

EL SALVADOR 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

El Salvador is a constitutional multiparty republic. Municipal and legislative elections held in 2015 were generally free and fair, although results were delayed due to slow transmission, tabulation, and vote count dissemination. Free and fair presidential elections took place in 2014.

Civilian authorities failed at times to maintain effective control over security forces.

The most significant human rights issues included alleged unlawful killings of suspected gang members and others by security forces; forced disappearances by military personnel, which the government prosecuted; torture by security forces; harsh and life-threatening prison conditions; arbitrary arrest and detention; lack of government respect for judicial impartiality and independence; widespread government corruption; gang-member violence against women and girls as well as lesbian, gay, bisexual, transgender, and intersex individuals; and children engaged in the worst forms of child labor.

Impunity persisted despite government steps to dismiss and prosecute some officials in the security forces, the executive branch, and the justice system who committed abuses.

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

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

During the year there were no verified reports that the government or its agents committed politically motivated killings. There were reports, however, of security force involvement in unlawful killings. As of August 31, the Office of the Human Rights Ombudsman (PDDH) announced that it was investigating 13 complaints against police and four against the armed forces for unlawful killings. As of September 7, the PDDH announced it had received at least 20 complaints of alleged unlawful killings committed by 40 security or military officials. According to the National Civil Police (PNC), as of October 6, state security forces killed 337 gang members during armed confrontations, compared with 603 in 2016. As of September 30, gang members had killed two police officers and one soldier during

armed confrontations and another 37 police and 25 members of the military in targeted assassinations. As of August, the Internal Affairs Unit of the PNC reported that 38 PNC officers faced charges of homicide: 17 for aggravated homicide, one for femicide, 17 for homicide, and three for attempted homicide.

On August 29, the Attorney General's Office confirmed it was investigating four Special Reaction Force (FES) police officers who were arrested on August 24 following the August 22 publication by *Factum* magazine of allegations that FES officers were involved in the unlawful killing of three persons, two sexual assaults, and at least one act of extortion. On August 25, the officers were released because the 72-hour holding period had expired. They were put on administrative leave but returned to active duty on September 12.

On September 11, the PNC confirmed the arrest of nine police officers charged with aggravated homicide and concealment stemming from the alleged cover-up of the killing of five persons in Villas de Zaragoza in February 2016. Three of the accused were members of the Police Reaction Group (GRP), and police claimed at the time of the events that the deaths were justified homicides. As of October 13, five of the accused remained in custody, and one sub inspector was released on bail and was awaiting trial. On July 14, the Attorney General's Office reported that it conducted a re-enactment of the shooting in conjunction with the PNC's Internal Affairs Unit. Laboratory results were pending.

On September 22, five police officers were acquitted of aggravated homicide charges in the 2015 killing of a man at a farm in San Blas, San Jose Villanueva. The judge ruled that the prosecutors failed to prove which of the five officers was specifically responsible for firing the fatal shot and likewise failed to prove conspiracy. The presiding judge redacted the names of the accused, but on August 30, the Attorney General's Office confirmed that all were members of the elite GRP. The acquittal took place a day after the son-in-law of the primary witness in the case was killed, which led the attorney general to offer to relocate the family, but the Witness Protection Program could provide the services only to four of the 12 family members. As of October, a police investigation by the PNC Internal Affairs Unit continued.

On August 15, the Attorney General's Office reported that it was awaiting laboratory results on ballistics from weapons used by soldiers in the 2015 Los Pajales case, which involved the close-range killing of four unarmed gang members.

On July 14, the Attorney General's Office reported that the Internal Affairs Unit was investigating the 2015 killing of four alleged gang members at the La Paz Farm in Cojutepeque, Cuscatlan. On October 11, the PNC submitted their findings to the Attorney General's Office for evaluation.

On June 20, as a result of a two-year criminal investigation, four police officers, 10 soldiers, and two former members of the military were arrested for their participation in at least eight homicides as part of an alleged extermination group operating in San Miguel. The group was purportedly responsible for murder-for-hire and targeted killings of alleged gang members in San Miguel and was composed of civilians, some of whom were alleged rival gang members, and retired and active members of the military and police. The June detentions followed the arrest of five police officers and five civilians for their participation in the San Miguel extermination group in 2016. Funding for the extermination group reportedly came from citizens living abroad. As of October 13, a preliminary evidentiary hearing was pending.

As of October the Office of the Inspector General of the Ministry of Public Security and Justice had received five complaints of extrajudicial killings against police. On July 26, the Public Opinion Institute of the University of Central America (IUDOP) reported that, while six of 10 citizens believed that authorities should respect rule of law, 40 percent approved of the use of torture for dealing with gang members, 35 percent approved of extrajudicial executions, and 17 percent approved of social cleansing.

b. Disappearance

There were reports alleging that members of the armed forces have been involved in unlawful disappearances. In July 2016 the Constitutional Chamber of the Supreme Court and the criminal court in the municipality of Armenia, in the department of Sonsonate, ruled there was sufficient evidence to proceed with the case in which three men went missing after six soldiers arrested them in 2014 in Armenia. In November 2016, the trial chamber acquitted the defendants due to a lack of evidence that the accused forced or restrained the victims. Immediately after the acquittal, the PDDH began an investigation into the acquittal. On January 16, following an appeal by the NGOs Legal Studies Foundation and the Salvadoran Association for Human Rights, the Constitutional Chamber of the Supreme Court held that the Armenia case amounted to forced disappearance, and the PNC's Central Investigations Division took ownership of the case. On April 20, following pressure from civil society, the Attorney General's Office reopened the

case against the six soldiers. On May 15, the Sonsonate trial court convicted five soldiers of forced disappearance and sentenced them to eight years' imprisonment. Defense attorneys for the convicted soldiers filed an appeal with the Appellate Court for the Western District. On August 15, the Supreme Court ordered the military to provide its report on the civilian deaths to the Attorney General's Office, but as of October 30, it had not been sent.

On September 27, President Sanchez Ceren launched the National Commission for the Search of Adults Disappeared in the Context of the Armed Conflict to find persons who were disappeared during the civil war and reunite them with their families or return their remains. The commission is to be headed by three commissioners and housed in the Ministry of Foreign Affairs. Two of the commissioners are to be appointed by civil society and one by the president. The commission's budget will not fall under the budget of the Ministry of Foreign Affairs, and it has not been earmarked from another part of the national budget. The ministry estimated that for its first year, the commission requires a budget of \$250,000, which the commissioners will be responsible for raising.

As of August 30, the nongovernmental organization (NGO) Association for the Search for Missing Children (Pro-Busqueda) received 10 new complaints regarding children who disappeared during the 1980-92 civil war. Pro-Busqueda also reported that it was investigating 979 open cases, had solved 435 cases, and determined that, in 17 percent of solved cases, the child had died. According to Pro-Busqueda, between 20,000 to 30,000 children were adopted during the civil war, many of whom were forcibly disappeared.

As of August, according to the Office of the Inspector General of the Ministry of Public Security and Justice, one complaint of forced disappearance was filed against the PNC. As of September 7, the attorney general had opened investigations into 12 instances of forced disappearance during the 1980-92 civil war.

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

The law prohibits such practices, but there were multiple reports of violations. The PDDH received 29 complaints of torture or cruel, inhuman, or degrading treatment by the PNC, the armed forces, and other public officials. The PNC reported that, as of August, some 20 complaints had been filed against police officials for torture or cruel, inhuman, or degrading treatment. As of October the Ministry of Public

Security and Justice's Office of the Inspector General reported 29 complaints against police officers for alleged cruel treatment.

NGOs reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community stated that the agencies in charge of processing identification documents, the PNC, and the Attorney General's Office harassed transgender and gay individuals when they applied for identification cards or reported cases of violence against LGBTI persons. The LGBTI community reported authorities harassed LGBTI persons by conducting strip searches and questioning their gender in a degrading manner. The government responded to these claims primarily through a PDDH report on hate crimes against the LGBTI community that publicized cases of violence and discrimination against sexual minorities and specifically mentioned three killings of transgender women in February, although their murders were tied to gang activity.

Prison and Detention Center Conditions

Prison and detention center conditions remained harsh and life threatening due to gross overcrowding, unhygienic conditions, and gang activities.

Physical Conditions: Overcrowding remained a serious threat to prisoners' health and lives. As of June 30, the think tank Salvadoran Foundation for Economic and Social Development (FUSADES) reported 38,386 inmates were being held in facilities designed for 11,478 inmates. This is an increase in capacity from 9,732 inmates in 2016.

As of September 21, the prison population included 25,849 convicted inmates and 12,851 inmates in pretrial detention. Convicted inmates and pretrial detainees were sometimes held in the same prisons and cells. The Salvadoran Institute for Child Development (ISNA) also reported that, as of July, there were 1,155 convicted juveniles incarcerated in its facilities, 211 of whom were awaiting trial. Among those in ISNA facilities, 320 were incarcerated on homicide charges, 254 on extortion charges, 156 on drug-related charges, and 143 were incarcerated for belonging to a criminal association or gang. The ISNA reported that 4 percent of minors spent more than 72 hours in initial detention. As of July the ISNA reported that two adolescents had been killed in juvenile detention facilities, allegedly by fellow gang members.

In many facilities, provisions for sanitation, potable water, ventilation, temperature control, medical care, and lighting were inadequate. On July 3, the PDDH published a report on the so-called extraordinary measures implemented in prisons since April 2016, some of which allegedly led to abuse of the right to life and the right to health of inmates. The extraordinary measures affected 14,213 inmates housed in seven prisons: Izalco, Izalcon III, Quezaltepeque, Chalatenango, Ciudad Barrios, Gotera, and Zacatecoluca penitentiaries. These measures included preventing communication between inmate gang leaders and members outside of prison, suspending all private communication and contact with inmates' families, limiting inmates' access to lawyers, and detaining and isolating known gang leaders in higher security prisons. Inmates were also potentially restricted to their overcrowded prison cells for most hours of the day, allowing diseases to spread more easily. The PDDH report highlighted that tuberculosis cases increased by 400 percent in the prisons system after the implementation of the extraordinary measures. The Prisons Directorate reported that, as of August, there were 892 prisoners infected with tuberculosis, and 19 had died of the disease. The PDDH mediated 2,000 cases related to prison conditions and noted that in 2016 a total of 47 inmates died, some of them due to unspecified reasons.

On August 22, Vice Minister of Health Julio Robles Ticas announced the creation of an interinstitutional committee for combating infectious and contagious diseases inside prisons and police detention cells. This followed an August 18 statement by Security Minister Mauricio Ramirez Landaverde that there were tuberculosis outbreaks at the Izalco, La Esperanza (known as Mariona), Sonsonate, and San Vicente prisons, mostly due to overcrowding. In September the PNC reported that due to prison overcrowding, there were 5,527 detainees in small detention centers at police stations, which had a combined capacity of 2,102 persons. In pretrial detention, there was no separation of sick and healthy detainees. In May 2016 the Constitutional Chamber of the Supreme Court declared unconstitutional the systematic violation of basic human rights by prison overcrowding, citing the government for violating prisoners' right to health, and ordered periodic visits by the Ministry of Health. The court ordered prison authorities to build new prisons and to remodel others to shelter inmates humanely and the judicial system to review the inmate rosters with the aim of reducing the number of prisoners.

Gang presence in prisons remained high. As of September 21, detention center facilities held 17,614 inmates who were current or former gang members, approximately 46 percent of the total prison population. Despite the extraordinary measures, prisoners conducted criminal activities from their cells, at times with the complicity of prison guards and officials. Smuggling of weapons, drugs, and other

contraband such as cell phones and cell phone SIM cards was a major problem in the prisons.

On May 29, Prisons Director Rodil Hernandez was arrested for the alleged mismanagement of two million dollars during the 2012-13 gang truce. Hernandez allegedly used funds from prison commissary shops to fund bonuses, overtime, and vacations; give loans to prison employees; and pay the salary of gang-truce mediator Raul Mijango, which was supposed to come from the Ministry of Defense. On August 29, Hernandez, among others, was acquitted on the grounds that the prosecution failed to prove individual responsibility for the alleged crimes. On October 5, the attorney general appealed.

As of September 21, prison authorities removed 11 guards from duty for carrying illegal objects. The Prisons Directorate reported that no data was collected on the exact number of guards sanctioned over the year for misconduct or complaints regarding human rights violations. As of August, the PDDH had received three complaints of human rights violations by prison personnel.

There was no information available regarding abuse of persons with disabilities in prisons, although the government's National Council for Comprehensive Attention to Persons with Disabilities (CONAIPD) previously reported isolated incidents, including sexual abuse.

Administration: The PDDH has authority to investigate credible allegations of inhuman conditions. The Constitutional Chamber of the Supreme Court has authority over the protection of constitutional rights. Under the extraordinary measures implemented in April 2016 and renewed in February until April 2018, inmates in the affected prisons were under restrictive conditions and could not receive visitors, including religious observance visitors such as priests.

Independent Monitoring: The government permitted visits by independent human rights observers, NGOs, and the media, except to those prisons covered by the extraordinary measures. The PDDH continued to monitor all prisons. Church groups, the Institute for Human Rights at the University of Central America, LGBTI activists, and other groups visited prisons during the year. After the implementation of the extraordinary measures, which restricted monitoring of the prisons subject to the measures, the International Committee for the Red Cross suspended all prison visits until visitation was restored in the prisons subject to the extraordinary measures.

Improvements: In February prison Izalco II opened with the aim of relieving overcrowding in the prisons covered under the extraordinary measures. As of August a total of 2,017 inmates were housed in the new facility after being transferred from other prisons. On October 4, a new detention facility in Zacatecoluca was inaugurated with a capacity of 1,008 minimum-security general population inmates. On November 27, the new La Esperanza Detention Center opened in Ayutuxtepeque, in the department of San Salvador, housing 275 inmates with short prison terms transferred from other prisons. According to the Prisons Directorate, the facility was built to house 3,000 minimum security prisoners.

d. Arbitrary Arrest or Detention

Although the constitution prohibits arbitrary arrest and detention, there were numerous complaints that the PNC and military forces arbitrarily arrested and detained persons. As of August the PDDH had received 86 complaints of arbitrary detention by police, the military, or other government officials. NGOs reported that the PNC arbitrarily arrested and detained groups of persons on suspicion of gang affiliation. According to these NGOs, the accused were ostracized by their communities upon their return.

The law provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and the government generally observed this provision.

Role of the Police and Security Apparatus

The PNC, overseen by the Ministry of Justice and Public Security, is responsible for maintaining public security, and the Ministry of Defense is responsible for maintaining national security. Although the constitution separates public security and military functions, it allows the president to use the armed forces “in exceptional circumstances” to maintain internal peace and public security “when all other measures have been exhausted.” In 2016 President Sanchez Ceren renewed the decree authorizing military involvement in police duties through the end of the 2017, a presidential order that has been in place since 1996.

The three quick-reaction military battalions created in 2015 to support PNC operations, and whose troops have arrest and detention authority, continued to operate. The military is responsible for securing international borders and conducting joint patrols with the PNC. On September 18, the government launched the Volcano Task Force, intended to temporarily expand the military’s presence in San Salvador by transferring 320 members of the armed forces already

assigned to support police functions to the capital city's police precinct and installing military lookouts in multiple points throughout the city. Military vehicles, including tanks, were deployed throughout residential areas around San Salvador. There was an increase in security checkpoints and random searches of public buses.

There were reports of impunity involving the security forces during the year. Inadequate training, failure to implement the administrative police career law, arbitrary promotions, insufficient government funding, failure to enforce evidentiary rules effectively, and instances of corruption and other crimes limited the PNC's effectiveness. The PDDH is authorized to investigate (but not prosecute) human rights abuses and refers all cases involving human rights abuses to the Attorney General's Office.

On July 3, a PDDH report stated that the number of complaints against police and soldiers increased during the months of April and May 2016, immediately following the implementation of the extraordinary measures. Most of these allegations were for extralegal executions, threats, mistreatment, torture, illegal detention, and intimidation. According to the NGO Passionist Social Service Observatory (SSPAS), a Catholic organization that operates primarily as a human rights observer, the number of police and military personnel accused of homicide increased from 49 police officers and 10 soldiers in 2014 to 357 police officers and 72 military personnel in 2016. The IUDOP characterized the homicide events as police negligence. On July 26, the IUDOP reported that 88 percent of citizens did not report direct abuse by police officers. Reports of abuse and police misconduct were more often from residents of the metropolitan area of San Salvador and mostly from men and young persons. The attorney general reported that the number of police officers accused of homicide had increased over the previous three years. Between 2014 and 2016, more than 500 police officers were charged with homicide.

As of October, the Office of the Inspector General received 29 complaints of cruel, inhuman, or degrading treatment--199 for physical abuse, 100 for illegal searches, 11 for violence against women (including rape and sexual abuse), and five for extrajudicial killing. The Inspector General's Office referred 18 of the cases to the Attorney General's Office for possible criminal charges and nine to the Internal Affairs Unit of the PNC.

On August 31, the PDDH released its annual findings on the status of human rights, which stated that it received 363 complaints of human rights violations by

public officials, 331 of which were reportedly committed by the PNC and the military.

In response to an alleged rise in extrajudicial killings, in 2016 the PNC launched a newly organized internal investigative office, the Secretariat for Professional Responsibility. The body was composed of an Internal Affairs Unit to investigate criminal complaints against police officers, a Disciplinary Unit to investigate administrative violations, and a Control Unit to enforce internal affairs procedures and support investigations as required.

As of September 11, according to PNC director Howard Cotto, 559 members of the PNC had been arrested for crimes including membership in extermination groups. As of October, the Office of the Inspector General of the Ministry of Public Security and Justice reported that the disciplinary board had sanctioned 753 police officers, 136 of whom were dismissed. On May 5, the Minister of Defense reported that between 2010 and 2017, the army removed 660 soldiers from its ranks due to alleged ties to gang members.

The Inspector General and the Ministry of Defense Human Rights Office reported that most PNC officers, police academy cadets, and all military personnel had received human rights awareness training, including training by the Salvadoran Institute for the Development of Women, the Human Rights Institute of the University of Central America, and the Inter-American Institute of Human Rights.

Police officers, soldiers, and their families faced security threats as targets of gang homicides and kidnappings. As of October 30, a total of 39 police officers, 37 of whom were off duty, and 26 soldiers had been killed. Prisons Director Marco Tulio Lima announced that, as of October 12, three prison guards had been killed. An increased perception of danger to the police coincided with increased public support for police officers. According to a September *Prensa Grafica* poll, 56 percent of citizens had a positive opinion of the PNC. In February the IUDOP reported that support for the police had increased over the previous year, with 63 percent of the public agreeing that police were more effective compared with the previous year.

Arrest Procedures and Treatment of Detainees

The constitution requires a written warrant of arrest except in cases where an individual is caught in the act of committing a crime. Authorities apprehended

persons with warrants based on evidence and issued by a duly authorized official. Police generally informed detainees promptly 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. The courts generally enforced a ruling that interrogation without the presence of counsel is coercive and that evidence obtained in such a manner is inadmissible. As a result, PNC authorities typically delayed questioning until a public defender or an attorney arrived. Detainees normally had access to counsel of their choice or to an attorney provided by the state. The constitution permits the PNC to hold suspects for 72 hours before presenting them 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 continued beyond the legally prescribed period.

Arbitrary Arrest: As of August 31, the PDDH reported 86 complaints of arbitrary detention or illegal detention during the year, compared with 62 in all of 2016.

Pretrial Detention: Lengthy pretrial detention was a significant problem. As of June 30, 33 percent of the general prison population was in pretrial detention. Lengthy legal procedures, large numbers of detainees, judicial inefficiency, corruption, and staff shortages caused trial delays. Because it could take several years for a case to come to trial, some persons remained in pretrial detention longer than the maximum legal sentences for their alleged crimes. In such circumstances, detainees may request a Supreme Court review of their continued detention.

On January 9, two police officers detained Daniel Aleman for carrying one pound of marijuana. None of the 30 witnesses to the arrest saw the marijuana, and his defense attorney noted that the arrest was based solely on the accusations of the two police officers. On March 16, the PDDH determined that the police illegally detained Aleman by fraudulently placing illegal drugs on him in order to file charges against him. On May 16, the Ilopango Court of Instruction voided the drugs case against Aleman. He remained under investigation in a separate extortion case.

e. Denial of Fair Public Trial

Although the constitution provides for an independent judiciary, the government did not respect judicial independence and impartiality, and the judiciary was burdened by inefficiency and corruption. The Solicitor's Office, responsible for public defenders, the Attorney General's Office, and the PDDH suffered from insufficient resources.

While the government generally respected court orders, some agencies, such as the Ministry of Defense, repeatedly failed to cooperate with investigations by the Attorney General's Office and judges. The Legislative Assembly also did not always comply with Supreme Court rulings. As of October 30, the Legislative Assembly had not complied with a 2015 ruling that it issue regulations to clarify certain sections of the Political Parties Law regarding campaign contributions.

Intimidation of judges, including Supreme Court members, continued to occur. Two legislators participated in demonstrations critical of judges, especially the Constitutional Chamber of the Supreme Court. Supreme Court justices increased their personal security as a result. On October 23, a member of the ruling Farabundo Marti National Liberation Front (FMLN) political party threatened to sue members of the Constitutional Chamber of the Supreme Court for perceived abuse of power. On August 17, the Council of Ministries, a part of the executive branch, issued a public statement against the Constitutional Chamber that declared the 2017 budget unconstitutional. On May 11, an estimated 300 persons marched to the Supreme Court to protest against the Constitutional Court following an injunction that ended the use of segregated lanes of the Metropolitan Area Integrated Transportation System of San Salvador (SITRAMSS). Unlike with most protests, police officers did not set up barricades to stop them from moving to the main gate of the court; demonstrators reached the main gate and damaged it. *El Mundo* newspaper noted that despite verbal threats against the justices during the protest and damage to public property, the PNC did not intervene.

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. As of July 31, the Supreme Court heard 148 cases against judges due to irregularities, 117 of which remained under review; removed six judges; suspended 19 others; and brought formal charges against 28 judges. Accusations against judges included collusion with criminal elements and sexual harassment.

In July 2016 the Constitutional Chamber of the Supreme Court struck down the 1993 Amnesty Law on the grounds that it violated citizens' constitutional right to justice and the right to compensation for crimes against humanity and war crimes.

The law provided blanket protection against criminal prosecution and civil penalties for crimes committed during the country's civil war (1980-92), and the court's ruling held that the Legislative Assembly did not have authority to grant an absolute amnesty. On July 19, the Constitutional Chamber held a follow-up hearing on the progress made by different sectors of the government to comply with the recommendations made by the court, such as issuing a law to guarantee a democratic transition that respects human rights and interagency coordination between the executive and the attorney general to improve judicial accountability for gross violations of human rights committed during the civil war. As of October 30, the Legislative Assembly had not debated or passed legislation pertaining to reparations or reconciliation, and the executive had not granted sufficient funds to the attorney general to prosecute civil war cases.

On August 21, the Constitutional Chamber of the Supreme Court published its August 18 ruling against enforcing an arrest warrant for 13 former members of the military accused of the 1989 murder of six Jesuit priests, their housekeeper, and her daughter. The court noted that it had denied multiple extradition requests from Spain on the Jesuit case, and therefore it would not issue additional arrest warrants based on Spain's Interpol Red Notice, as the arrests would not lead to extraditions. On April 6, the First Appellate Criminal Court of San Salvador upheld the 30-year sentence against former colonel Guillermo Alfredo Benavides Moreno for his role in the 1989 murders, and he was the sole individual in prison for the crimes. Lieutenant Yushy Rene Mendoza Vallecillos was sentenced to 30 years for the murder of the priests' housekeeper's daughter in the original 1991 trial. Mendoza was not arrested along with Benavides and his whereabouts were unknown, although he was believed to be out of the country.

On June 2, the attorney general issued arrest warrants for three ex-guerrilla members of the People's Revolutionary Army (ERP) allegedly responsible for the 1981 deaths of two foreign citizens--Lieutenant Colonel David H. Pickett and an aviation technician, Private First Class Earnest G. Dawson Jr.--killed in Lolotique, San Miguel, after their helicopter was shot down. The warrants followed the February 14 reopening by the Attorney General's Office of the investigation into their killing after a petition from the right-leaning NGO Victims of Terrorism in El Salvador Alliance. Two of the guerrilla members, Ferman Hernandez Arevalo (alias Porfirio) and Ceveriano Fuentes (alias Aparicio), served time in prison but were released after the passage of the 1993 Amnesty Law. A third former guerilla member suspected of involvement in the killing, Santos Guevara Portillo (alias Dominguez), was never arrested. As of August 30, the three defendants had not been arrested.

In September 2016, in response to a petition by the victims, a judge issued an order to reopen the investigation into the 1981 El Mozote massacre, in which an estimated 800 persons were killed during the military's Operation Rescue. On March 29-30, Judge Guzman held hearings to inform 20 accused former military officials of the charges against them. Two of the accused were deceased, and 12 of the remaining 18 attended the hearing. Eleven other defendants had died since the case was initiated in 1991 by Tutela Legal, a human rights defense organization formerly housed in the Institute for Human Rights at the University of Central America. The hearings marked the first time the defendants were summoned before a judicial body to face accusations for crimes committed during the massacre. On June 9, the prosecution called on 11 witnesses to provide testimony in the trial regarding events that occurred between December 11 and 13, 1981. Witness testimony continued into September and October. On October 19, former general Juan Rafael Bustillo, the accused intellectual author of the massacre, appeared before the court to hear the charges against him. The Ministry of Defense did not provide information requested by the presiding judge or prosecution and claimed that all records of Operation Rescue had been destroyed or never existed, including the names of the soldiers who participated in the operation and their commanding officers. David Morales, representative of the victims, asked the attorney general to investigate the steps taken by the Ministry of Defense that led to their conclusion that it had no information on Operation Rescue. On October 25, the Technical Secretariat stated that between 2013 and 2017, the state paid \$1.8 million in restitution to survivors and the families of victims of the El Mozote massacre, of which 1,651 were identified.

Civil society advocates expressed concern that pregnant women were falsely accused and experienced wrongful incarceration in cases where the woman may have suffered a miscarriage or stillbirth but was wrongfully charged with homicide under the law banning abortion in all cases. On December 15, San Salvador's Second Court of Judgment denied the appeal of Teodora del Carmen Vasquez and upheld her 30-year sentence for aggravated homicide over what she claimed was a stillbirth.

Trial Procedures

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right, although some trial court judges were subject to political and economic influence. Although procedures call for juries to try certain crimes, including environmental pollution and certain misdemeanors,

judges decided most cases. By law juries hear only a narrow group of cases, such as environmental complaints, to which the law does not assign judges. In these cases, after the jury determines innocence or guilt, a panel of judges decides the sentence.

Defendants have the right to be present in court, question witnesses, and present witnesses and evidence. The constitution further provides for the presumption of innocence, the right to be informed promptly and in detail of charges, the right to a trial without undue delay, protection from self-incrimination, the right to communicate with an attorney of choice, the right to adequate time and facilities to prepare a defense, freedom from coercion, the right to confront adverse witnesses and present one's own witnesses and evidence, the right to appeal, and government-provided legal counsel for the indigent. The judiciary introduced trials by video conference and other technology-based solutions to courtrooms in an effort to combat trial backlogs and improve trial procedures.

In criminal cases a judge may allow a private plaintiff to participate in trial proceedings (calling and cross-examining witnesses, providing evidence, etc.), assisting the prosecuting attorney in the trial procedure. Defendants have the right to free assistance of an interpreter if the defendant does not understand Spanish. Authorities did not always respect these legal rights and protections. Although a jury's verdict is final, a judge's verdict is subject to appeal. Trials are public unless a judge seals a case.

As of August 31, the PDDH had received 16 complaints of coercion and 68 complaints of intimidation by the PNC, the armed forces, and other public officials during criminal investigations or trial procedures.

The Ministry of Justice and Public Security's Executive Technical Unit provided witness protection services to victims and witnesses. Some judges denied anonymity to witnesses at trial, and gang intimidation and violence against witnesses contributed to a climate of impunity from criminal prosecution. According to PNC director Howard Cotto, as of August 30, there were 55 individuals under witness protection.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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. Domestic court orders generally were enforced. Most attorneys pursued criminal prosecution and later requested civil compensation.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

On July 5, the president of FUSADES stated that according to experts, unknown persons had illegally wiretapped the foundation's telephone lines.

In many neighborhoods, armed groups and gangs targeted certain persons, interfered with privacy, family, and home life, and created a climate of fear. Efforts by authorities to remedy these situations were generally ineffective.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected these rights. Some restrictions, however, occurred throughout the year. The law permits the executive branch to use the emergency broadcasting service to take over all broadcast and cable networks temporarily to televise political programming.

Press and Media Freedom: There continued to be allegations that the government retaliated against members of the press for criticizing its policies.

On June 30, news anchor Rafael Dominguez, a strong critic of the administration, warned that his Channel 8 morning show, *Asi Estamos*, was cancelled in response to government pressure on the channel for his broadcasts. Although the program was initially canceled, it was restarted on July 19 after pressure from journalist associations and civil society.

Violence and Harassment: After reporting on violence in the country, journalist contacts reported experiencing threats from persons believed to be government officials. On August 24, *Factum* magazine journalist Juan Martinez d'Aubuisson reported intimidation, possibly by police officers, due to an August 22 report, "An Inside Look at a Police Death Squad." The report presented evidence that led to the arrest of four police officers linked with extrajudicial killings, sexual abuse, and extortion. On August 24, an anonymous Twitter account reportedly run by police officers called for the death of journalists from *Factum* and online *El Faro* magazine, similar to the death of Christian Poveda, a journalist killed in 2009 by gang members after a supposed betrayal of loyalty. On August 26, *Factum* magazine staff also reported that four individuals posing as PDDH officers visited their offices and asked about the whereabouts of a number of journalists. *Factum* staff contacted the journalists, who subsequently contacted the PDDH, and PDDH representatives confirmed that they had not sent anyone.

On August 30, the PDDH called on the attorney general to issue protective measures for Martinez and other *Factum* journalists. According to *Factum* journalist Cesar Castro Fagoaga, the PNC offered special police protection, but the journalists declined the protection, as it was being provided by police, and insisted on a thorough investigation. The *Factum* journalists were interviewed by the Attorney General's Office in September and were told by the prosecutor that police had not been in touch with their office. On October 27, the Inter-American Commission on Human Rights ordered protective measures for the *Factum* journalists. According to Castro Fagoaga, as of November 22, government officials had not been in touch to coordinate the measures.

Censorship or Content Restrictions: Government advertising accounted for a significant portion of press advertising income, although exact data was not publicly available. Newspaper editors and radio directors occasionally discouraged journalists from reporting on topics the owners or publishers might not view favorably. According to the Salvadoran Journalists Association (APES), the media practiced self-censorship, especially in its reporting on gangs and narcotics trafficking.

Nongovernmental Impact: APES noted journalists reporting on gangs and narcotics trafficking were subject to threats and intimidation, resulting in self-censorship.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. The International Telecommunication Union reported 29 percent of the population used the internet in 2016.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights, although there were occasions where the government used intimidation tactics to discourage assembly.

On January 10, the PNC Disciplinary Tribunal dismissed five police officers for leading the Police Workers Movement (police union) protests. The case was initiated in January 2016, after more than 1,000 police officers and their families marched for better wages. This unprecedented police protest followed a wave of assassinations of police officers in 2015. The officers appealed the dismissal, and on April 30, an appeals chamber upheld the decision against four of the officers on the grounds that they violated a law prohibiting the police from striking and dismissed charges against the fifth police officer, who served as an administrative assistant.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights, although in many areas the government could not provide freedom of movement due to criminal gang activity.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) 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 government, however, could not facilitate services in many of the gang-controlled neighborhoods most in need.

In-country Movement: The major gangs controlled their own territory. Gang members did not allow persons living in another gang's controlled area to enter their territory, even when travelling via public transportation. Gangs forced persons to present identification cards (containing their addresses) to determine their residence. If gang members discovered that a person lived in a rival gang's territory, that person risked being killed, beaten, or not allowed to enter the territory. Bus companies paid extortion fees to operate within gang territories, often paying numerous fees for the different areas in which they operated. The extortion costs were passed on to paying customers.

Internally Displaced Persons (IDPs)

There were no official government figures on IDPs. A December 2016 IUDOP poll reported that 5 percent of citizens had changed their place of residence due to crime, with 66 percent changing their place of residence once, 31 percent from two to four times, and 3.2 percent five or more times. According to the poll, 40.3 percent stated they might migrate to another country in the following year. The percentage of persons expressing a desire to migrate abroad was the highest in 10 years. The poll also reported that 17.2 percent of individuals had a family member forced to migrate to another country due to threats or to some violent event in 2016. UNHCR estimated there were 280,000 internally displaced persons. UNHCR reported the causes of internal displacement included abuse, extortion, discrimination, and threats.

The NGO International Rescue Committee estimated that the number of IDPs totaled approximately 324,000, or 5.2 percent of the country's population. On April 4, however, a UNHCR representative reported that due to violence and insecurity, statistics for IDPs may not be reliable.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, including an established system for providing protection to refugees. As of August 25, the government had not granted refugee status to anyone. As of August, four

petitions had been submitted, with one resulting in denial and three still under consideration.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The most recent municipal and legislative elections occurred in 2015 with the final election results released by the Supreme Electoral Tribunal. The election report published by the Organization of American States electoral mission noted that, during the tabulation of the votes, “inconsistencies were discovered in a large number of records, due to erroneous data and information input by many voting centers.”

In 2015 the Constitutional Chamber of the Supreme Court ordered a vote-by-vote recount for the 24 legislators elected in the municipality of San Salvador, the country’s largest constituency. The results of the recount did not alter the election results.

In June 2016 the Constitutional Chamber of the Supreme Court declared as unconstitutional Article 195 of the electoral code, which prohibited police and soldiers from voting in polling stations where they provide security. On January 5, legislators reformed the electoral code and authorized soldiers and police officers to vote in the same place as they work so long as they are duly registered in the electoral roll of that neighborhood.

While the law prohibits public officials from campaigning in elections, this provision lacked consistent enforcement.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively. The NGO Social Initiative for Democracy

stated that officials, particularly in the judicial system, often engaged in corrupt practices with impunity.

Corruption: Autonomous government institutions initiated several investigations into corruption. As of August 23, the Probity Section of the Supreme Court was investigating 517 current and former public officials for evidence of illicit enrichment and submitted 15 cases to the Attorney General's Office for possible criminal indictment. The increase from 72 investigations initiated in 2016 was due in part to a staffing surge. As of August 30, the Attorney General's Office reported that investigations were in progress in 130 cases related to corruption, with 11 convictions during the year.

As of August 23, the Ethics Tribunal reported that it had received 375 complaints against 476 public officials. The tribunal sanctioned 33 public officials and forwarded six cases to the attorney general.

On June 27, Attorney General Douglas Melendez confirmed that he was conducting an investigation into FMLN leader and Vice Minister for Investment and Funding for Development Jose Luis Merino. Merino's position as vice minister granted him immunity from prosecution.

On April 19, the Ministry of Foreign Affairs appointed Sigfrido Reyes as an ambassador, at the recommendation of the president, while he retained his position as president of the export promotion agency (PROESA). Reyes was under investigation for illicit enrichment, and the ambassadorial appointment provided Reyes, a senior FMLN politician, with legal immunity.

On June 6, the Attorney General's Office began an asset forfeiture process against nine properties (valued at \$627,000) of late former president Francisco Flores.

On February 4, the attorney general indicted 17 individuals in the corruption case against former president Antonio Saca (2004-09). A court froze additional assets belonging to suspects in the Saca case, including 50 properties and 60 vehicles.

On August 21, the attorney general further charged Saca with bribery.

On November 28, former president Mauricio Funes and his son, Diego Funes Canas, were found guilty of illicit enrichment. Funes was ordered to pay restitution and was found ineligible to hold public office for a 10-year period. Funes and his children were granted political asylum in Nicaragua in September 2016.

On January 13, the First Criminal Chamber of El Salvador revoked bail for former attorney general Luis Martinez, businessman Enrique Rais, and five other suspects facing trial on corruption-related charges including fraud and bribery. On October 4, Luis Martinez was indicted on additional charges of coverup and procedural fraud. Police received an order to recapture Enrique Rais and five associates, all of whom disappeared after a court hearing on January 9.

Financial Disclosure: The illicit enrichment law requires appointed and elected officials to declare their assets to the Probity Section of the Supreme Court. The declarations are not available to the public unless requested by petition, and the law establishes fines for noncompliance that range from \$11 to \$571. Citizens groups petitioned the Probity Section to disclose 18 assets statements of public officers. The Probity Section had not complied due to a lack of response from banks. The full Supreme Court gave the Probity Section until August 29 to submit the requested information; as of November, the Probity Section had not submitted the information and repeated extension requests had been granted. In May 2016 the Supreme Court established three criteria for selecting investigable cases: the age of the case (i.e., proximity to the statute of limitations), the relevance of the position, and the seriousness and notoriety of the alleged illicit enrichment.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 expressed reluctance to discuss certain issues, such as extrajudicial killings, with the PDDH.

Government Human Rights Bodies: The principal human rights investigative and monitoring body was the autonomous PDDH, whose head is nominated by the Legislative Assembly for a three-year term. The PDDH regularly issued reports and press releases on prominent human rights cases. The PDDH generally enjoyed government cooperation and was considered generally effective except on problems relating to criminal groups and gangs.

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

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, and the criminal code's definition of rape may apply to spousal rape, at the judge's discretion. The law requires the Attorney General's Office to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to withdraw the criminal charge. The penalty for rape is generally imprisonment for six to 10 years. Laws against rape were not effectively enforced.

The law prohibits domestic violence and generally provides for sentences ranging from one to three years in prison, although some forms of domestic violence carry higher penalties. The law also permits restraining orders against offenders. Laws against domestic violence remained poorly enforced, and violence against women, including domestic violence, remained a widespread and serious problem.

As of October the Office of the Inspector General reported five cases of alleged rape by police officers and six cases of sexual assault.

Sexual Harassment: The law prohibits sexual harassment and provides imprisonment of up to five years if the victim is an adult and up to eight years if the victim is a minor. Courts may impose fines in addition to a prison term in cases where the perpetrator maintains a position of trust or authority over the victim. The law also mandates that employers take measures against sexual harassment, violence against women, and other workplace harassment. The law requires employers to create and implement preventive programs to address violence against women, sexual abuse, and other psychosocial risks. The government, however, did not enforce sexual harassment laws effectively.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The constitution grants women and men the same legal rights, but women did not enjoy equal treatment. 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, but employees generally did not report such violations due to fear of employer reprisals.

While the law prohibits discrimination based on gender, women suffered from cultural, economic, and societal discrimination. The law requires equal pay for equal work, but according to the 2016 *World Economic Forum Global Gender Gap Report*, the average wage paid to women for comparable work was 54 percent, down from 60 percent in 2015, of the compensation paid to men.

Children

Birth Registration: Children derive citizenship by birth within the country and from their parents. The law requires parents to register a child within 15 days of birth or pay a \$2.85 fine. Failure to register resulted in denial of school enrollment.

Education: Education is free, universal, compulsory through the ninth grade, and nominally free through high school. Rural areas, however, frequently did not provide required education to all eligible students due to a lack of resources and because rural parents often withdrew their children from school by the sixth grade, requiring them to work.

Child Abuse: Child abuse remained a serious and widespread problem. For additional information, see Appendix C.

Early and Forced Marriage: The legal minimum age for marriage is 18. On August 17, legislators approved a ban on child marriage to prevent child abusers from using legal technicalities to avoid imprisonment.

Sexual Exploitation of Children: Child sex trafficking is prohibited by law. On March 29, the Legislative Assembly approved a reform to the penal code to increase prison sentences for convicted traffickers from four to eight years, to six to 10 years.

The minimum age for consensual sex is 18. The law classifies statutory rape as sexual relations with anyone under the age of 18 and includes penalties of four to 13 years' imprisonment for violations.

The law prohibits paying anyone under the age of 18 for sexual services. The law prohibits participating in, facilitating, or purchasing materials containing child pornography and provides for prison sentences of up to 16 years for violations. Despite these provisions, sexual exploitation of children remained a problem.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

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

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The National Council for Comprehensive Attention to Persons with Disability (CONAIPD), composed of representatives from multiple government entities, is the governmental agency responsible for protecting disability rights, but lacks enforcement power. According to CONAIPD, the government did not allocate sufficient resources to enforce prohibitions against discrimination effectively, particularly in education, employment, and transportation. The government did not effectively enforce legal requirements for access to buildings, information, and communications for persons with disabilities. Few access ramps or provisions for the mobility of persons with disabilities existed.

According to CONAIPD, there is no mechanism to verify compliance with the law requiring businesses and nongovernment agencies to hire one person with disabilities for every 25 hires. CONAIPD reported employers frequently fired persons who acquired disabilities and would not consider persons with disabilities for work for which they qualified. Further, some academic institutions would not accept children with disabilities due to a lack of facilities and resources. No formal

system existed for filing a discrimination complaint involving a disability with the government. The Ministry of Labor's General Directorate for Labor Inspection imposed 403 fines on businesses between 2014 and 2017 for violations of the labor law that requires the hiring of persons with disabilities.

Indigenous People

According to the 2007 census, the most recent for which this data was available, 0.4 percent of citizens identified as indigenous. A 2014 constitutional amendment recognizes the rights of indigenous people, but no laws provide indigenous people rights to share in revenue from exploitation of natural resources on historically indigenous lands. The government did not demarcate any lands as belonging to indigenous communities. Because few possessed title to land, opportunities for bank loans and other forms of credit remained extremely limited.

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

The law prohibits discrimination on the basis of sexual orientation and gender identity. On November 13, the Supreme Electoral Tribunal announced new guidelines to protect LGBTI persons from discrimination at election polls. Under the guidelines, individuals cannot be denied the right to vote because the photo on their identification card does not match their physical appearance or gender expression.

On August 30, the attorney general filed charges against eight Mara Salvatrucha (MS-13) gang members for the aggravated homicides of three transgender persons. The in-depth police investigation by a specialized unit produced credible evidence that the victims had been involved in gang-related extortion activities. On February 18, two of the victims arrived at a party in San Luis Talpa, La Paz Department, when perpetrators fired shots from a vehicle. Authorities reported that the gangs killed a third transgender victim on February 21 in Cuyultitan, in La Paz, in retaliation for her participation in the killings of the first two victims. In March the PNC assigned its High Visibility Crimes Unit to investigate the homicides of the three transgender women, and the Secretary for Social Inclusion met with activists to hear their concerns about LGBTI hate crimes. While the crimes themselves were later determined to be gang related, the government and the PDDH issued statements against hate crimes in response to concerns expressed immediately after the crimes by the LGBTI community.

A March 21 hearing before the Inter-American Commission on Human Rights focused on anti-LGBTI violence and hate crimes. One NGO told commissioners that at least 600 persons had experienced hate crimes based on their sexual orientation or gender identity since 2004. As of August 31, the PDDH had received six complaints for crimes against LGBTI persons.

NGOs reported that public officials, including police, engaged in violence and discrimination against LGBTI persons. Members of the LGBTI community stated that PNC and Attorney General's Office personnel ridiculed them when they applied for identification cards or reported cases of violence against LGBTI persons. The NGO Association for Communication and Training of Transgender Women with HIV in El Salvador (COMCAVIS Trans) reported that, as of September, a total of 28 LGBTI persons were attacked or killed because of their sexual orientation.

HIV and AIDS Social Stigma

Although the law prohibits discrimination on the basis of HIV/AIDS status, Entre Amigos, an LGBTI nongovernmental organization, reported that discrimination due to HIV was widespread. As of August 31, the PDDH reported one case of discrimination against persons with HIV or AIDS. The Ministry of Labor reported one case of discrimination against an HIV-positive employee based on the illness in 2016.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides the right of most workers to form and join independent unions, to strike, and to bargain collectively. The law also prohibits antiunion discrimination, although it does not require reinstatement of workers fired for union activity. Several restrictions limit these rights. Military personnel, national police, judges, and high-level public officers may not form or join unions. Workers who are representatives of the employer or in "positions of trust" also may not serve on the union's board of directors. The law does not define the term "positions of trust." The labor code does not cover public-sector workers and municipal workers, whose wages and terms of employment are regulated by the 1961 Civil Service Law.

Unions must meet complex requirements to register legally and to have the right to bargain collectively, including having a minimum membership of 35 workers. If the Ministry of Labor denies a union's legal registration, the law prohibits any attempt by the union to organize for up to six months following the denial. Collective bargaining is obligatory only if the union represents the majority of workers.

While workers have the right to strike, the law contains cumbersome and complex registration procedures for conducting a legal strike. The law does not recognize the right to strike for public and municipal employees or for workers in essential services, which include those services where disruption would jeopardize or endanger life, security, health, or normal conditions of existence for some or all of the population. The law does not specify which services meet this definition, and courts therefore apply this provision on a case-by-case basis. The law places several other restrictions on the right to strike, including the requirement that 30 percent of all workers in an enterprise must support a strike for it to be legal and that 51 percent must support the strike before all workers are bound by the decision to strike. In addition, unions may strike only to obtain or modify a collective bargaining agreement or to protect the common professional interests of the workers. They must also engage in negotiation, mediation, and arbitration processes before striking, although many groups often skipped or went through these steps quickly. The law prohibits workers from appealing a government decision declaring a strike illegal.

In lieu of requiring employers to reinstate illegally dismissed workers, the law requires employers to pay them the equivalent of 30 days of their basic salary for each year of service completed, plus the corresponding proportion for any partial year. This compensation must never be fewer than 15 days of basic salary. The law specifies 30 reasons for which an employer can legally terminate a worker's contract without triggering any additional responsibilities on the part of the employer. Such reasons include consistent negligence by an employee, leaking of private company information, or committing immoral acts while on duty. Short of terminating workers, an employer may also legally suspend workers in a variety of situations, including for reasons of economic downturn or market conditions. As of August, the Ministry of Labor had received 3,225 complaints of violations of the labor code, including 229 instances of failure to pay the minimum wage.

The government did not effectively enforce the laws on freedom of association and the right to collective bargaining in all cases. Resources to conduct inspections remained inadequate, and remedies remained ineffective. Penalties for employers

who disrupt the right of a union to exist by directly or indirectly firing workers with the goal or effect of ensuring the union no longer met the minimum number of members ranged from 10 to 50 times the monthly minimum salary. These were paid to the government's general fund, not to the fired employee. The penalty for employers who interfere with the right to strike was between \$3,000 and \$15,000, based on the state-mandated minimum salary of \$300 for the commercial and industrial sectors. Such penalties remained insufficient to deter violations. The Ministry of Labor acknowledged it lacked sufficient resources, such as vehicles, fuel, and computers, to enforce the law fully. Judicial procedures were subject to lengthy delays and appeals. According to union representatives, the government inconsistently enforced labor rights for public workers, maquila/textile workers, food manufacturing workers, subcontracted workers in the construction industry, security guards, informal sector workers, and migrant workers. As of September the Ministry of Labor had received two claims of violations to the freedom of association.

As of July the Ministry of Labor had overseen the mediation of 3,728 disputes between employers and individual employees or employee collectives. Mediation is required before an alleged labor law violation can be adjudicated in court. While 41 of the mediated disputes resulted in the reinstatement of the aggrieved employee and the payment of a fine by the employer, no agreement was reached in 1,786 disputes, many of which continued on to court. Although not required by law, the ministry continued to request that some employers rehire fired workers, basing its requests on International Labor Organization (ILO) Committee on Freedom of Association. The ministry did not perform inspections in the informal sector. According to a FUSADES report, 72.4 percent of the economically active population worked in the informal economy. According to the 2015 census, 42 percent of workers in urban areas worked in the informal sector. The ministry does not hold jurisdiction over public employees, as most fall under the civil service law.

Workers faced problems exercising their rights to freedom of association and collective bargaining, including, according to allegations by some unions, government influence on union activities and antiunion discrimination on the part of employers. Unions functioned independently from the government and political parties, although many generally were aligned with the Nationalist Republican Alliance (ARENA), the FMLN, or other political parties.

There were reports of antiunion discrimination, including threats against labor union members, dismissals of workers attempting to unionize, and blacklisting.

According to union leader contacts, the administration blacklisted public-sector employees who they believed were close with the opposition. Workers at times engaged in strikes regardless of whether the strikes met legal requirements. The ILO Conference Committee on the Application of Standards discussed the country for the third year in a row over the nonfunctioning of the tripartite Higher Labor Council and, in 2015 and 2016, a variety of other issues affecting freedom of association.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government generally did not effectively enforce such laws. Resources to conduct inspections remained inadequate. The labor code did not specify a fine for forced labor violations. The code's default fine of \$57 per violation applied. This penalty was generally not sufficient to deter violations. The lack of sufficient resources for inspectors reduced their ability to enforce the law fully. The Ministry of Labor did not report on incidents of forced labor; however, gangs subjected children to forced labor in illicit activities, including selling or transporting drugs (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 14, allowing children between the ages of 14 and 18 to engage in light work if the work does not damage the child's health or development or interfere with compulsory education. The law prohibits children under the age of 16 from working more than six hours per day and 34 hours per week; those under the age of 18 are prohibited from working at night or in occupations considered hazardous. The Ministry of Labor maintained a list of the types of work considered hazardous and prohibited for children, to include repairing heavy machinery, mining, handling weapons, fishing and harvesting mollusks, and working at heights above five feet while doing construction, erecting antennas, or working on billboards. Children who are 16 and older may engage in light work on coffee and sugar plantations and in the fishing industry so long as it does not harm their health or interfere with their education.

The Ministry of Labor maintains responsibility for enforcing child labor laws but did so with limited effectiveness. Child labor remained a serious and widespread

problem. The law specifies a default fine of no more than \$60 for each violation of most labor laws, including child labor laws; such penalties were insufficient to act as a deterrent. The ministry's labor inspectors focused almost exclusively on the formal sector. As of September, the ministry reported conducting 596 inspections related to child labor, during which inspectors reported seven incidents of child labor and one incident of an adolescent working without a permit. The ministry estimated that, as of September, there were 140,700 children and adolescents working, of which, 91,257 children were employed in "dangerous work." No information on any investigations or prosecutions by the government was available. The ministry lacked adequate resources for effective enforcement of child labor laws in the agricultural sector, especially in coffee and sugarcane production, or in the large, informal sector.

There were reports of children under the age of 16 engaging in the worst forms of child labor, including in coffee and sugarcane cultivation, fishing, mollusk shucking, and fireworks production. As of November there were two incidents of minors injured or killed due to the explosion of a clandestine fireworks factory, most recently on March 23 in San Rafael Cedros, in the department of Cuscatlan, which injured a 14-year-old child. Children were subjected to other worst forms of child labor, including commercial sexual exploitation (see section 6, Children) and recruitment into illegal gangs to perform illicit activities related to the arms and drug trades, including committing homicide. Children were engaged in child labor, including domestic work, the production of cereal grains, and the production of baked goods. Orphans and children from poor families frequently worked as street vendors and general laborers in small businesses.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The constitution, labor laws, and state regulations prohibit discrimination regarding race, color, sex, religion, political opinion, national extraction (except in cases determined to protect local workers), social origin, gender, disability, language, or HIV-positive status. The government did not effectively enforce those laws and regulations. Sexual orientation and gender identity are not included in the constitution or labor law, although the PDDH and the Ministry of Labor actively sought to protect workers against discrimination on those grounds.

Discrimination in employment and occupation occurred with respect to gender, disability, and sexual orientation and/or gender identity (see sections 6 and 7.e.). According to the Ministry of Labor, migrant workers have the same rights as citizens, but the ministry did not enforce them.

e. Acceptable Conditions of Work

There is no national minimum wage; the minimum wage is determined by sector. In January a major minimum wage increase went into effect that included increases of nearly 40 percent for apparel assembly workers and more than 100 percent for workers in coffee and sugar harvesting. After the increase, the minimum daily wage was \$10 for retail, service, and industrial employees; \$9.84 for apparel assembly workers; and \$3.94 for agricultural workers. The government reported that the poverty income level was \$179.67 per month in urban areas and \$126.97 per month in rural areas.

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, which is to be paid at a rate of double the usual hourly wage. The law mandates that full-time employees receive pay for an eight-hour day of rest in addition to the 44-hour normal workweek. The law provides that employers must pay double-time for work on designated annual holidays, a Christmas bonus based on the time of service of the employee, and 15 days of paid annual leave. The law prohibits compulsory overtime. The law states that domestic employees, such as maids and gardeners, are obligated to work on holidays if their employer makes this request, but they are entitled to double pay in these instances. The government did not adequately enforce these laws.

The Ministry of Labor is responsible for setting workplace safety standards, and the law establishes a tripartite committee to review the standards. The law requires employers to take steps to meet health and safety requirements in the workplace, including providing proper equipment and training and a violence-free environment. Employers who violate most labor laws could receive a default fine of no more than \$57 for each violation. For serious infractions, employers could be fined up to an amount equivalent to 28 minimum monthly wage salaries. While the laws were appropriate for the main industries, a lack of compliance inspectors led to poor enforcement. These penalties were also insufficient to deter violations, and some companies reportedly found it more cost effective to pay the fines than to comply with the law. The law promotes occupational safety awareness, training, and worker participation in occupational health and safety matters.

As of August 30, the Attorney General's Office reported 818 complaints against employers for not paying pension quotas to the pension administration companies and that it filed judicial charges against 124 employers. The courts dismissed charges in 63 cases and suggested alternative solutions in 55 cases.

The Ministry of Labor is responsible for enforcing the law. The government proved more effective in enforcing the minimum wage law in the formal sector than in the informal sector. Unions reported that the ministry failed to enforce the law for subcontracted workers hired for public reconstruction contracts. The government provided its inspectors updated training in both occupational safety and labor standards. As of September, the ministry conducted 20,134 inspections, of which 22 percent were inspections to follow-up with prior investigations. As of August, the ministry's inspectors had levied \$1.34 million dollars in fines against businesses for violations of the labor law, although this did not account for fines for withholding fees, child labor, and forced labor. Most fines were levied against businesses in the services and commercial sectors.

Allegations of corruption among labor inspectors continued. The ministry received complaints regarding failure to pay overtime, minimum wage violations, unpaid salaries, and cases of employers illegally withholding benefits (including social security and pension funds) from workers.

Reports of overtime and wage violations existed in several sectors. According to the ministry, employers in the agriculture sector did not generally grant annual bonuses, vacation days, or days of rest. Women in domestic service and the industrial manufacturing for export industry, particularly in the export processing zones, faced exploitation, mistreatment, verbal abuse, threats, sexual harassment, and generally poor work conditions. Workers in the construction industry and domestic service reportedly fell subject to violations of wage, hour, and safety laws. According to the Organization for Salvadoran Women for Peace (ORMUSA), apparel companies violated women's rights through occupational health violations and unpaid overtime. There were reports of occupational safety and health violations in other sectors, including reports that a very large percentage of buildings were out of compliance with safety standards set by the General Law on Risk Protection. The government proved ineffective in pursuing such violations.

In June the labor union SITRAFOS complained that the Solidary Fund for Health (FOSALUD) was sending health workers to violent areas, despite warnings about

such places. According to SITRAFOS representatives, the lives of health workers were at risk in several areas where they were threatened by gang members. The union noted staff was being sent to dangerous places without police protection.

In some cases the country's high crime rate negatively affected acceptable conditions of work as well as workers' psychological and physical health. Some workers, such as bus drivers, bill collectors, messengers, and teachers in high-risk areas, reported being subject to extortion and death threats.

As of June, the Ministry of Labor reported 3,938 workplace accidents. The sectors registering the highest levels of incidents included: 2,032 accidents in the services sector, 1,320 in the industrial sector, 241 in the government sector, and 37 in the agricultural sector. The ministry did not report any deaths from workplace-related accidents.

Workers can legally remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities lacked the ability to protect employees in this situation effectively.