

[EXECUTIVE SUMMARY]

# Between the Border and the Street: Migrant Youth on the Margins

*A Comparative Look at Gang Reduction Policies  
and Migration in the United States and Guatemala*

Georgetown Human Rights Action  
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Georgetown Human Rights Action (GHRA) is a student group at Georgetown University Law Center.

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## **EXECUTIVE SUMMARY**

### **JUSTIFICATION AND DESCRIPTION OF THE STUDY**

This report was written in response to growing concern throughout the United States about a perceived increase in Latino youth gang activity. Several high-profile violent crimes attributed to MS-13 gang members led policymakers and the media to take notice of the activities of groups of marginalized Central American youth living in urban and suburban America. The media dubbed MS-13 “the most dangerous gang in America,”<sup>1</sup> and politicians and law enforcement responded with widespread anti-gang enforcement activities, immigration raids, increased deportation, and a host of proposed local and federal legislation to combat gang violence. Despite the media hype, very little serious research exists that adequately examines the Central American gang phenomenon,<sup>2</sup> and many of the policies that have been developed to deal with this issue were enacted without sufficient consideration of their effectiveness, their sustainability, and their collateral costs in terms of human rights and international security.

This report examines the recent strategies that have been implemented in the United States and Guatemala to reduce gang violence, and assesses their impact on the targeted communities and the wider region. In particular, this report builds upon well-established research on youth violence prevention to describe how current policies in both countries tend to exacerbate the root causes of gangs and are therefore ineffective. Furthermore, this report looks at the effects of U.S. and Guatemalan anti-gang initiatives on international migration and human rights, and evaluates whether the U.S. is living up to its obligations under international humanitarian treaties. Finally, the report offers a series of policy recommendations discussing how U.S. domestic policy, foreign policy, and international aid could be altered to achieve a more humane, effective, and sustainable youth violence prevention strategy.

The authors chose to focus on Guatemala for several reasons. First, although Guatemalans represent a significant portion of Central American gang members,<sup>3</sup> most of the existing research on the subject has focused on El Salvador, and to a lesser extent

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<sup>1</sup> See, e.g., Andrew Romano, “The Most Dangerous Gang in America,” *NEWSWEEK*, Mar. 28, 2005, available at <http://www.newsweek.com/id/49255>; *World’s Most Dangerous Gang* (National Geographic Channel broadcast Feb. 12, 2006, available on DVD).

<sup>2</sup> The authors acknowledge the excellent contributions to this field that have been made by the Washington Office of Latin America (WOLA), the Justice Policy Institute, the International Human Rights Clinic of Harvard University, and others.

<sup>3</sup> For example, the United Nations Office on Drugs and Crime (UNODC) estimates that there are 14,000 active gang members in Guatemala, compared to 10,500 in El Salvador and 36,000 in Honduras. UNITED NATIONS OFFICE ON DRUGS AND CRIME, *CRIME AND DEVELOPMENT IN CENTRAL AMERICA 60* (2007), available at <http://www.wola.org/media/Gangs/Central%20America%20Study.pdf>. Although it is exceptionally difficult to accurately quantify gang membership in any country, and especially to perform transnational comparisons, it is undisputed that Guatemalan gangs constitute a significant proportion of overall Central American gang members.

Honduras, leaving a dearth of information about Guatemala. Second, the history of Guatemala's thirty-six year civil war and the unique terms of the Peace Accords created a post-war reality that differs from that of the country's Central American neighbors, and these differences play a key role in defining the state reaction to youth violence. Third, Guatemala, unlike Honduras and El Salvador, has not yet implemented a comprehensive national policy to combat gang violence, and this has had important consequences for suspected gang members in relation to the justice system and the general public.

The data for this project was gathered by combining a "top down" literature review, legal review, and statistical analysis with "bottom up" fieldwork employing two primary data collection methods:<sup>4</sup>

- 1) Key informant interviews with representatives of government, non-governmental organizations, international organizations, law enforcement, religious institutions, deportees, and former and active gang members in both the United States and Guatemala; and
- 2) Observation of the deportation process through visits to immigration detention centers in the United States and the Guatemalan Air Force Base receiving plane loads of deportees in Guatemala City.

## KEY FINDINGS

Although there are significant differences in the gang suppression initiatives being enacted at the local, state, and federal level in the U.S. and in Guatemala, a common feature is that these initiatives overwhelmingly serve to marginalize youths who are already at a high risk of joining gangs. As policy makers have become increasingly tougher on crime, the protective factors proven to reduce youth delinquency become scarcer, and as a result more youths are pushed towards anti-social activities like gangs. The key findings of the study are divided by country:

### *Guatemala:*

- ***The level of corruption and impunity in Guatemala has led to a police force that is both unable and unwilling to provide effective protection to the society.*** Police officers regularly commit acts of physical and sexual abuse, extortion, robbery, bribery, and extra-judicial killing. These abuses have caused feelings of insecurity and helplessness among the population, and have fomented an intense distrust of law enforcement that prevents any serious crime-reduction activities using a community policing approach.
- ***As a result of the broken system of law enforcement and a weak judiciary, extra-judicial killings and public vigilantism have reached a level that can be characterized as social cleansing.*** Young men and women suspected of delinquency are at serious risk of being tortured, murdered, or lynched. An unwillingness to investigate crimes perpetrated against stigmatized youth has virtually eliminated the risk of punishment for civilians and police who

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<sup>4</sup> For more information on research methods, see Methodology Appendix.

circumvent legal channels in dispensing justice. This has also led to a proliferation of hit-men (“*sicarios*”) who take advantage of the lawlessness and societal fear for financial gain.

- ***A culture of fear in Guatemala has led to the stigmatization of a broad range of youth as potential criminals, which causes widespread discrimination. A highly sensationalistic media contributes to this problem.*** Young men and women are suspected to be gang members based on their style of dress, speech, mannerisms, the neighborhood in which they live, tattoos or piercings, hairstyles, and migration history. This stigmatization makes it almost impossible for many young people to attend school, secure employment, or engage in other pro-social activities. This discrimination is significantly more acute for youths with criminal records or previous gang affiliation who attempt to reintegrate into mainstream society.
- ***The lack of trust between grassroots nongovernmental organizations (NGOs) and law enforcement has hindered collaborative, community-oriented gang-prevention work.*** Although there are isolated projects in which gang-prevention organizations work to create positive opportunities for stigmatized youths, and there are some efforts to professionalize the police force, a total lack of trust between grassroots NGOs and law enforcement precludes any meaningful gang-prevention work based on promising community policing models.
- ***U.S. government gang reduction projects in Guatemala lack a cohesive strategy, are for the most part unsustainable, and may not be replicable on a larger scale.*** Philosophical differences between the U.S. Embassy’s suppression-heavy response to gang violence and USAID’s reliance on prevention activities result in counterproductive barriers to comprehensive solutions. Rather than viewing prevention/rehabilitation and suppression as two sides of the same coin, State Department officials maintain a general skepticism of USAID projects that exacerbates the country-wide distrust between law enforcement and prevention workers. State Department and Department of Homeland Security (DHS) efforts also tend to over-utilize technical assistance without sufficient Guatemalan buy-in or capacity building.
- ***Societal discrimination, high generalized levels of violence, financial debts, and a lack of economic opportunity cause the majority of U.S. deportees to immediately arrange return to the United States.*** This phenomenon is exacerbated for suspected gang members, who have fewer economic opportunities and face serious personalized threats of violence from the police, civil society, and rival gang members.

### *United States:*

- ***Anti-gang strategies that rely heavily on deportation, such as Operation Community Shield, undermine proven best practices in youth violence prevention.*** Large-scale deportation disrupts the family and social networks that have been shown to be the most important protective factors for keeping youth from gang activity. Because deportation initiatives tend to be both over-inclusive and under-inclusive—ensnaring many productive, non-criminal members of society, while ignoring that many gang members are U.S. citizens—these initiatives are vastly inefficient. Furthermore, the extreme poverty, violence, and discrimination faced by deportees to Guatemala causes a majority to immediately return to the U.S.
- ***Local police enforcement of immigration laws places further strain on sustainable gang reduction work.*** The policies proven to most effectively reduce youth violence rely on intelligent, targeted suppression combined with prevention and rehabilitation efforts. Such strategies require community trust of law enforcement, which cannot exist if the community fears that interaction with the police may lead to arrest and deportation. Furthermore, when youths cannot rely on the police for protection, they often turn to gangs out of necessity.
- ***The lack of judicial discretion that exists in current immigration law leads to the deportation of many law-abiding, productive members of society who have lived in the U.S. for most of their lives.*** These deportations disrupt positive social supports for high-risk youths and waste large amounts of money on detaining and removing people who have minimal or no ties outside the U.S., pose no security threat, and are likely to return.
- ***Because many high-risk youths are precluded from any opportunities for permanent legal status, they cannot achieve full social inclusion in the U.S.*** This exclusion pushes them towards anti-social activities such as gang membership.
- ***A shortage of adequate social services for high-risk youths, and the denial of services to undocumented residents, exacerbate the tendency for immigrant youths to join gangs.*** Initiatives such as those undertaken recently in Loudoun County and Prince Williams County, Virginia to deny undocumented residents services such as housing, childcare, and library cards will further marginalize Latino youths. By destroying protective factors and increasing risk factors, these measures will almost certainly increase youth delinquency and crime.

## RECOMMENDATIONS

### *Guatemala:*

The recommendations set forth below specifically focus on the ways U.S. policymakers can improve gang reduction efforts in Guatemala. The authors are cognizant that Guatemala suffers from deep-seated corruption and rule-of-law problems that negatively affect gang prevention initiatives and limit the reach of U.S. efforts in this area. These underlying factors are largely for the Guatemalan government to address and are beyond the scope of this set of recommendations.

- ***Focus foreign spending on capacity building and anti-corruption efforts for the National Civil Police.*** U.S. anti-gang resources in Guatemala should focus on fostering leadership and training as well as fighting corruption within the Guatemalan National Civil Police. The current project at the Model Precinct in Villa Nueva, outside Guatemala City, is a step in the right direction, but suffers from a lack of sustainability and replicability. The program is unsustainable because Guatemalans are not being trained to take over leadership once the U.S. ceases its involvement, and is not replicable because there is a lack of trained personnel able to implement it in other precincts.
- ***Build bridges between the Guatemalan police and community/NGOs.*** Gang prevention efforts and community policing initiatives are severely undermined by the lack of trust between the police and the wider community, as well as between police and Guatemalan NGOs. The U.S. Embassy should take steps to facilitate dialogue among the National Civil Police, community leaders, and NGO representatives by funding a meeting of these groups to discuss prospects for collaboration in gang reduction strategies. This effort should be followed up with the establishment of a competitive funding stream to support initiatives to bring these diverse sectors together on an ongoing basis, for the purpose of advancing their common goal of gang reduction.
- ***Increase interagency cooperation between the U.S. Department of State and USAID on anti-gang efforts.*** U.S. Embassy and USAID officials in Guatemala should harmonize their efforts to reduce the gang problem. This collaboration could serve as a model for Guatemalan law enforcement and NGOs to emulate, rather than exacerbating the existing lack of trust between these two sectors in Guatemalan society. The Embassy and USAID should co-sponsor initiatives, such as the meeting mentioned above, that foster interagency effectiveness and build interagency expertise.
- ***Provide support to grassroots Guatemalan NGOs.*** The U.S. government should increase support to Guatemalan NGOs carrying out gang prevention activities. This support should focus on strategic planning, program development, financial management, service delivery, and monitoring and evaluation, in order to solidify local NGOs as equal partners in efforts to achieve gang reduction.

- ***Develop and maintain country-specific plans for gang reduction.*** The U.S. should maintain and support country-specific efforts for gang reduction, as opposed to moving toward a greater regionalization of anti-gang funding and programs in Central America. Although there are common elements to the gang phenomenon across countries, gangs are local problems and should be dealt with as such. Regionally focused efforts that favor expensive technological tools such as multi-country criminal databases offer little support to local police, who often lack the resources and capacity to use them effectively. Intensely localized strategies such as the model police precinct in Villa Nueva should serve as the model, instead of broader regional efforts that do not take local context into account.

### ***United States:***

In order to combat gang violence on the streets of America, policy makers must understand the domestic social realities and root causes of the gang phenomenon. Gangs, especially youth gangs from new immigrant communities, have been a part of American culture for at least 150 years. Despite cultural and historical variation over time, the risk and protective factors that affect whether young people join gangs remain relatively constant. Any effective gang reduction strategies must address the social roots of youth violence. One cannot dismiss gangs as a Central American problem. Current and past gangs have originated in U.S. cities, and U.S. policies have fueled the development and growth of gangs. Moreover, many gang members are longtime U.S. residents and even citizens. The U.S. cannot deport its way out of the MS-13 phenomenon. This report recommends the following approaches:

- ***Enhance public safety by reducing reliance on deportation to combat gangs.*** Policymakers should not view deportation as a tool to reduce gang violence, because barriers to legalization and indiscriminate enforcement of immigration laws undermine public safety in the long run. Deportation-led strategies exacerbate domestic and international instability by disrupting social networks, destabilizing fragile post-war Central American countries, removing many law-abiding immigrants, and increasing international ties for the small proportion of deportees who are serious criminals. Widespread deportation does nothing to enhance public safety within U.S. borders, as deported immigrants quickly return to the U.S. Because re-entry after deportation is a crime, such individuals must exist in the shadows of America, isolated from police, schools, health care, and other institutions responsible for public safety. This cycle creates an underclass which is forced to rely on informal protection networks including gangs, thereby perversely increasing the power of criminal networks and inhibiting law enforcement. Deportation is not a solution to youth violence.
- ***Focus gang reduction strategies on rehabilitation and prevention.*** Increased local and federal spending should be dedicated to gang prevention and rehabilitation programs. Measures such as the Youth PROMISE Act (H.R. 3846) should be adopted. This Act would provide funding, oversight, and research to community organizations using prevention and rehabilitation models that have been proven to be the most successful means to reduce youth delinquency and violence. Effective

anti-gang programs focus not on the unachievable goal of eradicating the existence of gangs, but rather on decreasing violent crime and promoting public safety. Because the majority of youths who are involved with gangs can leave behind their gang affiliation—particularly when they are provided thoughtful community intervention—attention and funding must be dedicated to job training and placement, educational and family support, safe recreational activities, and medical and addiction services. In particular, rehabilitative programs must be expanded for current gang members who seek to escape the gang lifestyle. Too often, the youths who most need intervention and community support are excluded from services because of their immigration status or because of present or former gang affiliation.

- ***Compliment rehabilitation and prevention with intelligent suppression.***

Suppression efforts are most effective when: (1) they are targeted at the small proportion of gang-affiliated youth who pose a real threat to public safety; (2) law enforcement officials communicate directly with targeted groups and offer real alternatives to continued criminal behavior; and (3) these efforts benefit from the participation, support, and intelligence of the local community. Anti-gang bills that focus on suppression by increasing and enhancing penalties for gang crimes are redundant and unnecessary. Harsh punitive measures—absent real options for at-risk youth—make it even harder for gang members to leave their gangs, and may perversely increase gang cohesion. Suppressive methods must be tailored to avoid the marginalization of families and youth that contributes to new cycles of violence in already scarred communities. African American and Latino youth disproportionately bear the negative effects of ineffective suppression policies. Suppression should be driven by community needs, and should rely on intelligent data rather than racial or ethnic stereotypes. Moreover, law enforcement officials engaged in suppression efforts should serve to foster trust in the community by working together with prevention and rehabilitation programs as part of a comprehensive solution to youth violence.
- ***Develop local solutions to local problems.***
  - The overwhelming majority of gang activity is best characterized as street-level delinquency, and should be dealt with as such. Although increased attention and funding for effective gang reduction policies is needed, federal legislators must take care not to impose one-size-fits-all policies on localities responding to gang violence. Youths are drawn to gangs or resist gangs as a result of common, identifiable social factors. However, responses must be particularized to the needs of each locality. Federalization of gang issues should be limited to setting agendas, providing funding and support to local programs, and developing better research on effective gang policies. Local police and communities know best what will reduce gang violence in their own back yards.
  - Some recent federal legislation inappropriately seeks to impose a broad, common definition of what constitutes a gang. Such definitions suffer from vagueness and overbreadth, targeting youth in poor immigrant and urban communities by conflating ethnic and urban cultural markers with gang affiliation. The use of overbroad definitions for gangs spreads fear of law enforcement among lawful members of the community. Similarly, gang

databases—absent serious procedural safeguards—have netted many innocents without reliably identifying true gang members. Gang definitions and databases should not be legislated at the federal level, and serve only to waste precious resources and undermine reliable evidence for effective prosecution.

- ***Support policies that foster close working relationships between police and local communities, especially in immigrant communities.*** The most successful gang reduction initiatives foster a closer working relationship between police and local communities. For gangs with predominantly immigrant members, police must possess cultural literacy in order to understand and respond to patterns of crime and violence. Local sources in the community are necessary for information gathering and dissemination—such as to help police distinguish between dangerous gang leaders and low-level members who might be responsive to rehabilitation, and to enable police to communicate messages to targeted gangs and members. Local community members are also indispensable as witnesses for any prosecutions. Community policing—which stresses police collaboration with local activists, church leaders, service providers, street workers, schools, and residents in developing community responses to crime—has proved especially effective at reducing gang violence. Local police enforcement of immigration laws is antithetical to community policing and should be abandoned. In order for police to effectively battle gang violence, communities should employ policies that make it safe for immigrants to participate collaboratively with law enforcement, without undue fear of deportation.
- ***Support continued research into effective gang reduction policies.*** Not enough data is available on the comparative efficacy of law enforcement responses to gang violence. “Tough on crime” measures are politically popular but are not proven to be effective at reducing gang violence. Many promising, comprehensive strategies to reduce gang violence have been proposed and tested, but efforts to replicate successful projects such as Operation Ceasefire in Boston have been plagued with problems. The federal government should fund further research on promising, evidence-based practices, in order to more conclusively identify those approaches which are most effective and to empirically prove their efficacy in reducing juvenile recidivism and promoting positive outcomes for youth. Before devoting more resources to gang suppression and law enforcement tactics, funding should be targeted to research-based programs operated by agencies in the health and human services sector.
- ***Enact immigration and social reforms that provide opportunities to develop pro-social activities for youth.***
  - To redress the structural problems which lead to widespread gang violence, the U.S. and localities must enact immigration and social reforms aimed toward developing positive opportunities for youth, especially those in low income, immigrant, or otherwise marginalized communities. Immigrant children face many risk factors, such as poverty, cultural isolation, unmet educational and social needs, and families divided by the dangers of immigration and deportation. These risk factors should be reduced, and protective factors increased, for those children most at risk of joining gangs.

Lawmakers should pass legislation increasing public services for at-risk youth, regardless of their immigration status. Policies to provide increased access to education for undocumented children, such as the recently-defeated DREAM Act, should be revived. With policies that reward lawful behavior and encourage integration into American society, these youths could have promising futures in the United States.

- Policies that lead to a sustainable reduction in gang violence focus on family unification and the maintenance of familial and community bonds.

Deportation and other suppression methods work to separate parents from children and increase the likelihood that children will engage in gang activity. Provisions of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) that removed judicial discretion in deportation proceedings must be amended. This reduced discretion can lead to the removal of long-time lawful residents with strong community ties. The United States must recognize that immigrants frequently contribute positively to society by providing important protective factors to at-risk youth, many of whom may themselves be citizens. Comprehensive immigration reform is necessary to open up pathways to legalization for immigrants and their families. Greater legal security will increase the likelihood that immigrant families collaborate with law enforcement, and decrease the likelihood that immigrant youths will turn to gang life.