Guatemala
Country Conditions

Introduction
At the end of 2011, the number of unaccompanied children seeking a safe haven in the United States rose dramatically, and remains elevated to this day. The largest number of new asylum applications for unaccompanied children come from three countries in Central America: El Salvador, Guatemala, and Honduras. In March 2015 alone, 1,084 unaccompanied children from Guatemala were apprehended by the U.S Border Patrol. A recent report by the Center for Immigration Studies documented that 83 percent of the children crossing the border are teenagers, the majority of whom come from Guatemala.

Background
Common human rights violations against the Guatemalan population include institutional corruption (especially among police and the judicial system), police and military participation in kidnappings, drug trafficking and extortion, and generalized violence. While nearly everyone is at risk of being subjected to one or more of these violations, certain groups are particularly vulnerable. Women experience extremely high rates violence; children are specifically targeted for human trafficking; historically marginalized indigenous communities continue to face discrimination; and LGBT individuals suffer from discrimination based on their sexual orientation.

Unaccompanied Minors
According to the UNHCR report “Children on the Run,” in which 100 unaccompanied children from Guatemala were interviewed, the main reasons children reported fleeing their home country were deprivation of material, spiritual, and emotional resources necessary for survival (29 percent), abuse by a family member at home (23 percent) and generalized violence (20 percent). Children also often expressed more than one motive for leaving their country. For example, 5 percent of children fled on account of having suffered both generalized violence and abuse at home, and 84 percent fled because they were looking forward to reuniting with family members in the United States, improving the livelihood of their families in Guatemala, and seeking better work/study opportunities.

A recent report from the Center for Gender and Refugee Studies entitled “Childhood and Migration in Central and North America” interviewed 47 children who had fled from Guatemala to the United States and Mexico and had since been ordered to be deported. Twenty of the children were living in shelters in Guatemala City and in Quetzaltenago, while 27 were living in the rural communities of Colotenago, Huehtenago, and Concepcion Chiquirichapa. The report discusses why children from Guatemala are migrating to the
United States, explaining that the majority have suffered some type of human right violation. These violations mainly correspond to poverty, ethnic and gender discrimination, and generalized violence, and Guatemalan children usually leave the country as a direct result of combined factors like deprivation of basic social rights, violence, and family reunification.

Deprivation of Basic Social Rights
Deprivation of basic social rights is directly related to poverty and inequality in Guatemalan society resulting from the absence of state institutions and the lack of access to justice, health services, and education. In Guatemala, 18 percent of children under the age of 13 years are forced to work in order to provide economic support to their families due to the extreme poverty they face. This likely contributes to the fact that children in Guatemala attend the lowest number of years of school of all the Central American countries. Work opportunities are extremely scarce, so finding employment becomes a significant motivation for these children to leave the country.

Substandard working conditions in the farm industry (where most poor families in Guatemala are employed), minimal wages, and a complete lack of social benefits all lead to an enormous number of children streaming out of the country to seek better opportunities elsewhere. Children interviewed expressed how they believe the United States represents economic opportunity. They felt certain that once they were in the United States, they would find jobs that would allow them to send money back to their families to improve their living conditions. Malnutrition is another problem that directly affects children in Guatemala. Approximately 41 percent of children suffer from malnutrition, and the percentage is even greater among indigenous populations, from where the majority of unaccompanied children come.

Violence
Unaccompanied children from Guatemala expressed being subjected to multiple forms of violence as a motivation for fleeing the country. Perpetrators of violence against children include both organized crime organizations and people from within their own families. The Guatemalan Law on the Comprehensive Protection of Children and Adolescents establishes the protection of children from different types of violence. Article 53 of the law states that children have the right to be protected from any form of negligence, discrimination, or exploitation. The law also states that children have the right to be protected from all forms of abuse. In practice, however, Guatemalan children are particularly vulnerable to violence perpetrated by gangs and in their own homes at the hands of family members. When asked about reasons why they felt that they had to leave their country, 29 percent of Guatemalan children cited abuse in the home and 23 percent reported violence in society. The government has instituted several mechanisms to curb violence throughout the country with the intention of protecting children from violence, including institutions created to protect and secure the rights of children, laws aiming to punish those who violate children’s rights, and implementing child-centric programs and policies. However, these mechanisms have so far proven ineffective at protecting children from different types of violence, leaving them
with no other choice but to leave the country to protect themselves from persecution, gang violence, and domestic abuse.21

**Family Reunification**

Children often cite family reunification as one of their primary motivations for leaving Guatemala. During the Guatemalan Civil War (1960–1996), many people fled the violence. Many children who have recently fled Guatemala are trying to reunite with parents who left the country during that period.22 The report mentions that a byproduct of the influx of unaccompanied children is the creation of new networks and connections in the United States composed mainly of young migrants, living in cities with history of migration. These young immigrants who have settled in the United States seek to build strong relationships with the new immigrants, creating a family-like support system to provide them with the information and help they need to resettle and adapt to using new technologies.23

Unlike the other countries in the region with recent surges in unaccompanied children fleeing the country, a significant percentage of unaccompanied children from Guatemala come from indigenous populations.24 In a report written by UNCHR, 48 percent of the children interviewed come from indigenous populations, the majority of whom come from the Mam and Quiché communities, both characterized by high levels of poverty and violence.25 Indigenous communities in Guatemala have historically been subjected to exploitation, marginalization, and discrimination. The specific challenges that Guatemala’s indigenous populations face are even greater because many do not speak Spanish. Many of these children face a more significant language barrier than other Guatemalan immigrants because they primarily speak a dialect and trying to communicate in Spanish is very difficult.26 Indigenous children also face greater discrimination by other Central American immigrants who mock their appearance and their traditional dress. In numerous instances, to avoid discrimination and violence, they are forced to change the way they dress and their demeanor to be perceived as a Mexicans.27

**Mr. L: Gang Violence and Domestic Violence against a Mayan**

Mr. L is a member of the Quiché-speaking indigenous Mayan community. Mr. L left Guatemala because he was the victim of discrimination and associated verbal and physical abuse. He was also the target of gang violence, recruitment, and threats against his life. Gang members started approaching Mr. L as early as the 4th grade. The gang members started off by asking Mr. L about a rival gang. This escalated into verbal and physical attacks and then a threat against Mr. L’s life. Mr. L also witnessed the violent death of his cousin at the hands of the gang that had threatened him. In addition to the danger Mr. L faced outside his home, Mr. L witnessed domestic violence and experienced verbal and physical abuse from his father throughout his childhood. These incidents occurred regularly, multiple times each week.

**Violence and Discrimination against Women**

In 2008, Guatemala passed the Law against Femicide and Other Forms of Violence against Women.28 The law criminalizes femicide and various forms of physical, sexual, psychological, and economic violence.29 However, the Guatemalan government has not allocated
appropriate or sufficient resources to reduce the high levels of violence against women in the country, and the minimal efforts it has made have been unsuccessful.

Since the passage of the law, the number of complaints filed by women has only increased, demonstrating that this kind of violence is endemic to Guatemala and has yet to be effectively minimized. In 2010, 19,277 cases of violence against women were filed in court while in 2011 that number rose to 20,398 cases. These numbers only reflect the number of cases filed; the actual number of women who suffer acts of violence is likely much higher. Many women who have been victims of violence fail to report it out of fear, unfamiliarity with the process, or limited access to resources, and many more cases will never make it to a judicial court. The prevalence of violence against women in Guatemala reflects an attitude of acceptance of this type of violence, in addition to gender-based inequality and discrimination within Guatemalan society.

The Inter-American Commission of Human Rights, the U.S. Department of State, the UN Human Rights Council, and numerous nongovernmental organizations (NGOs) have expressed concerns over the pervasive violence against women in Guatemala. Impunity enjoyed by perpetrators is one of the factors that is likely contributing to the sustained high rates of violence against women. For example, during 2011, less than 2 percent of cases regarding violence against women ended with a conviction, while in the first quarter of 2012, only 4 percent of such cases ended with prison sentences. Statistics from the Guatemalan Human Rights Office also demonstrate high levels of impunity. Out of 14,149 complaints received between January and April 2012, only 144 aggressors were placed in preventive detention and only 247 were charged.

Indigenous women face additional barriers in seeking justice for violent acts committed against them. They usually live in remote areas without access to governmental institutions, have difficulty communicating because they do not speak Spanish, and face greater internal pressure from their cultures to stay with their abusive partners and not denounce violence.

Ms. T: The intersection of Sexual Violence and Gang Violence
Ms. T was first physically abused when she became pregnant. Her husband, a gang member, was initially kind to her, but then started drinking alcohol and coming home late. After giving birth, her husband began to physically beat her. After Mrs. T gave birth, she was regularly beaten by her husband and was the victim of multiple instances of sexual violence. On more than 15 occasions, her husband brought between one and three of his friends and acquaintances home with him, and he would beat Ms. T and force her to have intercourse in front of these men. Ms. T was also subject to gang rape.

Human Trafficking and Sexual Exploitation
In 2003, Guatemala ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol). The country then began a reflection and institutional development process, which led to the 2009 passage of the Law against Sexual Violence, Exploitation and Human Trafficking and introducing the crime of
human trafficking into Guatemalan law. Despite this government effort, there are still important challenges yet to be met stemming from international commitments to the prevention of human trafficking and protection of trafficking victims. Factors like unequal distribution of wealth, poverty, lack of opportunities, lack of access to education, patriarchal culture, commodification of women, impunity, and corruption all contribute to an individual’s susceptibility of being trafficked, and these have yet to be tackled by the government.

There is also a general lack of awareness of human trafficking, its modalities, causes, and effects, and ways to avoid becoming a victim. During 2013, only 1 percent of middle school and high school students received any information from their schools regarding this crime and how to avoid being a victim. The government has also not addressed the structural causes of human trafficking, nor the social, economic, political, or cultural factors that make certain people more vulnerable to being trafficked.

The transnational aspect of human trafficking leads to the displacement of many people from all around the region. Due to its geographic location, Guatemala is a country of destination, origin, and transit for trafficking and sexual exploitation. The majority of victims of human trafficking that are brought to Guatemala come from El Salvador, Honduras, and Nicaragua, while the majority of the victims identified in Mexico come from Guatemala.

Data from the Guatemalan Public Minister shows that between the years 2000 and 2013, there were a total of 3,396 registered victims of trafficking. According to the UN Office on Drugs and Crime, for each rescued victim, 30 more are exploited clandestinely, resulting in a total of at least 17,100 victims of human trafficking in the country. Human trafficking primarily affects girls, boys, and women. According to statistics of the Guatemalan Public Ministry, 66 percent of victims are female, 31 percent of whom are girls and adolescents. Of the complaints received by the Guatemalan Human Rights Ombudsman Office between 2010 and 2014, only 30 percent had been prosecuted, 23 percent of which ended up with a sentence.

Guatemala has insufficient procedures for protection of trafficking victims. Judges typically refer cases of human trafficking and sexual exploitation to NGO and government-run shelters. However, the Human Rights Ombudsman reported that in 2014, 69 percent of the victims did not receive shelter or specialized assistance. According to the Guatemala Public Ministry, during the months of January to August 2014, only 34 percent of victims received physiological support and specialized services, and more than 66 percent did not receive any type of medical attention, which is fundamental in the physical and physiological recovery. There is a delay of five to eight days in the provision of assistance to victims that are not living in the country’s capital, and government-run shelters usually lack specialized services. Additionally, government shelters lack translators, making communication especially difficult for trafficking victims who have been sexually exploited and come from indigenous communities. Trafficking victims from other countries are usually subjected to deportation procedures without receiving any other type of support, increasing their
vulnerability to being trafficked again.\textsuperscript{47} Human trafficking cases are often mismanaged, and there is minimal effort put into reintegrating victims into society, making victims more vulnerable of being exploited again by traffickers.\textsuperscript{48}

**Conclusion**

The migration of Guatemalan children is inextricably linked to the violation of their rights in their home country. Different forms of violence, deprivation of basic social services, lack of opportunities for children, and family separation also aggravate their situation. The combination of these elements forces children to leave the country despite the risks involved. Beyond some institutional efforts, the absence of an adequate legislative and policy frameworks and the lack of enforcement of existing legislation make it more difficult to protect children in Guatemala and provide a safe haven for them in the country.

2 Id.
6 UNHCR, supra note 1.
7 Id. at 9.
9 Id. at 7.
10 Id. at 8.
11 Id. at 152.
12 Id. at 153.
13 Id.
14 Id.
15 Id. at 154.
16 UNHCR supra note 1.
17 Center for Gender and Refugee Studies, supra note 8.
18 Id. at 157.
19 Id. at 158.
20 UNCHR supra note 1.
21 Id.
22 Center for Gender and Refugee Studies supra note 8.
23 Id. at 160.
24 UNCHR supra note 1.
25 Id.
26 Center for Gender and Refugee Studies supra note 8.

Id. at 275. “Economic violence” includes limited access to funds, excluding women from financial decision making, and in general control over the other partner’s access to economic resources.

Id. at 276.

Id. at 273.

Id. at 274.

Id. at 280.

Id.


Id. at 9.

Id.


Id. at 6.

Id.

Id.

Id.

Id.

Id.


Inter-American Commission on Human Rights, supra note 38.

United States Department of State, supra note 44.

Inter-American Commission on Human Rights, supra note 38.

Id.