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LEGACIES OF EXCLUSION: SOCIAL CONFLICT AND VIOLENCE IN COMMUNITIES AND HOMES IN GUATEMALA'S WESTERN HIGHLANDS

GUATEMALA CONFLICT VULNERABILITY ASSESSMENT
FINAL REPORT
PUBLIC VERSION

OCTOBER 2015

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LIST OF ACRONYMS

ANAM	<i>Asociación Nacional de Municipalidades</i> [National Association of Municipalities]
ASIES	<i>Asociación de Investigación y Estudios Sociales</i> [Research and Social Studies Association]
CAF	Conflict Assessment Framework
CAFTA	Central America Free Trade Agreement
CAFTA-DR	Dominican Republic-Central America Free Trade Agreement
CALAS	<i>Centro de Acción Legal Ambiental y Social de Guatemala</i> [Guatemala Environmental and Social Legal Action Center]
CARSI	Central America Regional Security Initiative
CEDER	<i>Centro para el Desarrollo Regional</i> [Regional Development Center]
CDCS	Country Development Cooperation Strategy
CICIG	<i>Comisión Internacional contra la Impunidad en Guatemala</i> [International Commission against Impunity in Guatemala]
CMM	USAID's Office of Conflict Management and Mitigation
COCODES	<i>Consejos Comunitarios de Desarrollo</i> [Community Development Councils]
CPO	<i>Consejo del Pueblo Maya</i> [Mayan People's Council]
CSO	Civil Society Organization
DEMI	<i>Defensoría de la Mujer Indígena</i> [Office for the Defense of Indigenous Women]
DI	Democracy International, Inc.
DO	Development Objective
FLACSO	<i>Facultad Latinoamericana de Ciencias Sociales</i> [Latin American Social Sciences Institute]
FNL	<i>Frente Nacional de Lucha</i> [National Front for the Struggle]
FUNDAMAYA	<i>Fundación Maya</i> [Maya Foundation]
GDP	Gross Domestic Product
GIZ	<i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i> [German Corporation for International Cooperation]
GOG	Government of Guatemala
IACHR	Inter-American Commission on Human Rights
IAD	Inter-American Dialogue

ICEFI	<i>Instituto Centroamericano de Estudios Fiscales</i> [Central American Institute for Fiscal Studies]
IFC	International Finance Corporation
ILO	International Labour Organization
INGO	International Non-Governmental Organization
INFOM	Instituto de Fomento Municipal
INTERPOL	International Criminal Police Organization
IOM	International Organization for Migration
LAPOP	Latin American Public Opinion Project
LIDER	<i>Libertad Democrática Renovada</i> [Renewed Democratic Liberty]
NGO	Non-Governmental Organization
OAS	Organization of American States
PAC	<i>Patrullas de Autodefensa Civil</i> [Civil Auto-Defense Patrols]
PAHO	Pan American Health Organization
RIC	<i>Registro de Infomación Catastral</i> [Cadastre Information Registry]
SAA	<i>Secretaría de Asuntos Agrarios</i> [Secretariat for Agrarian Affairs]
SSO	Social Support Office
TSE	Supreme Electoral Tribunal (Tribunal Supremo Electoral)
UN	United Nations
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous People
UNE	<i>Unidad Nacional de la Esperanza</i> [National Unity of Hope]
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
WHIP	Western Highlands Integrated Program
WHO	World Health Organization

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EXECUTIVE SUMMARY

The purpose of this report is to provide USAID with a comprehensive assessment of social conflict and violence in the Western Highlands of Guatemala, particularly in the departments of Quiché, Totonicapán, San Marcos, Huehuetenango, Quetzaltenango, and Sololá. This report looks at the approaches used in USAID/Guatemala’s current Country Development and Cooperation Strategy (CDCS) (2012-2016), which has three major Development Objectives (DOs)—(1) greater security and justice for citizens; (2) improved levels of economic growth and social development in the Western Highlands; and (3) improved management of natural resources to mitigate the impacts of global climate change—in order to provide recommendations for the Mission’s 2017-2021 CDCS and inform current programming.

The assessment used the approach detailed in USAID’s Conflict Assessment Framework (CAF 2.0). The initial desk study reviewed relevant literature in order to identify the major dynamics of conflict and violence in the target region. This was followed by fieldwork conducted by a team including representatives from USAID’s Office of Conflict Management and Mitigation (CMM), USAID/Guatemala, and country experts contracted by DI. The fieldwork included 80 interviews carried out in Guatemala City and in the Western Highlands, specifically in the departments of Quiché, Totonicapán, Huehuetenango, San Marcos, Quetzaltenango, and Sololá. The team also conducted 15 focus groups in communities in the Western Highlands.

The violence in the Western Highlands is a systemic phenomenon that affects the full gamut of social interactions. The assessment revealed various important patterns of conflict between family and community, especially intrafamily violence, trauma, and health; the intergenerational gap; and how youth respond to the lack of livelihood options. It also revealed that adults in most communities have significant fears about youth rebellion, delinquency, and gangs, and these spur repressive community-based security responses. In addition to these family-related conflicts, the Western Highlands region experiences a variety of conflicts related to governance, land, and natural resource extraction industries.

Core finding: Historical patterns of structural exclusion, internal armed conflict, and unresolved social conflict reinforce and intensify social inequality, discrimination, and violence in interrelated and systemic ways. These patterns persist at all levels of society—from the family and community to regional institutions—and interact in complex ways with each other in a context of accelerating societal, environmental, and global changes. Without means to address these patterns systemically, violent social conflict will likely continue to escalate, undermining overall development in the Western Highlands.

GENERAL FINDINGS:

Youth and Families: Families live with extraordinarily high levels of intra-family violence, while intergenerational differences resulting from shifts away from agriculture and the influence of technology, migration, and gangs make it harder for parents to guide, influence, and monitor their children. The alienation of parents from youth leaves the latter without mentors, stimulates intra-household strife, and triggers adult fears. In some instances this is resulting in the criminalization of youth as “gang members” by local law enforcement entities and security commissions with potentially serious consequences for both the youth and the community.

Governance: In many parts of the Western Highlands, national and departmental governments lack legitimacy and, in some cases, are simply absent. Furthermore, in many instances, national governance structures conflict with a wide range of local ones—both state and para-state. Means for conciliating local and state governance mechanisms are lacking.

Land: The lack of a coherent system of land tenure and property rights reinforces the continued concentration of land ownership in the hands of a small but powerful elite; it generates conflicts surrounding property rights, boundaries, and illegal occupations, as well as renewed land accumulation by new agricultural industries. This fosters further disenfranchisement, reduces agricultural productivity and economic viability of smallholders, reinforces grievances, and foments greater poverty and hunger, as well as greater conflict and social fragmentation.

Extractive Industries and Natural Resources: Investments in hydroelectric projects, mining, the energy sector, and certain new agricultural industries represent flashpoints—partly because of the unequal benefits they confer, partly due to differences in the vision of what development means, and partly due to the damage they cause to natural resources and the environment. The government has failed to mediate between the diverse interests; national and local agencies often lack institutional and legal capacity to regulate these industries; and affected communities are largely unprepared to conduct “social auditing.”

Employment and Livelihood Generation: The majority of people in the Western Highlands are struggling to support their families through the informal sector, migration, increasingly unpredictable agricultural pursuits, and/or illicit activities. For young people, the lack of legitimate work prospects can provoke destructive responses for themselves, their families, and their communities, which feed conflict in various social spheres.

Trauma¹ and Psychosocial Support: Local populations are exposed to violence and social conflict in multiple social spaces—including from domestic violence, gang-related violence, and conflicts with extractive enterprises and the state—and these experiences can also overlap with past experiences of violence, most notably from the armed conflict. The replication of trauma affects how people think, behave, and interact with one another intergenerationally. It can also reinforce cycles of violence and high-risk behavior, inhibit dialogue, prevent strategic and future-oriented thinking, reinforce high levels of fear and intolerance, undermine physical and mental health, and stimulate destructive social behaviors.

Western Highlands Integrated Program (WHIP): The sectoral rather than geographic approach of WHIP undermines effectiveness and could reinforce a state-centric approach. It also prevents cross learning, and coordination structures to date have been insufficient from a conflict sensitivity perspective.

RECOMMENDATIONS

Because the social conflicts in the target region are systemic and complex problems, the report argues that interventions should privilege methodologies that reflect their non-linear and systemic nature. These include small-scale prototyping and piloting, learning (retrospectively) by trial and error, careful monitoring and analysis using a systemic rather than a functionalist methodology, and the ongoing and rapid readjustment and retesting of strategies.

Primary Recommendation: Address violent conflict and its drivers directly in programming. The intersection of Western Highlands’ history and current realities obliges USAID to place an explicit emphasis on social conflict—a focus on economic growth and social development alone will not suffice.

Youth and Families: Support dialogue and problem-solving spaces between and within generational groups to help participants develop a broader understanding of their mutual (community) and individual (generational) challenges and to design strategies to address them. Pay special attention to the needs of fragmented families and returnees² in order to design pro-active programming to better support their

¹ Trauma is a psychobiological and socially and culturally contextualized response that results from an experience of overwhelming fear accompanied by the sense of impotence to protect oneself or others.

² In this report, “returnees” is used to refer to those who have returned home after migrating, either internally or externally, and includes those who have been deported from the United States and Mexico.

economic and psychosocial needs and—for returnees—to support their reinsertion into their communities. Strengthen the capacity of vulnerable families to ensure that children and youth thrive in society by mapping out violence dynamics as basis for designing evidence-based programming that engages with men, women, youth, and children.

Employment and Livelihood Generation: Support job training and livelihood development for youth through processes that build on local social and natural capital and that are based on market-driven analysis and use trained mentors. Explore creative options in agriculture and look beyond to sectors such as tourism, forestry, and artisanal endeavors. Recommend support for alternative livelihoods programs for local producers alongside poppy eradication. Absent such integrated programming, there is real concern that Do No Harm principles are being violated.

Trauma and Psychosocial Support: Train USAID staff and implementing partners to employ a “trauma-sensitive lens” in all programming in communities affected by high levels of violence and social conflict; conduct baseline research to gauge prevailing levels of trauma in order to design appropriate programming; and contemplate training community members to offer trauma counseling to their peers—such counseling could be embedded in multiple social arenas. Also ensure USAID staff and contractors receive appropriate support to assess and work with populations that have significant potential to be traumatized.

Governance: Analyze the composition of local governing structures and develop flexible mechanisms to work with and learn from different governance models. Explore support for compatibilization of community/traditional and national government structures.

Land and Conflict: Commission an analysis of the status of the Cadastre effort. Support strengthening of the Secretariat for Agrarian Affairs (SAA, acronym in Spanish), analyze possible support for Social Support Offices (SSOs), Fiscalia Agraria and/or special Agrarian courts; support existing mechanisms to strengthen local level conflict mediation and resolution capacity (e.g. Red Quiche); commission an analysis of pending legislative reforms; harvest lessons from previous conflict intervention efforts; and promote development of a comprehensive rural development plan/policy.

Extractive and Natural Resources: Increase participatory approaches to dialogue and consultation in communities; identify how to help build capacity within communities to interface with private sector and the Government of Guatemala (GOG) and vice versa; support strengthening regulatory capacity of Ministries of Energy, Mining, and Environment; and enhance community capacity for social auditing.

WHIP: Prioritize a territory-based approach and transition from coordination to integration of programming. Identify how implementers will address conflict dynamics; consider piloting and harvesting best practices; base all programming on assessments of local governance; expand health programming to establish a more adequate foundation for social development; consider a cross-cutting focus on youth, adults, authorities on the issue of intergenerational gaps and related conflict; ensure gender-focused programming includes both men and women.

Nexos Locales Program: Work with the 30 municipalities in the WHIP and the National Association of Municipalities (ANAM) to put together revenue generation and expenditure plans to properly manage revenues from investments in, for example, hydroelectrics, electricity, roads, among others.

FINAL REPORT

SECTION I. INTRODUCTION

A. PURPOSE

In July 2015, Democracy International (DI) worked with CMM and USAID/Guatemala to conduct a comprehensive assessment of social conflict and violence in the Western Highlands of Guatemala. The purpose of this conflict vulnerability assessment is to:

- (1) Provide USAID with a better understanding of the dynamics that drive conflict and violence in the Western Highlands—especially in the departments of Quiché, Totonicapán, San Marcos, Huehuetenango, Quetzaltenango, and Sololá, and focusing on how they relate to the three major DOs for the period of 2012-2016: (1) greater security and justice for citizens; (2) improved levels of economic growth and social development in the Western Highlands; and (3) improved management of natural resources to mitigate the impacts of global climate change; and
- (2) Provide recommendations for the Mission’s 2017-2021 Country Development Cooperation Strategy (CDCS).

B. ORGANIZATION OF THIS REPORT

This section describes the methodology and defines key terms. Section II describes broad societal patterns—historical and more recent—that drive violent conflict throughout Guatemala. The following sections focus on the target region. Section III analyzes patterns of conflict between family and community, particularly intrafamily violence, the intergenerational gap, and how youth respond to the lack of livelihood options. Section IV looks at adult fears about youth rebellion, delinquency and gangs, and how these feed community security responses. Section V examines state and non-state governance and related conflicts. Section VI and VII review licit and illicit livelihood options and natural resource conflicts in the region, and Section VIII and IX summarize key trends, conclusions and recommendations.

C. METHODOLOGY AND LIMITATIONS

This assessment employed the CAF 2.0, beginning with a desk study that reviewed relevant literature to identify major dynamics of conflict and violence in the target region, the forces that generate and reproduce them, and the questions that these dynamics provoke for USAID’s future work in the region. Based on that study, the conflict assessment team developed a field research plan and list of potential actors to interview.

Due to the delicate political conditions in the country—the tense pre-electoral climate, the increasingly weak legitimacy of the Guatemalan government, and the conflictive situation prevailing in various target communities—the team decided to (1) privilege interviews of a wide range of intermediate actors both in Guatemala City and in department capitals, and (2) engage with people in high-conflict communities primarily either through focus groups or through key interviews in locations outside the community.

The conflict assessment team held 80 key informant interviews in Guatemala City and six departments in the Western Highlands, as well as 15 focus groups with youth, men, and women in five communities. The team consisted of nine people: three from USAID/Guatemala, two from CMM, three Guatemalan country experts, and the team leader. For the field research in the Western Highlands, the group divided into three teams. Team One went to Huehuetenango and Sololá departments; Team Two to San Marcos and Quetzaltenango; and Team Three to Quiché and Totonicapán. Subsequently, the full team engaged in a three-day exercise to synthesize the findings from the field research, the results of which form the backbone of this report.

C. DEFINING TERMS

Three key terms used in this report are “conflict,” “violence,” and “systemic challenge.” They are understood as follows:

Conflict: As the CAF 2.0 manual notes, conflict itself is not inherently problematic. Conflict “is a necessary outcome of different people pursuing their interests and exercising their freedom, and it can be a powerful force for positive change and growth... When conflict becomes violent, however, the effect on human wellbeing is disastrous.” (USAID, 2012: 1) The major challenge of conflict in Guatemala—given the history of injustice and inequality—is how to construct a societal culture and practice of constructive conflict and resolution. Hence, this study focuses particularly on: (1) the dynamics that cause conflict to become violent; (2) violent conflicts themselves; and (3) how violence can generate more violence.

Violence as a systemic phenomenon: The definition of violence advanced by the World Health Organization (WHO) in 2002 encompasses diverse dynamics of violence from the micro level to the macro and is helpful for the systems framework employed for this assessment. The WHO argued that violence affects the entire arc of human development from individual and social relations to community and society and is understood as: “the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation” (WHO, 2002: 5). Four aspects merit particular attention for the purposes of this analysis: violence as power, structural and symbolic violence, legitimate vs. illegitimate violence, and violence that is legal or illegal.

Violence as power: The notion of violence as power is particularly important for understanding both state and civic behavior in contexts of relative state absence, dysfunction, and the historical dynamics of inequality and injustice that still plague Guatemalan society. The use of violence as power can provoke the internalization of powerlessness on the part of “victims” (Gaventa). Both power and violence have their visible forms as well as hidden and ultimately internalized forms—i.e., the ways that the very culture of violence becomes internalized and naturalized.

In scenarios of naturalized violence, simply changing the visible and institutional forms of power/violence will not lead to greater participation (Gaventa). If those who are affected lack the agency and confidence to enter the spaces or to use the laws, the *status quo* will simply be reinforced. Similarly, to move from being victims of violence to becoming agents of their own futures, people must be able to recognize naturalized and internalized forms of violence. This reality points to the need for pedagogical strategies to enable affected groups to make hidden and invisible forms of violence visible (Gaventa, 2013).

Structural violence involves the naturalized forms of oppression and social suffering linked to maldevelopment, such as chronic poverty, hunger, social inequality, and exclusion (Galtung, 1969; Farmer, 1999, 2000) and is closely associated with symbolic violence and violence as power. Gilligan terms “structural violence” as “the increased rates of death and disability suffered by those occupying the bottom rungs of society, as opposed to the relatively lower death rates experienced by those who are above them,” attributed to the stress, shame, discrimination, and denigration resulting from lower status. (Gilligan, 1997)

Symbolic violence refers to how people internalize and naturalize the violence they suffer as if it were the natural order of things and/or something they deserve (Bourdieu and Wacquant, 1992). It describes the experience of structural violence caused by underdevelopment; intimate violence lived especially by women, children, and increasingly by older people; and suicide.

A graphic example of symbolic violence in Guatemala—with among the highest levels of childhood stunting in the world—is how the relationships between mothers and health care providers causes mothers to internalize and normalize their children's ill health. As a mother was quoted in a recent study on the normalization of child malnutrition in two communities, “We didn’t know we were

malnourished. We thought it was normal to have short children, and no one told us differently.” (Chary et al., 2013: 87-95).

Legitimate and illegitimate, legal and illegal forms of violence: State violence (both legal and illegal) against Guatemalan citizens and violence exercised by power elites have been historical constants, up to the present. Using violence to impose state-like power and totalitarian control over communities, often viewed as legitimate by target groups, is a standard tactic of criminal organizations—upending the classic notion of state monopoly over legitimate force or violence. (Weber, 1919:4)

If violence is seen as a systemic dynamic, it is clear that homicides cannot be considered as an adequate indicator. The low homicide levels in the target region in relation to average levels nationwide can in no way be equated with low levels of violence understood as described above. Violence as maldevelopment, state repression, or gender inequality can be experienced in ways that are equally or more socially destructive and traumatizing than murders. The social impact of lynching provides a good example. A lynching may only count as “one death.” However, as a social event involving two or three hundred people as witnesses, passersby, or participants, it can have traumatic implications—individually and collectively—that can contribute to diverse forms of subsequent violence.

Systemic and complex challenge: This report argues that the challenges relating to social conflict in the Western Highlands are complex problems that relate to each other as part of a larger system. In summary, a complex problem is one for which there is no immediately evident link between cause and effect. Thus it requires methodologies that reflect its non-linear and systemic nature—for example, small-scale prototyping and piloting, learning by trial and error, careful monitoring and analysis with a systemic methodology, and ongoing and rapid readjustment and retesting of strategies.

SECTION II. STRUCTURAL SOCIETAL PATTERNS CREATE CONDITIONS FOR CONFLICT & VIOLENCE

This section describes historical and more recent societal patterns that underlie violent social conflict generally in Guatemala as well as specifically in the Western Highlands.³

A. SOCIAL EXCLUSION AND INEQUALITY UNDERLIE A STATE THAT FUNCTIONS FOR THE FEW AND MARGINALIZES THE MAJORITY.

The Historical Clarification Commission noted the continuity of patterns of violent social conflict and inequality from the colonial period through a long period of authoritarian governments until the Peace Accords were signed in 1996. Throughout, the state protected a small minority and excluded the majority from the fundamental rights of citizenship. The Commission noted that, historically, Guatemala’s anti-democratic forms of governance and its discriminatory economic structure were based on an ideology of racism that defended a small “white” criollo elite and normalized the systematic exclusion of the country’s indigenous population, and to a lesser extent, that of poor Ladinos.

While much has changed, much also remains the same. The democratic state has made significant effort—in good part financed by the international community—to enable the country’s indigenous to overcome historical patterns of discrimination and exclusion, protect their historical, social, and cultural legacy, and participate as citizens through multiple new state institutions and mechanisms. Yet, Guatemala continues to have among the highest indicators of social inequality in the world. Although a middle-income country with a per capita GDP of \$3,477 in 2013, it ranked 125 of 187 on the 2013 Human Development Index. Economic inequality, measured by its Gini score, is 52.4—the 16th highest in

³ See the 1998 report of the Historical Clarification Commission and in two 2007 analyses of progress in post-war Guatemala a decade after the signing of the Peace Accords—the first by the Inter-American Dialogue (IAD) with a broad array of national and international experts (IAD, 2007) and the second commissioned by then Vice President Eduardo Stein (Calvaruso et al, 2008).

the world (World Bank, 2014; Dininio, 2015: 1). As the USAID/Guatemala CDCS notes, “Guatemala is sometimes referred to as two-countries-in-one. This metaphor describes the highly stratified society in which exclusion, poverty, and chronic malnutrition are inextricably linked” (USAID CDCS).

The departments targeted for this study have the lowest social indicators in the nation. The table in Annex B shows that local residents live in chronically precarious social conditions, in many cases among the worst in the country. These numbers describe the classic conditions of “structural violence” that are a fundamental aspect of the systemic violence described in the introduction. Inequality is significant to this study because citizen perceptions of inequality are closely correlated with high levels of conflict and social violence (Briceño Leon, 2008; Wilkinson and Marmot, 2003: 22).

Inequality in Guatemala today, moreover—as detailed further on—is experienced in ways that differ dramatically from 40 or 50 years ago and is both a major mobilizing force in society and a significant driver of conflict and violence. In fact, the high levels of social inequality between the haves and the have-nots may be becoming even more significant within the Western Highland communities themselves due to diverse forces contributing to increased social stratification and the emergence of new elites, including economic and social impacts of migration, the illicit economy, and certain extractive industries.

Poverty appears to fluctuate from 56 percent in 2000 and 51 percent in 2006 to 53.71 percent in 2011, while extreme poverty has varied between 15.20 percent (2006) and 13.33 percent (2011). Over this period, however, the number of poor people grew by almost 1.5 million, from 6.43 million people in 2000 to 7.86 million people in 2011. Many of these statistics disproportionately affect indigenous people (see Annex B) and demonstrate the multiple facets of inequality and poverty in the target region, contributing directly or indirectly to conflict and violence in ways that will be described in the following sections.

Social exclusion, moreover, continues to define many of the major challenges faced by local citizens. Despite multiple new institutions since the Peace Accords to serve indigenous people, these efforts have not enjoyed the political or economic support necessary for them to fulfill their respective missions.⁴ Moreover, most of these new institutions rely on the international donor community for their survival, with no assured institutional continuity and little political clout. Finally, by focusing primarily on bringing indigenous people to parity, few initiatives that address ethnic inequality today contemplate the need to transform the historically conflictive relationships between indigenous and non-indigenous people. Nor do they address the inevitable backlash that has arisen from certain non-indigenous sectors because of (mainly internationally supported) efforts to shift the power equation between these groups.

B. NO NATIONAL PROJECT EMERGED TO BUILD AN INCLUSIVE STATE

The Historical Clarification Commission noted that before the war, no cohesive “national project” or “national vision” existed to ideologically unify and guide the population as a whole. The state perpetuated a system that treated indigenous people (and to a significant degree poor Ladinos as well) as ‘second-class citizens.’ The Guatemalan elite tended to think of the country as theirs while indigenous people identified with their own community, or at most, with the region where they lived. While some political parties now seek to communicate with Guatemalans who have been historically marginalized, and there have been some shifts in those who benefit from the state, the state continues to marginalize the majority in favor of a few, with indigenous people particularly affected by this exclusion. As a result, there is increasing emphasis on traditional (local) forms of governance in some indigenous and some multi-ethnic communities (legitimized and authorized by international convention), and there are multiple efforts focused on the defense of local or community lands.

⁴ Indeed, underfunding is an endemic problem for GOG institutions, making many of them rely on donor support to be able to function.

C. THE STATE'S FAILURE AS A MEDIATOR BETWEEN DIVERSE SOCIETAL INTERESTS AND THE SELECTIVE REPRESSION OF CIVIL SOCIETY

The Commission concluded that the state contributed to the armed conflict because it never assumed:

A role as mediator between divergent social and economic interests [and hence created] a gulf which made direct confrontation between them more likely... the human and civil rights established in [successive constitutions] became formal instruments violated by the various structures of the state itself... This deficit of channels for constructively directing dissent through mediation, typical of democratic systems, further consolidated a political culture of confrontation and intolerance and provoked almost uninterrupted instability, permeating the whole social order. Thus a vicious circle was created in which social justice led to protest and subsequently political instability, to which there were always only two responses: repression or military coups (Historical Clarification Commission, Conclusions and Recommendations, 1999, p. 17-18).

A democratic experiment from 1944 to 1954 followed the ouster of longtime dictator Jorge Ubico, opening a space for the construction of a state that sought to address many of the social problems facing most Guatemalans. However, the 1954 coup d'état, supported by the US and sectors of the Guatemalan elite, reversed many of the advances, and social movements lost momentum due to the widespread state-driven violence and repression that accompanied the coup.

By the 1960s, in a global context increasingly defined by the Cold War, a diverse and decentralized social movement began to re-emerge, stimulated by contradictory ideological tendencies. These included: the social reformist ideology of the Catholic Church represented by Vatican II, international development ideologies from the US, other Western governments, and international non-governmental organizations (INGOs), as well as a range of more radical social proposals espoused by reform and revolutionary movements around the world, from Vietnam to Cuba and elsewhere in Latin America.

Until 1980, this increasingly diverse and active social movement operated in growing conflict with the Guatemalan state, led by a succession of military officers and a few civilians and backed by a range of paramilitary organizations formally or informally linked to the state and/or national elite. Over the same period, revolutionary organizations began to form, operating clandestinely with occasional forays into the public light. After the 1976 earthquake that devastated much of the Central Highlands and killed over 20,000 people, social organizational efforts expanded significantly, fed by a huge influx of disaster and development aid. The state responded with more violence and repression.

A series of events starting around 1978 signaled that the possibility for negotiated solutions with the government had ceased to exist. These included the 1978 massacre at Panzós of unarmed indigenous peasants by the Army and, in 1980, the launching of the Army's scorched earth strategy in the Highlands and the burning of the Spanish Embassy. Public declarations by revolutionary groups and associated social organizations quickly reflected their radicalization, and the war went into high gear.⁵ Between 1980 and 1982, the government committed a large share of the repression and atrocities that characterized the war between the government and several guerrilla groups. Over 200,000 people were killed and between 500,000 and 1.5 million people went into internal and external exile—representing between 8 and 20 percent of the national population at that time. The guerrilla forces were badly crippled.

Despite the weakening of the guerrilla by 1982, the Army was unable to defeat them definitively, leading to a low intensity war lasting for another decade. Throughout, the Army worked intensively—

⁵ Although the Historical Clarification Commission established that the war had transpired between 1960 and 1996, these dates were established post-fact and do not reflect a popular consensus among Guatemalans about the period of the conflict. In one community, for example, people date the conflict from 1981, when they surrendered to the Army. Others date it to the period when the guerrilla abandoned the area, which they understood as a "surrender" (Adams, RPP: 8).

particularly through the repression of Western Highland communities—to assert ideological control over the population. The guerrilla, exiled population, and refugees found moral and material support in strategic assistance from the international community, which at the same time invested increasingly in the development of today’s civil society.

Since the war’s end, a formal system of democratic governance and numerous formal mechanisms for conflict resolution have been established. A multiplicity of civil society organizations (CSOs) also now exists (most dependent on the international community) and pursues a wide range of demands. Nonetheless, the GOG and the political party system continue to fail to mediate disputes between diverse social actors, and the historical pattern of selective repression of civil society actors continues. These practices feed high levels of social conflict and political instability and continue to be among the major drivers of social conflict both in the target region and nationwide.

D. INTERNATIONAL COMMUNITY INFORMS TODAY’S CIVIL SOCIETY BUT ITS NARRATIVES CONFLICT WITH TRADITIONAL VALUES AND NORMS

Today’s Guatemalan civil society came into existence during the last decade of the armed conflict, at a time when indigenous people became a major focus of international attention and donor commitments, reflected in Rigoberta Menchú’s rise as an international symbol of indigenous people and her receipt of the Nobel Peace Prize in the year launching the Decade of Indigenous Peoples. Menchú’s image contrasted starkly with that which

had informed the developmentalist ideologies of the 1960s and 1970s—notions of Indians as the backward remnants of failed civilizations who needed to be ‘developed’ or ‘modernized’. This notion also began to weaken as it became evident that indigenous people were linking up to revolutionary movements in Guatemala and elsewhere, and demanding fundamental socio-economic transformation. ... Complementary to these developments was the emergence of the notion of indigenous people as victims. Many indigenous people were indeed ‘victims’ of the war in the truest sense of the term. Those who weren’t on the army’s side, however, faced the risk of being accused of being opponents at a time when this could be a lethal label (Adams, RPP: 10).

This was the context in which the Peace Accords were negotiated. The agreement had unprecedented scope and ambition—the first comprehensive *peace-cum-development* accord achieved with the intermediation of the United Nations (UN)—and served as a model for several other countries, including Bosnia, Kosovo, and East Timor (Adams, RPP: 11). However, the belief of international organizations and donors that the Accords had a high level of public support and that CSOs in some ways fundamentally represented Guatemalan society proved to be wrong. The referendum to establish the Peace Accords in the Guatemalan Constitution was voted down, and independent observers’ concerns that CSOs in fact had very weak roots in Guatemalan society were proven correct. Since the war, CSOs have continued to be highly dependent on international aid, and this aid has fundamentally informed the agendas and discourse of Guatemalan organizations and the nature of their demands made with regard to the state.

As detailed in the rest of this section, Section V, and Annex C, there is often an ideological and experiential discord between international narratives and programming and how life on the ground is experienced and understood in target communities. These differences emerge particularly in reference to the local experience and impacts of the principles and programming of transitional justice, human rights, gender equity, and youth advocacy initiatives.

E. CONTINUITY OF PREEXISTING HISTORICAL POWER ELITES

The continuing power of pre-war and war-time elites—well documented in the literature and symbolized most recently in the breaking news about the longstanding illicit ties of ex-President Otto Pérez Molina and his important role both in the internal armed conflict and in the assassination of

Bishop Juan José Gerardi⁶—was reconfirmed in various communities in our field research. Many communities today are dominated by the same sectors that controlled local power structures before and during the war. This is despite three decades of democratic governance, almost two decades of transitional justice efforts, and the assumption by many international actors that the wartime structures are in the past. These continuities contribute to extending violence as a norm in the maintenance of local power structures, and fear, silence, and evasion as rote behavioral responses of local citizens.

While many international and national social actors have tended to assume that the Peace Accords represented a break with pre-war structures and powers, the complex social dynamics of the post-war period and the diverse factors that have further complicated people’s lives in the Western Highlands described in this section have contributed to a sense of perverse continuity and inevitability of social inequality and struggle. The contemporary phenomenon of generalized “violence,” for example, is lived by many as “the war all over again,” while the alternating droughts, hurricanes, and pests that have undermined agricultural production are viewed by others as “a curse because we have sinned” (Adams, 2012).

F. NEW SOCIETAL PATTERNS INTENSIFY HISTORICAL EXCLUSION

Some of the most significant dynamics that presently inform life in the target communities have emerged in recent decades. Our field research confirms the significance of a series of factors not contemplated in the Peace Accords that have come into full force since that time, including:

- Economic and social impacts of globalization, including increased dependence on information technology, liberalization of trade and the economy, and the decline of subsistence agriculture;
- A democratization process that prioritized institutional strengthening and state decentralization while paying relatively little attention to constructing the social underpinnings of democracy;
- The growing role of non-governmental organizations (NGOs) and relative weakening of “social organizations,” and their significant role in the management of state-like functions;
- The explosion of illicit trade and organized crime;
- The growing challenge of chronic unemployment;
- The upswing of both internal and international migration; and
- Increasingly significant impacts of climate change and environmental destruction.

The following pages will show how all of these dynamics contribute to specific patterns of conflict and violence in the communities and regions targeted by this assessment.

SECTION III: VIOLENCE IN FAMILY AND COMMUNITY

A. THE INSEPARABILITY OF VIOLENCE IN FAMILY AND COMMUNITY

Because the target communities have a long history of collectivist culture and social structures—even with the dramatic changes of recent decades—there is no firm line of distinction between family and community in the analysis of social conflict. “Political” conflicts are felt inside families and between neighbors, and those that start in the intimacy of families quickly manifest in community and political relations. The importance of understanding how “public” conflicts are lived and constructed at the community and family level is well documented by Theidon, Shaw, and others. In Guatemala, the conflict between the state and the guerrilla was manifested in divisions among community members and within families during the internal armed conflict. Two examples from the field research bring home the intrinsic “confusion” between family and community violence in the Western Highlands today:

⁶ See Peacock et al, 2007. *Poderes ocultos*. <http://www.wola.org/sites/default/files/downloadable/Citizen%20Security/past/Poderesocultos.pdf>, Francisco Goldman, 2015 at <http://www.newyorker.com/news/news-desk/from-president-to-prison-otto-perez-molina-and-a-day-for-hope-in-guatemala>, and Gonzalez. 2014. *Territorio, actores armados y formación del Estado*. Editorial Cara Parens-URL, Guatemala

- A young woman in a community of San Juan Ostuncalco, Quetzaltenango, reported: “When my father [an auxiliary mayor serving as a security patrol for his community] was doing his rounds one night, he caught a kid who was making trouble. But when he took his ski mask off, it was my cousin—his nephew—who reacted by threatening to have my father killed. My father was too scared to keep patrolling, and now, our families barely speak anymore.”
- The conflict in San Miguel Ixtahuacan, San Marcos, between a sector of local citizens and the mining company has not only divided 10 rural communities from the other 23, but it has also caused brothers and sisters, uncles and nieces, husbands and wives to line up against each other, undermining intra-family solidarity. Schoolteachers are punishing children because their families are on opposing sides of the battle, and people can no longer transit easily from one community to another.

This section reviews key dynamics that trigger and reproduce intra-family and community-level conflict violence, and feed on each other in ways that are beyond the scope of this report to adequately document. It first examines the existing quantitative data on intra-family violence and how this relates to fundamental questions of mental and physical health. The report then shows how the following factors contribute to further spurring familial violence: the increasingly significant intergenerational gap, lack of livelihood options for young people, migration, and alcohol and drug consumption.

B. INTRA-FAMILY VIOLENCE

Violence inside families in Guatemala—most commonly against women and children, and increasingly, elders—is very high, and tends to be more extreme in the targeted region than elsewhere. This section reviews first the broader statistical information on intra-family violence nationwide and then describes key contributors in the target region. Since the team could not access reliable studies of intra-family violence in the target region, this analysis extrapolates from both national studies and estimates by knowledgeable observers of the region. While violence toward women is relatively high on the radar both in communities studied as well as for privileged observers, violence toward children is less acknowledged. Violence toward men is scarcely acknowledged.

Nonetheless, existing data allows us to assume that violence in the home is a source of high levels of traumatization, which in turn provokes perverse responses in other social spaces—for example, in the motivations driving young people into the refuge of gangs or to migrate—as well as contributes to replicating violence in future generations. Alcohol, discussed later, is widely acknowledged as a major trigger for all forms of intra-family violence, including sexual abuse.

I. Violence Toward Women: The 2014 Latin American Public Opinion Project (LAPOP) opinion poll confirms that intra-family violence is extremely high in Guatemala: 24.5 percent of women reported physical violence by male partners, a number similar to that reported by a recent Pan American Health Organization (PAHO) survey; 54 percent of men expressed favorable attitudes about the use of physical violence toward their wives for not keeping the house well; and 58 percent of men have a positive view of physical violence toward their wives for disloyalty—the highest number anywhere in Latin America. These numbers are higher in rural areas and small cities in the target region than elsewhere in the country. Significantly, similar percentages of women believe that men have the right to use physical violence against them for disloyalty (Azpuru, 189-228).

People interviewed for this study gave estimates of the percentage of women subject to physical abuse by their partners that ranged between 50 and 80 percent. A survey of women in the Western Highlands found that a majority was battered both sexually and physically (Moser and McIlwaine, 2001), which coincides with other similar qualitative studies elsewhere in the region (Adams, 2012). Privileged observers confirm that incest—of women and girls by brothers, fathers, uncles, fathers-in-law, and sons—is very high and can be intensified when the male head of family is absent due to migration.

- In Huehuetenango, privileged observers confirm that women are highly afraid to report abuse both because of the power men have over them and due to the unreliability of local officials.
- In Quiché and Totonicapán, violence is reported to have reached “spectacular dimensions,” justified partly because “women have abandoned their traditional roles.” Sexual abuse of girls by schoolteachers, schoolmates, and boyfriends is reported to be high, and often involves alcohol.
- Totonicapán has one of the highest indices of violence toward women in the country, addressed successfully but only briefly through involvement of auxiliary mayors.
- In San Juan Ostuncalco, Quetzaltenango, women report that when they file complaints and their husbands are sentenced, they are worse off because they lose their household’s income. “The sentences destroy the families.”

2. Male Violence Toward Women and Children: While little research exists on the drivers of male violence, the following may be contributing factors and merit careful study: (1) traumatization and brutalization of men during the war and other traumatic experiences in childhood and as adults (in Guatemala, rape and other forms of gender-based violence intensified and became more brutal during the war and remained high post-war) (Boesten, 2014: 7, ECAP, 2014); (2) changing power relations between men and women because women are abandoning their traditional roles; (3) men’s insecurity about their wives’ possible disloyalty when they migrate to the US; (4) feelings of disempowerment due to too little work or income; (5) hyper-violent forms of machismo modeled by criminal organizations and gangs; (6) the continuing belief that men have more rights than women and that male violence toward women is justifiable; and (7) alcohol use (LAPOP, op cit; Barker et al., 2010).

Women’s behavior and changing roles also influence violence levels. In patriarchal societies like Guatemala, women often seek out men with greater power and social prestige, and, as seen earlier, the majority of Guatemalan women believe that men have the right to physically discipline women. Additionally, violence displayed by men in such conditions intensifies their power over women. On the other hand, as some women break out of traditional gender roles, acquiring jobs or other income sources, this can also threaten the relative power of men, provoking violent responses (Baird, n.d., 18-20). Interviews in the communities of study all confirm the high levels of complicity of men and women in believing that women and children are supposed to submit to the authority and violence of men.

3. Parental Violence toward Children: Little information exists on parental violence toward children in Guatemala, a sign of its persistent social acceptability. Interviews in the communities of study, for example, confirm that men are believed to be responsible for disciplining children—often via violent and authoritarian means—while women are responsible for education. This arrangement, however, falls apart when men migrate because of the lack of authority attributed to women. Many accounts describe the inability of women to assert authority over their children in these contexts and of women seeking out a grandfather, uncle, or male schoolteacher to do so in the absence of the father.

Nonetheless, multiple people interviewed for this study confirm that violence by parents toward children is very high. The 2014 LAPOP Survey confirms this, reporting that only 27 percent of people surveyed said that physical punishment of their children was never necessary, while only 16 percent of those interviewed reported never having been beaten. In other words, the vast majority of Guatemalans were beaten as children, and 73 percent believe that physical punishment can be justified. The same study found a very high correlation between those who approve of using physical force to discipline their children with those who were beaten as children. While 54 percent of those who were beaten frequently approve of using physical force against their own children, only 17.2 percent of those who never received beatings approved of using physical punishment to discipline their children. This finding correlates with a recent academic study of Guatemalans showing that having experienced physical

punishment as a child increased the chance that parents would use physical punishment on their own children (Speizer et al. 2008).

4. Links Between Chronic Stress, Violence, and Public Health: Researchers broadly confirm that when people live in long-term conditions of deprivation, inequality, violence, conflict, and uncertainty, their health suffers; parents' capacity to raise children is undermined; fundamental processes of child development are weakened; and capacity of parents and children to develop and maintain constructive family and social relations is damaged. Childhood traumas and other adverse social patterns are well documented to have lifelong negative effects on physical and mental health and social behavior. Given the high levels of intra-family violence and the effects of the structural violence described earlier, it is prudent to assume that target populations may be vulnerable to high levels of acute and chronic traumatization that may manifest through or interact with high levels of physical disease, mental illness and destructive behaviors (see Adams, 2015 for review of relevant literature). The range of physical diseases predominating in the target region also seems to be growing, according to public health experts interviewed for the field study, and this could also contribute to further social stress and conflict.

C. THE INTERGENERATIONAL GAP

A dramatic intergenerational gap increasingly challenges social cohesion between young people and adults in several target communities and is a potential trigger for community violence via mobilization of local efforts to control errant youth whom parents or caregivers are unable to discipline effectively. Our findings from San Juan Ostuncalco, Quetzaltenango; San Juan Cotzal, Quiché; and Sibinal, San Marcos, correspond with an in-depth study by Burrell of Todos Santos Cuchumatán, Huehuetenango, who concludes that this conflict centers around tensions between parents and elders who still abide by earlier social norms, on the one hand, and youth, whose life experiences are increasingly determined by the cultural effects of migration (including new norms for dressing and behaving toward elders), gangs, globalized values accessible on digital media, and an abiding frustration about the lack of livelihood options at home.

While the youth and adults unanimously recognized that virtually everyone of the older generation had been (mainly subsistence) farmers, no one mentioned farming as work to pursue, even though most adults still farm (addressed further in the section on employment and livelihood options). The young people described their grandparents with phrases such as: “they were barefoot”; “they were illiterate”; “they suffered terrible discrimination.” Instead, virtually every young person in San Juan Ostuncalco and Sibinal, (as opposed to Concepción Huista, discussed later) was intent on becoming “a professional.” “The one young man who said that he wanted to be a farmer [“agricultor”] was immediately interrupted by a chorus of peers: “No, an agronomist!” they chimed in. “Agricultor and agronomist,” he insisted.

For young people, especially in Sibinal, what they did **not** want to be was more important than what they wanted to be. The following were repeated by virtually everyone: “I want to be different from my parents”; “I want a life that is different than my parents' life.” The adult women in these communities uniformly echoed this unanimous desire for a radical change of life for their children, saying: “I want my children to have a life that is different from mine” and “I don't want them to have to suffer as we have.”

When asked to describe their lives, the young people in Ostuncalco succinctly described the scenario of contradiction and conflict in which they live: “*Violence, technology, participation, and exclusion.*”

Participation and exclusion co-exist, and the obstacles of violence and exclusion are countered by the opportunities and challenges represented by technology and participation. In contrast, they characterized their parents' lives much more flatly: “Bossed around by others, poverty, racism and racial exclusion, machismo, discrimination, but they were together—they had harmony.” Yet this radical change from one generation to another occurs in a context in which there is no work for this new generation of “professionals.” Factors like urbanization, increased literacy, migration, and the mass

media (especially internet and TV) have oriented young people toward a life that is unknown and frightening to most of their parents, as well as unreachable, given current livelihood options.

In Concepción Huista, Huehuetenango, however, perhaps because it is more rural and poorer than the other communities and likewise its population is generally less educated, focus group participants had virtually no professional aspirations, and demonstrated a continued interest in agriculture. For girls, marriage and many children were primary goals. Most families are involved in coffee cultivation, but suffer because of a blight that destroyed most plantations.

D. IMPACT OF THE LACK OF LIVELIHOOD OPTIONS

The reflections of the young people summarized above poignantly describe the devastating consequences of the massive levels of unemployment. This section presents the relevant statistics and then describes the how young men and women in the region adapt to this situation.

Statistical Overview: The Experience of “New Poverty” in a Globalized World: Although Guatemala remains the most rural of Latin American countries, it is 50 percent urban. In rural areas, 89.9 percent of the population—and 95 percent of indigenous people—work in the informal sector, while nationwide this figure is 75.4 percent (United Nations Development Programme [UNDP], 2008). Given the significant “youth bulge” and the projected rate of population growth—which may double to 31.4 million people by 2050—the challenges facing young people and their families and communities only stand to become more grave over time (United Nations Children’s Fund [UNICEF], 2014: 10).

Inequality has changed over recent decades and is dramatically different today than 40 years ago in large part due to a combination of higher levels of literacy and urbanization, the migratory experience, the persistent lack of legitimate livelihood options, and young people’s relationships with what the participants in the focus groups termed “technology”—especially computers and smart phones. The “new poverty” describes the experience of living with these rising capacities and expectations and being simultaneously blocked by the lack of legitimate work (Ward in Adams, 2012: 12). Despite their dreams, the young people interviewed know that their real prospects are much dimmer. This knowledge, however, spawns a sense of deprivation that provokes frustration and sometimes violence toward themselves, others, or both, and, as is detailed below, young men and women adapt in different ways. Youth from three communities describe their prospects in Annex D.

The experience of “social death:” Henrik Vigh coined the term “social death” to describe the feeling state of young men in this situation, based on studies of youth in Guinea Bissau (Vigh, 2006). Vigh describes how it feels to be a young man coming of age without any viable prospects for earning a living and thus unable to make the formal transition into adulthood. As an older woman in Sibinal, San Marcos, put it: “No work leads young people to bad things... to rob, migrate, they start drinking, there are more fights at home...” Faced with this scenario, young men look to break out of the bind through available options. In the Western Highlands, options include internal or international migration, informal sector work (stonemasonry, carpentry, chauffeuring, construction, sales), poppy or marijuana cultivation, drug trade (increasingly controlled by criminal groups), and other illicit activity, in some cases through gangs.

Young women experience this dead-end scenario somewhat differently. Faced with no job prospects, marriage and/or having children become compelling mechanisms for transitioning to adulthood. In Concepción Huista, Huehuetenango, young women in fact still idealize having many children (e.g., between six and eight). Migration is also an increasingly important option, as are illicit activities, including sexual exploitation. According to the study conducted by the Latin American Social Sciences Institute (in Spanish, FLACSO) and the International Organization for Migration (IOM), pregnancy can also represent a strategy for young women who choose to migrate—in order to protect themselves from rape on the trip and to be able to give birth to an American citizen on arrival (FLACSO/IOM, 2014).

Suicide: There is very little data on suicide in Guatemala. However, many interviewees referred to the 35 young women who had committed suicide in 2014 in Concepción Chiquirichapa, Quetzaltenango. While the young people in one focus group attributed their deaths to “desamores” (love-related problems), key informants attributed them to conflict in the home, violence, and drugs. This is a response that merits further investigation and monitoring.

Prostitution: In several communities of study, prostitution of young women came up as a significant economic activity, often linked to migration. This becomes an option for women who are not able to continue their trip north—for example, some who run out of money on their way north stay on to work in “cabarets” in Jacaltenango or Huehuetenango, Huehuetenango. In Totonicapán, some young women migrate for short periods of time to Quetzaltenango and return with “large amounts of money,” which people surmise comes from prostitution. Throughout the department of Totonicapán, the problem is apparently becoming widespread—radio ads routinely offer sex work for young boys and girls. In Quiché, local people believe that bars and prostitution houses are run by “outsiders,” but gave little information about who works in them. In Concepción Huista, Huehuetenango, everyone in the focus group knew about the 15 local girls who work as prostitutes in town. In San Juan Ostuncalco, Quetzaltenango, some young women migrate regularly for a few days at a time to work as prostitutes in agricultural plantations on the south coast.

E. MIGRATION: EFFECTS OF MIGRATION ON FAMILIES

Overview: Although migration has always been a part of the lives of many Guatemalans, the nature of migration has changed substantively in recent decades, as will be discussed in Section VI (UNICEF, 2010: 44). This section focuses particularly on its effects on families, as explained in this 2010 UNICEF study:

Although it brings unquestionable benefits, especially economic ones, migration also contributes to vulnerability and family disintegration. Children and adolescents spend hours, even days, without parental supervision in the home. This weakens family bonds between those left behind (mostly children and adolescents) and those who leave (mothers and/or fathers). Family disintegration has consequences for social and emotional development and even affects school performance. Family disintegration, problems in raising children, risk behaviors among children and adolescents who are left without parental guidance and increased vulnerability to violence, abuse and exploitation are some results...

Moreover, when fathers or mothers have to leave home to find work, care and attention of the house and the siblings often fall on the shoulders of teenagers, especially girls. These girls are forced to leave the educational system to perform household chores. In many cases, they are defenseless against sexual and gender abuse or violence from siblings, relatives or neighbors who are aware of their vulnerability.

According to the qualitative study conducted by UNICEF in 2008 and 2009, the trend is for children and adolescents to participate in the upkeep of the home. The perception study identified that the migration of boys and girls aged twelve to fourteen from the countryside to the city... is intensified by the crisis... In the departments of Chiquimula, Huehuetenango, Retalhuleu, Sololá, Quetzaltenango, San Marcos, Totonicapán, Escuintla, Quiché, Santa Rosa and Baja Verapaz, temporary internal migration (from one place to another in the country) affects entire families who go to work in farms. This involves the temporary abandonment of school, which brings about learning problems or possible permanent abandonment of school to focus on work” (UNICEF, 2010).

Remittances also trigger tension and conflict between recipients and those who do not receive them. They contribute to increasing levels of social stratification in communities that were once relatively homogeneous economically, as well as to boom and bust styles of spending rather than incremental capitalization of the family. Family dependence on income that they themselves do not generate—the notion of *dinero mal ganado* (money earned in bad ways) is discussed further below.

How migrants affect families and communities varies drastically according to their status. Established migrants can generate remittances, support their family, be a symbol of success, and drive consumption,

investment, and debt repayment. Some, though, end up abandoning their families. Returnees, meanwhile, cannot sustain their family, provoke financial and emotional stress among its members, generate both moral and economic debts that may be impossible to repay, and can become social pariahs viewed as failures—a stigma that can also extend to the entire family and undermine internal family relations (FLACSO, 2015).

The FLACSO/IOM study, which surveyed 444 migrants from the departments of Huehuetenango, San Marcos, Quetzaltenango, and Guatemala—half returnees and half members of families of migrants outside the country—describes the emotional costs of migration for returnees (deportees): “Sixty three percent reported feeling nervous, tense or preoccupied; 59 percent sadness or depression; 51 percent reported trouble sleeping; 51 percent frequent headaches; and 49 percent reported feeling more tired than normal.” Thousands of migrants are deported from Mexico and the US each year. Between January and May 2015, 13,191 people returned by land from Mexico and 12,914 from the US (FLACSO, 2015)⁷.

For the family remaining at home, FLACSO notes: “89 percent of the interviewees reported sadness; 63 percent loneliness; 44 percent depression; 36 percent anxiety; and 27 percent frustration” (FLACSO/IOM: 2014). The assessment team heard much along these lines. Men were reported to leave their fathers, brothers or mothers “in charge” of their wives, which had led to various kinds of psychological, physical, and sexual abuse. Children of parents who have departed were reported to be more vulnerable to engaging in delinquency or joining gangs because of “abandonment by their parents.” Sometimes youth receive extravagant gifts from afar—smart phones, motor scooters, computers—but lack of supervision of such gifts further aggravates other supervision problems. Numerous women told about being abandoned by their husbands for other women in the US and difficulties with their children and the community in the ambiguous role of “white widows”—neither divorced, single, nor conventionally married.

F. ALCOHOL USE: DYNAMICS AND IMPACT ON FAMILIES

Alcohol use arose in many interviews and focus groups as a major—and for some, the most significant—driver of conflict and violence in homes and community. It is similarly identified in numerous studies. McIlwaine and Moser’s study (2004) of San Marcos found that 75-90 percent of men drank and that people linked alcohol to sixteen different forms of violence. They also identified a vicious circle of family violence, illicit activities, and alcohol. Interviewees suggest that alcohol use is often a response to and a trigger for domestic violence, and that some youth move into illegal activities to escape alcohol-related violence at home. Alcohol was also perceived to contribute to teenage pregnancies (Ibid). Although the rise in evangelical churches is credited with helping families to bring alcohol use under control, assessment interviews suggest that consumption is still significant and may be growing among women, youth, and children.

SECTION IV. LOCAL GOVERNANCE CONFLICTS: ADULT FEARS, YOUTH REBELLION, GANGS, AND “SECURITY” RESPONSES

Youth “gangs” and local security commissions are forms of informal governance and collective self-protection that arise in the context of insufficient or perverse state presence, discussed further in

⁷Returnees face a broad range of problems that vary significantly according to their age, family position, and gender. Among male and female breadwinners, the financial implications can be extremely daunting, as is the human experience of, as one returnee expressed it, “beginning to live in quetzales again.” Well beyond the exchange rate, this meant reducing his life expectations, the things he could buy, the places he could go, and the dreams he could sustain, after losing his ability to earn a salary in a stronger economy. The experience of detainment in prison-like centers was much discussed as provoking significant fear and traumatization. A young woman in San Juan observed that “deportees come back with a different mentality, especially those who come back from the US. Those returning from the road to the US come back with high debts, depressed, and humiliated. They drink and become ruined.”

Section V. They are analyzed here to demonstrate the ways that family, community, and the state become confused with each other in the Western Highlands region.

A. FROM YOUTH REBELLION, DELINQUENCY, AND PANDILLAS TO GANGS

What Do We Mean by “Gang?” Although local “gang” dynamics clearly do not reflect those of Guatemala City or San Salvador (well documented by Levenson and others), the popular image of urban gangs nonetheless provides the fear-driven paradigm with which parents and local authorities in the Western Highlands view and respond to young rebels in their communities.

Gangs in rural communities of the Western Highlands, based on a summary review of relevant literature and interviews, have emerged over the past two decades both as result of young people’s response to internal community and family dynamics as well as the influences of multiple external realities: migration, images of modernity, media, young people in other communities, etc. The depictions in this report differ in some critical ways from what is reported in Dininio’s recent study for USAID⁸, especially regarding the assertion that gangs in the Western Highlands are local affiliates of Salvadoran or Mexican gangs and that they have spread from Guatemala City into rural areas.

In the wake of the armed conflict in Todos Santos, Huehuetenango, gangs emerged as a “catchall, in many ways, for the anxieties and differences” among youth, parents, and elders nationwide (Burrell, 2013: 139). In recent decades, gangs have become the new “national enemy” throughout the Northern Triangle and elsewhere, replacing “Communists” of earlier times. This image has been constructed and reified in the mass media and through the discourse of politicians⁹ promoting hardline policies, as has been well documented by various scholars (Moodie, 2009; Ziberg, 2007).

This image evolved through the interaction of several factors, which include: (1) fear-based and aggressive actions of local authorities and citizens; (2) hardlined national and international policies and practices that increasingly depicted gangs as being more violent anti-social groups than they had necessarily been (Adams); (3) fear-mongering role of the mass media; and (4) in the past decade, the increasingly militarized dynamics of transnational criminal networks that have incrementally absorbed and/or instrumentalized some gangs in metropolitan and certain rural areas.

Burrell suggests that these fears have been a prime factor in adults implementing highly repressive models of social control in the communities, in particular via the security commissions. Gangs in many rural communities (at the time of her study) were very different from the more virulent urban gangs in Guatemala City, but they all were cast erroneously as the same dangerous thing. Overreaction by local leaders and elders may well have pushed local youth into much more extreme behavior than they were actually exhibiting: “The problem of gangs and the way that it has been unquestionably and solidly linked to youth culture and intergenerational conflict, especially in rural places, have led to a gradual, locally sanctioned and socially supported escalation in the violence used to deal with these groups” (Burrell in Little et al., 2013: 100).

Echoing in part the analytical lens provided by the notions of “social death” and the “new poverty” described earlier, Burrell argues that organizing into gangs allows young people to address fundamental problems for which neither their parents, local authorities, nor the state are offering any solutions.

⁸ USAID Organized Crime, Conflict and Fragility Research, Guatemala Case Study, 2015.

⁹ The mass media is a significant contributor to the reproduction and amplification of violence, using fear as “an elemental part of the new processes of communication.” In contexts of social fragmentation, moreover, Martín Barbero notes how “television becomes a place of coming together, of vicarious encounters with the world, with people, and even with the city in which we live.” A recent report argues that the media serves as a major reason for why actual levels of violence can often be lower than social perceptions of it (Latinobarómetro, 2011). Various ethnographic analyses, including Adams’ research in Chimaltenango in 2007-2008, provide evidence to support this theory in Guatemala. There, exposure to print and television media appear to have stimulated perceptions of extreme insecurity and fear in two communities where there are in fact very low levels of violence. These perceptions in turn have constructed and fueled widespread perceptions of fear and danger as well as justified violent measures of “community defense” (including threats of lynching and physical harm) against people perceived to be dangerous.

These include: (1) the lack of meaningful work (as modest and tough a life as they might have garnered from peasant agriculture in the pre-war, when their parents had work, at least until the restructuring of agriculture via the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR); (2) the sense that “life is elsewhere” communicated incisively by the massive levels of migration of friends, family, and community members and community transnationalization; (3) the precipitous weakening and restructuring of family and community power relations and authority dynamics provoked by the war, new forms of work, migration, changes in ethnic behavior, and identification and gender roles; and (4) high levels of daily violence.

In general, while youth in “gangs” in most target communities are seldom visible (e.g., no tattoos, no distinguishing clothes), and although they are not killing people, they are increasingly participating in extortions, intimidation, threats, and small-scale drug trafficking. Extortions in particular are a growing problem for merchants and some families—especially those who receive remittances. In some urban areas, for example in municipal capitals in the target departments, illicit activities tend to intensify and become more brutal, including the theft of cars and motorcycles, kidnapping, and for-hire killings. However, they still differ from the Salvatrucha and Mara 18, which have more formal structures and training and incorporate higher-level operatives (similar to how the Mexican Zeta criminal organization has incorporated ex-members of the Guatemalan *Kaibil* special forces).

The following provides a brief snapshot of gang activity in various communities in the Western Highlands, according to interviews and focus groups conducted by the assessment team in each location:

A. Sololá: In Sololá, the assessment team learned that parents are confused by the ways that youth *pandillas* have changed, principally due to the incorporation of young deportees who have learned a new way of “making a family” in the US. To make money easily, they have been imitating the model of Mara Salvatrucha or Mara 18 without necessarily having organic links to these organizations, although the use of the name *mara* [gang] gives the impression that they do. A project led by the local Del Valle University and local authorities has engaged some of these youth in reinsertion programs.

B. Concepción Chiquirichapa, Quetzaltenango: The modus operandi of the local *pandilla* is to provoke fear in the population, as occurred when they burned the National Police building during Holy Week, as well as by using rape as an initiation requirement. However, the most common activity is acquiring “easy money” through robbery, extortion, and small-scale drug sales to pay for liquor, marijuana, or telephone cards. Apparently 15 girls are involved in prostitution here, although it is unclear if this is linked to the gang.

C. San Juan Cotzal, Quiché: This community has the best-known “gang” problem in Quiché. Several years ago, the mayor organized security commissions with former soldiers and members of the Civil Auto-Defense Patrols (in Spanish, *Patrullas de Autodefensa Civil* or PAC),¹⁰ which then engaged in battles with the gangs. The engagement ended with the lynching of a local policeman, but also significantly reduced the number of gang members in the community. The gang dynamic has begun to grow again in recent years—to the consternation of community members. Many women no longer leave their homes after 5 pm. Businesses close at 6 pm, and at night, the community basically becomes gang territory. The population hopes that the Army will solve the problem together with Municipal Police.

D. Chajul, Quiché: Apparently two youths linked to a gang from Guatemala City arrived with instructions to form a “clique” similar to those that function in the City. However, local leaders discovered them, and the mayor is said to have contributed funds to send them to the US as illegal immigrants.

¹⁰ The Civil Auto-Defense Patrols were paramilitary groups that operated during the armed conflict. The Army organized over a million men into PACs in their communities—many of them serving from 1980 to 1996, during which time they were obliged to volunteer significant time in this officially sanctioned paramilitary system that controlled its participants through a combination of coercion, violence, and consent.

E. Nebaj, Quiché: Gangs are organized by local youth from fragmented homes, most of whom have migrated at some point. They, along with some women, are used by political candidates to disrupt certain political events with the knowledge that, as youth and women, they will not be held responsible.

F. San Juan Ostuncalco, Quetzaltenango: Adults in the focus group here reported that the youth who are the most vulnerable are those who do not have land, have not studied, and cannot migrate. They look for quick cash by robbing, extorting, and distributing drugs. Another vulnerable group includes youth who have graduated with diplomas but cannot find work and often fall into alcohol and drugs.

B. ADULT FEARS AND COMMUNITY RESPONSES

1. San Juan Ostuncalco, Quetzaltenango: The women’s focus group in Ostuncalco sounded deep fears about their children and community—echoing that of many mothers interviewed who are confronted with a young generation that is evolving in ways they are not prepared for. See Annex E for a more detailed narrative.

Youth are trained differently than the older generation was in order to become professionals rather than farmers; however the lack of available jobs has caused tension in the community. Adults perceive that many young people have spun out of the control of their parents and families. Contributing factors include youth idleness and an understanding gap between the older and younger generations of the modern, technologically advanced world. As a result, parents and community leaders feel disrespected and also fearful because of the increase in petty crimes committed by idle youth. The “delinquency is in our homes, among our own children,” said one mother. “We can’t control them. They won’t obey.” This led the community to organize “*patrullas*” (a term associated with the PAC—described in the preceding section). Focus group participants explained that the *patrulla* took a hard line against the youth, but it also began to extort and rob people, almost killing one innocent young man. As a result, it was disbanded. The women expressed their resignation now to their community’s insecurity.

2. Todos Santos, Huehuetenango: Burrell’s analysis of this Huehuetenango community is detailed here because it remains the most in-depth study of family-youth-gang-community dynamics for the region. Gangs date to at least 1996, but originally came from respected local families, had fathers who were professionals, attended good schools, were often teachers, and sometimes were involved in local politics. Some had returned from the US, and found themselves uncomfortable in their old environment. Young returnees had increased social status among young people and often greater earning power as well (which could also threaten parents and elders), because they could speak English and engage with tourists and INGOs. This in turn fueled intergenerational tensions and tensions between migrant and non-migrant families.

At first, being in a gang actually demanded resources—far from the image of the gang being a refuge for children from dysfunctional and resource-less families. Through participation in gangs, some young men channeled their education, experience, money, and time into less socially accepted activities: drinking, growing their hair long, occasionally stealing, and taking drugs. These activities became part of the daily lives of many young people. Parents, family members, and neighbors viewed their actions, though, as a loss of respect for their elders and traditional authority and reacted with feelings of frustration, anger, and impotence. These disrespectful “bad boys” who invoked an imaginary association with the international phenomenon of gangs thus became *mareros* [gang members]. In 1997, conflict between a small group of these gang members and other community members emerged. This led in the early 2000s to the formation of the community security commission with many of the same people who had been in the civil patrols. Despite repeated legal censure from authorities and human rights organizations, the fear of gangs drove the local security commissions to impose an increasingly repressive set of sanctions: curfews, attempted lynchings, public humiliations, bar closures, alcohol prohibition, and ultimately the murder of at least one young man.

3. Concepción Huista, Huehuetenango: In this Huehuetenango community, the local security commission is trusted, according to the youth focus group. The local gang is mainly made up of youth from families that have immigrated, are alone, or in which the mother has given up trying to correct their behavior. The police cannot be trusted to capture them because they are complicit with the *mara*. The local security commission, on the other hand, can be trusted. Focus group participants noted that if a commission member catches a gang member robbing, he might tie his hands and let him suffer in the cold during a whole night to make him reflect, and if the gang member does not return or give back what he stole, he would be turned over to the police. Even if the police release the person, at least he/she will have received some kind of punishment. This modality echoes strategies employed by some traditional indigenous authorities.

SECTION V. THE “LEGAL STATE” AND THE “REAL STATE”: CONFLICT BETWEEN STATE AND PARA-STATE GOVERNANCE

The Technical Criteria asked two questions that raise the issue of state vs. informal governance—what Carlos Fuentes called the “legal state” vs. the “real state.” The past section examined how youth organize to defend their interests in a society with little to offer and how local authorities organize to defend themselves from youth and other security threats. This section looks at the function of indigenous law and the dynamics of vigilante groups and lynchings. It first reviews the limitations of the state that have opened the door for these para-state governance mechanisms to flourish.

A. THE “LEGAL STATE”: HOW DOES STATE GOVERNANCE WORK?

While this paper is being finalized at an important historical juncture with unprecedented civic mobilization and successful court actions against corruption, the slate of candidates for the 2015 presidential, mayoral, and legislative elections presented strong evidence of the continuing significant challenge the country faces to combat deeply embedded corruption and illicit organizations.¹¹ The often-repeated notion that the Guatemalan state is “fragile,” “weak,” or “failing” continues to be relevant. These terms are applied within a set of assumptions about what constitutes a “legal state” and how it should function, including a potential arc of progress from a less successful or less developed state to a more successful/developed one.

But the situation becomes more complex as soon as one moves beyond the sphere of “formal” state institutions. In Guatemala today, no single entity governs, but multiple actors perform fundamental state functions. They are mainly institutions—both public and private, international and national, legal and illegal, legitimate and illegitimate—including indigenous authorities, organized criminal networks, citizen commissions, community groups, gangs, private security companies, CSOs, INGOs, and others.

In this scenario, multiple “governing actors” constantly compete to impose their will over people, legitimacy, and territory, and private citizens must continually make decisions regarding which of these actors they need to interact with in order to resolve basic needs and demands.¹² Hence, it is not surprising that no single perspective fully accounts for how governance operates in Guatemala and how

¹¹ This report is being finalized at an important historical moment. On the one hand, President Otto Pérez Molina and his Vice President Roxanna Baldetti were—in an historically unprecedented event—ousted from power and are standing trial for their participation in a major corruption scandal, due in large part to citizen mobilization and the critical role of the International Commission against Impunity in Guatemala (in Spanish, CICIG).

¹² When examining the entities and actors that investigate crimes, arrest alleged criminals, protect citizens, and mete out justice—all classic state functions—a staggering array of non-state actors comes to light. Some of these function with official knowledge and approval and others do not. They include: the CICIG, financed by the international community; the US and other foreign governments involved in tracking criminal actors; INTERPOL; private investigators; private security companies, and the families, neighborhood associations, NGOs, foreign governments, and private companies that employ them; indigenous authorities; criminal organizations that ensure that the communities under their control are “safe” from criminals; gangs who protect themselves and their territories from others; local neighborhood or community groups organized to protect themselves from criminals; and the lynch mob or killers that may be hired by individuals to punish a local wrongdoer.

it could work more adequately and justly. The perspectives of international and national experts below differ in some important ways from those of the indigenous leaders and others reviewed subsequently.

Institutional Performance: The Reach of the “Legal State”

Guatemala is a weak state. This stems from (1) the chronic refusal of powerful sectors to pay the taxes necessary to finance a state that can provide the social services required by the population; and (2) institutionalized corruption. A 2015 study reports that no mechanisms exist to monitor the use of 29 percent of the national budget and that 20 percent of the current government budget has been lost to corruption (Central American Institute for Fiscal Studies [in Spanish, ICEFI]/Oxfam, 2015). Even accounting for high levels of corruption, available funds for social investment are wildly insufficient, and only meagerly supplanted by international aid.¹³ The report questions the state’s capacity to transform, given both the recalcitrance of moneyed classes and the failure to create a modern fiscal regime to exact revenues necessary to use for the “commons.”

Since the war, infrastructure has been prioritized over socio-economic development. But popular participation has grown and the state has been incapable of responding satisfactorily and unable to control sectors operating outside the law. It has not fully developed or prioritized its essential role of mediating competing demands between diverse sectors, which undermines its legitimacy, and opens the door to violence as a default response for both the population and the government. The assessment team’s interviews revealed that, for example in Quiché, conflict increases around elections due primarily to the actions of political parties. In addition, both in Quiché and in Totonicapán, interviewees explained that political parties regularly extort votes and bribe voters with gifts.

A related challenge is balancing national state capacity versus decentralization priorities. While decentralization was a strategy to stimulate social engagement with the state, it has, unanticipatedly, financially and politically weakened the central government to the point that the Executive has little capacity to establish or implement a coherent strategic program. This is in part because at the municipal level, the unregulated increase of financial resources in municipal coffers has contributed to entrenching patron-client relationships between political officials and local citizens.

Organized crime and citizen insecurity have exploded in ways unanticipated when the Peace Accords were signed, endangering the possibility of democratic governance. While there has been some advance in the formation of judicial institutions, the practices of these entities has reflected more continuity with the past than with the lofty ideals of democratic governance. However, the recent actions of the Judiciary, Public Ministry, and the International Commission against Impunity in Guatemala (in Spanish, CICIG) have breathed new hope for strengthening this wing of government. The 2015 elections, however, demonstrated the alarming disarray of political parties: a majority of the funds behind political parties was believed to be illicit, according to a July 2015 report (CICIG, 2015: 5). In this context a powerful network of CSOs and NGOs, supported by international funds, fills many vacuums left by the state, but lacks the legitimacy or social bases that social organizations once had.

B. NON-STATE GOVERNANCE AND SECURITY INSTITUTIONS

Various non-state institutions enable people in the target communities to govern themselves in the absence of state-provided fundamental protections. This section focuses on indigenous authorities and local security commissions. Gangs and organized criminal groups are addressed in other sections.

To understand these entities in context, one must take into account the legacies of the PACs, which were organized by Army during the civil war. The Army forced over a million men to volunteer

¹³Manipulation and payment for votes by political parties (noted in interviews with the Supreme Electoral Tribunal [in Spanish, TSE] and LIDER party’s refusal to comply with campaign spending limits as noted by the TSE also exemplify how “formal” democratic institutional mechanisms are undermined in practice (Sunlight Foundation, 2015).

significant time in this officially sanctioned paramilitary system that controlled its participants through a combination of coercion, violence, and consent. While PAC members were often victims of the Army and the guerrilla, some also perpetrated violence in their own communities—the Historical Clarification Commission attributed 18 percent of wartime violence to them. The PAC also served as a cover for some members to pursue grudges and unrelated conflicts with other community members, while in other cases, PAC members worked clandestinely to protect or buffer their communities from the violence of the Army itself and/or the guerrilla forces (Saenz de Tejada).

The PAC structures and culture persist today in many places as part of communal authority structures:

“Despite demobilization of the patrol system, the paramilitarization of the indigenous rural population over nearly a decade and a half left a powerful legacy of practices and expectations about security and justice in highland Guatemala. ...Practices such as constant surveillance within communities, rapid and collective response to detain interlopers, and the occasional summary and spectacular use of physical violence are just some of the legacies of this paramilitarization.” (Sieder, 2011: 16)

In some places, such as San Juan Ostuncalco, the same nomenclature—*Patrulla*—is used to refer to contemporary security commissions. The militarization of volunteer community-based work and the sanctioning of the use of violence toward fellow community members is a pattern, and has fundamentally transformed the culture of collective social control in Highland communities.

C. INDIGENOUS OR TRADITIONAL LAW

In 1996, the Guatemalan Constitutional Court ratified Guatemala’s adherence to the International Labour Organization (ILO) Convention 169 for Indigenous and Tribal Peoples, establishing the right of indigenous peoples to “retain their customs and institutions...where these are not incompatible with fundamental rights established by national and international law...” (ILO, 1989). The Guatemalan Constitutional Court defined the term “indigenous peoples” as “...according to the concepts of the Convention, those sectors or groups of people whose social, cultural, and economic conditions distinguish them from the rest of society and who are governed by their own customs or traditions, as well as those who are descended from populations that inhabited the country or a geographic region to which the country belonged during the period of conquista or colonization” (Corte de Constitucionalidad, 1995: 6).

Although the Accord on the Identity and Rights of Indigenous Peoples in the Peace Accords, which further detailed these rights, was never incorporated into the Constitution, and the law codifying the Convention 169 has not yet been approved by Congress, Mayan leaders and social organizations—with strong support from the international community—moved forward to establish or revitalize indigenous law in many indigenous communities. Their efforts have rested on both Convention 169 and the Constitutional Articles 58 on Cultural Identity and 66 on Protection of Ethnic Groups as well as other legal bases for these institutions in the Municipal Code. By 2009, systems of indigenous authority were operating in 59 of Guatemala’s 339 municipalities. (Red de Autoridades y Organizaciones Indígenas de Guatemala, 2009) See Annexes F and G for more information.

These new systems were promoted by indigenous leaders and the international organizations that supported them in response to their frustration about the failure of the new democratic state to protect their rights, despite all the new institutions set up to do so. It was part of a larger effort by Mayan leaders and movements to better access the new state apparatus and to obtain formal recognition of their right to exercise a high degree of self-governance. As indigenous leaders Pop and Changala note:

the right of access to justice implies not only access to the courts and the state agencies in order to pursue their civic rights, but also the development of mechanisms that permit the community, in the framework of its particular history, language, cosmovision, forms of social organization, values, spirituality, etc., evolve as a collectivity in the resolution of conflicts, and to further develop through this process (Changala and Pop, S/f: 1).

This new system faces significant challenges on at least two fronts. First, as noted earlier, the establishment of indigenous law occurs at a time when the state's rule of law itself has become increasingly fragmented and privatized and organized crime has effectively colonized many parts of the state apparatus. Hence, this new system exists in a “kaleidoscope of legal, semi-legal, and illegal orders—or sovereignties in contention...” (Sieder, *Contested*, 2011: 7-8). This opens the door to potential conflict that neither the state nor communities themselves have capacity to constructively mediate or resolve.

Second, the potential for conflict is further heightened by the absence of clarifying legislation or regulations on how indigenous law coordinates with national law and international human rights and other norms, leaving a gaping legal and institutional vacuum about critical questions with no obvious means for constructive resolution. Hence, issues such as the following are understood and approached by different actors—including indigenous authorities themselves—in different ways.

“Free, prior, and informed consent”: Much confusion and conflict exists around this issue. Since 2005, at least 73 “*consultas*” [referenda] have been held in indigenous and non-indigenous communities, involving thousands of people to vote on whether they wanted one kind of major project or other in their territory (see Mining section). While many believe that these votes were binding, in fact, virtually none of these consultations had any legal standing. This confusion continues to drive violent conflicts between community groups, the state, and private sector companies to this day.

Gender discrimination and rights of indigenous women: The Public Defenders' Office for Indigenous Women (in Spanish, DEMI) and various analysts are tracking the ways that the (mainly male-driven) effort to protect collective rights often masks the continued repression of the individual rights of women and/or to privilege the power of men over women (Otzoy, in Pitarch et al: 172-175).

Corporal and other forms of punishment: Debate continues about the legitimacy of corporal forms of punishment outside the scope of Western law. The authors suggest that this be analyzed in the context of the broader philosophy of indigenous law and social norms that are rooted in a paradigm in many ways quite different from “Western” law. The CSO Regional Development Center [in Spanish, CEDER] notes three arenas in which—in principle, but not always in practice—indigenous law differs philosophically from national law. A conciliation of these two models may permit the fusion of restorative and retributive law sought by some criminal justice reformers:

- Corporal punishment: In some communities, corporal punishment is used to purify the transgressor and to stimulate the recuperation of his/her space in the community. It is also used to educate the collectivity about what is expected of them. While many authorities have received training about international human rights standards, it is unclear to what extent local practice may vary from these—in theory and in practice. Capital punishment, however, is never contemplated in indigenous law but is legal under national law.¹⁴
- Confession: under indigenous law, this is a critical part of the correction process and necessary to repair the damage. In national courts, the opposite is true. Confession of a crime leads the accused to prison, without any reparation process for the accuser.
- Prison is only associated with national law, and is contrary to indigenous law (“it damages the heart”). This follows a philosophy coincident in ways with “restorative justice,” but it can also assume spiritual dimensions. In prison, the wrongdoer is separated from the community and unable to repair the damage done, further harming the victim and the community. Those

¹⁴ One community reported that wrongdoers are sometimes sanctioned with physical punishment—specifically a whipping conducted by the wrongdoer's parents or close relatives. In this way the community authorities ensure that the corrective act is applied by the people who are responsible for educating and correcting the behavior of the accused. This type of sanction, however, is not explicitly noted in the documents provided by the community authorities and is seldom admitted in public, probably because of familiarity with international standards.

returning from prison, moreover, return with more hatred, are versed in delinquency and criminal practices, and are more dangerous to the community than before. (CEDER, 2009: 48) However, the assessment revealed that in some communities traditional authorities do imprison community offenders in their own prisons outside of the state judicial system.¹⁵

What is the scope of indigenous law in comparison to national law? Here again there is a clear contradiction in the answers given to this question by the “legal state” and the “real state.” The study by the Research and Social Studies Association (in Spanish, ASIES) and the United Nations High Commissioner for Refugees (UNHCR) provides a formal description of indigenous authority claiming that criminal issues—such as murder, rape, and domestic violence—are beyond the scope of indigenous law. However, ethnographic accounts and the fieldwork for this study confirm that such “proscribed” crimes are routinely managed through indigenous law.¹⁶ Because indigenous law is usually applied in communities in which national law is non-existent or dysfunctional (for reasons in part A of this section), authorities must resolve the full range of issues. (For a summary of the legal parameters of indigenous law please consult Annex F). However, various authors (Sieder, Burrell, Poole) and our field research confirm that the lack of clarity about the parameters of indigenous law in relation to national law leave indigenous authorities in a perpetual state of uncertainty and legal danger, placing them:

“in a state of permanent legal in-definition” never sure if their actions will be recognized as legitimate by the state or be subject to criminal prosecution. The end result is that many indigenous communities express profound skepticism most of the time toward the ability of the state justice system to address local problems. (Sieder, 2011: 174 in Burrell, 2013: 120)

A final element is the diverse levels of continuity and relative social legitimacy that indigenous authorities have. In many communities, the power of traditional indigenous authorities began to weaken with the advent of the Catholic Action movement and evangelical churches over five decades ago. The armed conflict socially decimated 400 indigenous communities throughout the country, wreaking havoc with these social systems as communities were divided by political loyalties, mass exodus, massacres, and the social silence imposed by 30 years of conflict.

In assessing how to work with these entities, it is helpful to distinguish between: (1) ancestral indigenous authorities with historical continuity, like those in the communities of Nebaj, Totonicapán, Sacapulas, Chichicastenango, or Sololá; (2) recently constituted entities like those in San Juan Cotzal and Uspantán; and (3) other communities such as San Juan Ostuncalco or Sibinal that have no indigenous authorities at present. Even among those with historical continuity, there are major differences in how they function.

In **Chichicastenango**, Quiché Department, for example, the traditional leadership is basically a community authority whose function is to resolve community and family conflicts, protect community lands, and engage with the municipal government to advocate for the communities.

In **Nebaj**, Quiché Department, the indigenous authority has a strong political alliance with the mayor from the National Unity of Hope (in Spanish, *Unidad Nacional de la Esperanza* or UNE) political party. It played a fundamental part in the repetition of the municipal elections in 2014 and has joined with other indigenous authorities (for example in San Juan Cotzal) to advocate for defense of the territory and in opposition to hydroelectric projects and mining. Recently, the indigenous authority signed an agreement with the Public Ministry to contribute to formulating a policy to recognize legal pluralism.

¹⁵ These communities include San Juan Cotzál, Quiché, and San Miguel Acatán, Huehuetenango.

¹⁶ Sieder describes how three non-indigenous people (usually assumed to be outside the scope of these authorities) went to the indigenous authority in Santa Cruz Quiché to resolve three murders because of their frustration with the state's failure to do so (Sieder, Contesting, 2011). In Sibinal, our interviews confirm that local auxiliary mayors assume that they are responsible for mediating domestic conflicts.

The **Indigenous Mayoralties of San Juan Cotzal and Uspantán** in Quiché Department are relatively recent, founded with financing from international donors and supported by *Fundación Maya* [Maya Foundation] (FUNDAMAYA), linked to an ex-Congressman.

The **indigenous authority of Totonicapán**, Totonicapán Department, dates to the colonial period. It led efforts to force the Army to remove a military base in the community during the civil war, which contributed to its relative protection during that period. The community is divided into 48 cantons, each directed by its own mayor, and community mayors lead each of the cantons' rural areas. These are responsible for the security of their communities, the provision of social services, and the protection of the community forest. The local municipal authority is an administrative representative of the state who coordinates with state authorities. The *Consejos Comunitarios de Desarrollo* [Community Development Councils] (COCODES) are marginal in relationship to the community mayors, unlike in other departments and municipalities. Nonetheless, the system has been shaken by recent events: one community mayor authorized installation of transmission lines without the others' consent; and the Congressmen from the region created alliances with certain mayors that excluded others.

D. LOCAL SECURITY COMMISSIONS (JUNTAS)

As of 2013, over 300 local security commissions¹⁷ existed nationwide. Authorized in 1999 after the PAC were disbanded in the post-war, these entities continued with the same wartime concept of community self-defense through delegation of state authority. While their formation responded in many cases to a need felt among citizens for better protection, today they operate essentially outside the control of the government, and citizens likewise have little or no ability to curb their excesses or abuses.

Like the indigenous authorities, these organizations also function in a limbo of unclear rules and authority, with participants operating in constant danger and uncertainty of where they may be breaking the law and placing themselves in danger of being accused of criminal action. While international organizations and some civil society groups are increasingly critical of these groups, certain state entities—in particular the National Police, the Vice-Ministry of Community Support, and the municipalities—still promote them as a critical form of citizen participation (Argueta, 2010). A study by the Mack Foundation documented significant transgressions committed by these groups in Cunén and Ixcán, Quiché Department, and Panajachel, Sololá Department. This analysis is echoed in focus group discussions detailed in Annex H. The Myrna Mack Foundation noted that decentralization does not eliminate the obligation of the state to provide citizen security and warned that while citizens can support the state in valuable ways, any act carried out by commission members that is actually the responsibility of the Police is illegal—reaffirming the uncertain nature of their authority (Myrna Mack Foundation, 2013: 32).

SECTION VI: LICIT AND ILLICIT EMPLOYMENT OPTIONS

This section reviews several key livelihood options prevailing in the Western Highlands: migration, the illicit economy, poppy cultivation and agriculture.

A. MIGRATION

Migration has been a central fact of life for many Guatemalans in the Western Highlands since the colonial period, and for some populations—notably the Q'eqchi'es—even longer. Seasonal migration to

¹⁷ With the creation of the Vice-Ministry of Community Support within the Ministry of the Interior known as the Third Vice-Ministry, the local juntas are integrated into the system of Development Councils under the name Security Commissions. The Departmental Commission of Security must be headed by the Departmental Governor and must have the following members: 1. Executive Departmental Director; 2. Secretariat of Planning and Programming of the Presidency; 3. Departmental delegates from state institutions; 4. Representatives of civil sectors with work at the departmental level related to the topic; and 5. Representatives of the Municipal Security Commissions and Representatives of the Departmental Technical Unit. The Third Vice-Ministry's municipalities can promote the same actions, but it is conditional on the communes requesting it, given their autonomy.

coffee fincas in Guatemala and Mexico intensified with the expansion of the coffee industry in the late 19th century. International migration expanded in the 1980s as refugees fled the internal armed conflict and then more significantly beginning in the 1990s due to the growing financial crisis provoked by economic liberalization, population expansion, growing environmental degradation, and more recently, social conflict. Between 1990 and today, in fact, international immigration to the US quadrupled, (MPI, 2015)¹⁸ and now is estimated to sustain perhaps as much as 40 percent of the Guatemalan people. For the first four months of 2015, the Bank of Guatemala reported about 3.5 billion dollars in remittances (Prensa Libre, 2015:13)—although this figure is believed to be inflated by money laundering.

There are many different circuits of migration that co-exist and complement each other in Guatemala. Guatemala is (1) a place of origin for migrants; (2) a place of transit for migrants from many other places; and (3) a place of return. Today, although there is limited movement to other Central American countries, Guatemalans in the Western Highlands migrate primarily to the following places:

- (1) Mexico—Tapachula (urban work); elsewhere in Chiapas (coffee plantations). Residents of border communities can obtain legal work permits as of age 18 to work in Mexico;
- (2) Guatemalan South Coast and piedmont—to work on coffee, sugar, and other plantations;
- (3) Quetzaltenango, Guatemala City, Huehuetenango, Quiché, other urban capitals and tourist destinations; and
- (4) The United States.

Generally, the departments of San Marcos, Huehuetenango, and Guatemala send more people to the US than others in Guatemala. IOM calculates that migrants account for about 9-10 percent of the total population. Migrants from the department of Guatemala (19.4 percent), San Marcos (10.5 percent), Huehuetenango (8.4 percent), and Quetzaltenango (6.1 percent) constitute more than half the total number of Guatemalan migrants (IOM, 2012). About 12 percent of the Akateco ethnic group lives in the US, and about 60 percent of the Chuj, Q'anjobál, and Mam groups have family members who have migrated (Dardón, 2005; ILO, 2004; UNDP, 2006). These high figures result from diverse factors, including the experience of the war, high levels of poverty, and the crisis in subsistence agriculture (Camus, 2007: 18).

Migration has expanded on all fronts in recent decades as subsistence agriculture has become increasingly unviable and Guatemalans have been increasingly pulled into the cash economy. More women and youth migrate both internally and internationally, and tighter border restrictions in the US block international migrants from keeping the fluid links with their families and communities that prevailed previously. Both due to border controls and the increased role of criminal groups, the costs and dangers of international migration have grown, leaving fewer benefits to families at home and significantly increasing tensions and risks for all involved. Both for internal and international migrants, vulnerability to the illicit economy—sexual abuse, extortion, and other forms of violence—has grown.

Our interviews found that coffee rust¹⁹ has reduced seasonable employment for people in Huehuetenango, Sibinal, and elsewhere in San Marcos. Now, many youth go to Tapachula, México, where they are subject to extensive discrimination and mistreatment by local employers. When deported, they are sent to Quetzaltenango, too far away for their families to pick them up. The expansion of African palm has reduced agricultural jobs on the south coast and forced some people to seek work in Western Highland communities like San Juan Ostuncalco, where the lack of jobs makes them vulnerable to the illicit economy. Similarly, the tightening of the US border has diverted some to find alternatives closer to home.

¹⁸See table of how the number of migrants coming into the US has changed between 1960 and 2015 at <http://www.migrationpolicy.org/programs/data-hub/charts/immigrants-countries-birth-over-time?width=1000&height=850&iframe=true>

¹⁹ Coffee rust is the most devastating disease of coffee plants caused by the fungus *Hemileia vastatrix*.

While international migration used to reliably generate significant income, today it appears that it may be pulling increasing number of families into unmanageable debt. While this phenomenon is relatively unstudied to date, Stoll reports that in Nebaj, Quiché Department, funds provided by microcredit projects were lent out at higher rates by local people to finance the transit costs of aspiring migrants, generating levels of indebtedness that became impossible for migrants to repay. This created a domino effect that threw the moneylenders at home into crisis as well—generating scores of foreclosures and forced property sales among all of them and ripple effects of the crash of the mini-Ponzi-like scheme throughout the community (Stoll, 2010: 123-142).

A recent study draws out the systemic web of actors whose lives depend on the two principal protagonists in international migration—the migrant and the coyote—and draws a picture of the broader collection of actors whose livelihoods depend on those who migrate. The “coyote” often occupies a dominant position in other spheres (as mayor, labor contractor, money lender, local merchant, military commissioner, NGO functionary, etc.), operating both as moneylender and transporter. Beyond the coyote and migrant/returnee, however, are a range of participants/beneficiaries of the migratory system, including telephone and messaging communications companies; businesses selling electronics, home appliances, vehicles, construction materials, and fast food; and formal and informal money lending and banking operations, including NGO microcredit providers.

B. ILLICIT TRADE

In her report on criminal and illicit activity in Guatemala, Dininio notes that her informants had no consensus about where organized crime begins and ends (Dininio: 2). This is what it means to live in the “grey zone” between legality and multiple forms of extra-legality and illegality as Guatemalans do today. In considering the distinctions between the “legal state” and the “real state,” it is helpful to think in terms of a broad continuum between organized criminal groups, illicit trade and the informal sector—all included in the notion of “illicit” as conceived by Naím:

Trade that breaks the rules—the laws, regulations, licenses, taxes, embargoes; and all the procedures that nations employ to organize commerce, protect their citizens, raise revenues, and enforce moral codes. It includes purchases and sales that are strictly illegal everywhere and others that may be illegal in some countries and accepted in others (Naím, 2005: 2).

In a country in which 70 percent of the people earn their living in the informal economy—by definition outside the law, “to think of a clean line between good guys and bad guys [or the ability to separate illicit trade from licit trade] is to fail to capture the reality of trafficking today. Illicit trade permeates our daily lives in subtle ways” (Ibid, 240-241). Below are schematic descriptions of the links between illicit trade, available economic options, and political realities in Huehuetenango and San Marcos.

Huehuetenango: This department has particular vulnerability to illicit trade due to various factors: the 160 kilometers of border shared with Mexico and over 50 “blind crossings;”²⁰ a long history of fluid transborder commerce, contraband, and migration with Mexico; one of the highest levels of poverty in the country; and, historically, a particularly weak government presence. The Mexican border also serves as a protection for those fleeing from Guatemalan authorities.

In 2013, research by Insight Crime reported that via the Lorenzana family, the Zetas²¹ controlled cocaine trafficking through the country’s five largest provinces along a route that crosses from the

²⁰ The Mexico-Guatemala border has three main official crossings and eight official sites in total, but there may be as many as 1,000 “blind crossings” –locations where people can illegally cross the border unseen by officials. See: <http://csis.org/blog/security-and-human-rights-issues-guatemalanmexican-border-chris-inkpen>

²¹ See the following article from Insight Crime on the Zetas—the most sophisticated, feared, and violent criminal organization in Mexico: <http://www.insightcrime.org/investigations/the-zetas-in-guatemala> and on the Lorenzana family—a family-run drug trafficking gang: <http://www.insightcrime.org/news-analysis/betrayal-in-family-drug-business-the-lorenzanas-in->

Honduran border to the Mexican border. In addition, another four municipalities along the border with Honduras and with access to the Pacific Coast—Chiquimula, Jutiapa, Jalapa, and Santa Rosa—were also conquered by the Zetas, which ended the rule of local criminal group known as the Leones.

In this scenario, as one informant explained, only illicit trade, money laundering, and the circulation of high levels of clandestine money can explain the local economy (the exceptionally large number of four-wheel drive vehicles; expensive recreational resorts; offices for virtually every bank in the country; an extraordinary number of hotels; and over 50 gas stations). While this construction and commercial boom is particularly evident in Huehuetenango proper, various municipalities in the department are showing the same dynamics. Interviews suggest that the region most affected includes the areas around Santa Ana Huista (said to be the home of a major drug lord), Gracias a Dios in Nentón and La Democracia (Camojá, Camojallito) in Huehuetenango Department.

Privileged observers interviewed for this study confirm that the clandestine economy is a major generator of employment in the region. Building on the historical networks of contraband along the border, criminal networks grew out of the long-standing contraband enterprises dedicated to Mexican products (e.g., corn, cattle, etc.) and expanded into trafficking of drugs, arms, human beings, archeological artifacts, endangered species, etc. In contrast to San Marcos where poppy cultivation has intensified, clandestine laboratories of methamphetamines predominate in Huehuetenango. Some actors leading these clandestine groups have deep roots in communities, and maintain their power and protect themselves by financing political and community leaders and providing services that the state does not provide such as security, medicine, and debt repayment.

Interviews by the assessment team with privileged observers revealed that these networks have invested in both legitimate and illicit businesses: food and lodging for migrants, neighborhood stores, new and secondhand (*Paca*) clothing outlets (some of which serve as fronts for small-scale drug sales), large-scale agriculture, construction, energy, and prostitution. They are a major source of jobs for otherwise idle youth who are charged with keeping an eye on their neighborhoods and communities in exchange for a cell phone and motorcycle and Q1000 to Q1500 per month. In some communities, for example Santa Ana Huista, these networks exercise more formal state-like control, providing security and basic social services. Informants there say that local security commissions are unnecessary because of the control ensured by traffickers.

An example of criminal links with the political system is the recent capture of Congressman Mario Rivera. In the summer of 2015, the CICIG and the Public Ministry charged Rivera, the longest standing representative of Huehuetenango in Congress, with money laundering and illicit enrichment.

San Marcos: Various assessment informants attested to the high levels of economic growth in the communities of Malacatán, San Rafael Pie de la Cuesta, Ocós, and Tecún Uman largely due to illegal activities and money laundered via remittance channels. They explained that these areas have seen exceptional levels of economic growth and dynamism despite the increasing levels of violence. One explained: “The increase in drug trafficking in and around Malacatán somehow has boosted local investment, employment, income, growth population and including school fees.”

In the collective imagination of the communities under his control, the image of Chamalé remains that of a community benefactor who created jobs and collaborated in the construction of municipal and community infrastructure and churches. Several interviews attested to the economic boom facilitated by his criminal network and recall the intense opposition in the region in response to his capture in 2014. To fight systems like these, said the interviewee: “the highest levels of social capital, and collaboration

guatemala?highlight=WyJsb3JlbnphbmEiLCJsb3JlbnphbmEncyIsImd1YXRlbWFsYSIsImd1YXRlbWFsYSdzliwJ2d1YXRlbWFsYSIsImd1YXRlbWFsYSi LCJsb3JlbnphbmEgZ3VhdGVtYWxhII0=.

between different groups in society are necessary to improve community resilience and reduce the likelihood that local trafficking groups can impose themselves through violence and instability.”

To assess how illicit enterprises influence the dynamics of the communities under study, the study team lists questions worth pursuing while assessing how to work in these localities in Annex I.

C. POPPY CULTIVATION

The border with Mexico also fundamentally informs economic and life options for people in many parts of San Marcos. According to privileged observers interviewed for this assessment, three communities—Sibinal, Tajumulco, and Tacaná—are producing and processing poppies to produce heroin. Poppy cultivation has also increased because it is an easy and reliable crop that is resistant to climate changes. The most extensive production seems to occur in Tajumulco, while *Sibinalenses* are involved on a smaller scale. As a *Sibinalense* said, “In Tajumulco, they plant by the hectare. We only plant by the *cuerda* [small plots]. But people here are planting more and more—there is no other way to earn money.”

As mentioned earlier, although the Sibinal youth focus group all desired to “become a professional,” they all know there was little work for them. Poppy cultivation is one of the major alternatives mentioned—in addition to migration and other illicit activities. Beyond cultivating the flowers, the major work in this field is the collection of the opium-laden liquid from the buds. Assessment team interviews with privileged observers reveal that this is apparently best done by children because they have the smallest and most agile hands.

Poppy cultivation, while representing an important economic solution for local people, also catalyzes perverse community and health dynamics beyond the stress experienced by producers who fear their plantations being destroyed by police raids. According to local observers, the pay received by the producers for the processed liquid is not always invested in basic needs. “People begin to drink, they spend it like they spend remittances... on phones, consumer goods, liquor, fast food. Then it’s gone.” Children involved in extracting the liquid appear also to be affected by inhaling its strong aroma. Some apparently become agitated and hyper; others become sleepy; some have trouble sleeping. It would be important to better understand the health implications for children and adults exposed to the liquid. Furthermore, the harvest takes children away from school, and some end up dropping out.²²

D. AGRICULTURE

The crisis in smallholder agriculture fundamentally underlies much of the chronic economic unviability of Western Highland communities, as discussed further in the section on land. The youth focus groups in Sibinal, San Marcos Department, and San Juan Ostuncalco, Quetzaltenango Department, clearly viewed agriculture as an unviable livelihood. Even the adult women—most of whom continue to cultivate at some scale—failed to mention farming as part of their basic livelihood, preferring to identify themselves as housewives or merchants. In Concepción Huista, Huehuetenango, where people continue to be interested in coffee production, the coffee rust has destroyed their plantations. Elsewhere, farmers complained of the continuing drought endangering crops during the 2015 agricultural season. Below follows a brief summary of the challenges faced in the communities visited, followed by a brief analysis of some factors weakening smallholder farming.

- Wheat was a major crop for Huehuetenango producers in the 1980s. As a result of economic liberalization, which opened the country to imported agricultural products, combined with the CAFTA-DR free trade agreement in 2005, wheat production gradually disappeared along with many associated enterprises.

²² In Huehuetenango, San Marcos, and elsewhere, marijuana is cultivated, interspersed with milpa or other food crops, but the assessment team gathered no consistent information on the scale of these operations.

- Sheep-raising and the production of clothing and blankets from wool have disappeared due to the massive importation of synthetic blankets and secondhand clothing (*paca*).
- Coffee rust in communities like Concepción Huista has plunged small and large holder coffee production into a precipitous downturn, which caused related value-chain initiatives also to fail.
- Corn, a basic commodity for families in the region, has suffered production setbacks from blights to crops, provoking a rise in prices. Since Mexican corn is cheaper than Guatemalan, contraband has flooded the market in some regions. US corn is not consumed because it is believed to be genetically modified and is therefore often sold or used for animal feed.
- Inconsistent weather patterns, including rainfall, are all too often undermining crop production. In 2015, various parts of the country, including parts of the Western Highlands, suffered significant drought and lost crops.
- Agricultural families in which the father migrates lose the chain of training that would equip younger family members to farm. These families often lease land or leave it fallow. This break in the chain seems critical in the reduced interest in farming among younger people.

For these reasons and others, including some young people’s increasing engagement with global culture and urbanized values and desires, agriculture is increasingly seen in some communities as an anachronistic and undesirable pursuit. Even in areas like Concepción Huista where there is commitment to agriculture, additional research is needed to inform future programming that will assess viable options in the agricultural field moving forward.

SECTION VII. CONFLICTS INVOLVING EXTRACTIVE INDUSTRIES, NATURAL RESOURCES, AND CLIMATE CHANGE

This section describes conflicts in some target communities involving natural resources and the environment—land, mining, hydroelectric power, electricity distribution and commercialization, and climate change. In general, the conflicts described here involve a combination of the following dynamics:

- Confusion over the legal scope of territorial rights and reach of indigenous authority;
- Lack of clear mechanisms on dialogue, consultation (prior consent), and decision-making among the state, private sector, and communities;
- Insufficient state regulatory power (environmental impact, monitoring, controls);
- State abdication of role as mediator;
- Private sector backed by state or left “on their own” to negotiate;
- Communities alone in addressing challenges and often lacking the information and technical and organizational skills necessary to adequately assess and address the challenges they face;
- Conflicts feed internal divisions within communities, exacerbated by pressures from the private sector and the state—these conflicts reach into the intimacy of families as well and cause multi-generational tensions;
- Royalties and bribes from private enterprises (licit and illicit) provoke new tensions between municipal authorities and communities;
- Industrialized agriculture, extractive industries, and the energy sector generate little (or mainly boom and bust) employment, spur social stratification and community tensions; and
- A generalized climate of distrust based on historic experience presents challenges to mediation even where good intentions exist.

A. LAND CONFLICTS

This section reviews land conflicts affecting the target region and aggravating poverty and hunger.

Land distribution: A 2014 report notes that 92 percent of families have access to only 22 percent of the land, a significant inequality in access to basic resources that continues to underlie many other social ills.

While peasant organizations continue to demand land reform and redistribution and have resorted increasingly to land invasions and occupations, the private sector continues to oppose it, except for market-assisted land redistribution efforts when prices are commercially competitive. Through this mechanism, the *Fondo de Tierras* [Land Fund] has distributed land to some families (LGAF: 2014). In part because of unequal land distribution, even rural Guatemalans buy almost all of their food:

In Guatemala, hunger is related to difficult access to food. According to the World Food Programme (WFP, 2008), "rural families acquire over 80 percent of their food on the market and 20 percent comes from their own production," so price increases limit access to food because this population group has few opportunities to increase or diversify their income (UNICEF, 2009:7).

Land conflicts: A 2005 USAID report calculated over 2,000 active land disputes open that year, and “tens of thousands more” that were latent or not officially registered (Brown, 2005). Over 60 percent involved competing property rights, and the remainder had to do with illegal land occupations and boundary disputes. This problem has only become more severe in the intervening years, in part because an ambitious effort to establish a comprehensive national cadastre was abandoned.

In general, land conflicts in Guatemala can be distinguished by how and when they originated. Many historical land conflicts result from the lack of legal certainty about property, possession, or tenure, the overlapping rights to a given property, the alteration of borders and boundary markers, and claims of historical rights made by indigenous communities and peoples. In recent decades, land occupations have increased. More recently, conflicts related to “new agrarian dynamics” have put even greater pressure on the land situation. These include transformative processes such as mining, hydroelectric projects, and agroindustry, which impact land ownership and social relations in affected areas and provoke both increased concentration of control over land and natural resources and stimulate the emergence of new entrepreneurial actors generally linked to the global economy (Hurtado, 2008, 11). Changing use of lands purchased by these industries provokes new conflicts, as properties previously used for small-scale corn production or raising cattle become mining projects, palm or sugar plantations, or hydroelectric plants. A number of these new industries also strongly impact water availability and/or provoke high levels of contamination, while also affecting the social fabric of the communities they enter.

Nonetheless, state institutions continue to focus on the traditional disputes. Annex J contains a description of how these conflicts affect different regions, ethnic groups, and the municipalities in the target region. Certain WHIP municipalities have particularly high numbers of registered conflicts, especially Santa Cruz Barillas, Huehuetenango; Nebaj, Uspantan, Cunén, San Juan Cotzal, and Chajul in Quiché; and San Rafael Pie de la Cuesta, San Marcos. However, the number of cases exceeds institutional capacity to resolve them. Additionally, indigenous people (including in the target departments of the conflict assessment) are disproportionately affected: 67 percent of claims involve indigenous people even though they only represent about 42 percent of the population (SAA, 2015: 15).

Unanticipated consequences of cadastre efforts: While a comprehensive cadastre would resolve many disputes and could have a positive impact on municipal revenues, land tenure regularization can also contribute to accelerated loss of lands by small holders. In Alta Verapaz and Petén departments, studies show that agro-industrial enterprises obtained increasing areas of land once belonging to indigenous and peasant families through processes facilitated by the cadastre and titling, which would be likely to recur in the Western Highlands region (Grunberg et al, 2012). Such losses have strong historical precedent: the national land registration effort promoted by the Liberal regime of Justo Rufino Barrios in the late 19th century catalyzed the most significant loss of indigenous lands following the post-Conquest period.

Development of a comprehensive cadastre system was launched by the Guatemala Cadastre Information Registry (in Spanish, RIC) with primary funding from the World Bank, with the expectation it would be completed. Although a pilot was rolled out in Alta Verapaz and in one municipality of Quiché, the program was left unfinished for reasons unknown. In recent years, some organizations, such as Mercy

Corps and JADE, have worked to mitigate against the increased loss of lands that could be catalyzed by the cadastre and focused not only on resolving land conflicts but linking small scale farmers to markets and providing support for farming practices. In short, while the cadastre is clearly needed, it alone will not resolve the structural problem of land distribution if it only functions to reinforce the unequal power distributions already at play. While cadastre efforts can be extremely empowering to smallholders and those without ownership rights, such efforts can also be manipulated by an elite. Implementation of a new such effort should be made in coordination with a neutral arbiter, with fair mediation modalities and avenues for dissent built in.

B. MINING ENTERPRISES

Industrial mining began in the 1970s with the Canadian-owned Explotadora y Exploradora Minera de Izabal, S.A. nickel mine, declined during the war, and was launched again on a larger scale after the Peace Accords. The post-war Mining Law lowered government royalties from 6 percent to 1 percent (split between the national government and municipality) and permitted foreign companies 100 percent ownership of the enterprises, exempting them from most taxes (Van Sandt, 2009: 1) although some companies are paying additional royalties voluntarily. As of March 2009, the government had granted 395 mining licenses for exploration and exploitation, and 383 more were pending. In 2006, the Center for Legal, Environmental, and Social Action (CALAS) successfully challenged the Law, arguing that it failed to protect communities near the site. According to Zarsky, no new licenses have been granted since June 2008, and none will be granted until the Mining Law is revised. Mining operations have nevertheless moved forward with government approval (Zarsky, et al).

Conflict dynamics in the mining sector: Four major arenas of conflict stand out: (1) the confusion about the scope of the popular consultations; (2) the national government's lack of capacity to regulate the industry; (3) the government's lack of political will to mediate the interests of the mining companies, affected communities, and national interest (taxes, environmental impacts, etc.); and (4) the incredible power that these private companies can wield over local authorities and members of the community through royalties, jobs, and bribes—all of which distort community dynamics in myriad ways.

Popular consultations: Proposals for mining operations have provoked strong reactions from indigenous and other communities throughout the country whose lands and water supply could well be affected.²³ In numerous cases, community residents, mining companies, and state forces have engaged in violent confrontation, including highway blockades, armed clashes, property sabotage, and actions causing injuries and deaths. La Puya in Guatemala Department and the Marlin mine, which straddles San Miguel Ixtahuacan and Sipacapa in San Marcos Department, have received the most international attention.

Starting in 2005, approximately 73 popular consultations (there is no official count) have been held by indigenous and non-indigenous communities to gather local opinion on permitting these projects in the communities, with the vast majority voting to reject the mining proposals. However, the scope and legal reach of these votes are unclear, directly resulting in conflicts with private companies and the state. Many community groups and NGOs opposing these operations view the votes as community decisions about their territory that require respect under Convention 169. However, according to legal experts, the process to date has not been formalized, and only one or two of the 73 consultations were actually legally binding. The rest were nonbinding polls on whether a particular community wanted a mine or plant, but not a legal referendum about a specific proposal, for which a formal environmental and social assessment would provide key elements for judgment.

²³ Hydroelectric projects, discussed in the next section, were also the subject of many consultations. However, while opposition to mining has been virtually unanimous, communities' reactions to hydropower projects have been much more varied.

While Convention 169 gives indigenous people the legal right to be consulted, a binding vote must be conducted according to municipal code as well as electoral law. The nonbinding character of these votes, however, is not understood by many communities nor the activists who work with them. Many still understand them as an official rejection of these proposals. Given that the state has failed to support fair mediation processes between communities and companies, actively supported private enterprises to move forward with their projects, and failed to heed legal mandates from national and international courts, the insistence that the consultations are not binding is taken as an act of bad faith.

Lack of regulatory and social auditing capacity at the national and local level: In line with the legal efforts of CALAS and other Guatemalan organizations, the Tufts University environmental and social risk/benefit assessment of the Marlin mine concluded that the Guatemalan government lacks the basic regulatory capacity to control the terms under which the company is operating. This incapacity, the study argues, endangers the public interest, and puts communities at high risk to be injured:

The capture of greater economic benefits and reduced environmental risk require significant development of Guatemala's governance capacity in three dimensions: 1) environmental and health regulation and oversight; 2) legislative definition and judicial protection of indigenous rights, and 3) fiscal accountability. ... Without good governance and productive investment, the local legacy of the Marlin mine could well be ecological devastation and impoverishment (Zarsky et al, 6).

The incapacity of the national government to regulate the industry is intensified at the local level where local authorities and citizens have even less financial and information resources to adequately assess and make decisions about the convenience of these enterprises for their localities. In this vacuum, only a handful of national and international NGOs understand the technical questions about these enterprises necessary to make informed decisions.

Power imbalance: The conflict in San Miguel Ixtahuacan around the Marlin mine (see Annex K) shows how the extraordinary resources wielded by the company compared to those of the community distorts local power dynamics, generates conflict, and undermines social cohesion at the local level.

C. HYDROELECTRIC PROJECTS

Over the past twenty years, coverage for electricity has gone from 50 to 90 percent of the country. The provision of electricity, which today is both unsatisfactory and extraordinarily expensive, has become a source of multiple and diverse conflicts, with efforts to construct hydroelectric plants in Guatemala spawning fierce community resistance and violence between communities, companies, and the government, especially during the past decade, as well as during the 1970s. This section describes the current state of hydroelectric power generation and then details the historical background of related conflict. Annex L analyzes the hydroelectric conflict in Santa Cruz Barillas, Huehuetenango.

Overview: To address a growing deficit of energy supply, President Oscar Berger's government launched a new "energy matrix" in 2005, focusing on key regions that can produce hydropower in the Western Highlands. In particular, the departments of Huehuetenango, San Marcos, and the western area of Quiché offer significant opportunity for developing hydroelectricity. However, little thought was given to the social processes necessary to gain the acceptance of communities that would be affected by the projects and/or to adapt the projects so that they would cause little damage to local environments. As millions of US dollars have been invested in energy in the past decade, conflicts around hydroelectricity have increased significantly, particularly over the last five years. According to knowledgeable observers interviewed for this study, private energy companies must handle most of these conflicts on their own due to the lack of state presence and state unwillingness to become involved.²⁴

²⁴ Assessment team interview in Guatemala City.

The electricity generation industry can potentially incite conflict at three points: a) the construction and operation of the hydroelectric plant itself; b) transportation of electricity, including the appropriation of lands to construct the distribution grid; and c) the commercialization of electricity.

Three kinds of hydro plants are contemplated in the energy matrix: small (national, privately owned), medium (national and privately owned with international backing), and large (Chixoy is the only example and is government owned). For small plants, at least 15 percent of water is to be returned for community use. However, for portions of each day, all of the water is held in the system, depriving communities of access for significant periods and causing problems for agriculture and homes. With medium plants, small dams are constructed, which provoke flooding problems and some population displacement. Today at least 64 hydroelectric projects are in different stages of authorization or construction throughout the country. Twenty-five are located in the six targeted Western Highland departments, in addition to a wide range of other energy-generating projects, including thermal energy plants. Conflict generated by the construction of hydroelectric plants in the departments must be analyzed in context.

Quetzaltenango: Several hydroelectric plants already operate here, some constructed recently, with no significant opposition. However, in 1991 there was a major tragedy provoked by a geo-thermal plant that caused the collapse of a mountain near Zunil, burying an entire community (Flynn 1991).

San Marcos and Huehuetenango: These two departments have the highest level of conflict around hydro plants in the Western Highlands. The organizations and communities that support territorial defense and have promoted community consultations lead opposition movements. According to assessment team interviews for this study, in cases such as the hydroelectric projects of Hidro Salá (San Marcos), Hidro Santa Cruz, Hidro San Luis, Pojom I and II (Huehuetenango), legal action has been taken and violent confrontations have occurred between community members and the hydro-companies. Some community leaders have been arrested or face legal proceedings. Municipal authorities lack legitimacy, their management capacity has been weakened, and their negotiation capacity is nonexistent. Assessment team interviews for this study revealed that in Santa Cruz, for example, governmental authorities were chased out of town, and even the Human Rights Ombudsman office shut down. The government has failed to play the role of mediator, negotiation processes have failed, and some projects have been unable to start work.

Quiché: Communities, some led by indigenous mayors (such as for Nebaj and San Juan Cotzal), have not opposed the construction of hydroelectric plants, but instead negotiated for community benefits and access to electricity, especially in the *zona reina*, a rural area of Quiché. Hydroelectric projects in operation or under construction have progressed in negotiating social investment agreements. People interviewed mentioned repeatedly that the cooperation agreement between the Palo Viejo project (Enel Greenpower) and the Municipality of San Juan Cotzal had reduced conflict levels. While these negotiations have not been free of tension, and in some cases have involved judicial proceedings and critical moments, they have concluded successfully.²⁵

In general terms, opposition stems from lack of consultation, disrespect for the results of previous consultations, lack of clarity about environmental impacts or water access, and the limited economic and employment benefits for the population. In some cases, especially in communities where households still have no electricity, people find it difficult to understand how energy can be generated within their community while families remain condemned to living in darkness.

²⁵ Because of the royalty paid by EEL to San Juan Cotzal municipality, interviewees report that education and health services have now been decentralized to the municipal level, and the municipality's budget has increased from the allotment provided by the central GOG.

D. ELECTRICITY DISTRIBUTION AND COMMERCIALIZATION

As noted, conflicts also arise about the transportation, distribution, and commercialization of energy.

Transportation and distribution: Conflicts in transportation occur due to the fact that energy companies are constructing a grid of over 800 linear kilometers of wiring on swathes of land 50 meters wide throughout the country. According to individuals interviewed by the assessment team for this study, neither the government nor companies considered the social process required for citizen acceptance of the installation of transmission energy towers and transmission wires on and through private properties, protected lands, and indigenous communal forests. These actions are authorized by the Telecommunications' Law passed in 2014 and the GOG Decree 145-201, which are perceived by some knowledgeable observers to protect the interests of private companies over those of private citizens.

Energy distribution and costs also provoke significant conflict. This includes piracy of electrical service by thousands of people in the Western Highlands and elsewhere in protest against Energuate, an affiliate of a British Company that provides 86 percent of electricity nationwide. In Totonicapán, for example, the team learned that electricity costs represent up to 50 percent of people's monthly budgets. Once again, the state has failed to play its essential role of mediator in this conflict, which has contributed to increased radicalization of the protesters and illegal actions on part of the electric company as well.

Energuate, with government support, has pursued public relations and legal efforts to criminalize the protesters. Meanwhile, opposition is led by the organizations *Comité de Desarrollo Campesino* [Peasant Development Committee], *Frente Nacional de Lucha* [National Front for the Struggle] (FNL), and *Frente de Resistencia Nacional en Defensa de los Recursos Naturales y de los Derechos de los Pueblos* [National Resistance Front in Defense of Natural Resources and Peoples' Rights], and indigenous organizations advocating for territorial defense, including the *Consejo del Pueblo Maya* [the Mayan People's Council], (CPO), which represents Mayan leaders and institutions in Western Guatemala.²⁶ For these groups, it is difficult to understand why public energy run by municipalities is available at a low cost while private companies selling electricity charge such high prices.²⁷

Between 240,000 and 300,000 people nationwide have disconnected their electricity meters and opted for stealing power in response to these elevated costs. This issue, which began in 2008, has become a national level social conflict that, as of now, shows no signs of being solved. While the company has filed close to 600 claims against individuals identified as "inciters" for stealing electricity, the protest movement continues to expand (Pérez, 2014). Only in San Marcos, mediation facilitated by COCODES and mayors enabled Energuate to recover about 34,000 users. However, discontent here among the parties is increasing, and final agreements have not yet been reached.

E. CLIMATE CHANGE

Guatemala has been identified as one of the ten most vulnerable countries in the world to climate change, according to the Global Climate Risk Index (2015), with 90 destructive climate events since 1994. Hurricanes and increasingly inconsistent rainfall over the past decade offer ample evidence of the damage that will likely intensify in the future. Climate change dynamics interact directly with natural resource exploitation and land and water access to provoke increased social conflict and many stresses on communities, families, and individual health. The field research revealed high levels of stress about a

²⁶ These include: Consejo Mam (San Marcos, Quetzaltenango, Huehuetenango, and Retalhuleu), Consejo K'iche del Quiché, Consejo K'iche de Quetzaltenango, 48 Cantones de Totonicapán, Consejo de Autoridades Comunitarias de Momostenango, Asociación indígena de San Francisco el Alto, Asamblea de los Pueblos de Huehuetenango, Alcaldías Indígenas del Pueblo Ixil, and Comunidades Kaqchikeles de Chimaltenango.

²⁷ In Huehuetenango Department, at least two municipalities, Huehuetenango and Santa Eulalia, manage their own energy service and keep costs low. Elsewhere in Huehuetenango, Energuate is raising costs and many users are refusing to pay, causing many to make illegal connections to avoid the high bills. In 2014, in La Democracia, Huehuetenango, energy was cut off because of a transmission problem, and local people held Municipal Council members hostage until power came back. Other communities have organized road blockades due to the high costs of bills.

range of problems linked to climate change such as shrinking water supplies, crop-destroying droughts, the unpredictability of rainfall, loss of biodiversity, and reduced productivity of agricultural lands.

For Central America as a whole, Giorgi and UNICEF (2014: 10) argue that high vulnerability to climate change parlays into increased vulnerability of local populations to illicit and illegal actors:

...[W]ell documented disruption of life, and the immense economic and human costs provoked by the numerous and damaging hurricanes over the past decade, as well as the perverse ways these have made affected populations increasingly vulnerable to illicit and illegal actors and practices, provide some indication of the scope of [the effects of climate change] in the Central American region (Giorgi, 2006).

A prime example is Panajachel, Sololá Department, where local residents link expansion of organized crime and social violence to the economic and social crisis following Hurricane Stan in 2005.

SECTION VIII: POTENTIAL TRAJECTORIES OF SOCIAL CONFLICT

This section presents several potential conflict dynamics that may well become increasingly aggravated in future years and that should be taken into account in future programming (in no particular order):

- A. High levels of social inequality—already a major driver of conflict—are likely to continue to worsen because of increased social stratification due to the effects of migration, extractive industries, illicit trade, and other social processes.
- B. The high levels of family and community violence, which have detrimental effects on child development and weaken the capacity of families to nurture children, are likely to continue to escalate and contribute to intergenerational reproduction of violence.
- C. The physical health of local populations is increasingly aggravated by the multiple forms of conflict and stress detailed in this report. In addition to the classic infectious diseases associated with rural subsistence populations, these groups are now increasingly suffering chronic degenerative diseases associated with middle income urban populations. These trends are likely to continue and will further aggravate stress, traumatization, and violence in other realms.
- D. Violence and conflict within family, at the community level or between community and outside actors tend to have a ripple effect and to manifest in different ways throughout the entire system unless concerted interventions that take into account the intimate connections between these processes are developed.
- E. The widening intergenerational gap fundamentally undermines parent-child relationships, weakens community cohesion, and intensifies alienation of youth from their parents and elders, all of which further spurs individual and collective traumatization and violence.
- F. The continuing lack of legitimate livelihood options for young people and rural communities promises to become increasingly grave as the national population is anticipated to almost double by 2050. This further feeds incentives for migration and illicit livelihood options and thereby the accompanying violence and social disintegration.
- G. The trend of continued prioritization of extractive industries as a development strategy (particularly mining and agro-industries) offers little employment, intensifies environmental destruction, worsens climate change, furthers social conflict, and dramatically undermines the possibility of sustainable natural resource-based livelihood development.
- H. The challenge of environmental protection and the viability of agricultural livelihoods for rural populations in the face of the increasing impacts of climate change and a quickly growing population will be increasingly onerous. Erosion, degradation, reduction of cultivable lands, water scarcity, water contamination, and natural disasters can be expected to augment, with attendant implications for health, livelihoods, and rural communities.
- I. International narratives and programming on human rights, gender equity, security, and justice often conflict with traditional norms and values. As long as many local citizens feel unprotected by these tenets, continued incomprehension and/or opposition can be expected.

- J. If indigenous groups continue to face social, economic, and political marginalization, some may be expected to increasingly invest in defensive and/or separatist strategies designed to protect them from a state and society that provides them with little or no benefits.
- K. Taking into account potential sources of trauma from all of the forms of violence described in this report, it is reasonable to conclude that chronic traumatization is a significant factor that will continue to undermine the physical and mental health and behavior among members of the communities studied and play a potentially growing role in generating further violence in multiple social spaces and intergenerationally.
- L. Unless the national fiscal regime dramatically improves, the legal mechanisms that control budget allocations are reformed, corruption brought under control, and the control exercised by illicit actors over all levels of government is reversed, the capacity of the Guatemalan state to provide basic social services, control its territory, and operate as a legitimate mediator between diverse social interests will continue to be weak.
- M. Current civic protests and the efforts of the CICIG and the Public Ministry against corruption offer a significant opening to strengthen government legitimacy and function, but the entrenched system of cooptation of political parties, elected officials, and state institutions by illicit funds and the deep roots of patron-client relations at all levels of government will continue to obstruct effective governance for some time.

RECOMMENDATIONS

PRIMARY RECOMMENDATION: ADDRESS SOCIAL CONFLICT AND ITS DRIVERS DIRECTLY IN PROGRAMMING.

The intersection of the history of the Western Highlands and current realities means that USAID needs an explicit emphasis on social conflict in ways that address its drivers and its effects on social development, the environment, and governance. Siloed programming on economic growth and social development alone will not suffice.

Programs should be built on a solid understanding of community dynamics, which vary from municipality to municipality and even community to community. In order to have a solid understanding, analysis must be conducted prior to program implementation in any given community in order to identify who is governing and how governance is changing. This analysis will be a key step that should be incorporated into any new agreements. USAID programs must support space for community members to learn, reflect, and think creatively about how to assess and develop strategies to address community issues. Programs should track and monitor these processes over their implementation to adjust strategies, redesign projects accordingly, and harvest good practices. USAID should ensure that programming contemplates the interconnected dynamics of social conflict between the arenas of family, community, state, and non-state governance structures. Finally, USAID should consider how to generate shared learning and programmatic innovation by forging joint research, learning, and programmatic experimentation and innovation between new programs, the WHIP, and ongoing programs designed to address citizen security (under DO 1).

RECOMMENDATION 1: YOUTH AND FAMILIES

Inter-generational differences resulting from shifts away from agriculture and the influence of technology, migration and gangs, are making it harder for parents to guide, influence, and monitor their children. These differences are enabling intra-household strife and feeding adult fears and criminalization of youth. This dynamic leaves young people alone without effective mentors or guides and triggers misinformed community security responses against youth and “gang” members—with potentially serious consequences for the entire community.

Support dialogue and problem-solving spaces between and within generational groups to help participants develop a broader understanding of their mutual (community) and individual (generational) challenges and strategies to address them. This could include:

- Participatory research and dialogue about how to address tensions and challenges caused by the intergenerational gap (e.g., changing livelihoods, youth behavior, “gangs,” adult and youth expectations, changing role of agriculture, effects of migration and technology).
- Engagement with low- and high-risk youth, parents, mentors and community leaders to identify challenges faced by young people and methods to address them—through strategies that involve families, peers, mentors and community leaders.
- Pay special attention to the needs of fragmented families and returnees in order to design proactive programming to better support their economic and psycho-social needs and—for returnees—to support their reinsertion into their communities.
- Strengthen the capacity of vulnerable families to ensure that children and youth thrive in society.
- Identify and map out violence dynamics and triggers at the family level in target communities. This should include assessing triggers for male violence through a tool like the International Masculinity and Gender Equity Survey (IMAGES), adapted to capture a broader range of conflict/violence triggers. The dynamics of migration and special challenges of returnees should be included.
- Support mechanisms for addressing the intergenerational gap (in addition to those detailed above, by addressing livelihood and professional expectations and the effects of migration).
- Use the evidence produced by the IMAGES survey to design appropriate programming to work with men, women, and female and male youth and children, using an evidence-driven (as opposed to norms-driven) approach.

RECOMMENDATION 2: EMPLOYMENT AND LIVELIHOOD GENERATION

The vast majority of the population in the Western Highlands is struggling to support their families through the informal sector, migration, increasingly unpredictable agricultural pursuits, and/or illicit activities. For youth, the lack of legitimate livelihood options is the primary driver for conflict and violence. Creation of job opportunities and reinsertion strategies for returnees should be an integral part of livelihood generation strategies.

- Support job training and livelihood development through creative processes that take into account local social and natural capital and the interests of youth, mentors, and elders and are linked to market-driven analysis for young people.²⁸
- Explore potential of the Aarhus model²⁹ for reintegration and destigmatization of returnees.
- Explore potential for supporting efforts that link up networks of organizations working in receiving countries to prepare migrants for their return with organizations working in Guatemala to receive them.
- Engage community members in analyzing obstacles to youth interest in agricultural pursuits.
- Given the agricultural foundation and “capital” that many Western Highland communities continue to hold, re-assess the productive options available in agriculture or agriculture-based livelihoods; and engage youth (many of whom have written agriculture off as an option) in development of potential integrated economic/environmental/social development initiatives.
- Look beyond agriculture: Consider supporting tourism and forestry (community forestry where relevant) (dependent on realistic local market needs/research).

²⁸ Please refer to GIZ model that has been under development in Alta Verapaz over recent years.

²⁹ See <https://www.nyidanmark.dk/NR/rdonlyres/8A7278CB-EFAD-43CC-B6E4-EE81B8E13C6D/0/factsheetderadicalisation.pdf> for the Danish government’s explanation of the Aarhus model.

- Explore the potential expansion of the function of institutions to also include more practically-based livelihood development that would permit youth to develop livelihoods in concert with their formal academic training (explore model developed for *Deutsche Gesellschaft für Internationale Zusammenarbeit* [GIZ] by Edgar Gutiérrez).

RECOMMENDATION 3: TRAUMA AND PSYCHOSOCIAL SUPPORT

Trauma affects the way that people think, behave, and interact with one another. It can reinforce cycles of violence and high-risk behavior, inhibit dialogue, prevent future-oriented thinking, and reinforce high levels of fear and intolerance. Given the lack of concerted efforts to address the trauma of the civil war and abuse perpetrated prior to and since that time, providing assistance in this area will be a force multiplier of all other efforts.

- Adapt and employ a variant of the Adverse Childhood Experiences surveys³⁰ to gauge prevailing patterns of trauma among youth, adults and community leaders in target communities.
- Investigate and select an effective peer-based trauma counseling method to embed among key actors in relevant social spaces—schools, teacher training institutes, livelihood training programs, NGOs, returnees, cultural groups, health centers, social organizations, women’s/men’s/youth support groups—and in intergenerational dialogues.
- Avoid professionalized promoters who will require long-term subsidy.
- Facilitate community dialogues between youth and elders as part of existing USAID programs (or utilize intergenerational dialogue spaces) to open these conversations.

RECOMMENDATION 4: GOVERNANCE

In much of the Western Highlands, national and local government structures lack legitimacy and in some cases conflict with traditional governance structures. Collaborative models of governance should bridge traditional and community-based governance systems with formal governance models.

- Base strategies on a thorough analysis of local structures, understanding they differ by locality. Have a flexible mechanism to accommodate these differences and learn from them.
- Develop a strategy that contemplates USAID support to the development of plural governance (traditional and state where necessary) at the local level. Include in the strategy how to support compatibilization of community/traditional/*sui generis* governance structures and national government structures. Support efforts to codify and clarify the relative scope of national and traditional authorities, understanding these differ significantly from place to place.
- Explore how to leverage the culturally rooted restorative justice approach that is integral in much indigenous law into broader use in legal processes nationwide.
- Investigate how to support mechanisms to clarify the procedures for community *consultas*, to reduce the continuing confusion that exists about their scope at present, and to ensure that future efforts to engage communities follow legal procedures.
- Support local dialogue around how climate change, environmental degradation, social development and governance relate to each other—and what approaches would address these in an integrated manner.

RECOMMENDATION 5: LAND AND CONFLICT

Land conflicts continue to be a major source of conflict throughout the Highlands. Enduring concentration of land ownership in few hands, continuing conflicts about property rights, boundaries and illegal occupations, as well as

³⁰ For description of this survey administered by the Centers for Disease Control and Kaiser Permanente, see http://www.amchp.org/programsandtopics/data-assessment/LifeCourseIndicatorDocuments/LC-01_ACE%20Among%20Adults_Final_6-27-2014.pdf. For an explanation of how these surveys are used in a public health clinic in a low income area in the US, refer to <http://www.newyorker.com/magazine/2011/03/21/the-poverty-clinic>.

renewed land accumulation by new agricultural industries foster further disenfranchisement, undermine agricultural productivity and economic viability of smallholders, thus reinforcing grievances, aggravating poverty and hunger, and spurring greater conflict and socio-political fragmentation.

- Commission an analysis of the status of the RIC (Cadastral effort) and engage with the GOG, World Bank, other donors, NGOs, and academics on initial experiences and critical next steps
- Support strengthening of the SAA.
- Support the initial establishment of Social Support Offices (SSO's) or an establishment of Fiscalia Agraria and special agrarian courts (one-stop shop).
- Support existing mechanisms to strengthen conflict mediation and resolution capacity at the local level (e.g., the experience of the Red Quiche in recent years.)
- Commission an analysis of pending land-related legislative reforms to assess their relevance to the management of social conflict, including *Ley de Regularización* (Regularization Law), *Ley de Derechos Sucesorios* (Succession Rights Law), *Ley de Aguas* (Water Law), *Código Agrario* (Agrarian Code); *Ley de Extinción de Dominio* (Domain Extinction Law); and *Ley de Areas Protegidas* (Environmentally Protected Areas).
- Harvest lessons learned in land conflict intervention from Municipal Agrarian Offices implemented by Mercy Corps, and investigate how to improve government processes including land marketing and other activities conducted by the GOG's *Fondo de Tierras* [Land Fund].
- Promote the development of a rural development plan/policy that identifies new ways to create job opportunities and income-generating sources that reduce the pressure on agricultural production as the only chance for survival for the poorest in consultation with communities and linked to market-driven analysis.
- Provide technical assistance to promote the passage of laws and regulations to facilitate conflict reduction (Convention 169).

RECOMMENDATION 6: EXTRACTIVE AND NATURAL RESOURCES

Investments in hydro and mining represent a flashpoint. In part this is because people perceive the unequal benefits of these enterprises and the deleterious effects of some of these industries on fundamental natural resources, and in part due to differences in the vision of what development means. This requires significant investment in strengthening regulatory agencies, capacity building, and dialogue.

- Increase participatory approaches to dialogue and consultation at the community level, including capacity building to be able to interface with private sector and GOG (at similar levels).
- Support strengthening the Ministries of Energy, Mines, and Environment on proper engagement with affected communities; evaluation of environmental impact and socio-economic benefits vs. risks; and placement and timing of private sector investments.
- Support development of enhanced community capacity for social auditing of these hydro and mining enterprises.
- Explore how to support the development of legitimate and effective mediation capacity to address conflicts between communities and the private sector around mining, hydro and electricity projects.
- Research the potential of community cooperative to manage hydroelectric projects.
- Support an evaluation of the social and environmental impact of agricultural industries (African Palm) and based on the conclusions recommend viable alternatives.

RECOMMENDATION 7: WHIP

The thematic rather than geographic approach of WHIP undermines effectiveness, could reinforce a state-centric approach, and prevents cross-learning. The coordination structures to date have been insufficient from a conflict sensitivity perspective.

- Prioritize a short list from the 30 target municipalities and shift new programming towards a territory-based (vs. sector-based) approach with integrated programming to meet DO 2 goals.
- WHIP technical criteria should include how the implementer will address conflict dynamics in the targeted communities and/or ensure a Do No Harm analysis is conducted. Ensure program implementers use a conflict-sensitive approach.
- Focus first on trust building, for which information provision is essential. Find out who is trusted and well known within the community through analysis.
- Consider an approach of piloting processes and then replicating. Include a component of community-to-community and peer-to-peer learning.
- Program interventions should be based on an assessment of the nature of local governance (i.e., traditional, state and informal).
- Expand health programming beyond maternal/infant health to provide a preventive and community-based health approach integral to broader social development.
- Include a focus on improving nutritional strategies linked with innovative food production—beyond the Feed the Future target groups—to increase food security and quality and generate sustainable employment.
- Consider a cross-cutting focus on youth that includes adults and authorities to help to address the issue of inter-generational gaps and related conflict.
- Ensure gender-focused programming includes both men and women. Directly seek to address issues surrounding masculinity, “machismo,” and violence as part of health and education programs—based on research-based evaluation of needs (IMAGES survey or other instrument).
- Climate Change: Include a specific focus on forestry, community forestry where relevant, tree planting, and water stewardship.
- Nexos Locales: Work with the municipalities and ANAM to put together revenue generation and expenditure plans to properly manage revenues from investments (e.g., hydro, electricity, roads, etc.).
- Investigate existing innovations in curriculum in order to integrate effective approaches to preventive health, family planning, civic engagement and history in the education sector.
- Support youth and community efforts to invest in days of remembrance to raise cross-generational connections and discussions based on research of what has worked elsewhere to address issues of the generational gap and lingering trauma.

RECOMMENDATION 8: INTEGRATED RESEARCH AND PILOT EFFORTS ON SOCIAL CONFLICT AND VIOLENCE

The systemic violent conflict in the Western Highlands and in the Guatemala City metropolitan area have much in common—and often in fact involve the same families at different ends of the migrant stream. However, the conflict in both areas is addressed by separate programs with different logics.³¹ The urban-focused citizen security programs and their respective target populations—and the incoming GOG—could benefit by sharing research, experimental programming and development of an integrated capacity to identify, track, and anticipate key indicators for social conflict, violence, and social development nationwide.

- For the WHIP programs, invest in development of approaches that contemplate the systemic nature and complexity of the social development/ natural resource/ governance challenges faced in the target region. This entails research (detailed next), development of small-scale prototype or pilot programs to be monitored and adjusted as needed, and outcomes harvested for best practices.

³¹ In addition, INL has a high level of funding for social programs in the Western Highlands, some targeting precisely the same communities as are targeted by USAID programs, which should be assessed as well in the design of programming.

- Consider how to engage the citizen security-focused programs in a broader national initiative focusing on social conflict, violence, and social development. A potential mechanism would be a “National Platform on Social Conflict, Violence, and Development” that would engage national and international researchers, policy makers, practitioners and communities to develop a system to identify, track, and anticipate key indicators for social conflict, violence, and social development nationwide to enable identification and fine-tuning of programming.
- Consider how this initiative could provide critical support for the incoming GOG and local governments, as well as other relevant private and public institutions.
- Support research and experimental (small pilot) programming initiatives through the ongoing citizen security-focused programs. Aim to better understand the strategic links and lessons learned between the violence prevention/citizen security approach and the social conflict focus of new programs in the Western Highlands in order to forge more effective and integrated programming.

RECOMMENDATION 9: USAID OPERATIONAL CONSIDERATIONS

USAID is well set up with the WHIP and has significant capacity to influence development in the Western Highlands. Consider the following modifications to reinforce effectiveness against social conflict:

- Develop criteria for program modifications in the event that municipalities are co-opted by illicit actors or face absentee mayors.
- Consider designing an impact evaluation that focuses on testing program integration as part of the new proposed social conflict program.
- Ensure new Requests for Applications and Requests for Task Order Proposals include criteria addressing conflict sensitivity.
- With some regularity use coordination structures to focus less on coordination updates and more on strategic review of how the various parts are adding up to a whole, including social conflict in the consideration of the whole.
- Train USAID staff to understand the phenomenon of trauma and to recognize trauma-related dynamics. Devise a plan to enable staff to incorporate a trauma-sensitive lens into programming in communities where people are affected by high levels of violence and social conflict; and establish internal mechanisms to provide USAID staff with appropriate support when working with traumatized populations and high violence situations.

ANNEX A: LIST OF WORKS CONSULTED

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ANNEX B: SOCIAL INDICATORS

No.	Department	1. Population	2. Heads of households (women)	3. Population living abroad (by Department of origin)	4. Poverty among children (under 14 years)	5. Youth (10 to 28)	6. Indigenous	7. Non-indigenous	8. % of overall poverty	9. Rural Poverty	10. % of extreme poverty	11. Chronic malnutrition	12. Maternal Mortality Rate	13. Infant Mortality Rate	14. Total fertility rate (15-49 years old)	15. Primary school net enrollment rate	16. Secondary school net rate	17. Illiteracy Level	18. Economically Active Population	19. Human Development Report
1	Guatemala	3,134,276	26.8	274,058	25.9	1,230,360	13.7	86.3	18.6	-	0.7	20.6	48	16	2.7	91.3	69.4	6.0	67.4	0.697
2	El Progreso	157,490	21.5	23,911	51.7	62,549	1.8	98.2	41.1	44.3	4.1	21.2	23	43	3.3	92.6	58.0	8.1	60.9	0.593
3	Sacatepéquez	316,676	17.0	18,072	53.6	127,376	36.4	63.6	41.3	62.1	3.9	43.9	139	25	3.2	85.8	57.7	4.5	70.1	0.623
4	Chimaltenango	606,009	19.8	23,716	73.0	245,175	78.4	21.6	65.6	78.7	13.3	53.3	129	30	3.6	78.1	40.9	11.6	67.4	0.559
5	Escuintla	702,507	18.0	64,611	46.5	272,354	7.2	92.8	39.6	47.4	2.3	27.2	65	25	3.4	90.1	49.3	12.6	59.4	0.615
6	Santa Rosa	344,915	23.1	34,396	66.5	142,524	3.0	97.0	57.8	62.6	11.2	24.4	72	51	2.9	92.5	52.8	8.0	57.1	0.547
7	Sololá	430,573	15.1	19,068	82.3	184,328	96.5	3.5	77.5	84.5	18.0	64.0	98	49	4.0	75.9	44.1	16.2	62.4	0.514
8	Totonicapán	472,614	23.1	25,855	81.3	199,926	97.0	3.0	73.3	80.6	21.0	74.2	168	51	4.4	74.2	34.2	16.6	73.0	0.502
9	Quetzaltenango	792,387	25.1	86,402	60.4	323,909	51.7	48.3	53.7	67.3	10.4	37.0	85	19	3.1	90.5	54.2	15.2	66.0	0.566
10	Suchitepéquez	482,612	19.5	49,460	80.3	203,171	23.4	76.6	70.6	80.5	22.6	35.4	62	46	3.7	89.0	46.9	8.8	58.6	0.539
11	Retalhuleu	303,009	19.4	44,798	65.8	123,282	15.4	84.6	59.2	68.6	12.7	29.9	59	29	3.1	93.6	55.8	8.8	56.1	0.540
12	San Marcos	1,021,997	16.8	147,476	76.9	413,370	30.3	69.7	68.5	76.4	15.2	46.8	128	48	4.3	93.8	43.3	16.0	56.5	0.512
13	Huehuetenango	1,150,480	20.0	118,700	65.5	467,501	57.5	42.5	60.5	67.6	9.6	64.7	233	37	4.1	87.4	25.7	22.2	69.5	0.498
14	Quiché	955,705	16.8	47,475	76.2	394,784	88.6	11.4	71.9	76.9	16.8	64.8	162	40	5.2	79.6	24.7	28.7	64.8	0.470
15	Baja Verapaz	268,560	21.4	39,920	70.2	108,413	55.8	44.2	64.0	72.5	23.6	53.3	98	31	3.9	83.4	35.9	22.3	61.0	0.556
16	Alta Verapaz	1,119,823	14.5	61,865	85.4	456,533	89.7	10.3	78.2	89.6	37.7	50.6	124	36	4.6	79.0	22.6	27.3	58.9	0.507
17	Petén	628,383	15.8	51,230	73.0	278,412	32.4	67.6	65.7	75.1	16.2	36.6	150	43	4.3	68.0	32.2	10.0	63.6	0.524
18	Izabal	410,765	24.2	62,069	67.8	163,300	26.8	73.2	58.7	69.1	19.9	33.9	132	26	3.6	83.1	36.9	18.1	58.4	0.568
19	Zacapa	221,364	22.6	43,442	65.4	86,303	0.9	99.1	55.0	71.6	25.0	41.0	32	24	3.2	93.2	43.6	2.6	52.7	0.572
20	Chiquimula	367,998	22.4	61,716	70.3	148,063	7.1	92.9	62.7	79.0	28.3	55.7	131	55	3.5	86.7	32.3	24.3	56.2	0.541
21	Jalapa	314,095	19.0	41,247	77.5	123,486	0.1	99.9	69.9	77.3	18.4	46.0	114	44	3.8	82.8	34.4	21.8	56.2	0.526
22	Jutiapa	434,249	20.0	70,061	63.2	167,739	3.2	96.8	51.5	60.2	13.0	29.4	74	33	2.6	89.4	50.6	18.7	56.4	0.579
	Country Total	14,636,487	21.2	1,409,548	63.5	5,922,858	40.0	60.0	53.7		13.3	43.4	113	34	3.6	85.4	44.0	14.5	63.3	0.580

Sources

1. Population: INE. National Survey of Living Conditions (Encuesta sobre Condiciones de Vida (Encovi 2011))
2. Heads of households (women): INE. National Survey of Living Conditions (Encuesta sobre Condiciones de Vida (Encovi 2011)). The universe of heads of household (men and women) for the survey is 2,983,086
3. Population living abroad (by Department of origin): OIM: Survey on Remittances 2010. Page 127: Total amount of people living abroad by department of origin. This data was not considered in the Population Census.
4. Poverty among children: INE. Survey of Living Conditions (Encuesta sobre Condiciones de Vida (Encovi 2011))
5. Youth: INE. Survey of Living Conditions (Encuesta sobre Condiciones de Vida (Encovi 2011))
- 6 and 7. Indigenous / Non indigenous: INE. Survey of Living Conditions (Encuesta sobre Condiciones de Vida (Encovi 2011)).
8. % of overall poverty: INE. Survey of Living Conditions (Encuesta sobre Condiciones de Vida (Encovi 2011))
9. Rural Poverty: INE. Rural Poverty Map 2011. INE did not publish the rural poverty data for the country.
10. % of extreme poverty: INE. Survey of Living Conditions (Encuesta sobre Condiciones de Vida (Encovi 2011))
11. Chronic Malnutrition: MSPAS. National Survey of Maternal and Child Health 2008/2009. Note: It is the proportion of children under five years of age who are under height for their age.
12. Maternal Mortality Rate: MSPAS. Monitoring among pregnant women and death among women in reproductive age for maternal death identification.
Note: Ratio among the number of maternal deaths in a given year and the number of children born alive in the same year, expressed by 100,000 children born alive.
13. Infant Mortality Rate: MSPAS. National Survey of Maternal and Child Health 2008/2009.
Note: rates are calculated for the 10 years previous to each survey. Probability of boys and girls dying before one year of age. It is expressed by every thousand (1,000) children born alive.
14. Total fertility rate: MSPAS. National Survey of Maternal and Child Health 2008/2009. Note: It shows the number of births that occurred annually, average, for every 1,000 women between 15 and 49 years of age.
15. Primary School Net Enrollment Rate: Mineduc. Statistical Yearbook 2013. Note: It is the percentage of population between 7 and 12 years of age, enrolled in primary school compared to the total population of the same age group.
16. Secondary School Net Rate: Mineduc. Statistical Yearbook 2013. Note: It is the percentage of population between 13 and 15 years of age, enrolled in secondary school (middle school) compared to the total population of the same age group.
17. Illiteracy Level: Conalfa. Statistical Yearbook 2014
18. Economically Active Population: INE. National Survey of Living Conditions (Encuesta sobre Condiciones de Vida (Encovi 2011)). Note: PEA, amount of people able to perform a job, employed or unemployed.
19. IDH: PNUD. National Human Development Report 2011 / 2012 (Informe Nacional de Desarrollo Humano 2011/2012)

ANNEX C: BACKGROUND ON INDIGENOUS LAW

Within the Guatemalan legal framework, no specific legal basis exists for how Indigenous Mayoralties work, how they are chosen, or what is their area of jurisdiction. The only legal foundations interpreted extensively are Articles 55 and 66 of the Political Constitution of the Republic of Guatemala and Convention 169 of the ILO, which state:

- Art. 58 - Cultural Identity: Recognizes the right of people and communities to their cultural identity according to their values, language, and customs.
- Art. 66 - Protection of Ethnic Groups: Guatemala is formed by diverse ethnic groups, including indigenous groups of Mayan descent. The State recognizes, respects, and promotes their ways of life, customs, traditions, forms of social organization, the use of the indigenous dress by men and women, languages, and dialects.
- Convention 169 of the ILO: (which looks at indigenous and tribal peoples in independent countries) according to advisory opinion issued by the Constitutional Court at the request of the Congress of the Republic, by subscribing, approving, and ratifying said Convention, complementary aspects are developed within the internal legal framework, as said Convention is designed as a legal mechanism aimed specifically at removing the obstacles that impede these people from the true and effective enjoyment of their fundamental human rights, so that they enjoy at least the same level of equality as other citizens.

These provisions have been interpreted as recognizing indigenous mayors as a form of the peoples' organization that allows for indigenous peoples' access to human rights and equality, as long as they do not go against the valid legal framework in effect.

After the ratification of Convention 169 of the ILO, the Congress of the Republic decided to consult the opinion of the Constitutional Court. For this purpose, it formed official file No. 199-95 and the Court issued an advisory opinion on May 18, 1995. The court studied the Convention as a whole and then in parts, looking at each of the sections incorporated in it. In the end, it issued the opinion that the referred Convention is compatible with the Constitution and that it does not contravene any of the Constitution's provisions.

In terms of the place that the Agreement holds within the legal framework, the Court preserved the superiority of the Constitution with regard to the Convention.

- Municipal Code, Article 8 signals that the elements that constitute the Municipality, among others, are the authority exercised in representation of the inhabitants, both by the municipal council and by the traditional authorities from the same communities as their constituency. Additionally article 18 guarantees the right for one to organize in community associations "...including their own and traditional forms that have arisen from the bosom of the different communities, in the way that the applicable laws and this Code establish."
- Article 20. Communities of indigenous people establishes that "the communities of indigenous peoples are forms of natural social cohesion and as such they have the right to be recognized as a legal entity by registering in the civil registry of the corresponding community, with regard to their internal organization and administration that governs in accordance with its own standards, values, and procedures, with its own respective

- traditional authorities recognized and respected by the State in accordance with constitutional and legal provisions.”
- Article 21: “The communities of indigenous peoples’ own forms of relating or organizing among themselves are respected and recognized in accordance with the traditional criteria and norms or the dynamics that the communities themselves generate.”
 - Article 55: “The municipal government must recognize, respect, and promote the indigenous mayoralties when they exist, including their own ways of administrative functioning.”

Article 56: “The municipal council, in accordance with the uses, norms, and traditions of the communities, will recognize the community or auxiliary mayoralties as representative entities of the communities in particular for making decisions and as a link for relations with the municipal government.” The appointment of community mayors or auxiliary mayors will be issued by the municipal mayor based on the designation or election that the communities carry out in accordance with their own principles, values, procedures, and traditions.

Legal Parameters of Indigenous Law (a metropolitan view)
<p>There are no regulations that determine territorial and material jurisdiction. However, territorial jurisdiction is defined based on the indigenous authorities' exercise of jurisdiction.</p> <p>There is no specialization by subject nor institutional bureaucracy.</p> <p>Problems or issues addressed by indigenous authorities:</p> <ul style="list-style-type: none"> • Lands (property boundaries, moving boundary markers, land tenure) • Use of natural resources (water sources, deforestation) • Non-compliance with community obligations • Inheritance problems • Damages to property • Intercommunity conflicts, among neighbors and relatives • Abortion • Alcoholism • Infidelity • Threats • Irresponsible parenting • Debts • Robbery (theft, assault) • Disputes, gossip, witchcraft, enmity <p>Types of cases not addressed by indigenous authorities:</p> <ul style="list-style-type: none"> • Deaths • Lynchings • Threats • Drugs • Sexual violence against girls • Intrafamilial violence <p>Causes for failure to exercise jurisdiction:</p>

Legal Parameters of Indigenous Law (a metropolitan view)

- Type of problem due to guidelines set out in trainings by the Municipal Mayoralty and other entities of the official judicial system.
- Fear of Retaliation:
 - Threats from the accused and family members
 - Abuse of power by authorities (police, municipal officials)

Note: Upon discovering a problem, if it is not able to be resolved or it is judged that it will not be possible to resolve, it is transferred to higher-level authority.

Source: (ASIES/Office of the High Commissioner for Human Rights, 2008: 2-3)

Steps in Indigenous Legal Procedures:

In a community, the procedure for the application of justice is basically oral, based on the following steps:

1. *“The complaint is received or there is knowledge of the occurrence.*
2. *The person making the complaint or who has been the target of **an event that goes against the rules of the community** is heard. (emphasis added)*
3. *If so desired, the other party is heard and then,*
4. *A hearing is held in the presence of both parties.*
5. *A voluntary settlement is sought: in this way, the parties are made to reflect in order to reach an agreement*
6. *Due to the significance of the conflict, a new hearing might be held to insist on the solution assumed by the interested parties.*
7. *During this same phase, the authority collects information (investigates both parties), about the events among family members, friends, neighbors, and other informants.*
8. *Once the phase of conciliation, mediation, or negotiation is exhausted, based on the specific case, the authority makes a resolution using its experience and life knowledge.*
9. *For compliance with the punishment, the authority exercises a certain measure of control and, according to the nature and scope of the case, the community council exercises social control for compliance with the judgment³².*

(Fundación Mack, 2013: 33)

³² Loc.cit.

ANNEX D: MUNICIPALITIES WITH INDIGENOUS LAW AUTHORITIES

No.	Indigenous Authority and Organization	Municipality	Department
01	Consejo Indígena [Indigenous Council]	Poqomam Palín	Escuintla
02	Consejo Indígena	Xalapan, Cabecera Jalapa	Jalapa
03	Parlamento [Parliament]	Xinka cabecera Jutiapa y Santa Rosa	Jutiapa y Santa Rosa
04	Organización indígena [Indigenous Organization]	Ajchomol San Pedro Sacatepéquez	San Marcos
05	Defensoría Indígena [Indigenous Defense Organization] Wajxaqib' Noj	Chimaltenango	Chimaltenango
06	Defensoría Indígena Wajxaqib' Noj	Uspantán Salamá Quiché	
07	Alcaldía Indígena [Indigenous Mayoralty]	Santa María Chiquimula	Totonicapán
08	Alcandía Indígena	Momostenango	Totonicapán
09	Alcaldía Indígena	Uspantán	Quiché
10	Alcaldía Indígena	Chinique	Quiché
11	Alcaldía Indígena	San Pedro Jocopilas	Quiché
12	Alcaldía Indígena	Chajul	Quiché
13	Movimiento Ixil [Ixil Movement]	Nebaj	Quiché
14	Alcaldía Indígena	Sacapulas	Quiché
15	Alcaldía Indígena	San Juan Comalapa	Chimaltenango
16	Consejo Indígena	San Juan Sacatepéquez	Guatemala
17	Consejo de Protección de Recursos Naturales [Natural Resource Protection Council]	Zona Reina Chicamán	Quiché
18	Consejo de Protección de Recursos Naturales	Zona Reina Uspantán	Quiché
19	Consejo de autoridades [Authorities Council]	Parramos	Chimaltenango
20	Alcaldía Indígena	Pixabaj	Sololá
21	Alcaldía indígena	Sololá	Sololá
22	Consejo indígena	Tecpán	Chimaltenango
23	Consejo de bosque [Forest Council]	Aldea Kakchijay	Tecpán
24	ADIMA	Sibinal	San Marcos
25	Defensoría Indígena MTC	San Marcos	San Marcos
26	Alcaldía Indígena	Comitancillo	San Marcos

No.	Indigenous Authority and Organization	Municipality	Department
27	Alcaldía Indígena	Sipacapa	San Marcos
28	Alcaldía Indígena	San Miguel	San Marcos
29	Alcaldía Indígena	Concepción Tutuapa	San Marcos
30	AJDIP	Petén	Petén
31	Red de Mujeres Mayas [Network of Mayan Women]	Petén	Petén
32	Alcaldía	Santiago Atitlán	Sololá
33	Consejo Mam [Mam Council]	San Marcos	San Marcos
34	Consejo Mam	Ajpop	San Marcos
35	Defensoría Indígena	Montaña Xalapán	Jalapa
36	Consejo Indígena	Jalapa	Jalapa
37	Comité de Bosques [Forest Committee]	Totonicapán	Totonicapán
38	Alcaldía Indígena de los 48 Cantones [Indigenous Mayoralty of the 48 Districts]	Totonicapán	Totonicapán
39	Consejo de principales [Council of Principles]	Totonicapán	Totonicapán
40	Comité de agua [Water Committee]	Totonicapán	Totonicapán
41	Consejo Indígena	Tecpán	Chimaltenango
42	Consejo Poqoman [Poqoman Council]	San Pedro Pinula	Jalapa
43	Consejo Poqoman	Monjas	Jalapa
44	Consejo Poqoman	San Carlos Alzatate	Jalapa
45	Consejo indígena	Cunen	Quiché
46	Consejo de principales	Sant Cruz del Quiché	Quiché
47	Consejo indígena COMACH	Acatán	Huehuetenango
48	Consejo indígena	Atitlán	Huehuetenango
49	Consejo indígena	Santa Eulalia	Huehuetenango
50	Consejo indígena	Jacaltenango	Huehuetenango
51	Consejo indígena	San Juan Ixcoy	Huehuetenango
52	Alcaldía indígena	Chimiente	Totonicapán
53	Alcaldes comunitarios de Cruz Ch'e [Community Mayors of Cruz Ch'e]	Cruz Ch'e Santa Cruz	Quiché
54	Consejo Chorti	Olopa Camotán	Chiquimula
55	Consejo de bosque	Patulul	Mazatenango
56	Consejo comunitario [Community Council]	Ixcán	Ixcán
57	Técnico sistematización	Quiché	Quiché
58	Alcaldes Comunales [Communal Mayors]	Chupol, Chichicastenango	Quiché
59	Alcaldía Indígena	Alta Verapaz	Alta Verapaz

Source: Red de Autoridades y Organizaciones Indígenas de Guatemala, 2009

ANNEX E: CASE STUDIES OF NON-STATE JUSTICE OPERATIONS ON THE GROUND

This Annex presents four case studies that demonstrate the multiple ways that communities—each with its own histories and unique characteristics—have responded to the absence or the perverse role of the state to establish and pursue their own approaches to ensure security, justice, and governance.

In **San Juan Cotzal, Quiché Department** the ex-mayor constituted a virtual army in link with the national police, private security guards, and members of the local juntas with the pretext of protecting the community from gangs and delinquents. The group used physical punishment, forced labor, illegal detention, torture, and other repressive actions to control the local population. In November 2009, the group lynched and killed two people, including an agent of the National Police who had come to ask them to release his son who had been detained for having long hair and for looking like a gang member. In the following years, national authorities intervened: 29 people were detained for participation in the event and the ex-mayor was sentenced to prison, provoking deep tensions and fear in the community which many people compared to that experienced in the war (Sieder, 2011).

In **Cunén, Quiché Department**, all Guatemalan government agencies abandoned the community after a conflict between the community, the National Police, and the Justice of the Peace, which led to the community burning down the facilities of both institutions in 2007. Subsequently, the community formed the *Consejo de Comunidades de Cunén* [Council of Cunén Communities], which oversees justice and security for the community, including the mobilization to defend the community's rights vis-à-vis mining and hydroelectric projects. Despite a decisive rejection of these projects in a community referendum, construction of a hydroelectric plant was initiated on a local private estate. The community responded by blocking roads. After the community detained three policemen, the government responded with military force, ordering the capture of 25 community members in 2012 and threatening to impose a state of emergency exception to re-establish state control over the community. The community interpreted the intervention as a strategy to dissolve their local system of government. The result was to further distance the community from the state and to postpone the return of the National Police and Justice of the Peace to the community. (Mack Foundation, 2013: 32)

Ixcán, Quiché Department was an early center of peasant organization through the cooperativist movement financed by USAID and Catholic Action in the 1960s and 1970s and became the locus of early confrontations between the guerrilla forces and the Army during the armed conflict. The Army's scorched earth campaign put those who stayed under direct control of the Army, while others sought refuge in the jungle or in Mexico over the subsequent decade. The first lynchings in the country were registered in this community: 10 cases between 1999 and 2001. After the war's end, the reunited community included people from at least 12 ethnic groups as well as many non-indigenous people, and the major rift became that between the "originarios," generally submissive to Army control, and the "retornados," deeply opposed to any links with the armed forces.

This multi-ethnic community organized an *alcaldía comunitaria* [community mayoralty], much influenced by the cooperativist experience, but explicitly based on the Convention 169 and the Constitutional Articles supporting indigenous law, in which the community mayor and the community police are responsible for security and justice. Community members claim that the major conflicts are linked to intrafamily violence, alcoholism, and robbery of domestic animals as well as from homes and public buildings. In 2007, the community voted to suspend the development of the Xalalá hydroelectric project, which threatened to displace a large number of local people from their lands. Drug trafficking is another major factor causing conflict in the community. (Mack Foundation, 2013)

In **Panajachel, Sololá Department**, the local security junta was accused in the national press and by some local people in 2011 of “social cleansing,” illegal detentions, torture, three lynchings, and one forced disappearance. While journalists and many NGO actors assumed that the story was as it had been reported—yet another local junta dominated by indigenous people (although in fact the two accused were ladinos) involved in lynchings and other major violence—in fact the worst charges seem to have been fabricated by a local drug trafficker targeted by the junta for selling drugs to children in the local school. By buying off local prosecutors and justice officials, he succeeded in having the junta leaders imprisoned, to be tried in court. National Police officials raided homes of many junta members, community members were paralyzed with fear, the junta disbanded, violence in the community skyrocketed, and several junta participants fled from town. Eventually, with informal intervention from the Mack Foundation and renewed attention from Attorney General Claudia Paz y Paz, the trafficker was arraigned, but the leaders remain in prison as well. The community ended up deeply divided. On one side were some foreigners and Guatemalans with social and economic ties to the drug trafficker (and to the drug-based tourism that dominates the community), along with some well-intentioned journalists who had failed to dig deeply enough into the story. On the other were a large group of mainly indigenous Panajachelenses concerned with protecting their children from a dramatic upswing in drug sales and usage in the community, as well as some other local and foreign residents (Interviews with local participants; Plaza Pública, 2011).

ANNEX F: DYNAMICS OF ILLICIT ENTERPRISES IN TARGETED COMMUNITIES: QUESTIONS TO EXPLORE

Territorial Control and Illicit Trade: As detailed above, illicit groups often establish territorial control through a combination of purchase of large scale tracts of land, investment in a range of businesses like those just described, and infiltration or cooptation of local power structures. Through these mechanisms, the UN estimated that criminal groups have exerted control over ten departments—Huehuetenango and San Marcos among them—and transported 330 tons of cocaine to Mexico in 2010 alone, valued "at wholesale prices" at around \$4 billion. (Insight Crime, 2013)

Multiple studies of communities appropriated by criminal enterprises (Finnegan, McDonald, Rodgers, Leeds, Pezzia in Adams, 2012) attest to the dynamics often associated with them. These include: reactions that vary from social silence to social compliance and outright support, that can be accompanied by high levels of rejection of the State; high levels of censorship of the press; low levels of violence due to social control exercised by criminal group; cooptation of local and national level political officials; expansion of a wide range of larger and smaller businesses capitalized by illicit monies; and the provision of social services through a variety of non-state mechanisms. Remittance income can be swollen through the use of such channels for money laundering. What are the dynamics in these arenas for the communities in question? What is the nature of the link between criminal groups, political candidates, and elected officials in the communities targeted?

Effects of Distorted Drug Capital on Communities: According to a 2012 report from the United Nations Office on Drug and Crime (UNODC), Mexican and Colombian drug trafficking organizations generate, remove, and launder between \$18 and 39 billion in drug profits a year, whereas Guatemala's national budget is below \$7 billion. (UNODC, 2012) The World Bank reported in 2011 that: "the 560 metric tons of cocaine shipped through the region [Central America] is equivalent to 14 grams for each of the 40 million people in Central America... [which has] a street value in the US of about US\$2300... or more than half of the US\$4,200 per capita GDP of Honduras." This number is almost double the annual minimum wage in Guatemala. A 2010 study of Cobán, for example, calculates that 30 percent of local families are supported by the drug trade (Briscoe, 2010). The drug trade has stimulated an economic boom in in some communities and scholars have noted that social stratification in affected communities intensifies as some members of the community benefit more than others. What does the community in question appear to "live off of?" What are the major businesses and how does the level of economic activity appear to compare to the productivity of the community itself? To what extent are these dynamics relevant in the communities in question? To what extent do increasing social divisions manifest in the community?

Money Laundering and Infiltration of the Informal Economy: Douglas Farah reported in 2011 that money laundering was occurring through a rapidly expanding set of mechanisms in the informal economy—from the more traditional control of real estate and major businesses to

the sale of pirated CDs and domestic appliances. To what extent are these dynamics relevant in the communities in question? (Farah, 2010)

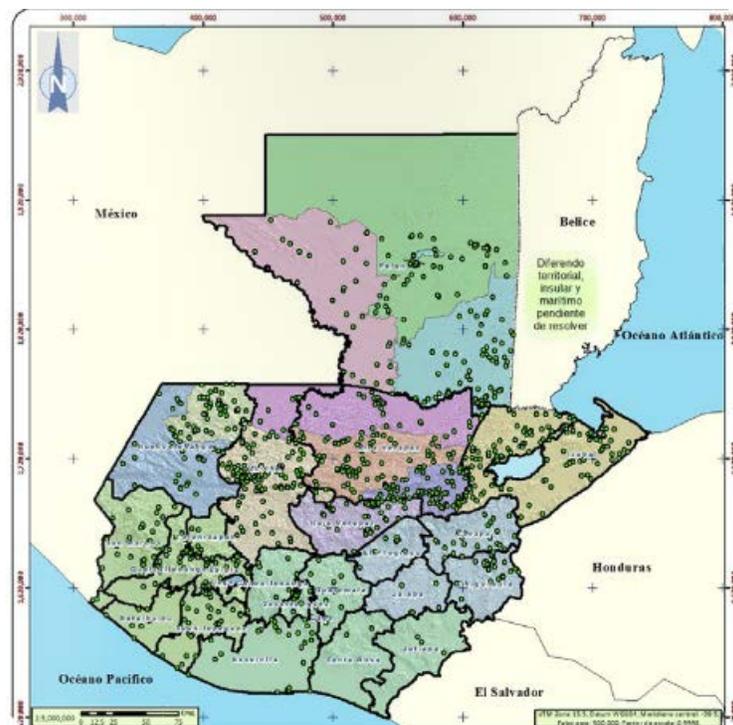
Effects of Anti-Drug Operations on Local Violence Levels and Organized Criminal Groups: How may government and international efforts to bring the drug trade under control affect violence levels in the communities of study? In Mexico, Guerrero has documented how the capture and/or elimination of drug leaders has led to the splintering and multiplication of cartels, creating an explosion in the number of micro-level trafficking organizations that are effectively below the radar of national and international agencies counter-efforts, while also resulting in dramatic long-term increases in homicide rates in areas where government/international drug operations have occurred. Is this dynamic potentially relevant in the communities in question? (Guerrero, 2011)

ANNEX G: LAND CONFLICTS IN TARGET DEPARTMENTS

In April 2015, the SAA (2015: 16) in its various regional offices received 1,391 cases, in which 1,432,810 people were involved over a geographical area of approximately 500,000 hectares. According to the same data, the situation in the departments of interest for USAID is as follows:

- Quiché - 177 cases
- Sololá - 32 cases
- Huehuetenango - 166 cases
- Quetzaltenango - 68 cases
- San Marcos - 52 cases
- Totonicapán - 7 cases

MAP OF CASES IN PROCESS
April 2015



Source: SAA, Monitoring Report, April 2015

The distribution of cases by municipality in the prioritized departments is as follows:

Huehuetenango		Quiché	
Chiantla	4	Chajul	11
Concepción Huista	1	Chicamán	11
Cuilco	2	Cunén	10
Huehuetenango	1	Ixcán	41
Ixtahuacán	1	Joyabaj	3
Jacaltenango	1	Nebaj	48
La Democracia	1	Sacapulas	4
La Libertad	1	San Andrés Sajcabajá	2
Nentón	6	San Juan Cotzal	19
San Juan Ixcay	57	San Pedro Jocopilas	1
San Mateo Ixtatán	6	Santa Cruz del Quiché	5
San Miguel Acatán	4	Uspantán	20
San Pedro Soloma	3	Zacualpa	2
San Rafael La Independencia	1		
San Sebastián Coatán	5		
San Sebastián Huehuetanango	2		
Santa Bárbara	2		
Santa Cruz Barillas	51		
Santa Eulalia	7		
San Marcos		Sololá	
Ayutla	3	Nahualá	3
Catarina	1	San Antonio Palopó	1
Comintancillo	3	San Pedro La Laguna	1
Concepción Tutuapa	1	Santa Catarina Ixtahuacán	16
El Quetzal	4	Santa Clara La Laguna	1
El Rodeo	1	Santa Lucía Utatlán	1
El Tumbador	3	Santa María Visitación	1
Ixchiguán	4	Sololá	8
La Reforma	1		

Malacatán	2		
Nuevo Progreso	4		
Ocós	3		
San Cristóbal Cucho	1		
San Lorenzo	1		
San Miguel Ixtaguacán	1		
San Pablo	1		
San Pedro Sacatepéquez	2		
San Rafael Pie de la Cuesta	10		
Sibinal	2		
Sipacapa	1		
Tajumulco	1		
Santa Rosa	2		
Barberena	2		
Nueva Santa Rosa	1		
	1		
Totonicapán		Quetzaltenango	
Momostenango	3	Colomba Costa Cuca	5
San Andrés Xetul	1	El Palmar	2
San Cristóbal Totonicapán	4	Flores Costa Cuca	1
Totonicapán	1	Olintepeque	48
		Palestina de los Altos	2
		Quetzaltenango	4
		Salcajá	1
		San Juan Ostuncalco	1
		San Mateo	3
		Sibila	1

Upon reviewing the number of cases completed by department, it is clear that the number of cases documented exceeds the institutional capacity to resolve them, such that as of April 2015, 22 cases had been resolved in Quiché, 14 in Huehuetenango, 4 in Quetzaltenango, and 4 in San Marcos, for a total of 44 cases resolved out of the existing 352. The following table quantifies the number of agrarian conflicts by ethnic group, which include rights disputes, territorial limits, and illegal occupation (SAA, 2015: 15). Given that non-indigenous groups represent about 59

percent of the population and figure as only 33 percent of all claimants reflects the relatively high number of claims from indigenous peoples.

Sociolinguistic Identity of Claimants in Land Disputes Registered with the SAA³³

Sociolinguistic Group	Frequency	% of All Disputes
Q'eqchi'	259	18.96%
Mestizos and Ladinos	458	33.53%
K'iche'	159	11.64%
No information	159	11.64%
Ixil	74	5.42%
Q'anjob'al	68	4.98%
Chuj	34	2.49%
Mam	31	2.27%
Kaqchikel	27	1.98%
Others	25	1.83%
Ch'orti'	24	1.76%
Poqomchi'	15	1.10%
Achi	14	1.02%
Xinca	7	0.51%
Akateko	4	0.29%
Popti'	3	0.22%
Tz'utujil	2	0.15%
Mestizo/Indigena	1	0.07%
Mopan	1	0.07%
Poqomam	1	0.07%
Total	1,366	100.00%

³³ Developed by la Dirección de Monitoreo y Evaluación [Directorate of Monitoring and Evaluation].

ANNEX H: THE SANTA CRUZ BARILLAS CONFLICT WITH THE HYDROELECTRIC PLANT

In Santa Cruz Barillas, Huehuetenango Department, the Hidroeléctrico Cambalam is owned by a Spanish company. The Hidro Santa Cruz Company installed its office in Guatemala in 2008 to start the Cambalam I and II projects in Santa Cruz Barillas, as well as other hydroelectric projects such as Pojom I and II and Bella Linda projects in San Mateo Ixtatán, Huehuetenango Department under different company names. This conflict involves the Hidro Santa Cruz Company and community leaders represented in the Assembly of the Peoples of Huehuetenango. In 2008, the Hidro Santa Cruz Company bought pieces of land through different sources and the local authorities and landowners did not know the specific purpose for the purchases. Once the community became aware of the hydroelectric projects, its strong rejection stimulated a community crisis (Guatemalan Human Rights Commission, 2013).

In 2007, 46,481 people participated in a referendum that rejected the proposal to build the dam. Nine people voted for it. Conflictive interactions continued over the following years between community members and Hidro Santa Cruz, including an incident in which Hidro sued the community in court. In 2010, the community presented a formal complaint to the Guatemalan Human Rights Ombudsman claiming the illegal purchase of lands by the company. The company presented a counter-claim in court against six members of the Assembly of the People of Huehuetenango. In 2011, ignoring the community's petitions, the Guatemalan Ministry of Energy and Mining authorized the company to begin construction, and the company closed off the area and began construction, blocking off access to a public road and a sacred site, thereby increasing tensions (Guatemalan Human Rights Commission, 2013).

In April 2012, 4000 people marched in a demonstration in which 300 of 305 local COCODES reiterated their opposition to the project. A complaint was filed with the Public Ministry in Santa Eulalia but the court did not respond. On May 1, 2012, the annual feast day in Santa Cruz, three local citizens and leaders of the movement were shot by a guard, killing one of them (Guatemalan Human Rights Commission, 2013).

On May 2, 2012, President Otto Pérez Molina declared a state of siege in the community, and nine local leaders of the community organization were arrested by authorities and accused of multiple crimes, including sedition, threats, aggravated robbery, illegal detention, illicit association, and attempted assault. In the process, authorities sacked many homes. After eight months, with help of human rights and environmental lawyers and NGOs, the leaders were freed, but then two were imprisoned again. The people responsible for the assassination and injuries sustained by the two leaders have not been charged. That same month, the municipal council signed an agreement for the company to begin operations, ignoring massive opposition by the community (Guatemalan Human Rights Commission, 2013).

During 2013, opponents organized marches, road blockades, and other forms of protest against the plant. In September, President Otto Pérez Molina visited the community to establish a dialogue, and another community leader was arrested. Military helicopters and army units were seen in the community. The Human Rights Ombudsman urged the government to act responsibly, and many civil society groups nationwide protested. In January 2014, four more

members of the community group were arrested during a meeting with national authorities in the Justice of the Peace offices in Santa Eulalia. Organizations from four ethnic groups—Q'anjob'al, Chuj, Akateko, Popti y Mestiza—protested their capture. (Comunicarte, 2014; Bastos et al., Ichan Tecolotl, May 2014). In 2014, at least nine community leaders were put into jail, and two of them were sentenced to 33 years in prison.

Indeed, this conflict has escalated significantly from the good faith consultations held in 2007 to the more recent abovementioned incidents including injury, imprisonment, and death. Many families have migrated to the Mexican border because they fear that armed conflict will break out.

Community leaders and human rights and environmental CSOs say that the government and hydro companies continue to invalidate community decisions by: a) paying the media to discredit international cooperation and delegitimize indigenous actions; b) making statements about the existence of an organized criminal network and accusing leaders of committing crimes, including drug trafficking; c) weakening the community government system by continuously persecuting their leaders; d) participating in corruption, including bribery or political patronage; e) faking new consultations with invalid signatures; and f) influencing justice administration institutions.

Knowledgeable observers suggested that the National Dialogue System plays a reactive rather than a preventive role and provides no real mediation process; that the absence of the State also results in lawlessness and violence; that the State has not been able to understand indigenous peoples and their close relationship with nature; and that the capacities of Guatemalan state institutions to control the large companies are very limited.

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