

## **De-securitizing and re-securitizing gang policies The Funes government and gangs in El Salvador**

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### **Abstract**

This article analyses the gang policies of the first years of the Funes administration in El Salvador, from June 2009 until June 2012. Using securitization theory it explains why the administration returned to an emphasis on repressive measures to deal with gangs. It argues that these measures were the product of an on-going and dynamic process, in which the government was but one of the players in a complex field constituted by numerous actors. The return to repressive measures as well as the support and facilitation of a 'gang truce' were not the result of a rational design or a predetermined agenda, but should be seen as a series of moves in a political conjuncture, in which the Salvadoran government needed to communicate to different audiences messages of being in control.

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## Introduction

Years after the region's civil wars ended, Central America continues to have extremely high levels of social violence. The phenomenon causing most fear and demanding most attention from the regional governments, the media and the general public is that of street gangs, especially in Guatemala, Honduras, and El Salvador. The usual response of authorities to insecurity in these countries has been to resort to repressive measures, including deployment of the military and toughening of legislation.<sup>1</sup> In the same trend, the policies directed at the gangs have mostly been highly mediatised, zero-tolerance measures, labelled *mano-durismo* approaches. Under these approaches the military has assumed public security tasks and special anti-gang legislation has been adopted.<sup>2</sup> These policies are rarely complemented by more preventive measures and do not appear to be successful, as gang membership and levels of gang-related violence continue to rise.<sup>3</sup>

The main critique of the *mano-durismo* approaches to public security is that they do not take into account underlying causes of the gang problem, and that

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<sup>1</sup> For the case of El Salvador, see for instance: Amaya Cobar, E. (2012). Militarización de la seguridad pública en El Salvador, 1992-2012. *Urvio. Revista Latinoamericana de Seguridad Ciudadana*, 12, 71-82.

<sup>2</sup> Gutiérrez Rivera, *Enclaves y territorios: estrategias territoriales del Estado y de las pandillas en Honduras*, tesis doctoral no publicada (Berlin: Freie Universität Berlin, 2009), available at FUDISS\_thesis\_000000009708); Tomas Bruneau, Lucía Dammart & Elizabeth Skinner (eds.), *Maras. Gang violence and Security in Central America* (Austin: University of Texas Press, 2011).

<sup>3</sup> Wim Savenije, *Maras & Barras. Pandillas y violencia juvenil en los barrios marginales en Centroamérica* (San Salvador: FLACSO, 2009); Wim Savenije & Chris van der Borgh, 'Gang violence in Central America: Comparing anti-gang approaches and policies', *The Broker*, 13 (2009), pp. 20-23.

repression by itself cannot solve the problem.<sup>4</sup> This critique was shared by the new centre-left government in El Salvador, which took office in June 2009 and sought to reverse the *mano-durismo* approaches of the previous governments. This, however, proved extremely difficult, and the new government soon resorted to reintroducing policies that were associated with *mano-durismo*. In November 2009, half a year after taking office, President Mauricio Funes decided to expand the role of the Salvadoran military and send them (back) to the streets. In May 2010, the military assumed the role of guarding the perimeter and access to several prisons. In June 2010, after a horrible attack by a local gang on a microbus in San Salvador, a new anti-gang law was announced, which was approved in September. One year later, in June 2011, the president even proposed to draft into the military at-risk youth, ages 16 to 18.<sup>5</sup> However, at the end of 2011 and the beginning of 2012, a novel two-pronged approach surfaced: retired military officers were appointed Minister of Justice and Public Security and Director of the National Police (PNC), and a truce ('tregua') was signed between the main gangs. The result was a considerable reduction in violence, but the legitimacy of the truce was hotly debated in Salvadoran society.

This article focuses on the gang policies in the first three years of the Funes administration, from June 2009 until July 2012. Further, it seeks to explain

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<sup>4</sup> Irvin Waller, *Less Law, More Order: The Truth About Reducing Crime* (Westport, CT: Praeger Publishers, 2006).

<sup>5</sup> Alex Renderos, 'Salvadoran leader plans to draft at risk youth', *Los Angeles Times* (June 11, 2011), available at <http://www.latimes.com/news/nationworld/world/la-fg-salvador-gangs-20110611,0,3637942.story>.

why and how the administration applied extraordinary measures to deal with gangs. Although virtually all sectors in society see the phenomenon of street gangs as a problem that needs to be addressed, there are important differences in the interpretation and representation of the problem, as well as in views about the most appropriate policies to address it. For instance, public speech and discussions, depict gang members variously as scum, criminals, or even as terrorists. However, these labels are challenged (in subtle ways) by civil society organisations that emphasise that gangs are also a product of lacking opportunities for youth and of social exclusion. Debates about the 'right' policy to address the gang problem have become important and highly publicized fields of political contestation. A key issue in these debates is the penchant of politicians to appear 'tough' on gangs and their predominant concern of being accused of being too soft.<sup>6</sup> Using securitization theory, we aim to gain a better understanding of the forces, dynamics and logics behind these recent twists in the policies directed at street gangs, or '*pandillas*', in El Salvador. In particular, we argue that, in order to understand these changes in security policies, it is important to understand how the technical, political and symbolic dimensions of policy measures are used strategically by the governments. Moreover, it is also crucial to appreciate how a government can come under pressure to control these dimensions.

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<sup>6</sup> Paul Chevigny, 'The populism of fear', *Punishment & Society*, 5: 1 (2003), pp. 77-96.

In the next section, we start with a discussion on the politics of policy definition and formulation. Here we argue that policy is the product of an on-going and dynamic process in which policy makers are not simply 'in charge' but rather are players in a complex field that needs to be taken into account. Taking an interpretative approach to policy analysis, we argue that even in cases of high insecurity – like in El Salvador – 'threat entities' are 'socially constructed'. We discuss the key assumptions of Balzacq's theory of sociological securitization concerning the role of audiences, local context and the political, technical and symbolic functions of policy tools.

In the third section, we start with a brief overview of the anti-gang policies of the ARENA administrations between 2002 and 2009. This provides the backdrop to the Funes administration's proposed reforms in security policies. We argue that, in this period, the gang issue was successfully securitized; i.e. it was defined as an existential threat to the Salvadoran state and society, requiring extraordinary measures.<sup>7</sup> Then we move on with an analysis of the initial efforts of the Funes administration to de-securitize the gang phenomenon by looking for and implementing less repressive ways to deal with it. The bulk of this section deals with a discussion of the reasons why the government was quickly caught in a spiral of re-emphasising the security aspect of the gang phenomenon and defining it again as the main problem facing the Salvadoran society.<sup>8</sup>

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<sup>7</sup> See for a definition of securitization the next section.

<sup>8</sup> This article is the product of several research periods of the authors. A round of interviews was conducted in Feb. 2005 with high level policy makers, NGO officials, representatives of gangs,

Subsequently, we discuss and explore how the facilitation of an inter-gang truce can be linked to the overall re-securitization of gang policies in El Salvador. We close our argument briefly exploring the recent multifaceted security policy of the Funes administration.

### **Securitizing and de-securitizing gangs**

Like all policy-making, policy-making about gangs takes place in a complex social and political environment. Colebatch makes a distinction between a vertical and a horizontal dimension of policy. The vertical dimension refers to “the authorized decisions and the instrumental action, rational choice, and the force of legitimate authority” (the realm normally associated with ‘government policy’).<sup>9</sup> Conversely, the horizontal dimension is concerned with the relationships among policy participants in different organisations outside of the line of hierarchical authority. Both dimensions are relevant to understanding the policy-making process. Thus, the actual ‘making’ of policy is, as Schaffer argues,

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journalists and academics about the impact of ARENA’s zero-tolerance policies. In April 2011, a similar round of interviews took place focusing on the policies of the Funes administration (see overview under bibliography). In March and June 2013, additional interviews were held about the truce. Furthermore, we reviewed the reporting on the gang phenomenon posted on El Faro, a journalistic website (see [www.elfaro.net/es](http://www.elfaro.net/es)). We also discussed several of our ideas in a workshop held in San Salvador (Jan. 2009) with experts on the gang phenomenon from El Salvador, Honduras, Guatemala, Brazil and the US. (The workshop was financed by the Dutch Council for Science.)

<sup>9</sup> H.K. Colebatch, *Policy* (Minnesota: University of Minnesota Press, 1998), pp. 61 -62.

a multi-person drama going on in several arenas.<sup>10</sup> In this process, it may be difficult to point at a leading agent: “It is hard to identify a point at which policy is actually made; rather we see a process of framing and reframing.”<sup>11</sup>

The importance of framing and reframing is also relevant in cases where policy makers are confronted with a situation of crisis. Boin et al. define crisis as, “a serious threat to the basic structures or the fundamental values and norms of a system, which under time pressure and highly uncertain circumstances necessitates making vital decisions.”<sup>12</sup> Boin et al. argue, however, that crisis management is not in the first place about coping with a clear external threat. Rather it is about “a deeply controversial activity and intensely political activity” of definition and framing.<sup>13</sup> Discarding the idea of an ontological “threat entity,” they argue that a crisis is a “socially construed threat: before we can speak of a crisis, a considerable number of players must agree that a threat exists and must be dealt with urgently.”<sup>14</sup> Boin et al. distinguish between several critical tasks of crisis leadership that are related to the ways policy makers or politicians frame the situation.<sup>15</sup> Among others, these policy actors need to make sense of the situation (what is going on), to make decisions (allocate and prioritise scarce

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<sup>10</sup>B.B. Schaffer, ‘Policy decisions and institutional evaluation, *Development and Change*’ (1973) 5, pp. 20 – 47 in Colebatch, *Policy*, p. 39.

<sup>11</sup> *Ibid.* pp. 39. Framing can be defined as ‘the selective exploitation of data, arguments, and historical analogies’ (See Boin et al., *The Politics of Crisis Management. Public Leadership under Pressure*, (Cambridge: Cambridge University Press, 2009), p. 82.

<sup>12</sup> Boin, *The Politics of Crisis Management. Public Leadership under Pressure*, p. 2.

<sup>13</sup> *Ibid.*, p. 9.

<sup>14</sup> *Ibid.*, p. 25.

<sup>15</sup> *Ibid.*, pp. 12-13.

resources), and to make 'meaning' (shape the societal and political meaning-making process by which crises come to be labelled, understood, and evaluated). The contested nature of policy and the important role of framing is emphasised in securitization theory. This theory focuses on the construction and definition of certain concerns as 'security issues', i.e. as existential threats, which call for and legitimise the adoption of extraordinary or emergency measures.<sup>16</sup> This shift from 'regular' policies to extraordinary or emergency measures is crucial in securitization theory. The pioneers of securitization theory Buzan, Waever and de Wilde distinguish between different phases: the non-political, politicisation, and securitization.<sup>17</sup> If governments assume that there is no need to define a policy on a topic, they treat it as 'non-political', irrelevant to state action and public debate.<sup>18</sup> The issue becomes politicised when "it requires government decision and resource allocations".<sup>19</sup> The issue is securitized when extraordinary measures are called for or taken.<sup>20</sup> De-securitization is the opposite process of

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<sup>16</sup> Ralph Emmers, 'Securitization' in Allan Collins (ed.), *Contemporary Security Studies* (Oxford: Oxford University Press, 2006), pp. 109-126. Securitization is defined in different ways. Balzacq, whose framework we use, has an elaborate definition that mentions the existence of a 'customized policy' to deal with a threat. See for his full definition of securitization Thierry Balzacq (ed.), *Securitization Theory. How Security Problems Emerge and Dissolve* (Abingdon: Routledge, 2011), pp. 3.

<sup>17</sup> Barry Buzan, Ole Wæver & Jaap de Wilde, *Security. A New Framework for Analysis* (Boulder, CO: Lynne Rienner Publishers, 1998). This is a key reference in studies on securitization. See for a concise introduction into this theory Emmers, 'Securitization'; for an analysis of the theoretical underpinnings of Waever's work see Taureck, 'Securitisation Theory and Securitisation Studies' in *Journal of International Relations and Development*, 9 (2006), pp. 53-61. See for an overview of the evolution of the field of securitization theory, Balzacq (ed.), *Securitization Theory* and C.A.S.E. Collective, 'Critical Approaches to Security in Europe: A Networked Manifesto', *Security Dialogue*, 37 (2006), pp. 443-487.

<sup>18</sup> Emmers, 'Securitization', p. 110.

<sup>19</sup> Emmers, 'Securitization', p.

<sup>20</sup> *Ibid.*, p. 111.



reversing the (call for) extraordinary measures and bringing the issue back into the realm of normal politics and decision-making.<sup>21</sup> Buzan and colleagues argue that securitization is first and foremost a discursive process that starts with a discursive portrayal by a securitizing actor (state or non-state) of certain issues, persons, or entities as existential threats to other certain entities (referent objects). This speech act, however, can only be effective when a 'relevant audience' (e.g. public opinion, military, elites) is convinced that the referent object is truly threatened. Only then can extraordinary measures to address the threat be legitimately imposed.

The emphasis in the approach of Buzan and colleagues on the 'speech acts' of securitizing actors and the capacity to frame certain issues, persons, or entities as existential threats has been questioned by Balzacq.<sup>22</sup> Balzacq argues that there is a need to 'disaggregate' the audience, making a distinction between different types of consent, such as the 'formal' political consent (of the judiciary sector for instance) and the 'moral' consent of, for example, the public at large.<sup>23</sup>

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<sup>21</sup> Collins argues that an issue can still be a security issue when solutions are sought for it in the (regular) political process, see Alan Collins, 'Securitization, Frankenstein's Monster and Malaysian education' in *The Pacific Review*, 18:4 (2005), p. 572. An issue is securitized when emergency measures are adopted. De-securitization thus means 'moving a security issue back into the political process', see *ibid.*, p.573.

<sup>22</sup> Buzan, Wæver & de Wilde, *Security. A New Framework for Analysis*, p.41. According to Buzan, Wæver & de Wilde securitizing actors can variously be governments, political or business elites, or pressure groups. These are normally not the referent object (that needs to be secured), see *ibid.*, p.40.

<sup>23</sup> For instance, Sarah Leonart & Christian Kaunert distinguish between different dimensions or streams of the policy process and identify the different audiences in each of these, see Sarah Leonard & Christian Kauners, 'Reconceptualising the Audience in Securitization Theory' in Thierry Balzacq (ed.), *Securitization Theory. How Security Problems Emerge and Dissolve* (Abingdon: Routledge, 2011), pp. 57-76. This is in line with Colebatch's emphasis of different arenas of policy-making (vertical and horizontal) (See Colebatch, *Policy*, pp. 37-40).

Most importantly, Balzacq rejects a strict division of labour between securitizing actors and audiences, arguing that the roles of audience and securitizing actors can also be blurred.<sup>24</sup> The communication between securitizing actor and audience is not 'one-way'; audiences can urge or even pressure for securitization. Balzacq stresses the possibility of an 'empowering audience' that has a direct connection with the issue and the ability to enable or press the securitizing actor to adopt measures in order to tackle the threat. This also implies that government efforts not to securitize an issue, or even to de-securitize it, can be rejected and resisted by different audiences.

Furthermore Balzacq takes issue with the focus of Buzan and colleagues on 'institutional threats', which assumes that "security is what language constructs and, as a consequence, what is 'out there' is thus irrelevant."<sup>25</sup> Contrarily, Balzacq argues that the external reality does matter, and that the statements of a securitizing actor need to be related to this reality.<sup>26</sup> Although he makes a distinction between an 'objective' situation on the ground and the representations of these situations, he also argues that there are "external or brute threats [that] do not necessarily depend on language mediation to be what they are: hazards for human life."<sup>27</sup>

The assertion that an environment is characterised by real hazards obviously does not imply that there is consensus about what makes a place

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<sup>24</sup> Balzacq (ed.), *Securitization Theory. How Security Problems Emerge and Dissolve*, pp. 7-9.

<sup>25</sup> Balzacq (ed.), *Securitization Theory*, pp.

<sup>26</sup> *Ibid.*, pp. 12-13.

<sup>27</sup> *Ibid.*, p. 12.

dangerous or what should be done about it. This is clearly the case in El Salvador, a country characterised by extremely high levels of violence and criminality. However, the perceptions of who are responsible for the insecurity greatly differ (ranging from street gangs, to drug dealers or traffickers, and organised crime syndicates). Differences in perception depend on such factors as geographical location, socio-economic position or the political stances of agents.<sup>28</sup> In the same way, the construction of an 'institutional' discourse of threat does not reflect an 'objective' reality, but rather emerges in a specific security context. This does not imply that just any institutional discourse goes. The audience must perceive a 'match' with their experiences, interpretations and expectations about who is threatening who and what has to be done about it. In this regard, Balzacq emphasises that securitization can best be understood by taking into account local political histories of how security is conceived and how this is translated into practice: "the performative dimension of security sits between semantic regularity and contextual circumstances."<sup>29</sup>

In our discussion of securitization, de-securitization and re-securitization, we place emphasis on policy measures taken by the Funes government meant to curb the high levels of insecurity in the country. We ask why and how the measures securitizing, de-securitizing and re-securitizing the gangs in El Salvador were taken up, tracing the process of their formulation while paying

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<sup>28</sup> As we shall show later on, the exact causes of the high levels of violence (homicides) and criminality are not really known, which leaves space for interpretation.

<sup>29</sup> Balzacq (ed.), *Securitization Theory. How Security Problems Emerge and Dissolve*, p. 14.

attention to the agents that contribute to or resist these moves.<sup>30</sup> In particular, we are interested in the interactions between the government (policies) and the (reactions of) gangs. We argue that the security measures taken do not simply have a technical role. They also have important political and symbolic functions. Understanding the ways in which these different functions play out requires an awareness of the particular security context and political junctures in which the policies are adopted. In a hazardous environment like El Salvador, where the policies dealing with the gang phenomenon are highly contested, security policies can serve different purposes at the same time. They can be a response to the perceived problem, a reply to critiques of being soft on crime, and a message showing that ‘something is being done’ in a way that is appreciated by the audience.

### **Gangs and gang policies in El Salvador 2003 - 2009**

Since the mid-nineties, the phenomenon of street gangs has increased in the Northern Triangle of Central America. The local gangs emerging from deprived neighbourhoods have mostly joined the ranks of two transnational gangs, which originated in the United States and are sworn enemies: the ‘Mara Salvatrucha’

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<sup>30</sup> Our research was limited to tracing the adoption of emergency measures in their political context. We do not make a full analysis of the securitizations of gangs in El Salvador, which would imply that a larger range of questions is addressed. For an overview of the levels and constituents of a full analysis, see Balzacq (ed.), *Securitization Theory. How Security Problems Emerge and Dissolve*, pp. 35-38.

and 'Barrio 18' (the 18<sup>th</sup> Street gang).<sup>31</sup> The local gangs became 'cliques' or branches of these larger transnational gangs and obey their codes and rules. Over time, the nature of these gangs has transformed. Most importantly, their organisation has become more hierarchical and integrated, while their involvement in criminal activities has 'professionalized'.<sup>32</sup> Over the past decade, the capacity of gang members to extort local businesses and bus companies crossing their territory has increased. More recently, increased connections with the growing drug trade have been reported.<sup>33</sup> Prisons have become important places where members from the same gang meet, deal with each other, and where leadership roles are cemented. The growing number of imprisoned gang members has led to a growing 'social base' of gangs, consisting of local wannabes, family members, and friends. Police and politicians have frequently claimed that the gangs are responsible for a large part of the homicides in the country; however data is scant and not very reliable. Yet, even if official statistics published by the National Civil Police of El Salvador often do not confirm the

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<sup>31</sup> For a brief introduction on the topic see Savenije & Van der Borgh, 'Gang violence in Central America: Comparing anti-gang approaches and policies'. See also Miguel Cruz (ed.), *Street Gangs in Central America* (San Salvador: UCA Editores, 2007); 'Central American maras. From Youth Street Gangs to Transnational Protection Rackets', *Global Crime*, 11: 4 (2010), pp. 379-398; 'Las pandillas transnacionales o "maras": Violencia urbana en Centroamérica', *Foro Internacional*, 47:2 (2007), pp. 637-659.

<sup>32</sup> Miguel Cruz, 'Central American maras. From Youth Street Gangs to Transnational Protection Rackets', *Global Crime*, 11: 4 (2010), pp. 379-398; Wim Savenije, *Maras & Barras, Pandillas y violencia juvenil en los barrios marginales en Centroamérica* (San Salvador: FLACSO, 2009), p. 50.

<sup>33</sup> Steven Dudley, *Drug Trafficking Organisations in Central America: Transportistas, Mexican Cartels and Maras*, Working Paper Series on U.S. - Mexico Security Collaboration (Washington D.C.: Woodrow Wilson International Center for Scholars, 2010); Clare Ribando Seelke, *Anti-Gang Efforts in Central America: Moving Beyond Mano Dura?* (Miami, FL: Centre for Hemispheric Policy, University of Miami, 2007).

more extreme claims, the recent PNC's estimate that 50% of homicides are attributed to gangs is very alarming.<sup>34</sup>

In the period after the peace agreements, violence and delinquency soon became strong preoccupations for Salvadorans.<sup>35</sup> In 1997, Cruz and Gonzalez stated that the Salvadoran population had become more worried about criminal violence than they had been about the civil war in the second part of the 1980s.<sup>36</sup> Moreover, public opinion surveys showed that in 1999, 42.6% of the respondents considered 'delinquency, violence and gangs' to be the principal problem affecting the country. In October 2003, this percentage increased to 48.2%, and in 2006 to 53.3%.<sup>37</sup> However, while much of the delinquency and violence was attributed to the gangs, there was no serious gang policy until President Francisco Flores launched his *Mano Dura* initiative on 23 July 2003.<sup>38</sup> The

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<sup>34</sup> Formal data show that the proportion of gang members arrested for murder in the period between 2003 and 2006 varies between 7.1% and 24.9%; the proportion of gang members arrested for extortion increased from 0% in 2003 to 14.6% in 2006. Source: Unidad de Operaciones y Estadísticas, Policía Nacional Civil de El Salvador. A recent report by the National Civil Police estimates that 50% of the homicides over the last 5 years were committed by gang members (Information provided to authors by Policía Nacional Civil of El Salvador in 2011).

<sup>35</sup> See for instance: Ellen Moodie, *El Salvador in the Aftermath of Peace: Crime, Uncertainty, and the Transition to Democracy* (Philadelphia: University of Pennsylvania Press, 2010); Margaret Popkin, *Peace without Justice. Obstacles to building the rule of law in El Salvador* (Pennsylvania: The Pennsylvania State University Press, 2000).

<sup>36</sup> Based on a series of public opinion surveys (1986 - 1996). José Miguel Cruz & Luis Armando González, 'Magnitud de la violencia en El Salvador', ECA, 588 (1997), pp. 953-966.

<sup>37</sup> Delinquency, violence and gangs are not independent issues, but are often confounded in surveys.. For a lot of people in El Salvador the gangs represent a problem of violence and delinquency, while violence and delinquency are also seen predominantly as a gang related problem. The 1999 survey put delinquency, violence and gangs together as one topic, while the 2003 survey separated delinquency, violence and gangs. In 2006, violence wasn't mentioned. For the sake of clarity, we take these topics together to emphasise the continuing preoccupation of the Salvadoran populations with topics of (in)security.

<sup>38</sup> In the preceding decade or so there had already been discussion in El Salvador about how to deal with the gang issue. Zilberg, *Places of Detention*, p. 46 argues that the influence of the US was

announcement was made in a neighbourhood that hosted a strong gang presence. Flores was photographed in front of gang graffiti and flanked by the Chief of Police and the Minister of Defence.<sup>39</sup> This was followed by joint police-military operations, arresting hordes of gang members, and two consecutive temporary anti-gang laws, which made membership in a street gang punishable with 3 to 6 years in prison.<sup>40</sup> These measures were preceded by the surge of attention for the gang phenomenon in El Salvador's leading TV channels and newspapers.<sup>41</sup> By extensively covering the implementation of the police operations, the media largely justified the *Mano Dura* policies and helped to convince the general public that the government was in control of the gang situation. In this way, leading (and mostly conservative) media in El Salvador played an important role in putting the gang problem on the agenda and justifying the responses of the Salvadoran government. The anti-gang policies also played an important role in the electoral campaign of the ARENA party and

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substantial in the introduction of these policies, talking about 'the successful transnationalization of the zero-tolerance gang-abatement strategies of the United States'.

<sup>39</sup> See, for instance, 'Guerra total contra maras', *El diario de hoy* (24 July 24 2003), pp. 1-8; 'Guerra a las maras', *La prensa gráfica* (24 July 2003), pp. 1-3.

<sup>40</sup> The anti-gang law ('Ley Antimaras') was declared unconstitutional on 1 April 2004; the same day that a new anti-gang law was approved in the national assembly. This second law had a validity of six months.

<sup>41</sup> See for an analysis Sonja Wolf, *The Politics of Gang Control. NGO Advocacy in post-war El Salvador*, unpublished PhD diss., Aberystwyth, University of Wales, 2008 and Sonja Wolf, "Public Security Challenges for El Salvador's First Leftist Government", *North American Congress on Latin America* (7 July 2010), available at <https://nacla.org/news/public-security-challenges-el-salvador%E2%80%99s-first-leftist-government>

of their candidate, Antonio Saca, who would become the next president of the country.<sup>42</sup>

Given the size and complexity of the gang phenomenon, the policy measures themselves (the media-hyped raids and massive detentions) were mainly of symbolic importance, and not effective in resolving the gang problem. Responding to public fears of the gangs and depicting them as “the enemy of the good citizen”<sup>43</sup>, the measures were extremely popular and raised strong hopes that they could ameliorate the insecurity attributed to the gangs. A survey of the Institute for Public Opinion of the Central American University in October 2003 (four months after the start of *Plan Mano Dura*), found that 72,5% of the surveyed population agreed strongly with the *Plan Mano Dura*, and 52,9% thought that it would reduce the delinquency of the gangs ‘to a great extent’.<sup>44</sup>

Although the public at large supported the securitization of gangs - in terms of Balzacq, securitization had the public’s ‘moral’ consent - the policies did not convince another important audience. The security measures were severely criticised by the judiciary for being unconstitutional. Judges refused to apply a temporary anti-gang law and released gang members if no convincing evidence

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<sup>42</sup> It should be noted that it remains unclear what exactly the importance of the mano-dura plan has been. See Álvaro Artiga-González, ‘El Salvador. Maremoto electoral en 2004’, *Nueva Sociedad*, 192, 2004, pp. 12-22. for an analysis of different other factors that might explain the victory of the ARENA candidate Tony Saca.

<sup>43</sup> Mo Hume, *The politics of violence. Gender, Conflict and Community in El Salvador* (West Sussex, UK: Wiley-Blackwell, 2009), p. 142.

<sup>44</sup> Instituto de Opinión Pública, *Encuesta de preferencias políticas para las elecciones presidenciales de 2004*. San Salvador: Universidad Centroamericana “José Simeón Cañas”, 2003.



was presented of their participation in criminal acts.<sup>45</sup> Thus, in the period until 30 August 2004, of the 19,275 gang-related detentions, almost 95% were dismissed.<sup>46</sup> Moreover, with homicide rates increasing in 2003, 2004 and 2005 (and with gangs being held responsible by the public for this increase) the *Mano Dura* policies obviously did not have the desired effect.<sup>47</sup> On 4 February 2004, the presidential candidate, Antonio Sacca, proposed a new - and supposedly tougher - anti-gang initiative: '*Super Mano Dura*'.<sup>48</sup> Although strongly covered by the media once more, this policy was again mostly symbolic, and neither ended nor mitigated the gang phenomenon. The *Mano Dura* policies were mainly securitization discourses used during limited periods of time and then quietly scaled back.<sup>49</sup> While the results of these measures were disappointing, they nevertheless led to a steady increase in the imprisoned gang population, with 8,000 gang members imprisoned in 2006 (over 30% of the entire prison population).<sup>50</sup>

It is interesting to note that the Sacca government also developed preventive and more socially-oriented policies that were supposed to complement the repressive ones. Preceding the implementation of '*Super Mano*

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<sup>45</sup> President Flores came in open conflict about the issue of the implementation of the anti-gang law with the president of the Supreme Court, see 'Enfrentados presidente Flores y Corte Suprema', *La Prensa Gráfica* (21 Oct. 2003), p. 2.

<sup>46</sup> Fundación de Estudios para la Aplicación del Derecho, *Informe anual sobre justicia penal juvenil El Salvador 2004*.

<sup>47</sup> Jeannette Aguilar, Los resultados contraproducentes de las políticas antipandillas, *Estudios Centroamericanos*, 62: 708 (2007), pp. 877-90.

<sup>48</sup> 'Sacca expone Super Mano Dura', *El Diario de Hoy* (5 Feb. 2004), p. 16. Sacca won the elections on 30 Aug. 2004.

<sup>49</sup> Wolf, *The Politics of Gang Control. NGO Advocacy in post-war El Salvador*, p. 90.

<sup>50</sup> Savenije, *Maras & Barras. Pandillas y violencia juvenil en los barrios marginales en Centroamérica*, p. 96.

*Dura'* policies, and as a result of strong criticisms from the judiciary, national NGOs and international organisations, the Saca government organised a round of dialogue sessions (*mesas*) with civil society organisations. The objective was, among other things, to discuss the situation of the street gangs, to formulate alternatives to the anti-gang law, and to design an integrated prevention-oriented policy.<sup>51</sup> However, the formulation and the implementation of these preventive policies was hotly debated within the government bureaucracy.<sup>52</sup> Many officials were convinced that it was necessary to deal with the causes of gangs and that some kind of an integrated effort was required. Yet, there were serious obstacles to such an effort materialising. A coherent and integrative gang policy, thus, never materialised.

Several authors have emphasised that the struggle to address the gang problem was not only the result of the absence of resources or weak policy expertise. Many also point to structural problems in the Central American context. In her study about the transnational gang crisis between Los Angeles and San Salvador, Zilberg argues that the post-peace settlement security policies in El Salvador should be understood in a context of neoliberal reform where

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<sup>51</sup> José Miguel Cruz and Marlon Carranza, 'Pandillas y políticas públicas: El caso de El Salvador', in Javier Moro (ed.), *Juventudes, violencia y exclusión: desafíos para las políticas públicas* (Ciudad de Guatemala: Magna Terra Editores, 2006); see also: International Human Rights Clinic, *No Place to Hide: Gang, state, and Clandestine Violence in El Salvador* (Cambridge, MA: Human Rights Program, Harvard Law School, Feb. 2007), pp. 42-4.

<sup>52</sup> Authors' interviews held with different government officials involved in the design of these plans in Feb. 2005.

neoliberal regulation is combined with zero-tolerance strategies against gangs.<sup>53</sup> Rodgers argues that the violence in Central America is part of a broader crisis of governance, being the result of economic liberalisation, incomplete democratisation and intensifying globalisation.<sup>54</sup> This very process has undermined the state's political authority and its ability to command a monopoly on the use of violence.<sup>55</sup> Pearce goes a step further and argues that states increasingly build their legitimacy on the basis of a "lack of such a monopoly", by securitizing certain groups and topics.<sup>56</sup> Pearce calls this "securitized democracy" and asserts that "democracy is increasingly subject to the fears and insecurities of the population, enabling the state to build its authority not on the protection of citizen's rights but on its armed encounters and insidious collusions with violent actions in the name of 'security provision'".<sup>57</sup>

While Pearce's observations about securitized democracy are relevant to explain the anti-gang policies of the Flores and Saca administrations, the Funes government clearly sought to move beyond the focus on repressive anti-gang policies. It tried to place the gang phenomenon within a broader spectrum of social and security problems, that is, to de-securitize the gang phenomenon.

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<sup>53</sup> Elena Zilberg, *Space of Detention. The making of a transnational gang crisis between Los Angeles and San Salvador* (Durham: Duke University Press, 2011). p. 7.

<sup>54</sup> Dennis Rodgers, 'Slum Wars of the 21st Century: Gangs, Mano Dura and the New Urban Geography of Conflict in Central America', *Development and Change*, 40: 5 (2009), p. 950.

<sup>55</sup> Ibid.

<sup>56</sup> Jenny Pearce, 'Perverse State Formation and Securitized Democracy in Latin America', *Democratization*, 17: 2 (2010), p. 289.

<sup>57</sup> Ibid., p. 286.

From a technical perspective this was a 'rational' ambition. Zero-tolerance policies, despite their popularity, overlooked the social-economical contexts of the gang phenomenon and had not been able to stop the gangs or contain the violence. On the contrary, locking up of hordes of gang members had contributed to the growing complexity of the phenomenon and had resulted in an even greater challenge to address. However, reversing these policies proved, in practice, to be an enormous challenge for the Funes government.

### **The Funes administration: reversing and returning to *Mano Dura* policies**

After 20 years of uninterrupted rule by the ARENA party, Mauricio Funes, a well-known journalist and television presenter was elected president in 2009. Funes ran as the candidate of the FMLN party, a party of a markedly more extreme left-wing persuasion than Funes himself. The coalition government that was formed included both members of the FMLN and independent persons. The government started out with the intention to take a more integrated approach on security issues. The gangs were still seen as an important security issue, but there was a willingness to 'de-mediatised' and de-securitize the issue. In the previous years, prevention had been emphasised by international donors and multilateral organisations as a key ingredient of any anti-gang policy. For the new government, it became the new buzzword. There was openness in the government to see gang members not only as perpetrators, but also as victims of

broader structural causes, most notably marginalisation. The new administration not only looked at the gangs, but also focused the security agenda on issues like organised crime, drug trafficking and corruption.<sup>58</sup> However, extraordinary measures were not proposed for any of these issues. It is therefore fair to say that, in the beginning, the new government did not seek to securitize these issues, but opted for bringing them into the normal political process.

Yet, the formulation and implementation of the new public security policy was rather slow. During the first year of the new administration, a series of policy measures was taken up. However, it took some eight months for the security cabinet to publish its preliminary strategy for fighting violence and crime in the country.<sup>59</sup> At least three factors can account for this rather slow process. First, there was little institutional capacity and experience to implement the changes that the new government envisaged. As discussed in the previous section, the security policy of the former governments consisted mainly of repressive actions, eventually relegating the preventive measures to the predominantly foreign financed Council for National Public Security.<sup>60</sup> Secondly, it proved difficult to coordinate between different departments and agencies

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<sup>58</sup> Organised crime and drug trafficking are serious and (particularly the latter) growing problems. The information about these trends is still limited. There are indications that in El Salvador, (cliques within) gangs are increasingly involved in the trafficking and distribution of drugs, see Ribando Seelke, 'Anti-Gang Efforts in Central America: Moving Beyond Mano Dura'; Dudley, 'Drug Trafficking Organisations in Central America'. The president also pointed at the infiltration of organised crime into government agencies, see Carlos Dada, 'Ejecutivo presenta plan de seguridad', *El Faro* (6 Feb. 2010), available at [www.elfaro.net/es/201002/noticias/1101](http://www.elfaro.net/es/201002/noticias/1101).

<sup>59</sup> Carlos Martinez, 'Presentan politica de seguridad public. "Para los que dicen que no tenemos un plan, ¡aquí está la prueba!"', *El Faro* (19 Feb. 2010), available at [www.elfaro.net/es/201002/noticias/1217](http://www.elfaro.net/es/201002/noticias/1217).

<sup>60</sup> *Consejo Nacional de Seguridad Pública* (CNSP).

within the government. The government institutions designated to work on prevention had serious difficulties in agreeing on a common policy and a division of labour.<sup>61</sup> Later in 2010, in order to speed up decision-making, the security cabinet was split in two; one side focused on controlling insecurity, and the other dealt with prevention. The split is generally seen as a major improvement in terms of coherence and efficacy of the policies controlling insecurity. Nevertheless, it still proved difficult for the prevention cabinet to formulate a coherent policy. Thirdly, the new administration was confronted with a deteriorating security situation in its first year of administration, as well as ongoing changes within street gangs, provoked by years of strong-arm, anti-gang policies in the absence of prevention approaches. The situation was more complicated and alarming than when the Flores or Saca administrations took office. This increased the pressure on the government and frustrated efforts to de-escalate its relationship with the street gangs. Instead of making them the object of normal political processes, the government stood under great pressure to re-securitize the gangs.

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<sup>61</sup> There were several government agencies involved in prevention programmes, among others the CNSP, the *Dirección General de Prevención Social de la Violencia y Cultura de Paz* (Pre-Paz), the *Fondo de Inversión Social para el Desarrollo Local* (FISDL), the *Subsecretaría de Desarrollo Territorial y Descentralización*, and the *Secretaría de la Juventud* (SJ). These agencies, together with the Ministries of Education and Healthcare and the Director of the Police, are part of the *Cabinete de Prevención*. Fusades mentions duplication of activities between several agencies, see Fundación de Estudios para la Aplicación del Derecho, *Segundo Año de gobierno del Presidente Funes. Apreciación General* (San Salvador: FUSADES, 2011), available at [http://www.fusades.org/index.php?option=com\\_jdownloads&Itemid=172&view=finish&cid=163&catid=26](http://www.fusades.org/index.php?option=com_jdownloads&Itemid=172&view=finish&cid=163&catid=26)

In the first year of the new administration, the government showed a greater willingness than previous governments to cooperate with NGOs and organisations of gang members' families. A telling example is the experience of the Fundación de Estudios para la Aplicación del Derecho (Foundation for Studies of the Application of Law, FESPAD), a judicial and left-leaning NGO. In the years before 2009, FESPAD had started to work with groups of gang members' families. After sending a letter to the new Minister of Public Security, on behalf of these groups, a swift invitation followed by the new minister to discuss the issue.<sup>62</sup> This was indicative of the new government's openness to work with more critical NGOs, which had previously been sidelined and even criticised by earlier governments. FESPAD also participated in the new initiative: the *Mesas de Esperanza* (meetings of hope) with the family members of prisoners, particularly gang members. These meetings were organised by the Dirección General de Centros Penales (National Directorate of Prisons) in an effort to discuss and resolve the problems experienced by the prison population.

In this early period, there were also signs that gang leaders would be willing to discuss ways to diminish gang violence and 'talk'<sup>63</sup> about 'reintegration into civil life'. The two major gangs had already shown their ability to coordinate on particular issues, organising demonstrations and making joint announcements in newspapers. For instance, in an announcement in the *Diario Co-Latino*

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<sup>62</sup> Interview FESPAD, April 2011.

<sup>63</sup> The words 'dialogue' or 'negotiation' were keenly avoided by government officials to prevent giving the impression that negotiations with these gangs were taking place or that there was the possibility of some kind of 'peace-accords'.

newspaper - supposedly paid for by both the Mara Salvatrucha and the Barrio 18 - the gangs ask for a process of dialogue and coordination with the government that should lead to the reintegration and rehabilitation of gang members in the Salvadoran society.<sup>64</sup> There are even rumours that the gangs organised a truce between themselves, February - March 2010, in order to demonstrate that they were serious and capable of acting together and also to deliver on the promises to diminish violence and reduce homicide numbers.<sup>65</sup> This supposed truce coincided with the attempts of some NGOs to facilitate talks between the gangs and government representatives. These talks were to treat on the possibilities of diminishing gang violence and delinquency, ending gang wars, the reintegration of gang members and support for their families. The initiatives to start talks took place in secret. Although the talks did not materialise, it seems some high-level staff within the administration knew of these initiatives and were interested to discuss the possibilities of supporting a process of talks and de-escalation.<sup>66</sup> There are also indications that a number of gang leaders, at least initially, considered the FMLN's presence in the government as a change that might offer new opportunities to their family members and other youth living in the most marginalised neighbourhoods.

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<sup>64</sup> The announcement was published in the *Diario Co-Latino*, 22 Oct. 2009.

<sup>65</sup> It remains, however, unclear whether there ever was a truce. Successive numbers of intentional homicides in El Salvador between Nov. 2009 and April 2010 do not show a temporary decline that might be expected if the gangs were actually responsible for a high proportion of murders: Nov. 2009 (333), Dec. 2009 (361), Jan. 2010 (402) and Feb. 2010 (339), March (377) and April (340) (Information provided by the *Policía Nacional Civil* of El Salvador in 2011).

<sup>66</sup> Information given in personal interviews with the authors.



The importance of these 'talk' initiatives is not their ultimate results, but rather the fact that there *was* a fragile process of dialogue-seeking. It is also telling that these initiatives were 'low key' and did not take place openly. Yet, they seemed to have evoked the sympathy of a number of government officials. Some such officials even argued in private that some kind of dialogue (either with groups close to gangs, such as parents' organisations and NGOs, or even with gang members directly) might be needed to de-escalate and manage the problem. The secrecy surrounding these conversations made clear that such talks implied serious risks for the government. The Funes administration would have a hard time convincing the Salvadoran population, both their political opposition and even some of their own supporters, of the need for 'dialogue' with persons that many considered to be violent criminals. Talks might easily be labelled as 'soft' and 'morally wrong' by opposition politicians, the media and the public in general. Therefore, such an approach had the potential to erode government authority on public security. These risks put serious limits on de-securitization moves, a fact which the Salvadoran government was well aware of from the very start.

The need to take bolder measures came as early as November 2009. Confronted with homicide rates reaching new heights<sup>67</sup>, President Funes decided to send the military (back) to the streets to help the National Civil Police in their

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<sup>67</sup> The homicide rate increased from 51,9 per 100,000 habitants in 2008 to 70,9 per 100,000 in 2009, see United Nations Office on Drugs and Crime, *Global Study on Homicide. Trends, Contexts, Data 2011* (Vienna: United Nations Office on Drugs and Crime, 2011).

struggle to improve security. The deployment of the army had a double function. On one hand, there was a need to show that the government was doing something about the exasperating homicide figures. On the other hand, it had to rebuke the allegations that it was ineffective and soft on crime. For a president who needed to establish an image of being in control (regardless of whether his policies were effective or not), turning to the army was a logical choice in the Salvadoran context. Despite its committing human rights abuses during the civil war and the intention of the 1992 peace agreement to demilitarise political life, the population accepts the historical role of the Salvadoran army as a force that can restore order.<sup>68</sup>

The measure is a clear case of re-securitizing the gang issue. However, there was hardly a need for explicit 'speech acts' to define the gangs as a threat to security or justifying the need for extraordinary measures.<sup>69</sup> Rather, the opposite was true; it would have been difficult for the president not to take these measures. Even NGOs that had been critical of the *Mano Dura* policies of previous governments, while not happy with these measures, hardly criticised

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<sup>68</sup> The new constitution of 1992 also stipulated the new roles of the armed forces, including its 'exceptional' roles in periods of insecurity, see Fundación de Estudios para la Aplicación del Derecho, 'El orden constitucional y la fuerza armada', *Posición Institucional*, 22 (San Salvador: FUSADES, 2009), p. 2.

<sup>69</sup> President Funes justified the measure because "the ordinary measures for maintaining the internal peace, tranquillity and public security are exhausted", *La Prensa Gráfica*, 6 Nov. 2006. According to the Salvadoran Constitution, the deployment of the army is an exceptional measure the president can take for a limited period of time. The assembly needs to be informed about this and can call off these measures at any moment, see Fundación de Estudios para la Aplicación del Derecho, 'El orden constitucional y la fuerza armada'.

them in this case.<sup>70</sup> In that respect, it is interesting to note that some government officials were even reluctant to frame the measure as 'extraordinary' and therefore as a securitizing move. Instead, they emphasised the 'technical' aspects, for instance the need to alleviate the shortage of police personnel.<sup>71</sup> Moreover, President Funes sought to de-emphasise the policies' securitizing nature. Rather, he chose to emphasise the temporary character of the measures and the need to complement the approach with long-term policies of prevention and reintegration.<sup>72</sup>

The one-year prolongation of the army's deployment, in May 2010, was 'applauded' by the public.<sup>73</sup> In June of the same year, the mandate of the military was extended to control external security and visitors of various prisons.<sup>74</sup> Once again, the measure was not presented as a securitizing move. Rather, it was framed as a necessary measure in the face of a thoroughly corrupted prison system. Prison guards and staff were being bribed by gang members and other prisoners, letting visitors pass through with forbidden items (like telephones, drugs and even arms) or bringing these items in themselves. According to Douglas Moreno, then director of the prison system in El Salvador, the

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<sup>70</sup> Some NGO staff called this 'the syndrome of my government' (el síndrome de mi gobierno). This connotes that because these NGOs supported the new left leaning government, they decided to be loyal to it and not publically criticise its policies.

<sup>71</sup> Interview with senior staff member at the Ministry of Justice and Public Security, April 2011.

<sup>72</sup> In the first instance, the soldiers would help the National Police for 180 days. However, at the end of this period the measure was extended.

<sup>73</sup> Carlos Martinez, 'Militares seguirán un año más en tareas de seguridad pública "Aplausos convencen a Funes de seguir con el ejército en las calles"', *El Faro* (7 May 2010), available at [www.elfaro.net/es/201005/noticias/1659](http://www.elfaro.net/es/201005/noticias/1659).

<sup>74</sup> Martinez, 'Militares seguirán un año más en tareas de seguridad pública'.

corruption was of such magnitude – even involving prison medical staff and teachers – that special measures were needed.<sup>75</sup> While the objective to regain control over the prisons was itself not contested, the deployment of the army into the prisons was definitely an extraordinary measure.

The implementation of this plan led to strong criticism by the gangs and their families, and even to serious threats and violent actions against representatives of the state (especially the soldiers in charge).<sup>76</sup> From the perspective of the gangs, the army's reinforcement of the control over the prisons threatened their modus operandi inside, their communication with their 'social base' outside and, above all, their control over 'the streets'. The strong resistance of the gangs to these policies can also be considered as an indicator of the measures' effectiveness. It is not entirely clear whether or how these measures contributed to weakening the *Mesas de Esperanza* or ending the NGOs' dialogue initiatives. What is clear, however, is that these pressures affected the gang members' confidence in the government and reduced the possibilities for meaningful dialogue. On 7 September 2010, in a joint communiqué, the Mara Salvatrucha and Barrio 18 complained that they were excluded from the talks about how to reduce violence and, moreover, that the *Mesas de Esperanza* had not delivered on

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<sup>75</sup> For the interviews with Douglas Moreno, see Carlos Martínez & Jimena Aguilar, 'Director de Centros Penales "Nunca imaginé a profesores o personal de clínica involucrado"', *El Faro* (23 May 2010), available at [www.elfaro.net/es/201005/noticias/1747/](http://www.elfaro.net/es/201005/noticias/1747/); Jimena Aguilar & Carlos Martínez, 'Propone crear ocho penales nuevos "¿Y esta es la solución? ¡No! La solución nadie la quiere discutir"', *El Faro* (23 May 2010), available at <http://www.elfaro.net/es/201005/noticias/1748/>.

<sup>76</sup> For an example of the tensions between the military and gangs in prison, see Daniel Valencia Caravantes, 'La Batalla por Ciudad Barrios', *El Faro* (10 April 2011), available at <http://www.elfaro.net/es/201104/salanegra/3910/>.

their promises: “there are no vocational workshops, education is poor and there are many terminally-ill patients in prison who are not being treated correctly, as they should be.”<sup>77</sup>

A new blow to the gangs and a key incident in the process of re-securitization was the adoption of a new anti-gang law. The law was proposed by President Funes in the wake of a horrible attack by gang members on a bus in the municipality of Mejicanos. On 20 June 2010, members of the Barrio 18 retaliated against their Mara Salvatrucha rivals by attacking a bus transporting supposed family members or neighbours of a Mara Salvatrucha controlled sector. In the massacre, 14 persons burned to death, and 17 were left severely wounded.<sup>78</sup> The incident shocked the nation and was almost immediately labelled an act of terrorism by the director of the National Civil Police and President Funes.<sup>79</sup> Although the Barrio 18 distanced itself from the attack, the media and political parties called for direct action and the implementation of strong measures against the gangs.<sup>80</sup> Three days after the attack, 23 June 2010, President Funes proposed an extraordinary measure: a new law proscribing the gangs (Ley

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<sup>77</sup> Comunicado de la mara MS13 y la pandilla 18.

<sup>78</sup> This attack was part of a brutal escalatory cycle in this neighbourhood. See for an interpretation of the background of the incident, the notes of anthropologist Juan Martínez bundled in a book titled *La última comunidad de la colina*, available at <http://www.elfaro.net/es/201101/salanegra>.

<sup>79</sup> Gabriel Labrador Aragón & Lourdes Quintanilla, ‘Catorce muertos en doble ataque en Mejicanos’, *La Prensa Grafica* (21 June 2010), available at <http://www.laprensagrafica.com/el-salvador/judicial/126814-catorce-muertos-.html>.

<sup>80</sup> See *El Faro* (section pandillas, June-July 2010) for the diverse measures that were proposed by political parties and others. The feeling prevailed that a line had to be drawn, while others stated that the country was at war, which asked for extraordinary measures, see, for instance, Ricardo Ribera, ‘Desde la academia “Declaracion de guerra”’, *El Faro* (5 July 2010), available at <http://www.elfaro.net/es/201007/opinion/2045/>.

Proscripción de Pandillas, LPP). This was similar to prior measures that previous governments had taken to deal with the gang phenomenon. And, like before, it attained widespread public support. But there were doubts about whether this measure really could diminish the gang problem. The primary justification for this legislation, therefore, was not the role it could play in addressing the gang problem. Rather, it was applied as an adequate and authoritative response to strong public revulsion and the cacophony of statements on what should be done in the wake of these events.<sup>81</sup>

The formulation and approval of the anti-gang law took place in July and August 2010. It bore some similarities with the proposals presented by President Francisco Flores in the 2004 debates. However, on that occasion, the FMLN objected to the laws, whereas this time it supported their adoption.<sup>82</sup> For their part, representatives of the Supreme Court, judges and ombudsman again expressed their concerns with the new proposals, as they had on earlier occasions. They questioned, among other things, its necessity and the feasibility

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<sup>81</sup> An indication for the success of this move is the public support offered by the Catholic Church in El Salvador. Archbishop Escobar Alas congratulated President Funes on the law, calling it a 'good response', see Infolatam, 'El Salvador: La iglesia apoya la ley antimaras propuesta por el Gobierno al Legislativo', *Información y análisis de América Latina* (12 July 2010), available at <http://www.infolatam.com/2010/07/12/el-salvador-la-iglesia-apoya-la-ley-antimaras-propuesta-por-el-gobierno-al-legislativo/>.

<sup>82</sup> Despite the similarities in focus, there were some important differences with the previous anti-gang legislation. Before suspected gang members were prosecuted because of their appearance (clothing, tattoos, etc.) and not for the actions they had committed (this is why the law was eventually declared unconstitutional). The new law broadened the punishment for membership of illegal affiliations, but the proof of these affiliations had to comply with legal standards.

of implementing it.<sup>83</sup> Nevertheless, the proposal had widespread public support, and there was also widespread consensus in the Assembly, with 78 votes out of 84 in favour of the new law. While the Salvadoran government publicly still recognised the need to combine prevention and ‘control’, the focus of its gang policies had definitely shifted to the latter. However, days before President Funes adopted the law, there came an unexpected response from the gangs.

On Monday, 6 September 2010, members of Mara Salvatrucha and Barrio 18 distributed leaflets calling for a 72-hour national public transportation strike, threatening bus companies with burning their vehicles if they left the terminals that day. As a reminder, the same night a bus was burned in Ilopango, a municipality near San Salvador.<sup>84</sup> The declaration was given plenty of media attention and, although the authorities implemented widespread security measures, including offering protection to the bus companies, the majority of bus companies suspended work. On the following evening, the Mara Salvatrucha

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<sup>83</sup> Edith Portillo, ‘Asamblea aprueba ley que prohíbe las pandillas’, *El Faro* (1 Sep. 2010), available at [www.elfaro.net/es/201009/noticias/2379](http://www.elfaro.net/es/201009/noticias/2379); ‘Diputados acuerdan aprobar ley que criminalice pandillas’, *El Faro* (31 Aug. 2010), available at [www.elfaro.net/es/201008/noticias/2363](http://www.elfaro.net/es/201008/noticias/2363); Tania Membreño & Liliana Fuentes, ‘Ley de proscripción de pandillas no resolverá el problema’, *La Prensa Grafica* (19 Sep. 2010), available at <http://www.laprensagrafica.com/el-salvador/judicial/142340-ley-de-proscripcion-de-pandillas-entra-en-vigor-desde-hoy.html>. For the position of the ombudsman on the draft law see the advice of the Procuraduría de los Derechos Humanos of 10 August 2010, available at <http://www.pddh.gob.sv/menutransparencia/menuoficiosa/menuaccpron/viewcategory/1-pronunciamientos?start=40> [accessed 10 June 2013]. Also see *Diario Co-Latino*, 21 Sep. 2010; ‘Oscar Luna: Ley de proscripción de pandillas no resolverá el problema’, available at <http://www.diariocolatino.com/es/20100921/nacionales/84523/>

<sup>84</sup> Redacción ContraPunto, ‘Caos en el sector transporte por amenazas’, *Contrapunto* (7 Sep. 2010), available at <http://www.contrapunto.com.sv/ultimas-noticias/caos-en-el-sector-transporte-por-amenazas>.

and Barrio 18 presented a one-page communiqué.<sup>85</sup> This was read on television by a Salvadoran-Spanish priest, known as Padre Toño, who had a long history of working with young people (including gang members) in the neighbourhood of Mejicanos.

In the statement, the gangs apologised for the inconvenience caused by the strike and declared that their only objective was to be heard by the government. They stated their disappointment about the new government policies and the failure of the *Mesas de Esperanza*. The statement also explicitly asked the president to veto the anti-gang law and suggested a ‘transparent dialogue’ to find a solution for the violent conflict.<sup>86</sup>

The response of the government was staunchly negative. President Funes stated, “we will not let them blackmail us”<sup>87</sup>, and the Minister of Defence, Munguía Payés, responded that, “a democratic government, like ours legitimately elected, cannot negotiate with criminal organisations.”<sup>88</sup> The director of the National Civil Police affirmed, “we are not disposed to having talks with criminals.”<sup>89</sup> Douglas Moreno, director of the penal system, also stressed that the

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<sup>85</sup> ‘Comunicado de la mara MS13 y la pandilla 18’, mimeo.

<sup>86</sup> The ‘developmentalist’ and consensual discourse employed in the statement is interesting. The statement, for instance, says that the gangs want a compromise with society, so as to build a better country.

<sup>87</sup> See Luis Láinez and Tania Membreño, ‘Gobierno promete enfrentar pandillas’, *La Prensa Grafica* (10 Sep. 2010), available at <http://www.laprensagrafica.com/el-salvador/judicial/140996-gobierno-promete-enfrentar-pandillas.html>.

<sup>88</sup> See Redacción El Mundo, ‘Gobierno no negociará con pandillas’, *Elmundo.com.sv* (8 Sep. 2010), available at <http://elmundo.com.sv/gobierno-no-negociara-con-pandillas>.

<sup>89</sup> “See Eric Lemus, ‘El Salvador semiparalizado por reclamo de pandillas’, *BBC mundo* (9 Sep. 2010), available at



*Mesas de Esperanza* had by no means been a form of 'negotiation', but were rather an effort to learn more about the problems experienced by the prisoners and their family members. He complained that by suggesting that these were negotiations, the word 'dialogue' would be tainted.<sup>90</sup> This shows how sensitive the idea of a dialogue with gangs had become.

This was clearly demonstrated in the case of Padre Toño. Although he did not explicitly support or endorse the strike, and limited himself to reading the statement, his decision to read the statement was rejected by a broad range of politicians, opinion makers and journalists. The reactions were extremely strong and clearly served to mark the limits of what was acceptable in the face of the gang phenomenon. The press portrayed him as the 'spokesman of the gangs'. Government officials reacted strongly to the fact that the statement had been read aloud by a priest who not only believed that dialogue was a fundamental part of the solution, but also suggested that government officials had shown interest in talks. There seemed to be a declining tolerance for empathetic interpretations of the gang phenomenon.

### **The Funes administration and the gang truce**

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[http://www.bbc.co.uk/mundo/america\\_latina/2010/09/100906\\_salvador\\_funes\\_maras\\_negociacion\\_pea.shtml](http://www.bbc.co.uk/mundo/america_latina/2010/09/100906_salvador_funes_maras_negociacion_pea.shtml).

<sup>90</sup> See Carlos Martínez, "¿Qué viene ahora? ¿La lucha con el procurador?", *El Faro* (1 Nov. 2010), available at <http://www.elfaro.net/templates/elfaro/especiales/derechoshumanos/nota1.html>.

The first years of the Funes administration thus showed a shift from efforts to develop a more integrated policy on gangs, to a series of measures that focused on cracking down on them. These measures were resisted by gangs and even led to efforts by the gangs to openly pressure the government (a novelty in the relations between the state and gangs). In this context, the sense of security further deteriorated and homicide rates (by policy makers seen as the key indicator of success) remained extremely high. By the end of 2011 and during the first months of 2012, influential actors like the mass media, the private business sector, as well as the United States government, strongly pressed for results. The media stepped up pressure with constant reporting on homicide numbers and violent incidents, and questioning the security politics of the Funes administration. On November 10<sup>th</sup>, the national newspaper *El Diario de Hoy* opened with a strong statement directed at the government: "Security got worse in this administration". Based on the results of a recent opinion survey, it stated that, "Crime has risen during the Funes administration" and sighted public "belief that the security plans do not work and to the contrary, the gangs are getting stronger".<sup>91</sup> The message was clear: the public at large was becoming anxious.

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<sup>91</sup> "Seguridad empeora en este gestión." "Criminalidad aumentó en el gobierno de Funes." "Creen que los planes de seguridad no resultan, y a lo contrario, las pandillas se han fortalecido." *Diario de Hoy*, Nov 10<sup>th</sup>, 2011.

As a result of these pressures and the poor results in the area of security, Manuel Melgar, decided to resign.<sup>92</sup> The person that replaced him was the Minister of Defence, retired General David Munguía Payés. After his appointment on November 22<sup>nd</sup>, 2011 he announced a 'war on crime' and promised to reduce delinquency by 30% in a year.<sup>93</sup> Two months later, on 23 January 2012, the retired General Francisco Salinas<sup>94</sup> took over as director of the PNC. At the same time a new elite anti-gang police unit was formed<sup>95</sup> along with a new anti-gang department at management level.<sup>96</sup> These appointments underlined the intention of the authorities to keep the pressure on the gangs. They were matched by the explicitly stated commitment to continue the already intense campaign of arresting and incarcerating gang members, started by the previous director.<sup>97</sup> However, it is fair to say that having former military officers in these positions was of strong symbolic importance. It conveyed a message of determination, not only towards the gangs, but especially to the population at large. The relatively high level of trust in the military was used to bolster the image of a firm and 'capable' state authority.

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<sup>92</sup> See, for instance: Ricardo Vaquerano, Carlos Martínez, Gabriel Labrador & Efrén Lemus, 'Presidencia informa que Manuel Melgar dejó Ministerio de Seguridad', *El Faro*, (Nov 8th, 2011) available at <http://www.elfaro.net/es/201111/noticias/6544/>.

The director of the PNC Comisionado Carlos Ascencio Giron was also dismissed.

<sup>93</sup> 'Munguía Payés declara la "Guerra al crimen"', See *Diario CoLatino*, 29 Nov. 2011, pp. 1 & 4..

<sup>94</sup> Until then, General Francisco Salinas was the Vice Minister of Defence. He retired from the army the morning before he was appointed director of the PNC.

<sup>95</sup> 'Grupo de Intervención Antipandillas.' *La Prensa Gráfica*, 8 Dec. 2011.

<sup>96</sup> 'Subdirección Antipandillas.' *El Diario de Hoy*, 12 March 2012.

<sup>97</sup> In reality however, the number of gang members arrested dropped in the first months of 2012. See: 'Policía con promedio diario de 148 arrestos', *La Prensa Gráfica*, 31 March 2012.

Against this background of ongoing securitization, and to the surprise of many, in March 2012, it came out that the government had facilitated a truce ('tregua') between the two principal gangs. As a result of this truce, the homicides fell spectacularly in a few days.<sup>98</sup> With the 'tregua' still in place at the end of 2012, the total number of homicides in 2012 had decreased by almost 41%.<sup>99</sup> However, after first disavowing the truce, it soon became clear that the government had endorsed the process and that the newly appointed Minister of Justice and Public Security, Munguía Payés, had played a key role. The strategy was initiated, approved and controlled by his office.<sup>100</sup> However, acutely aware that the government might be accused of negotiating with violent criminals, the facilitation was publicly implemented by two close associates from outside the government: Raúl Mijango and Monsignor Fabio Colindres.<sup>101</sup> In itself, the choice for the word 'facilitation', a newly introduced term, emphasised that the government wanted to portray a clear distance from the gangs. The decision to engage a bishop in this process shows that Munguía Payés and Raul Mijango

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<sup>98</sup> The weeks before the transfer the quantity of homicides committed were in a range between 11 to 17 homicides a day. When the authorities started to move the gang leaders (March 8th, 2012), during the first days the numbers fell dramatically: to 9 (March 9th), 10 (March 10th), 6 (March 11th), 2 (March 12th) and 3 (March 13th); stabilizing itself around 5 or 6 a day. (Information provided to authors by Policía Nacional Civil of El Salvador in 2012).

<sup>99</sup> The Forensic Institute confirms a decrease of 39% in homicide in 2012, while the Ministry of Justice and Public Security states a 41% reduction (in comparison with 2011) and a 60% if counted from March when the cease of hostilities came into effect. Suchit Chavez, 'Medicina Legal: 2,641 homicidios durante 2012', La Prensa Gráfica, January, 8th, 2012.

<sup>100</sup> José Luis Sanz y Carlos Martínez, 'El trabajo de monseñor Colindres y Raúl Mijango era una pieza de mi estrategia. *El Faro* (14 May. 2012), available at <http://www.salanegra.elfaro.net/es/201205/entrevistas/8541/> Accessed: 14 May. 2012.

<sup>101</sup> Monsignor Fabio Colindres is the Salvadoran army bishop and Raúl Mijango, an ex-guerrillero and ex member of parliament (diputado) for the FMLN. Both are close to the Minister of Justice and Public Security, Munguía Payés. Raúl Mijango had already been an advisor to Munguía Payés when he was still Minister of Defence.

were aware of the need to convince or at least neutralise important audiences. As bluntly expressed by a businessman in El Salvador: 'In the business community in this country there are people that when you put a priest in front of them, or the church, part of their brain disconnects, and they stop asking questions'.<sup>102</sup>

To reach a truce between the gangs, talks were initiated with long-standing leaders that were imprisoned and isolated in the high security jail of Zacatecoluca. The leaders first agreed on the need for a reduction of violence and the idea of a cessation of hostilities between the gangs before jointly formulating a list with general requests to the Salvadoran authorities.<sup>103</sup> The 30 leaders were then transferred back to common, low-level security prisons where other members were incarcerated, to communicate and impose the agreement on the rank and file. Thus, while the Funes administration did not want to get openly immersed in the truce, it is clear that the gangs not only made promises towards each other, but also made promises *and* demands vis-à-vis the government. And in its turn, the government made gestures towards the gang leaders, among others by relaxing the prison regimes of some of the leaders.

It should be emphasised, however, that the position of the Salvadoran government towards the truce was highly ambiguous. The Minister of Justice

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<sup>102</sup> "Entre los empresarios de este país hay gente a la que le pones a un sacerdote delante, o a la Iglesia, y es como si se les desconectara una parte del cerebro: dejan de hacer preguntas. See Carlos Martínez & José Luis Saenz, 11 September 2012, La nueva verdad sobre la tregua, online available at <http://www.salanegra.elfaro.net/es/201209/cronicas/9612/>

<sup>103</sup> The list of requests included topics such as suspending police operations in the territories where they operate; to repeal the law proscribing the gangs; to eliminate the legal figure of protected witness; to confine the military to their barracks; and pardon for senior prisoners or those that are terminally ill. At the moment of writing, these topics were mostly rejected and not taken up publicly in policy discussions.

and Public Security had secretly developed the plan and never intended to make it public. The main reason that the new Minister Munguía Payés, who had in public always objected to any type of negotiation or dialogue with gangs, now turned to this means was his desire to decrease the staggering homicide rates.<sup>104</sup> The decision to start talking with the gangs was truly an emergency measure. It is interesting to note that when this involvement was discovered by journalists of online newspaper ,El Faro, it was first explicitly denied by government officials, including the Minister himself. In a press conference, Minister Munguía Payés offered an extremely weak and unconvincing explanation for the removal of gang leaders from the high-security prisons.<sup>105</sup> After a while, however, he chose to admit his responsibility and declared himself to be the architect of the whole plan. The fact that the government involvement of these talks was initially kept secret, shows the key problem of this strategy: while some types of dialogue seem to be unavoidable, it is extremely unpopular among many relevant audiences and therefore difficult to communicate publicly.

Although president Funes had been informed about this strategy and had given his support to the minister, he kept a distance from the truce itself. This led

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<sup>104</sup> For example, as mentioned above, when the two main gangs asked in September 2010 for a dialogue with the government, the general response was extremely negative. Munguía Payés, then Minister of Defence, declared that negotiating with gangs was a no-go. See “Un Gobierno democrático como el nuestro elegido legítimamente no puede negociar con organizaciones criminales”, see Redacción El Mundo, ‘Gobierno no negociará con pandillas’, *Elmundo.com.sv* (8 Sep. 2010), available at <http://elmundo.com.sv/gobierno-no-negociara-con-pandillas>.

<sup>105</sup> Carlos Martínez & Jose Luis Sanz, ‘La nueva verdad sobre la tregua entre las pandillas’, *El Faro* 11 September 2012, available at <http://www.salanegra.elfaro.net/es/201209/cronicas/9612/>. This source also describes how Minister Munguía Payés invited a group of approximately 25 journalists to explain (off the record) the removal of the prisoners. This shows again how important this ‘audience’ is to the government.

to an ambiguous government position. On one hand, the Minister of Justice and Public Security acknowledged his role as the main architect of the truce. While on the other hand, President Funes emphasised that his government was not willing to negotiate with criminals.<sup>106</sup> It is fair to say that, with the announcement of the truce, a type of two-pronged strategy was followed. In the first place, the process of re-securitization got even stronger: the gangs were portrayed as being a far more important threat to security than conceded before. Therefore the authorities implemented even more extraordinary measures: the creation of more specialised police forces to deal with the gangs and an anti-gang directorate at the National Civil Police. In the second place, the government introduced a different kind of extraordinary measure: secretly sponsoring and facilitating a process of dialogue and negotiations between the gangs. Its principal objective was to diminish the extremely high homicide rate. The two approaches were closely linked. The continuation of a 'hard hand' strategy permitted and 'excused' the facilitation of a truce by shielding the administration from the accusation of being soft on crime and giving in to the gangs.

Although the government emphasised it had not 'negotiated' with the gangs, the truce clearly created something of a win-win situation for the government and the 'old' leaders of the gangs. Facing the public anguish and growing sense of insecurity, for the Funes administration the principal aim was to reach a

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<sup>106</sup> Efrén Lemus, 'Funes se vuelve a desmarcar de la tregua entre pandillas', *El Faro*, Sep, 17th, 2012.

reduction of the homicides levels. This, however, was achieved by bringing back to power the old gang leaders, who after years of isolation in high-security prisons had lost control over their gangs to younger generations. By sending these veteran leaders back to the common prisons, the government not only lifted their separation and isolation, but also handed them back the effective control over their homeboys, both in prison and the streets.<sup>107</sup> The administration also gave the veteran leaders broad access to the media to explain their vision and active support of the truce.<sup>108</sup> The gangs published various communiqués about their positions and petitions.<sup>109</sup> The newly re-empowered leaders effectively seized the opportunity, communicating and imposing their ‘tregua’ on the other gang members. Not complying would be costly: they would be killed by their comrades.<sup>110</sup>

It is fair to say, however, that the lowering of the homicides rates by means of a gang truce, came at a high price. It not only strengthened the position of the

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<sup>107</sup> The gang members in the neighbourhoods still very much respected the old generation of leaders and, once back in contact with the rank and file, they were able to exert their control again. The situation in the Salvadoran prisons is extremely harsh for the inmates. (See for instance: ‘The ‘Prisons in Latin America: A journey into hell’ *The Economist*, [Sep 22, 2012], available at <http://www.economist.com/node/21563288> From inside the Salvadoran common, low-security prisons it is also relatively easy to communicate with the outside world and maintain in contact with the streets.

<sup>108</sup> Leaders from the gangs were extensively interviewed on television (for instance, TV12 aired two interviews with Carlos Mojica (alias El Viejo Lin, Barrio 18) and with Aristides Umazor (alias El Sira, MS); interviews were also published in newspapers (see for instance: the interview with the MS in four parts published by El Faro in October 2012 (at <http://www.salanegra.elfaro.net/es/201210/entrevistas/9844/>).

<sup>109</sup> See for the first communiqué: ‘Raúl Mijango hace público comunicado conjunto de la Mara Salvatrucha y el Barrio 18’, El Faro, 23 March 2012 (at <http://www.elfaro.net/es/201203/noticias/8078/>).

<sup>110</sup> See for instance: David Marroquín, ‘Matan a dos supuestos cabecillas mara’, *El Diario de Hoy*, August 22<sup>nd</sup>, 2012.



older leaders, it also contributed to a situation of growing unity and organisational strength of the gangs. Meanwhile, the truce did not address the question of extortion, apparently the main source of income for most gangs. Above all, implicitly the gang leaders were recognised as important political actors in the ongoing drama of security policy in El Salvador.

## **Conclusion**

This paper analyzed why the Salvadoran government was clearly unsuccessful in its efforts to de-securitize gangs. We showed that, in its first year, the Funes government emphasized the need for integrated policies to deal with youth gangs. Such alternative approaches either called for attention to the underlying causes of the gang problem through prevention and rehabilitation policies or called for a more pragmatic approach of dialogue or even negotiation with the gangs. However, even the idea of talking with gangs resulted extremely unpopular. The Funes government soon decided this was a no-go approach and returned to similar hard-handed policy measures that the previous governments had propagated. However, the idea to start some kind of dialogue never disappeared completely. When it appeared that the Salvadoran government had played a role in the gang truce reached in March 2012, it became once again clear that this was an extremely sensitive issue.

In El Salvador, pressures to use hard-handed approaches against gangs are particularly strong. High levels of insecurity are a reality for many Salvadorans, especially those living in marginalised neighbourhoods. Thus, crime and homicide do not require “language mediation” to be considered “a hazard for human life.”<sup>111</sup> We pointed out two factors that eventually led the Funes administration to abandon its efforts to de-securitize the gangs and instead started re-securitizing them. The first factor is the reality of gang violence, extortion and their growing control in large parts of poor neighbourhoods. An endeavour to deal in an effective way with these problems or, at least, to communicate control over them without extraordinary measures, was hardly feasible. At the same time, the government lacked the means to shore up the more immediate efforts with integrated and preventive policies that were able to address the causes of the problems. Secondly, the re-securitization of the gang issue was the result of pressures from different audiences. The political opposition and leading media in the country continuously criticised the performance of the Salvadoran government and pushed for tougher responses to the gang problem. The anti-gang measures of the Funes government were partly a means to respond to these criticisms. They were an attempt to halt efforts to delegitimize the government’s stance on security and to respond to the demands from large sectors of the Salvadoran population for a tougher approach to the gang issue. Many Salvadorans were not only ready for securitization, but

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<sup>111</sup> Balzacq (ed.), *Securitization Theory. How Security Problems Emerge and Dissolve*, p. 12.

generally considered it as the only option available for doing something about the gang threat.

The widespread support for repressive approaches to insecurity went hand-in-hand with suspicion about alternative approaches, as the controversy about the truce showed. We argue that the active support of the Minister of Justice and Public Security for the gang truce should be seen as a new type of extraordinary measure from the government. Contrary to the earlier measures, which clearly limited the space of gang members and especially their leaders, this time the measure did the opposite; it gave them (some) more space, especially to communicate with their homeboys and with broader society. While repressive measures were not quite difficult to sell to the broader population, this was certainly the case for the accommodating ones. This was indeed one of the key reasons to remain silent on this policy. However when journalists soon found out that the government had facilitated the truce, the key protagonists within the government had to come up with an explanation. While some (like president Funes) remained silent on the issue and denied their involvement, others (like minister Munguia Payes) came up with changing and contradictory explanations. A last minute effort was made to defend and legitimize the truce by pointing at the need for customized policies to deal with the extremely high homicide rates. Many key audiences remained, however, sceptical.

The discussion of changes in the Funes government's anti-gang policies shows that the securitization of gangs is a rather messy process involving a range

of stakeholders. In this process, the question is not primarily whether to securitize or not, but *how* to securitize. Repressive approaches are clearly preferred by different audiences in the country. However, the discussion about the optimal type of customised policies continued and the Funes government was both involved in efforts to repress gang members, as well as seeking to enrol their support or involvement in a solution (initially to deal with the gang problem as such, and later mainly as a way to counter homicide rates). El Salvador shows that the two options of repression against gangs and (a degree of) cooperation of them do not necessarily exclude one another. Obviously, there can be serious tensions between the two strategies.

While both repressive and accommodating extraordinary measures may be unavoidable in the Salvadoran context, especially in the short term, an important discussion remains how to link these to a longer-term, integrated security policy. We argue that although some policy makers in the Funes administration recognized the need for a longer term vision, in practice the focus of the administration was on short-term securitization measures. In this regard, the challenge to develop an integrated security policy that includes different types of bold measures was not met by the Funes government. The chances that an integrated policy will materialise any time soon are quite slim given the popularity and communicative benefits of securitizing the gang issue through repressive policies, the deeply rooted structural problems of exclusion, and the limited experience with integrated approaches.