



August 4, 2014

To Whom It May Concern:

This letter is in response to your request for an expert analysis of the current political and social context that is the motivating force driving the group of women and children who had fled with their children from Honduras, El Salvador, Guatemala and other Central American countries to seek asylum in the United States, and the risks to them if they are forced to return. As explained below, the women and children who are currently being detained at the U.S. border form a definable social group, and they are recognized in their countries as such. They are part of a broader group of persons who resist or flee gang violence in these countries, which is also distinct and socially recognized.

I am a Professor of history at Lewis & Clark College where I teach Latin American and immigration history. I have conducted extensive field research and scholarly studies about cross-border smuggling, paramilitary groups on the border, and clandestine trafficking of migrants. In addition to my scholarship, I have served for eight years on the Committee for Council of the Earlham College Border Studies program, which was based in El Paso/Júarez, and currently is based in Tucson, Arizona. My articles have appeared in leading scholarly journals like the *Western Historical Quarterly*, *Mexican Studies*, *Cuban Studies* and the *Southwestern Historical Quarterly*. I have published three books, *Alien Nation: Chinese Migrations in the Americas from the Coolie Era to WWII* (UNC Press, 2014), *Catarino Garza's Revolution on the Texas Mexico Border* (Duke University Press 2004), and a co-edited volume on borderlands history entitled *Continental Crossroads: Remapping the US-Mexico Borderlands History* (Duke University Press 2004). I earned a BA in History and Latin American Studies from Princeton University '89, and an MA and Ph.D. in Latin American History from the University of Texas at Austin '97. I was awarded the Fulbright and Fulbright Hays fellowships in Mexico for my dissertation research in 1995-96, and a Woodrow Wilson and a Mellon fellowship for my research on clandestine cross-border Chinese migration in the Americas, 1840-1940. In 2012, I delivered the World Affairs Council Great Decisions Series lecture on the topic of "Narcotrafficking and Ungovernability in Mexico" and have presented at numerous academic conferences on the subject. In 1989-1990, I lived in Nicaragua for a year and conducted research as part of a Rotary Foundation grant on grassroots democracy movements. I have also done research about migration and human smuggling networks throughout Central America as part of my forthcoming book *Alien Nation*.

## **Overview**

What is often referred to as a gang problem in the Central American countries of Honduras, El Salvador, and Guatemala is actually a political and social crisis involving transnational criminal and drug trafficking organizations that have wreaked havoc on the political infrastructure and

social fabric of those countries, rendering them nearly ungovernable. These countries represent what can only be understood as “failed-states” given the general inability to exercise the legal capacity of the state, the consequences of which have led to the proliferation of transnational criminal organizations, drug cartels and street gangs.<sup>1</sup>

Organized criminal associations are increasingly engaged in widespread recruitment, extortion, kidnapping, sexual violence, and murder. As an example, Mara Salvatrucha, a notoriously violent transnational gang that operates in Honduras, El Salvador, and Guatemala and beyond, has traditionally recruited the young, impoverished, and marginalized members of society.

Recruitment rituals are often physically and sexually violent and can include murder. Resisting recruitment—and even the perception of resisting—carries severe consequences, including death or death of family members. “Gang resisters” are unlikely to find state sanctioned protection and are a particularly vulnerable population because they stand out in society for defying the recruitment process and “disrespecting” or “insulting” the gang.<sup>2</sup> In her book *Spaces of Detention*, Elana Zilberg shows how many youth are caught between violent gangs and an ineffective or complicit government.<sup>3</sup> Young people have the choice of joining gangs, being killed, or fleeing. Simply the act of resisting gang recruitment is viewed as “anti-gang” political activity and presents a serious risk to dissenters.

Because it is well understood that gangs turn to marginalized populations, gangs are more successful at recruiting and maintaining their membership because the recruits may have no one or no resources to otherwise turn to. Members of the population who resist recruitment in gangs or gang activity are readily identified in society. This is because a critical means of maintaining the gangs’ power is their ability to identify those who resist them, and to co-opt members of the broader society to identify those persons to them.

## **Honduras**

Though spared the civil wars of neighboring countries in the 1980s and 1990s, Honduras was gravely affected by the regional instability brought by the civil wars in Nicaragua, El Salvador and Guatemala. In a vulnerable stage of the county’s modern development, Honduras was ravaged by Hurricane Mitch in 1998. Thousands were killed and one million were left homeless.<sup>4</sup> The country’s banana industry fell into decline and the unemployment rate, already high, continued to soar. In 2009 the then-president Manuel Zelaya was unseated in a military coup, and the police and army took to the streets to fill the power vacuum, exacerbating the country’s political and security problems. Government dysfunction and high unemployment rates created a context ripe for the escalation of street gangs. In addition, drug-trafficking has been increasingly routed inland as transportation becomes more difficult in the Caribbean and Honduras has

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<sup>1</sup> Daniel Thurer, “The ‘Failed State’ and international law,” International Committee of the Red Cross, December 31, 1999.

<sup>2</sup> “Guidance Note on Refugee Claims Relating to Victims of Organized Gangs,” The UN Refugee Agency, March 2010.

<sup>3</sup> Elana Zilberg, *Spaces of Detention: The Making of a Transnational Gang Crisis between Los Angeles and San Salvador* (Durham Duke University Press, 2011).

<sup>4</sup> Randal C. Archibold, “Hope Dwindles for Hondurans Living in Peril,” *New York Times*, August 2, 2014.

become a major player in moving cocaine up north to the United States.<sup>5</sup> Regional instability, high unemployment rates, poverty and internal political instability have converged to create what is today one of the most violent nations in the world.<sup>6</sup>

Given the weak judicial and political system in Honduras, street gangs and transnational criminal organizations act with general impunity and in many regions of the country are more powerful—and better armed—than the nation’s military and police. Barrio 18 and Mara Salvatrucha are two of the most powerful and formidable gangs in Honduras and are widely feared for their violent recruitment tactics and seemingly indiscriminate cruelty. No one is immune to the violence and children as young as 9 have been targeted for recruitment. A *New York Times* investigative report found that some of the children victimized by gang violence have been as young as two.<sup>7</sup> The cost of resisting is often torture or death and gangs have been known to distribute punishment to extended family and friends of those who they believed have wronged them or resisted enlistment.

A 2013 report by the US Department of State finds Honduran local and transnational criminal organizations act with impunity because the political and legal institutions of the state are rife with corruption and lack the resources to investigate and prosecute crime.<sup>8</sup> With no recourse to legal protections, citizens of Honduras are making the long and difficult journey to the United States to seek relief.

### **El Salvador**

El Salvador’s recent history is also scarred from over a decade of civil war in which over 75,000 people were killed. From 1980-1992 the country was consumed by violence and instability from which it has still not recovered. A confluence of factors have given rise to organized criminal organizations, including high unemployment, limited access to resources and education and proximity to drug trafficking routes.

Street gangs in El Salvador are fortified through their connections to drug, weapon and human traffickers, and other transnational criminal organizations. These organizations have in turn infiltrated the police and military.

Two of the most powerful gangs, Mara Salvatrucha and Barrio 18, reached a tenuous truce in 2012 which started to unravel during the early months of 2014, causing a new surge of recruitment and street violence. Distrust of the police and a corrupt and weak judicial system in El Salvador mean that victims of crimes, particularly stemming from the gang violence, usually have no recourse but to flee. An unprecedented spike in violent crime is just one of the variables forcing women and children to seek refuge in the United States.

### **Guatemala**

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<sup>5</sup> “Transnational Organized Crime in Central America and the Caribbean,” United Nations Office on Drug and Crimes, September 2012.

<sup>6</sup> “Global Study on Homicide, 2013,” United Nations Office on Drugs and Crimes, March 2014.

<sup>7</sup> Frances Robles, “Fleeing Gangs, Children Head to US Border,” *New York Times*, July 9, 2014

<sup>8</sup> “Honduras: 2013,” US Department of State, <http://www.state.gov/documents/organization/220663.pdf>.

Between 1960 and 1996 over 200,000 Guatemalans were “disappeared” or killed in the country’s civil war, and over a million people were displaced.<sup>9</sup> The decades of violence and instability laid the foundation for the political, economic, and educational failures seen today. Guatemala undoubtedly teeters on the brink of complete failure given widespread institutional weaknesses and the increasing power of street gangs, drug cartels, and transnational criminal organizations.<sup>10</sup> High levels of inequality and widespread poverty, limited educational opportunities, and sky-high homicide rates are not just legacies of the civil war; these conditions are perpetuated to this day by weak and corrupt leadership and the pervasive influence of organized crime.

Since their ascent to power in the 1990s, criminal organizations and gangs have expanded both their geographical reach and the membership size of their agencies. As the organizations continue to grow, the government has become less willing and able to control them. The principal gangs in Guatemala today also include the Barrio 18 and Mara Salvatrucha and their power and influence stretch beyond the sovereign boundaries of the country. It is specifically the gangs’ ability to exert transnational power that has caused this most recent swell in violence and corruption.

Drug cartels and other criminal organizations in Guatemala are also engaged increasingly in kidnappings in order to ransom their victims. Failure to pay such extortion often results in death sentences for family members. Individuals who have limited social capital in Guatemala are also at higher risk for extortion. Criminal organizations target such individuals to intimidate them, coerce them, and as means to maintain social control. Guatemala is on the brink of institutional collapse; the situation is so dire that some have taken to referring to the nation as *Guatemalastan*.<sup>11</sup>

It is not an exaggeration to say that Guatemala is experiencing a war that reaches every level of society. Today the surge of unaccompanied minors and women fleeing Guatemala seeking protection can be linked directly to the social and political crisis taking place in country today.

### Analysis

It is not just the violence within these countries that is causing a surge in immigration to the United States; it is that the very fact of fleeing and seeking asylum indelibly marks those who flee in the eyes of society in general and, more importantly in the eyes of the gang members, as gang resisters, precisely because they have resisted and fled.

Given their political power, the criminal organizations expect compliance in their demands for recruitment and payment of extortion taxes. Failure to accede to these demands quickly becomes known throughout the community and society in general through informal communication networks and the transnational criminal organization’s “outing” of non-compliant citizens, establishing a readily marked and identifiable class of persons. It is critical to the criminal organizations to be able to readily identify those who resist their demands, because their ability

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<sup>9</sup> “Memoria de Silencio,” United Nations Office of Protective Services, June 1999.

<sup>10</sup> Kevin Casas-Zamora, “Guatemalastan?: How to Prevent a Failed State in our Midst,” The Brookings Institute, May 22, 2009.

<sup>11</sup> Ibid

to maintain discipline, order and compliance with their demands is impaired if members of society can resist those demands without suffering adverse consequences. For the gangs to enforce order and discipline, those who resist them must be identified and reported by others, and they are.

Media accounts in both the U.S. and Central America make clear that the vast majority of the women and children who have recently fled their countries are doing so in order to free themselves from the ever-present danger associated with resisting gang demands. The refugees live in small villages or close-knit neighborhoods within larger cities, and have close ties with members of their extended families, both in their home communities and throughout their countries. As a result of these ties and the style of communication in these countries, it is readily known when a person has fled to the U.S., and just as readily known when she returns following deportation. These people are broadly recognized as anti-gang, and once they have made the decision to flee, there is nothing they can do to obliterate this distinction.

In other words, the act of fleeing the country has become its own form of dissent. Central American societies have now come to view individuals who flee their home countries as active “dissenters” against criminal recruitment, and these individuals are recognized in society as unwilling to participate in or comply with the demands of the criminal organizations.

The mass exodus of individuals from Central America within the past year, particularly children, adolescents, and parents of young children, has become a highly publicized and politicized event within those countries and in the United States. The fact that these individuals have chosen to leave during this temporal window identifies them to other members of society and aligns them together. The timing of their departures from their countries has marked them and bound them together because the act of leaving the country is now seen as an act of defiance and dissent against the powerful apparatus of the criminal organizations.

Central American societies view those individuals who have fled their countries during this ongoing Central American diaspora as individuals who resist and renounce gang and criminal organizations. If these individuals now return to their home countries, they will suffer violent reprisals by these gangs and criminal organizations because the fact and timing of their departure from their countries of origin marks them as resisters, dissenters and defectors.

The legitimate governments of Honduras, El Salvador and Guatemala, either at the weakest link at the state and local level, or at the strongest link at the federal level, have failed to provide adequate protection. The criminal organizations, gangs and cartels operate as pseudo-governments in large swaths of Central America and thus there is no institutional challenge to their exertion of power. No local government in these countries maintains a sufficiently robust or corruption-free police or military force that could pose any obstacle to the criminal organizations. Finally, at the federal level, the criminal organizations have sufficiently infiltrated the law enforcement agencies such that there would be no protection provided to an individual.

The violence in Central America has reached epidemic proportions, causing women and children to flee to the United States in search of protection and stability. Since 2007 the homicide rate through Central America has steadily increased, largely a result of organized crime and drug

trafficking.<sup>12</sup> A rash of unsolved murders has created dangerous conditions from which many women and children seek to escape. While each gang and transnational criminal organization has its own history, structure, and particular relationship to the state in which it operates, in my opinion, they all operate with robust impunity. The financial resources amassed through their illegal activities have been strategically invested in infiltrating political and policing institutions as well as military-grade weaponry. Drug cartels and the more dominant street gangs pose a formidable political and military threat to the federal governments of Honduras, El Salvador and Guatemala, and have largely prevented the federal governments from enforcing rule of law norms.

### **Conclusion**

The levels of gang-related violence in Honduras, El Salvador and Guatemala, and the inability of the governments in those countries to control large swaths of their territories, means that the governments cannot guarantee the safety of their citizens. People who flee this violence form a distinct group who are commonly known to other members of society due to the close personal and familial relationships and the style of communication common to these countries, and due to the fact that the gangs insist on the identification of those who oppose them as a critical means of maintaining their power and influence. The presence of violent drug cartels and gangs in these countries has created conditions of extreme danger for migrants who are returned. One could argue without exaggeration that deportation to such violent societies is equivalent to a death sentence.

Sincerely,



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Zilberg, Elana. *Spaces of Detention: The Making of a Transnational Gang Crisis Between Los Angeles and San Salvador*. Durham Duke University Press, 2011.

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<sup>12</sup> "Transnational Organized Crime in Central America and the Caribbean," United Nations Office on Drug and Crimes, September 2012.