



Home Office

Country Policy and Information Note

El Salvador: Actors of protection

Version 1.0

February 2021

Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the [Introduction](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis and assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

Assessment

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment of, in general, whether one or more of the following applies:

- A person is reasonably likely to face a real risk of persecution or serious harm
- The general humanitarian situation is so severe as to breach Article 15(b) of European Council Directive 2004/83/EC (the Qualification Directive) / Article 3 of the European Convention on Human Rights as transposed in paragraph 339C and 339CA(iii) of the Immigration Rules
- The security situation presents a real risk to a civilian's life or person such that it would breach Article 15(c) of the Qualification Directive as transposed in paragraph 339C and 339CA(iv) of the Immigration Rules
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- A claim is likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate, balanced and corroborated, so that a comprehensive and up-to-date picture at the time of publication is provided of the issues relevant to this note.

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a brief footnote; full details of all sources cited and consulted in compiling the note are listed alphabetically in the [bibliography](#).

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email the [Country Policy and Information Team](#).

Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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Assessment

Updated: 17 February 2021

1. Introduction

1.1 Scope of this note

- 1.1.1 Whether, in general, those with a well-founded fear of persecution or serious harm from non-state actors can seek effective state protection within El Salvador.

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2. Consideration of issues

2.1 Credibility

- 2.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Exclusion

- 2.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.
- 2.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection.
- 2.2.3 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and [Restricted Leave](#).

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2.3 Protection

- 2.3.1 Where the person has a well-founded fear of persecution from non-state actors, including 'rogue' state actors, decision makers must assess whether the state can provide effective protection.
- 2.3.2 El Salvador has a framework of laws to penalise different forms of criminal activity and a functioning criminal justice system composed of the security forces – police, military, intelligence services – and the judiciary, comprised of the Supreme Court sitting above various subordinate courts. The legal system is based on civil law. The government does not always maintain effective control over the security forces, who are involved in arbitrary detention, extrajudicial executions and enforced disappearances. However some mechanisms are in place to investigate and punish state abuse and

corruption (see [Security apparatus](#), [Penal/criminal code](#), [Capability of security forces](#) and [Judiciary](#)).

- 2.3.3 The Civilian National Police (PNC) has around 25,000 officers, or 365 police per 100,000 population and is responsible for maintaining public order. Around 13,000 soldiers are also routinely deployed to support them in their law enforcement duties. The PNC has a number of specialised units that investigate specific crimes including anti-gang, civil disturbances and VIP protection teams (see [Security apparatus](#) and [Capability of security forces](#)).
- 2.3.4 Despite efforts to improve police effectiveness, including with support from international partners, the police are reportedly inefficient, lack resources and equipment, and are poorly trained. Police are low paid, demoralised and overwhelmed and corruption hinders performance. Although arrests and prosecutions do occur, crime rates are high overwhelming the police with large numbers of cases, and even serious crimes may not be investigated (see [Security apparatus](#) and [Capability of security forces](#)).
- 2.3.5 Some people are reluctant to file complaints to the PNC for fear of reprisal or retaliation from gangs and lack of confidence in state institutions, where lack of secure shelters limits the prospect of protection further. While the government has introduced laws and measures to protect women and girls, including the Local Victim Assistance Offices and the 'Ciudad Mujer' programme, sources indicate whilst these measures remain available they have not been fully or effectively implemented, and women face a 'cultural' bias in obtaining protection. Further, although the government has commissioned the National Division for the Protection of Women, Children, Adolescents, and Other Vulnerable Populations, which employs prosecutors to investigate crimes against the LGBTI community, sources indicate that the police rarely investigate murders of lesbian, gay, bisexual, trans and intersex (LGBTI) persons. Despite laws and policies in place to protect this group, LGBTI persons are subject to widespread harassment, violence and discrimination. Furthermore, persons who live in gang areas may be regarded with suspicion by the police, and there have been reports of incidents of harassment, violence, ill treatment and killings. It is unclear from the sources consulted as to the prevalence of such treatment. However, sources do not indicate that there is a general risk to those living in gang areas (see [Security apparatus](#), [Capability of security forces – Accountability and Impunity](#), [Security force human rights violations](#) and [Judiciary](#)).
- 2.3.6 The security forces are reported to have committed human rights abuses, including arbitrary arrests and detention, extrajudicial killings (particularly of actual or suspected gang members), been involved in unlawful disappearances, and ill-treatment including sexual assaults. LGBTI persons, in particular, have reportedly faced harassment, discrimination, sexual assault and violence from the police including when seeking protection. The Office of the Human Rights Ombudsman (PDDH) reported complaints of arbitrary or illegal detention and lengthy pretrial detention was a problem. While some cases of police abuse have been investigated few have gone to trial and resulted in a conviction, and a lack of accountability and impunity for violations remains a problem (see [Security force human rights violations](#), [Arrest and detention](#) and [Accountability and impunity](#))

- 2.3.7 The PDDH is authorised to investigate human rights abuses, including by the security forces, referring any cases for prosecution to the Attorney General's office). They were considered largely effective except with regard to issues relating to criminal groups and gangs. Furthermore, while the government publicly acknowledged receipts of reports from the PDDH, it did not always act on their recommendations, which are non-binding. Corruption across state institutions remains a problem, including within the criminal justice system. The government has, however, made some effort to combat this, in September 2019 it was announced that an anticorruption agency was to be created known as The International Commission against Impunity in El Salvador. Reports indicate that the Commission does not have the authority to launch prosecutions and that it lacks staff, budget and a broad mandate (see [Oversight bodies and mechanisms](#)).
- 2.3.8 The government has undertaken mass arrests of suspected gang members and in 2019 convicted gang members for a series of killings in 2014 and 2015. There is a functioning judiciary which tries and convicts criminals, but its effectiveness is undermined by inefficiency and corruption leading to a high level of impunity. Additionally, officials faced a number of obstacles in fulfilling their duties including threats, intimidation and violence. Access to justice is reported to be limited for women, LGBTI persons and internally displaced persons (IDPs) and despite the creation of specialised women's courts, women continue to struggle in obtaining justice. As a consequence of the weaknesses in the criminal justice system, including the judiciary, conviction rates for crimes were generally low at around 5% (see [Judiciary](#) and CPIN: [El Salvador: Fear of gangs](#)).
- 2.3.9 The government operates a witness protection scheme for victims and witnesses during a trial. However, protection is only offered during the trial and sources suggest there are problems with its effectiveness at protecting those on the scheme. Family members and IDPs are not eligible and women have been sexually abused in witness protection programmes by security guards (see [Witness protection](#) and [CPIN: El Salvador – Gangs](#))
- 2.3.10 There is estimated to be over 36,000 prisoners, held in prisons and detentions centres which are overcrowded, under-resourced, violent and dangerous. Gang activity is prevalent with active or former gang members making up over 50% of the prison population. Detainees are held in harsh overcrowded conditions with poor access to water, sanitation, light and adequate medical care. Prolonged detention, including pretrial detention, is common (See [Arbitrary arrest and detention](#) and [Conditions of detention](#)).
- 2.3.11 The government has established a legal system to detect, prosecute and punish criminal acts, to which persons have access. This has resulted in the investigation, arrest, prosecution, conviction and imprisonment of persons committing crimes. However, the criminal justice system's effectiveness is undermined by low pay, a lack of resources, inefficiency and corruption which has resulted in relatively low rates of conviction for various criminal acts. Protection is particularly difficult to access for women, LGBTI persons and IDPs or those seeking protection from criminal groups / gangs (see [CPIN: El Salvador – Gangs](#))

- 2.3.12 In general, where the persecutor is a non-state agent and is not a gang member, the state are likely to be willing and able to provide effective protection. However, women, girls, LGBTI persons and IDPs are likely to face obstacles in accessing protection making it unavailable in many cases.
- 2.3.13 People who fear a gang are unlikely to be able to obtain protection from the state (see [CPIN: El Salvador – Gangs](#)). Additionally, the state is unlikely to be both willing and able to provide protection to LGBTI persons. In regard to trans persons in particular, the Upper Tribunal in the reported case [Mx M \(gender identity – HJ \(Iran\) - terminology\) El Salvador \[2020\] UKUT 00313 \(IAC\)](#), heard 30 September 2020 and promulgated on 22 October 2020, while not issuing country guidance, found on the evidence before it that ‘Although the state – or more accurately elements of the state - may be willing to combat such harms [including murder, rape and other sexual violence, physical assault and coercion into criminal activities] the weakness of the criminal justice system, including homo and transphobic attitudes by police officers, are such that there is unlikely to be a “sufficiency of protection” in practice.’ (paragraph 47)
- 2.3.14 Aside from the groups identified above, in general protection may be available. However, decision makers must consider each case on its facts, taking into account the person’s background and profile, the nature, capability and intent of their persecutor, and whether they have previously sought protection and the outcome of this, or a person’s reasons for not seeking protection – noting that a person’s reluctance to seek protection does not necessarily mean that effective protection is not available. The onus is on the person to demonstrate why the state would not be willing and able to provide effective protection.

The standard of protection to be applied is not one that eliminates all risk to its citizens. It is sufficient that a country has a system of criminal law which makes attacks by non-State actors (or ‘rogue’ state actors) punishable and that there is a reasonable willingness and ability to enforce the law.

No country can offer 100% protection and certain levels of ill treatment may still occur even if a government acts to prevent it.

- 2.3.15 For further information relating to particular groups, for example Gangs, see the relevant [Country Policy and Information Note](#).
- 2.3.16 For further guidance on Convention reasons see the instruction on [Assessing Credibility and Refugee Status](#).

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Country information

Section 3 updated: 4 February 2021

3. Legal rights

3.1 Penal/criminal code

3.1.1 El Salvador's [penal code](#) is only available in Spanish.

3.1.2 The US Central Intelligence Agency (CIA) World Factbook noted with regards to El Salvador's legal system: 'Civil law system with minor common law influence; judicial review of legislative acts in the Supreme Court.'¹

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Section 4 updated: 17 February 2021

4. Security apparatus

4.1 Government oversight and security forces' responsibilities

4.1.1 The UN Special Rapporteur on extrajudicial, summary or arbitrary executions in her report of her mission to El Salvador undertaken in January and February 2018 and published in December 2018 stated 'The military role in public security is ... clearly established as exceptional. However, in practice, the executive, the legislature and the military and police forces have turned what should be an exceptional regime into a norm in the name of public emergency.'²

4.1.2 The US State Department (USSD) report for 2019 noted:

'The National Civilian Police (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." The military is responsible for securing international borders and conducting joint patrols with the PNC. In 2016 then president Sanchez Ceren renewed the decree authorizing military involvement in police duties, a presidential order in place since 1996. Civilian authorities failed at times to maintain effective control over security forces.'³

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4.2 Police forces

4.2.1 The police are established under article 159 of [El Salvador's Constitution of 1983 with Amendments through 2014](#).

4.2.2 Insight Crime in an overview last updated 2017 stated: 'El Salvador has around ... 16,000 officers in the National Civil Police (Policia Nacional Civil –

¹ CIA, '[World factbook: El Salvador](#)' (Government), last updated 22 January 2021

² UNHRC, '[SR extrajudicial executions report 2018](#)' (paragraph 25), 7 December 2018

³ USSD, '[2019 Human rights report](#)' (Executive summary), March 2020

PNC).⁴ However, the UN Special Rapporteur on the human rights of internally displaced persons noted in her report of April 2018, based on a visit to El Salvador in August 2017, that there are ‘roughly 25,000 police officers’.⁵

- 4.2.3 The USSD’s Overseas Security Advisory Council (OSAC) crime and safety report for El Salvador of March 2020 observed: ‘There is only one national police service: The [Policia Nacional Civil](#) (PNC). Each major city, municipality, or town has a PNC delegation. The PNC also has a number of specialized units that investigate specific crimes and traffic enforcement, anti-gang, civil disturbance, VIP protection, and other special operations units.’⁶
- 4.2.4 International Crisis Group report ‘Miracle or Mirage? Gangs and Plunging Violence in El Salvador’ from July 2020 stated: ‘Gang members... far outnumber the 25,000 police and 13,000 military officers deployed in law enforcement. Official figures show that roughly one third of gang members are in jail (around 18,000), including most long-time leaders, or ranfleros.’⁷

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4.3 Armed forces

- 4.3.1 The CIA World Factbook listed the military and security forces as ‘Armed Force of El Salvador (Fuerza Armada de El Salvador, FAES): Army of El Salvador (Ejercito de El Salvador, ES), Navy of El Salvador (Fuerza Naval de El Salvador, FNES), Salvadoran Air Force (Fuerza Aerea Salvadorense, FAS) (2020).’⁸
- 4.3.2 With regard military and security personnel numbers, the CIA World Factbook stated: ‘the Armed Force of El Salvador (FAES) has approximately 22,000 active troops (18,000 Army; 2,000 Navy; 2,000 Air Force) (2019 est.)’.⁹
- 4.3.3 The US Congressional Research Service (CRS) report of July 2020, citing a range of sources, noted:
- ‘For years, Salvadoran presidents have deployed thousands of military troops to support the police, but observers have been particularly concerned about President Bukele’s use of the military. Bukele has tasked thousands of members of the armed forces with supporting his security plan. In August 2019, Bukele announced phase three (Modernization) of his plan, which has not yet been implemented. In February 2020, the National Assembly refused to approve a [US]\$109 million loan to equip the police and military, even after Bukele had those forces surround the legislative palace—a move the Supreme Court and international observers rebuked... Bukele has also defied a Supreme Court order to stop using security forces to detain those

⁴ Insight Crime, ‘[El Salvador profile](#)’, 15 September 2017

⁵ UNHRC, ‘[Report of the Special Rapporteur on the human rights of internally...](#)’, 23 April 2018

⁶ US OSAC, [Crime and Safety Report 2020](#), 31 March 2020

⁷ ICG, ‘[Miracle or Mirage? Gangs and Plunging Violence...](#)’ (pages 2 and 6), 8 July 2020

⁸ CIA, ‘[World factbook: El Salvador](#)’ (Military and Security), last updated 22 January 2021

⁹ CIA, ‘[World factbook: El Salvador](#)’ (Military and Security), last updated 22 January 2021

accused of violating a national quarantine and force them to stay in “containment centers.”¹⁰

4.3.4 See also:

- UN Human Rights Council (UNHRC), [‘Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador’ \(paragraphs 22 and 23\)](#)

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4.4 Intelligence agencies

4.4.1 An International Security Sector Advisory Team (ISSAT) country profile, part of the Geneva Centre for the Democratic Control of Armed Forces and dated in 2015, noted: ‘The executive, military and police each have their own intelligence branches—the Police Intelligence Centre (Centro de Inteligencia Policial-CIP) being the PNC’s arm—which work actively with United States and European intelligence bodies, sharing information and, in some cases, coordinating joint operations against organised criminal groups.’¹¹

4.4.2 Interpol on their website for El Salvador stated:

‘The San Salvador NCB [Interpol’s National Central Bureau] is part of the Policia Nacional Civil (PNC), which is the national police force. It is an operational unit, meaning NCB police staff can exercise police power across the country on behalf of the national police, including the power of arrest.

‘The NCB conducts regional and global crime analysis in cooperation with NCBs worldwide, sharing intelligence on emerging land, sea and air trafficking routes, production zones, transportation and concealment methods, particularly as it relates to organized crime which could affect El Salvador.’¹²

4.4.3 CPIT has been unable to find any further up to date information regarding intelligence agencies in the sources consulted (see [Bibliography](#)).

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4.5 Arrest and detention

4.5.1 The USSD human rights report for 2019 noted:

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

‘The constitution requires a written warrant of arrest except in cases where an individual is caught in the act of committing a crime. Authorities generally apprehended persons with warrants based on evidence and issued by a judge, although this was frequently ignored when allegations of gang membership arose. Police generally informed detainees promptly of charges against them.

¹⁰ US CRS, [‘El Salvador: Background and US Relations’](#) (page 7), 1 July 2020

¹¹ ISSAT, [‘El Salvador Country-Profile’](#), last updated 13 January 2015

¹² Interpol, [El Salvador](#), undated

'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. The constitution permits the PNC to hold suspects for 72 hours before presenting them to court. The law allows up to six months for investigation of serious crimes before requiring either a trial or dismissal of the case; this period may be extended by an appeals court. Many cases continued beyond the legally prescribed period.

'As of August 22, the PDDH [Office of the Human Rights Ombudsman] reported 66 complaints of arbitrary detention or illegal detention, compared with 31 from January to October 2018. According to the PNC and a report by El Faro, 72 percent of those arrested in the first 15 days of the Bukele administration—969 of the 1,350 individuals arrested during or immediately after an alleged crime—were released within 72 hours and were not formally charged with a criminal offense.

'Lengthy pretrial detention was a significant problem. As of August [2019] approximately 33 percent of the general prison population was in pretrial detention. Some persons remained in pretrial detention longer than the maximum legal sentences for their alleged crimes. In such circumstances detainees were permitted to request a Supreme Court review of their continued detention.'¹³

- 4.5.2 For more information on the arrest and detention of gang members see Government anti-gang policy and law in [CPIN: Fear of gangs](#).

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Section 5 updated: 4 February 2021

5. Capability of security forces

5.1 Recruitment and training

- 5.1.1 An March 2019 article by the Washington Post noted:

'The United States has been bolstering the Salvadoran police, part of a regional strategy intended to stabilize Central America's most violent countries and reduce migration. The State Department spent at least [US]\$48 million to train police in El Salvador, Guatemala and Honduras from 2014 through 2017, according to the Government Accountability Office

'The department opened a law enforcement training academy in San Salvador, where 855 Salvadoran officers were trained by the FBI and other American law enforcement agencies in those four years

“The Salvadoran government, with U.S. government support, has made significant gains in the area of security, including reductions in homicides

¹³ USSD, [2019 Human rights report](#) (section 1D), March 2020

and every other category of violent crime measured,” the State Department said in a statement issued in response to an inquiry by The Post...¹⁴

5.1.2 The same Washington Post article added ‘By some measures, the U.S.-backed security efforts appeared to be showing results’, citing the declining murder rate since 2016¹⁵.

5.1.3 The USSD International Narcotics and Law Enforcement Affairs (INL) summary noted:

‘Model Precincts and Community Policing – INL funds instructors and advisors who provide oversight and training to the police in community-style policing, executive police decision making, and institutionalization of modern policing philosophies. Community policing efforts are underway in all 19 of El Salvador’s departments, with new equipment, trained personnel, and improved protocols instituted at 50 police stations across El Salvador. INL plans to expand the number of Model Police Precincts in El Salvador in the coming years. In 2018, INL began supporting the PNC’s School Resource Officer (SRO) unit, which will train 500 SROs assigned to Salvadoran schools. SROs will ensure safety of schools and help curtail the role of the military in civilian policing by enabling reassignment of military officers currently guarding schools.

‘Place-based Strategy (PBS) for Violence Prevention – The PBS, through INL and USAID collaboration, identifies key high-crime locations and people at risk for criminal involvement to strategically implement a balanced and integrated set of public health and law enforcement interventions. PBS activities align with Plan Seguro locations. INL launched PBS sites in Ciudad Delgado, Zacatecoluca, and Lourdes-Colon, and will deepen engagement with police, schools, and civic organizations inside the 13 Plan Seguro sectors within these three municipalities.’¹⁶

5.1.4 The USSD INL also noted

‘Vetted units of Salvadoran police and prosecutors, supported by U.S. law enforcement mentors from the Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), and Homeland Security Investigations (HSI)/Immigrations and Customs Enforcement (ICE), build Salvadoran capacity to pursue complex investigations with a U.S. nexus. The FBI Transnational Anti-Gang (TAG) unit is the lynchpin of bilateral and international law enforcement cooperation in attacking transnational criminal activities of criminal gangs such as MS-13 and Barrio 18.’¹⁷

5.1.5 The US CRS report of July 2020 citing a range of sources observed: ‘With a majority of the National Civilian Police (PNC) budget devoted to salaries, historically there has been limited funding available for investing in training and equipment.’¹⁸

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¹⁴ Washington Post, [‘It’s so dangerous to police MS-13 ...’](#), 3 March 2019

¹⁵ Washington Post, [‘It’s so dangerous to police MS-13 ...’](#), 3 March 2019

¹⁶ USSD INL, [El Salvador summary](#), undated

¹⁷ USSD INL, [El Salvador summary](#), undated

¹⁸ US CRS, [‘El Salvador: Background and US Relations’](#) (page 7), 1 July 2020

5.2 Effectiveness

- 5.2.1 See also [CPIN: Fear of gangs](#) and sections [5.4](#) and [5.5](#) in this CPIN for information on assistance provided to IDPs, women and minority groups.
- 5.2.2 ICG in 2017 noted: ‘The National Civil Police has 28,000 officers, around 90 per cent of whom come from humble social backgrounds, and the average salary is [US]\$424 per month [By comparison the gross national income per capita in 2019 was \$4000 US per annum or \$333 per month¹⁹]. This forces many to live in gang-controlled areas, usually neighbourhoods with lower rents, putting them and their families at risk. Officers in the field describe feeling alone and emotionally exhausted during but also after work.’²⁰
- 5.2.3 Insight Crime in an overview last updated 2017 stated:
‘Serving as a police officer in El Salvador is an extremely dangerous job, and PNC officers typically begin making less than [US]\$500 per month. Beginning in 2014, security forces increasingly became the target of attacks by gang members, driving desertions from the PNC. To supplement shortcomings and lack of resources, El Salvador routinely calls on the military to supplement the PNC in its duties. As gang violence in El Salvador has risen, there have been indications of armed forces members engaging in extrajudicial killings of suspected criminals.’²¹
- 5.2.4 The UNSR IDPs report 2018 observed:
‘The extent of violent crime is such that there is often no investigation carried out into even the most serious crimes, including homicides, resulting in a general lack of faith in law enforcement and the criminal justice system. The criminal conviction rate in El Salvador is less than 5 per cent... Such a situation indicates a deeply worrying law enforcement deficit and demonstrates that the police and the investigation service are overwhelmed and underequipped to respond to the challenges they face, including the extraordinary levels of homicide. It also creates and perpetuates an environment and society in which gangs can flourish and function with almost absolute impunity from prosecution for even the most egregious crimes. This leads individuals and families, who see no prospect of remedy or protection in reporting violence to the authorities, to see their only option as fleeing their homes and communities to find safety.
‘Public officials regularly associated them with “the enemy” rather than recognizing them as citizens with a right to protection.’²²
- 5.2.5 The same source further noted that:
‘The Special Rapporteur was informed by the Ombudsman of one case that had taken place during her visit, in which a family that had been the subject of extortion had found a hand grenade placed at their front door with a note informing them that they had 48 hours to leave their home or be killed. The case came to the attention of the Ombudsman’s Office since the family made the decision to flee, could not return home and there were no State-

¹⁹ World Bank, [El Salvador data – GNI per capita](#), undated

²⁰ ICG, ‘[El Salvador’s Politics of Perpetual Violence](#)’ (page 5), Dec 2017

²¹ Insight Crime, ‘[El Salvador profile](#)’, 15 September 2017

²² UNHRC, [SR IDPS report 2018](#) (paragraph 19), 23 April 2018

provided shelter options for their protection. A temporary solution was to house the family in a hotel, while the Ombudsman expressed concern and frustration that no options for protection and relocation were available to them to support such families.

‘The lack of secure shelter options for internally displaced persons and families leaves them living in highly precarious and vulnerable conditions, and under continuing risk of violence. ...

‘Community members told the Special Rapporteur that they feared aggressive and intimidating security strategies that appeared to criminalize entire neighbourhoods and consider ordinary community members as potential gang members or affiliates often based simply on where they lived. ... The Special Rapporteur was informed by numerous people that they had suffered violence and abuse by members of the national civil police. She heard allegations of extrajudicial killings and the re-emergence of extermination groups connected to the police and security forces. She notes that this has been strongly denied by senior government and security officials whom she met.

‘Several individuals whom the Special Rapporteur interviewed stated that they feared the authorities as much as the gangs.²³

5.2.6 The United Nations Office on Drugs and Crime provided the following data, it has been compared here with figures for the United States. Similar data was not available for the United Kingdom on UNODC^{24 25}.

	El Salvador rate	USA	World rate
Number of victims of intentional homicide per 100,000 population (2018)	52.0	5	58
Number of victims of intentional homicide, by sex – Male (2017)	115.9	8.5	N/A
Number of victims of intentional homicide, by sex – Female (2017)	13.8	2.2	N/A
Rates of persons arrested per 100,000 population (2015)	860	4005	N/A
Rates of persons convicted per 100,000 population.	95	23	N/A
Police per 100,000 population	365 (2015)	206	N/A

5.2.7 The UN Special Rapporteur on extrajudicial, summary or arbitrary executions in her report of her mission to El Salvador undertaken in January and February 2018 and published in December 2018 summarised the

²³ UNHRC, [SR IDPS report 2018](#) (paragraphs 25, 26, 50 and 51), 23 April 2018

²⁴ UNODC, [Country Profile – El Salvador](#), undated

²⁵ UNODC, [Country Profile – United States of America](#), undated

challenges faced by the country in general and the criminal justice system in particular in managing high levels of extrajudicial killings:

‘A number of interlocutors highlighted the country’s structural and systemic challenges. While they in no way justify the violations referred to in the present report, it is important to acknowledge the complex economic, social and cultural context within which they are committed, including:

...

‘(b) Limited investigatory resources and expertise available to the police, resulting in a chronic paucity of forensic evidence and little to no scientific investigation capacity;

...

‘(d) Demoralization and overstretching of police, poor pay and daily confrontations with difficult and traumatic situations. Measures to improve police wellbeing and protection have been initiated but remain limited;

‘(e) High levels of impunity for past crimes, giving rise to persisting and repetitive systemic patterns;

‘(f) Lack of an effective State presence and de facto territorial control by gangs.’²⁶

5.2.8 The US State Department’s Bureau of International Narcotics and Law Enforcement Affairs (INL) provided an undated summary of its activities to support the El Salvador government (USSD INL summary):

‘In 2018, El Salvador made permanent a series of “extraordinary measures” strengthening prison security and police operations, which contributed to the significant drop in homicides.

‘In recent years, El Salvador made notable strides to combat corruption and impunity...

‘In 2016, the government implemented a security tax on high-income earners and telecommunications providers, and used the tax revenue to fund police salary bonuses, supplement the Attorney General’s budget, and support prevention activities, however, adequate resources for the security services (as well as education, infrastructure, health care, etc.) remain a challenge.’²⁷

5.2.9 The UNSR IDPs report 2018 further observed:

‘Officials pointed to the decline in homicide rates since 2015 as evidence that the measures [extraordinary security measures] are working. Official figures indicate that between 2016 and 2017, homicide rates in the prioritized municipalities declined by some 25 per cent, largely attributable to a drop in gang-related murders. The reasons for this apparent decline should, however, be further documented to identify the factors that have influenced it, in particular as it appears that a similar reduction in homicides has occurred in non-prioritize municipalities.’²⁸

²⁶ UN, [SR extrajudicial execution report 2018](#) (paragraph 9), 7 December 2018

²⁷ USSD INL, [El Salvador summary](#), undated

²⁸ UNHRC, [SR IDPS report 2018](#) (paragraph 28), 23 April 2018

- 5.2.10 Vickie Knox, lecturer in international human rights law and refugee law at the University of London, observed in an article in the Forced Migration Review (FMR) of October 2019 about the Northern Triangle of Central America countries generally, including El Salvador, that:

“Impunity is endemic in the region and most crimes are not prosecuted.

‘there is a reluctance to report, which is based on several factors, including mistrust of the police and justice system and lack of confidence in the authorities to provide effective protection. This reluctance can also stem from the type of violence or crime experienced. Victims of gang violence fear reprisals and this is amplified by the fear of information being leaked to gangs by corrupt or coerced State agents. For victims of gender-based violence, hate crimes and sexual violence, this reluctance is compounded by fear of stigma, reprisals and more violence from their assailants, and those who do report are often re-victimised or derided by police. Reporting is also hindered by a lack of shelters for victims of domestic violence, the refusal to help people who appear to be a different gender from that given on their identity document, and a lack of recognition of same-sex relationships and the possibility of violence within them

... significant practical challenges in delivering justice, including weak institutions, a lack of resources and capacity, and the sheer volume of cases. When crimes are reported to the authorities, reports may be refused or simply not processed and investigated. When investigations do take place, they are often lengthy and inefficient. All this is aggravated by a lack of effective witness protection and survivor support programmes... [While] State entities and law enforcement agencies have been corrupted and infiltrated by gangs, or may themselves extort and abuse people directly.’²⁹

- 5.2.11 The USSD report for 2019 noted ‘In many neighborhoods, armed groups and gangs targeted certain persons and interfered with privacy, family, and home life. Efforts by authorities to remedy these situations were generally ineffective.’³⁰
- 5.2.12 Human Rights Watch in a February 2020 report claimed ‘There are many reasons why authorities are unable or unwilling to help protect Salvadoran citizens who are afraid for their safety, including the fact that they themselves are monitored and threatened, authorities’ offices have also been infiltrated by gangs, they lack resources, and carry large caseloads...’³¹
- 5.2.13 The OSAC crime and safety report for El Salvador of March 2020 observed: ‘While receiving significant support from U.S. and other partners, the police often suffer from inadequate funding and limited resources. Because of perceived and actual corruption, they do not enjoy the full confidence and cooperation of much of El Salvador’s citizenry. The police’s investigative units have shown great promise; however, routine street-level patrol techniques, anti-gang work, and crime suppression efforts remain a constant, difficult challenge. Equipment shortages (particularly radios and

²⁹ FMR, [‘Gang violence, GBV and hate crime...’](#) (page 80), October 2019

³⁰ USSD, [2019 Human rights report](#) (section 1f), March 2020

³¹ HRW, [‘Deported to Danger’](#), (page 67), February 2020

vehicles) limit their ability to deter or respond to crimes expeditiously. Other impediments to effective law enforcement are unsupportive laws, general distrust, and the occasional lack of cooperation between the police, prosecutors, and corrections.³²

- 5.2.14 The Bertlesmann Transformation Index (BTI) report for El Salvador, released in April 2020 but considering the country situation between 2017 and early 2019, observed:

‘The state’s police forces – reinforced in some cases by army troops – are mostly unchallenged when patrolling over any portion of the country but some areas, mostly in and around the capital of San Salvador, are strongholds of youth gangs that dispute control over the territory of their neighborhood. These contested areas are mostly poor or very poor and youth gangs have gained a foothold in part as a result of few opportunities for the younger generations.’³³

- 5.2.15 The same report also observed: ‘The state’s public security and justice systems are still very much wanting, i.e. judicial backlogs, inefficient/ limited police patrolling, low capacity for criminal investigation, overflowing prisons. Part of the problem is a reflection of insufficient public income from taxation and high levels of public corruption.’³⁴

- 5.2.16 The BTI El Salvador report also noted how an individual’s response to a human rights violation varied according to their social and economic status:

‘Violence [from different non state actors] is also directed at groups that are socially discriminated against, such as homosexuals, indigenous groups, and women. The homicide rate among women, in particular, has been on the rise. But it is young people, in general, who are at greatest risk. Prosecution of cases of homicide is only partly successful; most cases of homicide remain unsolved. Youth gangs are perceived to be most responsible for violence in society and public opinion polls, which are reflected in government policy, are supportive of heavy-fisted measures against them (arbitrary arrests, physical abuse, doctored judicial proceedings).

‘When people have suffered violations of their basic rights, their response is generally a reflection of their social standing. For people who are poor and live in areas with high levels of social violence, one option is to seek redress at the offices of the attorney general or the human rights advocate, but their response is generally slow or ineffective. Another option that is becoming more frequent over time is to flee danger by relocating within the country or emigrating entirely, regardless of the human and economic cost. For middle- or upper-class populations, on the other hand, danger is reduced by living in gated communities and moving about in private automobiles in areas that are better policed and generally safer.’³⁵

- 5.2.17 The USSD Annual report on trafficking in persons covering April 2019 to March 2020 stated:

³² US OSAC, [Crime and Safety Report 2020](#), 31 March 2020

³³ BTI, [‘El Salvador Country Report 2020’](#) (Stateness), April 2020

³⁴ BTI, [‘El Salvador Country Report 2020’](#) (Stateness), April 2020

³⁵ BTI, [‘El Salvador Country Report 2020’](#) (Rule of Law), April 2020

'Authorities investigated 80 cases (77 sex trafficking cases, one case of forced begging and two cases of forced labor) in 2019, compared with 74 cases (71 sex trafficking cases and three forced labor cases) in 2018, 76 cases (73 sex trafficking cases, two forced labor cases, and one domestic servitude case) in 2017 and 55 sex trafficking cases in 2016. In 2019, authorities prosecuted nine individuals (eight for sex trafficking, one for forced labor), and convicted 12 individuals (three for sex trafficking and nine for forced marriage), compared with prosecuting nine cases and convicting seven traffickers in 2018, prosecuting nine cases and convicting six traffickers in 2017, and seven prosecutions and six traffickers convicted in 2016. The government did not provide data on sentences in 2019, but sentences ranged from six to 10 years in 2018, and 10 to 14 years' imprisonment in 2017. The national police conducted searches at bars and nightclubs in several areas of the country with a specific focus on potential human trafficking for sexual exploitation and child labor; police arrested nine people on charges of sexual crimes against adolescents from these searches. In October 2019, the police and attorney general's office carried out Operation Turquoise, an anti-trafficking law enforcement sting, in San Salvador, Sonsonate, and Chalatenango, which identified child sex trafficking in El Salvador and Guatemala. In October 2019, the Salvadoran national police and immigration officials cooperated to dismantle two human trafficking and smuggling networks in eastern El Salvador.

'In 2018, authorities arrested an allegedly complicit government official on charges of drug trafficking and human trafficking; the government was unable to provide updates to this case during the reporting period. In previous years, authorities investigated prison guards and the former head of the anti-trafficking unit for alleged complicity in trafficking offenses, but they did not hold any officials responsible, raising serious concerns of a lack of accountability and weak law enforcement.'³⁶

5.2.18 The US CRS report of July 2020 citing a range of sources observed:

'El Salvador has a long history of weak institutions and corruption, with successive presidents and legislatures allocating insufficient funding to criminal justice institutions. [...] Corruption, weak investigatory capacity, and an inability to prosecute officers accused of corruption and human rights abuses have hindered performance. A lack of confidence in the police has led many companies and citizens to use private security firms and the government to deploy soldiers to perform public security functions. President Bukele has increased police salaries and sought, but did not receive, legislative approval of a loan to provide new equipment for police and soldiers.'³⁷

5.2.19 Human Rights Watch in their world report covering 2020 stated: 'Historically, security forces have committed extrajudicial executions, sexual assaults, enforced disappearances, and torture. They remain largely ineffective in protecting the population from gang violence.'³⁸

³⁶ USSD, '[2020 Trafficking in Persons Report: El Salvador](#)' (section Prosecution), 25 June 2020

³⁷ US CRS, '[El Salvador: Background and US Relations](#)' (pages 7 to 8), 1 July 2020

³⁸ HRW, '[World report 2021 \(El Salvador\)](#)', January 2021

5.3 Accountability and impunity

5.3.1 The UN Human Rights Committee raised its concern during its meeting in March 2018 that:

‘The Committee is concerned about the increase in the number of people killed by the National Civil Police and the Armed Forces and about reports of arbitrary detention, extrajudicial executions and enforced disappearances, as well as about the “death squads” said to be operating within the police and the Armed Forces. The Committee is also concerned about impunity for these alleged crimes and about reports that a high percentage of these cases are dismissed.’³⁹

5.3.2 The UNSR extrajudicial execution report 2018 noted

‘The Special Rapporteur learned of a large number of alleged extrajudicial killings or deaths resulting from excessive use of force by security agents. While officials acknowledged that there might be some cases of extrajudicial killings, they insisted that they were isolated incidents. However, the Special Rapporteur finds that the abovementioned pattern of behaviour by security personnel points to extrajudicial executions facilitated by inadequate investigations and judicial responses.

‘To date none of the allegations [of extrajudicial killings or use of excessive force] have resulted in the conviction and sentencing of any police or military officer, making conviction rates for killings by security personnel even lower than the overall criminal conviction rate, which stands at less than 5 per cent. Few of these allegations have been fully and properly investigated...

‘Internal disciplinary responses have also proven weak. According to official data, as of 31 December 2017, 238 police and 40 military personnel had been prosecuted. Of the police officers, 189 were permanently dismissed, 2 provisionally dismissed and 47 remain under investigation, with 4 detained. According to the Ministry of Defence, 12 soldiers and 2 sergeants have been sentenced for deprivation of freedom and breaking and entering (pending cassation) and 8 soldiers remain under investigation, pending judgment, for deprivation of freedom and aggravated homicide. In 2017, the Office of the Human Rights Advocate received 78 complaints of human rights violations by the armed forces.

‘Between 2014 and 2016, 41 cases of police involvement in extermination groups or homicides were investigated. Of those cases, 24 have been dismissed, 10 are under investigation, 6 are under deliberation and possible action of the Inspector General and only 1 person has been sanctioned. In relative terms, 2.44 per cent of those implicated in such practices have reached a conviction and 58.54 per cent have been shelved because the investigation did not yield results.’⁴⁰

5.3.3 The same report continued ‘Civil society reports indicate almost complete impunity for killings of lesbian, gay, bisexual, transgender and intersex persons. The endemic violence in the country and the territorial control of

³⁹ UNHRC, [Concluding Observations on the seventh periodic report](#), (paragraph 21), 9 May 2018

⁴⁰ UNHRC, [SR extrajudicial executions report 2018](#) (paragraphs 37, 45 and 49-50), 7 December 2018

gangs over certain areas has also had a negative impact on them. In addition to unlawful killings, they have suffered a wide range of human rights violations, including forced displacement, threats and intimidation, sexual violence and torture...⁴¹

5.3.4 An Internal Displacement Monitoring Centre (IDMC) report of September 2018 noted

‘Many people choose not to report crimes, whether committed by gangs or state entities, for fear of reprisals. This feeds into a culture of impunity that creates an environment in which gangs and crime can flourish, which in turn further undermines people’s trust in the authorities, increases their vulnerability to gangs’ abuses and undermines access to justice. That said, impunity is a complex issue. There are also significant practical challenges in delivering justice, such as a lack of resources and capacity and the sheer volume of cases, both new and old.’⁴²

5.3.5 The same IDMC report continued:

‘A related area of concern is legislative change that has led to near-complete police impunity, giving them “carte blanche to do whatever they want.”... Changes to part of the penal code in 2014 make cases of state abuse easy to dismiss if, for example, the accused’s commanding officer submits a report saying the use of lethal force was required... This has resulted in almost all cases against the police and military being thrown out before they reach a judge, a particular concern given the growing number of complaints, the repressive elements of PESS [the Safe El Salvador Plan (Plan El Salvador Seguro)] and the lack of options for anything other than a militarised response.’⁴³

5.3.6 An IDMC report of September 2018 report noted that

‘There is near impunity for sexual crimes, and many girls grow up “in a cycle of violence that they are unable to escape”. Those subjected to sexual exploitation and abuse are unlikely to report their ordeals for fear of reprisals if they speak up and stigma surrounding the issue, but they may present if they become pregnant or contract a sexual transmitted infection. The suicide rate among young girls has also been linked to avoiding their initiation into gangs and forced sexual acts, as well as to the unwanted pregnancies that result, given El Salvador’s absolute ban on abortion...’⁴⁴

5.3.7 InSight Crime in an October 2019 report stated:

‘Authorities in El Salvador have dismantled a hit squad comprised of police officers — including some from elite units — that gunned down dozens of people, underscoring how nearly 30 years after the country’s civil war, the threat of extrajudicial killings by death squads has not abated.

‘The group is alleged to be responsible for carrying out at least 48 homicides in the eastern departments of San Miguel and Usulután between 2016 and 2017, according to a press release from the Attorney General’s Office.

⁴¹ UNHRC, [SR extrajudicial executions report 2018](#) (paragraphs 76 & 78), 7 December 2018

⁴² IDMC, [‘An Atomised Crisis ...’](#) (page 17), September 2018

⁴³ IDMC, [‘An Atomised Crisis ...’](#) (page 18), September 2018

⁴⁴ IDMC, [‘An Atomised Crisis ...’](#) (page 18), September 2018

'Neither of these departments was included in President Nayib Bukele's original plan to send police and military into the streets to regain control of territories dominated by the Mara Salvatrucha (MS13) and Barrio 18 street gangs.

'The death squad members — dressed in police and military uniforms — entered their targets' homes under the guise of executing fake search warrants and either executed their victims on the spot or took them to other locations to be killed, according to authorities.

'The government has issued 39 arrest warrants for hit squad members, including 14 active duty police officers, three of which have yet to be captured. It's unclear what rank these officers held.

'Included among the crimes committed by the execution ring are "20 individual murders plus multiple killings of up to five people as well as three kidnappings," according to the Associated Press.⁴⁵

5.3.8 The USSD human rights report for 2019 stated: 'Impunity persisted despite government steps to dismiss and prosecute abusers in the security forces, executive branch, and justice system.'⁴⁶

5.3.9 The USSD Annual report on trafficking in persons covering April 2019 to March 2020 stated:

'In 2018, authorities arrested an allegedly complicit government official on charges of drug trafficking and human trafficking; the government was unable to provide updates to this case during the reporting period. In previous years, authorities investigated prison guards and the former head of the anti-trafficking unit for alleged complicity in trafficking offenses, but they did not hold any officials responsible, raising serious concerns of a lack of accountability and weak law enforcement.'⁴⁷

5.3.10 The US CRS report of July 2020 citing a range of sources observed:

'Human rights groups and journalists have warned the Salvadoran government that its aggressive anti-gang policies have exacerbated human rights abuses committed by underpaid and ill-trained security forces, some of which the State Department and U.N. entities have documented... In 2018, El Salvador's attorney general secured convictions for four police officers for aggravated homicide of gang suspects and six others for participating in a death squad. Critics maintain that much more progress needs to be made in reducing impunity for crimes committed by police and military forces. As an example, five officers accused of committing an extrajudicial killing well documented by investigative journalists at a farm in 2015 have been acquitted twice despite forensic evidence and witness testimonies against them... Experts have expressed concern that these types of killings may increase now that President Bukele has authorized killings of gang members for "self-defense" by security forces and the subjection of gang inmates to abuses.'⁴⁸

⁴⁵ InSight Crime, '[Police again at centre of latest death squad uncovered in El...](#)', 4 October 2019

⁴⁶ USSD, '[2019 Human rights report](#)' (section 1A), March 2020

⁴⁷ USSD, '[2020 Trafficking in Persons Report: El Salvador](#)' (section Prosecution), 25 June 2020

⁴⁸ US CRS, '[El Salvador: Background and US Relations](#)' (page 15), 1 July 2020

5.3.11 Human Rights Watch in an October 2020 report ‘Every day I live in fear’ stated:

‘El Salvador’s Human Rights Ombudsperson’s Office (Procuraduría para la Defensa de los Derechos Humanos, PDDH), an autonomous body with the government that receives human rights complaints, refers cases to other government agencies and can call for them to take steps to address human rights abuses, has received a number of complaints from victims of anti-LGBT discrimination and violence. In May 2019, the PDDH published a report on 19 unsolved murders of LGBT people, primarily trans women, that it had been able to document between 2009 and 2016. The report assailed both police and prosecutors’ failure to assiduously investigate and prosecute anti-LGBT hate crimes.’⁴⁹

5.3.12 Human Rights Watch in their world report covering 2020 noted:

‘Impunity for government abuses is the norm.

‘A trial of former military commanders accused for the 1981 El Mozote massacre started in 2016 and continued at time of writing. Soldiers committed mass rape and killed 978 civilians at El Mozote, including 553 children. In September 2020, soldiers refused to comply with a court order that allowed a judge to review military records about the massacre.

‘President Bukele said he was the only one entitled to declassify military files and announced he would hand over to the judge “all of the existing military archives” on the massacre. In October, the court reported that it had received the military records. However, the information they contained was almost identical to the records the previous government had given to the courts, which also stated that the presidency had no additional information on the massacre.

‘Investigations have reached hearings in only 14 of 48 cases involving 116 extrajudicial killings committed from 2014 to 2018, the Salvadoran Ombudsperson for the Defense of Human Rights (PDDH) has reported. Two cases resulted in convictions...

‘To address the Covid-19 crisis, the National Assembly authorized flexible purchasing rules for the executive branch during the emergency, including for “direct purchases” of medical supplies and services. At time of writing, the Attorney General’s Office was investigating six government officials, including the current health minister, for corruption and improper purchases.’⁵⁰

5.3.13 Human Rights Watch further stated: ‘In July 2020, three police officers were found guilty in connection with the death of Camila Díaz Córdova, a transgender woman deported from the United States. They were given 20-year prison sentences. It was a landmark case, delivering El Salvador’s first conviction for the killing of a transgender person.’⁵¹

5.3.14 See also

⁴⁹ HRW, [‘Every day I live in fear’](#)(page 20), October 2020

⁵⁰ HRW, [World report 2021 \(El Salvador\)](#), January 2021

⁵¹ HRW, [World report 2021 \(El Salvador\)](#), January 2021

- [UNHCR, 'Eligibility Guidelines' \(pages 22-24\) March 2016](#)

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5.4 Protection and assistance for internally displaced persons (IDPs)

5.4.1 The UNSR IDPs report 2018 noted

'At the time of the visit, there was no legal or policy framework in place for internally displaced persons and no registration system to record and monitor cases. The Ministry of Justice and Public Security stated that the numbers affected by internal displacement due to violence had been low and that their displacement was commonly temporary and quickly resolved, normally through return to their homes. The Special Rapporteur was informed that all victims were provided with assistance and protection under Government policies, including the Safe El Salvador Plan, which were having a positive impact on criminal activity. However, this position was in marked contrast to the views of the majority of other public officials, including senior judges and the Ombudsman, who acknowledged and described the extent of internal displacement and expressed their concern and frustration about the situation and the position of the Government...

'The legislation relating to illegal limitation to freedom of movement requires the filing of a report to certify that the crime was committed in order to involve a State institution (national police, for instance) that can provide a response. In the current context of violence, civil society representatives state that most people do not file reports due to concerns about their safety because of the weak protection mechanisms provided by the State. Equally, while providing a limited legal protection framework that is relevant to aspects of the experience of internally displaced persons, it does not establish forced internal displacement as a specific crime resulting in a particular category of victims in need of protection, restitution of rights or durable solutions.

...

'Within its limited capacity and resources, the Ombudsman's Office provides legal assistance and psychosocial support to victims of forced displacement or those at risk of displacement, with support from UNHCR and civil society groups. Many cases are referred directly to civil society organizations with greater capacity to provide essential assistance, such as safe houses. In 2017, the Ombudsman's Office released its forced displacement registration report for 2016, in which it called for the Government to officially recognize the problem of internal displacement and to improve existing measurement and registration mechanisms among other measures'⁵²

- ### 5.4.2 A Freedom House report commenting on events from 2019 stated 'In July 2018, the Supreme Court ruled that the government had failed to protect victims forcibly displaced by violence, and gave the government six months to develop policies and legislation to protect and assist victims of displacement. The government did not meet this deadline, and work on this legislation was still underway at year's end.'⁵³

⁵² UN HRC, [SR on IDPS report 2018](#) (paragraphs 31, 33, 34 & 37), 23 April 2018

⁵³ Freedom House, ['Freedom in the World 2020: El Salvador', \(section Overview\)](#), 4 March 2020

5.5 Protection and assistance for women and minority groups

5.5.1 Kids in Need of Defense reported in 2018:

‘Despite the existence of laws and specialized judicial institutions dedicated to addressing SGBV in El Salvador, Honduras, and Guatemala, impunity continues to be the norm. The vast majority of SGBV-related crimes, including domestic and sexual violence, go unreported. Those victims who do report face a judicial system that lacks both the capacity and the will to investigate and prosecute their cases effectively and to guarantee due process. According to the most recent available statistics, impunity rates for violence against women and girls in El Salvador, Honduras, and Guatemala are at, or over 95 percent... In all three countries, violence against LGBTI people is rarely investigated or prosecuted, and the vast majority of cases end in impunity.

‘Very few victims report SGBV-related crimes, due to the normalization of violence against women and girls, widespread lack of trust in authorities, and fear of retribution by the abuser. When SGBV is reported, state institutions often fail to effectively investigate and prosecute cases, due to lack of training, insufficient resources to carry out an investigation or prosecution, and sometimes the intentional mishandling of cases by police, prosecutors, and judges.... In all three countries, judicial processes tend to be slow, burdensome, and traumatic, and victims generally do not have access to adequate information and support services. Additionally, governments typically do not effectively protect victims from further violence and retaliation by their abusers during the judicial process, leading many survivors in all three countries to abandon or withdraw their cases before resolution.’

‘Silvia Juárez, of the Salvadoran Women’s Rights NGO ORMUSA and an expert on SGBV, explains how gang presence prevents women and girls from reporting violence: “There are new police units to assist victims of gender-based violence, but what happens? Women tell us that these services may appear to be very important, very helpful, but if a man is violent to his partner, that woman cannot call the police because gangs in their communities will see her as a traitor, as an informant. They [victims of gender-based violence] are made even more vulnerable by reporting, and may even be killed.”

‘Police corruption and involvement in gang activities creates an additional layer of risk in reporting violence and other criminal activity. In some cases, police, prosecutors, and other authorities are involved in, or complicit with, gang activity and share information with gangs when a crime is reported, making the victim vulnerable to retaliation.⁵³ Police have been suspected of colluding with gangs in perpetrating violence against LGBTI people, further eroding the confidence of LGBTI communities that authorities will protect them.’⁵⁴

5.5.2 The same report further highlighted:

⁵⁴ Kids in Need of Defense, [Neither Security nor Justice: Sexual and Gender-based Violence and Gang Violence in El Salvador, Honduras, and Guatemala](#), (page 7 & 8), 22 June 2018

‘Survivors of SGBV who report these crimes encounter a barrage of obstacles within the judicial system—from lack of training of government officials on SGBV, to insufficient resources, burdensome processes, and lack of protection after making a report. In addition to these obstacles, survivors of SGBV perpetrated by gangs or who live in a gang-controlled area are often deprived of justice specifically because of the involvement of a gang in these cases.’

‘The direct and indirect involvement of government authorities in the activities of gangs and other criminal groups undermines effective investigation and prosecution of SGBV. While corruption exists throughout El Salvador, Honduras, and Guatemala, it is especially prevalent in rural areas where police and judicial officials have close contact with gangs and narco-trafficking groups, increasing the likelihood of impunity for violence by these groups. Leaders of gangs and other organized criminal groups, as well as church and local government leaders, use their influence to ensure that they will not be held responsible for their crimes, and in many cases continue to commit violence. There is often an “unofficial agreement” that crimes committed by members of these groups will not be investigated or prosecuted.’

‘Judges, prosecutors, and other officials often fail to recognize or take seriously the danger victims and witnesses of SGBV face during the judicial process, and do not put in place adequate protection measures. When judges issue protection orders, including restraining orders, they lack capacity to monitor and enforce compliance.’

‘Women and children fleeing gang-related SGBV also face a lack of options for safe shelter. El Salvador has just one government-run domestic violence shelter, and it can accommodate only 35 women and children.’⁵⁵

- 5.5.3 In 2018 the civil society group Advocates for Human Rights submitted to the UN Human Rights Committee as part of the UN’s Universal Periodic Review process that:

‘Women interviewed by The Advocates frequently reported that they did not go to the police to report the violence because of the fear of retribution, as well as the lack of protection from the police. One woman reported that she feared that if she went to the police, her intimate partner would “have the gangs do something horrible to her.” Many of the interviewees reported that the police were connected with the gangs and that information reported to the police was not kept confidential. Other women reported that they did not go to the police because they believed that the police would do nothing to investigate alleged crimes against women.’⁵⁶

- 5.5.4 In January 2018, the Inter-American Commission of Human Rights (IACHR) produced a report of their observations based on a November 2017 visit to El Salvador. In it they recognised

‘...El Salvador’s efforts to develop a legal framework for the protection of the fundamental rights of women and girls and to implement policies, programs, and mechanisms for assistance, protection, and prevention of violence and

⁵⁵ Kids in Need of Defense, [Neither Security nor Justice ...](#), (page 9 & 10), 22 June 2018

⁵⁶ The Advocates for Human Rights, [El Salvador's Compliance with... 2018](#) (paragraph 28), 2018

discrimination. During its visit to the Women's Hospital, the delegation received information on the comprehensive model to provide services to female victims through Local Victim Assistance Offices (OLAVs). By immediately attending to women victims of crime, these offices make it possible to detect and address situations of sexual abuse, human trafficking, and domestic violence in the country's public hospitals and in local offices, in coordination with health, police, and justice institutions.⁵⁷

5.5.5 The IACHR's January 2018 working visit to El Salvador report also

'... visited the premises of Ciudad Mujer (Women's City) in San Martín, where they were able to observe how this program works and its innovative model of comprehensive, inter-institutional, and specialized services for women and girls. According to Commissioner Macaulay's impressions, the Ciudad Mujer model is one of the region's best practices for the advancement and promotion of the rights of women and girls, especially those who are in a vulnerable situation or have suffered serious violations of their rights. These facilities not only provide services to women and girls but also give them the support they need to rebuild their lives.'⁵⁸

5.5.6 The UN Human Rights Committee raised its concern during its meeting in March 2018 that:

'it remains concerned at the high rates of domestic and sexual violence against women, girls and adolescents, including their sexual exploitation by gangs, as well as the alarming number of femicides every year and the fact that rapes are not usually reported. The Committee is concerned about the low number of prosecutions and convictions for femicide, the result of which is systematic impunity for perpetrators and obstacles to reparation for victims. The Committee regrets that it has received no statistics on the complaints received about the various forms of violence against women, the investigations conducted and their outcome, the sentences imposed and the reparation granted to victims. The Committee is further concerned about the accessibility, particularly for women living in rural areas, of the special courts set up to ensure that women can lead a life free from violence and discrimination, as well as about the investigative capacity of such courts. It is also concerned about the inadequate protection, support, recovery and social reintegration mechanisms for women and girls who are victims of gender-based violence.'⁵⁹

5.5.7 The UNSR IDPs report 2018 noted

'While some bodies, including the Counsel General's Office, have reportedly shown greater openness to lesbian, gay, bisexual, transgender and intersex issues and concerns and a willingness to act, to date no specific protection mechanisms exist. Representatives noted that many in the lesbian, gay, bisexual, transgender and intersex community lack the resources to live in safer neighbourhoods and have no choice but to live in poorer gang affected localities. Transgender people sometimes seek relative safety by living together and establishing coping strategies. While no verified data exists,

⁵⁷ IACHR, ['Conclusions and Observations on the IACHR's Working Visit ...'](#), 29 Jan 2018

⁵⁸ IACHR, ['Conclusions and Observations on the IACHR's Working Visit ...'](#), 29 Jan 2018

⁵⁹ UNHRC, ['Concluding Observations on the seventh periodic...'](#), (paragraph 13), 9 May 2018

one community member stated that they had documented “between 600 and 700 homicide cases” against members of the lesbian, gay, bisexual, transgender and intersex community with over 500 transgender women killed. According to them, no cases have gone to court, no one has been prosecuted and few cases have been investigated. One case that was brought to court related to a gay man who was killed while visiting from the United States.’⁶⁰

5.5.8 The same report also stated:

‘... the Ministry of Justice and Public Security opened 11 local assistance offices for victims, with the goal of opening more during 2017. Located in prioritized municipalities, they demonstrate important progress by the Government in giving attention to victims of violence and offer professional assistance for victims of crimes, such as sexual abuse, trafficking in persons, violence against women and domestic violence. Services include legal, psychosocial and social assistance. UNHCR supported the programme by equipping facilities and providing technical assistance for the creation of a referral pathway for the identification, attention to and protection of victims.’⁶¹

5.5.9 An IDMC report of September 2018 report noted that

‘[Local Victim Assistance Offices (Oficinas Locales de Atención a Víctimas, OLAVs)] are a promising step forward, but they are still in their initial stages and there are significant gaps. They provide legal advice and psychosocial support, but do not offer emergency assistance or temporary protection, and civil society organisations have expressed concern about their practicalities. Their opening hours do not match gangs’ night-time operating hours when people have nowhere to turn, and so far they are only located in PESS target municipalities. As such, they are only able to assist people who remain in the area and may not be present in areas of refuge.’⁶²

5.5.10 The UNSR extrajudicial execution report 2018 noted

‘The 2012 Law on a life free from violence for women defines femicide as the extreme form of gender violence against women, a product of the violation of their human rights, in the public and private spheres, shaped by misogynistic conduct that leads to social impunity ... One weakness of the Law is that State response is triggered solely when femicides are committed by male partners, thus excluding many gang members.

‘The lack of trust in State institutions and the systematic abuse of and discrimination against lesbian, gay, bisexual, transgender and intersex individuals inhibits the victims’ search for justice and redress. The Special Rapporteur was shocked to learn of the sexual violence suffered by transgender and lesbian women allegedly to “cure them”. While the definition of hate crime was included in the Penal Code in 2015, no case has so far been catalogued as such and no conviction has been obtained under that provision...

⁶⁰ UN HRC, [SR on IDPS report 2018](#) (paragraph 30), 23 April 2018

⁶¹ UN HRC, [SR on IDPS report 2018](#) (paragraph 40), 23 April 2018

⁶² IDMC, [‘An Atomised Crisis ...’](#) (page 18), September 2018

‘Civil society reports indicate almost complete impunity for killings of lesbian, gay, bisexual, transgender and intersex persons.’

‘Both State and non-State actors target transgender women. They are particularly exposed to police violence during the evening and night. The Special Rapporteur learned of several horrific attacks on transgender women by police and gang members. She received information about a transgender woman who was raped by two police officers in order to be released from detention.’

‘The Special Rapporteur was informed that a number of those working towards the rehabilitation of gang-members had been harassed and threatened by security personnel, and their work hampered and stigmatized.’⁶³

5.5.11 InSight Crime in an article from April 2019 stated:

‘Coerced from all sides, women have little institutional resources at their disposal. El Salvador has created government centers dubbed “city of women” (Ciudad Mujer) that group together services ranging from filing an official police complaint to banking services and health attention. But the UN official said that funds are too limited and institutional coordination too weak to really have any impact.

‘The issue is also often deeply rooted in reactionary entrenched mentalities. Sex workers, for instance, extorted financially and sexually by gangs and corrupt security forces alike, told InSight Crime that their access to these attention centers was generally denied due to the stigmatized nature of their work.’⁶⁴

5.5.12 With regard to women and other vulnerable groups, a May 2019 Time magazine article noted:

‘In 2018, El Salvador’s attorney general announced the creation of a new unit to oversee crimes related to violence against women, girls, LGBTQI people and other groups vulnerable to violence. Authorities do seem to be slowly managing to turn the tide. Total femicides fell 20% between 2017 and 2018, to 383. And in the first four months of 2019, 30% fewer women died by femicide than in the same period last year. But that still means that by April, 76 women and girls were killed just for being female.’⁶⁵

5.5.13 The ‘Summary of Stakeholders’ submissions on El Salvador ‘in relation to the Human Rights Council’s Working Group meeting in November 2019 stated:

‘The Advocates regretted that the legal system and policies fail to hold perpetrators of serious crimes accountable and that violence by public servants is common, with the police as the main perpetrators... Women did not report violence to the police because of societal perception, fear of retaliation, and the lack of protection from the police... Ineffective

⁶³ UNHRC, [SR extrajudicial executions...](#) (paragraphs 69, 75, 76, 78, 80 & 86), 7 December 2018

⁶⁴ InSight Crime, [‘Extortion and sexual violence: Women’s unspoken suffering’](#), 26 April 2019

⁶⁵ Time, [‘Violence Against Women in El Salvador ...’](#), 14 May 2019

investigation and low conviction rates discouraged victims to seek help from the authorities.’⁶⁶

5.5.14 Human Rights Watch in a February 2020 report stated: ‘Women victims of violence face particular obstacles in seeking protection or justice, due to the inadequacy of Salvadoran laws and deeply entrenched institutional resistance to gender equality, which has led to, among other problems, insufficient funding for investigation and law enforcement focused on violence against women, and virtual impunity for the failure of governmental officials to carry out their responsibilities.’⁶⁷

5.5.15 The USSD report on human rights for 2019 noted with regards to women:

‘Laws against rape were not effectively enforced.’

‘Laws against domestic violence remained poorly enforced, and violence against women, including domestic violence, remained a widespread and serious problem. In July 2018 the Salvadoran Organization of Women for Peace (ORMUSA) reported that in 2016 and 2017, only 5 percent of the 6,326 reported crimes against women went to trial.’

‘The government, however, did not enforce sexual harassment laws effectively.’⁶⁸

5.5.16 With regards to LGBTI persons, the USSD report on human rights for 2019 stated:

‘The law prohibits discrimination based on sexual orientation or gender identity, which also applies to discrimination in housing, employment, nationality, and access to government services. Gender identity and sexual orientation are included in the criminal code provisions covering hate crimes, along with race and political affiliation. NGOs reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the LGBTI community stated that the PNC and the Attorney General’s Office harassed transgender and gay individuals when they reported cases of violence against LGBTI persons, including by conducting unnecessary and invasive strip searches.

‘On January 31 [2019], a transsexual woman, Camila Diaz Cordova, identified in her national identification card as Nelson Arquimides Diaz Cordova, was allegedly killed by three police officers with the National Civil Police’s 911 System in San Salvador.’

‘As of August 22 [2019], the PDDH reported four accusations by the LGBTI community of homicides, one complaint of torture, four complaints of violations to human integrity, one complaint each of physical abuse and harassment. The PDDH was unable to determine whether the incidents were bias motivated. Activists also reported receiving death threats on social media. Police generally failed to act on these reports. The PDDH reported it was processing a case against security personnel at a prison in Sensuntepeque, Cabanas Department, for deprivation of liberty and

⁶⁶ UNHRC, [Summary of Stakeholders’ submissions...](#) (paragraphs 21, 22, 37, 77), 21 August 2019

⁶⁷ HRW, [‘Deported to Danger’](#), (page 67), February 2020

⁶⁸ USSD, [2019 Human rights report](#) (section 6), March 2020

inhuman treatment of transsexual prisoners based on their sexual orientation and gender identity.’⁶⁹

5.5.17 The US Overseas Security Advisory Council (OSAC) crime and safety report of March 2020 noted ‘In 2018, the Government of El Salvador commissioned the National Division for the Protection of Women, Children, Adolescents, and Other Vulnerable Populations; this agency employs prosecutors specially trained to investigate crimes against the LGBTI community.’⁷⁰

5.5.18 The USSD trafficking in persons report noted: ‘In spring 2019, the government formed the Women’s Coordination Unit, which was dedicated to combatting the country’s high rate of female and minority violence, including gangs involved in the sex trafficking of women.’⁷¹

5.5.19 Human Rights Watch in their world report covering 2020 stated:

‘LGBT individuals remain targets of homophobic and transphobic violence by police, gangs, and others....

‘Salvadoran LGBT rights organizations report over 600 [LGBT persons] killed since 1993. Official statistics released in January 2020 showed 692 cases of violence against LGBT and intersex people from January 2015 to June 2019.

‘In May 2019, the Ombudsperson’s Office documented 19 unsolved murders of LGBT people, primarily transgender women, between 2009 and 2016.

‘Between October 2019 and April 2020 alone, at least seven trans women and two gay men were murdered in El Salvador, with details in the cases suggesting the killers had been motivated by hatred based on the victims’ gender identity or sexual orientation...

‘In June 2019, President Bukele dissolved the Secretariat of Social Inclusion, within which the Directorate on Sexual Diversity was based, and subsumed the directorate into an existing Gender Unit in the Ministry of Culture, renamed the Gender and Diversity Unit. LGBT activists criticized the move, protesting that few of their grave concerns regarding safety and discrimination could be adequately addressed under the ambit of culture.’⁷²

5.5.20 See also

- [IRBC, ‘El Salvador: Information Gathering Mission Report - Part 2. The Situation of Women Victims of Violence and of Sexual Minorities in El Salvador’ \(s4.4.1 & s4.4.4\), September 2016](#)

5.5.21 For further information on women, girls and other vulnerable groups see Targets of gang violence, section 10 of [CPIN El Salvador: Fear of gangs](#)

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6. Security force human rights violations

See also [CPIN: Fear of gangs](#)

⁶⁹ USSD, [2019 Human rights report](#) (section 6), March 2020

⁷⁰ US OSAC, [Crime and Safety Report 2020](#), 31 March 2020

⁷¹ USSD, [‘2020 Trafficking in Persons Report: El Salvador’](#), 25 June 2020

⁷² HRW, [World report 2021 \(El Salvador\)](#), January 2021

6.1 Extrajudicial killings

6.1.1 The UNSR extrajudicial execution report 2018 noted

‘The Special Rapporteur found a pattern of behaviour among security personnel amounting to extrajudicial executions and excessive use of force, nurtured and aggravated by very weak institutional responses...

‘Interviews conducted with survivors and witnesses of so-called armed confrontations pointed out similar, highly concerning, patterns across these “clashes”. In particular, alleged gang members were reportedly killed execution-style and the crime scene tampered with by those responsible or others, including by placing weapons and drugs alongside the dead bodies. A number of interviewees in different locations pointed to a pattern of army officers being replaced immediately after an incident by another team. With few exceptions, the testimonies suggested extrajudicial killings rather than excessive use of force. That pattern was confirmed by similar cases of extrajudicial executions investigated by the Office of the Human Rights Advocate, non-governmental organizations (NGOs) and journalists.’⁷³

6.1.2 Although there is no clear count of extrajudicial executions by police and military officers, the 2018 report by the Special Rapporteur on extrajudicial executions noted ‘... the percentage of murders allegedly attributed to the police increased from less than 1 per cent in 2010 (11 out of 4,004 homicides) to almost 5 per cent in 2015 (328 out of 6,656 homicides) and more than 10 per cent in 2017 (412 out of 3,954 homicides).’⁷⁴

6.1.3 The UN Human Rights Committee raised its concern during its meeting in March 2018 that:

‘The Committee is concerned about the increase in the number of people killed by the National Civil Police and the Armed Forces and about reports of arbitrary detention, extrajudicial executions and enforced disappearances, as well as about the “death squads” said to be operating within the police and the Armed Forces. The Committee is also concerned about impunity for these alleged crimes and about reports that a high percentage of these cases are dismissed.’

‘The Committee is concerned about complaints and reports of torture, ill-treatment and excessive use of force by the police, members of the Armed Forces and other public officials.’⁷⁵

6.1.4 The USSD human rights report for 2019 noted

‘There were no reports that the government or its agents committed politically motivated killings. There were reports, however, of security force involvement in extrajudicial killings of suspected gang members. As of August 22, the Office of the Human Rights Ombudsman (PDDH) announced it was investigating 39 complaints of such killings, some by law enforcement, including four in which PNC officers were alleged to have directly participated and one attributed to an alleged extermination group.

⁷³ UNHRC, [SR extrajudicial executions report 2018](#) (paragraphs 36, 39 and 41), 7 December 2018

⁷⁴ UNHRC, [SR extrajudicial executions report 2018](#) (paragraph 5), 7 December 2018

⁷⁵ UNHRC, [Concluding Observations on the seventh periodic report...](#) (paragraph 21), 9 May 2018

'On August 27, the PDDH presented a report on purported extrajudicial killings attributed to law enforcement agencies during the period 2014-18. The PDDH analyzed 48 incidents involving the alleged extrajudicial killing of 116 persons. Most victims were male and nearly half were between 18 and 24 years old. Almost all victims were killed by firearms. Separately, the PDDH reported that law enforcement officers were victims of gang-orchestrated attacks.'⁷⁶

6.1.5 Human Rights Watch in their 2020 World Report, covering events of 2019 stated:

'The Central American University Human Rights Institute received seven reports of elite police units burning victims. In March [2019], in a sugarcane field, agents of the National Civil Police's Tactical Operation Section allegedly beat and strangled a blindfolded, handcuffed youth whom they suspected of gang membership or hiding weapons or drugs, and set fire to the field where they left him unconscious...

'In August, the Lethal Force Monitor, a collaborative investigation by researchers in five Latin American countries, reported that Salvadoran police and soldiers killed 1,626 people from 2010 through 2017. Authorities claimed that more than 90 percent of the victims were gang members and that nearly all were killed in "confrontations" or "shootouts."

'Also in August [2019], the PDDH [Office of the Human Rights Ombudsman] reported that it had examined killings of 28 boys, 7 women, and 81 men and found few resulted from confrontations. In 70 percent of cases, witnesses said victims were unarmed. In 37 percent, witnesses said they saw police move the body or place or hide evidence. In 30 percent, the body showed signs of torture, including sexual assault.'⁷⁷

6.1.6 Freedom House in their report covering events in 2019 stated: 'El Salvador's government has ... elected to provide less transparency in its efforts to fight crime; in July 2019, the government announced that it would stop including deaths resulting from encounters with security forces in official homicide data, which potentially obscures both extrajudicial killings and the homicide rate.'⁷⁸

6.1.7 The same report stated:

'Police have been implicated in hundreds of extrajudicial killings as part of an ongoing militarized response to the country's criminal gangs. In August 2019, the Human Rights Ombudsman (PDDH) released a report documenting evidence of extrajudicial executions by police during its 2014–18 reporting period. The same report noted that most of the victims were unarmed. Witnesses who spoke to the PDDH reported that officers commonly hid evidence, moved bodies, and engaged in acts of torture and sexual assault against their victims.'⁷⁹

⁷⁶ USSD, [2019 Human rights report](#) (section 1A), March 2020

⁷⁷ HRW, [World report 2020 \(El Salvador\)](#), January 2020

⁷⁸ Freedom House, '[Freedom in the World 2020 – El Salvador](#)', 4 March 2020

⁷⁹ Freedom House, '[Freedom in the World 2020 – El Salvador](#)', 4 March 2020

- 6.1.8 Human Rights Watch in their world report covering 2020 noted: ‘LGBT individuals remain targets of homophobic and transphobic violence by police, gangs, and others....

‘Between 2014 and 2018, the police committed 116 extrajudicial killings, according to the Ombudsperson’s Office. Only two cases resulted in convictions.’⁸⁰

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6.2 Death squads

- 6.2.1 The UNSR extrajudicial execution report 2018 noted ‘... the Special Rapporteur received various allegations of the existence of “death squads” within the police and military, some of which have been confirmed by officials and corroborated by investigations. In August 2017, the Office of the Attorney General announced that it was opening investigations into three death squads involving police officers operating in the country — two in the eastern zone and one in the western zone.’⁸¹

- 6.2.2 Insight Crime in a report from February 2018 stated: ‘High-ranking members of El Salvador’s military allegedly commanded a secret death squad to execute gang members, the first instance of senior military personnel being so clearly implicated in the ordering of extrajudicial killings in the country in recent years.

‘According to phone conversations intercepted by the Attorney General’s Office last year, three top ranking army officials orchestrated the group’s operations in an effort to illegally execute suspected gang members.

‘Wiretaps recorded Colonels David Iglesias Montalvo, Héctor Solano Cáceres and Lieutenant Lionel Ascencio Sermeño discussing the squadron, and revealed the existence of a structure of command within the army’s intelligence unit. Members of the army’s Information and Analysis Battalion (Batalón de Información y Análisis del Ejército — BIAE) carried out the killings, the Attorney General’s Office alleged.’⁸²

- 6.2.3 HRW reported in February 2020:

‘People deported to El Salvador also fear so-called “death squads” or “extermination groups”—not new phenomena in El Salvador...

‘UN agencies, human rights observers, the press, and government all acknowledge that death squads and extermination groups still operate in El Salvador today... Often, when these cases are described by journalists in press accounts, the assailants are described as “men wearing black” or men “wearing military or police-style” uniforms; victims are sometimes described as blindfolded, with their hands and/or feet tied behind their backs...

‘According to press accounts, people deported to El Salvador have been killed in circumstances consistent with the methods of operation that death squads and extermination groups have employed.’⁸³

⁸⁰ HRW, [World report 2021 \(El Salvador\)](#), January 2021

⁸¹ UNHRC, [SR extrajudicial executions report 2018](#) (paragraphs 36, 39 and 41), 7 December 2018

⁸² Insight Crime, [‘El Salvador Military Officers Ordered Executions:..’](#), 28 February 2018

⁸³ HRW, [‘Deported to Danger’\(pages 79-83\)](#), February 2020

6.2.4 The USSD human rights report covering 2019 stated:

‘On September 30 [2019], the Attorney General’s Office announced the arrest of 22 members of an alleged extermination group operating in San Miguel and Usulután Departments that was responsible for more than 50 killings of gang members, their associates, and civilians, as well as numerous other crimes in 2016 and 2017. According to the attorney general, the extermination group consisted of 45 members, including 14 active-duty PNC officers (only 11 of whom were arrested) and four former PNC officers.’⁸⁴

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6.3 Arbitrary arrest and detention

6.3.1 The UN Human Rights Committee raised its concern during its meeting in March 2018 that:

‘The Committee is concerned about the increase in the number of people killed by the National Civil Police and the Armed Forces and about reports of arbitrary detention, extrajudicial executions and enforced disappearances, as well as about the “death squads” said to be operating within the police and the Armed Forces. The Committee is also concerned about impunity for these alleged crimes and about reports that a high percentage of these cases are dismissed.’⁸⁵

6.3.2 Freedom House in their report covering events in 2019 observed: ‘Rights advocates report that police have carried out arbitrary arrests and detentions as part of the country’s crackdown on gangs.’⁸⁶

6.3.3 The USSD human rights report for 2019 noted: ‘Although the constitution prohibits arbitrary arrest and detention, there were numerous complaints that the PNC and military forces carried out arbitrary arrests. NGOs reported that the PNC arbitrarily arrested and detained individuals on suspicion of gang affiliation. According to these NGOs, the accused were ostracized by their communities upon their return.’⁸⁷

6.3.4 Reporting on policing measures introduced in response to COVID-19, Amnesty International reported that:

‘In many places arrest and detention has been used as a first rather than last resort in response to noncompliance with public health measures, often increasing the risk of contagion with little physical distancing employed. By the end of August, El Salvador’s government had quarantined more than 16,000 people – including those accused of breaking the mandatory national lockdown, people returning from overseas or those suspected of having been in contact with anyone who had tested positive for COVID-19 – often in unsanitary conditions and without safeguards against human rights violations.’⁸⁸

⁸⁴ USSD, [2019 Human rights report](#) (section 1A), 11 March 2020

⁸⁵ UNHRC, [Concluding Observations on the seventh periodic report...](#) (paragraph 21), 9 May 2018

⁸⁶ Freedom House, [‘Freedom in the World 2020 – El Salvador’](#), 4 March 2020

⁸⁷ USSD, [2019 Human rights report](#) (section 1B), March 2020

⁸⁸ Amnesty International, [‘COVID-19 Crackdowns, Police Abuse...’](#) (page 11), 17 December 2020

6.4 Disappearances

- 6.4.1 The UN Human Rights Committee raised its concern during its meeting in March 2018 that:

‘The Committee is concerned about the increase in the number of people killed by the National Civil Police and the Armed Forces and about reports of arbitrary detention, extrajudicial executions and enforced disappearances, as well as about the “death squads” said to be operating within the police and the Armed Forces. The Committee is also concerned about impunity for these alleged crimes and about reports that a high percentage of these cases are dismissed.’⁸⁹

- 6.4.2 The USSD human rights report for 2019 noted

‘There were reports alleging that security and law enforcement officials were involved in unlawful disappearances. Law enforcement agencies had not released data on disappearances since 2017, citing a discrepancy between data collected by the PNC and the Attorney General’s Office. On July 17, the attorney general launched a specialized unit to track disappearance complaints, and the Attorney General’s Office and the PNC created a joint working group to focus on disappearance cases and to ensure data consistency regarding such cases...

‘In November 2018, after a lengthy trial process, the Sonsonate Court of Judgment convicted six members of the armed forces for the crimes of deprivation of freedom, making false accusations of gang membership, and forced disappearance of three young men in 2014 in Armenia, La Libertad Department.’⁹⁰

- 6.4.3 Human Rights Watch in their world report covering 2020 stated: ‘From January 2014 to October 2019, police registered over 11,900 disappearance victims (including more than 400 children)—which exceeds the estimated 8,000 to 10,000 disappeared during the civil war (1979-1992). The disappearances are committed by a range of actors, including gangs and the police. Few cases are investigated.’⁹¹

6.5 Torture and ill treatment

- 6.5.1 The UNHCR Guidance note on Refugee claims relating to victims of organized gangs, March 2016, (UNHCR guidelines 2016) stated: ‘Discrimination against individuals of diverse sexual orientation and/or gender identities is reportedly widespread in El Salvador and such persons have consistently been targeted for attacks and murder by the gangs and other sectors of society, including by the police and other public authorities.’⁹²

⁸⁹ UNHRC, [Concluding Observations on the seventh periodic report...](#) (paragraph 21), 9 May 2018

⁹⁰ USSD, [2019 Human rights report](#) (section 1B), March 2020

⁹¹ HRW, [World report 2021 \(El Salvador\)](#), January 2021

⁹² UNHCR, [‘Guidance Note on Refugee Claims Relating to Victims of Organized...’](#), 31 March 2010

- 6.5.2 The UNSR extrajudicial execution report 2018 noted ‘Both State and non-State actors target transgender women. They are particularly exposed to police violence during the evening and night. The Special Rapporteur learned of several horrific attacks on transgender women by police and gang members. She received information about a transgender woman who was raped by two police officers in order to be released from detention.’⁹³
- 6.5.3 The UN Human Rights Committee raised its concern during its meeting in March 2018 that: ‘The Committee is concerned about complaints and reports of torture, ill-treatment and excessive use of force by the police, members of the Armed Forces and other public officials.’⁹⁴
- 6.5.4 The USSD human rights report for 2019 noted ‘The law prohibits such practices, but there were reports of violations. As of August 22, the PDDH had received 33 complaints of torture or cruel or inhuman treatment by the PNC, nine by the armed forces, and seven by other public officials.
‘Reports of abuse and police misconduct came mostly from residents of metropolitan San Salvador and mainly from men and young persons.’⁹⁵
- 6.5.5 Human Rights Watch in their 2020 World Report, covering events of 2019 stated: ‘... Victims or witnesses of eight arbitrary arrests in two incidents in 2019 and late 2018 told Human Rights Watch of beatings at police barracks and threatened criminal charges for “illicit association,” a vaguely defined offense used to prosecute those suspected of gang membership.’⁹⁶
- 6.5.6 HRW in a February 2020 report about the dangers faced by persons deported to El Salvador noted: ‘In this report, we documented cases in which government authorities were responsible for committing grave abuses against deportees in particularly violent neighborhoods. These abuses—alongside low arrest, hearing, and conviction rates—are especially concerning, because they contribute to residents’ perception that authorities are persecutors, rather than protectors facing structural limits on their ability to successfully pursue their work.’⁹⁷
- 6.5.7 Human Rights Watch in a February 2020 report ‘Deported to Danger’ stated:
‘Police statements to the press in articles reporting on crime sometimes solidified stigmatization. Police would describe homicide victims in these neighborhoods as either gang members, collaborators of gang members, or those with personal relationships to gangs or gang members, even when relatives told the press their loved ones who were killed had no such links. For one youth from Iberia, this stigma from authorities especially stung. He broke down in tears recalling to a reporter what a policeman told him about his neighborhood: “All of them that live in that community, they are rats.”

⁹³ UNHRC, [SR extrajudicial executions report 2018](#) (paragraphs 76 & 78), 7 December 2018

⁹⁴ UNHRC, [Concluding Observations on the seventh periodic report...](#) (paragraph 23), 9 May 2018

⁹⁵ USSD, [2019 Human rights report](#) (section 1C), March 2020

⁹⁶ HRW, [World report 2020 \(El Salvador\)](#), January 2020

⁹⁷ HRW, [‘Deported to Danger’](#), (page 72), February 2020

‘The stigmatization of these neighborhoods’ residents is partially due to perceived and real links between crime and poverty.’⁹⁸

6.5.8 Human Rights Watch world report covering 2020 noted: ‘Girls and women accused of having abortions have been imprisoned for homicide and aggravated homicide. LGBT individuals face discrimination and police violence.’⁹⁹

6.5.9 Human Rights Watch continued:

President Bukele continued using the military in public security operations, despite a 1992 peace accord stipulation against it...

President Bukele has encouraged abusive lockdown enforcement measures, including excessive use of force. In April, he ordered the police and military to be “tougher with people violating the quarantine,” and said he would not mind if the police “bent someone’s wrist” during an arrest.

During the enforcement of lockdown measures, the Ombudsperson’s Office reported more than 1,600 complaints of human rights violations, including over 620 of the right to freedom of movement.

After a spike in murders in April, Bukele announced he “authorized” the use of lethal force by security forces for “self-defense and to protect the lives of Salvadorans,” even when not a measure of last resort, saying “the government will see to the legal defense of those who may be unjustly charged for defending the lives of honorable people.”

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Section 7 updated: 4 February 2021

7. Oversight bodies and mechanisms

7.1 Office of the Human Rights Ombudsman (PDDH)

7.1.1 The USSD report on human rights for 2018 stated: ‘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. Reports of abuse and police misconduct were most often from residents of the metropolitan area of San Salvador and mostly from men and young persons.’¹⁰⁰

7.1.2 The USSD report on human rights for 2019 noted

‘The principal human rights investigative and monitoring body is the autonomous PDDH, whose ombudsman is nominated by the Legislative Assembly for a three-year term. The PDDH regularly issued advisory opinions, 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 Office of the President. The government publicly acknowledged receipt of reports, although in some cases it did not act on recommendations, which are

⁹⁸ HRW, ‘[Deported to Danger](#)’, (p67), February 2020

⁹⁹ HRW, [World report 2021 \(El Salvador\)](#), January 2021

¹⁰⁰ USSD, [2018 Human rights report](#) (section D), 13 March 2019

nonbinding. The PDDH faced threats, including two robberies at its headquarters targeting computers containing personally identifiable information.

‘On October 16, the Legislative Assembly nominated a new PDDH ombudsman who was facing three criminal cases for “fraud, bribery, and arbitrary acts,” as well as a Court of Accounts case from his time as a civil court judge. International organizations, NGOs, several legislators, the San Salvador mayor, and President Bukele criticized the nomination.’¹⁰¹

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7.2 Salvadoran Commission Against Corruption and Impunity (CICIES).

7.2.1 The USSD report on human rights for 2019 noted

‘On September 6 [2019], President Bukele launched CICIES [Salvadoran Commission Against Corruption and Impunity] to combat corruption and impunity. Foreign Minister Alexandra Hill and OAS [Organization of American States] Strategic Counsel Luis Porto signed a Letter of Intent to create the commission. The letter stated that the parties would sign a formal agreement within three months. The letter focused on strengthening the judiciary and Attorney General’s Office and creating a special anticorruption unit under the PNC. The letter promised that CICIES and the OAS would coordinate with local judicial institutions in creating guidelines for selecting cases. In Bukele’s announcement, he noted that CICIES would be financed with assistance from the OAS and other international organizations. As of October 29, there was an anticipated cost of \$15 million and OAS was asking for funding, but no other details had been confirmed. In November the OAS reported that CICIES had established a headquarters in the country.’¹⁰²

7.2.2 Freedom House in their report covering events in 2019 stated:

‘In September 2019, President Bukele announced the creation of the International Commission against Impunity in El Salvador (CICIES), a new anticorruption agency that would be supported by the OAS. The OAS named a temporary spokesperson later that month, who was charged with collaborating with the judiciary and the attorney general’s office ahead of a final agreement, due at an unspecified date. In the interim, CICIES opened two cases, but it does not have the constitutional power to launch prosecutions.’¹⁰³

7.2.3 The US CRS report of July 2020 citing a range of sources observed:

‘Thus far, CICIES has a very limited staff and budget, and its mandate has been limited to providing technical support to Salvadoran prosecutors. Civic organizations have complained that CICIES is not empowered, as CICIG in Guatemala was, to initiate investigations and prosecutions or push for legislative reforms.’¹⁰⁴

¹⁰¹ USSD, [2019 Human rights report](#) (section Exec summary), March 2020

¹⁰² USSD, [2019 Human rights report](#) (section Exec summary), March 2020

¹⁰³ Freedom House, ‘[Freedom in the World 2020 – El Salvador](#)’, 4 March 2020

¹⁰⁴ US CRS, ‘[El Salvador: Background and US Relations](#)’ (page 8), 1 July 2020

8. Judiciary

8.1 Structure

8.1.1 The CIA World Factbook described the court system:

'[The] highest courts: Supreme Court or Corte Suprema de Justicia (consists of 16 judges and 16 substitutes judges organized into Constitutional, Civil, Penal, and Administrative Conflict Chambers)[.]

'[J]udge selection and term of office: judges elected by the Legislative Assembly on the recommendation of both the National Council of the Judicature, an independent body elected by the Legislative Assembly, and the Bar Association; judges elected for 9-year terms, with renewal of one-third of membership every 3 years; consecutive reelection is allowed[.]

'[S]ubordinate courts: Appellate Courts; Courts of First Instance; Courts of Peace'¹⁰⁵.

8.1.2 International Crisis Group in a December 2017 report stated:

'The institutions in charge of investigating and trying crimes in El Salvador are the prosecutor's office, the police and the judiciary. The prosecutor's office (in Spanish Fiscalía General de la República) is part of the larger public ministry, while the judiciary is headed by the Supreme Court and its different chambers. Both are independent public powers....'¹⁰⁶

8.1.3 The BTI El Salvador report covering events between 2017 and 2019 noted the distinction in responsibilities of the Supreme Court and the lower courts: 'The operation of the judiciary can be approached from two perspectives: the constitution-related rulings of the Supreme Court; and the judicial proceedings of lower courts that handle criminal and civil cases.'¹⁰⁷

8.2 Independence and effectiveness

8.2.1 The UN Human Rights Committee raised its concern during its meeting in March 2018 that:

'The Committee is concerned that the process for selecting and appointing judges and magistrates advocated by the National Council of the Judiciary may not adequately ensure the independence and competence of the judiciary, or transparency and public scrutiny. The Committee is also concerned that the regime for disciplining judges and magistrates does not comply fully with the Covenant or the Basic Principles on the Independence of the Judiciary.'¹⁰⁸

¹⁰⁵ CIA, '[World factbook: El Salvador](#)' (Government), last updated 22 January 2021

¹⁰⁶ ICG, '[El Salvador's Politics of Perpetual Violence](#)' (page 5), Dec 2017

¹⁰⁷ BTI, '[El Salvador Country Report 2020](#)' (Rule of Law), April 2020

¹⁰⁸ UNHRC, '[Concluding Observations on the seventh periodic report...](#)', (paragraph 35), 9 May 2018

8.2.2 The USSD report on human rights for 2019 noted: ‘Although the constitution provides for an independent judiciary, the government did not always respect judicial independence, and the judiciary was burdened by inefficiency and corruption....’

8.2.3 ‘While the government generally respected court orders, some agencies ignored or minimally complied with orders.’¹⁰⁹

8.2.4 The UN Special Rapporteur on extrajudicial, summary or arbitrary executions in her report of her mission to El Salvador undertaken in February 2018 and published in December 2018 summarised the challenges faced by the country in general and the criminal justice system in particular in managing high levels of extrajudicial killings:

‘A number of interlocutors highlighted the country’s structural and systemic challenges. While they in no way justify the violations referred to in the present report, it is important to acknowledge the complex economic, social and cultural context within which they are committed, including:

...

‘(c) Saturation of the court system, particularly at the first/entry levels, owing to a lack of resources compared to the large number of cases...

‘(e) High levels of impunity for past crimes, giving rise to persisting and repetitive systemic patterns;’¹¹⁰

8.2.5 The USSD report also noted:

‘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, impunity remained endemic, with courts issuing inconsistent rulings and failing, in particular, to address secret discretionary accounts within the government...

‘As of August 22, the PDDH received 74 complaints of lack of a fair, public trial.

‘Corruption in the judicial system contributed to the high level of impunity, undermining the rule of law and the public’s respect for the judiciary. As of August 31, the Supreme Court had heard 110 cases against judges due to irregularities (57 of which remained under review), sanctioned four judges, and brought formal charges against six judges. Accusations against judges included collusion with criminal elements and sexual harassment.’¹¹¹

8.2.6 Freedom House in their report covering events in 2019 stated: ‘Judicial independence is not consistently respected by the government, and the judicial system is hampered by corruption. The legislature does not always observe Supreme Court rulings. Powerful individuals can evade justice by exerting pressure on the judiciary.’¹¹²

¹⁰⁹ USSD, [2019 Human rights report](#) (section Exec summary), March 2020

¹¹⁰ UN, [SR extrajudicial execution report 2018](#) (paragraph 9), 7 December 2018

¹¹¹ USSD, [2019 Human rights report](#) (section Exec summary), March 2020

¹¹² Freedom House, [‘Freedom in the World 2020 – El Salvador’](#), 4 March 2020

8.2.7 The BTI El Salvador country report covering events between 2017 and early 2019 observed:

‘The lower courts continue to be swamped by backlogs of pending cases and access to justice, especially in rural areas, is still a problem. Inefficiency is compounded by corruption and insufficient funding, not to mention the high rates of violent crime that need to be addressed judicially. As a result, impunity is widespread and the judicial system is perceived as not being up to the task of delivering timely and equal justice for all.’¹¹³

8.2.8 The US CRS report of July 2020 based on a range of sources noted:

‘... some judges and courts in El Salvador have issued significant decisions, particularly in opening civil-war era cases of human rights abuses, others have proven subject to corruption. From January to August 2019, the Supreme Court heard cases against 110 judges accused of various irregularities, including collusion with criminal groups. At President Bukele’s direction, auditors have been examining the “reserved spending account” that Bukele’s predecessors used to divert public funds for their own priorities.

‘Observers praised the probity section of the Supreme Court’s efforts to identify public officials who may have used their positions for illicit enrichment and the anti-corruption work of prosecutors under former Attorney General Douglas Meléndez (2016-2018). Under Meléndez, Salvadoran prosecutors, with U.S. support, brought corruption cases against three Salvadoran presidents and a former attorney general. Together, those presidents are estimated to have stolen more than \$750 million. Meléndez faced death threats throughout his term.’¹¹⁴

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8.3 Trial procedures

8.3.1 Freedom House in their report covering events in 2019 stated ‘Due process rights are guaranteed by the constitution, but are upheld inconsistently. Interpreters are not always provided for defendants who do not speak Spanish. Rights advocates report that police have carried out arbitrary arrests and detentions as part of the country’s crackdown on gangs.’¹¹⁵

8.3.2 The USSD report on human rights for 2019 stated:

‘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, economic, or other corrupting influences. By law juries hear only a narrow group of cases, such as environmental complaints. After the jury determines innocence or guilt, a panel of judges decides the sentence.

‘Defendants have the right to be present in court (except in virtual trials; see below), 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

¹¹³ BTI, ‘[El Salvador Country Report 2020](#)’ (Rule of Law), April 2020

¹¹⁴ US CRS, ‘[El Salvador: Background and US Relations](#)’ (page 8), July 2020

¹¹⁵ Freedom House, ‘[Freedom in the World 2020 – El Salvador](#)’, 4 March 2020

delay (seldom observed), 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 appeal, and government-provided legal counsel for the indigent.

'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. 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.

'While implemented in 2015 to expedite fair trials, virtual trials still involved delays of up to eight months, according to a July 2018 La Prensa Grafica report. On May 6, the Legislative Assembly passed a reform that allows for, when necessary and appropriate, virtual trials for gang membership charges to proceed without the defendants present, although with defense counsel participating. The reform also states that the judicial and prison authorities must provide a video copy of the virtual trial to the defendants within 72 hours so that they may exercise their right to defense.

'Virtual trials often involved group hearings before a judge, with defendants unable to consult with their defense lawyers in real time. The penitentiary code reforms passed in August 2018 allow defense lawyers to attend a hearing without the defendant's presence. Human rights groups questioned the constitutionality of the reform.

'According to 2018 press reports, plea deals occurred in approximately 20 percent of cases, with the accused turning state's witness in order to prosecute others. Legal experts pointed to an overreliance on witness testimony in nearly all cases, as opposed to the use of forensics or other scientific evidence. The justice system lacked DNA analysis and other forensic capabilities; in July the Howard Buffett foundation announced a \$25 million PNC Forensic Research Center project to improve the country's forensic abilities.'¹¹⁶

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8.4 Complaints, prosecutions and convictions

8.4.1 In a September 2017 academic paper, Patrick J McNamara (an Associate Professor from the Department of History at the University of Minnesota), explained 'Data requested by journalists through a government transparency law show that for 2015 only 598 cases, or fewer than 10 per cent of the homicide cases resulted in formal charges filed by prosecutors. More cases (870) have already been closed because of a lack of evidence or witnesses willing to testify. Only 82 homicide cases from 2015 have led to convictions: a conviction rate of 13.7 per cent for cases brought before a judge and only 1.3 per cent for all homicides.'¹¹⁷

8.4.2 The USSD INL summary noted

¹¹⁶ USSD, [2019 Human rights report](#) (section Exec summary), March 2020

¹¹⁷ Refugee Survey Quarterly, McNamara P, '[Political refugees...](#)'(page 17), 8 September 2017

INL established a Business Crimes Task Force (BCTF) and a Transit Crimes Task Force (TCTF) to address widespread extortion of individual citizens and small-business owners, often cited by Salvadorans as their primary security concern and a major driver of migration. The San Salvador BCTF successfully dismantled four extortion networks organized by the transnational MS-13 and Barrio 18 gangs, achieving a 96 percent conviction rate. In 2016, these units contributed to Operation Jaque, El Salvador's first effort to dismantle MS-13 financial structures, and the Attorney General's office expanded the BCTF concept to 19 smaller "anti-extortion units" located in each of El Salvador's 19 departments, with efforts coordinated by a National Anti-Extortion Coordinator. In 2018, El Salvador's Organized Crime Court convicted 61 members of MS-13 arrested in Operation Jaque. In 2017 and 2018, the increasingly coordinated network of task forces operating in El Salvador carried out additional MS-13 financial takedowns and contributed to Operations Regional Shield I-III, in which authorities coordinated to dismantle MS-13 cells across the Northern Triangle and United States, resulting in the arrest of over 1,800 gang members in El Salvador alone.¹¹⁸

8.4.3 In February 2018, Insight Crime news reported that a former El Salvador mayor became the first mayor to be convicted of illicit association with gangs (Barrio 18). He was sentenced to 12 years in prison¹¹⁹.

8.4.4 A 17 August 2019 article on the Canadian Global News website noted 'On Friday [16 August 2019], a court sentenced 72 Mara Salvatrucha gang members to prison terms of 260 years for a series of 22 killings in 2014 and 2015.' It added that '[t]he sentences are symbolic, since the effective maximum is 60 years'¹²⁰.

8.4.5 The May 2019 Time magazine article added 'According to the U.N., only a quarter of femicide cases make it to court and only 7% result in convictions. And, since the femicide-suicide law came in, only 60 cases have been investigated and only one has resulted in charges.'¹²¹

8.4.6 A Human Rights Watch report from February 2020 stated:

'Data obtained by Human Rights Watch through a public information request submitted to El Salvador's Attorney General Office's (FGR) illustrate pervasive impunity.... Nationwide, in 2018, authorities made arrests in approximately 22 percent of registered homicide cases. ... For homicides of boys, the 2018 clearance rate (meaning charges were filed) in El Salvador is 13.6 percent. ... The clearance rate for homicides in the US (adults and children) was several times higher at 62 percent; in many European countries the rate is above 75 percent. ... For sexual crimes, authorities in El Salvador made arrests in only 9.5 percent of registered ... cases in 2018.... The comparable clearance rate for sexual crimes in the US was 33.4 percent in 2018. ... For sexual crimes against girls in El Salvador, the 2018 clearance rate was 7.6 percent. Low clearance rates can occur for a number of reasons, but in El Salvador, the state is frequently either unable, due to

¹¹⁸ USSD INL, [El Salvador summary](#), undated

¹¹⁹ Insight Crime, '[El Salvador Convicts First Mayor for Ties to Gangs](#)', 2 February 2018

¹²⁰ Global News, '[El Salvador murder rate](#)', 17 August 2019

¹²¹ Time, '[Violence Against Women in El Salvador ...](#)', 14 May 2019

limited resources, or unwilling, because of corruption, infiltration and threats, to protect its citizens.¹²²

8.4.7 See also

- [UNHCR, 'Eligibility Guidelines' \(pages 24 and 25\), March 2016](#)

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8.5 Access to justice

8.5.1 Freedom House in their report covering events in 2019 stated:

'Underrepresented populations, particularly internally displaced persons and LGBT+ people, have limited access to the justice system. However, in a development reflecting increasing attention to discrimination against LGBT+ people, the government approved an Institutional Policy for the Care of the LGBT Population in 2018. Officials signaled the government's commitment to its tenets in public statements and events, but its practical effect remains unclear.'¹²³

8.5.2 An October 2020 report by Human Rights Watch stated 'Despite some reform efforts, such as specialized women's courts and dedicated units in the Attorney General's Office, formidable obstacles remain for women seeking police protection, investigation, or justice through the courts.'¹²⁴

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8.6 Witness protection

8.6.1 An extract from the book 'The Violence of Democracy: Political Life in Postwar El Salvador' by Ainhoa Montoya published in 2018 stated:

'[E]ven though a state witness protection program exists, this can be accessed only by those who are involved as actual witnesses in criminal trials. While in the program, they are separated from their family and sequestered in a house under the protection of police officers. Their protection ends with the conclusion of the trial. Funds are so meager that only critical witnesses are accepted and, even then, there is evidence that some witnesses have been murdered by gangs and organized crime structures who have uncovered the whereabouts of witnesses through corrupt police officers or public officials'¹²⁵

8.6.2 The UNSR IDPs report 2018 noted

'In 2006, the Supreme Court of Justice passed a Special Law for the Protection of Victims and Witnesses. While a positive step, it was noted that the Law focused on witnesses of crime and witness protection and did not include internally displaced persons as a unique category of victims requiring support, assistance and protection. The Law provides for measures to protect the identity and location of victims or witnesses; temporary or

¹²² HRW, '[Deported to Danger](#)',(section V), February 2020

¹²³ Freedom House, '[Freedom in the World 2020 – El Salvador](#)', 4 March 2020

¹²⁴ HRW, '[Deported to Danger](#)',(page 72), February 2020

¹²⁵ Montoya, Ainhoa, 'The Violence of Democracy: Political Life in Postwar El Salvador', 2018 (available on request)

permanent protection through the provision of police escorts, temporary housing, or change of domicile or employment; and support measures to provide health care, psychological support and legal services, and help with housing, food, maintenance and employment. Urgent measures can be applied immediately and temporarily according to the risk, before a permanent solution is found.’¹²⁶

8.6.3 A IDMC report of September 2018 noted that ‘the state provides victim and witness protection schemes’, but opined that they ‘... tend not to include appropriate accommodation, particularly for family units to whom the individual’s threat may extend. Nor is it necessarily secure from perpetrators.’¹²⁷

8.6.4 Kids in Need of Defense reported that ‘Programs provide protection to only the victim/witness in most cases, leaving the victim’s family members vulnerable to retribution by gangs. Women and girls receiving state “protection” may suffer further abuse by authorities. For example, in El Salvador, women and girls who have entered the state witness protection program have reported that security guards charged with protecting them have sexually harassed them, offering them improved living conditions in exchange for sexual favors, and in at least one case attempted to sexually assault a woman under their protection.’¹²⁸

8.6.5 The USSD Trafficking in persons report 2020 stated: ‘Experts criticized the government’s witness protection measures as insufficient, as they did not continue after the trial ended.’¹²⁹

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Section 9 updated: 4 February 2021

9. Conditions of detention

9.1.1 Insight Crime in an overview last updated 2017 stated:

‘El Salvador’s prisons are notoriously under-resourced, dangerous and overcrowded. Years of tough anti-gang legislation have filled the country’s penal institutions, to nearly 350 percent of capacity as of August 2016, according to the International Centre for Prison Studies. Contributing to rampant overcrowding has been the use of pretrial detention, which can sometimes leave suspects languishing in prison for months or years before they see a judge.

‘El Salvador’s prisons have largely been divided along gang lines, with members of different gangs sent to different prisons. This policy has allowed the MS13 and Barrio 18 to establish complete hegemony over the prisons they control, turning them into centers for recruitment, criminal operations, and gang consolidation — de facto gang headquarters. This is facilitated by understaffed and under-resourced facilities, which means prison guards are

¹²⁶ UNHRC, [SR IDPs report 2018](#) (paragraph 34), 23 April 2018

¹²⁷ IDMC, [‘An Atomised Crisis ...’](#) (page 24), September 2018

¹²⁸ Kids In Need of Defense, [El Salvador: Neither Security nor Justice](#) (p.10)... 22 June 2018, [url](#)

¹²⁹ USSD, [‘2020 Trafficking in Persons Report: El Salvador’](#), 25 June 2020

typically relegated to simply standing watch on prison walls and leaving inmates in control of day-to-day life.

‘The dynamic between the gangs’ imprisoned leadership and members on the street is crucial for understanding El Salvador’s gang phenomenon. Free gang members are expected to provide for those behind bars by sending money and supplies, and incarcerated gang leaders not uncommonly direct criminal activity on the streets via cell phone and message couriers. This symbiotic relationship rests partly on the logic that all gang members will, at one point or another, spend time in jail, and, once there, will need the gang’s protection in order to survive — a form of “prison insurance.” The leadership of the MS13 and Barrio 18 has traditionally been held in maximum-security facilities, such as the infamous Zacatecoluca prison, also known as “Zacatraz.”¹³⁰

9.1.2 The World Prison Brief for El Salvador gave the following data¹³¹:

Prison population total (including pre-trial detainees / remand prisoners)	36,691	at 19/10/2020 (national prison administration - not including over 1,000 in institutions for juveniles and young adults and over 5,500 in police holding cells)
Prison population rate (per 100,000 of national population)	565	based on an estimated national population of 6.49 million at October 2020 (from United Nations figures)
Number in pre-trial/remand imprisonment in 2020	8,675	23.6% of total prison population
Female prisoners (percentage of prison population)	2831	7.7% of total prison population
Official capacity of prison system	18,051	As at 30/06/2018
Occupancy level (based on official capacity)	215.2%	As at 30/06/2018

9.1.3 The UN Human Rights Committee raised its concern during its meeting in March 2018 that:

‘While the Committee takes note of the efforts made by the State party to improve prison facilities and build new ones, it is concerned about the continued high levels of overcrowding in prisons and in the jails of the National Civil Police, and about the cruel and inhuman living conditions in these facilities; the increased number of deaths in detention centres; the

¹³⁰ Insight Crime, [‘El Salvador profile’](#), 15 September 2017

¹³¹ World Prison Brief, [El Salvador](#), undated

large number of persons in provisional detention, who account for more than 30 per cent of the prison population; the failure to separate untried prisoners from convicted prisoners; and the reportedly intrusive and humiliating searches to which lawyers are subjected on entering and leaving detention centres. The Committee is also concerned about reports on the use of special security measures in six prison facilities, including locking up prisoners for 24 hours in a cell, the suspension of family visits and restrictions on visits from lawyers. The Committee regrets that it has not received sufficient information on the situation of persons with psychosocial or intellectual disabilities held in psychiatric centres and other institutions, or on legal remedies to challenge involuntary hospitalization.’¹³²

9.1.4 Freedom House in their report covering events in 2019 stated:

‘Prisons remain extremely overcrowded, and conditions within can be lethal due to disease, lack of adequate medical care, and the risk of attack by other inmates. In August 2018, the legislature voted to make permanent the “extraordinary measures” implemented in 2016 to increase security in prisons. Human rights groups and the OHCHR criticized the decision, with the latter saying that “these are implemented for the primary purpose of dehumanizing the detainees.” President Bukele expanded these measures to all Salvadoran prisons between June and September 2019, and ordered 24-hour block confinement. The president also allowed gang members to return to the general prison population, overturning a policy instituted in 2004 that kept warring gangs apart.’¹³³

9.1.5 The USSD human rights report for 2019 stated:

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

‘Overcrowding, at 141 percent of capacity as of September [2019], was a serious threat to prisoners’ health and welfare. For example, as of August 22, the PDDH [The Office of the Human Rights Ombudsman] reported that in one prison, 1,654 inmates were held in facilities designed for 600.

‘Convicted inmates and pretrial detainees were sometimes held in the same prison cells.

‘Gangs remained prevalent in prisons. As of September 14, approximately 55 percent (18,293 prisoners) of the prison population were active or former gang members. As of August 29, extraordinary measures designed to interrupt gang communications and coordination between imprisoned leaders and gang members outside the prisons were in effect in eight prisons. The measures reduced the smuggling of weapons, drugs, and other contraband such as cell phones and SIM cards into prisons; however, contraband remained a problem, at times with complicity from prison officials.

‘On June 20, the minister of justice and the director of prisons imposed a state of emergency in 19 prisons at President Bukele’s request and as part of his security program, the Plan for Territorial Control. Under the state of

¹³² UNHRC, [Concluding Observations on the seventh periodic report...](#) (paragraph 29), 9 May 2018

¹³³ Freedom House, [‘Freedom in the World 2020 – El Salvador’](#), 4 March 2020

emergency, prisoners were not able to receive any type of visit, were confined to their cells 24 hours a day, were not permitted to visit recreational or medical facilities except in extraordinary circumstances, did not receive mail or have access to radios or televisions, and did not engage in work activities. In addition, beginning on June 21, the minister and the director used their legal authority to completely disable cell phone signals inside and around prisons. The Court of Penitentiary Surveillance and Penalty Execution subsequently ratified the state of emergency. On September 2, President Bukele instructed the minister and the director to lift the state of emergency in prisons. Inmates' right to receive visitors was gradually restored in prisons that did not hold inmates affiliated with gangs.

'In many facilities, provisions for sanitation, potable water, ventilation, temperature control, medical care, and lighting were inadequate, according to the PDDH. As of September 14, the director of prisons reported no cases of inmate malnutrition, down from 2,440 reported cases between August 2017 and May 2018.

'According to the Direction of Penitentiaries, 21 inmates died in 2018, nine by homicide. As of August the Salvadoran Institute for Child Development reported no minors had been killed by gang members while in detention, compared with three in 2018.

'In August the PNC reported 30 percent overcrowding in police holding cells, with 2,300-2,400 detainees in cells designed for 1,500-1,800 individuals. This was down from 5,500-6,000 detainees held in similar facilities in 2018.'

¹³⁴

9.1.6 The same USSD report went also stated in respect of the administration of prisons, independent monitoring and improvements:

'The PDDH [The Office of the Human Rights Ombudsman] has authority to investigate credible allegations of inhumane conditions. The Constitutional Chamber of the Supreme Court has authority over the protection of constitutional rights. During the state of emergency, authorities did not allow prisoners and detainees to receive any visitors or to gather for religious observances.

'As of August 22, according to the PDDH, due to the state of emergency enacted on June 20, the government prevented independent human rights groups from visiting all prisons (not just the 19 covered by the state of emergency). Prior to the imposition of the state of emergency, and again after September 2, the government permitted visits by independent human rights observers, NGOs, and media to low- and medium-security prisons. Inspections of high-security prisons were limited to government officials, the PDDH, and the International Committee of the Red Cross. Church groups, IDHUCA [Institute for Human Rights at the University of Central America], LGBTI activists, and other groups visited prisons during the first six months of the year.

'Construction of new prisons and a redistribution of prisoners reduced overcrowding from 215 percent to 141 percent as of September.

¹³⁴ USSD, [2019 Human rights report](#) (section 1C), March 2020

'On September 12, legislators reallocated \$9.3 million from the year's budget to improve prison conditions, including \$4.1 million for a salary increase for prison personnel and \$5.2 million for improved food for inmates.'¹³⁵

9.1.7 The US CRS report of July 2020 noted:

'Delays in the judicial process and massive arrests carried out during anti-gang sweeps made under *mano dura* (heavy-handed) policing efforts have resulted in severe prison overcrowding... According to the U.S. State Department, prison capacity has increased in recent years, but facilities remained at 141% of occupancy as of September 2019... In addition to building new facilities, the government has channeled more prisoners into rehabilitation and job training programs, some of which have received U.S. support. Nevertheless, many human rights groups maintain that sanitation and access to medical services have worsened since more restrictive prison conditions for gang inmates began in 2016.'¹³⁶

9.1.8 Human Rights Watch in their world report covering 2020 stated:

'The country's penal institutions held over 36,600 detainees in August, twice the official capacity, the World Prison Brief revealed, including approximately 23 percent in pretrial detention.

'Overcrowding and poor sanitation endangered the health of prisoners. The risk of tuberculosis infection among people in prisons in El Salvador is 99 times higher than in the general population. These conditions risk further spreading Covid-19.

'In April, President Bukele declared a "state of emergency" in maximum security prisons holding gang members, ordering 24-hour block confinement. While gangs are typically separated to avoid clashes, he mixed gangs in shared cells. Official photographs and videos showed thousands of mostly-naked detainees—few wearing face masks—jammed together on cellblock floors in contravention of public health guidance to slow the spread of Covid-19, while police searched cells, further exacerbating the already heightened risk of contagion.'¹³⁷

9.1.9 BBC News reported in April 2020:

'President Nayib Bukele, who took office in June 2019, claims much of the credit for that drop.

'His zero-tolerance policy towards gang violence also extends to the country's prisons with jailed gang members allowed no visitors or phones and confined to their cells 24/7. If, on the other hand, the situation both inside and outside the jails is calm then normal hours and visitation rights are reinstated...

'El Salvador's prisons have a capacity of 18,051 but the system currently holds more than 38,000 inmates.

¹³⁵ USSD, [2019 Human rights report](#) (section 1C), March 2020

¹³⁶ US CRS, '[El Salvador: Background and US Relations](#)' (page 9), 1 July 2020

¹³⁷ HRW, [World report 2021 \(El Salvador\)](#), January 2021

'Extreme heat, unsanitary conditions and tuberculosis claimed the lives of many inmates even before coronavirus.'¹³⁸

9.1.10 Human Rights Watch in the same report also commented:

'During the Covid-19 lockdown, which lasted from March 21 through June 14, he [President Bukele] ordered law enforcement agents to detain violators and send them to containment centers, which became rapidly overcrowded and unsanitary. Authorities did not isolate people who tested positive for the coronavirus from other detainees. More than 16,000 people were sent to these facilities and some were detained for up to 40 days.'¹³⁹

9.1.11 See also CPIN: [El Salvador – Fear of gangs](#) and

- [Insight Crime, 'El Salvador Police Running 'Clandestine Jails': Report', 20 September 2017](#)

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Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Security apparatus
 - Overview
 - Police force
 - Intelligence agencies
 - Armed forces
- Legal rights
 - Penal/criminal code
 - Arrest and detention
- Capability of the security forces
 - Effectiveness
 - Corruption
 - Avenues of redress
- Rule of law and the judiciary
 - Organisation

¹³⁸ BBC News, [El Salvador's jails: Where social distancing is impossible](#), 26 April 2020

¹³⁹ HRW, [World report 2021 \(El Salvador\)](#), January 2021

- Independence
 - Fair trial
- Human rights abuses

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Version control

Clearance

Below is information on when this note was cleared:

- version **1.0**
- valid from **18 February 2021**

Changes from last version of this note

New CPIN

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