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## FREEDOM IN THE WORLD

# El Salvador

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### OVERVIEW:

**President Mauricio Funes and several right-wing political parties tried to weaken the Constitutional Court in June 2011 with Decree 743, which required all decisions to be unanimous; the decree was quickly repealed in July in response to protests. The government continued to combat corruption in line with a new transparency and access to information law that was passed in March 2011. El Salvador also faced serious economic and social problems during the year, including an escalating murder rate and a weak economy.**

El Salvador gained independence from Spain in 1821 and broke away from the Central American Federation in 1841. A republican political system dominated by an oligarchy of landowning elite, and subject to foreign interference, gave way to military rule in the mid-20th century. A 1979-92 civil war pitted El Salvador's Christian Democratic Party (PDC) government, the right-wing oligarchy, and the military, with support from the United States, against the Marxist-Leninist Farabundo Martí National Liberation Front (FMLN) and other leftist groups. The war left more than 75,000 dead and 500,000 displaced. In 1989, the conservative Nationalist Republican Alliance (ARENA) captured the presidency, and the civil war ended in 1992 with the signing of a peace treaty. The ARENA held the presidency for two decades, with ongoing competition from the FMLN party.

In the January 2009 parliamentary elections, the FMLN won 35 seats, while ARENA captured 32 seats. However, shifting political alliances in the months following the election led to the creation of the Grand Alliance for National Unity (GANU) party by former ARENA deputies in January 2010.

In the March 2009 presidential election, FMLN candidate, Mauricio Funes, defeated ARENA's Rodrigo Ávila, 51.3 percent to 48.7 percent. Observers noted that many of the irregularities that had been witnessed during the legislative elections, such as voter cards being issued to residents of other districts, had been rectified. However, calls continued for the Supreme Electoral Tribunal to address well-documented irregularities in the voter registry. In June 2011, President Funes announced his support for electoral reforms that would grant Salvadorans living abroad the right to vote in 2014 elections.

While the FMLN has supported Funes on several issues since taking office, important disagreements have complicated their relationship, causing a rift between the president and his party. Funes was accused by some on the left of moving towards the center after taking office and deviating from the FMLN's original program. While Funes' national approval ratings were still well above 60 percent in late 2011, long-standing party members distanced themselves from Funes in the run up to the 2012 elections.

Following a Constitutional Court ruling in April 2011, two of the country's

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STATUS

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FREEDOM RATING

**2.5**

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POLITICAL RIGHTS

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longest running political parties, the PDC and PCN, were disbanded due to their failure to have met the minimum required number of votes in the 2004 elections.

Decree 743—which would require the Constitutional Court to reach unanimous decisions before rulings could take effect—was signed into law in June without public debate. It is widely believed that Funes and right-wing political parties sought to preempt court involvement in determining the constitutionality of the Central America Free Trade Agreement (CAFTA) and the 1993 Amnesty Law that protects those responsible for thousands of killings and disappearances during the country's 12-year armed conflict by passing this decree. In the weeks that followed, protestors from across the political spectrum claimed that the decree violated the principle of an independent judiciary. Congress repealed the decree in July in what was generally regarded as a victory for the rule of law and judicial independence.

The global economic crisis continued to have a significant effect on the country, as the economy is closely linked to that of the United States through trade and remittances. Analysts estimate that the economy grew 1.5 percent in 2011—one of the lowest rates in all of Latin America. However, remittances totaled \$3.64 billion dollars in 2011, a 6.4 percent increase over 2010. It is estimated that between 30 and 40 percent of all Salvadorans live in poverty, which has fueled social alienation, as well as organized crime and violence.

## **POLITICAL RIGHTS AND CIVIL LIBERTIES:**

El Salvador is an electoral democracy. The 2009 elections were deemed free and fair, although several irregularities were reported. The president is elected for a five-year term, and the 84-member, unicameral Legislative Assembly is elected for three years. The two largest political parties are the conservative ARENA and the leftist FMLN. However, ARENA's political influence has declined since a number of deputies abandoned the party in 2009 to establish GANA.

Corruption remains a serious problem at all levels of government. After addressing President Mauricio Funes' concerns, the Legislative Assembly passed a law in March 2011 to facilitate transparency and to combat corruption, which requires public entities to provide information in order to promote accountability and to encourage participation and public oversight. The reforms will go into effect in early 2012. In April 2011, the Attorney General's Office arrested former ARENA health minister Guillermo Maza and eight others on charges of defrauding the state of more than \$3 million in the reconstruction of a hospital damaged by the 2001 earthquakes. Maza was placed under house arrest in November. El Salvador was ranked 80 out of 183 countries surveyed in Transparency International's 2011 Corruption Perceptions Index.

The constitution provides for freedom of the press, and this right is generally respected in practice. A 2010 Supreme Court ruling extended criminal penalties for defamation to journalists, editors, media owners, and managers. However, in September 2011, the Assembly approved reforms to the penal code that would replace jail time with fines in cases involving crimes against public image and privacy. Several journalists reported receiving death threats in 2011, and one journalist, Canal 33 cameraman Alfredo Antonio Hurtado, was murdered in April. The media are privately owned, but ownership is confined to a small group of powerful businesspeople who often impose controls on journalists to protect their political or economic interests. ARENA-aligned Telecorporación Salvadoreña owns three of the five private television networks and dominates the market. There is unrestricted access to the internet and the government and private organizations have worked to extend internet access to the poor.

The government does not encroach on religious freedom, and academic freedom is respected.

Freedoms of assembly and association are generally upheld. The Assembly passed a controversial law in 2010 criminalizing gang membership. Critics argued that the law threatened freedom of association and would not succeed in addressing gang-related crime. Nationwide transportation strikes,

supposedly led by gang leaders, were staged in protest of the law's passage. El Salvador's nongovernmental organizations generally operate freely, but some have reported registration difficulties. Labor unions have long faced obstacles in a legal environment that has traditionally favored business interests.

The judicial system improved its performance in 2011, demonstrating independence on a number of important cases, including corruption investigations against former political officials. However, several judges have spoken out against the corruption and obstructionism that permeates the Supreme Court and the entire judiciary. While very few complaints against judges ever move forward, the Supreme Court investigation unit dismissed two judges and suspended six others in 2011. It also submitted three cases to the Office of the Attorney General (OAG) for investigation of possible judicial corruption. The OAG investigated 50 complaints against prosecutors for misconduct, eventually dismissing eight prosecutors and suspending 30 others.

Law enforcement officials have been criticized for brutality, corruption, arbitrary arrest, and lengthy pretrial detention. The Office of the Inspector General (OIG) reported that authorities received 964 complaints of alleged police misconduct in 2011. The OIG referred 679 of these cases to the OAG and sanctioned 919 officers in response to complaints filed during the year and in prior years. The OIG also charged eight police officers with homicide. According to the United Nations Office on Drugs and Crime's 2011 Global Study on Homicide, El Salvador has a homicide rate of 66 per 100,000 people, the second highest rate in the world after neighboring Honduras. The forced repatriation of hundreds of Salvadoran criminals from the United States has contributed to the violence and reflects the international reach of major gangs like Mara Salvatrucha (MS-13). There are an estimated 20,000 gang members in the country; nearly 10,000 were in detention centers in 2011. In 2010, more than 18,700 Salvadorans were deported from the United States, 7,556 with criminal records.

The Legislative Assembly elects a human rights ombudsman for a three-year term. While abuses have declined since the war's end, civil liberties are still limited by sporadic political violence, repressive police measures, and vigilante groups. In November 2009, Funes authorized a six-month deployment of troops to high-crime communities to address public security issues. In May 2010, Funes extended the program—which granted the military greater power to conduct patrols and searches among civilians—for an additional year, signaling a return to practices initiated under previous ARENA governments.

According to the country's Prison Directorate, as of December 20, 2011, there were 25,294 prisoners, including 2,440 women, held in 21 correctional facilities and two secure hospital wards that have a combined capacity of 8,090. The prison population included 18,139 convicted prisoners and 7,155 inmates held in pretrial detention. In an attempt to disrupt organized crime in the penitentiary system, the military also patrols inside prisons.

Salvadoran law, including a 1993 general amnesty, bars prosecution of crimes and human rights violations committed during the civil war, but the authorities have faced criticism from NGOs and the Inter-American Court of Human Rights for failing to adequately investigate such crimes. In hopes of initiating extradition processes, a Spanish court issued an Interpol Red Notice in August 2011 for the provisional arrests of former Salvadoran military officers implicated in the murders of six Jesuit priests—five of whom were Spanish—and their housekeeper and her daughter in 1989. However, the Salvadoran Supreme Court claimed that they had not received an official extradition request from Spain, and therefore the government was only responsible for locating the individuals, not arresting them. The Spanish government then formally requested the extradition of 15 military officers in November; the request was pending at year's end.

There are no national laws regarding indigenous rights. According to the U.S. State Department's 2011 human rights report, access to land and credit remain a problem for indigenous people, along with poverty, unemployment, and labor discrimination.

Businesses are subject to regular extortion by organized criminal groups.

While women are granted equal rights under the constitution, they are often discriminated against in practice, including in employment. Violence against women and children is a serious problem, including domestic violence. Despite governmental efforts, El Salvador remains a source, transit, and destination country for the trafficking of women and children for the purposes of prostitution and forced labor.

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