, which are reduced to folklore. The rejection of the reality of ethnic pluralism, in political, cultural and social terms, is particularly evident in everyday life through discriminatory acts such as frequent denial of access to public places. Denying people the opportunity to express their identities is one of the most telling forms of discrimination. The inadequacy of public services (education, health and justice in particular) in areas inhabited by these communities and the absence of genuine bilingualism are objective demonstrations of the lack of social and cultural integration of these peoples and communities. Thus, indicators of health, education and housing for these peoples and communities remain lower than for the rest of the population.
In Guatemala, the Special Rapporteur found that the process of strengthening democracy and peace-building begun nearly 10 years ago following the signing of the peace agreements has progressed considerably, particularly with regard to legislation and the institutional protection of human rights. The Criminal Code has been amended to include provisions banning racial discrimination, and the country has established two important commissions, the Presidential Human Rights Commission and the Presidential Commission on Discrimination and Racism against Indigenous Peoples. A human rights procurator and an institution designed to support, defend and promote the human rights of indigenous women (the Office for the Defence of Indigenous Women) complete the institutional framework. The judicial system has also undertaken reforms to free itself from the sway of the other branches of power, draw closer to the people and break the cycle of impunity that has long characterized certain actions by the State, as well as by individuals.

The Government has committed itself to the implementation of the peace agreements, where the resolution of the question of ethnicity remains an essential dimension. The Vice-President of the Republic, with whom the Special Rapporteur met, said that he was aware of the persistence of racial discrimination in Guatemalan society, a phenomenon reduced by most political authorities with whom the Special Rapporteur met to economic and social discrimination alone. The Government has expressed its willingness to conduct political, economic and social reforms to enable indigenous peoples to participate at all levels. Special efforts are reportedly being contemplated to encourage public officials to be more sensitive to the cultural diversity of the country and adopt a multicultural perspective and non-discriminatory attitudes in their relations with citizens. Unlike the previous Government, the current administration has stated its readiness to implement the provisions of the peace agreements relating to indigenous peoples, including with respect to bilingual education, the provision of health services and access to justice in the languages of the peoples concerned. Efforts will also be made to give greater consideration to customary law in the settlement of disputes involving members of indigenous peoples.

The Special Rapporteur recommended in particular that the Government of Guatemala should acknowledge at the highest level the persistence of racism and discrimination against peoples and communities of indigenous people and people of African descent and evaluate their forms, manifestations and impact at the economic, social and cultural levels. He also recommended that a national plan to combat racism and racial discrimination should be developed in a democratic manner on the basis of the Durban Declaration and Programme of Action. The campaign against racial discrimination should be combined with the building of an authentically multicultural society promoting both the expression of specific cultures and identities and interaction between the members of the various peoples and communities and knowledge of and respect for one another. He further recommended that all organizations of the United Nations system present in Guatemala should grant an important place in their mandates to the struggle against racism, discrimination and xenophobia by promoting policies and programmes to that end.
Annex

REPORT OF THE SPECIAL RAPPORTEUR ON CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE, MR. DOUDOU DIÈNE, ON HIS MISSION TO GUATEMALA (26 JUNE TO 2 JULY 2004)

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Introduction

1. During his visit to Guatemala, from 28 June to 2 July 2004, the Special Rapporteur met with several of the country’s officials, including the Vice-President, Mr. Eduardo Stein, and the Deputy Minister for Foreign Affairs, Ms. Marta Altolaguirre Larraondo. He also met with representatives of the Presidential Commission for Coordinating Executive Policy in the field of Human Rights (the Presidential Human Rights Commission in short, or COPREDEH), the Presidential Commission on Discrimination and Racism against Indigenous Peoples (CODISRA), the Office of the Human Rights Procurator and the Office for the Defence of Indigenous Women, as well as with Ms. Rigoberta Menchú Tum, a winner of the Nobel Peace Prize and goodwill ambassador for the peace agreements. In his desire to learn more about Guatemalan society in all its complexity and diversity, the Special Rapporteur also met with representatives of the Mayan, Xinca and Garifuna peoples and with representatives of civil society, religious communities, intellectual circles and the media. His consultations took place in the capital, Guatemala City, and elsewhere in the country, including in the city of Quezaltenango in the north-west, the administrative centre of the department of the same name, where a majority of the people are indigenous, and in the town of Livingston in the south, on the Caribbean coast in the department of Izabal, where the Garifuna and Maya-Quiché peoples live side by side.

2. The visit to Guatemala took place against a backdrop of the consolidation of the peace process. Government action, supported by the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA), seems to have laid the institutional and legislative groundwork for a solution to the economic, social, political, cultural, ethnic and racial conflicts in the country. The departure of MINUGUA in December 2004 was a staging post along the way to completing the complex and long-term work of gradually implementing the institutional, political, economic and social changes needed for peace to take root. The efforts of the field office of the Office of the United Nations High Commissioner for Human Rights in Guatemala to encourage the emergence of a human rights culture, combined with the activities of various specialized agencies of the United Nations in the field of peace and social and human development, especially those of the United Nations Development Programme (UNDP), link up with the groundwork that has been laid and that is being built on with a view to giving effect, through an updated system of governance and pluralist democracy, to the commitments entered into by the various protagonists and enshrined in the peace agreements. The Special Rapporteur believes that the fragility of the peace-building process, the continued violations of human rights and the marginalization of groups that suffer from discrimination as a result of weak legal protection would justify the rapid return to Guatemala of the field office of the Office of the United Nations High Commissioner for Human Rights.

3. Most of the people from both the Government and civil society with whom the Special Rapporteur met welcomed his visit and thought that it was taking place at a particularly crucial time, when the parts of the peace agreements relating to human rights in general and the identity and human rights of indigenous peoples and people of African descent in particular were in need of a boost. The Special Rapporteur would like his visit to be seen as a critical, forward-looking contribution to the implementation of the agreements, particularly with regard to racism and discrimination.
4. The Special Rapporteur would like to thank the Government of Guatemala for its cooperation and for the willingness of its representatives to make themselves available. He is also grateful to the representatives of the Presidential Human Rights Commission and the Presidential Commission on Discrimination and Racism against Indigenous Peoples for the very useful information they gave him. He would like to express his gratitude to Ms. Birgit Gerstenberg, the head of the field office of the Office of the United Nations High Commissioner for Human Rights in Guatemala, and to her team for their excellent work in organizing and coordinating his visit; to Mr. Juan Pablo Corlazzoli, the United Nations resident coordinator in Guatemala, for logistical support and his substantial contribution to the success of the mission, and particularly for organizing a meeting with the United Nations country team in Guatemala; and to Mr. Tom Koenig, the representative of the Secretary-General and head of MINUGUA, for the information he supplied and for the logistical support of MINUGUA. Lastly, he would like to thank the regional officials he met in Quezaltenango and Livingston, as well as the representatives of civil society he talked to, including the representatives of the indigenous and Garifuna communities.

I. GENERAL OVERVIEW

A. Ethnic and demographic situation

5. Guatemala covers an area of 180,889 km². A country of social contrasts and cultural diversity, it has a population of 11,237,196 inhabitants,² of whom 50 per cent are female. Four groups give the country its ethnic and racial diversity: the Maya, Ladinos, Garifuna/Garinagu³ and Xinca. The Maya and Ladinos form the largest groups. Some 41 per cent of the population identifies itself as indigenous, and 59 per cent as non-indigenous: 39.3 per cent is of Mayan origin (4,411,964) and 0.2 per cent of Xinca or Garifuna origin (16,214 and 5,040 respectively).

B. Political and social context

6. It should be pointed out that it is little more than eight years since peace was established in Guatemala, following the signature on 29 December 1996 of the peace agreements between the Government and the insurgents - the Unidad Revolucionaria Nacional Guatemalteca (URNG) - which put an end to the conflict that had been affecting the country since 1960. Guatemala is thus engaged in a process of profound political change aimed at ensuring the effective participation of all parts of the nation and thus giving the provisions of the peace agreements a chance to become firmly established. The consolidation of democracy and reconciliation in preparation for the establishment of the rule of law remains one of the challenges in this process. The years of conflict have left Guatemalan society with a legacy of resentment and a culture of violence that give rise to injustice and to authoritarian, antisocial and predatory behaviour. Observers agree that the human rights situation has worsened, particularly because of the activities of the illegal and violent groups that continue to kidnap and murder people. As highlighted in several reports by MINUGUA, the denial of the right to justice is one of the most common human rights violations.⁴ Moreover, the new national civil police force sometimes acts outside the law in an excessively violent manner.
7. However, some steps have been taken to remedy the situation. In July 2002, the 20 largest Guatemalan political parties adopted, at the initiative of UNDP, a multiparty national agenda that aims to bring about political change and the implementation of the peace agreements through ongoing dialogue. Many social forces are now committed to building a society based on the values of reciprocity, respect for others, mutual responsibility and fairness.

II. POLITICAL AND LEGAL STRATEGY AND INSTITUTIONAL FRAMEWORK

A. The emergence of multiculturalism

8. The 1985 Constitution recognizes Guatemala’s ethnic diversity (art. 66), though without actually affirming its multi-ethnic nature, as is done in the 1995 Agreement on Identity and Rights of Indigenous Peoples, which stipulates that “the Guatemalan nation is multi-ethnic, multicultural and multilingual in nature”. Although the draft reform of the Constitution proposed by Congress in 1999 that would have included this and other provisions was not approved by the people, successive governments since the adoption of the peace agreements have recognized that the country’s ethnic diversity is a fundamental characteristic of the Guatemalan State and have endeavoured to promote multiculturalism. In his inauguration speech, on 14 January 2004, President Oscar Berger recalled that Guatemala is a country made up of various peoples and cultures that form the foundation and core of its identity. He recognized indigenous peoples as a fundamental part of the Guatemalan identity and said that it would be by recognizing its roots, overcoming its divisions and accepting its diversity that Guatemala would be able to consolidate national unity. The Vice-President, Mr. Eduardo Stein, with whom the Special Rapporteur met, reaffirmed the Government’s multi-ethnic, multicultural and multilingual vision of Guatemala, while acknowledging the persistence of racial discrimination. The Special Rapporteur was particularly impressed by the Vice-President’s intellectual grasp of the issues and by his availability and commitment.

9. In practical terms, the Government’s acceptance of multiculturalism is reflected in its efforts to develop multilingual educational curricula, with the support of the United Nations Educational, Scientific and Cultural Organization (UNESCO). Under the auspices of the Department of Bilingual Intercultural Education, which was established in 1995, the educational reform project instigated by the Ministry of Education in 2002 is intended to integrate Mayan values, experience and knowledge into educational courses. The development of multicultural and intercultural curricula is the outcome of efforts to adapt the education system to national and local realities, and should help all Guatemalans to identify with the ethnic, linguistic and cultural richness of their country. The reform affects both the methods chosen for the transmission of knowledge and teaching materials and resources.

10. A number of teachers from primary and secondary schools are being trained in multicultural education, and curricula are being revised with the help of education councils consisting of teachers and representatives of civil society and the communities concerned. The reforms should eventually replace the monolingual and monocultural education system with one that produces culturally aware pupils with linguistic skills in both Spanish and indigenous
languages. The Educational Campaign against Discrimination Act, which was adopted by Congress in 2002 (Decree No. 81-2002), requires the Ministry of Education to set up programmes to eliminate ethnic and racial discrimination. The aim of the National Languages Act adopted by Congress in 2003 (Decree No. 19-2003) is to grant official status to the Mayan, Garifuna and Xinca languages and to promote respect for them and their development.

11. Under the Agreement on Identity and Rights of Indigenous Peoples, which states that all the languages spoken in Guatemala must be treated with respect and requires the State to take steps to protect those languages and promote their development and use, a commission was set up in 1997 to grant official status to indigenous languages. It identified four regional languages spoken by over 300,000 people, 16 community-based languages spoken by less than 300,000 people and two special languages. After this, the Academy of Mayan Languages was set up to guarantee the development and use of most of these languages. The law establishing the Academy was adopted by Congress on 18 October 1990 (Decree No. 65-90).

12. It is important to highlight, in addition to the Government’s efforts to strengthen social cohesion, the national campaign for an inter-ethnic dialogue under the slogan “Our diversity is our strength”, which was launched on 29 June 2004 at the initiative of the Mesoamerican Regional Research Centre (CIRMA) to encourage intercultural interaction between the different ethnic groups in Guatemala. The campaign will run from 2004 to 2006, and includes cultural events in the country’s biggest cities, interactive exhibitions, university debates and lectures. During his visit to Quezaltenango, the Special Rapporteur attended the launch of the campaign, giving a talk on intercultural dialogue as a tool for building multiculturalism. His intention was to demonstrate, by clarifying the concepts of “diversity” and “dialogue and peace”, the need to combine the campaign against racial discrimination with the promotion of an egalitarian, interactive and democratic form of multiculturalism based on the recognition and promotion of, and respect for, the characteristics of cultural and religious identities and the promotion of interaction and the construction of a pluralist national identity.

13. Moreover, the Special Rapporteur was told about the Government’s commitment to an administrative reform process that will enable the authorities to provide multilingual services for citizens. Efforts are being made to change the attitude of civil servants towards indigenous groups. Furthermore, competent individuals will continue to be recruited from these groups in order to ensure that indigenous people are represented within the civil service.

14. The Special Rapporteur was kept fully informed about progress in the reform of the judicial system. Since 1998, a course on interculturalism has been introduced in the curriculum for training justices of the peace. To ensure that the justice system reaches every region in the different languages used in the country, 607 bilingual employees who speak the languages of the Maya and Garifuna were trained between 2002 and 2003 and assigned to 21 departments. They consist of 98 judges, 369 legal officials, 43 bilingual interpreters and 97 administrative employees. A judicial commission on indigenous matters and a subcommission set up to monitor and support the strengthening of the justice system have undertaken a study on the issue of multiculturalism in the justice system. Several workshops have been organized to raise awareness of multiculturalism among officials in the justice system and representatives of
indigenous communities and the Office for the Defence of Indigenous Women. A study has also been carried out on the community courts responsible for applying customary indigenous law. Under the auspices of the Supreme Court and in cooperation with the Academy of Mayan Languages, the Public Prosecutor’s Office and UNDP are preparing a glossary of Mayan legal terms.

B. Legal and institutional framework for efforts to combat racism and racial discrimination and to protect human rights

15. The Constitution affirms and recognizes the primacy of the human person as the subject and object of State action, and the Comprehensive Agreement on Human Rights of 29 March 1994 called on the Government to undertake a number of legislative and institutional reforms to protect human rights in general and combat racial discrimination in particular. Paragraph 2 of the Agreement stipulates that “the Government of the Republic of Guatemala shall continue to encourage all those measures designed to promote and perfect norms and mechanisms for the protection of human rights”.

16. Of the laws that have been passed, the following are worth mentioning: the Civil Service Act (Decree No. 1748), which prohibits discrimination of any kind in the recruitment of civil servants; and the Labour Code (Decree No. 1441), which prohibits discrimination in the private sector. The Judicial Service Act (Decree No. 41-99) severely punishes (with an unpaid 20-day suspension) any judge who indulges in discriminatory acts in the course of his or her duties. As regards the media, the Broadcasting Act (Decree No. 433) prohibits the broadcasting of comments that are denigrating or insulting or that incite racial discrimination.

17. The adoption on 17 October 2002 of Decree No. 57-2002, which introduced article 202 bis into the Criminal Code, marked a significant step forward in the provision of criminal sanctions for discriminatory acts. This article describes discrimination as “any distinction, exclusion, restriction or preference based on gender, race, ethnic origin, language, age, religion, financial status, state of health, handicap, civil status or any other ground, reason or circumstance with the intention of preventing or hindering a person, group of persons or association from enjoying a legally established right, including a right established by customary law or custom, in accordance with the Political Constitution of the Republic and international human rights treaties”. The punishments applicable for an act recognized as discriminatory by a court of law are a prison term of one to three years and a fine of 500 to 3,000 quetzales. The punishment may be increased if the discrimination is based on language, culture or ethnic origin. The law also forms the basis for the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169), which have been ratified by Guatemala. However, this law needs to be backed up by another law with a broader scope that would punish racial discrimination in all areas, including housing, access to health services, education and access to any place or service intended for use by the general public (transport, hotels, restaurants, cafes, theatres and parks), in accordance with article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination.
18. At the institutional level, Guatemala has several bodies devoted to the promotion and protection of human rights. The most important are the Presidential Human Rights Commission, the Presidential Commission on Discrimination and Racism against Indigenous Peoples, the Office of the Human Rights Procurator and the Office for the Defence of Indigenous Women.

19. The Presidential Human Rights Commission was established in 1991 to coordinate government policy on human rights. It supports the various ministries in formulating and implementing measures to protect human rights and may submit to the Government draft laws designed to improve the protection of human rights. It centralizes the collection of data on complaints of human rights violations and maintains channels of communication and cooperation with the judicial system and the Human Rights Procurator to follow up such complaints. It is also responsible for coordinating the drafting of Guatemala’s periodic reports to the bodies monitoring the human rights treaties to which Guatemala is a party. The Commission has seven regional offices, which bring it closer to the people.

20. The Presidential Commission on Discrimination and Racism against Indigenous Peoples (CODISRA) is the prime institution for combating racial discrimination. It was established in October 2002, and its task is to: advise and support the different State institutions and departments and private-sector enterprises in drawing up policies and setting up mechanisms to combat racial discrimination; formulate public policies guaranteeing non-discrimination; act as a link between indigenous peoples’ organizations and the Government in matters of racial discrimination; keep a record of the cases of racial discrimination brought to its attention and forward them to the relevant institutions; and launch campaigns against racial discrimination. Although it is linked to the executive, CODISRA is an offshoot of Guatemalan civil society, and is made up of representatives of the Mayan, Xinca and Garifuna peoples. However, its members believe that its effectiveness is limited by the shortage of funding, its statutory inability to rule on the cases of discrimination referred to it and its inability to bring actions against the relevant State bodies. They believe that a broadening of its mandate would give it greater credibility among the population groups concerned.

21. The Office for the Defence of Indigenous Women, which was set up in 1999, is the institution responsible for defending the human rights of indigenous women. Its main task is to propose solutions to the problem of the extreme vulnerability of indigenous women in Guatemalan society. It promotes and develops, in cooperation with governmental and non-governmental bodies, action, public policy proposals, action plans and programmes for the prevention and elimination of all forms of violence and discrimination against women. The Office is also responsible for receiving complaints and reports of violations of women’s rights and forwarding them to the competent authorities, and for counselling women who have been subjected to violence, ill-treatment, discrimination or sexual harassment.

22. The Constitution also established the post of Human Rights Procurator (arts. 273-275), who is a judge appointed by Congress to promote and ensure that the State respects human rights, report and investigate State actions that violate human rights, respond to individual complaints of human rights violations by investigating them and taking out prosecutions, and recommend remedial measures to be taken by the authorities to ensure respect for and the protection of human rights.
23. The Special Rapporteur noted that, despite the tasks allocated to these institutions, combating racism and racial discrimination is not yet a national priority. Further efforts are needed to encourage political action and solutions that, in conjunction with legal measures, would strengthen the present system of protection. This would make it possible to avoid purely theoretical reforms and, instead, to ensure the effectiveness of existing legislation and improve the procedures for remedies, which are currently considered of little practical use.

C. Analysis and evaluation of the political and legal strategy and the institutional framework

24. The Spanish Conquest and the subsequent period of colonization, which began in Guatemala in 1524, left the country with a legacy of political, economic and social stratification that basically persists to this day. Such stratification, which is based on racial prejudice, kept indigenous groups at the bottom of the social ladder and reduced Africans to slavery. The indigenous groups were considered as backward and as obstacles to development, and were exterminated and marginalized, while their culture was devalued and treated as a form of folklore. This situation illustrates the malaise affecting Guatemalans’ sense of identity, whereby the thriving cultural practices and expressions of indigenous people are downplayed even as the architectural and archaeological legacy of indigenous people, particularly the Maya, is put on display for the benefit of Guatemala’s image abroad. The achievement of independence and the construction of a modern State have propagated, not to say exacerbated, this legacy of discrimination and marginalization. In this connection, the Commission for Historical Clarification, which was set up to shed light on human rights violations committed during the armed conflict, has stressed that one of the causes of the armed conflict was “the creation of an authoritarian State which excluded the majority of the population, was racist in its precepts and practices, and served to protect the interests of the privileged minority”.

25. Despite official statements recognizing multiculturalism, Guatemala clearly and overwhelmingly gives preference to its Hispanic identity. The country’s official language is still Spanish, and the 24 other national languages are for domestic use only. A large proportion of the population - the Mayan population alone accounts for 43 per cent of it - is therefore marginalized from the viewpoint of the State, the administration, the judiciary and the economy. Despite the progress made in reforming the justice system, the Special Rapporteur’s attention was drawn to the fact that, out of a total of 650 judges, only 98, or 15.08 per cent, speak indigenous languages.

26. Despite the deep historical roots of racial discrimination, its pervasiveness in contemporary society and its clear daily manifestations, the Special Rapporteur considers that there is no clear recognition of this reality by the political authorities and the dominant classes. Although some government representatives recognize it in private, the official line is that discrimination is essentially of a social and economic nature. The failure to recognize the reality of racial discrimination and its pervasiveness throughout society is thus a major initial obstacle to efforts to confront this problem directly and objectively and find a lasting solution.
27. The Special Rapporteur finds that the Government’s legal strategy and the institutional provisions introduced to combat racism and racial discrimination, while they do represent some progress, are ambiguous, since the present institutions and mechanisms, because of their links to the executive, do not have the independence they need to be effective, and they lack democratic legitimacy. They also lack the financial resources needed for their work.

28. The Special Rapporteur was particularly struck by the lack of an intellectual and ethical strategy to combat racism and discrimination. Neither the structure nor the content of Guatemala’s system of education has been subjected to deconstruction with a view to analysing the history of racism, its origin, its mechanisms, its process, its expressions and manifestations. History, for example, which is the workshop for the discriminatory and racist construction of identities, does not appear to have been revisited, either in its written form or in the way in which it is taught. The mirror of identity, reflected by the media, ensures that indigenous people and people of African descent remain historically invisible as part of the heritage of discrimination and racism. The system of dominant values marginalizes the traditional cultural and spiritual values and practices of these groups. The task of building a genuine form of multiculturalism that is egalitarian, interactive and democratic therefore constitutes a major challenge for Guatemalan society.

III. DESCRIPTION OF NATIONAL INSTITUTIONS, VIEW OF THE UNITED NATIONS AND PRESENTATION OF THEIR SITUATION BY THE POPULATION GROUPS CONCERNED

29. The views expressed by the Presidential Human Rights Commission, the Presidential Commission on Discrimination and Racism against Indigenous Peoples and representatives of indigenous peoples and communities all condemn the persistence of racism and racial discrimination, notwithstanding the reforms under way and the current legislation. According to the representatives of these institutions and communities, racism continues to permeate mentalities and is reflected not only in personal relationships but also in the way that politics, the economy, society, the judiciary and communications are organized. The assessment by the United Nations country team reaches the same conclusion, observing that:

30. “Guatemala remains a fragile State that is unable, through its public policies, to overcome discrimination and ensure due respect for the country’s ethnic diversity. Discrimination is still evident in several areas of national life. It mainly affects indigenous peoples, women, children, young persons and adults … Public investment has not been targeted in such a way as to foster equal opportunities and development; on the contrary, it encourages further racial and social discrimination. Public policies to eliminate poverty and social exclusion have little impact and have not been able to close the gap between rich and poor.”

A. Situation of indigenous peoples and people of African descent in general

31. Several of the individuals the Special Rapporteur talked to pointed out that several attempts were made during the armed conflict to weaken the Mayan people and indeed to question whether they really are a people. The lives of members of this people and their ability to reproduce were directly jeopardized by military action. Their living conditions and their
development were also jeopardized by subjecting them to economic hardship. In its report, the Commission for Historical Clarification set up to shed light on human rights violations committed during the armed conflict highlighted proven acts of genocide, which were analysed on the basis of the Convention on the Prevention and Punishment of the Crime of Genocide. It spoke of:

- “A scorched earth policy” (including murders, setting fire to houses and crops and the complete destruction of villages);
- “Massacres, followed by population displacements and the persecution and murder of survivors”;
- “Targeted assassinations of community chiefs or leaders of Mayan organizations, and their enforced disappearance”;  
- “The murder of elders, women and children, which affected the transmission of the culture and the possibility of cultural continuity in the communities”.

32. There are numerous cases of violations of the human rights of indigenous peoples during the armed conflict which have not received sufficient attention from the justice system, with the result that the guilty parties remain unpunished. The vast majority of these peoples and communities are still waiting for compensation and reparation for all the violations and hardships they suffered during the years of political violence. In contrast, the Special Rapporteur was told by former members of the Civil Self-Defence Patrols (Patrullas de Autodefensa Civil) who, together with members of the army, committed atrocities against civilians during the 1980s, that they had been promised that they would soon receive financial compensation from the Government.

33. Many of the situations brought to the Special Rapporteur’s attention, including those concerning indigenous peoples’ land rights and their cultural and spiritual identity, have been reported previously by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, in his report on his mission to Guatemala in 2001. There is no need to repeat them here, as there is no change to report. The problems over land illustrate the discrimination from which these people suffer. An example would be the violence used in “clearing” the Nueva Linda estate, a huge property occupied by a group of landless peasants; this “clearing” led to more than nine deaths, and does not seem to have been dealt with seriously by the Government or the justice system, despite several damning reports.

34. Racism in everyday life is reflected in scornful looks, jokes in bad taste, comments about indigenous individuals and Mayan women’s refusal to go into public places (such as shops, restaurants or nightclubs) wearing traditional costume. The feeling that they are marginalized and that their identity is not recognized was apparent in conversations with several of them, who said the looks they receive from others make them feel “like foreigners in their own country”. Members of the Presidential Commission on Discrimination and Racism against Indigenous Peoples stressed that racial discrimination is generally suffered in silence by victims. Those who suffer from and those who practise discrimination seem, by force of habit and out of a feeling that it is normal, to have become so used to racist behaviour that it seems natural to them.
35. Government action to combat racism is seen by some sectors of the Ladino population as special treatment for indigenous peoples. The involvement of indigenous peoples in the decision-making process is generally limited to inviting their representatives to consultations without taking into account their views in the final decision or including them in political and economic decision-making bodies.

36. At the institutional level, of the 153 members of Congress, only 14 are of indigenous origin. Political parties balk at presenting candidates from indigenous communities. In the army, indigenous people make up the majority of the rank and file but a far smaller proportion of officers (72.6 per cent of whom are Ladinos, as compared with 27 per cent who are indigenous). In the Government, individuals of indigenous origin generally occupy posts below the rank of deputy minister and presidential secretary, and are rarely appointed as ministers.

37. It was recognized that the peace agreements have not yet produced the structural changes expected and that the Agreement on Identity and Rights of Indigenous Peoples is the least used instrument, since the laws and reforms proposed generally remain unimplemented for lack of resources and political will. Despite the judicial reforms under way, many of the people who talked to the Special Rapporteur think that the justice system is deficient and that indigenous customary law is not sufficiently integrated in the judicial process. Thus, a judicial monism prevails and traditional indigenous authorities are not considered capable of administering justice according to the practices and customs of their communities, contrary to the relevant provisions of ILO Convention No. 169.

38. Several of the people the Special Rapporteur talked to stressed the persistence of the traditionally inegalitarian structure of Guatemalan society, the legacy of a long history of discrimination, social exclusion and marginalization. Those who suffer most as a result of this structure are people of indigenous and African origin at every level. According to UNDP data, these people are becoming increasingly impoverished. In 2002, poverty in general affected 57 per cent of the population, or 6.5 million people, and extreme poverty 21 per cent of the population, or 2.4 million people. The situation is particularly serious in rural areas, where the majority of indigenous people live; 72 per cent of these people are affected.

39. The departments populated for the most part by indigenous communities have the highest poverty levels. Health and education indicators reveal the same disparities. The departments with the highest levels of illiteracy are for the most part inhabited by indigenous people. The illiteracy rates range from 41 per cent to 53 per cent: 53 per cent in Quiché; 51.3 per cent in Alta Verapaz; 47.9 per cent in Sololá; 43.3 per cent in Totonicapán; 41.9 per cent in Baja Verapaz; and 41.6 per cent in Huehuetenango - while the national average is 31.7 per cent. Poverty, lack of access to drinking water, environmental degradation, cultural marginalization and the lack of sanitation facilities are factors that have a negative impact on the health of indigenous people. Cultural barriers are especially noticeable in the failure of officialdom and administrators to use indigenous languages in health centres and the failure to incorporate traditional medicine in health programmes. Pilot projects designed to integrate 4,560 midwives are only just beginning to get under way, even though over 50 per cent of the population has recourse to the services of traditional doctors or healers. The Special Rapporteur
believes that the correspondence between areas of poverty and social marginalization and the geographical distribution of indigenous people or people of African origin shows the depth of systemic, structural discrimination in Guatemala.

40. Representatives of the Garifuna claim that, despite the fact that they first landed on the shores of what is now Guatemala in 1806 and despite the fact that they are mentioned in the Agreement on Identity and Rights of Indigenous Peoples, the Garifuna are not fully recognized as Guatemalans and are discriminated against when they emigrate from the Izabal region (Livingston) to the capital. Many of them have been harassed by the police, who consider them as illegal foreign immigrants in Guatemala. In schools in the department of Izabal, Garifuna children feel discriminated against because their language is not used and they feel they are not receiving the same attention from teachers as Ladino children. Moreover, the absence of their culture, history and traditions from school courses makes these children feel marginalized. The lack of opportunities, which is related to the lack of development projects in their region and to the discrimination against them, has forced many of them to emigrate, particularly to the United States of America, from where they support the families they left behind. They are afraid that their community might lose its language because there is no bilingual education for their children. In light of the interest shown by tourists in their region, some of them say they are afraid they may be forced out of Livingston in the same way as they were forced off the island of Saint Vincent in 1796.

41. During a visit to a Garifuna couple living with HIV/AIDS, the Special Rapporteur was able to gauge the effects of the lack of adequate health facilities in the town of Livingston, in the department of Izabal. The health centre in the town has neither the appropriate drugs nor sufficient equipment to treat, for example, HIV-positive persons and AIDS patients, who are obliged to go to Puerto Barrios, which is about an hour away by boat. The trip requires financial resources that these individuals do not always have. In Livingston, many sick people die for lack of adequate medical care. The lack of health care shows a lack of commitment on the part of the Government towards the population groups that suffer most from discrimination. For this reason, Guatemala has been denounced to the Inter-American Commission on Human Rights by HIV/AIDS patients who have no access to treatment.

42. Representatives of the Xinca people also stressed the specific forms of discrimination from which they suffer, which are related to the pressure exerted on them since colonial times not to speak their language and to abandon their traditional costumes, as well as the breakdown of their communities. They pointed out that the State dealt ruthlessly with Xinca efforts to organize, rejected their customary law and expropriated their communities’ land for the benefit of big landowners, leaving the Xinca to be exploited as farm workers on coffee plantations. Like other indigenous peoples, the Xinca were the victims of military repression during the armed conflict and were marginalized economically and socially. Although its members are still treated as if they were invisible, the Xinca people is starting to rebuild itself, with the aim of recovering its cultural identity as a distinct people among the other indigenous peoples. For example, Xinca organizations have begun to carry out in-depth sociocultural and anthropological research into their people’s practices and customs. Their representatives claim that the situation of their communities in the villages of Yupiltepeque, Jumaytepeque and Guazacapán requires urgent attention, as they have been threatened with the expropriation of their land by the municipal authorities.
B. Situation of indigenous children and women

43. Indigenous children and women are among those who are most affected by racial discrimination. Indigenous women, because of their ethnic origin and sex, suffer twice over from discrimination, which typically takes the form of a rejection of their traditional dress, the denial of access to education, health care and basic public services (water and electricity) and the lack of job opportunities and access to land. The illiteracy rate among indigenous women is between 50 per cent and 90 per cent; only 43 per cent of them complete their primary education, 5.8 per cent secondary education and 1 per cent higher education.  

44. In the area of reproductive health, indigenous women mostly resort to the services of healers and give birth in hazardous conditions. The maternal mortality rate, which is estimated at 74 per 100,000 live births in Guatemala, is one of the highest in Central America, and is linked to the situation of indigenous women. In 2000, according to UNDP, 65.4 per cent of the cases of mortality related to childbirth concerned indigenous women. 

45. As far as children are concerned, the majority (62.3 per cent) of the 556,000 children aged between 7 and 14 who do not go to school are indigenous. The rate of malnutrition among indigenous children is 29 per cent, as compared with 17.2 per cent among non-indigenous children; the infant mortality rates are, respectively, 69 and 52 per 1,000 live births.

46. Several cases of racial discrimination described by the Human Rights Procurator illustrate the form taken by discrimination both in personal relationships and within institutions. For example, Ms. Rigoberta Menchú tried to sue members of the Frente Republicano Guatemalteco political party for making allegedly racist remarks about her, calling her a “market Indian” and a “tomato seller” and inviting her to “sell her vegetables somewhere else”; a councillor from the town of Xela is being prosecuted for saying during an interview that “during the conquest, the Spaniards exorcised the indigenous peoples”; a teacher of Mayan origin and her pupils were forced to identify themselves as Ladinos on a form for the Ministry of Education; a pupil of Mayan origin was refused admission to a private school because she was dressed in Mayan costume; and in 1996, racist graffiti appeared on walls in the city of Quezaltenango, which was governed by an indigenous person.

IV. CONCLUSIONS AND RECOMMENDATIONS

47. Racism and racial discrimination are deep-rooted, though not institutionalized, in Guatemala. They are reflected in the pervasiveness of the centuries-old prejudices that have marked Guatemalan history, culture and mentalities and that have been amplified by the tragic events of the country’s recent past, culminating in a genocide of indigenous peoples. Guatemala’s economic and social situation is characterized by the non-equalitarian development of the so-called Ladino population and of indigenous peoples and people of African descent, illustrating the structural and systemic nature of discrimination. The lowest economic and social development indicators are found in the regions populated mostly by indigenous people and people of African descent. The correspondence between areas of economic impoverishment and social marginalization and the geographical distribution of indigenous groups is a glaring example of the systemic and structural nature
of racial discrimination. The Special Rapporteur therefore believes that combating racial
discrimination should be a cornerstone of the process of building peace and democracy in
Guatemala. A true and lasting peace cannot be reduced to its political and legal
dimensions, as formulated in the peace agreements and subsequent laws; if it is to be
achieved and to be really lasting, it must be based on efforts to eradicate racism and racial
discrimination by taking appropriate measures while promoting reconciliation. The
Special Rapporteur therefore makes the following recommendations:

(a) Given the pervasiveness of racism and racial discrimination, the
Special Rapporteur believes that a bold political act is needed to demonstrate the
Government’s determination to eliminate this evil. The President should make a solemn
statement formally recognizing the existence and the social, economic and cultural
consequences of these phenomena and should express the Government’s commitment to
eliminating them on a democratic basis and with the participation of the indigenous
peoples and people of African descent concerned;

(b) Moreover, the Special Rapporteur recommends that the Government should
go beyond this formal recognition of the country’s ethnic diversity by writing it into the
Constitution, in accordance with the Agreement on Identity and Rights of Indigenous
Peoples;

(c) Having noted the lack of coordination between the institutions and
government departments responsible for combating racism, as well as the lack of financial
resources or the inadequate allocation of resources, the Special Rapporteur recommends
that an integrated approach should be taken to combating racism and racial
discrimination, by drawing up a national programme to combat racism and discrimination
and simultaneously promoting an egalitarian, interactive and democratic form of
multiculturalism, with a view to building a society based on ethnic and cultural pluralism
that encourages dialogue and interaction between all its members. Such a programme
should be based on the Durban Declaration and Programme of Action;

(d) The relevant provisions of the peace agreements, particularly the Agreement
on Identity and Rights of Indigenous Peoples, should be subjected to a critical evaluation to
determine their achievements and shortcomings. In this context, combating racism and
racial discrimination should be linked to the long-term promotion of multiculturalism
based on the principle of unity and diversity, the recognition and promotion of, and
respect for, the identity-related, ethnic, spiritual and cultural characteristics and
peculiarities of all peoples and communities, and the promotion of a process of
interaction and cross-fertilization between them all;

(e) Given the profound and long-lasting impact of racism and discrimination
on the structure of Guatemalan society, the Special Rapporteur recommends the adoption
of a programme of voluntary or affirmative action in favour of peoples who have
historically suffered from discrimination, that is, indigenous peoples and people of African
descent;
(f) Special emphasis should be placed on the core issue of the construction of a pluralist identity in Guatemala through the promotion of multicultural and intercultural education that pays special attention to the way history is written and taught, to the system of values and to the development of genuine multilingualism in all walks of life. In this context, special attention should be paid to two central dimensions of national identity: the promotion of multiculturalism in the media, both in their output and in their management and operational structure; and the dynamic national culture resulting from the promotion of the country’s architectural and historical heritage and the development of the creativity and thriving cultural practices of all its peoples and communities. The development of adequately-resourced local, community-based, free media should be part of these efforts;

(g) The process of catharsis initiated by the Commission for Historical Clarification set up to shed light on past human rights violations should be pursued in order to expunge the painful experience of discrimination and put an end to the impunity enjoyed by those responsible for the political violence; the Commission’s recommendations with regard to preserving the memory of the victims of the armed conflict, moral and material redress for victims or their families, and the establishment of a mental-health programme for those traumatized by the armed conflict should be implemented quickly;

(h) The Presidential Commission on Discrimination and Racism against Indigenous Peoples and the Presidential Human Rights Commission should be linked by law to Congress to make them statutorily independent, in accordance with the Principles relating to the Status of National Institutions (the Paris Principles); similarly, these commissions should be given their own financial resources under the annual State budget;

(i) The Special Rapporteur encourages Congress to speed up the process of adopting the law that will authorize the Government to make the declaration recognizing the competence of the Committee on the Elimination of Racial Discrimination under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination;

(j) It is recommended that non-governmental organizations should take an active part in drawing up and implementing a national programme to combat racism and racial discrimination, by making proposals to eliminate racism and racial discrimination, with the focus on resolving communities’ specific problems; in the process, these organizations should work together to help build a more mutually supportive and democratic society.

Recommendations at the regional level

48. Efforts to combat racism and racial discrimination should take into account the regional dimension in Central America, where the societies share not only demographic, ethnic and cultural similarities, but above all a historical heritage of racism and discrimination, amplified by present-day political violence. The countries of this region are also characterized by movements of population groups which are victims of discriminatory practices to various degrees in the different countries. The Special Rapporteur consequently recommends that the Organization of American States (OAS), and in
particular the Inter-American Commission on Human Rights, should assign a central role in peace-building to the thoroughgoing eradication of racism and racial discrimination with a view to building democratic, egalitarian and interactive multiculturalism in the region. OAS should support the efforts of the Central American States by means of studies on the shaping of multi-ethnic identities and their manifestations, as well as assistance in the drafting of coordinated domestic and regional legislation, the strengthening of institutions for the protection of human rights and civil society, and the revision of educational and media programmes and systems.

49. OAS should also promote intercultural tourism centred on the following elements: the existence of a shared geographical and historical heritage, the vitality of authentic cultural and spiritual practices and forms of expression and their profound interactions in time and space. Intercultural tourism can make it possible to combat discrimination through the rehabilitation of identities that have historically been denied or scorned, to check the tendency inherent in modern mass tourism to treat culture as folklore, and to foster the fundamental link between land and culture, and land and origins, which lies at the heart of the demands made by indigenous peoples and communities and people of African descent.

Notes

1 Le mot garífuna, qui est souvent utilisé dans ce rapport, proviendrait de la racine arawak karina qui se serait transformée en Callinagu, Garinagu et Karifouna. Garífuna, qui signifie « mangeur de manioc », s’écrit dans la langue originale garífuna au singulier et Garinagu au pluriel. En français, on peut écrire au pluriel garífuna ou garífunas (sans prononcer le -s final). Le nom de Garífuna (avec une majuscule) sert normalement à désigner l’ethnie, mais il peut désigner la langue (le garífuna, avec une minuscule) et servir d’adjectif : p. ex., la langue garífuna, le peuple garifuna. [www.tlfq.ulaval.ca/axl/amsud/Garifuna__histoire.htm].


3 Bien qu’inclus parmi les peuples autochtones par l’accord sur l’identité des peuples autochtones, les Garinagu (singulier Garífuna) doivent être considérés comme une population d’ascendance africaine, même s’ils empruntent une proportion importante de leur langue aux Amérindiens Arawaks avec lesquels ils ont coexisté sur l’île de Saint-Vincent d’où ils ont été déportés vers les côtes atlantiques du Honduras, du Guatemala, du Belize et du Nicaragua actuels. Leur culture, qui s’est maintenue à travers les siècles, reste profondément africaine.


5 Un projet de réforme de la Constitution soumis au peuple en 1999 prévoyait de reconnaître le caractère « pluriculturel, multiethnique et multilingue » du Guatemala (art. 1er amendé) mais n’a pas été adopté.

7 MINUGUA, « Los Pueblos indígenas de Guatemala: la superación de la discriminación en el marco de los Acuerdos de paz », Ciudad de Guatemala, sept. 2001, p. 16, pour le détail de ces langues.


14 MINUGUA, « Los Pueblos indígenas de Guatemala... », op. cit., p. ...


16 Alta Verapaz, Huehuetenango, Izabal, Quiché, Quetzaltenango, San Marcos, Totonicapán, Chimaltenango, Sololá, Suchitepéquez, Baja Verapaz, Sacatepéquez.

17 MINUGUA, « Los Pueblos indígenas de Guatemala... », op. cit, p. 11.

18 La ville de Livingston est relativement isolée du reste du pays, étant atteignable par mer au terme de plus de 45 minutes de navigation, depuis certains points côtiers.

19 MINUGUA, op. cit., ibid.


21 Ibid, p. …

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Crime and Violence in Central America
A Development Challenge
Crime and Violence in Central America: A Development Challenge

2011

Sustainable Development Department and
Poverty Reduction and Economic Management Unit
Latin America and the Caribbean Region
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EXECUTIVE SUMMARY

Crime and violence are now a key development issue for Central American countries. In three nations—El Salvador, Guatemala and Honduras—crime rates are among the top five in Latin America. In the region’s other three countries—Costa Rica, Nicaragua and Panama—crime and violence levels are significantly lower, but a steady rise in crime rates in recent years has raised serious concern. There is reason to worry. To put the magnitude of the problem in context, the entire population of Central America is approximately the same as that of Spain, but while Spain registered 336 murders (i.e., fewer than one per day) in 2006, Central America recorded 14,257 murders (i.e., almost 40 per day) in the same year.

Beyond the trauma and suffering of individual victims, crime and violence carry staggering economic costs at the national level. Indeed, some experts estimate these costs at close to eight percent of regional GDP if citizen security, law enforcement and health care are included. Crime and violence also drag down economic growth, not just from the victims’ lost wages and labor, but by polluting the investment climate and diverting scarce government resources to strengthen law enforcement rather than promote economic activity. Estimates presented in this report suggest that a ten percent reduction in the violence levels of those Central American countries with the highest murder rates could boost annual economic growth per capita by as much as a full one percent. Crime and violence also weaken key institutions. Existing evidence indicates that drug trafficking increases corruption levels in the criminal justice systems of some Central American countries and tarnishes the legitimacy of state institutions in the public’s mind. On average, victims of crime tend to: (i) have less trust in the criminal justice system; (ii) support taking the law into their own hands in larger numbers; and (iii) believe less strongly that the rule of law should always be respected.

What is behind crime and violence in Central America? This report presents a detailed analysis of three main drivers of crime in the region: drug trafficking, youth violence and gangs, and the availability of firearms. It also examines weak justice institutions as a high risk factor for crime and violence. Our research led us to conclude the following:

- Drug trafficking is both an important driver of homicide rates in Central America and the main single factor behind rising violence levels in the region. Just one example: hotspot drug trafficking areas tend to experience crime at rates more than 100 percent higher than non-hotspot areas. Clearly, reducing traffic in illegal drugs, or preventing it altogether, will be key in any regional strategy to fight crime. This element is even more relevant in light of the magnitude of drug flows through the region. An estimated 90 percent of the cocaine arriving into the US comes through the Central America corridor. The associated financial flows are also enormous. The value added of the Central America corridor’s cocaine flow could be close to five percent of the regional GDP.

- Youth violence and gangs are a critical concern in Central America today. Men between the ages of 15 and 34 account for the overwhelming majority of homicide victims, and they also comprise the membership of youth gangs. There are more than 900 gangs or maras operating in Central America today, with an estimated 70,000 members. While gangs are doubtless a major contributor to crime in El Salvador, Guatemala and Honduras, the very limited evidence indicates that they are responsible for only a minority share of violence; multiple sources suggest that perhaps 15 percent of homicides are gang related. Furthermore, reliable data related to the role of youth gangs in the narcotics trade are scarce. To address issues of youth and gang violence, in the short run policy makers should borrow from the evidence-based toolkit of programs from other regions, such as early childhood development and mentoring programs, interventions to increase
retention of high-risk youth in secondary schools, and opening schools after hours and on weekends to offer activities to occupy youth’s free time.

- Availability of firearms. Lengthy civil wars and increases of imported firearms in the years since have left Central America awash in weapons. Separate studies indicate that some 4.5 million small arms were in the region in 2007, the vast majority of them illegal. Because of this, firearms all too often are used in violent crime. A 2008 study conducted in Guatemala by the Geneva-based Small Arms Survey found that firearms were overwhelmingly present in reported incidents of violent crime. Similar results were found in El Salvador.

- Weak criminal justice institutions limit the efficacy of crime and violence punishment and prevention. Institutional weaknesses result in a low percentage of crimes being solved and the perpetrator being punished. For example, in Honduras 63,537 criminal complaints were filed in 2006; of these, 49,198 were referred for investigation and only 1,015 ended in a conviction. Even so, underreporting is thought to be a major issue in Central America, due to citizens’ low level of trust in justice sector institutions. Perhaps the most significant obstacle to evidence-based policy making in the region is the lack of reliable statistics.

Clearly there is no quick and easy fix to Central America’s crime and violence problem. Rather, the Bank’s analysis indicates policymakers will need to persevere because all indications are that the fight against crime is likely to be long lasting. In addition, as the Colombian, and more recently, the Mexican, experiences have shown, policymakers should be aware of the potential high costs of fighting crime when governments target drug trafficking. Still, fighting crime must be very high on the development agendas of all Central American countries.

This report argues that successful strategies require actions along multiple fronts, combining prevention and criminal justice reform, together with regional approaches in the areas of drug trafficking and firearms. It also argues that interventions should be evidence based, starting with a clear understanding of the risk factors involved and ending with a careful evaluation of how any planned action might affect future options. In addition, the design of national crime reduction plans and the establishment of national cross-sectoral crime commissions are important steps to coordinate the actions of different government branches, ease cross-sectoral collaboration and prioritize resource allocation. Of equal importance is the fact that national plans offer a vehicle for the involvement of civil society organizations, in which much of the expertise in violence prevention and rehabilitation resides.

Preventive strategies can work. Existing evidence suggests that the most cost-effective prevention programs focus on children and families; these include early childhood development, effective parenting or school-based violence prevention programs. Since some of these programs may pay dividends only in the medium to long term, they should be complemented by programs that can generate significant short-run reductions in crime and violence. These include integrated citizen security approaches, particularly at the local level, that combine modern methods of policing with preventive programs such as situational crime prevention.

Prevention efforts need to be complemented by effective law enforcement. The required reforms are no longer primarily legislative in nature because all six countries have advanced toward more transparent adversarial criminal procedures. The second-generation reforms should instead help deliver on the promises of previous reforms by: (i) strengthening key institutions and improving the quality and timeliness of the services they provide to citizens; (ii) improving efficiency and effectiveness while respecting due process and human rights; (iii) ensuring accountability and addressing corruption; (iv) increasing inter-agency collaboration; and (v) improving access to justice, especially for poor and disenfranchised groups. Specific interventions reviewed in the report include: information systems and
performance indicators as a prerequisite to improve inter-institutional coordination and information-sharing mechanisms; an internal overhaul of court administration and case management to create rapid-reaction, one-stop shops; the strengthening of entities that provide legal counseling to the poor and to women; and the promotion of alternative dispute-resolution mechanisms and the implementation of community policing programs. The poor reviews of the “mano dura” (“iron fist”) approach suggest strongly that alternative courses of action should be explored, with due regard for human rights.

All this places the countries of Central America in a difficult situation. The drug war has already brought extreme levels of violence and damaged criminal justice institutions. Options for dealing with the tremendous flow of drugs through the region would appear to be limited. Radical changes in drug policies—including the possible depenalization or decriminalization of some drugs as recommended by the Latin American Commission on Drugs and Democracy (2009)—are simply beyond the capacity of the six nations and can only be contemplated within an international framework that includes the largest producer and consumer countries.

Our analysis leads us to conclude that there are some preferable policy options available to Central American countries with relation to drug trafficking:

- Given the high levels of drug-related corruption in the criminal justice systems and the vast resources of the traffickers, evidence suggests that directing more resources to drug enforcement efforts is not likely to reduce violence in Central America. To the extent this approach is used, we believe a regional, coordinated effort stands a greater chance of some success. To address drug-related corruption and impunity, the Guatemalan experience with the International Commission against Impunity in Guatemala (Comisión Internacional Contra la Impunidad en Guatemala, CICIG) is worth considering as it provided a suitable channel to bring international investigative expertise to Guatemala and has been very helpful in resolving high-profile cases.

- Devote resources to address domestic drug use through public health and harm reduction programs, including greater investment in education campaigns, treatment for users, and drug use prevention.

These two broad options are not mutually exclusive. Overall, limited funds are more likely to reduce violence if they are devoted to crime prevention efforts and mitigating the damage from drugs. Within the region, policies should focus on strengthening criminal justice systems, limiting the availability of firearms, and providing meaningful alternatives to at-risk youth.
I. THE EXTENT OF THE PROBLEM

Central America’s hopes for a rebirth following the region’s civil wars have been dimmed by another plague: a torrent of crime and violence that first engulfed El Salvador, Honduras and Guatemala and now threatens Nicaragua, Costa Rica and Panama. To grasp the magnitude of this new wave of unrest, consider the following: Spain and Central America both have populations of about 40 million people, yet Spain registered 336 murders in 2006 (i.e., fewer than one per day) while Central America registered 14,257 (i.e., almost 40 per day).

El Salvador has the highest homicide rate in Latin America (58 per 100,000 inhabitants), and two other Central American countries, Guatemala, and Honduras with homicide rates of 45 and 43 per 100,000 inhabitants, respectively, are among the top five of the region. The homicide rate for Central America as a whole is 35.4 per 100,000 inhabitants, compared to around 20 per 100,000 for all of Latin America.

Homicide rates remain low in Panama, Nicaragua, and Costa Rica—about half that of Latin America as a whole—but there is now concern over increasing violence in these countries as well. These worries are compounded by fears of contagion from their three more violence-prone northern Central American neighbors and the prospect that they too could become havens for the drug trafficking that drives the high crime rates in the northern Central triangle.

Admittedly, other measures of violent crime in Central America, such as robbery and burglary rates or overall victimization rates, are far less dramatic than homicide rates. For example, data from a victimization survey conducted by the Latin American Public Opinion Project (LAPOP), reported in Figure 2, indicate that while Guatemala and El Salvador have robbery rates above the Latin American regional average, those of the other four Central American countries are below that average. Similarly, statistics for burglary indicate that all Central American countries come in below the Latin American regional average. Four Central American countries also have overall victimization rates (which measure crime without specifying its type) below the regional average and the Central American countries with the worst statistics—El Salvador and Guatemala—are not very far from the average (8th and 9th in the ranking), according to the LAPOP data.

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1 For example, victimization rates appear to have doubled in Costa Rica between 1997 and 2008.
Figure 2. Robbery, Burglary and Victimization Rates in Latin America

<table>
<thead>
<tr>
<th>Country</th>
<th>Robbery rates</th>
<th>Burglary rates</th>
<th>Overall victimization rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ecuador</td>
<td>2.9%</td>
<td>8.0%</td>
<td>28%</td>
</tr>
<tr>
<td>Venezuela</td>
<td>3.5%</td>
<td>8.7%</td>
<td>25%</td>
</tr>
<tr>
<td>Haiti</td>
<td>8.6%</td>
<td>8.4%</td>
<td>23%</td>
</tr>
<tr>
<td>Argentina</td>
<td>3.7%</td>
<td>7.4%</td>
<td>22%</td>
</tr>
<tr>
<td>Guatemala</td>
<td>6.1%</td>
<td>7.3%</td>
<td>22%</td>
</tr>
<tr>
<td>El Salvador</td>
<td>5.6%</td>
<td>6.5%</td>
<td>21%</td>
</tr>
<tr>
<td>Chile</td>
<td>8.0%</td>
<td>6.5%</td>
<td>19%</td>
</tr>
<tr>
<td>Colombia</td>
<td>8.0%</td>
<td>6.2%</td>
<td>19%</td>
</tr>
<tr>
<td>Brazil</td>
<td>7.3%</td>
<td>8.2%</td>
<td>19%</td>
</tr>
<tr>
<td>Peru</td>
<td>6.5%</td>
<td>5.7%</td>
<td>17%</td>
</tr>
<tr>
<td>Bolivia</td>
<td>6.1%</td>
<td>5.5%</td>
<td>17%</td>
</tr>
<tr>
<td>Honduras</td>
<td>5.8%</td>
<td>4.6%</td>
<td>16%</td>
</tr>
<tr>
<td>Mexico</td>
<td>5.7%</td>
<td>4.4%</td>
<td>16%</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>5.6%</td>
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<tr>
<td>Guatemala</td>
<td>5.6%</td>
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<tr>
<td>El Salvador</td>
<td>5.6%</td>
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</tr>
<tr>
<td>Colombia</td>
<td>5.6%</td>
<td>3.8%</td>
<td>16%</td>
</tr>
<tr>
<td>Panama</td>
<td>3.8%</td>
<td>3.7%</td>
<td>15%</td>
</tr>
<tr>
<td>Jamaica</td>
<td>4.1%</td>
<td>3.5%</td>
<td>14%</td>
</tr>
<tr>
<td>Paraguay</td>
<td>5.6%</td>
<td>3.5%</td>
<td>14%</td>
</tr>
<tr>
<td>Dominican Republic</td>
<td>5.0%</td>
<td>2.9%</td>
<td>8%</td>
</tr>
<tr>
<td>Uruguay</td>
<td>3.5%</td>
<td>2.9%</td>
<td>8%</td>
</tr>
</tbody>
</table>

Despite the more positive robbery and victimization statistics, it is the high homicide rates that explain why crime and violence are a key concern of the Central American population. Indeed, across all six Central American countries, 71 percent of the adult population said they view crime as a major threat to future well-being, and more than 50 percent believe high crime rates would justify a military coup.

I.1 Who are the victims of crime in Central America?

The answer to this question depends on how crime statistics are analyzed. For example, age is important. In Central America, young people, particularly young men, comprise the bulk of both perpetrators and victims of violence. A Nicaraguan study of 186 individuals arrested for murder in 2006 found that nearly half were between the ages of 15 and 25. Similarly, for most countries in the region young men between the ages of 15 and 34 comprise about 60 percent of all homicide victims. The exception is Costa Rica, where this figure is above 40 percent.

The fact that the majority of homicides involve men as either victims or perpetrators should not diminish the importance of violence against women. In fact, available information for Honduras and Nicaragua indicates that about 17 to 19 percent of never-married women have experienced violence, 15 to 17 percent have suffered violence at the hands of a family member or spouse/partner, and 12 to 14 percent have been victimized by a spouse or live-in partner. Many incidents of domestic violence go unreported to authorities, and in victimization surveys women are often reluctant to acknowledge abuse by a partner or family member. Therefore, these figures probably understate the true extent of the problem.

Figure 3. Homicide Rates by Subnational Areas

A second dimension of crime relates to its geographic distribution. Figure 3 shows that homicide numbers in some areas of the northern Central American triangle approach 100 per 100,000 inhabitants, whereas in Costa Rica and Panama to the south, it is hard to find an area that goes above 20 per 100,000 inhabitants. Within countries, El Salvador and Honduras have no area with crime rates below 5 per 100,000 inhabitants. However, Guatemala does: homicides are highest around the capital, with high rates also a
factor in the sparsely populated Petén region in the north. In Honduras, rates are highest along the Atlantic coast, in the area around Tegucigalpa, and on the Guatemalan border. In the remaining countries, homicides tend to be higher on the Atlantic coast.

Income levels are also a factor. An analysis of household data in Guatemala indicates that the probability of being a crime victim increases with socioeconomic status; thus, in relative terms, crime affects the affluent more than the poor. This applies regardless of the type of crime, although in relative terms the affluent tend to be at greater risk of assault and robbery than their poorer counterparts. Well-off people are ten times more likely to be assaulted than extremely poor people and three times more likely to be assaulted as those who are marginally poor. There was a similar finding in Costa Rica, where the probability of a household having at least one member victimized by crime increases with per capita income, to the extent that a person in the highest quintile of the income distribution has a 36 percent chance of falling victim to a violent crime—nearly twice the 20 percent probability rate for those in the lowest quintile. However, the differences have narrowed over time. In 1997, a household in the top quintile of income distribution was twice as likely to fall victim to a crime as a household in the bottom quintile. That ratio for the two households fell to 1.8 in 2008. Although wealthier households have a higher tendency to be targets of crime, Costa Rican data also reveal that poorer households appear to be subject to more severe types of crime. Among affected households in the bottom quintile, three in ten had suffered crimes of aggression, compared to just 20 percent for victimized households in the wealthiest quintile.

II. THE COSTS OF CRIME AND VIOLENCE

Because crime and violence affect people’s lives in many ways, there are several elements to the social costs of criminal activities. The most obvious are the physical and emotional costs to the victims, whether individuals or businesses. Other direct costs to individuals and businesses include private security or the need to alter homes, factories and other workplaces, and the institutional costs incurred by government for additional police and judicial procedures. Beyond these direct costs, the negative impact of crime and violence on the investment climate carries its own costs. The study by Alaimo et al. (2009) concluded that criminal activity lowers productivity and that businesses hit by crime have significantly lower sales per worker than those unaffected by criminal activity. Given the key role of productivity for economic growth, it should be no surprise that crime and violence reduce a nation’s GDP growth. Then there are the less visible costs that are nearly impossible to measure, such as the erosion of public trust in the criminal justice system, the increased support for vigilantism, and the conviction that authorities do not need to respect the law when pursuing criminals, all of which accompany higher crime rates according to available evidence. These issues are analyzed below.

II.1 The direct costs of crime and violence

One way to assess the direct costs of violence is the “accounting approach,” which identifies broad cost categories related to losses and damages associated with crime and crime prevention activities, and then attaches a dollar value to each of them to obtain a total figure. Although these estimates provide only a rough approximation of the true costs, the exercise can be useful to: (i) summarize the many direct costs of crime; (ii) provide a key input to assess the cost-effectiveness of crime-fighting interventions; and (iii) measure the effectiveness of an intervention.
The World Health Organization (WHO) provides a technique to compute the health costs associated with crime and violence, called “disability-adjusted life years lost” or DALYs. DALYs quantify the effects of threats to health, including disease and violence, associated with any given health condition in a particular country. Thus, DALYs provide an estimate of years of life lost due to premature mortality and disability. Once DALYs are computed, they can be translated into dollar terms by monetizing time in each country, using, for example, annual GDP per capita to value one DALY.

Against this background, Figure 4 shows the estimated value of DALYs for the six Central American countries as well as the average for all of Latin America. The figure indicates that for Central America as a whole, the health costs of crime and violence (as a percentage of annual GDP) are similar to the average costs in Latin America. However, this is a source of little comfort for the people of El Salvador, a country that has the second highest DALY costs in Latin America behind Colombia, and ranks 12th worldwide. Guatemala, Honduras and Nicaragua rank 21st, 36th and 40th, respectively, in the worldwide DALY ranking. At the other extreme, Panama and Costa Rica have the lowest costs.

In the business sector, data collected in the 2006 Enterprise Surveys show that, excluding Costa Rica, the total security-related costs and losses of Central American companies averaged 3.7 percent of sales (Figure 5), a figure significantly higher than the 2.8 percent average for Latin America and the Caribbean as a whole. Moreover, of those five countries, only Panama had criminal activity costs below the regional average. In the other four, these costs range from 3.1 percent in Nicaragua to 4.5 percent in El Salvador and Honduras, with Guatemala somewhat in between (3.9 percent). The high costs of crime in these countries act as a drag on competitiveness, reduce profit margins, and can make the difference in whether a company survives or fails.
In Guatemala, the United Nations Development Programme (UNDP) has conducted detailed studies using the accounting approach (UNDP 2006). Similarly, a report prepared for El Salvador’s National Security Council (Acevedo 2008) applies the UNDP estimates along with data from a variety of sources to generate comparable estimates for all Central American countries except Panama. The costs considered in the Acevedo study are grouped in four categories: health costs, institutional costs, private security costs, and material costs. Health costs include medical expenses, lost production due to death and injury, and the costs of victims’ emotional suffering. Institutional costs cover added government spending on security and the justice system. Private security costs include households and businesses. Material costs encompass property losses suffered by individuals and businesses.

The main results of the accounting approach are summarized in Table 1. Overall, for the five countries included in the analysis (Panama was not covered in the Acevedo report), the economic cost of crime and violence totals 7.7 percent of GDP. Costs to Guatemala equaled the regional average, while those for Honduras, Nicaragua and El Salvador all exceeded 9 percent of GDP. Costa Rica’s costs were barely one-third of that percentage as a share of GDP, yet still significant at 3.6 percent. Health care costs, including those for emotional suffering, were the largest single share of the added financial burden for all countries surveyed, ranging from 1.5 percent of GDP in Costa Rica to 6.1 percent of GDP in El Salvador. Institutional costs were estimated at between 1 percent of GDP for Costa Rica and Guatemala and 2.3 percent of GDP for Honduras. Combined security and material costs totaled between 1.1 percent of GDP in Costa Rica and 3.8 percent of GDP in Nicaragua.

II.2 The growth costs of crime and violence

Beyond these direct costs, crime and violence significantly dampen the business investment climate, skewing the calculations that shape opportunities and incentives for firms to invest productively, create jobs and expand. Three main cost factors are included in the investment decision: (i) the potential losses to criminal activity discussed above; (ii) the cost of diverting resources from productive (and hence growth-enhancing) activities to crime prevention; and (iii) lost productivity resulting from crime-caused fear, increased absenteeism or limitation of working hours to times of the day when workers are not concerned with personal security. In World Bank Enterprise Surveys, crime tends to appear in all Central American countries as one of the main constraints to productivity and growth. Table 2 shows the
constraints mentioned frequently in these surveys as being “major” or “severe.” The results indicate that in five of the six Central American countries (the exception is Costa Rica), crime appears among the top five constraints.

Table 1. Total Economic Costs of Crime and Violence as Percentage of GDP

<table>
<thead>
<tr>
<th>Type of Cost</th>
<th>Guatemala</th>
<th>El Salvador</th>
<th>Honduras</th>
<th>Nicaragua</th>
<th>Costa Rica</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Millions of US$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health costs</td>
<td>1281</td>
<td>1144</td>
<td>360</td>
<td>241</td>
<td>325</td>
</tr>
<tr>
<td>Medical attention</td>
<td>69</td>
<td>82</td>
<td>24</td>
<td>44</td>
<td>10</td>
</tr>
<tr>
<td>Lost production</td>
<td>521</td>
<td>430</td>
<td>114</td>
<td>35</td>
<td>113</td>
</tr>
<tr>
<td>Emotional damage</td>
<td>691</td>
<td>632</td>
<td>222</td>
<td>162</td>
<td>202</td>
</tr>
<tr>
<td><strong>Institutional costs</strong></td>
<td>305</td>
<td>285</td>
<td>239</td>
<td>87</td>
<td>221</td>
</tr>
<tr>
<td>Public security</td>
<td>212</td>
<td>160</td>
<td>145</td>
<td>51</td>
<td>85</td>
</tr>
<tr>
<td>Administration of justice</td>
<td>93</td>
<td>125</td>
<td>95</td>
<td>36</td>
<td>137</td>
</tr>
<tr>
<td>Private security costs</td>
<td>459</td>
<td>329</td>
<td>176</td>
<td>124</td>
<td>150</td>
</tr>
<tr>
<td>Households</td>
<td>135</td>
<td>72</td>
<td>44</td>
<td>31</td>
<td>38</td>
</tr>
<tr>
<td>Businesses</td>
<td>324</td>
<td>257</td>
<td>132</td>
<td>93</td>
<td>113</td>
</tr>
<tr>
<td>Material costs (transfers)</td>
<td>245</td>
<td>253</td>
<td>110</td>
<td>78</td>
<td>94</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>2291</td>
<td>2010</td>
<td>885</td>
<td>529</td>
<td>791</td>
</tr>
</tbody>
</table>

As percentage of GDP

<table>
<thead>
<tr>
<th>Type of Cost</th>
<th>Guatemala</th>
<th>El Salvador</th>
<th>Honduras</th>
<th>Nicaragua</th>
<th>Costa Rica</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health costs</td>
<td>4.3%</td>
<td>6.1%</td>
<td>3.9%</td>
<td>4.5%</td>
<td>1.5%</td>
</tr>
<tr>
<td>Medical attention</td>
<td>0.2%</td>
<td>0.4%</td>
<td>0.3%</td>
<td>0.8%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Lost production</td>
<td>1.8%</td>
<td>2.3%</td>
<td>1.2%</td>
<td>0.7%</td>
<td>0.5%</td>
</tr>
<tr>
<td>Emotional damage</td>
<td>2.3%</td>
<td>3.4%</td>
<td>2.4%</td>
<td>3.1%</td>
<td>0.9%</td>
</tr>
<tr>
<td><strong>Institutional costs</strong></td>
<td>1.0%</td>
<td>1.5%</td>
<td>2.6%</td>
<td>1.6%</td>
<td>1.0%</td>
</tr>
<tr>
<td>Public security</td>
<td>0.7%</td>
<td>0.9%</td>
<td>1.6%</td>
<td>1.0%</td>
<td>0.4%</td>
</tr>
<tr>
<td>Administration of justice</td>
<td>0.3%</td>
<td>0.7%</td>
<td>1.0%</td>
<td>0.7%</td>
<td>0.6%</td>
</tr>
<tr>
<td>Private security costs</td>
<td>1.5%</td>
<td>1.8%</td>
<td>1.9%</td>
<td>2.3%</td>
<td>0.7%</td>
</tr>
<tr>
<td>Households</td>
<td>0.5%</td>
<td>0.4%</td>
<td>0.5%</td>
<td>0.6%</td>
<td>0.2%</td>
</tr>
<tr>
<td>Businesses</td>
<td>1.1%</td>
<td>1.4%</td>
<td>1.4%</td>
<td>1.8%</td>
<td>0.5%</td>
</tr>
<tr>
<td>Material costs (transfers)</td>
<td>0.8%</td>
<td>1.4%</td>
<td>1.2%</td>
<td>1.5%</td>
<td>0.4%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>7.7%</td>
<td>10.8%</td>
<td>9.6%</td>
<td>10.0%</td>
<td>3.6%</td>
</tr>
</tbody>
</table>

Note: Panama was not included in the original analysis.
Table 2. Top Five Constraints to Productivity and Growth in Central America¹

<table>
<thead>
<tr>
<th>Costa Rica</th>
<th>El Salvador</th>
<th>Guatemala</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to finance</td>
<td>Crime</td>
<td>Corruption</td>
</tr>
<tr>
<td>Macroeconomic instability</td>
<td>Practices of informal competitors</td>
<td>Electricity</td>
</tr>
<tr>
<td>Practices of informal competitors</td>
<td>Access to finance</td>
<td>Macroeconomic instability</td>
</tr>
<tr>
<td>Corruption</td>
<td>Corruption</td>
<td>Practices of informal competitors</td>
</tr>
<tr>
<td>Tax rates</td>
<td>Macroeconomic instability</td>
<td>Crime</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Honduras</th>
<th>Nicaragua</th>
<th>Panama</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to finance</td>
<td>Access to finance</td>
<td>Electricity</td>
</tr>
<tr>
<td>Corruption</td>
<td>Corruption</td>
<td>Corruption</td>
</tr>
<tr>
<td>Crime</td>
<td>Macroeconomic instability</td>
<td>Crime</td>
</tr>
<tr>
<td>Macroeconomic instability</td>
<td>Practices of informal competitors</td>
<td>Tax rates</td>
</tr>
<tr>
<td>Practices of informal competitors</td>
<td>Crime</td>
<td>Macroeconomic instability</td>
</tr>
</tbody>
</table>

¹ The table reports the top five constraints to productivity and growth as identified by Central American firms in the Bank’s Enterprise Surveys. Source: Alaimo et al. (2009).

Beyond boardroom perceptions, crime also appears in the statistical analysis of Alaimo et al. (2009) as one of the main constraints to productivity and growth. The analysis relies on data from 10,000-plus Latin American businesses to estimate a company’s productivity through measures such as sales per worker and value added per worker as well as the investment climate, including the crime rate. Those projections indicate that a 1 percent rise in corporate losses due to crime can trigger a drop in productivity ranging from 5 to 10 percent, depending on a variety of other factors. This impact of crime on productivity makes crime rates one of the most important factors in an econometric model that also explores the role of investment climate attributes such as corruption, regulation, physical infrastructure, human capital or access to finance.

Table 3. Top Three Policy Priorities to Improve Central America’s Productivity¹

<table>
<thead>
<tr>
<th>Costa Rica</th>
<th>El Salvador</th>
<th>Guatemala</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regulatory environment</td>
<td>Regulatory environment</td>
<td>Regulatory environment</td>
</tr>
<tr>
<td>Crime</td>
<td>Corporate governance</td>
<td>Crime</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>Crime</td>
<td>Corporate governance</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Honduras</th>
<th>Nicaragua</th>
<th>Panama</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporate governance</td>
<td>Corporate governance</td>
<td>Regulatory environment</td>
</tr>
<tr>
<td>Regulatory environment</td>
<td>Regulatory environment</td>
<td>Crime</td>
</tr>
<tr>
<td>Crime</td>
<td>Crime</td>
<td>Technology</td>
</tr>
</tbody>
</table>

¹ The table reports the areas that would raise productivity the most if all investment climate attributes were to take the value of the firm in the 75th percentile (same industry and firm size). Source: Alaimo et al. (2009).

Moreover, when Alaimo et al. (2009) explored areas that policy makers need to address to improve the region’s productivity, they found that crime concerns should be one of the top three priorities in all six Central American countries (Table 3).
Apart from crime’s impact on productivity, a World Bank study (World Bank 2006) projected how much economic growth could increase if crime and violence were to decline. An econometric model was used to simulate how a drop in crime would influence growth.

**Figure 6: Potential Boost to Annual Economic Growth Rate from Reducing Homicide Rate by 10%**

![Figure 6: Potential Boost to Annual Economic Growth Rate from Reducing Homicide Rate by 10%](image)


II.3 Crime and violence affect the legitimacy of justice sector institutions

A third cost of crime and violence involves changes in way crime victims—and those fearful of becoming victims—view state institutions and how these changes can undermine good governance. The emotional shock of being targeted, combined with first-hand experience of the criminal justice system or greater awareness of negative media coverage about the inability of the institutions to cope with crime and violence, all can erode an individual’s confidence in the way authorities and individual citizens confront crime. Research set out in Figure 7 shows that, on average, crime victims: (i) have less trust in the criminal justice system; (ii) are more likely to approve of taking the law into their own hands; and (iii) believe less that the rule of law should always be respected. Most notably, these effects are greater in countries with higher levels of violence. Indeed, in El Salvador, Honduras and Guatemala, crime victims are 6.5 percent more likely to approve of taking the law into their own hands and are 9 percent less likely to believe that the rule of law should always be respected.
Figure 7. Effect of Crime and Violence on Attitudes toward State Institutions in Latin America

Trust in criminal justice system  Approval of taking law in one’s own hands  Belief that authorities should respect rule of law

Source: Demombynes (2009). The figures show how attitudes change when a person is victimized, i.e., attitudes with regard to trust in the criminal justice system, approval of taking the law in one’s own hands, and belief that authorities should respect the rule of law. Estimates are based on the coefficients on crime victimization from country-specific regressions of the different indexes on crime victimization and a set of control variables. Regressions include fixed effects at the sampling cluster level. Dependent variables are indexes with ranges from 0 to 100.
The impact of crime and violence on the legitimacy of state institutions is particularly relevant in the Central American context where governance (as measured by the World Bank’s Governance Indicators) is already an issue of concern. For example, Nicaragua and Honduras fall in the lowest quintile of the Indicator for Control of Corruption (Figure 8, Panel A). In Latin America, only Haiti, Venezuela and Paraguay score lower. Similarly, when the focus is the Rule of Law, Guatemala is near the bottom 10 percent, while Nicaragua, Honduras and El Salvador are in the bottom third of the rankings. Even more worrisome, governance indicators have declined in all four countries in recent years.

Figure 8. Governance Indicators in Central America

Panel A. Ranking (%) corruption and rule of law  
Panel B. % of firms declaring to pay bribes

Similarly, the World Bank’s Investment Climate Surveys found that nearly one third of the companies surveyed in Nicaragua, Honduras, Guatemala and El Salvador said they had paid bribes to do business, a reality that lowers corporate productivity (Figure 8, Panel B). The exceptions to poor governance in Central America are Costa Rica and Panama. They tend to have governance indicators that rank in the upper half of the global sample and have the lowest percentage of companies reporting that they paid bribes. Still, as noted above, their citizens and businesses are also concerned with the upward trends in crime and violence and with how a significant increase could affect their countries’ institutions.

III. THE DRIVERS OF CRIME

This report analyzes the key drivers of crime and violence in Central America: drug trafficking, youth violence and gangs, and the widespread availability of firearms. Drug trafficking stokes violence in several ways, including fighting between and within trafficking organizations, and fighting between traffickers and law enforcement officials, adding to the availability of firearms and weakening the criminal justice system by diverting judicial resources or corrupting the criminal justice system itself. Most perpetrators and victims of crime and violence are young people, mainly young men. The third main contributing factor to criminal violence in the region is the legacy of armed conflict and the widespread availability of firearms.

A detailed analysis of these factors is presented below.
III.1 Drug trafficking

Central America is a pivotal transportation route for drugs bound for the United States. Although this traffic includes some marijuana and heroin produced in the region, cocaine shipped from South America is the dominant commodity. The United States Government estimates that 90 percent of all cocaine entering the US (approximately 560 metric tons in 2007) comes through the Mexico–Central America corridor. Official seizure figures show that 72 metric tons (13 percent) were intercepted in Central America. According to studies by the United Nations Office on Drugs and Crime (UNODC), the dominance of the Central American transit corridor is a phenomenon of the last two decades. Until the early to mid-1990s, most cocaine was shipped through the Caribbean until greater law enforcement interdiction in the Caribbean until greater law enforcement interdiction in the Caribbean and the rise of the Mexican drug cartels drove traffickers to the Central America–Mexico route (UNODC 2008).

The wholesale value of cocaine as it moves north along the Atlantic coast route between Colombia and the United States offers a lesson in the economics of the drug trade. Figure 9 shows the wholesale prices of cocaine in the Central America corridor. It shows how the cost of a newly minted kilo of cocaine begins at approximately US$1,000 on the Caribbean coast of Colombia; the cost rises sharply in value as the cocaine passes through Panama, Costa Rica, Nicaragua and Honduras, reaching US$100,000. For Central America, the money at stake in this trade is enormous. The 560 metric tons of cocaine shipped through the region is equivalent to 14 grams for each of the 40 million people in Central America—an amount that carries a street value in the United States of about US$2,300² or more than half the US$4,200 estimated 2009 per capita GDP of Honduras. Given such figures, the resources of traffickers are massive. The value added to cocaine as it moves through the region is roughly 20 times Panama’s and Guatemala’s combined 2007 defense budgets of US$364 million. It also dwarfs (by more than 100 times) the relatively small US$65 million allocated by the United States under the Mérida Initiative to assist interdiction efforts by Central American nations.

Figure 10 shows the regional drug trafficking patterns, measured by the volume of drug seizures (cocaine plus cannabis) measured in kilos per 100,000 people. Seizures are not an ideal measure because the volume of seizures is as much a function of law enforcement efficiency as the volume of drugs trafficked. However, high volumes of seizures in a particular area are at the very least an indicator of high-level trafficking. The map below shows substantial variation both across and within countries in terms of exposure to drug traffic. Panama stands out from the rest due both to its proximity to Colombia and to its role as the point of entry to Central America. Within countries, seizures are generally greater closer to the coasts.

² This calculation is based on the US Drug Enforcement Agency’s report which indicated that the retail price of cocaine in June 2007 was US$166.90/gram.
Anecdotal evidence indicates that drug use is prevalent among certain populations and in areas where drug traffickers employ locals and pay them with drugs. However, surveys of drug use among secondary school students—clearly a limited group that is not representative of the overall population—find very low levels of drug use in Central America. Still, this does not prevent one of the most pervasive by-products of the drug-trafficking industry: violence.

Although there is little evidence specific to Central America on the links between drugs and violence, there is a substantial body of literature on the issue itself. Goldstein’s influential formulation (1985) cites three possible ways in which illicit drugs can generate violence: (i) violence triggered by the effects of a drug on the user; (ii) violence undertaken to generate money to purchase drugs (economic–compulsive); and (iii) violence associated with disputes over drug territory, drug debts and other issues related to the drug trade (systemic).

According to MacCoun, Kilmer, and Reuter’s review (2003), the “prevailing view about psychopharmacological...violence is that it is rare and attributable mostly to alcohol rather than illicit drugs.” The same review also concludes that, with the exception of heroin addicts, “economic–compulsive criminality is relatively rare.” That leaves only the third category—systemic violence associated with the business of drugs—as the main explanation for the drugs–violence connection. Both psychopharmacological and economic–compulsive connections are associated with drug consumption, while systemic links are tied chiefly to trafficking. Given the lack of any evidence that drug consumption has jumped in Central America as the region has become one of the world’s major drug transport corridors, these systemic links are almost certainly behind the drugs–violence connection.

Systemic ties between drugs and violence fall into a number of subcategories.

- **Between trafficking organizations.** Drug traffickers have no access to the courts or other legal mechanisms. They cannot use the legal system to adjudicate commercial disputes such as...
nonpayment of debts. They cannot sue for product liability, nor can sellers use the courts to enforce payment. Rival groups cannot use advertising to compete for market share and thus they wage violent turf battles instead. Because of all this, disagreements between drug traffickers are more likely to be resolved with violence. It seems likely that at least a portion of the murders in Central America are linked to such disagreements because so much of the region’s trafficking involves the transfer of narcotics between Colombian and Mexican organizations.

- **Within drug trafficking organizations.** Because they are black-market organizations, drug cartels do not establish formal structures within the law. For example, they cannot report employees for misuse of company funds or property without risking prosecution themselves. Consequently, power relationships are by nature informal. Within such a system, violence is often the disciplinary tool of choice for organization leaders and can also be a path to upward mobility within the organization. Although it is extremely difficult to gauge, we suggest that this accounts for at least some of the homicides in the region.

- **Diversion of criminal justice resources or corruption of the criminal justice system itself.** Many researchers have noted that, even in a perfectly functioning criminal justice system, drug trafficking can indirectly increase violence if criminal justice resources are diverted to anti-drug efforts in a way that reduces the system’s ability to handle non-drug crime. In countries hard hit by drug trafficking, the damage can be more severe. Where drug trafficking corrupts the criminal justice system by buying off senior government officials, police, judges and prosecutors, the system’s ability to effectively handle non-drug crime can be crippled, leading to higher levels of crime and violence not associated with drugs. Furthermore, traffickers who have already corrupted the justice system through payoffs or threats to the authorities so they no longer fear prosecution may be more likely to use violence to settle disputes unrelated to trafficking. Although direct evidence is not available, we believe this channel accounts for a large portion of the drugs–violence connection in the region. There is evidence that corruption is a significant problem in the police and criminal justice systems of El Salvador, Guatemala and Honduras, and has undoubtedly restricted the authorities’ ability to confront violence. The establishment of the International Commission against Impunity in Guatemala (Comisión Internacional Contra la Impunidad en Guatemala, CICIG) reflects the inability of regular state authorities to handle investigations against powerful interests entrenched in government. In a study conducted on public insecurity in Central America and Mexico, as part of the Americas Barometer Insights Series 2009 (Cruz 2009), the perception that local police are involved in crime (47.7 percent of respondents believed they were) appeared as the third most important contributor to feelings of insecurity, after drug trafficking and the presence of gangs.

- **The spread of guns.** If trafficking brings more firearms or heavier weapons into an area, their availability can facilitate violence, whether or not that violence is related to the drug trade. Research in the United States has suggested that violence was prevalent around the period of the US crack epidemic because the trade fueled demand for firearms (Blumstein 2000; Blumstein and Cork 1996; Cork 1999). The Latin American Commission on Drugs and Democracy highlighted this linkage: “The relationship between homicide, firearms, and drug commerce is central. Drugs finance the purchase of firearms, which sustain gang wars for control of territories and trafficking.”

- **Enforcement of prohibition.** Enforcement of anti-drug laws involves arresting people, seizing drugs, and conducting other activities that carry with them the risk of a violent confrontation between law enforcement agents and suspected drug law violators.
Youth violence is a critical concern in Central America, especially the problem of youth gangs, which are perceived as a main driver of violent crime in the region. However, youth violence extends beyond youth gangs alone. Although gangs have been blamed for a range of violent crimes, there has been little empirical analysis of gangs, and reliable data on the role of youth gangs in the narcotics trade is scarce. While the number of deportees in Central America has skyrocketed since 2002, evidence to tie criminal deportees with youth gangs is scant, suggesting a weaker link than generally portrayed.

Youth, mainly young men, comprise the bulk of both victims and perpetrators of violence in Central America. Data from Nicaragua (2006) show that nearly half of those arrested in connection with homicide were between the ages of 15 and 25. In El Salvador (2000), positively identified perpetrators of violent crimes were mostly young men with a peak age of 23. Young men are also the principal victims of homicides: in all six Central American countries, about 30 percent of all homicide victims were males between the ages of 15 and 34.

The two major gangs in Central America, the Mara Salvatrucha (MS13) and 18th Street, have their roots in the US. Beginning in the early 1980s, nearly a million Central Americans fled to the US to escape the violence and hardship of civil conflict in the region. Living in poverty and marginalized by other groups, a small percentage became involved with gangs. Some joined 18th Street, a primarily Mexican gang established many years prior to the wave of Central American immigration, while others formed MS13. During the mid-1990s, many Central Americans, including some gang members, were deported to their countries of birth, where some became involved in criminal activity and replicated the 18th Street and MS13 gangs. Over time, high-profile acts of violence brought gangs into the public view. Governments responded by implementing a variety of mano dura policies that emphasized repression and law enforcement and minimized prevention, rehabilitation and social reintegration of gang members.

Data on gangs as instigators of violence in Central America also vary wildly, often depending on the country and the institution collecting the data. This all underlines the need for improved data collection on gangs, not only within but also across countries. However, where reliable information does exist, it casts doubt on the perception that youth gangs are responsible for the majority of crime and violence. There are also a number of case studies that can be used to gain a better understanding of the role played by gangs.

Table 5, which includes data collected by El Salvador’s Institute of Legal Medicine, depicts the established motives for homicides in El Salvador between 2003 and 2006, during which no more than 13.4 percent of total homicides were attributed to gangs. Among homicides for which motives could be

### Table 4. Estimates of Gang Membership by Country

<table>
<thead>
<tr>
<th>Country</th>
<th>Gang Members</th>
<th>Number of Gangs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Honduras</td>
<td>36,000</td>
<td>112</td>
</tr>
<tr>
<td>Guatemala</td>
<td>14,000</td>
<td>434</td>
</tr>
<tr>
<td>El Salvador</td>
<td>10,500</td>
<td>4</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>4,500</td>
<td>268</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>2,660</td>
<td>6</td>
</tr>
<tr>
<td>Panama</td>
<td>1,385</td>
<td>94</td>
</tr>
<tr>
<td>Belize</td>
<td>100</td>
<td>2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>69,145</strong></td>
<td><strong>920</strong></td>
</tr>
</tbody>
</table>

Source: Central American and Caribbean Commission of Police Chiefs

However, reliable analysis of the gang phenomenon has been hampered by ever-changing, often arbitrary, definitions of “gang,” “gang member,” and “gang crime.” Given this confusion, it is not surprising that there is little agreement on how many gang members there are in the region. Estimates range from about 10,000 to over 300,000 members, with the most commonly accepted estimates at around 70,000 (Table 4). Of that total, the vast majority are in El Salvador, Guatemala and Honduras.
identified, gang crime represented a minority. Many murders were classified simply as “common crime,” while nearly 60 percent of homicides recorded in 2005 were listed as having “unknown motives.” Collectively, this suggests the need to qualify claims that gang-related crimes were a minority among total crimes, given the possibility that at least some of those crimes with no known motive could be gang-related. About one quarter of those crimes recorded in 2006 with known motives were gang related.

### Table 5: Motives for Murder in El Salvador

<table>
<thead>
<tr>
<th>Motive</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Common crime</td>
<td>57.4%</td>
<td>33.7%</td>
<td>23.3%</td>
<td>18.2%</td>
</tr>
<tr>
<td><strong>Gang Crime</strong></td>
<td>8%</td>
<td>9.9%</td>
<td>13.4%</td>
<td>10.7%</td>
</tr>
<tr>
<td>Unknown</td>
<td>28.9%</td>
<td>48.4%</td>
<td>59%</td>
<td>59.1%</td>
</tr>
<tr>
<td>Others</td>
<td>5.7%</td>
<td>8%</td>
<td>4.3%</td>
<td>12%</td>
</tr>
</tbody>
</table>

Source: Institute of Legal Medicine, El Salvador

Guatemala is another case in which data paint a mixed picture on the overall contribution of gangs to violent crimes. For example, during a month in which the number of homicides was especially high, police statistics attributed only 14 percent of them to gangs. Moreover, the majority of murders during that period occurred in areas where gang presence was minimal, but where the presence of organized crime and drug trafficking was high (Lara 2006). Additional data from Guatemala on the number of gang members in prison and why they were there, suggest that gang members might not be as violent as the public believes. Data from the Guatemalan penitentiary system indicate that gang members accounted for 5.8 percent of the total number of arrestees in June 2006, a figure suggesting that others are behind the high levels of violence in Guatemala. Furthermore, 2004 data from the Guatemalan National Police showed that drugs were the primary reason for arrests of gang members (23 percent), followed by robbery (20.4 percent). Homicides caused gang member detentions in only 1.8 percent of cases.

However, other data from Guatemala suggest that gangs might play a larger role in violence. A study conducted by the Office of the Attorney General for Human Rights (Procuraduría de Derechos Humanos), which analyzed the causes of death for youth aged 25 and under for the period of July 2002 through August 2003, found that 27.4 percent of these deaths were caused by gang-member attacks on non-gang youths (Ranum IUDOP). The study showed that in total, gangs were responsible for about one third of all deaths covered by the research, including those between gang members and from gang members leaving their gang. Although deaths caused by gangs accounted for 27.4 percent of all deaths of those under age 25, common criminal acts accounted for a marginally higher percentage of deaths of this age group: 28.5 percent (Ranum IUDOP). Again, data are ambiguous about gang involvement in these criminal acts, further reducing clarity on the issue.

Honduras is a third country with information on the role of gangs. Data collected by Casa Alianza (an international NGO dedicated to the rehabilitation of children in Mexico, Nicaragua and Honduras) in order to track youth homicides suggest that gangs were responsible for about 15 percent of Honduran murders in 2006 (Casa Alianza 2006). Honduran police data also showed that less than 5 percent of all crime is committed by people under age 18, a demographic group comprising a significant share of overall gang membership. According to an exhaustive international study, Save the Children UK found that 90 percent of children in legal trouble are involved in property offenses, not person-to-person crimes.

Furthermore, reliable data on youth gangs in the narcotics trade are virtually nonexistent. Still, there is a perception that gangs have become increasingly involved in drug trafficking and dealing over the past

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3 Instituto Universitario de Opinión Pública de la Universidad Centroamericana (University Institute for Public Opinion of the Central American University).
decade. It is believed that gangs provide local security or conduct small-time street selling for Mexican and Colombian cartels. Gangs do not appear to be involved in the large-scale movement of drugs, although some reports suggest that leaders of local drug organizations are often ex-gang members who have “graduated.” There are also suggestions that involvement in drug trafficking has made gangs more violent.

Qualitative studies of Central American gangs suggest that they are mainly involved in small-scale, localized crime and delinquency, such as petty theft and muggings, which are typically carried out by individual gang members. However, there is evidence that the maras in El Salvador, Guatemala and Honduras are involved in the extortion of protection money from local businesses and from buses and taxis as they go through gang-controlled territories. Such practices create a climate of fear in their communities. Gangs have also been involved in a limited number of cases of extreme violence. While such incidents do not necessarily raise homicide rates in a dramatic manner, they do help strengthen the stereotype and generate fear (Muggah and Stevenson 2008).

Despite the mix of data presented above, the overall perception among Central American citizens remains that youth gang members are primarily responsible for crime. In Central American capitals and their surrounding areas in 2008, between 16 and 36 percent of the population felt that their neighborhoods were greatly affected by gangs (Table 6). Similarly, in the World Bank’s 2003 Enterprise Surveys, business managers estimated that gangs were responsible for about a quarter of violent crime affecting their businesses. In El Salvador, the figure was 27 percent, in Honduras 28 percent, and Nicaragua 25 percent. Only in Guatemala was the figure substantially higher at 67 percent. These survey results showed that in El Salvador, small businesses felt especially vulnerable to maras, with gangs believed to be responsible for 46 percent of crimes against micro-enterprises, 37 percent of crimes against small firms, 19 percent of crimes against medium-size firms, and 18 percent of crimes against large firms.

### Table 6: Percentage of Residents who Say their Neighborhoods are Greatly Affected by Gangs

<table>
<thead>
<tr>
<th>Country</th>
<th>Capital City</th>
<th>Large</th>
<th>Medium</th>
<th>Small</th>
<th>Rural</th>
</tr>
</thead>
<tbody>
<tr>
<td>Guatemala</td>
<td>0.24</td>
<td>0.22</td>
<td>0.10</td>
<td>--</td>
<td>0.04</td>
</tr>
<tr>
<td>El Salvador</td>
<td>0.21</td>
<td>0.08</td>
<td>0.08</td>
<td>0.04</td>
<td>0.05</td>
</tr>
<tr>
<td>Honduras</td>
<td>0.21</td>
<td>0.19</td>
<td>0.10</td>
<td>0.03</td>
<td>0.03</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>0.36</td>
<td>0.14</td>
<td>0.08</td>
<td>0.03</td>
<td>0.04</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>0.16</td>
<td>--</td>
<td>--</td>
<td>0.11</td>
<td>0.06</td>
</tr>
<tr>
<td>Panama</td>
<td>0.16</td>
<td>0.23</td>
<td>0.05</td>
<td>0.06</td>
<td>0.04</td>
</tr>
</tbody>
</table>

\(^{1/}\) The table reports the share of residents who say their neighborhoods are greatly affected by gangs, according to victimization surveys.

Source: Bank staff analysis of data from the 2008 Latin America Public Opinion Project surveys.

To design appropriate policies and interventions to address youth and gang violence, it is necessary to understand why certain youth become involved in criminal and violent behavior—actions that sometimes lead to gang membership—in the first place. In order to do this, we utilized the Ecological Risk Model, which identifies four levels of factors that can influence whether or not a young person becomes engaged in criminal and violent behavior: societal, community, relationship/interpersonal, and individual. A summary of these risk factors for Central America is presented in Box 1.
Box 1: Central American Risk Factors for Youth and Gang Violence

**Societal**
- **Culture of violence:** A system of norms, values, and attitudes that enables, fosters and legitimizes the use of violence in interpersonal relationships (i.e., physical discipline of children, violence against women, etc.).
- **Poverty and income inequality:** Although correlated with risky behaviors such as dropping out of school (a risk factor for youth violence), no causal relationship exists between poverty and violence. However, relative deprivation in LAC is correlated with higher homicide rates.
- **Rapid and uncontrolled urbanization:** Patterns of victimization in LAC have shown that cities whose population had experienced growth spurts also experienced a greater degree of violence as a result of disorganization and poor urban planning. Deteriorated public spaces have also been associated with gang presence and victimization of residents.
- **Youth unemployment and inactivity:** Youth unemployment is associated with a higher probability of youth engaging in risky behavior, including crime and violence. Youth inactivity rates (youth who are not in school or are unemployed) are often much higher than youth unemployment rates.
- **Migration:** Evidence shows that school-going youth who feel close to their parents have lower substance abuse rates and participate less in violence and risky sexual activity. It has also been demonstrated that children who feel close to their families are about 10 percent less likely to engage in risk-taking behavior such as violence, smoking, alcohol and drug abuse, and risky sexual activity. This is particularly relevant given the trend in the last decade of one or both parents migrating to the US.
- **Drug trafficking:** Drugs and violence are linked in three main ways: (i) the altered state generated by drug use can produce violent behavior and a loss of control; (ii) drug abuse generates physical and psychological dependence, which often leads young people to become involved in criminal activities as a means of supporting their drug addictions; and (iii) gang member participation in drug networks and organized crime.

**Community**
- **Low secondary school enrollment, completion and attainment rates:** Juvenile delinquency is correlated with lower levels of education due to the low cost that engaging in criminal behavior has for these young people, the absence of positive social influences from mentors and peers, and from delinquency being the best income alternative for a young person without any marketable skills.
- **School violence:** While schools have been proven to serve as an important protective factor in the lives of at-risk youth, they can also teach violence through corporal punishment by teachers and through violence between students.
- **Availability of firearms:** The number of firearms in circulation has a direct effect on the ability of those at risk of violence to obtain guns, whether from legitimate sources or illegal firearms sales.

**Relationship/Interpersonal**
- **Household poverty:** Poverty within a household can cause one or both parents to migrate for better job opportunities or to be absent from the home for many hours, or can drive the younger family members to bring additional income into the home, causing some youth to engage in the illegal drug trade.
- **Dysfunctional families:** Children and youth who experience or observe violent behavior in the home are more likely to engage in violent behavior themselves.
- **Peers who are gang members:** Studies show that relationships established with peers who are gang members or juveniles with criminal records typically have a significant impact on a young person’s decision to join a gang. Unlike the families of these young persons, peers can offer solidarity, respect, and sometimes even access to money.

**Individual**
- **Alcohol abuse:** Alcohol can increase the likelihood of youth violence by reducing self-control and the ability to process incoming information and assess risk, by increasing emotional liability and impulsiveness, and by increasing the likelihood that a young person will resort to violence.
- **Lack of identity:** Many young people join gangs due to the absence of positive role models both at home and in their communities, and to being socially excluded (from education and employment opportunities).
III.3 The legacy of the region’s wars and the availability of firearms

An explanation sometimes heard for the extraordinary levels of violence in Central America has to do with the legacy of the region’s wars. Although the empirical analysis presented in the next section shows no specific evidence for this argument, the wars (along with other factors such as drug trafficking) may have played a role in the widespread availability of firearms, which is a well-known risk factor for crime and violence.

Since the 1960s, large parts of Central America have been periodically engulfed in armed conflict (Figure 11). In Guatemala, communities in the north and northwest parts of the country were more exposed to violence: areas such as Quiche, Chimaltenango and Baja Verapaz. In El Salvador, the central and northern zones, including Chalatenango, Cuscatlán, were the hardest hit. Zones in the northwest of Nicaragua, such as Nueva Segovia, were the most affected by the war with the contras. It is estimated that approximately 200,000 people died as a direct consequence of the Guatemalan civil war, which lasted from the early 1960s through 1996, with the most severe period beginning in the early 1980s. In El Salvador, the conflict unfolded from 1980 to 1992, taking the lives of around 75,000 people. The Nicaraguan conflict, which occurred during the 1980s, claimed 38,000 lives and is estimated to have caused about US$17 billion in lost infrastructure and a death toll of 38,000 people.

Figure 11. Intensity of Armed Conflict in Central America

There are two main hypotheses on how the region’s conflicts may be contributing to higher crime levels. According the first hypothesis, war may have created a culture of violence among the population, breeding a tendency to rely on violence to fix problems. Beyond this, it may be that victims tend to retaliate in kind or take justice into their own hands. For example, in Guatemala it is not uncommon to hear of a suspected criminal being caught in flagrante delicto (i.e., “in the act”) and then being lynched by a mob, sometimes even for petty crime.
The second hypothesis is that recent armed conflict may contribute to higher violence levels through the transfer of firearms and munitions into the region. In 2007, about 4.5 million legal and illegal small firearms were circulating in Central America (Table 7); the great majority of them are illegally owned. For example, Guatemala reported just over 147,000 legally owned civilian firearms but estimated a total number of nearly 2 million in circulation. Similarly, Honduras counted about 133,000 registered firearms, but the number of total firearms actually in the country is estimated at close to 600,000. In Central America as a whole, there is estimated to be about one weapon for every ten people, ranging from a low of 2.8 per 100 people in Costa Rica to nearly 16 per 100 people in Guatemala.

Certainly not all firearms in circulation can be traced back to the armed conflict. Between 2000 and 2006—several years after the last of Central America’s civil wars had ended—arms imports increased in all six Central American countries. In Guatemala, for example, the value of imported firearms nearly tripled from about US$3 million to US$8 million during this period. Costa Rica experienced a similar jump from under US$1 million to more than US$3 million. Firearms imported to the region included revolvers, pistols, hunting rifles, shotguns, AK-47 assault rifles, M-16s, rocket launchers, hand grenades and semi-automatic rifles, according to official customs data. A thriving illegal trade in firearms associated with the drug trade is believed to have fueled at least part of this increase. As drugs flow north into Mexico and the United States, firearms flow south.

Table 7: Firearms Owned by Civilians in Central America, 2007

<table>
<thead>
<tr>
<th>Country</th>
<th>Registered</th>
<th>Estimated</th>
<th>Guns per 100 people</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costa Rica</td>
<td>43,241</td>
<td>115,000</td>
<td>2.8</td>
</tr>
<tr>
<td>El Salvador</td>
<td>198,000</td>
<td>450,000</td>
<td>7.0</td>
</tr>
<tr>
<td>Guatemala</td>
<td>147,581</td>
<td>1,950,000</td>
<td>15.8</td>
</tr>
<tr>
<td>Honduras</td>
<td>133,185</td>
<td>450,000</td>
<td>6.2</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>NA</td>
<td>385,000</td>
<td>7.0</td>
</tr>
<tr>
<td>Panama</td>
<td>96,600</td>
<td>525,600</td>
<td>5.4</td>
</tr>
</tbody>
</table>

Sources: Karp 2008; Arias Foundation 2005.

Recent spikes of violence in the region have been accompanied by the appearance of more powerful firearms, resulting in higher mortality levels. Indeed, firearms are used in most murders in Central America. Figure 12 shows the breakdown by weapon linked to murders in Guatemala and El Salvador. The patterns are remarkably similar: in both countries, firearms were used for 80 percent of killings.

A 2008 victimization survey in Guatemala conducted by the Geneva-based Small Arms Survey spotlighted a range of similar trends. Firearms were overwhelmingly present in all reported incidents of violent crime. In addition, 31 percent of those participating in the survey said they owned some kind of firearm; a third of them said they had handguns. Of those who did not own a gun, 16 percent said they would like to own one.
Figure 12. Weapons Used for Homicide

### III.4 Assessing the relative importance of alternative explanations

Up to this point we have identified factors that drive crime in Central America but have made no attempt to assess the relative importance of each. This information is critical to shape effective policy responses or, at the very least, to prioritize interventions on the basis of potential impact.

A recent study by Cuevas and Demombynes (2009) constructed an econometric model of crime levels using data that included: (i) whether the particular region was a drug-trafficking warm- or hotspot on the basis of the volume of drug seizures (cocaine plus cannabis) measured in kilos per 100,000 population; (ii) census information on two demographic variables likely to be risk factors for high levels of youth violence: the share of young men and women in the population and the share of female-headed households; (iii) a qualitative variable on the level of past armed conflict within each country, classifying areas by low, moderate, severe and very severe incidence; and (iv) a set of controls that included years of education, income per capita, inequality indexes, employment statistics, and urban population. Detailed results of the regressions appear in Volume II of this report, but the main findings include the following:

- Drug trafficking is an important driver of homicide rates. Within any one country, controlling for other factors, drug-trafficking hotspots have murder rates more than double those in areas of low trafficking intensity.

- Areas at high risk for youth violence based on demographic characteristics experience higher levels of murder. Specifically, areas with a larger percentage of young men between the ages of 15 and 34 have higher homicide rates. Areas with large numbers of female-headed households, in which young men are less likely to be monitored, also suffer higher murder rates.

- There is no significant link within countries between the incidence of past armed conflict and current homicide rates. Areas that were hotspots for armed conflict in the past are not

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4 The cutoffs were established by examining the distributions and noting that there is a certain discontinuity around 100. Under this approach, 18 percent of the localities are in the first category of no seizures, 63 percent in the second (between 0 and 100 kilos per 100,000 population), and 19 percent in the third (above 100 kilos).
experiencing higher levels of violence today. Some experts argue that the effects of past armed conflicts are nationwide, not location specific, noting, for example, that civil war damaged the capacity of criminal justice institutions in the country as a whole or generated a large stock of guns that today are bought and sold across the country. However, broader evidence does not suggest that the region’s high levels of violence are principally a legacy of armed conflict. Fragmentary data for Guatemala, El Salvador and Nicaragua from the late 1960s—well before armed conflict and political violence had reached intense levels—show that murder rates were already high then, exceeding 20 per 100,000. Cruz (2003) also shows that El Salvador experienced more than 900 killings in 1959, equal to a homicide rate of nearly 30 per 100,000.

All this points toward a simple conclusion: drug trafficking is quantitatively far more important than the other risk factors for violence identified in the study. Figure 13 illustrates this. It simulates the potential impact of an increase in the proxy values of crime determinants labeled significant in Table 8. For example, a 10 percent increase in female-headed households would lead to a 1 percent increase in the homicide rate. Similarly, a 10 percent rise in the population share of 15- to 34-year-olds would lead to an increase in the homicide rate of about 9 percent. At the other extreme, a jump in narcotics trafficking large enough to make an area a drug traffic hotspot would produce a 111 percent increase in the homicide rate.

Figure 13: Key Risk Factors for Homicide in Central America

<table>
<thead>
<tr>
<th>% increase in the homicide rate associated with ...</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increase of 10% in households headed by women</td>
</tr>
<tr>
<td>Increase of 10% in population of men ages 15-34</td>
</tr>
<tr>
<td>Drug trafficking &quot;hot spot&quot; vs. zone with little trafficking</td>
</tr>
</tbody>
</table>

Source: Cuevas and Demombynes (2009).
Note: Figures shown are selected coefficients from regressions of log homicide rates at the subnational level on explanatory variables. All coefficients shown are significant at the 5% level and are robust to specifications controlling for the other demographic characteristics, the incidence organized armed conflict, employment, education, income and urban/rural divisions.

IV. POLICY OPTIONS

The preceding section reviewed the main factors behind crime and violence in Central America. Due to the complexity of both the problem and its principal causes, it is not surprising that there is no magic bullet to end the crisis. In fact, a main conclusion of this report is that no quick and easy fix is ready to be implemented. Rather, our analysis tells us that the fight against violent crime in Central America is nothing less than a generational challenge. It is likely to be long lasting and will require policy makers to be inventive, courageous, diligent and, above all, determined. As the lessons of Colombia and Mexico have taught us, the costs of fighting crime can be huge when governments take on the drug trade. Despite
this risk, fighting crime is—and must remain—a crucial ingredient on the development agendas of Central American countries because the stakes are so high.

Successful crime-fighting strategies elsewhere offer some hints for Central America. One common thread of these earlier successes is action across a broad front. This demands an inclusive coalition of agencies and individuals across governments as well as civil society. Law enforcement and prevention efforts, on their own, simply will not work. Mobilizing support for such an ambitious approach may require a national crime reduction plan, which some Central American countries already have but others do not. It also requires the establishment of a national crime coordinating body, possibly a high-level commission or council, with strong leadership and political backing at the highest levels. Although not easy to create, such a group is essential to coordinate different government branches and supervise ambitious collaboration across traditional bureaucratic fault lines. The criminal justice sector, including the judiciary, prosecutors, public defenders, police and prisons, must all be strengthened by executive branch initiatives on crime prevention, alternative dispute resolution, education, poverty reduction and youth development. National plans must also offer a way to involve civil society organizations, in which much of the expertise in violence prevention resides.

Another common denominator of successful interventions is that they begin with a clear-headed diagnosis of violence types and risk factors, and end with a careful evaluation of an intervention’s potential impact that in turn helps shape future policy. In summary, successful strategies are anchored in facts and evidence. Good policy making to reduce crime and violence does not happen by accident. It flows from good analysis, hard work and the capacity to adapt strategies. With these elements in mind, we structure the alternatives available to policy makers along three broad lines of action: (i) prevention programs; (ii) criminal justice sector reform to improve the law enforcement strategy; and (iii) regional and international approaches.

### Box 2. Crime and Violence Prevention Components in Bank-Financed Integrated Slum Upgrading Operations: Honduras Barrio–Ciudad Project

The World Bank is supporting local crime and violence prevention in Honduras through a specific project component of the Barrio–Ciudad Project. The component seeks to leverage the ongoing infrastructure and social investments and to mainstream crime prevention at the local level, in order to strengthen the overall project. In short, it combines urban renewal with a citizen security focus at the local level.

The component focuses squarely on the reduction of the high levels of homicide, youth violence and associated risk factors present in the participating barrios and municipalities. The synergies created between infrastructure provision, upgrading and situational prevention on the one hand, and community-based “social prevention” activities on the other hand, are especially important. The overall objective is a broad-based intervention at the neighborhood level that is closely coordinated with other donor, governmental and non-governmental programs in these neighborhoods that address crime and violence and their associated risk factors. The component has five parts:

- **Diagnostics**: Crime and violence mapping of micro areas using police statistics and, where possible, Geographic Information Systems (GIS); the victimization section of baseline surveys; and community-based and situational diagnostics.

- **Situational Prevention**: Measures, such as the Crime Prevention through Environmental Design (CPTED) methodology and urban renewal that reduce opportunities for particular crime and violence problems. This method is included in infrastructure work through the training of architects, engineers and other technical staff. It also includes the planning and installation of social infrastructure, such as community centers, playing fields and public lighting. This methodology is quite new in the LAC region but has been successfully piloted in countries such as Chile, Brazil and Colombia.

- **Social Prevention**: Support of immediate mitigation and conflict-resolution activities in addition to other preventive and capacity-enhancement interventions that have a medium- and long-term impact on levels of public safety. In particular, financial support for a menu of initiatives in four broad categories tailored to
the specific needs of each community: (1) mediation and conflict resolution; (2) alternative livelihoods and skills development; (3) family support services; and (4) youth education and recreation.

- **Community and Municipal Liaison Officers:** The role of these technical experts in community organization, crime and violence prevention, and urban development is to strengthen municipal capacity, and at the neighborhood level to carry out community-based diagnostics; formulate participatory community and municipal safety plans and strategies; liaise and coordinate with other relevant agencies and associations, in particular with Community Safety Councils and the police; coordinate closely with those designing infrastructure to ensure the integration of CPTED principles; identify and work with at-risk youth in the community; organize and mobilize the community around the concept of safety through community campaigns (e.g., community clean-up/painting days, community safety festival, etc.); and initiate additional projects such as a summer camp for at-risk youth.

- **Monitoring and Evaluation Component:** Evaluations of the components have been designed and will be carried out. Although evaluation data from these Bank-financed projects are not yet available, similar community-based integrated interventions have yielded dramatic results.

### IV.1 Prevention programs

A broad menu of prevention programs is available to Central American policy makers. In practice, governments should seek to design an integrated, comprehensive, holistic and cross-sectoral prevention strategy. Specifically, programs should: (i) combine policies directed toward individual and community risks, but should reinforce them with policies to modify structural conditions that can lead to criminal and violent behavior, such as quality and coverage of education, job and training opportunities, as well as judicial and police reform; (ii) link with the community in which the young person lives; (iii) respond directly to the risk and protective factors present in the young person’s life; (iv) be a joint effort between community assistance organizations and police; (v) incorporate the families of young people being targeted, because a strong family is proven to be one of the strongest shields against youth violence; and (vi) improve the socioeconomic situation of high-risk families.

Examples of programs on this front include:

**Early childhood development (ECD) programs.** Investing in ECD programs, particularly those targeted toward poor families, has been one of the most cost-effective ways to reduce risk behaviors among youth. Evidence from around the world shows that these programs, which traditionally include health care, nutrition supplementation, mental stimulation, educational activities, and parenting training, improve human capital outcomes over the long term, including educational achievement, health and nutrition, and also reduce risky behaviors, such as crime and violence, domestic abuse and substance abuse. The inclusion of effective parenting training (see next paragraph) in ECD programs has been singled out in evaluations as one of the most important factors in reducing youth violence.

**Effective parenting programs.** Parent training promotes positive, healthy and protective parent–child interactions that can reduce domestic violence, the extent to which young people associate with delinquent peers, alcohol and substance abuse, arrests, and school dropouts. It also reduces tobacco, alcohol and drug use, anger, alienation, aggression, delinquency and misconduct. The most consistent findings in the prevention of youth violence and delinquency stress the value of family interventions from birth through adolescence. For example, nurse home-visitation programs have been shown to improve parenting skills and reduce child aggression. Programs for older children and their families that help parents reduce negative parenting and coercive interactions have also been found to lower child aggression and delinquency. Another approach to family interventions includes teaching parenting skills to young people before they become parents. Creating effective parenting programs is a challenge in any society, but it is especially difficult in much of Central America, where economic stress and migration all

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too often result in parental absenteeism. These realities must be acknowledged and programs must be adjusted to take these factors into account. Precisely because the family is under such stress in Central America, parenting programs merit added attention and resources.

**Programs to increase secondary school access and completion.** Policies and programs to encourage secondary school enrollment and completion are critical. Evidence shows that secondary school completion is one of the most important preventive investments a country can make in at-risk youth, both in terms of improving their education and in reducing nearly all kinds of risky behavior, including crime and violence. School failure and dropout are risk factors for youth violence and delinquency. Young people who stay connected to school are less likely to exhibit disruptive and violent behavior, carry or use a weapon, or experiment with illegal substances. From the perspective of the youth crime and violence problem, it is important to address the considerable gap remaining in secondary education coverage for poor urban communities. It is also critical to ensure high-quality teaching and curricular relevance, including programs to develop generic life skills and strengthen the connection between school and work. Other measures include improving school quality and relevance, increasing parental involvement, and offering incentives to families of at-risk youth to send them to school, possibly through conditional cash transfer programs either to the family or the youths themselves.

**School-based violence prevention programs:** Evidence shows that violence prevention programs are highly effective ways to reduce risky behavior. Schools are ideal places to socialize young people and develop their resistance to crime and violence. The school curriculum throughout the primary and secondary cycles should promote the development of responsible citizens, offer anti-violence and risk-prevention programs as well as alternative mechanisms for the peaceful resolution of common conflicts. Children should be taught to respect themselves, to understand risks that flow from their own behavior or that of others, to identify and resist gangs and bullying, and to understand the rationale for social norms such as respect for others’ lives and property. School-based violence prevention programs are so successful because they can target young people according to their ages, experiences and culture.

**Development of specialized agencies for dealing with young offenders, with a focus on rehabilitation and providing second chances to young offenders.** Higher recidivism rates are associated with harsh prison conditions as well as with incarcerating young people alongside adults. For this reason, most countries have special courts and probation agencies that provide second-chance opportunities to juvenile delinquents before incarcerating them. A key element of this approach is the introduction of graduated sentences for first-time and minor repeat offenders. These sentences typically include two components: (i) a community accountability board composed of juvenile court personnel, probation officers and/or citizen volunteers, who meet with offenders to assign penalties for their offenses and monitor and enforce a so-called diversion agreement that keeps a young offender out of court and out of jail; and (ii) graduated consequences if a youth fails to comply with the requirements of the community accountability board. These graduated sanctions must be designed to fit a variety of offenses and should include a range of alternatives, including incarceration.

**Reduction in the availability and use of firearms.** Youth crime and violence are linked with rises in lethal crimes and violence committed with firearms. When more firearms are in circulation, it becomes easier to obtain them illegally, by-passing restrictive legal requirements. Limiting the supply of firearms reduces the number of deaths and injuries caused by them. This can be done through laws against gun trafficking coupled with targeted enforcement to reduce the quantity of firearms. Policies and programs that involve aggressive patrolling in high-crime neighborhoods to arrest youth who carry guns illegally have shown some success in the US.

**Safe neighborhood programs or place-specific prevention:** Safe neighborhood programs can modify the physical environments in which young people act and interact in ways that are likely to prevent young
people from engaging in risky behavior, particularly in “hotspot” neighborhoods. Studies have shown that safe neighborhood programs increase the public’s perception of safety and the image of police, both of which are essential to address the underlying causes of youth violence (see, for example, Buvinic, Morrison and Orlando 2003). These programs can include the installation of street lighting, the removal of high fences that provide cover to criminals, and the rehabilitation and re-appropriation of community public spaces. Ideally, they are combined with targeted social prevention activities as well as community policing programs, such as those listed below. A study of gangs and social capital conducted in El Salvador, for example, showed that gangs thrive in neighborhoods and communities where poverty has eroded social services or eliminated them completely, where the streets are in poor condition, and where public and community infrastructure is run-down, dirty or abandoned.

**Municipal ordinances to increase the price and reduce the availability and use of alcohol.** Policies that reduce young people’s access to alcohol can help keep them from breaking the law. For example, alcohol is a known contributing factor to trouble, including homicide and suicide, for young people in the Latin American region. Policy options include increasing alcohol taxes, tightening sales restrictions, including controls on hours of operation, density, and location of sales outlets, as well as imposing a minimum age for purchasing alcohol. A key factor here, however, is the credibility of the threat of sanctions on merchants who violate regulations. The most effective sanctions include progressive penalties that begin with warnings and escalate to fines, the firing of individuals, the closing of establishments, and the imprisonment of violators. Tax increases and sales restrictions should be implemented at the same time in order to have the maximum possible impact on youth alcohol consumption.

**Documentation campaigns in marginal communities.** Citizen documentation campaigns are an effective way to reduce social exclusion. Many gang members belong to an “underclass” of undocumented individuals who are effectively excluded from a wide range of social rights. A birth certificate is a recognition by the state of a child’s membership in society. When citizens can prove their identity, they become entitled to basic services and rights that underpin their ability to remain healthy, receive an education, stay safe and earn a living.

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**Box 3. APREDE: Tackling gangs through community interventions**

The Association for Crime Prevention (*Asociación para la Prevención del Delito, APREDE*) is an independent NGO working to prevent gang involvement in violent areas of Guatemala City. The group’s primary activities include:

a) **Popular education.** Youth who cannot take classes in a traditional school can study in APREDE and be certified by the NGO CEIBA (validated by the Ministry of Education);

b) **Life-skills development** through sports and arts;

c) **Skills training** in information technology, baking, graphic design, machine repair and maintenance, English as a second language, and management.

d) **Psycho-social assistance** to children and youth, using social workers from the University of San Carlos;

e) **Job search support** and follow-up through APREDE’S social workers;

f) **Development of crime prevention strategies and campaigns** through alliances with civil society, public and private sector organizations.

Source: Emilio Goubaud, Director of APREDE, November 2007

Additional policies that have not been as widely evaluated as those discussed above, but for which existing evidence suggests that they have a positive impact, include the following:

**Remedial and second-chance education.** Special attention needs to be given to children at risk of dropping out of school, either because they are doing poorly in class or are skipping classes, through
remedial classes and after-school homework support groups. For those who do drop out of formal education and face the prospect of a dead-end career and the temptation of crime, “second-chance programs” (often most effectively provided through NGOs) should be developed to offer the opportunity to achieve high-school equivalency, which increases their chances of entering the labor market and earning higher wages. Second-chance education can also provide many intangible benefits to young people, such as improved social and interaction skills, increased confidence, and self-esteem. Although there are few rigorous evaluations of these types of programs, the evidence that does exist suggests that they come with high rates of return and relatively low costs.

**Comprehensive job training programs.** Studies indicate that comprehensive job training programs help increase youth employment, particularly in developing countries. Research shows that a range of support is needed to teach at-risk youth how to behave in the workplace and help them move from being socially excluded to becoming active members of society. Comprehensive programs go beyond technical training to focus on developing a young person’s skills as a worker by providing him or her with a wide range of support, including general skills, life skills, job search and placement assistance, and self-employment services.

**Life-skills training.** Knowledge of life skills reduces the risk of drug use and risky sexual behavior, improves anger management and academic performance, and enhances social judgment. In the US, young people who are given life-skills training in high school tend to be more productive and make smoother transitions into a job or higher education. In addition, schools can also be used to prevent school-based violence (i.e., between peers, teacher–student), help prevent domestic violence, and provide parenting training.

**Youth-friendly spaces, mentoring and youth service programs.** Some research has shown that the construction of community centers does not affect youth behavior, but that constructive youth activities which are supervised by a caring adult can have a positive impact on young people, helping them perform better in school and in life. On the other hand, young people who are not supervised during after-school hours are more likely to use alcohol, drugs and tobacco, and to engage in criminal and other risky behavior. They also do poorly in school or drop out of school completely. Mentoring programs that include the attention of a caring adult, can serve as strong protective factors for at-risk youth, particularly for those who lack positive adult role models in their homes. Studies have shown that young people who volunteer for youth service are half as less likely to abuse drugs and alcohol, to engage in delinquent behavior, or to drop out of school.
Box 4. Nicaragua’s Citizen Security Program

This program focuses on four areas, based on a preventive approach and employing integrated, multisectoral and participatory initiatives that complement one another:

a) Institutional strengthening, especially of the Interior Ministry (*Ministerio de Gobernación*, MIGOB), the authority responsible for policies related to citizen security;

b) Integration and strengthening of juvenile violence prevention services, using a cross-sectoral prevention model at the municipal level;

c) Expansion and consolidation of the community policing program initiative;

d) A public information program to encourage inclusion of the topic within the social agenda and to educate the public on the need for values and standards in order to have social harmony;

e) Government implementing agency: MIGOB.

Source: Belikow, Juan, “Inventory of Crime and Violence Programs in Central America,” 2009.

IV.2 Criminal justice reform

Effective criminal law enforcement is a key element in the region’s strategy to fight crime. Evidence suggests that recent increases in crime and violence in the region have exacerbated some existing institutional weaknesses, from the lack of inter-institutional coordination to overlapping functions, and have created others (e.g., drug-related corruption). It all signals the need for further reform of the criminal justice sector.

It is important to recognize that the justice sectors of Central America have progressed significantly since the end of the civil conflicts of the 1980s. Nevertheless, problems persist. We believe policy recommendations for the justice sector should focus on improving institutional performance and stressing cooperation, particularly coordination between institutions based on best practices in other Latin American countries and beyond. The criminal justice sector is the set of institutions involved in rule-based conflict resolution and enforcement, such as courts, ministries of justice, police, prosecutors, public defenders, corrections officers and ombudsmen, as well as nonpublic institutions, such as bar associations, legal clinics, traditional and other non-state dispute-resolution mechanisms.

The idea of *mano dura* became a key ingredient of some Central American government strategies against crime and violence over the last five to ten years. It was an approach that called for toughening criminal codes by identifying new offenses, increasing prison terms, or encouraging judges to apply maximum penalties. However, this *mano dura* legislation appears to have a limited impact on reducing crime and violence. It also often contradicted principles of international human rights treaties that the countries had ratified. Although the results varied from country to country, from a regional point of view there is no evidence that these *mano dura* reforms have reduced crime rates, increased the efficiency of justice sector institutions, or improved the public perception of criminal justice institutions. One possible reason for this: excesses in implementing *mano dura* may have resulted in lower public trust in the criminal justice sector.

In contrast, other reforms have shown some results but have fallen short of the very high expectations generated at their inception. The passing of more transparent, accusatorial or “mixed” criminal procedure codes based on oral procedures, which provide an increased role for prosecutors, strengthen public defense and introduce alternative sentencing mechanisms, is considered a significant step forward. Constitutional minimums for the judiciary’s budget to ensure judicial independence, the establishment of public defense services for the poor, disenfranchised victim protection, and more transparent mechanisms
for the selection, promotion and discipline of judges, are also positive developments. Collectively, these reforms constitute a major achievement. If effectively implemented and funded, they could result in significant improvement to the rule of law, including the efficiency and effectiveness of criminal justice institutions.

So far, delays in implementation have added to the already significant challenges of reforming justice sector institutions following years of civil conflict. Indeed, only a comprehensive strategy on crime and violence issues can bring together the various institutions active in crime prevention, control, punishment and rehabilitation. Accordingly, recommendations in this area are structured around seven main pillars: (i) performance-based management for criminal justice institutions; (ii) optimization of court administration and case management through the introduction of quality control and robust monitoring systems based on performance indicators; (iii) accountability of individuals working in criminal justice, enhanced with modern human resources tools; (iv) transparency of criminal justice institutions reinforced by citizens’ oversight projects; (v) robust legal counseling for the poor and disenfranchised, (vi) effective attention to, and protection of, crime victims; and (vii) communication strategies both to engage internal and external stakeholders and better inform the public.

The introduction of purely normative reforms was not enough and a new generation of more comprehensive changes to these institutions needs to commence. To meet citizens’ expectations of efficient, effective and fair criminal justice systems, countries will have to act on several fronts. One is the need to improve coordination and information-sharing mechanisms among institutions to facilitate rapid and effective reaction while protecting due process and human rights guarantees. Another key measure should be the adoption of cost-effective information and communication systems for tasks including the gathering and dissemination of statistics and other information at each step in the process in different agencies. Based on this information, the focus of policing and prosecution should be adjusted toward highest-impact cases. Clearly, a prerequisite for all this is the development of quality-control systems and performance indicators that provide important mechanisms to improve diagnosis, track system outputs, monitor reform programs, and rationalize resources. Countries need to tailor this recommendation to their own financing capabilities and priorities. Although fully integrated information systems may not be feasible in the short term, steps can be taken gradually to enhance inter-institutional coordination and information sharing.

To ensure that due process and human rights guarantees shape the criminal justice processes, institutions should refer to national and international standards to make certain that pre-trial detention and other criminal justice processes meet national and international human rights standards. For example, juveniles should be kept separate from adult offenders, and violent convicted criminals should be separated from nonviolent suspects who are awaiting trial. Support for civil society oversight of the due process/human rights compliance of criminal justice institutions (observatorios de justicia penal and veedurías de justicia) is critical while the reforms are still at an initial stage.

A second element is court administration and case management, which can be improved with changes to the case-handling process. The reduction of case disposition times of the Guatemalan and Costa Rican pilots in rapid-reaction one-stop shops (24-hour and “in flagrante delicto” courts) is encouraging, especially because it was achieved with full respect for due process guarantees. It shows that coordination among police forces, judges, prosecutors and public defenders operating in the same office (one-stop shops) can be effective. These one-stop shops appear to meet the public demands for quick responses to address the rising wave of crime and violence. In meeting these challenges, it is important to identify “best practices” and to dare to introduce new technologies. These include the use of ISO (International Organization for Standardization) 9001 to certify service standards in the judiciary and ensure minimum standards, the establishment of virtual courtrooms to meet additional demand, and the development of electronic notification systems among judiciaries, the Public Ministry, public defenders’ offices and the
national police. The use of a common digital file that circulates through all institutions involved in the process is also important to maintain coordination.

A well-functioning adversarial judicial system requires a balance between those advocating for the state’s interests and those of the accused. It implies sufficient resources for defendants. Steps to strengthen publicly funded public defense systems in Central America should include providing access to counsel, ensuring due process, broadening the coverage of current services and enhancing the professional development of public defenders, especially oral trial skills and human rights issues. Efforts should also be made to expand and strengthen publicly funded and alternative defense services, such as the legal clinics (consultorios jurídicos) operated by law schools and civil society organizations. Central American countries also need an updated inventory of the numerous legal clinics to ascertain their capabilities and agree on priority assistance areas. A well-structured network of these alternative legal defense providers would facilitate information exchange, referral services and litigation support.

An important area for improvement is the protection of victims. New criminal procedure codes include provisions that establish an important role for victims in the criminal procedures and have increased interest in this issue in Latin America. The creation of victims’ assistance centers, administered jointly by the judiciaries and government ministries, is fundamental in violence hotspots. Such centers would provide legal, social and psychological assistance to victims of violent crimes, arrange for their protection if necessary, provide an interpreter when needed, and keep the victims updated on the status of their cases. The new Centers for Assistance to Victims of Violent Crimes in the prosecutors’ office of the Judicial Center for Paloquemao and Bucaramanga in Colombia are examples worth studying for possible use in Central America.

It is also important to strengthen the accountability of individuals working in the criminal justice sector by reforming internal disciplinary procedures and using modern human resources tools to select qualified personnel. Criteria for hiring, selection and promotion, improvement of human resource management capabilities, monitoring of ethical behavior, promotion of attitudinal change among personnel of all levels, and in-service learning programs are typical performance-enhancing tools not seen consistently in Central American countries. There should also be increased autonomy for independent agencies such as judicial councils and ombudsmen. The development of specific career paths for professional and administrative personnel is critical to build efficient, modern techniques and measure individual and group performance. There is also a need to institute performance-based management tools in the criminal justice sector for the police, judiciary, attorneys general and public defenders, and to develop results-based budgets, performance contracts and performance ratings for individuals and groups. Selection, promotion and disciplinary processes must be competitive and transparent. Such human resources tools are critical to attract qualified professionals and build solid human capital in key agencies. These professionals will add to the overall quality of governance and make criminal justice a more attractive career path for the most talented university graduates.

Facing the corruption issue is a critical element of accountability within the criminal justice sector. This requires measures to establish or strengthen coordination among internal affairs units, financial intelligence units and other accountability offices such as ombudsmen’s offices and judicial councils. This coordination effort should be sufficiently funded and granted ample discretion. It is also necessary for judges and other key justice-sector officials to declare their financial assets. Judicial decisions should be made publicly available promptly after legal processes conclude in order to facilitate public scrutiny. Citizens’ oversight groups should be supported as a useful tool to increase the transparency of criminal justice institutions and strengthen respect for human rights and due process. They also generate valuable data to complement the perceptions data provided by national and regional surveys such as Americas Barometer, Latinobarometer, UNDP indicators, etc.

Alternative dispute-resolution mechanisms can play an important complementary role, although they should not be seen as taking the place of formal criminal procedures. Youth mediation and reconciliation
programs, as well as the establishment of peace centers (Centros de Convivencia), justice houses, municipal mediation and reconciliation centers, judicial facilitators and mobile justice of the peace courts are all successful initiatives in Latin America. They have created spaces where the community has additional access to conflict resolution, especially for the poor and disadvantaged. These programs also promote good citizenship, peaceful coexistence and amicable conflict resolution. Each has two basic elements: access to justice, and community participation. The municipal mediation centers and the mobile justice of the peace courts in Honduras, the centers for the administration of justice in Guatemala, and the judicial facilitators in Nicaragua are also valuable experiments that deserve to be studied and adapted to the particular circumstances of each country. All contribute to building more peaceful communities.

Box 5. Justice Houses and Peace Centers in Colombia

A Justice House is a community center where neighbors find traditional and nontraditional justice services to resolve conflicts. Formal judicial authorities are present, but alternative dispute-resolution mechanisms are also available, including those based on Afro-Colombian or indigenous traditions. Other social services may be available for children and women. Currently, there are more than 50 Justice Houses in Colombia in urban and rural areas (especially in those areas impacted by conflict).

The Peace Centers (Centros de Convivencia) are spaces where the community has access to justice, with programs that promote citizenship values, peaceful coexistence and amicable conflict resolution. In the past six years, they have been very effective in Colombia, a country with high rates of crime and violence. The first Peace Center opened in December 2002 in Barrancabermeja, one of the most violent areas in Bogotá. Now there are 15 throughout Colombia. They have three basic elements: access to justice, education through games, and community participation. They are equipped with a library and an educational play room (ludoteca). They have open spaces for community work focused on issues including youth gangs, youth crime, community and mediation. They mainly play a preventive role against crime, but also house local justice-sector representatives such as police inspectors and family conciliators (Comisarías de Familia).

Community participation in policing activities and public outreach has also proved successful in local settings. Community policing is more responsive and accountable to local communities, creating bonds of trust and reliance, increasing crime reporting, and reducing police abuses. Successful community policing programs can revitalize police forces and increase the public’s sense of safety regarding their environment. Several experiments in this type of community participation in Latin America have led to reductions in crime and violence indicators and improvements in citizens’ perceptions of security. These initiatives have several common elements, including: (a) surveys, town meetings or other forums to identify problems and priorities; (b) police-sponsored neighborhood or block watches, and business watch programs; (c) crime prevention newsletters and other crime education programs for the public; (d) small local police stations in target neighborhoods; (e) civilian volunteer liaison with community police; (f) police foot patrols; (g) increased attention to minor offenses that are major annoyances to local residents; (h) the creation of educational and recreational spaces for youth, (i) the permanent assignment of police officers to neighborhoods; (j) increased educational requirements for police forces; and (k) the reassignment of certain management tasks from police personnel to civilian personnel.

Community policing is only one tool in a broader toolkit of local citizen security strategies that can include specific actions to address street crime, gangs and petty theft. These include: (a) public information campaigns for awareness-raising about security issues within the community, and community involvement in the design and implementation of the security strategies; and (b) increased focus on preventive measures before at-risk youth are lured into illegal activities. These steps should be taken in partnership with civil society groups that are active in the community and provide suitable training and employment opportunities. Some international actors specializing in the sector can play a major role in these programs (e.g., UNODC, Habitat).
Finally, one-stop shops are a critical tool to increase efficiency and provide access to reformed justice-sector institutions, especially by providing timely dispute resolution. They accomplish two things: (i) they close the gap between institutions and citizens through mechanisms such as family police stations designed to provide immediate services to women and children in cases involving intrafamily violence or child support; and (ii) they provide special services for vulnerable groups through mechanisms such as mobile and 24-hour courts, houses/centers of justice that facilitate coordination among executive/judiciary agencies that provide prevention/rehabilitation services, alternative dispute resolution, public defense, legal aid and victim assistance services.

IV.3 Regional approaches

Many issues facing Central America transcend national boundaries and require a coordinated regional response. But existing levels of collaboration may not be sufficient, particularly considering that drug trafficking and the availability of firearms have a supranational dimension. This adds a level of complexity to the policy debate because actions taken in one country are likely to affect other countries. Therefore, no strategy can hope to succeed without regional coordination. The two areas where regional approaches are particularly critical are firearms and drug trafficking.

Drug trafficking

Central America can be fairly characterized as an innocent bystander in the drug trade. The region is a conduit, a transit corridor that neither produces nor consumes significant amounts of cocaine. In addition, the trade is mostly controlled by Colombian and Mexican cartels. To date, government policies have emphasized interdiction to combat trafficking. But even if increased interdiction succeeds, increased enforcement will merely increase the price and with it the resources available to traffickers. With more cash in hand, traffickers are better equipped to bribe criminal justice officials and purchase weapons. The experiences of Mexico and Colombia, the historical record in the United States, and economic theory all suggest that an escalation of interdiction efforts—on a scale that Central American governments could not mount even with help from abroad—would most likely increase levels of violence without diminishing the capacities of drug traffickers.

All this places the countries of Central America in a difficult situation. The drug war has already brought extreme levels of violence and damaged criminal justice institutions. Options for dealing with the tremendous flow of drugs through the region would appear limited. Radical changes in drug policies – including the possible depenalization or decriminalization of some drugs as recommended by the Latin American Commission on Drugs and Democracy (2009) – are simply beyond the capacity of the six nations and can only be contemplated within an international framework that includes the largest producer and consumer countries.

Our analysis leads us to conclude that there are some preferable options available to Central American countries with relation to drug trafficking:

- Given the high levels of drug-related corruption in the criminal justice systems and the vast resources of the traffickers, evidence suggests that directing more resources to drug enforcement efforts is not likely to reduce violence in Central America. To the extent that this approach is used, we believe a regional, coordinated effort stands a greater chance of some success. To address drug-related corruption and impunity, the Guatemalan experience with CICIG is worth considering as it provided a suitable channel to bring international investigative expertise to Guatemala and has been very helpful in resolving high profile cases.
Devote resources to address domestic drug use through public health and harm reduction programs, including greater investment in education campaigns, treatment for users, and drug use prevention.

**Box 6. Addressing Impunity in Guatemala**

Issues of impunity, extrajudicial executions and the deprivation of liberty without due process are major challenges to the rule of law throughout much of the developing world. Central America is no exception. Indeed, a number of ad hoc international commissions and special rapporteurs address these issues throughout the region. One prominent effort is the International Commission against Impunity in Guatemala (Comisión Internacional Contra la Impunidad en Guatemala, CICIG). It was created in December 2006 at the request of the Guatemalan Government and began functioning in January 2008 with two objectives: (i) to support, strengthen and assist Guatemala’s State institutions in investigating and prosecuting crimes allegedly committed by illegal security forces and clandestine security organizations; and (ii) to establish mechanisms and procedures to protect Guatemalans’ fundamental rights, including those rights guaranteed by international conventions to which Guatemala is a party. Passage by the Guatemalan Congress of the agreement establishing the CICIG was the result of the strong political will of the Government, private sector and civil society. Funding is provided by various donors, including private funds for the Commission’s two-year mandate, an extension of which was recently endorsed by President Colom.

Illegal security groups and clandestine organizations in Guatemala have direct links to state agencies and are thus able to block judicial action against them, resulting in impunity. CICIG works with the Public Ministry and other justice-sector institutions to “investigate and dismantle violent criminal organizations believed responsible for the widespread crime and the paralysis in the country’s justice system.” CICIG is headed by a commissioner appointed by the UN Secretary-General. The agreement stipulates that CICIG may join any criminal proceeding as an ad hoc prosecutor (querellante adhesivo) but also provides technical assistance to national justice sector agencies to strengthen their capacity.

In less than a year and a half, partly as a result of CICIG’s work with state agencies, 1,700 people have been expelled from the police force, including 50 senior officials and the deputy director of national policy; 10 prosecutors had been asked to leave and the Attorney General has been replaced. However, the fight against impunity in Guatemala remains a daunting task, exemplified by the low homicide conviction rate. For example, from 2005 to 2007, 1,960 women were murdered in Guatemala yet there have been only 40 convictions from the 840 cases tried so far. The remaining 1,120 cases have not yet gone to trial.

In addition to the CICIG, President Colom recently announced three initiatives that could help advance the fight against impunity. He announced a presidential anti-impunity committee, a panel to review and declassify Guatemalan army archives from 1960 to 1996, and the creation of an elite US-trained anti-drug force.

**Firearms**

Due to widespread concern about homicide rates and the role that firearms play in homicides, Central American countries have participated in international and national arms control initiatives. In addition to being full members of the United Nations, all countries in the region have signed the *UN Convention against Transnational Organised Crime (2000)* and its *Protocol against the Manufacturing of and Illicit Trafficking in Firearms, their Parts and Components and Ammunition (2001)*. They have also all participated in the *UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA)* since 2001. Parallel efforts to address the trade, transfer and misuse of small arms are also taking place at the regional level. For example, Costa Rica, El Salvador, Guatemala, Nicaragua and Panama have ratified the *Organization of American States (OAS) Inter-American Convention Against the Illicit Manufacturing and Trafficking in Firearms, Ammunition, Explosives and other Related Material (CIFTA 1997)*.
A range of institutions and instruments have also been established in the region to convert declarations into deeds, including the Framework Treaty on Democratic Security in Central America (Tratado Marco de Seguridad Democrática en Centroamérica) in 1995. All Central American countries are members the Central American Integration System (Sistema de Integración Centroamericana, SICA). Through this mechanism, countries have endorsed the Guatemala Declaration for a Region Free of Corruption (2006) and the Code of Conduct on Arms Transfers since 2005. The Code of Conduct, in particular, calls on all parties to strengthen licensing controls, end transfers to countries that might use weapons to commit human rights violations, and ensure responsible transfers and respect for international humanitarian and human rights and sustainable development. All six Central American countries also have firearms legislation that provides some aspect of normative and regulatory controls on weapons ownership, firearms registration, use and movement, with various revisions and amendments to improve these laws.

In general, though, national implementation and enforcement of gun laws remain sporadic and need improvement. At the same time, it is important to note that the firearms issue in Central America, from the point of view of Central American countries, transcends regional and national boundaries. No regional strategy in these areas can hope to succeed without significant support from the US. Recently, however, there is increasing recognition in the US that strategies to interdict the flow of drugs from south to north must be supported by greater efforts to restrict the flow of illegal weapons in the reverse direction.

Policies and programs that reduce the availability and use of firearms can also reduce violent crimes. As noted above, the number of firearms in circulation has a direct effect on the ability of those persons at risk of violence to obtain guns, whether from legitimate sources or illegal firearms sales (secondary markets). Below is an overview of the main types of gun control measures:

- **Legislative efforts**: can increase sentences for crimes committed with a firearm or for carrying or selling illegal firearms; regulate the design or category of firearms (e.g., banning assault weapons); and regulate firearms transactions by introducing strict dealer licensing requirements, compulsory licensing for all firearms, mandatory background checks and waiting periods.
- **Supply-side tactics**: can target enforcement operations that disrupt illegal firearms sales. This may include strengthening enforcement patrols in high-crime neighborhoods, using undercover police to pose as potential gun buyers, and implementing gun buy-back programs.
- **Combined approaches**: can employ legislative action together with supply-side tactics. This appears to be the most promising approach.

Although the impact of firearms legislation has been mixed, combining laws with government action and supply-side tactics has shown promise, particularly as part of broader “second-generation” initiatives. Establishing a coordinated national, state and local data collection system is a critical starting point for any firearms strategy. This database can be used to track firearms-related injuries and deaths, to monitor the impact of firearms legislation and supply-side interventions, and to make any necessary policy changes. To be successful, restrictive firearms legislation must also include awareness campaigns to explain, promote and garner public support for the legislation.

Training for the police and other justice sector institutions in implementing the new procedures is also important. Government and legislative-led firearm interventions are only as strong as the police’s ability to enforce them. Success depends on the police’s ability to develop close partnerships with community leaders as well as to develop solid intelligence-based policing and proactive crime prevention. Effective firearms regulation requires cooperation among all levels of government, law enforcement agencies, business, the media and citizens. It also requires regional information and intelligence cooperation.
Overall, recent experiences with combined and second-generation approaches, such as the introduction of gun amnesties, community-driven weapons controls, awareness-raising and sensitization, and advocacy, suggest that the availability of firearms can be reduced in Central America.

In the end, however, gun ownership is closely linked to the drug trade. Within an environment that drives the demand for weapons, reducing gun ownership is difficult. A long-term, sustained reduction in the demand for guns will hinge on progress in combating drug trafficking, reducing the flow of illegal guns from the US, and changing the cultural factors that increase young men’s demand for weapons.
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CRIME, VIOLENCE, AND THE CRISIS IN GUATEMALA: A CASE STUDY IN THE EROSION OF THE STATE

Hal Brands

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FOREWORD

Conventional security threats have receded in Latin America since the end of the Cold War, but unconventional threats—namely organized crime, drug trafficking, and their attendant violence—have come to the forefront of the regional agenda. In this monograph, Dr. Hal Brands examines the evolving regional security landscape by exploring the relationship between crime, violence, and state institutions in Guatemala. That country is afflicted by the actions of a wide range of criminal groups, and its current predicament demonstrates the profoundly corrosive effect that crime can have on public security and democratic governance. It also shows how weak government institutions, embedded poverty and corruption, and other structural factors stand in the way of any lasting resolution to this crisis. As a result, tackling the challenge of insecurity in Guatemala will require patient, holistic efforts that address root causes as well as symptoms.

The Strategic Studies Institute is pleased to offer this monograph, which it hopes will inform the evolving debate over regional security and unconventional threats in Latin America.

DOUGLAS C. LOVELACE, JR.
Director
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HAL BRANDS currently works as a defense analyst in Washington, DC. He is the author of *From Berlin to Baghdad: America’s Search for Purpose in the Post-Cold War World* (2008), as well as recent Strategic Studies Institute monographs on drug trafficking and radical populism in Latin America. His next book, *Latin America’s Cold War*, will be published in late 2010. Brands has written widely on U.S. grand strategy, Latin American politics and security, and related issues. Dr. Brands holds a Ph.D. in history from Yale University.
SUMMARY

In numerous Latin American countries, organized crime and violence are corroding governance and imperiling democratic legitimacy. This phenomenon is most severe in Guatemala, which is currently experiencing a full-blown crisis of the democratic state. An unholy trinity of criminal elements—international drug traffickers, domestically based organized crime syndicates, and youth gangs—have dramatically expanded their operations since the 1990s, and are effectively waging a form of irregular warfare against government institutions.

The effects of this campaign have been dramatic. The police, the judiciary, and entire local and departmental governments are rife with criminal infiltrators; murder statistics have surpassed civil-war levels in recent years; criminal operatives brazenly assassinate government officials and troublesome members of the political class; and broad swaths of territory are now effectively under the control of criminal groups. Guatemala’s weak institutions have been unable to contain this violence, leading to growing civic disillusion and causing marked erosion in the authority and legitimacy of the state. This problem cannot be addressed through police measures alone; combating it will require a holistic strategy that combines robust enforcement and security measures with sustained efforts to broaden socio-economic opportunities, combat corruption, and, above all, to build a stronger and more capable state.
CRIME, VIOLENCE, AND THE CRISIS IN GUATEMALA: A CASE STUDY IN THE EROSION OF THE STATE

Across Latin America, the state is under attack. During the Cold War, the region was roiled by political bloodshed and left-wing insurgencies; today, the threat emanates from the actions of organized crime syndicates, extremely violent youth gangs, and international drug cartels. From Tijuana, Mexico, to Sao Paulo, Brazil, these groups participate in illicit activities ranging from drug smuggling to arms dealing to simple extortion, they use bribery and coercion to hollow out state institutions from within, and they murder policemen, government officials, and citizens who refuse to cooperate. These tactics have had a devastating impact on governance; in the slums of Brazil, cities in Northern Mexico, and elsewhere, the formal state has effectively collapsed and real power lies with the predominant gang or cartel rather than with the authorities. Latin American leaders have struggled to respond to this challenge, and across the region, crime is driving down confidence in government, corroding fragile democratic structures, and compromising the authority—and thus the legitimacy—of the state. In effect, criminal elements are waging a form of irregular warfare against Latin American states, with profoundly pernicious consequences.

Recent U.S. attention to these issues has focused primarily on the narco-violence that has raged in Mexico since 2006. Yet it is probably in the comparatively ig-
nored country to Mexico’s south—Guatemala—where the situation is most severe. Always a weak state with a fragmented society, Guatemala is now reeling from the activities of an unholy trinity of criminal organizations—drug-trafficking outfits like Mexico’s Sinaloa Cartel and Los Zetas, “hidden powers” composed of well-placed, corrupt Guatemalans, and transnational gangs such as the notorious Mara Salvatrucha 13 (MS-13). These groups significantly expanded their influence amid the disarray following a 3-decade civil war. They are now well-armed, well-funded, and their actions have become increasingly detrimental to public order. They have blatantly bribed and intimidated government officials to the point that the police, the judiciary, and entire local and departmental governments are rife with criminal collaborators and infiltrators. Murder statistics have surpassed civil-war levels in recent years, and criminal operatives brazenly assassinate government officials and troublesome members of the political class. Starved of resources and riddled with corruption, Guatemala’s state institutions have been unable to reverse or even contain this violence, and from marginal barrios in the capital to desolate stretches of Petén, large swaths of territory are now effectively under the control of drug traffickers, youth gangs, or other criminal groups.

Indeed, rampant crime is causing the breakdown of democratic governance and a marked erosion of the Guatemalan state. Guatemalan institutions have always been relatively feeble, but the continuing wave of crime now poses an acute challenge to the credibility and authority of the government. This is apparent in purely territorial terms, as the influence of nonstate criminal actors rivals or exceeds that of the government in up to 40 percent of the country. It
is apparent in institutional terms, as criminal groups have colonized sectors of the government and turned the state to their own purposes. It is happening at a psychological level, as well. With the government unable to suppress criminal activity, Guatemalans are becoming increasingly skeptical that the current system can provide them with basic human security. This doubt is leading to diminished faith in democracy, giving voice to latent authoritarian sentiments, and in many areas, causing a descent into simple vigilantism. Guatemala is not experiencing a simple problem with crime; it is immersed in a full-blown crisis of the democratic state. Unless the Guatemalan government and its foreign partners—including the United States—can address this challenge and redress the country’s deep-seated institutional deficiencies, the region may soon be confronted with a lawless narco-state at the top of the Central American isthmus.

This monograph examines the relationship between organized crime, internal violence, and institutional failure in Guatemala. It aims to increase awareness of this growing threat to regional security and to provide a granular, textured case study of a phenomenon that, while most striking in Guatemala, is present throughout Latin America as a whole. Organizationally, the monograph comprises three substantive sections. The first, offers an overview of the emerging security environment in Latin America, examining organized crime as a form of irregular warfare. The second, zooms in on Guatemala, exploring the origins, nature, and effects of the current crisis in that country. The third, considers the implications for Guatemalan and U.S. policy.
THE REGIONAL CONTEXT:
ORGANIZED CRIME AND IRREGULAR WARFARE IN LATIN AMERICA

Since independence, Latin America has experienced relatively little interstate conflict and comparatively high levels of intrastate violence. Many of the same factors that have made international wars so rare—namely, underdeveloped state capacity and deep socio-economic and ethnic cleavages within Latin American countries—have also conduced to a striking propensity for violent internal strife. Virtually every Latin American state has experienced insurgency, political revolt, civil war, or other forms of political bloodshed, as well as less ideological—but no less harmful—tumults in the form of rampant banditry, brigandage, and criminal violence. In some cases, these internal conflicts have taken on the destructiveness of major international wars. During the Cold War, for instance, long-standing social, political, and economic strains mixed with the ideological polarization produced by superpower rivalry to generate torrential bloodshed in Guatemala, El Salvador, Peru, Colombia, and elsewhere. The worst of these conflicts (those in Guatemala and Colombia) claimed around 200,000 lives each, wrecked economic capacity and government institutions, and set Latin American countries back by years, if not decades.¹

The end of the Cold War brought down the curtain on many of these insurgencies, but it did not bring an end to internal violence and upheaval in Latin America. Over the last 3 decades, an array of criminal groups—notably international drug traffickers, violent youth gangs, and organized crime syndicates—have
largely replaced Marxist rebels as the chief purveyors of disorder. Across the region, these groups have exploited weak institutions, official corruption, porous borders, poverty and social alienation, and the easy availability of small arms to expand their operations dramatically. They have carved out nodes in a variety of illicit activities—drug smuggling, human trafficking, arms dealing, kidnapping, robbery, extortion, money laundering, and others—and made insecurity a fact of life for Latin Americans. Latin America regularly competes for the title of most violent region in the world (in terms of homicides), and its youth murder rate was more than twice that of any other region in 2008. In some Central American countries, violence is approaching levels last seen during the civil wars of the 1970s and 1980s. Even where murder levels are lower, violence and crime have driven down economic activity and fostered widespread fear, making life miserable for much of the population.2

There is no single model of organized crime in Latin America. Some of the groups responsible for this turmoil are relatively small street gangs involved mainly in petty robbery, small-scale extortion, drug trafficking, and the occasional murder for hire. At the other end of the spectrum are the sophisticated, multitiered organizations that operate in several cities or even countries. These groups—gangs like MS-13 in Central America and the First Capital Command (PCC) in Brazil, as well as paramilitary groups like Los Zetas in Mexico—contain hundreds, thousands, or even tens of thousands of members organized into numerous cells and overseen by a centralized hierarchy. They employ individuals ranging from hit-men to accountants and lawyers, and they occupy key nodes in the illicit networks described above. With different di-
visions and subdivisions responsible for intelligence, assassinations, money laundering, drug trafficking, recruitment, and other activities, these organizations resemble corporations rather than simple street gangs.

These groups also stand out for their propensity to attack state institutions. They bribe police and judicial officials, fund candidates for public office, and infiltrate their supporters into the civil service. Government officials who refuse to be bribed or intimidated are brutally murdered. In Mexico, the decapitation of policemen has become common, and the killing of public servants is a problem throughout Latin America. In some areas, the violence has become so intense—and government institutions so compromised—that these criminal groups, rather than the authorities, have become the true arbiters of internal order. In Sao Paulo, for instance, the PCC collects “taxes” through extortion, provides “services” (protection, food, clothing, and money) to loyal residents, “punishes” those who challenge their authority, and effectively denies the police access to large swaths of territory. In essence, the PCC has substituted its own governance for that of the state.³

Where this is the case, illicit activity in Latin America begins to straddle the demarcation between non-political and political violence, between crime and insurgency. To be sure, groups like MS-13, the Zetas, and the PCC bear little resemblance to the Marxist insurgencies of the Cold War era. Their motives are usually pecuniary rather than political (though the situation is somewhat murky in a few instances), and these organizations have shown little interest in overthrowing governments and assuming formal political power. But in countries like El Salvador, Honduras, Guatemala, and Mexico, violence has reached near-
civil war proportions, indicating something more profound than a simple police problem. While drug traffickers, youth gangs, and organized crime syndicates generally lack the coherent ideological or political program often associated with an insurgency, they have weakened the state, established a form of dominance over parts of the population, and thus had many of the same effects as an insurgency.\textsuperscript{4}

This blurring of the line between traditional definitions of conflict has given rise to an updated analytical vocabulary among scholars and policy experts. Some observers classify Latin America’s more advanced criminal groups as “third-generation gangs,” arguing that they distinguish themselves from less sophisticated groups (first and second-generation gangs) by their transnational nature and propensity to corrode the performance and authority of the state. In the same vein, other analysts describe criminal activity as a “new urban insurgency,” one that aims, not to overthrow established governments, but to take control of a city, one neighborhood—or even one block—at a time. While these definitions bear further elaboration and refinement, they do underscore the gravity of the challenge confronting Latin American governments.\textsuperscript{5}

Indeed, from a purely analytical (as opposed to a normative) perspective, it may well be that many Latin American countries are beset by a form of irregular warfare. The 2007 Joint Operating Concept defines irregular warfare (IW) as “a violent struggle among state and nonstate actors for legitimacy and influence over the relevant populations.” IW favors “indirect and asymmetric approaches,” and frequently involves groups—transnational criminal enterprises, insurgents, terrorists—that use innovative, unconventional tactics to overwhelm a stronger foe. As a result, IW
resides in the gray area between accepted typologies of conflict. It is a “complex, ‘messy,’ and ambiguous social phenomenon that does not lend itself to clean, neat, concise, or precise definition.” While some analysts might object to the use of military vocabulary to describe criminal activity, this description—with all the nuance and even ambiguity it implies—is well-suited to the recent course of events in numerous Latin American countries.⁶

Because of this complexity, defending against irregular adversaries can be very difficult. It requires the threatened government to synchronize police and military programs, and to combine these security-oriented initiatives with a variety of additional projects—including social reform, institution-building, and economic development—aimed at ameliorating the conditions that allow irregular adversaries to thrive.⁷ These tasks are daunting under any conditions, and can be especially so in Latin America. Given that Latin American armies have historically been turned against the citizenry, there is often strong resistance to involving the military in domestic security matters, even when the police are clearly overwhelmed. Poverty, social alienation, and large youth demographic bulges conspire to make gang membership or other forms of crime attractive to many Latin American youths. Corruption and the weakness of government institutions—problems that pervade Latin America as well as much of the developing world—undermine the state’s countermeasures and pose major obstacles to deploying a coherent, effective response along all necessary axes.⁸

As a result, Latin American governments have so far struggled to address the phenomenon of “criminal insurgency,” and the trends seem to be worsen-
ing in several countries. In Mexico, drug cartels and well-armed paramilitary groups are waging a war of attrition against the government and against one another, and the resulting “narco-insurgency” has claimed roughly 15,000 lives over the past 3 years. The government has deployed 40,000 soldiers in an effort to restore order, but official corruption, the advanced capabilities of groups like Los Zetas, and entrenched poverty and state weakness have greatly reduced the force of this offensive. In Brazil, the PCC dominates the slums of Sao Paulo and occasionally advertises its ability to throw the entire city into chaos. In May 2006, 5 days of PCC attacks against public buildings, private businesses, policemen, and even civilians resulted in dozens of deaths, caused millions of dollars in damage, and brought life in South America’s largest city to a standstill. As one Brazilian security official put it, “The sad reality is that the state is now the prisoner of the PCC.”

Recent upheaval in these countries—particularly Mexico—has refocused the gaze of the U.S. policy community on issues of narco-trafficking, criminal violence, and institutional weakness in Latin America. Yet it is in Guatemala—a country that has received much less attention from the media and policy analysts—where the challenge to internal order is most profound, the difficulties in confronting this violence most vexing, and the prospects for the breakdown of the state most real. Since the close of its civil war in 1996, rampant criminal activity has made Guatemala arguably the most dangerous country in Latin America. Murders increased by more than 120 percent from 1999 to 2006, with the murder rate in Guatemala City reaching an astounding 108 per 100,000 inhabitants (compared to a world average of less than 9 per
100,000). In 2008, Guatemala suffered a reported 6,200 total murders, giving it a higher per capita incidence than Colombia and Mexico. According to the 2008 Latinobarómetro report, perceptions of citizen insecurity are worse in Guatemala than anywhere else in the region, and President Álvaro Colom has remarked that “it’s more violent now than during the war.” From Petén in the north, to Huehuetenango in the west, to parts of Guatemala City itself, as much as 40 percent of Guatemalan territory is either subject to dispute or effectively beyond the control of the police and the central government. Additionally, organized crime has so infested many state institutions as to render them virtually worthless. In 2007, then-Vice President Eduardo Stein acknowledged that criminal elements controlled six of Guatemala’s 22 departments (the largest geographical and political subdivisions of the country) and had a strong presence in at least three others. Guatemala’s descent into chaos has been quieter, slower, and less remarked upon than events in Mexico or other Latin American countries, but it has probably been more devastating, As Colom put it in 2008, “Guatemala’s security is dying in an intensive care room.”

Colom should know. During a bloody election campaign in 2007, dozens of candidates and their supporters were murdered and assassination rumors swirled around Colom. For fear of being ambushed, Colom chose to travel by helicopter rather than car and maintained the company of a doctor skilled in treating gunshot injuries. Due to concerns about poisoning, he also had to exercise extreme caution in choosing what to eat. Colom eventually made it into office unscathed, but reminders of the country’s vulnerability were omnipresent. At one rally, Colom threw a dove in the air
to symbolize his desire for peace. In a moment that seemed thoroughly emblematic of the country’s predicament, the bird failed to take flight and went crashing into the ground.\textsuperscript{17}

\textbf{THE CRISIS IN GUATEMALA: ORIGINS, CHARACTERISTICS, AND EFFECTS}

The contemporary crisis in Guatemala reflects a confluence of relatively recent trends and longer-running patterns. At the deepest level, domestic instability is rooted in the same historical factors—namely, a weak state and the socio-economic exclusion of broad segments of the population—that have traditionally left much of Latin America prone to internal upheaval. Like many of its neighbors, Guatemala has often had an authoritarian state, but it has never had a strong or effective state. Rugged geography limits the reach of the central government, and the resistance of powerful elites has kept tax revenues low. This insufficiency of tax revenue, in turn, has prevented the development of capable state institutions that could provide basic public goods like education, justice, and security. At the same time, the poverty, inequality, and popular marginalization characteristic of Guatemalan society have created simmering resentments and the potential for violence. Over the past 2 centuries, this toxic combination of factors has subjected Guatemala to recurring cycles of instability and disorder.\textsuperscript{18}

The worst of these convulsions was the civil war that ravaged the country from 1960 to 1996. Violence involving leftist guerrillas, right-wing death squads, and government forces took 200,000 lives (out of a population base of less than 10 million), with perhaps half of those deaths occurring in a 2-year period be-
 tween 1981 and 1983. (The intensity of this bloodshed was unmatched in Cold War-era Latin America. In comparison, El Salvador lost around 75,000 inhabitants during its civil war, and while Colombia suffered roughly 200,000 deaths during la violencia in the 1940s and 1950s, these losses came out of a much larger population base.) The scorched-earth policy pursued by the Guatemalan government devastated much of the countryside, and guerrilla attacks took a severe toll on infrastructure and economic productivity. Over 400 villages simply disappeared during the bloodiest days of the counterinsurgency in the early 1980s, and the unstinting violence of the period left a legacy of mistrust between many social groups and the government. As recently as 2005, for instance, indigenous Guatemalans (who bore the brunt of the counterinsurgency) refused the army’s help after devastating floods and mudslides. The Cold War was a time of insurgency and civil war throughout Latin America, but nowhere were the traumas as shattering as in Guatemala.

These traumas, in turn, left Guatemala immensely vulnerable to a post-conflict resurgence of internal disorder. While war has sometimes catalyzed the formation of a stronger state, in Guatemala’s case the internal conflict left social, economic, and political wreckage that has directly abetted the current crisis. The civil war left the country strewn with weapons and created a large pool of young men with little education and few marketable skills other than the ability to handle a gun. It initiated destabilizing refugee flows, and led to the growth of a predatory military elite skilled in corruption and intimidation. Just as important, the civil war exposed many Guatemalans to horrific bloodshed as a way of life, and fueled lasting disenchantment with often repressive govern-
ment institutions. As U.S. Agency for International Development (USAID) officials have written, “There exists a widespread acceptance in Guatemala that violence is an acceptable means of resolving conflict and Guatemalans do not have faith in the state’s ability to provide anything other than partial and arbitrary justice.” Peace accords signed in 1996 were intended to address these issues, but promised socio-economic reforms have never been carried out, and the decision to slash the size and mission of the security services—while necessary to convince the Left to sign onto the accords—weakened the only institutions capable of maintaining some semblance of domestic order. The civil war magnified the longstanding shortcomings of the Guatemalan state, leaving the field to opportunistic elements that would prey upon that weakness.20

The resulting potential for instability has been greatly compounded by relatively recent shifts in the inter-American drug trade. While Guatemala has long been involved in poppy production, its prominence in the cocaine trade has increased steadily of late. Beginning in the late 1980s, U.S. interdiction programs in the Caribbean forced Colombian traffickers to route cocaine shipments through Central America en route to Mexico and the United States. Located roughly halfway between Colombia and the United States, possessing a largely uncontrolled border with Mexico and frontage on both the Gulf of Mexico and the Pacific Ocean, and characterized by rough terrain that impedes effective government surveillance, Guatemala soon became a primary way station for Andean cocaine. The amount of cocaine transiting the country has grown exponentially over the last 2 decades, and jumped by 47 percent between 2006 and 2008 alone. U.S. officials estimate that between 180 and 400 met-
ric tons of cocaine transit Guatemala per year, and the
value of this trade may be $10 billion annually. As the
Guatemalan drug trade has grown larger, it has also
grown more violent, with numerous entities compet-
ing for control of the profits. A weak state prone to
disorder and violence has now become a focal point
of the international drug trade, creating lucrative op-
portunities for a wide range of criminal elements.²¹

International Drug traffickers.

Three principal types of criminal organizations
are currently active in Guatemala. The first group is
composed of international narcotics traffickers. As
Guatemala has taken center stage in the inter-Ameri-
can drug trade, its territory, coastline, and waterways
have become thoroughfares used by a variety of ma-
JOR drug-trafficking organizations (DTOs). During the
1980s, Colombian cartels dominated the Guatemalan
drug trade, often cooperating with corrupt military
officials to move cocaine, marijuana, and heroin ship-
ments northward. After these organizations—particu-
larly the Calí and Medellín cartels—were dismantled
in the early 1990s, Mexico’s Sinaloa cartel stepped into
the void. Sinaloan preeminence lasted for more than a
decade, but since 2005, Los Zetas (a rival Mexican orga-
nization) have begun to assert their own claim to the
Guatemalan drug trade. The Zetas are moving south
in part to extend greater control over their supply net-
work, and in part to find sanctuary at a time when the
Mexican government has launched an all-out offen-
sive against the DTOs. According to one official in the
Drug Enforcement Administration (DEA), the Zetas
are seeking to “reach out into Guatemala, extend their
operation into Guatemala, and take over the Guatema-
la corridor.” They compete with smaller Guatemalan traffickers as well as larger international syndicates, and Guatemala is now experiencing a multi-sided, violent struggle over drug routes and profits.22

These DTOs use a variety of methods for moving drugs through Guatemala. At the lowest level of sophistication, “mules” carry drugs through commercial airports and border crossings, and large shipments are often simply driven across Guatemala’s borders in trucks or other vehicles. Alternatively, South American narcotics arrive at ports like Puerto Quetzal and Puerto Barrios via commercial shipping lines, or are moved by small, “go-fast” boats that traverse Guatemala’s coastal seas and inland waterways. Another common conveyance is the small airplane. In remote rural areas, traffickers have set up makeshift runways (often just a clearing in the natural vegetation) where drug-bearing planes can deposit their cargo for the overland journey across the Mexican border. In some cases, the planes are reused; in others, they are simply abandoned. According to U.S. officials, there are more than 490 clandestine airstrips in Guatemala. One former official who had recently flown over the Petén reported seeing “numerous makeshift strips and dozens upon dozens of wrecks scattered over the wilderness.”23

As these statistics indicate, the drug trade and its by-products are pervasive in Guatemala. In rural areas of Huehuetenango and Petén, traffickers are accumulating (by purchase, if possible, and by violence, if necessary) privately held properties to be used as safe havens and depots for drugs and arms. The DTOs are also a major source of employment. They pay poor laborers to clear land that can be used for clandestine airstrips, and provide cash and protection to small farmers who cultivate poppy. Narco-money suffuses
the entire economy. Much of the perhaps $10 billion in drug money that flows through Guatemala each year is laundered through local banks, business ventures, and public investment projects. The result is an odd combination of poverty and drug-funded excess. The small town of La Reforma in eastern Guatemala has no bank or grocery store, for instance, and most of the population can hardly meet their own basic needs. Yet the town boasts a “first-rate hospital and handful of mansions,” apparently paid for with profits earned from the narcotics trade.24

Immense drug profits invariably bring about a rise in official corruption, and Guatemala is no exception. One observer estimates that roughly $1 billion of the drug money that flows through Guatemala each year is used to bribe government officials.25 This estimate is probably high, but the DTOs have certainly purchased the loyalties—or at least the acquiescence—of officials at all levels of government. According to the U.S. State Department, “money from the drug trade has woven itself into the fiber of Guatemalan law enforcement and justice institutions.”26 The cartels pay small-town mayors for the right to set up clandestine airstrips, and bribe judges, police commanders, military officials, and border guards to avoid government surveillance or prosecution. Much of this bribery takes place at the local level, in remote areas where drug trafficking is heaviest and state institutions are weakest. As the Guatemalan ambassador to Mexico concedes, “The co-optation of local power by organized crime in some regions of Guatemala is a fact.”27

In the past several years, the DTOs have become even more ambitious, paying off members of the Congress and recent presidential administrations. In September 2008, Colom fired two top aides (Carlos Quintanilla,
the Secretary for Presidential Security and Administrative Affairs, and Gustavo Solano, the head of the Strategic Analysis Secretariat) for allegedly helping the DTOs place listening devices in the president’s residence and office. According to Stratfor, “All executive orders regarding Guatemala’s fight against drug trafficking must now be considered compromised.”

Where plata (money) cannot co-opt the authorities, plomo (lead) is used to batter them into submission. Local and state officials who decline to participate in narcotics trafficking have been murdered, often in brutal fashion. DTO operatives are also believed to have been behind a recent assassination attempt against the governor of the Petén. While political murders often go unsolved, it is widely suspected that the DTOs played a central role in the violence that marred the 2007 election campaign. In the run-up to the vote, seven congressional deputies and dozens of other candidates and their supporters were murdered—in a few cases, after being kidnapped and tortured. The purpose of this bloodshed was to eliminate politicians thought to be hostile to a certain DTO, show the rest of the political class the price of opposing the drug trade, and thereby neutralize any political will to confront the traffickers. “Controlling the political system is their goal,” says one Guatemalan analyst.

The violence attending the drug trade has escalated amid the intensifying competition for dominance in Guatemala. The Zetas ruthlessly target their competitors as well as officials thought to support rival DTOs; the Sinaloa cartel and several Guatemalan organizations have responded in kind. In March 2008, a firefight in Zacapa between the Zetas and Guatemalan traffickers claimed 11 lives. Several months later, another shootout involving the Zetas, this time in Hue-
huétengo, left 17 dead. According to press reports, the fighting was so intense that police and military units elected to wait for the combatants to exhaust themselves before moving in to restore order. That same month, 15 innocent bus passengers were killed in a nighttime attack that bore all the markings of a drug-related massacre. “When there becomes a misunderstanding of sorts,” says a DEA official, “they’re going to resolve it one way, and that’s by physically removing their competition.”

While the Zetas are hardly the only culprit in this bloodshed, their arrival bodes especially ill for Guatemala. The Zetas were initially formed by Mexican special-forces deserters, and many members have advanced training in intelligence, counterinsurgency, ambushes, complex assaults, and other techniques. The group is renowned for its brutality, often beheading its opponents and, in a tactic apparently borrowed from Iraqi insurgents, posting torture and execution videos on the Internet. As George Grayson comments, “Even mentioning the word ‘Zeta’ conjures images of castrations, decapitations, and immersion in vats of lye.” The Zetas use a variety of heavy weapons, including AR-15s, AK-47s, MP-5s, improvised explosive devices, 50-caliber machine guns, grenade launchers, and bazookas. Thanks to their military training, they wield these arms with devastating efficacy. As two writers for Stratfor note, “Assault rifles in the hands of untrained thugs are dangerous, but if those same rifles are placed in the hands of highly trained special forces soldiers who can operate as a fire team, they can be overwhelmingly powerful.”

These capabilities have allowed the Zetas to turn much of northern Mexico into what one DEA official calls “somewhere between Al Capone’s Chicago and
an outright war,” and the group has advanced rapidly into Guatemala as well.\textsuperscript{34} As of mid-2009, the group had an estimated 300-400 operatives in Guatemala, and Zeta operations have increased in frequency and effect. In April 2009, Zetas ambushed police carrying out an anti-drug raid, killing five officers. They subsequently made a successful escape from the scene, leaving behind an astonishing amount of firepower. The group has established training camps, arms depots, and drug caches in the regions that border Mexico, and Guatemalan officials estimate that the Zetas have a presence in 75 percent of the country.\textsuperscript{35} “They are all over,” says a DEA official. All this has led Guatemalan officials to complain that “we are being Mexican-ized.”\textsuperscript{36}

**Hidden Powers.**

The international DTOs both cooperate and compete with domestically based organized crime syndicates known as \textit{poderes ocultos}, or hidden powers. These groups are deeply rooted in the Guatemalan political system. According to a detailed investigation by the Washington Office on Latin America, the hidden powers are “networks of powerful individuals in Guatemala who use their positions and contacts in the public and private sectors both to enrich themselves from illegal activities and to protect themselves from prosecution for crimes they commit.” They are made up of prominent businessmen, current and former military officers, politicians, civil servants, and defense and law enforcement officials—in other words, they are part and parcel of Guatemala’s elite. These individuals use their influence to carve out shares in a variety of illicit networks: drug trafficking, bribery,
kickbacks, diversion of customs duties, illegal contracting practices, illicit resource extraction, extortion, human trafficking, kidnapping, car theft, and others. In some cases, they mix these illicit activities with licit dealings in the formal economy, such as involvement in the mining and oil industries. While most *poderes ocultos* are relatively informal, protean networks, others have evolved into quasi-corporate entities that feature “hierarchical leadership structure, with capital and manpower to run sophisticated enterprises.” They employ current or former members of the security services to carry out their dirty work, and have also contracted such tasks to Guatemala’s large youth gangs (discussed below).37

The hidden powers are an outgrowth of the civil war. From the 1960s onward, the experience of fighting the violent left led to the formation of tight-knit military fraternities among officers who rose through the ranks together. At the same time, the fact that the military effectively dominated Guatemalan affairs for much of this period encouraged the rise of acquisitive, praetorian elite. As the army prosecuted a bloody counterinsurgency against the guerrillas, corrupt officers used their influence and connections to snap up the best arable land, acquire favorable positions in mining and industry, divert government funds for their personal use, and engage in the drug trade and other illicit activities. These tendencies persisted after war’s end, as the emergence of a weak democratic state offered alluring opportunities for corruption and malfeasance, and as the need to avert any reckoning with atrocities committed during the conflict encouraged military officers to maintain professional solidarity and seek alliances with other powerful Guatemalans. The military fraternities formed during the civil
war thus evolved into the *poderes ocultos* of today. *La Cofradía* was originally created by army hard-liners, and its leaders are thought to include two former generals. *El Sindicato* contains a contingent of military officers from the class of 1973, and is the chief rival of *La Cofradía*. *El Archivo* was formed by members of the Presidential General Staff, a group deeply involved in counterintelligence and electronic surveillance during the civil war. Other organizations, such as *Grupo Salvadidas*, have similar pedigrees.38

The hidden powers have an ambiguous relationship with the international DTOs active in Guatemala. Guatemalan crime syndicates originally provided transportation and protection for groups like the Zetas (who still employ a few dozen *Kaibles*, counter-insurgency specialists who deserted the Guatemalan army). As the Zetas have become more ambitious, however, they have targeted any group—Guatemalan or otherwise—that refuses to meet their demands. The November 2008 firefight in Huehuetenango demonstrated the deteriorating relationship between the Zetas and Guatemalan organized crime networks, and a number of recent incidents tell the same story.39

If conflict between the hidden powers and international DTOs has become so intense, it is largely because their goals are so similar. Like the DTOs, the hidden powers are determined to weaken the Guatemalan state or—better yet—to control it through corruption. They finance political parties and congressional campaigns in hopes of bringing confederates to power, and buy off police officials, prison guards, judges, and other civil servants to assure themselves a free hand. U.S. officials believe that the hidden powers have particularly strong ties to the Public Ministry, military intelligence, the judicial system, the National
Civil Police (PNC), and political parties such as the Guatemalan Republican Front (FRG), which includes former military dictator Efraín Ríos Montt and ex-President Alfonso Portillo (2000-04). *El Archivo* and *Grupo Salvavidas* were well-represented in Portillo’s administration, and government attempts to restrain organized crime were so transparently insincere that Guatemala was decertified for U.S. counternarcotics aid in 2003. The situation has not much improved since then. Guatemala has since been recertified for U.S. aid, but in 2007, Eduardo Stein conceded that organized crime syndicates effectively controlled six of Guatemala’s departments.40

As with the DTOs, the counterpart to corruption is violence. The hidden powers maim and murder members of competing organizations and deal roughly with government officials or civil society groups that threaten their influence. Organized crime elements have warned Guatemalan journalists to “shut up and stop talking,” and human rights activists, members of the Peasant Unity Committee, and other individuals who oppose the *poderes ocultos* have been threatened or even lynched.41 Allies of the FRG violently demonstrated in order to “persuade” the Guatemalan courts to allow Ríos Montt to run for president in 2003. Advocates of greater government and financial transparency have been kidnapped, and witnesses in politically charged criminal cases have been killed.42 During the 2007 campaign, the hidden powers apparently competed (or perhaps collaborated) with international DTOs to murder and intimidate potentially troublesome politicians. According to one account, the strategy used by the hidden powers was one of “pruning the field of electoral candidates to guarantee that the winners stay in line.” In one case, this strategy
entailed kidnapping, torturing, and executing a candidate’s 14-year old daughter.\textsuperscript{43}

The mixture of corruption and violence perpetrated by these groups was most pungently demonstrated by the PARLACEN (Central American Parliament) killings of 2007. In February, three Salvadoran representatives to PARLACEN became separated from their convoy while traveling through Guatemala. The three men and their driver were assassinated in what was apparently a drug-related slaying (the precise motive remains unclear), their bodies burned and left beside the road. This crime shocked Salvadorans and Guatemalans alike; even more appalling was the aftermath. Guatemalan authorities apprehended four policemen in connection with the slayings, but while the men were being held prior to trial, they themselves were murdered. There was no question that these latter killings were abetted by official complicity, as the victims were being held behind eight sets of locked doors in a prison near Guatemala City. To top off the whole sordid episode, the judge investigating the killings was murdered in July 2008, and the alleged mastermind of the affair was later identified as a former congressional deputy and mayor. The entire affair was deeply troubling to many Guatemalans, and it laid bare the extent to which organized crime and its attendant violence had penetrated the country’s institutions.\textsuperscript{44}

\textbf{Pandillas and Maras.}

Extremely violent youth gangs make up the third major group of criminal elements in Guatemala. Rampant gang activity has plagued much of Central America since the 1990s, and Guatemala fits squarely within this pattern. The most reliable estimates put
the number of gang members in Guatemala at around 14,000 as of 2006—or just slightly less than the total size of the Guatemalan army. These individuals belong to hundreds of gangs of widely varying structure and size. Pandillas are relatively small, flat organizations that operate in a single neighborhood and have a few dozen members. Maras are larger, more sophisticated groups that can have tens or even thousands of members spread across several different countries. They are organized hierarchically, with numerous national cells, or clicas, that report to a centralized gang leadership.45

The dominant maras in Guatemala are the Mara Salvatrucha 13 (MS-13) and the Barrio 18 (18th Street) gangs. MS-13 contains roughly 80 percent of gang members in Guatemala; 18th Street commands the loyalties of another 15 percent.46 Both gangs have a strong presence throughout northern Central America and Mexico, and they enjoy working relationships with various Mexican and Colombian drug traffickers. MS-13, for example, is thought to be particularly close to the Sinaloa cartel and its enforcers. These maras also have tens of thousands of members spread across more than 40 U.S. states: organized crime analyst Samuel Logan calls MS-13 “America’s most violent gang.”47 While the various national branches of 18th Street and MS-13 retain some operational independence, they are also expected to be responsive to directives issued by their respective transnational leaderships. In 2007, a federal grand jury indicted two MS-13 leaders for allegedly ordering murders in the United States from their prison cells in El Salvador. MS-13 and 18th Street are thus far more advanced than simple street gangs; they are sophisticated transnational criminal organizations (TCOs) in their own right.48
The top-level leaders of these maras are often experienced criminals in their 30s and 40s, but the rank-and-file come from a younger demographic. Most gang members are between 12 and 24 years in age (although some are far older), and about 90 percent are male. A few of these individuals are sociopaths who like to commit crimes, but the vast majority joins gangs for more mundane reasons. Most mareros suffer from poverty, unstable family backgrounds, a lack of educational, social, or professional outlets, or some combination of these factors. “They have no realistic hope of getting anywhere in the modern world,” says one USAID official, “and they are very much prone to whatever the streets have to offer them.” For marginalized youths, gang membership offers a steady cash flow, a sense of status and belonging, and, for men, access to women. Says one expert, “These kids look at the power the gangs have in terms of the chicks, the money.” Gang membership also allows these individuals to develop a distinct social identity, as maras and pandillas have unique hand signals, graffiti, tattoos, and manners of dress. (Tattoos have become less common of late, as gang members seek to make themselves less obvious to the police.) For disadvantaged teens and young adults, Guatemalan gangs fulfill an important—if perverse—social function.

The gang problem in Guatemala has its origins in the civil war, when displaced and uneducated—but often well-armed—young people turned to crime as a solution to the challenges of demobilization and reconstruction. This phenomenon subsequently received a major boost from destabilizing refugee flows. During the 1980s and 1990s, tens of thousands of Guatemalans who fled the violence in their own country settled in Southern California. Preyed upon by established
youth gangs, Guatemalan and other Central American immigrants formed their own gangs, including 18th Street and MS-13. Because the founders of these gangs had often acquired some military experience during the civil war, these maras quickly became some of the most feared criminal organizations in Los Angeles, and they participated in the Rodney King riots and other major disturbances during the 1990s. Beginning in the mid-1990s, however, U.S. authorities increasingly deported gang members to Guatemala and other Central American countries. In the 8 years after 1996, nearly 500,000 Latin Americans were deported for committing crimes that carried at least a 1-year sentence, and in FY 2006, Guatemala received around 3,600 criminal deportees. Many deportees spoke imperfect, anglicized Spanish (or none at all), lacked economic opportunities in Guatemala, and had no skills to trade upon other than their criminal proficiency and their gang connections. Consequently, the gang problem in Guatemala metastasized, with gang populations swelling over the past ten years and law enforcement agencies struggling to keep pace.52

Maras and pandillas are at the center of the crime epidemic afflicting Guatemala. The pandillas focus on petty extortion, robbery, small-scale drug trafficking, and occasionally kidnapping and murder. The maras are involved in all of these activities, and use their international connections to participate in arms smuggling, human trafficking, large-scale car robbery, racketeering, and other organized crimes. They sometimes aid the larger cartels and poderes ocultos by providing security for drug shipments, or by distributing cocaine and other narcotics in the small but growing Guatemalan market. In other cases, they carry out contract killings for organized crime syndicates.53
As gang activity has increased, so has violence. Gangs competing for control of a particular block, neighborhood, or city attack each other with weapons as unsophisticated as makeshift knives, as fearsome as AK-47s and fragmentation grenades. Brutality has become a form of psychological warfare in these contests, and gang members who fall into the hands of their opponents are sometimes tortured or dismembered before being killed. This is particularly the case in Guatemala’s overcrowded prisons, which have increasingly become central arenas for gang-on-gang violence. In one instance, gang members decapitated and burned seven victims in a prison east of Guatemala City.\(^{54}\)

The majority of gang violence is directed against rival gangs, but a substantial portion affects the broader population. The compatriots of a fallen gang member sometimes take revenge against the entire family of his or her murderer, and as gang-versus-gang competition has intensified, these organizations frequently seek to shock the population of a certain area into submission. One detailed study reports that in 2004, “initiation into the 18th Street Gang required the rape, disfiguration, and murder of a young woman.”\(^{55}\) In many instances, violence against the population is simply the natural concomitant of gang-related crime. El Flaco, a member of MS-13 who claims to have killed 22 people, explains the ruthless methods by which the gang extorts money from affluent Guatemalans. “We have a saying: If you don’t pay, we won’t hurt the father, sadly, it’s the children who’ll pay,” he explains. “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.”

This approach to extortion is evident in another favored gang tactic—attacking the heavily used bus systems in Guatemala City and other urban centers. The gang that dominates a certain bus route normally charges around $13 per day for the right to transit the zone unmolested, and drivers who refuse to pay are summarily murdered. To reinforce this climate of fear and intimidation, gang operatives occasionally conduct widespread, simultaneous attacks on transportation infrastructure, as happened in Guatemala City in early 2009. Overall, 255 bus drivers, and their assistants were murdered nationwide in 2008. Though the extent of gang activities in Guatemala has sometimes been exaggerated, their brutality and destructiveness can hardly be disputed.

Violence, Corruption, and the Erosion of the State.

For a country that never fully recovered from the civil war, the effects of this criminal activity have been devastating. Economic performance is suffering because crime deters investment, impedes licit trade, and diverts both public and private money from development into security initiatives. As early as 1999, crime cost Guatemalan businesses an average of $5,500 annually, and this amount has probably risen over the past decade. Future economic performance and social development are also under threat from growing drug consumption, which has spiked as narcotics saturate the country. About 10 percent of the cocaine that enters Guatemalan territory is now kept for internal consumption (a high proportion given the small size of the Guatemalan market), and drugs are easily
acquired at hotels, bars, and clubs. Drug treatment centers are filled beyond capacity. Five years ago, one center in Guatemala City had 20 patients; now it has to accommodate 250.59

Even more problematic is the overall level of violence. As noted above, homicide rates in Guatemala are stratospheric. Drawing on data collected by the United Nations (UN) Office on Drugs and Crime, the Congressional Research Service notes that, along with El Salvador, Guatemala is “among the most violent countries for which standardized data has been collected.”60 Citizens and officials lament that the country is more violent now than during the civil war, and the numbers bear this assertion out. While recent murder rates have not approached the levels of violence seen in 1981-83, homicide totals since 2006 have surpassed the average number of murders between 1970 and 1996. In numerous areas—not just in remote regions like Petén and Huehuetenango, but also in marginal barrios in the capital and other cities—violence is so intense and criminal organizations are so powerful that the police can enter only at the sufferance of the preeminent gang or DTO.61

This rise in violence has been matched by a marked upsurge in official corruption. Corruption is difficult to measure precisely, but all serious observers agree that criminal elements have been hugely successful in penetrating the security forces, judicial institutions, and practically every other office or agency charged with maintaining law and order. DEA officials report that corruption is rampant at the local level, and in 2007, Guatemalan police chief Erwin Sperisen estimated that 40 percent of the PNC was tarnished.62 This corruption goes all the way to the top. As mentioned previously, Colom fired two close advisers on suspi-
cion that they had fed sensitive information to drug traffickers. The head of the PNC, Porfirio Pérez Paniagua, was recently dismissed on suspicion that he and more than a dozen subordinates pilfered hundreds of thousands of dollars and nearly 120 kilograms of cocaine. Corruption, former Vice-President Stein has remarked, “is part of a web that includes the National Civil Police, the Public Ministry, the judicial branch, the nation’s Justice Department and the penal system. . . . All the entities here have been penetrated by organized crime.”

These effects are not lost on Guatemalan officials, and, over the past half-decade, three presidential administrations have deployed various countermeasures. In 2003-04, Portillo launched Plan Escoba (“Clean Sweep”), an anti-gang offensive that locked up over one thousand mareros. His successor, Óscar Berger, sent small groups of Guatemalan soldiers into the Petén to destroy clandestine runways. In 2007, the Guatemalan Congress agreed to the creation of the International Commission against Impunity in Guatemala (CICIG), a UN-sponsored body charged with fighting corruption and investigating high-profile crimes. The Berger administration bolstered the PNC by hiring 3,000 army veterans, and, when Colom was campaigning for president in 2007, he promised a “zero tolerance” stance toward organized crime and corruption.

These measures have permitted some very modest progress in combating criminal activity. In 2008, the government terminated more than 1,000 corrupt police officers and eradicated record levels of opium poppy. Overall, however, the situation in Guatemala is not much improved, and it may actually be deteriorating. Only one major drug trafficker was arrested in
2008, and he was quickly released on a technicality. The gang population is growing, murders continue to rise, and incidents like the PARLACEN killings and recent narco-massacres indicate that trends are running in the wrong direction. For all of Colom’s efforts, violent crime, disorder, and insecurity are still pervasive in Guatemala.66

In some sense, this disappointing outcome owes to forces beyond Guatemala’s control. Aggressive U.S. deportation policies have flooded Guatemala with thousands of criminals each year, and information-sharing on these deportees is limited. Guatemala also suffers from being located between the world’s chief producer of cocaine—Colombia—and its chief consumer—the United States. As Interior Minister Francisco José Jiménez put it in 2008, Guatemala is “the meat in the hamburger.”67

Yet the chief enabler of continuing insecurity in Guatemala is the fundamental weakness of the state. Nearly 2 centuries after independence, the Guatemalan government is still incapable of raising revenue, administering justice, or providing basic public goods. Because tax rates on individuals and businesses are low, and tax collection is inefficient, tax revenue remains remarkably low at 10-12 percent of gross domestic product (GDP) (the average in Latin America is 18 percent, and developed countries generally collect tax revenues equivalent to 30-45 percent of GDP).68 As a result, government institutions are immature and underdeveloped—shortcomings that are crippling to even well-intended law and order programs. The prisons are stuffed beyond capacity, making it impossible to maintain sanitary conditions or even police the incarcerated population. CICIG is underfunded and overworked, while oversight of the banking system
is spotty at best. The situation in the judicial system is even worse. A dearth of trained prosecutors and forensic examiners, a lack of modern equipment, and an unreasonable workload for judges have combined with other factors to ensure that only 2 percent of murder cases are ever solved.69

This dynamic is even more pronounced with respect to the police and military. The former institution is chronically underfunded, and, with military spending amounting to only .33 percent of GDP, it is hardly surprising that the forces of order are severely overmatched. The security forces are small—Guatemala has around 20,000 police officers and 15,000 soldiers, compared to at least 14,000 mareros and thousands more DTO and grupo clandestino affiliates—and completely inadequate to patrol the country’s rough terrain and porous borders.70 Naval vessels that chug along at 10 knots can hardly interdict go-fast boats that reach 50-60 knots, and police side-arms are no match for the fragmentation grenades, automatic weapons, armor-piercing ammunition, and rocket launchers used by organized crime. “These are things we have only seen in photos of Iraq and the Gulf,” one police commander laments. As the Zetas establish themselves in Guatemala, this mismatch will only become more lopsided.71

Of all the factors inhibiting a successful government response, corruption may be the most important. While corruption is ultimately a personal choice, it also reflects crucial failures of the state: the failure to offer salaries sufficient to maintain an honest workforce, the failure to provide a climate of security that will permit honest officials the option of refusing to work with criminals, the failure to root out corrupt officials from the bureaucracy, and so on. So far, these
failures have eviscerated the effectiveness of Guatemalan anti-crime initiatives. In the early 2000s, the Anti-Narcotics Operations Department (DOAN), an agency created specifically to deal with drug trafficking, had to be shut down after it became known that its members were involved in crimes including kidnapping and murder. Organized crime elements regularly receive early warning of impending government raids, and recent reports indicate that security officials may have helped drug traffickers steal AK-47s and Uzi submachine guns from military armories. CICIG is far less corrupt than most government institutions, but its achievements have been limited by the fact that it has to work through those very institutions. “The narco nexus may be stronger than the state now,” says former Deputy Minister of Security Julio César Godoy. “The narcos abuse and kill, and nobody says anything because the judges, prosecutors, military commanders, and governors are all bought off.” In these circumstances, even honest officials have little choice but to go along with the ethos of corruption that rules their agencies. As one U.S. official has explained of the situation in Guatemala: “Prosecutors are reluctant to vigorously pursue criminal cases because they fear being compromised at every level. Police officers are mistrustful of their peers because corruption is pervasive within their ranks. The courts, the prosecutors, and the police are afraid of compromise, and all are without mutual support of each other. The result is an almost complete refusal by any of these three entities to effectively engage in the counterdrug mission.”

Finally, the Guatemalan government lacks the resources to address persistent social strains that make crime such an attractive option for many youths. Because the state is starved of funding, it has long been
unable to provide decent public education, offer basic services in poor neighborhoods, or otherwise combat the effects of extreme poverty. While Colom has spoken to this issue, the Guatemalan political class as a whole has responded anemically to calls for socioeconomic redistribution or even an expansion of publicly funded educational or social outlets. Funding for prevention and rehabilitation programs remains inadequate, and while privately and foreign-funded pilot projects have shown promise, they have not yet been replicated on a wide enough scale to have a nationwide impact. As a result, enforcement-first initiatives like Plan Escoba have had only a superficial effect on the gang problem. In fact, by locking up vulnerable youths in overcrowded detention facilities where gang affiliation is crucial to survival, it may have simply reinforced gang loyalties and thereby compounded the crisis. Institutional weakness and deep-seated socioeconomic problems have long left Guatemala vulnerable to internal upheaval, and these issues now stand in the way of any lasting solution to that turmoil.75

The government’s failure to provide even a minimal level of domestic security has been profoundly corrosive to the national psyche. Persistent violence and unstinting corruption have made Guatemala a society characterized by fear, cynicism, and mistrust. Even those who have not been directly victimized by crime are terrified of its effects. According to a study conducted by USAID, “86 percent of Guatemalans surveyed feel that the level of insecurity facing Guatemala presents a threat to the future well-being of the country, and 45 percent feel that insecurity poses a threat to their own personal security.”76 There is no confidence that the government can stem this tide or even protect those citizens who are brave enough to
confront the perpetrators of violence. “There are no investigations here,” says one Guatemalan. “We think we know who did it, but everyone is too scared to say.”77 To many Guatemalans, in fact, the forces of order are not simply ineffective; they are downright malevolent. Only 25 percent of the population believes that the police can be trusted, and 73 percent of urban and suburban residents “believe that the police are directly involved in crime.” According to the director of CICIG, the entire judicial system has been “invaded by criminal structures” and needs an “exorcism.”78

This disillusion touches on the greatest long-term threats posed by organized crime in Guatemala—the degradation of democracy and the erosion of the state. As the authorities fail to protect the population and uphold the rule of law, as DTOs and gangs dominate broad patches of Guatemalan territory, as government institutions are hollowed out from within—in sum, as the Guatemalan government fails to meet the basic requirements of a functioning state—citizens are losing faith in their country’s fragile democracy. Only 28 percent of the population had confidence in Colom’s government in 2008, and this cynicism extends to the system as a whole. According to Latinobarómetro, only 8 percent of Guatemalans think that democracy works better in their country than in the rest of Latin America, the lowest figure in the region.79 Former Vice President Stein concedes, “Democratic governance is in jeopardy.” Indeed, insecurity and official fecklessness are giving voice to authoritarian sentiments. According to a 2004 USAID study, “Guatemalans that perceive insecurity in their communities. . . have less support for the democratic system and the values that define it. Guatemalans cite crime, along with corruption, as one of their top concerns and high levels of
crime is cited as the top justification for a military coup.” Guatemalans are increasingly turning away from an ineffective democratic state, further depriving it of legitimacy and authority.80

This trend—with all its pernicious consequences—is already well-underway, and is finding clearest expression in two related phenomena. The first is the privatization of security. With the police either corrupt or overmatched, well-to-do Guatemalans are turning to private security firms for protection. This industry has flourished of late, and private security personnel—who are often well-armed—now outnumber police by roughly 7.5 to 1. The growth of this industry has furnished affluent citizens a measure of security, but it has also reinforced the fact that the state has lost its monopoly on the use of force. Just as troubling, this development has merely underscored the suffocating inequality that suffuses Guatemalan society. The fortunate few can purchase personal safety; the impoverished many cannot. As the state erodes, security is no longer a public good, but rather a luxury available only to those of means.81

The second phenomenon is an immensely disturbing trend known as “social cleansing.” Citizens frustrated with the state’s inability to protect them have taken the logical next step—vigilante violence. Bus companies, store owners, white-collar professionals, and others subject to extortion or intimidation now employ hired thugs to eliminate their tormentors. “Almost every night,” reports the Washington Post, “teams of gunmen storm into the nation’s poorest neighborhoods to seize another man, woman, or teenager deemed guilty of wrongdoing. Almost every morning, another corpse turns up showing signs of torture or strangulation.”82 The perpetrators of these execu-
tions call themselves “Avenging Angels” and “Justice Makers.” They often wear commando-style uniforms, and there is mounting evidence that some vigilantes are off-duty police or military personnel. “We’re helping Guatemala to clean up all this garbage,” says one vigilante. According to one analysis, extrajudicial executions increased by 60-70 percent from 2001 to 2005 (though this may be a conservative estimate), and the death toll has reached into the hundreds in each of the past several years. Not surprisingly, many of the dead are victims of mistaken identity or simple score-settling. Ominously, this violence—often directed at residents of poor neighborhoods—has revived memories of the death-squad terror inflicted on much of the population during the civil war. With the state discredited, Guatemala is descending into vigilantism and chaos.

This development should be a source of concern to observers in both the United States and Latin America. The continued destabilization of Guatemala would provide transnational gangs and DTOs responsible for a large share of drug trafficking into the United States with a safe haven and an improved base of operations. It would impede U.S. counternarcotics operations in Central America, and make the restoration of order in Mexico all the more difficult by providing the Zetas and their rivals with a cross-border sanctuary. Most troubling of all, the collapse or effective evisceration of the Guatemalan state would set a troubling precedent in a region where representative government remains fragile and countries from Mexico to Brazil are facing the same type of threat from organized crime and internal violence. Accordingly, the following section considers options that Guatemalan and U.S. officials might weigh for addressing this crisis.
POLICY IMPLICATIONS

The first imperative in dealing with organized crime in Guatemala is to understand the depth and complexity of that issue. The current crisis is manifest in the actions of heavily armed, well-funded, ruthless criminal organizations, but it is both rooted in and compounded by a number of powerful, long-running structural factors. A lack of constructive social outlets and economic opportunities, heavy drug consumption in the United States and other destination countries (and, more recently, in Guatemala), ubiquitous official corruption, and the fundamental debility of Guatemalan state institutions have consistently abetted criminal activities and made this challenge exceptionally difficult.

To view the challenge in Guatemala as simply a law enforcement problem is thus to attack it in superficial and unproductive fashion. Just as experts on counterinsurgency and IW emphasize the need to embed the use of force in a larger scheme of military and non-military programs, anti-crime initiatives in Guatemala must address both the symptoms and the underlying causes of the current unrest. Guatemalan officials will need to implement a strategy that combines robust enforcement and security measures with sustained efforts to broaden socio-economic opportunities, combat corruption, and, above all, to build a stronger and more capable state. Such a strategy must include a wide range of complementary initiatives: aggressive, targeted actions against organized crime, an expansion of educational opportunities and basic services, overhauling inefficient and outdated institutions, purging corrupt officials, increasing public and
private investment in communities, and others. So that government revenues will rise and the rest of these measures will be possible, strengthening the tax code and improving tax collection will also be necessary. Moreover, these initiatives will have to be integrated into a coherent whole. Economic development and institutional reform cannot occur in a climate of violent chaos, while, as the recent experience with mano dura programs in El Salvador and Honduras has shown, enforcement-oriented programs will accomplish little, if not partnered with a more holistic approach.\textsuperscript{85}

If this sounds like a daunting task, it is. Grappling with organized crime and building a more effective state will require an unprecedented commitment from Guatemalans of all stripes. Economic elites will have to pay more taxes and acquiesce to a degree of economic redistribution, the political class will have to confront corruption and take social questions seriously, and the rest of the population will have to overcome its ingrained cynicism about government motives and capabilities. Accordingly, a central prerequisite of the strategy outlined above will be the establishment of some sort of national compact between the Guatemalan government, the political class, and civil society. So far, a consensus has been elusive. The well-to-do have traditionally resisted paying more taxes to a corrupt government, the corrupt have shown little interest in exposing their own transgressions, and the political system remains polarized and fragmented. This last problem was on display in early 2009, when accusations of murder and corruption against Colom provoked dueling demonstrations by his mostly rural, lower-class supporters and the urban, middle, and upper-class groups that opposed his election.\textsuperscript{86}

Yet there is reason to hope that this political paral-
ysis may eventually be overcome. Popular frustration with crime and disorder is on the rise, pushing important sectors of society toward the conclusion that the costs of a more assertive strategy are worth bearing. In early 2009, Colom succeeded in getting the Catholic Church and civil society organizations to approve the government’s national security agenda, and he wrangled a $1 billion security budget (an increase over the recent past) out of the Congress. As crime imposes a rising toll on the private sector, the business class has clamored for a stronger government response and has slowly become more receptive to the need for social investment and poverty-reduction programs. As the business class moves in this direction, it may gradually pull its political patrons along. In Mexico and Colombia, the current governments have turned popular anger at persistent internal violence into a political consensus in support of aggressive government action coupled with ambitious state-building projects; the task for Colom and his successors will be to do the same.\textsuperscript{87}

While the impetus for any such strategy must come from within Guatemala, the United States will have an important supporting role to play. Various U.S. agencies have extensive experience in wrestling with the type of problems now manifest in Guatemala, and U.S. assistance can serve as a force-multiplier for Guatemalan initiatives.\textsuperscript{88} For the most part, this does not mean starting from scratch. The State Department, DEA, Federal Bureau of Investigation (FBI), USAID, and other U.S. organizations have long been active in Guatemala, and in 2008, the U.S. Congress approved the Merida Initiative, a regional counternarcotics program that includes $6-18 million per year for Guatemala. As part of the same general package, Guatemala will also receive a roughly equivalent amount in Me-
rida support funds administered by USAID.\textsuperscript{89}

Still, these programs need to be seen as the beginning, rather than the culmination, of U.S. support for security and stability in Guatemala. U.S. aid to Guatemala actually fell (in both absolute and real-dollar terms) between 2002 and 2007, and insufficient resources are a problem for nearly every U.S. program in Guatemala. While the Merida Initiative will provide a limited infusion of new resources, it is slated to last just 3 years. This is not a sufficient time horizon—the current crisis in Guatemala (and in Latin America more broadly) has taken shape over decades if not longer, and containing it will also be a lengthy process. It may thus be necessary for resource levels to rise modestly. Greatly expanded U.S. assistance is clearly not feasible given current American commitments and priorities. But devoting an extra $30-40 million per year to U.S. programs in Guatemala would represent a large proportional increase in U.S. assistance while adding only a small burden to the overall foreign aid budget. And if this assistance helps head off a more acute crisis, it will generate long-term savings for the United States.\textsuperscript{90}

Just as the Guatemalan government will need to combine law enforcement programs, social and economic initiatives, institution-building, and other measures, U.S. policy should emphasize a holistic, integrated approach to combating instability. American policy should combine sustained, long-term efforts to address the structural enablers of violence with more immediate, enforcement-oriented measures that will produce visible successes and help restore government credibility. Similarly, U.S. officials must be attuned to the multiplier effect that can result from coordinated action on several fronts—the way that
reducing police corruption induces greater community cooperation and thus better intelligence, the way that enforcement measures against a certain criminal organization can create space for social and educational projects in a specific neighborhood, and so on. Finally, with numerous U.S. agencies involved in this process, it is imperative that American officials forge a common strategic outlook and make effective use of existing mechanisms (such as the “Country Team”) for substantive interagency coordination. This is especially the case with counternarcotics programs, which involve myriad offices and agencies and continue to be plagued by a lack of collaboration between participants.91

Within this framework, there are a number of issues that merit particular attention. With respect to security and enforcement, it is crucial to leverage intelligence and law enforcement assets so as to improve the quality (not necessarily the quantity) of arrests. While Guatemala has not gone as far as its neighbors in enacting mano dura anti-gang programs, Plan Escoba and other police initiatives have shown a similar tendency to scoop up and incarcerate large numbers of suspected gang members. Unfortunately, these sweeps are neither effective nor resource-efficient. They tax Guatemala’s already-strained police and prison capacities and do little lasting harm to the maras. Most of the individuals arrested are low-level operatives who possess few specialized criminal skills and are easily replaced by the maras or the DTOs.

A more effective approach would be to target mara and DTO leadership elements, operatives who possess valuable skills (such as experience in money laundering or electronic surveillance), and the experienced sicarios (hit-men) who are responsible for much
of the violence. (This latter category is actually smaller than one might think; according to one U.S. official, perhaps 80 percent of murders are committed by 20 percent of murderers.)\textsuperscript{92} This key player approach will place a premium on information-sharing, but it will also entail helping Guatemalan law enforcement agencies build the capabilities—witness protection, a greater capacity for wire-tapping and undercover operations—necessary to undertake successful prosecutions against organized crime higher-ups. Similarly, Immigration and Customs Enforcement (ICE) would do well to improve information-sharing on deportees with gang or criminal backgrounds, as current procedures relay only limited information—sometimes not made available until the deportee in question has already arrived in his or her home country—to Guatemala and other recipient nations.

A necessary counterpart to better targeting and information-sharing will be a redoubled campaign to attack the financial disadvantage the government currently faces. At present, the PNC is out-gunned by the criminals because the government is being out-spent by them. As mentioned above, while Colom obtained a $1 billion security budget in 2009, the proceeds from drugs smuggled through Guatemala may be as much as $10 billion annually. Over the long term, redressing this imbalance will require raising greater tax revenues and thereby expanding the government’s resource base. In the short term, it is essential that U.S. and Guatemalan officials tackle the other side of this problem by attacking the finances of criminal organizations. In particular, U.S. agencies with experience in disrupting illicit financial flows can help refine Guatemala’s emerging anti-money laundering laws and train the personnel to enforce this regime. They can
also aid Guatemala in developing more effective asset forfeiture laws (so that the government can avail itself of resources seized from the cartels) and building a centralized tracking system to ensure that these assets do not disappear into the pockets of corrupt officials. As the State Department recently reported, these measures are central to evening the financial mismatch between the government and organized crime.93

As recent experience has shown, aggressive enforcement strategies will produce desired results only if carried out by competent, honest officials. Addressing current deficiencies in the PNC and other law enforcement organizations will require thoroughgoing institutional reform over a long period. In the interim, it will be necessary to find more immediate ways of improving police performance, if only at the margins. High levels of corruption notwithstanding, there are pockets of trustworthy, courageous Guatemalan security personnel. U.S. policy should seek to identify these groups, augment their capabilities, and gradually build a core of reliable law enforcement professionals. The United States possesses several tools that can be useful in this regard: personnel exchanges with U.S. law enforcement agencies, interaction with police officers from Washington, DC, Los Angeles, and other cities where community policing techniques have been used to good effect, and assistance in training and vetting the small, elite forces that will be needed to carry out sensitive operations.94

More effective police will need to be supported by a more effective judicial system. As discussed above, Guatemala’s institutions are simply too weak at present to support any meaningful law and order program. Corruption, a lack of laws tailored specifically to fighting organized crime, insufficient training for
prosecutors and investigators, and even the simple absence of administrative and physical infrastructure have rendered the judicial system an embarrassment and fed public alienation. Redressing these weaknesses will need to be an important part of any comprehensive U.S. assistance strategy. U.S. agencies can assist the Guatemalan judiciary in developing specific anti-gang laws, provide training for investigators and forensic examiners, and offer assistance in developing effective prosecution strategies. At an administrative level, USAID should emphasize the development of personnel and management systems that reward good performance. The key in all this is to take a building-block approach: Start with small, basic tasks that can form a foundation for more ambitious measures later on. In some cases, USAID is already involved in promising pilot programs oriented along these lines. Cooperation with the Public Ministry has led to more effective investigative techniques and increased the number of murder prosecutions in Guatemala City. The construction of 24-hour courts in Villa Nueva has helped streamline a notoriously slow judicial process and ensure that those accused of a crime go before a judge in timely fashion. Given additional resources, it may be possible to expand upon these programs and begin to undertake system-wide initiatives.95

This mixture of selective engagement and institutional reform should form the basis of U.S. policy toward the Guatemalan military as well. The military is currently prohibited from participating in domestic policing missions due to its human rights record, but because the PNC is so often outgunned and overstretched, the armed forces are being tacitly reintegrated into this role. As this happens, it makes sense for the United States to engage and build the capacity
of those units involved in interdiction activities (as the State Department is doing on a limited scale through a partnership with Guatemala’s Joint Task Force Fuentes), but U.S. officials should also work to ensure that Guatemalan military institutions continue to develop in a way compatible with democratic norms. Over the past decade, one of the more successful U.S. programs in Colombia has been to provide financial, technical, and political support to the office charged with investigating human rights abuses by the military, and a similar effort may be useful in Guatemala.96

U.S. policy must also address the social conditions that provide a steady stream of recruits for maras, pandillas, and other criminal organizations. The need is not for programs like Plan Escoba, which lock up Guatemalan youths without offering them any meaningful alternative to gang membership. The need is to invest in education, vocational training, and after-school activities that will keep kids off the streets and give them some hope of succeeding in a licit line of work. Similarly, it will be necessary to strengthen the network of organizations and programs that focus on reintegrating ex-gang members into society and thereby lessening the chances of recidivism.

To its credit, USAID and its partner organizations have been very active in exploring these sorts of programs. The “Challenge 10” television show (partially funded by USAID) depicted ex-gang members cooperating to start small businesses, and follow-on projects placed around 170 former mareros in gainful employment as of November 2009. Over the past several years, USAID has also worked with rotary clubs, churches, and other civil society organizations to establish several community centers where Guatemalan youths can learn to use computers, take classes in a
trade, or simply hang out. The centers offer community members access to constructive activities, a chance at self-improvement and, not least of all, a refuge from the trouble and insecurity that they would otherwise encounter. They are also extremely cost-effective. Start-up costs run about $16,000, and because the centers are often based in spaces donated by churches and rely on volunteers for staffing, they cost just a few hundred dollars per month to sustain. If this sort of initiative can be partnered with expanded educational opportunities, it can provide young Guatemalans with an alternative to gang membership and crime.97

As the Challenge 10 and community center programs illustrate, the social and economic aspects of Guatemala’s crime problem are best addressed not through direct resource transfers from U.S. agencies to poor Guatemalans, but by emphasizing public-private partnerships that encourage communities to invest in themselves. Mobilizing private business, the churches, and other civil society groups entails a number of benefits: it brings additional resources (both financial and human) to bear on the problem, taps into social networks that can provide young people with means of emotional support outside of the gangs, and fosters a shared sense of purpose between the government and important groups of citizens. Accordingly, facilitating these partnerships should be a key aspect of U.S. policy, especially given the resource constraints that prevail in Guatemala.

If American officials are serious about combating insecurity in Guatemala, they must also face up to the reality that a large chunk of the money that funds organized crime in that country (and elsewhere in Latin America) comes from the consumption of illegal narcotics in the United States. Since the unveiling of
Plan Colombia roughly a decade ago, the increasing emphasis on combating drug-related violence abroad has not been matched by sustained, intensive efforts to deal with the demand side of the equation. Funding levels for domestic demand restriction activities fell as a percentage of the U.S. counterdrug budget between 2001 and 2008, the budget for anti-drug advertising fell by more than half under the Bush administration, and the approval of the Merida Initiative occurred concurrent to a $73 million cut in domestic treatment programs. Outlining a comprehensive demand-side strategy is beyond the scope of this paper, but it is clear that the United States will need to devote greater resources, greater political will, and greater creativity to dealing with its homegrown contributions to narco-trafficking and drug violence in Latin America.98

This list of measures should be considered suggestive rather than definitive or exhaustive. Combating crime, ameliorating social ills, and correcting institutional decay are far from exact sciences, and a capacity for innovation and adaptation will be vital in addressing these issues. Accordingly, U.S. officials must remain flexible in dealing with what promises to be a fluid, dynamic situation. The need is for what Francis Fukuyama has called the policy “entrepreneur,” the creative problem solver “willing to experiment with new approaches, to learn from others, and more important, to abandon initiatives that are not bearing fruit.”99 As the United States and its partners seek to deal with the security challenges taking shape in Guatemala and across Latin America, Fukuyama’s exhortation offers a worthy ethos.


4. See the sources cited in note #3 above, and note #5 below.


7. Ibid.


17. Lacey, “Drug Gangs Use Violence to Sway Guatemala Vote.”


21. Mark Schneider, International Crisis Group, “Guatemala at a Crossroads,” Testimony before the House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere,


25. Schneider, “Guatemala at a Crossroads.”


27. Silvia Otero, “Zetas ganan terreno en suelo guatemalteco” (“Zetas Gain Ground on Guatemalan Soil”), El Universal, December 4, 2008; see also Author’s telephone interview with DEA of-
ficial, November 23, 2009.


34. Author’s telephone interview with a DEA official, July 23, 2008.

temala” (“Drug Traffickers Threaten Guatemala”), BBC Mundo, August 17, 2009.

36. Author’s telephone interview with DEA official, November 23, 2009; Painter, “Narcos amenazan a Guatemala” (“Drug Traffickers Threaten Guatemala”).


46. USAID, Central America and Mexico Gang Assessment: Annex 2: Guatemala Profile.


50. Author’s telephone interview with USAID official, November 25, 2009; Ribano Seelke, Gangs in Central America, pp. 4-6.

51. Author’s telephone interview with Harold Sibaja, November 20, 2009; Villiers Negroponte, Merida Initiative and Central America, p. 13.


55. “Five Members of Guatemalan Family Killed, Burned,”


60. Ribando Seelke, Gangs in Central America, p. 2. The UN study referenced is the UN Office on Crime and Drugs, Crime and Development in Central America.


63. “MP confirma que antigua cúpula de PNC era una organización delictiva” (“Public Minister Confirms that Former Leadership of PNC Was a Criminal Organization”), *Prensa Libre*, November 12, 2009; Inter-American Dialogue, “Ten Years after the Agreements on a Firm and Lasting Peace,” p. 2.

64. “Combate frental al narco en Petén” (“Head-To-Head Conflict in Petén”), *Prensa Libre*, April 3, 2006; Danilo Valladares, “Guatemala: A Candle in the Darkness of Impunity,” *Inter Press Service*, June 9, 2009.


73. Indira AR Lakshmanan, “Cocaine’s New Route: Drug Traffickers Turn to Guatemala,” Boston Globe, November 30, 2005; see also “Corrupción y tráfico de influencias” (“Corruption and Influence Peddling”).


77. Agner, “Silent Violence of Peace in Guatemala.”


88. This does not mean that only the United States should be involved in helping the Guatemalan government address


92. Author’s telephone interview with USAID official, November 25, 2009.


94. In Mexico, the Calderón government has used this strategy of relying on small, specially vetted forces, which U.S. officials consider to be more reliable than the broader law enforcement community. See Daniel Kurtz-Phelan, “The Long War of Genaro García Luna,” New York Times, July 13, 2008. As of late 2009,
there was talk of using Merida Initiative or other State Department funding for these types of programs.


97. Author’s interview with Harold Sibaja, November 20, 2009.


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