



U.S. DEPARTMENT of STATE

El Salvador

Country Reports on Human Rights Practices - [2007](#)

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El Salvador is a constitutional, multiparty democracy with a population of approximately 5.8 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. 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, indigenous persons, and 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; however, there were reports that security forces were involved in unlawful killings.

During the 12-month period ending in June, the Office of the Ombudsman for Human Rights (PDDH) found the National Civilian Police (PNC) responsible for 295 cases of violations of human integrity, which included unlawful killings, attempted unlawful killings, assaults, and other offenses causing bodily harm. During the year the PDDH received 12 complaints of alleged extrajudicial killings.

The Office of the PNC Inspector General reported that security forces killed 26 persons, compared with 22 in 2006.

In July the government charged Nelson Antonio Arriaza Delgado, a PNC sergeant and former chief of its criminal investigation unit, with homicide in the July 28 murder-for-hire killing of Amado Garcia Amaya, an alleged gang member from Nueva Esparta. In August authorities arrested and charged PNC officers Andy Shefick Cruz Vasquez, Edilberto Paiz Morales, and Roberto Carlos Chavez with conspiracy, negligence, and obstruction of the investigation into the killing. Arriaza was dismissed from the PNC in November, and a criminal investigation continued at year's end.

In August the attorney general charged PNC officers Jose Vidal Reyes Escobar and Luis Alfonso Rubi Canales with the August 15 beating and killing of Jose Napoleon Aviles, an alleged thief, while in custody in Mejicanos.

In August the Criminal Chamber of the Supreme Court upheld its 2004 verdict of first-degree murder in the 2001 beating and killing of Air Force Cadet Erick Mauricio Pena Carmona. The court sentenced Carlos Mauricio Melara and Cesar Humberto Dorat to 10 years' imprisonment and assessed \$5,714 in punitive damages. (The U.S. dollar is the country's official currency.)

In August a judge sentenced former Faribundo Marti National Liberation Front (FMLN) city councilman Jose Mario Belloso Castillo to 35 years' imprisonment for the July 2006 killings of two police officers during a demonstration outside the University of El Salvador. Belloso's accomplice, Luis Herrador, was sentenced to 23 years' imprisonment.

In January the Second Appellate Court reversed a lower court decision that released on bail three PNC officers charged with killing Cesar Anaya Vanegas after they took him into custody in December 2006 in Tenancingo.

In October the Inter-American Commission on Human Rights (IACHR) again asked the government to take action regarding its recommendations made in 2000 regarding the 1980 killing of Monsignor Oscar Romero. However, the government stated that the recommendation was inconsistent both with the established terms of the country's participation with the IACHR and with the basis of the Peace Accords that ended the civil war.

In November the Inter-American Court of Human Rights ruled against the government for violations of judicial guarantees and rights in the case of Mauricio Garcia Prieto, who was killed in 1994 by three armed men with suspected ties to the armed forces. The court asked the government to continue the investigation and pay compensation and legal costs to the Prieto family.

b. Disappearance

There were no reports of politically motivated disappearances. Most disappearances were criminal kidnappings for ransom. The PNC and the Attorney General's Office reported that 15 persons were kidnapped during the year. The attorney general also received 26 reports of missing persons, but none alleged the involvement of law enforcement officials.

In January the PNC arrested Juan Antonio Lopez, the western regional chief of the Solicitor's and Public Defender's Office, for his alleged participation in the January 12 kidnapping of a 12-year-old child. According to the initial investigation, Lopez hired two gang members to kidnap the child to force the child's parents to cede him a portion of their property.

Since 1994 the Association for the Search for Missing Children (Pro-Busqueda) has investigated 790 cases of children who disappeared during the 1980-92 civil war, resolved 336 cases, and determined the location of 192 children. Pro-Busqueda opened files for 18 new cases during the year.

The government has complied with a number of measures set out in the September 2006 IACHR ruling in the case of the Serrano Cruz sisters kidnapped by the military during the civil war, but it has not addressed other requirements of the IACHR resolution. These included providing free medical and psychological treatment for relatives of the victims, forming a national search commission to search for children who disappeared during the war, and developing a system to enable the conservation of genetic data to help determine family relationships.

There were no developments regarding the November 2006 IACHR case of Jose Adrian Hernandez Rochac, who disappeared in 1980 at age five, during an air force operation in San Jose Segundo. At year's end the IAHR had not published any new findings.

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

The constitution prohibits such practices; however, during the year the PDDH received 736 complaints, most against PNC officers, alleging the use of excessive force or mistreatment of detainees, compared with 355 such complaints in 2006. The PDDH issued 84 decisions against PNC officers for excessive use of force. During the year the PDDH received 14 petitions to investigate cases of alleged torture, 12 petitions to investigate cases of alleged extrajudicial killings, 252 petitions to investigate cases of alleged arbitrary detention, and 378 petitions to investigate cases of alleged restrictions to freedom of movement. During the fourth quarter of the year, the PDDH issued a final decision against the PNC in Zacatecoluca regarding two complaints of mistreatment of detainees.

In January an appellate court upheld PNC officer Wilfredo Antonio Romero Garcia's sentence of six years' imprisonment for sexual abuse and extortion. Charges against five other PNC agents in the 2005 case were dropped.

Prison and Detention Center Conditions

Prison conditions remained dangerous and harsh. Overcrowding constituted a serious threat to prisoners' health and lives, and the prison population continued to increase during the year.

At year's end there were 16,786 prisoners held in 21 correctional facilities and two secure hospital wards, with a combined designed capacity for 8,110; of these inmates, 11,257 had been convicted, and 5,787 were in pretrial detention, and 5,765 were current or former gang members. There were 575 inmates in four prisons for juvenile offenders with a capacity of 750 inmates.

Correctional facilities authorities reported six riots in the prisons in Apanteos, Zacatecoluca, San Vicente, Ciudad Barrios, and La Esperanza, which resulted in the death of 24 inmates.

In February a riot at the Juvenile Offenders Prison in Ilobasco resulted in the death of a 15-year-old inmate and injuries to two others. The investigation by the Attorney General's Office was pending at year's end.

Prison authorities reported that 46 prisoners died during the year, 28 from violence and 18 from natural causes. A total of 19 inmates, mostly gang members, were charged and awaited trial in connection with the January riot at Apanteos Prison in which 21 inmates were killed. Smuggling of weapons, drugs, and contraband, such as cell phones and cell phone chips, was a major problem in the prisons.

Gang activities in prisons and juvenile-holding facilities remained a serious problem. Gang members, who constituted approximately 34 percent of the prison population, were routinely separated from the regular prison population when possible. Gangs continued to exercise influence within the prisons and the judicial system. Prisoners reportedly conducted criminal activities from their cells, at times with complicity of prison guards. During the year prison authorities dismissed three prison guards, and four others were under criminal investigation.

Due to a lack of holding cells, pretrial detainees were often held in regular prisons together with violent criminals.

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

d. Arbitrary Arrest or Detention

Although the constitution prohibits arbitrary arrest and detention, there were complaints that the PNC arbitrarily arrested and detained persons. The PDDH reported receiving 252 complaints of arbitrary arrest or detention during the year; it also received complaints of six illegal detentions and six other incidents in which police officers allegedly acted beyond the scope of their authority.

In July police in the town of Suchitoto arrested 14 persons, 13 of whom were charged under counterterrorism statutes for demonstrating against the president and several cabinet members during the inauguration of a new municipal water system. The protesters were accused of having blocked entry by the officials into the town, and the protest turned violent when some demonstrators threw sticks and stones and allegedly fired shots at police officers. The Appellate Court for Organized Crime released four defendants on bail but upheld charges against the rest, who were later released on bail by a lower court. The case remained pending at year's end. The PDDH urged authorities to reconsider the use of the counterterrorism law in this case and criticized the presence of the military during Suchitoto events.

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 some PNC patrols in rural areas and gave support to law enforcement agencies for specific activities, including antinarcotics efforts. The Ministry of Public Security headed the antigang task force. Approximately 785 military personnel were deployed to protect police in high-crime areas. Military personnel, however, do not have arrest authority.

As of November the PNC Inspector General had received 1,704 complaints of police misconduct, had referred 317 cases of these to special investigation units, and had sanctioned 1,790 officers in response to complaints filed during the year and prior years. These sanctions included 282 officers dismissed for misconduct, 408 suspended without pay for serious violations, and 1,243 suspended without pay for minor infractions. As of September the Attorney General's Office had prosecuted 159 police officers as a result of investigations begun in 2006 and 2007.

Inadequate training, insufficient government funding, lack of a uniform code of evidence, and isolated instances of corruption and outright criminality undermined the PNC's effectiveness.

The PNC inspector general reported that most PNC officers and police academy cadets received human rights awareness training during the year, including training by the Salvadoran Institute for the Development of Women concerning rape prevention, child abuse, and related offenses. As of October the International Law Enforcement Academy had trained 83 police officers, 31 prosecutors, 15 judges, and 29 technical advisors, including workers in the immigration, customs, and airport authorities.

Arrest and Detention

The constitution requires 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 and 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, detainees could request a Supreme Court review of

their 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. The law allows up to six months for investigation of serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor may ask an 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 there were 5,787 inmates 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, undermining respect for the judiciary and the rule of law. 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.

As of September there were 1,369 persons in some type of police witness or victim protection program. In October a protected witness who was to testify in a murder case in the town of Huizucar was killed.

The government's Center for Victims and Witnesses provided shelter and protection to 50 victims, 40 witnesses, and 19 confessed criminals. In July unidentified assailants killed a government-protected witness before he was able to testify in the murder trial of a gang member, which resulted in the defendant's release.

The PDDH stated that in the year ending in June, the Attorney General's Office had prevented access to justice in 32 cases, did not effectively enforce the law in 22 cases, did not fulfill its duties in 12 cases, violated due process in 11 cases, did not protect constitutional rights in eight cases, did not protect life in seven cases, and violated due administrative process in seven cases.

In April the Administrative Chamber of the Supreme Court imposed a fine on the attorney general for not complying with a judicial order to prosecute former San Martin municipality city council members, who were accused of illegally dismissing Jose Dolores Chacon. The court had ordered council members to reinstate Chacon, but they failed to do so.

During the year the Attorney General's Office investigated seven judges for corruption. As of October the Supreme Court had received 136 complaints from private citizens against judges for alleged irregularities and sanctioned seven judges for improper conduct. In July the Supreme Court dismissed a justice of the peace in San Francisco Menendez, Ahuachapan, for corruption.

NGOs such as the Foundation for Studies in Legal Application (FESPAD), the Salvadoran Foundation for Economic and Social Development (FUSADES), and the Human Rights Institute of the University of Central America (IDHUCA) continued to allege that the Supreme Court did not adequately address judicial delays, inefficiency, and the problems of unqualified and corrupt judges.

Judges continued to force children to testify publicly in court. In April the Second Sentencing Tribunal compelled a nine-year-old girl to testify in front of her kidnappers, in apparent violation of the law. Thereafter a Supreme Court justice asked judges to protect children's rights in judicial proceedings.

During the year the attorney general received 222 complaints against prosecutors for misconduct, compared with 301 complaints during 2006. The complaints included workplace harassment, sexual harassment, corruption, fraud, and lack of due diligence in presentation of charges before a court.

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, 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.

Trial Procedures

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 IACHR and the Inter-American Court, 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. Independent media were active and expressed a variety of views without restriction. International media operated freely.

In March the Legislative Assembly resolved to use a polygraph test to identify staffers who leaked information to media regarding an increase of salaries for legislators. After public outcry and opposition by the Private Enterprise Association, the Legislative Assembly withdrew its request.

In September Ignacio Alvarez, the IACHR's special rapporteur for freedom of speech, criticized the country's failure to investigate the death of journalist Lorena Saravia, who was killed in 1997 while investigating narcotics trafficking that allegedly involved members of the armed forces.

Although international NGOs generally commented positively on the status of press freedom in the country, newspaper editors and radio directors occasionally discouraged journalists from reporting on topics that the owners or publishers might not view favorably.

Internet Freedom

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

Several persons were arrested and charged under the counterterrorism law when a July protest against President Saca in Suchitoto turned violent. The case remained pending at year's end.

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 Ministry of Governance delayed approval of or denied legal status for NGOs with particular human rights or political agendas, including the case of a gay, lesbian, and transgender advocacy NGO denied such status in 2005.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. The Ministry of Governance has responsibility for registering, regulating, and overseeing the finances of nonprofit organizations, non-Catholic churches, and other religious groups. The law exempts the Roman Catholic Church from this registration requirement. Noncitizens in the country primarily for the purpose of proselytizing must obtain a special residence visa for religious activities. In practice 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.

In April the Legislative Assembly enacted a law imposing sentences of up to eight years' imprisonment for publicly offending or insulting the religious beliefs of others or for damaging or destroying religious objects.

For a more detailed discussion, see the [2007 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

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

Protection of Refugees

The law provides for the granting refugee status or asylum in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern. During the year the government received 12 refugee petitions and granted five persons refugee protection; the remaining seven petitions were pending at year's end.

In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution.

The government received no requests for temporary protection for individuals who may not qualify as refugees under the 1951 UN Convention and its 1967 protocol.

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

Political parties could operate without restrictions or outside interference. In March 2006 elections, described as free and

fair by international observers, the 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 National Conciliation Party (PCN) and the five deputies of the Christian Democratic Party to maintain a simple working majority. The opposition FMLN Party won 32 seats.

The country's vice president was a woman, and there were 13 women in the Legislative Assembly and five women on the 15-member Supreme Court.

While minorities were not self-identified, persons of indigenous descent were represented in government and elected office, including the Legislative Assembly and the presidential cabinet.

Government Corruption and Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials, particularly in the judicial system, reportedly engaged in corrupt practices with impunity. According to the World Bank's worldwide governance indicators, government corruption was a problem.

In March Guillermo Mata Bennett, former president of the Medical Doctors Association, filed a complaint with the Government Ethics Tribunal accusing Minister of Health Guillermo Maza of keeping government-owned equipment in a warehouse and compelling public hospitals to refer patients requiring ultrasound tests, tomography, and similar tests to Minister Maza's clinic. In July the Government Ethics Tribunal sanctioned Maza for negligence.

The Legislative Assembly has not audited the Court of Accounts, the government agency charged with auditing the National Treasury and the Federal Budget, since 1995, despite a law mandating an annual audit. The attorney general criticized the administration of the Court of Accounts on various occasions, alleging corruption and mismanagement.

In November 2006 the Legislative Assembly revoked the immunity of PCN Alternate Deputy Roberto Carlos Silva Pereira, who was accused of money laundering and fraud. In January Silva fled the country and was later apprehended in a foreign country, where he awaited a deportation hearing at year's end.

As of October, the Government Ethics Tribunal had opened investigations against 44 public officers.

Although the law provides for public access to government information, in practice inconsistent legislation impeded public access to information. Nonetheless, citizens could access information via the Internet regarding the national budget and some 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 workers' rights issues with NGOs and the PDDH. Domestic and international NGOs were required to register with the government, and some reported difficulties.

The principal human rights investigative and monitoring body is the autonomous PDDH, whose head is elected by the Legislative Assembly for a three-year term. 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, although in some cases it did not take action on PDDH recommendations, which are not legally binding. The public generally trusted both the ombudsman and the PDDH. A December survey by a leading newspaper, *La Prensa Grafica*, reflected a 43 percent approval and 25 percent disapproval rating for the PDDH.

By September the PDDH had accepted 2,145 complaints of human rights violations and had issued 506 preliminary decisions and 463 final decisions for cases filed during 2007 and previous years. The most frequently alleged violations related to personal integrity, freedom of movement, access to justice, labor laws, and due process.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Although the constitution and the legal code 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.

Women

The law criminalizes rape. While not specifically addressed in the law, spousal rape may be considered a crime if the actions meet the criminal code definition of rape. The attorney general may prosecute rape cases with or without a complaint from the victim, and the law does not permit the victim's pardon to nullify the criminal charge. The penalty for rape is six to 10 years' imprisonment, but the law provides for a maximum sentence of 20 years for rape of certain classes of victims, including children and persons with disabilities. Incidents of 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. Laws against rape were not effectively enforced.

During the year the attorney general investigated 56 rape cases, which resulted in 33 convictions, 21 acquittals, one mistrial, and one case in which charges were dropped.

During the year the Salvadoran Institute for Women's Development (ISDEMU) provided health and psychological assistance to 920 women and 103 men who suffered sexual abuse. It also provided assistance to 2,468 girls and 1,516 boys who suffered physical abuse during the year.

Rape and other sexual crimes against women were widespread. During the year the PNC received reports of 655 cases of rape against women and 1,121 cases of rape against children and persons with disabilities.

The law prohibits domestic violence and provides for sentences ranging from one to three years in prison. The law also permits obtaining restraining orders against offenders. Domestic violence was considered socially acceptable by a large portion of the population, and, as with rape, its incidence was underreported.

Violence against women, including domestic violence, was a widespread and serious problem. Laws against domestic violence were not well enforced, and cases were not effectively prosecuted. During the year ISDEMU received 5,906 reports of domestic violence, compared with 4,792 complaints in 2006. The PNC received 297 domestic violence complaints. The Attorney General's Office would not provide statistics on domestic violence prosecution.

In September the Supreme Court published a domestic violence report based on 2006 and 2007 PNC statistics. The report pointed out that the PNC investigated 789 cases of rape in the first eight months of 2007, compared with 696 cases in all of 2006. The report also drew attention to the fact that the highest instances of violence against women occur among the economically disadvantaged. The Supreme Court also reported that justices of the peace received 8,420 cases and family courts 3,039 cases of domestic violence during 2006.

ISDEMU conducted public awareness campaigns against domestic violence and sexual abuse in coordination with the judicial and executive branches and with civil society groups. The PDDH, the Attorney General's Office, 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 telephone hot line and a shelter for victims of domestic abuse and child victims of commercial sexual exploitation.

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.

There were no reports of sex tourism. Trafficking in women and girls for purposes of sexual exploitation was a problem. The Ministry of Public Security and Justice reported that there were 151 female victims of sexual commercial exploitation during the year.

The law prohibits discrimination based on sex; however, it does not specifically prohibit sexual harassment in the workplace. The law broadly defines sexual harassment as any unwanted verbal or physical sexual conduct and stipulates penalties of three to five years in prison (or four to eight years in cases where the victim is under the age of 15 at the time of the offense). 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. Since underreporting by victims of sexual harassment appeared to be widespread, it was difficult to estimate the extent of the problem; however, ISDEMU estimated that 40 percent of incidents of sexual abuse and rape were preceded by sexual harassment. In February the prisons director, Roberto Vilanova, resigned while under investigation for sexual harassment. In March a court ruled there was sufficient evidence to prosecute him, but in August the same court released Vilanova without charging him. The attorney general's appeal of the release was denied.

The constitution grants women and men the same legal rights under family and property law, but 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 and six months to two years for employers who discriminate against women in the workplace; however, it was difficult for employees to report such violations because they feared reprisals.

Although pregnancy testing as a condition for employment is illegal, some employers, including maquila factories, required female job applicants to present pregnancy test results and allegedly fired workers found to be pregnant.

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.

Gender-based wage disparity remained a problem. The most recent available data indicated that, on average, women's wages were approximately half those of men. In the maquila sector, where women made up approximately 85 percent of the labor force, men held the majority of positions in management and in departments where employees received higher wages.

ISDEMU provided awareness training on public policies relating to gender and, along with the Foundation for Small and Medium-Sized Enterprises and the Salvadoran Institute for Professional Training, also provided technical and financial assistance to female heads of household throughout the country.

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. ISNA facilities sheltered 914 children during the year.

The Ministry of Education, with foreign assistance and in association with the Ministry of Labor, coordinated the "Aprendo" program to raise 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 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. In reality, 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. According to a UN Development Program report, the gross enrollment rate for primary education increased from 78 percent in 1991 to 88 percent in 2005. Rural areas fell short of providing 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 to work. Girls and boys had equal educational access.

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

Child abuse was a serious and widespread problem. ISNA reported 2,312 cases of child abuse, including 801 cases of negligence, 483 cases of mistreatment, 304 cases of children living on the streets, 353 cases of sexual abuse, 235 cases of abandonment, 60 cases of children employed as beggars, and 76 cases of commercial sexual exploitation.

In March, after a routine search at the Tonacatepeque juvenile prison, a minor inmate alleged that police officers beat him because he refused to give them \$19. The Supreme Court Legal Medicine Institute confirmed that the minor was injured, and an investigation by the Office of the Attorney General continued at year's end.

In June the PNC's Human Rights Unit trained 6,032 police officers on rights of children during arrest procedures. In October, 1,905 police officers received training in special procedures for abused children.

The law prohibits participating in, facilitating or purchasing materials containing child pornography and provides for prison sentences of up to 16 years' imprisonment; however, this law was not effectively enforced.

Child labor remained a widespread and serious problem. In September the Ministry of Education reported that its 2004-5 school attendance census, the most recent available, reported 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.

Trafficking in Persons

Although the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, and within the country.

The country was a source, transit, and destination country for women and children trafficked primarily for the purpose of sexual exploitation and was also a source of 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 border regions. Sex trafficking of minors occurred within the country's borders, as did sex trafficking induced by force, fraud, or coercion. According to the International Labor Organization's (ILO) International Program to Eliminate the Worst Forms of Child Labor, 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.

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. While some traffickers transported victims, most victims entered the country on their own from Nicaragua, Honduras, and other neighboring countries in response to job offers to work as domestic servants but were forced into prostitution on arrival.

The government reported that during the year, it trained 32,286 public officials from agencies involved with trafficking issues. A pilot plan school training program trained 701 teachers and 28,040 students in 66 schools.

Trafficking in persons and forced prostitution are felonies, penalized by four to eight years' imprisonment. If the trafficking victim is under 18, has physical or mental disabilities, suffers violations of 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.

During the year the PNC arrested 27 persons on trafficking charges. The Attorney General's Office prosecuted 46 new cases of trafficking; courts did not maintain statistics on convictions.

In May the PNC arrested a Guatemalan citizen, Mario Roberto Cardona Duran, for trafficking a 17-year-old girl to Guatemala. Cardona had promised to get a job for the girl in a bar. The justice of the peace in Candelaria de la Frontera dismissed the case.

During the year the government coordinated one investigation of trafficking in cooperation with Interpol and foreign authorities, resulting in seven arrests. There were no extraditions based on trafficking charges.

The government detained illegal migrants, including those who might have been trafficking victims. Persons under age 18 were repatriated through ISNA cooperation with its counterpart organizations. The PNC encouraged 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. Adult illegal immigrant victims of trafficking who did not request assistance or express fear for their lives were deported under immigration law.

The government provided 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, and the NGOs Las Dignas, the Salvadoran National Women's Commission (CONAMUS), Flor de Piedra, FESPAD, and Caritas, provided legal counseling and human rights awareness to victims of trafficking. The government's shelter for victims of trafficking provided protection to 106 persons during the year.

By October the ILO and ISDEMU victim's attention program had assisted 130 youth victims of commercial sexual exploitation. The ILO also worked with the Attorney General's Office on victim's awareness programs in five schools in La Libertad.

The National Committee to Combat Trafficking in Persons, a task force comprising the government agencies responsible

for addressing trafficking in persons, collected data on trafficking, and its member agencies conducted extensive antitrafficking training, information programs, and assistance to victims.

The Ministry of Labor and National Academy of Public Security collaborated with the ILO in training several hundred law enforcement officers and NGO personnel in trafficking awareness.

The Center for Women's Studies, IDHUCA, CONAMUS, the International Office on Migration, and the ILO had programs to prevent trafficking.

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, particularly in education and employment, nor did it effectively enforce legal requirements for access to buildings for persons with disabilities.

The law requires that one of every 25 employees hired by private businesses be a person with disabilities. Although no reliable data existed 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. On October 4, the Legislative Assembly ratified the Convention on the Rights of Persons with Disabilities.

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 these several organizations dedicated to protecting and promoting the rights of persons with disabilities. *La Prensa Grafica* reported that disability pensions paid to former civil war combatants were insufficient.

The National Council for Disabled Persons (CONAIPD) is the government agency responsible for protecting the rights of persons with disabilities. CONAIPD conducted awareness campaigns to promote rights of the disabled and developed strategies to assist teachers. It also promoted the hiring of persons with disabilities. During the year, CONAIPD provided legal assistance in obtaining a driver's license to 1,568 persons with disabilities.

The Rehabilitation Foundation in cooperation with the Salvadoran Institute for the Rehabilitation of the Disabled continued to operate a treatment center for 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 and Lencas and Cacaoperas 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 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.

The PDDH annual report released in June recommended that the government constitutionally recognize indigenous persons and adopt public policies and programs to help them preserve their rights.

In June, 11 self-identified indigenous persons filed a complaint with the Supreme Court Constitutional Chamber against the minister of economy and the director general of census and statistics arguing that the housing and population censuses were discriminatory in their planning, design, and implementation. The case was pending at year's end.

Access to land was a problem for indigenous persons. Because few possessed title to land, opportunities for bank loans and other forms of credit were extremely limited. 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 potable water; the low level of indigenous participation in government and public affairs; and the lack of access by indigenous persons to their sites of worship.

The CERD expressed concerns about government assertions that there was no racial discrimination, noting discrepancies

between government assessments that the country was ethnically homogenous and credible indications that specific indigenous populations lived in the country.

There were no government programs dedicated to combat discrimination against indigenous persons.

Other Societal Abuses and Discrimination

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.

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 2006 National Health Survey, only half of the population between the ages of 15 and 24 was sufficiently aware of methods for preventing HIV infection.

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.

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, 9.4 percent of the country's total workforce in the formal and informal sectors was unionized, compared with 10.2 percent in 2006. 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.

In September 2006 members of the communications union SITCOM appealed the Ministry of Labor's denial of legal status to the union. In July the Supreme Court asked the president to grant legal status to SITCOM, and the president's response was pending at year's end. The Ministry of Labor continued to assert that some members of SITCOM did not belong to the communications industry, thereby denying SITCOM legal status. In September workers asked the attorney general to prosecute the minister of labor for not complying with the court's order.

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

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 dismissal of labor activists and blacklisting workers who were union members. While the law prohibits antiunion discrimination, these provisions were rarely enforced by the government. As a result, significant discrimination against labor union organizers persisted.

In June three union groups filed a complaint with the ILO alleging violations of the right of association by Calvo Tuna Company. According to the unions, Calvo illegally dismissed three union members and attempted judicially to dismiss a fourth. In July the Ministry of Labor granted legal status to the union; however, the workers were not rehired.

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. The Ministry of Labor reported 332 collective bargaining agreements in effect, covering 59,980 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.

On October 29, the Supreme Court ruled that ILO Convention 87, ratified by the Legislative Assembly in August 2006, was unconstitutional. The Court held that Convention 87 extends the right to organize to public officers and that the right to organize may only be extended to private employees and employees that work for autonomous institutions.

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.

A legal strike must be supported by 51 percent of workers in an enterprise, 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 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. The law prohibits workers from appealing a government decision declaring a strike illegal.

In April Maria Isabel Rodriguez, rector of El Salvador University, stated that 68 striking members of the university's union would be dismissed, but the number was later reduced to three.

There were 309 maquila plants and 10 free trade zones (FTZs). There are no special laws or exemptions from regular labor laws inside the FTZs. There were credible reports that some factories in the FTZs dismissed union organizers. There were no collective bargaining agreements among the 67,096 workers in the maquila sector. Maquila workers reported verbal and physical abuse, as well as sexual harassment by supervisors. The Ministry of Labor opened 16 investigations for allegations of verbal abuse during the year.

The government did not allocate sufficient resources for adequate inspection and oversight to ensure respect for association and collective bargaining rights in FTZs. There continued to be allegations of corruption among labor inspectors in the maquilas. During the year the government conducted 25,682 labor inspections and 10,492 reinspections and imposed fines in 1,021 cases.

The Ministries of Labor and the 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. The Attorney General's Office reported investigating 563 cases and prosecuting 83 cases of nonpayment.

In April a judge ordered house arrest for Roberto Jorge Bukele Siman for improperly withholding payments from ISSS and pension quotas; according to the Attorney General's Office, Bukele withheld payments of \$130,528 between 1998 and 2005.

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.

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.

Children from the age of 12 are allowed to engage in light work so long as it does not harm their health or interfere with their education. Children under 16 years of age are prohibited from working more than seven hours per day and 34 hours per week; those under age 18 are prohibited from working at night or in occupations considered hazardous. 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.

The government did not devote adequate resources to effectively enforce child labor laws in agricultural activities, especially coffee and sugarcane production, or in the large informal sector. Orphans and children from poor families frequently worked for survival as street vendors and general laborers in small businesses. A recent survey by the Center for Public Opinion at Francisco Gavidia University found that 21 percent of the street vendors in the San Salvador central market were children. 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.

The Ministry of Labor had 158 labor inspectors distributed nationwide; however, none specifically worked on child labor issues. The government conducted monitoring and inspections, including 1,216 programmed inspections and 62 follow-up inspections. Between January and March, the government conducted 201 inspections of the sugarcane and coffee industries and 11 inspections for child labor, resulting in the removal of 81 children. However, the government conducted

no inspections of sugarcane or coffee plantations between April and October, and there were no inspections for child labor conducted during this period. The ministry did not impose any fines for child labor activity.

The ILO's International Program on the Elimination of Child Labor continued operating programs to combat commercial sexual exploitation of children. An international NGO collaborated with several local civil society groups to withdraw and prevent children from hazardous labor by providing educational services.

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 \$182.05 for service employees, \$178.79 for industrial laborers, and \$161.97 for maquila workers. The agricultural minimum wage was \$85.59, except for seasonal coffee harvesters \$93.56, sugarcane workers \$79.35, and cotton pickers \$71.38. The national minimum wage did not provide a sufficient standard of living for a worker and family.

Hermosa Manufacturing, a local garment manufacturer, ceased operations in 2005, leaving more than 250 unemployed workers and liabilities of \$825,000 in outstanding wages, severance payments, and unpaid benefits. In September 2006, the Ministry of Labor imposed fines of \$2,400 on Hermosa Manufacturing in response to a suit brought by the National Federation of Salvadoran Workers before the ILO. In November 2006, the Third Sentencing Court of San Salvador sentenced the company's owner, Joaquin Salvador Montalvo Machado, to two years in prison for illegally retaining workers' social security and pension payments and assessed a fine of \$144,724. On October 29, a former client of the factory, Adidas Group published an open letter in the two leading daily newspapers asking the government to take immediate measures to resolve the case. The claims and court judgment remained pending at year's end.

According to the 2004 Multiple Household Survey, more than half of informal sector workers were women, whose incomes were often below the minimum wage. In general the Ministry of Labor effectively enforced minimum wage laws only in the formal sector. It conducted 9,832 inspections and sanctioned seven employers in the industrial, commercial, and service sectors due to nonpayment of minimum wages.

The law sets a maximum normal workweek of 44 hours, limited to no more than six days, 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. The law prohibits compulsory overtime. These standards were not enforced effectively, and many workers were not paid overtime.

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

As of September the Ministry of Labor had inspected 12,811 workplaces and issued 5,338 recommendations for improvements in working conditions covering 189,947 workers. The ministry, in conjunction with the private sector, organized 299 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. This includes prohibitions on the employment of persons under age 18 in occupations considered hazardous or morally dangerous. Health and safety regulations are outdated, and enforcement was inadequate. The law does not clearly recognize the right of workers to remove themselves from hazardous situations without jeopardy to their continued employment.

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