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El Salvador

Country:

El Salvador

Year:

2018

Freedom Status:

Free

Political Rights:

2

Civil Liberties:

3

Aggregate Score:

70

Freedom Rating:

2.5

Overview:

Violence linked to criminal gangs remains a grave problem, and concerns remain about the influence such groups have in politics. Authorities have pursued a harsh, militarized response to the country's gangs. Elections in El Salvador are generally credible and free. The country has a lively press and civil society sector, though journalists risk harassment and violence in connection with work related to gang activity or corruption.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 34 / 40

A. ELECTORAL PROCESS: 11 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

El Salvador's president is directly elected for a five-year term. Salvador Sánchez Cerén, the candidate of the Farabundo Martí National Liberation Front (FMLN), won the 2014 presidential election. The runner-up, Norman Quijano of the Nationalist Republican

Alliance (ARENA), accused the Supreme Electoral Tribunal (TSE) of fraud, but domestic and international observers considered the elections competitive and credible.

A2. Were the current national legislative representatives elected through free and fair elections? 3 / 4

The 84-member, unicameral Legislative Assembly is elected for three years. In the 2015 elections, ARENA won 35 seats—32 on its own and 3 in coalition with the National Coalition Party (PCN). The FMLN won 31 seats, and the rest went to smaller groupings. Turnout was 48 percent. Some vote buying was alleged in rural areas. The Organization of American States (OAS) observation mission declared the election broadly transparent and free, but noted that the TSE had difficulties in the counting and transmission of results. San Salvadoran candidates disputed their results, prompting the Constitutional Chamber of the Supreme Court to call for an unprecedented recount that did not affect the results, but delayed the seating of 24 deputies.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 4 / 4

The country's electoral framework has undergone a number of changes in recent years, at times contributing to inefficiencies and confusion surrounding electoral processes. While the TSE has worked to implement reforms and clarify processes ahead of the 2018 elections, some uncertainties persist. Still pending is a complete update of the voter rolls by the TSE, a procedure the OAS and other organizations have repeatedly recommended. Political parties have expressed reservations about the capabilities of the company the TSE has contracted to process and transmit votes in the 2018 elections. There have also been concerns about whether the TSE can effectively implement a new program that calls upon citizens, rather than partisan representatives, to oversee vote counting.

In 2016, the TSE fined five political parties including ARENA and the FMLN for failing to disclose the identities of donors as required by law. A subsequent Constitutional Chamber ruling mandated that parties that fail to comply with disclosure rules by November 2017 will not receive public financing in future elections, or be able to enter candidates in the 2018 polls. Most parties complied with the rules, and in November 2017, the TSE consequently permitted the registration of those parties' candidates.

B. POLITICAL PLURALISM AND PARTICIPATION: 14 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 4 / 4

Salvadorans are free to organize in different political parties or organizations. While two parties, FMLN and ARENA, have dominated the country's system for the past few decades, new parties have emerged and are able to participate and compete in political processes.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4

Opposition parties have the ability to increase support and gain power through elections. Historically, executive elections are closely contested between the two main parties, but in legislative elections, smaller parties stand to gain power.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 3 / 4

There have been reports of political parties paying criminal groups to deliver the votes of citizens living in areas under the groups' control. Party leaders reportedly engage in negotiations with criminal leaders in order to secure permission for their party to operate in gang-controlled areas. Salvadorans also continue to express concerns that foreign governments and multinational corporations exert influence over local and national government officials.

Since the transition to democracy, the military has been an apolitical institution.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4

Ethnic, religious, and gender groups, and LGBT people, have full political and electoral opportunities, but are underrepresented in the legislature and in high-level government positions. A 2013 statute requires that 30 percent of legislative and municipal candidates be women, and 32 percent of seats in the Legislative Assembly were held by women following the 2015 elections.

C. FUNCTIONING OF GOVERNMENT: 9 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4

The freely elected government is generally able to determine policies. However, there are concerns that international actors and illicit organizations might unduly influence policy decisions, including through unreported contributions to political parties. However, in November 2017, some political parties, including ARENA and the FMLN, complied with financial transparency rules, and the information was published on the TSE website.

The government lacks authority over some areas that are controlled by criminal groups.

C2. Are safeguards against official corruption strong and effective? 3 / 4

The office of the attorney general, the Probity Section of the Supreme Court, and other institutions have continued to pursue an active agenda against official corruption. High-level officials and former officials have been prosecuted on corruption charges. Former president Mauricio Funes was convicted in absentia on charges of illicit enrichment in November 2017, though after the case against him opened he had fled to Nicaragua, where he was granted asylum. Former president Antonio Saca faces similar charges and was in detention at year's end, as his case moved forward.

However, those pursuing corruption cases continue to report pressure from outside interest groups, and are hampered by budget restrictions and other obstruction. In October 2017, a Supreme Court magistrate said excessive information requests lodged with it were designed to hamper the functions of the Probity Section and impede corruption investigations.

In July 2017, the legislature approved reforms to eminent domain laws that various actors, including the attorney general and the U.S. Ambassador to El Salvador, criticized for making it more difficult to seize property and assets of corrupt government officials, drug traffickers, and gang members. The Constitutional Chamber suspended the reforms in August, pending the decision of a current case that argues it is unconstitutional.

C3. Does the government operate with openness and transparency? 3 / 4

There have been advances in the implementation of the Access to Public Information Law, but challenges remain, including delays in responding to information requests and the denial of requests on dubious grounds, or for reasons not sufficiently explained. In October 2017, the Constitutional Chamber added additional limits to the law when ruling on a case involving the travel expenses of former president Funes. The Chamber ruled that the current government does not have to disclose information related to incidents that took place during previous administrations, because it would not have sufficient information regarding those events.

However, in 2017, the government took some steps toward better ensuring the transparency regarding the funding of public works projects.

CIVIL LIBERTIES: 36 / 60

D. FREEDOM OF EXPRESSION AND BELIEF: 12 / 16

D1. Are there free and independent media? 2 / 4

The Constitution provides for freedom of the press. In practice, the media scene is robust, but reporters face significant challenges. Harassment and acts of violence following coverage of corruption and gang violence have led reporters to engage in self-censorship. In August 2017, journalists from the digital news outlets *El Faro* and *Revista Factum* faced harassment and threats on social media in apparent response to an article about corruption and violence within a state security unit. Government officials have also adopted hostile rhetoric toward the media. During an April 2017 public presentation where President Cerén was also in attendance, the mayor of Villa de Panchimalco declared that the media “throws feces” at the public with their reporting.

Most of the country depends on privately owned television and radio networks for news, and ownership in the broadcast sector is highly concentrated. Access to the internet is unrestricted. Online outlets like *El Faro* and *Revista Factum* are critical sources of independent reporting.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4

The government does not encroach upon religious freedom. However, religious leaders working with former gang members or critical of the government have faced harassment.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 3 / 4

Academic freedom is respected and the educational system is generally free from extensive political indoctrination. However, gang-related violence continues to present a challenge to the education system. As of mid-2017, 6 teachers and 16 students had been murdered, according to the Union of Public Education Teachers of El Salvador, with the killings generally thought to have been committed by criminal groups.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4

While private discussion is generally free, the prevalence of gang activity requires many Salvadorans to curtail discussion of gang-related topics outside of their homes.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 8 / 12

E1. Is there freedom of assembly? 3 / 4

Freedoms of assembly and association are generally upheld, and public protests and gatherings are permitted. However, due to the prevalence of violence in El Salvador, the safety of participants is impossible to guarantee.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 3 / 4

Nongovernmental organizations (NGOs) operate freely, although those involved with human rights– and governance-related topics sometimes face threats and extortion attempts from criminal groups. Impunity for such attacks, as well as occasional pressure on NGOs by police, has prompted some observers to question the government's commitment to the protection of human rights. Several NGOs and associations have reported discovering microphones or other listening devices on their premises in recent years, including the National Association of Private Companies (ANEP), the Salvadoran Foundation for Economic and Social Development (FUSADES), and the National Development Foundation (FUNDE).

Despite these difficulties, NGOs play an important role in society and can influence policy. In March 2017, the government passed a law prohibiting metal mining across the country in response to the mobilization of civil society actors fighting severe water pollution linked with the industry.

E3. Is there freedom for trade unions and similar professional or labor organizations? 2 / 4

Labor unions have long faced obstacles in a legal environment that has traditionally favored business interests, including by mandating only light penalties for employers who interfere with strikes. The law prohibits strikes in sectors deemed essential, but is vague

about the type of work falling within this designation. Over 1,000 postal workers went on strike in November 2017 to protest harassment and corruption by the postal leadership. The strike was declared illegal by a labor court three days later on grounds that it was preventing the delivery of essential medicine sent from the Salvadoran Social Security Institute (ISSS).

F. RULE OF LAW: 8 / 16

F1. Is there an independent judiciary? 3 / 4

The country's judicial system is hampered by corruption and obstructionism. However, civil society groups have pressed for reforms, and several were implemented in 2017. In January, the Legislative Assembly passed a measure requiring the National Council of the Judiciary (CNJ) to make public their short lists of candidates for the Supreme Court. And in October, the CNJ presented a manual detailing the selection criteria for magistrates serving in the Constitutional Chamber of the Supreme Court, specifying that they must not have a party affiliation, nor can they have been previously sanctioned by the Government Ethics Tribunal (TEG).

F2. Does due process prevail in civil and criminal matters? 2 / 4

Due process rights are guaranteed by the constitution, but upheld inconsistently. Powerful individuals are able to use their influence, including by pressuring members of the judiciary, to evade justice. Many cases are decided by judges, as opposed to civilian juries. Interpreters are not always provided for defendants who do not speak Spanish. Rights advocates report that police have carried out arbitrary arrests and detentions as part of the country's crackdown on gangs.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 1 / 4

Violence—with youths as the main victims—was lower in 2017 than in 2016, though there was a significant spike in homicides in September and October 2017, which saw 435 and 452 recorded homicides, respectively. The government blamed that violence on internal fighting between Mara Salvatrucha 13 (MS-13) gang factions, and gangs trying to pressure the government to release imprisoned gang leaders. Despite the spike in violence, police reported that there had been 3,947 homicides during the year, compared to roughly 5,300 in 2016 and 6,700 in 2015.

Gangs continue to target members of security forces and their families. Attorney General Douglas Meléndez received death threats in connection with anticorruption and gang-related prosecutions in 2017.

In 2017, authorities continued to pursue a harsh, militarized response to the country's criminal gangs. Police have been implicated in hundreds of extrajudicial killings as part of the campaign. A report by the Inter-American Commission on Human Rights (IACHR) released in September 2017 found that since 2015, 1,415 people, 90 percent of whom were suspected of being gang members, had been killed in "alleged confrontations" between suspected gang members and security forces. The organization raised concerns about the large discrepancy between the number of suspected gang members killed,

compared to the 238 security forces members killed in such confrontations during the same time period. In September, a judge acquitted eight police officers of murder charges related to the so-called San Blas case, in which the defendants were suspected of summarily executing eight people in a 2015 incident at a coffee farm. Rights activists portrayed the acquittals as a reflection of impunity for the security forces.

Prisons remain extremely overcrowded, and conditions within can be lethal due to disease, lack of adequate medical care, and the risk of attack by other inmates.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

Women are granted equal rights under the law, but are often subject to discrimination. Indigenous people face poverty, unemployment, and labor discrimination. Discrimination on the basis of sexual orientation is prevalent, and LGBT people and groups are often the targets of hate crimes. Underrepresented populations, particularly internally displaced persons and LGBT people, have limited access to the justice system.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 8 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 2 / 4

Freedom of travel within El Salvador is complicated by gang activity. The MS-13 and Barrio 18 gangs control certain neighborhoods, making it dangerous for residents to travel, work, and attend school. The Internal Displacement Monitoring Center (IDMC) estimated that over 220,000 people in the country were displaced due to violence in 2016 alone.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4

Businesses and private citizens are regularly subject to extortion, although the police and attorney general's office noted a drop in reported extortions in the first nine months of 2017, compared to the same period in 2016. Indigenous people face challenges with regard to land rights and access to credit.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

Abortion is punishable by imprisonment even when the life of the mother is at risk. Some women have been jailed despite credible claims that their pregnancies ended due to miscarriage. The Constitutional Chamber affirmed in 2013 that the "rights of the mother cannot be privileged over the fetus." In addition, domestic violence remains high. There were over 400 recorded femicides by the end of 2017.

Separately, in August 2017, lawmakers passed a measure banning marriage for children under 15 years of age, though it contained exceptions for cases involving pregnancy.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

El Salvador remains a source, transit, and destination country for the trafficking of women and children, though some sex trafficking cases have been prosecuted. There are instances of forced labor in the construction and informal sectors, but the government does not prosecute labor trafficking cases.

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