

# EL SALVADOR 2021 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

El Salvador is a constitutional multiparty republic with a democratically elected government. In 2019 voters elected Nayib Bukele as president for a five-year term. The election was generally free and fair, according to international observers. Municipal and legislative elections took place on February 28 and were largely free and fair.

The National Civilian Police, overseen by the Ministry of Justice and Public Security, is responsible for maintaining public security. The Ministry of Defense is responsible for maintaining national security. Although the constitution separates public security and military functions, it allows the president to use the armed forces “in exceptional circumstances” to maintain internal peace and public security “when all other measures have been exhausted.” The military is responsible for securing international borders and conducting joint patrols with the civilian police. Civilian authorities at times did not maintain effective control over security forces. There were credible reports that members of the security forces committed some abuses.

Significant human rights issues included credible reports of: unlawful killings of suspected gang members and others by security forces; forced disappearances by military personnel; torture and cruel, inhuman, or degrading treatment or punishment by security forces; harsh and life-threatening prison conditions; arbitrary arrest and detention; serious problems with the independence of the judiciary; serious restrictions on free expression and media, including violence or threats of violence against journalists and censorship; substantial interference with the freedom of peaceful assembly and freedom of association; serious acts of government corruption; lack of consistent investigation and accountability for gender-based violence; significant barriers to accessing reproductive health; and crimes involving violence by security forces against lesbian, gay, bisexual, transgender, queer, and intersex individuals.

Impunity persisted in the security forces, executive branch, and justice system. In

some cases authorities investigated and prosecuted persons accused of committing crimes and human rights abuses. Impunity for official corruption remained endemic.

Organized criminal elements, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes. They committed killings and acts of extortion, kidnapping, human trafficking, intimidation, and other threats and violence. They directed these acts against police, judicial authorities, the business community, journalists, women, and members of vulnerable populations.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed politically motivated killings. There were reports, however, of security force involvement in extrajudicial killings of suspected gang members. As of October 25, the Office of the Human Rights Ombudsman (PDDH) was investigating seven cases of extrajudicial killings, six attributed to the members of the National Civilian Police (PNC) and one to the armed forces.

On January 31, PNC officers arrested three men on charges of double homicide after they killed two supporters of opposition party Farabundo Marti National Liberation Front (FMLN) following a soccer match. The three perpetrators worked for the Ministry of Health. President Bukele tweeted that the attack was a plot hatched by his political rivals to damage his Nuevas Ideas party's chances in the February 28 legislative and municipal elections, but there was no evidence of a plot.

On July 19, PNC officers in Guacotecti, Cabanas Department, killed two brothers suspected of being members of transnational gang MS-13. According to relatives, PNC officers arrived at the house to arrest the two brothers who had outstanding warrants, and the brothers fled with rifles when they saw the police officers. The victims' father said his two sons previously received threats from police, claiming

the PNC officers planned the shooting and told him, “We are going to kill your children.”

The First Justice of the Peace of Santa Tecla, La Libertad Department, ordered the provisional arrest of four soldiers for the aggravated homicide of a 30-year-old engineer on August 12. The soldiers from the Apolo Task Force claimed the victim attacked them with a firearm from his vehicle and that the soldiers returned fire. The Scientific Technical Police found no firearms or bullet casings in the vehicle, and the victim’s hands did not have traces of gunpowder.

On February 7, the First Trial Court of Santa Tecla convicted three PNC officers of aggravated homicide and sentenced each of them to 25 years in prison for the 2017 extrajudicial killings of three persons in San Jose Villanueva, La Libertad Department. The PNC officers claimed they received information that the three persons in the vehicle were armed gang members, but the prosecutor showed that the PNC officers intercepted the vehicle and shot the victims without confrontation.

## **b. Disappearance**

Media reports alleged that security and law enforcement officials were involved in unlawful disappearances. According to reports, the PNC recorded 989 disappearances between January 1 and June 29, an increase from the same period in 2020 when the PNC tracked 728 cases. The PNC reported that 545 of those reported missing were later found alive and 51 found dead. Minister of Justice and Public Security Gustavo Villatoro explained that many disappeared persons were victims of homicide, as criminals hid the bodies of their victims to avoid charges of homicide.

On April 7, the Foundation for Studies for the Application of Law released a study stating that the illegal practice of disappearing a person was no longer exclusive to gangs and that police, soldiers, and extermination groups viewed unlawful disappearances as a low-cost, effective way of resolving conflicts. According to a Human Rights Observatory of the Central American University (OUDH) report published in September, extermination groups operated with police, military, and civilian members, simulating legal actions such as searches, raids, and police

operations in addition to illegal actions such as arbitrary detentions and killings. The report also noted that between 2015 and 2020, the Attorney General's Office identified approximately 15 extermination groups in the country.

On May 31, Minister of Justice and Public Security Gustavo Villatoro criticized families who posted photographs of their missing relatives on social media accounts and asked them instead to file a formal complaint with the PNC or the Attorney General's Office. Villatoro accused the families of psychologically damaging their missing children who eventually are found and stated most persons leave their families because they want to leave their life partner or because they did not get enough attention at home.

On June 1, the daily newspaper *El Diario de Hoy* reported that the Attorney General's Office stopped the regular practice of publishing the photographs and information of missing persons following the arrival of the new attorney general, Rodolfo Delgado, on May 1. The Attorney General's Office recorded more missing persons (5,381) than homicides (2,940) during the first two years of the Bukele administration, with most of the victims disappeared in areas with a high presence of gangs.

The Attorney General's Office reported 66 minors as missing in the first 10 months of the year, 15 boys and 51 girls. All cases were under investigation.

On December 1, the daily newspaper *La Prensa Grafica* reported the findings from a study by the OUDH showing that between June 2019 and June 2021, only four cases of missing persons ended in a conviction. This number represented well less than 1 percent of the total cases of missing persons initiated by the Prosecutor's Office.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices, but there were reports of violations. As of August 31, the PDDH had received 13 complaints of torture or cruel or inhuman treatment by the PNC and one by the armed forces, compared with 15 and two complaints, respectively, as of August 2020. The PDDH also received 62

complaints of mistreatment and disproportionate use of force by the PNC and seven by the armed forces, compared with 55 and four complaints, respectively, as of August 2020.

As of September the PNC registered a total of 95 accusations against police officers involved in crimes and offenses. Of the 95 accusations, 38 concerned homicides committed by police officers. The PNC received 296 complaints of general misconduct in the same period, including but not limited to torture and cruel, inhuman, or degrading acts of punishment. Three of the 296 complaints were referred to the Attorney General's Office for prosecution, while the 293 unresolved cases remained under investigation by the PNC.

On March 12, the Attorney General's Office issued arrest warrants for four PNC officers for the torture of a minor and a woman in 2017 in Sensuntepeque, Cabanas Department. According to a video widely circulated on social media, PNC officers Cristian Neftali Franco Vasquez, Elvis Alirio Montenegro Beltran, Omar Alexander Pineda Chevez, and Mario Enrique Perez Chavez beat the minor to force him to reveal the hiding location of drugs and weapons. One of the officers fired a warning shot when a woman who witnessed the beating began to complain.

On April 30, *El Diario de Hoy* reported that an armed forces officer was arrested for shooting Rene Alfredo Lainez Andasol in the face in Victoria, Cabanas Department. The Attorney General's Office accused the soldier of attempted homicide.

On June 23, the Sentencing Court of Cojutepeque, Cuscatlan Department, sentenced PNC officer Juan Carlos Portillo Velasquez to 12 years in prison for the aggravated rape of an adolescent in 2018. According to the Attorney General's Office, Portillo Velasquez abused his position by ordering a 17-year-old girl to enter her home and remove her clothes under the guise of checking for gang-related tattoos. His partner caught him in the act of rape and informed his supervisors.

According to the Conduct in UN Field Missions online portal, there were no new allegations against El Salvadoran peacekeepers brought in the year. The most recent allegation was submitted in March 2020 concerning sexual exploitation and

abuse by Salvadoran peacekeepers deployed to the UN Mission in South Sudan, allegedly involving an exploitative relationship with an adult. As of October the United Nations had found the allegation of sexual exploitation or abuse to be unsubstantiated but found evidence of fraternization and repatriated the perpetrator.

Impunity was a problem in the PNC and armed forces. Factors contributing to impunity included politicization and general corruption. The Attorney General's Office investigates whether security force killings were justifiable and pursues prosecutions, and the PDDH investigates complaints of such killings. The government provided annual training to military units to dissuade any potential for gross abuses of human rights, such as the training provided to the Marine Infantry Battalion by the navy's Legal Unit on the need to respect human rights. The government repeatedly defied a June 2020 judicial order to allow expert witnesses access to inspect military archives to determine criminal responsibility for the 1981 El Mozote massacre.

Previous government efforts to counter impunity were also eliminated. In June President Bukele ended the cooperative agreement with the Organization of American States to back the International Organization Against Impunity in El Salvador. Civil society organizations condemned this action and characterized it as a step backwards in the fight against impunity and corruption in the country. The government pursued actions against members of other parties governing in past administrations and judges who had served a long time in a so-called effort to "clean house" of influence of officials appointed under previous administrations. Civil society organizations criticized many of these actions as politically motivated.

Impunity in the executive branch also remained a problem. From January through September, the Attorney General's Office reported that it processed 150 cases of embezzlement, illicit negotiations, illicit enrichment, and bribery perpetrated by government employees. Of these cases, only seven resulted in convictions.

### **Prison and Detention Center Conditions**

Prison and detention center conditions remained harsh and life threatening due to

gross overcrowding, unhygienic conditions, and gang activity.

**Physical Conditions:** Overcrowding was a serious threat to prisoners' health and welfare. The prison system had a capacity for 30,864 inmates, but as of April 19, held more than 36,500 inmates. Director of Penal Centers Osiris Luna reported that the General Directorate of Penal Centers (DGCP) reduced the overcrowding of prisons from 50 percent to 12 percent and stated one of the objectives of the government's Territorial Control Plan was to reduce the number of prisons from 23 to 10. Police holding facilities were equally crowded. In May the director of the National Civilian Police stated that there were approximately 5,000 persons in police holding cells, including prosecuted and convicted individuals who could not be transferred to the overcrowded prisons. Convicted inmates and pretrial detainees were sometimes held in the same prison cells.

Gangs remained prevalent in prisons. As of April the DGCP reported approximately 51 percent (18,652 prisoners) of the prison population were active or former gang members.

According to the PDDH, many prisons had inadequate sanitation, potable water, ventilation, temperature control, medical care, and lighting. Inmates experienced gastrointestinal illnesses and skin problems due to poor water quality.

According to the DGCP, 94 inmates died between January 2020 and February 2021. PDDH deputy attorney Beatriz Campos said most of the deaths were due to chronic diseases, including kidney failure, respiratory diseases, and HIV. Campos said the DGCP received nine to 15 complaints daily, with 90 percent related to inquiries about health.

**Administration:** The PDDH has authority to investigate credible allegations of inhuman conditions. The government suspended visits to prisons in March 2020, which continued as of November. According to February 14 media reports, relatives of inmates had not communicated with inmates in a year. Despite an article of the PDDH law that allows the PDDH to have free and immediate access to prisons to inspect and guarantee the human rights of the inmates, the DGCP denied entry to PDDH staff in March. On August 12, the DGCP again denied the PDDH access to prisons despite the Second Peace Court authorizing the PDDH

entry to visit three former government officials in prison after receiving complaints from the officials' relatives on their state of health.

On June 17, *La Prensa Grafica* reported that relatives of an inmate who died inside Mariona Prison in San Salvador Department on June 7 learned of the death through Facebook. Prison Directorate personnel failed to inform the family of the deceased in a timely manner.

**Independent Monitoring:** The prison system was closed to visits during the year, allowing only employees to enter. Professional and family visits, inspections of institutions, and visits by international organizations, nongovernmental organizations (NGOs), churches, and others were suspended, although there were reports of sporadic entries granted based on personal connections with prison officials to members of the clergy and nonprofits.

#### **d. Arbitrary Arrest or Detention**

The law provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The Constitutional Chamber of the Supreme Court is responsible for addressing these types of cases.

#### **Arrest Procedures and Treatment of Detainees**

The constitution requires a written warrant of arrest except in cases where an individual is caught in the act of committing a crime. Authorities generally apprehended persons with warrants based on evidence and issued by a judge, although this was frequently ignored when allegations of gang membership arose. Police generally informed detainees promptly of charges against them.

The law permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. The bail system functioned adequately in most cases. The courts generally enforced a ruling that interrogation without the presence of counsel is coercive, and that evidence obtained in such a manner is inadmissible. As a result PNC authorities typically delayed questioning until a public defender or an attorney arrived. The constitution permits the PNC to hold suspects for 72 hours before presenting them to court. The law allows up to six months for investigation of serious crimes before requiring either a trial or



dismissal of the case; this period may be extended by an appeals court. Many cases continued beyond the legally prescribed period.

**Arbitrary Arrest:** As of August 31, the PDDH reported 25 complaints of arbitrary detention or illegal detention, compared with 22 from January to August 2020.

According to media reports, on April 22, the Attorney General's Office accused PNC officers Miguel Angel Hernandez, Luis Edgardo Chavez, Cesar Ernesto Menjivar, Milton Cesar Hernandez, Oscar Antonio Mancia, and Jose Leodan Menjivar of at least a dozen illegal acts, including arbitrarily detaining citizens.

On July 21, the Original Blue organization, a local NGO that seeks social transformation and supports vulnerable populations, reported that young persons in areas identified as having high presence of gangs were victims of arbitrary or illegal detentions by the PNC. The report included testimony from 12 individuals who said they were detained illegally.

On September 1, a vocal critic of President Bukele's proposal to adopt Bitcoin as legal tender of El Salvador was arrested without a warrant and without explanation of the reason of his arrest. He was released the same day with no charges filed.

**Pretrial Detention:** Lengthy pretrial detention was a significant problem. Some persons remained in pretrial detention longer than the maximum legal sentences for their alleged crimes. In such circumstances detainees were permitted to request a Supreme Court review of their continued detention.

## **e. Denial of Fair Public Trial**

Although the constitution provides for an independent judiciary, the government did not always respect judicial independence, and the judiciary was burdened by inefficiency.

While the government generally respected court orders, some agencies ignored or minimally complied with orders.

As of August 31, the PDDH received 65 complaints of lack of a fair public trial, compared with 12 such complaints as of August 2020.

On May 1, during the first plenary session of the newly elected Legislative Assembly, legislators of the majority Nuevas Ideas, a political party founded by President Bukele, and their allies voted to dismiss all five magistrates of the Constitutional Chamber of the Supreme Court of Justice and the attorney general without granting any of them due process. Critics contended the dismissals lacked legal cause and amounted to an unconstitutional power grab. The president defended the votes, claiming the Legislative Assembly had the authority to do this according to the constitution. On June 30, the Legislative Assembly installed new judges loyal to the president to replace the five dismissed magistrates.

On August 31, the Legislative Assembly used an emergency waiver process to pass two judicial career laws, instead of following the constitutionally prescribed process that judicial reforms must originate from the Supreme Court. The laws mandate the retirement of judges and prosecutors aged 60 or older and also those who have completed 30 years of service or more. In addition the attorney general and Supreme Court were given authority, at their discretion, to transfer prosecutors and judges between districts. While the Legislative Assembly justified the actions as an effort to rid the courts of corruption, legal analysts argued the laws were unconstitutional and were enacted to allow the ruling political party to appoint loyal replacement judges. More than 200 judges were forced by the new laws to retire, including Judge Jorge Guzman Urquilla, the magistrate overseeing the prosecution of 13 surviving former military officers for the alleged El Mozote massacre of more than 800 civilians in 1981. Although the Supreme Court offered him a one-time exception to remain in his position, Judge Guzman resigned in protest before the law went into effect.

## **Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right, although some trial court judges were subject to political, economic, or other corrupting influences. By law juries hear only a narrow group of cases, such as environmental complaints. In those cases, after the jury determines innocence or guilt, a panel of judges decides the sentence.

Defendants have the right to be present in court (except in virtual trials; see below), question witnesses, and present witnesses and evidence. The constitution further

provides for the presumption of innocence, the right to be informed promptly and in detail of charges, the right to a trial without undue delay (seldom observed), protection from self-incrimination, the right to communicate with an attorney of choice, the right to adequate time and facilities to prepare a defense, freedom from coercion, the right to appeal, and government-provided legal counsel for the indigent.

In criminal cases a judge may allow a private plaintiff to participate in trial proceedings (calling and cross-examining witnesses, providing evidence, etc.), assisting the prosecuting attorney in the trial procedure. Defendants have the right to free assistance of an interpreter. Authorities did not always respect these legal rights and protections. Although a jury's verdict is final, a judge's verdict is subject to appeal. Trials are public unless a judge seals a case.

The law allows for virtual trials for gang membership charges to proceed without the defendants present, although with defense counsel participating. The law requires judicial and prison authorities to provide a video copy of the virtual trial to the defendants within 72 hours so they may exercise their right to defense.

Virtual trials often involved group hearings before a judge, with defense lawyers physically present in the courtroom but defendants appearing by video, unable to consult with their defense lawyers in real time. This practice continued throughout the year due to precautionary measures taken by the courts to curb the spread of COVID-19. The number of virtual trials increased but continued to involve delays due to lack of equipment, technical problems, and lack of coordination between courts and penitentiaries.

Legal experts identified overall issues with the legal system, pointing to an overreliance on witness testimony, as opposed to the use of forensics or other scientific evidence. For example the justice system lacked DNA analysis and other forensic capabilities.

### **Political Prisoners and Detainees**

There were no clear reports of political prisoners or detainees, but media reported several detentions of opposition party members and questioned the legitimacy of the detentions.

On June 4, Attorney General Rodolfo Delgado ordered the arrest of former mayor of San Salvador and prominent opposition politician Ernesto Muyschondt for the charge of misappropriation of tax withholdings to the detriment of the Public Treasury while mayor. The arrest occurred minutes after the Second Investigative Court of San Salvador ordered house arrest for Muyschondt for the crimes of electoral fraud and illicit associations for allegedly negotiating with gangs in exchange for votes in the 2015 legislative elections. As he was escorted from the court, Muyschondt declared himself as “the first political prisoner of the Bukele dictatorship.” Despite a court order from the Third Criminal Chamber again granting house arrest for Muyschondt, the General Directorate of Penal Centers never released him, claiming it did not have an available ankle-monitoring bracelet. On October 1, newly appointed judges in the Third Criminal Chamber overturned the house arrest order, and Muyschondt remained in prison.

In July, five former FMLN party officials were detained but were not immediately informed of the reason for their detention. Several hours later they learned about the charges against them during a press conference. The officials remained in prison while awaiting the investigation of their crimes and were denied visitation despite a court order granting visitation by family and attorneys.

### **Civil Judicial Procedures and Remedies**

The law provides for access to the courts, enabling litigants to submit civil lawsuits seeking damages for, as well as cessation of, human rights violations. Domestic court orders generally were enforced. Most attorneys pursued criminal prosecution and later requested civil compensation.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, and there were no reports the state intelligence service tracked journalists or collected information regarding their private lives.

In many neighborhoods gangs and other armed groups targeted certain persons and interfered with privacy, family, and home life. Efforts by authorities to remedy

these situations were generally ineffective.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution provides for freedom of expression, including for members of the press and other media, although the government at times did not respect this right. The law permits the executive branch to use the emergency broadcasting service to take control of all broadcast and cable networks temporarily to televise political programming.

**Freedom of Expression for Members of the Press and Other Media, Including Online Media:** Journalists from several digital and print media outlets publicly accused President Bukele, his administration, and his supporters of a pattern of harassment designed to constrain media. In public statements and in testimony to the Legislative Assembly, journalists claimed the president and his cabinet officials bullied them on Twitter, threatened them with physical harm, launched unwarranted financial investigations into their taxes and funding sources, denied them access to press conferences, and surveilled them. Senior officials, such as legal advisor Javier Argueta, called for actions against journalists who criticized the government. The increased villainization of the role of media inspired supporters of the president to threaten journalists as well. The president denied threatening journalists and dismissed accusations he was stifling freedom of the press.

On September 29, the jury of the Maria Moors Cabot award from Columbia University, the Governing Council of the Gabriel Garcia Marquez Foundation, Reporters without Borders, and the Inter American Press Association issued statements in which they demanded that President Bukele cease attacks against critical media in the country.

In November the president of the Association of Salvadoran Journalists (APES) stated at a journalism forum that journalists were seen by the government as enemies of the state. He also confirmed that an increasing number of journalists

were under attack by the government.

**Violence and Harassment:** On June 6, Minister of Justice and Public Security Gustavo Villatoro confirmed during a radio interview that the government was investigating and monitoring many journalists for what he alleged was their irresponsible coverage of crime.

On July 7, a PNC officer slapped a journalist in the face, claiming the journalist had entered a crime scene. A video showed PNC officer Raul Martinez Velasquez hit Jorge Beltran, a journalist for *El Diario de Hoy*, while Beltran was reporting on the recovery of the body of a missing student kidnapped and killed by gang members in Apopa, San Salvador Department. In response the PNC issued memorandums on July 20 and July 22 instructing police officers to act with professionalism and to adhere to the law and respect for human rights when interacting with citizens.

As of August 30, APES had registered 173 violations of the exercise of journalism, an increase of 73 percent, compared with 2020. Among these were physical aggression, digital harassment, blocking access to public information, intimidation, and sexual harassment. APES noted 84 violations against the exercise of journalism during the February 28 municipal and legislative elections, most of which the PNC perpetrated. As of August 31, the PDDH had received four complaints of violence against journalists by government officials, compared with 10 as of August 2020.

On April 14, the digital newspaper *El Faro* published the preliminary results of the audit the Ministry of Finance had performed on the newspaper over a one-year period. According to the ministry's audit, *El Faro* evaded approximately \$34,000 in taxes in 2017. The newspaper disputed the finding, saying it was an attempt by the government to again harass and threaten the organization, and it vowed to fight the finding in court if needed.

**Censorship or Content Restrictions:** On May 5, the Legislative Assembly reformed the printing law to eliminate tax exemptions on the importation of raw materials, machinery, and equipment for printing materials. The Inter American Press Association described the reform as a “serious attack against democracy”

that would impact the local newspaper industry. Romeo Auerbach, a legislative assembly member from the Grand Alliance for National Unity (GANU) party, justified the reform by arguing that the print media had evaded paying taxes for decades.

On June 14, the First Justice of the Peace of Santa Ana, Santa Ana Department, ordered the local investigative magazine *Factum* to take down its June 12 article about killings in Chalchuapa, Santa Ana Department, because the article included details of the crimes that were declared confidential. The Attorney General's Office supported the court's decision by citing the Special Comprehensive Law for a Life Free of Violence for Women, which prevents the disclosure of the victim's identifying information. *Factum* sourced its article from a witness statement that detailed the names, dates, and modus operandi of 13 killings that occurred in Chalchuapa in 2020 and 2021, directly contradicting the government's claim that the homicides occurred more than a decade ago.

On June 21, Minister Villatoro accused independent media of causing anxiety and deceiving persons and asked citizens to inform themselves through state-owned media instead.

On July 6, the General Directorate of Migration and Foreigners (DGME) denied a work permit to Mexican journalist Daniel Lizarraga of *El Faro* because he allegedly could not prove that he was a journalist. The DGME notified Lizarraga that he had five days to leave the country. On July 9, the DGME also denied the work permit of Roman Gressier, another *El Faro* journalist. According to the DGME, Gressier failed to comply with the provision to remain in the country while his permit was in process.

On July 15, Minister Villatoro stated the PNC would further limit access to crime scenes to prevent the publication of violent images. Villatoro justified the restriction to protect the mental health of children.

**Nongovernmental Impact:** APES noted journalists who reported on gangs and narcotics trafficking were subject to kidnappings, threats, and intimidation. Observers reported that gangs also charged print media companies to distribute in their communities, costing media outlets as much as 20 percent of their revenues.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

## **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, but there were times the government limited these freedoms (see section 7.a.).

### **Freedom of Peaceful Assembly**

On September 5, *La Prensa Grafica* reported that PNC officers using professional equipment took photographs of persons protesting the Constitutional Chamber of the Supreme Court of Justice's ruling allowing for the re-election of the president.

On September 15, thousands of protesters marched against the Supreme Court ruling allowing the re-election of the president, the dismissal of justices older than age 60, bitcoin adoption as legal tender in the country, and other recent actions by the government. Some of the marchers included Legislative Assembly staff and judges. On September 17, 75 employees of the Legislative Assembly were arbitrarily dismissed. The union representing Legislative Assembly staff members said the employees who attended the September 15 protests were among those fired. The dismissed staff members had worked in the communications, radio, and television units as well as the Access to Public Information Office. The Legislative Assembly used police to escort the dismissed employees out of their workplace.

On September 26, some judges claimed that they were transferred to preside in remote courts in retaliation for their participation in the September 15 protest.



## **Freedom of Association**

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights, although many nongovernmental organizations that were critical of the government or whose activities did not align with government policies faced threats or restrictions during the year (see section 5).

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Country**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights, although in many areas the government could not ensure freedom of movement due to criminal gang activity.

**In-country Movement:** The major gangs controlled access to their specific territories. Gang members did not allow persons living in another gang's area to enter their territory, even when travelling via public transportation. Gangs forced persons to present government-issued identification cards (containing their addresses) to determine their residence. If gang members discovered that a person lived in a rival gang's territory, that person risked being killed, beaten, or denied entry to the territory. Bus companies paid extortion fees to operate within gang territories, often paying numerous fees for the different areas in which they operated. The extortion costs were passed on to customers.

On April 12, gang members in Santa Tecla, La Libertad Department, beat a 77-year-old priest who tried to circumvent heavy traffic and accidentally entered a neighborhood with gang presence. When the priest slowed down to ask for directions, gang members surrounded his vehicle and demanded to know why he was in their neighborhood. The gang members then beat the priest and took

photographs of his identity documents.

On August 25, gang members killed a 25-year-old man in Ciudad Delgado, San Salvador Department. The victim was helping change a tire on his friend's vehicle when MS-13 gang members approached them to demand their identity documents, where they lived, and what they were doing in the neighborhood. When the gang members realized the victim and his friend resided in a different neighborhood, the gang members shot the victim, while the friend managed to escape.

### **e. Status and Treatment of Internally Displaced Persons**

The Internal Displacement Monitoring Center (IDMC) estimated there were 114,000 new instances of internal forced displacement due to violence during 2020 and reported the causes included threats, extortion, and assassinations perpetrated by criminal gangs. The IDMC also reported 17,000 additional internally displaced persons (IDPs) due to hurricanes Eta and Iota in 2020.

More than 30 families that lived in Panchimalco, San Salvador Department, abandoned their homes on May 25 after receiving threats from gang members. The families, some of whom had lived in Panchimalco for more than 40 years, feared their lives would be in danger after the gang threatened to hold the village responsible for the disappearance of a gang member.

Comprehensive, up-to-date data on internal displacement was not available, but the NGO Cristosal counted 200 persons displaced between January and June. As of August 31, the PDDH reported 53 cases of forced internal displacement. Beatriz Campos, a PDDH attorney, said 90 percent of forced internal displacement cases were caused by gangs in their community and the other 10 percent due to PNC harassment of youth in high-risk communities.

Although the government passed new IDP legislation in January 2020, authorities had yet to take substantial action to fund or implement the law. The government failed to allocate sufficient funding to the Unit of Attention to Victims of Internal Forced Displacement, the entity tasked with the implementation of the law. According to the Due Process of Law Foundation, implementation of the law was further hindered by the lack of clear implementing regulations and available records of IDPs in the country.

## **f. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and some assistance to refugees, asylum seekers, and other persons of concern, although this was often difficult in gang-controlled neighborhoods.

**Access to Asylum:** The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees, but it has major regulatory and operational gaps. The Commission for the Refugee Status is responsible for refugee status determinations but does not have its own budget.

The legal framework requires persons with international protection needs to file their claim within five days of entering the country; the criteria for case decisions is unclear; and the appeals process is decided by the same government entity that issues the initial decision.

## **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Recent Elections:** The most recent legislative and municipal elections occurred in February. Nuevas Ideas, the party affiliated with President Bukele, won 56 of 84 seats in the Legislative Assembly and 152 of 262 mayorships. The election reports published by the Organization of American States (OAS) and the EU electoral mission noted the election generally met international standards.

Observers noted that political and economic conditions prior to the elections may have been instrumental in swaying public support towards the Nuevas Ideas party, thus creating an unfair advantage for Nuevas Ideas candidates. Beginning in June 2020, the government withheld funding to the municipalities through the Social Development Fund, citing lack of funds due to the pandemic. Municipalities were

not able to pay their employees and their bills and provided only limited services to residents. The lack of funding may have created the impression among voters that the sitting municipal leaders, who all belonged to oppositional political parties, were ineffective. Nuevas Ideas candidates then campaigned to bring about improvements to the political and economic situation within municipalities.

Before the February elections, the government failed to provide campaign finances to all political candidates as required by law, severely limiting the ability of the opposition parties to advertise their candidates. Candidates from the Nuevas Ideas party were not limited by the lack of government campaign financing because they had received campaign funds through private sources. As a result the election advertisements were predominantly from Nuevas Ideas candidates.

**Political Parties and Political Participation:** While the law prohibits public officials from campaigning in elections, the provision was not consistently enforced.

On May 5, the Constitutional Chamber of the Supreme Court of Justice ordered the Legislative Assembly to make the necessary regulatory adjustments to provide suffrage to Salvadorans living abroad and allow all citizens to register and run as candidates for the legislative and municipal elections in 2024.

On September 3, the Constitutional Chamber approved a ruling to allow for the immediate re-election of the president despite the express prohibition on re-election by the constitution. The Constitutional Chamber determined that historical interpretations of the constitutional limits on re-election were erroneous and that sitting presidents may run for re-election if they resign the office six months prior to the end of the presidential term. Critics decried the ruling as an attack on democracy and pointed out that the Constitutional Chamber issuing the ruling was composed of five magistrates appointed by the Legislative Assembly on May 1 in a maneuver that was itself controversial.

**Participation of Women and Members of Minority Groups:** No laws limit participation of women or members of minority groups in the political process, and they did participate. The law requires all registered political parties to have at least 30 percent of their candidates for the Legislative Assembly be women. On May 1,

*El Diario de Hoy* reported a low rate of women's participation in politics, stating that women held 24 of the 84 seats in the Legislative Assembly, two seats fewer than in the previous Legislative Assembly. Women held 30 of the 262 mayoralty offices.

According to the Supreme Electoral Tribunal, 328,215 persons with disabilities registered to vote in the February 28 elections. The tribunal launched a campaign to encourage the political participation of persons with disabilities and added accommodations such as braille ballots.

The February 28 election was the first time in the country's history to include a transgender candidate and an openly gay candidate. Alejandra Menjivar, a transgender woman, ran as a candidate for the Central American Parliament from the FMLN party. Erick Ivan Ortiz, an openly gay man, ran as a candidate for the Legislative Assembly from the Nuestro Tiempo party. Neither candidate won their respective election.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for conviction of corruption by officials. Although the Supreme Court investigated corruption in the executive and judicial branches and referred some cases to the Attorney General's Office for possible criminal indictment, corruption and impunity remained endemic.

Multiple officials in the executive branch were accused of engaging in corrupt acts. In many instances the government either ignored the actions or took steps to actively prevent prosecution of those officials unless the officials were political opponents or were members of previous administrations.

**Corruption:** On August 23, *El Faro* followed up on its September 2020 story accusing the Bukele administration of negotiating with senior gang leaders since 2019 to obtain electoral support and a reduction in homicides prior to this year's legislative and municipal elections. Citing photographs and audio recordings, *El Faro* reported that former attorney general Raul Melara's investigation found evidence that the Bukele administration negotiated with the MS-13 and 18th Street

gangs and that the DGCP removed hard drives and hundreds of logbooks documenting the negotiations four days after the publication of the initial article.

On September 19, *El Faro* reported that the Attorney General's Office under former attorney general Melara found evidence that Bureau of Prisons Director Osiris Luna embezzled \$1.6 million worth of food between September and November 2020 from the Public Health Emergency Program, a government food program assisting families during the pandemic. There was also evidence that Luna then resold these goods to a merchant who was known to sell contraband.

According to media reports, President Bukele dismissed Minister of Justice and Public Security Eduardo Rogelio Rivas Polanco in March due to Rivas Polanco diverting public funds to a private account to finance his presidential candidacy in the 2024 elections.

On May 6, the Legislative Assembly approved the Law for the Use of Products for Medical Treatments in Exceptional Public Health Situations Caused by the COVID-19 Pandemic. The law includes provisions to shield vaccine manufacturers from liability and allows the government to bypass procurement and transparency regulations. According to the NGO Democracy, Transparency, and Justice Foundation, the new law seeks to retroactively protect government officials from misuse of public money for pandemic spending that occurred before the approval of the law.

On June 4, President Bukele announced the termination of the cooperation agreement with the OAS, bringing an end to the International Commission Against Impunity in El Salvador (CICIES). The president claimed the termination was in response to the OAS announcing the hiring of former San Salvador mayor Ernesto Muyschondt as an advisor to the OAS. The president explained that Muyschondt faced criminal proceedings for negotiating with gangs for electoral support and therefore the government could not continue to work with an organization that hired a criminal as an advisor. Analysts and media reported that CICIES was investigating Bukele administration officials and speculated that the president used the Muyschondt issue as a pretense to terminate the CICIES agreement to stymie the investigations into his administration. In July, OAS representatives stated they offered Muyschondt an honorary contract but did not formally hire him and that the

contract was never signed. Head of CICIES Ronalht Ochaeta said CICIES sent 12 cases of possible corruption from five government institutions to the Attorney General's Office on April 7. As of September 13, the Attorney General's Office had not revealed the details of those investigations.

Officials from the Attorney General's Office raided the headquarters of opposition party, the Nationalist Republican Alliance (ARENA) on July 2 and seized assets to recover funds embezzled from a donation by Taiwan made between 2003 and 2004. Attorney General Rodolfo Delgado stated that former president Antonio Saca financed his electoral campaign with \$10 million donated by Taiwan for reconstruction projects following two earthquakes in 2001.

On July 22, the PNC arrested five former government officials on charges of illicit enrichment for having received illegal side payments that exceeded their salaries authorized by law. All five served in the administration of former president Mauricio Funes, who remained under political asylum protection in Nicaragua to evade charges of illicit enrichment. Attorney General Delgado also issued arrest warrants for four more government officials, including former president Salvador Sanchez Ceren, who left the country in December 2020 and became a citizen of Nicaragua on July 30. Funes, Ceren, the five arrested officials, and the other former officials with arrest warrants all belonged to opposition party FMLN.

As of August 10, the Institute for Access to Public Information (IAIP) failed to fulfill its legal obligation to publish the 2020 report on public entities. The report, approved in November 2020, evaluated the transparency performance of 98 government institutions and 60 municipalities and was expected to cover information related to purchases, contracts, or tenders made during the COVID-19 pandemic. After President Bukele appointed three commissioners to the IAIP, the institute decided in December 2020 to postpone publication of the report. As of August 20, the Ethics Tribunal reported that it had opened 170 administrative proceedings against 240 public officials. The Ethics Tribunal imposed sanctions on 19 cases and referred 18 cases to the Attorney General's Office.

On September 8, the Legislative Assembly approved reforms to the criminal procedure code to remove the statute of limitations and apply the law retroactively to crimes of corruption.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups critical of the Bukele administration and Nuevas Ideas party were subjects of government investigations and surveillance. Government officials were not cooperative and responsive to their views.

On June 2, President Bukele gave a speech announcing the beginning of “the battle of the people against the ideological apparatus,” referring to civil society organizations and media as an “internal enemy” that controls the people’s way of thinking.

On July 30, the president summoned representatives from civil society organizations for a four-hour closed-door meeting at the Presidential House. The civil society organizations reported that the president agreed to reduce confrontational speeches attacking the press and civil society and made a commitment to not persecute journalists or others critical of the government. Observers noted the president has not kept his promise.

On November 12, the Ministry of Finance presented to the Attorney General’s Office evidence of alleged money laundering and tax evasion by a nongovernmental organization dedicated to economic and social development. The ministry claimed their audit showed the organization moved \$50 million to a tax haven on a Caribbean island. Although the press announcement did not include the name of the organization, representatives of the Salvadoran Foundation for Economic and Social Development later confirmed they were the subject of the audit. They said that they were innocent of the accusations and claimed the organization and other NGOs who were critical of the actions of the government had been persecuted.

In November several members of NGOs, civil society organizations and journalists received an alert on their cellphones from Apple saying they may have been the target of state-sponsored espionage. Among the recipients of the alert were members of the Institute of Human Rights of the Central American University,



Cristosal, and the Democracy, Transparency and Justice Foundation as well as journalists from *El Faro*, *La Prensa Grafica*, *El Diario de Hoy*, *Disruptiva Magazine*, *Gato Encerrado* magazine, *Diario El Mundo*, and independent journalists.

**Government Human Rights Bodies:** The principal human rights investigative and monitoring body is the autonomous PDDH, whose ombudsman is nominated by the Legislative Assembly for a three-year term. The PDDH regularly issued advisory opinions, reports, and press releases on prominent human rights cases. The PDDH ombudsman, Jose Apolonio Tobar, requested access to monitor conditions in the prisons but had not been allowed to enter the prisons since the beginning of the pandemic in March 2020. In addition the budget approved by the Legislative Assembly for the PDDH in the coming year was again significantly cut.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape of men or women, and the law's definition of rape may apply to spousal rape, at the judge's discretion. The law requires the Attorney General's Office to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to withdraw the criminal charge. The penalty for conviction of rape is generally imprisonment for six to 10 years. Laws against rape were not effectively enforced.

The law prohibits domestic violence and generally provides for sentences for conviction ranging from one to three years in prison, although some forms of domestic violence carry higher penalties. The law also permits restraining orders against offenders. Laws against domestic violence remained poorly enforced, and violence against women, including domestic violence, remained a widespread and serious problem.

According to a newly published survey, the first of its kind carried out by the General Directorate of Statistics and Census (DIGESTYC), six of 10 women older than age 15 suffered some type of sexual violence in their life. The data was

collected in 2019 but not disclosed until March due to difficulties caused by the COVID-19 pandemic.) Sixty-three percent of women ages 15 to 19 and 72 percent of women ages 30 to 34 reported having suffered sexual violence.

Between January and April, the Attorney General's Office received 441 complaints of domestic violence, which encompasses domestic violence toward any member of the family, including children. Observers noted this number likely did not capture most domestic violence cases, particularly those perpetrated against women. On November 3, several women's organizations discussed in a forum the 2019 National Data System on Violence against Women of the Ministry of Justice and DIGESTYC, which showed that 68 percent of women older than 15 years suffered sexual violence, but only 5.3 percent sought help. The organizations attributed this low reporting number to women's distrust of state institutions.

On January 15, the Specialized Sentencing Court for a Life Free of Violence for Women sentenced David Eliseo Diaz Ramirez to 35 years in prison for femicide. Diaz Ramirez and several gang members killed a woman in Tutunichapa, San Salvador Department, in 2019 because she refused to have sex with them.

On May 8, the PNC found more than a dozen bodies, most of them girls and women, buried in the house of former police officer Hugo Ernesto Chavez Osorio, who was arrested on May 6 for the murders of two women. According to the PNC investigation, Chavez Osorio raped his victims and then killed them before burying their bodies in his house.

The Organization of Salvadoran Women for Peace (ORMUSA) reported that the Ministry of Health registered 6,938 pregnant girls or adolescents in the first six months of the year, including 156 girls ages 10 and 11 who were raped and became pregnant. During the first half of the year, the number of pregnancies among girls between the ages of 10-14 increased 9 percent as compared to the same period in 2020. ORMUSA attributed this to several causes, including a lack of government policy for preventing pregnancies in girls and adolescents, a lack of comprehensive sexual and reproductive health education, and an increase in sexual violence. According to the Feminist Collective, families did not report the rapes to the PNC and the Attorney General's Office because the rapist was commonly a relative of the victim and the families considered it an embarrassment.

**Sexual Harassment:** The law prohibits sexual harassment and establishes sentences if convicted of five to eight years' imprisonment. Courts also may impose additional fines in cases in which the perpetrator held a position of trust or authority over the victim. The law mandates that employers take measures against sexual harassment and create and implement preventive programs. The government, however, did not enforce sexual harassment laws effectively.

On March 11, the Second Sentencing Court sentenced Jose Misael Maldonado Palacios, a corporal of the Third Infantry Brigade of the San Miguel Armed Forces, to six years in prison for improper sexual conduct against two employees. The Specialized Attention Unit for Crimes related to Children, Adolescents, and Women stated that in March 2020, Maldonado Palacios offered to pay two women in exchange for sexual acts inside the barracks.

On March 19, the Attorney General's Office announced the arrest of Salvador Alcides Villegas, general manager of the Council of Mayors of Usulután. Villegas was formally accused of sexual harassment of three women, including touching and improper sexual expressions. The victims told the authorities that Villegas touched their legs, breasts, and buttocks.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The law bans abortion. Civil society advocates expressed concern that the ban led to the wrongful incarceration of women who suffered severe pregnancy complications, including miscarriages.

In March the Inter-American Court of Human Rights concluded that the government violated the right to personal freedom, life, health, and justice of Manuela, a woman sentenced to 30 years in prison in 2008 for the aggravated homicide of her unborn child. Manuela died from cancer in 2010 after not receiving timely and appropriate treatment in prison.

On June 2, the Citizen Group for the Decriminalization of Abortion in El Salvador reported that at least 17 women were in prison on charges of having an abortion after suffering out-of-hospital obstetric emergencies. One of the women, Sara Rogel, received early parole, and the Second Court of Penitentiary Surveillance in

Cojutepeque, Cuscatlan Department, released her from prison on June 7. Rogel suffered an obstetric emergency in 2012 when she slipped while washing clothes and was sentenced to 30 years in prison for aggravated homicide for allegedly having an abortion. The court commuted Rogel's sentence to 10 years in January, and Rogel received early parole after the Attorney General's Office declined to appeal the decision.

The government-run Institute for Women's Development implements the National Care System which aims to improve the care, protection, and access to justice for victims of sexual and other types of violence. The specialized comprehensive care includes medical care, counseling, family planning, medical examinations, and treatment of sexually transmitted infections in victims of sexual violence and services were generally available throughout the country.

ORMUSA reported that the closure of Ciudad Mujer health centers throughout the country since June 2019, shortly after President Bukele became president, had created a barrier to women and lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons receiving timely health services. Following the closure of the centers, women and LGBTQI+ persons were subjected to long delays to see doctors, and the doctors were not specialized in the field of reproductive health and health issues specific to the LGBTQI+ community, as were the doctors in the Ciudad Mujer health centers.

**Discrimination:** The constitution grants women and men the same legal status in family, religious, personal status, and nationality laws. There were no reports of discrimination in marriage, divorce, child custody, education, and judicial processes. The law also provides equal rights for men and women in the areas of property rights, inheritance, employment, access to credit, business ownership, and housing. The law establishes sentences of one to three years in prison for public officials convicted of denying a person's civil rights based on gender and six months to two years for employers convicted of discriminating against women in the workplace, but employees generally did not report such violations due to fear of employer reprisals.

## **Systemic Racial or Ethnic Violence and Discrimination**

Systemic racial discrimination existed towards those in the Afro-descendent community and indigenous groups. There are several laws to protect members of racial or ethnic minorities or groups from violence and discrimination. The law provides for individual and collective rights of indigenous peoples to practice ethnic minority traditions, participate in decision-making on issues that affect their rights, and for protection against discrimination. In 2018 the government implemented the *Public Policy for Indigenous Communities in El Salvador*, which focused on the inclusion of ethnic groups in all social and economic aspects. The government did not enforce the laws effectively, and the administration took no further action to implement the 2018 policy. The government did not recognize indigenous persons of the Afro-descendent community in the last population census in 2007.

## **Indigenous Peoples**

The constitution recognizes indigenous peoples and states that the government will adopt policies to maintain and develop the ethnic and cultural identity, world view, values, and spirituality of indigenous peoples. The law provides for the preservation of languages and archeological sites. The municipalities of Cacaopera and Yucuaiquin, in the eastern part of the country, have special laws to recognize their indigenous cultural heritage.

The law does not include the right to be consulted regarding development and other projects envisioned on indigenous land, nor does it provide indigenous peoples the right to share in revenue from exploitation of natural resources on historically indigenous lands. The government did not demarcate any lands as belonging to indigenous communities. Because few indigenous persons possessed title to land, opportunities for bank loans and other forms of credit remained limited.

According to the most recent census, from 2007, there were 60 indigenous groups, making up 0.4 percent of citizens, mainly from the Nahua-Pipl, Lencas, Cacaopera (Kakwira), and Maya Chorti groups. According to the Institute of the Faculty of Sciences and Humanities of the University of El Salvador, political parties did not

consider proposals in favor of indigenous peoples as part of their electoral platforms.

On January 10, Nahuat language teacher Hector Martinez reported that the indigenous Nahuat language was only spoken in four municipalities: Santo Domingo de Guzman, Cuisnahuat, Nahuizalco, and Tacbua. The 2007 census showed there were only 197 Nahuat speakers, but Martinez said the number was drastically fewer because the Nahuat speakers were all elderly and living in extreme poverty. According to the culture law, Spanish is the official language of the country, but “the state is obliged to promote and conserve the rescue, teaching, and respect of ancestral languages throughout the territory.”

On October 17, members of indigenous groups marched against the current administration, demanding visibility of their complaints a stop to the destruction of their sacred places and ceremonial sites such as Tacushcalco and Nexapan archeological sites and the Sensunapan River.

Members of indigenous groups said they do not feel represented by the government or any public official. They said that the government has not responded to their various requests, which included the return of indigenous lands taken by the government, respect for ancestral form of governance, and more access to health care, education, social welfare, and employment.

Indigenous communities reported they faced racial discrimination and economic disadvantage. On November 11, the EU, International Organization for Migration, and the Office of the UN High Commissioner for Refugees reported that 27 percent of the indigenous population planned to migrate out of the country. According to the report, the main cause of migration intention was a lack of employment options.

## **Children**

**Birth Registration:** Children derive citizenship by birth within the country and from their parents. The law requires parents to register a child within 15 days of birth or pay a small fine. Failure to register may result in denial of school enrollment.

**Child Abuse:** Child abuse remained a serious and widespread problem. The law gives children the right to petition the government without parental consent. Penalties for conviction of breaking the law include losing custody of the child and three to 26 years' imprisonment, depending on the nature of the abuse.

**Child, Early, and Forced Marriage:** The legal minimum age for marriage is 18. The law bans child marriage to prevent child abusers from avoiding imprisonment by marrying their underage victims, and the law likewise bans exceptions to child marriage in cases where the minor is pregnant.

**Sexual Exploitation of Children:** Child sex trafficking is prohibited by law. Prison sentences for convicted traffickers stipulate imprisonment from 16 to 20 years.

The minimum age for consensual sex is 18. The law classifies statutory rape as sexual relations with anyone younger than age 18 and includes penalties for conviction of four to 13 years' imprisonment.

The law prohibits paying anyone younger than age 18 for sexual services. The law prohibits participating in, facilitating, or purchasing materials containing child pornography and provides for prison sentences of up to 16 years for conviction of violations. Despite these provisions, sexual exploitation of children remained a problem.

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

The Jewish community totaled approximately 150 persons. There were no reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at

<https://www.state.gov/trafficking-in-persons-report/>.

## **Persons with Disabilities**

Persons with disabilities do not have access to education, health services, public buildings, or transportation on an equal basis with others.

The percentage of children with disabilities enrolled in the public school system is very low. The Ministry of Education's last reported statistics in 2018 indicated only 1,158 students with disabilities were enrolled in high schools across the country, representing fewer than 0.01 percent of all secondary students. Disability advocates said that this low percentage was due to the lack of ramps and other accommodations for students with disabilities. The government provided very little support for schools to include accommodations, and there were few teachers trained to teach students with disabilities.

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, but the government did not enforce these laws. The National Council for Comprehensive Attention to Persons with Disability (CONAIPD), composed of representatives from multiple government entities, is the governmental agency responsible for protecting disability rights, but it lacked enforcement power. According to a CONAIPD representative, the government did not effectively enforce legal requirements for access to buildings, information, and communications for persons with disabilities. Few access ramps or provisions for the mobility of persons with disabilities existed.

CONAIPD stated there was no mechanism to verify compliance with the law requiring businesses and nongovernment agencies to hire one person with disabilities for every 25 hires. CONAIPD reported employers frequently fired persons who acquired disabilities and would not consider persons with disabilities for work for which they qualified. In addition some academic institutions did not accept children with disabilities.

No formal system existed for filing with the government a discrimination complaint involving a disability.

On May 24, Elba Chacon, coordinator of the human rights program at the Network



of Survivors and Persons with Disabilities Foundation, asked the government to update the statistics on persons with disabilities. CONAIPD last carried out the National Survey of Persons with Disabilities in 2015. Chacon said the government did not have updated statistics on access to government services and resources for persons with disabilities.

Organizations of persons with disabilities protested outside the Ministry of Finance on August 30 to demand the government comply with the Special Law on the Inclusion of Persons with Disabilities that was implemented in January. The law includes plans to create a new CONAIPD with greater autonomy to hear complaints and impose sanctions for noncompliance with the law; however, the ministry did not allocate a budget to carry out the law.

## **HIV and AIDS Social Stigma**

Although the law prohibits discrimination based on HIV/AIDS status, Entre Amigos, an NGO that works on issues concerning LGBTQI+ persons, reported HIV-related discrimination was widespread. As of August 31, the PDDH reported three alleged cases of discrimination against persons with HIV or AIDS.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

Police and gangs continue to commit acts of violence against LGBTQI+ individuals. These actions were tolerated by the government, and perpetrators were rarely prosecuted.

On February 20, the Attorney General's Office announced three MS-13 gang members were convicted of homicide for the 2017 murders of two transgender women in San Luis Talpa, La Paz Department, and each was sentenced to more than 60 years in prison. The Prosecutor's Office handled the case as a quarrel between gangs and not as a crime related to gender identity of the victims, and as a result the Prosecutor's Office did not categorize the homicides as hate crimes.

On April 25, Zashy del Cid, a transgender woman, died in San Miguel after she was shot in the back while walking down the street. As of June 5, police had made no arrests. A report by Association Communicating and Training Trans Women in

El Salvador (COMCAVIS Trans) found that gangs were responsible for nearly two-thirds of the violence against the LGBTQI+ community.

LGBTQI+ activists reported to the Attorney General's Office that they received death threats on social media. Police generally failed to act on these reports. NGOs reported that public officials, including police, engaged in violence and discrimination against LGBTQI+ persons. Persons from the LGBTQI+ community stated the PNC and officials from the Attorney General's Office harassed transgender and gay individuals who reported cases of violence against LGBTQI+ persons, including by conducting unnecessary and invasive strip searches.

In 2020 the Bukele administration eliminated five presidential secretariats created under the previous administration, including the Secretariat of Inclusion. The responsibilities of the secretariat moved to the Gender and Diversity Office in the Ministry of Cultural Affairs, which has no authority to influence policy and insufficient support to implement programs. It did not provide any significant public services.

The law prohibits discrimination based on sexual orientation or gender identity, which applies to discrimination in housing, employment, nationality, and access to government services. Gender identity and sexual orientation are included in the law covering hate crimes, along with race and political affiliation. Despite the existence of these laws, the government has not taken enforcement actions against violators.

As of August 31, the PDDH reported seven alleged cases of discrimination against LGBTQI+ persons. The PDDH confirmed on February 14 that they opened an investigation into the possible discrimination against an army officer who complained of being discharged due to his sexual orientation. On January 31, the Lieutenant Cristian Adalberto Castro Grijalva was discharged from the army for "public or private conduct that is notoriously immoral or contrary to good customs or public order." Castro Grijalva said his sexual orientation was not a secret and that it never affected his performance.

Supreme Electoral Tribunal guidelines state individuals may not be denied the

right to vote because the photograph on their identification card does not match their physical appearance. Nonetheless, media documented cases of transgender persons who faced harassment while voting in the municipal elections during the year because their name and photograph on their national identification document did not match their expression of gender identity.

COMCAVIS Trans reported that the LGBTQI+ community faced discrimination when obtaining health care. Lesbian women said their gynecologists only focused on HIV or other sexually transmitted diseases when they learned that their patients were lesbian instead of spending time treating routine gynecological issues. According to COMCAVIS Trans, transgender persons also faced discrimination from medical staff when they insisted on calling patients by their legal name instead of their chosen names.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of most workers to form and join independent unions, to strike, and to bargain collectively. The law also prohibits antiunion discrimination, although it does not require reinstatement of workers fired for union activity. Military personnel, national police, judges, and high-level public officers may not form or join unions. The labor code does not cover public-sector workers and municipal workers, whose wages and terms of employment are regulated by the 1961 civil service law. Only citizens may serve on unions' executive committees. The labor code also bars individuals from holding membership in more than one trade union.

Unions must meet complex requirements to register, including having a minimum membership of 35 individuals. If the Ministry of Labor denies registration, the law prohibits any attempt to organize for up to six months following the denial. Collective bargaining is obligatory only if the union represents a majority of workers.

Unions experienced lengthy delays by the Ministry of Labor in processing their credentials, some facing up to eight months when it previously took a maximum of

two months. Without credentials, unions cannot participate in collective bargaining. According to media reports, the Ministry of Labor rewarded like-minded unions with expedited credentials and punished unions critical of the government with delays in their certification. Minister of Labor Rolando Castro stated the delays were due to incorrect or incomplete information in their paperwork.

The law contains cumbersome and complex procedures for conducting a legal strike. The law does not recognize the right to strike for public and municipal employees or for workers in essential services. The law does not specify which services meet this definition, and courts therefore applied this provision on a case-by-case basis. The law requires that 30 percent of all workers in an enterprise must support a strike for it to be legal and that 51 percent must support the strike before all workers are bound by the decision to strike. Unions may strike only to obtain or modify a collective bargaining agreement or to protect the common professional interests of the workers. Unions must engage in negotiation, mediation, and arbitration processes before striking, although many unions often skipped or expedited these steps. The law prohibits workers from appealing a government decision declaring a strike illegal.

In lieu of requiring employers to reinstate illegally dismissed workers, the law requires employers to pay those workers the equivalent of 30 days of their basic salary for each year of service. The law specifies 30 reasons for which an employer may terminate a worker's contract without triggering any additional responsibilities, including consistent negligence, leaking private company information, or committing immoral acts while on duty. An employer may legally suspend workers, including due to an economic downturn or market conditions.

The government did not effectively enforce the laws on freedom of association and the right to collective bargaining, and penalties were not commensurate with those for other laws involving denials of civil rights, such as discrimination. Judicial procedures were subject to lengthy delays and appeals. According to union representatives, the government inconsistently enforced labor rights for a wide range of workers, and enforcement was dependent upon the political affiliations of their labor unions. Unions reported that their members frequently faced violence or threats of violence and that viable legal recourse against such violence was

unavailable. Gang activity made it difficult for workers, who continued to be harassed and exposed to violence, to exercise their union activities freely.

Most unions functioned independently from the government and political parties, although many generally were aligned with political parties of Nuevas Ideas, GANA, ARENA, and the FMLN. Workers at times engaged in strikes regardless of whether the strikes met legal requirements.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The government generally did not effectively enforce such laws. Penalties were not commensurate with those for other analogous serious crimes, such as kidnapping. The Ministry of Labor did not report on forced labor; however, it increased investigations. Children and adults were exposed to forced begging, domestic work, agricultural labor, construction, textile industry, and street work. Adults from neighboring countries were forced to work in construction, domestic work, and other informal sector jobs, sometimes under threat of physical violence. Gangs subjected children to forced labor in illicit activities, including selling or transporting drugs and committing homicides (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits the employment of children younger than age 14 but does not prohibit all the worst forms of child labor. The law allows children between ages 14 and 18 to engage in light work if it does not damage the child's health or development or interfere with compulsory education. The law prohibits children younger than 16 from working more than six hours per day and 34 hours per week; those younger than 18 are prohibited from working at night or in hazardous occupations. The Ministry of Labor maintained a list of types of hazardous work, which included repairing heavy machinery, mining, handling weapons, fishing and harvesting mollusks, and working at heights above five feet while doing construction, erecting antennas, or working on billboards. Children ages 16 and

older may engage in light work on coffee and sugar plantations and in the fishing industry if it does not harm their health or interfere with their education.

The Ministry of Labor is responsible for enforcing child labor laws but did not effectively enforce the law. Penalties were not commensurate with those for other analogous serious crimes, such as kidnapping. Labor inspectors focused almost exclusively on the formal sector. According to the ministry, from January through August 2020, officials conducted 220 child labor inspections in the formal sector and found no minors working. By comparison, in 2017, according to the ministry, there were 140,700 children and adolescents working, of whom 91,257 were employed in “dangerous work” in the informal sector. No information on any investigations or prosecutions by the government was available. The ministry did not effectively enforce child labor laws in the informal sector, which represented almost 75 percent of the economy.

There were reports of children younger than age 16 engaging in the worst forms of child labor, including in coffee cultivation, fishing, shellfish collection, and fireworks production. Children were subjected to other worst forms of child labor, including commercial sexual exploitation (see section 6, Children) and recruitment into illegal gangs to perform illicit activities in the arms and narcotics trades, including committing homicide. Children were engaged in child labor, including domestic work, construction, work in textiles, the production of cereal grains and baked goods, cattle raising, and sales. Orphans and children from poor families frequently worked as street vendors and general laborers in small businesses despite the presence of law enforcement officials.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

#### **d. Discrimination with Respect to Employment and Occupation**

The constitution, labor laws, and state regulations prohibit discrimination based on age, race, color, sex, religion, political opinion, national origin (except in cases determined to protect local workers), social origin, gender, disability, language, or HIV-positive status. The government did not effectively enforce those laws and regulations, and penalties were not commensurate to laws related to civil rights,

such as election interference. Sexual orientation and gender identity are not protected in the constitution or labor law, although the PDDH and the Ministry of Labor actively sought to protect workers against discrimination on those grounds.

Discrimination in employment and occupation occurred with respect to age, gender, disability, and sexual orientation or gender identity (see sections 6 and 7.e.). According to the Ministry of Labor, migrant workers have the same rights as citizens, but the ministry did not effectively protect their rights.

On January 27, the Legislative Assembly approved the Special Law for the Protection of the Elderly, which prohibits establishing an age limit for job applications, using age as a cause to dismiss an employee, or forcing an employee to retire due to age.

On August 31, the Legislative Assembly approved reforms to the Law of the Judicial Career, establishing that all judges older than 60 years or with more than 30 years of service must be removed from their position. The law affected 156 judges across the country but excluded the Supreme Court of Justice, which may grant exceptions to the judges of their choosing (see section 1.e.).

Although the law provides for equal pay between men and women, women did not receive equal pay. In July the United Nations reported that women made 18 percent less than men in the same jobs. The report also stated that 53 percent of the population in the country were women and that one-third of households were supported only by the income of women.

On April 19, a Mr. Wings restaurant in Soyapango, San Salvador Department, fired an employee for being pregnant. On April 20, the Ministry of Labor confirmed that the employee had been reinstated after an intervention by a team of inspectors from the ministry. The ministry also warned the restaurant against seeking any retaliation against the employee.

## **e. Acceptable Conditions of Work**

The government sets the minimum wage, which varies by sector. All the wage rates were above poverty income levels.

**Wage and Hour Laws:** The Ministry of Labor is responsible for enforcement of wage and hour laws. The law sets a maximum normal workweek of 44 hours – limited to no more than six days and to no more than eight hours per day – but allows overtime, which is to be paid at double the usual hourly wage. The law mandates that full-time employees receive pay for an eight-hour day of rest in addition to the 44-hour normal workweek. The law provides that employers must pay double time for work on designated annual holidays, a Christmas bonus based on the time of service of the employee, and 15 days of paid annual leave. The law prohibits compulsory overtime for all workers other than domestic employees, such as maids and gardeners, who are obligated to work on holidays if their employer makes this request. In such cases they are entitled to double pay. The government did not adequately enforce these laws, and penalties were not commensurate with those for similar crimes, such as fraud.

**Occupational Safety and Health:** The Ministry of Labor is responsible for setting and enforcing occupational safety and health (OSH) standards, and the law establishes a tripartite committee to review these. The law requires employers to take steps to meet OSH requirements in the workplace, including providing proper equipment and training and a violence-free environment. Employers who violate labor laws may be penalized, but penalties were not commensurate with those for other similar crimes; some companies reportedly found it more cost effective to pay the fines than to comply with the law. The law promotes occupational safety awareness, training, and worker participation in OSH matters. While the laws were appropriate for the main industries and the government trained its inspectors on these standards, it did not effectively enforce them.

The number of inspectors was insufficient to deter violations. Inspectors did not have the authority to initiate unannounced inspections or sanctions. Inspections were scheduled under a calendar set by the Inspections Directorate or to verify a complaint, and labor inspectors did not notify the company prior to their arrival. Allegations of corruption among labor inspectors continued. The Labor Ministry received complaints regarding failure to pay overtime, minimum wage violations, unpaid salaries, and cases of employers illegally withholding benefits (including social security and pension funds) from workers.

Reports of overtime and wage violations existed in several sectors. According to



the Labor Ministry, employers in the agricultural sector routinely violated the laws requiring annual bonuses, vacation days, or rest days. Women in domestic service faced exploitation, mistreatment, verbal abuse, threats, sexual harassment, and generally poor work conditions. Workers in the textile industry reportedly experienced violations of wage, hour, and safety laws. According to the Women Transforming Association, certain apparel companies violated women's rights through occupational-health violations and unpaid overtime. The government was ineffective in pursuing such violations.

In some cases the country's high crime rate undermined acceptable conditions of work as well as workers' psychological and physical health. Some workers, such as bus drivers, bill collectors, messengers, and teachers in high-risk areas, reported being subject to extortion and death threats by gang members. The PNC received 1,131 complaints of extortion from January to August. In 2020 extortion victims totaled 1,345 for the entire year, in which five months were mandatory national lockdown due to the COVID-19 pandemic. As of August the average of extortion complaints was five per day, while in all of 2020 the total was four per day.

On January 11, *Diario El Mundo* reported that coffee farmers complained that gangs operating near the farms did not allow cutters from outside the neighborhood to enter the farms to work unless they paid an extortion fee.

After the killing of a bus employee on July 2, there was a seven-day work stoppage of public buses on Route 151 in San Jose Villanueva, La Libertad Department, forcing approximately 5,000 persons who used the 24 buses on the route to walk or find more costly detours. Although the PNC did not present a motive for the killing, residents claimed that gang members shot and killed the man for not paying the extortion fee.

Workers may legally remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities did not effectively enforce this law.

**Informal Sector:** The informal sector represented almost 75 percent of the economy. Workers in the informal sector were not protected by labor laws and were not inspected by the Ministry of Labor. The Ministry of Labor did not

effectively enforce child labor laws in the informal sector.