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2010 Human Rights Report: El Salvador

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Report on Human Rights Practices

April 8, 2011

El Salvador is a constitutional, multiparty democracy with a population of approximately 6.1 million. In March 2009 voters elected Carlos Mauricio Funes Cartagena of the Farabundo Marti National Liberation Front (FMLN) as president for a five-year term in generally free and fair elections. Security forces reported to civilian authorities.

Human rights problems included isolated unlawful killings by security forces; harsh, violent, and overcrowded prison conditions; lengthy pretrial detention; high levels of impunity for crime and abuse of official authority; official corruption; violence and discrimination against women; child abuse and forced child prostitution; trafficking in persons; violence and discrimination against sexual minorities; child labor; and inadequate enforcement of labor laws.

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 verified reports that the government or its agents committed politically motivated killings; however, there were reports that security forces were involved in unlawful killings. During the year the Office of the Ombudsman for Human Rights (PDDH) received eight complaints of alleged unlawful killings by the National Civilian Police (PNC), three killings by the Prison Authority, and two killings by the armed forces. Although the PDDH defines all killings by government entities as "extrajudicial killings," there were no verifiable reports of deliberate unlawful killings carried out by order of the government or with its complicity. The PNC Office of the Inspector General (OIG) reported that through December, 20 PNC officers were accused of homicide and that PNC officers had killed 14 persons.

On September 21, a court convicted three of the six gang members implicated in the June 2009 killing of community activist Marcelo Rivera of murder and sentenced them to 40 years in prison; the other three received three-year sentences as accessories.

The Office of the Attorney General (Fiscalia or OAG) continued to investigate the September 2009 killing of Roque Feller Melgar, a former legislative deputy for the Christian Democratic Party and mayoral candidate for the National Republican Alliance (ARENA) party. Four suspects have been identified, but no arrests have been made.

Authorities believed that the December 2009 killings of Ramiro Rivera Gomez and Dora Santos Sorto Rodriguez were related to an interfamilial feud. Nine purported gang members were arrested for the killings.

There was no further information regarding the 2008 fatal shooting of Rafaela Hernandez Delgado while she was riding a public bus.

On April 30, the Third Court of Instruction in San Miguel recommended dismissing charges against Shefick Cruz Vasquez and Edilberto Paiz Morales, who were accused of the 2008 killing of Garcia Amaya. The court convicted two other PNC officers, Sergeant Nelson Arriaza Antonio Carlos Delgado and Agent Chevez Geovanny Hidalgo, for the murder, dismissed them from the PNC, and sentenced them to 40 years in prison.

The OAG's 2008 appeal of the Supreme Court's acquittal of Edwin Rene Sanchez Canjura for two counts of murder and 17 counts of attempted murder, in relation to the 2006 killings of two police officers remained pending.

In November 2009 authorities dismissed charges against Rosa Elba Zelaya de Ortiz for the 2004 murder of teamster union activist Gilberto Soto. Santos Sanchez, also charged with the murder, remained at large with a warrant for his arrest.

There were no new developments regarding the 2008 Hector Ventura murder case.

On March 24, President Funes on behalf of the Salvadoran State publicly asked for forgiveness for the killing of Monsignor Oscar Arnulfo Romero in 1980. Funes stated that the amnesty law approved after the civil war was not an obstacle to investigating the killings of Monsignor Romero or of six Jesuit priests in 1989. Funes also stated that his government would not promote the annulment of the amnesty law, as requested by the Inter-American Commission on Human Rights (IACHR). On November 18, the IACHR notified the government that it had accepted the case of the extrajudicial killings of Rufino and Teresa Ramirez.

On May 21, the Supreme Court Constitutional Chamber denied a judicial request for information from a Spanish court on the 1989 murder of six Jesuit priests; the decision was based on the 1992 amnesty law and statute of limitations.

b. Disappearance

There were no reports of politically motivated disappearances. On January 16, President Funes publicly asked families of citizens who disappeared during the civil war to forgive the actions of the government, and created the National Commission for the Search for Disappeared Children. The commission, which is to cooperate with and recognize cases brought forward by the nongovernmental organization (NGO) Association for the Search for Missing Children (Pro-Busqueda), was sworn in on August 31. Pro-Busqueda received 28 new complaints regarding children who disappeared during the civil war, continued investigating 519 cases, and resolved nine other cases by year's end.

In July the Human Rights Institute of the University of Central America (IDHUCA) filed a complaint before the Inter-American Court of Human Rights, alleging that the government failed to act on a request by the IACHR to investigate the disappearances of six children from 1981 to 1983: Gregoria Herminia, Serapio Cristian, Julia Ines Contreras, Jose Ruben Rivera, and Ana Julia and Carmelina Mejia Ramirez. Pro-Busqueda presented evidence to the court on October 13. On September 22 and in November, the IACHR notified the government that it had accepted the cases of the alleged disappearances in 1982 of Patricia Emilie Cuellar Sandoval, Mauricio Cuellar Cuellar, Julia Orbelina Perez, Natividad de Jesus Ramirez, Guadalupe Roble, Jose Elias Ramirez, and Jorge Alberto Ramirez.

In November 2009 the IACHR heard the government's response to Pro-Busqueda's complaints, alleging the forced disappearances of Santos Ernesto Salinas and Emelinda Lorena Hernandez in 1981 and of Manuel Antonio Bonilla and Ricardo Ayala Abarca in 1982. The cases remained pending awaiting a response from the government.

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In 2008 the Supreme Court rejected the OAG's appeal of a lower court's 2008 dismissal of charges against Juan Antonio Lopez, the western regional chief of the Office of the Public Defender in relation to the kidnapping of a 12-year-old boy.

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

The constitution prohibits such practices; however, through December the PDDH received 558 complaints alleging the use of excessive force or mistreatment of detainees, compared with 562 such complaints during 2009. The PDDH received 57 complaints specifically against PNC officers for excessive use of force, 10 against members of the armed forces, and three against prison authorities. It also received 46 complaints of torture against PNC officers, five against members of the armed forces, and nine against the prison authorities. The OIG reported 13 complaints of torture by PNC officers through August but did not report if any were punished. The PDDH reported allegations that women were raped by male guards in pretrial detention centers. The OIG reported three complaints of rape by PNC officers, all of whom were sanctioned.

On August 9, authorities arrested PNC Officer Juan Fidel Salazar Castaneda for raping a 14-year-old girl in the Metapan police station on August 7 after she had escaped from a National Children's Shelter. The case was presented to a disciplinary court on November 15 and was pending decision at year's end.

In July 2009 on-duty PNC officers Jose Juan Cruz Carias and Julio German Garcia Herrera were arrested for raping a woman in custody in the Montserrat police station. The OAG reported the officers were cleared of all charges due to a lack of cooperation by the victim.

On January 14, authorities dropped the charges in the 2008 case of the alleged police beating of Abraham Kattan.

Prison and Detention Center Conditions

Prison and detention center conditions remained harsh and dangerous. Overcrowding constituted a serious threat to prisoners' health and lives. In many facilities there were inadequate provisions for sanitation, potable water, ventilation, temperature and lighting. On October 20, the IACHR called prison conditions deplorable, stating that there were construction deficiencies that led to safety hazards, a lack of sanitation and potable water that led to a high incidence of disease, and a lack of opportunity for children to visit in some prisons.

Prison authorities reported that 57 prisoners died during the year due to natural causes, homicide, and suicide. As of December there had been 11 riots, resulting in three deaths.

On November 10, a fire killed 27 inmates at a youth detention center in Ilobasco. An investigation by the OAG of charges of negligence by the guards in not extinguishing the fire continued at year's end.

On July 19, Ombudsman for Human Rights Oscar Luna stated that corruption and the lack of judicial decisions to use alternatives to imprisonment (fines, bail release, and others) had increased overcrowding in prisons.

The prison authority reported that as of December, there were 24,283 prisoners held in 19 correctional facilities and two secure hospital wards, with a combined designed capacity for 8,080. As of August there were 781 inmates in four prisons for juvenile offenders and in one prison for juveniles becoming adults during their sentence with a total capacity of 750 inmates. Due to a lack of holding cells, pretrial detainees were often held in regular prisons together with violent criminals.

Gang activities in prisons and juvenile-holding facilities remained a serious problem. Of the total population in detention center facilities, 8,406 adult and 394 juvenile inmates were current or former gang members. Gang members were separated from the regular prison population when possible. Gangs continued to exercise influence within the prisons and the judicial system.

Prisoners reportedly conducted criminal activities from their cells, at times with the complicity of prison guards. Smuggling of weapons, drugs, and contraband such as cell phones and cell phone chips was a major problem in the prisons. In August 2009, as a means to combat increased inmate extortion using cell phones, authorities continued body cavity searches of prisoners, instituted in 2009, to detect cell phones. Additionally, President Funes ordered the armed forces to reinforce the perimeter security of the prisons holding the most dangerous criminals.

Authorities sanctioned prison staff suspected of corruption and arrested others on other charges, including rape, robbery, and assault, although not necessarily in relation to their work duties.

Prisoners and detainees had reasonable access to visitors and were permitted to participate in religious observance.

Prison authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Prison authorities investigated such allegations, although investigation results were not always documented in a publicly accessible manner. Through December the PDDH received six complaints against prison guards from inmates. Through December, the prison authority received 49 formal complaints from inmates and 213 from family members.

The government investigated and monitored prison and detention center conditions, and permitted prison-monitoring visits by independent human rights observers, NGOs, and the media, and such visits occurred during the year.

d. Arbitrary Arrest or Detention

Although the constitution prohibits arbitrary arrest and detention, there were complaints that the PNC arbitrarily arrested and detained persons. The PDDH reported receiving 228 complaints of arbitrary arrest or detention and 143 complaints of illegal detentions during the year.

Role of the Police and Security Apparatus

The PNC is responsible for maintaining public security and the Ministry of Defense for maintaining national security. President Funes authorized the military to provide temporary support of indefinite duration for PNC patrols in rural and urban areas and gave support to law enforcement agencies for specific activities, including antinarcotics and antigang efforts. The Ministry of Public Security headed the antigang task force. In 2009 military personnel were deployed to join the police on patrols and antigang and other task forces, and in May military personnel were assigned to assist in guarding the prison system. As of December 3,676 military personnel were assigned to assist the PNC, 1,553 to the Prison Authority, and 694 to the border patrol. Military personnel do not have arrest authority. The government has not indicated a concluding date for the temporary assignment of the military to police duties.

Inadequate training, insufficient government funding, lack of a uniform code of evidence, and isolated instances of corruption and outright criminality interfered with the PNC's effectiveness. During the year the OIG had received 2,690 complaints of alleged police misconduct, referred 73 cases of these to special investigation units, and sanctioned 1,127 officers in response to complaints filed during the year and prior years. These sanctions included 133 officers dismissed for misconduct and 583 suspended without pay for minor and serious infractions.

On September 14, the conservative parties in the Legislative Assembly approved a special committee to investigate PNC Inspector General Zaira Navas. Committee members charged that the OIG selected only high-ranking PNC officials appointed by prior conservative governments for her investigation. President Funes supported the OIG.

The OIG reported that most PNC officers and police academy cadets received human rights awareness training during the year, including training by the Salvadoran Institute for the Development of Women (ISDEMU) concerning rape prevention, child abuse, and related offenses. During the year the PNC Human Rights Unit trained 1,302 police officers on general human rights topics. There was additional training of 91 police officers, 30 prosecutors, 14 judges, five prison officials and 31 officials and technical advisors, including workers in the immigration, customs, public safety and airport authorities, included human rights awareness components.

Arrest Procedures and Treatment While in Detention

The constitution requires a written warrant for arrest, except in cases where an individual is arrested in the act of committing a crime. In practice authorities apprehended persons openly and with warrants based on sufficient evidence and issued by a duly authorized official and brought them before appropriate judicial officials. The constitution grants detainees the right to a prompt judicial determination of the legality of their detention, and authorities generally respected this right in practice. In general detainees were promptly informed of charges against them.

The law permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. The bail system functioned adequately in most cases. Because it may take several years for a case to come to trial, some prisoners were incarcerated longer than the maximum legal sentences for their crimes. In such circumstances detainees could request a Supreme Court review of their continued detention.

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

The constitution permits the PNC to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. The law allows up to six months for investigation of serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor may ask an appeals court to extend the deadline for three or six months, depending on the seriousness of the crime. Many cases were not completed within the legally prescribed time frame. As of August within the prison population there were 8,163 individuals in pretrial detention or in detention awaiting final judgment.

e. Denial of Fair Public Trial

Although the constitution provides for an independent judiciary, the judiciary suffered from inefficiency, corruption, political infighting, and insufficient resources. Substantial corruption in the judicial system contributed to a high level of impunity, undermining the rule of law and the public's respect for the judiciary. The criminal conviction rate was less than 5 percent. An ineffective public security strategy, inadequate government funding and training of the PNC, and ineffective senior-level leadership made it difficult to identify, arrest, and prosecute perpetrators of human rights abuses and other crimes, thus diminishing public confidence in the justice system. Intimidation and killing of police officers, crime victims and witnesses created a climate of fear complicating investigation of violent crime and alleged human rights abuses.

The Ministry of Justice's Witness Protection Program operated witness and victim protection programs that provided protection during the year to 3,151 persons, of whom 149 were protected under extraordinary measures. The PNC

provided protection to 104 persons during the year. Nonetheless street gang intimidation and violence against witnesses contributed to a climate of impunity from criminal prosecution.

On July 28, a judge of the First Court in Zacatecoluca ordered a preliminary hearing against Carlos Antonio Miranda Gonzales in connection with the high-profile 1999 kidnapping, rape, and murder of nine-year-old Katya Miranda, his granddaughter and the niece of a former senior PNC officer. A date for a public hearing remained pending at year's end.

During the year the PDDH received 43 complaints against the OAG, including prevention of access to justice in 20 cases, violation of due process in seven cases, and failure to protect constitutional rights in seven cases.

The OAG reported that the cases of Jose Israel Bonilla Granados and Wilfredo Antonio Reyes Martinez, members of the Los Perrones narcotics and human-trafficking organization, which is associated with two judges who made controversial decisions in the prosecutions of Los Perrones, remained pending. The judges were recused from the case in 2009.

Through August the OAG investigated four judges and two magistrates for alleged misconduct. As of September these cases remained under investigation. During the year the Supreme Court received 160 complaints against judges for alleged irregularities and sanctioned three judges for improper conduct. Also during the year, the OAG investigated 177 complaints against prosecutors for misconduct, compared with 261 complaints during 2009; the investigations resulted in the dismissal of 13 prosecutors and suspensions of 34 others for corruption and other serious infractions.

Trial Procedures

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

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

As of August the government had not responded to the Inter-American Court of Human Rights' published findings in 2006 regarding the Jose Adrian Hernandez Rochac 1980 disappearance case. The Ministry of Foreign Affairs reported that, following a February 3 IACHR decision regarding violations of judicial guarantees and rights in the 1994 killing of Mauricio Garcia Prieto, the government on June 10 published an apology to the Garcia Prieto family for the actions of the state against them and has entered into dialogue with the Ministry of Health to provide counseling and support to the family.

Civil Judicial Procedures and Remedies

Although the law provides for access to the courts, enabling litigants to bring civil lawsuits seeking damages for, as well as cessation of, human rights violations, the judiciary was not independent or impartial. Judges were subject to outside influence. Some persons sought to bring their cases before international bodies, such as the IACHR and the Inter-

American Court of Human Rights, because they believed that these organizations would adjudicate their claims with greater fairness and impartiality. The law provides administrative remedies for alleged wrongs through the PDDH, the Solicitor's Office, the Government Ethics Tribunal, and the Center for Consumer Protection, as well as administrative offices within the various ministries. There were problems in enforcing domestic court orders.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice. On May 27, the Legislative Assembly amended the constitution to permit the judicially authorized interception of telecommunications in criminal investigations and passed implementing legislation that permits the use of such evidence at criminal trial. The provisions had not been implemented by year's end.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals could criticize the government publicly or privately without reprisal, and the government generally did not interfere with such criticism.

The independent media were active and expressed a variety of views without restriction. The Salvadoran Journalists' Association noted that journalists reporting on narcotics trafficking were subject to threats and intimidation, which led to media self-censorship in reporting about narcotics trafficking.

Although international NGOs generally commented positively on the status of press freedom in the country, newspaper editors and radio directors occasionally discouraged journalists from reporting on topics that the owners or publishers might not view favorably. Government advertising accounted for a significant portion of press advertising income, although exact data on such spending was not publicly available.

The law permits the executive branch to use the emergency broadcasting service to take over temporarily all broadcast and cable networks to televise political programming.

On September 24, the Supreme Court ruled unconstitutional the third section of Criminal Code Article 191 that provided immunity to the publishers and owners of media against charges of defamation, slander, and libel. Most media saw this ruling as potentially infringing on freedom of the press.

On September 14, an appellate court imposed a token fine on *La Prensa Grafica*, a leading newspaper, for publishing photos showing the face of a 17-year-old-boy in the act of killing another boy.

Authorities continued to provide protection to radio journalists Ludwing Iraheta, Jose Beltran, and Vladimir Abarca, who received death threats from unknown actors in July 2009.

During the year authorities indicted 37 gang members for planning the September 2009 killing of French-Spanish documentary filmmaker Christian Poveda in Soyapango; 31 suspects were apprehended and in custody, awaiting trial.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms or attempted to collect personally identifiable information. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Internet service was available in the major cities. According to

International Telecommunication Union statistics from 2009, approximately 14 percent of the country's inhabitants used the Internet.

Academic and Cultural Freedom

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

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

Freedom of Association

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c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

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

The constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

Protection of Refugees

The country's laws provide for the granting refugee status or asylum, and the government has established a system for providing protection to refugees. During the year the government received 59 refugee petitions and granted eight persons full refugee status (seven Honduran nationals and one Iranian) and was finalizing refugee status for 14 others; 16 petitions were not approved, and 13 remained pending at year's end.

The law provides protection against the expulsion or return of persons to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

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

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

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

Elections and Political Participation

In March 2009 FMLN candidate Carlos Mauricio Funes Cartagena won the presidential election, which the Organization of American States and other international observers reported was generally free and fair with few irregularities. During the

2009 elections, as in prior elections, both ARENA and the FMLN accused each other of registering voters from other countries under the current registration law (which allows a person to register with two witnesses who swear to his/her identity); however, no parties filed any formal complaints after the election.

In the January 2009 legislative elections, described as free and fair by international observers, no party won an outright majority. In San Isidro, Cabanas Department, the FMLN, Democratic Christian Party (PDC), National Conciliation Party (PCN), and Democratic Change party (CD) political parties halted voting following accusations of ineligible voting by persons from other departments and countries. The ARENA candidate won after voting resumed a week later.

Political parties could operate without restrictions or outside interference. In October 2009 the ARENA party split, and 12 of its 32 deputies formed a new party named GANA.

Individuals cannot freely declare their candidacy and stand for election without membership in a political party. On July 29, a Supreme Court decision determined that independent candidates should be allowed to run for election. The Legislative Assembly took steps to reverse the decision by amending the constitution, but adoption requires ratification by the next Legislative Assembly in 2012.

There were 16 women in the 84-member Legislative Assembly, five women on the 15-member Supreme Court, and two women in the 13-member cabinet. No persons in the Supreme Court, legislature, or other government entities identified themselves as members of an ethnic minority or indigenous community, and there were no political party positions or parliamentary seats designated for ethnic minorities.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials, particularly in the judicial system, engaged in corrupt practices with impunity. The World Bank's broad-based indicators reflected that government corruption was a serious problem, a finding that was consistent with public perceptions in the country.

On December 10, authorities dismissed the entire 95-person staff of the Zacatecoluca maximum-security prison on suspicion of corruption, notably providing gang members with cell phones and other assistance. On December 13, an additional 235 employees were dismissed from the overall prison system for the same reasons, and by year's end more than 500 prison authority staff had been dismissed under suspicion of corruption.

NGOs, such as the Foundation for Studies in Legal Application and the Salvadoran Foundation for Economic and Social Development (FUSADES), alleged that the Supreme Court did not adequately address judicial delays, inefficiency, and unqualified and corrupt judges. FUSADES reported that the public had minimal confidence in the judicial system due to a lack of access to justice and accountability, a judicial backlog, and corruption. FUSADES maintained a Web site that makes judicial proceedings and records available to the public.

Public officials were not subject to financial disclosure laws. The Court of Accounts, the Anticorruption Unit of the OAG, and the Government Ethics Tribunal (TEG) share responsibility for combating corruption.

On August 18, the Second Justice of Peace in Zacatecoluca sentenced Candelaria Campos de Rivas, the worker's rights section coordinator in the San Miguel Solicitor's Office, to three years' imprisonment, following a conviction on corruption charges. She had offered to obtain a release order for a prisoner in exchange for \$5,000 (the U.S. dollar is the national currency). Five days later the same justice ordered the trial of a prosecutor in the OAG in Sonsonate on charges of promising to release a prisoner in exchange for \$600.

On September 13, the Court of Accounts sentenced former minister of public works David Gutierrez to repay the government \$3.2 million that was unaccounted for due to irregularities in bidding for the construction of Diego de Holguin highway in San Salvador.

The Legislative Assembly has not audited the Court of Accounts, the government agency charged with auditing the National Treasury and the Federal Budget, since 1995, despite a law mandating an annual audit. In July 2009 the Court of Accounts, which has traditionally been controlled by one of the smaller political parties, rejected a budget and procedural audit based on legal technicalities.

The Legislative Assembly restricted public access to its monthly committee reports and required that a Board of Directors member approve such requests. During the year the TEG received 403 ethics complaints against public servants, and opened 265 investigations, resulting in public reprimands for three government officials and the suspension of one. To combat public sector corruption, the TEG operated ethics commissions within 79 of the 81 government entities required by law. The TEG conducted a year-long public awareness campaign against corruption.

Although the law provides for public access to government information, in practice inconsistent legislation impeded such access. There is no freedom of information law. Citizens could access via the Internet some information regarding the national budget and certain cases before the Supreme Court. The government usually did not give reasons for denying public access to information. There are no mechanisms to appeal denials.

On December 3, the National Assembly passed a Public Information Access law, effective June 2011, requiring a new information office to make publicly available, free of charge, to any Salvadoran, information about public servants' salaries; official communications; government purchasing, budgets and financing; and Supreme Court proceedings.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to these groups, officials at times were reluctant to discuss worker rights issues with NGOs and the PDDH. Domestic and international NGOs were required to register with the government, and some reported difficulties (see section 6).

The principal human rights investigative and monitoring body is the autonomous PDDH, whose head is elected by the Legislative Assembly to a three-year term. The PDDH regularly issued reports (14 during the year) and press releases on prominent human rights cases and monitored the year's presidential and legislative elections. The PDDH enjoyed government cooperation and operated without government or party interference, had adequate resources, and was considered generally effective.

On January 21, unknown actors made death threats against Ombudsman for Human Rights Oscar Luna and his family. The PNC doubled his protective detail. As of December the case remained under investigation.

The PDDH maintained a constructive dialogue with the president's office. The government publicly acknowledged receipt of the PDDH's reports, although in some cases it did not take action on PDDH recommendations, which are not legally binding.

On October 12, the UN Human Rights Council issued its sixth report on El Salvador. The report noted the high level of domestic violence, a need for reform of the judicial and criminal justice system, and concerns about a rise in preventative detentions. The report also took note of the significant steps taken since the 1980s to improve the human rights situation.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

Although the constitution and the legal code provide that all persons are equal before the law and prohibit discrimination regardless of race, gender, disability, language, or social status, in practice the government did not effectively enforce these prohibitions. There was discrimination against women; persons with disabilities; lesbian, gay, bisexual, and transgender persons, and indigenous people. The Secretariat for Social Inclusion, created in June 2009 by President Funes, who named the first lady Vanda Pignato as secretary, made efforts to overcome traditional bias in all these areas.

Women

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

Incidents of rape continued to be underreported for a number of reasons, including societal and cultural pressures against victims, fears of reprisal, ineffective and unsupportive responses by the authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted. Laws against rape were not effectively enforced.

Rape and other sexual crimes against women were widespread. The PNC reported 2,193 cases of rape during the year. The OAG received reports of 676 cases of rape of adults through July, which resulted in 262 trials and 76 convictions.

During the year ISDEMU provided health and psychological assistance to 787 women and girls who suffered sexual abuse, compared with 1,013 in all of 2009, and 1,447 girls who suffered physical abuse, compared with 2,512 in all of 2009.

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

Violence against women, including domestic violence, was a widespread and serious problem and during the year resulted in the death of 551 women. Laws against domestic violence were not well enforced, and cases were not effectively prosecuted. During the year ISDEMU received 4,732 reports of domestic violence, compared with 6,514 complaints in 2009. The PNC reported 2,852 cases of domestic violence through December. Through July the OAG investigated 661 cases of domestic violence, which resulted in three convictions and 71 cases resolved through mediation.

ISDEMU coordinated with the judicial and executive branches and civil society groups to conduct public awareness campaigns against domestic violence and sexual abuse. The PDDH, OAG, Supreme Court, Public Defender's Office, and PNC collaborated with NGOs and other organizations to combat violence against women through education, increased enforcement of the law and NGO support programs for victims. The Secretariat for Social Inclusion, through ISDEMU, defined policies, programs, and projects on domestic violence and continued to maintain a telephone hotline and a shelter for victims of domestic abuse and child victims of commercial sexual exploitation. The government's efforts to combat domestic violence were minimally effective.

On November 25, the National Assembly passed a comprehensive law targeting all forms of violence, harassment and discrimination against women. The law, which takes effect in November 2011, strengthens penalties for existing crimes, defines new ones not previously penalized, and mandates a public education component and unified statistical

methodology. ISDEMU, the government agency charged with promoting the legal rights of women, has responsibility to monitor the law's implementation.

The government did not enforce sexual harassment laws effectively. Since underreporting by victims of sexual harassment appeared to be widespread, it was difficult to estimate the extent of the problem. The OAG reported 367 complaints of sexual harassment through July, which resulted in 138 trials and 11 convictions.

The law defines sexual harassment as any unwanted physical sexual contact and stipulates penalties of three to five years in prison (or four to eight years in cases where the victim is under age 15 at the time of the offense). The law, however, does not clearly recognize nonphysical sexual harassment as a crime. Fines are added to the prison term in cases where the perpetrator is in a position of authority or trust over the victim.

Couples and individuals had the right to decide the number, spacing, and timing of children, and information about and access to contraception was widely available. Demographic Health Surveys indicated that 72 percent of married women used some method of family planning. Prenatal care and skilled attendance at delivery were also widely available. The UN Population Fund estimated that the maternal mortality rate in 2008 of 110 deaths per 100,000 live births. Women and men have equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The constitution grants women and men the same legal rights under family and property law, but women did not receive equal treatment in practice. The law establishes sentences of one to three years in prison for public officials who deny a person's civil rights based on gender, and six months to two years for employers who discriminate against women in the workplace. However, employees generally did not report such violations due to fear of employer reprisals.

Pregnancy testing as a condition for employment is illegal. Some businesses allegedly required female job applicants to present pregnancy test results, and some businesses illegally fired pregnant workers (see section 7.b.).

Although the law prohibits discrimination based on gender, women suffered from cultural, economic, and societal discrimination. Men often received priority in job placement and promotions, and women were not accorded equal treatment in traditional male-dominated sectors, such as agriculture and business. Training for women generally was confined to low-wage occupational areas where women already held most positions, in fields such as teaching, nursing, apparel assembly, home industries, and small businesses.

Gender-based wage disparity remained a problem. The 2007 Household Survey, the latest available, indicated that, on average, women's monthly wages were \$247 and men's were \$304. In sectors of the economy where women constituted the majority of the labor force, men held most positions in both management and in departments where employees received higher wages.

A 2008 ISDEMU report on women in the workplace indicated that 41 percent of women worked, but received on average only 80 percent of the salary levels received by men; 55 percent of the female workforce was in the informal sector, and 47 percent of working women were underemployed. The average monthly salary for female factory workers was \$163.00 and \$113.36 for domestic workers.

Children

Citizenship is derived by birth within the country and from one's parent(s). The law requires parents to register a child within 15 days of birth or else pay a \$2.86 fine. There were no firm statistics, but many births were not registered. Unregistered children had access to public health care but not to public education.

Child abuse was a serious and widespread problem. Incidents of rape continued to be underreported for a number of reasons, including societal and cultural pressures against victims, fears of reprisal against the children, ineffective and

unsupportive responses by the authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted. The Salvadoran Institute for Children and Adolescents (ISNA), an autonomous government entity, defined policies, programs, and projects on child abuse, maintained a shelter for child victims of abuse and commercial sexual exploitation, and conducted a violence awareness campaign to combat child abuse. During the year ISNA reported sheltering 883 abused children, including 231 cases of children living on the street, 299 cases of sexual abuse, 113 cases of abandonment, 72 cases of children employed as beggars or being economically exploited, and 38 cases of commercial sexual exploitation.

There were credible reports that the PNC targeted minors specifically for harassment or arbitrary detention, as some PNC officers perceived youth on the street as more likely to be gang members.

The law classifies statutory rape as sexual relations with anyone under 18 years of age and provides for penalties between four and 20 years' imprisonment for those convicted of the crime. During the year the PNC reported 1,216 cases of rape of persons under 18 (of a total of 2,193 rape cases) and 1,186 cases of sexual abuse. Through July the OAG reported prosecuting 561 cases of rape of persons under 18 and 479 cases of sexual abuse, molestation and corrupting a minor.

The law prohibits participating in, facilitating, or purchasing materials containing child pornography and provides for prison sentences of up to 16 years' imprisonment. During the year the PNC made four arrests against persons for child pornography.

The law prohibits paying anyone under the age of 18 for sexual services. There were credible reports that girls were forced into prostitution. Through December ISDEMU registered seven cases of commercial sexual exploitation of children.

On August 31, UN Special Rapporteur for the Rights of the Child Najat Maalla M'jid urged the government to take effective measures to protect children's rights against trafficking in persons, child prostitution, and pornography. She also criticized the lack of uniform statistics from the children's agencies and the OAG.

In March 2009 the Legislative Assembly passed a law strengthening penalties against child trafficking and child abuse and prohibiting publication of pictures of minors by the mass media to prevent identification of potential exploitation victims.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

There were no reports of anti-Semitic acts. The Jewish community totaled approximately 150 persons.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, or the provision of other state services. According to the National Council for Disabled Persons (CONAIPD), the government did not allocate sufficient resources to enforce these prohibitions effectively, particularly in education, employment, and transportation, and did not effectively enforce legal requirements for access to buildings, information and

communications for persons with disabilities. There are almost no access ramps in the country, nor are provisions made for the mobility of persons with sight and hearing disabilities.

Several public and private organizations promoted the rights of persons with disabilities. CONAIPD is the government agency responsible for protecting those rights. There were no reported patterns of abuse in prisons or in educational or mental health facilities, although CONAIPD reported isolated incidents, including sexual abuse, in such facilities. There are no statistics or formal mechanisms for complaint for abuse of persons with disabilities.

CONAIPD reported that persons were fired after becoming disabled, that persons with disabilities were not considered for work they were qualified for, and that some schools would not accept children with disabilities due to lack of facilities and resources. There is no formal system for filing a complaint with the government.

CONAIPD conducted awareness campaigns, provided sensitivity training to 1,173 persons in 15 institutions from the public and private sectors, promoted the hiring of persons with disabilities, and trained doctors and teachers about the rights of the disabled. The government's Fund for the Protection of Persons with Disabilities assisted financially individuals who were wounded or had a disability as a result of the civil war but had not yet paid some obligations through 2009. President Funes stated the government would pay owed pensions. The Rehabilitation Foundation, in cooperation with the Salvadoran Institute for the Rehabilitation of the Disabled (ISRI), continued to operate a treatment center for persons with disabilities. However, CONAIPD reported that the government provided minimal funding for ISRI. The vast majority of persons with disabilities received care at home by relatives with little or no government support or supervision.

Indigenous People

While the constitution states that native languages are part of the national heritage and should be preserved and respected, the law does not recognize indigenous communities and accords no special rights to indigenous people. According to the 2007 census, indigenous persons formed approximately 0.2 percent of the national population in three principal groups: Nahua-Pipiles in western and central areas of the country and Lencas and Cacaoperas in the eastern region. Indigenous rights groups and the PDDH complained that the government's methodology used to determine indigenous self-identification underestimated the actual size of the indigenous population. For example, indigenous rights groups stated that Nahuizalco, a town in the department of Sonsonate, may have up to 39,000 indigenous inhabitants, approximately 0.7 percent of the country's population. Births of indigenous persons were reportedly more likely not to be registered officially, reducing educational opportunities since school registration requires a birth certificate.

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

There are no laws giving indigenous people rights to share in revenue from exploitation of natural resources on indigenous lands. The government did not demarcate any lands as belonging to indigenous communities. Access to land was a problem for indigenous persons. Because few possessed title to land, opportunities for bank loans and other forms of credit were extremely limited.

The municipality of Nahuizalco passed a law on October 24 recognizing the origin and existence of indigenous persons and their right to practice their customs and beliefs, outlawing any form of discrimination, and pledging assistance in maternal care.

There were no government programs dedicated to combating discrimination against or communicating with indigenous persons. The PDDH reported that indigenous persons faced employment and workplace discrimination. In practice

citizens are not able to register their children with indigenous names under a 1990 law, which allows municipal workers to require an appeal to the mayor's office if a proposed name is considered improper.

On October 10, President Funes publicly apologized to the country's indigenous people for the persecution and "extermination" they have suffered over the past five centuries. He acknowledged the country as a multiethnic and multicultural society.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Although the law prohibits discrimination on the basis of sexual orientation, in practice discrimination was widespread, especially against transgender persons. In January the new administration approved the legal registration application filed in August 2009 by the gay rights NGO Entre Amigos. This is the first NGO focused on sexual minorities registered by the government whose primary declared work was other than the prevention of HIV/AIDS.

There was widespread official and societal discrimination based on sexual orientation in employment and access to health care and identity documents. Entre Amigos reported that public officials, including the police, engaged in violence and discrimination against sexual minorities. Persons from the lesbian, gay, bisexual, and transgender (LGBT) community stated that the PNC and OAG ridiculed them when they reported cases of violence against LGBT persons. The government responded to these abuses primarily through PDDH reports that publicized specific cases of violence and discrimination against sexual minorities.

On May 13, President Funes signed an order forbidding workplace discrimination in government offices based on sexual orientation. The order also created the Office of Sexual Diversity within the Secretariat of Social Inclusion. In general violence and discrimination against sexual minorities went unpunished.

LGBT rights supporters held one gay pride march, for which the municipality of San Salvador provided authorization. The government provided sufficient police security for marchers.

Entre Amigos reported the killings of two persons from the LGBT community during the year, compared with 23 during 2009. Entre Amigos attributed the decline to the end of the debate over a proposed constitutional amendment to define marriage as only between a man and a woman.

Other Societal Violence or Discrimination

Although the law prohibits discrimination on the basis of HIV/AIDS status, in practice discrimination was widespread. Lack of public information remained a problem in confronting discrimination against persons with HIV/AIDS or in assisting persons suffering from HIV/AIDS. The Ministry of Health reported that 25,530 persons were infected with HIV, of whom 8,000 had AIDS. A UN Development Program survey conducted during the year reported that 31.4 percent of persons infected with HIV/AIDS experienced some form of discrimination, including credible reports of denial of public services (such as schooling) and loss of employment. Persons denied entry into the armed forces charged that the military illegally required HIV testing for its soldiers.

In August 2009 the Ministry of Public Health launched an awareness campaign aimed at reducing stigmatization of HIV-positive persons. A number of NGOs worked without government interference to produce media and outreach campaigns to promote HIV/AIDS awareness and testing.

Reports indicated that rape and other sexual abuse of males was substantially underreported to authorities. The PNC reported 258 cases of rape against males during the year, and ISDEMU provided health and psychological assistance to 165 men and boys who were victims of physical or sexual abuse.

Section 7 Worker Rights

a. The Right of Association

The constitution provides for the right of workers, except military personnel, national police, judges, high-level public officers, and workers who are in "positions of trust," to form and join unions of their choice. In 2009 the government amended the constitution to grant legal status to public worker unions. Workers do not require prior authorization from the government to organize, but must meet certain requirements to be legally registered. According to official census figures, the country had a workforce of 2.365 million in 2009, of which 215,000 were in the agricultural and fishing industries. Among the requirements to obtain legal standing, unions must have a minimum of 35 members in the workplace, hold a convention, and elect officers. The constitution permits the participation of noncitizens in unions, but requires that union leaders be citizens.

The Ministry of Labor encouraged the formation of new unions and streamlined the registration process. The law permits unions to conduct their activities without government interference. Some unions alleged the Ministry of Labor interfered with their activities by encouraging and facilitating the formation of "parallel unions," which supported the FMLN.

As of September there were 557 unions, of which 294 were in the private sector, 18 were in autonomous government organizations, and 55 in the public sector. The Ministry of Labor reported it registered 51 unions during the year, of which 24 were in the public sector and 27 in the private sector, including in autonomous government organizations. The Ministry of Labor also reported that 31 unions had become defunct, while 159 were either without leadership or inactive.

The ministry denied registration to three unions--a public sector municipal workers' union (SITESMUES) and two private sector unions, the transportation workers' union (STITCPAS) and the independent workers' Movement for Democracy, Development and Peace (Movimiento para la Democracia, el Desarrollo y la Paz)--because they did not meet legal requirements.

On December 14, the Administrative Court of Justice declared illegal the Ministry of Labor's February 1 refusal to recognize the results of the January elections of a construction workers' union, Sindicato Union de Trabajadores de la Construccion (SUTC), and the ministry carried out the court's instruction to credential the union's board of directors on December 17.

On November 6, the Legislative Assembly refused a request by the union of workers of the Legislative Assembly (SITRAL) to represent its workers, on the grounds that the workers were in "positions of trust." In December the employment contract of the SITRAL's secretary general Luis Ortega was not renewed.

There were some reported instances of violence against union leaders. On January 15, Santa Ana municipal workers (SITRAMSA) union leader Abel Victorio Vega was murdered in an execution-style killing by six assailants at a public plaza in Santa Ana, according to official PNC reports. The OAG reported in August that it was investigating the possibility that the killing was linked to Vega's unionizing activities. However, by year's end, no charges had been brought in the case.

In October SITRAMSA reported that its workers had received death threats when the union announced it would strike over alleged intimidation and withholding of workers' pay by the municipality. The union reported that the municipality had also withdrawn security guards from worksites. The subsequent strike was later declared illegal by the Santa Ana Labor Court. The municipality reduced the strikers' wages by approximately 50 percent for the time they were striking. At year's end the case was on appeal.

The constitution recognizes the right to strike, except for public and municipal employees and workers in essential services. The law does not specifically designate which services are considered essential. Although the law contains

complex and cumbersome registration procedures for conducting a legal strike, workers freely exercised this right in practice.

A legal strike must be supported by 51 percent of workers in an enterprise, including workers not represented by the union. Unions may strike only after the expiration of a collective bargaining agreement or to protect professional rights. Unions must seek to resolve differences through direct negotiation, mediation, and arbitration before striking. A strike must aim to obtain or modify a collective bargaining agreement and to defend the professional interests of workers. Union members must approve a decision to strike through secret ballot, and the union must name a strike committee to serve as a negotiator and send the list of names to the Ministry of Labor, which notifies the employer. The union must wait four days from the time the Ministry of Labor notifies the employer before striking. The law prohibits workers from appealing a government decision declaring a strike illegal. In practice, workers engaged in strikes regardless of whether the legal requirements were met. Although the Ministry of Labor did not approve any strikes during the year, it did not report any instances where the right to strike was denied.

b. The Right to Organize and Bargain Collectively

The law permits collective bargaining by employees in the private and public sectors, but the government enforced rules on collective bargaining selectively. In October the Ministry of Labor reported that 51,885 workers, including 3.5 percent of the urban workforce, are covered by collective bargaining agreements.

The law prohibits antiunion discrimination, and the government enforced the law. However, there were reports of antiunion discrimination, including dismissals of workers attempting to unionize and threats against labor union members. The Ministry of Labor imposed 10 fines for illegally dismissing unionized workers. There are no special laws or exemptions from regular labor laws inside the free trade zones.

There were reports that security guard agencies COSASE, which provides security for the government, and COARMI dismissed workers trying to unionize during the year, and failed to provide the dismissed workers with back pay, vacation, social security and bonuses due to them.

During the year auto shop owners alleged that the Ministry of Labor required them to bargain with the Union Federation of El Salvador (FESS), although FESS did not meet the minimum requirement of having at least 35 workers to form a union. The Ministry of Labor denied the allegation that it required the owners to accept the agreement with FESS.

The OAG reported that between January and July it opened 426 investigations against employers for illegally retaining social security and pension payments, two investigations for violations of labor safety conditions, three investigation for labor discrimination, and four investigations for violations against freedom of association and the right to strike.

During the year the Ministry of Labor reportedly conducted 507 inspections and 255 reinspections in the textile sector. The ministry conducted an additional 212 inspections and 103 reinspections for gender discrimination, covering 61,478 apparel assembly workers. The ministry imposed 240 fines for labor violations.

As of October, the Ministry of Labor had reported 50 complaints of illegal firings of union leaders, 22 of which were resolved. The ministry imposed fines in 24 cases involving 97 workers (71 men and 26 women). The ministry also received 68 complaints for dismissals of pregnant workers. Of these, 44 cases were resolved. The ministry imposed fines in 13 cases involving 62 workers. It did not receive any complaints concerning mandatory HIV tests as a condition of employment.

The law specifies 18 reasons for which an employer can legally suspend workers, and employers can invoke 11 of these reasons without prior administrative or judicial authorization. Workers reported instances where employers sought to

undermine union organizing, including dismissing union members. As of September the Ministry of Labor reported no instances of blacklisting workers who were union members, and no instances of employers refusing to negotiate with unions.

The Labor Code does not require employers to reinstate illegally dismissed workers. Reinstatement is generally handled through mediation by the courts and the Ministry of Labor. Although not required by law, the Ministry of Labor requested some employers to rehire 256 fired workers during the year, basing its requests on International Labor Organization (ILO) Administrative Court rulings.

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. The Ministry of Labor reported it had received no complaints of forced labor during the year. However, some forced labor was believed to occur. In October the government's Migration Office reported that there was anecdotal evidence that forced labor occurred in the informal sector, for instance among migrant domestic workers, and may also occur among subcontracted construction workers.

Also see the Department of State's annual *Trafficking in Persons Report* at <http://www.state.gov/g/tip>.

d. Prohibition of Child Labor and Minimum Age for Employment

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

Children age 12 and older are allowed to engage in light work, so long as it does not harm their health or interfere with their education. Children under 16 years of age are prohibited from working more than seven hours per day and 34 hours per week; those under age 18 are prohibited from working at night or in occupations considered hazardous. The Ministry of Labor was responsible for enforcing child labor laws. In practice, labor inspectors focused almost exclusively on the formal sector.

According to the 2008 School Registration Census, the most recent available, there were approximately 110,000 child workers, with the largest numbers engaged in coffee, sugarcane, and other agricultural activities; domestic work; street vending; and fishing. Child labor in its worst forms was a serious problem in coffee and sugarcane cultivation, fishing, mollusk extraction, and fireworks production. There were reports of children engaging in garbage scavenging. Orphans and children from poor families frequently worked for survival as street vendors and general laborers in small businesses. Children also worked as domestic servants.

The Ministry of Labor reported receiving few complaints of violations of child labor laws, primarily because many Salvadorans view child labor as an essential component of family income rather than as a human rights problem. During the year the government increased inspections of child labor but lacked adequate resources to effectively enforce child labor laws in agricultural activities, especially coffee and sugarcane production, or in the large informal sector. Most reports were made by telephone or through third parties, according to the Labor Ministry.

The government made significant efforts to combat child labor during the year. The Ministry of Labor reported that its 208 nationwide labor inspectors were trained in child labor, including 10 from the Department of Agriculture and Fisheries, as well as four specialists in child labor issues and six liaison officers trained in child labor issues in branch offices in Santa Ana, San Miguel, Sonsonate, La Paz, Usulután, and La Unión. The Ministry of Labor reported that it also changed inspection hours to correspond with times children were likely to be working.

The Ministry of Labor led a government interagency program to advance its "Road Map" to eliminate child labor in its worst forms by 2015 and in its entirety by 2020. As part of its implementation, the government participated in a new, \$10 million ILO project that seeks to provide educational opportunities to children while offering livelihood alternatives for their families. It also developed a series of events to raise awareness about child labor in local communities. The government also participated in a four-year, \$3.4 million ILO project that ended in July. This project provided educational opportunities to more than 13,000 children who worked or were at risk of working.

The Ministry of Education promoted child labor awareness and encouraged school attendance. The Ministry of Labor reported that the government continued operating 134 after-school programs during the year and was assisted by funding from Intervida, Plan Internacional, and the Fundacion Telefonica. The government also incorporated material on combating child labor into its elementary school curriculum, and provided lunches, uniforms, school supplies and shoes to impoverished students.

The Ministry of Labor reported that when inspectors encountered incidents of child labor, the government removed the victims and placed them in educational programs. As of September the ministry reported that 13 children had been removed from child labor. The ministry reported it verified that these situations did not reoccur, and that it continues to monitor the area where this work was identified. There was no information on specific investigations or prosecutions.

e. Acceptable Conditions of Work

There is no national minimum wage; the minimum wage is determined by sector. The minimum daily wage was \$6.92 for retail and service employees, \$6.77 for industrial laborers, and \$5.79 for apparel assembly workers. The agricultural minimum wage was \$3.24. The minimum wage did not provide a decent standard of living for a worker and family. The highest monthly minimum wage nationally was \$207.60. The lowest monthly minimum wage, for agricultural workers, was \$97.20. The Consumer Defense Center (an NGO) reported that basic subsistence costs for food during the year were \$184.94 per month. The government reported slightly different costs, indicating that the amount needed for subsistence in urban areas was \$171.19 and in rural areas \$120.03.

In 2009 the Social Security Institute confirmed that Joaquin Salvador Montalvo Machado had complied with the Third Sentencing Court's fine of \$144,724 imposed in 2006 for illegally retaining social security and pension payments of workers at the Hermosa Manufacturing apparel assembly plant. On May 23, 10 Hermosa workers received severance pay and other compensation following a favorable verdict from the Apopa Court of Instruction. Ten other workers received severance pay and other compensation after mediation by the OAG on June 29. The Salvadoran Social Security Institute also plans to provide medical care for Hermosa workers suffering from cancer. However, as of September the Ministry of Labor reported that Montalvo had not paid legally required severance and other payments to all workers, and 34 workers who lost their labor cases plan to file fraud charges against Montalvo, with the support of the Ministry of Labor.

During the year the Ministry of Labor reported 37 complaints for unpaid back wages and social security payments against the Miretex apparel factory, of which 22 were resolved.

The Ministry of Labor reported that in November, the Royal Textiles Flexiler factory illegally withheld workers' social security and pension payments. The case was ongoing at year's end.

The Ministry of Labor reported conducting 9,206 inspections, including 305 in the coffee sector, 111 in the sugar sector, 65 in the fireworks industry, and 1,493 in the fishing industry. There were 1,732 inspections in the industrial sector, 1,275 in the commercial sector, and 2,607 in the service sector. The ministry also conducted 437 inspections for workplace discrimination covering 63,924 workers, 84 of whom were pregnant workers. The ministry reported that, as of September, 183 employers had been sanctioned, resulting in 186 fines for nonpayment of minimum wages. The average fine was

\$54.43. The government reportedly effectively enforced the minimum wage law in the formal sector but not in the informal sector.

The government increased its inspection force from 159 to 208 during the year, and provided updated training to its inspectors for both occupational safety and labor standards. There continued to be allegations of corruption among labor inspectors in the apparel assembly industry.

The law sets a maximum normal workweek of 44 hours, limited to no more than six days, and to no more than eight hours per day, but allows overtime if a bonus is paid. The law mandates that full-time employees be paid for an eight-hour day of rest in addition to the 44-hour normal workweek. The law prohibits compulsory overtime.

The government's gender and labor discrimination unit reported that assembly plants generally respected the laws on overtime. However, some of these plants required workers to work extra days in order to meet production goals, with a promise of incentive pay in addition to overtime. There were no reports of workers not receiving incentive pay.

During the year the Ministry of Labor received 375 complaints regarding unpaid overtime from industrial and commercial workers, and none from agricultural workers.

As of October the Ministry of Labor reported that it had received 2,085 complaints of unpaid salaries; 452 complaints of unpaid overtime, involving 2,380 and 533 workers, respectively. During the year the Ministry of Labor imposed 62 fines for unpaid salaries. There were reports from unions that the Ministry of Labor failed to enforce the minimum wage for subcontracted workers hired for public reconstruction contracts.

The Ministry of Labor is responsible for setting workplace safety standards, and the law on occupational health and safety standards establishes a tripartite committee to review the standards. The law requires all employers to take steps to ensure that employees are not placed at risk to their health and safety in the workplace. This includes prohibitions on the employment of persons under age 18 in occupations considered hazardous or morally dangerous.

The Legislative Assembly passed a new workplace safety law in January, which will take effect in May 2011. The new law is based on ILO Convention 155. It promotes occupational safety, training, and worker participation in occupational health and safety matters. The new law also addresses sexual harassment and violence against women as well as other workplace harassment issues. The law requires that employers provide preventive safety measures, including proper equipment and training, to employees, and a violence-free workplace, in order to reasonably ensure the safety and health of workers. Employers who violate the law can be fined. The Ministry of Labor is charged with enforcing the law.

From June 2009 to June 2010, the Ministry of Labor reported that it trained 300 companies on occupational safety and created 127 committees of occupational health and safety.

The Ministry of Labor reported contradictory information regarding whether workers have the right to remove themselves from hazardous situations without jeopardy to their continued employment. The ministry noted that the government's ratification of ILO Convention 155 provides workers with the right to remove themselves. At the same time, the ministry also reported workers can be fired for refusing to undertake hazardous work, although they must be compensated. In practice workers were not informed about this right. The Ministry of Labor reported conducting 8,390 inspections and 6,449 reinspections for workplace health and safety and 1,680 environmental studies during the year. It also reported reaccreditation of 500 workplace safety committees and the formation of 387 new committees.

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