

[Home](#)[Issues & Press](#)[Travel & Business](#)[Youth & Education](#)[About State Department](#)

## El Salvador

### Country Reports on Human Rights Practices - [2005](#)

Released by the Bureau of Democracy, Human Rights, and Labor  
March 8, 2006

El Salvador is a constitutional, multiparty democracy with an estimated population of 6.7 million. In March 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 impunity, corruption among the security forces and other governmental authorities, and gang violence. The following human rights problems were reported:

- excessive use of force and mistreatment of detainees by members of the security forces
- arbitrary arrest and detention
- harsh prison conditions, including inadequate supervision, widespread violence, and overcrowding
- 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
- lack of enforcement of trade union rights

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

While the government or its agents did not commit any politically motivated killings, the Office of the Inspector General of the Civilian National Police (PNC/IG) reported that security forces unlawfully killed six persons during the year.

During the year the Office of the Ombudsman for Human Rights (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 the PNC was at fault in 35 of these cases.

The PNC/IG reported that it had received 11 cases of police involvement in killings during the year, 1 of which related to the killing of a gang member.

The PNC/IG reported that on March 8, police officer Nelson Alexander Minero Vasquez shot and killed fellow officer Antonio Cruz Vasquez and injured fellow officer Victor Manuel Cabrera Valladares. At year's end Minero Vasquez had fled the authorities, and the case remained under investigation.

During the year President Antonio Saca stated on several occasions that it was unlikely the government would reopen the case of the 1980 killing of Archbishop Oscar Romero, despite calls in 2004 by the Catholic Church to reopen the investigation.

In March the Inter-American Human Rights Commission (CIDH) announced that it would reopen a case involving the killings of hundreds of villagers at El Mozote, Morazan Department by government forces in 1981.

The media reported discoveries of a number of decapitated bodies of persons killed during the year, possibly due to gang violence. At year's end the PNC was investigating these killings.

In July the principal witness in the Tacoma case, involving the 2003 escape from the Isidro Mendez judicial center jail of 14 members of an organized crime group that operated in Guatemala, Belize, and El Salvador, was killed, reportedly by a gang member. The case remained under investigation at year's end.

At year's end six persons remained under arrest awaiting trial for the November 2004 killing of foreign labor activist Jose Gilberto Soto.

#### 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 PNC statistics, 10 persons were kidnapped during the year, and 8 of these cases were resolved.

During the year the Association for the Search for Children Who Disappeared as a Result of the Armed Conflict (Pro-Busqueda) investigated 99 cases and organized 11 family reunification meetings. Pro-Busqueda has investigated 310 cases since its inception in 1994. For the first time, 794 DNA tests were conducted to create a genetic data bank to help reunite families with missing children.

On February 23, the CIDH reopened the 1982 case of the disappearance of Gregoria Herminia, Serapio Cristian, and Julia Ines Contreras, who were captured by members of the military from the Fifth Infantry Brigade of the armed forces during an operation carried out at La Conacastada, San Vicente Department. By year's end the CIDH had not published any findings in this case.

On May 1, the Inter-American Court of Human Rights found that the government had violated the rights of sisters Ernestina and Erlinda Serrano Cruz and their families for its role in the sisters' disappearance in 1981. The court further resolved that within six months, the government should take proactive measures including publicly acknowledging the facts of the case, investigating and prosecuting those responsible, creating a committee to search for children who disappeared during the armed conflict, and paying compensation to the family of the Serrano Cruz sisters.

In September the government announced that it had fulfilled the order of the Inter-American Court of Human Rights by: Publishing the ruling in the *Gazeta Oficial*, in *La Prensa Grafica*, and *El Diario de Hoy*; designating a day of commemoration for the children who disappeared during the armed conflict; and stating its intention to pay damages, provide medical treatment for the victims and their families, and create a web page to facilitate reunions of children with their families. At year's end the government had not yet paid the compensation. Although the government averred that the national hospitals have already provided medical treatment to the victims, *Pro-Busqueda* asserted that the national hospitals lacked the expertise to address adequately the victims' special needs.

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

The law prohibits such practices, but during the year the PDDH received 54 complaints that PNC officers used excessive force or otherwise mistreated detainees. The PDDH found PNC officers responsible in 35 cases. During the year the IG received 44 petitions to investigate cases of alleged personal integrity violations.

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

During the year the IG received 187 complaints of police misconduct. There was no information available at year's end on whether the PDDH referred cases to the attorney general's office for prosecution.

On July 2, authorities arrested five PNC agents in Acajutla, Sonsonate jurisdiction on rape charges, based on a PNC investigation finding that the agents forced alien minors to have sex with them to avoid a deportation procedure. At year's end the PNG/IG was conducting a disciplinary review, but criminal charges against the defendants were dropped due to lack of evidence.

#### 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 fifth consecutive year. There were 12,176 prisoners held in 21 correctional facilities and 2 secure hospital wards with a combined designed capacity for 7,372 persons.

At year's end authorities had failed to regain control of all cellblocks at the La Esperanza Central Penitentiary following an August take-over of the facility by prisoners. According to correctional facility authorities, there were 22 riots in 11 prisons throughout the country in Santa Ana, Apanteos, Quezaltepeque, Chalatenango, Ilopango, Zacatecoluca, Cojutepeque, Oriental, San Miguel, Ciudad Barrios, and San Francisco Gotera.

Prison authorities reported that there were eight deaths due to violence and nine from natural causes in the prison system during the year. Prisoners obtained weapons that had been smuggled into prisons, at times with the knowledge of guards. On July 1, prison authorities seized 334 edged weapons during routine security inspections at La Esperanza Penitentiary.

Gang activities in prisons remained a serious problem. Gangs continued to exercise influence within the prisons and the judicial system, and prisoners reportedly continued to run criminal activities from their cells. In September gangs within the maximum-security prison at

Zacatecoluca ordered prisoners of different penitentiaries to go on a hunger strike and to not attend judicial hearings, with authorities reporting that 1,987 detainees refused to attend judicial hearings during the year. Judges ordered prison authorities to use law enforcement agencies to re-establish control.

In August judicial authorities tried 13 prisoners who had led an August 2004 riot between gang members and non-gang members at the Mariona prison. All were found guilty of homicide and awaited sentencing at year's end.

In July the judge of the Mejicanos Court of Instruction dismissed, due to lack of evidence, charges of negligence in preventing and reporting drug trafficking at Mariona prison. The charges had been brought in December 2004 against former prison warden Jose Antonio Guzman Blanco.

By year's end authorities had recaptured 7 of the 14 minor prisoners who escaped on September 16 from Ilobasco Penitentiary.

Gang violence in juvenile holding facilities was a serious problem.

Because of a lack of holding cells, pretrial detainees often were sent to regular prisons where they could be placed 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 law prohibits arbitrary arrest and detention, there were complaints that at times the PNC arbitrarily arrested and detained persons. By year's end the PNC/IG received 9 petitions alleging arbitrary arrest and detention, and the PDDH received 36 complaints alleging police violations of personal liberty; the PNC was found responsible in 31 cases.

#### Role of the Police and Security Apparatus

The PNC maintained public security and the Ministry of Defense was 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 and reform school training for juvenile convicts. The Ministry of Governance headed the Anti-Gang Task Force with 333 military personnel deployed in high crime areas.

The PNC's effectiveness was undermined by inadequate training, insufficient government funding, and the lack of a uniform code of evidence. Police corruption and impunity were widespread problems, although the police retained a high approval rating among the public and were perceived as comparatively non-corrupt. Persons could report complaints about PNC abuses either to the PDDH or the IG, which then investigate the case or refer the matter to the attorney general's office for further review.

On September 14, the Second Judge of San Miguel found that there was insufficient evidence to bring criminal charges of drug possession and membership in illicit associations against police officers Juan Adelson Vasquez Garcia and Carlos Alexander Ramos. Both defendants were arrested in a July antigang operation on suspicion of membership in the Mara Salvatrucha gang.

The PNC/IG reported that during the year 5,369 police 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 Instituto de Estudios de la Mujer "Norma Virginia Guirola de Herrera" also trained police regarding the treatment of women. On November 30, the Legislative Assembly passed legislation to establish an International Law Enforcement Academy (ILEA) for training police, prosecutors, and other public security and judicial officials.

#### Arrest and Detention

The law requires a written warrant for arrest, except in cases where an individual is arrested in the commission of a crime. In practice persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and were brought before appropriate judicial officials. The law 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 sentence 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 visit detainees. Detainees generally had prompt access to counsel of their choosing or to an attorney provided by the state.

There were no reports of political detainees.

The law 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 could 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 or either party may ask the appeals court to extend the deadline for three to six months, depending on the seriousness of the crime. However, many cases were not completed within the legally prescribed time frame. At year's end the Penitentiary Directorate reported that 3,538 inmates were in pretrial detention.

#### e. Denial of Fair Public Trial

Although the law 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. A September CID-Gallup poll 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 (FESPAD), the Salvadoran Foundation for Economic and Social Development, and the Human Rights Institute of the University of Central America (IDHUCA) claimed 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 and intimidation of victims and witnesses made it difficult to identify, arrest, and prosecute criminals, thus diminishing public confidence in the justice system.

During the year the attorney general's office received 117 complaints of prosecutorial irregularities, including bribery, negligence, and failure to attend legal proceedings.

In August the Criminal Chamber of the Supreme Court affirmed an October 2004 court decision dismissing charges of child pornography against Nelson Garcia, former president of the Salvadoran Bar Association and former candidate for the Supreme Court.

There were no new developments regarding the criminal court's October 2004 releasing from police custody and dismissing of charges against criminal court legal clerk Graciela Roque, in connection with the 2004 flight from justice of Raul Garcia Prieto.

There were no developments regarding an appellate court's August 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. At year's end Palacios Luna, who was given a sentence of 40 years, remained in maximum security at the Zacatecaluca 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 Judicial 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.

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 law 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

There were no reports of political prisoners.

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

The law 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 law provides for freedom of speech and of the press and the government generally respected these rights in practice. 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 non were expected in the October 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 April 2004 during a demonstration by social security (ISSS) workers (see section 6.a.).

International NGOs generally commented positively on the status of press freedom in the country. According to some media groups, however, 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.

There were no government restrictions on the Internet or academic freedom.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice.

##### Freedom of Association

Although the law 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 denial of legal status to En Nombre de la Rosa, a homosexual and transvestite advocacy association (see section 5).

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

##### 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 [2005 International Religious Freedom Report](#)

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

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

The law prohibits forced internal or external 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. The government received two refugee petition requests during the year. One of these petitions was rejected, and the other remained under review at year's end. 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.

At year's end there was no public response by the government to the UNHCR liaison's August 2004 public complaint about the government's attitude toward Nicaraguans who had moved to El Salvador during the 1980s, but who had never completed application procedures for refugee status.

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

The law provides citizens with 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.

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

The country's vice president was a woman, and 9 of 84 legislators were women. There were 2 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. In September FUSADES asserted that the comptroller's office lacked the independence to perform properly its duties to investigate malfeasance of public funds.

On September 20, *La Prensa Grafica* reported that the National Public Security Academy (ANSP), in charge of recruiting PNC candidates, had accepted 23 students who failed psychological and subject tests. The Ministry of Governance ordered an investigation, found that the ANSP Academic Council had exceeded its discretionary authority, and replaced the ANSP director.

Even though the law provides for public access to government information, the public had difficulty accessing government budget figures and information involving investigations by the comptroller's office.

#### 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. In September the comptroller accused the PDDH of misuse of \$25 thousand in public funds. The PDDH maintained a constructive dialog with the president's office, but alleged that the PDDH Director Beatrice Alamanni de Carrillo received threats from unknown sources and lacked sufficient resources. The PDDH regularly issued reports and media releases.

During the year the PDDH accepted complaints of human rights violations (see sections 1.a. and 1.c.) and issued 1,002 findings involving complaints filed during the year and previous years. The rights most frequently alleged to have been violated related to personal integrity, due process, and labor laws. The PDDH found that 65 complaints were merited; it dismissed charges in 187 cases and issued or reconfirmed recommendations in 48 and 130 complaints, respectively. Thirty-two resolutions were *sui generis*.

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

Although the law prohibits discrimination based on 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 and instances of violence committed by prison guards and private actors against persons based on sexual orientation.

##### Women

Violence against women, including domestic violence, was a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from six months to one year 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. The Salvadoran Institute for the Development of Women (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 the PNC received 5,389 domestic violence complaints. By year's end ISDEMU had received 4,033 complaints of domestic violence, compared with 4,329 complaints in 2004. 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 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 maintained 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. During the year the PNC received reports of 455 rapes against children and women and 225 cases of sexual assault. There was no information available on the number of rapes and other sexual assaults that were gang related.

The law permits the attorney general 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 6 to 10 years in prison. The law, however, provides for a maximum sentence of 20 years for rape of special 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 judicial branch; the PNC; the Attorney General's Office; and the ISSS. ISDEMU also provided psychological assistance to 397 victims of rape and other forms of sexual abuse.

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. By year's end there were no new developments in the ongoing police investigation into the 2003 killings by decapitation of two young women.

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 3 to 5 years for those convicted of harassment, or 4 to 8 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. 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.

There were no new developments and none were expected in the October 2004 mediation agreement between PNC Sub-commissioner Wilfredo Avelenda and three subordinates who accused him of sexual harassment. The agreement stipulated that in the future Avelenda would not intimidate, threaten or engage in any reprisals against the complaining subordinates.

The law 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.

ISDEMU provided technical and financial assistance to support entrepreneurial activities and worked in 16 municipalities to combat economic discrimination against women.

## 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 programs supporting 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 cooperated in a program sponsored by the UN Children's Fund (UNICEF) which provided information to 8,517 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.

Boys and girls enjoyed equal access to medical care.

Child abuse was a serious and widespread problem. As of November 30, ISNA reported 589 cases of negligence toward children, 407 cases of child abuse and mistreatment, 221 cases of child sexual abuse, and 70 cases of child commercial sexual exploitation. A majority of the victims were female. Through the end of November, ISNA reported that its shelters housed 344 girls and 510 boys.

There were also reports of PNC abuse of street children (see section 1.c.). The government provided street children with food, shelter, and healthcare. There were 15 street children housed in ISNA shelters, but ISNA lacked adequate resources to provide assistance to all street children.

By year's end ISNA reported 221 sexual crimes against children including child prostitution, rape, statutory rape, and molestation. International Labor Organization (ILO) data compiled during the year indicated that there was societal tolerance toward having sexual relations with minors. During the year the Children's National Hospital reported 30 cases of violence against children.

Child prostitution was a problem, and included the commercial sexual exploitation of minors for upper class clients. Children, especially those living on the streets, were trafficked to other countries, including for the purpose of sexual exploitation (see section 5, Trafficking).

A UNICEF sponsored a program to prevent sexual and commercial exploitation began operations during the year and provided information to 8,517 children.

Child labor remained a widespread and serious problem (see section 6.d.).

### 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. There are no civil penalties for trafficking.

Despite the arrest of 15 persons accused of trafficking, there were no convictions for trafficking offenses. The following government agencies were responsible directly for combating trafficking in persons: the Alien Smuggling and Trafficking in Persons Unit of the attorney general's office, the PNC, ISNA, and the Directorate General of Immigration. The government did not provide adequate funding for these units.

The government coordinated three separate cases of trafficking in cooperation with INTERPOL and Guatemalan, Belizean, and Nicaraguan authorities. In each of these cases, the government located the victim and repatriated that person to the home country in coordination with ISNA and local authorities. There were no extraditions based on trafficking charges.

Although there were no firm estimates on the extent of trafficking, the country was a point of origin and destination for international trafficking in women and children, particularly the harboring of child prostitutes. There was evidence that the country was a transit point for girls trafficked to Mexico, the United States, neighboring Central American countries, and elsewhere. Some children also 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. Most international trafficking victims came from Nicaragua, Honduras, and South America. 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.

In August the PNC arrested on trafficking charges Juan Santos Martinez, accused of purchasing a 13-year-old girl in Belize. At year's end Martinez remained under arrest, and the girl had been returned to Belize.

There were no developments in the attorney general's attempt to reopen the case of Sara Elizabeth Galdamez de Orellana, arrested in July 2004 for procuring for prostitution 3 girls aged 14 to 16 in Metapan, but acquitted by a justice of the peace for lack of evidence.

According to immigration authorities, the principal traffickers in the country were employment agencies, which 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.

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 as a matter of policy. 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. A foreign trafficking victim is permitted to file a criminal case, but in practice, illegal migrants, including foreign victims of trafficking, were deported before they had the opportunity to do so. Victims could apply for temporary residence or refugee status if they were likely to face persecution in the 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, 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 (IOM), and the ILO had programs to prevent trafficking. The government provided trafficking victims assistance funding only to the IOM.

## 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 1 of every 25 employees hired by private businesses be a person with disabilities. Even though there was 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.

In October a justice of the Constitutional Chamber ruled that a criminal court violated a deaf man's right of defense by failing to provide him a sign-language interpreter during March 2004 judicial proceedings. The accused man was incarcerated on child abuse charges, but a sentencing court released him on bail.

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 was the government agency responsible for protecting the rights of persons with disabilities. The council conducted a media campaign to improve treatment of persons with disabilities and workshops with employees of the health, education, and labor sectors. On December 16, the Rehabilitation Foundation (Teleton), in cooperation with the Salvadoran Institute for the Rehabilitation of the Disabled, opened 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 people comprise approximately 1 percent of the national population and form three principal groups: Nuhua-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 of 2004 indicated that approximately 99 percent of indigenous people lived below the poverty level.

Access to land was a problem for indigenous people. Because few possessed title to land, bank loans and other forms of credit were extremely limited.

During the year the government's National Committee for Art and Culture, in cooperation with the Inter-American Development Bank, the Pan-American Health Organization, and the Don Bosco University, began an after-school Nahuat language program in nine schools in the western part of the country. There were no government programs dedicated to combat discrimination against indigenous persons.

In October the NGO National Association of Indigenous Salvadorans worked with the government to assist indigenous victims of Hurricane Stan.

## Other Societal Abuses and Discrimination

During the year ISDEMU received several hundred 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.).

A July Pan-American Health Organization report 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.

In July the Ministry of Health conducted a public awareness campaign regarding HIV/AIDS, using billboards, advertisements and informational events. In September the Ministry of Labor launched a campaign to eliminate labor discrimination based on pregnancy or HIV status.

Between November 7 and 11, the government hosted Central America's first regional summit on HIV/AIDS to raise awareness about the disease and available preventative measures.

In September two bodyguards of the prisons director were accused of sexually abusing a transvestite minor whom they picked up on the streets in a government vehicle. By year's end a court had ordered them released on bail pending trial.

There were no developments during the year regarding an investigation into the March 2004 separate killings of transvestite Jose Flores Natividad Duran and transvestite David Antonio Andrade Castellano.

There were no reported developments regarding an investigation into the 2003 killings of transvestites Jose Cornado Galdamez, Reyes Armando Aguilar, and Jose Roberto de Paz.

## Section 6 Worker Rights

### a. The Right of Association

While the law 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.

Worker complaints that the government impeded the exercise of the right of association were supported by the ILO Committee on Freedom 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's end of year statistics, 9.1 percent of the country's total workforce, including the formal and informal sectors, was unionized, compared with government statistics in 2004 indicating that 30 percent of the formal sector workforce was unionized.

There were no further developments regarding the order of the Supreme Court for the Ministry of Labor to present a report regarding its 2003 denial of registration to the communications union SITCOM.

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.

In April workers attempted to form a union at Hermosa Manufacturing Company, and in May the owner closed the factory, claiming that there was an insufficient supply of raw materials to continue operations. Workers filed grievances with the Ministry of Labor, and at year's end payment of all wages and benefits legally due to employees was still pending in the courts.

On November 25, the Evergreen Manufacturing Company closed its factory, leaving 550 workers without jobs, and refused to pay back wages and benefits. The owners alleged that they were suspending operations for three months due to a lack of orders from buyers. The Ministry of Labor was investigating the case at year's end.

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 and the ILO 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.

At year's end the Ministry of Labor reported that the country had 178 active unions and 174 registered unions, 18 labor federations, and 3 labor confederations. In July the Ministry of Labor granted official status to the Port Industry Workers Union of El Salvador (STIPES).

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

The law provides for collective bargaining for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority. Ministry of Labor statistics as of June reported 252 collective bargaining agreements in effect, covering 53,091 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 that provide vital community services, the law 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. In July the Supreme Court ruled in favor of and awarded severance payments to workers of the Governance Ministry who had gone on a hunger strike in May to protest unfair dismissal.

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 labor ministry, which notifies the employer. The union must wait four days from the time the labor ministry notifies the employer before beginning the strike.

There were approximately 240 maquila plants, the majority of which were located in the country's 15 EPZs. There are no special laws or exemptions from regular labor laws in the EPZs. There were credible reports that some factories in the EPZs dismissed union organizers, and there were no collective bargaining agreements among the 14 unions active in the maquila sector. Maquila workers reported verbal and physical abuse, and sexual harassment by supervisors. 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.

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

The law 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).

#### 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 significant problem.

During the year the ILO International Program on the Elimination of Child Labor (IPEC) removed 4,476 children from work and prevented 7,654 at-risk children from entering labor activities, including worst forms of child labor, such as commercial sexual exploitation, dumpsite scavenging, and sugarcane production. This program, conducted in coordination with government agencies, constituted the government's official effort to combat child labor. The program included educational services, community awareness initiatives, community participation, institutional participation, and transitional assistance to families. The Ministry of Labor reported that it had conducted awareness training for 2,727 personnel managers.

The law limits the workday to 6 hours (plus a maximum of 2 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.

The government did not devote adequate resources to enforce effectively child labor laws in the sugar plantations and other agricultural activities 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).

During the year the Ministry of Labor conducted 184 inspections, 68 follow-up visits, and issued civil penalties in 2 cases.

During the year the government's National Interagency Committee for Elimination of the Worst Forms of Child Labor received legal status, undertook a strategy to combat child labor, and improved coordination among child welfare agencies.

#### 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 daily wage, last set in 2003, was \$5.28 for service employees, \$5.16 for industrial laborers, and \$5.04 for maquila workers. The agricultural minimum wage was \$2.47, with \$3.57 for seasonal agriculture industry workers. The minimum wage with benefits did not provide a decent standard of living for a worker and family.

The Ministry of Labor generally enforced minimum wage laws effectively only in the formal sector. 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 6 days for all workers and requires bonus pay for overtime. The law mandates that full-time employees be paid for an 8-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 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.



State Department. External links to other Internet sites should not be construed as an endorsement of the views or privacy policies contained therein.

[FOIA](#) | [Privacy Notice](#) | [Copyright Information](#) | [Other U.S. Government Information](#)