MIGRATION & ASYLUM LAB

2023

EL SALVADOR

COUNTRY CONDITIONS BULLETIN

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The Migration and Asylum Lab seeks to inform immigration courts about country conditions in Latin America through the use of the most up-to-date and rigorous research on issues relevant to asylum cases. The scholars involved in the lab are supremely qualified to provide current and dependable information on country conditions in the context of asylum proceedings. They include political scientists, data analysts, historians, and international relations scholars. They have decades of experience in their field and are widely recognized for their work, which includes peer-reviewed books published by university presses and articles in the top academic journals.

The Lab's mission is to provide thorough, dependable country conditions information to help adjudicators to make well informed decisions as to the merit of claims for asylum protection. Our role as expert witnesses is not to act as advocates, but rather to conduct impartial analysis of country conditions based on a wide range of sources, including academic scholarship, government and non-government reports, and media reporting from inside the country and the international press.

EL SALVADOR

2023 Country Conditions Bulletin

Chapter One: El Salvador Country Profile

Homicide, Femicide and Impunity Rates

2022 Official Homicide Rate: 7.8 per 100,000 (Pop. 6,314,167)

- Source: InSight Crime Yearly Homicide Round-Up (released every February)
  Also gives basic info by country about reasons for spikes/drops in homicide rates and new criminal actors.[1]
- 495 murders registered by the National Police (PNC) in 2022, a 56.2% drop from the previous year (1,147). The murder rate has steadily dropped since its peak at 103 per 100,000 in 2015 (Source: National Civil Police).
- According to a *Reuters* report from January 2023, the above statistic does not include the approximately 105 alleged gang members killed in altercations with security forces in 2022, which would raise the year's total to 600.
- By reviewing data from the National Police, Attorney General's office and Institute of Legal Medicine, reporters from *La Prensa Gráfica* found that the government's estimate of 209 homicides throughout the state of exception was 61% lower than the more realistic approximation of 336 homicides. The newspaper's staff additionally found that numerous deaths were the result of abuse within correctional facilities and excessive use of force by the police and military in confrontations with alleged gang members.[2]
- Amnesty International reports that as of April 3, 2023 at least 132 people have died in State custody. At least 10 of those cases of death were the results of torture and cruel and degrading treatment by police and prison guards.

Impunity for Homicides

- According to USAID, only 9 perpetrators were convicted per 100 homicides in El Salvador in 2021.[3]
- The State of Exception, declared in March 2022, has increased impunity for security officials, who have nearly indiscriminate power to arrest, abuse and murder citizens

[1] "Insight Crime's 2022 Homicide Round-Up," Insight Crime, Feb. 8 2023, https://insightcrime.org/news/insight-crime-2022-homicide-round-up/#Guatemala
[2] Edwin Segura and Ricardo Flores,"Homicidios durante el régimen son 61 % más alto que lo divulgado," *La Prensa Gráfica*, June 5, 2023, https://www.laprensagrafica.com/elsalvador/Homicidios-durante-el-regimen-son-61--mas-alto-que-lo-divulgado-20230605-0002.html.
[3] USAID, "Citizen Security: El Salvador," https://www.usaid.gov/el-salvador/our-work/security.

by naming them "alleged criminals." These deaths are not publicized or included in the official homicide rate.[4]

- In 50 cases investigated by Amnesty International of arbitrary detentions and imprisonment during the State of Exception, there was no verification of investigation processes into the conduct of public officials. According to Erika Guevara-Rosas, Americas director at Amnesty International, "The fact that there are widespread human rights violations and virtually no ongoing criminal proceedings evidences the control exercised from the highest level so that all state powers obey this policy of indiscriminate imprisonment."[5]

Femicides: 2.4 per 100,000 women in 2021 (Source: ORMUSA-Observatorio de Violencia)

- Under the state of exception, the authorities ignore the figures of femicides since only homicide data is reported. According to the Organization of Salvadoran Women for Peace (Ormusa), there was a drop from 82 femicides in 2021 to 68 in 2022. There is no information or certainty on how many femicides are solved by the justice system.
- According to the UN Gender Equality Observatory for Latin America and the Caribbean, El Salvador ranked 6th in overall femicide rates in Latin America in 2021.[6]
- An article published in May by the Carnegie Endowment for International Peace reports a newfound fear of gender based and sexual violence against women and girls at the hands of the national police and military under the state of exception. According to local feminist groups, state actors have replaced gang members as principal offenders of gender-based violence. Reports from El Salvador indicate that state actors intimidate, harass and sexually assault women as the gangs have been known to do in the past.[7]

Impunity for Femicides

- According to the Feminist Network Against Violence Against Women, courts convicted suspects in less than 6% of cases (712) out of 11,867 reports of

[4] Edwin Segura and Ricardo Flores,"Homicidios durante el régimen son 61 % más alto que lo divulgado," *La Prensa Gráfica*, June 5, 2023, https://www.laprensagrafica.com/elsalvador/Homicidios-durante-el-regimen-son-61--mas-alto-que-lo-divulgado-20230605-0002.html.

[5] "El Salvador: One year into state of emergency, authorities are systematically committing human rights violations," Amnesty International, April 3, 2023, https://www.amnesty.org/en/latest/news/2023/04/el-salvador-state-emergency-systematic-human-rights-violations/.

[6] Gender Equality Observatory for Latin America and the Caribbean: Femicide, 2021, https://oig.cepal.org/en/indicators/femicide-or-feminicide.

[7] Julia Zulver and Maria Jose Mendez, "El Salvador's 'State of Exception' Makes Women Collateral Damage," Carnegie Endowment for International Peace, May 4, 2023, https://carnegieendowment.org/2023/05/04/el-salvador-s-state-of-exception-makes-women-collateral-damage-pub-89686.

gender-based violence filed with the police in the first half of 2021. The organization cites impunity for aggressors, normalization of gender based violence, a lack of understanding regarding victim's rights all within a patriarchal climate as factors contributing to low conviction rates.[8]

Major Criminal Actors

- MS-13
- Barrio 18

History

El Salvador's recent history is scarred from over a decade of civil war in which more than 75,000 people were killed. From 1980-1992, the country was consumed by violence and instability from which it has still not recovered. A confluence of factors gave rise to organized criminal organizations, including high unemployment, limited access to resources and education and proximity to drug trafficking routes. During the civil war, thousands of Salvadorans fled to the United States for safety, where some joined street gangs in Southern California. The deportation of many of these gang members in the 1990s imported the phenomenon of gang violence to a country still reeling from the violence of the civil war. The Salvadoran state had little infrastructure to deal with the gang phenomenon–the National Police, formed by ex-military and ex-guerrilla forces, was newly created with the signing of the peace accords in 1992.[9]

Street gangs in El Salvador are fortified through their connections to drugs, weapons and human traffickers, and other transnational criminal organizations. These organizations have in turn infiltrated the police, military and government. Two of the most powerful gangs, Mara Salvatrucha and Barrio 18, reached a tenuous truce in 2012. This truce reduced the murder rate from 12 to 6.8 per day in 2013, but by early 2014 the homicide rate had spiked up to almost 9 per day as the truce started to unravel. Before the truce in 2011, El Salvador had one of the highest murder rates in the world, 69.8 per 100,000. Governments at the opposite ends of the political spectrum have attempted a variety of iron fist (*mano dura*) security policies to combat the *maras* and reduce crime and violence. Right-wing presidents from the Nationalist Republican Alliance party (Alianza Republicana

[8] U.S. Dept. of State, "2022 Country Reports on Human Rights Practices: El Salvador," https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/el-salvador/.
[9] Jasmine Garsd, "How El Salvador Fell Into A Web Of Gang Violence," *NPR*, Oct. 5, 2015, https://www.npr.org/sections/goatsandsoda/2015/10/05/445382231/how-el-salvador-fell-into-a-web-of-gang-violence.

Nacionalista—ARENA), including Francisco Flores (1994–2004) and later Antonio "Tony" Saca (2004–2009), adopted what became known as *mano dura* and *super mano dura* strategies to combat gang violence in El Salvador. As the prison population increased, gangs began to better organize within the penitentiary system, where government policies of housing gang members from the same organization in cells allowed cliques to improve gang structures.[10] Since 2015, when El Salvador registered the world's highest murder rate with 103 homicides per 100,000 people, the levels of violence have begun to decline, also the product of continued government negotiations with gang leaders. The continued use of *mano dura* policies have generally failed to eradicate street gangs in El Salvador however, with murder rates rising and falling based on government negotiations with gang leaders.

Current Security Situation

El Salvador's National Police recorded 496 homicides in 2022, a drop of about 56% from the year prior. The tally does not count deaths of alleged gang members killed in encounters with security forces, which would raise the total to 600.[11] While still high, the drop in killings was unimaginable in the Central American nation just several years ago, when the rate topped more than 100.[12] Nayib Bukele assumed the presidency in June 2019, adopting an iron-fisted approach toward gangs. There is considerable research that indicates this dramatic drop in the murder rate is a result of both new gang strategies and a withdrawal of state-sponsored extermination groups that provoked frequent clashes with alleged gang members, and not a direct result of President Bukele's hardline stance against street gangs as the administration has officially reported.[13] His claims of responsibility for the lower homicide rates have also been undercut by the US Treasury Department sanctioning of administration officials in 2021, alleging they had negotiated with incarcerated gang leaders to reduce homicides in exchange for access to cell phones and sex workers.[14]

According to the latest State Department's Human Rights Report from 2022, violent crime, impunity, and human rights abuses continue in El Salvador despite official statements that

[10] Jonathan D. Rosen, Sebastián Cutrona, and Katy Lindquist, "Gangs, violence, and fear: punitive Darwinism in El Salvador," *Crime Law Soc Change* 79, 175–194 (2023), https://doi-org.library.lcproxy.org/10.1007/s10611-022-10040-3
[11] "El Salvador murders plummet by over half in 2022 amid gang crackdown," *Reuters*, Jan. 3, 2023, https://www.reuters.com/world/americas/el-salvador-murders-plummet-by-over-half-2022-amid-gang-crackdown-2023-01-03/.
[12] "InSight Crime's 2021 Homicide Round-Up," InSight Crime, Feb. 1, 2022, https://insightcrime.org/news/insight-crimes-2021-homicide-round-up/.
[13] Alex Papadovassilakis, "Are El Salvador's Gangs Behind Historic Murder Drop?" InSight Crime, Jan. 20, 2020, https://www.insightcrime.org/news/analysis/gang-truce-behind-el-salvador-historic-murder-drop/.
[14] "InSight Crime's 2021 Homicide Round-Up," InSight Crime, Feb. 1, 2022, https://insightcrime.org/news/insight-crimes-2021-homicide-round-up/.

the situation is improving. The report details continued extrajudicial killings of Salvadorans by state security forces, including extermination groups composed of retired police and military officers. There were additional reports alleging that members of security and law enforcement were involved in unlawful disappearances, and demonstrating serious problems with the independence of the judiciary. With regards to freedom of movement and near total gang control, the report describes the situation as follows: "Prior to the implementation of the state of exception, major gangs controlled access to their specific territories. Gang members did not allow persons living in another gang's area to enter their territory, even when traveling via public transportation. Gangs forced persons to present government-issued identification cards (which contain a person's address) to determine their residence. If gang members discovered that a person lived in a rival gang's territory, that person risked being killed, beaten, or denied entry to the territory. Bus companies paid bribes to operate within gang territories, often paying numerous fees for the different areas in which they operated."[15] These reports confirm that gangs have acted as de facto governments in El Salvador, controlling the movement and actions of citizens throughout the country. Given that gangs have carried out state-like functions and that President Bukele has negotiated with gangs in a political alliance, any theoretical line between the legitimate government and criminal actors has been blurred.

In March 2022, a breakdown in negotiations between President Bukele and MS-13 gang leaders led to a three-day killing spree ordered by gang members that had left 87 civilians dead by March 27. In response, Bukele ordered mass arrests of suspected gang members as well as declaring a state of exception and suspending certain civil liberties. In less than one week, 6,000 people had been arrested, many of whom were juveniles. Bukele has since systematically scaled back democratic and judicial protections, extending prison sentences and denying citizens the right to fair trials.[16] The state of emergency is still in place currently despite complaints from human rights advocates that abuses have occurred, including arrests of innocent people and cover-ups of deaths of detainees in state custody. Human rights advocates have estimated that the militarized offensive has led to over 72,000 arrests of alleged gang affiliates by August 2023, or 2% of the adult population.[17]

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[15] U.S. Dept. of State, "2022 Country Reports on Human Rights Practices: El Salvador," https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/el-salvador/.
[16] Nina Lakhani, "El Salvador Reels as 6,000 People Arrested in Unprecedented Crackdown," *Guardian*, 5 April 2022, https://www.theguardian.com/global-development/2022/apr/05/el-salvador-crackdown-ms13-state-of-emergency.
[17] "'We Can Arrest Anyone We Want': Widespread Human Rights Violations Under El Salvador's 'State of Emergency'," Human Rights Watch, Dec. 7, 2022, https://www.hrw.org/report/2022/12/07/we-can-arrest-anyone-we-want/widespread-human-rights-violations-under-el
Gavin Voss, "El Salvador Escalates Gang Crackdown With New Measures," InSight Crime, Aug. 4, 2023, https://insightcrime.org/news/el-salvador-escalates-gang-crackdown-with-new-measures/.

Urban and Rural Security in El Salvador

While street gangs have historically been considered an urban phenomenon in El Salvador, a groundbreaking study coordinated by Alexander Segovia has demonstrated the spread of street gangs to rural El Salvador during the peak years of gang dominance in the country from 2010 to 2015. These years constituted a new phase for gangs due to their increased territorial presence and control in the country, leading to a rising demographic of homicide victims in rural areas. Segovia's research shows how 2012 marked a definitive shift in the territories of violence in El Salvador, where the majority of violent deaths occurred in rural areas rather than the traditional urban centers. In the period under study (2010-2015), Segovia points out that homicides rose in every one of El Salvador's 14 departments without exception.[18] According to police data from 2013, there were cliques from both gangs in all 14 departments. Even Morazan, the department with the fewest cliques, had 18 different active gang factions that year.[19] By 2018 it was estimated that street gangs were active in 94% of El Salvador's 262 municipalities, and acted as a de facto governments controlling residents' movement and daily lives.[20]

Relocation to even "safe" rural departments with historically little gang presence poses a risk for deportees, as news reports from El Salvador have indicated that since 2018 both MS-13 and Barrio 18 have continued to make inroads in these districts (such as Morazan and Chalatenango), taking advantage of the small police forces in these areas. By 2018, MS-13 was reported to have a presence in 22 municipalities in the department of Morazan, and Barrio 18 in two. In Chalatenango, the gangs had reportedly been active in 12 out of 33 municipalities. By August 2018, Chalatenango had reported 66 homicides, nearly triple the 23 homicides reported in 2017.[21] While there are multiple states in El Salvador with lower homicide rates, these same departments are located in "the most economically depressed regions of El Salvador," where it is progressively "getting harder to survive."[22] Given the lack of economic opportunities and social ties in these rural departments, it is likely that it would be difficult for deportees to support themselves or their families if returned to these regions.

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[18] Alexander Segovia, et. al, "El Salvador: Nuevo patrón de violencia, afectación territorial y respuesta de las comunidades (2010–2015)," San Salvador: Instituto Centroamericano de Investigaciones para el Desarrollo y el Cambio Social, INCIDE (2016): p. 7.

[19] Oscar Martinez, "Driving Across the Borders of El Salvador's Gang Territory," InSight Crime, January 11, 2016, https://www.insightcrime.org/news/analysis/driving-across-the-borders-of-el-salvador-gang-territory/.

[20] "Life Under Gang Rule in El Salvador," International Crisis Group, Nov. 26, 2018, https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/life-under-gang-rule-el-salvador.

[21] David Marroquin, "INFOGRAFÍA: Maras expanden sus fechorías a municipios del norte de El Salvador," *elsalvador.com*, Aug. 25, 2018, https://www.elsalvador.com/noticias/nacional/maras-expanden-sus-fechorias-a-municipios-del-norte-del-pais/512716/2018/.

[22] Jason Motlagh, "Inside El Salvador's battle with violence, poverty and U.S. policy," *National Geographic*, March 2019, https://www.nationalgeographic.com/magazine/2019/03/el-salvador-violence-poverty-united-states-policy-migrants/.

Indigenous Salvadorans

The exact size of El Salvador's indigenous population is generally unknown, due in part to the refusal of the Salvadoran state to recognize the nation's ethnic minorities. Estimates of the combined population of indigenous Nahuat, Lenca, Cacaopera, and Maya vary between one to ten percent of the national population of approximately six million.[23] Beginning in the late 19th century, the Salvadoran state began actively privatizing communal indigenous lands, dispossessing peasant communities in favor of commercial agriculture. Various indigenous rebellions followed, with the most well known leading to a genocidal response by Salvadoran military forces in 1932, popularly known as La Matanza (The massacre). The Matanza was a brutal response to a popular Indigenous uprising in western El Salvador in 1932, resulting in the deaths of thousands of mostly indigenous Nahuat. Estimates of the possible number of victims vary considerably, with conservative estimates of around 10,000 dead, and some estimating up to 60,000 victims. Academics have highlighted the ethnic consequences of the Matanza, including as genocide or ethnocide, as the decades following 1932 saw the continued stripping of communal land rights and a near total loss of indigenous cultural.[24] The military government that was established following La Matanza went on to formally ban many aspects of indigenous culture, including language, traditional clothing, and music. To avoid further persecution and murder by government troops, indigenous people in El Salvador began to hide outward signs of their identity.[25]

Annual and Semi-Annual State Department Reports:

- OSAC, "El Salvador Country Security Report," last updated 2019: https://www.osac.gov/Content/Report/d1222be6-4e5d-461f-912c-15f4aec90b02
- State Dept. Country Reports on Human Rights Practices, released yearly, last updated 2023, includes analysis of human rights situation for prison conditions, politically motivated crimes, judicial freedom, govt. Corruption, ethnic violence, indigenous people, women, LGBT individuals: https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/el-salvador
- El Salvador Travel Advisory, last updated July 17, 2023. Gives information on security situation, including by department/state and travel bans for government employees due to high insecurity:

[23] Robin Maria DeLugan, "Commemorating from the Margins of the Nation: El Salvador 1932, Indigeneity, and Transnational Belonging," *Anthropological quarterly* 86, no. 4 (2013): 965–994.
[24] Robin Maria DeLugan, "Commemorating from the Margins of the Nation: El Salvador 1932, Indigeneity, and Transnational Belonging," *Anthropological quarterly* 86, no. 4 (2013): 965–994.
[25] "Jan. 22, 1932: La Matanza ("The Massacre") Begins in El Salvador," Zinn Education Project, https://www.zinnedproject.org/news/tdih/la-matanza

https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/el-salvador-travel-advisory.html

InSight Crime (Organized Crime Think Tank) Country Reports:

- "El Salvador Profile," updated September, 2020: https://insightcrime.org/el-salvador-organized-crime-news/el-salvador/
- Latest Crime News: https://insightcrime.org/tag/el-salvador/

Local Salvadoran Government and Independent Sources:

- Fiscalía General de la República- Monthly homicide statistics divided by "general crime," "social intolerance," and "family intolerance": https://www.fiscalia.gob.sv/estadisticas/
- Monthly homicide data also posted monthly on the Twitter account of the National Civil Police: https://twitter.com/PNCSV
- Organization of Salvadoran Women for Peace (ORMUSA)- Gender Violence Observatory, updated yearly with independent statistics on femicide and other types of gender-based violence: https://observatoriodeviolenciaormusa.org/
- Local newspapers/online journals: El Faro, Gato Encerrado, Revista Factum, La Prensa Gráfica
    - https://elfaro.net/es/el_salvador
    - https://gatoencerrado.news/tag/el-salvador/
    - https://www.revistafactum.com/tag/el-salvador/
    - https://www.laprensagrafica.com/seccion/elsalvador

Analysis of El Salvador's Militarized Strategy Against Gangs:

- https://insightcrime.org/news/analysis/el-salvador-citizen-security-plan-struggling-reduce-insecurity/
- https://insightcrime.org/news/nayib-bukele-iron-fist-el-salvador-working/
- https://www.washingtonpost.com/es/post-opinion/2023/01/24/maras-el-salvador-bukele-guerra-pandillas-mafia/
- https://nacla.org/el-salvador-slide-toward-authoritarianism
- https://www.hrw.org/report/2022/12/07/we-can-arrest-anyone-we-want/widespread-human-rights-violations-under-el

Chapter Two: Gangs in El Salvador

Introduction

El Salvador's recent history is scarred from over a decade of civil war in which over 75,000 people were killed. From 1980-1992, the country was consumed by violence and instability from which it has still not recovered. The war between state and guerrilla forces often involved brutal attacks against civilian populations, including massacres of entire villages in rural areas believed to be sympathetic to the guerrillas. Beginning in 1979, the United States also became more involved in the armed conflicts in Central America, resulting in the increased militarization of the region, especially in El Salvador. Due to the extreme violence of the civil war, thousands of Salvadorans, among other Central Americans escaping civil wars in their own countries, fled to the United States. These refugees came escaping bloodshed and a crumbling economy due to the violence in the region. By 1985, between three-quarters of a million to 1.3 million Central Americans were living in the United States; approximately two-thirds being Salvadorans. The U.S. General Accounting Office estimated in 1989 the number of undocumented Salvadorans in the United States at six to eight hundred thousand.[26]

Many of these refugees arrived in Los Angeles, where they settled in gang-ridden, violent neighborhoods. While Mexican gangs reigned in the local criminal world of Southern California, the refugees quickly organized themselves into competing groups, the strongest of which was called the Mara Salvatrucha, *mara* meaning gang in Central America and *Salva* for El Salvador.[27] In 1996, the US Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act, leading to the deportation of thousands of gang members back to El Salvador and other countries throughout Central America. These deportees returned to a country that had been torn apart by over a decade of civil war, and with the lasting scars of gang life in Los Angeles. When peace accords were signed in El Salvador in 1992, guerrilla forces were offered a pathway to enter Salvadoran politics, yet no solutions were proposed to transition Salvadoran society to peace, via assistance to victims or social or economic restructuring. Street gangs such as Barrio 18 and Mara Salvatrucha were imported to El Salvador at a time when the state was weak, many young men were orphaned and

[26] Nora Hamilton and Norma Stoltz Chinchilla, "Central American Migration: A Framework for Analysis," *Latin American Research Review* 26, no. 1 (1991): 99.
[27] Sol Velásquez, "MS-13," InSight Crime, Sept. 22, 2021, https://insightcrime.org/el-salvador-organized-crime-news/mara-salvatrucha-ms-13-profile/.

families living in poverty.[28] This context was ripe for the growth of street gangs in the region. Gang violence in El Salvador is thus largely a byproduct of US criminal deportations to Central America, creating a phenomenon of exported criminal capital from the United States. This criminal capital has continued to grow as deportees have forcibly recruited new members in El Salvador, which in turn has increased migration to the United States.[29]

The deported gang members of the 1990s have converted into, by some counts, around 60,000 gang members in El Salvador today. After years of failed hard-line security policies by the Salvadoran state, El Salvador reached the highest homicide rate in the world in 2009 at 71 per 100,000 people. Following the unraveling of a government ceasefire with gangs in 2012, this murder rate spiked even higher to 103 per 100,000.[30] What has often been referred to as a gang problem in El Salvador is actually a political and social crisis involving transnational criminal and drug trafficking organizations that have wreaked havoc on the political infrastructure and social fabric of the country, rendering it nearly ungovernable. By 2017, researchers at the National Defense University asserted that MS-13 "is rapidly evolving into a criminal-economic-military-political power that poses an existential threat" to the Salvadoran state.[31] A survey conducted the same year by the newspaper *El Mundo* found that 42 percent of people believed gangs ruled the country, while only 12 percent believed the government was in control.[32]

Mass killings enacted by the gangs in March 2022, generally believed to be the result of ruptured negotiations between the current government of Nayib Bukele and gang leaders, led to the implementation of a state of exception in the country, a militarized crackdown on gang activity that had resulted in the incarceration of over 72,000 Salvadorans by August 2023, or 2% of the adult population.[33] Homicide rates have dropped (although deaths at the hands of security agents are not recorded within the state's homicide tally and discrepancies exist between official discourse and the actual data found by Salvadoran institutions), and a general perception of security has returned to the country after years of extortion and terror

[28] Oscar Martinez, "A Brief History of El Salvador, Gangs, the U.S., and The Difficulties of Empathy," *New American Story Project*, https://newamericanstoryproject.org/context/brief-history-of-el-salvador/
[29] Maria Micaela Sviatschi, "Spreading Gangs: Exporting US Criminal Capital to El Salvador," *The American economic review* 112, no. 6 (2022): 1985–2024.
[30] Oscar Martinez, "A Brief History of El Salvador, Gangs, the U.S., and The Difficulties of Empathy," *New American Story Project*, https://newamericanstoryproject.org/context/brief-history-of-el-salvador/
[31] Douglas Farah and Kathryn Babineau, "The Evolution of MS 13 in El Salvador and Honduras," *PRISM*, Vol. 7, No. 1 (2017): 58.
[32] Parker Asmann, "El Salvador Citizens Say Gangs, Not Government 'Rule' the Country," Insight Crime, 8 Nov. 2017, https://www.insightcrime.org/news/brief/el-salvador-citizens-say-gangs-not-government-rules-country/
[33] Gavin Voss, "El Salvador Escalates Gang Crackdown With New Measures," InSight Crime, Aug. 4, 2023, https://insightcrime.org/news/el-salvador-escalates-gang-crackdown-with-new-measures/.

at the hands of the two major street gangs, Barrio 18 and MS-13.[34] As Jonathan Rosen, Sebastián Cutrona and Katy Lindquist have asserted about the response to the militarized policies in El Salvador, "The public does not trust the state and its ability to prosecute the guilty and is willing to take drastic measures to reduce crime, violence, and insecurity—actions that ultimately erode institutions and democracy," or what the authors deem "punitive Darwinism."[35]

What has yet to be determined is whether the incarceration of gang members (although some leaders have fled the country, and some have been aided by the Salvadoran government in continuing negotiations, blocking their extradition to the United States) will truly disarticulate the criminal structures, or whether gang cells will reform and consolidate within El Salvador's prisons.[36] Other journalists and human rights defenders speculate that the government has newly entered into negotiations with the gangs, indicating the possibility of renewed violence if agreements are broken. Regardless, it is undeniable that Salvadorans are currently living an uneasy peace, with many now at the whim of increasingly militarized state agents with almost limitless power to arrest and detain, after more than two decades of relentless control by the Barrio 18 and MS-13 street gangs.[37] Given that gangs act as the de facto government in many areas of the country and that President Bukele has been negotiating with gangs in a political alliance, any theoretical line between the legitimate government and criminal actors has been blurred. When someone refuses to abide by the gang's dictates, they are in essence acting against the gang and expressing a political opinion against this quasi-state actor. The future harm that gang resisters would be vulnerable to are thus on account of their political opinion and resistance to the gang as a governing authority.

Gang Extortion

The MS-13 and Barrio 18's primary criminal economy in El Salvador consists of extortion payments, or what they call rent. These extensive extortion rackets have led in some cases to

[34] Edwin Segura and Ricardo Flores, "Homicidios durante el régimen son 61 % más alto que lo divulgado," *La Prensa Gráfica*, June 5, 2023, https://www.laprensagrafica.com/elsalvador/Homicidios-durante-el-regimen-son-61--mas-alto-que-lo-divulgado-20230605-0002.html.

[35] Jonathan D. Rosen, Sebastián Cutrona, and Katy Lindquist, "Gangs, Violence, and Fear: Punitive Darwinism in El Salvador," *Crime, law, and social change* 79, no. 2 (2023): 176.

[36] José Luis Sanz and Carlos Martínez, "El Salvador Government Protection of MS-13 from Extradition Emerges in DOJ Indictment," *El Faro*, Feb. 28, 2023, https://elfaro.net/en/202302/el_salvador/26739/El-Salvador-Government-Protection-of-MS-13-from-Extradition-Emerges-in-DOJ-Indictment.htm.
Marina E. Franco, "Salvadoran gang leaders fleeing crackdown pose threat to region, officials say," *Axios Media*, April 20, 2023, https://www.axios.com/2023/04/20/bukele-el-salvador-gangs-mexico-guatemala.

[37] Personal Interview by Kate Wackett and Elliott Young with private attorney Daniel Magaña, San Salvador, July 31-Aug. 2, 2023.

the gangs investing illicit profits in private, legitimate businesses, such as motels, car washes, used car lots, restaurants, and even buses. Although such money laundering schemes are not carried out by all cliques, the MS-13 has increasingly fronted such businesses.[38] These rent payments are sustained by constant threats from gang members towards business owners or employees. According to a 2022 report by the Global Initiative Against Transnational Organized Crime, "Should the payments not be met, businesses are only too aware of the consequences. The gangs and criminal groups will deploy violence to instill fear in victims and make sure the payments continue to flow. It begins with psychological violence, such as threats made over the phone, develops to more overt displays of violence (shooting at or burning business premises), and escalates to personal violence (beating up the owner or employees). It can, and does, go further: victims or family members are killed." It is estimated that, in 2015, extortion payments amounted to 1.7% of El Salvador's and 1% of Honduras's gross domestic product. In 2021, public transport companies in El Salvador were estimated to have paid up to US$12 million in extortion fees to gangs.[39]

As the most important crime and revenue-raising business of street gangs in El Salvador, extortion is fundamental to understanding their resilience as well as the fear they have spread in their communities. Extortion has proved to be the gangs' most reliable crime because of the way it has allowed them to control territory, access firearms, and avoid state or security presence. A survey from 2017 in El Salvador found that extortion was on the rise and affected 22% of businesses, although only 15% of all incidents were reported, reflecting the lack of confidence in the response capacities of the local police and judiciary. In 76% of these cases, gangs were behind the extortion.[40] Although difficult to measure, the connection between extortion demands and violence perpetrated by gangs is tenable. In 2012, the eastern Salvadoran municipality of San Miguel had the country's highest rates of both extortion and homicide. A 2016 study by the Civil Society Group Against Forced Displacement in El Salvador found that extortion threats and murders were the two main factors driving forced internal displacement in that country, with women making up the largest share of victims. Gangs were reportedly behind 86% of the displacements.[41]

[38] "Extortion Explainer 2: From a 'Cora' to the Rent," InSight Crime, https://insightcrime.org/investigations/extortion-explainer-from-a-cora-to-rent/.
[39] Guillermo Vazquez, "Arrested development in Central America," *Global Initiative*, Feb. 9, 2022, https://globalinitiative.net/analysis/development-extortion-central-america/.
[40] "Mafia of the Poor: Gang Violence and Extortion in Central America," International Crisis Group, April 6, 2017, https://www.crisisgroup.org/latin-america-caribbean/central-america/62-mafia-poor-gang-violence-and-extortion-central-america.
[41] "Mafia of the Poor: Gang Violence and Extortion in Central America," International Crisis Group, April 6, 2017, https://www.crisisgroup.org/latin-america-caribbean/central-america/62-mafia-poor-gang-violence-and-extortion-central-america.

Filing Police Reports Against Gangs

The Advocates for Human Rights have found from a multitude of interviews with migrants fleeing El Salvador that many did not go to the police to report violence against them because of the fear of retribution, as well as the lack of protection from the police. Many of the interviewees reported that the police were connected with the gangs and that information reported to the police was not kept confidential. Others reported to the Advocates that they did not go to the police because they believed that the police would do nothing to investigate crimes against women. One young woman interviewed said she had received threats from a gang member, and eventually decided to flee the country because a friend of hers was killed after she had refused the advances of a local gang member and her father filed a police complaint against the gang. Another interviewee fled the country after she reported the murder of her son by gang members and the gang retaliated against her, threatening to kill her and her other children.[42]

In the United Kingdom Home Office's Country Policy and Information Note about El Salvador's actors of protection, the Home Office found that: "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." The report states later that, "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," and that, "People who fear a gang are unlikely to be able to obtain protection from the state."[43] A 2018 study prepared by InSight Crime and the Center for Latin American and Latino Studies about MS-13 found that, "any contact with authorities or rivals raises suspicion in the gang, and providing them with any information is strictly prohibited." A transgression of snitching or reporting on the gang could look like just one member of a family collaborating with authorities or even speaking to a policeman, according to the report, and could lead to the punishment or displacement of entire families.[44]

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[42] The Advocates for Human Rights, "El Salvador's Compliance with the International Covenant on Civil and Political Rights: Gender-based Violence, Gang Violence, Trafficking, and Police Corruption." March-April 2018.
[43] "Country Policy and Information Note: El Salvador, Actors of protection," Home Office, United Kingdom, February 2021, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963236/Country_policy_and_information_note_actors_of_protection__El_Salvador__February_2021.pdf.
[44] "MS13 in the Americas," Insight Crime and CLALS, Feb. 2018, https://www.justice.gov/eoir/page/file/1043576/download.

According to the Internal Displacement Monitoring Centre's report, "Witnessing and reporting a crime, and achieving a successful prosecution present a continuum of risk with rising levels at each stage of the process. Reporting breaks the code of *ver, oír y callar* - see, hear and shut up – and often leads to death threats or even murder. Witnesses are also at risk because they may go on to report to, or cooperate with the authorities. They may also automatically be assumed to be informants. This means that even the initial level of risk is very high." The report goes on to explain that witnessing a gang-related murder is one of the most "high risk" situations for retribution from gang members, and that "the risk may continue after displacement, either in the form of intense pursuit of the person who flees or the exposure of family members left behind."[45]

Gang Threats to Family Members

Because of the importance of family as a social unit, targeting or threatening family members or partners is an effective way for gangs to force victims to comply with their demands, or to seek retribution against them. In order to utilize this strategy of targeting families, criminal organizations must be aware of kinship and familial ties in areas under their control, and are attentive to changes in location. Dr. Thomas Boerman, an expert that has extensively studied gangs in Central America, specifically in El Salvador, Honduras and Guatemala, has explained how not only nuclear or close friends and family are threatened by a gang, but also those in more extended connection to a targeted individual.[46] According to Dr. Boerman, threats from gang members do not diminish over time because this would weaken the criminal organization's message that their victims are unable to escape their threats regardless of location or time elapsed. As stated by Boerman, "At times, threats are acted on immediately whereas in other instances, there may be a passage of time—even a significant amount of time—before the targeted individual is subjected to harm."[47] Because most criminal organizations are defined by a group identity and solidarity, members generally will act on behalf of their associates, and are able to carry out threats against enemies even if the individual ordering the attack is imprisoned. This means that targeted individuals and their loved ones and family members are at risk from the entire criminal organization in question, not just the individual that specifically threatened to harm them.

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[45] Internal Displacement Monitoring Centre, "An Atomised Crisis: Reframing displacement caused by crime and violence in El Salvador," Sept. 2018,
https://www.internal-displacement.org/sites/default/files/inline-files/201809-el-salvador-an-atomised-crisis-en.pdf
[46] Thomas Boerman, "Family as a Social Construct in El Salvador, Honduras, and Guatemala: Visibility and Vulnerability of Family Members of Individuals Targeted by Organized Criminal Groups," *Immigration Briefings: 19-12*, December 2019.
[47] Thomas Boerman, "Family as a Social Construct in El Salvador, Honduras, and Guatemala: Visibility and Vulnerability of Family Members of Individuals Targeted by Organized Criminal Groups," *Immigration Briefings: 19-12*, December 2019.

Gang Persecution of Security Officers

The Salvadoran government's militarized war against the gangs has also put police officers in danger of retribution from gang members. In 2017, out of 3,947 reported homicides, more than 40 of those killed were police officers.[48] High levels of corruption among the police force makes the profession especially dangerous for officers that condemn corruption, as they cannot rely on their fellow officers to protect them. Threatened officers rarely find protection or justice from the state, as many judges receive bribes from gangs in order to dole out light sentences.

Since April 2014, street gangs in El Salvador have been involved in numerous confrontations with the police. According to reporting by *El Faro*, when police agents are asked what the government or the PNC could do to guarantee their security, they often respond that a good measure would be to "create police neighborhoods" so they wouldn't have to live in the same areas as their enemies. Five of the seven attacks against police in 2015 occurred in the same neighborhoods where the officers lived. At the end of 2014, the PNC ordered that no officer, except the director or deputy director, could speak with the press, ending the possibilities for continued interviews with fearful police officers. One officer said in a 2014 interview: "How do they expect to protect us? Once we take off the uniform, we are alone, and they are many. We ride in the same buses as they do, we live in the same neighborhoods as them. The solution is not simply for us to arm ourselves." Many lower level police officers accuse their bosses of telling the media they are ensuring the safety of their officers, but in private setting them up in what they call "murder traps." This refers to bosses assigning non-compliant or disrespectful officers to work in a neighborhood controlled by one gang, while they live in a neighborhood controlled by another rival faction, heightening the risks for officers within their own homes. In Lourdes, Colon, the police and the investigators in the police division are known to coordinate their schedules so that when they are off-duty they can guarantee they are not waiting alone at bus stops because the risks are so great. As one agent who works in Santa Ana said "Once we get off our shift, we are watching our backs. Now, at least, they gave us back our pistols," referring to the *mano dura* policies initiated in 2015.[49]

In 2016, leaders of the three major gangs in El Salvador met and agreed to focus on committing attacks and assassinations that would have a "greater social impact," including

[48] Michael Deibert, "On the ground with cops hunting El Salvador's gangs," *Daily Beast*, April 30, 2018, https://www.thedailybeast.com/on-the-ground-with-cops-patrolling-el-salvadors-gangland
[49] Daniel Valencia Caravantes, "Wanted: Police Willing to Go to War in El Salvador," InSight Crime, February 10, 2015, https://www.insightcrime.org/news/analysis/wanted-police-willing-to-go-to-war-in-el-salvador/.

members of the police, military, prison officials, mayors, congressmen, prosecutors and judges. Police investigations revealed that even before the meeting, gang members had already increased targeted attacks in the departments of San Salvador, Cuscatlán and Cabañas, where they tracked police and military agents during their days off.[50] In 2017, El Salvador's attorney general urged the government to do more to protect off-duty police by passing a "protection law" for police and soldiers that would also provide funding to protect their families, but the law was never passed. In response to the targeting of police officers in 2019, after 9 officers were killed in January alone, El Salvador's police chief introduced a policy that officers were not allowed to return to their homes for their own protection.[51]

Not only do gang members target state security forces, but their family members as well. Three relatives of security forces were killed in less than 48 hours between June 11 and June 12 in 2017, bringing the total number of relatives of security forces killed in similar attacks to eight throughout the month of June, including a former soldier. The wave of targeted killings in 2017 constituted the second phase of a retaliation plan by the MS13 street gang, in response to extraordinary prison measures implemented in April 2016 that toughened incarceration conditions for the gang's leaders and members. In April 2017, a year after the implementation of these measures, reports surfaced of an internal document from El Salvador's armed forces warning its members of upcoming MS13 attacks. The document warned that MS13 leaders "have given orders to the members of that structure so that, between May 7 and May 10, 2017, they execute 'Plan Bitter Tears' against members of the armed forces, National Civil Police and the Central Administration of Prison Centers; likewise, so that from June 2017, they execute 'Plan Orphan Children,' against the same targets and their relatives." According to InSight Crime's analysis, "the MS13's apparently coordinated attacks against family members of security forces is a reminder that the gang retains the capacity to launch violent and targeted campaigns, despite the state's heavy-handed policies aimed at disrupting the gang's operations."[52]

Police officers and their families have been targeted by gangs in recent years as a means to thwart government crackdowns and encourage police to cooperate with them. Killings of police by gang members doubled in 2015, many while off duty with family members who also became victims. In just three weeks in January 2016, gang members killed a police

[50] Mimi Yagoub, "New El Salvador Gang Strategy Targets Public Officials: Report," InSight Crime, Nov. 8, 2016, https://insightcrime.org/news/brief/el-salvador-gangs-new-strategy-targets-public-officials-report/.
[51] Kevin Sieff, "It's so dangerous to police MS-13 in El Salvador that officers are fleeing the country," *Washington Post*, March 3, 2019, https://www.washingtonpost.com/world/the_americas/its-so-dangerous-to-police-ms-13-in-el-salvador-that-officers-are-fleeing-the-country/2019/03/03/e897dbaa-2287-11e9-b5b4-1d18dfb7b084_story.html.
[52] Tristan Clavel, "Spike in Attacks on Security Force Families as El Salvador Violence Declines," InSight Crime, June 13, 2017, https://www.insightcrime.org/news/brief/spike-attacks-security-force-families-el-salvador-violence-declines/.

officer's father, a soldier's brother, the wives of two more police, and a woman and her son who were relatives of a cop. By the personal count of one veteran police officer, 13 officers had been killed in 2016 by the month of April, alongside 25 of their relatives. Many of these officers were killed while off duty, including one officer who was shot while sweeping his patio at home, indicating a targeted gang strategy to go after state security forces and their families.[53]

Gang Structures and Pacts

There is also evidence of communication and coordination between members of major street gangs in El Salvador in order to control extortion payments and the passage of rivals between their territories. Since 2012, when a ceasefire was negotiated between representatives of MS-13 and Barrio 18, researchers at *InSight Crime* have found that the gangs "have maintained a venue for representatives to meet and develop consensus."[54] In April 2016 as a response to the Salvadoran state's use of extraordinary measures to combat gang violence, MS-13, Barrio 18 Revolucionarios and Sureños created a coordinating committee and negotiated a nonaggression pact towards rival gang members in order to focus their efforts on fighting the state. Salvadoran newspaper *El Faro* has reported on multiple meetings held in spaces such as Lutheran Churches with representatives of the different gangs present to discuss subjects such as "public relations," and the negotiation of territorial boundaries. According to one representative of the Sureños faction of Barrio 18, the idea behind the non-aggression pacts between the gangs is that "boundaries will be respected," implying an effort between gang members to demarcate and coordinate the control of their territories and the actions carried out within those territories such as killings and extortion.[55]

The Barrio 18 gang split between the Revolucionarios and Sureños in 2005, and both factions operate under a decentralized leadership while adhering to hierarchies within the "cliques." Barrio 18 cliques dedicate themselves to controlling territory in some regions, while elsewhere, focused more on profit, they operate in rival territory and pay a quota to the dominant gang in order to do so. Barrio 18 and their subordinate cliques are known for an insistence on loyalty, and often kill to punish transgressions. Barrio 18 has also allegedly

[53] Christopher Sherman, "Gangs declare war on police as El Salvador violence rages," *AP Press*, April 12, 2016, https://apnews.com/article/2b359687e4124126ad9cbe74884739c4.
[54] Carlos Martínez, "Gangs Find Common Ground in El Salvador Crackdown," InSight Crime, July 11, 2016, https://insightcrime.org/news/analysis/gangs-find-common-ground-in-el-salvador-crackdown/.
[55] Carlos Martínez, "Gangs Find Common Ground in El Salvador Crackdown," InSight Crime, July 11, 2016, https://insightcrime.org/news/analysis/gangs-find-common-ground-in-el-salvador-crackdown/.

linked up with some of Mexico's most notorious drug trafficking networks such as the Zetas and Sinaloa Cartel, helping to spread their influence beyond Central America.[56]

Barrio 18 is known as the more violent and less sophisticated gang compared to MS-13 in El Salvador, but there is still a hierarchy. El Salvador's Attorney General's Office was able to learn of the gang's structure, operations and rules through a series of anonymous testimonies from Barrio 18 gang members in 2015. At the top are the incarcerated gang's leaders, or "palabreros," the majority of which are located in the municipality of Izalco. Below the palabreros in jail are the palabreros on the street, or "en la libre." These leaders are responsible for carrying out the orders sent from prison, including organizing the extortion system and coordinating homicides. All the gang members have to follow the rules established by their palabreros in prison. According to the witnesses interviewed: "Everything that the other leaders [in the street] are going to do, they ask permission. Homicides, extortions, disappearing people; they [in the prison] give the go-ahead to pressure the families of protected witnesses and sometimes give the go-ahead to kill them; they are the only ones who can authorize attacks on the police."[57] This explains why victims are not murdered immediately when they are initially threatened, because gang members must confer with higher ranking leaders about how to approach the situation. This also explains how high-ranking gang members are able to control rates of violence within the country for political motives.

MS-13 also maintains a strict hierarchy in giving and receiving orders. If a clique or sub-group of the MS wants to kill someone, it develops a report to send to the leadership with an individual or through an intermediary body. The leadership listens to the case and then gives the go-ahead, or "green light" to kill that person. According to InSight Crime researchers, cliques can authorize the murder of Barrio 18 members, anyone who physically attacks a clique member and gang members who become informants. In contrast, cliques must seek permission from the upper echelons of the gang to kill a policeman or member of the security forces, civilians collaborating with authorities against the gang and gang members who have committed a "serious offense."[58]

[56] "Barrio 18," InSight Crime, Feb. 13, 2018, https://www.insightcrime.org/el-salvador-organized-crime-news/barrio-18-profile-2/.
[57] Steven Dudley, "Barrio 18 in El Salvador: A View from the Inside," InSight Crime, March 25, 2015, https://www.insightcrime.org/news/analysis/barrio-18-el-salvador-view-from-inside/.
[58] Steven Dudley and Hector Silva Avalos, "MS13 Violence: Method or Madness?," InSight Crime, Feb. 13, 2018, https://www.insightcrime.org/investigations/ms13-violence-method-madness/.

Resistance as Anti-Gang Political Opinion

"Gang resisters" are unlikely to find state sanctioned protection and are a particularly vulnerable population because they stand out in society for defying the recruitment process and "disrespecting" or "insulting" the gang.[59] In her book *Space of Detention*, Elana Zilberg shows how many are caught between violent gangs and an ineffective or complicit government in El Salvador.[60] Simply the act of resisting gang recruitment is viewed as "anti-gang" political activity and presents a serious risk to dissenters. According to one study by Sonja Wolf, "violence is no longer used exclusively against rivals but is also used in internal paybacks and attacks against prison guards, as well as on civilians suspected of collaborating with the police."[61] Members of the population who resist gang activity are readily identified in society. This is because a critical means of maintaining the gangs' power is their ability to identify those who resist them, and to co-opt members of the broader society to identify those persons to them.

People who flee or otherwise resist this violence form a distinct group who are commonly known to other members of society due to the close personal and familial relationships and the style of communication common to these countries, and due to the fact that the gangs insist on the identification of those who oppose them as a critical means of maintaining their power and influence. The presence of violent drug cartels and gangs in these countries has created conditions of extreme danger for migrants who are returned, particularly those who have been marked as gang resisters. As the UN Refugee Agency has reported, "fleeing to avoid future persecution [is] perceived as insubordination and [a] challenge to the authority of the gang," usually "met with a violent and punitive response."[62] Criminal organizations such as the Maras often seek revenge against deportees as a way to enforce discipline, extract extortion payments, and punish those who resisted them in the past and were forced to flee. Those who escape from the gangs in El Salvador to seek refuge in other countries are viewed as having undermined the power of the gang.

It is not just the violence within El Salvador that is causing a surge in immigration to the United States and other countries; it is that the very fact of fleeing and seeking asylum indelibly marks those who flee in the eyes of society in general and, more importantly in the eyes of the gang members, as gang resisters, precisely because they have resisted and fled. In

[59] "Guidance Note on Refugee Claims Relating to Victims of Organized Gangs," The UN Refugee Agency, March 2010.
[60] Elana Zilberg, *Spaces of Detention: The Making of a Transnational Gang Crisis between Los Angeles and San Salvador* (Durham Duke University Press, 2011).
[61] Sonja Wolf, "Street Gangs of El Salvador," in *Maras*, ed. Lucía Dammert and Elizabeth Skinner Thomas Bruneau (Austin: University of Texas Press, 2011), 48.
[62] Michael Boulton, "Living in a World of Violence: An Introduction to the Gang Phenomenon," United Nations High Commissioner for Refugees, July 2011.

addition, the gangs are aware of dissenters that have been returned from other countries. Given the vast networks of communication and pervasive control that MS-13, Barrio 18, and local affiliate street gangs have historically exercised in El Salvador, those who have been openly identified as someone who has defied gang control are targeted for retribution upon return. An act of defiance or refusal to the gangs constitutes an anti-gang political opinion and sets one apart from the majority, who instead obey the gang's instructions to "see, hear, be mute."

A February 2020 report from Human Rights Watch has documented 138 murders of deportees to El Salvador from 2013 to 2019, in addition to scores of other violent assaults against deportees. Perpetrators of this violence included gang members and police. The Report further indicated that these documented cases severely undercount the number of deportees who have faced violence but the lack of government tracking of the migration status of homicide victims makes it difficult to provide more accurate data.[63] Furthermore, the Global Migration Project at Columbia University has documented at least sixty people who faced threats by gangs and drug cartels in Mexico and Central America and were killed following their deportation from the United States. These documented cases are only the tip of the iceberg because neither the US nor Latin American countries keep track of the murders of deportees.[64]

Two high profile murders investigated by the *Washington Post* reveal the dangers faced by returned asylum seekers threatened by gangs in El Salvador. Ronald Acevedo was found dead with signs of torture on December 5, 2017, one week after he was deported from the United States. In his asylum interviews, Acevedo had expressed fear that he would be explicitly targeted by the gang because he had fled. Another returned asylum seeker, Miguel Panameño was killed in 2018, months after being deported from the United States. He was buried in the same cemetery as Acevedo. Two additional deported asylum seekers interviewed by the *Washington Post* described living in hiding in El Salvador, unable to leave their homes for fear of death.[65]

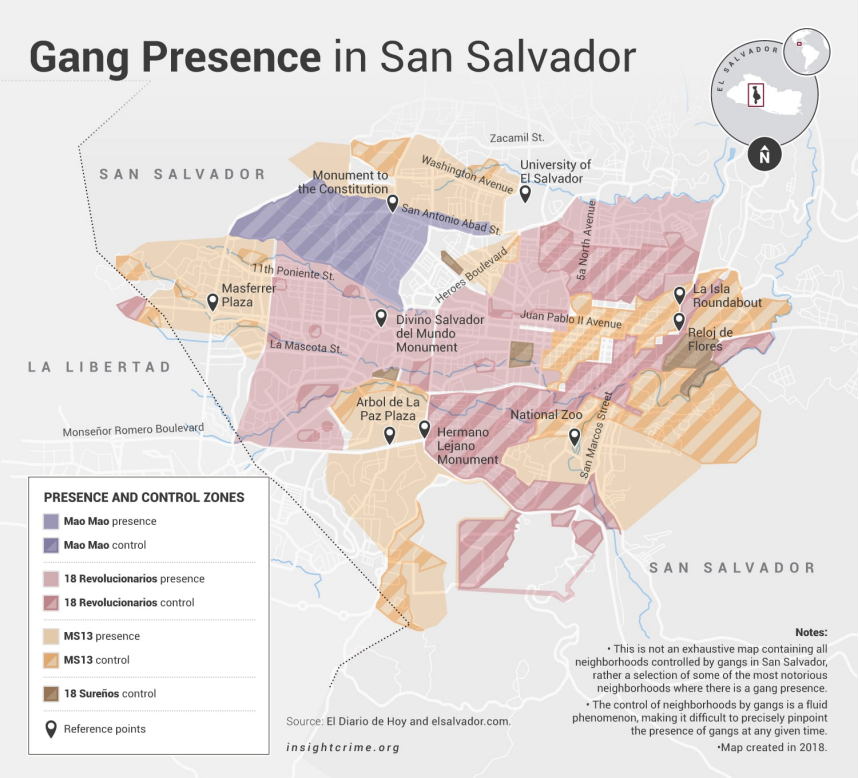
[63] "Deported to Danger: United States Deportation Policies Expose Salvadorans to Death and Abuse," Human Rights Watch, 5 Feb. 2020, https://www.hrw.org/report/2020/02/05/deported-danger/united-states-deportation-policies-expose-salvadorans-death-and.
[64] Sarah Silverman, "When Deportation is a Death Sentence, *New Yorker*, 18 Jan. 2018, https://www.newyorker.com/magazine/2018/01/15/when-deportation-is-a-death-sentence.
[65] Kevin Sieff, "A month after asylum-seeker's return to El Salvador, a gang made good on death threats," *Chicago Tribune*, Dec. 26, 2018, https://www.chicagotribune.com/nation-world/ct-asylum-denial-danger-20181226-story.html.

Totality of Gang Control Renders Relocation Impossible

Control of territory is central to the operations of both MS and rival Barrio 18 in El Salvador and surrounding countries in Central America. This need for territorial control also derives from the collection of rent within a given space in the form of extortion and other revenue, leading to a need to establish physical boundaries. According to a report commissioned by the Department of Justice, "In El Salvador and Honduras, this has led to what are referred to as "invisible boundaries" ("fronteras invisibles"), which residents understand are meant to mark gang-controlled areas." This territorial control is where the gangs derive their political, social and economic power, and they closely monitor and often punish those that come from rival territories.[66] In Mejicanos, a 16-year-old student named Franklin Javier was murdered in 2018 while leaving his high school located in Barrio 18 Revolutionaries territory, because he lived in MS-13 territory in the municipality of Cuscatancingo.[67]

In most neighborhoods, residents heading to work or school passed through an informal checkpoint where a *bandera (*a young lookout and errand runner) asked everyone for an extortion fee, but also took note of who was passing through the territory. A 46-year-old construction worker who fled El Salvador told the International Crisis Group, "You can't work anywhere without permission from the local gang."[68] The borders of the competing gangs' turf are invisible but well known, and people with family members or jobs on rival territories would often meet or conduct business only on neutral ground before the state of exception. The reality of territorial control in El Salvador is complex and fluid, with one street or corner often dividing the line between rival territories. Before the state of exception, bus drivers sometimes paid extortion to all three major gang factions, as their routes through the city cross back and forth through each gang's territories. A map compiled by *InSight Crime* researchers in 2018 demonstrates the complex web of gang-controlled neighborhoods criss-crossing across the capital of San Salvador at that time, showing how it has been difficult in the past for residents to conduct business across the city without crossing through different gang's territories on any given day.[69]

[66] InSight Crime and American University Center for Latin American and Latino Studies, "MS13 in the Americas: How the World's Most Notorious Gang Defies Logic, Resists Destruction," https://www.justice.gov/eoir/page/file/1043576/download.
[67] Jorge Beltran, "Dos pandillas tienen el control en Mejicanos," *elsalvador.com*, March 26, 2018, https://www.elsalvador.com/noticias/nacional/dos-pandillas-tienen-el-control-en-mejicanos/464988/2018/.
[68] "Life Under Gang Rule in El Salvador," International Crisis Group, Nov. 26, 2018, https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/life-under-gang-rule-el-salvador.
[69] "Gang Presence in San Salvador," InSight Crime, 2018, https://insightcrime.org/investigations/extortion-gang-presence-in-san-salvador/.



From "Gang Presence in San Salvador," *InSight Crime*, 2018, https://insightcrime.org/investigations/extortion-gang-presence-in-san-salvador/.

The rigidity of the rival gangs' territories has dramatic repercussions for those who must cross their border. It's not simply a matter of paying the gangs a fee for moving through the sector of the bus route that's in gang territory, for example. If the bus route transits through the territory of another gang, there is typically a fee for crossing that border and circulating through the area. According to a report by *InSight Crime*, there are routes that in the past paid more than four "war taxes" because they crossed the zones of three gangs, and in the case of the MS-13, of two different cliques, both of which charged for crossing into their territory. In 2015, according to the police, 93 bus and mini-bus drivers were murdered. Unionized bus owners say that in 2015 they paid the gangs $26 million in extortion. By paying extortion, many drivers had permission to circulate in different zones. However, many individuals needed documents with false information to travel from one neighborhood to another. According to one bus owner interviewed by *El Faro*, "If the gang tells me this driver cannot work, he does not work. If they tell me not to go down that street, I don't. If they tell me to change a stop, I change it. If they say to me on a certain day that no buses will go out, the

buses do not leave. Here there is no Transportation Ministry or traffic police. I obey the gangs, period."[70]

The same gang boundaries have also historically applied to schools. A teacher in the department of La Libertad described his school to *El Faro* in 2016 as a "peaceful" place because "we thankfully only have students that live in MS-13 territory." At one school on neutral territory in Apopa, some students needed to walk the entire main street of the Barrio 18 neighborhood to cross into their MS-13 zone. According to the school's director, "It has been negotiated for a pickup truck to take them… The pickup only goes along the main street, it doesn't enter any side streets." The deal only applies during certain hours of the day and only for those in school uniforms. Despite the negotiated transportation, a Barrio 18 student crossed the MS-13 border in 2016 and was shot dead.[71]

Even people seeking refuge from gang violence in other countries have continued to be hunted down, as gangs have increasingly utilized social media and Facebook to track down victims. As one migrant advocate reported, "When [immigrant teens] come to the United States, there's always a way to be found unfortunately. . . . They start cross-referencing by cell phone numbers. You can look up someone's Facebook profile with their cell phone number alone." Social media and cell phones have increasingly allowed gang networks to communicate in "real time," and more easily track victims, while immigrants who choose to stay in touch with family members back in El Salvador unknowingly make their online footprint easier to follow. Central American gangs often prioritize finding victims who flee abroad to send a message that it is difficult to escape the gang's wrath.[72] Given the ability of the gangs to learn about the location of people deported there through corrupt state actors providing them access to official databases, gang resisters are often not safe anywhere in the country. Both Barrio 18 and MS-13 are capable of carrying out assassinations or other violent acts even in parts of the country controlled by their rivals.

Risks for Returnees

According to journalist Roberto Valencia of Salvadoran newspaper *El Faro*, "For a person who has lived for years abroad, when he or she returns, they no longer know [the] country. The immigrant is seen first as a source they could exploit for money. We have found that the

[70] Oscar Martinez, "Driving Across the Borders of El Salvador's Gang Territory," InSight Crime, January 11, 2016, https://www.insightcrime.org/news/analysis/driving-across-the-borders-of-el-salvador-gang-territory/.
[71] Oscar Martinez, "Living Within the Boundaries of El Salvador's Gang 'War'," InSight Crime, January 7, 2016, https://www.insightcrime.org/news/analysis/living-within-the-boundaries-of-el-salvador-gang-war/.
[72] Joyce Hackel, "Salvadoran gangs use Facebook to track down victims," *Public Radio International*, May 26, 2016, https://www.pri.org/stories/2016-05-26/salvadoran-gangs-use-facebook-track-down-victims.

immigrant who returns, either deported or voluntarily or even to spend Christmas time, is subject to extortion. They are very vulnerable," speaking of immigrants deported to Central America in recent years.[73] According to journalist Olivia Tallet of the *Houston Chronicle*, "Their attachment to America and relative unfamiliarity with their homeland leads to extreme challenges in reintegration in a nation dominated by criminal gangs." Gangs such as MS-13 and Barrio 18 have changed their visual codes and public behavior in response to the militarized onslaught against gang activity. Juan Ricardo Gómez Hecht, a researcher at the College of Advanced Strategic Studies of El Salvador Armed Forces, has found that gangs in Central America have significantly changed their image and modus operandi to hinder identification in the past decade. For those who return after years outside the country, the new gang codes are not familiar and could be a death sentence, as deportees often find themselves subject to both extortion and criminal paranoia. Valencia has said the deportees are "a fresh source" from which gangs can get money through extortion, and gang members frequently detain deportees and strip them to search for hidden tattoos or signs that might reveal if they are related to criminal groups abroad.[74]

[73] Olivia Tallet, "Mara Salvatrucha, an international gang, preys on Trump deportees in Latin America," *Houston Chronicle*, Nov. 27, 2017, https://www.houstonchronicle.com/news/article/Mara-Salvatrucha-an-international-gang-preys-on-12387337.php.
[74] Olivia Tallet, "Strangers in their own land," *Houston Chronicle*, 2017, https://www.houstonchronicle.com/news/article/Trump-s-deportees-are-often-strangers-to-their-12387247.php.

Chapter Three: State of Exception in El Salvador

Mass Killings of March 2022

Street gangs in El Salvador demonstrated their ability to use body counts as bargaining chips with the government starting March 25, 2022, initiating an indiscriminate killing spree that had left 87 dead by the end of the day on March 27. The 62 homicides recorded on March 26 marked the deadliest day in El Salvador since the end of its bloody civil war over three decades ago. In total, the three days brought the number of homicides in El Salvador to 329 in the first three months of 2022, 21 more than the same time period in 2021.[75] Gang members appeared to choose targets at random, including street vendors, construction workers on the job, and shoppers on the street among many others, in what security analysts labeled a clear sign of failed negotiations between gang leaders and the current administration. Rather than burying bodies, most of the 87 corpses were left in public view as an additional reminder of who currently holds the power in the country.[76]

While the number of total killings has dropped in recent years, sudden spikes in homicides such as the massacres of late March 2022 have occurred on multiple occasions. During three days in November 2021, El Salvador recorded 46 homicides, including 22 on a single day allegedly ordered by street gang bosses, the worst daily death toll in 2021. At the start of 2021, nearly two dozen people were killed across three days, and a single week in November ended with 21 recorded murders.[77] These spikes in homicides have typically occurred when there are ruptures in negotiations between the government and gang leaders, and indicate the gangs' desire to demonstrate their power despite Bukele's militarized response to the violence. According to Tiziano Breda, Central American Analyst for the International Crisis Group, "The gangs use their ability to alter the levels of violence as leverage to press the government into meeting certain demands."[78] In May 2022, leaders of MS-13 claimed responsibility for the massacres of March 2022 to reporters from Salvadoran newspaper *El*

[75] Alex Papadovassilakis, "Gang Murder Rampage Sends Shockwaves Through El Salvador Government," InSight Crime, March 28, 2022, https://insightcrime.org/news/gang-murder-rampage-sends-shockwaves-through-el-salvador-government/.
[76] Laura Jordán, "Sábado cerró con el mayor número de asesinatos desde que existe el registro diario en El Salvador," *La Prensa Gráfica*, March 27, 2022, https://www.laprensagrafica.com/elsalvador/71-asesinatos-ocurridos-en-46-horas-en-el-pais-20220326-0039.html.
[77] "InSight Crime's 2021 Homicide Round-Up," InSight Crime, Feb. 1, 2022, https://insightcrime.org/news/insight-crimes-2021-homicide-round-up/.
[78] Alex Papadovassilakis, "Gang Murder Rampage Sends Shockwaves Through El Salvador Government," InSight Crime, March 28, 2022, https://insightcrime.org/news/gang-murder-rampage-sends-shockwaves-through-el-salvador-government/.

Faro, declaring that Bukele's government had betrayed negotiations with the gang, including by capturing gang leaders. Audio messages between members of Bukele's administration and gang leaders confirm that the government had made certain deals with the gang, with administration officials apologizing to gang leaders for the breakdown in negotiations.[79]

In response to the spate of killings at the end of March 2022, President Bukele ordered mass arrests of suspected gang members as well as declaring a state of exception and suspending certain civil liberties. In less than one week, 6,000 people were arrested, many of whom were juveniles. During a state of exception, people can be held for up to 30 days without access to a lawyer, and suspected gang members can be held indefinitely in pre-trial detention. On April 3, 2022, Bukele openly criticized human rights organizations and other international non-governmental organizations as being "partners with the gang members."[80]

The state of emergency is still in place currently despite complaints from human rights advocates that abuses have occurred, including arrests of innocent people and cover-ups of deaths of detainees in state custody. Human rights advocates have estimated that the militarized offensive has led to over 72,000 arrests of alleged gang affiliates by August 2023, or 2% of the adult population, with over 1,600 of those arrested between March-December 2022 being children.[81] In June 2023, Cristosal released a report recording the deaths of 153 individuals within Salvadoran prisons by April 2023, not one of them having been found guilty of their charges at the time of death. The report details the causes of death of detainees, principally finding these to be the result of torture and serious and systematic injuries inflicted by prison staff. Photos by detainees and the Institute of Legal Medicine showed "signs of asphyxiation, fractures, numerous contusions, lacerations and even puncture wounds on the bodies." Additionally, the report found that "nearly half of those who died in prisons were victims of what were classified as confirmed, possible or suspected violent deaths. Nearly one-fifth of these deaths were caused by conditions indicating deliberate negligence in the provision of health care, medicine and food, including deaths

[79] Carlos Martinez, "Audios de Carlos Marroquín revelan que masacre de marzo ocurrió por ruptura entre Gobierno y MS," *El Faro*, May 17, 2022, https://elfaro.net/es/202205/el_salvador/26175/Audios-de-Carlos-Marroqu%C3%ADn-revelan-que-masacre-de-marzo-ocurri%C3%B3-por-ruptura-entre-Gobierno-y-MS.htm.
[80] Nina Lakhani, "El Salvador Reels as 6,000 People Arrested in Unprecedented Crackdown," *Guardian*, 5 April 2022, https://www.theguardian.com/global-development/2022/apr/05/el-salvador-crackdown-ms13-state-of-emergency.
[81] "'We Can Arrest Anyone We Want': Widespread Human Rights Violations Under El Salvador's 'State of Emergency'," Human Rights Watch, Dec. 7, 2022, https://www.hrw.org/report/2022/12/07/we-can-arrest-anyone-we-want/widespread-human-rights-violations-under-el
Gavin Voss, "El Salvador Escalates Gang Crackdown With New Measures," InSight Crime, Aug. 4, 2023, https://insightcrime.org/news/el-salvador-escalates-gang-crackdown-with-new-measures/.

caused by malnutrition."[82] Family members of detainees reported spending around $125 USD per month on boxes containing food and uniforms for inmates, with no confirmation that these items were reaching their loved ones.[83]

Bukele continues to expand the measures of the increasingly repressive state of exception, most recently altering legislation to lengthen the maximum sentence for gang leaders to 60 years and allowing mass trials of alleged gang members in groups of up to 900.[84] Salvadoran attorneys have reported that these expedited trials are being conducted over video monitors with hundreds of inmates at a time, without confirmation that the names listed by the judge match the identity of the inmates present. Attorneys do not have access to detainees for representation, indicating severe abuses to detainees' legal rights, such as that of legal counsel and fair trial.[85] Bukele's recent legislative changes have accompanied mass mobilizations of soldiers and police to rural departments in order to "flush out" hidden gang members, such as the deployment of 7,000 soldiers and 1,000 police officers to the department of Cabañas at the beginning of August 2023.[86] These deployments will result in the detention of hundreds more Salvadorans, who will be subjected to abuse and violence by state forces and prison staff, without legal representation or likely hope of release.

History of El Salvador's "Iron Fist" Approach to Gangs

The history of mano dura policies followed by spiking homicide rates has occurred in El Salvador under various regimes since 2003. During El Salvador's first mano dura experiment in the mid-2000s, former President Francisco Flores followed a similar pattern of mass incarceration and government abuses to crack down on gang violence. The result was the regrouping of the major street gangs within El Salvador's prison system, eventually coming out more durable and with more discipline, revenue and political influence. El Salvador gang experts, while agreeing that Bukele's current militarized gang crackdown has significantly lowered homicides and brought a wary peace to the country, question both whether the strategy is a lasting solution, and whether it is more a crackdown on gang violence or on democratic freedoms for Salvadorans. According to political scientist Michael Paarlberg,

[82] "One Year Under State of Exception: A Permanent Measure of Repression and Human Rights Violations," Cristosal, June 2023, https://cristosal.org/EN/wp-content/uploads/2023/06/English-Executive-Summary-One-Year.pdf
[83] Personal interview by Kate Wackett and Elliott Young with private attorney Daniel Magaña, San Salvador, Aug. 2, 2023.
[84] Gavin Voss, "El Salvador Escalates Gang Crackdown With New Measures," InSight Crime, Aug. 4, 2023, https://insightcrime.org/news/el-salvador-escalates-gang-crackdown-with-new-measures/.
[85] Personal interview by Kate Wackett and Elliott Young with private attorney Daniel Magaña, San Salvador, Aug. 2, 2023.
[86] Gavin Voss, "El Salvador Escalates Gang Crackdown With New Measures," InSight Crime, Aug. 4, 2023, https://insightcrime.org/news/el-salvador-escalates-gang-crackdown-with-new-measures/.

"Mano dura has always been popular in the moment because it demonstrates a government's security commitment in dramatic fashion, through public displays of force. It's also always a short-term solution that displaces organized crime but does not eliminate it, but rather relocates it to other communities-such as from cities to the countryside-or to the prison system…You can't arrest your way out of these problems."[87]

Although the homicide rate has recently declined, there is no reason to believe that this will be sustainable or that gang influence in the country has diminished. The structural conditions that gave rise to gangs have not changed in El Salvador, and once the *mano dura* policies abate, it is highly likely that gangs will return just as they have in the past. As explored by sociologists Leisy Abrego and Steven Osuna in a 2022 analysis of the state of exception, the gangs have provided an easy scapegoat for the neoliberal state in El Salvador, "allowing politicians and elites to obscure their own role in producing rampant poverty and insecurity."[88]

More worrying still is what is replacing street gangs as El Salvador's largest criminal actors–the National Police and largely expanded military under Bukele's authoritarian rule, as argued by journalist and gang expert Juan Martínez d'Aubuisson. The "state mafia" as d'Aubuisson named Bukele's government in a recent *Washington Post* column, made up of "a group of people, oriented by one leader and utilizing state mechanisms to illegally profit and intimidate or eliminate their competition," has currently replaced the gangs or at least pushed them in to hiding, while systematically violating democratic freedoms of the Salvadoran population.[89] A report released by Human Rights Watch in December 2022 documents widespread human rights violations committed during the state of emergency, which Bukele's Legislative Assembly has extended monthly for a full year and remains in place currently. These violations include arbitrary arrests, enforced disappearances, torture and other ill-treatment of detainees, significant due process violations, and state responsibility for many unexplained deaths of individuals in custody. Human Rights Watch also found that these abuses, "were not isolated incidents by rogue agents. Rather, similar violations were carried

[87] Steven Dudley, "Is Nayib Bukele's 'Iron Fist' in El Salvador Working?" InSight Crime, Feb. 9, 2023, https://insightcrime.org/news/nayib-bukele-iron-fist-el-salvador-working/.
[88] Leisy J Abrego and Steven Osuna, "The State of Exception: Gangs as a Neoliberal Scapegoat in El Salvador," *The Brown Journal of World Affairs*, Vol. 29. Providence: The Brown Journal of World Affairs (2022): 64.
[89] Juan Martínez d'Aubuisson, "Las maras están desapareciendo en El Salvador. Su lugar lo toma la mafia de Estado." *Washington Post*, Jan. 24, 2023, https://www.washingtonpost.com/es/post-opinion/2023/01/24/maras-el-salvador-bukele-guerra-pandillas-mafia/.

out repeatedly and across the country, throughout a period of several months, by both the military and the police."[90]

Failure of State Policies and Militarized Responses

Despite these repressive strategies employed by the government in recent years to combat gang violence, the rates of investigation and conviction for homicides remain low. The International Human Rights Clinic has drawn the conclusion that "there are indications that some Salvadoran state and law enforcement authorities may be complicit in, or at least consciously and deliberately indifferent to, extrajudicial killings," leading to continued impunity.[91] According to the United Nations, El Salvador's overall criminal conviction rate in 2018 was less than 5%. For security officials, the conviction rate is even lower. In 2017, 92.96% of all allegations of police/army killings were dismissed before the sentencing stage.[92] A report released by Salvadoran newspaper *La Prensa Gráfica* in June 2023 found that the Salvadoran state has misrepresented the homicide figures throughout the state of exception, including by failing to report homicides of "alleged criminals" or within state prisons. By reviewing data from the National Police, Attorney General's office and Institute of Legal Medicine, reporters found that the government's estimate of 209 homicides throughout the state of exception was 61% lower than the more realistic approximation of 336 homicides. The newspaper's staff additionally found that numerous deaths were the result of abuse within correctional facilities and excessive use of force by the police and military in confrontations with alleged gang members.[93]

In an earlier report by *La Prensa Gráfica* eight months after the implementation of Plan El Salvador Seguro (PESS) in 2015, journalists found that the heavy militarization of various cities in El Salvador had brought residents no relief from extortion and gang violence. Police and coroner's office data indicated that Ciudad Delgado saw 115 murders between August

[90] "'We Can Arrest Anyone We Want': Widespread Human Rights Violations Under El Salvador's 'State of Emergency'," Human Rights Watch, Dec. 7, 2022, https://www.hrw.org/report/2022/12/07/we-can-arrest-anyone-we-want/widespread-human-rights-violations-under-el

[91] Laura Pedraza, Fariña Spring Miller, James L. Cavallaro, "No Place to Hide: Gang, State, and Clandestine Violence in El Salvador," International Human Rights Clinic: Harvard University, 2010. Available at: https://static1.squarespace.com/static/5b3538249d5abb21360e858f/t/5cab7414104c7b660e76fcc8/1554740259393/No_Place_to_Hide_Gang_State_and_Clandest.pdf.

[92] Agnes Callamard, United Nations Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions, "El Salvador End of Mission Statement," Feb. 5, 2018, https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22634&LangID=E.

[93] Edwin Segura and Ricardo Flores,"Homicidios durante el régimen son 61 % más alto que lo divulgado," *La Prensa Gráfica*, June 5, 2023, https://www.laprensagrafica.com/elsalvador/Homicidios-durante-el-regimen-son-61--mas-alto-que-lo-divulgado-20230605-0002.html.

2015 and mid-March 2016, while 95 people were killed there in the six months preceding Plan Seguro. Ciudad Delgado was the flagship city for the implementation of the plan, where the minister of Security and Justice Benito Lara promised residents that "in short order the lives of the people of Ciudad Delgado will be changed, and this municipality will be a model for all of El Salvador to follow." According to InSight Crime, "Ciudad Delgado illustrates the illusory nature of the heavy, militarized police presence amid a continued lack of territorial control by the state and absence of effective, long-term social, economic and educational programs." The report notes that the Plan's emphasis on prevention in the city was largely undermined by a lack of funding.[94]

While former US Ambassador to El Salvador Jean Manes credited the Plan for a drop in the number of people fleeing the country for the United States, this assertion appears to be false given a United Nations report showing the number of asylum seekers from El Salvador actually doubled between 2015 and 2018.[95] Critics have also argued that the 50 municipalities that the plan initially targeted were selected based on faulty criteria, and crime rates in some of those areas actually increased.[96] While officials say Plan Secure El Salvador is working, a closer look at other indicators suggests that the decline in the national murder rate and other crimes might not mean El Salvador is necessarily safer. Experts on gang dynamics such as José Miguel Cruz from Florida International University have noted that falling homicide and extortion rates actually indicate a growing sophistication of the *maras* in response to the government's anti-gang measures, and not a success of the Plan Seguro.

A report in the *World Politics Review* in 2018 described how former "mano dura" or "iron fist" policies have led to widespread impunity for police killings. According to the report: "Local press outlets have managed to infiltrate WhatsApp networks the police use to plan murders, torture and rapes. Salvadoran journalists have also proven multiple cases of extrajudicial killings that were originally reported as shoot-outs." As stated by the *World Politics Review*, multiple international bodies have criticized both "mano dura" and the 2016 security policy known as Extraordinary Measures. In both 2016 and 2017, the Washington-based Inter-American Commission on Human Rights said these policies had led to systematic extrajudicial killings. In 2017, the United Nations demanded the Salvadoran government

[94] Dan Alder, "El Salvador's 'Plan Seguro' Failing to Make Communities Safe: Report," InSight Crime, March 28, 2016, https://www.insightcrime.org/news/brief/el-salvador-s-plan-seguro-failing-to-make-communities-safe-report/.
[95] "Forced Displacement in 2017," UNHCR, https://www.unhcr.org/5b27be547.pdf.
[96] Parker Asmann, "El Salvador Citizen Security Plan Struggling to Reduce Insecurity," InSight Crime, July 16, 2018, https://insightcrime.org/news/analysis/el-salvador-citizen-security-plan-struggling-reduce-insecurity/.

discontinue Extraordinary Measures. Also, in 2017 the International Crisis Group declared that iron fist policies were a failure.[97]

The current state of emergency, which has been extended repeatedly and bodes for an ongoing police state in El Salvador, has played out in similar fashion to former "mano dura" military strategies against gangs in El Salvador. Independent journalists and human rights groups have found that police and military campaigns of mass, indiscriminate arrests have led to the detention of hundreds of innocent individuals, largely profiled due to their appearance or location in lower class, marginalized neighborhoods. Human Rights Watch has found that arrests have been carried out based on anonymous calls and uncorroborated allegations on social media, with police and soldiers failing to provide search or arrest warrants, or even a reason for arrest. A mother who witnessed the detention of her son told Human Rights Watch that police officers said to her, "We can arrest anyone we want."[98]

The State Department confirmed in its 2022 Report on Human Rights Practices that arbitrary arrests and illegal detentions have been prevalent during the state of exception. According to the report, "In the first months of the state of exception, police and military raided low-income and rural neighborhoods and carried out mass arrests. Local news sources and human rights groups alleged security forces frequently arrested persons for gang membership based solely on anonymous denunciations through a government hotline, for having tattoos, or for having any prior contact with the criminal justice system. *El Faro* gained access to court records for 690 individuals arrested under the state of exception for gang membership and found that 60 were arrested on ambiguous criteria such as having a 'suspicious appearance' or being nervous."[99] Interviews with family members of detainees in El Salvador in July 2023 revealed a systematic abuse of the anonymous government hotline, where neighbors have utilized the system to report individuals because of romantic feuds, rivalries over land or housing, and other issues unrelated to gang membership or activity.[100]

It has widely been recognized by scholars, journalists and even the government in El Salvador that tattoos are symbols of gangs. Anyone who has a tattoo, even if not a symbol of

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[97] Danielle Mackey, "El Salvador's 'Iron Fist' Crackdown on Gangs: A Lethal Policy with US Origins," *World Politics Review*, Feb. 6, 2018, https://www.worldpoliticsreview.com/articles/24136/el-salvador-s-iron-fist-crackdown-on-gangs-a-lethal-policy-with-u-s-origins.

[98] "'We Can Arrest Anyone We Want': Widespread Human Rights Violations Under El Salvador's 'State of Emergency'," Human Rights Watch, Dec. 7, 2022, https://www.hrw.org/report/2022/12/07/we-can-arrest-anyone-we-want/widespread-human-rights-violations-under-el

[99] U.S. Dept. of State, "2022 Country Reports on Human Rights Practices: El Salvador," https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/el-salvador/.

[100] Personal Interviews by Kate Wackett and Elliott Young, San Salvador, Aug. 2, 2023.

a particular gang, is assumed to be a member or former member of a gang. The 2003 Anti-Gang Act (Ley Anti-Maras LAM) in El Salvador gave police the authority to detain anyone above the age of twelve for visible signs of gang membership including tattoos and style of dress. Although the law was challenged in court, the enactment of such a law shows that the police and government believed that simply having a tattoo was proof of gang membership.[101] According to activist David Ortiz, "When an authority sees a deportee, especially one that has a tattoo, the first thing he imagines is that he is part of a criminal structure, even though a tattoo does not necessarily signal gang involvement… With the little knowledge that state authorities have, any young person, particularly a young man with a tattoo, fits a possible profile of a gang member. So there are cases of harassment and even physical aggression."[102] Now under the state of exception, tattooed individuals and others profiled as gang members are increasingly likely to be targeted for arrest. Simply being a young man from a certain neighborhood has been cause for detention. Dozens of innocent foreigners as well have been caught up in police raids and imprisoned, including two Colombian nationals with non-gang related tattoos.[103]

The prison population in El Salvador increased from 39,000 in March 2022 to an estimated 95,000 detainees by November. Detainees have reported abuse within prisons, including inhumane conditions and torture by state authorities. According to Human Rights Watch's report, "These widespread human rights violations were enabled by President Bukele's swift dismantling of democratic institutions since taking office in 2019, which has left virtually no independent government bodies that can serve as a check on the executive branch or ensure redress for victims of abuse."[104] President Bukele has opened a new mega-prison which can hold 40,000 inmates. The recent arrests of people suspected of gang affiliation has led to El Salvador incarcerating more than 100,000, making it have the highest rate of incarceration in the world. As *Washington Post* columnist, León Krauze, argued, given the fact that Barrio 18 and MS-13 began in US prisons, and have thrived in Salvadoran prisons, the new lockup of tens of thousands more people will likely result in the continued expansion of gang activity

[101]Sonja Wolf, "Steet Gangs of El Salvador," in *Maras*, ed. Lucía Dammert and Elizabeth Skinner Thomas Bruneau (Austin: University of Texas Press, 2011), 58.
[102] Anna-Catherine Brigida, "Kicked Out of the U.S., Salvadoran Deportees Are Struggling Simply to Stay Alive," *World Politics Review*, Oct. 9, 2018, https://www.worldpoliticsreview.com/articles/26302/kicked-out-of-the-u-s-salvadoran-deportees-are-struggling-simply-to-stay-alive.
[103] Manuel Rueda, "El Salvador imprisons dozens of foreign visitors in crackdown on crime," *The World*, June 26, 2023, https://theworld.org/stories/2023-06-26/el-salvador-imprisons-dozens-foreign-visitors-crackdown-crime.
[104] "'We Can Arrest Anyone We Want': Widespread Human Rights Violations Under El Salvador's 'State of Emergency'," Human Rights Watch, Dec. 7, 2022, https://www.hrw.org/report/2022/12/07/we-can-arrest-anyone-we-want/widespread-human-rights-violations-under-el

in the country.[105] While journalists and security analysts disagree whether the state of exception constitutes a true disarticulation of the street gangs or not, the serious human rights abuses committed by police and prison guards, and the rapid decline of democracy in El Salvador under Nayib Bukele's regime are undeniable.

[105] León Krauze, "The scale of El Salvador;'s new prison is difficult to comprehend," *Washington Post*, 26 Feb. 2023, https://www.washingtonpost.com/opinions/2023/02/26/el-salvador-prison-nayib-bukele-gangs-crime/

Chapter Four: Government and Police Corruption in El Salvador

Increasing Authoritarianism and Threats to Democracy

There are ample signs of increasing authoritarianism in El Salvador under the leadership of current President Nayib Bukele, who many Salvadorans now consider a dictator. On February 9, 2020, President Bukele marched soldiers into Congress in a show of force to demand that they approve a loan from the United States to fund his Territorial Control Plan. Congress had been asking for clarity on how that money would be spent, and Bukele refused to provide details.[106] In May 2021, congressional legislators favorable to Bukele removed several Supreme Court justices and the attorney general, who had been investigating corruption in the government. United States Vice President Kamala Harris wrote in response, "'"We have deep concerns about El Salvador's democracy, in light of the National Assembly's vote to remove constitutional court judges."[107] After stacking the Supreme Court with Bukele allied judges, the court ruled in September 2021 to allow a president to run for a consecutive second-term, reversing what had always been interpreted by the courts as a ban on consecutive second-terms. In September 2022, President Bukele announced he will illegally seek re-election in 2024, with his popular anti-gang policies generally interpreted as a pre-election strategy.[108] Bukele's administration has undermined transparency and accountability, weakening the state agency charged with public access to information, and threatening, surveilling and harassing journalists and members of civil society, including accusing them without any evidence, of being "gang supporters."[109] In response to his critics, President Bukele changed his Twitter profile bio to list himself as "the coolest dictator in the world."[110]

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[106] Scott Neuman, "Troops Occupy El Salvador's Legislature to Back President's Crime Package," *NPR*, Feb. 10, 2020, https://www.npr.org/2020/02/10/804407503/troops-occupy-el-salvadors-legislature-to-back-president-s-crime-package.

[107] Hourus Alas, "El Salvador Government Defiant After Ousting Judges," *US News*, May 7, 2021, https://www.usnews.com/news/best-countries/articles/2021-05-07/el-salvador-government-defiant-after-ousting-supreme-court-judges.

[108] Marcos Aleman, "El Salvador Court Drops Ban on Presidential Election," *AP News*, Sept. 4, 2021, https://apnews.com/article/elections-el-salvador-9dcbdb58df7fec5b43b289c3eb269730.

[109] "'We Can Arrest Anyone We Want': Widespread Human Rights Violations Under El Salvador's 'State of Emergency'," Human Rights Watch, Dec. 7, 2022, https://www.hrw.org/report/2022/12/07/we-can-arrest-anyone-we-want/widespread-human-rights-violations-under-el

[110] "El Salvador President Says He's World's "Coolest Dictator," *AP*, Sept. 21, 2021, https://apnews.com/article/technology-elections-media-courts-nayib-bukele-508b42261afebc96088007a44650cd9e.

Government Negotiations with Street Gangs

There is credible evidence that President Bukele gave money to both the MS-13 and Barrio 18 gangs when he was mayor of San Salvador and during his campaign for president, indicating that the Salvadoran state works in collaboration with street gangs. As historian Patrick McNamara has observed, the path to legitimate political power in El Salvador has historically been through violence across party lines, setting the stage for street gangs to become political actors by "following a well-known and successful trajectory towards political legitimacy."[111] In August 2017 for example, the leader of Barrio 18 Revolucionarios gang Carlos Eduardo Burgo Nuila, aka "Nalo," testified in court that political parties gave cash to the gangs in exchange for political support.[112] Nalo's testimony illustrates the extensive coordination between El Salvador's major political parties and gangs, including several rounds of formal negotiations to arrive at final agreements between the major gangs and political parties for payment in exchange for votes. An investigation by the Salvadoran newspaper *El Faro* also indicates that when he ran for mayor of the capital city, President Bukele made agreements with the MS13 and Barrio 18, including "giving benefits in exchange for the gangs providing security and giving access to territories under their control for campaign activities."[113]

In December 2021, the US Treasury Department announced that President Bukele had negotiated a truce with gangs. According to the announcement, Bukele's administration "provided financial incentives to Salvadoran gangs MS-13 and 18th Street Gang (Barrio 18) to ensure that incidents of gang violence and the number of confirmed homicides remained low." The Treasury Department also indicated that as part of this negotiation, "gang leadership also agreed to provide political support to the Nuevas Ideas political party in upcoming elections."[114] In September 2022, Eastern District of New York Grand Jury charges of complicity with gangs issued against several important Salvadoran officials were unsealed, revealing the Bukele administration's continuing protection of gang leaders in exchange for political support. According to *El Faro*, "the Justice, State, and Treasury Departments consider it a fact that Salvadoran President Nayib Bukele's administration

[111] Patrick J. McNamara, "Political Refugees from El Salvador: Gang Politics, the State, and Asylum Claims," *Refugee Survey Quarterly*, 2017, 36, 1–24, 8 September 2017, doi: 10.1093/rsq/hdx011.
[112] Salvador Mel´ndez y El Faro, "Ellos (FMLN y ARENA) pedían los votos de nuestros miembros, de nuestras familias y de nuestras clicas," *Factum*, 11 Aug. 2017, https://www.revistafactum.com/ellos-fmln-y-arena-pedian-los-votos-de-nuestros-miembros-de-nuestras-familias-y-de-nuestras-clicas/.
[113] Héctor Silva Ávalos, "El Salvador Gangs Influence Local Politics in the Capital: Report," Insight Crime, 9 July 2018, https://www.insightcrime.org/news/analysis/el-salvador-gangs-influence-local-politics-capital-report/. Carlos Martínez, "Nayib Bukele también pactó con pandillas, El Faro 29 June 2018, https://elfaro.net/es/201806/el_salvador/22148/Nayib-Bukele-tambi%C3%A9n-pact%C3%B3-con-pandillas.htm.
[114] "US accuses El Salvador of Secretly Negotiating Truce with Gang Leaders," *Guardian*, 8 Dec. 2021, https://www.theguardian.com/world/2021/dec/08/el-salvador-us-gang-leaders-truce.

secretly negotiated with the Mara Salvatrucha-13, and that his government offered the gang's primary leaders financial benefits and facilitated communication so that they could maintain control within the gang and in their turf in El Salvador. Federal prosecutors allege that, in return for the easing of prison restrictions and even reduction of sentences, MS-13 supported Bukele's ruling party, Nuevas Ideas, in the 2021 municipal and legislative elections and maintained low levels of homicides at least through March 2022." The DOJ has thus charged the Bukele administration with protecting MS-13 leaders from extradition to the United States, and even facilitating their exit to neighboring countries.[115] Given all of the evidence of Bukele's cooperation and complicity with gangs, the recent crackdown on gang members in the country appears to be more of a demonstration of force than a serious effort to disarticulate gangs.

The FMLN party as well has been implicated in gang pay-offs since at least 2014 when Interior Minister Aristides Valencia was recorded negotiating an electoral pact with MS13 and the two factions of Barrio 18. In October 2016, new videos emerged showing Valencia and former Congressman Benito Lara, both of FMLN, meeting with gang leaders and offering $10 million USD in aid to the gangs.[116] In 2017, FMLN and ARENA party leaders were reported to have paid off gang leaders around $350,000 in exchange for votes in gang territories.[117] The corruption and blatant criminality of FMLN members has been demonstrated in videos from 2016 exposing secret dealings with gang leaders offering millions of dollars in aid from the party, in violation of the FMLN's anti-gang law of 2010 that prohibited the support or funding of gangs, defined by the government as "illegal actors."[118]

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[115] José Luis Sanz, and Carlos Martínez, ""El Salvador Government Protection of MS-13 from Extradition Emerges in DOJ Indictment," *El Faro*, Feb. 28, 2023, https://elfaro.net/en/202302/el_salvador/26739/el-salvador-government-protection-of-ms-13-from-extradition-emerges-in-doj-indictment.
Carlos Martínez, "Collapsed Government Talks with MS-13 Sparked Record Homicides in El Salvador, Audios Reveal," *El Faro*, May 17, 2022, https://elfaro.net/en/202205/el_salvador/26177/Collapsed-Government-Talks-with-MS-13-Sparked-Record-Homicides-in-El-Salvador-Audios-Reveal.htm

[116] Juan José Martínez D'Aubuisson and Carlos Martínez, "Videos Show FMLN Leaders Offering El Salvador Gangs $10 Mn in Micro-credit," InSight Crime, Oct. 30, 2016, https://www.insightcrime.org/news/analysis/videos-show-fmln-leaders-offering-el-salvador-gangs-10-mn-in-micro-credit/.

[117] "El Salvador's Politics of Perpetual Violence," International Crisis Group, December 19, 2017, https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/64-el-salvadors-politics-perpetual-violence.

[118] Juan José Martínez D'Aubuisson and Carlos Martínez, "Videos Show FMLN Leaders Offering El Salvador Gangs $10 Mn in Micro-credit," InSight Crime, October 30, 2016, https://www.insightcrime.org/news/analysis/videos-show-fmln-leaders-offering-el-salvador-gangs-10-mn-in-micro-credit/.

The ARENA party has also been culpable in working with gangs, paying them large sums of money in exchange for votes as well as making deals to allow them to kill Salvadorans without consequences. In his sworn testimony in court, Carlos Eduardo Burgo Nuila, leader of the Barrio 18 Revolucionarios gang, indicated that the ARENA party gave three gang factions $100,000 USD in a suitcase in exchange for their votes.[119] There is also video evidence that the ARENA presidential candidate, Norman Quijano, met with gang leaders during the 2014 electoral campaign and promised them $100 million USD if he won the elections. An arrest warrant was ordered for Quijano in January 2022.[120] Even more shocking was the evidence presented by the attorney general in El Salvador that Quijano had negotiated with gangs to allow them to kill two Salvadorans per day during his term in office if he won the elections.[121] There is strong evidence, therefore, that leaders in the ARENA party, including one of its presidential candidates, was engaged in payoffs to gangs and even negotiated to allow gangs to kill opponents without facing any consequences. The complicity of government officials across party lines with street gangs, from local police officers all the way up to the president, makes it difficult if not impossible for the government to protect its citizens from gang violence.

Gangs Influence National Politics and Target Politicians

Dr. M. Gaborit, Chair of the Department of Psychology at the Universidad Centroamericana, stated in 2017 that "the gangs have more power than any other political party – in terms of money, arms, vertical structure, national presence, and personnel. The gangs are *the* principal political actors for many and they have recognized their common interests."[122] Given their increasingly active role within electoral politics in El Salvador, the MS-13 and Barrio 18 wield substantial power over voters, and often intimidate supporters and members of political parties. Various members of ARENA have been targeted in recent years by gangs or political opposition groups, and in the electoral campaign of 2003 twelve

[119] Salvador Meléndez y El Faro, "Ellos (FMLN y ARENA) pedían los votos de nuestros miembros, de nuestras familias y de nuestras clicas," *Factum*, 11 Aug. 2017, https://www.revistafactum.com/ellos-fmln-y-arena-pedian-los-votos-de-nuestros-miembros-de-nuestras-familias-y-de-nuestras-clicas/.
[120] Juan Pablo Elverdin, "El Salvador: ordenan el arresto de Norman Quijano, diputado del Parlamento Centroamericano," *CNN Español*, 19 Jan. 2022,iuhttps://kesq.com/news/2022/01/19/el-salvador-ordenan-el-arresto-de-norman-quijano-diputado-del-parlamento-centroamericano/.
[121] René Gómez, "ARENA negoció dos muertes diarias con las pandillas," *Diario El Salvador*, 10 Nov. 2021, https://diarioelsalvador.com/arena-negocio-dos-muertes-diarias-con-las-pandillas/156186/.
[122] Patrick J. McNamara, "Political Refugees from El Salvador: Gang Politics, the State, and Asylum Claims," *Refugee Survey Quarterly*, 2017, 36, 1–24, 8 September 2017, doi: 10.1093/rsq/hdx011.

members of political parties were killed, all from the ARENA, FMLN, and PCN parties.[123] News articles covering various election cycles in El Salvador have described how political rivalries particularly between the ARENA and FMLN parties and their supporters have resulted in violent clashes and attacks on party members since the 1990s.[124]

According to historian Patrick McNamara, "Local gang clicas have targeted members of both major political parties to keep them from voting in elections, to deter them from serving as local elected officials, and to force them to abandon positions on civil organizations created after the civil war. The determining factor here is not which political party the gang may support or oppose at any specific time or in a specific place, but rather that activists for both parties are often engaged in anti-gang political projects."[125] Given Bukele's militarized stance against gangs in El Salvador, especially after the events of late March 2022, members of major political parties have been increasingly subjected to retributive violence. Additionally, Bukele has fomented violence against his political rivals through tweets and in direct acts of violence, such as deploying the police and military to surround and enter the legislative assembly in 2020 to strongarm legislators into approving increased military funding. This discourse of hate towards political opponents has had violent consequences, such as the targeted shooting of FMLN party supporters in February 2021, where two party activists were killed and five more injured while returning from a political rally. A second attack took place less than 72 hours later, leaving a former FMLN councilman dead.[126] Instead of condemning the shootings, the president attacked the FMLN party and suggested that the murders were planned by the party itself to generate public sympathy.[127]

Corruption and Violence within the National Police

State security forces are similarly rife with corruption and generally unable to protect the populace from violence. Human rights groups working inside and out of El Salvador have

[123] Canada: Immigration and Refugee Board of Canada, *El Salvador: Violence against ARENA party members and supporters, particularly by FMLN or former FMLN members; state protection or redress available to victims*, 14 April 2003, https://www.refworld.org/docid/3f7d4e1de.htm
[124] Sonia Escobar, "ARENA vinculado a incidentes de violencia durante elecciones," *Diario CoLatino*, Feb. 2, 2014, https://www.diariocolatino.com/arena-vinculado-a-incidentes-de-violencia-durante-elecciones/
[125] Patrick J. McNamara, "Political Refugees from El Salvador: Gang Politics, the State, and Asylum Claims," *Refugee Survey Quarterly*, 2017, 36, 1–24, 8 September 2017, doi: 10.1093/rsq/hdx011.
[126] "Former FMLN Councilman Jose Berrios Murdered in El Salvador", *teleSUR*, February 4, 2021, https://www.telesurenglish.net/news/Former-FMLN-Councilman-Murdered-in-El-Salvador-20210204-0010.html
[127] Alexis Stoumbelis, "Two members of opposition FMLN party murdered in El Salvador weeks before election amidst President Bukele's 'hate campaign'," *Committee in Solidarity with the People of El Salvador*, Feb. 1, 2021, https://www.cispes.org/article/two-members-opposition-fmln-party-murdered-el-salvador-weeks-election-amidst-president.

expressed concerns about patterns of extrajudicial killings by state security forces and the government's unwillingness to hold the police and military accountable. Investigative reporting by Salvadoran news outlets, *El Faro* and *Revista Factum*, have exposed illegal networks within the National Civil Police (PNC) that have committed acts of extrajudicial executions, sexual assaults and extortion, among other crimes. In early September of 2017, the Inter-American Commission on Human Rights (IACHR) held a hearing on reports of extrajudicial executions in El Salvador, where two non-governmental organizations criticized the state for tolerating these crimes. Commissioner James Cavallaro of the IACHR observed that statistics presented at the hearing suggested that "El Salvador is dealing with a pattern of extreme and excessive use of force by the police."[128]

Salvadoran police are notorious for describing as "shoot-outs" incidents that could more accurately be called extrajudicial killings. In some cases, local media have proven that police intentionally misidentified victims of police shoot-outs as gang members to avoid consequences, often using tattoos as a marker to indicate gang membership. World Politics Review (WPR) has been able to count at least 70 deportees who were murdered in El Salvador between 2013 and 2018. They are often officially blamed on gang activity, though other victims are "killed in murky circumstances involving the police," according to WPR.[129]

An *InSight Crime* report about police and military corruption in El Salvador details the long history of human rights abuses committed by the PNC and other state security forces, stating that the PNC has "specialized in obstructing justice and guaranteeing impunity for those with sufficient influence or money."[130] Accountability mechanisms are ineffective, particularly in investigations on cases of excessive police violence by senior officers. Human rights violations are so pervasive that the PNC is regularly the most reported institution before the Ombudsperson. The abuse includes mistreatment during stop-and-frisk situations, raids, and arrests, but also prolonged arbitrary detention, torture, homicides, and contract killings. The corruption and brutality have influenced citizens to rarely trust and report crime to the police, for fear that these reports will be passed on to gang members themselves.[131]

[128] Geoff Thale and Kevin Amaya, "Amid Rising Violence, El Salvador Fails to Address Reports of Extrajudicial Killings," WOLA: Advocacy for Human Rights in the Americas, Nov. 3, 2017, https://www.wola.org/analysis/amid-rising-violence-el-salvador-fails-address-reports-extrajudicial-killings/.

[129] Anna-Catherine Brigida, "Kicked Out of the U.S., Salvadoran Deportees Are Struggling Simply to Stay Alive," *World Politics Review*, Oct. 9, 2018, https://www.worldpoliticsreview.com/articles/26302/kicked-out-of-the-u-s-salvadoran-deportees-are-struggling-simply-to-stay-alive.

[130] Héctor Silva Avalos, "Corruption in El Salvador: Politicians, Police and Transportistas," InSight Crime, February 2014.

[131] Sonja Wolf, "An endless cycle of carnage in El Salvador," *democraciaAbierta*, January 3, 2018, https://www.opendemocracy.net/democraciaabierta/sonja-wolf/endless-cycle-of-carnage-in-el-salvador.

Not only are police and soldiers responsible for many killings of both gang members and non-affiliated civilians, but they have also been shown to be complicit with many gang activities. In 2017, the Ministry of Defense reported that 615 soldiers from the armed forces had been expelled since 2010 for their relationships with gang members, and in 2016 it was discovered that an active MS-13 member was working in a military intelligence office.[132] Many police officers are motivated to collude with street gangs for personal benefit because salaries for basic rank officers in the PNC are dismal, equipment is poor and promotions within the force are arbitrary. Corruption for an extra salary has led many police officers to begin working with members of organized criminal groups, leak intelligence, sell firearms and ammunition, or just turn a blind eye to crime.[133]

Filing a police report makes victims of gang violence or extortion even greater targets for retribution. According to a recent report by the University of London's Internal Displacement Monitoring Centre, a large majority of Salvadorans refuse to report crimes, whether committed by gangs or the state, for fear of reprisal. University public opinion polls in El Salvador show that on average only 23% of victims reported crimes or threats towards them in 2015, feeding into a culture of impunity that leaves victims even more vulnerable to gangs. According to an academic researcher at Central American University, "Each prosecutor has an average of 800 open cases – from mugging to kidnapping to massacre. You have to use investigative and prosecutor facilities strategically to try and make change. Political decisions have to be made about which cases proceed. But if there are 6,000 homicides in a year, how can you investigate and prosecute this?"[134] Corruption is prevalent in Salvadoran judicial and security institutions, where a total of 31% of Salvadorans reported having paid a bribe to access basic public services in 2017 according to a Transparency International study.[135]

Witness Protection Program

The Salvadoran government enacted the Special Law for the Protection of Victims and Witnesses (Ley Especial para la Protección de Víctimas y Testigos) in April 2006, however

[132] "615 militares separados por vínculos con pandillas," *La Prensa Gráfica*, August 5, 2017, https://www.laprensagrafica.com/elsalvador/615-militares-separados-por-vinculos-con-pandillas-20170805-0042.html.
[133] Sonja Wolf, "An endless cycle of carnage in El Salvador," *democraciaAbierta*, January 3, 2018, https://www.opendemocracy.net/democraciaabierta/sonja-wolf/endless-cycle-of-carnage-in-el-salvador.
[134] "An Atomised Crisis: Reframing displacement caused by crime and violence in El Salvador," Refugee Law Initiative, University of London, September 2018, http://www.internal-displacement.org/sites/default/files/inline-files/201809-el-salvador-an-atomised-crisis-en.pdf, pp. 16-17.
[135] International Crisis Group "El Salvador's Politics of Perpetual Violence," *Crisis Group Latin America Report* No. 64 (Dec. 2017): 7.

the program has largely been criticized as ineffective.[136] The US State Department's country report from 2015 notes that "[s]ome judges denied anonymity to witnesses at trial, and gang intimidation and violence against witnesses contributed to a climate of impunity from criminal prosecution."[137] Salvadoran newspaper *El Diario de Hoy* reported the killing of a person who was under the witness protection program in an extortion case in the department of La Paz in February 2015. Another article by *El Diario de Hoy* reported the killing of a police investigator in San Vicente who was under the witness protection program after participating in a police operation that led to the death of a gang leader.[138] According to InSight Crime, the witness protection program was primarily created for gang informants to testify against gang members in court. These witnesses have been used repeatedly in gang cases, but ultimately make for unfair sentencing as the testimony of a single person can be enough for the prosecution to accuse dozens of people. The use of protected witnesses multiplied by 15 times between 2008-2019, but without much success. Fifty-four percent of the informants had withdrawn from the program by 2019.[139]

Additionally, the witness protection program, which is run by the Executive Technical Unit, is available for victims and witnesses of crime only during the trial process, after which the person loses government protection due to a lack of resources. According to the Agency for the Defense of Human Rights in El Salvador, there are no other programs to assist witnesses once they leave the official program. In order to access the program, the person has to be referred by the state prosecutor's office. According to the Salvadoran Red Cross, the program does not guarantee the lives of witnesses. Sources interviewed by the Immigration and Refugee Board of Canada indicated that some witnesses and victims of crime who were in the witness protection program continue receiving threats, and that some witnesses who are currently receiving protection have been the target of threats and attacks. There are many cases of protected witnesses that have been killed. Some of the protected witnesses are relocated to "safe houses" (*casas de seguridad* or *casas seguras*) where there have been cases of abuse by guards. Government officials are not eligible to access any protection program, and

[136] Canada: Immigration and Refugee Board of Canada, *El Salvador: Crime and state efforts to combat crime; state protection for victims and witnesses, including requirements to access programs, statistics on granted and refused applications for protection, duration and effectiveness of these programs (2012-August 2015)*, 1 September 2015, https://www.refworld.org/docid/55ffa7354.html.
[137] United States Department of State,"El Salvador." Country Reports on Human Rights Practices for 2014," 25 June 2015.
[138] R. Solano, Jorge Beltrán and Lisseth Guillén. "Pandilleros asesinan a testigo bajo régimen de protección," *El Diario de Hoy*, 24 February 2015, https://historico.elsalvador.com/historico/145350/pandilleros-asesinan-a-testigo-bajo-regimen-de-proteccion.html
"Asesinan a cinco policías y a un custodio en 13 días," *El Diario de Hoy*, 5 June 2014, https://historico.elsalvador.com/historico/130301/asesinan-a-cinco-policias-y-a-un-custodio-en-13-dias.html
[139] Elsa Cabria, Ximena Villagrán, Rosario Marina, "The Collaborators in El Salvador: The Witness's Girlfriend Goes Free," InSight Crime, Feb. 4, 2019, https://www.insightcrime.org/news/analysis/collaborators-el-salvador-witnesss-girlfriend-goes-free/.

their spouses and children have also been threatened.[140] The International Human Rights Clinic (IHRC) has noted that judges themselves have criticized the Witness Protection Law as failing to provide sufficient protection, while also encroaching upon defendants' due process rights. Judges interviewed by the IHRC said that the program has allowed prosecutors and police to rely excessively on these witnesses for convictions, sometimes using only one key witness to convict up to a hundred alleged gang members.[141]

Given these levels of corruption among security forces, victims of violence clearly cannot rely on the police to protect them, and oftentimes may become victims of state agents themselves. It is difficult for victims of extortion or violence to relocate within El Salvador because state security forces share information systems throughout the country and would be immediately aware of their return. Even though some elements of the police in El Salvador are not corrupt and attempt to investigate gang violence thoroughly, other corrupt police officers work with gangs or indiscriminately target citizens as suspected gang members.

[140] "Gangs in El Salvador and the Situation of Witnesses of Crime and Corruption," Immigration and Refugee Board of Canada, Sept. 2016, https://www.justice.gov/eoir/page/file/905696/download.
[141] Laura Pedraza, Fariña Spring Miller, James L. Cavallaro, *No Place to Hide: Gang, State, and Clandestine Violence in El Salvador,* (International Human Rights Clinic: Harvard University Press, 2010), https://static1.squarespace.com/static/5b3538249d5abb21360e858f/t/5cab7414104c7b660e76fcc8/1554740259393/No_Place_to_Hide_Gang_State_and_Clandest.pdf.

Chapter Five: Gender-Based Violence and Femicide in El Salvador

Introduction

Numerous studies have found that El Salvador has one of the highest rates of femicide (gender-based killing of women) in the world. Given the low levels of reporting and the difficulty of finding accurate statistics, it is likely that the data we have on violence against women in El Salvador only scratches the surface of the problem. In the country of about 6.3 million, 132 women were murdered in 2021, according to data collected by the Salvadoran Women's Organization for Peace (ORMUSA) from the Attorney General's office. 17 of these women were murdered by partners or ex-partners, according to ORMUSA's observatory on gender-based violence.[142] According to the observatory, femicide rates more than doubled between 2013 and 2017, with 218 femicides a year rising to 520. Furthermore, femicide statistics fail to account for forced disappearances of women and girls, despite the fact that 209 disappearances of women and girls were reported in the first five months of 2018 alone.[143] ORMUSA representative Vilma Vaquerano disclosed that since 2022, the only data released on femicide is from independent monitoring by feminist groups, since the Salvadoran state stopped releasing homicide distinctions including information on femicide or violent deaths of women, claiming this was a matter of national security.[144]

A leading cause behind gender-based violence is machismo, or pervasive sexist attitudes linked to male aggression and violence. Women's rights groups in El Salvador have said that the growing femicide rates are fueled by impunity, machismo, and the weakness of a state that has failed to understand the magnitude of the problem. Silvia Juárez of ORMUSA has said, "Women are seen as someone's property; there is an idea that women can be 'corrected', and this legitimates violence against us." Ima Guirola, spokeswoman for the Women's Studies Institute (CEMUJER) added, "The impunity that has prevailed in [many] cases sends out the message that nothing will happen if you kill a woman here, or that someone with money and influence can easily get away with things."[145] In May 2021, the

[142] Observatorio de violencia contra las mujeres, ORMUSA, https://observatoriodeviolenciaormusa.org/.
[143] Sophie Huttner, "El Salvador's Femicide Crisis," *Yale Review of International Studies*, March 2020, http://yris.yira.org/essays/3794.
[144] Personal interview by Kate Wackett and Elliott Young, Vilma Vaquerano, ORMUSA representative, San Salvador, Aug. 1, 2023.
[145] Edgardo Ayala, "Impunity, Machismo Fuel Femicides in El Salvador," *Inter Press Service*, April 10, 2013, http://www.ipsnews.net/2013/04/impunity-machismo-fuel-femicides-in-el-salvador/.

issue of femicide was brought into the spotlight when a clandestine cemetery at the home of a former police officer was discovered containing the remains of an estimated 40 individuals, most of them believed to be women. Nine individuals were arrested in addition to the main suspect for their work as accomplices, including other police officers, former soldiers and known human traffickers.[146]

Lack of State Response to Gender-Based Violence

One of the major issues in prosecuting gender-based violence in El Salvador is the lack of cooperation by the judicial branch and the police. As the Advocates for Human Rights in El Salvador stated, "Of the women who suffered sexual assault and did report it to the police, many described to [t]he Advocates how the police did not follow up on the investigation. … Moreover, an ineffective court system puts the victim in more danger since the perpetrator is aware the victim went to the police and the perpetrator is free to extract revenge." Efforts to pass laws designed to protect women and punish abusers have been thwarted by judges who uphold notions of masculinity that condone violence within the domestic sphere. Several judges even declared that they would refuse to enforce the Special Comprehensive Law for a Violence-Free Life for Women, deeming it unconstitutional.[147] A 2018 study found that only 5% of femicide cases brought to court end in a sentence, and only 3% of cases carry a guilty verdict. ORMUSA has found in 12 percent of the cases of violence against women, "the perpetrators were the judges, prosecutors, lawyers, or police officers in the communities in question." Their Observatory of Gender Violence against Women reported that at least six women murdered in 2012 were murdered by partners who were active police officers, demonstrating the inability of state authorities in El Salvador to keep women safe.[148]

Not only is sexual and domestic violence rampant in El Salvador, but the state is often implicated or complacent in the assaulting or killing of women. As sociologist Cecilia Menjívar has remarked about the Salvadoran state, "the impunity with which state institutions have reacted to the [abuse, rape and] killings of women serves to normalize violence and it sends a message that the lives of women are expendable."[149] Although the

[146] "El Salvador: dozens of bodies found at ex-cop's house investigated as femicides," *The Guardian*, May 20, 2021, https://www.theguardian.com/world/2021/may/20/el-salvador-mass-grave-ex-detectives-house.
[147] Nina Lakhani, "Violence Against Women Rises in El Salvador," *Al Jazeera*, 7 June 2013, http://www.aljazeera.com/indepth/features/2013/06/20136493135956422.html .
[148] Sophie Huttner, "El Salvador's Femicide Crisis," *Yale Review of International Studies*, March 2020, http://yris.yira.org/essays/3794.
[149] Shannon Walsh and Cecilia Menjívar, "Impunity and Multisided Violence in the Lives of Latin American Women: El Salvador in Comparative Perspective," *Current Sociology* 64, 4 (2016): 1-17, https://www.researchgate.net/publication/301483258_Impunity_and_Multisided_Violence_in_the_Lives_of_Latin_American_Women_El_Salvador_in_Comparative_Perspective_Published_in_Current_Sociology_2016_Article_Available

Salvadoran state passed the "For a Life Free of Violence Against Women" Law in 2011 in order to combat misogyny and femicide in the country, the full implementation of the laws has been slow and incomplete due to severely inadequate funding and bureaucratic resistance toward enforcement. For example, despite legislative commitments to establish women's shelters across the country, the government has only created two such shelters, both with extremely limited capacities (one accommodates only 15 women). In the years after the law was passed, the rate of femicide in El Salvador has continued to increase.[150] Since President Bukele enacted the state of exception in March 2022, the budgets for both the state women's institute and the Ciudad Mujer project, assisting female victims of violence, have been slashed. The budget of Ciudad Mujer was cut almost in half, making it nearly impossible to assist the number of women affected by violence in the country and seeking services.[151]

Little progress has apparently been made since a newer law on violence against women – the Ley Especial Integral para una Vida Libre de Violencia para las Mujeres – was passed in January 2012. The law created sentences of up to 50 years in prison for men who commit femicide – 20 more than the maximum sentence for other kinds of murder. ORMUSA's statistics suggest that only seven of the 270 cases brought to court between the law's passing and April 2013 were classified as femicides, and convictions were achieved in only three of these. Activists from CEMUJER have complained that the authorities don't respond adequately when threats and mistreatment towards women are reported. Many police officers, judges and other criminal justice officials are resistant to address these cases as femicides, which are more specific than homicides. In fact, many public officials have also been charged with domestic violence. The most notorious case was that of legislator Rodrigo Samayoa of the right-wing Grand Alliance for National Unity (GANA), who abused his wife in 2012. Additionally, six police officers have been publicly accused of violence against their wives, girlfriends or partners. One example is that of policeman Oliverio Enrique Rosales, who killed his wife, Xenia Roxana Mártir, in their home in the western city of Ahuachapán.[152] In one case, a woman brought charges against her husband, a national police officer, for firing his weapon and injuring her. The victim later withdrew her testimony, clearing the

[150] Sophie Huttner, "El Salvador's Femicide Crisis," *Yale Review of International Studies*, March 2020, http://yris.yira.org/essays/3794.
[151] Monica Campos, "Proyecto de presupuesto para mujeres en 2022 es más bajo que los aprobados en los últimos 3 años," *Gato Encerrado*, Nov. 18, 2021, https://gatoencerrado.news/2021/11/18/presupuesto-para-mujeres-en-2022-es-mas-bajo-que-los-aprobados-en-los-ultimos-3-anos/.
[152] Edgardo Ayala, "Impunity, Machismo Fuel Femicides in El Salvador," *Inter Press Service*, April 10, 2013, http://www.ipsnews.net/2013/04/impunity-machismo-fuel-femicides-in-el-salvador/.

officer, even though neighbors and other police officers on the scene heard the attack and witnessed her husband dragging her across the floor.[153]

Between January 2014 and February 2015, the Advocates for Human Rights, a US-based NGO, found that women who had been victims of sexual violence when they lived in El Salvador frequently did not go to police to report the violence because of the fear of retribution, as well as the lack of protection from police. This fear of retribution is exacerbated when the perpetrators of the violence are gang members. Many of the interviewees reported that the police were connected with street gangs and that information reported to the police was not kept confidential. In a 2013 interview with the Center for Gender & Refugee Studies (CGRS), a UN Population Fund official in El Salvador noted that "the danger of reporting [is] a key problem, because in light of inadequate protection systems, making a report puts the victim even more at risk of further violence by her abuser." Moreover, the CGRS notes that police officers "consistently fail to adequately investigate criminal cases of violence against women under the Criminal Code." According to a legal consultant interviewed by the CGRS, "police and prosecutors often re-victimize women by blaming the victim for her injuries and subjecting the women to repeated interrogation, including on inappropriate and unnecessary topics." According to an official within the Gender Unit of the Attorney General's office, a key problem in prosecution of sexual violence cases is the fact that judges lack sensitization to victims' rights and needs.[154]

Police and other state authorities often turn a blind eye to domestic and sexual violence due to entrenched *machista* values. Unfortunately, the Salvadoran government is unable or unwilling to protect women from further violence at the hands of their abusers, who threaten and harm their victims with impunity. After escaping their abuser's control, women in El Salvador are prime targets for retribution, especially single women with no male protector. Given the evidence of police corruption in El Salvador, women cannot expect protection from the police or other state authorities.

Sex Trafficking

Sex trafficking is common in El Salvador, especially in the form of forced gang recruitment and forced relationships with gang members. As reported by the US Department of State, "traffickers exploit adults and children in sex trafficking within the country; children without

[153] Angelika Albaladejo, "How Violence Affects Women in El Salvador," Latin America Working Group, https://www.lawg.org/how-violence-affects-women-in-el-salvador/.
[154] Canada: Immigration and Refugee Board of Canada, *El Salvador: Domestic violence, including legislation, state protection and support services*, 17 September 2015, https://www.refworld.org/docid/560b8c724.html

parents, adolescent girls, and LGBTQI+ persons, especially transgender persons, are at particular risk." Traffickers in El Salvador often target victims within their own communities or homes, sometimes their own children or other family members, as well as migrants from neighboring countries in Central America. The State Department's 2022 Trafficking in Persons Report states that, "traffickers recruit victims in regions of the country with high levels of violence and capitalize on existing fears to coerce victims and their families through threats of violence. Limited government presence in gang-controlled territory exacerbates trafficking risks among vulnerable groups and limits their access to justice and protection. Many victims of forcible displacement are families fleeing the exploitation of children by gangs in their communities." The report concludes that the government has not taken adequate steps to lower trafficking in recent years, including reducing its number of prosecutors for trafficking cases, offering few services to identified victims, and not initiating investigations, prosecutions or convictions of officials allegedly complicit in human trafficking crimes.[155]

Gang-Related Violence

Many instances of sexual violence and femicides in El Salvador are the result of gang recruitment or defying gangs. Women are often targeted for resisting gang demands, especially surrounding demands for sex.[156] Women who face forced recruitment or who do not otherwise heed to gangs' demands are commonly raped or experience some other form of sexual violence. Threats of sexual violence are used to maintain control and domination specifically over women in El Salvador by gangs. Women are often the targets of revenge-based crimes, when gang members rape or murder the sisters, wives or daughters of rivals. Women also face acute and specific risks for resisting forced gang associations or relationships, and society clearly differentiates between victims of gang violence or threats who report their harassment to the authorities and those who do not.[157] According to a report written by students of the Center for Latin American Studies at the University of Pittsburgh, "Many relationships between young women and gang members are forced, with women unable to deny the gang member's advances out of fear of physical retaliation, while

[155] US Dept. of State, "2022 Trafficking in Persons Report: El Salvador," https://www.state.gov/reports/2022-trafficking-in-persons-report/el-salvador/.
[156] Tina Zedginidze, "Domestic Abuse and Gang Violence against Women," *Law & Inequality: A Journal of Theory and Practice* 34, issue 1 (2016) http://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1231&context=lawineq
[157] Tina Zedginidze, "Domestic Abuse and Gang Violence against Women," *Law & Inequality: A Journal of Theory and Practice* 34, issue 1 (2016) http://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1231&context=lawineq

young women with family members involved in a gang are… at risk of rape, sexual assault, or femicide as a form of revenge."[158]

The United Nations High Commissioner for Refugees reported in 2015 that women and children in El Salvador face extreme levels of violence on a near-daily basis and eighty-five percent of the women included in the report described living in neighborhoods under the control of maras (gangs) or other transnational or local criminal groups. Sixty-four percent of these women described being the targets of direct threats and attacks by members of criminal groups as one of the primary reasons for leaving the country. Many of these women reported instances of violence or sexual assault to police, but received no protection from authorities. Those who did not report these attacks viewed the police as unable to provide any protection from gang violence, or feared retribution for reporting the violence.[159] InSight Crime has reported that members of gangs such as MS-13 "use rape to terrorize local communities."[160] Women have become subject to violence of a sexual nature, both within the extortion framework and beyond, as gangs have come to exploit the threat and use of sexual violence as a tool in their struggle for territorial control.[161] A study of sexualized violence in El Salvador reveals that gang rapes are also commonplace. Witnesses and perpetrators of the violence recounted multiple episodes of gang rapes as part of gang members' normal activities. As the researchers concluded, "Gang rape is ritualized through the practice of *trencito* (little train), which consists of making a young woman offer herself sexually to the men as an initiation for entering the gang."[162]

Since the implementation of the state of exception in 2022, homicides have dramatically decreased in El Salvador and community leaders report increased sense of security in the country, although women's rights groups have noted that rates of intimate partner violence,

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[158] Mallory Perillo, "Violence Against Women by Central American Street Gangs: How Trump's Immigration Policy Has Made It Worse for Salvadoran & Honduran Women," *Panoramas*, Center for Latin American Studies at the University of Pittsburgh, June 4, 2018, https://www.panoramas.pitt.edu/news-and-politics/violence-against-women-central-american-street-gangs-how-trump%E2%80%99s-immigration.

[159] United Nations High Commissioner for Refugees, Women on the Run: First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico, October 28, 2015, http://www.unhcr.org/5630c2046.html.

[160] Immigration and Refugee Board of Canada, El Salvador: Violence against women, including nondomestic sexual violence, legislation, state protection and support services, September 15, 2015, http://www.refworld.org/docid/560b8b294.html.

[161] Tristan Clavel, "Extortion and Sexual Violence: Women's Unspoken Suffering," InSight Crime, April 26, 2019, https://www.insightcrime.org/investigations/extortion-sexual-violence-womens-unspoken-suffering/.

[162] Mauricio Rubio, "Elite Membership and Sexualized Violence among Central American Gangs," in *Maras*, ed. Lucía Dammert and Elizabeth Skinner Thomas Bruneau (Austin: University of Texas Press, 2011), 175.

from their independent monitoring, have remained the same.[163] With regards to gang violence, reports from El Salvador do confirm a decrease in gang activities and presence throughout previously gang-controlled communities, after the incarceration of more than 70,000 real and alleged gang members. Unfortunately, certain risks to women have emerged from the state of exception replacing the threats of sexual violence or recruitment from gang members in their communities. One woman who works for a women's rights group and lives in a gang-controlled neighborhood told researchers at the Endowment for International Peace that "five years ago, we were afraid of mareros [gang members], and now we are afraid of groups of soldiers. . . There is so much harassment from police and soldiers, because they have increased their presence in our communities, and you can't say anything about it." Human rights defenders including women's rights activists have reported increasing threats and surveillance, and multiple critics of Bukele's government have been forced to flee the country for safety. Additionally, the incarceration of over 70,000 mostly men throughout the country has had financial consequences for many families, where single mothers are now left without the household's principal form of income, and additionally must send money to their loved ones in prison, with costs of approximately $125 USD per month for basic necessities including food.[164]

[163] Personal Interview by Kate Wackett and Elliott Young, with Vilma Vaquerano, ORMUSA representative, San Salvador, Aug. 1, 2023.
[164] Julia Zulver and Maria Jose Mendez, "El Salvador's 'State of Exception' Makes Women Collateral Damage," Carnegie Endowment for International Peace, May 4, 2023, https://carnegieendowment.org/2023/05/04/el-salvador-s-state-of-exception-makes-women-collateral-damage-pub-89686.

Chapter Six: Threats to LGBT People

Violence Towards LGBT Individuals, Including by Police

Among the LGBT community in El Salvador, police brutality and failure to investigate crimes against its members are two of the most pressing concerns. It is widely recognized in El Salvador that gay and transgender people are not protected by police officers or the law, and are often abused and targeted by these same institutions. Violence against the LGBT community is pervasive in El Salvador due to a conservative and religious culture of machismo and repression. Gender Studies Professor Amaral Palevi Gomez has examined how "gender hierarchies in El Salvador are structured from a masculine, mestizo and urban perspective, promoting and reproducing sexual essentialism and division between men and women, where the model of the white, professional, christian-centric man, married to a woman, conforms the ideal." Palevi Gomez further asserts that "the manifestations of masculine gender identities differing from this model are disparaged and invisiblized in the official discourse around family, marriage, education and labor… leading to discrimination, violence and death for sexual minorities."[165] In a more recent article, Palevi Gomez concludes that these conditions of exclusion, marginalization, discrimination, torture and homicides towards LGBT Salvadorans, the conditions that force displacement, are created by three gender/sexuality norms in El Salvador: silence, hierarchy, and intolerance of difference.[166]

In 2016, 25 murders of gay and trans individuals were reported in El Salvador, and since 1994 over 600 murders of gay and trans individuals have been recorded.[167] According to the International Human Rights Clinic at the American University Washington College of Law, at least 85 murders of LGBT persons in El Salvador were reported between 2008 and 2014.[168] In 2017, The Inter-American Commission of Human Rights (IACHR) said it received reports of at least 41 attacks and murders of LGBT people across the region, and in

[165] Amaral Palevi Gómez, "Travestis, marimachas y maricones: el camino del arcoíris en El Salvador," *Punto Género 6* (2016), 93–112. https://doi.org/10.5354/0719-0417.2016.42918
[166] Amaral Palevi Gómez Arévalo, "Entre La Espada y La Pared: Movilidad Forzada de Personas Salvadoreñas LGBT," *Revista mediações* 22, no. 1 (2017): 130–155.
[167] Nelson Renteria, "'Am I next?': Killings in El Salvador leave transgender people in fear," *Reuters,* March 28, 2017, https://www.reuters.com/article/us-el-salvador-lgbt-violence-idUSKBN16Z1QR.
"El Salvador: Events of 2018," Human Rights Watch World Report 2019, https://www.hrw.org/world-report/2019/country-chapters/el-salvador#194231.
[168] Lisa Haugaard, "LGBT Salvadorans: Winning Legal Advances but Facing Unchecked Violence," Latin America Working Group, https://www.lawg.org/LGBT-salvadorans-winning-legal-advances-but-facing-unchecked-violence/.

2019 a wave of murders within a few week period, specifically of trans women, shocked the LGBT community.[169] LGBT individuals remain targets of homophobic and transphobic violence by police, gangs, and others in El Salvador. According to Human Rights Watch, official statistics released in January 2020 showed 692 cases of violence against LGBT 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 evidence that these cases constituted hate crimes based on gender/sexual identity. In 2019, the transgender rights organization COMCAVIS Trans reported having assisted 84 people who suffered internal displacement due to their sexual orientation or gender identity. According to COMCAVIS, most fled their homes because of threats from gangs or because of attempted murder based on their gender identity or sexual orientation.[170]

The human rights group Entre Amigos has reported that police officers often decline to file formal reports regarding attacks or abuses against gay or transgender individuals and when reports are made, formal investigations rarely follow. In many instances, police themselves are involved with assaulting or murdering LGBT individuals.[171] Members of Entre Amigos, working to halt discrimination against sexual minorities, have faced death threats and constant surveillance by the Salvadoran state in an effort to halt their activities. In 2006 their central offices were ransacked and the director held at gunpoint. While all of these incidents were formally reported to the authorities, no action was taken to prosecute those responsible. In 2002, a member of Entre Amigos reported that four National Police officers detained, beat and harassed him, saying that homosexuals should not exist and that they would cause him more severe harm if he reported the crime.[172]

In June 2015, Alex Peña, a well-known trans activist and police officer, was brutally beaten by 15 other officers of the National Police while traveling home by bus from a pride event. He was detained for multiple days without access to medical care, and upon release was

[169] Nelson Renteria, "'Am I next?': Killings in El Salvador leave transgender people in fear," *Reuters,* March 28, 2017, https://www.reuters.com/article/us-el-salvador-lgbt-violence-idUSKBN16Z1QR.
Ernesto Valle, "Anti-LGBTQ hate crimes in El Salvador on the rise," *Washington Blade*, Nov. 24, 2019, https://www.washingtonblade.com/2019/11/24/anti-lgbtq-hate-crimes-in-el-salvador-on-the-rise/.
[170] "Violence and Discrimination Against LGBT People in El Salvador, Guatemala, and Honduras, and Obstacles to Asylum in the United States," Human Rights Watch, Oct. 7, 2020, https://www.hrw.org/report/2020/10/07/every-day-i-live-fear/violence-and-discrimination-against-lgbt-people-el-salvador.
[171] Allison Davenport, "El Salvador: Outflanking Discrimination," *Berkeley Review of Latin American Studies*, Fall 2010, https://clas.berkeley.edu/research/el-salvador-outflanking-discrimination.
[172] Beatriz Manz, "Central America (Guatemala, El Salvador, Honduras, Nicaragua): Patterns of Human Rights Violations," UNHCR, August 2008, http://www.refworld.org/pdfid/48ad1eb72.pdf.

forced to appear in court on charges that he assaulted one of the officers that beat him.[173] Trans women specifically have identified gangs and police officers as their principal aggressors in El Salvador, according to a report by Red Lactrans, an organization advocating for trans rights.[174]

Former Salvadoran human rights ombudsman David Morales and the former U.N. resident commissioner for El Salvador, Roberto Valent, have both recognized and denounced grave deficiencies in the country's justice system for sexual minorities. They highlighted the difficulties LGBT people face in reporting crimes against them, the generalized lack of access to justice, and impunity in cases of violence, both within the police force and the justice system.[175] A study from the lesbian rights organization Espacio de Mujeres Lesbianas por la Diversidad (ESMULES) highlights the homophobia within the National Civilian Police and the prevalent belief that LGBT people should not be afforded the same rights as other citizens. In the study, 66.8 percent of 413 police interviewed believed that domestic laws differentiate between the rights of an LGBT person and other individuals.[176]

Gangs Target LGBT Salvadorans

LGBT individuals are also disproportionately targeted by gangs, and are unable to report gang attacks or abuse to police because their cases are often ignored or they suffer additional discrimination at the hands of police officers. According to a 2021 report on violence against LGBT Salvadorans published by Human Rights Watch, "gangs specifically target LGBT people, killing, assaulting, threatening or extorting them for reasons that interviewees told Human Rights Watch might be linked to personal anti-LGBT animus; to assert social control or dominance; or because gangs recognize that LGBT people, particularly those who live in poverty, may have weak social support systems to protect them." Many of the individuals interviewed by Human Rights Watch described the murders of trans and gay friends, extortion demands, kidnappings and rape at the hands of gang members in El Salvador. The report further notes that discrimination and lack of legal protections often leads LGBT

[173] "Uninformed Injustice: State Violence against LGBT People in El Salvador," *Georgetown Law Human Rights Institute,* April 21, 2017, https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2017/07/2017-HRI-Report-Uniformed-Injustice.pdf.
[174] "Human Rights Violations of Trans Women in Costa Rica, El Salvador, Guatemala, Honduras and Panama," Red Lactrans, 2015, http://redlactrans.org.ar/site/wp-content/uploads/2013/05/ReportREDLACTRANS.pdf.
[175] "Bias-Motivated Violence Against LGBT People in El Salvador," Human Rights First, January 18, 2017, https://www.humanrightsfirst.org/resource/bias-motivated-violence-against-lgbt-people-el-salvador.
[176] "Bias-Motivated Violence Against LGBT People in El Salvador," Human Rights First, January 18, 2017, https://www.humanrightsfirst.org/resource/bias-motivated-violence-against-lgbt-people-el-salvador.

Salvadorans to live in poverty, making them more vulnerable to gang violence in low-income neighborhoods and in jobs that are controlled by criminal organizations.[177]

Homophobic Legislation

While the government has made some advances in the last few years to enact legislation that addresses discrimination and violence faced by LGBT people, including the hate crimes amendment to the Criminal Code, Presidential Decree No. 56, the establishment of the Directorate for Sexual Diversity, and the Permanent Forum for Human Rights for the LGBT Population, these initiatives either lack enforcement mechanisms or satisfactory implementation. Additionally, there are still areas where sexual minorities lack any sort of legal protections, such as in the workplace—there are no laws in El Salvador that prevent employment discrimination for LGBT individuals.[178] Although El Salvador introduced hate crimes into its penal code in September 2015, only three hate crime charges had been filed by prosecutors based on gender identity by 2021, and none based on sexual orientation. Human Rights Watch reported that by 2021, no bias-related murders of known LGBT individuals had resulted in conviction, indicating the failure of the justice system to protect the LGBT community.[179] One of the first cases to apply the reformed penal code and result in a hate crime conviction is that of Camila Díaz Cordova, a trans woman who was murdered by three police officers in El Salvador after being denied asylum and deported from the United States in 2017.[180] Nevertheless, attorney Bessy Rios, who advocated for the modified penal code, has confirmed that many prosecutors and others in the justice sector are extremely homophobic and resistant to applying the law.[181] Additionally, continued

[177] "'I'm Lucky to Still Be Alive' Violence and Discrimination Against LGBT People in El Salvador," Human Rights Watch, 2021, https://www.hrw.org/sites/default/files/media_2021/03/%E2%80%9CI%E2%80%99m%20Lucky%20to%20Still%20Be%20Alive%E2%80%9D.pdf

[178] "Uniformed Injustice: State Violence against LGBT People in El Salvador," *Georgetown Law Human Rights Institute,* April 21, 2017, https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2017/07/2017-HRI-Report-Uniformed-Injustice.pdf.

[179] "El Salvador: Events of 2018," Human Rights Watch, World Report 2019, https://www.hrw.org/world-report/2019/country-chapters/el-salvador#194231.
"'I'm Lucky to Still Be Alive' Violence and Discrimination Against LGBT People in El Salvador," Human Rights Watch, 2021, https://www.hrw.org/sites/default/files/media_2021/03/%E2%80%9CI%E2%80%99m%20Lucky%20to%20Still%20Be%20Alive%E2%80%9D.pdf

[180] Ernesto Valle, "El Salvador police officers charged with murder of transgender woman deported from US," *Washington Blade*, July 9, 2019, https://www.washingtonblade.com/2019/07/09/el-salvador-police-officers-charged-with-murder-of-transgender-woman-deported-from-us/.

[181] "Bias-Motivated Violence Against LGBT People in El Salvador," Human Rights First, January 18, 2017, https://www.humanrightsfirst.org/resource/bias-motivated-violence-against-lgbt-people-el-salvador.

murders of LGBT individuals prove that the law itself is not deterrence enough from committing violent offenses against this community.

Article 11 of the Family Code within the Salvadoran constitution defines marriage as "the legal union of a man and a woman, to create a full and permanent community of life," meaning same-sex marriage is not legal in El Salvador, nor are de-facto unions between persons of the same sex recognized. Same-sex couples in El Salvador are additionally barred from adopting a child jointly. In addition, and based on the same concept of family from the constitution, the Law Against Family Violence does not apply to same-sex couples. The Catholic Church and conservative Evangelical and Protestant churches in El Salvador openly condemn gay marriage, and 54% of El Salvadorans in 2010 believed that HIV and AIDS are God's way of punishing homosexuals.[182] A survey by the Pew Research Centre in 2017 found that almost two thirds of Salvadorans believed that society should not accept homosexuals.[183]

Besides the restrictions already placed on their family life, the LGBT population in El Salvador has had to face recent attempts to reform Articles 32, 33 and 34 of the Constitution to explicitly forbid the recognition of same-sex marriages celebrated or recognized by other countries' legislation, which has created an increasingly hostile and intolerant environment.[184] Salvadoran President Nayib Bukele's stance on LGBT rights has been concerning for advocates, as he has explicitly expressed his opposition to same-sex marriage and other progressive reforms for the LGBT community while cutting funding for social services and human rights groups supporting LGBT Salvadorans.[185] In June 2019, President Bukele dissolved the Secretariat of Social Inclusion where the Directorate on Sexual Diversity was based, drawing criticism from many advocates.[186] His administration has been widely considered anti-LGBT and anti-social movements in general, with the current state of exception directly impacting LGBT Salvadorans, especially trans women, who are often

[182] Allison Davenport, "El Salvador: Outflanking Discrimination," *Berkeley Review of Latin American Studies*, Fall 2010, https://clas.berkeley.edu/research/el-salvador-outflanking-discrimination.
[183] Nelson Renteria, "'Am I next?': Killings in El Salvador leave transgender people in fear," *Reuters,* March 28, 2017, https://www.reuters.com/article/us-el-salvador-lgbt-violence-idUSKBN16Z1QR.
[184] Asociación Salvadoreña de Derechos Humanos "Entre Amigos," International Gay and Lesbian Human Rights Commission, Global Rights International Human Rights Clinic, Human Rights Program, Harvard Law School, Red Latinoamericana y del Caribe de Personas Trans, "The Violation of the Rights of Lesbian, Gay, Bisexual, and Transgender Persons in El Salvador," October 2010, https://www.outrightinternational.org/sites/default/files/439-1.pdf.
[185] Jo Corona, "El Salvador's President-Elect Opposes Same-Sex Marriage, as LGBTQ Community Struggles for Acceptance," *National Public Radio Latino USA*, Feb. 12, 2019, https://www.latinousa.org/2019/02/12/bukelelgbtcommunities/.
[186] "Violence and Discrimination Against LGBT People in El Salvador, Guatemala, and Honduras, and Obstacles to Asylum in the United States," Human Rights Watch, Oct. 7, 2020, https://www.hrw.org/report/2020/10/07/every-day-i-live-fear/violence-and-discrimination-against-lgbt-people-el-salvador.

profiled as drug dealers, gang girlfriends and collaborators, suffering harrassment and arbitrary detention by police.[187]

Conclusion

Given the politically and socially hostile environment for LGBT individuals in El Salvador, asylum seekers are often targeted by gang members or others because of their sexual orientation, and cannot rely on the police or the legal system in El Salvador for protection. There are numerous documented cases of LGBT people subjected to harassment, detention and violence by the police.[188] The Salvadoran Ministry of Justice and Public Security directly implicated such state agents as the perpetrators of such violence, noting that LGBT people "also face multiple forms of violence, including acts of torture, inhuman or degrading treatment, excessive use of force, illegal and arbitrary arrests and other forms of abuse, much of it committed by public security agents."[189] According to a report published by Human Rights Watch, at least 138 people were killed after having been deported from the United States to El Salvador from 2013 to 2019, including multiple LGBT individuals.[190] The tally is likely much higher because many homicides aren't reported, and neither the US nor the Salvadoran governments formally keep track of people after deportation.

[187] Personal interview by Kate Wackett and Elliott Young with William Hernandez, former director of Entre Amigos, San Salvador, July 31, 2023.
[188] "Uniformed Injustice: State Violence against LGBT People in El Salvador," *Georgetown Law Human Rights Institute,* April 21, 2017, p. 37-40, https://www.law.georgetown.edu/human-rights-institute/wp-content/uploads/sites/7/2017/07/2017-HRI-Report-Uniformed-Injustice.pdf.
[189] Ministry of Justice and Public Security, Ministry of Justice and Public Security Policy Regarding the LGBT Population, Dec. 2017, as quoted in "'I'm Lucky to Still be Alive': Violence and Discrimination Against LGBT People in El Salvador," Human Rights Watch, January 2021, p. 23, https://www.hrw.org/sites/default/files/media_2021/03/%E2%80%9CI%E2%80%99m%20Lucky%20to%20Still%20Be%20Alive%E2%80%9D.pdf.
[190] "Deported to Danger: United States Deportation Policies Expose Salvadorans to Death and Abuse," Human Rights Watch, Feb. 5, 2020, https://www.hrw.org/report/2020/02/05/deported-danger/united-states-deportation-policies-expose-salvadorans-death-and.

Chapter Seven: Mental and Physical Healthcare in El Salvador

Overview

The healthcare system in El Salvador has been plagued by problems and lack of access that is typical of poor countries. According to the United States Center for Disease Control and Prevention (CDC), El Salvador had 1.6 physicians per 100,000 people in 2021, far below the World Health Organization Millennium development goal of 23 per 100,000.[191] In 2009, the government began a reform of the health system with support from the World Bank. While some progress has been made, vaccination rates failed to reach their targets in 2017 due to high levels of gang violence.[192] The group Doctors Without Borders reported that the health system in El Salvador was collapsing under the strain of Covid, and that the government was forced to declare a state of national emergency, suspending primary health care services and mandating a complete lockdown.[193] Although Covid conditions have improved since 2020, the cracks in the health system remain.

The pension system for retired Salvadorans does not provide adequate coverage for the majority, and more than one million people are not covered by the system. Given these conditions, Salvadorans in their seventies and eighties often turn to the street to beg for money to pay for their basic necessities. Emilio Espon, representative of the Forum of Elderly Adults explained, "there are a million uncovered people that don't have any pension, only 200,000 receive a pension at hunger levels. One million are abandoned."[194] Current President Bukele has repeatedly slashed budgets for social services throughout his term, creating more dire conditions for the least privileged in El Salvador.

[191] "Healthcare Access and Condition in El Salvador, Guatemala, and Honduras," Centers for Disease Control and Prevention, Sept. 30, 2021, https://www.cdc.gov/immigrantrefugeehealth/profiles/central-american/index.html#healthcare-access.
[192] "Renovating the Public Health Care System in El Salvador," World Bank, Apr. 25, 2019, https://www.worldbank.org/en/results/2019/04/25/renovating-the-public-health-care-system-in-el-salvador.
[193] El Salvador: Deaths increase as health system collapses," Doctors Without Borders, July 9, 2020, https://www.doctorswithoutborders.org/latest/el-salvador-deaths-increase-health-system-collapses.
[194] Evelia Hernández, "Población del adulto mayor sigue abandonada, en El Salvador," *ElSalvador.com,* Jan. 3, 2020, https://historico.elsalvador.com/historico/674009/poblacion-del-adulto-mayor-sigue-abandonada-en-el-pais.html.

Mental Healthcare and Stigma in El Salvador

According to a psychiatric study published in 2015 by the journal *BJPsych Bulletin*, "Refugees and asylum seekers have been shown to be at substantially higher risk of developing post-traumatic stress disorder (PTSD) and comorbid mental health problems than the general population, compatriots who have stayed in the refugees' home country, and economic migrants. Exposure to a high number of potentially traumatic events, involvement in asylum-seeking procedures and forced migration are stressors that set refugees apart from other populations and increase their psychological vulnerability." Of the 688 asylum seekers and refugees screened by the study, clinical levels of PTSD symptoms were present in 84% of participants, and depression symptoms in 95% of participants. Not only did the traumatic events forcing refugees to flee contribute to their adverse mental health conditions, but also the very process of seeking asylum and lack of legal status in the countries where they fled was traumatic.[195] In another study published by Physicians for Human Rights in 2019, medical experts found that every asylum seeker evaluated by the study, "provided credible accounts and corroborating evidence that they fled persecution resulting in significant trauma."[196] The UN Office for the Coordination of Humanitarian Affairs has stated that "asylum seekers are widely exposed to potentially traumatic events and postmigration stressors that could trigger mental-health disorders," with the primary conditions being "PTSD, depression, and anxiety."[197]

Individuals with mental health issues in El Salvador often face stigma, discrimination and a lack of access to quality healthcare. In Latin America and the Caribbean, mental disorders represent 24.5% of the burden of disease, yet the majority of governments in Central America spend only 1% of their national health budgets on mental health (in El Salvador 1.1%). In El Salvador, 92% of the budget for mental health goes to cover the costs of the National Psychiatric Hospital (*Hospital Nacional General y de Psiquiatría Dr. José Molina Martínez*), and as of 2017 only 66 doctors were available at this facility according to the Ministry of Health.[198] Given the centralization of resources for mental health care in El

[195] Jeroen W. Knipscheer, Marieke Sleijpen, Trudy Mooren, F. Jackie June ter Heide, and Niels van der Aa, "Trauma exposure and refugee status as predictors of mental health outcomes in treatment-seeking refugees," *BJPsych Bulletin*, Aug. 2015, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4706143/.
[196] Physicians for Human Rights,"'If I went back, I would not survive.': Asylum Seekers Fleeing Violence in Mexico and Central America," Oct. 2019, https://phr.org/wp-content/uploads/2019/10/PHR-Asylum-Seekers-Fleeing-Violence-Report-October-2019_FINAL_English.pdf.
[197] Rocio Naranjo Sandalio, "Life After Trauma: The Mental-Health Needs of Asylum Seekers in Europe," *OCHA Relief Web,* Jan. 30, 2018, https://reliefweb.int/report/world/life-after-trauma-mental-health-needs-asylum-seekers-europe#:~:text=Asylum%20seekers%20can%20experience%20trauma,along%20the%20path%20to%20safety.
[198] Laura Arevalo, "El Salvador es un país de enfermos mentales," *El Faro*, Oct. 2019, https://elfaro.net/es/201910/columnas/23689/El-Salvador-es-un-pa%C3%ADs-de-enfermos-mentales.htm.

Salvador, approximately 45% of those with mental health needs in the seven departments farthest away from the National Psychiatric Hospital departments are unable to access services available to those living nearer to the hospital.[199] The World Health Organization (WHO) has found that El Salvador's national mental health system has "serious limitations, especially in primary care, and a marked lack of qualified human resources."[200]

A study conducted by Heartland Alliance International in 2016 focusing on mental health issues among Central American youth found that traumatic life experiences, ongoing exposure to violence, and ruptured family structures were central issues contributing to issues like PTSD among migrants. Interviewees from the study reported profound social isolation, anxiety, a climate of fear, and irregular development as a result of trauma in their lives. If conditions such as PTSD are left unattended, physicians reported, individuals are left at risk for developmental, emotional, and behavioral difficulties well into adulthood.[201]

A 2019 study by the Technological University of El Salvador demonstrated the relationship between mental health and gang violence in the country, indicating that those suffering from anxiety and depression would have difficulty removing themselves from the root causes of their trauma. Of 1,143 people included in the study, 71% stated that gang violence in their environment affects their mental stability, 76% said that violence around them resulted in continued anxiety and stress, 85% identified having issues related to insecurity and fear, and 66% reported difficulty sleeping as a product of gang violence.[202] Due to the limited infrastructure of mental health care in El Salvador, and the continued presence of violence and threats there, asylum seekers are unlikely to find proper care and treatment for these conditions if returned, which may in fact be exacerbated by returning to traumatic environments.

[199] Samuel V. Nickels, Mariely Campos Tomasino, Nelson A. Flamenco Arvaiza, and Cynthia A. Hunter, "Access to mental health care in El Salvador: A case study of progress towards decentralization," *Revista Panamericana de Salud Pública*, Oct. 10, 2018, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6385792/.
[200] Jorge Jacinto Rodríguez, Thomas Barrett, Silvia Narváez, José Miguel Caldas, Itzhak Levav, Shekhar Saxena, "Mental health systems in El Salvador, Guatemala, and Nicaragua: Results of a WHO-AIMS evaluation," *Revista Panamericana de Salud Publica*, Nov. 2007, https://www.ncbi.nlm.nih.gov/pubmed/18198044.
[201] Leora Hudak, "Trauma of a Generation: The urgent need for specialized mental health solutions in Central America's Northern Triangle," *Heartland Alliance International,* May 2016, https://www.heartlandalliance.org/wp-content/uploads/2016/01/Trauma-of-a-Generation_HAI-2016.09.pdf
[202] Laura Arevalo, "El Salvador es un país de enfermos mentales," *El Faro*, Oct. 2019, https://elfaro.net/es/201910/columnas/23689/El-Salvador-es-un-pa%C3%ADs-de-enfermos-mentales.htm.