

University of Galway

**European Master's Programme in Human Rights and Democratisation**  
**A.Y. 2024/2025**

**Beyond Bars:**  
**The Potential of Restorative Justice for Incarcerated Youth Gang Members in**  
**Post-Conflict Guatemala**

Author: Luna Miller

Supervisor: Dr. Anita Ferrara

Word Count Declaration: 25,304

## Abstract

Youth gang violence in Guatemala has emerged as one of the most pressing contemporary challenges regarding children in conflict with the law. Fueled by social exclusion, systemic inequities, and a cultural normalization of violence, the formation of these gangs represents a deficit within Guatemala's juvenile justice system and post-conflict peacebuilding efforts. However, research on the justice system's impact on gang-affiliated juveniles remains limited. The current punitive system has failed to curb violence and contributes to the perpetuation of crime and enduring instability, underscoring the need for transformation within the criminal justice system and society. Through a desk-based qualitative study grounded in critical legal and socio-legal analysis, this paper traces the development of retributive policies to historical structures of militarization, examining how present-day gang violence reflects the limitations of the post-conflict transitional process. By reviewing the detrimental impact of *mano dura* policies on incarcerated juveniles and the prison system's role in reinforcing cycles of violence, this thesis argues for the viability of restorative approaches as a meaningful alternative. The findings that Guatemala holds potential for the successful integration of restorative justice and that the transitional process's limitations have influenced contemporary violence and punitive policies carry significant implications for juvenile justice reform and for transitional engagements with embedded structural injustices.

**Key Words:** Guatemala, Transitional Justice, Restorative Justice, Youth Gangs, Juvenile Justice, Cycle of Violence, Structural Violence

## Acknowledgments

This thesis has been a labor of love, passion, and, at times, immense challenge—but a journey that could not have been completed without support from the most incredible team of people. First, I would like to express my gratitude to my supervisor, Dr. Anita Ferrara. I have grown immensely from your support and feedback, and I am continually inspired by your incredible work (and truly amazing wardrobe). Another word of appreciation goes to Dr. Judit Villena Rodó, who supported me through doubt, endless revisions, and cross-continent Zoom calls. It's an honor to have been called your twin!

To my friends and family, thank you for encouraging me and giving me the confidence to pursue my aspirations. Mom, I only hope to be half as courageous and passionate as you; you're an inspiration to me in everything I do, and the reason my heart is in Central America. Dad, thank you for supporting me through all of my educational endeavors and for finding the fun in every experience. There's no one I would have rather shared my first Venetian spritz with! Natalia, you were my anchor when I first moved and when I came back. Finishing this thesis would not have been possible without your boundless love and silly reprieves. Kel, Sophia, Avalon, and Jo: from traveling across the world to see me, to proofreading a whole thesis, you all are my dearest friends and the most outstanding people I know. Vitória, thank you for being my buddy through it all; our friendship is one of the best things to come out of this program.

But the biggest thank you of all goes to my partner, Dayvin. This thesis, this master's degree, and this entire experience would not have been possible without you and the unconditional love and support you have shown me. You moved across the world (twice!!) without a second thought, read, reread, and then read again everything I wrote, and throughout it all, showed me grace, kindness, and patience. You are my rock and my best friend, and I love you.

## List of Abbreviations

<b>UN</b>	United Nations
<b>UNODC</b>	United Nations Office on Drugs and Crime
<b>URNG</b>	Guatemalan National Revolutionary Unity
<b>PAC</b>	Auto-Defense Civilian Patrols
<b>CEH</b>	<i>Comisión para el Esclarecimiento Histórico</i>
<b>MINUGUA</b>	United Nations Verification Mission in Guatemala
<b>CICIG</b>	International Commission Against Impunity in Guatemala
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>IACHR</b>	Inter-American Commission on Human Rights
<b>CRC</b>	Convention on the Rights of the Child
<b>LPINA</b>	<i>Ley de Protección Integral de la Niñez y Adolescencia</i>
<b>PANDA</b>	National Action Unit Against the Development of Gangs
<b>SPT</b>	The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>CEJUDEP</b>	<i>Centro Juvenil de Detención Provisional</i>
<b>CEJUPLIV</b>	<i>Centro Juvenil de Privación de Libertad para Varones</i>
<b>CEJUPLIM</b>	<i>Centro Juvenil de Privación de Libertad para Mujeres</i>
<b>SBS</b>	<i>Secretaría de Bienestar Social de la Presidencia</i>
<b>ICESCR</b>	International Covenant on Economic, Social, and Cultural Rights
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>CAT</b>	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
<b>OAS</b>	Organization of American States
<b>ACHR</b>	American Convention on Human Rights
<b>MAIJU</b>	<i>Modelo de Atención Integral de Justicia Penal Juvenil</i>
<b>NGO</b>	Non-Governmental Organization
<b>BICE</b>	<i>Bureau International Catholique de l'Enfance</i>
<b>ICCPG</b>	<i>Instituto de Estudios Comparados en Ciencias Penales de Guatemala</i>
<b>IDDP</b>	Instituto de la Defensa Pública Penal
<b>CEG</b>	<i>Centro de Estudios de Guatemala</i>
<b>AGC</b>	<i>Asociación Grupo Ceiba</i>

## Table of Contents

<b>Abstract.....</b>	<b>0</b>
<b>Acknowledgments.....</b>	<b>2</b>
<b>List of Abbreviations.....</b>	<b>3</b>
<b>Table of Contents.....</b>	<b>4</b>
<b>Chapter 1: Introduction.....</b>	<b>6</b>
1.1 Research Aims and Significance.....	7
1.2: Literature Review and Theoretical Frameworks.....	9
1.2.1: Retributive Justice.....	9
1.2.2: Restorative Justice.....	12
1.3: Methodology.....	15
1.4: Structure of the Thesis.....	16
<b>Chapter 2: Conflict Legacies and the Transitional Process in Guatemala.....</b>	<b>18</b>
Part I: Historical Foundations of Violence.....	18
2.1: Colonial and Imperialistic Repression.....	18
2.2: The Armed Conflict and State-Sanctioned Violence.....	19
Part II: Peacebuilding and Transitional Justice Mechanisms.....	21
2.3: The 1996 Peace Accords and the Role of Civil Society.....	21
2.4: The Historical Clarification Commission and Victim-Centered Approaches.....	22
2.5: Prosecutions and Impunity.....	23
Part III: Limitations of the Transitional Justice Process.....	24
2.6: Political Interference and the Preservation of Elites.....	24
2.7: Limitations of Victim-Centered Mechanisms and Operational Gaps.....	26
Part IV: Contemporary Challenges.....	27
2.8: Enduring Impunity and Institutional Corruption.....	28
2.9 - Structural Violence and the Persistent Marginalization of Vulnerable Groups.....	30
2.10: The Rise of Youth Gangs and State Security Responses.....	31
<b>Chapter 3: The Evolution of Retributive Policies and Impacts on the Carceral System.....</b>	<b>35</b>
Part I: From Militarization to Mano Dura.....	36
3.1: Hybrid Regimes, Impunity, and Militarized Frameworks.....	36
3.1.1 Theoretical Framework.....	36
3.2: Historical and Contemporary Militarization.....	38
3.3: The Development of Mano Dura.....	40
Part II: Cultural and Cyclical Violence.....	43
3.4: Cultural Violence.....	43
3.4.1: Youth and the Reproduction of Violence.....	45
3.5: Incarceration and Cycles of Violence.....	47
3.5.1: Youth Incarceration.....	48
3.5.2: Mano Dura, Gangs, and Cycles of Violence in Prisons.....	49
<b>Chapter 4: The Policy, Practice, and Potential of Restorative Justice in Guatemala.....</b>	<b>51</b>
Part I: Domestic Policies and International Standards.....	52

4.1: International Obligations and Normative Commitments.....	52
4.2: Domestic Legal and Policy Instruments.....	53
4.2.1: Customary and Indigenous Approaches to Justice.....	55
4.3: The Implementation Gap.....	56
4.3.1: Repression of Civil Society and Indigenous Efforts.....	57
Part II: Restorative Justice Initiatives for Juveniles and Gang-Involved Gangs.....	59
4.4: State Programs For Restorative Juvenile Justice.....	59
4.5: Non-State and Community-Based Initiatives.....	62
4.5.1: Civil Society and Advocacy Organizations.....	62
4.5.2: Grassroots and Community-Level Programs.....	64
Part III: Disrupting Cycles of Violence through Restorative Justice.....	65
4.6: Prevention, Intervention, and Reintegration Strategies for Youth Gang Members.....	66
4.6.1: Prevention Strategies.....	67
4.6.2: Intervention Mechanisms.....	68
4.6.3: Reintegration and Social Repair.....	69
<b>Conclusion.....</b>	<b>72</b>
5.1: Rethinking Juvenile Justice in Guatemala.....	73
5.2: Implications of Transitional Limitations.....	74
5.2.1: The Emergence of Punitive Frameworks.....	75
5.3: Concluding recommendations:.....	76
5.3.1: Overcoming Institutional and Cultural Barriers.....	76
5.3.2: Towards Structural Transformation.....	77
5.4: Final Reflections.....	79
<b>Bibliography.....</b>	<b>81</b>
Table of Legislation.....	81
Treaties and Conventions.....	81
International Instruments.....	82
Books and Chapters in Edited Books.....	82
Journals.....	83
Reports and Institutional Publications.....	85
Web-Based Sources and Publications.....	89

## Chapter 1: Introduction

Nearly three decades after the Peace Accords ended the civil war in Guatemala, the country remains deeply affected by widespread violence and systemic inequality.<sup>1</sup> The country's youth, who constitute over 40% of the population,<sup>2</sup> are disproportionately affected by structural injustices overlooked by post-conflict mechanisms. In response to these endemic challenges, youth gangs have proliferated, embedding themselves within the country's broader landscape of insecurity and conflict.<sup>3</sup> Their rise has exacerbated cycles of exclusion and criminality, compounding the long-term effects of Guatemala's unresolved post-conflict trauma.<sup>4</sup> The State's primary response to youth-related violence is retributive, relying heavily on punitive incarceration policies.<sup>5</sup> Yet these carceral systems have failed to mitigate gang violence and instead have catalyzed the formation and preservation of criminality and cycles of violence.<sup>6</sup>

A comprehensive and lasting response to youth violence first necessitates an examination of *why* existing approaches have failed to mitigate crime and *what* may prove effective. This thesis considers two primary questions: whether restorative justice may serve as an effective alternative to retributivism in breaking cycles of violence among incarcerated youth gang members in Guatemala, and what the institutionalization of punitive criminal justice policies reveals about the limitations of the state's post-conflict transitional justice process. Engaging with these core questions reveals several key exploratory themes. These focus areas include the impact of the transitional process' procedural limitations in addressing structural inequalities and the application of impunity protections; the formation and evolution of youth gangs and enduring cycles of violence within Guatemala; and how retributive penal policies, particularly *mano dura*,

---

<sup>1</sup> José Miguel Cruz, 'The Root Causes of the Central American Crisis' (2015) 114(769) *Current History* 43.

<sup>2</sup> Mara Tissera Luna, 'Voices from the Field: Community-Based Solutions for Young Children in Guatemala' (The International Congress of Infant Studies, 23 July 2024) <<https://infantstudies.org/voices-from-the-field-community-based-solutions-for-young-children-in-guatemala/>> accessed 10 May 2025.

<sup>3</sup> Isabel Aguilar Umaña and Dagan Rossini, *Youth Violence in Central America: Lessons from Guatemala, El Salvador and Honduras* (Interpeace 2012) <[repository.graduateinstitute.ch/interpeace/](https://repository.graduateinstitute.ch/interpeace/)> accessed 10 May 2025.

<sup>4</sup> Adam Golob, 'The Resurgence of Mano Dura in Guatemala' (2022) 8 *Journal of Human Rights and Social Work* 91.

<sup>5</sup> *Ibid.*

<sup>6</sup> Steven Dudley and James Bargent, 'El dilema de las prisiones: incubadoras del crimen organizado en Latinoamérica' (InSight Crime, 2016)

<<https://insightcrime.org/es/investigaciones/dilema-prisiones-incubadoras-crimen-organizado-latinoamerica/>> accessed 10 May 2025.

and harsh prison conditions, contribute to the perpetuation of violence among juveniles and youth gangs.

## 1.1 Research Aims and Significance

This thesis argues that restorative justice provides an empirically grounded and viable alternative to punitive incarceration in Guatemala, particularly for incarcerated youth gang members. Through a critical engagement of transitional and restorative justice literature, this study analyzes how restorative approaches can benefit incarcerated youth populations and enhance transitional justice mechanisms. This thesis examines the current applications and objectives of restorative mechanisms within Guatemala, asserting that the state has the capacity for full implementation. While existing punitive frameworks have contributed to the perpetuation of structural and cyclical harm, restorative justice has demonstrated success in reducing recidivism and promoting accountability, particularly for juvenile offenders.<sup>7</sup> However, Guatemala continues to rely on tough-on-crime strategies, highlighting an urgent need for progressive, youth-centered policy reform. Inhumane prison conditions and the punitive juvenile justice system constitute two significant variables in the formation and preservation of violence and the entrenchment of Guatemala's youth gangs.<sup>8</sup> These factors, coupled with the shortcomings of the State's transitional justice mechanisms, contribute significantly to levels of crime and violence<sup>9</sup> but remain marginal in the discourse surrounding progressive social reform and peacebuilding processes. By critically analyzing Guatemala's transitional process and current incarceration policy, this work ultimately contributes to scholarly discussion on the merits of restorative justice for children in conflict with the law.

Guatemalan children and adolescents are among the most vulnerable and marginalized groups in the State.<sup>10</sup> Endemic issues such as poverty, socioeconomic disparities, and lack of education disproportionately affect the youth population, creating cycles of systemic exclusion.<sup>11</sup>

---

<sup>7</sup> Lawrence W Sherman and Heather Strang, *Restorative Justice: The Evidence* (The Smith Institute 2007)

<sup>8</sup> Ibid.

<sup>9</sup> Naomi Roht-Arriaza, 'Transitional Justice in Latin America: Achievements and Limitations' (21 November 2018), in Jens Meierhenrich, Alexander Laban Hinton and Lawrence Douglas (eds), *The Oxford Handbook of Transitional Justice* (forthcoming in Oxford University Press).

<sup>10</sup> Tissera Luna (n 2).

<sup>11</sup> Ailsa Winton, 'Young People's Views on How to Tackle Gang Violence in "Post-Conflict" Guatemala' (2004) 16 *Environment and Urbanization* 83.

These vulnerabilities, as well as institutional instability and low government trust, were exacerbated during the 36-year-long civil war.<sup>12</sup> The emergence of youth gangs in Guatemala is primarily attributable to the emigration of civilians escaping the violence of the armed conflict.<sup>13</sup> Juveniles settling in Los Angeles found themselves ostracized and lacking social support, and adopted loose organizational structures akin to prominent U.S.-based gangs.<sup>14</sup> These groups, founded on the basis of social inclusion and protection for marginalized youths, reemerged in Guatemala due to a lack of youth-centered structural support mechanisms.<sup>15</sup> The post-conflict peacebuilding processes did little to address the systemic inequalities that had contributed to the war and enabled the enactment of lasting impunity protections, factors that in turn contributed to the retention of militarized and hard-line punitive policies.<sup>16</sup> As a result, structural challenges such as poverty, lack of education, and the social exclusion of marginalized groups were left essentially unaddressed. The formation of youth gangs reflects how these unresolved systemic inequities contribute to the development of contemporary forms of criminality. Today, youth gangs—reinforced primarily through structural injustices and unjust prison conditions—demonstrate how violence becomes cyclical and self-perpetuating.

The use of retributive prison policies has worsened the impact of youth gangs and accelerated the spread of violence.<sup>17</sup> The State's implementation of tough-on-crime policies has neglected preventative or rehabilitative approaches in favor of punitive measures. As a result, prisons have become overcrowded and dangerous — a breeding ground for human rights violations.<sup>18</sup> Research has confirmed the effect of prisons in reinforcing and strengthening gangs, a phenomenon clearly observable in Guatemala.<sup>19</sup> Many prisons, such as Granja Penal de Pavón in Fraijanes, are dominated by gang members who have obtained effective control of the facilities.<sup>20</sup> Staff members are often at the mercy of these gangs and, through corruption or

---

<sup>12</sup> Beatriz Manz, *Central America (Guatemala, El Salvador, Honduras, Nicaragua): Patterns of Human Rights Violations* (WRITENET 2008) <<https://www.refworld.org/reference/countryrep/writenet/2008/en/61849>> accessed 10 May 2025.

<sup>13</sup> Golob (n 4).

<sup>14</sup> Heidrun Zinecker, *Violence in Peace: Forms and Causes of Postwar Violence in Guatemala* (PRIF Report No 76, Peace Research Institute Frankfurt 2006)

<sup>15</sup> Ibid.

<sup>16</sup> Cruz 'The Root Causes of the Central American Crisis' (n 1).

<sup>17</sup> Golob (n 4)

<sup>18</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Visit to Guatemala undertaken from 8 to 19 October 2023: recommendations and observations addressed to the State party* (CAT/OP/GTM/ROSP/1, 4 September 2024)

<sup>19</sup> Dudley and Bargent (n 6)

<sup>20</sup> *ibid.*

bribery, have allowed gangs to control internal operations.<sup>21</sup> These conditions create a self-perpetuating cycle where youths become more radicalized and ingrained into the structure of their gang during their incarceration. Still, the Guatemalan government has largely failed to address these issues or mandate reform, instead maintaining retributive policies and practices.

## 1.2: Literature Review and Theoretical Frameworks

To ground this study in theoretical foundations, the following section will review the literature on retributive and restorative justice, particularly concerning how these justice models affect juveniles and their applications within transitional justice contexts. A comparative analysis of the theory and application of these two models will reveal that restorative justice typically yields more success in providing victim satisfaction and reducing recidivism, particularly among juvenile offenders. These approaches differ significantly in their perceptions of justice, most notably in the central subject of the objectives and the role of punishment in accountability and repair. Both restorative and retributive justice frameworks have been integrated into transitional justice models with varied success; however, neither method has successfully fostered social transformation confronting the foundational issues of crime within the post-conflict peacebuilding process. Examining how these frameworks affect the perpetuation of crime and cycles of violence reveals the importance of victim-centered approaches in engaging with entrenched harm and creating foundations for sustained peace.

### 1.2.1: Retributive Justice

Retributive justice approaches crime and criminality from a “just deserts” perspective, in which offenders receive punishment deemed proportional to the crime committed.<sup>22</sup> This philosophy assumes the relationship between crime and punishment as a moral imperative, arguing that the only way to rectify the harm caused by an offense is to respond in equal measure.<sup>23</sup> Rooted in the concept of *lex talionis*—otherwise known as “eye for an eye” or the law of retribution—this model argues that punishment is both necessary and sufficient for restoring

---

<sup>21</sup> *ibid.*

<sup>22</sup> Lucy Allais, ‘Social Justice and Retributive Justice’ (2008) 34(2) *Social Dynamics* 128.

<sup>23</sup> Alec Walen, ‘Retributive Justice’ (2015) *Stanford Encyclopedia of Philosophy* (Fall 2021 Edition), Edward N Zalta (ed), <<https://plato.stanford.edu/archives/fall2021/entries/justice-retributive/>> accessed 10 May 2025.

justice.<sup>24</sup> The attainment of justice is based on the principle of proportionality, which holds that punishment should not exceed or fall short of the level of harm of the wrongdoing.<sup>25</sup> Under this view, punishment is the primary method in restoring justice; within strict retributivist theory, alternative approaches such as deterrence or incapacitation are not considered valid substitutes.<sup>26</sup> This deontological, Kantian construct of justice adopts an offender-based approach, in which the perpetrator's punishment and culpability are the primary focuses.<sup>27</sup> Often considered a backward-looking method of justice, retributivism tends to focus solely on justice applied to the perpetrator, only seeking to address harm in relation to the offender's actions.<sup>28</sup> In doing so, the victims and their needs are left unaddressed.

Contemporary retributivism diverges from the strict Kantian approach by incorporating elements of deterrence and incapacitation within punitive models. The modern retributivist theory is most clearly manifested in the context of incarceration, a model that completely omits any meaningful victim involvement. Although retributivism has dominated modern justice practices, emerging evidence has begun to refute its effectiveness in reducing and preventing crime.<sup>29</sup> In particular, when applied to juvenile offenders, retributivist imprisonment has proven ineffective in reducing recidivism or mitigating crime; in fact, the opposite often holds true.<sup>30</sup> Moreover, the implementation of retributive justice has been linked to the perpetuation of structural and cyclical violence. Structural violence refers to systematic harm embedded in institutions, such as poverty, exclusion, and lack of access to services, that impacts an individual's quality of life.<sup>31</sup> Cyclical violence, in turn, describes the recurring nature of harm, in which victims of violence are often drawn into cycles of retaliation, marginalization, and further criminalization.<sup>32</sup> This cycle and embedded structure of harm is evident within retributive penitentiary systems, where inmates are exposed to environments in which abuse is normalized,

---

<sup>24</sup> Ibid.

<sup>25</sup> Walen (n 23).

<sup>26</sup> Janine Natalya Clark, 'The Three Rs: Retributive Justice, Restorative Justice, and Reconciliation' (2008) 11(4) *Contemporary Justice Review* 331.

<sup>27</sup> Walen (n 23).

<sup>28</sup> Allais (n 22).

<sup>29</sup> Michael Wenzel, Tyler G Okimoto, Norman T Feather and Michael J Platow, 'Retributive and Restorative Justice' (2008) 32(5) *Law and Human Behavior* 375.

<sup>30</sup> Richard Mendel, *Why Youth Incarceration Fails: An Updated Review of the Evidence* (The Sentencing Project, 1 March 2023)

<<https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>> accessed 10 May 2025.

<sup>31</sup> Johan Galtung, 'Violence, Peace, and Peace Research' (1969) 6(3) *Journal of Peace Research* 167.

<sup>32</sup> Ibid.

often leaving them more violent than when they entered.<sup>33</sup> This phenomenon underscores a broader paradigm: rather than reducing harm, retributive models contribute to its perpetuation.

As such, the correlation between retributivism and recidivism becomes clear—harsh penal policies do not achieve justice; instead, they facilitate the perpetuation and deepening of criminal behavior. This deepened involvement is particularly evident in the preservation and strengthening of gang affiliations among youth offenders within the prison system. In Latin America, the imprisonment of gang members is often directly linked to the reinforcement of affiliations and increases in gang-related violence.<sup>34</sup> As observed by researchers Dudley and Bargent, prisons act as hubs for gang leadership, allowing them to recruit new members and expand their control both within and beyond the prison.<sup>35</sup> Empirical research further illustrates these dynamics. Investigations conducted by the Justice Policy Institute found that incarceration is largely ineffective in reducing recidivism among youth offenders and often exacerbates criminal attitudes.<sup>36</sup> Detention was shown to hinder developmental growth and intensify emotional problems, primarily due to the violent and chaotic nature of prison environments.<sup>37</sup> The study also revealed that detained juveniles “are more likely than non-detained youth to end up going ‘deeper’ into the system.”<sup>38</sup> Similarly, examinations on the effectiveness of *mano dura* policies in Guatemalan prisons have shown that violent disciplinary standards and punitive policies lead to “inhuman conditions in prisons, extrajudicial killings, human rights violations, increased illness, and other atrocities,” which in turn perpetuate cycles of violence, particularly among youth offenders.<sup>39</sup>

---

<sup>33</sup> Barry Holman and Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (Justice Policy Institute 2006) <[https://justicepolicy.org/wp-content/uploads/2022/02/06-11\\_rep\\_dangersofdetention\\_jj.pdf](https://justicepolicy.org/wp-content/uploads/2022/02/06-11_rep_dangersofdetention_jj.pdf)> accessed 10 May 2025.

<sup>34</sup> Dudley and Bargent (n 6).

<sup>35</sup> Ibid.

<sup>36</sup> Holman and Ziedenberg (n 33).

<sup>37</sup> Ibid.

<sup>38</sup> Holman and Ziedenberg (n 33) 5.

<sup>39</sup> Christopher Hernandez-Roy and Rubi Bledsoe, *Democracy Dies under Mano Dura: Anti-crime Strategies in the Northern Triangle* (Center for Strategic and International Studies, 12 April 2023) 100 <<https://www.csis.org/analysis/democracy-dies-under-mano-dura-anti-crime-strategies-northern-triangle>> accessed 10 May 2025.

### ***1.2.2: Restorative Justice***

In contrast to the offender-based model of retributivism, restorative justice focuses on inciting healing through a victim-centered approach that prioritizes repairing the harm caused by crime.<sup>40</sup> This model is considered more flexible than retributive justice, as the methods used to pursue justice are shaped to the specific circumstances of the case. As such, there is no fixed definition or uniform approach; each application is tailored to the particular needs of the affected parties. This complexity is best summarized by theorist Tony Marshall, who refers to restorative approaches as “not any particular practice, but a set of principles which may orientate the general practice of any agency or group in relation to crime.”<sup>41</sup> Building on this definition, contemporary interpretations of restorative justice emphasize the importance of including key stakeholder groups in the criminal justice process. Jonathan Derby, writing for Prison Fellowship International, argues against the use of punitive measures to achieve justice, asserting instead that restorative approaches should focus on engaging the primary stakeholders affected by crime, namely the perpetrator, the victim(s), and the community.<sup>42</sup> All participation from stakeholders must be voluntary, and the offender must take accountability for their actions and actively engage in steps toward reconciliation for the process to begin.<sup>43</sup> In practice, this engagement often takes the form of mediated dialogues between parties and can also encompass broader community initiatives such as reintegration efforts and prevention mechanisms.<sup>44</sup> The goal of restorative justice is not to ‘balance the scales’ but to restore relationships broken by the offense and promote long-term social peace.<sup>45</sup>

As traditional punitive systems have continuously failed to yield long-term results in recidivism and crime reduction, criminological discourse has moved towards the potential of restorative approaches.<sup>46</sup> This practice has seen increasing implementation and success, particularly regarding juvenile crime. When applied to both low- and high-level juvenile offenses, restorative methods have demonstrated statistically significant results in reducing recidivism compared to traditional punitive methods, as well as higher rates of satisfaction

---

<sup>40</sup> Jonathan Derby, *Restorative Justice: Principles and Practice* (Prison Fellowship International, March 2021) <<https://cdn.pfi.org/wp-content/uploads/2021/05/17155329/RJ-Handbook-English-May-2021.pdf>> accessed 10 May 2025.

<sup>41</sup> Tony F. Marshall, *Restorative Justice: An Overview* (Home Office 1999) 5.

<sup>42</sup> Wenzel and others (n 29).

<sup>43</sup> Sherman and Strang (n 7).

<sup>44</sup> Wenzel and others (n 29).

<sup>45</sup> Marshall (n 41).

<sup>46</sup> Wenzel and others (n 29).

among participants.<sup>47</sup> Studies conducted by the Smith Institute and the United Nations Office on Drugs and Crime (UNODC) further corroborate these findings, reporting higher levels of victim satisfaction, reduced post-traumatic stress symptoms, and an increased sense of accountability among offenders. These findings are particularly relevant when applied to carceral facilities, where prison disciplinary systems often employ retributive punishments that perpetuate harm and risk to offender populations.<sup>48</sup> Integrating restorative practices into juvenile detention has shown potential to address the emotional and social needs of offenders, thereby helping to disrupt the underlying internal conditions that sustain cycles of violence.<sup>49</sup> Additionally, reintegration efforts within restorative justice help confront one of the primary causes of youth crime—social exclusion.<sup>50</sup> The successful resocialization of offenders, especially those involved in gangs, can also help restore damaged community relationships and promote social cohesion.

Although restorative methods have proven successful at the micro and interpersonal levels, applying these concepts to broader transitional justice frameworks presents more significant challenges. The complexity of stakeholders and the often-ambiguous identification of perpetrators make macro-level restorative efforts more challenging to implement; however, this does not mean they have been without marginal success. Victim-centered approaches within transitional contexts often include truth commissions, reparations, and guarantees of non-recurrence.<sup>51</sup> These restorative-oriented mechanisms seek justice for victims through financial remuneration, public acknowledgments of victims' sufferings, and other avenues of redress, aiming to provide victims with access to remedies equivalent to the harm they experienced.<sup>52</sup> These processes are also more inclusive than retributive approaches; for instance, the South African Truth and Reconciliation Commission extended reparatory mechanisms to complex victims, individuals classified as both victim and perpetrator.<sup>53</sup> Truth commissions, such as *The Third Way* in Yugoslavia and the *Gacaca* courts in Rwanda, have emphasized the

---

<sup>47</sup> Kathleen J Bergseth and Jeffrey A Bouffard, 'Examining the Effectiveness of a Restorative Justice Program for Various Types of Juvenile Offenders' (2013) 57(9) *International Journal of Offender Therapy and Comparative Criminology* 1054.

<sup>48</sup> Michelle Butler and Shadd Maruna, 'Rethinking Prison Disciplinary Processes: A Potential Future for Restorative Justice' (2016) 11(1) *Victims & Offenders* 126.

<sup>49</sup> Yvon Dandurand, Annette Vogt, and Jee Aei (Jamie) Lee, *Handbook on Restorative Justice Programmes* (2nd edn, United Nations Office on Drugs and Crime 2020).

<sup>50</sup> *Ibid.*

<sup>51</sup> Luke Moffett, 'Transitional Justice and Reparations: Remediating the Past?' in Cheryl Lawther, Luke Moffett and Dov Jacobs (eds), *Research Handbook on Transitional Justice* (Edward Elgar Publishing 2017) 362.

<sup>52</sup> *Ibid.*

<sup>53</sup> Clark (n 26).

importance of engaging all stakeholders at the grassroots level to ensure that each party has the opportunity to share their story and access the truth.<sup>54</sup> These efforts create empathy within affected communities and aim to construct a cohesive narrative while repairing fractured relationships between victims, offenders, and society. Restorative peacebuilding processes that engage NGOs, religious institutions, and local indigenous practices have also demonstrated success in fostering long-term peace.<sup>55</sup> This manner of engagement with regional organizations exemplifies an intersection between the application of micro-, meso-, and macro-level restorative initiatives aimed at societal-level peacebuilding.

Despite the success of these approaches in repairing relationships harmed by violence and human rights violations, they remain inadequate in addressing the structural roots of conflict and crime. As such, many post-conflict states with transitional mechanisms, such as Guatemala, continue to experience violence rooted in unresolved historical inequities. Transitional justice processes tend to focus on political and civil reformations, often leaving socioeconomic issues unaddressed.<sup>56</sup> Transitional Justice scholars, such as Simon Robbins and Paul Gready, have recognized the importance of integrating structural transformations into transitional processes.<sup>57</sup> From this body of thought emerges a new conception of post-conflict transition — transformative justice. As Gready and Robbins argue, transformative justice involves “challenging unequal and intersecting power relationships and structures of exclusion at both the local and the global level.”<sup>58</sup> Central to this model is the recognition of the importance of addressing socioeconomic disparities, restrictions to education, and underemployment in creating lasting structural peace in post-conflict states.<sup>59</sup> These reforms are particularly critical to marginalized groups, such as children and indigenous communities, who experience structural violence at disproportionately higher levels.<sup>60</sup> Addressing these inequities can serve to rectify systemic injustices and build trust in democratic institutions.<sup>61</sup> These reforms are not intended to

---

<sup>54</sup> Ibid.

<sup>55</sup> Peter Reddy, *Peace Operations and Restorative Justice: Groundwork for Post-Conflict Regeneration* (Routledge 2012).

<sup>56</sup> Matthew Evans, ‘Structural Violence, Socioeconomic Rights, and Transformative Justice’ (2016) 15(1) *Journal of Human Rights* 1.

<sup>57</sup> Paul Gready and Simon Robbins, ‘From Transitional to Transformative Justice: A New Agenda for Practice’ (2014) 8(3) *International Journal of Transitional Justice* 339.

<sup>58</sup> Ibid. 340

<sup>59</sup> Moffet (n 51).

<sup>60</sup> Evans (n 56).

<sup>61</sup> Pablo de Greiff, *The Applicability of Transitional Justice in Pre-Conflict Contexts* (Center on International Cooperation, September 2021).

replace transitional justice processes, but to complement them, ensuring that peace is built on a more stable and just foundation. However, states have often been reluctant to implement broader structural reforms, as such processes are typically more complex, time-consuming, and financially demanding.<sup>62</sup>

### 1.3: Methodology

This thesis is a desk-based qualitative study examining the effects of restorative and retributive justice on the Guatemalan juvenile carceral system. Firstly, this study employs a historical tracing of Guatemala's armed conflict, political transition, and contemporary challenges to contextualize the research questions and provide a framework for analysis in the subsequent chapters. Examining this historical trajectory demonstrates how the structural inequities that contributed to and were aggravated by the civil war remained unaddressed in the postwar transitional justice process, thereby facilitating the conditions leading to the emergence of youth gangs.

The study employs a critical legal analysis to examine the impact of Guatemala's transitional process on the development of punitive criminal justice policies, particularly the effect of amnesty laws and retention of militarized paradigms. This method examines how transitional mechanisms have shaped contemporary legal standards regarding children in conflict with the law, evaluating how these policies have reinforced *mano dura* laws and hindered the application of restorative justice. The analysis also explores the differing effects of restorative and retributive justice on juvenile justice systems, with particular attention to youth gangs. Drawing on historical texts, peer-reviewed books and articles, and international human rights reports, this legal analysis assesses the impact of Guatemala's retributive laws on juvenile violence.

To complement the legal analysis, this thesis employs a socio-legal approach to examine the interaction between retributive and restorative laws, social norms concerning violence and justice, and structural inequities. Grounded in legislative texts, empirical and NGO data, and qualitative research, this approach explores a substantive gap between Guatemala's codified and normative legislation and practical application. This method also examines the impact of

---

<<https://cic.nyu.edu/resources/the-applicability-of-transitional-justice-in-pre-conflict-contexts/>> accessed 10 May 2025.

<sup>62</sup> Moffet (n 51).

divergent justice models on recidivism and youth crime, highlighting the effect of legalistic norms on cyclical and cultural perceptions of violence and justice. Finally, the study adopts a prescriptive lens to evaluate the potential role of restorative practices and youth-centered reforms as components of broader structural transformations and transitional justice frameworks.

However, this research was subject to temporal limitations and institutional restrictions regarding fieldwork. Per the guidelines established by the University of Galway and the Global Campus of Human Rights, conducting fieldwork or interviews with relevant stakeholders, such as formerly incarcerated youth, legal professionals, or community-based organizations, was restricted. As such, the study relies entirely on secondary sources and does not directly engage with those who experience the effects of juvenile justice policies in Guatemala. Future research could strengthen this analysis by incorporating field-based methods to gain a deeper understanding of how restorative justice is implemented and experienced in practice.

#### **1.4: Structure of the Thesis**

Chapter 2 begins by outlining the history of the Guatemalan civil war, tracing the systemic roots of the conflict from colonial and imperialist injustices and repression to the succeeding transitional justice policy. This chapter examines the severe human rights violations that occurred during the conflict and highlights the victim-centered mechanisms implemented during the transitional phase. Particular attention is given to the shortcomings of the transitional process, specifically inadequacies in addressing structural injustices and the omission of youth-centric issues. The chapter concludes by examining Guatemala's contemporary challenges, arguing that the emergence of youth gangs is a byproduct of the social, economic, and violent consequences of the armed conflict.

Chapter 3 opens with an analysis of the impact of transitional shortcomings on the development of militarized policies, namely *Mano Dura*. This section examines how the application of widespread amnesty laws hindered accountability for perpetrators of grievous human rights violations and protected the institutional power of political and military elites from the conflict era. The chapter continues with an examination of the culture of violence in Guatemala, arguing that violence has become a normalized response in the absence of prosecutorial accountability. Linking this entrenched norm with institutionalized *mano dura* frameworks reveals how these policies contribute to cycles of violence within society,

particularly among youth in conflict with the law. These cycles are best observed within prisons, where punitive legal and institutional procedures have reinforced the consolidation and expansion of youth gangs.

This thesis continues with Chapter 4, examining the current domestic and international frameworks for protecting and treating children in conflict with the law. The chapter then addresses the gap between the legislation, which overwhelmingly mandates a restorative approach to juvenile justice, and the prevailing retributive practical implementation. Special emphasis is placed on the efforts of Indigenous groups, civil society, and grassroots organizations to institutionalize restorative approaches. Next, the chapter studies the gradual implementation of restorative justice within Guatemala, highlighting that movements towards alternative sanctioning and reintegrative efforts exist within the predominantly punitive system. The section concludes with an analysis of current restorative approaches for juveniles, arguing for their broader applicability and viability for youth gang members in Guatemala.

The concluding chapter presents final recommendations for the state, focusing on juvenile justice reform and the need to address structural violence as a prerequisite for sustainable peacebuilding.

## Chapter 2: Conflict Legacies and the Transitional Process in Guatemala

### Part I: Historical Foundations of Violence

#### 2.1: Colonial and Imperialistic Repression

The 36-year-long armed conflict in Guatemala was not an isolated episode but rather the result of violent legacies of colonial exploitation and the systematic oppression of Indigenous peoples. The emergence and proliferation of contemporary gang violence must be understood within the broader historical context of violence that has persisted in Guatemala since the colonial era. Many of the current socioeconomic disparities in modern-day Guatemala can be traced back to this period, primarily through the racism, exclusion, and exploitation forced upon the Indigenous population. Once a region populated and ruled by the Mayan empire, Guatemala experienced severe and violent destabilization during the Spanish colonization of the 16th century.<sup>63</sup> Indigenous systems of governance were overthrown by Spanish colonial rule, resulting in the exploitation of Native populations under the *encomienda* and *repartimiento* labor systems.<sup>64</sup> The introduction of Old World diseases, combined with the brutality of the forced labor systems, decimated the Indigenous population and created the foundations for enduring patterns of marginalization.<sup>65</sup> This period also witnessed the reallocation of land to a few wealthy Spanish elites and the establishment of rigid social castes that systematically subjugated the Mayan population.<sup>66</sup> Spanish landowners prioritized extracting wealth from the land while neglecting the development of educational and health infrastructure. This dichotomy is reflected today, as Indigenous communities suffer from limited access to healthcare and education and remain socioeconomically oppressed.<sup>67</sup>

Despite achieving independence from Spanish rule in 1821, the repercussions of inequitable economic systems established under colonialism set the foundation for political instability and the eventual rise of long-lasting dictatorial rule.<sup>68</sup> As Guatemala became more

---

<sup>63</sup> Manz (n 12).

<sup>64</sup> Julie A Davies, 'Indigenous Law in Central America: A Key to Improving Life and Justice' (2018) Michigan State Law Review 673.

<sup>65</sup> Manz (n 12).

<sup>66</sup> *ibid.*

<sup>67</sup> *ibid.*

<sup>68</sup> Stephen Schlesinger and Stephen Kinzer, *Bitter Fruit: The Story of the American Coup in Guatemala* (Harvard University Press 2005).

reliant on the agricultural production of bananas and coffee, the United States became interested in securing financial investments in the trade, supporting policies and regimes that allowed unfettered access to land and production.<sup>69</sup> For instance, the United Fruit Company, the United States' largest investment in the region, benefited from imperialistic governmental intervention and repressive labor practices established under colonialism.<sup>70</sup> In the interest of safeguarding its economic investments, the United States orchestrated a CIA-led coup—Operation PBsuccess—to overthrow the democratically elected Jacobo Árbenz, whose land reform efforts and taxation policies challenged the holdings of the company.<sup>71</sup> The mission's success led to the establishment of several consecutive U.S.-supported dictatorships that safeguarded United Fruit, further entrenching socioeconomic divides and suppressing growing political opposition.<sup>72</sup> However, political dissent began to brew within the State, and in 1960, a group of military dissidents launched a revolt against the U.S.-backed political regimes. This uprising, although unsuccessful, marked the beginning of the 36-year-long Guatemalan civil war.<sup>73</sup>

## 2.2: The Armed Conflict and State-Sanctioned Violence

The civil conflict emerged not only due to dissatisfaction with political regimes but also from deep structural inequities, as over 80% of the population lived in poverty while just 3% owned the majority of farmable land.<sup>74</sup> Insurgent groups such as the Guerrilla Army of the Poor, the Organization of People in Arms, and Rebel Armed Forces mobilized the surviving Mayan communities, many of whom joined the movement in response to the social insecurities, racism, and structural injustices they faced.<sup>75</sup> The movement peaked in the 1980s, with the different groups joining forces with the re-armed Guatemalan Labor Party to form the Guatemalan National Revolutionary Unity (URNG).<sup>76</sup> These groups amassed between 6 and 8,000 guerrilla fighters and were actively supported by over 500,000 individuals; however, as these groups grew,

---

<sup>69</sup> *ibid.*

<sup>70</sup> Michael Hendricks, 'The Negative Effects of U.S. Imperialism in Central America' (2021) 48(6) *Latin American Perspectives* 218.

<sup>71</sup> Schlesinger and Kinzer (n 68).

<sup>72</sup> Hendricks (n 70).

<sup>73</sup> Schlesinger and Kinzer (n 68).

<sup>74</sup> Rachel Sieder and Richard Wilson (eds), *Negotiating Rights: The Guatemalan Peace Process* (Accord Issue 2, Conciliation Resources 1997) < <https://www.c-r.org/accord/guatemala> > accessed 20 May 2025.

<sup>75</sup> *ibid.*

<sup>76</sup> Schlesinger and Kinzer (n 68).

so did anti-insurgent civilian patrols.<sup>77</sup> Auto-Defense Civilian Patrols (PACs) were established through military intervention and training in rural neighborhoods to combat the guerrilla groups, and by the end of the war, had amassed close to a million members.<sup>78</sup> Due to the rise of these counterinsurgency groups and the consolidation of arable land by the military, the State's social and structural inequities worsened, further marginalizing poor and indigenous communities.<sup>79</sup> By 1983, the PACs and coordinated military initiatives had significantly weakened the URNG, effectively allowing the Guatemalan government to maintain control and resist further insurgent movements.<sup>80</sup> At the same time, spurred by peace negotiations in neighboring Central American countries, the State began to move towards a peace process.<sup>81</sup> The war formally ended after 36 years of conflict in 1996, with the signing of the Agreement on a Firm and Lasting Peace by the government and the URNG.<sup>82</sup>

Naturally, the history presented in this thesis provides only an overview of the war's timeline and does not convey the nuances of a profoundly complex conflict. However, the scale of violence and human rights violations committed by all parties is far less ambiguous. Throughout the war, Mayan and other Indigenous communities suffered the brunt of military violence, resulting in over 600 massacres, 200,000 deaths, and the destruction of hundreds of civilian and indigenous villages.<sup>83</sup> In addition to the widespread killing of civilians committed by the military, over 40,000 individuals became victims of enforced disappearances.<sup>84</sup> The state-sponsored truth commission, the *Comisión para el Esclarecimiento Histórico* (CEH), found that State military and paramilitary forces, such as the PACs, committed over 93% of all human rights violations during the conflict.<sup>85</sup> Children and juveniles also suffered greatly as a result of the violence, with many forcibly conscripted into civilian patrols and countless others subject to forced disappearance, extrajudicial killings, or left orphaned.<sup>86</sup> The majority of atrocities occurred during the presidency of Efraín Ríos Montt, a military general-turned-politician. During

---

<sup>77</sup> Sieder and Wilson (n 74).

<sup>78</sup> José Miguel Cruz, 'The State and the Reproduction of Violence in Post-Transition El Salvador and Guatemala' in Stefano Ruzza, Anja Jakobi and Charles Geisler (eds), *Non-State Challenges in a Re-Ordered World: The Jackals of Westphalia* (Routledge 2015) 157.

<sup>79</sup> Sieder and Wilson (n 74).

<sup>80</sup> Cruz 'The State and the Reproduction of Violence' (n 78).

<sup>81</sup> Sieder and Wilson (n 74).

<sup>82</sup> *ibid.*

<sup>83</sup> Manz (n 12).

<sup>84</sup> Sieder and Wilson (n 74).

<sup>85</sup> Comisión para el Esclarecimiento Histórico (CEH), *Guatemala: Memory of Silence* (UNOPS 1999).

<sup>86</sup> *ibid.*

his presidency from 1982-1983, tens of thousands of Mayan people were killed as part of military campaigns now widely recognized as genocide.<sup>87</sup> The violence of the war created mass waves of emigration from Guatemala, with over a million individuals displaced and fleeing to neighboring countries.<sup>88</sup> This migration severed cultural ties between communities and according to the CEH, “embodie[d] the rupture of social fabric.”<sup>89</sup>

## Part II: Peacebuilding and Transitional Justice Mechanisms

### 2.3: The 1996 Peace Accords and the Role of Civil Society

After 36 years of war, the state entered a period of transition defined by two critical shifts, each addressed through different aspects of the transitional justice process: the move from authoritarianism to democracy and civil conflict to peace.<sup>90</sup> These reorientations shaped the creation of the peace agenda, which was structured around four strategies: reintegration and demobilization, human development, sustainable development, and strengthening democratization.<sup>91</sup> The goal of these measures was to address the grave human rights violations that had occurred and move away from heavily militarized, authoritarian administrations. However, these procedures ultimately overlooked the structural inequities that caused the conflict, fell short of providing legal accountability, and preserved many militarized policies.

The signing of the Peace Accords in 1996 signaled the end of the civil war and the beginning of the state’s transitional justice process. The Agreement on a Firm and Lasting Peace, signed by both the URNG and the Guatemalan government, detailed the cessation of hostilities, the implementation of a new democratic electoral system, and the demobilization and disarmament of both insurgent and government troops.<sup>92</sup> Civil society and the United Nations (UN) played an integral role in developing and implementing the transitional process. UN missions, such as the United Nations Verification Mission in Guatemala (MINUGUA) and the

---

<sup>87</sup> *ibid.*

<sup>88</sup> Manz (n 12).

<sup>89</sup> CEH 1999 (n 85) 30.

<sup>90</sup> Carmen Rosa de León Escribano and María Chávez, ‘Transitional Justice in Guatemala’ in *Transitional Justice and DDR: The Case of Guatemala* (UN 2010)

<<https://www.un-ilibrary.org/content/books/9789210558938s003-c007/read>> accessed 20 May 2025.

<sup>91</sup> Sieder and Wilson (n 74).

<sup>92</sup> Agreement on a Firm and Lasting Peace (signed 29 December 1996) UN Doc A/51/796–S/1997/114.

International Commission Against Impunity in Guatemala (CICIG), offered fiscal and technical support aimed at strengthening the judiciary and state commitments to human rights.<sup>93</sup> Civil society organizations, such as the Catholic church's Inter-Diocesan Project for the Recuperation of Historical Memory and the *Grupo de Apoyo Mutuo*, advocated for mechanisms to uncover the truths of the conflict, directly contributing to the establishment and findings of the CEH.<sup>94</sup> These international and civil society organizations emphasized two core priorities that significantly shape the transitional process's mandate and direction—victim-centered approaches focused on truth, reparations, and historical memorialization, and legal and judicial reform aimed at accountability.<sup>95</sup>

#### **2.4: The Historical Clarification Commission and Victim-Centered Approaches**

Transitional processes in Guatemala emphasized the importance of compiling a comprehensive version of the truth of the conflict and the atrocities committed. The creation of the *Comisión para el Esclarecimiento Histórico* represented the state's concrete action to formalize this process and develop a series of victim-centered recommendations.<sup>96</sup> The commission was formally created in 1994 under the Establishment of the Commission to Clarify Past Human Rights Violations and Acts of Violence and operated from 1997-1999, culminating in the release of its final report, *Guatemala: Memoria del Silencio*.<sup>97</sup> Supported by the United Nations, the CEH was mandated to clarify and document the abuses and human rights violations that took place during the civil war, while also providing a framework for understanding the conflict's origins.<sup>98</sup> The final report, *Guatemala: Memoria del Silencio*, encompasses the totality of the events from 1960-1996 and draws from direct interviews with survivors, victims, and perpetrators.<sup>99</sup> The findings in this report unequivocally demonstrated that over 83% of the victims from the conflict were Mayan, and concluded that the killings constituted a genocide.<sup>100</sup>

---

<sup>93</sup> de León Escribano and Chávez (n 90).

<sup>94</sup> Impunity Watch, *Impact of the Commission for Historical Clarification (CEH) Report on Victims of the Armed Conflict in Guatemala* (Policy Brief, 2024) <<https://www.impunitywatch.org/publications/policy-brief-ceh-guatemala-english/>>.

<sup>95</sup> Sieder and Wilson (n 74).

<sup>96</sup> CEH 1999 (n 85).

<sup>97</sup> Sieder and Wilson (n 74).

<sup>98</sup> CEH 1999 (n 85).

<sup>99</sup> *ibid.*

<sup>100</sup> Impunity Watch (n 94).

Although intended as an impartial, non-judicial body, the CEH's report issued several non-binding recommendations centered on reparations, strengthening democracy, and preserving historical memory.<sup>101</sup> Guatemalan people, civil society organizations, and the URNG accepted the report's findings and have continued to utilize its conclusions to pursue justice for victims.<sup>102</sup>

State-led, victim-centered approaches aimed to uphold dignity and truth for survivors, while also ensuring that affected parties received individualized support. Reparation programs, such as the *Programa Nacional de Resarcimiento*, aimed to provide financial and symbolic compensation to victims, particularly those from indigenous communities.<sup>103</sup> Along with economic remuneration, this body provided individualized support and redress in the form of cultural and symbolic recognition and psychological rehabilitation to restore victims' dignity.<sup>104</sup> Further mechanisms, such as exhumations and memorialization efforts, were also utilized to create a sense of healing and clarity.<sup>105</sup> Exhumations represented a direct effort to acknowledge the Indigenous customs surrounding mourning and the need to receive closure in the deaths of loved ones.<sup>106</sup> Anthropological examinations into mass graves and clandestine cemeteries led to the discovery of over 10,000 bones, allowing for the identification of over 4,000 people assumed missing during the conflict.<sup>107</sup> Memorialization initiatives emphasized preserving historical memory and confronting the truth of the atrocities committed during the war, intending to ensure guarantees of non-recurrence. For instance, schools, from primary to university level, were recommended to educate students about the conflict, and a national holiday, the National Day of Dignity for Victims of the Internal Armed Conflict, was established by the state to commemorate victims.<sup>108</sup>

## 2.5: Prosecutions and Impunity

The transitional process emphasized the need for substantial institutional reform and the establishment of legal mechanisms to bring the perpetrators of the conflict to justice, utilizing

---

<sup>101</sup> CEH 1999 (n 85).

<sup>102</sup> Impunity Watch (n 94).

<sup>103</sup> CEH 1999 (n 85).

<sup>104</sup> *ibid.*

<sup>105</sup> Impunity Watch (n 94).

<sup>106</sup> Gabrielle John, *Trauma and Transitional Justice in Guatemala: How Conceptions of Trauma Inform Transitional Justice Practices* (MA thesis, The University of British Columbia 2020)

<<https://open.library.ubc.ca/media/stream/pdf/24/1.0223108/4>> accessed 20 May 2025.

<sup>107</sup> Impunity Watch (n 94) 14.

<sup>108</sup> CEH 1999 (n 2).

prosecutions as the primary method to rebuild civic trust in the justice system. Prosecutions can act as a reparative tool for victims by affirming their suffering and creating a sense of justice through accountability.<sup>109</sup> In pursuit of this objective, civil society and victims' families pushed for trials, supported by the crucial evidentiary findings from the CEH and results from exhumations.<sup>110</sup> However, prosecutions of human rights violators proved challenging, primarily due to the passage of the 1996 National Reconciliation Law, which allowed for selective amnesty protections. This law granted amnesty to state and non-state offenders for political and common crimes committed during the conflict, but permitted the prosecution of those guilty of genocide, torture, and forced disappearances.<sup>111</sup> Although a slow-moving process, the State convicted several military and paramilitary officers of crimes against humanity.<sup>112</sup> The most prominent of these cases involved the prosecution of former dictator and military commander, Efraín Ríos Montt, for crimes of genocide. His trial involved the testimony of hundreds of Indigenous Ixil-Mayan survivors, who played an integral part in witness testimony and evidentiary support that led to his conviction.<sup>113</sup> However, meaningful progress toward victim-centered reparations and institutional reform was obstructed by political intervention, corruption, and impunity.<sup>114</sup>

### **Part III: Limitations of the Transitional Justice Process**

#### **2.6: Political Interference and the Preservation of Elites**

Although Guatemala's application of victim-centered reparations was novel and innovative for the time, the transitional process encountered several obstacles that hindered the full realization of the Peace Accords and societal reparation. Political interference and the retention of elitist power structures served as the main obstructions to enforcing and implementing the CEH's recommendations and enacting broader social reform.<sup>115</sup> These obstacles were evident from the onset of the negotiations, as the framework of the Peace Accords

---

<sup>109</sup> John (n 106).

<sup>110</sup> Roht-Arriaza, 'Transitional Justice in Latin America' (n 9).

<sup>111</sup> Naomi Roht-Arriaza, 'Guatemala: Lessons for Transitional Justice' in Cheryl Lawther, Luke Moffett, and Dov Jacobs (eds), *Research Handbook on Transitional Justice* (Edward Elgar Publishing 2017) 445.

<sup>112</sup> Roht-Arriaza 'Transitional Justice in Latin America' (n 9).

<sup>113</sup> *ibid.*

<sup>114</sup> *ibid.*

<sup>115</sup> *ibid.*

allowed the military and political elites to retain power. At the time of ratification, URNG had been severely weakened, allowing the military and state to dominate the negotiations. With this preeminence, the government's National Advancement Party prioritized short-term economic and business agreements within the context of peacebuilding, forgoing long-term goals of national reform.<sup>116</sup> As a result, the Peace Accords vaguely gestured towards large-scale structural and military reform but lacked detailed frameworks for implementation and enforcement.<sup>117</sup> The mechanisms utilized focused on superficial solutions, overlooking initiatives towards programs to address structural problems and systemic injustices.<sup>118</sup> Although the Peace Accords mandated reforms for the police and military, newly created forces such as the National Civil Police were undermined by the inclusion of military personnel who had benefited from the immunity measures.<sup>119</sup>

This overrepresentation during the negotiations enabled the government to enact amnesty laws protecting political and military personnel from prosecution, allowing many perpetrators of human rights violations to go virtually unpunished.<sup>120</sup> Impunity protections permitted political and military elites to retain their positions and evade legal consequences in the post-conflict period.<sup>121</sup> The prosecutions following the armed conflict were limited, often taking years before completion, and were subjected to significant political interference.<sup>122</sup> Even successful high-profile convictions, such as Efraín Ríos Montt's, were later overturned, underscoring the state's inability to procure legal and judicial accountability.<sup>123</sup> The lack of prosecutorial efforts directly contrasted with the recommendations of the CEH, which called for all perpetrators of human rights violations to be held legally responsible.<sup>124</sup> Furthermore, the proceedings further marginalized Indigenous peoples by attempting to force their legal systems to conform to institutional standards, effectively preventing the actualization of fully reparative actions for these communities.<sup>125</sup> This mandated adherence to the state's legal procedures,

---

<sup>116</sup> Sieder and Wilson (n 74).

<sup>117</sup> *ibid.*

<sup>118</sup> Rachel E. Bowen, 'The Weight of the Continuous Past: Transitional (In)Justice and Impunity States in Central America' (2019) 61(1) *Latin American Politics and Society* 126.

<sup>119</sup> Cruz 'The State and the Reproduction of Violence' (n 78).

<sup>120</sup> Bowen (n 118).

<sup>121</sup> *ibid.*

<sup>122</sup> de León Escribano and Chávez (n 90).

<sup>123</sup> Roht-Arriaza, 'Guatemala: Lessons for Transitional Justice' (n 111).

<sup>124</sup> CEH 1999 (n 85).

<sup>125</sup> *ibid.*

combined with under prosecution, contributed to a growth of public distrust in Guatemala's judiciary and state institutions, reinforcing the belief that these bodies only provide incomplete and arbitrary justice.<sup>126</sup>

## 2.7: Limitations of Victim-Centered Mechanisms and Operational Gaps

This political reluctance also impeded other mechanisms, such as memorialization, exhumation, and reparation efforts. For instance, the state actively contested the CEH's findings of genocide and human rights violations against the Mayan population and failed to implement many of the recommendations.<sup>127</sup> Proposals, such as creating school curricula and officially recognizing the national holiday, have lacked state support and faced considerable obstacles in implementation. In fact, civil society and human rights organizations have carried out the majority of memorialization and exhumation efforts due to a lack of state compliance.<sup>128</sup> Moreover, state-led national reparatory frameworks never fully completed reimbursement;<sup>129</sup> the program expired in 2023, with 28,345 of 57,578 registered victims awaiting reparations.<sup>130</sup> Public perception of the disbursements remains poor, with survivors feeling "that the life of their family members had no price."<sup>131</sup> This dissatisfaction is compounded by the limited inclusion of civil participation in the reparation design, leading to processes that disrespect Indigenous justice customs.<sup>132</sup> In many Guatemalan Indigenous traditions, monetary compensation is perceived as disrespectful to the dead, and proper reparation requires remuneration in the form of land and crops.<sup>133</sup> These deficits in implementation and enforcement overwhelmingly impacted the populations most harmed by the conflict, thereby contributing to the persistence of structural inequalities.

---

<sup>126</sup> Orlando J Pérez, 'Gang Violence and Insecurity in Contemporary Central America' (2013) 32(S1) Bulletin of Latin American Research 217.

<sup>127</sup> Impunity Watch (n 94).

<sup>128</sup> *ibid.*

<sup>129</sup> Roht-Arriaz 'Guatemala: Lessons for Transitional Justice' (n 111).

<sup>130</sup> United Nations High Commissioner for Human Rights (OHCHR), *Situation of Human Rights in Guatemala* (A/HRC/58/22, 21 January 2025) 12

<<https://www.ohchr.org/en/documents/country-reports/ahrc5822-situation-human-rights-guatemala-report-united-nations-high>> accessed 20 May 2025.

<sup>131</sup> Roht-Arriaza 'Guatemala: Lessons for Transitional Justice' (n 111) 450.

<sup>132</sup> Roht-Arriaza 'Transitional Justice in Latin America' (n 9).

<sup>133</sup> *ibid.*

Among the most overlooked groups within Guatemala's transitional process was the youth, whose victimization from the conflict received little recognition or redress. During the conflict, juvenile populations, particularly those in indigenous communities, were targeted, coerced into fighting, and forcibly displaced.<sup>134</sup> Although the reintegration and rehabilitation of juveniles involved in conflict are now widely recognized as a critical component of the peacebuilding process, references to young people are largely absent from Guatemalan transitional discourse.<sup>135</sup> Notably, even the CEH contains limited information regarding how juveniles were affected by the conflict and largely omits the inclusion of youth-centered recommendations. The marginalization of young people within the transitional process is a global phenomenon, with researchers from the International Journal of Transitional Justice finding that youth are absent from all stages of the peacebuilding process. Contemporary transitional frameworks have recognized this deficit and begun to integrate youth-focused considerations into the design, implementation, and evaluation stages of the process. However, earlier transitional strategies, such as those in Guatemala, did not incorporate youth-centric mechanisms and analysis into the design of the peacebuilding process. As mentioned above, reform efforts became entangled with political agendas, hindering the state's capacity to enact social reforms that benefited young people. Similarly, challenges with the implementation of the CEH's social reform recommendations, such as memorialization through education and psychosocial support, disproportionately affected juveniles who stood to benefit from the programs. The lack of youth consideration and participation in Guatemala's transitional process reflects a broader paradigm of victim exclusion and oversight in addressing structural injustices.

#### **Part IV: Contemporary Challenges**

Today, Guatemala remains one of the most dangerous countries in the world concerning levels of crime and insecurity.<sup>136</sup> Limited engagement with structural violence and the conflict's causal roots during the transitional process correlates with social conditions that facilitate the development of contemporary violence. Transnational gangs—*maras*—and smaller, youth-led

---

<sup>134</sup> CEH 1999 (n 85).

<sup>135</sup> Theresa S Betancourt and A'Nova Ettien, *Transitional Justice and Youth Formerly Associated with Armed Forces and Armed Groups: Acceptance, Marginalization and Psychosocial Adjustment* (Innocenti Working Paper No 2010-17, UNICEF Innocenti Research Centre 2010).

<sup>136</sup> Myrna Mack Foundation and WOLA, *Crime and Insecurity in Guatemala* (August 2020) <<https://www.wola.org/wp-content/uploads/2020/08/Crimen-y-Violencia-GT-ENG-8.9.pdf>> accessed 20 May 2025.

gangs—*pandillas*—are responsible for the majority of violence in the state and exert a high level of influence over social and institutional structures.<sup>137</sup> As a result of the widespread proliferation of gangs, the crime rate in Guatemala has risen to one of the highest worldwide, with over 2,869 murders reported in 2024.<sup>138</sup> Although the crime rate has declined slightly in recent years, homicide remains the leading cause of death for adolescents and young adults, with a reported rate of 55 out of 100,000.<sup>139</sup> However, official statistics on the total number of killings may be underreported, as police often exclude specific categories of homicides from government reports.<sup>140</sup> It is essential to note that modern criminality is not indicative of a failure of the transitional process but rather that the existing mechanisms did not adequately account for broader socioeconomic interventions. In this regard, a correlation exists between the transitional process and contemporary crime, but not a direct causation.

## 2.8: Enduring Impunity and Institutional Corruption

Impunity remains one of the most significant challenges left unaddressed during and perpetuated by the transitional process, becoming entrenched in modern Guatemalan politics and the justice system. Guatemala is not alone in its struggles with accountability and amnesty; studies into violence in the country are often situated within a regional context, as neighboring countries Honduras and El Salvador face parallel issues with crime and impunity.<sup>141</sup> These three countries, commonly referred to as the Northern Triangle, are considered “impunity states,” where crimes typically go unprosecuted.<sup>142</sup> This impunity extends beyond crimes committed during the armed conflict and continues to undermine prosecutorial action and institutional accountability.<sup>143</sup> In 2018, the CICIG reported that an average of 94% of crimes in Guatemala go unpunished and that 99% of corruption-related crimes experience impunity protections.<sup>144</sup>

---

<sup>137</sup> *ibid.*

<sup>138</sup> Marina Cavalari, Juliana Manjarrés and Christopher Newton, ‘InSight Crime’s 2024 Homicide Round-Up’ (InSight Crime, 26 February 2025) <<https://insightcrime.org/news/insight-crime-2024-homicide-round-up/#h-guatemala-3-6>.InSight Crime> accessed 20 May 2025.

<sup>139</sup> Myrna Mack Foundation and WOLA (n 136).

<sup>140</sup> Manz (n 12).

<sup>141</sup> Bowen (n 118).

<sup>142</sup> *ibid* 127.

<sup>143</sup> de León Escribano and Chávez (n 90).

<sup>144</sup> Comisión Internacional contra la Impunidad en Guatemala (CICIG), *Informe: Diálogos por el Fortalecimiento de la Justicia y el Combate a la Impunidad en Guatemala* (6 June 2019) <[https://www.cicig.org/wp-content/uploads/2019/06/Informe\\_Dialogos\\_SIJ.pdf](https://www.cicig.org/wp-content/uploads/2019/06/Informe_Dialogos_SIJ.pdf)> accessed 20 May 2025.

Although the CICIG’s work to combat impunity and corruption proved effective in lowering crime rates and received widespread public support, political interference persisted throughout its tenure, and state authorities did not renew its mandate following its expiry in 2019.<sup>145</sup> The decision not to renew the CICIG—carried out by a president under investigation for corruption—demonstrates the pervasive nature and profound impact of impunity in reinforcing systems of corruption and undermining the rule of law. In turn, this systemic entrenchment of impunity and corruption within Guatemala has allowed crime to flourish.<sup>146</sup>

Alongside impunity, corruption within the government, judiciary, and military remains a critical obstruction towards the pursuit of justice and hinders progress toward social reform.<sup>147</sup> As of 2023, Guatemala ranked 13 out of 15 countries within Latin America in detecting and preventing corruption, a statistic that has continued to backslide since 2021.<sup>148</sup> In recent years, the government has attempted to address rampant corruption through the implementation of legislation such as the Democratic Criminal Policy of the State of Guatemala and the creation of High-Risk Courts; however, these mechanisms have faced constraints due to resource limitations and, predictably, internal corruption.<sup>149</sup> Impunity has enabled corruption to flourish within the government, to the extent that democratic elections hold little influence, as “the country is actually run by an alliance among traditional sectors of the oligarchy, new entrepreneurs, corrupt members of the police and military, and common criminals.”<sup>150</sup> This misconduct within high-level governance and the police has enabled criminal organizations to establish footholds within these institutions, ensuring impunity and allowing for the proliferation of crime.<sup>151</sup> Prosecutors, governmental officials, and journalists attempting to address this issue are often dismissed or arrested, thereby deteriorating institutional checks and demonstrating how deeply ingrained and normalized corruption has become within high-level institutions.<sup>152</sup> Findings from the Washington Office on Latin America have found that corruption creates a public distrust of

---

<sup>145</sup> *ibid.*

<sup>146</sup> Bowen (n 118).

<sup>147</sup> Zinecker (n 14).

<sup>148</sup> Human Rights Watch (HRW), *World Report 2024: Guatemala* (January 2024)  
<<https://www.hrw.org/world-report/2024/country-chapters/guatemala>> accessed 20 May 2025.

<sup>149</sup> *ibid.*

<sup>150</sup> Manz (n 12) 10.

<sup>151</sup> Cruz, ‘The Root Causes of the Central American Crisis’ (n 1).

<sup>152</sup> U.S. Department of State, *2023 Country Reports on Human Rights Practices: Guatemala* (22 April 2024)  
<<https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/guatemala/>> accessed 20 May 2025.

state institutions, which in turn facilitates deterioration of the rule of law and increases in violence.<sup>153</sup>

## 2.9 - Structural Violence and the Persistent Marginalization of Vulnerable Groups

Much like institutional challenges, social issues omitted in the state's transitional process have worsened. An assessment conducted by the U.S. The Department of State on human rights conditions in Guatemala in 2023 affirms that the country has not thoroughly addressed the many violations of fundamental rights.<sup>154</sup> Indigenous and minority populations—including juveniles, women, and LGBTQ+ communities—face the brunt of these challenges and are disproportionately affected by poverty, limited access to education, and discrimination.<sup>155</sup> According to a 2024 report from the World Bank, over 57% of Guatemalans live in poverty, and over 80% of employment is concentrated in informal sectors.<sup>156</sup> Workers in these sectors are not protected by labor laws and are often underpaid, with many working in perilous conditions.<sup>157</sup> Additionally, a significant portion of the population, particularly Indigenous communities who do not speak Spanish, face limited access to education.<sup>158</sup> Gender discrimination worsens this educational divide, as women and young girls are often relegated to home-based duties instead of attending school.<sup>159</sup> The Office of the High Commissioner for Human Rights (OHCHR), in its 2025 report, noted that discrimination, particularly against women and LGBTQ+ communities, has remained a pervasive issue within Guatemalan society.<sup>160</sup> Gender-based violence affects over 50% of all women, and in 2024, there were a reported “50,645 cases of violence against women, including 723 femicides.”<sup>161</sup> The same source reported similar discrimination against the queer community, which resulted in 39 deaths in 2023. Despite these figures, the state lacks anti-discrimination and hate crime legislation to protect LGBTQ+ individuals.<sup>162</sup>

---

<sup>153</sup> Myrna Mack Foundation and WOLA (n 136).

<sup>154</sup> U.S. Department of State (n 152).

<sup>155</sup> *ibid.*

<sup>156</sup> World Bank, *Guatemala Overview* (April 2025) <<https://www.worldbank.org/en/country/guatemala/overview>> accessed 20 May 2025.

<sup>157</sup> U.S. Department of State (n 152).

<sup>158</sup> OHCHR, *Situation of Human Rights in Guatemala* (n 130) 10.

<sup>159</sup> U.S. Department of State (n 152).

<sup>160</sup> OHCHR, *Situation of Human Rights in Guatemala* (n 130) 8.

<sup>161</sup> *ibid.* 6.

<sup>162</sup> HRW, *World Report 2024: Guatemala* (n 148).

Civil society organizations have spearheaded efforts to protect these marginalized groups and advocate for human rights safeguards but have faced increasing repression from the government.<sup>163</sup> Non-governmental organizations and community networks played an integral role in creating victim-centered mechanisms during the transitional period, particularly regarding the need for structural transformation.<sup>164</sup> Contemporary grassroots and civil organizations continue to advocate for and contribute to progressive social reform, as the mechanisms during the transitional process neglected to adequately address structural issues concerning impunity, memorialization, and social exclusion of minority groups.<sup>165</sup> However, civic spaces have begun to shrink amid considerable government targeting. The OHCHR has reported that the government intentionally targets human rights activists and journalists through prosecutorial sanctions and direct threats from judicial officials.<sup>166</sup> In 2020, a controversial reform, Decree 4-2020, was passed in the Guatemalan legislature, restructuring the Guatemalan Civil Code and laws governing NGOs.<sup>167</sup> This law, criticized by both the Inter-American Commission on Human Rights (IACHR) and the Office of the Special Rapporteur for Freedom of Expression, imposes strict restrictions and regulatory criteria on the creation, operations, and actions of Guatemalan NGOs.<sup>168</sup> These restrictions are particularly detrimental to youth, who constitute a substantial mobilized base of civil organizations.<sup>169</sup>

## 2.10: The Rise of Youth Gangs and State Security Responses

As Guatemala continues to grapple with the inadequate legacy of the transitional process and the subsequent consequences of impunity, marginalization, and shrinking civic spaces, the impact on the country's youth has been profound. Johan Galtung's theory of structural violence provides a lens for understanding the growth of contemporary crime. He posits that the denial of basic needs, such as through poverty, exclusion, and lack of educational and economic

---

<sup>163</sup> OHCHR, *Situation of Human Rights in Guatemala* (n 130).

<sup>164</sup> Luis Alberto Padilla, 'Conflict Transformation: Peace-Making and Peace-Building in Guatemala' (1995) 27(4) *Peace Research* 17.

<sup>165</sup> OHCHR, *Situation of Human Rights in Guatemala* (n 130) 4.

<sup>166</sup> *ibid.*

<sup>167</sup> Inter-American Commission on Human Rights (IACHR), *IACHR and RFOE Reject Entry into Force of Reforms to the Nongovernmental Organizations Act in Guatemala* (19 May 2021) <[https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2021/128.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/128.asp)> accessed 20 May 2025.

<sup>168</sup> *ibid.*

<sup>169</sup> OHCHR, *Situation of Human Rights in Guatemala* (n 130) 8.

opportunities, constitutes violence, thereby enabling cycles of harm rooted in social injustices.<sup>170</sup> The development of youth gangs in Guatemala illustrates how these social injustices have manifested into physical violence.<sup>171</sup> While the origin of these gangs is traceable to the Civil War, their growth and evolution have been primarily due to the enduring structural violence faced by the state's youth.

The mass emigration of Guatemalans fleeing the violence of the armed conflict marked a critical starting point for the formation of youth gangs.<sup>172</sup> As Guatemalan youths fled to the United States to escape the conflict, a large population settled in Los Angeles.<sup>173</sup> These juveniles, along with others from El Salvador and Honduras, experienced economic and cultural marginalization and were often left without consistent adult supervision, as parents and guardians had to work to survive.<sup>174</sup> As a result, these individuals sought opportunities for social cohesion and support, which they found in Los Angeles-based gangs.<sup>175</sup> New members joined pre-existing organizations, such as *Barrio-18*, or formed new ones grounded on national identity, most notably *Mara Salvatrucha*.<sup>176</sup> As these groups grew in members, so did their power, eventually becoming recognized transnational organizations across the Americas.<sup>177</sup> The end of the Guatemalan war signaled a shift in the formation and spread of these *maras*, as individuals returned home and the United States began to deport convicted gang members back to the country.<sup>178</sup> Once back in Guatemala, juveniles faced similar experiences of social exclusion, underemployment, and limited access to education. Utilizing the knowledge and practices gleaned from the U.S. gangs, returning migrants catalyzed the proliferation of the *maras* and *pandillas* within the country.<sup>179</sup> Worth noting, however, is that gangs existed in Guatemala before the importation of Los Angeles-based networks. Local gangs, such as *Los Guerreros*, emerged as a response to the structural violence and military repression of the 1980s and later adopted the methods and traditions of the U.S.-based organizations following the influx of new members in

---

<sup>170</sup> Galtung (n 31).

<sup>171</sup> Manz (n 12).

<sup>172</sup> Golob (n 4).

<sup>173</sup> Centro de Estudios y Programas Interamericanos (CEPI), *Pandillas juveniles transnacionales en Centroamérica, México y los Estados Unidos* (ITAM 2006).

<sup>174</sup> Zinecker (n 14).

<sup>175</sup> CEPI 2006 (n 173).

<sup>176</sup> *ibid.*

<sup>177</sup> *ibid.*

<sup>178</sup> Pérez (n 126).

<sup>179</sup> Golob (n 4).

the 1990s.<sup>180</sup> Experiences of social injustice, compounded with enduring traditions of violence from eras of colonialism to civil conflict, allowed the gang networks to expand rapidly within urban communities.

The youth gangs now pose one of the most significant threats to national security in Guatemala, with the most prominent organizations—*Barrio 18* and *Mara Salvatrucha*—collectively estimated to have around 20,000 members.<sup>181</sup> These *maras* intentionally target disadvantaged youths, sometimes recruiting members as young as seven years old.<sup>182</sup> While the majority of members are male, women are also present within the organizational structure and sometimes hold leadership positions.<sup>183</sup> Youth gangs in Guatemala maintain high rates of member retention, as disengagement is notoriously tricky. Members who leave the group are often viewed as a security threat, and formal leaving procedures are not recognized.<sup>184</sup> These dynamics have contributed to the rapid growth and expansion of the organizations. Beyond homicides, youth gangs contribute to social destabilization through narcotics trafficking and extortion of local businesses and public transportation.<sup>185</sup> The racketeering of impoverished neighborhoods serves to further exacerbate the country's structural insecurities, as well as contributes to enduring cycles of violence.<sup>186</sup> Research on the impact of *maras* and *pandillas* on Guatemalan society has found that "violence and crime create a self-perpetuating system for gangs...where gangs' actions exacerbate and create issues of poverty, crime, and inequality, and the like, thus festering gang proliferation even more."<sup>187</sup>

In response to the increases in youth crime, the Guatemalan government has enacted strict punitive and retributive legislative frameworks.<sup>188</sup> These policies prioritize incarceration as the primary method to address crime; however, prisons within the state are characterized by significant institutional challenges and inhumane conditions.<sup>189</sup> Human rights violations within

---

<sup>180</sup> Zinecker (n 14).

<sup>181</sup> Cruz 'The State and the Reproduction of Violence' (n 78).

<sup>182</sup> Golob (n 4).

<sup>183</sup> Pérez (n 126).

<sup>184</sup> José Miguel Cruz et al., *A Study of Gang Disengagement in Guatemala* (American Institutes for Research & Florida International University 2020)  
<<https://lacc.fiu.edu/research/the-street-gangs-in-central-america-research-initiative-scrain/guatemala-gang.pdf>>  
accessed 20 May 2025.

<sup>185</sup> Cruz 'The Root Causes of the Central American Crisis' (n 1).

<sup>186</sup> Pérez (n 126).

<sup>187</sup> Golob (n 4).

<sup>188</sup> Rodrigo Batres, *Aproximación a las prácticas de justicia restaurativa en el sistema de justicia penal juvenil guatemalteco* (Instituto de Estudios Comparados en Ciencias Penales de Guatemala 2015).

<sup>189</sup> Pérez (n 126).

prisons are rampant, and rather than deterring crime, they serve to strengthen gang affiliation and recruitment.<sup>190</sup> Although Guatemala is party to several international juvenile protection mechanisms, including the Convention on the Rights of the Child (CRC), the Beijing Rules, Riyadh Guidelines, and the United Nations Guidelines for the Prevention of Juvenile Delinquency, judicial responses continue to prioritize punishment over social and psychological rehabilitation of youth offenders.<sup>191</sup> The state has introduced restorative frameworks to juvenile crime through the *Ley de Protección Integral de la Niñez y Adolescencia* (LPINA), which particularly applies to youths affected by socioeconomic disparities. Nevertheless, the prevailing sentiment amongst the public remains that only retributivism can bring justice.<sup>192</sup> Despite a growing body of research and literature demonstrating the positive effects of restorative approaches on juveniles, hard-line approaches to crime remain the standard.<sup>193</sup>

---

<sup>190</sup> Dudley and Bargent (n 6).

<sup>191</sup> Batres (n 188).

<sup>192</sup> *ibid.*

<sup>193</sup> Golob (n 4).

### Chapter 3: The Evolution of Retributive Policies and Impacts on the Carceral System

The previous chapter provided a comprehensive overview of the emergence of conflict within Guatemala, situating the origins of structural injustices and the civil war within the context of colonization and imperialism. Tracing the history of the region, the origins of the conflict, and the transitional process reveals that youth gangs emerged as a consequence of violence from the war, which exacerbated pre-existing social injustices. The chapter then examined Guatemala's transitional justice measures, highlighting the limitations of their implementation and the subsequent proliferation of youth violence. The country's transitional mechanisms, although innovative and revolutionary for the time, did little to address the structural roots of crime and social inequities and faced considerable obstacles in implementing and enforcing peace-building mechanisms. Examining this history reveals how deeply entrenched violence is within Guatemalan society and how the government and institutional weaknesses sustain this norm.<sup>194</sup>

The first section of the following chapter explores how the limitations of the transitional process influenced the development of modern retributive justice. In particular, Section One examines how militarized policies from the conflict, along with subsequent impunity protections for military and political elites, contributed to the emergence of *mano dura* policies. Utilizing the critical theoretical lens of Tietel and Zineckers, this section traces the evolution of wartime policies into contemporary criminal justice approaches, correlating this development with the deficits of the transitional process. Section Two then examines the impact of retributive *mano dura* policies in reinforcing the enduring culture of violence in the state and facilitating cycles of violence within the context of gangs and youth incarceration. Analyzing the effects of retributivism on society reveals that hard-on-crime policies exacerbate social violence and abusive prison conditions, ultimately leading to the strengthening of gang networks. This chapter demonstrates how retributive policies emerged from institutional challenges unremedied during the transitional process, ultimately contributing to patterns of violence that both target and are reproduced by marginalized juvenile populations.

---

<sup>194</sup> Cruz, 'The State and the Reproduction of Violence' (n 78).

## Part I: From Militarization to *Mano Dura*

### 3.1: Hybrid Regimes, Impunity, and Militarized Frameworks

Recalling an earlier regional comparison, Guatemala, Honduras, and El Salvador have all faced post-transitional struggles with impunity. While the following analysis focuses exclusively on Guatemala, the broader connection between impunity, the retention of militarized frameworks, and the development of retributivist policy in these three states illustrates that the emergence of punitive state frameworks in Guatemala is not a unique phenomenon. The subsequent section explores how Guatemala's transition from civil war and authoritarian rule maintained entrenched elitist structures due to insufficient accountability and victim-centered programs. In turn, impunity and amnesty laws, passed by those who remained in power, obstructed social reform and reinforced the marginalization of minority groups.<sup>195</sup> As a result, militarized policing utilized during the conflict persisted and evolved into repressive crime control policies.<sup>196</sup> These contemporary implementations of hard-on-crime retributivist policies throughout Guatemala prioritize imprisonment and punishment over rehabilitation and reintegration. Often referred to as *mano dura* or hard fist, these policies have resulted in the mass incarceration of gang members and have led to grave human rights violations within facilities. Inhumane carceral conditions, exacerbated by *mano dura* policies, directly contribute to enduring cycles of violence, particularly among incarcerated juveniles.<sup>197</sup>

#### 3.1.1 Theoretical Framework

The theory of how transitional processes, particularly those that prioritize impunity and the preservation of militarized frameworks, influence the development of post-conflict law is well-studied by criminologists and transitional justice scholars. In her seminal work, *Transitional Justice*, Ruti Teitel argues that the peacebuilding process involves a “normative shift,” in which previously established political and legal norms experience a degree of transformation relative to the nature of the transition.<sup>198</sup> These shifts are particularly relevant to transitional contexts, which

---

<sup>195</sup> Bowen (n 118).

<sup>196</sup> Zinecker (n 14).

<sup>197</sup> Cruz, ‘The State and the Reproduction of Violence’ (n 78).

<sup>198</sup> Ruti G Teitel, *Transitional Justice* (Oxford University Press 2000) 6.

provide an opportunity to create and implement new normative standards. Within these settings, Teitel postulates that the transformations of legal norms are shaped by existing ideologies and historical narratives, including public perceptions of law and justice.<sup>199</sup> As such, these interpretations influence the creation of new frameworks and normative values. This process is reciprocal, as transitional processes and outcomes reflect and shape social conceptions of the rule of law and justice. When considering amnesty and criminal trials, she argues that the application of prosecutorial immunities by transitional states may not be grounded in pre-existing legal norms but rather in political rhetoric. She argues that ruling parties may incorrectly frame the justification of impunity laws under legalistic ideologies, even when normative standards may differ.<sup>200</sup> Transitional mechanisms, such as amnesties, that attempt to balance political goals with peacebuilding have lasting implications for public sentiments regarding justice and the rule of law. Put succinctly, “unresolved problems of transitional justice often have lasting implications over a state’s lifetime.”<sup>201</sup>

Heidrun Zinecker’s report, *Violence in Peace: Forms and Causes of Postwar Violence in Guatemala*, examines a similar connection between the limitations of transitional processes and the persistence of enduring social challenges and violence. She argues that post-conflict violence emerges from “regime hybridity” and “extreme bipolarity” between the prevailing oligarchy and the most socioeconomically marginalized populations, as these dichotomies limit economic opportunities and facilitate the persistence of militarized and repressive state responses.<sup>202</sup> She claims that regime hybridity—systems of governance that are superficially democratic but retain authoritarian structures—weakens the rule of law and allows for the continuation of impunity and corruption. Within Guatemala, a substantial lack of prosecutorial accountability exists, which she attributes to the inadequate reform of militarized structures during the transitional process and a continuing climate of impunity. As a result, over 94% of crimes receive impunity protections,<sup>203</sup> and over 64% of those incarcerated have not received complete due process.<sup>204</sup> Critically, Zinecker does not deny the influence of structural factors, such as poverty, discrimination, and cycles of violence, in the reproduction of harm. Instead, she finds that these

---

<sup>199</sup> Teitel (n 198).

<sup>200</sup> Teitel (n 198).

<sup>201</sup> Teitel (n 198) 9.

<sup>202</sup> Zinecker (n 14) 21, 39.

<sup>203</sup> CICIG 2019 (n 144).

<sup>204</sup> Zinecker (n 14).

factors exist within the landscape of political and economic injustice, forming an interdependent system that reproduces violence. Her findings supplement existing theoretical models of structural violence, highlighting the need for transitional mechanisms that address all facets of socioeconomic and political marginalization.

### 3.2: Historical and Contemporary Militarization

During the civil war, the Guatemalan government heavily prioritized militarized measures to control insurgent groups.<sup>205</sup> At the same time, repressive policies gained political legitimacy, cited by the government as necessary to protect the regime and ensure national security.<sup>206</sup> Findings from the CEH illustrate that the militarization of the state was a deliberate strategy by the Army to consolidate power within the government, resulting in control of the executive, judiciary, and even influencing social ideologies by the 1980s.<sup>207</sup> During the armed conflict, weakened judicial institutions were replaced by clandestine, military-directed, and politically backed punitive structures that operated as a primary instrument of repressive social control. This process became possible through the National Security Doctrine, which created the foundation for the militarization of the state.<sup>208</sup> Central to the doctrine was the intentional framing of the Mayan population and insurgent groups as an “internal enemy.”<sup>209</sup> This legislation facilitated the creation of the counter-insurgent PACs and enabled the systematic repression and persecution of Indigenous groups.<sup>210</sup> Even social development efforts during the conflict were affected by militarized policies. The *Plan Nacional de Seguridad y Desarrollo*, approved under the Ríos Montt regime, purported to advance civic advancement and provide shelter for displaced civilian groups.<sup>211</sup> In practice, however, this plan functioned as a military monitoring mechanism and “re-education” program for Indigenous groups.<sup>212</sup> Such initiatives exemplify how deeply ingrained militarized policies have become within the government and the extent to which they have been prioritized over victim-centered mechanisms.

---

<sup>205</sup> Cruz, ‘The State and the Reproduction of Violence’ (n 78).

<sup>206</sup> *ibid.*

<sup>207</sup> CEH 1999 (n 85) 24.

<sup>208</sup> *ibid.*

<sup>209</sup> *ibid.* 20.

<sup>210</sup> *ibid.* 39.

<sup>211</sup> Rebecca RC Clouser, ‘Security, Development, and Fear in Guatemala: Enduring Ties and Lasting Consequences’ (2019) 109 *Geographical Review* 382, 388.

<sup>212</sup> *ibid.* 388.

The violent and repressive military strategies utilized by the Guatemalan state against the URNG and institutionalized into the PACs have continued to prevail in modern society, as such frameworks were not dismantled during the transitional process.<sup>213</sup> As a result, contemporary tough-on-crime approaches, such as *mano dura*, reflect these militarized policing strategies.<sup>214</sup> As Teitel and Zincker argue, hybrid regimes that retain elitist structures and prioritize impunity during the transitional process often hinder the evolution of legal norms and impede social transformation. In Guatemala, the transitional regime deprioritized the prosecutions of political and military perpetrators of human rights violations and implemented widespread immunity protections, which considerably obstructed lasting social and political reform.<sup>215</sup> The state passed the 1996 National Reconciliation Law, granting amnesty protections for both political and common crimes to perpetrators from state and non-state entities. Although the law explicitly excluded crimes against humanity, in practice, prosecutions against those responsible for human rights violations committed during the war were significantly limited.<sup>216</sup> This amnesty law also undermined the effectiveness of the CEH by creating considerable political obstacles and limiting its mandate.<sup>217</sup> These constraints manifested in the CEH's inability to name perpetrators or the primary aggressors of the conflict, limiting the scope of accountability and revealing the political objective of preserving impunity for state and military personnel.<sup>218</sup> In line with Teitel and Zincker's findings, the enactment of the National Reconciliation Law exemplifies how Guatemala maintained a hybrid regime through the retention and underprosecution of personnel involved in the conflict.

Scholars such as Zinecker, Cruz, and Bowen have explored the impact of impunity on the retention of militarized policies in Guatemala. They postulate that the militarization of the police and the persistence of violence are closely linked to the retention of political and military elites in positions of power after the transitional process. Given that over 93% of all human rights violations and war crimes were committed by the Guatemalan state,<sup>219</sup> the evocation of the 1996 National Reconciliation Law clearly demonstrates how these elites manipulated legislation to safeguard their power and avoid accountability. Cruz argues that these impunity protections

---

<sup>213</sup> *ibid.*

<sup>214</sup> Cruz, 'The Root Causes of the Central American Crisis' (n 1).

<sup>215</sup> Bowen (n 118).

<sup>216</sup> Roht-Arriaza, 'Guatemala: Lessons for Transitional Justice' (n 111).

<sup>217</sup> Sieder and Wilson (n 74).

<sup>218</sup> de León Escribano and Chávez (n 90).

<sup>219</sup> CEH 1999 (n 85).

facilitated the formation of “hidden power” groups, where political and military perpetrators collaborated to secure immunity protections and exert their influence over state institutions.<sup>220</sup> He claims that these networks shaped governmental structures to consolidate their power, allowing for the proliferation of corruption and weakening judicial bodies, and profoundly impacting security sector reforms.<sup>221</sup> As Zinecker notes, efforts to demilitarize the police and military were obstructed by the dominant elites, resulting in the preservation of militarized policies and the retention of over 75% of former officers.<sup>222</sup> Bowen supplements these arguments by claiming that the reliance on amnesties and deprioritization of prosecutions within the transitional process eroded the public’s perception of the rule of law.<sup>223</sup> She asserts that the lack of both prosecutorial and judicial accountability prevented meaningful social transformation and fostered distrust in the state institutions.<sup>224</sup> These findings provide a foundation for understanding how retributive *mano dura* policies evolved from the perpetuation of militarized and security-based approaches.

### 3.3: The Development of *Mano Dura*

Guatemala continues to grapple with impunity and corruption, remnants of the pre-and post-war authoritarian regimes.<sup>225</sup> These systemic challenges led to the preservation of militarized wartime policies, which have since evolved into contemporary retributive justice. Although the origins of repressive and zero-tolerance policies can be traced back to the colonial era, particularly through Indigenous labor exploitation and punitive control, they have survived into the modern era through systemic structural challenges inadequately addressed during the transitional process.<sup>226</sup> The concept of *mano dura* emerged in the early 2000s from El Salvador as a zero-tolerance approach to gang violence.<sup>227</sup> In 2003, Guatemala emulated El Salvador’s model with the implementation of Plan Sweep, a policy permitting indiscriminate arrests of

---

<sup>220</sup> Cruz ‘The State and the Reproduction of Violence’ (n 78) 18.

<sup>221</sup> Cruz, ‘The Root Causes of the Central American Crisis’ (n 1).

<sup>222</sup> Zinecker (n 14).

<sup>223</sup> Bowen (n 118).

<sup>224</sup> *ibid.*

<sup>225</sup> OHCHR, *Situation of Human Rights in Guatemala* (n 130).

<sup>226</sup> Davies (n 64).

<sup>227</sup> Carlos García, ‘Tracing the History of Failed Gang Policies in US, Northern Triangle’ (*Insight Crime*, 3 December 2015)

<<https://insightcrime.org/news/analysis/tracing-the-history-of-failed-gang-policies-in-us-northern-triangle/>>  
accessed 12 June 2025.

suspected gang members.<sup>228</sup> This initiative was not successful, and an investigation by the IACHR has reported that the National Civil Police falsified evidence to target and arrest impoverished youths.<sup>229</sup> Despite Plan Sweep's ineffectiveness, tough-on-crime policies gained further institutional traction with the 2004 presidential election of conservative party member Óscar Berger.<sup>230</sup> Berger's policies centered around repressive gang control, including proposals to try gang-affiliated children above the age of 12 as adults and to lengthen prison sentences.<sup>231</sup> His directives spurred the creation of the National Action Unit Against the Development of Gangs (PANDA), an anti-gang body within the National Civilian Police that overwhelmingly targeted youth and failed to secure meaningful convictions.<sup>232</sup>

Although Berger's tough-on-crime proposals were not fully enacted in the Guatemalan legislature, his rhetoric and policy agendas laid the groundwork for the resurgence of retributive policies in later regimes. In 2011, former military general Otto Pérez Molina ran for the presidency, centering his campaign under a *mano dura* rhetoric.<sup>233</sup> His election represented a growing trend towards hard retributivism in Guatemala and exemplified how wartime military elites evaded legal accountability and retained power within state institutions. Pérez Molina's presidency ushered in an era of punitive law enforcement and remilitarization, marked by the deployment of over 2500 active-duty military personnel in public law enforcement.<sup>234</sup> Ironically, despite his tough-on-crime stance, his presidency ended with his indictment and imprisonment on charges of corruption. His successor, Jimmy Morales, won the position with support from the *Frente de Convergencia Nacional*, a conservative political party composed of former military elites.<sup>235</sup> Although Morales campaigned on an anti-corruption platform, he was investigated by the CICIG and, in retaliation, allowed the organization's mandate to expire.<sup>236</sup> This action further entrenched corruption within the government, worsened socioeconomic divides, and decreased

---

<sup>228</sup> *ibid.*

<sup>229</sup> Inter-American Commission on Human Rights (IACHR) Rapporteurship on the Rights of the Child, *Juvenile Justice and Human Rights in the Americas* (OEA/Ser.L/V/II.78, 13 July 2011) <<https://www.oas.org/en/iachr/children/docs/pdf/juvenilejustice.pdf>> accessed 12 June 2025.

<sup>230</sup> Patrick Gavigan, *Against the Odds: CICIG in Guatemala* (Open Society Justice Initiative 2016) <<https://www.justiceinitiative.org/uploads/88ffafc0-09bf-4998-8ef3-e2a175e3f455/against-odds-cicig-guatemala-20160321.pdf>> accessed 21 June 2025.

<sup>231</sup> Clare Ribando Seelke, *Gangs in Central America* (CRS Report RL34112, Congressional Research Service, 26 Nov 2012) <<https://www.refworld.org/reference/regionalreport/uscrs/2012/en/89520>> accessed 12 June 2025.

<sup>232</sup> García (n 227).

<sup>233</sup> Clouser (n 211).

<sup>234</sup> *ibid.*

<sup>235</sup> *ibid.*

<sup>236</sup> CICIG (n 144).

public trust in state institutions, ultimately reinforcing the structural injustices that strengthen gangs.<sup>237</sup>

Contemporary iterations of *mano dura* have re-emerged, furthered by the retention of historical securitization policies and impunity within the government. Despite a slight legislative departure from tough-on-crime policies, the 2020 election of conservative party member Alejandro Giammattei refocused attention on curbing gang violence through retributive approaches.<sup>238</sup> Giammattei previously served as the director of Guatemala's penitentiary system, a tenure characterized by military takeovers of prison facilities and his later imprisonment over allegations of extrajudicial killings.<sup>239</sup> His crime control model mirrored the Salvadoran zero-tolerance approach, emphasizing increased imprisonment, lengthening sentencing, and the criminalization of individuals with assumed gang affiliation.<sup>240</sup> In an attempt to combat crime, these approaches employ heavy military and police interventions in civic spaces, utilize aggressive tactics, and prioritize incarceration while disproportionately targeting youth, often without substantive evidence or credible allegations.<sup>241</sup> Prioritizing security above all else, such policies frequently forgo civil rights protections and function without adequate checks and balances.<sup>242</sup> The consequences have been massive, with prison systems suffering the brunt of the effects due to mass incarcerations and inhumane conditions, exacerbated by deficits in state funding and inadequate resource allocation.<sup>243</sup>

Rather than reducing crime, *mano dura* policies have been associated with increasing levels of violence and a reduction in the public's faith in the state's justice system.<sup>244</sup> Although these approaches are popular in political rhetoric, research on their effectiveness reveals that they increase impunity and social insecurity.<sup>245</sup> Further studies specifically on youth demonstrate that the retributive prioritization of imprisonment substantially increases recidivism rates and

---

<sup>237</sup> Golob (n 4).

<sup>238</sup> *ibid.*

<sup>239</sup> José Manuel Cuevas, "*Conjunctures of the Return of the Iron Fist in Central America*" (Global Americas, 10 July 2020) <<https://globalamericans.org/the-return-of-the-iron-fist-in-central-america/>> accessed 12 June 2025.

<sup>240</sup> *ibid.*

<sup>241</sup> Robert Muggah, Juan Carlos Garzón and Manuela Suárez, *La "Mano Dura": Los costos de la represión y los beneficios de la prevención para los jóvenes en América Latina* (Instituto Igarapé, May 2018) <<https://igarape.org.br/wp-content/uploads/2018/06/La-Mano-Dura-Los-costos-de-la-represion-y-los-beneficios-de-la-prevencion-para-los-jovenes-en-America-Latina.pdf>> accessed 20 June 2025.

<sup>242</sup> *ibid.*

<sup>243</sup> Golob (n 4).

<sup>244</sup> Clouser (n 211).

<sup>245</sup> Muggah, Garzón and Suárez (n 241).

exacerbates inmates' mental health challenges.<sup>246</sup> These policies also contribute to the expansion of gangs, as networks are forced to adapt through the strengthening of underground operations and organizational networks.<sup>247</sup> As such, vulnerability and instability increased in gang-affected communities, worsening pre-existing systemic injustices.<sup>248</sup> The implementation of retributive policies, compounded by enduring corruption and impunity within state institutions, has resulted in low prosecutorial and judicial accountability.<sup>249</sup> As a result, levels of prosecution remain exceedingly low; as noted previously, an average of 94% of crimes go unprosecuted.<sup>250</sup> This percentage is even higher for crimes against vulnerable groups such as women, Indigenous peoples, and youth.<sup>251</sup> The overwhelming absence of institutional oversight has eroded public trust in the state and justice system, contributing to a resounding sentiment of a lack of “faith in the state’s ability to provide anything other than partial and arbitrary justice.”<sup>252</sup> Such sentiments perpetuate the enduring cultural belief that individuals must secure justice on their own, thereby fueling persisting paradigms of cultural and cyclical violence.<sup>253</sup>

## Part II: Cultural and Cyclical Violence

### 3.4: Cultural Violence

Understanding the culture of violence within Guatemala, particularly among the country’s youth, provides a framework for examining why *mano dura* ideologies have persisted and how violence within prisons becomes self-perpetuating. The endurance of cyclical violence is associated with the ineffectiveness of transitional justice mechanisms in confronting the causal roots of the conflict and delivering justice for victims and perpetrators.<sup>254</sup> Applying Teitel’s theory of normative shifting demonstrates that because structural injustices were not met with comprehensive legal or political reconsideration, models of inequity and exclusion persist. The

---

<sup>246</sup> Holman and Zeidenberg (n 33).

<sup>247</sup> Cruz, ‘The Root Causes of the Central American Crisis’ (n 1).

<sup>248</sup> *ibid.*

<sup>249</sup> Inter-American Commission on Human Rights (IACHR), *Preliminary Observations of On-Site Visit to Guatemala* (OEA/Ser.L/V/II.Doc.124/24, 15 August 2024)

<[https://www.oas.org/en/iachr/reports/pdfs/2024/preliminary\\_observations\\_guatemala.pdf](https://www.oas.org/en/iachr/reports/pdfs/2024/preliminary_observations_guatemala.pdf)> accessed 20 June 2025.

<sup>250</sup> CICIG 2019 (n 144).

<sup>251</sup> *ibid.*

<sup>252</sup> Pérez (n 126) 232.

<sup>253</sup> *ibid.*

<sup>254</sup> Roht-Arriaza, ‘Transitional Justice in Latin America’ (n 9).

over-politicization of the peace negotiations limited the success of the CEH's recommendations and other victim-centered mechanisms, including the *Programa Nacional de Resarcimiento*, and resulted in the deprioritization of victim-centered mechanisms and long-term national reform.<sup>255</sup> Rather than advancing social transformation, the dominant actors of the peacebuilding process, particularly the Guatemalan government and military elite, emphasized short-term economic objectives and political stabilization.<sup>256</sup> The imbalance in the negotiations resulted in a broad omission of the URNG's goals of advancing indigenous rights, land reform, and socioeconomic transformations.<sup>257</sup> As a result, the social injustices that existed before the war and which worsened during the conflict remained unaddressed and became further entrenched in the post-war society.<sup>258</sup> The normalization of violence within the state has been studied by criminologists who note that there is "a widespread culture in Guatemala that violence is an acceptable means of resolving conflict."<sup>259</sup> In line with Teitel's logic, this enduring culture reflects how the transitional process did not challenge persistent historical and ideological conceptions of structural injustice and violence, thereby allowing them to persist.

The state's emphasis on militarization and national security served to influence social perceptions regarding violence, contributing to the normalization of aggressive and repressive practices within Guatemalan culture. This phenomenon, along with its post-conflict implications, is observable in the creation of counterinsurgent civilian patrols. The state military established the PACs through the forcible recruitment of rural civilian and Indigenous populations.<sup>260</sup> Through intensive militarization and ideological training, these groups transformed into paramilitarized militias, conducting vigilante patrols and enacting extralegal justice that resulted in grave human rights violations during the armed conflict.<sup>261</sup> The radicalization and actions of these groups ultimately altered social conceptions of justice, such that "violence became a normal method of confronting conflictive situations and promoted contempt for the lives of others."<sup>262</sup> The transitional process did not effectively demobilize and disarm the PACs, allowing for their influence to continue into the modern day.<sup>263</sup> Contemporary civilian-led protection

---

<sup>255</sup> Sieder and Wilson (n 74).

<sup>256</sup> *ibid.*

<sup>257</sup> *ibid.*

<sup>258</sup> Cruz 'The State and the Reproduction of Violence' (n 78).

<sup>259</sup> Pérez (n 126) 232

<sup>260</sup> Sieder and Wilson (n 74).

<sup>261</sup> *ibid.*

<sup>262</sup> CEH 1999 (n 85) 27.

<sup>263</sup> Cruz 'The State and the Reproduction of Violence' (n 78).

forces, which originated from the PACs, continue to carry out extrajudicial lynchings and executions.<sup>264</sup> These groups operate under the same ideology as the PACs, citing a need for community-led justice in response to the lack of state-sanctioned crime protections.<sup>265</sup> However, they continually target and persecute Indigenous communities, thus continuing the legacy of repression and militarized violence within Guatemalan society.

### ***3.4.1: Youth and the Reproduction of Violence***

The continued presence of civilian patrol groups and high levels of violence in Guatemala illustrates how cultural violence and structural injustices have become normalized and transformed into contemporary forms of violence. As Galtung argues, unremedied structural violence creates conditions conducive to the emergence of crime, as people's primary needs are systematically unmet.<sup>266</sup> Guatemala's youth population is overwhelmingly affected by the systemic inequalities that preceded the conflict and persisted despite peacebuilding efforts. Socioeconomic factors, such as poverty, contribute to the endurance of violence within Guatemala, but only within the context of broader social injustices.<sup>267</sup> Youth in the state face limited educational and economic opportunities and are marginalized within society.<sup>268</sup> These factors, exacerbated during the armed conflict, contributed to the social conditions associated with gang development.<sup>269</sup> Research conducted by Cathy Spatz Widom in her landmark study, *The Cycle of Violence*, demonstrates how experiences of harm or neglect during childhood can influence later development of criminality.<sup>270</sup> She argues that "violence begets violence," noting children who experience harm are 53% more likely to commit a crime during adolescence.<sup>271</sup> Her research, combined with Galtung's theories on structural violence, demonstrates how youth gangs emerged from enduring systems of violence and injustice within Guatemala. In the years following the conflict, children who experienced abuse or neglect had minimal access to state

---

<sup>264</sup> *ibid.*

<sup>265</sup> *ibid.*

<sup>266</sup> Galtung (n 31).

<sup>267</sup> Pérez (n 126).

<sup>268</sup> Ailsa Winton, 'Young People's Views on How to Tackle Gang Violence in "Post-Conflict" Guatemala' (2004) 16 *Environment & Urbanization* 83.

<sup>269</sup> Pérez (n 126).

<sup>270</sup> Cathy Spatz Widom, *The Cycle of Violence* (1989) 244(4901) *Science* 160

<sup>271</sup> *ibid* 260.

programs for rehabilitation or protection.<sup>272</sup> This absence of intervention allowed cycles of violence to continue unaddressed, ultimately contributing to the formation of youth gangs.

*Pandillas* represent a paradox in Guatemala, often acting as both a source of crime and harm and the product of a sustained culture of violence and structural injustices. These groups contribute to the enduring cycles of violence within the state, exacerbating poverty and insecurity through extortion schemes, homicides, and narco-trafficking.<sup>273</sup> However, gangs are primarily a product of Guatemala's weak judiciary, corruption, and structural violence.<sup>274</sup> Legacies of impunity have influenced how juveniles are treated within the criminal justice system, as Human Rights Watch reports that "in contrast to the impunity enjoyed by police offenders, juvenile offenders, and even non-offenders, are dealt with harshly."<sup>275</sup> The same report details that immediately following the conflict, over 50% of incarcerated youth were held in detention for protective custody, not for criminal behavior, but because the state lacked the proper infrastructure to house children fleeing familial abuse.<sup>276</sup> Furthermore, a significant proportion of arrests of minors are carried out arbitrarily.<sup>277</sup>

High arrest rates, supplemented by political rhetoric that portrays juveniles, particularly boys, as dangerous, alter the public's perception and worsen marginalization.<sup>278</sup> As a result, young men often turn towards gangs to find community and economic opportunities—needs that the state has not addressed.<sup>279</sup> Today, *mano dura* and retributive policies reinforce this cycle by addressing crime through policies that facilitate violence.<sup>280</sup> At the time of implementation, youth gangs posed a minimal security challenge, but these policies quickly created social and carceral conditions that exacerbated the problem.<sup>281</sup> This dynamic is observable within Guatemala's penitentiary system, where retributive prison systems catalyze criminal behavior and gang development.<sup>282</sup>

---

<sup>272</sup> HRW, *World Report 2024: Guatemala* (n 148).

<sup>273</sup> Hernandez-Roy and Bledsoe (n 39).

<sup>274</sup> Golob (n 4).

<sup>275</sup> Human Rights Watch (HRW), *Guatemala's Forgotten Children: Police Violence and Abuses in Detention* (Human Rights Watch, July 1997) 3 <<https://www.hrw.org/reports/1997/guat1/>> accessed 20 June 2025.

<sup>276</sup> *ibid.*

<sup>277</sup> *ibid.*

<sup>278</sup> Muggah, Garzón and Suárez (n 241).

<sup>279</sup> Winton (n 11).

<sup>280</sup> Golob (n 4).

<sup>281</sup> Cruz 'The State and the Reproduction of Violence' (n 78).

<sup>282</sup> Dudley and Bargent (n 6).

### 3.5: Incarceration and Cycles of Violence

*Mano dura* policies, as stated earlier, constitute a retributive approach to crime, prioritizing incarceration of offenders without integrating rehabilitative or preventative mechanisms.<sup>283</sup> Within the context of Guatemala, these policies rely on mass incarceration, lengthened sentences, and punitive responses to crimes, often while forgoing human rights protections of due process and safeguards against arbitrary detention.<sup>284</sup> Moreover, many facilities have not been remodeled or renovated since the conflict, leading to subpar conditions and highlighting the state's lack of investment.<sup>285</sup> The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) issued a report in 2023 detailing the current conditions and issues faced by Guatemalan prisons. This report reveals that most prisons face extreme overcrowding, with some inmates obligated to share beds or sleep on roofs.<sup>286</sup> Corroborating this assessment, the World Prison Brief reports that although Guatemala's prison system has the capacity for approximately 8,000 inmates, the current number stands at around 23,000—a rate of 299% over capacity.<sup>287</sup> Even with this severe overcrowding, political elites still benefit from privileges, with some facilities constructing separate custom rooms to accommodate high-level inmates.<sup>288</sup> Mass incarceration often violates the rights of people deprived of liberty by exacerbating other issues, such as healthcare deficits, increases in violence, and constraints on resources.<sup>289</sup> Facilities for juveniles suffer from the same deficiencies, with prisons in derelict conditions and little to no educational or vocational programs.<sup>290</sup>

---

<sup>283</sup> Hernandez-Roy and Bledsoe (n 39).

<sup>284</sup> Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), Report on the Visit to Guatemala Undertaken from 8 to 19 October 2023: Observations and Recommendations Addressed to the State Party (CAT/OP/GTM/ROSP/1, 2023) <<https://undocs.org/CAT/OP/GTM/ROSP/1>> accessed 20 June 2025.

<sup>285</sup> Kevin Lewis O'Neill and Anthony W Fontes, 'Making Do: The Practice of Imprisonment in Postwar Guatemala' (2017) 16 Journal of Latin American Geography 31.

<sup>286</sup> *ibid.*

<sup>287</sup> Institute for Crime & Justice Policy Research, *World Prison Brief: Guatemala* (2023) <<https://www.prisonstudies.org/country/guatemala>> accessed 20 June 2025.

<sup>288</sup> SPT 2023 (n 284).

<sup>289</sup> *ibid.*

<sup>290</sup> *ibid.*

### 3.5.1: Youth Incarceration

Guatemala has four primary detention centers for minors: the *Centro Juvenil de Detención Provisional* (CEJUDEP-Gaviotas), the *Centro Juvenil de Detención Provisional para Varones* (CEJUDEP-Anexo), the *Centro Juvenil de Privación de Libertad para Varones* (CEJUPLIV II), and the *Centro Juvenil de Privación de Libertad para Mujeres* (CEJUPLIM).<sup>291</sup> Recently, the enactment of youth-centric legislation such as the *Modelo de Gestión Juvenil* has prompted the state to construct *Casa Intermedia*, a transitional center designed to support re-education and reintegration.<sup>292</sup> The *Secretaría de Bienestar Social de la Presidencia* (SBS), which is responsible for the administration of juvenile justice programs and policies, oversees these facilities.<sup>293</sup> Despite the existence of these specialized institutions, juveniles are occasionally detained in adult prisons, specifically the Pavón Prison Farm, Pavoncito Preventive Detention Center, and Zone 18 Pretrial Detention Center.<sup>294</sup> As discussed in further detail below, these adult centers often act as hubs for imprisoned gang members and have reported high levels of violence and abuse.<sup>295</sup> Although the state purports that these specialized facilities for minors focus on rehabilitation and reintegration, in practice, many incarcerated youth in Guatemala face the same issues as their adult counterparts, as prisons continue to prioritize punitive treatment.<sup>296</sup> Overcrowding, inhumane conditions, and reports of abusive treatment reflect how punitive policies have continued to affect Guatemala's juvenile justice system.

The abusive conditions of detainment within adult facilities in Guatemala demonstrate how pervasive human rights violations in these spaces lead to the consolidation of gang networks. Overcrowding in juvenile facilities occasionally leads to the transfer of minors into adult centers—namely Pavón, Pavoncito, and Zone 18—which, according to the SPT 2023 country report, documents some of the highest levels of abuse.<sup>297</sup> Minors in these facilities are, therefore, exposed to amplified rates of violence and extreme conditions and are at higher risk

---

<sup>291</sup> SPT 2023 (n 284).

<sup>292</sup> Agencia Guatemalteca de Noticias (AGN), 'En qué consiste el Modelo de Gestión Juvenil, que promueve la reinserción de jóvenes en conflicto con la ley' (AGN, 5 March 2021) <<https://agn.gt/en-que-consiste-el-modelo-gestion-juvenil-que-promueve-la-reinsercion-de-jovenes-en-conflicto-con-la-ley/>> accessed 20 June 2025.

<sup>293</sup> Secretaría de Bienestar Social (SBS), 'Sitio oficial de la Secretaría de Bienestar Social' <<https://www.sbs.gob.gt/>> accessed 20 June 2025.

<sup>294</sup> HRW, *Guatemala's Forgotten Children* (n 275)

<sup>295</sup> *ibid.*

<sup>296</sup> SPT 2023 (n 284).

<sup>297</sup> *ibid.*

for gang recruitment. However, these conditions are not exclusive to adult prisons. Juvenile facilities, though significantly less overcrowded, face deficits in food and potable water and are characterized by rampant physical and sexual abuse and criminal activity.<sup>298</sup> The prevalence of violence against inmates has been noted by the SPT, which reported that inmates at several youth facilities display signs of physical violence from guards, including forced strip searches and head shaving.<sup>299</sup> The report details that CEJUDEP and CEJUDEP II employ militarized force against inmates, utilizing repressive and forceful tactics that result in physical and psychological damage.<sup>300</sup> Moreover, educational and vocational training are scarce and often not integrated into the facility programming, and outdoor activities seldom last longer than two hours.<sup>301</sup> These conditions, much like those in adult facilities, demonstrate how retributive policies catalyze unjust carceral conditions, thereby deepening enduring cycles of violence within incarcerated youth.

### ***3.5.2: Mano Dura, Gangs, and Cycles of Violence in Prisons***

Mass incarceration and systemic abuse in prisons, facilitated by *mano dura* policies, have inadvertently created conditions for the consolidation of gangs, enabling increased recruitment and the strengthening of networks.<sup>302</sup> When incarcerated, high-level members of prominent *maras* have formed councils from which they direct external operations, particularly over narcotic trafficking and extortion.<sup>303</sup> The external influence these organizations wield is enormous, with key statistics reporting that over 70% of all extortion operations originate from within prisons.<sup>304</sup> The 2023 SPT report indicates that in many facilities, such as Zone 18 Pretrial Detention Centre, gangs have assumed control of daily operations and impose authority over staff.<sup>305</sup> Prisons also function as key spaces for the recruitment and training of new members,

---

<sup>298</sup> U.S. Department of State (n 152).

<sup>299</sup> SPT 2023 (n 284).

<sup>300</sup> *ibid.*

<sup>301</sup> *ibid.*

<sup>302</sup> Cruz ‘The State and the Reproduction of Violence’ (n 78).

<sup>303</sup> USAID, *A Study of Gang Disengagement in Guatemala – Key Takeaways* (American Institutes for Research & Florida International University, November 2020)

<<https://lacc.fiu.edu/research/the-street-gangs-in-central-america-research-initiative-scrain/summary-gang-guatemala-a.pdf>> accessed 20 June 2025.

<sup>304</sup> InsightCrime, ‘Guatemala: Organized Crime Profile’ (*InsightCrime*, 2024)

<<https://insightcrime.org/guatemala-organized-crime-news/guatemala/>> accessed 20 June 2025.

<sup>305</sup> SPT 2023 (n 284).

allowing gangs to grow and expand their influence.<sup>306</sup> Moreover, the use of violent force is often employed as a control tactic by both guards and gang members.<sup>307</sup> Violent conflicts between the two primary groups, *Barrio 18* and *Mara Salvatrucha*, are common as each struggles to maintain territorial and operational control.<sup>308</sup> The harsh environment and dilapidated conditions of the facilities have proven to reinforce gang dominance and amplify patterns of violence among incarcerated individuals, particularly youth.<sup>309</sup>

The expansion of gang networks within prisons exemplifies how these facilities and retributive policies contribute to Guatemala's enduring culture and cycles of violence.<sup>310</sup> Prisons act as a hub for the socialization and normalization of criminal behavior, resulting in increased levels of post-incarceration crime and recidivism.<sup>311</sup> Violence within prisons functions as a learned behavior, often replicated by low-level offenders who leave prisons more criminalized than when they entered. Incarcerated youth are particularly vulnerable to this dynamic, with studies from the Justice Policy Institute reporting that over 70% of youth in secure detention facilities reoffend after release.<sup>312</sup> Because *mano dura* represents a retributive and militarized model of crime control, the implementation of such programs often forgoes restorative initiatives.<sup>313</sup> Guatemalan detention facilities lack comprehensive rehabilitation and reintegration programs, providing few opportunities for educational or vocational training.<sup>314</sup> As a result, intermediary and intervention methods remain insufficient in disrupting the cycle of violence, enabling the perpetuation of this pattern inside and outside of prison. Although the state constructed centers such as the Pavón prison farm with a rehabilitative framework in mind, limited financial investment and the delegation of internal operations to inmates through the *Comité de Orden y Disciplina* allowed for the proliferation of violence and enabled powerful gangs and individuals to overtake the facilities.<sup>315</sup>

---

<sup>306</sup> Golob (n 4).

<sup>307</sup> SPT 2023 (n 284).

<sup>308</sup> Dudley and Bargent (n 6).

<sup>309</sup> Golob (n 4).

<sup>310</sup> Dudley and Bargent (n 6).

<sup>311</sup> Holman and Zeidenberg (n 33).

<sup>312</sup> *ibid.*

<sup>313</sup> Golob (n 4).

<sup>314</sup> SPT 2023 (n 284).

<sup>315</sup> O'Neill and Fontes (n 285).

## Chapter 4: The Policy, Practice, and Potential of Restorative Justice in Guatemala

Examining the emergence of *mano dura* policies in Guatemala reveals their alignment with militarized practices retained from the armed conflict. The previous chapter demonstrated how the transitional process's emphasis on impunity protections for political and military elites enabled the continued influence of these actors in shaping post-war criminal justice approaches. These individuals, now embedded in political parties and state institutions, have facilitated the continuation of wartime repressive strategies, transforming them into contemporary *mano dura* frameworks. Additionally, the chapter analyzed how the transitional process did not sufficiently engage with the systemic conditions that contribute to criminality, such as youth marginalization, socioeconomic disparities, and other forms of structural violence. The omission of these factors, combined with the continued influence of military and political elites, laid the foundation for the state's modern implementation of hard-line criminal policies. The continuity of these frameworks from the conflict into the post-war era has exacerbated Guatemala's enduring culture of violence, particularly among the youth. Finally, the chapter explored the consequences of *mano dura* policies on incarceration, illustrating how retributive models perpetuate cycles of violence and strengthen gang structures within penitentiary facilities.

The following section begins by examining the domestic and international policies for protecting children in conflict with the law. Guatemala has integrated international soft-law instruments and legislation on the protection of children with customary Indigenous justice practices to create a robust and comprehensive domestic legal framework grounded in restorative justice principles. However, these frameworks are seldom utilized in practice in Guatemala, highlighting a gap between the legal mechanisms and their implementation. The efforts of civil society and Indigenous groups in advancing and integrating restorative approaches are also explored, as well as the continual institutional repression that limits the impact of their efforts. Section Two examines the current, state-led applications of restorative justice in Guatemala, focusing on the implementation and effectiveness of existing mechanisms. The section continues with an exploration of civil society and community-level initiatives, emphasizing a growing public movement towards restorative justice. This analysis highlights the state's capacity to enact such frameworks and then transitions into a discussion of the merits of restorative and

victim-centered approaches in interrupting cycles of violence. Section Three studies the benefits of such strategies for preventing crime and lowering recidivism in juveniles, particularly through fostering reintegration, healing community relationships, and reducing stigmatization towards juveniles.

## **Part I: Domestic Policies and International Standards**

### **4.1: International Obligations and Normative Commitments**

Guatemala is a State Party to several United Nations human rights treaties regarding the protection of children in conflict with the law. As a member state of the United Nations, Guatemala is expected to adhere to the standards and principles outlined in numerous non-binding instruments. These include the Mandela Rules, which establish the general standards of treatment for people deprived of liberty, and the Beijing, Tokyo, Riyadh, and Havana Rules, which, respectively, address the administration, minimum standards, prevention, and protection of minors in conflict with the law.<sup>316</sup> These instruments also encompass the UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters and UN Guidelines on Justice in Matters Involving Juveniles, which both ensure further protections for children in the justice system and advocate for the use of restorative practices.<sup>317</sup> Although these instruments are considered soft law and are, therefore, non-binding, they provide a guiding framework that shapes the normative values concerning the applications of juvenile justice, restorative approaches, and the treatment of detained minors. Guatemala is also a State Party to several legally binding UN treaties and conventions, including the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).<sup>318</sup> The state was one of the first to sign and ratify the Convention on the Rights of the Child (CRC) and the Convention Against Torture and Other Cruel, Inhuman or

---

<sup>316</sup> Mandela Rules (UN Doc A/RES/70/175); Beijing Rules (UN Doc A/RES/40/33); Tokyo Rules (UN Doc A/RES/45/110); Riyadh Guidelines (UN Doc A/RES/45/112); and Havana Rules (UN Doc A/RES/45/113)

<sup>317</sup> Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (UN Doc E/2002/INF/2/Add.2) and Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (ECOSOC Res 2005/20).

<sup>318</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3; and International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

Degrading Treatment or Punishment (CAT) in 1990 and later acceded to the Optional Protocols of both treaties.<sup>319</sup> These instruments reinforce Guatemala's commitment to protecting children and preventing human rights abuses.

In addition to ratifying and adhering to UN principles, Guatemala is also a State Party to the conventions and declarations of the Organization of American States (OAS). This regional intergovernmental human rights body establishes both binding and non-binding frameworks to address the region's most pressing human rights challenges. Regarding protections for juveniles and incarcerated individuals, the state has acceded to the American Convention on Human Rights (ACHR) and the Inter-American Convention to Prevent and Punish Torture.<sup>320</sup> Although the Inter-American Commission on Human Rights (IACHR)—the monitoring body of the OAS—has not passed comprehensive treaties on juvenile justice, the ACHR contains provisions specific to the protection of minors. For instance, Article 19 establishes special protections for children, and Article 25 ensures the right to judicial protection.<sup>321</sup> The IACHR has also implemented a Rapporteurship on the Rights of the Child to monitor the status of the juvenile justice system within the region and create recommendations to improve related mechanisms and protections.<sup>322</sup> However, international bodies such as the OHCHR, SPT, IACHR, and the Committee on the Rights of the Child have criticized Guatemala's domestic implementations of both the UN and OAS treaty bodies, citing persistent violations regarding the repression of minority groups and inadequate treatment of children within the justice system.<sup>323</sup>

#### 4.2: Domestic Legal and Policy Instruments

Despite the persistence of punitive criminal justice models, Guatemala possesses a robust legal framework for the protection of minors, particularly regarding safeguards for children in conflict with the law. The state Constitution, enacted in 1985 and amended in 1993, contains several provisions pertaining to youth in the justice system. Specifically, Article 20 affirms that

---

<sup>319</sup> CRC (1989); CAT (1984); OP-CRC-AC (2000); OP-CRC-SC (2000); OP-CAT (2002)

<sup>320</sup> ACHR (1969); IACPPT (1985).

<sup>321</sup> ACHR (1969), arts 19 and 25.

<sup>322</sup> IACHR, *Juvenile Justice and Human Rights in the Americas* (n 229).

<sup>323</sup> OHCHR 2025; SPT 2023; IACHR 2024; and UN Committee on the Rights of the Child (CRC), *Concluding Observations on the Seventh Periodic Report of Guatemala* (CRC/C/GTM/CO/7, 21 June 2024) <<https://www.refworld.org/policy/polrec/crc/2024/en/149007>> accessed 1 July 2025.

the law must regard minors in conflict with the law differently than adults, requiring separate facilities and emphasizing education and rehabilitation over punitive measures.<sup>324</sup> The fundamental rights of minors are also protected through Article 51, which recognizes that the state must allocate additional attention to ensuring access to education, basic necessities, and security.<sup>325</sup> The Constitution's basic protections for minors are expanded upon in the *Ley de Protección Integral de la Niñez y Adolescencia* (LPINA), a legislative framework that directly addresses juvenile justice and the care of children in detention.<sup>326</sup> This statute, passed in 2003, establishes domestic protections for minors in alignment with the United Nations Convention on the Rights of the Child.<sup>327</sup> The policies mandated by LPINA expressly call for the use of restorative approaches within carceral settings and establish checks against civil rights and due process violations.<sup>328</sup> Article 128, for instance, explicitly states that deprivation of liberty against children is only permissible as a last resort and that such usage must be implemented when no alternative solutions exist.<sup>329</sup>

The state reaffirmed its commitment to protecting juveniles in conflict with the law through the passage of *Modelo de Atención Integral de Justicia Penal Juvenil* (MAIJU) in 2020.<sup>330</sup> This policy expands on the protections granted in the LPINA, mandating the integration of alternative sanctions, ensuring human rights protections, and facilitating coordination between state institutions.<sup>331</sup> The LPINA and MAIJU are supported by the *Política Pública de Protección Integral de la Niñez y Adolescencia*, a public policy initiative designed to guide and coordinate government action following the law's mandates.<sup>332</sup> This policy underscores the need for interinstitutional and international coordination to protect minors' rights, specifically through community organizations and educational systems.<sup>333</sup> Guatemala has also implemented

---

<sup>324</sup> Constitución Política de la República de Guatemala (Guatemala City, 31 May 1985, as amended by Legislative Decree No 18-93 of 17 November 1993)

<sup>325</sup> *ibid* art 51.

<sup>326</sup> Ley de Protección Integral de la Niñez y Adolescencia (LPINA) (Decreto 27-2003, Guatemala).

<sup>327</sup> Batres (n 188).

<sup>328</sup> *ibid*.

<sup>329</sup> LPINA (n 326) art 128.

<sup>330</sup> Ministerio Público & Secretaría de Bienestar Social, *Modelo de Atención Integral de Justicia Penal Juvenil* (MAIJU) (Guatemala, 2020)

<sup>331</sup> *ibid*.

<sup>332</sup> *Política Pública de Protección Integral de la Niñez y Adolescencia* (Secretaría de Bienestar Social de la Presidencia de la República & Movimiento Social por los Derechos de la Niñez y la Juventud, Guatemala, 2004).

<sup>333</sup> *ibid* 3.

independent oversight mechanisms under the Office of the Human Rights Ombudsman.<sup>334</sup> The *Defensoría de la Niñez* functions as the monitoring and oversight body of the LPINA, ensuring that the principles outlined by the *Política Pública de Protección Integral de la Niñez y Adolescencia* are enforced by state institutions.<sup>335</sup> Implementing these cooperative and comprehensive initiatives demonstrates that Guatemala recognizes the need for modern and empathetic responses to juvenile delinquency. Rather than relying on retributive *mano dura* policies, these frameworks illustrate a recognition of the merits of restorative justice in fostering reintegration, rehabilitation, and addressing the social needs of minors.

#### **4.2.1: Customary and Indigenous Approaches to Justice**

Guatemala's restorative frameworks draw from the legal traditions of the state's Indigenous peoples, particularly customs that emphasize reintegration and community-based approaches.<sup>336</sup> Indigenous traditions of justice in Guatemala have long preceded the conceptualization of restorative justice, but have influenced many of the same contemporary methods that prioritize reparations and preventive mechanisms.<sup>337</sup> For example, Quiché communities utilize a system called *pixap*, in which elders and authority figures gather with children in conflict with the law to discuss the repercussions of their actions and identify community-based solutions.<sup>338</sup> This *derecho consuetudinario*, or customary law, operates on a norm-based system and is typically recorded and passed through oral tradition.<sup>339</sup> Practices such as these influenced the law outlined in the LPINA, which prioritizes alternative solutions to incarceration and treats crime as a social harm that must be addressed through victim-centered approaches to achieve justice.<sup>340</sup> Given that Indigenous groups compose a sizable demographic of Guatemala's population, the integration of this customary law into state legislation demonstrates a recognition of the cultural and legal practices of a historically marginalized group. However, not all implementations of *derecho consuetudinario* reflect purely restorative approaches. Although some Mayan criminal justice traditions apply sanctions or corporal

---

<sup>334</sup> Defensoría de la Niñez, 'Quiénes somos' (n.d.)

<<https://www.defensorianinez.cl/home-adulto/sobre-nosotros-adulto/quienes-somos-adulto/>> accessed 25 June 2025.

<sup>335</sup> *ibid.*

<sup>336</sup> Batres (n 188).

<sup>337</sup> Davies (n 64) 673.

<sup>338</sup> Batres (n 188).

<sup>339</sup> Davies (n 64).

<sup>340</sup> Batres (n 188).

punishment, these retributive approaches are utilized as a last resort, as fostering forgiveness and addressing the community's needs are prioritized.<sup>341</sup>

### 4.3: The Implementation Gap

Despite the creation of restorative-centered legislation and monitoring bodies, the gap between legal standards and their practical application persists. LPINA, the primary legislative framework mandating restorative mechanisms in response to juvenile delinquency, was enacted over 20 years ago, yet the integration of restorative justice is still in its early stages.<sup>342</sup> As discussed in the previous chapter, continued reliance on impunity protections, retention of militarized frameworks, and the state's enduring culture of violence contribute to the perpetuation of hard-line retributive policies. Guatemala's continued reliance on *mano dura* policies demonstrates a stark deviation from established legal frameworks, underscoring the state's challenges with enforcement and oversight. This sharp disconnect is particularly salient within the carceral system, contributing to the weakening of systems protecting children in conflict with the law. For instance, the state's national youth policy, the *Política Nacional de Juventud 2021-2023*, was not approved for extension in 2024, undermining progress towards restorative integration and protections for incarcerated juveniles.<sup>343</sup> Additionally, the OAS has reported the lack of organization and tangible action within youth-focused institutions such as the SBS, noting "the lack of coordination among the various public institutions to assist this population is of concern."<sup>344</sup> This deficit is also reflected in state security strategies towards youth, as police continue to employ militarized responses to juvenile delinquency despite domestic and international policies mandating additional safeguards for children in conflict with the law.<sup>345</sup>

---

<sup>341</sup> Davies (n 64).

<sup>342</sup> Batres (n 188).

<sup>343</sup> OHCHR, *Situation of Human Rights in Guatemala* (n 130).

<sup>344</sup> IACHR, *Preliminary Observations of On-Site Visit to Guatemala* (n 249) 33.

<sup>345</sup> CICIG (n 144).

### 4.3.1: Repression of Civil Society and Indigenous Efforts

Indigenous groups constitute a primary advocacy force for incorporating restorative justice and *derecho consuetudinario* within Guatemala's justice system.<sup>346</sup> As examined in Chapter Two, criminal justice models in these communities emphasize micro- and meso-level restorative practices between victims, offenders, and the affected society, centralizing efforts such as reintegration and prevention. However, this group's efforts are mainly obstructed by institutional resistance and marginalization within policy-making spaces.<sup>347</sup> The historical persecution and systemic exclusion of Mayan populations during colonialism and the civil conflict have now extended beyond the social sphere and into legal and political spaces, hindering the integration of *derecho consuetudinario* into formal legislation.<sup>348</sup> Although Indigenous Peoples comprise between 40-60% of the population, they hold only 13% of congressional seats and occupy fewer than 200 positions within the judiciary.<sup>349</sup> Indigenous representatives face systemic obstacles in passing legislation promoting key community interests, such as land redistribution, cultural recognition, and economic development.<sup>350</sup> For example, efforts during the transitional process to promote Indigenous rights through a unifying body, *Coordinación de Organizaciones del Pueblo Maya de Guatemala* (COPMAGUA), were thwarted by right-wing political opposition.<sup>351</sup> This political resistance and lack of representation are particularly relevant in the context of state recognition of Indigenous justice traditions.

As noted in Chapter 2, Indigenous groups are required to conform to national legal standards, thereby relegating their customary law to informal or extrajudicial resolution mechanisms. Although the United Nations Declaration on the Rights of Indigenous Peoples and the International Labor Organization's Indigenous and Tribal Peoples' Convention protect the collective social, cultural, and economic rights of Indigenous peoples, the state has yet to fully implement these protections and largely disregards Indigenous legal practices.<sup>352</sup> For instance, Indigenous justice systems lack formal legal recognition, as the state has enacted legislation to

---

<sup>346</sup> Batres (n 188).

<sup>347</sup> *ibid.*

<sup>348</sup> Davies (n 64).

<sup>349</sup> Global Americans, 'Indigenous Political Representation in Guatemala' (13 June 2024)

<<https://globalamericans.org/indigenous-political-representation-in-guatemala/>> accessed 25 June 2025.

<sup>350</sup> *ibid.*

<sup>351</sup> Davies (n 64).

<sup>352</sup> Rhodri Williams, *ILAC Rule of Law Assessment Report: Guatemala* (International Legal Assistance Consortium, May 2018) <<https://ilacnet.org/wp-content/uploads/2018/05/Guatemala-Rule-of-Law-Assessment.pdf>> accessed 25 June 2025.

delegitimize such traditions.<sup>353</sup> Article 203 of the Guatemalan Constitution, which grants exclusive judicial jurisdiction to the state courts, has been “interpreted to preclude any legal recognition of Indigenous proceedings and judgments.”<sup>354</sup> In some cases, Indigenous People have faced persecution and incarceration for the use of their justice models, with traditional courts going as far as issuing punitive sanctions for community leaders.<sup>355</sup> Even so, some lower courts have adopted a form of legal pluralism, integrating Mayan justice customs within formal judicial proceedings or allocating overflow cases to the Indigenous system.<sup>356</sup> Notably, research has found that jurisdictions utilizing these integrated models experience the lowest levels of crime.<sup>357</sup>

Civil society organizations have also played a significant role in the implementation of restorative approaches within Guatemala, beginning with their contributions to the establishment and findings of the CEH.<sup>358</sup> The contemporary influence of such organizations remains salient, with community-led initiatives and NGOs comprising a key driving force for restorative mechanisms within the legal system—a role explored in greater detail in the subsequent sections. Yet, the civil society’s influence remains similarly impeded by institutional and legal repression.<sup>359</sup> As discussed in Chapter 2, legislation such as Decree 4-2020 severely restricts the operational capacity and advocacy abilities of NGOs and community organizations, significantly shrinking civic spaces. Activists are persecuted through arbitrary arrests and extrajudicial killings, actions often protected by state impunity.<sup>360</sup> Additionally, a strong link exists between civil society and Indigenous communities, as many of these organizations are led by Indigenous actors. These groups consistently advocate for the inclusion of Indigenous groups in institutional spaces and support initiatives pushing for legal pluralism and the integration of Indigenous justice practices.<sup>361</sup> The OHCHR and Committee on the Rights of the Child have recognized the crucial role of civil society in advocating for the rights of children and adolescents, but

---

<sup>353</sup> Global Americans (n 349).

<sup>354</sup> Davies (n 64) 694.

<sup>355</sup> Davies (n 64)

<sup>356</sup> Batres (n 188).

<sup>357</sup> Davies (n 64).

<sup>358</sup> Impunity Watch (n 94).

<sup>359</sup> OHCHR, *Situation of Human Rights in Guatemala* (n 130).

<sup>360</sup> *ibid.*

<sup>361</sup> Williams (n 352).

acknowledge that the state must better support these organizations and work in tandem in policy-making spaces.<sup>362</sup>

## **Part II: Restorative Justice Initiatives for Juveniles and Gang-Involved Gangs**

Despite the dominance of retributive frameworks and institutional resistance, restorative approaches have begun to emerge, demonstrating preliminary successes in reducing juvenile crime and interrupting cycles of violence. The following section discusses current applications of restorative justice within Guatemala, emphasizing the development of specialized legal and judicial programs, as well as the influence of civil society actors. Governmental initiatives, such as youth-specific courts, facilities, and public defense councils, are designed to integrate restorative approaches and respect the rights and vulnerable status of juvenile offenders. However, such approaches remain significantly underutilized and are subject to the ideological and political biases of those responsible for implementation. Civil society and community organizations have also spearheaded initiatives aimed at better integrating restorative approaches for juvenile populations. These organizations have played a significant role in influencing policies and programs that emphasize rehabilitation, reintegration, and alternative sanctions. Despite bureaucratic pushback, these non-state actors, particularly those originating from the grassroots, have demonstrated success through initiatives aiding youth affiliated with gangs. The effectiveness of both levels of integration underscores the value of restorative justice within Guatemala and the state's capacity to expand such programs.

### **4.4: State Programs For Restorative Juvenile Justice**

The LPINA and MAIJU, as discussed above, establish the legal framework for protecting and treating children in conflict with the Law in Guatemala. Article 98 of the LPINA mandates the creation of four dedicated juvenile courts—the *Juzgados de la Niñez y la Adolescencia*, the *Juzgados de Adolescentes en Conflicto con la Ley Penal*, the *Juzgados de Control de Ejecución de Medidas*, and the *Sala de la Corte de Apelaciones de la Niñez y Adolescencia*.<sup>363</sup> Subsequent

---

<sup>362</sup> OHCHR, *Situation of Human Rights in Guatemala* (n 130); and CRC, *Concluding Observations on the Seventh Periodic Report of Guatemala* (n 323).

<sup>363</sup> LPINA (n 326) art 98

articles specify that these institutions must provide access to mental health services, interpreters for individuals who speak Indigenous languages, and employ staff trained in child and adolescent rights.<sup>364</sup> Two of these courts, the *Juzgados de Adolescentes en Conflicto con la Ley Penal* and the *Juzgado de Control de Ejecución de Medida*, assist in the development of psychological profiles for juvenile offenders.<sup>365</sup> While these profiles assist judges in determining appropriate sanctions, the allocation of restorative or punitive measures remains dependent on the political or ideological leanings of the judge.<sup>366</sup> This inconsistent application of sanctions demonstrates why restorative justice remains insufficiently institutionalized and illustrates a need for judicial impartiality and consistent adherence to legal standards.

Although applications of carceral alternatives remain inconsistent, a 2020 study by the *Bureau International Catholique de l'Enfance* (BICE) and the *Instituto de Estudios Comparados en Ciencias Penales de Guatemala* (ICCPG) indicates a slow but continued growth in the use of non-custodial sanctions. This report showed that out of 1,530 adolescents in conflict with the law, 840 received alternative sanctions while 690 were imprisoned.<sup>367</sup> Additionally, courts dedicated to juvenile justice have integrated restorative mechanisms for victims. Judges who have received training about restorative and reparative mechanisms often choose to involve victims within the court proceedings, leading to higher instances of reconciliation and conflict resolution.<sup>368</sup> The Public Prosecutor's Office has introduced support offices for victims, fulfilling a key tenet within restorative justice—the prioritization of victim healing.<sup>369</sup> However, the full integration of victim-centered mechanisms and alternative sanctions remains challenged by fiscal constraints and a reluctance to depart from retributivism.<sup>370</sup> As such, a change is necessary not only within enforcement mechanisms but also within Guatemalan society. Advancing restorative approaches requires a cultural shift away from equating justice with punishment and towards the normalization of empathetic and rehabilitative strategies.

Alongside juvenile courts, Guatemala has also established specialized institutions to ensure that juveniles have the right to legal representation and to monitor and evaluate youth

---

<sup>364</sup> LPINA (n 326) art 99 and 100

<sup>365</sup> Batres (n 188).

<sup>366</sup> *ibid.*

<sup>367</sup> International Catholic Child Bureau (BICE), *PROGRAMA NIÑEZ SIN REJAS GUATEMALA* (March 2020) <<https://bice.org/app/uploads/2021/12/3.Reflexion-del-proceso-sobre-proyectos-de-vida.pdf>> accessed 1 July 2025.

<sup>368</sup> Batres (n 188).

<sup>369</sup> Williams (n 352).

<sup>370</sup> Williams (n 352); and Batres (n 188).

facilities. The *Instituto de la Defensa Pública Penal* (IDPP) functions as the primary state mechanism for providing legal services for adolescents and consists of teams of public defense attorneys, psychologists, and social workers.<sup>371</sup> This body seeks to promote individualized care and rehabilitative treatment for juveniles, collaborating with other justice sector institutions to ensure respect for the human rights of children in the legal process.<sup>372</sup> The IDPP's 2024 quarterly report demonstrated an upward trend in reintegrative and rehabilitative treatment within criminal justice institutions. Although the study does not differentiate between juveniles and adult offenders, it notes that 21% of cases involved non-custodial alternatives, highlighting an institutional capacity for restorative approaches.<sup>373</sup>

Similarly to the IDPP, the SBS—as mentioned in Chapter 3—functions as the state's leading body for the administration and oversight of restorative justice within juvenile facilities.<sup>374</sup> This body has developed a halfway house for juvenile offenders, *Casa Intermedia*, which integrates rehabilitative and familial reintegrative approaches for juveniles.<sup>375</sup> This program allows detainees to study and work while completing their sentences and has helped over 200 individuals gain vocational and educational skills pre-release.<sup>376</sup> The creation of this facility represents a practical and pivotal step towards addressing the systemic injustices faced by juveniles in society, namely, undereducation and unemployment. Although indicative of the upward trend towards alternative sanctioning, the program lacks comprehensive community reintegration for post-release juveniles.<sup>377</sup> This crucial deficit signifies that the SBS must continuously evaluate and adapt its programs to address all facets of restorative justice, including sustainable reintegration.

---

<sup>371</sup> Instituto de la Defensa Pública Penal (IDPP), 'Coordinaciones de adolescentes en conflicto con la ley penal' (IDPP, 2023)

<<https://www.idpp.gob.gt/index.php/que-es-el-servicio-publico-de-defensa-penal/coordinaciones-de-adolescentes-en-conflicto-con-la-ley-penal>> accessed 1 July 2025.

<sup>372</sup> *ibid.*

<sup>373</sup> Instituto de la Defensa Pública Penal (IDPP), *Análisis del boletín estadístico: periodo enero – marzo 2024* (IDPP, April 2024)

<<https://www.idpp.gob.gt/index.php/transparencia-idpp/estadisticas/290-trimestral/323-analisis-de-datos-2024>> accessed 1 July 2025.

<sup>374</sup> SBS 'Sitio oficial de la Secretaría de Bienestar Social' (n 293).

<sup>375</sup> *ibid.*

<sup>376</sup> Lincy Rodríguez, 'De los sueños a la realidad: la historia de Casa Intermedia y sus jóvenes' (AGN, 7 June 2024)

<<https://agn.gt/de-los-suenos-a-la-realidad-la-historia-de-casa-intermedia-y-sus-jovenes/>> accessed 1 July 2025.

<sup>377</sup> Batres (n 188).

#### 4.5: Non-State and Community-Based Initiatives

The gradual development of restorative practices within state institutions is partly attributable to civil society and community organizations advocating for and implementing these practices on a smaller scale. Both large NGOs and community-level grassroots organizations have supported Guatemala's development towards criminal justice reform, conducting research and investigations on the merits and results of restorative initiatives. Gang-specific organizations also seek to provide support to marginalized youth, integrating approaches to assist those most affected by structural violence. These initiatives, specifically those that originate from grassroots efforts, can connect with juvenile offenders and affected communities on a more intimate level, allowing for a more holistic understanding of the challenges they face and potential solutions.<sup>378</sup> Despite facing significant repression and underutilization by the government, civil society and community organizations have persisted and, as explored below, continue to fill the practical gaps left by the state.

##### 4.5.1: Civil Society and Advocacy Organizations

Large NGOs and prominent civil society organizations have played a significant role in advocating for alternatives to traditional punitive responses and in promoting dialogue around criminal justice reform. For example, the ICCPG serves as a primary entity for legal and criminological research in Guatemala and has acted as an advocacy organization and think tank since the signing of the Peace Accords.<sup>379</sup> This NGO has conducted critical research on the application of restorative approaches in Guatemala, transforming positive research findings into policy frameworks.<sup>380</sup> The ICCPG has also succeeded in advancing juvenile justice within the state by actively collaborating with governmental institutions, international organizations, and

---

<sup>378</sup> Kimberly Green Latin American and Caribbean Center (LACC), *Programas de intervención y gobernanza de pandillas a nivel local: El caso de Centroamérica* (Kimberly Green Latin American and Caribbean Center, Florida International University & American Institutes for Research, n.d.)

<<https://lacc.fiu.edu/research/the-street-gangs-in-central-america-research-initiative-scrain/resumen-programas-de-intervencion-y-gobernanza-de-pandillas-a-nivel-local.pdf>> accessed 1 July 2025.

<sup>379</sup> Instituto de Estudios Comparados en Ciencias Penales de Guatemala (ICCPG), 'Historia del Instituto de Estudios Comparados en Ciencias Penales de Guatemala' (*ICCPG*, 2020)

<<https://iccp.org.gt/historia-del-instituto-de-estudios-comparados-en-ciencias-penales-de-guatemala/>> accessed 1 July 2025.

<sup>380</sup> *ibid.*

community associations to create holistic and sustainable programs to safeguard the rights of children in conflict with the law.<sup>381</sup> Similarly to the ICCPG, the *Centro de Estudios de Guatemala* (CEG) functions as a high-level research and advocacy platform, particularly in the security and judicial reform sectors.<sup>382</sup> By producing specialized reports on juvenile violence, structural injustices, and the penitentiary system, the CEG has contributed to developing literature aimed at curbing youth crime.<sup>383</sup> These publications have also aided in closing the gap between state policies and implementations of juvenile justice by facilitating dialogue between state and civil actors.<sup>384</sup>

While prominent civil society actors, such as the ICCPG and the CEG, facilitate multilateral engagement between various domestic and international stakeholders, community-based organizations have successfully enacted change on a societal level through bottom-up mechanisms. Programs such as CIRCULA work on individual and local levels to promote restorative practices, such as victim-offender dialogues and community circles, as alternatives to punitive approaches.<sup>385</sup> Since 2012, this program has aided over 3,700 individuals and, through training and diploma programs, has disseminated alternative justice mechanisms across Guatemalan society and among civil society organizations.<sup>386</sup> CIRCULA exemplifies how grassroots initiatives can mobilize communities toward progressive penal reform, indicating a potential shift in the cultural reliance on violence as a form of justice. Similarly, the *Asociación Grupo Ceiba* (AGC) has long-standing roots in one of the most violence-affected communities within Guatemala, *El Limón*.<sup>387</sup> Founded by local activists seeking to develop intervention strategies for gang members, the AGC has evolved into a support network that offers educational and vocational support to marginalized youth. The AGC mobilizes small groups and community actors within neighborhoods, facilitating a bottom-up approach that addresses structural injustices and strengthens social cohesion.<sup>388</sup> These communal roots allow the AGC to negotiate

---

<sup>381</sup> Batres (n 188).

<sup>382</sup> Centro de Estudios de Guatemala (CEG), 'Acerca del CEG' (2018) <[http://www.ceg.org.gt/index.php?option=com\\_content&view=article&id=8](http://www.ceg.org.gt/index.php?option=com_content&view=article&id=8)> accessed 1 July 2025.

<sup>383</sup> *ibid.*

<sup>384</sup> *ibid.*

<sup>385</sup> Centro de Liderazgo Restaurativo (CIRCULA), 'Prácticas y Justicia Restaurativa' (*CIRCULA*, 2024) <<https://www.circulaguatemala.org/practicas-justicia-restaurativa/>> accessed 1 July 2025

<sup>386</sup> *ibid.*

<sup>387</sup> Daniel S Herrera Kelly, 'Local Non-Violent Strategies amid Guatemala's Post-Accord Violence: Understanding the Potential and Limitations in Poor Urban Neighbourhoods' (2023) *Peacebuilding* 299

<sup>388</sup> Grupo Ceiba, 'Página principal' (2022) <<https://www.grupoceiba.org/web/>> accessed 1 July 2025.

and garner respect from the *maras*, allowing the establishment of protection mechanisms for youth without external interference.<sup>389</sup> Such efforts demonstrate the desire of local communities to curb violence through alternative mechanisms, offering hope for further integration of restorative approaches.

#### **4.5.2: Grassroots and Community-Level Programs**

Micro-level and informal neighborhood measures have also begun to take shape as individuals seek to address their communities' challenges and disrupt cycles of violence. Within low-income and violence-stricken communities, localized peace campaigns have emerged, headed by local leaders who organize food distributions and facilitate mediations.<sup>390</sup> For instance, former members of *Barrio 18* in the *Colonia la Limonada* district in Guatemala City have begun offering tattoo cover-ups to individuals seeking to disengage from gangs.<sup>391</sup> Families of these ex-members, recognizing the impact and influence of gang violence on children, also provide free meals and emotional support to divert youth from cycles of violence.<sup>392</sup> Many of these initiatives aim to provide support and respite for children affected by domestic violence, seeking to disrupt the formation and replication of harm at the root.<sup>393</sup> Such efforts demonstrate that restorative approaches need not only serve institutional functions but can also integrate effectively within social and community contexts. These grassroots-level initiatives maintain stronger connections with the communities they serve, enabling them to address specific challenges that larger organizations may overlook.<sup>394</sup> Moreover, their community-based nature allows them to circumvent prevailing public distrust in governmental programs.<sup>395</sup>

Youth-led initiatives have also emerged from the grassroots, demonstrating a profound cultural movement towards restorative justice from the country's youth. A growth in understanding of the causal factors of crime, particularly those stemming from social inequities and marginalization, has sparked progressive social and penal reform movements among Guatemala's youth.<sup>396</sup> Surveys conducted on juvenile perspectives concerning alternative

---

<sup>389</sup> Kelly (n 387).

<sup>390</sup> *ibid.*

<sup>391</sup> Alexandre Spalaïkovitch and Manolo D'Arthuys (dirs), *Guatemala: Meet the Maras* (Java Films, 2019) 54:00-57 min. <[https://www.youtube.com/watch?v=52\\_27EcooO0](https://www.youtube.com/watch?v=52_27EcooO0)> accessed 1 May 2025.

<sup>392</sup> *ibid.*

<sup>393</sup> Kelly (n 387).

<sup>394</sup> LACC (n 378).

<sup>395</sup> *ibid.*

<sup>396</sup> Kelly (n 387).

sanctions and gang disengagement highlight a need for peer-to-peer engagement and structured alternatives to the social frameworks provided by gangs.<sup>397</sup> These findings emphasize the importance of “youth-focused (rather than gang-focused) programs in long-term violence-reduction strategies,” demonstrating a growing public awareness that the success of gang recruitment lies in the lack of investment in Guatemala’s young demographic.<sup>398</sup> Initiatives such as the Youth Voices for Peace Network aid in facilitating peer connectivity and provide a platform for young people to advocate for sustainable peacebuilding.<sup>399</sup> Such programs target marginalized populations, such as Indigenous adolescents and gang-affected juveniles, to promote conflict resolution strategies.<sup>400</sup> Similarly, *Asociación Trasciende* has introduced diversion programs for at-risk youth through hip-hop, dance, and art.<sup>401</sup> The programs operate both within facilities, such as CEJUDEP-Gaviotas, and in local communities and are led by youth artists, allowing for peer-to-peer connectivity.<sup>402</sup> These informal mechanisms foster the growth of community and interpersonal relationships, which have proven significantly impactful in gang prevention and disengagement.<sup>403</sup>

### **Part III: Disrupting Cycles of Violence through Restorative Justice**

The literature on applications of restorative justice for youth gang members in Guatemala remains sparse, as existing sources focus more broadly on juveniles in general without specifying gang affiliation. Although the development of dedicated departments for children in conflict with the law in Guatemala marks progress in the implementation of restorative approaches, the state has yet to dedicate studies specifically to gang-affiliated juveniles. Homogenizing research on children and youth into a single group creates inherent limitations, particularly regarding subgroups such as juveniles involved with gangs. As such, assessing the effectiveness of

---

<sup>397</sup> Winton (n 11).

<sup>398</sup> Winton (n 11) 93.

<sup>399</sup> Erin Treinen, ‘Creating Collective Spaces of Empowerment & Amplifying Youth Voices for Peace’ (*Creative Associates International*, 1 July 2022) <<https://www.creativeassociatesinternational.com/story/creating-collective-spaces-of-empowerment-amplifying-youth-voices-for-peace/>> accessed 1 July 2025.

<sup>400</sup> *ibid.*

<sup>401</sup> Secretaría de Bienestar Social (SBS), “‘Hip Hop, baile y arte gráfico llegan a jóvenes de Gaviotas’ (SBS, 26 November 2021) <<https://web2.sbs.gob.gt/trasciende-lleva-el-hip-hop-a-jovenes-de-gaviotas/>> accessed 1 July 2025.

<sup>402</sup> *ibid.*

<sup>403</sup> Winton (n 11).

restorative programs for youth gang members must be contextualized within broader studies of juvenile justice and gang disengagement. The following section will analyze the current effective strategies for the prevention, intervention, and reintegration of juveniles in conflict with the law, highlighting their potential for success regarding youth gang members in Guatemala. The need for community and interpersonal relationship reparations, along with the reduction of offender stigmatization, is highlighted as an imperative, particularly in Indigenous communities.

#### **4.6: Prevention, Intervention, and Reintegration Strategies for Youth Gang Members**

Despite the limited research on youth gang intervention and disengagement in Guatemala, a robust global body of literature reveals the feasibility and effectiveness of such mechanisms in curbing violence and recidivism in juvenile offenders. As examined in Chapter 1, restorative justice denotes an umbrella term for a wide range of alternative sanctioning and preventative mechanisms for offenders, with a particular emphasis on addressing the harm caused by crime through victim-centered mechanisms.<sup>404</sup> These approaches often involve participation from the offender, victim, and the affected community and are specifically designed to fulfill the needs of each stakeholder.<sup>405</sup> When applied to juveniles in conflict with the law, restorative mechanisms prioritize diversion and preventative approaches, reintegrative strategies, and victim-offender-community mediation.<sup>406</sup> Applications of juvenile justice differ fundamentally from adult approaches, as they must account for the individual's age and evolving needs and recognize that children are still undergoing social and emotional development.<sup>407</sup> Considering high violence and vulnerable offenders, such as youth gang members, these mechanisms must prioritize prevention, intervention, and reintegration.<sup>408</sup>

---

<sup>404</sup> Marshall (n 41).

<sup>405</sup> Derby (n 40).

<sup>406</sup> Javier Llobet Rodríguez, 'Justicia Restaurativa en La Justicia Penal Juvenil' in David Baigún and others (eds), *Estudios sobre justicia penal: Homenaje al Profesor Julio B. J. Maier* (Editores del Puerto 2005) 873.

<sup>407</sup> *ibid.*

<sup>408</sup> UN Office on Drugs and Crime and Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), *Promising Practices to Reduce Reoffending* (n.d.) 1 <[https://www.unodc.org/documents/justice-and-prison-reform/ReducingReoffending/ILANUD\\_-\\_Practices\\_reducing\\_reoffending-ILANUD.pdf](https://www.unodc.org/documents/justice-and-prison-reform/ReducingReoffending/ILANUD_-_Practices_reducing_reoffending-ILANUD.pdf)>accessed 1 July 2025.

#### 4.6.1: Prevention Strategies

Prevention strategies for youth offenders encompass several facets focused on mitigating crime and harm before they occur or by discouraging recidivism.<sup>409</sup> In this manner, preventative approaches aim to interrupt the cycle of violence by addressing risks before harm occurs or social bonds are ruptured.<sup>410</sup> Pre-offense prevention mechanisms aim to divert youth from deviant behaviors, typically by supporting the individual's psycho-social development and offering alternative pro-social activities.<sup>411</sup> Evaluations of preventative mechanisms in Los Angeles demonstrate that juveniles who participate in these programs are 30% less likely to commit a violent offense.<sup>412</sup> In Guatemala, where youth often lack access to extracurricular activities, preventive approaches may encompass educational, recreational, or vocational opportunities. Such mechanisms serve multiple functions — they provide juveniles with options for social and economic development, facilitate community integration, and strengthen socially normative behavior.<sup>413</sup> A survey conducted by Alisa Winton on youth gang members in Guatemala reveals that pre-crime preventative methods serve as the most effective tool in discouraging the development of criminality, particularly when peers of the same age lead the programs.<sup>414</sup>

Prevention strategies are also particularly relevant in carceral facilities as a means to deter the recruitment of juvenile offenders into gangs.<sup>415</sup> As established in Chapter 3, Guatemala *maras* utilize prisons as operational and recruitment centers, employing violent and coercive tactics to radicalize recruits. In these contexts, peacemaking and dialogue circles grounded in strength-based approaches have shown positive results in curbing the further development of criminality while incarcerated. This strategy, initially implemented in Hawaiian and Northern Irish facilities, encourages the development of trust, empathy, and accountability among offenders.<sup>416</sup> Although these studies were primarily conducted on individuals radicalized into terror organizations, the process of recruitment and resocialization is notably similar to the strategies employed by gangs, suggesting that these programs may benefit gang-affiliated

---

<sup>409</sup> Dandurand, Vogt, and Lee (n 49).

<sup>410</sup> *ibid.*

<sup>411</sup> Rodríguez (n 406).

<sup>412</sup> Muggah, Garzón and Suárez (n 241).

<sup>413</sup> Winton (n 11).

<sup>414</sup> *ibid.*

<sup>415</sup> Ana Pereira, *Preventing or Repairing the Rupture: A Restorative Justice Approach to Individual Radicalisation* (Paper presented at the IIRP Europe Conference 2017, Dublin, 2017).

<sup>416</sup> *ibid.*

youth.<sup>417</sup> Preventative efforts must also consider controlling the consolidation of *maras* within facilities, as segregation policies within penitentiaries have proven to promote organization and recruitment.<sup>418</sup> Research conducted on gang consolidation within prisons suggests that penitentiaries should desegregate gangs and instead classify inmates based on their risk level of violence and the nature of their offense.<sup>419</sup> Despite limited literature on the disengagement and prevention of *pandillas*, these broader studies elucidate a potential for application within the context of Guatemalan youth.

#### **4.6.2: Intervention Mechanisms**

Intervention mechanisms within the restorative paradigm encourage the reparation of harm in individuals and communities impacted by crime and aim to reduce the likelihood of offender recidivism.<sup>420</sup> Intervention strategies occur at three different stages during criminal proceedings: the pre-trial stage, during sentencing, or as a mechanism employed instead of or during incarceration.<sup>421</sup> Diversion mechanisms typically occur before the criminal process begins or in place of sentencing, where cases are redirected from traditional proceedings to alternative sanctioning.<sup>422</sup> Family group conferencing and sentencing circles are the most common approaches employed during this stage and consist of structured dialogues between the offender, victim, and affected community.<sup>423</sup> These methods function by allowing the offender to take accountability for their actions and offer opportunities for the victims to share the impact of the harm.<sup>424</sup> By supplementing or replacing convictions and sentencing, these mechanisms “provide a progressive and educational response to offenses or conflicts without stigmatizing youth through formal shunning or criminalization.”<sup>425</sup> Post-conviction restorative procedures function in a similar manner by utilizing restorative dialogues and reintegration mechanisms to facilitate reparations between the offender and affected stakeholders.<sup>426</sup>

---

<sup>417</sup> *ibid.*

<sup>418</sup> Dudley and Bargent (n 6).

<sup>419</sup> *ibid.*

<sup>420</sup> Dandurand, Vogt, and Lee (n 49).

<sup>421</sup> Derby (n 40).

<sup>422</sup> Sherman and Strang (n 7).

<sup>423</sup> Derby (n 40).

<sup>424</sup> *ibid.*

<sup>425</sup> Dandurand, Vogt, and Lee (n 49) 40.

<sup>426</sup> Derby (n 40).

Intervention mechanisms have demonstrated statistically significant reductions in youth offender recidivism. For instance, the implementation of community-based programs in Puerto Rico resulted in a 50% decrease in violent crimes from participants, while similar programs in Honduras noted an 88% reduction in shootings.<sup>427</sup> The impact of restorative intervention mechanisms is particularly salient for youth who have committed violent crimes, as these cases typically see the lowest rates of reoffending after the application of intervention strategies.<sup>428</sup> These results are especially pronounced in adolescents living in high-poverty conditions and with repeat offenders.<sup>429</sup> Moreover, victims who participate in restorative conferencing and dialogues consistently report higher satisfaction rates compared to those engaged in standard criminal proceedings.<sup>430</sup> Restorative techniques such as dialogue circles and diversion strategies thus have the potential to aid vulnerable juveniles in the justice process while simultaneously providing reparations to victims of gang violence. Although not explicitly trialed on youth gang members, these approaches demonstrate success on high-violence juvenile offenders impacted by structural inequities, indicating their potential suitability for gang-related contexts. The integration of these intervention strategies, particularly carceral and sentencing diversion, may lower overall incarceration rates and prevent the escalation of criminal behavior while incarcerated.

#### ***4.6.3: Reintegration and Social Repair***

Reintegrative strategies serve a primary function in the restorative justice process, as they prepare offenders to re-enter society and reduce the probability of re-offending.<sup>431</sup> Reintegration is multifaceted, comprising several interdependent mechanisms such as substance abuse rehabilitation, educational and vocational programs, and reparative actions for victims.<sup>432</sup> These mechanisms are tailored to align with the needs of the offender and involve mechanisms both within carceral settings and society following release.<sup>433</sup> Reintegration serves as a vital component of the restorative justice paradigm, as most offenders will be released back into society. Such approaches aim to interrupt the cycle of harm and resocialize individuals away

---

<sup>427</sup> Muggah, Garzón and Suárez (n 241).

<sup>428</sup> Sherman and Strang (n 7).

<sup>429</sup> Bergseth and Bouffard (n 47).

<sup>430</sup> Sherman and Strang (n 7).

<sup>431</sup> Marshall (n 41).

<sup>432</sup> ILANUD (n 408).

<sup>433</sup> *ibid.*

from violent patterns of behavior.<sup>434</sup> Juvenile-focused mechanisms often emphasize creating opportunities post-release to distance individuals from environments conducive to criminal behavior.<sup>435</sup> Particularly relevant to adolescents are programs designed to increase impulse control and challenge behavior shaped by machismo attitudes.<sup>436</sup> Youth gang members in Guatemala stand to benefit significantly from reintegrative efforts. As noted in Chapter 2, juvenile delinquency in the state stems primarily from social marginalization and limited economic opportunities. Creating pathways for children in conflict with the law to develop skills and pursue vocational prospects after release may address the primary structural drivers of gang affiliation. Along with these tools, social and communal reparations serve as a crucial component in the successful reentry of youth offenders into society.<sup>437</sup>

The importance of restoring communal and social bonds for youth offenders cannot be understated, as this population is particularly vulnerable to stigmatization and marginalization post-release.<sup>438</sup> Restorative justice within the reintegrative process emphasizes establishing ties between offenders and the community to facilitate social reinsertion, as a lack of post-release mechanisms can result in increased recidivism.<sup>439</sup> Regarding youth gang members, reintegration strategies must consider that most juvenile offenders are often both victims and perpetrators of violence. As such, a critical step in forging social reparation is understanding how juvenile offenders have experienced harm and identifying strategies to prevent further occurrences and heal from the past.<sup>440</sup> Studies conducted on child soldiers demonstrate that high-violence youth offenders benefit significantly from reintegrative approaches that prioritize community reparations and mental health services.<sup>441</sup> Within this context, holistic reparation practices based on group mediation and dialogue should aim to address the trauma of both the offender and the victim. In Guatemala, youth offenders, particularly those from Indigenous communities, may benefit from the implementation of communal circles such as *pixap*. As discussed in Chapter

---

<sup>434</sup> Pereira (n 415).

<sup>435</sup> ILANUD (n 408).

<sup>436</sup> *ibid*.

<sup>437</sup> Dandurand, Vogt, and Lee (n 49) 40.

<sup>438</sup> Rodríguez (n 406).

<sup>439</sup> Dandurand, Vogt, and Lee (n 49)

<sup>440</sup> Laura Stovel and Marta Valiñas, *Restorative justice after Mass Violence: Opportunities and Risks for Children and Youth* (Innocenti Working Paper No 15, UNICEF Innocenti Research Centre, June 2010)

<[https://www.researchgate.net/publication/46473541\\_Restorative\\_justice\\_after\\_mass\\_violence\\_opportunities\\_and\\_risks\\_for\\_children\\_and\\_youth](https://www.researchgate.net/publication/46473541_Restorative_justice_after_mass_violence_opportunities_and_risks_for_children_and_youth)> accessed 1 July 2025.

<sup>441</sup> *ibid*.

Two and above, Indigenous legal practices in Guatemala are primarily restorative, emphasizing the reparation of social bonds between offenders and the community. Integrating these Indigenous restorative practices into juvenile justice processes may substantially reduce post-release stigmatization, facilitate the reintegration of youth offenders into society, and advance Indigenous justice within the state.

Reducing the stigmatization of offenders also plays an integral role in the reintegration process, as traditional punitive approaches to justice exacerbate the social exclusion of juveniles upon release.<sup>442</sup> As noted in Chapter 2, a major driver of gang recruitment is the marginalization of juveniles within society, as youth seek out the social inclusion and para-familial ties that gangs provide. As such, restorative reintegration tactics must seek to create social opportunities and reduce exclusion for children in conflict with the law. Although a primary goal of restorative justice is the avoidance of disrepute and social harm derived from punitive detention,<sup>443</sup> this path is not always available to high-violence offenders, such as youth gang members. Reintegrative shaming, a technique in which communal shame is applied to the criminal act and not the perpetrator, has demonstrated notable success in fostering accountability and building trust between stakeholders.<sup>444</sup> Inherently reintegrative rather than disintegrative, this model involves steps towards reacceptance and is undertaken by the offender's immediate family or social sphere.<sup>445</sup> Reintegrative shaming works particularly well in cultures with little state accountability and those that prioritize communal bonds.<sup>446</sup> Guatemala is well-suited for the application of reintegrative shaming for post-release youth offenders, given the culture of low accountability and strong Indigenous traditions rooted in the importance of community.

---

<sup>442</sup> Dandurand, Vogt, and Lee (n 49)

<sup>443</sup> Rodríguez (n 406).

<sup>444</sup> Stovel and Valiñas (n 440).

<sup>445</sup> *ibid.*

<sup>446</sup> *ibid.*

## Conclusion

The Alliance for the Prevention of Crime has reported that over 200,000 adolescents in Guatemala are involved with gangs or at risk of recruitment,<sup>447</sup> underscoring the urgent need for comprehensive and progressive models of juvenile justice. As detailed in previous chapters, Guatemalan youth are disproportionately affected by socioeconomic inequalities and often face underemployment, limited access to education, and social exclusion. These elements of structural violence are associated with the rise of youth gangs, as marginalized juveniles join criminal organizations to seek protection, belonging, and opportunities otherwise absent in society. The persistence of youth violence within Guatemala demonstrates the failure of retributive criminal and penal policies in reducing crime, instead facilitating the social and carceral conditions that perpetuate and entrench cycles of violence. A critical examination of contemporary judicial policies in post-conflict Guatemala reveals the roots of these policies in militarized frameworks from the civil war, highlighting the limitations of the transitional process in establishing new legal and social norms. However, gradual movements towards alternative sanctioning and reintegrative programs, particularly among Indigenous groups and civil society actors, demonstrate the potential for further integrations of restorative justice within Guatemala's juvenile justice system. This thesis's findings support existing scholarship on the effectiveness of restorative practices for juveniles in conflict with the law while contributing new insights by examining their application to the understudied population of juvenile gang members in Guatemala.

This thesis addresses two interrelated questions: Whether restorative justice provides a practical and feasible alternative to retributive frameworks in Guatemala, particularly concerning the incarceration of gang-affiliated juveniles, and how the development of retributive policies reflects the shortcomings of the state's transitional process in confronting structural violence and implementing institutional reforms. This research affirms that restorative justice effectively disrupts cycles of violence by engaging with the causal factors of criminal behavior and promoting reparations between victims, offenders, and communities. These practices have proven effective in facilitating reintegration and reducing recidivism in juveniles by responding

---

<sup>447</sup> Stacy Kowalski, 'Niños, Niñas y Adolescentes in Guatemala: Reflections on the Implementation of the Ley PINA' (2016) 13(2) *Hastings Race and Poverty Law Journal* 391.

to the social and psychological needs of offenders, thereby offering an empirically backed alternative to the prevailing punitive policies. However, Guatemala's continued reliance on *mano dura* reveals several critical shortcomings in the state's post-conflict transitional justice process, particularly regarding institutional impunity, the prioritization of political and economic goals, and the neglect of structural reforms. The omission of transitional mechanisms confronting the structural roots of the armed conflict allowed systemic injustices to deepen, creating conditions conducive to the formation of youth gangs.

### **5.1: Rethinking Juvenile Justice in Guatemala**

A critical legal analysis of Guatemala's current retributive systems indicates that punitive approaches to crime worsen levels of violence and result in the underprosecution of crimes, eroding public trust in state institutions. In turn, this diminished institutional trust often prompts the public to resort to violent extrajudicial measures, thereby perpetuating the enduring cultural belief that retributivism equates to justice and undermining the rule of law. Regarding the impact of *mano dura* on Guatemalan youth, this thesis illustrates that retributive penal and carceral policies perpetuate cycles of violence within youth offenders and exacerbate the socio-cultural conditions that enable the growth of youth gangs. Nonetheless, a socio-legal analysis of Guatemala's juvenile justice framework reveals a substantive gap between the state's restorative legislation and international commitments and the retributive approaches implemented in practice. Aligning domestic practices with the existing holistic frameworks for the protection of children in conflict with the law, including the CRC, CAT, LPIN, and MAIJU, could aid in challenging the consequences of retributive approaches. The existence of such legal instruments elucidates that Guatemala has the potential for the full integration of restorative justice within the juvenile criminal justice system.

The finding that restorative justice offers a viable alternative to retributive practices has significant implications for Guatemala's juvenile justice system. Perhaps most notably, restorative models promoting alternative sanctioning, prevention, and reintegration could serve to reduce gang recruitment and juvenile crime by creating alternative pathways and promoting social inclusion for Guatemalan youth. Practical applications at the institutional and community levels could substantially reduce the reliance on retributive extrajudicial measures, ultimately

challenging the broader culture and normalization of violence. Likewise, long-term implementations of restorative practices may challenge entrenched cycles of violence by addressing the individual trauma and needs of offenders and encouraging healing with affected stakeholders. The implementation of these strategies may also function similarly within prisons, weakening the ability of gangs to expand their recruitment and operational control. This policy shift may reduce human rights violations within facilities, as such breaches are rooted in the state's punitive and abusive models of imprisonment.

## **5.2: Implications of Transitional Limitations**

By contextualizing Guatemala's transitional process within contemporary punitive laws and existing structural injustices, the limitations and shortcomings of the post-conflict peacebuilding efforts become evident. Impunity protections, particularly the 1996 National Reconciliation Law, both hindered prosecutorial accountability and enabled a hybrid regime in which military and political elites retained political power and institutional influence. Utilizing Teitel and Zinecker's critical transitional theory to examine the impact of impunity protections reveals the extent to which the retention of elites has impeded broader political and judicial reform and how such protections have obstructed normative shifts away from military-style and punitive policies. This analysis underscores the need for transitional mechanisms to actively engage with entrenched power structures and dismantle repressive and militarized frameworks, as the contemporary legacies of these have manifested in ongoing institutional corruption and low legal accountability. In examining how past impunity protections have shaped modern institutional practices, this study emphasizes the need for transitional mechanisms that prioritize accountability and encompass comprehensive political transformations during the peacemaking process, particularly in states emerging from authoritarian rule or internal armed conflict.

The absence of broader structural reform in the transitional process demonstrates how, when left unaddressed, historical injustices become embedded as structural violence. As discussed throughout Chapters Two and Three, considerable evidence from NGOs, international human rights monitoring bodies, and academic literature indicates a lack of implementation and monitoring of victim-centered approaches in the transitional process, as well as a general omission of more comprehensive social transformation. The lack of follow-through on the

commitments of the transitional process contributed to growing public dissatisfaction and distrust in state-led initiatives. The lasting implications of these shortcomings underscore one of this thesis's central claims: when transitional mechanisms neglect social transformation and prioritize economic objectives over reparations, the environments conducive to the development of future forms of criminality and instability persist. The emergence of youth gangs as a byproduct of enduring and unaddressed systemic injustices demonstrates the need for transitional processes that incorporate a fully inclusive reparative framework, engage with all populations affected by conflict, and prioritize social transformation. The persistence of structural violence and the continued marginalization of juveniles emphasize these factors as integral components in the peacebuilding process.

### ***5.2.1: The Emergence of Punitive Frameworks***

Furthermore, this thesis outlines the evolution of *mano dura* policies, tracing their origins to repressive colonial labor systems and militarized tactics institutionalized during the civil war and analyzing their current application concerning state responses to gang violence. Understanding the interconnectedness between these historical legacies and the emergence of contemporary retributive policies underscores the limitations of transitional mechanisms in establishing new legal norms and highlights the need for such processes to restructure criminal and carceral law, particularly in the aftermath of state-sanctioned violence. As noted above, the retention of retributive responses to crime significantly increases levels of gang recruitment and juvenile delinquency and legitimizes violence as a response to crime. Dismantling these enduring perceptions of violence as justice, both within carceral facilities and broader society, necessitates a re-evaluation of the frameworks that reduce crime and respond to the needs of victims. Within this context, restorative approaches offer a strong alternative, particularly when comprehensively integrated into transitional processes. When implemented on a micro- and meso-level, these approaches demonstrate higher victim satisfaction, actively disrupt normalized cycles of violence, and create safer facilities for juveniles in conflict with the law, thereby suggesting meaningful potential within transitional contexts.

However, considerations of Guatemala's transitional framework and contemporary challenges must emphasize that correlation does not equate to causation. Although the deficits of this transition are linked to the development of *mano dura* policies and youth gangs, they are not

the sole causal factor in the evolution of retributive approaches or for current levels of violence. This interrelatedness does not signify a failure of the transitional process; rather, efforts toward social transformation, institutional reform, and the evaluation of youth-specific needs were simply not considered. An essential aspect in examining Guatemala's peacebuilding process is acknowledging the country's role as one of the first in the Latin American region to implement a post-conflict peacebuilding framework. Notably, the state attempted to integrate reparative mechanisms before the formal conceptualization and integration of restorative justice and victim-centered judicial approaches. Newer transitional mechanisms, such as those in Colombia, have emphasized efforts to include judicial reform, restorative and reparatory initiatives, and addressing the root causes of social instability within the peacebuilding process.<sup>448</sup> The evolution of such mechanisms reflects a growing commitment to more inclusive, comprehensive, and contextually responsive models of post-conflict peacebuilding.

### **5.3: Concluding recommendations:**

#### ***5.3.1: Overcoming Institutional and Cultural Barriers***

Recognizing the potential for restorative integration within Guatemala's juvenile justice system, this thesis recommends that the state strengthen enforcement mechanisms, increase monitoring capabilities, and ensure substantive compliance with domestic and international legal standards. Modernizing and renovating juvenile and adult facilities, alongside increased funding and resource allocation, could drastically improve the conditions of imprisonment. These improvements may, in turn, reduce instances of human rights violations caused by overcrowding and dilapidated conditions. Achieving these outcomes requires confronting the deeply embedded institutional corruption and the persistent culture of violence that obstructs progressive adoption and reinforces retributive norms. The 2023 presidential election of progressive candidate Bernardo Arévalo marks a significant shift in the state's efforts to combat corruption and socioeconomic disparities; however, the deeply rooted nature of these challenges implies that such progress will be gradual and complex. Moreover, a shift in political discourse from retributivism to restorative justice may catalyze a broader cultural transformation that challenges

---

<sup>448</sup> International Center for Transitional Justice (ICTJ), 'Colombia' (*ICTJ*, 2025) <<https://www.ictj.org/location/colombia>> accessed 1 July 2025.

the normalization of violence as a response to crime. Nevertheless, addressing these deeply entrenched challenges may also serve to create further spaces within state institutions for progressive change, particularly concerning embedded structural injustices such as poverty, land inequity, and the marginalization of minority groups.

Facilitating the growth of restorative justice on an institutional level requires promoting participation from non-state actors in policy development and countering the repression of advocacy groups. As examined in Chapter Four, social movements toward restorative approaches have emerged through Indigenous advocacy organizations, grassroots initiatives, and NGOs, yet these groups remain excluded from formal policy and legislative discourse. Expanding opportunities for participation in policymaking processes could bolster these groups' efforts and encourage a sociocultural and institutional shift away from retributive responses. Similarly, the institutional and legal recognition of Indigenous justice practices could create avenues for criminal justice responses that reflect the values and traditions of these communities while also affirming the influence of such approaches in the development of legislation, such as the LPINA and MAIJU. Such legitimization may both advance restorative approaches within the state and relieve significant pressure on the traditional courts by allowing the diversion of cases to Indigenous systems. Granting Indigenous groups the authority to adjudicate criminal trials and apply community-based sanctions, such as reintegrative shaming, may promote the use of restorative justice at the community level and bolster public acceptance of non-punitive strategies.

### ***5.3.2: Towards Structural Transformation***

The interconnection explored in this thesis between the transitional process and the punitive juvenile justice system highlights the need for peacebuilding frameworks to implement comprehensive, victim-centered reparations and adopt more inclusive approaches. As explored in Chapters Two and Three, the partial implementation of the CEH's reparative initiatives hindered both individual and collective healing, indicating a need for more participatory and accountable transitional mechanisms. To ensure that victim-centered approaches are culturally appropriate and holistic, transitional dialogues and peacebuilding policy spaces must include marginalized groups, such as women, Indigenous people, and youth, to gain a thorough understanding of the harms caused and engage with all stakeholders affected. Ensuring that victims, community

groups, and civil society organizations are meaningfully involved in the development and implementation of reparation programs can also promote inclusive frameworks that directly address the specific needs of impacted populations. As such, integrating restorative victim-offender-community reparations within the transitional process may promote social healing after armed conflicts. To function as intended, the state must supplement these mechanisms with extensive monitoring, enforcement, and continued institutional financial support to ensure their effective and prompt fulfillment.

Special attention should also be given to youth populations, as transitional discourse and broader victim-centered reforms often exclude this demographic. Post-conflict engagement with juveniles must recognize that this population frequently occupies dual roles as both victims and perpetrators of harm. Therefore, reparative programming must engage with both of these identities and their distinct needs. Guatemalan youth still occupy this dual status today, as violence within society and carceral facilities exacerbate the development and strengthening of gangs and criminality. This continued paradigm highlights an urgent need for transitional mechanisms that respond to the social and individual needs of juveniles to break cycles of violence before they continue to evolve. This thesis recommends that future and current transitional mechanisms engage directly with youth by incorporating tailored reparative programs that address their trauma and developmental requirements and focus on the specific impact of armed conflict on their lives.

Along with more participatory and efficacious transitional processes, broader peacebuilding efforts must confront enduring forms of structural violence. A two-pronged approach to addressing systemic injustices should both support individuals currently impacted by such challenges and also engage with the root causes. To respond to the needs of those currently affected by structural violence, peacebuilding processes may consider incorporating elements of restorative justice, which has demonstrated success in preventing violence and creating social opportunities. Applying reintegrative and social-strengthening mechanisms, such as community circles and the expansion of trauma-informed social services, on a macro level may encourage social cohesion and facilitate the inclusion of marginalized groups. In the context of youth and juveniles, immediate redress measures could utilize preventative strategies by creating opportunities for social inclusion, education, and employment. By actively interrupting the social factors that lead to youth gang recruitment, the integration of these approaches could reduce

affiliation with *pandillas* and create safer social environments for Guatemalan children. However, broader structural reforms must accompany these mechanisms to foster sustainable peace and prevent the recurrence of conflict.

To prevent systemic injustices from evolving into contemporary forms of criminality, transitional processes must confront the structural causes of violent conflict. As examined in Chapter 1, transformative approaches to peacebuilding advocate for the integration of sustained structural reform as an imperative within the transitional justice process. This model acknowledges the necessity of substantive reform in preventing the recurrence of conflict and elucidates how neglecting the root causes of conflict reinforces instability. As such, applying transformative approaches that engage with systemic socioeconomic disparities, the marginalization of minority groups, and institutional impunity is essential for inciting sustainable peacebuilding. Although the transitional process concluded decades ago, Guatemala retains the opportunity to reconcile with the systemic injustices that led to the armed conflict, an imperative measure as structural violence continues to persist. Within the contemporary context, applications of transformative justice must confront entrenched systems of impunity that hinder prosecutorial accountability and the advancement of juvenile justice.

#### **5.4: Final Reflections**

These findings have significant implications for potential judicial reform in Guatemala and transitional processes globally. Guatemala may serve as a case study to observe how limited engagement with the roots of conflict can continue to weaken societies and state institutions, facilitating the evolution of crime. Lessons gleaned from this thesis offer valuable insights regarding the significantly understudied field of youth gang violence, with particular relevance for other Central American states that share a similar history and contemporary challenges. Moreover, this study's contributions to growing scholarship on the merits of restorative justice elucidate the potential and need for progressive models of juvenile criminal justice. Further research into criminal and transitional justice reform in Guatemala may focus on two variables that are underexplored in this thesis—the role of religion in gang disengagement and diversion, and the potential of transformative justice in promoting sustainable peace and crime reduction, particularly in the context of entrenched corruption.

Ultimately, this thesis finds that implementing restorative justice for youth gang members in Guatemala is both feasible and a pragmatic approach to confronting juvenile violence. By offering alternative sanctions, increasing offender accountability, and successfully reducing crime and recidivism, restorative approaches may improve public trust in state institutions and challenge public perceptions equating violence with justice. Guatemala's gradual incorporation of restorative approaches thus reflects a cautiously optimistic trajectory toward sustained social progress. However, this is not to suggest that restorative justice is a panacea for all of Guatemala's complex challenges. Analyzing the effects of impunity protections and limitations in the transitional process highlights that larger social transformations are also necessary. Therefore, restorative mechanisms must be integrated into broader social, structural, and judicial reforms to promote lasting stability.

## Bibliography

### Table of Legislation

Constitución Política de la República de Guatemala (Guatemala City, 31 May 1985, as amended by Legislative Decree No 18-93 of 17 November 1993)

Ley de Protección Integral de la Niñez y Adolescencia (LPINA) (Decreto 27-2003, Guatemala)

### Treaties and Conventions

Agreement on a Firm and Lasting Peace (signed 29 December 1996) UN Doc A/51/796-S/1997/114.

American Convention on Human Rights (adopted 22 November 1969, entered into force 18 July 1978) OAS Treaty Series No 36

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85

Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3

Inter-American Convention to Prevent and Punish Torture (adopted 9 December 1985, entered into force 28 February 1987) OAS Treaty Series No 67

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 18 December 2002, entered into force 22 June 2006) 2375 UNTS 237

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (adopted 25 May 2000, entered into force 12 February 2002) 2173 UNTS 222

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (adopted 25 May 2000, entered into force 18 January 2002) 2171 UNTS 227

### **International Instruments**

UN Economic and Social Council, Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters (2002) UN Doc E/2002/INF/2/Add.2

UN Economic and Social Council, Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (ECOSOC Res 2005/20, 22 July 2005)

UN General Assembly, United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) (adopted 14 December 1990) UN Doc A/RES/45/112

UN General Assembly, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) (adopted 29 November 1985) UN Doc A/RES/40/33

UN General Assembly, United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) (adopted 14 December 1990) UN Doc A/RES/45/110

UN General Assembly, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) (adopted 17 December 2015) UN Doc A/RES/70/175

UN General Assembly, United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules) (adopted 14 December 1990) UN Doc A/RES/45/113

### **Books and Chapters in Edited Books**

Cruz JM, 'The State and the Reproduction of Violence in Post-Transition El Salvador and Guatemala' in Stefano Ruzza, Anja Jakobi and Charles Geisler (eds), *Non-State Challenges in a Re-Ordered World: The Jackals of Westphalia* (Routledge 2015)

Llobet Rodríguez J, 'Justicia restaurativa en la justicia penal juvenil' in David Baigún and others (eds), *Estudios sobre justicia penal: Homenaje al Profesor Julio B. J. Maier* (Editores del Puerto 2005)

Marshall TF, *Restorative Justice: An Overview* (Home Office 1999)

Moffett L, 'Transitional Justice and Reparations: Remediating the Past?' in Lawther C, Moffett L and Jacobs D (eds), *Research Handbook on Transitional Justice* (Edward Elgar Publishing 2017)

Reddy P, *Peace Operations and Restorative Justice: Groundwork for Post-Conflict Regeneration* (Routledge 2012)

Roht-Arriaza N, 'Guatemala: Lessons for Transitional Justice' in Lawther C, Moffett L, and Jacobs D (eds), *Research Handbook on Transitional Justice* (Edward Elgar Publishing 2017)

Roht-Arriaza N, 'Transitional Justice in Latin America: Achievements and Limitations' in Meierhenrich J, Hinton AL, and Douglas L (eds) (21 November 2018, *The Oxford Handbook of Transitional Justice* (Oxford University Press, forthcoming)

Schlesinger S and Kinzer S, *Bitter Fruit: The Story of the American Coup in Guatemala* (Harvard University Press, 2005)

Teitel R G, *Transitional Justice* (Oxford University Press 2000)

United Nations Office on Drugs and Crime (UNODC), Dandurand Y, Vogt A and Lee JA, *Handbook on Restorative Justice Programmes* (2nd edn, UNODC 2020)

## **Journals**

Allais L, 'Social Justice and Retributive Justice' (2008) 34(2) *Social Dynamics* 128

Bergseth KJ and Bouffard JA, 'Examining the Effectiveness of a Restorative Justice Program for Various Types of Juvenile Offenders' (2013) 57(9) *International Journal of Offender Therapy and Comparative Criminology* 1054

- Bowen RE, 'The Weight of the Continuous Past: Transitional (In)Justice and Impunity States in Central America' (2019) 61(1) *Latin American Politics and Society* 126.
- Butler M and Maruna S, 'Rethinking Prison Disciplinary Processes: A Potential Future for Restorative Justice' (2016) 11(1) *Victims & Offenders* 126
- Clark JN, 'The Three Rs: Retributive Justice, Restorative Justice, and Reconciliation' (2008) 11(4) *Contemporary Justice Review* 331
- Clouser RC, 'Security, Development, and Fear in Guatemala: Enduring Ties and Lasting Consequences' (2019) 109 *Geographical Review* 382
- Cruz JM, 'The Root Causes of the Central American Crisis' (2015) 114(769) *Current History* 43.
- Davies JA, 'Indigenous Law in Central America: A Key to Improving Life and Justice' (2018) *Michigan State Law Review* 673
- Evans M, 'Structural Violence, Socioeconomic Rights, and Transformative Justice' (2016) 15(1) *Journal of Human Rights* 1
- Galtung J, 'Violence, Peace, and Peace Research' (1969) 6(3) *Journal of Peace Research* 167
- Golob A, 'The Resurgence of Mano Dura in Guatemala' (2022) 8 *Journal of Human Rights and Social Work* 91
- Gready P and Robins S, 'From Transitional to Transformative Justice: A New Agenda for Practice' (2014) 8(3) *International Journal of Transitional Justice* 339
- Hendricks M, 'The Negative Effects of U.S. Imperialism in Central America' (2021) 48(6) *Latin American Perspectives* 218
- Herrera Kelly DS, 'Local Non-Violent Strategies amid Guatemala's Post-Accord Violence: Understanding the Potential and Limitations in Poor Urban Neighbourhoods' (2023) *Peacebuilding* 299
- Kowalski S, 'Niños, Niñas y Adolescentes in Guatemala: Reflections on the Implementation of the Ley PINA' (2016) 13(2) *Hastings Race and Poverty Law Journal* 391

O'Neill KL and Fontes AW, 'Making Do: The Practice of Imprisonment in Postwar Guatemala' (2017) 16 *Journal of Latin American Geography* 31

Padilla LA, 'Conflict Transformation: Peace-Making and Peace-Building in Guatemala' (1997) 27(4) *Peace Research* 17.

Pérez OJ, 'Gang Violence and Insecurity in Contemporary Central America' (2013) 32(S1) *Bulletin of Latin American Research* 217

Wenzel M, Okimoto TG, Feather NT and Platow MJ, 'Retributive and Restorative Justice' (2008) 32(5) *Law and Human Behavior* 375

Widom CS, 'The Cycle of Violence' (1989) 244(4901) *Science* 160

Winton A, 'Young People's Views on How to Tackle Gang Violence in "Post-Conflict" Guatemala' (2004) 16 *Environment and Urbanization* 83

### **Reports and Institutional Publications**

Aguilar Umaña I and Rossini D, *Youth Violence in Central America: Lessons from Guatemala, El Salvador and Honduras* (Interpeace 2012)  
<<https://repository.graduateinstitute.ch/record/294282/files/Youth%20Violence%20in%20Central%20America.pdf>> accessed 10 May 2025

Batres R, *Aproximación a las prácticas de justicia restaurativa en el sistema de justicia penal juvenil guatemalteco* (Instituto de Estudios Comparados en Ciencias Penales de Guatemala 2015) <<https://bice.org/app/uploads/2015/12/69.pdf>> accessed 20 May 2025

Betancourt TS and Ettien A, *Transitional Justice and Youth Formerly Associated with Armed Forces and Armed Groups: Acceptance, Marginalization and Psychosocial Adjustment* (Innocenti Working Paper No 2010-17, UNICEF Innocenti Research Centre 2010)

Comisión Internacional contra la Impunidad en Guatemala (CICIG), *Informe: Diálogos por el Fortalecimiento de la Justicia y el Combate a la Impunidad en Guatemala* (June 2019)  
<[https://www.cicig.org/wp-content/uploads/2019/06/Informe\\_Dialogos\\_SIJ.pdf](https://www.cicig.org/wp-content/uploads/2019/06/Informe_Dialogos_SIJ.pdf)>  
accessed 20 May 2025

Comisión para el Esclarecimiento Histórico (CEH), *Guatemala: Memory of Silence* (UNOPS 1999)

Cruz JM, Tanyu M, Vorobyeva Y, Mizrahi Y, Coombes A, Sánchez J, Hill C and Campie P, *A Study of Gang Disengagement in Guatemala* (American Institutes for Research & Florida International University, 2020)

<<https://lacc.fiu.edu/research/the-street-gangs-in-central-america-research-initiative-scraian/guatemala-gang.pdf>> accessed 20 May 2025

De Greiff P, *The Applicability of Transitional Justice in Pre-Conflict Contexts* (Center on International Cooperation, September 2021)

<<https://cic.nyu.edu/resources/the-applicability-of-transitional-justice-in-pre-conflict-contexts/>> accessed 10 May 2025.

Derby J, *Restorative Justice: Principles and Practice* (Prison Fellowship International, March 2021)

<<https://cdn.pfi.org/wp-content/uploads/2021/05/17155329/RJ-Handbook-English-May-2021.pdf>> accessed 10 May 2025.

Gavigan P, *Against the Odds: CICIG in Guatemala* (Open Society Justice Initiative 2016)

<<https://www.justiceinitiative.org/uploads/88ffafc0-09bf-4998-8ef3-e2a175e3f455/against-odds-cicig-guatemala-20160321.pdf>> accessed 21 June 2025

Holman B and Ziedenberg J, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (Justice Policy Institute 2006)

<[https://justicepolicy.org/wp-content/uploads/2022/02/06-11\\_rep\\_dangersofdetention\\_jj.pdf](https://justicepolicy.org/wp-content/uploads/2022/02/06-11_rep_dangersofdetention_jj.pdf)> accessed 10 May 2025

Human Rights Watch, *World Report 2024: Guatemala* (January 2024)

<<https://www.hrw.org/world-report/2024/country-chapters/guatemala>> accessed 20 May 2025.

Impunity Watch, *Impact of the Commission for Historical Clarification (CEH) Report on Victims of the Armed Conflict in Guatemala* (Policy Brief, 2024)

<<https://www.impunitywatch.org/publications/policy-brief-ceh-guatemala-english/>>

- Instituto de la Defensa Pública Penal (IDPP), *Análisis del boletín estadístico: periodo enero – marzo 2024* (IDPP, April 2024)  
<<https://www.idpp.gob.gt/index.php/transparencia-idpp/estadisticas/290-trimestral/323-analisis-de-datos-2024>> accessed 1 July 2025
- Inter-American Commission on Human Rights (IACHR), *Preliminary Observations of On-Site Visit to Guatemala* (OEA/Ser.L/V/II.Doc.124/24, 15 August 2024)  
[https://www.oas.org/en/iachr/reports/pdfs/2024/preliminary\\_observations\\_guatemala.pdf](https://www.oas.org/en/iachr/reports/pdfs/2024/preliminary_observations_guatemala.pdf)  
accessed 22 July 2025
- Inter-American Commission on Human Rights (IACHR) Rapporteurship on the Rights of the Child, *Juvenile Justice and Human Rights in the Americas* (OEA/Ser.L/V/II.78, 13 July 2011) <<https://www.oas.org/en/iachr/children/docs/pdf/juvenilejustice.pdf>> accessed 12 June 2025
- Manz B, *Central America (Guatemala, El Salvador, Honduras, Nicaragua): Patterns of Human Rights Violations* (WRITENET 2008)  
<<https://www.refworld.org/reference/countryrep/writenet/2008/en/61849>> accessed 10 May 2025.
- Mendel R, *Why Youth Incarceration Fails: An Updated Review of the Evidence* (The Sentencing Project, 1 March 2023)  
<<https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>> accessed 10 May 2025
- Ministerio Público & Secretaría de Bienestar Social, *Modelo de Atención Integral de Justicia Penal Juvenil (MAIJU)* (Guatemala, 2020)
- Muggah R, Garzón JC and Suárez M, *La “Mano Dura”: Los costos de la represión y los beneficios de la prevención para los jóvenes en América Latina* (Instituto Igarapé, May 2018)  
<<https://igarape.org.br/wp-content/uploads/2018/06/La-Mano-Dura-Los-costos-de-la-represion-y-los-beneficios-de-la-prevencion-para-los-jovenes-en-America-Latina.pdf>>  
accessed 20 June 2025

*Política Pública de Protección Integral de la Niñez y Adolescencia* (Secretaría de Bienestar Social de la Presidencia de la República & Movimiento Social por los Derechos de la Niñez y la Juventud, Guatemala, 2004)

Ribando Seelke C, *Gangs in Central America* (CRS Report RL34112, Congressional Research Service, 26 November 2012)

<<https://www.refworld.org/reference/regionalreport/uscrs/2012/en/89520>> accessed 12 June 2025.

Sieder R and Wilson R (eds), *Negotiating Rights: The Guatemalan Peace Process* (Accord Issue 2, Conciliation Resources 1997) <<https://www.c-r.org/accord/guatemala>> accessed 20 May 2025

Sherman LW and Strang H, *Restorative Justice: The Evidence* (The Smith Institute 2007)

<[https://www.iirp.edu/images/pdf/RJ\\_full\\_report.pdf](https://www.iirp.edu/images/pdf/RJ_full_report.pdf)> accessed 10 May 2025

<<https://cdn.pfi.org/wp-content/uploads/2021/05/17155329/RJ-Handbook-English-May-2021.pdf>> accessed 10 May 2025

Stovel L and Valiñas M, *Restorative justice after Mass Violence: Opportunities and Risks for Children and Youth* (Innocenti Working Paper No 15, UNICEF Innocenti Research Centre, June 2010)

<[https://www.researchgate.net/publication/46473541\\_Restorative\\_justice\\_after\\_mass\\_violence\\_opportunities\\_and\\_risks\\_for\\_children\\_and\\_youth](https://www.researchgate.net/publication/46473541_Restorative_justice_after_mass_violence_opportunities_and_risks_for_children_and_youth)> accessed 1 July 2025

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), *Report on the Visit to Guatemala Undertaken from 8 to 19 October 2023: Observations and Recommendations Addressed to the State Party* (CAT/OP/GTM/ROSP/1, 2023) <<https://undocs.org/CAT/OP/GTM/ROSP/1>> accessed 20 June 2025

United Nations High Commissioner for Human Rights (OHCHR), *Situation of Human Rights in Guatemala* (A/HRC/58/22, 21 January 2025)

<<https://www.ohchr.org/en/documents/country-reports/ahrc5822-situation-human-rights-guatemala-report-united-nations-high>>

UN Committee on the Rights of the Child (CRC), *Concluding Observations on the Seventh Periodic Report of Guatemala* (CRC/C/GTM/CO/7, 21 June 2024)

<<https://www.refworld.org/policy/polrec/crc/2024/en/149007>> accessed 1 July 2025

UN Office on Drugs and Crime and Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), *Promising Practices to Reduce Reoffending* (n.d.)

<[https://www.unodc.org/documents/justice-and-prison-reform/ReducingReoffending/ILANUD\\_-\\_Practices\\_reducing\\_reoffending-ILANUD.pdf](https://www.unodc.org/documents/justice-and-prison-reform/ReducingReoffending/ILANUD_-_Practices_reducing_reoffending-ILANUD.pdf)> accessed 1 July 2025

U.S. Department of State, *2023 Country Reports on Human Rights Practices: Guatemala* (22 April 2024)

<<https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/guatemala/>> accessed 20 May 2025

USAID, *A Study of Gang Disengagement in Guatemala – Key Takeaways* (American Institutes for Research & Florida International University, November 2020)

<https://lacc.fiu.edu/research/the-street-gangs-in-central-america-research-initiative-scrain/summary-gang-guatemala.pdf> accessed 20 June 2025

Williams R, *ILAC Rule of Law Assessment Report: Guatemala* (International Legal Assistance Consortium, May 2018)

<<https://ilacnet.org/wp-content/uploads/2018/05/Guatemala-Rule-of-Law-Assessment.pdf>> accessed 25 June 2025.

Zinecker H, *Violence in Peace: Forms and Causes of Postwar Violence in Guatemala* (PRIF Report No 76, Peace Research Institute Frankfurt 2006)

### **Web-Based Sources and Publications**

Agencia Guatemalteca de Noticias (AGN), ‘En qué consiste el Modelo de Gestión Juvenil, que promueve la reinserción de jóvenes en conflicto con la ley’ (AGN, 5 March 2021)

<<https://agn.gt/en-que-consiste-el-modelo-gestion-juvenil-que-promueve-la-reinsercion-de-jovenes-en-conflicto-con-la-ley/>> accessed 10 June 2025

Cavalari M, Manjarrés J and Newton C, ‘InSight Crime’s 2024 Homicide Round-Up’ (*InSight Crime*, 26 February 2025)

<<https://insightcrime.org/news/insight-crime-2024-homicide-round-up/#h-guatemala-3->>  
accessed 20 May 2025

Centro de Estudios de Guatemala (CEG), ‘Acerca del CEG’ (*CEG*, 2018)

<[https://www.ceg.org.gt/index.php?option=com\\_content&view=article&id=8](https://www.ceg.org.gt/index.php?option=com_content&view=article&id=8)> accessed  
1 July 2025

Centro de Estudios y Programas Interamericanos (CEPI), *Pandillas juveniles transnacionales en Centroamérica, México y los Estados Unidos* (ITAM

2006)<[http://interamericanos.itam.mx/maras/docs/Resumen\\_Ejecutivo\\_Espanol.pdf](http://interamericanos.itam.mx/maras/docs/Resumen_Ejecutivo_Espanol.pdf)>  
accessed 20 June 2025

Centro de Liderazgo Restaurativo (CIRCULA), ‘Prácticas y Justicia Restaurativa’ (*CIRCULA*,

2024) <<https://www.circulaguatemala.org/practicas-justicia-restaurativa/>> accessed 1 July  
2025

Cuevas JM, “*Conjunctures of the Return of the Iron Fist in Central America*” (*Global Americas*,  
10 July 2020)

<<https://globalamericans.org/the-return-of-the-iron-fist-in-central-america/>> accessed 12  
June 2025

Defensoría de la Niñez, ‘Quiénes somos’ (n.d.)

<[https://www.defensorianinez.cl/home-adulto/sobre-nosotros-adulto/quienes-somos-adult  
o/](https://www.defensorianinez.cl/home-adulto/sobre-nosotros-adulto/quienes-somos-adulto/)> accessed 25 June 2025.

Dudley S and Bargent J, ‘El dilema de las prisiones: incubadoras del crimen organizado en Latinoamérica’ (*InSight Crime*, 2016)

<[https://insightcrime.org/es/investigaciones/dilema-prisiones-incubadoras-crimen-organiz  
ado-latinoamerica/](https://insightcrime.org/es/investigaciones/dilema-prisiones-incubadoras-crimen-organizado-latinoamerica/)> accessed 10 May 2025

García C, ‘Tracing the History of Failed Gang Policies in US, Northern Triangle’ (*Insight Crime*,  
3 December 2015)

- <<https://insightcrime.org/news/analysis/tracing-the-history-of-failed-gang-policies-in-us-northern-triangle/>> accessed 12 June 2025
- Global Americans, ‘Indigenous Political Representation in Guatemala’ (*Global Americans*, 13 June 2024)
- <<https://globalamericans.org/indigenous-political-representation-in-guatemala/>> accessed 25 June 2025
- Grupo Ceiba, ‘Página principal’ (2022) <<https://www.grupoceiba.org/web/>> accessed 1 July 2025
- Spalaïkovitch A and D’Arthuys M, *Guatemala: Meet the Maras* (Java Films, 2019)
- <[https://www.youtube.com/watch?v=52\\_27EcooO0](https://www.youtube.com/watch?v=52_27EcooO0)> accessed 1 May 2025.
- Hernandez-Roy C and Bledsoe R, *Democracy Dies under Mano Dura: Anti-crime Strategies in the Northern Triangle* (Center for Strategic and International Studies, 12 April 2023)
- <<https://www.csis.org/analysis/democracy-dies-under-mano-dura-anti-crime-strategies-northern-triangle>> accessed 10 May 2025
- Human Rights Watch (HRW), *Guatemala’s Forgotten Children: Police Violence and Abuses in Detention* (Human Rights Watch, July 1997) <<https://www.hrw.org/reports/1997/guat1/>> accessed 20 June 2025
- InsightCrime, ‘Guatemala: Organized Crime Profile’ (*InsightCrime*, 2024)
- <<https://insightcrime.org/guatemala-organized-crime-news/guatemala/>> accessed 20 June 2025.
- Institute for Crime & Justice Policy Research, *World Prison Brief: Guatemala* (2023)
- <<https://www.prisonstudies.org/country/guatemala>> accessed 20 June 2025
- Instituto de Estudios Comparados en Ciencias Penales de Guatemala (ICCPG), ‘Historia del Instituto de Estudios Comparados en Ciencias Penales de Guatemala’ (*ICCPG*, 2020)
- <<https://iccp.org.gt/historia-del-instituto-de-estudios-comparados-en-ciencias-penales-de-guatemala/>> accessed 1 July 2025
- Instituto de la Defensa Pública Penal (IDPP), ‘Coordinaciones de adolescentes en conflicto con la ley penal’ (*IDPP*, 2023)
- <<https://www.idpp.gob.gt/index.php/que-es-el-servicio-publico-de-defensa-penal/coordinaciones-de-adolescentes-en-conflicto-con-la-ley-penal>> accessed 1 July 2025.

Inter-American Commission on Human Rights (IACHR), *IACHR and RFOE Reject Entry into Force of Reforms to the Nongovernmental Organizations Act in Guatemala* (19 May 2021)

<[https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media\\_center/preleases/2021/128.asp](https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/media_center/preleases/2021/128.asp)> accessed 20 May 2025

International Catholic Child Bureau (BICE), *PROGRAMA NIÑEZ SIN REJAS GUATEMALA* (March 2020)

<<https://bice.org/app/uploads/2021/12/3.Reflexion-del-proceso-sobre-proyectos-de-vida.pdf>> accessed 1 July 2025.

International Center for Transitional Justice (ICTJ), ‘Colombia’ (*ICTJ*, 2025)

<<https://www.ictj.org/location/colombia>> accessed 1 July 2025

John G, *Trauma and Transitional Justice in Guatemala: How Conceptions of Trauma Inform Transitional Justice Practices* (MA thesis, The University of British Columbia 2020)

<<https://open.library.ubc.ca/media/stream/pdf/24/1.0223108/4>> accessed 20 May 2025

Kimberly Green Latin American and Caribbean Center (LACC), *Programas de intervención y gobernanza de pandillas a nivel local: El caso de Centroamérica* (Kimberly Green Latin American and Caribbean Center, Florida International University & American Institutes for Research, n.d.)

<<https://lacc.fiu.edu/research/the-street-gangs-in-central-america-research-initiative-scrain/resumen-programas-de-intervencion-y-gobernanza-de-pandillas-a-nivel-local.pdf>> accessed 1 July 2025

Myrna Mack Foundation and WOLA, *Crime and Insecurity in Guatemala* (August 2020)

<<https://www.wola.org/wp-content/uploads/2020/08/Crimen-y-Violencia-GT-ENG-8.9.pdf>> accessed 20 May 2025

Pereira A, *Preventing or repairing the rupture: A restorative justice approach to individual radicalisation* (Paper presented at the IIRP Europe Conference 2017, Dublin, 2017).

Rodríguez L, ‘De los sueños a la realidad: la historia de Casa Intermedia y sus jóvenes’ (*AGN*, 7 June 2024)

<<https://agn.gt/de-los-suenos-a-la-realidad-la-historia-de-casa-intermedia-y-sus-jovenes/>> accessed 1 July 2025.

- Secretaría de Bienestar Social (SBS), ‘Hip Hop, baile y arte gráfico llegan a jóvenes de Gaviotas’ (*Secretaría de Bienestar Social*, 26 November 2021)  
<<https://web2.sbs.gob.gt/trasciende-lleva-el-hip-hop-a-jovenes-de-gaviotas/>> accessed 1 July 2025.
- Secretaría de Bienestar Social (SBS), ‘Sitio oficial de la Secretaría de Bienestar Social’ (n.d.)  
<<https://www.sbs.gob.gt/>> accessed 20 June 2025
- Tissera Luna M, *Voices from the Field: Community-Based Solutions for Young Children in Guatemala* (The International Congress of Infant Studies, 23 July 2024)  
<<https://infantstudies.org/voices-from-the-field-community-based-solutions-for-young-children-in-guatemala/>> accessed 10 May 2025
- Treinen E, ‘Creating Collective Spaces of Empowerment & Amplifying Youth Voices for Peace’ (*Creative Associates International*, 1 July 2022)  
<<https://www.creativeassociatesinternational.com/story/creating-collective-spaces-of-empowerment-amplifying-youth-voices-for-peace/>> accessed 1 July 2025.
- Walén A, ‘Retributive Justice’ (*Stanford Encyclopedia of Philosophy*, Fall 2021 Edition) Zalta EN (ed) <<https://plato.stanford.edu/archives/fall2021/entries/justice-retributive/>> accessed 10 May 2025
- World Bank, ‘Guatemala Overview’ (*World Bank*, 17 April 2025)  
<<https://www.worldbank.org/en/country/guatemala/overview>> accessed 20 May 2025