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# Violence in Peace

**Forms and causes of postwar violence  
in Guatemala**

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## Summary

On 29 December, 1996 the conflict in Guatemala between the URNG, a leftist guerrilla organization, and the authoritarian state came to an end. With the implementation of the peace agreements and the completion of peace-building, Guatemala has without doubt taken an important step on the road to democracy. However, the country's regime does not guarantee a civilized life for its citizens. Even by Latin American standards, it permits an extremely high level of violence. This can be characterized as violence in peace. Although the rates of homicide conditioned by this violence are higher than those that prevailed during the civil war, there is no danger of a return to war. During the war political violence was the main cause of death, and violent crime has now taken its place.

This report analyses three forms of postwar violence which are especially typical of Guatemala: political violence, the *maras*, and lynch law. It then goes on to examine their causes. In the course of this examination, a number of elements which are generally supposed to be causes of violence are excluded as causal factors: the perpetuation of a culture of violence or/and war-violence racism and ethnic exclusion, poverty, and inequality in the sense of a general distribution of income as measured by the Gini coefficient. In the next step, an alternative model of explanation is presented. This distinguishes between enabling structures which make violence possible and structures that might prevent it (with particular reference to the absence of preventive structures). The report identifies regime hybridity and a rent economy as structures that make violence possible, and investigates these structures in order to identify the concrete configurations which are immanent to the structures and cause violence. In the case of the rent economy, the specific structures identified are the especially pronounced bipolarity between the oligarchy and the lowest quintile of the population, new rents as outlets for oligarchical structures and catalysts of violence, low rates of investment, and a low level of empowerment of work. However, none of these structures is, on its own, a cause of the high intensity of violence; they form a complex system. The absence in Guatemala of a structure that could prevent violence can be identified in the poor performance of the security sector, i.e. the police and judiciary, and in the lack of democratic commitment on the part of civil society in this sector. This low level of performance is, in addition to political exclusion and the absence of the rule of law, a characteristic feature of regime hybridity.

Although this report is a case study, it has an intrinsically comparative character. This is because the other Central American countries (El Salvador and Honduras with a higher, and Costa Rica and Nicaragua with a lower intensity of violence) form the matrix which renders visible the specificity of Guatemala. Nicaragua is of particular significance for this implicit comparison, because it is the only country in Central America that has experienced a civil war in the recent past but seen a low level of violence since the end of that war.

The conclusion of the report identifies two ways in which violence, or the intensity of violence, can be limited in the long term. In the Costa Rican model, a low intensity of violence has been achieved directly, via a long historical path in which "Democracy = Performance + Democratic Content" is combined with "Social Market = Empowerment

of Labour + Production of Investment Goods”. In the Nicaraguan model, a low intensity of violence has been achieved indirectly but over a shorter period of time; here, there can be no doubt about the absence of democracy, and therefore the existence of regime hybridity, or the absence of a social market economy, and therefore the existence of a rent economy. The main finding of the report follows from the Nicaraguan model: the level of violence can be reduced even though ethnically based exclusion, poverty, and inequality (as measured by the Gini coefficient) are present, and even though a rent economy and regime hybridity are present as well.

If violence is to be successfully reduced, it is necessary for the police and judiciary to be supported conceptually and practically in their efforts to prevent violence and to rehabilitate violent offenders, and to bring about improvements in criminal investigation practices, the support provided to victims, and consistent criminal justice policies. Development aid can help in all these areas. Simultaneously, measures must be taken to bring about the empowerment of civil society – which, however, should not mean the empowerment of vigilantism. In addition, the situation of the lowest quintile of the population should be improved in such a way that there is at least a prospect of relative socioeconomic egalitarianism. This can be done if smaller enterprises are strengthened so that they can serve as a counterweight to the ruling oligarchy, in the context of an improvement in the rate of investment in the production of investment goods. In this way it would be possible to reduce both the official level of unemployment and the concealed unemployment that exists in the informal sector, leading to the empowerment of work. These autochthonous policies are necessary for Guatemala, and they should be combined with the exertion of international political pressure on the USA’s problematic policies on immigration, integration, and deportation. This should include the provision of support to Guatemala (as well as El Salvador and Honduras) for the integration of young people deported from the USA.

This report presents the first systematic analysis of postwar violence in Guatemala. It is based on approximately 50 interviews with Guatemalan academics, politicians, police and judicial officers, Maya priests, and NGO activists, and also with violent offenders, all of whom were interviewed during a month-long period of field research in Guatemala in March 2006.

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## 1. Introduction

Guatemala has enjoyed peace for the last ten years.<sup>1</sup> The war between the leftist guerrilla organization, the Unidad Revolucionaria Nacional Guatemalteca (URNG), and the state was brought to an end in 1996 with peace agreements. The five critical years needed for peace to be regarded as consolidated are also over,<sup>2</sup> and there have been no further armed clashes between the former warring parties. But this postwar period has seen an increase rather than a decline in violence.<sup>3</sup> It is true that El Salvador, rather than Guatemala, has the highest homicide rate in contemporary Central America, but Guatemala's predominantly criminal violence places it in the top three of the most violent Latin American countries.<sup>4</sup> This can be characterized as violence in peace. It does not fulfil the criteria for a war, and for the most part it does not involve ex-combatants – though this does not mean that it causes fewer deaths. No explanation of this paradox has yet been offered, and the main concern of this report is to provide one. Up until now, the literature on security governance in postwar societies has been unable to conceptualize violence in peace.

During the war, one could hope to keep out of the way of violence by avoiding conflict zones and not expressing any political opinions. In Guatemala today, even this degree of caution will not help much. Violence in Guatemala has neither time nor place; anyone can fall victim to it, by day as well as by night, in the capital city and the provinces, in poor districts and in front of the expensive hotels. This violence has no front lines, and does not even necessarily require a motive. People are killed not just in order to defend a neighbourhood, to collect "taxes", or in the course of the theft of a mobile phone, but sometimes just for the sake of it. When a murder does involve money, the sum is often alarmingly small: members of mara gangs demand the equivalent of \$3 from bus passengers, and if they do not pay they are killed.<sup>5</sup> No cost-benefit model can provide any kind of explanation when corpses are found that have been shot twelve times, or cannot be identified because they have been dismembered or the head has been cut off. Here are some of the headlines from a single page of the newspaper *Prensa Libre*, from 5 November 2005: "Killed in front of her children", "Dismembered", "Attack on bus", "Shot".

There is very little to indicate that this terrible state of affairs will change in the foreseeable future. The police and judiciary are unable to deal with the situation, and are often among the victims of violence. It is therefore unsurprising that the police do not respond to emergency calls, look the other way, release violent criminals they have caught in the

1 I define peace here as the absence of war.

2 Roy Licklider, *The Consequences of Negotiated Settlements in Civil Wars, 1945 – 1993*, in: *American Political Science Review*, Vol. 94, No. 4, 2000, pp. 779-801.

3 I understand violence as physical violence, in the sense of *violare*, to injure. See Heinrich Popitz, *Phänomene der Machtbildung*, Tübingen (J. C. B. Mohr) 1992, p. 48.

4 Homicide is the more comprehensive term and includes both murder and manslaughter.

5 On the concept of maras, see section 3.2.1.

act, dump corpses outside their own area of responsibility, and do not investigate crimes properly or demand extra pay for doing so. Nor is it surprising that the police should, in order to demonstrate that they are clearing up some crimes, arrest people who have quite obviously been doing nothing more than walk around in a “suspicious” manner and then plant marijuana in their pockets so as to have some “proof”. People who witness crimes and make statements to the police must be both heroic and tired of life, as there is a high probability that they will not survive. If a member of a mara gang wants to abandon his life of violence, he can be sure that his “friends” will take violent revenge unless he can convince them that his motives are purely religious. But even then he will only be able to “keep quiet”, and will still be considered a marero. If a young person wants to have nothing to do with the gangs and their violence, he will be forced to abandon his resistance when he is told that the price to be paid will be the death of his father and mother.

What are the reasons for this situation? What is the explanation for the persistence and the excessive nature of violence in Guatemala, long after the end of the war? Is there so much violence in the country because there has always been so much violence there? Is what we can observe simply a continuation of war-violence by other means, or have new, specific causes of violence emerged in the postwar period? Is the high level of violence caused by poverty, inequality, and racism, i.e. long-term phenomena that could not be uprooted by the peace agreements, or is it “only” due to problems arising in a transitional period in which the old security sector no longer functions and no new one has yet taken its place? None of these arguments is entirely false, and none of them is altogether correct.

This report sets out to track down the forms of violence in contemporary Guatemala, and goes on to attempt to identify their causes. In addition to Guatemala, there are two further Central American countries where the indicators of violence are extremely high (El Salvador and Honduras) and two where they are relatively low (Costa Rica and Nicaragua). If we want to establish the causes of violence in Guatemala, we will have to look for factors that are not present, or not present in the relevant combination, in Costa Rica and Nicaragua, but are present in Guatemala and, perhaps, in El Salvador and Honduras as well. Nicaragua, like Guatemala, is a postwar society, but unlike Guatemala it has a low level of violence; the report therefore treats Nicaragua as a particularly instructive comparative case, although it examines the country as a point of reference and does not attempt to provide a comprehensive account.

No systematic analysis of either the forms or the causes of violence in postwar Guatemala has yet been published. This report thus breaks new ground and must attempt to put together a jigsaw puzzle made up of many individual empirical pieces. It is based on 50 interviews with Guatemalan academics, politicians, police and judicial officers, Maya priests, and NGO activists, and also with violent offenders. The offenders were interviewed by the author in four penal institutions. Not all of the interviewees have been directly quoted.<sup>6</sup>

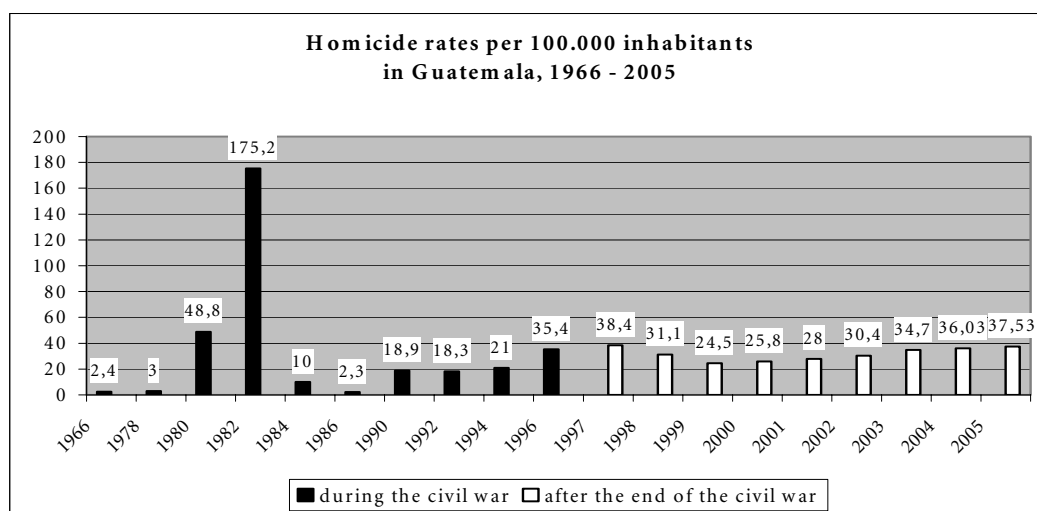
6 None of this research would have been possible without the support of the Deutsche Forschungsgemeinschaft, the embassy of the Federal Republic of Germany in Guatemala, the Konrad Adenauer, Friedrich



## 2. Homicide rates: developments and comparisons

Even though physical violence cannot be reduced to homicide, this report will for the most part restrict its analysis of the intensity of violence to this indicator because it is the most reliable one.<sup>7</sup> Here too, though, one finds that different figures are given by the police, the public prosecutor's office, forensic scientists, the Ombudsman for Human Rights, and NGOs. Figures provided by NGOs tend to be significantly higher, and those provided by the police significantly lower. There are no comprehensive statistics covering the development of violence in the wartime and postwar periods.<sup>8</sup> It is therefore important to bear in mind that Figure 1 is based on a number of different sources. One can assume that they are likely to be too high for the war, and too low for the postwar period.<sup>9</sup> According to police estimates, there were 37.53 homicides per 100,000 inhabitants in 2005,<sup>10</sup> while the Ombudsman for Human Rights gives the figure of 42 per 100,000.<sup>11</sup> Both sources, however, give a total figure of 5,338. This statistical problem, which can probably be explained by differing assumptions about the size of the total population, can be ignored to the extent that overestimates of wartime deaths and underestimates of peacetime deaths tend to strengthen the argument I have already put forward: average peacetime violence has been worse than wartime violence.

**Figure 1**



Ebert, and Friedrich Naumann foundations, the Gesellschaft für Technische Zusammenarbeit, and also – and above all – the Guatemalans who agreed to be interviewed. I am very grateful to these institutions and individuals. I am especially grateful to Birgit Gerstenberg, who was Deputy to the UN's High Commissioner for Human Rights in Guatemala at the time I was conducting my research, and without whose support and encouragement I would not have been able to overcome some of the obstacles I encountered.

7 CIEN, Estudio sobre la magnitud y el costo de la violencia en Guatemala, Guatemala 2002, p. 7.

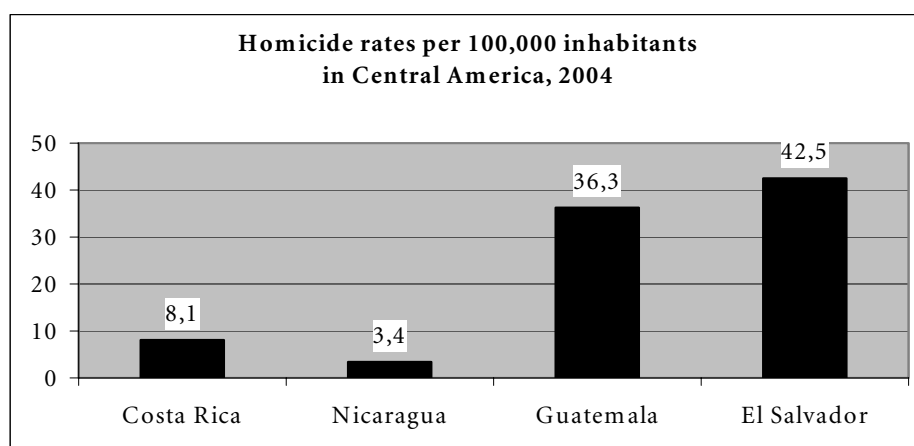
8 No state institution collects data on homicide over a longer period than 14 years; see *ibid.*

9 FORPOL, Criminalidad y violencia en Guatemala, Guatemala 2005, p. 25.

Sources: For 1966 and 1978: Patrick Ball, Paul Cobrak and Herbert F. Spierer, *Violencia Institucional en Guatemala, 1960 – 1996: una reflexión cuantitativa*, in: [shr.aas.org/guatemala/ciidh/qr/spanish/cap6.html](http://shr.aas.org/guatemala/ciidh/qr/spanish/cap6.html). (Last updated 10.10.2004). For 1980 – 1986, percentages calculated on the basis of: CIEN, *estudio sobre la magnitud y el costo de la violencia en Guatemala*, Guatemala 2002, p. 26. For 1990 – 1994, percentages calculated on the basis of: CIEN, *Estudio sobre la magnitud y el costo de la violencia en Guatemala*, Guatemala 2002, p. 8. For 1996 – 2004: FORPOL, *Criminalidad y violencia en Guatemala*, Guatemala 2005, p. 26. For 2005: Hector Escobar, *Comisario PNC de Guatemala. II. Convención Antipandilla*, 4 – 6 de Abril 2006, San Salvador.

The level of violence in Guatemala in the postwar period has been higher than the Latin American average, which is itself high, and is twice as high as the world average.<sup>12</sup> During the postwar period, from the beginning of 1997 to the end of 2005, a total of 33,814 people were murdered in Guatemala. If we presuppose a constant level of violence and assume 5,000 killings per year (which is fewer than in 2005, when there were 5,338), and then multiply this by 36 (the war lasted 36 years), we get a total of 180,000 homicides. The actual total for the 36 years of war, though was the lower figure of 150,000. The high level of violence remained stable for a time, but from 2000 onwards it rose steadily. The most alarming feature of the problem of violence in Guatemala, and also in El Salvador, becomes clear if one compares the rates for these two countries with the figures for Costa Rica and Nicaragua:

**Figure 2**



Sources: For Costa Rica: [www.eldiarioexterior.com/noticia.asp?idarticulo=4070](http://www.eldiarioexterior.com/noticia.asp?idarticulo=4070). For Nicaragua: [www.nicaliving.com/node/view/787](http://www.nicaliving.com/node/view/787) (both last updated: 10.10.05). For Guatemala: FORPOL, *Criminalidad y violencia en Guatemala*, Guatemala 2005, p. 26. For El Salvador: [www.uca.edu.sv/publica/idhuca/articulos.html](http://www.uca.edu.sv/publica/idhuca/articulos.html) (Last updated: 10.10.05); author's own calculations on the basis of total figures and size of populations.

10 Hector Escobar, *Comisario PNC de Guatemala. II. Convención Antipandilla*, 4 – 6 de Abril 2006, San Salvador.

11 Procurador de los Derechos Humanos, *Las características de las muertes violentas en el país*, Guatemala Febrero 2006, p. 3.

12 Mayra Buvinic, Andrew Morrison and Michael Shifter, *Violence in Latin America and the Caribbean: a Framework for Action*. Technical Study Sustainable Development Department. Inter-American Development Bank, Washington D.C. March 1999, p. 2.

Figure 2 shows clearly that Costa Rica, which has always been a special case with a low level of violence and remained one even during the Central America conflict, has also been an exception since the end of that conflict. The most astonishing thing revealed by Figure 2, though, is that Nicaragua, which just like Guatemala and El Salvador experienced a civil war during the Central America conflict, has since 2004 (at the latest) had the lowest intensity of violence in the region. In 2005, the gap between Nicaragua and Costa Rica on the one hand, and Guatemala and El Salvador on the other, grew even wider.

Petén, Izabal, Escuintla, Guatemala City, and Jutiapa are the departments with the highest homicide rates in Guatemala. With the exceptions of 1997 and 2005, Escuintla has always had the worst record. In 2005 Petén headed the list, after the homicide rate there had more than doubled within a single year. Guatemala City, the country's capital, had the fourth worst record in 2005.<sup>13</sup> If we look at the 5 departments with the highest homicide rates, we see that they are among those that were less affected by the civil war, have a low proportion of indígenas in their population, and are not among those with the worst poverty<sup>14</sup> (they are to be found in the "richer" 50% of the country's departments), but that they are also, with the exception of Jutiapa, not among those with fewest police officers per 100,000 inhabitants. As far as poverty is concerned, we can see here a confirmation at the subnational level of what the overall Central American comparison shows: Nicaragua, when compared with El Salvador and Guatemala, has worse poverty but a much lower level of violence.

With regard to the variety of forms of violence, Guatemala overshadows its Central American neighbours Honduras and El Salvador – countries which are, in general terms, equally or even more violent. Those affected by violence in Guatemala have identified up to 70 different types of violence.<sup>15</sup> The impression conveyed by the media is that most of the violence is caused by the maras. The government seizes gratefully on this assessment, and claims that the maras are responsible for 80% of all killings in the country.<sup>16</sup> Researchers specializing in questions of violence on the other hand, consider that violence within the family is the dominant form within the Guatemalan order of violence, followed by organized crime, with the maras only in third place.<sup>17</sup> After this come "social cleansing", lynch law, and femicide,<sup>18</sup> with political violence right at the end of the list. Organized crime bosses hire professional killers, mareros, and even the police to carry out vio-

13 See FORPOL, footnote 9 above, p. 39.

14 PNUD, *Diversidad étnico-cultural: La ciudadanía en un Estado plural. Informe Desarrollo Humano 2005*, Guatemala 2005, pp. 325-334.

15 Caroline Moser and Cathy McIlwaine, *Violence in a Post-Conflict Context. Urban Poor Perceptions from Guatemala*, Washington D.C. (The World Bank) 2001, p. 31.

16 Óscar Berger, quoted in *Siglo XXI*, 20.12.05.

17 UNIFEM/GESEM, *Violencia social y género en Centroamérica. Guatemala 2004* (Powerpoint presentation).

18 Femicide, or the killing of women, is the counterpart to the narrower meaning of homicide (the killing of men).

lent acts on their behalf. This report singles out three forms of violence for analysis: political violence, the *maras*, and lynch law.

### 3. Forms of violence and offenders

#### 3.1. Political violence

I begin my analysis of forms of violence with political violence, because this is the area where there is most continuity between the wartime and postwar periods – even though, as already mentioned, political violence comes last in quantitative terms in statistics on postwar violence. Violent acts committed by state and non-state actors are classified as political if the actors themselves say that their actions arise from a political motivation or serve political ends. If this is the case, either the victims or the perpetrators – or both – are political actors.

After the conclusion of the peace agreement, the confrontation between the guerrillas and the state did not flare up again, the demobilization of the combatants was carried out without any problems, and there is nothing to indicate that any significant number of ex-combatants have been involved in postwar violence. It is true that there is no longer any political violence in Guatemala that is initiated or ordered by the state, but it is equally true that political violence continues and that the state has not been able to prevent this. It would be more accurate to say that the state tolerates political violence. This political violence, and its continuation over a prolonged period after the conclusion of the peace agreement, is a peculiarity of Guatemala, since this situation is not replicated either in Nicaragua (where there is little violence) or in El Salvador (where there is a great deal).

The actors responsible for postwar political violence are small groups whose members either belong to, or have in the past belonged to, the army, the police, private security services, or gangs. These people are recruited from an informal network made up of “parallel apparatuses”, sometimes known as “hidden powers”,<sup>19</sup> the army, especially the secret service, and organized crime. The apparatuses can be traced back to the military dictatorship and the civil war, when they operated in secret in the framework of the counterinsurgency strategy and were responsible for violations of human rights that were not necessarily ordered by the army leadership. At that time, the “parallel apparatuses” already had considerable financial resources of their own, which they added to and privatized with the help of illegal activities such as smuggling and unauthorized border controls. In order to ensure that this source of income would continue to flow, counterinsurgency operations were continued in a disproportionate way in the very areas where the guerrillas had already been defeated. As time passed, the accumulation of financial resources for the “parallel apparatuses” became an end in itself, so that the only goal of the apparatuses was that

19 Susan C. Peacock and Adriana Beltrán, *Hidden Powers in Post-Conflict Guatemala. Illegal Armed Groups and the Forces behind them*, Washington D.C. (WOLA) 2003.

this flow of money should not dry up – even after the signature of the peace agreement.<sup>20</sup> In this way the “parallel apparatuses” became part of organized crime and joined forces with other organized criminal groups. The apparatuses are not monolithic, and their members sometimes compete with one another in such a way that personal rivalries take a violent form. In order to be able to continue to enrich themselves without any fear of punishment, they use bribery, corruption, and also physical violence in the pursuit of a political goal – immunity from prosecution after the end of the war.

This is why the apparatuses continue to murder judicial officers, activists from human rights and Maya groups, and representatives of the political opposition who want to put an end to the prevailing impunity of those who violated human rights during the war, especially members of the armed forces.<sup>21</sup> Probably the most spectacular and perfidious political murder since the end of the war was that of Archbishop Monseñor Juan Gerardi Conedera, who had presented the report of the church’s Truth Commission (REMHI) and was killed on 26 April 1998. The suspected murderer, Byron Lima Oliva, who was at that time an army captain, is in detention awaiting trial and claims to be innocent.<sup>22</sup> More recently there have been an increasing number of murders of public prosecutors, judges, and justices of the peace. For the period between 4 March and 20 June 2005 alone, the Fundación Myrna Mack has documented six particularly important cases and 99 instances where legal proceedings have been instituted in cases of murder, death threats, or other forms of attacks on members of the judicial system.<sup>23</sup> Among the most widely known of these cases were the murders of Judge José Víctor Bautista Orozco and public prosecutor Erick Moisés Gálvez Miss in Chiquimula, and attempts to poison employees of the judicial sector. Attacks on human rights activists have declined considerably by comparison with the period of armed conflict, but they have not ceased altogether. The people most affected by this are activists working to clear up cases of human rights violation and exhuming the bodies of victims of the civil war. In 2005 there were 224 attacks on human rights activists in Guatemala, whereas in 2004 there had “only” been 122. In 2005 these persecutions predominantly took the form of death threats and intimidation, but there were also three murders.<sup>24</sup> Although one hears frequent rumours to the contrary, there has in fact been no single case in Guatemala of an ex-soldier or ex-guerrillero being arrested for an act of violence after demobilization.

20 Author’s interview with Gustavo Porras, Instituto Multipartidario Holandés (who was formerly a member of the EGP, Private Secretary to President Álvaro Arzú, head of the government’s delegation to the peace negotiations, and signatory to the peace agreement on the government side), 28.3.06. (Unless otherwise specified, all interviews mentioned in the rest of this report were conducted by the author in Guatemala.)

21 Fundación Myrna Mack, Respuesta estatal frente a ataques contra defensores de Derechos Humanos en Guatemala, Guatemala Septiembre 2005, p. 4.

22 Author’s interview with Byron Lima Oliva in the Pavoncito high-security prison, 29.03.06.

23 Fundación Myrna Mack, Violencia contra el sistema de justicia: el aparato estatal sigue postergando la prevención y el combate, Guatemala Julio 2005, p. 1.

24 Movimiento Nacional por los Derechos Humanos, El terror expande. Análisis de ataques contra defensores y defensoras de Derechos Humanos durante el año 2005, Guatemala 2006, p. 15.

### 3.2. Violent crime

The category of violent crime covers acts of violence that may potentially be recorded in police crime statistics<sup>25</sup>: everyday acts of illegal violence against individuals, which can be distinguished from wars, massacres, genocides, and other forms of political violence because there is no primarily political motive behind them. In postwar Guatemala, there is clearly much more violent crime than political violence.

#### 3.2.1. *The maras*

The violence of the maras is a matter of great public concern in Guatemala.<sup>26</sup> Maras are a specific type of youth gang with roots in the USA, Canada, El Salvador, Guatemala, Honduras, and Mexico. It has been reported that they are now also present in Spain. On the spectrum of contemporary violent crime in Central America the maras are probably the most “collective” and best organized actors, and they constitute a regional security problem. In Guatemala, the police estimated in April 2006 that there were about 60,000 gang members in the country, of whom 8,000 were considered beyond rehabilitation.<sup>27</sup> Approximately half of all violent acts committed by mareros are perpetrated against members of rival gangs, and roughly one third against the police.<sup>28</sup>

There is no other violent actor in Central America that is as difficult to characterize precisely as the maras, and assessments of them are extremely contradictory. This applies to their origins and their character, their structure, and the amount of violence they commit. The government and media claim that the maras are responsible for most of the violence in Guatemala.

As far as the origins of the maras are concerned, some analysts (especially those who come from Central America) argue that they were exported from the USA, while others (especially US specialists) seek to locate their roots predominantly in Central America itself. This report argues that their origins were mixed. One origin of the maras can be located on the streets of Los Angeles and other major US cities, where they were mainly formed by Central American youths. These youths were the children of immigrants who had either fled the civil wars in Guatemala and El Salvador in the 1980s and 90s or gone to the USA to look for work. Since the parents had to work to earn their living, their children

25 Günter Albrecht, *Gewaltkriminalität zwischen Mythos und Realität*, in: Günter Albrecht, Otto Backes and Wolfgang Kühnel (eds), *Gewaltkriminalität zwischen Mythos und Realität*, Frankfurt am Main (Suhrkamp) 2001, p. 9.

26 The name “mara” was used by Central American youth gangs as long ago as the 1970s and 80s. The term comes from “*con mis amigos*” (with my friends), but it was later traced back to *marabunta*, fictional killer ants who caused great destruction in Brazil in a 1970s film.

27 *El Diario de Hoy*, 27.04.06. In the view of researchers specializing in questions of violence, this figure should be much higher. Researchers have calculated that in 2003 there were 175,000 mareros in Guatemala; see ERIC/IDIES/IUDOP/NITLAPAN/DIRINPRO (eds), *Maras y pandillas en Centroamérica. Políticas juveniles y rehabilitación*, Volumen III, Managua 2004, p. 93.

28 See UNIFEM/GESEM, footnote 17 above.

were left to their own devices and, in an alien world, looked for support and security in groups of like-minded youths – the maras. If they committed criminal offences, the US authorities deported them to their countries of origin. They took their gang socialization with them, and in their home country – which had itself now become alien – they once again looked to the maras for support and security.

But Guatemala too already had its own gang culture at this time. This had come into existence before and during the civil war, and was a form of protest against the violence of the military dictatorships that ruled the country during the 1970s and 80s. These gangs were influenced both by political movements of school students and by delinquent street gangs, but what emerged did not become part of the political left. Nevertheless, these gangs, which called themselves “*Los Guerreros*” (The Warriors), were described as “*Los Guerrilleros*” by the army, which conducted operations against them as if they were guerrillas. There were rivalries between these street gangs or gangs of school students, and they provided extremely fertile ground for the new arrivals from the USA. They developed into mara clones, increasingly so as they were subjected to police repression. They adopted the culture of their US sister organizations, which was expressed in clothing styles such as *cholos* (wide trousers), armbands and necklaces, music (rap), tattoos (which the maras treat as their diaries, though they have now largely gone out of fashion), graffiti, a special alphabet, gestures in the style of sign language, and language (Spanglish, but with a very specific vocabulary). The mareros see themselves as obliged to lead a “crazy life” (*vida loca*). Among the young people who joined the mara clones were the children of families in which the fathers had emigrated to the USA or been killed in the war, and so were not there to bring up their children. Specialists have dated the origins of the Guatemalan maras to the mid-1980s.<sup>29</sup> It is estimated that at that time there were more than 60 maras in Guatemala City alone. The Guatemalan maras are therefore not solely a postwar phenomenon, even though their growth came after the war and can be traced back to the catalyzing effect of, above all, the Californian maras.

Today there are two main mara gangs confronting each other – the 18<sup>30</sup> and the MS 13, which is also known as the Mara Salvatrucha.<sup>31</sup> These groups concluded a non-aggression pact and observed it for a while (Pacto Sur 13), but have been fighting each other with irreconcilable hostility since this pact broke down on 15 August 2005. Membership of one mara is all that is needed to provoke a member of the other,<sup>32</sup> though police officers, bus drivers, and traders who refuse to pay marero “taxes” are as likely as other mareros to be

29 Juan Merino, *Las maras en Guatemala*, in: ERIC/IDESO/IDIES/IUDOP (eds), *Maras y Pandillas en Centroamérica*, Managua 2001, pp. 109-217, p. 113.

30 Protagonists and former members of this mara insist that it is a *pandilla* (gang) and not a mara. “That is a great insult to us; for us, that word means a person who has Aids or leprosy.” Author’s interview with Mario, ex-marero, 16.03.06. Emilio Goubaud says that only the Mara Salvatrucha is a mara, and that it is a mistake to speak of the *Mara 18*, which should only be called “*La dieciocho*”. Author’s interview with Emilio Goubaud, Director General, Asociación para la Prevención del Delito, 16.03.06.

31 “Salvatrucha” is derived from “*salva*” (save) or “*salvadoreño*”, and “*trucha*”, meaning “ready” or “smart”.

32 Author’s interviews with M 18 mareros in the Pavoncito high-security prison, 29.03.06.

the targets of violence. Two sources of the hostility between these two maras can be identified. MS 13 and 18 came into existence and established their respective identities in two streets in Los Angeles, 13th and 18th Street. They also compete for a monopoly of the drugs trade in the prisons where the mareros serve their sentences. Even so, the members of the two gangs themselves are unable to point to any features of the other gang that would explain this enmity. In order to compensate, they “create” artificial differences via subcultural symbolic spaces.

There are a wide range of opinions about who the maras are. These range from the social romantic view that they are victims of socioeconomic “rape” rather than criminals, or simply youth gangs and a specific form of youth culture, via the equally exaggerated claim that the maras are *the* violent criminals of the postwar period, and that they form an independent drugs cartel rather than just cooperating with existing cartels,<sup>33</sup> and even go as far as such absurd theories as the claims that they are a genuine guerrilla army,<sup>34</sup> a branch of the police, or Satanists. Some recent commentators have even claimed that the maras are a specific kind of international terrorist organization with links to Al-Qaeda.

With the exception of this last claim, none of these assessments is entirely false, but none of them is quite right either. It is possible to identify shifts and tendencies in the development of the maras, and the present-day maras are not the same as the maras of five or ten years ago. In Spanish, their development is described with the help of a sequence of three terms – *barra*, *pandilla*, *mara*. This captures a development from a non-criminal youth group, via a street gang, to a criminal organization which should be classified as part of organized crime, or at least one that cooperates with organized crime.<sup>35</sup> It is also the case that a desire to become a criminal is not the initial impulse among the personal motivations that prompt young people to join a mara. This only emerges in the mara itself, and so is not a reason for someone to join a gang.<sup>36</sup>

A mara sees itself as an in-group, and demarcation from out-groups is an existential part of its identity. Within the group, the dominant discourse is of solidarity, affection, loyalty, and concern for the wellbeing of one’s fellow-members. In relation to out-groups, on the other hand, aggression is the dominant factor, so that a mara member who demonstrates particularly aggressive and violent behaviour towards outsiders will become the recognized leader.<sup>37</sup> The maras are organized into cells or *clicas*. These are named after a

33 MS 13 works together with Mexican drugs cartels and helps to control the drugs transit corridor between Guatemala and El Paso (Texas).

34 José Luis Rocha, quoting Max M. Manwaring, retired colonel, Professor of Military Strategy, former member of the US Army’s Comando Sur, in: José Luis Rocha, *Mareros y Pandilleros: Nuevos insurgentes, criminales?*, in: *Envío*, Vol. 25, No. 293, 2006, pp. 39-51, p. 39.

35 José Miguel Cruz and Marlon Carranza, *Pandillas y políticas públicas: El caso de El Salvador*, in: Javier Moreno (ed.), *Juventudes, violencia y exclusión. Desafíos para las políticas públicas*. Guatemala 2006, pp. 133-176, p. 143, 146.

36 María L. Santacruz Giralt and Alberto Concha-Eastman, *Barrio adentro. La solidaridad violenta de las pandillas*, San Salvador 2002, p. 36.

37 *Ibid.*, p. 38.



city neighbourhood or its streets, and this provides a specific identity. Maras and *clicas* have a clear structure, both vertically with leaders (*clechas*, approximately ten per country<sup>38</sup>) and subordinates, and horizontally in terms of the concrete tasks they perform. According to Marlene Blanco, a police Sub-Comisaria, the maras are better organized than the police.<sup>39</sup> They employ pseudo-democratic procedures such as *mirins* (gatherings of a *clica*), and subject themselves to a mafia-like code of behaviour, breaches of which are punishable by death. Under the terms of this code, no-one is permitted to leave the mara. The only possibility open is to become a “silent” marero, and this can only be done with the leader’s permission. At one time family reasons, e.g. approaching fatherhood, were accepted, but today only religious reasons are recognized. The maras apply very strict criteria in deciding whether the religious reasons given are genuine.

On the one hand, the maras are popular today because they offer perfectly normal children and youths from lower social strata the possibility of comradeship, affection, solidarity, status, a purpose in life, and economic support and security. In this respect, they are no different from the original youth gangs. On the other hand, they have gone well beyond the stage of being harmless youth gangs: they collect “taxes” by means of death threats, are involved in the drug trade, have special sections made up of professional killers, control entire districts of towns, are organized on a pan-Central American basis, are in the process of infiltrating the ranks of the police, and legitimize, or rather propagate, their actions with the help of pseudo-ideological-populist discourses. The double-edged character of the maras is what makes it particularly difficult to deal with them. Should one see them as victims of unjust structures (which they undoubtedly are) and employ a “soft” strategy of prevention and reintegration? Or should one treat them as criminals (again, there is no doubt that this is what they are) who can only be dealt with by a firm hand?

### 3.2.2. Lynch law

Lynch law<sup>40</sup> is a form of arbitrary law enforcement in which larger groups commit violent acts. In Guatemala, it is most common in rural areas. Suspected criminals (in most cases minor offences against property are involved) are punished publicly and in mob-like actions; they are usually killed. It is the public context of these actions, and the fact that they are carried out by a tumultuous mob, that distinguish lynch law from “social cleansing” and from other, individual forms of arbitrary law enforcement. Even tourists are sometimes among the victims. One incident that caused a sensation occurred on 29 April 2000 in Todos Santos (Huehuetenango) when a Japanese tourist who had taken photographs of

38 See Goubaud, footnote 30 above.

39 Author’s interview with Marlene Raquel Blanco Lapola, Sub-Comisaria de PNC, Jefa Oficina de Atención a la Víctima, 24.03.06.

40 The term originated with Charles Lynch, who in 18th century Virginia (USA) initiated the use of this special form of local and violent “law” against pro-British “conspirators”.

an indígena market, and while doing so approached a child, was lynched. The mob had been stirred up by “reports” that a Satanist group was abducting children for its rituals.

Those responsible for these acts of lynch law are not habitual criminals or people with a long history of previous offences, but people who become criminals when they carry out a lynching.<sup>41</sup> If lynch law was in the past a spontaneous matter, most instances of it today are planned and organized actions.<sup>42</sup> Whistles, horns, or church bells summon people to carry out collective murder. There have even been cases where local radio stations, even broadcasting in one of the Maya languages, have called for a lynching and given concrete details of time and place. Victims are sometimes seized from their homes. They are often tortured first, then doused in petrol and burned to death. The corpse will then be put on display to deter others. This form of arbitrary law enforcement can be carried out by people who suffered in the civil war or by those who inflicted suffering on others, but people who fall into neither of these categories are also responsible. Lynch law is directed not just against (suspected) criminals, but also against judges and police officers. This means that criminals and those responsible for prosecuting them are punished by a third authority. Mobs destroy police stations, town council buildings, and prisons, and sometimes they delete names from police registers. Lynch law does not always lead to the death of the victim. Between 1997 and 2004, there were 234 deaths as a result of lynch law in Guatemala. This was less than 1% of total homicides.

The number of cases of lynch law leading to death rose steeply immediately after the war (54 in 1999) and has since then declined (to 7 in 2004).<sup>43</sup> It was in 2003, just at the time when the general homicide rate rose, that the number of victims of lynch law dropped sharply. One reason for this may have been that there was a shift in the form of arbitrary law enforcement at that time, and it became something that was carried out individually or collectively but no longer by mobs.<sup>44</sup> Nevertheless, lynch law is not yet a thing of the past. On 19 April 2006, church bells were rung in Sumpango, 50 kilometres west of Guatemala City. The mob gathered, and used force to seize from the police station a couple who had allegedly intended to abduct a seven-year old child. The couple were beaten, and then burned to death. The police were unable to prevent this.<sup>45</sup>

Even though the number of victims of lynch law is in decline, there are a number of reasons why its causes should be investigated closely. (1) The number of victims of lynch law who do not die is still approximately three times that of those who are killed. (2) Each act of lynch law can involve up to 1,000 people on the side of the perpetrators (some of

41 MINUGUA, *Los linchamientos: un flagelo contra la dignidad humana*, Guatemala Diciembre 2000, p. 6.

42 Marta Estela Gutiérrez, *Los mecanismos del poder en la violencia colectiva: los linchamientos en Huehuetenango*, in: Carlos Mendoza and Edelberto Torres Torres-Rivas (eds), *Linchamientos: Barbarie o “justicia popular”?*, Guatemala 2003, p. 188.

43 See FORPOL, footnote 9 above, p. 35.

44 Author’s interview with Carmen Rosa de León-Escribano, Directora Ejecutiva, Instituto de Enseñanza para el Desarrollo Sostenible, 08.03.06.

45 *Prensa Gráfica*, 20.04.06.

these will be passive). (3) These acts of violence are particularly cruel, as the victims are doused in petrol, set on fire, and crucified. (4) Within Central America, lynch law is specific to Guatemala – there have been no cases in El Salvador, where the general level of violence is higher. (5) This form of violence in Guatemala is also influenced by cultural factors, though not exclusively so. Three main patterns of explanation dominate the causal analyses that have been put forward in the past, and these sometimes appear in combination. Lynch law has been traced back to (1) the deficiencies of the state security sector, (2) cultural patterns, especially the customary law of the *indígenas*,<sup>46</sup> and (3) a continuity between forms of violence that were learned during the war and then perpetuated after it.

The argument that lynch law is a consequence of the inadequacies of the Guatemalan police and judicial system receives confirmation from opinion polls in which 75% of those questioned have expressed sympathy for the idea that people need to take responsibility for law and order themselves, so lynching is permissible. One woman admitted:

“We went to watch when they were setting them on fire. Ay, you should have seen how that stank, even my head hurt from the stench, and to see them melting like that [...]. I felt pity and I cried. But on the one hand I give thanks to God that they burned them. May God forgive me, but its good that they finished them off.”<sup>47</sup>

One frequently encounters the argument that the inadequacies of the security sector cause lynch law. It is argued that the protagonists of lynch law, who have few resources at their disposal, do nothing that is not also done by those who have ample resources and put private security services in charge of criminal prosecution. After all, this argument continues, both of these categories of actors are responding to the prevailing functional weakness of the state security sector by resorting to arbitrary law enforcement, even if they use different methods. Now, there can be no doubt that the Guatemalan security sector is extremely inefficient and that many crimes go unpunished. In addition, the statistics show that the police presence is particularly low in regions where cases of lynch law occur frequently. But the explanatory force of this argument is reduced when one takes into consideration the fact that the security sector in El Salvador functions no better, but there is no lynch law there. Another argument, the attempt to interpret lynchings as “acts of (perverse) political empowerment”<sup>48</sup> which use spaces opened up by democratization, becomes dubious when one considers that El Salvador has experienced a democratization process that is similar to Guatemala’s, but has no lynch law.

46 The term customary law is used to refer to uncodified or unwritten traditional legal norms which need to be distinguished from the positive law of a given country; see Rachel Sieder, *Derecho Consuetudinario y transición democrática en Guatemala*, Guatemala 1996, p. 27.

47 Quoted in: Angelina Snodgrass Godoy, *Lynchings and the Democratization of Terror in Postwar Guatemala: Implications for Human Rights*, in: *Human Rights Quarterly*, Vol. 24, No. 3, 2002, pp. 640-661, p. 657.

48 Angelina Snodgrass Godoy, *Lynchings and the Democratization of Terror in Postwar Guatemala: Implications for Human Rights*, in: footnote 47 above, p. 637.

If one looks for differences between Guatemala and El Salvador that might explain the presence of lynch law in one country and its absence in the other, the first factor one is forced to consider is the high proportion of indígenas in the population of Guatemala and their almost complete absence in El Salvador. The statistics on violence point in the same direction: although lynch law also occurs in regions of Guatemala which are not areas of majority indígena settlement, such as Petén, more than 65% of cases of lynch law occur in those departments where indígenas make up more than 60% of the population - Quiché, Alta Verapaz, and Sololá. One finds repeatedly that in these departments, it is members of the *comunidades indígenas* who perpetrate lynch law.<sup>49</sup> Attempts to explain this phenomenon can easily get onto dangerous territory. It is all too easy to jump to the conclusion that indígenas are barbarians, or that lynch law is a Maya tradition going back centuries. Such conclusions would end up endorsing the racist argument that has been put forward since colonial times, to the effect that the “Indians” are the root of all social evils.<sup>50</sup>

In fact, though, there is no death penalty in Maya customary law.<sup>51</sup> Furthermore, although the Mayas have been applying their customary law for over 500 years, lynch law in Guatemala first emerged in the 1990s. The Misión de Verificación de las Naciones Unidas (MINUGUA) has pointed out that lynch law is not an expression of indigenous law.<sup>52</sup> The indígenas’ customary law is consensual and attempts, via mediation, to find solutions to conflicts that are acceptable to all parties. Lynch law does not meet this requirement. In the indígenas’ customary law, the discussion process is more important than the result. The result, in turn, is supposed to be based above all on morally sanctioned measures leading to self-reflection and self-correction on the part of the culprit.<sup>53</sup> The most important sanction foreseen by this system is compensation for the harm done in the form of work for the community. It is only in special cases that a prison sentence, exclusion from the community, or the handing of the culprit over to a justice of the peace is applied. It is true that customary law does not rule out corporal punishment within the family and even in public, but it has no place for lynch law or the killing of an offender. Maya representatives say that it is not indigenous law but *breaches* of this law that explain the violence perpetrated by the indígenas.<sup>54</sup> However, it is difficult to verify this as there was no way of measuring the effectiveness of indigenous law before and during the armed conflict.

49 Carlos Mendoza, *Violencia colectiva en Guatemala: una aproximación teórica al problema de los linchamientos*, in: Mendoza and Torres Torres-Rivas (eds), footnote 42 above, pp. 89-104, p. 91 ff.

50 Raúl Zepeda López, Carlos López Chávez, and Samuel Monzón García, *Las prácticas y percepciones del recurso a la violencia en Guatemala*, Guatemala 2001, p. 64.

51 Sergio de León Q., Marco Antonio Garavito and Nora Murillo, *Percepciones de la violencia en Guatemala*, Guatemala 1999, p. 50.

52 See MINUGUA, footnote 41 above, pp. 7-9, p. 13.

53 See Sieder, footnote 46 above, pp. 89-92.

54 Author’s interview with Gregorio Mucu Maas, Q’alel, Maya priest, Consejo Nacional de Educación Maya, 17.03.06.

We thus have a situation in which lynch law does indeed occur predominantly in indigenous regions, but it is quite alien to the Mayas' customary law. One could therefore argue that indigenous arbitrary law enforcement occurs precisely in those places where the state oriented towards Western norms does not function, and that this is why this happens. Simultaneously, indígenas recognize only their own customary law, and not the Western law that guides the state institutions. It follows from this that the state's failure to provide security is hardly likely to give the indígenas a reason to violate their own laws. In addition, one can assume that the fact that, despite the lynchings, the homicide rate in the indigenous regions is relatively low indicates that the search for peaceful solutions typical of indigenous law functions particularly well in precisely these regions.<sup>55</sup>

The culturalist argument cannot be rejected out of hand, but it needs to be stated in a more differentiated way. In accordance with indigenous customary law, punishment has to be carried out publicly, in front of the assembled *comunidad*. Traditional behaviour patterns such as openness to public scrutiny and collectivity are repeated in lynch law. But it is only the form, not the intensity, of the violence that connects lynch law with indigenous cultural behaviour patterns – *ladinos*<sup>56</sup> enforce law arbitrarily as well, but they do so in a more individual and less public way. The indigenous tradition of symbolic punishment, on the other hand, would explain why lynch law involves punishing minor offences such as theft in a disproportionate way.

There can be no doubt that the genocidal violence employed against the indígenas during the war was extremely brutal; burning to death was, after shooting, the most common form of murder. Torture and murder have been inextricably linked, both in the ethnocide practised during the war and in the lynch law we have witnessed since then. There were 669 massacres in Guatemala during the war (many more than in El Salvador), and these were concentrated on the indígenas, who were seen as the "breeding ground of the guerrillas". In Guatemala, the army forced village communities to name candidates for execution as a deterrent against collaboration with the guerrillas. The army even burned children to death in public in order to, as it put it, "put a stop to the breeding of communists". One of the most vicious tactics used in the Guatemalan state's counterinsurgency strategy was the way in which it saw to it that indígenas would sometimes be murdered by other indígenas, for example when they confronted the guerrillas as members of the *Patrullas de Autodefensas Civiles* (PACs).<sup>57</sup> In this respect, one can assume that during the war, the indígenas learned from their tormentors the extreme forms of violence perpetrated against them, observed how the other side did this, and then internalized the experience. If one considers the way in which the civilian population was drawn into the civil war, across ethnic dividing lines, and the continuation of these practices that can still

55 See Mendoza, footnote 49 above, pp. 110-112.

56 *Ladino* is the word used for non-indígenas. It is also applied to people who have forgotten their *mestizo* past and adopted the creoles' language and religion.

57 Civil Self-Defence Patrols, units which operated as death squads during the war.

be observed today, one can also explain the lynchings that occur in Guatemala City and in Petén today and are perpetrated by ladinos.

It is possible that the fact that the civilian population was more extensively involved in the civil war in Guatemala than in El Salvador explains why lynch law is a significant factor in the former country, but unknown in the latter. On the other hand, the force of this causal assumption is weakened by the fact that lynch law also occurs in Brazil, Ecuador, Mexico, and Venezuela. If lynch law occurs both in postwar societies such as Guatemala (but not in all postwar societies, as the example of El Salvador shows) and in societies that have not experienced a civil war (such as Brazil, Ecuador, Venezuela, and Mexico), this places a question mark over the hypothesis that lynch law is a fundamentally typical feature of postwar societies and is caused by the perpetuation of the war.

#### 4. Causes of violence

No systematic analysis of postwar violence in Guatemala has yet been published. Those few attempts that have been made to provide one conform to the extreme models typical of research into the causes of violence: they either trace violence back to a single cause (such as poverty, inequality, or the inadequate functioning of the security sector) or identify an impossibly large number of causes. The first kind of analysis fails the large N test. The second finding makes it impossible to derive either elegant theoretical models or workable solutions. In methodological terms, one has to ask whether high levels of violence in general, and high levels of individual forms of violence, must all be traceable back to the same factors in order for these factors to be considered causal. Alternatively, is it possible – in the case of generally valid causal factors applying to violence as such – that other causes could also be “permitted” in part as explanations of individual forms of violence, without this leading to the collapse of the general model of explanation? This analysis proceeds on the basis of the latter understanding of causality, a probabilistic understanding. This assumes that the absence of those factors which cause a low intensity of violence does not necessarily mean that the intensity of violence will be high. In other words, there can be no doubt that a functioning democratic state with the rule of law and a welfare state is the best guarantee of low levels of violence. However, it does not follow that there must be a high intensity of violence wherever democracy and welfare are not particularly strong. What I want to demonstrate here is that however desirable the establishment of a democratic state with the rule of law and a welfare state may be, violence can also be reduced if less complicated problems which can be dealt with in a much shorter time period are satisfactorily addressed.

I begin by considering some factors which have frequently been considered likely causes of violence, and assess the general claim made to the effect that they explain contemporary violence in Guatemala. These factors can be excluded as general explanations, since – as I show – they are either also present in the same way in Nicaragua, or present in individual regions of Guatemala where the level of violence is low. It follows from this that they should not be present if they were the causes of the high intensity of violence in

Guatemala. After this, I try to develop a causal model of my own which can account both for the high level of violence in Guatemala *and* for the low level in both Nicaragua and some regions of Guatemala.

#### **4.1. Factors that do not cause violence**

##### *4.1.1. The perpetuation of a culture of violence and/or of war-violence*

Even at the theoretical level, there are limits to the usefulness of the concept of a culture of violence. The very concept suggests circularity, the assumption from the start of what has to be proved<sup>58</sup>: (old) violence is thought to have led to a culture of violence, and this in turn is assumed to be the cause of (new) violence. The problem here is that a prolonged experience of violence may lead to an internalization of violence, but it can just as easily lead to a termination of violence if one has had enough of it. There are a number of reasons why the idea of a culture of violence as the cause of contemporary violence in Guatemala is not a convincing model of explanation.

Firstly, it is true that Guatemala has a long history of violence and that the 36-year war, with its 150,000 dead, was a particularly excessive period of violence. The argument that war-violence has perpetuated itself in the postwar period would also seem to be strengthened by the fact that there has been no significant variation between the average level of wartime violence and the postwar level (Figure 1). But this argument loses its force if and when the postwar level rises above the wartime one. The perpetuation of violence argument is also weakened by the fact that the highest levels of homicide in Guatemala today are to be found in those regions that were least affected by the war. The continuation hypothesis is also contradicted by further considerations: war-violence has not been handed down, there is very little political violence, and it is not ex-combatants who are perpetrating violence but rather violent crime, which was kept very much in check during the war, that is dominant. When we see that Honduras, alongside Guatemala and El Salvador, belongs to the group of countries in Central America where the intensity of violence is greatest, but unlike the other two countries did not suffer a civil war in the course of the 20<sup>th</sup> century, this is a further indication that the continuation model of explanation does not work. The weightiest consideration, however, emerges from a comparison between homicide rates in Guatemala and Nicaragua in the wartime and postwar periods. This shows that Nicaragua had a much higher homicide rate than Guatemala during the war, but has had a much lower rate in the postwar period; in 2004, the homicide rate was 36.3 per 100,000 in Guatemala but only 3.4 in Nicaragua.

58 Michael Riekenberg, Fuzzy systems, Max Horkheimer und Gewaltkulturen in Lateinamerika, in: Ibero-Amerikanisches Archiv, Vol. 25, No. 3/4, 1999, pp. 309-323, p. 310.

**Figure 3 Homicide rates in the 20<sup>th</sup> century civil wars in Guatemala and Nicaragua**

	Guatemala 1960 – 1996	Nicaragua	
		1977 – 1979	1981 – 1989
Length of war	36 years	2 years	9 years
Total homicides	150,000	20,000	50,000
Homicides per year <sup>59</sup>	4,166	10,000	5,555
Homicides per year and per 100,000 inhabitants	59.5	333	185

Source: Relevant data (assuming 7 million inhabitants for Guatemala and 3 million for Nicaragua)

Taken together, these considerations show that it is impossible to sustain the argument that a straightforward continuation of war-violence is the cause of Guatemala's high level of postwar violence. This does not rule out the possibility that certain *forms* of violent action may be able to perpetuate themselves (as for example in the case of lynch law), but even this is only possible when other causal factors are also involved.

#### 4.1.2. Racism and ethnic exclusion

Almost 40% of the population of Guatemala are indígenas with Maya roots, and the Mayas are divided into 22 ethnic groups. Garifunas and Xincas together make up just over 1% of the population. During the civil war an ethnocide was carried out against the indígenas, and 83% of all victims of violence were indígenas. One could conclude from this that racism and the exclusion of the indígenas are important causes of violence in postwar Guatemala as well.

However, indígenas are today no worse affected by violence than ladinos. Postwar violence has no significant ethnic roots, and it is not ethnically fragmented. This does not mean that racism has been overcome; the assessment applies only to physical violence. The five departments with the highest homicide rates have small indigenous populations. Those with the highest percentages of indígenas in their populations, which are Totonicapán with 98.3%, Sololá with 96.4%, Alta Verapaz with 92.8%, and Quiché with 88.8%, have (in 2005) homicide rates of 7, 14, 11, and 8 per 100,000 inhabitants and so are at the lower end of the scale of violence. Violence is at its worst in Petén and Escuintla, where the indígenas make up 30.9% and 7.5% of the population respectively, and this places them in the lower half of the table in relation to the indigenous population.<sup>60</sup> Only in the

<sup>59</sup> These figures are averages.

<sup>60</sup> Data provided by the Procuraduría de los Derechos Humanos (figures based on data provided by the PNC).



sphere of lynch law, which has never accounted for more than 1% of killings, do the figures suggest anything different, but even here the divergence is not great.

#### 4.1.3. Poverty

It is frequently claimed that poverty causes violence. Crutchfield and Wadsworth's chapter on 'Poverty and Violence' in the *Internationales Handbuch der Gewaltforschung* confirms how firmly this viewpoint has established itself in the academic literature.<sup>61</sup> Research on violence in Guatemala also contains a large number of statements of this view. At first glance this seems to be a logical position to take, and the hypothesis appears to gain in plausibility when one considers that developing countries tend to be more violent than industrialized countries.<sup>62</sup> However, if one looks more closely and compares developing countries *with one another*, the suggested causal relationship is less persuasive. If this causality held, the poorest countries would have particularly high levels of violence. But this is not the case. Numerous counter-examples can be found, not only in many African states and India but also in Nicaragua, which is very poor by Latin American standards but has a low level of violence. 59.9% of Guatemala's population lived below the poverty line in 2002, and 69.3% of Nicaragua's in 2001.<sup>63</sup>

Even within Guatemala, it is not the poorest regions that are the most violent. The regions with the highest intensity of violence are Petén, Izabal, Escuintla and Guatemala City. Jutiapa, Quiché, Alta Verapaz, Sololá, and Huehuetenango are considered to be the poorest, and here the homicide rate is exceptionally low.<sup>64</sup> As already stated, the regions with the highest percentage of indígenas in the population are the very regions where the levels of violence are lowest. It is also the case that 76% of the indígenas are classified as poor and only 41% of the ladinos,<sup>65</sup> which means that this indicator too provides no grounds on which one could establish a connection between poor indígenas and a high level of violence. The author found confirmation of this in interviews conducted in 2006 with violent offenders imprisoned for murder. All of those interviewed said they did not come from the poorest strata of society; hence, poverty is not necessarily a motive for violence.<sup>66</sup>

61 Robert D. Crutchfield and Tim Wadsworth, *Armut und Gewalt*, in: Wilhelm Heitmeyer and John Hagan (eds), *Internationales Handbuch der Gewaltforschung*, Wiesbaden (Westdeutscher Verlag) 2002, pp. 83-103.

62 Elías Carranza, *Distribución del Delito y la Victimización en la Sociedad Global: Políticas de Persecución Penal*. Conferencia dictada en el Congreso Nacional de Victimología de Costa Rica, Ministerio Público, Auditorio del Poder Judicial, Diciembre 5 del 2005.

63 CEPAL, *Panorama Social de América Latina (2002/2003)*, Santiago de Chile 2004, p. 282.

64 See PNUD, footnote 14 above, pp. 325-327.

65 Banco Mundial, *La pobreza en Guatemala*, Washington D.C. 2004, p. 3.

66 Author's interviews with members of the Mara Salvatrucha in the Boquerón high-security prison, 24.03.06.

#### 4.1.4. *Inequality in the general distribution of income*

Poverty therefore provides no explanation of the high level of violence in Guatemala. This also applies to inequality, in the sense in which it is measured by the Gini coefficient as general distribution of income. Here too, correlations do not mean causality.<sup>67</sup> In Guatemala, with its high intensity of violence, the Gini coefficient is 0.582, which is lower than in relatively non-violent Nicaragua, where the coefficient is 0.584.<sup>68</sup> The case of Guatemala thus confirms the argument put forward by Erich Weede in his long-running controversy with Edward Muller, according to which there is no robust connection between inequality and susceptibility to violence in individual societies.<sup>69</sup> The criminologist Günter Albrecht comes to the same conclusion in relation to violent crime.<sup>70</sup>

The four factors identified are not causes of the high intensity of violence in Guatemala, either individually or collectively. However, one cannot exclude the possibility that there may be more specific expressions of these factors which do have causal effects, or that these factors may strengthen the causal effects of other factors, to which I now turn.

#### 4.2. **Factors that do cause violence**

In the following, “positive” causal analysis, I employ an aetiological and socio-structural (macro) approach taken from criminology. The main claim made by this approach is that there are “conspicuous” societal structures which, in certain situations, exert pressure leading to deviant behaviour.<sup>71</sup> Within this theoretical framework, the task is to distinguish between enabling structures, which make violence possible, and structures that may prevent it. Enabling structures provide fertile soil for crime in general, and violent crime in particular. If preventive structures are present, it is possible that outbreaks of (violent) crime may not occur even though enabling structures are present. If no preventive structures are present, or if they function badly, the effects of the enabling structures will be greater.

67 See Carranza, footnote 62 above.

68 Heinrich-W. Krumwiede, *Soziale Ungerechtigkeit und Sozialstruktur in Lateinamerika*, in: Petra Bendel and Michael Krennerich (eds), *Soziale Ungerechtigkeit und Sozialstruktur in Lateinamerika*. Frankfurt a. M. (Vervuert) 2002, pp. 57-79, p. 59.

69 Erich Weede, *On Political Violence and its Avoidance*, in: *Acta Política*, Vol. 39, No. 2, 2004, pp. 152-178.

70 See Albrecht, footnote 25 above, pp. 195-235.

71 Aetiology treats crime as an objective fact for which a causal explanation can be found. Unlike the sociology of crime and criminological meso and micro theories, it does not locate itself at the individual micro level but sees itself as offering explanations at the structural macro level of society as a whole. See Peter-Alexis Albrecht, *Kriminologie*, München (C. H. Beck) 2002, pp. 31-33, 37-39.

#### 4.2.1. *Enabling structures*

##### 4.2.1.1. Regime hybridity

In the literature on democratic civil peace, it is now widely accepted that neither democracy nor authoritarianism per se generates a high level of physical violence. It is equally widely accepted that in the course of transition to democracy, the level of violence takes the form of an inverted U-curve, and that in statistical terms the highest level of violence will be found in semi-democracies.<sup>72</sup> In my view, these semi-democracies can be described as hybrid regimes.

Guatemala is a classic hybrid regime. The problem is, though, that while Guatemala with its high intensity of violence has a hybrid regime, so too does Nicaragua with its low intensity of violence. Freedom House (2006) describes the regimes in both of these countries as “partly free”, and gives Guatemala a higher rating than Nicaragua. The Bertelsmann Transformation Index (2006), on the other hand, classifies Guatemala as a *very* defective democracy and Nicaragua as only a defective democracy. Polity Data IV (2003) gives both countries a rating of 8. My own view is that the last two of these assessments are too generous to both countries, but they are right to place them at roughly the same level.

This means that in this respect, the correlation between regime hybridity and a high level of violence identified in the democratic civil peace literature is not to be found in Nicaragua. This, however, does not rule out the possibility that segments of the regime, such as the absence of the rule of law and political exclusion, and a poor performance on the part of individual segments, could cause violence. The performance of state institutions is a constitutive component of a political regime. Where state institutions function poorly or do not function at all, we cannot speak of a democratic regime – a democracy that does not function is no democracy. Thus there can be no democratic regime without a high level of performance, but a high level of performance is possible without a democratic regime. In the latter case there is a conflict of aims between performance and democratic content, but in the former case there is no such conflict. However, if the security sector does not perform this is largely a matter of an absence of preventive structures rather than a presence of enabling structures. I therefore deal with this aspect in section 4.2.2.

##### 4.2.1.2. Rent economy

One can suspect that the causes of violence are to be found not in factors that have linear effects, such as poverty or inequality in the form in which it is measured by the Gini coefficient, but rather in more integral, structural socioeconomic configurations. In order to find out whether this is the case, we can make use of the rent approach. However, this can

<sup>72</sup> See, for example, Havard Hegre, Tanja Ellingsen, Scott Gates and Nils Petter Gleditsch, *Toward a Democratic Civil Peace? Democracy, Political Change, and Civil War. 1816 – 1992*, in: *American Political Science Review*, Vol. 95, No. 1, 2001, pp. 33-48.

only be done if the whole spectrum of rents is taken into consideration and the concept of rent is not restricted to the production of primary goods and their proportion of GDP or decoupled from political determining factors. The task is therefore to find a model of rents that is open both internally, to the existence of *several* different types of rent, and externally in terms of links to political structures. The work of Hartmut Elsenhans provides us with such a model.<sup>73</sup> In Elsenhans's conception, one element of a rent economy is a marginal labour force whose members have the physical prerequisites needed to produce more than they need to support themselves and their families, but who cannot do this because the means of production are too limited. Because the status of labour is low, so too are the levels of real wages and mass income. This leads to systematic restrictions on internal market relations. This in turn implies that there are few incentives for investment and innovation, so self-generating capitalist development becomes impossible. If it is the case that rents and the restriction of labour, rather than capital and labour, confront each other in such a way that there is no guarantee of any floating equilibrium of supply and demand, a further hypothesis can be added to Elsenhans's argument. The argument from opportunity costs suggests that it makes sense for marginal economic actors to look for an *alternative* form of market access. Violence is a readily available substitute that can be employed without any great difficulty. In using this approach, it is important to note that it is this surplus in the structure *as a whole* that indirectly encourages violence, not the individual forms of rent directly and as such.

As we have already seen in relation to regime hybridity, the problem is that not all rent economies are characterized by a high level of violence. Here again, Nicaragua is an example. We therefore need to know under what *specific* configurations of rent the susceptibility to violence that is typical of rentier economies develops into actual violence. It is not each individual form of rent that causes certain intensities of violence, but the total configuration as a system. The explanation for this is that it is only certain new forms of rent that encourage violence today, because they reinforce the bipolarity between the oligarchy and the poorest of the poor by providing an outlet for this structure. On the other hand, rent economies which are characterized by old (agrarian) rents (coffee, cotton, sugar, and banana rents) and which are now putting pressure on these old rent structures open up space for relative socioeconomic egalitarianism, and hence do not produce violence.

*Particularly pronounced bipolarity between the oligarchy and the lowest quintile*

This kind of relative socioeconomic egalitarianism is present in Costa Rica and Nicaragua, but not in Guatemala. In Guatemala we find a dominant, rent-appropriating oligarchy with extremely high status and, in contrast to Costa Rica *and* Nicaragua, greater deprivation among the lowest quintile of the population. This specific constellation of bipolarity

73 Hartmut Elsenhans, *Wirtschaftsliberalismus ohne bürgerliche Revolution: Wer stützt die liberale Wirtschaft im Süden?*, in: Wolfgang Hein (ed.), *Umbruch in der Weltgesellschaft. Auf dem Weg zu einer „Neuen Weltordnung“?*, Hamburg (Deutsches Übersee-Institut) 1994, pp. 101-124, pp. 106-108.

is not the same thing as the *general* inequality of income distribution measured by the Gini coefficient.

In Guatemala there are around 20 white families, most of them descended from the conquistadors or from German immigrants, which form a hermetically sealed and self-regenerating oligarchical nucleus.<sup>74</sup> This elite is formally represented in up to 27 state institutions. These “big boys” also make use of their informal “*derecho de picaporte*”, the right to knock on the door of the highest state authorities at any time of day and under any circumstances.<sup>75</sup> In Guatemala, to a greater extent than in any other Central American country, policy – and that includes security policy – is made through oligarchical interest groups. Nicaragua, on the other hand, has no such hermetically sealed oligarchy. Here the economic elite is a hybrid made up of an old and a new oligarchy (which is weak by Central American standards) and a weak bourgeoisie. This hybrid is both less hermetic than in Guatemala and less exclusive in its relations with other social strata, and it is more paternalist.

If the economic meaning of oligarchy is control of the production structure of a country on the basis of rents, and if its political meaning is the opposite of mass politics, then the free market economy and an egalitarian potential associated with this will be strengthened by an oligarchy that weighs less heavily on a country; the egalitarian potential is also political. This is the case in Nicaragua. In Guatemala the weight of the oligarchy is greater, and this has the opposite effect. This finding is confirmed by the proportion of national income available to the counterpart of the oligarchy, the lowest quintile of the population. Guatemala’s lowest quintile have 2.1% of the country’s income, and Nicaragua’s have 4.2%; this places Guatemala at the bottom and Nicaragua at the top of the Central American table for this indicator.<sup>76</sup>

Nicaragua’s place in these rankings corresponds to the fact that it is the only country in Central America that, in the course of a revolution, implemented a radical agrarian reform which has today been consolidated in respect of some at least of its results. Guatemala experienced the second most effective revolutionary agrarian reform, but the results of this reform were nullified by the failure of the 1944-54 revolution. The analogous results of the Nicaraguan Sandinistas’ distribution of land to small-scale and medium-scale peasants and farmers were not reversed.<sup>77</sup> As a result, the disadvantages suffered by the lowest quintile in Guatemala can be seen most clearly, in the first instance, in rural areas.

74 Marta E. Casaús Arzú, Reflexiones en torno a la legitimidad del Estado, La Nación y la Identidad en el marco de los acuerdos de paz en Guatemala, in: Anuario de Estudios Centroamericanos, Vol. 25, No. 1, 1999, pp. 7-31, p. 9.

75 Alexander Segovia, Integración real y grupos de poder económico en América Central, San José 2005, p. 89 f.

76 UNCTAD/UNDP, Globalization, Liberalization and Sustainable Human Development: Progress and Challenges in Central American Countries, no place of publication given, 2000, p. 21.

77 Author’s interview with ex-Comandante Jaime Wheelock, former minister of agriculture, Director of IPADE, 22.09.06 (Nicaragua).

The effects of this are high rates of migration, and the better the situation is in these areas, the lower will be the level of migration. This applies both to internal migration to urban centres and to emigration abroad. Where there is large-scale migration from rural to urban areas, as in Guatemala, peripheral urban zones come into existence which are both very densely populated and, most importantly, relatively poor. This involves employment in precarious and informal circumstances, for example in the *maquila*. Violence is connected with this and concentrated in the same areas. The classic example of this in Guatemala is Villa Nueva, a dormitory town on the periphery of Guatemala City which has the second highest level of violence in the country. The inhabitants of Villa Nueva are migrants who work in Guatemala City, do not identify with their dormitory town, and so do not create any networks of communal solidarity.

*New rents as an outlet for oligarchical structures and a catalyst of violence*

In Guatemala, the bipolarity of oligarchy and the lowest quintile that has its traditional roots in old agrarian rents still exists today, because the bipolar system that showed signs of breaking up during the civil war is now being sustained by new outlets, and therefore by new rents. In addition to rents from stocks and bonds and (if one uses a broad concept of rents) the *maquila*, *remesas* are the most important new form of rent. *Remesas* are remittances sent by Guatemalans working abroad to their families at home, and are a significant source of foreign currency. It is true that these remittances improve the economic situation of the family members remaining in Guatemala and increase their purchasing power. Nevertheless, they serve indirectly to make the country more susceptible to violence because they usually cannot be invested. This means that:

- They create an outlet for oligarchical structures by reducing the pressure on the oligarchy to do anything to create jobs for, and improve the purchasing power of, the lower strata. They thus shore up the unproductive oligarchical configuration.
- They reduce the incentives motivating the family members remaining in Latin America to work themselves.
- They make it more likely that male heads of families will emigrate to the USA and that the families remaining in Latin America will disintegrate, which makes it more likely that the children left at home will drift into violence.

They also lead directly to greater violence in Guatemala, because:

- The Guatemalan children and young people who emigrate to the USA with their parents are socialized in the maras there, and if they commit criminal offences they are deported back to Guatemala where, as “homies”, they import their experience of violence into the Central American maras.

*Remesas* are a particularly significant factor for Guatemala and El Salvador, but less so for Nicaragua. In 2002 they amounted to \$130.32 per head of population for Guatemala, \$330.48 for El Salvador, and only \$76.37 for Nicaragua (the figure for Costa Rica was

\$39.34).<sup>78</sup> The especially high level of *remesas* for El Salvador corresponds to the highest level of homicide in Central America. Looking more closely at this comparison, we find that Guatemalans account for 25.9% of the all Central Americans resident in the USA and Nicaraguans for only 5.24%.<sup>79</sup>

One is struck by two further differences between Guatemala and Nicaragua which are very closely connected with the directly violent effects of *remesas* and which can explain the higher level of violence in Guatemala. When Guatemalans emigrate to the USA, most of them go to Los Angeles, the home of the original *maras*. In 2000, 125,146 Guatemalans emigrated to Los Angeles. Nicaraguans, on the other hand, mostly emigrate to Miami (31,233 of them in 2000<sup>80</sup>), where there is no such gang tradition and so no possibility of the corresponding violent socialization. Only 4% of Central Americans in Los Angeles are Nicaraguans. In addition, many more Guatemalan than Nicaraguan emigrants are deported from the USA back to their home country; between 1998 and 2002 the figures were 39,669 Guatemalans and 5,026 Nicaraguans.<sup>81</sup>

More deportations from the USA, and especially from Los Angeles, of violently socialized emigrants mean a stronger catalyzing effect on the level of violence in the country to which they return. However, the significance of this factor should not be exaggerated, since this would mean treating all the causes of violence in Guatemala as imports and ignoring the fact that a fertile national soil must be present if the large number of deportees are to exert this catalyzing effect in practice. Nevertheless, it is always the case that new rents, especially *remesas*, cause violence both indirectly (as a new outlet for rent structures) and directly (as a vehicle of violent socialization).

#### *Low rates of investment and weak empowerment of labour*

A low intensity of violence is fostered by investment in the autochthonous, non-oligarchical production of investment goods, which excludes rents and leads to the empowerment of autochthonous labour. If no such investment takes place, the argument from opportunity costs suggests indirectly to marginal actors that they should look for an alternative form of access to the market. Violence is available as a simple substitute that can be readily employed. Unlike *remesas*, high rates of investment in the local production of investment goods, as can be observed in Nicaragua where the figure is 33.3% (2001), promise not only increased consumption but also the creation of jobs in the local econ-

78 See [www.acs-aec.org/columna/index69.htm](http://www.acs-aec.org/columna/index69.htm). [www.eclac.cl/celade/proyectos/migracion/Torres.doc](http://www.eclac.cl/celade/proyectos/migracion/Torres.doc). [www.americaeconomica.com/numeros3/206/reportajes/jameson206.htm](http://www.americaeconomica.com/numeros3/206/reportajes/jameson206.htm). [www.conamype.org/biblio/pdf/0322.pdf](http://www.conamype.org/biblio/pdf/0322.pdf). [lanic.utexas.edu/~sela/AA2K2/ENG/docs/Coop/migra/spsmirdi1302/spsmirdi302.3.htm](http://lanic.utexas.edu/~sela/AA2K2/ENG/docs/Coop/migra/spsmirdi1302/spsmirdi302.3.htm) (Last updated 02.12.04).

79 PNUD, Informe sobre el Desarrollo Humano 2005: una mirada al nuevo nosotros, el impacto de las migraciones, San Salvador 2005, p. 60.

80 FLACSO, La transnacionalización de la sociedad centroamericana: visiones a partir de la migración, San Salvador 2005, p. 7.

81 See Rocha, footnote 34 above, pp. 47-48.

omy and, as a result, the empowerment of labour and ultimately the dismantling of rent structures. Low rates of investment, such as we find in Guatemala where the figure is 15.9% (2001), prevent this.<sup>82</sup> These rates only confirm a *tendency*, since it is clear that the reason why they are so low or high may be that there was a great deal of, or very little, investment in the past.

As we have already seen in relation to other indicators, Guatemala and Nicaragua are to be found at opposite ends of the scale where this comparison is concerned. However, the figures for rates of investment do not by themselves indicate whether investment in the production of investment goods is actually taking place. A helpful indication can, though, be found in the figures for the proportion of processing industries in GDP, where the gap between Guatemala (10.6%) and Nicaragua (22.2%) is almost as great as for rates of investment.<sup>83</sup>

This means that in Guatemala, low rates of investment in processing industries making up a low proportion of GDP imply weak empowerment of labour. If the further hypothesis, “weak empowerment of labour implies high levels of violence”, is to be confirmed, we would have to find a particularly high level of unemployment in Guatemala (especially by comparison with Nicaragua). This, though, is not the case; in 2002, the urban unemployment rate was 11.9% in Nicaragua and only 3.6% in Guatemala.<sup>84</sup> But this is only at first glance a problem for our model. Statistics for unemployment in Latin America are unreliable, as the unemployed do not register. In addition, the figures reflect only official unemployment and not unemployment concealed by the informal sector. The informal sector is particularly marked by the absence of formal employment relations and is not subject to state control. It is mainly located in the urban centres, and is characterized by relative rather than absolute poverty.

Concealed unemployment, like official unemployment and emigration as a result of economic necessity, is a reflection of a structural surplus of labour power that is not absorbed by the labour available and thus of marginalization. Because it is chronically unable to find normal employment, part of the unemployed population creates employment for itself in the informal sector (*autoempleo*). Employment in the informal sector means a chronically low income, and exclusion from the system of public social benefits such as education and health care. In 2003-4, the informal sector accounted for 75.4% of non-rural employment in Guatemala<sup>85</sup> and 58% in Nicaragua.<sup>86</sup>

Comparing Guatemala and Nicaragua with Costa Rica, one can identify a further correlation: the higher a country’s level of development, the lower will be the proportion of the economy accounted for by the informal sector. If the informal sector reflects con-

82 See [webforum.org/site/knowledgenavigator.nsf/Content](http://webforum.org/site/knowledgenavigator.nsf/Content).

83 FLACSO, *Centroamérica en Cifras, 1980 – 2005*, San José 2006, p. 148.

84 See CEPAL, footnote 63 above, pp. 239-240.

85 See PNUD, footnote 14 above, p. 347.

86 OIT, *Panorama Laboral 2005*, Lima 2005, pp. 98-99.



cealed unemployment, then one can deduce a connection between the significance of the informal sector and a high level of violence. This holds for Guatemala and El Salvador. It would then follow that for Costa Rica and Nicaragua, there is a connection between low concealed unemployment and a low level of violence. This would imply that those who are active in the informal sector, or their families, are to a considerable extent responsible for the high level of violence in Guatemala.

However, the author is not aware of any figures giving details of the proportion of violent criminals who come from the informal sector. Interviews conducted with violent criminals (including mareros who have committed homicide) in the penal institutions do, though, establish that these offenders do not come from absolutely impoverished strata where no work at all is available, but from relatively poor strata associated with the informal sector and its concealed unemployment.<sup>87</sup> One can suspect that there is a further connection between violence and the extremely high level of precarious employment relations we find in Guatemala.<sup>88</sup> Precarious employment relations, like activity in the informal sector, mean the absence of empowerment of labour, which lies at the heart of the argument I am putting forward here. We can therefore conclude by saying that, despite the relatively low official level of unemployment, the model of a lack of empowerment of labour is indeed one of the causes of violence in Guatemala because concealed unemployment is so high.

#### 4.2.2. *Structures that might prevent violence, but are absent*

##### 4.2.2.1. The poor performance of the state security sector

Regime performance must be measured by the capacity of the institutions of the state and civil society to function as they are supposed to. Where the analysis of violence is concerned, what we need to know above all is the extent to which the regime is able to guarantee public security. The comparison between Guatemala and Nicaragua is astonishing in this respect: in a World Bank evaluation of public security for 2001, where 6 was the best possible score, Guatemala scored 2 and Nicaragua 4.<sup>89</sup>

This wide gap between Guatemala's poor result and Nicaragua's good one makes it clear that the poor performance of the security sector could be a causal factor in relation to the high level of violence in Guatemala. This possibility can be tested by looking more closely at the two central institutions in the security sector, the police (which in Guatemala is part of the Interior Ministry or Ministerio de Gobernación<sup>90</sup>) and the judiciary

87 See Mareros, footnote 32 above.

88 Juan Pablo Pérez-Sáinz, Katharina Andrade-Eekhoff, Santiago Bastos and Michael Herradora, *La estructura social ante la globalización. Procesos de reordenamiento social en Centroamérica durante la década de los 90*, San José 2004, p. 82.

89 World Bank, *World Development Report 2000/2001. Attacking Poverty*, Oxford 2001, pp. 39-42.

90 The Interior Ministry is involved at the beginning and end of the legal process. The police, who answer to the Interior Ministry, take the first step when they launch a criminal investigation. At the moment when the trial comes to an end and a defendant who has been found guilty is transferred to a penal institution,

(which is represented by the Ministerio de Gobernación, the Ministerio Público or Public Prosecutor's Office, the Defensa Pública Penal which provides public defence lawyers, and the Corte Suprema de Justicia or Supreme Court).<sup>91</sup> Surveys reveal that with regard to the effectiveness of the police, the same gap exists as we have noted for the performance of the security sector. An international survey of businessmen conducted in 2001-02 put Guatemala in 69<sup>th</sup> place in the world and Nicaragua in 47<sup>th</sup> place.<sup>92</sup> The following pages identify a number of deficiencies of the Guatemalan police, though this does not mean that there are no police officers who carry out their duties in a committed, responsible, and often unselfish way, for example by paying out of their own pockets to compensate for the lack of institutional resources in areas such as supporting the victims of crime.

### *The poor performance of the police*

With the transition to democracy, decisive reforms designed to demilitarize and professionalize the Guatemalan police were introduced. Unfortunately, no-one foresaw that such serious security problems would arise in postwar Guatemala, so this issue was not adequately addressed in the peace negotiations or in the plans to restructure the police, for example in the police academy's syllabus. The peace treaty stated that the police should be restructured into a single national civilian police force, with 55% of officers coming from the old police and 45% newly appointed. As it turned out, 75% of the new force were *reciclados*, as those who had already served in the old police were known.<sup>93</sup>

At the beginning of 2006 there were 21,000 posts for police officers, but holidays, shift duties and sick leave mean that only 14,000 officers are on duty at any one time.<sup>94</sup> Just over 50% of these officers are stationed in Guatemala City. The presence of the police across the country is therefore unsatisfactory. However, Leonardo Martínez, Director of FORPOL, points out that more policemen do not necessarily mean less crime. It is more important that the police should actually be present in the places where they are needed. It is still the case, Martínez explains, that police officers go for a walk rather than patrolling, and that their presence is a matter of aimless "wandering about".<sup>95</sup> But a light police presence does not necessarily lead to high levels of violence, as can be seen from the fact that, with the exception of Jutiapas, the regions of Guatemala where violence is at its most intense have a relatively heavy police presence.<sup>96</sup> In addition, there are complaints about

the Interior Ministry takes over again because it is responsible for the penal system. In between, the other three institutions of the security sector are responsible.

91 There is no ministry of justice in Guatemala. The (deputy) minister of justice is subordinated to the minister of the interior, which is a problem for the independence of the judicial system.

92 Klaus Schwab and Jeffrey D. Sachs, *The Latin American Competitiveness Report 2001-2002*, New York & Oxford (Oxford University Press) 2002, p. 160.

93 A. Douglas Kincaid, *Demilitarization and Security in El Salvador and Guatemala. Convergences of Success and Crisis*, in: *Journal of Interamerican Studies and World Affairs*, Vol. 42, No. 4, 2000, pp. 39-58, p. 49.

94 See [www.elperiodico.com.gt](http://www.elperiodico.com.gt) (last updated 13.10.06).

95 Author's interview with Leonardo Martínez, Director of FORPOL, 07.03.06.

96 See PNUD, footnote 14 above, pp. 325-334.

inadequate policing presence in Nicaragua too, but here there is less violence. Both of these considerations show that even where the police presence is light, police work can be efficient and of high democratic quality.

The Guatemalan police arrest less than 10% of those responsible for homicides.<sup>97</sup> Their investigations also leave a great deal to be desired. Even in cases of homicide, it is sometimes over a year before a suspect is arrested. There are only 300 specialists responsible for criminal investigations, and 120 of these work in administrative posts.<sup>98</sup> Particular problems arise when crime scenes need to be cordoned off and evidence collected, and also in the areas of surveillance of criminals, the formulation of hypotheses, and planning. It frequently occurs that the fire service or relatives who have found the body of a murder victim destroy important evidence, and no-one stops them doing this.<sup>99</sup> This deficiency is made even more significant by the fact that Guatemalan courts, problematically, place greater weight on circumstantial evidence than on statements from witnesses. Because the crime rate is so high, an additional secret service has been set up that is supposed to work on crime prevention. However, at the time of writing this civil secret service had not yet started to function, because no budget had been approved for it. The police have very little capacity to combat organized crime, especially money laundering and the drug trade.

Because their resources are so limited the police concentrate on large-scale crimes, which means that smaller crimes can build up and a certain tolerance of them develops – even among the police themselves.<sup>100</sup> The police are not, as they should be, on duty 24 hours a day. One example from the sphere of support of victims will serve to demonstrate this. A woman who had been raped and was suffering genital bleeding wanted to report the crime to the police on a Friday. She was told to come back on Monday, as a shortage of staff meant there was no-one on duty on Friday who could deal with her. Of course, she did not return. This ensures that violent crime goes unreported.<sup>101</sup>

Only 14% of police officers are indígenas.<sup>102</sup> A number of ethnic groups are not represented in the police at all, so that in many regions it is impossible for the population and the police to communicate with each other. In general, the police's channels of communication with the *comunidades* are poor. Although neighbours in Guatemala usually know each other, policemen often do not even know the names of their neighbours.<sup>103</sup> Nor do

97 See Martínez, footnote 95 above; author's interview with Alejandro Giammattei Falla, Director General del Sistema Penitenciario, 13.03.06.

98 See Martínez, footnote 95 above.

99 Author's interview with Mauricio Ross, Secretario Privado del Fiscal General, and Gerardo Alberto Hurtado Flores, Secretario Privado, Ministerio Público, 14.03.06.

100 Author's interview with Hugo Leonel Colindres Morales, Comisario, General Adjunto de la Policía Nacional Civil, 17.03.06.

101 See Blanco, footnote 39 above.

102 MINUGUA, Informe de Verificación. La Policía Nacional Civil: un nuevo modelo policial en construcción, Abril de 2001, p. 8.

103 See Blanco, footnote 39 above.

the police know the laws. The people they arrest are not informed about their rights, although the regulations require police officers to do this.<sup>104</sup> The police are also unable, and sometimes unwilling, to do anything to stop vigilante attitudes and behaviour on the part of members of civil society. Victims and witnesses avoid reporting crimes or making statements to the police, because they do not trust them and because witnesses cannot rely on the police for protection. How can a trader be expected to report an incident of extortion of protection money to the police when the marero responsible lives just round the corner? Extortion of protection money does not even appear in police statistics, because no-one reports it.

The police torture people they have arrested, and sexually molest imprisoned women. One survey of 154 women conducted in July 2005 in the Santa Teresa detention centre found that 29% of those surveyed were stripped naked after being taken to the police station. 33% reported sexual propositions. 6% denounced sexual abuse, 25% experienced death threats, and 34% were tortured. 62% of the women reported that men had examined their sexual organs.<sup>105</sup>

The police are corrupt. If they see an opportunity to benefit financially, they “overlook” minor and even major offences. They also force victims to pay them before they will take down evidence pertaining to smaller offences, or at least demand that they pay for the petrol they have used to drive to the scene of the crime. The police let maras and other criminals go because they are bribed by them. In city districts, police officers must agree to become part of the tax system created by the maras, either because their superior officers demand that they pay them contributions<sup>106</sup> or because their own pay is inadequate. Because policemen nevertheless have to make a specified number of arrests, they also arrest innocent people “*por portación de cara*”,<sup>107</sup> and justify this by saying they were behaving suspiciously, and/or they plant marijuana on people as “proof”.<sup>108</sup> These offences are committed by the very same police officers who are supposed to be combating the drug trade and abductions.<sup>109</sup>

The police are in theory subordinate to the Interior Ministry, but in practice they are to a considerable extent independent and work on their own account. One of the things that makes this possible is the fact that the senior police officer in the country is one of the big businessmen who appoint themselves to all the posts that really matter in Guatemala. Disciplinary proceedings against police officers are sluggish affairs. A period of up to two years can elapse before an officer who has committed a serious breach of regulations is

104 Ibid.

105 ICCPG, *Cuál es el lugar público + peligroso para una mujer? Detención en Comisarías: un atentado a la integridad sexual de las mujeres*, Guatemala, no date of publication given.

106 Fundación DESC, *La estructura del Estado corrupto*, No. 38, 1 de Marzo de 2006, p. 2.

107 “Because they have an ugly face.”

108 See Blanco, footnote 39 above.

109 Author’s interview with Colonel Danilo Godofredo González Ordoñez of the Army General Staff, 14.03.06.

forced to leave the police. During this time he can continue to work and to carry out acts of corruption, torture, or sexual violence.<sup>110</sup>

Because they are incapable of arresting criminals and furnishing adequate proof of their guilt, the state and therefore the police need to identify a category of a priori universal culprits. The mareros fit the bill perfectly. Anyone who is young and has a tattoo is likely to be arrested as a marero, even though not all young people with tattoos are mareros and not every marero has committed an offence. The Guatemalan Congress has discussed the possibility of making the maras as such illegal, so that membership of a mara would be punishable by law. This is already the case in Honduras. In Guatemala it is de facto, though not de jure, the case. Another reason why this form of collective punishment is seen as something worth striving for is the fact that the security sector is unable to establish which marero has committed a given murder by means of conventional criminal investigation. Police officers support one mara as a way of combating a rival gang more effectively.<sup>111</sup> Mareros are considered to be terrorists, having replaced the guerrillas as the new enemy of the regime. This provides an additional legitimization of the army's involvement in internal security. Treating mareros as a priori universal culprits also legitimizes the way other offences are ignored. When an offence is committed against a marero, he is "only" a marero and no investigation of the case is considered necessary. Sergio Morales, the Ombudsman for Human Rights, comments: "The police kill people", participating in "social cleansing" actions directed above all against mareros.<sup>112</sup>

It is true that in Guatemala, unlike El Salvador, the "heavy hand" (*mano dura* or *super mano dura*) is not the officially declared government policy. In practice, though, this is what happens – whether in the framework of the Plan Escoba or of the Planes Operativos. Deputy Interior Minister Silvia Vásquez told the author that the government is not in favour of the *mano dura* and is seeking instead to improve investigative procedures, to reestablish public trust in the ministries, and to improve crime prevention, but it is also in favour of harsh punitive measures to deal with offenders.<sup>113</sup> One can see that although a desire to avoid the *mano dura* is expressed, the authorities cannot do without it either practically or in conceptual terms. In Nicaragua the police carry out duties in the field of social work, but in Guatemala there is a narrow understanding of both the dimension of prevention and the range of actors addressed by preventive measures.

Guatemala differs from El Salvador in that the country's constitution provides for the army to be involved in internal as well as external security. A number of different arguments have been put forward to explain the close connection between army and police: it is said to be necessary for logistical reasons; the army does the dirty work and so ensures

110 See Colindres, footnote 100 above.

111 Author's interview with Nery Rodenas, Director Ejecutivo, Oficina de Derechos Humanos, Arzobispado de Guatemala, 09.03.06.

112 Author's interview with Sergio Morales, Procurador de los Derechos Humanos, 14.03.06.

113 Author's interview with Silvia E. Vásquez de Hidalgo, Viceministra de Apoyo Comunitario, Ministerio de Gobernación, 31.03.06.

that the state does not have to get its hands dirty; this means that the army still has the possibility of moving back into central areas of domestic politics<sup>114</sup>; the army competes with the police, and so has an interest in seeing to it that the police force remains weak – and, since the army enjoys greater political influence, it is able to ensure this.<sup>115</sup> This point is also related to the “parallel apparatuses”, the links between the army and organized crime that can be traced back to the civil war. These apparatuses operate outside official institutional structures, and therefore have an interest in weakening those structures, especially since the trade in private security is an extremely lucrative business. A police force that functioned “too well” might disrupt this business.

At present, Guatemala employs a total of 2,400 members of the army for internal security purposes, which is the largest number of any Central American country. 5,000 soldiers are available in total to work alongside the police – patrolling, protecting penal institutions and tourist centres, and controlling traffic. According to Silvia Vásquez, in these “combined patrols” cooperation between police officers and soldiers is preferred to cooperation between the police and the civilian population.<sup>116</sup> In all these duties the police take the lead, but they do not have disciplinary control because soldiers do not accept the police’s disciplinary regime.<sup>117</sup> Hugo Leonel Colindres, who at the time I interviewed him was Deputy Chief of Police, summed up the police’s attitude by saying: “If the soldiers are well trained, they are welcome.”<sup>118</sup>

Overall, the Guatemalan police force is or has been faced with four dilemmas:

1. As a new institution, the police force already had to function perfectly at a time when it could not yet function at all. The highest levels of postwar violence had already been reached at a time when the police had not even attained their full manning levels, and indeed when, under the terms of the peace agreements (before 1999), they could not yet have done so.
2. The police force’s most serious shortcoming is its lack of competence in conducting investigations and shortage of equipment. In order to compensate for this the police have to be present on the ground, but here too the resources at their disposal are inadequate.
3. Since the police are unable to solve crimes because of this shortage of resources, or unwilling to do so because of corruption, they have to let criminals go. But because they have targets to meet, they arrest innocent people.

114 Jennifer Schirmer, *Prospects for Compliance: The Guatemalan Military and the Peace Accords*, in: Rachell Sieder (ed.), *Guatemala after the Peace Accord*, London (University of London) 1998, p. 29.

115 Author’s interview with Juan Navarrete, Director Departamento Instituciones Públicas, Instituto Interamericano de Derechos Humanos (IIDH), 12.05.06 (Costa Rica).

116 See Vásquez de Hidalgo, footnote 113 above.

117 See González Ordoñez, footnote 109 above.

118 See Colindres, footnote 100 above.

4. The police know from El Salvador that the “*mano dura*” as a response to violence makes the situation worse rather than better. However, they have no concepts of crime prevention or rehabilitation of offenders. Nicaragua could be an important point of reference here, but it is too late to introduce a straightforward copy of the Nicaraguan prevention model.

Crimes go unpunished in Guatemala in a chronic way. The roots of this situation are to be found not only in the deficiencies of the police sector that have been identified here, but also in those prevailing in the judicial sector. It is because of these deficiencies that, even after offenders have been charged, they are released before the trial has run its course.

#### *The poor performance of the judiciary*

Before the peace agreements, the judiciary was heavily dependent on the executive and legislature. It had traditionally been the least transparent and responsible of the three powers. The judiciary is still extremely hierarchical and bureaucratic. However, the peace agreements have made it more independent.

The greatest success has been the Public Prosecutor’s Office, which has been set up within the Ministerio Público. Previously, judges had both conducted investigations and presided over court proceedings. These two functions have now been separated, which means that the Public Prosecutor at least has a high degree of independence. The greatest failure is the fact that the makeup and work of the judiciary does not yet correspond to the principles of multiethnicity, multilingualism, and multiculturalism, and that it is not recognized by the indigenous peoples. There is no profile of indigenous customary law that is approved by the state, and no consensus about how to agree on recognition of this law. There is no conflict of laws that regulates all lawsuits involving a “foreign” law element which could establish how the central legal system and customary law should relate to one another, and in which spheres they should be applied. The indígenas’ customary law is only recognized by the state as it applies to minor offences. When serious crimes such as murder are committed, central bodies have to take over. The indígenas ask why this distinction is drawn, and why respect for customary law should not extend to all offences.<sup>119</sup> It also turns out to be necessary to hand cases over to central bodies when perpetrator and victim belong to different *comunidades indígenas*, because each *comunidad* has its own customary law. A further difficulty arises when an offender has already been punished in accordance with indigenous customary law, but it then emerges that the crime was serious enough to fall within the jurisdiction of a central court, the problem being that it is not permissible to convict the same person more than once for the same offence.

Guatemala has the weakest judiciary of any country in Central America.<sup>120</sup> If a country spends only 2% of its GDP on the judicial sector but 3% on sport, this gives a good indi-

119 Author’s interview with Carmen López de Cáceres, Secretaría Ejecutiva, Comisión Nacional para el Seguimiento y Apoyo al Fortalecimiento de la Justicia, 07.03.06.

120 Author’s interview with Alfredo Chirino Sánchez, Director Escuela Judicial, Tribunales de Justicia, 19.05.06 (Costa Rica).

cation of the state's relative priorities. There is no democratic, law-governed state in Guatemala. Authoritarian structures still exist in the judiciary. Critics complain about a concentration of judicial power in the Supreme Court, corruption, intimidation, and the way in which crimes go unpunished. Corruption is considered to be the main problem affecting the judicial sector. In one survey, only 5.2% of those questioned said they thought the judiciary was "not very corrupt", and the rest – almost 95% - said they thought there was a high degree of corruption.<sup>121</sup> The percentage of crimes that go unpunished is also extremely high; at over 90%, it is the highest in Central America.<sup>122</sup> The Ombudsman for Human Rights told the author that even when people are arrested on suspicion of having committed an offence involving a danger to life, 95% of these crimes go unpunished. Overall, only 0.05% of all crimes investigated by the judicial authorities are carried through to a conclusion.<sup>123</sup> At the same time, 64% of those imprisoned have not been duly convicted by a court of law.<sup>124</sup>

There are not enough courts, and the majority of the population have no access to lawyers.<sup>125</sup> Within the judicial system the work to be done is unequally distributed, which means that in some cases employees have to work unpaid overtime.<sup>126</sup> Even in the case of an offence the excessive length of trials means that witnesses can no longer remember important details. This leads to contradictions in their evidence, leading in turn to uncertainties, as a result of which the trial ends with a decision in favour of the accused whenever there is any doubt. Gaps in the law mean that members of organizations involved in "social cleansing", for example the Defensores del Pueblo in Sololá, are wrongly released in a way that does not even involve an infringement of the law. The Public Prosecutor's Office has no clear system of sanctions to be applied when employees make mistakes. 70% of the judges do not obey the instructions of their superiors, and offer passive resistance. There are hardly any sanctions in cases of shoddy work. If sanctions are imposed when, for example, an official abuses his or her position, the trade unions are able to find ways of obstructing them. As a result, all those working in the judicial sector feel quite safe in their jobs and do not feel they have to do much work. It is especially difficult to dismiss public prosecutors.<sup>127</sup> Judges and public prosecutors who perform their duties conscientiously and are not corrupt, on the other hand, risk their lives – as the Chiquimula case showed (see section 3.1 above).

121 Comisión Nacional para el Seguimiento y Apoyo al Fortalecimiento de la Justicia, Informe "Una nueva justicia para la paz". El proceso de implementación 1998 – 2004, Guatemala 2005, p. 46.

122 Author's interview with Luis Ramírez, Instituto de Estudios Comparados de Ciencias Penales de Guatemala, 07.03.06.

123 See Morales, footnote 112 above.

124 Renato Durán, Fiscal de Delitos contra la Vida, quoted in: Prensa Libre, 20.02.06.

125 Peter Fischer-Bollin, La consolidación de la democracia en Centroamérica. Retos, obstáculos y perspectivas, in: Contribuciones, No. 3, 2000, pp. 175-186, p. 180.

126 See Comisión Nacional, footnote 121 above, p. 25.

127 Author's interview with Ana María de Klein, Madres Angustiadas, 23.03.06.



As in the police sector, the weakest point in the work of the judicial sector are the criminological investigative measures that are supposed to secure evidence when a crime has been committed. The reasons for this are to be found not only in the shortage of resources, but also in the fundamental philosophy that prevails.<sup>128</sup> Because it is so difficult to collect circumstantial evidence and statements from witnesses that are of sufficiently high quality, the officials responsible deny that this is the root of the problem. Rather than admit these weaknesses in the functioning of the security sector, they try to lay the blame at the door of the presumption of innocence, which is a new principle for the Guatemalan legal system. Officials working in the judiciary are annoyed by this principle, and like to speak of it as an “*ultragarantista*” idea.<sup>129</sup> Opponents of the principle say that it serves to encourage criminal activities because suspicion alone is no longer, as it used to be, a sufficient basis on which to arrest someone. It is, some officials say, “quite wrong” to think that penal institutions should serve the purposes of rehabilitation and the continuation of prisoners’ education.<sup>130</sup> According to this way of looking at the matter, anyone who calls for the prioritization of prevention, rehabilitation, and respect for human rights is encouraging crime.<sup>131</sup> As a result, there are no programmes designed to provide these things and offenders are released from prison into a vacuum. As Alejandro Giammattei, director of the Guatemalan penal system, puts it, prison is seen as the end of the judicial process. No-one takes into account the fact that, in reality, the system operates as a vicious circle: after leaving prison, offenders return to society with greater criminal resolve and with a better criminal “education” than they had at the moment when they were imprisoned. In fact, between six and eight of every ten prisoners could be rehabilitated, but the system does not give them a chance.<sup>132</sup>

The penal institutions “have been forgotten by the state, and democracy has not arrived here”.<sup>133</sup> The most one can say is that there is a democracy of the capos; one of them controls the trade in alcohol, another the drug trade, and a third the trade in mobile phones. The prisons contain twice the number of prisoners they were built to hold, one of the reasons for this being the fact that many innocent people are imprisoned. The inmates therefore build their own accommodation within the prison grounds, and do this with the consent of the governors. They have to provide for themselves. Prisoners who do not receive support from outside often have to sleep on bare cement floors. The penal system does not distinguish between those who have been sentenced and those awaiting trial, or between juveniles and adults.

128 See Ramírez, footnote 122 above.

129 See Vásquez de Hidalgo, footnote 113 above.

130 Author’s interview with Mauricio Ross, Secretario Privado del Fiscal General, and Gerardo Alberto Hurtado Flores, Secretario Privado, Ministerio Público, 14.03.06.

131 See Chirino, footnote 120 above.

132 See Giammattei, footnote 97 above.

133 Ibid.

There is no law covering the penal system, and no disciplinary code regulating the institutions of detention. Consequently, there are no institutional sanctions. The prisoners themselves provide internal order. One of the largest prisons, Pavón, was for a long time completely under the control of the prisoners, with the security forces only guarding it from the outside. Even today, Pavón is entirely in the hands of the drug trade, which launders its money via the Guatemalan branch of a European NGO which is active inside the prison. The inmates bribe the warders in a systematic way, which gives them control of the prisons. In this way, mobile phones and drugs even enter prisons via the main entrances. Giammettei reports that one prisoner offered him one million quetzales for a transfer to another prison; his monthly salary is 15,000 quetzales.<sup>134</sup> In October 2005, 19 inmates of the high-security prison at Escuintla succeeded in escaping through a tunnel they had built – with, needless to say, the connivance of the well-bribed warders. There are frequent instances of large-scale violent conflict between inmates, between the members of different maras, between *clicas* belonging to the same mara, between those who have traditionally enjoyed the monopoly of the drug trade and maras who want to challenge that monopoly, and also because of personal disagreements. The prisons are “universities of crime”; those who do not enter them as criminals certainly come out as criminals. Giammettei’s period as head of the penal system has seen the previously dominant focal point of penal philosophy, security, combined with a concern for administration and rehabilitation. Giammettei has succeeded in preventing a number of prison revolts. He is the fifth occupant of his post within two years. After he had received a number of death threats, he was the victim of an assassination attempt on 30 March 2006. Fortunately, he was not hurt.

The Guatemalan judiciary faces a fundamental dilemma. On the one hand, it must secure a sufficiently large space for the (voluntary) observance of laws enacted by a state under the rule of law, as democratization proceeds; on the other hand, because the levels of violence are high, it considers itself obliged to punish offences especially severely, precisely because of the democratization process. The idea is that this can be done by making provision for heavier sentences under criminal law. This view is based on the quite erroneous theory of general prevention, which holds that extremely severe penalties will deter potential murderers because they will work out the appropriate cost-benefit calculation.<sup>135</sup> We have seen the imposition of heavier sentences since the 1990s, in Central America in general and in Guatemala in particular. Societies undergoing democratization frequently try to defend themselves by punishing their “enemies” with particular severity.<sup>136</sup> Simultaneously, a harsh and repressive criminal law is supposed to compensate for technical and procedural shortcomings. In Guatemala, a prison sentence of up to 50 years can be imposed for murder. The death penalty is also on the statute book.

134 Ibid.

135 See Chirino, footnote 120 above.

136 Ibid.

No Guatemalan government in the postwar period has had an integral plan for internal security. During the war the “national security” model was dominant, and this was supposed to be replaced by “citizens’ security” after the war was over. Now, though, the country is on the point of returning to the “national security” model – but this time using the *maras*, rather than the *guerrillas*, as the excuse. Unlike Nicaragua, where the police work well but the judicial sector functions badly, no part of Guatemala’s security sector is weaker than the others. As Álvarez Ortíz, the Deputy Minister for Support of the Judicial Sector, has put it, the weakness of the security sector is “an integral issue”.<sup>137</sup>

In Nicaragua the judiciary functions less well than the police, but this is not the case in Guatemala. One could draw from this the conclusion that the performance of the judiciary is irrelevant to the intensity of violence, but there are at least two reasons why this conclusion would be mistaken. Firstly, it is only when the judiciary functions well that good police work is sustainable, and secondly, the level of intensity already reached by the violence affects the judiciary in its efforts to limit violence. Where excellent preventive work by the police is successful in keeping the level of violence low, as is the case in Nicaragua, there are fewer violent offenders against whom criminal prosecutions will be initiated in the first place, even when the prosecution system functions badly. There will then be correspondingly fewer offenders who, if they escape punishment, will be able to carry on with their violent activities. In Guatemala, on the other hand, where things are already much worse, every gap in the judicial system means a possibility that, because the judicial sector performs poorly, the level of violence will rise because offenders who are not convicted immediately commit new offences.

#### 4.2.2.2. The poor performance of civil society in the security sphere

There is very little activity in Guatemala that could be described as participation by civil society in efforts to limit violence by democratic means. During the civil war, social networks at the local level were destroyed. Moreover, the main thing civil society had learnt in this period was to carry out violent actions rather than to limit them (primarily via the PACs). There was no possibility of acquiring experience in pacification. Communal solidarity was further weakened by emigration, the disintegration of families, and the breakdown of indigenous traditions.

With peace-building came attempts to launch local civil society structures that would support the new police – the *Comités de Vecinos Pro-Construcción* (Neighbourhood Committees for Construction) and then the *Juntas Locales de Seguridad* (Local Security Councils). The fact that these *Juntas* were set up on the orders of local police chiefs, without any consultation with civil society, speaks volumes about the extent to which they were rooted in the population. The fact that they were usually headed by mayors or a senior police officer also says a great deal about the independence of the impulse from civil

<sup>137</sup> Author’s interview with Ilse Magalia Álvarez Ortíz, Viceministra de Apoyo al Sector Justicia, Ministerio de Gobernación, 15.03.06.

society. In some towns, the setting up the Juntas even made conflicts between the citizens worse. Elsewhere, the population simply assumed they were the same thing as the PACs.<sup>138</sup>

Civil society's low level of participation in the security sphere is in keeping with the poor performance of the security sector, since civil society actors need the support of the police if their commitment to providing more security is not to turn into a suicide mission. If they do not receive this support, they feel an obligation to compensate for the weakness of the state by arming themselves and becoming vigilantes. There is a thin line between democratic commitment on the part of civil society and vigilantism. On the one hand, one can hardly blame civil society actors when, as has happened in Quetzaltenango, they become so desperate that they decide to help themselves by taking up arms and organizing patrols in town districts badly affected by violence where the state security sector is absent or insufficiently present. On the other hand, this leads to the calling into question of state structures, especially when members of vigilante groups render themselves anonymous by wearing ski masks, engage in arbitrary law enforcement, and take over the monopoly on the use of force themselves. This line becomes even harder to identify when, as has happened in Villa Nueva with the Waldemar programme, telephone lines are set up so that people can pass on information about suspects anonymously, and the police do not even have the resources to follow up the information provided. Or, to take another example, when Observatorios de Paz are established where citizens keep watch over what their neighbours are doing, in order to be able to pass on information about the security situation. The police, for their part, do not expect civil society's commitment in the security sphere to provide anything more than information; in one survey, 44% of those questioned said this.<sup>139</sup>

There are some exceptions. In Santa Lucía Cotzumalguapa, for example, which was once - like Villa Nueva - among the towns with the highest levels of violence, the mayor has succeeded in reducing the level of violence and keeping it low. He even managed to do this while the resources available from outside were declining, but he cooperated closely and democratically with civil society - that is to say, without favouritism towards his own political allies and by behaving respectfully towards leading local personalities.<sup>140</sup> If one compares the success of such efforts in this *municipio* with the sustained lack of success in Villa Nueva, the *municipio* with the second highest level of violence in Guatemala, one notices a number of sociostructural differences. The most significant difference, though, seems to be the fact that unlike the mayor of Santa Lucía, who belongs to the URNG but was never an active combatant, and has served the *comunidad* and the "integral human development of its citizens" in an "unpolitical" way,<sup>141</sup> the mayor of Villa Nueva, a former

138 IEPADES, Sociedad Civil y Seguridad Ciudadana. Relaciones Policía - Comunidad en Guatemala, Guatemala 2001, p. 46.

139 Ibid., p. 25.

140 Author's recording of the meeting of the Comisión de Seguridad Ciudadana in Santa Lucía Cotzumalguapa, 22.03.06.

141 Ibid.

interior minister, has politicized cooperation with civil society very strongly and proclaimed this cooperation from above, without any consideration for the opinions actually held in society. He has simultaneously brought in a large number of international projects to work in the security sector. These projects compete with each other to such a degree that in the end, despite or precisely because of the inflow of resources from outside, the results for the limitation of violence are negligible.<sup>142</sup> If the number of international NGO projects were anything to go by, Villa Nueva would have to be the safest town in Guatemala, not the second most unsafe.<sup>143</sup>

We can see that in Nicaragua, unlike Guatemala, a high level of participation by private sectors which is, in some respects, similar to the situation in Santa Lucía Cotzumalguapa correlates with a high level of performance by state institutions in the security sphere. We can conclude from this that civil society cannot compensate for a weak security sector; it can only function as well as the security sector.

## 5. Conclusion

Guatemalans have a popular saying: “In our country, there is no reason not to commit murder.” This report, too, has identified a number of such grounds. In summary, its argument is as follows: Enabling structures permitting a high level of violence are particularly likely to come into being when rent-appropriating oligarchies are subjected to a political and economic liberalization process but are able, by diverting old agrarian rents into new rents (*remesas*, but also rents from stocks and bonds and *maquila*), to create economic outlets for oligarchic structures which in turn make it possible for them to modernize themselves to a remarkable degree without losing their rents, and at the cost of a disproportionate weakening of work. For Guatemala, the concrete implications of this are an extreme bipolarity between the oligarchy and the lowest quintile of the population, low levels of investment in the investment goods industry, and a low level of empowerment of labour.

The possibility of a high intensity of violence becomes reality when regime hybridity is present. This implies the existence of non-democratic regime segments such as political exclusion and the absence of the rule of law. It also implies the absence of structures that might prevent violence, because there are shortcomings in the performance of state institutions, especially the police and judiciary, and also in the democratic commitment of civil society in the security sphere. In concrete terms, this can be seen in the performance of the police, who are simultaneously inefficient and repressive, and in the fact that the judicial system is characterized by both a harsh criminal law and a failure to convict offenders. Neither civil society nor the private economy play any role in security policy.

142 See Vásquez de Hidalgo, footnote 113 above.

143 Author’s interview with Samuel F. Rivera Espinosa, Asesor Programa NAS-LED, Narcotics Affairs Section, Law Enforcement Development, U.S. Embassy Guatemala, 30.03.06.

Two models are available which make it possible to limit violence in the long term, or, to put it another way, to ensure a low intensity of violence. In the first model a low intensity of violence is achieved directly, via a long historical path in which “Democracy = Performance + Democratic Content” is combined with “Social Market Economy = Empowerment of Labour + Production of Investment Goods. Western industrialized countries, and Costa Rica among Central American countries, have taken this path. In the other model, a low intensity of violence is achieved indirectly and via a shorter path. In this case, there is no need to call into question the absence of democracy, and so the existence of regime hybridity, or the absence of a social market economy, and so the existence of a rent economy. Instead, the specific configurations that were identified in section 4.2 as causes of the high levels of violence in Guatemala, which follow as a result of the macrostructures, are either avoided or removed. This is what has happened in Nicaragua. Since it is evident that this model can work, we can draw a decisive conclusion which confirms the hypothesis put forward in section 4: it is possible to limit violence even without getting rid of poverty, inequality as measured by the Gini coefficient, ethnically based exclusion, or even a rentier economy and regime hybridity.

Guatemala, though, is not Nicaragua, and the high level of violence is already a fact of life there. There is therefore a need for further conceptual and practical measures to limit violence, and development aid can make a contribution here. These measures should include supporting the police and judiciary in their work designed to prevent violence and rehabilitate violent offenders, and support for the improvement of criminal investigation procedures, work with victims, and implementing consistent criminal justice policies. In addition, civil society’s contribution in the security sector must be strengthened, though not in such a way that vigilantism is encouraged. Finally, a degree of socioeconomic egalitarianism is needed in order to improve the situation of the lowest quintile of the population. This can be done if smaller enterprises are supported as a counterweight to the ruling oligarchy, in the context of increased investment in the production of investment goods. This should make it possible to reduce both the official level of unemployment and concealed unemployment in the informal sector, leading to the empowerment of labour. These measures should be combined with international pressure on the USA’s policies on immigration, integration, and deportation. The US administration sees violence in Central America as a threat to US security, and forgets that the maras, the main protagonists of current Central American violence, originated in the USA’s own major cities, especially those in California. Guatemala should be encouraged in, and receive support for, efforts to integrate young people deported from the USA.

If a security governance policy on these lines is to succeed, the precondition is detailed knowledge, based on painstaking analysis, of the violence it seeks to limit. Contrary to the assumptions of most security governance analysis, in many postwar societies it is no longer the case, and has not been for some time, that ex-combatants are responsible for violence or that new wars begin. What we are confronted with is a new kind of *violence in peace*, which has already become well established. This violence in peace is on the point of establishing itself as an independent order of violence, and it has already spread its tentacles beyond Guatemala and even beyond Central America.