

# EL SALVADOR 2022 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

El Salvador is a constitutional multiparty republic with a democratically elected government. In 2019 voters elected Nayib Bukele as president for a five-year term. The election was generally free and fair, according to international observers. Municipal and legislative elections took place in February 2021 and also were considered largely free and fair by observers.

The National Civilian Police, overseen by the Ministry of Justice and Public Security, is responsible for maintaining public security. 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.” The military is responsible for securing international borders and conducting joint patrols with the civilian police. Civilian authorities maintained effective control over security forces. There were reports that members of the security forces committed abuses.

On March 27, the Legislative Assembly declared a state of exception in response to the dramatic rise in homicides committed by gangs over the weekend of March 25-27. Under the state of exception, which must be renewed monthly, security forces were empowered to arrest anyone suspected of belonging to a gang or providing support to gangs. In addition, the state of exception suspended the rights to be informed immediately of the reason for detention, to legal defense during initial investigations, to privacy in conversations and correspondence, and to freedom of association. Numerous reports of arbitrary arrests, invasion of homes, unfair judicial procedures, and deaths of detainees followed the declaration. More than 52,000 persons were arrested in the first six months of the state of exception, leading to allegations of overcrowding and inhuman treatment in the prisons.

Significant human rights issues included credible reports of: unlawful or arbitrary killings, forced disappearances; torture and cruel, inhuman, or degrading treatment or punishment by security forces; harsh and life-threatening prison conditions;

arbitrary arrest and detention; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious restrictions on free expression and media, including censorship and threats to enforce criminal laws to limit expression; serious government corruption; lack of investigation and accountability for gender-based violence; significant barriers to accessing sexual and reproductive health services; and crimes involving violence against lesbian, gay, bisexual, transgender, queer, and intersex individuals.

Impunity persisted in the security forces, other executive branch offices, and justice system. In some cases, authorities investigated and prosecuted persons accused of committing crimes and human rights abuses.

Criminal groups, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes. They committed killings, acts of extortion, kidnapping, human trafficking, intimidation, and other threats and violence. They directed these acts against police, judicial authorities, the business community, journalists, women, and members of vulnerable populations. Authorities investigated and prosecuted such actions.

## **Section 1. Respect for the Integrity of the Person**

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

There were reports that the government or its agents committed arbitrary or unlawful killings, largely stemming from deaths of detainees while in prison during the state of exception. The Attorney General's Office investigates whether security force killings were justifiable and pursues prosecutions. The National Civilian Police (PNC) reported that as of August, no police officers had been accused of homicide.

On August 15, the Human Rights Ombudsman's Office (PDDH) stated it had opened 28 investigations of prisoner deaths during the state of exception. Human Rights Ombudsman Apolonio Tobar said the investigations were based on complaints from persons who attributed the deaths of their relatives to the state of exception. The investigations aimed to examine the culpabilities of the Attorney

General's Office and if prisoners were victims of neglect or murder while in government custody (see section 1.d.). On August 26, the daily newspaper *La Prensa Gráfica* reported that 73 detainees died in prison following the start of the state of exception. Government officials stated they were investigating all deaths in prison to determine if they were committed by government authorities but that, to date, they had not identified any such cases.

## **b. Disappearance**

Under the state of exception, there were regular reports that security and law enforcement officials arrested persons and did not inform their families of their whereabouts. On May 31, Cristosal, a human rights group, reported that of the 808 complaints the organization documented during the first two months of the state of exception, 65 percent involved cases in which the whereabouts of the arrestees were unknown.

Media and human rights groups reported that nongovernment-related disappearances, which they and the families of those disappeared attributed to gang violence, continued to occur on a regular basis. The government reported varying numbers of disappearances and sporadically declined to provide media with numbers and additional data on disappearances, often claiming the statistics were classified. The PNC reported 255 disappearances from January to August. In May, however, the PNC declared to *La Prensa Gráfica* there were 577 reports of missing persons between January and the end of May. In October the Institute of Legal Medicine (IML), the forensics department under the Supreme Court, reported that only 129 persons had been reported missing from January to September. On May 19, the international division of the Swiss Broadcasting Society reported the leading forensic expert in the Prosecutor's Office had acknowledged on several occasions that if a person spent more than eight days missing, there was a high probability the person had been killed and buried in a clandestine grave.

On May 16, officials from the Attorney General's Office and PNC told family members of the disappeared they had suspended investigations into disappearances because they were prioritizing activities supporting the state of exception.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses**

The law prohibits such practices, but there were credible reports that government officials employed them at times. Media and civil society allegations of abuse and mistreatment by police and prison guards significantly increased after the introduction of the state of exception in March.

The PNC reported that by August 1, it had registered 24 complaints of police officer misconduct. In contrast, from January to July, the Office of the Inspector General of Public Security reported it had received 50 complaints of physical abuse, two complaints of sexual abuses, and four complaints of sexual harassment by police officers. The PDDH reported it had received nine complaints of cruel, inhuman, or degrading treatment; 58 cases of maltreatment; and 15 complaints of disproportionate use of force by PNC officers from January to July. In the same period, the PDDH received one complaint of torture; three complaints of cruel, inhuman or degrading treatment; six complaints of maltreatment; and one complaint of disproportionate use of force by the armed forces.

On August 22, the PDDH reported it had received more than 400 complaints of possible abuses during the state of exception. Ombudsman Tobar provided results of the PDDH investigations of complaints received in the first month of the state of exception in the San Salvador and Cuscatlán Districts. Tobar said the PDDH did not find human rights abuses in 95 percent of the 173 complaints from San Salvador and did not find culpability by officials in any of the 73 cases in Cuscatlán. The PDDH did not visit prisons to verify prison conditions or prisoner treatment until 107 days after the start of the state of exception, and in November the PDDH announced prison officials had once again denied them access.

Human rights organizations also received complaints of abuse and mistreatment by police and prison guards. On August 10, the University Observatory of Human Rights (OUDH) reported it had received reports of 28 cases of maltreatment, 12 cases of disproportionate use of force, seven cases of cruel treatment, and six cases of intimidation. All the reported cases occurred during the state of exception. OUDH coordinator general Danilo Flores alleged the complaints attested to the existence of torture. The OUDH highlighted the case of a boy, age 14, who was

detained in police holding cells where security officers allegedly submerged his face in water and squeezed his fingers with pincers to force him to admit that he belonged to a gang. He also claimed he was placed in a cell with gang members who beat him. He was vomiting blood when he was eventually released. After his release, he reported being harassed by police officers in his home. He eventually left the country to avoid further police harassment.

On April 4, *La Prensa Gráfica* reported a man died after his arrest on March 30 in El Refugio, Ahuachapan. The IML stated that the cause of death was severe blunt chest trauma and that he had other injuries to his eyes, knees, and shoulders. Witnesses to the arrest said they saw PNC officers beat him during the arrest, demanding that he confess to being a gang member. The PNC declared he received his injuries from other inmates after he was transferred to Izalco Prison.

On May 2, Human Rights Watch and Cristosal reported they had obtained first-hand information on 34 cases of abuse by police. The organizations interviewed victims, their family members, lawyers, and civil society organizations and analyzed medical reports, photographs, and documents to corroborate the information from the interviews. Witnesses alleged they saw security forces beating persons while making arrests and threatening family members of the detained persons with arrest if they did not “stop asking questions.” In one documented case, a man, age 21, was arrested on April 3 and held incommunicado. On April 19, a hospital informed his family that he had died of “hypertension” and “sudden death.” No autopsy was performed, however, and photographs of his body showed injuries.

The judiciary continued prosecuting several cases from the civil war against members of the armed forces. The judge in the 1981 El Mozote massacre case heard witness testimony, and the judge in the case of the killings of four Dutch journalists ordered the arrest of several high-ranking defendants. The government, however, continued to deny expert witnesses access to military archives to determine criminal responsibility for the El Mozote massacre, in defiance of a 2020 judicial order.

Impunity was a problem in the PNC and armed forces. Factors contributing to impunity included politicization and corruption. The government provided annual

training to military units to diminish gross abuses of human rights, such as the training provided to the Marine Infantry Battalion by the navy's legal unit on the need to respect human rights.

### **Prison and Detention Center Conditions**

Prison conditions worsened during the state of exception. The number of prisoners more than doubled within several months of the beginning of the state of exception, leading to allegations of gross overcrowding, inadequate sanitary conditions, food shortages, a lack of medical services in prison facilities, and physical attacks.

**Abusive Physical Conditions:** According to the OUDH, prisons were at 119 percent of capacity prior to the state of exception but became more crowded as the number of detainees doubled. By May, more than 71,000 detainees were being held in a penitentiary system designed for 30,000. Released prisoners confirmed overcrowding was severe, with 80 prisoners held in cells built for 12 and insufficient room to lie down. On March 28, Director of Penitentiaries Osiris Luna stated prisoners would have only two meals per day, after President Bukele ordered food rationing due to the arrival of additional inmates. A released prisoner reported he received four ounces of rice and one tortilla per day. From the start of the state of exception, the government frequently advertised on social media the overcrowded conditions and lack of adequate food in the prisons as appropriate treatment for gang members.

Men and women were kept separately (see section 6, Children, for detention and imprisonment of children). While the worst conditions were reported in the men's prisons, the domestic social organization Passionist Social Service reported that unsanitary conditions existed in detention centers for women and children.

In April Human Rights Ombudsman Tobar stated his office had investigated complaints of arbitrary detention during the state of exception and concluded detainees had not suffered treatment beyond what was allowed by law. In June the ombudsman visited a PNC detention facility, along with the director of penitentiaries and the minister of justice and public security. After the visit, the PDDH released a report and a series of videos of the visit, but media outlets and

human rights organizations noted the ombudsman made no mention of the more than 50 deaths of prisoners during the state of exception, most of them occurring in Mariona Prison. Following the release of the videos, critics alleged that Tobar was no longer an independent defender of human rights. In October Tobar's term ended and the Legislative Assembly elected Raquel Caballero de Guevara as the new ombudsperson. In November her office reported she had been denied access to prisons to verify conditions.

In November the Attorney General's Office announced it was investigating 90 prison deaths, consistent with the growing count of deaths in prison kept by newspapers and human rights organizations. On August 26, *La Prensa Gráfica* reported that 73 detainees had died in prison since the beginning of the state of exception. The newspaper cited an IML report that 35 of the detainees died from causes such as strangulation, blunt force trauma, or other causes that could indicate torture or mistreatment while in detention. The IML determined an additional 22 detainees died due to inadequate medical care while in prison. Many families of prisoners reported that prison authorities refused to accept medicine that they brought, with some of those prisoners later dying. Another 12 inmates died from "undetermined causes," and the newspaper confirmed reports of four more inmate deaths after the IML report was published. Several of the few detainees who were released reported that guards regularly beat detainees.

Gangs remained prevalent in prisons, and the PDDH reported that prisoners were divided into groups composed of gang members, gang collaborators, and those with no gang connections.

**Administration:** The PDDH has the authority to investigate allegations of abusive conditions in prison. The PDDH stated it had opened investigations into allegations of abuse or abusive conditions but not completed the investigations by year's end. Although by law the PDDH should have free and immediate access to prisons, all prison visits were suspended in March 2020. Ombudsman Tobar, with other government officials, visited prisons twice during the year.

**Independent Monitoring:** The government suspended visits to prisons in March 2020 due to the COVID-19 pandemic. The suspension continued as of October, long after the government lifted all other pandemic-related restrictions. The

suspension of visits to prisons included most institutional inspections, visits by international organizations, nongovernmental organizations (NGOs), churches, and others.

#### **d. Arbitrary Arrest or Detention**

The constitution prohibits arbitrary arrests, and the law provides for the right of a person to challenge the lawfulness of his or her arrest or detention in court. With the introduction of the state of exception in March, the government did not always observe these requirements.

#### **Arrest Procedures and Treatment of Detainees**

The constitution requires a written warrant for arrest except in cases where an individual is caught in the act of committing a crime. Prior to the state of exception, authorities generally apprehended persons with warrants issued by a judge and based on evidence, although this was frequently ignored when allegations of gang membership arose. Police generally informed detainees promptly of charges against them. The state of exception decree suspended the right to legal defense, as well as the requirement that persons be informed the reason of their arrest at the time of their detention, and it increased the number of days an individual could be held in detention before being formally charged.

The language of the state of exception decree did not detail changes to enforcement procedures, but in practice, security forces were no longer required to have warrants prior to making arrests or entering homes to make arrests. Because the decree also suspended the right to legal counsel, law enforcement agents did not wait for suspects to obtain counsel before questioning them. Although the law permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case, most detainees under the state of exception were not released on bail.

The state of exception increased the number of days that a suspect could be held in detention before being formally charged in court from three days to 15. This extension, in addition to the sharp increase in the number of detainees, overwhelmed the court system. To process the increase, judges held mass pretrial detention hearings for up to 300 detainees at the same time. Public defenders



responsible for representing the detainees reported being overwhelmed as their case load increased from 50 cases per month to 95 cases per day. One public defender told the digital newspaper *El Faro* that it was nearly impossible to mount an effective defense and that he had been unable to secure an alternative to pretrial detention in any of his cases.

The state of exception allowed detainees to be held for the first 15 days without any notification to family members, and local news outlets reported that even after 15 days, some families received no information. Family members of those detained frequently waited for days in large temporary encampments outside of prisons in hopes of receiving information regarding the location and condition of the detainee.

**Arbitrary Arrest:** As of July 27, the PDDH reported 283 complaints of arbitrary or illegal detention, compared with 25 from January to August 2021. Of the total, 247 involved detentions by police officers and 36 by soldiers.

Civil society entities also received complaints from the public regarding arbitrary arrests during the state of exception. As of August, the OUDH received reports of 1,673 cases of arbitrary arrests, and Cristosal reported that as of November 28, it received 3,139 complaints that persons were deprived of their rights during the state of exception, of which 97 percent involved arbitrary arrests. The specific grounds for complaints most frequently noted were that detainees were not given the reasons for their arrests, not presented with a warrant for arrest, and not given information regarding where or when they would have an initial judicial hearing. Government officials, however, claimed that arrests under the state of exception were not arbitrary. They stated the government had a database of more than 76,000 known gang members and arrests largely had been based on that database or other credible intelligence that a suspect was a gang member.

In the first months of the state of exception, police and military raided low-income and rural neighborhoods and carried out mass arrests. Local news sources and human rights groups alleged security forces frequently arrested persons for gang membership based solely on anonymous denunciations through a government hotline, for having tattoos, or for having any prior contact with the criminal justice system. *El Faro* gained access to court records for 690 individuals arrested under

the state of exception for gang membership and found that 60 were arrested on ambiguous criteria such as having a “suspicious appearance” or being nervous.

The Salvadoran Police Workers Movement, a police union, received more than 20 complaints from police officers of being pressured to give false testimony to incriminate detainees and to reach a daily quota of arrests. The union also documented 50 cases in which agents refused to make arrests because they considered them arbitrary. On June 10, the founder of the union was arrested and held for four days on charges of “apologizing for crime,” which other members of the union denounced as reprisal by the police leadership for his public complaints (see section 7.d.). All charges against him were eventually dropped.

**Pretrial Detention:** Lengthy pretrial detention was a significant problem, exacerbated by the state of exception. COVID-19 pandemic closures had already severely delayed trial and hearing dates, and the sharp increase in cases during the state of exception further delayed cases. In November the Attorney General’s Office reported that of the more than 57,000 persons arrested under the state of exception, approximately 2,000 had been released. *La Prensa Gráfica* reported that as of October 26, the Attorney General’s Office had officially presented charges against 50,197 of those arrested.

The court system was slow to respond to habeas corpus petitions filed by those challenging their detention under the state of exception. The NGO Legal and Anti-Corruption Advisory Office reported that 1,825 habeas corpus petitions had been filed before the Supreme Court of Justice from the beginning of the state of exception until August 28. Of these, only eight had been granted a hearing.

### **e. Denial of Fair Public Trial**

Although the constitution provides for an independent judiciary, the government did not respect judicial independence and sought to increase control of the judiciary.

Legislation passed in August 2021 forced all judges older than age 60 or with 30 years of experience to retire, giving the Bukele-appointed Supreme Court the right to name their replacements. Previously, in May 2021, the Legislative Assembly had dismissed all five magistrates of the Constitutional Chamber of the Supreme

Court of Justice and replaced them with judges loyal to the Bukele administration. The move was widely criticized by human rights groups and legal experts as unconstitutional. Many legal experts saw these acts as steps to further cement the executive branch's control over the nominally independent judiciary.

As of August 31, the PDDH received 112 complaints of a lack of a fair public trial, compared with 65 such complaints from January to August 2021.

## **Trial Procedures**

The law provides for the right to a fair and public trial, but the state of exception suspended portions of these rights. For example, the right to be informed promptly of charges was suspended, and other rights were not always respected.

The law allows for trials for gang membership charges to proceed without the defendants' physical presence, although with defense counsel participating in person. Virtual trials often involved group hearings before a judge, with defense lawyers in the courtroom but defendants appearing by video, unable to consult with their defense lawyers in real time. This practice continued with state of exception arrests, with many defendants tried virtually en masse, unable to hear the proceedings because of technical problems, complicated by the number of participants.

According to the OUDH, the demand for public defenders exceeded the capacity of the Public Defender's Office. Since many judicial hearings during the state of exception occurred en masse with hundreds of defendants at the same time, defendant could not properly exercise the right to defense. As a result, even if the Attorney General's Office failed to provide sufficient evidence demonstrating that defendants were affiliated with a gang, judges ordered defendants to remain in detention for six months.

In a June 3 statement on the state of exception, the Inter-American Commission on Human Rights reminded the government of its "international obligation to ensure judicial guarantees, due process, and access to a remedy for respect for rights and freedoms whose suspension is not authorized by international human rights law." The commission condemned the practice of holding judicial hearings for up to 500 persons simultaneously, without allowing defendants to plead their individual

cases. Likewise, the commission reported that the Office of the General Defender of the Republic did not have the capacity to handle all the cases in its remit.

Legal experts identified overall problems with the legal system outside of the state of exception, pointing to an overreliance on witness testimony, as opposed to the use of forensic or other scientific evidence.

### **Political Prisoners and Detainees**

There were reports of political detainees. Media questioned the legitimacy of the detentions. The detainees were generally subjected to the same harsh prison conditions as convicted prisoners. Only one political detainee received visits from his family.

As of November, Ernesto Muyschondt, former mayor of San Salvador and prominent opposition politician, remained in detention following his June 2021 arrest, awaiting the conclusion of investigations and trial; no trial date was set. In January he filed a complaint to the courts stating that his rights had been violated by two prison guards. On June 6, the Eighth Investigating Court of San Salvador rejected a request for house arrest, which he had made due to health problems. Muyschondt told media he had been near death three times while in detention and recovered only when prison officials took him to a hospital outside the prison. He also said that while imprisoned, he was beaten, tied up, and photographed half naked and while sleeping. Muyschondt was arrested for misappropriation of tax withholdings to the detriment of the Public Treasury while mayor and also for electoral fraud and illicit associations for allegedly negotiating with gangs in exchange for votes in the 2015 legislative elections.

Three former Farabundo Marti National Liberation Front party officials, charged in July 2021 with money laundering and illicit enrichment, remained in detention. Defenders of the three claimed they were detained for political reasons, while the government asserted the charges against them were legitimate. Investigations of the case continued.

### **Civil Judicial Procedures and Remedies**

The law allows litigants to submit civil lawsuits seeking damages for, as well as

cessation of, human rights abuses. Domestic court orders generally were enforced, except in cases involving political prisoners. Most attorneys pursued criminal prosecution and later requested civil compensation. Courts were insufficiently independent, however, to provide effective civil remedies for human rights abuses.

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

The constitution prohibits such actions, but there were allegations the government tracked journalists, members of NGOs, and political opponents and collected information from private messages on their cell phones. On February 1, the Legislative Assembly passed legislation expanding the government's ability to do so. Under the state of exception, reports of security forces entering homes without warrants increased.

On January 12, *El Faro* published the results of an analysis by the international NGO Citizen Lab and Access Now. The analysis, certified by Amnesty International, detailed conclusive evidence that from September to December 2021, the iPhones of 35 journalists and civil society actors were infiltrated by the Pegasus spyware created by NSO Group, an Israeli firm. Targets included journalists working at media outlets *El Faro*, *Gato Encerrado*, *La Prensa Gráfica*, *Revista Digital*, *Disruptiva*, *Diario El Mundo*, *El Diario de Hoy*, and staff at several NGOs, including Fundación DTJ and Cristosal. The report also said the targets remained under constant digital surveillance from at least June 29, 2020, to November 23, 2021. Two-thirds of *El Faro*'s staff were surveilled with the spyware, which occurred during the period they worked on major events in national politics in 2020 and 2021. The analysis also discovered conclusive evidence of extractions of information from cell phones of 11 *El Faro* employees. Experts said Pegasus allows for the extraction of anything stored in a mobile phone, including photographs, conversations, audio files, and contacts. The report did not rule out the theft of information from other brands of cell phones.

On March 16, the Inter-American Commission on Human Rights held a hearing on the Pegasus spyware hacks in the country, calling them a “vertiginous deterioration of press freedom.” Aside from the Citizen Lab and Access Now investigation, multiple representatives from other media outlets and NGOs reported receiving

warnings from Apple that their phones may have been penetrated by Pegasus, indicating that the spying likely went beyond the *El Faro* journalists. NSO Group confirmed that it licenses the Pegasus software only to national governments.

On February 1, the Legislative Assembly approved five changes to the criminal code regarding computer crimes. These authorize the Attorney General's Office to carry out "undercover digital operations that are necessary" without a court order; establishes "digital undercover agents" to surveil "digital documents, electronic messages, images, videos, data, and any type of information that is received or transmitted through information and communication technologies or through any electronic device"; and conduct wiretaps in either criminal or civil investigations with no mention of restrictions on scope or duration of the surveillance and no oversight. The Inter American Press Association condemned the changes, saying they had "serious implications for freedom of the press," as they were "official reprisal measures against journalism."

The state of exception did not formally suspend the legal requirement for police to obtain a warrant before entering a home. As of June 3, however, The Foundation of Studies for the Application of Law reported that of the 170 persons who registered complaints regarding the state of exception with them, 35 percent claimed law enforcement agents entered their homes without a warrant.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution provides for freedom of expression, including for members of the press and other media, although the government passed a law in April that increases legal liability for journalists reporting on gangs. The law permits the executive branch to use the emergency broadcasting service to take control of all broadcast and cable networks temporarily to televise political programming.

**Freedom of Expression:** On April 5, the Legislative Assembly amended the criminal code to allow a 10- to 15-year prison sentence for anyone convicted of creating, reproducing, or transmitting any visual content (texts, images, graffiti, or

other forms of visual expression) that relates to gangs (see section 1.f.). The government claimed the legislation was designed to prevent persons from relaying gang messages to the public and noted that no journalists had been arrested under the law; nonetheless, media and NGOs noted it effectively prohibits reporting on gang-related issues.

On August 28, Luis Alexander Rivas Samayoa, also known by his Twitter handle “The Commissioner,” was arrested after he questioned on Twitter the president’s brother’s use of the president’s security detail. Karim Bukele was sightseeing on a beach with the detail in attendance when Rivas Samayoa posted a photograph of the security detail and his criticism. Agents from the Division of Protection of Important Persons approached Rivas Samayoa after he posted the tweet, confiscated his and his family’s cell phones, and took them to a police station to await the inspection of their phones, where Rivas Samayoa was arrested. His colleague, Mario Gómez, said Rivas Samayoa was guilty only of questioning the use of government resources to protect a relative of the president, and he added that he was working with Rivas Samayoa and international media to monitor scams through the government’s Chivo Wallet bitcoin app. After being released on September 5, Rivas Samayoa was immediately rearrested on different charges, which police did not specify. As of November, Rivas Samayoa remained in jail pending trial.

**Violence and Harassment:** As of August, the PDDH reported that two journalists had filed cases reporting violence or harassment. On May 3, APES released a report detailing the harassment and restrictions that journalists faced. From January to April, the APES Center for Monitoring Attacks on Journalists recorded 39 cases of journalists reporting harassment, threats, and digital attacks. The center also said journalists faced forced displacement due to persecution, defamation, and lack of security guarantees by government institutions.

On April 19, Ernesto Castro, the president of the Legislative Assembly, denounced Juan Martínez, an anthropologist and journalist who covered gang violence, during a televised session of the Legislative Assembly. Castro stated that Martínez “confessed that he spent a year living with them (gang members) and he felt safe. And now that they are putting terrorists in jail, he feels insecure in this country.”

On March 29, a photojournalist from the newspaper *El Diario de Hoy* was detained after photographing an air force installation in Colonia Santa Lucía, Ilopango. Soldiers made him kneel on the ground, restrained him, and forced him to delete photographs from his camera. According to the photojournalist, the soldiers restrained him despite the fact that he identified himself and presented his press credentials.

On August 15, *El País*, a Spanish newspaper, published an article in which a Salvadoran journalist, Bryan Avelar, said he sought asylum in Mexico after persons close to President Bukele accused him of having a brother in a gang. Avelar said that he did not have a brother and believed the Bukele loyalists spread rumors about him to portray him as a gang-affiliated criminal instead of a journalist. He left the country because he feared that officials were preparing a warrant for his arrest.

**Censorship or Content Restrictions for Members of the Press and Other Media, including Online Media:** Criminal code amendments passed on April 5 specifically forbid radio, television, and print and digital media outlets from reproducing or transmitting messages or statements originating or presumably originating from criminal groups. The legislation imposes prison sentences of up to 15 years. Marcela Pineda, a legislator for the governing Nuevas Ideas political party, declared that journalists interviewing gang members would be committing a crime and that journalists would be considered to be acting as spokespersons for the gangs by broadcasting their message and allowing them to “generate terrorism in the population.” Local and international press freedom organizations criticized the law and said it amounted to media censorship. The Association of Journalists of El Salvador (APES) condemned the law as “a new tool to criminalize journalism.” The Committee to Protect Journalists said the amended law “sets a truly dangerous precedent.”

On October 18, APES reported that 10 journalists had fled the country. The director of the organization cited the amended law as a driving factor behind their departure.

**Nongovernmental Impact:** APES noted journalists who reported on gangs and narcotics trafficking were subject to kidnappings, threats, and intimidation from



criminal groups. Observers reported that gangs also charged print media companies to distribute in communities where they operated, costing media outlets as much as 20 percent of their revenues.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content. There were credible reports that the government monitored private online communications without appropriate legal authority. In an attempt to legalize this activity (see section 1.f.), the government amended the law to give it increased authority to monitor the internet and online platforms.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, but these freedoms were temporarily suspended under the state of exception. The March 27 declaration of a state of exception suspended the rights to peaceful assembly and association, except in the case of meetings or associations for religious, cultural, economic, or sporting purposes.

On August 16, the government restored the freedom of association.

## **Freedom of Peaceful Assembly**

On April 28, Minister of Labor Rolando Castro stated that anyone participating in the Labor Day protest march on May 1 would be imprisoned for violating the prohibition against assembly during the state of exception. Castro added that participants of the march would be labeled criminals and gang defenders and arrested. In response to his comments, many labor unions did not participate in the march, fearing arrest of their members. Others chose to march despite the warnings, and most were allowed to peacefully assemble despite Castro's warnings.

## **c. Freedom of Religion**

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

#### **d. Freedom of Movement and the Right to Leave the Country**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation. In many areas, the government could not assure freedom of movement due to criminal gang activity. Under the state of exception, security forces restricted movement around and into certain, mostly low-income, neighborhoods with a history of gang activity.

**In-country Movement:** Prior to the implementation of the state of exception, major gangs controlled access to their specific territories. Gang members did not allow persons living in another gang's area to enter their territory, even when travelling via public transportation. Gangs forced persons to present government-issued identification cards (which contain a person's address) 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 denied entry to the territory. Bus companies paid bribes to operate within gang territories, often paying numerous fees for the different areas in which they operated. As gang activity decreased under the state of exception, freedom of movement increased.

Although the text of the decree of the state of exception did not mention restrictions on movement, President Bukele warned a day before its approval that the measure included focused and temporary closures in some areas. Starting on March 28, security forces regulated entry to and exit from low-income communities with a high level of gang activity. Police checked residents' identification documents and allowed passage only to persons whose documents showed they resided in the communities.

#### **e. Protection of Refugees**

The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and some assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern, although this was often difficult in gang-controlled neighborhoods.

**Access to Asylum:** The law provides for granting asylum or refugee status, and

the government has established a system for providing protection to refugees, but it has major regulatory and operational gaps. The Commission for the Refugee Status is responsible for refugee status determinations but does not have its own budget. The legal framework requires persons with international protection needs to file their claim within five days of entering the country. The criteria for case decisions are unclear, and the appeals process is also decided by the commission.

## **f. Status and Treatment of Internally Displaced Persons**

The Internal Displacement Monitoring Center estimated there were 175,000 new internally displaced persons due to violence in 2021 (most recent data available), noting the causes included threats, extortion, and killings perpetrated by criminal gangs. The center reported 550 internally displaced persons due to floods in 2021.

## **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 legislative and municipal elections occurred in February 2021. Nuevas Ideas, the party affiliated with President Bukele, won 56 of 84 seats in the Legislative Assembly and 152 of 262 mayorships. The elections were generally considered free and fair; the election reports published by the Organization of American States and the EU electoral mission noted the elections generally met international standards.

**Participation of Women and Members of Minority Groups:** No laws limit participation of women or members of minority groups in the political process, and they did participate. Some transgender persons, however, reported difficulties registering to vote and voting because their gender identities did not match the gender stated on their identification cards (see section 6, Acts of Violence, Criminalization, and Other Abuse Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics).

## Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. Although the Supreme Court investigated corruption in the executive and judicial branches and referred some cases to the Attorney General's Office for possible criminal indictment, allegations of corruption and impunity persisted. In addition, most cases prosecuted by the Attorney General's Office were against former officials of previous governments, despite reports of corruption among sitting officials.

As of July 22, the Government Ethics Tribunal reported it had opened 148 administrative proceedings against 214 public officials. The tribunal imposed sanctions in 37 cases and referred 22 cases to the Attorney General's Office.

**Corruption:** On May 17, *El Faro* published an interview with a spokesperson for the Mara Salvatrucha-13 (MS-13) gang, who said the Bukele administration had negotiated a secret truce with the gang at the beginning of Bukele's term in office in exchange for political support. *El Faro* also obtained recordings of conversations between the gangs and Director for Social Cohesion Carlos Marroquin about the alleged deal, in which he also mentioned the involvement of President Bukele and Director of Penitentiaries Osiris Luna Meza. According to the spokesperson, the gangs agreed to dramatically reduce the number of homicides in the country in exchange for several demands, including government protection for certain gang leaders against extradition to the United States, better treatment for gang members in prison, and payments from the government. The MS-13 spokesperson told the reporter that the truce ended in March when the government arrested leaders of the gang after luring them to a meeting.

On May 23, the Government Ethics Tribunal fined the mayor of Apopa, Jennifer Esmeralda Juárez García, a member of the Nuevas Ideas party, \$1,095 for hiring her cousin to work in the mayor's office. In June the tribunal fined the mayor of Antigua Cuscatlán, Milagro Navas, \$3,000 for authorizing institutional fuel vouchers for \$5,330 to private vehicles owned by the mayor and her daughter in 2017.

On June 20, *El Faro* reported that two weeks before his appointment as attorney

general, Rodolfo Delgado signed a consulting services agreement with the government on behalf of his family business, owned by his mother. The business provided consulting services on preventing money laundering to the Transmission Company of El Salvador, a government company under the Hydroelectric Executive Commission of the Lempa River. Delgado became attorney general on May 1, 2021, and the contract remained in force until December 22, 2021. Between April and December 2021, the government company paid more than \$45,000 to Delgado's mother.

On August 16, the First Sentencing Court sentenced Miguel Menendez "Mecafé," former president of the government-operated convention center and close friend of former President Funes, to eight years in prison for money laundering. The Attorney General's Office proved that "Mecafé" received an airplane from Guatemalan businessman Jaime Ramón Aparicio Mejía, owner of Serdelco S.A., a construction company, in exchange for influencing the Funes administration to award an eight-million-dollar contract in 2013 to the company for the San Isidro Bridge construction project.

## **Section 5. Governmental Posture Towards 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. Government officials were somewhat cooperative but rarely responsive to their views.

President Bukele and his supporters made disparaging remarks regarding national and international human rights groups on social media. For example, on June 11, after the PNC successfully discovered an MS-13 arsenal and dismantled a gang encampment, President Bukele tweeted that international organizations and NGOs sponsored the evolution of gangs into guerilla groups and that international organizations and NGOs gave gangs "legal, media, political, and financial coverage."

**Government Human Rights Bodies:** The principal human rights investigative

and monitoring body is the autonomous PDDH, whose ombudsperson is nominated by the Legislative Assembly for a three-year term. The PDDH has a constitutional duty to investigate human rights abuses and defend human rights conventions in the country. Apolonio Tobar served as human rights ombudsperson from October 2019 until October 2022, when Raquel Caballero de Guevara was appointed to replace him. NGOs believed the PDDH was not fully independent or effective.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape of men or women, and the law 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 does not permit the survivor to withdraw the charge. The penalty for rape is generally imprisonment for six to 10 years. Laws against rape were not effectively enforced.

As of June 30, the PDDH received 15 complaints of femicide. On August 19, *La Prensa Gráfica* reported that femicide convictions decreased to 54 between June 1, 2021, and May 31, 2022, compared with 164 convictions between June 1, 2020, and May 31, 2021.

In June Hugo Ernesto Osorio Chávez, a former PNC officer, was sentenced to 70 years in prison for murdering two women who came to his house looking for a relative in May 2021. The officer was also accused of numerous other femicides and other homicides after police found the bodies of approximately 40 persons, mostly women and girls, in his back yard in May 2021.

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. The law against domestic violence was poorly enforced, and violence against women, including domestic violence, remained a widespread and serious problem.

In September the domestic NGO Feminist Network Against Violence Against Women reported that courts convicted suspects in only 712 cases of the 11,867

complaints of gender-based violence filed with police in the first half of 2021. The Feminist Network believed the high level of gender-based violence and low conviction rates was due to fear of aggressors, normalization of violence, a lack of understanding regarding victims' rights, impunity for aggressors, and an overall patriarchal system.

On August 1, an armed forces colonel was arrested for statutory rape of two girls. The colonel allegedly brought the girls to his quarters at the Armed Forces Logistical Support Command on August 1, gave them intoxicating beverages, and had sexual relations with them.

On March 14, the Second Criminal Chamber of San Salvador sentenced Magistrate Eduardo Jaime Escalante Díaz to 10 years in prison for sexually assaulting a girl, age 10, in Ilopango. The case was initially dismissed in 2019, but public pressure on social media led to the reopening of the case.

**Sexual Harassment:** The law prohibits sexual harassment and establishes sentences of five to eight years' imprisonment for the crime. Courts also may impose fines in cases in which the perpetrator held a position of trust or authority over the victim. By law employers must create and implement programs to prevent sexual harassment. The government, however, did not enforce the law effectively.

On July 23, city council members from Guadalupe, San Vicente, introduced a petition to temporarily suspend the mayor, José Ernesto Renderos Pineda, for sexual harassment. The mayor, however, concluded the session before the council could vote on the petition. The alleged victim explained she started working at mayor's office in May 2021 and the harassment began a month later.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

The law bans abortion under all circumstances. Civil society advocates expressed concern that the ban led to the wrongful incarceration of women who suffered severe pregnancy complications, including miscarriages. On May 9, a judge sentenced a woman to 30 years in prison for aggravated homicide after she suffered a miscarriage. According to the Citizen Group for the Decriminalization

of Abortion, the woman had an obstetric emergency but did not receive adequate medical care to prevent miscarriage. The woman was held in pretrial detention for two years before her conviction for abortion. This was the first conviction in the country after the Inter-American Court of Human Rights ruled against the country in March 2021 for the death of another woman who died while serving a 30-year sentence for abortion. On June 29, a woman, age 21, was sentenced to 50 years in prison for aggravated homicide after she suffered an obstetric emergency.

Access to sexual and reproductive health services was hampered by restrictive abortion laws, lack of access to contraceptives, and a lack of reproductive education. In December 2021, UN experts noted that there was “a systemic practice of discrimination against women who suffer obstetric emergencies or pregnancy losses.” On July 21, the organization Las Dignas presented the results of a study on contraception access carried out in two rural districts. It found that 20 percent of the population studied had an active sex life but did not use contraceptives, for reasons including dangerous or difficult conditions that prevented travel to health centers, not having required parental authorization for minors to obtain contraceptives, and lack of availability of contraceptives in health centers.

**Discrimination:** The constitution grants women and men the same legal status in family, religious, personal status, and nationality law. There were no reports of discrimination in marriage, divorce, child custody, education, and judicial processes. The law also provides equal rights for men and women in the areas of property rights, inheritance, employment, access to credit, business ownership, and housing. Women, however, faced discrimination in employment and occupation. 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 convicted of discriminating against women in the workplace, but employees generally did not report such discriminations due to fear of employer reprisals.

## **Systemic Racial or Ethnic Violence and Discrimination**

There are several laws to protect members of racial or ethnic minorities or groups from violence and discrimination. The government did not enforce the laws



effectively, and the administration took no action to implement a 2018 policy designed to focus on the inclusion of ethnic groups in all social and economic aspects. Systemic racial discrimination existed towards Afro-descendent persons and Indigenous groups. The government did not recognize Indigenous persons or the Afro-descendent community in the most recent population census (2007).

## **Indigenous Peoples**

The constitution recognizes Indigenous peoples and states the government will adopt policies to maintain and develop the ethnic and cultural identity, world view, values, and spirituality of Indigenous peoples. The law provides for the preservation of languages and archeological sites. The municipalities of Cacaopera and Yucuaiquin, in the eastern part of the country, have special laws to recognize their Indigenous cultural heritage.

Although the law provides for Indigenous groups to participate in decision making on issues that affect their rights, it does not include the right to be consulted regarding development and other projects envisioned on Indigenous land, nor does it provide Indigenous groups the right 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 Indigenous persons possessed title to land, opportunities for bank loans and other forms of credit were limited.

On March 10, members of the Salvadoran Indigenous Coordinating Council said relations between the Indigenous communities and the government had deteriorated since 2019. They noted that although the Ministry of Culture was responsible for executing a national plan of action for Indigenous communities, it had not implemented any programs focused on Indigenous communities. Indigenous communities were omitted from the Ministry of Education program that delivered computers to school children. Most Indigenous communities did not have access to the internet, and some did not have access to electricity. Council representatives also said gangs extorted a share of the crops from some Indigenous communities or forced them from their land.

On August 16, the Constitutional Chamber allowed a claim to proceed against the

Attorney General's Office for failing to investigate the death of three Indigenous persons during "The Massacre of 1932." The court stated that the Attorney General's Office failed to take the "necessary steps to determine the circumstances" related to the case in the years since the incident occurred, and that the Attorney General's Office never initiated an investigation "despite the historical significance for the country, since it involved the disappearance and death of thousands of victims belonging to the different Indigenous peoples in the country." Conversely, the court dismissed the same plaintiff's claim against the armed forces in the same incident.

## **Children**

**Birth Registration:** Children derive citizenship by birth within the country or from citizen parents. The law requires parents to register a child within 15 days of birth or pay a small fine. Birth registration was provided on a nondiscriminatory basis. Failure to register may result in denial of school enrollment.

**Child Abuse:** Child abuse remained a serious and widespread problem. The law gives children the right to petition the government without parental consent. Penalties for child abuse include losing custody of the child and three to 26 years' imprisonment, depending on the nature of the abuse.

**Child, Early, and Forced Marriage:** The legal minimum age for marriage is 18. The law bans child marriage to prevent child abusers from avoiding imprisonment by marrying their underage victims, and the law likewise bans exceptions to child marriage in cases where the child is pregnant.

**Sexual Exploitation of Children:** Child sex trafficking is prohibited by law. Prison sentences stipulate imprisonment of 16 to 20 years.

The minimum age for consensual sex is 18. The law classifies statutory rape as sexual relations with anyone younger than age 18 and includes sentences of four to 13 years' imprisonment.

The law prohibits paying anyone younger than age 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. Despite these

provisions, sexual exploitation of children remained a problem. The government did not enforce the law effectively.

**Institutionalized Children:** In March legislators approved reforms to the juvenile criminal code to establish prison sentences for minors convicted of serious crimes committed while belonging to gangs. Such crimes include homicide, extortion, kidnapping, rape, sexual assault, and aggravated robbery. The previous code did not apply prison sentences to juveniles ages 12 to 18 for committing serious crimes. Under the reforms, minors 16 or older could be sentenced up to 20 years in prison, and minors 12 to 15 could face up to 10 years in prison.

On July 27, the Salvadoran Institute of Child Development reported the number of minors ages 12 to 17 in detention increased from 247 in 2021 to 1,373, largely due to enforcement actions under the state of exception.

## **Antisemitism**

The Jewish community totaled approximately 150 persons. There were no reports of antisemitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics**

**Criminalization:** Laws do not criminalize consensual same-sex conduct between adults or cross-dressing.

**Violence against LGBTQI+ Persons:** Violence against lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons was widespread. The law allows for higher sentences for crimes committed on the basis of sex, gender identity, and gender expression, among other categories.

On May 17, the Solidarity Association to Promote Human Development reported that the situation of transgender women and men worsened during the state of exception, due to security force and gang violence. Comcavis Trans reported in August that it had received 20 complaints from transgender individuals regarding their treatment by security forces during the state of exception, including allegations of illegal detention, abuse of power, and physical aggression.

**Discrimination:** Discrimination against LGBTQI+ persons was widespread. On February 4, Comcavis Trans and the Organization for Salvadoran Women for Peace presented the results of a study of discrimination and violence against the LGBTQI+ community that reported 65 percent of individuals interviewed claimed to have been victims of discrimination by municipal security agents. A Human Rights Watch report published in February found that transgender persons regularly faced discrimination in health care, employment, banking, and voting.

On April 26, the PNC arrested Kendra and Dayana, two transgender women from Metapán, Santa Ana, as part of law enforcement actions under the state of exception. On the day of the arrest, police posted a photograph of them on Facebook and Twitter in which both were identified by their male names, not the names they used, and shown with exposed torsos. The post received numerous antitransgender comments. Transgender men arrested during the state of exception also reported police forced them to expose their torsos.

**Availability of Legal Gender Recognition:** On February 23, the Supreme Court ruled that discrimination based on gender identity is unconstitutional and gave the Legislative Assembly one year to create a procedure allowing transgender persons to change their identity documents to reflect their gender. As of November, the Legislative Assembly had not taken any steps to create such a procedure.

**Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals:** There were no reports of the practice of so-called conversion therapy targeting LGBTQI+ individuals.

**Restrictions of Freedom of Expression, Association, or Peaceful Assembly:** There were no restrictions on freedom of expression or association.

On June 25, LGBTQI+ activists noted the Bukele administration had failed to

provide police to protect marchers during the Pride parade in the past two years, although the parade drew more 20,000 participants in a society that was at times violent towards the LGBTQI+ community. The PNC regularly provided protection for other marches, as part of its mandate to guarantee public order.

## **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, but the government did not enforce these laws. Persons with disabilities did not have access to education, health services, public buildings, or transportation on an equal basis with others. Persons with disabilities faced discrimination in employment and occupation. No formal system existed for filing a discrimination complaint based on disability.

The National Council for Comprehensive Attention to Persons with Disability (CONAIPD), composed of representatives from multiple government entities, is the agency responsible for protecting the rights of persons with a disability, but it lacked enforcement power. According to a CONAIPD representative, 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.

Disability advocates said that children with disabilities faced access problems in school, including a lack of ramps and other accommodations. The government provided little support for schools to include accommodations, and there were few teachers trained to teach students with disabilities.

On March 25, the Without Limits Association reported on discrimination faced by children with disabilities in the public education system. Many schools in the country did not admit disabled children due to lack of adequate facilities to accommodate disabilities. The law obliges public-sector institutions to allocate a part of their budget to provide for inclusion of persons with disabilities. According to Without Limits, the Ministry of Education did not comply with the law.

Persons with disabilities also faced discrimination in the public health-care system. Women with disabilities were often instructed by their doctors to use birth control to avoid having children, believing that the women would bear children with

disabilities.

CONAIPD said there was 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.

## **Other Societal Violence or Discrimination**

Although the law prohibits discrimination based on HIV or AIDS status, Entre Amigos, an NGO that worked on issues concerning LGBTQI+ persons, reported HIV-related discrimination was widespread. As of June 30, the PDDH had not received any complaint for cases of discrimination against persons with HIV or AIDS.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of most workers to form and join independent unions, to strike, and to bargain collectively, but the government did not enforce these rights. Unions experienced lengthy delays in processing their credentials with the Ministry of Labor, some waiting nine months or longer. Without credentials, unions may not engage in collective bargaining or participate in tripartite entities that govern worker-related issues such as setting a minimum wage, health care, and housing. According to media reports and union representatives, the minister of labor rewarded unions loyal to him and his party with expedited credentials and punished unions critical of the government by delaying their certifications.

The law prohibits antiunion discrimination, although it does not require reinstatement of workers fired for union activity. Military personnel, national police, judges, and high-level public officers may not form or join unions. Workers in private security firms may not form or join unions. 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. Only citizens

may serve on unions' executive committees. The labor code also bars individuals from holding membership in more than one trade union. Unions must meet certain requirements to register, including having a minimum membership of 35 individuals. If the Ministry of Labor denies registration, the law prohibits any attempt to organize for up to six months following the denial.

Collective bargaining is strictly regulated. Unions representing fewer than 51 percent of the workers in an enterprise do not have the right to bargain, even on behalf of their own members. Provisions of the law allow either party to a collective bargaining agreement, under some conditions, to seek to change its provisions after one year in force. Employees of most public institutions do not have the right to bargain collectively, and for those that do, collective bargaining agreements are subject to the approval of the employing ministry before they go into force.

The law contains cumbersome and complex 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. The law does not specify which services meet this definition, and courts therefore applied this provision on a case-by-case basis. The law requires 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. Unions may strike only to obtain or modify a collective bargaining agreement or to protect the common professional interests of the workers. Unions must engage in negotiation, mediation, and arbitration processes before striking, although many unions often skipped or expedited these steps. Workers at times engaged in strikes that did not meet legal requirements. The law provides no way for workers to appeal a government decision declaring a strike illegal.

The law specifies 30 reasons for which an employer may terminate a worker's contract without triggering any additional responsibilities, including consistent negligence, leaking private company information, or committing immoral acts while on duty. An employer may legally suspend workers, including due to an economic downturn or market conditions. If an employer illegally dismisses a worker, the law requires the employer to pay the equivalent of 30 days of basic salary for each year of service, in lieu of requiring employers to reinstate them.

The government did not effectively enforce the laws on freedom of association and the right to collective bargaining, and penalties were not commensurate with those for other laws involving denials of civil rights, such as discrimination. Penalties were rarely applied against violators. Judicial procedures were subject to lengthy delays and appeals. According to union representatives, the government inconsistently enforced labor rights for a wide range of workers, and enforcement was dependent upon the political affiliations of their labor unions. Unions reported that their members frequently faced violence or threats of violence and that viable legal recourse against such violence was unavailable. Gang activity made it difficult for workers, who continued to be harassed and exposed to violence, to exercise their union activities freely.

Although many unions were aligned with political parties, they functioned independently from the government and political parties.

On April 28, Minister of Labor Castro stated that he would consider any Labor Day demonstrators to be defending gang members. In the event, the demonstrations were largely peaceful and without arrests (see section 2.b., Freedom of Assembly).

## **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. The Ministry of Labor did not report on forced labor. Children and adults were exposed to forced begging, domestic work, agricultural labor, construction, textile industry, and street work. Adults from neighboring countries were forced to work in construction, domestic work, and other informal sector jobs, sometimes under threat of physical violence. Gangs subjected children to forced labor in illicit activities, including selling or transporting drugs and committing homicides.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

See the Department of Labor's *Findings on the Worst Forms of Child Labor* at



<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings/>.

#### **d. Discrimination with Respect to Employment and Occupation**

The constitution, labor laws, and state regulations prohibit discrimination based on age, race, color, sex, religion, political opinion, national origin (except in cases determined to protect local workers), social origin, gender, disability, language, or HIV-positive status. The government did not effectively enforce the laws and regulations, and penalties were not commensurate to laws related to civil rights, such as election interference. Penalties were sometimes applied against violators. Although the Supreme Court of Justice ruled that gender identity was a protected class, the government did not enforce this.

Discrimination in employment and occupation occurred based on age, gender, disability, and sexual orientation or gender identity (see section 6). According to the Ministry of Labor, migrant workers have the same rights as citizens, but the ministry did not effectively protect their rights.

The law prohibits establishing an upper age limit for job applications, using age as a cause to dismiss an employee, or forcing an employee to retire due to age. The law was not enforced.

Although the law provides for equal pay between men and women, women did not receive equal pay. In July 2021, the United Nations reported that women made 18 percent less than men in the same jobs.

Persons with disabilities faced discrimination in employment and occupation (see section 6). On March 7, the Network of Survivors and Persons with Disabilities Foundation said that women with disabilities faced discrimination when seeking employment in public institutions, including through the Ministry of Labor's Job Placement Program. The foundation highlighted that the Special Law on Inclusion of Persons with Disabilities was never implemented or enforced. The Association of Blind Women added that companies preferred to pay fines instead of employing workers with disabilities.

Although the law prohibits forcing an employee to retire due to age, on May 11, the Legislative Assembly approved the Special Law for the Retirement and

Granting of Economic Compensation, which provides financial compensation to employees age 60 or older in the National Civilian Police and the National Academy of Public Security who were forced to retire in March by order of the minister of security. The minister signed the order on March 30, and the employees were forced to retire the next day, without compensation. The order affected approximately 3,000 workers across various law enforcement bodies.

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The government sets the minimum wage, which varies by sector; all were above poverty income levels. The Ministry of Labor is responsible for enforcement of wage and hour laws. The law sets a maximum normal workweek of 44 hours – limited to no more than six days per week and to no more than eight hours per day – but allows overtime, which is to be paid at 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 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 for all workers other than domestic employees, such as maids and gardeners, who are obligated to work on holidays if their employer makes this request. In such cases, they are entitled to double pay.

**Occupational Safety and Health:** The Ministry of Labor is responsible for setting and enforcing occupational safety and health (OSH) standards, and the law establishes a tripartite committee to review these standards. The law requires employers to take steps to meet OSH requirements in the workplace, including providing proper equipment and training and a violence-free environment. The law promotes occupational safety awareness, training, and worker participation in OSH matters. The laws were appropriate for the main industries.

In some cases, the country's high crime rate undermined 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 by and death threats from gang members. The reports decreased following the advent of the state of exception.

Workers may legally remove themselves from situations that endanger health or safety without jeopardy to their employment. One police officer reported being arrested due to complaints he made regarding the conditions of work under the state of exception. On June 10, Jorge Alberto Vásquez Panameño, one of the founders of the Movement of Police Workers, was summoned to a meeting where the PNC Internal Affairs Commission and PNC Director Mauricio Chicas were waiting to carry out his arrest. He was told his arrest was because he shared images on WhatsApp of the exhaustion experienced by police officers during the state of exception. Police union representatives claimed he was detained in retaliation for denouncing the abuses suffered by PNC police officers such as suspension of time off, lack of payment, insufficient supplies to carry out work, and forced retirement of officers 60 years of age or above. He was released four days later, and all charges were dropped.

**Wage, Hour, and OSH Enforcement:** The government did not adequately enforce wage, hour, or OSH laws and regulations. Penalties were not commensurate with those for similar crimes, such as fraud, and were not consistently applied against violators. Some companies reportedly found it more cost effective to pay fines than comply with the law.

The government trained inspectors on legal standards. The number of inspectors was insufficient to deter violations. Inspectors did not have the authority to initiate unannounced inspections or sanctions. Inspections were scheduled according to a calendar set by the Inspections Directorate or to verify a complaint, and labor inspectors notified companies prior to their arrival. Allegations of corruption among labor inspectors continued.

The Ministry of Labor received complaints regarding failure to pay overtime, minimum wage violations, unpaid salaries, and the illegal withholding of benefits (including social security and pension funds). Reports of overtime and wage violations occurred in several sectors. According to the ministry, employers in the agricultural sector routinely violated the laws requiring annual bonuses, vacation days, and rest days. Women in domestic service faced exploitation, mistreatment, verbal abuse, threats, sexual harassment, and generally poor work conditions. Workers in the textile industry reportedly experienced violations of wage, hour, and safety laws. According to the Women Transforming Association, certain

apparel companies violated women's rights through occupational-health violations and unpaid overtime.

**Informal Sector:** The informal sector represented almost 75 percent of the economy. Workers in the informal sector, including children, were not protected by labor laws, and their workplaces were not inspected by the Ministry of Labor.