

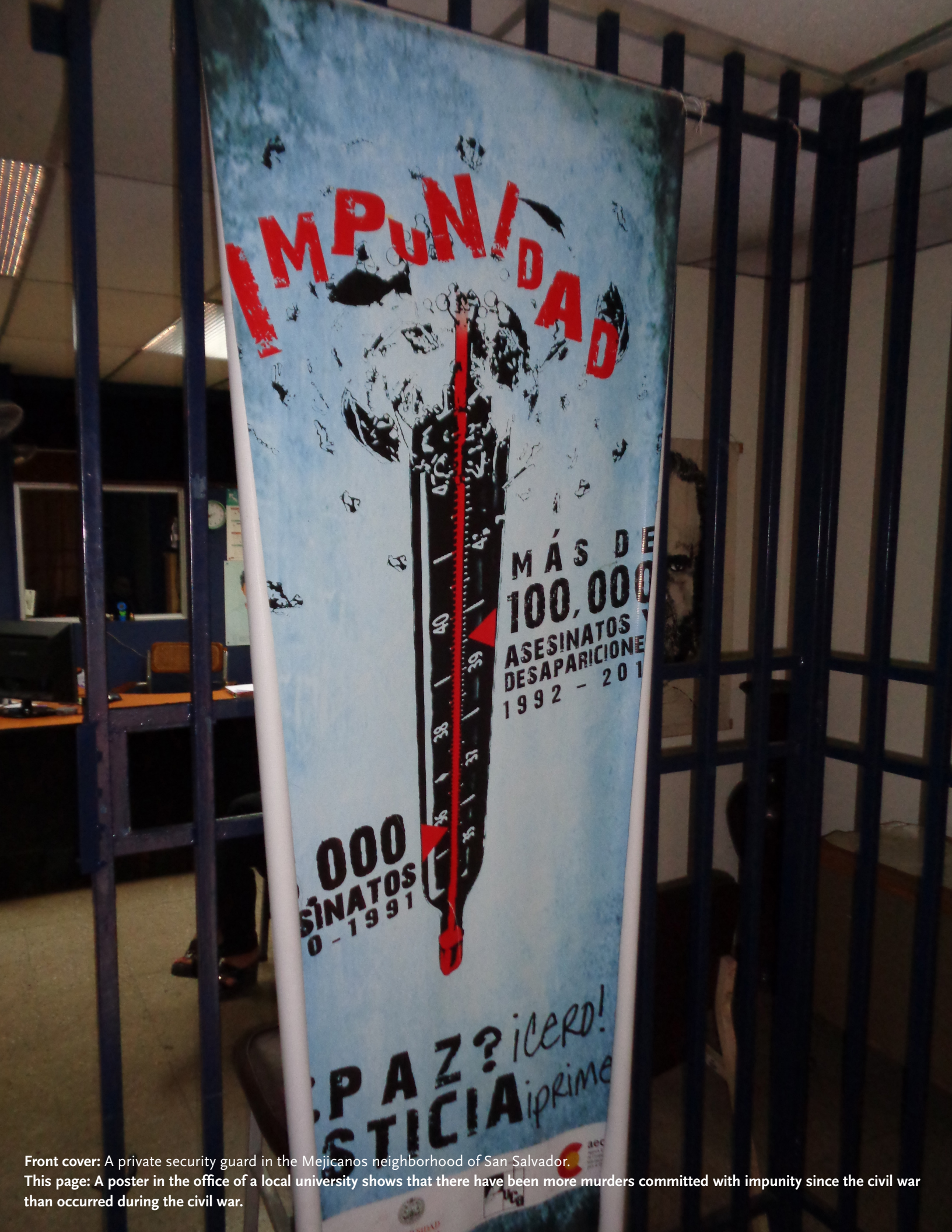
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**“IT’S A SUICIDE ACT TO LEAVE OR STAY”:  
INTERNAL DISPLACEMENT IN EL SALVADOR**

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Front cover: A private security guard in the Mejicanos neighborhood of San Salvador.

This page: A poster in the office of a local university shows that there have been more murders committed with impunity since the civil war than occurred during the civil war.



# INTRODUCTION

El Salvador has just achieved the grim distinction of becoming the murder capital of the world. In the first six months of this year, almost 3,000 people were murdered, and hundreds of thousands more were subject to extortion, death threats, forced recruitment, and rape by the country's two major gangs. So far, the government has been unable to stop this extraordinary level of violence, which is forcing tens of thousands of Salvadorans from their homes. The government is unwilling to acknowledge that gang activity is responsible for this forced displacement. However, neighboring countries are well aware of the consequences of this violence, as tens of thousands of Salvadorans are arriving at their borders requesting protection. El Salvador needs to implement a comprehensive national humanitarian strategy to respond to and assist the forcibly displaced. Until such a strategy is implemented, Salvadorans will continue to seek refuge outside the country.

## RECOMMENDATIONS

### The El Salvador government should:

- ❑ Publicly acknowledge that gangs and some police and military actors are causing internal and external displacement from El Salvador and commit to developing and implementing a humanitarian response;
- ❑ Appoint the Human Rights Ombudsman's Office (PDDH) as the lead and institutional focal point on internal displacement issues within the National Council of Citizen Security and Coexistence, and establish an interdepartmental working group for coordinating humanitarian responses;
  - ❑ The interdepartmental working group should include representatives from the National Institutes on Women and Children, Ministries of Housing and Education, municipal and departmental counterparts, and civil society organizations (CSOs);
  - ❑ Within 12 months, the interdepartmental working group should establish a funded and functioning internally displaced person (IDP) protocol that includes a comprehensive profiling procedure and is prepared to assist IDPs with protection, shelter, documentation, education, and health care;
- ❑ Build transitional centers that provide forcibly displaced families with temporary shelter to consider next steps, and include access to legal assistance, health and psychosocial care, and expedited acquisition of birth certificates and national identifications;
- ❑ With support from the UN Refugee Agency (UNHCR), consult with municipal governments in all of El Salvador's 14 departments to identify possible family relocation and resettlement sites, and ensure that planning takes into account both the concerns of host communities and the specific protection and livelihood needs of displaced families; and
- ❑ Add specific questions to the 2017 national census that facilitate the collection of data on how many people have fled their homes due to violence, where they have relocated, and the demographics of their households.

### The United States government should:

- ❑ Fund programs bilaterally and through regional agreements such as the Central American Regional Security Initiative (CARSI) and the Plan of the Alliance for Prosperity in the Northern Triangle (PAPNT) that permit the El Salvador government to develop and respond to the humanitarian and protection needs of those internally displaced by gangs;
- ❑ Provide grants through the U.S. Agency for International Development to emerging Salvadoran CSOs exhibiting the potential to effectively develop and deliver humanitarian assistance to IDPs inside El Salvador;
- ❑ Consistent with the 1980 Refugee Act and the UN Convention Against Torture, ensure that all adults and children arriving at the U.S. border who express a fear of serious human rights violations, persecution, or torture be given due process and the opportunity to articulate their fear of return before an asylum officer; and
- ❑ Reauthorize Temporary Protected Status for Salvadorans because the El Salvador government is temporarily incapable of receiving them due to the extraordinary levels of violence and insecurity in the country.

### Governments in neighboring countries including Mexico, Nicaragua, Costa Rica, and Panama should:

- ❑ With the support of the UNHCR, ensure that all Salvadorans expressing a fear of serious human rights violations, persecution, or torture be given due process and the opportunity to articulate their fear of return before an officer authorized to adjudicate asylum applications consistent with the Refugee Convention, Cartagena Declaration and Brazil Plan of Action, and other complementary forms of protection.

# BACKGROUND

El Salvador's brutal civil war officially concluded in 1992, but many Salvadorans say that the violence never really ended. This perspective is understandable. While 75,000 people were killed during the 12 years of civil war, more than 100,000 Salvadorans have died violently in the 20 years since. With a population of just over 6 million people and a size no bigger than Massachusetts, El Salvador is one of the deadliest countries in the world. More children are killed in El Salvador per capita than in any other country.<sup>1</sup> Two gangs are largely responsible for this increasing violence. These gangs, the Mara Salvatrucha (MS-13) and Barrio 18 (18th Street) originated in Los Angeles, but after 1996, thousands were deported to El Salvador in a process that has been described as "unintentional state-sponsored gang migration."<sup>2</sup> By 2005, El Salvador had 10,000 active gang members, and this number has only grown in the intervening years. Currently, there are 70,000 members of the MS-13 and 18th Street gangs operating in El Salvador, compared to approximately 24,000 Salvadoran police officers and 28,600 registered private security guards who protect Salvadorans who can afford it.<sup>3</sup>

Unlike during the war, the majority of Salvadorans today are not killed because they are presumed to be affiliated with the government or guerillas. They are killed because they live in communities that have been overtaken by gangs, or they are young women unwilling to submit to sexual assault or other violence meted out by gang members, or they are presumed to be gang members due to their youth or presentation and thus they are killed extrajudicially by the police or military. Sometimes gangs target a home or an apartment building simply because of their strategic locations, and once ordered out residents have no alternative but to leave. All of this happens with almost complete impunity, and it is driving forced displacement. In June, an RI team went to El Salvador to learn more about why people are being forcibly displaced and how the government is responding to their humanitarian needs. While there, the team met with one activist who said, "During the war we had more support because there was a big response to the needs of refugees and IDPs (internally displaced people). Now it's each for his own."



RI was told that in some situations, the police or military are complicit in gang activities and work in collaboration with the gangs rather than as protectors of a community. This is also well documented by the media and human rights organizations.<sup>4</sup> Oftentimes, the only protection the police can provide individuals and families who have been targeted is to guard their door while they pack up and run. Although no official count exists, a recent study found that there may be as many as 288,000 people internally displaced in El Salvador.<sup>5</sup> Tens of thousands more Salvadorans are outside the country in search of protection.

During its June trip to El Salvador, RI interviewed displaced individuals and families, government officials, journalists, academics, civil society organizations (CSOs), and international humanitarian agencies. RI learned of multiple ways that an individual or family may be

forcibly displaced, most of which involved extreme violence or death threats. RI was told about a teenager who was kidnapped from her home, taken to a jail, and raped repeatedly by the prisoners for an entire night. The next morning she was returned to her neighborhood and the family had to leave immediately so that she would not be kidnapped again. In another situation, a boy was brutally beaten by a police officer, even though his father was also a police officer. When the father filed a complaint, the family started receiving death threats and had to flee their home. Another family fled their community because two of the sons refused to be recruited into a gang. They were found by the gang, and one of the sons was murdered. In a final example, a young woman

agreed to be a witness for the District Attorney's office and was put in a witness protection program run by the Ministry of Justice, but then her family was threatened because of her testimony and the family had to run.

**“Now is worse than the civil war because then, a lot of people knew who the killers were and where we could hide. Now there are no safe places and we don't know who the ‘bad guy’ is.”**

-Academic, San Salvador

The El Salvador government has not admitted formally that Salvadorans are being forcibly displaced by gangs – preferring to say instead that people are leaving the country for economic reasons or to be reunited with family. While certainly some Salvadorans are moving for these reasons, according to the UN Refugee Agency (UNHCR), human rights, academic, and government reporting on asylum requests, massive numbers of Salvadoran youth and adults do not make the choice to leave their





This apartment building in San Salvador's Mejicanos neighborhood is controlled by gang members.

**“In the past, once the gangs found people, they would threaten them.  
Now they just kill them.”**

-Municipal officer, San Salvador

homes but are instead forced out.<sup>6</sup> El Salvador has the highest concentration of gang members per capita in Central America,<sup>7</sup> and there is also a large presence of narco-traffickers originating from Mexico. In 2013, UNHCR concluded that 66 percent of all unaccompanied Salvadoran children had fled to escape abuse by criminal actors.<sup>8</sup>

No Salvadoran government over the last 20 years has been willing to develop and invest in programs and networks that would help the forcibly displaced. There is no governmental lead or institutional focal point to coordinate a humanitarian response for those displaced. There are not even programs to help these families pursue justice against the perpetrators of violence, because the victims will only be provided with protection if they agree to testify against a criminal, and only while a case is active. But because El Salvador's criminal conviction rate is less than 5 percent,<sup>9</sup> the arrest of a perpetrator does nothing to secure justice or restore a family to safety. Instead, by cooperating with the police, a victim of violence and/or witness can be even more exposed to danger. According to CSOs, many former witnesses have been killed after trial because the government no longer protected them.

During a 2012 truce between El Salvador's two main gangs, murders decreased drastically and immediately. But in January 2014, the country's newly-elected president, Salvador Sánchez Cerén,

publicly rejected the truce and launched an aggressive crackdown that included the transfer of gang leaders to maximum-security cells, and resulted in the emergence of younger, less disciplined gang leads on the streets.<sup>10</sup> The murder rate quickly increased to over 61 people per 100,000 – more than at any time since the end of the civil war in 1992. By May 2015, more than 20 people were being killed each day, and June surpassed even that record number of murders. Some of El Salvador's municipalities now have murder rates above 127 people per 100,000 – nearly twice that of Honduras, which last year became infamous as the murder capital of the world.<sup>11</sup>

While there in June, the RI team found that the constant insecurity experienced by so many in El Salvador is a direct demonstration of the state's unwillingness and/or inability to protect some of its citizens from torture and persecution. Both the political right and left are responsible for current conditions, and neither side has implemented effective plans to improve the lives and security of El Salvador's residents since the Chapultepec Peace Accords were signed in 1992. While there are some remarkable local CSOs attempting to help the displaced, until there is justice and accountability for the violence committed and Salvadorans can live safely in their homes and communities, the state has an obligation to meet the displaced's humanitarian needs, and the international community must extend protection.



# CURRENT CONTEXT

This year, the MS-13 and 18th Street gangs increased their attacks on police and the military. By May, street gangs had reportedly carried out more than 250 attacks on security forces.<sup>12</sup> The head of El Salvador's Police Internal Affairs division publicly stated in February that the country was "at war," and that the criminals were winning.<sup>13</sup> Some experts have described current events in El Salvador as a "low intensity war." While much of the violence is gang versus gang or gang versus police, too often it is the residents of neighborhoods where gangs flourish that bear the brunt of this violence. Shootouts on the streets of high-crime neighborhoods occur with frequency, and raids on homes of those suspected to be gang members are commonplace. Ordinary people are dying in the crossfire. Countless numbers of women, men, and children are subject to extortion, recruitment, and rape by gang members, and if they resist in any way they are killed. When families receive death threats in El Salvador they are taken seriously – if they have the resources to do so, these families pack up and run.

***"People come to our office in search of an answer, and sometimes we just don't have one."***

-Government employee, San Salvador

RI met one family who received a call saying that a gang was planning to kill them and that "there were plenty of bullets to kill us all and there would be plenty of bullets left after." The family packed up one change of clothes for each person and fled. When RI met them, they had been on the move for months inside El Salvador, remained in danger, and were making plans to leave. A member of the family said, "'I am convinced that if they find us they will kill us."

Graffiti in San Salvador's Mejicanos neighborhood.



Each situation such as this represents a crisis for a family and an emergency for CSOs, who try to support displaced families because the government will not. The government must publicly acknowledge that gangs and some police and military actors are causing internal and external displacement from El Salvador and commit to developing and implementing a humanitarian response. It should also add specific questions to the 2017 national census that facilitate the collection of data on how many people have fled their homes due to violence, where they have relocated, and the demographics of their households.

## HUMANITARIAN NEEDS OF THE INTERNALLY DISPLACED

Like any situation of internal conflict, there isn't one reason that people take up the desperate decision to abandon their homes in El Salvador. Among the majority of people victimized or under threat of serious harm, the common denominator is that they originate from poverty-stricken areas where the gangs are already well-established and in control. There are two self-reinforcing reasons for this. First, gang members tend to originate from poor and working class neighborhoods, and so their power is most aggressively exerted from there. Second, neither the police nor the military have a strong and consistent presence in these neighborhoods, which gives gangs free reign. Even while the government is unable to protect its citizens from gangs and its own officers at times, it has a responsibility to ensure that they have access to shelter, documentation, health and psychosocial care, and education.

CSOs are responding to the needs of the displaced as best they can. A group of 12 local organizations, including human rights, academic, legal, and faith-based organizations have now formed the "Roundtable on Forced Displacement" (Roundtable) to organize





and coordinate responses to individuals and families who come to them for help. Because the government does not have a well-thought-out or coordinated response for the forcibly displaced, government agencies, including the institutes that work with women and children and the Human Rights Ombudsman's Office (PDDH), regularly call members of the Roundtable and ask for their help in finding shelter and supporting families.

***“We don't have a special plan for kids persecuted by gangs.”***

-Government employee, San Salvador

Building up the capacity of the PDDH is critical because it is well respected by citizens and CSOs. Indeed, RI was told by one CSO that the “PDDH is both the first hope for people and the last resort.” Its headquarters is in San Salvador, and there are sub-offices in every department (or state). Until last year, the PDDH was receiving complaints from IDPs, but it was not registering the complaints or assisting IDPs because it had no framework for doing so. Instead, IDPs were referred to CSOs who would provide humanitarian assistance to the extent possible. Working together, the Roundtable developed a protocol for the PDDH to use when it comes into contact with a displaced person. Since then, the PDDH has registered and provided assistance in 45 cases, consistent with the protocol. This government/CSO partnership demonstrates both the willingness of some government agencies to address the needs of IDPs and the positive role that CSOs are playing in the country.

The National Council of Citizen Security and Coexistence, a forum created by President Sánchez Cerén and consisting of leaders from government, civil society, businesses, the church, the media, universities, and political parties, should appoint the PDDH as the internal lead and institutional focal point on IDP issues, and establish an interdepartmental working group for coordinating responses to internal displacement. Within 12 months, this interdepartmental working group should be funded and prepared to assist IDPs with protection, shelter, documentation, education, and health and psychosocial care. As well, the U.S. government should consider funding the interdepartmental working group bilaterally and through the Central American Regional Security Initiative (CARCI), which supports community-based programs designed to address economic and social conditions that leave communities vulnerable to gang threats.

***“There is so much focus on the criminals to get them into prison, but no attention is paid to the victims.”***

-Government employee, San Salvador

In the meantime, the civil society Roundtable is doing all it can to help people forcibly displaced from their homes by identifying and paying the rent on safe houses, delivering food, toiletries, and medicine, connecting families to legal assistance, and finding medical and psychological care for them. The U.S. government should provide grants through the U.S. Agency for International Development to these emerging Salvadoran CSOs that exhibit potential to effectively develop and deliver humanitarian assistance to forcibly displaced families inside El Salvador.

At the same time, the members of the Roundtable are keenly aware that IDP protection is first and foremost a government responsibility, and one of their primary goals is to pressure the government to take up its obligations. In one example, a young woman was threatened after she witnessed her father's murder. She went to the authorities for protection, but they said they would only help her if she would agree to be a witness. She was too afraid so they told her they could not help. She then went to a CSO for guidance on how to get out of the country. They encouraged her to go back to the government to ask for help because they explained, “the way we see it, if we help people get out of the state without activating the government, then the government has total impunity and can say that forcible displacement is not happening.” The young woman again received no help from the government, and is now in hiding (whether she is inside or outside the country is unknown).

## **A COMPREHENSIVE PLAN FOR SECURE SHELTER**

***“In my opinion, there are some IDPs who must leave, but there are others who could stay if proper measures were in place.”***

-Government employee, San Salvador

Shelter issues arise in every humanitarian crisis, whether triggered by conflict, violence, or natural disaster. Addressing shelter issues early and comprehensively contributes to saving lives, preserving dignity, and enabling humanitarian action including access to food, education, and health care. When a government has developed a shelter plan, IDPs and refugees can make informed decisions about whether to return home, remain where they are, or move onward to secure safety and stability. Right now, there are no obvious locations where displaced Salvadorans could find refuge inside the country. Yet, while the security concerns are tremendous, the government has made no real effort to identify and explore possible host communities and safe spaces. RI was told by many CSOs and government officials that not all of those forcibly displaced would leave El Salvador if there was a system in place to help them. This perspective is based on the fact that





This home was abandoned by a family forced to flee gang members. The police offer protection during escapes only if the families ask for it. Photo by Pau Coll RUIDO Photo/El Faro.

so many people on the run go to women's and children's centers first, and arrive at CSOs only after they have been told that government shelters will not accept them.

## INSTITUTIONAL RESPONSES

In the four months before RI met them, one family – including more than 10 children – had spent three weeks with relatives in one department (or state), another week in a different department, three days in a church, one night in a motel, 12 days outdoors, and had been in a safe house for about one month. The children were not in school and no one in the family had left the house during that month. Their safe house, food, medicine, and hygiene products were being paid for by a local organization that did not have funds set aside to support IDPs in hiding. But members of the organization told RI that when people presented themselves, they had to help. Without a safe and sustainable in-country alternative, the family's plan is to remain in El Salvador only as long as it takes to get the documents they need to leave – they are willing to go anywhere else.

El Salvador has an institute dedicated to the rights of women (Salvadoran Institute for the Development of Women) that runs three shelters in the country and an institute for children's rights

(Salvadoran Institute for the Integral Development of Childhood and Adolescence) that runs twelve shelters. RI was informed that the women's shelter does not allow boys older than 12 to reside there, and that children fleeing gangs may not be able to access a children's shelter without sacrificing the relationship with their families – because the shelters were designed to protect children from the abuse or abandonment of parents or caretakers. In effect, this means that boys over the age of 12, who are most vulnerable to forced recruitment and murder by the gangs, have almost no access to government shelters – and none at all exist for displaced families. CSOs confirmed that each time they brought

**“The government has to take responsibility. It's not for civil society to do so.”**

-CSO worker, San Salvador

the case of a displaced family to the attention of the authorities they were told that residence in a shelter would only be made available if the family agreed to split up. As a first step, El Salvador's government must

build transitional centers that provide forcibly displaced families with temporary shelter to consider their next steps, and that include access to legal assistance, health and psychosocial care, and the means to expedite acquisition of birth certificates and national identifications.

The El Salvador government also needs to explore the development of longer-term solutions for its internally displaced. The government has a Vice-Ministry of Housing and Urban Development that is focused on designing policies, rules, and guidelines for the



development of more productive and sustainable communities. This Ministry does planning for disaster mitigation, and funds and provides shelters for victims of natural disasters. It also has a small budget to support temporary shelter for government witnesses, police, and victims of domestic violence, but there are no known plans to increase this program. With more funding directed toward IDPs, the Vice-Ministry of Housing and Urban Development could play a critical role in the identification and design of safe spaces and transitional centers for individuals and families displaced by violence.

## EXPLORING HOST COMMUNITIES

It is very difficult right now for displaced families to identify and pay rent for secure housing inside El Salvador. Up to 90 percent of the country is under the de facto control of gangs,<sup>14</sup> even while there are state institutions functioning, such as schools and hospitals. The majority of displaced families are from poor and working class communities. RI was told by one community activist that most families do not have a steady income or savings, so when they flee, they have no protection at all. In other parts of the world, a first place that displaced people can go to is their friends and family. But in El Salvador, if those friends and family also live in areas dominated by gangs, they may be too afraid to take in people who have been forced from their homes. Indeed, a government employee told RI that the gangs are “like the FBI – they can find people.” To the extent that sheltering with families and friends does happen, RI was told that it is only for a few days or weeks here and there.

**“We need shelters for families. One of the biggest issues is the lack of safe spaces for families.”**

-Government employee, San Salvador

Yet, there are some municipalities in El Salvador with very low rates of gang presence and/or homicides that might be appropriate for family relocation and resettlement.<sup>15</sup> With support from UNHCR, the government should consult with municipalities in all of El Salvador’s 14 departments to identify possible family relocation and resettlement sites, and ensure that planning takes into account both the concerns of host communities and the specific protection and livelihood needs of displaced families. Host communities could be incentivized by receiving commitments to renovate and bolster services that may be strained by new arrivals, such as houses, schools, hospitals, and water irrigation systems. The U.S. government should fund programs bilaterally and through national and regional initiatives that permit the El Salvador government – through its own institutions, civil society, and international humanitarian actors – to develop and respond to the shelter needs of those internally displaced by gangs.

## CONNECTING SHELTER WITH ACCESS TO EDUCATION

When thinking about where to relocate and resettle families, the government should also consider access to education. Going to school can help to restore a sense of normalcy in the lives of displaced children simply because it creates a predictable routine, and it





can help alleviate some of the psychological impact on children during a humanitarian crisis. Ideally, schools are child-friendly spaces that protect children from such dangers as sexual abuse, child recruitment, or exploitation. Unfortunately, El Salvador's schools and other educational institutions are not child-friendly, and access to them does not exist for most children who are displaced. Of all the cases documented and/or supported by CSOs throughout the last 18 months in El Salvador, not one displaced child was in school.

An unnecessary hurdle to accessing education for the displaced is the need for a certificate from a prior school before enrolling in a new school. RI was told that for many families, returning to the prior school district could be life-threatening, so they choose not to do so. Schools and municipalities should work together to ensure that lack of certification is not preventing students from recommencing studies in their places of displacement when possible. For those youth internally displaced and unable to go to school because they remain on the run or are in hiding, the government should design programs that can reach them – whether that would mean expanding an existing government program that offers “distance learning,”<sup>16</sup> online courses that are accessible through smart phones and other devices that youth can access,<sup>17</sup> teachers in transitional centers, or remedial and vocational programs that permit youth to catch up with their peers. Indeed, a teenage boy in hiding told RI that he wanted to get out of El Salvador specifically because he wanted to go back to school. Over and over in the past, he had declined offers to join the gang in his neighborhood because he wanted to continue his studies.

The U.S. government should support innovative approaches to distance learning and fund academic programs targeted at displaced children through El Salvador's Plan of the Alliance for Prosperity in the Northern Triangle (PAPNT), which was proposed by President Obama in response to the surge of unaccompanied children who arrived at the U.S. border in 2014, and is targeted at countering root causes of displacement, including by improving access to education.

## HEALTH CARE

El Salvador's health care system is municipality-based and available to all of its citizens, but for a displaced person or family, accessing it is very difficult. RI was told that it can take months to get a medical appointment, even to refill a prescription, and it is devastating for a displaced person who misses an appointment because the municipality is no longer safe. It could mean that for months they will go without medication for chronic illnesses such

as diabetes or high blood pressure, or an illness will go undiagnosed or untreated. El Salvador's health system is already overextended and struggles to meet the needs of citizens. Displaced populations are particularly vulnerable and at increased health risk given the precariousness of their situation. There must be a coordinated effort to support their ability to access medical and psychosocial care.

**Of all the cases documented and/or supported by CSOs throughout the last 18 months in El Salvador, not one displaced child was in school.**

Some alternatives to state health care exist for people who cannot access it, including the Salvadoran Red Cross and some community centers, but they do not have the capacity to address all the ailments presented by displaced people, nor is it their primary focus

or responsibility. Displaced populations who have experienced violence are often in need of complex and individualized care involving multiple health professionals. Addressing specific health needs, such as treatment for survivors of gender-based violence, maternal care, promoting optimal nutrition, and mental health and psychosocial support, is critical, and there need to be opportunities for displaced populations to access this care.

Due to the high levels of violence and insecurity in El Salvador, foreign assistance has often been packaged through a national security lens that does not respond adequately to the humanitarian needs of Salvadorans. The U.S. government should reformulate its foreign assistance approach to ensure that it is guided by humanitarian principles and takes into account the significant health concerns of vulnerable people.

The provision of humanitarian assistance,

including health services, should be independent from security or political agendas, delivered in an impartial manner and accessible to affected communities. If well-crafted, this type of assistance could have both short- and long-term benefits. Humanitarian programming put in place to help displaced Salvadorans now will also support a more robust and resilient health system in El Salvador for all its citizens, aligning the needs of vulnerable populations with the obligation of the state to support them.

## PROTECTION FROM SERIOUS HUMAN RIGHTS VIOLATIONS, PERSECUTION, AND TORTURE

International law underscores the primary responsibility of states to guarantee the protection of their citizens and residents. But when they cannot, the international community has a responsibility to extend protection to those seeking safety from serious human

**“One of the main reasons we want to get out of this country is so we can safely go back to school.”**

-Displaced child





An abandoned home in the suburbs of El Salvador with graffiti from the Barrio 18 gang. Photo by Pau Coll RUIDO Photo/El Faro.

rights violations, persecution, and torture. Right now, El Salvador is unable to protect thousands of its citizens and this deficit is resulting in growing requests for international protection.

This year, thousands of Salvadorans are applying for asylum or another complementary form of protection in the United States, Mexico, Panama, Nicaragua, Costa Rica, Sweden, and other countries. Some are even requesting safety in Guatemala, another country with high levels of violence, but also more physical space to absorb and hide people. While the majority of applications have traditionally been made in the U.S., as more Salvadorans successfully acquire protection in other countries, it is less likely that they will attempt the treacherous journey through Mexico to the U.S. As one displaced person told RI, “The end goal is not the United States – it’s getting out of El Salvador.” In the meantime, the U.S. and Mexico need to be much more vigilant in ensuring that Salvadorans fleeing persecution and other serious human rights violations have access to an asylum officer before being deported. To do otherwise would be to risk violating the principle of non-refoulement – or the requirement that no one be returned to a country where they face serious human rights violations.

Without a safe place to stay inside El Salvador, Salvadorans forcibly displaced by gangs will do all they can to secure refuge outside

the country, and sometimes even government officials will help them. A government officer who works at a reception center that receives and processes deported Salvadorans told RI that she had just given a mother and her children bus fare so that they could again try to cross the border into Mexico. The woman had just been deported from Mexico, the experience had been harrowing, and she wanted to go home. When she called her family from the reception center to pick her up, however, she was told that the gang was still looking for her and she could not come home. This officer said that she saw similar cases every week of people exhausted and desperate to go home, but not being able to because of danger. Without secure alternatives in El Salvador, they had no choice but to attempt the journey through Mexico again.

**“The end goal is not the United States – it’s getting out of El Salvador.”**

-Displaced person

## PROTECTION PURSUANT TO THE UN REFUGEE CONVENTION

Every state in the Americas has ratified the United Nations 1951 Refugee Convention, and Salvadorans who express a fear of persecution by state and non-state actors should have the opportunity to pursue protection through the Convention. Of course, the violence and persecution experienced by many in El



Salvador was not contemplated at the time of the Convention's development, and this creates challenges to pursuing protection through its framework. But it should not lead to the easy inference that the Refugee Convention does not apply. In fact, over the last 60 years, the international community's understanding of almost every element of the Convention's framework has evolved as individuals, nations, advocates, and academics have identified pre-existing and emerging patterns of persecution that were either overlooked originally or have emerged since.<sup>18</sup>

To some, a request for refugee protection based on persecution by gangs may seem far-fetched, and this assumption is certainly reflected in much of the case law. But in reality, much of the violence perpetrated against individuals and families in El Salvador is organized, purposeful, and motivated by particular characteristics. As such, adjudicators must look beyond the surface, fairly apply the elements of refugee law, and extend protection to those individuals who demonstrate a well-founded fear of persecution on account of a protected ground.

## CARTAGENA DECLARATION

All regional states, except the U.S. and Canada, have signed the Cartagena Declaration, which is a document obliging states to

provide refuge to people who qualify under its broader categories of protection. While Panama, Costa Rica, and Venezuela have not yet incorporated the Declaration into national law, as signatories they must act consistent with the rights provided for in the Declaration. On the 30th anniversary of the Declaration in December 2014, regional nations agreed upon a 10-year "Brazil Plan of Action." Included in this new Plan is recognition that non-state actors including gangs are driving displacement, and states have an obligation to protect people fleeing this type of persecution.

Countries that receive Salvadorans in the region must be generous and flexible in their support of people fleeing gangs. A variety of measures could extend protection to those who need it without overextending neighboring states. With the support of UNHCR, states should ensure that all Salvadorans expressing a fear of serious human rights violations, persecution, or torture be given the opportunity to articulate their fear of return before an officer authorized to adjudicate asylum applications consistent with the Refugee Convention, Cartagena Declaration and Brazil Plan of Action, and other complementary forms of protection. The UNHCR should also help states build the capacity to receive and absorb refugees, as for many of these countries, the arrival of large numbers of refugees from the Northern Triangle is a new phenomenon.

A unit of the National Civil Police of El Salvador.





# TEMPORARY PROTECTED STATUS

In the U.S., the Secretary of Homeland Security may designate a foreign country for Temporary Protected Status (TPS) due to conditions that temporarily prevent the country's nationals from returning safely, or in certain circumstances, when the country is unable to safely handle the return of its nationals. The Secretary may designate a country for TPS due to an ongoing armed conflict (such as civil war), an environmental disaster (such as earthquake or hurricane), or an epidemic or other extraordinary and temporary situation. Salvadorans who arrived before February 13, 2001 have been able to apply for TPS on a yearly basis because of two devastating earthquakes in El Salvador that killed hundreds and displaced hundreds of thousands of Salvadorans in early 2001. Syrians, Liberians, and people from Sierra Leone all have access to TPS due to ongoing armed conflict in their countries. El Salvador is currently experiencing an extraordinary period of insecurity and violence that is causing mass displacement temporary in nature. In light of these conditions, the U.S. government should reauthorize TPS for Salvadorans. Providing protective temporary status to Salvadorans in the U.S. would offer the El Salvador government some relief as it focuses on the development of a national response to those forcibly displaced. However, the

possibility of receiving TPS should not be used to undermine the right of international protection for those Salvadorans who qualify as refugees.

## CENTRAL AMERICAN MINORS REFUGEE/ PAROLE PROGRAM

More than 32,000 unaccompanied Salvadoran children arrived at the U.S. border in 2014, and more than 10,000 Salvadorans requested asylum protection. While that number has dropped this year, it is not because fewer children are fleeing El Salvador, but rather because more deportations are occurring in Mexico. In January and February of 2015 alone, Mexico deported over 25,000 unaccompanied children. While it is processing some asylum applications, for the first time, Mexico is now recording more deportations of Salvadorans than the U.S.<sup>19</sup>

The Central American Minors (CAM) Refugee/Parole was created in direct response to the unprecedented amount of unaccompanied minors who arrived at the U.S. border in 2014. Although described as a refugee program, only children who have a parent legally present in the U.S. are eligible to apply. If they are allowed to enter the U.S., children can then apply



The gang tag of the MS-13 gang, San Salvador.



for refugee protection. The program commenced in December 2014, but so far no children have been permitted entry based on it. While the CAM program is small and does not address the hardships of children who are in immediate need of safe passage, it is an important program that may prove life-saving for some youth in El Salvador, Guatemala, and Honduras. Given its limitations, however, the program should not be construed as a robust humanitarian response to the needs of the forcibly displaced Salvadoran families.

*Sarnata Reynolds traveled to El Salvador in June 2015 to assess the humanitarian situation of people internally displaced by gangs, in consultation with Fundación Cristosal, an independent nonprofit organization partnering with the people of El Salvador in their struggle for peace, justice, and reconciliation.*

## ENDNOTES

1. UNICEF. Hidden in Plain Sight: A Statistical Analysis of Violence against Children. 2014. [http://files.unicef.org/publications/files/Hidden\\_in\\_plain\\_sight\\_statistical\\_analysis\\_EN\\_3\\_Sept\\_2014.pdf](http://files.unicef.org/publications/files/Hidden_in_plain_sight_statistical_analysis_EN_3_Sept_2014.pdf)
2. Michael Wilkerson, "Security and Democracy in El Salvador: An Undeniable Connection." *Stanford Journal of International Relations*, Fall/Winter 2008 (quoting Andrew Papachristos). [https://web.stanford.edu/group/sjir/pdf/El\\_Salvador\\_%20REAL\\_final\\_v2.pdf](https://web.stanford.edu/group/sjir/pdf/El_Salvador_%20REAL_final_v2.pdf)
3. Red de Seguridad y Defensa de América Latina (RESDAL), *Índice de Seguridad Pública y Ciudadana en América Latina: El Salvador*, 2013.
4. The International Human Rights Clinic, Harvard Law School. *No Place to Hide: Gang, State and Clandestine Violence in El Salvador*. Feb. 2007. pp. 18, 85 & 93. [http://www.wola.org/sites/default/files/downloadable/Citizen%20Security/past/Harvard\\_Gangs\\_NoPlaceToHide.pdf](http://www.wola.org/sites/default/files/downloadable/Citizen%20Security/past/Harvard_Gangs_NoPlaceToHide.pdf)
5. Internal Displacement Monitoring Centre. *Global Overview 2015: People Internally Displaced by Conflict and Violence*. <http://www.internal-displacement.org/assets/library/Media/201505-Global-Overview-2015/20150506-global-overview-2015-en.pdf>
6. See, e.g., UNHCR, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection*. 13 March 2014 (hereinafter UNHCR Children); [http://www.unhcrwashington.org/sites/default/files/1\\_UAC\\_Children%20on%20the%20Run\\_Full%20Report.pdf](http://www.unhcrwashington.org/sites/default/files/1_UAC_Children%20on%20the%20Run_Full%20Report.pdf). U.S. Government Accountability Office. *Central America: Information on Migration of Unaccompanied Children from El Salvador, Guatemala, and Honduras*. 27 February 2015 (noting the inability of El Salvador's national and local governments' to respond to violence and gang activity). <http://www.gao.gov/products/GAO-15-362>
7. U.N. Office on Drugs and Crime (UNODC), *Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment*, September 2012. [https://www.unodc.org/documents/data-and-analysis/Studies/TOC\\_Central\\_America\\_and\\_the\\_Caribbean\\_english.pdf](https://www.unodc.org/documents/data-and-analysis/Studies/TOC_Central_America_and_the_Caribbean_english.pdf)
8. UNHCR Children.
9. Clare Ribando Seelke, *El Salvador: Background and U.S. Relations*. Congressional Research Service. 9 April 2015. <https://www.hsdl.org/?view&did=764710>
10. Alberto Arce. "As Gang Violence Sweeps El Salvador, Rumor Has It That Only Gangsters' Girlfriends Can Be Blondes." *Associate Press*. June 22, 2015. [http://www.huffingtonpost.com/2015/06/22/el-salvador-gangs\\_n\\_7637704.html](http://www.huffingtonpost.com/2015/06/22/el-salvador-gangs_n_7637704.html)
11. Roberto Valencia. "How El Salvador's Gang Truce Redefined Geography of Violence." *In Sight Crime*. 09 April 2015. <http://www.insightcrime.org/news-analysis/how-el-salvadors-gang-truce-redefined-geography-violence>
12. Enrique Garcia. "Policías y soldados han repelido 251 ataques de pandillas." *El Mundo*. 15 May 2015. <http://elmundo.com.sv/>

[policias-y-soldados-han-repelido-251-ataques-de-pandillas/](#)

13. Aaron Daugherty. "We're at War' With Gangs: El Salvador Police Official." *InSight Crime*. 19 Feb. 2015. <http://www.insightcrime.org/news-briefs/el-salvador-police-at-war-with-gangs>.

14. Alberto Arce. "As Gang Violence Sweeps El Salvador, Rumor Has It That Only Gangsters' Girlfriends Can Be Blondes." *Associate Press*. June 22, 2015. [http://www.huffingtonpost.com/2015/06/22/el-salvador-gangs\\_n\\_7637704.html](http://www.huffingtonpost.com/2015/06/22/el-salvador-gangs_n_7637704.html)

15. Matthew C. Ingram & Karise M. Curtis, *Violence in Central America: A Spatial View of Homicide in the Region, Northern Triangle, and El Salvador*. Crime and Violence in Central America's Northern Triangle: How U.S. Policy Responses are Helping, Hurting, and Can be Improved. Ed. Wilson Center, Eric L. Olson (2015), pg. 258. The fact that some municipalities had no, or very low, homicide rates in the recent past does not mean that these municipalities did not experience other drivers of displacement, such as death threats and extortion, but they could certainly serve as a starting point for the government.

16. There is already a distance learning program in El Salvador that permits children to do their coursework at home and travel into school one day per week. This program, along with other innovative approaches, should be explored for children who cannot attend school safely.

17. Given that El Salvador's poverty rate is over 40 percent, and the majority of people displaced originate from low-income communities, the government would need to consider subsidizing computers, tablets and other technology that could be used as learning tools.

18. William Thomas Worster, *The Evolving Definition of the Refugee in Contemporary International Law*, 30 Berkeley J. Int'l Law. 94 (2012), (online: accessed 1 June 2015). <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1428&context=bjil>

19. Clay Boggins. "Mexico's Southern Border Plan: More Deportations and Widespread Human Rights Violations." Washington Office on Latin America. [http://www.wola.org/commentary/update\\_on\\_mexico\\_s\\_southern\\_border\\_plan\\_new\\_routes\\_more\\_deportations\\_and\\_widespread\\_human](http://www.wola.org/commentary/update_on_mexico_s_southern_border_plan_new_routes_more_deportations_and_widespread_human)





Homes abandoned by families fleeing gang violence. Photos by Pau Coll RUIDO Photo/El Faro.



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