

# Exhibit 1

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION**

Edicson David QUINTERO CHACON,

*Petitioner,*

v.

Terrence DICKERSON, Warden, Stewart Detention  
Center, *et al.*,

*Respondents.*

Civil Action No. 4:25-cv-50-CDL-AGH

**DECLARATION OF JUANITA GOEBERTUS, DIRECTOR, AMERICAS DIVISION,  
HUMAN RIGHTS WATCH**

I, Juanita Goebertus, declare the following under 28 U.S.C. § 1746, and state that under penalty of perjury the following is true and correct to the best of my knowledge and belief:

1. I am the Director of the Americas Division of Human Rights Watch and have worked with the organization since 2022. I hold BAs in Law and Political Science from the Universidad de los Andes (Colombia) and an LLM from Harvard Law School. I oversee Human Rights Watch's work on El Salvador and have traveled to the country several times, most recently in 2024. I provide this declaration based on my personal knowledge and experience.
2. Beginning on March 15, 2025, the United States government has transported noncitizens—including more than 240 Venezuelan nationals—to the Center for Terrorism Confinement, the Centro de Confinamiento del Terrorismo (CECOT) in Tecoluca, El Salvador.
3. Human Rights Watch has documented the removal of the Petitioner in this action, Edicson

David Quintero Chacón, who is among the Venezuelans detained at CECOT. This is consistent with CBS News reporting<sup>1</sup> and with information we have collected through interviews with family members of Venezuelans who have been transferred to CECOT and subjected to enforced disappearances and arbitrary detention.<sup>2</sup>

4. CECOT opened in January 2023. CECOT was first announced for a capacity of 20,000 detainees. The Salvadoran government later doubled its reported capacity to 40,000. As Human Rights Watch explained to the United Nations Human Rights Committee in July 2024, the population size raises concerns that prison authorities are not able to provide individualized treatment to detainees, thereby contravening the United Nations Standard Minimum Rules for the Treatment of Prisoners.
5. People held in CECOT, as well as in other prisons in El Salvador, are denied communication with their relatives and lawyers, and only appear before courts in online hearings, often in groups of several hundred detainees at the same time. One Salvadoran attorney who is representing several detainees at CECOT told Human Rights Watch that he has not been allowed to meet or speak with his clients. Relatives of people apparently held at CECOT told Human Rights Watch that Salvadoran authorities have refused to provide them information on the whereabouts or fate of those detained.
6. I sent a letter to Salvadoran authorities on April 5, asking for information on the identity of people detained, their conditions of detention in CECOT, and the legal basis for their detentions. The government of El Salvador has not responded.
7. The Salvadoran government has described other detainees held in CECOT as “terrorists,”

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<sup>1</sup> Camilo Montoya-Galvez & Annabelle Hanflig, *Here are the names of the Venezuelans deported by the U.S. to El Salvador*, CBS News (Mar. 20, 2025), <https://www.cbsnews.com/news/venezuelans-deported-el-salvador-names/>.

<sup>2</sup> News Release, Human Rights Watch, *US/El Salvador: Venezuelan Deportees Forcibly Disappeared* (Apr. 11, 2025), <https://www.hrw.org/news/2025/04/11/us/el-salvador-venezuelan-deportees-forcibly-disappeared>

and has said that they “will never leave.” Human Rights Watch is not aware of any detainees who have been released from that prison. The government of El Salvador denies human rights groups access to its prisons and has only allowed journalists and social media influencers to visit CECOT under highly controlled circumstances. In videos produced during these visits, Salvadoran authorities are seen saying that prisoners only “leave the cell for 30 minutes a day” and that some are held in solitary confinement cells, which are completely dark.

8. While CECOT is likely to have more modern technology and infrastructure than other prisons in El Salvador, I understand, on the basis of interviews with journalists and others who have entered CECOT, that the mistreatment of detainees there is in large part similar to what Human Rights Watch has documented in other prisons in El Salvador, including Izalco, La Esperanza (Mariona) and Apanteos prisons. This includes cases of torture, ill-treatment, incommunicado detention, severe violations of due process and inhumane conditions, such as lack of access to adequate healthcare and food.
9. Prison conditions in El Salvador should be understood within the context of the country’s three-year-long state of emergency, which has suspended constitutional due process rights. Since the state of emergency was instituted in March 2022, security forces report detaining 85,000 people (the equivalent of 1.4% of the country’s population). Although the government has denied Human Rights Watch information on the number of detainees it holds and its prison capacity, Human Rights Watch estimates based on official data that there are 109,000 people held in prisons with an official capacity for 70,000. Since the state of emergency was instituted, over 350 people have died in El Salvador’s prisons according to Salvadoran human rights groups, including the organization Cristosal, which

jointly authored our December 7, 2022 report on El Salvador's prisons titled, "We Can Arrest Anyone We Want" (hereinafter "We Can Arrest Anyone"). Exh. A.

10. In July 2024, Human Rights Watch published a report on abuses committed against children during the state of emergency, titled "Your Child Does Not Exist Here." Exh. B. Over 3,300 children have been detained, many without any ties to gang activity or criminal organizations. Human Rights Watch documented 66 cases of children subjected to torture, ill-treatment and appalling conditions, including at times extreme overcrowding, unhygienic conditions, and inadequate access to food and medical care while in custody. In February 2025, the Legislative Assembly approved a law ordering the transfer of children detained for organized crime offenses to the country's adult prison system, exposing them to a heightened risk of abuse and violating international juvenile justice standards.
11. For "We Can Arrest Anyone," and in "Your Child Does Not Exist Here," Human Rights Watch interviewed more than 30 people released from El Salvador's prisons, including children, and dozens of people who have relatives in jail. These interviews were conducted in person in several states in El Salvador or by telephone and corroborated by additional research and media reports.
12. One of the people we spoke with was an 18-year-old construction worker who said that police beat prison newcomers with batons for an hour. He said that when he denied being a gang member, they sent him to a dark basement cell with 320 detainees, where prison guards and other detainees beat him every day. On one occasion, one guard beat him so severely that it broke a rib.
13. The construction worker said the cell he was imprisoned in was so crowded that detainees had to sleep on the floor or standing, a description often repeated by people who have

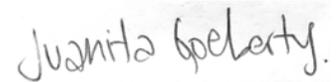
been imprisoned in El Salvador.

14. Another detainee we interviewed was held for two days in a police lock-up with capacity for 25 people, but he said that when he arrived, there were over 75 prisoners. He slept on the floor next to “the bathroom,” a hole in the ground that smelled “terrible.” He was sent in a group of other prisoners to Izalco prison on the third day, where they were ordered to take off their clothes. The group was forced to kneel on the ground naked looking downwards for four hours in front of the prison’s gate. Guards took the group to a room with five barrels full of water with ice, he said. Fifteen guards forced him and others to go into the barrels for around two hours in total, as they questioned them. The detainee was forced into a barrel “around 30 times,” and was kept there for about a minute each time. Guards forced his head under water so he could not breathe. “I felt I was drowning,” he said. Guards repeatedly insulted them, calling them “dogs” and “scum” and saying they would “pay for what [they] had done.”
15. A third detainee held in prison in June 2022 described being sent to what he described as a “punishment cell.” He said officers moved him and others there to “make room for other detainees.” The new cell was constantly dark, detainees had to sleep standing due to overcrowding, and there was no regular access to drinking water.
16. For “We Can Arrest Anyone,” Human Rights Watch and Cristosal gathered evidence of over 240 cases of people detained in prisons in El Salvador with underlying health conditions, including diabetes, recent history of stroke, and meningitis. Former detainees often describe filthy and disease-ridden prisons. Doctors who visited detention sites told us that tuberculosis, fungal infections, scabies, severe malnutrition and chronic digestive issues were common.

17. Out of the estimated 350 detainees who have died in the last three years in El Salvador's prisons, we documented 11 of these cases in detail in "We Can Arrest Anyone," based on interviews with victims' relatives, medical records, analysis by forensic experts, and other evidence.
18. In one case, a person who died in custody was buried in a mass grave, without the family's knowledge. This practice could amount to an enforced disappearance if authorities intentionally concealed the fate or whereabouts of the detainee.
19. In at least two other cases, officials appear to have failed to provide detainees the daily medication they required to manage underlying health conditions such as diabetes.
20. In at least four of the eleven cases, photographs of the bodies show bruises. Members of the Independent Forensic Expert Group (IFEG) of the International Rehabilitation Council for Torture Victims (IRCT), who reviewed the photos and other evidence in two of the cases, told Human Rights Watch and Cristosal that the deaths were "suspicious" given that the bodies "present multiple lesions that show trauma that could have been caused by torture or ill-treatment that might have contributed to their deaths while in custody."
21. In a separate Human Rights Watch report from February 2020, titled "Deported to Danger," Human Rights Watch investigated and reported on the conditions in Salvadoran prisons experienced by Salvadoran nationals deported by the United States. Exh. C. In interviews with deportees and their relatives or friends, we collected accounts of three male deportees from the United States who said they were beaten by police or soldiers during arrest, followed by beatings during their time in custody, which lasted between three days to over a year. During their time in prison, two of these individuals reported being kicked in the face and testicles. A third man described being kicked by guards in

his neck and abdomen, after which he sustained injuries requiring an operation for a ruptured pancreas and spleen, month-long hospitalization, and 60 days of post-release treatment.

Executed on this 16th day of April, 2025 in Villa de Leyva, Colombia.



Juanita Goebertus.

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JUANITA GOEBERTUS

# **EXHIBIT A**



# “We Can Arrest Anyone We Want”

Widespread Human Rights Violations Under El Salvador’s “State of Emergency”

HUMAN  
RIGHTS  
WATCH





# **“We Can Arrest Anyone We Want”**

Widespread Human Rights Violations  
Under El Salvador’s “State of Emergency”

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Human Rights Watch is an international organization with staff in more than 40 countries, and offices in Amsterdam, Beirut, Berlin, Brussels, Chicago, Geneva, Goma, Johannesburg, London, Los Angeles, Nairobi, New York, Oslo, Paris, San Francisco, São Paulo, Silicon Valley, Stockholm, Sydney, Tokyo, Toronto, Tunis, Washington DC, and Zurich.

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Cristosal works to promote justice, human rights, and democratic societies in Central America, through strategic litigation, research, learning, human rights monitoring, and assistance to victims of human rights violations.

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# “We Can Arrest Anyone We Want” Widespread Human Rights Violations Under El Salvador’s “State of Emergency”

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## Summary

Between March 24 and 27, 2022, 92 people were killed in El Salvador, seemingly by gangs. The killings, which amounted to the deadliest peak in lethal violence in the country's recent history, were a bleak reminder of El Salvador's failure to take sustainable and rights-respecting measures to fulfill its duty to protect the population from chronic gang violence.

In response, and at the request of President Nayib Bukele, the Legislative Assembly promptly adopted a 30-day "state of emergency," suspending a range of constitutional rights, including the rights to freedom of association and assembly, to privacy in communications, and to be informed of the reason for arrest, as well as the requirement that anyone be taken before a judge within 72 hours. The Assembly, where President Bukele's New Ideas (Nuevas Ideas) party has a two-thirds majority, also expanded counterterrorism legislation in ways that violate basic rights, including by allowing judges and prosecutors to try to jail children ages 12 and above.

Between March and November, police officers and soldiers have conducted hundreds of indiscriminate raids, particularly in low-income neighborhoods, arresting over 58,000 people, including more than 1,600 children. Officers have often targeted communities where people have, for years, suffered insecurity and lack of economic and educational opportunities.

This joint report by Human Rights Watch and Cristosal documents widespread human rights violations committed during the state of emergency, which the Assembly has extended eight times and remains in place at time of writing. These human rights violations include arbitrary arrests, enforced disappearances, torture and other ill-treatment of detainees, and significant due process violations. In addition, the circumstances of many deaths in custody during the state of emergency suggest state responsibility for those deaths.

Between March and November 2022, Human Rights Watch and Cristosal interviewed more than 1,100 people from all 14 states in El Salvador, including during a Human Rights Watch visit to San Salvador in October. Interviewees included victims of abuse, their relatives and

lawyers, witnesses, prosecutors, judges, journalists, human rights defenders, and government officials. Whenever possible, researchers also reviewed relevant case files, medical records, and death certificates, and in some cases consulted international forensic experts.

We found that human rights violations were not isolated incidents by rogue agents. Rather, similar violations were carried out repeatedly and across the country, throughout a period of several months, by both the military and the police.

Official policies and the rhetoric of high-level government authorities, including President Bukele, who commands the National Civil Police and the armed forces, have in some cases incentivized abuses.

Between March and late September, some police commanders appear to have established a policy of quotas, requiring officers to arrest a given number of people daily. Instead of taking measures to prevent abusive arrests, the president has publicly backed the security forces and acted in intimidating ways toward the few remaining independent judges and prosecutors in the country who could investigate violations. He has also promoted dehumanizing rhetoric against detainees and their families, and stigmatized independent journalists and civil society groups that document abuses.

Despite this record, President Bukele remains very popular, largely because some indicators of violence appear to have improved in the short term. Homicides, which have been decreasing in El Salvador since 2015, have fallen further, although government restrictions on accessing homicide and other data and changes in the ways killings are counted make it harder to estimate the true extent of the reduction and the prevalence of other crimes.

The authorities' campaign of mass, indiscriminate arrests has led to the detention of hundreds of people with no apparent connections to gangs' abusive activity. In many cases, detentions appear to be based on the appearance and social background of the detainees, or on questionable evidence, such as anonymous calls and uncorroborated allegations on social media. In these cases, police and soldiers did not show people a search or arrest warrant, and rarely informed them or their families of the reasons for their

arrest. A mother who witnessed the detention of her son said that police officers told her, “We can arrest anyone we want.”

In some cases of people detained by security forces, officers refused to provide information about the detainees’ whereabouts, in what amount to enforced disappearances under international law. Authorities left such victims defenseless and caused their family members inhumane and abusive uncertainty and suffering.

Lack of information about detainees’ whereabouts and their conditions in detention drove hundreds of people, mostly women, to sleep outside detention facilities in the hope of receiving some information about their loved ones. In many cases, the seemingly arbitrary arrest of breadwinners severely curtailed the income of families already suffering from poverty and lack of economic opportunities.

As of November 2022, judges had charged over 51,000 people arrested during the state of emergency with gang membership and sent them to pretrial detention, often appearing to apply a recent and abusive amendment to the Criminal Code that expanded mandatory pretrial detention. Two thousand people, less than 4 percent of those detained during the state of emergency, had been released from prison, often on bail.

The prison population increased from 39,000 in March 2022 to an estimated 95,000 detainees as of November. The latest public figures, from December 2020, indicate that prisons in El Salvador have capacity for 27,000, less than one-third of the number actually detained at the end of 2022. Thousands were held incommunicado for weeks or months or were only allowed to see their lawyer for a few minutes before their hearings. At time of writing, many continue in incommunicado detention.

This mass incarceration has aggravated historically poor conditions in detention, including extreme overcrowding, violence, and poor access to goods and services essential to rights, such as food, drinking water, and health care. Some of the few people who were released from detention reported inhumane conditions and, in some cases, torture and other forms of ill-treatment.

According to Salvadoran authorities, 90 people have died in custody during the state of emergency. Authorities have failed to meaningfully investigate these deaths. In some

cases, detainees who died in prison did not receive access to the medication they needed, family members said.

Judges and prosecutors repeatedly and impermissibly infringed on due process protections under international law, violating detainees' human rights and making it difficult, if not impossible, for them to adequately defend themselves during criminal proceedings. Most detainees had public defenders who faced an immense workload and often failed to provide an adequate defense.

Hearings were conducted in groups that were at times massive, with up to 500 detainees participating, often virtually, in each. Such conditions make it difficult or nearly impossible for judges, prosecutors, and detainees' lawyers to fairly assess or present evidence and arguments related to each individual detainee.

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.

Since President Bukele's party obtained a two-thirds majority in the Legislative Assembly in May 2021, legislators from his party have severely undermined the separation of powers. They have summarily removed and replaced all five judges of the Constitutional Chamber of the Supreme Court, as well as the Attorney General, and have passed laws that allow the Supreme Court and the Attorney General to arbitrarily transfer or dismiss independent lower-level judges and prosecutors.

In September 2022, President Bukele announced he will seek re-election in 2024, relying on a 2021 ruling by the new Constitutional Chamber that departed from longstanding jurisprudence interpreting the Constitution as forbidding immediate re-election.

The Bukele administration has also undermined transparency and accountability, including by weakening the agency in charge of ensuring access to public information. It has created a hostile environment for journalists and civil society members, who have become targets of digital and physical harassment, surveillance, seemingly spurious criminal investigations, and other attacks in response to their work on corruption and

human rights violations. President Bukele and other authorities have assaulted the credibility of independent media and civil society groups, accusing them, without any evidence, of being “gang supporters.”

President Bukele has tried to justify human rights violations as supposedly acceptable “errors” committed during what the government calls a “war against gangs.” He also said that the government will be “watching judges who favor criminals,” in what appears to be an effort to intimidate judges and prosecutors from investigating human rights violations or releasing people who are arbitrarily detained.

There are serious reasons to question the long-term effectiveness of President’s Bukele security measures. Iron-fist strategies attempted by prior governments have proven to be ineffective and have at times led to more violence. Gangs have in the past benefited from policies of mass incarceration by using prisons to recruit new members. Failure to invest meaningful resources in prevention and rehabilitation policies, as well as to address illegal economies and the lack of legitimate economic opportunities that allow gangs to thrive, have contributed to the spiraling of atrocious cycles of violence.

At the same time, the dismantling of judicial independence in El Salvador means that victims of gang violence or human rights violations by security forces will have little, if any, access to meaningful remedy.

The administration of President Bukele should ensure Salvadorans’ safety by taking sustainable and rights-respecting steps to protect the population and dismantle gangs, which continue to be responsible for heinous abuses. This requires developing and implementing a new security policy that promotes strategic criminal prosecutions focused on prosecuting higher-level gang leaders and investigating violent crimes, as well as addressing the illegal economies that allow these groups to thrive, including extortion, money laundering, and contraband in weapons. To do so, having a truly independent judiciary is key.

Additionally, the government should bolster efforts to reduce gang membership by taking steps to address the structural causes that push people, particularly children and youth, into gangs. These include lack of economic opportunities, social marginalization, and abusive and ineffective security policies.

The government should also expand current programs, such as the “Urban Centers of Wellbeing and Opportunity” (Centros Urbanos de Bienestar y Oportunidades, CUBO), that seek to prevent violence by increasing economic and educational opportunities for youth in vulnerable communities, and it should strengthen reintegration programs for former gang members.

International action is needed to protect the country’s rapidly deteriorating rule of law and prevent further human rights violations. Despite his enormous popularity in El Salvador, President Bukele is not totally immune to international pressure.

The administration of United States President Joe Biden and the European Union should rally multilateral pressure, including from governments in Latin America, to focus attention on the situation in El Salvador, including at the United Nations Human Rights Council.

Foreign governments and international financial institutions, in particular the Central American Bank for Economic Integration (CABEI), should suspend any existing loans or donations to government entities directly involved in abuses, including the Justice and Public Safety Ministry, the National Civil Police, the Ministry of Defense, the prison system, and the Attorney General’s Office, and condition any further cooperation with these institutions on significant human rights progress.

The US government has adopted positive steps by redirecting some funding away from Salvadoran institutions such as the National Civil Police and toward civil society groups. The European Union has redirected its funding of the National Civil Police toward the Ministry of Education.

Meanwhile, in recent years, the Central American Bank for Economic Integration approved significant funding to the National Civil Police, the Ministry of Defense, the prison system, and the Attorney General’s Office. Several funds had not been disbursed at time of writing and the Bank’s authorities said that some of the loans were being “reformulated” to replace the National Civil Police, Ministry of Defense, and the prison system as the entities charged with executing the funds. Its board of directors, composed of representatives from Central American governments, as well as Mexico, Taiwan, Argentina, Colombia, Spain, Dominican Republic, and the Republic of Korea, should condition programs on the

Salvadoran government taking concrete steps to prevent and investigate torture, deaths in custody, enforced disappearances, and arbitrary detentions.

Foreign governments should also step up efforts to support independent journalists and civil society groups, which remain virtually the sole check on abuse of power and human rights violations in El Salvador.

The international community should redouble its efforts to support the rule of law in El Salvador and help ensure that Salvadorans are safe from heinous crimes by gangs, human rights violations, and other abuse of power.

## Recommendations

### To the Bukele administration

- Work with the Attorney General’s Office and security forces to develop and implement a new, rights-respecting security policy to dismantle gangs and protect the population from their abuses, including by promoting strategic criminal prosecutions, focused on prosecuting higher-level gang leaders and investigating violent crimes, as well as curbing extortion, money laundering, and contraband weapons.
- Prioritize efforts to address the root causes of gang membership, such as lack of economic and educational opportunities, including by expanding violence-prevention strategies that increase opportunities for children and youth, such as the “Urban Centers of Wellbeing and Opportunity,” as well as legal and safe paths for former gang members to reintegrate.
- End the state of emergency absent credible evidence that its restrictions on fundamental rights are proportionate and strictly necessary to respond to situations that genuinely threaten the life of the nation.
- Ensure that police officers’ performance is not measured by the number of arrests or other criteria that could incentivize arbitrary arrests and other human rights violations.
- Take progressive steps to eliminate the role of the armed forces in public safety tasks.
- Refrain from posting on social media photos of detained people and prejudging them as criminals based on their clothing, where they live, their tattoos, or their family relationships before they have had a fair trial.
- Take immediate steps to reduce prison overcrowding, including by applying alternatives to imprisonment for people with disabilities or with underlying health conditions and for older people, and by using, when appropriate, reporting requirements and other less-restrictive measures.
- End incommunicado detention and ensure that detainees can communicate and receive visits from their families and lawyers.

- Take meaningful steps to comply with the United Nations Standard Minimum Rules for the Treatment of Prisoners, including by ensuring access to adequate and timely medical care, adequate food, water, and sanitation in prisons.
- Ensure that prison authorities comply with judicial decisions ordering the release of detainees.
- Allow international humanitarian organizations and the Human Rights Ombudsperson’s Office to have unimpeded access to prisons, including by allowing them to conduct private and confidential meetings with detainees.
- Refrain from harassing and stigmatizing independent journalists and civil society members, including on social media.
- Ensure that any negotiation with gangs is conducted in a transparent and inclusive manner and prioritizes human rights, including the right of equal access to justice.
- Work with the Legislative Assembly to ratify the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.
- Comply fully with the 2011 Law on Access to Public Information, including by publishing public interest information, such as homicide rates, information on the implementation of the Territorial Control Plan, and the prison population, as well as by responding in a timely and fair manner to public information requests.
- Increase funding to the Public Defender’s Office to ensure it is able to provide adequate and timely defense.

## To the Legislative Assembly

- End the state of emergency.
- Increase the age of criminal responsibility to 14 or above, consistent with international human rights standards.
- Derogate the 2022 reforms to the Special Law Against Terrorist Acts, the Juvenile Criminal Law, and the Law Banning Gangs, Bands, Groups, Associations and Organizations, and bring these laws and the Criminal Code and the Code of Criminal Procedure in line with international standards, including by eliminating mandatory pretrial detention and narrowing the definitions of terrorism and “unlawful association.”

- Repeal the 2021 reforms to the Judicial Career Law and the Organic Law of the Attorney General's Office.
- Reform the Penitentiary Law to ensure that it complies with international legal standards, including by ensuring that detainees have access to family visits and private meetings with their lawyers.
- Refrain from adopting the 'foreign agents' bill or any other law that could be used to restrict the work of civil society groups and independent media outlets.
- Increase the funding and staffing of the Public Defender's Office to ensure that it can provide adequate legal assistance to all detainees.

### **To the Attorney General's Office**

- Develop and implement a policy of strategic criminal prosecutions to address gang violence by improving prosecutors' technical capacity to gather credible evidence, prioritizing the prosecution of higher-level gang leaders, investigating violent crimes, as well as curbing extortion, money laundering, and contraband in weapons.
- Promptly initiate thorough, impartial investigations into unlawful connections between gangs, government officials, and security forces.
- Conduct prompt, thorough, and impartial investigations into allegations of human rights violations, including instances of arbitrary detention, enforced disappearances, and torture and other ill-treatment of detainees, as well as into circumstances such as suspicious deaths in custody.
- Conduct swift, impartial, and thorough investigations into the arrest quota in the police and whether it has incentivized arbitrary detention and other human rights abuses.
- Conduct prompt, thorough, and impartial investigations into government officials who may have failed to comply with court decisions ordering the release of detainees.

### **To the Constitutional Chamber of the Supreme Court**

- Reach and announce timely decisions on habeas corpus petitions from or on behalf of people detained in the context of the state of emergency.

### **To the Public Defender's Office**

- Increase staffing and ensure that the legal assistance provided to people guarantees due process rights.

### **To the Human Rights Ombudsperson's Office**

- Conduct swift investigations into allegations of human rights violations and report on the office's findings in a transparent and periodic manner.
- Investigate abuses by gangs in El Salvador and provide concrete recommendations to the government on how to protect the population from these groups in a sustainable and rights-respecting manner.
- Work with the National Penitentiary Office, the Attorney General's Office, and the Public Defender's Office to ensure respect for the rights of people who have been detained.
- Continue monitoring prison conditions, including by seeking private and confidential meetings with detainees, and releasing comprehensive reports of the visits, including on allegations of ill-treatment, overcrowding, lack of access to adequate or timely medical care, and poor sanitary conditions.

### **To the Institute of Legal Medicine**

- Conduct autopsies for everyone who dies in custody and ensure that family members have access to such documentation.
- Ensure that investigations into deaths in custody adhere to internationally accepted medical practices and international standards as outlined by the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

### **To the Central American Bank for Economic Integration and the members of its Board of Directors including Costa Rica, Panama, Honduras, Mexico, Taiwan, Argentina, Colombia, Spain, Dominican Republic and the Republic of Korea**

- Suspend current loans benefiting El Salvador's National Civil Police, Ministry of Defense, prison system, and Attorney General's Office and develop specific and

measurable human rights benchmarks to condition future financial support to these institutions, such as:

- Concrete steps toward eliminating torture and other forms of ill-treatment in detention;
  - Reductions in reports of arbitrary detentions and due process violations reported by detainees;
  - Evidence of credible and timely criminal investigations of abuses committed by members of the armed forces and the National Civil Police;
  - Reforms of legal frameworks adopted in the context of the current state of emergency that severely undermine human rights;
  - Improvements in detention conditions, including reduction of overcrowding and increased access to medical care; and
  - Increased access of independent monitors to interview detainees in Salvadoran detention centers.
- Closely monitor the situation in El Salvador, including by conducting regular meetings with civil society groups, to verify human rights conditions and ensure that the bank's funding is not enabling further abuses.

### **To Members of the United Nations Human Rights Council**

- Bring attention to the situation in El Salvador and raise human rights concerns during Council meetings and debates, including during Interactive Dialogues with relevant Special Procedures mandate-holders or in their statements under item 4.

### **To the UN High Commissioner for Human Rights**

- Closely monitor the human rights situation in El Salvador and publicly condemn human rights violations in the country.

**To Relevant UN Special Procedures including the Working Group on Arbitrary Detention, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism:**

- Conduct visits to El Salvador, as permitted under the country's 2010 standing invitation, to document human rights violations within their mandates, and report to the Human Rights Council on the situation in the country.

**To the governments of the United States, Canada, and Latin American countries, the European Union, and EU member states:**

- Publicly and privately oppose human rights violations committed by Salvadoran security forces and press, in a multilateral manner, Salvadoran authorities to ensure respect for human rights and the rule of law.
- Refrain from providing loans or other economic support to El Salvador's police, army, prison system, and Attorney General's Office until there are meaningful human rights improvements, and condition any future aid or loans to these entities on human rights benchmarks.
- Increase support for independent media outlets and civil society groups in El Salvador, including through financial assistance.
- Press Salvadoran authorities to progressively restore judicial independence including by conducting, at the appropriate time, independent, fair, and transparent processes for the selection of Supreme Court justices and the attorney general, and abrogating laws that undermine judicial independence.
- Impose or maintain targeted sanctions, including travel bans and asset freezes, on senior government officials who bear responsibility for the human rights violations documented in this report, including:
  - Gustavo Villatoro, the minister of justice and public safety, who oversees the National Civil Police and the prison system.

- Mauricio Arriaza Chicas, the director of the National Civil Police, which has been responsible for widespread human rights violations during the state of emergency.
- René Francis Merino Monroy, the minister of defense, who oversees the work of the army, which has been involved in multiple human rights violations in the context of the state of emergency.
- Osiris Luna Meza, head of the prison system and vice minister of justice and public safety. Luna Meza has adopted extraordinary measures in detention facilities that violate international standards and has openly supported and publicized ill-treatment of detainees and overcrowding.

### **To the Inter-American Commission on Human Rights:**

- Closely monitor the human rights situation in El Salvador and publicly condemn human rights violations in the country.
- Closely monitor the ongoing constitutional reform process to verify its consistency with international human rights standards, including on judicial independence, as well as with the Inter-American Court of Human Rights' Advisory Opinion 28/2021 regarding the incompatibility of indefinite presidential re-election with the American Convention on Human Rights.

## Methodology

This joint report by Human Rights Watch and Cristosal is based on both organizations' research between March and November 2022 on abuses committed during the state of emergency.

Over 2,900 people completed an online form created by Cristosal and advertised on their social media to report on cases of abuses. Out of these cases, as well as others referred to Cristosal by other non-governmental organizations and others, Cristosal selected a subset of cases on the basis of the gravity of the allegations and their consistency with other reports. In total, Cristosal interviewed over 1,100 victims or their relatives.

Human Rights Watch interviewed over 140 people, including victims of abuse, their relatives and lawyers, witnesses, independent journalists, prosecutors, judges, and government officials. While most of the interviews were conducted by phone, some were carried out during a visit to San Salvador in October 2022.

Most of the interviewees feared for their security and only spoke to researchers on condition that we withhold their names and other identifying information. Details about their cases or the individuals involved, including the location of the interviews, have also been withheld when requested or when Human Rights Watch and Cristosal believed that publishing the information would put someone at risk. In footnotes, we may use the same language to refer to different interviewees to preserve their security.

Interviews with victims, their relatives, or witnesses were conducted in confidential settings or through secure means of communication. We informed all participants of the purpose of the interview, its voluntary nature, and how the information would be used. Each participant orally consented to be interviewed.

Human Rights Watch and Cristosal did not make any payments or offer other incentives to interviewees. Care was taken with victims of trauma to minimize the risk that recounting their experiences could further traumatize them. Where appropriate, the organizations provided contact information for organizations offering legal, social, or counseling services, or linked those organizations with survivors.

Whenever possible, Human Rights Watch and Cristosal also reviewed case files, medical records of victims and death certificates, and obtained expert opinion on some cases of abuse from the Independent Forensic Expert Group (IFEG) of the International Rehabilitation Council for Torture Victims (IRCT), an international group of prominent forensic experts.

Human Rights Watch and Cristosal sent multiple information requests to government authorities for this report. These include:

- On April 29, July 27, September 26, and November 7, 2022, Cristosal or Human Rights Watch asked the National Civil Police for information regarding people detained under the state of emergency, their gender and age, and the crimes of which they were accused, as well as whether police officers were required to arrest a number of people per day. The National Civil Police replied on May 5, August 15, October 11, and November 25, indicating that all the information requested, with the exception of the total number of people detained, was “classified.”
- On November 7, 2022, Human Rights Watch asked El Salvador’s Armed Forces for information, including the number of people arrested and of confrontations between the soldiers and gangs. The Armed Forces had not responded at time of writing.
- On April 29, July 12 and July 27, 2022, Cristosal or Human Rights Watch asked the Attorney General’s Office for information regarding people detained under the state of emergency, their gender and age, and the crimes of which they were accused, as well on whether prosecutors were investigating members of the security forces for human rights violations. Authorities replied on May 17, August 12, and September 9, indicating in all cases that the information requested was either “non-existent” or “classified.”
- On April 29, July 12, July 27, and September 20, 2022, Cristosal or Human Rights Watch asked the Public Defender’s Office for information on people detained under the state of emergency, their health conditions, age, and gender, the crimes of which they were accused, the status of the investigations against them, and the number of officials in the Public Defender’s Office, and inquired about documentation requested of detainees’ relatives. The Public Defender’s Office replied on July 7, July 25, August 31, and October 19, providing large parts of the information requested and indicating that other information, such as on the status of investigations, was “classified.”

- On April 29, 2022, Cristosal asked the Human Rights Ombudsperson’s Office for information on people detained under the state of emergency, their age and gender, and the crimes of which they were accused. On May 25, the Human Rights Ombudsperson’s Office replied by providing information on the number of complaints received by the agency.
- On July 27 and November 7, 2022, Cristosal or Human Rights Watch asked the General Directorate of Penal Centers for information on the number of detainees under the state of emergency, the total prison population, the number of people in pretrial detention, and the number of people convicted, among others. At time of writing, Cristosal and Human Rights Watch had not received a response.
- On September 26, 2022, Cristosal asked the Institute of Legal Medicine for information on the number of deaths in custody during 2022. The Legal Medicine Institute replied on October 6 that the institution “lacked the authority” to respond and that a request should be made to the Attorney General’s Office and the National Civil Police.

## Background: Chronic Gang Violence in El Salvador

### Gang Violence

Widespread violence and soaring crime rates have affected Salvadorans for decades, ranking El Salvador as one of the most violent countries in the world.<sup>1</sup>

During the 1980s, thousands of Salvadorans fled to the United States, escaping the violence of a brutal 1980-1992 civil war between a civilian-military dictatorship and the leftist guerrilla group known as the Farabundo Martí National Liberation Front (Frente Farabundo Martí para la Liberación Nacional, FMLN).<sup>2</sup> The war led to more than 75,000 deaths.<sup>3</sup>

As they struggled to navigate US asylum and immigration laws and to build a new life in the US, some Salvadorans formed gangs that provided a sense of community, as well as protection from rival groups, and that engaged in a range of criminal acts from very minor to brutally violent.<sup>4</sup> Youth under 18 and adults were involved in these gangs.

US criminal and immigration laws became increasingly harsh in the 1990s and thereafter.<sup>5</sup> Authorities in many US states and localities established databases of alleged gang members, which were notoriously vague and thus ripe for arbitrary and discriminatory application.<sup>6</sup> In most cases, after a criminal conviction US laws mandated deportation

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<sup>1</sup> Robert Muggah and Katherine Aguirre, “The Good News About El Salvador,” *Americas Quarterly*, January 15, 2018, <https://www.americasquarterly.org/article/the-good-news-about-el-salvador/> (accessed September 13, 2022).

<sup>2</sup> Ignacio Martín-Baró, “El Salvador Civil War” (“La guerra civil en El Salvador”), *Colección Digital Ignacio Martín-Baro*, vol. 36 (1981), <https://www.uca.edu.sv/coleccion-digital-IMB/articulo/la-guerra-civil-en-el-salvador/> (accessed September 13, 2022).

<sup>3</sup> Arturo Villeda, “The Attorney General’s Office Launches a Policy to Prosecute War Crimes and Crimes Against Humanity Committed in the Context of the Armed Conflict in El Salvador” (“FGR lanza Política de Persecución Penal de Crímenes de Guerra y Lesa Humanidad en el contexto del conflicto armado en El Salvador”), December 11, 2018, <https://www.fiscalia.gob.sv/fgr-lanza-politica-de-persecucion-penal-de-crimenes-de-guerra-y-lesa-humanidad-en-el-contexto-del-conflicto-armado-en-el-salvador/> (accessed December 2, 2022).

<sup>4</sup> John Raphling (Human Rights Watch), “On Immigrant Policies, Unintended Consequences,” April 17, 2017, <https://www.hrw.org/news/2017/04/17/immigrant-policies-unintended-consequences>; Human Rights Watch, *Closed Doors: Mexico’s Failure to Protect Central American Refugee and Migrant Children* (New York: Human Rights Watch, 2016) <https://www.hrw.org/report/2016/03/31/closed-doors/mexicos-failure-protect-central-american-refugee-and-migrant>.

<sup>5</sup> Scott H. Decker and David C. Pyrooz, eds., *The Handbook of Gangs* (West Sussex: Wiley Blackwell, 2015), p. 482.

<sup>6</sup> Human Rights Watch, “Groups Urge US End Discriminatory ICE ‘Gang’ Prioritization,” April 1, 2021, <https://www.hrw.org/news/2021/04/01/groups-urge-us-end-discriminatory-ice-gang-prioritization>.

once people completed their sentences, which often separated family members and further destabilized communities.<sup>7</sup> Some Salvadorans were deported after serving their sentences for criminal offenses involving extreme violence and others were deported for minor offenses linked to poverty and the circumstances of their lives in the US.<sup>8</sup> These laws were applied to all non-citizens in the US, including Salvadorans, and in many respects also violated international human rights law.<sup>9</sup>

El Salvador, struggling to recover from the war, was ill-prepared to deal with the arrival of large numbers of people deported from the US.<sup>10</sup> The country's socio-political instability, coupled with high levels of poverty, helped push many young people into the gangs that had formed in the US.<sup>11</sup> The circumstances surrounding young people's decisions to join gangs often prompted questions about the voluntariness of these decisions.<sup>12</sup> Gang membership spread throughout El Salvador.

Gangs, locally known as “maras,” are generally viewed as one of the main sources of violence in El Salvador. The most notorious gangs—Mara Salvatrucha (MS-13) and the Eighteenth Street Gang (Barrio 18), which has divided into the Eighteenth Street Gang “Southerners” (Sureños) and the Eighteenth Street Gang “Revolutionaries” (Revolucionarios)—effectively exercise territorial control over specific areas in rural and

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<sup>7</sup> Human Rights Watch, *Forced Apart (By the Numbers): Non-Citizens Deported Mostly for Nonviolent Offenses* (New York: Human Rights Watch, 2009), <https://www.hrw.org/report/2009/04/15/forced-apart-numbers/non-citizens-deported-mostly-nonviolent-offenses>; Human Rights Watch, “Groups Urge US End Discriminatory ICE ‘Gang’ Prioritization,” April 1, 2021, <https://www.hrw.org/news/2021/04/01/groups-urge-us-end-discriminatory-ice-gang-prioritization>.

<sup>8</sup> Decker and Pyrooz, eds., *The Handbook of Gangs*, p. 482; John Raphling (Human Rights Watch), “On Immigrant Policies, Unintended Consequences,” Human Rights Watch, April 17, 2017, <https://www.hrw.org/news/2017/04/17/immigrant-policies-unintended-consequences>; Human Rights Watch, *Forced Apart (By the Numbers)*; Human Rights Watch, *A Price Too High: US Families Torn Apart by Deportations for Drug Offenses* (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2015/06/16/price-too-high/us-families-torn-apart-deportations-drug-offenses>.

<sup>9</sup> “US: 20 Years of Immigrant Abuses,” Human Rights Watch news release, April 25, 2016, <https://www.hrw.org/news/2016/04/25/us-20-years-immigrant-abuses>; Human Rights Watch, *Forced Apart (By the Numbers)*, pp. 79-88.

<sup>10</sup> International Crisis Group, *El Salvador’s Politics of Perpetual Violence* (Brussels: International Crisis Group, 2017), <https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/64-el-salvadors-politics-perpetual-violence> (accessed August 19, 2022).

<sup>11</sup> Oscar Martínez, “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/> (accessed September 3, 2022).

<sup>12</sup> Human Rights Watch, *Closed Doors*, p. 21.

urban settings throughout the country, using brutal violence to extort and intimidate residents.<sup>13</sup>

These gangs obtain funding from a range of illegal activities, including most prominently extortion, and, to a lesser extent, drug trafficking.<sup>14</sup> They are also widely believed to participate in contraband of weapons.<sup>15</sup>

Gangs continue to participate in numerous and serious criminal activities that violate human rights, including recruitment of children, rape and other sexual assault, killings, abductions, and displacement of people from their homes.<sup>16</sup> Gang members sexually assault people on the basis of their gender and real or perceived sexual orientation or gender identity.<sup>17</sup> Many of those who are abducted are later found dead or are never heard from again.<sup>18</sup>

The International Crisis Group estimated in 2017 that the country had suffered “at least 93,000 murders since 1993, over half of which can be attributed to gangs.”<sup>19</sup> El Salvador’s per capita homicide rate fluctuated but was for years among the highest in Latin America.<sup>20</sup>

Disappearances—meaning, in El Salvador and elsewhere in the region, the taking of people against their will, their fate and whereabouts unknown, committed by any

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<sup>13</sup> International Crisis Group, *A Remedy for El Salvador’s Prison Fever* (Brussels: International Crisis Group, 2022), <https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/96-remedy-el-salvadors-prison-fever> (accessed August 19, 2022), p. 4.

<sup>14</sup> International Crisis Group, *El Salvador’s Politics of Perpetual Violence*, p. 9.

<sup>15</sup> Walter Murcia, *El Salvador’s Gangs: Proposals and challenges to socially include youth in contexts of urban violence* (“Las pandillas en El Salvador: Propuestas y desafíos para la inclusión social juvenil en contextos de violencia urbana”) (Santiago: Economic Commission for Latin America, 2015), [https://www.cepal.org/sites/default/files/publication/files/39362/S1501050\\_es.pdf](https://www.cepal.org/sites/default/files/publication/files/39362/S1501050_es.pdf) (accessed November 26, 2022); Arron Daugherty and Elyssa Pachico, “El Salvador Gangs Involved in Arms Trafficking Network,” *Insight Crime*, June 19, 2015, <https://insightcrime.org/news/brief/el-salvador-gangs-involved-arms-trafficking-network/> (accessed October 17, 2022).

<sup>16</sup> Diana Roy, “Why Has Gang Violence Spiked in El Salvador?,” *Council on Foreign Relations*, May 4, 2022, <https://www.cfr.org/in-brief/why-has-gang-violence-spiked-el-salvador-bukele> (accessed November 25, 2022).

<sup>17</sup> Human Rights Watch, *Deported to Danger: United States Deportation Policies Expose Salvadorans to Death and Abuse* (New York: Human Rights Watch, 2020), <https://www.hrw.org/report/2020/02/05/deported-danger/united-states-deportation-policies-expose-salvadorans-death-and>.

<sup>18</sup> *Ibid.*

<sup>19</sup> International Crisis Group, *El Salvador’s Politics of Perpetual Violence*, p. 1.

<sup>20</sup> United Nations Office on Drugs and Crime (UNODC), “Intentional Homicide,” n.d., <https://dataunodc.un.org/dp-intentional-homicide-victims> (accessed November 25, 2022).

perpetrator—have also been a grave concern.<sup>21</sup> In addition to kidnappings to increase control in gang-dominated areas, gangs appear to use disappearances to continue killing while lowering official homicide counts including during negotiations with governments. Some studies indicate that during the 2012 truce between the government and gangs, disappearances rose by a number almost identical to the decline in homicides.<sup>22</sup>

There is no single registry of missing people nationwide. Figures vary by institution, for example, between the Attorney General’s Office and the National Civil Police.<sup>23</sup> The Attorney General’s Office registered more than 22,000 reports of missing people between 2014 and 2019.<sup>24</sup> According to the Foundation for the Study and Application of Law (Fundación de Estudios para la Aplicación del Derecho, FESPAD), a Salvadoran nongovernmental organization, the National Civil Police registered over 12,000 reports in the same period,<sup>25</sup> more than the estimated 8,000 to 10,000 disappeared during the 12-year civil war.<sup>26</sup> Between January and May 2022, FESPAD counted 500 cases of disappearances registered by the National Civil Police.<sup>27</sup>

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<sup>21</sup> “Disappearance” used in this sense is distinct from an “enforced disappearance,” which requires the involvement of state agents, either directly or indirectly through authorization, support, or acquiescence. See, for example, Human Rights Watch, *Mexico’s Disappeared: The Enduring Cost of a Crisis Ignored* (New York: Human Rights Watch, 2013), p. 14, <https://www.hrw.org/report/2013/02/20/mexicos-disappeared/enduring-cost-crisis-ignored>; FESPAD, “Disappearances in El Salvador” (“Desaparición de personas en El Salvador”), April 2021, [https://drive.google.com/file/d/1U6d8M8hoRgZmZojx4gdhnAeu-pn\\_03CN/view](https://drive.google.com/file/d/1U6d8M8hoRgZmZojx4gdhnAeu-pn_03CN/view) (accessed September 1, 2022).

<sup>22</sup> Carlos Carcach and Evelyn Artola, “Disappeared persons and homicide in El Salvador,” *Crime Science Journal*, vol. 5 (2016).

<sup>23</sup> Jeannette Aguilar et al., *The Situation of Security and Justice 2019-2014* (“La situación de la seguridad y la justicia 2009-2014”) (San Salvador: Instituto Universitario de Opinión Pública, 2014), [https://www.uca.edu.sv/iudop/wp-content/uploads/libro\\_la\\_situaci%C3%B3n\\_de\\_la\\_seguridad.pdf](https://www.uca.edu.sv/iudop/wp-content/uploads/libro_la_situaci%C3%B3n_de_la_seguridad.pdf) (accessed November 25, 2022), p. 3.

<sup>24</sup> FESPAD, “Disappearances in El Salvador” (“Desaparición de personas en El Salvador”), April 2021, [https://drive.google.com/file/d/1U6d8M8hoRgZmZojx4gdhnAeu-pn\\_03CN/view](https://drive.google.com/file/d/1U6d8M8hoRgZmZojx4gdhnAeu-pn_03CN/view) (accessed September 1, 2022), p. 42.

<sup>25</sup> *Ibid.*

<sup>26</sup> “Salvadoran Commission Close to Resolving First Case of Disappearance in War” (“Comisión salvadoreña cerca de resolver primer caso de desaparición en guerra”), *La Prensa Gráfica*, August 31, 2019, <https://www.laprensagrafica.com/elsalvador/Comision-salvadorena-cerca-de-resolver-primer-caso-de-desaparicion-enguerra-20190831-0264.html> (accessed September 1, 2022); Celia Medrano, “El Salvador Criminalizes its Dissappeared Women” (“El Salvador criminaliza a sus desaparecidas”), *El Faro*, July 14, 2021, [https://elfaro.net/es/202107/columnas/0000025601-el-salvador-criminaliza-a-sus-desaparecidas?u=st-full\\_text=all&tpl=11&utm\\_source=farotext&utm\\_medium=initdocu&utm\\_campaign=text-0000025601\\_el-salvador-criminaliza-a-sus-desaparecidas](https://elfaro.net/es/202107/columnas/0000025601-el-salvador-criminaliza-a-sus-desaparecidas?u=st-full_text=all&tpl=11&utm_source=farotext&utm_medium=initdocu&utm_campaign=text-0000025601_el-salvador-criminaliza-a-sus-desaparecidas) (accessed September 1, 2022).

<sup>27</sup> FESPAD, “Statement in commemoration of the International Day of Missing Persons” (“Comunicado en conmemoración del Día Internacional de las Personas Desaparecidas”), August 30, 2022, <https://www.fespad.org.sv/comunicado-en-conmemoracion-del-dia-internacional-de-las-personas-desaparecidas/> (accessed September 1, 2022).

Family members of victims face significant obstacles to filing complaints regarding their loved ones who have gone missing, the Inter-American Commission on Human Rights (IACHR) reported in 2021, and delays in investigations—including failure to respond in the critical first hours after a disappearance—are common.<sup>28</sup> Few cases are investigated, FESPAD found, so information on who is responsible for the disappearances is limited.<sup>29</sup>

Gang membership appears to have significantly increased in recent decades. According to unverified figures that Minister of Justice and Public Safety Gustavo Villatoro shared during an interview, there are 76,000 gang members in El Salvador.<sup>30</sup> In 2003, a Central American University (UCA) study estimated the figure to be 20,000.<sup>31</sup> Some studies suggest that, prior to the state of emergency, the gangs were present in 90 percent of the country's municipalities.<sup>32</sup> Root causes of gang membership, particularly among children and young people, include poverty, social marginalization, ineffective police and justice systems, and poor security policies.<sup>33</sup>

While gangs are responsible for egregious crimes and Salvadorans suffer violations of their human rights as a result, individuals who have been deported from the US are themselves targeted by gangs and by Salvadoran police and security forces for abuse and even killings, a problem that Human Rights Watch and other experts have investigated.<sup>34</sup>

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<sup>28</sup> Inter-American Commission on Human Rights, *Situation of Human Rights in El Salvador* (Washington: Inter-American Commission on Human Rights, 2021), [http://www.oas.org/en/iachr/reports/pdfs/2021\\_ElSalvador-EN.pdf](http://www.oas.org/en/iachr/reports/pdfs/2021_ElSalvador-EN.pdf) (accessed December 5, 2022), p. 31.

<sup>29</sup> FESPAD, “Disappearances in El Salvador” (“Desaparición de personas en El Salvador”), April 2021, [https://drive.google.com/file/d/1U6d8M8hoRgZmZojx4gdhnAeu-pn\\_03CN/view](https://drive.google.com/file/d/1U6d8M8hoRgZmZojx4gdhnAeu-pn_03CN/view) (accessed September 1, 2022), p. 112.

<sup>30</sup> “Interview with the justice and public safety minister,” *Frente a Frente*, November 7, 2022, <https://www.facebook.com/frenteafrenteTCS/videos/446467967423582> (accessed November 14, 2022).

<sup>31</sup> Universidad Centroamericana José Simeón Cañas, Center for Information, Documentation, and Support to Investigations, “The Unresolved Problem of Gangs,” August 2003, <https://www.uca.edu.sv/publica/proceso/proc1059.html> (accessed November 15, 2022).

<sup>32</sup> International Crisis Group, *A Remedy for El Salvador's Prison Fever*, p. 4.

<sup>33</sup> Max G. Manwaring, *A Contemporary Challenge to State Sovereignty: Gangs and Other Illicit Transnational Criminal Organizations in Central America, El Salvador, Mexico, Jamaica, and Brazil* (Indiana: Strategic Studies Institute, U.S. Army War College, 2007), p. 14.

<sup>34</sup> See Human Rights Watch, *Deported to Danger*; Harvard Law School Human Rights Clinic, *No Place to Hide: Gang, State, and Clandestine Violence in El Salvador*, February 2007, <https://static1.squarespace.com/static/5b3538249d5abb21360e858f/t/5cabca6ce4966bf580ea3471/1554762350561/No+Place+to+Hide+Cavallaro+2007.pdf> (accessed November 15, 2022), p. 95.

## Salvadoran Security Forces

The National Civil Police, created in 1992 by the peace accords that ended the civil war, is responsible for El Salvador’s public safety. It reports to the Ministry of Justice and Public Safety, and was created to be a civilian, apolitical, and professional force.<sup>35</sup>

The peace accords stipulate that the armed forces, under the authority of the Ministry of Defense,<sup>36</sup> are responsible for the country's “national defense” and can play a role in public safety “only under very exceptional circumstances.”<sup>37</sup> But successive governments have repeatedly involved them in the maintenance of order and public safety.

No “proper legal framework that determines the specific role of the military units involved in public security tasks” has been invoked for such operations, according to a report by the United Nations Special Rapporteur on extrajudicial, summary, or arbitrary executions, who visited El Salvador in early 2018.<sup>38</sup> Increasingly, governments have deployed joint police-military forces in gang-affected communities and during confrontations.<sup>39</sup>

Security forces, including members of the police and the military, have long been responsible for rights violations, including arbitrary detentions, excessive use of force, extrajudicial killings, and the formation of so-called “death squads,” which have committed abuses with either the participation or acquiescence of members of security forces.<sup>40</sup>

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<sup>35</sup> Organic Law of the National Civil Police of El Salvador (*Ley Orgánica de la Policía Nacional Civil*), Decree 269, signed into law on December 6, 2001, <https://www.transparencia.gob.sv/institutions/igsp/documents/201877/download> (accessed August 24, 2022).

<sup>36</sup> Organic Law of the Armed Forces of El Salvador (*Ley Orgánica de la Fuerza Armada de El Salvador*), Decree 353, signed into law on July 18, 1998, [http://www.vertic.org/media/National%20Legislation/EL\\_Salvador/SV\\_Ley\\_Organica\\_de\\_la\\_Fuerza\\_Armada.pdf](http://www.vertic.org/media/National%20Legislation/EL_Salvador/SV_Ley_Organica_de_la_Fuerza_Armada.pdf) (accessed August 24, 2022).

<sup>37</sup> “El Salvador: Peace Agreement,” U.N. Doc. A/46/864-S/23501, January 16, 1992, [https://peacemaker.un.org/sites/peacemaker.un.org/files/SV\\_920116\\_ChapultepecAgreement.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/SV_920116_ChapultepecAgreement.pdf) (accessed August 24, 2022), p. 3.

<sup>38</sup> United Nations Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador, U.N. Doc. A/HRC/38/44/Add.2, December 7, 2018, <https://digitallibrary.un.org/record/1663022?ln=en> (accessed August 22, 2022), p. 6.

<sup>39</sup> International Crisis Group, *El Salvador's Politics of Perpetual Violence*, p. 16.

<sup>40</sup> Inter-American Commission on Human Rights, *Situation of Human Rights in El Salvador*, p. 8.

Widespread impunity exacerbates the problem. For example, between 2014 and 2018, police officers committed 116 extrajudicial killings, the Human Rights Ombudsperson's Office reported.<sup>41</sup> The Office found that only two had resulted in convictions as of late 2018.<sup>42</sup> The legal framework, including a 2013 reform to the Code of Criminal Procedure granting judges overbroad powers to dismiss charges against officers when they commit crimes "during the fulfillment of their duties," has contributed to impunity.<sup>43</sup>

Human rights monitors have also expressed concern that extrajudicial executions of alleged gang members are being portrayed as killings during clashes between security forces and gang members. The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions noted, in her report on El Salvador, that during armed confrontations, "alleged gang members were reportedly killed execution-style and the crime scene tampered with by those responsible or others, including by placing weapons and drugs alongside the dead bodies."<sup>44</sup>

## Past Responses to Gang Violence

Authorities in El Salvador have historically been largely heavy handed and ineffective in protecting the population from gang violence.

Iron-fist public safety policies that rely on mass detention and incarceration of suspected gang members have been common. Politicians appear to have deployed such measures in part to gain popular support and enhance their party's appeal during electoral campaigns.<sup>45</sup>

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<sup>41</sup> Human Rights Ombudsperson's Office, "Special Report by the Human Rights Ombudswoman Raquel Caballero de Guevara, on Extralegal Executions attributed to the National Civil Police, in El Salvador, 2014-2018" ("Informe especial de la señora Procuradora para la Defensa de los Derechos Humanos, licenciada Raquel Caballero de Guevara, sobre las Ejecuciones Extralegales atribuidas a la Policía Nacional Civil, en El Salvador, período 2014-2018"), August 2019, [https://elfaro.net/attachment/1076/Informe%20especial%20sobre%20ejecuciones%20extralegales.%20PDDH.pdf?g\\_download=1](https://elfaro.net/attachment/1076/Informe%20especial%20sobre%20ejecuciones%20extralegales.%20PDDH.pdf?g_download=1) (accessed November 23, 2022), p. 22.

<sup>42</sup> *Ibid.*, p. 87.

<sup>43</sup> United Nations Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions, "El Salvador End of Mission Statement," February 5, 2018, <https://www.ohchr.org/en/statements/2018/02/el-salvador-end-mission-statement> (accessed August 22, 2022).

<sup>44</sup> United Nations Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador, U.N. Doc. A/HRC/38/44/Add.2, December 7, 2018, <https://digitallibrary.un.org/record/1663022?ln=en> (accessed August 22, 2022), para. 39.

<sup>45</sup> Sonja Wolf, *Mano Dura: The Politics of Gang Control in El Salvador* (Austin: University of Texas Press, 2017), p. 51.

The governments of Presidents Francisco Flores (1999-2004) and Antonio Saca (2004-2009) launched anti-gang plans in El Salvador. The “Iron Fist Plan” (Plan Mano Dura) of 2003 and the “Super Iron Fist Plan” (Plan Súper Mano Dura), in 2004, mostly deployed joint police and military anti-gang squads to patrol the streets.<sup>46</sup> Mass arrests of alleged gang members reportedly relied on insubstantial evidence, including tattoos and the overall appearance of detainees.<sup>47</sup>

In October 2003, authorities passed an anti-gang law (Ley Anti Maras) with a six-month sunset clause, criminalizing gang membership and lowering the age of legal responsibility to 12.<sup>48</sup> The Supreme Court declared it unconstitutional in early April 2004, before its intended expiration date.<sup>49</sup>

But in the meantime, more than 19,000 people were arrested between July 2003 and August 2004, FESPAD reported in 2005.<sup>50</sup> Around 84 percent of those detained were later acquitted by Salvadoran judges, in most cases, due to lack of evidence.<sup>51</sup> Other studies report similar rates.<sup>52</sup>

Punitive security policies encouraged police and military crackdowns that, in turn, contributed to mass imprisonment, aggravating overcrowding in the prison system. Gangs consolidated their power within several prisons across the country.<sup>53</sup> Enabled by prison policies that segregated detainees according to their membership, gangs were able to strengthen their structures from within the prisons.<sup>54</sup>

The administration of President Mauricio Funes (2009-2014), representing a party going by the same name as the former guerilla group—the FMLN— launched a process of

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<sup>46</sup> Ibid.

<sup>47</sup> Ibid., p. 51.

<sup>48</sup> Anti-Gangs Law (Ley Anti Maras), Decree 158, signed into law on October 10, 2003, <https://www.refworld.org/es/type,LEGISLATION,,,57f7956f6f,o.html> (accessed September 21, 2022).

<sup>49</sup> FESPAD, *Annual Report on Juvenile Criminal Justice 2004* (Informe Anual Sobre Justicia Penal Juvenil 2004), January 31, 2005, <https://www.fespad.org.sv/informe-anual-sobre-justicia-penal-juvenil-el-salvador-2004/> (accessed October 25, 2022), p. 29.

<sup>50</sup> Ibid., p. 28.

<sup>51</sup> Ibid.

<sup>52</sup> Wolf, *Mano Dura: The Politics of Gang Control in El Salvador*, p. 51.

<sup>53</sup> Inter-American Commission on Human Rights, *Situation of Human Rights in El Salvador*, p. 18.

<sup>54</sup> Wolf, *Mano Dura: The Politics of Gang Control in El Salvador*, p. 72.

negotiation, in 2012, with gang leaders from the MS-13 and both factions of the Eighteenth Street Gang to reduce killings in exchange for better conditions in prisons.<sup>55</sup> The process, commonly referred to as “the truce” (la tregua), reportedly included cash payments to gang leaders and several transfers of gang leaders from maximum security prisons to less restrictive detention facilities.<sup>56</sup>

Homicide rates declined significantly between 2011 and 2013: from 64 and 70 per 100,000 people in 2010 and 2011, respectively, to 41 and 40 per 100,000 in 2012 and 2013.<sup>57</sup> But disappearances surged and numerous studies showed that, throughout the process, gangs continued exerting control over local territory and were involved in other crimes, including extortion and threats.<sup>58</sup>

In May 2014, the truce broke down, generating a surge of gang violence.<sup>59</sup> By 2015, El Salvador had the highest homicide rate in the hemisphere, with 105 murders per 100,000 people.<sup>60</sup>

The truce also had the unintended consequence of increasing gangs’ awareness of their political power.<sup>61</sup> Repeatedly, they have unleashed waves of violence, seemingly to push governments into making concessions.<sup>62</sup>

In 2014, Salvador Sánchez Cerén (2014-2019), also from the FMLN, won the presidency. In mid-2016, as the murder rate escalated, the Legislative Assembly adopted “urgent” and “provisional” measures for a maximum period of one year in seven detention centers to

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<sup>55</sup> José Miguel Cruz, “The Politics of Negotiating with Gangs: The Case of El Salvador,” *Society for Latin American Studies*, vol. 38 (2019), p. 7.

<sup>56</sup> Oscar Martínez et al., “Government Negotiates Reduction in Homicides with Gangs,” *El Faro*, March 14, 2012, <https://www.elfaro.net/es/201203/noticias/8061/> (accessed August 22, 2022); Wolf, *Mano Dura: The Politics of Gang Control in El Salvador*, p. 232.

<sup>57</sup> United Nations Office on Drugs and Crime, “Homicide Country Data,” n.d., <https://dataunodc.un.org/content/data/homicide/homicide-rate> (accessed August 19, 2022).

<sup>58</sup> Cruz, “The Politics of Negotiating with Gangs: The Case of El Salvador,” *Society for Latin American Studies*, p. 7; International Crisis Group, *El Salvador’s Politics of Perpetual Violence*, p. 10; Carcach and Artola, “Disappeared persons and homicide in El Salvador,” *Crime Science*.

<sup>59</sup> United Nations Office on Drugs and Crime, “Homicide Country Data,” n.d., <https://dataunodc.un.org/content/data/homicide/homicide-rate> (accessed August 19, 2022).

<sup>60</sup> *Ibid.*

<sup>61</sup> Manuel Meléndez-Sánchez, “What’s Behind the Spike of Violence in El Salvador?,” *Lawfare*, <https://www.lawfareblog.com/whats-behind-spike-violence-el-salvador> (accessed August 22, 2022).

<sup>62</sup> *Ibid.*

“ensure the effectiveness of the prison system” and “protect society from criminal actions” occurring in prisons.<sup>63</sup> The measures included 24-hour confinement of prisoners to their cells, suspension of all family visits, and denial of access by national and international organizations to certain prisons.<sup>64</sup>

The measures, reportedly adopted to regain control over prisons, exacerbated deplorable conditions.<sup>65</sup> Although adopted as temporary, they have been used repeatedly, subjecting thousands of people to prolonged detention in isolation, including prolonged solitary confinement and other inhumane conditions that violate the international prohibition on torture and other ill-treatment.<sup>66</sup>

Additionally, in 2018, the Legislative Assembly amended the Penitentiary Law to allow the directors of detention facilities to impose extraordinary measures on a permanent basis as, according to lawmakers, they had become a critical tool used to control the penitentiary system.<sup>67</sup> Extraordinary measures included conducting online hearings for detainees at proceedings, granting discretionary powers to prison directors to restrict visits for up to 30 days, and transferring detainees from and to different prisons.<sup>68</sup>

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<sup>63</sup> Special, Transitory and Extraordinary Provisions in Penitentiary Centers, Penitentiary Farms, Intermediary Centers, and Temporary Confinement Centers (Disposiciones especiales, transitorias y extraordinarias en los centros penitenciarios, granjas penitenciarias, centros intermedios y centros temporales de reclusión), Decree 321, signed into law on April 1, 2016, [https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117\\_073652826\\_archivo\\_documento\\_legislativo.pdf](https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117_073652826_archivo_documento_legislativo.pdf) (accessed August 26, 2022).

<sup>64</sup> United Nations Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador, U.N. Doc. A/HRC/38/44/Add.2, December 7, 2018, <https://digitallibrary.un.org/record/1663022?ln=en> (accessed August 22, 2022), p. 5.

<sup>65</sup> *Ibid.*, p. 10.

<sup>66</sup> Inter-American Commission on Human Rights, *Situation of Human Rights in El Salvador*, p. 68; Jeannette Aguilar et al., “Extraordinary measures: the narratives of the dehumanization” (“Medidas extraordinarias: las narrativas de la deshumanización”), Instituto Universitario de Opinión Pública, Universidad Centroamericana José Simeón Cañas, January 2020, <https://uca.edu.sv/iudop/wp-content/uploads/LIBRO-MEDIDAS-EXTRAORDINARIAS-IUDOP-Term-client-1.pdf> (accessed November 15, 2022), p. 7.

<sup>67</sup> “El Salvador: Regime and Conditions of People Deprived from Liberty. Impact and Effect on their Human Rights” (“El Salvador: Régimen y Condiciones de las Personas Privadas de la Libertad. Impactos y Efectos en sus Derechos Humanos”), report by civil society organizations at the 178 session period of the Inter-American Commission on Human Rights, December 3, 2020, [https://www.dplf.org/sites/default/files/informe\\_audiencia\\_cidh\\_el\\_salvador\\_regimen\\_y\\_condiciones\\_de\\_las\\_ppl.pdf](https://www.dplf.org/sites/default/files/informe_audiencia_cidh_el_salvador_regimen_y_condiciones_de_las_ppl.pdf) (accessed September 4, 2022).

<sup>68</sup> Reforms to the Penitentiary Law (Reformas a la Ley Penitenciaria), Decree 93, signed into law on August 31, 2018, <https://www.transparencia.gob.sv/institutions/dgcp/documents/257288/download> (accessed September 1, 2022).

As a part of their anti-gang strategy, authorities have also pursued criminal groups through repressive anti-gang legislation, criminalizing gang membership, and toughening penalties.

In 2006, legislators enacted the Special Law against Acts of Terrorism, defining “terrorist organizations” broadly. The law imposes harsh punishments for acts committed by organizations that “by their form of execution, or means and methods employed, evidence the intention to provoke a state of alarm, fear or terror in the population.”<sup>69</sup> Among other concerns, that definition allows acts to be criminalized as terrorist for causing “fear,” a relatively low threshold. Moreover, although the law requires intent to cause alarm, fear or terror within the public, it does not require intent to endanger lives, physical or mental integrity, or other harms, thereby allowing the authorities to prosecute as terrorism certain acts that intend to provoke fear but that otherwise may be unintentional or reckless.

In 2010, during the Funes administration, the Legislative Assembly passed a law banning gangs and criminal groups, associations, and organizations.<sup>70</sup> In 2015, the Supreme Court issued a ruling classifying MS-13, the Eighteenth Street Gang and other gangs as “terrorists” due to their attempts to “arrogate the exercise of legal authority” from the state.<sup>71</sup>

The enforcement of counterterrorism laws against alleged gang members has led to charges of terrorism against thousands of people, many of whom have been detained but never convicted. The IACHR reported that between 2016 and September 2019, over 18,000 persons were charged for their alleged “involvement in terrorist organizations,” including more than 3,000 who were convicted and over 6,900 who were acquitted after spending “approximately two years in pretrial detention.”<sup>72</sup> The UN Special Rapporteur on

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<sup>69</sup> Special Law against Acts of Terrorism (Ley Especial contra Actos de Terrorismo), Decree 108, signed into law on September 21, 2006, <https://www.acnur.org/fileadmin/Documentos/BDL/2016/10430.pdf> (accessed August 25, 2022), art. 4; “El Salvador: Terrorism Law Misused Against Protesters,” Human Rights Watch news release, July 30, 2007, <https://www.hrw.org/news/2007/07/30/el-salvador-terrorism-law-misused-against-protesters>.

<sup>70</sup> Law Banning Gangs, Bands, Groups, Associations and Organizations of a Criminal Nature (Ley de Proscripción de Maras, Pandillas, Agrupaciones, Asociaciones y Organizaciones de Naturaleza Criminal), Decree 458, signed into law on September 10, 2010, <https://www.refworld.org/docid/56a24bd44.html> (accessed August 25, 2022), art. 1.

<sup>71</sup> Constitutional Chamber of the Supreme Court, resolution 22-2007AC, August 24, 2015, <https://www.jurisprudencia.gob.sv/DocumentosBoveda/D/1/2010-2019/2015/08/B254E.PDF> (accessed August 26, 2022).

<sup>72</sup> Inter-American Commission on Human Rights, “IACHR presents its preliminary observations following its in loco visit to El Salvador,” December 27, 2019, [https://www.oas.org/en/iachr/media\\_center/PReleases/2019/335.asp](https://www.oas.org/en/iachr/media_center/PReleases/2019/335.asp) (accessed September 26, 2022).

extrajudicial, summary, or arbitrary executions noted that the “disparity” between the number of people charged and those convicted “could indicate that the charges are used primarily for the purpose of (arbitrary) detention.”<sup>73</sup>

In 2016, the Legislative Assembly further expanded the definition of “terrorist organization” to include not only those organizations that seek to “provoke a state of alarm, fear or terror in the population,” but also those that have the intention of “assuming the exercise of powers that belong to the sovereignty of the states or systematically affecting the fundamental rights of the population or part of it.”<sup>74</sup>

### Another Way Forward?

There is wide consensus among independent security experts that past iron fist strategies in El Salvador have proven counterproductive to addressing gang violence and have led to mass human rights violations.<sup>75</sup> In turn, truces between the government and gangs have often caused only a short-term reduction of killings, followed by long-term surges in gang violence.<sup>76</sup>

Historically, authorities have measured their success in lowering homicide rates as the main indicator of a reduction of gang violence.<sup>77</sup> Although lowering homicide rates is an

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<sup>73</sup> United Nations Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador, U.N. Doc. A/HRC/38/44/Add.2, December 7, 2018 <https://digitallibrary.un.org/record/1663022?ln=en> (accessed August 22, 2022), para. 31.

<sup>74</sup> Amendments to the Special Law Against Terrorist Acts (Reformas a la Ley Especial contra Actos de Terrorismo), Decree 348, signed into law on May 3, 2016, <https://www.diariooficial.gob.sv/seleccion/29285> (accessed November 15, 2022).

<sup>75</sup> Moritz Schuberth, “Beyond Gang Truces and Mano Dura Policies: Towards Substitutive Security Governance in Latin America,” *Stability: International Journal of Security and Development*, vol. 5 (2016), p. 5; Wolf, *Mano Dura: The Politics of Gang Control in El Salvador*, p. 147; David Brotherton et al., *Large-scale Rehabilitation and Reentry of Incarcerated Persons in El Salvador* (Washington: World Bank, 2021), p. 23; Robert Muggah et al., “Iron-Fist”: *The Costs of Repression and the Benefits of Prevention for the Latin American Youth* (“La ‘Mano Dura’: Los costos de la represión y los beneficios de la prevención para los jóvenes en América Latina”) (Rio de Janeiro: Instituto Igarapé, 2018), <https://idpc.net/es/publications/2018/08/la-mano-dura-los-costos-de-la-represion-y-los-beneficios-de-la-prevencion-para-los-jovenes-en-america-latina> (accessed November 16, 2022), p. 10; Oliver Jütersonke et al., “Gangs, Urban Violence, and Security Interventions in Central America,” *Security Dialogue*, vol. 40 (2009), p. 10.

<sup>76</sup> Schuberth, “Beyond Gang Truces and Mano Dura Policies: Towards Substitutive Security Governance in Latin America,” *Stability: International Journal of Security and Development*, p. 6; Cruz, “The Politics of Negotiating with Gangs: The Case of El Salvador,” *Society for Latin American Studies*, p. 9.

<sup>77</sup> “In the UN, Funes Highlights Reduction in Homicides Thanks to a Truce Between Gangs” (“Funes destaca ante ONU reducción de homicidios gracias a tregua entre pandillas”), *AFP – El Faro*, September 25, 2012, <https://elfaro.net/es/201209/noticias/9760/Funes-destaca-ante-ONU-reduccion-de-homicidios-gracias-a-tregua-entre-pandillas.htm> (accessed November 27, 2022); Office of the President, “Forcefulness of the War Against Gangs is

extremely important part of improving security, a successful security plan should also include assessments of impact on gangs' territorial control and membership and data on other offenses, such as sexual violence, disappearances, and extortion.<sup>78</sup>

To dismantle gangs and prevent further cycles of violence, El Salvador's government should develop a comprehensive policy that tackles the root causes of gang violence, including in particular high levels of poverty and social exclusion and limited economic and educational prospects.<sup>79</sup> The government should also examine ways of more effectively addressing the illegal economies that allow gangs to thrive and entrench their control over territorial enclaves, most notably through extortion.<sup>80</sup> It should also prioritize strategic criminal investigations over mass arrests and prosecutions.

Security experts have found that a large part of people who join gangs in El Salvador do so at age 15 or younger, and come from underprivileged backgrounds, with little access to education and economic opportunities.<sup>81</sup>

Just over 30 percent of the population in El Salvador was living in poverty in 2020 and over 8 percent in extreme poverty.<sup>82</sup> According to UNICEF, multidimensional poverty in El

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Reflected in the 204 Days Without Homicides During the Administration of President Nayib Bukele" ("Contundencia de la Guerra contra las pandillas se refleja en los 204 días sin homicidios en la administración del Presidente Nayib Bukele"), September 29, 2022, <https://www.presidencia.gob.sv/contundencia-de-la-guerra-contra-las-pandillas-se-refleja-en-los-204-dias-sin-homicidios-en-la-administracion-del-presidente-nayib-bukele/> (accessed November 27, 2022).

<sup>78</sup> Francisco Gutiérrez-Sanín and Elisabeth Jean Wood, "What Should We Mean by 'Pattern of Political Violence'? Repertoire, Targeting, Frequency, and Technique," *Perspectives on Politics*, vol. 15 (2017), p. 29; Juan Carlos Garzón-Vergara, *Which is the relationship between organized crime and homicide in Latin America?* ("¿Cuál es la relación del crimen organizado y el homicidio en América Latina?") (Rio de Janeiro: Instituto Igarapé, 2016), <https://storage.ideaspaz.org/documents/576973cc56899.pdf> (accessed November 16, 2022), p. 13.

<sup>79</sup> Manwaring, *A Contemporary Challenge to State Sovereignty: Gangs and Other Illicit Transnational Criminal Organizations in Central America, El Salvador, Mexico, Jamaica, and Brazil*, p. 14.

<sup>80</sup> International Crisis Group, *Mafia of the Poor: Gang Violence and Extortion in Central America*, April 6, 2017, <https://www.crisisgroup.org/latin-america-caribbean/central-america/62-mafia-poor-gang-violence-and-extortion-central-america> (accessed November 15, 2022); Brotherton et al., *Large-scale Rehabilitation and Reentry of Incarcerated Persons in El Salvador*, p. 25.

<sup>81</sup> Sonja Wolf, "Mara Salvatrucha: The Most Dangerous Street Gang in the Americas?," *Latin American Politics and Society*, vol. 54 (2012); José Miguel Cruz et al., "The New Face of Street Gangs: The Gang Phenomenon in El Salvador," *Florida International University*, <https://lacc.fiu.edu/research/the-new-faces-of-street-gangs-in-central-america/the-new-face-of-street-gangs-the-gang-phenomenon-in-el-salvador-eng.pdf> (accessed November 17, 2022); Alberto Martínez Reyes and José Javier Navarro Pérez, "Attraction or Recruitment? Causes that Motivate Salvadoran Adolescents to Join Gangs" ("¿Atracción o Reclutamiento? Causas que Motivan el Ingreso en Las Pandillas de los/as Adolescentes Salvadoreños/as"), *Revista Prisma Social*, vol. 23 (2018), <https://revistaprismasocial.es/article/view/2732> (accessed November 16).

<sup>82</sup> Economic Commission for Latin America (ECLA), Statistical Databases and Publications, [https://statistics.cepal.org/portal/cepalstat/dashboard.html?indicator\\_id=3289&area\\_id=935&lang=en](https://statistics.cepal.org/portal/cepalstat/dashboard.html?indicator_id=3289&area_id=935&lang=en) (accessed November 17, 2022).

Salvador is concentrated in families with children, where its “incidence is twice that of adult-only households.”<sup>83</sup> UNICEF estimates that six out of ten schools in the country are ill-prepared to face environmental risks and disasters. According to UNICEF, El Salvador’s out-of-school rate for lower secondary school in 2020 was 11.5 percent, compared to an average rate of 6.8 percent across Latin America.<sup>84</sup>

El Salvador’s government should prioritize addressing the socioeconomic conditions that drive children and young people to join gangs in the first place, including low school attendance and early dropout, poverty, and lack of access to economic opportunities, as well as violence at home or at school.<sup>85</sup> Independent security experts across the globe have consistently found that programs designed to prevent the involvement of young people in crime have had a positive impact in curbing violence.<sup>86</sup>

Experts on crime and security have noted that criminal investigations are likely to be more effective in addressing organized crime when they strategically prioritize violent crimes by higher-level or chronic perpetrators, instead of heavily criminalizing broad types of behavior.<sup>87</sup> Such strategies can help ensure meaningful justice for victims, reduce prison overcrowding, and prevent a sense of widespread impunity that can foster additional violence in the longer-term.<sup>88</sup>

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<sup>83</sup> UNICEF, “Country Office Annual Report 2021. El Salvador,” 2021, <https://www.unicef.org/media/116261/file/El-Salvador-2021-COAR.pdf> (accessed November 17, 2022), p. 1.

<sup>84</sup> UNICEF, *Education in Latin America at a crossroads*, 2022, <https://www.unicef.org/lac/media/37791/file/Education%20in%20Latin%20America%20and%20the%20Caribbean%20at%20a%20crossroads.pdf> (accessed November 24, 2022), pp. 25, 55.

<sup>85</sup> Erika Gebo et al., eds., *Looking Beyond Suppression: Community Strategies to Reduce Gang Violence* (Lanham: Lexington Books, 2019), p. 47.

<sup>86</sup> Muggah et al., “*Iron-Fist: The Costs of Repression and the Benefits of Prevention for the Latin American Youth* (“La ‘Mano Dura’: Los costos de la represión y los beneficios de la prevención para los jóvenes en América Latina”), p. 14; Organisation for Economic Co-operation and Development (OECD), “Reducing violence in El Salvador: What it will take,” January 17, 2018, <https://oecd-development-matters.org/2018/01/17/reducing-violence-in-el-salvador-what-it-will-take/> (accessed November 15, 2022).

<sup>87</sup> Miguel Emilio La Rota and Carolina Bernal Uribe, *Irrational Efforts: Criminal investigation of Homicide and Other Complex Crimes* (“Esfuerzos Irracionales: Investigación penal del homicidio y otros delitos complejos”) (Bogotá: Dejusticia, 2014), <https://www.dejusticia.org/publication/esfuerzos-irracional-es-investigacion-penal-del-homicidio-y-otros-delitos-complejos/> (accessed November 15, 2022), pp. 27-28; Vanda Felbab-Brown, “Focused Deterrence, Selective Targeting, Drug Trafficking and Organized Crime: Concepts and Practicalities,” *International Drug Policy Consortium*, vol. 2 (2013), p. 4.

<sup>88</sup> La Rota and Bernal Uribe, *Irrational Efforts: Criminal investigation of Homicide and Other Complex Crimes* (“Esfuerzos Irracionales: Investigación penal del homicidio y otros delitos complejos”), p. 66.

Conversely, policies that target low rank-and-file members have been found to be “the least efficacious strategy” as these “rarely alter[] the behavior of organized crime groups or incapacitate[] them.”<sup>89</sup> Such overbroad criminalization strategies, on the contrary, undermine the legitimacy of authorities’ efforts and lead to prison overcrowding, which creates conditions for gangs to strengthen their criminal capacity.<sup>90</sup>

This analysis suggests that rather than engaging in mass arrests and prosecutions, El Salvador should prioritize strategic criminal investigations—something it has not done. Efforts to reduce corruption and links between the police and gangs, and to ensure accountability for police abuses, including excessive use of force and extrajudicial executions, are also critical to build trust between law enforcement and local communities, which is necessary for more effective policing.<sup>91</sup>

To implement any such policies, El Salvador needs to bolster the capacity of judicial officers to conduct serious criminal investigations, as well as to take serious steps to protect prosecutors and judges and ensure that they are free from undue interference with their independence.<sup>92</sup> Additionally, authorities would need to review the country’s laws and policies and reform them to encourage a focus on criminal prosecutions of violent abuses, particularly those committed by senior or chronic perpetrators, as opposed to a broad focus on gang membership.

A large number of gang members in El Salvador are believed to be interested in leaving their gangs.<sup>93</sup> However, meaningful state action is needed to make such disengagement viable and safe, including by finding legal paths to actively reintegrate and protect people

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<sup>89</sup> Felbab-Brown, “Focused Deterrence, Selective Targeting, Drug Trafficking and Organized Crime: Concepts and Practicalities,” *International Drug Policy Consortium*, p. 12.

<sup>90</sup> Jonathan D. Rosen, “Understanding support for tough-on-crime policies in Latin America: The cases of Mexico, El Salvador, and Honduras,” *Latin American Policy*, vol. 12 (2021), p. 5. See also, Francis T. Cullen et al., “Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science,” *The Prison Journal*, vol. 91 (2011); Benjamin Lessing, “Counterproductive punishment: How prison gangs undermine state authority,” *Rationality and Society*, vol. 29 (2017). See also, Jütersonke et al., “Gangs, Urban Violence, and Security Interventions in Central America,” *Security Dialogue*.

<sup>91</sup> International Crisis Group, *El Salvador’s Politics of Perpetual Violence*, p. iii.

<sup>92</sup> Guillermo Trejo and Camilo Nieto Matiz, “Containing Large-Scale Criminal Violence through Internationalized Prosecution,” *Comparative Political Studies*, vol. 0 (2022), p. 18; Mauricio Rivera, “The sources of social violence in Latin America: An empirical analysis of homicide rates, 1980-2010,” *Journal of Peace Research*, vol. 53 (2015), p. 95.

<sup>93</sup> Adrian Bergmann, “Shut In, Shut Out: Barriers and Opportunities for Gang Disengagement in El Salvador,” *Critical Criminology*, vol. 30 (2022).

who want to leave organized crime and do not have pending charges for serious abuses.<sup>94</sup> This includes establishing programs to address social stigma, including through tattoo removal, access to work and educational opportunities, protection, and psychosocial assistance.<sup>95</sup>

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<sup>94</sup> Ibid.

<sup>95</sup> Wolf, *Mano Dura: The Politics of Gang Control in El Salvador*, p. 14; Sonja Wolf, “El Salvador’s Pandilleros Calmados: The Challenges of Contesting Mano Dura through Peer Rehabilitation and Empowerment,” *Latin American Research*, vol. 31 (2012), p. 198.

## The Bukele Administration's Assault on the Rule of Law

In the run-up to the 2019 elections, President Bukele campaigned on an anti-establishment platform and won more than 53 percent of the vote.<sup>96</sup> Since his inauguration in June 2019, he has used his overwhelming popularity to undermine democratic checks and balances, limit transparency and accountability, and attack independent journalists and civil society groups.

### Dismantling Democratic Institutions

The Bukele administration has undermined the independence of virtually all government bodies that could serve as check to the executive branch.

Shortly after taking office, President Bukele aggressively confronted the legislature and the Supreme Court over funding for his security plan and his harsh enforcement of a Covid-19 quarantine. In particular:

- In February 2020, President Bukele entered the Legislative Assembly, where his party held a minority, with armed soldiers, in an apparent effort to intimidate legislators into approving a \$109 million loan from the Central American Bank for Economic Integration (CABEI) for security forces.<sup>97</sup> After occupying the chair of the Assembly's president, he announced he would give it "a week to approve the loan." He threatened to remove lawmakers from the Assembly, if needed.
- The government repeatedly defied court rulings related to its response to the Covid-19 pandemic, including on its arbitrary detention of hundreds of people in containment centers where there was an increased risk of spreading Covid-19.<sup>98</sup> After the Constitutional Chamber of the Supreme Court issued rulings in March and April 2020 that limited the government's ability to detain people under the lockdown, President Bukele called on law enforcement personnel to ignore the

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<sup>96</sup> Supreme Electoral Tribunal, "Report on 2018-2019 Elections" ("Informe elecciones 2018-2019"), July 2019, <https://www.tse.gob.sv/documentos/memoria-de-elecciones/informe-elecciones-2018-2019.pdf> (accessed September 1, 2022), p. 92.

<sup>97</sup> See, for example, José Miguel Vivanco (Human Rights Watch), "President Bukele, Brute Force Is Not the Way Forward for El Salvador," *New York Times*, February 14, 2020, <https://www.nytimes.com/2020/02/14/opinion/bukele-el-salvador.html> (accessed October 20, 2022).

<sup>98</sup> "El Salvador: Police Abuses in Covid-19 Response," Human Rights Watch news release, April 15, 2020, <https://www.hrw.org/news/2020/04/15/el-salvador-police-abuses-covid-19-response>.

rulings.<sup>99</sup> He used social media to lash out against judges and accused them of being “genocidal.”<sup>100</sup>

- In the months prior to the February 2021 legislative elections, President Bukele intensified attacks against the Supreme Electoral Tribunal (Tribunal Supremo Electoral, TSE), the institution overseeing the elections. He repeatedly accused the TSE, without evidence, of planning “electoral fraud” to defeat his party.<sup>101</sup>

In the legislative elections of February 2021, President Bukele’s party, New Ideas (Nuevas Ideas), and its allies won a supermajority of over two-thirds of the seats (56 out of 84).<sup>102</sup> In the year and a half since the new Legislative Assembly took office, lawmakers have taken drastic steps to undermine judicial independence and limit accountability. For example:

- On May 1, 2021, the same day that new legislators took office, they summarily removed and replaced all five judges of the Constitutional Chamber of the Supreme Court for supposedly inhibiting the government’s pandemic response.<sup>103</sup> The same night, legislators dismissed the attorney general, who had been investigating corruption allegations against high-level government officials and reports of a pact between President Bukele’s administration and gangs.<sup>104</sup> The removals violated international human rights standards that removals of judges (and by analogy, removals of prosecutors) should be determined in accordance with established

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<sup>99</sup> See, for example, “El Salvador: President Defies Supreme Court,” Human Rights Watch news release, April 17, 2020, <https://www.hrw.org/news/2020/04/17/el-salvador-president-defies-supreme-court>.

<sup>100</sup> See, for example, Tweet by President Nayib Bukele, June 26, 2020, [https://twitter.com/nayibbukele/status/1276700212204101633?s=20&t=TQLJ8z\\_LKoXPBJQ6XXSvtA](https://twitter.com/nayibbukele/status/1276700212204101633?s=20&t=TQLJ8z_LKoXPBJQ6XXSvtA) (accessed September 2, 2022).

<sup>101</sup> Tweet by President Nayib Bukele, November 22, 2020, <https://twitter.com/nayibbukele/status/1330350253980213248?s=20&t=kfm3uEnhRt2q2YG9QVg7XA> (accessed September 2, 2022); Tweet by President Nayib Bukele, November 19, 2020, <https://twitter.com/nayibbukele/status/1329563062215598086?s=20&t=tazj1l4qWGDHUPRaPjzNtw> (accessed September 2, 2022).

<sup>102</sup> Supreme Electoral Tribunal, “Final Scrutiny 2021” (“Escrutinio Final 2021”), March 12, 2021, <https://www.tse.gob.sv/2021/escrutinio-final/asamblea/nacional> (accessed September 2, 2022).

<sup>103</sup> Office of the High Commissioner For Human Rights (OHCHR), “El Salvador: Dismissal of Constitutional Chamber and Attorney General seriously undermines the rule of law,” May 2, 2021, <https://www.ohchr.org/en/2021/05/el-salvador-dismissal-constitutional-chamber-and-attorney-general-seriously-undermines-rule?LangID=E&NewsID=27053> (accessed September 2, 2022).

<sup>104</sup> Jimmy Alvarado, “Bukele’s Legislative Assembly Ousts Supreme Court Magistrates and Attorney General,” *El Faro*, May 2, 2021, [https://elfaro.net/en/202105/el\\_salvador/25452/New-Legislative-Assembly-Ousts-Supreme-Court-Magistrates-and-Attorney-General.htm](https://elfaro.net/en/202105/el_salvador/25452/New-Legislative-Assembly-Ousts-Supreme-Court-Magistrates-and-Attorney-General.htm) (accessed September 2, 2022). See also, José Miguel Vivanco and Juan Pappier (Human Rights Watch), “The U.S. can stop El Salvador’s slide to authoritarianism. Time to act,” *Washington Post*, May 18, 2021, <https://www.washingtonpost.com/opinions/2021/05/18/bukele-el-salvador-biden-human-rights-watch-authoritarianism/> (accessed October 20, 2022).

standards of conduct, should be subject to independent review, and should take place “only for reasons of incapacity or behaviour that renders them unfit to discharge their duties.”<sup>105</sup>

- On June 30, 2021, the Assembly appointed five new judges to the Supreme Court, in violation of the process established in the Constitution and the Assembly’s own internal rules. Salvadoran law allows each newly constituted legislative body to appoint five Supreme Court judges, but the Assembly has appointed 10 of a total 15.<sup>106</sup>
- In September 2021, lawmakers passed laws allowing the Supreme Court and the attorney general to dismiss judges and prosecutors over 60 years of age and expanding their authority to transfer judges and prosecutors to new posts.<sup>107</sup> The laws run counter to international human rights standards on judicial independence<sup>108</sup> and have been used to dismiss and transfer independent judges or prosecutors.<sup>109</sup>

On September 3, 2021, the Constitutional Chamber of the Supreme Court, whose members have been named by the pro-Bukele legislature, ruled that the Constitution allows for immediate presidential re-election.<sup>110</sup> El Salvador’s Constitution forbids “any individual

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<sup>105</sup> See Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August to 6 September 1985, U.N. Doc. A/CONF.121/22/Rev.1 at 59 (1985), <http://www2.ohchr.org/english/law/indjudiciary.htm> (accessed September 26, 2022), para. 18. See also International Association of Judges, The Universal Charter of the Judge, November 17, 1999, <https://www.icj.org/wp-content/uploads/2014/03/IAJ-Universal-Charter-of-the-Judge-instruments-1989-eng.pdf> (accessed September 26, 2022); Statute of the Iberoamerican Judge (Estatuto del Juez Iberoamericano), adopted by the VI Iberoamerican Meeting of Supreme Court Presidents (VI Cumbre Iberoamericana de Presidentes de Cortes Supremas y Tribunales Supremos de Justicia) on May 23-25, 2001, [http://www.cidej.org/c/document\\_library/get\\_file?uuid=oddb8eba-4802-461e-b997-5441coe37a7f&groupId=10131](http://www.cidej.org/c/document_library/get_file?uuid=oddb8eba-4802-461e-b997-5441coe37a7f&groupId=10131) (accessed September 26, 2022).

<sup>106</sup> Gabriela Cáceres and Roxana Lazo, “New Ideas Appoints its Supreme Court for 9 Years” (“Nuevas Ideas nombra a su Corte Suprema para nueve años”), *El Faro*, June 30, 2021, [https://elfaro.net/es/202106/el\\_salvador/25581/Nuevas-Ideas-nombra-a-su-Corte-Suprema-para-nueve-a%C3%B1os.htm](https://elfaro.net/es/202106/el_salvador/25581/Nuevas-Ideas-nombra-a-su-Corte-Suprema-para-nueve-a%C3%B1os.htm) (accessed November 27, 2022).

<sup>107</sup> “El Salvador: New Laws Threaten Judicial Independence,” Human Rights Watch news release, September 2, 2021, <https://www.hrw.org/news/2021/09/02/el-salvador-new-laws-threaten-judicial-independence>; Inter-American Commission on Human Rights, “IACHR and UN expert reject legislative reforms that remove judges and prosecutors in El Salvador and calls for respect of guarantees for judicial Independence,” September 7, 2021, <https://www.oas.org/es/cidh/jsForm/?File=/es/cidh/prensa/comunicados/2021/234.asp> (accessed September 29, 2022).

<sup>108</sup> Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August to 6 September 1985, U.N. Doc. A/CONF.121/22/Rev.1 at 59 (1985), para. 18.

<sup>109</sup> Phone interview with judge, February 7, 2022; phone interview with judge, October 21, 2022; phone interview with prosecutor, January 20, 2022.

<sup>110</sup> Constitutional Chamber of the Supreme Court, ruling 1-2021, September 3, 2021 <https://www.jurisprudencia.gob.sv/portal/apls/2021/09/1-2021PerdidaDerechosCiudadania.pdf> (accessed September 2, 2022).

who served for at least six months, consecutive or not, in the previous presidential term” from running for president.<sup>111</sup> The court had previously interpreted this provision to forbid immediate re-election.<sup>112</sup> President Bukele himself said during a TV interview in 2013 that there was “no re-election in El Salvador” and that the constitution “does not allow the same person to be president twice in a row.”<sup>113</sup>

In one example of retaliation against a judge who ruled against government interests, on April 1, 2022, the Supreme Court transferred Judge Godofredo Salazar, only seven hours after President Bukele tweeted that he had asked the Attorney General’s Office to “investigate [the judge’s] possible links with organized crime.”<sup>114</sup> Salazar had acquitted 42 alleged gang members who, he said, had been charged with insufficient evidence.<sup>115</sup>

In May 2021, after five Supreme Court judges and the attorney general were ousted, a pro-Bukele legislator threatened to oust then-Human Rights Ombudsperson Apolonio Tobar, who had been a vocal critic of the government’s human rights policies.<sup>116</sup> Tobar then changed his position toward the government and began using euphemistic language to avoid criticizing human rights violations committed during the state of emergency.<sup>117</sup> In August 2022, Tobar announced he was seeking re-election, but in October the pro-

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<sup>111</sup> Constitution of the Republic of El Salvador, art 152. See also arts. 75, 88, and 154.

<sup>112</sup> Constitutional Chamber of the Supreme Court, resolution 163-2013, June 25, 2014, [https://archivo.tse.gob.sv/laip\\_tse/documentos/Amparos/163-2013-Inc.pdf](https://archivo.tse.gob.sv/laip_tse/documentos/Amparos/163-2013-Inc.pdf) (accessed August 26, 2022).

<sup>113</sup> “Nayib Bukele Nueva Esparta Mayor” (“Nayib Bukele Alcalde salvadoreño de Nueva Esparta”), *El Bar de Patico*, October 12, 2013, <https://www.youtube.com/watch?v=fwTjXBs4C74> (accessed September 29, 2022).

<sup>114</sup> Tweet by President Nayib Bukele, April 1, 2022, <https://twitter.com/nayibbukele/status/1509902540833538049?s=20&t=IOVqhmaRenmdy4jsz2h8Dw> (accessed October 17, 2022); Supreme Court of Justice, “Mailgram” (“Correograma”), April 1, 2022 (on file with Human Rights Watch).

<sup>115</sup> “Court transfers specialized judge after accusations by Bukele” (“Corte traslada a juez especializado tras señalamientos de Bukele”), *El Mundo*, April 1, 2022, <https://diario.elmundo.sv/nacionales/corte-traslada-a-juez-especializado-tras-senalamientos-de-bukele> (accessed November 24, 2022).

<sup>116</sup> Alexander Pineda, “Global human rights body asks El Salvador to seek judicial independence” (“Organismo global de Derechos Humanos pide a El Salvador procurar por independencia judicial”), *El Mundo*, May 3, 2021, <https://diario.elmundo.sv/politica/organismo-global-de-derechos-humanos-pide-a-el-salvador-procurar-por-independencia-judicial> (accessed October 20, 2022); Karen Moreno, “An absent human rights ombudsperson in times of authoritarianism” (“Un procurador de derechos humanos ausente en tiempos de autoritarismo”), *Gato Encerrado*, January 15, 2022, <https://gatoencerrado.news/2022/01/15/un-procurador-de-derechos-humanos-ausente/> (accessed September 26, 2022).

<sup>117</sup> See, for example, Tweet by the Human Rights Ombudsperson’s Office, June 29, 2022, <https://twitter.com/PDDHEISalvador/status/1542299913874284544/photo/2> (accessed August 8, 2022); Tweet by the Human Rights Ombudsperson’s Office, July 12, 2022, <https://twitter.com/PDDHEISalvador/status/1546702554620387328?s=20&t=MZNUfQJHjnRiiMDYyUv6zA> (accessed August 8, 2022).

government legislators in the Legislative Assembly named Raquel Caballero de Guevara, who had been the ombudsperson between 2016 and 2019.<sup>118</sup>

In September 2021, Vice President Félix Ulloa made public a draft proposal to revise the Constitution, proposing more than 200 changes,<sup>119</sup> including to extend the presidential term from five to six years and to overhaul institutions such as the Supreme Court’s Constitutional Chamber, the Supreme Electoral Tribunal, and the Court of Accounts (which audits public funds). Under Salvadoran law, the reform needs to be approved by the current Assembly and ratified by the next one, which will be elected in 2024. It has not been discussed at time of writing.

## Security Policies

President Bukele campaigned on the promise of reforming the country’s security policies and ensuring safety for Salvadorans. He said that he would promote education and economic opportunities to “take away from the gangs the breeding ground that is Salvadoran youth” and criticized the country’s prisons, which he described as “crime universities.”<sup>120</sup>

Yet, since he took office, his policies have oscillated between closed-door negotiations with gangs and iron fist measures that took his predecessors’ policies of mass incarceration to unprecedented levels.

The digital media outlet *El Faro* has published extensive evidence showing that, at the beginning of his term, the Bukele government negotiated a “truce” with gangs, offering privileges to imprisoned gang members and employment opportunities to those outside in

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<sup>118</sup> “The Salvadoran human rights ombudsperson seeks re-election despite criticism” (“El procurador de DD.HH. salvadoreño busca la reelección pese a las críticas”), *Infobae*, August 15, 2022, <https://www.infobae.com/america/agencias/2022/08/16/el-procurador-de-ddhh-salvadoreno-busca-la-reeleccion-pese-a-las-criticas/> (accessed September 26, 2022); Tweet by the Legislative Assembly, October 14, 2022, [https://twitter.com/asambleasv/status/1581090277615288321?s=48&t=k6zcl\\_djIzqBGtoz8k7RHQ](https://twitter.com/asambleasv/status/1581090277615288321?s=48&t=k6zcl_djIzqBGtoz8k7RHQ) (accessed October 20, 2022).

<sup>119</sup> Ad Hoc Team for the Study and Proposal of Reforms to the Constitution, “Constitutional Reform Project” (“Proyecto de Reforma Constitucional”), September 15, 2021, <https://www.presidencia.gob.sv/proyecto-de-reforma-constitucional/> (accessed September 2, 2022).

<sup>120</sup> See, for example, Facebook Live by Nayib Bukele, November 13, 2018, <https://www.facebook.com/nayibbukele/videos/178455249767054/> (accessed October 20, 2022).

exchange for the gangs' commitment to lower homicide rates and provide political support during 2021 legislative elections.<sup>121</sup> President Bukele has denied these allegations.<sup>122</sup>

In June 2019, President Bukele announced the Territorial Control Plan, a multi-step initiative to address gang violence and improve security in the country.<sup>123</sup>

The administration has described the plan as involving modernizing El Salvador's security forces; increasing their presence across the country, with a particular focus on gang strongholds; declaring a state of emergency in the penitentiary system; and certain initiatives to support underprivileged communities.<sup>124</sup> Under the plan, the military has been deployed to support police in public safety operations.<sup>125</sup> However, details about the plan and its implementation have not been made public. In May 2021, the Minister of Justice and Public Safety broadly classified all information and documents related to the plan for seven years.<sup>126</sup>

The government has expanded the budget, recruitment, and tasks of the military. The Ministry of Defense has increased its budget from US\$145 million in 2019 to over \$284 million in 2022, and over 11,000 soldiers are estimated to be patrolling neighborhoods

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<sup>121</sup> Carlos Martinez et al., "Bukele Has Been Negotiating with MS-13 for a Reduction in Homicides and Electoral Support," *El Faro*, September 6, 2020, [https://elfaro.net/en/202009/el\\_salvador/24785/Bukele-Spent-A-Year-Negotiating-with-MS-13-for-a-Reduction-in-Homicides-and-Electoral-Support.htm](https://elfaro.net/en/202009/el_salvador/24785/Bukele-Spent-A-Year-Negotiating-with-MS-13-for-a-Reduction-in-Homicides-and-Electoral-Support.htm) (accessed September 1, 2022); Carlos Martinez et al., "Criminal Investigation Found the Bukele Administration Hid Evidence of Negotiations with Gangs," *El Faro*, August 23, 2021, [https://elfaro.net/en/202108/el\\_salvador/25670/Criminal-Investigation-Found-the-Bukele-Administration-Hid-Evidence-of-Negotiations-with-Gangs.htm](https://elfaro.net/en/202108/el_salvador/25670/Criminal-Investigation-Found-the-Bukele-Administration-Hid-Evidence-of-Negotiations-with-Gangs.htm) (accessed September 2, 2022).

<sup>122</sup> Tweet by President Nayib Bukele, September 4, 2020, <https://twitter.com/nayibbukele/status/1301754301065433088?s=20&t=XuaocETAcxBfml8BhtJ1pg> (accessed September 1, 2022).

<sup>123</sup> Tweet by President Nayib Bukele, June 19, 2019, <https://twitter.com/nayibbukele/status/1141238625667047424?s=20&t=gsD6ktbCZABVKPIjrIOaYA> (accessed September 4, 2022).

<sup>124</sup> International Crisis Group, *Miracle or Mirage? Gangs and Plunging Violence in El Salvador*, July 8, 2020, <https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/81-miracle-or-mirage-gangs-and-plunging-violence-el-salvador> (accessed September 1, 2022).

<sup>125</sup> Office of the President, "President Nayib Bukele launches Phase IV of the Territorial Control Plan with the incorporation of 1,046 military elements" ("Presidente Nayib Bukele lanza Fase IV del Plan Control Territorial con la incorporación de 1,046 elementos militares"), July 19, 2021, <https://www.presidencia.gob.sv/presidente-nayib-bukele-lanza-fase-iv-del-plan-control-territorial-con-la-incorporacion-de-1046-elementos-militares/> (accessed September 1, 2022).

<sup>126</sup> Ministry of Justice and Public Safety, "Classified Information 2022" ("Índice de información reservada 2022"), July 27, 2022, <https://www.transparencia.gob.sv/institutions/mjisp/documents/498411/download> (accessed September 1, 2022).

along with the police.<sup>127</sup> The army has also expanded its tasks beyond those of public safety, including by providing food during the pandemic and supporting the work of the Institute of Legal Medicine, the national forensic body tasked with conducting autopsies and analyzing crime scenes.<sup>128</sup>

After waves of gang violence in 2020, the government ordered a state of emergency at maximum security prisons. President Bukele said he had received reports that homicides outside had been orchestrated by gang members inside the prisons. During a subsequent lockdown that the president ordered, authorities held prisoners in inhumane conditions that may amount to torture or other cruel, inhuman, or degrading treatment or punishment under international law.

Measures included lockdowns of prisoners in cells for 24-hour periods; what President Bukele described as solitary confinement of alleged gang leaders for undefined periods; and placement of members of various gangs in shared cells, a practice that foreseeably increased the risk of violence in these cells.<sup>129</sup> Authorities also forbade visits to prisons, blocked networks in and around prisons, and transferred prisoners to more secure facilities.<sup>130</sup>

The IACHR noted in its 2021 report that “100 percent of the population deprived of liberty remains isolated from the outside world” and “procedures in maximum-security prisons are against what is suggested by international standards” for the treatment of detainees.<sup>131</sup>

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<sup>127</sup> See Ministry of Economy, “Report on follow-up and evaluation of the financial results of the central government by September 2022” (“Informe de seguimiento y evaluación de los resultados presupuestarios del Gobierno Central al mes de septiembre de 2022”), n.d., <https://www.transparenciafiscal.gob.sv/downloads/pdf/700-DGP-IF-2022-ISS22.pdf> (accessed November 26, 2022), p. 29; Ministry of Economy, “2019 Budget: Ministry of Defense” (“Presupuesto 2019: Ramo de la Defensa Nacional”), n.d., <https://www.transparenciafiscal.gob.sv/downloads/pdf/PROPRESU2019-20327.pdf>, p. 2. As of writing, the Legislative Assembly was discussing a 2023 budget proposal introduced by the Ministry of Economy, which included a US\$ 250 million budget for the Ministry of Defense. See Legislative Assembly, “2023 budget will strengthen the ability of the Armed Forces to provide security” (“Presupuesto 2023 fortalecerá capacidades de la Fuerza Armada para brindar seguridad”), October 19, 2022, <https://www.asamblea.gob.sv/node/12485> (accessed November 27, 2022).

<sup>128</sup> International Crisis Group, *A Remedy for El Salvador’s Prison Fever*, p. 7.

<sup>129</sup> See, for example, “El Salvador: Inhumane Prison Lockdown Treatment,” Human Rights Watch news release, April 29, 2020, <https://www.hrw.org/news/2020/04/29/el-salvador-inhumane-prison-lockdown-treatment>.

<sup>130</sup> Reforms to the Penitentiary Law (Reformas a la Ley Penitenciaria), Decree 93.

<sup>131</sup> Inter-American Commission on Human Rights, *Situation of Human Rights in El Salvador*, p. 9.

Less prominently, the government has also taken some steps to prevent violence by improving opportunities for children and young adults. For example, President Bukele established “Urban Centers of Wellbeing and Opportunity” (Programa Centros Urbanos de Bienestar y Oportunidades, CUBO), a series of libraries and cultural centers in poor neighborhoods that seek to draw children away from gangs.<sup>132</sup> As of April 2022, the government had built eight such centers and was building six others.<sup>133</sup>

According to the government, homicides declined from about 36 per 100,000 people in 2019 to 17 per 100,000 in 2021.<sup>134</sup> There is no aggregated data on the number of homicides for 2022, and authorities have told journalists that such information is “classified.”<sup>135</sup> Human Rights Watch and Cristosal obtained a National Civil Police document indicating that 463 people were killed between January and the end of October 2022—a reported 50 percent decrease compared to the same months in 2021.<sup>136</sup> According to press reports, since July 2019, authorities have not included deaths resulting from encounters with security forces in the homicide data.<sup>137</sup> Authorities and some experts also report a decrease in extortion by gangs.<sup>138</sup>

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<sup>132</sup> Ana Rivera, “CUBOS as part of Territorial Control Plan” (“CUBOS como parte del Plan Control Territorial”), Global Initiative against Transnational Organized Crime, 2020, [https://globalinitiative.net/wp-content/uploads/2020/07/20200622\\_CUBOs-A4.pdf](https://globalinitiative.net/wp-content/uploads/2020/07/20200622_CUBOs-A4.pdf) (accessed October 17, 2022).

<sup>133</sup> Office of the President, “The CUBO are a development alternative for communities that had been stigmatized” (“Los CUBO son una alternativa de desarrollo para las comunidades que habían sido estigmatizadas”), April 21, 2022, <https://www.presidencia.gob.sv/los-cubo-son-una-alternativa-de-desarrollo-para-las-comunidades-que-habian-sido-estigmatizadas/> (accessed October 17, 2022).

<sup>134</sup> Tweet by President Nayib Bukele, January 2, 2022, <https://twitter.com/nayibbukele/status/1477482985742123009?s=20&t=jB8AEBJo8cZ9YG4kFW6fg> (accessed September 1, 2022).

<sup>135</sup> Karen Moreno, “The Police Declares Information on Homicides and Disappearances as Classified” (“Policía reserva información sobre homicidios y personas desaparecidas”), *Gato Encerrado*, June 21, 2022, <https://gatoencerrado.news/2022/06/21/policia-reserva-informacion-sobre-homicidios-y-personas-desaparecidas/> (accessed September 29, 2022).

<sup>136</sup> National Civil Police report [identifying information withheld] (on file with Human Rights Watch). The report notes that 84 other people “died during legal interventions” (meaning, in confrontations with security forces) and 25 more deaths were “under investigation” to determine if they were “unlawful.” Separately, the Attorney General’s Office reports opening over 23,000 homicide investigations between 2014 and 2018, 5,200 between 2019 and March 2022, and 123 between April and September 2022. See UN Committee Against Torture (CAT), “1964th Meeting: Consideration of El Salvador,” November 17-18, 2022, <https://media.un.org/en/asset/k13/k13s023y30> (accessed November 24, 2022).

<sup>137</sup> Jorge Beltrán Luna, “The Police Does Not Include Homicides of Gang Members who Die during Clashes in the Homicide Rate” (“Policía separa de estadísticas de homicidios a pandilleros que mueren en enfrentamientos”), *El Diario de Hoy*, July 16, 2019, <https://historico.elsalvador.com/historico/621702/policia-segrega-de-estadisticas-de-homicidios-a-pandilleros-que-mueren-en-enfrentamientos.html> (accessed September 27, 2022).

<sup>138</sup> See International Crisis Group, *A Remedy for El Salvador’s Prison Fever*, p. 17. The Attorney General’s Office reports opening over 14,000 investigations into extortion between 2014 and 2018, 9,000 between 2019 and March 2022, and 1,200 between April and September 2022. See UN Committee Against Torture (CAT), “1964th Meeting: Consideration of El Salvador,” November 17-18, 2022, <https://media.un.org/en/asset/k13/k13s023y30> (accessed November 24, 2022).

The number of disappearances surged from 595 in 2020 to 832 in 2021, according to the Attorney General’s Office.<sup>139</sup> The Attorney General’s Office reported opening 212 investigations into disappearances between April and September 2022.<sup>140</sup>

## Attacks on Independent Media and Civil Society

Freedom of expression and of association have seriously deteriorated during the Bukele administration. Journalists and human rights defenders have been targets of digital and physical surveillance and harassment on social media, in response to coverage of corruption, concentration of power, and organized crime.<sup>141</sup>

President Bukele and his allies have assaulted the credibility of independent media, particularly digital outlets, including *El Faro*, *Revista Factum*, and *Gato Encerrado*, accusing them of spreading “fake news,” and being “gang supporters.”<sup>142</sup> Government-run media outlets have repeatedly published articles that appear designed to damage the reputation of independent outlets.

In July 2020, authorities launched a tax audit of *El Faro* that appears selective and abusive.<sup>143</sup> After *El Faro* reported on a truce between the government and gangs, President

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<sup>139</sup> Attorney General’s Office, “Number of Records for the Crime of Disappearance of Persons (art. 148-A of the Criminal Code) at the national level between January 1, 2020 and December 31, 2020” (“Cantidad de registros por el delito de desaparición de personas (art. 148-A CP), a nivel nacional, del 01 de enero al 31 de diciembre 2020”), February 14, 2022, <https://portaldetransparencia.fgr.gob.sv/documentos/Desaparicion%20de%20Personas%20Art.%20148-A%20CP.%20A%C3%B1o%202020.xlsx> (accessed September 26, 2022); Attorney General’s Office, “Number of Records for the Crime of Disappearance of Persons (art. 148-A of the Criminal Code) at the national level between January 1, 2021 and December 31, 2021” (“Cantidad de registros por el delito de desaparición de personas (art. 148-A CP), a nivel nacional, del 01 de enero al 31 de diciembre 2021”), February 14, 2022 (on file with Human Rights Watch).

<sup>140</sup> UN Committee Against Torture (CAT), “1964th Meeting: Consideration of El Salvador,” November 17-18, 2022, <https://media.un.org/en/asset/k13/k13s023y30> (accessed November 24, 2022).

<sup>141</sup> Human Rights Watch, *World Report 2021* (New York: Human Rights Watch, 2021), El Salvador chapter, <https://www.hrw.org/world-report/2022/country-chapters/el-salvador>.

<sup>142</sup> See, for example, Tweet by President Nayib Bukele, May 3, 2020, <https://twitter.com/nayibbukele/status/1257094989391245320?s=20&t=umKkpd1TgR53FKZsunZEhw> (accessed September 4, 2022); Tweet by Jorge Castro, November 18, 2022, [https://twitter.com/jorgecastro\\_sv/status/1593593520388018177?s=46&t=WAEVzvi\\_iFXuTpKBHfxLA](https://twitter.com/jorgecastro_sv/status/1593593520388018177?s=46&t=WAEVzvi_iFXuTpKBHfxLA) (accessed November 26, 2022).

<sup>143</sup> See, for example, José Miguel Vivanco (Human Rights Watch), “Bukele’s Legislative Victory Threatens Press Freedom in El Salvador,” March 17, 2021, <https://www.hrw.org/news/2021/03/17/bukeles-legislative-victory-threatens-press-freedom-el-salvador>. See also Constitutional Chamber of the Supreme Court, decision 393-2000, March 5, 2021, [https://www.jurisprudencia.gob.sv/sctter/A\\_393-2020.pdf](https://www.jurisprudencia.gob.sv/sctter/A_393-2020.pdf) (accessed November 26, 2022).

Bukele announced criminal investigations, accusing the outlet of “money laundering” and “tax evasion.”<sup>144</sup>

Government officials have also tried to intimidate journalists with possible criminal charges. In October 2021, Vice President Félix Ulloa said, “some journalists should be prosecuted on slander and defamation charges” for criticizing the government.<sup>145</sup> In June 2021, Justice and Public Safety Minister Gustavo Villatoro accused several journalists of “advocating the commission of crimes,” without providing any evidence for his claims.<sup>146</sup>

In January 2022, Citizen Lab and Access Now found that Pegasus spyware, which enables surveillance of mobile phone users and their contacts, had been used to hack the phones of at least 35 Salvadoran journalists and civil society members.<sup>147</sup>

In May 2021, legislators created a commission to investigate the allocation of public funds granted to nongovernmental organizations, in an apparent effort to intimidate civil society groups.<sup>148</sup> The commission, consisting of pro-government legislators and allies, has not announced any results, but some of its members have accused nongovernmental organizations of being “corrupt” without presenting evidence for those claims.<sup>149</sup>

In November 2021, prosecutors raided the offices of seven non-governmental organizations to probe alleged irregularities in the allocation and management of public

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<sup>144</sup> Press Conference by President Bukele, September 24, 2020, <https://www.facebook.com/nayibbukele/videos/3832941116721576> (accessed September 4, 2022).

<sup>145</sup> Tweet by DW Español, October 20, 2021, [https://twitter.com/dw\\_espanol/status/1450946617150951431?s=20&t=YWgtuk4vl4jU35XKltuKHQ](https://twitter.com/dw_espanol/status/1450946617150951431?s=20&t=YWgtuk4vl4jU35XKltuKHQ) (accessed September 8, 2022).

<sup>146</sup> Óscar Romero, “Security Minister Says they Monitor Journalists for ‘Advocating for Crimes’” (“Ministro de Seguridad dice dan seguimiento a periodistas por ‘apología del delito’”), *El Mundo*, June 8, 2021, <https://diario.elmundo.sv/nacionales/ministro-de-seguridad-confirma-seguimiento-a-periodistas-por-supuesta-apologia> (accessed September 8, 2022).

<sup>147</sup> John Scott-Railton et al., “Extensive Hacking of Media and Civil Society in El Salvador with Pegasus Spyware,” *Citizen Lab*, January 12, 2022, <https://citizenlab.ca/2022/01/project-torogoz-extensive-hacking-media-civil-society-el-salvador-pegasus-spyware/> (accessed September 8, 2022).

<sup>148</sup> Legislative Assembly, “A Special Commission to Investigate Funds Granted to NGOs is Created” (“Conforman Comisión Especial para investigar fondos otorgados a ONG”), May 19, 2021, <https://www.asamblea.gob.sv/node/11238> (accessed September 29, 2022).

<sup>149</sup> Eugenia Velázquez, “The Assembly Reports, Without Providing Details, Corruption in NGOs” (“Asamblea denuncia, sin dar detalles, corrupción en ONG”), *El Diario de Hoy*, May 28, 2021, <https://historico.elsalvador.com/historico/843228/ongs-asamblea-legislativa-denuncia-sin-dar-detalles-corrupcion-de-el-salvador.html> (accessed September 2, 2022).

funds.<sup>150</sup> Some of the organizations have members of the opposition among their founders or have been otherwise linked to the opposition.<sup>151</sup>

Pro-Bukele legislators in the Legislative Assembly have also introduced or passed legislation that severely restricts freedom of expression and association.

In November 2021, the government proposed a Foreign Agents Law, requiring individuals and organizations that “directly or indirectly” receive funding from abroad, as well as those who work under the “control” of people abroad or represent their “interests,” to register as “foreign agents.” Failure to comply would be punishable, under the law, by fines and cancellation of legal status.<sup>152</sup>

After several foreign governments criticized the bills and the German embassy said that it was considering ending its humanitarian programs in the country, the Bukele administration announced that it would delay voting on the law.<sup>153</sup> In August 2022, the speaker of the government’s party, Christian Guevara, said authorities would use the law, once passed, to punish *El Faro*.<sup>154</sup>

In December 2021, the Legislative Assembly amended the Special Law Against Computer Crimes, defining new offenses in broad and vague terms. One amendment, for example, would criminalize the use of technology to obtain or distribute “confidential” information,

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<sup>150</sup> “Salvadoran prosecutors raid seven NGOs in finance probe,” *Reuters*, November 22, 2021, <https://www.reuters.com/markets/rates-bonds/salvadoran-prosecutors-raid-seven-ngos-finance-probe-2021-11-22/> (accessed September 8, 2022).

<sup>151</sup> Phone interview with a member of a community association, November 30, 2021; phone interview with a member of a humanitarian organization, November 29, 2021; phone interview with a member of a women’s rights organization, November 30, 2021.

<sup>152</sup> “El Salvador: Shelve ‘Foreign Agents’ Bill,” Human Rights Watch news release, November 12, 2021, <https://www.hrw.org/news/2021/11/12/el-salvador-shelve-foreign-agents-bill>.

<sup>153</sup> Enrique Miranda, “German Embassy suspends ‘until further notice’ community projects by Foreign Agents Law” (“Embajada de Alemania suspende ‘hasta nuevo aviso’ proyectos comunitarios por Ley de Agentes Extranjeros”), *El Diario de Hoy*, November 17, 2021, <https://www.elsalvador.com/noticias/nacional/ley-de-agentes-extranjeros-alemania-suspende-ayuda-hasta-nuevo-aviso/901296/2021/> (accessed November 27, 2022).

<sup>154</sup> Tweet by El Faro, August 9, 2022, [https://twitter.com/\\_elfaro\\_/status/1557125586367160322?s=24&t=fFrwK\\_UBeCtQfuLaUR4abA](https://twitter.com/_elfaro_/status/1557125586367160322?s=24&t=fFrwK_UBeCtQfuLaUR4abA) (accessed September 8, 2022).

a provision that could easily be misused against journalists, advocacy groups, and whistleblowers.<sup>155</sup>

In February 2022, the Assembly approved an amendment to the country’s Criminal Procedure Code that could lead to infringements on privacy and chill free expression and association. Under the amendment, agents operating under police control could conduct “necessary undercover digital operations” to investigate crimes under El Salvador’s Special Law Against Computer Crimes and other “special laws.” The digital agents would operate with approval by the Attorney General’s Office and without a court order, and the amendment is vague about the scope of the agents’ operations, establishing no clear limits on the circumstances in which agents might be deployed.<sup>156</sup>

## Limiting Transparency and Accountability

The Bukele administration has dramatically undermined government transparency and accountability mechanisms, increasing the risk of corruption and abuse of power.

Soon after President Bukele took office, he disbanded the Agency for Transparency and Anti-Corruption (Secretaría de Transparencia y Anticorrupción), one of the main agencies charged with oversight of public spending.<sup>157</sup>

In March 2020, the Legislative Assembly established a committee of six government officials and five civil society representatives to monitor and account for the use of pandemic-related funds. All five civil society members of the committee resigned in May 2020, saying the executive branch had failed to provide the reports that they were charged with auditing.<sup>158</sup>

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<sup>155</sup> Tamara Taraciuk Broner (Human Rights Watch), “El Salvador’s Broad Computer Crime Laws Threaten Rights,” February 24, 2022, <https://www.hrw.org/news/2022/02/24/el-salvadors-broad-computer-crime-laws-threaten-rights>.

<sup>156</sup> Ibid.

<sup>157</sup> Melissa Pacheco, “Bukele Created Two New Agencies and Eliminated Five” (“Bukele creó dos nuevas secretarías y eliminó cinco”), *La Prensa Gráfica*, June 3, 2019, <https://www.laprensagrafica.com/elsalvador/Bukele-creo-dos-nuevas-secretarias-y-elimino-cinco-20190602-0448.html> (accessed September 8, 2022).

<sup>158</sup> María Clara Calle Aguirre, “El Salvador: half of the committee in charge of Covid-19 spending resigns” (“El Salvador: renuncia la mitad del comité que se encarga de los dineros del Covid-19”), *France 24*, May 13, 2020, <https://www.france24.com/es/20200513-el-salvador-renuncia-mitad-comite-dineros-covid19> (accessed September 8, 2022).

In June 2021, Rodolfo Delgado, the new pro-Bukele attorney general, ended a cooperation agreement with the International Commission Against Impunity in El Salvador (Comisión Internacional Contra la Corrupción en El Salvador, CICIES), a body backed by the Organization of American States to fight corruption in the country.<sup>159</sup> The commission had supported investigations into alleged corruption by high-level officials in the Bukele administration, including in connection with irregular purchases of equipment used to respond to the Covid-19 pandemic. Delgado also reportedly dismantled a prosecutors' unit that was investigating alleged negotiations between the administration and gangs.<sup>160</sup>

The government has not disclosed public spending during the Covid-19 health crisis. Between March and June 2020, following a state of emergency invoked in response to Covid-19, the Access to Public Information Agency in El Salvador (Instituto de Acceso a la Información Pública, IAIP) —which is charged with implementing the Access to Public Information Law— suspended all hearings and processes.<sup>161</sup> The suspension reduced citizen oversight of the pandemic response, including of emergency spending.<sup>162</sup>

President Bukele's administration has weakened the role of the IAIP, including by reforming regulations under the Access to Public Information Law in ways that undermine the agency's autonomy.<sup>163</sup> In August 2020, President Bukele issued an executive decree

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<sup>159</sup> Organization of American States (OAS), "Statement from the OAS General Secretariat on CICIES," June 7, 2021, [https://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-059/21](https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-059/21) (accessed September 2, 2022); "Salvadoran Attorney General's Office ends agreement with OAS commission against impunity" ("La Fiscalía salvadoreña finaliza acuerdo con comisión anticorrupción de OEA"), *EFE*, June 4, 2021, [https://www.swissinfo.ch/spa/el-salvador-corrupci%C3%B3n\\_la\\_fiscal%C3%ADa-salvadore%C3%B1a-finaliza-acuerdo-con-comisi%C3%B3n-anticorrupci%C3%B3n-de-oea/46678980](https://www.swissinfo.ch/spa/el-salvador-corrupci%C3%B3n_la_fiscal%C3%ADa-salvadore%C3%B1a-finaliza-acuerdo-con-comisi%C3%B3n-anticorrupci%C3%B3n-de-oea/46678980) (accessed November 26, 2022).

<sup>160</sup> Carlos Martínez et al., "Criminal Investigation Found the Bukele Administration Hid Evidence of Negotiations with Gangs," *El Faro*, August 23, 2021, [https://elfaro.net/en/202108/el\\_salvador/25670/Criminal-Investigation-Found-the-Bukele-Administration-Hid-Evidence-of-Negotiations-with-Gangs.htm](https://elfaro.net/en/202108/el_salvador/25670/Criminal-Investigation-Found-the-Bukele-Administration-Hid-Evidence-of-Negotiations-with-Gangs.htm) (accessed September 2, 2022).

<sup>161</sup> "El Salvador: Broad Powers Limit Accountability," Human Rights Watch news release, June 9, 2020, <https://www.hrw.org/news/2020/06/09/el-salvador-broad-powers-limit-accountability>.

<sup>162</sup> *Ibid.*

<sup>163</sup> Mario González and Eugenia Velásquez, "Bukele Reforms the LAIP Regulations and Weakens Access to Public Information, Lawyer Says" ("Bukele reforma reglamento de la LAIP y debilita acceso de ciudadanos a información pública, denuncia abogada"), *El Diario de Hoy*, September 8, 2020, <https://www.elsalvador.com/noticias/nacional/bukele-reforma-reglamento-ley-acceso-a-la-informacion-publica/751332/2020/> (accessed September 8, 2022); Acción Ciudadana, *Is The Access to Public Information Agency in Favor of the Citizen?* (¿El Instituto de Acceso a la Información Pública en favor del ciudadano?), June 4, 2021, <https://accion-ciudadana.org/accion-ciudadana-presenta-el-informe-el-iaip-en-favor-del-ciudadano/> (accessed September 8, 2022).

changing the IAIP's procedures.<sup>164</sup> The decree restricted oversight and transparency, for example, by removing powers from the IAIP's four commissioners and giving them to its president. Between August and September 2019, President Bukele appointed three new IAIP commissioners and dismissed a commissioner who had been widely perceived as independent from the government.<sup>165</sup>

The press has reported several allegations of government corruption during the pandemic. *El Faro* reported that, before Attorney General Melara was ousted in May 2021, prosecutors were investigating alleged irregular purchases by the Bukele administration.<sup>166</sup> In January 2022, Attorney General Delgado's office raided the offices of prosecutors who were investigating allegations of corruption and officials' negotiations with gangs.<sup>167</sup> At least four prosecutors fled the country, fearing persecution.<sup>168</sup>

## State of Emergency

On March 27, 2022, the Legislative Assembly passed a law declaring a broad "state of emergency" that suspended for 30 days the constitutional rights to freedom of association and assembly; privacy in communication; the rights to be informed of the reason for arrest, to remain silent, and to legal representation; and the requirement to bring anyone detained before a judge within 72 hours.<sup>169</sup>

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<sup>164</sup> Reforms to the Rules of the Access to Public Information Institute (Reformas al Reglamento de la Ley de Acceso a la Información Pública), Decree 34, signed into law on August 31, 2020, <https://www.diariooficial.gob.sv/seleccion/30342> (accessed September 8, 2022), p. 10.

<sup>165</sup> See, for example, Gabriel Labrador, "New Access to Information Institute Classifies Bukele's Probity Report" ("El nuevo Instituto de Acceso a la Información hace secreto el informe de Probidad de Bukele"), *El Faro*, October 30, 2020, [https://elfaro.net/es/202010/el\\_salvador/24948/El-nuevo-Instituto-de-Acceso-a-la-Informaci%C3%B3n-hace-secreto-el-informe-de-Probidad-de-Bukele.htm](https://elfaro.net/es/202010/el_salvador/24948/El-nuevo-Instituto-de-Acceso-a-la-Informaci%C3%B3n-hace-secreto-el-informe-de-Probidad-de-Bukele.htm) (accessed September 8, 2022).

<sup>166</sup> Gabriela Cáceres, "The Attorney General's Office Starts an Investigation Against the Bukele Government for the Irregular Contracts during the pandemic" ("Fiscalía arranca investigación contra el Gobierno Bukele por los contratos irregulares de la pandemia"), *El Faro*, November 10, 2020, [https://elfaro.net/es/202011/el\\_salvador/24986/Fiscal%C3%ADa-arranca-investigaci%C3%B3n-contra-el-Gobierno-Bukele-por-los-contratos-irregulares-de-la-pandemia.htm](https://elfaro.net/es/202011/el_salvador/24986/Fiscal%C3%ADa-arranca-investigaci%C3%B3n-contra-el-Gobierno-Bukele-por-los-contratos-irregulares-de-la-pandemia.htm) (accessed September 8, 2022).

<sup>167</sup> Gabriela Cáceres, "El Salvador Attorney General Raids Offices of Anti-Corruption Prosecutors," *El Faro*, January 19, 2022, [https://elfaro.net/en/202201/el\\_salvador/25948/El-Salvador-Attorney-General-Raids-Offices-of-Anti-Corruption-Prosecutors.htm](https://elfaro.net/en/202201/el_salvador/25948/El-Salvador-Attorney-General-Raids-Offices-of-Anti-Corruption-Prosecutors.htm) (accessed September 8, 2022).

<sup>168</sup> Phone interview with prosecutor, January 19, 2022; phone interview with prosecutor, January 20, 2022; phone interview with prosecutor, January 20, 2022; phone interview with prosecutor, January 21, 2022.

<sup>169</sup> "El Salvador: Broad State of Emergency Risks Abuse," Human Rights Watch news release, March 29, 2022; State of Emergency (Régimen de excepción), Decree 333, signed into law on March 27, 2022, <https://www.diariooficial.gob.sv/seleccion/30732> (accessed September 27, 2022).

President Bukele requested the suspension of rights, portraying it as necessary to address a spike in gang violence. Ninety-two people were killed, seemingly by gangs, between March 24 and 27 in El Salvador, with March 26 having the highest daily homicide rate in several years, according to official records.<sup>170</sup> Nobody had been convicted of the killings as of July.<sup>171</sup>

President Bukele also announced “maximum emergency” measures in the country’s prisons, ordering prison authorities to keep cells closed 24 hours a day. “Nobody is allowed out, not even to the patio,” he tweeted, while also sending “a message to the gangs” suggesting that the detainees were being punished for the conduct of gang members outside of prison.<sup>172</sup>

According to *El Faro*, the wave of violence in March was the result of collapsed secret government negotiations with the MS-13 gang.<sup>173</sup>

The state of emergency is based on article 29 of the Salvadoran Constitution, which allows the Legislative Assembly to suspend certain constitutional rights in extreme circumstances, such as a foreign invasion or “serious disturbances of public order.”<sup>174</sup> The 30-day state of emergency, which can be extended once for the same period under the Constitution, has been extended eight times.<sup>175</sup> But since August, the Assembly has

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<sup>170</sup> Permanent Mission of El Salvador to the United Nations, “Report by the State of El Salvador in Response to the Joint Communication of Special Procedures regarding Allegations or Risks of Human Rights Violations in the Context of the State of Emergency and Reforms to the Criminal Legislation” (“Informe del Estado de El Salvador a la comunicación conjunta de los procedimientos especiales sobre alegaciones de presuntas violaciones de derechos humanos o el posible riesgo de ellas en el marco del régimen de excepción y reformas a la legislación penal”), July 29, 2022, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=37045> (accessed August 16, 2022), p. 3.

<sup>171</sup> In July 2022, the government reported that authorities had only charged people in connection with 5 of the 92 killings that initially led to the declaration of “state of emergency.” Permanent Mission of El Salvador to the United Nations, “Report by the State of El Salvador in Response to the Joint Communication of Special Procedures regarding Allegations or Risks of Human Rights Violations in the Context of the State of Emergency and Reforms to the Criminal Legislation,” July 29, 2022, p. 28.

<sup>172</sup> Tweet by President Nayib Bukele, March 27, 2022, [https://twitter.com/nayibbukele/status/1508103206232113164?s=20&t=XJ2anY\\_uKedYEoDwXNsgXw](https://twitter.com/nayibbukele/status/1508103206232113164?s=20&t=XJ2anY_uKedYEoDwXNsgXw) (accessed September 27, 2022).

<sup>173</sup> 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](https://elfaro.net/en/202205/eL_salvador/26177/Collapsed-Government-Talks-with-MS-13-Sparked-Record-Homicides-in-El-Salvador-Audios-Reveal.htm) (accessed September 27, 2022).

<sup>174</sup> Constitution of the Republic of El Salvador, art. 29.

<sup>175</sup> Legislative Assembly, “The Assembly Backs the Government in the fight against Gangs by Extending the State of Emergency” (“Asamblea respalda al gobierno en el combate a las maras al extender el régimen de excepción”), October 15, 2022, <https://www.asamblea.gob.sv/node/12408> (accessed September 27, 2022).

narrowed the state of emergency, eliminating the suspensions of the rights to freedom of association and assembly.<sup>176</sup>

International law allows countries to temporarily derogate or suspend some of their human rights obligations only in very limited circumstances, which did not appear to apply to conditions in El Salvador in March 2022 or at the times of the subsequent extensions of the state of emergency.

Under article 4 of the International Covenant on Civil and Political Rights, which El Salvador has ratified, governments may derogate from some of their obligations under the covenant “in time of public emergency which threatens the life of the nation.”<sup>177</sup> Derogations should be only those “strictly required by the exigencies of the situation.”<sup>178</sup> The United Nations Human Rights Committee, which is charged with providing authoritative interpretations of the covenant, has made clear that states of emergency may not be used as a justification to violate peremptory norms of international law, for example through arbitrary deprivations of liberty or by deviating from fundamental fair trial principles.<sup>179</sup>

Similarly, article 27 of the American Convention on Human Rights allows governments to derogate from some obligations in times of “war, public danger, or other emergency that threatens the independence or security” of the nation, provided that such measures are strictly required by the emergency and consistent with other obligations under international law.<sup>180</sup>

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<sup>176</sup> State of Emergency, Decree 476, signed into law on August 17, 2022, <https://www.diariooficial.gob.sv/seleccion/30822> (accessed November 15, 2022); State of Emergency, Decree 503, signed into law on September 14, 2022, <https://www.diariooficial.gob.sv/seleccion/30842> (accessed November 15, 2022); State of Emergency, Decree 530, signed into law on October 14, 2022, <https://www.diariooficial.gob.sv/seleccion/30864> (accessed November 15, 2022).

<sup>177</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, 999 U.N.T.S. 171, entered into force March 23, 1976. El Salvador ratified the ICCPR on November 30, 1979.

<sup>178</sup> *Ibid.*, art. 4.

<sup>179</sup> UN Human Rights Committee, General Comment No. 29, States of Emergency, U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), para. 11.

<sup>180</sup> American Convention on Human Rights (“Pact of San José, Costa Rica”), adopted November 22, 1969, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992). El Salvador ratified the American Convention on Human Rights on July 18, 1978.

## Sweeping Criminal Amendments

On March 30 and April 5, 2022, the Legislative Assembly approved a series of gang-related criminal law amendments proposed by President Bukele that allow judges to imprison children as young as 12, restrict freedom of expression, and significantly expand the use of pretrial detention.<sup>181</sup>

A law passed on April 5 allows criminal charges against anyone who “participates in the creation, assists or creates” any type of publication, image, graffiti or other form of visual expression that “explicitly or implicitly” transmits “messages” about or that “allude to” the various types of gangs.<sup>182</sup> The penalty is up to 15 years in prison. The law similarly allows criminal charges against people who use media outlets to “reproduce or transmit messages or statements created or allegedly created” by gangs that “could generate a state of anxiety and panic in the population in general.”<sup>183</sup>

These provisions could potentially be used to target critics and journalists. They are inconsistent with international human rights protections for freedom of expression, which may only be restricted when necessary and proportionate to achieve a legitimate goal, such as to protect national security or the rights of others.<sup>184</sup>

On March 30, the Legislative Assembly lowered from 16 years to 12 the age of criminal responsibility for children accused, amongst others, of the existing crimes of “terrorist

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<sup>181</sup> “El Salvador: Sweeping New Laws Endanger Rights,” Human Rights Watch news release, April 8, 2022; Amendments to the Criminal Code (Reformas al Código Penal), Decree 337, signed into law on March 30, 2022, <https://www.diariooficial.gob.sv/seleccion/30735> (accessed September 27, 2022); Amendments to the Code of Criminal Procedure (Reformas al Código Procesal Penal), Decree 339, signed into law on March 30, 2022, <https://www.diariooficial.gob.sv/seleccion/30735> (accessed September 27, 2022); Amendments to the Special Law Against Terrorist Acts (Reformas a la Ley Especial contra Actos de Terrorismo), Decree 341, signed into law on March 30, 2022, <https://www.diariooficial.gob.sv/seleccion/30735> (accessed September 27, 2022); Amendments to the Juvenile Criminal Law (Reformas a Ley Penal Juvenil), Decree 342, signed into law on March 30, 2022, <https://www.diariooficial.gob.sv/seleccion/30735> (accessed September 27, 2022); Amendments to the Criminal Code (Reformas al Código Penal), Decree 349, signed into law on April 5, 2022, <https://www.diariooficial.gob.sv/seleccion/30739> (accessed September 27, 2022).

<sup>182</sup> Amendments to the Criminal Code, Decree 349, art. 1. See also Amendments to the Law Banning Gangs, Bands, Groups, Associations and Organizations of a Criminal Nature (Reformas a la Ley de Proscripción de Maras, Pandillas, Agrupaciones, Asociaciones y Organizaciones de Naturaleza Criminal), Decree 350, signed into law on April 5, 2022, <https://www.diariooficial.gob.sv/seleccion/30739> (accessed September 27, 2022).

<sup>183</sup> Amendments to the Criminal Code, Decree 349, art. 1.

<sup>184</sup> See, for example, UN Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, U.N. Doc. CCPR/C/GC/34 (2011).

organizations” and “unlawful association.”<sup>185</sup> The amendments allow prison sentences of up to 10 years for children ages 12 to 16 and up to 20 years for children over 16. Salvadoran law establishes that children have a right not to be held in adult detention sites.<sup>186</sup>

The United Nations Convention on the Rights of the Child, to which El Salvador is a party, defines a child as anyone under age 18.<sup>187</sup> The UN Committee on the Rights of the Child, which interprets the convention, has called on countries not to set the age of criminal responsibility below 14, and has encouraged countries to progressively increase the age of criminal responsibility.<sup>188</sup>

Other amendments dramatically increase sentences for alleged gang members in ways that could lead to disproportionate punishment.

El Salvador has broadly defined “terrorist organizations” to include those that use “violent or inhumane methods with the express purpose of instilling terror, insecurity, or alarm within the population,” or to “assume the exercise of powers that belong to the sovereignty of the states or systematically affect the fundamental rights of the population or part of it.”<sup>189</sup> The March 2022 amendments expanded the definition of “terrorist organizations” to explicitly include gangs, including Mara Salvatrucha (MS-13) and the Eighteenth Street Gang (Barrio 18), following the 2015 Supreme Court ruling mentioned above.<sup>190</sup>

Sentences for people convicted of leading a “terrorist” gang were increased from 10 to 15 years to between 30 and 40 years in prison.<sup>191</sup> The sentence for people who “take part” in

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<sup>185</sup> Amendments to the Juvenile Criminal Law, Decree 342, art. 2; Juvenile Criminal Law (Ley Penal Juvenil), Decree 863, signed into law on April 27, 1994, <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/8149596E-872F-4E5E-983C-5EF36B5F4080.pdf> (accessed November 29, 2022), art. 2.

<sup>186</sup> Juvenile Criminal Law, Decree 863, art. 119.

<sup>187</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49, entered into force September 2, 1990, art. 1. El Salvador ratified the CRC on July 10, 1990.

<sup>188</sup> UN Committee on the Rights of the Child, General Comment No. 24, Children’s Rights in the Child Justice System, U.N. Doc. CRC/C/GC/24 (2019), para. 33.

<sup>189</sup> Amendments to the Special Law Against Terrorist Acts, Decree 348, art. 1.

<sup>190</sup> Amendments to the Special Law Against Terrorist Acts, Decree 341, art. 1; Constitutional Chamber of the Supreme Court, resolution 22-2007AC, August 24, 2015, <https://www.jurisprudencia.gob.sv/DocumentosBoveda/D/1/2010-2019/2015/08/B254E.PDF> (accessed August 26, 2022).

<sup>191</sup> Amendments to the Special Law Against Terrorist Acts, Decree 348, art. 1; Amendments to the Special Law Against Terrorist Acts, Decree 341, art. 2.

these groups with the “intention of” carrying out “acts of terrorism” was increased to 15 to 20 years, up from 8 to 12.<sup>192</sup>

Under legislation in effect since 2016, gang members in El Salvador can also be prosecuted for membership in “unlawful association” (*agrupaciones ilícitas*), under provisions that target anyone who “takes part” in gangs, is the “creator, organizer, chief, leader [or] financier” of a gang, or “promotes, helps, facilitates or favors the creation or presence” of these groups or, knowing that these groups are unlawful, “receives direct or indirect benefit” by having relations “of any nature” with gangs “even without being a part of them.”<sup>193</sup> Such a broad definition could be used to charge family members, lawyers, journalists, and civil society members.

The March amendments drastically increased the penalties for these crimes, regardless of whether an alleged member committed any other crime. Prison terms for “taking part” in gangs were increased to between 20 and 30 years, up from 3 to 5.<sup>194</sup> Terms for “supporting” gangs were also increased to between 20 and 30 years, up from 3 to 6.<sup>195</sup>

The legislative changes also allow criminal courts to conceal the names and identities of judges to protect their safety and to “use necessary measures to make impossible their visual identification.”<sup>196</sup> While protecting a judge’s life and physical integrity is fundamental to ensuring the proper administration of justice, the Inter-American Court of Human Rights has ruled that “faceless judges” make it impossible for defendants to assess whether judicial authorities have a conflict of interest and are independent and impartial, violating due process protections under the American Convention on Human Rights.<sup>197</sup>

The Legislative Assembly also expanded mandatory pretrial detention to apply to all crimes committed by members of gangs.<sup>198</sup> This provision is inconsistent with international

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<sup>192</sup> *Ibid.*

<sup>193</sup> Amendments to the Criminal Code, Decree 337, art. 2.

<sup>194</sup> *Ibid.*

<sup>195</sup> *Ibid.*

<sup>196</sup> Amendments to the Code of Criminal Procedure, Decree 399, art. 2.

<sup>197</sup> See, for example, Inter-American Court of Human Rights, Case of *J. v. Peru*, judgement of November 27, 2013, Corte I.D.H., Series C No. 275, para. 184.

<sup>198</sup> Amendments to the Code of Criminal Procedure, Decree 339, art. 5.

human rights standards requiring an individualized determination that pretrial detention is reasonable and necessary for purposes such as preventing flight, interference with evidence, or the recurrence of crime.<sup>199</sup>

The legislature also modified El Salvador’s Code of Criminal Procedure to allow for indefinite pretrial detention.<sup>200</sup> Previously, the Code said pretrial detention should never exceed 12 months for “less serious crimes” or 24 months for “serious crimes.” For defendants accused of being part of “terrorist or unlawful association,” the new Code of Criminal Procedure eliminates any time limits, violating the right to trial within a reasonable time or to release under the International Covenant on Civil and Political Rights.<sup>201</sup> In addition, as the UN Human Rights Committee has noted, “[e]xtremely prolonged pretrial detention may also jeopardize the presumption of innocence.”<sup>202</sup>

Additionally, in September, the Legislative Assembly passed a law allowing prosecutors and judges to try people in absentia.<sup>203</sup> On its face, the International Covenant on Civil and Political Rights (ICCPR) does not appear to permit in absentia trials.<sup>204</sup> Even so, the UN Human Rights Committee, which provides authoritative interpretations of the ICCPR, has clarified that in absentia proceedings may be permissible in limited circumstances, such as where the accused has been informed of the charges, the date, and the place of the hearing reasonably in advance but has declined to be present.<sup>205</sup> The Human Rights Committee has called on courts to verify these circumstances before starting a trial in the absence of the accused.<sup>206</sup> The apparent absence of this safeguard in El Salvador’s in

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<sup>199</sup> See, for example, UN Human Rights Committee, General Comment No. 35, Article 9: Liberty and security of person, U.N. Doc. CCPR/C/GC/35 (2014), para. 38.

<sup>200</sup> Amendments to the Code of Criminal Procedure, Decree 339, art. 1.

<sup>201</sup> ICCPR, art. 9(3); UN Human Rights Committee, General Comment No. 35, Article 9: Liberty and security of person, U.N. Doc. CCPR/C/GC/35 (2014), para. 37.

<sup>202</sup> *Ibid.*

<sup>203</sup> Amendments to the Code of Criminal Procedure (Reformas al Código Procesal Penal), Decree 507, signed into law on September 21, 2022, <https://www.diariooficial.gob.sv/seleccion/30849> (accessed November 27, 2022).

<sup>204</sup> Article 14(3)(d) of the ICCPR provides that everyone charged with a criminal offense has the right to “be tried in his presence, and to defend himself in person....” ICCPR, art. 14(3)(d).

<sup>205</sup> UN Human Rights Committee, General Comment No. 32: Right to equality before courts and tribunals and to a fair trial, U.N. Doc. CCPR/C/GC/32 (2007), paras. 36, 31; *Mbenge v. Zaire*, Communication No. 16/1977, U.N. Doc. CCPR/C/18/D/16/1977 (Human Rights Committee March 25, 1983), para. 14.1; *Salikh v. Uzbekistan*, Communication No. 1382/2005, U.N. Doc. CCPR/C/95/D/1382/2005 (Human Rights Committee March 30, 2009), para. 9.4.

<sup>206</sup> *Maleki v. Italy*, Communication No. 699/1996, U.N. Doc. CCPR/C/66/D/699/1996 (Human Rights Committee July 27, 1999), para. 9.4.

absentia trials raises concerns about respect for due process rights, particularly in a context of widespread violations like El Salvador’s.

## International Funding

The Central American Bank for Economic Integration (Banco Centroamericano de Integración Económica, CABEI) has provided significant funding to Salvadoran government institutions.

In total, the CABEI has 13 “active loans” to fund El Salvador’s government, with funds approved for a total of over US\$1.5 billion.<sup>207</sup> For instance, in 2021, the CABEI Board of Directors –made up of the governments of Guatemala, El Salvador, Panama, Nicaragua, Costa Rica, Honduras, Mexico, Taiwan, Argentina, Colombia, Spain, Dominican Republic, and the Republic of Korea– approved loans to El Salvador for over \$884 million, the largest to any country in Central America.<sup>208</sup>

Part of the Bank’s loans have been directed to state agencies that, as shown in this report, are implicated in human rights violations committed during the state of emergency. Although the disbursement of most of these funds has been postponed,<sup>209</sup> El Salvador’s budget for fiscal year 2022 (January-December) indicates that the government was

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<sup>207</sup> Central American Bank for Economic Integration, “Active operations in the public sector” (“Operaciones activas en el sector público”), November 10, 2022, <https://www.bcie.org/operaciones-y-adquisiciones/fichas-de-operaciones-activas/ficha-de-operaciones-del-sector-publico> (accessed December 2, 2022).

<sup>208</sup> Central American Bank for Economic Integration, “CABEI strengthens its role as a leader for development in El Salvador” (“BCIE refuerza su rol como referente de desarrollo en El Salvador”), January 26, 2022, [https://www.bcie.org/fileadmin/user\\_upload/Logros\\_2021\\_BCIE\\_El\\_Salvador.pdf](https://www.bcie.org/fileadmin/user_upload/Logros_2021_BCIE_El_Salvador.pdf) (accessed October 18, 2022).

<sup>209</sup> Interview with high-level officials of the Central American Bank for Economic Integration, November 29, 2022. See also Ministry of Economy, “Report on follow-up and evaluation of the financial results of the central government by September 2022” (“Informe de seguimiento y evaluación de los resultados presupuestarios del Gobierno Central al mes de septiembre de 2022”), n.d., <https://www.transparenciafiscal.gob.sv/downloads/pdf/700-DGP-IF-2022-ISS22.pdf> (accessed November 26, 2022), p. 26. On October 8, 2022, the CABEI told the media outlet *Factum* that the funds for the “Territorial Control Plan” had not been disbursed because “none of the prior conditions for the disbursement of either of these loans have been fulfilled.” These conditions include, among others, that authorities explain in detail how the funds will be used. See “CABEI has not disbursed the \$109 million for which Bukele invaded the Assembly” (“El BCIE no ha desembolsado los \$109 millones por los que Bukele invadió la Asamblea”), *Revista Factum*, October 17, 2022, <https://www.revistafactum.com/bcie-prestamo-no/> (accessed November 24, 2022); “Loan Contract no. 2237 between the Central American Bank for Economic Integration and El Salvador’s government” (“Contrato de Préstamo no. 2237 entre el Banco Centroamericano de Integración Económica y el gobierno de El Salvador”), May 12, 2021, <https://www.diariooficial.gob.sv/seleccion/30513> (accessed November 24, 2022), p. 82.

expecting to receive part of these funds this year and the 2023 proposed budget also includes these funds.<sup>210</sup> For example:

- In 2019, the Bank approved loans to support the Territorial Control Plan with \$200 million, including funds to the National Civil Police, the Ministry of Defense, and the Ministry of Public Works and Transportation.<sup>211</sup> In November 2022, officials from the Bank told Human Rights Watch that these funds had not been disbursed and that the loans were being “reformulated” to replace the National Civil Police and the Ministry of Defense as the entities charged with executing the funds.<sup>212</sup> However, El Salvador’s proposed 2023 budget indicates that the Ministry of Justice and Public Safety is expected to receive \$20 million from these loans to develop the police’s infrastructure in 2023, roughly 67 percent of the funds allocated for this purpose in the budget.<sup>213</sup> Similarly, the Defense Ministry’s proposed 2023 budget includes funds from one of these loans for \$17 million, roughly 7 percent of the ministry’s expected total budget.<sup>214</sup>
- In 2014 and 2019, the Bank approved loans to build and equip new headquarters for the Attorney General’s Office, for a total of over \$70 million, which have yet to be disbursed.<sup>215</sup> The Attorney General’s Office budget indicates it expected to

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<sup>210</sup> See Ministry of Economy, “2022 Budget: Income” (“Presupuesto 2022: Ingresos”), n.d., <https://www.transparenciafiscal.gob.sv/downloads/pdf/PROSUMARIO2022-21012.pdf> (accessed November 27, 2022), p. 3. As of writing, the Legislative Assembly was discussing a 2023 budget proposal introduced by the Ministry of Economy. Ministry of Economy, “Bill for 2023 budget” (“Mensaje de proyecto: ley de presupuesto 2023”), September 30, 2022 (on file with Human Rights Watch), p. 13.

<sup>211</sup> Central American Bank for Economic Integration, “Operation data sheet: Program to Finance the Territorial Control Plan” (“Ficha de operación: Programa de Financiamiento al Plan de Control Territorial”), November 10, 2022, [https://bi.bcie.org/t/publico/views/FichaProyectosPblica/FichaPblica?code=500451&%3AiframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay\\_count=no&%3AshowVizHome=no#3](https://bi.bcie.org/t/publico/views/FichaProyectosPblica/FichaPblica?code=500451&%3AiframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay_count=no&%3AshowVizHome=no#3) (accessed November 27, 2022); Central American Bank for Economic Integration, “Operation data sheet: Program to Finance the Territorial Control Plan- Modernization of Security Institutions” (“Ficha de operación: Programa de Financiamiento PCT-Modernización Instituciones de Seguridad”), November 10, 2022, [https://bi.bcie.org/t/publico/views/FichaProyectosPblica/FichaPblica?code=500459&%3AiframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay\\_count=no&%3AshowVizHome=no#3](https://bi.bcie.org/t/publico/views/FichaProyectosPblica/FichaPblica?code=500459&%3AiframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay_count=no&%3AshowVizHome=no#3) (accessed November 27, 2022).

<sup>212</sup> Interview with high-level officials of the Central American Bank for Economic Integration, November 29, 2022.

<sup>213</sup> Ministry of Economy, “Bill for 2023 budget” (“Mensaje de proyecto: ley de presupuesto 2023”), September 30, 2022 (on file with Human Rights Watch), pp. 13, 112.

<sup>214</sup> *Ibid.*, pp. 13, 74.

<sup>215</sup> Central American Bank for Economic Integration, “Operation data sheet: Construction, Equipment and Modernization of the Headquarters of the Attorney General’s Office” (“Ficha de operación: Construcción, equipamiento y modernización de las Oficinas Centrales de la Fiscalía General de la Nación”), November 10, 2022, [https://bi.bcie.org/t/publico/views/FichaProyectosPblica/FichaPblica?code=500423&%3AiframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay\\_count=no&%3AshowVizHome=no#3](https://bi.bcie.org/t/publico/views/FichaProyectosPblica/FichaPblica?code=500423&%3AiframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay_count=no&%3AshowVizHome=no#3) (accessed November 27, 2022); Central American Bank for Economic Integration, “Operation data sheet: Project for the Strengthening and Modernization of El Salvador’s Attorney General’s Office” (“Ficha de operación: Proyecto para el fortalecimiento y modernización de la Fiscalía

receive over \$35 million from this loan in 2022, which represents more than 30 percent of the office’s total funding for the year.<sup>216</sup> The 2023 proposed budget notes that the office is expected to receive almost \$44 million from these loans in 2023, roughly 35 percent of the office’s expected budget for the year.<sup>217</sup> In November 2022, an official from the Bank said that they expected to disburse funds from this loan in 2023.<sup>218</sup>

- In 2012, the Bank approved a \$71 million loan to “strengthen the prison system” in El Salvador.<sup>219</sup> The Bank has already disbursed roughly \$57 million.<sup>220</sup> In September 2022, the bank’s directory approved a resolution replacing the Ministry of Justice and Public Safety with the Ministry of Public Works and Transportation as the entity charged with executing the funds.<sup>221</sup> The change was requested by Salvadoran authorities as a result of the December 2021 decision by the US Department of Treasury to sanction Osiris Luna Meza, the head of the prison system and vice minister of justice and public safety, due to his alleged involvement in closed-door negotiations with gangs.<sup>222</sup>

In May 2021, the US Agency for International Development (USAID) announced it was redirecting its funding away from Salvadoran government institutions, the police, and the

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General de la República de El Salvador”), November 10, 2022, [https://bi.bcie.org/t/publico/views/FichaProyectosPblica/FichaPblica?code=302443&%3AiframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay\\_count=no&%3AshowVizHome=no#3](https://bi.bcie.org/t/publico/views/FichaProyectosPblica/FichaPblica?code=302443&%3AiframeSizedToWindow=true&%3Aembed=y&%3AshowAppBanner=false&%3Adisplay_count=no&%3AshowVizHome=no#3) (accessed November 26, 2022).

<sup>216</sup> Ministry of Economy, “2022 Budget: Attorney General’s Office” (“Presupuesto 2022: Fiscalía General de la República”), n.d., <https://www.transparenciafiscal.gob.sv/downloads/pdf/LEYPRESU2021-21041.pdf> (accessed November 27, 2022), p. 4. See also, Ministry of Economy, “2022 Budget: Income” (“Presupuesto 2022: Ingresos”), n.d., <https://www.transparenciafiscal.gob.sv/downloads/pdf/LEYSUMARIO2021-21012.pdf> (accessed November 27, 2022), p. 4.

<sup>217</sup> Ministry of Economy, “Bill for 2023 budget” (“Mensaje de proyecto: ley de presupuesto 2023”), September 30, 2022 (on file with Human Rights Watch), pp. 13, 90.

<sup>218</sup> Interview with high-level officials of the Central American Bank for Economic Integration, November 29, 2022.

<sup>219</sup> CABEI, “Loan 2102: General Information on the Operation” (“Línea de crédito 2102: Datos Generales de la Operación”), n.d., [https://www.bcie.org/operaciones-y-adquisiciones/operaciones-aprobadas/detalle-operaciones-aprobadas?tx\\_news\\_pi1%5Baction%5D=detail&tx\\_news\\_pi1%5Bcontroller%5D=News&tx\\_news\\_pi1%5Bnews%5D=4069&cHash=7fego44128ca52ef52edd777d5925e88](https://www.bcie.org/operaciones-y-adquisiciones/operaciones-aprobadas/detalle-operaciones-aprobadas?tx_news_pi1%5Baction%5D=detail&tx_news_pi1%5Bcontroller%5D=News&tx_news_pi1%5Bnews%5D=4069&cHash=7fego44128ca52ef52edd777d5925e88) (accessed November 27, 2022).

<sup>220</sup> Interview with high-level officials of the Central American Bank for Economic Integration, November 29, 2022.

<sup>221</sup> CABEI, “Decision to replace the body charged with implementing loan 2102, authorized to the Republic of El Salvador” (“Sustituye organismo ejecutor del préstamo No. 2102, autorizado a la República de El Salvador”), September 22, 2022, [https://bcie2014.sharepoint.com/sites/DocPub/Doc\\_Pub/615/084.DI.133.2022%20-%20Sustituye%20organismo%20ejecutor%20del%20pr%20c3%a9stamo%20No.%202102,%20autorizado%20a%20la%20Rep%20c3%bablica%20de%20El%20Salvador.pdf?ga=1](https://bcie2014.sharepoint.com/sites/DocPub/Doc_Pub/615/084.DI.133.2022%20-%20Sustituye%20organismo%20ejecutor%20del%20pr%20c3%a9stamo%20No.%202102,%20autorizado%20a%20la%20Rep%20c3%bablica%20de%20El%20Salvador.pdf?ga=1) (accessed November 27, 2022).

<sup>222</sup> Interview with high-level officials of the Central American Bank for Economic Integration, November 29, 2022. See also, US Department of the Treasury, “Treasury Targets Corruption Networks Linked to Transnational Organized Crime,” December 8, 2021, <https://home.treasury.gov/news/press-releases/jy0519> (accessed November 29, 2022).

Access to Public Information Agency and toward civil society and human rights groups.<sup>223</sup> USAID said its decision was “in response” to the removal of the Attorney General and the judges of the Supreme Court’s Constitutional Chamber, as well as “larger concerns about transparency and accountability.” USAID has not publicly announced how much funding was redirected.<sup>224</sup>

The US government has taken additional steps to support civil society groups in El Salvador. This includes the Voices Initiative, launched in June 2022 by USAID, which will put approximately \$42 million toward activities that “protect, defend, and promote civic space in Central America.”<sup>225</sup>

In 2022, the European Union redirected \$8 million in support for El Salvador’s National Civil Police toward the Ministry of Education.<sup>226</sup>

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<sup>223</sup> United States Agency for International Development (USAID), “USAID Redirects Assistance for Salvadoran Government Institutions Civil Society Groups,” May 21, 2022, <https://www.usaid.gov/news-information/press-releases/may-21-2021-usaid-redirects-assistance-salvadoran-government-institutions-civil-society> (accessed November 26, 2022).

<sup>224</sup> Information provided via email by a USAID official, November 15, 2022.

<sup>225</sup> United States Agency for International Development (USAID), “USAID Announcements at The Ninth Summit of the Americas,” June 10, 2022, <https://www.usaid.gov/news-information/press-releases/jun-10-2022-usaid-announcements-ninth-summit-americas> (accessed October 19, 2022).

<sup>226</sup> Information provided via Whatsapp by a member of the European External Action Service, October 18, 2022.

## Widespread Abuses During the State of Emergency

Cristosal and Human Rights Watch documented widespread human rights violations committed during the state of emergency in El Salvador.

The National Civil Police and the army conducted dozens of raids, particularly in low-income neighborhoods, arresting thousands of people across El Salvador's 14 states over the eight-month period covered by this report. Over 58,000 people have been detained in the context of the state of emergency, according to official figures, including over 1,600 children.<sup>227</sup> Additionally, the police and the army report killing at least 84 alleged gang members during “confrontations.”<sup>228</sup>

Human rights violations documented by Human Rights Watch and Cristosal include arbitrary arrests, short-term enforced disappearances, torture and other ill-treatment in detention, and due process violations. Ninety people detained during the state of emergency have reportedly died in custody.<sup>229</sup> Authorities failed to meaningfully investigate these deaths and, in some cases, detainees who died in prison did not receive the medication they needed.

Many arbitrary arrests appear to have been driven by a policy of “quotas” imposed by commanders in the National Civil Police, according to police officers.<sup>230</sup> Police officers told Human Rights Watch and Cristosal that between March and September, emergency officers were pressed to arrest a specific number of people per day. Witnesses said that during

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<sup>227</sup> Office of the President, “Press Release” (“Comunicado de Prensa”), September 19, 2022, <https://www.presidencia.gob.sv/durante-el-gobierno-del-presidente-nayib-bukele-se-contabilizan-199-dias-con-cero-homicidios/> (accessed September 22, 2022); information provided to Human Rights Watch via email by the Public Defender’s Office, July 28, 2022 (on file with Human Rights Watch); information provided to Human Rights Watch via email by the National Civil Police, November 24, 2022 (on file with Human Rights Watch).

<sup>228</sup> National Civil Police report [identifying information withheld] (on file with Human Rights Watch). See, similarly, Tweet by Roberto Valencia, December 1, 2022, <https://twitter.com/cguanacas/status/1598325925057372160?s=20&t=vQAogKtIjQXEh8NsBj1cg> (accessed December 1, 2022).

<sup>229</sup> Facebook video, “Interview with the justice and public safety minister,” *Frente a Frente*, November 7, 2022, <https://www.facebook.com/frenteafrenteTCS/videos/446467967423582> (accessed November 14, 2022).

<sup>230</sup> Phone interview with police officer, July 11, 2022; phone interview with police officer, July 21, 2022; phone interview with police officer, November 16, 2022. See also “Union: El Salvador police pressured to meet arrest quotas,” *Associated Press*, April 12, 2022, <https://apnews.com/article/nayib-bukele-san-salvador-el-arrests-526a1ad197d79ac9cc40e24c51d077d3> (accessed August 4, 2022).

raids in low-income neighborhoods security forces arrested people indiscriminately with the apparent purpose of filling their trucks to their full capacity.<sup>231</sup>

High-level authorities, including President Bukele and Vice President Ulloa, have consistently tried to justify human rights violations as supposedly acceptable “errors” committed during what they called a “war against gangs.”<sup>232</sup> At the same time, President Bukele has signaled that security forces will be shielded from accountability if they engage in abuses and said that the government will be “watching judges who favor criminals,”<sup>233</sup> in what appears to be an effort to intimidate judges and prosecutors and keep them from investigating human rights violations or releasing people who they consider arbitrarily detained.

Such rhetoric, coupled with the government’s control of courts and the Attorney General’s Office, appears to have created a widespread sense that security officers can commit human rights violations with impunity. A mother who witnessed the detention of her son said that police officers told her, “We can arrest anyone we want.”<sup>234</sup> Another relative of a victim said that officers told her that “under the state of emergency, we can go as far as we want.”<sup>235</sup>

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<sup>231</sup> Phone interview with victim, April 18, 2022; phone interview with police officer, April 20, 2022.

<sup>232</sup> Tweet by President Nayib Bukele, April 9, 2022, [https://twitter.com/nayibbukele/status/1512889544403828743?s=20&t=WL2RBVxFk04Ybh\\_4AXcKTQ](https://twitter.com/nayibbukele/status/1512889544403828743?s=20&t=WL2RBVxFk04Ybh_4AXcKTQ) (accessed August 4, 2022). See also Tweet by President Nayib Bukele, July 5, 2019, <https://twitter.com/nayibbukele/status/1147235985756958722?s=20&t=HhmANjnTRf4BMbOJia1yXw> (accessed August 4, 2022); Tweet by President Nayib Bukele, April 3, 2022, <https://twitter.com/nayibbukele/status/1510774785227296786?s=20&t=WhW5kmv1TqAaohb5oyfu5g> (accessed August 4, 2022); Tweet by President Nayib Bukele, April 1, 2022, <https://twitter.com/nayibbukele/status/1509902540833538049?s=20&t=oOBywnAwDErINF9qIER-4Q> (accessed August 4, 2022); Tweet by Vicepresident Felix Ulloa, July 12, 2022, [https://twitter.com/fulloa51/status/1546833088868646913?s=20&t=jkW\\_YvHA8lQYcVqI2gwoA](https://twitter.com/fulloa51/status/1546833088868646913?s=20&t=jkW_YvHA8lQYcVqI2gwoA) (accessed October 20, 2022).

<sup>233</sup> Tweet by President Nayib Bukele, March 26, 2022, [https://twitter.com/nayibbukele/status/1507890917138653188?s=20&t=OSwNFgp1yGk3cEe7\\_FSpnw](https://twitter.com/nayibbukele/status/1507890917138653188?s=20&t=OSwNFgp1yGk3cEe7_FSpnw) (accessed August 4, 2022).

<sup>234</sup> Phone interview with victim’s relative, May 5, 2022.

<sup>235</sup> Phone interview with victim’s relative, June 10, 2022.

## Arbitrary Detention and Short-term Enforced Disappearances

Human Rights Watch and Cristosal gathered evidence of over 1,100 cases of arbitrary detention committed during the state of emergency and documented in detail 130 of them, including 12 that amount to short-term enforced disappearances.

In virtually all cases that Human Rights Watch and Cristosal documented, people were taken from their homes or work or picked up on the street without being shown a search or arrest warrant by security forces.

Salvadoran authorities argue that an arrest warrant is not required to arrest alleged gang members because, in their view, these people are in “permanent flagrancy” as gang membership is considered a “continuous offense.”<sup>236</sup> Such a broad and vague standard makes it possible to arbitrarily detain anyone security forces claim belongs to a gang, bypassing the usual legal requirement to obtain an arrest warrant.

Many arrests appear to be based on the appearance or social background of the detainees, or on questionable evidence, such as anonymous calls and uncorroborated allegations on social media. “Being poor is now a crime in El Salvador,” a relative of two people detained in a low-income neighborhood said.<sup>237</sup> Officers repeatedly searched for tattoos on people’s bodies while conducting arrests, presumably for evidence of gang affiliation, according to relatives of detained people and victims.

On August 8, the digital media outlet *El Faro* revealed records by the Attorney General’s Office suggesting that scores of arrests had been conducted based on questionable or no evidence. Out of 690 cases examined by *El Faro*, 160 detentions were purportedly based on detainees’ “suspicious appearance,” 73 others on “nervous appearance,” and 34 on “anonymous reports.”<sup>238</sup>

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<sup>236</sup> Permanent Mission of El Salvador to the United Nations, “Report by the State of El Salvador in Response to the Joint Communication of Special Procedures regarding Allegations or Risks of Human Rights Violations in the Context of the State of Emergency and Reforms to the Criminal Legislation,” July 29, 2022, pp. 11, 12.

<sup>237</sup> Phone interview with a victim’s relative, May 13, 2022.

<sup>238</sup> Efrén Lemus and Gabriela Cáceres, “State of Exception Files: Hundreds Arrested for Prior Convictions or ‘Looking Nervous,’” *El Faro*, August 8, 2022, [https://elfaro.net/en/202208/el\\_salvador/26298/State-of-Exception-Files-Hundreds-Arrested-for-Prior-Convictions-or-%E2%80%9CLooking-Nervous%E2%80%9D.htm](https://elfaro.net/en/202208/el_salvador/26298/State-of-Exception-Files-Hundreds-Arrested-for-Prior-Convictions-or-%E2%80%9CLooking-Nervous%E2%80%9D.htm) (accessed August 22, 2022).

In the cases documented by Human Rights Watch and Cristosal, detainees were rarely informed of the reasons for their arrest. In some cases officers said they were “following the orders of their superiors” or “orders from the president.” In some others, security forces portrayed the arrests as “informal questioning.” However, many people taken for such “questioning” were later reported as being under arrest.

Witnesses said that in some cases police or soldiers hit people and family members during the arrest or threatened to arrest them as well. Cristosal reported 77 cases in which family members of those detained were beaten or threatened with being arrested.

On July 18, 2022, soldiers detained **Noemí Abrego** (pseudonym), 16, in the state of Sonsonate.<sup>239</sup> Abrego works with her mother selling food at a market and was waiting for the bus outside of her home when four soldiers stopped her. They did not show her a warrant or explain the reason for the arrest.

Abrego’s sister, who witnessed the detention through a window, saw a soldier pushed Abrego to the ground and told her mother. Her mother went outside and told soldiers that Abrego was pregnant. One soldier replied that she should stop talking or he “was going to arrest her” as well.

Abrego was taken to a police station in Sonsonate. She was held there for five days and then transferred to a juvenile detention facility in the city of San Salvador.

Fifteen days after her arrest, Abrego was taken to a judge for the first time. She was accused of “unlawful association” and sent to pretrial detention, her mother, who attended the hearing, said.

On October 6, her mother went to the juvenile detention facility to leave her clothes and sanitary supplies. She was told by a prison guard that her daughter had had a

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<sup>239</sup> Unless otherwise noted, this case is based on an interview with a relative of the victim and her lawyer, San Salvador, El Salvador, October 20, 2022; and writ of Habeas Corpus, Constitutional Chamber of the Supreme Court, October 2022 [date withheld] (on file with Human Rights Watch).

miscarriage two months after her arrest. When the mother asked why she had not been informed, an officer said they “had forgotten to let her know.”

Abrego remained in detention as of November.

On April 30, police officers kicked and beat **Lucas Sánchez, 18**, and **Ricardo Marín, 28** (pseudonyms) as they were arrested at their home in Chalatenango state, a relative said.<sup>240</sup> The police said they were arresting them because of the “state of emergency.” The relative, who was eight months pregnant at the time, tried to defend them, but a police officer pushed her against a police car, saying she could also be detained if she didn’t stop asking questions. The relative said she bled for a week and a health care worker told her the pregnancy was at risk. Sánchez and Marín remain imprisoned at time of writing.

Human Rights Watch and Cristosal gathered information about 14 cases in which people with psychosocial disabilities or mental health conditions were detained and documented five such cases in detail. These arrests can lead to damaging long-term consequences for their physical and mental health.

People with disabilities are entitled to due process safeguards and what are known as procedural accommodations—in this case to enable them to understand the reason for their detention and their rights—to ensure equality with other detainees.<sup>241</sup> Human Rights Watch and Cristosal have not been able to determine whether authorities have fulfilled these obligations in these cases or others. Failing to do so puts people with disabilities at risk of abuse.

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<sup>240</sup> Unless otherwise noted, this case is based on a telephone interview with a relative of the victim, May 5, 2022.

<sup>241</sup> Convention on the Rights of Persons with Disabilities, adopted 13 December 2016, U.N. Doc. A/RES/61/106, entered into force May 3, 2008, art. 14. El Salvador ratified the Convention on December 14, 2007.

On May 1, 2022, police officers detained **Roberto Ramírez** (pseudonym), 25, in the state of Chalatenango. Ramírez, who sold fruits at the local market and has a mental health condition, was stopped by police when he took the family's dogs out.<sup>242</sup>

Officers asked him for an identification document and, when he showed it, they said he was being detained for “collaborating with gangs.” They did not show an arrest warrant, a witness said. When the family told the officers that Ramírez had a mental health condition, one agent responded that “if [Ramírez] died, [the officer] would bring him to me dead,” a relative recalled.

The officers also arrested Ramírez's brother, who arrived at the house later when they were taking Ramírez to celebrate a relative's birthday party.

The brothers were sent to a nearby police station and, two days later, to the Mariona prison. They have been held incommunicado since their arrest. On May 13, a judge charged them with “unlawful association” and ordered their detention pending trial.

Police and soldiers detained **Edubai Molina** (pseudonym), 23, at his home in Cuscatlán state on April 12.<sup>243</sup> A relative said that Molina has a condition that causes bone deformation.

Security forces did not tell him or a relative who was present why he was being detained; they only said it was “due to the state of emergency.” He was taken to a police station in the municipality of Santa Cruz Michapa, Cuscatlán state, and, a few hours later, moved to a police station in the municipality of Coatepeque, Santa Ana state. There, an officer told his family that he had to comply with an “arrest quota.” The officer acknowledged that the detention was unjust, his relative said, but alleged he could not do anything about it.

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<sup>242</sup> Unless otherwise noted, this case is based on a telephone interview with a relative of the victim, May 13, 2022; Hospital, “Reference Card” (“Tarjetas de referencia”), December 2006 [name of hospital withheld] (on file with Human Rights Watch); and School, “School Record” (“Constancia”), May 9, 2022 [name of school withheld] (on file with Human Rights Watch).

<sup>243</sup> Unless otherwise noted, this case is based on an interview with a victim's relative, San Salvador, El Salvador, October 20, 2022; and a phone interview with a lawyer with knowledge of the case, November 23, 2022.

Molina was transferred to the Mariona prison, but his family was not informed. Unaware of his whereabouts, his relatives looked for him for almost three months, until in July, a prison guard acknowledged that he was in Mariona.

A judicial document that Human Rights Watch reviewed indicates that on September 8 a judge ordered that Molina be released on bail.<sup>244</sup> But as of November 23, he remained in detention, in apparent violation of the judge’s decision. His family is not aware of any judicial orders overturning the release order.

After conducting the arrests, security forces systematically posted photographs of the detainees on the police’s and army’s institutional accounts on social media platforms, accusing them of being gang members or “terrorists.”<sup>245</sup> In some cases, the photos showed that the detainees had been injured, apparently during their arrest, and President Bukele minimized the incidents or made fun of them in an apparent attempt to justify possibly abusive behavior.<sup>246</sup>

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<sup>244</sup> Investigation Court of San Salvador, decision of September 2022 [name of court and date of the decision withheld] (on file with Human Rights Watch).

<sup>245</sup> See, for example, Tweet by the National Civil Police, August 1, 2022, <https://twitter.com/PNCSV/status/1554183572516388864?s=20&t=43dna5wCsJV8JZKRT5jGZQ> (accessed August 4, 2022); Tweet by the National Civil Police, April 12, 2022, [https://twitter.com/PNCSV/status/1513931835180564485?s=20&t=Ddquhnchi\\_UZjW-RXBuDPQ](https://twitter.com/PNCSV/status/1513931835180564485?s=20&t=Ddquhnchi_UZjW-RXBuDPQ) (accessed August 4, 2022); Tweet by the National Civil Police, May 21, 2022, <https://twitter.com/PNCSV/status/1528062146177019904?s=20&t=tpDgnrP3AllgSht8yJmtUA> (accessed August 4, 2022); Tweet by the National Civil Police, June 5, 2022, [https://twitter.com/PNCSV/status/1533584473144676352?s=20&t=aBap-CO\\_7KmPP1DcXcx8sw](https://twitter.com/PNCSV/status/1533584473144676352?s=20&t=aBap-CO_7KmPP1DcXcx8sw) (accessed August 4, 2022); Tweet by the National Civil Police, July 27, 2022, <https://twitter.com/PNCSV/status/1552486027591401472?s=20&t=gsHAYgFjNHFjLHzWZiQFdw> (accessed August 4, 2022); Tweet by El Salvador’s Armed Forces, July 1, 2022, <https://twitter.com/FUERZARMADASV/status/1542995389162438662?s=20&t=NR1Ku5QPog8YVpfl8TbiEw> (accessed August 4, 2022); Tweet by El Salvador’s Armed Forces, April 21, 2022, <https://twitter.com/FUERZARMADASV/status/1517161371787485184?s=20&t=1p6gVimAugmG2jLhj-xTRA> (accessed August 4, 2022); Tweet by El Salvador’s Armed Forces, May 6, 2022, <https://twitter.com/FUERZARMADASV/status/1522736472704667655?s=20&t=UAotxDdmF5N6vNrT9dXtZg> (accessed August 4, 2022).

<sup>246</sup> See, for example, Tweet by President Bukele, April 9, 2022, [https://twitter.com/nayibbukele/status/1512969182434009089?s=20&t=Ck9aabSzXoad6lvs\\_A7Z7A](https://twitter.com/nayibbukele/status/1512969182434009089?s=20&t=Ck9aabSzXoad6lvs_A7Z7A) (accessed August 16, 2022); Tweet by President Bukele, April 1, 2022, [https://twitter.com/nayibbukele/status/1509762961874858009?s=20&t=Ck9aabSzXoad6lvs\\_A7Z7A](https://twitter.com/nayibbukele/status/1509762961874858009?s=20&t=Ck9aabSzXoad6lvs_A7Z7A) (accessed August 16, 2022); Tweet by President Bukele, April 1, 2022, [https://twitter.com/nayibbukele/status/1509745949073190925?s=20&t=Ck9aabSzXoad6lvs\\_A7Z7A](https://twitter.com/nayibbukele/status/1509745949073190925?s=20&t=Ck9aabSzXoad6lvs_A7Z7A) (accessed August 16, 2022).

Human Rights Watch and Cristosal received detailed reports of over 30 cases in which people were not informed of the whereabouts of their loved ones. Some have not been allowed to communicate with their relatives for days or weeks. In several cases, officers refused to provide information about the detainees' whereabouts, in what amounts to an enforced disappearance under international law.<sup>247</sup>

Lack of information about detainees' health conditions and, at times, about their whereabouts drove hundreds of family members, mostly women, to gather outside the Mariona prison for days or weeks between April and May.<sup>248</sup>

The police arrested **Tomás Rivera** (pseudonym), 21, a construction worker, on April 24, 2022, at his home in Chalatenango state.<sup>249</sup> When his family asked why he was being detained, an officer said it was because “[I] do not like you,” a relative told Human Rights Watch. Rivera had an initial hearing on May 1, and he was charged with belonging to a “terrorist organization.”

On April 30, the police detained Tomás' brother, **Martín Rivera** (pseudonym), a 28-year-old mechanic, and his brother-in-law, **Juan González** (pseudonym), an 18-year-old construction worker. Officers did not provide a reason for the detention. A relative said three officers kicked and beat the two men.

Authorities did not give the family any information about the detainees' whereabouts. A family member spent 24 days sleeping outside the Mariona prison awaiting news about the three. She was pregnant and waited with her 2-year-old son and, for some days, other family members, including children.

<sup>247</sup> An enforced disappearance is “the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” International Convention for the Protection of All Persons from Enforced Disappearance, December 20, 2006, 2716 U.N.T.S. 3. See also UN Working Group on Enforced or Involuntary Disappearances, General Comment on the Definition of Enforced Disappearance (2008), in Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, U.N. Doc. A/HRC/7/2 (January 10, 2008), para. 26.

<sup>248</sup> See, for example, Natalie Kitroeff, “Outside the Walls of a Salvadoran Prison, ‘We’re All Crying Mothers,’” *New York Times*, May 12, 2022, <https://www.nytimes.com/2022/05/12/world/americas/el-salvador-prison-gangs-bukele.html> (accessed August 17, 2022); interview with victim's relative, San Salvador, El Salvador, October 20, 2022; phone interview with victim's relative, April 4, 2022; phone interview with victim's relative, May 19, 2022.

<sup>249</sup> Unless otherwise noted, this case is based on a phone interview with a victim's relative, May 19, 2022.

On the night of May 24, the police dispersed the crowds outside of the Mariona prison using what several witnesses believed to be tear gas and water cannons.<sup>250</sup> Officers stated that they would “beat the bugs,” in an apparent threat of retaliation against their relatives in detention, the relative said.

On May 21, authorities established “information center[s]” outside prisons following what the government described as “challenges” in providing information to relatives about their loved ones.<sup>251</sup> The government described the purpose of these centers as providing information to relatives about detainees’ “whereabouts, pavilion and cell.”<sup>252</sup> Interviewees told Human Rights Watch and Cristosal that these centers did provide some information on detainees’ whereabouts including their pavilion and cell. One interviewee said, however, that when she asked about her relative, a person working at the center in the Mariona prison told her that if “she asked again she would be detained.”<sup>253</sup>

While establishing these centers is an important step toward fulfilling authorities’ obligations to provide information on detainees’ whereabouts, they do not address the fact that many victims have been held incommunicado. They also do not allow relatives to obtain other crucial information about their loved ones, including on their health. The centers were created two months into the state of emergency, when thousands had already been detained and hundreds of relatives were gathering outside of prisons to obtain information.

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<sup>250</sup> Phone interview with victim’s relative, May 24, 2022; phone interview with a victim’s relative, May 25, 2022; phone interview with a victim’s relative, May 26, 2022.

<sup>251</sup> Permanent Mission of El Salvador to the United Nations, “Report by the State of El Salvador in Response to the Joint Communication of Special Procedures regarding Allegations or Risks of Human Rights Violations in the Context of the State of Emergency and Reforms to the Criminal Legislation,” July 29, 2022, p. 18.

<sup>252</sup> Ibid.

<sup>253</sup> Phone interview with victim’s relative, June 9, 2022.

Police officers detained brothers **Eric** and **Ricardo Gallegos** (pseudonyms), ages 23 and 26, on April 5 and 6, respectively, in Santa Ana state.<sup>254</sup> Officers said the brothers were “gang members” and detained them without showing an arrest or search warrant, a relative said.

Officers arrested Eric in a food market and, a day later, took Ricardo from his home. Officers did not tell the family where they were taking Ricardo, so the family followed the police to a station in Santa Ana. On April 7, the family saw the brothers taken out of the station and placed on a bus, apparently to move them to another detention facility. When a relative asked where they were being taken, officers said they “could not provide information about their whereabouts.”

Their family was not aware of their whereabouts for two months. In June, when the government announced that relatives would be allowed to leave clothes and medicine for detainees, family members decided to visit the Izalco prison to see if the brothers were held there. Guards said that they were detained there and received the package, but relatives have not been able to see them since their arrest.

On the morning of April 16, police officers detained **William Gavidia** (pseudonym), 24, when he was heading to a bus station in Monteliz, in the state of San Salvador, according to his brother and a family friend.<sup>255</sup>

Officers asked for his phone and identification document, which he provided. They arrested him, saying he was in a different neighborhood than the one noted on his identification document, and accused him of being “a gang member hiding from justice.”

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<sup>254</sup> Unless otherwise noted, this case is based on interviews with the victims’ relative and a family friend, San Salvador, El Salvador, October 20, 2022; and General Directorate of Penal Centers, “Criminal Records” (“Constancia de antecedentes penales”), June 6, 2022 (on file with Human Rights Watch).

<sup>255</sup> Unless otherwise noted, this case is based on phone interviews with a victim’s relative, April 19 and August 5, 2022.

Officers threatened his brother with arrest. “You can’t do anything,” one of them said, “and if you keep asking for his rights, I will detain you and take you to a police station.”

They did not say where they were taking him. His relatives and a friend, who is a lawyer, toured detention centers to try to find him. In one of them, known as “El Penalito,” they recalled seeing what they estimated to be more than one hundred women waiting outside to learn if their relatives were detained there.

After a six-hour search, officers told them that Gavidia was held in the San Marcos police station. A police officer told the lawyer that, “We did not find anything [to detain] him but we are not going to release him.” “There is nothing you can do now. We are in a ‘state of emergency,’” an officer told them, “We cannot release him, these are the orders from above.”

Gavidia has not been able to talk with his family since. On April 25, a judge charged him with “unlawful association” and sent him to pretrial detention.

In some specific cases, officers have arrested or threatened to arrest people in apparent retaliation for previous incidents involving those detained or their families, including reporting police conduct to the Attorney General’s Office or to the Human Rights Ombudsperson’s Office. In some cases, police harassment and fear of being arbitrarily arrested has forced people to move or hide in different places. Cristosal has documented over 50 cases of people who have fled their homes during the state of emergency, fearing arbitrary arrests.

In April 2022, the police arrived at the home of **Elbin Hernández** (pseudonym), a 26-year-old student, in the state of San Salvador and threatened to detain and kill him, a relative told Cristosal. He fled his house.<sup>256</sup>

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<sup>256</sup> Unless otherwise noted, this case is based on a phone interview with a victim’s relative, April 16, 2022; and a phone interview with a lawyer with knowledge of the case, November 21, 2022.

For over ten years, the relative said, police had repeatedly harassed Hernández, demanding that he provide information on gang members who operate in his community. The relative reported the officers to the Human Rights Ombudsperson's Office; one police officer was dismissed temporarily, and the harassment ended for some time.

But when Hernández turned 18, the same officer arrived at his home with an arrest order and accused him of murder. He was held in the Quezaltepeque prison for three years. He was acquitted and released in 2019. Soon after, officers arrested him again, this time accusing him of drug possession, but he was released on parole.

The relative said that during the state of emergency, police officers have repeatedly arrived at his home searching for him. Currently, Hernández is in hiding, fearing that officers will arrest him again.

## Abusive Prison Conditions and Ill-Treatment in Custody

Prisons in El Salvador have for decades been overcrowded and marked by violence and poor access to basic services, such as food, drinking water, and health care.<sup>257</sup>

Overcrowding has been rooted in part in policies of mass incarceration implemented by previous governments in response to gang violence.<sup>258</sup> By 2020, the official capacity of the prison system was about 27,000 detainees, but it housed over 39,000, according to official statistics.<sup>259</sup>

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<sup>257</sup> Inter-American Commission on Human Rights, "Annual Report of the Inter-American Commission on Human Rights 1990-1991," February 22, 1991, <https://www.cidh.oas.org/annualrep/90.91sp/Cap.4.htm#2> (accessed August 16, 2022); Inter-American Commission on Human Rights, "Preliminary Observations on the Visit to El Salvador by the Office of the Rapporteur on the Rights of Persons Deprived of Liberty," October 20, 2010, <http://www.cidh.oas.org/Comunicados/English/2010/ANNEX%20104-10.pdf> (accessed August 8, 2022).

<sup>258</sup> See, for example, International Crisis Group, *El Salvador's Politics of Perpetual Violence*, p. 4; Inter-American Commission on Human Rights, *Situation of Human Rights in El Salvador*, p. 60.

<sup>259</sup> Justice and Public Safety Ministry, "Existence of Detainees in the Penitentiary System as of December 31, 2020" ("Existencia de internos en el sistema penitenciario al 31/12/2020"), December 31, 2020, <https://www.transparencia.gob.sv/institutions/dgcp/documents/415755/download> (accessed August 16, 2022).

The excessive use of pretrial detention is another factor driving high levels of prison overcrowding.<sup>260</sup> The Inter-American Commission on Human Rights has noted that authorities have routinely resorted to pretrial detention “based on the type of offense, with no sufficient and individualized consideration of each case to determine whether the necessary conditions for detention are met.”<sup>261</sup>

However, overcrowding has seriously worsened during the state of emergency. Between late March and late November 2022, over 58,000 people have been detained, according to official figures, including over 51,000 who have been sent to pretrial detention.<sup>262</sup> Such mass imprisonment raised El Salvador’s prison population to an estimated 95,000 detainees, 68,000 more than the country’s prison capacity.<sup>263</sup>

According to the International Crisis Group, between March and October police detained over 7,500 women, over two times the number of women who were detained in El Salvador as of February 2021.<sup>264</sup>

On April 19, the Legislative Assembly passed a law authorizing the creation of new prisons.<sup>265</sup> Months later, President Bukele announced the construction of a sprawling new prison with capacity for 40,000 detainees, which he said would be ready “in 60 days.”<sup>266</sup> The United Nations Standard Minimum Rules for the Treatment of Prisoners, also known as

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<sup>260</sup> Inter-American Commission on Human Rights, *Situation of Human Rights in El Salvador*, p. 60.

<sup>261</sup> *Ibid.*, p. 61.

<sup>262</sup> Information provided to Human Rights Watch via email by the National Civil Police, November 24, 2022 (on file with Human Rights Watch); Ministry of Justice and Public Safety, “We are committed to completely eradicating gangs: Minister Villatoro” (“Estamos comprometidos con erradicar por completo a las pandillas: Ministro Villatoro”), November 29, 2022, <https://www.seguridad.gob.sv/estamos-comprometidos-con-erradicar-por-completo-a-las-pandillas-ministro-villatoro/> (accessed December 6, 2022).

<sup>263</sup> Ministry of Justice and Public Safety, “Today, El Salvador is the safest country in the Americas: Gustavo Villatoro, minister for security” (“Hoy por hoy El Salvador es el país más seguro de América: Gustavo Villatoro, ministro de seguridad”), July 25, 2022, <https://www.seguridad.gob.sv/hoy-por-hoy-el-salvador-es-el-pais-mas-seguro-de-america-gustavo-villatoro-ministro-de-seguridad/> (accessed August 4, 2022); World Prison Brief, “El Salvador,” <https://www.prisonstudies.org/country/el-salvador> (accessed August 29, 2022).

<sup>264</sup> International Crisis Group, *A Remedy for El Salvador’s Prison Fever*, p. 11; Ministry of Justice and Public Safety, “Annex to resolution 0009-2021”, February 16, 2021, <https://www.transparencia.gob.sv/institutions/dgcp/documents/415753/download> (consultado el 16 de agosto de 2022).

<sup>265</sup> Legislative Assembly, “Assembly authorizes the executive branch to construct prisons to hold people arrested during the state of emergency” (“Asamblea autoriza al Ejecutivo la construcción de centros penales para alojar a reos capturados durante régimen de excepción”), April 20, 2022, <https://www.asamblea.gob.sv/node/12097> (accessed December 2, 2022).

<sup>266</sup> Tweet by President Nayib Bukele, July 21, 2022, [https://twitter.com/nayibbukele/status/1550300348073607168?s=20&t=n2\\_Uac9D\\_awob7HigldK1A](https://twitter.com/nayibbukele/status/1550300348073607168?s=20&t=n2_Uac9D_awob7HigldK1A) (accessed August 5, 2022).

the “Mandela Rules,” recommend that the “number of prisoners in closed prisons should not be so large that the individualization of treatment is hindered,” noting that “in some countries it is considered that the population of such prisons should not exceed 500.”<sup>267</sup> A prison complex designed to hold tens of thousands of people would be clearly inconsistent with this international standard.

Human Rights Watch and Cristosal interviewed eight people who have been released from prison. They reported poor conditions and degrading and inhumane treatment at police stations and at Mariona, Izalco, Ilopango, Quezaltepeque, and Jucuapa prisons, as well as cases of torture in the Mariona and Izalco prisons, including beatings and waterboarding.

Currently, overcrowding is so extreme that detainees barely have space to move, they said.<sup>268</sup> One interviewee said that at the Jucuapa prison detainees had to “sleep standing” or “take shifts to sleep lying on the floor.”<sup>269</sup>

Such prison conditions, coupled in some cases with limited access to health services in detention, can seriously aggravate the health conditions of detainees. Human Rights Watch and Cristosal gathered evidence of over 240 cases of people detained with underlying health conditions, including diabetes, recent history of stroke, and meningitis.

The police detained **Esteban Guevara** (pseudonym), a 54-year-old Uber driver, on April 25, 2022, at his home in the state of San Salvador. According to a relative who spoke with Cristosal, officers said that they had received an “anonymous phone call” that accused him of “collaborating with gangs.”<sup>270</sup>

Guevara was taken to the Mariona prison, prison guards said to a relative. Two months after his detention, a person who did not identify himself arrived at Guevara’s

<sup>267</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules), U.N. Doc. A/RES/70/175, January 8, 2016, [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-book.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf) (accessed October 20, 2022), rule 89 (3).

<sup>268</sup> Phone interview with victim, April 4, 2022; phone interview with victim, July 4, 2022; phone interview with victim, July 27, 2022; phone interview with victim, May 25, 2022.

<sup>269</sup> Phone interview with victim, July 7, 2022.

<sup>270</sup> Unless otherwise noted, this case is based on a phone interview with a victim’s relative, June 26, 2022; and a phone interview with a lawyer with knowledge of the case, November 21, 2022.

house and told relatives that Guevara had been hospitalized at the National Hospital since May 3. An official in the Human Rights Ombudsperson's Office told a relative that Guevara had injured his left foot when he was taken to the Mariona prison, but he did not say how.

A relative who was able to visit Guevara briefly in the hospital learned that doctors amputated Guevara's right leg and a part of his left foot.

Guevara is diabetic. His relatives took his medication to the Mariona prison before the amputation but do not know if prison authorities gave him access to it. On July 8, Guevara was taken to the Quezaltepeque prison, where he remained as of November 24.

On June 29 and July 12, 2022, then-Human Rights Ombudsperson Apolonio Tobar Serrano conducted hours-long visits to the Mariona and Izalco prisons, along with each prison director.<sup>271</sup> He did not conduct private interviews with detainees.<sup>272</sup> He found overcrowding in both prisons as a consequence of the "increase in the number of detainees." His finding of overcrowding is consistent with tweets and videos published by President Bukele and other authorities that show thousands of detainees stripped to their underwear and jammed together on the floors inside prisons.<sup>273</sup>

Although Tobar Serrano also said that detainees were receiving three meals a day and had access to daylight as well as adequate access to health care, President Bukele and other authorities have announced that detainees' food would be "rationed" and they would not

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<sup>271</sup> Phone interviews with then-Human Rights Ombudsperson, Apolonio Tobar Serrano, June 1 and July 6, 2022; Tweet by the Human Rights Ombudsperson's Office, June 29, 2022, <https://twitter.com/PDDHEISalvador/status/1542299913874284544/photo/2> (accessed August 8, 2022); Tweet by the Human Rights Ombudsperson's Office, July 11, 2022, <https://twitter.com/PDDHEISalvador/status/1546702554620387328?s=20&t=MZNUfQJHjnRiiMDYyUv6zA> (accessed August 8, 2022).

<sup>272</sup> Phone interview with then-Human Rights Ombudsperson, Apolonio Tobar Serrano, July 6, 2022.

<sup>273</sup> Tik Tok by Osiris Luna Meza, March 29, 2022, [https://www.tiktok.com/@osirislunamezasv/video/7080562990541573382?\\_r=1&t=8Tu19icgwWs&is\\_from\\_webapp=v1&item\\_id=7080562990541573382](https://www.tiktok.com/@osirislunamezasv/video/7080562990541573382?_r=1&t=8Tu19icgwWs&is_from_webapp=v1&item_id=7080562990541573382) (accessed August 17, 2022); Tik Tok by Osiris Luna Meza, June 14, 2022, [https://www.tiktok.com/@osirislunamezasv/video/7109312059598179589?\\_r=1&t=8Tu1OWvrTos&is\\_from\\_webapp=v1&item\\_id=7109312059598179589](https://www.tiktok.com/@osirislunamezasv/video/7109312059598179589?_r=1&t=8Tu1OWvrTos&is_from_webapp=v1&item_id=7109312059598179589) (accessed August 17, 2022).

have access to sunlight.<sup>274</sup> On April 3, President Bukele threatened to deny all prisoners food if the spike in murders in the country continued,<sup>275</sup> an action that would amount to collective punishment prohibited under international human rights law.<sup>276</sup>

(As discussed earlier in this report, lawmakers repeatedly threatened to oust Tobar Serrano, a vocal critic of the government’s human rights policies between 2019 and mid-2021.)

### *Selected Cases of Abuses in Detention*

#### **Lucrecia López (pseudonym), 48, Cuscatancingo**

On March 30, police arrested **Lucrecia López**, a 48-year-old fruit seller, in Cuscatancingo, San Salvador state.<sup>277</sup> After raiding the house without showing a search warrant, officers told her they were detaining her because “[they] needed to make numbers,” she said, in an apparent reference to the police’s arrest quotas. Officers took López to a police station in Cuscatancingo where they told her she was detained for “unlawful association.”

Later that day, she was transferred to a police station in Sacamil. López said she was held in a small room with 45 women; many had to sleep standing. There were no beds or mattresses in the cell, she said.

On April 2, she was moved to the women’s prison in Ilopango. López said that she slept on the floor for several days until her family sent her a mattress and some blankets. She said there was no running water.

On April 17, she was charged with “unlawful association” and placed in pre-trial detention. Sixty-five other people were charged in that hearing; all of them participated virtually.

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<sup>274</sup> Tweet by President Nayib Bukele, March 28, 2022, <https://twitter.com/nayibbukele/status/1508543617970933761?s=20&t=HPvTRKRES-lBJ8BeuZ7Lxw> (accessed August 5, 2022).

<sup>275</sup> Tweet by President Nayib Bukele, April 2, 2022, <https://twitter.com/nayibbukele/status/1510458427864199172?s=20&t=cVSxtq1croj3vKRmBBYltw> (accessed August 5, 2022).

<sup>276</sup> See, for example, UN Human Rights Committee, General Comment No. 29, Article 4: States of Emergency, U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), para. 11; United Nations Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules), U.N. Doc. A/RES/70/175, January 8, 2016, [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf) (accessed October 20, 2022), rule 43 (e).

<sup>277</sup> Unless otherwise noted, this case is based on a phone interview with the victim, July 27, 2022.

On May 11, López was transferred to the Jucuapa prison, where she said conditions were “worse.” She had to sleep standing due to overcrowding. Some women died while she was detained, and others got sick, she said. López said she has a colon disease and that she did not receive medical treatment while in detention. She was released on bail on July 8.<sup>278</sup>

**Marcelo Gómez (pseudonym), 39, Cuscatancingo**

Four police officers detained **Marcelo Gómez**, a 39-year-old taxi driver, outside his home in the municipality of Cuscatancingo, San Salvador state.<sup>279</sup> After reviewing his ID card and phone, officers told Gómez’s partner that they were taking him to the police station as part of a “police routine” and that they would “release him soon.”

He spent three days at the police station, without knowing why he had been detained. He “cried all day.” The cell had capacity to house 25 people, but when he arrived, there were over 75 prisoners, he said. He slept on the floor next to “the bathroom,” a hole in the ground that smelled “terrible.”

He was sent to Izalco prison on the third day. During the transfer, officers tied his hands with plastic straps so tight that his fingers swelled: “I felt they were going to explode,” he said.

When they arrived, the prison’s guards ordered the group to take off their clothes. They were forced to kneel on the ground naked looking downwards for four hours in front of the prison’s gate, Gómez said. They were then forced to squat several times.

Guards took the group to a room with five barrels full of water with ice, he said. Fifteen guards forced him and others to go into the barrels for around two hours in total, as they questioned them about their supposed links with gangs.

He was forced into a barrel “around 30 times,” and was kept there for about a minute each time. Guards forced his head under water so he could not breathe. “I felt I was drowning,” he said. Guards repeatedly insulted them, calling them “dogs” and “scum” and saying they would “pay for what [they] had done.”

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<sup>278</sup> Arraignment record (“Acta de presentación del imputado”), July 2022 [date withheld] (on file with Human Rights Watch).

<sup>279</sup> Unless otherwise noted, this case is based on a phone interview with the victim, July 7, 2022.

He was then taken to a cell along with 124 other people. Gómez said that the cell had capacity for 60 detainees. He had two meals per day, which normally “arrived dirty, and smelled bad.” Gómez said he lost 60 pounds in one month.

Some people were forced to sleep on the floor. Gómez said he had fever and pain in his ear. After eight days in pain, a guard took him to the infirmary where a health professional gave him two pills for an “ear infection” and sent him back to his cell. He also said he suffered from continuous coughs that were severe enough that he could not speak.

Around two weeks later, he was taken before a judge with around 400 other detainees. All of them participated virtually. In the hearing, he learned about the charges against him for the first time; authorities said they were accusing him of “unlawful association.” Gómez said he did not talk to his lawyer before or during the hearing. On June 2, he was released on bail.<sup>280</sup>

**Marvin Argueta (pseudonym), 45, Ilopango**

On March 27, police officers detained **Marvin Argueta** a 45-year-old professor and taxi owner, at his taxi shop in the state of San Salvador.<sup>281</sup> He was detained with seven other taxi drivers who were also there.

Officers asked Argueta to provide documentation of the taxis, which he did. But the police officer detained him, without showing an arrest warrant; according to Argueta the officer said it was due to the “state of emergency.”

He was taken to the Ilopango police station, where he was held for four days. It was the first time Argueta had been detained, he said. He received food once or twice a day. At the police station an officer told him he had been detained for “unlawful association.”

On March 30, Argueta was transferred, handcuffed, to the Izalco prison. He was forced to keep his head down during the transfer, Argueta said, and police officers kicked and beat up those who disobeyed. Before entering the prison, officers forced him to kneel on the

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<sup>280</sup> Investigation court of San Salvador, decision of October 2022 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>281</sup> Unless otherwise noted, this case is based on an interview with victim, San Salvador, El Salvador, October 20, 2022.

ground for about two hours, under the sun, and to squat 25 times naked, Argueta said. “Welcome to hell,” prison guards said, according to Argueta.

As detainees walked to their cells, police officers stood on both sides and beat them, Argueta said. “We had to walk almost squatting, and without looking up,” he said. Argueta fell and officers kicked him repeatedly.

He said he vomited when he arrived in his cell and had fever for four days. The cell had capacity for 30 people but actually held 125, according to Argueta. He slept on the floor due to the overcrowding. There was no water or toilet paper in the cell. Guards told detainees they could not talk or pray, and threw tear gas in the cell every time someone disobeyed, Argueta said.

Argueta suffers hypertension and diabetes, but he said he did not receive health care while he was detained.

On April 14, he was taken to a virtual hearing with over 50 other people. The prosecutor accused all of them of belonging to a “terrorist organization.” Argueta told the judge that he was innocent. The judge charged him and sent him to pretrial detention.

On April 23, guards took him to the prison’s infirmary where they treated him for a severe flu. The next day he was sent to a hospital, where he spent one night, before being transferred to the Quezaltepeque prison.

In Quezaltepeque, food was only “tortillas and beans.” There were 90 people in the cell, which had capacity for 30, he said.

On September 8, he was taken to the Occidental Santa Ana prison, also known as “El Peñalón,” where he said conditions were better. He was taken to a health examination and had a bed. He also was able to be outside his cell and had three meals each day.

On September 22, he was released on \$3,000 bail.<sup>282</sup> He said he was held incommunicado during his entire time in detention.

**Luis Orozco (pseudonym), 47, Ahuachapán**

On April 20, police officers detained Luiz Orozco, a 47-year-old tractor driver, after they pulled over the bus he was using to go to work.<sup>283</sup>

Officials said he was detained due to the “state of emergency.” Orozco was taken to a police station in Ahuachapán, where he was held for a day, handcuffed and without food or water, he said.

He was then moved to a police station in the municipality of Atiquizaya. Orozco’s wife said she went to the police station to leave food and clothes, but officials said he was not there.

Orozco was moved to the Mariona prison on April 22. When he arrived, he said, a prison guard told him and other detainees, “welcome to Mariona, a hell for gang members like you.” Five prison guards beat him with batons on his leg and back for approximately 10 minutes while he was handcuffed, he said. The guards said he had to “acknowledge that he was a gang member.”

He was taken to a cell with capacity for 80 people that held over 200, according to Orozco. Officers gave him one tortilla twice a day, and he had to share with another detainee. Sometimes he was also given water, he said.

There was one toilet inside the cell, but some days it did not have water. He spent one month and 10 days in that cell. Guards did not allow them to go outside, and the cell had no natural light. Orozco said he did not receive any health care and that he saw three people die in the cell.

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<sup>282</sup> Investigation court of San Salvador, decision of October 2022 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>283</sup> Unless otherwise noted, this case is based on an interview with the victim and a relative, San Salvador, El Salvador, October 19, 2022.

On June 7, he was taken to what he described as a “punishment cell.” He said officers moved him and others there to “make room for other detainees.” The new cell was constantly dark, and detainees had to sleep standing due to overcrowding. There was no regular access to drinking water, and he could not shower.

On June 28, he was taken to participate virtually in a hearing, where he first learned he was being accused of “unlawful association.” The prosecutor said he had been detained “at a market along with a gang member.” Orozco denies this charge, but in the hearing, he was not allowed to intervene. He could only communicate with his lawyer through a screen that allowed him to respond “yes” or “no.”

After the hearing he was returned to the “punishment cell” where he spent 25 more days. He was then transferred to another cell where the conditions were better, he said. He spent one month there, and was released on August 22 on a \$3,000 bail.<sup>284</sup>

## Deaths in Custody

In November 2022, Salvadoran authorities confirmed that 90 people had died in custody since March.<sup>285</sup>

Deaths in prison in El Salvador are not new. In her last visit to El Salvador in 2018, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions reported that “the number of deaths in detention is alarming,” particularly in maximum-security prisons, in part due to outbreaks of tuberculosis.<sup>286</sup>

Cristosal has received reports of 86 deaths in custody since March. Human Rights Watch and Cristosal documented 11 cases in detail, based on interviews with victims’ relatives, medical records, analysis by forensic experts, and other evidence.

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<sup>284</sup> Investigation court of Santa Ana, decision of August 2022 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>285</sup> “Interview with the justice and public safety minister,” *Frente a Frente*, November 7, 2022, <https://www.facebook.com/frenteafrenteTCS/videos/446467967423582> (accessed November 14, 2022); UN Committee Against Torture (CAT), “1964th Meeting: Consideration of El Salvador,” November 17-18, 2022, <https://media.un.org/en/asset/k13/k13s023y30> (accessed November 24, 2022).

<sup>286</sup> United Nations Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador, U.N. Doc. A/HRC/38/44/Add.2, December 7, 2018, <https://digitallibrary.un.org/record/1663022?ln=en> (accessed August 22, 2022), p. 10.

In one case, a person who died in custody was buried in a mass grave, without the family's knowledge.<sup>287</sup> This practice could amount to an enforced disappearance if authorities intentionally concealed the fate or whereabouts of the detainee.

In at least two other cases, officials appear to have failed to provide detainees the daily medication they required to manage underlying health conditions such as diabetes.<sup>288</sup>

In at least four of the eleven cases documented in detail, photographs of the bodies show bruises. Members of the Independent Forensic Expert Group (IFEG) of the International Rehabilitation Council for Torture Victims (IRCT), who reviewed the photos and other evidence in two of the cases, told Human Rights Watch and Cristosal that the deaths were “suspicious” given that the bodies “present multiple lesions that show trauma that could have been caused by torture or ill-treatment that might have contributed to their deaths while in custody.”<sup>289</sup>

Medical authorities reported some of these deaths as being the result of “pulmonary edema” and “cerebral edema.” But the IFEG noted that the death certificates “fail to meet internationally accepted medical practice and legal standards that require recording of not only immediate causes of death, but also all underlying causes and other significant conditions contributing to death.” In the experts’ view, Salvadoran authorities “failed to adhere to internationally accepted medical practices and legal standards as outlined by the Minnesota Protocol on the Investigation of Potentially Unlawful Death in its investigation into the suspicious deaths.”

In at least two cases, authorities did not conduct an autopsy, contrary to the international standard, in line with widely accepted medical practice, that autopsies should be carried out in almost all cases of potentially unlawful death.<sup>290</sup>

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<sup>287</sup> See case of Rafael López Castellón, described below.

<sup>288</sup> Phone interview with victim’s relative, May 12, 2022; phone interview with a victim’s relative, August 11, 2022.

<sup>289</sup> Independent Forensic Expert Group (IFEG), “Expert opinion on the suspicious deaths in custody of Mr. Jose Luis Moreno Teran and Mr. Romeo Mauricio Posada Urrutia,” September 16, 2022 (on file with Human Rights Watch).

<sup>290</sup> OHCHR, *The Minnesota Protocol on the Investigation of Potentially Unlawful Death: The Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions* (New York and Geneva: OHCHR, 2017), paras. 24-25, 148. See also “El Salvador: Evidence of Serious Abuse in State of Emergency,” Human Rights Watch and Cristosal news release, May 2, 2022, <https://www.hrw.org/news/2022/05/02/el-salvador-evidence-serious-abuse-state-emergency>.

Investigations into deaths in custody also appear to be slow. Salvadoran authorities say they are investigating these deaths, but as of mid-November, all such investigations appeared to be at an “initial phase.”<sup>291</sup> Human Rights Watch formally asked the Attorney General’s Office for information regarding these investigations, but the office responded that information on complaints of alleged human rights violations by security forces had been “classified” for two years.<sup>292</sup>

**Saul Rivas** (pseudonym), a 46-year-old construction worker, was detained on April 21 in San Salvador.<sup>293</sup>

The police raided Rivas’ home on April 21 without showing a search warrant. They told the family he was suspected of “unlawful association.” A relative went to a police station where officials had taken Rivas and told the officer that Rivas had diabetes and required daily medication. “We are not giving any [medication] right now,” the officer replied, saying that he should try again at the “El Penalito” police station, where they said Rivas would be transferred the next day.

On April 22, relatives went to “El Penalito,” but officers said they were not “receiving medication” either. They asked a prison guard at the gatehouse if Rivas was there. The guard said he “was not authorized to provide information” but assured them that he would receive any medication he needed.

On May 7, employees from a mortuary arrived at Rivas’ home, informing his family that he had died. According to the Institute of Legal Medicine, Rivas died from “pulmonary edema.” Authorities conducted an autopsy but had not provided a copy of the report to relatives at time of writing.<sup>294</sup>

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<sup>291</sup> Permanent Mission of El Salvador to the United Nations, “Report by the State of El Salvador in Response to the Joint Communication of Special Procedures regarding Allegations or Risks of Human Rights Violations in the Context of the State of Emergency and Reforms to the Criminal Legislation,” July 29, 2022, p. 17; UN Committee Against Torture (CAT), “1964th Meeting: Consideration of El Salvador,” November 17-18, 2022, <https://media.un.org/en/asset/k13/k13s023y30> (accessed November 24, 2022).

<sup>292</sup> Information provided to Human Rights Watch via email by the Attorney General’s Office, August 17, 2022 (on file with Human Rights Watch).

<sup>293</sup> Unless otherwise noted, this case is based on a phone interview with a victim’s relative, May 12, 2022.

<sup>294</sup> Institute of Legal Medicine, “Death Certificate” (“Esquela”), May 2022 [date withheld] (on file with Human Rights Watch).

Police arrested **José Luis Moreno Terán**, 18, on April 2 in Atiquizaya, Ahuachapán.<sup>295</sup>

A relative told Human Rights Watch that the family learned about Terán’s arrest after seeing a tweet by the police showing a picture of him.<sup>296</sup> The tweet indicated that Terán had been arrested in “flagrant” commission of a crime and would “face more than 30 years in prison for “unlawful association” and ‘extortion.’”

Authorities held Terán for three days at a police station in Atiquizaya. He was then moved to the Izalco prison, where he was held incommunicado.

On June 3, workers from a mortuary went to Terán’s house and informed his family that he had died. A report by the Institute of Legal Medicine says he died due to “pulmonary edema.”<sup>297</sup> But photographs of his body show he had multiple bruises on his torso and arms.<sup>298</sup> The injuries are not visible in the photograph published by the police during his arrest, which suggests they were caused during detention.<sup>299</sup> As mentioned above, forensic experts who received the photos concluded that his body “present[ed] multiple lesions that evidence trauma that could have been caused by torture or ill-treatment that might have contributed to their deaths while in custody.”<sup>300</sup>

Authorities conducted an autopsy but had not provided a copy of the report to relatives at time of writing.<sup>301</sup>

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<sup>295</sup> Unless otherwise noted, this case is based on a phone interview with a victim’s relative, July 7, 2022.

<sup>296</sup> Tweet by the National Civil Police, April 2, 2022, <https://twitter.com/PNCSV/status/1510245531980869640?s=20&t=U3cvj1PY1eb3v1541bAdpQ> (accessed on September 23, 2022).

<sup>297</sup> Institute of Legal Medicine, “Death Certificate” (“Esquela”), June 3, 2022 (on file with Human Rights Watch).

<sup>298</sup> Photographs of Terán’s injuries (on file with Human Rights Watch).

<sup>299</sup> Tweet by the National Civil Police, April 2, 2022, <https://twitter.com/PNCSV/status/1510245531980869640?s=20&t=U3cvj1PY1eb3v1541bAdpQ> (accessed on September 23, 2022).

<sup>300</sup> Independent Forensic Expert Group (IFEG), “Expert opinion on the suspicious deaths in custody of Mr. Jose Luis Moreno Teran and Mr. Romeo Mauricio Posada Urrutia,” September 16, 2022 (on file with Human Rights Watch).

<sup>301</sup> Institute of Legal Medicine, “Death Certificate” (“Esquela”), June 4, 2022 (on file with Human Rights Watch).

**Romeo Mauricio Posada**, a 57-year-old agricultural worker, was arrested on April 5 in Guatajiagua, Morazán state.<sup>302</sup> A family member who was present during the detention said police officers did not show an arrest warrant.

“We are following orders from the president,” an officer responded when she asked in the police station why Posada had been detained. On April 8, he was transferred to Izalco prison, where he was held incommunicado.

On May 16, employees from a funeral home went to Posada’s home and told a family member that he had died. According to the Institute of Legal Medicine, Posada died from “cerebral edema.”<sup>303</sup> Authorities conducted an autopsy but had not provided a copy to the family at time of writing.

Police arrested **Rafael López Castellón**, a 53-year-old mill worker, on April 8 in Jucuapa, Usulután state.<sup>304</sup>

A relative who witnessed the arrest said that police did not show an arrest warrant or explain the reasons for his arrest. When a relative asked why he was being detained, an agent threatened to detain him as well.

After two days in a police station in Usulután, López Castellón was moved to the Mariona prison. On April 21, López Castellón was taken to a hearing where he was charged with belonging to a “terrorist organization.” On May 31, a relative went to Mariona to leave medicine for López Castellón, who the relative says suffered from diabetes and a heart condition. Prison guards received it.

On August 8, the relative went to the Public Defender’s Office to request López Castellón’s criminal records. A staff member told him she could not provide the records because López Castellón was dead.

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<sup>302</sup> Unless otherwise noted, this case is based on a phone interview with a victim’s relative, July 6, 2022.

<sup>303</sup> Institute of Legal Medicine, “Death Certificate” (“Esquela”), May 16, 2022 (on file with Human Rights Watch).

<sup>304</sup> Unless otherwise noted, this case is based on a phone interview with a victim’s relative, August 11, 2022.

The following day, a family member went to the Institute of Legal Medicine where authorities showed him photographs of López Castellón’s torso and head, so he could recognize him. They said López Castellón had died of a “cardiomyopathy,” a heart disease.<sup>305</sup> The authorities did not conduct an autopsy, his relatives said, because they said he died from an underlying heart condition.

López Castellón had been transferred to the Zacamil hospital on May 27. Four days later, his relatives left him medicine in the Mariona prison, but prison authorities did not inform the family about the transfer. The Institute of Legal Medicine told a relative he was buried in a mass grave, without the family’s knowledge or consent. In mid-September, his family was able to exhumate his body and bury him in a cemetery in their municipality.

## Abusive Criminal Proceedings

Authorities repeatedly infringed due process guarantees established under international law, violating detainees’ human rights, and making it difficult, if not impossible, for detainees to adequately defend themselves during criminal proceedings.

These violations have been taking place in a context in which there are few protections for judicial and prosecutorial independence from the executive branch.

Some due process protections established under the Salvadoran constitution have been suspended during the state of emergency, including the right to be informed about the reason of arrest, to remain silent, and to legal representation, and the requirement that all people who are detained be taken before a judge within 72 hours.<sup>306</sup>

As of mid-October, over 43,000 people have been arrested for “unlawful association” and over 7,000 for belonging to a “terrorist group.”<sup>307</sup> Under Salvadoran law, including recent

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<sup>305</sup> Institute of Legal Medicine, “Death Certificate” (“Esquela”), August 10, 2022 (on file with Human Rights Watch).

<sup>306</sup> State of Emergency, Decree 333, art. 4.

<sup>307</sup> Information provided to Human Rights Watch via email by the Public Defender’s Office, October 19, 2022 (on file with Human Rights Watch). This figure reflects only the cases in which defendants had public defenders, and not those in which they had private lawyers. As described above, the crime of “unlawful association” (agrupaciones ilícitas), as established

reforms passed in the early days of the state of emergency, these crimes carry a range of legal consequences that run counter to international human rights law.<sup>308</sup> For example:

- El Salvador’s law establishes that hearings concerning crimes related to “unlawful association” or “terrorism” should, as a general rule, be conducted virtually.<sup>309</sup> Making virtual hearings the rule rather than the exception is inconsistent with the right to be present at one’s trial, does not afford a full opportunity to challenge the validity of pretrial detention, and is not an adequate safeguard for the right to security of person and the prohibition of torture and other ill-treatment.<sup>310</sup> These concerns are heightened in mass hearings. In many cases documented by Human Rights Watch and Cristosal, detainees participated in the hearings virtually, although prosecutors, judges, and the defendants’ lawyers were present physically in the court.
- Courts sent over 51,000 detainees to pretrial detention, seemingly applying a recent amendment to the criminal code that expanded mandatory pretrial detention to include all crimes committed by members of terrorist groups, gangs, and other criminal organizations.<sup>311</sup> As explained above, this provision is inconsistent with international human rights standards requiring an individualized determination establishing that pretrial detention is necessary and proportionate for purposes such as preventing flight, interference with evidence, or the recurrence of crime.

At the same time, the mass arrests notably increased the workload of judges, prosecutors and lawyers, including from human rights groups who provided pro bono representation to victims. As a point of comparison, the number of cases handled by public defenders

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under article 345 of the Criminal Code, punishes a range of different actions, ranging from creating or leading gangs, to obtaining indirect benefit from them.

<sup>308</sup> Information provided to Human Rights Watch via email by the Public Defender’s Office, October 19, 2022 (on file with Human Rights Watch).

<sup>309</sup> Code of Criminal Procedure (Código Procesal Penal), Decree 733, signed into law on October 22, 2008, <https://sv.vlex.com/vid/codigo-procesal-penal-631407931> (accessed September 30, 2022), art. 138.

<sup>310</sup> See ICCPR, arts. 14(3)(b), 9(3); UN Human Rights Committee, General Comment No. 35, para. 34; Basic Principles and Guidelines on Remedies and Procedures on the Right of Persons Deprived of Their Liberty to Bring Proceedings Before a Court, principle 11, in UN General Assembly, Report of the Working Group on Arbitrary Detention, U.N. Doc. A/HRC/30/37 (July 6, 2015), annex.

<sup>311</sup> Office of the President, “Press Release” (“Comunicado de Prensa”), August 19, 2022, <https://www.presidencia.gob.sv/senador-de-colombia-destaca-estrategia-de-seguridad-publica-del-gobierno-del-presidente-nayib-bukele/> (accessed August 22, 2022); Amendments to the Code of Criminal Procedure, Decree 339, art. 5.

increased from 9,000 between early January and late-March to over 55,000 between late-March, when the state of emergency was passed, and July.<sup>312</sup>

Detainees' lawyers said that in many cases they were notified of the hearings the same day, or the day before they took place, which undermined their capacity to provide an adequate defense, including to obtain relevant documents such as medical records or work references.<sup>313</sup>

In the limited number of cases in which relatives had information about their family member's hearings, they say that detainees were normally taken to a judge within 15 days after their arrest, the maximum period allowed under the Salvadoran constitution when a state of emergency has been declared.<sup>314</sup>

Thousands were held incommunicado for weeks or months or were only allowed to see their lawyer for a few minutes before their hearings.<sup>315</sup> Authorities have in many cases prohibited prison visits, including of the defendant's lawyers, allegedly because "they were conducting raids in prisons" or due to "increased Covid-19 cases."<sup>316</sup> They also denied detainees the right to make phone calls.<sup>317</sup>

Most detainees had public defenders who faced an immense workload and often failed to provide an adequate defense. The Public Defender's Office hired 40 additional lawyers after the beginning of the state of emergency, but as of October, there were 287 public defenders in El Salvador, who were representing an average of 194 cases each.<sup>318</sup>

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<sup>312</sup> Phone interview with high-level official in the Public Defender's Office, July 28, 2022.

<sup>313</sup> Ibid.; phone interview with a lawyer, May 6, 2022; interview with a lawyer, October 19, 2022.

<sup>314</sup> Constitution of the Republic of El Salvador, art. 29.

<sup>315</sup> Phone interview with high-level official in the Public Defender's Office, July 28, 2022; phone interview with then-Human Rights Ombudsperson, Apolonio Tobar Serrano, July 6, 2022.

<sup>316</sup> Ibid.

<sup>317</sup> Ibid.

<sup>318</sup> Phone interview with high-level official in the Public Defender's Office, July 28, 2022; information provided to Human Rights Watch by the Public Defender's Office via email, October 19, 2022 (on file with Human Rights Watch). In mid-November, an official of the Public's Defender's Office told the UN Committee Against Torture that during the state of emergency the Legislative Assembly had increased by US\$1 million the budget assigned to the Public Defender's Office. See UN Committee Against Torture (CAT), "1964th Meeting: Consideration of El Salvador," November 17-18, 2022, <https://media.un.org/en/asset/k13/k13s023y30> (accessed November 24, 2022).

Additionally, several relatives of detainees said that public defenders failed to provide them with sufficient information on their relative’s case, or to inform them in a timely manner of the evidence required from them.<sup>319</sup>

Private attorneys also faced daunting challenges to provide an adequate defense. Some said that their access to criminal files had been restricted and that they were denied access to critically important information, such as the court file number of their case.<sup>320</sup>

Initial hearings—where, under El Salvador’s law, judges review the lawfulness of the arrest, decide on charges and rule on whether the detainee is sent to pretrial detention— were conducted in groups and at times with up to 500 people in each, severely curtailing the opportunity to present a defense and raising other serious due process concerns.<sup>321</sup> Public defenders said that, in some hearings, authorities gave public defenders “three or four minutes” to present their case for “400 or 500” detainees.<sup>322</sup>

As of October, none of the over 58,000 people detained during the state of emergency appeared to have been taken to trial.<sup>323</sup>

In over 17,000 cases, public defenders requested a “special review hearing” to consider alternative measures to imprisonment for detainees.<sup>324</sup> Human Rights Watch and Cristosal documented four cases in which courts granted the release on bail but the penitentiary authorities did not release the detainees.<sup>325</sup>

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<sup>319</sup> Phone interview with a victim’s relative, May 25, 2022; phone interview with a victim’s relative, April 4, 2022.

<sup>320</sup> Phone interview with a lawyer, April 19, 2022; phone interview with a lawyer, May 5, 2022.

<sup>321</sup> Phone interview with high-level official in the Public Defender’s Office, July 28, 2022.

<sup>322</sup> Ibid.

<sup>323</sup> Information provided to Human Rights Watch via email by the Public Defender’s Office, October 19, 2022 (on file with Human Rights Watch).

<sup>324</sup> Ibid.

<sup>325</sup> Investigation court of San Salvador, decision of September 8, 2022 [name of court withheld] (on file with Human Rights Watch); Investigation court of San Salvador, decision of October 14, 2022 [name of court withheld] (on file with Human Rights Watch); Investigation court of San Salvador, decision of October 14, 2022 [name of court withheld] (on file with Human Rights Watch); “Presentation Certificate of the Accused” (“Acta de presentación del imputado”), July 8, 2022 (on file with Human Rights Watch); interview with a relative and the victim’s lawyer, San Salvador, El Salvador, October 19, 2022; interview with a relative and the victim’s lawyer, San Salvador, El Salvador, October 20, 2022.

The Constitutional Chamber of the Supreme Court has addressed only a handful of the habeas corpus requests filed by lawyers representing detainees.<sup>326</sup> As of November 29, Socorro Jurídico Humanitario, a human rights organization, had filed 611 habeas corpus requests; the Constitutional Chamber of the Supreme Court had only ruled on five.<sup>327</sup>

## Lack of Accountability for Human Rights Violations

Human Rights Watch and Cristosal have not been able to identify any meaningful investigations into allegations of human rights violations committed during the state of emergency.<sup>328</sup>

On July 22, Human Rights Watch sent a letter to the Attorney General's Office requesting information on such investigations. But the Attorney General's Office responded that the information was "classified."<sup>329</sup>

On July 29, El Salvador's Permanent Mission to the United Nations in Geneva sent a communication to several UN Experts indicating that "the Human Rights Ombudsperson's Office has not learned about the existence or lack of existence of judicial or administrative investigations about arbitrary arrests, torture, or other cruel, inhumane or degrading treatment against people accused of crimes who remain under custody."<sup>330</sup>

On November 18, 2022, an official in the Attorney General's Office told the UN Committee Against Torture that the office had opened 90 investigations into deaths in custody. She said that there was "no evidence" that the deaths had been caused by a "disproportionate use of force by police, military or prison personnel."<sup>331</sup> She did not report any concrete progress in these 90 investigations, nor did she mention whether the office had opened

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<sup>326</sup> See, for example, UN Committee Against Torture, "Concluding observations on the third periodic report of El Salvador," November 25, 2022, U.N. Doc. CAT/C/SLV/CO/3, para. 10 (e).

<sup>327</sup> Interview with members of Socorro Jurídico Humanitario, November 29, 2022.

<sup>328</sup> See, similarly, UN Committee Against Torture, "Concluding observations on the third periodic report of El Salvador," November 25, 2022, U.N. Doc. CAT/C/SLV/CO/3, paras. 10 (g), 14 (c).

<sup>329</sup> Information provided to Human Rights Watch via email by the Attorney General's Office, August 17, 2022 (on file with Human Rights Watch).

<sup>330</sup> Permanent Mission of El Salvador to the United Nations, "Report by the State of El Salvador in Response to the Joint Communication of Special Procedures regarding Allegations or Risks of Human Rights Violations in the Context of the State of Emergency and Reforms to the Criminal Legislation," July 29, 2022, p. 25.

<sup>331</sup> UN Committee Against Torture (CAT), "1964th Meeting: Consideration of El Salvador," November 17-18, 2022, <https://media.un.org/en/asset/k13/k13s023y30> (accessed November 24, 2022).

investigations into other cases of possible human rights violations committed during the state of emergency.

The Attorney General's Office, which periodically tweets about arrests and other progress in criminal investigations, has not published any information on its social media accounts about investigations into police or army officers allegedly responsible for abuses committed during the state of emergency.

Salvadoran law requires the Human Rights Ombudsperson's Office to conduct non-judicial investigations into allegations of human rights violations to "promote" the end of violations and ensure victims' rights, as well as to provide recommendations to authorities on reforms to practices or laws that open the door to abuses.<sup>332</sup>

However, the Human Rights Ombudsperson's Office has so far failed to carry out serious investigations into abuses committed during the state of emergency. As of June, the Office had opened 24 files grouping over 700 allegations of abuses committed during the state of emergency.<sup>333</sup> Although Salvadoran law requires that investigations be concluded within eight days,<sup>334</sup> no investigation into alleged abuses committed during the state of emergency had been finished as of early June.<sup>335</sup>

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<sup>332</sup> Law on the Human Rights Ombudsperson's Office (Ley de la Procuraduría para la Defensa de los Derechos Humanos), Decree 183, signed into law on February 23, 2001, [https://www.pddh.gob.sv/portal/wp-content/uploads/2017/06/Ley\\_de\\_la\\_Procuraduria\\_para\\_la\\_Defensa\\_de\\_los\\_Derechos\\_Humanos.pdf](https://www.pddh.gob.sv/portal/wp-content/uploads/2017/06/Ley_de_la_Procuraduria_para_la_Defensa_de_los_Derechos_Humanos.pdf) (accessed October 18, 2022), art. 30.

<sup>333</sup> Human Rights Ombudsperson's Office, "Verification report in the context of the extension of the state of emergency due to the increase in homicides and feminicides that took place on the last week of the month of March 2022" ("Informe de verificación en el contexto de la extensión del régimen de excepción producto del incremento de los homicidios y feminicidios acontecidos en la última semana del mes de marzo de 2022"), June 2022, p. 10 (on file with Human Rights Watch).

<sup>334</sup> Law on the Human Rights Ombudsperson's Office, Decree 183, art. 29.

<sup>335</sup> Human Rights Ombudsperson's Office, "Verification report in the context of the extension of the state of emergency due to the increase in homicides and feminicides that took place on the last week of the month of March 2022" ("Informe de verificación en el contexto de la extensión del régimen de excepción producto del incremento de los homicidios y feminicidios acontecidos en la última semana del mes de marzo de 2022"), June 2022, p. 11 (on file with Human Rights Watch).

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It was written by Juan Pappier, acting associate director of Human Rights Watch's Americas Division, and by a Human Rights Watch staff member whose name is withheld for security reasons.

The following Cristosal staff members reviewed the report: Noah Bullock, executive director; Abraham Abrego, director for strategic litigation; Rina Montti, director for human rights research; and Daniel Nieto, human rights researcher.

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Human Rights Watch is deeply grateful to the victims who, despite often incredibly difficult circumstances, shared their testimonies with us.

# “We Can Arrest Anyone We Want”

## Widespread Human Rights Violations Under El Salvador’s “State of Emergency”

In March 2022, El Salvador’s Legislative Assembly adopted a “state of emergency,” suspending rights in the name of fighting gang violence. Security forces have since conducted hundreds of raids, particularly in low-income neighborhoods, arresting over 58,000 people, including more than 1,600 children.

“*We Can Arrest Anyone We Want*” documents widespread human rights violations committed during the state of emergency. These violations include arbitrary arrests, enforced disappearances, torture and other ill-treatment of detainees, and due process violations. Many detainees have died in custody.

This joint report by Human Rights Watch and Cristosal shows that police and soldiers have carried out similar abuses repeatedly, across the country, and throughout a period of several months. President Nayib Bukele’s dismantling of judicial independence has enabled violations, and government policies and senior officials’ rhetoric have incentivized abuses.

El Salvador’s government should end ongoing human rights violations and hold those responsible to account. And it should adopt an effective and rights-respecting security policy that addresses the root causes of gang violence and protects the population from gangs.

Foreign governments and international financial institutions should attach human rights conditions to any loans or assistance to government entities directly involved in human rights violations.

Foreign governments should also increase attention to El Salvador’s human rights situation, including at the United Nations Human Rights Council, and robustly support the work of independent journalists and civil society groups.

As the human rights situation dramatically deteriorates in El Salvador, the international community should help ensure that Salvadorans are safe, both from heinous crimes by gangs and from human rights violations by security forces.



*Bystanders wait as police inspect a bus during a patrol operation in search of gang members on June 30, 2022, in Santa Ana, El Salvador.*

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# **EXHIBIT B**



HUMAN  
RIGHTS  
WATCH

## “Your Child Does Not Exist Here”

Human Rights Abuses Against Children Under  
El Salvador’s “State of Emergency”



## **“Your Child Does Not Exist Here”**

Human Rights Abuses Against Children  
Under El Salvador’s “State of Emergency”

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JULY 2024

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# “Your Child Does Not Exist Here”

## Human Rights Abuses Against Children Under El Salvador’s “State of Emergency”

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## Summary

Police and soldiers in El Salvador arrested Carolina González (pseudonym), a 17-year-old student from a rural town in Sonsonate state, on July 1, 2022, without showing her a warrant. Security forces accused Carolina of collaborating with gangs. She recalls they held her with adult women, for seven days, at a police station, where an officer tried to coerce her into identifying a gang member, whom she did not know, in exchange for being released.

Two weeks later, the police transferred Carolina to a juvenile detention center where she was held in a small, unsanitary cell with 25 other girls. Months later, a judge pressured Carolina and seven other children to jointly plead guilty to collaborating with the MS-13 gang, which she denies doing. Carolina and three other girls recall the judge saying that if one of them refused the plea deal, they would all serve sentences that were twice as long. They pleaded guilty and were sentenced to a year in prison. “We did not have an option,” Carolina said, “we all wanted to see our moms.”

Carolina is one of roughly 3,000 children who have been arrested in what witnesses often describe as indiscriminate sweeps since, in March 2022, President Nayib Bukele declared a state of emergency as part of a “war on gangs.” She is also one of 1,000 children who have been convicted during the state of emergency, primarily on charges of gang membership. Security forces have subjected many of these children to a range of serious human rights violations during their arrest, in detention, and even after release.

This report, based on interviews with more than 90 people, documents these human rights violations against children who security forces have accused of being connected to gangs. Human Rights Watch visited, in September and December 2023, San Salvador, Sonsonate, and Cuscatlán states and interviewed victims of abuse, their relatives and lawyers, witnesses, judges, police officers, security experts, teachers, former government officials, journalists and civil society members. We also requested information from several government offices and reviewed relevant case files, as well as medical, educational, and criminal records.

While government figures on detained children are inconsistent, the National Council of Early Childhood, Children and Adolescents (Consejo Nacional de la Primera Infancia, Niñez y Adolescencia, CONAPINA) told United States authorities that 3,319 children were detained between March 2022 and December 2023. Of these, 841 were reported to remain in detention as of January 2024—262 in pretrial detention and 579 serving sentences.

Many children who have been arrested and detained had no apparent connection to gangs' abusive activity. In detention, authorities subjected children to severe ill-treatment that in some cases amounted to torture. Children have been held in inhumane conditions, deprived of adequate food, health care, and family contact. Some have been held with adults, in violation of international and Salvadoran law. Authorities have taken few, if any, steps to protect children from violence at the hand of other detainees, including beatings and sexual assault.

The offenses of which the children have often been convicted, such as “unlawful association,” have overbroad definitions and harsh maximum sentences ranging from 10 to 20 years in prison. These convictions were often based on uncorroborated and contradictory statements by police.

In many cases, authorities coerced children into making false confessions to crimes through a combination of abusive plea deals and sometimes mistreatment or torture.

Judges and prosecutors routinely have kept children in prolonged pretrial detention, a practice that, given the dire conditions of juvenile detention facilities, exposed children to heightened risks of abuse.

Police detained Óscar Gámez (pseudonym), a 17-year-old student, on March 27, 2022, in a rural community in Apopa, San Salvador state. A prosecutor charged him with unlawful association. He was held at a juvenile prison called “El Espino” for five months, until a judge ordered his release in August 2022. Oscar told us that guards beat him many times with batons during cell searches. He said that he and other detainees were forced to kneel for three hours, naked, or under water at dawn. He said that sometimes, guards did not provide food for the entire day.

On July 10, 2022, police and soldiers detained Nicolás Saldívar (pseudonym), a 16-year-old student, at his school in Tacuba municipality, Ahuachapán state. A relative told Human Rights Watch that security forces entered the school and took Nicolás away. Officers told his father they were taking him to a police station “for an interview” and would “release him soon.” Two years later, Nicolás remains imprisoned.

A prosecutor charged Nicolás with unlawful association. During the hearing, Nicolás’s father told a police officer that he wanted to see his child. “Your child does not exist here,” the officer responded. “If you stare at him, we’ll beat you.” In January 2023, a judge sentenced Nicolás to two years and six months in prison. As of July 2024, Nicolás was held in the “Freedom Path” juvenile detention prison.

Many of the children detained during the state of emergency lived in low-income neighborhoods, where violence was a constant presence. Pervasive poverty, social exclusion, and lack of educational and work opportunities have left many with few viable paths forward, enabling gangs to prey on them and security forces to stigmatize them as criminals and harass them.

Children and their relatives interviewed for this report described being doubly victimized: first, by the gangs that abused them and, in some cases, tried to recruit them—often through force, coercion, or deception—and then, by security forces which detained and mistreated them.

Agustín Díaz (pseudonym), 16, was arrested in the town of San José Guayabal, Cuscatlán state, where his family had fled escaping gang violence. Years before, gang members had tried to recruit him and had threatened to kill his mother. He told us that the soldiers who arrested him simulated his execution on a deserted road as they were transferring him between police stations. He said he was held, until his release several days later, in an overcrowded cell, where 70 children shared three beds. Guards did nothing when other detainees kicked him, virtually every day, while they counted seconds out loud up to 13—an apparent reference to the MS-13 gang.

While security forces have committed these serious human rights abuses, many interviewees said that gangs have been significantly weakened in their communities.

The country's longstanding high homicide rate, which peaked at 106 per 100,000 people in 2015, has sharply declined, reaching a historic low of 2.4 homicides per 100,000 people in 2023, according to official figures. Extortion has also decreased, authorities reported. However, lack of transparency about crime rates and reports of manipulation make it hard to precisely assess the extent of the reduction of violence.

The mass abuse-ridden arrests have done little to deliver meaningful justice for victims of gang violence. Instead, the crackdown has overwhelmed El Salvador's already fragile judicial system, which lacks the capacity to adequately process the sheer volume of detainees while safeguarding their due process rights and ensuring that victims have access to a fair and impartial legal recourse.

Since taking office in 2019, President Bukele has dismantled El Salvador's democratic safeguards. The government has systematically undermined judicial independence, appointing allies to the Supreme Court and the Attorney General's Office and pressuring judges and prosecutors to ensure the continuous detention of people suspected by the police of being gang members. The absence of independent oversight has facilitated widespread human rights abuses and deprived victims of any meaningful avenues to seek redress.

President Bukele has also tried to justify human rights violations as supposedly acceptable "errors" committed during the "war against gangs." He also said that the government will be "watching judges who favor criminals," in what appears to be an effort to intimidate judges and prosecutors from investigating human rights violations or releasing people who are arbitrarily detained.

The government should establish an *ad hoc* mechanism to review the cases of those detained during the state of emergency. The mechanism should prioritize reviewing the cases of children and other vulnerable detainees, with a view to immediately releasing all those detained without evidence. It should prosecute, with full respect to due process, those accused of serious crimes on the basis of proper evidence.

The government should also develop a comprehensive security strategy that protects children from gang violence and recruitment, including by implementing violence prevention initiatives, rehabilitation programs for recruited children, and reintegration

support for those in conflict with the law. Crucially, detention should only be used as a last resort for children, and for the shortest necessary period. When detention is unavoidable, it should take place in facilities that are safe, humane, and conducive to children's reintegration into society.

CONAPINA should ensure that children in detention have access to education and health care and that juvenile detention facilities meet international human rights standards. It should also establish an independent complaint system regarding juvenile detention facilities. The Legislative Assembly should bring laws in line with international norms, in part by raising the minimum age of criminal responsibility, reforming the Juvenile Criminal Law, and ending the state of emergency. The Attorney General's Office should prioritize prosecuting high-level gang leaders most responsible for abuses and investigating human rights violations, including child recruitment, while the courts should ensure that children are tried in specialized juvenile courts and protected from abuse and coercion.

International action is needed to prevent further human rights violations in El Salvador. The governments of the United States, Latin America, and member states of the European Union should focus attention on the situation in El Salvador, including through the United Nations Human Rights Council. Foreign governments and international financial institutions should refrain from providing support to government institutions credibly alleged to be involved in abuses and should focus assistance on independent media and civil society.

The international community should promote effective and rights-respecting security policies to ensure that people in El Salvador, and throughout Latin America, do not feel forced to choose between living under gang control, or under intense state repression. And they should prioritize supporting the rights of children who, whether at the hands of gangs or of security forces, are likely to suffer the most.

## Key Recommendations

### To the Salvadoran State:

- Establish an ad hoc mechanism to review the cases of people detained during the state of emergency and (1) identify cases involving higher-level gang leaders and perpetrators of violent crimes by gangs, including homicides, rape and sexual assault, disappearances, and child recruitment, which should be prioritized for investigation and prosecution; (2) identify cases of people who have been detained without adequate credible evidence, and whom authorities should promptly release. The mechanism should prioritize reviewing cases of children, people with disabilities, pregnant women, and people with serious health conditions.
- Work in collaboration with civil society groups and religious organizations to develop a new rights-respecting security strategy that, among others, protects children from gang abuse and recruitment. The strategy should:
  - Implement violence prevention initiatives at school, family and community-based levels for children, including those under the typical age of gang recruitment in El Salvador, such as family activities, mentorship and after-school programs.
  - Establish rehabilitation programs for recruited children, including by offering vocational skills and training programs, voluntary substance use disorder treatment services, psychological support and therapy, reentry into formal education, and the development of positive social networks and connections.
  - Implement reintegration programs for children who have committed violent or otherwise criminal acts and who might have been exposed to arrest or detention, including restorative justice interventions, opportunities to engage in the job market, voluntary tattoo removal, public campaigns to combat stigma and discrimination, and reentry into formal education; and
  - Prioritize investigating and prosecuting child recruitment (i.e., of anyone under 18 years), including of girls for sexual services and of boys pressed to commit crimes in gangs.
  - When trying and sentencing children who have been credibly identified as gang members, judges should consider such mitigating factors as the

circumstances of the child’s recruitment, family and social context, and relative lack of maturity. Sentencing should always promote children’s rehabilitation and reintegration, as required under the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and other international human rights treaties.

- Urgently improve conditions in prisons, starting with juvenile detention facilities, to ensure they meet international standards, including by ensuring that detained children are held in safe, humane conditions in detention, with access to education, health care, family contact, legal representation; and by ensuring that children are held separately from adults and that pretrial detainees are held separately from people serving sentences.

### **To the Inter-American Commission on Human Rights:**

- Promptly publish the Commission’s report on human rights violations committed during the state of emergency in El Salvador.
- In the Commission’s next annual report, consider including El Salvador in Chapter IV.B, which highlights country situations where there is a “systematic infringement of the independence of the judiciary,” where the “free exercise of the rights guaranteed in the American Declaration or the American Convention has been unlawfully suspended,” or where the “State has committed or is committing massive, serious and widespread violations of human rights,” among others.
- Consider requesting permission from the government of El Salvador to conduct an on-site visit to places of detention, with a specific focus on children in detention.
- Closely monitor the processes to appoint new members of the Supreme Court in September 2024 and a new Attorney General in January 2025, and urge Salvadoran authorities to respect international human rights standards on judicial independence.

### **To international donors and funders, including the Central American Bank of Economic Integration:**

- Suspend or refrain from approving loans benefiting El Salvador’s National Civil Police, Ministry of Defense, prison system, the National Council of Early Childhood, Children and Adolescents, and the Attorney General’s Office until specific,

measurable, and significant human rights benchmarks are met to ensure these loans do not contribute to abuses.

- Conduct an independent external audit of any funding provided in recent years to El Salvador's National Civil Police, Ministry of Defense, prison system, and Attorney General's Office to determine whether funds have enabled human rights violations.

## Methodology

This report is part of a series of Human Rights Watch publications on abuses during the state of emergency in El Salvador and responses to organized crime and gangs in the Americas.<sup>1</sup> A previous report, published jointly with the Central American human rights organization Cristosal, documented widespread human rights violations committed by security forces mostly against adults during the state of emergency in El Salvador.<sup>2</sup>

In researching this report, Human Rights Watch conducted over 90 interviews with a wide range of actors. These included 66 victims of abuse, their relatives, lawyers and witnesses, as well as several judges, security experts, journalists, religious leaders, police officers, former government officials, and members of national and international human rights organizations. We conducted visits in September and December 2023 to San Salvador, Sonsonate, and Cuscatlán states. Thirty interviews with abuse victims, relatives and lawyers were conducted in person, while the others were carried out by phone. All interviews were conducted in Spanish.

Most of the interviewees feared for their security and only spoke to researchers on condition that we withhold their names and other identifying information. Details about their cases or the individuals involved, including the location of the interviews, have also been withheld when requested or when Human Rights Watch believed that publishing the information would put someone at risk. In footnotes, we may use similar identifying information to refer to different interviewees to protect their security.

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<sup>1</sup> For Human Rights Watch's prior reporting on the state of emergency in El Salvador see, among others, Human Rights Watch and Cristosal, *We Can Arrest Anyone We Want: Widespread Human Rights Violations Under El Salvador's "State of Emergency"* (Human Rights Watch: New York, 2022), <https://www.hrw.org/report/2022/12/07/we-can-arrest-anyone-we-want/widespread-human-rights-violations-under-el>; "El Salvador: Leaked Database Points to Large-Scale Abuses," Human Rights Watch news release, January 27, 2023, <https://www.hrw.org/news/2023/01/27/el-salvador-leaked-database-points-large-scale-abuses>; "El Salvador: Sweeping New Laws Endanger Rights," Human Rights Watch news release, April 8, 2022, <https://www.hrw.org/news/2022/04/08/el-salvador-sweeping-new-laws-endanger-rights>; "El Salvador: Broad 'State of Emergency' Risks Abuse," Human Rights Watch news release, March 27, 2022, <https://www.hrw.org/news/2022/03/29/el-salvador-broad-state-emergency-risks-abuse-o>; Juan Pappier (Human Rights Watch) "Bukele's Old Recipes to Address Gang Violence Are Set to Fail," *El Faro*, June 21, 2022, <https://www.hrw.org/news/2022/06/21/bukeles-old-recipes-address-gang-violence-are-set-fail>.

<sup>2</sup> Human Rights Watch and Cristosal, *We Can Arrest Anyone We Want: Widespread Human Rights Violations Under El Salvador's "State of Emergency"*.

Human Rights Watch makes every effort to abide by best practice standards for ethical research and documentation of sexual violence, including with robust informed consent procedures, measures to protect interviewees' privacy and security, and interview techniques designed to minimize the risk of retraumatization. Interviews with victims, their relatives, or witnesses were conducted in confidential settings or through secure means of communication. We informed all participants of the purpose of the interview, its voluntary nature, and how the information would be used. Each participant orally consented to be interviewed. Children under the age of 12 were not interviewed for this report. Some girls between the ages of 12 and 17 were interviewed in small groups, at their request.

Human Rights Watch did not make any payments or offer other incentives to interviewees. Care was taken with victims of trauma to minimize the risk that recounting their experiences could further traumatize them. Where appropriate, we provided the contact information for organizations offering legal, social, or counselling services, or linked those organizations with survivors.

Whenever possible, Human Rights Watch also reviewed case files and medical, criminal, and educational records of the people we interviewed.

Human Rights Watch conducted a review of academic literature and research on public safety issues in Latin America, with a particular focus on the effect of punitive security policies on children's human rights. We also analyzed a wide range of data and reports from various sources, including official documents and statistics provided by the Salvadoran government, a database obtained by Human Rights Watch that appears to belong to the Ministry of Public Safety,<sup>3</sup> publications by UN agencies, and findings from international, regional, and local human rights and humanitarian organizations.

Human Rights Watch sent multiple information requests to government authorities. The information provided is reflected in the report. The requests and responses include:

- On June 22, 2024, Human Rights Watch asked the Education, Science and Technology Ministry about a new guideline for reporting students who show "antisocial behavior." We also requested the criteria used to define such behavior, protocols for using the form, measures to safeguard student rights and privacy,

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<sup>3</sup> See "El Salvador: Leaked Database Points to Large-Scale Abuses," Human Rights Watch news release.

- teacher training, potential consequences for reported students, appeal processes and efforts to prevent stigmatization. The Education, Science and Technology Ministry had not responded at time of writing.
- On May 16, 2024, Human Rights Watch requested that the Attorney General’s Office provide information on children and young people detained under the state of emergency, including their age, gender, nationality, health conditions, circumstances of detention. We also requested information about ongoing investigations into alleged human rights violations by police and military against these individuals, complaints alleging arbitrary detention and perjury by security forces, measures taken by the office to investigate these allegations, and the number of prosecutors who have taken legal action against detained children and youth. The Attorney General’s Office replied on May 31 indicating that most of the information requested was “non-existent” or “classified” and only provided information related to the office’s budget.
  - On April 5, 2024, Human Rights Watch requested that the Supreme Court provide detailed information about children and young people sentenced under the state of emergency, including their age, gender, nationality, health conditions, the circumstances of their detention, legal proceedings, rearrest of previously released children, and the number of children tried in Specialized Courts against Organized Crime and whether these judges have specialized knowledge related to children and adolescents. We also requested information about ongoing investigations into alleged human rights violations by security forces against children during the state of emergency, complaints alleging arbitrary detention and perjury by members of security forces, and the health and nutritional situation of detained children. The Supreme Court replied on April 26 indicating that most of the information requested was “non-existent.” They also indicated that as of April 23, no judges from the Specialized Courts against Organized Crime had received training related to children and adolescents. The Supreme Court said that since their human resources office does not maintain records on judges, they “cannot verify if these judges had any specializations when they were appointed to these courts.”
  - On April 5, 2024, Human Rights Watch asked the Public Defender’s Office for information on children and young people detained under the state of emergency, including their health conditions, age, and gender, the crimes of which they were accused, the status of the investigations against them, reports of abuse by security forces, and the number of children and young people linked to criminal groups or

gangs. The request also inquired about the number of public defenders representing these detainees, requests for modification of precautionary measures, available mechanisms for reporting abuse during detention, and any reported cases of rights violations against children by security forces in various detention facilities. The Public Defender's Office replied on April 29, 2024, providing some of the requested information.

- On April 5, 2024, Human Rights Watch asked the Education, Science and Technology Ministry about the educational and vocational programs available to children and young people in juvenile detention centers or rehabilitation farms. We also requested detailed information about each program, including the population served, duration, frequency, measures taken to promote participation and ensure equal access to education, and support programs available upon release to ensure continuity of education or workforce integration. The Education, Science and Technology Ministry had not responded at time of writing.
- On April 5, 2024, Human Rights Watch asked the Health Ministry for information on the health situation of children in juvenile detention centers during the state of emergency, including the most common diseases among detained children and youth, dental care protocols, preventive measures to control the spread of diseases, cases of sexual abuse, pregnancy, and obstetric emergencies among detainees, and how the Health Ministry has ensured access to basic medical services, hygiene products, and emergency care in detention centers. The Health Ministry had not responded at time of writing.
- On April 5, 2024, Human Rights Watch sent an information request to the National Council for Early Childhood, Children, and Adolescence (CONAPINA) about children and young people detained during the state of emergency in El Salvador, including their age, gender, nationality, health conditions, the circumstances of their detention, legal proceedings, treatment, and the conditions of the juvenile detention centers. Additionally, we requested information about reported human rights violations, measures taken to protect their rights, and reintegration mechanisms after their release. CONAPINA replied on May 3, providing parts of the information requested, and indicating that other information was “non-existent” or that Human Rights Watch requests were “inadmissible.”

In line with international standards, for this report the term “child” refers to a person under the age of 18.<sup>4</sup>

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<sup>4</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 UN GAOR Supp. (No. 49) at 167, UN Doc. A/44/49, entered into force September 2, 1990, art. 1. El Salvador ratified the CRC on July 10, 1990.

## **Background: Marginalization and Violence Against Children in El Salvador**

El Salvador has long had one of the highest murder rates in the world. Salvadoran children have been exposed to multiple, often interrelated forms of violence, including sexual violence, homicides, disappearances, forced recruitment, and displacement.<sup>5</sup> Perpetrators include family members, gangs, and security forces. Pervasive violence has compromised many children’s physical and mental health and hindered their ability to access and exercise their social, economic, and cultural rights.

Gangs, known locally as “maras,” are a main source of violence in El Salvador, and for decades, have exerted territorial control over much of the country.<sup>6</sup> The most notorious gangs—Mara Salvatrucha (MS-13) and the Eighteenth Street Gang (Barrio 18), the latter of which has divided into the Eighteenth Street Gang “Southerners” (Sureños) and the Eighteenth Street Gang “Revolutionaries” (Revolucionarios)—effectively exercised territorial control over specific areas in rural and urban settings throughout the country, using brutal violence to extort and intimidate residents.<sup>7</sup> They engaged in serious abuses, such as child recruitment, sexual violence, killings, abductions, and displacement.<sup>8</sup> Gangs are believed to be responsible for at least half of violent deaths between 1993 and 2016 and much of the sexual violence and disappearances in El Salvador.<sup>9</sup> As discussed below,

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<sup>5</sup> Inter-American Commission on Human Rights, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action* (Washington: Inter-American Commission on Human Rights, 2023), [https://www.oas.org/en/iachr/reports/pdfs/2023/NorteCentroamerica\\_NNAJ\\_EN.pdf](https://www.oas.org/en/iachr/reports/pdfs/2023/NorteCentroamerica_NNAJ_EN.pdf) (accessed April 14, 2024); Cristosal, *Generation Without Return: Report on Childhood and Youth 2016-2018* (“Generación sin retorno: Informe de niñez y juventud 2016-2018”), n.d., <https://cristosal.org/ES/wp-content/uploads/2023/02/Generacion-sin-retorno-Informe-de-ninez-y-juventud-2016-2018-min.pdf> (accessed April 14, 2024).

<sup>6</sup> International Crisis Group, *El Salvador’s Politics of Perpetual Violence* (Brussels: International Crisis Group, 2017), <https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/64-el-salvadors-politics-perpetual-violence> (accessed July 1, 2024), p. 8.

<sup>7</sup> *Ibid.*

<sup>8</sup> IACHR, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action*, pp. 17 and 18.

<sup>9</sup> Walter Murcia, *El Salvador’s Gangs: Proposals and challenges to socially include youth in contexts of urban violence* (“Las pandillas en El Salvador: Propuestas y desafíos para la inclusión social juvenil en contextos de violencia urbana”) (Santiago: Economic Commission for Latin America (ECLAC), 2015), [https://www.cepal.org/sites/default/files/publication/files/39362/S1501050\\_es.pdf](https://www.cepal.org/sites/default/files/publication/files/39362/S1501050_es.pdf) (accessed on July 1, 2024), p. 16; International Crisis Group, *El Salvador’s Politics of Perpetual Violence* (Brussels: International Crisis Group, 2017), <https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/64-el-salvadors-politics-perpetual-violence> (accessed July 1, 2024), p. 11; IACHR, “Human Rights Watch news release 077/2023,” April 4, 2023,

socially excluded and marginalized children are especially vulnerable to abuse and exploitation by gangs.<sup>10</sup>

Drivers of gang violence include poverty; lack of access to basic services, schooling and vocational training; easy access to weapons; family instability or conflict; and weak judicial and prosecutorial institutions.<sup>11</sup> Gangs have often filled a vacuum created by the absence of state institutions and programs that should serve Salvadorans. Responses to gang violence in El Salvador have typically involved violent repression through mass incarceration, suspension of due process, lengthening of criminal sentences, and increased policing.<sup>12</sup> However, in the past, these policies have been ineffective at addressing underlying causes of violence and dismantling organized criminal networks in a sustained way.<sup>13</sup>

A decrease in violent crime under emergency measures imposed in 2022 by the government of President Bukele has come at the expense of basic rights for thousands of detainees and their families.<sup>14</sup> Among other human rights violations, authorities have resorted to mass arbitrary arrests, ill-treatment in detention, and routine due process violations. The escalation of repression has had counterproductive effects, distorting the

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[https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/media\\_center/PReleases/2023/077.asp](https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/media_center/PReleases/2023/077.asp) (accessed April 14, 2024), p. 30.

<sup>10</sup> IACHR, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action*, p. 18; UNICEF, “Violence against Children in Latin America and the Caribbean 2015-2021,” 2021, <https://www.unicef.org/lac/media/34481/file/Violence-against-children-full-report.pdf> (accessed April 14, 2024), p. 184; Charles M. Katz and Luis Enrique Amaya, “The Gang Truce as a Form of Violence Intervention: Implications for Policy and Practice,” *International Journal of Conflict and Violence*, vol. 9, no. 1 (2015),

<https://www.ijcv.org/index.php/ijcv/article/view/2851> (accessed April 14, 2024), p. 130; Max G. Manwaring, *A Contemporary Challenge to State Sovereignty: Gangs and Other Illicit Transnational Criminal Organizations in Central America, El Salvador, Mexico, Jamaica, and Brazil* (Indiana: Strategic Studies Institute, U.S. Army War College, 2007), p. 14.

<sup>11</sup> Max G. Manwaring, *A Contemporary Challenge to State Sovereignty: Gangs and Other Illicit Transnational Criminal Organizations in Central America, El Salvador, Mexico, Jamaica, and Brazil*, p. 14.

<sup>12</sup> Sonja Wolf, *Mano Dura: The Politics of Gang Control in El Salvador* (Austin: University of Texas Press, 2017), p. 51; IACHR, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action*, pp. 32 and 33.

<sup>13</sup> José Miguel Cruz, “Criminal Violence and Democratization in Central America: The Survival of the Violent State,” *Latin American Politics and Society*, vol. 53, no. 4 (2011): 1-33, <https://doi.org/10.1111/j.1548-2456.2011.00132.x> (accessed May 1, 2024), p. 26; Mo Hume, “Mano Dura: El Salvador Responds to Gangs,” *Development in Practice*, vol. 17, no. 6 (2007): 739-751, <https://doi.org/10.1080/09614520701628121> (accessed May 1, 2024), p. 744.

<sup>14</sup> See, e.g., Human Rights Watch and Cristosal, *We Can Arrest Anyone We Want: Widespread Human Rights Violations Under El Salvador's “State of Emergency”*.

rule of law, empowering security forces without adequate oversight, eroding trust between communities and institutions, and reinforcing cycles of violence and abuse.<sup>15</sup>

## Poverty and Marginalization of Children

By 2022, El Salvador had a population of 6.3 million, of which 27.6 percent were children, i.e., people under 18 years old.<sup>16</sup>

Nearly 27 percent of El Salvador’s population was living under the national poverty line in 2022, the government’s Multiple Purpose Household Survey (Encuesta Permanente de Hogares de Propósitos Múltiples, EHPM), reported.<sup>17</sup> This figure can be further divided into two categories: “Relative poverty,” which affected 18 percent of the population, refers to households whose per capita income is insufficient to cover the cost of the expanded Basic Food Basket (Canasta Básica Alimenticia, CBA), defined as twice the value of the standard Basic Food Basket. “Extreme poverty,” on the other hand, impacted 8.6 percent of the population and is defined as households whose per capita income cannot meet the expenses of the standard Basic Food Basket.<sup>18</sup>

A high number of those living in poverty in El Salvador are children under age 14. According to the Economic Commission for Latin America and the Caribbean (ECLAC), in 2022, 43.3 percent of the population living in poverty in El Salvador was under 14.<sup>19</sup> Nearly 13 percent of Salvadorans under 14 were living in extreme poverty.<sup>20</sup> Impoverished children are at heightened risk of being exploited by gangs, which often recruit from

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<sup>15</sup> José Miguel Cruz, “The Root Causes of the Central American Crisis,” *Current History*, vol. 114, no. 769 (2015): 43-48, <https://doi.org/10.1525/curh.2015.114.769.43> (accessed April 26, 2024), p. 47; IACHR, *Situation of Human Rights in El Salvador* (Washington: Inter-American Commission on Human Rights, 2021), [http://www.oas.org/en/iachr/reports/pdfs/2021\\_ElSalvador-EN.pdf](http://www.oas.org/en/iachr/reports/pdfs/2021_ElSalvador-EN.pdf) (accessed August 19, 2022), p. 18; Human Rights Watch and Cristosal, *We Can Arrest Anyone We Want: Widespread Human Rights Violations Under El Salvador’s “State of Emergency”*.

<sup>16</sup> Central Bank of El Salvador (Banco Central de Reserva de El Salvador), “Household and Multipurpose Survey 2022 Results” (“Resultados Encuesta de Hogares y Propósitos Múltiples 2022”), May 2023, <https://www.bcr.gob.sv/documental/Inicio/vista/ocooa5ade233aa9a7345923e9329407a.pdf> (accessed April 14, 2024), p. 53.

<sup>17</sup> *Ibid.*, p. 51.

<sup>18</sup> *Ibid.*

<sup>19</sup> Economic Commission for Latin America and the Caribbean (ECLAC), “Population living in extreme poverty and poverty by age, sex and area,” CEPALSTAT, <https://statistics.cepal.org/portal/cepalstat/dashboard.html?theme=1&lang=en> (accessed April 18, 2024).

<sup>20</sup> *Ibid.*

marginalized communities, luring youth with the prospect of economic opportunity through illicit activities.<sup>21</sup>

Historically high levels of migration from El Salvador and abandonment have led to family disintegration, which undermines the protection and well-being of children.<sup>22</sup> Official data from 2022 survey found 37 percent of children—nearly 4 out of 10—lived without one or both parents.<sup>23</sup> Children who lack a basic family support structure are especially vulnerable to gang recruitment.

Compulsory education in El Salvador starts at the age of 4 and ends at 15.<sup>24</sup> Salvadoran children struggle to remain in the educational system as they progress through the grades. Out-of-school rates in 2022, as reported by the Foundation for the Study and Application of Law (Fundación de Estudios para la Aplicación del Derecho, FESPAD), a Salvadoran nongovernmental organization, were: 10 percent in 8th grade, 9 percent in 9th grade, and 31 percent for the initial year of high school (16 years of age).<sup>25</sup> Concerningly, the out-of-school rate for the first year of high school has significantly increased since 2019: from 7.6 percent in 2019 to 31 percent in 2022.

School dropout is a pervasive issue throughout Latin America. El Salvador's educational challenges are particularly severe. In 2022, 90.9 percent of the population aged 15 to 19 had completed primary education, 4.4 percent below the Latin American average. The gap in secondary education is even wider. Among people aged 20 to 24, only 42.4 percent had completed secondary education, 26.2 percent below the regional average.<sup>26</sup>

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<sup>21</sup> IACHR, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action*, pp. 17 and 18.

<sup>22</sup> Salvadoran Foundation for Economic and Social Development (Fundación Salvadoreña para el Desarrollo Económico y Social, FESPAD), "The Situation of the Rights of Children and Adolescents in 2022" ("Balance Situación de los Derechos de la Niñez y Adolescencia 2022"), 2022, <https://www.fespad.org/sv/balance-situacion-de-los-derechos-de-la-ninez-y-adolescencia-2022/> (accessed April 14, 2024), p. 30.

<sup>23</sup> Central Bank of El Salvador ("Banco Central de Reserva de El Salvador"), "Household and Multipurpose Survey 2022 Tabs" ("Tabulados Encuesta de Hogares y Propósitos Múltiples 2022"), May 2023, <https://www.bcr.gob.sv/documental/Inicio/vista/334c365a724463fe5577obdf4154b653.pdf> (accessed June 28, 2024), p. 27

<sup>24</sup> Ministry of Education, General Education Law ("Ley General de Educación"), Decree 917, signed into law on December 12, 1996, <https://www.transparencia.gob.sv/institutions/mined/documents/558585/download#:~:text=EDUCACION%20BASICA-,Art.,cuando%20la%20imparta%20el%20Estado> (accessed April 14, 2024), arts. 5 and 20.

<sup>25</sup> FESPAD, "The Situation of the Rights of Children and Adolescents in 2022," p. 64.

<sup>26</sup> ECLAC, "Percentage of population between ages 15 and 19 that completed primary education, by sex and area," n.d., <https://statistics.cepal.org/portal/cepalstat/dashboard.html?theme=1&lang=es> (accessed April 14, 2024).

The education system faces challenges in coverage. Throughout the system, improvements are needed to infrastructure, equitable access, instructional methods, and student retention. According to the Inter-American Development Bank (IDB), the primary reasons that students cite for dropping out are related to economic and social factors.<sup>27</sup> Migration, work or related economic reasons, and insecurity were the leading causes of school abandonment, in 2018, particularly for children 13 to 15 years old.<sup>28</sup>

Working-age Salvadorans (those over age 14, under Salvadoran law) had completed an average of 8.8 years of schooling, in 2022, lower than the Latin American average of 10.1 years.<sup>29</sup> While most of the school-aged population had attended some school, just over 87 percent of those ages 4 to 12 reported that they were attending school and under 84 percent of those ages 13 to 17.<sup>30</sup>

El Salvador's public spending on education has fallen short of international recommendations.<sup>31</sup> The Education 2030 Framework for Action of the United Nations Educational, Scientific and Cultural Organization (UNESCO), a UN specialized agency, proposes that public spending on education reach at least 4-6 percent of GDP or 15-20 percent of total public spending.<sup>32</sup> Public spending on education in El Salvador averaged 3.8 percent of GDP between 2013 and 2021, close to but slightly below the UNESCO-recommended minimum of 4 percent. In 2022, UNESCO reports it reached 4.53.<sup>33</sup>

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<sup>27</sup> Inter-American Development Bank (IDB), "Promoting School Permanence in El Salvador and Honduras: Guidelines for Policy Development" ("Promoviendo la permanencia escolar en El Salvador y Honduras: lineamientos para el desarrollo de políticas"), 2021, <https://publications.iadb.org/es/promoviendo-la-permanencia-escolar-en-el-salvador-y-honduras-lineamientos-para-el-desarrollo-de> (accessed April 14, 2024), p. 11.

<sup>28</sup> Ibid.

<sup>29</sup> Grow up Together Law ("Ley Crecer Juntos"), Decree 431, signed into law on June 22, 2022, [https://crecerjuntos.gob.sv/dist/documents/DECRETO\\_LEY.pdf](https://crecerjuntos.gob.sv/dist/documents/DECRETO_LEY.pdf) (accessed May 1, 2024), art. 87; ECLAC, "Years of education of the economically active population, by sex and area" ("Años de educación de la población económicamente activa, por sexo y área"), CEPALSTAT, <https://statistics.cepal.org/portal/cepalstat/dashboard.html?theme=1&lang=es> (accessed April 14, 2024); Central Bank of El Salvador, "Household and Multipurpose Survey," p. 52; ECLAC, "Urban open unemployment rate, by sex and age groups" ("Tasa de desempleo abierto urbano, según sexo y grupos de edad"), CEPALSTAT, <https://statistics.cepal.org/portal/cepalstat/dashboard.html?theme=1&lang=es> (accessed April 14, 2024).

<sup>30</sup> Central Bank of El Salvador, "Household and Multipurpose Results 2022," p. 11.

<sup>31</sup> Organization for Economic Co-operation and Development (OECD), "Education and skills formation for development in El Salvador", 2023, <https://www.oecd-ilibrary.org/docserver/03577bb5-en.pdf?expires=1720364504&id=id&accname=guest&checksum=0E2F878263E7F81EC867182586D40DC8> (accessed April 14, 2024), p. 379.

<sup>32</sup> UNESCO, "Education 2030: Incheon Declaration and Framework for Action for the implementation of Sustainable Development Goal 4," 2015, [https://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en\\_2.pdf](https://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en_2.pdf) (accessed May 1, 2024), p. 67.

<sup>33</sup> UNESCO Institute for Statistics, "SDG 4 Data: El Salvador," <http://sdg4-data.uis.unesco.org/> (accessed May 1, 2024).

Education spending as a share of total government spending averaged 14 percent between 2013 and 2021.<sup>34</sup>

The Multiple Purpose Household Survey found that more than 66,300 Salvadoran children—or more than 5 percent—between 5 and 17 years old had jobs.<sup>35</sup> Children who work at a young age rather than focusing on education are more likely to drop out of school, diminishing their future economic prospects and becoming more likely to take part in illicit businesses controlled by gangs. The survey also found that 4 out of 10 children engaged in child labor do not attend school.<sup>36</sup>

Additionally, the survey showed child workers in El Salvador were predominantly male, between the ages of 14 and 17 years (75 percent), and rural (60 percent).<sup>37</sup> These findings likely significantly underrepresent the prevalence of girls engaged in domestic work, a form of labor that often goes undercounted and unrecognized due to its hidden nature within households.

The survey found that nearly 24 percent of Salvadorans between the ages of 15 and 24 were not occupied in education or employment, in comparison to the Latin American average of 17 percent.<sup>38</sup> Nearly 43 percent of Salvadorans of that age who were not studying or working were from households with incomes in the lowest 20 percent.<sup>39</sup>

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<sup>34</sup> ECLAC, “Public expenditure on education as a percentage of total government expenditure,” CEPALSTAT, <https://statistics.cepal.org/portal/cepalstat/dashboard.html?theme=1&lang=es> (accessed May 1, 2024).

<sup>35</sup> Central Bank of El Salvador, “Household and Multipurpose Survey 2022 Results,” p. 54.

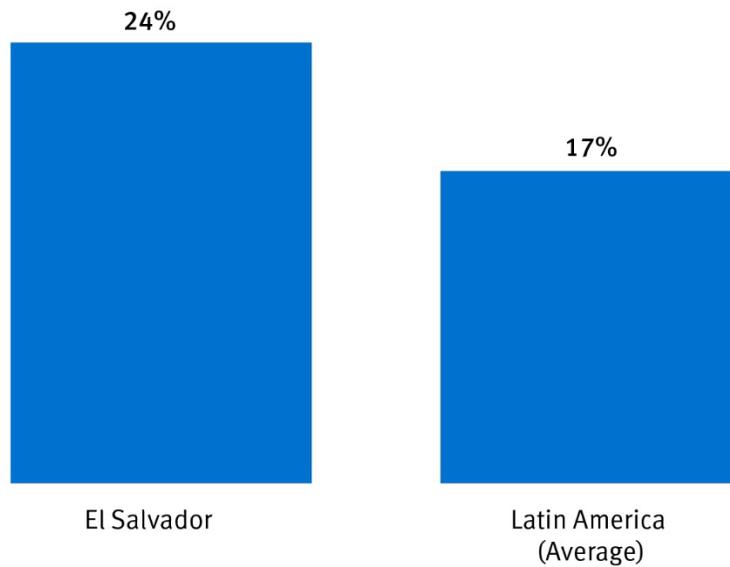
<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> Central Bank, “Household and Multipurpose Survey Results,” p. 56; ECLAC, “Urban open unemployment rate, by sex and age groups” (“Tasa de desempleo abierto urbano, según sexo y grupos de edad”), CEPALSTAT, <https://statistics.cepal.org/portal/cepalstat/dashboard.html?theme=1&lang=es> (accessed April 14, 2024).

<sup>39</sup> Central Bank, “Household and Multipurpose Survey Results,” p. 56.

## Rate of Youth not in Education or Employment



Source: Human Rights Watch analysis of data from the Central Bank of El Salvador and the ECLAC.

## Violence Against Children

In El Salvador, children and young adults face many types of violence. They experience higher levels of violence than adults, which undermines their basic human rights and threatens their development.<sup>40</sup>

According to Cristosal, high rates of early and forced pregnancies among adolescents, widespread sexual violence, and alarming levels of problematic alcohol consumption are related to a broader context of violence.<sup>41</sup> Disciplinary practices within families frequently involve both physical and psychological abuse.<sup>42</sup> Such problems, together with pervasive

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<sup>40</sup> Government of El Salvador et al., “Violence Against Children and Youth Survey in El Salvador” (“Encuesta de Violencia contra Niños, Niñas y Adolescentes en El Salvador”), 2017, <https://files.mutualcdn.com/tfg/assets/files/El-Salvador-VACS-Report-2019.pdf> (accessed April 14, 2024), p. 3.

<sup>41</sup> Cristosal, *Generation Without Return: Report on Childhood and Youth 2016-2018*, pp. 19 and 20.

<sup>42</sup> Government of El Salvador et al., “Violence Against Children and Youth Survey in El Salvador,” p. 3.

gang violence, contribute to elevated school dropout rates, participation in criminal groups, and migration among children and youth.<sup>43</sup>

For years, the homicide rate among children in El Salvador has been one of the highest globally, reflecting an alarming level of violence and severe violations of the fundamental rights to life and physical security.<sup>44</sup> Homicide has consistently been the leading cause of death among Salvadoran children and young people aged 10 to 19.<sup>45</sup>

The Institute of Legal Medicine (Instituto de Medicina Legal, IML) documented some 6,300 homicides of children and adolescents (ages 0 to 19) from 2005 to 2013.<sup>46</sup> Of these, the majority—89 percent—were among teenagers aged 15 to 19, and 87 percent were male.<sup>47</sup> In El Salvador, 2,714 children from ages 0 to 17 were murdered, from January 2014 to March 2022, the government reported, before declaring information on homicides classified for seven years.<sup>48</sup> Discrepancies in figures reported by various government agencies complicate the assessment of the true scale of child homicides.<sup>49</sup>

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<sup>43</sup> Ibid. See also International Labour Organization (ILO), “New Forms of Child Labour” (“Nuevas formas de trabajo infantil”), 2018, [https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---sro-san\\_jose/documents/publication/wcms\\_669938.pdf](https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---sro-san_jose/documents/publication/wcms_669938.pdf) (accessed April 14, 2024), p. 25.

<sup>44</sup> UNICEF, *Hidden in Plain Sight: A statistical analysis of violence against children*, September 2014, <https://www.unicef.org/media/66916/file/Hidden-in-plain-sight.pdf> (accessed April 14, 2024), p. 37; Pan American Health Organization (PAHO), “Homicide mortality,” n.d., <https://www.paho.org/en/enlace/homicide-mortality#top2> (accessed July 4, 2024).

<sup>45</sup> Ibid.

<sup>46</sup> UNICEF, *Informe de Situación de la Niñez y Adolescencia en El Salvador*, November 2014, [https://siteal.iiep.unesco.org/sites/default/files/sit\\_investigacion\\_pdf/1840.pdf](https://siteal.iiep.unesco.org/sites/default/files/sit_investigacion_pdf/1840.pdf) (accessed April 14, 2024), p. 20.

<sup>47</sup> Ibid.

<sup>48</sup> National Council for Children and Adolescents (Consejo Nacional de la Niñez y de la Adolescencia, CONNA), “Compendium of Data Related to the Rights of Girls, Boys and Adolescents in El Salvador” (“Compendio de datos relacionados a los derechos de niñas, niños y adolescentes en El Salvador”), March 22, 2022, p. 3; Ministry of Justice and Public Safety, “Classified Information 2022” (“Índice de información reservada 2022”), July 27, 2022, <https://www.transparencia.gob.sv/institutions/mjsp/documents/498411/download> (accessed July 5, 2024).

<sup>49</sup> For instance, in 2015, the Institute of Legal Medicine documented 781 homicides of children under 17, while the National Council for Children and Adolescents (CONNA) recorded 731 cases for the same age group. See “Institute of Legal Medicine” (Instituto de Medicina Legal, IML), “Examinations carried out by forensic doctors of the Institute of Legal Medicine, performed on persons deceased in acts of violence (homicides), occurring in El Salvador in the year 2015” (“Reconocimientos realizados por médicos forenses del Instituto de Medicina Legal, practicados a personas fallecidas en hechos de violencia (homicidios), ocurridos en El Salvador en el año 2015”), April 26, 2016, <https://transparencia.oj.gob.sv/es/documentos/248> (accessed April 26, 2024); CONNA, “Report of Activities 2015-2016” (“Memoria de Labores 2015-2016”), n.d., <https://www.transparencia.gob.sv/institutions/conna/documents/141834/download> (accessed April 26, 2024), p. 17.

A study conducted in 2023 by the Pan American Journal of Public Health (PAJPH), highlights the high homicide rates among those aged 10-19 in El Salvador for the decade from 2010 to 2019.<sup>50</sup> Disappearances—meaning, in El Salvador and elsewhere in the region, the seizing of people, by any perpetrator, against their will, with their fate and whereabouts unknown—have notably affected children in El Salvador.<sup>51</sup> In addition to kidnappings to increase territorial control, gangs appear to use disappearances to kill, lowering official homicide counts, particularly during negotiations with governments.<sup>52</sup>

Sexual violence is pervasive in El Salvador, disproportionately affecting women and girls. Between 2019 and 2022, official data show that 22,745 women and girls were victims of sexual violence.<sup>53</sup> Authorities reported 5,277 female victims of sexual violence, including 2,107 of rape, only in 2022.<sup>54</sup>

There is a high rate of teenage pregnancy.<sup>55</sup> In 2015, 24,944 pregnancies were reported among girls and adolescents aged 10-19, translating to an average of at least 68 girls and adolescents becoming pregnant every day.<sup>56</sup> While this figure decreased to 10,352 in 2022, it still means that, on average, at least 28 girls and adolescents became pregnant daily.<sup>57</sup> A total of 496 girls under the age of 14 became pregnant in 2022.<sup>58</sup> Under the law the age of

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<sup>50</sup> Antonio Sanahueza et al., “Homicide among young people in the countries of the Americas,” *Rev Panam Salud Publica*, vol. 47 (2023), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10361419/#:~:text=In%20the%20Americas%2C%20the%20age,adolescents%20and%20young%20adults%2C%20respectively> (accessed May 10, 2024).

<sup>51</sup> “Disappearance” used in this sense is distinct from an “enforced disappearance,” which requires the involvement of state agents, either directly or indirectly through authorization, support, or acquiescence. See, for example, Human Rights Watch, *Mexico’s Disappeared: The Enduring Cost of a Crisis Ignored* (New York: Human Rights Watch, 2013), p. 14, <https://www.hrw.org/report/2013/02/20/mexicos-disappeared/ending-cost-crisis-ignored>; FESPAD, “Disappearances in El Salvador” (“Desaparición de personas en El Salvador”), April 2021, [https://drive.google.com/file/d/1U6d8M8hoRgZmZojx4gdhnAeu-pn\\_03CN/view](https://drive.google.com/file/d/1U6d8M8hoRgZmZojx4gdhnAeu-pn_03CN/view) (accessed April 15, 2024), p. 56.

<sup>52</sup> Carlos Carcach and Evelyn Artola, “Disappeared persons and homicide in El Salvador,” *Crime Science Journal*, vol. 5 (2016) <https://crimesciencejournal.biomedcentral.com/articles/10.1186/s40163-016-0061-x> (accessed July 3, 2024).

<sup>53</sup> Ministry of Justice and Public Security (Ministerio de Justicia y Seguridad Pública), “Report on the State and Situation of Violence against Women - El Salvador 2022” (“Informe de Hechos: Estado y Situación de la Violencia contra las Mujeres - El Salvador 2022”), April 2023, <https://www.seguridad.gob.sv/dia/download/informe-de-hechos-estado-y-situacion-de-la-violencia-contra-las-mujeres-el-salvador-2022/> (accessed April 14, 2024), p. 47.

<sup>54</sup> *Ibid.*, p. 46.

<sup>55</sup> United Nations Population Fund (UNFPA), “Ensuring zero pregnancies of girls and adolescents: El Salvador Map 2023” (“Llegar a cero embarazos de niñas y adolescentes: Mapa El Salvador 2023”), July 2023, [https://elsalvador.unfpa.org/sites/default/files/pub-pdf/mapa\\_embarazos\\_2023\\_web.pdf](https://elsalvador.unfpa.org/sites/default/files/pub-pdf/mapa_embarazos_2023_web.pdf) (accessed May 1, 2024), p. 8.

<sup>56</sup> *Ibid.*, p. 73.

<sup>57</sup> *Ibid.*

<sup>58</sup> *Ibid.*, pp. 18.

consent is 15.<sup>59</sup> El Salvador criminalizes abortion under all circumstances.<sup>60</sup> Even if the pregnancies were a result of rape or posed serious risks to the girls' lives and health, they would not have legal access to abortion.

Underlying causes and effects of teenage pregnancy include high school dropout rates, discrimination against women and girls, child marriage and early unions, and sexual violence.<sup>61</sup> A study by the United Nations Population Fund (UNFPA), a UN agency, reported that in 2022, the Institute of Legal Medicine conducted 2,019 expert assessments related to sexual violence against girls and adolescents between the ages of 10 and 19.<sup>62</sup>

Gang recruitment severely affects Salvadoran children. Gangs proliferate in areas of concentrated disadvantage. Children with limited access to essential services are at heightened risk of abuse and exploitation by gangs.<sup>63</sup> Deprivation increases children's vulnerability to coercion or enticement into gangs.



A Human Rights Watch researcher visited the IVU Community (Colonia IVU), on September 22, 2023, in San Salvador, El Salvador, to investigate the impact of the government's anti-gang measures on communities controlled by gangs. © 2023 Human Rights Watch.

<sup>59</sup> Criminal Code (Código Penal), Decree 1030, signed into law on April 26, 1997, <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/F5A086EB-9DB7-4CA8-818E-D67F29AF54EC.pdf> (accessed June 4, 2023), art. 159.

<sup>60</sup> Criminal Code, Decree 1030, art. 133.

<sup>61</sup> United Nations in El Salvador, "An Initiative to Reach Zero Pregnancies in Girls and Adolescents in El Salvador" ("Una iniciativa para llegar a cero embarazos en niñas y adolescentes en El Salvador"), July 20, 2023, <https://elsalvador.un.org/es/240003-una-iniciativa-para-llegar-cero-embarazos-en-ni%C3%B1as-y-adolescentes-en-el-salvador#:~:text=El%20pa%C3%ADs%20va%20en%20la,diarios%20en%20ni%C3%B1as%20y%20adolescentes> (accessed April 14, 2024).

<sup>62</sup> UNFPA, "Ensure zero pregnancies of girls and adolescents: El Salvador Map 2023" ("Llegar a cero embarazos de niñas y adolescentes: Mapa El Salvador 2023"), p. 39.

<sup>63</sup> IACHR, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action*, p. 51.



A Human Rights Watch researcher visited the "Urban Centers of Wellbeing and Opportunity" (Centros Urbanos de Bienestar y Oportunidades, CUBO) at the IVU Community (Colonia IVU), that seek to prevent violence by increasing economic and educational opportunities for youth in vulnerable communities, San Salvador, El Salvador, December 22, 2023. © 2023 Human Rights Watch.

In El Salvador, gang membership remains a predominantly male phenomenon. According to a study based on a purposive sample of 1,196 respondents with record of gang membership, most members reported being recruited during their teenage years.<sup>64</sup> The average age for joining a gang among respondents in this study was 15, for males, and 18, for females.<sup>65</sup>

The ECLAC reported, in 2015, that gang presence affected 214 out of 262 municipalities in the country, particularly those around the city of San Salvador.<sup>66</sup> A separate study found gang members were present in at least 80 percent of schools and exert control over the territories where schools are located and abuse students through threats, extortion, and recruitment.<sup>67</sup>

Gangs recruit children primarily through coercion and persuasion, often within

contexts of deprivation.<sup>68</sup> Coercive tactics include kidnapping, violence, and threats of physical force against children or their family members. Continuing pressure, including from peers; the need for protection against harassment; and the desire to flee from

<sup>64</sup> This study is based on a non-probability purposive sample of 1,196 people and its results are not representative of all gang members in the country. José Miguel Cruz et al., "The New Face of Street Gangs: The Gang Phenomenon in El Salvador," Florida International University, <https://lacc.fiu.edu/research/the-new-faces-of-street-gangs-in-central-america/the-new-face-of-street-gangs-the-gang-phenomenon-in-el-salvador-eng.pdf> (accessed May 10, 2024), p. 18.

<sup>65</sup> Ibid., p. 17.

<sup>66</sup> Walter Murcia, *El Salvador's Gangs: Proposals and challenges to socially include youth in contexts of urban violence*, p. 15.

<sup>67</sup> Augusto López Ramírez, "Gangs in Public Schools in EL Salvador" ("Pandillas en escuelas públicas de El Salvador"), *Revista Policía y Seguridad Pública*, vol. 5(1):225-5648, <https://biblat.unam.mx/hevila/Revistapoliciayseguridadpublica/2015/vol1/6.pdf> (accessed July 3, 2024), p. 266.

<sup>68</sup> ILO, "New Forms of Child Labour" ("Nuevas formas de trabajo infantil"), p. 42.

abusive situations lead children to join gangs.<sup>69</sup> Hundreds of families living in areas controlled by gangs have left their homes to escape violence, and in some instances, to prevent forced recruitment of children.<sup>70</sup>

Recruitment also involves promises of access to drugs, power within schools and local communities, and sexual activities, either forcibly or through relationships with gang members.<sup>71</sup>

Girls and young women experience gang violence differently. Many are coerced into non-consensual sexual relationships, known as “noviazgos,” with gang members. In such situations, they endure sexual violence, are treated as “gifts” among gang leaders, and may be trafficked sexually.<sup>72</sup>

Criminal organizations manipulate, exploit, and groom children to play diverse roles, including as assassins.<sup>73</sup> Initially tasked with surveillance and tracking, children gradually receive assignments of increasing violence. To demonstrate their loyalty, children, mostly 15 and 16 years old, are often required to kill someone. Girls play traditional gender roles. Typically, the tasks assigned to them involve caregiving or monitoring, as well as the transport or hiding of drugs or weapons.<sup>74</sup>

Gang membership severely alters a child’s development and potential. Children find themselves trapped in a cycle of continuous criminal activity. It can range from theft to homicide, and it effectively anchors children’s lives to the gang indefinitely.<sup>75</sup>

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<sup>69</sup> Ibid., p. 43.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid., p. 44.

<sup>72</sup> IACHR, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action*, p. 62.

<sup>73</sup> Ibid., p. 61.

<sup>74</sup> Ibid., p. 129.

<sup>75</sup> Ibid.

The pattern of gang recruitment, in El Salvador, leads to continuous violations of children’s rights, including their right to life, humane treatment, health, education, recreation, and personal liberty.<sup>76</sup>

## Past Security Policies

Past governments have oscillated between closed-door negotiations with gangs, which failed to disarm gangs and protect the population, and repressive measures that increased human rights violations and failed to sustainably decrease violence.

The governments of Presidents Francisco Flores (1999-2004) and Antonio Saca (2004-2009) launched and implemented the “Iron Fist Plan” (Plan Mano Dura), in 2003, and the “Super Iron Fist Plan” (Plan Súper Mano Dura), in 2004. They mostly deployed joint police and military anti-gang squads to patrol the streets.<sup>77</sup> According to FESPAD, a Salvadoran nongovernmental organization, authorities relied on flimsy evidence, including tattoos and overall appearance, for mass arrests of alleged gang members.<sup>78</sup> More than 19,000 people were arrested between July 2003 and August 2004, FESPAD reported in 2005.<sup>79</sup> Around 84 percent of those detained were later acquitted by Salvadoran judges, in most cases, due to lack of evidence.<sup>80</sup> Other studies report similar rates.<sup>81</sup>

The efforts failed to protect children and to provide lasting solutions to pervasive gang violence.<sup>82</sup> Studies have found that mass incarceration ends up strengthening criminal organizations by facilitating recruitment from prisons and allowing them to develop systems of criminal control over civilian populations as detainees are released.<sup>83</sup>

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<sup>76</sup> IACHR, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action*, p. 127.

<sup>77</sup> Sonja Wolf, *Mano Dura: The Politics of Gang Violence in El Salvador*, p. 51.

<sup>78</sup> Ibid. See also FESPAD, “Public Safety Plans Fail” (“Planes de Seguridad Fracasan”), February 18, 2010, <https://www.fespad.org.sv/planes-de-seguridad-fracasan/> (accessed June 28, 2024).

<sup>79</sup> FESPAD, *Annual Report on Juvenile Criminal Justice 2004* (Informe Anual Sobre Justicia Penal Juvenil 2004), January 31, 2005, <https://www.fespad.org.sv/informe-anual-sobre-justicia-penal-juvenil-el-salvador-2004/> (accessed May 9, 2024), p. 28.

<sup>80</sup> Ibid.

<sup>81</sup> Wolf, *Mano Dura: The Politics of Gang Control in El Salvador*, p. 51.

<sup>82</sup> IACHR, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action*, p. 32.

<sup>83</sup> Benjamin Lessing, “Counterproductive Punishment: How Prison Gangs Undermine State Authority,” *Rationality and Society*, vol. 29 (2016), no. 3: 257–97.

The administration of President Mauricio Funes (2009-2014), representing the Frente Farabundo Martí para la Liberación Nacional (FMLN), launched a process of negotiation, in 2012, with gang leaders from the MS-13 and from the two factions of the Eighteenth Street Gang. The aim was for the gangs to reduce killings in exchange for better conditions in prisons.<sup>84</sup> The process, commonly referred to as “the truce” (la tregua), reportedly included cash payments to gang leaders and several transfers of gang leaders from maximum security prisons to less restrictive detention facilities.<sup>85</sup>

Homicide rates declined significantly between 2010 and 2013: from 64 and 70 per 100,000 people, in 2010 and 2011, respectively, to 41 and 40 per 100,000, in 2012 and 2013.<sup>86</sup> But disappearances surged, and numerous studies showed that, throughout the process, gangs continued exerting control over large parts of the country and were involved in other crimes, including extortion and threats.<sup>87</sup>

In May 2014, the truce broke down, leading to a surge in gang violence.<sup>88</sup> By 2015, El Salvador had the highest homicide rate in the hemisphere, with 106 murders per 100,000 people.<sup>89</sup>

The truce also had the unintended consequence of increasing gangs’ awareness of their political power.<sup>90</sup> Repeatedly, they have unleashed waves of violence, seemingly to push the government into making concessions.<sup>91</sup>

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<sup>84</sup> José Miguel Cruz, “The Politics of Negotiating with Gangs: The Case of El Salvador,” *Society for Latin American Studies*, vol. 38 (2019), p. 7.

<sup>85</sup> Oscar Martínez et al., “Government Negotiates Reduction in Homicides with Gangs,” *El Faro*, March 14, 2012, <https://www.elfaro.net/es/201203/noticias/8061/> (accessed May 10, 2024); Wolf, *Mano Dura: The Politics of Gang Control in El Salvador*, p. 232.

<sup>86</sup> United Nations Office on Drugs and Crime (UNODC), “Homicide Country Data,” n.d., <https://dataunodc.un.org/content/data/homicide/homicide-rate> (accessed April 18, 2024).

<sup>87</sup> José Miguel Cruz, “The Politics of Negotiating with Gangs: The Case of El Salvador,” p. 7; International Crisis Group, *El Salvador’s Politics of Perpetual Violence*, p. 10.

<sup>88</sup> UNODC, “Homicide Country Data,” n.d., <https://dataunodc.un.org/content/data/homicide/homicide-rate> (accessed April 18, 2024).

<sup>89</sup> *Ibid.*

<sup>90</sup> Manuel Meléndez-Sánchez, “What’s Behind the Spike of Violence in El Salvador?” *Lawfare*, April 11, 2022, <https://www.lawfareblog.com/whats-behind-spike-violence-el-salvador> (accessed April 28, 2024).

<sup>91</sup> *Ibid.*

Implementation of repressive policies has often led to human rights violations, eroding public trust in state institutions, and undermining the rule of law. Common threads in Salvadoran security strategies have included granting greater powers to state security forces (police and military); increasing prison sentences; lowering the age of criminal responsibility for children in conflict with the law; imprisoning people *en masse*; expanding the use of pretrial detention; and legislating new, overly broad criminal offenses, focused on people's alleged belonging to a group, instead of their engagement in violence, such as "terrorist organizations" (organizaciones terroristas) and "unlawful association" (agrupaciones ilícitas).

In 2006, legislators enacted the Special Law against Acts of Terrorism, defining "terrorist organizations" broadly.<sup>92</sup> The law imposes harsh punishments for acts committed by organizations that, "by their form of execution, or means and methods employed, evidence the intention to provoke a state of alarm, fear or terror in the population."<sup>93</sup> Among other concerns, the definition allows criminalizing, as terrorism, acts that cause "fear," a relatively low threshold. Although the law requires intent to "cause alarm, fear or terror within the public," it does not require intent to endanger lives or physical or mental integrity, or to cause other serious harms.<sup>94</sup>

In 2010, during the administration of President Funes, the Legislative Assembly passed a law banning gangs and criminal groups, associations, and organizations.<sup>95</sup> In 2015, the Supreme Court issued a ruling classifying MS-13, the Eighteenth Street Gang and others as "terrorists," citing attempts to "assume the exercise of legal authority" from the state.<sup>96</sup>

Under legislation in effect since 2016, gang members in El Salvador can also be prosecuted for membership in an unlawful association, under provisions that target anyone who "takes

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<sup>92</sup> Special Law against Acts of Terrorism (Ley Especial contra Actos de Terrorismo), Decree 108, signed into law on September 21, 2006, <https://www.acnur.org/fileadmin/Documentos/BDL/2016/10430.pdf> (accessed April 14, 2024), art. 4 (m); "El Salvador: Terrorism Law Misused Against Protesters," Human Rights Watch news release, July 30, 2007, <https://www.hrw.org/news/2007/07/30/el-salvador-terrorism-law-misused-against-protesters>.

<sup>93</sup> Special Law against Acts of Terrorism, Decree 108, art. 1

<sup>94</sup> *Ibid.*

<sup>95</sup> Law Banning Gangs, Bands, Groups, Associations and Organizations of a Criminal Nature (Ley de Proscripción de Maras, Pandillas, Agrupaciones, Asociaciones y Organizaciones de Naturaleza Criminal), Decree 458, signed into law on September 10, 2010, <https://www.refworld.org/docid/56a24bd44.html> (accessed May 10, 2024), art. 1.

<sup>96</sup> Constitutional Chamber of the Supreme Court, resolution 22-2007AC, August 24, 2015, <https://www.jurisprudencia.gob.sv/DocumentosBoveda/D/1/2010-2019/2015/08/B254E.PDF> (accessed August 26, 2022).

part” in gangs, who is the “creator, organizer, chief, leader [or] financier” of a gang, or who “promotes, helps, facilitates or favors the creation or presence” of such groups or, knowing that such groups are unlawful, “receives direct or indirect benefit,” by having relations “of any nature” with gangs, “even without being a part of them.”<sup>97</sup>

Under the Salvadoran constitution, responsibility for public safety is assigned to the National Civil Police (PNC). However, subsequent governments have blurred the line between the police and the military, involving the armed forces in internal security matters through joint patrols.<sup>98</sup> Eroding the distinction between law enforcement and military roles has led to militarization of policing and an increased risk of excessive force.<sup>99</sup>

Widespread impunity exacerbates the problem. For example, between 2014 and 2018, police officers committed 116 extrajudicial killings, the Human Rights Ombudsperson’s Office reported.<sup>100</sup> The Office found that only two had resulted in convictions as of late 2018.<sup>101</sup> The legal framework, including a 2013 reform to the Code of Criminal Procedure, grants judges overbroad powers to dismiss charges against officers when they commit crimes “during the fulfillment of their duties.”<sup>102</sup>

Internal accountability mechanisms have largely remained ineffective.<sup>103</sup> The 2014 Organic Law of the Inspector General’s Office of Public Security, charged with oversight and

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<sup>97</sup> Amendments to the Criminal Code (Reformas al Código Penal), Decree 337, signed into law on March 30, 2022, <https://www.diariooficial.gob.sv/seleccion/30735> (accessed July 5, 2024), art. 2.

<sup>98</sup> Washington Office on Latin America (WOLA), “Youth Gangs in Central America: Issues in Human Rights, Effective Policing, and Prevention,” November 2006, [https://www.wola.org/sites/default/files/downloadable/Citizen%20Security/past/GangsReport\\_Final.pdf](https://www.wola.org/sites/default/files/downloadable/Citizen%20Security/past/GangsReport_Final.pdf) (accessed April 14, 2024).

<sup>99</sup> WOLA, “Youth Gangs in Central America: Issues in Human Rights, Effective Policing, and Prevention,” p. 10.

<sup>100</sup> Human Rights Ombudsperson’s Office, *Special Report by the Human Rights Ombudswoman Raquel Caballero de Guevara, on Extralegal Executions Attributed to the National Civil Police, in El Salvador, 2014-2018* (“Informe especial de la señora Procuradora para la Defensa de los Derechos Humanos, licenciada Raquel Caballero de Guevara, sobre las Ejecuciones Extralegales atribuidas a la Policía Nacional Civil, en El Salvador, período 2014-2018”), August 2019, [https://elfaro.net/attachment/1076/Informe%20especial%20sobre%20ejecuciones%20extralegales.%20PDDH.pdf?g\\_download=1](https://elfaro.net/attachment/1076/Informe%20especial%20sobre%20ejecuciones%20extralegales.%20PDDH.pdf?g_download=1) (accessed July 1, 2024), p. 22.

<sup>101</sup> *Ibid.*, p. 87.

<sup>102</sup> UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions, “El Salvador End of Mission Statement,” February 5, 2018, <https://www.ohchr.org/en/statements/2018/02/el-salvador-end-mission-statement> (accessed July 1, 2024).

<sup>103</sup> UN Special Rapporteur for Extrajudicial, Summary or Arbitrary Executions, “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to El Salvador,” UN Doc. A/HRC/38/44 (2018), <https://www.ohchr.org/en/documents/country-reports/ahrc3844add2-report-special-rapporteur-extrajudicial-summary-or-arbitrary> (accessed July 1, 2024).

supervision of public safety institutions, granted the office autonomy from the police, placing it under the Ministry of Justice and Public Security.<sup>104</sup> However, the unit relies on police investigation and disciplinary control units, which compromises its independence.<sup>105</sup>

Repressive approaches have led to mass arrests, often made solely on the basis of allegations, without sufficient evidence or proper legal procedures.<sup>106</sup> This has resulted in rapid growth of the prison population, leading to severe overcrowding and inhumane conditions.<sup>107</sup> Gangs consolidated their power within several prisons across the country.<sup>108</sup> Enabled by prison policies that segregated detainees according to their membership, gangs were able to strengthen their structures from within the prisons.<sup>109</sup>

President Bukele's crackdown on gangs in El Salvador stands out from previous efforts due to its unprecedented scope, intensity, and lack of checks and balances.<sup>110</sup> With a legislature controlled by government supporters and a coopted judiciary, Bukele has been able to pursue these mass arrests unhindered.

## The Impact on Children

Past security policies have also contributed to the stigmatization and criminalization of children and young people, particularly from low-income communities, who have often been targeted based on their tattoos, general appearance, or place of residence.<sup>111</sup>

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<sup>104</sup> IACHR, "Report of the state of El Salvador to the Inter-American Commission on Human Rights on the status of compliance with the recommendations contained in the report "Situation of Human Rights in El Salvador" approved after the *in loco* visit conducted in 2019 ("Informe del estado de El Salvador a la Comisión Interamericana de Derechos Humanos sobre el estado de cumplimiento de las recomendaciones contenidas en el informe "Situación de los derechos humanos en el salvador" aprobado tras visita *in loco* realizada en 2019"), July 2022, [https://www.oas.org/es/CIDH/docs/annual/2022/notas/SLV\\_nota\\_1.pdf](https://www.oas.org/es/CIDH/docs/annual/2022/notas/SLV_nota_1.pdf) (accessed July 1, 2024), p. 6.

<sup>105</sup> *Ibid.*

<sup>106</sup> Sonja Wolf, *Mano Dura: The Politics of Gang Violence in El Salvador*, p. 72.

<sup>107</sup> IACHR, *Situation of Human Rights in El Salvador*, p. 18.

<sup>108</sup> *Ibid.*

<sup>109</sup> Wolf, *Mano Dura: The Politics of Gang Violence in El Salvador*, p. 51.

<sup>110</sup> "El Salvador: Legislature Deepens Democratic Backsliding" Human Rights Watch news release, November 1, 2021, <https://www.hrw.org/news/2021/11/01/el-salvador-legislature-deepens-democratic-backsliding>; Manuel Meléndez Sánchez and Alberto Vergara, "The Bukele Model: Will It Spread?," *Journal of Democracy*, vol. 35 no. 3, 2024, pp. 84-98, <https://muse.jhu.edu/pub/1/article/930429> (accessed July 5, 2024).

<sup>111</sup> UNICEF, "Analysis of the situation of childhood in El Salvador" ("Análisis de Situación de la Infancia El Salvador"), 2014, [https://www.unicef.org/elsalvador/sites/unicef.org.elsalvador/files/2018-12/Analisis\\_de\\_Situacion\\_de\\_la\\_Infancia\\_El\\_Salvador\\_UNICEF\\_2014.pdf](https://www.unicef.org/elsalvador/sites/unicef.org.elsalvador/files/2018-12/Analisis_de_Situacion_de_la_Infancia_El_Salvador_UNICEF_2014.pdf) (accessed April 14, 2024), p. 114; Cristosal, "Generation Without Return: Report on Childhood and Youth 2016-2018," p. 105.

The stigmatization of children in high-violence environments hinders their ability to exercise and enjoy their rights. Involvement with the criminal justice system exposes them to various forms of violence, mistreatment by state officials, and barriers to securing employment, exacerbating their social exclusion.<sup>112</sup>

Salvadoran governments have often resorted to the juvenile justice system as a primary means of addressing the alleged involvement of children in gangs, and their exploitation.<sup>113</sup> However, this approach fails to recognize that children are, first and foremost, victims of a series of accumulated human rights abuses.<sup>114</sup> Instead of prioritizing their rehabilitation and reintegration, the Salvadoran juvenile justice system tends to treat them as criminal offenders, disregarding the complex social, economic, and psychological factors that contribute to their involvement in unlawful activities.

Juvenile detention facilities in El Salvador have, for years, been overcrowded, understaffed, unsanitary, and lacking adequate infrastructure, creating a dangerous and dehumanizing environment that fails to prioritize the well-being and rehabilitation of detained children.

Additionally, the control exerted by many gangs in detention centers has created an environment in which violence, intimidation, and exploitation thrive. The pervasive influence of gangs has led to forced recruitment, sexual violence, and the perpetuation of criminal behavior, as children are pressured to join gangs for protection or face severe consequences for resisting.<sup>115</sup>

## Legal Framework on Juvenile Justice and Children’s Rights

As a state party to the Convention on the Rights of the Child (CRC), El Salvador is obligated to protect the rights of children, including by ensuring that actions take their best interests as a primary consideration, they are not arbitrarily deprived of liberty, and are treated in a manner consistent with their age, dignity, and worth in all judicial proceedings.<sup>116</sup>

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<sup>112</sup> IACHR, *Organized Crime and the Rights of Children, Adolescents and Young People: Current Challenges and State Action*, pp. 81, 82.

<sup>113</sup> *Ibid.*, p. 69.

<sup>114</sup> *Ibid.*

<sup>115</sup> *Ibid.*, p. 117.

<sup>116</sup> Convention on the Rights of the Child, arts. 3, 37 and 40.

Under international human rights law, children should only be deprived of liberty under exceptional circumstances: when non-custodial measures are inadvisable, after careful review, and considering principles such as legality, last resort, and proportionality.<sup>117</sup> The CRC specifies that a state's response must be proportional to the gravity of the offense, society's needs, and the child's circumstances (the child's age, lesser culpability, and circumstances and needs, including, when relevant, those related to mental health). When children commit serious crimes, states may consider measures proportional to the offender's circumstances and the crime's seriousness, considering public security and punishment. However, the child's best interests and reintegration into society should always be prioritized.<sup>118</sup>

The Constitution of El Salvador establishes the right of every child to live in family and environmental conditions that support their integral development. It requires the state to provide protection and create institutions for the welfare of mothers and children.<sup>119</sup> It also sets forth the obligations to safeguard the "physical, mental, and moral health" of children and guarantee their right to education and assistance. It stipulates that children engaging in "antisocial behavior" (*conducta antisocial*) constituting a crime or offense shall be subject to a "special legal regime."<sup>120</sup>

Salvadoran law also criminalizes, with up to 20 years in prison, the "recruitment, induction, facilitation, use, coercion, promotion or instrumentalization" of children and other vulnerable groups for committing crimes or for participating in criminal groups, terrorist organizations, and organized crime groups.<sup>121</sup> The Law Against Human Trafficking, passed in 2014, defines "human exploitation" to include the use of children in criminal activities and penalizes those who "deliver, capture, transport, transfer, receive persons" for exploitation with 10 to 14 years imprisonment.<sup>122</sup> Salvadoran law also protects children from economic

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<sup>117</sup> Convention on the Rights of the Child, art. 40; Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the child justice system, UN Doc. CRC/C/GC/24 (2019), art. 95 (g)-(h).

<sup>118</sup> Committee on the Rights of the Child, General Comment No. 24, para. 76.

<sup>119</sup> Constitution of the Republic of El Salvador, Title II, Chapter II, Section One, art. 34.

<sup>120</sup> *Ibid.*, arts. 34 and 35.

<sup>121</sup> Amendments to the Criminal Code (*Reformas al Código Penal*), Decree 349, signed into law on April 5, 2022, <https://www.diariooficial.gob.sv/seleccion/30739> (accessed July 5, 2024), art. 153(a).

<sup>122</sup> Law Against Human Trafficking of El Salvador (*Ley especial contra la trata de personas*), Decree 824, signed into law November 14, 2014, arts. 3 and 54.

exploitation, specifically mentioning the use, recruitment, or offering of children for illicit activities such as drug production and trafficking as a form of exploitation.<sup>123</sup>

Juvenile justice in El Salvador is governed by the “Grow Up Together Law for the Comprehensive Protection of Children and Adolescents” (Ley Crecer Juntos para la Protección Integral de la Primera Infancia, Niñez y Adolescencia, or simply Ley Crecer Juntos).<sup>124</sup> The law, which took effect in January 2023, applies to people under 18, replacing the previous Law on the Comprehensive Protection Law for Children and Adolescents (Ley de Protección Integral de la Niñez y Adolescencia, LEPINA).<sup>125</sup>

The Grow Up Together Law upholds “comprehensive protection” and the “best interests of the child” as its core guiding principles, to serve as a foundation for interpreting and applying juvenile criminal laws in El Salvador. At the institutional level, the Grow Up Together Law created a new administrative body, the National Council for Early Childhood, Children, and Adolescence (CONAPINA), which oversees the protection of children’s rights.<sup>126</sup> Among others, CONAPINA is responsible for the administration of centers and programs for administrative detention and for the implementation of socio-educational measures for children and adolescents convicted of crimes. CONAPINA is tasked with ensuring humane treatment in detention, including adequate food and clothing, comprehensive health care, and access to education and professional technical training. It is also responsible for ensuring incarcerated children’s eventual re-integration into society.

The law provides that children have a right not to be deprived of their liberty in an arbitrary or illegal manner. It guarantees children a fair trial, including the presumption of innocence until proven guilty, and the rights to be informed promptly and directly of the charges against them, to have prompt access to legal and other appropriate assistance, and to have their cases heard without delay.<sup>127</sup>

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<sup>123</sup> Grow up Together Law (“Ley Crecer Juntos”), Decree 431, art. 86(h).

<sup>124</sup> Ibid.

<sup>125</sup> Salvadoran law, like other legal systems in the Americas, makes a distinction between “children” (“niños y niñas”) and “adolescents” (“adolescentes”), specifying different age ranges for each category. However, for clarity, we will generally use the term “children” to refer to all individuals under 18 years old, except when directly quoting legal provisions or discussing specific domestic legal definitions that differentiate between “children” and “adolescents.”

<sup>126</sup> Grow up Together Law (“Ley Crecer Juntos”), Decree 431, art. 152.

<sup>127</sup> Constitution of the Republic of El Salvador, art. 12; Grow up Together Law (“Ley Crecer Juntos”), Decree 431, art. 67.

Under the law, deprivation of liberty, confinement, or foster care of children are a last resort. Such measures must be exceptional and temporary, accomplished within established time limits.<sup>128</sup> Confinement or custody of children in police detention centers or adult penitentiaries is prohibited.

International standards call for the placement of children in the least restrictive setting possible, with priority given to “open” facilities.<sup>129</sup> Contact with peers, family members, and the wider community counteracts the detrimental effects of detention on a child’s mental and emotional health and promotes their eventual reintegration into society.<sup>130</sup> Accordingly, international standards call for the placement of children in the least restrictive setting possible, with priority given to “open” facilities.<sup>131</sup> Every facility, whether open or closed, should give due regard to children’s need for “sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities.”<sup>132</sup> The United Nations Rules for the Protection of Juveniles Deprived of their Liberty, known as the “Havana Rules,” call for detention centers to provide children with “adequate communication with the outside world;” to permit daily exercise, preferably in the open air; and to integrate children’s education, work opportunities, and medical care, as much as possible, into the local community.<sup>133</sup>

International standards forbid closed confinement, placement in a dark cell, “or any other punishment that may compromise” a juvenile’s “physical or mental health.”<sup>134</sup> In addition, states should establish and follow strict norms in imposing disciplinary sanctions. Norms should identify conduct constituting an offense, delineate the type and duration of sanctions, and provide for appeals.<sup>135</sup> Children should have the opportunity to be heard in their own defense before disciplinary sanctions are imposed and on appeal.<sup>136</sup> When these standards are not met, particularly when children are confined in solitary confinement,

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<sup>128</sup> Grow up Together Law (“Ley Crecer Juntos”), Decree 431, art. 67.

<sup>129</sup> See UN Standard Minimum Rules for the Administration of Juvenile Justice, G.A. Res. 40/33 (1985), comment to art. 19.

<sup>130</sup> See UN Rules for the Protection of Juveniles Deprived of Their Liberty, UN Doc. A/RES/45/133, December 14, 1990, arts. 59-62.

<sup>132</sup> *Ibid.*, art. 32.

<sup>132</sup> *Ibid.*, art. 32.

<sup>133</sup> *Ibid.*, arts. 38, 45, 47, 49, 59.

<sup>134</sup> *Ibid.*, art. 67.

<sup>135</sup> *Ibid.*, art. 68.

<sup>136</sup> *Ibid.*, art. 70. See also Convention on the Rights of the Child, art. 12(2).

such confinement may constitute cruel, inhuman, or degrading treatment or punishment, in violation of the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and the Convention against Torture.<sup>137</sup>

The legal framework for juvenile justice in El Salvador is also governed by two other laws: The Juvenile Criminal Law (Ley Penal Juvenil, LPJ) and the Law on Monitoring and Control of Juvenile Offenders Subject to the Juvenile Criminal Law (Ley de Vigilancia y Control de Ejecución de Medidas al Menor Sometido a la Ley Penal Juvenil). This Juvenile Criminal Law applies to children over 12 and under 18 years of age.

El Salvador's Juvenile Criminal Law establishes three main types of hearings: the initial hearing (audiencia inicial), the preliminary hearing (audiencia preparatoria), and the trial (vista de causa).<sup>138</sup> The initial hearing should be held within 72 hours of the child's arrest, and the judge determines whether there is sufficient evidence to proceed with the case and decides on precautionary measures.<sup>139</sup> These measures, including pretrial detention, are legally limited to 90 days and judges can extend them for 30 more.<sup>140</sup>

The preliminary hearing normally takes place within 90 days of the initial hearing, and the prosecutor presents the charges, the judge determines whether there is enough evidence to go to trial. The trial should be held within 10 days of the preliminary hearing, and the case is presented before a juvenile court judge, who determines the child's responsibility and the appropriate measures to be applied. According to the law, the entire process, from the initial hearing to the final resolution, should not exceed 120 days.<sup>141</sup>

The judge responsible for overseeing the implementation of the measures shall, every six months, conduct an automatic review of the measures imposed on the child. This review aims to ensure that the child is participating in a training and education programs, and

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<sup>137</sup> See UN Committee on the Rights of the Child, General Comment No. 24, art. 95 (g)-(h).

<sup>138</sup> Juvenile Criminal Law (Ley Penal Juvenil), Decree 863, signed into law on June 8, 1994, <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/8149596E-872F-4E5E-983C-5EF36B5F4080.pdf> (accessed May 1, 2024), arts. 53, 80 and 81.

<sup>139</sup> Juvenile Criminal Law, Decree 863, art. 53.

<sup>140</sup> *Ibid.*, art. 17.

<sup>141</sup> *Ibid.*, art. 53.

that both the measure itself and the conditions under which it is being carried out do not hinder the child’s process of reintegration into society.<sup>142</sup>

Under the law, children may be sentenced to any of six types of “socioeducational measures” including orientation and socio-familial support, admonishment, imposition of rules of conduct, community service, probation (libertad asistida), and confinement.<sup>143</sup> The strictest, confinement, is to be imposed only when individually warranted, in “exceptional circumstances,” and for the “shortest possible time.”<sup>144</sup>

The Juvenile Criminal Law introduced important due process guarantees and alternatives to traditional criminal prosecution, including conciliation, diversion, and the possibility of waiving criminal action in certain instances.<sup>145</sup> It established a range of sentencing options, prioritizing non-custodial educational and restorative measures, with deprivation of liberty only as a measure of last resort. The provisions relating to detention provided that children might be held in special juvenile detention centers known as “confinement centers” (centros de internamiento), different from those intended for offenders subject to ordinary adult legislation. Such centers had to separate detainees according to age, sex, and whether they were in pretrial detention or had been sentenced.<sup>146</sup> The law also established “intermediate centers” (centros intermedios) for adolescents between 18 and 21 years old, which are administered by the General Directorate of Intermediate Centers (Dirección General de Centros Intermedios).<sup>147</sup>

The Law on Monitoring and Control of Juvenile Offenders, also enacted in 1995, regulates the execution and oversight of sentences imposed by juvenile courts.<sup>148</sup> It created the role of Juvenile Sentencing Implementation Judge (Juez de Ejecución de Medidas al Menor),

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<sup>142</sup> Ibid., art. 17.

<sup>143</sup> Amendments to the Juvenile Criminal Law, Decree 342, signed into law on March 30, 2022, <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/F206BC53-441C-4D71-93FF-FCEF3C15FC89.pdf> (accessed May 1, 2024), art. 8.

<sup>144</sup> Ibid., art. 5.

<sup>145</sup> Juvenile Criminal Law, Decree 863, art. 53.

<sup>146</sup> Ibid., art. 119.

<sup>147</sup> Ibid.

<sup>148</sup> Law on Monitoring and Control of Juvenile Offenders (Ley de Vigilancia y Control de Ejecución de Medidas al Menor Sometido a la Ley Penal Juvenil), Decree 361, signed into law on June 7, 1995, [https://www.oas.org/dil/esp/Ley\\_de\\_vigilancia\\_y\\_control\\_de\\_ejecucion\\_de\\_medidas\\_al\\_menor\\_sometido\\_a\\_la\\_ley\\_penal\\_juvenil\\_El\\_Salvador.pdf](https://www.oas.org/dil/esp/Ley_de_vigilancia_y_control_de_ejecucion_de_medidas_al_menor_sometido_a_la_ley_penal_juvenil_El_Salvador.pdf) (accessed May 1, 2024).

overseeing implementation of sentences and their potential modification, substitution or revocation, to ensure their effectiveness and the reintegration of children.<sup>149</sup>

But subsequent reforms have introduced more punitive elements to the largely progressive legal framework. For example, on March 24, 2010, the Legislative Assembly amended the Juvenile Criminal Law, increasing the maximum sentence for children from 7 to 15 years of confinement for certain serious offenses, such as homicide, kidnapping, and rape.<sup>150</sup>

In 2010, the Law of Proscription of Gangs and Criminal Groups, Associations, and Organizations (Ley de Proscripción de Maras, Pandillas, Agrupaciones, Asociaciones y Organizaciones de Naturaleza Criminal) established a dual legal framework within the juvenile criminal justice system: one that seeks to adhere to international human rights standards and another, targeting gang membership, with *ad hoc* procedures and longer prison terms.<sup>151</sup>

When a child is detained by security forces, the Juvenile Criminal Law provides that the Attorney General’s Office must be informed within six hours. The child must initially be placed in “administrative detention” in a “shelter” (Centro de Resguardo), for up to 72 hours. According to CONAPINA, there are four such shelters in the country, in San Salvador, Santa Ana, Sonsonate, and San Miguel.<sup>152</sup> Only the San Salvador shelter was built to accommodate detained children; the other three are repurposed police stations.<sup>153</sup>

Children who are ordered to be held in detention (either pretrial or serving prison sentence) by a judge are placed in confinement centers known as “Social Integration Centers” (Centros de Inserción Social, CIS). There are four CIS facilities in El Salvador:

1. “Female” CIS (CIS Femenino) in San Salvador state;
2. El Espino in Ahuachapán state;

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<sup>149</sup> *Ibid.*, art. 3.

<sup>150</sup> Amendments to the Juvenile Criminal Law (Reformas a la Ley Penal Juvenil), Decree 309, signed into law on April 9, 2010, [https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117\\_073111539\\_archivo\\_documento\\_legislativo.pdf](https://www.asamblea.gob.sv/sites/default/files/documents/decretos/171117_073111539_archivo_documento_legislativo.pdf) (accessed May 1, 2024).

<sup>151</sup> Law Banning Gangs, Bands, Groups, Associations and Organizations of a Criminal Nature, Decree 458.

<sup>152</sup> National Council for Early Childhood, Childhood and Adolescence (Consejo Nacional de la Primera Infancia, Niñez y Adolescencia, CONAPINA), “Programs Unit” (Unidad de Programas), <https://www.conapina.gob.sv/contactenos/unidadprogramas/> (accessed February 29, 2024).

<sup>153</sup> Human Rights Watch phone interview with a former government official, March 1, 2024.

3. “Freedom Path” (CIS Sendero de Libertad) in Cabañas state; and
4. Tonacatepeque in San Salvador state.

Human Rights Watch interviewed two former government officials with extensive knowledge of El Salvador’s juvenile prison system.<sup>154</sup> They told us that although the centers are supposedly designed particularly to house children, these lack any specialized accommodations or resources tailored to children’s unique needs. While current access to these centers is highly restricted, one of the former officials told Human Rights Watch that during his tenure the cells “were no different from a cell in an adult prison.”<sup>155</sup>

He said that cells measured six by six meters, with brick floors and iron bunk beds with mattresses. Overcrowding often forced children to sleep on mattresses on the floor, and some slept in hammocks. One toilet accommodated all detainees of the cell, as many as 20 to 30 young people. A bathroom held only a sink for bathing with tap water, he said.

He said that children held in confinement centers “mostly governed themselves,” given the limited resources and supervision provided. During his time working in the juvenile prison system, the ratio of guards to detainees was 1 to 10.<sup>156</sup> While there is no universally agreed-upon standard for a well-functioning prison system, some academic literature suggests a ratio between 1:1 and 3:1, that is to say, between one and no more than three detained people per guard on average.<sup>157</sup>

## President Bukele’s First Term and the State of Emergency

Since he took office in 2019, President Bukele has severely eroded El Salvador’s democratic institutions. His party, Nuevas Ideas, won a supermajority in the February 2021

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<sup>154</sup> Human Rights Watch phone interview with a former government official, March 3, 2024, and with another former government official, April 18, 2024.

<sup>155</sup> Human Rights Watch phone interview with a former government official, March 3, 2024, and with another former government official, April 18, 2024. Human Rights Watch sent an official information request to CONAPINA on April 5, 2024, requesting information on security, administrative and technical staff at confinement centers. On May 3, 2024, authorities replied that such information was “confidential” (on file with Human Rights Watch).

<sup>156</sup> Ibid. Human Rights Watch sent an official information request to CONAPINA on April 5, 2024, requesting information on security, administrative and technical staff at confinement centers. On May 3, 2024, authorities replied that such information was “confidential” (on file with Human Rights Watch).

<sup>157</sup> Elías Carranza, “Penitentiary situation in Latin America and the Caribbean, What to Do?” (“Situación penitenciaria en América Latina y el Caribe ¿Qué hacer?”), *Anuario De Derechos Humanos*, vol. 8 (2012), <https://anuariocdh.uchile.cl/index.php/ADH/article/download/20551/21723/0> (accessed May 9, 2024), p. 48.

legislative elections. Soon after, legislators summarily removed and replaced the Constitutional Chamber judges and the Attorney General and passed laws allowing arbitrary dismissal or transfer of judges and prosecutors.<sup>158</sup>

In September 2021, the new Constitutional Chamber allowed President Bukele to run for re-election, contradicting longstanding jurisprudence.<sup>159</sup>

The Bukele administration also undermined transparency and accountability, notably by weakening the agency overseeing public information access. The government has fostered a hostile environment for journalists and civil society members, who face digital and physical harassment, surveillance, dubious criminal investigations, and other attacks for their work on corruption and human rights issues. President Bukele and his allies have further eroded public trust in independent media and civil society groups by baselessly labeling them “gang supporters.”<sup>160</sup>

On March 27, 2022, the Legislative Assembly passed a law declaring a broad “state of emergency” that suspended, for 30 days, the constitutional rights to freedom of association and assembly; privacy in communication; the rights to be informed of the reason for arrest, to remain silent, and to legal representation; and the requirement to bring anyone detained before a judge within 72 hours.<sup>161</sup>

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<sup>158</sup> Office of the High Commissioner For Human Rights (OHCHR), “El Salvador: Dismissal of Constitutional Chamber and Attorney General seriously undermines the rule of law,” May 2, 2021, <https://www.ohchr.org/en/2021/05/el-salvador-dismissal-constitutional-chamber-and-attorney-general-seriously-undermines-rule?LangID=E&NewsID=27053> (accessed July 1, 2024); Jimmy Alvarado, “Bukele’s Legislative Assembly Ousts Supreme Court Magistrates and Attorney General,” *El Faro*, May 2, 2021, [https://elfaro.net/en/202105/el\\_salvador/25452/New-Legislative-Assembly-Ousts-Supreme-Court-Magistrates-and-Attorney-General.htm](https://elfaro.net/en/202105/el_salvador/25452/New-Legislative-Assembly-Ousts-Supreme-Court-Magistrates-and-Attorney-General.htm) (accessed July 2, 2024). See also, José Miguel Vivanco and Juan Pappier (Human Rights Watch), “The U.S. can stop El Salvador’s slide to authoritarianism. Time to act,” *Washington Post*, May 18, 2021, <https://www.washingtonpost.com/opinions/2021/05/18/bukele-el-salvador-biden-human-rights-watch-authoritarianism/> (accessed July 5, 2024); “El Salvador: New Laws Threaten Judicial Independence,” Human Rights Watch news release, September 2, 2021, <https://www.hrw.org/news/2021/09/02/el-salvador-new-laws-threaten-judicial-independence>; IACHR, “IACHR and UN expert reject legislative reforms that remove judges and prosecutors in El Salvador and calls for respect of guarantees for judicial Independence,” September 7, 2021, <https://www.oas.org/es/cidh/jsForm/?File=/es/cidh/prensa/comunicados/2021/234.asp> (accessed July 2, 2024).

<sup>159</sup> Constitutional Chamber of the Supreme Court, ruling 1-2021, September 3, 2021, <https://www.jurisprudencia.gob.sv/portal/apls/2021/09/1-2021PerdidaDerechosCiudadania.pdf> (accessed July 1, 2024).

<sup>160</sup> See, for example, Message posted on X by @nayibbukele, May 3, 2020, <https://twitter.com/nayibbukele/status/1257094989391245320?s=20&t=umKkpd1TgR53FKZsunZEhw> (accessed July 2, 2024); Message posted on X by @jorgecastro\_sv, November 18, 2022, [https://twitter.com/jorgecastro\\_sv/status/1593593520388018177?s=46&t=WAEVzvi\\_iFXuTpKBHhfxLA](https://twitter.com/jorgecastro_sv/status/1593593520388018177?s=46&t=WAEVzvi_iFXuTpKBHhfxLA) (accessed July 2, 2024).

<sup>161</sup> “El Salvador: Broad State of Emergency Risks Abuse,” Human Rights Watch news release, March 29, 2022; State of Emergency (Régimen de excepción), Decree 333, signed into law on March 27, 2022, <https://www.diariooficial.gob.sv/seleccion/30732> (accessed July 2, 2024).

President Bukele requested the suspension of rights, portraying it as necessary to address a spike in gang violence that month. Ninety-two people were killed, seemingly by gangs, between March 24 and 27 in El Salvador, with March 26 having the highest daily homicide rate in several years, according to official records.<sup>162</sup>

According to the digital outlet *El Faro*, the wave of violence in March was the result of collapsed secret government negotiations with the MS-13 gang.<sup>163</sup>

The state of emergency is based on article 29 of the Salvadoran Constitution, which allows the Legislative Assembly to suspend certain constitutional rights in extreme circumstances, such as a foreign invasion or “serious disturbances of public order.”<sup>164</sup> The 30-day state of emergency, which under the constitution can be extended once for the same time period, has been extended 27 times at time of writing.<sup>165</sup> However, since August 2022, the Assembly has narrowed the state of emergency. While the rights to freedom of association and assembly are no longer suspended, the amended state of emergency still curtails several other constitutional rights, including the right to privacy in communication, the right to be informed of the reason for arrest, the right to remain silent, the right to legal representation, and the requirement to bring detainees before a judge within 72 hours.<sup>166</sup>

International law allows countries to temporarily derogate or suspend some of their human rights obligations only in very limited circumstances. Under article 4 of the International Covenant on Civil and Political Rights, which El Salvador has ratified, governments may derogate from some of their obligations under the covenant “in time of public emergency

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<sup>162</sup> Permanent Mission of El Salvador to the United Nations, “Report by the State of El Salvador in Response to the Joint Communication of Special Procedures regarding Allegations or Risks of Human Rights Violations in the Context of the State of Emergency and Reforms to the Criminal Legislation” (“Informe del Estado de El Salvador a la comunicación conjunta de los procedimientos especiales sobre alegaciones de presuntas violaciones de derechos humanos o el posible riesgo de ellas en el marco del régimen de excepción y reformas a la legislación penal”), July 29, 2022, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=37045> (accessed July 2, 2024), p. 3.

<sup>163</sup> 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](https://elfaro.net/en/202205/el_salvador/26177/Collapsed-Government-Talks-with-MS-13-Sparked-Record-Homicides-in-El-Salvador-Audios-Reveal.htm) (accessed July 2, 2024).

<sup>164</sup> Constitution of the Republic of El Salvador, art. 29.

<sup>165</sup> Legislative Assembly, “The Assembly Backs the Government in the fight against Gangs by Extending the State of Emergency” (“Asamblea respalda al gobierno en el combate a las maras al extender el régimen de excepción”), October 15, 2022, <https://www.asamblea.gob.sv/node/12408> (accessed July 2, 2024).

<sup>166</sup> State of Emergency, Decree 476, signed into law on August 17, 2022, <https://www.diariooficial.gob.sv/seleccion/30822> (accessed July 2, 2014); State of Emergency, Decree 503, signed into law on September 14, 2022, <https://www.diariooficial.gob.sv/seleccion/30842> (accessed November 15, 2022); State of Emergency, Decree 530, signed into law on October 14, 2022, <https://www.diariooficial.gob.sv/seleccion/30864> (accessed July 2, 2024).

which threatens the life of the nation.”<sup>167</sup> Derogations should be only those “strictly required by the exigencies of the situation.”<sup>168</sup> The United Nations Human Rights Committee, which is charged with providing authoritative interpretations of the covenant, has made clear that states of emergency may not be used as a justification to violate peremptory norms of international law, for example through arbitrary deprivations of liberty or by deviating from fundamental fair trial principles.<sup>169</sup>

Similarly, article 27 of the American Convention on Human Rights allows governments to derogate from some obligations in times of “war, public danger, or other emergency that threatens the independence or security” of the nation, provided that such measures are strictly required by the emergency and consistent with other obligations under international law.<sup>170</sup>

Following the declaration of a state of emergency, the Legislative Assembly passed a set of criminal law reforms that affected rights and significantly expanded mandatory pretrial detention.<sup>171</sup>

On March 30, the Assembly reformed the Juvenile Criminal Law, establishing “prison sentences” for children as young as 12.<sup>172</sup> The reform increased the maximum prison sentence to 10 years for children aged 12 to 15 for “gang association” and up to 20 years for those aged 16 to 18.<sup>173</sup>

These amendments contradict guidance by the UN Committee on the Rights of the Child, an expert body that provides authoritative interpretations of the treaty, which has

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<sup>167</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966), 999 UNT.S. 171, entered into force March 23, 1976, ratified by El Salvador on November 30, 1979, art. 4.

<sup>168</sup> *Ibid.*

<sup>169</sup> UN Human Rights Committee, General Comment No. 29: Article 4: Derogations during a State of Emergency, UN Doc. CCPR/C/21/Rev.1/Add.11 (2001), para. 11.

<sup>170</sup> American Convention on Human Rights (“Pact of San José, Costa Rica”), adopted November 22, 1969, O.A.S. Treaty Series No. 36, 1144 UNT.S. 123, entered into force July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992). El Salvador ratified the American Convention on Human Rights on July 18, 1978.

<sup>171</sup> See, for example, Human Rights Watch and Cristosal, *We Can Arrest Anyone We Want: Widespread Human Rights Violations Under El Salvador’s “State of Emergency”*; “El Salvador: Sweeping New Laws Endanger Rights,” Human Rights Watch news release, April 8, 2022.

<sup>172</sup> Amendments to the Juvenile Criminal Law, Decree 342, art. 2.

<sup>173</sup> *Ibid.*

recommended that states not reduce the minimum age of criminal responsibility “under any circumstances” and has urged states to increase their minimum age to “at least 14” in light of scientific evidence about human development during adolescence.<sup>174</sup> The long prison sentences set by the Assembly also run counter to the Convention on the Rights of the Child, which establishes that imprisonment of children shall be used only as a measure of last resort and for the shortest appropriate time.<sup>175</sup>

The reform does not allow for modification, substitution or judicial revocation of a provisional detention measure, and detention can be extended until sentencing.<sup>176</sup> Such provisions violate international human rights standards on due process and the right to liberty and security of the person, which specifically provide that pretrial detention should be the exception rather than the rule, and should be avoided in the cases of children, and run counter to El Salvador’s own Juvenile Criminal Law.<sup>177</sup>

On March 30, 2022, the legislature also modified El Salvador’s Code of Criminal Procedure to allow for indefinite pretrial detention.<sup>178</sup> Previously, the law said that pretrial detention should never exceed 12 months for “less serious crimes” or 24 months for “serious crimes.” For defendants accused of being part of “terrorist or unlawful association,” the new Code of Criminal Procedure eliminates any time limits, violating the right to trial within a reasonable time under the International Covenant on Civil and Political Rights.<sup>179</sup> As the UN Human Rights Committee has noted, “[e]xtremely prolonged pretrial detention may also jeopardize the presumption of innocence.”<sup>180</sup>

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<sup>174</sup> UN Committee on the Rights of the Child, General Comment No. 24, para. 22.

<sup>175</sup> UN Convention on the Rights of the Child, art. 37(b).

<sup>176</sup> Amendments to the Juvenile Criminal Law, Decree 342, art. 3.

<sup>177</sup> *Ibid.*, art. 54. See, for example, International Covenant on Civil and Political Rights (ICCPR), arts. 9(3), 14(2); UN Committee on the Rights of the Child, General Comment No. 24, paras. 85-89; UN Human Rights Committee, General Comment No. 35: Article 9 (Liberty and security of person), UN Doc. CCPR/C/GC/35 (2014), paras. 38. Prolonged pretrial detention may also jeopardize the presumption of innocence. UN Human Rights Committee, General Comment No. 35, para. 37.

<sup>178</sup> Amendments to the Code of Criminal Procedure, Decree 339, signed into law March 30, 2022, <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/DEFEE597-6A3F-4B36-A16E-897F128BC1D6.pdf> (accessed July 6, 2024), art. 1.

<sup>179</sup> ICCPR, art. 9(3); UN Human Rights Committee, General Comment No. 35, para. 37.

<sup>180</sup> *Ibid.*

The Legislative Assembly also expanded mandatory pretrial detention to apply to all crimes committed by members of gangs.<sup>181</sup> This provision is inconsistent with international human rights standards requiring an individualized determination that pretrial detention is reasonable and necessary for purposes such as preventing flight, interference with evidence, or the recurrence of crime.<sup>182</sup>

A law passed on April 5, 2022, allows criminal charges against anyone who “participates in the creation, assists or creates” any type of publication, image, graffiti or other form of visual expression that “explicitly or implicitly” transmits “messages” about or that “allude to” the various types of gangs.<sup>183</sup> The penalty is up to 15 years in prison. The law similarly allows criminal charges against people who use media outlets to “reproduce or transmit messages or statements created or allegedly created” by gangs that “could generate a state of anxiety and panic in the population in general.”<sup>184</sup>

These vague and overbroad provisions are inconsistent with international human rights protections for freedom of expression, which may only be restricted when necessary and proportionate to achieve a legitimate goal, such as to protect national security or the rights of others.<sup>185</sup> In November 2023, the Assembly amended the Criminal Code.<sup>186</sup> The revised version maintains the prohibition on visual expressions related to gangs but removes the specific restrictions on media outlets.<sup>187</sup>

On October 26, 2022, lawmakers amended the “Law Against Organized Crime” (Ley Contra el Crimen Organizado), creating “Courts against Organized Crime” (Tribunales Contra el Crimen Organizado) in charge of cases against criminal organizations and their

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<sup>181</sup> Amendments to the Code of Criminal Procedure, Decree 339, art. 5.

<sup>182</sup> See, for example, UN Human Rights Committee, General Comment No. 35, para. 38.

<sup>183</sup> Amendments to the Criminal Code, Decree 349, art. 1. See also Amendments to the Law Banning Gangs, Bands, Groups, Associations and Organizations of a Criminal Nature (Reformas a la Ley de Proscripción de Maras, Pandillas, Agrupaciones, Asociaciones y Organizaciones de Naturaleza Criminal), Decree 350, signed into law on April 5, 2022, <https://www.diariooficial.gob.sv/seleccion/30739> (accessed July 4, 2024).

<sup>184</sup> Amendments to the Criminal Code, Decree 349, art. 1.

<sup>185</sup> See, for example, UN Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34 (2011).

<sup>186</sup> Amendments to the Criminal Code, Decree 880, signed into law December 1, 2023, <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/of6413E6-7275-470C-8FCD-730A854D3D16.pdf> (accessed July 4, 2024), art. 1.

<sup>187</sup> *Ibid.*

members.<sup>188</sup> The amendment allows authorities to try children jointly with adults under a single legal process that, in the case of children, is overseen by two judges—an organized crime judge and a child justice judge.<sup>189</sup> The Courts against Organized Crime began operating in June 2023.

Since March 2022, police officers and soldiers have conducted hundreds of indiscriminate raids, particularly in low-income neighborhoods, arresting over 80,000 people, including some 3,000 children.<sup>190</sup> The arrests have often targeted communities where people have, for years, suffered insecurity and lack of economic and educational opportunities. The government has not published updated figures on how many of those arrested have been released; in August 2023, they reported 7,000 released, without specifying how many children.<sup>191</sup>

Human rights groups, including Human Rights Watch and Cristosal, have documented widespread human rights violations committed during the state of emergency, including arbitrary arrests, enforced disappearances, torture and other ill-treatment of detainees, and due process violations.<sup>192</sup> Salvadoran human rights groups report that as of April 2024, at least 244 people have died in prison.<sup>193</sup> The circumstances of many deaths in custody during the state of emergency suggest state responsibility for those deaths.<sup>194</sup>

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<sup>188</sup> Amendments to the Law Against Organized Crime, Decree 547, November 29, 2022, <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/oDBB218F-96FA-40CB-A5BC-C12E9Fo9CFFF.pdf> (accessed July 5, 2024), art. 1.

<sup>189</sup> *Ibid.*, art. 3.

<sup>190</sup> United States Department of State, *2024 Trafficking in Persons Report*, “El Salvador,” June 25, 2024, <https://www.state.gov/reports/2024-trafficking-in-persons-report/el-salvador/> (accessed July 3, 2024); State of Emergency, Decree 27, signed into law June 7, 2024, <https://www.asamblea.gob.sv/sites/default/files/documents/decretos/787B313E-3D48-4B3B-B76F-876651A5FD53.pdf> (accessed July 5, 2024).

<sup>191</sup> Claudia Espinoza, “Minister confirms 7,000 people have been released during the state of emergency” (“Ministro confirma que han liberado a unas 7,000 personas en el régimen”), *La Prensa Gráfica*, August 23, 2023, <https://www.laprensagrafica.com/elsalvador/Ministro-confirma-que-han-liberado-a-unas-7000-personas--en-el-regimen-20230822-0083.html> (accessed July 5, 2024).

<sup>192</sup> See, e.g., Human Rights Watch and Cristosal, *We Can Arrest Anyone We Want: Widespread Human Rights Violations Under El Salvador’s “State of Emergency”*.

<sup>193</sup> “Organizations register 6,305 complaints of human rights violations in two years of the state of emergency regime” (“Organizaciones registran 6,305 denuncias de violaciones a derechos humanos en dos años del régimen de excepción”), Cristosal news release, San Salvador, April 4, 2024, <https://cristosal.org/ES/organizaciones-registran-6305-denuncias-de-violaciones-a-derechos-humanos-en-dos-anos-del-regimen-de-excepcion/> (accessed May 1, 2024).

<sup>194</sup> Human Rights Watch and Cristosal, *We Can Arrest Anyone We Want: Widespread Human Rights Violations Under El Salvador’s “State of Emergency”*.

The authorities reported in April 2024 that no children had died in detention during the state of emergency.<sup>195</sup>

During the state of emergency the country has experienced a significant reduction in homicides, with the government reporting a 2023 homicide rate of 2.4 homicides per 100,000 people.<sup>196</sup> There has also been a significant decrease in other violent crimes, such as extortion and kidnappings.<sup>197</sup> However, government restrictions on accessing homicide and other data and changes in the ways killings are counted make it hard to estimate the extent of the reduction and the prevalence of other crimes.

In May 2024, the media reported that CONAPINA had shut down a website providing statistics on crimes against children and adolescents, such as sexual abuse, trafficking, and mistreatment.<sup>198</sup>

The improvements in public safety have been welcomed by many Salvadorans who have long suffered pervasive gang violence in their communities. Many children in formerly gang-controlled areas now feel safer going to school and playing outside.<sup>199</sup> The reduction in violence and extortion has also allowed some families to allocate more resources toward their children’s education and well-being, as they no longer have to pay “renta” (extortion fees) to gangs.<sup>200</sup> The relative of a detained child told Human Rights Watch:

I live in a village where we were besieged by gangs. They existed in the area, and we used to live in terror or face extortion here like in other places. People feared them. You couldn’t even look at them. The situation has

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<sup>195</sup> Information provided to Human Rights Watch by the National Council of Early Childhood, Children and Adolescents via email, on May 3, 2024 (on file with Human Rights Watch).

<sup>196</sup> National Civil Police, “2023 Was the Safest Year in El Salvador’s History” (“El 2023 fue el año más seguro en la historia del El Salvador”), January 1, 2024, <https://www.pnc.gob.sv/el-2023-fue-el-ano-mas-seguro-en-la-historia-del-el-salvador/> (accessed April 26, 2024).

<sup>197</sup> UNODC, “Homicide Country Data,” n.d., <https://dataunodc.un.org/content/data/homicide/homicide-rate> (accessed April 26, 2024).

<sup>198</sup> Leonardo Cerón, “Conapina closed website with statistics on violations against children” (“Conapina cerró sitio web de estadísticas sobre vulneraciones a menores de edad”), *Diario El Mundo*, May 7, 2024, <https://diario.elmundo.sv/nacionales/conapina-cerro-sitio-web-de-estadisticas-sobre-vulneraciones-a-menores-de-edad> (accessed May 7, 2024).

<sup>199</sup> “Bukele’s Regime Dismantles Gangs in El Salvador” (“Régimen de Bukele desarticula a las pandillas en El Salvador”), *El Faro*, February 12, 2023, [https://elfaro.net/es/202302/el\\_salvador/26691/R%C3%Aggimen-de-Bukele-desarticula-a-las-pandillas-en-El-Salvador.htm](https://elfaro.net/es/202302/el_salvador/26691/R%C3%Aggimen-de-Bukele-desarticula-a-las-pandillas-en-El-Salvador.htm) (accessed April 26, 2024).

<sup>200</sup> *Ibid.*

improved for moving around; they used to ask for your ID. In that sense, it has gotten better. You can walk freely now.<sup>201</sup>

While acknowledging security improvements, many people interviewed by Human Rights Watch expressed concern that such improvements have come at the expense of innocent people who have been arrested and offered virtually no possibility to legally dispute the charges against them. One mother, whose son was detained during the state of emergency, said:

I laugh when I hear people mentioning the improvements in public safety. It's true, it has improved. But what's security when you cannot hold your child, when you don't know if he is dead or alive.<sup>202</sup>

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<sup>201</sup> Human Rights phone interview with a victim's relative, November 1, 2023.

<sup>202</sup> Human Rights Watch in-person interview with a victim's relative, San Salvador, September 20, 2023.

## Impact of the State of Emergency on Children

### Increased Detention of Children

El Salvador's repressive security policies, past and current, have resulted in the mass detention of children. Between 2018 and 2021, the four juvenile detention centers in the country held, in total, an average of 805 children per year.<sup>203</sup>

The state of emergency, announced in March 2022, led to an unprecedented surge in the detention and conviction of children. While government figures are inconsistent, CONAPINA told US authorities that 3,319 children were detained between March 2022 and December 2023. Of these, 841 were reported to remain in prison as of January 2024—262 in pretrial detention and 579 serving sentences.<sup>204</sup> The Public Defender's Office told Human Rights Watch that it had provided legal representation to 2,928 children detained between March 2022 and April 2024.<sup>205</sup> On February 22, 2024, Justice and Security Minister Gustavo Villatoro said in a press conference that 1,065 children had been convicted during the state of emergency, without providing a specific timeframe for when these detentions occurred.<sup>206</sup>

Legislative amendments that increased sentences for children associated with gangs and multiple official figures obtained by Human Rights Watch reveal a shift in the Salvadoran juvenile justice system toward a more punitive approach during the state of emergency.

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<sup>203</sup> Salvadoran Institute for the Comprehensive Development of Children and Adolescents (Instituto Salvadoreño para el Desarrollo Integral de la Niñez y la Adolescencia, ISNA), "Population in Juvenile Detention Facilities between 2018 and 2021" ("Población en CIS 2018 al 2021"), <https://www.transparencia.gob.sv/institutions/isna/documents/491687/download> (accessed April 14, 2024); ISNA, "Population in Juvenile Detention Facilities between 2009 and 2018" ("Población en CIS 2009 al 2018"), <https://www.transparencia.gob.sv/institutions/isna/documents/299232/download> (accessed April 14, 2024).

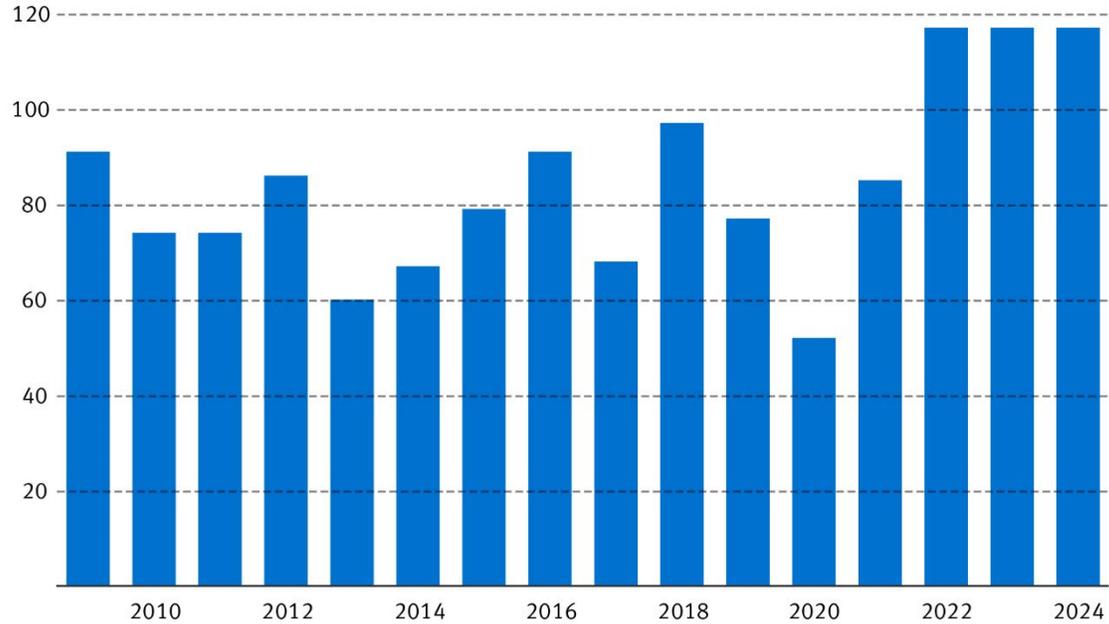
<sup>204</sup> United States Department of State, *2024 Trafficking in Persons Report*, "El Salvador".

<sup>205</sup> Information provided to Human Rights Watch by the Public Defender's Office via email, on April 29, 2024 (on file with Human Rights Watch).

<sup>206</sup> Message posted on X by @LPGJudicial, <https://x.com/LPGJudicial/status/1760752752789983539?s=20> (accessed March 7, 2024).

## Children Detained per Month

Monthly average number of children detained in each calendar year



Note: Monthly averages are computed by dividing annual total by 12. The average for 2021 only includes 6 months of data (January - June). 2022-2024 data are calculated from total from March 2022 through April 2024 divided by 25 months.

Source: Human Rights Watch analysis of data from the Public Defender’s Office (PGR) and the Salvadoran Institute for Comprehensive Development of Children and Adolescents (ISNA).

From 2018 to 2022, Salvadoran courts sentenced a total of 1,108 “children and adolescents,” meaning those between the ages of 12 and 18, to confinement in detention facilities, according to the Supreme Court.<sup>297</sup> The percentage of alleged juvenile offenders

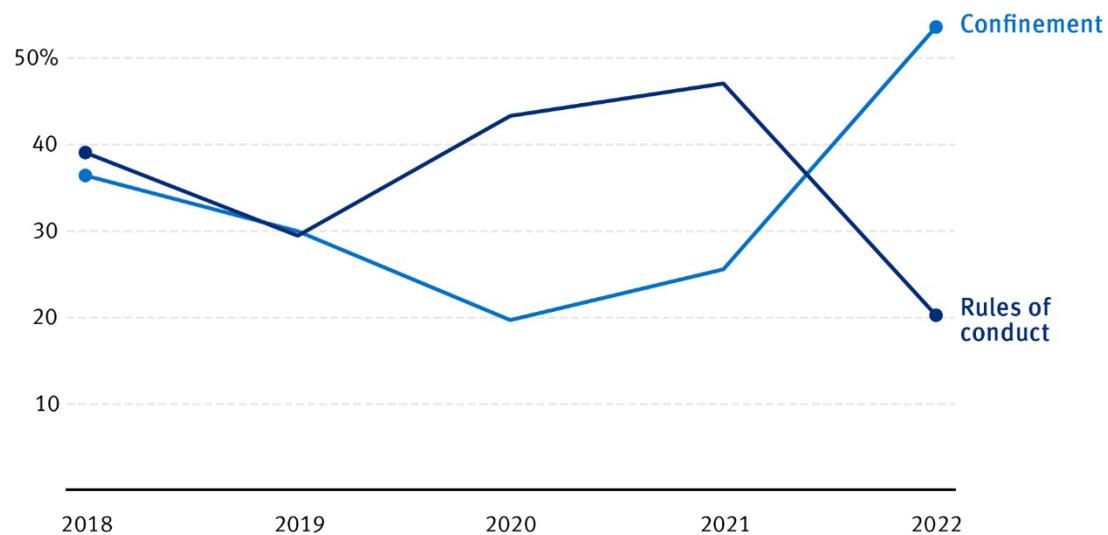
<sup>297</sup> Supreme Court, “Movement Occurred in Courts with Jurisdiction over Juvenile Criminal Matters, January to December 2022” (“Movimiento Ocurrido en las Instancias con Competencia en Materia Penal Menores, Enero a Diciembre 2022”), <https://transparencia.oj.gob.sv/descargar/3/20944/Movimiento%20Ocurrido%20en%20Instancias%20con%20Competencia%20en%20Materia%20Penal%20Menores%20-%20A%C3%B1o%202022/24-02-2023> (accessed May 14, 2024); Supreme Court, “Movement Occurred in Courts with Jurisdiction over Juvenile Criminal Matters, January to December 2021” (“Movimiento Ocurrido en las Instancias con Competencia en Materia Penal Menores, Enero a Diciembre 2021”), <https://transparencia.oj.gob.sv/descargar/3/19718/Movimiento%20Ocurrido%20en%20Instancias%20con%20Competencia%20en%20Materia%20Penal%20Menores%20-%20A%C3%B1o%202021/07-03-2022> (accessed May 14, 2024); Supreme Court, “Movement Occurred in Courts with Jurisdiction over Juvenile Criminal Matters, January to December 2020” (“Movimiento Ocurrido en las Instancias con Competencia en Materia Penal Menores, Enero a Diciembre 2020”), <https://transparencia.oj.gob.sv/descargar/3/17941/Movimiento%20Ocurrido%20en%20Instancias%20con%20Competencia%20en%20Materia%20Penal%20Menores%20-%20A%C3%B1o%202020/17-03-2021> (accessed May 14, 2024); Supreme Court, “Movement Occurred in Courts with Jurisdiction over Juvenile Criminal Matters, January to December 2019” (“Movimiento Ocurrido en las Instancias con Competencia en Materia Penal Menores, Enero a Diciembre 2019”),

sentenced to “confinement,” in comparison to other types of sentences, rose from 26 percent in 2018 to 53 percent in 2022, suggesting an increasing tendency to imprison young offenders. Meanwhile, the number of young offenders sentenced to the imposition of rules of conduct, which involves measures such as mandatory attendance at school or work centers, dropped from 28 percent in 2018 to 20 percent in 2022. Likewise, the use of “family orientation and support,” a type of sentence that provides assistance and direction for young offenders within their home, dropped from 10 percent in 2018 to 7 percent in 2022.<sup>208</sup>

At the same time, the number of children charged with “unlawful association” and “terrorist organization,” two broadly defined offenses involving association with gangs, skyrocketed, with unlawful association charges increasing 34-fold from 100 in 2021 to 3,452 in 2022 and terrorist organization charges increasing from 55 to 181.<sup>209</sup>

### Trends in Sentencing: Confinement v. Rules of Conduct

Percent of measures imposed against young offenders



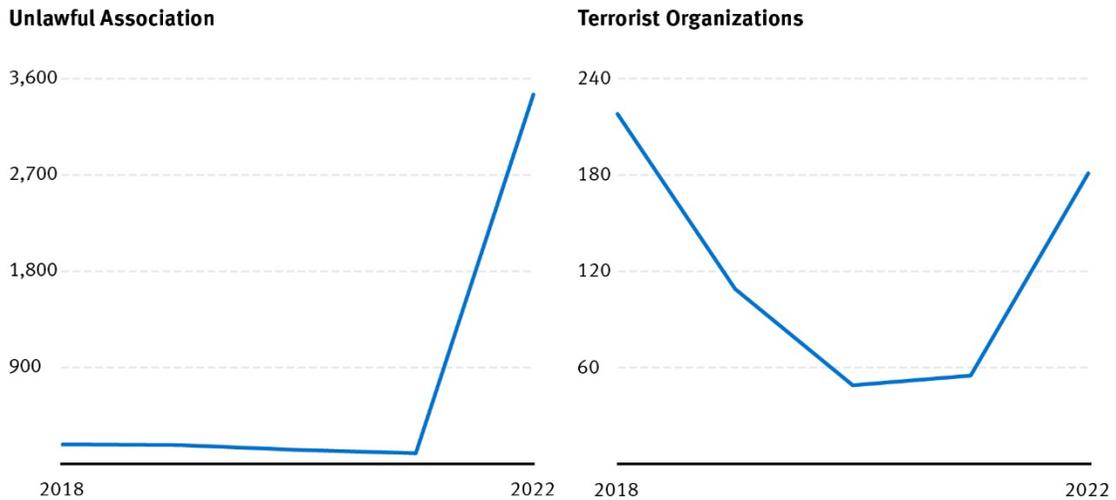
Source: Human Rights Watch analysis of data from the Supreme Court of El Salvador.

<https://transparencia.oj.gob.sv/descargar/3/16157/Movimiento%20Ocurrido%20en%20Instancias%20con%20Competencia%20en%20Materia%20Penal%20Menores%20-%20A%C3%B1o%202019/20-05-2020> (accessed May 14, 2024); Supreme Court, “Movement Occurred in Courts with Jurisdiction over Juvenile Criminal Matters, January to December 2018” (“Movimiento Ocurrido en las Instancias con Competencia en Materia Penal Menores, Enero a Diciembre 2018”), <https://transparencia.oj.gob.sv/descargar/3/13266/Movimiento%20Ocurrido%20en%20Instancias%20con%20Competencia%20en%20Materia%20Penal%20Menores%20-%20A%C3%B1o%202018/13-03-2019> (accessed May 14, 2024).

<sup>208</sup> Ibid.

<sup>209</sup> Ibid.

## Children Prosecuted for Unlawful Association and Terrorist Organizations by Year



Source: Human Rights Watch analysis of data from the Supreme Court of El Salvador.

### Human Rights Violations

Some 3,000 children have been swept up in mass detentions between March 2022 and April 2024. Many have no ties to gang activity or connection to criminal organizations.

Human Rights Watch documented the cases of 66 children who have been subjected to abuses including arbitrary detention, torture, other forms of ill-treatment, and police harassment. Of those, 25 had been released from police stations and detention facilities. They reported poor conditions in custody, including at times extreme overcrowding, unhygienic facilities, and lack of adequate food and health care. Some children have been detained at police stations, sometimes alongside adults, contravening both Salvadoran and international standards that mandate the separation of children from adult detainees. Prosecutors and judges have exacerbated these abuses through due process violations and unfair trials.



A mother shows a Human Rights Watch researcher a video of the police detaining her son during the state of emergency, on December 18, 2023, in San Salvador, El Salvador. © Human Rights Watch.

## Arbitrary Detention

Both police and soldiers have participated in the arrests of children during the state of emergency, especially in low-income neighborhoods and rural areas. Although police conducted the majority of detentions documented by Human Rights Watch, soldiers were involved in 16, either alongside police or independently.

Police and soldiers rarely, if ever, showed a search or arrest warrant, and rarely informed children or their families of the reasons for the arrest. In five cases, children were told they were being taken for informal questioning at a police station, and were detained there. Police thus avoided the requirement for an arrest warrant, while temporarily calming the concerns of relatives and delaying families' efforts to seek information about a child's legal status, location, and well-being. In some instances, security forces threatened family members with detention if they asked questions.

**Lucas Pérez**

On May 31, 2022, police detained Lucas (pseudonym), a 15-year-old student, at his home in Sonsonate state.<sup>210</sup> A relative interviewed by Human Rights Watch said Lucas was having breakfast with family members when police arrived. They searched his phone and told him he was being arrested. Lucas's sister, then 18, who took care of her younger siblings, asked the officers to show an arrest warrant, and they refused. She asked them the reason for the arrest and told them Lucas was a student. They demanded her phone and detained her as well. Both Lucas and his sister were held at a police station in Sonsonate for nine days. When a relative inquired about the reasons for the arrests, a police officer cited a "phone call" and said she could "thank the neighbors."

"We used to fear gang members," another relative said, "but now we are also afraid of the police. Nobody knows why they detain you. Just because a neighbor does not like you, you can be arrested."

At Lucas's first hearing, on June 9, a judge revealed charges of unlawful association and sent him to pretrial detention for 60 days. Several weeks after a second hearing, in September, a judge sentenced him to two years in prison. A relative was allowed to see him during the hearings but could not talk to him. As of April 2024, he was at the Freedom Path confinement center, in the city of Ilobasco, in Cabañas state. Lucas's sister was also still being held at the Apanteos prison facility in the state of Santa Ana, around 60 kilometers northwest of San Salvador.

As described above, under Salvadoran law, children who are arrested should be held in administrative detention, at shelters, for up to 72 hours before appearing before a judge. Under the state of emergency this limit was extended to 15 days. Human Rights Watch identified many cases in which the duration of detention in shelters or police stations exceeded the standard 72-hour limit, with some detentions lasting up to the new maximum of 15 days.

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<sup>210</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim's relative, February 13, 2024.



A man leaves packages for his loved ones at a shelter and a juvenile prison on September 21, 2023, in Ilopango, San Salvador, El Salvador, amid the country’s ongoing crackdown on gang violence. © 2023 Human Rights Watch.

In 12 cases documented by Human Rights Watch, children were held at police stations alongside unrelated adults, for periods ranging from 1 to 11 days. Detaining children with unrelated adults places them at risk of abuse and is prohibited under Salvadoran law and international standards set forth in the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights.<sup>211</sup>

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<sup>211</sup> Juvenile Criminal Law, Decree 863, art. 118. The Convention on the Rights of the Child requires children deprived of their liberty to be separated from adults “unless it is in the child’s best interest not to do so”; the ICCPR prohibition has no such exception. See Convention on the Rights of the Child, article 37(c); and the International Covenant on Civil and Political Rights (ICCPR), article 10(b).

### **Yaneth Aguilar**

On July 1, 2022, soldiers detained 16-year-old Yaneth Aguilar (pseudonym), in the middle of the night at her home in a rural town in Sonsonate state.<sup>212</sup> Yaneth was in her second year of high school. The soldiers arrested her, saying they had “received a phone call” accusing her of collaborating with gangs. One soldier told a relative of Yaneth that she would be detained for 72 hours. “If you present the documentation of her school attendance,” he said, “she will be released.”

Yaneth was held at a police station in Sonsonate for eight days. Relatives who took food to her said they found her scared and crying, sharing a cell with adults as well as children.

Yaneth was then held, for seven days, at the Metropolitan shelter in Ilopango, just outside San Salvador.

Fifteen days after her arrest, Yaneth appeared before a juvenile judge for the first time and learned she was being charged with unlawful association. She said she was not able to talk to her lawyer before the hearing. She was sent to pretrial detention, along with seven other children.

Yaneth was kept in pretrial detention, at the Female confinement center, in Ilopango, for a year.

On July 1, 2023, a juvenile judge granted her conditional release, requiring her to participate in educational programs and receive guidance and supervision from the court for six months.<sup>213</sup> On December 22, a court ruled that she had completed her sentence.<sup>214</sup>

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<sup>212</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with the victim and a relative, November 9, 2023.

<sup>213</sup> Juvenile Criminal Law, Decree 863, art. 14.

<sup>214</sup> Sentence enforcement court of Santa Ana, decision of December 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

## Torture and Other Forms of Ill-Treatment

Human Rights Watch documented 22 cases of children who were beaten and physically ill-treated by security forces during and after arrest, at police stations, shelters, and confinement centers in El Espino, Freedom Path, Tonacatepeque, and Female. Police or soldiers repeatedly kicked and beat them with batons and belts.

In particularly serious incidents, eight children interviewed by Human Rights Watch described burnings, suffocation, and mock executions. These and other abuses likely amount to torture or other cruel, inhuman or degrading treatment or punishment.<sup>215</sup> Authorities interrogated the children about gang affiliation, ordering them to reveal the names of gang members or to confess to being part of a gang. One such victim turned 18 the day after his arrest.<sup>216</sup>

Authorities often used abusive language—and sometimes death threats—during the physical abuse. One child told Human Rights Watch that during his arrest, soldiers said, “You are lucky we found you at your home. If you had been on the streets, we would have killed you.”<sup>217</sup>

Thirteen children said security officers denied them blankets or mattresses, and they had to sleep on the floor for several days or weeks. In two cases, children were subjected to sleep deprivation.<sup>218</sup> In almost all of the cases documented by Human Rights Watch, detained children were denied family visits during weeks or months in detention.

Six children who were detained told Human Rights Watch that sometimes guards would beat them or abuse them and other children all at the same time, saying they did so as

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<sup>215</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted December 10, 1984, G.A. res. 39/46, annex, 39 UN GAOR Supp. (No. 51) at 197, UN Doc. A/39/51 (1984), entered into force June 26, 1987, art. 1. The Convention defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

<sup>216</sup> See below case of Antonio Juárez below. Human Rights Watch phone interview with a victim’s relative, October 31, 2023; and an in-person interview with the victim, Panchimalco, December 17, 2023.

<sup>217</sup> Human Rights Watch phone interview with a victim, May 10, 2024.

<sup>218</sup> Human Rights Watch in-person interview with the victim, San José Guayabal, September 22, 2023; Human Rights Watch in-person interview with the victim, Apopa, September 23, 2023.

punishment for somebody else’s misbehavior. Punishments also included taking away their mattresses and clothes, reducing the number of meals they received, spraying pepper spray into their cells, and making them wear the same clothes for days before they were laundered.

Four girls reported seeing, several times, guards handcuffing certain girls and manacling their wrists to the wall above their heads and leaving them for the entire night because they or others had “behaved badly.” Another child said he witnessed guards “throwing tear gas in children’s faces” several times and beating them for misbehaving.

Such treatment amounts to collective punishment, a violation of international human rights standards for the treatment of detainees. For example, the United Nations Standard Minimum Rules for the Treatment of Prisoners provide that “collective punishment and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences”;<sup>219</sup> the UN Rules for the Protection of Juveniles Deprived of Their Liberty include similar standards.<sup>220</sup> The Mandela Rules also emphasize that “disciplinary sanctions or restrictive measures shall not include the prohibition of family contact” (Rule 43.3) and that “instruments of restraint shall never be applied as a sanction for disciplinary offences.” (Rule 43.2)<sup>221</sup> Further, under the UN Rules for the Protection of Juveniles Deprived of Their Liberty, the use of restraints and force “should not cause humiliation or degradation, and should be used restrictively and only for the shortest possible period of time,” only after “all other control methods have been exhausted and failed,” and then “only as explicitly authorized and specified by law and regulation.”<sup>222</sup>

Although the Juvenile Criminal Law prohibits the National Civil Police from keeping records on crimes attributed to children—except in those cases determined by the Attorney General’s Office or a judge—four people with knowledge about police procedures, including police officers, told Human Rights Watch that the police in reality keep records of

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<sup>219</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners, rule 43 (e).

<sup>220</sup> “All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.... Collective sanctions should be prohibited.” UN Rules for the Protection of Juveniles Deprived of Their Liberty, rule 67.

<sup>221</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners, rules 43(3) and 47(1).

<sup>222</sup> UN Rules for the Protection of Juveniles Deprived of Their Liberty, rule 64.

detention of children, in violation of domestic and international human rights standards protecting children's privacy and due process rights.<sup>223</sup>

### *Selected Cases*

#### **Antonio Juárez**

Police detained Antonio Juárez (pseudonym), a 17-year-old construction worker, at his home, at around 9 p.m., on May 24, 2022, in the town of Los Planes de Renderos, in San Salvador state.<sup>224</sup>

They ordered him to remove his shirt, apparently searching for tattoos, which he did not have. "Someone" had filed an "anonymous complaint" against him, an officer said.

They detained him, without showing an arrest warrant, and took him to a police station a few kilometers away, in the town of Panchimalco. An officer told a relative who visited Antonio that he would be released "after three months in jail, if he has not committed any crime." He was being held with two others, the relative said, one of whom appeared to be an adult. That was the last time she, or any other relative, saw or talked to Antonio, for more than a year.

The next day, on his 18<sup>th</sup> birthday, Antonio was taken to a police station in San Marcos, a city some 15 kilometers to the north. The following night, he was delivered to Izalco, a maximum-security prison for adults in the state of Sonsonate, where he would be held for four months.

Prison guards ordered all newly arrived detainees to strip to their underwear, Antonio said, and some 50 officers from the Police Order Maintenance Unit (UMO), a unit in charge of public order, including in the penitentiary system, beat them with batons for an hour.

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<sup>223</sup> Human Rights Watch phone interview with a juvenile judge, January 17, 2024; Human Rights Watch phone interview with a former government official, March 1, 2024; Human Rights Watch phone interview with a police officer, May 10, 2024; Human Rights Watch phone interview with a police officer, May 10, 2024. See Convention on the Rights of the Child, art. 40(vii); UN Standard Minimum Rules for the Administration of Juvenile Justice, art. 21(1); Juvenile Criminal Law, Decree 863, art. 30.

<sup>224</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim's relative, October 31, 2023; and an in-person interview with the victim, Panchimalco, December 17, 2023.

One guard asked Antonio about his gang affiliation. He said he had been “detained arbitrarily” and was “not a gang member.” The guard beat him with a baton. “In here no one is a civilian,” Antonio recalled him saying. “You have to be something.”

Antonio said he heard the guard tell a colleague, “We will hold this one in the [cell] where [detainees] are raping [other detainees]. They have already raped four.”

Antonio was taken to a “completely dark” basement cell that held some 320 detainees and so crowded that they had to sleep on the floor or standing, he said. Guards took detainees out only every three or four days to a toilet. Some “defecated in their boxers,” Antonio said.

One of Antonio’s cellmates asked him to which gang he belonged, and when he denied any gang membership, another cellmate threatened, “If you are not a gang member we will tear you apart, because you do not exist.”

Prison guards and detainees beat him, separately, every day. When guards searched the cell, they ordered detainees to line up outside. They often hit Antonio and his cellmates with batons or kicked them in the back or torso. A UMO officer beat Antonio so severely once, he said, that he broke a rib. He said he did not receive medical care.

When food was provided, it was once a day, to eat with their hands. Water was scarce, and tasted “dirty,” Antonio said. Some days, up to three in a row, the guards would withhold food, he said.

Fungus bloomed on Antonio’s skin, he said, and he could not walk. He asked to see a doctor, to no avail.

After a month and a half, he was transferred to a different cell, at ground level. Seeing the sun, after so many days in the dark, made him dizzy, he said, and he passed out.

After four months in Izalco, Antonio was taken to La Esperanza, also known as Mariona adult prison, in the state of San Salvador, where conditions were relatively better, he said, and “the beatings diminished.” He sometimes attended meetings organized by detainees to read the Bible.

On December 12, 2022, a judge ordered Antonio released on the condition that he check in regularly at a police station and stay in the country, according to a court document that Human Rights Watch reviewed.<sup>225</sup> He was able to leave the prison two days later.

A juvenile judge “provisionally acquitted” Antonio on February 21, 2023, citing “lack of merit to promote criminal action.”<sup>226</sup>

Antonio said he had personal knowledge of 11 detainees who died during his time in Izalco and Mariona, including some who were seemingly killed during beatings by UMO officers.

### **Roberto Linares**

Roberto Linares (pseudonym), a 13-year-old student, was having lunch at home, in the city of Apopa, some 20 kilometers northeast of San Salvador, on November 11, 2023. Three soldiers entered his house and, without showing a warrant, arrested him.<sup>227</sup> They said “someone” had “reported him to the authorities.” One soldier slapped him in the head and called him a “faggot.”

The soldiers forced Roberto to walk six blocks, handcuffed, to a military station, where they asked him repeatedly to “provide names of gang members,” he told Human Rights Watch, and “deliver the weapons and drugs.” He denied any association with gangs.

In an entrance hall, they forced him to kneel, facing a wall, for about two hours. At one point, a soldier placed a hood over Roberto’s head and choked him for several seconds, saying he was going to kill him.

Later that day, a policeman took him to a police station in Apopa, telling him the arrest was for unlawful association. Police transferred him, the next day, to the Metropolitan shelter in Ilopango.

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<sup>225</sup> Investigation court of San Salvador, decision of November 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>226</sup> Investigation court of San Salvador, decision of February 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>227</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, November 30, 2023; and an in-person interview with the victim, Apopa, December 17, 2023. Human Rights Watch also reviewed a document indicating he was a student. Education, Science and Technology Ministry, “Grades” (Boleta de Calificaciones), 2023 [name of school and teacher withheld] (on file with Human Rights Watch).

At a hearing on November 29, a judge granted alternative measures to detention, requiring Roberto to check in every 15 days, for two months, at a police station.<sup>228</sup> Roberto told Human Rights Watch he is “scared he’ll be detained again.”

### **Luis Mejia**

Luis Mejia (pseudonym), a 16-year-old construction worker and student, was playing with another teenager in a park near his home in Apopa, on December 7, 2022, when six police officers approached.<sup>229</sup> Without showing a warrant or providing any reason, they detained him, taking him away in a police car.

They drove for 15 minutes, to what Luis told Human Rights Watch was the home of a policeman, a “family house,” with two floors. An officer wearing boots forced Luis to place his hands on a table and stepped on them, he said, calling him a “rat” and kicking him once in the ribs. Luis believes the police officer disliked him because he had “spoken to his niece.”

About half an hour later, officers took Luis to a police station, where he was held, with other children, in a cell, where he had to sleep on the floor.

The next day, they transferred him to the Metropolitan shelter in Ilopango, where he was held in a cell with 15 other children roughly his age, none of whom were allowed to go outdoors. Some nights, a prison guard would wake them by “passing a baton through the bars,” he said, and once, the same guard handcuffed Luis and two others who were laughing to the cell bars for three hours.

On his third day at the Metropolitan shelter, Luis began vomiting bloody phlegm. He was taken to a prison clinic in the detention center and given medication. The doctor diagnosed probable “food poisoning.” Luis told Human Rights Watch that the food always contained a “white powder.” His testimony is consistent with the accounts of other children who told us of food smell and tasted badly because of “powder.”

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<sup>228</sup> Special Court against Organized Crime of San Salvador, decision of November 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>229</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, November 29, 2023; an in-person interview with the victim, Apopa, December 17, 2023; and a phone interview with the victim, February 9, 2024.

On December 22, Luis appeared before a juvenile judge—the first time, since the arrest, that his mother was able to see him and talk to him. He and five other children at the hearing, whom he did not know, were charged with unlawful association.

The judge ordered Luis released, on the condition that he checked in at a juvenile court every month for three months.

In late February 2023, several soldiers and a police officer showed up at Luis's home again, asking him to “hand over” a certain person. When he said he did not know the person, they struck his head against a post. “We do not want to see you in this place again,” one of them said. “If we do, we will kill you.”

That same day, Luis left Apopa, moving to Santa Ana, 50 kilometers north. Soon after, soldiers and police again arrived at his home in Apopa, a relative said, and they came four times that week, asking for him each time. “If I see him again,” the relative recalled them saying, “I will kill him in jail.”

Luis returned home six months later, in August. On October 11, police showed up and arrested him. They had received “a phone call,” they said, reporting him as a gang member. They took him to the Metropolitan shelter again, where he said the food had improved but detainees were not allowed to leave their cells. He shared a cell with seven other children.

After 14 days there, guards took Luis to a courthouse, where he was charged with unlawful association. Police testified that a woman in Apopa had reported Luis for gang affiliation, but the judge ordered his release.

Luis has faced challenges in finding a job because of his criminal record, and harassment has continued. One officer approached him in a park in Apopa in January 2024, telling him, “You have six months. Once you turn 18, we will take you again.”

### **José Gutiérrez**

Soldiers stopped 16-year-old José Gutiérrez (pseudonym) when he was returning home from a football match on May 11, 2022, in the rural town of Sensuntepeque, Cabañas

state.<sup>230</sup> José was in his first year of high school, a student identification that Human Rights Watch reviewed shows.<sup>231</sup>

On an empty lot near the street leading to the courthouse, the soldiers forced him to strip to his underwear. They burned his torso with a cigarette lighter and ordered him to confess his gang affiliations. They took photos of him in his underwear, the relative said, and released him.

Three days later, as he was heading to a football game with friends, a police patrol stopped him again. They took him to a police station. When a neighbor informed family members about the arrest, they went to the police station and were told that José “was being investigated, because someone had reported him.”

He was held at the station for 11 days. A lawyer who visited José there told relatives that he was sharing a cell with adults.

A few days after José was detained, a relative filed a complaint at the Human Rights Ombudsperson’s Office (Procuraduría para la Defensa de los Derechos Humanos, PDDH).<sup>232</sup> She said the PDDH official with whom she filed the complaint sent her WhatsApp messages saying she “was pretty” and that “he could help” her “speed the proceedings,” but it was “up to” her. Human Rights Watch saw the messages but was unable to confirm that the number belonged to a PDDH official. The relative said that when she stopped replying, the official stopped returning her calls.

On May 25, 2022, José appeared before a judge, along with six other children, for the first time. He was charged with unlawful association and sent to pretrial detention. Police transferred him to the Freedom Path confinement center in Ilobasco.

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<sup>230</sup> Unless otherwise noted, this case is based on a Human Rights Watch in-person interview with a victim’s relative, San Salvador, September 18, 2023, and a phone interview on February 20, 2024.

<sup>231</sup> “School Enrolment Certificate,” 2022 [name of school and teacher withheld] (on file with Human Rights Watch).

<sup>232</sup> Complaint filed before the Human Rights Ombudsperson’s Office, 2024 [record’s name and date withheld] (on file with Human Rights Watch).

At a second hearing, an “informant” testified against José, calling him a “lookout” for the gangs, a relative who attended said. But the informant seemed to contradict himself, saying later that he “did not recognize” José, the relative said.

José’s lawyer, from the Public Defender’s Office, asked the court to authorize a bodily inspection of his client, to show that he did not have gang-related tattoos. In November, a prosecutor, the defense lawyer, and a relative were granted access to the detention center for the bodily inspection. José had no gang tattoos, but the relative said that his body was covered with fungus and scabies. She blamed prison conditions.

On September 4, 2023, a judge sentenced José to six years in prison, followed by six years of “conditional release,” consisting of educational programs and court guidance and supervision.<sup>233</sup> A relative who attended the hearing said the prosecution presented testimony from a police officer, and spoke of a photo and audio found in José’s phone, which supposedly linked him to gangs. But the purported phone evidence was not introduced at trial.

José’s lawyer appealed the sentence, but it was upheld. José remains incarcerated, as of April 2024, at the juvenile detention center Freedom Path.

### **Alba Escobar**

Fifteen-year-old Alba Escobar (pseudonym), a high-school student, was waiting to board a bus on February 15, 2022, in a rural town in Ahuachapán state, when police detained her.<sup>234</sup> Searching her purse, they found a bag of marijuana.

Police officers told a relative who went to a police station looking for her the same time every day, for 10 days, that they did not know where she was. On the 11th day, an officer said Alba was at the police station in the nearby town of Santa Ana.

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<sup>233</sup> Investigation court of Sensutepeque, decision of September 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>234</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, December 20, 2023.

After 15 days in custody, Alba appeared before a judge for the first time and was charged with “possession and trafficking of drugs.” The judge ordered her release, pending trial, on the condition that she check in once every two weeks, for a month, at a police station.

Alba told a relative that, while she was in custody, a police officer had struck her on the back with a wet leather belt and threatened to “drown her in a pail of water,” if she did not disclose names of gang members. She returned home “traumatized and wounded,” a relative said.

At a trial on May 19, a judge sentenced her to two years in detention.

More than a year later, in June 2023, Alba had a virtual hearing, in which authorities reported on her activities in detention. A relative who was able to talk to Alba briefly, by video, said that she reported prison guards hitting her and that she believed she was being punished because “five girls tried to escape from prison.”

### **Daniel Villalobos**

Police detained 17-year-old construction worker Daniel Villalobos (pseudonym), on April 26, 2022, in the town of Suchitoto, Cuscatlán state.<sup>235</sup> Daniel had dropped out of school in sixth grade to provide for his family.

Police appeared at his workplace, arrested him and a colleague, without warrants. One booted officer kicked Daniel repeatedly, saying, “I am going to beat you up until you give me names.” He protested that he didn’t know any, and that he was “just working.”

At a police station where officers held Daniel for a few hours, the same policeman hit him, until another officer said to “leave him alone.” The kicking left bruises on Daniel’s ankles.

Another officer told Daniel, “You will be detained for 40 years, for the crimes of unlawful association, selling drugs, and homicide.” That afternoon, police transferred him to the Metropolitan shelter in Ilopango.

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<sup>235</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, January 18, 2024; and a phone interview with the victim, February 20, 2024.

Guards took Daniel to an office inside the detention center, where he said a guard asked him about his gang affiliation. “If you say the wrong thing,” the guard warned, “you will end up at a prison where [detainees] will beat you.” He told the guard he did not belong to any gang. The guard searched his body for tattoos associated with gangs, and when none were found, sent him to the “cell for civilians,” Daniel said.

He shared the cell with some 100 other children, although the numbers changed over time. He was not allowed to leave the cell and had to share a mattress.

Guards sprayed for mosquitos twice, he said, without letting detainees leave. “I felt poisoned,” he said.

On May 10, he appeared before a judge, and was charged with extortion, homicide and unlawful association. Daniel said he asked the prosecutor for the evidence against him and was shown a picture that authorities had found on his phone, of him smoking marijuana. A judge ordered him released on condition that he check in at court in the city of San Vicente every six months, according to Daniel.

“I came out angry,” Daniel said. “Now I have to check in at a courthouse for 10 years. My life has been ruined. I am afraid they will arrest me again. I do not want to lose my youth in there.”

He said he is considering leaving El Salvador.

### **Lucrecia Pérez**

Lucrecia Pérez (pseudonym), a 16-year-old student, was awakened, on the night of July 1, 2022, by officers knocking on her door in a small town in the state of Sonsonate.<sup>236</sup>

They told her to get dressed, she told Human Rights Watch, and said she was being arrested. When she asked why, they said they could not tell her. Officers took a photo of her and loaded her into a police car with other detainees.

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<sup>236</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, November 1, 2023; and an in-person interview with the victim in Sonsonate, December 16, 2023.

Several police and a soldier took her to a police station in Sonsonate, where she was held for a few hours. “Provide a name or you will pay instead,” one police officer said, pressing her to incriminate other people as gang members.

Officers took her to another police station in Sonsonate, where Lucrecia said she shared a cell with some 25 others, including adult women, and slept on the floor.

Roughly a week later, police took Lucrecia, along with three girls from her community, to the Metropolitan shelter in Ilopango. “The first few days I was sad, desperate,” she said. “I felt that the days did not pass by.”

She shared a cell with 40 other girls, she said, and they had to share mattresses. Normally, guards gave them three meals per day, but sometimes just one. Lucrecia fell ill with chicken pox and was treated at the detention center clinic. Despite exhibiting symptoms of this infectious disease, she said she was not isolated from the rest of the detained population. Lucrecia’s account suggests the shelter failed to implement appropriate quarantine protocols and preventative measures to contain the outbreak.

The guards warned that when one detainee was misbehaving “the others would pay,” she said, and indeed, they punished all, when some “behaved badly” or “fought among themselves.” Guards sometimes threw tear gas into the cell as punishment. Several times, they handcuffed certain girls to the cell bars and suspended them from their arms for the night. “They started yelling for the guards to take them down, when they could not stand it anymore,” Lucrecia said. But the guards did not relent.

On July 14, authorities took Lucrecia before a juvenile judge for the first time. She was not able to talk to her lawyer before the hearing, and only learned in the courtroom that she was being charged with unlawful association. The judge sent her to pretrial detention, along with seven other children.

On January 9, 2023, Lucrecia appeared again before a judge, along with seven other children. A relative who attended the hearing said a police officer testified that, rather than being arrested at home, Lucrecia had been detained, along with other people, on the streets.



The bedroom of Lucrecia Pérez (pseudonym), then 17, at her aunt’s house on December 16, 2023, in a rural town in Sonsonate, El Salvador, where she has been staying since her mother’s arrest during the state of emergency. © 2023 Human Rights Watch

The judge said that if she and the seven others all pleaded guilty to collaborating with the MS-13 gang, their prison sentences would be reduced. She and the other children agreed to plead guilty. Lucrecia told Human Rights Watch that she was innocent, and only pleaded guilty to avoid a longer sentence. All received one year in prison, including the time they had already served.

A judge ordered “conditional release” for Lucrecia on July 1, 2023, and ordered that a “multidisciplinary team,” consisting of a psychologist and a social worker, visit at her home every three months, to complete a psychosocial analysis. Lucrecia’s mother had been detained on January 11, 2023, so her aunt took her in when she was released. She said that “Lucrecia did not want to go outside at first.” She had to change schools because she was “afraid of what other people would say.”

On December 22, a court ruled that Lucrecia had served her sentence.<sup>237</sup>

## Harassment and Stigmatization

Police and soldiers regularly harass children on the streets of low-income communities. Children and their family members told Human Rights Watch that security forces routinely stop children, as well as adults. They often beat them and threaten them with detention, falsely accusing them of being gang members.

Human Rights Watch documented seven cases of security forces threatening children who had been released from the juvenile justice system with re-arrest once they turn 18. Repeated harassment has led several children interviewed to leave their communities, often disrupting their education and separating them from their families. Some children and their relatives said they were considering leaving El Salvador for fear of being arbitrarily detained.<sup>238</sup>

In April 2024, the news outlet *El Diario de Hoy* reported that the Education Ministry was asking teachers to report students with “antisocial behavior,” using a specific form. Human Rights Watch interviewed two teachers who confirmed this.<sup>239</sup> The practice raises serious concerns about the rights and privacy of students, especially considering that most of them are children. Forcing educators to inform on children’s suspected links to gangs undermines trust between teachers and students, turning schools into an environment of surveillance and suspicion instead of a safe space for learning and development. Moreover, labelling students based on the subjective criterion of “antisocial behavior” can lead to stigmatization, discrimination, and possible abuse by authorities.<sup>240</sup>

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<sup>237</sup> Sentence enforcement court of Santa Ana, decision of December 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>238</sup> Human Rights Watch in-person interview with a victim’s relative, San Salvador, December 19, 2023; Human Rights Watch in-person interview with a victim, San José Guayabal, September 22, 2023; Human Rights Watch phone interview with a victim’s relative, January 18, 2024; Human Rights Watch phone interview with a victim, February 20, 2024; Human Rights Watch phone interview with a victim’s relative, November 27, 2023.

<sup>239</sup> Human Rights Watch phone interview with teacher, May 3, 2024; Human Rights Watch phone interview with a teacher, May 30, 2024.

<sup>240</sup> Jorge Beltrán Luna, “Ministry of Education Orders Profiling of Students with Antisocial Behaviors” (“Educación ordena fichar a alumnos con conductas antisociales”), *El Diario de Hoy*, April 17, 2024, <https://www.elsalvador.com/noticias/nacional/educacion-ordena-fichar-alumnos-conductas-antisociales/1136835/2024/> (accessed April 26, 2024).

Human Rights Watch documented the cases of three children who were arrested in Usulután state on April 11, 2024, following reports from their own schoolteachers.<sup>241</sup> According to family members interviewed, police accused the children, ages 15 and 16, of creating a graffiti associated with gangs. They denied creating the graffiti. A prosecutor charged them with unlawful association. As of mid-June, the children remained in pre-trial detention at the Freedom Path juvenile detention center in Ilobasco.

On May 2, 2024, the Civil National Police posted on X that police had detained a 17-year-old student from Soyapango for “being a member of the MS-13 gang.” The police suggested the arrest was based on drawings found in his notebook, which school authorities had reported to the police.<sup>242</sup>

In several instances, Justice and Security Minister Gustavo Villatoro posted images on social media showing the faces of children who had been detained during the country's state of emergency, undermining the children's right to privacy.<sup>243</sup> Additionally, he used highly dehumanizing and stigmatizing language, including by describing children as “rotten generations” (“generaciones podridas”) and “cancer.”<sup>244</sup> Such practices risk further marginalizing at-risk youth.

### *Selected Cases*

#### **Ricardo Durán**

On June 7, 2023, six police officers arrived at the home of 15-year-old Ricardo Durán (pseudonym) in the rural community of Apopa, San Salvador state.<sup>245</sup> Ricardo had left school that year to work in construction, and he showed the officers a work certificate indicating that he did not have a criminal record, he said. But police officers ripped up the papers, he said, and without showing a warrant, arrested him.

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<sup>241</sup> Human Rights Watch phone interview with a victim's relative, June 10, 2024; Human Rights Watch phone interview with a victim's relative, June 10, 2024; Human Rights Watch phone interview with a victim's relative, June 10, 2024.

<sup>242</sup> Message posted on X by @PNCSV, May 28, 2024, <https://x.com/PNCSV/status/1786215377963237720> (accessed May 7, 2024).

<sup>243</sup> Message posted on X by @Vi11atoro, <https://x.com/Vi11atoro/status/1788720348776567255> (accessed May 28, 2024); Message posted on X by @Vi11atoro, <https://x.com/Vi11atoro/status/1759309255998427324> (accessed May 28, 2024); Message posted on X by @Vi11atoro, <https://x.com/Vi11atoro/status/1793626194794934741> (accessed May 28, 2024).

<sup>244</sup> *Ibid.*

<sup>245</sup> Unless otherwise noted, this case is based on a Human Rights Watch in-person interview with a victim's relative, Apopa, September 23 and San Salvador, December 19, 2023; and an in-person interview with the victim, Apopa, September 22, 2023.

Officers took him to a police station called “El Penalito,” in San Salvador. He was held in a cell with 35 other people, including some adults. They transferred him, on June 8, to the Metropolitan shelter in Ilopango. At the shelter, he said he shared a cell—and only five mattresses—with 40 other children, who slept crowded together. Ricardo sometimes slept on the floor. The food was inadequate—sometimes only two meals a day. “I lost a lot of weight,” he said.



Ricardo Durán (pseudonym), 16, holds his mother at a commercial center on September 23, 2023, in Apopa, San Salvador, El Salvador. Ricardo was detained soon after this photo was taken. © 2023 Human Rights Watch

On June 16, guards took him to a courthouse where a prosecutor charged him and six others with unlawful association. In September, a judge ordered his release on the condition that he check in once a week, for three months, at a police station.

At home in Apopa, three police officers harassed Ricardo and his family repeatedly, he said. They would appear at the house about once a week, sometimes saying that neighbors had accused him of collaborating with gangs. “Wherever [officers] saw him,” whether at a park or at his home, “they beat him,” a relative said. At least three times, twice with his brother, they took him to a police station and held him for hours. Each time, officers beat him, a relative said.

Each time Ricardo was detained, the family showed the police a document ordering his release, a relative recounted. Once, the officers said it was “worth nothing.” Another time, they said they would arrest his lawyer and the judge who had released him “for taking part in the release of gang members.” When Ricardo told the police that his mother would report them to authorities, an officer replied, “That can no longer affect us.”

On September 22, four police officers approached Ricardo when he was carrying a motorbike across a local park. One booted officer said, “We told you not to come to the

park,” and kicked him in the calves for several minutes, Ricardo said. A Human Rights Watch researcher interviewed him the next day and saw the bruises on his legs. He did not defend himself or run, he said, because he “feared [the officers] would kick him harder or take him back to the police station.”

On November 4, an officer detained Ricardo and took him to the police station. Authorities transferred him, the next day, to the Metropolitan shelter, and held him for nine days.

At a mid-November hearing, a prosecutor charged him with unlawful association, extortion and threats and sent him to pretrial detention for four months at El Espino confinement center in the state of Ahuachapán, roughly 100 kilometers northwest of San Salvador. As of April 2024, he remained imprisoned there. His family has not been able to speak with him since the arrest.

### **Abel Rodríguez**

On June 1, 2022, the police detained Abel Rodríguez (pseudonym), a 14-year-old student.<sup>246</sup>

Abel was leaving a store in Acajutla, Sonsonate state, where he had delivered bread for his mother’s home baking business when he witnessed a police shootout. Abel ran. As he passed one of the police officers apparently involved, the officer struck him on the head with a gun. A relative who was nearby saw Abel handcuffed on the ground, an officer kicking him in the face and chest. When she asked the officer to stop, he said, “Mind your own business.”

Abel was held for nine days at a police station in the city of Sonsonate before appearing before a judge for the first time on June 10, along with five other children. The prosecutor charged him with unlawful association, and the judge sent him to pretrial detention for 90 days in the confinement center in Tonacatepeque, San Salvador state.

After several hearings were suspended, on October 16, guards finally took Abel to a courthouse where he was allowed to speak briefly with a relative. Abel said that a prison

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<sup>246</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, January 19, 2024.

doctor had told him he was malnourished. The prosecution alleged only that Abel “had run” when he saw the police. A judge sentenced Abel, on October 24, to two years in prison.

His family has seen him only twice since then, during court hearings in May and November 2023. A relative said that a psychologist and social worker told her that Abel was taking classes and exhibiting “excellent behaviour,” but that the judge could not free him because “nobody [detained during] the state of emergency will be released until they complete their sentence.”<sup>247</sup>

The relative who witnessed Abel’s beating and arrest, meanwhile, was being harassed. Soldiers arrived at her house one night in June 2023, when she and her 7-year-old son were sleeping, and said they had “received information about her.” They forced her to strip to her undergarments so that they could search for tattoos associated with gangs. They took a photo of her and left. A few days later, the relative fled her home.<sup>248</sup>

## Violence and Mistreatment by Other Detainees

Several children reported experiencing abuse while being held at shelters and confinement centers. One recounted authorities questioning him about potential gang affiliations, before placing him in a cell. “They asked me if I was part of MS-13, Barrio 18, or a civilian,” he told Human Rights Watch.<sup>249</sup> Although he said he had no gang ties, authorities placed him in a cell with children who were apparently gang members and routinely abused him.

Several children told Human Rights Watch that they or others had suffered violence by other detainees, including beatings and in two cases sexual violence, and that guards did little or nothing to protect them.

Some said that cells were in practice controlled by gang members who called themselves “cell leaders.” They oversaw tasks including cleaning and food distribution, often using violence to enforce their rules. In some cases, they subjected detainees to interrogations about their gang affiliation.

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<sup>247</sup> Ibid.

<sup>248</sup> Ibid.

<sup>249</sup> Human Rights Watch in-person interview with a victim, San José Guayabal, September 22, 2023.

### *Selected Cases*

#### **Agustín Díaz**

For years, the family of Agustín Díaz (pseudonym) had suffered due to gang control of their neighborhood in Cuscatancingo, San Salvador state.<sup>250</sup> The gangs tried to recruit Agustín when he was 12 years old. Gang members beat his stepfather and threatened his mother, a community leader, in June 2021, after she helped police distribute food during the Covid-19 pandemic lockdowns. The family was forced to flee to Mejicanos, a city near San Salvador. But the family now lived in an area under the control of a different gang. Agustín could not attend school “because of gang presence” and took online classes instead. For months, Agustín “did not leave the house” out of fear of gangs.

So the family fled again, to San José Guayabal, Cuscatlán state, some 30 kilometers north of San Salvador.

On April 29, 2022, a police officer and a soldier stopped Agustín, then a 16-year-old student, and his mother, at a checkpoint. They took his cellphone and said that they would “escort them home for a raid of their house.”

Without ever showing a warrant, they raided the house, questioned the family and left. But a few hours later, police officers returned. Without saying why, they detained Agustín and his father and took them to a police station in nearby Suchitoto.

Authorities at the station ordered them to undress and placed them in different cells. Agustín tried to hug his father before they parted, he said, but a police officer pushed him to the floor and kicked him in the head.

Soldiers transferred Agustín, that night, to another police station. Along the way, they stopped in the middle of the road, and one of the soldiers placed a gun to his head, pulling the trigger repeatedly and laughing. The soldiers told him to run, saying he was a “scourge” who “deserve to die.” Soldiers cuffed Agustín’s feet, and he could barely move. He did not attempt to run.

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<sup>250</sup> Unless otherwise noted, this case is based on a Human Rights Watch in-person interview with a victim’s relative, San Salvador, December 19, 2023; and an in-person interview, San José Guayabal, September 22, 2023.

When they arrived, the police repeatedly beat Agustín, on both legs, with a metal chair while he was standing. It was raining, he said, and they placed him alone in an outdoor cell that had no ceiling. When he fell asleep, an officer kicked him, saying, “This is not the time to be sleeping.” Agustín and a relative told Human Rights Watch that they were never given the name or location of that second police station.

Before dawn, police transferred him again to the Metropolitan shelter where he was placed in a cell with three beds and 70 other children, Agustín said. He slept on the floor, next to a flooded bathroom. Two of the guards on the night shift were particularly “cruel,” he said, confiscating children’s blankets, pouring water on the floor that children had to sleep on, and turning the light on and off throughout the night. They said if the children “behaved badly,” they would take them out for “exercise,” an excuse to beat them.

Six of Agustín’s cellmates called themselves the “cell leaders” and used the beds. One questioned Agustín about his affiliation with gangs. When Agustín remained silent, the cellmate took a hot piece of iron from the roof and pierced Agustín’s eyebrow.

The “cell leaders” kicked him virtually every day, counting the seconds out loud, always up to 13—an apparent reference to the MS 13 gang. They covered the cameras inside the cell with clothing, Agustín said, to keep the guards from knowing what was happening.

On his sixth day in prison, guards took him to an office within the detention center, where a doctor vaccinated him against Covid-19. When he returned to the cell, other detainees took him to the cell’s bathroom, grabbed him by the arms, and asked if he had “disclosed any information about them to the doctor.” He said he had not, but they placed the same piece of iron that they had used to pierce his eyebrow on the spot on his upper arm where had been vaccinated, Agustín said.

He fell ill for three days, running a high fever, he said. He received no medical attention.

Agustín ate only five meals during the 12 days of his detention. Most days at the Metropolitan shelter, prison guards “threw us the food like we were dogs,” he said. The “cell leaders” kept Agustín’s portions. When Agustín refused to hand over breakfast one morning, a “cell leader” beat him. Agustín said that the food was sometimes “raw;” he drank little water, because “it tasted bad.”

On May 11, he appeared before a judge and learned that he was being charged with “unlawful association.” The judge ordered his release on condition that he not leave the country.

Back home, the police harassed Agustín. In October, one told him, “I do not want to see you in the park.”

Agustín fled once again, to Ciudad Delgado, in San Salvador state, this time fearing the authorities—and arbitrary detention. A relative told Human Rights Watch that Agustín “now cries every time he sees soldiers or police officers.” Police harassment caused him to leave school, a relative said. As of June 2024, he was working in the construction sector.

### **Lucía Ramirez**

Lucía Ramírez (pseudonym) and her family live in the city of Santa Ana, some 60 kilometers northwest of San Salvador.<sup>251</sup> When MS-13 controlled the area, Lucía’s mother, a domestic worker, paid extortion fees of US\$ 50 a week to gang members who, she said, threatened that “if I did not pay, they would kill me.”

Lucía, who left school at age 11, was 16 years old and unemployed on April 1, 2022, when several police and soldiers entered the house she shared with her boyfriend, a 15-year-old agricultural worker, and arrested them both. They did not show a warrant or say why they were making the arrests, a relative who was present said.

The officers photographed Lucía handcuffed and took her to a police station in La Candelaria, some 20 kilometers northwest of Santa Ana. Authorities transferred her, the next day, to the Metropolitan shelter, some 80 kilometers southeast of Santa Ana. Guards at the Metropolitan shelter beat her repeatedly with batons, a relative said.

On April 17, prison guards took Lucía to a courthouse, where a prosecutor charged her and five other children with unlawful association, and a judge sent them to pretrial detention. Police reports reviewed by Human Rights Watch alleged that Lucía and three others were detained on the street as they were “preparing to commit” an unspecified “crime.” In

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<sup>251</sup> Unless otherwise noted, this case is based on a Human Rights Watch in-person interview with a victim’s relative, San Salvador, December 20, 2023; and an in-person interview with the victim’s lawyer, San Salvador, December 19, 2023.

contrast, a relative told Human Rights Watch that Lucía was arrested at her home and the police report provided no evidence that she was preparing to commit a crime.

In mid-May, several detained girls assaulted Lucía in a prison bathroom, a relative said. When she resisted, they beat and kicked her.

Prison guards responded by sending Lucía to what her family called a “punishment cell.” It was completely dark, they said, and authorities gave Lucía no food and almost no water during the three days she was held there.

When guards sent her to a shared cell, the girls who had assaulted her beat her again and left her unconscious. Authorities took her to a clinic inside the detention center. She was unable to walk for the first several days. She stayed in the clinic for a week.

During a hearing in which her family was able to participate virtually, authorities informed them only that Lucía “had fallen ill.” The judge released her on condition that she not leave the country.<sup>252</sup>

A year later, the judge acquitted her of all charges.<sup>253</sup> A relative said that incarceration “changed Lucía.” “Now, she is always angry, frustrated.”

## Abusive Conditions in Custody

Salvadoran law establishes that “inhumane or degrading disciplinary measures, such as corporal punishment, confinement in dark cells, and isolation, cannot be applied under any circumstances.”<sup>254</sup> It also prohibits “reducing food portions, denying contact with relatives, and imposing collective punishments.”<sup>255</sup> Use of force is only allowed “in specific circumstances,” which are not specified by the law.

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<sup>252</sup> Investigation court of Santa Ana, decision of June 2022 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>253</sup> Investigation court of Santa Ana, decision of June 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>254</sup> Juvenile Criminal Law, Decree 863, art. 120; UN Standard Minimum Rules for the Administration of Juvenile Justice, comment to art. 121.

<sup>255</sup> *Ibid.*

In practice, however, children in detention were subjected to these and other forms of abuse. Human Rights Watch interviewed 28 children or their relatives who described appalling conditions in detention, including often overcrowded and unsanitary cells, lack of adequate nutritious food, lack of—or denial of—access to medication, adequate medical care, and education.

For example, a 17-year-old girl told Human Rights Watch that she spent “seven days in a dirty, overcrowded cell,” with “water spilling” from broken toilets into the dormitory where children slept, some without mattresses. The food, she said, was “bitter.”<sup>256</sup> Such an environment is dangerous for detained children, not only physically but also psychologically, undermining their dignity and hindering any meaningful efforts toward their reintegration into society.

While conditions in El Salvador's juvenile detention centers have for a long time been deplorable, the increasingly punitive approach against children has resulted in at least temporary overcrowding in shelters, where children are held awaiting trial, and in juvenile detention facilities. As of October 2021, the combined official capacity of El Salvador's four juvenile detention facilities was 500, with El Espino accommodating 100 children, Freedom Path and Tonacatepeque 150 each, and Female 100.<sup>257</sup> However, in September 2022, 1,730 children and adolescents were reported held in these centers, authorities said.<sup>258</sup> El Espino held 381, Freedom Path 701, Tonacatepeque 322, and Female 326, meaning that the centers were at 381 percent, 467 percent, 214 percent, and 326 percent of capacity, respectively.<sup>259</sup>

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<sup>256</sup> Human Rights Watch phone interview with a victim's relative, November 15, 2023; and in-person interview with the victim in Sonsonate, December 16, 2023.

<sup>257</sup> Salvadoran Institute for the Comprehensive Development of Children and Adolescents (Instituto Salvadoreño para el Desarrollo Integral de la Niñez y la Adolescencia, ISNA), “Anexo OIR 2021-060”, <https://www.transparencia.gob.sv/institutions/isna/documents/463613/download> (accessed July 1, 2024).

<sup>258</sup> ISNA, “Statistical Report Third Quarter. Period January to September 2022, Social Integration Programs” (“Prontuario Estadístico Tercer Trimestre. Periodo Enero a Septiembre 2022. Programas de Integración Social”).

<sup>259</sup> *Ibid.*

Authorities appear to have taken some steps to reduce overcrowding. In January 2024, CONAPINA told US authorities that 841 remained in prison as of January 2024—262 in pretrial detention and 579 serving sentences—and the rest had been released.<sup>260</sup>

CONAPINA told Human Rights Watch, in April 2024, that the total capacity of the centers had been expanded to 1,400, with new capacities as follows: El Espino 300, Freedom Path 400, Tonacatepeque 500 and Female 200.<sup>261</sup> It did not explain how it had expanded the centers' capacity from a total of 500.<sup>262</sup> If these figures are accurate, the total number of children who remain in detention would be significantly smaller than the total capacity of the juvenile detention facilities, though it is unclear how many children are currently being held in each of the sites.<sup>263</sup>

The budget of the juvenile penal system experienced a consistent decrease from 2022 to 2024, according to the national budgets passed by the Legislative Assembly.<sup>264</sup> The budget decreased by 4 percent from 2022 to 2023 and by 4 percent from 2023 to 2024. Overall, the budget saw a reduction of 8 percent between 2022 and 2024.<sup>265</sup>

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<sup>260</sup> United States Department of State, *2024 Trafficking in Persons Report*, “El Salvador”. As documented in this report, many of the children released remain under restrictions of liberty, such as court orders to check in periodically at police stations. Many have also suffered police harassment and rearrests after judges released them.

<sup>261</sup> Information provided to Human Rights Watch by the National Council of Early Childhood, Children and Adolescents, Children and Adolescents via email, on May 3, 2024 (on file with Human Rights Watch).

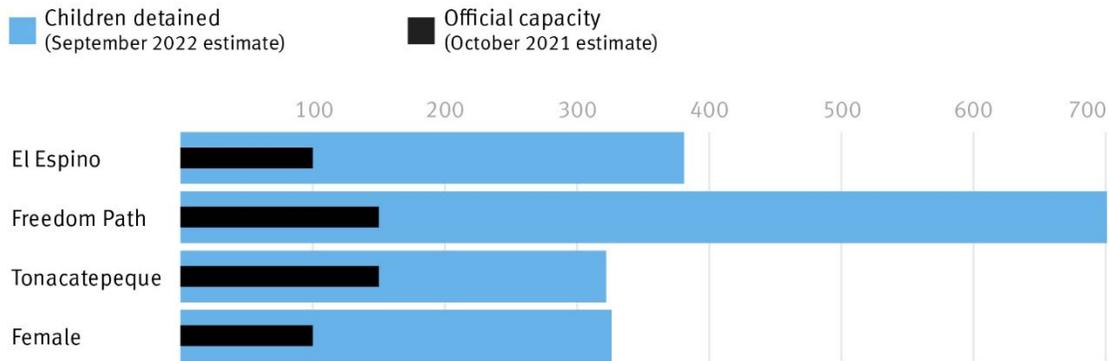
<sup>262</sup> Information provided to Human Rights Watch by the National Council of Early Childhood, Children and Adolescents, Children and Adolescents via email, on May 3, 2024 (on file with Human Rights Watch).

<sup>263</sup> Information provided to Human Rights Watch by the National Council of Early Childhood, Children and Adolescents, Children and Adolescents via email, on May 3, 2024 (on file with Human Rights Watch). The government has publicly reported some infrastructure improvement projects for juvenile detention facilities. See Salvadoran Institute for the Comprehensive Development of Children and Adolescents (Instituto Salvadoreño para el Desarrollo Integral de la Niñez y la Adolescencia, ISNA), “Works in Execution” (“Obras en Ejecución”), 2021, [https://www.transparencia.gob.sv/institutions/isna/executing\\_works/7181.pdf](https://www.transparencia.gob.sv/institutions/isna/executing_works/7181.pdf) (accessed April 14, 2024); ISNA, “Works in Execution” (“Obras en Ejecución”), 2022, [https://www.transparencia.gob.sv/institutions/isna/executing\\_works/7196.pdf](https://www.transparencia.gob.sv/institutions/isna/executing_works/7196.pdf) (accessed April 14, 2024).

<sup>264</sup> See 2022 General Budget Law (Ley de Presupuesto general para el ejercicio financiero del año 2022), Decree 246, signed into law on December 27, 2021, <https://www.diariooficial.gob.sv/seleccion/30670> (accessed May 14, 2024), p. 113; 2023 General Budget Law (“Ley de Presupuesto general para el ejercicio financiero del año 2023”), Decree 245, signed into law on December 27, 2022, <https://www.diariooficial.gob.sv/seleccion/30670> (accessed May 14, 2024), p. 119; 2024 General Budget Law (Ley de Presupuesto general para el ejercicio financiero del año 2024), Decree 242, signed into law on December 27, 2023, <https://www.diariooficial.gob.sv/seleccion/31175> (accessed May 14, 2024), p. 113.

<sup>265</sup> *Ibid.*

## Overcrowding at Juvenile Detention Centers



Note: The government of El Salvador has not published the number of children detained in each juvenile detention facility since September 2022.

Source: Human Rights Watch analysis of data from the Salvadoran Institute for Comprehensive Development of Children and Adolescents (ISNA).

Salvadoran law also establishes that “schooling, vocational training, and recreation are mandatory” in juvenile detention facilities. International standards call for every child in detention to have “a suitable amount of time for daily free exercise, in the open air when weather permits,” and “additional time for daily leisure activities.”<sup>266</sup> Yet, several children who spoke with Human Rights Watch had been denied a chance to study while in detention or were only allowed to do so intermittently while detained.

Salvadoran and international law prohibit restricting communication with family members.<sup>267</sup> For example, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, provide that “every juvenile should have the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defense counsel.”<sup>268</sup>

Yet in almost all cases of children detained Human Rights Watch documented, relatives were not allowed to visit while the children were held at police stations, shelters, and

<sup>266</sup> Juvenile Criminal Law, Decree 863, art. 120; UN Standard Minimum Rules for the Administration of Juvenile Justice, comment to art. 60.

<sup>267</sup> See Juvenile Criminal Law, Decree 863, art. 121.

<sup>268</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty, art. 60.

juvenile detention centers. Relatives were only allowed to see them during court hearings, sometimes virtually. In some cases, authorities allowed relatives to speak briefly to the children, either virtually or at a courthouse.

Access to detention centers in El Salvador is heavily restricted and government authorities did not respond to most of Human Rights Watch's information requests on prison conditions. Human Rights Watch interviewed a health professional who visited the Freedom Path confinement center in June 2022 and the Female confinement center in May 2023, providing medical care to 90 and 60 children, respectively.<sup>269</sup> His evaluations took place in a private office within the prison, ensuring confidentiality. Otherwise, his access was limited to the "common areas" and the health facilities inside the prison.

"It was shocking," he said. "Children were extremely thin," with "their eyes bulging from malnutrition." Authorities cooked the food in a huge pot, he said. "Only the food at the bottom got cooked; the rest remained raw. They had to either eat the raw food or go without eating."

He said the Freedom Path confinement center was overcrowded.<sup>270</sup> If one detainee contracted a skin disease, he said, everyone in the cell would catch it. Children believed to be members of various gangs were placed together, he said, and those in pretrial detention were placed with those serving sentences. The United Nations Standard Minimum Rules for the Treatment of Prisoners provide that pretrial detainees should be kept separate from those serving sentences.<sup>271</sup>

Children told the health professional that bathrooms were "filthy," and water was sometimes unavailable. One boy told him, "[We] have to urinate in a bucket and use it to flush the toilet."

The health professional witnessed diseases and conditions including tuberculosis, fungal infections and scabies, severe malnutrition, and digestive problems, including diarrhea.

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<sup>269</sup> Human Rights Watch in-person interviews with a doctor, San Salvador, September 19, 2023, and December 20, 2023.

<sup>270</sup> Ibid.

<sup>271</sup> UN Standard Minimum Rules for the Treatment of Prisoners, rule 11 (b).

The children often remained untreated, he said, and guards did not provide medication for chronic illnesses, for example, asthma inhalers.

Girls told him of sexual abuse, both by guards and other detainees. He treated many for vaginal infections, which he believed may have resulted from abuse.

### *Selected Cases*

#### **Teófilo Aguirre**

In mid-February 2024, 13-year-old Teófilo Aguirre (pseudonym), and four other classmates in the city and state of Chalatenango recorded a video in which one of them made a hand gesture associated with gangs and posted the video on social media.<sup>272</sup> On February 18, Justice and Security Minister Gustavo Villatoro posted photos of the video on X, saying that Teófilo had been arrested. “We are not willing to tolerate any action related to these terrorist groups and their culture of death,” he said.<sup>273</sup> But after a few hours, Teófilo was released.

The next day, police arrested Teófilo again outside of his school, in the state of Chalatenango.

Police accused Teófilo and the others who had appeared in the video of unlawful association, but after three hours at a police station in Chalatenango, they were released.

On February 20, the police went back to the school, saying that the release had been “a mistake.” They detained the five children again.

The police paraded them around town in a police vehicle before delivering them to a police station in Chalatenango. Teófilo’s lawyer, who gained access, said Teófilo was held with 10 other children and kept in a small, 3x4 meter cell with one mattress. The cell was exposed to the sun. The lawyer compared it to a “chicken cage.”

After 12 days, on March 4, Teófilo and the other 10 children appeared before a judge at an Anti-Organized Crime Court in San Salvador. The judge granted Teófilo and six others “conditional release,” meaning that they would be “supervised” by their schools, while the investigation continued for the rest of a mandated 60 days.

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<sup>272</sup> Message posted on X by @Vi11atoro, <https://x.com/Vi11atoro/status/1759309255998427324> (accessed March 7, 2024).

<sup>273</sup> Ibid.

### Cecilia Flores

At about 1:00 a.m. on July 1, 2022, police and soldiers knocked at the door of the house where Cecilia Flores (pseudonym), then a 15-year-old student, and her family lived in a small town in the state of Sonsonate.<sup>274</sup>

Without showing a warrant, they arrested Cecilia. A relative recalled the police saying that they had “received a phone call claiming that she was the girlfriend of a gang member.” When she denied it, an officer said, “Someone does not like you,” which the family interpreted as someone reporting her out of spite.

Cecilia was held at a police station in Sonsonate, where she was held for seven days, in a cell with both children and adults. She had to shower with her clothes on, she said, because she had no privacy and male officers often spied on her, she said.

On the way to her first hearing, on July 14, in Santa Ana, some 70 kilometers to the east, Cecilia said a prison guard suggested he was going to marry her. “I am going to meet my mother-in-law at the hearing,” she recalled him saying. “You can be freed during the hearing, but just you. You know how you can pay me.”

At the hearing, police officers testified that they had arrested her “on the streets with other gang members,” she said. A prosecutor charged her with unlawful association and sent her to pretrial detention at the Female confinement center.



Cecilia Flores (pseudonym) lives in a rural town in Sonsonate, El Salvador, where her parents have kept her bedroom just as it was before her arrest. Photo taken on December 16, 2023. © 2023 Human Rights Watch

<sup>274</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, November 15, 2023; and an in-person interview with the victim in Sonsonate, December 16, 2023.

Guards at the center “took [girls who were fighting] out of the cell and suspended them from their handcuffed hands all night long,” Cecilia said, and she heard girls “screaming because they could not bear it, saying that they would urinate there.”

Guards threw tear gas at the cell on four occasions after some girls disobeyed rules, Cecilia said, and girls sometimes vomited blood after the exposure to the gas.

Cecilia received no medical attention, she said, when she fell ill with chicken pox. Despite having a contagious illness, she was not isolated from others.

After pleading guilty in January 2023 under circumstances described in the next case (Carolina) below, Cecilia was taken back to the Female confinement center. She was “conditionally released” on July 1, 2023, and on December 22, a court ruled that she had completed her sentence.

### **Carolina González**

On July 1, 2022, several police officers and soldiers arrived at the home of Carolina González (pseudonym), a 17-year-old student, in a town in the state of Sonsonate.<sup>275</sup>

They said they were arresting Carolina for “collaborating with gangs.” They did not provide an arrest warrant. They took two photos of her, one next to a soldier. Then they loaded her into a police vehicle with some 10 people, and took her to a police station in Sonsonate, where an officer asked her to “deliver a gang member.” He named a gang member by alias, promising to “set her free” in exchange for the person’s true name. Carolina said she did not know who it was.

She was held at the station for seven days, sharing a cell with 25 others, including adults. They had to sleep “almost one on top of the other,” she said, and officers “threw the food into the cell instead of waiting for us to take it.”

On July 7, police transferred her to the Metropolitan shelter in Ilopango. Authorities held her there for seven days. The toilet leaked water onto the floor where she and other

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<sup>275</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, November 15, 2023; and an in-person interview with the victim in Sonsonate, December 16, 2023.

detainees slept, she said. The food had a “bitter” taste and came sprinkled with a “very ugly yellow powder.”

On July 14, she appeared, for the first time, before a judge, in Santa Ana, some 70 kilometers east. Police officers testified that they had arrested her, not at home, as she told Human Rights Watch, but “on the streets with other gang members.” She was charged with unlawful association and sent to pretrial detention at the Female confinement center, where she shared a cell with 36 other girls, and a mattress with one of them.

On January 9, 2023, she and seven others, including Lucrecia and Cecilia, whose cases are described above, appeared before a judge. The judge said that if one of them refused the deal they were being offered—to plead guilty to collaborating with the MS-13 gang in exchange for having their prison sentence halved—they would all receive longer sentences. They all pleaded guilty as charged and were sentenced to a year in prison. “We did not have an option,” Carolina said. “We all wanted to see our moms.”

Carolina was taken back to the juvenile detention center. On February 9, 2023, several detainees tried to escape, Carolina said. The guards punished all the detainees. For 15 days, they did not let the girls go to the prison patio and did not provide dinner. The guards transferred Carolina to a cell with girls who, she said, “behaved badly,” and she was forced to sleep on the floor as punishment. “I was not able to sleep because of how hungry I was,” Carolina said.

A judge ordered Carolina’s “conditional release” on July 1, 2023. Her biggest hope had been to see her grandmother, who had raised her. But she learned, upon her release, that her grandmother had passed away. A relative said that the family had asked prison authorities for permission to let Carolina attend the funeral, but the authorities had refused. On December 22, 2023, a court ruled that Carolina had served her sentence.<sup>276</sup>

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<sup>276</sup> Sentence enforcement court of Santa Ana, decision of December 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

## Due Process Violations and Unfair Trials

Under Salvadoran and international law, children accused of crimes have a right not to be detained arbitrarily or subjected to other forms of unlawful detention.<sup>277</sup> Children also have a right to the basic guarantees of a fair trial, including the right to be presumed innocent until proven guilty, to be informed promptly and directly of the charges against them, to have prompt access to legal and other appropriate assistance, and to have their cases heard without delay.<sup>278</sup> Imprisonment of children should be a last resort and for the minimum period possible, and pretrial detention in particular should be limited to exceptional circumstances.<sup>279</sup>

But during the state of emergency in El Salvador, authorities have routinely violated children's fundamental rights to fair legal processes for children accused of a crime during the state of emergency. Violations included failure to show warrants and to inform detainees of the grounds for the arrest, prolonged and unnecessary use of pretrial detention, inadequate access to legal representation, and improper restrictions on contact with family members.

Most detainees had public defenders who faced an immense workload and often failed to provide an adequate defense. As of April 2024, there were 281 public defenders in El Salvador, each representing an average of 281 cases.<sup>280</sup> The situation was also dire for children in the juvenile criminal justice system. With over 3,000 juvenile criminal cases and only 27 public defenders assigned to the Juvenile Criminal Unit, each defender was responsible for approximately 108 cases on average.<sup>281</sup>

In most cases that Human Rights Watch documented, the prosecution presented unreliable or uncorroborated evidence, such as statements solely from security officers or from

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<sup>277</sup> Convention on the Rights of the Child, arts. 52, 53 and 54.

<sup>278</sup> Convention on the Rights of the Child, art. 40. Committee on the Rights of the Child, General Comment No. 24, paras. 13-18; UN Rules for the Protection of Juveniles Deprived of their Liberty, arts. 1-2.

<sup>279</sup> *Ibid.* See also UN Rules for the Protection of Juveniles Deprived of their Liberty, art. 17.

<sup>280</sup> Information provided to Human Rights Watch by the Public Defender's Office via email, April 29, 2024 (on file with Human Rights Watch).

<sup>281</sup> *Ibid.*

anonymous informants—and courts convicted children on that basis. In four instances, judges and prosecutors abusively pressed children to plead guilty, including in groups.<sup>282</sup>

In almost all cases documented in this report, prosecutors accused the children of the broadly defined and vague crime of unlawful association enacted in 2016. As described above, it criminalizes anyone who “takes part” in a gang, is the “creator, organizer, chief, leader [or] financier” of a gang, or “promotes, helps, facilitates or favors the creation or presence” of these groups or, knowing such groups are unlawful, “receives direct or indirect benefit” from relations “of any nature” with gangs, “even without being a part of them.”<sup>283</sup>

### *Selected Cases*

#### **Roberto Gámez**

Fourteen-year-old ranch employee Roberto Gámez (pseudonym) was on his way to his girlfriend’s house, in the city of Ilobasco, Cabañas state, on May 10, 2022, when three police officers stopped him.<sup>284</sup> Roberto ran away, as a relative explained it, “because he was scared.”

The police arrived at Roberto’s home a few minutes after he did and, without providing a warrant, detained him. They held him at a police station in Sensutepeque, some 30 kilometers away, for 15 days.

At his first hearing, along with five other children, on May 25, the prosecutor charged Roberto with unlawful association and a judge ordered that he be sent to pretrial detention at the Freedom Path Confinement Center in Ilobasco for six months.

Human Rights Watch examined the court file detailing Roberto’s case.<sup>285</sup> According to a police statement, unspecified “local inquiries” indicated that Roberto associated with MS-13 gang members and was unemployed. No details were provided, the report said,

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<sup>282</sup> Human Rights Watch in-person interview with three victims, Sonsonate, December 16, 2023; Human Rights Watch phone interview with a victim’s relative, November 11, 2023.

<sup>283</sup> Amendments to the Criminal Code, Decree 337, art. 2.

<sup>284</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, January 18, 2024.

<sup>285</sup> Investigation court of Sensuntepeque, decision of October 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

because the “informants” had asked not to be identified. The file also included police testimony that Roberto had fled when officers stopped him.

One officer cited in the file said he had received a “tip” about three individuals, including Roberto, on a bridge. When police attempted to stop them, he said, the three tried to escape.

The file also cited an “expert witness” who was said to have interviewed unnamed witnesses and concluded that Roberto was an “active MS-13 member with a collaborator role.” Another “expert witness” said he had analyzed Roberto’s phone, finding “photos, music, and voice messages...indicative of gang affiliation,” including one photo of a man with a gun and another of a man with sneakers that are “common among gang members.” But another report included in the file said that while Roberto lived in an area “under MS influence,” he did not “seem to identify with the gang.” The report noted that Roberto was employed on a ranch.

In October 2023, after almost a year-and-a-half in pretrial detention, a judge convicted Roberto for the crime of unlawful association and sentenced him to five years in prison and five years under “conditional release,” meaning in this case educational programs and the court’s monitoring with the assistance of social workers.<sup>286</sup>

As of April 2024, Roberto remained imprisoned at the Freedom Path confinement center. A relative saw him at a virtual hearing in January 2024 and was able to talk to him for five minutes.

### **Kevin Morales**

On April 8, 2022, police and soldiers arrested 17-year-old Kevin Morales (pseudonym) and his 21-year-old brother Pablo (pseudonym) at their home in a rural community that is part of the town of Santiago Nonualco, La Paz state.<sup>287</sup>

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<sup>286</sup> Ibid.

<sup>287</sup> Unless otherwise noted, this case is based on a Human Rights Watch phone interview with a victim’s relative, January 18, 2024.

They ordered the family to “hand over the weapons,” a relative who was present said. The family replied that they did not have any. They accused the brothers of unlawful association and threatened to arrest the relative who had asked about the warrant “if he did not shut up.”

They took the brothers, together, to a police station in Santiago Nonualco, and two hours later, released Kevin. The next day, police transferred Pablo to a police station in Zacatecoluca, a few miles away, and later to La Esperanza prison, in the state of San Salvador.

On July 15, police returned to the family’s home, accusing Kevin of unlawful association. They “paraded him around,” handcuffed, for a kilometer, a relative said, so that neighbors would see that he had been arrested. They eventually delivered him to the same police station in Santiago Nonualco.

The next day, police took Kevin to the Public Defender’s Office in Zacatecoluca and a few hours later moved him to the Metropolitan shelter in Ilopango.

Kevin appeared before a judge for the first time in late July and was charged with unlawful association. Family members were not allowed to testify. A police officer testified that they had detained Kevin not at home but on a “hill” where “[gang members] had an operations camp,” a relative who was present at the hearing said. The prosecutor used that testimony to accuse Kevin of gang connections. The judge ordered Kevin to be held, pretrial, at a juvenile detention center in Tonacatepeque, some 70 kilometres north.

On September 7, 2023, a judge sentenced Kevin to seven years in prison, followed by three of “conditional release,” consisting of court monitoring with the assistance of specialists, and compliance with educational programs.<sup>288</sup>

A relative who was present at the trial said the only evidence presented by the prosecution was the police testimony saying Kevin was arrested at the gang operations camp. The

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<sup>288</sup> Sentence enforcement court of San Vicente, decision of November 2023 [name of court and date of decision withheld] (on file with Human Rights Watch).

judge, the relative said, denied a defense request to be allowed to provide testimony to refute it.

In April 2023 Kevin was transferred to Penitentiary Farm in Ilobasco, a detention center for juveniles between the ages of 18 and 21, in Cabañas state. A relative was able to talk to him briefly during a virtual hearing in November 2023.

### **Ricardo Gómez**

At 6 a.m. on July 2, 2023, police officers awakened 15-year-old high school student and carpentry apprentice Ricardo Gómez (pseudonym), at his home in the city of Cuscatancingo, in San Salvador state.<sup>289</sup>

Without showing a warrant, they arrested him, saying that “someone had reported him to the authorities,” a relative who was present said. They photographed him and took him to a police station in Cuscatancingo.

A few hours later, police took Ricardo to the Public Defender’s Office, where authorities told a relative that he had been accused of “unlawful association.” “Don’t worry,” a police officer assured the relative, “we are giving him back.”

Later that day, officers transferred Ricardo to the Metropolitan shelter in Ilopango.

Ricardo appeared before a judge on July 17, 2023, in San Salvador and was charged with unlawful association. He was not able to speak with his defense lawyer or his relatives before or during the hearing, a relative who was present told Human Rights Watch, and the judge sent him to pretrial detention.

Police took Ricardo to Freedom Path confinement center in the city of Ilobasco, Cabañas state.

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<sup>289</sup> Unless otherwise noted, this case is based on phone interviews with a victim’s relative, July 7, 2023, and January 24, 2024.

On January 16, 2024, authorities brought Ricardo to a court hearing at an Anti-Organized Crime Court in San Salvador, where police officers testified that he was a “gang member,” a relative said.

His family denies it. The relative, who was present in the hearing, said that he saw Ricardo “covered with boils and skin fungus.” Ricardo, who was able to talk with his family very briefly, said that these were due to “lack of hygiene” in the detention center.

Ricardo remained in detention as of April 2024. Two hearings were suspended because the police “did not show up at court to provide testimony,” a relative said.

### **Lucio Menéndez**

Sixteen-year-old Lucio Menéndez (pseudonym) was on his way home from lunch out in a rural area of Meanguera municipality, in the state of Morazán, on April 19, 2022, when police and soldiers arrested him.<sup>290</sup>

They told a relative that Lucio was detained “because of a phone call” informing on him. Police took him to a Meanguera police station and, after a few hours, transferred him to a shelter in San Miguel. His family was not allowed to see or talk to him at the shelter.

On April 29, Lucio appeared before a judge for the first time, was charged with unlawful association, and was sent to pretrial detention at Freedom Path in Ilobasco, for 90 days.

Several court hearings were postponed until November 18, 2022, when a judge sentenced Lucio to 12 years in prison. The ruling, which Human Rights Watch reviewed, cites only a police officer’s testimony as evidence.<sup>291</sup> The officer said he stopped Lucio because he had a “a suspicious look.” He said he asked Lucio for his name and used a “police database” indicating that, according to six “anonymous” sources, Lucio was “an active gang member for the MS-13 with the rank of collaborator.”

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<sup>290</sup> Unless otherwise noted, this case is based on phone interviews with a victim’s relative, October 17, 2023.

<sup>291</sup> Investigation court of San Francisco Gotera, decision of December 2022 [name of court and date of decision withheld] (on file with Human Rights Watch).

A relative said the sources never presented a formal criminal complaint against Lucio and that there was no formal record of the information they had allegedly provided to the police.

### **Sonia López**

On April 16, 2022, 15-year-old childcare worker Sonia López (pseudonym) was at home in a rural community of Joateca municipality, in the state of Morazán, when police arrived, demanding her cell phone.<sup>292</sup> Sonia had dropped out of school in 7th grade, during the Covid-19 pandemic. A relative said that police arrested her, citing a photo that officers said they found in her phone. They did not explain what the photo showed.

A police officer took her to a police station in Joateca where Sonia spent the night. The next day, police transferred her to a shelter in San Miguel, where she was held for some 15 days. A relative said she could not talk or see her during this time.

Sonia appeared before a judge two weeks later, was charged with unlawful association, and sent to pretrial detention at the Female confinement center for 90 days.

On November 18, 2022, a judge sentenced Sonia to 10 years in prison. The ruling, which Human Rights Watch reviewed, cites a police officer's testimony as the sole evidence against her.<sup>293</sup> In his testimony, the police officer said he and others arrested Sonia because a police data base identified her as a "member of MS-13." He said police and anonymous locals had seen her as "suspicious because she collaborated" with the gang. "Previously, we had not deprived her of her liberty because there was no arrest or administrative warrant [but] this time we moved forward with the deprivation of liberty of the young woman because of the state of emergency." As of April 2024, Sonia was serving her sentence at the juvenile detention center in Ilopango.

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<sup>292</sup> Unless otherwise noted, this case is based on phone interviews with a victim's relative, January 22, 2024.

<sup>293</sup> Investigation court of San Francisco Gotera, decision of December 2022 [name of court and date of decision withheld] (on file with Human Rights Watch).

### Tomás Solano

On April 16, 2022, 16-year-old construction worker Tomás Solano (pseudonym) and a cousin were having dinner at their grandfather's home in a rural town in the state of Morazán when police arrived.<sup>294</sup>

Police arrested both boys, saying they were “active gang members,” and took them to a police station in the nearby town of Osicala, a relative who was present said. A few hours later, they transferred Tomás to a shelter in San Miguel.

After two weeks, Tomás appeared before a judge for the first time, was charged with unlawful association, and sent to pretrial detention for 90 days.

Authorities postponed hearings until November 18, when a judge sentenced Tomás to 12 years in prison. The ruling, which Human Rights Watch reviewed, cites an officer's testimony as the sole evidence against him.<sup>295</sup> The officer said he had received a call from a police chief reporting “two people extorting locals.” He said he went to the street identified as the scene of the extortions and found and arrested Tomás and his cousin. A relative of the boys who was at dinner at the grandfather's house with them was not allowed to testify, the ruling shows.

The police officer testified that he had had information “for the last three months” indicating that Tomás was a gang member. However, he admitted that there were no formal records of the information or of criminal complaints against Tomás.<sup>296</sup>

In April 2024, authorities transferred Tomás to the Rehabilitation farm detention facility in Ilobasco for youth between 18 and 21 years old.

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<sup>294</sup> Unless otherwise noted, this case is based on phone interviews with a victim's relative, February 22, 2024.

<sup>295</sup> Investigation court of San Francisco Gotera, decision of December 2022 [name of court and date of decision withheld] (on file with Human Rights Watch).

<sup>296</sup> Ibid.

## Long-Lasting Consequences of Detention for Children

The accounts of children interviewed by Human Rights Watch who were detained and released during the state of emergency reveal deplorable conditions of detention and routine cases of abuse.

The consequences of detention for children deprived of liberty in such contexts can be profound and long-lasting.<sup>297</sup> Detention significantly disrupts children’s education, often causing extended school absences that lead to academic setbacks and increased dropout risks. Additionally, the stigma associated with detention hinders social reintegration, damaging personal relationships and community acceptance.

Ricardo Durán, a 15-year-old student at the time of the detention, told Human Rights Watch:

If you’ve been detained, you’re already considered a bad person. Because you were detained, you’re seen as bad. Neighbors and police look at you with suspicion. The police come to see where you work and ask what you’re doing. If you’re at home, they come to harass you. I’m afraid they’ll detain me again.<sup>298</sup>

Children held in detention are at risk of suffering from mental health issues such as depression, anxiety, and post-traumatic stress disorder (PTSD), which can manifest in symptoms like insomnia and nightmares. The detention experience can also cause significant damage to their long-term cognitive and physical development.<sup>299</sup>

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<sup>297</sup> Manfred Nowak, *The United Nations Global study on children deprived of liberty*, July 11, 2019, UN Doc. A/74/136, <https://omnibook.com/global-study-2019/liberty/page-001.html> (accessed May 5, 2024); Jason Schnittker and John Andrea, “Enduring stigma: the long-term effects of incarceration on health,” *Journal of health and social behavior*, vol. 48(2), 2007, <https://pubmed.ncbi.nlm.nih.gov/17583269/> (accessed May 29, 2024), pp. 115-130; Paula Braverman and Robert Morris, “The health of youth in the juvenile justice system,” *Juvenile Justice: Advancing Research, Policy, and Practice*, 2011, <https://onlinelibrary.wiley.com/doi/abs/10.1002/9781118093375.ch3> (accessed May 29, 2024), pp. 44-67; Barry Holman and Jason Zeidenburg, “The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities,” Justice Policy Institute, 2006, [https://justicepolicy.org/wp-content/uploads/2022/02/06-11\\_rep\\_dangersofdetention\\_jj.pdf](https://justicepolicy.org/wp-content/uploads/2022/02/06-11_rep_dangersofdetention_jj.pdf) (accessed May 29, 2024).

<sup>298</sup> Human Rights Watch in-person interview with a victim’s relative, Apopa, September 23 and San Salvador, December 19, 2023; and an in-person interview with the victim, Apopa, September 22, 2023.

<sup>299</sup> Nowak, *The United Nations Global study on children deprived of liberty*, pp. 191, 298.

Lucrecia Pérez (pseudonym), a 17-year-old girl in Sonsonate state, told Human Rights Watch:

When I first arrived [at the confinement center] I felt sad, desperate. The days seemed to drag on endlessly...I couldn't sleep, and when I did, I had nightmares of being killed, sometimes waking up crying...[Even after I was released] I lived in fear of being detained again by security forces. I changed schools because I felt like people were staring at me. It left me feeling ashamed.<sup>300</sup>

Detention is a highly traumatic experience for children, as it involves a loss of control, enforced separation from the outside world, detachment from their community, culture, and religion, and the inability to experience life as predictable, meaningful, and safe. The longer children are detained, the more likely they are to be exposed to traumatic events and experience feelings of isolation, detachment, and loss of confidence, as research has shown a clear link between the length of detention and the severity of psychosocial and developmental issues faced by children.<sup>301</sup>

A relative of a 17-year-old who was detained and released after a year in prison said:

After the detention, he feels resentment. Now he has picked up the bad habit of drinking. He says to me: 'Mom, I don't feel well. I will never forget what I went through there; when I drink, I forget.' Suddenly, I see him crying in his bed. Whenever he starts remembering, he tells me it's 11 o'clock at night, and at this hour, we were getting a good beating from the UMO [Maintenance Order Unit, a police tactical unit].<sup>302</sup>

Another relative described how her son is after two years in prison:

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<sup>300</sup> Human Rights Watch phone interview with a victim's relative, November 1, 2023; and an in-person interview with the victim in Sonsonate, December 16, 2023.

<sup>301</sup> Ibid.

<sup>302</sup> Human Rights Watch phone interview with a victim's relative, October 31, 2023; and an in-person interview with the victim, Panchimalco, December 17, 2023.

He came out disoriented, he doesn't want to talk, he doesn't want anyone to see him. I don't know what to do with this situation because I want him to be like he was before.<sup>303</sup>

Extensive research in the field of criminal justice has shown that children detained with adults are more likely to engage in future criminal activities compared to children held with their peers.<sup>304</sup> Furthermore, studies in juvenile justice indicate that children who have experienced detention have worse outcomes compared to their peers who have committed offenses but are placed in community-based alternative programs, including lower educational attainment, reduced employment rates, increased suicide rates, and higher rates of re-arrest.<sup>305</sup>

A relative told Human Rights Watch:

All my daughter experienced was mistreatment. They [the security forces] beat her. There, you have to defend yourself; no one defends you. She came out worse, more frustrated by everything she has lived through. Now she fights with her sister, hits her. She doesn't want to study or work.<sup>306</sup>

Similarly, Luis Mejía (pseudonym) said:

I left school because I was afraid they would arrest me again. I lost my job because. Now they ask me for criminal records where it shows I was detained two times. Now I'm afraid I won't get another job.<sup>307</sup>

Carolina González (pseudonym) told Human Rights Watch:

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<sup>303</sup> Human Rights Watch phone interview with a victim's relative, April 23, 2024.

<sup>304</sup> Richard Redding, "Juvenile Transfer Laws: An Effective Deterrent to Delinquency?" *Juvenile Justice Bulletin*, US Department of Justice Office of Juvenile Justice and Delinquency Prevention, June 2010, <https://www.ncjrs.gov/pdffiles1/ojjdp/220595.pdf> (accessed May 1, 2024).

<sup>305</sup> Ibid.

<sup>306</sup> Human Rights Watch phone interview with a victim's relative, December 20, 2024.

<sup>307</sup> Human Rights Watch in-person interview with a victim, Apopa, December 17, 2023.

My grandmother died while I was imprisoned. I feel like it was my fault, because she suffered when I was detained...She got depressed...[When I learned she had died] my world ended. Sometimes I feel angry, we were very close...The only time I feel happy now is at the beach, I feel my sorrows go away.<sup>308</sup>

In situations of extreme violence, the mistreatment and torture of children in detention can lead to alienation and a desire for revenge, potentially driving them to join criminal groups. Lucas Rodríguez, who was 15 years old when detained, told us: “I left prison worse than when I went in. Prison only hardens you.”<sup>309</sup>

Additionally, when children who are not associated with gangs perceive that they may be detained based on mere suspicion of involvement, they may be more inclined to seek protection by joining such groups. The conditions in confinement centers can also contribute to children being recruited by gangs for protection or being forced to join them to stay alive.

For children who have previously experienced gang violence, detention may serve to reinforce their experiences of unfair or unjust treatment and their perception that life is unsafe, uncertain, unstable, and unpredictable. In this way, detention can become a continuation of the child’s abuse, further compounding the trauma they have already endured.

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<sup>308</sup> Human Rights Watch in-person interview with the victim, Sonsonate, December 16, 2023.

<sup>309</sup> Human Rights Watch phone interview with the victim, June 4, 2024.

## Recommendations

### To the Government of El Salvador:

- Establish an *ad hoc* mechanism to review the cases of people detained during the state of emergency. The mechanism should:
  - Prioritize for prosecution cases involving higher-level gang leaders and perpetrators of violent crimes by gangs, including killings, rape, and child recruitment.
  - Promptly release people who have been detained without adequate credible evidence.
  - Design and implement non-carceral measures such as diversion programs for people convicted of gang membership who were not linked to violent crimes and who meaningfully participate in robust re-integration programs.
  - Prioritize reviewing cases of children, people with disabilities, pregnant women, and people with serious health conditions.
- Develop and implement a new rights-respecting security policy to dismantle gangs and protect the population, including children. Such policy should:
  - Prioritize strategic criminal prosecutions, focused on prosecuting higher-level gang leaders and conducting serious investigations of violent crimes and other offenses—such as money laundering and extortion—that are likely to meaningfully impact the gangs’ structure, power and influence.
  - Ensure that gang leaders are effectively prosecuted for the offense of using children to commit crimes, in addition to being held responsible for the underlying criminal acts.
  - Implement violence prevention initiatives at school, family and community-based levels for children, including those under the typical age of gang recruitment in El Salvador, including family activities, mentorship and after-school programs.
  - Implement rehabilitation programs for recruited children, including by offering vocational skills and training programs, treatment for substance use disorder, psychological support and therapy, reenrollment in formal education, and assistance in developing positive social networks and connections.

- Implement reintegration programs for children who have committed violent or otherwise criminal acts and who might have been exposed to arrest or detention, including restorative justice interventions, support with accessing the job market, tattoo removal, public campaigns to combat stigma and discrimination, and reenrollment in formal education.
- Prioritize investigating and prosecuting child recruitment, including of girls for sexual services and of boys forced to commit crimes in gangs.
- Improve police effectiveness and accountability, including through success metrics and training that are firmly grounded in protection of human rights, and the implementation of meaningful oversight mechanisms.
- Reduce prison overcrowding, including by ending the unnecessary or prolonged use of pretrial detention, applying alternatives to imprisonment for people with disabilities or with underlying health conditions and for older people, and by using, when appropriate, reporting requirements and other less-restrictive measures.
- End the state of emergency.
- Ensure detention of children is only used as a last resort, for the shortest appropriate period, in accordance with Salvadoran law and international standards.
- Urgently improve conditions in prisons, starting with juvenile detention facilities, to ensure they meet international standards, including by:
  - Ensuring detainees are treated in a humane and dignified manner, with sufficient access to space, food, water, adequate medical treatment, and sanitation.
  - Enhancing the quality and availability of therapeutic and rehabilitation services, including access to education and health services in juvenile detention facilities, and provide comprehensive support for former offenders to facilitate their successful reintegration into society.
  - Prohibiting disciplinary measures involving solitary confinement or punishments that may compromise children’s physical or mental health and provide clear guidelines for staff.
  - Ending incommunicado detention and ensure that detainees can communicate and receive visits from their families and lawyers.
  - Ensuring that children are always held separately from adults, and that pre-trial detainees are held separately from people serving sentences.

- Sending the unequivocal message that abuse of detainees is prohibited, and sanctioning law enforcement and detention center administration officials who engage in abuse of detainees.
- Allowing international monitors and Human Rights Ombudsperson's Office to conduct unrestricted and unannounced monitoring of all detention facilities where children may be held in order to ensure their human rights, including to be free from torture and other cruel, inhuman or degrading treatment or punishment.
- Implement Salvadoran law requiring that the National Civil Police not keep records on offenses attributed to children.
- Ensure that training programs for police officers incorporate obligations on respecting the human rights of all citizens, including vulnerable groups, such as children in low-income communities who may come into regular contact with security forces.
- Ensure that police officers do not harass people, including those who have been released from detention.
- Work with the Legislative Assembly to ratify the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.
- Comply fully with the 2011 Law on Access to Public Information, including by publishing public interest information, such as historic and current homicide rates, information on the implementation of the Territorial Control Plan, and the prison population, as well as by responding in a timely and fair manner to public information requests.
- Increase funding to the Public Defender's Office to ensure it is able to provide adequate and timely defense.
- Refrain from posting on social media photos of detained people, especially children, and from prejudging them as criminals based on their clothing, where they live, their tattoos, or their family relationships.
- Work with the Legislative Assembly to amend the Law of the Inspector General for Public Security, charged with monitoring the work of security forces, to ensure its independence and strengthen its oversight of police activities.

- Collaborate with the Ministry of Education to analyze causes of school dropout, develop targeted support programs, and gradually raise the compulsory education age from 15 to 18, addressing economic factors and other barriers to keep vulnerable youth in school.

### **To the National Council of Early Childhood, Children and Adolescents (CONAPINA):**

- Ensure that conditions of confinement for children meet all of the requirements of health, safety, and human dignity established under the Juvenile Criminal Law and international standards, including guaranteeing that children are housed separately according to their age, physical development, and severity of offense.
- Guarantee children's rights to receive schooling and professional training, be treated with dignity and respect, and receive visits on at least a weekly basis, and for each child to have their own mattress and bedding and access to items necessary for the maintenance of hygiene and personal cleanliness.
- Ensure that qualified medical professionals are available in each detention facility to attend to the health needs of children.
- Guarantee that children accused of criminal offenses committed are promptly charged, provided with access to legal counsel, and treated in accordance with international juvenile justice and fair trial standards.
- Ensure young adults between the ages of 18 and 21 are housed in separate detention centers or in separate sections of detention centers holding children under the age of 18.
- Establish a complaint system independent of juvenile detention facilities' guards to ensure that abuses can be promptly and independently investigated.

### **To the Legislative Assembly:**

- End the state of emergency.
- Raise the statutory minimum age of criminal responsibility to at least 14 years old, as recommended by the Committee on the Rights of the Child.
- Revoke the 2022 and 2023 reforms to the Special Law Against Terrorist Acts, the Juvenile Criminal Law, and the Law Banning Gangs, Bands, Groups, Associations and Organizations, and the Law Against Organized Crime and bring these laws and

the Criminal Code and the Code of Criminal Procedure in line with international standards, including by eliminating mandatory pretrial detention and narrowing the definitions of terrorism and unlawful association.

- Amend the Law of the Inspector General of Public Security to improve and increase oversight of the police.
- Repeal the 2021 reforms to the Judicial Career Law and the Organic Law of the Attorney General’s Office, which undermine the independence of judges and prosecutors.
- Reform the Penitentiary Law to ensure that it complies with international legal standards, including by ensuring that detainees have access to family visits and private meetings with their lawyers.

### **To the Attorney General’s Office:**

- Develop and implement a policy of strategic criminal prosecutions to address gang violence by improving prosecutors’ technical capacity to gather credible evidence, prioritizing the prosecution of higher-level gang leaders, investigating violent crimes, as well as other offenses—such as money laundering and extortion—that are likely to meaningfully impact the gang’s structure, power and influence.
- Promptly initiate thorough, impartial investigations into unlawful connections between gangs, government officials, and security forces.
- Conduct prompt, thorough, and impartial investigations into allegations of human rights violations, such as those documented in this report, including instances of arbitrary detention, sexual violence, torture, and other ill-treatment of detainees, as well as into circumstances such as suspicious deaths in custody.
- Conduct prompt, thorough, and impartial investigations into government officials who may have failed to comply with court decisions ordering the release of detainees.

### **To the Human Rights Ombudsperson’s Office:**

- Regularly inspect juvenile detention facilities without notice to monitor conditions, including by seeking private and confidential meetings with detainees, and releasing comprehensive reports of the visits, including on allegations of ill-

treatment, overcrowding, lack of access to adequate or timely medical care, and poor sanitary conditions.

- Conduct swift investigations into allegations of human rights violations and report on the office's findings in a transparent and periodic manner.
- Work with the National Penitentiary Office, the Attorney General's Office, and the Public Defender's Office and CONAPINA to ensure respect for the rights of children who have been detained.

### **To the Judiciary:**

- Ensure that all children in conflict with the law are prosecuted exclusively in specialized juvenile courts, separate from the adult criminal justice system.
- Strengthen and expand the capacity of El Salvador's specialized juvenile justice system to handle all cases involving children in conflict with the law, in accordance with international standards.
- Enforce the right to legal representation for all children in conflict with the law, and provide access to quality, independent, public defense services.
- Ensure that people, including children, are only being prosecuted on the basis of reliable and corroborated evidence and that nobody is sentenced unless prosecutors can show, beyond any reasonable doubt, their responsibility in a crime.
- Establish strict protocols and oversight mechanisms to prevent the use of coercion, intimidation, or any other form of improper pressure to extract confessions from children during interrogations or court hearings.
- Establish clear guidelines and oversight to prevent arbitrary detention and ensure that children are not subjected to abuse, ill-treatment or torture during arrest or interrogation by security forces.
- Protect the privacy and identity of children involved in criminal proceedings and put in place safeguards to shield them from public stigma, retaliation or revictimization.
- Comply with international standards on juvenile justice by ensuring pretrial detention is used only as a last resort, based on individualized assessments of necessity and reasonableness, prioritizing alternative measures and ensuring that, in the cases where detention is deemed necessary, juveniles are held in

appropriate facilities separate from adults and with strict adherence to legal time limits.

- Make public data on the duration of court proceedings, backlogs, and compliance with statutory time limits in juvenile cases.

### **To the Public Defender’s Office:**

- Work with the Legislative Assembly to increase staffing and ensure that the legal assistance provided to people effectively protects due process rights and the right to effective legal representation.

### **To the Inter-American Commission on Human Rights:**

- Promptly publish the Commission’s report on human rights violations committed during the state of emergency in El Salvador.
- In the Commission's next annual report, consider including El Salvador in Chapter IV.B, which highlights country situations where there is a “systematic infringement of the independence of the judiciary”, where the “free exercise of the rights guaranteed in the American Declaration or the American Convention has been unlawfully suspended”, or where the “State has committed or is committing massive, serious and widespread violations of human rights,” among others.
- Consider requesting permission from El Salvador’s government to conduct an on-site visit to with a specific focus on children in detention.
- Closely monitor the human rights situation in El Salvador and publicly condemn human rights violations in the country, including against children.
- Closely monitor the processes to appoint new members of the Supreme Court in September 2024 and a new Attorney General in January 2025, and urge Salvadoran authorities to respect international human rights standards on judicial independence.

### **To the UN Committee on the Rights of the Child:**

- Urge the Salvadoran authorities to put an end to the arbitrary detention of children and to conduct thorough investigations into arbitrary detention, torture, and other forms of ill-treatment against children.

- Request information from the Salvadoran government on children detained during the state of emergency, about children charged in the juvenile court, the sentences they receive, the detention centers to which they are assigned, and the conformity of Salvadoran law and practice with the Convention on the Rights of the Child.
- Encourage the government to take measures to fight discrimination and stigma against children who have been released from prison and support them through social protection schemes, psychosocial support, education, and reliable vocational training.

### **To all Member and Observer States of the UN Human Rights Council:**

- Condemn human rights violations in detention facilities in El Salvador, including against children.
- Call on states and international financial institutions to incorporate specific measures to ensure any support to Salvadoran security forces and government does not contribute to or enable torture, ill-treatment, enforced disappearances and arbitrary detention.
- Bring attention to the situation in El Salvador and raise human rights concerns during Council meetings and debates, including during Interactive Dialogues with relevant Special Procedures mandate-holders or in their statements under items 3, 2 or 4.

### **To the governments of the United States, Canada, Latin American countries, the European Union, and EU member states:**

- Publicly and privately oppose human rights violations committed by Salvadoran security forces and press, in a multilateral manner, for respect of human rights and the rule of law.
- Refrain from providing loans or other economic support to El Salvador's police, army, prison system, and Attorney General's Office until there are meaningful human rights improvements, and include measures in any future aid or loans to these entities to ensure that support does not contribute to human rights abuses.
- Increase support for independent media outlets and civil society groups in El Salvador, including through financial assistance.

- Press Salvadoran authorities to restore judicial independence including by conducting, at the appropriate time, independent, fair, and transparent processes for the selection of Supreme Court justices and the attorney general, and abrogating laws that undermine judicial independence.

### **To international donors and funders, including the Central American Bank of Economic Integration:**

- Suspend or refrain from approving loans benefiting El Salvador's National Civil Police, Ministry of Defense, prison system, the National Council of Early Childhood, Children and Adolescents and Attorney General's Office and develop specific, measurable, and significant human rights benchmarks to include in any future financial support to these institutions, such as:
  - Concrete steps toward eliminating torture and other forms of ill-treatment in detention.
  - The effective implementation of an *ad hoc* mechanism to review the cases of people detained during the state of emergency, with the objective of selecting cases of violent crimes by gangs that should be effectively prosecuted as a matter of priority and promptly releasing people who have been detained without sufficient credible evidence.
  - Significant and growing reductions in reports of arbitrary detentions and due process violations reported by detainees.
  - Evidence of credible and timely criminal investigations of abuses committed by members of the armed forces and the National Civil Police.
  - Rights-respecting reforms of legal frameworks adopted in the context of the current state of emergency that severely undermine human rights.
  - Improvements in detention conditions, including reduction of overcrowding and increased access to medical care.
  - Increased access of independent monitors to interview detainees in Salvadoran detention centers.
- Conduct an independent external audit of any funding provided in recent years to El Salvador's National Civil Police, Ministry of Defense, prison system, and Attorney General's Office to ensure that funds have not enabled human rights violations.

- Closely monitor the situation in El Salvador, including by conducting regular meetings with civil society groups, to verify human rights conditions and ensure that the bank's funding is not enabling further abuses.

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It was reviewed and edited by Juanita Goebertus, Americas director; Juan Pappier, Americas deputy director; Margaret Knox, Americas senior editor/researcher; Sarah Yager, Washington advocacy; Lucy McKernan, UN advocacy deputy director; Cristina Quijano Carrasco, women's rights researcher; Brian Root, senior quantitative analyst; Sarah Saadoun, Economic Justice and Rights senior researcher; Michael Bochenek, children's rights senior legal advisor; and Kayum Ahmed, health and human rights special advisor. Babatunde Olugboji, Program deputy director, and María McFarland Sánchez-Moreno, senior legal advisor, conducted program and legal review, respectively.

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Above all, we are deeply grateful to the victims of abuse who trusted us with their stories.

# “Your Child Does Not Exist Here”

## Human Rights Abuses Against Children Under El Salvador’s “State of Emergency”

Since March 2022, El Salvador has been under a “state of emergency” to fight heinous gang violence. The police and military report having arrested 80,000 people, including over 3,000 children. Homicides and extortions have significantly decreased, but security forces have committed widespread human rights violations.

“*Your Child Does Not Exist Here*” documents human rights abuses against children, including arbitrary detention, torture and other forms of ill-treatment, and due process violations. Some have been held in detention alongside unrelated adults. Dozens have been convicted through unfair trials, often based on broad charges. Juvenile detention facilities have been overcrowded and unsanitary. The abuses have happened in a context of dramatic deterioration of the rule of law and government attacks on civil society and independent media.

Many of the children arrested lived in low-income communities with constant gang violence. Social exclusion, and lack of opportunities left them vulnerable to both gang recruitment and stigmatization by security forces.

The report urges the government to prioritize prosecution of those most responsible for gang violence and promptly release those detained without evidence, particularly children. It also provides recommendations for implementing a rights-respecting security policy that protects children from gang violence and abuses.

The international community should urge the Salvadoran government to respect and protect children’s rights. Foreign governments and international financial institutions should suspend loans to entities involved in human rights violations. They should promote effective and rights-respecting security policies that ensure that Salvadorans are not forced to choose between gang violence and abuses by security forces.



*A woman at a demonstration shows a photo of her son who was detained during the state of emergency on May 31, 2024, in San Salvador, El Salvador.  
© 2024 Carlos Barrera.*

# **EXHIBIT C**



HUMAN  
RIGHTS  
WATCH

## DEPORTED TO DANGER

United States Deportation Policies Expose Salvadorans  
to Death and Abuse



## **Deported to Danger**

**United States Deportation Policies Expose Salvadorans  
to Death and Abuse**

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# Deported to Danger

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## Summary

The US government has deported people to face abuse and even death in El Salvador. The US is not solely responsible—Salvadoran gangs who prey on deportees and Salvadoran authorities who harm deportees or who do little or nothing to protect them bear direct responsibility—but in many cases the US is putting Salvadorans in harm’s way in circumstances where it knows or should know that harm is likely.

Of the estimated 1.2 million Salvadorans living in the United States who are not US citizens, just under one-quarter are lawful permanent residents, with the remaining three-quarters lacking papers or holding a temporary or precarious legal status. While Salvadorans have asylum recognition rates as high as 75 percent in other Central American nations, and 36.5 percent in Mexico, the US recognized just 18.2 percent of Salvadorans as qualifying for asylum from 2014 to 2018. Between 2014-2018, the US and Mexico have deported about 213,000 Salvadorans (102,000 from Mexico and 111,000 from the United States).

No government, UN agency, or nongovernmental organization has systematically monitored what happens to deported persons once back in El Salvador. This report begins to fill that gap. It shows that, as asylum and immigration policies tighten in the United States and dire security problems continue in El Salvador, the US is repeatedly violating its obligations to protect Salvadorans from return to serious risk of harm.

Some deportees are killed following their return to El Salvador. In researching this report, we identified or investigated 138 cases of Salvadorans killed since 2013 after deportation from the US. We found these cases by combing through press accounts and court files, and by interviewing surviving family members, community members, and officials. There is no official tally, however, and our research suggests that the number of those killed is likely greater.

Though much harder to identify because they are almost never reported by the press or to authorities, we also identified or investigated over 70 instances in which deportees were subjected to sexual violence, torture, and other harm, usually at the hands of gangs, or who went missing following their return.

In many of these more than 200 cases, we found a clear link between the killing or harm to the deportee upon return and the reasons they had fled El Salvador in the first place. In other cases, we lacked sufficient evidence to establish such a link. Even the latter cases, however, show the risks to which Salvadorans can be exposed upon return and the importance of US authorities giving them a meaningful opportunity to explain why they need protection before they are deported.

The following three cases illustrate the range of harms:

- In 2010, when he was 17, Javier B. fled gang recruitment and his particularly violent neighborhood for the United States, where his mother, Jennifer B., had already fled. Javier was denied asylum and was deported in approximately March 2017, when he was 23 years old. Jennifer said Javier was killed four months later while living with his grandmother: “That’s actually where they [the gang, MS-13 (or Mara Salvatrucha-13)] killed him.... It’s terrible. They got him from the house at 11:00 a.m. They saw his tattoos. I knew they’d kill him for his tattoos. That is exactly what happened.... The problem was with [the gang] MS [-13], not with the police.” (According to Human Rights Watch’s research, having tattoos may be a source of concern, even if the tattoo is not gang-related).
- In 2013, cousins Walter T. and Gaspar T. also fled gang recruitment when they were 16 and 17 years old, respectively. They were denied asylum and deported by the United States to El Salvador in 2019. Gaspar explained that in April or May 2019 when he and Walter were sleeping at their respective homes in El Salvador, a police patrol arrived “and took me and Walter and three others from our homes, without a warrant and without a reason. They began beating us until we arrived at the police barracks. There, they held us for three days, claiming we’d be charged with illicit association (*agrupaciones ilícitas*). We were beaten [repeatedly] during those three days.”
- In 2014, when she was 20, Angelina N. fled abuse at the hands of Jaime M., the father of her 4-year-old daughter, and of Mateo O., a male gang member who harassed her repeatedly. US authorities apprehended her at the border trying to enter the US and deported her that same year. Once back in El Salvador, she was at home in October 2014, when Mateo resumed pursuing and threatening her. Angelina recounted: “[He] came inside and forced me to have sex with him for the

first time. He took out his gun.... I was so scared that I obeyed ... when he left, I started crying. I didn't say anything at the time or even file a complaint to the police. I thought it would be worse if I did because I thought someone from the police would likely tell [Mateo].... He told me he was going to kill my father and my daughter if I reported the [original and three subsequent] rapes, because I was 'his woman.' [He] hit me and told me that he wanted me all to himself.”

As in these three cases, some people deported from the United States back to El Salvador face the same abusers, often in the same neighborhoods, they originally fled: gang members, police officers, state security forces, and perpetrators of domestic violence. Others worked in law enforcement in El Salvador and now fear persecution by gangs or corrupt officials.

Deportees also include former long-term US residents, who with their families are singled out as easy and lucrative targets for extortion or abuse. Former long-term residents of the US who are deported may also readily run afoul of the many unspoken rules Salvadorans must follow in their daily lives in order to avoid being harmed.

Nearly 900,000 Salvadorans living in the US without papers or only a temporary status together with the thousands leaving El Salvador each month to seek safety in the US are increasingly at risk of deportation. The threat of deportation is on the rise due to various Trump administration policy changes affecting US immigration enforcement inside its borders and beyond, changes that exacerbated the many hurdles that already existed for individuals seeking protection and relief from deportation.

Increasingly, the United States is pursuing policies that shift responsibility for immigration enforcement to countries like Mexico in an effort to avoid any obligation for the safety and well-being of migrants and protection of asylum-seekers. As ever-more restrictive asylum and immigration policies take hold in the US, this situation—for Salvadorans, and for others—will only worsen. Throughout, US authorities are turning a blind eye to the abuse Salvadorans face upon return.

Some people from El Salvador living in the United States have had a temporary legal status known as “Temporary Protected Status” or “TPS,” which has allowed those present in the United States since February 2001 (around 195,000 people) to build their lives in the country with limited fear of deportation. Similarly, in 2012, the Obama administration provided some 26,000 Salvadorans with “Deferred Action for Childhood Arrivals” or “DACA” status, which afforded some who had arrived as children with a temporary legal

status. The Trump administration had decided to end TPS in January 2020, but to comply with a court order extended work authorization to January 2021. It remains committed to ending DACA.

While challenges to both policies wend their way through the courts, people live in a precarious situation in which deportation may occur as soon as those court cases are resolved (at the time of writing the DACA issue was before the US Supreme Court; and the TPS work authorization extension to January 2021 could collapse if a federal appellate court decides to reverse an injunction on the earlier attempt to terminate TPS).

Salvadoran asylum seekers are also increasingly at risk of deportation and return. The Trump administration has pursued a series of policy initiatives aimed at making it harder for people fleeing their countries to seek asylum in the United States by separating children from their parents, limiting the number of people processed daily at official border crossings, prolonging administrative detention, imposing fees on the right to seek asylum, extending from 180 days to one year the bar on work authorization after filing an asylum claim, barring asylum for those who transited another country before entering the United States, requiring asylum seekers to await their hearings in Mexico, where many face dangers, and attempting to narrow asylum.

These changes aggravated pre-existing flaws in US implementation of its protection responsibilities and came as significant numbers of people sought protection outside of El Salvador. In the decade from 2009 to 2019, according to government data, Mexican and United States officials made at least 732,000 migration-related apprehensions of Salvadoran migrants crossing their territory (175,000 were made by Mexican authorities and just over 557,000 by US authorities).

According to the United Nations' refugee agency, the number of Salvadorans expressing fear of being seriously harmed if returned to El Salvador has skyrocketed. Between 2012 and 2017, the number of Salvadoran annual asylum applicants in the US grew by nearly 1,000 percent, from about 5,600 to over 60,000. By 2018, Salvadorans had the largest number (101,000) of any nationality of pending asylum applications in the United States. At the same time, approximately 129,500 more Salvadorans had pending asylum applications in numerous other countries throughout the world. People are fleeing El Salvador in large numbers due to the violence and serious human rights abuses they face

at home, including one of the highest murder rates in the world and very high rates of sexual violence and disappearance.

Despite clear prohibitions in international law on returning people to risk of persecution or torture, Salvadorans often cannot avoid deportation from the US. Unauthorized immigrants, those with temporary status, and asylum seekers all face long odds. They are subjected to deportation in a system that is harsh and punitive—plagued with court backlogs, lack of access to effective legal advice and assistance, prolonged and inhumane detention, and increasingly restrictive legal definitions of who merits protection. The US has enlisted Mexico—which has a protection system that its own human rights commission has called “broken”—to stop asylum seekers before they reach the US and host thousands returned to wait for their US proceedings to unfold. The result is that people who need protection may be returned to El Salvador and harmed, even killed.

Instead of deterring and deporting people, the US should focus on receiving those who cross its border with dignity and providing them a fair chance to explain why they need protection. Before deporting Salvadorans living in the United States, either with TPS or in some other immigration status, US authorities should take into account the extraordinary risks former long-term residents of the US may face if sent back to the country of their birth. The US should address due process failures in asylum adjudications and adopt a new legal and policy framework for protection that embraces the current global realities prompting people to flee their homes by providing “complementary protection” to anyone who faces real risk of serious harm.

As immediate and first steps, the United States government should adopt the following six recommendations to begin to address the problems identified in this report. Additional medium- and long-term legal and policy recommendations appear in the final section of this report.

- **The Trump** administration should repeal the Migration Protection Protocols (MPP); the two Asylum Bans; and the Asylum Cooperation Agreements.
- The Attorney General of the United States should reverse his decisions that restrict gender-based, gang-related, and family-based grounds for asylum.

- Congress and the Executive Branch should ensure that US funding for Mexican migration enforcement activities does not erode the right to seek and receive asylum in Mexico.
- Congress should immediately exercise its appropriation power by: 1) Refraining from providing additional funding to the Department of Homeland Security (DHS) for Immigration and Customs Enforcement (ICE) and US Customs and Border Protection (CBP) unless and until abusive policies and practices that separate families, employ unnecessary detention, violate due process rights, and violate the right to seek asylum are stopped; 2) Prohibiting the use of funds to implement the Migrant Protection Protocols, the “Asylum Bans,” or the Asylum Cooperation Agreements, or any subsequent revisions to those protocols and agreements that block access to the right to seek asylum in the United States.
- Congress should exercise its oversight authority by requiring the Government Accountability Office and the Office of Inspector General to produce reports on the United States’ fulfillment of its asylum and protection responsibilities, including by collecting and releasing accurate data on the procedural experiences of asylum seekers (access to counsel, wait times, staff capacity to assess claims, humanitarian and protection resources available) and on harms experienced by people deported from the United States to their countries of origin.
- Congress should enact, and the President should sign, legislation that would broadly protect individuals with Temporary Protected Status (including Salvadorans) and DACA recipients, such as the Dream and Promise Act of 2019, but without the overly broad restrictions based on juvenile conduct or information from flawed gang databases.

## Glossary

### **The National Civilian Police (Policía Nacional Civil, PNC)**

The PNC is the only governmental agency with offices in all 262 municipalities of El Salvador.<sup>1</sup> It receives crime reports, but by law must refer them to the District Attorney’s office (Fiscalía General de la República, FGR), which officially classifies crimes. The PNC is the first to arrive at homicide scenes.<sup>2</sup> At the center to which deportees arrive (the migrant return center), the PNC conducts one of two interviews deported adults must complete before being released.<sup>3</sup>

### **The Salvadoran Attorney General’s Office (Fiscalía General de la República, FGR)**

The Salvadoran Attorney General’s Office (FGR) has at least one District Attorney’s Office per department.<sup>4</sup> This agency is responsible for bringing criminal charges and conducting criminal investigations.<sup>5</sup> At homicide scenes, the FGR often enters with the police and always directs the investigation. Given the high incidence of crime in El Salvador, prosecutors and investigators have very large caseloads.<sup>6</sup>

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<sup>1</sup> Government of El Salvador, Ministry of Justice and Public Safety, National Civilian Police, <http://www.pnc.gob.sv> (accessed January 5, 2020).

<sup>2</sup> When reporters are present at crime scenes, they may arrive before the police, as may representatives from burial or funeral services. Once at the scene, authorities may end up interviewing people who have already talked with one or multiple reporters.

<sup>3</sup> A police agent explained their four objectives, as he understands them, to Human Rights Watch: “First, to understand why the person left; second, to check their personal details; third, to take photos of all their scars and tattoos; and fourth, to verify criminal records.” Human Rights Watch interview with PNC agent, El Salvador’s Central Region, November 28, 2018.

<sup>4</sup> Government of El Salvador, Office of the Attorney General, <http://www.fiscalia.gob.sv> (accessed January 5, 2020).

<sup>5</sup> Other crimes against all victims can be reported to local justices of the peace as well. Crimes against women can additionally be reported to municipal development offices for women (Instituto Salvadoreño para el Desarrollo de la Mujer, ISDEMU), and crimes against children can be reported to either child protection agency (Instituto Salvadoreño para el Desarrollo Integral de la Niñez y la Adolescencia, ISNA, or Consejo Nacional de la Niñez y de la Adolescencia, CONNA). In all such cases, those agencies—such as the police and forensic body—must refer the case to the District Attorney’s office.

<sup>6</sup> Human Rights Watch interview with FGR prosecutor, El Salvador’s Paracentral Region, November 5, 2018 (who described carrying between 300 and 400 cases at any point) and Human Rights Watch interview with FGR prosecutor, El Salvador’s Eastern Region, November 6, 2018 (who described carrying between 150 and 180 cases at any point). Multiple others told Human Rights Watch they struggled to recall details of specific homicides, even those occurring within the year, because they dealt with so many.

### **The Salvadoran Institute of Legal Medicine (Instituto de Medicina Legal, IML)**

The Salvadoran Institute of Legal Medicine (IML) is the national forensic body tasked with conducting anthropological, biological, chemical, forensic, and pathological exams and autopsies at crime scenes and for criminal investigations.<sup>7</sup> Every department has at least one IML office, and seven departments have a regional clinic, totaling 17 IML installations countrywide.<sup>8</sup> Of the three governmental agencies that attend homicide scenes and crime victims, IML has the smallest staff and budget, despite some of the highest levels of education and training.<sup>9</sup>

### **Local Office for Attention to Victims (Oficina Local de Atención a Víctimas, OLAV)**

During the Sánchez Cerén administration, Plan El Salvador Seguro (adopted by the Salvadoran government to try to improve security conditions in the country)<sup>10</sup> created 20 Local Offices for Attention to Victims (OLAV) in 10 departments to provide legal, psychological, and social attention to victims of crime, including those displaced by violence.<sup>11</sup> One OLAV is located at the migrant return center. There, migration authorities are expected to screen returned migrants for protection needs in their intake interviews.<sup>12</sup> Any adult who presents a protection need should then be referred to the OLAV.

### **Salvadoran Institute for the Holistic Development of Children and Adolescents (Instituto Salvadoreño para el Desarrollo Integral de la Niñez y la Adolescencia, ISNA)**

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<sup>7</sup> By law, the District Attorney (FGR), a judge or the federal defender's office (Procuraduría General de la República, PGR) orders an IML exam. In practice, however, victims themselves or other agencies will go to the IML for the needed exam before going to the FGR, judge, or PGR and may elect not to go to one of those three at all. Hospitals will also call the IML without necessarily informing the FGR or police. For this reason, FGR and IML statistics on non-homicide crimes, like rape, are often widely discrepant.

<sup>8</sup> Although three offices in Cabañas department and Meanguera del Golfo have just one doctor, the other offices in Ahuachapán, Chalatenango, Cuscatlán, La Paz, La Unión, Morazán, Metapán of Santa Ana, typically have two doctors who take turns working 12- to 24-hour shifts. The seven regional clinics in La Libertad, San Miguel, San Salvador, San Vicente, Santa Ana, Sonsonate, and Usulután departments have substantially more staff and can receive bodies or victims on weekends, when smaller offices are closed.

<sup>9</sup> Human Rights Watch interview with IML leadership, El Salvador's Central Region, May 2, 2017.

<sup>10</sup> Government of El Salvador, Ministry of Security, "Plan El Salvador Seguro," <http://www.seguridad.gob.sv/dia/monitoreo-y-evaluacion/plan-el-salvador-seguro-pess/> (accessed January 17, 2020).

<sup>11</sup> Chalatenango, La Libertad, La Unión, and Morazán departments did not have an OLAV when we conducted this research.

<sup>12</sup> Child protection officials, rather than migration officials, interview boys and girls aged 17 or younger and at the time of writing also have the duty to screen for protection needs.

ISNA is the Salvadoran governmental institution that develops and executes programming for children and adolescents.<sup>13</sup> Their programming includes childcare and foster care, physical and psychological health and wellbeing services, job and vocational training, and education.<sup>14</sup>

### **The Center for Attention to Children, Adolescents and Family (Centro de Atención a la Niñez, Adolescencia y Familia, CANAF)**

Created in response to increased attention to child migration in El Salvador, the Center for Attention to Children, Adolescents and Family (CANAF) is a program overseen by ISNA primarily providing health and social services to returned child and youth migrants and their families.<sup>15</sup> According to the Salvadoran newspaper *La Prensa Gráfica*, between January to July 2019, 4,150 children were returned to El Salvador from Guatemala, Mexico, and the United States, and CANAF had contact with at least 2,000 of these children through its staff at the migrant return center and four offices in San Vicente, Usulután, San Miguel and Santa Ana departments.<sup>16</sup> Staff at departmental offices reported caseloads no greater than 300 since opening their doors, in part because so many children migrated again.<sup>17</sup>

### **El Salvador's General Directorate for Migration and Foreigners (Dirección General de Migración y Extranjería, DGME)**

The General Directorate for Migration and Foreigners (DGME) is the Salvadoran government agency responsible for overseeing migration matters. This includes services ranging from

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<sup>13</sup> Government of El Salvador, Institute for the Integral Development of Children and Adolescents, <http://www.isna.gob.sv/ISNANEW/> (accessed January 17, 2020).

<sup>14</sup> Government of El Salvador, Institute for the Integral Development of Children and Adolescents, "Services" ("Servicios"), <http://www.isna.gob.sv/ISNANEW/?cat=8> (accessed January 17, 2020).

<sup>15</sup> Mental Health Training and Research Association, "ISNA Opens Inaugural Site of CANAF in San Vicente" ("ISNA inaugura sede del CANAF en San Vicente"), October 7, 2018, <https://www.acisam.info/novedades/2018/isna-inaugura-sede-del-canaf-en-san-vice> (accessed January 17, 2020) and Government of El Salvador, Center for Attention to Children, Adolescents and Family, February 19, 2016, <http://www.isna.gob.sv/ISNANEW/?p=1519> (accessed January 17, 2020).

<sup>16</sup> Susana Peñate, "4,150 Children and Adolescents Returned in Seven Months to El Salvador" ("4,150 niños y adolescentes retornados en siete meses a El Salvador"), *La Prensa Gráfica*, August 16, 2019, <https://www.laprensagrafica.com/elsalvador/4150-ninos-y-adolescentes-retornados-en-siete-meses-a-El-Salvador--20190815-0481.html> (accessed January 17, 2020).

<sup>17</sup> Human Rights Watch interview with CANAF social worker, El Salvador's (region withheld for security), November 2018 (date withheld for security); Human Rights Watch group interview with entire CANAF team, El Salvador's (region withheld for security), November 2018 (date withheld for security); and Human Rights Watch interview with CANAF attorney, El Salvador's (region withheld for security), November 2018 (date withheld for security).

the issuance of passports and visas to immigration enforcement.<sup>18</sup>

**Directorate for Attention to the Migrant (Dirección de Atención al Migrante, DAMI)<sup>19</sup>**

Also called the “Center for Holistic Attention to the Migrant (CAIM),”<sup>20</sup> “Migrant Return Center,” and “Return Center,” the Directorate for Attention to the Migrant (DAMI) is the DGME-run center in the Quiñonez neighborhood (also called “La Chacra”) of San Salvador where people deported from US federal immigration detention are processed back into El Salvador.<sup>21</sup> As of 2018, up to three flights from the US arrive to El Salvador’s International Airport each week, with as many as 135 people on each flight who are taken by bus to DAMI for two interviews. In the first interview, DGME officials ask deportees basic questions about their destination, family, and plans. At the second, PNC agents ask about where the person plans to live, run the deported person’s name in the Salvadoran criminal database, and photograph tattoos and scars. Agents conduct additional questions based upon information received in advance about certain people marked as gang members by US law enforcement agencies or with criminal records in the US.<sup>22</sup> The responses are stored in Salvadoran police databases and shared the same day with local PNC’s where deportees say they will reside.

**Yo Cambio (“I Change”)**

Officially, Yo Cambio is a government-sponsored program and prison management model administered by El Salvador’s General Directorate of Prison Centers (Dirección General de Centros Penales) that works with former gang members and incarcerated persons on their rehabilitation and reintegration into society. According to El Salvador’s government, Yo Cambio began in 2011 as a treatment project in a sector of the Apanteos Prison in Santa

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<sup>18</sup> Government of El Salvador, General Directorate for Migration and Foreigners, <http://www.migracion.gob.sv/#> (accessed January 17, 2020).

<sup>19</sup> Unless otherwise referenced, information in this entry is based on Human Rights Watch interview with DAMI staff, El Salvador’s Central Region, November 28, 2018.

<sup>20</sup> The Center for Holistic Attention to the Migrant (CAIM) is actually El Salvador’s residential facility for non-Salvadoran migrants. It is housed in a separate building on the same property as DAMI, and returned Salvadorans can stay the night at CAIM, when needed.

<sup>21</sup> Salvadorans deported from Mexico are also processed at CAIM.

<sup>22</sup> See, for example, Shannon Dooling, “What’s Waiting for Deported Salvadorans Inside ‘La Chacra,’” *WBUR News Boston*, August 30, 2018, <https://www.wbur.org/news/2018/08/30/deported-el-salvador-la-chacra> (accessed January 17, 2020).

Ana Department.<sup>23</sup> In 2014, Yo Cambio was launched from a program to a prison management model used across El Salvador, but as of 2016, it had hardly any budget.<sup>24</sup> As of February 2018, Yo Cambio has been replicated in 14 prisons. Demand is high, but lack of budget continues to be an issue.<sup>25</sup> Two deportees interviewed for this report who had never been charged with a crime in El Salvador carried with them a Yo Cambio certificate to verify for police who harassed them that they had no criminal record.<sup>26</sup>

### **Particularly / Chronically Violent Neighborhood**

Human Rights Watch will call “particularly” or “chronically” violent those neighborhoods that are typically densely populated and low-resourced and which consistently (year-in and year-out) register higher numbers of homicide, sexual crime, and other crime than nearly all others in a municipality.<sup>27</sup> Gang presence is strong in these neighborhoods. As a result, authorities and society view them and their residents as particularly dangerous, creating stigma impossible to escape, even if a resident from one of these neighborhoods moves to a new neighborhood. State actors, so-called death squads or extermination groups and private actors have also committed abuses in these neighborhoods.

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<sup>23</sup> Government of El Salvador, Ministry of Justice and Public Security, “Prison Management Model I Change” (“Modelo de Gestión Penitenciaria Yo Cambio”), <https://www.transparencia.gob.sv/institutions/dgcp/documents/303032/download> (accessed January 17, 2020).

<sup>24</sup> “I Change, The Promise Without a Budget” (“Yo cambio, la promesa sin presupuesto”), *La Prensa Gráfica*, October 30, 2016, <https://www.laprensagrafica.com/revistas/Yo-Cambio-la-promesa-sin-presupuesto-20161030-0098.html> (accessed November 23, 2019).

<sup>25</sup> Roberto Valencia, “‘I Change’ Makes its Way into Prisons for Gang Members” (“‘Yo cambio’ se abre paso en las cárceles de pandilleros”), *El Faro*, March 22, 2019, [https://elfaro.net/es/201901/ef\\_foto/22907/‘Yo-cambio’-se-abre-paso-en-las-cárceles-de-pandilleros.htm](https://elfaro.net/es/201901/ef_foto/22907/‘Yo-cambio’-se-abre-paso-en-las-cárceles-de-pandilleros.htm) (accessed November 23, 2019).

<sup>26</sup> Human Rights Watch interview with Carlos P., El Salvador’s Central Region, March 27, 2019 (pseudonym); Human Rights Watch interview with Santiago U., El Salvador’s Eastern Region, January 28, 2019 (pseudonym).

<sup>27</sup> When Human Rights Watch controlled for their population, particularly violent neighborhood crime rates were consistently above national averages but were not always the highest and even sometimes fell below average in a given year.

## Methodology

This report is based on research conducted by Human Rights Watch in El Salvador, Mexico, and the United States between November 2018 and December 2019. Human Rights Watch conducted multiple-session interviews with more than 50 directly impacted individuals, including 11 female and 22 male deportees; the surviving relatives or friends of two women (one who was transgender) and 16 men killed after their deportations; and the surviving relatives of two women killed following their husbands' return to El Salvador after long-term residence in the US. In a few cases, our researchers had previously spoken with the same interviewees in 2014.

In El Salvador, we interviewed 41 officials in nine departments at local district attorney's offices (FGR), forensic units (IML), and police agencies (PNC) who work at homicide scenes and participate in both crime investigations and hearings, and 31 additional authorities at the migration agency (DGME), local child migrant protection offices (CANAF), the armed forces of El Salvador, criminal sentencing courts, and victim's assistance offices (OLAV) in all 14 departments, as well as researchers, journalists, and non-profit service providers. In the United States, we interviewed approximately 30 immigration attorneys, three defense attorneys, and several social workers, trauma-informed healthcare workers, and researchers in nine states and the District of Columbia. These interviewees identified deportees who suffered harm. They also discussed other cases known to them, professionally or personally, of individuals and families harmed following deportation.<sup>28</sup>

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<sup>28</sup> We used a variety of methods and networks to locate people harmed after deportation to El Salvador. We used attorneys and social services agencies to reach interview subjects. We also reached out to researchers, Salvadorans met through previous research projects, reporters, hundreds of immigration attorneys, social service providers and organizers and asked them to further reach out to their colleagues and networks about persons who had either been recently deported or harmed after deportation. However, many Salvadorans who get deported did not have contact with attorneys or social services in El Salvador before or after they migrated or in the US while living there. Among those Salvadorans who did contact attorneys or social services in El Salvador or the US, most did not remain in contact with their client over time, either because their organization prohibited them from doing so, limited the time a client could receive services, or other barriers arose. For example, two Salvadoran governmental agencies working with deported children explained that they wished to remain in contact at least over the year following deportation their agencies permit, but doing so is difficult, because most children migrate again. Other Salvadoran agency workers face threats themselves and thus limit where they go and with whom they meet. US-based attorneys, volunteers, and researchers who attempted to remain in contact after deportation found at times that phone numbers provided changed or no longer worked and that Facebook accounts got deactivated. Salvadoran providers also encountered phone number and location changes among former clients. If service providers did remain in

In the United States, we went to the individuals and families those in El Salvador and the US referred to us, visiting the three most common counties of residence of Salvadorans in the US and others in nine states and the District of Columbia.<sup>29</sup> We also contacted reporters, immigration attorneys, social service providers, and organizers and asked them to further reach out to their colleagues and networks about persons who had either been recently deported or harmed after deportation.

Included in this report are cases of people who experienced post-deportation harm between 2013 and 2019.<sup>30</sup> In the majority of these cases, the harm occurred within a year of deportation, often in the same month of deportation. In order to assess harms that escalate over time or which for other reasons do not occur immediately (for instance, because a deportee successfully hides from potential abusers for a period), our analysis also includes cases in which the post-deportation harm started within five years of deportation.<sup>31</sup> For deportees killed, we have detailed the time elapsed between deportations and deaths in section II. Likewise, we focused this report on harms suffered after deportation from the US, as opposed to Mexico or other countries.<sup>32</sup>

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contact over time, they did not always ask or care about migration status, and knew that some clients feared the stigma of disclosing migration status, so that social services providers may have had clients relevant to our investigation without knowing it. Among the small universe of known cases, social service providers in both countries must respect their clients' confidentiality, making sharing cases or contact information for deported persons complex and often impossible.

<sup>29</sup> The three most common counties of residence for Salvadorans in the US are: Los Angeles County, California; Prince George's County, Maryland; and Harris County, Texas. See Allison O'Connor, Jeanne Batalova, and Jessica Bolter, "Central American Immigrants in the United States," Migration Policy Institute, August 15, 2019, <https://www.migrationpolicy.org/article/central-american-immigrants-united-states> (accessed August 24, 2019). We conducted interviews in each of these places and others.

<sup>30</sup> We chose this time frame primarily because (1) we wanted this report to reflect current conditions in El Salvador; (2) fact-checking was more feasible, since we had access to databases back to 2013 but not earlier; (3) real time constraints on how many years' data we could analyze; and (4) this time frame includes two presidential administrations from different political parties in El Salvador and the US. However, choosing this time frame meant excluding several earlier cases, including most of the cases yielded from Salvadoran Criminal Sentencing Tribunal decisions, since investigations—when they occur—take such a long time to conclude.

<sup>31</sup> For the majority (81 of 106 or 76 percent) of deportees killed documented through press coverage, the harm occurred within 1 year of deportation. However, we spoke with multiple families targeted for harm in violent neighborhoods over longer periods than this. Likewise, we did uncover cases of persons killed between 2013 and 2019 more than five years after their deportation. The killing was preceded by lesser but nonetheless serious harms, including abuse by law enforcement or state officials, in some of their cases.

<sup>32</sup> When interviewees (officials and directly impacted individuals) described someone as deported from the US, we asked follow-up questions to try to eliminate the possibility that the individual had been deported from another country. Interviewees sometimes did not know all the details of the harmed individual's case in El Salvador or the US, particularly around the type of immigration relief sought. We did all we could to consult other available sources to fill in those details; however, sometimes, we could not find other sources.

We spoke with fewer women than men who had been deported, primarily because they constitute a smaller proportion of deportees. According to statistics obtained through a public information request with El Salvador's General Directorate for Migration and Foreigners (DGME), women constituted between 7.7 and 17.1 percent of all individuals deported from the United States annually from 2012 to 2017.<sup>33</sup> We chose to conduct our interviews with children with their parents present and therefore could have missed important components of their experiences related to their parents or household, such as domestic violence or neglect.

Human Rights Watch carried out interviews in Spanish or in English, without interpreters, depending on the preference of the interviewee(s). We conducted a handful of interviews in the US and two interviews in El Salvador by voice or video call. We conducted all other interviews in person. Human Rights Watch informed all interviewees of the purpose of the interview, its voluntary nature, and the ways in which the information would be collected and used. Interviewers assured participants that they could end the interview at any time or decline to answer any questions, without negative consequences. All interviewees provided verbal informed consent to participate. When appropriate, Human Rights Watch provided contact information for organizations offering counseling, health, legal, or other social services.

Initial interview sessions with deportees, their family, or friends lasted between one and four hours and were intentionally unstructured so that the interviewee could elect what they shared.<sup>34</sup> Subsequent sessions were shorter and more structured. In El Salvador and Mexico, sessions most often took place in a private part of the preferred restaurant closest to an interviewee's home, although a few sessions took place at the person's home, workplace, or by phone or social media (principally Facebook Messenger and WhatsApp). In the US, interviews most often took place in the person's home but also occurred in a detention center, at an office, and by phone.

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<sup>33</sup> Data from 2012-2017 obtained by Human Rights Watch via public information request submitted to DGME and received on October 24, 2018 (on file with Human Rights Watch).

<sup>34</sup> The only mandatory information collected in these first interviews were basic biographical data and neighborhoods of residence.

Human Rights Watch did not provide interviewees with compensation for participating but did in some cases provide a meal and transportation costs. Interviews with other types of sources lasted between half-an-hour and two hours, with almost all occurring in work offices or over the phone, although a few with persons previously known to Human Rights Watch took place over a meal or while in transit together.

Human Rights Watch took extreme care to minimize the risk that recounting experiences could further traumatize those interviewed. Besides letting interviewees determine the first session's structure and building rapport over multiple sessions, we also fact-checked aspects of each individual's account before meeting with them again.

The names of all persons interviewed, including officials, have been replaced with pseudonyms to mitigate security concerns or retaliation. In particularly sensitive cases, like those involving state perpetrators of harm or interviewees in the process of fleeing or seeking asylum, we have also deliberately withheld details about the date or location of abuses and our interviews. Although we analyzed the neighborhoods in which particular deportees were harmed, deportees' pseudonyms are intentionally disassociated from them to further ensure anonymity.

In addition to interviews, we used four techniques to identify possible cases of harm experienced by deported people, to fact-check individual accounts obtained through interviews, and to deepen our contextual knowledge of the neighborhoods and circumstances surrounding deportees' daily lives in El Salvador:

- First, we compiled data from the three Salvadoran agencies that maintain registries on disappearances, sexual crimes and violent deaths.<sup>35</sup> Through public information requests to the Salvadoran Attorney General's Access to Public Information Office,<sup>36</sup> we acquired municipal-level data on adult and child

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<sup>35</sup> El Salvador's national civilian police (PNC), medical legal [forensic] institute (IML), and attorney general's office (FGR) attend crime scenes and form a tripartite table that is supposed to meet monthly to consolidate any discrepancies between their homicide registries. Their homicide statistics are housed within FGR. For all crimes, the FGR classifies the crime according to the criminal code.

<sup>36</sup> Data obtained via public information request to the Salvadoran Attorney General's Access to Public Information Office for crime incidence data throughout El Salvador, data on homicides between 2013-2017 were received November 9, 2018 and

homicides<sup>37</sup> and sexual crimes<sup>38</sup> and arrests, hearings and convictions for these crimes. The supplied data was aggregated annually for the years 2013 to 2018. We also monitored the national Salvadoran attorney general’s Twitter page and compiled a database of public reports of child disappearances.<sup>39</sup>

- Second, we systematically searched the Salvadoran printed press (in Spanish) for the neighborhood names (including various spelling variations, when necessary) where those interviewed lived or fled, yielding over 22,000 articles that formed the basis of analysis.<sup>40</sup> The relevant results were skimmed, and we then read and analyzed relevant articles describing violence or other aspects of neighborhood life relevant to deportees’ (and other residents’) experiences.<sup>41</sup>

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data on sexual crimes between 2013-2017 were received November 1, 2018. Homicide data for 2018 were received February 18, 2019, sexual crime data for 2018 were received February 25, 2019 (data on file with Human Rights Watch). El Salvador’s Access to Public Information Law [Ley de Acceso a la Información Pública] became effective in 2011 and subsequently resulted in the creation of Access to Public Information Offices in governmental and non-governmental offices.

<sup>37</sup> “Homicides” refer to the following classifications in El Salvador’s Penal Code [Código Penal], approved in 1997 and last updated in 2008, and Special Holistic Law for a Life Free of Violence for Women [Ley Especial Integral para una Vida Libre de Violencia para Las Mujeres (LEIV)], approved in 2011: Homicidio simple (128 CP), Homicidio agravado (129 CP), Homicidio culposo (132 CP), Femicidio (45 LEIVM), and Femicidio agravado (46 LEIVM).

<sup>38</sup> “Sexual crimes” refer to the following classifications in El Salvador’s Penal Code [Código Penal]: Violación (158 CP), Violación en Menor o incapaz (159 CP), Violación y agresión sexual agravada (162 CP), Estupro (163 CP), and Estupro por Prevalimiento (164 CP).

<sup>39</sup> The FGR has since August 2013 operated a child disappearance reporting mechanism on Twitter called Ángel Desaparecido. It shows 220 girls and 204 boys reported as disappeared nationwide through May 2019. Researchers and reporters indicated to Human Rights Watch that gangs have used the mechanism to track down those who have offended them, and thus, an unknown number of families choose not to use it. It is likely for this reason—alongside impunity, a history of State persecution, and organized crime’s operation within the State—that in the departments of Morazán and Usulután, only one report was ever made to the site, despite at least some additional disappearances reported by the Salvadoran press. In San Vicente, only two reports were ever made, and in the departments of La Paz and La Unión, no reports were ever made. See “Disappeared Angel” (“Ángel Desaparecido”) Twitter page, <https://twitter.com/alertaangelsv?lang=en> (accessed January 17, 2020).

<sup>40</sup> Human Rights Watch searched 24 neighborhood names and four less-populous municipalities’ names, yielding 27,326 total results (each neighborhood yielded between 32 and 5,749 results, and each municipality yielded between 670 and 3,494 results). Because of time constraints, we reviewed just over 22,000 of them and note specific numbers for each neighborhood in text.

<sup>41</sup> The bulk of the 22,000 articles were summaries of the events (“sucesos”) of the day, which included homicides and arrests. In-depth pieces were written for some neighborhoods and these took significant time to read and summarize. For some neighborhoods—like Chaguantique—almost every result was relevant and ended up analyzed. For other neighborhoods—like Platanar—most results were relevant, but since it is the name of at least two other neighborhoods in different municipalities, we had to carefully focus on the relevant neighborhood where deportees were likely to live. Then, other neighborhoods—like Apaneca, San Francisco, Buena Vista—returned many irrelevant results, because they are such common names. But the only way for us to know that was to read them.

These data have extreme limitations.<sup>42</sup> However, they did allow us to identify themes in neighborhood dynamics, including incidents of violence, stories evidencing economic hardship in these neighborhoods, crimes committed, victims, victimizers, and state actions. Having these additional data facilitated chronological questioning during subsequent interview sessions.

- Third, we searched the words “*deportada/o*” in digitized decisions of El Salvador's 24 criminal sentencing tribunals. Among the 260 resulting criminal sentencing tribunal decisions,<sup>43</sup> we found 18 decisions that documented harm to persons deported from the United States in eight Salvadoran departments, but only seven documented harm experienced in 2013 or more recently. We obtained one more 2018 decision by requesting it from the tribunal in person.
- Fourth, we searched the words “*deportada/o*” in 14 Salvadoran news outlets (all in Spanish). Among the 3,767 articles that returned,<sup>44</sup> we found 288 appearing in 13 Salvadoran outlets and five international or US outlets reporting on abuse of deportees. Among these, we identified 219 articles describing the killings of 106 persons deported from the United States. The deaths occurred between January 2013 and September 2019 in all 14 Salvadoran departments.<sup>45</sup>

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<sup>42</sup> This methodology produced a data set of media-reported incidents, which is different from a complete accounting of incidents. Moreover, these neighborhoods are probably the least likely to have complete reporting, as authorities and journalists alike told us gang members had prohibited their entry to homicide scenes in them, and journalists told us of police cordoning four or five blocks (so the press could not enter) scenes where they suspected authority participation.

<sup>43</sup> Thirty-seven decisions returned for “*deportada*,” most of them involving human trafficking but also other crimes like drug possession, extortion, fraud and homicide. For “*deportado*,” 223 decisions returned, only 44 of which were for human trafficking. The other crimes included arms distribution or possession, bodily harm, bribery, drug distribution or possession, extortion, femicide, fraud, homicide, illicit association, kidnapping, rape, robbery, threats and usurpation.

<sup>44</sup> 1,508 links returned for “*deportada*,” and 2,259 links returned for “*deportado*.” Around 25 percent of links for both terms could not be opened. Articles ranged in subject matter from programming available to persons deported from Mexico and the United States, persons deported from other countries, like Nicaragua, persons seeking asylum or other legal relief in Canada and the United States, persons suspected to have committed a crime following a previous deportation, and persons disappeared or killed after deportation. Among the latter, one article documented the killing of a man most recently deported from Nicaragua (who was earlier deported from the United States), and two articles documented the murders of two men deported from Mexico.

<sup>45</sup> Multiple outlets covered some incidents with consistent but more or fewer details. Because we only identified articles for three women—one transgender, one disappeared after her deportation, and one killed after her stepson was deported—we also searched monthly summaries of news reports on girls or women by the Salvadoran Women’s Organization for Peace (Organización de Mujeres Salvadoreñas por la Paz, ORMUSA), but found no additional mention of harm suffered after deportation from the US. For cases involving state actors as persecutors, Human Rights Watch also reviewed accompanying public pronouncements made by US Immigration and Customs Enforcement (ICE), International Criminal Police Organization (INTERPOL), and FGR and PNC on seven women and 65 men at their websites, on social media, and in news reports.

When describing our findings from these various sources we used the term “identified” for cases found only through press searches; and the terms “investigated” or “documented” for cases we found through interviews with directly impacted individuals cross-checked with other sources such as criminal tribunal decisions, press accounts, or interviews with officials.

Finally, Human Rights Watch compiled data from El Salvador’s General Directorate for Migration and Foreigners (DGME) on deportations. Through public information requests to DGME’s Access to Public Information Office, we acquired data on deportations from 2012 to 2017 for all countries, and for only Mexico and the United States for 2018, according to municipality of birth and residence for children and adults.<sup>46</sup> However, these data contain no information about the experiences of deportees after their return to El Salvador. No governmental or nongovernmental organizations, domestic or international, monitor what happens to deported Salvadorans, including their criminal victimization or other alleged harm suffered. This makes it impossible to obtain a complete or representative sample of cases of deportees harmed after return to El Salvador.<sup>47</sup>

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<sup>46</sup> Data from 2012-2017 obtained by Human Rights Watch via public information request submitted to DGME and received on October 24, 2018 (on file with Human Rights Watch); and 2018 data obtained by Human Rights Watch via public information request submitted to DGME and received on February 18, 2019 (on file with Human Rights Watch).

<sup>47</sup> Anecdotally, such follow-up would facilitate better sampling for the type of investigation we have completed in this report. For example, while children constituted less than 1 percent—between 0.05 and 0.8 percent—of all individuals deported annually from the United States from 2012 to 2017, because they are the only subset of deportees who now require Salvadoran government follow-up, we recruited the largest percentage of child deportees of any subset.

## I. Background

### Human Rights Situation in El Salvador

El Salvador, with just over six million citizens, has among the world’s highest homicide rates,<sup>48</sup> alongside thousands of missing-persons cases and sexual crimes since 2013, according to data from the Salvadoran Attorney General’s Access to Public Information Office.<sup>49</sup> State authorities have historically been largely ineffective in protecting the population from this violence, which is often perpetrated by gangs.

At the same time, Salvadoran security forces have themselves committed extrajudicial executions, sexual assaults, enforced disappearances, and torture. Impunity is widespread. For example, investigations reached hearings in only 14 of 48 cases involving 116 extrajudicial killings committed from 2014 to 2018 that the Salvadoran Ombudsperson for the Defense of Human Rights (PDDH) examined. Two resulted in convictions.<sup>50</sup> Successive Salvadoran governments have deployed military units alongside police in

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<sup>48</sup> United Nations Office on Drugs and Crime, “Global Study on Homicide,” July 2019, <https://www.unodc.org/unodc/en/data-and-analysis/global-study-on-homicide.html> (accessed October 23, 2019).

<sup>49</sup> Data obtained via public information request to the Salvadoran Attorney General’s Access to Public Information Office for crime incidence data throughout El Salvador, data on homicides between 2013-2017 were received November 9, 2018 and data on sexual crimes between 2013-2017 were received November 1, 2018. Homicide data for 2018 were received February 18, 2019, sexual crime data for 2018 were received February 25, 2019 (data on file with Human Rights Watch).

<sup>50</sup> See Nelson Rauda Zablah and Gabriela Cáceres, “PDDH: Police Executed 116 People Between 2014 and 2018” (“PDDH: La Policía ejecutó a 116 personas entre 2014 y 2018”), *El Faro*, August 28, 2019, [https://elfaro.net/es/201908/el\\_salvador/23592/PDDH-La-Polic%C3%ADa-ejecut%C3%B3-a-116-personas-entre-2014-y-2018.htm?fbclid=IwAR3MMMKRWyebfe1kq8\\_qR\\_23R-MKzynnJmvtvb4jvpc4CqwUbn8MTp4xl](https://elfaro.net/es/201908/el_salvador/23592/PDDH-La-Polic%C3%ADa-ejecut%C3%B3-a-116-personas-entre-2014-y-2018.htm?fbclid=IwAR3MMMKRWyebfe1kq8_qR_23R-MKzynnJmvtvb4jvpc4CqwUbn8MTp4xl) (accessed January 17, 2020) (linking to report of Salvadoran Ombudsperson for the Defense of Human Rights [Procuraduría para la Defensa de los Derechos Humanos], PDDH), “Special Report of the Ombudswoman for the Defense of Human Rights, Attorney Raquel Caballero de Guevara, about extralegal executions attributed to the National Civilian Police in El Salvador, period 2014-2018: Characterization of cases of violation of the right to life and patterns of extralegal action” (“Informe especial de la señora Procuradora para la Defensa de los Derechos Humanos, licenciada Raquel Caballero de Guevara, sobre las ejecuciones extralegales atribuidas a la Policía Nacional Civil, en El Salvador, periodo 2014-2018: Caracterización de casos de violación al derecho a la vida y patrones de actuación extralegal”) (hereinafter “PDDH Report”), August 2019, <https://www.pddh.gob.sv/portal/file/index.php?dwfile=MjAxOS8xMC9JbmZvcmlLLWVzcGVjaWFsLXNvYnJLLWVqZWZWN1Y2l2bWVzLWV4dHJhbGVnYWxlcyoXLTUucGRm> (accessed November 11, 2018).

public security operations,<sup>51</sup> despite a 1992 peace accord stipulation against it.<sup>52</sup> Media outlets widely report that the current national police director is under investigation for threats and links to drug trafficking and extermination groups.<sup>53</sup>

In 2019 alone, the Central American University Human Rights Institute received seven reports of elite Salvadoran police units burning victims.<sup>54</sup> For example, in March 2019, Tactical Operation Section agents beat, strangled, blindfolded, and handcuffed a 20-year-old man in a sugarcane field in Apopa municipality whom they suspected of gang

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<sup>51</sup> See Inter-American Commission on Human Rights, “IACHR Presents Preliminary Observations of its On-site Visit to El Salvador” (“CIDH presenta observaciones preliminares de su visita in loco a El Salvador”), December 27, 2019, <http://oas.org/es/cidh/prensa/comunicados/2019/335.asp> (accessed January 12, 2020) (stating that “several civil society organizations expressed concern about the continuity of a security policy by the current Government with repressive emphasis, through the intervention of police and military forces. . . . According to the information received, there appear to be almost 13,000 military members in public security tasks. This is despite the precedent of the Constitutional Chamber of the Supreme Court that established that military members should not participate in public security. In this regard, the IACHR was informed that the new Government has initiated a process of broad recruitment of the Armed Forces to carry out citizen security tasks.”); and The National Civilian Police (“Policía Nacional Civil”) “One Month After the Territorial Control Plan Was Implemented, the Police reported 2,031 arrests” (“A un mes de implementado el Plan Control Territorial, la Policía reporta 2,031 arrestos”), July 20, 2019, <http://www.pnc.gob.sv/portal/page/portal/informativo/novedades/noticias/A%20un%20mes%20de%20implementado%20el%20Plan%20Control%20Territorial%20la%20Poli#.XhuFm8hKg2w> (accessed January 12, 2020) (while discussing the operations of a unit called the “Fuerza Operativa Conjunta Antidelincuencial / Anticriminal” (FOCA) or the “joint anti-crime operational force” this press release states that in the initial phase of President Bukele’s security plan, the “combined security force between the police and armed forces in 17 municipalities” has dismantled illegal businesses and criminal structures relied upon by gangs and has blocked telephone communications around prisons).

<sup>52</sup> See United Nations, “Chapultepec Agreement” (“Acuerdo de Chapultepec”), January 16, 1992, <https://peacemaker.un.org/elsalvador-chapultepec92> (accessed December 8, 2019) (noting that “immediate reaction infantry battalions will not be necessary in the new peace reality”); nevertheless, the PDDH report lists such units implicated in extrajudicial killings. President Bukele and previous administrations in El Salvador have declared a “State of Emergency” in El Salvador, which they argue justifies the use of military units in law enforcement, despite the fact that this is contrary to the peace agreements.

<sup>53</sup> See, for example, Hector Silva, “The Infiltrators: Chronicle of the Corruption in the Police of El Salvador” (“Los infiltrados: Crónica de la corrupción en la policía de El Salvador”), *Insight Crime*, February 20, 2014, <https://es.insightcrime.org/investigaciones/los-infiltrados-cronica-de-la-corrupcion-en-la-policia-de-el-salvador/> (accessed January 17, 2020); Walter Sibrián, “IDHUCA Disapproves Appointment of New PNC Director for Having Led Police Groups Involved in Extrajudicial Executions” (“IDHUCA desaprueba nombramiento de nuevo director de PNC por haber dirigido grupos policiales implicados en ejecuciones extrajudiciales”), *La Prensa Gráfica*, June 6, 2019, <https://www.laprensagrafica.com/elsalvador/IDHUCA-desaprueba-nombramiento-de-nuevo-director-de-PNC-por-haber-dirigido-grupos-policiales-implicados-en-ejecuciones-extrajudiciales--20190606-0413.html> (accessed January 17, 2020); Diana Escalante, “IDHUCA Criticizes Appointment of Arriaza Chicas as Police Director” (“IDHUCA critica nombramiento de Arriaza Chicas como director de la Policía”), *El Salvador.com*, June 6, 2019, <https://www.elsalvador.com/noticias/nacional/idhuca-critica-nombramiento-de-arriaza-chicas-como-director-de-la-policia/610338/2019/> (accessed January 17, 2020); Leonor Arteaga, “Bukele’s Security Policy: the Regressive Side of the Millennial President?” (“La política de seguridad de Bukele: ¿el lado regresivo del presidente milenial?”), *El Faro*, July 4, 2019, <https://elfaro.net/es/201907/columnas/23469/La-pol%C3%ADtica-de-seguridad-de-Bukele-¿el-lado-regresivo-del-presidente-milenial.htm> (accessed January 17, 2020).

<sup>54</sup> Central American University Institute of Human Rights, “Press Releases,” <http://www.uca.edu.sv/idhuca/noticias/comunicados-de-prensa/#more-587> (accessed January 18, 2020).

membership or hiding weapons or drugs, and set fire to the field where they left him unconscious. He emerged from the fire with burns to his face and feet.<sup>55</sup> Victims or witnesses of eight arbitrary arrests in two incidents in 2019 and late 2018 told Human Rights Watch of beatings at police barracks.<sup>56</sup>

In August 2019, the Lethal Force Monitor reported that Salvadoran police and soldiers killed 1,626 people from 2011 through 2017, including 48 boys, four women, and 355 men in 2017.<sup>57</sup> Authorities recorded every year more than 92 percent of victims as gang members and nearly all incidents as “confrontations” or “shootouts.” However, also in August 2019, the PDDH reported that it had examined killings of 28 boys, seven women, and 81 men and found few resulted from confrontations.<sup>58</sup>

As of October 2019, the country’s jails, juvenile and youth facilities, and adult prisons held 45,439 people in custody, more than twice the official capacity, according to the online database World Prison Brief.<sup>59</sup> The IML registered 14 homicides in police barracks and prisons in 2018.<sup>60</sup> One official told Human Rights Watch that 10 other detainees had died from extreme heat. Two inmates said there was tuberculosis in Salvadoran prisons.<sup>61</sup> One

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<sup>55</sup> See Inter-American Commission on Human Rights (“Comisión Interamericana de Derechos Humanos”), Resolution 28/2019 “‘Key January’ and Family in Respect of El Salvador” (“‘Clave Enero’ y familia respecto de El Salvador”), June 11, 2019, <https://www.oas.org/es/cidh/decisiones/pdf/2019/28-19MC542-19-ES.pdf> (accessed November 20, 2019).

<sup>56</sup> Human Rights Watch interview with Gaspar T., El Salvador’s Central Region, March 28, 2019 (pseudonym); Human Rights Watch interview with Walter T., El Salvador’s Central Region, March 28, 2019 (pseudonym); and Human Rights Watch interview with Bartolo A., El Salvador’s (region withheld for security), November 26, 2018 (pseudonym).

<sup>57</sup> “Report on the Use and Abuse of Lethal Force in Latin America: A comparative study of Brazil, Colombia, El Salvador, Mexico and Venezuela,” (“Monitor del uso de la fuerza letal en América Latina: Un estudio comparativo de Brasil, Colombia, El Salvador, México y Venezuela”), August 2019, <http://monitorfuerzaletal.com> (accessed November 26, 2019) (The Lethal Force Use Monitor brings together researchers from 5 countries: Brazil, Colombia, El Salvador, Mexico and Venezuela. The participants jointly developed indicators to establish a series of unified tools to measure, analyze and compare the use of lethal force by the State across the 5 countries.).

<sup>58</sup> Rauda Zablah and Cáceres, “PDDH: Police Executed 116 People Between 2014 and 2018” (“PDDH: La Policía ejecutó a 116 personas entre 2014 y 2018”), *El Faro*, August 28, 2019, [https://elfaro.net/es/201908/el\\_salvador/23592/PDDH-La-Polic%C3%ADa-ejecut%C3%B3-a-116-personas-entre-2014-y-2018.htm](https://elfaro.net/es/201908/el_salvador/23592/PDDH-La-Polic%C3%ADa-ejecut%C3%B3-a-116-personas-entre-2014-y-2018.htm) (accessed January 21, 2020).

<sup>59</sup> Institute for Crime and Justice Policy Research, World Prison Brief, “El Salvador,” <https://www.prisonstudies.org/country/el-salvador> (accessed November 26, 2019).

<sup>60</sup> IML, “Violent Homicide Deaths Occurring in El Salvador in 2018” (“Practicados A Personas Fallecidas en Henchos de Violencia (Homicidios), Ocurridos en El Salvador en el año 2018”), <http://www.transparencia.oj.gob.sv>, (accessed November 25, 2019) (2018 data on file with Human Rights Watch).

<sup>61</sup> Human Rights Watch interview with FGR prosecutor, El Salvador’s Eastern Region, March 24, 2019; Human Rights Watch interview with Bartolo A., El Salvador’s (region withheld for security) (pseudonym), November 26, 2018; and Human Rights Watch interview with Yavany B., El Salvador’s Central Region, December 1, 2018 (pseudonym). See also, Sarah Esther Maslin,

of these same inmates along with another inmate told Human Rights Watch that officials provided them inadequate food, hygiene products, and medicine and, in what appeared to be instances of excessive use of force, beat them and used pepper spray during prison searches.<sup>62</sup>

### *Gangs*

Gangs in El Salvador effectively exercise territorial control over specific neighborhoods and extort residents throughout the country. They forcibly recruit children. They sexually assault people targeted on the basis of their gender and/or real or perceived sexual orientation or gender identity. Gangs kill, abduct, rape, or displace those who resist. Many of those who are abducted are later found dead or never heard from again. According to unverified estimates cited by the UN special rapporteur on extrajudicial, summary or arbitrary executions, approximately 60,000 gang members reportedly operate in some 247 out of 262 municipalities in the country.<sup>63</sup> Gangs enforce their territories' borders and extort and surveil residents and those transiting, particularly around public transport, schools, and markets. Allegations of security and elected officials collaborating with gangs in criminal operations have been reported by the press and all political parties have negotiated with gangs according to consistent allegations reported, but not substantiated by, the UN special rapporteur.<sup>64</sup>

### *Disappearances, Abductions, and Missing Persons*

The Inter-American Commission on Human Rights (IACHR) reported in December 2019 that the FGR registered 3,289 people who “disappeared” in 2018 and 3,030 in 2019.<sup>65</sup> According to the IACHR, victims said they are at times unable to file complaints regarding

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"How an Innocent Man Wound Up Dead in El Salvador's Justice System," *Washington Post*, March 16, 2017, [https://www.washingtonpost.com/world/the\\_americas/how-an-innocent-man-wound-up-dead-in-el-salvadors-justice-system/2017/03/16/7144e7fc-dd13-11e6-8902-610fe486791c\\_story.html?noredirect=on](https://www.washingtonpost.com/world/the_americas/how-an-innocent-man-wound-up-dead-in-el-salvadors-justice-system/2017/03/16/7144e7fc-dd13-11e6-8902-610fe486791c_story.html?noredirect=on) (accessed December 5, 2019).

<sup>62</sup> Human Rights Watch interview with Ransés I., Tijuana, Mexico, March 8, 2019 (pseudonym); Human Rights Watch interview with Bartolo A., El Salvador's (region withheld for security), November 26, 2018 (pseudonym).

<sup>63</sup> United Nations Office of the High Commission for Human Rights, El Salvador End of Mission Statement, Agnes Callamard, special rapporteur for extrajudicial, summary or arbitrary executions, February 5, 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22634&LangID=E> (accessed June 16, 2019).

<sup>64</sup> *Ibid.*

<sup>65</sup> Inter-American Commission on Human Rights, "IACHR Presents Preliminary Observations of its On-site Visit to El Salvador" ("CIDH presenta observaciones preliminares de su visita in loco a El Salvador"), December 27, 2019, <http://oas.org/es/cidh/prensa/comunicados/2019/335.asp> (accessed January 12, 2020).

family members who have gone missing, and that they usually face delays in the investigations, including failure to respond in the critical first hours after a disappearance.

Between 2010 and August 2019, the police have registered over 10,800 victims who have gone missing—more than the estimated 8,000 to 10,000 disappeared during the civil war (1979-1992), according to press accounts.<sup>66</sup> Because very few cases are investigated, knowledge of perpetrators is limited.<sup>67</sup> These figures likely include suspected abductions by criminal gangs or state authorities and other cases in which people have gone missing in unexplained circumstances.

### *Harassment and Violence Against Women and LGBT Individuals*

A 2017 national survey found that 67 percent of women in El Salvador faced violence at some point in their lives,<sup>68</sup> and the rates of “femicide,” including domestic violence killings are the highest in the region.<sup>69</sup> Despite some reform efforts, such as specialized women’s courts and dedicated units in the Attorney General’s Office, formidable obstacles remain for women seeking police protection, investigation, or justice through the courts.<sup>70</sup>

Lesbian, gay, bisexual, and transgender (LGBT) people who are deported from the United States to El Salvador are likely to face specific threats. Human Rights Watch research has

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<sup>66</sup> “Salvadoran Commission Close to Resolving First Case of Disappearance in War” (“Comisión salvadoreña cerca de resolver primer caso de desaparición en guerra”), *La Prensa Gráfica*, August 31, 2019, <https://www.laprensagrafica.com/elsalvador/Comision-salvadorena-cerca-de-resolver-primero-caso-de-desaparicion-en-guerra-20190831-0264.html> (accessed November 26, 2019).

<sup>67</sup> Mary Beth Sheridan and Anna-Catherine Brigida, “Disappeared in El Salvador: the Return of a Cold War Nightmare,” *Washington Post*, October 19, 2019, [https://www.washingtonpost.com/world/the\\_americas/disappeared-in-el-salvador-amid-a-cold-war-nightmares-return-a-tale-of-one-body-and-three-grieving-families/2019/10/19/d806d19a-e09d-11e9-be7f-4cc85017c36f\\_story.html](https://www.washingtonpost.com/world/the_americas/disappeared-in-el-salvador-amid-a-cold-war-nightmares-return-a-tale-of-one-body-and-three-grieving-families/2019/10/19/d806d19a-e09d-11e9-be7f-4cc85017c36f_story.html) (accessed January 18, 2020).

<sup>68</sup> Government of El Salvador, Ministry of the Economy, “National Survey of Violence Against Women” (“Encuesta Nacional de Violencia Contra las Mujeres”), May 2018, <http://aplicaciones.digestyc.gob.sv/observatorio.genero/docs/ENVCM%2017.pdf> (accessed January 4, 2020).

<sup>69</sup> Economic Commission for Latin America and the Caribbean, “At Least 2,795 Women Were Victims of Femicide in 23 Countries of Latin America and the Caribbean in 2017,” November 15, 2018, <https://www.cepal.org/en/pressreleases/eclac-least-2795-women-were-victims-femicide-23-countries-latin-america-and-caribbean> (accessed January 4, 2017).

<sup>70</sup> Louise Donovan and Christina Asquith, “El Salvador Kills Women as the U.S. Shrugs,” *Foreign Policy*, March 7, 2019, <https://foreignpolicy.com/2019/03/07/el-salvador-kills-women-as-the-us-shrugs/> (accessed January 4, 2020); Observatory of Gender-based Violence Against Women (“Observatorio de violencia de género contra las mujeres, ORMUSA”), “Impunity is One of the Main Premises in the Fight Against Violence Against Women, Only 5% of Cases Ends in Sentencing—ORMUSA Violence Report 2017-2018” (“La impunidad es una de las principales premisas en la lucha contra la violencia contra las mujeres, solo 5% de casos termina en sentencia—Informe Violencia ORMUSA 2017-2018”), June 2018, [http://observatoriodeviolencia.ormusa.org/boletinas/2018-0506\\_BOLETINA\\_VG.pdf](http://observatoriodeviolencia.ormusa.org/boletinas/2018-0506_BOLETINA_VG.pdf) (accessed January 4, 2020).

found that LGBT people in El Salvador are often rejected by their families, meaning that many would have no family support during the process of reintegration. Human Rights Watch repeatedly heard from LGBT Salvadorans, both in El Salvador and in the United States, that gangs had targeted them on the basis of their sexual orientation or gender identity, subjecting some LGBT people to sexual violence and extorting others due to their perceived vulnerability.<sup>71</sup> Several LGBT Salvadorans also reported being beaten or sexually assaulted by the police.<sup>72</sup> In January 2019, Camila Díaz Cordova, a transgender woman deported from the United States, was beaten to death. In July, the FGR charged three police officers with her kidnapping and aggravated homicide.<sup>73</sup> The case remained open at the time of writing. Within the span of one month in late 2019, three transgender women and one gay man were murdered in El Salvador in circumstances that led activists to suspect they were hate crimes.<sup>74</sup>

## US Laws Affecting Salvadoran Asylum Seekers, Refugees, and Other Migrants

Salvadoran nationals who are neither citizens of the United States nor undocumented hold one of several legal statuses, none of which protects them completely from deportation. These various statuses, and the degree to which the US laws affording them comport with international human rights and refugee law are discussed in greater detail in Section VI.

According to 2017 US Census data analyzed by the Migration Policy Institute,<sup>75</sup> about 1.2 million non-citizens whose country of birth was El Salvador live in the United States. They in turn fall in four main legal categories.

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<sup>71</sup> Human Rights Watch group interviews with LGBT Salvadorans in El Salvador, May 2019 and July 2019; in Washington, DC, December 2019; and in Los Angeles, December 2019.

<sup>72</sup> *Ibid.*

<sup>73</sup> Paula Rosales and Nelson Rentería, “Camila’s Last Night, Trans Chased by Gangs and Killed by the Police” (“La última noche de Camila, trans perseguida por pandillas y asesinada por la Policía”), *Presentes*, December 5, 2019, <http://agenciapresentes.org/2019/12/05/la-ultima-noche-de-camila-trans-perseguida-por-pandillas-y-asesinada-por-la-policia/> (accessed January 7, 2020).

<sup>74</sup> Oscar Lopez, “Pressure Mounts for El Salvador to Investigate Wave of LGBT+ Killings,” Reuters, November 21, 2019, <https://www.reuters.com/article/us-el-salvador-lgbt-murder-trfn/pressure-mounts-for-el-salvador-to-investigate-wave-of-lgbt-killings-idUSKBN1XWo1G> (accessed January 18, 2020); Human Rights Watch telephone interview with a representative of COMCAVIS TRANS, December 2019.

<sup>75</sup> Allison O’Connor, Jeanne Batalova, and Jessica Bolter, “Central American Immigrants in the United States,” Migration Policy Institute, August 15, 2019, <https://www.migrationpolicy.org/article/central-american-immigrants-united-states> (accessed August 24, 2019).

- First, about 665,000 Salvadorans are living in the United States in an **unauthorized** legal status, meaning at any moment they could be arrested and deported from the country. During their deportation proceedings, they technically would have the ability to raise their fears of persecution or torture as a defense against removal. In reality, this is extremely difficult to do successfully.
- Second, about 340,000 Salvadorans live in the United States as lawful permanent residents. These people have permission to work and build their lives in the United States, but if they are convicted of any of a long list of crimes (including non-violent drug or driving offenses generally considered as misdemeanors), they are subject to deportation under procedures that severely restrict the possibility of raising their fears of persecution upon return as a defense against removal. They might be able to raise fear of torture in El Salvador, but in reality, the torture standard is more difficult to meet than the “fear of persecution” standard.
- Third, another 195,000 Salvadorans have temporary protection against deportation as recipients of Temporary Protected Status (TPS), a program that the US Congress put in place for Salvadorans since two devastating earthquakes hit the country in 2001. The Trump administration decided to end TPS in September 2019,<sup>76</sup> but a court injunction has prevented termination from going into effect. Consequently, the Trump administration extended work authorization associated with TPS until January 2021, without extending TPS beyond January 2020.<sup>77</sup> If appellate courts lift the injunction, Salvadorans who have been protected by TPS will be subject to removal. Due to lack of resources, legal advice, fear, or other reasons, some Salvadorans have not re-registered their TPS status, which moves them into an unauthorized status. During their deportation proceedings, former TPS holders technically would

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<sup>76</sup> United States Federal Register, “Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for Sudan, Nicaragua, Haiti, and El Salvador,” October 31, 2018, [https://www.federalregister.gov/documents/2018/10/31/2018-23892/continuation-of-documentation-for-beneficiaries-of-temporary-protected-status-designations-for-sudan?utm\\_campaign=subscription%20mailing%20list&utm\\_source=federalregister.gov&utm\\_medium=email](https://www.federalregister.gov/documents/2018/10/31/2018-23892/continuation-of-documentation-for-beneficiaries-of-temporary-protected-status-designations-for-sudan?utm_campaign=subscription%20mailing%20list&utm_source=federalregister.gov&utm_medium=email) (accessed November 26, 2019).

<sup>77</sup> United States Federal Register, “Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan,” November 4, 2019, <https://www.federalregister.gov/documents/2019/11/04/2019-24047/continuation-of-documentation-for-beneficiaries-of-temporary-protected-status-designations-for-el> (accessed November 26, 2019).

have the ability to raise their fears of persecution or other types of harm as a defense to removal; but in reality, this is very challenging to do successfully.

- Fourth, some 25,600 Salvadorans have been living in the US with temporary permission to remain in two-year increments under the **Deferred Action for Childhood Arrivals (DACA)** program, which began in 2012, but which the Trump administration decided to end in September 2017. DACA status has been maintained by temporary court rulings but the Trump administration's decision to end the program is being reviewed by the Supreme Court at this writing, making DACA recipients legitimately fearful of deportation. Due to lack of resources, legal advice, fear, or other reasons, some Salvadorans have not re-registered their DACA status, which moves them into an unauthorized status. During their deportation proceedings, former DACA holders technically would have the ability to raise their fears of persecution or other types of harm as a defense to removal; in reality, this is difficult to do successfully.

## II. Deportees Killed

In researching this report, Human Rights Watch identified or investigated 138 cases of people killed between 2013 and 2019 after being deported from the United States.<sup>78</sup> El Salvador’s high homicide rates (alongside many other types of harm), and the fact that these cases have been reported publicly over time, has put the United States government and its immigration officials on notice. On a daily basis, US immigration officials and judges nevertheless turn a blind eye to the reality that people deported by the United States to El Salvador have lost their lives, often at the hands of their original persecutors or people they legitimately feared would harm them in the future. In several of the cases we investigated for this report, such targeting was evident.

In other cases, the US government is returning people to a country with such significant levels of violence that there is a real risk that deportees will face a serious threat to their lives or physical integrity. Because current US asylum law does not provide “complementary protection” that would protect people facing such serious threats of violence, Human Rights Watch calls on the US Congress to adopt such a standard (discussed further in Section VII below). Even without such a standard, Salvadorans subject to deportation should have a meaningful opportunity to describe the risks they would face upon return and have that information considered before they are returned to El Salvador.<sup>79</sup> The deaths described in this section, moreover, represent the tip of the iceberg—as detailed in subsequent sections, people deported to El Salvador encounter a wide range of human rights abuses that fall short of death.

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<sup>78</sup> As discussed in the methodology section, the sources for this claim are: Human Rights Watch review of 3,840 links with mentions of the word “deportada/o” in 14 Salvadoran news outlets; Human Rights Watch interviews with directly impacted individuals; Human Rights Watch interviews with officials who go to crime scenes, officials who receive victims of crime and recently-returned migrants, and Salvadoran criminal sentencing Tribunal decisions. Using these sources, we had also identified cases of killings of deportees going back as far as 2003; but we have not included those in our count, using 2013 as the cut off for recency and related reasons.

<sup>79</sup> Even under existing US asylum law, Salvadorans and others face major barriers to receiving fair consideration of the risks they face if returned to their countries of origin.

## Deported Former or Current Gang Members Killed by Gangs

According to Salvadoran authorities, the deportees at the highest risk of harm are alleged former and current gang members and those with alleged links to gangs.<sup>80</sup> These alleged former and current gang members are sometimes killed by their own or rival gangs (they are also killed by state actors or death squads, as discussed below). An individual deportee's reported status as a gang member by the press, by the police, or by other observers, may or may not be true.

Accounts of killings of deportees by gangs in court filings and press accounts indicate that a deportee might be killed by his own gang for not "re-activating" with the gang once in El Salvador,<sup>81</sup> battling for power within the gang,<sup>82</sup> committing crimes like robbery,<sup>83</sup> or calling attention to the gang through flamboyant behavior.<sup>84</sup> Gangs reportedly kill members of rival gangs, or those assumed to be members, for living in or transiting their area,<sup>85</sup> including one who was evangelizing after leaving behind gang life<sup>86</sup> and one who was recently deported.<sup>87</sup>

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<sup>80</sup> Interviews with 41 officials from the FGR, IML, PNC and OLAV in nine departments, El Salvador, November 2018 to December 2019.

<sup>81</sup> Criminal Sentencing Tribunal, Santa Tecla, March 13, 2014 (on file with Human Rights Watch).

<sup>82</sup> José Luis Sanz and Carlos Martínez, "The Letter 13" ("La letra 13"), *El Faro*, August 8, 2012, <https://salanegra.elfaro.net/es/201208/cronicas/9302/II-La-letra-13.htm> (accessed January 6, 2019); Óscar Martínez and Juan Martínez, "The Thorn in the Mara Salvatrucha" ("La espina de la Mara Salvatrucha"), *El Faro*, March 3, 2014, <https://salanegra.elfaro.net/es/201403/cronicas/14879/La-espina-de-la-Mara-Salvatrucha.htm> (accessed January 6, 2019); José Luis Sanz and Carlos Martínez, "The Revolution in Mariona" ("La Revolución en Mariona"), *El Faro*, October 25, 2011, <http://www.salanegra.elfaro.net/es/201110/cronicas/5917/> (accessed January 6, 2019); Roberto Valencia, "The Last Interview with El Directo" ("La última entrevista con El Directo"), *El Faro*, September 9, 2013, <https://salanegra.elfaro.net/es/201309/entrevistas/13232/La-ultima-entrevista-con-El-Directo.htm> (accessed January 6, 2019); and Efrén Lemus, "Purges in the MS-13 Leadership Over Money" ("Purgas en la cúpula de la MS-13 por dinero"), *El Faro*, August 9, 2016, <https://elfaro.net/es/201608/salanegra/19066/Purgas-en-la-cúpula-de-la-MS-13-por-dinero.htm>, (accessed January 6, 2019).

<sup>83</sup> Criminal Sentencing Tribunal, Santa Tecla, March 13, 2014 (on file with Human Rights Watch).

<sup>84</sup> Human Rights Watch interview with El Salvador-based researcher, El Salvador's Central Region, November 10, 2018.

<sup>85</sup> Criminal Sentencing Tribunal, Santa Tecla, April 18, 2017 (on file with Human Rights Watch); Criminal Sentencing Tribunal, Santa Tecla, March 25, 2015 (on file with Human Rights Watch); Criminal Sentencing Tribunal, Santa Tecla, November 13, 2008 (on file with Human Rights Watch); and Criminal Sentencing Tribunal, Chalatenango, August 31, 2006 (on file with Human Rights Watch).

<sup>86</sup> Criminal Sentencing Tribunal, Santa Tecla, July 11, 2016 (on file with Human Rights Watch).

<sup>87</sup> Criminal Sentencing Tribunal, San Miguel, January 24, 2007 (on file with Human Rights Watch).

## Deported Former or Current Gang Members Killed by State Actors

State actors, such as police or other law enforcement, reportedly have killed deportees alleged to be former or current gang members, according to relatives, journalists, and academics who spoke with Human Rights Watch.<sup>88</sup> Through interviews with directly affected persons and witnesses, we learned of several such cases. For example:

Enrico X. told Human Rights Watch in 2019 his cousin, Luis Y., a former member of a gang then called B-18, tried to leave the gang by fleeing to the United States, but after he was deported from the US in either 2016 or 2017, Enrico said that the police in El Salvador killed Luis. Enrico told us:

After he was deported back to El Salvador, one day he [Luis] was eating breakfast and the police came to the house and shot him in the head and killed him. The police officer said: “I told you I was going to kill you eventually,” and put a gun to his head and shot him right there on the spot in front of the neighbor woman who used to cook his meals for him. Some of the other neighbors also witnessed this shooting.<sup>89</sup>

Enrico told Human Rights Watch that police in 2018 shot another young deportee from the United States in front of his home. “He was known to be deported from the US.”<sup>90</sup> An affidavit filed by Enrico in his asylum and withholding case gave further details:

I don’t know the young man’s real name, but everyone in town called him ‘Roberto M.’.... I heard a shot and a noise.... I ducked down low, and I saw two police officers run towards [him], who was down on the ground in front of my property in the street. Roberto had been going by on a bicycle when

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<sup>88</sup> Human Rights Watch interview with Elías F., United States East Coast, winter 2019 (location and exact date withheld for security) (pseudonym); Human Rights Watch interviews with two Salvadoran journalists, El Salvador’s Central Region, November 9, 2018; Human Rights Watch interviews with two expert academics on security, gangs, and migration, El Salvador’s Central Region, November 10, 2018.

<sup>89</sup> Human Rights Watch interview with Enrico X., (location withheld for security), 2019 (date withheld for security) (pseudonym). US Department of Justice, Executive Office for Immigration Review, *In re* (name withheld for security), (location withheld for security) Immigration Court, (date withheld for security).

<sup>90</sup> Human Rights Watch interview with (name withheld for security), (location withheld for security), 2019 (date withheld for security).

he was shot. The two police officers picked him up and took him away with them. I saw them take [him] into a sugar cane field. A police motorcycle drove up around the same time this was all happening. I did not see where they took [him] after they went into the field. I was very scared and I quickly went in my house and closed the door. Not long after this, a police officer came and banged on my door, yelling at me to come outside. I went outside and he immediately put a gun to my head and said, 'I know you saw.' I recognized this officer by his face. I had seen him patrol my street many times in the past with other rural police officers.... The officer was very aggressive with me, asking me who else was home with me.... The officer told me that Roberto was a B-18 gang member and that if I said anything about what I saw, the same will happen to me or worse.... Every day after [that], the same rural police officers started to come to the house and bang on my door.... They would bang on my door and yell profanities at me, demanding I come out.<sup>91</sup>

Our research indicates that Salvadoran officials often assume that individuals deported from the US are both active gang members and were convicted of violent crimes while in the US.<sup>92</sup> They also may choose to target specific deportees based on information shared by the United States via INTERPOL. Three departmental police delegations told Human Rights Watch they receive lists of deportees alleged to be gang members and share those lists throughout the department, including with neighborhood-level posts where deportees indicate they will live.<sup>93</sup> One ranking police officer explained to Human Rights Watch: "ICE communicates with INTERPOL in advance of deportation flights, and lists of persons with a capture order [an INTERPOL Red Notice] or guilty of a crime are sent to us in the departmental offices, [even though] most on this list are captured in the airport."<sup>94</sup> The

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<sup>91</sup> US Department of Justice, Executive Office for Immigration Review, *In re* (name withheld for security), (location withheld for security) Immigration Court, (date withheld for security).

<sup>92</sup> Human Rights Watch interview with PNC, El Salvador's Paracentral Region, November 5, 2018.

<sup>93</sup> The different delegations did not respond consistently to Human Rights Watch's question about whether they had access to lists of deportees confirming crimes committed in the United States. Some said they could, some said they could not, and some said only those police investigators cleared beyond a certain level could.

<sup>94</sup> Human Rights Watch interview with police commissioner, El Salvador's Paracentral Region, November 5, 2018.

police then visit the locations provided. This officer said, “We think that if a person wasn’t wanted in the United States, it must be because the deported person is bad.”<sup>95</sup>

Police scrutiny of such individuals may be a legitimate activity in furtherance of public safety. At the same time, even if an individual is an active gang member or has served a sentence for a violent crime in the US and is suspected of further criminal activity in El Salvador, unlawful use of force by law enforcement is never justified. Security officials involvement in extrajudicial executions and excessive use of force is often linked to government efforts to combat gangs, as reported by the UN special rapporteur on extrajudicial killings in her 2018 report on El Salvador, as well as the Legal Force Monitor and the Salvadoran Ombudsperson for the Defense of Human Rights in 2019.<sup>96</sup>

## Deportees Killed Without Apparent Gang-Involvement

In some cases, the deportee victims had no apparent involvement with gangs, but nevertheless were killed in circumstances suggesting the killers were gang members. For example, several of the below cases identified through press accounts reference failure to pay extortion demands and non-gang-related tattoos as possible motives for the killings.

- Carlos Alberto Garay, 43, was killed while driving his pick-up truck in Usulután. A press account reported that he was intercepted by two men, who shot him several times and then fled on foot, according to police sources. Garay’s neighbors told reporters he had been deported several months earlier from the

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<sup>95</sup> Ibid.

<sup>96</sup> United Nations Office of the High Commission for Human Rights, El Salvador End of Mission Statement, Agnes Callamard, special rapporteur for extrajudicial, summary or arbitrary executions, February 5, 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22634&LangID=E> (accessed June 16, 2019); “Report on the Use and Abuse of Lethal Force in Latin America: A comparative study of Brazil, Colombia, El Salvador, Mexico and Venezuela” (“Monitor del uso de la fuerza letal en América Latina: Un estudio comparativo de Brasil, Colombia, El Salvador, México y Venezuela”), August 2019, <http://monitorfuerzaletal.com> (accessed November 26, 2019), pp. 80-95; “Special Report of the Ombudswoman for the Defense of Human Rights, Attorney Raquel Caballero de Guevara, about extralegal executions attributed to the National Civilian Police in El Salvador, period 2014-2018: Characterization of cases of violation of the right to life and patterns of extralegal action” (“Informe especial de la señora Procuradora para la Defensa de los Derechos Humanos, licenciada Raquel Caballero de Guevara, sobre las ejecuciones extralegales atribuidas a la Policía Nacional Civil, en El Salvador, periodo 2014-2018: Caracterización de casos de violación al derecho a la vida y patrones de actuación extralegal”), August 2019, <https://www.pddh.gob.sv/portal/file/index.php?dwfile=MjAxOS8xMC9JbmZvcmlLLWVzcGVjaWFsLXNvYnJlLWVqZWZWN1Y2l2bWVzLWV4dHJhbGVnYWxlcyoxLTEucGRm> (accessed November 11, 2019).

United States, and they knew he was being extorted by gangs and that his family had been threatened. The press account did not describe Garay as gang-involved.<sup>97</sup>

- Mario Enrique Sandoval Gómez, around 30 years old, was shot dead in his home on June 29, 2017 by two people who convinced him to open the door by pretending they were police officers. According to press accounts, Sandoval Gómez was not suspected of gang affiliation and the “tattoos on his body were not related to gangs.”<sup>98</sup> Sandoval Gómez reportedly had been deported from the United States two years prior to the incident. His wife, who was at home on the night of the murder, had applied for him to return to the US, where the couple planned to join her parents already living there.<sup>99</sup>
- Tommy Eduardo Paiz, 41, who worked in a call center in El Salvador, had been deported from the United States about one year prior to his death. A relative interviewed by the press said of Paiz, “he came here and started working.”<sup>100</sup> On August 4, 2018, he was on his way to visit his partner and 6-month-old son when his car broke down in the department of La Libertad. Paiz had called a family member that same day to ask that they “let her know that I'm going to get home to see my little one.”<sup>101</sup> Paiz had several “artistic tattoos” on his body. Police reports indicated he was approached by attackers, hit with a blunt object on the head and shot several times in the head and abdomen.<sup>102</sup> When found, he was handcuffed. The press account did not describe Paiz as gang-involved.

While press accounts did not speculate on whether the victims faced harm from their killers previously, some interviewees specified that the same gang members who targeted

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<sup>97</sup> “Two Soldiers Killed in Front of SITRAMSS Station” (“Matan a dos soldados frente a estación del SITRAMSS”), *La Prensa Gráfica*, June 22, 2015, <https://www.laprensagrafica.com/elsalvador/Matan-a-dos-soldados-frente-a-estacion-del-SITRAMSS-20150622-0044.html> (accessed November 12, 2019).

<sup>98</sup> “San Miguel Deportee was Killed While He Was Waiting for a US Migratory Pardon” (“Migueleno deportado fue asesinado mientras esperaba perdón migratorio de EUA”), *La Prensa Gráfica*, June 29, 2017, <https://www.laprensagrafica.com/elsalvador/Migueleno-deportado-fue-asesinado-mientras-esperaba-perdon-migratorio-de-EUA-20170629-0048.html> (accessed on June 22, 2019)

<sup>99</sup> *Ibid.*

<sup>100</sup> Gadiel Castillo, “Man Killed in Santa Elena Worked at a Call Center” (“Hombre asesinado en Santa Elena trabajaba en call center”), *El Diario de Hoy*, August 4, 2018, <https://www.elsalvador.com/noticias/nacional/familia-identifica-a-hombre-asesinado-en-bulevar-de-antiguo-cuscatlan/506348/2018/> (accessed November 10, 2019).

<sup>101</sup> *Ibid.*

<sup>102</sup> *Ibid.*

individuals before they fled El Salvador were responsible for killing these individuals after deportation. For example, José Miguel C., told us about his nephew, Joaquín, who he did not believe to be gang-involved, and who had fled gang threats to the US, but was deported in 2017 and killed by alleged gang members that same year. He said: “[Joaquín] always said they [MS members] would try to kill him again. They did [kill him] on [Salvadoran] Father’s Day.... The same members who killed him had threatened him beforehand.”<sup>103</sup>

Similarly, a policeman told us about Nicolas P., 25, who was the victim of an attempted homicide by gang members in 2015. The same year, he migrated to the US, only to be deported in 2017. According to a police report, the policeman said, “on the day Nicolas returned to El Salvador, he arrived at his family home.... At 9:30 p.m., he was at home, the gang members arrived and shot him dead.”<sup>104</sup>

## Deported Former Police Officers Killed by Gangs

Human Rights Watch interviewed two families who had multiple members working for the Salvadoran military or police who were threatened, then fled to the United States hoping to seek asylum but were subsequently deported and killed.

Adriana J. worked for the Salvadoran police. After being threatened by gangs, she fled El Salvador for the United States, but according to her cousin Irene J., Adriana was detained by US authorities and did not get to apply for asylum presumably because she was rejected after her credible fear interview in the expedited removal screening. Irene believes that Adriana was still in detention in the US in 2015 and deported that year or later to El Salvador. Her death certificate indicates she died in El Salvador from gunshot wounds to her abdomen and skull in 2017. Irene learned from her mother, who lived nearby, that when she went to the cordoned crime scene and spoke with police officers, the officers told her, “The gang members killed her. Three bullets.”<sup>105</sup>

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<sup>103</sup> Human Rights Watch interview with José Miguel C., El Salvador’s Paracentral Region, March 29, 2019 (pseudonym).

<sup>104</sup> Human Rights Watch telephone interview with PNC Officer, El Salvador’s Eastern Region, October 2, 2019.

<sup>105</sup> Human Rights Watch interview with Irene J., United States East Coast, March 1, 2019 (pseudonym). Human Rights Watch also interviewed Adriana’s cousin Matías J., United States East Coast, March 1, 2019 (pseudonym).

According to press accounts, Mauricio de Jesús Amaya had been a municipal police officer in El Salvador for 14 years. In 2017, his sister, Gloria, was shot dead as they rode together on a motorcycle in the El Vado neighborhood of Nueva Concepción municipality of Chalatenango department. Mauricio believes he was the actual target. Twenty days later, he and his family, including his brother, Santos Amaya, who also worked with the municipal police, fled El Salvador and arrived in the US approximately 10 days later.<sup>106</sup> Santos, who had received death threats from gang members who had been deliberately targeting police in the municipality where the family lived, was deported from the US in April 2018, and was killed that same month.<sup>107</sup>

### Jacinto K.

Human Rights Watch interviewed Jacinto K. and first interviewed his then 15-year-old son, Óscar K., in El Salvador in April 2014.

In December 2011, Jacinto and his wife had been ordered removed from the United States. In order to avoid permanent bars in US law on returning to the country, they chose to depart “voluntarily.” Jacinto and his wife had to borrow money to pay for the family’s plane tickets (they had three children, Óscar, age 15 in 2014, and a younger daughter and US citizen son). Jacinto told us that upon the family’s return to El Salvador:

“I thought starting a small business in [a rural area of El Salvador’s Central Region] was our best bet for paying the loan back quickly. Unfortunately, MS began charging me *renta* shortly after I opened it. I haven’t been able to pay down the loan, am barely supporting my family, and worry that I won’t be able to keep paying *renta*.”<sup>108</sup>

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<sup>106</sup> Mirella Cáceres and David Marroquín, “Police and Family Seek Asylum in USA After Being Attacked by Gang Members in Chalatenango” (“Policía y familia piden asilo en EE.UU. luego de ser atacados por pandilleros en Chalatenango”), *El Diario de Hoy*, May 18, 2018, <https://www.elsalvador.com/noticias/nacional/policia-y-familia-piden-asilo-en-ee-uu-luego-de-emboscada/482369/2018/> (accessed July 1, 2019).

<sup>107</sup> *Ibid.*

<sup>108</sup> Human Rights Watch interview with Jacinto K., El Salvador’s Central Region, April 4, 2014 (pseudonym).

At the time of our interview Jacinto discounted the power of MS in the area, telling us he felt relatively safe. However, two weeks after our interview, Jacinto was shot dead in broad daylight in a public space of their town.

Prior to his dad's death, when a Human Rights Watch researcher sat down to interview Óscar K. he said, "We can speak in English. I've missed it."<sup>109</sup> He said he wanted to return to the Midwestern United States, where he lived from 2003 to 2011, to finish high school.

Óscar said he had just completed 9th grade in his Salvadoran neighborhood public school. Besides the classes not being challenging, he told us, "I do not feel safe. I only leave the house to go to and from school. Still, to get there, I have to walk past the neighborhood's Mara Salvatrucha gang. They shout insults at me and threaten to kill me if I do not join them."<sup>110</sup>

After his father was killed, Óscar separated from his mother and siblings, and they each went to a different part of the country in search of safety. According to our subsequent contacts with Óscar,<sup>111</sup> the gang has found them each in their new locations within the country, and at the time of writing Óscar and his mother and siblings had each moved at least one other time.

## Data on Deportees Killed

For this report, we identified or investigated 138 cases of people killed after their deportations from the United States between 2013 and 2019. Most of these people died between a few days and two years after their return to El Salvador. Of 106 cases reported in 219 articles by the Salvadoran press,<sup>112</sup> 81 deportees died after being in the country for one

<sup>109</sup> Human Rights Watch interview with Óscar K., El Salvador's Central Region, April 4, 2014 (pseudonym).

<sup>110</sup> Human Rights Watch interview with Óscar K., El Salvador's Central Region, April 4, 2014 (pseudonym).

<sup>111</sup> Human Rights Watch Facebook online messenger correspondence with Óscar K., El Salvador, March 22, 2019 (pseudonym); Human Rights Watch Facebook online messenger correspondence with Óscar K., El Salvador, June 10, 2019 (pseudonym); and Human Rights Watch interview with Óscar K., El Salvador's (region withheld for security), December 2019 (date withheld for security) (pseudonym).

<sup>112</sup> These 106 cases are documented in 219 articles reviewed by Human Rights Watch, most commonly appearing in the

year or less, with 15 additional deportees killed after 13 months to two years in the country. Fourteen deportees were killed less than a week after their return, with three dying in their first 24 hours in El Salvador.

We eliminated many cases of deportees reportedly killed between 2013 and 2019 from our final count because they died more than five years after their deportations or after an unknown period from their deportations.<sup>113</sup> For all deported people killed, we focused only on individuals deported from the United States.<sup>114</sup> In addition, of all 138 cases included, the earliest year of deportation was 2010 (this was the year of deportation for one person killed in 2013, for one killed in 2014, and for two people killed in 2015).

In addition to the cases identified through the press, we documented five cases of deportees killed between 2013 and 2019 by reviewing court documents for Salvadoran criminal sentencing tribunals. For 14 cases in the same time frame, we learned of the killing of deportees through interviews with the victim's family members.<sup>115</sup> We documented 23 cases in interviews with authorities. In all of these cases, we sought corroboration of the killing and circumstances of the individual deportee's case with other sources. The below graphic illustrates the corroboration we were able to obtain.

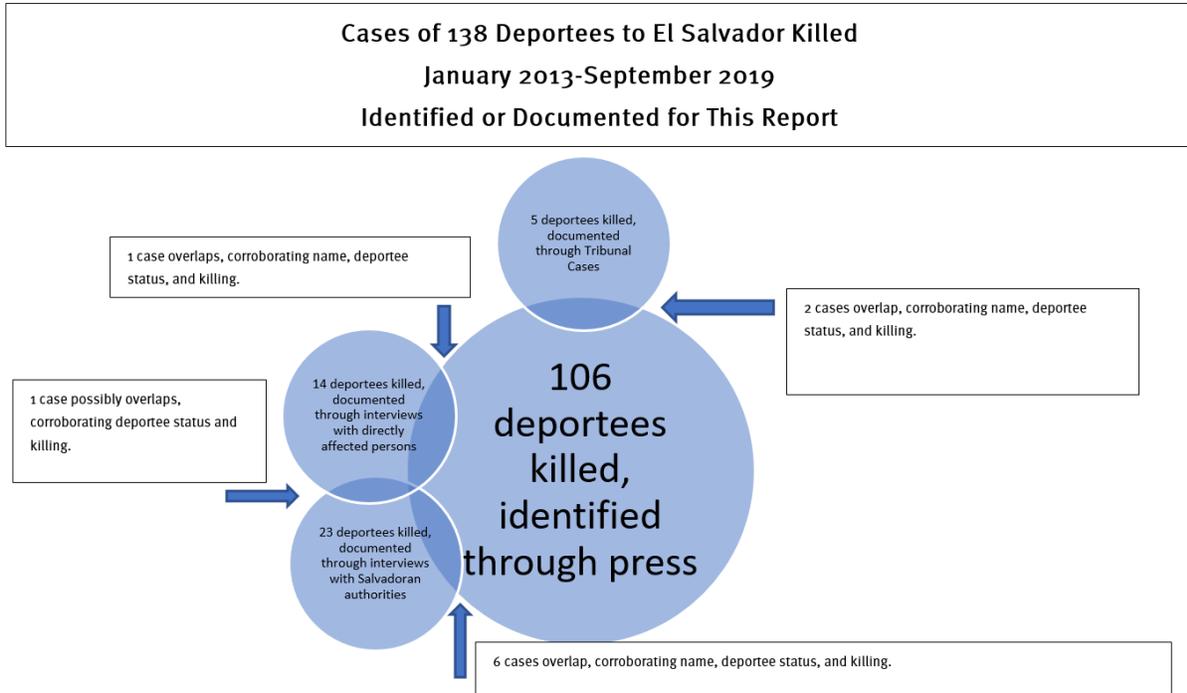
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following Salvadoran print / online outlets: *La Prensa Gráfica*, *El Diario de Hoy*, *Diario1*, *La Pagina*, and *El Blog*. (All articles are on file with Human Rights Watch).

<sup>113</sup> We also cut cases from our final count when it appeared the person had decided to voluntarily return to El Salvador without having had any contact with US immigration authorities. In one case reported by the press, we included an individual who was shot in 2018 by police seven years after his deportation in 2010 because his first experience of police harassment occurred soon after his deportation to El Salvador. For fifteen cases reported by the press that we did not include in our final tally, the date of deportation was not reported.

<sup>114</sup> When interviewing officials or directly impacted persons, if our questions caused us to uncover a case in which a person had been deported from Mexico or another country, we eliminated that case from our total count. For the cases documented through press searches, six deportees had no information about the country from which they were deported, therefore we eliminated these from our total count. In one case we included in our final count, some accounts reported the individual was deported from the United States, and others indicated Mexico.

<sup>115</sup> These 27 cases could not be corroborated in print media accounts. Authorities and reporters alike told us the press could not attend all homicide scenes, especially those in particularly dangerous neighborhoods where gang members or authorities would not let them enter or isolated rural areas they could not quickly reach. This has become even more applicable in recent years, as Salvadoran outlets have seen their budgets and staff decrease. Among the 10 cases we documented from 2016 to 2018 in interviews with directly impacted individuals, two occurred in areas that gang members or authorities had not let press enter at times, one occurred in an isolated rural area, and two occurred in an isolated rural area where gang members or authorities had previously prevented press from entering. Among the six unreported cases we documented from 2012 to 2015 in interviews with directly impacted individuals, one occurred in an isolated rural area, and one occurred in a particularly dangerous neighborhood. All 11 unreported cases documented in criminal sentencing tribunals occurred in an isolated rural area or particularly dangerous neighborhood, as well as having a day or more lapse between the killing and body discovery in more than half of the cases.



Among the 219 press reports on killings of 106 deportees, Human Rights Watch found cases of six deportees killed between 2013 to 2019 that named state authorities or indicated death squads as the alleged killers.<sup>116</sup> The Rural Police were the suspected killers in two cases in an isolated rural area where gang members or authorities had previously prevented press from entering (and where police had been documented to have committed

<sup>116</sup> “Deportee Dies in Shootout with El Salvador’s Special Reaction Force” (“Deportado muere en tiroteo con FES”), *La Prensa Gráfica*, July 4, 2017, <https://www.laprensagrafica.com/elsalvador/Deportado-muere-en-tiroteo-con-FES-20170704-0103.html> (accessed June 23, 2019); David Marroquín and Insy Mendoza, “Two Children Attacked by Gang Members for Defending Their Mother from Rape” (“Dos niños agredidos por mareros al defender a su madre de violación”), *El Diario de Hoy*, February 27, 2013, <https://www.elsalvador.com/noticias/nacional/dos-ninos-agredidos-por-mareros-al-defender-a-su-madre-de-violacion/102064/2013/> (accessed 23 June 2019); “Armed Group Kills MS13 Deportee and Exconvict in Sonsonate” (“Grupo armado asesina a deportado y exconvicto de la MS13 en Sonsonate”), *Diario1*, January 12, 2019, <http://diario1.com/nacionales/2019/01/grupo-armado-asesina-a-deportado-y-exconvicto-de-la-ms13-en-sonsonate/> (accessed June 22, 2019); “San Miguel Deportee Was Killed While He Was Waiting for a US Migratory Pardon” (“Migueleno deportado fue asesinado mientras esperaba perdón migratorio de EUA”), *La Prensa Gráfica*, June 29, 2017, <https://www.laprensagrafica.com/elsalvador/Migueleno-deportado-fue-asesinado-mientras-esperaba-perdon-migratorio-de-EUA-20170629-0048.html> (accessed June 22, 2019); “Two Massacres Leave 10 Gang Members Dead in Usulután” (“Dos masacres dejan 10 pandilleros muertos en Usulután”), *La Prensa Gráfica*, May 10, 2015, <https://www.laprensagrafica.com/elsalvador/Dos-masacres-dejan-10-pandilleros-muertos-en-Usulután-20150510-0023.html> (accessed June 23, 2019); and Claudia Huete and Liz Aguirre, “Habitants of Olocuilta Neighborhood Dismayed by Massacre” (“Habitantes de colonia en Olocuilta consternados por masacre”), *La Prensa Gráfica*, May 2, 2010, (on file with Human Rights Watch).

extrajudicial killings starting in 2013).<sup>117</sup> Private actors were the alleged perpetrators in the overwhelming majority of the killings.<sup>118</sup> Only three accounts identified through our press searches<sup>119</sup>—in which one to three others were killed at the same time—left open the possibility that the deported man was not the target of the lethal attack.

## Killing of Deportees Likely Undercounted

Homicide data are regularly reported by police authorities in El Salvador.<sup>120</sup> However, we believe our count of 138 persons killed after deportation from the US to El Salvador between 2013-2019 represents a significant undercount for two main reasons. First, the specific victimization of *deportees* often goes unrecorded in forensic, media, or

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<sup>117</sup> See “Special Report of the Ombudswoman for the Defense of Human Rights, Attorney Raquel Caballero de Guevara, about extralegal executions attributed to the National Civilian Police in El Salvador, period 2014-2018: Characterization of cases of violation of the right to life and patterns of extralegal action” (“Informe especial de la señora Procuradora para la Defensa de los Derechos Humanos, licenciada Raquel Caballero de Guevara, sobre las ejecuciones extralegales atribuidas a la Policía Nacional Civil, en El Salvador, periodo 2014-2018: Caracterización de casos de violación al derecho a la vida y patrones de actuación extralegal”), August 2019,

<https://www.pddh.gob.sv/portal/file/index.php?dwfile=MjAxOS8xMC9JbmZvcmlLLWVzcGVjaWFsLXNvYnJLLWVqZWV1Y2lvbWVzLWV4dHJhbGVnYWxlcyoXLTEucGRm> (accessed November 11, 2018). Twelve of the 48 cases—in which 25 persons were killed—the PDDH reviewed for its report occurred in La Paz department, all of them in rural areas, including in the municipalities of: El Rosario, Paraíso de Osorio, San Luis Talpa, San Pedro Masahuat, San Pedro Nonualco, Santiago Nonualco, and Zacatecoluca.

<sup>118</sup> We did identify 20 cases in which press descriptions of the victims, killings, and their aftermath included details that could be consistent with the activities of death squads; such as: previously witnessed police commit a crime; alleged perpetrators wearing ski masks / dark clothing / large weapons / bullet-proof vests; police locate victim minutes after family reports disappearance; one of several killings of similar victims (young males) in same geographic area. Human Rights Watch review of 39 articles appearing in Salvadoran media outlets such as *La Prensa Gráfica*, *Diario1*, *El Blog*, *Solo Noticias*, *La Pagina*, *El Mundo*, and *Diario Libre SV*. (All articles on file with Human Rights Watch.)

<sup>119</sup> “Massacre in Armenia” (“Masacre en Armenia”), *ContraPunto*, September 23, 2013, <http://www.contrapunto.com.sv/archivo2016/ultimas-noticias/ultimas-noticias/blog/page-69> (accessed November 9, 2019); “Quadruple Homicide in Armenia Neighborhood” (“Cuádruple homicidio en cantón de Armenia”), *La Prensa Gráfica*, September 23, 2013, <https://www.laprensagrafica.com/elsalvador/Cuadruple-homicidio-en-canton-de-Armenia-20130923-0091.html> (accessed November 9, 2019); Jaime López, Miguel Villalta, and Iris Lima, “Triple Murder on Sonsonate Soccer Field” (“Triple asesinato en una cancha de Sonsonate”), *El Diario de Hoy*, September 22, 2013, <https://historico.elsalvador.com/historico/113652/triple-asesinato-en-una-cancha-de-sonsonate.html> (accessed November 9, 2019); Diana Escalante, Lissette Monterrosa, and Miguel Villalta, “Gang Members Armed with M-16’s Shoot Down Three Brothers in Jiquilisco” (“Pandilleros armados con fusiles M-16 acribillaron a tres hermanos en Jiquilisco”), *El Diario de Hoy*, September 26, 2015, <https://historico.elsalvador.com/historico/160540/pandilleros-armados-con-fusiles-m-16-acribillaron-a-tres-hermanos-en-jiquilisco.html> (accessed November 12, 2019); and “Armed Attack Leaves Two Dead and One Injured in San Bartolomé Perulapia” (“Ataque armado deja dos muertos y un herido en San Bartolomé Perulapia”), *Diario1*, September 5, 2017, <http://diario1.com/nacionales/2017/09/ataque-armado-deja-dos-muertos-y-un-herido-en-san-bartolome-perulapia/> (accessed November 11, 2019).

<sup>120</sup> See tweet from PNC Chief Howard Augusto Cotto’s Twitter page, <https://twitter.com/Cotto100/status/1046763344286416896> (accessed December 3, 2019).

governmental accounts. Among victims who do report, protocol does not require authorities to ask about migration status of victims.<sup>121</sup>

All homicide journalists interviewed for this report said they mostly rely on police sources to determine if a victim was deported from the United States. Police acknowledged to Human Rights Watch that they do not always consult the relevant database to get a victim's migration status. In fact, they told Human Rights Watch that they only do so when the victim had no documents or had tattoos.<sup>122</sup> Reports on the killings of 53 deported men included police telling the press the victim had no identity documents or was a gang member; was linked to gangs, a thief, a drug user, or some other type of criminal (including 13 of those with tattoos).<sup>123</sup>

There is no mandatory requirement that the Salvadoran prosecutor's office (FGR) collects migratory status in its investigations, including in its homicide investigations.<sup>124</sup> One prosecutor explained his office's reasoning to Human Rights Watch: "We see crimes and do not give importance to this [migratory status]. It is not relevant."<sup>125</sup> An investigator in a different department also said migratory status was irrelevant to their office, "unless the

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<sup>121</sup> Human Rights Watch interviews with 41 officials in nine departments at local district attorney, forensic investigators, and police officers who work in homicide scenes and participate in both crime investigations and hearings.

<sup>122</sup> Human Rights Watch interview with PNC investigator, El Salvador's Eastern Region, January 24, 2019; Human Rights Watch telephone interview with PNC high ranking official, El Salvador's Eastern Region, September 26, 2019. Human Rights Watch established that local police get lists of deportees suspected to be gang members (and possibly others), so police may check such lists to see if the victim matches the description of one of the persons on their list.

<sup>123</sup> Fifty-three articles out of 220 reporting killings of deportees from the United States reviewed by Human Rights Watch, most commonly appearing in the following Salvadoran print / online outlets: *La Prensa Gráfica*, *El Diario de Hoy*, *Diario1*, *La Pagina*, and *El Blog*. (All articles are on file with Human Rights Watch).

<sup>124</sup> For non-homicide crimes, FGR officials believe they do a thorough enough interview that migration status would likely emerge, telling Human Rights Watch: "We almost always ask [domestic, sexual and intrafamilial violence victims] about their situation. We do sometimes learn their migration status." Human Rights Watch interview with FGR prosecutor, El Salvador's Eastern Region, November 26, 2018. However, they also believe the majority of such victims do not report these crimes to them, saying: "Because of fear, there's a good percentage who do not report. They are intimidated by [the abuser] being her own dad, uncle, etc. A large quantity does not [report]." Human Rights Watch interview with FGR prosecutor, El Salvador's Eastern Region, November 26, 2018. Two other FGR officials did note collecting migration status would be possible and easy, based upon other components now collected that were not in the past. One said they had not collected if a person was LGBT in the past but do now. Another said they did not previously collect a person's profession in extortion cases but do now, even going so far as to say: "For us, it is no more than putting a check. It would be easy and fast." Human Rights Watch interview with FGR prosecutor, El Salvador's Western Region, January 7, 2019.

<sup>125</sup> Human Rights Watch interview with FGR prosecutor, El Salvador's Eastern Region, November 6, 2018.

person requests it.”<sup>126</sup> Salvadoran authorities told us that too much stigma exists around deportation for victims or their family members to acknowledge it on their own. For example, a police chief told Human Rights Watch: “The deportee is stigmatized.”<sup>127</sup> Likewise, a forensic doctor told us that none of the persons harmed after their deportation, or their surviving loved ones in cases of disappearance or killings, initially wanted to mention the victim’s status as a deportee because, “They do not always identify themselves.... Many times, I think it’s because of stigma, that they would feel pain to say it.”<sup>128</sup>

In addition, Human Rights Watch documented three cases from 2013 to 2018 that illustrate how a victim’s identity as a deportee may go unreported unless they possess a stigmatized characteristic, such as having tattoos, being a gang member, or being a male between the ages of 15 and 39.<sup>129</sup> The press did not mention in any of these three cases that the victim had been deported from the United States. None of the three had tattoos, and two were middle-aged men, perhaps explaining why the police did not check on their status in relevant databases or through other means.

The second reason we believe the 138 cases of killings to be an undercount is that certain categories of homicide cases, regardless of whether the person is a deportee or not, are much more likely to be undercounted, including cases involving (1) female victims, (2) people with identity documents (because they are less likely to be identified as deportees), (3) people without tattoos, (4) people killed in areas where crimes are more likely to go unreported including particularly violent neighborhoods, isolated rural areas, and areas where gangs or authorities do not permit journalists to enter, (5) LGBT victims, and (6) people killed in the custody of Salvadoran authorities.<sup>130</sup>

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<sup>126</sup> Human Rights Watch interview with FGR prosecutor, El Salvador’s Eastern Region, January 22, 2019.

<sup>127</sup> Human Rights Watch interview with police commissioner, El Salvador’s Paracentral Region, November 5, 2018.

<sup>128</sup> Human Rights Watch interview with IML doctor, El Salvador’s Eastern Region, January 22, 2019.

<sup>129</sup> Human Rights Watch interview with José Miguel C., El Salvador’s Paracentral Region, March 29, 2019 (pseudonym); Human Rights Watch interview with Óscar K., El Salvador’s Central Region, April 4, 2014 (pseudonym); and Human Rights Watch interview with Estefanie H., El Salvador’s Central Region, April 15, 2014 (pseudonym).

<sup>130</sup> See methodology section for a more detailed discussion of why each of these categories represents a possible undercount.

Police, other Salvadoran officials, and reporters have apparently also failed to determine the migration status of female homicide victims. We could not find a single press report on the killing of any cisgender (non-transgender) female deportees—even for a case of a former female police agent whom we documented through our interview with her surviving relatives, who was killed after her deportation from the United States.<sup>131</sup> Nevertheless, several directly impacted individuals and authorities told us about women killed after their deportations.<sup>132</sup> For example, one forensic official recalled multiple females killed after their deportations, just in the one department where he works:

Yes, there are women among these [who were deported and killed] .... Always by the gang, for the same phenomenon they'd left fleeing. She became their subject and could not free herself. If she gets with another [man], even [one] in the [same] gang, she is killed. Even if he's in prison, both [she and he] could be killed.<sup>133</sup>

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<sup>131</sup> Human Rights Watch interview with Irene J., United States East Coast, March 1, 2019 (pseudonym). Because articles only returned for two women—one disappeared after her deportation and one killed after her stepson was deported—we also searched monthly summaries of news reports on girls or women by ORMUSA. ORMUSA has monitored mentions of girls and women in the Salvadoran printed press since 2007 and publishes monthly summaries of the results at their website, <http://observatoriodeviolencia.ormusa.org/monitoreos.php>.

<sup>132</sup> Human Rights Watch interview with Irene J. and Matías J., United States East Coast, March 1, 2019 (pseudonyms); Human Rights Watch telephone interview with Ana P., United States Mountain West, March 5, 2019 (pseudonym); Human Rights Watch interview with high-ranking PNC officer, El Salvador's Eastern Region, November 26, 2018; Human Rights Watch interview with PNC investigator, El Salvador's Paracentral Region, March 25, 2019; and Human Rights Watch interview with IML investigator, El Salvador's Western Region, January 7, 2019.

<sup>133</sup> Human Rights Watch interview with IML investigator, El Salvador's Western Region, January 7, 2019.

### III. Other Harms Faced by Deportees

In our research for this report we heard many gut-wrenching accounts from people subjected to terrible abuse after their deportations from the United States. Often, these were the same abuses from the same abusers that deportees had tried to escape by fleeing to the United States—only to be returned directly back to the violence they originally feared. The cycle of abuse and flight is chronic, and for many deportees feels inescapable. Given the horrors they had endured, it was not surprising to us that these people often tried to flee again.

Even more so than the numbers of killings of deportees, instances in which deportees were attacked by gangs or others, disappeared, forced into hiding, sexually assaulted, and tortured certainly exceed what we have been able to document.<sup>134</sup> Many non-homicide crimes are unreported and thus undocumented in El Salvador.<sup>135</sup> For example, one survey suggests that less than five percent of sexual crimes were reported to Salvadoran authorities in 2018.<sup>136</sup> Crimes less serious than homicide go unreported to authorities, are

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<sup>134</sup> Since each source type yielded cases that did not fully overlap with any other source type, we know that each of the four sources is incomplete. When we asked official sources (PNC, FGR, IML, etc.) about limitations on their information, each was able to describe limitations as to why their data on killings of US deportees is likely incomplete. For further discussion of this issue, see the methodology section of this report.

<sup>135</sup> The newspaper, *La Prensa Gráfica*, surveys a representative sample (approximately 1,200 households) of the country several times a year. During their February 2017 survey, they asked respondents if someone in their family was a victim of a crime in the last three months. Fourteen percent of respondents with a margin of error between 2.2 and 2.5 percent, with 95 percent confidence said someone had been, working out to an extrapolated 868,000 members of the general population every quarter; extrapolating this figure to the year at nearly 3.5 million would be incorrect, because some victims experience crime across quarters. Regardless, during 2016, the Salvadoran Attorney General's Office (FGR) initiated only 14,162 cases. The number of crimes being investigated by the Attorney General's office clearly make up a small fraction of even the most conservative estimate of the total offenses. See Edwin Segura, "The San Salvador Metropolitan Area Remains the Most Dangerous Region" ("El AMSS se mantiene como la región mas peligrosa"), *La Prensa Gráfica*, March 13, 2017, <http://www.laprensagrafica.com/2017/03/13/el-amss-se-mantiene-como-la-region-mas-peligrosa>. While not reported in this article, Human Rights Watch obtained the margin of error from the study's authors. Human Rights Watch telephone interview with *La Prensa Gráfica* staff, October 30, 2019.

<sup>136</sup> See University Institute of Public Opinion, ("Instituto Universitario de Opinión Pública, IUDOP"), "Press Bulletin" ("Boletín de prensa año XXXII, No. 4, 2018"), IUDOP included in its 2018 survey this question: "Have you been a direct victim of some type of incident like a robbery, extortion or renta, threats or other criminal act during the year?" ("¿Ha sido usted víctima directa de algún hecho como robo, extorsión o renta, amenazas o de otro acto delictivo durante el año?") In response to this question, 1 percent of those who responded affirmatively specified they had been raped or sexually assaulted. Assuming a population of 6.5 million, 1 percent would extrapolate to roughly 65,000 rape or sexual assault victims. In 2018, the Salvadoran prosecutor's office, FGR, documented 3,149 reports of sexual crimes, which is 4.8 percent of 65,000.

infrequently investigated and prosecuted; and partly as a result of the lack of public accountability for these categories of crimes, they go unreported in the Salvadoran press. As discussed in the previous section, the victimization of *deportees* in particular goes almost completely undocumented in the country, due in part to the lack of any requirement that law enforcement authorities obtain the migration status of victims and also because victims and their family members often fail to report the victim's status as a deportee.

## Disappearances

Press reporting on individual cases of disappearances in El Salvador is rare.<sup>137</sup> If a victim is killed, their body may never be found, and if a victim is alive, their whereabouts may not be known. When a victim's body is found, often too much time has passed for the Salvadoran press to take interest. A common security practice among Salvadoran reporters is not reporting on their own neighborhoods. Not surprisingly then, two journalists each told us about a case of a disappeared deportee they had not reported in 2018, one because the incident happened in his neighborhood and one because he had other incidents to report on the same day that interested his editors more.<sup>138</sup>

Still, we were able to identify 18 separate incidents (between 2013 and 2019, for which the disappearance happened within five years or less of the deportation) involving disappearances of deportees from the United States: at least one woman and four men,<sup>139</sup>

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<sup>137</sup> See Mary Beth Sheridan and Anna-Catherine Brigida, "Disappeared in El Salvador: the Return of a Cold War Nightmare," *Washington Post*, October 19, 2019, [https://www.washingtonpost.com/world/the\\_americas/disappeared-in-el-salvador-amid-a-cold-war-nightmares-return-a-tale-of-one-body-and-three-grieving-families/2019/10/19/d806d19a-e09d-11e9-be7f-4cc85017c36f\\_story.html](https://www.washingtonpost.com/world/the_americas/disappeared-in-el-salvador-amid-a-cold-war-nightmares-return-a-tale-of-one-body-and-three-grieving-families/2019/10/19/d806d19a-e09d-11e9-be7f-4cc85017c36f_story.html).

<sup>138</sup> Human Rights Watch interview with Salvadoran journalist, El Salvador's Central Region, November 9, 2018; Human Rights Watch interview with Salvadoran journalist, El Salvador's Central Region, November 8, 2018.

<sup>139</sup> "Young Dancer who Lived in Las Palmas Community Found Dead" ("Encuentran muerta a joven bailarina que vivía en Comunidad Las Palmas"), *El Diario de Hoy*, July 17, 2017, (article on file with Human Rights Watch); "25 People Have Disappeared This Year" ("25 privados de libertad van este año en Usulután"), *La Prensa Gráfica*, March 3, 2014, <https://www.laprensagrafica.com/elsalvador/25-privados-de-libertad-van-este-ano-en-Usulután-20140303-0116.html> (accessed October 11, 2019); "My Husband Went to Pay Installments to a Store and Did Not Return" ("Mi esposo fue a pagar a unas letras a un almacén y ya no regresó"), *El Blog*, June 22, 2017, <http://elblog.com/noticias/registro-43551.html> (accessed October 11, 2019); Flor Lazo, "Relief Teams Search for Missing Man" ("Cuerpos de socorro buscan a hombre extraviado"), *La Prensa Gráfica*, September 17, 2017, <https://www.laprensagrafica.com/elsalvador/Cuerpos-de-socorro-buscan-a-hombre-extraviado-20170917-0028.html> (accessed October 11, 2019); Jaime López, "Youth Arrived to El Salvador from the United States and Disappeared in Sensuntepeque" ("Joven llegó a El Salvador de EE.UU. y desapareció en Sensuntepeque"), *El Salvador.com*, September 23, 2018, <https://www.elsalvador.com/noticias/nacional/joven-llego-a-el-salvador-de-ee-uu-y-desaparecio-en-sensuntepeque/521291/2018/> (accessed October 11, 2019).

alongside 13 men who disappeared or were kidnapped before being found killed.<sup>140</sup>

In a separate case, the Inter-American Commission on Human Rights (CIDH) issued precautionary measures (measures the commission adopts after reviewing evidence indicating imminent risk of irreparable harm to an individual) to an 18-year-old man deported from the US in September 2017 who was taken from his home in January 2018 by “some youth [muchachos],” and has not been seen since.<sup>141</sup>

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<sup>140</sup> Israel Serrano, “Deliveryman of ‘Nash’ Died After Falling in a Ravine Road to La Libertad” (“Repardidor de ‘Nash’ murió al caer en barranco carretera a La Libertad”), *La Pagina*, January 1, 2013 (article on file with Human Rights Watch); David Ernesto Perez, “They Murdered an Opposing Gang Member and Now They Have to Face Jail” (“Asesinaron a un marero del bando contrario y ahora tendrán que enfrentar cárcel”), *La Pagina*, February 18, 2013 (article on file with Human Rights Watch); “Man is Killed with a Stone in the Canton of El Jute” (“Asesinan a hombre con una piedra en el cantón El Jute”), *La Prensa Gráfica*, January 12, 2013, <https://www.laprensagrafica.com/elsalvador/Asesinan-a-hombre-con-una-piedra-en-el-canton-El-Jute-20130112-0080.html> (accessed October 11, 2019); “Man Murdered on Boulevard Antiguo Cuscatlán Was Going to Visit His Son, but Car Was Left” (“Hombre asesinado en bulevar de Antiguo Cuscatlán iba a visitar a su hijo, pero se le quedó el carro”) *El Blog*, August 4, 2018; “Propane Gas Deliveryman Murdered in Lourdes Colón” (“Asesinan a repardidor de gas propano en Lourdes Colón”), *Diario Libre*, June 29, 2017, <https://diariolibresv.com/nacionales/2017/06/29/asesinan-repartidor-gas-propano-lourdes-colon/> (accessed October 11, 2019); Kevin Sieff, “When Death Awaits Deported Asylum Seekers,” *Washington Post*, December 26, 2018, [https://www.washingtonpost.com/graphics/2018/world/when-death-awaits-deported-asylum-seekers/?noredirect=on&utm\\_term=.da4d1269d863](https://www.washingtonpost.com/graphics/2018/world/when-death-awaits-deported-asylum-seekers/?noredirect=on&utm_term=.da4d1269d863) (accessed October 11, 2019); Jaime García, “Saleswoman, Taxi Driver and Newborn, Among Those Killed Today” (“Vendedora, taxista y recién nacida, entre los asesinados hoy”), *El Salvador.com*, September 9, 2015, <https://historico.elsalvador.com/historico/162636/vendedora-taxista-y-recien-nacida-entre-los-asesinados-hoy.html> (accessed October 11, 2019); “Body of Person Reported Missing Found in Santo Domingo de Guzmán” (“Encuentran cadáver de persona reportada como desaparecida en Santo Domingo de Guzmán”), *La Prensa Gráfica*, April 22, 2015, <https://www.laprensagrafica.com/elsalvador/Encuentran-cadaver-de-persona-reportada-como-desaparecida-en-Santo-Domingo-de-Guzman-20150422-0034.html> (accessed October 11, 2019); “Missing Person Found Dead” (“Encuentran muerto a desaparecido”), *La Prensa Gráfica*, April 23, 2015, <https://www.laprensagrafica.com/elsalvador/Encuentran-muerto-a-desaparecido-20150423-0089.html> (accessed October 11, 2019); Lilibeth Sánchez and Óscar Iraheta, “Route 42 Minibus Fare Collector Killed During Violent Day” (“Asesinan a un cobrador de microbuses de la Ruta 42 durante jornada violenta”), *El Diario Hoy*, April 16, 2013, <https://historico.elsalvador.com/historico/104614/asesinan-a-un-cobrador-de-microbuses-de-la-ruta-42-durante-jornada-violenta.html> (accessed October 11, 2019); Héctor Rivas, “Man and His Stepson Killed with AK-47” (“Matan a hombre y a su hijastro con fusil AK-47”), *La Prensa Gráfica*, January 28, 2018, <https://www.laprensagrafica.com/elsalvador/Matan-a-hombre-y-a-su-hijastro-con-fusil-AK-47-20180127-0070.html> (accessed October 11, 2019); Human Rights Watch interview with immigration attorney, United States East Coast, February 22, 2019; Human Rights Watch interview with Gaspar T. and Walter T., El Salvador’s Central Region, March 28, 2019 (pseudonyms); Criminal Sentencing Tribunal Decision, La Unión, January 13, 2016 (on file with Human Rights Watch); Human Rights Watch interview with Yaneth D., United States South, March 13, 2019 (pseudonym). As noted, these 13 cases of disappearances also appear in our total count of killings of deportees, above.

<sup>141</sup> Inter-American Commission on Human Rights, “Óscar Álvarez Rubio Regarding El Salvador” (“Óscar Álvarez Rubio respecto de El Salvador”), May 3, 2018, <https://www.oas.org/es/cidh/decisiones/pdf/2018/26-18MC170-18-ES.pdf> (accessed January 18, 2020).

We also spoke with an IML investigator who said that he knew of “people deported who did disappear,” and a second IML investigator who agreed with this statement during the same interview.<sup>142</sup>

## Sexual Crimes

The United States Department of State (USDOS) Human Rights Reports on El Salvador from 2013 to 2018 stated that “rape and other sexual crimes against women were widespread.”<sup>143</sup> Even so, news reporting on sexual crimes in El Salvador is rare,<sup>144</sup> and as noted above, we believe widely under-reported by victims to authorities.

We documented four cases of sexual crimes and harassment against people deported from the United States (in three of these cases we know the victimization occurred between 2013 and 2019 and was within five years or less of the deportation. For one of the cases, our source was unwilling to provide any dates for security reasons). A male deportee died after castration, according to a criminal sentencing tribunal decision.<sup>145</sup> In addition, according to a local prosecutor we interviewed, a woman was subjected to sexual harassment after her deportation from the US.<sup>146</sup> Two additional cases include a woman deportee who told us that she was physically assaulted by a person linked to her former intimate partner, and after years of previous emotional, physical, and sexual abuse that prompted her original flight from the country;<sup>147</sup> and a female deportee who said that she was raped by a gang member after deportation from the US.<sup>148</sup>

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<sup>142</sup> Human Rights Watch interview with IML investigators, El Salvador’s Eastern Region, January 22, 2019.

<sup>143</sup> United States Department of State, “Country Reports on Human Rights Practices,” <http://www.state.gov/j/drl/rls/hrrpt/> (accessed January 18, 2020).

<sup>144</sup> For example, in searches we did of 24 neighborhoods and four less-populous municipalities that yielded roughly 22,000 articles, only 27 articles (0.1 percent) mentioned sexual crimes. Thirteen neighborhoods returned no results. Seven returned only one result. None returned more than six results.

<sup>145</sup> Criminal Sentencing Tribunal Decision, La Unión, January 13, 2016 (on file with Human Rights Watch) (this case is also counted in the total for deportees who were killed; as well as deportees who were disappeared before being killed). Among the 13 homicides documented in criminal sentencing tribunal decisions, one was killed by removing his testicles and penis.

<sup>146</sup> Human Rights Watch interview with FGR prosecutor, El Salvador’s Central Region, March 26, 2019.

<sup>147</sup> Human Rights Watch interview with Inés Z., El Salvador’s Eastern Region, March 24, 2019 (pseudonym).

<sup>148</sup> Human Rights Watch interview with Angelina N., United States East Coast, February 22, 2019 (pseudonym).

### Angelina N.

In 2014, when she was 20 years old, Angelina N. fled abuse at the hands of Jaime M., the father of her 4-year-old daughter, who regularly beat her.<sup>149</sup> Jaime falsely accused her of having an affair with Mateo O., a gang member in their neighborhood who had been persistently making advances towards her. Angelina fled, alone, to the United States and was apprehended at the border and detained. After a rare phone call home brought news that her 4-year-old was hospitalized in El Salvador, she chose not to appeal the US government's decision to deport her in September 2014.

Once back in El Salvador, Mateo resumed pursuing and threatening her, having his fellow gang members do so as well. She repeatedly rejected Mateo's advances, but according to a statement of facts in an immigration court ruling, "he threatened to kill Angelina's father and daughter if she did not accept to be 'his woman.'"<sup>150</sup>

In October 2014, Angelina's father took her daughter to church.<sup>151</sup> She told a Human Rights Watch researcher what happened when she heard a knock at the door:

I just opened the door, expecting it to be [my daughter returning home], but it was [Mateo]. He forced open the door because I started trying to close it on him. [Mateo] came inside and forced me to have sex with him for the first time. He took out his gun.... I was so scared that I obeyed.... When he left, I started crying. I didn't say anything at the time, or even file a complaint to the police. I thought it would be worse if I did because I thought someone from the police would likely tell [Mateo].... I didn't want anyone to know what was happening.... He told me he was going to kill my father and my daughter if I reported the [original and three subsequent] rapes, because I was "his woman." [He] hit me and told me that he wanted me all to himself.<sup>152</sup>

One month later, Mateo returned to Angelina's home. This time her daughter was at home. Mateo told Angelina's daughter to stay in the living room "watching cartoons" and "not to go to the bedroom."<sup>153</sup> He then "dragged [Angelina] to the bedroom, took out a gun, and told [her] to be quiet or [she] would see [her] daughter die before [her]

eyes.”<sup>154</sup> After he left, Angelina cried but did not tell anyone. She told an immigration court “sometimes it is worse to tell the police because they do not help.”<sup>155</sup>

Angelina was raped twice more by Mateo before fleeing again—this time with her daughter—to the United States.<sup>156</sup> She was ultimately granted protection from deportation in the United States under a provision known as “withholding of removal,” and her daughter was granted asylum.

## Torture, Other Ill-Treatment, or Excessive Use of Force

We investigated five separate cases of torture, other ill-treatment, or excessive use of force by police or soldiers against deportees that we know occurred between 2013 and 2019 and within five years of the person’s deportation. In interviews with deportees and their relatives or friends, we collected accounts of three male deportees from the United States who said they were beaten by police or soldiers during arrest, followed by beatings during their time in custody, which lasted between three days to over a year.<sup>157</sup> One of these deportees, formerly a member of MS, told us that when police came to his home to arrest him he was unarmed and did not resist arrest. Police hit and kicked him before putting him in the patrol car, and then beat him repeatedly during his detention, which lasted for over a year. He told us that during his detention, police officers kicked him repeatedly in the

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<sup>149</sup> US Department of Justice, Executive Office for Immigration Review, *In re Matter of* (name withheld for security), (date withheld for security), (ruling on file with Human Rights Watch). Human Rights Watch interview with Angelina N., United States East Coast, February 22, 2019 (pseudonym).

<sup>150</sup> *Ibid.*

<sup>151</sup> *Ibid.*

<sup>152</sup> Human Rights Watch interview with Angelina N., United States East Coast, February 22, 2019 (pseudonym).

<sup>153</sup> US Department of Justice, Executive Office for Immigration Review, *In re Matter of* (name withheld for security), (date withheld for security), (ruling on file with Human Rights Watch) and Human Rights Watch interview with Angelina N., United States East Coast, February 22, 2019 (pseudonym).

<sup>154</sup> *Ibid.*

<sup>155</sup> *Ibid.*

<sup>156</sup> *Ibid.*

<sup>157</sup> Human Rights Watch interview with Bartolo A., El Salvador’s (region withheld for security), November 26, 2018 (pseudonym); Human Rights Watch telephone interview with Gaspar T., El Salvador’s Eastern Region, May 21, 2019 (pseudonym).

testicles, threatened to kill him, and “asked me about other MS members and were saying that if I name someone from MS, that is, if I turned them in, they would leave me free.”<sup>158</sup>

Salvadoran criminal sentencing tribunal decisions described police abuses of two additional deported men. In one case, a man deported four months earlier, who police accused of resisting arrest, was put in a patrol car and brought to a police station. Throughout, the police repeatedly hit and kicked him, including kicks with their boots to his neck and abdomen. The deported man sustained injuries requiring an operation for a ruptured pancreas and spleen, month-long hospitalization, and 60 days of post-release treatment.<sup>159</sup> In the second case, a deportee who police accused of extortion, evading arrest, and shooting at police; claimed he was face down on the ground but nevertheless shot at by police agents. Once the agents took him into custody, the deportee claimed he was insulted, kicked in the face, and shot at again repeatedly. The deportee was taken to a hospital for his injuries and was later acquitted of all criminal charges.<sup>160</sup>

## Armed Attacks, Beatings, Extortion, and Death Threats by Gangs

We documented the cases of 33 individuals who known or suspected gang members threatened with death after their deportations.<sup>161</sup> Presumed gang members subsequently

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<sup>158</sup> Human Rights Watch written communication with Bartolo A., January 6, 2019 (pseudonym).

<sup>159</sup> Criminal Sentencing Tribunal decision, San Francisco Gotera, Department of Morazán, December 8, 2014 (on file with Human Rights Watch).

<sup>160</sup> Criminal Sentencing Tribunal decision, San Miguel, El Salvador, April 6, 2017 (on file with Human Rights Watch).

<sup>161</sup> Human Rights Watch interview with Bernardo A., El Salvador’s Central Region, January 25, 2019 (pseudonym); Human Rights Watch interview with Nelson E., El Salvador’s (region withheld for security), January 26, 2019 (pseudonym); Human Rights Watch interview with Bartolo A., El Salvador’s (region withheld for security) (pseudonym), November 26, 2018; Human Rights Watch interview with José Miguel C., El Salvador’s Paracentral Region, March 29, 2019 (pseudonym); Human Rights Watch interview with Gabriel G., El Salvador’s (region withheld for security), March 23, 2019 (pseudonym); Human Rights Watch interview with Santiago U., El Salvador’s Eastern Region, January 28, 2019 (pseudonym); Human Rights Watch WhatsApp text message correspondence with Yeshua O., El Salvador’s Central Region, June 20, 2019 (pseudonym); Human Rights Watch interview with Walter T., El Salvador’s Central Region, March 28, 2019 (pseudonym); Human Rights Watch interview with Gaspar T., El Salvador’s Central Region, March 28, 2019 (pseudonym); Human Rights Watch interview with Paloma V., telephone communication, United States East Coast, June 17, 2019 (pseudonym); Human Rights Watch Facebook online messenger correspondence with Óscar K., El Salvador’s Central Region, June 10, 2019 (pseudonym); and Human Rights Watch interview with Irene J., United States East Coast, March 1, 2019 (pseudonym).

beat three<sup>162</sup> and shot and injured three others.<sup>163</sup> Suspected gang members likewise extorted 13 deportees (including one beaten and one shot and injured).<sup>164</sup> Alleged gang members subsequently killed 14 deportees (including six of those extorted).<sup>165</sup> For these

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<sup>162</sup> Human Rights Watch interview with Angelina N., United States East Coast, February 22, 2019 (pseudonym); Human Rights Watch telephone interview with Inés Z., El Salvador’s Eastern Region, April 7, 2019 (pseudonym); and Human Rights Watch interview with Irene J., United States East Coast, March 1, 2019 (pseudonym).

<sup>163</sup> Human Rights Watch telephone interview with Helio L., United States Mountain West, July 1, 2019 (pseudonym); David Marroquín, “Three Detained After Attack and Persecution” (“Tres detenidos tras ataque y persecución”), *El Diario de Hoy*, January 17, 2013, <https://historico.elsalvador.com/historico/100235/tres-detenidos-tras-ataque-y-persecucion.html> (accessed November 9, 2019); and “Presumed Gang Members Injure Man in Ciudad Delgado” (“Presuntos pandilleros lesionan a hombre en Ciudad Delgado”), *La Prensa Gráfica*, May 13, 2013, <https://www.laprensagrafica.com/elsalvador/Presuntos-pandilleros-lesionan-a-hombre-en-Ciudad-Delgado-20130513-0041.html> (accessed November 9, 2019).

<sup>164</sup> Human Rights Watch interview with Elías F., United States (region withheld for security), 2019 (exact date withheld for security) (pseudonym); Human Rights Watch interview with Jacinto K. and Óscar K., El Salvador’s Central Region, April 4, 2014 (pseudonyms); Human Rights Watch telephone interview with Helio L., United States Mountain West, July 1, 2019 (pseudonym); Human Rights Watch interview with Carlos P., El Salvador’s Central Region, March 27, 2019 (pseudonym); Human Rights Watch interview with Angelina N., United States East Coast, February 22, 2019 (pseudonym); Human Rights Watch interview with CANAF, El Salvador’s (region withheld for security), November 5, 2018; Human Rights Watch interview with OLAV, El Salvador’s Central Region, January 11, 2019; Human Rights Watch interview with PNC investigator, El Salvador’s Western Region, January 24, 2019; “Four Gang Members Killed in Usulután and La Libertad” (“Matan a cuatro pandilleros en Usulután y La Libertad”), *La Página*, June 9, 2014 (on file with Human Rights Watch); Lilibeth Sánchez and Diana Escalante, “Police Register 32 Murders Between Friday and Sunday” (“Policía registro 32 asesinatos entre el viernes y el domingo”), *El Diario de Hoy*, June 9, 2014, <https://historico.elsalvador.com/historico/129747/policia-registro-32-asesinatos-entre-el-viernes-y-el-domingo.html> (accessed November 9, 2019); David Marroquín, “2,841 Murders Registered on the Year, with 297 in September” (“Registran 2,841 asesinatos en el año, septiembre con 297 homicidios”), *El Diario de Hoy*, September 29, 2014, <https://www.elsalvador.com/noticias/nacional/registran-2841-asesinatos-en-el-ano-septiembre-con-297-homicidios/136337/2014/> (accessed 21 June 2019); “Two Soldiers Killed in Front of SITRAMSS Station” (“Matan a dos soldados frente a estación del SITRAMSS”), *La Prensa Gráfica*, June 22, 2015, <https://www.laprensagrafica.com/elsalvador/Matan-a-dos-soldados-frente-a-estacion-del-SITRAMSS-20150622-0044.html> (accessed November 12, 2019); and José Napoleón Morales, “Suspected Gang Members Kill a Man and Injure His Wife” (“Supuestos pandilleros asesinan a un hombre y hieren de bala a su esposa”), *La Página*, June 22, 2015 (on file with Human Rights Watch).

<sup>165</sup> Human Rights Watch interview with Karina I., United States West Coast, March 6, 2019 (pseudonym); Human Rights Watch interview with Jacinto K. and Óscar K., El Salvador’s Central Region, April 4, 2014 (pseudonyms); Human Rights Watch interview with Yaneth D., United States South, March 13, 2019 (pseudonym); Human Rights Watch interview with Jennifer B., United States East Coast, March 6, 2019 (pseudonym); Human Rights Watch interview with PNC investigator, El Salvador’s Western Region, January 24, 2019; Jenny Ventura, Jaime López and Diana Escalante, “Nine-year-old Girl Found Murdered” (“Encuentran asesinada a niña de 9 años”), *El Diario de Hoy*, January 4, 2015, <https://historico.elsalvador.com/historico/143432/encuentran-asesinada-a-nina-de-9-anos.html> (accessed November 12, 2019); Wilmer Lizama, “Double Homicide Registered in Moncagua, San Miguel” (“Registran doble homicidio en Moncagua, San Miguel”), *El Mundo*, June 16, 2017, <https://elmundo.sv/registran-doble-homicidio-en-moncagua-san-miguel/> (accessed June 10, 2019); “Three Farmers Killed in Moncagua” (“Asesinan en Moncagua a tres agricultores”), *La Prensa Gráfica*, June 17, 2017, <https://www.laprensagrafica.com/elsalvador/Asesinan-en-Moncagua-a-tres-agricultores-20170617-0090.html> (accessed November 11, 2019); Jorge Beltrán, “Why is There So Much Violence in Just One Neighborhood Called ‘El Platanar’ in El Salvador?” (“¿Por que hay tanta violencia en un solo cantón llamado ‘El Platanar’ en El Salvador?”), *El Diario de Hoy*, July 15, 2018, <https://www.elsalvador.com/noticias/nacional/un-infierno-llamado-el-platanar/500528/2018/> (accessed November 11, 2019); “Two Soldiers Killed in Front of SITRAMSS Station” (“Matan a dos soldados frente a estación del

cases, we know the victimization was within five years or less of the deportation between 2013 and 2019.

Among those killed, known or suspected gang members threatened with death surviving relatives of at least four of the deportees killed.<sup>166</sup> While gang members told three to leave their homes or they would be killed within as little as 24 hours, they told one to stay with her family and keep quiet. Jennifer B. explained to Human Rights Watch: “They [the gang members] threatened my sister [with whom Javier B. had wanted to live] that if she opened her mouth or left that place, they’d look for her everywhere and kill her. So, she remains there. ... They’ve kept their mouths shut there.”<sup>167</sup>

## People Forced into Hiding

Most Human Rights Watch interviewees attempted to go into hiding in their own or different neighborhoods because they were afraid of gang members, police, or former intimate partners from whom they feared harm that authorities would or could not stop. US and Salvadoran authorities often make unrealistic assumptions about a particular individual’s ability to remain safe, thinking a person could easily relocate. For example, when Alexander N. told Salvadoran migration officials he was afraid to return to the home where his sister was taken and killed, they responded: “Why not go elsewhere?”<sup>168</sup>

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SITRAMSS”), *La Prensa Gráfica*, June 22, 2015, <https://www.laprensagrafica.com/elsalvador/Matan-a-dos-soldados-frente-a-estacion-del-SITRAMSS-20150622-0044.html> (accessed November 12, 2019); and José Napoleón Morales, “Suspected Gang Members Kill a Man and Injure his Wife” (“Supuestos pandilleros asesinan a un hombre y hieren de bala a su esposa”), *La Página*, June 22, 2015 (on file with Human Rights Watch); David Marroquín, “2,841 Murders Registered on the Year, with 297 in September” (“Registan 2,841 asesinatos en el año, septiembre con 297 homicidios”), *El Diario de Hoy*, September 29, 2014, <https://www.elsalvador.com/noticias/nacional/registan-2841-asesinatos-en-el-ano-septiembre-con-297-homicidios/136337/2014/> (accessed June 21, 2019); “Four Gang Members Killed in Usulután and La Libertad” (“Matan a cuatro pandilleros en Usulután y La Libertad”) *La Página*, June 9, 2014 (on file with Human Rights Watch); Lilibeth Sánchez and Diana Escalante, “Police Register 32 Murders Between Friday and Sunday” (“Policía registro 32 asesinatos entre el viernes y el domingo”), *El Diario de Hoy*, June 9, 2014, <https://historico.elsalvador.com/historico/129747/policia-registro-32-asesinatos-entre-el-viernes-y-el-domingo.html> (accessed November 9, 2019); David Marroquín, “Three Detained After Attack and Persecution” (“Tres detenidos tras ataque y persecución”), *El Diario de Hoy*, January 17, 2013, <https://historico.elsalvador.com/historico/100235/tres-detenidos-tras-ataque-y-persecucion.html> (accessed November 9, 2019).

<sup>166</sup> Human Rights Watch interview with Karina I., United States West Coast, March 6, 2019 (pseudonym); Human Rights Watch Facebook online messenger correspondence with Óscar K., El Salvador’s Central Region, June 10, 2019 (pseudonym); Human Rights Watch interview with Yaneth D., United States South, March 13, 2019 (pseudonym), and Human Rights Watch telephone interview with Jennifer B., United States East Coast, March 6, 2019 (pseudonym).

<sup>167</sup> Human Rights Watch telephone interview with Jennifer B., United States East Coast, March 6, 2019 (pseudonym).

<sup>168</sup> Human Rights Watch interview Alexander N., El Salvador’s (region withheld for security), November 25, 2018 (pseudonym).

Safe relocation in El Salvador is incredibly difficult for anyone.<sup>169</sup> According to unverified estimates cited by the UN special rapporteur for extrajudicial, summary or arbitrary executions, approximately 60,000 gang members reportedly operate in 247 of the 262 municipalities in the country.<sup>170</sup> State authorities have been largely ineffective at protecting the population from gang or private violence, and Salvadoran security forces have themselves committed extrajudicial executions, sexual assaults, enforced disappearances, and torture throughout the country.

The few organizations now offering assistance to the internally displaced can together only provide services to several hundred people per year and even then, are typically delayed, and limited to helping a limited number of people and for a period of no more than three months.<sup>171</sup> This leaves most of the estimated 285,000 internally displaced persons in El Salvador to rely on familial networks, or more commonly, as one survey with a nationally representative sample found, flee abroad.<sup>172</sup>

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<sup>169</sup> As many as 296,000 new displacements occur a year. See Vickie Knox, “An Atomised Crisis: Reframing Displacement Caused by Crime and Violence in El Salvador,” Internal Displacement Monitoring Centre, September 2018, <http://www.internal-displacement.org/sites/default/files/inline-files/201809-el-salvador-an-atomised-crisis-en.pdf> (accessed 21 August 2019).

<sup>170</sup> United Nations Office of the High Commission for Human Rights, El Salvador End of Mission Statement, Agnes Callamard, special rapporteur for extrajudicial, summary or arbitrary executions, February 5, 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22634&LangID=E> (accessed June 16, 2019).

<sup>171</sup> Human Rights Watch interview with CANAF, El Salvador’s (region withheld for security), November 5, 2018; Human Rights Watch interview with CANAF, El Salvador’s (region withheld for security), November 6, 2019; Human Rights Watch interview with CANAF, El Salvador’s (region withheld for security), November 26, 2018; Human Rights Watch interview with social worker to internally displaced children and families for international non-profit, El Salvador’s Central Region, November 29, 2018; Human Rights Watch interview with aid director for internally displaced persons for international non-profit, El Salvador’s Central Region, December 4, 2018; Human Rights Watch interview with aid workers to internally displaced persons for national non-profit, El Salvador’s Central Region, December 4, 2018; Human Rights Watch interview with OLAV, El Salvador’s Eastern Region, January 23, 2019; and Human Rights Watch interview with aid director for persons deported from Mexico and the United States for international non-profit, El Salvador’s Central Region, 28 March 2019. The profiles these organizations told us they could not attend are: persons who have participated in crimes against gang members, families who have a relative in a gang, and those who were deported three or more years earlier.

<sup>172</sup> Every two years, the Central American University (UCA) Institute of Public Opinion (IUDOP) surveys a representative sample of the Salvadoran population about a range of issues. In 2016, IUDOP asked respondents if someone had to change their residence in the past year (a separate portion of the question asked about migration outside of El Salvador). We multiplied the adult population of El Salvador in 2016 (5,800,000) by the 4.9 percent of respondents who answered affirmatively that they had to change their residence inside El Salvador during the past year. It is important to note that our estimate of 285,000 people displaced includes only adults. In addition, the margin of error for this question in the survey is 2.3, which means as few as 2.6 percent and as many as 7.2 percent may represent the true proportion. See IUDOP, “Evaluation Survey of 2016 and the Peace Accords” (“Encuesta de evaluación del año 2016 y sobre los Acuerdos de Paz”), <http://www.uca.edu.sv/iudop/wp-content/uploads/INFORME-141.pdf> (accessed October 24, 2019).

For example, after learning gang members planned to kill him in his rural municipality, Gabriel G., a retired high-ranking officer with specialized training in the Salvadoran military in his forties, told Human Rights Watch he fled to the United States in 2018 after “the gang went to the police to tell them when, where, and how they’d kill me.”<sup>173</sup> Gabriel’s wife and children have received threats because of his military service as well, and two of his sons fled El Salvador multiple times between 2013 and 2018 related to these threats. However, Gabriel had previously been deported from the US in 2008, after he went to the US seeking refuge because former guerillas<sup>174</sup> were threatening him. Gabriel was detained in Texas and failed his reasonable fear interview. His prior deportation barred him from asylum under US law, so he had to meet the higher standards of withholding of removal, which means that it would be “more likely than not” that he would be persecuted, rather than the lower asylum standard of a well-founded fear of persecution. Alternatively, he had to show he merited protection under the Convention against Torture. Gabriel remembered US officials asked him if he had been tortured. He told Human Rights Watch, “I didn’t want to lie, because [what I consider torture] had not happened to me, although threats had been made, and they remained active.”<sup>175</sup> Since being deported in 2018, Gabriel remains fearful and stays in hiding when he is not at work as a security guard, leaving his home as little as possible and refusing even to inform his wife of his weekly work schedule for fear that she might inadvertently tell others and the gang would attack him while he travels to work.<sup>176</sup> He described to us how different gang members come to the gate outside his house to demand he turn over his work-issued firearm. He consistently refuses to hand over the weapon, and in response the gang members threaten to kill him.<sup>177</sup>

At least 17 deported individuals whose cases we identified or investigated for this report attempted to hide from the violence or extortion they feared in the same neighborhoods

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<sup>173</sup> Human Rights Watch interview with Gabriel G. and his wife, El Salvador’s (region withheld for security), March 23, 2019 (pseudonym).

<sup>174</sup> Individuals who fought against the military-led Salvadoran government forces during El Salvador’s civil war.

<sup>175</sup> Human Rights Watch interview with Gabriel G. and his wife, El Salvador’s (region withheld for security), March 23, 2019 (pseudonym).

<sup>176</sup> Human Rights Watch interview with Gabriel G., El Salvador’s (region withheld for security), December 15, 2019 (pseudonym).

<sup>177</sup> Ibid.

they had originally fled. Two who were beaten and extorted,<sup>178</sup> and one who was beaten, extorted, and raped have since fled El Salvador again.<sup>179</sup> Seven are dead.<sup>180</sup> Discussed more fully in Section IV below, individuals also relocated from one particularly violent neighborhood to another.<sup>181</sup> In another case, a male deportee fled the particularly violent neighborhood where one gang killed his father, to a neighborhood where a different gang controlled the territory.<sup>182</sup> Three additional male deportees attempted to go into hiding in a new location before they were killed or disappeared, according to press accounts.<sup>183</sup>

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<sup>178</sup> Human Rights Watch interview with Elías F., United States (region withheld for security), (exact date withheld for security) 2019 (pseudonym), and Human Rights Watch telephone interview with Helio L., United States Mountain West, July 1, 2019 (pseudonym).

<sup>179</sup> Human Rights Watch interview with Angelina N., United States East Coast, February 22, 2019 (pseudonym).

<sup>180</sup> Human Rights Watch telephone interview with Moises X., United States West Coast, January 3, 2019 (pseudonym); Human Rights Watch interview with Karina I., United States West Coast, March 6, 2019 (pseudonym); Human Rights Watch interview with Yaneth D., United States South, March 13, 2019 (pseudonym); Mauricio Bolaños, “La Paz: Murder of Man Reported in Santiago Nonualco” (“La Paz: reportan asesinato de hombre en Santiago Nonualco”), *La Prensa Gráfica*, April 28, 2013, <https://www.laprensagrafica.com/elsalvador/La-Paz-reportan-asesinato-de-hombre-en-Santiago-Nonualco-20130428-0020.html> (accessed October 28, 2019); “His Brother Sought Asylum in the USA, the Judge Denied Him and Later, He was Killed: This is the Story” (“Su hermano pidió asilo EUA, el juez se lo negó y luego fue asesinado: esta es la historia”), *La Prensa Gráfica*, March 15, 2017, <https://www.laprensagrafica.com/departamento15/Su-hermano-pidio-asilo-EUA-el-juez-se-lo-nego-y-luego-fue-asesinado-esta-es-la-historia-20170315-0043.html> (accessed November 4, 2019); Kevin Sieff, “When Death Awaits Deported Asylum Seekers,” *Washington Post*, December 26, 2018, <https://www.washingtonpost.com/graphics/2018/world/when-death-awaits-deported-asylum-seekers/?noredirect=on> (accessed November 10, 2019); and Gadiel Castillo, “Man is Killed When He Was Going to Work” (“Hombre es asesinado cuando iba a su trabajo”), *El Diario de Hoy*, November 28, 2018, <https://www.elsalvador.com/noticias/nacional/hombre-es-asesinado-cuando-iba-a-su-trabajo/543809/2018/> (accessed on June 22, 2019).

<sup>181</sup> Human Rights Watch interview with Gaspar T. and Walter T., El Salvador’s Central Region, March 28, 2019 (pseudonyms); Human Rights Watch interview with Santiago U., El Salvador’s Eastern Region, January 28, 2019 (pseudonym); Human Rights Watch interview with Irene J., United States East Coast, March 1, 2019 (pseudonym); Human Rights Watch interview with Alexander N., El Salvador’s (region withheld for security), November 25, 2018 (pseudonym); Human Rights Watch telephone interview with Zaida L., United States West Coast, July 12, 2019 (pseudonym); Human Rights Watch interview with Ransés I., Tijuana, Mexico, March 8, 2019 (pseudonym); Human Rights Watch interview with Digna R., El Salvador’s Eastern Region, November 30, 2019 (pseudonym); Human Rights Watch interview with Jairo Q., El Salvador’s Central Region, January 26, 2019 (pseudonym); Human Rights Watch social media interview with Óscar K., El Salvador’s (region withheld for security), June 10, 2019 (pseudonym); Human Rights Watch interview with Paloma V., United States East Coast, June 17, 2019 (pseudonym).

<sup>182</sup> Human Rights Watch interview with hospital-based OLAV official, El Salvador’s Central Region, March 26, 2019.

<sup>183</sup> Francisco Narváez, “Youth Murdered Who Had Recently Been Deported” (“Asesinan a joven que había sido deportado recientemente”), *El Blog*, June 1, 2017, <http://elblog.com/noticias/registro-42799.html> (accessed October 10, 2019); Flor Lazo, “Relief Teams Search for Missing Man” (“Cuerpos de socorro buscan a hombre extraviado”), *La Prensa Gráfica*, September 17, 2017, <https://www.laprensagrafica.com/elsalvador/Cuerpos-de-socorro-buscan-a-hombre-extraviado-20170917-0028.html>, (accessed October 10, 2019); “Extortion and Murder Afflicts El Carmen” (“Extorsiones y asesinatos afligen a El Carmen”), *El Diario del Hoy*, February 23, 2013, <https://historico.elsalvador.com/historico/101223/extorsiones-y-asesinatos-afligen-a-el-carmen.html> (accessed October 10, 2019).

### Alexander N.

Several months before our November 2018 interview with 20-year-old Alexander N. and his parents, men dressed in black identifying themselves as police arrived in the night. The men wanted only to take Alicia N., Alexander's teenage sister. They tied up the rest of the family and posted two men outside to make sure they did not leave. The other men took 17-year-old Alicia with them. Not long after, the family heard a shot, seemingly a few blocks away. Once they broke free and felt sure the men outside were gone, they went toward it. They found Alicia dead with one bullet to her forehead. Alexander and his parents showed a Human Rights Watch researcher the photo of her body, splayed on the dirt, hands above her head and blood coming from the gunshot wound.<sup>184</sup>

After the killing, the press arrived. Nearly every Salvadoran media outlet covered the murder, some in more than one story.<sup>185</sup> Some for several months. None could say definitively if the men in black were gang members of the neighborhood's particularly strong gang clique, law enforcement, or so-called "extermination groups." Alexander and his family suspect police involvement. In recent years, the Attorney General's Office investigated a group, police chiefs and businessmen among them, for forming an extermination group who killed those they believed to be gang members in Alexander's neighborhood and in surrounding municipalities. Alicia's murder was at least the seventh in four months in their community; she was the second child to be killed, and the second female. More killings, including of two females, occurred in the same neighborhood before the year ended. Authorities found additional bodies in clandestine graves. A press report alleged a member of the gang had raped girls and young women in the neighborhood.

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<sup>184</sup> Human Rights Watch interview Alexander N., El Salvador's (region withheld for security), November 25, 2018 (pseudonym); Human Rights Watch interview with Alexander N.'s mother and father, El Salvador's (region withheld for security), November 25, 2018 (pseudonym); and January 23, 2019. Human Rights Watch interview with Alexander N.'s neighbor, El Salvador's (region withheld for security), November 25, 2018 (pseudonym); Human Rights Watch telephone interview with journalist, El Salvador's (region withheld for security), November 25, 2018; Human Rights Watch telephone interview with journalist, El Salvador's (region withheld for security), May 23, 2019.

<sup>185</sup> All press articles described in this account are withheld for security but are on file with Human Rights Watch.

Within 48 hours of his sister's death, the killers called Alexander's home and told his mother that they would come back and kill her son, Alexander, for "giving the press information" on the way they had killed her daughter.<sup>186</sup> She and her husband could not bear the thought of losing their son too. She told us what little they had; they gave him to flee. Alexander's father broke down when he told us he had decided, "My only child who remains can at least go."<sup>187</sup>

Less than a month after his sister's murder, Alexander was at the border in Texas. He told Human Rights Watch that he had told US authorities what happened to his sister and that he was afraid to return. At the seventh US immigration detention center he was held in, he got lucky: a group of volunteers worked with him and five or six other asylum seekers on how to present himself in his credible fear interview (the first stage of the US asylum process). US authorities determined Alexander had demonstrated credible fear and he was transferred to another detention center to present his case before the Immigration Court nearest it. A fellow detainee from Mexico helped him translate the proof he carried: photos, a news report, death certificate, and letters of support from his Catholic church, work, school, and City Hall.

In our interview with him, Alexander appeared humble and shy. He had recently graduated high school. In his community, eye contact and talking could get you killed, he said. According to Alexander, after four hearings, at which he appeared without counsel, he was denied asylum. Alexander said, "There was no one to help me. I felt so bad. There *was* danger of return." About a month later, US officials cuffed him at the wrists and ankles to deport him to El Salvador.

Alexander and his family told us that the men in black have gone to other homes since then, and they see masked police and soldiers stroll their dirt roads. Alexander lives in constant fear, saying that he feels it "day and night." His strategy: "I don't go out. I hide." He is not studying, working, or spending time with friends, despite his dreams

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<sup>186</sup> Human Rights Watch interview with Alexander N.'s mother and father, El Salvador's (region withheld for security), November 25, 2018; and January 23, 2019.

<sup>187</sup> Ibid.

to get a college degree and help his family. When asked how long this could last, Alexander’s mom said she did not know. “Meanwhile,” she said, “we fear.”<sup>188</sup>

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<sup>188</sup> Human Rights Watch interview with Alexander N.’s mother and father, El Salvador’s (region withheld for security), November 25, 2018; and January 23, 2019.

## IV. Particularly Violent Neighborhoods

When people are deported to El Salvador, the original neighborhoods they lived in prior to their emigration may carry significant risks of disappearance, homicide, and sexual crime, such that living in safety at home is nearly impossible. These particularly violent neighborhoods (see Glossary for definition) tend to have not just a concentration of organized crime but also of abusive law enforcement actors, documented cases of domestic and sexual violence, and violence perpetrated by so-called “death squads” or “extermination groups” (as discussed in Section V).

### Specific Neighborhoods, High Levels of Violence

According to government data, from 2013 to 2018, all of El Salvador’s 262 municipalities registered at least a homicide or sexual crime.<sup>189</sup> In most municipalities, however, crime tends to concentrate in a small percentage of specific neighborhoods.<sup>190</sup> Such

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<sup>189</sup> In that period, only three rural municipalities with populations of less than 2,600—El Rosario of Morazán department and [San José] Las Flores and San Fernando of Chalatenango department—registered no murders, but even so these municipalities registered multiple sexual crimes. Data obtained via public information request to the Salvadoran Attorney General’s Access to Public Information Office for crime incidence data throughout El Salvador, data on homicides between 2013-2017 were received November 9, 2018 and data on sexual crimes between 2013-2017 were received November 1, 2018. Homicide data for 2018 were received February 18, 2019, sexual crime data for 2018 were received February 25, 2019 (data on file with Human Rights Watch).

<sup>190</sup> Since the late-1980s, research in numerous Brazilian, Canadian and US cities with varying populations has shown that crimes, including homicide and rape, concentrate at very small units of geography. Across studies, researchers have tended to find that roughly 1.5 percent of street segments in cities see about 25 percent of crime incidents. L.W. Sherman, P.R. Gartin, and M.E. Buerger, *The Geography of Crime* (London: Routledge, 1989); P.L. Brantingham and P.J. Brantingham, “Hot Spots of Predatory Crime: Routine Activities and the Criminology of Place,” *Criminology*, vol. 27, no. 1 (1999), pp. 27-56; P.L. Brantingham, “A Theoretical Model of Crime Hot Spot Generation,” *Studies on Crime and Crime Prevention*, vol. 8, no. 1 (1999), pp. 7-26; D. Weisburd, S. Bushway, C. Lum, S.M. Yang, “Trajectories of Crime at Place: A Longitudinal Study of Street Segments in the City of Seattle,” *Criminology*, vol. 42, no. 5 (2004), pp.283-322; Ilona Szabo de Carvalho, Juan Carlos Garzon, and Robert Muggah, “Citizen Security Rising: New Approaches to Addressing Drugs, Guns and Violence in Latin America,” Norwegian Peacebuilding Resource Centre (NOREF), 2013; A.A. Braga, A.V. Papachristos, and D.M. Hureau, “The Effects of Hot Spots Policing on Crime: An Updated Systematic Review and Meta-analysis,” *Justice Quarterly*, vol. 31, no.4, (2014), pp.633-63; A.S. Curmen, M.A. Andresen, and P.J. Brantingham, “Crime and Place: A Longitudinal Examination of Street Segment Patterns in Vancouver, BC,” *Journal of Quantitative Criminology*, vol. 31, no.1 (2014), pp.127-47; and David Weisburd, “The 2014 Sutherland Address: The Law of Crime Concentration and the Criminology of Place,” *Criminology*, vol. 53, no. 2, (2015), pp.133-57.

neighborhoods register multiple homicides and sexual crimes each year.<sup>191</sup> Many have also been the sites of clandestine graves containing victims who were kidnapped, disappeared, and often tortured before they were killed.<sup>192</sup> Multiple actors, including gangs, authorities, those who present themselves as authorities, and private individuals are alleged to have committed these crimes. Victims include girls, boys, men, and women and those known or believed to be informants or witnesses. Visitors to these neighborhoods are also victims, and residents of these neighborhoods are victimized elsewhere because they are imputed to be affiliated with the gang that controls the neighborhood from which they fled.

Given persistent violence in these neighborhoods, individuals growing up in them likely experience multiple traumatic events.<sup>193</sup> For example, an aid director for deported persons, in summarizing the case of a mother and her daughters who fled sexual harassment, extortion, and threats (but have since been deported from the US back to El Salvador), said of residents of such neighborhoods: “One [criminal] event does not tend to be it [for what drove them to flee].”<sup>194</sup> The majority of directly impacted individuals we interviewed who originated from a particularly violent neighborhood recounted they or their loved ones being victims of multiple crimes before and after deportation, including witnessing or having loved ones abused, disappeared, or killed. Four deportees we interviewed had to live in the same home in which a family member had been killed.<sup>195</sup> They—like other

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<sup>191</sup> Data obtained via public information request to the Salvadoran Attorney General’s Access to Public Information Office for crime incidence data throughout El Salvador, data on homicides between 2013-2017 were received November 9, 2018 and data on sexual crimes between 2013-2017 were received November 1, 2018. Homicide data for 2018 were received February 18, 2019, sexual crime data for 2018 were received February 25, 2019 (data on file with Human Rights Watch).

<sup>192</sup> As described in the methodology section, using an open source media monitoring methodology, Human Rights Watch systematically searched the Salvadoran press for the neighborhood names (including various spelling variations, when necessary) where those interviewed lived or fled, yielding over 22,000 total results that we reviewed, and when relevant, analyzed. The results were then filtered to produce a database of neighborhood-specific violent incidents. These data have extreme limitations. However, they did allow us to identify themes on neighborhood dynamics, including poverty level, crimes committed, victims, victimizers and state actions.

<sup>193</sup> See US Centers for Disease Control and Prevention, “Adverse Childhood Experiences,” <https://www.cdc.gov/violenceprevention/childabuseandneglect/acestudy/index.html> (accessed October 7, 2019).

<sup>194</sup> Human Rights Watch interview with aid director for persons deported from Mexico and the United States for international non-profit, El Salvador’s Central Region, March 28, 2019.

<sup>195</sup> Human Rights Watch interview with Alexander N., El Salvador’s (region withheld for security), November 25, 2018 (pseudonym); Human Rights Watch interview with Yaneth D., United States South, March 13, 2019 (pseudonym); and Human Rights Watch interview with Vivian R. and Wendy R., El Salvador’s Eastern Region, March 25, 2019 (pseudonyms).

residents—may show symptoms of trauma.<sup>196</sup> At time of writing, such particularly violent neighborhoods in El Salvador included but *were not limited to*:

- Lourdes neighborhood of Colón municipality in La Libertad department;<sup>197</sup>
- Altavista neighborhood at the border of Ilopango, San Martín, and Tonacatepeque municipalities of San Salvador department,<sup>198</sup> and surrounding areas like San José Flores neighborhood of Tonacatepeque municipality of San Salvador department;

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<sup>196</sup> Mayo Clinic, “Post Traumatic Stress Disorder,” <https://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/symptoms-causes/syc-20355967> (accessed December 3, 2019). A Salvadoran researcher told Human Rights Watch that “We don’t have many holistic programs here [for deportees]. ... The psychosocial and cultural pieces are not addressed.” Human Rights Watch telephone interview with Salvadoran researcher, December 14, 2018.

<sup>197</sup> Human Rights Watch interview with LGBT service provider, El Salvador’s Central Region, December 1, 2018 and Human Rights Watch interview with aid director for persons deported from Mexico and the United States for international non-profit, El Salvador’s Central Region, March 28, 2019. Furthermore, since August 2013, the FGR has operated a Twitter page for disappeared children. Our search of this page revealed 13 of 17 children forcibly disappeared from Colón municipality through July 2014 disappeared from the Lourdes neighborhood. Finally, a 2014 study produced by a co-author of this report contains data that Human Rights Watch re-analyzed for this report, showing that Lourdes was among the three most common neighborhoods of origin for child migrants. The data further shows that these neighborhoods frequently registered higher-than-average numbers of disappearance, homicide and suspected death squad activity. Elizabeth G. Kennedy, “No Childhood Here: Why Central American Children are Fleeing Their Homes,” American Immigration Council, July 1, 2014, <https://www.americanimmigrationcouncil.org/research/no-childhood-here-why-central-american-children-are-fleeing-their-homes> (accessed January 18, 2020).

<sup>198</sup> Human Rights Watch telephone interview with Yeshua O., El Salvador’s Central Region, November 13, 2018 (pseudonym); Human Rights Watch interview with aid director for internally displaced persons for international non-profit, El Salvador’s Central Region, December 4, 2018. 5,749 results appeared for “Altavista” and “Alta Vista,” some of them duplicates, in 14 news sources in El Salvador between 2000 and September 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Human Rights Watch compiled all these results but completed analysis of only relevant articles from November 2009 to November 2016. Three relevant articles from the thousands are: Roberto Valencia, “Scan of a Neighborhood of Swallows Called Ciudad Futura” (“Radiografía de una colonia de golondrinas llamada Ciudad Futura”), *El Faro*, February 8, 2019, [https://elfaro.net/es/201902/el\\_salvador/22992/Radiograf%C3%ADa-de-una-colonia-de-golondrinas-llamada-Ciudad-Futura.htm](https://elfaro.net/es/201902/el_salvador/22992/Radiograf%C3%ADa-de-una-colonia-de-golondrinas-llamada-Ciudad-Futura.htm) (accessed June 12, 2019); Ezequiel Barrera, “Attackers Used War Weapons to Kill Seven in Alta Vista” (“Atacantes usaron armas de guerra para matar a 7 en Alta Vista”), *La Prensa Gráfica*, July 16, 2016, <https://www.laprensagrafica.com/elsalvador/Atacantes-usaron-armas-de-guerra-para-matar-a-7-en-Alta-Vista-20160716-0019.html> (accessed October 9, 2019); “Police Capture 31 Gang Members in Altavista Neighborhood” (“Policía captura a 31 pandilleros en residencial Altavista”), *El Diario de Hoy*, September 29, 2016, <https://historico.eldiariodehoy.com/historico-edh/26014/policia-captura-a-31-pandilleros-en-residencial-altavista.html> (accessed October 9, 2019). Furthermore, since August 2013, the FGR has operated a Twitter page for disappeared children. Our search of this page revealed six of 14 children forcibly disappeared from San Martín and Tonacatepeque municipalities through May 2018 disappeared from the Altavista neighborhood. Finally, a 2014 study produced by a co-author of this report contains data that Human Rights Watch re-analyzed for this report, showing that Altavista was among the three most common neighborhoods of origin for child migrants. The data further shows that these neighborhoods frequently registered higher-than-average numbers of disappearance, homicide and suspected death squad activity. Elizabeth G. Kennedy, “No Childhood Here: Why Central

- San Roque neighborhood and surrounding neighborhoods like Zacamil of Mejicanos municipality<sup>199</sup> in San Salvador department;
- Iberia<sup>200</sup> and San Jacinto<sup>201</sup> neighborhoods of San Salvador municipality in San Salvador department;
- La Campanera neighborhood<sup>202</sup> of Soyapango municipality in San Salvador department;

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American Children are Fleeing Their Homes,” American Immigration Council, July 1, 2014, <https://www.americanimmigrationcouncil.org/research/no-childhood-here-why-central-american-children-are-fleeing-their-homes> (accessed January 18, 2020).

<sup>199</sup> Human Rights Watch interview with LGBT service provider, El Salvador's Central Region, December 1, 2018; Human Rights Watch interview with Salvadoran researcher on migration, El Salvador's Central Region, November 29, 2018. 1,231 results appeared for San Roque in 14 news sources in El Salvador between 2000 and June 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Human Rights Watch compiled all these results but completed analysis of only relevant articles in six outlets from 2013 to June 2019. Three relevant articles from the 1,231 are: “Raul Mijango’s Community” (“La comunidad de Raul Mijango”), *Diario1*, May 6, 2016, <http://diario1.com/nacionales/2016/05/la-comunidad-de-raul-mijango/> (accessed October 16, 2019); Carmina Castro, “Woman Murdered and Her Two-month-old Son Injured in Mejicanos” (“Asesinan a mujer y hieren a su hijo de dos meses en Mejicanos”), *El Salvador Times*, April 5, 2019, <https://www.elsalvadortimes.com/content/print/asesinan-mujer-hieren-hijo-meses-mejicanos/2019040519185757004> (accessed October 16, 2019); Jorge Archila, “Unknown Youth Eliminated by Gang Members in San Roque, Mejicanos” (“Joven desconocido fue ultimado por mareros en la San Roque, Mejicanos”), *El Blog*, April 5, 2019, <http://elblog.com/inicio/joven-desconocido-fue-ultimado-por-mareros-en-la-san-roque-mejicanos/> (accessed October 16, 2019). Furthermore, since August 2013, the FGR has operated a Twitter page for disappeared children. Our search of this page revealed five of 29 children forcibly disappeared in Mejicanos municipality through March 2019 disappeared from the San Roque or Zacamil neighborhood.

<sup>200</sup> Human Rights Watch interview with LGBT service provider, El Salvador's Central Region, December 1, 2018. Human Rights Watch review of 783 articles appearing in 13 news outlets in El Salvador between January 2002 and February 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Three relevant articles from the 783 are: Evelyn Machuca, “Between the Murderer and the Murder, There’s Something Called Life” (“Entre el asesino y el asesinato hay algo que se llama vida”), *La Prensa Gráfica*, November 8, 2018, <https://www.laprensagrafica.com/elsalvador/Entre-el-asesino-y-el-asesinato-hay-algo-que-se-llama-vida-20181107-0122.html> (accessed October 8, 2019); “San Salvador Divided by Gangs’ Control” (“San Salvador dividido por el control de las pandillas”), *El Diario de Hoy*, December 19, 2015, <https://www.elsalvador.com/fotogalerias/noticias-fotogalerias/san-salvador-dividido-por-el-control-de-las-pandillas/324851/2015/> (accessed October 16, 2019); David Martinez, “The Iberia, a Stigmatized Community That Looks to Develop its New Generations” (“La Iberia, una comunidad estigmatizada que busca desarrollar a sus nuevas generaciones”), *Diario Co-Latino*, April 30, 2015, <https://www.diariocolatino.com/la-iberia-una-comunidad-estigmatizada-que-busca-desarrollar-a-sus-nuevas-generaciones/> (accessed October 16, 2019). Furthermore, since August 2013, the FGR has operated a Twitter page for disappeared children. Our search of this page revealed two of 49 children forcibly disappeared from San Salvador municipality through March 2019 disappeared from the Iberia neighborhood.

<sup>201</sup> Since August 2013, the FGR has operated a Twitter page for disappeared children. Our search of this page revealed 12 of 49 children forcibly disappeared from San Salvador municipality disappeared from the San Jacinto neighborhood.

<sup>202</sup> Human Rights Watch interview with aid workers to internally displaced persons for national non-profit, El Salvador's Central Region, December 4, 2018; Human Rights Watch interview with OLAV staff, El Salvador's Central Region, January 11, 2019; and Human Rights Watch interview with social worker to internally displaced persons for national non-profit, El Salvador's Central Region, January 23, 2019. See also, “The Crazy Life” (“La Vida Loca”), documentary, depicting the violence

- Amapalita neighborhood of La Unión municipality in La Unión department;<sup>203</sup>
- El Platanar neighborhood of Moncagua municipality in San Miguel department;<sup>204</sup>

plaguing Campanera; “‘La Vida Loca’ Captures Daily Reality of El Salvador’s Gangs, or Maras,” *Los Angeles Times*, April 10, 2019, <https://latimesblogs.latimes.com/laplaza/2009/04/la-vida-loc-reflects-a-depressing-and-hopeless-reality-the-documentary-filmed-by-photojournalist-and-filmmaker-chris.html> (accessed January 18, 2020). The filmmaker, Christian Poveda, was killed in September 2009. Rory Carroll, “Killers of Filmmaker Christian Poveda Jailed,” *Guardian*, March 11, 2011, <https://www.theguardian.com/world/2011/mar/11/christian-poveda-murders-jailed>, (accessed January 18, 2020). The neighborhood also appeared in these three representative articles: Roberto Valencia, “Scan of a Neighborhood of Swallows Called Ciudad Futura” (“Radiografía de una colonia de golondrinas llamada Ciudad Futura”), *El Faro*, February 8, 2019, [https://elfaro.net/es/201902/el\\_salvador/22992/Radiograf%C3%ADa-de-una-colonia-de-golondrinas-llamada-Ciudad-Futura.htm](https://elfaro.net/es/201902/el_salvador/22992/Radiograf%C3%ADa-de-una-colonia-de-golondrinas-llamada-Ciudad-Futura.htm) (accessed 12 June 2019); Enrique García, “Centers Overrun with Gangs to be Re-enforced” (“Reforzaran los centros asediados por las maras”), *El Mundo*, February 26, 2018, <https://elmundo.sv/reforzaran-los-centros-asediados-por-las-maras/> (accessed October 16, 2019); and “Ten Places Where Taxi Drivers Do Not Want to Go” (“Diez lugares donde los taxistas no quieren ir”), *El Diario de Hoy*, March 5, 2014, <https://www.elsalvador.com/noticias/nacional/124039/diez-lugares-donde-los-taxistas-no-quieren-ir/> (accessed October 16, 2019).

<sup>203</sup> Human Rights Watch interview with IML doctor, El Salvador’s Eastern Region, January 22, 2019; Human Rights Watch interview with FGR prosecutor, El Salvador’s Eastern Region, January 22, 2019; and Human Rights Watch interview with Criminal Sentencing Tribunal judge, El Salvador’s Eastern Region, January 23, 2019. 18th Street Sureños members killed the stepmother of a young deportee from the US, because they believed her to be an informant to police in this neighborhood. See also “Sentencing Document for 57 Alleged Gang Member Defendants,” Specialized Sentencing Court for Organized Crime Cases in El Salvador’s Eastern Region, San Miguel, August 3, 2018 (on file with Human Rights Watch). See Diana Escalante and Insy Mendoza, “Woman Killed Because of Disagreement Between Gang Members” (“Matan a una mujer por pleito entre pandilleros”), *El Diario de Hoy*, April 29, 2014, <https://www.elsalvador.com/noticias/nacional/matan-a-una-mujer-por-pleito-entre-pandilleros/125579/2014/> (accessed 12 June 2019). Human Rights Watch review of 146 articles appearing in 11 news outlets in El Salvador between 2003 and April 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Three representative articles from the 146 are: Insy Mendoza, “One Student Killed and Three Injured in La Unión” (“Asesinan a un estudiante y lesionan a tres en La Unión”), *El Diario de Hoy*, March 6, 2015, <https://www.elsalvador.com/noticias/nacional/147746/asesinan-a-un-estudiante-y-lesionan-a-tres-en-la-union/> (accessed October 16, 2019); “A Woman is Killed Because of Gang Dispute” (“Matan a una mujer por pleito entre pandillas”), *El Diario de Hoy*, April 29, 2014, <https://historico.elsalvador.com/historico/125579/matan-a-una-mujer-por-pleito-entre-pandilleros.html> (accessed October 14, 2019); “Three Police Are Captured with Collaborating with Gang Members” (“Capturan a Tres Policías por Colaborar con Pandilleros”), *El Mundo*, May 16, 2017, <https://elmundo.sv/capturan-a-tres-policias-por-colaborar-con-pandilleros/> (accessed October 16, 2019).

<sup>204</sup> Human Rights Watch interview with Salvadoran journalist, El Salvador’s Eastern Region, November 6, 2018; Human Rights Watch interview with Salvadoran journalist, El Salvador’s Central Region, November 9, 2018; and Human Rights Watch interview with PNC high-ranking officer, El Salvador’s Eastern Region, November 26, 2018 Human Rights Watch review of 474 articles appearing in 10 news outlets in El Salvador between July 2001 and May 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Three representative articles from the 474 are: “Extortion Obligates Tens of Businesses to Close in the East” (“Extorsiones obligan a cerrar decenas de negocios en Oriente”), *El Diario de Hoy*, June 2, 2015, <https://www.elsalvador.com/noticias/nacional/extorsiones-obligan-a-cerrar-decenas-de-negocios-en-oriente/154450/2015/> (accessed October 16, 2019); “He Took Charge of Terrorizing Moncagua Girls and Obligating Them to Have Sex with Him” (“Se encargaba de aterrorizar a muchachas de Moncagua y las obligaba a que tuvieran sexo con el”), *La Prensa Gráfica*, August 3, 2017, <https://www.laprensagrafica.com/elsalvador/Se-encargaba-de-terrorizar-a-muchachas-de-Moncagua-y-las-obligaba-a-que-tuvieran-sexo-con-el-20170803-0022.html> (accessed October 16, 2019); Jorge Beltrán, “Why is There So Much Violence in Just One Neighborhood Called ‘El Platanar’ in El Salvador?” (“¿Por que hay tanta violencia en un solo cantón llamado ‘El Platanar’ en El Salvador?”), *El Diario de Hoy*, July 15, 2018, <https://www.elsalvador.com/noticias/nacional/un-infierno-llamado-el-platanar/500528/2018/> (accessed November 11, 2019).

- Ciudad Pacífica,<sup>205</sup> Milagro de la Paz<sup>206</sup> and San Antonio Silva<sup>207</sup> neighborhoods of San Miguel municipality in San Miguel department;

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<sup>205</sup> Human Rights Watch interview with PNC high-ranking officer, El Salvador's Eastern Region, November 26, 2018 and Human Rights Watch interview with CANAF staff, El Salvador's (region withheld for security), November 26, 2018. In Human Rights Watch's review of 528 articles appearing in 11 news outlets in El Salvador between April 2011 and January 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Three representative articles from the 528 are: "These are the Places That Provoke Most Fear in Salvadorans" ("Estos son los lugares que más miedo provocan a los salvadoreños"), *La Prensa Gráfica*, March 16, 2017, <https://www.laprensagrafica.com/lpgdatos/Estos-son-los-lugares-que-mas-miedo-provocan-a-los-salvadorenos-20170316-0002.html> (accessed October 16, 2019); Wilmer Lizama, "Police Deploy FIRT—Intervention and Recuperation of Territory Force—Group in San Miguel" ("PNC despliega grupo FIRT en San Miguel"), *El Mundo*, July 13, 2016, <https://elmundo.sv/pnc-despliega-grupo-firt-en-san-miguel/> (accessed October 16, 2019); Lucinda Quintanilla, "Extortion Obligates Tens of Businesses to Close in the East" ("Extorsiones obligan a cerrar decenas de negocios en Oriente"), *El Diario de Hoy*, June 2, 2015, <https://www.elsalvador.com/noticias/nacional/extorsiones-obligan-a-cerrar-decenas-de-negocios-en-oriente/154450/2015/> (accessed October 16, 2019). Finally, a 2014 study produced by a co-author of this report contains data that Human Rights Watch re-analyzed for this report, showing that Ciudad Pacífica was among the three most common neighborhoods of origin for child migrants. The data further shows that these neighborhoods frequently registered higher-than-average numbers of disappearance, homicide and suspected death squad activity. Elizabeth G. Kennedy, "No Childhood Here: Why Central American Children are Fleeing Their Homes," American Immigration Council, July 11, 2014, <https://www.americanimmigrationcouncil.org/research/no-childhood-here-why-central-american-children-are-fleeing-their-homes> (accessed January 18, 2020).

<sup>206</sup> Human Rights Watch interview with PNC high-ranking officer, El Salvador's Eastern Region, November 26, 2018 and Human Rights Watch interview with CANAF staff, El Salvador's (region withheld for security), November 26, 2018. In Human Rights Watch's review of 620 articles appearing in 11 news outlets in El Salvador between June 2000 and April 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Three representative articles from the 620 are: Roberto Valencia, "Scan of a Neighborhood of Swallows Called Ciudad Futura" ("Radiografía de una colonia de golondrinas llamada Ciudad Futura"), *El Faro*, February 8, 2019, [https://elfaro.net/es/201902/el\\_salvador/22992/Radiograf%C3%ADa-de-una-colonia-de-golondrinas-llamada-Ciudad-Futura.htm](https://elfaro.net/es/201902/el_salvador/22992/Radiograf%C3%ADa-de-una-colonia-de-golondrinas-llamada-Ciudad-Futura.htm) (accessed June 12, 2019); Wilmer Lizama, "Police Deploy FIRT—Intervention and Recuperation of Territory Force—Group in San Miguel" ("PNC despliega grupo FIRT en San Miguel"), *El Mundo*, July 13, 2016, <https://elmundo.sv/pnc-despliega-grupo-firt-en-san-miguel/> (accessed October 16, 2019); "The Neighborhoods Causing Fear in the East" ("Las colonias que dan miedo en el oriente"), *La Prensa Gráfica*, September 12, 2014, <https://www.laprensagrafica.com/elsalvador/Las-colonias-que-dan-miedo-en-el-oriente-20140912-0097.html> (accessed October 16, 2019).

<sup>207</sup> Human Rights Watch review of 1,377 articles appearing in 13 news outlets in El Salvador between 2000 and February 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details (San Antonio Silva had more-than-normal irrelevant results, because "San Antonio" is common neighborhood name in multiple municipalities, and Silva is a common last name, including of a journalist and politician). Of relevant articles three representative ones are: "More Than a Thousand Salvadorans Leave in a Caravan With Their Eyes Toward the United States" ("Más de mil salvadoreños salen en caravana con la mirada en EEUU"), *El Mundo*, October 31, 2018, <https://elmundo.sv/parte-segunda-caravana-de-migrantes-salvadorenos-rumbo-a-estados-unidos/> (accessed October 16, 2019); "The Killing that Uncovered a Death Squad" ("El asesinato que delató al grupo de exterminio"), *El Diario de Hoy*, July 24, 2016, <https://www.elsalvador.com/noticias/nacional/el-asesinato-que-delato-al-grupo-de-exterminio/193811/2016/> (accessed October 16, 2019); "Three Are Killed in San Salvador, San Vicente and San Miguel" ("Asesinan a tres en San Salvador, San Vicente y San Miguel"), *La Prensa Gráfica*, February 26, 2015, <https://www.laprensagrafica.com/elsalvador/Asesinan-a-tres-en-San-Salvador-San-Vicente-y-San-Miguel-20150226-0088.html> (accessed October 16, 2019).

- Tierra Blanca neighborhood of Jiquilisco municipality in Usulután department;<sup>208</sup>
- Chaguantique neighborhood and surrounding areas at the border of Jiquilisco and Puerto El Triunfo municipalities in Usulután department;<sup>209</sup>
- El Ojuste<sup>210</sup> and La Poza<sup>211</sup> neighborhoods of Usulután municipality in Usulután department;

<sup>208</sup> 507 results appeared for “Tierra Blanca” in 14 news sources in El Salvador between 2000 and October 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Human Rights Watch compiled all these results but completed analysis of only relevant articles for one sector of the neighborhood in five outlets from 2002 to June 2019. See, for example: “Information About Killings in Different Parts of the Country” (“Informan sobre asesinatos en distintos puntos del país”), *La Prensa Gráfica*, December 5, 2014, <https://www.laprensagrafica.com/elsalvador/Informan-sobre-asesinatos-en-distintos-puntos-del-pais-20141205-0002.html> (accessed October 16, 2019); “Man Killed in San Miguel” (“Matan a hombre en San Miguel”), *La Prensa Gráfica*, June 25, 2014, <https://www.laprensagrafica.com/elsalvador/Matan-a-hombre-en-San-Miguel-20140625-0027.html> (accessed October 16, 2019); and Rosa Fuentes, “Citizens Help Capture Rapists” (“Ciudadanos ayudan a capturar a violadores”), *El Diario de Hoy*, October 15, 2002, <http://archivo.elsalvador.com/noticias/2002/10/15/elpais/elpais8.html> (accessed October 16, 2019).

<sup>209</sup> Human Rights Watch review of 89 articles appearing in nine news outlets in El Salvador between July 2012 and February 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Three representative articles are: “Residents of Jiquilisco at Risk Because of the Diversion of River Canal” (“Habitantes de Jiquilisco en riesgo por desvío de cauce de río”), *La Prensa Gráfica*, February 24, 2017, <https://www.laprensagrafica.com/elsalvador/Habitantes-de-Jiquilisco-en-riesgo-por-desvio-de-cauce-de-río-20170224-0069.html> (accessed October 15, 2019); “Usulután, Under a Wave of Killings and a Siege from Gangs” (“Usulután, bajo ola de asesinatos y asedio de pandillas”), *El Diario de Hoy*, March 3, 2014, <https://www.elsalvador.com/noticias/nacional/usulután-bajo-ola-de-asesinatos-y-asedio-de-pandillas/124984/2014/> (accessed October 16, 2019); “Ex-policeman and Ex-soldier Captured” (“Capturan a expolicía y a exmilitar”), *La Prensa Gráfica*, August 8, 2017, <https://www.laprensagrafica.com/elsalvador/Capturan-a-expolicía-y-a-exmilitar-20170808-0090.html> (accessed October 16, 2019).

<sup>210</sup> Human Rights Watch review of 170 articles appearing in 12 news outlets in El Salvador between 2001 and February 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Three representative articles are: Willian Martínez, “Young Woman Reported as Missing is Found Dead in Santa Elena, Usulután” (“Joven reportada como desaparecida es encontrada muerta en Santa Elena, Usulután”), *Cronio*, February 8, 2019, <http://cronio.sv/nacionales/joven-reportada-como-desaparecida-es-encontrada-muerta-en-santa-elena-usulután/> (accessed October 16, 2019); Iliana Avila, “A Fruit and Sweet Seller is Killed in Front of a School” (“Matan a vendedora de frutas y dulces frente a escuela”), *El Diario de Hoy*, August 16, 2018, <https://www.elsalvador.com/noticias/nacional/509872/matan-a-vendedora-de-frutas-y-dulces-frente-a-escuela/> (accessed October 16, 2019); Jaime López, “Thugs Take a Man by Force and He is Found Dead in Usulután” (“Maleantes toman por la fuerza a un hombre anoche y ahora amaneció muerto en Usulután”), *El Diario de Hoy*, <https://historico.eldiariodehoy.com/historico-edh/37704/maleantes-toman-por-la-fuerza-a-un-hombre-anoche-y-ahora-amanece-muerto-en-usulután.html> (accessed January 20, 2020).

<sup>211</sup> Human Rights Watch review of 170 articles appearing in 12 news outlets in El Salvador between 2001 and February 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Three representative articles are: Héctor Rivas, “Deportee is Killed in La Poza” (“Deportado es asesinado en La Poza”), *La Prensa Gráfica*, June 1, 2018, <https://www.laprensagrafica.com/elsalvador/Deportado-es-asesinado-en-La-Poza-l-20180531-0142.html> (accessed October 7, 2019); Beatriz Calderon, Francisco Aleman, and Hector Rivas, “Two Injured After Attack on Route 152 Microbus in Front of Santa Tecla Police Station” (“Dos heridos tras ataque a microbus ruta 152 frente a la PNC en Santa Tecla”), *La Prensa Gráfica*, May 31, 2018, <https://www.laprensagrafica.com/elsalvador/Dos-heridos-tras-ataque-a-microbus-ruta-152-frente-a-la-PNC-en-Santa-Tecla-20180531-0079.html> (accessed 10 June 2019); and “11

- El Junquillo neighborhood of Ahuachapán municipality in Ahuachapán department;<sup>212</sup> and
- Apaneca and surrounding neighborhoods of Chalchuapa municipality of Santa Ana department.<sup>213</sup>

No publicly available dataset demonstrates what percentage of migrants leaving El Salvador come from hot spots of violence;<sup>214</sup> however, among the cases of people deported from the United States who were subsequently harmed in El Salvador

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Homicides Committed in Last 24 Hours; Attorney General also Reports Finding Human Bones in Usulután” (“11 homicidios cometidos en las últimas 24 horas Fiscalía además informó del hallazgo de osamentas en Usulután”), *La Prensa Gráfica*, November 8, 2014, <https://www.laprensagrafica.com/elsalvador/11-homicidios-cometidos-en-las-ultimas-24-horas-20141108-0050.html> (accessed October 7, 2019).

<sup>212</sup> Human Rights Watch interview with Salvadoran journalist, El Salvador’s Central Region, November 9, 2018; Human Rights Watch interview with PNC investigator, El Salvador’s Western Region, January 24, 2019; and Human Rights Watch interview with IML doctor, El Salvador’s Western Region, January 24, 2019. Human Rights Watch review of 342 articles appearing in 14 news outlets in El Salvador between 2000 and September 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details. Three representative articles of the 342 are: “Gang Member was Brought Down by Police During Confrontation in Ahuachapán” (“Pandillero fue abatido por la PNC durante enfrentamiento en Ahuachapán”), *Solo Noticias*, April 18, 2018, <https://www.solonoticias.com/2018/04/18/pandillero-fue-abatido-por-la-pnc-durante-enfrentamiento-en-ahuachapan/> (accessed October 14, 2019); Iliana Rivas, “A Mother and Two Children Massacred in Ahuachapán” (“Masacran a una madre y a dos hijos en Ahuachapán”), *La Prensa Gráfica*, September 10, 2017, <https://www.laprensagrafica.com/elsalvador/Masacran-a-una-madre-y-a-dos-hijos-en-Ahuachapan-20170911-0407.html> (accessed October 14, 2019); “Inside a House That is Being Constructed a Man Was Killed at Noon” (“Dentro de una casa en construcción asesinaron a un hombre este mediodía”), *El Blog*, <http://elblog.com/noticias/registro-46061.html> (accessed October 14, 2019).

<sup>213</sup> Human Rights Watch review of 1,482 articles appearing in 14 news outlets in El Salvador between 2002 and March 2019 reporting on incidents of violent crime; multiple outlets covered some incidents but often had consistent but more or less details (Apaneca had more-than-normal irrelevant results, because Apaneca is also the name of a municipality in Sonsonate department and a common neighborhood name in other municipalities). Three representative articles of the 1482 are: “The Most Feared Neighborhoods in the West” (“Las colonias más temidas en occidente”), *La Prensa Gráfica*, September 13, 2014, <https://www.laprensagrafica.com/elsalvador/Las-colonias-mas-temidas-en-occidente-20140913-0071.html> (accessed October 14, 2019); “Authorities Report Triple Homicide in Chalchuapa” (“Autoridades reportan triple homicidio en Chalchuapa”), *El Mundo*, August 3, 2018, <https://elmundo.sv/autoridades-reportan-triple-homicidio-en-chalchuapa/> (accessed October 14, 2019); “Confrontation Between the Police and Gang Members Leaves a Terrorist Dead in Chalchuapa” (“Enfrentamiento entre PNC y pandilleros deja un terrorista muerto en Chalchuapa”), *Solo Noticias*, November 25, 2017, <https://www.solonoticias.com/2017/11/25/enfrentamiento-entre-pnc-y-pandilleros-deja-un-terrorista-muerto-en-chalchuapa/> (accessed October 14, 2019). Furthermore, since August 2013, the FGR has operated a Twitter page for disappeared children. Our search of this page revealed two of four children forcibly disappeared in the Chalchuapa municipality through October 2018 disappeared from the Apaneca neighborhood. In Chalchuapa municipality, neighborhoods are particularly small in size, sometimes containing only four blocks.

<sup>214</sup> The Salvadoran Migration Agency (DGME) collects neighborhood and municipality of origin information from those deported from both Mexico and the United States but did not agree to share this information with Human Rights Watch when we asked for it in 2018. Likewise, the United States Agency for International Development (USAID) selects “high risk” neighborhoods for its funding, which often aims to “reduce migration,” but USAID does not make these neighborhoods public.

identified or investigated for this report, many had lived in the neighborhoods listed above. For example:

- From 2006 to 2019, four deportees were reported killed in **Lourdes neighborhood of Colón municipality**,<sup>215</sup> as was an uncle who reportedly died defending his deported nephew in a shootout in which the nephew and one other person with them were also injured.<sup>216</sup>
- In 2017 and 2018, a Salvadoran-born individual who moved between El Salvador and the United States, and two deportees—who residents told reporters were cousins—were killed in **El Platanar of Moncagua**.<sup>217</sup>
- In 2014, one deportee was reported killed in Tierra Blanca of **Jiquilisco**.<sup>218</sup>
- Two deportees were killed in the **La Poza neighborhood of Usulután municipality** in 2014 and 2018.<sup>219</sup>
- In September 2017, according to press sources, in **El Junquillo neighborhood of Ahuachapán municipality** a deportee’s female partner, her mother, and her child were killed; one article reporting on this incident also reported that the

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<sup>215</sup> See, for example, Anna-Catherine Brigida, “Kicked Out of the U.S., Salvadoran Deportees Are Struggling Simply to Stay Alive,” *World Politics Review*, October 9, 2018, <https://www.worldpoliticsreview.com/articles/26302/kicked-out-of-the-u-s-salvadoran-deportees-are-struggling-simply-to-stay-alive> (accessed June 10, 2019). Two of these cases are also documented in Salvadoran Criminal Tribunal decisions on file with Human Rights Watch.

<sup>216</sup> See, for example, Enrique Ortiz, “Two Men’s Lives Taken in La Libertad” (“Le quitan la vida a dos hombres en La Libertad”), *El Blog*, May 20, 2019, <http://elblog.com/inicio/le-quitan-la-vida-a-dos-hombres-en-la-libertad/> (accessed June 10, 2019).

<sup>217</sup> Human Rights Watch interviews with Salvadoran reporters in 2018 and mid-2019. See also, Wilmer Lizama, “Double Homicide Registered in Moncagua, San Miguel” (“Registran doble homicidio en Moncagua, San Miguel”), *El Mundo*, June 16, 2017, <https://elmundo.sv/registran-doble-homicidio-en-moncagua-san-miguel/> (accessed June 10, 2019); Beatriz Mendoza and Flor Lazo, “A Man Was Killed in San Miguel When He Returned from Running Errands” (“Un hombre fue asesinado en San Miguel cuando volvía de hacer diligencias”), *La Prensa Gráfica*, February 26, 2018, <https://www.laprensagrafica.com/elsalvador/Un-hombre-fue-asesinado-en-San-Miguel-cuando-volvia-de-hacer-diligencias-20180226-0094.html> (accessed June 10, 2019); and “Patrols Look for a Tailor Kidnapped by Gang Members in San Miguel” (“Patrullas buscan a un sastre privado de libertad por pandilleros en San Miguel”), *El Blog*, October 20, 2017, <http://elblog.com/noticias/registro-47382.html> (accessed June 10, 2019).

<sup>218</sup> “DJ in Usulután Shot Dead” (“Assesinan a balazos a DJ en Usulután”), *El Blog*, September 28, 2014, <http://elblog.com/noticias/registro-16430.html> (accessed June 10, 2019).

<sup>219</sup> Héctor Rivas, “Deportee is Killed in La Poza I” (“Deportado es asesinado en La Poza I”), *La Prensa Gráfica*, June 1, 2018, <https://www.laprensagrafica.com/elsalvador/Deportado-es-asesinado-en-La-Poza-I-20180531-0142.html> (accessed October 7, 2019); Beatriz Calderón, Francisco Alemán, and Héctor Rivas, “Two Injured After Attack on Route 152 Microbus in Front of Santa Tecla Police Station” (“Dos heridos tras ataque a microbús ruta 152 frente a la PNC en Santa Tecla”), *La Prensa Gráfica*, May 31, 2018, <https://www.laprensagrafica.com/elsalvador/Dos-heridos-tras-ataque-a-microbus-ruta-152-frente-a-la-PNC-en-Santa-Tecla-20180531-0079.html> (accessed June 10, 2019); and “11 Homicides Committed in Last 24 Hours” (“11 homicidios cometidos en las últimas 24 horas”), *La Prensa Gráfica*, November 8, 2014, <https://www.laprensagrafica.com/elsalvador/11-homicidios-cometidos-en-las-ultimas-24-horas-20141108-0050.html> (accessed October 7, 2019).

deportee himself had been killed the day prior.<sup>220</sup> An official in that region told Human Rights Watch two other deportees from the United States had also been killed in El Junquillo or adjacent Las Viñas in 2012 or 2013 and 2016.<sup>221</sup> A separate official in the same region told reporters they “go [there] frequently” to investigate homicides.<sup>222</sup>

- In 2014, two deportees were reported killed near **Cara Sucia neighborhood in San Francisco Menéndez municipality** (where one’s brother was killed a month earlier).<sup>223</sup>

## Society and Authorities Stigmatize Certain Neighborhoods

According to a poll by the Salvadoran paper, *La Prensa Gráfica*, Salvadorans fear particular neighborhoods and try to avoid them. From 2008 to 2017, *La Prensa Gráfica* three times polled a representative sample of the population in El Salvador’s most populous municipalities, asking: “From what you know and have heard said, what is the most dangerous place in the municipality?”<sup>224</sup> Residents’ responses included Altavista (and San Jose de las Flores next to it), San Roque, Iberia, La Campanera, Ciudad Pacífica, Milagro de la Paz, and San Francisco adjacent to Apaneca of Chalchuapa. These neighborhoods are often notorious beyond just residents. For example, in 2019, the Salvadoran investigative

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<sup>220</sup> Iliana Rivas, “A Mother and Two Children Massacred in Ahuachapán” (“Masacran a una madre y a dos hijos en Ahuachapán”), *La Prensa Gráfica*, September 10, 2017, <https://www.laprensagrafica.com/elsalvador/Masacran-a-una-madre-y-a-dos-hijos-en-Ahuachapan-20170911-0407.html> (accessed June 10, 2019).

<sup>221</sup> Human Rights Watch interview with official who attends crime scenes, El Salvador’s Western Region, January 24, 2019.

<sup>222</sup> Human Rights Watch interview with separate official who attends crime scenes, El Salvador’s Western Region, January 24, 2019.

<sup>223</sup> “Four Dead in Two Armed Attacks” (“Cuatro muertos en dos ataques armados”), *La Prensa Gráfica*, December 23, 2014, <https://www.laprensagrafica.com/elsalvador/Cuatro-muertos-en-dos-ataques-armados-20141223-0082.html> (accessed October 7, 2019) and “They Kill an Evangelical Pastor and His Friend in Ahuachapán” (“Matan a pastor evangélico y su acompañante en Ahuachapán”), December 22, 2014, *El Diario de Hoy*, <https://historico.elsalvador.com/historico/142406/matan-a-pastor-evangelico-y-su-acompanante-en-ahuachapan.html> (accessed October 7, 2019).

<sup>224</sup> “These Are the Places That Most Provoke Fear in Salvadorans” (“Estos son los lugares que más miedo provocan a los salvadoreños”), *La Prensa Gráfica*, March 16, 2017, <https://www.laprensagrafica.com/lpgdatos/Estos-son-los-lugares-que-mas-miedo-provocan-a-los-salvadorenos-20170316-0002.html> (accessed June 12, 2019) and “The Neighborhoods That Cause Fear in the East” (“Las colonias que dan miedo en el oriente”), *La Prensa Gráfica*, September 12, 2014, <https://www.laprensagrafica.com/elsalvador/Las-colonias-que-dan-miedo-en-el-oriente-20140912-0097.html> (accessed June 12, 2019).

press outlet, *El Faro*, noted that Altavista, La Campanera, and Milagro de la Paz are nationally stigmatized.<sup>225</sup>

For their security, multiple non-PNC governmental offices keep maps or appoint a long-serving staff member to inform others of neighborhoods where staff have been threatened or harmed in the past, and thus, they either cannot enter or only enter with a police presence.<sup>226</sup> One police officer expressed concerns to Human Rights Watch that naming such neighborhoods can negatively impact their residents and make them “even hotter.”<sup>227</sup>

Police statements to the press in articles reporting on crime sometimes solidified stigmatization. Police would describe homicide victims in these neighborhoods as either gang members, collaborators of gang members, or those with personal relationships to gangs or gang members, even when relatives told the press their loved ones who were killed had no such links. For one youth from Iberia, this stigma from authorities especially stung. He broke down in tears recalling to a reporter what a policeman told him about his neighborhood: “All of them that live in that community, they are rats.”<sup>228</sup>

The stigmatization of these neighborhoods’ residents is partially due to perceived and real links between crime and poverty. The residents of these neighborhoods that Human Rights Watch interviewed reported monthly household incomes of less than US\$500, and their homes were often composed of mud- or dirt-mixture for the walls, tin metal for the roof,

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<sup>225</sup> Roberto Valencia, “Scan of a Neighborhood of Swallows Called Ciudad Futura” (“Radiografía de una colonia de golondrinas llamada Ciudad Futura”), *El Faro*, February 8, 2019, [https://elfaro.net/es/201902/el\\_salvador/22992/Radiograf%C3%ADa-de-una-colonia-de-golondrinas-llamada-Ciudad-Futura.htm](https://elfaro.net/es/201902/el_salvador/22992/Radiograf%C3%ADa-de-una-colonia-de-golondrinas-llamada-Ciudad-Futura.htm) (accessed June 12, 2019).

<sup>226</sup> Human Rights Watch interview with CANAF, El Salvador’s (region withheld for security), November 6, 2019; Human Rights Watch interview with CANAF, El Salvador’s (region withheld for security), November 5, 2018; Human Rights Watch interview with CANAF, El Salvador’s (region withheld for security), November 26, 2018; Human Rights Watch interview with IML, El Salvador’s Eastern Region, January 22, 2019; and Human Rights Watch interview with FGR, El Salvador’s Eastern Region, January 22, 2019.

<sup>227</sup> Human Rights Watch interview with Salvadoran PNC officer, El Salvador’s Eastern Region, November 26, 2018.

<sup>228</sup> Evelyn Machuca, “Between the Killer and the Killing, There is Something Called Life” (“Entre el asesino y el asesinato hay algo que se llama vida”), *La Prensa Gráfica*, November 8, 2019, <https://www.laprensagrafica.com/elsalvador/Entre-el-asesino-y-el-asesinato-hay-algo-que-se-llama-vida-20181107-0122.html> (accessed January 18, 2020).

bars to cover windows, and dirt floors.<sup>229</sup> Similarly, two youth from one of the neighborhoods listed above, who fled in 2013 and were deported in 2018, made only \$5 per day in the nearby fields; even in planting and harvesting season, they could not count on five days of work in a week.<sup>230</sup> Another family whose young daughter fled with her grandmother in 2017 and was deported in 2018 did not have a home, and they instead moved from place to place in the neighborhood, living with hosts who would let them stay for brief periods if they paid for their use of utilities only.<sup>231</sup>

One Salvadoran policeman said: “Evidently, there are places safer than others, and it is related to wealth levels. Poverty levels influence [crime]. We rarely go to residences where middle-class people live.”<sup>232</sup> One criminal sentencing judge went further in his analysis of the links between poverty and crime to say that in these places, “We have to say it ... the state has been absent.”<sup>233</sup>

## Nowhere Else to Go

Deportees often have nowhere to go in El Salvador except to live with family already residing in a particularly violent neighborhood. For example, Nohemy P. fled El Salvador at the age of nine in 2000 because she feared gang kidnapping and rape.<sup>234</sup> She had lived two-thirds of her life in the US, had DACA status, and had three US-citizen children under the age of nine. However, US authorities near the Texas-Mexico border accused her of trafficking her own children across the border (she told us she had not crossed the border), told her “DACA was over,” and detained and deported her in the fall 2018. Upon arriving back in El Salvador, Nohemy had no choice but to live with an aunt in a violent neighborhood “because she is the only family we have here [now].” Nohemy’s mother,

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<sup>229</sup> Human Rights Watch interview Alexander N., El Salvador’s (region withheld for security), November 25, 2018 (pseudonym); Human Rights Watch interview with Vivian & Wendy R., El Salvador’s Eastern Region, March 25, 2019 (pseudonyms); and Human Rights Watch interview with Bartolo A., El Salvador’s (region withheld for security), November 26, 2018 (pseudonym).

<sup>230</sup> Human Rights Watch telephone interview with Gaspar T., May 21, 2019 (pseudonym).

<sup>231</sup> Human Rights Watch interviews with Teresa Q. and Teresa’s mother Gloria Q., El Salvador’s Eastern Region, January 28, 2019 and March 24, 2019 (pseudonyms).

<sup>232</sup> Human Rights Watch interview with Salvadoran PNC officer, El Salvador’s Eastern Region, November 26, 2018.

<sup>233</sup> Human Rights Watch interview with Salvadoran criminal sentencing judge, El Salvador’s Eastern Region, January 23, 2019.

<sup>234</sup> Human Rights Watch interview with Nohemy P., El Salvador’s Eastern Region, February 8, 2019 (pseudonym).

Leticia P., told Human Rights Watch that Nohemy and her two deported male cousins “almost don’t go out, because they’re afraid to do so.”<sup>235</sup>

Deportees are often unable to find another, safer neighborhood to live in. Press accounts we identified for this report describe three male deportees’ attempts to hide in new neighborhoods before they were killed or disappeared.<sup>236</sup> An FGR prosecutor told Human Rights Watch that “depending on the deportee’s [neighborhood], we do see changing addresses as a risk [for death].”<sup>237</sup>

Deportees often cannot afford to relocate long distances away nor can they afford exclusive, gated residences with private security. An FGR prosecutor told Human Rights Watch: “People with few resources [who are displaced] have nowhere to go. Someone should be investigating that. Sometimes, it hurts me to observe that there is nothing more we [the authorities] can do for these people.”<sup>238</sup> The brother of a young man killed approximately two years after his September 2013 deportation explained why his brother did not try to live elsewhere: “We don’t have resources to go moving around in El Salvador. Likewise, if he’d gone to a place without the gang [in our neighborhood], they [rival gang members] would have assumed [he was aligned with the gang in our neighborhood]. You are trapped in the same system.”<sup>239</sup>

Individuals we interviewed for this report were repeatedly forced to move from one particularly violent neighborhood to another after being deported to El Salvador from the United States. For example, the neighborhood where Ransés I. grew up no longer existed when he was deported nearly 15 years later in 2015. Therefore, he went to an uncle’s home in a chronically violent neighborhood. He said: “One day, I went to the store not far [from my home] with my nephew who’d lived his whole life

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<sup>235</sup> Ibid.

<sup>236</sup> Francisco Narváez, “Youth Murdered Who Had Recently Been Deported” (“Asesinan a joven que había sido deportado recientemente”), *El Blog*, June 1, 2017, <http://elblog.com/noticias/registro-42799.html> (accessed October 10, 2019); Flor Lazo, “Relief Teams Search for Missing Man” (“Cuerpos de socorro buscan a hombre extraviado”), *La Prensa Gráfica*, September 17, 2017, <https://www.laprensagrafica.com/elsalvador/Cuerpos-de-socorro-buscan-a-hombre-extraviado-20170917-0028.html>, (accessed October 10, 2019); “Extortion and Murder Afflicts El Carmen” (“Extorsiones y asesinatos afligen a El Carmen”), *El Diario del Hoy*, February 23, 2013, <https://historico.elsalvador.com/historico/101223/extorsiones-y-asesinatos-afligen-a-el-carmen.html> (accessed October 10, 2019).

<sup>237</sup> Human Rights Watch interview with FGR prosecutor, El Salvador’s Paracentral Region, November 5, 2018.

<sup>238</sup> Human Rights Watch interview with FGR prosecutor, El Salvador’s Paracentral Region, March 29, 2019.

<sup>239</sup> Human Rights Watch telephone interview with Moises X., January 3, 2019 (pseudonym).

there.... Two [gang members] looked at me. Then, five more came and asked who I was, from where I was.... I told them I was deported.... I was there only a month [before I moved again].<sup>240</sup>

In nearly all particularly violent neighborhoods, gang members, authorities, and residents view new arrivals with suspicion. Nelson E., after his most recent deportation from the US in October 2014, tried living on his own in a new neighborhood but soon had to flee that neighborhood. He told Human Rights Watch,

When I got back [in 2014], I didn't want to live with my mom.... I had work. But one time, people arrived to rob me. They wanted my DUI [government-issued, photo identification]. They told me I couldn't be there. They told me to remove myself from there. They said they would disappear me if I stayed ... so I went back to my mom. This is the risk here. You cannot go where they do not know you.<sup>241</sup>

It is likely, and especially dangerous, that a person who attempts to relocate inside El Salvador will end up in a neighborhood controlled by a different gang.<sup>242</sup> A PNC officer told Human Rights Watch that among murdered deportees, including women, are those who “arrive to live in or visit a neighborhood different from the one they are from.”<sup>243</sup> Irene J., said of her recently deported husband:

It actually worries me more [that he's not in our old neighborhood]. Our neighborhood was MS-controlled, but where he is now is 18 [18 Revolucionarios or 18 Sureños]-controlled. If they realize that, they'll take him out and kill him just for that. He is afraid of it, too, so he's not going out at all. He can't stay in one place. He's having to move around.<sup>244</sup>

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<sup>240</sup> Human Rights Watch interview with Ransés I., Northern State of Mexico, March 8, 2019 (pseudonym).

<sup>241</sup> Human Rights Watch interview with Nelson E., El Salvador's (region withheld for security), January 26, 2019 (pseudonym).

<sup>242</sup> Human Rights Watch telephone interview with Irene J. about husband, July 1, 2019 (pseudonym); Human Rights Watch telephone interview with Paloma V., June 17, 2019 (pseudonym); and Human Rights Watch interview with Walter T., El Salvador's Central Region, March 28, 2019 (pseudonym).

<sup>243</sup> Human Rights Watch interview with PNC officer, El Salvador's Eastern Region, November 26, 2018.

<sup>244</sup> Human Rights Watch interview with Irene J., United States East Coast, March 1, 2019 (pseudonym).

## V. State Actors as Perpetrators of Harm

Many authorities in El Salvador are dedicated to protecting Salvadoran citizens and ensuring justice in the country. However, authorities often face significant barriers to providing protection, especially—as discussed in the previous section—in particularly violent neighborhoods. These authorities and their families face serious threats themselves from gangs or from other authorities within their own government for the actions they may take to protect the public.

Data obtained by Human Rights Watch through a public information request submitted to El Salvador’s Attorney General Office’s (FGR) illustrate pervasive impunity.<sup>245</sup> Nationwide, in 2018, authorities made arrests in approximately 22 percent of registered homicide cases.<sup>246</sup> For homicides of boys, the 2018 clearance rate (meaning charges were filed) in El Salvador is 13.6 percent.<sup>247</sup> The clearance rate for homicides in the US (adults and children) was several times higher at 62 percent; in many European countries the rate is above 75 percent.<sup>248</sup> For sexual crimes, authorities in El Salvador made arrests in only 9.5

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<sup>245</sup> Data obtained via public information request to the Salvadoran Attorney General’s Access to Public Information Office for crime incidence data throughout El Salvador, data on homicides between 2013-2017 were received November 9, 2018, and data on sexual crimes between 2013-2017 were received November 1, 2018. Homicide data for 2018 were received February 18, 2019, sexual crime data for 2018 were received February 25, 2019 (data on file with Human Rights Watch).

<sup>246</sup> Registered cases mean those identified through a monthly coordination meeting between the FGR, IML and PNC to harmonize all reported cases of homicide. This is a crude clearance rate, following the US Federal Bureau of Investigation methodology. It is computed by dividing the number of annual arrests by the number of annual cases. An arrest in any given year may pertain to a murder from a previous year. There were 3,341 registered homicides in 2018 and 730 arrests. The arrest data is from a public information request to the Salvadoran Attorney General’s Access to Public Information Office. Data on file with Human Rights Watch.

<sup>247</sup> 32 arrests for 235 registered homicides in 2018. The registered cases mean those identified through a monthly coordination meeting between the FGR, IML and PNC to harmonize all reported cases of homicide and the arrest data is from a public information request to the Salvadoran Attorney General’s Access to Public Information Office. Data on file with Human Rights Watch.

<sup>248</sup> There may be slight differences in the definitions used between the two countries for definition of the crime and clearance. Still, this is the closest comparative measure possible. See United States Department of Justice, Federal Bureau of Investigation, “Crime in the United States, 2018, Table 25,” September 2019. The US figure includes murder and nonnegligent manslaughter. Additional international examples include a clearance rate of 98 percent for homicides in Finland, 77 percent in the Netherlands, 83 percent in Sweden and 95 percent in Switzerland. See Marieke Liem, Karoliina Suonpää, Martti Lehti, Janne Kivivuori, Sven Granath, Simone Walsler, and Martin Killias, “Homicide Clearance in Western Europe,” *European Journal of Criminology*, Vol 16, Issue 1 (2019), doi: <https://doi.org/10.1177/1477370818764840> (accessed January 18, 2020).

percent of registered<sup>249</sup> cases in 2018.<sup>250</sup> The comparable clearance rate for sexual crimes in the US was 33.4 percent in 2018.<sup>251</sup> For sexual crimes against girls in El Salvador, the 2018 clearance rate was 7.6 percent.<sup>252</sup> Low clearance rates can occur for a number of reasons, but in El Salvador, the state is frequently either unable, due to limited resources, or unwilling, because of corruption, infiltration and threats, to protect its citizens.

In this report, we documented cases in which government authorities were responsible for committing grave abuses against deportees in particularly violent neighborhoods. These abuses—alongside low arrest, hearing, and conviction rates—are especially concerning, because they contribute to residents’ perception that authorities are persecutors, rather than protectors facing structural limits on their ability to successfully pursue their work.

Enrico X., a resident of a particularly violent neighborhood, told Human Rights Watch about his state of mind after police killed his cousin, a former gang member, at point blank range in public in 2016 or 2017 (after the cousin had been deported from the US in 2016 or 2017): “I became wary of the police even more after they killed my cousin in this manner.... I was afraid to report [other crimes] to them.”<sup>253</sup>

El Salvador’s crime and insecurity should be seen within the context of the power, control, and violence imposed by gangs, and the state’s feeble struggles to protect public safety.

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<sup>249</sup> Sexual crime cases are registered when a victim or witness or interested party reports an alleged sexual crime to the police, local justices of the peace, local municipal offices for women, child protection agencies (there are two in El Salvador), and/or mandatory reporters such as hospital and school staff, and the IML; in accordance with procedure, all of these cases should be reported to the FGR. Our calculation of these rates is based on the FGR’s data for rape.

<sup>250</sup> Data obtained via public information request to the Salvadoran Attorney General’s Access to Public Information Office for crime incidence data throughout El Salvador. Homicide data for 2018 were received February 18, 2019, sexual crime data for 2018 were received February 25, 2019 (data on file with Human Rights Watch).

<sup>251</sup> The US definition of rape within the FBI’s Uniform Crime Report is “penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.” There may be slight differences in the definitions used between the two countries for definition of the crime and clearance. Still, this is the closest comparative measure possible. United States Department of Justice, Federal Bureau of Investigation, “Crime in the United States, 2018, Table 25,” September 2019.

<sup>252</sup> Data obtained via public information request to the Salvadoran Attorney General’s Access to Public Information Office for crime incidence data throughout El Salvador. Homicide data for 2018 were received February 18, 2019, sexual crime data for 2018 were received February 25, 2019 (data on file with Human Rights Watch).

<sup>253</sup> Human Rights Watch interview with (name withheld for security), (location withheld for security), (date withheld for security) 2019. US Department of Justice, Executive Office for Immigration Review, *In re* (name withheld for security), (location withheld for security) Immigration Court, (date withheld for security).

Violence and killings occur against a backdrop of “armed confrontations,” when authorities report being called to an area or on a routine patrol, are attacked with gunfire and respond with reportedly defensive fire. In 2016, the Central American Institute of Investigations for Development and Social Change (INCIDE) reported an increase of these incidents in El Salvador between state actors and gangs, with 142 incidents in 2013, 256 incidents in 2014 and 676 incidents that left 359 people dead in 2015.<sup>254</sup>

## Unable or Unwilling to Protect

There are many reasons why authorities are unable or unwilling to help protect Salvadoran citizens who are afraid for their safety, including the fact that they themselves are monitored and threatened, authorities’ offices have also been infiltrated by gangs, they lack resources, and carry large caseloads.<sup>255</sup> Women victims of violence face particular obstacles in seeking protection or justice, due to the inadequacy of Salvadoran laws and deeply entrenched institutional resistance to gender equality, which has led to, among other problems, insufficient funding for investigation and law enforcement focused on violence against women, and virtual impunity for the failure of governmental officials to carry out their responsibilities.<sup>256</sup>

For this report, we interviewed several individuals who attempted to seek help from Salvadoran agencies or authorities but were unable to receive assistance. For example, Gaspar T., who fled threats from gangs in his particularly violent neighborhood and has,

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<sup>254</sup> Alexander Segovia, Leslie Quiñonez, Diana Contreras, Laura Pacheco and Manuel Talavera, “El Salvador: New Pattern of Violence, Territorial Impact and Community Response” (“El Salvador: Nuevo patrón de violencia, afectación territorial y respuesta de las comunidades”), Central American Institute of Investigations for Development and Social Change (“Salvador Instituto Centroamericano de Investigaciones para el Desarrollo y el Cambio Social, INCIDE”), August 2016. In 2011, State security forces killed just 0.66 percent of homicide victims, but in 2015, 2016 and 2017, they killed 5.72, 11.69, and 10.27 percent of victims, respectively. “Report on the Use and Abuse of Lethal Force in Latin America: A comparative study of Brazil, Colombia, El Salvador, Mexico and Venezuela” (“Monitor del uso de la fuerza letal en América Latina: Un estudio comparativo de Brasil, Colombia, El Salvador, México y Venezuela”), August 2019, <http://monitorfuerzaletal.com> (accessed November 26, 2019), pp. 80-95. Across years, officials had marked in their databases that between 92 and 99 percent of the victims in these “confrontations” were gang members, even though some were as young as 13 years old. In one such case of a 13-year-old shot dead by authorities, the Salvadoran Human Rights Ombudsperson (PDDH) found he had been shot six times from behind while on his knees.

<sup>255</sup> In our interviews with 41 officials from the FGR, IML, PNC and OLAV in nine departments, El Salvador, November 2018 to December 2019, officials repeatedly named most of these reasons. For the other reasons, the US State Department has repeatedly named some of these reasons for the inability of state authorities to effectively protect public safety.

<sup>256</sup> See Karen Musalo, “El Salvador—A Peace Worse than War: Violence, Gender and a Failed Legal Response,” *Yale Journal of Law and Feminism*, vol. 30, Issue 1 (2019), <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1383&context=yjlf> (accessed January 18, 2020).

since his February 2019 deportation, faced new threats by gangs and abuse by state authorities (discussed below):

They [the Salvadoran DGME] asked me why I had left, and I told them I'd been threatened by gangs. They took my name and nothing else, and that was it, they didn't offer me protection or services ....<sup>257</sup>

Walter T., who had been threatened by gangs and witnessed a murder before fleeing to the US, was deported in 2019 to face new threats by gangs and abuse by state authorities (discussed below). He said: "I told them [the Salvadoran DGME] I'd left because of threats, and they offered me nothing."<sup>258</sup> Zaida L., who fled domestic violence and rape, was deported in July 2018 and then went into hiding from her abusers, said: "The police asked why I'd left, what my motives were, if I'd reported [the rape and domestic violence] beforehand and why I did not.... No, no one from the government followed up with me."<sup>259</sup>

#### **Walter T. and Gaspar T.**

In 2013, cousins Walter T. and Gaspar T. when they were 16 and 17 years old, respectively, were desperate to escape constant harassment and gang recruitment in their violent Salvadoran neighborhood; between them, they know of six friends or relatives they said were disappeared or murdered between 2013 and the time of our interview with them, in 2019. They crossed into the US without documentation. Walter was able to finish 9th grade in Maryland before he left school to work construction in order to pay the coyote (smuggler) who brought him across the border. Gaspar made his way to New Jersey, where he lived with an older brother, and was excited to enroll in the local high school and resume his studies.

During his junior year of high school Gaspar said he was arrested by US Immigration and Customs Enforcement "off the street." He was put in removal proceedings for his unauthorized status and applied for asylum during those proceedings. He was denied asylum in December 2016, a decision he appealed and lost. He was deported back to

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<sup>257</sup> Human Rights Watch interview with Gaspar T., El Salvador's Central Region, March 28, 2019 (pseudonym).

<sup>258</sup> Human Rights Watch interview with Walter T., El Salvador's Central Region, March 28, 2019 (pseudonym).

<sup>259</sup> Human Rights Watch telephone interview with Zaida L., United States West Coast, July 12, 2019 (pseudonym).

El Salvador in February 2019. His cousin, Walter, had already been deported slightly earlier. Gaspar said that in April/May 2019, when they were sleeping at their respective homes:

A patrol arrived and took me and Walter and three others from our homes, without a warrant or a reason. They began beating us [in the vehicle and continued doing so] until we arrived at the police barracks. There, they held us for three days, claiming we'd be charged with illicit association [*agrupaciones ilícitas*]. We were beaten [repeatedly] during those three days.<sup>260</sup>

Walter and Gaspar were subsequently released from police custody and, through June 2019, were still living in a chronically violent neighborhood in El Salvador. They could no longer be reached in December 2019.

## Police Killings and Abuse

In several cases in which deportees were killed after return to El Salvador, police were responsible for the killings (see Section II, above). The United Nations special rapporteur on extrajudicial killings noted in her 2018 report on El Salvador that killings of alleged gang members by security forces increased from 103 in 2014 to 591 in 2016.<sup>261</sup> Some of these confrontations certainly involve shoot-outs between gangs and police, in which law enforcement is responding to threats with lawful force. In other cases, journalists and human rights investigators question the degree to which police are using force lawfully.<sup>262</sup>

In 2019, the governmental Ombudsperson for the Defense of Human Rights (PDDH) in El Salvador reported that it had examined killings of 28 boys, 7 women, and 81 men and

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<sup>260</sup> Human Rights Watch telephone interview with Gaspar T., May 21, 2019 (pseudonym).

<sup>261</sup> United Nations Office of the High Commission for Human Rights, El Salvador End of Mission Statement, Agnes Callamard, Special Rapporteur for extrajudicial, summary or arbitrary executions, February 5, 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22634&LangID=E> (accessed June 16, 2019).

<sup>262</sup> Anna-Catherine Brigida, "El Salvador's Tough Policing Isn't What It Looks Like," *Foreign Policy*, July 6, 2019, <https://foreignpolicy.com/2019/07/06/el-salvadors-tough-policing-isnt-what-it-looks-like/> (accessed July 13, 2019).

found few resulted from such armed confrontations.<sup>263</sup> In 70 percent, witnesses said victims were unarmed. In 37 percent, witnesses saw police move the body or place or hide evidence. In 30 percent, PDDH concluded that the body showed signs of torture, including sexual assault.<sup>264</sup> Data on police and military's use of lethal force from 2011 to 2017 include deportee victims, but we could not reliably analyze the data in order to include these cases in our overall counts.<sup>265</sup>

In our research, we also found cases in which authorities without justification stopped and then harassed, and in some cases beat, individuals recently deported from the United States.

Elías F., who migrated to the United States as a teenager in the early-2000s, was deported to El Salvador in early 2011. Upon his return, he learned the home his remittances built was at a dividing line between two gangs. Starting a few years after his return, the rural police began to also view it as a strategic location, which made Elías deeply concerned about the risk to his family. One time, when Elías returned from work, a policeman stopped him and asked him for information about the gangs. When Elías could not answer, the policeman assaulted him:

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<sup>263</sup> “Special Report of the Ombudswoman for the Defense of Human Rights, Attorney Raquel Caballero de Guevara, about extralegal executions attributed to the National Civilian Police in El Salvador, period 2014-2018: Characterization of cases of violation of the right to life and patterns of extralegal action” (“Informe especial de la señora Procuradora para la Defensa de los Derechos Humanos, licenciada Raquel Caballero de Guevara, sobre las ejecuciones extralegales atribuidas a la Policía Nacional Civil, en El Salvador, periodo 2014-2018: Caracterización de casos de violación al derecho a la vida y patrones de actuación extralegal”), August 2019, <https://www.pddh.gob.sv/portal/file/index.php?dwfile=MjAxOS8xMCMjZmZvcmlLLWVzcGVjaWFsLXNvYnJLLWVqZWZWN1Y2lvcmlmVzLWV4dHJhbGVnYWxlcyoxLTEucGRm> (accessed November 11, 2018).

<sup>264</sup> Ibid.

<sup>265</sup> Limitations of the data prevent us from calculating true numbers for deportations from each country in each year. Primarily, the closed-response (Y/N) box about whether a homicide victim is a deportee is only one of tens to be completed and may be skipped for reasons other than not knowing. Also, if authorities later learn a victim was a deportee, the box is not updated to reflect that knowledge. See Access to Public Information Unit (“Unidad de Acceso a la Información Pública, UAIP”), “Modification of compliance to final resolution NUE 322-A-2017” (“Modificación de cumplimiento a resolución definitiva NUE 322-A-2017”), August 17, 2018. While it does not discuss deportees among victims, fuller analysis of “use of lethal force” in El Salvador using this data is can be found in: “Report on the Use and Abuse of Lethal Force in Latin America: A comparative study of Brazil, Colombia, El Salvador, Mexico and Venezuela” (“Monitor del uso de la fuerza letal en América Latina: Un estudio comparativo de Brasil, Colombia, El Salvador, México y Venezuela”), August 2019, <http://monitorfuerzaletal.com> (accessed November 26, 2019), pp. 80-95.

Some people were playing loud music at another house and drinking. The police saw me walking without a shirt on and stopped me, asking me who had just yelled at them. I didn't know who yelled. I had just heard music. I did not have the information that the officer wanted but I guess he thought I was lying to him or ignoring him.... The officer grabbed a broomstick and hit me very hard across the stomach.... I was very angry and also scared.... Some other police officers came by and the owner of the store told me to come inside for a while. The police officer told me that he would find me alone one day and get me.... The next day the officer saw me on the street. He told me that one day he will find me alone. He also said that if I try to report him to anyone, I know what will happen to me.<sup>266</sup>

Several people recently deported from the US told Human Rights Watch that law enforcement authorities had detained or stopped and questioned them.<sup>267</sup> They said they lived in fear of something worse. Santiago U., in his early twenties and gay, fled a series of violent neighborhoods in mid-2016 and was deported from the United States in late 2018. According to Santiago, who we interviewed in January 2019—about two months after his November or early December deportation from the United States—his brothers, with whom he had been living, were targeted by an extermination group which Santiago feared would also target him. His brothers and the rest of his family in El Salvador also did not accept his sexual orientation. For both reasons—fear of the gang that was targeting his brothers, and rejection by his own family—he decided to live with friends in a particularly violent neighborhood near the police barracks. In an interview with a Human Rights Watch researcher, Santiago explained that police were constantly stopping him:

The police ask me where I'm from, because they haven't seen me here.... I got the Yo Cambio document [confirming no criminal record] a week ago.<sup>268</sup>

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<sup>266</sup> Human Rights Watch interview with Elías F., United States East Coast, winter 2019 (exact date withheld for security) (pseudonym).

<sup>267</sup> Human Rights Watch interview with Santiago U., El Salvador's Eastern Region, January 28, 2019 (pseudonym); Human Rights Watch interview with Carlos P., El Salvador's Central Region, March 27, 2019 (pseudonym); Human Rights Watch interview with Bartolo A., El Salvador's (region withheld for security), November 26, 2018 (pseudonym); Human Rights Watch interview with Walter T., written communication by text, April and May 2019 (pseudonym); and Human Rights Watch interview with Gaspar T., written communication by text, April and May 2019 (pseudonym).

<sup>268</sup> Human Rights Watch researcher reviewed Santiago's "Yo Cambio" form, which confirmed he did not have a criminal record in El Salvador (form on file with Human Rights Watch).

I went [to Yo Cambio] then, because here, the police stopped me many times. There [at the barracks], many people are innocent. Only because they have US\$80 in their backpack, they're accused of extortion. So, when friends send me money, I always have records of the remittance with me.<sup>269</sup>

In 2018, Alexander N. fled El Salvador after men who identified themselves as police arrived at his home stating they were “doing a census,” and took his sister from their family home. She was later found dead. He and his family believe the killers were police. When Alexander sought asylum in the US in June 2018, his application was denied, and he was deported in the fall of 2018. A few months after his deportation, Alexander told us that he and his family feared they would be killed when men who identified themselves as police again arrived at his home claiming they intended to “do a census.”<sup>270</sup>

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<sup>269</sup> Human Rights Watch interview with Santiago U., El Salvador's Eastern Region, January 28, 2019 (pseudonym).

<sup>270</sup> Human Rights Watch telephone interview with Alexander N., March 20, 2019 (pseudonym).

## Death Squads and Extermination Groups

People deported to El Salvador also fear so-called “death squads” or “extermination groups”—not new phenomena in El Salvador. They existed before,<sup>271</sup> during,<sup>272</sup> and immediately after the country’s civil war from 1980 to 1992.<sup>273</sup> Experts have shown that during and after the civil war, “death squads” or “extermination groups” were deeply rooted in the country’s security forces<sup>274</sup> and in specific cases, targeted deportees.<sup>275</sup>

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<sup>271</sup> See Margaret Popkin, *Peace without Justice: Obstacles to Building the Rule of Law in El Salvador* (University Park: The Pennsylvania State University Press, 2000); Michael McClintock, *The American Connection, vol.1: State Terror and Popular Resistance in El Salvador* (London: Zed, 1986).

<sup>272</sup> The United Nations Truth Commission found that paramilitary groups and death squads were responsible for 25 percent of 22,000 human rights violations from 1980 to 1991 included in their review. See Americas Watch, *El Salvador’s Decade of Terror* (New Haven: Yale University Press, 1991); Americas Watch, *El Salvador—Accountability and Human Rights: The Report of the United Nations Commission on Truth for El Salvador*, News from Americas Watch, vol. V, no. 7, August 10, 1993, <https://www.hrw.org/legacy/reports/pdfs/e/elsalvdr/elsalv938.pdf>; Americas Watch, *El Salvador—The Jesuit Trial: An Observer’s Report*, News from Americas Watch, vol. III, no. 13, December 13, 1991, <https://www.hrw.org/legacy/reports/pdfs/e/elsalvdr/elsalv91d.pdf>; and Americas Watch, “El Salvador: Impunity Prevails in Human Rights Cases,” *News from Americas Watch*, September 1990, <https://www.hrw.org/legacy/reports/pdfs/e/elsalvdr/elsalv909.pdf>.

<sup>273</sup> Human Rights Watch/Americas, *El Salvador—Darkening Horizons: Human Rights on the Eve of the March 1994 Elections*, vol. VI, no. 4, March 1994, p. 1 (“[A]ssassinations, which became more frequent, brazen, and selective in the fall of 1993, have continued into the new year. They have raised fears that notorious death squads which sowed terror in the 1980s have been reactivated if, in fact, they were ever disbanded.”), <https://www.hrw.org/legacy/reports/pdfs/e/elsalvdr/elsalv943.pdf>.

<sup>274</sup> Cynthia Arnsen, “Window on the Past: A Declassified History of Death Squads in El Salvador,” in Bruce Campbell and Arthur Brenner, *Death Squads in Global Perspective: Murder with Deniability* (New York: St. Martin’s Press, 2000) (stating that “Death squads in El Salvador were deeply rooted in official security bodies, particularly the intelligence sections of the Treasury Police, National Police, and National Guard, but also the army and air force. Privately constituted groups, especially the one headed by Roberto D’Aubuisson, distinguished themselves less for their independence from than for their degree of contact, and at times, coordination with state security bodies.”).

<sup>275</sup> Robert S. Kahn, *Other People’s Blood: U.S. Immigration Prisons in the Reagan Decade* (Boulder: Westview Press, 1996) (stating that “On 20 June 1984, the American Civil Liberties Union (ACLU) Political Asylum Project gave the US House Subcommittee on Rules a list of 112 Salvadoran deportees believed to have suffered human rights abuses after they were deported. ...The State Department ... wrote to two Salvadoran human rights organizations ... they confirmed eight of the 26 cases and provided the U.S. Embassy with eyewitness testimonies to them, [including] ... Four deportees were captured in daylight by heavily armed civilians while nearby security forces ignored the abductions.... Two were taken from their homes in the city at night—one by heavily armed civilians armed with G-3 rifles, standard government issue in El Salvador.”).

UN agencies,<sup>276</sup> human rights observers,<sup>277</sup> the press,<sup>278</sup> and government<sup>279</sup> all acknowledge that death squads and extermination groups still operate in El Salvador

<sup>276</sup> United Nations High Commissioner for Refugees, “Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador,” <https://www.refworld.org/docid/56e706e94.html>, accessed December 13, 2019, (stating that “Moreover, since 2014, reports have begun to emerge of death squads and vigilante groups with possible connections to the security forces engaging in the extrajudicial killing of suspected gang members ...”); United Nations Office of the High Commissioner for Human Rights, El Salvador End of Mission Statement, Agnes Callamard, Special Rapporteur for extrajudicial, summary or arbitrary executions, February 5, 2018, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22634&LangID=E> (accessed June 16, 2019) (stating, “In addition, I received various allegations of the existence of “death squads” within the Police, some of which have been confirmed by officials and corroborated by investigations.”); Cecilia Jimenez-Damary, “Report of the special rapporteur on the human rights of internally displaced persons on her visit to El Salvador,” April 23, 2018, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/116/64/PDF/G1811664.pdf?OpenElement> (accessed December 13, 2019).

<sup>277</sup> Sarah Kinoshian, “El Salvador’s Security Policy is Increasing Extra Judicial Killings and Abuse,” Latin American Working Group (LAWG), February 12, 2016, <https://www.lawg.org/el-salvadors-security-policy-is-increasing-extrajudicial-killings-and-abuse/> (accessed December 4, 2019); International Crisis Group, “El Salvador’s Politics of Perpetual Violence,” December 19, 2017, <https://www.crisisgroup.org/latin-america-caribbean/central-america/el-salvador/64-el-salvadors-politics-perpetual-violence> (accessed January 22, 2019); US Department of State, “El Salvador 2018 Human Rights Report,” <https://www.state.gov/wp-content/uploads/2019/03/EL-SALVADOR-2018.pdf>, p. 2 (accessed December 13, 2019) (stating that “an alleged extermination group operating in San Miguel. The group, composed of civilians, some of whom were alleged rival gang members, and retired and active members of the military and police, was purportedly responsible for murder-for-hire and targeted killings of alleged gang members in San Miguel. Funding for the extermination group reportedly came from Salvadoran citizens living abroad.”); US Department of State, “El Salvador 2017 Human Rights Report,” [https://www.justice.gov/sites/default/files/pages/attachments/2018/04/24/dos-hrr\\_2017\\_el\\_salvador.pdf](https://www.justice.gov/sites/default/files/pages/attachments/2018/04/24/dos-hrr_2017_el_salvador.pdf), p. 10 (stating that “559 members of the PNC had been arrested for crimes including membership in extermination groups.”).

<sup>278</sup> Jorge Beltrán Luna, “Tension in El Tigre Neighborhood After the Killing of El Limonada” (“Tensión en caserío El Tigre tras el asesinato de El Limonada”), *El Diario de Hoy*, October 12, 2019, <https://www.elsalvador.com/eldiariodehoy/tension-en-caserio-el-tigre-tras-el-asesinato-de-el-limonada/648744/2019/> (accessed December 4, 2019); “Supposed Extermination Group Advertises on Social Media That it Will ‘Clean La Herradura’ of Criminals” (“Supuesto grupo de exterminio advierte en redes sociales que va a ‘limpiar La Herradura’ de delincuentes”), *La Prensa Gráfica*, March 15, 2018, <https://www.laprensagrafica.com/elsalvador/Supuesto-grupo-de-exterminio-advierte-en-redes-sociales-que-va-a-limpiar-La-Herradura-de-delincuentes-20180315-0096.html> (accessed December 4, 2019); Ricardo Flores and Gabriel García, “Six Police Members of Extermination Group Sentenced” (“Condenan a 6 policías miembros de grupo de exterminio”), *La Prensa Gráfica*, February 10, 2018, <https://www.laprensagrafica.com/elsalvador/Condenan-a-seis-policias-miembros-de-grupo-de-exterminio-20180209-0135.html> (accessed December 4, 2019).

<sup>279</sup> “Special Report of the Ombudswoman for the Defense of Human Rights, Attorney Raquel Caballero de Guevara, about extralegal executions attributed to the National Civilian Police in El Salvador, period 2014-2018: Characterization of cases of violation of the right to life and patterns of extralegal action” (“Informe especial de la señora Procuradora para la Defensa de los Derechos Humanos, licenciada Raquel Caballero de Guevara, sobre las ejecuciones extralegales atribuidas a la Policía Nacional Civil, en El Salvador, periodo 2014-2018: Caracterización de casos de violación al derecho a la vida y patrones de actuación extralegal”), August 2019, <https://www.pddh.gob.sv/portal/file/index.php?dwfile=MjAxOS8xMC9JbmZvcml1LlVzZGVjaWFsLXNvYnJlLlVqZWN1Y2lvbmVzLlVW4dHJhbGVnYWxlcyoxLlTEucGRm> (accessed November 11, 2018) (“Paralelamente a la adopción de las medidas extraordinarias de seguridad, se advirtió un resurgimiento de estructuras de exterminio que han generado temor y zozobra en diferentes comunidades del interior del país, algunas de las cuales se integraron con miembros de la PNC, militares y civiles, tal y como ha quedado evidenciado en algunos casos que se judicializaron.”). In addition, Salvadoran press have reported on the police and judicial proceedings in El Salvador arresting and bring to trial member of death squads and extermination groups. See, for example, Jorge Beltrán Luna, “Tension in El Tigre Neighborhood After the Killing of El Limonada” (“Tensión en caserío El Tigre tras el asesinato de El Limonada”), *El Diario de Hoy*, October 12, 2019, <https://www.elsalvador.com/eldiariodehoy/tension-en-caserio-el-tigre-tras-el-asesinato-de-el-limonada/648744/2019/> (accessed December 4, 2019); Ricardo Flores and Gabriel García, “Six Police Members of Extermination Group Sentenced”

today. Three individuals interviewed for this report, all of whom were gang members but told us they left the gang prior to their deportations from the United States, expressed their fear of these groups to Human Rights Watch.<sup>280</sup> Often, when these cases are described by journalists in press accounts, the assailants are described as “men wearing black” or men “wearing military or police-style” uniforms; victims are sometimes described as blindfolded, with their hands and/or feet tied behind their backs.<sup>281</sup> For example, in four particularly violent neighborhoods:

- In San Antonio Silva, according to press accounts, such groups killed 11 of the 33 reported homicide victims in the neighborhood. A group of men dressed in

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(“Condenan a 6 policías miembros de grupo de exterminio”), *La Prensa Gráfica*, February 10, 2018, <https://www.laprensagrafica.com/elsalvador/Condenan-a-seis-policias-miembros-de-grupo-de-exterminio-20180209-0135.html> (accessed December 4, 2019); “‘The Exterminators,’ the Group that was Killing Gang members in San Miguel” (“‘Los exterminio’, el grupo que mataba pandilleros en San Miguel”), *El Diario de Hoy*, July 25, 2016, <https://www.elsalvador.com/noticias/nacional/los-exterminio-el-grupo-que-mataba-pandilleros-en-san-miguel/194433/2016/> (accessed December 4, 2019); “The Crime of a Gang Member that Uncovered an Extermination Group in San Miguel” (“El crimen del pandillero que dejó al descubierto al grupo de exterminio en San Miguel”), *El Diario de Hoy*, July 24, 2016, <https://historico.elsalvador.com/historico/193808/el-crimen-del-pandillero-que-dejo-al-descubierto-al-grupo-de-exterminio-en-san-miguel.html> (accessed December 4, 2019).

<sup>280</sup> Human Rights Watch interview with Yavany B., El Salvador’s Central Region, December 1, 2018 (pseudonym); Human Rights Watch interview with Bartolo A., El Salvador’s (region withheld for security) November 26, 2018 (pseudonym); Human Rights Watch interview with Ransés I., Tijuana, Mexico, March 8, 2019 (pseudonym).

<sup>281</sup> For example, police agents told the press that extermination groups could be involved in a February 2016 incident, in which a group of men in a double-cabin pickup got a 17-year-old from his home, took him away, and he was then found dead in sugar-cane fields with his eyes blindfolded, hands tied and a message on his back. “Body with Eyes Blindfolded Found in San Miguel with Message ‘This is How Gang Members Will Die’” (“Encuentran en San Miguel un cadáver con los ojos vendados y con el mensaje ‘Así morirán los pandilleros’”), *El Blog*, February 23, 2016, <http://elblog.com/noticias/registro-27043.html> (accessed July 2, 2019). Then, in March, four masked men kidnapped 19- and 25-year-old men from their homes, took them to a ravine and shot them in the head. See “Two Youth Killed in San Miguel Ravine” (“Matan a dos jóvenes en quebrada de S. Miguel”), *La Prensa Gráfica*, March 19, 2016, <https://www.laprensagrafica.com/elsalvador/Matan-a-2-jovenes-en-quebrada-de-S.-Miguel-20160319-0019.html> (accessed July 2, 2019). Three days after that double homicide, various men in dark clothing “acting as police” attacked a 17-year-old boy as he entered his home. “Three Gang Members Killed in San Miguel” (“Matan en San Miguel a tres pandilleros”), *La Prensa Gráfica*, March 22, 2016, <https://www.laprensagrafica.com/elsalvador/Matan-en-San-Miguel-a-tres-pandilleros-20160322-0026.html> (accessed July 2, 2019). The next day, the body of a 25-year-old man kidnapped earlier was found with his hands tied behind his back, his body showing signs of torture, with a written message left on his body. “Gang Member’s Body Found with a Message: ‘This Happens to Gang Members’” (“Localizan cadáver de pandillero con un mensaje: ‘Por mareros así les toca’”), *El Blog*, March 23, 2016, <http://elblog.com/noticias/registro-27926.html> (accessed July 2, 2019). A little over a week later, men identifying themselves as police took by force a 35-year-old man, and he was found dead days later in a different municipality. Jaime López, “Five Half-buried Bodies Found in Santo Tomas” (“Hallan cinco cadáveres semienterrados en Santo Tomas”), *El Diario de Hoy*, April 2, 2016, <https://www.elsalvador.com/noticias/nacional/hallan-cinco-cadaveres-semienterrados-en-santo-tomas/186510/2016/> (accessed 2 July 2019). Before April ended, a teenage male’s body was found with his hands and feet tied and bullet wounds to the head and back. Diana Escalante and Insy Mendoza, “Businessman Killed in Ayutuxtepeque” (“Asesinan a un comerciante en Ayutuxtepeque”), *El Diario de Hoy*, April 19, 2016, <https://www.elsalvador.com/noticias/nacional/asesinan-a-un-comerciante-en-ayutuxtepeque/184534/2016/> (accessed July 2, 2019).

military- or police-style uniforms arrived in at least five victims' homes, took them out, and then shot them dead, according to press reports.<sup>282</sup> Men dressed in dark clothing reportedly took at least six more victims from their homes before killing them.<sup>283</sup>

- In Chaguantique, of the 12 homicides the press reported, the killers of three in 2015 wore “clothing similar to what the police use.”<sup>284</sup>

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<sup>282</sup> Very early on New Year's Day 2016, a group of at least eight armed men, dressed in camouflage clothing similar to military uniforms arrived on foot to the community. When an 11-year-old boy came running, they shot him dead. They went to one home and asked for names on a list, taking the two brothers out, putting them to their knees, and shooting them. From there, they shot and possibly killed a woman. Then, they went to two other homes looking for a man, took him out, put him to his knees and shot him dead. They last went to the home of the man's mother, took her out, put her to her knees and shot her. See, for example, “First Day of the Year with a Massacre and a Confrontation” (“Primer día del año con una masacre y un enfrentamiento”), *La Prensa Gráfica*, January 2, 2016, <https://www.laprensagrafica.com/elsalvador/Primer-dia-del-ano-con-una-masacre-y-un-enfrentamiento-20160102-0025.html> (accessed July 2, 2019); Liseth Alas and Lucinda Quintanilla, “Five Gang Members Die When Confronting Police in the Beginning of 2016” (“Mueren 5 pandilleros tras enfrentarse a policías en el inicio de 2016”), *El Diario de Hoy*, January 1, 2016, <https://www.elsalvador.com/noticias/nacional/mueren-5-pandilleros-tras-enfrentarse-a-policias-en-el-inicio-de-2016/176047/2016/> (accessed 2 July 2019); and “2016 Starts with Two Quintuple Homicides in San Miguel and La Paz” (“2016 inicia con dos quintuples homicidios en San Miguel y La Paz”), *El Mundo*, January 1, 2016, <https://elmundo.sv/2016-inicia-con-quintuple-homicidio-en-san-miguel/> (accessed July 2, 2019). Then, in February 2019, four men with their faces covered and dressed in uniforms similar to police who identified themselves as police took from their home a man in the community and then another man and woman from a neighboring community from their homes and shot them dead. See, for example, Beatriz Calderon, Flor Lazo, and Juan Carlos Díaz, “Four People Were Killed in San Miguel: One Victim had an Electronic Bracelet” (“4 personas fueron asesinadas en San Miguel: una víctima tenía brazalete electrónico”), *La Prensa Gráfica*, February 15, 2019, <https://www.laprensagrafica.com/elsalvador/4-personas-fueron-asesinadas-en-San-Miguel-una-victima-tenia-brazalete-electronico-20190215-0183.html> (accessed July 2, 2019).

<sup>283</sup> Then in March 2016, three youth, aged 18 to 24, and one 38-year-old man were taken from their homes to the community's stadium. There, they were killed. See, for example, Carlos Segovia, Jaime López, and Enrique Carranza, “Four Alleged Gang Members Are Killed in San Miguel” (“Asesinan a cuatro supuestos pandilleros en San Miguel”), *El Diario de Hoy*, March 25, 2016, <https://www.elsalvador.com/noticias/nacional/asesinan-a-cuatro-supuestos-pandilleros-en-san-miguel/180334/2016/> (accessed July 2, 2019). Within a seven-week period of 2018, two or more men took two male youth, aged 18 and 21, from their homes in the La Piedad section of the neighborhood and then killed them. See, for example, “Two Young People Were Killed Last Night in the Municipality of San Miguel” (“Dos jóvenes fueron asesinados anoche en el municipio de San Miguel”), *Solo Noticias*, September 10, 2018, <https://www.solonoticias.com/2018/09/10/dos-jovenes-fueron-asesinados-anoche-en-el-municipio-de-san-miguel/> (accessed July 2, 2019), and Beatriz Calderón, Franklin Zelaya, Francisco Hernández, Juan Carlos Díaz, Broman Mármol, Ángel Gómez, and José Cardona, “A Shooting in San Salvador Leaves Five Victims” (“Tiroteo en San Salvador deja cinco víctimas”), *La Prensa Gráfica*, October 27, 2018, <https://www.laprensagrafica.com/elsalvador/Tiroteo-en-San-Salvador-deja-cinco-victimas-20181027-0017.html> (accessed July 2, 2019). Men in dark clothing arrived to a man's home in January 2019, took him out and shot him in the face. See, for example, Flor Lazo, “Five Men Are Killed in Different Points of San Miguel” (“Asesinan a cinco hombres en distintos puntos de San Miguel”) *La Prensa Gráfica*, January 6, 2019, <https://www.laprensagrafica.com/elsalvador/Asesinan-a-cinco-hombres-en-distintos-puntos-de-San-Miguel-20190105-0272.html> (accessed July 2, 2019).

<sup>284</sup> Jaime Anaya, “Three Men Are Killed in a Neighborhood in Puerto El Triunfo” (“Acribillan a tres hombres cantón de Puerto El Triunfo”) *El Diario de Hoy*, September 20, 2015, <https://www.elsalvador.com/noticias/nacional/acribillan-a-tres-hombres-canton-de-puerto-el-triunfo/161151/2015/> (accessed July 2, 2019).

- In Milagro de la Paz, of the 47 homicides reported by press in recent years, seven articles named as killers persons with extermination group profiles.<sup>285</sup>
- In 2017 in El Platanar, “men in black” reportedly took two women from their homes in the neighborhood and then killed them.<sup>286</sup> In 2018, residents and journalists alike reportedly suspected the “exterminators” in a separate double homicide.<sup>287</sup>

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

- In the El Zapote neighborhood of Jucuarán municipality in May 2015, 15 to 20 “men dressed in black and camouflage” entered a home “simulating a police operation,” according to a press report. They killed a 32-year-old deportee in the home’s hallway and took the other six to line them up in the street before shooting dead four face down and two face up.<sup>288</sup>
- In the El Jícaro neighborhood of Lolotique municipality in June 2017, subjects dressed in black simulating a police operation killed a man deported from the

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<sup>285</sup> In 2001, criminal groups dressed in police uniforms assaulted persons, especially those arriving from the US. See, for example, Evelyn Granados, “Criminals Suffer Reverse” (“Criminales sufren revés”), *El Diario de Hoy*, May 3, 2001, <http://archivo.elsalvador.com/noticias/2001/5/3/ELPAIS/elpais2.html> (accessed July 2, 2019) and Rosa Fuentes, “‘The Blues’ Fall in Police Operation” (“Caen ‘Los Azules’ en operativo policial”), *El Diario de Hoy*, August 25, 2001, <http://archivo.elsalvador.com/noticias/2001/8/25/ELPAIS/elpais1.html> (accessed July 2, 2019).

<sup>286</sup> “A R133 Fare Collector and Two Women Are Today’s Homicide Victims” (“Un cobrador de la R133 y dos mujeres son las víctimas de homicidio de hoy”) *La Prensa Gráfica*, February 23, 2017, <https://www.laprensagrafica.com/elsalvador/Un-cobrador-de-la-R-133-y-dos-mujeres-son-las-victimas-de-homicidio-de-hoy-20170223-0056.html> (accessed July 2, 2019) and Beatriz Calderón, Juan Carlos Díaz and Fátima Membreño, “Killers Hit and Shoot a Bread Maker in La Unión” (“Homicidas atropellan y tirotean a panadero en La Unión”) *La Prensa Gráfica*, October 2, 2017, <https://www.laprensagrafica.com/elsalvador/Homicidas-atropellan-y-tirotean-a-panadero-en-La-Unin-20171002-0014.html> (accessed July 2, 2019).

<sup>287</sup> Iliana Ávila, “In San Miguel, Brothers Linked to Gang killed” (“En San Miguel, matan a hermanos vinculados a pandilla”) *El Diario de Hoy*, January 11, 2018, <https://www.elsalvador.com/noticias/nacional/en-san-miguel-matan-a-hermanos-vinculados-a-pandilla/438000/2018/> (accessed July 2, 2019).

<sup>288</sup> Beatriz Calderon, Angela Alfaro, and Jessel Santos, “Two Massacres Leave 10 Gang Members Dead in Usulután” (“Dos masacres dejan 10 pandilleros muertos en Usulután”) *La Prensa Gráfica*, <https://www.laprensagrafica.com/elsalvador/Dos-masacres-dejan-10-pandilleros-muertos-en-Usulután-20150510-0023.html> (accessed June 23, 2019).

United States in 2015 who had non-gang-related tattoos, at his home.<sup>289</sup>

- In the Los Lagartos neighborhood of San Julián in January 2019, armed men arrived at the home of a man deported from the US two months prior, taking him and his teenage nephew, both alleged gang members, some 100 meters away to a coffee field where they were interrogated and killed.<sup>290</sup>

### Ransés I.

Ransés I., a 44-year-old-man deported from the US to El Salvador in 2018, spoke about the scrutiny he faced from Salvadoran authorities after he returned to his home country, much of it based on tattoos that he had painstakingly tried to remove or alter in order to distance himself from the gang to which he had once belonged. He told Human Rights Watch, “I’d gone [to a tattoo artist] since 2006, changing each of them. Correcting them....”<sup>291</sup>

However, upon arrival in El Salvador, his tattoos became the focus of police attention. Soon after he returned, Ransés got into a dispute with another man, who called the police. When they arrived at Ransés’ home, they seemed to intentionally expose his tattoos, which he otherwise kept hidden wherever he went. He explained, “They called me outside. They took off my shirt in public. ‘Don’t worry about your tattoos,’ they told me. ‘Do you have documents?’ I showed them my DUI [documento único de

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<sup>289</sup> “San Miguel Deportee Was Killed While He Was Waiting for a US Migratory Pardon” (“Migueleno deportado fue asesinado mientras esperaba perdón migratorio de EUA”) *La Prensa Gráfica*, May 10, 2015, <https://www.laprensagrafica.com/elsalvador/Migueleno-deportado-fue-asesinado-mientras-esperaba-perdon-migratorio-de-EUA-20170629-0048.html> (accessed on June 22, 2019).

<sup>290</sup> “Armed Group Kills Deportee and Exconvict From MS13 in Sonsonate” (“Grupo armado asesina a deportado y exconvicto de la MS13 en Sonsonate”), *Diario1*, January 12, 2019, <http://diario1.com/nacionales/2019/01/grupo-armado-asesina-a-deportado-y-exconvicto-de-la-ms13-en-sonsonate/> (accessed June 22, 2019). In an earlier case, in the San Juan de Dios neighborhood of Olocuilta municipality in 2010, according to press accounts, five men dressed in black arrived at a neighborhood basketball court. The around 40 persons present remained, because they thought the men were police. The men called out the names of youth playing a quick soccer game, then asked them to remove their shirts and primarily shot those who had tattoos, including one deported from the United States years earlier. Claudia Huete and Liz Aguirre, “Inhabitants of Olocuilta Neighborhood Dismayed by Massacre” (“Habitantes de colonia en Olocuilta consternados por masacre”), *La Prensa Gráfica*, May 2, 2010, (on file with Human Rights Watch).

<sup>291</sup> Human Rights Watch interview with Ransés I., Northern State of Mexico, March 8, 2019 (pseudonym).

identidad]<sup>292</sup> and passport ... They took photos of everything ... and told me it was evidence.”<sup>293</sup>

When Ransés complained to the Human Rights Ombudsperson about police harassment and exposure of his tattoos in public, he said the Ombudsman staff, “told me to be careful, because extermination groups use those photos to exterminate.”<sup>294</sup>

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<sup>292</sup> El Salvador’s government-issued photo identification.

<sup>293</sup> Human Rights Watch interview with Ransés I., Northern State of Mexico, March 8, 2019 (pseudonym).

<sup>294</sup> Ibid.

## VI. Long-Term Residence in the US

Salvadorans who have resided for an extended period in the United States face several unique risks as deported persons. They are often easily identified because of their style of clothing, way of speaking, and financial resources. At the same time, because they have been away for so long, they often do not understand the unspoken rules Salvadorans follow in order to protect themselves from gangs, extermination groups, or corrupt authorities. As a result, they can be particularly susceptible to harm in El Salvador after deportation.<sup>295</sup>

Several people harmed after being deported to El Salvador had arrived in the United States as children and adolescents.<sup>296</sup> Several described attending school in the US and nearly all

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<sup>295</sup> Salvadoran news articles on persons disappeared or killed after their deportation also often indicate that that the victim had lived in the United States for years – even most of their life – beforehand. “In San Miguel, Life Taken of Man Who Returned Deported to the Country Yesterday” (“Le quitan la vida a un hombre que ayer regreso deportado al país en San Miguel”), *El Blog*, December 4, 2018, <http://elblog.com/inicio/le-quitan-la-vida-a-un-hombre-que-ayer-regreso-deportado-al-pais-en-san-miguel/> (accessed June 21, 2019); Gadiel Castillo, “Man is Killed When He Was Going to Work” (“Hombre es asesinado cuando iba a su trabajo”), *El Diario de Hoy*, <https://www.elsalvador.com/noticias/nacional/hombre-es-asesinado-cuando-iba-a-su-trabajo/543809/2018/> (accessed June 22, 2019); Anna-Catherine Brigida, “Kicked Out of the U.S., Salvadoran Deportees Are Struggling Simply to Stay Alive,” *World Politics Review*, November 28, 2018, <https://www.worldpoliticsreview.com/articles/26302/kicked-out-of-the-u-s-salvadoran-deportees-are-struggling-simply-to-stay-alive> (accessed June 22, 2019); David Marroquín, “Violence Takes the Life of 64 People in the Last Four Days” (“Violencia acaba con la vida de 64 personas en los últimos cuatro días”), *El Diario de Hoy*, March 15, 2018, <https://www.elsalvador.com/noticias/nacional/violencia-acaba-con-la-vida-de-64-personas-en-ultimos-cuatro-dias/460839/2018/> (accessed 21 June 2019); Jaime López, “Youth Arrived to El Salvador from the United States and Disappeared in Sensuntepeque” (“Joven llego a El Salvador de EE.UU. y desapareció en Sensuntepeque”), *El Diario de Hoy*, September 23, 2018, <https://www.elsalvador.com/noticias/nacional/joven-llego-a-el-salvador-de-ee-uu-y-desaparecio-en-sensuntepeque/521291/2018/> (accessed June 21, 2019); Roberto Lovato, “Deported to Death: the Tragic Journey of a Salvadoran immigrant,” *Al Jazeera*, July 11, 2015, <http://america.aljazeera.com/articles/2015/7/11/deported-to-death-the-tragic-journey-of-an-el-salvadoran-immigrant.html> (accessed June 21, 2019); David Marroquín, “2,841 Murders Registered on the Year, with 297 in September” (“Registran 2,841 asesinatos en el año, septiembre con 297 homicidios”), *El Diario de Hoy*, September 29, 2014, <https://www.elsalvador.com/noticias/nacional/registran-2841-asesinatos-en-el-ano-septiembre-con-297-homicidios/136337/2014/> (accessed June 21, 2019); Ricardo Flores, “Witness to Crime Killed in the Capital” (“Matan en la capital a testigo de crimen”), *La Prensa Gráfica*, (on file with Human Rights Watch); and Julia Preston, “Losing Asylum, Then His Life,” *New York Times*, June 28, 2010, <https://www.nytimes.com/2010/06/29/us/29asylum.html> (accessed June 22, 2019).

<sup>296</sup> Human Rights Watch interview with Karina I., United States West Coast, March 6, 2019 (pseudonym); Human Rights Watch interview with Wendy R., El Salvador’s Eastern Region, December 9, 2019 (pseudonym); Human Rights Watch telephone interview with Jennifer B., United States East Coast, March 6, 2019 (pseudonym); Human Rights Watch interview with Nohemy P., El Salvador’s Eastern Region, March 24, 2019 (pseudonym); Human Rights Watch interview with Bernardo A., El Salvador’s Central Region, January 25, 2019 (pseudonym); Human Rights Watch interview with Yavany B., El Salvador’s Central Region, December 1, 2018 (pseudonym); Human Rights Watch interview with Óscar K., El Salvador’s (region withheld

worked, but given their limited economic means and precarious legal status, many also found themselves living in US communities with higher levels of poverty.<sup>297</sup> In the areas where they resided in the US, poverty also coincided with higher levels of police abuse, gangs, and violence, placing them at higher risk of being victims of crime and of being accused of crimes themselves.<sup>298</sup>

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for security), December 2019 (exact date withheld for security)(pseudonym); Human Rights Watch interview with Ruben M.'s immigration attorney, United States East Coast, February 22, 2019 (pseudonym); Human Rights Watch interview with Walter T. and Gaspar T., El Salvador's Central Region, March 28, 2019 (pseudonyms); and Human Rights Watch interview with Ransés I., Tijuana, Mexico, March 8, 2019 (pseudonym).

<sup>297</sup> Allison O'Connor, Jeanne Batalova, and Jessica Bolter, "Central American Immigrants in the United States," Migration Policy Institute, August 15, 2019, <https://www.migrationpolicy.org/article/central-american-immigrants-united-states> (accessed August 24, 2019).

<sup>298</sup> Since the late-1980s, research in numerous Brazilian, Canadian and US cities with varying populations has shown that crimes, including homicide and rape, concentrate at very small units of geography. Across studies, researchers have tended to find that roughly 1.5 percent of street segments in cities see about 25 percent of crime incidents. See W. Crow and J. Bull, *Robbery Deterrence: An Applied Behavioral Science Demonstration: Final Report*, (La Jolla: Western Behavioral Science Institute, 1975); M. Felson, "Routine Activities and Crime Prevention in the Developing Metropolis," *Criminology*, vol. 25, no. 4, 1987, pp. 911-32; G.L. Pierce, S. Spaar, and L.R. Briggs, *The Character of Police Work: Strategic and Tactical Implications*, (Boston, MA: Center for Applied Social Research, Northeastern University, 1988); D.J. Evans and D.T. Herbert, *The Geography of Crime*, (London: Routledge, 1989); L.W. Sherman, P.R. Gartin and M.E. Buerger, "Hot Spots of Predatory Crime: Routine Activities and the Criminology of Place," *Criminology*, vol. 27, no. 1, 1989, pp. 27-56; P.L. Brantingham and P.J. Brantingham, "Hot Spots of Predatory Crime: Routine Activities and the Criminology of Place," *Criminology*, vol. 27, no. 1 (1999), pp. 27-56; P.L. Brantingham, "A Theoretical Model of Crime Hot Spot Generation," *Studies on Crime and Crime Prevention*, vol. 8, no. 1 (1999), pp. 7-26; D. Weisburd, S. Bushway, C. Lum, and S.M. Yang, "Trajectories of Crime at Place: A Longitudinal Study of Street Segments in the City of Seattle," *Criminology*, vol. 42, no. 5 (2004), pp.283-322; Ilona Szabo de Carvalho, Juan Carlos Garzon, and Robert Muggah, "Citizen Security Rising: New Approaches to Addressing Drugs, Guns and Violence in Latin America," Norwegian Peacebuilding Resource Centre (NOREF), 2013; A.A. Braga, A.V. Papachristos, and D.M. Hureau, "The Effects of Hot Spots Policing on Crime: An Updated Systematic Review and Meta-analysis," *Justice Quarterly*, vol. 31, no.4, (2014), pp.633-63; A.S. Curmen, M.A. Andresen, and P.J. Brantingham, "Crime and Place: A Longitudinal Examination of Street Segment Patterns in Vancouver, BC," *Journal of Quantitative Criminology*, vol. 31, no.1 (2014), pp.127-47; and David Weisburd, "The 2014 Sutherland Address: The Law of Crime Concentration and the Criminology of Place," *Criminology*, vol. 53, no. 2, (2015), pp.133-57. As early as 1977, research in the US found that as unemployment increased in an area, so too did the area's homicide rate. See H. Brenner, "Health Costs and Benefits of Economic Policy," *International Journal of Health Services*, vol. 7 no. 4, 1977, pp. 581-623. This is inherently tied with poverty, as areas of high unemployment are stigmatized and often provide few educational or economic opportunities. Indeed, subsequent research showed that when socioeconomic status is controlled across place and race, homicide rate discrepancies disappear. See J. Jason, L.T. Strauss, C.W. Tyler, "A Comparison of Primary and Secondary Homicides in the United States," *American Journal of Epidemiology*, vol. 117, no. 3, 1983, pp. 309-319; B.S. Centerwall, "Race, Socioeconomic Status, and Domestic Homicide, Atlanta, 1971-1972," *American Journal of Public Health*, vol. 74, no. 8, 1984, pp. 813-5; R. Sampson and J. Laub, *Crime in the Making: Pathways and Turning Points through Life*, (Boston: Harvard University Press, 1993); and Steven Whitman, Nanette Benbow, and Glenn Good, "The Epidemiology of Homicide in Chicago," *Journal of the National Medical Association* vol. 88, no. 12, 1996, pp. 781-787. Such neighborhoods are likely marked by authorities who fail to make arrests as well. A *Washington Post* investigation found that all of the US's 50 most populous cities had neighborhoods they dubbed as "pockets of impunity" with homicide arrest rates less than 33 percent. See Wesley Lowery, Kimbriell Kelly, Ted Mellnik, and Steven Rich, "Where Killings Go Unsolved," *Washington Post*, June 6, 2018, <https://www.washingtonpost.com/graphics/2018/investigations/where-murders-go-unsolved/> (accessed January 21, 2020).

## Former Long-Term US Residents Easy Targets of Abuse

Salvadorans who have lived for a long time in the United States are often easily identifiable. One director of an agency providing aid to deported persons told us: “At the beginning, there’s no problem. But as they’re noticed—their clothing, their accent, their money—the gang finds interest.”<sup>299</sup>

Yeshua O., in his late-thirties, fled a particularly violent neighborhood in El Salvador for the United States as a teenager and remained there nearly two decades with TPS before his deportation in 2018 after serving a sentence for first degree assault in Maryland.<sup>300</sup> Within weeks of his arrival back to his particularly violent neighborhood in El Salvador, Yeshua told Human Rights Watch he had tried to keep track of rules over whether he should or shouldn’t wear “certain shoes, certain colors and certain hair styles,” because they could signal membership in a gang and put him in danger. He said, “It’s confusing here. I’d always had a military style, but in [US immigration] detention, they [other detainees] told me to keep my hair longer.... I guess the military style is linked with one of the gangs.”<sup>301</sup>

The sister of Baltazar G., a man who had been deported in January 2012 after 10 years in the US, told Human Rights Watch, his style of dress was dangerous: “After living so long there, he dressed differently. Loose. It attracted gang members’ attention here. I told him to dress differently.”<sup>302</sup>

Bernardo A., in his late forties, first fled to the United States as a teenage child trying to avoid forced conscription into the guerilla forces. He has lived most of his life since then in the United States but has been deported multiple times to El Salvador, the first of which

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<sup>299</sup> Human Rights Watch interview with aid director for persons deported from Mexico and the United States for international non-profit, El Salvador’s Central Region, March 28, 2019.

<sup>300</sup> Human Rights Watch interview with Yeshua’s sister, United States East Coast, April 5, 2019 (pseudonym). The assault occurred when his sister attempted to take a hunting rifle away from Yeshua when he was drunk. According to our interview with Yeshua’s sister, her arm was only slightly injured by scratches during the struggle. She said that while there was some blood, her injuries were so minor that “at the hospital they did nothing.” Police were called when witnesses heard the rifle go off.

<sup>301</sup> Human Rights Watch telephone interview with Yeshua O., El Salvador’s Central Region, November 13, 2018 (pseudonym).

<sup>302</sup> Human Rights Watch interview with Baltazar’s sister and nephew, El Salvador’s Central Region, December 1, 2018 (pseudonym).

occurred in 1990 as a young adult and the most recent of which occurred in December 2017. He remembers that after his first deportation: “I was at church, and people wanted to beat me. So, I left. I think they didn’t like the way I talked. I didn’t speak Spanish well anymore. I’d learned English ... and no longer spoke Spanish well.”<sup>303</sup>

People deported from the United States, through remittances sent to their families, often end up having noticeable assets compared to others. For example, Elías F., who fled to the United States as a teenager from a violent neighborhood in the early 2000s, had sent money to his family for seven years to buy a home in their neighborhood.<sup>304</sup> When he was deported in the early 2010s, he realized his home was better constructed and had better finishes than the others and marked him as a target.

In our research for this report, we also learned of two cases of wives<sup>305</sup> of former long-term US residents who were killed, and of the case of a US citizen<sup>306</sup> who was killed after traveling to El Salvador to marry his fiancée (who had been deported from the US and had an infant child). While we were unable to document the motivation for the killing of the US citizen; in the two cases of the wives, we know from our interviews with them that one victim had regularly received money from the US and the other had resisted gang extortion. In all three cases, their linkages to former long-term US resident deportees who were perceived to have greater wealth seemed to make them conspicuous targets.

## Extortion

Deportees who spent a long time in the US are often targeted for extortion because they are perceived as having greater financial resources. Several of the people Human Rights Watch interviewed for this report told us that their unwillingness to succumb to gang extortion or other demands (motivated, they believed, by their perceived wealth resulting from their long residence in the US) put them or their family members at risk, including risk

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<sup>303</sup> Human Rights Watch interview with Bernardo A., El Salvador’s Central Region, January 25, 2019 (pseudonym).

<sup>304</sup> Human Rights Watch interview with Elías F., United States East Coast, winter 2019 (exact date withheld for security) (pseudonym).

<sup>305</sup> Human Rights Watch interview with surviving family member Norman S., United States (region withheld for security), March 2019 (pseudonym); Human Rights Watch telephone interview with surviving family member Ana P., United States Mountain West, March 5, 2019 (pseudonym).

<sup>306</sup> Human Rights Watch telephone interview with IML investigator, El Salvador’s Western Region, September 26, 2019.

of death.<sup>307</sup> Police officers interviewed for this report thought failure to pay extortion was the most common factor in the killings of deported former US long-term residents because some respond in ways—refusing to pay or reporting demands to authorities—that while typically non-life threatening in the United States, got them or their loved ones killed in El Salvador.<sup>308</sup>

A police investigator told Human Rights Watch that among his recent homicide cases were several involving deportees who had been extorted:

I can think of three cases. One was in El Junquillo, I think in 2016.... He was deported and was killed. The investigation showed that the gang extorted him. The second was in [neighborhood name withheld], likewise because of extortion. He set up a business, a cereal products store, and they killed him. That was in 2018. The third was in [municipality name withheld], but I don't remember the neighborhood. It was the same: the person was deported with a little money, set up a business, and [the demand for] *la renta* came.<sup>309</sup>

Implicit in these cases is that the person either did not pay at all or stopped paying. In the case of a woman killed by a gang, family members told Human Rights Watch the family,

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<sup>307</sup> Human Rights Watch interview with Norman S., El Salvador's (region withheld for security), first quarter of 2019 (exact date withheld for security) (pseudonym); Human Rights Watch interview with Matías J., United States East Coast, March 1, 2019 (pseudonym); Human Rights Watch telephone interview with Ana P., March 5, 2019 (pseudonym); Human Rights Watch interview with Elías F., United States (region withheld for security), first quarter of 2019 (exact date withheld for security) (pseudonym); and Human Rights Watch interview with PNC officer, El Salvador's Paracentral Region, March 25, 2019.

<sup>308</sup> Human Rights Watch interview with PNC Investigator, El Salvador's Western Region, January 24, 2019; Human Rights Watch interview with police person, El Salvador's Paracentral Region, March 25, 2019; Human Rights Watch interview with city hall based OLAV official, El Salvador's Central Region, January 11, 2019; Human Rights Watch interview with aid director for persons deported from Mexico and the United States for international non-profit, El Salvador's Central Region, March 28, 2019.

<sup>309</sup> Human Rights Watch interview with police officer, El Salvador's Western Region, January 24, 2019. Two other long-term residents from the United States were killed in 2014 and 2018 one in Ahuachapán and the other in La Libertad—worked for 10 or more years in the United States to save enough money to open businesses in El Salvador. David Marroquín, "Violence Takes the Life of 64 People in the Last Four Days" ("Violencia acaba con la vida de 64 personas en los últimos cuatro días"), *El Diario de Hoy*, March 15, 2018, <https://www.elsalvador.com/noticias/nacional/violencia-acaba-con-la-vida-de-64-personas-en-ultimos-cuatro-dias/460839/2018/> (accessed 21 June 2019), and David Marroquín, "2,841 Murders Registered in the Year, with 297 in September" ("Registran 2,841 asesinatos en el año, septiembre con 297 homicidios"), *El Diario de Hoy*, September 29, 2014, <https://www.elsalvador.com/noticias/nacional/registran-2841-asesinatos-en-el-ano-septiembre-con-297-homicidios/136337/2014/> (accessed June 21, 2019).

including the woman killed, had resisted extortion because after living for years in the United States, they felt they had worked too hard for their money to give it to “criminals.”<sup>310</sup> Similarly, an official [office withheld for security] reported a concluded case in which a former legal resident of the United States had started a business in Los Blancos neighborhood of San Luis La Herradura. The official said, “She refused to pay extortion and told them [the gang members]: ‘I didn’t owe my money to bums [*a vagos, no debía mi dinero*].’”<sup>311</sup>

## Tattoos

Tattoos are common in the United States.<sup>312</sup> Some deportees who had been long-term US residents we interviewed for this report had gotten them for artistic and sentimental reasons. For example, we interviewed Paloma V., who entered the US at around age 20 and lived there for six years. She returned from the US voluntarily to El Salvador to visit her sick family and because she was worried her sons were being forcibly recruited by the gangs. Upon her return, Paloma remained in hiding most of her time in El Salvador to avoid gang extortion demands rising to US\$50 per week and increased recruitment of her two boys. She explained the artistic tattoos on her neck, shoulder, and side were visual remembrances of her family, country, and God.<sup>313</sup> A few other former long-term US residents we interviewed acknowledged their tattoos were gang-related.<sup>314</sup>

Even gang-related tattoos are sometimes obtained in the United States as a survival mechanism rather than simply as a mark of gang affiliation. Bartolo A., who had lived in the US for 17 years before he was deported in 2017, got tattoos, according to his attorney,

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<sup>310</sup> Human Rights Watch interview with police officer, El Salvador’s Paracentral Region, March 25, 2019; Human Rights Watch interview with Norman S., El Salvador’s (region withheld for security), first quarter of 2019 (exact date withheld for security) (pseudonym).

<sup>311</sup> Human Rights Watch interview with Salvadoran official (office withheld for security), Paracentral Region, March 25, 2019.

<sup>312</sup> *Newsweek* reported on a survey of respondents in 18 countries, finding that 46 percent of respondents in the United States had tattoos – the third highest of the 18 countries surveyed. James Tennet, “Which Country Has the Most People with Tattoos? It’s not the US,” *Newsweek*, May 24, 2018, <https://www.newsweek.com/which-country-most-people-tattoos-943104> (accessed October 9, 2019).

<sup>313</sup> Human Rights Watch interview with Paloma V., United States East Coast, June 17, 2019 (pseudonym).

<sup>314</sup> Human Rights Watch interview with Yavany B., El Salvador’s Central Region, December 1, 2018 (pseudonym); Human Rights Watch interview with Bartolo A., El Salvador’s (region withheld for security) (pseudonym), November 26, 2018; Human Rights Watch interview with Ransés I., Tijuana, Mexico, March 8, 2019 (pseudonym).

after being beaten repeatedly in a US federal prison when he was young and vulnerable.<sup>315</sup> Bartolo A. agreed, stating: “Many times, one does it [gets tattoos while in prison] to obtain protection from the gangs. Yes, when one walks with gang tattoos, no one messes with him.”<sup>316</sup> Bartolo maintains it saved his life: “The tattoos were my help and my survival in prison.”<sup>317</sup>

In El Salvador, however, tattoos are deeply stigmatized, and can prove deadly. This has been true for many years.<sup>318</sup>

Today, gangs, authorities, and death squads link tattoos to gang membership in El Salvador. Officials<sup>319</sup> interviewed for this report thought tattoos were the most common factor among deportees who were killed:

- “Usually, the common factor is a tattoo, because people think that they are gang-related, but some are decorative.” This official remembered his own voluntary return to El Salvador at the end of the civil war in the mid-1990s, saying: “My own mom inspected me for tattoos. Apparently, all the [news] stories at the time were about tattooed gang members coming from the United States. My friends deported [around then] had tattoos and faced discrimination.”<sup>320</sup>
- “What I have noticed about those murdered after their deportation is nearly all have tattoos. Among them, they have artistic tattoos that do not allude to gangs. Yet, gangs will kill them, as will others. This happens primarily in rural

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<sup>315</sup> Human Rights Watch interview with defense attorney, United States (region withheld for security), April 4, 2019.

<sup>316</sup> Human Rights Watch interview with Bartolo A., El Salvador’s (region withheld for security), November 26, 2018 (pseudonym).

<sup>317</sup> Ibid. See also, “Why Prisoners Join Gangs,” *Economist*, November 12, 2014.

<sup>318</sup> “No Place to Hide: Gang, State, and Clandestine Violence in El Salvador,” The International Human Rights Clinic, Human Rights Program, Harvard Law School, February 2007, <https://static1.squarespace.com/static/5b3538249d5abb21360e858f/t/5cabca6ce4966bf580ea3471/1554762350561/No+Place+to+Hide+Cavallaro+2007.pdf>.

<sup>319</sup> Human Rights Watch interview with FGR prosecutor, El Salvador’s Paracentral Region, March 29, 2019; Human Rights Watch interview with FGR prosecutor, El Salvador’s Eastern Region, January 22, 2019; Human Rights Watch interview with IML examiners, El Salvador’s Western Region, January 24, 2019; Human Rights Watch interview with IML investigators, El Salvador’s Western Region, January 7, 2019; Human Rights Watch interview with IML examiner, El Salvador’s Eastern Region, November 26, 2018.

<sup>320</sup> Human Rights Watch interview with FGR prosecutor, El Salvador’s Eastern Region, January 22, 2019.

areas. The constant variables among murdered deportees and disappeared deportees is tattoos. Some are gang members.”<sup>321</sup>

Deportees who were disappeared and/or killed often had tattoos. Out of 30 cases reported in the Salvadoran media of deportees with tattoos from the United States who were killed between 2010 and 2019, only seven had gang-related tattoos, the 23 others had artistic or non-gang-related tattoos, like a tribute to children,<sup>322</sup> an angel and Christ,<sup>323</sup> a shield,<sup>324</sup> stars on the elbows,<sup>325</sup> and allusions to the US city of Los Angeles.<sup>326</sup> In some of these 30 cases, the individuals had spent their childhoods, their adolescence and/or more than 10 years in the US.<sup>327</sup> Some were killed within days of their deportation,<sup>328</sup> but others were killed years later, despite trying to leave their homes as little as possible (for example, travelling only to and from work).<sup>329</sup> Other cases we documented through interviews for this report include:

- A man, Jaír F., whose cousin Ángel F. had arrived in the US during his adolescence, had tattoos that Jaír believed were not gang related. Jaír told a

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<sup>321</sup> Human Rights Watch interview with IML doctor, El Salvador’s Eastern Region, November 26, 2018.

<sup>322</sup> “My Husband Went to Pay Installments to a Store and Did Not Return” (“Mi esposo fue a pagar a unas letras a un almacén y ya no regreso”), *El Blog* <http://elblog.com/noticias/registro-43551.html> (accessed October 28, 2019).

<sup>323</sup> Lilibeth Sanchez and David Marroquín, “Deportee from United States Killed” (“Matan a deportado de Estados Unidos”), *El Diario de Hoy* (on file with Human Rights Watch).

<sup>324</sup> Mauricio Bolanos, “La Paz: Murder of Man Reported in Santiago Nonualco” (“La Paz: reportan asesinato de hombre en Santiago Nonualco”), *La Prensa Gráfica*, April 28, 2013, <https://www.laprensagrafica.com/elsalvador/La-Paz-reportan-asesinato-de-hombre-en-Santiago-Nonualco-20130428-0020.html> (accessed October 28, 2019).

<sup>325</sup> “25 Persons Kidnapped in Usulután This Year” (“25 privados de libertad van este año en Usulután”) *La Prensa Gráfica*, April 28, 2013, <https://www.laprensagrafica.com/elsalvador/25-privados-de-libertad-van-este-ano-en-Usulután-20140303-0116.html> (accessed October 28, 2019).

<sup>326</sup> Anna-Catherine Brigida, “Kicked Out of the U.S., Salvadoran Deportees Are Struggling Simply to Stay Alive,” *World Politics Review*, October 9, 2018, <https://www.worldpoliticsreview.com/articles/26302/kicked-out-of-the-u-s-salvadoran-deportees-are-struggling-simply-to-stay-alive> (accessed October 28, 2019).

<sup>327</sup> Anna-Catherine Brigida, “Kicked Out of the U.S., Salvadoran Deportees Are Struggling Simply to Stay Alive,” *World Politics Review*, October 9, 2018, <https://www.worldpoliticsreview.com/articles/26302/kicked-out-of-the-u-s-salvadoran-deportees-are-struggling-simply-to-stay-alive> (accessed October 28, 2019); Gadiel Castillo, “Man is Killed While Going to Work” (“Hombre es asesinado cuando iba a su trabajo”), *El Salvador.com*, November 28, 2018 <https://www.elsalvador.com/noticias/nacional/hombre-es-asesinado-cuando-iba-a-su-trabajo/543809/2018/> (accessed October 10, 2019); Criminal Sentencing Order, Tribunal de Sentencia de Santa Tecla, June 22, 2015 (sentencing document for the individual convicted in a deportee’s killing)(on file with Human Rights Watch).

Human Rights Watch researcher that Ángel was killed in 2018 in their rural municipality after Ángel's deportation in 2018.<sup>330</sup>

- A Salvadoran journalist told us in 2018, “[D]ays ago, a youth arrived deported who had tattoos. He disappeared. Some cases like that are never reported.”<sup>331</sup>
- Another Salvadoran journalist remembered, “In [the neighborhood] where I live, a deportee around 40 years old got back [returned to El Salvador]. He had tattoos that I thought were super cool and in no way associated with a gang. However, few in El Salvador understand this. Here, having tattoos is a problem. He disappeared about a month later. The case was not reported [in the press]. I didn’t cover it, because of our [Salvadoran journalists’] rule: don’t cover anything in your own neighborhood.”<sup>332</sup>

Despite the grave risks associated with having tattoos, getting them removed is difficult in the United States, especially when a person is held in immigration detention.<sup>333</sup> In one case, after living in the US for 17 years, while his deportation proceedings were underway, Bartolo A.’s defense attorneys tried to arrange for the removal of his tattoos, but the immigration facility detaining him would not coordinate visits by tattoo-removal professionals or allow Bartolo to leave the facility to have them removed.<sup>334</sup>

According to Salvadoran officials, the government agency for the health and welfare of youth, the National Institute of Youth (Instituto Nacional de la Juventud, INJUVE) offers a tattoo removal program in El Salvador, so as one return center official put it to Human Rights Watch “you will not be confused with gang members.”<sup>335</sup> However, the removal

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<sup>330</sup> Human Rights Watch interview with Jaír F., United States East Coast, February 23, 2019 (pseudonym).

<sup>331</sup> Human Rights Watch interview with Salvadoran journalist, El Salvador’s Central Region, November 9, 2018.

<sup>332</sup> Human Rights Watch interview with Salvadoran journalist, El Salvador’s Central Region, November 8, 2018.

<sup>333</sup> Human Rights Watch’s decades of research in US immigration detention centers has shown that detainees are rarely, if ever, allowed to leave immigration detention centers including to go to hospitals for serious medical conditions, or to attend important events such as funerals or children’s graduations. It is also extremely difficult to enter immigration detention centers, unless as an attorney representing an immigrant client. Therefore, under current US policy, detainees would experience significant barriers to leaving detention to have tattoos removed and tattoo removal professionals would experience significant challenges in entering detention centers repeatedly to remove tattoos.

<sup>334</sup> Human Rights Watch interview with former public defender, United States (region withheld for security), April 4, 2019.

<sup>335</sup> Human Rights Watch interview with migrant reinsertion official, El Salvador’s Central Region, November 28, 2018.

sessions are only offered in San Salvador, must be spaced weeks apart, and can take years to completely remove tattoos.<sup>336</sup>

### **Javier B.**

In 2010, Javier B., 17, fled his particularly violent home neighborhood in El Salvador, where the local gang had repeatedly attempted to recruit him. His mother, Jennifer B., said that the gang had killed a close family member and generally targeted the family.<sup>337</sup>

After crossing the border, Javier lived with his mother in an unauthorized immigration status in a city located on the East Coast of the United States, where she worked to send money home to El Salvador. Javier started high school, but soon dropped out and began living with a friend.<sup>338</sup> He also worked the limited odd jobs that were available, such as construction, two or three times per week.<sup>339</sup> In 2012, Javier’s girlfriend became pregnant. Javier later testified before the immigration judge in his deportation proceedings that he “was excited” to become a father, but he was also worried that he could “not support a family.”<sup>340</sup> Javier testified that he “gave in to the easy money” of participating in burglaries.<sup>341</sup>

In June 2013, Javier was convicted, at the state level, of two separate counts of attempted burglary and burglary in the second degree. After serving his sentence in an East Coast prison, he was put in removal proceedings in New York State.

In August 2016, when Javier was 23, the immigration court denied him asylum due to his criminal convictions. Although Javier raised fears that gangs in El Salvador would attack and even kill him, the court found that it was not “more likely than not” that Javier would be tortured (defined in part as any act to intentionally inflict severe pain or suffering on an individual) upon return to El Salvador, thereby

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<sup>336</sup> Human Rights Watch interview with migrant reinsertion official, El Salvador’s Central Region, November 28, 2018.

<sup>337</sup> US Department of Justice, Executive Office of Immigration Review, *In the Matter of* (name and date withheld for security) (ruling on file with Human Rights Watch).

<sup>338</sup> *Ibid.*

<sup>339</sup> *Ibid.*

<sup>340</sup> *Ibid.*

<sup>341</sup> *Ibid.*

denying him protection under the Convention against Torture and ordering him deported from the United States.<sup>342</sup> Javier was deported in approximately March 2017. He was killed by MS in June that same year, according to his mother, Jennifer. She told Human Rights Watch:

Only four months passed. He was thinking of living with my mother in [the neighborhood he had fled], but he decided to live with [my] sister in [a different but also violent neighborhood]. That's actually where they [MS] killed him.... It's terrible. They got him from the house at 11:00 am. They saw his tattoos. I knew they'd kill him for his tattoos. That is exactly what happened.... The problem was with [the gang] MS [-13], not with the police [who had stopped him multiple times but not beaten him].<sup>343</sup>

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<sup>342</sup> US Department of Justice, Executive Office of Immigration Review, *In the Matter of*(name and date withheld for security). (ruling on file with Human Rights Watch).

<sup>343</sup> Human Rights Watch telephone interview with Jennifer B., United States East Coast, March 6, 2019 (pseudonym).

## VII. US and International Law

In several key respects, US immigration law and policy violate international human rights and refugee law, with direct effects upon people seeking asylum or facing deportation from the United States, like the Salvadorans featured in this report.

### US Failure to Prevent Return to Persecution

The United States is obligated to uphold the central provisions of the 1951 Refugee Convention by its accession to the Refugee Convention's 1967 Protocol.<sup>344</sup> The US government passed the Refugee Act of 1980 in order to bring the country's laws into conformity with the Refugee Convention and Protocol, by incorporating into US law the convention's definition of a "refugee" as a person with a well-founded fear of being persecuted on account of race, religion, nationality, membership of a particular social group, or political opinion, and by incorporating the principle of non-return (also called "nonrefoulement"), which prohibits the return of people whose lives or freedom would be threatened on account of their race, religion, nationality, membership of a particular social group, or political opinion.<sup>345</sup>

Despite the fact that the principle of nonrefoulement is codified in US law, the cases in this report illustrate that Salvadorans face very uncertain odds when trying to convince US courts and authorities that they should not be deported due to their fears of serious harm.

Anyone who is an unauthorized immigrant (Salvadorans among them) will find it difficult to obtain protection from deportation to harm, especially once such an immigrant has been apprehended by immigration enforcement and put in removal proceedings. One of the biggest obstacles for these people is the reality that they are very likely to be locked up in

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- <sup>344</sup> Convention Relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force April 22, 1954, <http://www.unhcr.org/3b66c2aa10.html>; U.N. Protocol Relating to the Status of Refugees, 606 U.N.T.S. 268, entered into force October 4, 1967. The United States acceded to the 1967 Protocol in 1968.

<sup>345</sup> The US incorporated the provisions of the 1967 Protocol into domestic law through the Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (1980). As the Supreme Court has confirmed, a primary purpose of Congress in passing the Refugee Act "was to bring United States refugee law into conformance with the 1967 United Nations Protocol." *INS v. Cardoza-Fonseca*, 480 U.S. 421, 426 (1987); see also, *INS v. Stevic*, 467 U.S. 407, 416-24 (1984) (providing a history of the incorporation of the Refugee Convention standards into US law through the Refugee Protocol and the Refugee Act of 1980).

immigration detention, from where they are expected to claim asylum, usually without assistance from an attorney, since nearly all migrants and asylum seekers facing deportation in the United States have no right to a court-appointed lawyer.<sup>346</sup>

In a review of immigration court data from 2007 to 2012, the American Immigration Council determined that of all Salvadorans (detained and non-detained) in removal proceedings, only 40 percent were represented by counsel. In addition, 38 percent of Salvadorans in removal proceedings were detained.<sup>347</sup>

Under a July 2019 rule that is currently enjoined, all unauthorized immigrants living in the US will become targets for arrests and deportation through expanded procedures that accelerate deportation known as “expedited removal.”<sup>348</sup> Any unauthorized foreigner who cannot prove continuous presence in the US for at least two years could, if the rule goes into effect, be placed in a fast-track deportation process, without the opportunity to plead their case in front of an immigration judge or, in most cases, to get the help of an attorney. Expedited removal proceedings do allow individuals to seek referral to an immigration court proceeding to seek asylum, but make access to a court hearing contingent on a screening procedure, and Human Rights Watch and other groups have consistently criticized expedited removal for DHS officers’ failure to identify legitimate asylum seekers during that screening process.<sup>349</sup>

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<sup>346</sup> The only exception is individuals with mental health disabilities or cognitive impairments. See *Franco-Gonzalez v. Holder*, No. CV-10-02211 DMG (DTBx), Central District of California, (October 29, 2014).

<sup>347</sup> Ingrid Eagly and Steven Shafer, “Access to Counsel in Immigration Court,” American Immigration Council, September 28, 2016, <https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court> (accessed January 5, 2020).

<sup>348</sup> See *Make the Road New York v. McAleenan*, No. 19-cv-2369, Order by the US District Court for the District of Columbia, September 27, 2019, [https://www.americanimmigrationcouncil.org/sites/default/files/litigation\\_documents/challenging\\_the\\_expansion\\_of\\_expedited\\_order\\_granting\\_preliminary\\_injunction.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/litigation_documents/challenging_the_expansion_of_expedited_order_granting_preliminary_injunction.pdf) (accessed January 13, 2020).

<sup>349</sup> See, for example, Human Rights Watch, *You Don’t Have Rights Here: US Border Screening and Returns of Central Americans to Risk of Serious Harm* (New York: Human Rights Watch, 2014), <https://www.hrw.org/report/2014/10/16/you-dont-have-rights-here/us-border-screening-and-returns-central-americans-risk>.

Although deportations of individuals with TPS or DACA status are on hold as of the writing of this report,<sup>350</sup> those court-ordered injunctions could be lifted at any time. If this happens, these people are also likely to struggle to defend against deportation without assistance from a court-appointed attorney. Even with the aid of an attorney, every individual trying to prevent their deportation because they fear harm in El Salvador faces a battle to successfully make such a claim under current US law, discussed more below.

For individuals with criminal convictions, the odds against them being able to prevent deportation due to fear of harm in El Salvador are nearly insurmountable.<sup>351</sup> Article 33(2) of the Refugee Convention states that protection against refoulement may not be claimed by a refugee, “who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.”<sup>352</sup> The UN refugee agency (UNHCR) has defined such a crime as a “capital crime or a very grave punishable act.”<sup>353</sup> UNHCR’s Executive Committee has further explained that deporting a refugee under article 33(2) “may have very serious consequences for a refugee and his immediate family members ...

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<sup>350</sup> In September 2017, the Trump Administration announced that it would end the Deferred Action for Child Arrivals (DACA) program (1.8 percent of Salvadorans living in the US were DACA recipients), and although three lawsuits (*Regents of the University of California, et al. v. Dept. of Homeland Security (DHS)*, 908 F.3d 476 (9th Cir. 2018); *Batalla Vidal v. Nielsen*, 291 F. Supp. 3d 260 (E.D.N.Y. 2018); and *NAACP v. Trump*, 298 F. Supp. 3d 209 – (US Dist. Court, Dist. of Columbia 2018) have resulted in three nationwide injunctions, the government has appealed the injunctions to the US Supreme Court. Oral argument was held on November 12, 2019 and at the time of writing a decision was pending. At the same time, in May 2019, the Department of Homeland Security announced it would end Temporary Protected Status (TPS) for Salvadorans (13.9 percent of Salvadorans in the US were Temporary Protected Status (TPS) re-registrants). TPS status is also in a precarious state, because of legal challenges due to claims that the administration ended it for Salvadorans based on racial discrimination. In the case *Ramos et al v. Nielsen*, 336 F. Supp. 3d 1075 (N.D. Cal. 2018), Judge Edward Chen in the Northern District of California issued a preliminary injunction preventing DHS from implementing TPS terminations for El Salvador, Haiti, Nicaragua, and Sudan while the case is resolved on its merits. DHS published steps it is taking to comply with the injunction in Federal Register Notices issued on October 31, 2018, March 1, 2019, and November 3, 2019. Currently, an automatic extension of TPS for Salvadorans, Haitians, Nicaraguans, and Sudanese is in place through January 4, 2021 unless the injunction is overturned. The government has appealed the injunction to the 9th Circuit Court of Appeals, oral argument was held August 14, 2019 and at the time of writing a decision was pending.

<sup>351</sup> For further discussion of the legal arguments presented here, see Human Rights Watch, *A Price Too High: US Families Torn Apart by Deportations for Drug Offenses* (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2015/06/16/price-too-high/us-families-torn-apart-deportations-drug-offenses#bc77e3>; Human Rights Watch, *Forced Apart: Families Separated and Immigrants Harmed by US Deportation Policy* (New York: Human Rights Watch, 2007), <https://www.hrw.org/report/2007/07/16/forced-apart/families-separated-and-immigrants-harmed-united-states-deportation>.

<sup>352</sup> Convention Relating to the Status of Refugees, art. 33(2).

<sup>353</sup> UNHCR, Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, UNHCR, Geneva, January 1992), para. 155.

[and therefore should only happen] in exceptional cases and after due consideration of all the circumstances.”<sup>354</sup>

Therefore, in accordance with international refugee law, procedures must be in place to ensure careful application of this narrow exception.<sup>355</sup> Even individuals convicted of “particularly serious” crimes are guaranteed the right of a hearing to establish whether or not they pose a current threat. Indeed, the “danger to the community” exception “hinges on an appreciation of a future threat from the person concerned rather than on the commission of some act in the past.”<sup>356</sup> Accordingly, under international refugee law, past criminality is not per se evidence of future danger.

Unfortunately, United States law falls short of these standards, which helps to explain why some of the people featured in this report were deported to El Salvador after criminal convictions despite the clear harm they faced and the lack of danger they posed. People who have criminal convictions that are not “particularly serious” are usually barred from asylum in the US, but can seek protection from refoulement based on the much higher

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<sup>354</sup> UN High Commissioner for Refugees (UNHCR) Executive Committee, Conclusion No. 7 (1977). The exceptions to non-refoulement in article 33(2) were intended to be used only as a “last resort” where “there is no alternative mechanism to protect the community in the country of asylum from an unacceptably high risk of harm.” James C. Hathaway, *The Rights of Refugees under International Law* (Cambridge, UK: Cambridge University Press, 2005), p. 352.

<sup>355</sup> The Refugee Convention and Protocol require that a refugee should be “allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.” *Ibid.*, art. 32(2). An individualized determination must occur before deportation, during which states must weigh two elements: 1) that a refugee has been convicted of a particularly serious crime and 2) that he or she constitutes a danger to the community. James C. Hathaway, *The Rights of Refugees under International Law*, pp. 344-351; Rene Bruin and Kees Wouters, “Terrorism and the Non-derogability of Non-refoulement,” *International Journal of Refugee Law*, vol. 15, no. 1 (2003), p. 18. With regard to the first prong of the inquiry, the determination of a particularly serious crime cannot be merely rhetorical: It requires that the crime in question be distinguished from other crimes. The “particularly serious crime” exception in article 33(2) is presumed to require that the individual refugee be even more dangerous in order to fall under this exception. See Sir Elihu Lauterpacht & Daniel Bethlehem, UNHCR, “Opinion: The Scope and Content of the Principle of Non-Refoulement,” June 20, 2001, paragraph 147 (“Article 33(2) indicates a higher threshold than article 1F . . .”) With regard to the second prong, a government must separately assess the danger the individual poses to the community: “A judgment on the potential danger to the community necessarily requires an examination of the circumstances of the refugee as well as the particulars of the specific offence.” UNHCR, “Nationality Immigration and Asylum Bill 2002: UNHCR comments relating to serious criminals and statutory review,” 2002, paragraph 3; UNHCR, Handbook, p. 157 (“The fact that an applicant convicted of a serious non-political crime has already served his sentence or has been granted a pardon or has benefited from amnesty is also relevant.”).

<sup>356</sup> UNHCR, “The Scope and Content of the Principle of Non-Refoulement,” June 20, 2001, <https://www.unhcr.org/en-us/protection/globalconsult/3b33574d1/scope-content-principle-non-refoulement-opinion.html> (accessed October 18, 2019), paras. 147 and 164. (“While past conduct may be relevant to an assessment of whether there are reasonable grounds for regarding the refugee to be a danger to the country in the future, the material consideration is whether there is a prospective danger to the security of the country”).

standard known as “withholding of removal.”<sup>357</sup> But for people who have been convicted of what are regarded as “particularly serious crimes,” withholding is also barred.<sup>358</sup>

In addition to all refugees convicted of aggravated felonies with five-year sentences, some US courts have found that the US attorney general has discretionary authority to send refugees or asylees back to persecution based on the attorney general’s often-unreviewable determination of what constitutes a particularly serious crime.<sup>359</sup>

A final defense against removal for people convicted of particularly serious crimes derives not from the Refugee Convention and Protocol but rather from the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which prevents the United States from returning anyone without exception to countries where they would more likely than not face torture.<sup>360</sup> The CAT defines torture as severe pain or suffering that is intentionally inflicted by or at the instigation of or with the consent or acquiescence of a public official, or other person acting in an official capacity. CAT withholding or deferral of removal therefore requires that an applicant prove that he or she will “more likely than not” face torture upon return, which must be shown to be severe pain or suffering inflicted by or with the acquiescence of a government official. Though it is an essential protection in international and US law, and people with criminal convictions are eligible to seek CAT relief, it is a very difficult standard to meet, especially without the assistance of an attorney.

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<sup>357</sup> 8 USCS § 1231(b)(3) (2005) INA § 241(b)(3).

<sup>358</sup> 8 U.S.C. Section 1231 (b)(3)(B) (stating, “[A]n alien who has been convicted of an aggravated felony (or felonies) for which the alien has been sentenced to an aggregate term of imprisonment of at least 5 years shall be considered to have been convicted of a particularly serious crime. The previous sentence shall not preclude the Attorney General from determining that, notwithstanding the length of sentence imposed, an alien has been convicted of a particularly serious crime.”). US immigration law’s definition of “aggravated felony” includes a broad range of crimes, including some that are actually not felonies at all. See Human Rights Watch, *Forced Apart*; Human Rights Watch, *Forced Apart (By the Numbers): Non-Citizens Deported Mostly for Nonviolent Offenses* (New York: Human Rights Watch, 2009), <https://www.hrw.org/report/2009/04/15/forced-apart-numbers/non-citizens-deported-mostly-nonviolent-offenses>; Human Rights Watch, *A Price Too High: Detention and Deportation of Immigrants in the US for Minor Drug Offenses* (New York: Human Rights Watch, 2015), <https://www.hrw.org/report/2015/06/16/price-too-high/us-families-torn-apart-deportations-drug-offenses>.

<sup>359</sup> See *In re Y-L*, Immigration & Nationality Laws Administrative Decisions, vol. 23, decision 270, (B.I.A. 2002). The BIA and most courts have found that an offense that is not an “aggravated felony” may be deemed a “particularly serious crime”. See for example, *Matter of N-A-M*, 24 I&N Dec. 336 (BIA 2007), *aff’d*, *N-A-M v. Holder*, 587 F.3d 1052 (10th Cir. 2009), holding that Congress did not intend to limit what offenses may be “particularly serious crimes” to those offenses classified as aggravated felonies.

<sup>360</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1., Dec.10 1984, 1465 U.N.T.S. 85, art. 1., 8 C.F.R. § 208.18. See 8 CFR § 208.18.

Overly broad United States interpretation of crimes as “particularly serious” for purposes of barring individuals from asylum and withholding of removal, failure to assess whether the potential deportee poses a risk of dangerousness to the community of the US, and the failure to provide court-appointed legal representatives to people facing deportation on their rights and on the mechanics of due process, has resulted in the US failing to meet its obligations under international law not to return Salvadorans (and others) to countries where they would be under threat of persecution, torture, or other serious harms. In addition to policy changes within the authority of the Departments of Justice and Homeland Security, Congress should amend US law to ensure that criminal bars to asylum and withholding are consistent with international law, that there is greater judicial scrutiny of the application of these bars, and that people facing removal have the right to court-appointed attorneys.

## The United States Eviscerates the Right to Seek Asylum

There is no right to be granted asylum under international law, but there is a right to seek asylum.<sup>361</sup> On its face, US law generally recognizes this right. The law provides that any person “physically present in the United States or who arrives in the United States ... irrespective of such alien’s status, may apply for asylum....”<sup>362</sup>

However, since President Donald Trump’s inauguration, the federal government has nearly eviscerated the right to seek asylum in a relentless series of policy and legal changes. This attack on asylum affects all nationalities, Salvadorans among them. Salvadorans whose claims to asylum have not yet been resolved, and those who may be attempting to travel to the United States to claim asylum from persecution in their home country, face enormous obstacles due to these changes to asylum law and policy.

One of the most sweeping US policies undermining the right to seek asylum in the United States is the Migrant Protection Protocols (MPP), also called the “Remain in Mexico” policy, which have been in place since January 2019. Under this policy, the implementation of which Human Rights Watch has investigated,<sup>363</sup> the US government returns to Mexico

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<sup>361</sup> Universal Declaration of Human Rights, 1948, art. 14.1.

<sup>362</sup> 8 USC Sec. 1158.

<sup>363</sup> Human Rights Watch, *“We Can’t Help You Here”: US Returns of Asylum Seekers to Mexico* (New York: Human Rights Watch, 2019), <https://www.hrw.org/report/2019/07/02/we-cant-help-you-here/us-returns-asylum-seekers-mexico>.

nearly all asylum seekers who have been put into removal proceedings. Since its inception, the program has been implemented at ports of entry and Border Patrol sectors across the southern border, placing asylum seekers at risk of violence, exploitation at the hands of cartels and corrupt officials, and death. Approximately one percent of people returned to Mexico under the program are able to find representation in their court cases,<sup>364</sup> vulnerable populations such as pregnant women, babies, and LGBT individuals have been regularly returned, and our own research shows the program regularly results in family separations.<sup>365</sup>

Although legal challenges continue, the United States Court of Appeals for the Ninth Circuit has allowed this sweeping policy to remain in place.<sup>366</sup> At time of writing, more than 59,000 asylum seekers had been returned to dangerous and unlivable conditions in Mexico, with significant barriers to obtaining legal representation and a fair asylum hearing.<sup>367</sup>

The MPP program is layered on top of a policy that dates back to 2016 (called “metering”), under which United States Customs and Border Protection (CBP) turns back asylum seekers at ports of entry where they are forced to wait in haphazardly operated queues in Mexico, which can cause weeks and months of delay. People affected by these policies often make desperate decisions to attempt to cross the border in dangerous locations. Among these were Óscar Alberto Martínez Ramírez and his daughter Valeria, both from the

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<sup>364</sup> Syracuse University Transactional Records Access Clearinghouse, “Access to Attorneys Difficult for Those Required to Remain In Mexico,” July 29, 2019, <https://trac.syr.edu/whatsnew/email.190729.html> (accessed November 25, 2019).

<sup>365</sup> “US: Family Separation Harming Children, Families,” Human Rights Watch news release, July 11, 2019, <https://www.hrw.org/news/2019/07/11/us-family-separation-harming-children-families>.

<sup>366</sup> Immigrant advocacy groups challenged MPP in the US District Court for the Northern District of California in *Innovation Law Lab v. McAleenan*, No. 19-00807 (N.D. Ca. 2019). The court originally halted MPP and the government appealed to the U.S. Court of Appeals for the Ninth Circuit. The government also moved for a stay of the order during the pendency of the appeal which the Ninth Circuit granted. See *Innovation Law Lab v. McAleenan*, No. 19-15716, U.S. Court of Appeals for the Ninth Circuit, May 7, 2019, <http://cdn.ca9.uscourts.gov/datastore/general/2019/05/07/19-15716%20opinion.pdf>. Thus, MPP remains in effect until the Ninth Circuit reviews the merits of the case.

<sup>367</sup> Michelle Hackman, “At Migrant Camp in Mexico, Crowds and Complaints Swell,” *Wall Street Journal*, November 23, 2019, <https://www.wsj.com/articles/at-migrant-camp-in-mexico-crowds-and-complaints-swell-11574510400> (accessed November 25, 2019); “US Move Puts More Asylum Seekers at Risk: Expanded ‘Remain in Mexico’ Program Undermines Due Process,” Human Rights Watch news release, September 25, 2019, <https://www.hrw.org/news/2019/09/25/us-move-puts-more-asylum-seekers-risk#>.

particularly violent Altavista neighborhood in El Salvador, who both died while trying to cross the Rio Grande in June 2019.<sup>368</sup>

In July 2019, in another change with devastating effect on all people trying to cross the United States-Mexico border to seek protection from persecution, the administration published an interim final rule banning all people, including children, who have traveled through another country first, and did not apply for and get asylum there, from applying for asylum in the United States.<sup>369</sup> This rule (sometimes referred to as “Asylum Ban 2.0”) is a ban of nearly all non-Mexican asylum seekers attempting to enter the US through the southern border. On September 11th, the Supreme Court issued a decision allowing the ban to go into effect while litigation challenging it continues.<sup>370</sup>

In yet another effort to block people from even accessing the United States asylum system, in the summer and fall of 2019, the Trump administration reached agreements with Honduras, El Salvador, and Guatemala that will enable the administration to reject asylum claims from people who first pass through any of these countries.<sup>371</sup> The United States’ Asylum Cooperative Agreement with Guatemala, in particular, raises alarm bells for Salvadorans, since nearly all Salvadoran asylum seekers transit through that country on their northward journey. Few details about these agreements had been released at time of writing; however, what is known about each country’s refugee protection system raises

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<sup>368</sup> Kirk Semple, “I Didn’t Want Them to Go: Salvadoran Family Greives for Father and Daughter Who Drowned,” *New York Times*, June 28, 2019, <https://www.nytimes.com/2019/06/28/world/americas/rio-grande-drowning-father-daughter.html> (accessed October 23, 2019); Sharyn Alfonsi, “You’ve Seen the Image. Now, Hear a Widow Recall How her Husband and Daughter Drowned in the Rio Grande,” *CBS News 60 Minutes*, November 24, 2019, <https://www.cbsnews.com/news/tania-avalos-mother-wife-drowned-migrants-salvador-60-minutes-2019-11-24/>.

<sup>369</sup> See Executive Office for Immigration Review, Department of Justice; U.S. Citizenship and Immigration Services, Department of Homeland Security, “governing asylum claims in the context of aliens who enter or attempt to enter the United States across the southern land border after failing to apply for protection from persecution or torture while in a third country through which they transited en route to the United States,” *US Federal Register*, July 16, 2019, <https://www.federalregister.gov/documents/2019/07/16/2019-15246/asylum-eligibility-and-procedural-modifications>.

<sup>370</sup> *Barr v. East Bay Sanctuary Covenant*, 140 S.Ct. 3 (2019), September 11, 2019, [https://www.supremecourt.gov/opinions/18pdf/19a230\\_k53l.pdf](https://www.supremecourt.gov/opinions/18pdf/19a230_k53l.pdf).

<sup>371</sup> Priscilla Alvarez and Geneva Sands, “US Signs Asylum Deal with Honduras, the Latest in a String of Agreements with Central America,” *CNN*, September 25, 2019, <https://www.cnn.com/2019/09/25/politics/united-states-honduras-asylum-agreement/index.html> (accessed November 25, 2019); Priscilla Alvarez and Geneva Sands, “US Signs Asylum Agreement with Guatemala,” *CNN*, July 26, 2019, <https://www.cnn.com/2019/07/26/politics/guatemala-us-immigration/index.html> (accessed November 25, 2019); Geneva Sands, “Deal Could Allow the US to Send Some Asylum Seekers Back to El Salvador,” *CNN*, September 20, 2019, <https://www.cnn.com/2019/09/20/politics/asylum-us-el-salvador/index.html> (accessed November 25, 2019).

serious doubts about their ability to handle large numbers of asylum claims and offer effective protection.<sup>372</sup>

Each of these changes are layered upon other, earlier policy shifts engineered to create a harsh and punishing response to arriving asylum seekers. In 2017, then-Attorney General Jeff Sessions introduced a "zero-tolerance" policy, which required that all migrants arriving between ports of entry, including asylum seekers, be prosecuted for the federal crimes of illegal entry or reentry. What resulted was the mass, systemic separation of families, as parents were prosecuted and children were ripped away from them to be taken into separate custody, causing irreversible, life-long trauma to over 5,400 children,<sup>373</sup> including all but one of the Salvadoran children interviewed for this report. Subsequently revealed internal government memos show that this policy was explicitly intended to serve as a deterrence mechanism for asylum seekers.<sup>374</sup> Despite the official end to family separation in June 2018,<sup>375</sup> many separations are still happening,<sup>376</sup> and the "zero-tolerance" memo was still in place, at time of writing.

Other changes have attempted to narrow the definitions United States immigration judges use to determine who merits asylum. In 2019, US Attorney General William Barr reversed a case, *Matter of L-E-A*<sup>377</sup>, limiting and in some cases eliminating the possibility of even presenting a claim for asylum for individuals who are fleeing harm on the basis of their

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<sup>372</sup> See, for example, "Human Rights Watch Submits Comment in Opposition to the Asylum Eligibility and Procedural Modifications Interim Final Rule," Human Rights Watch news release, August 15, 2019, <https://www.hrw.org/news/2019/08/15/human-rights-watch-submits-comment-opposition-asylum-eligibility-and-procedural> (accessed January 13, 2020); Eleanor Acer, "Safe Third Country Agreement with Guatemala Would Endanger, not Protect Refugees," Human Rights First, June 14, 2019, <https://www.humanrightsfirst.org/press-release/safe-third-country-agreement-guatemala-would-endanger-not-protect-refugees> (accessed January 13, 2020).

<sup>373</sup> Chantal da Silva, "More Than 5,400 Children Were Separated from Their Parents by the Trump Administration, 'Shocking' New Tally Shows," *Newsweek*, October 25, 2019, <https://www.newsweek.com/trump-administration-family-separation-policy-aclu-1467715> (accessed November 25, 2019).

<sup>374</sup> Cora Currier, "Prosecuting Parents—and Separating Families—Was Meant to Deter Migration, Signed Memo Confirms," *The Intercept*, September 25, 2018, <https://theintercept.com/2018/09/25/family-separation-border-crossings-zero-tolerance/> (accessed January 13, 2020).

<sup>375</sup> Executive Order of the President of the United States, "Affording Congress the Opportunity to Address Family Separation," June 20, 2018, <https://www.whitehouse.gov/presidential-actions/affording-congress-opportunity-address-family-separation/> (accessed January 13, 2020).

<sup>376</sup> "US: Family Separation Harming Children, Families," Human Rights Watch news release, July 11, 2019, <https://www.hrw.org/news/2019/07/11/us-family-separation-harming-children-families>; Miriam Jordan, "No More Family Separations, Except These 900," *New York Times*, July 30, 2019, <https://www.nytimes.com/2019/07/30/us/migrant-family-separations.html> (accessed January 13, 2020).

<sup>377</sup> 27 I&N Dec. 40 (BIA 2017).

membership in a particular family. This decision holds dire consequences for many asylum seekers, including several of the Salvadoran individuals and their family members whose cases are documented in this report. Also, in 2018, then-Attorney General Sessions issued *Matter of A-B*<sup>378</sup>, effectively limiting the availability of asylum to most individuals fleeing gender-based violence or violence at the hands of gangs—each of which is often central to the fears of harm that prompt people from El Salvador to flee to the United States.<sup>379</sup>

Former Attorney General Sessions took this decision despite caselaw in the United States clearly establishing, for decades, that gang violence and gender-based violence can constitute persecution under international refugee law.<sup>380</sup> This established legal understanding is shared by UNHCR, the United Nations refugee agency, which has concluded that people fleeing gang and gender-based violence, as well as forced recruitment by gangs, may have valid persecution claims under the Refugee Convention.<sup>381</sup> Beyond that, his decision failed to evidence awareness of the state’s absence and inability or unwillingness to protect, as well as its role in active persecution, as root causes of gender-based and gang violence.

In February 2017, United States Citizenship and Immigration Services (USCIS) raised the threshold for demonstrating credible fear in the first stage of the asylum process. This new guideline ordered asylum officers to be stricter in assessing claims of fear made during

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<sup>378</sup> 27 I&N Dec. 316 (A.G. 2018).

<sup>379</sup> See *In Matter of E-F-H-L*, Sessions certified to himself and then overturned a third BIA decision, eviscerating the rights of asylum seekers to testify on their own behalf before they can be denied asylum and/or deported. 27 I&N Dec. 226 (A.G. 2018).

<sup>380</sup> See *Matter of A-R-C-G-*, 26 I&N Dec. 338 (BIA 2014) (establishing domestic violence survivors as a “particular social group” under US asylum law in certain cases); and USCIS, “Notification of *Ramos v. Holder*: Former Gang Membership as a Potential Particular Social Group in the Seventh Circuit,” March 2, 2010, <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2010/Asylum-Ramos-Div-2-mar-2010.pdf> (discussing Circuit Court precedent in which gang membership is considered to be a “particular social group” under US asylum law in certain cases).

<sup>381</sup> United Nations High Commissioner for Refugees, Brief of the United Nations High Commissioner for Refugees before the United States Court of Appeals for the First Circuit in the case *O.L.B.D., petitioner, v. William P. Barr, Attorney General, respondent*, March 11, 2019, <https://www.refworld.org/docid/5c8924454.html> (accessed October 23, 2019); United Nations High Commissioner for Refugees, Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador, March 15, 2016, <https://www.refworld.org/docid/56e706e94.html> (accessed October 23, 2019).

“credible fear interviews,” the threshold interview that is required before an affirmative asylum seeker is allowed to present their claim to an immigration judge.<sup>382</sup>

Each of these policy changes on its own represents a significant erosion of the right to seek asylum in the United States. Taken together, the US is violating the rights of hundreds of asylum seekers on a daily basis. One proposed bill before Congress, the Refugee Protection Act of 2019, would make important strides towards reversing these, and other, harmful policies.<sup>383</sup>

## US Law Fails to Adequately Value Long-Term Connections to US<sup>384</sup>

Salvadorans (and immigrants of other nationalities in similar situations) who have lived in the United States for many years in an unauthorized status, as legal permanent residents, or as TPS or DACA beneficiaries often have developed and/or deepened family and other ties to the United States. Under current US law these ties are often not weighed at all before deportation.<sup>385</sup> This is despite the fact that the UN Human Rights Committee (HRC), the expert body that interprets and monitors state party compliance with the International Covenant on Civil and Political Rights (ICCPR), has explicitly stated that the right to family unity entails limits on states’ power to regulate immigration.<sup>386</sup> Though it has not always ruled in favor of migrants seeking to defend against their deportations, the HRC jurisprudence establishes that any interference with a person’s family caused by deportation is “arbitrary” if the state fails to weigh that human rights impact in the balance against its own interests in deporting the person.<sup>387</sup> Moreover, the UN special rapporteur

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<sup>382</sup> United States Citizenship and Immigration Services, “Credible Fear and Torture Determinations and Reasonable Fear and Torture Determinations,” USCIS Memorandum, February 13, 2017, [https://drive.google.com/file/d/oB\\_6gbFPjVDoxYoFCczROOFZ4SVk/edit](https://drive.google.com/file/d/oB_6gbFPjVDoxYoFCczROOFZ4SVk/edit) (accessed January 13, 2019).

<sup>383</sup> See “Leahy & Lofgren Introduce Bicameral Refugee Protection Act of 2019,” November 21, 2019, <https://lofgren.house.gov/media/press-releases/leahy-lofgren-introduce-bicameral-refugee-protection-act-2019> (accessed November 26, 2019).

<sup>384</sup> For further discussion of the legal arguments presented in this section, see Human Rights Watch, *The Deported: Immigrants Uprooted from the Country They Call Home* (New York: Human Rights Watch, 2017), <https://www.hrw.org/report/2017/12/05/deported/immigrants-uprooted-country-they-call-home#5de4cc>; Human Rights Watch, *A Price Too High*; Human Rights Watch, *Forced Apart*; Human Rights Watch, *Forced Apart (By the Numbers)*.

<sup>385</sup> This is true except under highly limited circumstances where removal would result in “extremely unusual hardship” to the US citizen or lawful permanent resident child, spouse, or parent of the otherwise deportable person who has lived in the US for ten or more years and maintained good moral character. See Immigration and Nationality Act § 240A(b)(1).

<sup>386</sup> United Nations Human Rights Committee, General Comment No. 15, paras. 5 and 7.

<sup>387</sup> See, for example, *Madaferri v. Australia*, Communication No. 1011/2001, UN Doc CCPR/C/81/D/1011/2001 (2004). See also, *Husseini v. Denmark*, Communication No. 2243/2013, UN Doc CCPR/C/112/D/2243/2013 (2014); *MGC v. Australia*, Communication No. 1875/2009, UN Doc CCPR/C/113/D/1875/2009 (2015).

on the rights of non-citizens has stated, “[D]eportation is justified only if the interference with family life is not excessive compared to the public interest to be protected.”<sup>388</sup> Even without strong family ties, an unauthorized immigrant develops stronger ties to the country of immigration over time. Children brought as unauthorized immigrants to the US at a very young age often have no ties at all to their country of origin, other than birth, yet are subject to deportation without consideration of their ties to the US.

There is no recognized human right to immigrate to another country and obtain legal status, and states enjoy considerable leeway to remove non-citizens from their territory—particularly those who are present unlawfully.<sup>389</sup> But this discretion is not unlimited, and the US should ensure its immigration policies meet its obligations under international human rights law. In particular, US law should take into account the often profound human rights impacts and other hardships of deportation, and weigh those in the balance against its interest in deporting a person.

Article 12(4) of the International Covenant on Civil and Political Rights (ICCPR) requires that “no one shall be arbitrarily deprived of the right to enter his own country,” and the Human Rights Committee has found that the definition of “one’s own country” is broader than the concept of a person’s country of nationality.<sup>390</sup> In two cases involving people who were brought to Australia and Canada from other countries as young children, the Committee found a violation of article 12(4) where the state sought to deport those individuals later on in life.<sup>391</sup> These cases are closely analogous to the situation of DACA beneficiaries and, in some cases, TPS beneficiaries as well.

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<sup>388</sup> United Nations Office of the High Commissioner for Human Rights (OHCHR), *The Rights of Non-Citizens*, 2006, HR/PUB/06/11, <http://www.refworld.org/docid/46ceabb22.html> (accessed December 3, 2017).

<sup>389</sup> Article 13 of the International Covenant on Civil and Political Rights (ICCPR) provides that non-citizens “lawfully present in the territory of a state party” may be only be expelled pursuant to a decision made “in accordance with law,” and that the person in question should have the opportunity to have their case reviewed before some “competent authority or a person or persons especially designated by the competent authority.” Article 13 explicitly allows a limited exception to these obligations where “compelling reasons of national security otherwise require,” and excludes from its scope all immigrants who articulate no claim that their presence on the state party’s territory is “lawful.” International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966). 999 U.N.T.S. 171, entered into force March 23, 1976. The United States ratified the ICCPR in 1992.

<sup>390</sup> UN Human Rights Committee, General Comment No. 27, Freedom of Movement (art. 12), U.N. Doc. CCPR/C/21/Rev.1/Add.9 (1999), Para. 20.

<sup>391</sup> UN Human Rights Committee, *Nystrom v. Australia*, Communication No. 1557/07, U.N. Doc CCPR/C/102/D/1557/2007; UN Human Rights Committee, *Warsame v. Canada*, Communication No. 1959/10, U.N. Doc CCPR/C/102/D/1959/2010 (2011).

Instead of requiring deportation of almost any immigrant without legal status, including those who have lived in the country for many years, US law should be changed to uphold these rights to family unity and to enter one’s own country, among others. One way to recognize these rights is to weigh them before deporting someone from the United States. Another is to implement a fair and inclusive legalization program that provides legal status for certain qualifying unauthorized immigrants in the US—including those who previously qualified for and had a prolonged temporary legal status—who meet a clearly defined set of criteria, and that aims to integrate those with strong family and community ties to the US.

## US Law Should Protect People at Risk of Serious Harm Who Do Not Qualify for Asylum

In addition to all the limitations to the right to seek asylum and to be protected from return to persecution outlined above, Human Rights Watch notes two additional gaps in US law governing who should be protected from return to harm: first, US law fails to meet US treaty obligations not to return people to places where they would be at real risk of facing cruel, inhuman, or degrading treatment or punishment; second, US law fails to protect from deportation newly arriving asylum seekers who are fleeing situations of indiscriminate violence or other exceptional circumstances that would threaten their lives or personal security.

On the first gap, the United States has rejected any obligation to prevent people from being returned to face the risk of cruel, inhuman, or degrading treatment or punishment that does not rise to the level of torture, in contravention of the requirements of the Convention against Torture. In the case *In re J-E-*, the US Board of Immigration Appeals dismissed the appeal of a Haitian man who showed that he would most likely be subjected to inhuman and degrading treatment upon return, saying, “we find that the respondent has failed to establish that these severe instances of mistreatment are so pervasive as to establish a probability that a person detained in a Haitian prison will be subject to torture, as opposed to other acts of cruel, inhuman, or degrading punishment or treatment.”<sup>392</sup>

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<sup>392</sup> 23 I&N Dec. 291 (BIA 2000).

This interpretation is inconsistent with the United States' obligation under the International Covenant on Civil and Political Rights (ICCPR).<sup>393</sup> The UN Human Rights Committee, the expert body that interprets and assesses state compliance with the ICCPR, has stated that, "States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement."<sup>394</sup>

On the second gap in US law, countries around the world receiving migrants conduct a two-pronged assessment when considering a claim for protection against deportation.<sup>395</sup> First, they examine claims using the international refugee definition from the Refugee Convention: a well-founded fear of being persecuted on account of race, religion, nationality, membership of a particular social group, or political opinion. But they also assess in the same individualized interview whether an asylum seeker who does not meet this definition can also be recognized as qualifying for a complementary status as a protected person if they can establish that, if returned, they would face a real risk of serious harm for reasons other than a fear of being persecuted. This type of "complementary protection" provides a safety net for those people who still face extreme risks.

Human Rights Watch recommends that US law be amended to ensure protection from deportation for people who would face serious threats to life or physical integrity if returned to their countries because of a real risk of violence or in exceptional situations, such as natural or human-made disasters, including from the effects of climate change, for which there is no adequate domestic remedy. As this report has shown, this is important for those Salvadorans who might not meet the high persecution or torture standard but who nevertheless would be at real risk of death or serious bodily injury if returned. It is

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<sup>393</sup> GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966); 999 UNTS 171; 6 ILM 368 (1967).

<sup>394</sup> UN Human Rights Committee (HRC), CCPR General Comment No. 20: art. 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), March 10, 1992, <https://www.refworld.org/docid/453883fbo.html> (accessed November 24, 2019).

<sup>395</sup> They include all European Union (EU) member states, Albania, Australia, Bosnia, Canada, Finland, Macedonia, Mexico, Montenegro, New Zealand, Norway, Serbia, South Africa, South Korea, Switzerland, Turkey, and Ukraine. Bill Frelick, "What's Wrong with Temporary Protected Status and How to Fix It: Exploring a Complementary Protection Regime," *Journal of Migration and Human Security* (forthcoming).

also important for individuals of any nationality who would face a real risk of serious harm after deportation from the United States.

## Medium and Long-Term Recommendations

### To the US Congress

- Enact legislation that codifies into domestic law the international legal obligations of the United States by passing the Refugee Protection Act of 2019 or similar legislation that:
  - Realigns the definition of terms in US law like “particular social group” to international standards;
  - Clarifies that transit through a third country shall not be grounds for discretionary denial of asylum;
  - Provides that asylum officers, with training in asylum law and non-adversarial interviewing techniques, have initial jurisdiction over all asylum claims;
  - Ends federal criminal prosecution, such as the “zero tolerance policy,” for asylum seekers;
  - Ensures access to counsel for all persons in immigration detention and border facilities and provides counsel for certain particularly vulnerable populations;
  - Creates a presumption of release from detention for all asylum seekers.
- Enact legislation that enables access to fair asylum determination proceedings in the United States by: 1) Rescinding the Migrant Protection Protocols (MPP) with retroactive effect. For individuals already in the MPP program, ensure that each has access to full and fair asylum proceedings under US law by paroling them into the United States and enrolling them in community-supported release programs that will ensure their appearance for immigration proceedings and provide support for them while their claims are pending; 2) Providing a right to readjudication for those deported to El Salvador under the Trump administration; and 3) Ending metering of asylum claims.
- Also, in order to provide access to fair asylum determination proceedings in the United States, enact legislation to eliminate expedited removal from US law. Until such legislation is adopted, while expedited removal remains in place: 1) Provide sufficient resources to the United States Citizenship and Immigration Services (USCIS) for additional asylum officers; 2) Allow the USCIS to conduct

timely in-person “credible fear” and “reasonable fear” screening interviews and address backlogs, without creating delays for affirmative asylum interviews or for USCIS interviews in the overseas US refugee admissions program; 3) Ensure that USCIS has adequate training and supervision; 4) Expand the grounds of qualification for parole.

- Protect and safeguard the independence and impartiality of the immigration court system by adopting a law creating an independent immigration court system in the form of an Article I court, modeled after the US Bankruptcy Court.
- Enact the New Way Forward Act of 2019 or similar legislation that improves due process for all immigrants by:
  - Ending near-mandatory deportation for people with criminal convictions and ending expedited deportation proceedings;
  - Restoring discretion to immigration judges to grant relief to those otherwise barred by criminal records or certain conduct if it would serve humanitarian purposes, to assure family unity, or in the public interest;
  - Reducing unnecessary detention by adopting a presumption of liberty for immigrants during deportation proceedings;
  - Repealing laws making illegal entry and reentry federal criminal offenses, rather than simply civil offenses to be addressed in an administrative court.
- Enact legislation providing “complementary protection” from removal to people outside their country and subject to the jurisdiction of the United States who would face serious threats to life or physical integrity if returned to their countries because of a real risk of violence or exceptional situations, such as natural or human-made disasters, including from the effects of climate change, for which there is no adequate domestic remedy.

## To Congress and the Executive Branch

- The Attorney General should withdraw or Congress should rescind through legislation the Attorney General decisions that overruled Board of Immigration Appeals (BIA) decisions *Matter of AB* and *Matter of L-E-A*- narrowing gender, gang-related, and family-based grounds for asylum.
- Ensure that US funding for Mexican border and immigration enforcement capacity includes funding:

- To improve and expand Mexico's capacity to register and process refugee and other protection claims;
- To increase Mexico's capacity to provide social support for asylum seekers with pending claims and for other vulnerable migrants; and
- To integrate recognized refugees and beneficiaries of complementary protection.
- Direct US foreign assistance to El Salvador and other countries in the region to initiatives designed to enhance due process, accountability, and equitable economic development, and support critical efforts to promote human rights, tackle corruption, strengthen the rule of law, reintegrate Salvadorans who repatriate, and provide trauma-informed care to Salvadorans.
- End political pressure and US funding to El Salvador and other countries in the region for border security or immigration enforcement that has the purpose or effect of infringing on the right to leave one's own country, the right to seek asylum from persecution in other countries, or in any other way violates fundamental human rights.

### **To the US Department of Justice**

- Reduce barriers to due process and backlog in the immigration court system, including by restoring the ability of immigration judges to close cases administratively and funding court-appointed counsel for removal proceedings.
- End reliance on gang databases as an indicator of gang membership for arrests and detention decisions without a criminal conviction evidencing gang membership and warranting detention for removal purposes.

### **To the Attorney General of the United States**

- Issue a new opinion reverting to the pre-2018 definition of a “particular social group” and recognizing that certain individuals (including those of Salvadoran nationality) may possess a well-founded fear of persecution and/or a need for complementary protection from removal due to factors that include long term residence in the United States, neighborhood of origin, tattoos, sexual violence, and all forms of intimate partner violence.

## To the Immigration and Customs Enforcement Agency

- Grant parole to people in expedited removal who have established a credible fear.
- End all unnecessary immigration detention. In instances in which detention is warranted based on flight risk or danger demonstrated by the government to an immigration judge and regularly reviewed, locate immigration detainees in areas more accessible to families, lawyers, and community support.
- Promulgate a new policy allowing individuals in immigration detention to access tattoo removal at their own (or at charitable organizations') expense, without extending the period of detention for such individuals.

## To the Government of El Salvador

- Conduct prompt, thorough, and impartial investigations into allegations of killings and other abuses committed by gang members, including into their possible links to authorities.
- Collect accurate data about victims and perpetrators of crime who are also returned migrants.
- Train police and law enforcement not to make assumptions that individuals have committed a crime or belong to a gang based on reasons such as being a deportee or having tattoos.
- Conduct prompt, thorough, and impartial investigations into allegations of abuses committed by authorities and security forces and remove them from their official duties that relate to contact with the public until their cases are resolved.
- Invest in the justice system, particularly around gender equity and inclusion, investigation capacity, and addressing state corruption and gender-based violence.
- Enhance the government's ability to provide trauma-informed care to victims of crime and human rights abuse.
- Enhance the government's reception and re-integration capacity for Salvadorans who repatriate.

- Ensure Consular staff in the United States are monitoring abuses experienced at the hands of immigration enforcement and border protection personnel and submit complaints with individuals' consent.

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## DEPORTED TO DANGER

### United States Deportation Policies Expose Salvadorans to Death and Abuse

The US is deporting Salvadorans to death and abuse. *Deported to Danger* identifies 138 cases of Salvadorans who, since 2013, were killed after deportation from the United States and more than 70 others who were beaten, sexually assaulted, extorted, or tortured.

People deported to El Salvador are sometimes targeted by the same abusers they originally fled—such as gangs or former intimate partners—or are targeted for reasons, such as their status as a deportee, their neighborhood of origin, or perceived wealth, that US government officials should take into account when deciding their eligibility for asylum or other protection from deportation.

US authorities should strengthen, not further weaken, asylum protections, ensuring that all asylum-seekers receive dignified treatment via procedures that ensure full and fair consideration of their claims. Human Rights Watch also urges the United States to take a step further and offer “complementary protection” to anyone, including Salvadorans, facing a real risk of serious harm upon return. Instead of closing the door on Salvadorans and others fleeing their homelands, the US should ensure their protection.

*(above) People gather at the scene of a shooting in downtown San Salvador on September 29, 2018.*

*(front cover) A newly-arrived Salvadoran deportee from the United States waits for an interview with Salvadoran authorities at a reception center on September 28, 2018.*

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