



## U.S. DEPARTMENT of STATE

### El Salvador

#### Country Reports on Human Rights Practices - 2006

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El Salvador is a constitutional, multiparty democracy with an estimated population of 6.7 million. In 2004 voters elected Elias Antonio Saca of the Nationalist Republican Alliance (ARENA) as president for a five-year term in generally free and fair elections. March nationwide municipal and legislative assembly elections were also free and fair. Civilian authorities generally maintained effective control of the security forces.

Although the government generally respected the rights of its citizens, protection of human rights was undermined by widespread violent crime, including gang-related violence, impunity, and corruption. The most significant human rights problems included harsh, violent, and overcrowded prison conditions; lengthy pretrial detention; inefficiency and corruption in the judicial system; violence and discrimination against women; abuses against children, child labor, and forced child prostitution; trafficking in persons; discrimination against persons with disabilities; discrimination against indigenous persons; discrimination against persons based on sexual orientation; and lack of enforcement of labor rights.

#### RESPECT FOR HUMAN RIGHTS

##### Section 1 Respect for the Integrity of the Person, Including Freedom From:

###### a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed any politically motivated killings. As of November, however, the Office of the Inspector General of the Civilian National Police (PNCIG) reported that security forces allegedly killed 22 persons, in comparison with 23 in 2005 and 29 in 2004. The PNCIG also reported that as of November, it had received 449 complaints of alleged violations to the integrity of persons. During the year the Office of the Ombudsman for Human Rights (PDDH) received 48 cases of attempted killings and determined that 12 were for arbitrary or unlawful deprivation of life.

Through December the PDDH received complaints of mistreatment by police officials, including unlawful killings, attempted unlawful killings, assaults, and other offenses causing bodily harm. The PDDH determined that since 2005 the Civilian National Police (PNC) was at fault in 21 cases.

The PNCIG reported that as of November, it had received 22 cases of alleged police involvement in killings. There was no information available regarding how many cases involving use of lethal force by the police concerned gang members. As of December, however, the PNC reported that 12,930 persons belonged to gangs.

On February 15, the Sentencing Tribunal of Usulután Jurisdiction exonerated two defendants, Santos Sanchez and Rosa Elba de Ortiz, charged in the 2004 killing of foreign labor activist Jose Gilberto Soto. The tribunal sentenced Joel Ramirez Gomez to 25 years in prison for the killing. The remaining defendants were found not guilty and released.

During a July 5 demonstration outside the University of El Salvador, masked militants associated with the Revolutionary Student Brigade and Popular Youth Bloc vandalized public and private property. As police tried to restore order, a sniper who was later identified as former Faribundo Martí National Liberation Front (FMLN) city councilman Jose Mario Belloso Castillo fired on police with a military rifle, resulting in the killing of two police officers and the wounding of 10 others. Several hours after a search warrant was issued police entered the campus. Police officers did not employ lethal force in responding to the protestors, and protestors suffered no serious injuries. At year's end Belloso remained at large and was the subject of an Interpol arrest warrant. His accomplice Luis Antonio Herrador was in custody awaiting a hearing scheduled for April 2007 (see section 2.a.).

On October 12, PNC officers Victor Manuel Cabrera Valladares, Henry Vladimir Valladares Sanchez, Julio Cesar Rivera Sanchez, and Jaime Olivares Martinez were suspended from duty for 180, 90, and 120 days, respectively, for consuming alcoholic beverages during work hours and negligence, resulting in PNC Officer Nelson Alexander Minero Vasquez's March 2005 killing of PNC Officer Antonio Cruz Vasquez. On February 1, the PNC dismissed Minero Vasquez from his job.

Following a reported November 29 death threat against Ricardo Alberto Iglesias Herrera, an expert named by a court to evaluate impunity and administration of justice, the president of the court requested in December that the government take measures to protect Iglesias Herrera's life.

On December 3, Oscar Cesar Vanegas died in a public hospital after he was arrested and allegedly injured by police officers Edilberto Alexander Cruz Chavez, Angel Antonio Garcia Hernandez, and William Leonidas Beltran in Tenancingo, Cuscatlan Department. On December 15, the Office of the Attorney General (AG) issued arrest warrants for the officers involved. At year's end the case remained under investigation by the AG and the PNCIG.

There were no developments during the year regarding the investigation into the killing of Melvin Guadalupe during 2004 riots in San Salvador, during which the police reportedly used excessive force.

On September 26, the Inter-American Court of Human Rights asked the government to protect the lives of the family of Mauricio Garcia Prieto, who was killed in 1994 by three armed men with suspected ties to the armed forces, and the family's legal counselors at the Institute of Human Rights of the University of Central America (IDHUCA).

On March 2, the Inter-American Commission on Human Rights (IACHR) admitted for review a 1990 petition filed by the Legal Aid Office (Oficina de Tutela Legal) of the Archbishop of San Salvador, alleging the government's responsibility for violating the human rights of 765 persons killed extrajudicially during a 1981 military operation known as the "El Mozote Massacre," conducted by the armed forces' Atlacatl Battalion in the cantons of La Joya and Cerro Pando, and in the villages of El Mozote, Jocote Amarillo, Rancheria, and Los Toriles.

During the year there were no further developments regarding whether the government would reopen the case of the 1980 killing of Archbishop Oscar Romero, despite continued calls by the Catholic Church to reopen the investigation.

There were no developments in the PNC's investigation of discoveries of a number of decapitated bodies of persons killed in 2005, possibly due to gang violence.

#### b. Disappearance

There were no reports of politically motivated disappearances. Most disappearances were criminal kidnappings for ransom, and there were no reports of kidnappings by governmental actors. According to statistics from the AG, 16 persons were kidnapped during the year, compared with 10 during 2005. Of the 16 cases, 12 were resolved and four remained under investigation.

The Association for the Search of Disappeared Children (Pro-Busqueda) investigated 97 cases of children who disappeared during the year and in previous years, opened files for 22 new cases, organized 10 family reunification meetings, and determined the location of 15 children who had disappeared, two of whom had died.

At year's end the IACHR had not published any findings regarding its February 2005 reopening of the 1982 case of the disappearances of Gregoria Herminia, Serapio Cristian, and Julia Ines Contreras, captured by members of the military's Fifth Infantry Brigade during an operation carried out at La Conacastada, San Vicente Department. On December 12, Pro-Busqueda organized the family reunification of Gregoria Herminia Contreras with her biological mother.

On September 22, the Inter-American Court of Human Rights issued a resolution stating that the government had not complied with the measures set out in the Serrano Cruz case and ordered once again that the state "adopt all the measures necessary to ensure that the points of the sentence pending completion are given effect and observed as soon as possible." The court asked the government to present a report before January 19, 2007, in which the government would confirm its compliance with all of the reparation measures.

The reparation measures ordered by the court included that the government publish the sentence in a national newspaper, designate a day dedicated to the children who disappeared during the internal armed conflict between 1980 and 1992, and pay Pro-Busqueda's \$38,000 in court costs.

On December 28, the government published the court's sentence in the leading daily La Prensa Grafica. The government also designated March 29 as the Day for Disappeared Children of the Armed Conflict, and paid Pro-Busqueda's court costs. According to media accounts, the court also stated that the government had not yet adequately complied with other requirements of the resolution, including providing free medical and psychological treatment for relatives of the victims; creating a website to search for children who disappeared; forming a national search commission to search for children who disappeared; and developing a system to enable the conservation of genetic data for determining family relationships.

There were no developments regarding the IACHR's October 2005 agreement to review the 2001 complaint filed by Pro-Busqueda and the Center for Justice and International Law (CEJIL) regarding the 1983 disappearance of three-year-old Jose Ruben Rivera, who was allegedly abducted by the military's Fifth Infantry Brigade, and the subsequent failure of the government to investigate and make reparations for these violations.

There were no developments regarding the IACHR's October 2005 acceptance for review of a 2001 complaint filed by Pro-Busqueda and CEJIL concerning the disappearance of Ana Julia and Carmelina Mejia Ramirez, allegedly abducted by the military's Atlacatl Battalion in 1981, and for the government's subsequent failure to investigate and make reparations.

On November 9, the IACHR admitted the case of Jose Adrian Hernandez Rochac, who disappeared in 1980 when he was five years old during a military operation carried out by the Salvadoran Air Force in San Jose Segundo, San Salvador Department.

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

The constitution prohibits such practices, but during the year the PDDH received 824 complaints that PNC officers used excessive force or otherwise mistreated detainees. The PDDH found PNC officers responsible in 33 cases. The PNCIG received 22 petitions to investigate cases of alleged violations of personal integrity.

On October 17, police officers Juan Pablo Reyes Guevara and Jose Mauricio Trejo of the PNC's counternarcotics unit allegedly injured two persons near the University of El Salvador during a routine search. At year's end the AG was investigating the case.

Through November the PNCIG received 1,499 complaints of police misconduct and submitted 12 of these to special investigation units. The PNCIG sanctioned 2,778 officers in response to complaints filed during the year and in previous years. The sanctions included dismissing 369 officers for misconduct, suspending 453 from work without pay for serious violations, and suspending 1,956 from work without pay for minor infractions.

On March 31, police officer Wilfredo Antonio Romero Garcia was sentenced to six years in prison on sexual abuse and extortion charges in connection with a 2005 PNC investigation finding that six PNC agents had forced alien minors to have sex with them to avoid deportation. Romero Garcia presented a petition before the Criminal Chamber of the Supreme Court to annul the sentence. By year's end the Supreme Court was considering Romero's appeal. The other five PNC agent defendants remained in pretrial detention.

#### Prison and Detention Center Conditions

Prison conditions remained dangerous and harsh. Overcrowding constituted a serious threat to prisoners' health and lives. The prison population increased for the sixth consecutive year.

There were 14,682 prisoners held in 21 correctional facilities and two secure hospitals wards, with a combined designed capacity of 7,372 persons. At year's end 9,893 inmates had been tried and convicted, and 5,841 were held in pretrial detention. During the year 44 inmates escaped from correctional facilities; 22 were recaptured.

Through December correctional facilities authorities reported 14 riots in nine prisons in Apanteos, Chalatenango, Ciudad Barrios, Cojutepeque, Ilopango, Oriental, Quezaltepeque, San Francisco Gotera, San Miguel, Santa Ana, and Zacatecoluca. Between February 3 and 4, several inmates at La Esperanza Central Penitentiary broke out of their cells and temporarily took control of cell blocks. In March and May prisoners rioted briefly at La Esperanza before authorities reestablished control of the facility.

On February 22, the vice minister of governance criticized penitentiary judges' backlog, stating that the cases of 380 inmates who had fulfilled all legal, social, and psychological requirements for parole were still pending review.

Prison authorities reported that during the year 18 prisoners died due to violence, and 25 died due to natural causes. Prisoners obtained weapons that had been smuggled into prisons, in some cases apparently with the knowledge of guards.

Prison authorities seized from prisoners 14,759 bags of marijuana, 2,658 bags of crack cocaine, 56 bags of cocaine, 357 cell phones, 529 machetes, 1,121 knives, 1,963 homemade edged weapons, 13 improvised explosive devices, and nine ounces of poison.

Gang activities in prisons remained a serious problem.

By year's end 4,375 inmates were gang members, which was approximately 25 percent of the prison population. Gangs continued to exercise influence within the prisons and the judicial system, and prisoners reportedly continued to run criminal activities from their cells. Gang violence in juvenile holding facilities was a serious problem. Following discussions over several weeks with a commission of the Directorate of Prisons, gangs within the maximum-security prison at Zacatecoluca ended a hunger strike that began in September 2005.

In March the Directorate of Prisons, the Ministry of Health, and the HIV/AIDS nongovernmental organization (NGO) FUNDASIDA began implementing a voluntary HIV testing program for inmates in the nation's penitentiaries. Between March and August approximately 7,069 inmates underwent voluntary HIV testing. During November and December prison employees received medical training for dealing with HIV-positive inmates, and prison staff trained 51 prisoners to conduct HIV/AIDS awareness-raising campaigns among inmates.

On October 5, a prison guard at Apanteos penitentiary reportedly attempted to provide illegal drugs for inmate consumption. At year's end the AG was investigating the case.

On January 13, sentencing judges acquitted 13 Mariona prison inmates previously found guilty of homicide in August 2005 in relation to a 2004 prison riot.

By year's end there were no new developments regarding the recapture of seven remaining prisoners who had escaped in September 2005 from Ilobasco Penitentiary.

Due to a lack of holding cells, pretrial detainees often were sent to regular prisons where sometimes they were placed together with violent criminals.

The government permitted prison monitoring visits by independent human rights observers, NGOs, and the media; such visits occurred during the year.

#### d. Arbitrary Arrest or Detention

Although the constitution prohibits arbitrary arrest and detention, there were complaints that at times the PNC arbitrarily arrested and detained persons. The PNCIG reported that by year's end it had received 304 complaints of arbitrary acts, including arbitrary arrest, and 149 other complaints that police officers acted beyond the scope of their authority. The PDDH reported that through December PNC officials were responsible for 30 cases of arbitrary detention and 33 cases of excessive use of force and mistreatment of detainees.

On September 26, the Inter-American Court of Human Rights asked the government to take necessary measures to protect Major Adrian Melendez Quijano and his family, who filed a complaint in August against Defense Minister Otto Alejandro Romero for illegal detention and labor rights violations.

#### Role of the Police and Security Apparatus

The PNC maintains public security, and the Ministry of Defense is responsible for national security. The military provided support for a few PNC patrols in rural areas and also gave support to the law enforcement agencies for specific activities, including antinarcotics efforts. The Ministry of Governance headed the Anti-Gang Task Force. Approximately 823 military personnel were deployed to protect police in high crime areas. Military personnel, however, do not have arrest authority.

The PNC's effectiveness was undermined by inadequate training, corruption, insufficient government funding, and the lack of a uniform code of evidence. Persons could report complaints about PNC abuses to the PDDH or the PNCIG, which then investigate the case or refer the matter to the AG for further review.

The PNCIG reported that during the year 1,652 officers received human rights awareness training. The Salvadoran Institute for the Development of Women (ISDEMU), a government agency, gave training to the police regarding prevention of rape, child abuse, and related offenses. The NGO "Norma Virginia Guirola de Herrera" Women's Studies Institute also trained police regarding the treatment of women. The International Law Enforcement Academy for training police, prosecutors, and other public security and judicial officials began operating during the year at temporary facilities in Santa Tecla.

By year's end the AG reported receiving 301 complaints of alleged irregularities against prosecutors, compared with 215 complaints for the year 2005. The irregularities included workplace harassment, sexual harassment, corruption, fraud, and lack of due diligence in presentation of charges before a court.

#### Arrest and Detention

The constitution and the law require a written warrant for arrest, except in cases where an individual is arrested in the commission of a crime. In practice authorities apprehended persons openly with warrants based on sufficient evidence and issued by a duly authorized official and brought them before appropriate judicial officials. The constitution provides that a detainee has the right to a prompt judicial determination of the legality of the detention, and authorities generally respected this right in practice. In general detainees were promptly informed 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. Because it may take several years for a case to come to trial, some prisoners were incarcerated longer than the maximum legal sentences for their crimes. In such circumstances, a detainee was able to request a review by the Supreme Court of the continued detention.

The courts generally enforced a ruling that interrogation without the presence of counsel is considered coercion, and that any evidence obtained in such a manner is inadmissible. As a result, PNC authorities generally delayed questioning until a public defender or an attorney arrived. Family members were allowed prompt access to detainees. Detainees generally had prompt access to counsel of their choosing or to an attorney provided by the state.

The constitution permits the PNC to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. Because of a lack of holding cells, such detainees often were sent to regular prisons where they might be placed together with violent criminals (see section 1.c.). The law permits a judge to take up to six months to investigate serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor may ask the appeals court to extend the deadline for three or six months, depending on the seriousness of the crime. Many cases were not completed within the legally prescribed time frame. As of December 4,789 inmates were held in pretrial detention.

#### e. Denial of Fair Public Trial

Although the constitution provides for an independent judiciary, the judiciary suffered from inefficiency and corruption. Corruption in the judicial system contributed to impunity from the country's civil and criminal laws. Impunity remained a significant problem, undermining respect for the judiciary and the rule of law. As of September the civil courts reported a workload of 4,500 cases.

On June 27, the AG announced it was investigating seven judges for corruption. By year's end the Supreme Court had sanctioned two and ordered disciplinary procedures against the other five. The Supreme Court also sanctioned 25 other judges.

On July 1, the Supreme Court issued a public statement that it would discharge corrupt or negligent judges, and that it would improve internal controls through a new process of judicial investigations to address the failure of judges to follow procedures, judges' absences from

legal proceedings, and other sanctionable offenses.

On August 25, Supreme Court Justice Mirna Perla telephoned and visited first-instance judges in an attempt to influence them to transfer Doctor Yomar Vallejo, a staff member of the Social Security Institute (ISSS) awaiting trial on charges of corruption, from a military hospital to a public hospital. On August 30, Perla alleged that Vallejo required special attention that the military hospital could not provide.

CID-Gallup polls in October revealed citizens' belief that judicial system inefficiencies allowed criminals to escape from justice. Many judges allowed unjustified trial delays, but few were ever sanctioned for this practice. NGOs such as the Foundation for Studies in Legal Application, the Salvadoran Foundation for Economic and Social Development, and IDHUCA continued to complain that the Supreme Court did not respond adequately to public criticism and did not make a comprehensive effort to remove unqualified and corrupt judges.

The PNC, prosecutors, public defenders, and the courts continued to have problems with criminal investigations. Inadequate government funding of the PNC, combined with intimidation and killing of victims and witnesses, made it difficult to identify, arrest, and prosecute perpetrators of human rights abuses and other crimes, thus diminishing public confidence in the justice system.

There were no developments regarding any investigation of the killing or any arrest of gang members who killed trial witness Antonio Alexander Pacas in September 2005.

On March 14, the IACHR admitted a 2000 IDHUCA complaint alleging the government's responsibility in the violation of the right to a fair trial and other human rights of Supreme Electoral Tribunal Magistrate Eduardo Benjamin Colindres, whom the Legislative Assembly dismissed from his job on grounds of performance irregularities. At year's end the IACHR continued to examine the merits of the case.

On May 15, Levis Italmir Orellana, president of the Judges and Appellate Judges Association, stated that a witness and victim protection law, passed by the legislature on April 26, was unconstitutional. The law went into force on August 22. Italmir Orellana asserted that he and other judges would not enforce its provisions because of what they viewed as a conflict with the presumption of innocence and a defendant's right to confront his or her accuser.

On June 28, sentencing judges Manuel Edgardo Turcios, Rosa Estela Hernandez, and Ramon Ivan Garcia compelled four sexually abused minors to testify in front of their stepfather, who allegedly had raped them, violating established law and AG guidance proscribing forcing sexual abuse victims to testify in the presence of their alleged abusers. The AG and NGOs publicly criticized the judges' decision, but because the victims did not present a complaint to the Supreme Court regarding the violation of the established law, the judges were not sanctioned for their behavior. On July 11, the Fourth Sentencing Tribunal in San Salvador sentenced the stepfather to 18 years imprisonment and ordered him to pay a \$1,000 fine.

On June 27, the AG announced it had initiated investigations against seven judges for corruption and malfeasance, including for compelling victims of sexual abuse to testify in the presence of their alleged abusers.

On August 22, the government inaugurated a new center for victims and witnesses but allocated inadequate resources to enable the center to provide victims with adequate care.

During the year the AG received 301 complaints of prosecutorial irregularities, including bribery, negligence, and failure to attend legal proceedings, compared with 215 in 2005.

There were no new developments, and none were expected, regarding the criminal court's 2004 decision to release from police custody, and to dismiss charges against, criminal court legal clerk Graciela Roque, in connection with the 2004 flight from justice of Raul Garcia Prieto.

At year's end there were no developments, and none were expected, regarding an appellate court's 2004 decision to uphold a lower court ruling to transfer defendant Fernando Palacios Luna, convicted of kidnapping and organized crime, from a maximum-security to a medium-security prison.

The court system has four levels: justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court oversees the budget and administration of the court system, and selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judiciary Council (CNJ), an independent body that nominates, trains, and evaluates justices. There are separate court systems for family matters and juvenile offenders. The law requires that minors from 12 to 17 years of age be tried in juvenile courts.

On October 5, the president of the CNJ recommended that the Supreme Court sanction 39 judges following an evaluation of the conduct of 652 judges in 2005.

Although juries were used for specific charges, including environmental pollution and certain misdemeanors, judges decided most cases. By law juries hear only cases that the law does not assign to sentencing courts. After the jury's determination of innocence or guilt, a tribunal decides the sentence.

Defendants have the right to be present in court and to question witnesses and present witnesses and evidence. Although the constitution further provides for the presumption of innocence, protection from self-incrimination, the right to legal counsel, freedom from coercion, and government-provided legal counsel for the indigent, these legal rights and protections were not always respected in practice. Although a jury's verdict is final, a judge's verdict can be appealed. Trials are public.

## Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

## Civil Judicial Procedures and Remedies

Although the law provides for access to the courts, enabling litigants to bring civil matter lawsuits, including seeking damages for, or cessation of, human rights violations, the judiciary was not independent or impartial. Judges were subject to outside influence. Some persons sought to bring their cases before international bodies, such as the Inter-American Court of Human Rights and the IACHR, because they believed that these organizations would adjudicate their claims with greater fairness and impartiality. The law provides administrative remedies for alleged wrongs through the PDDH, the solicitor's office, the Government Ethics Tribunal, and the Center for Consumer Protection, as well as administrative offices within the various ministries. There were problems in enforcing domestic court orders.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. During official presidential addresses to the country, all telecommunications media routinely were blacked out except for radio and television stations carrying the president's presentation. NGOs commented that this exerted a chilling effect on free speech. The independent media were active and expressed a variety of views without restriction. International media were allowed to operate freely.

There were no further developments, and none were expected, regarding the 2004 convictions for public disorder and the sentencing of defendants to two-year suspended sentences in relation to attacks on journalists and the burning of media vehicles in 2004 during a demonstration by social security workers.

International NGOs generally commented positively on the status of press freedom in the country. Some media groups asserted, however, that a criminal code provision allowing judges to close court proceedings if public exposure could prejudice a case abridged press freedom. According to some practitioners and observers, at times newspaper editors and radio directors discouraged journalists from reporting on topics or presenting views that the owners or publishers might not view favorably.

Following the fatal shootings of police officers during a July 5 riot at the University of El Salvador (see section 1.a.), social activist Gilberto Garcia reportedly attempted to intimidate La Prensa Grafica photographer Milton Flores during preliminary hearings against Luis Antonio Herrador. At the hearings Herrador and former Mejicanos city councilman Jose Belloso Castillo were charged as accomplices in the shootings. Garcia stated that his presence at the hearings was connected to his work as a media correspondent. Flores's photographs were key evidence in the case against the fugitive Belloso Castillo (see section 1.a.).

On July 8, the Salvadoran Press Association strongly condemned violence against journalists covering the events of July 5 (see section 1.a.), including attacks and property destruction by demonstrators against Teledos television reporter Ernesto Landos, El Diario de Hoy photographer Felipe Ayala, and YSUCA radio reporter Ivan Perez.

## Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via Internet, including by electronic mail.

## Academic and Cultural Freedom

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

### b. Freedom of Peaceful Assembly and Association

#### Freedom of Assembly

The constitution provides for freedom of assembly, and the government generally respected this right in practice. On September 21, the Legislative Assembly passed new counterterrorism legislation, which FMLN leaders alleged was instituted to undermine the ability of demonstrators to carry out civil disturbances to protest government policies. During July 5 demonstrations, masked individuals vandalized public and private property, and a former FMLN councilman fatally shot two police officers and wounded 10 others. Police did not use lethal force and no demonstrators suffered serious injuries (see section 1.a.).

#### Freedom of Association

Although the constitution provides for freedom of association, there were concerns regarding registration delays of certain types of civil society groups. NGOs asserted that the Governance Ministry delayed approval of legal status for NGOs with particular human rights or political agendas. There were no developments regarding the Governance Ministry's 2005 denial of legal status to En Nombre de la Rosa, a homosexual and transvestite advocacy NGO (see section 5).

### c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. Under the law for nonprofit organizations and foundations, the Ministry of Governance has responsibility for registering, regulating, and overseeing the finances of NGOs, non-Catholic churches, and other religious groups. The law exempts unions, cooperatives, and the Roman Catholic Church from this registration requirement. Although the law prohibits visitors to the country from proselytizing while on a visitor or tourist visa, this prohibition was not enforced.

### Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination, including anti-Semitic acts. The Jewish community totaled approximately 150 persons.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The constitution provides for these rights, and the government generally respected them in practice.

The constitution prohibits forced exile, and the government observed this prohibition in practice.

### Protection of Refugees

The law provides for the granting of refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government established a system for providing protection to refugees. In August the president enacted new regulations relating to the status of refugees. In practice the government provided protection against refoulement, the return of persons to a country where they feared persecution. During the year the government received two refugee petitions from Sri Lankan nationals and granted the two applicants refugee status. The government also provided temporary protection to individuals who may not qualify as refugees under the 1951 UN Convention or 1967 protocol. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers.

Pursuant to concerns brought by the UNHCR to the government, in April the government granted refugee status to 29 Nicaraguans who had moved to the country during the 1980s but had never completed procedures for receiving refugee status.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

In March elections, described as free and fair by international observers, the ruling center-right ARENA party won a plurality of 34 deputy seats in the 84-seat unicameral Legislative Assembly and later negotiated with the 10 deputies of the center-right National Conciliation Party (PCN) and the five deputies of the center-left Christian Democratic Party (PDC) to maintain a simple working majority. The opposition FMLN Party won 32 seats in the March elections.

In 2004 ARENA party candidate Elias Antonio Saca won the presidential election, which the Organization of American States and other international observers reported was free, fair, and with few irregularities.

The country's vice president was a woman, and 13 of 84 legislators were women. There were five women on the 15-member Supreme Court.

No persons identified as members of an ethnic or religious minority held leadership positions in the government or the Legislative Assembly.

### Government Corruption and Transparency

There were reports of substantial government corruption during the year within the judicial system (see section 1.e.), as well as in the executive and legislative branches.

On grounds of lacking jurisdictional competence, on May 12, the AG declined to proceed with a challenge brought by a justice of the Supreme Court contesting a June 2005 decision by the Supreme Court holding that a request by the court's probity section for bank records of former cabinet members of the 1999-2004 Flores administration violated due process.

During the year, acting on a petition of the Probity Section of the Supreme Court, the AG prosecuted 30 public officials, including 17 legislators and former legislators, 12 members of municipal councils, and a former director of public transportation. By year's end eight legislators had paid the fines imposed upon them by the Supreme Court, and the assets of eight other public officials were ordered embargoed.

On November 29, the Legislative Assembly revoked the immunity of PCN Alternate Deputy Roberto Carlos Silva Pereira, accused of money laundering, illicit negotiations with mayors, and fraud. Following the revocation of immunity, the AG submitted the case to the First Appellate Court of San Salvador to determine whether to proceed with a trial. At year's end the court had not arrived at a decision.

Although the law provides for public access to government information, the public had difficulty accessing government budget figures, information involving investigations by the comptroller's office, and information on cases before the Supreme Court.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide 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 at times were reluctant to discuss worker rights issues with NGOs and refused to discuss the topic with the PDDH. Domestic and international NGOs were required to register with the government, and some reported difficulties (see section 2.b.).

The principal human rights investigative and monitoring body is the PDDH, whose head is elected by the Legislative Assembly for a three-year term. The PDDH operated independently, without government or political party interference. On August 17, the Fourth Chamber of First Instance of the Court of Accounts found 16 administrative failures and four financial failures against the PDDH amounting to \$21,585.27, relating to the 2004 fiscal year. By year's end the PDDH had appealed the court's verdict.

During the year the PDDH reported receiving death threats from unknown sources. The PDDH regularly issued reports and press releases and maintained a constructive dialogue with the president's office. The government publicly acknowledged receipt of the PDDH's reports. In some cases, however, the government did not take action on PDDH reports' recommendations, which are not legally binding.

By year's end the PDDH had accepted 2,703 complaints of human rights violations (see sections 1.a. and 1.c.) and had issued 1,082 preliminary decisions and 660 final decisions for cases filed during the year and previous years. The rights most frequently alleged to have been violated related to personal integrity, freedom of movement, labor laws, access to justice, and personal security. The PDDH provided no information regarding the number of cases it dismissed or the number of cases in which it issued recommendations.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Although the constitution and laws establish that all persons are equal before the law and prohibit discrimination regardless of race, gender, disability, language or social status, in practice the government did not effectively enforce these prohibitions. There was discrimination against women, persons with disabilities, and indigenous people regarding salaries and hiring.

##### Women

Violence against women, including domestic violence, was a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from one to three years in prison. In addition convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The length of the prohibition depends on the circumstances of the case and is at the judge's discretion. The law also permits the imposition of restraining orders against offenders. Domestic violence was considered socially acceptable by a large portion of the population. Few victims filed complaints against abusers, and the police reportedly at times were reluctant to pursue charges in such cases. ISDEMU conducted public awareness campaigns against domestic violence and sexual abuse in coordination with the judicial and executive branches and with civil society groups.

During the year ISDEMU received 4,792 reports of domestic violence, compared with 4,033 complaints in 2005 and 4,329 in 2004, and the PNC received 773 complaints of domestic violence during the year.

Incidents of domestic violence and rape continued to be underreported for a number of reasons, including societal and cultural pressures against victims, fears of reprisal, ineffective and unsupportive responses by the authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted.

Government institutions such as the PDDH, the AG, the Supreme Court, the public defender's office, and the PNC coordinated efforts with NGOs and other organizations to combat violence against women through education, increased enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family, through ISDEMU, defined policies, programs, and projects on domestic violence and continued to maintain a hot line and a shelter for victims of domestic abuse. Judges are permitted to give NGOs legal authority to assist victims of domestic violence.

Rape and other sexual crimes against women were widespread and serious problems. ISDEMU received 891 cases of sexual abuse, including rape. The PNC received reports of 488 rapes against children and 869 rapes against women, in comparison with 455 cases of rape and 225 cases of other sexual assaults during 2005. There was no information available on the number of rapes and other sexual assaults that were gang-related.

The law permits the AG to prosecute rape cases with or without a complaint from the victim and does not permit the victim's pardon to nullify the criminal charge. In general the penalty for rape is six to 10 years in prison, but the law provides for a maximum sentence of 20 years for rape of certain classes of victims, including children and persons with disabilities.

ISDEMU conducted sensitivity and technical courses for the education, government, public health, and social assistance ministries; the judiciary; the PNC; the AG; and the ISSS. During the year ISDEMU provided psychological assistance to 13,872 victims of rape and other forms of sexual abuse, child abuse, and domestic violence.

Although the law does not specifically address spousal rape, it may be considered a crime if the actions meet the definition of rape in the criminal code.

Although prostitution is legal, the law prohibits inducing, facilitating, promoting, or giving incentives to a person to work as a prostitute. Prostitution remained common, and there were credible reports that some women and girls were forced into prostitution (see section 6.c.). There were no reports that police or other public security officials condoned or engaged in abuse of persons engaged in prostitution.

There were no reports of sex tourism. Trafficking in women and girls for purposes of sexual exploitation was a problem (see section 5, Trafficking).

The law prohibits sexual harassment and stipulates penalties of three to five years in prison for those convicted of harassment, or four to eight years in cases where the victim was a minor under the age of 15. Fines are added to the prison term in cases where the perpetrator is in a position of authority or trust over the victim.

The government did not enforce sexual harassment laws effectively. It was difficult to estimate the extent of the problem. Underreporting by victims of sexual harassment appeared to be related to traditional cultural norms. ISDEMU estimated that 40 percent of incidents of sexual abuse and rape were preceded by sexual harassment. Even though pregnancy testing as a condition for employment is illegal, some employers, including maquila factories in the export processing zones (EPZs), required female job applicants to present pregnancy test results and also fired workers found to be pregnant (see section 6).

The constitution grants women and men the same legal rights under family and property law, but at times women did not receive equal treatment in practice. The law establishes sentences of one to three years in prison for public officials who deny a person's civil rights based on gender. Although the law provides for a prison sentence of six months to two years for employers who discriminate against women in labor relations, it was difficult for employees to report such violations because they feared reprisals.

Women suffered from cultural and societal discrimination and had reduced economic opportunities. Men often received priority in job placement and promotions, and women were not accorded equal respect or stature in traditional male-dominated sectors, such as agriculture and business. Training for women generally was confined to low-wage occupational areas where women already held most positions, in fields such as teaching, nursing, home industries, and small businesses.

A 2003 UN Development Program study, the most recent available, reported that women earned on average \$3,350 per year, compared with \$7,381 for men. In the maquila sector, where women formed approximately 85 percent of the labor force, men held the majority of positions in management and in departments where employees received higher wages.

During the year ISDEMU gave human rights awareness training on various issues, including prevention of domestic violence, public policies relating to gender, and HIV/AIDS to approximately 12,300 men and women. ISDEMU, along with Foundation for Small and Medium-Sized Enterprises and the Salvadoran Institute for Professional Training, also supported combating economic discrimination through providing technical and financial assistance to 1,305 female heads of household in 25 municipalities.

## Children

The government was committed to improving children's rights and welfare but allocated insufficient resources and suffered from poor interagency coordination in its child welfare activities. The Salvadoran Institute for Children and Adolescents (ISNA), an autonomous entity, has primary responsibility for child welfare issues.

The government focused on improving children's education, with the goal of creating a more competitive work force through continuing programs that supported bilingual studies and computer and mathematics skills.

The Ministry of Education and the Ministry of Labor, with foreign government assistance, coordinated the APRENDO program that raised awareness among students, teachers, and parents regarding the importance of remaining in school and avoiding harmful forms of child labor. The government also continued to cooperate in a program sponsored by the UN Children's Fund (UNICEF) that provided information to children regarding sexual and commercial exploitation.

Education is free, universal, and compulsory through the ninth grade and nominally free through high school. Children on average attended school for approximately 5.5 years. The law prohibits persons from impeding children's access to school due to inability to pay fees or buy uniforms. Some public schools, however, continued to charge student fees, preventing poor children from attending school. Rural areas fell short of providing a ninth grade education to all potential students, due to a lack of resources and because rural parents often withdrew their children from school by the sixth grade to work. The majority of private schools dismissed adolescent females in cases of pregnancy but authorized adolescent males who were expectant fathers to continue studying.

Boys and girls enjoyed equal access to state-provided medical care.

Child abuse was a serious and widespread problem. ISDEMU reported 2,932 cases of child abuse, including 623 cases of negligence, 468 cases of mistreatment, 434 cases of children living on the streets, 265 cases of sexual abuse, 260 cases of abandonment, and 79 cases of children employed as beggars.

Notwithstanding unsubstantiated reports in previous years of police abuse of street children, during the year the PNCIG and the PDDH received no reports of PNC abuse of street children. The government provided street children with food, shelter, and healthcare. There were 174 street children housed in ISNA shelters, but ISNA lacked adequate resources to provide assistance to all street children.

As of September ISNA reported 184 cases of sexual crimes against children, including prostitution, rape, statutory rape, and molestation; 411 cases of negligence; 186 cases of abandonment; 184 cases of domestic violence; and 53 cases of exploitation as beggars. International Labor Organization (ILO) data indicated that there was societal tolerance toward having sexual relations with minors.

The law prohibits participating in, facilitating, or purchasing materials containing child pornography and sanctions offending adults with prison sentences of up to 16 years. Following the August publication of an article in *La Prensa* that reported despite legal prohibitions, pornographic materials remained available through vendors in San Salvador, police in the capital undertook a crackdown to stop the sale and distribution of pornographic materials.

Child labor remained a widespread and serious problem. In September the Ministry of Education reported that its 2004-2005 school attendance census, the most recent available, revealed that approximately 15 percent of students between five and 17 years old worked, with children in rural areas most likely to be involved in work activities (see section 6).

#### Trafficking in Persons

Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country. Trafficking in persons and forced prostitution are felonies, penalized by four to eight years' imprisonment. If the trafficking victim is under 18, suffers mental or physical disease, suffers violations to freedom of transit in a foreign country, dies as a consequence of negligence or imprudence, or if the perpetrator is a law enforcement agent or public officer, the maximum sentence increases by one-third.

The country was a source, transit, and destination country for women and children trafficked for the purpose of sexual exploitation. The country was also a source country for forced labor. There was evidence that the country was a transit point for girls trafficked to Mexico, the United States, neighboring Central American countries, and elsewhere. Most international trafficking victims came from Nicaragua, Honduras, and South America. Some children were trafficked internally to cities, particularly to Acajutla and San Miguel, and to bars and border regions. Sex trafficking of minors occurred within the country's borders, as did sex trafficking in which commercial sex was induced by force, fraud, or coercion. According to the ILO's International Program to Eliminate the Worst Forms of Child Labor (IPEC), girls were sexually exploited commercially in San Salvador and San Miguel.

There were no firm estimates on the extent of trafficking. Particular groups at special risk for trafficking were girls and young women from 12 to 19 years of age, persons from rural and poor areas, single mothers in poor areas, adolescents without formal schooling, adolescent mothers, unemployed young men, and foreign girls. In October the ILO stated that children were most vulnerable to become victims of trafficking.

According to immigration authorities, the principal traffickers in the country were the owners of topless bars and brothels and employment agencies that offered inducements for work in beauty salons, as models, in gyms, as maids, or in factories. The PNC reported that the most common methods of obtaining victims were kidnapping, lucrative job offers, and inducement into prostitution by family, friends, and smugglers. Some victims were transported by organizations. Most victims, however, entered the country on their own from Nicaragua, Honduras, and other neighboring countries in response to job offers to work as domestic servants but upon arrival were forced into prostitution.

By year's end the AG had prosecuted 35 cases of trafficking, with four cases resulting in convictions of seven traffickers. Traffickers received sentences between three and 20 years in prison.

On February 1, Santa Tecla Justice of the Peace Eduardo Tenorio acquitted Jose Miguel Clara Uriarte, Oscar Ernesto Rodríguez Pérez, Jorge Armando Rodríguez, and Roberto Carlos Melgar Suria of charges of sexual exploitation, rape, child pornography, alien smuggling, and prostitution of three Nicaraguan girls between 14 and 16 years of age. Tenorio claimed that the victims had entered the country of their own free will and that during their brief time in the country had not generated income for the defendants. The ILO and the AG publicly contested the decision on the grounds that it violated domestic laws and international conventions. On October 26, the Second Criminal Judge of Santa Tecla confirmed Judge Tenorio's decision. The AG appealed the decision, but an appellate court acquitted the defendants temporarily and offered the AG one year to present new evidence against them.

On July 11, Juan Santos Martinez was sentenced to 20 years in prison for rape, violation to the right of freedom of transit, and trafficking in persons in relation to the purchase of a 13-year-old girl in Belize in August 2005.

There were no new developments, and none were expected, in the AG's attempt to reopen the case of Sara Elizabeth Galdamez de Orellana, arrested in 2004 for procuring for prostitution three girls aged 14 to 16 in Metapan, but acquitted by a justice of the peace for lack of evidence.

On March 5, the minister of foreign affairs formally swore in the National Committee to Combat Trafficking in Persons, comprising the government agencies responsible for addressing trafficking in persons. Government agencies on the committee included the Alien Smuggling and Trafficking in Persons Unit of the Office of the Attorney General; the PNC; ISNA; and the foreign affairs, governance, treasury, education, labor, health, and tourism ministries. The ILO and UNICEF advised and provided financial support to the committee.

During the year the Ministry of Labor, along with the ILO, trained and provided trafficking awareness training to 60 PNC agents of the trafficking and alien smuggling division, 280 officers and 21 agents of the trafficking prevention unit, and 1,800 officers from other units. The National Academy of Public Security, the Ministry of Labor, and the ILO trained 62 new PNC agents on trafficking issues. Additionally the Ministry of Labor and the ILO gave trafficking awareness training to 75 Ministry of Education psychologists, 90 ISDEMU staff members, 90 judges, and 145 agents of the Migration Directorate.

During the year the government coordinated 14 cases of trafficking in cooperation with INTERPOL and Guatemalan, Belizean, Nicaraguan, and Mexican authorities, resulting in 24 arrests. By year's end there were no extraditions based on trafficking charges.

The government detained illegal migrants, including those who might have been trafficking victims. When illegal immigrants who were victims of trafficking were older than 18 years and did not request assistance or express fear for their lives, they were deported under the immigration law. Persons under 18 years of age were repatriated through ISNA cooperation with the counterpart organization in the victim's country of origin. The PNC encouraged national trafficking victims to press charges against traffickers. Victims could apply for temporary residence or refugee status if they were likely to face persecution in their country of origin.

The government provided access to legal, medical, and psychological services upon request. Victims of trafficking were not treated as criminals unless they were undocumented workers of legal age. Although the government provided assistance to its repatriated citizens who were victims of trafficking, victims faced societal discrimination due to having engaged in prostitution or other commercial sexual activities.

The Salvadoran Network Against Trafficking, comprising the ILO, Catholic Relief Services, the NGOs Las Dignas, CONAMUS, Flor de Piedra, FESPAD, and CARITAS, provided legal counseling and human rights awareness to victims of trafficking. CEMUJER, IDHUCA, CONAMUS, the International Office on Migration, and the ILO had programs to prevent trafficking. On April 29, the government opened a shelter for victims of trafficking. As of October 58 trafficking victims had received shelter, many of whom were minors later repatriated to their families or countries of origin. At year's end 12 trafficking victims were living at the shelter.

#### Persons with Disabilities

Although the law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services, the government did not effectively enforce these prohibitions, nor did it effectively enforce legal requirements for access to buildings for persons with disabilities. There was discrimination against persons with disabilities in employment and education.

The government made inadequate efforts during the year to combat discrimination and increase opportunities for persons with non-war-related mental and physical disabilities. The law requires that one of every 25 employees hired by private businesses be a person with disabilities. Even though there were no reliable data on the number of persons with disabilities who were employed, the unemployment rate among this group remained significantly higher than that of the general population.

There were no developments, and none were expected, regarding an October 2005 ruling of a justice of the Constitutional Chamber that a criminal court had violated a deaf man's right of defense by failing to provide a sign language interpreter during March 2004 judicial proceedings relating to child abuse charges.

Access by persons with disabilities to basic education was limited due to lack of facilities and appropriate transportation. Few of the government's community-based health promoters were trained to treat persons with disabilities, and they rarely provided such services. The government provided insufficient funding to the several organizations dedicated to protecting and promoting the rights of persons with disabilities.

The National Council for Disabled Persons (CONAIPD) is the government agency responsible for protecting the rights of persons with disabilities. Through year's end CONAIPD provided medical and psychological assistance to 28,025 persons with disabilities. It trained 182 officials from different government agencies in sign language and coordinated the first Central American Special Olympics for persons with disabilities. CONAIPD also conducted awareness campaigns to promote hiring of persons with disabilities and to improve the treatment of persons with disabilities in the employment, education, and health sectors. Through December the National Registry of Persons reported that there were 200,728 persons over 18 years of age with disabilities.

The Rehabilitation Foundation (Teleton), in cooperation with the Salvadoran Institute for the Rehabilitation of the Disabled, continued to operate a treatment center to offer services to persons with disabilities, including a touch garden for the blind, art workshops, a special educational assistance program, and an education program for parents of children with disabilities.

#### Indigenous People

While the constitution states that native languages are part of the national heritage and should be preserved and respected, the law does not recognize indigenous communities and accords no special rights to indigenous people. Indigenous persons comprise approximately 1 percent of the national population and form three principal groups: Nahua-Pipiles in western and central areas of the country, Lencas in the eastern region, and Cacaoperas also in the eastern region. Due to the persistence of discriminatory cultural attitudes against indigenous

people, few individuals publicly identified themselves as indigenous. There were a few small indigenous communities whose members continued to wear traditional dress and maintain traditional customs to a recognizable degree without repression or interference by the government and nonindigenous groups. Government estimates in 2004, the most recent available, indicated that approximately 99 percent of indigenous persons lived below the poverty level.

Access to land was a problem for indigenous persons. Because few possessed title to land, bank loans and other forms of credit were extremely limited. In a March session, the UN Committee on Elimination of Racial Discrimination (CERD) noted with concern the vulnerability of the country's indigenous persons with regard to enjoyment of their economic, social, and cultural rights, particularly with regard to land ownership and access to drinking water; the low level of indigenous participation in government and public affairs; and that indigenous persons did not have access to their sacred sites of worship in the same ways as followers of other religions.

The CERD expressed concerns about government assertions that there was no racial discrimination. The CERD noted discrepancies between government assessments that the country was ethnically homogenous and credible indications that specific indigenous populations lived in the country. The CERD recommended that the government consider granting legal recognition to indigenous persons.

During the year five schools in the western part of the country continued operating an after-school Nahuat language program, in which 817 students participated. The government's National Committee for Art and Culture, in cooperation with the Inter-American Development Bank, the Pan-American Health Organization (PAHO), and Don Bosco University, continued to support the program. There were no government programs dedicated to combat discrimination against indigenous persons.

#### Other Societal Abuses and Discrimination

During the year IDEMU received 584 complaints of domestic violence against the elderly.

The law prohibits discrimination on the basis of HIV status and sexual orientation, although in practice discrimination was widespread. There were reports of violence and discrimination by public and private actors against persons with HIV/AIDS, and against homosexual, lesbian, and transgender persons, including denial of legal registration for a homosexual rights advocacy group (see section 2.b.). As in the previous year, in September the Ministry of Labor along with the Ministry of Health launched another campaign to eliminate workplace discrimination based on pregnancy or HIV status as part of a comprehensive effort to combat an increase in HIV cases.

A 2005 PAHO report, the most recent available, revealed that HIV/AIDS patients suffered from a lack of information and supplies. Lack of public information remained a problem in confronting discrimination against persons with HIV/AIDS or in assisting persons suffering from HIV/AIDS. According to a National Health Survey presented in September, only half of the population between the ages of 15 and 24 were sufficiently aware of methods for preventing HIV infection.

There were no new developments regarding any investigation of two bodyguards of the prisons director who in September 2005 were accused of sexually abusing a transvestite minor whom they picked up on the streets in a government vehicle. The defendants remained on bail pending trial.

There were no developments, and none were expected, regarding any investigation into the 2004 separate killings of transvestite Jose Flores Natividad Duran and transvestite David Antonio Andrade Castellano.

#### Section 6 Worker Rights

##### a. The Right of Association

While the constitution provides for the right of workers, except military personnel, national police, and government workers, to form unions without previous authorization, there were problems in the exercise of this right.

During the year the ILO Committee on Freedom of Association supported worker complaints that the government impeded the exercise of the right of association. Union leaders asserted that the government and judges continued to use excessive formalities as a justification to deny applications for legal standing to unions and federations. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers. According to Ministry of Labor statistics, 10.2 percent of the country's total workforce in the formal and informal sectors was unionized, compared with 9.1 percent in 2005.

According to the 2004 Multiple Household Survey, the most recent available, 772,407 persons, representing approximately 50 percent of the economically active urban population, worked in the informal sector. Of those, 274,931 were women, and 221,610 were men.

On July 24, the Ministry of Labor granted legal status to the airport maintenance workers union following a workers' appeal contesting a June 9 ministry decision denying legal status on technical grounds.

On September 18, members of the communications union SITCOM filed an appeal with the Ministry of Labor contesting the ministry's denial of the union's legal status. On November 15, the ministry upheld its previous decision to deny SITCOM's legal status.

The law does not require employers to reinstate illegally dismissed workers. Employers dismissed workers who tried to form unions, and in most cases the government did not prevent their dismissal or seek their reinstatement.

On November 15, the Third Sentencing Court of San Salvador sentenced to two years in prison Hermosa Manufacturing Co. owner Joaquin Salvador Montalvo Machado, for illegally retaining workers' payments to the ISSS and pension system. Mantalvo was also fined \$144,724.05, which he paid. At year's end, however, payment of wages and benefits due to workers remained pending in the courts. In September the Ministry of Labor imposed fines of \$2,399.88 on the company in response to a June 2005 suit brought by the National Federation of Salvadoran Workers before the ILO.

Using mediation provided by the Ministry of Labor, on November 9, ISSS officials and labor leaders of the Social Security Workers Union reached a settlement of a labor dispute under which ISSS employees would receive a monthly salary increase of \$80 in May 2008. The settlement also included a two-year extension of the collective bargaining agreement and a provision that the new collective bargaining agreement would be registered with the ILO to provide legal assurances for workers and the ISSS.

On February 13, the owners of Evergreen Manufacturing Company closed their factory permanently, and pursuant to a labor ministry directive sold the factory's machinery and paid wages and other legal benefits to workers.

The law specifies 18 reasons for which an employer can legally suspend workers, and employers can invoke 11 of these reasons without prior administrative or judicial authorization. Workers reported instances where employers used illegal means to undermine union organizing, including the dismissal of labor activists and the circulation of lists of workers who would not be hired because they had belonged to unions.

Through December the Ministry of Labor reported that the country had 205 active registered unions, 20 labor federations, and four labor confederations, with a combined membership of 168,849 workers.

By end of the year workers fired in 2005 for organizing the legally recognized Port Industry Workers Union of El Salvador, and whose case the Public Services Union Federation of El Salvador brought before the ILO in June 2005, still had not been rehired. The Ministry of Labor imposed fines on port enterprises that refused to rehire worker union members.

#### b. The Right to Organize and Bargain Collectively

The law provides for collective bargaining by employees in the private sector and by certain categories of workers in autonomous government agencies, such as utilities and the port authority. At year's end the Ministry of Labor reported 264 collective bargaining agreements in effect, covering 54,209 workers. Labor leaders asserted that the government had an unfair advantage in arbitration of public sector labor disputes because the government holds two of three seats on arbitration panels.

With the exception of public workers who provide vital community services, the constitution recognizes the right to strike, and workers exercised this right in practice. Despite the prohibition on strikes by public sector workers performing vital community services, the government generally treated work stoppages called by such worker associations as legitimate.

On March 2, the IACHR accepted for review a 2003 complaint filed by the NGO Derechos Humanos para las Americas, alleging that the government violated the human rights of the founding members of the Ministry of Education Workers Union in denying it legal status. Through December there were no further developments in this case.

In order for a strike to be legal, 51 percent of workers in an enterprise must support a strike, including workers not represented by the union. Unions may strike only after the expiration of a collective bargaining agreement or to protect professional rights. Unions first must seek to resolve differences through direct negotiation, mediation, and arbitration before striking. A strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot, and the union must name a strike committee to serve as a negotiator and send the list of names to the Ministry of Labor, which notifies the employer. The union must wait four days from the time the Ministry of Labor notifies the employer before beginning the strike.

There were 123 maquila plants, 56 of which were located in the country's 15 EPZs. There are no special laws or exemptions from regular labor laws inside the EPZs. There were credible reports that some factories in the EPZs dismissed union organizers; there were no collective bargaining agreements among the 15 unions active in the maquila sector. Maquila workers reported verbal and physical abuse, as well as sexual harassment by supervisors (see section 5).

The government did not allocate sufficient resources for adequate inspection and oversight to ensure respect for association and collective bargaining rights in EPZs. There continued to be allegations of corruption among labor inspectors in the maquilas. The ILO Committee of Experts noted allegations by unions that maquila companies set production targets requiring employees to work beyond the ordinary working day without pay and under threat of dismissal and asked the government to document the number of instances in which workers alleged imposition of labor outside the ordinary working day.

The Ministry of Labor and the Ministry of Economy concurred that during the year approximately 10,000 workers in the maquila sector were not receiving social security and other payment benefits to which they were legally entitled.

#### c. Prohibition of Forced or Compulsory Labor

The constitution prohibits forced or compulsory labor, including by children, except in the case of natural catastrophe and other instances specified by law. Although the government generally enforced this prohibition, there were problems with trafficking of persons for forced commercial sexual purposes (see section 5, Trafficking).

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 14, but child labor remained a serious and widespread problem.

On September 20, the government launched its first comprehensive national plan to eliminate child labor, by aiming within four years to reduce the worst forms of child labor among 288,221 children and youth between five to 17 years of age. The plan was a collaborative effort by the labor, education, health, agriculture, foreign affairs, tourism, governance, and economy ministries, the National Secretariat for the Family, the National Secretariat for Youth, ISNA, the Small and Medium Enterprises Committee, the National Superior Labor Council, the National Roundtable Against Sexual Commercial Exploitation, and the National Committee for the Elimination of the Worst Forms of Child Labor, coordinated with IPEC.

As of September IPEC had removed 1,503 children from work activities. There was no data available regarding the approximate number of children working in the country during the year.

The law limits the workday to six hours, plus a maximum of two hours of overtime, for youths between 14 and 16 years of age and sets a maximum normal workweek for youths at 34 hours. For all sectors of the economy, the law prohibits those under the age of 18 from working in occupations considered hazardous (see section 6.e.). The Ministry of Labor was responsible for enforcing child labor laws. In practice labor inspectors focused almost exclusively on the formal sector, where child labor was rare. There were no reports of child labor in the formal industrial sector.

With the exception of efforts among the government, growers, and refiners to end child labor on sugarcane plantations, the government did not devote adequate resources to enforce effectively child labor laws in agricultural activities, especially coffee production, and in the large informal sector. Orphans and children from poor families frequently worked for survival as street vendors and general laborers in small businesses. The Ministry of Labor received few complaints of violations of child labor laws because many citizens perceived child labor as an essential component of family income rather than a human rights violation.

There were credible reports of trafficking in children and child prostitution (see section 5).

The Ministry of Labor had 163 labor inspectors distributed nationwide, 24 of whom specifically worked on child labor issues. The government conducted monitoring and inspections, especially in the sugarcane cultivation sector, including 36 programmed inspections and six follow-up inspections affecting 9,755 workers, resulting in the removal of 149 children from child labor. The government also conducted 33 child labor awareness campaigns in which 13,287 workers participated. The Ministry of Labor conducted 10,075 inspections, 6,315 follow-up visits, and issued civil penalties in 436 cases. The government's National Interagency Committee for Elimination of the Worst Forms of Child Labor launched the first national plan against child labor.

#### e. Acceptable Conditions of Work

The minimum wage is set by executive decree, based on recommendations from a tripartite committee comprising representatives from labor, government, and business. The minimum monthly wage was \$174.24 for service employees, \$170.28 for industrial laborers, and \$157.25 for maquila workers. The agricultural minimum wage was \$81.51, except for seasonal coffee harvesters (\$89.10), sugarcane workers (\$75.57), and cotton pickers (\$67.98). The minimum wage with benefits did not provide a sufficient standard of living for most workers with families.

According to the 2004 Multiple Household Survey, the most recent available, more than half of informal sector workers were women, whose incomes were often below the minimum wage. In general the Ministry of Labor enforced minimum wage laws effectively only in the formal sector. By year's end the ministry had imposed 22 fines on employers in the industrial, commercial, and service sectors due to nonpayment of minimum wages to employees.

Some maquila plants underpaid workers and failed to compensate workers for mandatory overtime. Corruption among labor inspectors and in the labor courts remained barriers to enforcing the minimum wage laws.

The law sets a maximum normal workweek of 44 hours, which is limited to no more than six days for all workers and requires bonus pay for overtime. The law mandates that full-time employees be paid for an eight-hour day of rest in addition to the 44-hour normal workweek. These standards were not enforced effectively. A number of workers who worked more than the legal maximum number of hours were not paid overtime. The law prohibits compulsory overtime.

The Ministry of Labor inspected 3,312 workplaces during the year and issued 700 recommendations for improvements in working conditions. There were 543 occupational safety and health committees at work in industries nationwide. The ministry, in conjunction with the private sector, organized 155 training sessions for prevention of occupational risks in the workplace.

The law requires all employers to take steps to ensure that employees are not placed at risk to their health and safety in the workplace, including prohibitions on the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous. Health and safety regulations were outdated, and enforcement was inadequate due to the Ministry of Labor's restricted powers and the limited resources allocated to it by the government. The law does not clearly recognize the right of workers to remove themselves from hazardous situations without jeopardy to their continued employment.