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Guatemala: Violence perpetrated by criminal gangs and cases of popular justice; protection offered by the state (2008-March 2012)

1. National Crime Rates

Human Rights Watch indicates in its *World Report 2012* that Guatemala has one of the highest rates of violent crime in the region (Jan. 2012, 1). Sources indicate that the crime rate is mainly the product of violence perpetrated by illegal armed groups, like Mexican drug cartels, and criminal gangs such as the Mara Salvatrucha (MS-13) and Mara 18 (M-18) (ibid.; AFP 19 Aug. 2011). The armed groups and gangs reportedly use violence to "further political objectives and illicit economic interests" (Human Rights Watch Jan. 2012). However, in its annual report on the country's human rights situation for 2011, the Office of the Human Rights Attorney (Procurador de los Derechos Humanos), using statistics provided by the National Civic Police (Policía Nacional Civil, PNC), shows the percentage of homicides that went unpunished between 2008 and 2010 as being 95 percent, while figures provided by the Public Ministry put the percentage at 97.2 percent (Guatemala Jan. 2012, 49-50).

The same report indicates that, during 2011, there were 5,681 homicides, representing a rate of 39 homicides per 100,000 inhabitants (ibid. 68). Agence France-Presse (AFP) reports that the annual number of homicides are almost equal to the number of deaths that occurred during the country's civil war between 1960 and 1996 (19 Aug. 2011). The UN High Commissioner for Human Rights, in her 2012 report on the activities of her office in Guatemala, also provides statistics from the PNC indicating that, from 1 January to 31 August 2011, there were 3,806 violent deaths and 4,162 persons injured in violent attacks (UN 30 Jan. 2012, para. 15). Another AFP article reports that, during 2011, Mexican drug cartels and criminal gangs were responsible for 122 "massacres" in Guatemala, leaving 466 dead and 152 wounded (23 Jan. 2012).

2. Violence by Criminal Gangs

Amnesty International indicates in its annual report for 2011 that violent crime in Guatemala was "widespread, affecting most communities" (AI 2011). According to an investigator for the UN-sponsored International Commission Against Impunity in Guatemala, gangs in the country "have the power that terrorist groups have in other countries" (qtd. in *The Christian Science Monitor* 14 May 2010). A 2007 UN study estimated that there are about 14,000 gang members living in Guatemala (ibid.). The US Department of State indicates in its *Country Reports on Human Rights Practices for 2010* that 3,000 children are members of the gangs, and that they are "often recruited ..for purposes of stealing, transporting contraband, prostitution and illegal drug activities" (8 Apr. 2011, 24). AFP reports that the recruitment of youth tends to focus on those in low-income neighbourhoods (19 Aug. 2011).

According to Human Rights Watch, gangs use violence against "those who defy their control ..and those who refuse to pay extortion money" (Jan. 2012, 1). The report indicates that bus drivers and their assistants are particularly targeted for extortion, and cites local media estimates showing that 183 bus drivers were assassinated in 2010, and 105 from January to August 2011 (Human Rights Watch Jan. 2012). The *Christian Science Monitor* reports that gangs extort bus drivers for "'protection' fees" and kill those who refuse to pay (14 May 2010). The same source also indicates that there have been cases where gangs kill the drivers even after they pay the "fee," about US\$90 per week (*The Christian Science Monitor* 14 May 2010). For 2009, the *Christian Science Monitor* reports the assassination of 146 bus drivers and 60 bus drivers' assistants (14 May 2010).

Sources report that Guatemalan *maras* are forming alliances with Mexican drug cartels (AP 8 Apr. 2012; *The Guardian* 8 Jan. 2011). According to analysts cited by Reuters, Mexican cartels "are now buying up land, storing arms and drugs, and hiring members of local criminal networks to help them move and sell drugs" (20 Dec. 2010). The

Associated Press (AP) reports that the Zetas, the "Mexican paramilitary drug cartel," have been "providing paramilitary training and equipment to the Maras in exchange for intelligence and crimes meant to divert law-enforcement resources and attention" (8 Apr. 2012). An Interior Ministry task force official interviewed by the AP indicated that the training provided by the Zetas is evident in the "'increasing brutality, planning, organization and firepower'" used by the maras in their operations (8 Apr. 2012). The official explained that, because of the Zetas' influence, the maras are better able to "'organize, strategize and manoeuvre'" (AP 8 Apr. 2012). He also indicated that the MS-13 wants to "build up their inventory of long-range weapons, grenades and drugs for their own use and for sale" (ibid.). He concluded by explaining that the Zetas do not recruit M-18 gang members because they are "not as powerful or sophisticated" as those in the MS-13 (ibid.). AP further reports the presence of Mexico's Sinaloa drug cartel in Guatemala to produce methamphetamines (1 Jan. 2012).

Reuters quotes the Guatemalan president as saying that "'drug traffickers have us cornered'" (18 Jan. 2011). After security forces seized small planes and 150 weapons belonging to the Zetas, the president declared that the organization was "'not just preparing to confront the security forces [but] preparing to take control of the country'" (*The Guardian* 8 Jan. 2011). As a response to the government's declaration of a "month-long state of siege" in Atla Verapaz province, a Zetas cartel stronghold, *The Guardian* reports that the Zetas threatened to wage war "'in shopping malls, schools and police stations'" (ibid.). Sources also report that the Zetas have been recruiting Guatemalan soldiers (ibid.; AP 8 Apr. 2012).

The UN High Commissioner for Human Rights indicates that the state has lost [translation] "territorial control" to organized crime, and reports the decapitation of 27 peasants, including two children, in El Petén, as well as the assassination and dismemberment of an assistant prosecutor assigned to investigate cases of drug trafficking and organized crime (30 Jan. 2012, para. 16). The AP reports that the Zetas have control over "large parts of rural northern Guatemala" to traffic in drugs from South America to the United States (8 Apr. 2012).

3. State Response

Sources indicate that the PNC has approximately 25,000 members (Guatemala Jan. 2012, 52; US 8 Apr. 2011, 8) and is responsible for the maintenance of law and order in the country (ibid.). However, according to the US Department of State, the PNC is "understaffed, inadequately trained, and insufficiently funded" (ibid.). Although the military is continuously used to provide support to the PNC in its fight against crime (ibid.; AFP 23 Jan. 2012), Reuters reports that the Guatemalan army is "outgunned and

ill-equipped, raising fears of a power vacuum in parts of the country" (18 Jan. 2011). The UN High Commissioner also indicates that the government did not implement [translation] "effective measures" to ensure judges are well protected from external interference so that they can act with "impartiality, transparency and accountability" (30 Jan. 2012, para. 27). The report by the Guatemalan Office of the Human Rights Attorney points out that the efficiency of the institutions responsible for providing security and administering justice has been constrained by a [translation] "budget crisis" (Guatemala Jan. 2012, 43). The UN High Commissioner indicates that the state [translation] "continued delegating citizen security functions to private companies with minimal accountability" (30 Jan. 2012, para. 19).

The Guatemalan government reportedly created five "court pilot projects" that operate around the clock in the "high-crime areas" of Guatemala City, Mixco, and Villa Nueva to reduce the number of cases that go unprosecuted (US 8 Apr. 2011, 10). However, the US Department of State indicates that "[v]ery few reported crimes were investigated or prosecuted [and] fewer resulted in conviction" (ibid., 10). Sources characterize the judicial system in Guatemala as inefficient, corrupt, prone to intimidation (Human Rights Watch Jan. 2012, 2; US 8 Apr. 2011, 10), and lacking personnel and funds (ibid.). Amnesty International also says that corruption in the country is "pervasive" and institutions remained "fragile and vulnerable to organized crime" (AI 2011). The UN High Commissioner indicates that the lack of a state policy to combat crime is contributing to the high levels of violence and impunity in the country (UN 30 Jan. 2012, para. 7). Her report also points out that initiatives formulated by the Supreme Court of Justice to deal with impunity and corruption [translation] "have not yet shown results" (ibid., para. 31).

In an effort to curtail the violence associated with organized crime and drug trafficking in the Alta Verapaz and Petén regions, the government decreed two [translation] "states of exception" to the constitution in 2010, and one in 2011 (Guatemala Jan. 2012, 58-59). With the states of exception decrees, the government can [translation] "restrict or limit" rights, such as freedom of movement, legal detention, interrogation of detainees, and the right to assembly and demonstrations (ibid., 59).

The *Guardian* reports the detention in Alta Verapaz of 21 persons involved with the Zetas (8 Jan. 2011). The Canadian Press also reports the detention in Guatemala of a [translation] "major" drug trafficker associated with the Zetas (3 Apr. 2012). Reuters also reports the enacting of a law in December 2010 that allows the government to fight drug trafficking by confiscating property belonging to convicted criminals (Reuters 7 Dec. 2010). The law also addresses money laundering by including additional requirements to register a business (ibid.).

According to the US Department of State, Guatemala's Public Ministry runs a witness protection program with 178 witnesses protected during 2010 (8 Apr. 2011, 11). Additional information on the Guatemalan witness protection program could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. Popular Justice

According to US Department of State, "lynchings" stemming from public frustration with the ineffectiveness of the PNC and the judiciary take place "most often" in rural indigenous communities (8 Apr. 2011, 4). According to the report by the Office of the Human Rights Attorney, lynchings have been carried out by [translation] "mobs" in a "persistent, grave, and progressive" manner since they were first registered in the 1990s, with cases becoming still worse in nature in 2011 (Guatemala Jan. 2012, 92). The report attributes the phenomenon to the state's inability to protect citizens from criminals, criminal impunity and institutional corruption (ibid.). The UN High Commissioner also indicates that, in the departments of Quetzaltenango, San Marcos and Sololá, [translation] "local security committees" and "security commissions" perform duties exclusive to the state, such as "territorial control and the use of force with the acquiescence or direct participation of local authorities" (30 Jan. 2012, para. 21). AFP quotes the Director of the Department of Political Science at Francisco Marroquín University as saying that [translation] "several" people take justice into their own hands and that it is not seen as a bad thing (19 Aug. 2011).

According to the US Department of State, during 2010, lynchings usually involved persons accused of "rape, kidnapping, or attempted kidnapping of children to sell for adoption" (8 Apr. 2011, 5). For 2011, the report by the Office of the Human Rights Attorney indicates that the top three crimes in which the victim of the lynching was involved were assault, robbery and homicide (Guatemala Jan. 2012, 101). The PNC has been accused of not intervening during lynchings due to personal safety concerns (US 8 Apr. 2011, 5).

According to statistics provided by the PNC, 33 persons were killed and 36 injured through lynchings in 2010 (ibid.). However, the Office of the Human Rights Attorney indicates in its report that, based on newspaper and periodical library archives, there were 126 cases of lynchings in 2010 and 179 cases in 2011 (Guatemala Jan. 2012, 93). According to the archives, the 2011 lynchings left 51 people dead and 243 injured (ibid., 95). Quetzaltenango, with 34, was the city where the most lynchings occurred (ibid., 98).

On 26 June 2011, AFP reported the capture of the mayor of San Juan Cotzal, a municipality in the department of Quiché, who was accused of [translation] "inciting the local population to lynch a policeman" in 2009 after the latter tried to rescue his son who had been arrested for looking like a gangster. When the mayor was arrested, the local population reacted against the arrest (AFP 26 June 2011). Also, in a case that occurred on 4 August 2011 in the municipality of La Esperanza, department of Quetzaltenango, residents of an indigenous village destroyed the police station after police officers tried to prevent the lynching of two alleged criminals (ibid. 4 Aug. 2011).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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