

Criminal Governance in Northern Central America

Research Paper

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North and Central American Task Force on Migration

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Introduction

The arrival of large numbers of migrants and asylum seekers from northern Central America – Guatemala, Honduras, and El Salvador, often referred to as the Northern Triangle – is a priority for the Biden-Harris administration. Studies have identified various factors contributing to this exodus, such as violence, poverty, family reunification, natural disasters, corruption, and weak governance (Cristosal 2017; Creative Associates, 2019; Clemens & Graham, 2019; Bermeo & Leblang, 2021; Restrepo, 2021; Denny et al, 2021; Olson & Olson, 2021). An often-cited factor driving migration is violence experienced by citizens and the weak rule of law that forces Central Americans to flee from their homes. This brief begins with a short history of the Mara Salvatrucha (MS-13) and Barrio 18 in northern Central America, followed by analysis of violence levels in these countries and, the counterproductive results of security policies implemented. It concludes with lessons learned from previous strategies and policy recommendations.

Barrio 18 and Mara Salvatrucha (MS-13)

The Mara Salvatrucha (MS-13) and Barrio 18 (18th Street) are present throughout the United States, northern Central America, Spain, and Italy (Franco, 2008; Valdez, 2009; Seelke, 2016; Valencia, 2016; Finklea, 2018; Dudley & Avalos, 2018). Previously, scholars distinguished *pandillas* as homegrown gangs and *maras* as gangs with transnational roots (Jütersonke, Muggah, & Rodgers, 2009; Seelke, 2016). More recent investigations identify MS-13 as a *mara* and Barrio 18 as a *pandilla* (Dudley & Avalos, 2018; Resendiz Rivera, 2018). In El Salvador, the Supreme Court reclassified these gangs as terrorist organizations in 2015 (Daugherty, 2015; Rauda Zablah, 2015).

Barrio 18 and MS-13 were founded in Los Angeles, California (Franco, 2008; Valdez, 2009; Seelke, 2016; Finklea, 2018; Dudley & Avalos, 2018). 18th Street (Barrio 18) gang was formed in the late 1960s in the Rampart area of Los Angeles and became one of the largest Latino gangs in the United States by breaking racial membership expectations (Franco, 2008; Valdez, 2009; Seelke, 2016). In the latter 1980s, Salvadoran immigrants who fled the civil war and were marginalized within the Mexican community in Los Angeles created the Mara Salvatrucha Stoners (MSS) (Franco, 2008; Valdez, 2009; Wolf, 2012). By late 1992 to early 1993, MSS changed its name to MS-13 to display its alliance with the Mexican Mafia, which is known as “La Eme” (the M) (Valdez, 2009; Dudley & Avalos, 2018). The number 13 references the 13th letter of the alphabet, signifying the letter “M” (Valdez, 2009; Dudley & Avalos, 2018).

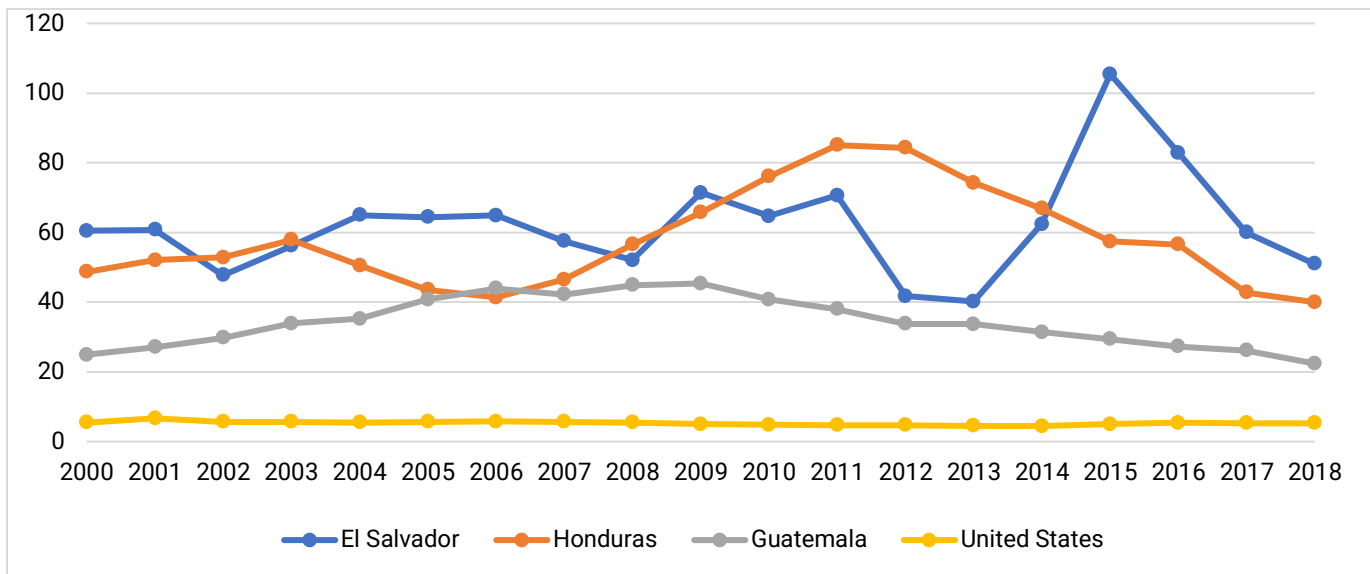
Obtaining gang membership estimates for these gangs is a challenge. Gang membership estimates for MS-13 and Barrio 18 in northern Central America vary greatly. In 2006, Guatemala’s National Civilian Police reported 14,000 gang members, El Salvador’s National Civilian Police reported 10,500, and Honduran security forces reported 30,000-36,000 gang members (USAID, 2006). The UNODC (2012) estimated northern Central America is home to approximately 54,000 gang members who claim MS-13 or 18th Street membership, broken down as 22,000 gang members in Guatemala (17,000 affiliated with 18th Street and 5,000 with MS-13), 20,000 gang members in El Salvador (8,000 affiliated with 18th Street and 12,000 belonging to MS-13) and 12,000 gang members in Honduras (5,000 18th Street gang members and 7,000 MS-13 gang members) (UNODC, 2012).

More recent estimates show a reduction in gang membership. In 2011, Honduran prevention programs reported an estimated 4,728 gang members (Programa Nacional de Prevención, Rehabilitación y Reinserción Social [PRPRRS], 2012). In 2012, the Guatemalan Minister of Governance reported between 8,000-10,000 gang members (Resendiz Rivera, 2018). In 2013, sources close to the gangs in El Salvador reported 60,000 members, with 10,000 members in the prison system, and a support network of 400,000 (Tager & Aguilar Umaña, 2013). However, these estimates should be treated with caution, since there is no universal definition for what constitutes a gang member, security sector personnel overestimate gang membership, and there is a perception that gang-controlled communities are voluntarily part of the gang.

The presence of these gangs in northern Central America is often attributed to criminal deportations from the United States. In 1996, the United States implemented the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) that expanded crimes for which noncitizens could be removed from the United States (Hagan, Eschback, & Rodriguez, 2008; Human Rights Watch, 2009; Kerwin, 2018). In 2005, Immigration and Customs Enforcement (ICE) implemented Operation Community Shield with the purpose of suppressing gang activity by gathering gang intelligence and deporting gang members (Vaughan & Feere, 2008, Department of Homeland Security, 2014). Some scholars argue that gang culture was exported when individuals with criminal records were deported to their country of origin (Arana, 2005; Franco, 2008; Seelke, 2016). Other scholars argue voluntary migration contributed to these gangs' transnational features (Cruz, 2010). It is imperative to clarify that a criminal removal from the United States is not synonymous, nor does it imply a perfect correlation, with a gang member being removed. Lastly, a recent study by Florida International University (Cruz, Rosen, Amaya, & Vorobyeva, 2017) found 97 percent of 1,196 formerly and currently incarcerated gang members in El Salvador joined the gang in El Salvador and 90.8 percent had never been to the United States. These findings place into question how much deportations play a role in gang membership in northern Central America as well as the "transnational" nature of these gangs.

Violence trends in Northern Central America

Figure 1. Northern Central America and U.S. homicide rates per 100,000 people



Source 1: World Bank Data, 2021

Violence rates in northern Central America have exceeded the average global homicide rate of 6.1 per 100,000 people (UNODC, 2019). Honduras and El Salvador have previously held the title for global murder capitals. In 2011, Honduras reported a homicide rate of 86 per 100,000 people, averaging approximately 20 homicides per day (IUDPAS, 2011). In 2015, El Salvador took the lead with a rate of 105 per 100,000 people, approximating one murder per hour (Gagne, 2016). While Guatemala's highest reported national homicide rate was 45 per 100,000 in 2009, some municipalities along the border report much higher homicide rates (Espinoza, 2018). By 2020, all countries reported decreased homicide rates, likely due to COVID restrictions to some extent: Reported homicide rates were 19.7 for El Salvador, 37.6 for Honduras, and 15.3 per 100,000 individuals for Guatemala (Asmann & Jones, 2021).

However, violence is no stranger to northern countries of Central America. During the 1980s, violence was primarily attributed to security forces and insurgency groups during the civil wars in Guatemala and El Salvador, as well as military regimes in Honduras (Commission for Historical Clarification, 1999; Betancur, 1993; Valencia Cervantes, 2013). Since the early 2000s, Central American government officials have attributed violence in their countries to MS-13 and Barrio 18. For example, former Guatemalan President Otto Perez Molina (2012-2015), removed from office for corruption, blamed "more than 40 percent" of homicides to battles amongst these gangs (Insight Crime, 2016). Honduran President Juan Orlando Hernandez (2014- present) stated "as much as 80 percent" of homicides are due to organized crime (Insight Crime, 2016). Additionally, former Salvadoran Minister of Justice and Security General, David Munguia Payes, stated that 90 percent of homicides were gang members (Diario1, 2015). These statements give the impression that gangs are the primary actors contributing to violence in these countries.

Moreover, official statements become questionable when examining each country's administrative data and impunity levels. In 2014, 94 percent of Guatemalan homicides lived in impunity, Honduras reportedly reduced the homicide impunity from 96 percent in 2013 to 87 percent in 2017, and from 2011 to 2013, 95 percent of homicides lived in impunity in El Salvador (Espinoza, 2018; Alianza por la Paz y la Justicia, 2019). Official homicide data from 2010-2012 in El Salvador suggests gangs are responsible for anywhere between 11.3 to 26.4 percent of total homicides (Reyna, 2017). The Attorney General's Office for the Defense of Human Rights in El Salvador found that approximately 35 percent of all homicides were gang-related in 2016 (Procuraduría para la defensa de los Derechos Humanos, 2017). In Honduras, official data from 2015 attributes 5 percent of homicides to gangs, while 46.8 percent of homicides had no motive listed (IUDPAS, 2015). Insight Crime (2016) found approximately 28 percent of homicides could be attributed to organized crime-related activities in trafficking corridors and 41 percent of homicides with gang-related activities in the City of Guatemala, noting that this finding could not be generalized nationally. These impunity levels raise the question of who else is contributing to violence in these countries.

The extortion rackets conducted by gangs lead to economic losses as well as contribute to violence (Global Initiative Against Transnational Organized Crime, 2019; Ruiz, 2020; Mendoza, 2014; Seelke, 2014; International Crisis Group, 2017). It is estimated that Salvadorans pay more than \$390 million in extortion annually, Hondurans pay more than \$200 million, and Guatemalans \$61 million (La Prensa, 2015). From 2016-2013, 622 bus drivers were murdered in Guatemala when extortion was not paid, making bus drivers' homicide rate double the national homicide rate in 2013 (Mendoza, 2014). Moreover, 49 percent of small businesses extorted within the last year were in locations with a gang presence compared to 28 percent elsewhere (FUSADES, 2016). The Guatemalan DIPANDA (División Nacional contra el Desarrollo de Pandillas – National Division Against Gang Development) unit has identified a 90/10 typology for extortion: 90 percent of extortions are committed by opportunist groups while 10 percent are committed by organized groups such as gangs (Edelman, 2020). The biggest challenges for extortion are identifying the various actors involved and the underreporting of these crimes.

To make security issues more complex, citizens in northern Central America have little confidence in security forces. In 2016, only 55.8 percent of Salvadorans had trust in the National Civilian Police (Cruz, Aguilar, & Yorobyeva, 2017). In 2018, 45.7 percent of Guatemalans had trust in their National Civilian Police (ENPEVI, 2018). Hondurans had the lowest level of trust in their National Police with 33.7 percent in 2018 (UNAH, 2019). These low levels of trust may be attributed to officers committing acts outside of legal norms, such as extrajudicial executions, transporting drugs, or requesting extortion payments (SSPAS, 2017; Arce, 2015; Labrador, 2018). Illicit behavior by law enforcement undermines the legitimacy of these institutions. Nonetheless, Central American governments have focused most of their security strategies on addressing gang activity.

Mano Dura policies

Central American administrations in each country have responded to alarming violence levels by implementing Mano Dura (Iron Fist) policies. These policies are primarily focused on repressive measures that include arresting "suspected" gang members and permitting military forces to

conduct joint patrols with police forces (Andino, 2005; Reyna, 2017; Wolf, 2017; Espinoza, 2018). It should be noted that in the cases of Guatemala and El Salvador, the use of the armed forces for domestic security violates peace agreements signed after the civil wars (Reyna, 2017; Acuerdo de Paz, 1996).

Rather than decreasing gang activity, these policies have had the counterproductive consequence of encouraging the evolution of gangs. With the focus of these policies on incarcerating individuals, gangs become more organized within the confines of prison, where gang identity is strengthened, crimes are coordinated, and membership solidified (Cruz, 2010; Valencia, 2014; Seelke, 2014; Reyna, 2017; Wolf, 2017; Dudley, 2020). Outside of prisons, gangs changed their appearance (dress and prohibited tattoos), and in the case of Honduras, reduced graffiti so as not to attract police attention (Franco, 2008; Cruz, 2010; Seelke, 2014; Dudley & Arevalos, 2019; Ruiz, 2019). Moreover, the courts affirmed shortcomings in these policies by dismissing 84 percent of individuals arrested due to lack of motive for arrest in El Salvador; in addition, 56 percent of adults were released in Honduras (FESPAD, 2005; Reyna, 2017; Andino, 2005). Lastly, the lack of results from these repressive initiatives has resulted in increasing activity by vigilante groups (Reyna, 2017; Andino, 2016; Resendiz Rivera, 2018). However, Central American governments continue to impose repressive policies.

The Salvadoran and Honduran governments have opted to apply terrorist definitions or sanctions to these gangs. In August 2015, El Salvador's Supreme Court re-classified gangs as terrorist organizations for their use of systemic and organized violence (Daugherty, 2015; Seelke, 2016). In February 2017, Article 335 of the Honduran penal code was reformed to include crimes of terrorism punishable by sentences ranging from 30-50 years (La Gaceta, Decretos Nos.6-2017, 2017). Crimes of terrorism include those intended to generate fear in the population, such as the burning of buses and vehicles. It is important to distinguish that, compared to terrorist organizations, gangs do not have a political ideology guiding their operations and hence should not be classified or penalized in such a manner.

Today, presidents in northern Central America continue to develop their security strategies with the primary objective of reducing gang activity. For example, Salvadoran President Bukele's Plan de Control Territorial (Territorial Control Plan) focuses on recuperating the territorial control of gangs (Rivera, 2020). Since taking office, Guatemalan President Giammattei proposed to reclassify gangs as terrorist organizations in his country (Mendoza, 2020). However, increasing repressive measures is not a new or innovative strategy in Central America; these policies have been shown not only to be counterproductive in reducing violence but also to increase the militarization of domestic security forces. Learning from historically counterproductive policies may shed light on more appropriate, targeted solutions.

Drawing from prior lessons to shape future policies

The Biden-Harris administration has identified 5 pillars to address the root causes of migration in Central America; specifically, Pillar 4 focuses on countering and preventing violence, extortion, and other crimes by criminal gangs, trafficking networks, and other organized crime organizations (NSC, 2021). This report focuses on three policy recommendations that align with this strategy.

Strategic objective 1 identifies a line of effort to professionalize security forces under Pillar 4. To accomplish this, the administration should recall lessons learned from prior police reforms in the region (ASJ, 2016; Dye, 2017). The professionalization of special and vetted units is of great benefit to the U.S. and its partners, as it builds morale among security personnel and strengthens bilateral and regional cooperation. Committing to innovative police reform with the creation of new professional police forces in Central America would be a better investment of resources. Rather than undertaking additional reforms of systems that are perceived as systemically corrupt and continuing to “cleanse” police forces, a more cost-effective, long-term investment would be creating new police forces with thorough vetting, training, and development. The consistent auditing of police leadership should be a requirement to ensure the highest echelons of police forces are not tainted and would not taint lower ranking officers.

To address extortion in northern Central America, emphasis should be placed on the penitentiary system. As mentioned above, the DIPANDA unit in Guatemala identified a 90/10 typology, where 90 percent of extortions are conducted by opportunist groups and 10 percent by structured groups such as gangs (Edelman, 2020). In 2019, 75 percent of extortions were conducted by imitators, 17 percent by Barrio 18 and 7 percent by MS-13 (Chumil, 2021). More importantly, prisons have been identified as hubs where extortion calls are conducted (Chumil, 2021) which leads to more questions, such as how cellphones are entering the prison system and why calls are not being blocked with blockers previously donated by the U.S. Moreover, the lack of rehabilitation training for those in prison allows for such activities. When individuals are placed into the prison system, they must be categorized by risk to ensure that lower-level offenders are not mixed with higher level offenders, while at the same time focusing on programs that could provide rehabilitation and eventual reinsertion to society.

Prevention and intervention programs are limited in northern Central America and must be strengthened. If the state can keep children from joining gangs, it decreases the gang’s ability to operate while simultaneously saving human lives. A partnership between NGOs that serve at-risk youth and the private sector can provide a mutually beneficial relationship. The example of League Central America in El Salvador provides a model which could be replicated. Since governments have identified neighborhoods with gang presence and/or high levels of violence, recruitment for prevention programs should be focused in these areas. The private sector can serve as a partner to provide employment and educational opportunities.

Strengthening the criminal justice system and focusing on prevention and rehabilitation programs can assist in minimizing violence, criminal governance, and migration of Central Americans to the United States.

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