MIGRA Y MARAS: THE RELATIONSHIP BETWEEN THE PROLIFERATION OF CENTRAL AMERICAN STREET GANGS AND MIGRATORY PATTERNS IN THE NORTHERN TRIANGLE, MEXICO, AND THE UNITED STATES.

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ABSTRACT

The purpose of this study is to examine the relationship between the proliferation of Central American street gangs (maras) and regular and irregular migration patterns in the Northern Triangle, Mexico and the U.S. Specifically, it will explore the complexity and multidimensional nature of this relationship and how gangs, primarily MS-13 and M-18 and their smaller sects, induce migration, how the responses of the governments of the Northern Triangle to combating the gangs have provoked migration, and how non-gang based migration patterns may serve as an impetus for gang membership or proliferation. The thesis also explores programmatic work and research, through stakeholder interviews and mappings, that addresses or remedies the consequences that result from the intersection between gangs and migration being conducted by local and international non-governmental organizations (NGOs), local and national governments, international governmental coalitions, think tanks, research institutions and academia. The goal of this thesis is to expand the dialogue of this topic beyond the commonly discussed issues of access to asylum and punishment for gang members, and to explore the complexities and challenges associated with this relationship through a conflict resolution perspective.
The research and writing of this thesis is dedicated to Dr. Craig Zelizer, Dr. Susan Martin and Stacy Jones for all of their support and guidance and to J, M and M for being my real foundation. I would also like to thank Giovanna Steel, Heather Orina, and Samuel Feigenbaum for their motivation during this process.

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Chapter 1: Introduction

The nexus between gang proliferation and migration trends is constantly evolving. Much attention has been given to the growth of Central American, originally Salvadoran, street gangs (maras) within the United States resulting from the Salvadoran refugee and immigrant influx in Los Angeles during and after the Salvadoran Civil War and the predominant gang culture in Los Angeles. These maras were transplanted back to El Salvador through the subsequent U.S. “Three Strike” criminal and deportation policies implemented during the mid to late 1990s and post-war repatriation efforts. The rapid growth of gang membership and power in El Salvador, Honduras and Guatemala since the early 2000s has proven extremely problematic for the national governments to respond with appropriate measures and tools to combat these issues, redress the victims, and successfully reintegrate communities.

Gangs in these countries have gained de facto control of many territories, communities, and neighborhoods through the use of unregulated violence and their high levels of membership, often spanning large age ranges. In a 2011 report, MS-13, Insight Crime comments that, “Numbers vary but the U.S. Southern Command says there are as many as 70,000 gang members in the Northern Triangle.”1 The Northern Triangle of Central America encompasses the countries of El Salvador, Guatemala and Honduras, and this region will be referred to as such throughout the thesis.

Gang members fuel their operations, rather successfully, through the use of extortion, drug trafficking, prostitution rings, forced recruitment, retaliatory violence, and outright kinetic violence to inspire the kind of fear that makes full use of their fierce and violent reputation. The U.S. Treasury Department has stated that, “Domestically, the group [MS-13] is involved in

multiple crimes including murder, racketeering, drug trafficking, sex trafficking and human trafficking including prostitution. The group frequently carries out violent attacks on opposing gang members, often injuring innocent bystanders. MS-13 members have been responsible for numerous killings within the United States.”

The violence precipitated by gangs in the Northern Triangle is at a widespread level. San Pedro Sula, a city in Honduras, has been nicknamed “the Murder Capital of the World,” given that the murder rate in 2011 was 169 per 100,000 inhabitants. This figure is alarming outside of active war zones. The national homicide rates by contrast were 82.1 per 100,000 in Honduras and 66 per 100,000 in El Salvador. In the decade since 1995, the ten most violent countries in the world have included El Salvador and Honduras eight times. As a point of comparison, in May of 2013 the National Police of Nicaragua, a neighbor to the Northern Triangle, stated that its 2012 homicide rate was 11 per 100,000.

Given the states’ inability, thus far, to successfully resolve the gang crisis and the ruthlessness and criminality of the gangs, many individuals are forced to flee to new locations within their home countries or across international borders. In a recent Brookings article Gangs, Violence and Displacement in Central America, Elizabeth Ferris comments, “There are reports of neighborhoods in Honduras where all the houses have been abandoned. The week I arrived

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there was a story in the newspaper about the murder of a man by a criminal gang; his family of 16 people immediately left their home and went to a police station where they stayed for a week before they went to a neighboring country.”

If feasible, many individuals attempt to relocate to towns and cities within their home country to escape direct or generalized conditions of gang violence, yet due to the geographically small size of the Northern Triangle countries and the pervasiveness of the gangs and their networks, this in-country relocation option is not always available. This trend is confirmed by the high volume of gang-based asylum claims in the U.S. and other countries such as Nicaragua, with the majority of applicants stemming from the Northern Triangle. Due to the extreme violence and forced recruitment practices utilized by gangs, many youth in particular are embarking on the perilous journey to the United States to avoid gang involvement. This journey is fraught with dangers such as physical injury from riding on tops of trains or becoming lost in the desert and becoming easy prey for drug cartels and opportunistic criminals to kidnap, extort, rape, or kill migrants in transit.

Asylum applicants for gang-based cases in the U.S. generally have difficulty meeting the rigid standards imposed by the U.S. legal system, especially in establishing that they are members of a particular social group with sufficient particularity and sufficient social distinction in the society in question. The precedential cases, Matter of S-E-G and Matter of E-A-G, decided by the Board of Immigration Appeals, laid out requirements that will make it extremely difficult for future gang-based asylum cases to succeed.

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In addition, non-gang based migration trends also contribute to the proliferation of the gangs. Individuals and families migrate temporarily or permanently from the Northern Triangle to the U.S. for a variety of reasons including: structural poverty in their home country, to reunite with family members already in the U.S., to have greater access to schools and employment, and to escape endemic levels of state and non-state actor violence. Irregular migration routes have historically been established throughout the region and continue to be utilized. Expert coyotes, or human smugglers, facilitate this process for a price, but many migrants attempt the journey on foot, on buses, or by riding on top of freight trains that travel north through Mexico.

When migrants from these countries arrive in the United States, often without documentation, they find themselves living in shadow or “undocumented” communities with severe structural challenges to successful assimilation. Those who stay behind in the Northern Triangle, however, have to cope with the loss of family members and loss of stability. The dynamics created by out-migration and unlawful presence put tremendous pressures on individuals and families and at times create conditions ideal for gang involvement: parents are often absent, separated or work lengthy hours; the lack of legal status creates certain insecurities; language and cultural discrimination exists and a lack of a cohesive individual or cultural identity, amongst many others.

I. Purpose of Research

The purpose of this study is to examine the relationship between the proliferation of Central American street gangs (maras) and regular and irregular migration patterns in the Northern Triangle, Mexico and the U.S. Specifically, it will explore the complexity of this relationship and how gangs themselves induce migration, how the states’ response to the gangs in the Northern Triangle has induced migration, and how non-gang based migration patterns may
serve as an impetus for gang membership. It also explores programmatic work and research that addresses or remedies the consequences that result from the intersection between gangs and migration being conducted by local and international non-governmental organizations (NGOs), local and national governments, international governmental coalitions, think tanks, research institutions and academia. The goal of this thesis is to expand the discourse of this topic beyond the commonly discussed issues of access to asylum and punishment for gang members, and to explore the complexities and challenges associated with this relationship through a conflict resolution perspective.

In order to develop and implement effective programs and create change it is necessary to have a strong foundational and theoretical understanding of the true scope of the problem as well as relevant actors and viable ways to effective practical and positive change. This project analyzes relevant programs that are already in existence working on these issues and will propose recommendations for future programs and policies to best address the rising correlation between gangs and migration.

There has been a growing preoccupation with Central American street gangs in the U.S., Mexico and the Northern Triangle amongst academics, practitioners, policy makers and the general population. Although there has been research conducted on the emergence and rise of gangs and potential ways in which to combat them, little attention has been given to the gangs’ connection to migration and vice versa. A recent report from the Roundtable Discussion at Brookings entitled *Central Americans Displaced by Criminal Violence*, states, “The phenomenon of Central American displacement seems to be increasing, but understanding of the scale, nature,
causes and needs of the displacement is incomplete.”¹⁹ This research, therefore, intends to fill a
void in the literature of gangs and migration. The research is inherently multidisciplinary and
cross-sectoral, although its primary contributions will be to the field of conflict resolution and
migration studies.

II. Scope of Research

This thesis explores the dynamics of the relationship between Central American street
gangs and migration trends in the Northern Triangle, Mexico and the United States. In addition,
and perhaps more importantly, it examines the current programmatic work and academic
research being done to address and/or remedy the negative consequences and fall-out of this
relationship. The conflict situation in the Northern Triangle involves a multitude of actors
including: youth gangs, state police forces, national military forces, transnational drug cartels,
vigilante groups, and paramilitary groups. These state and non-state actors may engage in direct
conflict with one another and directly induce migration or their interactions may create an
environment characterized by generalized violence, prompting migration for security reasons.

This study does not include direct testimony or data from current or former gang
members or gang-induced internally displaced persons (IDPs), asylees, refugees or migrants,
although anecdotal stories were discussed during the practitioner interviews. Instead the project
relies on publically available data and information to understand the current crisis and
stakeholder mappings and interviews to have a more holistic understanding of the past, current,
and future efforts to address and/or remedy the situation.

¹⁹ “Central Americans Displaced by Criminal Violence: A Roundtable Discussion,” Brookings Institute,
III. Rationale for Study

The idea for this research arose from my previous work experience with the U.S. Committee for Refugees and Immigrants (USCRI), personal travel experience in El Salvador, and my academic work as a Masters candidate at Georgetown University. I have always been interested in Latin America and immigration; in 2011 I interned with USCRI as an Immigration Intern. As an intern, I conducted legal intake interviews with children under the age of 18, who had crossed the U.S./Mexico border without their parents and who had been apprehended by agents of the Department of Homeland Security (DHS), which encompasses both Customs and Border Protection (CBP) and Immigration Customs and Enforcement (ICE) agents, and placed in the care of the Office of Refugee Resettlement (ORR), part of the federal Department of Health and Human Services (HHS).

My primary objective during these interviews was to identify potential forms of legal relief for these unaccompanied child migrants who primarily originated from El Salvador, Guatemala and Honduras. The principle forms of potential legal relief for which they were often eligible were asylum, Special Immigrant Juvenile Status (SIJS), U nonimmigrant status (U visas), and T nonimmigrant status (T visas). An additional possibility was to convince the government to exercise its Prosecutorial Discretion (PD) in a given child’s case; although PD does not grant any legal status, it results in the government closing the child’s immigration court case and not actively trying to deport the person in question. A vast majority of the children were fleeing horrific gang violence in their countries of origin and often left their homes on short notice in order to avoid violence or death. These stories and interviews are not the basis of my thesis and do not fall within the scope of my research, but it is important to note that they have served as the inspiration for my graduate academic pursuits and this thesis.
After my internship ended I continued to be curious about Central America gangs and their impact on local and national development, migration patterns and regional security. Those who flee gang violence have received mixed responses in the United States, with inconsistent, but mainly unfavorable, asylum case law and limited forms of other available protection. The national governments of the region have responded to the growing gang crisis with harsh punitive and military measures, exacerbating an already violent situation. There has been a limited interest in incorporating alternative conflict resolution methods to address the predicament. As I continued to learn more about the crisis, it seemed that the media was only interested in discussing the violence and crimes committed by the gangs and not the impact on local communities and individuals or the ability, or inability, for individuals to receive asylum in the U.S. In March of 2012, MS-13 and M-18, the two largest gangs in El Salvador and in the Northern Triangle, reached an unprecedented truce in El Salvador. This news garnered tremendous media attention, although it was not supported or acknowledged favorably by the Salvadoran state.

I had the opportunity to travel to El Salvador in March of 2013 one year after the gang truce was brokered. While in the country I had numerous informal discussions with Salvadoran nationals concerning gangs, security and development. Many individuals had been internally displaced by gang activity in their local towns. For example, a cab driver was forcibly kicked out of his home, which he owned, by gang members who wanted to move in. They threatened to kill him and his children if he did not vacate his home. He was forced to move in with a family member in San Salvador, the capital, and leave everything behind.

These experiences, coupled with my work and academic interests inspired, me to explore in greater depth the relationship between gang proliferation and migration trends in the Northern
Triangle. Given the scope of the problem I felt it was necessary to explore internal and external migration due to the gang crisis, including ways gangs and the states’ response to these gangs induce migration, as well as ways in which migration contributes to the growth and expansion of the gangs.

IV. Organization of the Study

This chapter has introduced the topic and the specific rationale of the study. The next chapter will provide a detailed literature review of the two overarching fields of literature: gang analysis and forced migration. Chapter Three will analyze the contextual background of the crisis and contributing factors. Chapter Four will examine the complex relationship between gangs and migration. Chapter Five will provide methodology and analysis of stakeholder interviews and mappings. The final chapter will conclude with recommendations to the field and opportunities for further research.
Chapter 2: Literature Review

There are two overarching fields of literature that pertain to the study of the intersection of gang proliferation and migration trends: forced migration and gang analysis. While distinct, both of these fields address the multidimensional nature of these two issues and generally utilize a conflict analysis in understanding the subject matter. In order to understand the current gang crisis in the Northern Triangle and the resulting emerging migration trends it is necessary to have a solid understanding of the established knowledge in these fields.

Sarah Kenyon Lischer succinctly addresses the common disconnect between the two disciplines:

Part of the problem is that conflict-induced displacement falls in the cracks between various scholarly and practical disciplines. International relations scholars study conflict and the types of violence, but rarely connect this theoretically with forced migration. The forced migration literature usually does not make a connection with conflict studies literature and focuses more on the outcome of the conflict than the causes.\textsuperscript{10}

In order to reconcile this gap it is necessary to first delve into each field separately and then discuss where they overlap. This chapter will discuss the literature in both fields separately and conclude with relevant commonalities and overlapping areas between the two. Prior to discussing the literature it is necessary to first define key terms that will be referenced throughout the thesis.

I. Terminology

*Forced Migration (IOM definition):*

“A migratory movement in which an element of coercion exists, including threats to life and livelihood, whether arising from natural or man-made causes (e.g. movements of refugees and internally displaced persons as well as people displaced by natural or environmental disasters, chemical or nuclear disasters, famine, or development projects).”\textsuperscript{11}


This concept is further divided into three sub-categories by *Forced Migration Online*: conflict, development and disaster induced displacement.\(^{12}\) This research will focus exclusively on conflict-induced migration.

*Refugee (from the 1951 UN Protocol):*

“Someone who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.”\(^{13}\)

*Internally Displaced Person (IDP):*

"Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border."\(^{14}\)

*Mixed Flows (IOM definition):*

“Complex population movements including refugees, asylum seekers, economic migrants and other migrants.”\(^{15}\)

*Asylee (within the U.S. legal definition):*

Those who come to the United States seeking protection because they have suffered persecution or fear that they will suffer persecution on account of their race, religion, nationality, membership in a particular social group and/or political opinion.\(^{16}\)

*Gang/Mara:*

Specifically referring to Central American youth street gangs, primarily referring to the: *la Mara Salvatrucha* (MS-13) and 18\(^{th}\) St. Gang (M-18, Barrio 18) and their smaller sects.\(^{17}\)

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\(^{15}\) IOM, “Glossary of Migration,” 63.

II. Literature

Forced migration is a well-established and thoroughly researched field with entire academic journals, such as *Forced Migration Review*, and professional associations such as the *International Association for the Study of Forced Migration (IASFM)* dedicated to its study. This type of migration arises when an element of coercion exists, as defined in the Terminology section and this thesis will examine conflict-induced migration in the Northern Triangle.

Conflicts are unique phenomena that generate a variety of additional crises such as health disasters and population displacement. The international community has long accepted that those fleeing from conflict zones are particularly vulnerable and in need of protection. In 1951 the United Nations enacted the *UN Convention Relating to the Status of Refugees* and the subsequent 1967 Protocol.\(^\text{18}\) The *Convention and Protocol* established the international norms and definitions of refugees and essentially who should be eligible for legal protection. They mandated that signatory countries provide basic human rights for refugees and not repatriate them to countries where they may be tortured or persecuted based on the statutory protected grounds. Many countries developed domestic asylum protection frameworks and refugee resettlement programs in spirit of the *Convention*.

Migration is a common response to conflict situations. Individuals may choose to move preemptively in order to avoid violence, while others may be forced to flee. Forced displacement can be used as a tactic by warring parties in order to take over territories and gain tangible goods found inside abandoned homes and businesses. While the *Convention and Protocol* specifically

\(^{17}\) For a comprehensive discussion about the lack of clarity in defining gangs and the differences in types of gangs, see: Jennifer M. Hazen, "Understanding Gangs as Armed Groups," *International Review of the Red Cross* 92.878 (2010): 369-86.

address the need to protect individuals who have crossed international borders, they fail to address those who are internally displaced.

The United Nations High Commissioner for Refugees (UNHCR) states that there are 28.8 million IDPs worldwide and 5.8 million in the Americas, with the majority in Colombia.\(^\text{19}\) Those who are internally displaced are perhaps the most vulnerable because international standards of national sovereignty determine that IDPs are under the jurisdiction and thus, the protection of the national government. The *United Nations Guiding Principles on Internal Displacement* established the standard definition of an IDP in 1998.\(^\text{20}\) Depending on the conflict, the government may choose to ignore IDPs in order to avoid official recognition of the problem. It can be a challenge to determine a definitive causal factor for internal displacement; governments may attribute other causes such as economic opportunities for internal migration instead of recognizing that conflict caused the internal displacement.

There has been tremendous study of conflict-induced external and internal displacement. In the context of Latin America and regarding a violent non-state actor, Colombia and Mexico have provided ample examples of how non-traditional armed actors such as the *Fuerzas Armadas Revolucionaras de Colombia* (FARC), the *Autodefensas Unidas de Colombia* (AUC) and the various drug cartels operating in Mexico and Colombia, through direct violence, generalized violence and threats have wreaked havoc on specific cities and caused tens of thousands of individuals to migrate to new cities. Sebastian Albuja, with Norwegian Refugee Council’s Internal Displacement Monitoring Centre, provides a rich case study of conflict-induced displacement in Ciudad Juarez in Mexico for those fleeing the cartels and how the


Mexican government has overlooked this humanitarian crisis. He estimates that over 230,000 individuals fled Ciudad Juarez since 2007 due to high levels of violence and have resettled in other states in Mexico. He further argues, “The conditions they face as IDPs are unknown, as no national or international agency currently tracks forced population movements within the country.” This particular example most closely resembles the current reactions, approaches, and problems in the gang crisis in Central America.

As will be discussed throughout the thesis, there is a tremendous challenge for victims of the gang crisis to relocate within their home countries and many are forced to flee across international borders. There is a growing body of literature examining asylum claims in the U.S. from individuals fleeing gang violence in Central America. Gang-based asylum claims are difficult to win given the challenge of crafting a socially distinct and sufficiently particular social group with an immutable characteristic in order to meet one of the five statutorily protected grounds within U.S. asylum law (race, religion, nationality, political opinion, or membership in a particular social group). Elizabeth G. Kennedy, Gracye Cheng and Jeffrey D. Corsetti have all published articles discussing gang persecution as a legitimate basis for asylum, despite the practical challenges these cases face in the court room and their limited success rates. In response to the challenges faced by gang-based asylum seekers in immigration courts the UNHCR published the Guidance Note on Refugee Claims Relating to Victims of Organized

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Gangs in March 2010. This Guidance Note provides analysis of gangs and their practices, typology of victims of organized gangs and a legal analysis of gang based persecution. This publication is incredibly important in garnering international attention to this matter and possibly facilitating greater discussion on how gangs, especially from the Northern Triangle, can commit persecution.

The largest gap in the existing literature is in understanding specifically how and why gang violence is causing internal and external displacement in Central America and furthermore how civil society, organizations and governments are responding to this displacement and what are the established or emerging best practices The U.S. asylum system and larger immigration system have not responded to those fleeing Central American gang violence with open arms and the governments of the Northern Triangle have limited capacity to address the needs of those who have been internally displaced by gang violence. Recently, UNHCR announced that one of its strategies for 2014 is to address the growing crisis of internal displacement in Central America. Specifically,

Statistics place Central America as the world's most affected region in terms of violence by illegal non-state actors. This has an impact on protection and creates new patterns of displacement. UNHCR will help national authorities to deal with displacement issues in El Salvador, Guatemala and Honduras by strengthening protection frameworks, improving field monitoring at borders and identifying vulnerable cases. In addition, there have been limited efforts by non-governmental organizations and regional governments to take alternative and non-punitive approaches to combating the gangs, as will be explored throughout the thesis. Reducing the overall levels of violence, especially in relation to the gang crisis could possible reduce the number of forced migrants in the region.

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25 “2014 UNHCR country operations.”
The study of gangs, largely defined, has been well documented, but often times oversimplified. The term gang itself conjures a variety of images ranging from Hell’s Angels motorcycle gangs to the Bloods and Crips to los Zetas a Mexican drug cartel. While there is substantial literature, particularly case studies, analyzing specific ‘gangs’ there are clear leaps in points of analysis and background knowledge. Increased attention to gangs has arisen as the study of violent non-state actors (VNSAs) has emerged in the post “War on Terror” period with an increased interest in the study of terrorist organizations and VNSAs and because street gangs have garnered more media and political attention given their proliferation, violence and dominance in certain regions.

An overarching problem in the gang literature has been that it has either been written through a ‘military’ lens comparing gangs to insurgents, a ‘criminal lens’ examining gangs as solely criminal actors, or a ‘social’ lens analyzing them as products of societal ills, but gangs have rarely been examined through a holistic or multidisciplinary lens. For example, Sullivan and Bunker propose a three-generation spectrum of gangs, starting from turf-oriented gangs to politically aimed organizations.26 This generational frame of reference has generated substantial analysis and response. Max G. Manwarring adopts the generational framework in arguing that street gangs are the new urban insurgency, although he cautions, “non-state conflict is much too complex to allow a strictly military solution to a given national security problem.”27 Hal Brands also utilizes this framework in the specific context of Latin America.28 While gang evolution is incredibly important it does not account for the specific nuances that motivate individuals to join and support gangs and allow them to flourish and evolve in certain areas and not in others.

Gangs, and specifically MS-13 and M-18, are complex entities with competing and diverse identities that fulfill multiple purposes and needs for their members.

MS-13 and M-18, in particular, have generated substantial research given the media hype surrounding these two gangs. The transnational nature and structure of the maras has been well documented. Specifically, the links between L.A. gang culture, the refugee flow from the Salvadoran Civil War and the U.S. deportation policies of the late 1990s and early 2000s have been well established as primary reasons for how the maras that originated in the U.S. were transported back to the Northern Triangle by authors and researchers such as Wim Savenije, Ana Arana, and Elana Zilberg. The U.S. government’s attention to the gangs has resulted in an official designation of MS-13 as a Transnational Criminal Organization and MS-13 task forces within Immigration and Customs Enforcement (ICE) and the Federal Bureau of Investigation (FBI).

News outlets such as El Faro and La Prensa Gráfica (both Salvadoran) have conducted substantial research on the growth, tactics, habits and goals of MS-13 and M-18, even conducting interviews with incarcerated gang members. Other research institutions and news outlets such as the New York Times and Insight Crime have also documented these trends. Greater media attention was given to the gangs in 2012 when MS-13 and M-18 in El Salvador reached a historic truce and there was an opening for dialogue. It is important to mention these media sources in the sense that they are conducting the most substantial work directly with those affected by the gang crisis, whereas some, albeit not all, of the academic literature relies on secondary sources, like these news publications, instead of primary sources.

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In addition to research about gangs as entities and the specific birth and make-up of MS-13 and M-18, much attention has been given to ways in which gangs can be stopped through preventative and punitive means. Authors such as Mo Hume and Oliver Jutersonke, Robert Muggah and Dennis Rodgers examine the State’s attempts to destroy the gangs through suppression and oppression, mainly in the form of the *Mano Dura* policies.\(^{31}\) Further discussion of these policies will be discussed in Chapters 3 and 4. Government and community agencies have recognized the importance of taking a balanced approach to fighting the gang problem, in general, and the Department of Justice’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) began conceptualizing a balanced and comprehensive approach to reduce and prevent youth gang violence in 1987.\(^{32}\) Overtime, OJJDP developed a Comprehensive Gang Model that has been implemented, in varying manifestations, throughout the U.S. and encompasses five strategies: community mobilization, opportunities provision, social intervention, suppression and organizational change and development.\(^{33}\)

As these gangs have continued to grow, exhibit more violent behavior and spread to new territories, the interest in conducting research on them has simultaneously increased. Despite this interest, governments are hesitant to engage directly with the gangs for fear of being labeled as ‘soft’ or ‘engaging’ with VNSAs which some have equated to negotiating with terrorists or criminal groups, which could lead to a tremendous loss of political support. There is also limited funding available to conduct such research and academic organizations are hesitant to approve Internal Review Boards on vulnerable subjects such as active or former gang members.

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\(^{33}\) “About the OJJDP.”
One of the most pressing gaps in the existing literature is research into who MS-13 and M-18 are as entities and what they represent for themselves, their communities and their countries. Labeling them as solely criminal or social actors undermines their multidimensional identity and the fact that they have been able to evolve and expand in an increasingly oppressive environment. A more holistic understanding of the gangs themselves would contribute to better programmatic design in order to fulfill certain needs to prevent gang membership and growth.

The gang crisis, largely defined, in Central America is a mounting emergency. Policy makers have started to pay more attention to the situation as the rates of homicide, crime levels, asylum claims, and out-migration have increased. Within this larger context, little attention has been given to the holistic relationship between gangs and migration and how gangs cause migration, how the state response to gangs impacts migration and how migration patterns contribute to the spread of gangs.

Despite these gaps, two recent reports have made the connection between the gang crisis and migration in the Northern Triangle. UNHCR released their report, Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection in March of 2014\(^{34}\) and the Center for Gender and Refugee Studies at the Hastings College of Law at the University of California and Kids in Need of Defense (KIND) issued their report A Treacherous Journey: Child Migrants Navigating the U.S. Immigration System in February of 2014.\(^{35}\) Both of these timely reports focus on children, and in particular


unaccompanied children, but highlight the causality between gang violence, state violence, and other factors such as poverty and family reunification and the children’s decision to migrate.

Utilizing these distinct fields establishes a framework from which to analysis the relationship between the current gang crisis in the Northern Triangle and migration trends. This relationship extends beyond only gangs inducing migration, but includes the states’ responses to the gangs inducing migration and non-forced migration trends serving as an impetus for gang membership and affiliation.
Chapter 3: Contextual Background

I. Analysis of the Current Gang crisis

The gang crisis in the Northern Triangle refers to the proliferation and intensification of gang violence and the states’ efforts to counter it. State and non-state actors employ hyper-violent and repressive tactics that have generated a conflict environment that permeate all levels of society, from individual relationships to community security to the functioning of state institutions. This chapter aims to provide a contextual background on the gang crisis with specific discussion on the historical framework, key players, and efforts to combat the gangs. In addition, this chapter will provide a textured discussion of the U.S. immigration system and how victims, or those affected by the crisis, have (and have not) been able to utilize the legal immigration system to seek relief, and compares this situation to established international norms for migration and protection.

A. The Emergence of MS-13 and M-18

The foundation and development of the gang crisis cannot be discussed without first mentioning the Salvadoran Civil War. The war was fought between the Salvadoran state and the Frente Farabundo Martí para la Liberación Nacional (FMLN) over deeply entrenched political, social, and economic ideological differences from 1979-1992. El Salvador became a pawn in Cold War politics; the U.S. substantially aided the oppressive state efforts, while the U.S.S.R. and its allies supported, in part, the FMLN. Due to the high levels of violence, including state sponsored death squads, and the war’s protracted duration, it is estimated that 25% of the
Salvadoran population migrated within the country or across international boundaries during the conflict.  

A majority of Salvadorans fleeing the civil war moved to Los Angeles, California during the 1980s and were confronted with ostracism and discrimination. These refugees and migrants became easy targets for crime and violence due to their relative newness in the neighborhood, ethnic and cultural differences from Mexican communities, experiences of trauma in their home country, and because of high levels of gang violence plaguing LA. In order to protect themselves, Salvadorans, especially youth, attempted to join pre-established black and Latino gangs, such as the Bloods, the Crips and the Mexican Mafia, but were unable to. They quickly sought to form their own protective gangs or maras, which eventually evolved into MS-13 and M-18.

The founding gang members, or mareros, were able to incorporate guerilla-esque tactics that they had learned or witnessed during the war, such as machete attacks and hyper-violent beatings, into their repertoire of street violence and established a brutal reputation. The fledgling maras produced unprecedented levels of violence and barbarity which quickly became commonplace on the streets of LA and marked the signature trademark of the two gangs and their subsequent sects.

The gangs spread throughout the U.S. and Northern Triangle principally through migration patterns. Families moved throughout the U.S. for economic reasons or for family reunification, oftentimes unintentionally transporting gang culture with them and enabling new cliques or sects.

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to be born. The FBI estimates that MS-13 is currently active in 42 states throughout the U.S.\(^{37}\) In addition, one of the most shortsighted implications of U.S. deportation policies was the spread of MS-13 and M-18, and gang culture, largely defined, back to El Salvador during the post-war reconstruction period.

The 1996 Illegal Immigration Reform and Immigration Responsibility Act (IIRAIRA) in the U.S. fundamentally changed the previously established Immigration and Nationality Act and transformed approaches to immigration and deportation in areas such as what constitutes an aggravated felony, the three strike law and unlawful presence.\(^{38}\) These laws enabled a greater number of people to be deported, especially those with criminal backgrounds, separating families, destroying established communities, and placing people in countries they barely knew.

Upon return to El Salvador, mareros were easily able to replicate their learned gang life in communities trying to heal from war. In the post-conflict environment, El Salvador remained corrupt, impoverished, and generally incapable of providing for its people. In particular, the lengthy civil war left a legacy of rampant disenfranchisement among urban youth and ex-fighters. Maras quickly capitalized upon the marginalization of these groups and easily spread throughout the country. The gangs filled this void by offering youth the opportunity to form a distinct collective identity, providing them with certain financial benefits and the promise of protection. Despite their deportation, gang members maintained close ties with their comrades in the U.S. and were able to build MS-13 and M-18 into transnational criminal organizations.\(^{39}\)


\(^{39}\) MS-13 has been officially designated as a “Transnational Criminal Organization” by the US Treasury Department. See: “Treasury Sanctions Latin American Criminal Organization,” 11 Oct. 2012.
success of both gangs, in part, derives from their ability to effectively provide opportunities and 
structures to individuals normally ignored by the state, which has, in turn, allowed them to 
flourish in diverse populations throughout the hemisphere.

This reality is best illustrated in televised interviews with imprisoned MS-13 and M-18 
leaders in El Salvador. Both El Sirra (MS-13) and El Viejo Lin (M-18) discuss the legacy of the 
civil war, high levels of social and economic inequality, and the disenfranchisement of 
impoverished communities, especially youth, as primary reasons why the gangs have been so 
successful.40

MS-13 and M-18 expanded for years without facing any major crackdowns by U.S. or 
Salvadoran forces; during this period, each group also expanded its influence into Guatemala and 
Honduras, countries with similar social, political, and economic ills, although Honduras had not 
fought a Civil War. Both gangs became involved with activities such as drug trafficking, 
prostitution, extortion, kidnapping, murder, contract killing, robbery, and other petty crimes. A 
main source of income for the gangs has been their rentas, or taxes, which they impose on homes 
and businesses in their turf. If these are not paid, gang members may threaten or even kill in 
order to collect the money. Many businesses have had to close in order to protect themselves 
from this practice.41

Both gangs forcibly recruit school-aged children, boys and girls, and are notorious for 
recruiting in schools. Boys are beaten into gang membership and girls can either be beaten or 
“sexed” in (rather, gang-raped); additionally, all new recruits are expected to participate in a 
crime to gain full gang membership. It has also been reported that the gangs have been hired as

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40 For full interviews see: “Entrevista a el Sirra (MS-13),” Noticiero Hechos TV12, 30, Mar. 2012, 
http://www.youtube.com/watch?v=x7M2aD68HGc and “Entrevista al Viejo Lin (18ST),” Noticiero 
Hechos TV 12, 29, Mar. 2012, https://www.youtube.com/watch?v=O0Hn1BB-Q3U

subcontractors by Mexican drug cartels, such as the Sinaloa Cartel and Los Zetas, to commit assassinations and apply scare tactics to eliminate opposition to control of drug smuggling routes.\textsuperscript{42} They have been employed to force migrants who travel unintentionally through drug smuggling routes to pay \textit{rentas}, and are licensed to use brutal violence if the migrants are unwilling or unable to pay. This business relationship financially profits the \textit{maras} and removes a degree of culpability for the drug cartels.

In March 2012, MS-13 and M-18 reached a historic and unprecedented truce in El Salvador. While a majority of the details of the truce have been concealed, making the process opaque and secretive, the Salvadoran government and the Catholic Church are reported to have dialogued with the gangs to reach this truce. The gang leaders have agreed to stop certain retaliatory murders and recruitment in school zones. The homicide rate initially dropped in the months after the truce, but the state has given few concessions and efforts have stymied. There has been substantial discussion of replicating the truce in Honduras and ways the truce can be done on a more local level. Without full state support, it is hard to implement such a plan.

As the gangs have grown and expanded to new neighborhoods and countries, they themselves have become more fragmented and disjointed. While they retain some hierarchy and overarching leadership, they have become more volatile. New sects have formed and new leaders are eager to exercise their power, making it harder for either gang to present as a truly unified entity. This trend is exemplified in the rhetoric presented by \textit{El Viejo Lin}, a M-18 leader, who has

been outspoken in terms of the truce in El Salvador, the need for reintegration efforts and the fragmentation that is currently plaguing the gangs.\textsuperscript{43}

**B. Combating the Gangs**

Two principal approaches have developed in order to combat MS-13 and M-18 specifically, and gangs in general: punitive and preventative measures. The approaches to combating the gangs have generated substantial criticism and support as to what type of approach (punitive or preventative) is best, and have been employed to varying degrees throughout the region. Punitive efforts, mainly implemented through the *Mano Dura* policies, have been aggressively adopted throughout the Northern Triangle, although the U.S. has also been keen to utilize a punitive approach. The prevention side has received substantially less interest, and funding, in the Northern Triangle, even though strong programs exist throughout the U.S. The unequal and heavily punitive approach to the gang crisis has in fact exacerbated an already volatile situation.

The Northern Triangle governments have all, in some capacity, adopted *mano dura*, which are strong-handed zero tolerance policies. Clare Ribando Seelke describes the *mano dura* policies, saying “[These] approaches have typically involved incarcerating large numbers of youth (often those with visible tattoos) for illicit association, and increasing sentences for gang membership and gang-related crimes.”\textsuperscript{44} Honduras implemented such policies in 2002, followed by El Salvador and Guatemala in 2003. It is important to note that Guatemala has not implemented these policies in the same capacity as the other countries, but rather has utilized a

\textsuperscript{43} See: “Entrevista al Viejo Lin.”

piecemeal effort. Initially these policies were met with tremendous public support, but the unintended consequences of this approach have been devastating.

Some of the most problematic consequences have been a blurring of the police and military apparatus, severe over-crowding in prisons, the vilification of youth, and the backlash against the state from the gangs. Both the Salvadoran and Guatemalan Peace Accords, developed after their Civil Wars, contained explicit provisions separating the functions, duties and responsibilities of the police and the military and created National Civilian Police forces. Despite efforts towards police reform and restructuring, the mano dura policies in all three countries have given the police force powers traditionally allocated to the military and greatly distorted the provision of protecting civilians with regulated force. The authority and capacity of the police has been re-conceptualized and has created a fear and mistrust in the police and their ability to protect civilians while simultaneously respecting human rights.

In addition to the problematic muddling of the roles and responsibilities of the police and military, the mano dura policies have vilified youth, especially males, and made them a target of the state. Individuals who are ‘suspected’ or ‘perceived’ to have gang affiliations can be arrested and detained without further cause; and because of this, the rhetoric of politicians and the media has focused on the criminality of youth and attributed possibly unrealistic crime statistics to youth and gangs. Paulo Sergio Pinheiro, an Independent Expert appointed by the UN Secretary General to conduct a study of violence against children, directly defines this problem:

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Governments’ aggressive responses to the maras reflect a sharp escalation in public rhetoric. In El Salvador, the first version of the state’s anti-gang strategy was called Mano Dura, the second Super Mano Dura. Anti-Mara Squads were created (mixing police and army—one of Latin America’s favored approaches). And you would even hear references to the beginning of ‘mara hunting season.’ Some of these hunts included the president as the convoy leader. Opinions found daily in newspapers reproduce and reinforce public perceptions of the linkage between maras and the vast majority of crime.47

Due to the mano dura policies’ focus on arresting and detaining active and suspected gang members, the prisons have been filled drastically beyond capacity. The prison structure in the Northern Triangle was not prepared for the influx in inmates and has generated a ‘prison crisis.’ A New York Times investigatory report from 2012 comments “The 19 prisons in [El Salvador] were built to hold 8,000 people. These days, 24,000 are stuffed into them, leaving inmates to string hammocks from the ceiling or bed down on the floor of a library that is now too full of prisoners to hold any books.”48 The physical infrastructure of prisons in Honduras is being compromised, as is the physical security of prisoners due to extreme overcrowding, lack of resources such as beds, and gang tensions.49 Another example of the dire consequences of the severe overcrowding occurred in Comayagua, Honduras in February 2012, where a massive fire broke out in a prison and killed 359 people.50 Prisons have morphed into gang finishing schools given the fact that the inmates are separated according to gang affiliation and have ample time to network, learn plan and conduct business from within prison walls.

In response to the states’ attempts to suppress the gangs, gang members have expanded their efforts to retaliate directly against the state and their apparatuses. There have been reports of gang led prison riots, targeted killings of police and civilians, and intimidation of state

officials. This reprisal has complicated the ability of the state to combat the gangs, especially given the high level security risk. This reality makes it harder for police to investigate crimes for fear of direct retaliation.

Most prevention and reintegration efforts have occurred in the United States. There is growing interest in the need for a comprehensive approach to combating the gangs that involves elements of community activities, social services, educational opportunities, positive role models and a viable and/or an achievable way for individuals to permanently leave the gang. The Office of Juvenile Justice and Delinquency Prevention, within the U.S. Department of Justice, has developed a Comprehensive Gang Model, which is a strategic approach to combating gangs that encompasses the following components: community mobilization, opportunities provisions, social intervention, suppression and organizational change and development. Many anti-gang programs or gang task forces have adopted this model and utilize it within their programs. The ultimate objective effort of preventive or reintegration efforts is to fill the gaps that the gangs are able to fill, but in a productive and positive manner.

In the U.S. there have been efforts to utilize creative approaches, based on comprehensive studies, to prevent gang membership and help those transitioning out of the gang lifestyle. Some gang initiatives have implemented soccer and basketball tournaments, tattoo removal programs, mentorship programs, internship programs, community service programs, life-skills classes, and mediation sessions, amongst others. The ultimate objective of these activities is to deter gang involvement, educate families about the signs of gang affiliation, educate individuals about other available opportunities besides gangs, and intervene if gang membership has already occurred.

Prevention, intervention and reintegration programs have the potential to be transformative for individuals, their families and their communities. Each community has to respond to its own population and gang situation differently and address its own unique needs. Effective activities and programs have the possibility of addressing root causes of why individuals join gangs and generating long-term positive impacts.

II. The U.S. Immigration System

A. Lawful and Unlawful Entry

In order to understand the ways in which the U.S. immigration system has contributed to the spread of maras through its deportation policies and the ostracism of undocumented individuals in the U.S., it is necessary to understand certain structural problems that contribute to or exacerbate this problem. The U.S. immigration system is large in scope with a variety of ways to lawfully enter the country for numerous reasons such as work, tourism or family reunification. Despite this breadth, it is often restrictive, bureaucratic and expensive for individuals trying to enter the country lawfully. For example, in order to secure a work visa, individuals generally must have employer sponsorship within a specialized field with a scarcity of eligible or qualified American employees or applicants. Obtaining a visitor visa is another challenge, especially if the applicant originates from an impoverished country with a high rate of immigration to the U.S. Applicants must demonstrate that they have substantial assets in their home country such as bank accounts, employment, and property, in addition to the need to demonstrate that they are unlikely to overstay a visitor visa.

For individuals migrating to the U.S. from Central America these challenges may be insurmountable. A lack of knowledge about these licit processes, an inability to obtain the necessary sponsorship or documentation and the large financial obligations necessary may
prevent individuals from migrating to the U.S. through legally established means. Additionally, given the geographic proximity of Central America to the U.S. and the historically established and well-traveled migration routes between the two, many individuals choose to migrate to the U.S. through irregular or undocumented means.

Undocumented migrants may employ a variety of strategies to arrive in the U.S. from Central America. Depending on financial resources, individuals may choose the most inexpensive option, which is to traverse the territory on foot, on public transportation, to ride on top of trains and attempt to cross the U.S./Mexico border on their own. This option is fraught with risk such as accidentally crossing contested drug territory, being kidnapped and extorted by gangs, physically falling off of a train or getting lost in the desert. For those with greater financial resources, coyotes or guides are readily available to guide groups of migrants from their hometowns to the U.S. Despite the known risks, hundreds of thousands of people attempt to cross the U.S./Mexican border illegally each year. In fiscal year 2013, Customs and Border Protection (CBP) apprehended 420,789 people trying to enter the U.S. illegally and in FY 2012 CBP captured 364,768.\textsuperscript{52} This number does not account for those who enter the U.S. without being caught.

B. U.S. Asylum System

The United States Citizenship and Immigration Services (USCIS) offers a legal protection framework for the following special categories: refugees, asylees, battered spouses, victims of human trafficking (sex and labor), those requesting humanitarian parole, those who qualify for Temporary Protected Status (TPS), those who witness crimes and aid in police investigations in the United States, eligible “DREAMers” and those who qualify for special

situations. In order to be eligible for asylum, an applicant must demonstrate that he or she meets the definition of a refugee.

According to the Immigration and Nationality Act, a refugee is:

Any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country 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, or in such circumstances as the President after appropriate consultation may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.\(^53\)

In addition to the abovementioned requirements to determine refugee status, an individual must prove that the persecution on account of a statutorily protected ground was or will be committed by a foreign government or by a non-state actor with the acquiescence of the foreign government, meaning that the government of his or her home country was or is unwilling or unable to protect him or her from the harm of the non-government actor.

In order to successfully win an asylum case, an applicant must clearly show the nexus between his or her statutorily protected ground and the persecution that he or she suffered in the past or is likely to suffer in the future. In the specific contexts of those from the Northern Triangle who flee gang violence, the track record of successful asylum applications has proven highly problematic, inconsistent and unfavorable. Generally, although not exclusively, it is not instantly apparent that gangs have targeted individuals in the Northern Triangle for their race, religion, political beliefs or nationality, but instead because they are youth, are from a certain neighborhood, have certain social connections or ties, or are perceived to be wealthy; some even allege that gangs do not have specific reasons or rationales for who they recruit or target. Given

this difficulty, various applicants and their attorneys have attempted to craft distinct and creative “particular social groups,” membership in which has led to the applicants’ persecution by the gangs.

The category of “membership in a particular social group” has historically proven the most flexible in protecting individuals who fall outside of traditionally protected reasons. T. Alexander Aleinikoff, a professor from Georgetown University Law Center states, “The social group cases have been pushing the boundaries of refugee law, raising issues such as domestic abuse, homosexuality, coercive family planning policies, female genital mutilation (FGM), and discrimination against the disabled.”54 The standards and requirements for particular social groups were laid out by the Board of Immigration Appeals in 1985 in Matter of Acosta, which established that an individual must possess immutable characteristics that are, “ones that the member of the group either cannot or should not be required to change because it is fundamental to their individual identities or consciences.”55

As the gang crisis has worsened in the Northern Triangle, a greater number of individuals have tried to seek asylum within the particular social group category. In response, the Board of Immigration Appeals, in 2008, decided Matter of E-A-G and Matter of S-E-G, which tightened the requirements and stated that a protected social group must have sufficient particularity (meaning the group must be well defined and distinct to constitute a discrete class of people) and be socially visible (meaning the group must be recognizable to members of the community).56 This ‘test’ of particularity and social visibility became the new standard and hindered many applicants fleeing gang-based persecution. For example, a person who opposes the criminality of

the gangs and therefore refuses recruitment may not advertise his or her opinions or beliefs for fear of retaliatory violence, but because of this he or she fails the social visibility test. In February 2014, the Board of Immigration Appeals issued two more precedential decisions, *Matter of M-E-V-G* and *Matter of W-G-R-*, which changed the name of the social visibility requirement to social distinction and clarified that to be socially distinct, a particular social group in question must be recognized as a group by the society in question.57

When an asylum claim is made based on the applicant’s “membership in a particular group,” it is imperative that the individual be able to articulate exactly from what and from whom he or she is fleeing and why it is impossible to return to his or her home country. Specifically, an applicant must show that he or she is a member of a particular social group that shares common and immutable characteristics. He or she must prove that this group exists, that it is sufficiently particular and socially distinct. In addition, he or she must demonstrate that the persecution is occurring because of his or her membership in this group and not for other, non-protected, reasons. In the case of Central American gangs, applicants must also prove that the national government of their home country is unable or unwilling to control this persecution, since gangs are non-state actors. This final requirement has proven challenging, since the governments have implemented *mano dura* policies, so Immigration Judges and government attorneys have argued that the home country government is willing and at least trying to control the problem.

Another common obstacle for asylum seekers is the argument of internal flight or relocation alternative, which inquires whether an individual explored or exhausted all available options in his or her home country and to see if he or she explored potentially ‘safe’ spaces in his

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or her country. This reality of internal flight is further discussed in Chapter 4. In recent asylum claims in the U.S., particularly by those fleeing non-state actors such as gangs and drug cartels, this question has become paramount.

International legal precedent emanating from the UNHCR *Guidelines on International Protection “Internal Flight or Relocation Alternative” within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees* states, “The 1951 Refugee Convention does not require or even suggest that the fear of being persecuted need always extend to the whole territory of the refugee’s country of origin” and additionally remarks, “The concept of an internal flight or relocation alternative is not a stand-alone principle of refugee law, nor is it an independent test in the determination of refugee status.”58 This international legal framework insinuates that internal flight cannot be the sole determination for rejecting an asylum claim, although in the U.S. an ever increasing number of cases are being denied, in part, for this reason.

There are several other substantial factors in the asylum application process such as timing, credibility, criminal record, and financing. In the U.S., applicants only have one year from their arrival in the country to file an asylum claim, unless there are extraordinary circumstances preventing them from having filed within that timeframe or if on-the-ground situations have changed in their home country. This requirement is often problematic, as, for example, those who have suffered sexual violence may not have the courage or emotional preparedness to come forward in such a short period of time. Applicants must go through either an extensive court or interview process, depending on if they are filing their asylum claim defensively or affirmatively, to determine the credibility of their claim and any inconsistencies in

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58 UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees. HCR/GIP/03/04, 23 July 2003.
their stories or indiscretions in their personal life may be red flags and delegitimize their credibility. Applicants generally cannot have any sort of criminal background, even minor violations, which can affect the asylum application. Finally, an asylum case can take years to complete and lawyer fees can be extremely costly.

III. International Norms for Migration and Protection

The international community has developed comprehensive norms, standards and practices for protecting migrants, refugees, and displaced persons in the wake of World War II. Due to the fact that the international community was unable, and perhaps unwilling, to absorb and protect the extreme number of refugees fleeing from Germany during Hitler’s reign, millions were trapped within national boundaries with no ability to escape. This tragedy resulted in an emerging preoccupation with and concern for the protection of certain groups fleeing conflict, persecution, and tyranny. Because of this, the modern international protection framework was born.

The United Nations Refugee Agency, which has grown into the present day United Nations High Commissioner for Refugees (UNHCR), was originally created in 1950, in the aftermath of WWII as a three-year program to, “help Europeans displaced by the conflict.”59 Despite its originally limited scope and lifespan, the agency continued to grow and respond to emerging conflicts, crises and disasters. The UNHCR has grown into a global organization working with refugees and internally displaced persons across the globe, and as of 2012 has worked with over 33.9 million people of concern.60

International standards in the protection of and response to refugees have originated from the 1951 Convention Relating to the Status of Refugees and the subsequent 1967 Protocol

60 “History of UNHCR.”
Relating to the Status of Refugees. The texts of these documents elaborate on the international standard for the protection, care, and treatment of refugees by independent states, the rights of refugees, and who is not included within this framework. Specifically, the Convention and Protocol provide a definition of who constitutes a refugee, prohibit states from engaging in the practice of non-refoulement (returning a true victim of persecution back to his or her persecutor), call for the facilitation of refugee travel by providing refugee travel documents, call for the maintenance of the principle of family unity, call for the provision of welfare services for refugees, and provide a framework for international cooperation for resettlement. They also establish that certain individuals, such as war criminals, are not to be considered refugees or be eligible for protection within this specific framework.

The Convention and Protocol have established the foundation for the national asylum and protection systems and laws of various countries. There are 144 State parties to the Convention and 145 State parties to the Protocol. Despite the fact that there are numerous state parties to the Convention and Protocol, these documents are ultimately non-binding. This means that state parties are expected to adhere to the ‘spirit of the Convention and Protocol,’ but are not legally obligated to follow all of their exact tenets. Countries are able to alter components to best fit their individual needs.

The Convention specifically defines a refugee as:

As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and

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61 For complete text see: UN General Assembly, 1951 Convention Relating to the Status of Refugees.
being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.⁶³

One of the primary requirements to meet the definition of a refugee is for a person to have crossed an international border. As the structure of and actors in conflict and oppression have evolved, the ability or need for individuals to cross an international border to seek protection have also changed. Since WWII there has been a decrease in conflicts between two sovereign states and an increase in internal conflict within a single state, especially with the rise of secession interests, independence movements, guerilla movements, and non-traditional violent non-state actors, such as drug cartels.

Conflicts within a country, whether they are between official state actors and non-state actors or amongst two or more non-state actors, generate tremendous levels of displacement. In internal conflict situations it is possible that individuals are able to relocate to another part of their country, although they still require protection and assistance akin to that provided to refugees crossing international borders.

Internally displaced persons (IDPs) pose a challenge to international organizations, such as UNHCR, since they remain within the geographic boundaries of their home countries and, thus, the legal protection of sovereign nations. As internal conflicts in countries such as Colombia and Sudan generated larger and larger numbers of IDPs, the international community recognized the need to develop a new framework to address the needs of this unique population. The Guiding Principles on Internal Displacement were presented to the United Nations Commission on Human Rights in 1998. The Guiding Principles are steeped in international law and, human rights law and derive in large part from the Refugee Convention.

According to the Guiding Principles, an IDP is defined as:

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⁶³ UN General Assembly, 1951 Convention Relating to the Status of Refugees.
Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.\textsuperscript{64}

The \textit{Guiding Principles} identify the rights of and guarantees available to IDPs and addresses their need for protection and assistance during displacement as well as during return or resettlement and reintegration.\textsuperscript{65} They also recognize that while IDPs are within their own country, they may face certain situations of isolation, discrimination, or exclusion and that they are in fact a vulnerable population and in need of special assistance.

Both the \textit{Refugee Convention} and \textit{Guiding Principles} have been crucial in establishing international standards, norms and obligations for the responsibility to protect refugees and IDPs. Although they are non-binding, these documents are frequently referenced and cited in reports, briefs, investigations and legal arguments in various countries to urge for greater protection.

\textsuperscript{65} Ibid.
Chapter 4: Gangs and Migration

An individual’s rationale for migration may encompass a singular factor or multiple reasons for leaving his or her home and it is often a challenge to pinpoint the sole or exact singular cause. Migrants who leave their home for multiple reasons generally fall within the category of “mixed migration,” which can be problematic for protection frameworks. The Northern Triangle presents a complex case study due to a variety of competing factors: structurally entrenched poverty, pervasive gang violence, the presence of highly sophisticated drug cartels, oppressive state violence, weak or ineffective state institutions, and geographically separated families, amongst other trends and problems. There may be a decisive reason for sudden flight, such as a direct physical assault; whereas in other scenarios multiple factors may contribute to a gradual decision to migrate, such as lack of employment opportunities coupled with generalized gang violence. It should always be understood that gangs and migration are complicated and multifaceted phenomena and with that considered, this section explores the ways in which gangs induce migration, how the state led efforts to combat the gangs simultaneously prompt migration, and how non-gang based migration trends contribute to the proliferation of gangs.

I. Gangs Inducing Migration

The most obvious way gangs force migration or flight is through direct physical force or violence. MS-13 and M-18 are notorious for engaging in forced recruitment practices of youth, both boys and girls.66 It is well documented that the disenfranchisement of youth, particularly the lack of educational, social, and employment opportunities in the Northern Triangle have created ripe recruiting environments for these gangs. Those who choose not to involve themselves with

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66 For a detailed discussion on gender roles within the maras see: Interpeace, “Violentas y Violentadas: Relaciones de género en las maras Salvatrucha y Barrio 18 del triángulo norte de Centroamérica,” Interpeace Regional Office For Latin America, (Guatemala, 2010).
gang activities or members can have tremendous difficulty avoiding the gang’s recruitment efforts or renouncing established gang membership. Numerous reports and asylum claims in the U.S. have shown that once an individual is targeted for membership, the gangs will use violence or threats of violence against that individual or his or her family to secure recruitment. Given the notoriety and reputation of the gangs and their hyper-violent tactics, many individuals singled out for recruitment choose to flee in order to escape recruitment or retaliatory violence.

Families of current, former, and recruited gang members also are at risk for direct violence. As discussed, in order to compel membership gang leaders may threaten to harm a target’s family members if he or she refuses to join. More often, family members may become victims of retaliatory violence if gang members misbehave or disobey orders. In asylum cases, applicants have testified about experiences of gang members stalking and intimidating their families by circling their homes, sending threatening messages, and following them in public spaces. Gang warfare between rival gangs or smaller sects may result in deaths that then spur retaliatory killings, all too often involving innocent family members. If the threat is perceived as legitimate, the violence is imminent and if the family has enough financial means, the entire family will flee or if there are not enough funds, the most vulnerable members will escape, most often leaving the elderly and extremely young behind.

Gangs have been known to demand access to homes or businesses, with complete disregard for the people who occupy the place. In order to gain control of a physical location gang members may choose to dialogue with the residents and if they refuse to cooperate, gang members may resort to threats, intimidation or violence. In addition, gangs derive a portion of

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their income through the imposition of taxes or ‘rentas’ on local businesses, often to the point that business owners are not able to pay them and flee for their safety. Without a home or business, individuals have to seek shelter, security, and a livelihood elsewhere. Those whose homes or businesses have been forcibly seized are unable to generate income and oftentimes become displaced.

Generalized violence, such as robbery, rape, pickpocketing, and state violence, is another powerful motivator for migration. Even if individuals and families are successfully able to avoid gang recruitment, membership, and interest there is the problem of pervasive and endemic general violence generated by gangs and the state apparatus. Ana Arana, in her article “How the Street Gangs Took Central America,” provides a textured example of the reasons why families have fled from certain neighborhoods in the early 2000s:

The gangs regularly battle each other and the police for control of working-class neighborhoods and even entire cities. Fifteen municipalities in El Salvador are believed to be effectively ruled by the maras. Municipal (Soyapongo) bus drivers have refused to traverse the area since three of their colleagues were killed by gang members in April 2004 and an estimated 300 families fled the neighborhood last year.68

These trends have continued to increase throughout the region with an increasing number of people fleeing these countries and attempting entry into the U.S. and other countries such as Nicaragua, with reportedly 99% of asylum claims in Nicaragua based on fears and persecution by gangs.69 In the U.S. it is reported that in Fiscal Year 2013 there were 36,174 adults claiming fear of return to their countries of origin to U.S. government officials at ports of entry or upon apprehension by immigration officials as compared to only 5,369 in FY 2009 and individuals from the Northern Triangle accounted for 70% of the increase.70 Families have difficulty

69 Ferris. “Gangs, Violence and Displacement.”
generating income, utilizing services in public space, such as riding buses, and fear for the security of their children, so relocation is often the best option.

The recently published UNHCR report, *Children on the Run: Unaccompanied Children Leave Central America and Mexico and the Need for International Protection*, (hereinafter, *On the Run Report*) based on extensive interviews with 404 unaccompanied child migrants who had fled form Central America and Mexico, concisely summarizes the numerous ways gang induce migration, specifically in relation to children:

The gang-related issues include a range of threats and harms to the children. The majority of the 108 children who discussed gang violence - 75 children, or 69% - talked about at least one specific incidents such as having been beaten, robbed or threatened by gangs. More than half of the children who discussed gang violence issues- 64 children, or 59%-talked about the rampant threat of harm by armed criminal groups in their communities, including inter-gang conflict and the extent of the control gangs exercise in different neighborhoods, such as determining who may enter and exit these neighborhoods- even among residents and relatives of residents in the community. Some children described the potentially life-threatening dangers of being misidentified as a member of one gang while in rival territory of another gang. Children shared the dangers they faced through their efforts to avoid gang recruitment, harassment by gangs while commuting to school, and the extortion exacted by gangs on children and their families.71

II. State Efforts in the Northern Triangle Inducing Migration

In addition to the gangs directly causing migration or flight, the state-led efforts to curb the gangs have also induced migration. The basic tenants of the *Mano Dura* policies have been previously discussed, but it is necessary to discuss how the efforts of these policies contribute to the situation of generalized violence, mistrust and reduced confidence in government institutions, in particular the police force and judiciary. While the hardline policies have received glowing praise by a variety of actors such as Tony Saca, the former president of El Salvador, and Juan Orlando Hernandez, the current president of Honduras, many have contended that they generate more violence and undermine the legitimacy of democratic institutions. Mo Hume in “*Mano Dura: El Salvador Responds to Gangs,*” argues that *Mano Dura* relies on creating a politics of

71 Ibid, 26-27.
fear and panic that regenerates structures and individual manifestations of violence.\textsuperscript{72} Youth have become targets of the state and can be detained and jailed on simple suspicion of gang activity, such as dressing in certain clothing or having visible tattoos, which poses a real concern for parents trying to protect their children. The role and authority of the police and the military have been blurred, in direct violation of the Salvadoran and Guatemalan Peace Accords, which creates fear of state actors, in addition to the gangs.

A prime example of the legitimate fear of state-sanctioned or enacted violence can be seen in the homicide rates for El Salvador in 2012. MS-13 and M-18, in El Salvador, reached a historic truce in March 2012. The truce contributed to a drastic decrease in homicides in the country and there was tremendous optimism about the success of the truce. The Instituto de Medicina Legal (IML), El Salvador’s forensic institute, reported 2,492 murders in 2013, with an average of 6.83 murders per day, whereas in 2012 there was a reported 2,594 murders with an average of 7.11 per day.\textsuperscript{73} While it is remarkable that these numbers decreased, the overall homicide rate remained troublingly high and begs the question, “Who is committing these murders?” The principle questions that arise from these concerns: “Are state actors using excessive force against perceived or established gang members? Are vigilante groups attacking suspected gang members? To what degree is crime targeted and planned or just generalized? What impact do these trends have on ‘post-conflict success in El Salvador and Guatemala?’”

The causes of the homicide rate in El Salvador, as in Guatemala and Honduras, are, in large part, unaccounted for in the sense that popular rhetoric, largely fueled by the national government, suggest that the majority of homicides are gang-related, although the governments

\textsuperscript{72} Hume, “Mano Dura: El Salvador,” 739-751.
have been unable to concretely substantiate these claims. In addition to possible state generated violence, there are high levels of police corruption, inefficiency and indifference, which diminish the state’s capacity to effectively protect their citizens.

Strong democratic institutions that function effectively and transparently are the cornerstone of good governance. Institutions such as the police and the judiciary are vitally important in order to monitor, prevent, deter, and punish crime and maintain security within a country. In order for these specific institutions to function properly, citizens must trust them and feel confident and safe to utilize them, such as reporting crimes, assisting a police investigation, or testifying in court. Despite substantial judicial and police reforms at the end of the Salvadoran and Guatemalan civil wars, the police forces and judiciaries remain substantially inefficient throughout the region.

Thus far, the governments in the Northern Triangle have been unable to provide viable mechanisms to protect their citizens from the gangs. Increasingly, gangs are able to bribe police officers for their silence and refusal to investigate certain crimes, or threaten them with violence if money does not work. Those who have fled the gangs have reported that some police officers are gang-affiliated or associated, or have gang-affiliated family members. Additionally, due to the pervasiveness of the gangs and high levels of crime, it is reported that a certain level of apathy amongst the police has developed.

Due to increasing mistrust and fear of the police, few people report crimes and even those who do make an official report are unlikely to see a follow-up investigation. To illustrate this point, the *On the Run Report* argues that many youth flee the region due to lack of state protection. For example, “Thirteen Salvadoran children, by far the highest number of all the countries, spoke about concerns related to insufficient State response to reports of threats or
harm or an inability to protect from these harms.\textsuperscript{74} An anecdotal example is provided in the report by a male interviewee aged 17 from El Salvador:

The gangs beat me up five times for refusing to help them. The pain from the beatings was so bad, I couldn’t even stand up. They killed a friend of mine in March because he didn’t want to join, and his body wasn’t found until May. I went to the police twice to report the threats. They told me that they would do something; but when I saw that they weren’t doing anything to help, I knew I had to leave. I even brought a copy of the police report I made.\textsuperscript{75}

If an individual avails himself or herself to the protection and help of the state and is met with limited or no results, there are few other options besides leaving. The actual and perceived lack of state protection greatly contributes to out-flows of migration throughout the region.

III. Flight Options

This section examines possible ways in which individuals can flee and have fled from the gang crisis. Specifically it looks at internal flight options, where an individual attempts to relocate within his or her home country and international flight options, where an individual attempts to relocate to a new country.

A. Internal Flight

The countries of the Northern Triangle are geographically small with total areas of: 21,041 square kilometers (El Salvador)\textsuperscript{76}, 108,889sq. km (Guatemala)\textsuperscript{77}, and 112,090sq. km (Honduras).\textsuperscript{78} Their size poses a challenging situation for those who attempt to relocate within their home countries given the fact that there are relatively few places to turn to. A logical assumption would suggest that if an individual was having problems with gangs in one neighborhood or department, he or she should simply move to a new area. This assumption is the

\textsuperscript{74} UNHCR, “On the Run,” 33.
\textsuperscript{75} Ibid, 32.
basis of the “internal flight” consideration in U.S. asylum law. Research suggests that many individuals and families do attempt to internally relocate to avoid gang violence or targeting before they flee across international borders, although two realities can prevent this from being a viable option.

First, the pervasiveness and interconnectedness of the gangs in these small countries poses a tremendous challenge for those attempting to flee from them. In 2012, it is estimated that the numbers of MS-13 and M-18 members were: 22,000 in Guatemala, 12,000 in Honduras and 20,000 in El Salvador.\textsuperscript{79} Technology, such as international text message applications such as WhatsApp and social media outlets, allow gang members, even in prison, to issue orders or ‘hits’ to different localities and stay in constant communication with one another. Secondly, financial means are a serious consideration in determining if an entire family can relocate. High levels of poverty prevent many from relocating to supposedly safer areas. There are numerous stories of families utilizing financial resources to relocate the most vulnerable member of the family, leaving the remaining members at risk.

While gang pervasiveness and poverty are two primary reasons why internal flight is not always feasible, the small size of the country provides few options for internal relocation. Families that relocate may encounter similar problems with the local gangs of their new communities. Moreover, this logic argument does not take into account the logistics and viability for an individual or family to relocate, such as family ties, educational access and livelihood opportunities.

\textbf{B. International Flight}

Given the scope and pervasiveness of the gang crisis and the challenges associated with relocating within Northern Triangle countries, international flight becomes a viable, and perhaps

the only option for those fleeing the gang crisis. The U.S. is a primary destination country for those fleeing the gang crisis for a variety of reasons such as: geographic proximity, well-traversed migratory routes, the asylum system, well-established Central American communities in the U.S., and family reunification efforts. In a recent *New York Times* article, “Hoping for Asylum, Migrants Strain U.S. Border,” Julia Preston comments on the changing demographic and rationale for those who cross the U.S./Mexico border:

The migrants are no longer primarily Mexican laborers. Instead they are Central Americans, including many families with small children and youngsters without their parents, who risk a danger-filled journey across Mexico. Driven out by deepening poverty but also by rampant gang violence, increasing numbers of migrants caught here seek asylum, setting off lengthy legal procedures to determine whether they qualify.  

Additionally, countries such as Mexico, Canada, Nicaragua, and Costa Rica have all seen influxes in asylum applicants based on the gang crisis and an increase in the number of Central Americans living in these countries without official authorization.

International relocation, similar to internal flight, is dependent on multiple factors such as financial resources, contacts or family members in other countries, and internal relocation opportunities. As discussed above and in Chapter 5 internal relocation is often the first strategy employed by individuals who have been threatened or harmed by the gangs or become involved in the crisis. If this option is deemed unviable because of lack of safe places to turn to or the breadth of the gangs, international flight becomes necessary. The threat or fear of gang or state violence must be believed to be substantial and credible to incite such drastic measures.

**IV. U.S. Immigration Practices Impacting Gang Proliferation**

The origins of the gangs stem back to Salvadoran refugee and migrant influxes in Los Angeles, California during the Salvadoran Civil War in the late 1980s as discussed in Chapter 3. Much research has focused on the growth of MS-13, in particular, and M-18, specifically in

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relation to U.S. immigration and deportation policies. Most notably, in 1996 the U.S. began to apply its highly punitive three-strike criminal justice policy to immigrants, ensuring that individuals who had committed three offenses were deported after serving their time. This deportation policy, at the time, did not include information-sharing with countries of origin about gang affiliations, and no countries offered migrant reintegration programs. Many deportees who had grown up in the U.S. and knew little about their birth countries were left to reintegrate themselves and were able to transmit their knowledge of gang culture back home with them.

The deportation connection is one of the most studied components of the ‘gang crisis.’

It is clear that U.S. deportation practices contributed to and continues to facilitate the proliferation of gangs throughout the region. This situation has forced all involved to be cognizant of the problem and attempt to share information, especially about gang affiliations and criminal histories of deportees. An emerging trend that is now receiving tremendous interest amongst the international community is the issue of unaccompanied child migrants (technically, “Unaccompanied Alien Children” UACs) fleeing the Northern Triangle, and Mexico, and arriving in the United States.

By definition, “an unaccompanied alien child (UAC) is one who has no lawful immigration status in the United States; has not attained 18 years of age, and with respect to whom 1) there is no parent or legal guardian in the United States; or 2) no parent of legal guardian in the United States is available to provide care and physical custody.”

In practice this means minors under the age of 18 who have crossed a U.S. border, most commonly the U.S./Mexico border, without at least one of their parents, and are detained by immigration

81 For a detailed study examining the connection between U.S. deportation policies and the spread of maras see: Zilberg, Space of Detention.
authorities. Once they have been apprehended they are placed in the care of the U.S. Department of Health and Human Services’ Office of Refugee Resettlement (ORR), most often in children’s shelters. These children are placed in removal proceedings, like their adult counterparts, although they are often released into the care of their families or eligible guardians in the U.S while proceedings are ongoing. In certain circumstances, these children may be eligible for post-release services such as social service referrals for girl’s who are pregnant or parenting, or those who may have experienced extreme trauma.

The number of UACs arriving in the U.S. has steadily increased over the past three years with 13,625 in FY 2012, 24,668 in FY 2013 and a projected 60,000 in FY 2014. The majority of these children hail from El Salvador, Guatemala, Honduras, and Mexico, although they can be nationals of any country. Recent reports indicate that gang and state violence, in the Central America context, are driving factors as to why these children flee their homes. Due to this unprecedented surge, U.S. and international actors, such as UNHCR, ORR, Kids In Need of Defense (KIND), and the Center for Gender and Refugee Studies at the Hastings College of Law at the University of California (CGRS) have collaborated on research investigating the root causes of migration and the unique protection needs of these children.

Despite the attention to the connection between deportation policies and the spread of gangs throughout the region and the gangs motivating UACs to embark on dangerous journeys to the U.S. there has been very little interest in assessing the impact of a lack of legal status or an “undocumented label” on potential gang proliferation within the U.S.

The most commonly discussed total number of undocumented individuals, those that lack legal status, in the U.S. is 11 million, with the majority of that number being Mexican nationals.

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84 Ibid, ii.
More aggressive border patrol strategies and the economic recession of 2008 temporarily slowed illegal border crossings, especially of Mexican nationals. Despite this trend, a new pattern emerged in recent years with a substantial increase in Central Americas, principally from El Salvador, Guatemala and Honduras, crossing the U.S. border without proper documentation.

The state of being undocumented or ‘illegal’ creates numerous barriers and problems for individuals in the U.S. There is tremendous fear of being apprehended by Immigration and Customs Enforcement (ICE), so that many people try to remain invisible and fly under the radar. Manuel Montenegro, a contributor to The Migrationist, a collaborative international migration blog, provides an anecdotal description of what it means to grow up ‘undocumented.’ He writes:

Contrary to hiding my status from me, my mother was more forthright about this issue than all others. She was an excellent guide, and helped me traverse a childhood littered with daily reminders that I did not belong. She masterfully filled my life with lessons on subtlety, secret, and subterfuge. “Don’t draw people’s attention.” “Never talk about your status.” “Be invisible.”

This desire to remain unnoticed may prevent undocumented individuals from reporting crimes or utilizing available social services for fear of being deported. In specific relation to gangs, this isolation may push individuals towards gangs, who are of the same cultural background, for lack of social structure in the U.S. or other social outlets such as the ability to easily enroll in school or organized sports, and it may prevent individuals from reporting gang related activities, crime, and recruitment.

The scope and breadth of MS-13 and M-18 is of growing concern in the United States. In 2008, the Northern Virginia Gang Task Force estimated that there were 3,000 MS-13 members in the Northern Virginia region, geographically one of the gang’s most populous areas, and in 2014 the FBI estimated that there were possibly 10,000 MS-13 members throughout 42 states in

the U.S.\textsuperscript{87} It is harder to aggregate membership statistics for M-18 given its past connection to other gangs and relatively less media attention in the U.S. Overall, there is potentially a larger connection between the undocumented immigration status of individuals and their connection to MS-13 and M-18 in the U.S. that is deserving of greater attention.

\textsuperscript{87} Botelho, “Federal agents arrest hundreds.”
Chapter 5: Stakeholder Interviews and Mapping

In order to have a more comprehensive and current knowledge of the programmatic work being done at the intersection of gang proliferation and migration, stakeholder interviews and mappings were conducted. The objective of this research was to develop a more holistic understanding of what programmatic work and research is currently being conducted, and in what capacity; what projects are being developed for the future; and what best practices, if any, have been developed. This chapter will explain and analyze the research that was conducted in February, March and April of 2014 that formed this thesis.

I. Methodology

The following activities were conducted as part of my thesis research: 10 formal stakeholder interviews, 30 mappings of relevant stakeholders and organizations, attendance at 4 conferences on the subject, and numerous informal discussions with relevant actors. The interviews were conducted with stakeholders currently working on issues relating to gang reduction or prevention and/or migration because of the gang crisis in Central America. Some of the interviewees included gang task force coordinators, subject matter experts, field researchers, lawyers, and social service providers. The mappings were a precursory tool to assess what programmatic work currently exists and what present and past research initiatives have been and are being conducted by relevant organizations. This mapping relied on publically available information such as published organizational reports and websites and they formed the initial basis of individuals to contact for possible interviews. These organizations included local, national and international non-governmental organizations (NGOs) and non-profits such as Kids In Need of Defense (KIND) and Fundación de Estudios para la Aplicación del Derecho (FESPAD); governmental initiatives such as the Federal Bureau of Investigation’s (FBI) MS-13 National Gang Task Force.
and the Office of Refugee Resettlement’s (ORR) unaccompanied children’s services; academic research from institutions such as La Universidad Centroamericana; and legal work by organizations such as the U.S. Committee for Refugees and Immigrants (USCRI).


A central focus of this section of the thesis is to explore what work is being done and why, what are some successes and challenges for individuals and organizations working on these issues, and how these two distinct fields (gangs and migration) relate. In order to best explore the ‘hows’ and ‘whys’ of programmatic design and implementation and best understand connections, qualitative data was selected as the primary research methodology for this section. It was also important to discuss anecdotal stories in order to exemplify how and why certain programs do or do not work. This objective was best achieved through interviews instead of other tools such as surveys, which can limit potential content. Michael Quinn Patton, in his chapter, *Qualitative Interviews*, states,

> The purpose of interviewing, then, is to allow us to enter into the other person’s perspective. Qualitative interviewing begins with the assumption that the perspective of others is meaningful, knowable, and able to be made explicit. We interview to find out what is in and on someone else’s mind, to gather their stories.

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Interviews are a tool that enables the researcher to go into greater depth regarding questions and responses, and to ask clarifying questions during the interview.

The stakeholders were chosen to participate in the interviews based on their leadership role within their organization, their direct work on the issues of gangs and/or migration, or because they have published articles on the subject of gangs and/or migration. Interviewees were contacted via email solicitation either as ‘cold-emails’ or through recommendations of other stakeholders (snowball effect) to participate in a semi-structured interview on the topic of gangs and migration. Patrick Biernacki and Dan Waldorf in their article, “Snowball Sampling: Problems and Techniques of Chain Referral Sampling,” discuss a technique of snowball sampling:

> The method yields a study sample through referrals made among people who share or know of others who possess some characteristics that are of research interest. The method is well suited for a number of research purposes and is particularly applicable when the focus of study is on a sensitive issue, possibly when concerning a relatively private matter, and thus requires the knowledge of insiders to locate people for the study.  

Biernacki and Waldorf also discuss the challenges to locating the initial points of contact, especially if they are not socially visible. This concern was overcome through organizational mapping for organizations and individuals working on the intersection of gangs and migration. After the first wave of emails and interviews, interviewees themselves suggested further contacts.

The interviews were conducted telephonically or through social media platforms in English or Spanish and lasted for approximately 30-60 minutes. Notes were written during the interviews. The questions were dependent on the expertise of the interviewees and were implemented in a semi-structured manner, as to allow for possible diversions of subject to

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encompass other relevant information and anecdotal stories. In order to protect the privacy and confidentiality of the interviewees, their names, specific positions, and organizations have been kept anonymous.

The interview questions included:

1. What is your specific role within X organization?
2. What factors enable youth to join gangs?
3. How are individuals able to leave gangs?
4. Should gangs be offered disarmament, demobilization and reintegration (DDR) programs, similar to those offered to guerilla or opposition groups?
5. What are the unique/special needs of gang members/family members of gang members/ex-gang members?
6. What types of programs are most successful for curbing gang violence or gang membership?
7. Is funding for these programs a challenge, and if so, in what way?
8. What non-traditional or creative approaches are being employed to curb gang membership, such as tattoo removal programs or sports initiatives?
9. Are there specific reintegration programs for former gang members or deported individuals?
10. What are some cross-national efforts to address the gang crisis, largely defined?
11. Should those fleeing the gang crisis be considered as IDPs or refugees under international law?
12. How, and in what capacity, is the gang crisis causing displacement?
13. Is there a tipping point or a certain threshold for an individual to leave his or her home because of the gang crisis or is it more on a case-by-case basis?
14. What are the challenges to successfully winning a gang based asylum case?
15. What type of services does your organization provide to UACs?
16. What programs or initiatives does your organization currently have that address the needs of gang-induced migrants or potential gang recruits/members?

The interviews, as will be discussed, generated substantial conversation and raised numerous interesting points. For the sake of knowledge sharing, for both the interviewer and interviewee, follow-up emails were exchanged, in certain cases, for possible further contacts, sources of information such as efforts being conducted in other regions, and possible future opportunities for collaboration.
II. Research Limitations

Prior to the discussion and analysis of the stakeholder interviews, it is necessary to acknowledge the limitations of the research. First, this thesis is limited to programmatic and research work being done by stakeholders, who are primarily practitioners and academics. Direct conversations with gang members, former gang-members, or asylees and refugees fleeing the gang crisis are beyond the scope of this project. The research focused on practitioners in order to develop a more comprehensive understanding of what programmatic work is being conducted at the intersection of the gang crisis and migration, what work will be implemented in the future, and what best practices, if any, have developed; although discussion with actors such as gang members or asylees would provide greater insight into the realities of the crisis and what type of work, and in what capacity, would be the most beneficial to generate positive results.

Timing is another limitation that restricted the scope of this project. Background, historical, and contextual information was gathered in the Fall semester of 2013 and the interviews and mappings were conducted during the Spring semester of 2014. Due to a delay in Internal Review Board (IRB) approval, the official start date for the interviews was suspended until March 7, 2014, which severely limited the timeframe for potential interviews to one and a half months.

A third consideration is that of ethics. The Conflict Resolution field tries to adhere to the principle and practice of “do no harm.” This principle was developed in relation to humanitarian aid work in the 1990s by Mary Anderson and aims to reduce or completely limit the possibilities of adverse effects or impacts on actors on any level, whether they be stakeholders, beneficiaries, or interviewees.\textsuperscript{90} This consideration was carefully vetted by the Georgetown University IRB.

process, which assessed the potential personal and professional risks and harm to the interviewees by participating in my interviews. Additionally, several stakeholders who I contacted were unable to participate in an interview in their professional capacity due to ethical consideration standards established in the structure of their organization. These particular examples came from the immigration courts and law enforcement, although the specific individuals expressed an interest in participating and “wished they could,” but were restricted by their organizational ethical standards. For example, an Immigration Judge was unable to participate in an interview due to the Executive Office for Immigration Review’s strict no interview policies.

III. Discussion and Analysis

The interviewees and organizations were a representative balance between stakeholders with a focus on gangs and a focus on migration, with a larger number concentrating on migration, particularly protection-oriented programs. In analyzing the data from the interviews, I utilized the basic process of open coding because I was primarily interested in identifying the themes that emerged in the interviews and the relationships between them rather than analyzing the interviews through a specific pre-chosen lens. This process enabled me to identify unexpected themes and facilitated research with informants with diverse vantage points and perspectives on gangs, migration, and their intersection.

The interviews were meant to be open and exploratory and this procedure facilitated this goal. Strauss and Corbin in their book, Basics of Qualitative Research: Grounded Theory Procedures and Techniques, define open coding as the “analytic process through which concepts are identified and their properties and dimensions are discovered in the data.”\textsuperscript{91} In response,

\textsuperscript{91} Anselm C. Strauss and Juliet M. Corbin, Basics of Qualitative Research: Grounded Theory Procedures and Techniques, 2\textsuperscript{nd} Ed. (Sage Publications, 1990), 101.
Diane Walker and Florence Myrick in their article, “Grounded Theory: An Exploration of Process and Procedure,” argue, “This procedure breaks the data down and assists in the development of relationships among categories.” After each interview I extracted major themes and ideas in response to what I saw emerging in the data. Once all of the interviews were completed I drew out the overlapping trends that appeared in a majority of the interviews. The results of this research are best divided into three categories: protection, prevention and relevant trends. Within these categories the main trends have been extracted and analyzed.

**A. Protection**

The issue of protection, especially for those fleeing the gang crisis, is an en vogue topic with a variety of actors developing programs and initiatives to offer different forms of protection. The three main topics that were discussed in the interviews with regards to protection were: the protection of unaccompanied child migrants (UACs), the ability to receive legal protection within the U.S. immigration courts, and in-country protection options (or rather, lack thereof).

First, as the number of UACs arriving at the U.S. border increases, the U.S. government, service providers, and advocates have had to develop ways to process, screen, protect, and serve this population. UACs present unique challenges because they must be treated as both children and violators of U.S. immigration law. Interviewees discussed growing concern that the needs of these children are not adequately being met in ORR custody and there is limited data on what happens to these children when they are released into the care of their families due to the fact that only a limited number of children receive post-release follow up services. Specifically, the concerns were: whether the children were able to receive legal relief, whether they were enrolled in school, whether they were well cared for by their families, whether they were knowledgeable

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about their rights and available services, whether they were recruited or intimidated by gangs in the U.S., whether they returned to their home countries, and whether they were processing any issues of trauma. Interviewees echoed the findings of the On the Run and A Treacherous Journey reports, which suggested the need for new and more child-sensitive approaches to the practices of CBP, ICE, DHS, and ORR, and the possibility of creating a new immigration status, such as Temporary Protected Status (TPS), for these UACs who do not fall within the established immigration protection framework.

Second, the ability of individuals fleeing the gang crisis to receive legal relief in the U.S. is an on-going debate. The challenges and trends have been previously discussed in Chapters 3 and 4, but the interviewees provided interesting insight into this issue. Several interviewees discussed the need to ask the “right questions” when working with UACs and asylees fleeing gangs in order to identify the primary or most important reasons for migration and to develop the strongest asylum case possible. For example, an interviewee discussed how an asylum case that appears to be based on forced recruitment for a particular social groups such as young Salvadoran males who resist the practices of the gangs, may in fact include elements of political opinion or religion, but these intricacies must be fleshed out through appropriate questioning. The interviewees also discussed the importance and benefit of having an attorney, utilizing expert witness testimony, and providing sufficient corroboration such as country condition documents or police reports. Finally, the interviewees raised the important issue of the ‘Schizophrenic’ or ‘bipolar’ response of the U.S. government to the gang crisis, with specific reference to the fact that the U.S. government has designated MS-13 as a “transnational criminal organization,” but the courts have trouble recognizing them as a violent non-state actor capable of persecution.
Third, the interviewees raised concern for the lack of in-country options to effectively protect victims of gang or state violence. Interviewees who had spent time in the Northern Triangle or were based there discussed the complete lack of protection programs for victims, the unfeasible possibility of internal relocation, rampant police corruption and fear within the police forces. A lack of targeted programs gives victims of gang violence, and state violence, limited opportunities except to flee across international borders. All interviewees were conscious to mention that this out-migration does not only end in the U.S., but in other countries such as Canada, Costa Rica, and Nicaragua.

B. Prevention

The issue of prevention is a more politically and socially sensitive topic than protection. The three main topics that arose in the interviews with regards to prevention were: the need for a balanced approach to combating gangs; the need for local, regional, national and international cooperation; and the challenges to developing such a comprehensive approach.

First, the interviewees discussed the incredibly pressing need to adopt a balanced and comprehensive approach to combating gangs and agreed that a strictly punitive approach does not address a larger, and perhaps more societally ingrained, part of the problem. The interviewees discussed the need for educational, social, and employment opportunities for youth to help prevent gang membership of at-risk youth and the need for effective programs to assist individuals who wish to leave the gangs such as tattoo removal programs, job training, and community reintegration efforts. These efforts should be done in conjunction with suppression and punitive efforts in order to balance out the approach. In the U.S., there was discussion of utilizing culturally appropriate and relevant tools such as having awareness campaigns in Spanish and utilizing soccer tournaments as a way to bring groups together and disseminate
information. The interviewees made it apparent that local approaches are dependent on the demographic makeup of specific communities and their unique needs.

Second, there was a discussion about the need for multi-level cooperation and information-sharing in regards to the best ways to prevent gang proliferation. Local efforts have the capacity to meet the unique needs of specific communities, regional initiatives can share resources and knowledge and implement region-wide projects, and international efforts can also utilize and share best practices and techniques. Several of the interviewees shared that they had participated, or knew someone who had participated, in programs led by the FBI’s Central American Regional Security Initiative (CARS1), funded by the U.S. State Department. Specifically, “CARS1’s overall goal is to confront the dangers of organized crime, violent gangs, and drug trafficking in Central America and the U.S., and several domestic federal agencies participate in various facets of the initiative. The FBI, through its National Gang Task Force (NGTF), specifically supports six programs targeting the transnational threats posed by the MS-13 and 18th Street gangs.” \(^93\) While there appears to have been some improvement, there appears to be a need for even greater information sharing amongst actors such as law enforcement, immigration officials, and social service providers.

Thirdly, interviewees discussed the practical challenges to developing and implementing a comprehensive or balanced approach to combating gang violence. The issue of funding was raised in all interviews. Specifically, interviewees mentioned the challenge of obtaining funding in the U.S. due to government budget cuts and competing with other cities or regions for grants for gang prevention programs. In regards to the Northern Triangle, there was a discussion about

a complete lack of funding for programs outside of punitive efforts. The national governments of these countries do not have the financial resources to implement multi-sectorial approaches, especially when dealing with competing issues such as pervasive poverty. Another challenge was the issue of community buy-in, or convincing different actors that a balanced approach is the appropriate response to combating gangs. Actors in the U.S. found community buy-in to be either easy or challenging, depending on the community, and were able to frame buy-in efforts in terms of keeping communities safe and giving youth a second chance. Buy-in for balanced initiatives is more challenging in the Northern Triangle, because communities have been more systematically terrorized by gangs for a substantial period of time and are dealing with the same forms of structural violence such as poverty. The rhetoric is very different in the Northern Triangle with the gang members being identified exclusively as criminals and not necessarily victims of larger structural injustices. Any sort of balanced effort would need to target gang members and provide similar opportunities such as job training, education opportunities, and mentorship to community members.

C. Relevant Trends

The interviews provided a rich source of information, and in addition to protection and prevention, three relevant topics were raised throughout the interviews: the issue of trauma for gang members, victims of the gang crisis, and migrants; the issue of family reunification in the U.S. and the Northern Triangle; and the question of reintegration efforts. These relevant trends deserve analysis because they contribute to the multidimensional nature of the problem and can help inform practitioners of where programmatic work and possible future research is most needed.
i. Trauma

First, the discussion of trauma was raised in numerous interviews in regards to migrants, gang crisis victims, and gang members themselves. A common theme was the fact that there are very few resources to help those suffering from trauma to process their experiences and emotions. There has been an on-going interest in researching the experiences of migrants in transit from Central America to the U.S. who experience trauma such as being kidnapped and held for ransom by Mexican drug cartels, being raped by a coyote, or falling off of the train tops, but there is a clear gap in how that research results in tangible benefits or services for those who have experienced trauma.

Trauma can manifest in numerous ways such as ‘acting out’ or self-harm and there are a variety of ways to address issues associated with trauma. One interviewee commented that mental health services are already overwhelmed in the U.S. and it seems unlikely that funding will become available for mental health services for this particular population. Another concern was the willingness to acknowledge that gang members who have caused trauma may also suffer from trauma. The majority of the interviewees discussed the issue of trauma in terms of an emerging problem that they are starting to recognize in their work and account for in their programmatic design or recommendations.

ii. Family Reunification

Second, the issue of family reunification was discussed in relation to motives for migration and as a reason for why individuals join gangs in the U.S. It is well established that family reunification is an important reason for why many people choose to migrate. Several interviewees commented on the emerging trend of family reunification within the context of gang membership or involvement. One interviewee commented that when children come to the
U.S. to be reunited with their families, oftentimes having been separated for several years, their reunion and family life is not what they had envisioned. Parents in the U.S. oftentimes have to work long hours, have limited financial resources, and have different expectations of their children than the children have for themselves. The children want to fit in and belong and without a strong family structure, supervision, and capacity to integrate into the larger community there may be an impetus to join gangs. Several of the people I spoke with suggested that this topic be further researched and not just in specific relation to gang membership, but as an emerging trend in many U.S. communities. Family reunification efforts should also extend to the Northern Triangle. This may manifest in programs that help keep families together in the even of relocation or flight or with programs that help reunited families separated because of deportation or migration.

iii. Reintegration

Finally, the issue of reintegration efforts and programs for both gang members and migrants was discussed in every interview. Reintegration could consist of programs for former gang members to reestablish themselves in their communities with a new, non-gang identity or for migrants to reintegrate back into their countries of origin. Interviewees acknowledged that this is an area that is of growing interest and needs more attention. There was discussion, with several interviewees, about what a Disarmament, Demobilization, and Reintegration (DDR) process would look like with gang members in the Northern Triangle, especially those in El Salvador who are currently in a tentative truce. This process was likened to a peace process, similar to something that would be implemented after an official war, but the main concerns were in terms of funding, complete buy-in by government actors, and willingness of the gangs and local communities to fully participate. Several interviewees noted that there are established
‘re-entry’ programs for ex-criminals in the U.S. that help them re-acclimate to their community with a new identity.

On the migration side, several interviewees discussed KIND’s migrant reintegration program in Guatemala, which provides case management services to deported children and their families. There was substantial discussion about the need to have more reintegration programs when migrants are deported, especially for minors.

Based on these findings, the final chapter seeks to draw conclusions and recommendations in part from these interviews and in part from the literature for those working at the intersection of gangs and migration in terms of programmatic work and research.

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Chapter 6: Future Recommendations and Conclusions

This chapter aims to draw conclusion and future recommendations for the field. These will be discussed in the following sections: connections, future research, and recommendations.

I. Connections

The relationship between gang proliferation and migration patterns in the Northern Triangle exhibits certain trends or commonalities that are important to discuss. First, it is necessary to examine this relationship through a cohesive and multi-sectoral lens. A substantial amount of the current research and programmatic work focuses only on one dimension or part of this relationship. For example, social service programs focus on protecting children fleeing the gang crisis, lawyers are attempting to craft successful asylum applications, and gang task forces are working towards preventing the spread of gangs. Despite these efforts, there is a lack of an interconnected approach to addressing the connection between gangs and migration. Competing priorities, especially for funding, can inhibit organizations and researchers from adopting a cohesive and holistic lens. Given organizational mandates and missions, funder restrictions, and professional expertise and capacity it makes sense to offer specialized and targeted work; but without initiatives to comprehensively assess and address the problem, the root causes are likely to persist and only the outcomes will be addressed.

As exhibited throughout this thesis, the discussion about the correlation between gangs and migration needs to extend beyond the topics of asylum protection and gang suppression efforts, which are currently two of the most debated components. The crisis, its actors, and its implications extend beyond these components and it is vitally important that the dialogue and understanding continue to expand to encompass this multifaceted reality. A stronger and more
holistic understanding of the gang crisis and migration can contribute to the creation of more effective programs and policy initiatives.

II. Opportunities for Future Research

Based on an analysis of the interviews and research, I would suggest that there are two primary opportunities for further research in examining this ongoing crisis. First, there is tremendous room, and perhaps substantial need, to further analyze the gang crisis through a conflict resolution perspective. Currently, in practice and research this view is lacking. A conflict resolution lens would allow stakeholders to have a more comprehensive understanding of the current gang crisis, its intended and unintended consequences, its structural and historical origins, and potential ways to holistically (to the extent possible) resolve the situation without providing only band-aid solutions. Reducing the levels of gang violence and membership and modifying the states’ approaches could potentially reduce the numbers of those who are internally and internationally displaced by this conflict. For example, if young children do not fear forced recruitment by the gangs or situations of violence perpetrated by the gangs or the state, they are likely to stay in their homes. This does not account for those who migrate for mixed reasons, but rather, those who flee specifically because of the gangs or state violence. This effort would require research into what are the best local and national-level policies to adopt to combat the gangs beyond the Mano Dura approach and how these can be implemented in the best manner possible.

Additionally, there is a need for substantive research into the long-term consequences of trauma experienced by migrants fleeing the gang crisis, victims of gang violence, or victims of state violence. As the interviewees mentioned, only a limited number of individuals receive post-release services and even then there is limited study of the long-term impacts. I would suggest
lengthy studies of selected individuals and communities over a period of ten to twenty years in order to assess what are the unintended or currently unrealized impacts on these individuals. There is a similar need to study the long-term consequences of family reunification efforts through undocumented mechanisms and how the children and parents are able to adapt, cope, and thrive in these situations.

III. Recommendations

First, I would recommend that key stakeholders adopt a willingness or interest in working directly with non-traditional actors such as current or former gang members, gang crisis victims, and undocumented migrants. At present, there has been an aversion to working or dialoguing directly with gang members for fear of legitimizing a violent non-state actor. This fear presents serious challenges such as this dialogue being viewed as rewarding criminal behavior or acknowledging the state’s inability to conquer the group. Despite this view, several interviewees and the literature suggested that practitioners do not fully understand the gangs, their identities, and their significance to themselves or their communities. The voices of gang members are mostly absent in designing programmatic work and interventions in the Northern Triangle. Better understanding these voices could improve programmatic design, delivery, and best practices to meet the specific needs of those who become involved with the gangs.

Resolving, or at least reducing levels of gang violence and state violence in response to the gang crisis, could potentially reduce certain patterns of out-migration, and the subsequent consequences associated with these patterns. The governments should re-conceptualize their approach to the gangs and include a balanced approach involving suppression, prevention, intervention, and reintegration efforts, in addition to community development program. While some may argue this legitimizes the gangs, it is a necessary step towards addressing and
ameliorating the problem. The gangs are no longer small or local problems, but pose substantial threats to the states’ capacity to govern their countries. Responses to the gangs should demonstrate an understanding of this reality.

I would further recommend that more opportunities and services be made available for those living without legal status in the U.S. While many service providers are able to provide services for undocumented individuals, the ostracism of individuals without legal status creates numerous challenges to obtaining these services, reporting crimes, and community integration.

Finally, I would recommend that stakeholders, including policymakers, look at the relationship between the gang crisis and migration it its entirety instead of as isolated situations or problems. Protection, prevention, suppression, reintegration, and reunification initiatives are vitally important, but it is illogical not to simultaneously address the larger issues. While international efforts and collaborations have emerged they have clearly not generated substantial change given the continuation of high levels of crime and violence and number of individuals fleeing their homes and the region. Further collaboration and funding is necessary to address the gang crisis in new and creative ways. This could include adopting a balanced approach to combating the gangs in the Northern Triangle coupled with community development initiatives.

IV. Conclusion

This thesis has examined the ways in which gang proliferation and migration trends are related in the Northern Triangle, Mexico, and the United States. Principally, gangs can induce individuals or families to flee due to violence, threats, recruitment, or extortion, amongst other activities. The states’ response to the gangs, predominantly through suppression efforts, has also induced individuals and families to flee due to heavy use of violence and vilification of youth. Finally, non-gang-related migration trends from the Northern Triangle to the U.S., especially
without legal documentation, may serve as an impetus for gang membership in the U.S. The majority of the programmatic and research work has focused on this issue in two separate fields: migrations and gangs. Common programmatic work focuses on prevention or protection. There is clear room for a conflict resolution approach to analyzing this problem and proposing potential solutions.
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