



## El Salvador

### Country Reports on Human Rights Practices - [2000](#)

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El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president and a unicameral legislature. President Francisco Flores of the Nationalist Republican Alliance (ARENA) was elected in 1999 to a 5-year term. In free and fair elections in March, the former guerrilla organization Farabundo Marti National Liberation Front (FMLN) won a plurality of the seats in the Legislative Assembly. ARENA maintains a working majority in coalition with the conservative National Conciliation Party. Three other parties hold seats in the Assembly. The judiciary is constitutionally independent but suffers from inefficiency and corruption.

The National Civilian Police (PNC) maintains internal security. The military is responsible for external security. The military provides support for some PNC patrols in rural areas, a measure begun in 1995 by presidential executive order in an effort to contain violence by well-armed, organized criminal bands. In March at the President's direction, the air force, navy, and selected army units formed Joint Task Groups with the police as part of an interagency antinarcotics program. Civilian authorities maintain effective control of the military and security forces. Some members of the police committed human rights abuses.

The country has a free-market, mixed economy largely based on services, agriculture, and manufacturing. Although agriculture accounts for only 12 percent of the gross domestic product (GDP), it is the largest source of employment, engaging 35 percent of the work force, estimated at 2.3 million persons. Coffee and sugar are the principal export crops and important sources of foreign exchange. The manufacturing sector, which contributes 21 percent of GDP, employs 9 percent of the work force. The textile sector, especially the maquila (in-bond assembly or processing) plants in free trade zones, represents about 50 percent of manufacturing sector employment and is the main source of new jobs. The economy is open, and private property is respected. The rate of real economic growth was estimated to reach 2.5 percent during the year. Inflation was 3.6 percent. Per capita GDP reached \$2,080. The official unemployment rate averaged 7.7 percent during the year, 6.5 percent urban and 11 percent rural; however, the rate of underemployment (less than full-time work or total income below the minimum wage) was estimated at about 30 percent. Approximately 44 percent of the population lives below the poverty level.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Police officers committed extrajudicial killings. The Supreme Court found the 1993 Amnesty Law constitutional but noted that certain categories of crimes were not covered. Police kidnaped persons for profit. The police used excessive force and mistreated detainees; there were also allegations that police abused street children. Prison conditions remained poor. High crime rates, together with police officer involvement in prominent kidnappings, led to the creation of a presidential commission to discipline and dismiss corrupt and criminal police. Police arbitrarily arrested and detained persons. The judiciary remained inefficient and is hampered by widespread corruption. Impunity for the rich and powerful remained a problem. The authorities used force to disperse one demonstration; one person was injured. In February Human Rights Ombudsman Eduardo Penate Polanco resigned over misconduct charges; the Legislative Assembly had not named a successor at year's end. Violence and discrimination against women continued, and discrimination against disabled persons also remained a problem. Abuse of children, child labor, and forced child prostitution were also problems. The Government did not adequately protect workers' rights to organize and bargain collectively. Trafficking in women and children is a problem.

#### RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

There were no reports of political killings by agents of the Government; however, the police committed some extrajudicial killings.

During the year, the Human Rights Ombudsman's office received for investigation 87 cases alleging killings by the PNC during the year and in prior years. As of November, the presidential commission investigating police misconduct identified at least 72 officers suspected of extrajudicial killings during the year and in prior years.

On February 10, police shot at the tires and windshield of a vehicle that failed to obey their signal to stop on a major thoroughfare in San Salvador. When the vehicle halted, passenger Salvador Hernandez fled, and a police officer shot and killed him. The prosecutor charged Mario Orlando Franco Duran with aggravated homicide. He also charged Franco and three other officers with the attempted murder of Edwin Quintanilla Flores and Ricardo Trejo Stanley, the vehicle's driver and another passenger. On December 11, a judge determined that there was sufficient evidence to support the homicide charge for the trial of Franco to proceed to the next phase; however, the judge dismissed the attempted homicide charges against the defendants on grounds that it was impossible to determine which officers intended to shoot at the vehicle's windshield. The prosecutor appealed the latter verdict, and the appeal was pending at year's end.

On April 7, police driver Mauricio Enrique Martinez shot and killed Luis Edgardo Garcia Vasquez after he failed to stop when signaled by police on the highway between Santa Ana and Ahuachapan. Two police officers and two police drivers pursued him and shot out his tires. When the vehicle stopped, Martinez opened the door and shot Garcia in the head. In December a court convicted Martinez of aggravated murder and sentenced him to 28 years in prison. The two officers were acquitted, and charges were dropped against the other driver, who became a witness in the case.

In June PNC officer Luis Alonso Navarrete was on duty with a Joint Task Group (composed of soldiers and police) when he allegedly shot and killed six persons and wounded four others with an M-16. Five of the victims were soldiers who formed part of his Joint Task Group. Police arrested Navarrete the same day; he reportedly suffered from mental illness. The PNC disciplinary committee dismissed Navarrete from the police in September. He remained in custody awaiting trial on charges of aggravated homicide and attempted aggravated homicide at year's end.

A total of 13 inmates died in prison due to violence and illness (see Section 1.c.).

There was mixed progress in resolving cases of extrajudicial killings from previous years.

In October a court sentenced police officer Jose Miguel Soriano Melgar to 12 years in prison for the November 1999 shooting of Carlos Lopez Regalo. The court acquitted police captain Erick Fuentes of the charge of aggravated homicide. That verdict was appealed in November; the appeal was pending at year's end.

In July a police disciplinary tribunal removed from the force five officers charged with the November 1999 beating death of Manuel de Jesus Parada. In October a jury acquitted four of them of the crime; it issued no verdict for the fifth officer, who had fled prosecution and did not appear for the trial.

In October a court found three PNC officers guilty of attempted homicide for torturing Juan Carlos Miranda before stabbing him and stealing his vehicle (see Section 1.c.).

In November a court convicted police officer Jorge Alberto Canas Sanchez of aggravated homicide and sentenced him to 30 years in prison for the August 1999 murders of Fernando Hernandez and Manuel Aguilar. Two other officers charged with the crime remained fugitives at year's end. A judge provisionally acquitted another individual who had been charged with complicity. The prosecutor's appeal was pending at year's end.

In February a court dismissed charges against a police officer in the August 1999 shooting of a protester near Sonsonate during a confrontation between police and several hundred members of the Association of Salvadoran Agricultural Producers. The prosecutor appealed, but the appeals court upheld the verdict.

In October the trial of Jose Ernesto Cordova, charged with the July 1999 murder of William Ernesto Rosales Bonilla, an employee of the newspaper El Diario de Hoy, began. The trial had not concluded at year's end. Prosecutors assert that there were other participants in the crime, including police officers. However, no evidence of police participation had been found by year's end.

A public prosecutor charged police captain Mariano Rodriguez Zepeda with aggravated homicide for the 1998 shooting of Jose Antonio Villalta. The next phase of the trial was scheduled for January 2001.

There were no further developments in the 1998 death of Carlos Ernesto Lovo who died of drowning after fleeing police custody.

In February four members of the National Action Party (PAN) were killed in two separate incidents. Masked gunmen shot and killed Gilberto Cano Gonzalez near PAN headquarters in Metapan while he was distributing campaign materials to a party sympathizer, Samuel Martinez Flores. Martinez was killed by his own gun, which he dropped in his attempt to flee after the first shots were fired. In October a court found ARENA activist Jose David Murcia and Gilberto Torres not guilty of aggravated homicide. The prosecutor appealed, alleging procedural errors in the trial. The appeal was pending at year's end. In San Antonio de Monte a local resident (reportedly mentally disturbed) stoned two PAN members to death. The police detained the perpetrator, and there was no indication of any political connection.

On March 26, Jose Maria Tojeira, rector of the Jose Simeon Canas Central American University, formally asked the Attorney General to reopen the case of the 1989 murders of six Jesuit priests, their housekeeper, and her daughter and prosecute the crime's alleged instigators. He based his request in part on the December 1999 report by the Inter-American Commission on Human Rights (IACHR) which found the State responsible for violating the right to life of the eight murdered persons and for failing to conduct an effective investigation. The report also criticized the 1993 General Amnesty Law, which led to the release from custody of two military officers found guilty of the murders in 1992, and called on the Government to reopen the case. In reply to the IACHR report, the President reviewed the steps taken by the justice system to investigate and punish the crime; however, he recommended against reopening the case because that would undermine the integrity of the post civil war amnesty, which he regarded as essential to the continuing process of national reconciliation. The Attorney General deferred action on Tojeira's petition until the Supreme Court (CSJ) issued its decision on the constitutionality of the 1993 General Amnesty Law. On September 26, the CSJ upheld the constitutionality of the 1993 General Amnesty Law. However, the Court also indicated that certain special cases were not eligible for amnesty and gave lower courts discretion to adjudicate these matters on a case-by-case basis. In December the Attorney General brought the matter before a lower court judge and recommended that the case be closed. The judge ruled that the accused were not covered under the amnesty law because they were public officials at the time of the killings. However, she closed the case because the 10-year statute of limitations had expired. Tojeira appealed the decision, as did the defense, who wanted the court to find the accused not guilty based on the facts rather than the statute of limitations. Both appeals were pending at year's end.

#### b. Disappearance

There were no confirmed politically motivated disappearances.

As of mid-November, the presidential commission investigating police misconduct identified at least 12 officers suspected of involvement in kidnappings in during the year and in prior years. Most disappearances were the result of kidnapping for profit, a common occurrence affecting all levels of society throughout the country.

In May an organized crime group that included police officers kidnaped businessman Rodrigo Zablah in San Salvador and held him for more than 2 weeks. Three police officers allegedly stopped his vehicle and told him to accompany them to the police station because of a traffic accident that had occurred a day earlier. Once he was in the police car, they took him to another location. The Attorney General's office identified 18 persons involved in the crime, including at least 3 police officers. A hearing was scheduled for June 2001. Eight of the accused remained at large at year's end.

In June another organized crime group that included police officers kidnaped a couple in Sonsonate and demanded ransom. The PNC's antiskidnaping unit rescued the victims the next day and captured five persons. The Attorney General's office charged eight persons with the crime, including PNC sergeant Tomasa Reyes Alvarado and former PNC sergeant Jose Azcunaga Segura. The latter had been charged with kidnaping in the past and had been removed from the police force. A hearing was scheduled for May 2001. Two of the accused remained at large at year's end.

There were no new developments in the 1999 kidnappings of Margarita Posada, the director of a domestic nongovernmental organization (NGO), and Miguel Montenegro, president of the Human Rights Commission of El Salvador. Both victims were released within a day. The police did not find the perpetrators.

The Association for the Search for Children who Disappeared as a Result of the Armed Conflict, a local NGO,

advocated the creation of a national commission to clarify what happened to 383 children who disappeared during the war, and whose whereabouts remain unknown. The Legislative Assembly had taken no action on their request at the end of the year.

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

The Constitution prohibits such practices; however, some members of the PNC continued to use excessive force or otherwise mistreated detainees.

In February four PNC officers allegedly tortured Juan Carlos Miranda before stabbing him and stealing his vehicle. The officers had stopped him as he was driving a minibus. After putting him in the back of the bus, they kicked, beat, and threatened him for 2 hours. Finally, they stabbed him and left him for dead. In October a court found three officers guilty of attempted homicide and sentenced them to 16 years in prison. The court absolved a fourth officer of all charges.

During the year, the office of the Ombudsman for the Protection of Human Rights (PDDH) received 724 complaints of violation of the right of personal integrity by government authorities, a decrease from a total of 929 complaints in 1999. This category covers torture, inhuman or degrading treatment, mistreatment, disproportionate use of force, and improper treatment of detainees. The majority of these complaints involved the PNC and alleged minor to serious violations of arrest procedures. The PDDH received a total of 1,198 complaints against the PNC for all categories of human rights violations during the year. The number of complaints against the PNC and the cases of violations of personal integrity by all authorities have declined for the past several years.

At year's end, 128 police officers were in prison on criminal charges or serving prison sentences for crimes that included murder, rape, extortion, and kidnaping.

In June President Flores named a commission to investigate alleged police misconduct. The commission proposed reforms to PNC regulations to expedite discipline and dismissals, including the establishment of special courts to review cases of alleged misconduct. In June the Legislative Assembly passed authorizing legislation to implement the measures recommended by the commission. This legislation strengthened the role of the PNC Inspector General's office, making it a quasi-independent body within the PNC, charged with investigating allegations of police misconduct and reporting directly to the chief. In August the Assembly approved a temporary measure that allowed the chief of police for 120 days to remove officers charged with crimes or inadequate performance following an internal PNC investigation by the office of the Inspector General. In December the Assembly extended the measure for an additional 45 days. By year's end, the police force had dismissed more than 1,500 persons under the special decree and preexisting disciplinary procedures, and the special police courts had acquitted more than 200 persons. Some assembly deputies and the press questioned the transparency of the process and the fairness of its application and charged that high ranking officers remained immune from scrutiny. The commission identified 14 persons suspected of having committed torture.

Labor organizations and the Human Rights Ombudsman alleged that in March the Government used unwarranted force to disperse a demonstration by striking social security workers. The police used water cannons on demonstrators who had blocked a busy street for several hours and refused to move when urged to do so by police and other authorities, including the Human Rights Ombudsman. The police shot rubber bullets in the air, injuring one journalist. When the case was brought to court in March, the judge determined that the use of force by police was appropriate for the circumstances. The Government did not employ force during other demonstrations during the year.

In the past there have been allegations from children's rights groups that street children suffer from police brutality; the PNC always have denied these charges (see Section 5).

There were no further developments in the 1998 shooting of FMLN communications adviser Leonardo Mena Marroquin.

Human rights awareness was a standard component of the police officers' basic training program.

Prison conditions remained poor. From December 1997 to December 1999, the prison population fell about 23 percent as a result of the implementation of new sentencing and penal codes, which limit preventive detention to serious crimes. However, it increased again during the year. The prison system has the capacity to hold 5,794 prisoners in 18 penal facilities. There was still some overcrowding in individual facilities. At year's end, 7,383 men were held in 17 prison facilities with a combined capacity of 5,674; there are 371 women in the

single women's prison, which has a capacity of 120; and there are 61 men in 3 secure hospital wards with a combined capacity of 75 persons. Because of a lack of holding cells, pretrial detainees often are sent to regular prisons, where they may be placed together with violent criminals.

Gang violence, especially in the country's three largest and oldest penitentiaries and its juvenile holding facilities, continued to plague the prison system, despite government efforts to separate different gangs. In January the media reported incidents of prisoners torturing other prisoners in La Esperanza in San Salvador in 1999 and earlier. Prison authorities reported that, during the year, there were 13 deaths in the prison system, 4 of which were from multiple wounds caused by violence between prisoners. The remaining deaths resulted from illness.

There are separate facilities for female detainees and prisoners.

The law requires that all juveniles be housed separately

from adults both prior to trial and while serving a prison sentence, and the Government observes this requirement in practice. Most criminal cases involving juveniles are brought to trial or conciliation proceedings within 3 months.

The Government permits prison visits by independent human rights monitors, NGO's, and the media.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest; however, at times the PNC arbitrarily arrested and detained persons. During the year, the PDDH received 181 complaints for violations of personal liberty, a decrease from 225 complaints in 1999. The number of complaints in this category has declined steadily since 1996. The courts generally enforced a ruling that interrogation without the presence of counsel is coerced and that any evidence obtained in such a manner is inadmissible. As a result, police authorities generally delayed questioning until a public defender arrived.

The law permits the police 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 are sent to regular prisons, where they may be placed together with violent criminals. The law allows 120 days to investigate serious crimes and 45 days for lesser

offenses before a judge is required to bring the accused to trial or dismiss the case. However, many cases were not completed within the legally prescribed time frame. During the year, more than 2,000 inmates were in pretrial detention. From January through May, the justice of the peace courts, where most court cases originate, accepted a daily average of 166 cases. Of these, a daily average of nine cases were resolved through conciliation proceedings.

The Penitentiary Code 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 have been incarcerated longer than the maximum legal sentence for their crimes. In such circumstances, a detainee may request a review by the Supreme Court of his or her continued detention.

The Constitution prohibits forced exile, and the Government observes this prohibition.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice. However, the judiciary suffers from inefficiency and corruption.

The court structure has four levels: justices of the peace, trial courts, appellate courts, and the Supreme Court. The Supreme Court selects justices of the peace, trial judges, and appellate judges from a list of nominees proposed by the National Judicial Council. The Council is an independent body provided for in the Constitution to nominate, train, and evaluate judges. All lower court judges serve until they voluntarily resign or are dismissed for cause. The Legislative Assembly elects, by a two-thirds majority, Supreme Court justices from a list provided by the National Judicial Council and the National Association of Lawyers. A justice serves for 9 years and may be reelected. There are separate court systems for family matters and juvenile offenders; they stress conciliation as an alternative to adjudication. The Criminal Sentencing Court has responsibility for executing and monitoring the sentences imposed by the trial courts. Through its Department of Judicial

Investigation, the Supreme Court regularly receives and investigates public complaints about judicial performance. This department also reviews the findings and recommendations of the National Judicial Council, which evaluates justices on an ongoing basis. The Supreme Court imposes penalties when warranted.

Judges, not juries, decide most cases. A jury verdict cannot be appealed. However, the defendant may appeal the sentence to the Supreme Court for reduction. A jury verdict may be overturned by a mistrial determination that there were serious problems with jury panel selection or errors in the trial procedure. A judge's verdict may be appealed.

The Juvenile Legal Code requires that minors under the age of 18 be tried only in juvenile courts, limits sentences for minors to a maximum of 7 years, and includes alternatives to incarceration for minors.

In 1999 the Legislative Assembly approved a number of additional changes to the Criminal Procedures and Penal and Penitentiary (Sentencing) Codes. These changes included the establishment of more severe penalties for some crimes (including increasing the maximum possible prison sentence from 30 to 35 years), the elimination of parole for some crimes, and the addition of new crimes to the code. One of these reforms strengthened the legal protection afforded to children and the disabled by prescribing 6-to-8-year prison sentences for persons convicted of sexual aggression against adults incapacitated by mental or physical conditions or against minors.

The Constitution provides for the presumption of innocence, protection from self-incrimination, legal counsel, freedom from coercion, and compensation for damages due to judicial error. Defendants also have the right to be present in court. These rights were not always respected fully in practice. The Constitution and law require the Government to provide legal counsel for the indigent; however, this requirement was not always implemented in practice.

Impunity before the country's civil and criminal laws continued, especially for persons who were politically, economically, or institutionally well-connected. In August National Conciliation Party leader and Legislative Assembly Deputy Francisco Merino shot at police officers, injuring one officer. (Merino is also a former Vice President.) Merino settled out of court with the police department and the injured officer. The Assembly decided not to lift Merino's parliamentary immunity to allow criminal prosecution.

In October a judge exonerated the individuals accused of the April 1999 rape and murder of 9-year-old Katya Miranda. Investigators allegedly failed to collect important evidence at the crime scene, and the judge refused to interview several witnesses identified by prosecutors. In November a judge ruled that the ex-president and directors of the Salvadoran Soccer Federation could not be prosecuted for misuse of funds, document fraud, and other charges because the organization was not public. More than \$4 million (36 million colones) was missing from the Federation. The Attorney General's office appealed the judge's decision, and a hearing was scheduled for January 2001.

Inadequate police coverage (due to limited resources and lack of sufficient personnel) and intimidation of victims and witnesses (especially by gangs) made it difficult to identify, arrest, and prosecute criminals, resulting in diminished public confidence in the justice system.

Corruption in the judicial system and the Attorney General's office contributed to impunity. In November the Attorney General announced that he was investigating information that almost 450 prosecutors and judges might have falsified their credentials or obtained them illegitimately, and another 83 persons might have been involved in nepotism. He also was investigating suspicions that prominent defense attorneys had sources inside the prosecutors' office who provided leaks that impeded investigations and prevented successful prosecutions.

The Government and the Legislature took steps to address these problems. At the Attorney General's urging, the Legislative Assembly passed a law on November 23 that created an expedited process for dismissing employees of the Attorney General's office. The measure, authorized for 120 days, was modeled after a law passed in August that permitted the expedited removal of undesirable persons from the police force.

Some public officials called for the Supreme Court to begin a similar initiative to remove corrupt judges. The Court maintained that its Department of Judicial Investigation and the National Judicial Council already scrutinized judicial performance on an ongoing basis. In practice, the Court imposed few sanctions upon judges. During the year the Court received the Council's evaluations of the performance of 322 justices of the peace, 46 trial court judges, 63 sentencing court judges, and 28 appeals court magistrates. The evaluations reviewed each judge's performance over several months in 1998 or 1999. The Council recommended the dismissal of 3 justices of the peace and 1 trial court judge, and suspensions ranging from 3 to 60 days for 156

justices of the peace, 23 trial court judges, 18 sentencing court judges, and 13 appeals court magistrates. The Court exonerated two of the four officials recommended for dismissal; a third resigned, and the fourth case remained under review at the end of the year. By the end of the year, the Court had begun to review 11 cases of judges recommended for dismissal. It had taken no action in the remaining cases.

The implementation of judicial reforms continued to create confusion and uncertainty among police, prosecutors, public defenders, and the courts. Inadequate police coverage (due to limited resources and lack of sufficient personnel) and intimidation of victims and witnesses (especially by gangs) made it difficult to identify, arrest, and prosecute criminals, thus diminishing public confidence in the justice system.

There were no reports of political prisoners.

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

The Constitution provides for a right to privacy, and government authorities generally respected these rights in practice. The law requires the police to have a resident's consent, a warrant, or a reasonable belief that a crime is under way or is about to be committed, before entering a private dwelling.

In June the Attorney General's office initiated investigations of reported illegal wiretapping activities conducted by the telecommunications company, TELECOM. The Legislative Assembly formed a special commission to conduct parallel investigations. The Superintendent of Telecommunications and Electricity

produced a list of telephone numbers believed to have been tapped, including those of the offices of the Attorney General, politicians, journalists, and NGO's. Neither the commission nor the Attorney General had completed their investigations, and the purpose of the wiretapping had not been determined at year's end.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of the press, and the Government respects this right in practice. Print and broadcast journalists from all major media outlets regularly and freely criticize the Government and report opposition views. Opposition figures are interviewed routinely on television and radio, and in the press. According to major media associations, the Government did not use direct or indirect means to control the media. However, some television stations complained that advertising agencies responsible for placement of government-funded public service announcements were biased in favor of media companies that generally supported government policy.

The Inter-American Press Association identified problems in several areas, including the absence of a law providing for journalists' right to maintain the confidentiality of sources. In September some news organizations criticized the Government for attempting to require all television and radio stations to broadcast the President's speech and related events celebrating Independence Day. Several organizations refused to broadcast events other than the President's speech; however, the Government took no action against them.

There are 5 daily newspapers, with a combined circulation of more than 250,000 copies per day, and 12 television stations. Four independent VHF television stations reach most areas of the country, while the government-owned and operated VHF station has poor signal quality even in San Salvador. Seven independent UHF stations serve San Salvador, and several can be received as far as 30 miles from the capital. Two cable television systems cover much of the capital, and other cable companies operate in the major cities of San Miguel, Santa Ana, and Sonsonate. All carry major local stations and a wide range of international programming. There are approximately 20 small cable television companies across the country, serving limited local areas. While most of them appear to be authorized broadcasters, several are believed to be pirating signals. Approximately 150 licensed radio stations broadcast on the FM and AM bands.

A provision in the 1999 Criminal Code allows judges to close court proceedings if public exposure could prejudice the case. The media and the Inter-American Press Association (IAPA) have asserted that the provision abridges press freedom. In the past, legislative deputies have argued that misuse of the provision could lead to impunity and corruption by limiting the "watchdog" role of the press.

There were no instances of censorship of books, other publications, films, or plays.

The Constitution provides for academic freedom, and the Government respects this right in practice.

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

The Constitution provides for peaceful assembly for any lawful purpose, and the Government respects this right in practice. There is no requirement for permits to hold public meetings, and public demonstrations are common and generally peaceful. A court determined that the Government's use of force to disperse a demonstration by striking social security workers in March was appropriate (see Section 1.c.).

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

The Supreme Court still had not decided a constitutional challenge to a 1996 law charging the Ministry of Interior with registering, regulating, and overseeing the finances of NGO's and non-Catholic religious groups, which a group of affected organizations filed in 1998.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. The Constitution specifically recognizes the Roman Catholic Church and grants it legal status. In addition, the Constitution provides that other churches may register for such status in accordance with the law.

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

The Constitution provides for these rights, and the Government respects them in practice.

The law does not include specific provisions for granting refugee or asylee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol; however, the Government has procedures for handling such requests in accordance with these principles.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The issue of the provision of first asylum has not arisen in recent years. There were no reports of the forced return of persons to a country where they feared persecution.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The President and Vice President are elected every 5 years. The Constitution bars the President from election to consecutive terms. Voting is by secret ballot.

Ten political parties, representing the full political spectrum, fielded 7 candidates in the March 1999 presidential elections. The Government did not restrict opposition participation, and there were no violent incidents during the campaign. Observers found that the vote was without major flaws and proceeded peacefully with fair access to the polls for all. Francisco Flores, the candidate of the ARENA party, won a clear majority in the first round of voting.

In March the country held legislative elections that observers generally reported to be free and fair. The FMLN won a plurality of legislative seats.

Four PAN members were killed in two separate incidents in February prior to the March elections (see Section 1.a.).

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems; however, women are not accorded equal respect or stature in these areas and are underrepresented in government and politics. Women head three ministries (Foreign Affairs, Education, and Environment) and the Social Security Institute, and hold a substantial number of vice- and sub-ministerial jobs. Women represented 49 percent of the registered voters in the March election. In March voters elected 8 women to the 84-seat legislature, a decrease from the previous Assembly's 14 women. One woman sits on the Assembly's 11-member governing board; there were 2 women on the board in the previous legislature.

Minorities, including indigenous people, are not barred from voting or participating in government and politics;

however, they are underrepresented.

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

The Government generally demonstrated a willingness to discuss human rights issues and problems with international and domestic NGO's. However, it was sometimes reluctant to discuss worker rights issues with NGO's. Numerous domestic and various international NGO's operated freely. Domestic and international NGO's are required to register with the Government under the terms of the 1996 NGO registration law, and some reported difficulties.

The principal human rights investigative and monitoring body is the Ombudsman for the Defense of Human Rights (PDDH), elected by the Assembly for a 3-year term. The Peace Accords specifically created the PDDH, which was established formally by an amendment to the constitution that defined its role.

Ombudsman Eduardo Penate Polanco resigned in February. The Attorney General had charged him with diverting funds from international donors while he worked in a previous job, and the Legislative Assembly was preparing to remove him from office for negligence. Following his resignation, the office continued its work under an acting Ombudsman while the Legislative Assembly considered other candidates. The office's investigative capacity remained limited due to resource constraints. The institution remained handicapped because the interim official lacked confirmation by the Assembly and therefore did not have the same authority as a permanent ombudsman.

During the year, the PDDH accepted 2,572 complaints of human rights violations. The rights most frequently alleged to have been violated included personal integrity and due process of law; 566 complaints.

#### Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution states that all persons are equal before the law and prohibits discrimination based on nationality, race, sex, or religion. In practice, discrimination against women, the disabled, and indigenous people occurs in salaries and hiring. There were some instances of violence against homosexuals.

There were no new developments in the 1999 shooting of a man leaving the office of the domestic homosexual rights organization Entre Amigos, or in the telephonic death threats against the director of that organization. There were no new developments in the 1999 murders of transvestite prostitutes "Doris" and Nestor Adonai Marengo (known as "Gloria") nor in the murders of transvestite prostitutes in 1998.

There was no new information in the 1999 case of PNC agents in Chalatenango department charged with hitting, insulting, and threatening six homosexuals.

#### Women

Violence against women, including domestic violence, is a widespread and serious problem. The law prohibits domestic violence and provides for sentences ranging from 6 months to 1 year in prison upon conviction. Convicted offenders are prohibited from using alcohol or drugs and from carrying guns. The law also allows the imposition of restraining orders against offenders. Once a taboo social subject, domestic violence increasingly is being recognized publicly and has become a topic for national debate. Government institutions, such as the PDDH, the Attorney General's office, the Supreme Court, and the PNC, coordinated efforts with NGO's and other organizations to combat violence against women through education, government efforts to increase enforcement of the law, and NGO support programs for victims. The National Secretariat for the Family maintains a hot line for victims to report domestic abuse. The Salvadoran Institute for the Development of Women (ISDEMU) received 4,017 cases of domestic violence through August, a number slightly down from the same period in 1999. Incidents of domestic violence and rape continued to be underreported for several reasons: societal and cultural pressures against the victim; a fear of reprisal; poor response to victims by the authorities; fear of publicity; and the belief that cases are unlikely to be resolved. The penalties for sexually aggressive rape are 6 to 10 years in prison. The law does not specifically address spousal rape; however, it could be considered a crime if the actions meet the Criminal Code's definition of rape. The ISDEMU received 277 cases of sexual aggression through August, a slight increase above the same period in 1999.

Prostitution is common. There were credible reports that some women and girls were forced into prostitution (see Section 6.c.).

Women are trafficked to Mexico to work as prostitutes (see Sections 6.c. and 6.f.).

The law prohibits sexual harassment. In May the authorities dismissed a deputy police commissioner for having sexually harassed a female subordinate.

The Constitution grants women and men the same legal rights; however, women suffer discrimination.

Women suffer from cultural and societal discrimination and have significantly reduced economic opportunities. Priority generally is given to male children for schooling, to men for available jobs and promotions, and to sons for inheritances. Women are not accorded equal respect or stature in traditional male-dominated areas such as agriculture and business. On June 15, the Legislature ratified International Labor Organization (ILO) Convention Number 100, on equal remuneration. However, while there is no definitive evidence available, it is widely believed that women often are paid less than men for equal work. The one sector in which there is an exception to this practice is in the export processing zones and in-bond assembly plants, the largest source of new jobs, where women made up 85 to 90 percent of the work force (see Section 6.b.). However, even in this sector, men hold the majority of management positions. Training for women generally was confined to low-wage occupational areas where women already hold most positions, such as teaching, nursing, home industries, and small businesses. The law prohibits pregnant women from working in strenuous occupations after the fourth month of pregnancy (see Section 6.e.).

Several NGO's are engaged in promoting women's rights and have conducted several rights awareness campaigns.

#### Children

The Government concentrated more on reducing poverty and promoting family stability through economic growth than in direct expenditure on children's programs. The National Secretariat of the Family solicited public input on a new national policy of comprehensive attention for children and adolescents.

Education is compulsory through the 9th grade (up to age 14). Public education is free through high school, and only a nominal fee is charged to attend the national public university. Rural areas fell short of providing a ninth grade education to all potential students, in part because of a lack of resources and in part because many rural parents withdraw their children from school by the sixth grade to work. UNICEF data from 1998 show that 14 percent of urban children (ages 7-17) and 29 percent of rural children were not attending classes.

The Government worked through state institutions and with UNICEF to promote protection and general awareness of children's rights. However, children continued to be victimized by physical and sexual abuse, abandonment, exploitation, and neglect. The Salvadoran Institute for the Protection of Children (ISPM), an autonomous entity, has responsibility for protecting and promoting children's rights. The ISPM estimated that an average of 2,600 children, some abandoned and others victims of mistreatment, stayed in its shelters. For the year, it reported 1,126 cases of physical mistreatment, 267 cases of negligence, and 374 cases of abandonment. All of these statistics were below those for the same period in 1999 when the ISPM reported approximately 1,500 cases of mistreatment, 650 cases of negligence, and 700 cases of abandonment. Using different criteria, the ISDEMU recorded 3,071 cases of abuse during the year, significantly below the 1999 level of 10,070 cases. The difference reflects a change in reporting criteria.

Substance abuse (glue and paint sniffing) was a problem among urban street children. FUNDASALVA, an NGO, provides drug counseling and treatment to minors. In the past, there have been allegations from children's rights advocates that street children suffer from police brutality. The PNC denied these charges and incorporated PDDH human rights training into programs for police units that deal with juveniles.

The ISPM reported 87 cases of sexual abuse, a slight increase from the 1999 figure of 72. A majority of the victims were female. According to the PDDH, over 85 percent of all abuse occurs in schools and at home, and only a small percentage of these cases were reported to the authorities.

The PDDH estimated that 270,000 minors work, most as street vendors (see Section 6.d.). In addition to lost educational opportunities, some of these children fell victim to sexual abuse and were exploited and forced into prostitution (see Sections 6.c. and 6.f.). Between 10 and 25 percent of "visible" prostitutes are minors, and an estimated 40 percent of the "hidden" prostitutes who cater to upper-class clients are believed to be minors, according to a UNICEF study released during the year.

Children, especially those living on the streets, are trafficked to other countries and then forced into prostitution (see Section 6.f.).

Child labor is a problem (see Section 6.d.).

Children from Honduras have been used as beggars to support traffickers in San Salvador (see Section 6.f.).

Infant malnutrition continued to be a problem. A National Family Health Poll, conducted in 1998 and released in December 1999, found that 1.1 percent of children under 5 years of age suffered from grave malnutrition, with an additional 21 percent experiencing less severe malnutrition. The Ministry of Health listed malnutrition as one of the 10 principal causes of infant mortality in the country. The Government has a national plan for infants designed to increase access to potable water, iodized salt, and micronutrients, and to encourage breast feeding, but all of these remain problem areas, especially among the rural poor.

#### People with Disabilities

Government efforts to combat discrimination and increase opportunities for the disabled are growing but inadequate, with the exception of the war wounded, who have secured both government and international funding for rehabilitation and retraining programs. In May the Legislative Assembly passed a law mandating that new or renovated public buildings be accessible to the disabled. The law also required businesses to employ 1 person with a disability for every 25 employees, an increase from the preexisting requirement of 1 to 50. Although the Government had not enforced the previous law's employment quota, it brought together dozens of government agencies and nongovernmental organizations to discuss ways to implement the new law effectively. However, the Ministry of Labor has only two persons to handle all issues related to the disabled, and its records are kept on paper files in its regional branches. Therefore, there are no reliable data on the number of disabled persons, nor on how many are employed.

Access by the disabled to basic education was limited due to lack of facilities and appropriate transportation. There was no provision of state services for the physically disabled. Only a few of the Government's community-based health promoters have been trained to treat the disabled, and they rarely provided such service. The Ministry of Health estimated that 10 percent of the population is afflicted by some form of disability. Many disabilities are directly attributable to the civil war. Other contributing factors included lack of prenatal care, misuse of pesticides in food production, malnutrition, auto accidents, and criminal violence.

There were several organizations dedicated to protecting and promoting the rights of the disabled, but funding was insufficient. Foreign funds for badly needed rehabilitation services channeled through the Telethon Foundation Pro-Rehabilitation, a local private voluntary organization, helped address numerous rehabilitation issues and provided alternatives for the education and rehabilitation of the disabled population. A semiautonomous institute, the Salvadoran Rehabilitation Institute for the Disabled, has 10 centers throughout the country and offers medical treatment, counseling, special education programs, and professional training courses to the disabled. The Government and national and international private and nongovernmental organizations provide its funding.

#### Indigenous People

The country is ethnically homogeneous, although a very small segment of the population still claims indigenous status.

The Constitution states that native languages are part of the national heritage and should be preserved and respected. In reality, very few persons speak the indigenous language of Nahuatl. There are no national laws regarding indigenous rights.

Early in the century, facing active repression, most indigenous people adopted local customs and successfully assimilated into the general population, from which they are generally indistinguishable. There are a few very small communities whose members still wear traditional dress and maintain traditional customs to a recognizable degree without repression or interference. There are no special rights for indigenous people; however, they are allowed to make decisions regarding their communal lands just as any other landowners under Article 105 of the Constitution. These small indigenous groups exist in the poorest parts of the rural countryside where employment opportunities are few and domestic violence is a problem.

Indigenous people reportedly earned less than other agricultural laborers. Indigenous women in particular had little access to educational and work opportunities due to cultural practices, lack of resources, and rural underdevelopment. As with the poor rural sector in general, access to land was a growing problem confronting indigenous people. Few possessed titles to land, and bank loans and other forms of credit were extremely limited.

There are some small, active indigenous associations. The largest and best known is the National Association of Indigenous Salvadorans.

#### Religious Minorities

There were no new developments in the investigation of the 1999 burglaries at offices of the Lutheran Church.

#### Section 6 Worker Rights

##### a. The Right of Association

The Constitution provides for the rights of workers and employers to form unions or associations, and the Government generally respected these rights; however, there were some problems. There were repeated complaints by workers, in some cases supported by the International Labor Organization's (ILO) Committee on Freedom of Association (CFA), that the Government impeded workers from exercising their right of association.

Union leaders asserted that the Government and judges continued to use excessive formalities 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. In March the Government denied an application from five food industry unions to form a federation, because they allegedly had made procedural errors in their application. In a complaint submitted to the ILO, the unions asserted that the Government had not given them an opportunity, as required by law, to correct the errors in their application. The CFA, in its November report, supported the workers' view, observing that it "deeply regretted" that the Government had not worked to overcome procedural problems that "could easily have been rectified." It criticized the Government, observing that "formalities should not be of such a nature as to impair the free establishment of organizations." In September the unions submitted a complaint to the Supreme Court that remained pending at year's end.

In 1999 the CFA similarly cited the Government for its failure to provide protection or remedy for a number of labor leaders fired in 1998 during the process of privatizing the state-owned telephone company. The finding concluded that the Labor Code imposed excessive formalities for the recognition of a trade union, and found that the application of the law repeatedly was used to refuse legal status to a trade union in the telephone company. The Committee called on the Government to complete the process for recognition of the telecommunications union, amend the Labor Code to remove the excessive formalities that the Committee concluded infringe on the right to form a union, seek to have the two union leaders who had not yet accepted severance pay reinstated, and ensure that future changes of company ownership did not threaten labor leaders or labor organizations.

The Government asserted that the telephone company complied with the labor code by offering a severance payment to the fired workers.

In September the Supreme Court determined that the Government had erred in denying legal standing to the telecommunications union and ordered the Government to grant it legal status. On October 23, the Government complied with the order and granted legal status to the union. However, TELECOM, the privatized successor to the state-owned telecommunications company, dismissed three union leaders in the next 5 weeks. As part of a company restructuring process, it also asked dozens of employees, many of whom were union members, to submit resignations. Thirteen employees refused, and the company prohibited their entry to the workplace. Telecom petitioned the Ministry of Labor to decertify the union, asserting that the union had failed to follow correct procedures for obtaining legal recognition. In December the Ministry of Labor sought to mediate a mutually agreeable settlement between the parties, but was unsuccessful. The union filed a lawsuit against the company for violating the rights of the union members. At year's end, the suit had not gone to trial, and the Ministry of Labor had not ruled on the company's petition.

There is a small organized labor sector with approximately 150 active unions, public employee associations, and peasant organizations, representing over 300,000 citizens, approximately 20 percent of the total work force. Unions generally are independent of the Government, political parties, and other political forces. The Labor Code prohibits foreigners from holding leadership positions in unions.

By law only private sector workers have the right to form unions and strike; some employees of autonomous public agencies may form unions if they do not provide essential services. Military personnel, police, and government workers may not form unions but are allowed to form professional and employee organizations. Some of the most powerful labor groups are public employee associations. They have the same

responsibilities as unions, including calling technically illegal strikes and collective bargaining. The Government negotiated with public employee associations and generally treated their strikes as legitimate, although the Labor Code provides for mandatory arbitration of public sector disputes. The November CFA stated that "denial of the right of association of public service employees to establish unions is an extremely serious violation." The Committee formally recommended that the Government amend national legislation to recognize the right of association of workers employed in the service of the State, with the possible exception of the armed forces and the police. There was one public sector strike during the year (see Section 1.c.).

The law prohibits antiunion actions before a union is registered legally and prohibits the dismissal of workers whose names appear on a union application. The Constitution provides that union officials may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause from the time of their election until one year after the completion of their term of office. However, the Labor Code does not require the employers to reinstate them, but requires the employers to provide a severance payment. In practice, some employers dismissed workers who sought to form unions. The Government generally ensured that employers paid severance to these workers. However, the Government did not prevent their dismissal or require their reinstatement.

The Committee on Freedom of Association cited one case in which a private firm blocked the formation of a union by coercing the union founders to resign 1 hour before the union was to be recognized officially (see Section 6.b.).

Unions can only strike after the expiration of a collective bargaining agreement. Unions must first seek to resolve differences through direct negotiation, mediation, and arbitration before striking. To be considered legal, the 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. The union must name a strike committee to serve as a negotiator and send the list of names to the Ministry of Labor, who notifies the employer. The union must wait 4 days from the time the Ministry notifies the employer before beginning the strike.

In June the Supreme Judicial Court determined that the Government's dismissal of striking Social Security Institute workers in 1999 was illegal. In accordance with that ruling, in August the Social Security Institute reinstated 187 of the 219 workers. The remaining workers requested a severance payment in lieu of reinstatement.

The Labor Code prohibits partisan political activity by unions. The unions routinely ignored this prohibition, but the Government took no punitive action against them.

Unions and other labor organizations freely affiliated with international labor organizations.

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

The Constitution and the Labor Code provide for collective bargaining rights for employees in the private sector and for certain categories of workers in autonomous government agencies, such as utilities and the port authority. However, both private sector unions (by law) and public sector employee associations (in practice) used collective bargaining.

The Ministry of Labor oversees implementation of collective bargaining agreements and acts as a conciliator in labor disputes in the private sector and in autonomous government institutions. In practice, ministers and the heads of autonomous government institutions often negotiate with labor organizations directly, relying on the Ministry of Labor only for such functions as officially certifying unions. The Ministry often seeks to conciliate labor disputes through informal channels rather than attempt to enforce regulations strictly, which has led to charges that the Ministry is biased against labor. Labor leaders assert 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. (The employer, the workers, and the Labor Ministry each name one representative to a panel.) The arbitration panel for the Social Security labor dispute in March included a representative of the Labor Ministry, although the Labor Minister sits on the governing council of the Social Security Institute. Corruption continued to affect labor inspectors and courts.

The Constitution prohibits discrimination against unions. It provides that union officials at the time of their election, throughout their term, and for 1 year following their term may not be fired, suspended for disciplinary reasons, removed, or demoted except for legal cause. Workers and the ILO reported instances of employers using illegal pressure to discourage organizing, including the dismissal of labor activists and the maintenance of lists of workers who would not be hired because they had belonged to unions.

In reviewing the February firing of 44 union members by the La Salud Dairy, the Ministry of Labor found that the cooperative had the legal right to dismiss the workers. It cited a provision of the Labor Code that allows enterprises to suspend labor contracts when economic conditions require them to reduce their activities; however, the dismissals occurred 1 day before a deadline for completing the renegotiation of a collective bargaining agreement, and in letters to the fired workers, the company cited the union's negotiating position as the reason for the dismissals. Labor representatives stated that, after dismissing the first set of workers, management successfully pressured the 43 remaining members to resign from the union.

There are approximately 220 maquila (in-bond assembly or processing) plants, the majority of which are located in the country's 8 export processing zones (EPZ's). The Labor Code applies in the EPZ's; there are no special EPZ labor regulations.

Most EPZ companies and a large portion of the maquila plants had voluntary codes of conduct promoted by their parent corporations or foreign purchasers. In addition, two EPZ's have their own codes of conducts for all tenants. These codes include worker rights protection clauses. Some companies in the EPZ's provided salaries and on-site benefits (e.g. clinics, cafeterias) competitive with the best private sector enterprises (see Section 6.e.). However, there were credible reports that some factories dismissed union organizers, and there are no collective bargaining agreements with the 19 unions that exist in the maquila sector. The International Confederation of Trade Unions (ICFTU) contended in its annual report that some EPZ workers also suffered low pay, health and safety risks, 12- to 14-hour workdays, and minimal toilet breaks.

In January the clothing assembly factory DOALL reemployed workers that unions alleged it had dismissed illegally when they tried to form a union in 1999. The reinstatements followed pressure from DOALL's major foreign customer and involvement by the Ministry of Labor. In September the Ministry of Labor approved an application for legal standing for a union formed by the rehired workers. The Ministry had denied the union's original application in 1999 based on documentation provided by DOALL showing that the workers had resigned 1 hour before they held the union's constituent assembly. Union officials asserted that company management had falsified the letters of resignation. The Committee on Freedom of Association noted that the Government had not responded to the Committee's queries on this incident which it said included "antiunion acts of discrimination and interference on the part of the company."

In October the Ministry of Labor opened branch offices in EPZ's to make its services more accessible to its users. The Ministry provided the staff, and the EPZ's covered other costs.

In the past, there have been credible accusations that some factories abused their workers, and that some women were not hired because they were pregnant. Workers have reported mistreatment, threats, abuse, and sexual harassment. Although the Ministry of Labor has improved its efforts to increase inspection and follow up on such complaints, it still has insufficient resources to cover all the EPZ's, much less the much larger national private sector.

Although a 1996 law gives the Ministry of Economy the power to withdraw free zone privileges from companies that violate labor regulations, there have been no instances in which this has been used or even threatened publicly. The ICFTU has reported persistent problems facing female employees in EPZ's, including mandatory pregnancy tests and firing of workers who are pregnant (see Section 5).

On October 23, the Government complied with a Supreme Court order to provide legal standing to the telecommunications union (see Section 6.a.).

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

The Constitution prohibits forced or compulsory labor, except in the case of calamity and other instances specified by law, and the Government generally enforces this provision; however, there were reports that women were forced into prostitution (see Section 5).

Although not specifically prohibited by law, forced and bonded labor by children are covered by the general prohibition. There were no reports of their use in the formal sector; however, there was strong evidence that minors have been forced into prostitution (see Sections 5 and 6.f.).

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution prohibits the employment of children under the age of 14; however, child labor is a problem. Minors, age 14 or older, may receive special Labor Ministry permission to work, but only where such employment is indispensable to the sustenance of the minor and his or her family. This is most often the case

with children of peasant families who traditionally work during planting and harvesting seasons. The law prohibits those under the age of 18 from working in occupations considered hazardous. The law limits the workday to 6 hours for youths between 14 and 18 years of age and sets a maximum normal workweek for youths at 36 hours. The PDDH estimated that 270,000 minors work, most as street vendors.

Orphans and children from poor families frequently work for their own or family survival as street vendors and general laborers in small businesses, mostly in the informal sector (see Section 5.). Children in these circumstances often do not complete schooling through the 9th grade, as the law requires. There were no reports of child labor in the industrial sector. It does not exist in the EPZ's.

The Ministry of Labor is responsible for enforcing child labor laws and made an effort to do so; however, scarce resources and the difficulty of monitoring the large informal sector limited its effectiveness outside the urban formal sector. On June 15, the Legislative Assembly ratified ILO Convention 182 on the elimination of the worst forms of child labor. In September the ILO's International Program for the Elimination of Child Labor (IPEC) opened an office to help develop and support this effort. The Government continued to collaborate with IPEC on projects initiated in 1999. In March IPEC began a project with local NGO's, police, municipal officials, and fireworks producers to take 1,000 children out of the fireworks industry and prevent another 1,000 children from entering. The project includes community awareness programs, increased educational and health care opportunities for children, creation of alternative economic opportunities for families, and increased labor enforcement capacities. Similar programs target children in the coffee and shellfish extraction industries.

The Labor Code does not specifically prohibit forced and bonded labor by children, but they are covered by its general prohibition; however, there were reports that minors were forced into prostitution (see Section 6.c. and 6.f.).

#### e. Acceptable Conditions of Work

The minimum wage is set by executive decree based on recommendations from a tripartite (government, labor, and business) committee. The minimum daily wage is \$4.80 (42.00 colones) for commercial, industrial, and service employees; \$3.57 (31.20 colones) plus food allowance for coffee plantation workers; \$2.61 (22.80 colones) plus food allowance for sugar and cotton plantation workers; and \$2.47 (21.60 colones) plus food allowance for all other agroindustrial workers. The minimum wage with benefits does not provide a decent standard of living for a worker and family.

The Ministry of Labor is responsible for enforcing minimum wage laws and generally does so effectively in the formal sector. However, some maquila plants underpaid workers and failed to compensate them in accordance with the law for mandatory overtime.

The law sets a maximum normal workweek of 44 hours. It limits the workweek to no more than 6 days for all workers. It requires bonus pay for overtime. By law a full-time minimum wage employee is paid for an 8-hour day of rest in addition to the 44-hour normal workweek and receives an average of 1 month's wage a year in required bonuses plus 2 weeks of paid vacation. Many workers worked more hours than the legal maximum.

The Constitution and the Labor Code require employers, including the Government, to take steps to ensure that employees are not placed at risk in their workplaces. These laws prohibit the employment of persons under 18 years of age in occupations considered hazardous or morally dangerous, such as bars and billiard halls; the prohibition also applied to hazardous occupations such as agricultural work with poisonous chemicals or factory work with dangerous equipment. The Labor Code prohibits pregnant women from engaging in strenuous physical exertion at the workplace after the fourth month of pregnancy. Health and safety regulations are outdated, and enforcement is inadequate. The Ministry of Labor attempts to enforce the applicable regulations but has restricted powers and limited resources to enforce compliance. Workers in some maquilas expressed concerns about unhealthy drinking water, unsanitary bathrooms, and eating facilities, and inadequate ventilation (problems with dust and heat). Some of the largest plants have dust control, air conditioning, on-site medical facilities, and enforced safety regimes.

#### f. Trafficking in Persons

The law does not specifically prohibit trafficking in persons; however, it stipulates that any crime involving "commerce in women or children" automatically carries a 30 percent increase in the prison sentence or fine that otherwise would be imposed for that crime. The Government enforces this provision.

The country is a source of women and children for trafficking in prostitution to Mexico and other countries. There are credible reports that women and children are lured to Mexico by procurers only to be sold to owners

of establishments there who then force the trafficked persons to work off the debt as sex workers. According to Guatemalan authorities, street children from El Salvador are lured to border areas with Guatemala where they are then forced into prostitution by organized rings.

According to press reports, Honduran children were brought to San Salvador to beg for their sponsors. The Government investigated and took a number of children into custody. When their parents could not be found, they were turned over to the ISPM.

[End.]