



## El Salvador

### Country Reports on Human Rights Practices - [2001](#)

Released by the Bureau of Democracy, Human Rights, and Labor

March 4, 2002

El Salvador is a constitutional, multiparty democracy with an executive branch headed by a president and a unicameral legislature. In 1999 voters elected President Francisco Flores of the Nationalist Republican Alliance (ARENA) to a 5-year term. In generally free and fair elections in March 2000, 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. Four other parties and one independent hold seats in the Assembly. The judiciary is constitutionally independent; however, it 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, and provides support to the law enforcement agencies for specific activities, including antinarcotics efforts and reform school training for juvenile convicts. Civilian authorities generally maintain effective control of the military and security forces. Members of the police committed human rights abuses.

The country's population is over 6.3 million. The free-market, mixed economy largely is 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 over 2.6 million persons. Coffee and sugar are the principal export crops and important sources of foreign exchange, although a sustained decline in coffee prices has depressed activity in this sector. According to the Salvadoran Coffee Council, the decline reduced employment in the end of year harvest by approximately 4,300 jobs. 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 percent during the year. Inflation was 1.4 percent. Per capita GDP reached \$2,183. The official unemployment rate averaged 5.5 percent in the third trimester of the year, 5.9 percent urban and 4.8 percent rural; however, the rate of underemployment (less than full-time work or total income below the minimum wage) during the year was estimated at about 28 percent. In January and February two earthquakes, killed over 1,100 persons, made over 1.2 million homeless, and caused over \$1.3 billion in damage. The result was a 5- to 7-year setback for the country. For example, reversing a decade of steadily declining poverty rates, the earthquakes left 55 percent of the population below the poverty level, substantially more than the 49 percent recorded in 2000. On January 1, the dollar became an official currency together with the colon. Official transactions, including court fines, may take place in either currency.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. There were no politically motivated killings or disappearances; however, some police officers committed killings. An appeals court affirmed that the statute of limitations had expired in the 1989 murder case of six Jesuit priests. Police officers kidnaped persons for profit. Police officers used excessive force and mistreated detainees. Prison conditions remained poor, and overcrowding was a problem. At times police arbitrarily arrested and detained persons. Lengthy pretrial detention was a problem. The judiciary remained inefficient and hampered by widespread corruption. The Attorney General's office presented a report to the Supreme Court on its investigation of possible irregularities in the law degrees of almost 1,000 lawyers, including prosecutors, judges, and politicians. Impunity for the rich and powerful remained a problem. In July the Legislative Assembly named a new Human Rights Ombudswoman. Violence and discrimination against women remained a serious problem, 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

protect adequately 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. Arbitrary or Unlawful Deprivation of Life

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

In 2000, the Human Rights Ombudsman's office (PDDH) received for investigation 87 cases alleging killings by the PNC during the year and in prior years. By the end of the year, the PDDH had not determined whether facts substantiated the allegations and, in cases in which they did, whether the police officers had acted criminally or in the line of duty. In 2000 the presidential commission investigating police misconduct identified at least 72 officers suspected of killings during that year and in prior years. The PNC dismissed the individuals from the force and gave relevant information to the Attorney General's office for investigation. When the Attorney General found sufficient evidence for criminal prosecution, the police arrested the offenders.

On March 31, four police officers, Juan Carlos Ramos Benitez, Jose Antonio Moran, William Alexander Castillo Gonzalez, and Maria Rosibel Garcia, responded to a call for help in a domestic violence case in El Rosario, La Paz. Allegedly Fernando Naves Mendoza was drunk and had a weapon. When the police officers tried to take it from him, he resisted. Reportedly, they threw him to the floor and beat him until he was unconscious. He was brought to the hospital, where he died of trauma to the abdomen caused by blows. The officers were charged with homicide. The preliminary hearing took place in September, and the trial continued at year's end. The PNC Inspector General's office was conducting a separate investigation of five officers for the crime at year's end.

In May Air Force flight school cadets Carlos Mauricio Melara and Cesar Humberto Dorat beat Erick Mauricio Pena Carmona, a junior cadet, in front of his classmates, allegedly for showing them a lack of respect. He died from his injuries the same day. In October a military tribunal sentenced the two men to 4 years in prison for mistreating a subordinate. In November a civilian court tried the two cadets on charges of aggravated homicide. The court is expected to issue its verdict in March 2002.

A total of 25 inmates died in prison due to violence and illness between January and late October.

In January an appeals court upheld the dismissal of charges against four police officers charged with attempted murder of Edwin Quintanilla Flores and Ricardo Trejo Stanley. In March a court sentenced one of the officers, Mario Orlando Franco Duran, to 11 years in prison and a \$3,000 fine for the aggravated homicide of Salvador Hernandez. Both sets of charges resulted from an incident in February 2000 when police officers shot at the victims' vehicle.

In June a court sentenced former police officer Luis Alonso Navarrete to 35 years in prison for the killing of six persons and the injury of four others in a June 2000 shooting. Navarrete reportedly suffered from mental illness.

There was no reported progress in the appeal of the acquittal of police captain Erick Fuentes of the charge of aggravated homicide in the 1999 shooting of Carlos Lopez Regalo.

There were no developments during the year in the 1999 murders of Fernando Hernandez and Manuel Aguilar.

In January a judge dismissed without prejudice the charges against Jose Ernesto Cordova for the 1999 murder of William Ernesto Rosales Bonilla, an employee of the newspaper El Diario de Hoy. The prosecutor appealed, and in February an appeals court upheld the lower court's decision.

In 2000 a public prosecutor charged police captain Mariano Rodriguez Zepeda with aggravated homicide for the 1998 shooting of Jose Antonio Villalta. The defendant did not appear for trial proceedings in August. At the request of the defense lawyer, the judge postponed the proceedings until March 2002.

In November 2000, the Supreme Court declined to review the acquittal of ARENA activists Jose David Murcia and Gilberto Torres for the February 2000 murder of Gilberto Cano Gonzalez, a member of the National Action Party (PAN).

In January an appeals court ruled on a petition to prosecute the persons who instigated the 1989 murders of six Jesuit priests, their housekeeper, and her daughter. The appeals court upheld a lower court's December 2000 decision that the statute of limitations had expired. The appeals court took no position on the applicability of the 1993 General Amnesty Law. As allowed by law, in February the original plaintiff, Jose Maria Tojeira, asked the appeals court to reconsider its verdict, which the prosecution alleged was flawed. In March the appeals court upheld its January ruling. In 1999 the Inter-American Commission on Human Rights (IACHR) had 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.

On September 13, a judge ordered the release on parole of Francisco Orlando Contreras Palacios and Carlos Joaquin Contreras Recinos, who were among those convicted for the 1980 murder of three foreign nuns and their lay colleague. The Attorney General challenged the paroles, and on October 9, an appeals court reversed the lower court's decision to grant parole. The two remained in jail at year's end.

#### b. Disappearance

There were no reports of politically motivated disappearances.

In 2000, the presidential commission investigating police misconduct identified at least 12 officers suspected of involvement in kidnappings during 2000 and in prior years. The PNC dismissed the individuals from the force and gave relevant information to the Attorney General's office for investigation. In cases in which the Attorney General's office found sufficient evidence for criminal prosecution, the police arrested the offenders. Most disappearances were kidnappings for ransom. According to police statistics, 40 persons were kidnaped during the year, a significant reduction from 114 kidnappings in 2000.

In October the police rescued Elizabeth Bahaia, a prominent businesswoman who had been kidnaped in Ahuachapan. The police arrested former police agent Enrique Murgas Barrientos, who had been dismissed from the force by a PNC disciplinary tribunal in 2000. Barrientos alleged that other police officers had been involved in the crime, but he did not give their names. On October 17, the PNC moved its entire contingent based in Ahuachapan (approximately 100 persons) to San Salvador, and replaced them with police from San Salvador and soldiers. A criminal court found Barrientos guilty of the crime.

In April a court held a preliminary hearing against 20 suspects, including four police officers (Juan Antonio Lainez Quijano, Jorge Alberto Rodriguez, Carlos Alfredo Lopez Rosales, and Rigoberto Antonio Reyes) in the 2000 kidnaping of businessman Rodrigo Zablah. The judge dismissed the charges against Lopez Rosales but ruled that the trial against the other defendants should move forward. Another suspect, Cesar Amilcar Castillo, cooperated with the Government in exchange for having the charges against him dropped. The next phase of the trial was scheduled for February 2002.

In December a jury convicted three individuals of the 2000 kidnaping of a couple in Sonsonate. The jury absolved the two police officers, PNC sergeant Tomasa Reyes Alvarado and former PNC sergeant Jose Azcunaga Segura, charged in the crime. The prosecutor asked the Supreme Court to review the verdict regarding the police officers.

In November an appeals court reinstated kidnaping charges against former guerilla commander Raul Granillo, also know as Commander Marcelo, and four other persons accused of participating in five well-known kidnappings--those of Nelson Oswaldo Machuca Perez, Guillermo Alfredo Sol Bang, Kerim Eduardo Salume Babum, Alberto Antonio Hill Dutriz, and Andres Abraham Suster Castillejos--between 1991 and 1995. The appeals court overturned a criminal court's August decision to dismiss charges against the five defendants because of insufficient evidence. The appeals court upheld the lower court's decision that the trial against a sixth defendant, Diego Flores, (a lower ranking former guerilla), could proceed on kidnaping charges. It also ruled that two other defendants, Angela del Carmen Carrillo Palacios and Angela Carrillo Flores, should face trial on charges of complicity rather than the lesser charge of covering up a crime, as ruled by the lower court. There were no further developments by the end of the year.

The Association for the Search for Children who Disappeared as a Result of the Armed Conflict (Pro-Busqueda) acknowledged that neither the Government nor the Legislative Assembly would create a national

commission to clarify what happened to children who disappeared during the war and whose whereabouts remain unknown. In December 2000, they accepted the Government's commitment to work with them to resolve these questions by forming a working group consisting of the office of the Attorney General, the Ministry of Foreign Affairs, the Salvadoran Institute for the Protection of Children, the National Secretariat of the Family, and the PDDH. In October the working group dissolved after Pro-Busqueda claimed that it was unable to receive cooperation from any of the organizations apart from the Attorney General's office, which was unable to procure any cooperation from the armed forces. Pro-Busqueda planned to push the legislative assembly again for the creation of a national commission.

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.

During the year, the PDDH received 736 complaints of violation of the right of personal integrity by government authorities compared with 724 in 2000. 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. During the year, the PDDH upheld the charges in 11 cases filed during the year and in prior years. The PDDH received a total of 1,142 complaints against the PNC for all categories of human rights violations during the year, compared with 1,198 in 2000.

At the end of the year, 128 police officers were in prison on criminal charges or serving prison sentences for crimes that included murder, rape, extortion, and kidnaping. A total of 75 were serving their sentence, and 53 awaited the conclusion of their trials.

The country has special police courts that are an internal, administrative mechanism of the PNC and only hold disciplinary hearings for PNC employees. They can punish guilty parties with disciplinary measures or remove them from the police force. They pass information on criminal infractions to the Attorney General's office, which is responsible for investigating and prosecuting the crimes in the justice system.

In 2000 a presidential commission established to investigate alleged police misconduct proposed reforms to PNC regulations to expedite disciplinary measures and dismissals, including the establishment of special courts to review cases of alleged misconduct. In June 2000, the Legislative Assembly passed authorizing legislation to implement the measures recommended by the commission, which 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 2000, the Assembly passed a temporary measure (Decree 101) that authorized the police chief to remove from the force officers whom the police Inspector General charged with crimes or inadequate performance. That measure expired in February. The police chief dismissed 1,000 officers during the 5 1/2 months that this procedure was in force. A total of 295 officers appealed and, as of September, 26 had been exonerated and reinstated. During the year, the PNC dismissed another 934 employees through ordinary disciplinary procedures and sanctioned 635 employees with suspensions without pay ranging from 16 to 180 days. The PNC dismissed 551 employees through ordinary disciplinary procedures in 2000 and 646 in 1999. Independent observers of the expedited procedures found that some supervisors used the opportunity to remove innocent persons, such as pregnant women and personnel with whom the supervisors had personal differences. They also maintained that the measure focused on the lowest ranking staff, and that the Inspector General did not investigate senior officials suspected of crimes. Statistics provided by the PNC showed that the number of officers removed from the force at each grade was proportional to the number of officers at that grade in the PNC.

The presidential commission had identified 14 persons suspected of having committed torture in 2000 and prior years. The PNC dismissed the individuals from the force and gave relevant information to the Attorney General's office for investigation. When the Attorney General found sufficient evidence for criminal prosecution, the police arrested the offenders.

Police used tear gas on one occasion against violent protesters (see Section 2.b.).

In August a prominent women's rights organization asserted that sexual harassment was widespread within the PNC and that female officers were subject to violence within the police (see Section 5).

There was no new information in the 1999 case of PNC agents in Chalatenango department charged with

hitting, insulting, and threatening six homosexuals.

Human rights awareness is 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 2000 and continued to increase during the year. The prison system has the capacity to hold 7,050 prisoners in 19 penal facilities. There still was overcrowding in individual facilities. At year's end, 8,889 men were held in 17 prison facilities with a combined capacity of 6,800, and there were 41 men and 5 women 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, continued to plague the prison system, despite government efforts to segregate gangs. In January 2000, the media reported incidents of prisoners torturing other prisoners in La Esperanza prison in San Salvador in 1999 and earlier. Prison authorities reported that, through late October, there were 25 deaths in the prison system; 10 prisoners died from multiple wounds caused by violence between prisoners; 3 died attempting to escape; 1 died from hanging (allegedly killed by other inmates). The remaining deaths resulted from illness.

There are separate facilities for female detainees and prisoners. At the end of the year, there were 501 women in 2 women's prisons, which have a capacity of 250, and 81 women in prisons where most inmates are males. Conditions in the women's facilities are adequate but overcrowded.

The law requires that all juveniles be housed separately from adults both prior to trial and while serving a prison sentence, and the Government generally observes this requirement in practice. Gang violence in juvenile holding facilities is a problem. In April the authorities separated the different gangs in the country's juvenile correction centers into different facilities to mitigate violence between rival groups. The Salvadoran Institute for the Protection of Children (ISPM) reported a sharp reduction of gang-related violence in youth corrections centers and an increased ability to implement education and reintegration programs following this change. 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 178 complaints alleging violations of personal liberty, compared with 181 complaints in 2000. During the year, the PDDH upheld the charges in 11 cases filed during the year and in prior years. 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 (see Section 1.c.). The law allows 6 months to investigate serious crimes before a judge is required to bring the accused to trial or dismiss the case. In exceptionally complicated cases, the judge or either party may ask the appeals court to extend the deadline for three months. However, many cases were not completed within the legally prescribed time frame. During the year, 5,147 inmates (more than half the prison population) were in pretrial detention (see Section 1.c.). From January through May 2000, the justice of the peace courts, where most court cases originate, accepted a daily average of 166 cases (see Section 1.c.). Of these, a daily average of nine cases was 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 generally 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 (CNJ). The CNJ is an independent body provided for in the Constitution to nominate, train, and evaluate justices. The Legislative Assembly elects, by a two-thirds majority, Supreme Court magistrates from a list provided by the CNJ and the National Association of Lawyers. Magistrates serve for periods of 3, 6, or 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 system also has criminal sentencing courts and penitentiary oversight courts. The former determine sentences for persons found guilty by trial courts, and the latter monitor the implementation of sentences. (For cases that entered the judicial system before the penal code reforms of 1998, the trial court remains responsible for establishing sentences.) 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 CNJ, which evaluates justices on an ongoing basis. The Supreme Court imposes penalties when warranted.

Judges, not juries, decide most cases. Juries are used in a particular phase of the prosecution. Most cases start with a preliminary hearing by a justice of the peace court, and then proceed to the trial court, which determines whether or not a jury should hear the case. After the jury's determination of innocence or guilt, a judge decides the sentence. Almost all cases such as homicide, kidnaping, fraud, environment, drugs, or issues involving private property go to juries. Only a few categories of cases do not go to juries, such as petty theft, crimes of honor (e.g. libel), public security crimes against the state (e.g. terrorism), carrying illegal weapons, selling abortants illegally, or battery which causes less than 10 days of disability. 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.

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 from the country's civil and criminal laws continued, especially for persons who were politically, economically, or institutionally well connected. Corruption in the judicial system and the Attorney General's office contributed to impunity.

For example, the Attorney General's office and police made no progress in bringing to justice the perpetrators of the 1999 rape and murder of 9-year old Katya Miranda. Human rights groups charged the investigation was flawed criminally, and the prosecution was inadequate to ensure due process.

In October an appeals court overturned a 2000 decision that directors of the Salvadoran Soccer Federation could not be prosecuted for the disappearance of funds from its coffers because the institution was private. The appeals court determined that the trial should move to the next phase. Two board members, Juan Sigfrido Torres Polanco and Fredy Orlando Vega, faced charges of embezzlement of public funds. The appeals court upheld the dismissal of charges against five other members of the board of directors.

The Government and the Legislature have taken steps to address these problems. In November 2000, the Legislative Assembly passed a law, at the Attorney General's urging, 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 2000 that permitted the expedited removal of corrupt and incompetent personnel from the police force (see Section 1.c.). In December 2000, the Attorney General formed a board to review appeals in this process; the panel included representatives of the national lawyer's association and of two NGO's with relevant expertise. The Attorney General dismissed a total of 36 prosecutors and 24 administrative personnel under this authority. Early in the year, the Attorney General asked the appeals board to conduct an institutional review of his office. The board published a report in September, and the Attorney General began to implement its recommendations.

In August the Attorney General's office presented a report to the Supreme Court on its investigation of possible

"irregularities" in the law degrees of almost 1,000 lawyers, including prosecutors, judges, and politicians. The Attorney General's office alleged that eight universities had issued questionable degrees. As of late September, the Supreme Court had suspended seven lawyers and judges pending further investigation and the Attorney General had dismissed one prosecutor. Critics maintained that the Attorney General's report did not differentiate between serious and minor offenses. For example, some persons under investigation never took courses listed on their transcripts, while others simply failed to complete the requisite number of semesters after transferring schools.

The Supreme Court has maintained that its Department of Judicial Investigation and the CNJ scrutinized judicial performance on an ongoing basis and that, therefore, the court system needs no further oversight mechanisms or disciplinary procedures. However, the Court has imposed few sanctions upon judges. In 2000 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. During 2000-2001, the CNJ reviewed the performance of 617 judges. It recommended disciplinary action against 230, including the dismissal of 4. The Supreme Court disciplined a total of 19 judges in 1999 (4 were dismissed); 15 judges in 2000 (5 were dismissed); and 48 judges in 2001 (12 were dismissed).

Police, prosecutors, public defenders, and the courts continued to have problems adjusting to the 1998 legal reforms. Inadequate police coverage (due to limited resources) 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 this right 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.

However, on July 18, the Legislature approved a series of penal code reforms that allow the police to use undercover agents with the permission of the Attorney General and enter legally private property without a warrant when criminal activity is suspected. In addition, samples of blood and other bodily fluids can now be taken without the consent of the accused if a judge mandates it.

Neither the Attorney General nor a special legislative commission has identified who was responsible for illegal wiretapping activities conducted by the telecommunications company, TELECOM, in 2000.

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

#### a. Freedom of Speech and Press

The Constitution provides for freedom of the press, and the Government generally 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 in the press and on television and radio. According to major media associations, the Government did not use direct or indirect means to control the media. However, some television stations continued to complain that advertising agencies responsible for placement of government-funded public service announcements were biased in favor of media companies that generally supported government policy. In January a prominent television news anchor, Mauricio Funes, alleged that President Flores had pressed for his dismissal in reprisal for his criticism of the Government; however, Funes retained his job.

The Inter-American Press Association (IAPA) identified problems in several areas, including the absence of a law providing for journalists' right to maintain the confidentiality of sources.

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 Criminal Code allows judges to close court proceedings if public exposure could prejudice the case. The media and the IAPA have claimed 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.

Academic freedom is respected.

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

The Constitution provides for peaceful assembly for any lawful purpose, and the Government generally respects this right in practice. Public demonstrations are common and generally peaceful.

On October 24, police dispersed an estimated 2,000 former civil war militia members with tear gas after the protesters blocked a public thoroughfare, vandalized public buildings, and disrupted the work of several government institutions. Demonstrators injured three police officers—one seriously. The former militia members were demanding compensation for their service during the 1980-92 civil war, when they patrolled rural areas and informed the military about guerrilla movements. Police detained 10 former militiamen involved in the demonstration. Authorities issued arrest warrants for three of the group's leaders and captured two within days. The human rights Ombudswoman declared that the PNC agents had acted appropriately; her staff had been present throughout the day and had participated in the PNC's efforts to convince the demonstrators to disperse.

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

In March the Supreme Court found constitutional all but four articles of a 1996 law governing the registration, regulation, and financial oversight of NGO's and non-Catholic religious groups that a group of affected organizations had challenged in court in 1998. The law remains in effect. However, the decision prohibits any official or judge from denying legal status to an NGO for behavior that violates social norms, morality, or public order as long as there are no violations of the criminal code. Some NGO's assert that the Ministry of the Governance delays approval of legal status for controversial NGO's with human rights or political agendas. However, none has been denied legal status permanently, and numerous NGO's representing a wide range of political views and functional approaches operate freely (see Section 4).

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally 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 generally 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 did not arise during the year. 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 seven 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 2000, the country held legislative elections that observers generally reported to be free and fair. The FMLN won a plurality of legislative seats.

There are no laws or overt practices that prevent women from voting or participating in the political and governmental systems; however, the percentage of women in government and politics does not correspond to their percentage of the population. Women head 3 of 11 ministries (Foreign Affairs, Education, and Environment) and hold a substantial number of vice- and sub-ministerial jobs. An estimated 40 percent of the country's judges are female. Women represented 49 percent of the registered voters in the March 2000 election. In March 2000, 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, the percentage of minorities in government and politics does not correspond to their percentage of the population.

#### 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 Office of the Human Rights Ombudsman, who is 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.

In July the Legislative Assembly elected attorney Beatrice de Carrillo to serve as Human Rights Ombudswoman. The position had been vacant officially for 17 months and in practice for 5 months. The institution's reputation and the quality and quantity of its work had declined since 1998, due to staffing gaps in the top position and the election in 1998 of an Ombudsman accused of corruption. A vehement, public dispute that began in 2000 between the acting Ombudsman and some employees exacerbated these negative trends. Indicating their lack of confidence in the institution, citizens filed fewer complaints with the PDDH in 1999 and 2000 than in previous years and relied more heavily on human rights NGO's. Public confidence in the PDDH appeared to recover following de Carrillo's election--there was an immediate 10-fold increase in complaints submitted. Many of these complaints do not fall into traditional human rights categories (such as right to water, compensation claims of former combatants), leading to criticism that the PDDH is exceeding its mandate.

During the year, the PDDH accepted 2,898 complaints of human rights violations, compared with 2,572 in 2000 (see Sections 1.a. and 1.c.). The rights most frequently alleged to have been violated included personal integrity and due process of law--736 and 772 complaints respectively. During the year the PDDH issued resolutions upholding the charges in 567 cases filed during the year and in prior years in all human rights categories.

#### 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, disabled persons, 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 investigation of 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).

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, the Public Defender's office, 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, through the Salvadoran Institute for the Development of Women (ISDEMU), maintains a hot line for victims to report domestic abuse. The ISDEMU received 3,423 cases of domestic violence during the year, a significant reduction from the 5,785 cases in 2000. 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. However, the Criminal Code permits the Attorney General to prosecute in the case of a rape with or without a complaint from the victim. Criminal Code reforms in February eliminated a provision allowing a victim's pardon to nullify the criminal charge. The penalties for rape are 6 to 10 years in prison. The law does not address specifically spousal rape; however, it can be considered a crime if the actions meet the Criminal Code's definition of rape. The ISDEMU received 286 cases of sexual aggression compared to 364 in 2000.

The law does not prohibit a person from working as a prostitute. However, it prohibits any person from inducing, facilitating, promoting, or giving incentives to anyone else to work as a prostitute. Prostitution is common, and there were credible reports that some women and girls were forced into prostitution (see Section 6.c.).

Trafficking in women and girls for purposes of sexual exploitation is a problem (see Section 6.f.).

The law prohibits sexual harassment; however, workers in export processing zones (EPZ's) have reported sexual harassment (see Section 6.b.).

In August a prominent women's rights organization, CEMUJER, asserted that sexual harassment was widespread within the PNC. Describing three cases, they reported that the victims had suffered professional reprisals for reporting harassment and senior PNC officials had tried to cover up relevant facts. The PNC maintained that it was investigating the allegations in accordance with standard operating procedures. Citing a 2000 survey that it had conducted, the same NGO maintained that almost 60 percent of female sergeants had been victims of violence within the police.

There were reports that PNC supervisors used legislation intended to facilitate the removal of officers charged with crime to remove pregnant women from the force (see Section 1.c.). Some factories in the EPZ's require female job applicants to present pregnancy test results, and they do not hire pregnant women (see Section 6.b.).

The Constitution grants women and men the same legal rights, and the Penal Code establishes sentences of 1 to 3 years in jail for public officials who deny a person's civil rights based on gender. The law prohibits pregnant women from performing strenuous activities in the workplace after the 4th month of pregnancy (see Section 6.e.). All women are entitled to 3 months of maternity leave--usually taken after the baby is born.

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. A 2000 U.N. Development Program (UNDP) study reported a rural illiteracy rate of

38 percent for women and 34 percent for men. One of the factors that contributes to girls' leaving school is teenage pregnancy. A former personnel officer of an autonomous government institution asserted that her supervisor had instructed her to give preference to men over women in hiring. The Penal Code establishes a sentence of 6 months to 2 years for employers who discriminate in labor relations. In practice it is difficult for employees to report such violations by their employers because they fear reprisals. In June 2000, the Legislature ratified International Labor Organization (ILO) Convention Number 100, on equal remuneration; however, a UNDP study showed that men on average earned 14 percent more than women--\$250 versus \$219 (2,189 colones versus 1,913). The one sector in which there is an exception to this practice is in the EPZ's 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 is confined to low-wage occupational areas where women already hold most positions, such as teaching, nursing, home industries, and small businesses.

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. In November the National Secretariat of the Family solicited public input on the final draft and incorporated suggestions into 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 nominally free through high school; however, the inability to pay mandatory fees for books, uniforms, and activities prevents some poor children from attending school. Only a nominal fee is charged to attend the national public university. Rural areas fell short of providing a 9th 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 6th 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 estimates that 150,000 children stopped attending school due to family hardship and damage to school buildings caused by major earthquakes in January and February.

Infant malnutrition continued to be a problem. A 2000 census showed that 19 percent of children suffer from chronic 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.

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, an autonomous entity, has responsibility for protecting and promoting children's rights. The ISPM estimated during the year that an average of 1,500 children, some abandoned and others victims of mistreatment, stayed in its shelters. Through November 30, it reported 1,246 cases of physical mistreatment, 310 cases of negligence, and 450 cases of abandonment. In 2000 the ISPM reported approximately 1,600 cases of mistreatment, 267 cases of negligence, and 411 cases of abandonment. Using different criteria, the ISDEMU recorded 1,196 cases of abuse during the year, significantly below the 2000 level of 3,071 cases. The difference reflects a change in reporting criteria. The ISPM believes that the number of case of abuse actually have fallen due to various educational programs and campaigns they completed during 2000. The Program for the Prevention of Mistreatment was a media campaign through radio, television, and newspapers to educate parents, especially fathers, on appropriate ways to treat their children. A separate informational campaign was aimed at communities with high levels of violence. The ISPM held meetings to educate citizens on how to reduce the overall level of violence in their communities. However, some NGO's do not agree that the number of cases of abuse has decreased.

The ISPM reported 139 cases of sexual abuse through November 30, a decrease from the 2000 figure of 292. 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.

Substance abuse (glue and paint sniffing) was a problem among urban street children. FUNDASALVA, an NGO, provides drug counseling and treatment to minors. Contrary to the past, there were no allegations during the year from children's rights advocates that police abuse and mistreat street children. The PNC incorporated PDDH human rights training into programs for police units that deal with juveniles.

Child prostitution is a problem. 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 in 2000. Through November 30, ISPM assisted 24 children who were involved in prostitution, compared with 79 in 2000.

Children, especially those living on the streets, are trafficked to other countries and then forced into prostitution; children from Honduras have been used as beggars to support traffickers in San Salvador (see Section 6.f.).

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

#### Persons with Disabilities

The majority of the country's population of persons with disabilities consists of former combatants and civilians wounded during the conflict. Government and international funding provide rehabilitation programs for these persons. Efforts to combat discrimination and increase opportunities for those whose disabilities are unrelated to the war are growing but remain inadequate. A 2000 law mandates that new or renovated public buildings be accessible to the persons with disabilities, and requires 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 NGO's to discuss ways to implement the new law effectively. The Ministry of Labor increased from two to four the number of staff members handling issues related to persons with disabilities. However, the Ministry's resources are limited, and its records are kept on paper files in its regional branches. Therefore, there are no reliable data on the number of persons with disabilities who are employed.

Access by persons with disabilities to basic education was limited due to lack of facilities and appropriate transportation. There was no provision of state services for persons with physical disabilities. Only a few of the Government's community-based health promoters have been trained to treat persons with disabilities, 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.

There were several organizations dedicated to protecting and promoting the rights of persons with disabilities, 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 persons with disabilities. 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. 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 20th century, facing active repression, most indigenous people adopted local customs and successfully assimilated into the general population, from which they now are generally indistinguishable. There are a few very small communities whose members still wear traditional dress and maintain traditional customs to a recognizable degree; they do so 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 earn less than other agricultural laborers. Indigenous women in particular have 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 is 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.

## 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 in practice; however, there were some problems. There were repeated complaints by workers, in some cases supported by the ILO Committee on Freedom of Association (CFA), that the Government impeded workers from exercising their right of association. In June the CFA reiterated its 1999 finding that the existing labor code restricts freedom of association.

Union leaders asserted that the Government and judges continued to impose 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 2000, the Government denied an application from five food industry unions to form a federation, because they allegedly had made procedural errors in their application. Despite ILO findings in favor of the workers, the Ministry of Labor had not recognized the federation by year's end, and the Supreme Court had not decided on the complaint submitted by the workers in 2000.

In February the Ministry of Labor determined that the telecommunications union, SUTTEL, had committed a technical error in forming its board of directors in 2000. However, it upheld the union's official status and the union leaders' legal protections. All but two dismissed unionists accepted severance payment. The Ministry of Labor declined to issue an administrative finding that the telecommunications company TELECOM had obstructed the union's freedom of association in 2000 when it dismissed dozens of SUTTEL members shortly after the union's formation because, it asserted, issuing such a finding was not within its jurisdiction. However, labor advocates insisted that the Ministry was legally responsible for issuing an administrative finding and charged it was failing to perform its duty. In April TELECOM and SUTTEL signed an agreement to address outstanding issues in their dispute. As part of the accord, Telecom reinstated the two union officers who had not accepted severance pay. SUTTEL subsequently charged that the company prevented its members from entering certain plants to organize, violating its commitment to allow the union to conduct its business freely. SUTTEL also alleged that TELECOM placed one of the reinstated officers in a different position than he had held prior to being fired. TELECOM continued to refuse to reinstate two union leaders dismissed during the 1998 privatization of the state owned telecommunications company ANTEL.

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 the agencies 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 collective bargaining. The Government negotiated with public employee associations, although the Labor Code provides for mandatory arbitration of public sector disputes. The Government did not amend national legislation to recognize the right of association of workers employed in the service of the State, as recommended by the November 2000 CFA.

The law prohibits antiunion actions before a union is registered legally and prohibits the dismissal of workers whose names appear on a union application.

Unions only may strike after the expiration of a collective bargaining agreement. Unions first must 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, which notifies the employer. The union must wait 4 days from the time the Ministry notifies the employer before beginning the strike. There were no significant strikes during the year.

Public workers may not strike legally; however, the Government generally treated strikes called by public employee associations as legitimate.

In June the CFA recommended the closure of a case alleging mass unfair dismissals and violence against demonstrators following the March 2000 social security workers' strike. The CFA was satisfied with the Government's responses to the allegations. During the year, social security workers engaged in several work stoppages ranging from 2 to 24 hours. During a daylong action in August, they prevented doctors and patients from entering the facilities. In September the Labor Ministry determined the action was an illegal strike and authorized the Social Security Institute (ISSS) to suspend for up to 30 days employees who had participated. On October 15, the ISSS dismissed 6 employees and suspended 22 others over an illegal work stoppage on May 30. The Social Security Workers Association charged that the punitive measures were illegal because the law prohibits the dismissal or suspension of union leaders, and filed a complaint with a labor court. The court had issued no decision by year's end.

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.) Corruption among labor inspectors and in the labor courts continued to be a problem. In June the Labor Ministry removed from their positions five inspectors, including a senior inspector, who had been accepting bribes from companies.

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. 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, in most cases the Government did not prevent their dismissal or require their reinstatement. 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.

On September 24, the Government suspended approximately 190 security and cargo personnel at El Salvador's International Airport and the Port of Acajutla and replaced them with police and soldiers. The change was part of the Government's efforts to strengthen border security following terrorist attacks in the United States. The airport union charged that the semiautonomous port authority (CEPA) targeted union members to break the union and privatize some of CEPA's functions. The union also maintained that CEPA management pressured workers who remained employed at the airport after September 24 to renounce their union affiliation. In September and October, the union filed complaints with the Labor Ministry, the labor courts, the PDDH, and the ILO. CEPA denied the charges and insisted that it had adhered strictly to the law. CEPA offered the suspended workers a voluntary retirement package of 1 month's pay for every year worked. In October the Labor Ministry sought to mediate a solution. However, the parties made little progress and decided to withdraw from negotiations. At the end of the year almost 100 workers had accepted the voluntary retirement package. The PDDH had not issued a formal resolution by the end of the year. However, her staff indicated that, after analyzing the facts, they found that the Government had violated the workers' rights.

There are approximately 220 maquila (in-bond assembly or processing) plants, the majority of which are located in the country's 11 EPZ's. The Labor Code applies in the EPZ's; there are no special EPZ labor regulations.

Most businesses in the EPZ's are subject to a growing number of private codes of conduct, which also include

some worker rights protections. In addition, two EPZ's have their own codes of conducts for all tenants. These codes include worker rights protection clauses; however, it is not known if they state the ILO's Fundamental Principles and Rights at Work. Some companies in the EPZ's provided salaries and on-site benefits (for example, 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 2000 report that some EPZ workers also received low pay, endured health and safety risks, 12- to 14-hour workdays, and had minimal toilet and rest breaks. The Government contends that the workers often prefer not to use safety equipment, and they have time for toilet and rest breaks. Furthermore, the Government reported that it had received no complaints of minimum-wage violations during the year (see Section 6.e.).

On May 9, a foreign NGO, the National Labor Committee (NLC), made public the text of an August 2000 report on the maquila sector by the Labor Ministry that described what it called the systematic violation of workers' efforts to form unions as well as safety problems and mandatory overtime policies (see Section 6.e.). The report also identified weaknesses in the Ministry of Labor that undermined employers' and workers' confidence in the institution. After the initial publication of the report, the maquila association criticized it as unsubstantiated and inaccurate. Labor NGO's, unions, and workers affirmed that it described accurately conditions in the sector. In August 2000, the Minister of Labor retracted the report, saying that it had been published without his approval and did not have adequate documentation of its assertions. President Flores stated publicly that the report showed the Ministry of Labor was working to monitor conditions in the maquilas.

In June the EPZ apparel factory Amitex fired 78 workers involved in forming a union. The company reinstated 55 of the workers a week later after strong interventions by the Labor Ministry as well as letters from the factory's principal customer and an international NGO. The remaining 23 workers accepted severance pay in lieu of reinstatement. In September Amitex dismissed 13 of the reinstated workers. The Ministry of Labor sought their reinstatement; however, the company chose to pay them severance pay. One pregnant woman refused to accept severance pay. (By law, pregnant women are protected from dismissal.) The worker, with assistance from a labor federation, filed a complaint with a labor court. There was no resolution on the case by the end of the year.

In 2000 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.

Workers in a number of plants reported verbal abuse, sexual harassment and, in several cases, being hit by a supervisor. 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).

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

The Constitution prohibits forced or compulsory labor, except in the case of natural catastrophe and other instances specified by law, and the Government generally enforces this provision; however, trafficking in persons, primarily women and children, is a problem (see Section 5).

Although not specifically prohibited by law, forced and bonded labor by children is covered by the general prohibition. There were no reports that such practices occurred in the formal sector; however, there were reports that minors were forced into prostitution, and trafficking in children is a problem (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. An UNICEF study in 1998 showed that over 185,000 minors between the ages of 10 and 17 worked, the majority in agriculture. This number represented almost 17 percent of the population in that age group and constituted over 8 percent of the country's workforce. 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 (see Section 6.e.). 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.

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. Children in these circumstances often do not complete schooling. 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. In September 2000, the ILO's International Program for the Elimination of Child Labor (IPEC) opened an office in the country. The Government subsequently formed a National Steering Committee to begin implementing ILO Convention 182 composed of representatives of employers, workers, government agencies, and NGO's. The Steering Committee identified prostitution, work in garbage dumps, fishing, sugarcane farming, and fireworks manufacturing as the worst forms of child labor in the country. The Committee developed a strategy proposal and project proposals, which it submitted to the IPEC office for further elaboration. IPEC continued to conduct a number of pilot programs with international funding.

The Labor Code does not prohibit specifically 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 colones) for commercial, industrial, construction, and service employees; \$2.47 (22 colones) for agricultural workers; and \$3.57 (31 colones) for seasonal agriculture industry 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; some were paid overtime but others were not.

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 4th 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.

On May 9, the NLC made public the text of an August 2000 report by the Labor Ministry on conditions in the country's maquilas. According to the report, many factories failed to provide basic safety equipment and had mandatory overtime policies. The report faulted some factories for setting unrealistic production quotas and for requiring many workers to put in extra hours with no pay when they fell short of those quotas. In addition, the report described what it called the systematic violation of workers' efforts to form unions (see Section 6.b.).

#### f. Trafficking in Persons

In October the Legislative Assembly approved criminal code reforms that prohibited trafficking in persons. Prior to the reforms the Criminal Code stipulated that any crime involving "commerce in women or children"



automatically carried a 30 percent increase in the prison sentence or fine that otherwise would be imposed for that crime; however, trafficking in persons is a problem.

Women and children are trafficked for prostitution to Mexico, Guatemala, and other Central American 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 prostitutes. 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. Trafficking of female teenagers, from 14 to 19 years of age, for sexual exploitation also occurs within the country from the south to the northern ports of Acajutla and La Libertad. The majority of trafficked victims transiting El Salvador are from Nicaragua, Honduras, and South America. The most common methods used to approach the victims are kidnaping, lucrative job offers, and inducement into prostitution by friends.

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.

The Government, through the office of the Attorney General, has created a unit for the protection of women and children that is charged with the investigations of cases of abuse against women and children, including trafficking. The PNC, the Child Protection Institute, and the Directorate of Immigration also actively are involved in combating trafficking in persons. However, the investigative units are new and poorly funded, and the Government has not prosecuted traffickers.

The Government deports non-Salvadoran victims of trafficking; however, victims can obtain temporary residency or refugee status if they are likely to face political persecution in the country of origin. Access to legal, medical, and psychological services is provided to the victims. Victims of trafficking are not treated as criminals. The Government does not provide assistance to its repatriated citizens who are victims of trafficking, nor does it support the NGO's that assist them.