

El Salvador

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Overview:

The Salvadoran government continued to work in 2013 to transform the gang truce between the Mara Salvatrucha (MS-13) and the 18th Street gangs of the previous year into a sustainable peace. While the truce has reduced the country's murder rate by over half, its long-term success is in doubt given the lack of resources available domestically and internationally and the lack of transparency with which the government has facilitated and supported the truce. It has also become a political issue in advance of the February 2014 presidential election.

The independence of the Salvadoran government to make decisions concerning its people was challenged in 2013 following public and private pressure applied by U.S. officials, programs associated with the Bolivarian Alliance for the Peoples of Our Americas (ALBA), litigation by multinational corporations, and infiltration by transnational criminal organizations.

The United States' support for initiatives such as the Public-Private Partnership (P3) law in May, debate on a second Millennium Corporation Compact for El Salvador in September, and investment in a number of programs related to the Partnership for Growth have caused friction between El Salvadorian president Mauricio Funes, his party, the Farabundo Martí National Liberation Front (FMLN), and the business sector and civil society.

Political Rights and Civil Liberties:

Political Rights: 35 / 40 [[Key](#)]

A. Electoral Process: 12 / 12

El Salvador's president is elected for a five-year term, and the 84-member, unicameral Legislative Assembly is elected for three years. Residential voting and absentee voting from Salvadorans living in the US will be available in 2014.

El Salvador held legislative and local elections in March 2012, with a turnout of 51 percent of registered voters. The Nationalist Republican Alliance (ARENA) captured 33 seats and the FMLN 31; they were followed by Grand Alliance for National Unity (GANU) with 11, the National Conciliation (CN) with 7, and the Party of Hope (PES) and the Democratic Change Party (PDC) with 1 seat each. In municipal elections, ARENA captured 116 and the FMLN 95 mayorships; the CN, PES, and GANU shared the remaining 51. An electoral observer mission from the Organization of American States (OAS) made a number of recommendations to improve the legitimacy of El Salvador's electoral process, including the passage of campaign finance and accountability laws, as well as measures to increase female representation in the national and municipal-level governments.

B. Political Pluralism and Participation: 14 / 16

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 leftist FMLN. In 1989, the conservative ARENA captured the presidency, and the civil war ended in 1992 with the signing of a peace treaty. ARENA held the presidency for two decades until the FMLN emerged victorious in 2009 with the more-centrist Mauricio Funes as its presidential candidate. While the FMLN has supported Funes on several issues since taking office, important disagreements have, at times, caused a rift between the president and his party. The FMLN and ARENA are the country's two largest political parties, although there is growing support for former president Antonio Saca's GANA party.

Following the loss of several ARENA congressmen, the FMLN surpassed ARENA as the largest legislative bloc in November 2012. Increasing frustration with the abandonment of the party on whose ticket they had won office led ARENA deputies to propose reforms to the constitution that would impose one-to-three year prison sentences on members of congress who abandoned their party for another or to become independent.

There is increasing concern that foreign governments and multinational corporations are exerting ever greater influence over decisions made by local and national government officials. In September 2013, U.S. senator Patrick Leahy argued that El Salvador should have to demonstrate greater progress toward fighting corruption and making its judiciary more independent before the U.S. Congress would authorize \$277 million in aid to the country. Canadian gold mining company Pacific Rim is suing El Salvador for \$315 million because it claims that the government failed to issue permits for the company to remove gold from the ground. There is also concern with the amount of power that Venezuela has over domestic policy given its \$800 million worth of assets in El Salvador through a joint initiative with FMLN mayors, Alba Petróleos.

After the former inspector general of the National Civil Police (PNC) resigned in January 2012, claiming that the military had gained too much influence over the nation's security institutions, several officers who had been under investigation for ties to drug trafficking and organized crime were promoted or appointed to key positions.

C. Functioning of Government: 9 / 12

Corruption remains a serious problem in El Salvador, and few high level public officials have ever been charged or convicted. In June 2013, however, President Funes announced the creation of a new anti-extortion unit. In July, the Constitutional Chamber agreed to support an investigation into former president Francisco Flores and several prominent businessmen for illicit enrichment. Funes announced in September that his government would establish a Financial Crimes Division of the National Police in order to tackle money laundering by drug-trafficking organizations. That month, the attorney general's office raided a number of homes and served arrest warrants that alleged fraud, embezzlement, the falsification of identity and of documents, and corruption in the Public Works Ministry during the administration of president Tony Saca (2004-2009). In October, President Funes ordered his ministers to cooperate with the attorney general in his investigation of an unnamed ex-president for money laundering and tax evasion. El Salvador was ranked 83 out of 177 countries surveyed in Transparency International's 2013 Corruption Perceptions Index.

While President Funes maintains very high approval ratings, questions surrounding his administration's lack of transparency regarding the government's facilitation of a March 2012 truce between the MS-13 and the 18th Street gangs linger. After initially denying involvement with the truce, the government eventually acknowledged it and held several meetings with representatives of civil society, political parties, the business community, and the OAS in order to devise a long-term plan to sustain the peace. However, the president has not clarified the government's involvement in facilitating the agreement and continues to be vague about the ongoing negotiations. Mayors across the political spectrum have continued to support the

truce, creating so-called sanctuary cities (also known as “peace zones” and “violence-free municipalities”) where gang members surrender their weapons and cease to engage in all criminal activities. In June, Attorney General Luis Martinez accused former minister of justice and public security David Munguía Payés of obstructing police anti-gang operations. Meanwhile, in October, critics accused Minister of Justice and Public Security Ricardo Perdomo of politicizing the debate over the truce in advance of the 2014 elections. International security analysts have accused President Funes of downplaying the severity of organized crime, money laundering and drug trafficking in El Salvador.

Civil Liberties: 42 / 60

D. Freedom of Expression and Belief: 15 / 16

The constitution provides for freedom of the press, and this right is generally respected in practice. The staff of the newspaper *El Faro* have received threats and reported being followed after reporting in May 2011 about connections between gang leaders, politicians, and businessmen, as well as the March 2012 gang truce. In July 2013, President Funes vetoed a bill that would have established fines of up to \$25,000 against individuals who defame presidential candidates. The congress also passed a Special Law for the Right to Rectification or Response in July that required media outlets to print any letter written by anyone offended by the outlet’s reporting. Failure to do so could result in a fine or a prison sentence. 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.

E. Associational and Organizational Rights: 8 / 12

Freedoms of assembly and association are generally upheld. Public protests during recent constitutional conflicts have not been obstructed. The Legislative Assembly passed a controversial law in 2010 criminalizing gang membership, which critics feared would threaten freedom of association and would not succeed in addressing gang-related crime. While there was hope that the Salvadoran government might repeal the law as part of its new approach to public security, there has been no movement to do so. El Salvador’s nongovernmental organizations (NGOs) generally operate freely, but some have reported registration difficulties. In an act of intimidation in November, armed men broke into and burned the records of Pro-Búsqueda, a Salvadoran non-profit that works to locate children missing from the war. Labor unions have long faced obstacles in a legal environment that has traditionally favored business interests.

F. Rule of Law: 9 / 16

Although El Salvador’s judicial system remains weak and judges and others continue to speak out against the corruption and obstructionism that still permeates the entire judiciary, the Constitutional Chamber of the Supreme Court continues to demonstrate its independence. In December 2012, the Constitutional Chamber ruled that elements of the regulations issued by the Funes administration to implement the Access to Information Law were unconstitutional. In March 2013, the Chamber ruled against the Legislative Assembly’s appointment of four out of five magistrates on the Court of Accounts. In May, the

Chamber ruled that President Funes' appointments of two former military officials to the positions of minister of justice and public security and PNC, respectively, violated the constitutional requirement that those positions be staffed by civilian authorities. In July, the Chamber blocked the introduction of a new vehicle tax. In October, it declared unconstitutional the Legislative Assembly's selection of Salomón Padilla as president of the Supreme Court on the grounds that his previous political ties to the FMLN should have disqualified his selection.

Justice system officials continue to be criticized for brutality, corruption, arbitrary arrest, and lengthy pretrial detention. The country's prison system continues to operate at over 300 percent of its capacity, and nearly 30 percent of inmates have not been convicted of a crime. In September 2013, President Funes announced plans to reduce prison overcrowding by building a new prison, increasing space at an existing prison in Izalco, and expanding work farms and the use of electronic ankle bracelets.

The U.S. Treasury Department named MS-13 a transnational criminal organization in October 2012 and imposed sanctions on six Salvadoran leaders in June 2013 by adding them to its Specially Designated Nationals List. El Salvador remained one of the most violent countries in the hemisphere in 2013, though crime rates were down from their high in 2011. El Salvador has remained on the U.S. list of "major" drug producing and transit countries since 2011, and the country has been criticized for not attacking organized crime. In August, authorities arrested Roberto Herrera of the Taxis Cartel, and on September 17 additional cartel members, including a former legislator, a police inspector, and a public defender, were arrested.

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 (IACHR) for failing to adequately investigate such crimes. The Constitutional Chamber of the Supreme Court announced in September that it would consider repeal or nullification of the law. The Attorney General's office also announced its intention to investigate several civil war era massacres including those at El Mozote and the Sumpul River. The Legislative Assembly elects a human rights ombudsman for a three-year term. David Morales was elected to the position in August.

G. Personal Autonomy and Individual Rights: 10 / 16

Discrimination on the basis of sexual orientation is widespread in El Salvador even though it is prohibited by law. Human rights NGO Comcavis Trans reported that four transgender women and one gay man had been killed as of September.

There are no national laws regarding indigenous rights. Access to land and credit remain a problem for indigenous people, along with poverty, unemployment, and labor discrimination. Businesses and private citizens 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. Abortion is illegal, even when the life of the mother is at risk, and can be punishable by prison time. In May 2013, the Constitutional Chamber of the Supreme Court ruled to affirm this law, stating that the "rights of the mother cannot be privileged over the fetus." In July, a young woman was sentenced to 30 years in prison on charges of aggravated homicide for having an abortion. Violence against women, including domestic violence, is a serious problem. Several police officers were arrested in separate incidents in 2013 for abusing their wives or girlfriends, and an aide in the Legislative Assembly was convicted of assault against his girlfriend and sentenced to six years in prison in May. 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.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

[Full Methodology](#)