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**CENTRAL AMERICA**  
**(GUATEMALA, EL SALVADOR, HONDURAS,**  
**NICARAGUA):**  
**PATTERNS OF HUMAN RIGHTS VIOLATIONS**

**A Writenet Report by Beatriz Manz (University of California, Berkeley)**

**commissioned by United Nations High Commissioner for Refugees,  
Status Determination and Protection Information Section (DIPS)**

**August 2008**

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## Acronyms

ACAG	Asociación Casa Alianza Guatemala
ALN	Alianza Liberal Nicaragüense – Nicaraguan Liberal Alliance
ANN	Alianza Nueva Nación – New National Alliance
ARENA	Alianza Republicana Nacionalista – National Republican Alliance
CAFTA-DR	Central America and Dominican Republic Free Trade Agreement
CEH	Comisión para el Esclarecimiento Histórico – Commission for Historical Clarification
CENIDH	Centro Nicaragüense de Derechos Humanos – Nicaraguan Centre for Human Rights
CIA	(United States) Central Intelligence Agency
CRIN	Child Rights Information Networks
ECLAC	Economic Commission for Latin America and the Caribbean
FMLN	Frente Farabundo Martí para la Liberación Nacional – Farabundo Martí National Liberation Front
FONAPAZ	Fondo Nacional para la Paz – National Foundation for Peace
FSLN	Frente Sandinista de Liberación Nacional – Sandinista National Liberation Front
GANAN	Grande Alianza Nacional – Grand National Alliance
GDP	Gross Domestic Product
GNI	Gross National Income
ICE	(United States) Immigration and Customs Enforcement
IG	(Police) Inspector General
ILEA	International Law Enforcement Academies
ILO	International Labour Organization
IMF	International Monetary Fund
IML	Instituto de Medicina Legal – Institute of Forensic Medicine
IPEC	International Program on the Elimination of Child Labour
ISNA	Instituto Salvadoreño Para el Desarrollo Integral de la Niñez Adolescencia – Salvadoran Institute for Children and Adolescents
MECD	Ministério por Educación, Cultura e Deportes – Ministry of Education, Culture, and Sports (Nicaragua)
MINUGUA	Misión (de Verificación) de las Naciones Unidas en Guatemala – United Nations (Verification) Mission in Guatemala
NGO	Non-governmental Organization
OASIS	Organización de Apoyo a una Sexualidad Integral frente al SIDA - Wholistic Sexuality Support Organization Against AIDS
OIT	Organisation Internationale du Travail – International Labour Organization
OSAC	Overseas Security Advisory Council

PAC	Patrullas de Autodefensa Civil – Civilian Selfdefence Patrols
PAHO	Pan American Health Organization
PCN	Partido de Conciliación Nacional – National Conciliation Party
PDC	Partido Demócrata Cristiano – Christian Democratic Party
PDDH	Procuraduría para la Defensa de los Derechos Humanos – Office of the Ombudsman for Human Rights
PLH	Partido Liberal de Honduras – Honduran Liberal Party
PLC	Partido Liberal Constitucionalista – Constitutionalist Liberal Party
PNC	Policia Nacional Civil – National Civilian Police
PNH	Partido Nacional de Honduras – Honduran National Party
PP	Partido Patriota – Patriot Party
REMAR	Rehabilitación de los Marginados – Rehabilitation of Socially Rejected People
RMCV	Red de Mujeres contra la Violencia – Network of Women Against Violence
UCA	Universidad de Centroamericana – Central American University
UNE	Unidad Nacional de la Esperanza – National Union of Hope
USAID	United States Agency for International Development
USSR	Union of Soviet Socialist Republics
WOLA	Washington Office on Latin America

## **Executive Summary**

The four countries discussed in this report, Guatemala, El Salvador, Honduras and Nicaragua, share a history as well as contemporary social and economic characteristics. The Spanish colonial period, which lasted from the early sixteenth century until 1821, laid certain institutional foundations whose legacies are still in place. Two legacies stand out: concentration of land in the hands of a small powerful elite and the exploitation of the indigenous labour force. The economies of all four countries are dominated by a handful of extremely rich families while the overwhelming majority is socially marginalized, economically and politically excluded, and suffers the lacerating effects of poverty, racism and discrimination. Moreover, the bloody internal conflicts of the 1970s and 1980s produced large-scale displacement, economic hardship, and debilitating fear. The recent surge of everyday violence rips into the most vulnerable, but society as a whole suffers from the instability resulting from the failure to reign in criminal activity.

The new gang-related violence can be attributed to several factors including decades of internal wars and impunity, extensive displacement to urban areas, the absence of social and economic programmes to integrate the youth, the migration to the United States, and the over all social exclusion of a large proportion of the population. The continuation of death squad violence and the expansion of the drug trade is a reflection of the absence of the rule of law as well as the continued links between these clandestine organizations and the military and other power elites.

The harsh response to the variety of gang activities in Guatemala, El Salvador and Honduras has proved ineffective. While the problems are real, the government and the press find it more expedient to target the gangs and street children for virtually all the rampant violence in the society. In response, many citizens support draconian anti-gang laws and self-help “social cleansing” practices. In the process, the more powerful clandestine organized crime units tend to be overlooked, in part because of the links, influence and control they exercise at various institutional levels in the governments. Nicaragua, while the poorest country in Central America, has fewer gangs and less violence and its government’s alternative approach to rehabilitate and integrate gang members into society has been much more successful.

Violence against women is an extremely serious problem. These crimes are seldom solved or punished, creating further fear and vulnerability among women. Crimes against homosexuals are less identified and are also likely under-reported. Politically motivated violence against party workers, human rights defenders, and professionals dedicated to investigating and bringing to justice those responsible for these crimes, especially in Guatemala, has seen an alarming rise. The judicial system and the police have proved largely to be ineffective. The serious instability and danger resulting from violence and the failure of national protection leads to displacement and migration out of the country, especially to the United States. These undocumented migrants live in limbo with the increasing threat of deportation back to the country they fled, often in fear for their lives.

# 1 Introduction<sup>1</sup>

## 1.1 Regional Historical Background

The Mayans populated the Central American isthmus for centuries prior to the arrival of the Spaniards at the turn of the sixteenth century. In 1523, Hernán Cortés, who led Spain's conquest of Mexico, assigned the ruthless Pedro de Alvarado to head south on a military expedition to subdue the Mayan population. At the time the K'iche' and Kaqchikel were the two largest and most powerful civilizations in what is today Guatemala. In the wake of Alvarado's military victories, Spain created the Kingdom of Guatemala (Capitanía General de Guatemala) and imposed a colonial system on the indigenous peoples living on the lands that now comprise modern Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica. The legacy of this colonial system is still evident in the four countries discussed in this report. The legacy of colonization is strongest today in those areas in which the population concentrations were the most dense prior to the Spanish conquest; thus, the farther south in the isthmus, the less the negative impact left by the colonial encounter. But, some impact of the conquest lingers everywhere 500 years later.

The inhumane abuse of the indigenous population, along with deadly new diseases against which they had no immunity, decimated the population in the first decades of the colonial period. A perverse legal structure exacerbated the abuse: the crown granted the indigenous populations to the colonists as a labour force, with few incentives to treat them well. In effect, the indigenous people endured many of the horrors of slavery without any corresponding paternalism. Instead, each colonist sought to extract as much work as possible from the native people in his "possession" knowing a new crew of workers would be allocated to him. In the mid-1500s Bartolomé de las Casas, a colonist turned Dominican priest, witnessed and recorded the brutality to which the indigenous people were subjected at the hands of his fellow Spaniards. He eloquently described the abuses that caused labourers to collapse, the unmerciful beatings and vicious lashings. These workers were denied the most basic human considerations, according to de las Casas. They were hungry, worked to exhaustion, and even beaten to death. Other Catholic priests shared de las Casas's alarm over the cruelty and harshness that accompanied the conversion to Christianity.

Central America, unlike Mexico, was not rich in gold or silver. Thus, the colonists in the Kingdom of Guatemala focused on the riches in land and labour. Among the most lasting colonial legacies is the highly skewed distribution of land whereby the Europeans took possession of the best land for the cultivation of export crops. The exploitation of indigenous labour and the concomitant racism and exclusion remain a central and destructive dynamic today. The historical rigidity of the colonial social system translates into contemporary economic impoverishment, political disenfranchisement, and social segregation. The governments of these countries, dominated by powerful elites, largely ignore the need for investment in rural regions and neglect the need for education, health and economic development. The emphasis is, instead, on extracting as much wealth and labour from the land and the indigenous people as possible with a minimum of capital investment and other inputs.

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<sup>1</sup> The author is grateful for the valuable assistance provided by Gail Saliterman and several students who participated in Berkeley's Undergraduate Research Apprentice Program in the Spring semester 2008: Mirian Meux, Elizabeth Kristiansen-Kayser, Marcelo Garzo, Felicia Berryessa-Erich, Erica Van Steenis, Lauren Rodriguez, David Casey

In Guatemala, for example, isolated and impoverished rural regions have declined over centuries, as the limited landholdings left for the poor became eroded in quality and had to be subdivided to sustain succeeding generations. At the same time, illiteracy, lack of medical care, malnutrition, and extreme poverty are prevalent. Moreover, in the highlands of Guatemala often Mayans do not speak Spanish – twenty-one Mayan languages are spoken and Mayans constitute about half of the country’s population – thus what encounters the indigenous people may have with the state at the municipal or national level are fraught with neglect, humiliation and disdain.

Costa Rica, a country that is not discussed in this report, differs significantly from the other countries in the region. Ironically, at the time of the conquest it was the poorest, least populated, and most isolated province. These unfavorable conditions reduced the ability of the Spaniards to exploit the land and its people and instead allowed for the development of more socially homogenous institutions and more cohesive economic and social structures. Today, Costa Rica enjoys the highest social standards of the isthmus.

## **1.2 Regional Contemporary Background**

The 1940s and early 1950s produced a democratic opening in Guatemala but it proved to be short-lived. The United States government intervened by allowing the Central Intelligence Agency (CIA) to orchestrate the overthrow of a democratically elected government. This was the first of many “Cold War” interventions in Latin America. From 1954 onwards Guatemala was governed by one military dictatorship after another, with various levels of repression, culminating with genocide in the 1980s. A rebel movement with Mayan support was met by widespread military counter-insurgency operations, directed as well at the civilian population. This resulted in over 600 massacres, the murder of 200,000 people, the destruction of more than 400 villages, and the displacement of approximately one million of the country’s 7 million inhabitants. The legacy of the genocide is a central cause of violence today.<sup>2</sup>

A positive development on the human rights front was the decision by Spain’s Constitutional Court to criminally charge some of the perpetrators of the genocide in Guatemala in a case now pending in the Spanish National Court.<sup>3</sup> In September 2007, the United Nations Secretary General appointed former Spanish prosecutor and law professor Carlos Castresana to head the International Commission against Impunity in Guatemala.

Like Guatemala, El Salvador, Honduras and Nicaragua have veered between dysfunctional democracy and outright dictatorship. El Salvador has often been called the country with “fourteen families” because such a small ruling elite holds land and economic power. The efforts of insurgents to change this power structure, as in Guatemala, led to internal wars during the 1970s and 1980s. As a result, at least 70,000 citizens were killed and millions were displaced internally or outside their country as refugees or undocumented migrants in the United States.

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<sup>2</sup> For a discussion of counter-insurgency operations in rural Guatemala, see, Manz, B., *Paradise in Ashes: A Guatemalan Journey of Courage, Terror, and Hope*, Berkeley: University of California Press, 2004; Manz, B., *Refugees of a Hidden War: The Aftermath of Counterinsurgency in Guatemala*, Albany: State University of New York Press, 1988

<sup>3</sup> The author presented expert testimony before Judge Santiago Pedraz in Madrid on 29 May 2008. See, Doyle, K., *The Guatemala Genocide Case: The Audiencia Nacional, Spain*, *The National Security Archive*, 2 June 2008, <http://www.gwu.edu/~nsarchiv/guatemala/genocide/index.htm> [accessed August 2008]



Honduras, in contrast with Guatemala and El Salvador, did not suffer the high costs of internal military conflict. Its citizens, however, had to cope with other calamities including a down-turn in coffee prices, extensive destruction from Hurricane Mitch in 1998, and coping with the 30,000 refugees who fled the conflict in El Salvador in the 1980s. In addition the United States made use of Honduras as a military base for the Nicaraguan “Contras”, an army of Nicaraguans organized, trained and funded by the United States, who were fighting the Sandinista government in Nicaragua.

One family – the Somozas – ruled Nicaragua for four decades. Consequently, the Sandinista National Liberation Front’s overthrow of the Somoza dictatorship in 1979 was clearly a major phenomenon – not as significant in either local or global terms as the Cuban revolution in 1959 – but a “transcendental, historical rupture” with reverberations throughout Central America, because the dictatorship had been so powerful and had ruled with the sustained support of the United States government for over 40 years.<sup>4</sup> The Sandinistas succeeded in overthrowing General Anastasio Somoza by creating a broad coalition spanning almost every segment of society. By the end of this conflict, some 20,000 to 30,000 Nicaraguans had died and the country’s economy was totally crippled.

President Ronald Reagan initiated numerous efforts to isolate Nicaragua and bring down the Sandinista government. His administration blocked international credits, mined harbours, and funded and organized an opposition army. Many lives were lost as a result of the Contra attacks, in addition to vast property losses. When the US Congress refused to fund the Contra opposition, due to its history of human rights violations, the CIA found ways to finance the fight using the proceeds from secret arms sales to Iran (known in the United States as the Iran-Contra scandal). The Sandinista government lasted 10 years – an unlikely feat considering the determination of the Reagan administration to see them fail and fall. And while they were hardly without flaws, the broad-based community organizations on which the Sandinista government was based have proved to be quite lasting.

The approximately 250,000 Nicaraguans who fled to the United States, most of them during the Sandinista period, fared much better than the Guatemalans or Salvadorans who fled the political violence in their countries or the Hondurans who were displaced by the consequences of a natural disaster. The Nicaraguans tended to settle in Miami, not Los Angeles, where they encountered a receptive Cuban-American community and a supportive US administration that accepted them as political refugees fleeing a communist regime.

Every year, the immigrants from Central America residing in the US provide an important source of money for their relatives who remained behind. These monetary transfers, or remittances, amounted to US\$ 12.1 billion in 2007, of which US\$ 4.128 billion (c. US\$3,750 per capita) to Guatemala, US\$ 3.659 billion (c. US\$ 2,900 per capita), to El Salvador, US\$ 2.561 billion (c. US\$ 5,100 per capita) to Honduras and US\$ 1 billion (c. US\$4,000 per capita) to Nicaragua.<sup>5</sup> Until 2008 the size of the remittances had been steadily increasing.

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<sup>4</sup> Torres-Rivas, E., *History and Society in Central America*, Austin: University of Texas Press, p. 124

<sup>5</sup> Inter-American Development Bank, Multilateral Investment Fund, *Remittances to Latin America and the Caribbean 2007 (US\$ Millions)*, [http://www.iadb.org/mif/remesas\\_map.cfm](http://www.iadb.org/mif/remesas_map.cfm) [accessed August 2008]; see also, Inter-American Development Bank, *Remittances to Central America to Rise to \$12.1 billion in 2007*, 6 November 2007 (press release), <http://www.iadb.org/news/articleDetail.cfm?artid=4125&language=En> [accessed August 2008]

Recently, however, the economic slowdown in the US has meant that undocumented workers are earning less, find it more difficult to get jobs and are fearful about their futures. This, in turn, is causing them to reduce the monies they send to their relatives in Central America.<sup>6</sup>

Overall, each of the four countries discussed in this report is characterized by widespread poverty, a lack of social infrastructure, illiteracy, malnutrition among children, poor health, and vast inequalities in wealth. Most people have few prospects for a better life. In Honduras, for example, approximately half of the households live in poverty, with nearly a quarter living in extreme poverty.<sup>7</sup> The lack of opportunities explains why, despite the risks of illegal immigration, hundreds of thousands continue to migrate to the United States. The US government, reflecting rising political pressures, has responded to this ongoing exodus by increasing substantially the deportations of undocumented immigrants. It has also begun raiding employment sites in a search for undocumented workers. As a result, the number of people held in US Immigration and Customs Enforcement (ICE) detention facilities increased by 43 per cent in 2007.<sup>8</sup> Also, ICE, as part of a program called Operation Community Shield, has begun trying to find and deport Central American gang members who are residing in the United States.

### 1.3 Contextualized Regional Gang Violence

The people of Central America have experienced high levels of violence and destruction during the later part of the twentieth century. Internal political opposition and insurgencies led to brutal military repression – most notably the genocide in Guatemala. With the exception of Nicaragua, the economic devastation caused by these internal wars, few prospects for a better life and the inability of governments to invest in infrastructure and human capital have contributed to increased gang membership and crime.<sup>9</sup> A recent study of gangs in Central America points out that some gangs, once primarily neighbourhood based groups who fought over turf with rival gangs, have become more violent and are often involved in extortion of neighbourhood residents, businesses, and public transportation operators, as well as in neighbourhood drug dealing.<sup>10</sup>

Many scholars attribute the rise in gangs to current economic and social conditions. Today's youth in these countries grew up in a period in which violence and impunity have continued

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<sup>6</sup> Inter-American Development Bank, Fewer Latin Americans Sending Money Home from the United States, Survey Finds, 30 April 2008 (press release), <http://www.iadb.org/news/articleDetail.cfm?language=EN&artid=4595> [accessed August 2008]

<sup>7</sup> World Bank, *Honduras Poverty Assessment: Attaining Poverty Reduction*, Washington, 30 June 2006, p.2, <http://go.worldbank.org/B6NHNBFIW0> [accessed August 2008]

<sup>8</sup> Moore, S., Justice Department Numbers Show Prison Trends, *New York Times*, 6 December 2007, [http://www.nytimes.com/2007/12/06/us/06prison.html?\\_r=1&scp=6&sq=number%20increase%20immigration%20detentions&st=cse&oref=slogin](http://www.nytimes.com/2007/12/06/us/06prison.html?_r=1&scp=6&sq=number%20increase%20immigration%20detentions&st=cse&oref=slogin) [accessed August 2008]

<sup>9</sup> See for example, Rodgers, D., Living in the Shadow of Death: Gangs, Violence and Social Order in Urban Nicaragua, 1996-2002, *Journal of Latin American Studies*, Vol. 38, No 2, 2006; Rocha, J.L., Mareros y pandilleros: ¿Nuevos insurgentes, criminales?, *Revista Envío*, No. 293, August 2006; Winton, A., Young People's Views on How To Tackle Gang Violence in 'Post-conflict' Guatemala, *Environment and Urbanization*, Vol. 16, No. 2, October 2004; Arana, A., How the Street Gangs Took Central America, *Foreign Affairs*, Vol. 84, No. 3, May/June 2005

<sup>10</sup> Washington Office on Latin America, *Youth Gangs in Central America: Issues in Human Rights, Effective Policing, and Prevention*, Washington, November 2006, p. 5, [http://www.wola.org/index.php?Itemid=2&id=80&option=com\\_content&task=viewp](http://www.wola.org/index.php?Itemid=2&id=80&option=com_content&task=viewp) [accessed August 2008]

to be the norm. They are products of disintegrating families and kin networks and therefore lack the sanctuary of a traditional community. Intra-family violence, also often a product of poverty, is prevalent and studies show that such violence increases the likelihood that a child will perpetrate violence later in life.<sup>11</sup> Young people are subject to injustice, racism, neglect, inequality and social exclusion. They live without adequate educational opportunities, without economic development programmes leading to employment, and without programmes designed to reduce inequality and social exclusion.<sup>12</sup>

The governments in Guatemala, El Salvador and Honduras have responded to the increase in the number of gangs and in gang membership with harsh policies, usually called *mano dura* (strong hand) and *super mano dura* (super strong hand / super iron fist). These policies include police round-ups in which thousands of young men are detained in jails and prisons for months or years before any trial occurs. The wealthy in these countries pay private security forces to protect them, making security one of the few “growth industries” in which former soldiers have found employment following the end of the internal fighting. In Honduras, the government recently asked these private security forces to join with its police in fighting the gangs. Finally, the last decade has witnessed the rise of private vigilante groups known as “death squads” who take it upon themselves to rid communities of gangs by killing their members.

There is evidence that some gangs are part of transnational networks, using modern forms of communication to participate in organized criminal activities such as trafficking in drugs and humans. There is also evidence that, given the lack of an independent and professional police force, the resort to *mano dura* policies has not reduced gang membership or crime. In fact, without an effective police force, many youth feel they need the sense of security and connection gangs offer, particularly in the absence of the families and communities destroyed by the civil wars and their aftermath.<sup>13</sup> Furthermore, if arrested, the over-crowded and abusive prisons in which the youth are incarcerated only serve as training grounds and a link for some youth, once released, to the more sophisticated high-level organized criminal networks.

That said, the governments and media in these countries tend to exaggerate the size of the gang membership and the extent to which the gangs are involved in organized crime to gloss over the existence of other sources of violence in their countries. Thus, for example, studies of Central American gangs show that, by and large, gang-related violence is not closely linked to human trafficking, narcotics, and other organized criminal activities. The primary victims of youth gang-related violence are other gang and non-gang youth.<sup>14</sup> Moreover, gangs are not the cause of most murders. In Guatemala, for example, a police study of the 427 homicides committed in January 2006 attributed only 14 per cent of them to gang activity.<sup>15</sup> Furthermore, the regions of Guatemala with the highest murder rates are often

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<sup>11</sup> *Idem*, p. 21

<sup>12</sup> Strocka, C., Youth Gangs in Latin America, *SAIS Review*, Vol. 26, No. 2, Summer/Fall 2006, p. 137

<sup>13</sup> Reisman, L, Testimony Before the U.S. House of Representatives, Foreign Affairs Committee Subcommittee on the Western Hemisphere Hearing on “Violence in Central America”, 26 June 2007, [http://www.globalsecurity.org/military/library/congress/2007\\_hr/070626-reisman.htm](http://www.globalsecurity.org/military/library/congress/2007_hr/070626-reisman.htm) [accessed August 2008]

<sup>14</sup> Washington Office on Latin America, *Transnational Study on Youth Gangs*, March 2007, [http://www.wola.org/media/Gangs/executive\\_summary\\_gangs\\_study.pdf](http://www.wola.org/media/Gangs/executive_summary_gangs_study.pdf) [accessed 25 June 2008]

<sup>15</sup> Ribando, C., *Gangs in Central America*, Washington, Congressional Research Service, 27 July 2007, <http://fas.org/sgp/crs/row/RS22141.pdf> [accessed August 2008]

without a significant gang presence, but are the homes of organized criminal groups, such as those involved in drug and human trafficking.

Nicaragua's Gross National Income (GNI) per capita is estimated to be approximately US\$ 980, making it the poorest country in Central America and the second poorest country in the Western Hemisphere after Haiti.<sup>16</sup> Despite this fact, Nicaragua has not been prey to the rising transnational phenomenon of gang violence and the growth of gangs that have been witnessed in Guatemala, El Salvador, and Honduras. Nicaragua's lower levels of crime and gang violence are therefore instructive and represent a contrast with the rest of the region. Scholars suggest that one of the reasons gangs are not as much of a problem in Nicaragua is the way in which the Sandinista government dismantled the existing National Guard and other anti-democratic relics of the old regime and, in their stead, created a new army and police force, mobilized civic society, and established neighbourhood organizations. The legacy of these institutions and popular political mobilization, even after the 1990 defeat of the Sandinistas, has helped to reduce violence. The Nicaraguan police, in contrast to the police in Guatemala, El Salvador and Honduras, have an institutional culture that is based on community needs and that emphasizes preventive approaches. Some scholars who have studied the Nicaragua gangs assert that the police and others seek to integrate youth into the fabric of society and claim that the police forces in Nicaragua are much more transparent and accountable than they are in the other countries with their "zero-tolerance" approach to gangs. As part of this preventive approach the government also supports programs that seek to rehabilitate youth. In short, many of the important social and political inroads achieved during the Sandinista period continued after they lost the presidency in 1990 in part because the Sandinistas still "retained the largest active social base among the population". Ten years of power solidified certain key institutions.<sup>17</sup>

A significant cause of violence in Central America is the continued existence of organized criminal networks and the clandestine death squads. As a Washington Office on Latin America (WOLA) report noted, the "illegal groups and clandestine structures that developed originally to carry out political-military missions" have today "mutated into organized criminal enterprises". Even worse is the governmental tolerance of both the criminal networks and the death squads and the "depth of infiltration by organized criminal networks" in the government apparatus.<sup>18</sup> Both are critical problems that need to be seriously addressed.

## **2 Guatemala**

### **2.1 Current Political Situation**

The current president of Guatemala, Alvaro Colom, was elected to office in November 2007 in a runoff election in which he received 53 per cent of the vote, defeating retired general Otto Pérez Molina. Colom's center-left party, the UNE (Unidad Nacional de la Esperanza – National Unity of Hope), won 48 of the 158 seats in Guatemala's unicameral legislature, far short of a majority. Pérez Molina's right-wing PP (Partido Patriota – Patriot Party) won 30

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<sup>16</sup> World Bank, Gross National Income Per Capita 2007, Atlas Method and PPP, *World Development Indicators 2008*, Washington, 2008, <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GNIPC.pdf> [accessed August 2008]

<sup>17</sup> Cruz, J. M., *Criminal Violence and Democratization in Central America: Reform versus Persistence of Security Institutions*, draft, cited with permission from the author

<sup>18</sup> Beltrán, A., *The Captive State: Organized Crime and Human Rights in Latin America*, Washington: Washington Office on Latin America, 2007, p. 2

seats and GANA (Grande Alianza Nacional – Grand National Alliance), the party of outgoing President Oscar Berger, won 37 seats.<sup>19</sup>

Colom, a businessman who identifies himself as a moderate social democrat like President Lula da Silva of Brazil, has a long history of involvement in Guatemalan politics. As part of his successful 2007 bid for the presidency, Colom ran on a platform that promised to end poverty, support social development, and impose the rule of law. Colom also promised to end the country's high-crime and murder rates by tackling corruption in the security forces and judiciary and by taking on the drug barons.<sup>20</sup> In contrast, Perez Molina's campaign focused almost entirely on his plans to use *mano dura* policies to fight crime – such as increasing the size of the police force, arresting and incarcerating all young men purported to be gang members and suspending civil liberties by declaring a state of emergency. The 2007 election was one of the bloodiest in the history of the country, with 119 violent acts including at least 51 homicides; eighteen of the deaths were of people connected to the UNE. Six relatives of candidates were killed.<sup>21</sup>

President Colom assumed office on 14 January 2008 and inherited a country known for its endemic violence, the highest chronic child malnutrition rate in the Western Hemisphere, and the region's lowest tax rates. As a 2005 World Bank report notes, Guatemala's socioeconomic development was severely and detrimentally affected by the decades of civil war that ended in 1996. Over one million people were displaced. Today Guatemala is a country with extremely high rates of poverty, very great disparities in wealth and very little investment in human development, especially among rural and indigenous people.<sup>22</sup> Over half of the population lives below the poverty line.<sup>23</sup> Almost 34 per cent live on less than US\$ 2 a day.<sup>24</sup> According to the World Bank, the average schooling attained is 3.5 years, while secondary school enrolment is below 25 per cent. The World Bank also reports the country has “extremely high rates of maternal and infant mortality, high malnutrition, and less than two-thirds of the population with access to basic health services”.<sup>25</sup> Guatemala also consistently ranks among the worst performers in international governance comparisons. Transparency International ranks Guatemala well below the regional averages; 66 per cent of respondents thought that corruption would increase in the next three years, while 59 per cent thought that the government was ineffective in fighting corruption.<sup>26</sup> The ability of the Guatemalan government to rectify these problems is severely hampered by its limited

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<sup>19</sup> Jasper, M. L. and C.W. Cook, *Guatemala: 2007 Elections and Issues for Congress*, Washington: Congressional Research Service, January 2008, p. 3, <http://www.fas.org/sgp/crs/row/RS22727.pdf> [accessed August 2008]

<sup>20</sup> Suarez, J. and M. Jordan, “No Se”: *Guatemalan 2007 Pre-Elections Report*, Washington: Guatemala Human Rights Commission/USA, August 2007, p. 1-5, <http://www.ghrc-usa.org/Publications/NoSeGuatemalan2007Pre-ElectionsReport.pdf> [accessed August 2008]

<sup>21</sup> Jasper and Cook

<sup>22</sup> World Bank, *Guatemala: Country Economic Memorandum – Challenges to Higher Economic Growth*, Washington, 9 March 2005, p. ii, <http://go.worldbank.org/LGVQPA90Q1> [accessed August 2008]

<sup>23</sup> United States, Central Intelligence Agency, *The World Factbook: Guatemala*, Washington, 2008, p. 6

<sup>24</sup> World Resources Institute, *Earth Trends: Country Profiles: Economic Indicators: Guatemala*, Washington, 2003, [http://earthtrends.wri.org/country\\_profiles/index.php?theme=5](http://earthtrends.wri.org/country_profiles/index.php?theme=5) [accessed August 2008]

<sup>25</sup> World Bank, *Guatemala: Country Economic Memorandum*, p. ii

<sup>26</sup> Transparency International, *Report on the Global Corruption Barometer*, Berlin, December 2007, [http://www.transparency.org/policy\\_research/surveys\\_indices/gcb/2007](http://www.transparency.org/policy_research/surveys_indices/gcb/2007) [accessed August 2008]

revenues. In 2007, taxes collected from businesses and individuals amounted to only 12 per cent of GDP (Gross Domestic Product), well below the average for Latin America and the Caribbean.<sup>27</sup>

Thus, it will be difficult for Colom to implement his campaign promises and begin to tackle even the most urgent social problems. Among the many obstacles are the historic neglect of the indigenous and poor Ladinos, the traditional and excessive power of the conservative elite and the current alleged connections of UNE with the oligarchy, the military, and – some claim – the groups controlling the drug trade that moves from Colombia through Guatemala on its way to the United States.<sup>28</sup> The continued power of the military, even if behind the scenes, and now the new power of the drug lords restricts President Colom’s ability to change the country’s political culture. These two groups – the military and the drug lords – have the ability to truncate any reforms that will weaken their power. As a result, the trends that defined the last four years in Guatemala – greater concentration of wealth and resources, an increased presence of transnational companies, an acceleration of internal and external migration for economic or political reasons, and the ballooning of figures for poverty across the country despite a steadily growing GDP – are not likely to change.

## 2.2 Human Rights and Violence

Since 1996, when the government and guerrillas signed peace accords, the massacres of indigenous village populations has ceased and, in that respect, there is less violence in Guatemala. But the country has a legacy of 36 years of violence, most of which was perpetrated by the government on innocent villagers. The investigation of the Commission for Historical Clarification (CEH), set up under the Peace Agreements, found that state forces and related paramilitary groups were responsible for 92 per cent of the arbitrary executions and 91 per cent of forced disappearances. The vast majority of the victims of the acts committed by the State were not combatants in guerrilla groups but rather were civilians, most of whom were Mayans.<sup>29</sup> This legacy continues to manifest itself in political violence, such as that which accompanied the 2007 election campaigns, and threats and attacks by street gangs, smugglers, and private security forces. Every year close to 6,000 citizens are murdered and many more suffer extreme physical and psychological harm.

According to WOLA, between January and April 2006 there were 65 threats against individuals involved in human rights work.<sup>30</sup> Human Rights Watch claims that the organizations behind the attacks against human rights defenders are people “affiliated with private, secretive, and illegally armed networks or organizations, commonly referred to in Guatemala as ‘clandestine groups’”, noting that these groups “appear to have links to both government officials and organized crime – which give them access to considerable political

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<sup>27</sup> Economic Commission for Latin America and the Caribbean, *Preliminary Overview of the Economies of Latin America and the Caribbean 2007*, Guatemala, December 2007, p.112

<sup>28</sup> Granovsky-Larsen, S., A Dove with Two Right Wings: Power Struggles in the 2007 Guatemalan Elections, *Briarpatch Magazine*, 18 January 2008, [http://www.nisgua.org/news\\_analysis/index.asp?id=3055](http://www.nisgua.org/news_analysis/index.asp?id=3055) [accessed August 2008]

<sup>29</sup> United Nations, Economic and Social Council, Human Rights and Indigenous Issues: Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People, Rodolfo Stavenhagen, Addendum: Mission to Guatemala, E/CN.4/2003/90/Add.2, 24 February 2003

<sup>30</sup> Beltrán, A. and G. Sanchez-Garzoli, Attacking the Defenders in Colombia and Guatemala, *Connection to the Americas*, November 2006, [http://www.wola.org/index.php?option=com\\_content&task=viewp&id=434&Itemid=2](http://www.wola.org/index.php?option=com_content&task=viewp&id=434&Itemid=2) [accessed August 2008]

and economic resources”, and the justice system is not able to deal with this powerful threat.<sup>31</sup> Forensic anthropologist Fredy Peccerelli and his team at the Guatemalan Forensic Anthropology Foundation have received repeated threats and harassment since 2004.<sup>32</sup>

### 2.2.1 *Death Squads*

Extrajudicial killings and military repression are a historical phenomenon in Guatemala. The country’s long history of using paramilitary groups to control political opposition took on a more organized, more widespread and more lethal character in the latter part of the twentieth century when death squads such as La Mano Blanca (the White Hand), worked directly with the military and the oligarchy to suppress political mobilization. These death squads enjoyed impunity.

Death squads became particularly active during the civil war, murdering political, labour, indigenous and student leaders in what was claimed to be anti-communist drives, and intentionally terrorizing civil society. In the countryside the military created the one-million strong Civilian Defense Patrols (PAC – Patrullas de Autodefensa Civil) who carried out, on behalf of the military or on their own, large-scale human rights abuses. Currently there is a resurgence of death squad activity, but in a different manner compared to the infamous Mano Blanca. Indeed, the *cuerpos clandestinos* (clandestine bodies) or *poderes paralelos* (parallel powers), as they are known today, have a wide mandate. A scholar notes that “they are an outgrowth of the structures set up to perpetrate atrocities during the war and their alignment with certain political forces allows them virtually guaranteed impunity making it easy for these networks to occasionally be activated to serve political, criminal, as well as financial ends.”<sup>33</sup> Indeed, as an investigative journalist reports: “In Guatemala, the Anti-Narcotics Operations Department (the local equivalent of the U.S. Drug Enforcement Administration) had to be dismantled in November 2002 after investigators found that 320 of its officials were in the pay of local criminals.”<sup>34</sup> The former PAC members, especially chiefs, also continue to abuse and kill people in the rural areas.

This continuation of violence even after the peace accords were signed creates a pervasive and debilitating feeling of hopelessness, insecurity, defeatism and resignation. The widespread sense that the rule of law does not function has led many citizens to take matters into their own hands to solve the pervasive violence. One scholar notes: “One key component of *mano dura* across the region is *support for private acts of vigilantism*, locally known as *justicia a mano propia*, or ‘justice by one’s own hand’. These include lynchings, as well as the murky work of ‘social cleansing’ squads, usually carried out under cover of darkness.”<sup>35</sup>

As part of the 1996 peace accords, the Guatemalan government promised to dismantle the death squads and, in their place, create an independent professional police force and

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<sup>31</sup> Human Rights Watch, *Universal Periodic Review of Guatemala: Human’s Rights Watch’s Submission to the Human Rights Council*, New York, 5 May 2008, <http://hrw.org/english/docs/2008/04/07/global18579.htm> [accessed August 2008]

<sup>32</sup> See, e.g. Front Line, Guatemala: Forensic Anthropologist Fredy Peccerelli Targetted for Investigating Killings, 16 November 2007, <http://www.frontlinedefenders.org/node/1224> [accessed August 2008]

<sup>33</sup> Godoy, A. S., La Muchacha Respondona: Reflections on the Razor’s Edge Between Crime and Human Rights, *Human Rights Quarterly*, Vol. 27, No 2, May 2005, p.607

<sup>34</sup> Arana, A., How the Street Gangs Took Central America, p.5

<sup>35</sup> Godoy, A. S., *Popular Injustice: Violence, Community, and Law in Latin America*. Stanford: Stanford University Press, 2006, p. 57

independent judiciary. This has not occurred. On the contrary, death squads continue to operate with impunity throughout the country and they target three distinct groups.

One target involves the judges, lawyers, witnesses, journalists, and others who seek to expose and make accountable those responsible for wartime violence in Guatemala. Guatemalan human rights groups reported 158 acts of violence or intimidation in the first eight months of 2007.<sup>36</sup>

The clandestine death squads also threaten and attack government employees who question or affect the interests of organized crime, drug activities, mass corruption and other forms of criminal enrichment.<sup>37</sup> Guatemala has been called a “corporate mafia state” because irrespective of who is elected to office, the country is actually run by an alliance among traditional sectors of the oligarchy, new entrepreneurs, corrupt members of the police and military, and common criminals who collude in order to control lucrative illegal industries, including drugs and arms trafficking, money laundering, car theft rings, the adoption racket, kidnapping for ransom, illegal logging and other proscribed use of state protected lands.<sup>38</sup> These entrenched powerful forces rely to a considerable extent on the use of the death squads to intimidate and to murder. And, in so doing, they undermine the country’s already weak justice system and perpetuate a climate of citizen insecurity. This, in turn creates fertile ground for the further spread of corruption, drug trafficking and organized crime. The result is a self-perpetuating, downward spiral of violence that undermines the rule of law and democracy in Guatemala.<sup>39</sup>

A third target involves those who work on economic and social development programmes intended to help the disadvantaged.<sup>40</sup> Most recently members of this third group have been threatened and harassed because of their grassroots efforts opposing the implementation of the Central America Free Trade Agreement with the United States (CAFTA-DR), opposing legislation that would create a Land Registry Office that favoured the wealthy, opposing certain mining operations, and opposing legislation that could lead to privatizing public services such as healthcare and education.<sup>41</sup>

There are also death squads that operate as “self-help” groups, created to fight crime in their communities because the police and judicial system are seen as too ineffective to provide needed security. The activities of these death squads are sometimes referred to as “social cleansing” because they usually target, torture and kill gang members whom they view as an

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<sup>36</sup> Human Rights Watch, Universal Periodic Review of Guatemala

<sup>37</sup> *Ibid.* See also, for specific examples, Global Integrity, *Country Report: Guatemala: Corruption Timeline*, Washington, 2006, <http://www.globalintegrity.org/reports/2006/guatemala/timeline.cfm> [accessed August 2008]

<sup>38</sup> Amnesty International, *Guatemala’s Lethal Legacy: Past Impunity and Renewed Human Rights Violations*, London, 28 February 2002, <http://www.amnesty.org/en/library/info/AMR34/009/2002/en> [accessed August 2008]

<sup>39</sup> Peacock, S.C. and A. Beltrán, *Hidden Powers in Post Conflict Guatemala, Illegal Armed Groups and the Forces Behind Them*, Washington: WOLA, December 2006, [http://www.wola.org/index.php?option=com\\_content&task=viewp&id=48&Itemid=2](http://www.wola.org/index.php?option=com_content&task=viewp&id=48&Itemid=2) [accessed August 2008]

<sup>40</sup> Myrna Mack Foundation, The United States Finds the Groundwork Laid, *Envío*, No. 287, June 2005, <http://www.envio.org.ni/articulo/2974> [accessed August 2008]

<sup>41</sup> The concessions bill is discussed in Storrs, K.L. *et al.*, *Central America and the Dominican Republic in the Context of the Free Trade Agreement (DR-CAFTA) with the United States*, CRS Report for Congress, updated 12 November 2004, p. 137, [http://digitalcommons.ilr.cornell.edu/key\\_workplace/13/](http://digitalcommons.ilr.cornell.edu/key_workplace/13/) [accessed August 2008]



undesirable criminal element in their society. These self-help death squads are frequently private citizens who enjoy the cooperation or tolerance of state actors; in some cases they are local police officers. They take it upon themselves to “remove” criminals from the community because they see the judicial system as too slow or the “constraints of the rules of evidence as too burdensome”. Moreover: “In the process, the victims are denied due process and the right to a fair trial; and those involved in the killings serve as judge, jury, and executioner thereby usurping legal and judicial power that ought to be the exclusive preserve of the state.”<sup>42</sup>

Overall, the long-held grievances remain and are far from being addressed. On the sixth anniversary of the signing of the peace agreement the UN mission in Guatemala effectively highlighted and warned about the consequences of ignoring the deep-seated social problems:

It is impossible to ignore that discrimination and poverty, principal causes of the internal armed conflict, still have not been eradicated... It is impossible to ignore the persistent high levels of impunity, and that the defenders of human rights and labour and social leaders have to continue operating in the current climate of threats and intimidation. It is impossible to ignore that the population in general has to continue suffering the effects of violence and of a constant insecurity.<sup>43</sup>

Amnesty International put it quite bleakly: Guatemala is enduring a human rights meltdown.

The internal armed conflict brutalised Guatemala, deeply dividing the country’s population and militarising Guatemalan society; this left behind an intricate legacy of structural violence, militarisation and social fragmentation. This legacy has contributed to spiralling crime and homicide rates in post-conflict Guatemala. However, it has also allowed and encouraged the perpetuation of a culture of fear and impunity, gradually precipitating what has been termed a human rights ‘meltdown’.<sup>44</sup>

### **2.2.2 Gender-Based Violence**

Violence against women, including domestic violence, is a serious problem, not least because convicted domestic abusers are not liable to custodial sentences. There are also strict requirements in terms of visible and lasting injuries, restricting the cases when a charge of assault can be laid. There is also a discrepancy between the provisions in law for police intervention and protection in domestic violence situations, and actual practice when the police is very reluctant to intervene. Moreover there is a dearth of trained officers to deal with domestic violence.<sup>45</sup>

The number of Guatemalan women and girls who are murdered each year is high. Amnesty International reports that over 2,500 women and girls were murdered in Guatemala between 2001 and 2006, often quite savagely in that many of their bodies showed signs of rape,

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<sup>42</sup> Washington Office on Latin America, *Youth Gangs in Central America*, p. 16

<sup>43</sup> Misión de las Naciones Unidas en Guatemala, Comunicado de MINUGUA sobre el sexto aniversario de la firma de la paz, Guatemala City, 29 December 2002

<sup>44</sup> Amnesty International, *Guatemala: Legitimacy on the Line*, London, 19 September 2003, <http://www.amnesty.org/en/library/info/AMR34/055/2003/en> [accessed August 2008]

<sup>45</sup> United States, Department of State, *Country Reports on Human Rights Practices 2007: Guatemala*, Washington, 11 March 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100641.htm> [accessed August 2008]

torture, mutilation or dismemberment.<sup>46</sup> Furthermore, the response of the authorities to these atrocities is frequently one of indifference. Instead of seeking justice for the victims' relatives, the police tend to blame the victims' conduct or background.<sup>47</sup> A July 2006 report by Guatemala's Human Rights Ombudsman said that 70 per cent of the murders of women were not investigated and that 97 per cent never led to an arrest. Finally, in the few cases that involve an investigation, convictions often cannot be obtained because of ineptly gathered forensic evidence, improperly preserved evidence, lack of resources and failure to protect witnesses.<sup>48</sup>

### **2.2.3 Violence Against Children**

Compared to the situation in other Central American countries, larger numbers of Guatemalan children die at birth, are malnourished, abandoned, abused or murdered. According to a report by ACAG (Asociación Casa Alianza Guatemala), the infant mortality rate in Guatemala is 38 deaths per each 1,000 live births, the highest rate of any country in Central America. Moreover, almost one-half of the children under five are chronically malnourished; for indigenous children this proportion is as high as 70 per cent. The country has the highest proportion of children with stunted growth in Latin America. According to UNICEF, Guatemala ranks number one in the Americas, and sixth in the world in terms of the proportion of chronically malnourished children under age five.<sup>49</sup> A large percentage of Guatemalan children are physically or sexually abused. It is estimated that 15,000 children and adolescents are victims of sexual exploitation in Guatemala each year. In 2007, the Guatemalan Congress was finally considering criminalizing a range of abuses of children including commercial child sexual exploitation, child pornography, sexual abuse, and physical and psychological domestic violence.<sup>50</sup>

Guatemala, in part because of the impunity with which the "self-help" death squads operate, has the highest rate of violent death among young people in Central America. In 2006, for example, 395 children suffered violent deaths; in 2007 the number increased to 417.<sup>51</sup> Moreover, the death squad executions are usually accompanied by torture. Yet, the authorities do nothing to stop the killings and, like the murders of women and girls, they dismiss them as simply revenge killings between the members of warring gangs.

Thousands of children living in Guatemala's streets have faced routine beatings, thefts and sexual assaults at the hands of the National Police and private security guards. Passersby or other police officers witness many of the assaults but nothing is done to stop them. When

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<sup>46</sup> Amnesty International USA, *Mexico and Guatemala: Stop the Killings of Women*, New York, January 2007, <http://www.amnestyusa.org/document.php?lang=e&id=engusa20070130001> [accessed August 2008]

<sup>47</sup> Amnesty International, *Guatemala: No Protection, No Justice: Killings of Women (An Update)*, London, 9 June 2005, <http://www.amnesty.org/en/library/asset/AMR34/019/2006/en/dom-AMR340192006en.html> [accessed August 2008]

<sup>48</sup> Amnesty International USA, *Guatemala: Killings of Women on the Rise in 2006*, New York 18 July 2006 (press release), <http://www.amnestyusa.org/document.php?lang=e&id=ENGAMR340232006> [accessed August 2008]

<sup>49</sup> Child Rights Information Networks, *Guatemala: Child Rights Review for the Second Session of the Universal Periodic Review (UPR)*, London, 28 April 2008. <http://www.crin.org/resources/infodetail.asp?id=17128> [accessed August 2008]

<sup>50</sup> Children's Rights, *Guatemalan Human Rights Update*, Vol. 19, No 15, August 2007, p.3, [http://fhrg.org/pub\\_download/ghrc\\_vol19no15.pdf](http://fhrg.org/pub_download/ghrc_vol19no15.pdf) [accessed August 2008]

<sup>51</sup> Child Rights Information Networks, *Guatemala: Child Rights Review*

care alternatives for abused children are provided they are often not much better. Human Rights Watch, for example, investigated state financed rehabilitation centres run by a Spanish evangelical Christian organization called REMAR (Rehabilitación de los Marginados – Rehabilitation of Socially Rejected People) and found centres operated with virtually no governmental oversight, monitoring, or control. The children reported they were beaten with aluminum baseball bats. And children in prison are housed with adults who frequently abuse and rape them.<sup>52</sup>

#### **2.2.4 Violence against Sexual Minorities**

According to a World Policy Institute report there are no organizations in Guatemala concerned with the rights of homosexuals because the subject is so taboo. There are, however, a number of organizations that address the need for AIDS prevention educational programmes. And one of these, OASIS, tries to address other homosexual issues indirectly. Its executive director, Ruben Mayorga, reports that homosexuals and lesbians are “routinely harassed by family members, the church, the military and police forces, the media, the educational system, and by Guatemalan society at large”.<sup>53</sup> Mayorga has witnessed the aftermath of abuses of homosexuals by governmental authorities that include theft of personal property, beatings, rape, forced fellatio, prolonged imprisonment without trial, and death.<sup>54</sup> To be openly gay means running the risk of losing professional status, or home. There are no formal laws protecting gays and lesbians; thus, anyone who is persecuted on the basis of his or her sexual orientation simply is without judicial recourse. A Human Rights Watch report describes the murders of three homosexual men in October 2005 and the murder in December 2005 of a transgender woman and the severe injury of another. With regard to the December 2005 incident, the report notes that the assailants were wearing police uniforms and riding police motorcycles. According to OASIS there have been no prosecutions in connection with either incident.<sup>55</sup>

### **2.3 Inter-linkages**

The inter-linkages within Guatemala have been described in a recent WOLA report as an “unholy alliance” between “traditional sectors of the oligarchy, some new entrepreneurs, police and military, and common criminals”. According to the WOLA report, hidden powers and clandestine groups with ties to military intelligence, drug trafficking and other organized criminal activities have existed in Guatemala for decades. What is different today is the extent to which the hidden powers control the elected governmental officials.<sup>56</sup> These hidden powers rely heavily on the continued ineffectiveness of the police and judiciary to assure impunity for their past and current crimes.

One scholar further describes the ways in which organized crime is connected to politics in Guatemala. “First, they are an outgrowth of the structures set up to perpetrate atrocities during the war; and second, their alignment with certain political forces, and the virtually

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<sup>52</sup> Human Rights Watch, *Easy Targets: Violence Against Children Worldwide*, New York, September 2001, <http://www.hrw.org/reports/2001/children/index.htm> [accessed August 2008]

<sup>53</sup> Reding, A., *Human Rights in Guatemala Since the Signing of the Peace Accords*, New York: World Policy Institute, April 2000, <http://www.uscis.gov/files/nativedocuments/PSGTM00-001.pdf> [accessed August 2008]

<sup>54</sup> Reding, A., Guatemala, Bashing Is Just the Beginning, *Connection to the Americas*, June 1999, <http://www.worldpolicy.org/projects/globalrights/guatindex.html> [accessed August 2008]

<sup>55</sup> Human Rights Watch, Guatemala: Transgender People Face Deadly Attacks, New York, 21 February 2006 (press release), <http://www.hrw.org/english/docs/2006/02/21/guatem12696.htm> [accessed August 2008]

<sup>56</sup> Peacock and Beltrán, *Hidden Powers*, p. 3

guaranteed impunity that these connections afford them, make it easy for these networks to occasionally be activated to serve political, as well as financial, ends.”<sup>57</sup> These long-standing criminal organizations have a track record and the ability to mutate as conditions in the country present new opportunities. “The parallel power structure set up during the war did not disappear with the end of the conflict: like many state industries, it was simply privatized. Today, it is an open secret that many ex-military men (and probably also some ex-guerrillas) are now active in most forms of organized crime in the country, including drug trafficking, auto theft, bank heists, and kidnappings.”<sup>58</sup> The investigative journalist Ana Arana asserts:

[T]his group [of retired military hardliners] has transformed itself into a highly powerful criminal cartel, one that today combines a variety of lucrative illegal enterprises with a systematic campaign of political violence. To build their operations, these rogue officers have made new allies among drug traffickers and strengthened their connections to the current government, forging strong links to customs, immigration, judicial, police, and army officials... One reason that Guatemala’s military and its intelligence services have turned to crime in such numbers is that these institutions were never imbued with respect for the rule of law or civilian oversight.<sup>59</sup>

## 2.4 National Protection

The data on crime and violence in Guatemala documents that the government does not protect its citizens. Violence is widespread and the country has one of the highest homicide rates in Latin America. The perpetrators of much of this violence operate with impunity because of corruption and substantial inadequacies in the police and judicial sectors; the lack of adequate and timely investigations into unlawful killings; and a failure to protect judicial sector officials, witnesses, and civil society organizations from intimidation.<sup>60</sup> Between 1996 and the end of 2002, for example, there were 482 reported cases of lynching or attempted lynching in Guatemala, with 943 victims including 240 deaths. These cases had only generated 24 convictions as of 2003.<sup>61</sup> Similarly, there is almost no effective enforcement of labour laws, including child labour provisions.<sup>62</sup>

According to a WOLA report, key cases are assigned to judges, who appear partial to the accused, reportedly because they have been bribed, or because they fear reprisals for their decisions. High profile human rights and corruption cases languish in the court. Judges allow defence lawyers to abuse the system insofar as they rarely dismiss frivolous appeals or patently invalid motions, thereby delaying trials for months or even years.<sup>63</sup>

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<sup>57</sup> Godoy, La Muchacha Respondona, p. 607

<sup>58</sup> *Ibid.*

<sup>59</sup> Arana, A., The New Battle for Central America, *Foreign Affairs*, Vol. 80, No 6, November-December 2001, p. 2

<sup>60</sup> United States, Department of State, *Country Reports on Human Rights Practices 2006: Guatemala*, Washington, 6 March 2007, <http://www.state.gov/g/drl/rls/hrrpt/2006/78893.htm> [accessed August 2008]

<sup>61</sup> Amnesty International, *Guatemala: Deep Cause for Concern: Amnesty International’s Assessment of the Current Human Rights Situation in Guatemala*, London, April 2003, <http://www.amnesty.org/en/library/asset/AMR34/022/2003/en/CGTL6YqVuocJ> [accessed August 2008]

<sup>62</sup> United States, Department of State, *Country Reports on Human Rights Practices 2006: Guatemala*

<sup>63</sup> Peacock and Beltrán, *Hidden Powers*, p. 7

## 2.5 Conclusions

In the past few years, Guatemala has been experiencing more violence and a greater number of human rights violations because of the extensive impunity and corruption within the government. The government and the media have attempted to blame the gangs for the increasing levels of crime. But, while the increases in gang membership contributes to the crime and violence in the country, the almost exclusive focus on them camouflages the more serious problems of poverty, the exploitation of the poor and young by wealthy elites, and government's refusal to prosecute organized criminal activity.

## 3 El Salvador

### 3.1 Current Political Situation

The current president of El Salvador, Elias Antonio Saca, was elected to a five-year term of office on 21 March 2004. Saca received 57 per cent of the vote and thereby avoided the need for a run-off against his closest rival, Schafik Handal. Saca's victory was the fourth consecutive presidential victory for his conservative party, ARENA (Alianza Republicana Nacionalista – the National Republican Alliance). A former army officer, Roberto d'Aubuisson, started the ARENA party in 1979 as a hard-line response to the growing power and threats of the left-wing FMLN (Frente Farabundo Martí para la Liberación Nacional – Farabundo Martí National Liberation Front) guerrilla groups. ARENA's presidential candidates have won every presidential election since the 1992 Peace Accords. The party and President Saca are strong advocates of the use of *mano dura* policies to combat violence. Also, in contrast with the FMLN, the ARENA's policies are closely aligned with the interests of the United States government's current administration including sending troops to fight in Iraq, opposing the restoration of ties with Cuba, and approving the recent free-trade agreement.<sup>64</sup>

Handal's party, the FMLN, was originally the umbrella for the five guerrilla groups involved in armed combat against the Salvadoran government between 1980 and 1992. As part of the 1992 peace accords ending the fighting, the FMLN was reconfigured and recognized as a legal political party. Presidential candidate Handal, who died in 2006 of natural causes, represented a more radical wing of the FMLN. In response to his defeat in 2004, the FMLN underwent various defections and realignments and seems to have emerged as a stronger opposition to the ARENA party. In the 2006 election, for example, the FMLN candidates won an additional seat in the National Assembly and gained control of a number of local offices, including the office of the mayor of the capital, San Salvador. The FMLN controls 32 seats or 38 per cent of the Assembly votes, up from 31 seats in 2003 and 29 seats in 2000. The FMLN is now expected to offer a strong challenge to the ARENA in both the January 2009 legislative and municipal elections and the March 2009 presidential elections.

With 34 of the 84 National Assembly seats, the ARENA party has been able to control a majority of the votes in coalition with the conservative PCN (Partido de Conciliación Nacional – National Conciliation Party) and two other minor parties. El Salvador is divided

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<sup>64</sup> The overview in this section is based on Ribando, C., *El Salvador: Political, Economic, and Social Conditions and Relations with the United States*, Washington: Congressional Research Service, 3 May 2005, <http://www.fas.org/sgp/crs/row/RS21655.pdf> [accessed August 2008]; United States, Bureau of Western Hemisphere Affairs, *Background Note: El Salvador*, Washington, July 2008, <http://www.state.gov/r/pa/ei/bgn/2033.htm> [accessed August 2008]; *Revista Envio*, and other news media sources.

into departments and members of the Assembly are elected based on the number of votes that their parties obtain in each department, a system referred to as circumscriptive suffrage. Members serve for 3-year terms. At the present time, while ARENA is the dominant political force in the country, the FMLN, with its 32 seats, can block any legislation that requires a two-thirds vote, forcing the government to seek consensus on some policies.

That said, recent data shows that President Saca's government has made important progress toward improving economic conditions. According to the IMF, the growth of real GDP reached 4.7 per cent in 2007, its highest level in the last decade; export growth rose to 10 per cent in 2007.<sup>65</sup> The IMF attributes these achievements, in part, to government policies that increased tax revenues and improved debt management and to the effects of the US-Central America-Dominican Republic Free Trade Agreement (CAFTA-DR).<sup>66</sup> As a result, El Salvador's annual per capita income rose to US\$ 2,657 in 2007, substantially higher than the per capita incomes in Guatemala, Honduras or Nicaragua. Much of the improvement in El Salvador's GDP occurred in the more urban areas where the country has been able to develop and expand its industrial sectors, all of which contributed 21.2 per cent of the country's GDP in 2006. These industries include the manufacture or processing of textiles and apparel, medicines, food and beverages, clothing, chemical products, petroleum products, and electronic products.<sup>67</sup>

Yet, serious problems remain. One out of every three children in El Salvador is still chronically malnourished.<sup>68</sup> Forty per cent of its population of 7 million lives below the poverty line. In 2005, over half the rural population lived on less than two US dollars a day.<sup>69</sup> The United Nations' Committee on Economic, Social and Cultural Rights, while acknowledging the economic improvements in El Salvador, describes some of these problems in a 2007 report. Specifically, the Committee said that it "deplores the great inequality in wealth distribution in El Salvador and the growing polarization between rich and poor". The Committee also expressed concern over "the inequality that exists between rural and urban areas, particularly with regard to medical services, education, wages and the quality of the basic food basket". Finally, the Committee noted that, because of the lack of economic opportunities, nearly one out of every three Salvadorans emigrates, resulting in serious negative consequences that include "the disintegration of the family, lack of protection for families, particularly women, who are forced to be heads of single-parent families, and children and adolescents, who do not receive adequate care, as well as the increase in violence and the spread of youth gangs (maras)".<sup>70</sup>

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<sup>65</sup> International Monetary Fund, IMF Staff Statement at the Conclusion of a Visit to San Salvador, El Salvador, 16 May 2008 (press release), <http://www.imf.org/external/np/sec/pr/2008/pr08114.htm> [accessed August 2008]

<sup>66</sup> El Salvador Reaps Rewards of Outward-oriented Strategy, *IMF Survey*, Vol. 35, No. 16, 21 August 2006, <http://www.imf.org/external/pubs/ft/survey/2006/082106.pdf> [accessed August 2008]

<sup>67</sup> United States, Bureau of Western Hemisphere Affairs, *Background Note: El Salvador*

<sup>68</sup> World Bank, *Fighting Malnutrition in Central America*, Washington, 18 December 2006, <http://go.worldbank.org/K5QV2HEUR0> [accessed August 2008]

<sup>69</sup> Doherty, M., Forced Child Labor In El Salvador: Contemporary Economic Servitude, *Topical Research Digest: Human Rights And Contemporary Slavery*, May 2008, <http://www.du.edu/gsis/hrhw/digest/slavery/elsalvador.pdf> [accessed August 2008]

<sup>70</sup> United Nations, Committee on Economic, Social and Cultural Rights, Consideration of Reports Submitted By States Parties under Articles 16 And 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights: El Salvador, E/C.12/SLV/CO/2, 27 June 2007, p. 3, [http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.SLV.CO.2\\_en.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.SLV.CO.2_en.pdf) [accessed August 2008]

### 3.2 Human Rights and Violence

Despite the end of armed conflict in 1992, El Salvador remains a country with a high level of violence and with the human rights of many in jeopardy. A recent report on El Salvador by the US government notes, for example, that the lack of protection of human rights is evidenced by widespread violent crime, including gang-related violence, impunity, and corruption. The report specifically found significant human rights problems in the country's lengthy pre-trial detention, its inefficient and corrupt judicial system, the harsh, violent, and overcrowded prison conditions, the extent of violence and discrimination against women and children, including forced child prostitution, and of discrimination against indigenous persons and against persons based on their sexual orientation. The report highlights further problems: "Prison conditions remained dangerous and harsh. Overcrowding constituted a serious threat to prisoners' health and lives, and the prison population continued to increase during the year." Specifically, this increase in prisoners, according to the report, showed that "at year's end there were 16,786 prisoners held in 21 correctional facilities and two secure hospital wards, with a combined designed capacity for 8,110; of these inmates, 11,257 had been convicted, and 5,787 were in pretrial detention, and 5,765 were current or former gang members. There were 575 inmates in four prisons for juvenile offenders with a capacity of 750 inmates."<sup>71</sup>

The El Salvador Office of the Ombudsman for Human Rights (PDDH – Procuraduría para la Defensa de los Derechos Humanos) found, between June 2006 and June 2007, that members of the National Civilian Police (PNC – Policía Nacional Civil) were responsible for 295 cases of violations of human integrity, which included unlawful killings, attempted unlawful killings, assaults, and other offences causing bodily harm.<sup>72</sup> Based on the PDDH's report and other data from both governmental and non-governmental sources, human rights activists allege that there has been a resurgence of police attacks on activists and other dissidents and of murders by illegal death squads. The January 2008 murder of Moises Funes, the FMLN elected mayor of Las Casitas, a rural town in Alegria, Usulután, according to media reports is a recent example of these politically motivated murders.<sup>73</sup>

During 2007, the PDDH also received numerous petitions to investigate allegations of human rights violations. These included 14 petitions to investigate cases of torture, 12 petitions to investigate cases of extrajudicial killings, 252 petitions to investigate cases of arbitrary detention, and 378 petitions to investigate cases of restrictions to freedom of movement. In 2007 the PDDH received 736 complaints, most against PNC officers, alleging the use of excessive force or maltreatment of detainees, compared with 355 such complaints in 2006. The office issued 84 decisions against PNC officers for excessive use of force.<sup>74</sup>

Amnesty International attributes some of the increases in human rights violations over the past few years to the misuse of the new counter-terrorism laws adopted by the government in 2006. Thus, for example, 13 leaders and members of two groups protesting the privatization

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<sup>71</sup> United States, Department of State, *Country Reports on Human Rights Practices 2007: El Salvador*, Washington, 11 March 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100639.htm> [accessed August 2008]

<sup>72</sup> Cited in *idem*.

<sup>73</sup> Committee in Solidarity with the People of El Salvador, *Alcalde del FMLN asesinado en Usulután*, 11 January 2008, [http://www.cispes.org/index.php?option=com\\_content&task=view&lang=es&id=337](http://www.cispes.org/index.php?option=com_content&task=view&lang=es&id=337) [accessed August 2008]

<sup>74</sup> Cited in United States, Department of State, *Country Reports on Human Rights Practices 2007: El Salvador*

of water of the Suchitoto region were arrested in 2007 as terrorists. The 13 were allegedly throwing stones at police officers and blocking roads during the demonstration.<sup>75</sup>

### 3.2.1 *Death Squads*

Death squads in El Salvador, just as in Guatemala, were engaged in murder prior to and during the civil war of the 1980s. One of the most notorious killings was the 24 March 1980 assassination of Monsignor Oscar Arnulfo Romero y Galdámez, the Archbishop of San Salvador, while he was celebrating mass in the Chapel of the Hospital de la Divina Providencia. In 1993, The United Nations Truth Commission on El Salvador found that Roberto D'Aubuisson, a former officer and the leader of the ARENA party at the time, had provided members of his security service with precise instructions on how to carry out the assassination. The government of El Salvador has, however, never admitted D'Aubuisson's involvement in the Archbishop's death. Other notorious cases include the assassination in 1980 of four US Catholic Church women, murders of hundreds of villagers in El Mozote on December 1981, and the 1989 assassination of six Jesuits, their housekeeper and her daughter on the campus of the Central American University (UCA – Universidad Centroamericana).<sup>76</sup> The 2007 Political Handbook of the World reports that a number of these non-governmental armed groups continue to operate in El Salvador, including the far right vigilante group known as Black Shadow (Sombra Negra) and the far left Free El Salvador Nationalist Guerrilla Forces (Fuerzas Guerrilleras Nacionalistas El Salvador Libre).<sup>77</sup>

According to national homicide statistics, 3,928 people were murdered in El Salvador in 2006.<sup>78</sup> This made El Salvador, with homicide rate of 56 for every 100,000 citizens in 2006, one of the most dangerous countries in the world.<sup>79</sup> Tutela Legal del Arzobispado (Tutela Legal) is a human rights organization under the Archbishop of San Salvador that has monitored the sources of violence in the country for the past 25 years. It investigated 233 of the homicides committed in 2006, selecting those murders that suggested an extrajudicial execution had occurred. But of the 233 cases, Tutela Legal found a majority (139 cases, 59.66 per cent) had the characteristics of extrajudicial executions.<sup>80</sup>

President Saca's administration maintains that much of the violence in El Salvador is linked to criminal gangs known as *maras*. In August 2006, his administration and the National Assembly adopted a strategy to combat gang related violence known as *Super Mano Dura* (Super Strong Hand). The strategy included massive arrests of young men, whose crime often was alleged gang membership. A year later, the government claimed the *Super Mano Dura* policies were working and reported the homicide rate had dropped to 50 per 100,000 in

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<sup>75</sup> Amnesty International, *Report 2007: The State of the World's Human Rights: El Salvador*, London, 2007, <http://report2007.amnesty.org/eng/Regions/Americas/El-Salvador> [accessed August 2008]

<sup>76</sup> United Nations, Security Council, Report of the UN Truth Commission on El Salvador, S/25500, 1 April 1993

<sup>77</sup> Cited in Canada, Immigration and Refugee Board. *Country Fact Sheet: El Salvador*, Ottawa, July 2007, [http://www.irbcisr.gc.ca/en/research/ndp/ref/index\\_e.htm?docid=354&cid=0&version=printable&disclaimer=show](http://www.irbcisr.gc.ca/en/research/ndp/ref/index_e.htm?docid=354&cid=0&version=printable&disclaimer=show) [accessed August 2008]

<sup>78</sup> El Salvador, Instituto de Medicina Legal, *Defunciones por Homicidios en El Salvador: periodo enero-diciembre 2006*, San Salvador: Corte Suprema de Justicia, July 2007, p. iii

<sup>79</sup> Diakonia, *Central America: SEKA Report 2004-2006*, Sundbyberg, 2007, p. 25, [http://www.diakonia.se/documents/public/RESULTS\\_AND\\_HIGHLIGHTS/Central\\_America\\_SEKAreport\\_2004-2006.pdf](http://www.diakonia.se/documents/public/RESULTS_AND_HIGHLIGHTS/Central_America_SEKAreport_2004-2006.pdf) [accessed August 2008]

<sup>80</sup> Oficina de Tutela Legal del Arzobispado, *La violencia homicida y otros patrones de grave afectación a los derechos humanos en El Salvador*, San Salvador, 2007, p. 6



2007.<sup>81</sup> Even with the drop, El Salvador continues to have one of the highest homicide rates in the world. Furthermore, even if the government figures on 2007 homicides are accurate and even if the serious due process abuses caused by these policies are ignored, there is not yet sufficient information to determine whether the decline from 56 to 50 murders per 100,000 is due to the massive arrests.

There is little evidence to suggest gangs are the major reasons for the high murder rate or that they are involved in many of the extra-judicial murders despite the fact they are frequently involved in local crimes including homicides.<sup>82</sup> Tutela Legal's study found that slightly less than one-quarter (57 or 24.46 per cent) of the homicides could be attributed to gang members. Criminals other than gang members committed all the 176 other homicides (74.78 per cent).<sup>83</sup>

### **3.2.2 Gender-Based Violence**

The human rights of women in El Salvador remain seriously unprotected. As the UN Committee on Economic, Social and Cultural Rights notes "prejudices and traditional social conditions" continue to perpetuate the discrimination faced by women in El Salvador.<sup>84</sup> The pernicious effects this discrimination has on the lives of women is evidenced in the high incidences of job discrimination, physical abuse including rape, and homicide that women experience. Despite the criminal laws against rape, for example, incidents of such violence are underreported in good part because of the societal and cultural pressures against any victim complaints, fears of reprisal, the ineffective, unsupportive responses of the authorities to the complaints, and the ineffective prosecution of the complaints of rape.<sup>85</sup>

Moreover, hundreds of women are murdered each year for what may be gender-related motives. During 2006, according to El Salvador's Instituto de Medicina Legal (IML – Institute of Forensic Medicine), 598 women were victims of first degree murder. Further, according to the IML, the rate of female homicides increased 50 per cent between 1999 and 2006. In 1999, 6.22 females were killed per 100,000 inhabitants; in contrast, 12.37 females were killed per 100,000 inhabitants in 2006.<sup>86</sup> Yet, as in the case of the rape accusations, few of the murders are investigated and still fewer lead to any convictions. In fact, despite four years of campaigning by women's rights organizations, the Attorney General's Office had yet to establish a special prosecutor or division to address the violence against women as of 2007.<sup>87</sup>

Tutela Legal investigated 77 cases in which women appeared to have been murdered because of their gender. The vast majority of the cases (57 or 74.02 per cent) involved women between the ages of 13 and 30. Tutela Legal found that almost a quarter (18) of the murders

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<sup>81</sup> United States, Overseas Security Advisory Council, *El Salvador 2008 Crime & Safety Report*, Washington, 17 Mar 2008, <https://www.osac.gov/Reports/report.cfm?contentID=79615> [accessed August 2008]. The OSAC report is based on El Salvador's police statistics, which it notes are always much lower than those published by the prosecutor's office. The statistics from the prosecutor's office are not yet available.

<sup>82</sup> Carrillo, B. de, *Violaciones a los derechos humanos por responsabilidad de la policía nacional civil de El Salvador*, San Salvador: PDDH, 2007

<sup>83</sup> Oficina de Tutela Legal del Arzobispado, *La violencia homicida*, p. 6

<sup>84</sup> United Nations, Committee on Economic, Social and Cultural Rights, *Consideration of Reports*, p. 2

<sup>85</sup> United States, Department of State, *Country Reports on Human Rights Practices 2007: El Salvador*

<sup>86</sup> Mittrany, C, *Death Squads a Concern in El Salvador: Interview: Edgardo Amaya*, *Comunidad Segura*, 1 July 2007, <http://www.comunidadsegura.org/?q=en/node/34724> (accessed August 2008)

<sup>87</sup> *Amnesty International, Report 2007: The State of the World's Human Rights: El Salvador*

could be attributed to gangs. Six of the cases were found to have goals of collective terror, one was attributed to the Policia Nacional Civil (PNC – National Civilian Police); eleven were categorized as cases of delinquency or violence, of which one was considered to have been politically motivated and one was traced to social cleansing. In half the cases (39) the motives for the murder remained arbitrary or unclear.<sup>88</sup>

### 3.2.3 *Violence Against Children*

Child abuse remains a serious and widespread problem in El Salvador. In addition to the malnutrition and inadequate education suffered by up to one-third of all Salvadoran children, many children are physically and psychologically abused, are forced into low paid employment at a young age and are even forced into child prostitution.<sup>89</sup> There is little hard data on these abuses, to a considerable extent because the government of El Salvador has not committed the resources to monitor and prevent them and frequently is not willing to admit the abuses are occurring.

The Salvadoran Institute for Children and Adolescents (ISNA – Instituto Salvadoreño Para el Desarrollo Integral de la Niñez Adolescencia) is the semi-official entity within El Salvador responsible for child welfare. In 2007, ISNA reported 2,312 cases of child abuse, including 801 cases of negligence, 483 cases of mistreatment, 304 cases of children living on the streets, 353 cases of sexual abuse, 235 cases of abandonment, 60 cases of children employed as beggars, and 76 cases of commercial sexual exploitation. The Ministry of Education acknowledged that its 2004-2005 school attendance census revealed that approximately 15 per cent of students between 5 and 17 years old worked, with children in rural areas most likely to be involved in work activities.<sup>90</sup>

Investigations by NGOs suggest the incidents of child abuse are far higher. Human Rights Watch, for example, conducted two detailed studies of children who were forced to work as domestic servants and work in the sugar cane industry. The first study found in 2004 that over 20,000 El Salvadoran girls and women between the ages of 14 and 19 were employed as domestic workers. Some worked 16 hours a day, with no more than one or two days off per month. Further, over 60 per cent of domestic servant girls surveyed reported physical or sexual abuse or psychological mistreatment by their employers.<sup>91</sup> An ILO-IPEC study in El Salvador revealed that 15.5 per cent of girl domestic workers who had changed employers had left their previous employment because of sexual harassment or abuse, making such abuse the second leading cause for leaving a position.<sup>92</sup>

Few domestic workers seek redress in the labour ministry, in part due to ignorance of their rights, fear of retaliation, and a basic mistrust of the system. In 2002, for example, the Salvadoran labour ministry handled just 41 cases involving domestic workers out of a total caseload of 2,900 labour complaints. In addition, the Human Rights Watch study found that despite the large numbers of girls between the ages of ten and nineteen employed in 2003 as domestic workers, the Salvadoran Director General of Labour insisted that “(f)ew minors are

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<sup>88</sup> Oficina de Tutela Legal del Arzobispado, *La violencia homicida*, pp. 110-11

<sup>89</sup> United States, Department of State, *Country Reports on Human Rights Practices 2007: El Salvador*

<sup>90</sup> Cited in *idem*

<sup>91</sup> Human Rights Watch, *Swept under the Rug: Abuses against Domestic Workers around the World*, New York, July 2006, p.5, <http://hrw.org/reports/2006/wrd0706/wrd0706web.pdf> [accessed August 2008]

<sup>92</sup> Godoy, O., *El Salvador: Trabajo infantil doméstico: Una evaluación rápida*, Geneva: ILO-IPEC, 2002, p. 24

working as domestics”.<sup>93</sup>

Human Rights Watch’s study of El Salvador’s sugarcane industry found up to one-third of the workers on the plantations were children under the age of 18, many of whom began to work in the fields between the ages of 8 and 13. Many use machetes and are exposed to unhealthy chemicals.<sup>94</sup> A 2003 baseline study by the International Labour Organization estimates that at least 5,000 and perhaps as many as 30,000 children under age 18 work on Salvadoran sugar plantations; other studies confirm these numbers.<sup>95</sup> This is the case despite the fact that the minimum legal age for working in dangerous occupations is 18 and the minimum age for most other forms of work is 14.<sup>96</sup>

The Human Rights Watch study of children in the sugar cane industry also reveals the El Salvadoran governments inadequate response to child labour abuses. Not only was the government, with a total of 71 labour law inspectors in 2004 for the entire country, unable to enforce its child labour laws, it did not provide the few inspectors it did employ with adequate resources. The inspectors in the San Salvador office were often unable to inspect conditions in the field, for example, because the office was assigned only two vehicles, one of which was reserved for the security detail that accompanied the Minister of Labour.<sup>97</sup>

Finally, a 2001 study revealed that nearly 4,000 brothels operate in El Salvador, and underage girls were found working in many of them.<sup>98</sup> The International Program on the Elimination of Child Labour (IPEC) and Organisation Internationale du Travail (OIT/ILO – International Labour Organization) reported, in 2002, that children in El Salvador, many of whom are also victims of alcohol and drug abuse, are enticed into prostitution as early as at the age of six.<sup>99</sup> Furthermore, hundreds of girls from El Salvador are taken to Guatemala illegally through false promises of jobs as domestic servants, but they are ultimately forced into prostitution.<sup>100</sup>

There is no reason to think the documented abuses of children in El Salvador are unique to this country. Or, that the absence of documentation means other abuses do not exist. The lack of confirming data in El Salvador represents the government’s lack of commitment to eradicating as much child abuse as is possible. The abuses are described in detail to reveal the kinds of information the governments of Central America should be gathering and the kinds of abuses that could be dramatically reduced with a commitment and resources directed towards prevention and enforcement.

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<sup>93</sup> Human Rights Watch, *Swept under the Rug*, pp. 51-3

<sup>94</sup> Human Rights Watch, *Turning A Blind Eye: Hazardous Child Labor in El Salvador’s Sugarcane Cultivation*, New York, 10 June 2004, <http://hrw.org/reports/2004/elsalvador0604/> [accessed August 2008]

<sup>95</sup> *Ibid.*; Quesada Lino, J.E. and A. Vargas Aguilar, *El Salvador: Trabajo infantil en caña de azúcar: Una evaluación rápida*, Geneva: ILO-IPEC, 2002, p. ix

<sup>96</sup> Human Rights Watch, *Turning A Blind Eye*

<sup>97</sup> *Ibid.*

<sup>98</sup> Inter Press Service, Poverty Spurs Growth of Child Sex Rings, 14 October 2003; Sexual Exploitation and Trafficking of Children in South America, *Americas*, no. 36, 1 September 2001

<sup>99</sup> González de Innocenti, Z. and Innocenti, C., *Explotación Sexual Comercial de Niñas, Niños y Adolescentes: Una Evaluación Rápida*, Geneva: IPEC, November 2002

<sup>100</sup> Defensa de los Niños Internacional Costa Rica, *La Prevención y Eliminación de las Peores Formas de Trabajo Infantil y Adolescente: Un Reto para la Democracia y el Desarrollo Humano*, San José, 2001

### 3.2.4 Violence against Sexual Minorities

There is very little concrete information about the violations of the human rights of lesbian, gay, bisexual and transgender people in El Salvador. Members of Entre Amigos, a group working to ensure the human rights of people who face discrimination based on their sexual orientation, received death threats and reportedly have been under surveillance in an attempt to halt the organization's activities. In late May 2006, its offices were ransacked and on 1 June 2006, its director was threatened at gunpoint. Although in all cases the incidents were reported to the authorities, Amnesty International reports the investigations proved superficial, and no one had been charged with any wrong-doing as of the end of 2006.<sup>101</sup>

In the past, El Salvadoran officials have ignored complaints by Entre Amigos members and employees. In August 2002, one of its employees reported that four PNC officers detained him, said that homosexuals should not exist, beat him, and threatened more severe harm if he reported the crime. When he reported the crime to the Attorney General's office, he was incorrectly told the office could not investigate the matter because the case did not fall within its jurisdiction because it was a "petty offence".<sup>102</sup>

### 3.3 Inter-linkages

The death squads in El Salvador have been connected both to the PNC and to other politically associated forces and institutions. Some of the death squads focus on "social cleansing" and target gangs and other criminal elements in the community. Other death squads focus on human rights activists working on policies and programmes which threaten the agendas of the conservative political forces within the country. There are reports of linkages between the gangs and both former guerrilla fighters and former members of the military. Most of the evidence suggests that the criminal activity of most gang members is not related to any organized criminal or political forces. To the extent that some gangs or some gang members are linked to groups outside the gang, they are more likely to become involved as hired hit-men for an isolated political murder or as foot soldiers in illegal trafficking of drugs or humans.<sup>103</sup>

### 3.4 National Protection

As with Guatemala the state does not offer protection to citizens other than in the form of draconian, violently repressive laws to try and exterminate the *maras*. This has exacerbated human rights abuses as citizens feel that once again they may be living in a veritable battleground. The exponential increase in incarceration due to martial law has led to overcrowded prisons, and the conversion of jails into centralized recruiting centres for *maras*. Furthermore, *mano dura* laws have served as the justification for abuses of political and military power as PNC forces may consider human rights activists and anybody with visible tattoos a "terrorist." Lastly, *Plan Mano Dura* has contributed to what is now being classified as "social cleansing campaigns", many of which are being carried out by forces that fit the definition of "death squad".

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<sup>101</sup> Amnesty International, *Report 2007: The State of the World's Human Rights: El Salvador*

<sup>102</sup> United States, Department of State, *El Salvador: Profile of Asylum Claims and Country Conditions*, April 2003, p.12, [www.pards.org/paccc/ElSalvador\\_Apr\\_2003.doc](http://www.pards.org/paccc/ElSalvador_Apr_2003.doc) [accessed August 2008]

<sup>103</sup> See, Arana, *The New Battle for Central America*

The US State Department selected El Salvador as the permanent venue for the International Law Enforcement Academies (ILEA) for Latin America in 2005.<sup>104</sup> The principal aim is training on counter-narcotics and counter-terrorism. Given a past United States role in training Salvadoran military personnel who committed gross human rights violations in the 1980s and the fact that El Salvador has troops in Iraq, many involved in human rights work within El Salvador as well as in the United States have been led to express some concern about ILEA and what they perceive as lack of transparency.

### 3.5 Conclusions

The ARENA-backed *Super Mano Dura* has not proved to be an effective approach for providing national security to the citizens of El Salvador. The abuses of powers permitted by *Plan Mano Dura* do not offer confidence as a long-term strategy to deal with violence and human rights abuses. The government is not investing in preventive measures (public education, employment, healthcare) despite multiple studies that have identified the lack of these measures as core recruitment reasons for the gangs.

## 4 Honduras

### 4.1 Current Political Situation

The current president of Honduras, Manuel Zelaya, was elected to office for a four-year term on 27 November 2005. Zelaya, a member of the slightly left of centre Liberal Party (PLH – Partido Liberal de Honduras), received 49.9 per cent of the vote, defeating Porfirio Lobo Sosa, the head of the slightly right of centre National Party (PNH – Partido Nacional de Honduras). Prior to 1982, with the exceptions of 1957 to 1963 and 1970 to 1972, various military governments controlled Honduras. Since 1982, when Honduras adopted a new constitution and began holding democratic elections on a regular basis, either the PLH or the PNH has governed the country. Elections for the congressional seats were implemented two years earlier, in 1980. Honduras has a unicameral legislature whose members are elected for a four-year term from one of the country's 18 departments. The PLH won 62 of the 128 congressional seats in the November 2005 election, an increase of seven seats from the previous 2001 election. The PNH won 55 seats and the remaining seats went to candidates from various other parties, including four that went to candidates from the Christian Democrats Party (PDC – Partido Demócrata Cristiano).<sup>105</sup>

Honduras has been making progress towards democracy but significant problems remain. These problems include a lack of accountability and professionalism within the police, the absence of judicial independence, poor prison conditions and the frequent abuse of detainees, a culture of impunity for violations of human rights including extrajudicial executions, discrimination against indigenous people, women and homosexuals, and minimal labour law enforcement, particularly with regard to child labour law violations.<sup>106</sup> Traditional elites, including the military and large landowners, wield strong political and economic power in

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<sup>104</sup> United States, Department of State, *International Law Enforcement Academy (ILEA), San Salvador, El Salvador*, n.d., <http://www.state.gov/p/inl/ilea/c11286.htm> [accessed August 2008]

<sup>105</sup> United States, Bureau of Western Hemisphere Affairs, *Background Note: Honduras*, June 2008, <http://www.state.gov/r/pa/ei/bgn/1922.htm> [accessed August 2008]

<sup>106</sup> Perez, O.J., Honduras, in S. Kelly, C. Walker and J. Dizard (eds), *Countries at the Crossroads: A Survey of Democratic Governance*, Washington: Freedom House, 2008, p. 2 <http://www.freedomhouse.org/uploads/ccr/country-7191-8.pdf> [accessed August 2008]

Honduras and organized criminal groups are able to traffic in drugs and in humans. Honduras is described as a “pro-business government” in contrast to El Salvador’s “business government”, referring to the fact that the links between business interests and governmental policies are more overt and transparent in El Salvador than they are in Honduras.<sup>107</sup> At the same time, there is no suggestion that the governments of either Honduras or El Salvador are held hostage by the kind of hidden or parallel powers that seem to exist in Guatemala.

Honduras’ current political situation is also shaped by the fact that two thirds of its 7.4 million residents live in poverty. This is an improvement from 1991 when almost three quarters of the population lived below the poverty line and over half lived in extreme poverty. However, World Bank data in 2001 indicates that while the percentage of people living in poverty in the rural areas also declined, the percentage of the rural population living in extreme poverty actually increased between 1991 and 2002.<sup>108</sup> The reduction in poverty would have been greater but for two factors outside the country’s control. One factor was the 1997-2001 “coffee crisis” during which worldwide over-production caused Honduras’ export earnings from coffee to drop by nearly one third. Its small farmers (accounting for 90 per cent of coffee producers and 45 per cent of production) were hit the hardest. The other factor was the 1998 destruction caused by Hurricane Mitch, which amounted to almost 40 per cent of the country’s GDP.<sup>109</sup>

Honduras remains dependent on financial support from both the United States and multilateral sources and the annual remittances its residents receive from more than 500,000 Hondurans living in the United States. In 2007, these remittances amounted to more than US\$ 2.5 billion, constituting more than a quarter of the country’s gross domestic product.<sup>110</sup>

#### **4.2 Human Rights and Violence**

Besides its poverty, Honduras also suffers from a history of violence. Although the country avoided internal armed conflict during the Cold War, its government nevertheless used extreme measures, including extra-judicial killings and forced disappearances, to control and eliminate any political opposition. In addition, there was further violence in the country when the United States began using Honduras as a base for its operations against the Salvadoran guerrillas and in support of the Nicaraguan Contras. All of these activities served to expand the role of the military. Thus, like its neighbours, Honduras now needs to implement reforms that will transfer the responsibility for maintaining security from the military to an independent and professional police force and judiciary.

The legacy of military control and military violence is evident in the country’s high rate of human rights violations and violence. In 2006, the National Human Rights Commission in Honduras received 9,390 complaints of human rights violations, including illegal detentions, abuses of authority, and due process violations. Most of the complaints were against the

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<sup>107</sup> Inter Press Service, Honduras: Governed by Vested and Sometimes Illegal Interests, 15 December 2006, quoting Ernesto Paz, a political scientist at the public National Autonomous University of Honduras, <http://ins.onlinedemocracy.ca/index.php?name=News&file=article&sid=8093&theme=Printer> [accessed August 2008]

<sup>108</sup> Perez, Honduras, p. 2

<sup>109</sup> World Bank, *Honduras Country Brief*, Washington, updated September 2006, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/LACEXT/HONDURASEXTN/0,,contentMDK:21035522~pagePK:141137~piPK:141127~theSitePK:295071,00.html> [accessed August 2008]

<sup>110</sup> Inter-American Development Bank, Remittances to Central America

police or the military, although justice officials were also named as alleged perpetrators. Thousands are held in overcrowded prisons. Violence against women and children is widespread. Journalists and forensic anthropologists are harassed.<sup>111</sup>

The Violence Observatory at the National Autonomous University of Honduras reports that, in 2006, there were 3,018 homicides in Honduras. This translated into a homicide rate of 46.2 for every 100,000 Hondurans.<sup>112</sup> Moreover, as in Guatemala and El Salvador, homicide rates have been increasing over the past eight years. In 2000, there were 2,179 homicides; preliminary data for 2007 suggests a further increase to 3,855 homicides, an increase of over 800 over 2006 numbers.<sup>113</sup> Further, the police may be underreporting the overall homicide rate in part because other categories of violent deaths, such as assassination, genocide and parricide, are not included in the official government figures for homicides.<sup>114</sup> The Honduran government, like other Central American governments, has blamed the increases in violence and homicide rates on the spread of gangs, particularly gangs with regional and international links.

Compared to Guatemala, El Salvador and Nicaragua, Honduras has a high rate of gang membership. According to a study by the Inter-American Development Bank, Honduras has 500 gang members per 100,000 people compared to 111 in Guatemala, 152 in El Salvador, and 40 in Nicaragua.<sup>115</sup> The Honduran government has claimed there are 340 active gangs in the country, with 30,000 members involved in drug trafficking, organized crime, and even international terrorism.<sup>116</sup> In 2004, an estimate for Honduran gang membership of 100,000 was reported.<sup>117</sup> A United Nations study estimates that there are 36,000 gang members in Honduras.<sup>118</sup>

Soon after taking office, President Zelaya responded to the increased violence by resuming enforcement of his predecessor's strong anti-gang policies known as *mano dura*. In addition, on 30 August 2006, he implemented a new policy, known as Operación Trueno (Operation Thunder), in which 30,000 to 60,000 private security personnel were to be recruited to bolster

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<sup>111</sup> Perez, Honduras, p. 2

<sup>112</sup> Araujo, C.A., *Central America's Increasing Gang Problem: A Comforting Handshake Needed as Much as a Tough Fist to Fight Crime Epidemic*, Washington: Council On Hemispheric Affairs, 31 July 2007, <http://www.coha.org/2007/07/central-america%e2%80%99s-increasing-gang-problem-a-comforting-handshake-needed-as-much-as-a-tough-fist-to-fight-crime-epidemic/> [accessed August 2008]

<sup>113</sup> United States, Overseas Security Advisory Council, *Honduras 2008 Crime & Safety Report*, Washington, 11 April 2008, <https://www.osac.gov/Reports/report.cfm?contentID=82528>, [accessed August 2008]

<sup>114</sup> Godnick, W. and N. Rosen, Honduras, in Nichols, R. (ed.), *BCPR Strategic Review*, New York: UNDP, February 2006, [http://www.undp.org/cpr/documents/sa\\_control/BCPRStra-HONDURAS.doc](http://www.undp.org/cpr/documents/sa_control/BCPRStra-HONDURAS.doc) [accessed August 2008]

<sup>115</sup> Cohen, M. A. and M. Rubio, *Violence and Crime in Latin America: Solutions Paper*. Paper prepared for Consulta de San José 2007, June 2007, <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1186239> [accessed August 2008]

<sup>116</sup> Godnick, W. and N. Rosen, Honduras

<sup>117</sup> See Kolker, D.R., *Honduras' Response to Violence Has Made a Bad Situation Worse*, Washington: Council On Hemispheric Affairs, 9 September 2004, <http://www.coha.org/2004/09/honduras-response-to-violence-has-made-a-bad-situation-worse/> [accessed August 2008]

<sup>118</sup> United Nations Office of Drugs and Crime, *Crime and Development in Central America: Caught in the Crossfire*, Vienna, 2007, <http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=1039426> [accessed August 2008]

the efforts of the country's existing 10,000 armed service personnel and its 8,000 police officers in fighting crime. The Operation Thunder grants these private security personnel the right to use any means necessary to deter assailants from committing criminal acts and it includes an incentive system in which the private security personnel can receive bonuses for successful work.<sup>119</sup> Although Casa Alianza, an NGO working in various countries in Central America including Honduras, found the number of homicides were slightly lower than usual in September 2006 immediately after Operation Thunder began,<sup>120</sup> there is insufficient data available yet to determine if these efforts have done anything to reduce the high rate of violence and other crimes. The mass arrests constitute a human rights abuse and may only encourage gang membership. There is also little data on the role of the private security forces. There are reports of the use of excessive, even lethal, force by these civilian security forces.

#### **4.2.1 Death Squads**

Death squad activity began in the 1980s, coinciding with the US Central Intelligence Agency's activities in Honduras as part of the US effort to overthrow the Nicaraguan Sandinista government, when, for example, the CIA was associated with the establishment and training of a clandestine death squad known as "Battalion 3-16" to fight the Sandinistas. The name, Battalion 3-16, subsequently became synonymous with torture, murder and disappearance in Honduras.<sup>121</sup>

The more recent clandestine death squads are composed of concerned citizens or neighbourhood watch groups called Citizen Security Councils. Because the police are ineffective, both in preventing crime and bringing criminals to justice, these citizens take it upon themselves to execute gang members who they believe are responsible for the crimes in their communities. Thus, most of their victims are young adolescents. Since most of the homicides remain unsolved there is no data on how many of the extrajudicial executions of minors were perpetrated by the death squads as compared to murders by gang members. Whether President Zelaya's Operation Thunder will help reduce or will legitimize the citizen's resort to vigilante death squads remains to be seen.<sup>122</sup>

Amnesty International reported in 2003 that impunity was also the norm in the murders over a ten-year period in the case of at least 25 members of indigenous groups or of human rights and environmental defenders, even though there was circumstantial evidence of an extrajudicial execution. Many of these murders were committed in the context of land disputes and were often attributed to people or groups linked to local authorities, the business sector, or the military. Yet, in some cases, despite the fact that investigations were opened and the identities of the perpetrators known, the perpetrators remained at liberty. Judges and public prosecutors who investigate human rights violations receive threats, are subjected to

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<sup>119</sup> Starkman, E., *Honduras' Operación Trueno: An Audacious Proposal that Must be Reformed and Renovated*, Washington: Council On Hemispheric Affairs, 16 October 2006, <http://www.coha.org/2006/10/honduras%E2%80%99-operacion-trueno-an-audacious-proposal-that-must-be-reformed-and-renovated/> [accessed August 2008]

<sup>120</sup> Casa Alianza Honduras, *Report on the Phenomenon of Executions and/or Violent Deaths of Children and Youth during the First Year of Government of the Administration of President José Manuel Zelaya Rosales*, Tegucigalpa, February 2007, <http://www.streetchildren.org.uk/reports/Honduras-Annual%20Report-Executions-and-Deaths-2006.pdf> [accessed August 2008]

<sup>121</sup> Valladares Lanza, L., *The Facts Speak for Themselves: The Preliminary Report on Disappearances of the National Commissioner for the Protection of Human Rights in Honduras*, English translation, New York: Human Rights Watch, June 1994, p. 5

<sup>122</sup> Casa Alianza Honduras, *Report on the Phenomenon of Executions*



harassment, or need to be provided with police protection because of the threats and harassment.<sup>123</sup>

#### **4.2.2 Gender Based Violence**

Discrimination and violence against women is also widespread in Honduras. The constitution and numerous laws prohibit gender-based discrimination in employment, but they are regularly ignored. Patriarchal attitudes pervade employment practices, and the state does little to curtail abuses or enforce the law. The country's special domestic violence courts have been overwhelmed by thousands of complaints. The Women's Movement for Peace reported in 2006 that alleged victims of abuse won only 204 of the 6,628 suits filed that year because judicial bias consistently favours the male, especially wealthy men, over the female. Worse, according to the special prosecutor for women's affairs, almost one out of three women who filed formal complaints concerning domestic abuse ultimately died at the hands of their abusers.<sup>124</sup>

#### **4.2.3 Violence against Children**

Large numbers of Honduran children are victims of violence and other human rights violations. The country's extreme poverty magnifies the problems of its children. Children are sick and dying due to a lack of medicines, oxygen, vehicles, and timely care.<sup>125</sup> Education is theoretically compulsory and available through the age of 13. In fact, as many as 368,000 of the 1.7 million Honduran children aged 5 to 12 went without any schooling whatsoever during 2006.<sup>126</sup> Finally, one out of three Honduran children under 5 years old suffers from chronic malnutrition; in some rural communities up to 88 per cent of the children are malnourished.<sup>127</sup>

Despite legislation limiting the use of child labour, violations are widespread, particularly in family farming, agricultural export industries, and small-scale services and commerce. A 2004 survey by the Honduran National Institute of Statistics under ILO's International Program on the Elimination of Child Labour (IPEC) determined that 14 per cent or more of Honduran children between the ages of five and eighteen worked either part-time or full-time and that many worked in jobs that were dangerous or involved exposure to pesticides. The government does not devote the personnel or other resources needed to monitor compliance with any of its child labour laws and bring these abuses to an end.<sup>128</sup>

A study of 20 Honduran cities by Casa Alianza found 10,000 children who were victims of commercial sexual exploitation or trafficking in persons. Estimates suggest that of the 20,000

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<sup>123</sup> Amnesty International, *Honduras: Zero Tolerance for Impunity: Extrajudicial Executions of Children and Youths since 1998*, London, February 2003, <http://archive.amnesty.org/library/Index/ENGAMR370012003?open&of=ENG-HND> [accessed August 2008]

<sup>124</sup> Perez, Honduras

<sup>125</sup> Amnesty International, *Honduras: Zero Tolerance for Impunity*

<sup>126</sup> United States, Department of State, *Country Reports on Human Rights Practices 2007: Honduras*, Washington, 11 March 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100644.htm> [accessed August 2008]

<sup>127</sup> World Food Programme, *Honduras: Food Security: Overview*, Rome, 2008, [http://www.wfp.org/country\\_brief/indexcountry.asp?country=340](http://www.wfp.org/country_brief/indexcountry.asp?country=340) [accessed August 2008]

<sup>128</sup> United States, Department of State, *Country Reports on Human Rights Practices 2007: Honduras*, quoting a study by the Faculty of Medicine of the University of Verona, Italy, and the Honduran NGO Center for the Study and Control of Contaminants, which found, for example, seriously high levels of lead, arsenic, mercury, and cadmium in blood samples of children who worked at the city dump in Tegucigalpa

street children in the country, only half have shelter.<sup>129</sup> Further, over 75 per cent of the street children are homeless because of severe family problems and, of these, 30 per cent have been abandoned by their parents.<sup>130</sup>

Finally, both the police and members of the general population engage in violence against poor youth and children. The US State Department reported in 2007 that Casa Alianza found that “66 per cent of street children had been assaulted by police”.<sup>131</sup> Casa Alianza started monitoring violent deaths and extra judicial executions of children and youth under 23 years of age in Honduras in February 1998. Between February 1998 and June 2006, 3,674 children and youth were killed; some 1,255 of them (34 per cent) were under the age of 18.<sup>132</sup> Moreover, an increasing number of the victims showed signs of torture and characteristics of unlawful executions. By the end of 2007, the number killed had grown to 3,943.<sup>133</sup> Human rights organizations claim that a substantial number of these deaths of children and youths are perpetrated by self-help vigilante groups. But, since the majority of cases are attributed to unknown assailants, until the government adequately investigates these homicides it is impossible to confirm or discount these allegations.<sup>134</sup>

#### **4.2.4 Violence Against Sexual Minorities**

As with women, despite the laws to the contrary, homosexuals and transsexuals suffer discrimination in employment. A case, described by Amnesty International, exemplifies the impunity with which homosexuals are abused. In March 2007, Donny Reyes, a gay rights activist, was allegedly detained and beaten by the police and then placed in a jail cell with other detainees who, with the encouragement of the police, further beat and raped him over the course of several hours.<sup>135</sup> According to a report by Asma Jahangir, the UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, “non-governmental sources alleged that some 200 gay and transsexual sex-workers were killed in Honduras in the period 1991-2002. Reportedly, few of the cases have ever been officially recorded, and fewer still investigated”.<sup>136</sup>

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<sup>129</sup> *Ibid.*

<sup>130</sup> Moser, C., A. Winton and A. Moser, Violence, Fear, and Insecurity among the Urban Poor in Latin America in Fey. M. (ed.), *The Urban Poor*, Washington: World Bank, 2005, p. 150

<sup>131</sup> United States, Department of State, *Country Reports on Human Rights Practices 2007: Honduras*

<sup>132</sup> Casa Alianza UK, Murders of Children Continue, 1 August 2007 (news release), [http://www.casaalianza.org.uk/northsouth/CasaWeb.nsf/CasaNews/Honduras\\_Tragedy?OpenDocument](http://www.casaalianza.org.uk/northsouth/CasaWeb.nsf/CasaNews/Honduras_Tragedy?OpenDocument) [accessed August 2008]

<sup>133</sup> Casa Alianza UK, Urgent Action: Street Children in Guatemala and Honduras, 18 February 2008, [http://www.casa-alianza.org.uk/northsouth/CasaWeb.nsf/CasaNews/GHUrgent\\_2008?OpenDocument](http://www.casa-alianza.org.uk/northsouth/CasaWeb.nsf/CasaNews/GHUrgent_2008?OpenDocument) [accessed August 2008]

<sup>134</sup> United States, Department of State, *Country Reports on Human Rights Practices 2007: Honduras*. A special investigative unit on child killings attributed 57 per cent of the deaths between January and September 2006 to “unknown assailants”.

<sup>135</sup> Amnesty International, Honduras: Fear for Safety, London, 29 March 2007 (urgent action), <http://www.amnesty.org/en/library/asset/AMR37/002/2007/en/dom-AMR370022007en.pdf> [accessed August 2008]

<sup>136</sup> United Nations, Economic and Social Council, Extrajudicial, Summary or Arbitrary Executions: Report of the Special Rapporteur, Ms. Asma Jahangir, Submitted Pursuant to Commission on Human Rights Resolution 2002/36: Addendum: Mission to Honduras, E/CN.4/2003/3/Add.2, 14 June 2002, p.23

### 4.3 Inter-linkages

Human rights activists claim the participants in the Citizen Security Councils, known to take the law into their own hands, have close connections with former and current military and police officials. These vigilante groups exist because of the ordinary citizens' frustrations with the increase in crime, the corruption within the security and judicial systems, and lack of effective government response to the violence with which they must live. The government's repeated characterization of the perpetrators of unlawful killings as "unknown individuals" and its inadequate investigations of these crimes, reinforces the widespread conviction that they are being committed by members of the existing or former security forces. Ultimately, the rapid increase in private security forces makes it difficult to determine whether a homicide was committed by government agents, vigilante groups, or common criminals.<sup>137</sup> This uncertainty, in turn, creates more chaos, injustice and further undermines the rule of law.

### 4.4 National Protection

The judicial system in Honduras remains underfunded and riddled with corruption allowing impunity. In 2002, Honduras' *Plan Mano Dura*, or zero tolerance legislation, was initiated but has led to unfair and unjust persecutions. In addition to this, the government lacks the funding, skills, and know-how to address gang violence and other human rights violations. In 2007, the Honduran government enacted Ley de la Transparencia (Transparency Law) in order to work towards a more open democratic process for its citizens.<sup>138</sup>

### 4.5 Conclusions

Honduras is experiencing a rise both in violence and human rights violations. The country's judicial system is under-funded, inadequate and unable to deal with the growing injustices taking place in the country. Laws such as *Plan Mano Dura* have done little to help the human rights situation. Instead, the brutality of the official and unofficial security forces have resulted in the deaths of thousands of children and adults. Insofar as those death squads and other civilian security forces are connected to governmental agencies permitted to operate with tacit governmental approval, Honduras is not providing justice and security for its citizens.

## 5 Nicaragua

### 5.1 Current Political Situation

The current president of Nicaragua, Daniel Ortega, was elected to office for a five-year term on 5 November 2006. Ortega, a member of the left-wing Sandinista National Liberation Front (FSLN – Frente Sandinista de Liberación Nacional), won 38.7 per cent of the popular vote, nine percentage points ahead of his primary rival, Eduardo Montealegre of the Nicaraguan Liberal Alliance (ALN – Alianza Liberal Nicaragüense). José Rizo Castellón, the candidate of the more conservative Constitutionalist Liberal Party (PLC – Partido Liberal

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<sup>137</sup> Ewer, M., *From the Streets to the States: Asylum Claims from Guatemalan and Honduran Street Children*, American Immigration Law Foundation, 2001, p.18, [http://www.aifl.org/awards/dubroff/dubroff\\_2001.pdf](http://www.aifl.org/awards/dubroff/dubroff_2001.pdf) [accessed August 2008]

<sup>138</sup> See, e.g., Sanchez, M., Honduras Losing Steam on Corruption Fight, *Washington Post*, 27 July 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/07/26/AR2007072601615.html> [accessed August 2007]

Constitucionalista), won third place with 26.21 per cent of the vote. The FSLN won 38 of the 92 seats in the National Assembly, while the PLC won 25 seats and the ALN won 23 seats.<sup>139</sup>

The ALN is a centrist party that was created in 2005 in opposition to Ortega and to his alliance with the previous president, Arnoldo Alemán, who was found guilty of corruption. To understand the current political situation in Nicaragua it is, however, useful to know that in 2000, the National Assembly approved legislation drafted by the ALN and the FSLN and strongly opposed by the other political parties that limits seats in the Assembly to candidates whose party won at least 4% of the national vote. The alliances among the parties in Nicaragua change dramatically over time. The United Nicaraguan Opposition (UNO – Union Nacional de Oposición ) was composed of a coalition of 14 political parties, all of whom opposed Ortega and the social and economic reforms the Sandinistas were trying to implement. After its candidate, Violeta Chamorro, won the Presidency in 1990 with almost 55% of the vote and served until the 1996 election, the UNO party disbanded and new political alliances were created. Similarly, the political positions of the parties and their candidates have been more fluid than is true of the parties and candidates in other Central American countries. Ortega ran, for example, on a platform that promised to support pro-business policies such as free trade and now also supports a strict abortion ban.<sup>140</sup>

Ortega gained international fame as the leader of the insurgent Sandinistas movement who, in 1979 with the support of other political groups, successfully ended the more than forty-year rule of the “Somoza Dynasty.” Anastasio Somoza Garcia served officially as the 34th and 39th President of Nicaragua but, in effect, he ruled as a dictator from 1936 until he was assassinated on September 29, 1956. His sons, Luis Somoza and Anastasio Somoza Debayle continued to rule Nicaragua, directly or through figurehead politicians, until 1979. They were able to hold onto power with the support of the landed elites, the National Guard and the United States who viewed the Somoza’s as helpful anti-communist allies. From 1979 to 1985, a junta led by Ortega governed Nicaragua. Ortega was then elected President and served from 1985 to 1990.<sup>141</sup>

The strong opposition to the Sandinista government by a group of Nicaraguans known as the Contras, and the United States’ support of the resulting Nicaraguan civil war, is discussed in the introduction to this report. The current political situation in Nicaragua and the ways in which it is different from Guatemala, El Salvador and Honduras cannot be understood, however, without recognizing both the FSLN’s on-going strong grass-roots connections and the crucial social reforms that it introduced between 1979 and 1990, many of which are still at least partially in place. Nicaragua, like other Central American countries, continues to suffer from a high rate of official corruption and a lack of transparency. This reality was highlighted when former president Alemán was found guilty of corruption in 2003 and ever since has been held under house arrest.<sup>142</sup> One study suggests that policy changes

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<sup>139</sup> See, International Foundation for Electoral Systems, *Election Profile: Nicaragua*, Washington, November 2006, <http://www.electionguide.org/election.php?ID=1059> [accessed August 2008]

<sup>140</sup> Sonleitner, W., Las elecciones en México y Centroamérica: ¿polarización o fragmentación?, in Ballivián, S.R. (comp.), *Atlas Electoral Latinoamericano*, La Paz: Corte Nacional Electoral, 2007, pp.195-220, [http://www.cne.org.bo/centro\\_doc/cuadernos\\_var/atlas\\_electoral\\_latinoamericano8.pdf](http://www.cne.org.bo/centro_doc/cuadernos_var/atlas_electoral_latinoamericano8.pdf) [accessed August 2008]

<sup>141</sup> For a review of this history, see Skidmore, T. and P. Smith, P., *Modern Latin America*, Oxford: Oxford University Press, 2005, p. 375-8

<sup>142</sup> Sixty Days On: Signals, Seals, and Superficiality, *Revista Envio*, March 2007, <http://www.envio.org.ni/articulo/3517> [accessed August 2008]

implemented in Nicaragua since the mid-1990s have decreased government oversight and transparency and increased opportunities for corruption.<sup>143</sup> A report from Global Integrity provides examples of the corruption by politicians and the judiciary and describes the political interests that have been fighting against better governmental oversight. The report notes that coverage of the corruption by the media has, at least, put pressure on the government to act against some of the wrongdoers.<sup>144</sup>

Nicaragua, with an estimated annual per capita gross national income (GNI) of US\$ 980 in 2007 is the poorest country in Central America. In comparison, in 2007 the per capita GNI in El Salvador was US\$ 2,850, in Guatemala it was US\$ 2,440, and in Honduras it was US\$ 1,600.<sup>145</sup> Almost 45 per cent of Nicaraguans live at or below the poverty line.<sup>146</sup> Seventy-five per cent of the poor live on less than US\$ 2 a day.<sup>147</sup> Nicaragua is also a country with great disparities in wealth. Data from one study indicates that, in 2006, the wealthiest 10 per cent of the population received over 44 per cent of GDP, while the poorest 10 per cent of the population received only 0.9 per cent of GDP.<sup>148</sup>

Despite this poverty, or perhaps because it is so poor, much of Nicaragua has not been prey to the rising national and transnational phenomenon of gang violence and the increases in gang membership witnessed in Guatemala, El Salvador, and particularly Honduras. To the contrary, gang activity in Nicaragua has actually decreased over the years. According to data from a USAID report, in 1999, there were 110 gangs in Managua, the capital of Nicaragua, with about 8,500 members. By 2004, according to the National Police, there were more gangs – 184 – but their numbers had decreased to 2,614 members. By 2005 the number of gangs had decreased to 108 and their membership decreased to 2,201. Furthermore, the Nicaraguan police report that the crimes committed by these youth gangs only make up 0.57 per cent of all the criminal activity.<sup>149</sup>

These national statistics on crime mask the fact that some urban neighbourhoods and squatter settlements experience high rates of crime and violence; yet the police do little and the government seems to have ceded control in these areas to gangs.<sup>150</sup> Further, one study found

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<sup>143</sup> Deonandan, K., Corruption and Development in Latin America, paper presented at the Annual Meeting of the Canadian Political Science Association, York University, Toronto, 1-3 June 2006, p. 3, <http://www.cpsa-acsp.ca/papers-2006/Deonandan.pdf> [accessed August 2008]

<sup>144</sup> Castro, C. de, *Reporter's Notebook: Nicaragua*, Global Integrity, 2006, <http://www.globalintegrity.org/reports/2006/Nicaragua/notebook.cfm> [accessed August 2008]

<sup>145</sup> World Bank, Gross National Income Per Capita 2007

<sup>146</sup> World Bank, *Migration and Remittances Factbook: Nicaragua*, Washington, 2007, <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Nicaragua.pdf> [accessed August 2008]

<sup>147</sup> United States Agency for International Development, *Democracy and Governance in Nicaragua*, Washington, 2006, [http://www.usaid.gov/our\\_work/democracy\\_and\\_governance/regions/lac/nicaragua.html](http://www.usaid.gov/our_work/democracy_and_governance/regions/lac/nicaragua.html) [accessed August 2008]

<sup>148</sup> Rodriguez Gelfenstein, S., El frente Sandinista recuperó el poder, *America XXI*, Vol. 22, No. 21-22, December 2006-January 2007, p. 40

<sup>149</sup> United States Agency for International Development, Annex 5: Nicaragua Profile, in its *Central America and Mexico Gang Assessment*, Washington, April 2006, p. 5 [http://www.usaid.gov/locations/latin\\_america\\_caribbean/democracy/nicaragua\\_profile.pdf](http://www.usaid.gov/locations/latin_america_caribbean/democracy/nicaragua_profile.pdf) [accessed August 2008]

<sup>150</sup> Rodgers, D., *Living in the Shadow of Death*, p. 269

that 43 per cent of all crimes in Nicaragua are not reported to the police because the victims believe it would serve no purpose.<sup>151</sup> However, even if Nicaragua were to attempt *mano dura* policies to cope with this problem, the government would have a difficult time enforcing them. The police simply do not have the resource to mount a presence in all the barrios and urban squatter settlements where they are needed.<sup>152</sup>

## 5.2 Human Rights and Violence

Nicaragua's reported homicide rate is 8 per 100,000, dramatically lower than the reported rates in Guatemala, El Salvador, and Honduras. In 2006, 82 minors between 13 and 17 years old died as a result of violent crimes compared with the proportionately higher numbers in other Central American countries. Moreover, Nicaragua has maintained its lower rate of homicides without having to resort to the *mano dura* policies being implemented in the other three countries. Nicaragua has instead focused most of its efforts to combat gangs on prevention and intervention, policies that had important results in reducing criminality and youth violence according to the USAID report. In 1999, the police briefly adopted a repressive approach to the problem of youth gangs but they changed course in 2000 towards more preventative actions as is required by Article 97 of the 1987 constitution, which explicitly provides that the role of the police is to prevent crimes.<sup>153</sup> An initiative seeking to introduce *mano dura* legislation in Nicaragua failed to pass the National Assembly in 2005.

Finally, compared with Guatemala, El Salvador and Honduras, the security forces in Nicaragua are far less able to violate the human rights of citizens with impunity. In 2005, for example, the Office of the Police Inspector General (IG) received complaints of human rights violations by police officers from 536 prison detainees. Most of the cases involved the excessive use of force and unnecessary use of weapons. The IG's office investigated the complaints and found 70 of them to have merit and it punished 177 officers for violating human rights through dishonourable discharges, demotions, and other measures. Nicaraguan police officers are also required to attend human rights training every year.<sup>154</sup> This is not to suggest that police conduct and a failure to investigate violence are not serious problems, as are discussed below, but only to point out that Nicaragua compares favourably in some respects to its neighbours to the north.

There have been a variety of other complaints about human rights violations in recent years. Representatives of Nicaragua's indigenous people have, for example, complained to the Inter-American Commission on Human Rights regarding their communal lands. They claim that their lands remain improperly demarcated and that, without their consent, the government continues to promote unregulated logging and award licences for the exploitation of their natural resources.<sup>155</sup> There have also been a few reports of threats directed at

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<sup>151</sup> Rodgers, D., The State as a Gang: Conceptualizing the Governmentality of Violence in Contemporary Nicaragua, *Critique of Anthropology*, Vol. 26. No. 3, 2006, p. 319

<sup>152</sup> Rodgers, D., The Gangs of Central America: Major Players and Scapegoats, *Revista Envio*, No. 317, December 2007, <http://www.envio.org.ni/articulo/3704> [accessed August 2008]

<sup>153</sup> United States Agency for International Development, Annex 5: Nicaragua Profile

<sup>154</sup> United States, Department of State, *Country Reports of Human Rights Practices 2007: Nicaragua*, Washington, 11 March 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100647.htm> [accessed August 2008]

<sup>155</sup> See Center for International Environmental Law, *International Court Rules in Favor of Indigenous Community Land Rights*, Washington, 2001 (press statement), [http://www.ciel.org/Hre/Press\\_AwasTingi\\_1Oct01.html](http://www.ciel.org/Hre/Press_AwasTingi_1Oct01.html) [accessed August 2008]

journalists, although by and large a wide variety of domestic and international human rights groups generally are able to operate without government restriction and they are able to investigate and publish their findings on human rights cases.<sup>156</sup>

More commonly, employers are known to harass labour union organizers and the government is reported to side consistently with employers, particularly in the case of employers from the multinational firms operating the free trade zones. Workers in some of the free trade zone factories have, for example, complained of unsafe drinking water, forced unpaid overtime, and of poor working conditions.<sup>157</sup> Finally, many human rights groups representing women have complained after the government outlawed all forms of abortion in 2006, including cases where the woman's life is at risk.<sup>158</sup>

### **5.2.1 Death Squads**

At present, no death squads or other para-military groups are known to operate in Nicaragua. Such illegal vigilante groups were employed by the CIA-trained Contras during Nicaragua's civil war in the 1980s and this practice continued into the 1990s even after the formal ceasefire. Between 1990 and 1993, for example, 705 politically motivated murders occurred in the country, mostly concentrated in the "Mining Triangle" (Siuna, Bonanza and La Rosita), where the government has little to no control.<sup>159</sup>

### **5.2.2 Gender-Based Violence**

While gang related violence is relatively low, domestic violence against women and youth is widespread in Nicaragua. According to police statistics, during the first six months of 2006 there were 30,000 crimes committed against women, more than half of which involved domestic violence. This number represents a large increase from the number of crimes against women reported in 2005 and, in substantial part, is probably the result of police and NGO initiatives in 2006 that sought to increase awareness of family violence. More than 30 per cent of crimes registered with the police were sex crimes. Similarly, between January and June of 2006, the Ministry of Family reported a 58 per cent increase in the number of sex abuse cases it handled. The NGO Nicaraguan Centre for Human Rights (CENIDH – Centro Nicaragüense de Derechos Humanos) also received an increased number of complaints of domestic violence in the first six months of 2006.<sup>160</sup>

Much of the violence against Nicaraguan women still remains under-reported and under-prosecuted. The Network of Women Against Violence (RMCV – Red de Mujeres contra la Violencia), an NGO, reported that 63 women were killed in 2006 as a result of domestic violence. The NGO further estimated that 60 per cent of the country's women were victims of some kind of violence but that only 3 per cent of the perpetrators of violent crimes against women were prosecuted.<sup>161</sup> In one 12-month study conducted in 1995, 27 per cent of married

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<sup>156</sup> United States, Department of State, *Country Reports of Human Rights Practices 2007: Nicaragua*

<sup>157</sup> *Ibid.*

<sup>158</sup> Amnesty International, *Report 2008: The State of the World's Human Rights: Nicaragua*, London, 2008, <http://thereport.amnesty.org/eng/regions/americas/nicaragua> [accessed August 2008]

<sup>159</sup> Rogers, T., *Silent War in Nicaragua: The New Politics of Violence*, *NACLA Report on the Americas*, Vol. 34, No. 4, January/February 2001

<sup>160</sup> United States, Department of State, *Country Reports of Human Rights Practices 2006: Nicaragua*, Washington, 6 March 2007, <http://www.state.gov/g/drl/rls/hrrpt/2006/78899.htm> [accessed August 2008]

<sup>161</sup> *Ibid.*

women reported being abused; 70 per cent of these abuses were physically violent in nature.<sup>162</sup>

### 5.2.3 Violence Against Children

Nicaragua's Code of Childhood and Adolescence commits the state to treat all children equally and refrain from stigmatizing impoverished and socially marginalized children. In practice, however, the state has not exhibited the political will to ensure compliance with the law.<sup>163</sup> The most recent US report on human rights in Nicaragua states that, according to NGOs involved with children's rights, the government's commitment to children's rights is actually receding. The country's Office of the Ombudsman Special Prosecutor for the Rights of Children and Adolescents also complained that the rights of children were not a priority for the government.<sup>164</sup>

According to the Nicaraguan Ministry of Education, Culture, and Sports (MECD – Ministerio por Educación, Cultura e Deportes), approximately 500,000 primary and secondary school children did not attend school in 2006 and a third of all of those who enrol at the beginning of the year are forced to drop out due to financial hardship. Data collected by the Pan American Health Organization (PAHO) indicates that 18 per cent and 60 per cent of primary and secondary school-age children, respectively, did not attend school.<sup>165</sup> Another study reports that 25 per cent of all school-aged Nicaraguan children are not enrolled in school and that this number increases to 44 per cent for youth aged 13-17. The austerity measures imposed by the International Monetary Fund's programmes may contribute to the high number of children not in school insofar as the measures force the state to make cuts in social spending across the board.<sup>166</sup>

Violence against children is also a significant problem in Nicaragua. The country's Centre for Prevention of Violence reports that in 2007 one in three girls and one in five boys had been the victim of sexual abuse.<sup>167</sup> A survey of violence against children throughout the world notes that an analysis of recent data from the Demographic and Health Surveys shows that, among married Nicaraguan females aged 15 to 19, over 18 per cent had experienced spousal violence in the past 12 months.<sup>168</sup>

In 2006, during a nine-month period from January to September, the police received reports of approximately 1,322 cases of physical and sexual assault, statutory rape, and incest against minors, an increase over the number of cases reported in 2005. Additionally, police reported that 1,230 minors under 13 were rape victims compared with 219 for all of 2005, although the increase probably reflected a greater willingness among mothers to report domestic violence

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<sup>162</sup> Ellsberg, M.C. *et al*, Wife Abuse Among Women of Childbearing Age in Nicaragua, *American Journal of Public Health*, Vol. 89, No. 2, 1999, p. 242

<sup>163</sup> Maclure, R., and M. Sotelo, Children's Rights as Residual Social Policy in Nicaragua: State Priorities and the Code of Childhood and Adolescence, *Third World Quarterly*, Vol. 24, No. 4, 2003, p. 673

<sup>164</sup> United States, Department of State, *Country Reports of Human Rights Practices 2007: Nicaragua*

<sup>165</sup> *Ibid.*

<sup>166</sup> Maclure and Sotelo

<sup>167</sup> United States, Department of State, *Country Reports of Human Rights Practices 2007: Nicaragua*

<sup>168</sup> Pinheiro, P.S., *World Report on Violence Against Children*, Geneva, United Nations, 21 November 2006, p.58, [http://www.crin.org/docs/UNVAC\\_World\\_Report\\_on\\_Violence\\_against\\_Children.pdf](http://www.crin.org/docs/UNVAC_World_Report_on_Violence_against_Children.pdf) [accessed August 2008]



than an increase in the incidents of violence.<sup>169</sup> As noted earlier, according to the Nicaraguan government, 82 minors between 13 and 17 years old died in 2006 as result of violent crimes.

Finally, as reported in in 2004, approximately 11 per cent of 1.8 million children between 5 and 17 years old in Nicaragua were forced to work, amounting to a labour force of 253,000 children. In Guatemala the corresponding figure was 40 per cent, in El Salvador 8 per cent and in Honduras 15 per cent.<sup>170</sup> A 2005 study by the National Survey of Adolescent and Child Labour found approximately 239,000 children under the age of 18 were working of whom 36 per cent or over 86,000 were under the age of 14. A large percentage of the children in the labour force work in the agricultural or service sectors of the country with their families without any compensation.<sup>171</sup>

Nicaraguan law provides that the minimum age for employment is 14 years and that until age 17 no child is to work more than six hours a day. Further, under the law, children between 14 and 16 cannot work without parental permission. The law also provides that violators can be fined and inspectors can close facilities that employ child labour, but in practice, the Ministry of Labour did not have the resources necessary to enforce these laws effectively.<sup>172</sup>

As in all Central American countries, child prostitution is reported to be a serious problem in Nicaragua. There is, however, little data available on this issue, perhaps because Nicaraguan law permits juveniles 14 years of age or older to engage in prostitution.<sup>173</sup> Similarly, there is little data on the number of street children in Nicaragua or the specific kinds of physically harmful employment in which some children are forced to work.

#### **5.2.4 Violence Against Sexual Minorities**

Until March 2008, homosexuality was a crime in Nicaraguan law, punishable with up to three years in prison. There are no reports of anyone being prosecuted for any conduct under the former Penal Code provision. Yet, NGOs suggest the very existence of the penal code provision had a chilling effect and raised concerns that the law could be used against any one who provided sexual health information or services to homosexuals.<sup>174</sup>

Perhaps because homosexuality was criminalized, there has been little or no systematic collection of data regarding violence against sexual minorities in Nicaragua. Numerous ad hoc reports do show a history of discrimination and violence directed against sexual minorities for most of the same reasons this discrimination and violence occurs in other Central American countries. CEPRESI (Centro Para la Educación y Prevención del SIDA – Centre for AIDS Education and Prevention), a Managua-based group that promotes and defends the human rights of sexual minorities, gathered information in 2004 from focus

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<sup>169</sup> United States, Department of State, *Country Reports of Human Rights Practices 2006: Nicaragua*

<sup>170</sup> Marschatz, A., *Summary: Analysis of Child Labour in Central America and the Dominican Republic*, Geneva, International Labor Office, July 2004, pp. 2 and 4, [http://white.oit.org.pe/ipec/documentos/reg\\_sum.pdf](http://white.oit.org.pe/ipec/documentos/reg_sum.pdf) [accessed August 2008]

<sup>171</sup> United States, Department of State, *Nicaragua: Country Reports of Human Rights Practices 2007*

<sup>172</sup> *Ibid.*

<sup>173</sup> *Ibid.*

<sup>174</sup> Amnesty International, *Lesbian, Gay, Bisexual and Transgender (LGBT) People At Risk in Nicaragua*, London, 1 April 2006, <http://www.amnesty.org/en/library/asset/AMR43/001/2006/en/dom-AMR430012006en.pdf> [accessed August 2008]; Amnesty International, *Report 2008: The State of the World's Human Rights: Nicaragua*

groups composed of 65 homosexuals living in seven cities. Of the 65 participants, 60 reported they personally had been assaulted and illegally detained by police officers on account of sexual orientation. According to the Executive Director of the Xochiquetzal Foundation, another NGO concerned with the human rights of sexual minorities, few homosexuals complain to the Nicaraguan Office for the Defence of Human Rights because its personnel are hostile towards homosexual individuals and do not act on their complaints.<sup>175</sup>

### 5.3 Inter-linkages

By and large, what gangs exist in Nicaragua are generally not involved in the international drug trade or human trafficking. At the same time, some local leaders of organized criminal activity within Nicaragua are former gang members. Similarly, there is evidence that some of the organized crime in Nicaragua has linkages with Colombian, Mexican, United States and Russian organized crime but there is little evidence of any linkages between these criminals and gangs.<sup>176</sup> In 2001, two large shipments of cocaine were seized on ships in the Pacific Ocean near Central America. Both ships employed mixed crews of men from Russia, Ukraine, Salvador, and Nicaragua. Further, in March 2001, Interpol informed the United States that a number of former USSR citizens with links to organized crime had taken up residence in various Central American countries.<sup>177</sup> The involvement of gangs in drugs and other crimes is domestic, not international.

### 5.4 National Protection

The reported rates of violence are much lower in Nicaragua than in Guatemala, El Salvador or Honduras. Some studies attribute the lesser violence to governmental policies that seek to direct the police to utilize preventive technique with gangs and other potentially disruptive groups.<sup>178</sup> The lesser violence may also be attributed to the fact that Nicaragua does not have a culture that supports the death squads and self-help groups of vigilantes that operate with impunity and sometimes the implicit support of the governments in other Central American countries.

At the same time, the Nicaraguan government has not allocated adequate resources to protect its citizens. Violence appears to be concentrated in the more urban areas where, without sufficient numbers, the police frequently ignore the very populations in which their presence is most needed. As a result, crime remains under-reported and under-investigated and the perpetrators of much of this violence are able to operate with impunity. Further, while crime rates may be lower than in other countries, they have been increasing and urban Nicaraguans perceive crime to be one of the more serious problems they face.<sup>179</sup>

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<sup>175</sup> Canada, Immigration and Refugee Board, *Nicaragua: Treatment of homosexuals 2002-2004*, Ottawa, 25 March 2004, [http://www.irb-cisr.gc.ca/en/research/rir/index\\_e.htm?action=record.viewrec&gotorec=435459](http://www.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=435459) [accessed August 2008]

<sup>176</sup> United States Agency for International Development, Annex 5: Nicaragua Profile

<sup>177</sup> United States, Office of National Drug Control Policy, White House Drug Policy Office and Coast Guard Announce All-Time Record Annual Maritime Cocaine Seizures, Washington 5 October 2001 (press release), <http://www.whitehousedrugpolicy.gov/NEWS/press01/100501.html> [accessed August 2008]

<sup>178</sup> See United States Agency for International Development, Annex 5: Nicaragua Profile

<sup>179</sup> Rodgers, D., *Disembedding the City: Crime, Insecurity and Spatial Organization in Managua, Nicaragua, Environment and Urbanization*, Vol. 16, No. 2, 2004, p. 116, <http://eau.sagepub.com/cgi/reprint/16/2/113> [accessed August 2008]

## **5.5 Conclusions**

Although Nicaragua is significantly poorer than its Central American neighbours and is plagued by high degrees of corruption, illiteracy, and malnutrition, it has not experienced the high levels of violence and gang activities found in the other three countries. Some of this difference can be attributed to the strength of the Nicaraguan communities and a tradition of taking care of marginalized individuals and cooperating closely with the police. Furthermore, to the extent that some of the gang activities in Guatemala, Honduras, and El Salvador are related to the higher number of youth deported from the United States and their North American gang experiences, particularly in Los Angeles; it is a phenomenon not found in Nicaragua. Fewer Nicaraguans settled on the West Coast and, wherever they settled, fewer have been deported.

The violence in parts of urban Nicaragua is, however, not insignificant and could worsen if the structural inequalities and exclusionary state policies that are the source of inequality, marginalization, and gang growth are not addressed. Nicaragua is a relatively safer country today but it may not be so for long if the current conditions persist.

## **6 Overall Conclusion**

The four countries discussed in this report have a long history of violence and human rights violations, as well as widespread poverty. Internal wars between the military and insurgent organizations led to even further devastation and large population displacements.

The violence today is the outgrowth of that past in the context of continued deprivation and draconian policies to respond to violence. The harsh techniques have not contained the violence; in fact, violence in some countries is spiralling out of control. The only country that has adopted a different path to deal with violence has been Nicaragua. Policies here have favoured rehabilitation efforts and integrating gangs into society and have been aided by established neighborhood organizations, the tradition of youth mobilization and political participation, and an institutional culture in the police force geared to community needs and preventive measures.

The other countries have favoured a tough zero-tolerance approach to gangs but leniency towards vigilante groups and death squads that often pursue social cleansing methods. Gang violence as a major destabilizing factor, although real, has tended to be exaggerated by the governments and the press, while the more established criminal organizations remain out of target in great measure because of their fusion into all layers of governmental structures and their protection by the powerful. In the past these clandestine groups caused terror with their political cleansing operations. The infiltration of criminal elements in government is a central challenge and must be addressed, beginning with an end of impunity. This has become more difficult because these established criminal organizations now have a broader criminal and illegal economic portfolio. Therein lies the more serious and intractable problem facing any attempt to fundamentally address crime and violence in these societies.

The outlook is grim. These countries, with about 50 per cent of their population under 15 years of age, need massive economic development, social programmes such as education and health care, and a serious effort to integrate the youth into the social fabric. Overall, the underlying grievances that fuelled the civil wars remain and need to be addressed.

The human rights meltdown leaves people in a perpetual state of fear, anxiety and hopelessness: such a society cannot prosper. A society where devaluing the life of some human beings is a habit, where problems are solved routinely through violent impulses, where impunity for some is the norm, where there is no expectation of the state providing protection, is a society in crisis.

There is a important challenge as well as a warning. Unchecked violence in Central America not only attacks its victims and their communities but also threatens to damage the rest of society and unravel democracy. There is an urgent need for innovative policies that have a broad scope beyond the scourge of organized crime, vigilante “justice” and youth gangs. Unless impunity is addressed, the criminal enterprise and its resultant violence will only continue to grow replacing the “lost decade” of the 1980s with an even longer lasting and serious devastation.

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