

# EL SALVADOR 2018 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

El Salvador is a constitutional multiparty republic. Municipal and legislative elections held in March were generally free and fair, according to international observers, although slow tabulation contributed to reporting delays. Free and fair presidential elections took place in 2014.

Civilian authorities failed at times to maintain effective control over security forces.

Human rights issues included allegations of unlawful killings of suspected gang members and others by security forces; forced disappearances by military personnel; torture by security forces; harsh and life-threatening prison conditions; arbitrary arrest and detention; lack of government respect for judicial independence; widespread government corruption; violence against women and girls that was infrequently addressed by the authorities, as well as security force violence against lesbian, gay, bisexual, transgender, and intersex individuals; and children engaged in the worst forms of child labor.

Impunity persisted despite government steps to dismiss and prosecute some in the security forces, executive branch, and justice system who committed abuses.

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

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **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 July 31, the Office of the Human Rights Ombudsman (PDDH) announced it was investigating 22 complaints

against police officers, prison guards, and personnel of the Attorney General's Office for such killings.

The case continued against nine police officers charged in September 2017 with aggravated homicide and concealment stemming from the killing of five persons. Three of the accused were members of the now decommissioned Police Reaction Group (GRP), and police claimed at the time of the events that the deaths were justified homicides.

On March 2, the Attorney General's Office appealed the September 2017 acquittal of five police officers for aggravated homicide charges in the 2015 killing of a man at a farm in San Blas, San Jose Villanueva. The judge had ruled that the prosecutors failed to prove which of the five officers was specifically responsible for firing the fatal shot and likewise failed to prove conspiracy. On May 4, the Fourth Appellate Court of Appeals confirmed it would retry the case.

On February 23, police authorities in coordination with INTERPOL arrested Jaime Ernesto Bonilla Martinez, who lived in Texas, for participating in at least eight homicides as part of an alleged extermination group operating in San Miguel. The group, composed of civilians, some of whom were alleged rival gang members, and retired and active members of the military and police, was purportedly responsible for murder-for-hire and targeted killings of alleged gang members in San Miguel. Funding for the extermination group reportedly came from Salvadoran citizens living abroad.

As of October 25, alleged gang members had killed 21 police officers. On August 21, the Organized Crime Court convicted 61 MS-13 members of homicide, extortion, illicit trafficking, and conspiracy to kill police officers, among other crimes.

## **b. Disappearance**

There were reports alleging that members of security and law enforcement were involved in unlawful disappearances. Since March 2017 law enforcement agencies had not released data on disappearances, citing a discrepancy between data collected by police and the Attorney General's Office.

On March 7, the Constitutional Chamber of the Supreme Court ruled that the armed forces were responsible for investigating the disappearance of two 17-year-old boys in Ilopango in 2014. According to the court, seven soldiers detained and

searched them, tied their hands with their shoelaces, and took them to Colonia Santa Maria, which was controlled by a rival gang. The two youths missed school that afternoon and were not seen thereafter. The case was ongoing.

In May 2017 a Sonsonate court convicted five soldiers of forced disappearance committed in 2014 and sentenced them to eight years' imprisonment. Their defense attorneys filed an appeal, and the case remained ongoing. In January the Constitutional Chamber found the military in contempt of their August 2017 order that the Ministry of Defense investigate and report on civilian deaths caused by the military.

On September 1 and in December 2017, the Constitutional Chamber issued two sentences in forced disappearance cases from 1982. The Constitutional Chamber determined that investigations should be carried out on the whereabouts of the victims and underlined the state's responsibility in ensuring an unobstructed investigation. The chamber noted that the Ministry of Defense and the chief of the joint chiefs of staff of the armed forces were uncooperative in the investigation.

As of October the attorney general had opened investigations into 12 instances of forced disappearance during the 1980-92 civil war.

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

The law prohibits such practices, but there were reports of violations. As of July 31, the PDDH received 18 complaints of torture or cruel or inhuman treatment by the National Civil Police (PNC), the armed forces, and other public officials.

On May 29, a court recommended that colonels Hector Solano Caceres and David Iglesias Montalvo, along with Lieutenant Colonel Ascencio Sermeno face charges for homicide, bribery, and conspiracy for ordering the torture of two men in 2016 in Apaneca. In 2017 six soldiers were convicted in the same case.

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

Prison and detention center conditions remained harsh and life threatening due to gross overcrowding, unhygienic conditions, and gang activities.

Physical Conditions: Overcrowding remained a serious threat to prisoners' health and welfare. As of June 30, the PDDH reported that think tank Salvadoran

Foundation for Economic and Social Development reported 38,849 inmates were being held in facilities designed for 18,051 inmates.

Convicted inmates and pretrial detainees were sometimes held in the same prison cells.

In June the Salvadoran Institute for Child Development (ISNA) reported 945 juveniles in detention, with 274 of those awaiting trial. Of those, 356 were held on homicide charges, 465 for extortion, 313 for drug-related crimes, and 143 for gang membership. As of July ISNA reported that three minors were killed by gang members while in detention, compared with nine in 2017. ISNA also reported that as of June, seven minors were victims of trafficking in persons, compared with 18 in 2017.

Gangs remained prevalent in prisons. As of September 2017, detention centers held 17,614 current or former gang members, or 46 percent of the prison population. So-called extraordinary measures were designed to interrupt gang communications and coordination between imprisoned leaders and gang members outside the prisons. Smuggling of weapons, drugs, and other contraband such as cell phones and cell phone SIM cards was reduced but remained a problem in the prisons, at times with complicity from prison officials.

Law enforcement officials credited the extraordinary measures with a 45 percent reduction in homicides. The PDDH and human rights groups faulted the measures for lacking judicial oversight. On August 16, the Legislative Assembly formalized some elements of the extraordinary measures as part of a reformed penitentiary code, which now allows supervised family visits.

In many facilities provisions for sanitation, potable water, ventilation, temperature control, medical care, and lighting were inadequate, according to the PDDH. From August 2017 to May, the General Prison Directorate reported 2,440 cases of inmate malnutrition and the PDDH reported more than 500 cases of severe malnutrition in Izalco and Ciudad Barrios prisons. The PDDH noted that in 2017 a total of 64 inmates died, some of them due to unspecified causes.

In October the PNC reported overcrowding in police holding cells, with 5,500 detainees in cells designed for 1,500 persons. Those in pretrial detention were held alongside sick inmates.

Administration: The PDDH has authority to investigate credible allegations of inhuman conditions. The Constitutional Chamber of the Supreme Court has authority over the protection of constitutional rights. The extraordinary measures granted broad authorities to wardens to order disciplinary actions, to include isolation and withholding family or religious visitations, without judicial oversight. Extraordinary measures ended in August when the Legislative Assembly reformed the penitentiary code.

Independent Monitoring: The government permitted visits by independent human rights observers, nongovernmental organizations (NGOs), and media to low- and medium-security prisons. Inspections of high-security prisons were limited to government officials, the PDDH, and the International Committee of the Red Cross (ICRC). Early in the year, the government reinstated the ICRC's access to all prisons. Church groups; the Institute for Human Rights at the University of Central America; lesbian, gay, bisexual, transgender, and intersex activists; the UN special rapporteur for extrajudicial, summary, or arbitrary executions; and other groups visited prisons during the year. The PDDH reported that from May 2017 to April, it conducted 1,644 unannounced prison inspections.

Improvements: Due to the construction of new prisons completed during the year and redistribution of prisoners, overcrowding declined from 334 percent to 215 percent as of August.

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

Although the constitution prohibits arbitrary arrest and detention, there were numerous complaints that the PNC and military forces arbitrarily arrested and detained persons. As of July 31, the PDDH received 31 complaints of arbitrary detention, a decrease from 86 complaints received in the same period in 2017. NGOs reported that the PNC arbitrarily arrested and detained groups of persons on suspicion of gang affiliation. According to these NGOs, the accused were ostracized by their communities upon their return.

The law provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed this provision.

#### **Role of the Police and Security Apparatus**

The PNC, overseen by the Ministry of Justice and Public Security, is responsible for maintaining public security, and 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 PNC. In 2016 President Sanchez Ceren renewed the decree authorizing military involvement in police duties, a presidential order in place since 1996.

The military’s “Zeus Command” comprised 3,100 soldiers in 10 task forces to support police in providing security. These soldiers were to operate only in support of the PNC and were not authorized to arrest or detain. Three hundred and twenty soldiers in the Volcano Task Force, launched in September 2017 as a temporary expansion of the military’s presence in San Salvador, continued to support the city’s police and installed checkpoints throughout the city and conducted random searches of public buses.

There were reports of impunity for security force involvement in crime and human rights abuses during the year. The PDDH is authorized to investigate (but not prosecute) human rights abuses and refers all cases involving human rights abuses to the Attorney General’s Office. Reports of abuse and police misconduct were most often from residents of the metropolitan area of San Salvador and mostly from men and young persons.

The Police Inspector General reported it received 831 complaints against police and dismissed 155 police officers due to misconduct and took disciplinary action against 555 police officers as of October 23.

On August 2, Deputy Police Director of Specialized Operative Areas Mauricio Arriaza stated that 10 police officers of the Specialized Police Tactical Unit (UTEP) were dismissed due to human rights abuses. UTEP was created on February 14 to replace the Specialized Reaction Force of El Salvador, the Special Operation Group, and the GRP. The GRP was disbanded in February following the disappearance of female GRP member Carla Ayala. As of November 5, the Ministry of Defense had not responded to requests to report the number of soldiers removed from its ranks due to alleged ties to gangs.

As of October 26, authorities reported alleged gang members had killed 22 police officers, three soldiers, and three prison guards.

## **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 apprehended persons with warrants based on evidence and issued by a judge. 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 which may be extended by an appeals court. Many cases continued beyond the legally prescribed period.

Arbitrary Arrest: As of October 23, the PDDH reported 31 complaints of arbitrary detention or illegal detention, compared with 86 from January to August 2017.

Pretrial Detention: Lengthy pretrial detention was a significant problem. As of October, 30 percent of the general prison population was in pretrial detention. Some persons remained in pretrial detention longer than the maximum legal sentences for their alleged crimes. In such circumstances detainees may 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 and corruption.

While the government generally respected court orders, some agencies ignored or minimally complied with orders, or sought to influence ongoing investigations. When ordered by the Constitutional Court on June 19 to release military records related to the El Mozote killings and serious civil war crimes, the Ministry of Defense responded it had already done so while denying investigators access to archival facilities at military bases, citing national security concerns. As of July

31, the Legislative Assembly had not complied with a 2015 ruling that it issue regulations to clarify certain sections of the political parties law regarding campaign contributions.

In a February 26 press conference, Minister of Defense David Munguia Payes criticized the attorney general's charges against three military officers after they were acquitted of obstruction of justice in a torture case. On February 27, UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions Agnes Callamard released a statement calling on Payes to respect the independence of the judiciary and reiterating her support for the attorney general. Media experts called Munguia's stagecraft menacing and reminiscent of civil war-era propaganda employed by the military junta.

While implemented to expedite fair trials, virtual trials still involved delays of up to eight months, according to a July 22 newspaper report. Virtual trials often involved group hearings before a judge, with defendants unable to consult with their defense lawyers in real time. The penitentiary code reforms passed in August allow defense lawyers to attend a hearing without the defendant's presence. Human rights groups questioned the constitutionality of the reform.

As of July 31, the PDDH received 31 complaints of lack of a fair, public trial.

Corruption in the judicial system contributed to a high level of impunity, undermining the rule of law and the public's respect for the judiciary. As of August 31, the Supreme Court heard 57 cases against judges due to irregularities, 52 of which remained under review; removed two judges; suspended nine others; and brought formal charges against eight judges. Accusations against judges included collusion with criminal elements and sexual harassment.

In 2016, in response to a petition by victims, a judge issued an order to reopen the investigation into the 1981 El Mozote massacre, in which an estimated 800 persons were killed. The PDDH concluded that the Attorney General's Office lacked initiative in investigating civil war crimes. The PDDH also cited the Attorney General Office's lack of cooperation from the Ministry of Defense and the Office of the President (CAPRES). On August 16, a group of Argentine forensics specialists testified they recovered 282 pieces of evidence determined to be human remains, including 143 skulls, 136 of them belonging to children younger than 12 years old. They also recovered 245 bullet casings corresponding to the type used in automatic weapons used by the armed forces.



Women who were accused of intentionally terminating their pregnancies were charged with aggravated homicide, but a number asserted they had suffered miscarriages, stillbirths and other medical emergencies during childbirth. Legal experts pointed to serious flaws in the forensics collection and interpretation.

In December 2017 Teodora del Carmen Vasquez' conviction on aggravated homicide charges was upheld by the same appeals judges who had earlier sentenced her to 30 years. The Supreme Court commuted her sentence on February 15, opining that the evidence and motive presented by the prosecution in the case was insufficient to support the charges.

During the first nine months of the year, the justice system released five women accused of aggravated homicide of their unborn or newborn children due to lack of evidence. Twenty-five other women remained in custody for infanticide.

### **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 and economic influence. By law juries hear only a narrow group of cases, such as environmental complaints. After the jury determines innocence or guilt, a panel of judges decides the sentence.

Defendants have the right to be present in court, 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, 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.

According to press reports, plea deals occurred in approximately 20 percent of cases, with the accused turning state's witness in order to prosecute others. Legal experts pointed to an overreliance on witness testimony in nearly all cases, as opposed to the use of forensics or other scientific evidence. The justice system lacked DNA analysis and other forensics capability. 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.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

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

The law provides for access to the courts, enabling litigants to bring 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.

On May 25, the Constitutional Chamber declared unconstitutional Article 49 of the Civil Service Law, ruling that it violated the double jeopardy prohibition because previously established facts were taken as an essential element for a more serious administrative sanction.

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

The constitution prohibits such actions; however, a January news report claimed the state intelligence service tracked several journalists and collected compromising information about their private lives. The newspaper submitted photographic and whistleblower evidence to support its claim.

In many neighborhoods armed groups and gangs 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, Including:**

#### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. The law permits the executive branch to use the emergency broadcasting service to take over all broadcast and cable networks temporarily to televise political programming.

Press and Media Freedom: There continued to be allegations that the government retaliated against members of the press for criticizing its policies. There were reports the Ministry of Labor conducted arbitrary labor inspections and financial audits of news organizations.

Both the Nationalist Republican Alliance (ARENA) and Farabundo Marti Liberation Front (FMLN) parties steered funding, including public funds, to journalists in exchange for positive coverage. The online news outlet *El Faro* reported during the year that former president Antonio Saca funneled \$665,000 (currency is the U.S. dollar) to media contacts in exchange for positive coverage from 2004 until 2009, while former president Mauricio Funes continued the practice of using a secret fund to corrupt journalists from 2009 through 2014.

Violence and Harassment: On May 22, the Salvadoran Journalist Association (APES) reported that former youth secretary Carlos Aleman threatened *El Faro* journalist Gabriel Labrador after he published a report that accused Aleman of benefiting from illegal salary increases during the Saca administration. APES also reported that journalist Milagro Vallecillos received a call asking him where he would like a body disposed after he criticized the police investigation into the killing of journalist Karla Turcios.

In relation to reporting on the March 4 municipal and legislative assembly elections, APES recorded 15 complaints against civil servants, mayors, unions, and gang members. The incidents included three verbal threats, two physical assaults, one property damage claim, and three suspicious incidents. On March 19, online news outlet *Diario 1* journalist Miguel Lemus was physically attacked by members of the San Salvador city employees' union.

Minister of Defense Munguia reportedly visited media offices unannounced and accompanied by armed soldiers.

Censorship or Content Restrictions: Government advertising accounted for a significant portion of press advertising income. According to APES, media practiced self-censorship, especially in reporting on gangs and narcotics trafficking.

Nongovernmental Impact: APES noted journalists reporting 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.

The International Telecommunication Union reported 31 percent of the population used the internet in 2017.

## **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, and the government generally respected these rights.

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

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

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 guarantee freedom of movement due to criminal gang activity. As of July 31, the PDDH received two complaints of restrictions from freedom of movement, one against the PNC and the other against a court in Jiquilisco. Both cases involved subjects being detained without charge. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and some assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, although this was often difficult in gang-controlled neighborhoods.

In-country Movement: The major gangs controlled their own territory. Gang members did not allow persons living in another gang's controlled 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 not allowed to enter 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.

### **Internally Displaced Persons (IDPs)**

On July 13, the Constitutional Chamber of the Supreme Court ruled that the government violated the constitution by not recognizing forced displacement or providing sufficient aid to IDPs. The ruling followed several lawsuits brought by victims, including members of the PNC. The court ordered the Legislative Assembly to pass legislation addressing internal displacement and officially recognize internal displacement. The court also called on the government to retake control of gang territories, develop protection protocols for victims, and uphold international standards for protecting victims.

As of July the PDDH reported 69 complaints of forced displacement from January to May. Nearly all of the complaints were from gang-controlled territories, with 51 cases from San Salvador. As of October the government acknowledged that 1.1 percent of the general population was internally displaced. UNHCR estimated there were 280,000 IDPs. UNHCR reported the causes of internal displacement included abuse, extortion, discrimination, and threats.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, including an established system for providing protection to refugees. As of July 31, four petitions had been submitted, with three resulting in denial and one still under consideration.

### **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 municipal and legislative elections occurred on March 4, with the final election results released by the Supreme Electoral Tribunal on March 20 and April 4, respectively. The election reports published by the Organization of American States and the EU electoral mission noted that the elections generally met international standards.

While the law prohibits public officials from campaigning in elections, this provision lacked consistent enforcement.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

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

The law provides criminal penalties for corruption by officials. While the Supreme Court investigated corruption in the executive and judicial branches, referring cases to the Attorney General's Office for possible criminal indictment, impunity remained endemic, with courts issuing inconsistent rulings and failing to address secret discretionary accounts within the government, for example in CAPRES.

Corruption: On September 12, a judge sentenced former president Antonio Saca to 10 years in prison. He originally faced up to 30 years in prison before seeking a plea deal. As part of his plea agreement, Saca detailed how he used a network of public officials and advisers to launder money into his ARENA political party, banks, media outlets, publicity companies, fronts, and other activities. Saca testified that weak institutions such as the Court of Accounts were ineffectual in conducting audits, with transparency mechanisms failing to detect fraud. While Saca's defense offered to return \$15 million, the court found him fully liable and ordered him to repay \$260 million and surrender his bank accounts and six companies managing 86 radio stations to the asset forfeiture program.

The attorney general investigated corruption pertaining to a discretionary fund within CAPRES in existence for more than 25 years and used by six presidents since 1989. It was originally created to provide resources for the national intelligence budget and CAPRES. The funds, totaling more than one billion dollars since its inception, had never been audited by the Court of Accounts. Both former presidents Saca and Funes were accused of embezzling more than \$650 million from public funds. President Sanchez Ceren's discretionary account was

reportedly \$147 million, while former presidents Saca and Funes controlled \$301 million and \$351, million respectively.

On June 19, the Attorney General's Office initiated an asset forfeiture claim against 24 properties owned by Funes, cabinet members, public officers, and his relatives. Properties included sugarcane plantations, beach houses, and homes.

As of July 31, the Ethics Tribunal reported it had received 190 complaints against 273 public officials. The tribunal sanctioned 20 public officials and forwarded six cases to the attorney general. The attorney general issued 28 arrest warrants on June 6, targeting individuals linked to more than \$300 million allegedly embezzled by former president Funes from 2009 through 2014. Despite Constitutional Chamber restrictions on transferring funds without legislative approval, Funes allegedly had misdirected funding for personal gain since 2010. In July the attorney general accused Funes of using \$215,000 in public funds to acquire 91 military-grade weapons through the Ministry of Defense for his personal use.

Financial Disclosure: The illicit enrichment law requires appointed and elected officials to declare their assets to the Probity Section of the Supreme Court. The law establishes fines for noncompliance that range from \$11 to \$571. The declarations were not available to the public unless requested by petition. In 2016 the Supreme Court established three criteria for selecting investigable cases: the age of the case (i.e., proximity to the statute of limitations), relevance of the position, and seriousness and notoriety of the alleged illicit enrichment.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to these groups, officials expressed reluctance to discuss certain issues, such as extrajudicial killings and IDPs, with the PDDH.

Government Human Rights Bodies: The principal human rights investigative and monitoring body was the autonomous PDDH, whose head 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 generally enjoyed government cooperation and was considered generally effective except on problems relating to criminal groups and gangs.

The PDDH maintained a constructive dialogue with CAPRES. The government publicly acknowledged receipt of reports, although in some cases it did not take action on recommendations, which are nonbinding. The PDDH faced threats, such as two robberies at its headquarters specifically targeting computers containing personally identifiable information.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law criminalizes rape of men or women, and the criminal code'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 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 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. On July 31, the Salvadoran Organization of Women for Peace (ORMUSA) reported that in 2016 and 2017, only 5 percent of the 6,326 reported crimes against women went to trial. On July 4, police arrested a police commissioner for violating the terms of a restraining order protecting his spouse.

According to the World Health Organization, the rate of cases involving violence against women was 5,999 per 100,000 inhabitants and that 574 women were killed in 2015, 524 in 2016, and 469 in 2017.

Sexual Harassment: The law prohibits sexual harassment and provides imprisonment for five to eight years. Courts may impose fines in addition where the perpetrator maintains 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 September 24, media reported the sole female member of an elite police unit was reassigned to a high threat precinct in retaliation for taking gender-discrimination claims to internal affairs inspectors. She said her uniforms were discarded, her sleeping quarters moved, and a colleague threatened to kill her.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization. (For more information on maternal mortality and availability of contraception, see Appendix C.)

Discrimination: The constitution grants women and men the same legal rights, but women did not enjoy equal pay or employment opportunities. The law establishes sentences of one to three years in prison for public officials who deny a person's civil rights based on gender and six months to two years for employers who discriminate against women in the workplace, but employees generally did not report such violations due to fear of employer reprisals.

On September 16, a labor union reported that a justice of the peace in Las Vueltas Chalatenango refused to promote a female clerk because she preferred a man have the position.

## **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 \$2.85 fine. Failure to register resulted in denial of school enrollment.

Education: Education is free, universal, compulsory through the ninth grade, and nominally free through high school. Rural areas, however, frequently did not provide required education to all eligible students due to a lack of resources and because rural parents often withdrew their children from school by the sixth grade, requiring them to work.

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 breaking the law include the child being taken into protective custody and three to 26 years' imprisonment, depending on the nature of the abuse.

On November 15, police arrested a woman in Juayua, Sonsonate, after she beat an 11-year-old child with a stick for losing a cell phone accessory. According to a

2016 National Health Survey, more than half of households punished their children physically and psychologically.

Early and Forced Marriage: The legal minimum age for marriage is 18. The law bans child marriage to prevent child abusers from using legal technicalities to avoid imprisonment by marrying their victims.

Sexual Exploitation of Children: Child sex trafficking is prohibited by law. Prison sentences for convicted traffickers stipulate imprisonment from six to 10 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 of four to 13 years' imprisonment for violations.

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 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.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 [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. 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 lacks enforcement power. According to CONAIPD, 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.

According to CONAIPD, there is 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. Further, some academic institutions would not accept children with disabilities.

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

### **Indigenous People**

Indigenous communities reported they faced racial discrimination and economic disadvantage. According to community leaders, gangs pushed out of urban centers by police mounted incursions and appropriated indigenous land. They also reported gang members threatened their children for crossing gang territorial lines artificially drawn across ancestral indigenous land, forcing some children to drop out of school or leave home.

According to the 2007 census, the most recent for which this data was available, there were 60 indigenous groups, and 0.4 percent of citizens identified as indigenous, mainly from the Nahua-Pipl, Lencas, Cacaopera (Kakwira) and Maya Chorti groups. A 2014 constitutional amendment recognizes the rights of indigenous people to maintain their cultural and ethnic identity, but no laws provide indigenous people rights 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 possessed title to land, opportunities for bank loans and other forms of credit remained limited.

While the law provides for the preservation of languages and archeological sites, it does not include the right to be consulted regarding development and other projects envisioned on their land.

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

The law prohibits discrimination based on sexual orientation or gender identity, which also applies to discrimination in housing, employment, nationality, and access to government services. Gender identity and sexual orientation are included in the criminal code provisions covering hate crimes, along with race and political affiliation. NGOs reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community stated that the PNC, and the Attorney General's Office harassed transgender and gay individuals when they reported cases of violence against LGBTI persons, including by conducting strip searches.

As of July 31, the PDDH reported eight accusations made by the LGBTI community of five homicides, one unauthorized search, and one harassment complaint. The PDDH was unable to determine whether the incidents were bias-motivated. Activists also reported receiving death threats via social media; police generally failed to take action on these reports.

On April 16, the Ministry of Security and Justice led a formal signing ceremony for the Institutional Policy for the Protection of the LGBTI Community. A product of two years of roundtable dialogues, the policy instructs the security and migration sectors of government to consult with the Office of Secretariat for Social Inclusion to ensure LGBTI persons are treated in accordance with international standards in their interactions with the state. In November 2017 the Supreme Electoral Tribunal announced guidelines stating individuals cannot be denied the right to vote because the photograph on their identification card does not match their physical appearance.

### **HIV and AIDS Social Stigma**

Although the law prohibits discrimination on the basis of HIV/AIDS status, Entre Amigos, an LGBTI NGO, reported discrimination due to HIV was widespread. As of July 31, the PDDH reported four cases of discrimination against persons with HIV or AIDS. This included use of pejorative language against an inmate by a prosecutor, denial of university access, lack of medical confidentiality in the prison system of an HIV-positive diagnosis and discriminatory treatment from other inmates, and discrimination by public-health caregivers to a child and her mother.

## Section 7. Worker Rights

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

The law provides 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. Workers who are representatives of the employer or in “positions of trust” also may not serve on the union’s board of directors. The law does not define the term “positions of trust.” 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.

Unions must meet complex requirements to register, including having a minimum membership of 35. 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 the majority of workers. Labor unions accused the ministry of trying to block the registration of unions not aligned with the government’s party. Consequently, unions were unable to vote for membership in tripartite bodies, consisting of members of government, labor, and business.

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 apply 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. They must also engage in negotiation, mediation, and arbitration processes before striking, although many groups often skipped or went through these steps quickly. 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 the workers the equivalent of 30 days of their basic salary for each year of service. The law specifies 30 reasons for which an employer can 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 also legally suspend workers, including for reasons of economic downturn or market conditions. As of July the Ministry of Labor had received 1,778 complaints of violations of the labor code, including 565 instances of failure to pay the minimum wage.

The government did not effectively enforce the laws on freedom of association and the right to collective bargaining. Resources to conduct inspections remained inadequate, and remedies remained ineffective. Penalties for employers who fire workers with the goal or effect of ensuring the union no longer met the minimum number of members ranged from 10 to 50 times the monthly minimum salary. These were paid to the government's general fund, not to the fired employee. The penalty for employers who interfere with the right to strike was between \$3,000 and \$15,000. Such penalties remained insufficient to deter violations. The Ministry of Labor acknowledged it lacked sufficient resources, such as vehicles, fuel, and computers, to enforce the law fully. Judicial procedures were subject to lengthy delays and appeals. According to union representatives, the government inconsistently enforced labor rights for public workers, maquila/textile workers, food manufacturing workers, subcontracted workers in the construction industry, security guards, informal-sector workers, and migrant workers. As of July the ministry had received 15 claims of violations for labor discrimination.

On November 10, a court ordered a mayor in Conchagua to cease age discrimination of a group female employees. The employees filed a complaint with the Ministry of Labor that they were subjected to harassment by the mayor and his subordinates because of their age and his desire to replace them.

Unions functioned independently from the government and political parties, although many generally were aligned with the ARENA, FMLN, or other political parties. According to union leaders, the administration blacklisted public-sector employees who they believed were close with the opposition. Workers at times engaged in strikes regardless of whether the strikes met legal requirements. The International Labor Organization (ILO) Conference Committee on the Application of Standards discussed the country for the fourth year in a row over the nonfunctioning of the tripartite Higher Labor Council.

## **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. The labor code's default fine of \$57 per violation applied. This penalty was generally not sufficient to deter violations. The lack of sufficient resources for inspectors reduced their ability to enforce the law fully. The Ministry of Labor did not report on incidents of forced labor. Gangs subjected children to forced labor in illicit activities, including selling or transporting drugs (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

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

The law prohibits the employment of children younger than age 14. The law allows children between the ages of 14 and 18 to engage in light work if the work does not damage the child's health or development or interfere with compulsory education. The law prohibits children younger than age 16 from working more than six hours per day and 34 hours per week; those younger than age 18 are prohibited from working at night or in occupations considered hazardous. The Ministry of Labor maintained a list of the types of work considered hazardous and prohibited for children, to include 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 age 16 and older may engage in light work on coffee and sugar plantations and in the fishing industry so long as it does not harm their health or interfere with their education.

The Ministry of Labor maintains responsibility for enforcing child labor laws but did so with limited effectiveness. Child labor remained a serious and widespread problem. The law specifies a default fine of no more than \$60 for each violation of most labor laws, including child labor laws; such penalties were insufficient to act as a deterrent. Labor inspectors focused almost exclusively on the formal sector. According to the ministry, from January 2017 through May, officials conducted 1,440 child labor inspections that discovered 18 minors, five of whom were unauthorized to work. By comparison, as of September 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.

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 related to the arms and drug trades, including committing homicide. Children were engaged in child labor, including domestic work, the production of cereal grains and baked goods, cattle raising, and vending. 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 [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

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

The constitution, labor laws, and state regulations prohibit discrimination regarding race, color, sex, religion, political opinion, national extraction (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. Sexual orientation and gender identity are not included 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 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 enforce them.

On January 30, the Legislative Assembly reformed the labor code, prohibiting discriminatory practices and violence against women in the workplace. Further, on June 26, the Legislative Assembly reformed the labor code, civil service law, and the Vacations and Permits Law for Public Employees, prohibiting the dismissal of women returning from maternity leave for up to six months.

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

There is no national minimum wage; the minimum wage is determined by sector. In January a major minimum wage increase went into effect that included increases of nearly 40 percent for apparel assembly workers and more than 100 percent for



workers in coffee and sugar harvesting. After the increase the minimum daily wage was \$10 for retail, service, and industrial employees; \$9.84 for apparel assembly workers; and \$3.94 for agricultural workers. The government reported the poverty income level was \$179.67 per month in urban areas and \$126.97 per month in rural areas.

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 a rate of 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. The law states that domestic employees, such as maids and gardeners, are obligated to work on holidays if their employer makes this request, but they are entitled to double pay in these instances. The government did not adequately enforce these laws.

The Ministry of Labor is responsible for setting workplace safety standards, and the law establishes a tripartite committee to review the standards. The law requires employers to take steps to meet health and safety requirements in the workplace, including providing proper equipment and training and a violence-free environment. Employers who violate most labor laws could receive a default fine of no more than \$57 for each violation. While the laws were appropriate for the main industries, a lack of compliance inspectors led to poor enforcement. These penalties were also insufficient to deter violations, and 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 occupational health and safety matters.

The Ministry of Labor is responsible for enforcing the law. The government proved more effective in enforcing the minimum wage law in the formal sector than in the informal sector. Unions reported the ministry failed to enforce the law for subcontracted workers hired for public reconstruction contracts. The government provided its inspectors updated training in both occupational safety and labor standards. As of June the ministry conducted 13,315 inspections, in addition to 3,857 inspections to follow up with prior investigations, and had levied \$777,000 in fines against businesses.

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 agriculture sector did not generally grant annual bonuses, vacation days, or days of rest. Women in domestic service and the industrial manufacturing for export industry, particularly in the export-processing zones, faced exploitation, mistreatment, verbal abuse, threats, sexual harassment, and generally poor work conditions. Workers in the construction industry and domestic service reportedly fell subject to violations of wage, hour, and safety laws. According to ORMUSA, apparel companies violated women's rights through occupational health violations and unpaid overtime. There were reports of occupational safety and health violations in other sectors, including reports that a very large percentage of buildings were out of compliance with safety standards set by the General Law on Risk Protection. The government proved ineffective in pursuing such violations.

In some cases the country's high crime rate negatively affected 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.

As of July the Ministry of Labor reported 5,199 workplace accidents. These included 2,609 accidents in the services sector, 1,859 in the industrial sector, 620 in the commercial sector, and 111 in the agricultural sector. The ministry did not report any deaths from workplace-related accidents.

Workers may legally remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities lacked the ability to protect employees in this situation effectively.