LAWYER NAME. NON-DETAINED

ADDRESS

ADDRESS

Phone: ##########

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Pro Bono Attorney for Respondent*

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

 **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ IMMIGRATION COURT**

**CITY, STATE**

|  In the Matter of: **CLIENT NAME, A#****SPOUSE NAME, A#****CHILD NAME, A#**In Removal Proceedings. |   Lead File No**.:** A#########  **Individual Hearing**  **Date & Time: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** **Hon. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| --- | --- |

**DOCUMENTS IN SUPPORT OF RESPONDENTS’ APPLICATION FOR RELIEF FROM REMOVAL IN THE FORM OF ASYLUM, WITHHOLDING OF REMOVAL, AND PROTECTION UNDER THE CONVENTION AGAINST TORTURE**

Lead Respondent, NAME, submits the following documentary evidence in support of his request for relief from removal in the form of asylum, withholding of removal, and protection under the Convention Against Torture.

|  | **TAB** | **EXHIBIT** | **PAGE** |
| --- | --- | --- | --- |
| 1. **FACTUAL BACKGROUND**
 |
|  | A. | Declaration of CLIENT, Lead Respondent, Dated DATE (with interpretation certificate) | 1 |
|  | B. | Declaration of SPOUSE, Respondent, Dated DATE (with interpretation certificate) | 8 |
|  **Guatemalan Documents:**  |
|  | C. | Birth Certificate of CLIENT, dated DATE (with certified translation) | 15 |
|  | D. | Birth Certificate of SPOUSE, dated DATE (with certified translation) | 20 |
|  | E. | Birth Certificate of CHILD, dated DATE (with certified translation)  | 25 |
|  | F. | Passport Biographical Page of CLIENT, dated DATE | 30 |
|  | G. | Passport Biographical Page of SPOUSE, dated DATE | 31 |
|  | H. | Consular ID Card of CLIENT, dated DATE | 32 |
| 1. **UNITED STATES GOVERNMENT REPORTS**
 |
|  |  I. | **United States Department of State, Guatemala 2021 Human Rights Report**Significant human rights issues included credible reports of … serious problems with the independence of the judiciary; … serious government corruption; lack of investigation of and accountability for gender-based violence; [and] crimes involving violence or threats of violence targeting … members of indigenous groups[.] Impunity continued to be widespread.**Women Rape and Domestic Violence:** The law criminalizes rape of men or women, including spousal rape, and sets penalties between five and 50 years in prison. Police had minimal training or capacity to investigate sexual crimes or assist survivors of such crimes, and the government did not enforce the law effectively. Rape and other sexual offenses remained serious problems.The government took steps to combat femicide and violence against women. … Sexual violence remained widespread despite these advances.The law establishes penalties for femicide of 25 to 50 years in prison without the possibility of reducing the sentence; however, femicide remained a significant problem.Violence against women, including sexual and domestic violence, remained widespread and serious.**Systemic Racial or Ethnic Violence and Discrimination**: There are no laws, policies, or state programs that specifically contribute to the reduction of racism, according to international human rights organizations.The government generally did not effectively enforce laws against discrimination. Of the 12 agreements that make up the Peace Accords signed in 1996, the two in which the government had made the least progress in implementing were those specifically dealing with matters related to indigenous persons: the Agreement on Identity and Rights of Indigenous Peoples and the Agreement on Socioeconomic Aspects and Agrarian Issues. | 33 |
|  | J. | **United States Department of State, “Joint Statement by the Trilateral Working Group on Violence against Indigenous Women and Girls, Following the 21st session on UN Permanent Forum for Indigenous Issues,” May 16, 2022**We recognize that Indigenous women … face disproportionately high rates of gender-based violence. This violence is a multidimensional phenomenon that is predicated on histories of abuse and perpetuated by ongoing discrimination and racism, including multiple and intersecting forms of discrimination.  The violence includes, but is not limited to, murders, sexual assault, trafficking, and intimate-partner violence. Too often, the disappearance or murder of Indigenous women … is not met with swift, effective, and culturally relevant action, including the lack of processes in Indigenous languages, by government institutions to investigate and resolve these cases.  | 79 |
|  | K. | **Overseas Security Advisory Council (OSAC), Bureau of Diplomatic Security, U.S. Department of State, Guatemala Country Security Report, August 15, 2022**Crime in Guatemala stems from many sources, its impact magnified by corruption, an inadequate justice system, and the prevalence of gang and narcotrafficking activity across the country.Despite the historical downward trend in homicides, Guatemala remains among the most dangerous countries in the world. Endemic poverty, an abundance of weapons, a legacy of societal conflict, and the presence of organized criminal gangs like Barrio 18 (18th Street) and Mara Salvatrucha (MS13) all contribute to violent crime. Guatemala’s high murder rate is driven by narcotrafficking activity, gang-related violence, a heavily armed population, and a law enforcement and judicial system unable to hold criminals accountable.The police lack sufficient personnel and training to accomplish their mission. They suffer from a lack of supplies (e.g., vehicles, fuel, and ammunition) with little improvement from year to year. Often, police investigations fail to result in an arrest, much less a conviction. Apart from impunity, a principal reason that the government is unable to respond to the needs of crime victims, or to prevent crime in the first place, is that the police force significantly lacks training and funding. The average officer should have at least a high school degree (some has much less), has as little as six months of police training before being sent out on the streets, and receives only a small monthly salary. Moreover, the annual police budget is inadequate to support its personnel, vehicles, training, and other infrastructure needs. Although some units have adequate equipment and training, they do not have the capacity to handle multiple taskings or cases at the same time.Women should be especially careful when traveling alone throughout Guatemala. Violence against women, including sexual and domestic violence, is widespread and serious.The law criminalizes rape of men or women, including spousal rape, and sets penalties between five and 50 years in prison. Police have minimal training or capacity to investigate sexual crimes or assist survivors of such crimes, and the government did not enforce the law effectively. Rape and other sexual offenses remain serious problems.The law provides criminal penalties for official corruption, but officials frequently engaged in corrupt practices with impunity. Despite numerous allegations of corruption among the legislative and executive branches of the government, few high-profile cases were prosecuted during the year, and anticorruption efforts within the judiciary stalled. Prominent anticorruption prosecutors were fired or removed from significant cases, and corrupt actors threatened independent judges by filing complaints based on spurious charges to strip them of immunity to prosecution. | 83 |
|  | L. | **United States Department of State, Addressing Gender-Based Violence in Emergencies**Gender-based Violence (GBV) is an umbrella term for any harmful threat or act directed at an individual or group based on actual or perceived biological sex, gender identity and/or expression, sexual orientation, and/or lack of adherence to varying socially constructed norms around masculinity and femininity. It is rooted in structural gender inequalities, patriarchy, and power imbalances. | 91 |
|  | M. | **United States Department of State, Gender-Based Violence: Partnering to Respond, Assist, and Protect, July 1, 2014**Gender –Based Violence should be understood as violence toward a person, based on gender … [Gender-based violence includes] early and forced marriage, female genital mutilation, “honor” based violence[,] … female infanticide, child sexual abuse, sex trafficking and forced labor, sexual coercion and abuse, neglect, domestic/ intimate partner violence, and elder abuse. | 96 |
|  | N. | **Centers for Disease Control and Prevention, Fast Facts: Preventing Stalking (2022)**Stalking involves a perpetrator’s use of a pattern of harassing or threatening tactics that are both unwanted and cause fear or safety concerns in a victim.Stalking tactics can include:* Unwanted following and watching of the victim
* Unwanted approaching or showing up in places, such as the victim’s home, workplace, or school
* Unwanted phone calls, … [and]

[.]The National Intimate Partner and Sexual Violence Survey (NISVS) reports that about 1 in 3 women and 1 in 6 men have been stalked at some point in their lives.Studies have also shown that stalking can lead to psychological distress, such as depression and post-traumatic stress disorder (PTSD). | 97 |
|  | O. | **United States Department of Justice, Office for Victims of Crime, Stalking, June 1, 2020**Stalking is a crime of power and control. It is a course of action directed at an individual that causes the victim to fear for their safety, and generally involves repeated visual or physical proximity, nonconsensual communication, and verbal, written, or implied threats. Research shows that victims of stalking are more likely to experience anxiety, insomnia, social dysfunction, and severe depression compared to the general population. | 100 |
| 1. **EXPERT DECLARATIONS**
 |
|  | P. | **Declaration and CV of Dr. Eric Hershberg, Expert on Gang Violence in Guatemala, December 28, 2019**18. The notion of 'respect' and 'reputation' are central elements of most gang cultures. Gang members preserve their reputation by violently confronting anyone who challenges them or who engages in activities that could be construed as insulting or disrespectful. 30 Gang leaders believe that failing to exact revenge against anti-gang dissidents would be ruinous to their status within their own gang, among gang rivals, and the public. According to a recent report from the United Nations High Commission for Refugees (UNHCR), "Persons who resist the authority of the local gang or who even just inadvertently cross it, or who collaborate with the security forces or with rival gangs, are reportedly subjected to swift and brutal retaliation from the gang."34. The indigenous population in Guatemala, which represents 40% of the total population, has faced systematic levels of repression and social and political marginalization since colonial times. While there is little evidence that gangs are specifically targeting indigenous people on grounds of their ethnicity, it is likely that victims who are indigenous would receive little to no assistance from the security forces and government.59. The Northern Triangle of Central America is one of the most violent regions in the world, with women especially vulnerable to violence in the form of sexual and gender-basedviolence, including rape, sexual assault, domestic violence, human trafficking, and sexual exploitation. 96 Rates of gender-based violence experienced by women and girls in Guatemala are extremely high and these crimes often go unreported and unpunished. When victims live in gang-controlled areas or when perpetrators have gang affiliations, crimes are even more likely to result in impunity. 64. When women or girls refuse to become a gang member's "girlfriend", they are threatened with sexual assault or violence against them and their family. In other cases, some women enter into a relationship with a gang member as a way to protect themselves from sexual violence by other gang members. While this strategy may be utilized to protect the woman from sexual violence by other gang members, she is still at risk of sexual abuse from the gang member whom she entered into the relationship with - as women are routinely abused and raped within the gang community. 71. Public confidence in local law enforcement has eroded, and many citizens choose not to report crimes to the police because they know the crime will go uninvestigated, for fear of retaliation by the perpetrators, or for fear of victimization at the hands of security forces. According to Guatemala's Minister of the Interior, more than 1,000 police officers were removed from duty between 2012 and 2014 for crimes including kidnapping and extortion. A recent nationwide operation targeting extortion networks led to the arrest of an army colonel, tasked with combating organized crime, for laundering money on behalf of MS-13, as well as a police commissioner for leaking operational information about the gang. It is widely understood, however, that the overwhelming majority of cases of police abuse remain unreported, and that fewer still are prosecuted, suggesting that the degree of impunity is extraordinary. | 103 |
|  | Q. | **Declaration and CV of Dr. Stuart L. Lustig, Expert on Trauma and Asylum Seekers, July 26, 2017**4. Unfortunately for trauma victims whose fates may rest on their ability to recall and recite past traumas with accuracy and consistency, the human brain does not create, retain or retrieve memories with either, even in the absence of trauma. A substantial body of psychological research has demonstrated that even psychiatrically healthy and mentally competent adults make significant memory errors regarding specific names, dates, periods of time, and sequences of events. Furthermore, repeated events (e.g. summers at the same beach) become fused and confused over time. Memory degrades over time, which is particularly problematic for adult asylum seekers traumatized as children. Finally, recall of the same, unique event is not completely consistent from one retelling to another; poor consistency has been repeatedly demonstrated in studies of recall regarding emotionally laden events such as the 9-11 attacks or the O.J. Simpson trial1 and is certainly prevalent in the less well known scenarios typically presented by asylum seekers.  | 165 |
|  | R. | **Declaration and CV of Linda B. Green, Expert on Violence Against Indigenous Women in Guatemala, July 19, 2016**11. Modern Guatemala consists of indigenous peoples and ladinos (non-Indians), many of whom claim descent from the Spanish conquistadors. The largest indigenous group is the Maya, the majority of whom now live in the western highlands. The Mayans in turn fall into twenty-two distinct sub-groups, the largest of which are the Mam as well as the Quiche and the Ka’quichel.25. The police are unlikely to want to help an indigenous woman because they too often share the racist and sexist view that she belongs to the lowest class of citizens, and the police are also unlikely to respond because family violence is not seen as a serious matter worthy of law enforcement involvement.27. Further, the lack of faith in police forces is reasonable in light of Guatemalan police officers’ low education and complete incompetence. Police often lose or throw away criminal evidence. Even if an officer were willing to follow-up on a case, forensic evaluation procedures in Guatemala are so poor that the evidence and crime scene are often too contaminated to be used in a proper investigation or prosecution. Thus, impunity, social inequality and patriarchal attitudes towards women in general and Mayan women in particular are root causes of the extraordinary violence against women in Guatemala. Government-sponsored impunity enabled by a dysfunctional legal system and coupled with widespread social attitudes of women’s inferiority act in concert to normalize violence against women. | 185 |
|  | S | **Declaration and CV of Claudia Paz y Paz Bailey, Expert on Violence Against Women in Guatemala, October 5, 2016**5. Despite the changes implemented during my tenure as Attorney General in Guatemala, and some important changes made to the laws following passage of the Law Against Femicide and Other Forms of Violence Against Women (Ley Contra el Femicidio y otras Formas de Violencia Contra la Mujer, Decree 22-2008) aimed at eliminating violence against women by making changes to the Penal Code (Codigo Penal) and the Criminal Procedure Code (Codigo Proceso Penal), it continues to be very dangerous to be a woman in Guatemala. One in three women in “post-conflict” Guatemala suffers physical, psychological, or sexual violence. During the post-conflict period, violence against Guatemalan women has escalated, and over 10,000 women and girls have been killed in the last fifteen years and thousands of girls have been raped.2 Hundreds of thousands of women have filed complaints of domestic violence or called emergency hotlines seeking help.7. From the minute an abused woman takes steps to leave an abusive relationship, her risk of suffering escalates. If not fatal, the danger of additional harm increases substantially.8. In Guatemala, these cases involving violence against women have reached epidemic proportions, with corresponding alarming increases in the levels of violent deaths of women. During the last decade and a half, the number of these “femicides” rose nearly every year3 – with an alarming 722 women killed in 2008. After the policies I helped implement as Attorney General, these numbers began to fall, with 631 violent deaths of women in 2011, 572 violent deaths of women in 2012, and 654 violent deaths of women in 2013, but these figures are still alarmingly high and have begun to rise again in recent years with 774 violent deaths of women reported in 2014 and more than 760 reported in 2015.11. The vicious and cruel manner in which Guatemalan women are raped, tortured and killed demonstrates the continued existence of structural causes that have given rise to these atrocities. These causes are anchored in the first place in the unequal power relationships between men and women in our culture, which can be seen in the solidly established idea that women are inferior beings who may be subjected to sexual harassment, rape, and even murder. 23. The impunity with which men beat, rape and kill women in Guatemala has contributed to the systematic devaluation of women. This devaluation manifests itself in the criminal legal system’s lack of criminal prosecutions or sentences for the crimes. This lack of responsibility on the part of the State for crimes against women has contributed to gender-based violence because it has sent the message that men are above the law. The possibility that they may be able to rape or kill a woman without fearing punishment, creates a tacit approval of the crimes, which results in ever more violence. | 210 |
| 1. **OTHER ARTICLES AND REPORTS**
 |
|  | T. | **Amnesty International, “Guatemala: Discriminatory law forments and puts lives, rights and families at risk,” March 9, 2022.**“Guatemala already suffers from shocking levels of violence against women, girls and LGBTIQ+ people. By criminalizing miscarriages, prohibiting schools from teaching students about non-heterosexual relationships, and sanctioning discrimination on the grounds of sexual orientation, Guatemala’s Congress is legalizing institutionalized violence and discrimination against women, girls and the LGBTIQ+ community,” said Erika Guevara-Rosas[, Americas director for Amnesty International]. | 219 |
|  | U. | **Heidbrink, Chuc Norato, and García Maldonado, Columbia University’s Center for Mexico and Central America, Conditions of Children and Youth in Guatemala, March 2022****Historical and policy context**Racism and discrimination against Indigenous peoples are embedded within social, political, and economic institutions and lead to adverse educational outcomes, health disparities, and structural violence.**Discrimination against indigenous peoples**[S]cholars have documented how Indigenous communities in post-conflict Guatemala continue to be expelled systematically from all areas of social and political life, including the labor market, public education, health care, development initiatives, and political participation.**Femicide and Gender-Based Violence**In Guatemala, femicide and violence against women and girls is normalized and, as a consequence, met with “impunity, silence and indifference.” Femicide is defined as the violent killing of a woman because she is a woman. Scholar Victoria Sanford convincingly argues that perpetrators of present day femicide enlist strategies employed during the 36-year armed conflict in Guatemala such as rape, torture, and mutilation of women to control communities generally and women specifically. In fact, experts have identified Guatemala as the “most dangerous place for women in all of Latin America.” This is borne out in international statistics with Guatemala having the fourth-highest femicide rate in the world with 9.7 violent deaths per 100,000 women. In 2017, 57 out of every 10,000 women were killed by femicide and injured by other forms of violence against women. In spite of this pervasiveness, according the most recent statistics from United Nations Women, the rate of impunity for femicide is 98%.Indigenous women are even more precarious because they face dual discrimination for being Indigenous and for being women. Scholars contend that femicides are just the “tip of the iceberg” of gender-based aggression as a growing body of research demonstrates the linkages between poverty, gender inequality, and gender-based violence. Exclusion and racism further deepen structural and institutional forms of violence which are often more pronounced among Indigenous women and girls in rural areas.**Rape**Rape and aggravated rape of women and girls continues at high levels and likewise met with systemic impunity. Rape and abuse affect 3 out of every 10 girls (ages 0 to 7). Adolescents are the group most vulnerable to being victims of rape; 29 out of 10,000 reported that they were violated in 2017. According to the PNC, 12 of every 20 women who reported rape were assaulted by men with whom they had intimate relationships in 2017. Yet, rape and aggravated rape remain under-reported due to stigma or girls and women being blamed for the abuse, the normalization of violence against women, and the ongoing impunity of perpetrators.***Legal framework and femicide courts***In response to years of pressure from women’s rights organizations, specialized femicide courts, the first of their kind in Latin America, were established in 2010, however, they operate with limited success. There are now ten Criminal Courts for Crimes of Femicide and Other Forms of Violence Against Women in Guatemala throughout the country. In spite of the improved legal framework and specialized courts, many prosecutors do not consider domestic violence as a matter warranting serious attention. According to the U.S. Department of State, there is a pattern of prosecutors and judges within and beyond these specialized courts who urge reconciliation, rather than providing protection to survivors of gender-based violence.The courts are beleaguered by a lack of resources and political support. As a result, most cases involving domestic violence, abuse against women, and abuse against children are relegated to these under-resourced courts. … Femicide courts have few judges, each responsible for expansive jurisdictions, maintain an inadequate number of attorneys general to investigate and follow up on all cases, and, as a result, suffer from an extreme backlog of cases. … In court proceedings related to gender-based violence, child abuse, and child abduction, there is limited, if any, confidentiality of proceedings and no specialized protections or services for survivors. **Police Corruption**There is significant distrust in the National Civil Police (PNC, Policía Nacional Civil) for a number of reasons. First, the PNC is plagued by corruption and impunity. … Given the pervasive violence and economic precarity in the country, police officers may turn to organized crime to shore up their own protection or to bribes and extortion to supplement their meager wages. So too, the police are reported to be collaborators, if not members themselves, of gangs and other interrelated criminal networks. Pervasive police corruption is evidenced by a variety of local and national scandals.Beyond corruption, the PNC lacks sufficient resources, personnel, and training to effectively contain gang violence and organized crime. The U.S. Department of State’s 2015 Crime and Safety Report acknowledges that “[a]part from impunity, a principal reason that the government is unable to respond to the needs of crime victims, or to prevent them from becoming victims in the first place, is that the PNC is significantly under-trained and under-funded.” | 211 |
|  | V. | **US Institute for Diplomacy and Human Rights, “Tackling Violence Against Women in The Northern Triangle of Central America (NTCA),” November 14, 2021**A deeper issue is that perpetrators target women and girls based on their sex and gender. Sexual and gender-based violence – including femicides (international murders of women for being women) – plagues the NTCA [Northern Triangle of Central America].**Contributing factors to violence against women**The NTCA is home to many violent gangs, including the maras. Decades of civil war and political instability (including during the Cold War) enabled the gangs, among whom the Mara Salvatrucha (MS-13) and the Eighteenth Street Gang (M-18) are particularly infamous, to grow powerful. These groups brutally kill, assault, rob, and extort people (Cheatham, 2021; Seelke, 2014; World Bank, 2011). …According to Melida Guevara, an Oxfam program manager in El Salvador, “Gang violence exercises power over women by means of violence over their bodies. To resist is to die. So girls and young boys, some just 8 years old, are recruited to work for gangs or be girlfriends of gang members, and they are trying to survive in this complex and violent context.” (Oxfam America 2018).According to the UNHCR, 85% of women from the NTCA seeking asylum in the US described living in communities that armed crime groups controlled – be it maras or other groups. The women, in interviews, stated how they faced rape and abuse and lived amidst death and disappearances. 64% of interviewees described direct threats and attacks by criminal armed groups as ‘’at least one of the primary reasons for their flight’’, while 62% of respondents reported witnessing dead bodies in their communities, and many reported being forced to pay a ‘’tax’’ for living or working in a particular area.In addition, 60% women looking for sanctuary outside the NTCA consistently stated they received little to no protection from the police in spite of reporting attacks and threats, and 40% did not bother and thought it would be pointless because the police failed to help family members or friends who made reports or simply could not intervene in neighborhoods that criminal armed groups firmly controlled. In some cases, as 10% of the interviewees stated, the police themselves were even abusers or colluding with the criminal groups. Additionally, women who or whose family members worked for the police said refusing to collaborate with the maras resulted in gang members threatening and attacking them or theirs (UNHCR, 2015).**Conclusion**Women and girls in the Northern Triangle of Central America (NTCA) face and suffer from tremendous violence on account of their gender at some of the highest rates globally and have little recourse to protection under the law – in contrast, those (ranging from individuals to family members and spouses to gangs) that perpetrate violence against them rarely face punishment. It should not be this way – and it doesn’t have to be this way.  | 273 |
|  | W. | **UNHCR, UNICEF: El Salvador, Guatemala, Honduras, Mexico - Families on the Run, 2020**There are multiple root causes of displacement in northern Central America that are all too often linked together with violence. By the end of 2019, nearly 800,000 people from El Salvador, Guatemala and Honduras had sought protection either within their countries or had crossed international borders to escape escalating levels of gang violence and persecution, among other push factors. In this context, children and adolescents are particularly vulnerable. While some young women and girls are victims of sexual violence perpetuated by gang members, young men are exploited for criminal ends, including drug-running, or are fully recruited into criminal groups. Defying the gangs is extremely dangerous, particularly as retaliation not only affects the youth who refuse to join them, but also their family members who become targets of attacks. This persecution significantly hampers families’ ability to find or keep employment, and to access education, health and other social services.From 2013 through 2018, many parents sent their children and adolescents to other countries to protect them from risks associated with recruitment. As violence in communities has shifted to target entire families, however, hopes for a future in their home countries diminished, and more families began fleeing together.Young women are often forced into romantic and sexual relationships with gang members, he adds, and young men are preyed upon to traffic drugs, run errands or become full-time members of the groups.**Children and Adolescents**In a world ruled by gangs and other criminal organizations and characterized by extreme violence, young men, women and teenagers in northern Central America are particularly vulnerable. Violence, especially death threats associated with recruitment, directly affect children and adolescents. Children described facing several push factors, including different types of violence and the lack of opportunities and services in their countries. Of these children traveling alone, 30 percent identified some type of violence as their main reason of displacement, which in turn affected their ability to access basic rights, including going to school. | 294 |
|  | X. | **Carlos Arrazola, “The Origins of Racism in Guatemala — An Interview with Marta Elena Casaús Arzú on Anti-Indigenous Racism,” June 19, 2020**Marta Elena Casaús Arzú: I began studying racism because when I was a kid I would listen to my grandma and my other relatives saying, in a derogatory way, "*Ay! No seas Indio.* Hey! Don’t be an Indian. Don’t play with Indians. Don’t dress like an Indian." Casaús Arzú: It has become naturalized, because racism not only serves to justify exploitation, domination, and oppression—it also serves to unify both the ruling class as well as the middle classes, who want to 'whiten' themselves in hopes of joining the ruling class.Casaús Arzú: No, because to be an Indian in Guatemala is itself an offense. And the system promotes this: on the *fincas*, they want Indigenous people as workers and Ladinos as bosses; the foremen are always Ladinos, just as poor as the Indians, but Ladinos. There is something more serious, and that is that we’ve demonstrated that racism and discrimination makes it impossible for Indigenous people to make a living. Casaús Arzú: Racism is not the same as discrimination. I can discriminate against someone because I don’t like their tattoos and don’t want my daughter to marry someone with tattoos, for example. Everyone has the right to choose who they interact with. But racism is when you assign value to a series of differences, real or imaginary, and then these become inequalities, and then those in turn become the basis for a system of domination, humiliation, and exploitation. | 331 |
|  | Y. | **Mark Walker, Trouble in the Highlands, National Peace Corps Association, July 01, 2019****Life in Quiche**Quiche is the province suffering more assassinations and murders than almost any other in Latin America.According to the Guatemalan Human Rights Commission, unbridled impunity still threatens the rule of law, including the failure to prosecute former President Efrain Montt and other high officials for hundreds of massacres and other human rights crimes committed during the 1960-1996 civil conflict. Frank La Rue, a longtime human rights activist in Guatemala and former United Nations official, told The New York Times in 2014, “You can only explain that (50,000 unaccompanied children fleeing north to the U.S. in 2014) when you have a state that doesn’t work.”**Washington’s Impact**Overwhelmed by drug gangs, grinding poverty, social injustice, and an abundance of guns, it’s no wonder that violent crime rates have been sky-high. In 2009, fewer civilians were reported killed in the war zone of Iraq than were shot, stabbed, or beaten to death in Guatemala, and a staggering majority of homicides—97 percent—go unsolved.A recent proliferation of “maras,” or gangs, began with the mass deportation of Latino criminals to Central America in the mid-1990s. The MS-13, for example, became an international gang that spread through the continental United States and Central America. The UN Office on Drugs and Crime reported in 2011 that Guatemala had the highest number of gang members in Central America, with 32,000. | 342 |
|  | Z. | **UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Guatemala, January 2018****II. Overview of the Situation in GuatemalaA. Background**The contemporary exodus of Guatemalans in search of international protection is rooted in the human rights, social, political and economic impact of the increasing reach, power and violence of organized criminal groups linked to international drug-trafficking and a multitude of street gangs, as well as repressive measures taken by the State security forces. At the same time, societal conflicts over land and politics, as well as widespread domestic and societal abuse of women and children, also fuels the flight of Guatemalans seeking international protection.**B. Structures and Patterns of Organized Violence*1. Levels of Violence***Violence against women is reported to be a serious problem. This includes violence perpetrated by family members (domestic violence, including sexual violence), and violence perpetrated by gangs and members of organized criminal networks. In 2014, the most recent year for which comparative figures are available, Guatemala had the second highest absolute number of femicides (murders of women because of their gender) in Central America, and the third highest rate of femicide in the world. In 2015, the rate of female homicides per 100,000 inhabitants in Guatemala had reduced slightly from the peak of 2008 and 2009 but remained high. Indeed, while the overall general homicide rate has witnessed a steady decline, the percentage of women who suffer violent deaths as well as incidents of sexual violence has reportedly increased in recent years. Alongside homicides and widespread forms of violence against women and children, a range of other types of violent crimes are reported to be prevalent in Guatemala. Many of these forms of violence, such as extortion by gangs and other criminals, are less easily documented than homicides. They are also known to be underreported, as victims refrain from going to the police for fear of retribution and due to a lack of confidence in the authorities.**2. Armed Actors***a) Gangs*As noted above, persons who resist the authority of the local gang or who even just inadvertently cross it, or who collaborate with the security forces or with rival gangs, are reportedly subjected to swift and violent retaliation from the gang, which may include being killed. It is reported that their family members are often targeted as well.These dynamics have reportedly resulted in thousands of inhabitants fleeing from zones where the gangs operate, with the abandoned houses sometimes taken over by the gangs. Finally, the strongly *macho* ethos of the Guatemalan gangs expresses itself on an everyday basis through their reported widespread ill-treatment of persons based on their (perceived) sexual orientation and/or gender identity and in the widespread sexual and gender-based violence experienced by women and girls living in the gangs’ territories.**C. Ability and Willingness of the State to Provide Protection** ***1. State Response to Gang Violence and Organized Crime***Guatemala lacks a legal framework specifically on anti-gang measures and proposals to create a specific anti-gang law have consistently failed to be voted into law. Even so, during the 2000s the Guatemalan authorities implemented a number of anti-gang policies and initiatives, which resulted in large numbers of arrests but few convictions.Impunity for violence against women and girls, including domestic violence, is reported to remain a serious problem; stigma, fear of retribution and further violence, and lack of confidence in the justice system reportedly dissuades many women from reporting sexual or domestic violence. Moreover, despite the existence of specialized tribunals dealing with femicide and violence against women, women in rural areas reportedly do not have access to them.***2. Corruption and Human Rights Violations by State Agents***Corruption within Guatemalan institutions is reported to be a widespread and structural problem. In the political sphere, it reportedly affects all levels, from local to national politicians, including former President Pérez Molina and his vice-President Roxana Baldetti (see also Section II.A). The police and the armed forces have been accused of involvement in serious criminal activities and human rights abuses, which the government reportedly lacks effective mechanisms to investigate and punish. Corruption is reported to be particularly widespread in the police force, sectors of which are reported to use extortion or work with organized crime groups to facilitate the trafficking of drugs. Corrupt officials in the Public Ministry have reportedly also leaked information about investigations to drug-trafficking structures. Gangs such as MS are reported to have installed sympathisers within certain government agencies, such as the National Persons Register (Registro Nacional de Personas), in order to expedite false identity documentation for gang members.**D. Trends in Internal and External Displacement and Returns**Although some Guatemalans migrants are reported to have voluntarily returned to the country, no Guatemalan refugees have voluntarily repatriated in recent years. However, a large number of Guatemalan nationals are deported each year from the United States and Mexico by air and land, either pursuant to a deportation order following conviction for criminal activities or due to their irregular migration status. Deportees and returning migrants who bring resources from overseas are also reported to be identifiable targets for extortion, as are children and other persons in Guatemala who receive remittances from family members living and working overseas.**III. Assessment of International Protection Needs of Asylum-seekers from GuatemalaA. Refugee Protection under the 1951 Convention**Examination of claims by asylum-seekers in this context should include a full analysis of applicable Convention grounds. In the particular context of Guatemala, where gangs are reported to exercise high levels of social control over all aspects of life of members of the population in the areas under the gangs’ control (see Section II.B.2.a in particular), it would frequently be appropriate for applications for international protection from applicants who flee gang-related forms of persecution to be analysed in relation to the ground of (imputed) political opinion. The ground of political opinion needs to reflect the reality of the specific geographical, historical, political, legal, judicial, and socio-cultural context of the country of origin. In contexts such as that in Guatemala, expressing objections to the activities of gangs may be considered as amounting to an opinion that is critical of the methods and policies of those in control and, thus, constitute a “political opinion” within the meaning of the refugee definition. For example, individuals who resist being recruited by a gang, or who refuse to comply with demands made by the gangs, such as demands to pay extortion money, may be perceived to hold a political opinion. In addition, applicants who flee gang-related forms of persecution may also be analysed in relation to the ground of membership of a particular social group.***1. Persons perceived by a gang or other organized criminal group as contravening its rules or resisting its authority***Gangs in Guatemala reportedly perceive a wide range of acts by residents of the area under the gang’s control as demonstrating ‘resistance’ to their authority. Acts commonly construed as challenging a gang’s authority reportedly include but are not limited to: criticizing the gang; refusing a request by a gang member; arguing with or looking mistrustfully at a gang member; refusing to participate in gang activities or to join the gang; rejecting the sexual attention of a gang member… .Most perceived contraventions of gang-imposed rules are reportedly dealt with severely by the gangs of Guatemala: individuals whom the gang members suspect of resisting their authority are reported often to be killed without prior warning, although sometimes the killing is reportedly preceded by threats and/or other attacks against the person concerned.Persons living in areas where other organized criminal groups such as drug-trafficking organizations operate are also reported to face threats and attacks if they are seen as resisting the authority of the local group, for example, by refusing when required to collaborate or to sell lands to the group, or otherwise provoking or opposing the group.***3. ‘Informants’, witnesses and victims of crimes committed by gangs and other organized criminal groups, or by members of the security forces***Witnesses and victims of crimes committed by gangs and other organized criminal groups in Guatemala have reportedly been killed by the perpetrators to ensure their silence. Those who do denounce the crimes, or who otherwise cooperate with the authorities against gangs or other organized crime groups as ‘informants’, are reportedly routinely pursued for their ‘betrayal’, often along with their family members, even when placed in a witness protection programme.***6. Children and youths with certain profiles or in specific circumstances***Children, particularly those living in territories where the gangs operate, are frequently a target of gang violence. This is partly the result of reported efforts by gangs to recruit growing numbers of new collaborators and members from among children and youth, efforts that have reportedly intensified since 2014. Girls are reportedly targeted from a young age by gangs with demands to become “wives” or girlfriends of gang members.Children and youth who have not been recruited by a gang but who live in territories where gangs operate reportedly find it difficult to avoid coming into contact with the local gang, its members and its activities (e.g. being asked to do the gang a ‘favour’, receiving the amorous attention of a gang member, etc.) or being (mis)taken for a member or affiliate of the local gang by rival gangs. The refusal to join a gang or to collaborate with its members by a child or youth and/or their family is reportedly usually interpreted as a challenge to the gang’s authority or as a ground for suspicion of some rival affiliation, resulting in threats and sometimes fatal violence directed against the child or youth and/or their family members. Even if the child leaves the area where the gang operates, family members who remain there reportedly may continue to face threats and violence. Moreover, children suspected – even mistakenly – of involvement with gangs also face discrimination and violence from the State security services and from vigilante groups and mobs.***7. Women and girls with certain profiles or in specific circumstances***In the territories where the gangs operate, sexual and gender-based violence against women and girls is reportedly widespread, as is the forcible recruitment of girls to carry out tasks for the gangs. Women and girls perceived as being linked with a particular gang are reportedly also a target for vengeance by rival gangs and they and other women and girls are reportedly abused, raped and killed as part of gang initiation rites, or if they try to leave the gang to which they belong or with which they are affiliated, or if they are seen to resist its authority in other ways, including by rejecting the sexual advances of a gang member.Women and girls may be seen by individual gang members as their partner, even when a woman or girl has never consented to being in a couple. Women and girls in this situation are reported to be subjected to persistent violence, while being unable to seek protection due to the authority exercised by their “partner” in the area controlled by the gang. Family members of women and girls who have problems with the gangs are also often targeted on the basis of their affiliation to the woman or girl in question.As noted above (see Section II.B.1), domestic violence against women reportedly continues to be a serious problem, prompting the reactivation in 2016 of the National Coordination Office for the Prevention of Domestic Violence and Violence against Women (Coordinadora Nacional para la Prevención de la Violencia Intrafamiliar y Contra las Mujeres; CONAPREVI).***14. Family members, dependants and other members of the households of persons falling within the previous risk profiles***Family members, dependents, other members of the households of individuals with any of the profiles above can reportedly also be a target for attacks and assassination by gangs, organized criminal groups and elements of the security forces, sometimes even after the person who was initially targeted has fled or has already been killed.**B. Refugee Status under UNHCR’s Broader Mandate Criteria, under the Cartagena Declaration or under Article I(2) of the 1969 OAU Convention and Protection on Other Grounds*1. Refugee Status under UNHCR’s Broader Mandate Criteria***In light of the information provided in Section II above, UNHCR considers that most if not all violence in Guatemalan society is discriminate, targeting individuals or groups of individuals for specific reasons. Where these reasons are related to one or more of the 1951 Convention grounds, it is appropriate to consider eligibility for refugee status under the 1951 Convention.Relevant indicators to assess the threat to life, physical integrity or freedom resulting from events seriously disturbing public order include: (i) high rates of murders, disappearances, attacks, kidnappings, sexual, gender-based and other forms of violence, particularly in areas where gangs are active (see Section II.B); and (ii) the number of people who have been forcibly displaced due to criminal violence, whether in urban or in rural settings (see Section II.D); (iii) the extensive measures of control, including social, economic, and political control, over local populations by gangs and certain other organized criminal groups in certain parts of the country, including by means of threats, intimidation and extortion, thereby seriously affecting the State’s ability to provide protection; (iv) the ability of gangs and other organized criminal groups and government officials to commit violent crimes, extortion and a range of human rights abuses with impunity; (v) the forced recruitment of youths and others by gangs; (vi) the impact of organized criminal violence on the humanitarian situation as manifested by poverty and the systematic undermining of livelihoods in urban and rural settings; and (vii) systematic constraints on access to education and other basic services as a result of insecurity.**C. Considerations Relating to the Application of an Internal Flight or Relocation Alternative*1. Relevance of IFA/IRA***Where the claimant has a well-founded fear of persecution at the hands of the State and/or its agents, there is a presumption that consideration of an IFA/IRA is not relevant. Where the agents of persecution are non-State agents, consideration must be given to whether the persecutor is likely to pursue the claimant in the proposed area of relocation. Considering the small territorial size of Guatemala, and given the ability of the gangs and other organized criminal groups to operate country-wide, and indeed internationally – both independently and as part of international criminal networks, a viable IFA/IRA is unlikely to be available to individuals at risk of being pursued by such actors. It is particularly important to note the operational capacity of certain organized structures, particularly the MS and B-18 and the larger drug-trafficking structures, to carry out attacks in any part of Guatemala, irrespective of territorial control of the specific zone.  | 348 |
|  | AA. | **Ambar Pardilla, Patriarchal Power and Gender-Based Violence in Guatemala and El Salvador June 2016****I. Introduction**Having the presence of machismo in these male-dominated societies has produced issues of inequality between genders. Therefore, traditionally, most institutions, including government, have ignored the interests of women. **IV. Discussion****IV.I Women at War and the Growth of Gangs**For Guatemalan women, the fear of growing gangs makes them afraid to walk out at night (Sauer, 2005, p. 36). The fear of gangs also involves the understanding by women in Guatemala that they could be attacked and assaulted. Femicide has become a considerable concern. As Sauer (2005, p. 37) asserts, “women are specifically targeted and tortured, beaten, raped, and killed by men.” Furthermore, according to a report by Amnesty International (2006), since 2001 more than 2,200 women and girls have been killed in Guatemala and the femicides have been characterized by exceptional inhumanity as victims are subjected to sexual violence, mutilation, and dismemberment. Such atrocities demonstrate how little value is placed upon the lives of women in Guatemala. | 407 |
|  | BB. | **Amanda Taub, “The Awful Reason Tens of Thousands of Children are Seeking Refuge in the United States,” June 30, 2014****Why are children coming in such large numbers? Are gangs targeting kids specifically?**Children are uniquely vulnerable to gang violence. The street gangs known as "maras" — M-18 and Mara Salvatrucha, or MS-13 — target kids for forced recruitment, usually in their early teenage years, but sometimes as young as kindergarten. They also forcibly recruit girls as "girlfriends," a euphemistic term for a non-consensual relationship that involves rape by one or more gang members.If children defy the gang's authority by refusing its demands, the punishment is harsh: rape, kidnapping, and murder are common forms of retaliation. Even attending school can be tremendously dangerous, because gangs often target schools as recruitment sites and children may have to pass through different gangs' territories, or ride on gang-controlled buses, during their daily commutes.**What about the police? Can't they protect the kids?**In fact, the police often essentially operate as dangerous criminal gangs themselves.Guatemala's police (and military) were so thoroughly infiltrated by organized crime that in 2006 the United Nations had to set up a special agency, the International Commission against Impunity in Guatemala (which goes by its Spanish acronym, CICIG), to help fight the pervasive abuses committed by "clandestine groups." | 421 |
|  | CC. | **Ordonez-Quino v. Holder, 760 F.3d 80 (2014)** | 431 |