



## **Seeking Asylum from Gang-Based Violence in Central America: A Resource Manual**

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## **MS-13 and Mara 18**

Mara Salvatrucha 13 (MS-13) is considered to be the fastest growing, most violent, and least understood street-gang in the United States, if not the world.<sup>1</sup> It is the largest and most powerful gang in Central America, with its main rival being the 18<sup>th</sup> Street Gang (also known as Mara 18).<sup>2</sup> The literal meaning of Mara Salvatrucha 13 is uncertain, with different sources providing different definitions. “Mara” is alternatively thought to be slang for “gang” or is thought to be a reference to a street in San Salvador. “Salvatrucha” has been said to have roots in a slang term for street-wise Salvadoran guerillas who fought in El Salvador’s civil war, or the term for type of army ant. The “13” is usually thought to be a reference to 13<sup>th</sup> Street in Los Angeles.

MS-13 comes from fairly practical origins. Many Salvadorans immigrated to Los Angeles due to the Salvadoran civil war in the 1980s. They arrived to find established Mexican gangs, and MS-13 was formed in part to provide protection to the newly arrived Salvadorans against these existing gangs. In the 1990s, the United States government began a huge crackdown on Los Angeles gang activity and many MS-13 members were deported back to El Salvador and other Central American countries. These MS-13 members took advantage of the policy and used their deportation to recruit members in Central America. The MS-13 membership expanded to more than 50,000 members in several countries, including El Salvador, the United States, Honduras, and Guatemala. In Central America, MS-13 has begun to resemble organized crime rather than a group of street thugs. When a person runs afoul of MS-13, systematic assassinations of their family members are quite common. Another common practice

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<sup>1</sup> See, e.g., ARIAN CAMPO-FLORES, THE MOST DANGEROUS GANG IN AMERICA, NEWSWEEK (March 28, 2007), available at <http://www.msnbc.msn.com/id/7244879/site/newsweek/>.

<sup>2</sup> Most resources either do not distinguish between the two gangs or only discuss MS-13. Therefore, this section will primarily discuss MS-13.

is that MS-13 will charge “rent” or “tax” to residents of certain neighborhoods. The “rent” is simply extortion – paying for supposed protection against violence from rival gangs.

Harassment and physical assault of youths who choose not to join MS-13 is also quite common, as is forcibly tattooing youths with gang symbols.

El Salvador responded to the increasing gang violence by enacting the Anti-Mara Act, also known as the “*Mano Dura*,” (iron fist) policy. Originally enacted in October 2003 for a period of six months, this law has been continually renewed and expanded despite the law being found unconstitutional by the Supreme Court of El Salvador. The Mano Dura policy is considered unconstitutional because it enables the Salvadoran government to imprison youths based only on their socioeconomic status or the presence of tattoos on their bodies. The imprisonment is not related in any way to an actual crime.

MS-13 was not originally considered to be extremely dangerous in the United States, as its cells operated almost independently with little or no central control. This, however, appears to have changed. After consolidating power in Central America, MS-13 members have re-entered the United States and spread their reach far beyond the streets of Los Angeles. Reports indicate that active cells of MS-13 exist in the Metro Washington, DC area, Long Island and New Jersey. In total, MS-13 is said to be active in 33 states. There are estimated to be between 7,000 and 10,000 MS-13 members in the United States.<sup>3</sup>

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<sup>3</sup> This section was compiled using the sources listed in Appendix A: Helpful Resources.

## **Asylum Law**

There are three types of claims for protection available to immigrants who fear returning to their home country. Asylum provides the most protection and stability for the applicant and potentially for the applicant's family members, and it is therefore the most desirable form of relief to obtain. Withholding of Removal provides slightly less protection and few benefits. Protection under the Convention Against Torture is the lowest form of relief from removal and provides virtually no benefits to the applicant.

### **Asylum**

Asylum applications can be made at two points in the immigration process: as an affirmative application or as a defense to removal. An affirmative asylum claim is made by someone who is already within the United States and seeks to remain in the United States on the basis of asylum. A defensive asylum claim is made by an alien who is already in removal proceedings as a defense to removal from the United States. The difference between affirmative and defensive asylum exists only in the procedure and not the substantive law. An affirmative asylum seeker applies through the Department of Homeland Security, Citizenship and Immigration Services (CIS), has an interview with an asylum officer and is either granted asylum or referred to an immigration judge for an additional hearing. Defensive asylum applications are filed with the immigration judge and there is no interview with CIS, but only a determination by a judge. An asylum seeker who requests asylum immediately upon entry to the United States is seen by an Asylum Officer who determines if the case will continue to an immigration judge and is detained throughout the process.

The legal standard is the same for both affirmative and defensive asylum seekers. The requirements can be found in INA § 208<sup>4</sup> and 8 CFR §208. An asylum seeker must meet the definition of a refugee that is found at INA § 101(a)(42)<sup>5</sup>. Under this statute, a person seeking asylum must be “unable or unwilling to return to . . . [his or her] country [of origin] because of persecution or a well- founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” Asylum seekers must show that their persecution is based on one or more of these five protected grounds. Additionally, asylum seekers must demonstrate a well-founded fear of persecution, which can be as little as a 10% chance that persecution will indeed occur. *See I.N.S. v. Cardoza-Fonseca*, 480 U.S. 421, 440 (1987).

There are various bars to asylum.

- 1) Persecution of others bar: An individual who has participated the persecution of others on account of one of the five protected categories is ineligible.
- 2) One-year bar: The application for asylum must be filed within one year of arrival in the United States. However, this one year bar can be waived for exceptional circumstances such as the applicant being a minor or mental illness.
- 3) Firm resettlement bar: An asylum applicant will be denied if he or she firmly resettled in another safe country before arriving in the United States.

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<sup>4</sup> 8 U.S.C. §1158. The immigration courts tend to refer to statute by the section of the Immigration and Naturalization Act, but the actual code is in the United States Code.

<sup>5</sup> 8 U.S.C. § 1101(a)(42).

Whether an applicant is credible is weighed as a significant factor when determining whether or not asylum will be granted. *See INA* § 208(b)(1)(B)(2).<sup>6</sup> It is of the utmost importance that your client be completely sure of her story and remains consistent both within her testimony and between her testimony and her asylum application. Inconsistencies can cause the judge or asylum officer to find your client not credible and to deny a grant of asylum.

Immigrants gain many benefits after being granted asylum. One of the more important benefits is that the asylee is able to confer derivative asylum status to his or her spouse and all children who are unmarried and under the age of 21. Additionally, asylees have the opportunity to adjust to legal permanent resident status one year after the grant of asylum. Other benefits include Medicaid eligibility, a work permit, eligibility for Social Security benefits, and eventually the ability to naturalize.

### **Withholding of Removal**

Withholding of Removal has requirements similar to asylum but does not have as many bars to relief. This relief is commonly sought when the client has missed the one-year deadline or is subject to one of the other bars to asylum. *INA* § 241(b)(3)(B)<sup>7</sup> lists the bars to withholding of removal, including when the alien is: (1) a persecutor of others; (2) convicted of a particularly serious crime in the United States; (3) the subject of evidence of a serious crime having been committed outside the United States; (4) found to be a danger to the security of the United States; (3) determined to be safe by moving to another area in the affected country. A

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<sup>6</sup> 8 U.S.C. § 1158(b)(1)(B)(2).

<sup>7</sup> 8 U.S.C. § 1231(b)(3)(B).

particularly serious crime is considered to be an aggravated felony or felonies with an aggregate sentence of five years or more.

While the same five protected groups (race, religion, nationality, political opinion and social group) apply to Withholding of Removal, the standard is higher. Specifically, it must be “more likely than not” that the petitioner will be persecuted. *INS v. Cardozo-Fonseca*, 480 U.S. 421, 423 (1987). In other words, the chances of the alien being persecuted if returned to his or her home country must be fifty percent or higher. Unlike asylum, which is discretionary, withholding of removal is mandatory.

Withholding of Removal has significantly fewer benefits than asylum. There is no potential derivative relief for family members. There is no opportunity to adjust to legal permanent resident (LPR) status. The main benefit is that applicants granted Withholding of Removal cannot be returned to the country of persecution and are eligible for a work permit in the United States.

### **The Convention Against Torture**

The United States is a party to The United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (also called “The Convention Against Torture” or “CAT”). The regulations directing the application of CAT in the United States can be found at 8 C.F.R. § 208.16 – 208.18. To receive CAT relief the applicant must “establish that it is more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 208.16(c)(2). Evidence of past torture, evidence of the ability to relocate to another part of the country of removal, and evidence of gross human rights violations in the

country of removal may all be considered during a CAT application. The possibility of removal to a third country where torture would not occur may also be considered.

The definition of torture used for a CAT determination is quite broad. First, torture can either be physical or mental. 8 C.F.R. § 208.17(a)(4) states that in order for mental pain or suffering to constitute torture, it must result from one of four categories of actions such as “intentional infliction of severe physical pain” or “the threat of imminent death.” However, in order to gain CAT relief, the torturer must fit into a fairly narrow definition. The torture must have been “inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” 8 C.F.R. § 208.17(a)(1).

There are two types of CAT relief: withholding of removal and deferral of removal. Both carry very limited benefits. Withholding of removal under CAT guarantees that the person will be freed from detention (if detained) and given a work permit. Deferral of removal under CAT does not guarantee freedom from detention; continued detention is at ICE’s discretion and the applicant may be freed and given a work permit. Deferral of removal is desirable only for people who are ineligible for withholding of removal under CAT, such as people have committed particularly serious crimes or who were past persecutors.

## **Patterns in Gang-Based Asylum Claims**

To put it simply, it is extremely difficult to succeed in an asylum claim that is based on Central American gang violence. However, there seem to be some factors that affect the success of claims. The most successful applicants are generally individuals with no criminal history and no gang affiliation who were threatened by the gangs for a particular reason. The existence of a criminal history and/or former gang affiliation make a successful claim less likely.

A major hurdle to gang-based asylum claims is successfully fitting the claim into one of the five protected grounds. The political opinion of choosing not to become a member of a gang is sometimes successful. If your client has been persecuted because he is a member of a specific social group (e.g. a family), he is more likely to be successful than if he is a member of a more generalized social group (e.g. youths who refuse to join gangs). It may be necessary to plead in the alternative with as many bases as possible.

Another hurdle to a successful claim for relief is the Mano Dura program in El Salvador and similar programs in other Central American countries. This has been interpreted to show the Central American governments do not acquiesce to gang violence, but instead are making efforts to provide protection. This is especially relevant for CAT claims where the feared persecution must be perpetuated at the hands of the government or with the acquiescence of the government. In order to circumvent this particular hurdle, it is necessary to be sure that the country conditions information you seek to rely upon is up-to-date and shows uncontrolled violence despite these attempted government crackdowns. Always be sure to clearly connect the country conditions to your client's particular situation.

In the section that follows, there are examples of judges' opinions in gang-based asylum claims, both successful and unsuccessful. These cases are all on file with CAIR Coalition.

## Important Gang-Based Asylum Cases

<b>Court</b>	<b>Case</b>	<b>Relief</b>	<b>Holding</b>
<b><u>U.S. Supreme Court</u></b>	<i>INS v. Elias-Zacarias</i> , 502 U.S. 478 (1992)	<u>Applied for:</u> Asylum  <u>Granted:</u> None	Reversing court of appeals' determination that respondent was entitled to asylum and finding that a guerilla organization's attempt to coerce respondent into performing military service did not necessarily constitute persecution on account of respondent's political opinion as required by the Immigration and Naturalization Act. <b>Explanation:</b> The decision in this case and subsequent cases are an obstacle to using forced conscription into a gang as a means for asylum.
<b><u>First Circuit</u></b>	<i>Cerrato v. Gonzales</i> , 167 Fed. Appx. 818 (1st Cir. 2006) (Unpublished opinion).	<u>Applied for:</u> Asylum, Withholding of Removal, and CAT.  <u>Granted:</u> None.	Threats directed against family members, as opposed to threats directed against the applicant, do not amount to persecution. Furthermore, family members have remained in Guatemala unharmed for the ten years that she lived in the U.S. Furthermore, Cerrato's son's argument that he was harassed based on his membership in a particular social group of children who are sent money by a parent who is working in the US was not persecution and the 1st Circuit had no jurisdiction to consider this claim as it was not presented to the BIA.

<b><u>Second Circuit</u></b>	<i>Dennis v. Attorney General</i> , 182 Fed. Appx. 27 (2d Cir. 2006) (Unpublished opinion).	<u>Applied for:</u> Asylum, Withholding of Removal and CAT  <u>Granted:</u> None	Dennis tried to define her social group as someone who is not a member of a gang, someone who is recognizable as not being a member of a gang, and someone who is suspected of being a police informant. Dennis testified that individuals could not go to the police with problems of gang violence because the police cannot be trusted. Thus, her assertion that gangs would think she would inform police about the gang's plan is not credible. "The IJ's determination, as affirmed by the BIA, that Dennis did not prove that she would be targeted because she was a non-gang member who was suspected of being an informant was reasonable, and it does not compel us to find otherwise."
<b><u>Third Circuit</u></b>	<i>Burke v. Attorney General</i> , 2007 U.S. App. LEXIS 5106 (3d Cir. 2007) (Unpublished opinion).	<u>Applied for:</u> Asylum, Withholding of Removal and CAT  <u>Granted:</u> Remanded to BIA to consider under the proper standard	Burke was a government informant against a gang in Jamaica and feared return because he thought the gang members would seek retribution against him. The IJ denied asylum, withholding because of Burke's criminal record. He denied CAT because Burke could not show that the Jamaican government would either participate or acquiesce to his torture. "The IJ noted that 20 years had passed since Burke had been an informant, and hoped that he could keep a low profile in Jamaica." The court found the IJ incorrectly applied the wrong standard for "acquiescence" and thus remanded to the BIA.
<b><u>Third Circuit</u></b>	<i>Hernandez-Donis v. Attorney General</i> , 2007 U.S. App. LEXIS 5648 (3d Cir. 2007) (Unpublished opinion).	<u>Applied for:</u> Asylum, Withholding of Removal and CAT  <u>Granted:</u> None	Hernandez-Donis was recruited by a gang in Guatemala but refused to join their ranks and was physically assaulted by the gang members as a result of his refusal. The IJ found that Hernandez-Donis failed to show that the gang persecuted him based on his political opinion and furthermore, random street violence does not rise to the level of persecution necessary to establish eligibility for asylum.

<b><u>Third Circuit</u></b>	<i>Rodgers v. Attorney General</i> , 165 Fed. Appx. 187 (3d Cir. 2006)	<u>Applied for:</u> Asylum, Withholding of Removal and CAT  <u>Granted:</u> None	Because the violence here was by fellow citizens rather than government action or acquiescence, asylum was denied. The only way to obtain asylum based on the action of a private citizen is to demonstrate government acquiescence. The police here did not act indifferently in response to Rodgers' report of a beating, but rather failed to respond for lack of evidence. The IJ found that articles in the record demonstrated that the Guyanese government was working to try to control gangs. "Because we conclude that substantial evidence supports the IJ's holding that Rodgers failed to show the police were unable or unwilling to protect him, Rodgers's argument that, as a witness to the shooting incident, he was a member of a particular social group is immaterial.
<b><u>Third Circuit</u></b>	<i>Escobar v. Gonzales</i> , 417 F.3d 363 (3d 2005).	<u>Applied for:</u> Asylum and Withholding of Removal  <u>Granted:</u> None	The BIA held that "Honduran street children" are not a particular social group. Poverty, homelessness and youth are too vague and all encompassing to qualify as a social group within the INA. "The lack of an outer limit counsels against a designation that would appear to be contrary to congressional intent."

<b><u>Third Circuit</u></b>	<i>Parker v. Ashcroft</i> , 112 Fed. Appx. 860 (3d Cir. 2004) (Unpublished opinion).	<u>Applied for:</u> Asylum, Withholding of Removal  <u>Granted:</u> None	The BIA reversed the IJ's finding that Parker was a member of a distinct social group (gay men) and that he was reasonably afraid of future threats and assaults in Jamaica because police cannot control gangs. The BIA's reversal was based on the fact that, while there is a clear animus toward gays in Jamaica, the petitioner failed to establish that the government was unable or unwilling to respond. The 3d Circuit affirmed, deferring to the BIA's conclusion that authorities were not unwilling or unable to respond to violence against gays.
<b><u>Third Circuit</u></b>	<i>Joseph v. Ashcroft</i> , 105 Fed. Appx. 398 (3d Cir. 2004) (Unpublished opinion).	<u>Applied for:</u> Asylum, Withholding of Removal, and CAT  <u>Granted:</u> None	Joseph, a former Haitian police officer, investigated gang activity after the police chief warned him not to look into it, and Joseph found what appeared to be a conspiracy between the gang members and members of the police force. The IJ concluded that Joseph did not qualify as a refugee under the INA, as his fears arose from dangers encountered during routine police service, and not a "result of his affiliations or immutable characteristics." (Petition for review of BIA's decision not to reopen the case denied based on tolling of statute of limitations.)
<b><u>Fourth Circuit</u></b>	<i>Lopez-Soto v. Ashcroft</i> , 383 F.3d 228 (4 <sup>th</sup> Cir. 2004)	<u>Applied for:</u> Asylum, Withholding of Removal, Convention Against Torture  <u>Granted:</u> None by a judge	Holding that "family" may constitute a particular social group, but that substantial evidence supported the conclusion that petitioner was not persecuted by gangs "on account of" his family membership but due to his gender and age. Therefore asylum and convention against torture relief were both denied. <b>Post-Script:</b> Ultimately the government agreed to withholding of removal and Lopez-Soto stayed in the United States.

<b><u>Fifth Circuit</u></b>	<i>Serat-Ajanel v. Gonzalez</i> 207 Fed. Appx. 468 (5 <sup>th</sup> Cir. 2006)	<u>Applied for:</u> Asylum and withholding of removal  <u>Granted:</u> None	Holding that vague threats during gang recruitment do not establish persecution or a well-founded fear of future persecution on account of one of the five statutorily protected grounds for asylum. Also holding that gender, nationality and youth are too general to be considered a particular social group.
<b><u>Fifth Circuit</u></b>	<i>Perez-Molina v. Gonzales</i> , 193 Fed. Appx. 313 (5th Cir. 2006)	<u>Applied for:</u> Asylum, Withholding of Removal  <u>Granted:</u> None	Holding that the “characteristics of youth, nationality, and gender” are overbroad and therefore petitioner was ineligible for asylum and withholding.
<b><u>Fifth Circuit</u></b>	<i>Suazo-Umanzor v. Gonzales</i> , 127 Fed. Appx. 131 (5th Cir. 2005)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> None	Dismissing appeal for failure to state a claim. Appellant’s brief can be found at 2004 WL 3588734.
<b><u>Sixth Circuit</u></b>	<i>Castellano-Chacon v. INS</i> , 341 F.3d 533 (6th Cir. 2003)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> None	Holding that "tattooed youth" was not a "social group" because they do not share a “common, immutable characteristic.” Therefore, persecution by gangs because of tattoos is not sufficient for purposes of meeting the statutory grounds for asylum or withholding of removal. Convention Against Torture claim denied due to lack of evidence about the likelihood of future torture.

<b><u>Seventh Circuit</u></b>	Lopez-Monterroso v. Gonzalez, 2007 U.S. App. LEXIS 9866	<u>Applied for:</u> Asylum  <u>Granted:</u> None	Holding that beatings and attacks at the hands of gang members does not constitute persecution because the victim failed to report the crimes to police and therefore there was no evidence the police were unable or unwilling to protect the victim because there was no proof the police were aware of the victim's plight.
<b><u>Eighth Circuit</u></b>	<i>Menjivar v. Gonzales</i> , 416 F.3d 918 (8th Cir. 2005)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> None	Holding that gang members' retaliatory persecution of a gang victim should not be considered "persecution" attributable to the government because police conducted a thorough investigation of the gang member's criminal acts. The fact that a criminal investigation may have precipitated an attack on petitioner's family was deemed irrelevant.
<b><u>Ninth Circuit</u></b>	Borges-De Olivera v. Gonzalez, 195 Fed. Appx. 600 (9 <sup>th</sup> Cir. 2006)	<u>Applied For:</u> Asylum  <u>Granted:</u> None	Holding that receiving anonymous threatening phone calls does not constitute persecution under one of the statutorily protected grounds for asylum.
<b><u>Ninth Circuit</u></b>	Santos-Quinteros v. Gonzalez, 205 Fed. Appx. 525 (9 <sup>th</sup> Cir. 2006)	<u>Applied For:</u> Asylum, Withholding of Removal  <u>Granted:</u> None	Holding that persecution due to witnessing a gang-related murder does not constitute persecution under one of the protected grounds where others who also witnessed the murder continue to reside in the same area without incident or retaliation.

<b><u>Ninth Circuit</u></b>	Argueta v. Gonzalez, 202 Fed. Appx. 222 (9 <sup>th</sup> Cir. 2006) <i>See also</i> Ayala-Euceda v. Gonzalez, 2007 U.S. App. LEXIS 9814 (9 <sup>th</sup> Cir. 2007) (Holding that young men that are persecuted because they resist gang recruitment is not a social group); Castro-Ramirez v. Gonzalez, 165 Fed. Appx. 517 (9 <sup>th</sup> Cir. 2006)	<u>Applied For:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> None	Holding that petitioner did not qualify for asylum because persecution based on refusal to join a criminal gang does not constitute persecution based on a statutorily protected ground.
<b><u>Ninth Circuit</u></b>	Guevara-Mancia v. Gonzalez, 151 Fed. Appx. 545 (9 <sup>th</sup> 2005)	<u>Applied For:</u> Asylum, Withholding of Removal  <u>Granted:</u> None	Holding that receiving threatening phone calls and having a relative kidnapped because of apparent wealth does not constitute persecution under one of the protected grounds.
<b><u>Ninth Circuit</u></b>	<i>Murcia-Pleitez v. Gonzales</i> , 164 Fed.Appx. 587 (9 <sup>th</sup> Cir. 2005)	<u>Applied for:</u> Asylum  <u>Granted:</u> None	Holding that since there had been no showing of “collusion between group that persecuted alien and law enforcement structure, public security infrastructure was not unwilling to protect people like alien, and there was no showing that group was too strong for police to control,” the Honduran government is not unable or unwilling to control the maras.

<b><u>Ninth Circuit</u></b>	<i>Maradiaga-Mayorquin v. Gonzales</i> , 147 Fed.Appx. 709 (9th Cir. 2005)	<u>Applied for:</u> Asylum, Withholding of Removal  <u>Granted:</u> None	Holding that there was no nexus between the petitioner being robbed and her religious beliefs. Also holding that there was no support for the assertion that the maras are involved in the suppression of religion.
<b><u>Ninth Circuit</u></b>	<i>Aquino v. Ashcroft</i> , 89 Fed. Appx. 71 (9 <sup>th</sup> Cir. 2004)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> None	Holding that alien failed to establish past persecution or a well-founded fear of future persecution on account of one of the five statutorily protected grounds to support her asylum claim. She had at most been the victim of criminal gang activity in Guatemala.
<b><u>Ninth Circuit</u></b>	<i>Borges-De Olivera v. Gonzalez</i> , 195 Fed. Appx. 600 (9 <sup>th</sup> Cir. 2006)	<u>Applied For:</u> Asylum  <u>Granted:</u> None	Holding that receiving anonymous threatening phone calls does not constitute persecution under one of the statutorily protected grounds for asylum.
<b><u>Eleventh Circuit</u></b>	<i>Romero-Rodriguez v. United States AG</i> , 131 Fed. Appx. 203 (11 <sup>th</sup> Cir. 2005)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> None	Holding that attempted recruitment by gang members did not constitute persecution on account of any of the five statutory grounds and that economic motivation was petitioner's primary reason for coming to the United States.

<b><u>Board of Immigration Appeals</u></b>	<i>In re -- --</i> , Board of Immigration Appeals (Undated 2006 opinion)(unpublished opinion)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> None	Citing <i>Castro-Perez v. Gonzales</i> , the BIA held that the petitioner's prior rapes by a gang member did not merit asylum because the Honduran government is not unable or unwilling to control the gangs.
<b><u>Board of Immigration Appeals</u></b>	<i>In re R- M-</i> , Board of Immigration Appeals (January 10, 2006)(unpublished opinion)	<u>Applied for:</u> CAT  <u>Granted:</u> None	Gang tattoos may either be covered by clothing or by additional tattooing. Therefore, gang tattoos are insufficient evidence that the Honduran government will more likely than not imprison and torture the person upon deportation to Honduras.
<b><u>Board of Immigration Appeals</u></b>	<i>In re ---</i> , Board of Immigration Appeals (June 28, 2005)(unpublished opinion)	<u>Applied for:</u> CAT  <u>Granted:</u> None	Holding that the Honduran government's special police force has improved conditions and therefore it is not more likely than not that a person who has been previously tortured by gang members will be tortured in the future. Applying the test from <i>Zheng v. Ashcroft</i> 332 F.3d 1186 (9 <sup>th</sup> Cir. 2003) that in order to acquiesce in acts of torture by a private party, the government must both have knowledge of the torture and must breach a legal duty to intervene to prevent said torture.
<b><u>Immigration Court San Antonio, TX</u></b>	<i>In re D-V-</i> , United States Immigration Ct., San Antonio, TX (September 9, 2004)(unpublished opinion)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT, Voluntary Departure  <u>Granted:</u> Asylum	Holding that expressing anti-gang sentiment was political opinion and thereby protected on statutory grounds. Also holding that petitioner was a member of a distinct social group – people who have refused to join gangs. Further, the court recognized that reporting gang activity to authorities would be fruitless, if not dangerous.

<b>Immigration Court</b> <u><b>Los Angeles, CA</b></u>	<i>In re Calderon-Medina</i> , United States Immigration Ct., Los Angeles, CA (May 1, 2002) (unpublished opinion)	<u>Applied for:</u> Asylum  <u>Granted:</u> Asylum	Holding that because respondent was attacked by gang members, was adverse to gangs and their practices, and vocalized his opposition to the gang members, respondent was persecuted because of his political opinion and qualified for asylum.
<b>Immigration Court</b> <u><b>Harlingen, TX</b></u>	<i>In re Enamorado</i> , United States Immigration Ct., Harlingen, TX (November 22, 1999) (unpublished opinion)	<u>Applied for:</u> Asylum  <u>Granted:</u> Asylum	Holding that former membership in a gang could constitute a social group to meet the statutory grounds for asylum, due to the fact that respondent would most likely be persecuted by gang members, the government, and nongovernmental entities. This case was not barred by persecution against others because respondent never actually participated in gang activities and was tattooed against his will.
<b>Immigration Court</b> <u><b>El Paso, TX</b></u>	<i>In re Orozco-Polanco</i> , United States Immigration Ct., El Paso, TX (December 18, 1997) (unpublished opinion)	<u>Applied for:</u> Asylum, Withholding of Removal  <u>Granted:</u> Asylum	Holding that being a young, poor, Guatemalan male constituted a social group for purposes of meeting the statute. Additionally, the respondent expressed anti-gang sentiments, constituting political opinion, and both these grounds entitled respondent to asylum.
<b>Immigration Court</b> <u><b>Eloy, AZ</b></u>	<i>In the Matter of --</i> , United States Immigration Ct., Eloy, AZ (February 17, 2005)(unpublished opinion)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT, Voluntary Departure  <u>Granted:</u> Withholding of Removal	Holding that a person who has attempted to leave a gang and remove his tattoos is a refugee but because he had committed various crimes, asylum and voluntary departure are denied in the judge's discretion. Convention Against Torture denied, but Withholding of Removal granted because torture is more likely than not and there is no discretion for withholding from removal.

<b>Immigration Court</b> <u><b>Baltimore, MD</b></u>	<i>In the Matter of Sandra,</i> United States Immigration Court, Baltimore, MD (November 8, 2006) (unpublished opinion, BIA appeal pending)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> Asylum	Holding that a respondent was a member of the social group consisting of Guatemalan women who refuse predation by gang members, finding that both being a woman and refusing sexual and violent advances by gang members are immutable characteristics. Respondent presented testimony from PhD's who found that she suffered from Post Traumatic Stress Disorder as a result of ongoing harassment from gang members.
<b>Immigration Court</b> <u><b>Arlington, VA</b></u>	<i>In the Matter of C-V,</i> United States Immigration Court, Arlington, VA (July 17, 2007) (Unpublished opinion, BIA appeal pending)	<u>Applied for:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> Asylum	Holding that family members of those that actively oppose gangs and that serve as prosecutorial witnesses against gangs constitutes a recognized group for asylum purposes and that persecution based on membership in this group entitles respondent to a grant of asylum.
<b>Immigration Court</b> <u><b>Chicago, IL</b></u>	<i>In re ---,</i> United States Immigration Court, Chicago, IL (February 5, 2007) (Unpublished opinion)	<u>Applied for:</u> Asylum, CAT  <u>Granted:</u> Asylum	Holding that youths that resist gang recruitment constitutes a recognized, visible social group and that asylum is appropriate because the respondent had a credible fear of future persecution because she had been threatened with rape for refusing to join a gang.
<b>Immigration Court</b> <u><b>Arlington, VA</b></u>	<i>In re ---,</i> United States Immigration Court, Arlington, VA (May 3, 2007) (Unpublished Decision)	<u>Applied For:</u> Asylum, Withholding of Removal, CAT  <u>Granted:</u> Asylum	Holding that petitioners were members of a particular social group composed of students that expressly oppose gangs and family members of students who expressly oppose gangs and that the respondents had a well-founded fear of future persecution on account of that expressed opposition to the gangs.

## Country Conditions

Country: **El Salvador**

Report Last Updated: July 2007

### EL SALVADOR COUNTRY INFORMATION

#### **Overview:**

Reports by the US Government and international NGOs present similar portraits of human rights in El Salvador.

- **General Background: CIA World Factbook**  
<https://www.cia.gov/library/publications/the-world-factbook/geos/es.html>
- **Department of State Country Reports on Human Rights Practices 2006**  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78891.htm>
- **Amnesty International Human Rights Report 2007**  
<http://thereport.amnesty.org/eng/Regions/Americas/El-Salvador>
- [http://www.amnestyusa.org/By\\_Country/El\\_Salvador/page.do?id=1011148&n1=3&n2=30&n3=898](http://www.amnestyusa.org/By_Country/El_Salvador/page.do?id=1011148&n1=3&n2=30&n3=898)
- **Human Rights Watch Overview**  
<http://www.hrw.org/doc?t=americas&c=elsalv>
- **USAID Central America and Mexico Gang Report**  
[http://www.usaid.gov/locations/latin\\_america\\_caribbean/democracy/gangs.html](http://www.usaid.gov/locations/latin_america_caribbean/democracy/gangs.html)

#### **Crime and Gang Activity:**

- Forced recruitment into Maras (Gangs)
- Violence against women, particularly domestic violence, is reported as serious and pervasive.
- Persecution of gay and lesbians; in October 2004 the Ministry of the Governance denied legal status to “En Nombre de la Rosa,” a homosexual and transvestite association. A number of gays, lesbians and transvestites have been killed in recent years
- Persecution of union members and labor activists; see assassination of trade unionist Gilberto Soto on November 5, 2004.
- Lengthy pretrial detentions, arbitrary arrest and detention of persons remains a prevalent problem; the Inspector General received 495 petitions citing arbitrary arrest and detention in 2004
- Impunity from both civil and criminal codes continued, most notably for those well connected politically, economically or institutionally. Corruption in the judicial system was widespread and contributed to such impunity.

#### **Issues to Note:**

**I.** As many as 30,000 Salvadoran youth are members of street gangs (maras). As of 2004, an estimated 2,756 homicides were recorded with roughly 60% of those attributed to gang violence. Increasingly, these street gangs are involved in drug trafficking, human trafficking and kidnapping.

**II.** Gangs exercise considerable influence and control in both prisons and within the judicial system. Prison conditions throughout the country are quite dangerous and overcrowding continues to pose a serious threat to safety. A number of riots have erupted between feuding gangs residing in the same prison facility leading to dozens of prisoner deaths. Gang members continue to conduct criminal activity from within their cells: among such activity drug trafficking appears widespread.

**III.** Violence against women remains widespread. In 2004, the Salvadoran Institute for the Development of Women (ISDEMU) had received 4,239 complaints of domestic violence. An NGO study conducted by well respected women’s NGOs Cemujer, IMU and AMS, found that 56.4% of the population thought it normal for a man to hit a woman.

**IV.** Although the constitution prohibits children under the age of 14 from working, child labor is a prevalent and serious problem in El Salvador. More than 220,000 children between the ages of 5 and 13 working—30,000 in hazardous conditions. Among these, thousands of young girls work as domestics and face serious threats of both physical and sexual abuse.

**V.** Gangs in El Salvador are becoming more organized and have expanded their goals from providing protection and “family” to their members to taking over drug trafficking corridors, overtaking small drug cartels, as well as eliminating “traitors” and executing members suspected of using crack cocaine. (USAID Report)

*Organizations:* Homies Unidos ([www.homiesunidos.org](http://www.homiesunidos.org)) has an office in El Salvador, Casa Alianza ([www.casa-alianza.org](http://www.casa-alianza.org))

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## **REFERENCE**

### **Major Ethnic Groups:**

- Mestizo 90%
- Caucasian 9%
- Indigenous 1%

Three different classes of indigenous peoples: Nahua-Pipiles (western and central areas of the country), Lencas (eastern region), Cacaoperas (also, eastern region).

### **Religion:**

- Roman Catholic 83%, other 17%
- evangelical and other protestant groups are on the rise*

### **Political Parties/Movements/Organizations:**

Farabundo Marti National Liberation Front (FMLN) [www.fmln.org.sv/](http://www.fmln.org.sv/)  
Nationalist Republican Alliance (ARENA) <http://www.arena.com.sv/>  
National Conciliation Party (PCN)  
Christian Democratic Party (PDC)  
United Democratic Center (CDU)

Head of state is President Elias Antonio SACA Gonzalez (ARENA Party)

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## **PERSECUTION**

### *Facts & Examples*

#### **Political Opinion**

- Alvaro Centano Calvio was killed during the legislative and municipal election campaign in January 2003. Carlos Alexander Sanchez Andino and Jose Geovani Galeano Portillo were each sentenced to 30 years in prison for Centano's murder.
- In the run-up to the March 2004 presidential elections—a hotly contested election in which left-wing FMLN candidate Handal appeared likely to win—numerous FMLN and other progressive groups/advocates were targeted by law enforcement. Election observers from the US, Canada and elsewhere were detained in Salvadoran airports, the offices of various progressive NGOs were subject to police raids and other forms of fear and intimidation were pervasive.

#### **Membership in a Social Group**

- On November 5, 2004, gunmen shot and killed trade unionist and activist Jose Gilberto Soto. Six persons, including his mother-in-law, were charged in the killing.
- In 2002, Nelson Alfonso Amaya Argueta, the president of the National Federation of Demobilized Members of the Civil War Era Militia, was killed. As of October 2004, no new developments in that case had been reported.
- Amnesty International issued concern over the safety of Wilfredo Valencia Palacios, Deputy Director of The Oscar Romero AIDS Project.
- Through late November 2002 the Atlacatl Foundation, an NGO, had received six complaints from persons who alleged that their employment had been terminated after it was learned that they were HIV positive. In addition, in 2002, the Foundation maintained that three institutions of higher education required students who wished to pursue health-related careers to have their blood tested.
- Many transvestites have been targeted and killed, in particularly violent ways, in recent years.
- Salvadoran youth, particularly those with visible tattoos, are frequently targeted by law enforcement (and others) as accused gang members. (See “super mano dura” or “super firm hand” law<sup>§§</sup>). Stipulations of this law, passed despite vehement protest by the UN and others, include the right to convict minors under 12.\*\*\* Youth are often arrested for activities that are unrelated to gangs and subsequently housed in prisons with violent gang offenders. In June 2004, the UN

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<sup>§§</sup> Following widespread criticism it appears that this law was not made permanent. Nonetheless, these general policies appear to continue to be carried out by law enforcement.

<sup>\*\*\*</sup> Additional provisions of concern include article 29 of the Anti-Maras Act (2003) introduces a sanction in the form of a fine for anyone “found wandering about without an identity document in (...) any settlement

committee on the rights of the child announced that such laws breached the UN Convention on the rights of the child. El Salvador vowed to amend the law but there has been little follow-up.

- In August 2003, three death threats were made against the Human Rights Procurator, Beatrice de Carrillo. The Director of the Institute of Human Rights of the Central-American University and others involved in the defense of human rights and opposition to the *Anti-Maras* law were harassed and threatened.

Country: **Guatemala**

Report Last Updated: July 2007

## **GUATEMALA COUNTRY INFORMATION**

### **Overview:**

Despite marked improvement since the end of a 36-year civil conflict in 1996, human rights abuses in Guatemala remain fairly common.

- **General Background: CIA World Factbook**  
<https://www.cia.gov/library/publications/the-world-factbook/geos/gt.html>
- **USAID Central America and Mexico Condition Reports**  
[http://www.usaid.gov/locations/latin\\_america\\_caribbean/democracy/guatemala\\_profile.pdf](http://www.usaid.gov/locations/latin_america_caribbean/democracy/guatemala_profile.pdf)  
[http://www.usaid.gov/locations/latin\\_america\\_caribbean/country/guatemala/index.html](http://www.usaid.gov/locations/latin_america_caribbean/country/guatemala/index.html)
- **Department of State Country Reports on Human Rights Practices 2006**  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78893.htm>
- **Amnesty International Human Rights Report 2007**  
<http://thereport.amnesty.org/eng/Regions/Americas/Guatemala>
- **Human Rights Watch World Report 2007**  
<http://hrw.org/englishwr2k7/docs/2007/01/11/guatem14861.htm>
- **Human Rights First**  
[http://www.humanrightsfirst.org/defenders/hrd\\_guatemala/hrd\\_guatemala.htm](http://www.humanrightsfirst.org/defenders/hrd_guatemala/hrd_guatemala.htm)
- **Guatemalan Human Rights Commission**  
<http://www.ghrc-usa.org>  
<http://www.ghrc-usa.org/Publications/HumanRightsReview2006.pdf>

### **Issues Commonly Cited:**

- Pervasive impunity in many criminal matters
- Existence of violent clandestine groups (with alleged ties to state agents and organized crime) that target human rights proponents and those seeking accountability for government action during the internal armed conflict
- Widespread violence against women, especially in rural areas
- Credible cases of security forces involved in unlawful killings, kidnappings and abuse of detainees
- Discrimination against and abuse of indigenous populations, particularly instances of violent police reaction to agrarian disputes
- Sex discrimination and sexual harassment against female domestic workers
- Rumors of “social cleansing” stemming from a string of violent and mysterious killings of gang members and criminals. The perpetrators of the killings are suspected to be police and other officials.

### **Issues to Note:**

#### **I. Political History.**

In 1996, a 36-year civil conflict between guerrillas and the Guatemalan government was concluded with the signing of peace agreements between the two sides. During the war, government forces massacred many civilians (over 100,000 are believed to have died during the conflict) and the country continues to struggle in the attempt to bring the perpetrators to justice.

Although the country has a rather weak judicial system and corruption in the government remains a major problem, democratic elections began in 1985 and have continued to date. In 2003 Óscar Berger of the Gran Alianza Nacional (GANAN) won internationally certified elections with promises of improving Guatemala's human rights record. The parliamentary makeup is very fragmented with ten parties holding seats, none with a majority. The military has been brought under civilian control and other improvements in official government policy have been made; however, advocates of human rights, labor organization and indigenous rights are frequently threatened and even attacked. The responsible groups are believed to be well organized with connections to important officials in the public and private sectors.

## **II. Ethnic make-up.**

The major ethnic division in Guatemala is between Mestizos, of mixed Amerindian and Spanish ethnicity, and indigenous Amerindians, many of whom are of Mayan descent. During the civil conflict, government "counterinsurgency" efforts resulted in many rural massacres of native Indians. Additionally, part of the Guatemalan counterinsurgency plan was the systematic rape of native Indians in order to "breed them out" and intimidate the female population.

## **III. Crime and Gang Activity.**

Organized crime and gang violence are also common within Guatemala and many criminal organizations in the United States maintain ties with groups in Guatemala. Some gang members are tied to the "clandestine groups" blamed for intimidation of human rights organizations while others engage in street crime. Critics of the government claim that law enforcement officials engage in "social cleansing," the extrajudicial execution of suspected gangsters and criminals. Similar claims were made a few years ago by MINUGUA, the UN Mission to Guatemala responsible for overseeing the implementation of human rights measures in the country.

*Organizations:* Homies Unidos ([www.homiesunidos.org](http://www.homiesunidos.org)), Casa Alianza ([www.casa-alianza.org](http://www.casa-alianza.org))

*Clandestine Groups.* Since 2002, there have been an alarming number of attacks and threats against Guatemalans seeking justice for past abuses. The targets of these attacks have included human rights organizations, justice officials, forensic experts, plaintiffs, and witnesses involved in human rights cases. There have also been attacks against those who have denounced abuses of authority, including journalists and labor activists. There is a widespread consensus among local and national observers that the people responsible for the threats and attacks are affiliated with clandestine groups-- private, secretive, illegally armed networks or organizations. These groups appear to have links to both state agents and organized crime, which give them access to considerable political and economic resources. The Guatemalan justice system, which is ill-prepared to contain common crime, has so far proven no match for this powerful and dangerous threat to the rule of law.<sup>10</sup>

*Anti-gang legislation.* The Guatemalan Congress is considering stringent anti-gang legislation that would try gang members ages 12 and older as adults, and establish lengthy sentences for gang leaders. The Ministry of Government is developing another package of legislation that

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<sup>10</sup> Human Rights Watch. Human Rights Overview: Guatemala. Available at <http://hrw.org/english/docs/2005/01/13/guatem9849.htm>

would strengthen the country's criminal code and improve its capacity to investigate and prosecute gang members. Many human rights organizations, wary of past human rights abuses by Guatemalan police and security forces, oppose any measures that would strengthen law enforcement's power to fight the gangs. Guatemala is also implementing some social rehabilitation and prevention programs, and has taken part in regional efforts to curb gang activity. On March 18, 2005, Guatemalan President Oscar Berger and President Tony Saca of El Salvador agreed to set up a joint security force to patrol gang activity along their common border.<sup>11</sup>

#### **IV. Discrimination.**

Gender discrimination and violence against women are other outstanding issues in the overall human rights picture. The UN special rapporteur on violence against women has been critical of government indifference to inequity and gender-based violence, which includes a high rate of domestic abuse and murder.

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#### **REFERENCE**

##### Major Ethnic Groups:

- Mestizo (Spanish: Ladino)
- Native Amerindian (more than 20 language groups including: [Quiché](#), [Cakchiquel](#), [Kekchi](#) and Xinca)

##### Religion:

- Roman Catholic
- Protestant
- Indigenous beliefs

##### Makeup of National Assembly:<sup>12</sup>

- GANA – 49 (President Berger's party)
- FRG – 41
- UNE – 33
- PAN – 17
- other – 18

##### Political Parties/Movements/Organizations:

- **GAN**A – Gran Alianza Nacional, a coalition of three parties
- **FR**G – Guatemalan Republican Front,
- **PA**N – National Advancement Party, [www.pan.org.gt/](http://www.pan.org.gt/)
- **UN**E – National Union for Hope
- **AN**N – New Nation Alliance

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<sup>11</sup> Congressional Research Service, "Gangs in Central America," May 10, 2005 available at <http://fpc.state.gov/documents/organization/47140.pdf>

<sup>12</sup> Of 158 seats, last parliamentary election held 2003

- **PU** – Unionists, <http://www.unionistas.org/>
- **PP** – Patriot Party
- **HIJOS** – Children for Identity and Justice against Oblivion and Silence, community organization subject to harassment/intimidation from clandestine groups
- **ICCPG** – Guatemalan Institute of Comparative Studies in Criminal Science, target of break-ins and intimidation by unknown entities, May 2005
- **CGTG** – General Confederation of Workers of Guatemala, subject of raids by unknown entities, May 2005.<sup>13</sup>

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## **PERSECUTION**

### *Facts & Examples*

#### **Political Opinion**

- Cases involving previous political killings generally remain unresolved in national courts
- Witnesses against some federal officials have been threatened, harassed and occasionally killed by unidentified individuals
- Human rights advocates have been detained, harassed and occasionally subjected to demonstrably false criminal charges; such incidents are sporadically investigated and police impunity remains a major concern
- Military or former military forces are reported to illegally monitor private communication of human rights advocates and politically involved groups
- Numerous social and economic advocacy groups have been subjected to nighttime raids and burglaries from unknown sources probably with ties to former military members
- Judges and legal officials have been threatened and even killed, likely in connection to the cases they were overseeing
- Assassination plans against a congresswoman instrumental in military corruption investigations and against the current secretary general of the Patriot Party (PP) were revealed by the Interior Minister
- In 2004, police detained and beat Mynor Alvarado de Leon, a human rights advocate for the Center for Legal Action on Human Rights (CALDH). De Leon was subsequently accused of murder and served jail time. The officers have not been investigated
- In October 2003, Miguel Salvador Aguilar, a member of the National Unity of Hope (UNE) political party, was shot and killed at a political meeting at UNE headquarters; the convictions of two suspects were overturned on appeal.
- In 2005, two demonstrators at an anti-CAFTA event were shot and killed by the Guatemalan army; other protestors were injured
- In October 2005, an armed gang robbed the offices of Central de Trabajadores del Campo de Guatemala (CTC trade union), in what appeared to be an attempt to intimidate the organization's General Secretary, Miguel Angel Lucas Gómez. Gómez took legal action against a local mayor to secure permission for street vendors to trade in public areas, and

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<sup>13</sup> Information from the Guatemala Human Rights Commission/USA at <http://www.ghrc-usa.org>

has had strong disagreements with business representatives over the setting of the national minimum wage.<sup>14</sup>

### **Race/Ethnicity**

- Organizations supporting indigenous and workers rights face intimidation and abuse similar to that facing other human rights groups
- Indigenous people arrested for crimes generally do not have equal access to the judicial system, due primarily to a shortage of translators and bilingual public defenders
- Indigenous communities are unduly affected by economic activity such as logging and mining, and excessive force by police is alleged in the suppression of demonstrations against corporate economic activity
- The government and private corporations are accused of expropriating land from indigenous inhabitants of rural areas for commercial use

### **Membership in a Social Group**

- Journalists and other members of the news-media community have routinely been threatened, particularly in connection to the coverage of human rights issues and government corruption
- Journalists at news channel 13 in the state of Chiquimula received constant threats against their continued reporting in the area, February 2005
- Labor organizers and agricultural workers are the targets of intimidation and attack by clandestine groups
- More than 700 young women and girls have been found murdered in Guatemala since 2001, many of them ritually mutilated and raped.
- A leader of the labor group Committee for Campesino Unity (CUC) received death threats from unknown sources, 2005
- The government has been accused of “social cleansing” operations that involve the extrajudicial executions of suspected gang members, many of whom are minors
- Erwin Américo Orantes Martínez, a street youth, was killed by an alleged member of the *Departamento de Investigaciones Criminalistas (DIC)* for engaging in pickpocketing, 1995
- A UN report cited instances of “social cleansing” activities in numerous locations including in the village of Juan Ponce in Gualán, where residents apparently raised money for the assassination of suspected gang leaders with the approval/involvement of authorities
- The government is charged with its indifference toward rampant domestic violence and cases of sexual abuse. In 2004 13.45% of violent crime victims were women, a rise from the preceding year
- The staff of a regional headquarters of the Defenders of Indigenous Women (DEMI) have been continuously threatened, 2005
- Transgendered AIDS activist Luis Palencia was killed by unknown individuals, 1997

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<sup>14</sup> From Amnesty International Urgent Action network.  
<http://web.amnesty.org/library/Index/ENGAMR340402005?open&of=ENG-GTM>

## **Religion**

- Adherents to Mayan and other indigenous beliefs are sometimes the targets of discrimination and aggression from conservative Protestant groups
- Several Mayan priests active in human rights advocacy have been killed

Country: **Honduras**  
Report Last Updated: June 2007

## HONDURAS COUNTRY INFORMATION

### Overview:

- **General Background: CIA World Factbook**  
<https://www.cia.gov/library/publications/the-world-factbook/geos/ho.html>
- **Department of State Country Reports on Human Rights Practices 2006**  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78896.htm>
- **Amnesty International Human Rights Report 2007**
- <http://thereport.amnesty.org/eng/Regions/Americas/Honduras> **Committee for the Defense of Human Rights in Honduras**  
<http://www.derechos.org/nizkor/honduras/informes.html>

### Issues Commonly Cited Are:

- Allegations of police involvement in extrajudicial killings and physical abuse of detainees
- Frequent killing of youths and suspected criminals by organized vigilante groups with ties to state security forces and with tacit approval of government officials
- Substantial impunity for police, security forces and other members of the government accused of involvement in human rights violations
- Harassment and intimidation of human rights activists, environmental proponents and individuals associated with LGBT rights
- Life-threatening prison conditions

### Issues to Note:

#### **I. Political History.**

Democratic institutions were restored in Honduras in 1981 after decades of military rule and civil strife. Members from both the main parties, the Nationals and the Liberals, have served presidential terms since free democratic elections resumed in the early 1980s. Other parties exist but play fairly marginal roles. Significant progress has been made by the government to address the widespread human rights violations that took place during the 1980s; however, a number of problems still exist. The judiciary remains weak and often corrupt, causing many violations to go uninvestigated and unpunished while political and economic powers greatly affect the distribution of justice.

#### **II. Ethnic make-up.**

The population of Honduras is overwhelmingly mestizo, a mixture of European and native Indian ancestry. There is a diverse indigenous population, however, which includes citizens of indigenous Indian and African ancestry. Discrimination against indigenous and non-mestizo groups is common. Among the salient issues in ethnic tension are claims of land expropriation by commercial interests and severe under-representation in federal government. Instances of excessive police force in land dispute cases are fairly common and several “killings for hire” have been alleged in similar land ownership cases. Indigenous groups compose roughly 9% of the national population but there are no indigenous representatives in the 128-seat legislature and

only three alternate congressmen. Ethnicity also appears to be a factor in access to the judicial system.

### **III. Crime and Gang Activity.**

Violent crime remains very common in Honduras and as a response, many communities and organizations have formed vigilante groups or hired unlicensed security companies that have been accused of killing suspected criminals, gang members and street children.

*Organizations:* Homies Unidos ([www.homiesunidos.org](http://www.homiesunidos.org)), Casa Alianza ([www.casa-alianza.org](http://www.casa-alianza.org))

*Anti-gang legislation.* In 2003, Honduras passed legislation establishing a maximum 12-year prison sentence for gang membership. In December 2004, the penalty was increased to up to 30 years in prison. While the initial crackdown reportedly reduced crime significantly, human rights groups opposed it, citing concerns about abuses of gang suspects by vigilante groups and police forces, and its effects on civil liberties.

On March 11, 2005, the Honduran government announced that it was investigating reports mentioned in the State Department's February 2005 Human Rights Report that "death squads" have been formed there to target youth gang members.<sup>15</sup> Disappearances of gang members and suspected criminals are not uncommon. Current legal codes do not list disappearance as a crime, and cases in which the body of the victim has not been recovered/identified are not accepted by the courts.

Honduras has also been involved in regional efforts to curb gang activity. In April 2005, the Central American heads of state met in Honduras to discuss coordinating security and information-sharing initiatives to fight the gangs. Recognizing that security and intelligence-sharing alone would not be sufficient to tackle the gang problem, some leaders said they would ask the World Bank for funding to support job training opportunities for former gang members.<sup>1</sup>

The effects of anti-gang legislation have been felt by the prison system. Prisoners suffer from severe overcrowding, lack of security personnel, inadequate sanitation, malnutrition and abuse from guards. Prison conditions across the country are extremely dangerous and often life threatening. Murder and rape have also reported. Dozens of children and young adults are believed to die annually in prison, frequently from gang-related incidents. Despite the existence of a national mental hospital, the mentally ill prisoners were usually held with the general prison population due to shortage of facilities, along with those prisoners suffering from contagious diseases like tuberculosis and pretrial detainees (who made up 88% of the prison population in 2002). Honduran government officials believe there are as many as 30,000 gang members in Honduras alone.

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<sup>15</sup> Congressional Research Service, "Gangs in Central America," May 10, 2005 available at <http://fpc.state.gov/documents/organization/47140.pdf>

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## **REFERENCE**

### **Major Ethnic Groups:**

- Mestizo (European and native Indian mix) ~90%
- Indigenous Indian and Afro-Caribbean (including the Miskitos, Tawahkas, Pech, Tolupans, Lencas, Chortis, Nahual, Islanders, and Garifunas)

### **Religion:**

- Roman Catholic 97%
- Protestant 3%

### **Makeup of National Assembly:**

- National Party – 61 seats
- Liberal Party – 55 seats
- Democratic Unification Party – 5 seats
- Christian Democratic Party – 4 seats
- National Innovation and Unity Party-Social Democratic Party – 3 seats

### **Political Parties/Movements/Organizations:**

PN – National Party of Honduras

PL – Liberal Party

PUD – Democratic Unification Party

PDC – Christian Democratic Party, <http://www.pdch.hn/>

PINU-SD – National Innovation and Unity Party-Social Democratic Party

CODEH – Committee for the Defense of Human Rights in Honduras

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## **PERSECUTION**

### *Facts & Examples*

### **Political Opinion**

- Congressional candidate Luis Armando Genawer Paguada was shot and killed by gang members in Tegucigalpa, 2004
- Nationalist Party congressional candidate Angel Pacheco Leon in Valle was killed by unknown attackers, 2001

### **Race/Ethnicity**

- Indigenous groups are often denied recourse by the courts or face discrimination in court proceedings
- In 2002 twelve members of the Tolupan group were killed in the province of Yoro in separate incidents relating to their opposition of logging activity on ancestral land
- Police have been accused of maltreatment and beatings of detained indigenous individuals
- Two indigenous brothers, Marcelino Miranda Mendoza and Leonardo Miranda Mendoza, were beaten in jail and denied adequate medical attention while they served time on murder charges; the Supreme Court overturned their sentence in 2003

- Roughly a dozen members of the Lenca and Garifuna ethnic groups were killed over land dispute incidents; private landowners and security officials have been accused

### **Membership in a Social Group**

- Retribution against labor union supporters is widely reported and unionists are sometimes harassed or fired for their participation in union activities
- Environmental activist Carlos Arturo "Oscar" Reyes was killed by unknown attackers, 2003
- Human rights activist Jose Santos Callejas, who worked for the national NGO Human Rights Committee (CODEH), was killed by suspected gang members, possibly with ties to national security forces, 2002
- Amnesty International estimated that roughly 200 homosexual and transsexual workers were killed from 1991 to 2003
- Individuals, particularly youths, are frequently targeted by vigilante groups on the grounds of suspected gang involvement or the presence of tattoos
- In 2002 five youths were killed by armed men driving a pickup truck in Tegucigalpa in an event that bore resemblance to a 1995 incident of torture and killing of street youths in the capital city
- During 2004, more than 350 violent deaths of young people and children were reported, though the real figure is likely much higher
- Journalists have been convicted of libel for their presentation of material alleging criminal activity of government officials. The press is also subject to other government pressure, corruption and harassment
- Journalist Edgardo Castro was shot and killed by unknown attackers in San Pedro Sula, 2004
- In 2004, a fire in an overcrowded prison in San Pedro Sula killed 104 inmates, predominately gang members still locked in their cells as the fire overwhelmed their housing unit, bringing charges of criminal negligence. (video footage of the fire may be available on Homies Unidos website at [www.homiesunidos.org](http://www.homiesunidos.org))

Country: **Mexico**

Report Last Updated: June 2006

## **MEXICO COUNTRY INFORMATION**

### **Overview:**

Reports by the US Government and international NGOs present similar portraits of human rights in Mexico.

- **General Background: CIA World Factbook**  
<https://www.cia.gov/library/publications/the-world-factbook/geos/mx.html>
- **Department of State Country Reports on Human Rights Practices 2006**  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78898.htm>
- **Amnesty International Human Rights Report 2007**  
<http://thereport.amnesty.org/eng/Regions/Americas/Mexico>
- **Human Rights Watch Overview**  
<http://hrw.org/reports/2006/mexico0506>

### **Background:**

A devaluation of the peso in late 1994 threw Mexico into economic turmoil, triggering the worst recession in over half a century. The nation continues to make an impressive recovery. Ongoing economic and social concerns include low real wages, underemployment for a large segment of the population, inequitable income distribution, and few advancement opportunities for the largely Amerindian population in the impoverished southern states. Elections held in July 2000 marked the first time since the 1910 Mexican Revolution that the opposition defeated the party in government, the Institutional Revolutionary Party (PRI). Vicente Fox of the National Action Party (PAN) was sworn in on 1 December 2000 as the first chief executive elected in free and fair elections. Presidential elections were held July 2, 2006 and were disputed.

### **Gangs and Criminal Activity:**

- As a result of government policies like “Mano Dura” (Heavy Hand) in Central American Countries, gang members have been making their way north. Mexico is now suffering the effects of this migration. The “Maras” (gangs) that originated in Central American communities in Los Angeles and spread to El Salvador and Honduras after these individuals were deported, have now spread to Mexico and are devastating the quality of life for its inhabitants.
- These groups provide protection to individuals smuggling immigrants into Mexico. Those who refuse to pay the fee required for this “protection” are routinely thrown from trains, tortured, and killed.
- Attempts to investigate police corruption are often met with more corruption and inefficiency. Moreover, there have been credible reports of police, immigration, and customs officials taking part in the trafficking of persons, the majority of whom are women and children sold into prostitution.
- Aside from the traditional causes relating to joining a gang, Mexico has two other factors that do not exist in other countries; 1) Opportunities on the southern border to make money through the trafficking of drugs, weapons, and humans; 2) the generational gangs found on the northern border.

**Issues to Note:**

**I.** Mexican Police lack the resources to patrol their southern border like the U.S. can. As a result of this lack of funds, coupled with a lack of experience dealing with gangs, the Mexican government is left with an inadequate mechanism for protecting its citizens.

**II.** The gangs that have occupied many of Mexico's border cities have organized to such a degree that they resemble Mafia's and Paramilitary groups in much of their behavior. Politically motivated violence is prevalent throughout the country, but is the most severe in the southern cities. (USAID Assessment). The northern border is also extremely dangerous, as it is littered with drug cartel activity. These cartels work in conjunction with gangs and corrupt law enforcement officers.

**III.** Gang members who have been unable to enter the United States through Mexico after being deported are now refusing to leave. These groups are making large sums of money as border patrol for competing drug cartels, a practice that often leads to violence when smugglers are unable or unwilling to pay the passage fees imposed by these armed individuals.

**IV.** Human rights concerns persist, particularly at the state level where violence surrounds local elections and misuse of the judicial system is common. Federal efforts to combat violence against women in the border town of Ciudad Juárez have continued with limited success. A number of human rights defenders have been threatened and at least three journalists have been killed despite proposed legislation to strengthen human rights protection in the Constitution.

**V.** Mexico's economy has been transformed since 1994 by a US-sponsored corporate agenda carried out through free trade agreements and structural adjustment policies. As a result, Mexico's minimum wage has fallen 60 percent and poverty has increased 80 percent. Today, nearly 80 percent of Mexicans live below the poverty line. ([www.madre.org](http://www.madre.org))

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**REFERENCE****Major Ethnic Groups:**

- Mestizo 60%
- Amerindian 30%
- Caucasian 9%
- Other 1%

**Religion:**

- Roman Catholic 89%, other 17%
- Protestant 6%
- Other 5%

#### Political Parties/Movements/Organizations:

- Convergence for Democracy or CD,
- Institutional Revolutionary Party or PRI,
- Mexican Green Ecological Party or PVEM,
- National Action Party or PAN, Party of the Democratic Revolution or PRD,
- Workers Party or PT

Head of state is President Vicente Fox

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## **PERSECUTION**

### *Facts & Examples*

#### **Political Opinion**

- In September Felipe Arreaga, a human rights defender and prisoner of conscience known for his environmental activism, was acquitted of murder charges after his defence demonstrated that the prosecution case had been fabricated as a reprisal for his activism.
- In the run-up to the March 2004 presidential elections—a hotly contested election in which left-wing FMLN candidate Handal appeared likely to win—numerous FMLN and other progressive groups/advocates were targeted by law enforcement. Election observers from the US, Canada and elsewhere were detained in Salvadoran airports, the offices of various progressive NGOs were subject to police raids and other forms of fear and intimidation were pervasive.
- At least 12 people were convicted of involvement in violent demonstrations in Guadalajara, Jalisco state, in May 2004, many reportedly on the basis of evidence extracted under torture. The state authorities refused to investigate well-founded allegations of torture or reports of irregularities in the presentation of prosecution evidence and police conduct.

#### **Membership in a Social Group**

- In June human rights defender and gay activist Octavio Acuna was murdered in Queretaro. He and his partner had filed a complaint against local police officers for discrimination in 2004 and had complained of homophobic harassment prior to the murder. Despite this, official investigators reportedly ignored evidence that the killing was motivated by homophobia.
- In June excessive force was reportedly used against protesters in Cancun resulting in 34 detentions and a number of injuries. The authorities failed to investigate complaints of ill-treatment and torture.

## **Appendix A: Helpful Resources**

### **I. Central American Gangs in the Media**

#### **Edgar's Story**

A photographic exhibit about the life of a Salvadoran youth who returns to the country from Los Angeles and lives with, and as a part of, El Salvador's street gangs.

[http://www.pixelpress.org/contents/donna\\_edgar/edgar\\_intro.html](http://www.pixelpress.org/contents/donna_edgar/edgar_intro.html)

#### **New York Times: A Gang of Our Own Making**

This New York Times Op-ed describes how American immigration policies have played a large role in the development and success of MS-13. The author points out that MS-13 originated in Los Angeles and continues to thrive there while its newly trained disciples are deported back to El Salvador to wreak havoc on their own country. As a result, people flee Central America for the US, continuing the cycle of gang member creation and violence.

Rodriguez, Luis J. "A Gang of Our Own Making." New York Times. March 28, 2005. P. 17.

#### **LA Times: Gang Uses Deportation to Its Advantage to Flourish in US**

This article from the LAT describes, in quite some detail, the cycle of gang members between the United States (especially Los Angeles) and El Salvador. It notes how the prisons in El Salvador function as "colleges" for the gang members, enabling them to learn new techniques and make connections for use on the outside while behind bars.

Lopez, Robert J, Rich Connell, and Chris Kraul. "Gang Uses Deportation to Its Advantage to Flourish in US." Los Angeles Times. October 30, 2005.

#### **Los Angeles Times: LA Violence Crosses the Line**

This LAT article examines the reach of MS-13 throughout the United States and other countries (5 of them). It discusses specifically FBI efforts to target MS-13 specifically and the unique obstacles posed by the international nature of the gang.

Kraul, Chris, Robert J. Lopez, and Rich Connell. "L.A. Violence Crosses the Line." Los Angeles Times. May 15, 2005. P. 1.

#### **Los Angeles Times: When Deportation is a Death Sentence**

An opinion piece that discusses how there is a criminal justice crisis in Honduras. Specifically, it gives examples of prison fires where the guards escaped and let the prisoners die and cases of executions of expected gang members by police and private death squads.

Hayden, Tom. "When Deportation is a Death Sentence." Los Angeles Times. June 28, 2004.

#### **Foreign Affiars: How the Street Gangs Took Central America**

Very detailed essay about the spread of gangs from America to Central America, including a discussion of current efforts by Central American governments to turn the tide of violence.

Arana, Ana. "How the Street Gangs took Central America." *Foreign Affairs*. Vol. 84 Issue 3: May/June 2005. Pp. 98-110.

**Economist: Criminal Gangs in the Americas**

This article examines the widespread growth of both MS-13 and Mara 18 in Central America and the United States. It also shows the increased sophistication of the gangs and how they are beginning to resemble organized crime.

"Criminal Gangs in the Americas: Out of the Underworld." *Economist*. Jan. 7, 2006.

**Diario El Heraldo: De la marginación al crimen organizado (From Marginalization to Organized Crime)**

This article from a Honduran newspaper outlines the development of Mara 18 and Mara Salvatrucha from street gangs to criminal organizations that traffic drugs and arms.

*De la marginación al crimen organizado*, Diario El Heraldo, Sept. 19, 2003, available at <http://www.elheraldo.hn/nota.php?nid=814&sec=2&fecha=2003-09-19>

**Reuters AlertNet: Honduran Gangs End Blood Feud**

A report from Tegucigalpa, Honduras, this article states that Mara 18 and Mara Salvatrucha had negotiated a truce between the two gangs.

Gustavo Palencia, *Honduran Gangs End Blood Feud, Police Say Attacked*, Reuters, Feb. 11, 2006.

**BBC News: Honduran Police Find Severed Head**

In 2004, a severed head was found sitting on a park bench in Honduras. It was suspected that the gangs were at fault.

*Honduran Police Find Severed Head*, BBC News, Apr. 9, 2004, available at <http://news.bbc.co.uk/2/hi/americas/3613943.stm>.

**BBC News: Gangs Linked to Honduran Massacre**

Twenty-eight bus passengers were killed when gunmen opened fire on the bus as it was traveling through a busy neighborhood. There was a note attributing the attack to an anti-death penalty organization that was believed to be defunct, and the police believed the attack was actually by gang members.

*Gang Linked to Honduras Massacre*, BBC News, Dec. 24, 2004, available at <http://news.bbc.co.uk/2/hi/americas/4124133.stm>.

**Diario El Heraldo: Hondurans Vote Despite Rumors of Gang Attacks**

This article describes how members of Mara 18 walked through neighborhoods threatening violence against anyone who voted in national elections. The police were on alert, and no incidents were reported.

*Hondureños votan pese a rumores de ataques de pandillas [Hondurans Vote Despite Rumors of Gang Attacks]*, Diario El Heraldo, Nov. 11, 2005, at <http://www.elheraldo.hn/nota.php?nid=41496&sec=12&fecha=2005-11-27>.

**Reuters Foundation: Honduras Killers Send Grim Message on Gang Talks**

To protest negotiations between the gangs and the government, unidentified killers shot dead a gang member and left his corpse near a cemetery. The body had a note attached stating, "If the government wants to negotiate with the gangs, we don't; we will continue with a clenched fist."

*Honduras Killers Send Grim Message on Gang Talks*, Reuters, Feb. 21, 2006.

#### **Reuters: Honduras Youth Gangs Wary of Talks With Government**

Representatives of Mara Salvatrucha and Mara 18 both were cautiously optimistic about negotiating with the government, but the government had yet to name a negotiator.

*Honduras Youth gangs Wary of Talks with Government*, Reuters, Feb. 17, 2006.

#### **El Nuevo Herald: The Police Pay the Maras in Honduras**

Many police officers in Honduras pay a "war tax" to the maras in order to ensure peace in their precincts.

Associated Press, *La polica paga a los maras en Honduras [The Police Pay the Maras in Honduras]*, El Nuevo Herald, Mar. 31, 2006

#### **Diario El Heraldo: Gang Members are Dismembering People Again**

In March 2006, a dismembered body was discovered in a dumpster in Tegucigalpa. The police suspected the killing was an act of protest by gang members.

*Pandilleros vuelven a desmembrar personas [Gang Members are Dismembering People Again]*, Diario El Heraldo, Mar. 16, 2006, at

<http://www.elheraldo.hn/nota.php?nid=47499&sec=7&fecha=2006-03-16>.

#### **Diario El Heraldo: Deportees Change the Location of the War**

This article is a description of the movement of the gangs from the United States to Central America with a Honduran perspective.

*Deportados cambian escenario de su Guerra [Deportees Change the Location of their War]*, Diario El Heraldo, Nov. 16, 2003, at

<http://www.elheraldo.hn/nota.php?nid=3694&sec=2&fecha=2003-11-16>.

## **II. Internet Resources**

### **U.S. Committee for Refugees and Immigrants**

This site has an extensive listing of immigration case law, including some briefs. It is updated regularly.

<http://www.refugees.org/article.aspx?id=1556&subm=75&area=Participate&ssm=118>

### **Northwestern University School of Law**

Northwestern has extensive resources relating to CAT claims.

<http://www.law.northwestern.edu/cfjc/catresources/>

## **III. The U.S. Government's Opinion of Central American Gangs**

### **Immigration Authorities and Gang Enforcement**

In the Department of Justice's United States Attorneys' Bulletin, an ICE official provides an in-depth description of how and when immigrants are detained.

[http://www.usdoj.gov/usao/eousa/foia\\_reading\\_room/foiamanuals.html](http://www.usdoj.gov/usao/eousa/foia_reading_room/foiamanuals.html) (May 2006 issue)

### **Street Gangs: The New Urban Insurgency**

In this publication from the Strategic Studies Institute at United States Army War College, MS-13 and other Central American gangs are deemed insurgents. Comparing the current situation with how drug traffickers in South America in the 1980s, the author feels that the gangs will become more and more political, attempting to take over the Central American governments for their gains.

<http://www.strategicstudiesinstitute.army.mil/pubs/display.cfm?pubID=597>

### **Gangs and Crime in Latin America**

At this hearing held by the House of Representatives' Committee on International Relations (Subcommittee on the Western Hemisphere), several experts testified regarding what should be done to address the Central American gang issue. The experts included representatives of ICE, the FBI, USAID, the Heritage Foundation, the Inter-American Dialogue and local law enforcement. Overall, most panelists seemed to agree that there should be more training for law enforcement in Central America, possibly funded by the United States.

[http://wwc.house.gov/international\\_relations/whhear.htm](http://wwc.house.gov/international_relations/whhear.htm) (April 20, 2005 Hearing)

## Appendix B: Important Guerilla Cases

Guerilla cases are occasionally an obstacle to petitioners gaining asylum due to forced conscription into gangs. Furthermore, in some instances former guerillas returning to Central America from the United States have had violent encounters with gang members.

<b>Court</b>	<b>Case</b>	<b>Relief</b>	<b>Holding</b>
<b><u>U.S. Supreme Court</u></b>	<i>INS v. Elias-Zacarias</i> , 502 U.S. 478 (1992).	Applied for: Asylum, Withholding of Removal  Received: None	Reversing court of appeals' determination that respondent was entitled to asylum because a guerilla organization's attempt to coerce respondent into performing military service did not necessarily constitute persecution on account of respondent's political opinion as required by the Immigration and Naturalization Act and that respondent appeared to have refused to join the guerillas for fear of governmental retaliation, not his political opinion. <b>Explanation:</b> The decisions in this case and subsequent cases are an obstacle to using forced conscription into a gang as a means for asylum.
<b><u>Second Circuit</u></b>	<i>Melgar de Torres v. Reno</i> , 191 F.3d 307 (2nd Cir. 1999).	Applied for: Asylum, Withholding of Removal  Received: None	Holding that the neither death of petitioner's uncle nor her rape by Salvadoran soldiers lent support to petitioner's claim of a well-founded fear of persecution because petitioner offered no direct evidence that her uncle was killed because he had assisted guerillas and petitioner did not offer evidence that her rape by soldiers was anything other than random violence.
<b><u>Fourth Circuit</u></b>	<i>Andrade-Garay v. United States INS</i> , 1999 U.S. App. LEXIS 2689 (4 <sup>th</sup> Cir. 1999).	Applied for: Asylum, Withholding of Removal  Received: None	Holding that a kidnapping for the purpose of being conscripted into a guerilla group did not constitute persecution and that there was no evidence that he was kidnapped on account of his political opinion.

<b><u>Eighth Circuit</u></b>	<i>Cigaran v. Heston</i> , 159 F.3d 355 (8th Cir. 1998).	Applied for: Asylum  Received: None	Determining that because political violence in El Salvador had subsided substantially in the nine years since the alien had been threatened by the death squads, a reasonable fact finder could conclude that the alien's fear of future persecution on political grounds was not reasonable.
<b><u>Ninth Circuit</u></b>	<i>Hernandez v. INS</i> , 34 Fed. Appx. 550 (9th Cir. 2002).	Applied for: Asylum, Withholding of Removal, Voluntary Departure  Received: Unknown, remanded and following opinion(s) are unpublished	Holding that Salvadoran immigrant's fear of guerilla assassination constituted persecution and was subjectively and objectively reasonable due to the fact that the country report concedes that there still exist allegations of violence against former guerillas.
<b><u>Ninth Circuit</u></b>	<i>Jaime-Martinez v. INS</i> , 1999 U.S. App. LEXIS 8568 (9th Cir. 1999).	Applied for: Asylum, Withholding of Removal  Received: Withholding of Removal	Holding that the analysis of changed circumstances must also take into about the specific circumstances of each case. Petitioner's testimony that he knew of other National Guard members who had been persecuted by guerillas, and a letter written by petitioner's mother stating that on two occasions guerrillas had come looking for petitioner and threatened to harm petitioner's family, constituted subjective and objective fear. Petitioner was granted withholding of deportation.

<b><u>Ninth Circuit</u></b>	<i>Artiga Turcios v. INS</i> , 829 F.2d 720 (9 <sup>th</sup> Cir. 1987).	Applied for: Asylum, Withholding of Removal, Voluntary Departure  Received: Unknown, remanded and following opinion(s) are unpublished	Reversing the denial of petitioner's request for withholding and concluding that petitioner had established a clear probability that he would be subject to persecution by the anti-government guerillas on account of his military experience in the Salvadorian Army. <b>Note:</b> This case was decided prior to the 1992 peace accord.
<b><u>Eleventh Circuit</u></b>	<i>Alzate-Zuelta v. Atty. Gen'l</i> , 2007 U.S. App. LEXIS 14985 (11th Cir. 2007)	Applied for: Asylum, Withholding of Removal and CAT  Status: Remanded for a determination as to whether the government met its burden of proving by a preponderance of the evidence that Alzate could avoid future persecution by relocating and that such relocation would be reasonable.	(Guerrilla organization) This is an apparently clear case of past persecution on account of political opinions. Alzate and his family had been “lifelong member[s]” and active in the Conservative Party in Colombia, he obtained his first job through his involvement in the Part and he later took a job with the government that he supported by performing political activities – this was a “political job” connected with the Conservative Party. He also worked with youth in the community to prevent them from becoming involved in subversive groups. He was threatened on several occasions by FARC members identifying themselves as such. He was told to stay away from the youth and to stay away from the area because he was working for democratic ideals and because he was working for one of the traditional parties of Colombia. On appeal, was able to get asylum because he suffered past persecution on political opinion grounds. Persecution requires “more than a few isolated incidents of verbal harassment or intimidation.” Sepulveda, 401 F.3d at 1231. (Other problem here is that the BIA summarily affirmed IJ’s decision without an opinion.)

## Appendix C: Popular Gang Tattoos

Tattoos are frequently used as evidence of gang membership. Here is a short list of common gang-related tattoos:

- “13”: for 13<sup>th</sup> street, where MS-13 was originally started
- “MS”: for Mara Salvatrucha
- Tear drop under left eye: for every time an individual was shot at or wounded
- Tear drop under right eye: for every time an individual shot at, wounded or killed someone
- Dice, Crossbones, Daggers: often represent an individual gang members’ specialty
- “Emese”: short for “Eme Ese” which is the Spanish pronunciation of “MS”
- Often times gang members will tattoo their neighborhood along with the gang letters, e.g. “GMSP” for Greenspoint MS-13
- “Azúl y Blanca”: “blue and white”, MS-13 gang colors
- “Sur”: for sureños or “southerners”
- “18”: for 18<sup>th</sup> street