

EL SALVADOR 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

El Salvador is a constitutional multiparty republic. In March 2009 voters elected Carlos Mauricio Funes Cartagena of the Farabundo Marti National Liberation Front (FMLN) as president for a five-year term in generally free and fair elections. Free and fair Legislative Assembly and municipal elections took place on March 11. Security forces reported to civilian authorities.

The principal human rights problems were widespread corruption, particularly in the judicial system; weaknesses in the judiciary and the security forces that led to a high level of impunity; violence, including domestic violence, and discrimination against women; and abuse and commercial sexual exploitation of children.

Other human rights problems included isolated unlawful killings and cruel treatment by security forces; lengthy pretrial detention; harsh and life-threatening prison conditions; some restrictions on freedom of speech and press; trafficking in persons; and discrimination against persons with disabilities and persons with HIV/AIDS. There were also widespread discrimination and some violence against lesbian, gay, bisexual, and transgender (LGBT) persons; child labor; and inadequate enforcement of labor laws.

Although the government took steps to dismiss some officials who committed abuses in the penitentiary system and the police, impunity persisted.

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

a. Arbitrary or Unlawful Deprivation of Life

During the year there were no verified reports that the government or its agents committed politically motivated killings; however, there were reports of security force involvement in unlawful killings. The Office of the Ombudsman for Human Rights (PDDH) received seven complaints of alleged unlawful killings and six complaints of attempted unlawful killings committed by security, military, and other public officials. The PDDH has the power to investigate (but not prosecute) human rights abuses and refers all human rights abuse cases to the Office of the Attorney General (OAG). On November 12, the OAG sentenced a soldier to 10 years' imprisonment for an unlawful killing committed in March. Although the PDDH defines all killings by government personnel as "extrajudicial killings,"

there were no verifiable reports of deliberate, unlawful killings carried out by order of the government or with its complicity. The Office of the Inspector General (OIG) of the National Civilian Police (PNC) reported that 17 PNC officers were accused of homicide during the year but did not specify whether the perpetrators committed the killings while on duty.

On February 20, authorities arrested 12 soldiers for the killing of a gang member who had allegedly killed a soldier in the town of Apopa. The military personnel arrested for the killing claimed the victim did not obey their order to stop and instead fled; they also stated that the victim had hidden a weapon near the river and targeted them. However, the OAG never found a weapon at the location.

On May 8, the Supreme Court of Justice denied a request from Spain to extradite nine former military personnel accused of killing six Jesuit priests (five of them Spanish), their maid, and the maid's daughter in 1989. The court ruled that when the crime was committed, the constitution at that time did not allow for extradition. The government amended the constitution in 2000 to allow for extradition.

b. Disappearance

There were no reports of politically motivated disappearances. The nongovernmental organization (NGO) Association for the Search for Missing Children (Pro-Busqueda) received 31 new complaints regarding children who disappeared during the civil war. It continued investigating 539 cases and resolved 10 other cases by year's end.

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

The law prohibits such practices. However, the PDDH received 10 complaints of torture and 116 complaints of cruel, inhumane, or degrading treatment or punishment perpetrated by public officials, involving 70 complaints against PNC officials and 11 against members of the armed forces. The PDDH also received 609 complaints about violations of human integrity: 483 against PNC officers and 81 against members of the armed forces. The PDDH received complaints of unauthorized searches, mistreatment, physical abuse, insults, and harassment committed by the military in their conduct of joint patrols with the PNC. The Ministry of Defense investigated all cases against members of the armed forces.

On September 18, the newspaper *El Diario de Hoy* reported that a man filed a complaint against four military officers who allegedly beat him and robbed him of \$200 (the U.S. dollar is the country's official currency). The military officers were on patrol in an area of San Salvador. According to the victim, as he entered a convenience store he heard the military officers calling for someone to stop, but he thought they were speaking to the man behind him. When he came out of the store a few minutes later, the military officers called him over to a dark area where they beat and robbed him. The case remained under investigation at year's end.

Prison and Detention Center Conditions

Prison and detention center conditions remained harsh and life threatening.

Physical Conditions: Overcrowding constituted a serious threat to prisoners' health and lives. In many facilities, provisions for sanitation, potable water, ventilation, temperature, medical care, and lighting were inadequate. In September the ombudsman for human rights criticized the lack of personnel and facilities needed to ensure the psychological and physical well-being of inmates, and also the lack of security personnel in prisons.

The Prison Directorate reported 27,038 prisoners held in 23 correctional facilities and one secure hospital ward that had a combined capacity of 8,328. The prison population included 19,940 convicted prisoners and 7,098 inmates held in pretrial detention. According to the director general of the prison system, at the end of December prison overcrowding was at 325 percent. Due to prison overpopulation, police authorities held some of the pretrial detainees in small detention centers at police stations. As of August 15, police authorities held 2,985 detainees in police station detention centers that had a combined capacity of 600. Approximately 78 percent of these pretrial detainees were in detention centers longer than the 72 hours permitted by law. In September prison authorities moved 1,000 inmates from police station detention centers to prisons.

Due to the lack of holding cells, pretrial detainees in regular prisons often were held together with violent criminals. Men were separated from women within the prisons. There is also a separate women's prison in Ilopango, which was generally clean and allowed inmates' children under age five to stay with their mothers.

Prison authorities reported that during the year 58 prisoners died due to natural causes, homicide, and suicide.

Gang activities in prisons and juvenile-holding facilities remained a serious problem. Detention center facilities held 10,212 inmates who were current or former gang members. Gang members were separated from the regular prison population when possible, but gangs continued to exercise influence within the prisons and judicial system.

There were 1,194 inmates in four prisons for juvenile offenders with a total capacity of 460 inmates.

Prisoners reportedly conducted criminal activities from their cells, at times with the complicity of prison guards. Smuggling of weapons, drugs, and other contraband such as cell phones and cell-phone SIM cards was a major problem in the prisons. During the year prison authorities removed 39 guards from prisons for acts of corruption.

Administration: Prison authorities kept detailed electronic records of all prisoners. Authorities allowed for the option of release on bail for nonviolent offenders. The Solicitor's Office implemented a mediation program, principally for cases related to family disputes. In certain misdemeanor cases related to damages, judges suspended the judicial process when the defendant admitted guilt and adequately compensated the victim. Although there is no prison ombudsman, the PDDH oversees the rights of inmates and was available to respond to complaints. On May 29, the ombudsman denounced inhumane treatment at police detention centers; no known action was taken. Prisoners and detainees had reasonable access to visitors and were permitted religious observance.

Prison authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Prison authorities investigated such allegations, although investigation results were not always documented in a publicly accessible manner.

Monitoring: The government investigated and monitored prison and detention center conditions and permitted prison-monitoring visits by independent human rights observers, NGOs, and the media. Church groups, the Central American University's Human Rights Institute, and other groups visited prisons during the year.

Improvements: During the year the government inaugurated two special penitentiary farms for 180 inmates who were selected in part based on their

behavior in the prisons. The farms helped slightly to alleviate overcrowding. In October the PNC and the Prison Directorate started remodeling police detention centers in the first of 25 police precincts.

d. Arbitrary Arrest or Detention

Although the constitution prohibits arbitrary arrest and detention, there were complaints that the PNC arbitrarily arrested and detained persons. The PDDH reported also receiving 54 complaints of illegal detentions.

Role of the Police and Security Apparatus

The PNC is responsible for maintaining public security and the Ministry of Defense for maintaining national security. The military has been tasked with securing the international border and conducting patrols jointly with the PNC. Continuing from 2011, the military guarded prisons until April 4, when this duty was handed back to the PNC. During the year military personnel were assigned to assist the PNC, but they did not have arrest authority. The decree authorizing military involvement in police duties is scheduled to expire in May 2013.

On January 23, President Funes swore in retired general Francisco Ramon Salinas Rivera as the new PNC director. Civil society groups challenged the constitutionality of the appointment of a former military officer to head the civilian PNC, and a Supreme Court ruling remained pending at year's end.

Inadequate training, lack of enforcement of the administrative police career law, arbitrary promotions, insufficient government funding, lack of a uniform code of evidence, and instances of corruption and criminality limited the PNC's effectiveness. The OIG reported that during the year authorities charged 17 police officers with homicide. The OIG also received 1,787 complaints of alleged police misconduct, referred 983 of these cases to the OAG, and sanctioned 1,007 officers in response to complaints filed during the year and in prior years. These sanctions included 103 officers dismissed for misconduct and 217 suspended without pay. The OAG investigated 509 cases against police officers, resulting in 173 procedures (28 resolved through mediation) and 31 convictions.

The OIG reported that most PNC officers and police academy cadets received human rights awareness training during the year, including training by the Salvadoran Institute for the Development of Women (ISDEMU), the Human Rights Institute of the University of Central America, and the Inter-American

Institute of Human Rights. The PNC reported that during the year, 3,914 police officers received training on human rights.

Arrest Procedures and Treatment While in Detention

The constitution requires a written warrant for arrest, except in cases where an individual is arrested in the act of committing a crime. In practice authorities apprehended persons with warrants based on evidence and issued by a duly authorized official. The constitution grants detainees the right to a prompt judicial determination of the legality of their detention, and authorities generally respected this right. In general detainees were promptly informed of charges against them.

The law permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. The bail system functioned adequately in most cases. The courts generally enforced a ruling that interrogation without the presence of counsel is coercion and that any evidence obtained in such a manner is inadmissible. As a result PNC authorities generally delayed questioning until a public defender or an attorney arrived. Family members were allowed prompt access to detainees. Detainees generally had prompt access to counsel of their choice or to an attorney provided by the state.

The constitution permits the PNC to hold a person for 72 hours before delivering the suspect to court, after which the judge may order detention for an additional 72 hours to determine if an investigation is warranted. The law allows up to six months for investigation of serious crimes before requiring either a trial or dismissal of the case. In exceptionally complicated cases, the prosecutor may ask an appeals court to extend the deadline for three or six months, depending on the seriousness of the crime. Many cases were not completed within the legally prescribed period.

Arbitrary Arrest: The PDDH reported 100 complaints of arbitrary detention.

Pretrial Detention: Lengthy pretrial detention was a significant problem. At year's end, 26 percent of the prison population was in pretrial detention. Lengthy legal procedures, large numbers of detainees, judicial inefficiency, corruption, and staff shortages caused trial delays. Because it may take several years for a case to come to trial, some detainees were incarcerated longer than the maximum legal sentences for their alleged crimes. In such circumstances, detainees could request a Supreme Court review of their continued detention.

e. Denial of Fair Public Trial

Although the constitution provides for an independent judiciary, the judiciary suffered from inefficiency, corruption, political infighting, and insufficient resources. The Constitutional Chamber of the Supreme Court exercised a greater degree of independence than in previous years. Substantial corruption in the judicial system contributed to a high level of impunity, undermining the rule of law and the public's respect for the judiciary. The criminal conviction rate was less than 5 percent. An ineffective public-security strategy, inadequate government funding and training of the PNC, and ineffective senior-level leadership made it difficult to identify, arrest, and prosecute perpetrators of human rights abuses and other crimes, thus diminishing public confidence in the justice system. Intimidation and killing of police officers, crime victims, and witnesses created a climate of fear, complicating investigation of violent crime and other alleged human rights abuses.

From June 5 until August 21, the legislative and judicial branches of government engaged in a high-profile confrontation over the constitutionality of the nomination of five Supreme Court justices. This conflict resulted in two separate supreme courts claiming legitimacy at the same time. The disagreement hinged on the refusal of the Legislative Assembly to accept a Supreme Court ruling that the appointment of five justices by the assembly was unconstitutional. The assembly appealed the ruling to the Central American Court of Justice (CCJ), although several NGOs questioned the CCJ's competence to rule in the matter, asserting that its jurisdiction is limited to issues related to Central American regional integration. On August 21, the assembly agreed to renominate the five justices, and the court resumed normal functioning on August 23. On July 3, the attorney general began an investigation of eight Legislative Assembly deputies, including Legislative Assembly President Sigfrido Reyes, over disobedience charges for not complying with the Supreme Court's June 5 ruling. The investigation continued at year's end.

The Ministry of Justice operated witness and victim protection programs that provided protection to a total of 4,344 witnesses, victims, and their relatives during the year. The PNC provided protection to an average of 33 victims and 55 witnesses per month. However, some judges denied anonymity to witnesses at trial, and gang intimidation and violence against witnesses contributed to a climate of impunity from criminal prosecution. On August 27, a young man was shot and killed in Colonia Papini, an area of San Salvador known for drug distribution. The victim had testified in a trial regarding an extortion crime just one hour before being killed. Several other witnesses were killed during the year.

During the year there were 209 complaints against judges, and the Supreme Court ultimately dismissed four judges. During the year, the OAG investigated 26 complaints against prosecutors for misconduct, resulting in one conviction.

Trial Procedures

Although juries were used for specific charges, including environmental pollution and certain misdemeanors, judges decided most cases. By law juries hear only cases that the law does not assign to sentencing courts. After the jury's determination of innocence or guilt, a tribunal decides the sentence.

Defendants have the right to be present in court, question witnesses, and present witnesses and evidence. The constitution further provides for the presumption of innocence, the right to be informed promptly of charges, the right to a fair and public trial without undue delay, protection from self-incrimination, the right to legal counsel, freedom from coercion, access for defendants and their attorneys to government-held evidence relevant to their cases, and government-provided legal counsel for the indigent; however, these legal rights and protections were not always respected. Although a jury's verdict is final, a judge's verdict can be appealed. Trials are public. The law extends these rights to all citizens.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The law provides for access to the courts, enabling litigants to bring civil lawsuits seeking damages for, as well as cessation of, human rights violations. Domestic court orders were generally enforced.

Regional Human Rights Court Decisions

On December 10, the Inter-American Court of Human Rights ordered the government to pay \$35,000 in compensation to each of the 440 victims of the 1981 El Mozote massacre, which occurred during the 1980-1992 civil war. According to the court, the Armed Forces killed approximately 440 persons in El Mozote, most of them children.

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

The constitution prohibits such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights. However, some restrictions on the freedom of speech and press occurred throughout the year. The law permits the executive branch to use the emergency broadcasting service to take over all broadcast and cable networks temporarily to televise political programming. The president occasionally used this law to highlight his accomplishments.

Freedom of Speech: Individuals could criticize the government publicly or privately without reprisal, and in most cases the government did not interfere with such criticism. On January 16, Sigfrido Ochoa Perez, then a deputy candidate for the opposition National Republican Alliance Party (ARENA), fiercely criticized a speech by President Funes that offered an apology on behalf of the government for the 1981 massacre that occurred in El Mozote. One week later President Funes ordered Perez, a former colonel who had retired from the army 24 years previously, to return to active duty. As a result the Supreme Electoral Tribunal (TSE) deregistered Ochoa Perez as a Legislative Assembly candidate, a decision the Supreme Court later overturned.

Violence and Harassment: In March, Carlos Dada, the owner of online newspaper *El Faro*, received death threats from gang members. The gangs were unhappy with *El Faro*'s reporting on the gang truce. On March 22, Dada reported that *El Faro* was excluded from a meeting between journalists and Minister of Justice and Public Security David Munguia Payes. Dada wrote that three colleagues informed him that during the meeting Munguia Payes spoke critically of *El Faro*'s reporting and stated that *El Faro* was taking too many risks. On April 13, the International Press Institute criticized the government for not taking any actions to guarantee the safety of *El Faro* journalists.

On July 14, Legislative Assembly President Sigfrido Reyes issued an order denying access to the Legislative Assembly for Rafael Mendoza, a reporter for newspaper *El Diario de Hoy*. Mendoza had been covering the Legislative

Assembly for more than five years, and had been critical of Sigfrido Reyes' role during the conflict between the legislative and judicial branches. The order remained in effect at year's end.

Censorship or Content Restrictions: Newspaper editors and radio directors occasionally discouraged journalists from reporting on topics that the owners or publishers might not view favorably. Government advertising accounted for a significant portion of press advertising income, although exact data on such spending was not available publicly. According to the Salvadoran Association of Journalists (APES), the media practiced self-censorship, especially in their reporting on gangs and narcotics trafficking. APES stated that many members of the media were afraid to report in detail on these subjects due to fear of retaliation from gangs and narcotics trafficking groups.

Nongovernmental Impact: APES noted that journalists reporting on gangs and narcotics trafficking were subject to threats and intimidation, which led to media self-censorship.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Internet access was available in public places throughout the country. The International Telecommunication Union reported that 21 percent of Salvadorans used the Internet, and 12 percent of households had access to the Internet in 2011.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of refugee status or asylum, and the government has established a system for providing protection to refugees. The government received six refugee petitions and granted two individuals full refugee status.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: Legislative Assembly elections were held on March 11, and independent observer groups reported that the elections were free and fair with few irregularities. During these elections as in prior elections, ARENA and the FMLN accused each other of registering noncitizen voters from other countries under the registration law, which allows a person to register with two witnesses who swear to his/her identity.

Political Parties: Political parties could operate without restrictions or outside interference. In June 2011 the Legislative Assembly passed a temporary decree (which remained in effect at year's end) allowing Salvadorans for the first time to vote for individual candidates instead of voting only for parties. Several

independent candidates reported receiving threats from various sources, which caused some of them to drop their candidacies. Some independent candidates asserted that the TSE improperly denied their registration, and some also stated that the legal requirements for registering their candidacy were excessive.

Participation of Women and Minorities: There were 23 women in the 84-member Legislative Assembly, six women on the 15-member Supreme Court, and three women in the 13-member cabinet. No members of the Supreme Court, the legislature, or other government entities identified themselves as members of an ethnic minority or indigenous community, and there were no political party positions or parliamentary seats designated for ethnic minorities.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials; however, the government did not implement the law effectively. The NGO Institute for Social Democracy (ISD) stated that officials, particularly in the judicial system, often engaged in corrupt practices with impunity. In September the Inter-American Dialogue stated the judicial reforms outlined by the 1992 peace accords were deficient, resulting in impunity.

NGOs, including the Salvadoran Foundation for Economic and Social Development (FUSADES), alleged that the Supreme Court did not adequately deal with corrupt judges and that perceived corruption and weak application of criminal law by judges contributed to a lack of confidence in the judiciary. As of November 27, the Supreme Court had not resolved 1,129 complaints against justices. FUSADES maintained a Web site that makes judicial proceedings and records available to the public.

A lack of transparency in public acquisitions continued to be a problem. On February 9, Legislative Assembly President Sigfrido Reyes donated \$840,000 from the Legislative Assembly budget to charities. Transparency International questioned this donation, since it was made one month before the legislative elections.

During the year the General Prison Directorate dismissed 39 guards due to corruption allegations.

Public officials are not subject to financial disclosure laws. The Court of Accounts, the Sub-Secretariat for Transparency and Anticorruption, the

Anticorruption Unit of the OAG, the Supreme Court Probitry Section, and the Government Ethics Tribunal share responsibility for combating corruption.

While the term of the previous Ethics Tribunal ended on October 31, 2011, the five new representatives were not appointed until the summer. The Legislative Assembly did not nominate the new president of the Ethics Tribunal until April 25, although this person should have been nominated by October 31, 2011. During the year the Ethics Tribunal received 207 complaints involving 348 public officers. The tribunal resolved 30 of the complaints, imposed two sanctions, and submitted two cases to the OAG.

On May 8, the Public Information Access Law entered into force. The law provides for the right of access to government information and establishes mechanisms to appeal denials of information. The law provides a narrow list of exceptions outlining the grounds for nondisclosure, a reasonably short timeline for the relevant authority to disclose or respond, no processing fees, and administrative sanctions for noncompliance. Under the law government agencies must publish information on official trips, per diem rates, consultant salaries and contracts, remunerations, procurement, and other topics. However, as of September, only 22 of 63 executive branch agencies had published the required information on their Web sites, and 84 percent of municipalities had not created an information office. President Funes did not nominate the five commissioners mandated or the president of the Access to Public Information Institute, which oversees the implementation of the access law, and he vetoed all 30 candidates proposed for these positions. On December 5, the Supreme Court ruled that Funes' veto was unconstitutional. Local media and NGOs contended that presidential approval of the five commissioners of the institute potentially compromises their independence.

Citizens could access via the Internet some information regarding the national budget and certain cases before the Supreme Court. The government usually did not give reasons for denying public access to information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to these groups, officials at times were reluctant to discuss worker

rights problems with NGOs and the PDDH. Domestic and international NGOs were required to register with the government, and some domestic NGOs reported that the government made the registration process unnecessarily difficult.

On July 17, three members of the ISD received death threats via e-mail. The ISD focuses on the promotion of democracy and government transparency and was vocal during the crisis between the legislative and judicial branches. The ISD filed a complaint with the OAG regarding the threats, and the case remained under investigation at year's end.

Government Human Rights Bodies: The principal human rights investigative and monitoring body is the autonomous PDDH, whose head the Legislative Assembly nominates to a three-year term. The PDDH regularly issued reports and press releases on prominent human rights cases. The PDDH enjoyed government cooperation, operated without government or party interference, had adequate resources, and was considered generally effective.

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

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

Although the constitution and the law provide that all persons are equal before the law and prohibit discrimination based on race, gender, disability, language, sexual orientation, gender identity, or social status, the government did not effectively enforce these prohibitions. There was discrimination against women, persons with disabilities, LGBT persons, and indigenous people. The Secretariat of Social Inclusion (SIS), headed by First Lady Vanda Pignato, made efforts to overcome traditional bias in all these areas.

Women

Rape and Domestic Violence: The law criminalizes rape. While not specifically addressed in the law, spousal rape may be considered a crime if the actions meet the criminal code's definition of rape. The law requires the OAG to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim's pardon to nullify the criminal charge. The penalty for rape is six to 10

years' imprisonment, but the law provides for a maximum sentence of 20 years for rape of certain classes of victims, including children and persons with disabilities.

Incidents of rape continued to be underreported for several reasons, including societal and cultural pressures on victims, fear of reprisal, ineffective and unsupportive responses by authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted. Laws against rape were not effectively enforced.

Rape and other sexual crimes against women were widespread. The OAG reported 3,061 cases of sexual crimes resulting in 246 convictions during the year. ISDEMU reported 4,211 cases of sexual abuse, physical abuse, rape, and psychological abuse.

On June 1, the OAG reported that 70 percent of judicial processes for rape and other sexual crimes did not result in convictions because either the victims or their relatives abandoned the judicial process.

During the year ISDEMU provided health and psychological assistance to 5,083 women who experienced sexual abuse, domestic violence, mistreatment, sexual harassment, labor harassment, commercial sexual exploitation, trafficking in persons, or alien smuggling.

The law prohibits domestic violence and provides for sentences ranging from one to three years in prison. The law also permits obtaining restraining orders against offenders. Laws against domestic violence were not well enforced, and cases were not effectively prosecuted.

Violence against women, including domestic violence, was a widespread and serious problem. During the year the OAG reported 3,367 cases of domestic violence, resulting in 51 convictions, while mediation resolved 811 cases. A large portion of the population considered domestic violence socially acceptable, and, as with rape, its incidence was underreported.

On September 11, the Legislative Assembly removed legislative immunity from Rodrigo Samayoa, a deputy with the Grand Alliance for National Unity, because of domestic violence charges. This was the first time that the Legislative Assembly had removed immunity privileges from a deputy charged with domestic violence.

During the year President Funes engaged in a government campaign to support SIS in its efforts to eliminate violence against women. ISDEMU coordinated with the judicial and executive branches and civil society groups to conduct public awareness campaigns against domestic violence and sexual abuse. The PDDH, OAG, Supreme Court, Public Defender's Office, and PNC collaborated with NGOs and other organizations to combat violence against women through education, increased enforcement of the law, and NGO support for programs for victims. SIS, through ISDEMU, defined policies, programs, and projects on domestic violence and continued to maintain a telephone hotline and a shelter for victims of domestic abuse and child victims of commercial sexual exploitation. The government's efforts to combat domestic violence were minimally effective.

Sexual Harassment: The law prohibits sexual harassment and provides penalties of imprisonment from three to five years if the victim is an adult and from four to eight years if the victim is a minor. Fines can also be imposed, and additional fines are added to the prison term in cases where the perpetrator is in a position of authority or trust over the victim. On April 28, a new law and related implementing regulations entered into force. The law also mandates that employers take measures to avoid sexual harassment, violence against women, and other workplace harassment problems. The law requires employers to create and implement preventative programs that address violence against women, sexual abuse and other psychosocial risks. The government, however, did not enforce sexual harassment laws effectively.

Since underreporting by victims of sexual harassment appeared to be widespread, it was difficult to estimate the extent of the problem. The OAG reported 629 cases of sexual harassment during the year, of which 44 resulted in convictions and 41 were resolved through mediation.

Reproductive Rights: Couples and individuals had the right to decide the number, spacing, and timing of children, and information about and access to contraception was widely available. Demographic Health Surveys indicated that 72 percent of married women used some method of family planning. Prenatal care and skilled attendance at delivery were also readily available. On June 16, the Ministry of Health announced that the maternal mortality rate was 52.8 deaths per 100,000 live births, down from the UN Population Fund's 2008 estimate of 110. Poverty, lack of education, and lack of access to a formal medical care system were the major factors contributing to a high maternal mortality rate.

Discrimination: The constitution grants women and men the same legal rights under family and property law, but women did not enjoy equal treatment in practice. The law establishes sentences of one to three years in prison for public officials who deny a person's civil rights based on gender, and six months to two years for employers who discriminate against women in the workplace. However, employees generally did not report such violations due to fear of employer reprisals.

Although pregnancy testing as a condition for employment is illegal, some businesses allegedly required female job applicants to present pregnancy test results, and some businesses illegally fired pregnant workers. During the year the Ministry of Labor received 29 complaints regarding illegal firing of pregnant workers but imposed no fines.

Although the law prohibits discrimination based on gender, women suffered from cultural, economic, and societal discrimination. Although the law requires equal pay for equal work, the average wage paid to women for comparable work was 57 percent of that paid to men. Men often received priority in job placement and promotions, and women were not accorded equal treatment in traditional male-dominated sectors, such as agriculture and business. Training for women generally was confined to low-wage occupational areas where women already held most positions, such as teaching, nursing, apparel assembly, home industry, and small business.

In September 2011 the PNC director created an internal agency tasked with increasing gender equality within the PNC. On March 22, the National Public Security Academy graduated 253 police officers, and for the first time in its history there were more female graduates (160) than male graduates (93).

Children

Birth Registration: Citizenship is derived by birth within the country and from one's parents. The law requires parents to register a child within 15 days of birth or pay a \$2.86 fine. While firm statistics were unavailable, many births were not registered. Failure to register resulted in denial of school enrollment.

Education: Education is free, universal, and compulsory through the ninth grade and nominally free through high school. Rural areas frequently fell short of providing required education to all eligible students, due to a lack of resources and

because rural parents often withdrew their children from school by the sixth grade to allow them to work.

Child Abuse: Child abuse was a serious and widespread problem. Incidents of rape continued to be under-reported for a number of reasons, including societal and cultural pressures on victims, fear of reprisal against victims, ineffective and unsupportive responses by authorities toward victims, fear of publicity, and a perception among victims that cases were unlikely to be prosecuted. The OAG reported 1,158 cases of rape of minors, resulting in 100 convictions.

The Salvadoran Institute for Children and Adolescents (ISNA), an autonomous government entity, defined policies, programs, and projects on child abuse; maintained a shelter for child victims of abuse and commercial sexual exploitation; and conducted a violence awareness campaign to combat child abuse. From January through September, ISNA reported sheltering 635 abused children in 13 shelters. According to a 2012 World Bank report, 41 percent of the first pregnancies of girls between the ages of 10 and 19 resulted from sexual abuse, and 12 percent of such pregnancies resulted from sexual abuse committed by a family member.

Child Marriage: The legal minimum age for marriage is 18, although persons under age 18 may marry if they have a child together or the woman is pregnant. According to UNICEF, 5 percent of children were married by age 15 and 25 percent by age 18.

Sexual Exploitation of Children: Sexual exploitation of children remained a problem, and some girls were forced into prostitution. Child sex trafficking is covered under the trafficking-in-persons statutes in the penal code, which prescribe penalties of four to eight years' imprisonment for trafficking crimes. An offense committed against a child is considered an aggravated circumstance, and the penalty increases by one-third. However, the government did not effectively enforce these laws.

The minimum age of consensual sex is 18. The law classifies statutory rape as sexual relations with anyone under age 18 and includes penalties between four and 20 years' imprisonment upon conviction. The OAG reported 1,158 cases of rape of minors during the year.

The law prohibits paying anyone under the age of 18 for sexual services. As of December the ISNA trafficking-in-persons shelter received 17 girls who were

victims of commercial sexual exploitation. The law prohibits participating in, facilitating, or purchasing materials containing child pornography and provides for prison sentences of up to 16 years.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's annual report on compliance at www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html, as well as country-specific information at www.travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

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

Trafficking in Persons

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

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services. According to the National Council for Comprehensive Attention to Persons with Disability (CONAIPD), the government did not allocate sufficient resources to enforce these prohibitions effectively, particularly in education, employment, and transportation. The government did not effectively enforce legal requirements for access to buildings, information, and communications for persons with disabilities. There were almost no access ramps or provisions for the mobility of persons with disabilities. In general children with disabilities attended school; however, at higher levels attendance was more dependent on their parents' financial resources.

Only 5 percent of businesses and no government agency fulfilled the legal requirement of hiring one person with disabilities for every 25 hires. Following a July 2 agreement signed by local and international organizations, the Salvadoran Association of Industries and the Ministry of Labor conducted training on hiring persons with disabilities.

There were no reported patterns of abuse in prisons or in educational or mental health facilities, although CONAIPD reported isolated incidents, including sexual abuse, in those facilities.

CONAIPD reported that persons were fired after becoming disabled, persons with disabilities were not considered for work for which they qualified, and some schools would not accept children with disabilities due to lack of facilities and resources. There is no formal system for filing a complaint with the government.

CONAIPD--composed of representatives of multiple government entities--is the government agency responsible for protecting disability rights, but it lacks enforcement power.

During the year the SIS and CONAIPD conducted awareness campaigns, provided sensitivity training, promoted employment of persons with disabilities, and trained doctors and teachers about rights of persons with disabilities.

In February the TSE developed an awareness campaign to teach blind persons how to vote. In the year's elections, for the first time blind persons could vote using Braille. On August 20, in San Salvador the minister of public works inaugurated the construction of the first recreational and cultural center for blind and disabled persons.

Several public and private organizations promoted the rights of persons with disabilities, including the Telethon Foundation for Disabled Rehabilitation and the National Institute Comprehensive Rehabilitation (ISRI). The Rehabilitation Foundation, in cooperation with ISRI, continued to operate a treatment center for persons with disabilities. However, CONAIPD reported that the government provided minimal funding for ISRI.

Indigenous People

On April 25, the Legislative Assembly passed a constitutional reform recognizing the existence and the rights of indigenous peoples. The constitution states that native languages are part of the national heritage and should be preserved and respected. Births of indigenous persons were reportedly more likely not to be registered officially, reducing educational opportunities, since school registration requires a birth certificate.

Although few individuals publicly identified themselves as indigenous, members of a few small indigenous communities continued to maintain traditional customs without repression or interference by the government or nonindigenous groups. Government estimates in 2004, the most recent available, indicated that approximately 99 percent of indigenous persons lived below the poverty level.

No laws provide indigenous people rights to share in revenue from exploitation of natural resources on indigenous lands. The government did not demarcate any lands as belonging to indigenous communities. Because few possessed title to land, opportunities for bank loans and other forms of credit were extremely limited. The PDDH reported that indigenous persons faced employment and workplace discrimination.

During the year the government promoted cultural demonstrations and developed a museum and library focused on the theme of the indigenous population.

James Anaya, the UN special rapporteur on the rights of indigenous peoples, visited the country from August 13 to 17 to examine the human rights situation of indigenous people. His statement following the visit noted that the effects of past violations of human rights created a situation where indigenous persons experienced widespread disadvantages. Anaya stated that indigenous people continued to suffer the loss of cultural knowledge and the capacity to demonstrate fully their identity and exercise the corresponding rights. He acknowledged the government's recent steps made to recognize the existence of indigenous people and promote their human rights.

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

Although the law prohibits discrimination on the basis of sexual orientation, discrimination was widespread. There was also significant discrimination against transgender persons.

There was widespread official and societal discrimination based on sexual orientation in employment and access to health care and identity documents. The NGO Entre Amigos reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the LGBT community stated that the agencies in charge of processing identification documents, the PNC and OAG, ridiculed them when they applied for identification cards or reported cases of violence against LGBT persons. The government

responded to these abuses primarily through PDDH reports that publicized specific cases of violence and discrimination against sexual minorities.

During the year the PDDH investigated eight cases of possible human rights violations committed against LGBT persons, two of which involved abuses committed by the PNC. The PDDH did not receive any reports of killings of LGBT persons.

On February 1, police officers in the area of Soyapango allegedly verbally and physically abused a 17-year-old gay adolescent, whom they forced to get off a bus and walk several blocks while they physically and verbally abused him. According to the victim's testimony, the police officers then made a telephone call, and three gang members subsequently appeared and beat the victim until he lost consciousness. An investigation continued at year's end.

On May 13, the SIS's Office of Sexual Diversity announced an awareness campaign and training on LGBT rights. Hundreds of government employees attended the training.

Other Societal Violence or Discrimination

Although the law prohibits discrimination on the basis of HIV/AIDS status, in practice discrimination was widespread. Lack of public information and medical resources, fear of reprisal, fear of ostracism, and penalties incommensurate with the seriousness of the discrimination all remained problems in confronting discrimination against persons with HIV/AIDS or in assisting persons suffering from HIV/AIDS. A 2010 survey conducted by the UN Development Program reported that 31 percent of persons infected with HIV/AIDS experienced some form of discrimination, including credible reports of denial of public services (such as schooling) and loss of employment. Persons denied entry into the armed forces charged that the military illegally required HIV testing for its soldiers.

In September, the Atlacatl Association, an NGO that promotes the rights of persons with HIV/AIDS, reported receiving a higher number of complaints of human rights violations from individuals with HIV/AIDS compared with previous years. Atlacatl specifically reported that workplace discrimination worsened, stating that the number of persons with HIV/AIDS who reported being fired by their employer increased over the past three years. According to Atlacatl, in many instances employers provided a false reason for firing an employee with

HIV/AIDS. In July a man was fired from his job at a call center one week after revealing to his supervisor that he was HIV positive.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, protects the right of most workers to form and join unions, to strike, to bargain collectively, and prohibits antiunion discrimination. However, the law places several restrictions on these rights. Military personnel, national police, judges, high-level public officers, and workers who are in “positions of trust” are not permitted to form and join unions. The labor code does not cover public-sector workers, who are regulated by the Civil Service Tribunal Law.

To be legally registered and have the right to bargain collectively, unions must meet complex requirements, including a minimum membership of 35 workers. In addition if the ministry denies a union’s legal registration, the law prohibits any attempt by the union to organize for the next six months. Unions operate legally without having to obtain authorization from the government, but they do not have the right to bargain collectively. The law permits the participation of noncitizens in unions, but requires that union leaders be citizens.

The law does not recognize the right to strike for public and municipal employees, or for workers in essential services, which include those services whose disruption would jeopardize or endanger life, security, health, or normal conditions of existence for some or all of the population. The law does not specify which services meet this definition of essential. The law places several other restrictions on the right to strike, including the requirement that 51 percent of all workers in an enterprise must support a strike for it to be legal. In addition unions may strike only to obtain or modify a collective bargaining agreement or to protect professional rights, and must engage in negotiation, mediation, and arbitration processes before striking. The union must notify the Ministry of Labor about planned strikes and wait four days from the time the ministry notifies the employer before striking. The law prohibits workers from appealing a government decision declaring a strike illegal.

The law does not require employers to reinstate illegally dismissed workers. However, the law requires employers to pay illegally dismissed workers the equivalent of their basic salary for 30 days for each year of service completed, and

this compensation must never be less than 15 days of basic salary. The law specifies 18 reasons for which an employer can legally suspend workers, and employers can invoke 11 of these reasons without prior administrative or judicial authorization.

The government did not effectively enforce the laws on freedom of association and the right to collective bargaining in all cases, and remedies and penalties remained ineffective. Judicial procedures were subject to lengthy delays and appeals. According to union representatives, the government did not consistently enforce labor rights for public workers, maquila/textile workers, subcontracted workers in the construction industry, security guards, informal sector workers, and migrant workers.

During the year the Ministry of Labor encouraged the formation of new unions and streamlined the union registration process by including on their Web site model examples of the legal documentation needed to obtain registration, hiring more personnel, and making determinations on applications within the legal timeframe. During the year the Ministry of Labor received 71 complaints of violations of freedom of association, which resulted in 14 fines. The ministry also received 29 complaints of antiunion discrimination, which resulted in one fine. The ministry participated in mediation efforts for 8,217 complaints of illegal firings. Although not required by law, the Ministry of Labor continued to request some employers to rehire fired workers during the year, basing its requests on International Labor Organization (ILO) Administrative Court rulings. The ministry did not perform inspections in the informal sector. The ministry does not have jurisdiction over public employees, who are governed by a different law.

In practice workers faced challenges in exercising their rights to freedom of association and collective bargaining, including allegations by some unions of government influence on union activities and antiunion discrimination on the part of employers. Unions were independent of the government and political parties, although many were generally aligned with the ARENA, FMLN, or other political parties.

Some unions alleged that the Ministry of Labor interfered with their activities by encouraging the formation of “parallel unions” that supported the FMLN. For instance, for the second consecutive year the SUTC construction workers union alleged that the Ministry of Labor illegally replaced its union leadership with FMLN supporters by refusing to recognize the results of its January 2011 elections. On August 28, the Administrative Chamber of the Supreme Court ordered the

ministry to grant to the union legal status that met legal requirements. On September 17, the ministry granted legal status to the FMLN-leaning union while denying legal status to the right-leaning union. The opposing union filed an appeal at the end of September with the Supreme Court, which remained pending.

During the year two factions in the Salvadoran Social Security Institute (ISSS) workers union engaged in a seven-month confrontation over the election of the union's secretary general. The Ministry of Labor declared three elections during this period invalid, stating that the two factions should hold a joint election instead of separate elections. The Ministry of Labor upheld the results of the fourth election on July 19. The faction that lost the election accused ISSS authorities of unfairly supporting the other faction. In December the ministry granted legal status to the losing faction, and at year's end both factions were working together in the same union.

The Ministry of Labor continued to enforce collective bargaining agreements selectively. In December 2011 the Union of Salvadoran Customs Officials and Tax Collectors (SITRAHMA) signed a collective bargaining agreement that provided for the payment of \$1,000 mid-year bonuses to employees. After the government refused to pay these bonuses, SITRAHMA organized a strike from June 26 to July 3 that shut down customs operations. On September 25, an appellate labor court ordered the minister of finance to pay the bonuses; the bonuses remained unpaid by year's end.

There were reports of antiunion discrimination, including threats against labor union members, dismissals of workers attempting to unionize, and blacklisting. Workers engaged in strikes regardless of whether legal requirements were met.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. In general the government enforced such laws unevenly.

There were reports that some men and women were subjected to forced labor in agriculture, domestic servitude, and the informal sector. Some children were subjected to forced labor (see section 7.c.).

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

c. Prohibition of Child Labor and Minimum Age for Employment

In general the law prohibits the employment of children under age 14. However, children age 12 and older are allowed to engage in light work on coffee and sugar plantations and in the fishing industry, so long as it does not harm their health or interfere with their education. Children under age 16 are prohibited from working more than six hours per day and 34 hours per week; those under age 18 are prohibited from working at night or in occupations considered hazardous. The law allows children between the ages of 12 and 18 to work if it is necessary for their or their family's subsistence, and states that the work must be light, must not damage the child's health or development, and cannot interfere with compulsory education. The Ministry of Labor maintains a list of the types of work considered hazardous and prohibited for children, which includes repairing heavy machinery; mining; handling weapons; fishing and harvesting mollusks; and working at heights above five feet while doing construction, erecting antennas, and working on billboards.

The Ministry of Labor is responsible for enforcing child labor laws but did so with limited effectiveness. The ministry attributed its limited enforcement to traditional cultural attitudes that support the use of child labor. In practice the ministry's labor inspectors who were reportedly trained in child labor focused almost exclusively on the formal sector. As of September 24, the ministry reported that the Salvadoran Sugar Association had removed 14 boys and five girls from agricultural activities during the year. There was no information on specific investigations or prosecutions by the government. The ministry lacked adequate resources to enforce effectively child labor laws in the agricultural sector, especially in coffee and sugarcane production, or in the large informal sector.

During the year the Ministry of Labor conducted six campaigns to raise awareness about child labor. The government continued to participate in an ILO project to provide educational opportunities to children while offering livelihood alternatives for their families. The Ministry of Education promoted child labor awareness and encouraged school attendance, including by operating 130 after-school programs during the year. The Ministry of Governance and the Ministry of Agriculture also conducted awareness campaigns on child labor. The government also continued to include material on combating child labor into its elementary school curriculum.

Child labor remained a serious and widespread problem. The Ministry of Education reported that during the year the government identified 40,341 minors working in the agriculture sector, 10,304 minors working in the commerce and service industries, and 6,663 in domestic service. According to the 2011 School

Registration Census, the most recent available, there were approximately 83,862 child workers, with the largest number engaged in agricultural work. The worst forms of child labor occurred in coffee and sugarcane cultivation, fishing, mollusk shucking, and fireworks production. There were reports of children engaged in garbage scavenging. Orphans and children from poor families frequently worked for survival as street vendors and general laborers in small businesses. Children also worked as domestic servants and endured long workhours and abuse by employers. Children were subjected to commercial sexual exploitation (see section 6, Children) and were recruited into illegal gangs to perform illicit activities related to the arms and drug trades, including homicide.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <http://www.dol.gov/ilab/programs/ocft/tda.htm>.

d. Acceptable Conditions of Work

There is no national minimum wage; the minimum wage is determined sector-by-sector. The minimum monthly wage was \$224.29 for retail and service employees, \$219.40 for industrial laborers, and \$187.68 for apparel assembly workers. The agricultural minimum wage was \$104.97 per month, although some agricultural workers, including coffee workers, were paid by the amount harvested rather than a daily wage. The government reported that the poverty income level was \$174.73 for urban areas and \$133.82 for rural areas. The law requires equal pay for equal work.

The law sets a maximum normal workweek of 44 hours, limited to no more than six days, and to no more than eight hours per day, but allows overtime if a bonus is paid. The law mandates that full-time employees be paid for an eight-hour day of rest in addition to the 44-hour normal workweek. The law provides that employers must pay double time for work on designated annual holidays, a Christmas bonus based on the time of service of the employee, and 15 days of paid annual leave. The law prohibits compulsory overtime. The law states that domestic employees are obligated to render services on holidays if their employer makes this request, but they are entitled to double pay in these instances.

The Ministry of Labor is responsible for setting workplace safety standards, and the law establishes a tripartite committee to review the standards. The law requires all employers to take steps to ensure that employees are not placed at risk to their health and safety in the workplace. The law requires that employers provide preventive safety measures, including proper equipment and training, and a

violence-free workplace, in order reasonably to ensure the safety and health of workers. Employers who violate the law can be fined, although penalties were often not sufficient to deter violations, and some companies reportedly found it more cost-effective to pay the fines rather than comply with the law.

On April 28, a new workplace safety law and related implementing regulations entered into force. The new law promotes occupational safety awareness, training, and worker participation in occupational health and safety matters.

The Ministry of Labor is charged with enforcing the law. The government reportedly enforced effectively the minimum wage law in the formal sector, but not in the informal sector, and unions reported that the ministry also failed to enforce the minimum wage for subcontracted workers hired for public reconstruction contracts. The government decreased its inspection force from 195 to 120 during the year but did not provide an explanation for this significant decrease. It provided to its inspectors updated training in both occupational safety and labor standards. During the year the Ministry of Labor reported conducting 31,188 inspections. Allegations of corruption among labor inspectors continued.

The ministry received complaints regarding failure to pay overtime, minimum wage violations, unpaid salaries, as well as cases of employers illegally withholding benefits (including social security and pension funds) from workers. During the year the OAG investigated 851 cases of illegally withheld benefits. The OAG investigated 11 cases of labor harassment against women resulting in no convictions.

According to the Ministry of Labor, immigrant workers have the same rights as Salvadorans, but the ministry did not enforce these rights. There were reports of overtime and wage violations in several sectors. According to the ministry, employers in the agriculture sector did not grant annual bonuses, vacation days, or days of rest. Women in the maquila industry, particularly in the export processing zones, faced exploitation, mistreatment, verbal abuse, threats, sexual harassment, and generally poor work conditions. Workers in the construction industry were reportedly subject to violations of wage, hour, and safety laws. There were also reports of occupational safety and health violations in other sectors.

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

Ministry of Economy, in 2011, 49.3 percent of the economically active population worked in the informal economy.

During the year the Ministry of Labor reported 2,239 workplace accidents; 249 accidents occurred in hotels and restaurants, of which 43 occurred in the food and beverage sector. Men (1,622) suffered more accidents than women (617).