INDEX TO DOCUMENTATION OF COUNTRY CONDITIONS REGARDING
PERSECUTION OF LGBTQ INDIVIDUALS IN EL SALVADOR

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- “Significant human rights issues included . . . security force violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI).” (p. 1)
- “NGOs reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the LGBTI community stated that the PNC and the Attorney General’s Office harassed transgender and gay individuals when they reported cases of violence against LGBTI persons, including by conducting unnecessary and invasive strip searches.” (p. 22)
- “On January 31, a transsexual woman, Camila Diaz Cordova, identified in her national identification card as Nelson Arquimides Diaz Cordova, was allegedly
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<td>killed by three police officers with the National Civil Police’s 911 System in San Salvador.”  (p. 22)</td>
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<td>• “As of August 22, the PDDH reported four accusations by the LGBTI community of homicides, one complaint of torture, four complaints of violations to human integrity, one complaint each of physical abuse and harassment . . . Activists also reported receiving death threats on social media. Police generally failed to act on these reports.”  (p. 22-23)</td>
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<td>• “Media reported killings of LGBTI community members in October and November. On October 27, Anahy Rivas, a 27-year-old transwoman, was killed after being assaulted and dragged behind a car. Jade Diaz, a transwoman who disappeared on November 6, was assaulted prior to her killing. Her body was found submerged in a river. On November 16, Manuel Pineda, known as Victoria, was beaten to death and her body left naked in the street in Francisco Menendez, Ahuachapan Department. Uncensored photographs of the body were circulated on social media.”  (p. 23)</td>
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<td>• “. . . media documented cases of transgender persons who faced harassment while voting in the residential elections because their name and photograph on their national identification did not match their expression of gender identity.”  (p. 23)</td>
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• “NGOs reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community stated that the PNC, and the Attorney General’s Office harassed transgender and gay individuals when they reported cases of violence against LGBTI persons, including by conducting strip searches.”  (p. 20) |

• “As of July 31, the Office of the Human Rights Ombudsman (the “PDDH”) reported eight accusations made by the LGBTI community of five homicides, one unauthorized search, and one harassment complaint. The PDDH was unable to determine whether the incidents were bias motivated. Activists also reported receiving death threats via social media; police generally failed to take action on these reports.”  (p. 20) |

• “NGOs reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community stated that the agencies in charge of processing identification documents, the PNC, and the Attorney General’s Office harassed transgender and gay individuals when they applied for identification cards or reported cases of violence against LGBTI persons. The LGBTI community reported authorities harassed LGBTI persons by conducting strip searches and questioning their gender in a degrading manner.” (p. 5)

• “One NGO told commissioners that at least 600 persons had experienced hate crimes based on their sexual orientation or gender identity since 2004. As of August 31, the PDDH had received six complaints for crimes against LGBTI persons.” (p. 27)

• “NGOs reported that public officials, including police, engaged in violence and discrimination against LGBTI persons. Members of the LGBTI community stated that PNC and Attorney General’s Office personnel ridiculed them when they applied for identification cards or reported cases of violence against LGBTI persons. The NGO Association for Communication and Training of Transgender Women with HIV in El Salvador (COMCAVIS Trans) reported that, as of September, a total of 28 LGBTI persons were attacked or killed because of their sexual orientation.” (p. 27)


• “NGOs reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the LGBTI community stated that the agencies in charge of processing identification documents, the PNC, and the Attorney General’s Office harassed transgender and gay individuals when they applied for identification cards or reported cases of violence against LGBTI persons. The LGBTI community reported authorities harassed LGBTI persons by conducting strip searches and questioning their gender in a degrading manner. The government responded to these abuses primarily through PDDH reports that publicized specific cases of violence and discrimination against sexual minorities.” (p. 4)

• “Discrimination against LGBTI persons was widespread, including in employment and access to health care. In May the PDDH conducted a survey of transgender individuals and reported that 52 percent had suffered death threats or violence, of which 23.7 percent had reported the incidents.” (p. 27)

• “NGOs reported that public officials, including police, engaged in violence and discrimination against LGBTI persons. Members of the LGBTI community stated that PNC and Attorney General’s Office personnel ridiculed them when they
The NGO Space for Lesbian Women for Diversity claimed that, as of November, the Attorney General’s Office had not prosecuted any cases of killings and other violent acts or of possible human rights violations committed by public officials against LGBTI persons.” (p. 28)

- “The Secretariat for Social Inclusion reported that 11 LGBTI persons were killed during the year because of their sexual orientation. The PDDH reported that since 2009 a total of 18 LGBTI persons were killed because of their sexual orientation. Wilber Leonel Flores Lopez, a former soldier, was charged with attempted murder of a transgender individual on April 9. Flores was arrested on August 23. On August 26, an initial hearing was held in the First Court of Peace of Santa Ana, where the testimony of the victim, medical reports, and other forensic evidence were analyzed. The judge, however, did not order prison detention for Flores.” (p. 28)

- “On May 30, the newspaper La Prensa Grafica reported that police had uncovered the body of a transgender woman who had been beaten and strangled to death. An autopsy report by the Forensic Science Institute showed that the victim’s body was mutilated and showed indications that the victim was sexually violated. The PNC did not declare a motive for the killing. LGBTI NGOs alleged the victim was targeted due to her transgender identity and that authorities refused to investigate the crime from that angle.” (p. 28)


- “Several interlocutors indicated that LGBTI persons in El Salvador are discriminated against, ill-treated, marginalized, and persecuted. The Salvadoran Red Cross indicated that social violence affects the LGBTI population. The LGBTI Justice Clinic (Asistencia Legal para la Diversidad Sexual/LGBTI, ALDES) stated that due to marginalization and discrimination, which includes family members and the society at large, LGBTI persons face obstacles when trying to access education at schools, employment, and health care. They also face obstacles accessing housing as landlords refuse to rent them a place. The Among Friends Association noted that in order to secure employment, LGBTI individuals must hide their gender identity or sexual orientation. The Organization for the Promotion and Defense of Human Rights of LGBTI Persons (Organización para la Promoción y Defensa de los DDHH de la Población LGBTI, COMCAVIS-TRANS) similarly stated that transgender persons are four times more discriminated than women, and they also face problems when trying to access education, banking and credit, and employment in the private and public sectors. Employment for transgendered persons is limited, and is usually in sex
work, and as street vendors and hairdressers. In 2015, three LGBTI persons committed suicide because of lack of family or state support. LGBTI persons are also the object of police ill-treatment and harassment, extortion, physical violence, sexual violence, and physical and psychological violence. They are also forced by gangs to smuggle illegal goods and drugs into prisons.”  (Sect. 5.1)

- “COMCAVIS-TRANS and ALDES indicated that police officers and prosecutors do not investigate cases of violence against LGBTI persons. Incidents of violence against LGBTI persons are not a priority for prosecutors or police officers because they are overwhelmed with cases of violence related to gangs. LGBTI persons also do not have confidence in the authorities and most LGBTI crimes are not reported because LGBTI people are not taken seriously by authorities. ALDES emphasized that an investigative structure in El Salvador exists, but it is not functioning. Sources provided the example of Tania Vásquez, a transgender woman who was killed in 2013 and whose case has not been solved. Authorities promised a full investigation report for May 2014, but, to date, no report has been delivered.”  (Sect. 5.4)

- “According to interlocutors, it was very difficult for an LGBTI individual to move to another part of the country. Territorial control by the gang members makes it difficult for people to relocate within El Salvador. According to ALDES, LGBTI person moving to another part of the country will face societal discrimination, as well as other gang groups. Several interlocutors pointed out that El Salvador is a small country and it is very easy to locate a person who has moved to another part of the country. In addition, gangs have very good methods of communication between them and can easily locate a person. COMCAVIS-TRANS provided the example of a gay person in San Miguel who was threatened by his cousin, a gang member who had been detained by the police, and who asked him to pay for his lawyer. When the cousin and his clique learned that he refused to the request, the clique went after the gay person's roommate, a transgender woman; the gang members extracted one of her eyes as a sign of what could happen to him if he did not pay for the lawyer. The gay person moved to San Salvador but was later found by the gang and he had to leave for Mexico with the Assistance of COMCAVIS-TRANS, where he was granted an humanitarian visa.”  (Sect. 5.6)

**INTERGOVERNMENTAL SOURCES**


- “Bianka Rodriguez was leaving a San Salvador shopping centre when a man with a gun came up and forced her into his car. He proceeded to drive aimlessly around the city, rattling off a list of places she frequented to make it clear that he
had been stalking her. He rifled through her purse, sniffed her hair and threatened to kill her. The man eventually released Rodriguez unharmed, but the incident was a terrifying reminder of the risks she faces as a transgender woman in her native El Salvador.”  

- “With some of the highest indicators of violent crimes in the world, El Salvador is particularly dangerous for LGBTI people, and trans people face the highest risk. At least 14 trans people are thought to have been killed in El Salvador last year alone, with an overwhelmed criminal justice system not being able to respond.”  

- “Often, trans people have no choice but to flee their homes and communities, driven out by violent street gangs that control large swaths of territory. In the first six months of 2019, Comcavis recorded 44 cases of trans people who were displaced internally due to targeted violence, even as an unknown number of others have sought asylum abroad.”  

- “In addition to the threat of violence, El Salvador’s trans community also faces discrimination and often-insurmountable obstacles to securing housing, health care, education, and employment. This lack of opportunities tends to funnel them into sex work.”  

- “We live in a situation in which society at large discriminates against us and the state discriminates against us,” said Rodriguez. “The only option left is to try to survive in a country that denies us our rights.”


- “The Inter-American Commission on Human Rights (IACHR) expressed its concern over the acts of violence and discrimination against lesbian, gay, bisexual, trans, and intersex (LGBTI) people that have been reported since the start of 2019 in different countries in the Americas. The IACHR calls upon OAS member states to take urgent, effective measures to guarantee the life, safety, personal integrity, and dignity of people regardless of their sexual orientation, gender identity, and bodily diversity, including through laws and policies that promote cultural change in societies. It also calls on states to investigate, prosecute, and punish those responsible for these events.”  

- “So far in 2019, the IACHR has received information regarding violent incidents including assaults, malicious murders, sexual violence, and discrimination against LGBTI people in the region. In the course of the monitoring work it carries out on violence against LGBTI people in the Americas.”  

- “The IACHR also received information regarding the murder of two trans women in El Salvador in two different incidents that took place on February 3 and 8,
2019, respectively. The first of the victims died in hospital from multiple injuries. The second victim was attacked with a machete and also died in hospital as a result of this.” (p. 1)

- “In addition to the worrying information about these violent incidents against LGBTI people entailing extreme viciousness and cruelty, the IACHR is concerned about the fact that such attacks are significantly underreported. Violence against LGBTI people in the Americas is often not reported to authorities or covered by the media, which leads to invisibilization.” (p. 1)


- “The Inter-American Commission on Human Rights (IACHR) condemns the alarming number of killings of lesbian, gay, bisexual, and trans people (LGBT) in the region and urges the States to investigate these deaths with a differentiated approach and ensure that they do not go unpunished. The Commission is concerned about the information it has received indicating that in the first months of this year, at least 41 serious crimes against LGBT persons have been reported in Argentina, Brazil, Colombia, El Salvador, the United States, and Venezuela.” (p. 1)

- “The Commission has received information from civil society organizations indicating that so far this year, 17 serious crimes based on prejudice against LGBT persons have been reported in El Salvador.” (p.1)

- The Commission notes with concern that the information available indicates that to protect their lives, trans people from El Salvador have been forced to flee to other countries, such as Mexico and the United States. The International Organization for Migration (IOM) has also reported at least 136 cases of forced displacements of LGBT persons, motivated by fear and threats to their personal integrity. (p. 1)


- “Individuals of diverse sexual orientations and/or gender identities: Discrimination against individuals of diverse sexual orientation and/or gender identities is reportedly widespread in El Salvador and such persons have consistently been targeted for attacks and murder by the gangs and other sectors of society, including by the police and other public authorities. As noted above, the Salvadorian gangs are reported to possess a strong macho ethos, which reportedly expresses itself on an everyday basis through their virulent hatred and ill-treatment of persons based on their perceived sexual orientation and/or gender
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<td>identity. Transgender individuals, in particular transwomen, are reported to be at particular risk of violence.” (p. 38-39)</td>
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<td>• “With red hair, carefully made up and dressed in feminine attire, Neila stood out in the gang-ravaged El Salvador neighborhood where she was born a man. She put up with the taunts, jeers and insults over her gender identity for years, but it was a fourth savage knife attack that finally drove the 26-year-old beautician to flee for her life.” (p. 1)</td>
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<td>• “‘This is all because my gender identity differs from what is traditional,’ said Neila, who was stabbed 58 times in the attacks, which left her with a necklace of scarring around her throat and slash wounds to her arm.” (p. 1)</td>
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<td>• “Targeted Violence Faced by Transgender Women: For this report, UNHCR interviewed 15 transgender women from El Salvador, Honduras, and Mexico. They experienced many of the issues faced by all the women interviewed. In addition, the transgender women UNHCR interviewed faced numerous additional concerns that added to their persecution. They reported routine discrimination, harassment, beatings, and attacks on them or their friends, as well as forced sex work. Transgender women repeatedly emphasized that the police provided no protection and in some instances perpetrated further harm.” (p. 27)</td>
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<td>• “Acute Discrimination and Harassment: Many of the transgender women interviewed talked of being confronted by constant discrimination, harassment, and the threat of violence on a daily basis. Simply leaving the house was often a cause for discrimination and potential physical violence. “People on the street would verbally and physically assault me often,” said a transgender woman from El Salvador.” (p. 28)</td>
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<td>• “A number of the transgender women interviewed had been kicked out of the house or shunned by family for years after coming out as gay or transgender. (Several of the women spoke of coming out as gay when they were young, and only later also realizing their gender identity as transgender.” (p. 28)</td>
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<td>• “Their discriminatory lack of access to safe work escalated their risk of serious harm. ‘A transgender person is constantly threatened and anyone could do harm to you for your appearance alone. Being transgender, very simply, is impossible.’” (p. 29)</td>
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“Lack of State Protection: Transgender women interviewed described the impossibility of finding safety at home, being unable to get protection from authorities, and being unable to relocate within their country. A number of transgender women noted that the same types of problems – discrimination, harassment, and serious physical and sexual violence – existed wherever they tried to flee inside their countries and they could not find any protection or refuge at home.” (p. 30)

“The Attorney General’s office in El Salvador released statistics in January 2020 indicating it had tabulated 692 cases of violence against LGBT and intersex people in five years. Importantly, the government has also acknowledged violations at the hands of security officials. A 2017 Ministry of Justice and Public Security report minced no words:… [“]One of the populations that are most affected by this situation is that composed of LGBTI people, who, in addition to suffering from widespread discrimination, also face multiple forms of violence, including acts of torture, inhuman or degrading treatment, excessive use of force, illegal and arbitrary arrests and other forms of abuse, much of it committed by public security agents.[“]” (p. 39-40)

“Between October 2019 and March 2020, at least seven transgender women and one gay man were murdered in El Salvador. Several cases bore clear indications of being anti-LGBT hate crimes. Relentless violence, and threat of violence, cause many trans people, and in some cases lesbian, gay, and bisexual people, to live on the run. In 2019, the transgender rights organization COMCAVIS Trans reported having assisted 84 people who suffered internal displacement due to their sexual orientation or gender identity.” (p. 41)

“In May 2019, the PDDH published a report on 19 unsolved murders of LGBT people, primarily trans women, that it had been able to document between 2009 and 2016. The report assailed both police and prosecutors’ failure to assiduously investigate and prosecute anti-LGBT hate crimes.” (p. 34)

“…violence begins at home, sometimes from a very young age, especially for those who breach gender norms. Michelle S., a 25-year-old trans woman…told Human Rights Watch that she was severely beaten by her father from when she was five or six years old. Michelle said: [“]My father beat me because of the way
I walked. It got to the point that he hung me by my feet from the ceiling, for up to an hour. He did this many times. He hit me with ropes that he’d run through sand to make it hurt more. He also hit me with a rubber whip, the kind you use to hit horses. When he would beat me, he would tell me that he wished I had never been born, that I was an embarrassment. The beatings worsened when Michelle was 11 or 12 years old. Twice, Michelle said, her father hit her so hard that she vomited blood and had to seek medical treatment. She eventually fled home at age 15 and turned to sex work for survival, leading to further vulnerability to violence.” (p. 42)

• “Pricila P., a trans woman from San Salvador, recounted how in February 2018, on her way home from work in the evening, four police officers assaulted her after a “routine stop” in which they required all men to alight from a public minibus and searched them for drugs: When everyone else got back in, they didn’t let me, they told the driver to go on. They asked me if I was gay, and I said, ‘Yes,’ because I never liked to hide that. They said, ‘You don’t understand that you are a man?’ One of the police officers grabbed my testicles and squeezed. I said to let go. He said, ‘You’re realizing you’re a man because you feel pain. If you were a woman you wouldn’t feel pain.’ The pain threw me to the floor. One of them stepped on my hand with his boot. He said that I would become a man by force. They beat me, and they left me there. I arrived at home, bathed, and changed. I realized I couldn’t feel safe with the police in my country. An activist from a trans rights organization accompanied Pricila P. to the central police station to file a complaint, but the police refused to accept it, she said: They saw we were people from the [LGBT] community. The man at the reception said that if it was mistreatment of a gay, there was no point in filing a complaint. He said it was my fault, that maybe I had disrespected the police, that I deserved this…” (p. 44-45)

• “In November 2018, a police patrol stopped Pricila P. as she was coming home in the early morning, wearing makeup. Police officers asked, “Why are you like this? You’re a man,” and threw a bottle of water in her face, she said. They grabbed her purse which contained her antiretroviral medication. According to Pricila P.: I said not to take it because it was medicine that I had to take daily. They realized it was for HIV, and they said, ‘Oh, you’re going to die…. you don’t need this, you’re already approaching death.’ Pricila P. went without antiretroviral therapy for two months after the incident: it was difficult to get an appointment to get her prescription refilled, and the hospital was in a neighborhood controlled by a rival gang, dangerous for residents of MS-13-controlled neighborhoods. She told Human Rights Watch: “My health
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<td>deteriorated, the virus became detectable, from not taking my medicine for two months.”” (p. 45)</td>
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<td>• “While most cases Human Rights Watch documented of violence and discrimination by security forces involved the police, three cases involved harassment by soldiers. Nelson V., a 25-year-old trans man, said he was stopped in the street by soldiers looking for a gang member. When they became aware of his gender nonconformity, he said: [“]They lifted up my t-shirt and said, ‘What is this?’ I said, ‘I’m a trans man.’ One of them said, ‘Oh, it’s a chick. It’s a woman. Dyke, you haven’t been with a man, once you’re with a man that will change you.’ I could sense the hatred he felt for me. ‘I know dykes and I know faggots, but I don’t know people like you.’”” (p. 49)</td>
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<td>• “On numerous occasions, gangs in El Salvador have targeted LGBT people for violence or threats of violence specifically because of their sexual orientation or gender identity…Johanna Ramírez, a researcher with Servicio Social Pasionista, in the Mejicanos neighborhood of San Salvador, told Human Rights Watch, “LGBT people are recruited by the gangs as collaborators because they’re seen as vulnerable people, easier to manipulate.”” (pp. 50, 54)</td>
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<td>• “Maria I….became a victim of the gangs in Montreal neighborhood, in 2013. She told Human Rights Watch: “The gang members told me: ‘Hey faggot, if you want to live here you have to pay us $10 a week.’”…The gang members were unrelenting, telling her she had to pay them in order to live there. In September 2015, Maria I. was unable to pay for a few weeks. She said: [“]One night I went out to buy soda and a man appeared at my side and hit me and told me to come with him. There was another man. And they took me to a ravine and down there I saw two others. They told me to walk down the ravine… I said that I wouldn’t go down there, that if they wanted to do something to me that they’d have to do it here. [But] they pushed me and I fell [down the ravine], and they beat and raped me, the four of them. For quite some time, I was afraid that I had caught a disease, because they didn’t use protection[”] After raping Maria I., the gang members warned her that she had better continue to pay them or face additional violence. Maria I. filed a police report against her assailants, but to her knowledge, no one was ever arrested.”” (p. 52)</td>
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<td>• “Frank, a non-binary person from Santa Ana, said that in 2010, when they were 16, a gang kidnapped them and held them for ransom in a cave for four days, demanding $20,000 from Frank’s family members in the United States. Throughout the ordeal, during which gang members hit Frank on the feet and stomach and withheld food, they also repeatedly asked “Are you a faggot?” They threatened to “sell” Frank if their family did not come up with the money. They freed them when Frank’s family paid the ransom.”” (pp. 56-57)</td>
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### SUMMARY

- “LGBT people who make a living through sex work face a high level of exposure to gang violence. Michelle S., a trans woman from Zacatecoluca, began selling sex at age 15 after fleeing violence at the hands of her father... When she was 16 or 17, gang members shot her friend, who was also trans and sold sex, in front of her when the friend refused to pay them “rent.” Police came to the scene of the crime and Michelle, afraid to tell the truth about the attack, told the police that strangers held her up, along with her friend, for money. Rather than providing support to Michelle or referring her to support services for victims of sexual exploitation, the police harassed her about her gender identity. “The police took my testimony, but they also told me this happened to us because we were dressed like women.”” (p. 58)

- “The discrepancy between gender identity and official documentation is a source of discrimination and humiliation for trans people, as well as a source of conflict with authorities. For instance, when Maria I., a trans woman, attempted to renew her identity card in 2010, an official at the DUI (identity document) center in Ciudad Delgado, San Salvador, refused to take her photo unless she came back dressed in men’s clothing and without makeup on.” (p. 34-35)

- “In 2017, El Salvador established specialized courts for violence against women in San Salvador. Because transgender women are not legally recognized as women, it is not clear that they can benefit from these courts. Even lesbians may face exclusion: Andrea Ayala, an activist with the organization ESMULES (Espacio Mujeres Lesbianas Salvadoreñas por la Diversidad, Salvadoran Lesbian Women’s Space for Diversity), said that in two cases in which ESMULES tried to help victims obtain recourse— one involving domestic violence and the other involving employment discrimination— officials at the court for violence against women said they did not have jurisdiction over the cases because the women were lesbians.” (p. 35)

- “In some cases, churches practice conversion therapy, attempting to change people’s gender identity or sexual orientation. Ricardo S., a 28-year-old gay man, described an experience at a church youth retreat when he was 17: [“]They threw me on the ground, held me down, and put a crucifix on my penis and another one on my buttocks, and the priest shouted, ‘I order this demon to leave your body!’ Then, a spiritual guide came [to San Salvador] from Sonsonate who continued to follow my case. They obliged me to dress differently and said that if I felt like I wanted to fall in love with a man, that I had to start praying hard. I thought I was possessed by a demon of homosexuality. That lasted for three years.[“]” (p.37)

### 13. Human Rights Watch, *Deported to Danger – United States Deportation Policies Expose Salvadorians to Death and Abuse* (February 5, 2020) available at
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<td>“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. Several LGBT Salvadorans also reported being beaten or sexually assaulted by the police. In January 2019, Camila Diaz Cordova, a transgender woman deported from the United States, was beaten to death.” (p. 23)</td>
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<td>“LGBTI people in the NCA face structural, family, community, criminal and state violence, and a lack of legal protection . . . Human rights abuses are underreported in official registries. At least 243 homicides were registered by civil society organisations in the last 5 years . . . These different forms of violence impede access to education, employment and basic services. In El Salvador, only 50% of displaced LGBTI people studied beyond primary school . . . Displacement is a protection coping mechanism. 88% of LGBTI asylum seekers from the NCA suffered sexual and gender-based violence in their countries of origin.” (p. 1)</td>
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<td>“Gangs continued in 2018 to exercise territorial control and extort residents in municipalities throughout the country. They forcibly recruit children and subject some women, girls, and lesbian, gay, bisexual, and transgender (LGBT) individuals to sexual slavery. Gangs kill, disappear, rape, or displace those who resist them, including government officials, security forces, and journalists.” (p. 1)</td>
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<td>•</td>
<td>“LGBT individuals are targets of homophobic and transphobic violence, including by police and gang members. Since 1994, over 600 have been killed, according to four Salvadoran LGBT rights organizations.” (p. 5-6)</td>
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<td>• Civil society organizations in Guatemala, El Salvador, and Honduras report that LGBTI people are at high risk for violence and extortion by gangs and organized criminal groups, hate crimes, and abuse by authorities, leading many LGBTI individuals to migrate in search of safety. (p. 3)</td>
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<td>• “At least 145 LGBTI persons in El Salvador have been murdered since 2015, and many of those victims were subject to torture and mutilation. The number of transgender women murdered annually in El Salvador has increased 400 percent since 2003.” (p. 4)</td>
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<td>• In El Salvador, Guatemala, and Honduras, LGBTI victims do not report violent crimes because they fear discrimination and abuse by authorities, and the vast majority of reported crimes against LGBTI people are not investigated. (p. 4)</td>
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<td>• “The Trump administration has led an aggressive anti-immigrant campaign that will have dangerous ramifications for vulnerable populations—especially women and LGBTQ immigrants. Many are being returned to Latin American countries such as Mexico, El Salvador, Honduras, and Guatemala that are rife with dangers—including gender-based violence, domestic abuse, and gang violence—without stable enough institutions to protect them.” (p. 1)</td>
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<td>• “For LGBTQ people, the risks associated with return are compounded by their sexual orientation or gender identity and expression. Given that the LGBTQ community includes women, this group encounters gender-based violence in addition to other threats. Eighty-eight percent of LGBTI asylum-seekers and refugees interviewed by the U.N. High Commissioner for Refugees had suffered from sexual and gender-based violence in their countries of origin. Deportation adds further risks due to increased visibility and vulnerability associated with being deported. Transgender women, in particular, suffer from disturbing levels of persecution after returning to their countries of origin. For example, after a transgender woman’s claim was denied in 2017, she was sent back to El Salvador, where she was subjected to extortion and frequent gang beatings. In another case, Johanna Vasquez, a transgender woman who was deported back to El Salvador, was kidnapped by a group of armed men immediately after leaving the airport, then assaulted, gang raped, and abandoned on the side of a road.” (p. 2)</td>
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<td>• “Despite the well-documented horrific conditions of U.S. immigrant detention centers, many LGBTQ immigrants would rather risk incarceration and deportation than face life-threatening oppression in their home countries. When interviewed by Amnesty International, several gay men and transgender women deportees indicated that their fear of persecution was so palpable that they re-</td>
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embarked on the precarious northbound journey to the United States on the exact same day of return. Johanna Vasquez described her own experience of fleeing back to the United States after being deported, saying, ‘I left the same day. The same minute. To stay in El Salvador where they will kill you or to leave? There was no choice.’” (p. 2)


- “Latin America, which has the world’s highest rates of violence against LGBT people. Many violent crimes go unpunished in El Salvador, in particular, thanks to the presence of widespread, powerful gangs and a dearth of effective law enforcement.” (p. 2)
- “Rampant discrimination against the country’s LGBT community often translates to a lack of police action when crimes are committed against transgender people. A 2016 report found that transgender women in El Salvador have an average life expectancy of less than 35 years, due in part to the high rates of violence they suffer.” (p. 3)
- “Earlier this year, three transgender women were murdered in El Salvador in a span of just 72 hours—and in May, with the number of transgender deaths still on the rise, the United Nations called for an investigation into crimes against sexual minorities in the country.” (p. 3)


- “Amnesty International received a number of statements from gay men and trans women testifying to having been raped in their countries. According to UNHCR, 88 percent of LGBTI asylum seekers and refugees from the Northern Triangle interviewed in the context of a study reported having suffered sexual and gender-based violence in their countries of origin.” (p. 7)
- “A study conducted in 2016 indicates that the Northern Triangle region is one of the most dangerous regions for trans women. These same NGOs warn that the real figures could be higher given that not all cases are systematically denounced or adequately reported.” (p. 8)
- “The Association for Communicating and Training Trans Women in El Salvador (COMCAVIS TRANS) reported a total of 28 serious attacks, most of them murders, perpetrated against LGBTI people between January and September
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<td>• “Sexual and gender-based violence, including sexual violence, domestic violence, human trafficking, femicide, and violence against LGBTI people, permeates the lives of women and children in El Salvador, Honduras, and Guatemala, disproportionately affecting girls and young women. These forms of violence have deep roots in ‘patriarchal attitudes and a machista culture,’ as well as structural forms of inequality that marginalize women, girls, and LGBTI people, and justify discrimination and violence against them.” (p. 4)</td>
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<td>• “Gangs often target LGBTI people based on their actual or perceived gender identity or sexual orientation, subjecting them to physical and sexual violence as well as extortion and forced labor. Some gangs in El Salvador have reportedly required members to attack LGBTI people as part of their initiation. These cases are extremely difficult to document. LGBTI people in El Salvador, Honduras, and Guatemala rarely report abuse or exploitation to authorities, due to abuse and discrimination by government authorities directed at LGBTI communities, as well as widespread discrimination and stigma against them.” (p. 7)</td>
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<td>• “Increasing levels of violence continued to affect people’s rights to life, physical integrity, education and freedom of movement. There were reports of excessive use of force by the security forces and of a surge in asylum applications by Salvadorans in various countries in the region. [...] Impunity for violence and other crimes against lesbian, gay, bisexual, transgender and intersex (LGBTI) people persisted.” (p. 150)</td>
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| | • “LGBTI people were frequently targeted for abuse, intimidation and violence because of their sexual orientation and/or their gender identity. In particular, transgender women, who often face greater obstacles in accessing justice because of discrimination, were subjected to violence and extortion by gangs. Unable to
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<td>“Human rights defenders: Human rights defenders from the LGBTI communities also reported violence and intimidation. In May, Francela Méndez, a transgender activist and member of the Salvadoran Women’s Network of Human Rights Defenders, was murdered. By the end of 2015, no one had been brought to justice. Organizations reported an increase in cases of harassment and violence against the transgender community by state agents and other individuals.” (p. 2-3)</td>
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<td>“The absence of a gender identity law in El Salvador results in severe human rights violations of trans persons. Salvadorian laws do not permit a trans person to change his or her name except in “exceptional circumstances,” and only if the new name reflects the same gender used in the original identification document.” (p. 6)</td>
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<td>“For example, according to a study conducted by one NGO, 42 percent of trans women have reported problems using their DUIs (Documento Unico de Identidad, ‘Unique Identity Document’ - DUI), because of the ‘official’ gender identity reflected in these documents.” (p. 7)</td>
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<td>“Trans women are humiliated and suffer discrimination in everyday activities, including applying for loans, paying credit cards, or using a passport.” (p. 8)</td>
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<td>“The government’s failure to classify hate crimes against trans persons is especially problematic, given that since 2003, there has been a 400 percent increase in homicides against trans women for expressing their gender identity. It is alarming that in the face of this atmosphere of violence and continued assassinations, the government of El Salvador has not implemented a law or public policy to fight the increasing violence against trans persons.” (p. 18)</td>
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- “Police and Military Violence: While engaged in law enforcement, members of the police and military have raped, beaten, stalked, arbitrarily detained, extorted, intimidated, and threatened LGBT people. Police and soldiers initiate violence against people on the street whose nonconforming sexual orientation or gender identity is readily apparent. Police and soldiers escalate routine encounters (such as ID checks) into violent ones when they learn that a person is lesbian, gay, bisexual and/or transgender. Police and military violence toward LGBT people is often sexual or gendered in nature.” (p. 10)

- “[...] virtually every LGBT person interviewed reported instances of violence perpetrated against them by state and/or private actors. Murders of LGBT people are often marked by a level of brutality that reveals the hate and dehumanization motivating the crimes. These homicides are characterized by signs of torture, including severe beating, dismemberment, multiple stab wounds, and multiple gunshots. Lesbian, gay, bisexual, and transgender interviewees told researchers they live in a constant state of fear, worrying about when the next threat will arise.” (p. 29)

- “Discrimination Against LGBT Salvadorans In All Aspects Of Life: LGBT people have reported that, once their gender identity or sexual orientation is known, they are forced to wait for long periods of time before receiving care, or are denied treatment outright. For transgender persons, discrimination occurs when medical personnel refuse to call them by their names and insist on using the mis-gendered name printed on their identification documents. Because of their exclusion from the healthcare system, transgender persons in El Salvador cannot safely access hormone treatment.” (p. 30)

- “Barriers to entering the formal labor market are particularly high for transgender women. As one interviewee explained “They offer you three jobs as a transgender woman: working at the grocery store, as a hairdresser, and as a sex worker.”” (p. 31)

- “Law Enforcement Officers Target LGBT People: Transgender women who are sex workers are particularly vulnerable to police abuse. They face routine harassment at night in San Salvador by members of both the PNC and the CAM, who abuse their authority by citing a municipal ordinance to extort them for free sexual services or a $17 fine in return for not arresting them, even though the ordinance does not actually establish arrest as a possible penalty. Police officers sometimes make good on their threats of arrest by detaining transgender women sex workers at police stations for hours on end without charges if they do not
immediately pay the fine. Because the officers engaged in these practices tend to cover their badges, wear ski masks, and leave their police cars behind, it is virtually impossible to identify them in a complaint.” (p. 46)

- **“Sexual and Gendered Violence: The most common type of violence reported was sexual violence. A recurring theme in these stories was the hypersexualizing of transgender women and travestis ... One transgender woman, Valentina, reported that she and her friend were beaten and raped by police officers on their way from a nightclub [...] Many transgender women reported police officers coercing or attempting to coerce them into having sex.” (p. 50)**

- **“Barriers in Access to Justice: Many LGBT people, particularly transgender individuals, who have attempted to file a complaint with the police reported facing significant obstacles, including further violations of their rights ... A major barrier to filing complaints is the use of coercive mechanisms by police to discourage the filing of, or refusal to accept, complaints. These tactics include bribery, threats, violence, and ridicule from police officers.” (p. 57)**

### Media Sources


- “Camila Díaz Córdova, a transgender woman, suffered violence and discrimination her entire life. She even fled El Salvador multiple times to seek refuge abroad. After being deported from the United States in late 2017, her fate was sealed. Prosecutors allege that in January 2019 police officers detained Camila and assaulted her in a pickup truck before throwing her out of the moving vehicle. She died from her injuries.” (p. 1)

- “Seven trans women and two gay men have been murdered in the past five months in El Salvador. Details of the cases show the perpetrators’ apparent hatred for people with diverse gender expressions or sexuality. Victoria Pineda, for example, was found naked in Ahuachapán with her face disfigured and covered in logs and a car tire. Bianka Rodriguez of COMCAVIS said she believed Victoria was ‘crucified,’ with the tire symbolizing a crown of thorns and the logs the wooden crossbar. Tita Andrade, another transgender woman, was found 90% burned in La Unión. Such symbolic and brutal murders are often committed against groups like the LGBT community accused of ‘moral crimes.’” (p. 1-2)

- “President Bukele has made fighting crime a cornerstone of his presidency and touts the declining numbers of homicides. Yet, his lack of strategy when it comes to LGBT hate crimes is disquieting. In 2020 there have already been three reported murders of gay and transgender people in El Salvador. Bukele should publicly and unequivocally condemn this violence, encourage prosecutors to
pursue hate crimes charges, and ensure that judges receive adequate training on hate crimes.” (p. 2)


- “Virginia Flores has been on edge since February 2019, when she learned her best friend, Camila Díaz Córdova, a transgender woman, was dead in an apparent homicide. She has reason to be worried. Flores, a 37-year-old trans woman from El Salvador, knows she has beaten the odds just by being alive today. In El Salvador, trans women have a life expectancy of only 35 years due to extreme violence.” (p. 2)

- “The killing was a turning point for Flores: She said she realized she would never live in peace in her home country. In the week Díaz Córdova died, another trans woman was killed in El Salvador, and at least five more have been killed since then. In 2011, one of Flores and Díaz Córdova’s best friends, a trans woman named Monica, was killed. There was no arrest or conviction. ‘It’s alarming,’ Flores said. ‘That’s why so many people say, ‘I don’t want to be here.’ Because I could be next.’” (p. 2)

- “El Salvador has one of the highest rates of trans women who are killed relative to its small population, with 19 homicides reported in 2018. The exact number of trans women who have fled in recent years is difficult to track, because they often don’t tell anyone they are leaving and why, said Mónica Linares, the director of the trans rights organization Aspidh Arcoiris Trans. Another trans rights organization, Comcavis Trans, has documented 116 cases of trans women leaving the country since 2014, but the real number could be even higher. “The belief of the LGBT population has always been that the only way to ensure their rights is to leave the country,” said Johanna Ramírez, who provides legal aid through the San Salvador-based organization Passionist Social Service, in 2018.” (p. 3)

- “Trans women report constant harassment from employers, law enforcement, and other government institutions. In a 2019 study, trans women in El Salvador reported experiencing systemic intimidation, robbery, sexual assault, and harassment from police. Many employers refuse to hire them, so sex work is often their only option.” (p. 3)


- “Amara, who is transgender, left her home country of El Salvador in 2016, after gang members held a knife to her neck, she said, and demanded that she live as a man, not a woman. ‘I can’t change the way I am when living this way is what
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<td>makes me happy,’ Amara said in Spanish, nervously rubbing her hands together. (Her name in this story has been changed to protect her privacy.)” (p. 2)</td>
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<td>• “Finally, the administration has reached deals with El Salvador and Guatemala to send asylum seekers back to those countries, claiming they are safe countries. ‘There is no way in the world that El Salvador is a safe third country,’ Foss said. ‘It is unconscionable that any government in the world would do that and in particular that the United States would do that.’ A report by Human Rights Watch released earlier this month found that 138 Salvadorans had been killed since 2013 after being deported from the U.S.” (p. 4-5)</td>
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<td>• “Anti-LGBTQ hate crimes in El Salvador have increased over the last two months. Unknown suspects in a vehicle on Oct. 27 stabbed Anahy Miranda Rivas, a 27-year-old transgender woman, with a knife on Los Héroes Boulevard in San Salvador and dragged her to death.” (p. 1)</td>
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<td>• “The body of Jade Camila Díaz, a trans community leader in Morazán department, was found floating in the Torola River on Nov. 9, three days after she was reported missing. The murder of Victoria, 44, who was brutally killed, was reported on Nov. 16. The body of Oscar Cañenguez was found the next day near San Vicente’s market.” (p. 1)</td>
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<td>• “President Nayib Bukele as of deadline had still not issued an official statement or comment on his social media pages about these crimes against the LGBTQ community. Some may see this silence as a setback to the work that organizations have been doing for many years. “The quality of life conditions for the LGBTI community for which we have been working for many years are falling apart for many people,” Hernández told the Blade.” (p. 3)</td>
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<td>• “Following a wave of murders, LGBT+ rights activists in El Salvador on Thursday backed a United Nations appeal for authorities to step up action to protect gay and trans people. At least four LGBT+ people have been killed in the impoverished and violence-plagued Central American country in the last month, gay and trans rights groups said, with the latest victim, Oscar Canenguez, a gay man, found dead on Sunday.” (p. 1)</td>
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“LGBT+ people face persistent discrimination and abuse in El Salvador, where local gang violence and entrenched social prejudices can be a deadly mix. Gay marriage is illegal and trans people cannot change their gender on official documents. The country’s influential Catholic Church and most evangelical groups publicly condemn gay marriage and sex.” (p. 1-2)

“According to COMCAVIS Trans, a local advocacy group, some 600 LGBT+ people have been murdered in El Salvador since 1993. Campaigners said inaction on LGBT+ rights by the government of Bukele, who took office in June, was partly to blame for the rising violence. ‘The new authorities don’t have justice (or) the prosecution of these cases as a priority,’ said Roberto Zapata, secretary general of local advocacy group AMATE El Salvador. ‘This new government is completely silent,’ he told the Thomson Reuters Foundation.” (p. 2)

“Only 12 out of 109 LGBT+ murders recorded between December 2014 and March 2017 went to trial, government data shows, and there has never been a successful conviction, according to Human Rights Watch. Three out of four of the latest murders were of trans women, with one victim found in a river and another discovered naked and buried in debris.” (p. 2-3)


“Barrera, who turned forty-four in April, was one of eight children. Her mother became her main support system—though her mother “never really agreed with it,” Barrera said, referring to her gender identity. For decades, she kept her feelings secret. As an adult, she worked as a beautician, and later got involved in trans activism, educating members of El Salvador’s L.G.B.T.Q. community about disease prevention and visiting terminally ill aids patients in local hospitals. It was perilous work. ‘We were afraid of reprisals from the government, and also from conservative sectors,’ she told me.” (p. 3)

“Before fleeing to the U.S., Barrera was sexually assaulted by members of the Salvadoran military and the transnational gang MS-13—which has roots in El Salvador—who targeted her based on her transgender identity and outspoken activism. Between 2013 and 2016, MS-13 members beat her five times, leaving scars on her face, scalp, and one of her legs. She told me that she loved her activist work, but, amid constant danger, and unable to find protection in local law enforcement, she feared for her life. In November, 2017, she journeyed to the U.S. border, with her niece Zulay, who is also transgender.” (p. 4)
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   - “Rodriguez is gay. He and his first love, Bryan Claros, were high school classmates, meeting secretly when they could on an isolated stretch of beach outside their hometown of La Libertad. One March night, four gang members surrounded them there, beat up Claros and threatened Rodriguez, both men told Reuters. ‘Never show your faces here again,’ Rodriguez recalled them saying.” (p. 2)  
   - “A police detective’s report on the incident, reviewed by Reuters, confirmed the outlines of their account, saying Rodriguez was the victim of ‘aggravated threats’ by terrorist groups or gangs and that ‘it was recommended that he emigrate … because these individuals who threaten people always act out the threats they make.’” (p. 2) |
   - “The violence and discrimination suffered by the LGBTI community in El Salvador is forcing its members to leave the country or die at the hands street gangs or security forces of a government quite willing to overlook murder, activists say.” (p. 1)  
   - “El Salvador is one of the world’s most violent countries, with a homicide rate from 50.3 to 103 for every 100,000 inhabitants. This murderous violence is also one of the factors causing forced emigration, among members of the LGBTI community.” (p. 1)  
   - “The main victims are trans women with 67.5 percent of the cases, followed by gay men with 17.2 percent. Trans women are often victims of the sexual slavery by the “mara” gangs, which force them to engage in illegal acts. Widespread impunity that has allowed more than 600 LGBTI citizens to be murdered since 1993.” (p. 1) |
   - “A transgender woman who the U.S. deported back to her native El Salvador died earlier this month after she was attacked outside the country’s capital. Asociación Aspidh Arcoiris Trans, a Salvadoran trans advocacy group, told the Washington Blade that Aurora, who was also known as Camila, had been reported missing at
the end of January. The group looked for Camila at various hospitals and eventually learned she had been admitted to Rosales National Hospital in San Salvador, the Salvadoran capital, on January 31 with multiple injuries. Camila passed away on February 3.” (p. 2)

- “She was found on Carretera de Oro above the municipality of Soyapango outside of San Salvador. It remains unclear what happened to Camila. Activists with whom the Blade spoke said threats that Camila received prompted her to travel to the U.S. with one of the migrant caravans that left Central America last year. They said the U.S. deported Camila and she had been in El Salvador for 4-5 months before her death. ‘She migrated to the U.S. because of threats that she had received, but she was deported because they didn’t believe her,’ Aislinn Odaly’s, an independent LGBTI rights advocate, told the Blade.” (p. 2)

- “Camila is the second trans women reported killed in El Salvador this month. A trans woman who used the name Lolita was killed with a machete on February 8th 2019. The murder took place in Sonsonate, but trans rights organizations don’t have any additional information. El Salvador’s National Civil Police and the country’s attorney general have not classified either murder as a hate crime, in part, because Lolita and Camila died in public hospitals where the reports that were made did not mention they were victims of violence.” (p. 2)

- “The lack of action on the part of the judicial system to investigate hate crimes has created a widespread feeling of anxiety among El Salvador’s LGBTI activists. ‘It is unfortunate that although we have articles in the penal code that (allow for the classification of) crimes committed against trans people as hate crimes, they are not put into practice,’ Miss Trans El Salvador 2018 Tatiana Molina, who is also an LGBTI activist, told the Blade. ‘Such is the case of all the crimes that have occurred in recent years and specifically the cases of Camila and Lolita. That is why we are demanding justice and the prompt investigation and prosecution of these cases.’” (p. 3)

- “The increase in anti-LGBTI hate crimes and the lack of prosecution of them has sparked increased fear among community members. ‘I feel outraged, insecure and even more so I am afraid of any reaction of a homophobic or transphobic person who can harm us while walking in the streets,’ said Odaly’s. Aspidh Arcoiris Trans has made formal complaints in Camila’s case and continues to give special attention to it. Advocacy groups have also filed formal complaints in Lolita’s case, but it remains unclear whether any investigation into either murder or those who may be responsible has begun. A spokesperson for the National Civil Police has not returned the Blade’s request for comment.” (p. 3)

34. Jo Corona, “El Salvador’s President-Elect Opposes Same-Sex Marriage, as LGBTQ Community Struggles for Acceptance” NPR Latino USA (February 12, 2019); available at https://www.latinousa.org/2019/02/12/bukelelgbtcommunities/
Nayib Bukele made history in El Salvador when he won the presidential elections February 3, ending decades of two-party rule. Someone from the audience prompted Bukele to express his thoughts on same-sex marriage. The social media savvy candidate said he had gay friends and acquaintances, but added that marriage could only happen between a man and a woman. ‘Water is in a bottle and I have the option of drinking it there or in a cup, but that does not mean the cup is going to become a bottle,’ El Faro reported him saying. (p. 1-2)

There was this big silence when he said that,’ Nóchez said in Spanish during an interview with Latino USA. ‘People did not expect that response.’ According to Nóchez, this was the first time the candidate publicly took a stance on a topic linked to the LGBTQ community and that—in conservative and religious El Salvador—could potentially become a polarizing issue and translate into voters defecting for other candidates. (p. 2)

Although human rights organizations point to the lack of official data on hate crimes committed against LGBTQ people in El Salvador, violence against the marginalized group is a grim reality, where same-sex marriage is illegal, and discrimination an imminent threat for transgender people, since the law forbids changing public documents to reflect the gender a trans person identifies with. (p. 2)

‘Trans women in El Salvador are frequently kicked out of their homes,’ said Nóchez, who also reports on gender violence. To survive, many have to work in the streets as prostitutes, and this creates an additional layer of stigma because ‘their clients fear being exposed as ‘that’ type of client.’ This vulnerability is only compounded by the fact that the Salvadoran transgender population has the highest rates of HIV in the country—two out of 10. (p. 3)

‘What use is getting married if they are still killing us?’ Hernández said. (p. 5)

Living openly as an HIV-positive trans woman, Karla Avelar, 39, has survived three assassination attempts and five years in a men’s prison. Her mere existence challenges societal norms in her conservative birth country of El Salvador. (p. 2)

According to Avelar, trans women migrate from El Salvador to the United States in great numbers because they have no guarantee of basic human rights in their home country, including access to education and health care. (p. 3)

Trans women in El Salvador are particularly vulnerable to violence and have been targeted by both death squads and gangs since the civil war in the 1980s. (p. 6)
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<td>• “Violence and discrimination based on gender identity remains commonplace in El Salvador. The murder of three trans women — Yasuri Orellana, 24, Daniela Flores, 27, and Elizabeth Castillo, 23 — in San Luis Talpa in February 2017 underscores the risks that [...] other trans Salvadorans face on a daily basis.” (p. 2-3)</td>
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<td>• “Violence linked to the MS-13 street gang has made San Luis Talpa and the surrounding area one of the most dangerous parts of El Salvador. Isabel said MS-13 last February told trans women they would be killed if they did not traffic drugs for them.” (p. 3)</td>
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<td>• “Isabel said trans women who live in San Luis Talpa lack access to education and ‘dignified’ employment. She told the Blade that police officers and soldiers also target them. [...] Police officers often proposition them for sex, [...] street gangs and other ‘collective groups’ do ‘the same thing’ as police officers and soldiers, [yet] authorities often dismiss trans women when they file a complaint.” (p. 3)</td>
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<td>• “A wave of transphobic violence swept El Salvador in 2015, leading to the murder of Francela Mendez, a respected trans activist.” (p. 2)</td>
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<td>• “Ava Benach, an immigration lawyer now handling Rivas’ asylum case, said that trans women from El Salvador, Guatemala, Honduras and Mexico can make the case for why they qualify for asylum. ‘The violence and oppression and danger and persecution these women face—and the trans men, for that matter— is enormous,’ Benach said. ‘I would say that almost any trans individual who has fled those countries has a certain claim.’” (p. 2)</td>
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<td>• “According to a 2013 report published jointly by El Salvador’s Office of Human Rights, 52.5 percent of percent of trans women living in El Salvador have received death threats due to transphobia or extortion by gang members who try to extract rent payments from trans sex workers.” (p. 2)</td>
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<td>• “The U.N. High Commissioner for Human Rights reported that at least seven transgender people were killed in El Salvador since the beginning of this year. However, Rivas suspects the toll to be much higher for the entire country as violence against trans women in gang-dominated rural towns often go unseen.” (p. 2-3)</td>
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<td>• “The [gangs] have put out an order to get rid of all of us,’ Sebastian Cerritos said [...]. ‘The gangs in one area here have said: We will kill all trans people here.’” (p. 3)</td>
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<td>• “In recent years, the LGBTI community has become particularly vulnerable to the gang violence. Trans people have been verbally abused and sexually harassed in the street, beaten and raped by gang members, and sometimes even attacked by the police. The life expectancy for a transgender woman in El Salvador is less than 35 years, according to the International Lesbian and Gay Association. And 16 trans people are reportedly killed every year in the country.” (p. 4)</td>
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<td>• “In El Salvador, transgender people are not legally allowed to change their name or gender on official documentation.” (p. 7)</td>
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|     | • “El Salvador, which borders Guatemala and Honduras, has one of the world’s highest murder rates. Anti-LGBT rhetoric from politicians and religious figures, discrimination, poverty and a lack of educational opportunities are among the factors that have made LGBT Salvadorans particularly vulnerable to violence.” (p. 2) |
|     | • “A report from El Salvador’s Attorney for the Defense of Human Rights indicates 52 percent of trans women it surveyed said they received death threats. A press release the Inter-American Commission on Human Rights released on March 23
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<td>indicates 17 of the more than 40 reports of ‘serious crimes’ against LGBT people that have been committed in the Western Hemisphere so far this year come from El Salvador.” (p. 2)</td>
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<td>• “Rodríguez said trans women’s family members frequently commit acts of violence against them because of their gender identity. She also told the commission that gang members routinely extort money from those who engage in sex work. ‘We find ourselves in a cycle of violence, discrimination and criminalization,’ said Rodríguez.” (p. 2)</td>
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<td>• “Rodríguez and others who testified at the hearing said LGBT rights advocates in El Salvador are frequently threatened and attacked. Ambar Alfaro of ASPIDH Arcoiris said an activist was carjacked last October as she left a San Salvador mall and held against her will for nearly an hour. She pointed out a group of four ‘unknown men’ with guns carjacked COMCAVIS Director Karla Avelar during the same month, demanded her identification and her cell phone and threatened her.” (p. 2)</td>
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<td>• “Alex Peña of Generación de Hombres Trans de El Salvador, a group that advocates on behalf of trans Salvadoran men, said a group of police officers attacked him in 2015 after he had a confrontation with a bus driver while returning home from a San Salvador Pride celebration. Espacio de Mujeres Lesbianas por la Diversidad (ESMULES) Executive Director Andrea Ayala told the Blade during a previous interview that she suspects police officers broke into her office after she and other advocates publicly denounced the attack.” (p. 2-3)</td>
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<td>• “The state has not adopted any type of measures that protect us and guarantee that we can do our work without risk,’ said Alfaro. Kerlin Belloso of the Fundación de Estudios para la Aplicación del Derecho, a Salvadoran human rights group known by the acronym FESPAD, said the hate crimes law has ‘not had any affect in practice.’ She and other advocates who testified also pointed out stigma and mistreatment and a lack of urgency on the part of law enforcement and public officials are among the barriers that LGBT Salvadorans face when they are victims of hate crimes and discrimination. ‘The state’s inaction is almost absolute,’ said Alfaro.” (p. 2-3)</td>
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<td>• “‘We live with the uncertainty,’ said Verónica López, a trans woman and board president of ASTRANS, one of El Salvador’s leading trans rights organizations. ‘We do not know if we will come back home, or come to work the next day. You get accustomed to it. We have little choice. We know if we do something that is not liked we can be killed.’” (p. 2)</td>
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<td><strong>SUMMARY</strong></td>
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| • “Trans women are already at risk of suffering disproportionately from poverty, violence, and social exclusion, said ASTRANS.”  (p. 3)  
• “One accompanying report stated that the average life expectancy of a trans person in the Central American nation was 35 years. While the El Salvadoran government has vowed to investigate the murders as hate crimes, activists suspect that they will not be—and the perpetrators not be caught.”  (p. 4)  
• “In gang killings ... trans people have their clothing removed to humiliate them even more, ‘exposing their genitals, so revealing a person who looks feminine and who has a penis. In some cases they have been stoned to death, or murdered with a machete, but usually it is a firearm. There is a very high level of violence and hatred in the murders of trans people. In the code of the gangs, being trans is seen as something negative: People do not differentiate a trans person as distinct from a homosexual person.”  (p. 5)  
• “Aside from being murdered or attacked, trans people are excluded from many other social spaces and often rejected by their families. They can be forced into sex work or selling drugs.”  (p. 7)  
• “The experience of trans people and the civil, military and municipal police forces in El Salvador is mostly negative. ‘The experience of trans women in particular is that they suffer all kinds of violence, including sexual violence, and extortion at the hands of the police,’ said one ASTRANS member.”  (p. 8) |  |

• “Data collected by activists suggest security forces and gang members are the principal perpetrators of violence against members of the LGBTI communities in El Salvador, highlighting the under-prosecution of crimes against sexual minorities in Central America.”  (p. 1-2)  

Dated: [DATE]  

Respectfully submitted,  

[NAME]  
[PRO BONO COUNSEL FOR RESPONDENT]  

By: _________________________  

[ADDRESS]
TAB 1
EXECUTIVE SUMMARY

El Salvador is a constitutional multiparty republic. On February 3, voters elected Nayib Bukele as president for a five-year term. The election was generally free and fair, according to international observers. Free and fair municipal and legislative elections took place in 2018.

The National Civilian Police (PNC), overseen by the Ministry of Justice and Public Security, is responsible for maintaining public security, and the Ministry of Defense is responsible for maintaining national security. Although the constitution separates public security and military functions, it allows the president to use the armed forces “in exceptional circumstances” to maintain internal peace and public security “when all other measures have been exhausted.” The military is responsible for securing international borders and conducting joint patrols with the PNC. In 2016 then president Sanchez Ceren renewed the decree authorizing military involvement in police duties, a presidential order in place since 1996. Civilian authorities failed at times to maintain effective control over security forces.

Significant human rights issues included: allegations of unlawful killings of suspected gang members and others by security forces; forced disappearances by military personnel; torture by security forces; arbitrary arrest and detention by the PNC; harsh and life-threatening prison conditions; serious problems with the independence of the judiciary; widespread government corruption; violence against women and girls that was inconsistently addressed by authorities; security force violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals; and children engaged in the worst forms of child labor.

Impunity persisted despite government steps to dismiss and prosecute abusers in the security forces, executive branch, and justice system.

Organized criminal elements, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes and committed acts of murder, extortion, kidnapping, human trafficking, intimidation, and other threats and violence directed against police, judicial authorities, the business community, journalists, women, and members of vulnerable populations. In some cases authorities investigated and prosecuted persons accused of committing crimes and human rights abuses.
Section 1. Respect for the Integrity of the Person, Including Freedom from:

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

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

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

On September 7, a PNC officer in Soyapango, San Salvador Department, was arrested for shooting and killing a motorist who failed to stop his car when directed by the officer. At the initial hearing, the Eighth Peace Court of San Salvador released the officer from custody pending trial but required him to post $6,000 bail and wear an electronic tracking bracelet.

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

On October 16, nine police officers faced retrial before the First Court of Judgment of Santa Tecla for the 2016 murder of three alleged gang members and another person in Villas de Zaragoza, La Libertad Department. The case was pending as of November.
In November 2018 the trial court acquitted five police officers of aggravated homicide charges in the 2015 killing of a man at a farm in San Blas, San Jose Villanueva. This was the second trial of the five officers, whose initial acquittal was reversed on appeal. The Attorney General’s Office appealed the November 2018 acquittal, and as of September 16, the appeal was pending. As of July 2, authorities reported alleged gang members had killed 24 police officers and 12 soldiers.

On June 7, the director of the Institute for Human Rights at the University of Central America (IDHUCA) questioned the nomination of Mauricio Arriaza Chicas to be police director due to his past leadership in the Subdirectorate of Operational Areas, which included the Police Reaction Group (GRP) and the El Salvador Reaction Specialized Forces. The GRP was disbanded in February 2018 following the disappearance of female GRP member Carla Ayala after a GRP party in 2017. GRP officer Juan Josue Castillo Arevalo was accused of killing Ayala. Castillo Arevalo remained at large, and his former supervisor, Julio Cesar Flores Castro, was charged with breach of duty in June 2018 for failing to arrest Castillo Arevalo. On September 10, Flores Castro was acquitted of that charge and released from custody, based in part on his pending promotion in the PNC. The Attorney General’s Office continued prosecution of 14 other defendants, including 12 police officers and two civilians.

b. Disappearance

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

On August 27, a think tank, The Salvadoran Foundation for Social and Economic Development, presented a legal and institutional situation report covering the first half of the year, which noted that despite the decrease in homicide rates during that period, those figures may have actually underreported homicides, since reported disappearances during the first half of the year might include additional homicides. Local nongovernmental organization (NGO) PASIONISTAS reported that, as of June, there were 652 disappearances, compared with 2,457 in 2018. The Attorney General’s Office reported 2,234 cases of “deprivation of liberty” through October.
22, compared with 2,359 cases through October 22, 2018; however, this offense includes both disappearances and missing persons.

In July La Prensa Grafica newspaper reported it had received reports of 259 disappeared persons, of whom 173 were later found living, 11 were found dead, and 72 cases remained under investigation.

On April 23, the judge in the prosecution of the 1981 El Mozote massacre, in which almost 1,000 civilians were killed, issued an order adding three new charges, including a forced disappearance charge, against the 16 remaining defendants. The defendants appealed that order, which was affirmed by the intermediate appellate court. This was pending a further appeal (see section 1.e. for more information).

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

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

The law prohibits such practices, but there were reports of violations. As of August 22, the PDDH had received 33 complaints of torture or cruel or inhuman treatment by the PNC, nine by the armed forces, and seven by other public officials.

Reports of abuse and police misconduct came mostly from residents of metropolitan San Salvador and mainly from men and young persons. As of June the Office of the Police Inspector General reported it had received 775 complaints of general misconduct by police (including but not limited to torture or cruel or inhuman treatment) and taken disciplinary action against 120 police officers accused of misconduct.

On February 6, PNC officers allegedly tortured a juvenile male. According to the Attorney General’s Office, PNC members detained the individual in a police station in Coruna, Soyapango, San Salvador Department, for six days and accused him of receiving stolen property, although the PNC officers had no proof against the suspect. According to the victim, the police officers tortured him and stole $80 from him. As of October 29, three officers were in pretrial detention.
On March 8, six police officers from the Tactic Operative Section allegedly tortured and attempted to kill a young man by setting him on fire after accusing him of being a gang member in a rural neighborhood of Apopa, San Salvador Department. When the victim filed a complaint against the police officers with the Attorney General’s Office in Apopa, the prosecutor allegedly implied the young man’s gang affiliation had provoked the police response. In April, despite this initial hostility to the victim and possible gang affiliation, the Attorney General’s Office arrested and charged the police officers with attempted homicide and placed four of them in pretrial detention. In June the victim reported ongoing harassment against him and his family by other police officers. On September 20, a judge determined that four of the officers would stand trial solely on a torture charge.

On July 12, the Sentence Tribunal of Cojutepeque, Cuscatlan Department, convicted five police officers and four members of the armed forces of deprivation of freedom, sexual abuse, and threatening and torturing a young woman. The court sentenced them to three years in prison and fined each $1,000. The victim had reported the case to the Attorney General’s Office in January 2018.

**Prison and Detention Center Conditions**

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

Physical Conditions: Overcrowding, at 141 percent of capacity as of September, was a serious threat to prisoners’ health and welfare. For example, as of August 22, the PDDH reported that in one prison, 1,654 inmates were held in facilities designed for 600.

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

Gangs remained prevalent in prisons. As of September 14, approximately 55 percent (18,293 prisoners) of the prison population were active or former gang members. As of August 29, extraordinary measures designed to interrupt gang communications and coordination between imprisoned leaders and gang members outside the prisons were in effect in eight prisons. The measures reduced the smuggling of weapons, drugs, and other contraband such as cell phones and SIM cards into prisons; however, contraband remained a problem, at times with complicity from prison officials.
On June 20, the minister of justice and the director of prisons imposed a state of emergency in 19 prisons at President Bukele’s request and as part of his security program, the Plan for Territorial Control. Under the state of emergency, prisoners were not able to receive any type of visit, were confined to their cells 24 hours a day, were not permitted to visit recreational or medical facilities except in extraordinary circumstances, did not receive mail or have access to radios or televisions, and did not engage in work activities. In addition, beginning on June 21, the minister and the director used their legal authority to completely disable cell phone signals inside and around prisons. The Court of Penitentiary Surveillance and Penalty Execution subsequently ratified the state of emergency. On September 2, President Bukele instructed the minister and the director to lift the state of emergency in prisons. Inmates’ right to receive visitors was gradually restored in prisons that did not hold inmates affiliated with gangs.

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

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

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

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

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

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

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

d. Arbitrary Arrest or Detention

Although the constitution prohibits arbitrary arrest and detention, there were numerous complaints that the PNC and military forces carried out arbitrary arrests. NGOs reported that the PNC arbitrarily arrested and detained individuals on suspicion of gang affiliation. According to these NGOs, the accused were ostracized by their communities upon their return.

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

**Arrest Procedures and Treatment of Detainees**

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

The law permits release on bail for detainees who are unlikely to flee or whose release would not impede the investigation of the case. The bail system functioned adequately in most cases. The courts generally enforced a ruling that interrogation without the presence of counsel is coercive and that evidence obtained in such a manner is inadmissible. As a result, PNC authorities typically delayed questioning until a public defender or an attorney arrived. The constitution permits the PNC to hold suspects for 72 hours before presenting them to court. The law allows up to six months for investigation of serious crimes before requiring either a trial or
dismissal of the case; this period may be extended by an appeals court. Many cases continued beyond the legally prescribed period.

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

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

**e. Denial of Fair Public Trial**

Although the constitution provides for an independent judiciary, the government did not always respect judicial independence, and the judiciary was burdened by inefficiency and corruption. For example, when employees of several executive branch agencies targeted for closure in June filed a complaint with the Supreme Judicial Court, President Bukele warned the Supreme Court justices not to interfere with the case.

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

In February, in a renewed effort to shield the perpetrators of war crimes and human rights abuses committed during the country’s 1980-92 civil war, a group of influential legislators proposed a draft national reconciliation law. Despite Constitutional Court rulings in 2016 and 2018 that expressly prohibited a broad and unconditional amnesty, the proposed bill would have granted amnesty to several high-level officials who enjoyed immunity from prosecution due to their positions in the recent administration of President Salvador Sanchez Ceren. Victims’ rights groups, other civil society actors, and the international community successfully campaigned against the proposed bill, and President-elect Bukele stated his strong opposition to an amnesty bill and expressed his support for additional consultation with victims. On May 29, the Inter-American Court of Human Rights ordered the government to immediately suspend consideration of
the proposed law. The proposed bill eventually lost support among legislators and failed to reach a floor vote.

Despite a June 2018 Constitutional Court order directing it to release military records related to the El Mozote killings and serious civil war crimes, the Ministry of Defense had not produced the requested documentation as of November 12. On November 1, President Bukele stated that he was committed to the truth and that he would release the records. Previously, the Ministry of Defense claimed the El Mozote archive records were destroyed in an accidental warehouse fire. Civil society and victims’ groups continued to press for release of these archives.

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

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

On April 23, the judge in the El Mozote prosecution issued an order adding three new charges against the 16 remaining defendants: Torture, forced disappearance, and forced displacement. He also imposed several provisional measures on the defendants, including a prohibition on leaving the country or contacting victims, and a requirement that the defendants physically appear in court biweekly. The defendants appealed these rulings, which were affirmed by an intermediate appellate court. On February 14, the Legislative Assembly approved a transitory law establishing mechanisms designed to allow family members to be added to the El Mozote victims’ registry.

A number of women charged under the 1998 penal code, which makes it illegal to perform, self-induce, or consent to an abortion under any circumstances, asserted they had suffered miscarriages, stillbirths, and other medical emergencies during childbirth. Legal experts pointed to serious flaws in forensics collection and medical interpretation in many of these cases.

On August 16, Evelyn Hernandez was released from prison after serving two years on charges that she attempted to kill her baby in 2016. The court opined that the evidence presented by the prosecution was insufficient to support the charges, relying heavily on an autopsy of the baby that showed it had died because of
swallowing meconium. The prosecutor had requested a 40-year prison sentence. On September 6, the Attorney General’s Office filed an appeal of the order acquitting her.

Between January 1 and September 13, the justice system released nine women accused or convicted of infanticide of their unborn or newborn children. Sixteen other women remained in custody for infanticide.

**Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right, although some trial court judges were subject to political, economic, or other corrupting influences. By law juries hear only a narrow group of cases, such as environmental complaints. After the jury determines innocence or guilt, a panel of judges decides the sentence.

Defendants have the right to be present in court (except in virtual trials; see below), question witnesses, and present witnesses and evidence. The constitution further provides for the presumption of innocence, the right to be informed promptly and in detail of charges, the right to a trial without undue delay (seldom observed), protection from self-incrimination, the right to communicate with an attorney of choice, the right to adequate time and facilities to prepare a defense, freedom from coercion, the right to appeal, and government-provided legal counsel for the indigent.

In criminal cases a judge may allow a private plaintiff to participate in trial proceedings (calling and cross-examining witnesses, providing evidence, etc.), assisting the prosecuting attorney in the trial procedure. Defendants have the right to free assistance of an interpreter. Authorities did not always respect these legal rights and protections. Although a jury’s verdict is final, a judge’s verdict is subject to appeal. Trials are public unless a judge seals a case.

While implemented in 2015 to expedite fair trials, virtual trials still involved delays of up to eight months, according to a July 2018 *La Prensa Grafica* report. On May 6, the Legislative Assembly passed a reform that allows for, when necessary and appropriate, virtual trials for gang membership charges to proceed without the defendants present, although with defense counsel participating. The reform also states that the judicial and prison authorities must provide a video copy of the virtual trial to the defendants within 72 hours so that they may exercise their right to defense.
Virtual trials often involved group hearings before a judge, with defendants unable to consult with their defense lawyers in real time. The penitentiary code reforms passed in August 2018 allow defense lawyers to attend a hearing without the defendant’s presence. Human rights groups questioned the constitutionality of the reform.

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

**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 generally were enforced. Most attorneys pursued criminal prosecution and later requested civil compensation.

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

The constitution prohibits such actions. In contrast with 2018, there were no reports the state intelligence service tracked journalists or collected information about their private lives.

In many neighborhoods, armed groups and gangs targeted certain persons and interfered with privacy, family, and home life. Efforts by authorities to remedy these situations were generally ineffective.

**Section 2. Respect for Civil Liberties, Including:**
a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, although the government at times did not respect this right. 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.

Press and Media, Including Online Media: Allegations continued that the government retaliated against members of the press for criticizing certain policies. On September 6, President Bukele’s press and communications staff banned journalists of digital newspapers *El Faro* and *Factum Magazine* from a press conference in which President Bukele announced the launch of the Salvadoran Commission Against Corruption and Impunity (CICIES). The Bukele administration stated that journalists from both outlets had acted improperly in past press conferences, including shouting questions at speakers and behaving disrespectfully toward staff. On September 11, *Factum Magazine* journalist Rodrigo Baires was denied entry to a press conference at the same location. The refusals to admit journalists to presidential press conferences drew widespread criticism and concern regarding freedom of expression and freedom of the press, including by the United Nations, Organization of American States (OAS), and Committee to Protect Journalism. Following the criticism, a *Factum Magazine* reporter was allowed to attend and ask questions at a September 12 presidential press conference.

Violence and Harassment: On July 3, the Salvadoran Journalist Association (APES) reported on the rise of cyber intimidation and attacks against journalists. APES specifically criticized President Bukele for seeking to intimidate journalists Mariana Belloso and Roxana Sandoval. After they criticized the Bukele administration, accounts on social media associated with Bukele supporters targeted Belloso and Sandoval with insults, intimidation, threats, and attempts to discredit their work.

As of August 22, the PDDH had received six complaints of violence against journalists by government officials. APES reported 77 cases of aggressions against journalists during the year, an increase of 18 percent over the 65 cases reported in 2018.

Censorship or Content Restrictions: Government advertising accounted for a significant portion of press advertising income. According to media reports, the Bukele administration cancelled all government advertising in the newspaper *El*
Diario de Hoy after it reported on the banning of journalists from El Faro and Factum Magazine from President Bukele’s press conferences. According to APES, media practiced self-censorship, especially in reporting on gangs and narcotics trafficking.

Nongovernmental Impact: APES noted journalists who reported on gangs and narcotics trafficking were subject to kidnappings, threats, and intimidation. Observers reported that gangs also charged print media companies to distribute in their communities, costing media outlets as much as 20 percent of their revenues.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights, except with respect to labor unions (see section 7.a.).

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at https://www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights, although in many areas the government could not guarantee freedom of movement due to criminal gang activity.

In-country Movement: The major gangs (MS-13 and two factions of 18th Street) controlled their own territory. Gang members did not allow persons living in
another gang’s area to enter their territory, even when travelling via public transportation. Gangs forced persons to present government-issued identification cards (containing their addresses) to determine their residence. If gang members discovered that a person lived in a rival gang’s territory, that person risked being killed, beaten, or not allowed to enter the territory. Bus companies paid extortion fees to operate within gang territories, often paying numerous fees for the different areas in which they operated. The extortion costs were passed on to customers.

As of October 22, the Attorney General’s Office had filed 1,515 new cases charging an illegal limitation on the freedom of movement, an increase from the 920 new cases brought in the same period 2018. The Attorney General’s Office reported 50 convictions for such charges through October 22, compared with 13 through October 22, 2018.

**e. Internally Displaced Persons**

As of August the PDDH reported 148 complaints of forced displacement, 28 of which arose from the same incident. Nearly all of the complaints were from gang-controlled territories, with 84 cases from San Salvador, although in three cases, the complaint alleged the PNC caused the displacement. As of October 2018, the government acknowledged that 1.1 percent of the general population (approximately 68,060 persons) was internally displaced. The Office of the UN High Commissioner for Refugees estimated there were 71,500 internally displaced persons (IDPs) and reported the causes of internal displacement included abuse, extortion, discrimination, and threats.

As of October 24, the Legislative Assembly had failed to pass court-ordered legislation addressing internal displacement by no later than January 2019. In July 2018 the Constitutional Chamber of the Supreme Court ruled that the government violated the constitution by not recognizing forced displacement or providing sufficient aid to IDPs. The court also called on the government to retake control of gang territories, develop protection protocols for victims, and uphold international standards for protecting victims.

**f. Protection of Refugees**

Access to Asylum: The law provides for granting asylum or refugee status, including an established system for providing protection to refugees. Between January 1 and August 15, the Ministry of Foreign Affairs received 10 asylum petitions, compared with 31 refugee/asylum claims in 2018.
g. Stateless Persons

Not applicable.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The most recent presidential election occurred on February 3. Nayib Bukele, of the center-right Grand Alliance for National Unity (GANA) party, was elected to a five-year term. The election reports published by the OAS and the EU electoral mission noted the election generally met international standards.

While the law prohibits public officials from campaigning in elections, the provision lacked consistent enforcement.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. Although the Supreme Court investigated corruption in the executive and judicial branches and referred some cases to the Attorney General’s Office for possible criminal indictment, impunity remained endemic, with courts issuing inconsistent rulings and failing, in particular, to address secret discretionary accounts within the government.

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

Corruption: In January the Supreme Court issued an order limiting its Probity Section investigations of public officials to those who had left public office within the last 10 years. On May 6, Factum Magazine published an article underlining that, due to this decision, 79 cases were due to expire on May 31. According to Factum, in four of these, the Probity Section had already completed the investigation, and it required only a decision from the Supreme Court. The four investigations involved former Farabundo Marti National Liberation Front (FMLN) legislator Sigfrido Reyes; GANA legislator Guillermo Gallegos (regarding actions taken in 2006-09); former vice president Oscar Ortiz, when he served as FMLN legislator in 1994 and 1997; and also of Ortiz when he served as Santa Tecla mayor in 2006 and 2009. As of June 30, the Supreme Court’s Probity Section had opened six illicit enrichment cases against public officers.

On June 20, the Attorney General’s Office filed a corruption complaint against Rafael Hernan Contreras, former chief of the Court of Accounts, one of the six agencies that oversees corruption investigations and cases. According to the attorney general, Contreras issued a false document that certified former president Antonio Saca, serving 10 years in prison for misappropriating more than $300 million, had managed funds effectively during his presidency. Saca still faced charges for bribing a judicial official for access to information. Six other officials from the Saca administration also received prison sentences in September 2018 for misappropriating public funds while in government.

In December 2018 a judge sentenced former attorney general Luis Martinez (2012-15) to five years in prison and ordered him to pay $125,000 in restitution on corruption-related charges of purposely and unlawfully disclosing recordings obtained in a wiretap investigation. In 2016 Martinez was fined $8,000 by the Government Ethics Tribunal for inappropriately accepting gifts from businessman Enrique Rais. Martinez faced a number of pending corruption charges, including allegations he took bribes from former president Mauricio Funes, who received citizenship from Nicaragua in July after fleeing corruption charges in El Salvador.
The Attorney General’s Office reportedly investigated past misuse of a presidential discretionary fund, established in 1989 and used by six presidents, to fund the national intelligence service. The fund, totaling one billion dollars since the accounts’ inception, had never been audited by the Court of Accounts. Former presidents Saca and Funes allegedly misappropriated more than $650 million from this fund during their terms in office.

As of September 16, the Ethics Tribunal reported that between September 2018 and August 21, it had opened 438 administrative proceedings against 426 public officials. During that same period, the tribunal imposed fines against 41 sitting and former public officials. As of September 3, the Attorney General’s Office had filed claims against three judges for committing crimes involving corruption or for violating public administration laws.

Financial Disclosure: The illicit enrichment law requires appointed and elected officials to declare their assets to the Probity Section of the Supreme Court. The law establishes fines for noncompliance that range from $11 to $571. The declarations were not available to the public unless requested by petition. The Supreme Court established three criteria for selecting investigable cases: the age of the case (that is, proximity to the statute of limitations); relevance of the official’s position; and seriousness and notoriety of the alleged illicit enrichment.

The law requires public officers to present asset certification reports no later than 60 days after taking a new position. In August the Supreme Court Probity Section reported that 8,974 public officers had failed to present their assets certifications in the 10 previous years. This included 16 legislators who took office in May 2018 and who had failed to present their assets reports by June 30, 2019.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to these groups, officials expressed reluctance to discuss certain issues, such as extrajudicial killings and IDPs, with the PDDH.

Government Human Rights Bodies: The principal human rights investigative and monitoring body is the autonomous PDDH, whose ombudsman is nominated by the Legislative Assembly for a three-year term. The PDDH regularly issued
advisory opinions, reports, and press releases on prominent human rights cases. The PDDH generally enjoyed government cooperation and was considered generally effective except on problems relating to criminal groups and gangs.

The PDDH maintained a constructive dialogue with the Office of the President. The government publicly acknowledged receipt of reports, although in some cases it did not act on recommendations, which are nonbinding. The PDDH faced threats, including two robberies at its headquarters targeting computers containing personally identifiable information.

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

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

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, and the criminal code’s definition of rape may apply to spousal rape, at the judge’s discretion. The law requires the Attorney General’s Office to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to withdraw the criminal charge. The penalty for rape is generally imprisonment for six to 10 years. Laws against rape were not effectively enforced.

The law prohibits domestic violence and generally provides for sentences ranging from one to three years in prison, although some forms of domestic violence carry higher penalties. The law also permits restraining orders against offenders. Laws against domestic violence remained poorly enforced, and violence against women, including domestic violence, remained a widespread and serious problem. In July 2018 the Salvadoran Organization of Women for Peace (ORMUSA) reported that in 2016 and 2017, only 5 percent of the 6,326 reported crimes against women went to trial.

On April 24, a woman died in Guazapa after being beaten by her husband days earlier. The Attorney General’s Office charged her husband with femicide. According to the woman’s children, her husband had been previously deported.
from the United States after being implicated in a similar case of violence against women.

**Sexual Harassment:** The law prohibits sexual harassment and establishes sentences of five to eight years’ imprisonment. Courts may impose fines in addition in cases in which the perpetrator held a position of trust or authority over the victim. The law mandates that employers take measures against sexual harassment and create and implement preventive programs. The government, however, did not enforce sexual harassment laws effectively.

On April 4, following an abbreviated trial, the Third Sentence Tribunal of San Salvador sentenced a PNC chief inspector to three years in prison following his conviction for sexual assault, sexual harassment, and threats of violence against three female subordinates.

**Coercion in Population Control:** There were no reports of coerced abortion or involuntary sterilization.

**Discrimination:** The constitution grants women and men the same legal rights, but women did not receive equal pay or employment opportunities. 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, but employees generally did not report such violations due to fear of employer reprisals.

On March 6, the Permanent Working Group for Labor, Justice, and Labor Unions reported that more than 100 women had been arbitrarily fired from different municipal governments, including in San Salvador, Santa Ana, Ciudad Delgado, and Ilopango. On August 28, ORMUSA reported that of 1,090 women who participated in its survey, 18 percent claimed to have been victims of discrimination in their workplace, of whom 8 percent specifically identified their gender as the basis for the discrimination.

**Children**

**Birth Registration:** Children derive citizenship by birth within the country and from their parents. The law requires parents to register a child within 15 days of birth or pay a $2.85 fine. Failure to register can result in denial of school enrollment.
Child Abuse: Child abuse remained a serious and widespread problem. The law gives children the right to petition the government without parental consent. Penalties for breaking the law include losing custody of the child and three to 26 years’ imprisonment, depending on the nature of the abuse. As of August the PNC had received 2,081 child abuse complaints.

On February 19, Judge Jaime Escalante was charged with the crime of sexual aggression against a 10-year-old female child. On March 4, the Legislative Assembly voted to remove his immunity from criminal prosecution. On October 31, the Criminal Chamber determined that Escalante’s actions did not constitute a felony but rather a misdemeanor, because the encounter happened quickly and in a crowded place. The attorney general appealed the decision and asked the Criminal Chamber to overturn the ruling, admit all evidence, and send Escalante to trial.

According to a 2016 National Health Survey, more than half of households punished their children physically and psychologically.

Early and Forced Marriage: The legal minimum age for marriage is 18. The law bans child marriage to prevent child abusers from using legal technicalities to avoid imprisonment by marrying their underage victims. The law allows for marriage of a minor in cases of pregnancy.

Sexual Exploitation of Children: Child sex trafficking is prohibited by law. Prison sentences for convicted traffickers stipulate imprisonment from six to 10 years.

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

The law prohibits paying anyone younger than 18 for sexual services. The law prohibits participating in, facilitating, or purchasing materials containing child pornography and provides for prison sentences of up to 16 years for violations. Despite these provisions, sexual exploitation of children remained a problem.

Anti-Semitism

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

Trafficking in Persons

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

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The National Council for Comprehensive Attention to Persons with Disability (CONAIPD), composed of representatives from multiple government entities, is the governmental agency responsible for protecting disability rights, but it lacks enforcement power. According to CONAIPD, the government did not effectively enforce legal requirements for access to buildings, information, and communications for persons with disabilities. Few access ramps or provisions for the mobility of persons with disabilities existed.

According to CONAIPD, there is no mechanism to verify compliance with the law requiring businesses and nongovernment agencies to hire one person with disabilities for every 25 hires. CONAIPD reported employers frequently fired persons who acquired disabilities and would not consider persons with disabilities for work for which they qualified. Further, some academic institutions would not accept children with disabilities.

No formal system existed for filing a discrimination complaint involving a disability with the government.

Indigenous People

Indigenous communities reported they faced racial discrimination and economic disadvantage. According to community leaders, gangs pushed out of urban centers by police mounted incursions into and appropriated indigenous land. They also reported gang members threatened their children for crossing gang territorial lines artificially drawn across ancestral indigenous land, forcing some children to drop out of school or leave home.
According to the 2007 census (the most recent), there were 60 indigenous groups, making up 0.4 percent of citizens, mainly from the Nahua-Pipl, Lencas, Cacaopera (Kakwira), and Maya Chorti groups. A 2014 constitutional amendment recognizes the rights of indigenous peoples to maintain their cultural and ethnic identity. The law, however, does not include the right to be consulted regarding development and other projects envisioned on indigenous land, nor does it provide indigenous peoples rights to share in revenue from exploitation of natural resources on historically indigenous lands. The government did not demarcate any lands as belonging to indigenous communities. Because few indigenous individuals possessed title to land, opportunities for bank loans and other forms of credit remained limited.

The law provides for the preservation of languages and archeological sites. During the year the municipalities of Cacaopera and Yucuaiquin, in the eastern part of the country, approved special laws to recognize their indigenous cultural heritage.

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

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

On January 31, a transsexual woman, Camila Diaz Cordova, identified in her national identification card as Nelson Arquimides Diaz Cordova, was allegedly killed by three police officers with the National Civil Police’s 911 System in San Salvador. In July, at an initial hearing in the Fifth Peace Court, the Prosecutor’s Office accused the officers of committing a “hate crime.”

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

Media reported killings of LGBTI community members in October and November. On October 27, Anahy Rivas, a 27-year-old transwoman, was killed after being assaulted and dragged behind a car. Jade Diaz, a transwoman who disappeared on November 6, was assaulted prior to her killing. Her body was found submerged in a river. On November 16, Manuel Pineda, known as Victoria, was beaten to death and her body left naked in the street in Francisco Menendez, Ahuachapan Department. Uncensored photographs of the body were circulated on social media.

In 2017 the Supreme Electoral Tribunal announced guidelines stating individuals cannot be denied the right to vote because the photograph on their identification card does not match their physical appearance. Nonetheless, media documented cases of transgender persons who faced harassment while voting in the presidential elections because their name and photograph on their national identification did not match their expression of gender identity.

**HIV and AIDS Social Stigma**

Although the law prohibits discrimination on the basis of HIV/AIDS status, Entre Amigos, an LGBTI NGO, reported HIV-related discrimination was widespread. As of August 31, the PDDH reported one alleged case of discrimination against persons with HIV or AIDS that purportedly took place at a public health union in La Union Department.

**Section 7. Worker Rights**

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

The law provides for the right of most workers to form and join independent unions, to strike, and to bargain collectively. The law also prohibits antiunion discrimination, although it does not require reinstatement of workers fired for union activity. Military personnel, national police, judges, and high-level public officers may not form or join unions. Workers who are representatives of the employer or in “positions of trust” also may not serve on a union’s board of directors. The law does not define the term “positions of trust.” The labor code
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does not cover public-sector workers and municipal workers, whose wages and terms of employment are regulated by the 1961 civil service law. Only citizens may serve on unions’ executive committees. The labor code also bars individuals from holding membership in more than one trade union.

Unions must meet complex requirements to register, including having a minimum membership of 35 individuals. If the Ministry of Labor denies registration, the law prohibits any attempt to organize for up to six months following the denial. Collective bargaining is obligatory only if the union represents the majority of workers.

The law contains cumbersome and complex procedures for conducting a legal strike. The law does not recognize the right to strike for public and municipal employees or for workers in essential services. The law does not specify which services meet this definition, and courts therefore apply this provision on a case-by-case basis. The law requires that 30 percent of all workers in an enterprise must support a strike for it to be legal and that 51 percent must support the strike before all workers are bound by the decision to strike. Unions may strike only to obtain or modify a collective bargaining agreement or to protect the common professional interests of the workers. They must also engage in negotiation, mediation, and arbitration processes before striking, although many unions often skipped or expedited these steps. The law prohibits workers from appealing a government decision declaring a strike illegal.

In lieu of requiring employers to reinstate illegally dismissed workers, the law requires employers to pay the workers the equivalent of 30 days of their basic salary for each year of service. The law specifies 30 reasons for which an employer can terminate a worker’s contract without triggering any additional responsibilities, including consistent negligence, leaking private company information, or committing immoral acts while on duty. An employer may also legally suspend workers, including for reasons of economic downturn or market conditions. According to the Ministry of Labor, through September 30, 7,495 persons had filed complaints of dismissal without justification. In addition, the Ministry of Labor reported that from January 1 through June, it received 15 complaints of failure to pay wages owed, one complaint of an employer’s improper retention of social security contributions, and eight complaints of a failure to pay overtime.

The government did not effectively enforce the laws on freedom of association and the right to collective bargaining. Penalties remained insufficient to deter
violations. Judicial procedures were subject to lengthy delays and appeals. According to union representatives, the government inconsistently enforced labor rights for public workers, maquiladora/textile workers, food manufacturing workers, subcontracted workers in the construction industry, security guards, informal-sector workers, and migrant workers. Between January 1 and June 3, the ministry received 36 claims of violations for labor discrimination.

As of August 15, the inspector general of the Ministry of Labor had reported 124 alleged violations of the right of freedom of association, including 72 such violations against members of labor unions and 39 resulting complaints of discrimination.

Unions functioned independently from the government and political parties, although many generally were aligned with the traditional political parties of ARENA and the FMLN. Workers at times engaged in strikes regardless of whether the strikes met legal requirements. On June 10, the International Labor Organization Conference Committee on the Application of Standards discussed, for the fifth consecutive year, the nonfunctioning of the country’s tripartite Higher Labor Council. In September the Ministry of Labor reactivated the council.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government generally did not effectively enforce such laws. Penalties were not sufficient to deter violations. The lack of sufficient resources for inspectors reduced their ability to enforce the law fully. The Ministry of Labor did not report on incidents of forced labor. Gangs subjected children to forced labor in illicit activities, including selling or transporting drugs (see section 7.c.).

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

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than 14 but does not prohibit all of the worst forms of child labor. The law allows children between the ages of 14 and 18 to engage in light work if it does not damage the child’s health or development or interfere with compulsory education. The law prohibits children younger than 16 from working more than six hours per day and 34 hours per week; those younger than 18 are prohibited from working at night or in
occupations considered hazardous. The Ministry of Labor maintained a list of types of work considered hazardous, which included repairing heavy machinery, mining, handling weapons, fishing and harvesting mollusks, and working at heights above five feet while doing construction, erecting antennas, or working on billboards. Children age 16 and older may 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.

Child labor remained a serious and widespread problem. According to the Ministry of Labor, the percentage of children and adolescents between the ages of five and 17 who were working decreased from 8.4 percent in 2017 to 6.8 percent in 2018.

The Ministry of Labor is responsible for enforcing child labor laws but did not effectively enforce the law. Penalties for violations of child labor laws were insufficient to act as a deterrent in the informal sector. Labor inspectors focused almost exclusively on the formal sector. According to the ministry, from January through August, officials conducted 669 child labor inspections in the formal sector that discovered 10 minors working, all of whom were authorized to work. By comparison, as of September 2017, according to the ministry, there were 140,700 children and adolescents working, of whom 91,257 were employed in “dangerous work” in the informal sector. No information on any investigations or prosecutions by the government was available. The ministry did not effectively enforce child labor laws in the informal sector, which represented almost 75 percent of the economy.

There were reports of children younger than 16 engaging in the worst forms of child labor, including in coffee cultivation, fishing, shellfish collection, and fireworks production. Children were subjected to other worst forms of child labor, including commercial sexual exploitation (see section 6, Children) and recruitment into illegal gangs to perform illicit activities in the arms and narcotics trades, including committing homicide. Children were engaged in child labor, including domestic work, the production of cereal grains and baked goods, cattle raising, and sales. Orphans and children from poor families frequently worked as street vendors and general laborers in small businesses despite the presence of law enforcement officials.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings.
d. Discrimination with Respect to Employment and Occupation

The constitution, labor laws, and state regulations prohibit discrimination on the basis of race, color, sex, religion, political opinion, national origin (except in cases determined to protect local workers), social origin, gender, disability, language, or HIV-positive status. The government did not effectively enforce those laws and regulations. Penalties were insufficient to deter violations. Sexual orientation and gender identity are not included in the constitution or labor law, although the PDDH and the Ministry of Labor actively sought to protect workers against discrimination on those grounds.

Discrimination in employment and occupation occurred with respect to gender, disability, and sexual orientation or gender identity (see sections 6 and 7.e.). According to the Ministry of Labor, migrant workers have the same rights as citizens, but the ministry did not enforce them.

As of June the Ministry of Labor had received one complaint of disability discrimination and six complaints of gender-based discrimination. In August the Legislative Assembly approved an “equal job, equal pay” reform to the labor code that provides for equal pay for women and persons with disabilities who perform the same duties as others. The law, reformed in 2018, prohibits the dismissal of women returning from maternity leave for up to six months.

On February 14, the Legislative Assembly reformed the labor code in order to grant employment stability to persons suffering from chronic diseases that require frequent medical checks and rehabilitation. The reform applies to women who are pregnant and ensures job security during pregnancy. The guarantee of job stability starts from the issuance of the corresponding medical diagnosis and is extended for three months after the respective medical treatment has ended, except for the causes established in Article 50 of the labor code, which include serious immoral acts, breaches of confidentiality and recurring negligence.

e. Acceptable Conditions of Work

There is no national minimum wage; the minimum wage is determined by sector. In 2018 a minimum wage increase went into effect that included increases of nearly 40 percent for apparel assembly workers and more than 100 percent for workers in coffee and sugar harvesting. All of these wage rates were above poverty income levels. The government proved more effective in enforcing the minimum wage law in the formal sector than in the informal sector. As of June the
The Ministry of Labor had registered three complaints of noncompliance with the minimum wage.

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, which is to be paid at a rate of double the usual hourly wage. The law mandates that full-time employees receive pay for an eight-hour day of rest in addition to the 44-hour normal workweek. The law provides that employers 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, such as maids and gardeners, are obligated to work on holidays if their employer makes this request, but they are entitled to double pay in these instances. The government did not adequately enforce these laws.

The Ministry of Labor is responsible for setting and enforcing workplace safety standards, and the law establishes a tripartite committee to review the standards. The law requires employers to take steps to meet health and safety requirements in the workplace, including providing proper equipment and training and a violence-free environment. Employers who violate most labor laws could be penalized, but penalties were not sufficient to deter violations; some companies reportedly found it more cost effective to pay the fines than to comply with the law. The law promotes occupational safety awareness, training, and worker participation in occupational health and safety matters. While the laws were appropriate for the main industries, the government did not effectively enforce them.

Unions reported the ministry failed to enforce the law for subcontracted workers hired for public reconstruction contracts. The government provided its inspectors updated training in both occupational safety and labor standards. As of June the ministry conducted 13,315 inspections, in addition to 3,857 inspections to follow up with prior investigations, and had levied $777,000 in fines against businesses.

The number of inspectors was insufficient to deter violations and allegations of corruption among labor inspectors continued. The Labor Ministry received complaints regarding failure to pay overtime, minimum wage violations, unpaid salaries, and cases of employers illegally withholding benefits (including social security and pension funds) from workers.

Reports of overtime and wage violations existed in several sectors. According to the Labor Ministry, employers in the agricultural sector did not generally grant
annual bonuses, vacation days, or days of rest. Women in domestic service and the industrial manufacturing for export 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 and domestic service reportedly experienced violations of wage, hour, and safety laws. According to ORMUSA, apparel companies violated women’s rights through occupational health violations and unpaid overtime. There were reports of occupational safety and health violations in other sectors, including reports that a very large percentage of buildings did not meet safety standards set by the General Law on Risk Protection. The government proved ineffective in pursuing such violations.

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

Through September 30, the Ministry of Labor reported 6,771 workplace accidents. These included 3,069 accidents in the services sector, 2,090 in the industrial sector, 785 in the commercial sector, 605 in the public sector, and 222 in the agricultural sector. The ministry did not report any deaths from workplace accidents.

Workers may legally remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities lacked the ability to protect employees in this situation effectively.
EL SALVADOR 2018 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

El Salvador is a constitutional multiparty republic. Municipal and legislative elections held in March were generally free and fair, according to international observers, although slow tabulation contributed to reporting delays. Free and fair presidential elections took place in 2014.

Civilian authorities failed at times to maintain effective control over security forces.

Human rights issues included allegations of unlawful killings of suspected gang members and others by security forces; forced disappearances by military personnel; torture by security forces; harsh and life-threatening prison conditions; arbitrary arrest and detention; lack of government respect for judicial independence; widespread government corruption; violence against women and girls that was infrequently addressed by the authorities, as well as security force violence against lesbian, gay, bisexual, transgender, and intersex individuals; and children engaged in the worst forms of child labor.

Impunity persisted despite government steps to dismiss and prosecute some in the security forces, executive branch, and justice system who committed abuses.

Organized criminal elements, including local and transnational gangs and narcotics traffickers, were significant perpetrators of violent crimes and committed acts of murder, extortion, kidnapping, human trafficking, intimidation, and other threats and violence directed against police, judicial authorities, the business community, journalists, women, and members of vulnerable populations.

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

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

There were no reports that the government or its agents committed politically motivated killings. There were reports, however, of security force involvement in extrajudicial killings of suspected gang members. As of July 31, the Office of the Human Rights Ombudsman (PDDH) announced it was investigating 22 complaints
against police officers, prison guards, and personnel of the Attorney General’s Office for such killings.

The case continued against nine police officers charged in September 2017 with aggravated homicide and concealment stemming from the killing of five persons. Three of the accused were members of the now decommissioned Police Reaction Group (GRP), and police claimed at the time of the events that the deaths were justified homicides.

On March 2, the Attorney General’s Office appealed the September 2017 acquittal of five police officers for aggravated homicide charges in the 2015 killing of a man at a farm in San Blas, San Jose Villanueva. The judge had ruled that the prosecutors failed to prove which of the five officers was specifically responsible for firing the fatal shot and likewise failed to prove conspiracy. On May 4, the Fourth Appellate Court of Appeals confirmed it would retry the case.

On February 23, police authorities in coordination with INTERPOL arrested Jaime Ernesto Bonilla Martinez, who lived in Texas, for participating in at least eight homicides as part of 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.

As of October 25, alleged gang members had killed 21 police officers. On August 21, the Organized Crime Court convicted 61 MS-13 members of homicide, extortion, illicit trafficking, and conspiracy to kill police officers, among other crimes.

b. Disappearance

There were reports alleging that members of security and law enforcement were involved in unlawful disappearances. Since March 2017 law enforcement agencies had not released data on disappearances, citing a discrepancy between data collected by police and the Attorney General’s Office.

On March 7, the Constitutional Chamber of the Supreme Court ruled that the armed forces were responsible for investigating the disappearance of two 17-year-old boys in Ilopango in 2014. According to the court, seven soldiers detained and
searched them, tied their hands with their shoelaces, and took them to Colonia Santa Maria, which was controlled by a rival gang. The two youths missed school that afternoon and were not seen thereafter. The case was ongoing.

In May 2017 a Sonsonate court convicted five soldiers of forced disappearance committed in 2014 and sentenced them to eight years’ imprisonment. Their defense attorneys filed an appeal, and the case remained ongoing. In January the Constitutional Chamber found the military in contempt of their August 2017 order that the Ministry of Defense investigate and report on civilian deaths caused by the military.

On September 1 and in December 2017, the Constitutional Chamber issued two sentences in forced disappearance cases from 1982. The Constitutional Chamber determined that investigations should be carried out on the whereabouts of the victims and underlined the state’s responsibility in ensuring an unobstructed investigation. The chamber noted that the Ministry of Defense and the chief of the joint chiefs of staff of the armed forces were uncooperative in the investigation.

As of October the attorney general had opened investigations into 12 instances of forced disappearance during the 1980-92 civil war.

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

The law prohibits such practices, but there were reports of violations. As of July 31, the PDDH received 18 complaints of torture or cruel or inhuman treatment by the National Civil Police (PNC), the armed forces, and other public officials.

On May 29, a court recommended that colonels Hector Solano Caceres and David Iglesias Montalvo, along with Lieutenant Colonel Ascencio Sermeno face charges for homicide, bribery, and conspiracy for ordering the torture of two men in 2016 in Apaneca. In 2017 six soldiers were convicted in the same case.

Prison and Detention Center Conditions

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

Physical Conditions: Overcrowding remained a serious threat to prisoners’ health and welfare. As of June 30, the PDDH reported that think tank Salvadoran
Foundation for Economic and Social Development reported 38,849 inmates were being held in facilities designed for 18,051 inmates.

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

In June the Salvadoran Institute for Child Development (ISNA) reported 945 juveniles in detention, with 274 of those awaiting trial. Of those, 356 were held on homicide charges, 465 for extortion, 313 for drug-related crimes, and 143 for gang membership. As of July ISNA reported that three minors were killed by gang members while in detention, compared with nine in 2017. ISNA also reported that as of June, seven minors were victims of trafficking in persons, compared with 18 in 2017.

Gangs remained prevalent in prisons. As of September 2017, detention centers held 17,614 current or former gang members, or 46 percent of the prison population. So-called extraordinary measures were designed to interrupt gang communications and coordination between imprisoned leaders and gang members outside the prisons. Smuggling of weapons, drugs, and other contraband such as cell phones and cell phone SIM cards was reduced but remained a problem in the prisons, at times with complicity from prison officials.

Law enforcement officials credited the extraordinary measures with a 45 percent reduction in homicides. The PDDH and human rights groups faulted the measures for lacking judicial oversight. On August 16, the Legislative Assembly formalized some elements of the extraordinary measures as part of a reformed penitentiary code, which now allows supervised family visits.

In many facilities provisions for sanitation, potable water, ventilation, temperature control, medical care, and lighting were inadequate, according to the PDDH. From August 2017 to May, the General Prison Directorate reported 2,440 cases of inmate malnutrition and the PDDH reported more than 500 cases of severe malnutrition in Izalco and Ciudad Barrios prisons. The PDDH noted that in 2017 a total of 64 inmates died, some of them due to unspecified causes.

In October the PNC reported overcrowding in police holding cells, with 5,500 detainees in cells designed for 1,500 persons. Those in pretrial detention were held alongside sick inmates.
Administration: The PDDH has authority to investigate credible allegations of inhuman conditions. The Constitutional Chamber of the Supreme Court has authority over the protection of constitutional rights. The extraordinary measures granted broad authorities to wardens to order disciplinary actions, to include isolation and withholding family or religious visitations, without judicial oversight. Extraordinary measures ended in August when the Legislative Assembly reformed the penitentiary code.

Independent Monitoring: The government permitted visits by independent human rights observers, nongovernmental organizations (NGOs), and media to low- and medium-security prisons. Inspections of high-security prisons were limited to government officials, the PDDH, and the International Committee of the Red Cross (ICRC). Early in the year, the government reinstated the ICRC’s access to all prisons. Church groups; the Institute for Human Rights at the University of Central America; lesbian, gay, bisexual, transgender, and intersex activists; the UN special rapporteur for extrajudicial, summary, or arbitrary executions; and other groups visited prisons during the year. The PDDH reported that from May 2017 to April, it conducted 1,644 unannounced prison inspections.

Improvements: Due to the construction of new prisons completed during the year and redistribution of prisoners, overcrowding declined from 334 percent to 215 percent as of August.

d. Arbitrary Arrest or Detention

Although the constitution prohibits arbitrary arrest and detention, there were numerous complaints that the PNC and military forces arbitrarily arrested and detained persons. As of July 31, the PDDH received 31 complaints of arbitrary detention, a decrease from 86 complaints received in the same period in 2017. NGOs reported that the PNC arbitrarily arrested and detained groups of persons on suspicion of gang affiliation. According to these NGOs, the accused were ostracized by their communities upon their return.

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

Role of the Police and Security Apparatus
The PNC, overseen by the Ministry of Justice and Public Security, is responsible for maintaining public security, and the Ministry of Defense is responsible for maintaining national security. Although the constitution separates public security and military functions, it allows the president to use the armed forces “in exceptional circumstances” to maintain internal peace and public security “when all other measures have been exhausted.” The military is responsible for securing international borders and conducting joint patrols with the PNC. In 2016 President Sanchez Ceren renewed the decree authorizing military involvement in police duties, a presidential order in place since 1996.

The military’s “Zeus Command” comprised 3,100 soldiers in 10 task forces to support police in providing security. These soldiers were to operate only in support of the PNC and were not authorized to arrest or detain. Three hundred and twenty soldiers in the Volcano Task Force, launched in September 2017 as a temporary expansion of the military’s presence in San Salvador, continued to support the city’s police and installed checkpoints throughout the city and conducted random searches of public buses.

There were reports of impunity for security force involvement in crime and human rights abuses during the year. The PDDH is authorized to investigate (but not prosecute) human rights abuses and refers all cases involving human rights abuses to the Attorney General’s Office. Reports of abuse and police misconduct were most often from residents of the metropolitan area of San Salvador and mostly from men and young persons.

The Police Inspector General reported it received 831 complaints against police and dismissed 155 police officers due to misconduct and took disciplinary action against 555 police officers as of October 23.

On August 2, Deputy Police Director of Specialized Operative Areas Mauricio Arriaza stated that 10 police officers of the Specialized Police Tactical Unit (UTEP) were dismissed due to human rights abuses. UTEP was created on February 14 to replace the Specialized Reaction Force of El Salvador, the Special Operation Group, and the GRP. The GRP was disbanded in February following the disappearance of female GRP member Carla Ayala. As of November 5, the Ministry of Defense had not responded to requests to report the number of soldiers removed from its ranks due to alleged ties to gangs.

As of October 26, authorities reported alleged gang members had killed 22 police officers, three soldiers, and three prison guards.
Arrest Procedures and Treatment of Detainees

The constitution requires a written warrant of arrest except in cases where an individual is caught in the act of committing a crime. Authorities apprehended persons with warrants based on evidence and issued by a judge. Police generally informed detainees promptly 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 coercive and that evidence obtained in such a manner is inadmissible. As a result, PNC authorities typically delayed questioning until a public defender or an attorney arrived. The constitution permits the PNC to hold suspects for 72 hours before presenting them to court. The law allows up to six months for investigation of serious crimes before requiring either a trial or dismissal of the case which may be extended by an appeals court. Many cases continued beyond the legally prescribed period.

Arbitrary Arrest: As of October 23, the PDDH reported 31 complaints of arbitrary detention or illegal detention, compared with 86 from January to August 2017.

Pretrial Detention: Lengthy pretrial detention was a significant problem. As of October, 30 percent of the general prison population was in pretrial detention. Some persons remained in pretrial detention longer than the maximum legal sentences for their alleged crimes. In such circumstances detainees may request a Supreme Court review of their continued detention.

e. Denial of Fair Public Trial

Although the constitution provides for an independent judiciary, the government did not always respect judicial independence, and the judiciary was burdened by inefficiency and corruption.

While the government generally respected court orders, some agencies ignored or minimally complied with orders, or sought to influence ongoing investigations. When ordered by the Constitutional Court on June 19 to release military records related to the El Mozote killings and serious civil war crimes, the Ministry of Defense responded it had already done so while denying investigators access to archival facilities at military bases, citing national security concerns. As of July
31, the Legislative Assembly had not complied with a 2015 ruling that it issue regulations to clarify certain sections of the political parties law regarding campaign contributions.

In a February 26 press conference, Minister of Defense David Munguia Payes criticized the attorney general’s charges against three military officers after they were acquitted of obstruction of justice in a torture case. On February 27, UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions Agnes Callamard released a statement calling on Payes to respect the independence of the judiciary and reiterating her support for the attorney general. Media experts called Munguia’s stagecraft menacing and reminiscent of civil war-era propaganda employed by the military junta.

While implemented to expedite fair trials, virtual trials still involved delays of up to eight months, according to a July 22 newspaper report. Virtual trials often involved group hearings before a judge, with defendants unable to consult with their defense lawyers in real time. The penitentiary code reforms passed in August allow defense lawyers to attend a hearing without the defendant’s presence. Human rights groups questioned the constitutionality of the reform.

As of July 31, the PDDH received 31 complaints of lack of a fair, public trial.

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. As of August 31, the Supreme Court heard 57 cases against judges due to irregularities, 52 of which remained under review; removed two judges; suspended nine others; and brought formal charges against eight judges. Accusations against judges included collusion with criminal elements and sexual harassment.

In 2016, in response to a petition by victims, a judge issued an order to reopen the investigation into the 1981 El Mozote massacre, in which an estimated 800 persons were killed. The PDDH concluded that the Attorney General’s Office lacked initiative in investigating civil war crimes. The PDDH also cited the Attorney General Office’s lack of cooperation from the Ministry of Defense and the Office of the President (CAPRES). On August 16, a group of Argentine forensics specialists testified they recovered 282 pieces of evidence determined to be human remains, including 143 skulls, 136 of them belonging to children younger than 12 years old. They also recovered 245 bullet casings corresponding to the type used in automatic weapons used by the armed forces.
Women who were accused of intentionally terminating their pregnancies were charged with aggravated homicide, but a number asserted they had suffered miscarriages, stillbirths and other medical emergencies during childbirth. Legal experts pointed to serious flaws in the forensics collection and interpretation.

In December 2017 Teodora del Carmen Vasquez’ conviction on aggravated homicide charges was upheld by the same appeals judges who had earlier sentenced her to 30 years. The Supreme Court commuted her sentence on February 15, opining that the evidence and motive presented by the prosecution in the case was insufficient to support the charges.

During the first nine months of the year, the justice system released five women accused of aggravated homicide of their unborn or newborn children due to lack of evidence. Twenty-five other women remained in custody for infanticide.

**Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right, although some trial court judges were subject to political and economic influence. By law juries hear only a narrow group of cases, such as environmental complaints. After the jury determines innocence or guilt, a panel of judges decides the sentence.

Defendants have the right to be present in court, question witnesses, and present witnesses and evidence. The constitution further provides for the presumption of innocence, the right to be informed promptly and in detail of charges, the right to a trial without undue delay, protection from self-incrimination, the right to communicate with an attorney of choice, the right to adequate time and facilities to prepare a defense, freedom from coercion, the right to appeal, and government-provided legal counsel for the indigent.

According to press reports, plea deals occurred in approximately 20 percent of cases, with the accused turning state’s witness in order to prosecute others. Legal experts pointed to an overreliance on witness testimony in nearly all cases, as opposed to the use of forensics or other scientific evidence. The justice system lacked DNA analysis and other forensics capability. In criminal cases a judge may allow a private plaintiff to participate in trial proceedings (calling and cross-examining witnesses, providing evidence, etc.), assisting the prosecuting attorney in the trial procedure. Defendants have the right to free assistance of an interpreter. Authorities did not always respect these legal rights and protections.
Although a jury’s verdict is final, a judge’s verdict is subject to appeal. Trials are public unless a judge seals a case.

**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 generally were enforced. Most attorneys pursued criminal prosecution and later requested civil compensation.

On May 25, the Constitutional Chamber declared unconstitutional Article 49 of the Civil Service Law, ruling that it violated the double jeopardy prohibition because previously established facts were taken as an essential element for a more serious administrative sanction.

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

The constitution prohibits such actions; however, a January news report claimed the state intelligence service tracked several journalists and collected compromising information about their private lives. The newspaper submitted photographic and whistleblower evidence to support its claim.

In many neighborhoods armed groups and gangs targeted certain persons; and interfered with privacy, family, and home life. Efforts by authorities to remedy these situations were generally ineffective.

**Section 2. Respect for Civil Liberties, Including:**

**a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. 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.
Press and Media Freedom: There continued to be allegations that the government retaliated against members of the press for criticizing its policies. There were reports the Ministry of Labor conducted arbitrary labor inspections and financial audits of news organizations.

Both the Nationalist Republican Alliance (ARENA) and Farabundo Martí Liberation Front (FMLN) parties steered funding, including public funds, to journalists in exchange for positive coverage. The online news outlet El Faro reported during the year that former president Antonio Saca funneled $665,000 (currency is the U.S. dollar) to media contacts in exchange for positive coverage from 2004 until 2009, while former president Mauricio Funes continued the practice of using a secret fund to corrupt journalists from 2009 through 2014.

Violence and Harassment: On May 22, the Salvadoran Journalist Association (APES) reported that former youth secretary Carlos Aleman threatened El Faro journalist Gabriel Labrador after he published a report that accused Aleman of benefiting from illegal salary increases during the Saca administration. APES also reported that journalist Milagro Vallecillos received a call asking him where he would like a body disposed after he criticized the police investigation into the killing of journalist Karla Turcios.

In relation to reporting on the March 4 municipal and legislative assembly elections, APES recorded 15 complaints against civil servants, mayors, unions, and gang members. The incidents included three verbal threats, two physical assaults, one property damage claim, and three suspicious incidents. On March 19, online news outlet Diario 1 journalist Miguel Lemus was physically attacked by members of the San Salvador city employees’ union.

Minister of Defense Munguía reportedly visited media offices unannounced and accompanied by armed soldiers.

Censorship or Content Restrictions: Government advertising accounted for a significant portion of press advertising income. According to APES, media practiced self-censorship, especially in reporting on gangs and narcotics trafficking.

Nongovernmental Impact: APES noted journalists reporting on gangs and narcotics trafficking were subject to kidnappings, threats, and intimidation. Observers reported that gangs also charged print media companies to distribute in their communities, costing media outlets as much as 20 percent of their revenues.
Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority.

The International Telecommunication Union reported 31 percent of the population used the internet in 2017.

Academic Freedom and Cultural Events

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

b. Freedoms of Peaceful Assembly and Association

The constitution provides for the freedoms of peaceful 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/religiousfreedomreport/.

d. Freedom of Movement

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights, although in many areas the government could not guarantee freedom of movement due to criminal gang activity. As of July 31, the PDDH received two complaints of restrictions from freedom of movement, one against the PNC and the other against a court in Jiquilisco. Both cases involved subjects being detained without charge. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and some assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern, although this was often difficult in gang-controlled neighborhoods.

In-country Movement: The major gangs controlled their own territory. Gang members did not allow persons living in another gang’s controlled area to enter
their territory, even when travelling via public transportation. Gangs forced persons to present government-issued identification cards (containing their addresses) to determine their residence. If gang members discovered that a person lived in a rival gang’s territory, that person risked being killed, beaten, or not allowed to enter the territory. Bus companies paid extortion fees to operate within gang territories, often paying numerous fees for the different areas in which they operated. The extortion costs were passed on to customers.

**Internally Displaced Persons (IDPs)**

On July 13, the Constitutional Chamber of the Supreme Court ruled that the government violated the constitution by not recognizing forced displacement or providing sufficient aid to IDPs. The ruling followed several lawsuits brought by victims, including members of the PNC. The court ordered the Legislative Assembly to pass legislation addressing internal displacement and officially recognize internal displacement. The court also called on the government to retake control of gang territories, develop protection protocols for victims, and uphold international standards for protecting victims.

As of July the PDDH reported 69 complaints of forced displacement from January to May. Nearly all of the complaints were from gang-controlled territories, with 51 cases from San Salvador. As of October the government acknowledged that 1.1 percent of the general population was internally displaced. UNHCR estimated there were 280,000 IDPs. UNHCR reported the causes of internal displacement included abuse, extortion, discrimination, and threats.

**Protection of Refugees**

**Access to Asylum:** The law provides for the granting of asylum or refugee status, including an established system for providing protection to refugees. As of July 31, four petitions had been submitted, with three resulting in denial and one still under consideration.

**Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.
Elections and Political Participation

Recent Elections: The most recent municipal and legislative elections occurred on March 4, with the final election results released by the Supreme Electoral Tribunal on March 20 and April 4, respectively. The election reports published by the Organization of American States and the EU electoral mission noted that the elections generally met international standards.

While the law prohibits public officials from campaigning in elections, this provision lacked consistent enforcement.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials. While the Supreme Court investigated corruption in the executive and judicial branches, referring cases to the Attorney General’s Office for possible criminal indictment, impunity remained endemic, with courts issuing inconsistent rulings and failing to address secret discretionary accounts within the government, for example in CAPRES.

Corruption: On September 12, a judge sentenced former president Antonio Saca to 10 years in prison. He originally faced up to 30 years in prison before seeking a plea deal. As part of his plea agreement, Saca detailed how he used a network of public officials and advisers to launder money into his ARENA political party, banks, media outlets, publicity companies, fronts, and other activities. Saca testified that weak institutions such as the Court of Accounts were ineffectual in conducting audits, with transparency mechanisms failing to detect fraud. While Saca’s defense offered to return $15 million, the court found him fully liable and ordered him to repay $260 million and surrender his bank accounts and six companies managing 86 radio stations to the asset forfeiture program.

The attorney general investigated corruption pertaining to a discretionary fund within CAPRES in existence for more than 25 years and used by six presidents since 1989. It was originally created to provide resources for the national intelligence budget and CAPRES. The funds, totaling more than one billion dollars since its inception, had never been audited by the Court of Accounts. Both former presidents Saca and Funes were accused of embezzling more than $650 million from public funds. President Sanchez Ceren’s discretionary account was
reportedly $147 million, while former presidents Saca and Funes controlled $301 million and $351 million respectively.

On June 19, the Attorney General’s Office initiated an asset forfeiture claim against 24 properties owned by Funes, cabinet members, public officers, and his relatives. Properties included sugarcane plantations, beach houses, and homes.

As of July 31, the Ethics Tribunal reported it had received 190 complaints against 273 public officials. The tribunal sanctioned 20 public officials and forwarded six cases to the attorney general. The attorney general issued 28 arrest warrants on June 6, targeting individuals linked to more than $300 million allegedly embezzled by former president Funes from 2009 through 2014. Despite Constitutional Chamber restrictions on transferring funds without legislative approval, Funes allegedly had misdirected funding for personal gain since 2010. In July the attorney general accused Funes of using $215,000 in public funds to acquire 91 military-grade weapons through the Ministry of Defense for his personal use.

Financial Disclosure: The illicit enrichment law requires appointed and elected officials to declare their assets to the Probity Section of the Supreme Court. The law establishes fines for noncompliance that range from $11 to $571. The declarations were not available to the public unless requested by petition. In 2016 the Supreme Court established three criteria for selecting investigable cases: the age of the case (i.e., proximity to the statute of limitations), relevance of the position, and seriousness and notoriety of the alleged illicit enrichment.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to these groups, officials expressed reluctance to discuss certain issues, such as extrajudicial killings and IDPs, with the PDDH.

Government Human Rights Bodies: The principal human rights investigative and monitoring body was the autonomous PDDH, whose head is nominated by the Legislative Assembly for a three-year term. The PDDH regularly issued advisory opinions, reports, and press releases on prominent human rights cases. The PDDH generally enjoyed government cooperation and was considered generally effective except on problems relating to criminal groups and gangs.
The PDDH maintained a constructive dialogue with CAPRES. The government publicly acknowledged receipt of reports, although in some cases it did not take action on recommendations, which are nonbinding. The PDDH faced threats, such as two robberies at its headquarters specifically targeting computers containing personally identifiable information.

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

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, and the criminal code’s definition of rape may apply to spousal rape, at the judge’s discretion. The law requires the Attorney General’s Office to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to withdraw the criminal charge. The penalty for rape is generally imprisonment for six to 10 years. Laws against rape were not effectively enforced.

The law prohibits domestic violence and generally provides for sentences ranging from one to three years in prison, although some forms of domestic violence carry higher penalties. The law also permits restraining orders against offenders. Laws against domestic violence remained poorly enforced, and violence against women, including domestic violence, remained a widespread and serious problem. On July 31, the Salvadoran Organization of Women for Peace (ORMUSA) reported that in 2016 and 2017, only 5 percent of the 6,326 reported crimes against women went to trial. On July 4, police arrested a police commissioner for violating the terms of a restraining order protecting his spouse.

According to the World Health Organization, the rate of cases involving violence against women was 5,999 per 100,000 inhabitants and that 574 women were killed in 2015, 524 in 2016, and 469 in 2017.

Sexual Harassment: The law prohibits sexual harassment and provides imprisonment for five to eight years. Courts may impose fines in addition where the perpetrator maintains a position of trust or authority over the victim. The law mandates that employers take measures against sexual harassment and create and implement preventive programs. The government, however, did not enforce sexual harassment laws effectively.
On September 24, media reported the sole female member of an elite police unit was reassigned to a high threat precinct in retaliation for taking gender-discrimination claims to internal affairs inspectors. She said her uniforms were discarded, her sleeping quarters moved, and a colleague threatened to kill her.

**Coercion in Population Control:** There were no reports of coerced abortion or involuntary sterilization. (For more information on maternal mortality and availability of contraception, see Appendix C.)

**Discrimination:** The constitution grants women and men the same legal rights, but women did not enjoy equal pay or employment opportunities. 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, but employees generally did not report such violations due to fear of employer reprisals.

On September 16, a labor union reported that a justice of the peace in Las Vueltas Chalatenango refused to promote a female clerk because she preferred a man have the position.

**Children**

**Birth Registration:** Children derive citizenship by birth within the country and from their parents. The law requires parents to register a child within 15 days of birth or pay a $2.85 fine. Failure to register resulted in denial of school enrollment.

**Education:** Education is free, universal, compulsory through the ninth grade, and nominally free through high school. Rural areas, however, frequently did not provide 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, requiring them to work.

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

On November 15, police arrested a woman in Juayua, Sonsonate, after she beat an 11-year-old child with a stick for losing a cell phone accessory. According to a
2016 National Health Survey, more than half of households punished their children physically and psychologically.

Early and Forced Marriage: The legal minimum age for marriage is 18. The law bans child marriage to prevent child abusers from using legal technicalities to avoid imprisonment by marrying their victims.

Sexual Exploitation of Children: Child sex trafficking is prohibited by law. Prison sentences for convicted traffickers stipulate imprisonment from six to 10 years. The minimum age for consensual sex is 18. The law classifies statutory rape as sexual relations with anyone younger than age 18 and includes penalties of four to 13 years’ imprisonment for violations.

The law prohibits paying anyone younger than age 18 for sexual services. The law prohibits participating in, facilitating, or purchasing materials containing child pornography and provides for prison sentences of up to 16 years for violations. Despite these provisions, sexual exploitation of children remained a problem.


Anti-Semitism

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

 Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The National Council for Comprehensive Attention to Persons with Disability (CONAIPD), composed of representatives from multiple government entities, is the governmental agency responsible for
protecting disability rights, but lacks enforcement power. According to CONAIPD, the government did not effectively enforce legal requirements for access to buildings, information, and communications for persons with disabilities. Few access ramps or provisions for the mobility of persons with disabilities existed.

According to CONAIPD, there is no mechanism to verify compliance with the law requiring businesses and nongovernment agencies to hire one person with disabilities for every 25 hires. CONAIPD reported employers frequently fired persons who acquired disabilities and would not consider persons with disabilities for work for which they qualified. Further, some academic institutions would not accept children with disabilities.

No formal system existed for filing a discrimination complaint involving a disability with the government.

**Indigenous People**

Indigenous communities reported they faced racial discrimination and economic disadvantage. According to community leaders, gangs pushed out of urban centers by police mounted incursions and appropriated indigenous land. They also reported gang members threatened their children for crossing gang territorial lines artificially drawn across ancestral indigenous land, forcing some children to drop out of school or leave home.

According to the 2007 census, the most recent for which this data was available, there were 60 indigenous groups, and 0.4 percent of citizens identified as indigenous, mainly from the Nahua-Pipl, Lencas, Cacaopera (Kakwira) and Maya Chorti groups. A 2014 constitutional amendment recognizes the rights of indigenous people to maintain their cultural and ethnic identity, but no laws provide indigenous people rights to share in revenue from exploitation of natural resources on historically indigenous lands. The government did not demarcate any lands as belonging to indigenous communities. Because few possessed title to land, opportunities for bank loans and other forms of credit remained limited.

While the law provides for the preservation of languages and archeological sites, it does not include the right to be consulted regarding development and other projects envisioned on their land.
Acts of Violence, Discrimination, and Other Societal Abuses Based on Sexual Orientation and Gender Identity

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

As of July 31, the PDDH reported eight accusations made by the LGBTI community of five homicides, one unauthorized search, and one harassment complaint. The PDDH was unable to determine whether the incidents were bias-motivated. Activists also reported receiving death threats via social media; police generally failed to take action on these reports.

On April 16, the Ministry of Security and Justice led a formal signing ceremony for the Institutional Policy for the Protection of the LGBTI Community. A product of two years of roundtable dialogues, the policy instructs the security and migration sectors of government to consult with the Office of Secretariat for Social Inclusion to ensure LGBTI persons are treated in accordance with international standards in their interactions with the state. In November 2017 the Supreme Electoral Tribunal announced guidelines stating individuals cannot be denied the right to vote because the photograph on their identification card does not match their physical appearance.

HIV and AIDS Social Stigma

Although the law prohibits discrimination on the basis of HIV/AIDS status, Entre Amigos, an LGBTI NGO, reported discrimination due to HIV was widespread. As of July 31, the PDDH reported four cases of discrimination against persons with HIV or AIDS. This included use of pejorative language against an inmate by a prosecutor, denial of university access, lack of medical confidentiality in the prison system of an HIV-positive diagnosis and discriminatory treatment from other inmates, and discrimination by public-health caregivers to a child and her mother.
Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides the right of most workers to form and join independent unions, to strike, and to bargain collectively. The law also prohibits antiunion discrimination, although it does not require reinstatement of workers fired for union activity. Military personnel, national police, judges, and high-level public officers may not form or join unions. Workers who are representatives of the employer or in “positions of trust” also may not serve on the union’s board of directors. The law does not define the term “positions of trust.” The labor code does not cover public-sector workers and municipal workers, whose wages and terms of employment are regulated by the 1961 civil service law.

Unions must meet complex requirements to register, including having a minimum membership of 35. If the Ministry of Labor denies registration, the law prohibits any attempt to organize for up to six months following the denial. Collective bargaining is obligatory only if the union represents the majority of workers. Labor unions accused the ministry of trying to block the registration of unions not aligned with the government’s party. Consequently, unions were unable to vote for membership in tripartite bodies, consisting of members of government, labor, and business.

The law contains cumbersome and complex procedures for conducting a legal strike. The law does not recognize the right to strike for public and municipal employees or for workers in essential services. The law does not specify which services meet this definition, and courts therefore apply this provision on a case-by-case basis. The law requires that 30 percent of all workers in an enterprise must support a strike for it to be legal and that 51 percent must support the strike before all workers are bound by the decision to strike. Unions may strike only to obtain or modify a collective bargaining agreement or to protect the common professional interests of the workers. They must also engage in negotiation, mediation, and arbitration processes before striking, although many groups often skipped or went through these steps quickly. The law prohibits workers from appealing a government decision declaring a strike illegal.

In lieu of requiring employers to reinstate illegally dismissed workers, the law requires employers to pay the workers the equivalent of 30 days of their basic salary for each year of service. The law specifies 30 reasons for which an employer can terminate a worker’s contract without triggering any additional
responsibilities, including consistent negligence, leaking private company information, or committing immoral acts while on duty. An employer may also legally suspend workers, including for reasons of economic downturn or market conditions. As of July the Ministry of Labor had received 1,778 complaints of violations of the labor code, including 565 instances of failure to pay the minimum wage.

The government did not effectively enforce the laws on freedom of association and the right to collective bargaining. Resources to conduct inspections remained inadequate, and remedies remained ineffective. Penalties for employers who fire workers with the goal or effect of ensuring the union no longer met the minimum number of members ranged from 10 to 50 times the monthly minimum salary. These were paid to the government’s general fund, not to the fired employee. The penalty for employers who interfere with the right to strike was between $3,000 and $15,000. Such penalties remained insufficient to deter violations. The Ministry of Labor acknowledged it lacked sufficient resources, such as vehicles, fuel, and computers, to enforce the law fully. Judicial procedures were subject to lengthy delays and appeals. According to union representatives, the government inconsistently enforced labor rights for public workers, maquila/textile workers, food manufacturing workers, subcontracted workers in the construction industry, security guards, informal-sector workers, and migrant workers. As of July the ministry had received 15 claims of violations for labor discrimination.

On November 10, a court ordered a mayor in Conchagua to cease age discrimination of a group female employees. The employees filed a complaint with the Ministry of Labor that they were subjected to harassment by the mayor and his subordinates because of their age and his desire to replace them.

Unions functioned independently from the government and political parties, although many generally were aligned with the ARENA, FMLN, or other political parties. According to union leaders, the administration blacklisted public-sector employees who they believed were close with the opposition. Workers at times engaged in strikes regardless of whether the strikes met legal requirements. The International Labor Organization (ILO) Conference Committee on the Application of Standards discussed the country for the fourth year in a row over the nonfunctioning of the tripartite Higher Labor Council.

b. Prohibition of Forced or Compulsory Labor
The law prohibits all forms of forced or compulsory labor. The government generally did not effectively enforce such laws. The labor code’s default fine of $57 per violation applied. This penalty was generally not sufficient to deter violations. The lack of sufficient resources for inspectors reduced their ability to enforce the law fully. The Ministry of Labor did not report on incidents of forced labor. Gangs subjected children to forced labor in illicit activities, including selling or transporting drugs (see section 7.c.).

Also see the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children younger than age 14. The law allows children between the ages of 14 and 18 to engage in light work if the work does not damage the child’s health or development or interfere with compulsory education. The law prohibits children younger than age 16 from working more than six hours per day and 34 hours per week; those younger than age 18 are prohibited from working at night or in occupations considered hazardous. The Ministry of Labor maintained a list of the types of work considered hazardous and prohibited for children, to include repairing heavy machinery, mining, handling weapons, fishing and harvesting mollusks, and working at heights above five feet while doing construction, erecting antennas, or working on billboards. Children age 16 and older may 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.

The Ministry of Labor maintains responsibility for enforcing child labor laws but did so with limited effectiveness. Child labor remained a serious and widespread problem. The law specifies a default fine of no more than $60 for each violation of most labor laws, including child labor laws; such penalties were insufficient to act as a deterrent. Labor inspectors focused almost exclusively on the formal sector. According to the ministry, from January 2017 through May, officials conducted 1,440 child labor inspections that discovered 18 minors, five of whom were unauthorized to work. By comparison, as of September 2017, according to the ministry, there were 140,700 children and adolescents working, of whom 91,257 were employed in “dangerous work” in the informal sector. No information on any investigations or prosecutions by the government was available. The ministry did not effectively enforce child labor laws in the informal sector.
There were reports of children younger than age 16 engaging in the worst forms of child labor, including in coffee cultivation, fishing, shellfish collection, and fireworks production. Children were subjected to other worst forms of child labor, including commercial sexual exploitation (see section 6, Children) and recruitment into illegal gangs to perform illicit activities related to the arms and drug trades, including committing homicide. Children were engaged in child labor, including domestic work, the production of cereal grains and baked goods, cattle raising, and vending. Orphans and children from poor families frequently worked as street vendors and general laborers in small businesses despite the presence of law enforcement officials.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The constitution, labor laws, and state regulations prohibit discrimination regarding race, color, sex, religion, political opinion, national extraction (except in cases determined to protect local workers), social origin, gender, disability, language, or HIV-positive status. The government did not effectively enforce those laws and regulations. Sexual orientation and gender identity are not included in the constitution or labor law, although the PDDH and the Ministry of Labor actively sought to protect workers against discrimination on those grounds.

Discrimination in employment and occupation occurred with respect to gender, disability, and sexual orientation or gender identity (see sections 6 and 7.e.). According to the Ministry of Labor, migrant workers have the same rights as citizens, but the ministry did not enforce them.

On January 30, the Legislative Assembly reformed the labor code, prohibiting discriminatory practices and violence against women in the workplace. Further, on June 26, the Legislative Assembly reformed the labor code, civil service law, and the Vacations and Permits Law for Public Employees, prohibiting the dismissal of women returning from maternity leave for up to six months.

e. Acceptable Conditions of Work

There is no national minimum wage; the minimum wage is determined by sector. In January a major minimum wage increase went into effect that included increases of nearly 40 percent for apparel assembly workers and more than 100 percent for
workers in coffee and sugar harvesting. After the increase the minimum daily wage was $10 for retail, service, and industrial employees; $9.84 for apparel assembly workers; and $3.94 for agricultural workers. The government reported the poverty income level was $179.67 per month in urban areas and $126.97 per month in rural areas.

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, which is to be paid at a rate of double the usual hourly wage. The law mandates that full-time employees receive pay for an eight-hour day of rest in addition to the 44-hour normal workweek. The law provides that employers 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, such as maids and gardeners, are obligated to work on holidays if their employer makes this request, but they are entitled to double pay in these instances. The government did not adequately enforce these laws.

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 employers to take steps to meet health and safety requirements in the workplace, including providing proper equipment and training and a violence-free environment. Employers who violate most labor laws could receive a default fine of no more than $57 for each violation. While the laws were appropriate for the main industries, a lack of compliance inspectors led to poor enforcement. These penalties were also insufficient to deter violations, and some companies reportedly found it more cost effective to pay the fines than to comply with the law. The law promotes occupational safety awareness, training, and worker participation in occupational health and safety matters.

The Ministry of Labor is responsible for enforcing the law. The government proved more effective in enforcing the minimum wage law in the formal sector than in the informal sector. Unions reported the ministry failed to enforce the law for subcontracted workers hired for public reconstruction contracts. The government provided its inspectors updated training in both occupational safety and labor standards. As of June the ministry conducted 13,315 inspections, in addition to 3,857 inspections to follow up with prior investigations, and had levied $777,000 in fines against businesses.
Allegations of corruption among labor inspectors continued. The Labor Ministry received complaints regarding failure to pay overtime, minimum wage violations, unpaid salaries, and cases of employers illegally withholding benefits (including social security and pension funds) from workers.

Reports of overtime and wage violations existed in several sectors. According to the Labor Ministry, employers in the agriculture sector did not generally grant annual bonuses, vacation days, or days of rest. Women in domestic service and the industrial manufacturing for export 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 and domestic service reportedly fell subject to violations of wage, hour, and safety laws. According to ORMUSA, apparel companies violated women’s rights through occupational health violations and unpaid overtime. There were reports of occupational safety and health violations in other sectors, including reports that a very large percentage of buildings were out of compliance with safety standards set by the General Law on Risk Protection. The government proved ineffective in pursuing such violations.

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.

As of July the Ministry of Labor reported 5,199 workplace accidents. These included 2,609 accidents in the services sector, 1,859 in the industrial sector, 620 in the commercial sector, and 111 in the agricultural sector. The ministry did not report any deaths from workplace-related accidents.

Workers may legally remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities lacked the ability to protect employees in this situation effectively.
EXECUTIVE SUMMARY

El Salvador is a constitutional multiparty republic. Municipal and legislative elections held in 2015 were generally free and fair, although results were delayed due to slow transmission, tabulation, and vote count dissemination. Free and fair presidential elections took place in 2014.

Civilian authorities failed at times to maintain effective control over security forces.

The most significant human rights issues included alleged unlawful killings of suspected gang members and others by security forces; forced disappearances by military personnel, which the government prosecuted; torture by security forces; harsh and life-threatening prison conditions; arbitrary arrest and detention; lack of government respect for judicial impartiality and independence; widespread government corruption; gang-member violence against women and girls as well as lesbian, gay, bisexual, transgender, and intersex individuals; and children engaged in the worst forms of child labor.

Impunity persisted despite government steps to dismiss and prosecute some officials in the security forces, the executive branch, and the justice system who committed abuses.

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

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

During the year there were no verified reports that the government or its agents committed politically motivated killings. There were reports, however, of security force involvement in unlawful killings. As of August 31, the Office of the Human Rights Ombudsman (PDDH) announced that it was investigating 13 complaints against police and four against the armed forces for unlawful killings. As of September 7, the PDDH announced it had received at least 20 complaints of alleged unlawful killings committed by 40 security or military officials. According to the National Civil Police (PNC), as of October 6, state security forces killed 337 gang members during armed confrontations, compared with 603 in 2016. As of September 30, gang members had killed two police officers and one soldier during
armed confrontations and another 37 police and 25 members of the military in targeted assassinations. As of August, the Internal Affairs Unit of the PNC reported that 38 PNC officers faced charges of homicide: 17 for aggravated homicide, one for femicide, 17 for homicide, and three for attempted homicide.

On August 29, the Attorney General’s Office confirmed it was investigating four Special Reaction Force (FES) police officers who were arrested on August 24 following the August 22 publication by Factum magazine of allegations that FES officers were involved in the unlawful killing of three persons, two sexual assaults, and at least one act of extortion. On August 25, the officers were released because the 72-hour holding period had expired. They were put on administrative leave but returned to active duty on September 12.

On September 11, the PNC confirmed the arrest of nine police officers charged with aggravated homicide and concealment stemming from the alleged cover-up of the killing of five persons in Villas de Zaragoza in February 2016. Three of the accused were members of the Police Reaction Group (GRP), and police claimed at the time of the events that the deaths were justified homicides. As of October 13, five of the accused remained in custody, and one sub inspector was released on bail and was awaiting trial. On July 14, the Attorney General’s Office reported that it conducted a re-enactment of the shooting in conjunction with the PNC’s Internal Affairs Unit. Laboratory results were pending.

On September 22, five police officers were acquitted of aggravated homicide charges in the 2015 killing of a man at a farm in San Blas, San Jose Villanueva. The judge ruled that the prosecutors failed to prove which of the five officers was specifically responsible for firing the fatal shot and likewise failed to prove conspiracy. The presiding judge redacted the names of the accused, but on August 30, the Attorney General’s Office confirmed that all were members of the elite GRP. The acquittal took place a day after the son-in-law of the primary witness in the case was killed, which led the attorney general to offer to relocate the family, but the Witness Protection Program could provide the services only to four of the 12 family members. As of October, a police investigation by the PNC Internal Affairs Unit continued.

On August 15, the Attorney General’s Office reported that it was awaiting laboratory results on ballistics from weapons used by soldiers in the 2015 Los Pajales case, which involved the close-range killing of four unarmed gang members.
On July 14, the Attorney General’s Office reported that the Internal Affairs Unit was investigating the 2015 killing of four alleged gang members at the La Paz Farm in Cojutepeque, Cuscatlan. On October 11, the PNC submitted their findings to the Attorney General’s Office for evaluation.

On June 20, as a result of a two-year criminal investigation, four police officers, 10 soldiers, and two former members of the military were arrested for their participation in at least eight homicides as part of an alleged extermination group operating in San Miguel. The group was purportedly responsible for murder-for-hire and targeted killings of alleged gang members in San Miguel and was composed of civilians, some of whom were alleged rival gang members, and retired and active members of the military and police. The June detentions followed the arrest of five police officers and five civilians for their participation in the San Miguel extermination group in 2016. Funding for the extermination group reportedly came from citizens living abroad. As of October 13, a preliminary evidentiary hearing was pending.

As of October the Office of the Inspector General of the Ministry of Public Security and Justice had received five complaints of extrajudicial killings against police. On July 26, the Public Opinion Institute of the University of Central America (IUDOP) reported that, while six of 10 citizens believed that authorities should respect rule of law, 40 percent approved of the use of torture for dealing with gang members, 35 percent approved of extrajudicial executions, and 17 percent approved of social cleansing.

b. Disappearance

There were reports alleging that members of the armed forces have been involved in unlawful disappearances. In July 2016 the Constitutional Chamber of the Supreme Court and the criminal court in the municipality of Armenia, in the department of Sonsonate, ruled there was sufficient evidence to proceed with the case in which three men went missing after six soldiers arrested them in 2014 in Armenia. In November 2016, the trial chamber acquitted the defendants due to a lack of evidence that the accused forced or restrained the victims. Immediately after the acquittal, the PDDH began an investigation into the acquittal. On January 16, following an appeal by the NGOs Legal Studies Foundation and the Salvadoran Association for Human Rights, the Constitutional Chamber of the Supreme Court held that the Armenia case amounted to forced disappearance, and the PNC’s Central Investigations Division took ownership of the case. On April 20, following pressure from civil society, the Attorney General’s Office reopened the
case against the six soldiers. On May 15, the Sonsonate trial court convicted five soldiers of forced disappearance and sentenced them to eight years’ imprisonment. Defense attorneys for the convicted soldiers filed an appeal with the Appellate Court for the Western District. On August 15, the Supreme Court ordered the military to provide its report on the civilian deaths to the Attorney General’s Office, but as of October 30, it had not been sent.

On September 27, President Sanchez Ceren launched the National Commission for the Search of Adults Disappeared in the Context of the Armed Conflict to find persons who were disappeared during the civil war and reunite them with their families or return their remains. The commission is to be headed by three commissioners and housed in the Ministry of Foreign Affairs. Two of the commissioners are to be appointed by civil society and one by the president. The commission’s budget will not fall under the budget of the Ministry of Foreign Affairs, and it has not been earmarked from another part of the national budget. The ministry estimated that for its first year, the commission requires a budget of $250,000, which the commissioners will be responsible for raising.

As of August 30, the nongovernmental organization (NGO) Association for the Search for Missing Children (Pro-Busqueda) received 10 new complaints regarding children who disappeared during the 1980-92 civil war. Pro-Busqueda also reported that it was investigating 979 open cases, had solved 435 cases, and determined that, in 17 percent of solved cases, the child had died. According to Pro-Busqueda, between 20,000 to 30,000 children were adopted during the civil war, many of whom were forcibly disappeared.

As of August, according to the Office of the Inspector General of the Ministry of Public Security and Justice, one complaint of forced disappearance was filed against the PNC. As of September 7, the attorney general had opened investigations into 12 instances of forced disappearance during the 1980-92 civil war.

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

The law prohibits such practices, but there were multiple reports of violations. The PDDH received 29 complaints of torture or cruel, inhuman, or degrading treatment by the PNC, the armed forces, and other public officials. The PNC reported that, as of August, some 20 complaints had been filed against police officials for torture or cruel, inhuman, or degrading treatment. As of October the Ministry of Public

NGOs reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community stated that the agencies in charge of processing identification documents, the PNC, and the Attorney General’s Office harassed transgender and gay individuals when they applied for identification cards or reported cases of violence against LGBTI persons. The LGBTI community reported authorities harassed LGBTI persons by conducting strip searches and questioning their gender in a degrading manner. The government responded to these claims primarily through a PDDH report on hate crimes against the LGBTI community that publicized cases of violence and discrimination against sexual minorities and specifically mentioned three killings of transgender women in February, although their murders were tied to gang activity.

**Prison and Detention Center Conditions**

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

**Physical Conditions:** Overcrowding remained a serious threat to prisoners’ health and lives. As of June 30, the think tank Salvadoran Foundation for Economic and Social Development (FUSADES) reported 38,386 inmates were being held in facilities designed for 11,478 inmates. This is an increase in capacity from 9,732 inmates in 2016.

As of September 21, the prison population included 25,849 convicted inmates and 12,851 inmates in pretrial detention. Convicted inmates and pretrial detainees were sometimes held in the same prisons and cells. The Salvadoran Institute for Child Development (ISNA) also reported that, as of July, there were 1,155 convicted juveniles incarcerated in its facilities, 211 of whom were awaiting trial. Among those in ISNA facilities, 320 were incarcerated on homicide charges, 254 on extortion charges, 156 on drug-related charges, and 143 were incarcerated for belonging to a criminal association or gang. The ISNA reported that 4 percent of minors spent more than 72 hours in initial detention. As of July the ISNA reported that two adolescents had been killed in juvenile detention facilities, allegedly by fellow gang members.
In many facilities, provisions for sanitation, potable water, ventilation, temperature control, medical care, and lighting were inadequate. On July 3, the PDDH published a report on the so-called extraordinary measures implemented in prisons since April 2016, some of which allegedly led to abuse of the right to life and the right to health of inmates. The extraordinary measures affected 14,213 inmates housed in seven prisons: Izalco, Izalco III, Quezaltepeque, Chalatenango, Ciudad Barrios, Gotera, and Zacatecoluca penitentiaries. These measures included preventing communication between inmate gang leaders and members outside of prison, suspending all private communication and contact with inmates’ families, limiting inmates’ access to lawyers, and detaining and isolating known gang leaders in higher security prisons. Inmates were also potentially restricted to their overcrowded prison cells for most hours of the day, allowing diseases to spread more easily. The PDDH report highlighted that tuberculosis cases increased by 400 percent in the prisons system after the implementation of the extraordinary measures. The Prisons Directorate reported that, as of August, there were 892 prisoners infected with tuberculosis, and 19 had died of the disease. The PDDH mediated 2,000 cases related to prison conditions and noted that in 2016 a total of 47 inmates died, some of them due to unspecified reasons.

On August 22, Vice Minister of Health Julio Robles Ticas announced the creation of an interinstitutional committee for combating infectious and contagious diseases inside prisons and police detention cells. This followed an August 18 statement by Security Minister Mauricio Ramirez Landaverde that there were tuberculosis outbreaks at the Izalco, La Esperanza (known as Mariona), Sonsonate, and San Vicente prisons, mostly due to overcrowding. In September the PNC reported that due to prison overcrowding, there were 5,527 detainees in small detention centers at police stations, which had a combined capacity of 2,102 persons. In pretrial detention, there was no separation of sick and healthy detainees. In May 2016 the Constitutional Chamber of the Supreme Court declared unconstitutional the systematic violation of basic human rights by prison overcrowding, citing the government for violating prisoners’ right to health, and ordered periodic visits by the Ministry of Health. The court ordered prison authorities to build new prisons and to remodel others to shelter inmates humanely and the judicial system to review the inmate rosters with the aim of reducing the number of prisoners.

Gang presence in prisons remained high. As of September 21, detention center facilities held 17,614 inmates who were current or former gang members, approximately 46 percent of the total prison population. Despite the extraordinary measures, prisoners conducted criminal activities from their cells, at times with the complicity of prison guards and officials. Smuggling of weapons, drugs, and other
contraband such as cell phones and cell phone SIM cards was a major problem in the prisons.

On May 29, Prisons Director Rodil Hernandez was arrested for the alleged mismanagement of two million dollars during the 2012-13 gang truce. Hernandez allegedly used funds from prison commissary shops to fund bonuses, overtime, and vacations; give loans to prison employees; and pay the salary of gang-truce mediator Raul Mijango, which was supposed to come from the Ministry of Defense. On August 29, Hernandez, among others, was acquitted on the grounds that the prosecution failed to prove individual responsibility for the alleged crimes. On October 5, the attorney general appealed.

As of September 21, prison authorities removed 11 guards from duty for carrying illegal objects. The Prisons Directorate reported that no data was collected on the exact number of guards sanctioned over the year for misconduct or complaints regarding human rights violations. As of August, the PDDH had received three complaints of human rights violations by prison personnel.

There was no information available regarding abuse of persons with disabilities in prisons, although the government’s National Council for Comprehensive Attention to Persons with Disabilities (CONAIPD) previously reported isolated incidents, including sexual abuse.

Administration: The PDDH has authority to investigate credible allegations of inhuman conditions. The Constitutional Chamber of the Supreme Court has authority over the protection of constitutional rights. Under the extraordinary measures implemented in April 2016 and renewed in February until April 2018, inmates in the affected prisons were under restrictive conditions and could not receive visitors, including religious observance visitors such as priests.

Independent Monitoring: The government permitted visits by independent human rights observers, NGOs, and the media, except to those prisons covered by the extraordinary measures. The PDDH continued to monitor all prisons. Church groups, the Institute for Human Rights at the University of Central America, LGBTI activists, and other groups visited prisons during the year. After the implementation of the extraordinary measures, which restricted monitoring of the prisons subject to the measures, the International Committee for the Red Cross suspended all prison visits until visitation was restored in the prisons subject to the extraordinary measures.
Improvements: In February prison Izalco II opened with the aim of relieving overcrowding in the prisons covered under the extraordinary measures. As of August a total of 2,017 inmates were housed in the new facility after being transferred from other prisons. On October 4, a new detention facility in Zacatecoluca was inaugurated with a capacity of 1,008 minimum-security general population inmates. On November 27, the new La Esperanza Detention Center opened in Ayutuxtepeque, in the department of San Salvador, housing 275 inmates with short prison terms transferred from other prisons. According to the Prisons Directorate, the facility was built to house 3,000 minimum security prisoners.

d. Arbitrary Arrest or Detention

Although the constitution prohibits arbitrary arrest and detention, there were numerous complaints that the PNC and military forces arbitrarily arrested and detained persons. As of August the PDDH had received 86 complaints of arbitrary detention by police, the military, or other government officials. NGOs reported that the PNC arbitrarily arrested and detained groups of persons on suspicion of gang affiliation. According to these NGOs, the accused were ostracized by their communities upon their return.

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

Role of the Police and Security Apparatus

The PNC, overseen by the Ministry of Justice and Public Security, is responsible for maintaining public security, and the Ministry of Defense is responsible for maintaining national security. Although the constitution separates public security and military functions, it allows the president to use the armed forces “in exceptional circumstances” to maintain internal peace and public security “when all other measures have been exhausted.” In 2016 President Sanchez Ceren renewed the decree authorizing military involvement in police duties through the end of the 2017, a presidential order that has been in place since 1996.

The three quick-reaction military battalions created in 2015 to support PNC operations, and whose troops have arrest and detention authority, continued to operate. The military is responsible for securing international borders and conducting joint patrols with the PNC. On September 18, the government launched the Volcano Task Force, intended to temporarily expand the military’s presence in San Salvador by transferring 320 members of the armed forces already
assigned to support police functions to the capital city’s police precinct and installing military lookouts in multiple points throughout the city. Military vehicles, including tanks, were deployed throughout residential areas around San Salvador. There was an increase in security checkpoints and random searches of public buses.

There were reports of impunity involving the security forces during the year. Inadequate training, failure to implement the administrative police career law, arbitrary promotions, insufficient government funding, failure to enforce evidentiary rules effectively, and instances of corruption and other crimes limited the PNC’s effectiveness. The PDDH is authorized to investigate (but not prosecute) human rights abuses and refers all cases involving human rights abuses to the Attorney General’s Office.

On July 3, a PDDH report stated that the number of complaints against police and soldiers increased during the months of April and May 2016, immediately following the implementation of the extraordinary measures. Most of these allegations were for extralegal executions, threats, mistreatment, torture, illegal detention, and intimidation. According to the NGO Passionist Social Service Observatory (SSPAS), a Catholic organization that operates primarily as a human rights observer, the number of police and military personnel accused of homicide increased from 49 police officers and 10 soldiers in 2014 to 357 police officers and 72 military personnel in 2016. The IUDOP characterized the homicide events as police negligence. On July 26, the IUDOP reported that 88 percent of citizens did not report direct abuse by police officers. Reports of abuse and police misconduct were more often from residents of the metropolitan area of San Salvador and mostly from men and young persons. The attorney general reported that the number of police officers accused of homicide had increased over the previous three years. Between 2014 and 2016, more than 500 police officers were charged with homicide.

As of October, the Office of the Inspector General received 29 complaints of cruel, inhuman, or degrading treatment—199 for physical abuse, 100 for illegal searches, 11 for violence against women (including rape and sexual abuse), and five for extrajudicial killing. The Inspector General’s Office referred 18 of the cases to the Attorney General’s Office for possible criminal charges and nine to the Internal Affairs Unit of the PNC.

On August 31, the PDDH released its annual findings on the status of human rights, which stated that it received 363 complaints of human rights violations by
public officials, 331 of which were reportedly committed by the PNC and the military.

In response to an alleged rise in extrajudicial killings, in 2016 the PNC launched a newly organized internal investigative office, the Secretariat for Professional Responsibility. The body was composed of an Internal Affairs Unit to investigate criminal complaints against police officers, a Disciplinary Unit to investigate administrative violations, and a Control Unit to enforce internal affairs procedures and support investigations as required.

As of September 11, according to PNC director Howard Cotto, 559 members of the PNC had been arrested for crimes including membership in extermination groups. As of October, the Office of the Inspector General of the Ministry of Public Security and Justice reported that the disciplinary board had sanctioned 753 police officers, 136 of whom were dismissed. On May 5, the Minister of Defense reported that between 2010 and 2017, the army removed 660 soldiers from its ranks due to alleged ties to gang members.

The Inspector General and the Ministry of Defense Human Rights Office reported that most PNC officers, police academy cadets, and all military personnel had received human rights awareness training, including training by the Salvadoran Institute for the Development of Women, the Human Rights Institute of the University of Central America, and the Inter-American Institute of Human Rights.

Police officers, soldiers, and their families faced security threats as targets of gang homicides and kidnappings. As of October 30, a total of 39 police officers, 37 of whom were off duty, and 26 soldiers had been killed. Prisons Director Marco Tulio Lima announced that, as of October 12, three prison guards had been killed. An increased perception of danger to the police coincided with increased public support for police officers. According to a September Prensa Grafica poll, 56 percent of citizens had a positive opinion of the PNC. In February the IUDOP reported that support for the police had increased over the previous year, with 63 percent of the public agreeing that police were more effective compared with the previous year.

**Arrest Procedures and Treatment of Detainees**

The constitution requires a written warrant of arrest except in cases where an individual is caught in the act of committing a crime. Authorities apprehended
persons with warrants based on evidence and issued by a duly authorized official. Police generally informed detainees promptly 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 coercive and that evidence obtained in such a manner is inadmissible. As a result, PNC authorities typically delayed questioning until a public defender or an attorney arrived. Detainees normally had access to counsel of their choice or to an attorney provided by the state. The constitution permits the PNC to hold suspects for 72 hours before presenting them 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 continued beyond the legally prescribed period.

**Arbitrary Arrest:** As of August 31, the PDDH reported 86 complaints of arbitrary detention or illegal detention during the year, compared with 62 in all of 2016.

**Pretrial Detention:** Lengthy pretrial detention was a significant problem. As of June 30, 33 percent of the general prison population was in pretrial detention. Lengthy legal procedures, large numbers of detainees, judicial inefficiency, corruption, and staff shortages caused trial delays. Because it could take several years for a case to come to trial, some persons remained in pretrial detention longer than the maximum legal sentences for their alleged crimes. In such circumstances, detainees may request a Supreme Court review of their continued detention.

On January 9, two police officers detained Daniel Aleman for carrying one pound of marijuana. None of the 30 witnesses to the arrest saw the marijuana, and his defense attorney noted that the arrest was based solely on the accusations of the two police officers. On March 16, the PDDH determined that the police illegally detained Aleman by fraudulently placing illegal drugs on him in order to file charges against him. On May 16, the Ilopango Court of Instruction voided the drugs case against Aleman. He remained under investigation in a separate extortion case.

**e. Denial of Fair Public Trial**
Although the constitution provides for an independent judiciary, the government did not respect judicial independence and impartiality, and the judiciary was burdened by inefficiency and corruption. The Solicitor’s Office, responsible for public defenders, the Attorney General’s Office, and the PDDH suffered from insufficient resources.

While the government generally respected court orders, some agencies, such as the Ministry of Defense, repeatedly failed to cooperate with investigations by the Attorney General’s Office and judges. The Legislative Assembly also did not always comply with Supreme Court rulings. As of October 30, the Legislative Assembly had not complied with a 2015 ruling that it issue regulations to clarify certain sections of the Political Parties Law regarding campaign contributions.

Intimidation of judges, including Supreme Court members, continued to occur. Two legislators participated in demonstrations critical of judges, especially the Constitutional Chamber of the Supreme Court. Supreme Court justices increased their personal security as a result. On October 23, a member of the ruling Farabundo Marti National Liberation Front (FMLN) political party threatened to sue members of the Constitutional Chamber of the Supreme Court for perceived abuse of power. On August 17, the Council of Ministries, a part of the executive branch, issued a public statement against the Constitutional Chamber that declared the 2017 budget unconstitutional. On May 11, an estimated 300 persons marched to the Supreme Court to protest against the Constitutional Court following an injunction that ended the use of segregated lanes of the Metropolitan Area Integrated Transportation System of San Salvador (SITRAMSS). Unlike with most protests, police officers did not set up barricades to stop them from moving to the main gate of the court; demonstrators reached the main gate and damaged it. *El Mundo* newspaper noted that despite verbal threats against the justices during the protest and damage to public property, the PNC did not intervene.

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. As of July 31, the Supreme Court heard 148 cases against judges due to irregularities, 117 of which remained under review; removed six judges; suspended 19 others; and brought formal charges against 28 judges. Accusations against judges included collusion with criminal elements and sexual harassment.

In July 2016 the Constitutional Chamber of the Supreme Court struck down the 1993 Amnesty Law on the grounds that it violated citizens’ constitutional right to justice and the right to compensation for crimes against humanity and war crimes.
The law provided blanket protection against criminal prosecution and civil penalties for crimes committed during the country’s civil war (1980-92), and the court’s ruling held that the Legislative Assembly did not have authority to grant an absolute amnesty. On July 19, the Constitutional Chamber held a follow-up hearing on the progress made by different sectors of the government to comply with the recommendations made by the court, such as issuing a law to guarantee a democratic transition that respects human rights and interagency coordination between the executive and the attorney general to improve judicial accountability for gross violations of human rights committed during the civil war. As of October 30, the Legislative Assembly had not debated or passed legislation pertaining to reparations or reconciliation, and the executive had not granted sufficient funds to the attorney general to prosecute civil war cases.

On August 21, the Constitutional Chamber of the Supreme Court published its August 18 ruling against enforcing an arrest warrant for 13 former members of the military accused of the 1989 murder of six Jesuit priests, their housekeeper, and her daughter. The court noted that it had denied multiple extradition requests from Spain on the Jesuit case, and therefore it would not issue additional arrest warrants based on Spain’s Interpol Red Notice, as the arrests would not lead to extraditions. On April 6, the First Appellate Criminal Court of San Salvador upheld the 30-year sentence against former colonel Guillermo Alfredo Benavides Moreno for his role in the 1989 murders, and he was the sole individual in prison for the crimes. Lieutenant Yusshy Rene Mendoza Vallecillos was sentenced to 30 years for the murder of the priests’ housekeeper’s daughter in the original 1991 trial. Mendoza was not arrested along with Benavides and his whereabouts were unknown, although he was believed to be out of the country.

On June 2, the attorney general issued arrest warrants for three ex-guerrilla members of the People’s Revolutionary Army (ERP) allegedly responsible for the 1981 deaths of two foreign citizens—Lieutenant Colonel David H. Pickett and an aviation technician, Private First Class Earnest G. Dawson Jr.—killed in Lolotique, San Miguel, after their helicopter was shot down. The warrants followed the February 14 reopening by the Attorney General’s Office of the investigation into their killing after a petition from the right-leaning NGO Victims of Terrorism in El Salvador Alliance. Two of the guerrilla members, Ferman Hernandez Arevalo (alias Porfirio) and Ceveriano Fuentes (alias Aparicio), served time in prison but were released after the passage of the 1993 Amnesty Law. A third former guerilla member suspected of involvement in the killing, Santos Guevara Portillo (alias Dominguez), was never arrested. As of August 30, the three defendants had not been arrested.
In September 2016, in response to a petition by the victims, a judge issued an order to reopen the investigation into the 1981 El Mozote massacre, in which an estimated 800 persons were killed during the military’s Operation Rescue. On March 29-30, Judge Guzman held hearings to inform 20 accused former military officials of the charges against them. Two of the accused were deceased, and 12 of the remaining 18 attended the hearing. Eleven other defendants had died since the case was initiated in 1991 by Tutela Legal, a human rights defense organization formerly housed in the Institute for Human Rights at the University of Central America. The hearings marked the first time the defendants were summoned before a judicial body to face accusations for crimes committed during the massacre. On June 9, the prosecution called on 11 witnesses to provide testimony in the trial regarding events that occurred between December 11 and 13, 1981. Witness testimony continued into September and October. On October 19, former general Juan Rafael Bustillo, the accused intellectual author of the massacre, appeared before the court to hear the charges against him. The Ministry of Defense did not provide information requested by the presiding judge or prosecution and claimed that all records of Operation Rescue had been destroyed or never existed, including the names of the soldiers who participated in the operation and their commanding officers. David Morales, representative of the victims, asked the attorney general to investigate the steps taken by the Ministry of Defense that led to their conclusion that it had no information on Operation Rescue. On October 25, the Technical Secretariat stated that between 2013 and 2017, the state paid $1.8 million in restitution to survivors and the families of victims of the El Mozote massacre, of which 1,651 were identified.

Civil society advocates expressed concern that pregnant women were falsely accused and experienced wrongful incarceration in cases where the woman may have suffered a miscarriage or stillbirth but was wrongfully charged with homicide under the law banning abortion in all cases. On December 15, San Salvador’s Second Court of Judgment denied the appeal of Teodora del Carmen Vasquez and upheld her 30-year sentence for aggravated homicide over what she claimed was a stillbirth.

**Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right, although some trial court judges were subject to political and economic influence. Although procedures call for juries to try certain crimes, including environmental pollution and certain misdemeanors,
judges decided most cases. By law juries hear only a narrow group of cases, such as environmental complaints, to which the law does not assign judges. In these cases, after the jury determines innocence or guilt, a panel of judges 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 and in detail of charges, the right to a trial without undue delay, protection from self-incrimination, the right to communicate with an attorney of choice, the right to adequate time and facilities to prepare a defense, freedom from coercion, the right to confront adverse witnesses and present one’s own witnesses and evidence, the right to appeal, and government-provided legal counsel for the indigent. The judiciary introduced trials by video conference and other technology-based solutions to courtrooms in an effort to combat trial backlogs and improve trial procedures.

In criminal cases a judge may allow a private plaintiff to participate in trial proceedings (calling and cross-examining witnesses, providing evidence, etc.), assisting the prosecuting attorney in the trial procedure. Defendants have the right to free assistance of an interpreter if the defendant does not understand Spanish. Authorities did not always respect these legal rights and protections. Although a jury’s verdict is final, a judge’s verdict is subject to appeal. Trials are public unless a judge seals a case.

As of August 31, the PDDH had received 16 complaints of coercion and 68 complaints of intimidation by the PNC, the armed forces, and other public officials during criminal investigations or trial procedures.

The Ministry of Justice and Public Security’s Executive Technical Unit provided witness protection services to victims and witnesses. Some judges denied anonymity to witnesses at trial, and gang intimidation and violence against witnesses contributed to a climate of impunity from criminal prosecution. According to PNC director Howard Cotto, as of August 30, there were 55 individuals under witness protection.

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 generally were enforced. Most attorneys pursued criminal prosecution and later requested civil compensation.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

On July 5, the president of FUSADES stated that according to experts, unknown persons had illegally wiretapped the foundation’s telephone lines.

In many neighborhoods, armed groups and gangs targeted certain persons, interfered with privacy, family, and home life, and created a climate of fear. Efforts by authorities to remedy these situations were generally ineffective.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution provides for freedom of expression, including for the press, and the government generally respected these rights. Some restrictions, however, 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.

Press and Media Freedom: There continued to be allegations that the government retaliated against members of the press for criticizing its policies.

On June 30, news anchor Rafael Dominguez, a strong critic of the administration, warned that his Channel 8 morning show, Asi Estamos, was cancelled in response to government pressure on the channel for his broadcasts. Although the program was initially canceled, it was restarted on July 19 after pressure from journalist associations and civil society.
Violence and Harassment: After reporting on violence in the country, journalist contacts reported experiencing threats from persons believed to be government officials. On August 24, Factum magazine journalist Juan Martinez d’Aubuisson reported intimidation, possibly by police officers, due to an August 22 report, “An Inside Look at a Police Death Squad.” The report presented evidence that led to the arrest of four police officers linked with extrajudicial killings, sexual abuse, and extortion. On August 24, an anonymous Twitter account reportedly run by police officers called for the death of journalists from Factum and online El Faro magazine, similar to the death of Christian Poveda, a journalist killed in 2009 by gang members after a supposed betrayal of loyalty. On August 26, Factum magazine staff also reported that four individuals posing as PDDH officers visited their offices and asked about the whereabouts of a number of journalists. Factum staff contacted the journalists, who subsequently contacted the PDDH, and PDDH representatives confirmed that they had not sent anyone.

On August 30, the PDDH called on the attorney general to issue protective measures for Martinez and other Factum journalists. According to Factum journalist Cesar Castro Fagoaga, the PNC offered special police protection, but the journalists declined the protection, as it was being provided by police, and insisted on a thorough investigation. The Factum journalists were interviewed by the Attorney General’s Office in September and were told by the prosecutor that police had not been in touch with their office. On October 27, the Inter-American Commission on Human Rights ordered protective measures for the Factum journalists. According to Castro Fagoaga, as of November 22, government officials had not been in touch to coordinate the measures.

Censorship or Content Restrictions: Government advertising accounted for a significant portion of press advertising income, although exact data was not publicly available. Newspaper editors and radio directors occasionally discouraged journalists from reporting on topics the owners or publishers might not view favorably. According to the Salvadoran Journalists Association (APES), the media practiced self-censorship, especially in its reporting on gangs and narcotics trafficking.

Nongovernmental Impact: APES noted journalists reporting on gangs and narcotics trafficking were subject to threats and intimidation, resulting in self-censorship.

Internet Freedom
The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. The International Telecommunication Union reported 29 percent of the population used the internet in 2016.

**Academic Freedom and Cultural Events**

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

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

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights, although there were occasions where the government used intimidation tactics to discourage assembly.

On January 10, the PNC Disciplinary Tribunal dismissed five police officers for leading the Police Workers Movement (police union) protests. The case was initiated in January 2016, after more than 1,000 police officers and their families marched for better wages. This unprecedented police protest followed a wave of assassinations of police officers in 2015. The officers appealed the dismissal, and on April 30, an appeals chamber upheld the decision against four of the officers on the grounds that they violated a law prohibiting the police from striking and dismissed charges against the fifth police officer, who served as an administrative assistant.

**c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

**d. Freedom of Movement**

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these rights, although in many areas the government could not provide freedom of movement due to criminal gang activity.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) 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. The government, however, could not facilitate services in many of the gang-controlled neighborhoods most in need.

**In-country Movement:** The major gangs controlled their own territory. Gang members did not allow persons living in another gang’s controlled area to enter their territory, even when travelling via public transportation. Gangs forced persons to present identification cards (containing their addresses) to determine their residence. If gang members discovered that a person lived in a rival gang’s territory, that person risked being killed, beaten, or not allowed to enter the territory. Bus companies paid extortion fees to operate within gang territories, often paying numerous fees for the different areas in which they operated. The extortion costs were passed on to paying customers.

**Internally Displaced Persons (IDPs)**

There were no official government figures on IDPs. A December 2016 IUDOP poll reported that 5 percent of citizens had changed their place of residence due to crime, with 66 percent changing their place of residence once, 31 percent from two to four times, and 3.2 percent five or more times. According to the poll, 40.3 percent stated they might migrate to another country in the following year. The percentage of persons expressing a desire to migrate abroad was the highest in 10 years. The poll also reported that 17.2 percent of individuals had a family member forced to migrate to another country due to threats or to some violent event in 2016. UNHCR estimated there were 280,000 internally displaced persons. UNHCR reported the causes of internal displacement included abuse, extortion, discrimination, and threats.

The NGO International Rescue Committee estimated that the number of IDPs totaled approximately 324,000, or 5.2 percent of the country’s population. On April 4, however, a UNHCR representative reported that due to violence and insecurity, statistics for IDPs may not be reliable.

**Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, including an established system for providing protection to refugees. As of August 25, the government had not granted refugee status to anyone. As of August, four
petitions had been submitted, with one resulting in denial and three still under consideration.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The most recent municipal and legislative elections occurred in 2015 with the final election results released by the Supreme Electoral Tribunal. The election report published by the Organization of American States electoral mission noted that, during the tabulation of the votes, “inconsistencies were discovered in a large number of records, due to erroneous data and information input by many voting centers.”

In 2015 the Constitutional Chamber of the Supreme Court ordered a vote-by-vote recount for the 24 legislators elected in the municipality of San Salvador, the country’s largest constituency. The results of the recount did not alter the election results.

In June 2016 the Constitutional Chamber of the Supreme Court declared as unconstitutional Article 195 of the electoral code, which prohibited police and soldiers from voting in polling stations where they provide security. On January 5, legislators reformed the electoral code and authorized soldiers and police officers to vote in the same place as they work so long as they are duly registered in the electoral roll of that neighborhood.

While the law prohibits public officials from campaigning in elections, this provision lacked consistent enforcement.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process, and they did participate.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively. The NGO Social Initiative for Democracy
stated that officials, particularly in the judicial system, often engaged in corrupt practices with impunity.

**Corruption:** Autonomous government institutions initiated several investigations into corruption. As of August 23, the Probity Section of the Supreme Court was investigating 517 current and former public officials for evidence of illicit enrichment and submitted 15 cases to the Attorney General’s Office for possible criminal indictment. The increase from 72 investigations initiated in 2016 was due in part to a staffing surge. As of August 30, the Attorney General’s Office reported that investigations were in progress in 130 cases related to corruption, with 11 convictions during the year.

As of August 23, the Ethics Tribunal reported that it had received 375 complaints against 476 public officials. The tribunal sanctioned 33 public officials and forwarded six cases to the attorney general.

On June 27, Attorney General Douglas Melendez confirmed that he was conducting an investigation into FMLN leader and Vice Minister for Investment and Funding for Development Jose Luis Merino. Merino’s position as vice minister granted him immunity from prosecution.

On April 19, the Ministry of Foreign Affairs appointed Sigfrido Reyes as an ambassador, at the recommendation of the president, while he retained his position as president of the export promotion agency (PROESA). Reyes was under investigation for illicit enrichment, and the ambassadorial appointment provided Reyes, a senior FMLN politician, with legal immunity.

On June 6, the Attorney General’s Office began an asset forfeiture process against nine properties (valued at $627,000) of late former president Francisco Flores.

On February 4, the attorney general indicted 17 individuals in the corruption case against former president Antonio Saca (2004-09). A court froze additional assets belonging to suspects in the Saca case, including 50 properties and 60 vehicles. On August 21, the attorney general further charged Saca with bribery.

On November 28, former president Mauricio Funes and his son, Diego Funes Canas, were found guilty of illicit enrichment. Funes was ordered to pay restitution and was found ineligible to hold public office for a 10-year period. Funes and his children were granted political asylum in Nicaragua in September 2016.
On January 13, the First Criminal Chamber of El Salvador revoked bail for former attorney general Luis Martinez, businessman Enrique Rais, and five other suspects facing trial on corruption-related charges including fraud and bribery. On October 4, Luis Martinez was indicted on additional charges of coverup and procedural fraud. Police received an order to recapture Enrique Rais and five associates, all of whom disappeared after a court hearing on January 9.

Financial Disclosure: The illicit enrichment law requires appointed and elected officials to declare their assets to the Probity Section of the Supreme Court. The declarations are not available to the public unless requested by petition, and the law establishes fines for noncompliance that range from $11 to $571. Citizens groups petitioned the Probity Section to disclose 18 assets statements of public officers. The Probity Section had not complied due to a lack of response from banks. The full Supreme Court gave the Probity Section until August 29 to submit the requested information; as of November, the Probity Section had not submitted the information and repeated extension requests had been granted. In May 2016 the Supreme Court established three criteria for selecting investigable cases: the age of the case (i.e., proximity to the statute of limitations), the relevance of the position, and the seriousness and notoriety of the alleged illicit enrichment.

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

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Although government officials generally were cooperative and responsive to these groups, officials expressed reluctance to discuss certain issues, such as extrajudicial killings, with the PDDH.

Government Human Rights Bodies: The principal human rights investigative and monitoring body was the autonomous PDDH, whose head is nominated by the Legislative Assembly for a three-year term. The PDDH regularly issued reports and press releases on prominent human rights cases. The PDDH generally enjoyed government cooperation and was considered generally effective except on problems relating to criminal groups and gangs.

The PDDH maintained a constructive dialogue with the President’s Office. The government publicly acknowledged receipt of PDDH reports, although in some cases it did not take action on PDDH recommendations, which are nonbinding.
Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape of men or women, and the criminal code’s definition of rape may apply to spousal rape, at the judge’s discretion. The law requires the Attorney General’s Office to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to withdraw the criminal charge. The penalty for rape is generally imprisonment for six to 10 years. Laws against rape were not effectively enforced.

The law prohibits domestic violence and generally provides for sentences ranging from one to three years in prison, although some forms of domestic violence carry higher penalties. The law also permits restraining orders against offenders. Laws against domestic violence remained poorly enforced, and violence against women, including domestic violence, remained a widespread and serious problem.

As of October the Office of the Inspector General reported five cases of alleged rape by police officers and six cases of sexual assault.

Sexual Harassment: The law prohibits sexual harassment and provides imprisonment of up to five years if the victim is an adult and up to eight years if the victim is a minor. Courts may impose fines in addition to a prison term in cases where the perpetrator maintains a position of trust or authority over the victim. The law also mandates that employers take measures against sexual harassment, violence against women, and other workplace harassment. The law requires employers to create and implement preventive programs to address violence against women, sexual abuse, and other psychosocial risks. The government, however, did not enforce sexual harassment laws effectively.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The constitution grants women and men the same legal rights, but women did not enjoy equal treatment. 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, but employees generally did not report such violations due to fear of employer reprisals.

While the law prohibits discrimination based on gender, women suffered from cultural, economic, and societal discrimination. The law requires equal pay for equal work, but according to the 2016 *World Economic Forum Global Gender Gap Report*, the average wage paid to women for comparable work was 54 percent, down from 60 percent in 2015, of the compensation paid to men.

**Children**

**Birth Registration:** Children derive citizenship by birth within the country and from their parents. The law requires parents to register a child within 15 days of birth or pay a $2.85 fine. Failure to register resulted in denial of school enrollment.

**Education:** Education is free, universal, compulsory through the ninth grade, and nominally free through high school. Rural areas, however, frequently did not provide 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, requiring them to work.

**Child Abuse:** Child abuse remained a serious and widespread problem. For additional information, see Appendix C.

**Early and Forced Marriage:** The legal minimum age for marriage is 18. On August 17, legislators approved a ban on child marriage to prevent child abusers from using legal technicalities to avoid imprisonment.

**Sexual Exploitation of Children:** Child sex trafficking is prohibited by law. On March 29, the Legislative Assembly approved a reform to the penal code to increase prison sentences for convicted traffickers from four to eight years, to six to 10 years.

The minimum age for consensual sex is 18. The law classifies statutory rape as sexual relations with anyone under the age of 18 and includes penalties of four to 13 years’ imprisonment for violations.
The law prohibits paying anyone under the age of 18 for sexual services. The law prohibits participating in, facilitating, or purchasing materials containing child pornography and provides for prison sentences of up to 16 years for violations. Despite these provisions, sexual exploitation of children remained a problem.


Anti-Semitism

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

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The National Council for Comprehensive Attention to Persons with Disability (CONAIPD), composed of representatives from multiple government entities, is the governmental agency responsible for protecting disability rights, but lacks enforcement power. According to CONAIPD, the government did not allocate sufficient resources to enforce prohibitions against discrimination 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. Few access ramps or provisions for the mobility of persons with disabilities existed.

According to CONAIPD, there is no mechanism to verify compliance with the law requiring businesses and nongovernment agencies to hire one person with disabilities for every 25 hires. CONAIPD reported employers frequently fired persons who acquired disabilities and would not consider persons with disabilities for work for which they qualified. Further, some academic institutions would not accept children with disabilities due to a lack of facilities and resources. No formal
system existed for filing a discrimination complaint involving a disability with the government. The Ministry of Labor’s General Directorate for Labor Inspection imposed 403 fines on businesses between 2014 and 2017 for violations of the labor law that requires the hiring of persons with disabilities.

**Indigenous People**

According to the 2007 census, the most recent for which this data was available, 0.4 percent of citizens identified as indigenous. A 2014 constitutional amendment recognizes the rights of indigenous people, but no laws provide indigenous people rights to share in revenue from exploitation of natural resources on historically indigenous lands. The government did not demarcate any lands as belonging to indigenous communities. Because few possessed title to land, opportunities for bank loans and other forms of credit remained extremely limited.

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

The law prohibits discrimination on the basis of sexual orientation and gender identity. On November 13, the Supreme Electoral Tribunal announced new guidelines to protect LGBTI persons from discrimination at election polls. Under the guidelines, individuals cannot be denied the right to vote because the photo on their identification card does not match their physical appearance or gender expression.

On August 30, the attorney general filed charges against eight Mara Salvatrucha (MS-13) gang members for the aggravated homicides of three transgender persons. The in-depth police investigation by a specialized unit produced credible evidence that the victims had been involved in gang-related extortion activities. On February 18, two of the victims arrived at a party in San Luis Talpa, La Paz Department, when perpetrators fired shots from a vehicle. Authorities reported that the gangs killed a third transgender victim on February 21 in Cuyultitan, in La Paz, in retaliation for her participation in the killings of the first two victims. In March the PNC assigned its High Visibility Crimes Unit to investigate the homicides of the three transgender women, and the Secretary for Social Inclusion met with activists to hear their concerns about LGBTI hate crimes. While the crimes themselves were later determined to be gang related, the government and the PDDH issued statements against hate crimes in response to concerns expressed immediately after the crimes by the LGBTI community.
A March 21 hearing before the Inter-American Commission on Human Rights focused on anti-LGBTI violence and hate crimes. One NGO told commissioners that at least 600 persons had experienced hate crimes based on their sexual orientation or gender identity since 2004. As of August 31, the PDDH had received six complaints for crimes against LGBTI persons.

NGOs reported that public officials, including police, engaged in violence and discrimination against LGBTI persons. Members of the LGBTI community stated that PNC and Attorney General’s Office personnel ridiculed them when they applied for identification cards or reported cases of violence against LGBTI persons. The NGO Association for Communication and Training of Transgender Women with HIV in El Salvador (COMCAVIS Trans) reported that, as of September, a total of 28 LGBTI persons were attacked or killed because of their sexual orientation.

**HIV and AIDS Social Stigma**

Although the law prohibits discrimination on the basis of HIV/AIDS status, Entre Amigos, an LGBTI nongovernmental organization, reported that discrimination due to HIV was widespread. As of August 31, the PDDH reported one case of discrimination against persons with HIV or AIDS. The Ministry of Labor reported one case of discrimination against an HIV-positive employee based on the illness in 2016.

**Section 7. Worker Rights**

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

The law provides the right of most workers to form and join independent unions, to strike, and to bargain collectively. The law also prohibits antiunion discrimination, although it does not require reinstatement of workers fired for union activity. Several restrictions limit these rights. Military personnel, national police, judges, and high-level public officers may not form or join unions. Workers who are representatives of the employer or in “positions of trust” also may not serve on the union’s board of directors. The law does not define the term “positions of trust.” The labor code does not cover public-sector workers and municipal workers, whose wages and terms of employment are regulated by the 1961 Civil Service Law.
Unions must meet complex requirements to register legally and to have the right to bargain collectively, including having a minimum membership of 35 workers. If the Ministry of Labor denies a union’s legal registration, the law prohibits any attempt by the union to organize for up to six months following the denial. Collective bargaining is obligatory only if the union represents the majority of workers.

While workers have the right to strike, the law contains cumbersome and complex registration procedures for conducting a legal strike. The law does not recognize the right to strike for public and municipal employees or for workers in essential services, which include those services where 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, and courts therefore apply this provision on a case-by-case basis. The law places several other restrictions on the right to strike, including the requirement that 30 percent of all workers in an enterprise must support a strike for it to be legal and that 51 percent must support the strike before all workers are bound by the decision to strike. In addition, unions may strike only to obtain or modify a collective bargaining agreement or to protect the common professional interests of the workers. They must also engage in negotiation, mediation, and arbitration processes before striking, although many groups often skipped or went through these steps quickly. The law prohibits workers from appealing a government decision declaring a strike illegal.

In lieu of requiring employers to reinstate illegally dismissed workers, the law requires employers to pay them the equivalent of 30 days of their basic salary for each year of service completed, plus the corresponding proportion for any partial year. This compensation must never be fewer than 15 days of basic salary. The law specifies 30 reasons for which an employer can legally terminate a worker’s contract without triggering any additional responsibilities on the part of the employer. Such reasons include consistent negligence by an employee, leaking of private company information, or committing immoral acts while on duty. Short of terminating workers, an employer may also legally suspend workers in a variety of situations, including for reasons of economic downturn or market conditions. As of August, the Ministry of Labor had received 3,225 complaints of violations of the labor code, including 229 instances of failure to pay the minimum wage.

The government did not effectively enforce the laws on freedom of association and the right to collective bargaining in all cases. Resources to conduct inspections remained inadequate, and remedies remained ineffective. Penalties for employers
who disrupt the right of a union to exist by directly or indirectly firing workers with the goal or effect of ensuring the union no longer met the minimum number of members ranged from 10 to 50 times the monthly minimum salary. These were paid to the government’s general fund, not to the fired employee. The penalty for employers who interfere with the right to strike was between $3,000 and $15,000, based on the state-mandated minimum salary of $300 for the commercial and industrial sectors. Such penalties remained insufficient to deter violations. The Ministry of Labor acknowledged it lacked sufficient resources, such as vehicles, fuel, and computers, to enforce the law fully. Judicial procedures were subject to lengthy delays and appeals. According to union representatives, the government inconsistently enforced labor rights for public workers, maquila/textile workers, food manufacturing workers, subcontracted workers in the construction industry, security guards, informal sector workers, and migrant workers. As of September the Ministry of Labor had received two claims of violations to the freedom of association.

As of July the Ministry of Labor had overseen the mediation of 3,728 disputes between employers and individual employees or employee collectives. Mediation is required before an alleged labor law violation can be adjudicated in court. While 41 of the mediated disputes resulted in the reinstatement of the aggrieved employee and the payment of a fine by the employer, no agreement was reached in 1,786 disputes, many of which continued on to court. Although not required by law, the ministry continued to request that some employers rehire fired workers, basing its requests on International Labor Organization (ILO) Committee on Freedom of Association. The ministry did not perform inspections in the informal sector. According to a FUSADES report, 72.4 percent of the economically active population worked in the informal economy. According to the 2015 census, 42 percent of workers in urban areas worked in the informal sector. The ministry does not hold jurisdiction over public employees, as most fall under the civil service law.

Workers faced problems exercising their rights to freedom of association and collective bargaining, including, according to allegations by some unions, government influence on union activities and antiunion discrimination on the part of employers. Unions functioned independently from the government and political parties, although many generally were aligned with the Nationalist Republican Alliance (ARENA), the FMLN, or other political parties.

There were reports of antiunion discrimination, including threats against labor union members, dismissals of workers attempting to unionize, and blacklisting.
According to union leader contacts, the administration blacklisted public-sector employees who they believed were close with the opposition. Workers at times engaged in strikes regardless of whether the strikes met legal requirements. The ILO Conference Committee on the Application of Standards discussed the country for the third year in a row over the nonfunctioning of the tripartite Higher Labor Council and, in 2015 and 2016, a variety of other issues affecting freedom of association.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government generally did not effectively enforce such laws. Resources to conduct inspections remained inadequate. The labor code did not specify a fine for forced labor violations. The code’s default fine of $57 per violation applied. This penalty was generally not sufficient to deter violations. The lack of sufficient resources for inspectors reduced their ability to enforce the law fully. The Ministry of Labor did not report on incidents of forced labor; however, gangs subjected children to forced labor in illicit activities, including selling or transporting drugs (see section 7.c.).

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 14, allowing children between the ages of 14 and 18 to engage in light work if the work does not damage the child’s health or development or interfere with compulsory education. The law prohibits children under the age of 16 from working more than six hours per day and 34 hours per week; those under the age of 18 are prohibited from working at night or in occupations considered hazardous. The Ministry of Labor maintained a list of the types of work considered hazardous and prohibited for children, to include repairing heavy machinery, mining, handling weapons, fishing and harvesting mollusks, and working at heights above five feet while doing construction, erecting antennas, or working on billboards. Children who are 16 and older may 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.

The Ministry of Labor maintains responsibility for enforcing child labor laws but did so with limited effectiveness. Child labor remained a serious and widespread
problem. The law specifies a default fine of no more than $60 for each violation of most labor laws, including child labor laws; such penalties were insufficient to act as a deterrent. The ministry’s labor inspectors focused almost exclusively on the formal sector. As of September, the ministry reported conducting 596 inspections related to child labor, during which inspectors reported seven incidents of child labor and one incident of an adolescent working without a permit. The ministry estimated that, as of September, there were 140,700 children and adolescents working, of which, 91,257 children were employed in “dangerous work.” No information on any investigations or prosecutions by the government was available. The ministry lacked adequate resources for effective enforcement of child labor laws in the agricultural sector, especially in coffee and sugarcane production, or in the large, informal sector.

There were reports of children under the age of 16 engaging in the worst forms of child labor, including in coffee and sugarcane cultivation, fishing, mollusk shucking, and fireworks production. As of November there were two incidents of minors injured or killed due to the explosion of a clandestine fireworks factory, most recently on March 23 in San Rafael Cedros, in the department of Cuscatlan, which injured a 14-year-old child. Children were subjected to other worst forms of child labor, including commercial sexual exploitation (see section 6, Children) and recruitment into illegal gangs to perform illicit activities related to the arms and drug trades, including committing homicide. Children were engaged in child labor, including domestic work, the production of cereal grains, and the production of baked goods. Orphans and children from poor families frequently worked as street vendors and general laborers in small businesses.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The constitution, labor laws, and state regulations prohibit discrimination regarding race, color, sex, religion, political opinion, national extraction (except in cases determined to protect local workers), social origin, gender, disability, language, or HIV-positive status. The government did not effectively enforce those laws and regulations. Sexual orientation and gender identity are not included in the constitution or labor law, although the PDDH and the Ministry of Labor actively sought to protect workers against discrimination on those grounds.
Discrimination in employment and occupation occurred with respect to gender, disability, and sexual orientation and/or gender identity (see sections 6 and 7.e.). According to the Ministry of Labor, migrant workers have the same rights as citizens, but the ministry did not enforce them.

e. Acceptable Conditions of Work

There is no national minimum wage; the minimum wage is determined by sector. In January a major minimum wage increase went into effect that included increases of nearly 40 percent for apparel assembly workers and more than 100 percent for workers in coffee and sugar harvesting. After the increase, the minimum daily wage was $10 for retail, service, and industrial employees; $9.84 for apparel assembly workers; and $3.94 for agricultural workers. The government reported that the poverty income level was $179.67 per month in urban areas and $126.97 per month in rural areas.

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, which is to be paid at a rate of double the usual hourly wage. The law mandates that full-time employees receive pay for an eight-hour day of rest in addition to the 44-hour normal workweek. The law provides that employers 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, such as maids and gardeners, are obligated to work on holidays if their employer makes this request, but they are entitled to double pay in these instances. The government did not adequately enforce these laws.

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 employers to take steps to meet health and safety requirements in the workplace, including providing proper equipment and training and a violence-free environment. Employers who violate most labor laws could receive a default fine of no more than $57 for each violation. For serious infractions, employers could be fined up to an amount equivalent to 28 minimum monthly wage salaries. While the laws were appropriate for the main industries, a lack of compliance inspectors led to poor enforcement. These penalties were also insufficient to deter violations, and some companies reportedly found it more cost effective to pay the fines than to comply with the law. The law promotes occupational safety awareness, training, and worker participation in occupational health and safety matters.
As of August 30, the Attorney General’s Office reported 818 complaints against employers for not paying pension quotas to the pension administration companies and that it filed judicial charges against 124 employers. The courts dismissed charges in 63 cases and suggested alternative solutions in 55 cases.

The Ministry of Labor is responsible for enforcing the law. The government proved more effective in enforcing the minimum wage law in the formal sector than in the informal sector. Unions reported that the ministry failed to enforce the law for subcontracted workers hired for public reconstruction contracts. The government provided its inspectors updated training in both occupational safety and labor standards. As of September, the ministry conducted 20,134 inspections, of which 22 percent were inspections to follow-up with prior investigations. As of August, the ministry’s inspectors had levied $1.34 million dollars in fines against businesses for violations of the labor law, although this did not account for fines for withholding fees, child labor, and forced labor. Most fines were levied against businesses in the services and commercial sectors.

Allegations of corruption among labor inspectors continued. The ministry received complaints regarding failure to pay overtime, minimum wage violations, unpaid salaries, and cases of employers illegally withholding benefits (including social security and pension funds) from workers.

Reports of overtime and wage violations existed in several sectors. According to the ministry, employers in the agriculture sector did not generally grant annual bonuses, vacation days, or days of rest. Women in domestic service and the industrial manufacturing for export 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 and domestic service reportedly fell subject to violations of wage, hour, and safety laws. According to the Organization for Salvadoran Women for Peace (ORMUSA), apparel companies violated women’s rights through occupational health violations and unpaid overtime. There were reports of occupational safety and health violations in other sectors, including reports that a very large percentage of buildings were out of compliance with safety standards set by the General Law on Risk Protection. The government proved ineffective in pursuing such violations.

In June the labor union SITRAFOS complained that the Solidary Fund for Health (FOSALUD) was sending health workers to violent areas, despite warnings about
such places. According to SITRAFOS representatives, the lives of health workers were at risk in several areas where they were threatened by gang members. The union noted staff was being sent to dangerous places without police protection.

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.

As of June, the Ministry of Labor reported 3,938 workplace accidents. The sectors registering the highest levels of incidents included: 2,032 accidents in the services sector, 1,320 in the industrial sector, 241 in the government sector, and 37 in the agricultural sector. The ministry did not report any deaths from workplace-related accidents.

Workers can legally remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities lacked the ability to protect employees in this situation effectively.
TAB 4
EXECUTIVE SUMMARY

El Salvador is a constitutional multiparty republic. Municipal and legislative elections held in March 2015 were generally free and fair. Election results were delayed, however, due to problems with the transmission, tabulation, and public dissemination of the vote count under the management of the Supreme Electoral Tribunal. Free and fair presidential elections took place in 2014.

Civilian authorities failed at times to maintain effective control over security forces.

The principal human rights problems stemmed from widespread extortion and other crime in poor communities throughout the country. They included widespread corruption; weak rule of law, which contributed to high levels of impunity and government abuse, including unlawful killings by security forces, discrimination, and delay and lack of compliance with court rulings; and violence against women and girls (including by gangs), gender discrimination, and commercial sexual exploitation of women and children. According to a 2016 CID Gallup poll, more than one in five families claim to have been victims of violent crimes.

Other human rights problems included harsh and potentially life-threatening prison conditions; lengthy pretrial detention; restrictions on freedom of speech and press; trafficking in persons; migrant smuggling, including of unaccompanied children; and discrimination against persons with disabilities and persons with HIV/AIDS. There was also widespread discrimination and some violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

Impunity persisted despite government steps to dismiss and prosecute some officials in the security forces, the executive branch, and the justice system who committed abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:
a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings

During the year there were no verified reports that the government or its agents committed politically motivated killings. There were reports, however, of security force involvement in unlawful killings. As of October the attorney general was investigating 53 possible cases of extrajudicial killings. One took place in 2013, none in 2014, 11 in 2015, and 41 in 2016. The Attorney General’s Office also announced the formation of a Special Group Against Impunity, dedicated to investigating this type of crime. As of March the Office of the Human Rights Ombudsman (PDDH) had received 12 complaints of alleged unlawful killings committed by security, military, and other public officials and found substantial evidence in two cases. In September the PDDH stated that it was aware of approximately 50 cases involving potential extrajudicial killings. From January to July, the Office of the Inspector General of the National Civilian Police (PNC) reported that 12 PNC officers faced charges of homicide. All but one of the alleged homicides were committed while the accused officers were on duty.

On April 25, the PDDH found indications that the PNC and the armed forces had committed extrajudicial killings during the March 2015 San Blas case (involving the killing of seven alleged gang members and one other person) and the August 2015 Pajales case (which involved the close-range killing of four unarmed gang members). The PDDH criticized the PNC and the armed forces for issuing a press release portraying the killings as the product of clashes with gang members. The PDDH also noted weak internal controls in the PNC and the armed forces and regretted the lack of interagency collaboration in the investigations. On July 9, the attorney general ordered the arrest of seven police officers accused of committing extrajudicial killings in the San Blas case on charges of homicide and obstruction of justice. Seven officers were charged in the Pajales case, although there was no confirmation arrests were made.

On July 9, the Attorney General’s Office ordered the arrest of five police officers and five civilians for their participation in at least eight homicides as part of an alleged extermination group operating in San Miguel; on July 13, a judge ordered preventive detention of the accused. Eleven additional defendants fled from justice, according to the Attorney General’s Office. Funding for the extermination group reportedly came from Salvadorans living abroad.

The nongovernmental organization (NGO) Cristosal compared PNC data that showed 366 armed confrontations through July 2016, during which 350 suspected
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Gang members died. A total of 359 suspected gang members were killed in 676 armed confrontations in 2015, and 83 were killed in 256 confrontations in 2014. The mortality rate of suspected gang members in confrontations with police during the first six months of the year was 109 percent higher (i.e., more than double) that the 2015 mortality rate, which was itself 41 percent higher than in 2014. On October 4, the digital newspaper El Faro cited a Brazilian expert who analyzed PNC data and concluded that the data demonstrated a pattern of abuse of lethal force by police authorities.

As of August, the Office of the Inspector General of the Ministry of Public Security and Justice had received two complaints of extrajudicial killings against police members and two complaints for violations to the right of life.

b. Disappearance

There were no reports of politically motivated disappearances, abductions, or kidnappings. As of September, the NGO Association for the Search for Missing Children (Pro-Busqueda) received five new complaints regarding children who disappeared during the 1980-92 civil war. Pro-Busqueda reported in August that it was investigating 960 open cases, had solved 425 cases, and determined that in 15 percent of solved cases the child had died.

According to the PNC inspector general, eight complaints of forced disappearances were filed against the PNC between January and August.

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

The law prohibits such practices, but there were multiple reports of violations. The PDDH received 21 complaints of torture or cruel, inhuman, or degrading treatment by the PNC, armed forces, and other public officials.

As of August, the Office of the Inspector General reported 31 complaints against police officers for alleged cruel treatment. The NGOs Foundation of Studies for the Application of the Law, and Passionist Social Service, as well as other civil society institutions reported that poor male youths were sometimes targeted by the PNC and armed forces because they fit the stereotype of gang members. Other credible sources indicated that youths suspected to have knowledge of gang activity were mistreated by law enforcement personnel.
NGOs reported that public officials, including police, engaged in violence and discrimination against sexual minorities. Persons from the LGBTI community stated that the agencies in charge of processing identification documents, the PNC, and the Attorney General’s Office harassed transgender and gay individuals when they applied for identification cards or reported cases of violence against LGBTI persons. The LGBTI community reported authorities harassed LGBTI persons by conducting strip searches and questioning their gender in a degrading manner. The government responded to these abuses primarily through PDDH reports that publicized specific cases of violence and discrimination against sexual minorities.

**Prison and Detention Center Conditions**

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

**Physical Conditions:** Overcrowding remained a serious threat to prisoners’ health and lives. As of August 15, the prison directorate reported 34,938 inmates were being held in correctional facilities with a designed capacity of 10,035 inmates. As of July 11, the minister of security noted that his office had moved 1,600 inmates from pretrial detention into the regular prison system. The Salvadoran Foundation for Economic and Social Development (FUSADES) estimated that, as of June 30, prison overcrowding was 346 percent. The prison population included 24,675 inmates with convictions and 10,263 inmates in pretrial detention. In many facilities, provisions for sanitation, potable water, ventilation, temperature control, medical care, and lighting were inadequate. On November 14, the PDDH published a report on deteriorating prison conditions, observed during fact-finding missions between April and July. The report highlights worsening conditions since the April implementation of extraordinary measures, including decreased access to medical care while infectious diseases increased, lack of sanitation facilities for the number of inmates, inmates sleeping on the floor without blankets, and inmates lacking space to sleep because of extreme overcrowding.

Men and women had separate accommodations within the prisons. A separate women’s prison in Ilopango was generally clean and allowed inmates to move freely within and inmates’ children under the age of five to stay with their mothers.

Due to prison overcrowding, police authorities held some pretrial detainees in small detention centers at police stations, which had a combined capacity of 2,102 persons. FUSADES reported in February that authorities held approximately 83 percent of these pretrial detainees in detention centers longer than the 72 hours
legally permitted before presenting them to a court, some for up to two years. Similarly, due to the lack of holding cells, authorities often held pretrial detainees in regular prisons with violent criminals.

On March 16, the Legislative Assembly approved temporary provisions to allow parole for inmates considered low-level threats and with prison sentences of less than eight years (291 inmates).

On May 27, the Constitutional Chamber of the Supreme Court declared unconstitutional the systematic violation of basic human rights by prison overcrowding, citing the government for violating prisoners’ right to health, and ordered periodic visits by the Ministry of Health. The court ordered prison authorities to build new prisons and to remodel others to shelter inmates humanely and the judicial system to review the inmate rosters with an aim of reducing the number of prisoners. Authorities closed one prison during the year, and another was under construction.

In November 2015 the Public Opinion Institute of the University of Central America (IUDOP-UCA) released the findings of its 2009-15 study on the penitentiary and prison system. The report estimated that 9 percent of the prison population was ill, including with highly communicable diseases such as tuberculosis. In August the General Directorate of Prisons (DGCP) began addressing tuberculosis within the prison system by creating mobile tuberculosis treatment teams and separate holding cells for infected inmates.

Prisoners 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. On April 1, the Legislative Assembly unanimously approved “extraordinary security measures” to prevent gang members from orchestrating crimes from within the prison system. These measures included preventing communication between inmate gang leaders and their members outside prison, suspending all private communication and contact with their families and limiting access to their lawyers, and detaining and isolating known gang leaders in higher security prisons. The measures also subjected the inmates in prisons designated for convicted gang members to isolation and restriction to their cells for 24 hours per day. According to the PDDH, prison authorities modified some of the measures in July and August and allowed prisoners up to one hour outside of their cells. The extraordinary measures affected 13,162 inmates housed in seven prisons: Izalco, Quezaltepeque, Chalatenango, Ciudad Barrios, Gotera, and Zacatecoluca penitentiaries, as well as
one sector of Ilopango penitentiary. In response, approximately 200 relatives of imprisoned gang members organized a march on June 29 to demand the government reinstate family visits and file a complaint with the PDDH. On November 18, the government launched additional extraordinary measures in response to an increase in homicides of police officers and soldiers by gang members. These measures included moving gang members considered responsible for attacks against police officers to higher-security prisons and increasing their isolation.

Gang activities in prisons and juvenile holding facilities remained a serious problem. As of August 15, detention center facilities held 16,215 inmates who were current or former gang members. On October 22, the Prison Directorate ordered 235 inmates moved to different prisons in an effort to break up gang “cliques” within prisons. As of May, the Salvadoran Institute for Child Development (ISNA) reported that two adolescents died in juvenile detention facilities. ISNA also reported that there were 418 juveniles convicted and 230 juveniles awaiting trial.

According to news reports, 25 prisoners were killed within prisons between January and August, including 11 prisoners killed in the Gotera Penitentiary by fellow inmates. As of August, the Prison Directorate had reported only 11 homicides within prisons.

As of September 6, prison authorities removed two guards from duty for carrying illegal objects and sanctioned 29 guards for misconduct. Prison authorities received 17 complaints of human rights violations allegedly committed by prison personnel.

There was no information available regarding abuse of persons with disabilities in prisons, although the government’s National Council for Comprehensive Attention to Persons with Disability (CONAIPD) previously reported isolated incidents, including sexual abuse.

Administration: The IUDOP-UCA report noted that, between 2009 and 2015, parole board staffing decreased by 48 percent. In 2015 the prison system had 69 technical employees (including attorneys, sociologists, social workers, and psychologists) to provide services to more than 31,000 inmates. The PDDH has authority to investigate credible allegations of inhuman conditions. The Constitutional Chamber of the Supreme Court has authority regarding the protection of constitutional rights.
Independent Monitoring: The government permitted prison-monitoring visits by independent human rights observers, NGOs, and the media, except to those prisons covered by the extraordinary measures. The PDDH continued to monitor all prisons. Church groups, the Central American University’s Human Rights Institute, LGBTI activists, and other groups visited prisons during the year. After the implementation of the extraordinary measures, which restricted monitoring of the prisons subject to the measures, the International Committee for the Red Cross suspended all prison visits until visitation was restored in the prisons subject to the extraordinary measures.

d. Arbitrary Arrest or Detention

Although the constitution prohibits arbitrary arrest and detention, there were numerous complaints that the PNC and military forces arbitrarily arrested and detained persons. As of August, the Office of the Inspector General had received 45 complaints against police officers for alleged violations of freedom of movement. NGOs reported that the PNC had arbitrarily arrested and detained groups of persons on suspicion of gang affiliation. According to these NGOs, the accused were ostracized by their communities upon their return, even when they were not affiliated with gangs.

Role of the Police and Security Apparatus

The PNC, overseen by the Ministry of Justice and Public Security, is responsible for maintaining public security, and the Ministry of Defense has responsibility for maintaining national security. Although the constitution separates public security and military functions, it allows the president to use the armed forces “in exceptional circumstances” to maintain internal peace and public security “when all other measures have been exhausted.” President Sanchez Ceren renewed the decree authorizing military involvement in police duties through the end of the year.

The three quick reaction military battalions that were created in 2015 to support PNC operations and whose troops have arrest and detention authority continued to operate. The military is responsible for securing the international border and conducting joint patrols with the PNC.

On April 20, the government announced the launch of the Fast Reaction Force (FERES), a joint operation consisting of two 200-officer police units supported by
250 Special Forces military soldiers. Battalion soldiers are legally able under citizen’s arrest authority to detain persons they believe have committed criminal acts.

In response to an alleged rise in extrajudicial killings, the PNC in January launched a newly organized internal investigative office, the Secretariat for Professional Responsibility. The body is composed of a Complaints Office, a Disciplinary Office, and the Inspector General’s Office.

From January to August, the Inspector General’s Office received 492 complaints of human rights violations--31 for inhuman and cruel treatment, 181 for physical abuse, 117 for personal security, 40 for violence against women (including rape and sexual abuse), 15 for failure to provide access to justice, two for extrajudicial killing, and two for deprivation of life. The Inspector General’s Office referred three of the cases to the Attorney General’s Office for possible criminal charges.

In June the PDDH released its annual findings on the status of human rights. The report stated that, between June 2015 and May 2016, the PDDH received 1,883 complaints of human rights violations, 1,284 of which were reportedly committed by the PNC and the military.

Inadequate training, lack of enforcement of the administrative police career law, arbitrary promotions, insufficient government funding, failure to enforce evidentiary rules effectively, and instances of corruption and criminality limited the PNC’s effectiveness. The PDDH has the authority to investigate (but not prosecute) human rights abuses and refers all cases it deems to involve human rights abuse to the Attorney General’s Office.

In May PNC director Howard Cotto stated that since January 80 police officers had been arrested for illicit activities, such as extortion, theft, and murder for hire. In June the Inspector General’s Office reported that it sanctioned 781 officers in response to complaints filed during the year and in prior years. These sanctions included 84 arrests and 165 officers suspended without pay. As of July 18, the Attorney General’s Office reported that it had filed charges against 587 police officers and 14 judges for unspecified crimes. The office also reported that it successfully convicted 15 police officers for criminal activities.

The Inspector General’s Office and the Ministry of Defense Human Rights Office reported most PNC officers, police academy cadets, and all military personnel had received human rights awareness training, including training by the Salvadoran
Institute for the Development of Women, the Human Rights Institute of the University of Central America, and the Inter-American Institute of Human Rights. The Inspector General’s Office reported that 633 police officers received human rights training in the past year. The Ministry of Defense Human Rights Office reported that 6,097 soldiers received human rights training during the year.

On May 29, the PNC revised its guidelines on the use of force to improve accountability of police personnel. The guidelines specifically outline situations that permit the use of force, proportionality of force for various confrontational situations, and internal investigation procedures for alleged misconduct.

**Arrest Procedures and Treatment of Detainees**

The constitution requires a written warrant of arrest except in cases where an individual is in the act of committing a crime. Authorities apprehended persons with warrants based on evidence and issued by a duly authorized official. Police generally informed detainees promptly 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 coercive and that evidence obtained in such a manner is inadmissible. As a result, PNC authorities typically delayed questioning until a public defender or an attorney arrived. Detainees normally had access to counsel of their choice or to an attorney provided by the state. The constitution permits the PNC to hold suspects for 72 hours before presenting them 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 continued beyond the legally prescribed period.

**Arbitrary Arrest:** As of November 8, the PDDH reported 62 complaints of arbitrary detention or illegal detention during the year.

**Pretrial Detention:** Lengthy pretrial detention was a significant problem. As of June 30, 29 percent of the general prison population was in pretrial detention. Lengthy legal procedures, large numbers of detainees, judicial inefficiency, corruption, and staff shortages caused trial delays. Because it could take several
years for a case to come to trial, some persons remained in pretrial detention longer than the maximum legal sentences for their alleged crimes. In such circumstances, detainees may request a Supreme Court review of their continued detention.

**Detainee’s Ability to Challenge Lawfulness of Detention before a Court:** The constitution grants detainees the right to a prompt judicial determination on the legality of their detention, and persons arrested or detained may obtain prompt release and compensation if found to have been unlawfully detained. In some cases persons were not promptly released and/or did not receive compensation for unlawful detention.

**e. Denial of Fair Public Trial**

Although the constitution provides for an independent judiciary, the judiciary was burdened by inefficiency and corruption, and the Solicitor’s Office (responsible for public defenders) of the Attorney General’s Office and the PDDH suffered from insufficient resources. As of July 18, the Attorney General’s Office reported that it had initiated 14,162 cases and obtained 3,268 convictions.

As of August, the Office of the Inspector General of the Ministry of Public Security and Justice reported 15 cases of violations of access to justice committed by police officers, and one police officer was accused of obstructing due process.

On July 13, the Constitutional Chamber of the Supreme Court struck down the 1993 Amnesty Law on the grounds that it violated citizens’ constitutional right of access to justice and the right to compensation for crimes against humanity and war crimes. The law provided blanket protection against criminal prosecution and civil penalties for crimes committed during the country’s civil war (1980-92), and the court’s ruling held that the Legislative Assembly did not have authority to grant an absolute amnesty. Nevertheless, the court held that the law continues to be enforced for those crimes committed during the civil war years that do not constitute serious human rights abuses. The ruling declaring the Amnesty Law unconstitutional empowered parties to request judges to reopen cases related to civil war era crimes and for individuals to petition the attorney general to open new cases.

On August 25, the Supreme Court denied the extradition to Spain of former colonel Guillermo Benavides for the 1989 murder of four Jesuit priests. The court ordered Benavides to remain in prison to await a hearing before the Fourth Instruction Court of San Salvador to determine whether he would be held
criminally responsible for the murders as a result of the Amnesty Law ruling. On September 30, in response to a petition by the victims, a judge issued an order to reopen the investigation into the 1981 El Mozote massacre, in which an estimated 800 persons were killed. On October 17, the Human Rights Institute at the University of Central America filed five complaints with the Attorney General’s Office on behalf of victims of torture, forced disappearances, and murder from 1975 to 1989, allegedly by agents of the state. On October 20, Armando Duran filed a complaint against former Farabundo Marti Liberation Front (FMLN) commanders, including the sitting president, Salvador Sanchez Ceren, for their alleged participation in a kidnapping in 1987. On November 15, the Constitutional Court ordered a lower court judge to determine how to investigate and prosecute the 1982 “El Calabozo” massacre, in which approximately 200 persons were killed.

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. Between January 1 and June 30, the Supreme Court heard 201 cases against judges due to irregularities, removed four judges, suspended 10 others, and brought formal charges against 63 judges.

The Legislative Assembly did not always comply with Supreme Court rulings. As of September 8, the Legislative Assembly had not complied with a ruling from the Supreme Court’s Constitutional Chamber that mandated the Legislative Assembly renominate magistrates on the Court of Accounts (a transparency oversight body) by July 29 because those nominated by the legislature had political party affiliations in contravention of legal standards. On September 6, the Constitutional Chamber of the Supreme Court admitted a complaint against the Legislative Assembly for failing to nominate members to the National Judicial Council after a delay of more than a year. The council is responsible for selecting judicial candidates.

Between January and June 20, the Ministry of Justice and Public Security’s Executive Technical Unit (UTE), which provides witness protection services, provided protection to 682 victims, 821 witnesses, and 457 victim/witnesses. The unit also provided household protection for 55 persons. In 2015 the unit provided protection to 4,218 victims and witnesses. Some judges denied anonymity to witnesses at trial, and gang intimidation and violence against witnesses contributed to a climate of impunity from criminal prosecution.
Trial Procedures

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right, although some trial court judges were subject to political and economic influence. Although procedures called for juries to try certain crimes, including environmental pollution and certain misdemeanors, judges decided most cases. By law juries hear only a narrow group of cases, such as environmental complaints, to which the law does not assign to judges. After the jury’s determination of innocence or guilt, a panel of judges decides the sentence in such cases.

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 and in detail of charges, the right to a trial without undue delay, protection from self-incrimination, the right to communicate with an attorney of choice, the right to adequate time and facilities to prepare a defense, freedom from coercion, the right to confront adverse witnesses and present one’s own witnesses and evidence, the right to appeal, access for defendants and their attorneys to government-held evidence relevant to their cases, and government-provided legal counsel for the indigent. In criminal cases a judge may allow a private plaintiff to participate in trial proceedings (calling and cross-examining witnesses, providing evidence, etc.), assisting the prosecuting attorney in the trial procedure. Defendants have the right to free interpretation as necessary from the moment charged through the appeals process if the defendant does not understand Spanish. Authorities did not always respect these legal rights and protections. Although a jury’s verdict is final, a judge’s verdict is subject to appeal. Trials are public unless a judge seals a case. 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 generally were enforced. Most attorneys pursued criminal prosecution and later requested civil compensation.
f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

In many neighborhoods, armed groups and gangs targeted certain persons, interfered with privacy, family, and home life, and created a climate of fear that the authorities were not capable of restoring to normal.

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. Some restrictions, however, 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.

Freedom of Speech: The constitution provides that all persons may freely express and disseminate their thoughts and that the exercise of this right is not subject to government censorship. Nevertheless, there were allegations that the government retaliated against individuals for criticizing government policy.

Credible sources indicated that the director of a transparency NGO, whose board of directors was composed of government officials, was removed from his position because he publicly criticized the government for what he viewed as “excessive and discretionary use” of classified information and because he demanded the government disclose “politically sensitive” information, such as financial data related to former president Funes’ trips.

Violence and Harassment: On February 16, police arrested four suspects, including the communications director for the San Salvador mayor’s office, in connection with a 2015 cyberattack against the website of the newspaper *La Prensa Grafica*.

On August 9, Minister of Defense Munguia Payes held a press conference, accompanied by other armed forces high commanders, to criticize “irresponsible” reporting by *La Prensa Grafica* following an article that cited irregularities in the
Ministry of Defense’s account of lost firearms. On August 15, the vice president of the local chapter of the Inter-American Press Association alleged that the press conference was an attempt by Munguia Payes to intimidate the press and prevent media scrutiny of the Ministry of Defense. Munguia Payes was also accused of attempting to intimidate legislators when he attended a December 6 plenary session in the Legislative Assembly on lifting the immunity of a general accused of arms trafficking with three uniformed military officers; legislators ultimately lifted the immunity for General Jose Atilio Benitez.

ARENA Legislator Ricardo Velasquez forcefully grabbed a camera operator in an effort to move him from a Legislative Assembly entrance while verbally threatening the media on September 29, 2016. The legislator also filed a complaint against the camera operator’s company for obstructing freedom of transit, which the Salvadoran Journalist Association (ANEP) labeled an “abuse of power” by the legislator.

On November 29, La Prensa Grafica journalist Cristian Melendez denounced threats that he received via Twitter from an account named “Sociedad Civil,” suggesting that people “kill him” or “break his fingers if you see him on the street.” He believed he received the threats in retaliation for his article alleging corruption involving San Salvador Mayor Nayib Bukele La Prensa Grafica had also published reports linking Bukele to a trolling case and cyberattacks against the newspaper.

Censorship or Content Restrictions: Government advertising accounted for a significant portion of press advertising income, although exact data was not publicly available. Newspaper editors and radio directors occasionally discouraged journalists from reporting on topics the owners or publishers might not view favorably. According to the Salvadoran Association of Journalists (APES), the media practiced self-censorship, especially in its reporting on gangs and narcotics trafficking.

In May the government censored a commercial advertisement that depicted various ways of living--including gay relationships, religious options, and public breastfeeding--and contained the tagline, “good is bad.”

Journalist contacts reported experiencing threats from persons they believed to be government officials after reporting on the topic of violence in the country. They said these experiences diminished journalists’ willingness to report on the security situation.
In December 2015 the PNC chief of police investigations, Joaquin Hernandez, filed a complaint against *El Diario de Hoy* newspaper after it published maps depicting areas that were controlled by gangs, citing law classifying gangs as terrorist organizations and charging the editor with advocating terrorism and inciting crimes, violations punishable by up to four years in prison. While the charges were not prosecuted, free press advocates cited the incident as an attempt to compel self-censorship by journalists.

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

**Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. Internet access was available in public places throughout the country. The International Telecommunication Union reported 27 percent of the population used the internet during the year.

**Academic Freedom and Cultural Events**

After the July 9 Constitutional Chamber of the Supreme Court decision declaring alternate legislators unconstitutional, Constitutional Chamber judges faced increased difficulty in conducting outreach programs due to FMLN-organized protests. On August 13, protesters blocked Justice Florentin Melendez from reaching a venue to speak about constitutional rights to rural communities. As a result, on August 19, Justice Melendez announced that the Constitutional Chamber had decided to suspend its academic outreach program, “Know Your Constitution.” On December 5, Melendez reported that constitutional justices had received death threats from protesters, whose signs included slogans such as, “death to the four constitutional judges.” On December 8, the Attorney General stated that he was investigating the death threats against constitutional justices.

**b. Freedom of Peaceful Assembly and Association**

The constitution provides for the freedoms of assembly and association, and the government generally respected these rights, although there were occasions where
the government used intimidation tactics to discourage assembly. On June 29, well-known LGBTI activist Bessy Rios was the single demonstrator in front of the President’s Office, protesting a proposed increase in electricity prices, when the riot police arrested her, leaving bruises and scrapes on her body.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

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. The government generally respected these rights, although in many areas the government could not provide freedom of movement for any persons, due to the strength of criminal gang activity.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) 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, but it was unable to facilitate services in many of the ungoverned neighborhoods most in need.

**In-country Movement:** Each gang had its own controlled territory. Gang members did not allow persons living in another gang’s controlled area to enter their territory, even when travelling in public transportation. Gangs forced persons to present identification cards (that contain their addresses) to determine where they lived. If gang members discovered that a person lived in a rival gang’s territory, that person might be killed, beaten, or not allowed to enter the territory. Bus companies paid extortion fees to operate within gang territories, often paying numerous fees for the different areas in which they operated. The extortion costs were passed on to paying customers.

**Internally Displaced Persons**

According to the most recent poll conducted in December 2014 by IUDOP-UCA, 4.6 percent of surveyed citizens reported being internally displaced due to violence and the threat of violence and 8 percent reported having tried to migrate to another country for the same reasons. In 2015 the NGO International Rescue Committee
estimated that the number of displaced individuals was approximately 324,000, or 5.2 percent of the country’s population.

In August the Civil Society Roundtable against Forced Displacement recorded cases of 623 displaced persons between August 2014 and December 2015 and an additional 396 displacements through August 2016; it determined that at least 86 percent of the displacements resulted from gang activity. Because these were documented cases from a group of NGOs with limited reach, actual displacement was likely much higher. Ministry of Education data showed that approximately 3,000 students dropped out of public schools in 2015 explicitly because of gang threats. Separate ministry data demonstrated that 15,511 students dropped out of all levels of public and private schools in 2015 because of crime and another 32,637 students left because they changed residence. NGOs suggested that changes in residence were often the result of forced displacement because of gang activity.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. As of June 20, the government had granted refugee status to 10 individuals.

Section 3. Freedom to Participate in the Political Process

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The most recent municipal and legislative elections were held on March 1, 2015. The release of final election results by the Supreme Electoral Tribunal (TSE) electoral authorities was delayed until March 27, 2015, due to problems with the transmission, tabulation, and public dissemination of the vote count. International and domestic electoral observers participated in the election and counting process. The election report published by the Organization of American States electoral mission noted that, while the votes were being tabulated, “inconsistencies were discovered in a large number of records, due to erroneous data and information input by many voting centers.”
In April 2015 the Constitutional Chamber of the Supreme Court ordered a vote-by-vote recount for the 24 legislators elected in the municipality of San Salvador, the country’s largest constituency. The results of the recount did not alter any of the election results.

During the elections, as in the 2014 presidential elections, the Nationalist Republican Alliance (ARENA) and the FMLN political parties accused each other of fraud, including reports of double voting and voter intimidation.

On June 22, the Constitutional Chamber of the Supreme Court declared unconstitutional Article 195 of the electoral code, which prohibited police and soldiers from voting in polling stations where they provide security.

The law prohibits public officials from campaigning in elections, although this provision was not always enforced.

**Participation of Women and Minorities:** In 2013 the Legislative Assembly approved a law stipulating 30 percent of all candidates in municipal, legislative, and city council elections must be women. The law took effect during the March 2015 municipal and Legislative Assembly elections. There were 18 women in the 84-member Legislative Assembly, five women on the 15-member Supreme Court, and three women in the 13-member cabinet.

On October 18, newspapers reported that the TSE had taken action to advise a political party that its recent elections did not comply with the minimum quota and that it may need to substitute a woman for a man to comply with the law.

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 legislative seats designated for ethnic minorities.

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

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively. The NGO Social Initiative for Democracy stated that officials, particularly in the judicial system, often engaged in corrupt practices with impunity.
Corruption: Autonomous government institutions initiated several investigations into corruption. In late 2015 the Probit ischem Section of the Supreme Court began, for the first time, to investigate seriously allegations of illicit enrichment of public officials. The Supreme Court reported that, as of July 22, the Probit ischem Section investigated 72 current and former public officials for evidence of illicit enrichment and submitted five cases to the Attorney General’s Office for possible criminal investigation. As of July 18, the Attorney General’s Office reported investigating 93 cases related to corruption, resulting in seven convictions.

Attorney General Douglas Melendez, elected by the legislature in January, initiated criminal investigations of several public officials for corruption during the year. On June 6, the police arrested Apopa mayor Elias Hernandez on gang-related charges of illicit association, making threats, and aggravated homicide. On August 17, the Attorney General’s Office executed search warrants on seven properties related to former president Mauricio Funes (2009-14) and opened a criminal corruption case against him. The government of Nicaragua granted Funes asylum on September 2. On August 22, police arrested former attorney general Luis Martinez and businessperson Enrique Rais on charges related to corruption. On October 30, former President Antonio “Tony” Saca (2004-09) was arrested on corruption-related charges, including embezzlement and money laundering, stemming from an alleged conspiracy to divert $18 million in government funds to private accounts. On November 5, a judge denied his bail.

Financial Disclosure: The illicit enrichment law requires appointed and elected officials to declare their assets to the Probit ischem Section of the Supreme Court. The declarations are not available to the public, and the law does not establish sanctions for noncompliance. On May 12, the Supreme Court established three criteria for selecting which cases to investigate: the age of the case (i.e., proximity to the statute of limitations), the relevance of the position, and the seriousness and notoriety of the alleged illicit enrichment.

Public Access to Information: The law provides for the right of access to government information, but authorities did not always effectively implement the law. The law establishes mechanisms to appeal denials of information and report noncompliance with other aspects of the law. As of July, the Institute for Access to Public Information had formally received 1,001 cases, 81 percent of which had been resolved. The law gives a narrow list of exceptions that outline the grounds for nondisclosure and provide for a reasonably short timeline for the relevant authority to respond, no processing fees, and administrative sanctions for noncompliance.
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 certain issues, such as extrajudicial killings and the PDDH. The government required domestic and international NGOs to register, and some domestic NGOs reported that the government made the registration process unnecessarily difficult.

On January 28, the PNC launched the Secretariat for Professional Responsibility, which internally investigates all allegations of police misconduct.

Government Human Rights Bodies: The principal human rights investigative and monitoring body is the autonomous PDDH, whose head is nominated by the Legislative Assembly for a three-year term. The PDDH regularly issued reports and press releases on prominent human rights cases. The PDDH generally enjoyed government cooperation and was considered generally effective, except in areas controlled by criminal groups and gangs.

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 PDDH recommendations, which are nonbinding.

On September 7, the deputy ombudsman stated the PDDH had inadequate resources to carry out the majority of its investigations.

The tenure of the ombudsman expired on August 8, by which time the Legislative Assembly was required to elect a new ombudsman. On September 22, the Legislative Assembly selected Raquel Caballero de Guevara as the new ombudswoman for a term of three years.

On October 26, anticipating the 25th anniversary of the peace accords, the PDDH created a consultative committee to define the role of the PDDH in the coming years. The committee was composed of civil society members representing legal, religious, environmental, economic, political, and health perspectives.
Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape, and the criminal code’s definition of rape may apply to spousal rape, at the judge’s discretion. The law requires the Attorney General’s Office to prosecute rape cases whether or not the victim presses charges, and the law does not permit the victim to withdraw the criminal charge. Cases may be dropped for lack of evidence if the victim refuses to provide it. The penalty for rape is generally six to 10 years’ imprisonment, but the law provides for a maximum sentence of 20 years for raping 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 to 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. On February 26, the PDDH criticized the Ministry of Justice and Public Security’s UTE general director Mauricio Rodriquez, for failing to provide adequate security to seven female witnesses and victims of sex trafficking, one of whom was sexually assaulted by a security guard in a shelter supervised by the UTE. Although the victim filed a complaint, the security guard was not sanctioned or removed.

The Attorney General’s Office reported that, as of July 18, 658 women had been victims of sexual-related crimes and 63 defendants had been convicted for sexual-related crimes against women. As of March 9, the Salvadoran Institute for the Development of Women (ISDEMU) reported 385 cases of rape against women.

ISDEMU provided health and psychological assistance to women who were victims of sexual abuse, domestic violence, mistreatment, sexual harassment, labor harassment, trafficking in persons, commercial sexual exploitation, or alien smuggling.

Violence against women, including domestic violence, was a widespread and serious problem. A large portion of the population considered domestic violence socially acceptable; as with rape, its incidence was underreported. The law prohibits domestic violence and generally provides for sentences ranging from one
to three years in prison, although some forms of domestic violence carry higher penalties. The law also permits restraining orders against offenders. Laws against domestic violence were not well enforced, and cases were not effectively prosecuted. The law prohibits mediation in domestic violence disputes.

Between January and July 2016, ISDEMU reported 21 cases of femicide, 458 cases of physical abuse, 385 cases of sexual violence, and 2,259 cases of psychological abuse. ISDEMU reported 3,070 cases of domestic violence against women during the same period. In June ISDEMU issued its 2015 annual report on violence against women and reported that 230 died due to violence in the first six months of 2015, compared with 294 during the same period in 2014 and 217 in 2013.

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, the Attorney General’s Office, the Supreme Court, the Public Defender’s Office, and the PNC collaborated with NGOs and other organizations to combat violence against women through education, increased enforcement of the law, and programs for victims. The Secretariat of Social Inclusion, through ISDEMU, defined policies, programs, and projects on domestic violence and continued to maintain one shared telephone hotline and two separate shelters for victims of domestic abuse and child victims of commercial sexual exploitation. The government’s efforts to combat domestic violence were minimally effective.

Women’s rights NGOs claimed that many violent crimes against women occurred within the context of gang structures, where women were “corralled” and “disposed of at the whims of male gang members.”

On March 3, women’s rights activist for the NGO Hablame de Respeto (“Speak to me about respect”) Aida Pineda was found dead, shot 11 times in front of her house in Milagrosa, San Miguel. Colleagues of Pineda contended that her killing was a femicide and that she was targeted for being a “powerful woman” who challenged the control of the Barrio 18 gang’s repressive behavior toward women.

As of August, the Office of the Inspector General reported 40 cases of alleged violations of police officers against women due to their gender.

In an effort to sensitize the judicial system to gender-based violent crimes, the Legislative Assembly approved the creation of specialized courts for violence
against women. The San Salvador courts began operations on June 1, while the San Miguel and Santa Ana courts were scheduled to start in 2017.

**Sexual Harassment:** The law prohibits sexual harassment and provides imprisonment of up to five years if the victim is an adult and up to eight years if the victim is a minor. Courts may impose fines in addition to a prison term in cases where the perpetrator is in a position of trust or authority over the victim. 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 preventive programs to 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.

**Reproductive Rights:** Couples and individuals generally have the right to decide the number, spacing, and timing of having children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, or violence. Access to reproductive health services outside of the capital city San Salvador, however, was limited.

Civil society advocates expressed concern that the country’s complete abortion ban had led to the wrongful incarceration of women who suffered severe pregnancy complications, including miscarriages. Between 1999 and 2011, 17 women (referred to as “Las 17”) were charged for having an abortion and convicted of homicide following obstetric emergencies and were sentenced to up to 40 years in prison. A petition was filed with the Inter-American Commission on Human Rights that highlighted violations of due process and of women’s rights. Amnesty International and the UN Development Program claimed the women had miscarriages, while the Legal Medicine Institute argued that the women committed infanticide through abortion. In December 2014 one of “Las 17,” Mirna Isabel Rodriguez, “Mima,” was released after serving her prison sentence before her pardon could be finalized. On May 20, San Salvador’s Third Tribunal Sentencing Court ruled there was not enough evidence to prove charges against a second member of the group, Maria Teresa Rivera, for aggravated homicide after having a miscarriage in 2011. On October 24, an appellate court did not admit a case against a third member, Santos Elizabeth Gamez Herrera. The Legislative Assembly was reviewing the remaining 14 cases. During the year the NGO Colectiva Feminista reported that two more women presented their cases, which included similarities with those of the “Las 17” women.
Discrimination: The constitution grants women and men the same legal rights but women did not enjoy equal treatment. 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, but 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.

The law prohibits discrimination based on gender; nevertheless, women suffered from cultural, economic, and societal discrimination. The law requires equal pay for equal work, but according to the 2015 World Economic Forum Global Gender Gap Report, the average wage paid to women for comparable work was 60 percent of compensation paid to men. Men often received priority in job placement and promotions, and women did not receive equal treatment in traditionally male-dominated sectors, such as agriculture and business. Training was generally available for women only in low- and middle-wage occupations where women already held most positions, such as teaching, nursing, apparel assembly, home industry, and small business.

Children

Birth Registration: Children derive citizenship 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 $2.85 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, however, frequently did not provide 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 abuse continued to be underreported 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. During the year an appellate judge issued a report noting serious deficiencies in technical criteria for determining whether minors are victims of child abuse.

The Salvadoran Institute for the Comprehensive Development of 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 female child victims of commercial sexual exploitation; and conducted a violence awareness campaign to combat child abuse. From January to May, ISNA reported providing psychological assistance to 131 children for physical and psychological abuse and 134 for sexual violence.

**Early and Forced Marriage:** The legal minimum age for marriage is 18, although the law authorizes marriage from the age of 14 if both the boy and girl have reached puberty, if the girl is pregnant, or if the couple has a child.

**Sexual Exploitation of Children:** Sexual exploitation of children, including girls and boys in prostitution, remained a problem. Child sex trafficking is prohibited by law, which prescribes penalties of 10 to 14 years’ imprisonment for trafficking crimes. An offense committed against a child is treated as an aggravating circumstance, and the penalty increases by one-third, but the government did not effectively enforce these laws.

The minimum age for consensual sex is 18. The law classifies statutory rape as sexual relations with anyone under the age of 18 and includes penalties of four to 13 years’ imprisonment.

The law prohibits paying anyone under the age of 18 for sexual services. The Secretariat of Social Inclusion, through ISDEMU, continued to maintain one shared telephone hotline for child victims of commercial sexual exploitation and victims of domestic abuse. The law prohibits participating in, facilitating, or purchasing materials containing child pornography and provides for prison sentences of up to 16 years for violations.

**Displaced Children:** Surveys indicated the primary motivations for migration were family reunification, a lack of economic and educational opportunity in the country, and fear of violence.

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the
Anti-Semitism

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

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

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, and the provision of other state services. The National Council for Comprehensive Attention to Persons with Disability (CONAIPD), composed of representatives from multiple government entities, is the government agency responsible for protecting disability rights, but it lacked enforcement power. According to CONAIPD, the government did not allocate sufficient resources to enforce prohibitions against discrimination 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. Children with disabilities generally attended primary school, but attendance at higher levels was more dependent on their parents’ financial resources.

According to CONAIPD, only 5 percent of businesses and nongovernment agencies fulfilled the legal requirement of hiring one person with disabilities for every 25 hires. There was no information available regarding abuse in educational or mental health facilities, although CONAIPD previously reported isolated incidents, including sexual abuse, in those facilities.

CONAIPD reported employers frequently fired persons who acquired disabilities and would not consider persons with disabilities for work for which they qualified. Some schools would not accept children with disabilities due to a lack of facilities
and resources. There was no formal system for filing a discrimination complaint involving a disability with the government.

Due to their use of sign language, several young deaf individuals were confused with gang members (who also used signs to communicate) by police officers and soldiers and suffered mistreatment.

On May 25, CONAIPD and the Cooperative Transport Association Ciudad Delgado launched 10 bus units with platform access for persons with disabilities.

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

**Indigenous People**

A 2014 constitutional amendment recognizes the rights of indigenous people, but no laws provide indigenous people rights to share in revenue from exploitation of natural resources on historically indigenous lands. The government did not demarcate any lands as belonging to indigenous communities. Because few possessed title to land, opportunities for bank loans and other forms of credit were extremely limited.

During the year the municipalities of Conchagua and Santo Domingo de Guzman, which have relatively higher populations of Nahuat speakers, approved regulations to improve the living conditions for women, persons with disabilities, and older indigenous individuals in the towns and made reference to their historic lands.

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

Although the law prohibits discrimination on the basis of sexual orientation and gender identity, discrimination against LGBTI persons was widespread, including in employment and access to health care. In May the PDDH conducted a survey of transgender individuals and reported that 52 percent had suffered death threats or violence, of which 23.7 percent had reported the incidents.
NGOs reported that public officials, including police, engaged in violence and discrimination against LGBTI persons. Members of the LGBTI community stated that PNC and Attorney General’s Office personnel ridiculed them when they applied for identification cards or reported cases of violence against LGBTI persons. The NGO Space for Lesbian Women for Diversity claimed that, as of November, the Attorney General’s Office had not prosecuted any cases of killings and other violent acts or of possible human rights violations committed by public officials against LGBTI persons. The Secretariat for Social Inclusion reported that 11 LGBTI persons were killed during the year because of their sexual orientation. The PDDH reported that since 2009 a total of 18 LGBTI persons were killed because of their sexual orientation.

Wilber Leonel Flores Lopez, a former soldier, was charged with attempted murder of a transgender individual on April 9. Flores was arrested on August 23. On August 26, an initial hearing was held in the First Court of Peace of Santa Ana, where the testimony of the victim, medical reports, and other forensic evidence were analyzed. The judge, however, did not order prison detention for Flores. The trial was pending, and prosecutors appealed the judge’s decision not to jail Flores.

On May 30, the newspaper *La Prensa Grafica* reported that police had uncovered the body of a transgender woman who had been beaten and strangled to death. An autopsy report by the Forensic Science Institute showed that the victim’s body was mutilated and showed indications that the victim was sexually violated. The PNC did not declare a motive for the killing. LGBTI NGOs alleged the victim was targeted due to her transgender identity and that authorities refused to investigate the crime from that angle.

On August 10, the Attorney General’s Office pressed assault charges against five officers involved in the assault in January 2015 of Alex Pena, a transgender man and municipal police officer. On October 6, police officers Melvin Neftali, Hernandez Alvarado, and Francisco Balmore Hernandez were convicted and sentenced to four years in prison for assault. The other officers were acquitted. On October 6, the government reported on the convictions using Pena’s female birth name.

**HIV and AIDS Social Stigma**

Although the law prohibits discrimination on the basis of HIV/AIDS status, Entre Amigos, a LGBTI NGO, reported that discrimination due to HIV was widespread. Lack of public information and medical resources, fear of reprisal, fear of
ostracism, and mild penalties incommensurate with the seriousness of the discrimination remained problems in confronting discrimination against persons with HIV/AIDS or in assisting persons suffering from HIV/AIDS. As of June 30, the PDDH reported four cases of discrimination against persons with HIV or AIDS. As of October, the Ministry of Labor had reported one case of discrimination against an HIV-positive employee based on the illness.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides the right of most workers to form and join independent unions, to strike, and to bargain collectively. The law also prohibits antiunion discrimination, although it does not require reinstatement of workers fired for union activity. Several restrictions limit these rights. Military personnel, national police, judges, and high-level public officers may not form or join unions. Workers who are representatives of the employer or in “positions of trust” also may not serve on the union’s board of directors. The law does not define the term “positions of trust.” The labor code does not cover public sector workers and municipal workers, whose wages and terms of employment are regulated by the 1961 civil service law. The constitution guarantees the formation of associations by employees but prohibits police, military, and certain judicial sector employees from forming either a union or a formal association.

Unions must meet complex requirements to register legally and to have the right to bargain collectively, including a minimum membership of 35 workers. If the Ministry of Labor denies a union’s legal registration, the law prohibits any attempt by the union to organize for up to six months following the denial. Collective bargaining is obligatory only if the union represents the majority of workers.

While workers have the right to strike, the law contains cumbersome and complex registration procedures for conducting a legal strike. The law does not recognize the right to strike for public and municipal employees or for workers in essential services, which include those services where 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, and courts therefore apply this provision on a case-by-case basis. The law places several other restrictions on the right to strike, including the requirement that 30 percent of all workers in an enterprise must support a strike for it to be legal and that 51 percent must support the strike before all workers are bound by the decision.
to strike. In addition, unions may strike only to obtain or modify a collective bargaining agreement or to protect the common professional interests of the workers. They must also engage in negotiation, mediation, and arbitration processes before striking, although many groups often skipped or went through these steps quickly. The law prohibits workers from appealing a government decision declaring a strike illegal.

The Labor Court ruled 10 strikes illegal. These rulings covered the strikes of the following unions: the Social Security Institute strike in May, the Bloom Hospital strike in July, the Nurses’ Union strike in November, the Health Labor Union strike in November, and the Ministry of Economy strike in November. They also covered the strikes of the Bloom, San Bartlo, Zacamil, Nueva Guadalupe, Sensuntepeque, La Union, Jiquilisco, Usulutan, Ciudad Barrios, and Sonsonate hospitals, which, during a national labor reduction, demanded enforcement of a salary step increase as provided by law. No arrests were made during the strikes. During the hospital strikes, there were reports of intervention by activists and one legislator of the governing party.

In lieu of requiring employers to reinstate illegally dismissed workers, the law requires employers to pay them the equivalent of 30 days of their basic salary for each year of service completed, plus the corresponding proportion for any partial year. This compensation must never be less than 15 days of basic salary. The law specifies 30 reasons for which an employer can legally terminate a worker’s contract without triggering any additional responsibilities on the part of the employer. Such reasons include consistent negligence by an employee, leaking of private company information, or committing immoral acts while on duty. Short of terminating workers, an employer may also legally suspend workers in a variety of situations, including for reasons of economic downturn or market conditions. As of June, the Ministry of Labor had encountered 339 cases of unpaid salary in the course of 11,065 inspections of employers.

The government did not effectively enforce the laws on freedom of association and the right to collective bargaining in all cases. Resources to conduct inspections were inadequate, and remedies remained ineffective. Penalties for employers who disrupt the right of a union to exist by directly or indirectly firing workers with the goal or effect of ensuring the union no longer met the minimum number of members ranged from 10 to 28 times the monthly minimum salary. The maximum penalty for employers who interfere with the right to strike was $114. Such penalties were generally not sufficient to deter violations. The Ministry of Labor acknowledged it lacked sufficient resources, such as vehicles, fuel, and computers,
to enforce the law fully. 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. As of June, the Ministry of Labor had received five claims of violation of the freedom of association.

As of June, the Ministry of Labor imposed 181 fines on businesses and individuals for workplace violations. The ministry received 3,325 complaints of illegal firing and ordered 115 workers to be returned to work. Although not required by law, the ministry continued to request that some employers rehire fired workers, basing its requests on International Labor Organization (ILO) Administrative Court rulings. The ministry did not perform inspections in the informal sector. News reports indicated that 66 percent of the economically active population worked in the informal economy. According to the 2015 census, 42 percent of all workers in urban areas worked in the informal sector. The ministry does not have jurisdiction over public employees, most of whom are under the civil service law.

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

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

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government generally did not effectively enforce such laws. Resources to conduct inspections were inadequate. The labor code allows penalties for violations of up to 28 times the minimum monthly wage, which was generally not sufficient to deter violations. The lack of sufficient resources for inspectors reduced their ability to enforce the law fully. There were no reports of forced labor, according to the Ministry of Labor. Gangs subjected children to forced labor in illicit activities, including selling or transporting drugs (see section 7.c.).
c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 14. The law allows children between the ages of 14 and 18 to engage in light work if the work does not damage the child’s health or development or interfere with compulsory education. The law prohibits children under the age of 16 from working more than six hours per day and 34 hours per week; those under the age of 18 are prohibited from working at night or in occupations considered hazardous. The Ministry of Labor maintained a list of the types of work considered hazardous and prohibited for children, which include 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. Children who are 16 and older may 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.

The Ministry of Labor is responsible for enforcing child labor laws but did so with limited effectiveness. The law specifies a default fine of no more than $60 for each violation of most labor laws, including child labor laws; such penalties were insufficient to act as a deterrent. The ministry’s labor inspectors focused almost exclusively on the formal sector. As of June, the ministry reported that it had conducted 511 inspections related to child labor during which inspectors reported two incidents of child labor and three incidents of adolescents working without permits. There was no information on any investigations or prosecutions by the government. The ministry lacked adequate resources for effective enforcement of child labor laws in the agricultural sector, especially in coffee and sugarcane production, or in the large informal sector.

The government continued to participate in an ILO project to provide educational opportunities to children while offering livelihood alternatives for their families. Through this project the Ministry of Education promoted child labor awareness and encouraged school attendance, including operating after-school programs in 2,000 schools during the year. The ILO project concluded in March. During the year the ministry developed a permanent work plan for child labor verification aimed at eliminating the worst forms of child labor and creating a culture of compliance and respect for the law among employers.
Child labor remained a serious and widespread problem. According to the 2015 Permanent Household Survey published in 2016, there were approximately 140,700 child workers (between the ages of five and 17). The worst forms of child labor occurred in coffee and sugarcane cultivation, fishing, mollusk shucking, and fireworks production. In order to survive, orphans and children from poor families frequently worked as street vendors and general laborers in small businesses. Children also worked as domestic servants and endured long work hours 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 committing homicide.

Also see the Department of Labor’s Findings on the Worst Forms of Child Labor at www.dol.gov/ilab/reports/child-labor/findings/.

d. Discrimination with Respect to Employment and Occupation

The constitution, labor law, and regulations prohibit discrimination regarding race, color, sex, religion, political opinion, national extraction (except in cases determined to protect local workers), social origin, gender, disability, language, or HIV-positive status. The government did not effectively enforce those laws and regulations. Sexual orientation and gender identity are not included in the constitution, although the PDDH and Ministry of Labor actively sought to protect workers against discrimination on those grounds.

Discrimination in employment and occupation occurred with respect to gender, disability, and sexual orientation and/or gender identity (see sections 6 and 7.e.). According to the Ministry of Labor, migrant workers have the same rights as citizens, but the ministry did not enforce them.

e. Acceptable Conditions of Work

There is no national minimum wage; the minimum wage is determined by sector. According to the Ministry of Labor, the minimum daily wage was $8.39 for retail and service employees, $8.22 for industrial laborers, and $7.03 for apparel assembly workers. The agricultural minimum wage was $3.94 per day. The government reported that the poverty income level was $179.67 per month in urban areas and $126.97 in rural areas.
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 receive pay 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 work on holidays if their employer makes this request, but they are entitled to double pay in these instances. The government did not adequately enforce these laws.

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 the health and safety of employees are not at risk in the workplace. To provide for the health and safety of workers, the law requires employers to take preventive safety measures, including providing proper equipment and training and a violence-free environment. Employers who violate most labor laws can receive a default fine of no more than $57 for each violation. For serious infractions employers can be fined up to an amount equivalent to 28 minimum monthly wage salaries. These penalties were insufficient to deter violations, and some companies reportedly found it more cost effective to pay the fines rather than comply with the law. The law promotes occupational safety awareness, training, and worker participation in occupational health and safety matters.

As of July 18, the Attorney General’s Office reported that it had received 379 complaints against employers for not paying pension quotas to the pension administration companies and that it filed judicial charges against 82 employers. The judiciary dismissed charges in 48 cases and suggested alternative solutions in 46 cases.

The Ministry of Labor is responsible for enforcing the law. The government was more effective in enforcing the minimum wage law in the formal sector than in the informal sector. Unions reported that the ministry failed to enforce the law for subcontracted workers hired for public reconstruction contracts. The government provided its inspectors updated training in both occupational safety and labor standards. As of June, the ministry’s 183 inspectors had conducted 11,065 inspections. Allegations of corruption among labor inspectors continued.
The ministry received complaints regarding failure to pay overtime, minimum wage violations, unpaid salaries, and cases of employers illegally withholding benefits (including social security and pension funds) from workers.

There were reports of overtime and wage violations in several sectors. According to the ministry, employers in the agriculture sector did not generally grant annual bonuses, vacation days, or days of rest. Women in domestic service and the industrial manufacturing sector for export 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 and domestic service were reportedly subject to violations of wage, hour, and safety laws. There were also reports of occupational safety and health violations in other sectors. The government was ineffective in pursuing such violations.

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.

As of June, the Ministry of Labor reported 4,189 workplace accidents. The sectors registering the highest levels of incidents were the following: 1,822 accidents in the services sector, 1,435 in the industry sector, 484 in the commerce sector, 315 in the government sector, 67 in the municipal sector, 47 in the agricultural sector, and 19 in autonomous entities. The ministry did not report any deaths from workplace-related accidents.

Workers can legally remove themselves from situations that endanger health or safety without jeopardy to their employment, but authorities lacked the ability to protect employees in this situation effectively.
TAB 5
Issue Paper


The Situation of Women Victims of Violence and of Sexual Minorities in El Salvador

September 2016

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

All the sources of information contained in this document are identified and are publicly available. This Paper was prepared by the Research Directorate of the Immigration and Refugee Board of Canada based on approved notes from meetings with oral sources, publicly available information, analysis and comment. All sources are cited. This Paper is not, and does not purport to be, either exhaustive with regard to conditions in the country surveyed or conclusive as to the merit of any particular claim to refugee protection. For further information on current developments, please contact the Research Directorate.

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Glossary

ACAP
Asylum Cooperation Action Plan

ALDES
Asistencia Legal para la Diversidad Sexual - El Salvador (LGBTI Justice Clinic)

CEMUJER
Norma Virginia Guirola De Herrera Institute for Women's Studies (Instituto de Estudios de la Mujer Norma Virginia Guirola de Herrera)

Ciudad Mujer
Comprehensive Support Centre for Women
COMAR
Comisión Mexicana de Ayuda a Refugiados (Mexican Commission for Refugee Aid)

CONASOJ
Coordinadora Nacional de Sindicatos y Asociaciones del Órgano Judicial (National Coordinating Committee of Unions and Associations of Workers in the Judiciary)

CSJ-SP
Corte Suprema de Justicia, Sala de lo Penal (Supreme Court of Justice, Criminal Chamber)

FESPAD
Fundación de Estudios para la Aplicación del Derecho (Foundation for the Study of Applied Law)

FGR
Fiscalía General de la República (Office of the Attorney General)

IGSP
Inspectoría General de Seguridad Pública (Office of the Inspector General of Public Security)

IML
Instituto de Medicina Legal (Legal Medicine Institute)

IRB
Immigration and Refugee Board of Canada

IRCC
Immigration, Refugees, and Citizenship Canada

ISDEMU
Instituto Salvadoreño para el Desarrollo de la Mujer (Salvadoran Institute for the Development of Women)

ORMUSA
Organización de Mujeres Salvadoreñas por la Paz (Salvadoran Women's Organization for Peace)

PDDH
Procuraduría para la Defensa de los Derechos Humanos (Office of the Ombudsperson for the Defence of Human Rights)

PNC
Policía Nacional Civil (National Civil Police)
1. Introduction

In 2013, Canada and the United States began working together to identify opportunities to establish new modes of cooperation in the areas of asylum and immigration; this collaboration is known as the Asylum Cooperation Action Plan (ACAP). The ACAP, through the department of Immigration, Refugees and Citizenship Canada (IRCC), approached the Immigration and Refugee Board (IRB) of Canada to seek the IRB's interest in supporting the capacity building activities to be undertaken in the Americas with the objective of improving asylum systems in the region. In May 2015, the Deputy Chairperson of the IRB's Refugee Protection Division (RPD) participated in a meeting between Canada, Mexico and the United States, where it was agreed that the IRB would undertake a number of activities to support the development of quality refugee status determination by Mexico. One of these activities involved IRB participation in a joint information-gathering mission (henceforth referred to as the "mission") to El Salvador, in conjunction with representatives from the United States Citizenship and Immigration Services (USCIS), the Mexican government's Commission for Refugee Aid (Comisión Mexicana de Ayuda a Refugiados, COMAR), and the Secretariat of Foreign Affairs (Secretaría de Relaciones Exteriores, SRE) of Mexico, under the auspices of the United Nations High Commissioner for Refugees (UNHCR) in Mexico and El Salvador. A representative of the Mexican Embassy in San Salvador also participated. The joint mission was carried out from 11 to 15 April 2016. Following the completion of the joint mission, the IRB conducted its own research
for one further week in El Salvador. The purpose of this was to meet with additional expert sources not included in the joint mission agenda due to time constraints, to gather corroborating and contrasting information, and to enable the IRB's Research Directorate to develop new contacts, strengthen existing ones, and obtain information uniquely needed to support the IRB's decision-making on refugee status determination now or in the future.

The purpose of the mission to El Salvador was to gather information related to state efforts to combat crime; the structure of criminal gangs, their areas of operation, activities, and recruitment practices; the situation of gender-based and domestic violence against women; the situation of LGBTI (lesbian, gay, bisexual, trans, and/or intersex) people; and the efficacy of the police and judiciary to provide recourse to victims of crime, investigate and prosecute crimes. This report summarizes the information gathered by the representatives of the IRB during both the joint mission and during the IRB's additional week of research.

The IRB would like to thank the Embassy of Canada in San Salvador and the UNHCR offices in San Salvador and Mexico for providing logistical support and assistance during the mission.

2. Methodology

The mission consisted of a series of meetings with experts and officials from relevant governmental, non-governmental, academic, and research-focused organizations. For details on the organizations and individuals consulted during this mission, please refer to the section entitled Notes on Interlocutors at the end of this Paper. The interlocutors chosen as oral sources to be interviewed were identified by the delegation based on their position and expertise. However, the list of sources should not be considered exhaustive in terms of the scope and complexity of human rights issues in El Salvador, given the time constraints that the delegation had to undertake the mission. Meetings with interlocutors for the joint mission were coordinated by the office of the UNHCR in San Salvador and took place in the interlocutors' offices or at the UNHCR headquarters in San Salvador. Meetings with interlocutors for the IRB's second week were coordinated by the Canadian embassy in San Salvador and the UNHCR office in San Salvador; taking place at these locations or in the interlocutors' offices, with the exception of the interview with the Legal Office Assistance for Sexual Diversity in El Salvador (Asistencia Legal Para La Diversidad Sexual El Salvador, ALDES) which was conducted over the phone. All interviews were conducted in Spanish, with the exception of the one with ALDES which was conducted in English.

Interview questions posed to interlocutors were formulated in line with the Terms of Reference for the mission (see Appendix 1). Interviews were conducted using a semi-structured approach to adapt to the expertise of the interlocutor(s) being interviewed. The Terms of Reference were developed in consultation with joint mission participants, and the IRB's decision-makers from the Refugee
Protection Division (RPD) and the Refugee Appeals Division (RAD). Interlocutors’ responses to these questions varied depending on their willingness and preparedness to address them, and the length of time granted for the interview.

In accordance with the Research Directorate's methodology, which relies on publicly available information, interlocutors were advised that the information they provided would form the basis of a report on country conditions. This report would be publicly accessible and used by decision-makers adjudicating refugee claims in Canada. Furthermore, interlocutors were asked to consent to being cited by name for the information they provided.

This Paper is the second of two, separate Issue Papers that present the information gathered by the IRB during the mission to El Salvador. The first Paper examines the situation of crime, gangs, internal relocation, and state protection mechanisms available for victims of crime. This Paper will provide information about the situation of gender based and domestic violence against women, as well as the situation of LGBTI people, and the legal recourse available to them.

This Paper may be read in conjunction with several IRB publications, including Responses to Information Requests SLV105267 of 17 September 2015, SLV105266 of 15 September 2015, and SLV104903 of 16 July 2014.

3. Overview

El Salvador has an estimated population of 6,141,350 people and a land area of approximately 20,721 square kilometers; approximately the size of New Jersey. ¹ The Central Intelligence Agency's World Factbook provides the following information on age structure in El Salvador: 27.31 percent of the population are between 0 and 14 years of age (male 860,122/female 816,855), 20.71 percent are between 15 and 24 years of age (male 638,989/female 632,741), 38.1 percent are between 25 and 54 years of age (male 1,077,378 /female 1,262,585), 6.8 percent are between 55 and 64 years of age (male 186,570/female 230,939), and 7.09 percent of people are 65 years old and over (male 192,713/female 242,558). Many Salvadorans fled the country during the 1979-1992 civil war and sought refuge in the United States, Canada, Mexico, Guatemala, Honduras, Nicaragua and Costa Rica. As of 2016, about 20 percent of the Salvadoran population lives abroad. ²

A 2011 report on violence against women in El Salvador by the UN Special Rapporteur on Violence Against Women states that

El Salvador has come a long way in institution-building and human rights protection since the end of the 12-year civil war and the signature of the peace accords in 1992. [...]
Despite the return to peace and the establishment of democratic institutions, there are high rates of poverty inequality and unemployment, together with alarming levels of crime, impunity and declining trust in public institutions, and significant challenges to the country’s consolidation of democratic governance and human development. [...] 

With a homicide rate of over 65 per 100,000 inhabitants - the highest rate in Central America [compared to 1.45 per 100,000 population in Canada in 2014] - and alarming levels of other expressions of violence, including injuries, robberies, extortions, and domestic and gender-based violence, El Salvador is considered to be among the most violent countries in the world today. The proliferation of small and light weapons and the actions of violent gangs (maras) contribute to such levels of violence. Homicide rates for women have also increased alarmingly in recent years and are currently the highest in the region. 

The US Department of State’s Country Reports on Human Rights Practices for 2015 states that the main human rights problems in El Salvador, such as domestic violence, discrimination, sexual exploitation of women and children by armed groups and gangs, as well as discrimination and violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons have "stemmed from widespread corruption; [and] weaknesses in the judiciary and the security forces that contribute to high levels of impunity." The Guardian, a London-based English language newspaper, reports that El Salvador is considered to be the "homicide capital of the world," with one murder every hour and a homicide rate of approximately 90 per 100,000 people in 2015, which makes it "almost 20 times deadlier than US and 90 times deadlier than [the] UK." La Prensa Gráfica, a San Salvador-based Spanish language newspaper, published a map of the most violent municipalities in El Salvador in 2015. The map is included in Appendix 2.

The US Department of State’s Country Reports on Human Rights Practices for 2015 notes that although the law prohibits discrimination based on gender, women suffered from cultural, economic, and societal discrimination. The law requires equal pay for equal work, but according to the 2014 World Economic Forum Global Gender Gap Report, the average wage paid to women for comparable work was 55 percent of compensation paid to men. Men often received priority in job placement and promotions, and women did not receive equal treatment in traditionally male-dominated sectors, such as agriculture and business. Training was generally available for women only in low- and middle-wage occupations where women already held most positions, such as teaching, nursing, apparel assembly, home industry, and small business. 

4. Women Victims of Violence
4.1 Situation

The Law on Equality, Equity and Elimination of Discrimination Against Women (Ley de Igualdad, Equidad y Erradicación de la Discriminación contra las Mujeres) of 2011 promotes equality between men and women in education, employment and political participation, among other domains. However, according to the US Department of State's Country Reports on Human Rights Practices for 2015, women "did not enjoy equal treatment" in legal rights compared to men. According to the Norma Virginia Guirola De Herrera Institute for Women’s Studies (Instituto de Estudios de la Mujer Norma Virginia Guirola de Herrera, CEMUJER), societal attitudes towards women are "sexist and misogynist" and "patriarchal," which foster the conditions that lead to violence against women. Interlocutors from the Salvadoran Women’s Organization for Peace (Organización de Mujeres Salvadoreñas por la Paz, ORMUSA) and the government’s Secretariat of Social Inclusion (Secretaría de Inclusión Social), reported that violence against women is a serious problem in El Salvador, including violence perpetrated by gang members and domestic violence. InSight Crime, an organization that analyzes and reports on organized crime in Latin America and the Caribbean, reports that, according to an official from the UN Office on Drugs and Crime (UNODC) official,

femicides linked to Central America’s Mara gangs can be traced back to Los Angeles in the 1980s, where the Maras first arose. As the Maras developed, a new form of social cohesion arose – one which continues to be an essential trait of these groups today – in which the Maras became a gang member’s true "family," while relatives became gang "property" …

Consequently, during disputes between gangs, women are frequently caught in the crossfire, with girlfriends, sisters and mothers targeted by rival gangs. In many cases, female relatives of imprisoned Mara members make easy targets for revenge killings, as the males are unable to protect them.

What's more, according to the Mara "code of honour," if a member betrays or abandons his own gang, their most vulnerable "possession" is attacked – which usually means the rape or murder of his sister or wife.

ORMUSA indicated that gang members control not only territories, but families living in those territories. Women are considered to be the "property" of gang members. Women and girls are forced to become girlfriends (jainas) of gang members; they cannot say "no" to a gang member, or they would be killed. There are cases of girls younger than 15 years old who are taken from their homes by gang members for 3 to 4 days, sexually abused and returned to their families. In some cases, mothers have to pay weekly extortion (renta) fees to gang members for them not to sexually
abuse their daughters. Older women are forced to cook, clean and take care of the children of gang members. According to the representative of ORMUSA, young women are more affected by violence from gangs.

Gang members who are in prison continue to control the lives of their girlfriends. According to El Faro women are forced to smuggle drugs into prisons and to collect extortion, among other activities. Women are obligated to visit gang members in prisons and they cannot be seen in a company of another man anywhere, otherwise they will be killed. ORMUSA noted that, although men are imprisoned, the interlocutors gave the opinion that it is "impossible to break the cycle of violence against women" because of the high incidence of domestic violence and the difficulties for them to leave their neighbourhoods.

### 4.2 Statistics

According to a 2016 article published by InSight Crime, El Salvador has the highest female murder rate in the world, with 8.9 homicides per 100,000 women in 2012 compared to 6.3 homicides per 100,000 women in Colombia, 5.3 in Brazil and 4.8 in Mexico. The Salvadoran Institute for the Development of Women (Instituto Salvadoreño para el Desarrollo de la Mujer, ISDEMU) indicated that in 2014, one woman was murdered every 40 hours and that in 2016, on average, one female was killed every 18 hours in the first four months. CEMUJER indicated that, in 2016, a woman is killed every 10 hours and a woman is sexually assaulted every 3 hours. A report on situation of violence against women in El Salvador published by ISDEMU states that, according to the data compiled by the National Civil Police (Policía Nacional Civil, PNC), the Office of the Attorney General (Fiscalía General de la República, FGR), and the Legal Medicine Institute (Instituto de Medicina Legal, IML), there were 1,062 violent deaths of women registered between January 2012 and June 2015. The same report notes that, between January and June 2015, the rate of violent women's deaths was 6.73 per 100,000 inhabitants.

ISDEMU provided the following statistical information compiled by the PNC regarding violence against women in 2015, and between January and March 2016:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Femicides</strong></td>
<td>13</td>
<td>59</td>
</tr>
<tr>
<td><strong>Homicides</strong></td>
<td>53</td>
<td>118</td>
</tr>
<tr>
<td><strong>Domestic violence</strong></td>
<td>454</td>
<td>228</td>
</tr>
<tr>
<td><strong>Sexual violence</strong></td>
<td>105</td>
<td>89</td>
</tr>
<tr>
<td><strong>Other violations of women's rights</strong></td>
<td>72</td>
<td>74</td>
</tr>
<tr>
<td><strong>Human trafficking</strong></td>
<td>16</td>
<td>4</td>
</tr>
</tbody>
</table>

https://irb-cisr.gc.ca/en/country-information/research/Pages/Salvador-2016P2.aspx#5situa
ISDEMU indicated that the PNC reported that, between January and March 2016, the following departments had the highest rates of:

- Femicides: San Salvador, San Miguel, and Santa Ana;
- Domestic violence: San Salvador, Usulután, and Cuscatlán; and

Several interlocutors noted that violence against women and domestic violence are underreported in El Salvador. Women do not report violence to the authorities because of lack of confidence and the widespread belief that the criminal justice system is ineffective and that perpetrators were unlikely to be prosecuted. Women and young girls who are subjected to physical and sexual abuse by gang members are reluctant to report it because of fear of reprisal, as they can be seen by gang members as police informants.

### 4.3 Legislation

The Special Comprehensive Law for a Violence-free Life for Women (Ley Especial Integral para Una Vida Libre de Violencia para las Mujeres), aimed at addressing violence against women, was passed in 2011 and came into effect on 1 January 2012. Article 2 of the Law defines women's rights and Article 57 outlines the procedural guarantees for women victims of violence. Article 2 refers to the enjoyment, exercise and protection of women's human rights, including "respect of their life and physical, psychological and moral integrity; respect for the dignity inherent in their person, and protection of their family; and freedom and personal safety," among others. Article 57 guarantees women who may be facing violence that their privacy shall be protected, they shall not be discriminated against, and they shall receive timely and proper help and protection from the PNC, among others. Article 2 and Article 57 are included in Appendix 3.

The Law Against Domestic Violence (Ley contra la Violencia Intrafamiliar) was enacted in 1996 and last amended in 2013. The Law Against Domestic Violence establishes mechanisms to prevent, punish, and eradicate domestic violence. Article 3 of the law defines domestic violence as [translation] "any act or omission, direct or indirect, which causes harm, physical, sexual, or psychological suffering, or death to members of the family." The protection measures provided by the Law as well as the responsibilities of the PNC upon notification are included in Appendix 4.

### 4.4 State Protection

#### 4.4.1 Police and Judiciary

A representative of the Among Friends Association (Asociación Entre Amigos) indicated that crimes can be reported to authorities by phone, in person, or in writing. Other interlocutors also indicated that incidents of violence can be reported to the Attorney's General Office (Fiscalía General de la...
ORMUSA indicated that there are special police units with staff qualified to assist women victims of violence, which are open 24 hours a day. These units are called Institutional Units for Specialized Assistance to Women Victims of Violence (Unidades Institucionales de Atención Especializada a las Mujeres en Situación de Violencia, UNIMUJER). There are 16 UNIMUJER units present in the following municipalities in the country: Puerto de La Libertad, Santa Tecla (La Libertad), El Pedregal (La Paz), Cojutepuque (Cuscatlán), San Salvador Norte (Apopa), San Salvador Centro, Sensuntepeque (Cabañas), Chalchuapa (Santa Ana), Jiquilisco (Usulután), Cantón Cara Sucia (municipality of San Francisco Méndez, Ahuachapán), Barrio Santuario (San Vicente), Chalatenango, San Juan Opico, Aguilares (San Salvador), Suchitoto (Cuscatlán), Ayutuxtepeque (San Salvador).

However, ORMUSA noted that these units are monitored by gangs and women are afraid to go there to report domestic violence because gang members will perceive them as police informants providing information about gangs. ORMUSA pointed out that with a growing number of gangs, the number of domestic violence complaints has decreased as women fear to be considered as "informants" and therefore, prefer not to file complaints.

4.4.2 Special Courts

Interlocutors indicated that the establishment of specialized courts to oversee cases of violence against women was in progress. The first special court was scheduled to open in June 2016 and the other two in January 2017.

Decree 286 of 2016 establishes the creation of specialized courts that will deal with cases of domestic violence and violence against women, as well as oversee compliance with protection measures established by the law. According to the Decree, the specialized courts will be created in the following municipalities:

- San Salvador, which will have jurisdiction over the departments of San Salvador, La Libertad, Chalatenango, La Paz, Cabañas, Cuscatlán, and San Vicente;
- Santa Ana, with jurisdiction over the departments of Santa Ana, Ahuachapán, and Sonsonate; and
- San Miguel, with jurisdiction over the departments of Usulután, San Miguel, La Unión, and Morazán.

According to the Chief Justice of the Criminal Chamber of Supreme Court of Justice (Corte Suprema de Justicia, Sala de lo Penal, CSJ-SP), these specialized courts will have psychologists, lawyers, social workers, and educators to assist in protective measures ordered by the court and assist in collection of evidence.
4.4.3 Awareness Campaigns

According to a report on violence against women provided to the Research Directorate by a representative of ISDEMU, between July 2014 and June 2015, the government conducted several awareness campaigns across the country in order to prevent violence against women. For example, the Ministry of Justice conducted a campaign focusing on prevention of violence against women between July 2014 and December 2015 in 10 municipalities of the country: Santa Tecla, San Salvador, San Miguel, Santa Ana, Soyapango, La Unión, Mejicanos, Ciudad Delgado, Acajutla, and San Martin. The campaign allowed local government authorities to develop their own plans focusing on prevention of violence against women.

4.4.4 Effectiveness of State Protection

Several interlocutors noted that there are problems in the implementation of laws regarding violence against women in El Salvador. ORMUSA stated that after the implementation of the 1996 Law Against Domestic Violence, last amended in 2013, violence against women did not decline. Also, the Special Comprehensive Law for a Violence-free Life for Women, which explicitly recognized four components: prevention, care, prosecution, and punishment, and mandated the establishment of special services for women in public institutions, has not been properly implemented. Some judges, for example, have deemed the law as "unconstitutional" and "deliberately" refuse to implement it because they claim that it "unequally protects women with respect to men." The Vice-minister of Justice and Public Security indicated that the Special Comprehensive Law for a Violence-free Life for Women "faced many obstacles of a cultural nature because some judges are not aware and updated on these rights, and cultural issues such as machismo persist and that became a bulwark in its implementation." CEMUJER indicated that a "sexist bias" prevail among state institutions such as the PNC, the FGR, and the judiciary. Police authorities are overwhelmed with cases related to gang violence; thus cases of domestic violence or violence against women are not a priority.

Interlocutors pointed out that women do not have confidence in authorities to file complaints with them. ORMUSA indicated that impunity for gender-based violence remains a problem and the government does not take steps to improve the situation. The Secretariat of Social Inclusion similarly stated that there are high levels of impunity in El Salvador regarding violence against women and domestic violence. ORMUSA indicated that some prosecutors register femicides as deaths in connection to the indictable crime of "illicit associations" or other "less serious crimes." According to investigations conducted by ORMUSA at prosecutors’ offices, 10 out of 11 femicides committed by gang members were registered as previously mentioned. Also, out of 978 cases of violence against women reported in 2014, only 4 resulted in convictions. Among Friends Association stated that officials of
the PNC and the FGR often re-victimize persons reporting a crime. For example, some police officers and prosecutors blame women for provoking an assault. ORMUSA estimated that 70 percent of the prosecutors do not have training in dealing with violence against women. 49

The Office of the Ombudsperson for the Defence of Human Rights (Procuraduría para la Defensa de los Derechos Humanos, PDDH) stated that FGR does not have resources or the capacity to investigate all the complaints they receive. The judiciary and the police are very weak in El Salvador and there is lack of trust in the judicial system and the police. 50 Similarly, the Chief Justice of the Criminal Chamber of Supreme Court of Justice stated that the justice system faces challenges such as lack of administrative and economic resources, lack of adequate investigations by prosecutors, and corruption among judges. Other interlocutors also indicated that judicial corruption was a problem in El Salvador. 51 Only 5 to 7 percent of all complaints made before authorities result in conviction. 52

Sources indicated that communities consider gangs as an authority and turn to the gang instead of the police. 53 El Faro provided an example of a gang leader solving a domestic violence case by forcing the abusive husband to stop his abuse towards the wife and to pay child support.

4.5 Support Services

4.5.1 Ciudad Mujer (Comprehensive Support Centre for Women)

Several interlocutors indicated that Ciudad Mujer is a "good" model of services for women provided by different governmental institutions within one space. 54 A Secretariat of Social Inclusion publication on Ciudad Mujer indicates that these centres are an initiative of the government of El Salvador with four fundamental pillars: "a comprehensive approach to gender based violence, sexual and reproductive health for women, economic empowerment for women, and dissemination and promotion of women's fundamental rights." 55 Ciudad Mujer centres provide the following services:

- Community education: workshops and conferences on themes such as sexual and reproductive rights (including prenatal and postnatal care, and family planning), access to housing, family law (including alimony and inheritance), labour law, gender-based violence, political participation, literacy, and access to banking.
- Sexual and reproductive health: services provided by specialists in areas such as internal medicine, pediatrics, dentistry, gynecology, obstetrics and family planning, prenatal and postnatal care, prevention of sexually transmitted diseases, and reproductive health for adolescents.
- Economic empowerment: job training, and access to "economic and financial literacy" though micro-credit.
- Attention to gender based violence: crisis intervention, advocacy, and support groups.
A childcare lounge: childcare services provided to women "to move properly throughout the different services they require" at the centres. 56

Services in the centres are provided exclusively by women. 57 The first Ciudad Mujer centre was opened in 2011, and there are six Ciudad Mujer centres in El Salvador in the following municipalities:

- Colón (provides services to the municipalities of Armenia, Ciudad Arce, Colón, Jayaque, Sacacoyo, San Juan Opico, Talnique, and Tepecoyo, and has an estimated coverage of 162,000 women);
- Usulután (covers the municipalities of Concepción Batres, Ereguayquín, Ozatlán, San Dionisio, Santa Elena, Santa María, and Usulután, and has an estimated coverage of 75,000 women);
- Santa Ana (covers the municipalities of Chalchuapa, Coatepeque, El Porvenir, San Sebastián Salitrillo, and Santa Ana, and has a "potential" coverage of 200,000 women);
- San Martín (covers the municipalities of Ilopango, San Martín, Soyapango, Tonacatepeque, Oratorio de Concepción, San Bartolomé Perulapía, and San Pedro Perulapán, and benefits approximately 300,000 women);
- San Miguel (covers the municipalities of Chinameca, Lolotique, Moncagua, Nueva Guadalupe, Quelepa, and San Miguel, and benefits approximately 157,000 women); and
- Morazán, which "will be opened soon" (will provide coverage to 46,000 women in the municipalities of Chilanga, El Divisadero, Guatajiagua, Jocoro, Lolotiquillo, San Carlos, San Francisco Gotera, Sensembra, Sociedad, and Yamabal). 58

Between 2011 and April 2016, the Ciudad Mujer centres provided assistance to more than 45,000 women. 59

Women victims of domestic violence, rape, and sexual harassment can access services of the following government institutions in the Ciudad Mujer centres: ISDEMU, FGR, IML, PNC, and the Ministry of Public Health, among others. 60 Interlocutors noted that Ciudad Mujer centres do not provide shelter for women with ties to gangs 61 or who are under 18 years old. 52 Interlocutors also pointed out that Ciudad Mujer centres operate only between 8:00 a.m. and 3:30 p.m., 63 leaving women without help on weekends and during the night hours. 64 According to the Secretariat of Social Inclusion, Ciudad Mujer centres do not operate outside these hours due to the lack of funding and resources.

### 4.5.2 Shelters

The Special Comprehensive Law for Violence-free Life for Women established the creation of shelters supervised by the ISDEMU. 65 According to Article 26 of the law, the shelters "provide services for women and their affected family members who are in conditions of risk and vulnerability created by violent situations." 66 Interlocutors indicated that there are two government shelters in El Salvador: one for women victims of domestic violence and one for women victims of human
trafficking. Both shelters are run by ISDEMU. ISDEMU indicated that the shelter for women victims of domestic violence can accommodate 15 women with their children for a period of time from two to twelve months, and the shelter for trafficked women can accommodate women for up to three years. However, according to ORMUSA, both shelters accommodate women only for up to 5 days.

According to ISDEMU, shelters accept women with girls less than 18 years old and boys under 9 years old. Boys aged 9 years or older are not accepted due to "possible [gang-related] violence or aggression." These boys can be housed in a private shelter. ORMUSA also noted that women who require medical attention cannot be admitted to the shelters. Interlocutors indicated that women are not admitted to government shelters if they have ties to gang members or organized crime. In these cases, ISDEMU assists them in finding a private shelter. ISDEMU could not comment on the number of private shelters available in the country, but noted that some of the private shelters are run by religious organizations. ORMUSA noted that while it is helpful for women victims of violence to find temporary living accommodation with support networks, including family members or friends, interlocutors expressed the concern that there were not enough services offered to women victims of violence in the country.

4.5.3 Helplines

ISDEMU runs a 24/7 free telephone help line called Line 126 (Línea 126) for women victims of domestic, physical, sexual, psychological, and economic violence, or sexual harassment.

4.6 Possibility of Relocation and Traceability of Women Fleeing Violent Situations

On the question of whether a woman facing threats from a former spouse or partner could relocate to another part of the country, several sources indicated that it would be very difficult for women to relocate. For example, a woman from San Salvador moving to Santa Ana or San Miguel will face problems finding employment because the employment situation for women in those places is precarious. Women earn 25 percent less than men, 60 percent of women are employed in the informal sector, and they have less access to social services. Women's economic status does not allow them to move to another apartment or buy another house, and the government does not provide welfare services specifically for women. Moreover, it would be difficult for women to move to another neighbourhood because of territorial control by gang members, as she might be perceived to be associated with a rival gang.

Regarding the traceability of women fleeing their partners, interlocutors indicated that it is easy to locate someone who moved to another part of the country. According to the Inspector General of Public Safety (Inspector General de Seguridad Pública, IGSP), it is possible for a person to move to
another part of the country when that person was victim or witness of a crime, however if the perpetrator wants to find the victim, it is "very possible that he will." ORMUSA indicated that aggressors could track women using various methods, such as asking family members or third parties, including colleagues from work, or through the officials, because of the widespread corruption. ORMUSA stated that for a woman who is being pursued after fleeing a violent situation, it is "easy to find a woman in the capital and even easier to locate someone in rural areas." The Foundation for the Study of Applied Law (Fundación de Estudios para la Aplicación del Derecho, FESPAD) stated that, according to them, it is "easy" to identify a new person in the community because communities are closed off to outsiders and the person will be asked by the gang that operates in the place where she arrives to produce their identification (Documento Único de Identidad, DUI) in order to identify where they come from and which gang is in control of that territory. Interlocutors noted that gangs have an efficient nationwide network of contacts and "sophisticated communications systems." Dr. Mauricio Gaborit, Professor of Social Psychology at the Central American University "José Simeón Cañas," expressed an opinion that when a person leaves a neighborhood controlled by a gang and moves to another area, the gang can locate that person in less than 24 hours. If a person moves to a neighbourhood with the same gang, the gang members will know if he or she had a problem with the gang in the original neighbourhood. If the person moves to a neighbourhood where a different gang controls the territory, he or she will be perceived as the enemy and might be killed.

5. Situation of Sexual Minorities

5.1 Situation

Several interlocutors indicated that LGBTI persons in El Salvador are discriminated against, ill-treated, marginalized, and persecuted. The Salvadoran Red Cross indicated that social violence affects the LGBTI population. The LGBTI Justice Clinic (Asistencia Legal para la Diversidad Sexual/LGBTI, ALDES) stated that due to marginalization and discrimination, which includes family members and the society at large, LGBTI persons face obstacles when trying to access education at schools, employment, and health care. They also face obstacles accessing housing as landlords refuse to rent them a place. The Among Friends Association noted that in order to secure employment, LGBTI individuals must hide their gender identity or sexual orientation. The Organization for the Promotion and Defense of Human Rights of LGBTI Persons (Organización para la Promoción y Defensa de los DDHH de la Población LGBTI, COMCAVIS-TRANS) similarly stated that transgender persons are four times more discriminated than women, and they also face problems when trying to access education, banking and credit, and employment in the private and public sectors. Employment for transgendered persons is limited, and is usually in sex work, and as street vendors and hairdressers. In 2015, three LGBTI persons committed suicide because of lack
of family or state support. LGBTI persons are also the object of police ill-treatment and harassment, extortion, physical violence, sexual violence, and physical and psychological violence. They are also forced by gangs to smuggle illegal goods and drugs into prisons.  

According to ALDES, LGBTI persons organize an annual gay pride parade in El Salvador, and organize vigils, protests, and press conferences to communicate their situation at a "larger scale," although society is hostile toward them. ALDES also noted that there are some clubs and bars for LGBTI persons, and they hold entertainment events, but these are known only within the LGBTI community as they prefer to keep a lower profile in order to prevent anti-LGBTI or homophobic people from appearing.

### 5.2 Statistics

Interlocutors indicated that there is a lack of statistical information on violence against LGBTI persons in El Salvador. According to the Among Friends Association, when an LGBTI person files a complaint, authorities identify in the complaint the type of crime committed but not the sexual orientation of the victim, even though the form includes an information field to indicate the sexual orientation of the victim. COMCAVIS-TRANS similarly stated that the FGR only has statistical information on the gender of the victim and not the victims' sexual orientation for cases committed against LGBTI persons. COMCAVIS-TRANS indicated that it has documented more than 600 cases of killings of LGBTI persons between 1993 and April 2016, but authorities have not investigated any of these cases. A report produced by El Faro indicates that human rights organizations have denounced that from 1995, more than 500 LGBTI persons have been killed and none of these crimes have been investigated. The Trans Murder Monitoring project, a research project by Transgender Europe and the academic journal on LGBT issues, Liminalis, that "systematically monitors, collects and analyses reports of homicides of trans and gender-diverse people worldwide," states that in El Salvador, there have been 27 transgendered persons reported murdered between 2008 and 2016; including 3 in 2014, 7 in 2015, and 5 in 2016.  

Several sources noted that LGBTI individuals do not have confidence in the authorities and do not report crimes committed against them, and when they report it with the PNC and the FGR, these authorities do not take their complaints. The Among Friends Association provided the "recent" example of a transgender woman who was shot several times at a convenience store. The transgender person received adequate treatment at the hospital but the PNC was never called by the hospital. Days later, when the transgender person went to file a complaint, authorities refused to take it.

### 5.3 Legislation
A report published by the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) in May 2016, entitled *State-sponsored Homophobia: A World Survey of Sexual Orientation Laws: Criminalisation, Protection and Recognition*, indicates that same-sex acts in El Salvador have been legal since the 1800s. 95 Same-sex marriage is not recognized, and Article 33 of the Constitution of El Salvador defines family relations as the "stable union of a man and a woman." 96 Interlocutors noted that El Salvador has made some progress in the area of protection of rights of LGBTI persons. Decree No. 56 (*Decreto No. 56*) issued on 12 May 2010, prohibits discrimination based on grounds of gender identity and sexual orientation. 97 The Decree states that:

[translation]

Art. 1.- All forms of discrimination on grounds of gender identity and/or sexual orientation are prohibited in the activities of the public administration.

Art. 2.- For purposes of this Decree, the institutions and other bodies that make up the public administration are prohibited from:

a) engaging in any act or practice that directly or indirectly constitutes a form of discrimination on grounds of gender identity and/or sexual orientation; and, b) fostering, encouraging, defending or supporting any act or practice that directly or indirectly promotes the non-acceptance of a specific person or groups of persons, and that incites discrimination or the practice of hostile actions against such persons on grounds of gender identity and/or sexual orientation.

Art. 3.- The heads of the various agencies and bodies that make up the public administration must carry out an exhaustive review of the policies, programs and projects that pertain to them, and adopt or propose the corrective actions required if, in the design or practical implementation of the same, there are actions or practices that directly or indirectly constitute or that could generate any form of discrimination on grounds of gender identity and/or sexual orientation.

One of the criteria they shall use to evaluate the performance of their personnel will be adherence to the provisions of this Decree.

Art. 4.- The heads of the various agencies and bodies that make up the public administration must ensure the creation of a culture of respect and tolerance within the activities carried out by such agencies and bodies, regardless of the gender identity and/or sexual orientation of a person. 98
The Criminal Code was also amended to address "hate crimes." 99 It includes, as special aggravating circumstances, threats motivated by [translation] "racial, ethnic, religious, [and] political hatred," as well as by the sexual "identity, gender expression or sexual orientation." 100 The Criminal Code establishes a punishment of between three and six years of imprisonment for hate crimes based on sexual orientation. 101

However, Among Friends Association indicated that El Salvador has "a very impressive legal framework, but its application is inefficient." COMCAVIS-TRANS indicated that there were no comprehensive laws protecting LGBTI persons in El Salvador, and those that exist are not implemented by authorities. For example, some public officials have indicated that current legislation does not oblige them to apply Decree No. 56, leaving it to their discretion whether they decide whether to apply it or not. 102 ALDES similarly indicated that Decree No. 56 only applies to government workers, but there are no sanctions for officials who do not apply it. Violent crimes against LGBTI persons are not registered as "hate crimes," as per the Criminal Code amendment. 103 When a LGBTI person is killed, for example, the FGR registers it as a homicide and does not investigate the circumstances of the crime that could provide evidence of the special aggravating circumstances outlined in the Criminal Code and, this way, obtain the maximum sentence possible. To date, there have been no crimes registered as a "hate crime." 104 Among Friends Association also indicated that the Law Against Domestic Violence does not apply to same sex couples, and that laws protecting women from violence do not apply to lesbian couples.

5.4 State Protection

In order to file a complaint, LGBTI persons victims of violence can contact the PNC, the FGR, or call the emergency numbers 911 and 913. 105 Police abuse can be reported to the PDDH. 106

Interlocutors indicated that there were cases of police abuse against LGBTI persons. 107 Both Among Friends Association and COMCAVIS-TRANS noted that they have provided training to police officers on human rights related to LGBTI persons. 108 According to the representative of COMCAVIS-TRANS, five transgendered women left the country in 2016 because they suffered police beatings, and physical and sexual assaults from police officers. Among Friends Association provided an example of police abuse reported to the PDDH by an LGBTI individual, in which case a police officer was tried, but not punished for the offence.

COMCAVIS-TRANS and ALDES indicated that police officers and prosecutors do not investigate cases of violence against LGBTI persons. Incidents of violence against LGBTI persons are not a priority for prosecutors or police officers because they are overwhelmed with cases of violence related to gangs. 109 LGBTI persons also do not have confidence in the authorities 110 and most LGBTI crimes are not reported because LGBTI people are not taken seriously by authorities. 111 ALDES emphasized that an investigative structure in El Salvador exists, but it is not functioning. Sources provided the example of Tania Vásquez, a transgender woman who was killed in 2013 and
whose case has not been solved. Authorities promised a full investigation report for May 2014, but, to date, no report has been delivered. ALDES indicated that, "supposedly," there is a report prepared by the PNC, but "no one has access to that report and no one knows what is in the report." COMCAVIS-TRANS pointed out that lack of state protection, gang violence, and lack of support, increased migration of LGBTI persons. The representative of Among Friends Association indicated that their organization operates in San Salvador, Chalatenango, Cuscatlán, and Cabañas, coordinating with state institutions in the provision of services to LGBTI persons to minimize displacement. However, the representative also indicated that "it is difficult to tell [a LGBTI person] to remain in the neighbourhood and not migrate as there is no state protection in the country."

5.5 Support Services

5.5.1 Shelters

Interlocutors indicated that there were no shelters for LGBTI person in El Salvador. COMCAVIS-TRANS specified that there are neither public nor private shelters for LGBTI persons. COMCAVIS-TRANS indicated that private shelters refuse to admit persons from the LGBTI community.

5.5.2 Helplines

The website of the Presidency of the Republic of El Salvador indicates that the Secretariat of Social Inclusion launched the 24/7 call center "131" that provides to LBGTI persons psychological and emotional assistance, as well as information and guidance on their rights. However, interlocutors noted that the hotline does not operate during night hours or on the weekends when most cases of violence against LGBTI individuals occur.

5.6 Possibility of Relocation and Traceability of LGBTI persons Fleeing Violent Situations

According to interlocutors, it was very difficult for an LGBTI individual to move to another part of the country. Territorial control by the gang members makes it difficult for people to relocate within El Salvador. According to ALDES, LGBTI person moving to another part of the country will face societal discrimination, as well as other gang groups. Several interlocutors pointed out that El Salvador is a small country and it is very easy to locate a person who has moved to another part of the country. In addition, gangs have very good methods of communication between them and can easily locate a person. COMCAVIS-TRANS provided the example of a gay person in San Miguel who was threatened by his cousin, a gang member who had been detained by the police, and who asked him to pay for his lawyer. When the cousin and his clique learned that he refused to the request, the clique went after the gay person's roommate, a transgender woman; the gang
members extracted one of her eyes as a sign of what could happen to him if he did not pay for the lawyer. The gay person moved to San Salvador but was later found by the gang and he had to leave for Mexico with the Assistance of COMCAVIS-TRANS, where he was granted an humanitarian visa. In most cases, it is hard for LGBTI persons to find a job and they are unable to move to "safer" neighborhoods because they do not have the economic capacity to do so. For more information on possibility of relocation, see Section 3.6 of this Report. For information on gangs in El Salvador, see Part 1 of this information-gathering mission report, as well as Response to Information Request SLV104900.

Notes on Interlocutors

Asistencia Legal para la Diversidad Sexual - El Salvador, ALDES (LGBTI Justice Clinic)
ALDES is an NGO based in San Salvador that promotes "the health, security, dignity and human rights of the LGBTI community in El Salvador through the legal empowerment of LGBTI individuals." On 18 April 2016, the Research Directorate conducted a telephone interview with Dr. Ana Montano, a lawyer with ALDES.

Asociación Entre Amigos (Among Friends Association)
Asociación Entre Amigos is an NGO founded in 1994 in San Salvador. The NGO focuses on the promotion of human rights for LGBTI community and persons with HIV. It provides legal assistance to the LGBTI community in San Salvador, Chalatenango, Cuscatlán, and Cabañas. On 18 April 2016, the Research Directorate met with William Hernández, Director.

Coordinadora Nacional de Sindicatos y Asociaciones del Órgano Judicial, CONASOJ (National Coordinating Committee of Unions and Association of Workers in the Judiciary)
CONASOJ is an umbrella organization of 10 organizations that advocates for the rights of workers in the judicial system. On 12 April 2016, the joint mission met with Roswal Solórzano, National Coordinator.

Corte Suprema de Justicia, Sala de lo Penal, CSJ-SP (Supreme Court of Justice, Criminal Chamber)
The CSJ-SP hears appeals on criminal cases sentenced on second instance by the District Criminal Court. Other functions include supporting the modernization of the judicial system, and presiding over the board of directors of the Legal Medicine Institute (Instituto de Medicina Legal, IML). On 14 April 2016, the joint mission met with Justice Doris Luz Rivas Galindo, Chief Justice of the CSJ-SP.

Cruz Roja Salvadoreña (Salvadoran Red Cross)
The Salvadoran Red Cross provides assistance to victims of natural disasters, national emergencies, and violations of human rights. Two years ago they launched a project to assist victims of violence with the support of the Spanish Red Cross and the European Union. It also provides assistance to victims of internal displacement and coordinates with other entities to provide
assistance to victims of gender violence. On 19 April 2016, the Research Directorate conducted
held a meeting with Amanda Castro, Coordinator of the Unit for the Assistance to Victims of Social
Violence.

El Faro
El Faro is an electronic newspaper based in La Libertad that does investigative journalism on issues
such as corruption, organized crime, migration, culture, and human rights. Carlos Martínez,
journalist and founder of El Faro, has researched gangs in El Salvador and to some extent in
Guatemala for the past five years. On 14 April 2016, the joint mission conducted an interview with
Carlos Martínez, Journalist and Founder; Daniel Valencia, Editor; and Fred Ramos, Photojournalist.

Fundación Cristosal (Foundation Cristosal)
Foundation Cristosal is an independent, Episcopal non-profit organization that works on issues
related to forced displacement due to violence and the protection of victims. On 11 April 2016, the
joint mission held a meeting with Celia Medrano, Chief Program Officer.

Fundación de Estudios para la Aplicación del Derecho, FESPAD (Foundation for the Study of
Applied Law)
FESPAD is an organization that promotes constitutional and democratic state building and the rule
of law. It also promotes the protection of human rights on the basis of the dignity, freedom and
equality of the human person, through the knowledge and application of the law and contributes to
the development of just and democratic societies. It is dedicated to labour rights, criminal justice,
and the prevention of violence against children, youth, women, and LGBTI people. On 19 April
2016, the Research Directorate held a meeting with Abraham Abrego, Executive Director.

Inspectoría General de Seguridad Pública, IGSP (Office of the Inspector General of Public
Security)
The IGSP is the government agency responsible for overseeing the PNC and the National Academy
of Public Security (Academia Nacional de Seguridad Pública, ANSP). The IGSP works under the
authority of the Minister of Justice and Public Security. On 11 April 2016, the joint mission met with
Tito Edmundo Zelada Mejía, Inspector General.

Instituto de Estudios de la Mujer Norma Virginia Guirola de Herrera, CEMUJER (Norma
Virginia Guirola De Herrera Institute for Women’s Studies)
CEMUJER is a center for women’s studies founded in 1990. It is a feminist NGO focusing on
promotion of human rights for women, children, and young adults. On 18 April 2016, the Research
Directorate met with Ima Rocío Guirola, Representative.

Instituto Salvadoreño para el Desarrollo de la Mujer, ISDEMU (Salvadoran Institute for the
Development of Women)
ISDEMU was created in February 1996. ISDEMU is a government agency responsible for
formulating, directing, implementing and monitoring compliance with national policies on women, as
well as promoting women's rights. Its highest authority is the Board of Directors, which is chaired by the Secretariat of Social Inclusion. On 14 April 2016, the joint mission met with Yanira Argueta, Executive Director.

Dr. Mauricio Gaborit, Professor of Social Psychology, Central American University "José Siméon Cañas"
Dr. Gaborit specializes in violence, social cognition, gender, and historical memory. He has published extensively on these areas as well as on migration in Central America. Among his publications are "Recalibrando la mirada al pasado: reconciliación y perdón en el posconflicto" [Reassessing A Look at the Past: Reconciliation and Forgiveness in the Post-conflict] in Estudios Centroamericanos (2015), "Psychological Homelessness and Enculturative Stress among US-Deported Salvadorans: A Preliminary Study with a Novel Approach" in Journal of Immigrant and Minority Health (2014), and the book La esperanza viaja sin visa: Jóvenes y migración indocumentada de El Salvador which was published in 2012. The Research Directorate held a meeting with Dr. Gaborit on 21 April 2016.

Organización de Mujeres Salvadoreñas Por la Paz, ORMUSA (Salvadoran Women's Organization for Peace)
ORMUSA is a feminist organization that promotes gender equality and the economic, social, and political empowerment of women. One of the areas that ORMUSA works on is public safety and as such, it has a national observatory that collects information on violence against women. On 12 April 2016, the joint mission met with Janneth Urquilla, Director, and Silvia Juárez, Representative.

Organización para la promoción de los Derechos Humanos de la Población LGBTI, COMCAVIS-TRANS (Organization for the Promotion and Defense of Human Rights of LGBTI Persons)
COMCAVIS-TRANS is an NGO created in 2008. The NGO promotes and defends rights of LGBTI persons in El Salvador. COMCAVIS TRANS is based in San Salvador and provides services in the departments of Santa Ana, Sonsonate, San Miguel, La Paz, La Unión, Usulután and Cabañas. On 12 April 2016, the joint mission met with Karla Avelar, Director.

Policía Nacional Civil, Subdirección de Investigaciones (National Civil Police, Office of the Deputy Director of Investigations)
On 21 April 2016, the Research Directorate met with Juan Carlos Martínez, Deputy Director.

Procuraduría para la Defensa de los Derechos Humanos, PDDH (Office of the Ombudsperson for the Defence of Human Rights)
The PDDH is an independent institution that is part of the Public Ministry (Ministerio Público) and is responsible for human rights education, protection, and promotion. On 11 April 2016, the joint mission conducted an interview with Sandra Rivera, Deputy Ombudsperson for Civil and Political Rights.
Secretaría de Inclusión Social (Secretariat of Social Inclusion)
Secretariat of Social Inclusion is a government institution, created in 2009, whose mission is to create favourable conditions for the social protection, development, and full realization of the rights of the population with a focus on human rights and gender. On 13 April 2016, the joint mission met with Vanda Pignato, Head of the Secretariat of Social Inclusion.

Viceministerio de Justicia y Seguridad Pública (Vice-ministry of Justice and Public Security)
On 20 April 2016, the Research Directorate held a meeting with Luis Roberto Flores, Vice-minister.

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Appendix 1

Terms of Reference

1. Witnesses to crime and corruption
   a. Current extent of individuals who report police corruption or witness a crime by a criminal gang especially with regard to drug-trafficking, kidnapping, and public sector malfeasance:
      i. Statistics: national, state, and local;
      ii. Legislative framework: national and state level.
   b. Government and police effectiveness in assisting individuals who witness police wrongdoing or a criminal activity:
      i. Police protection measures; whether a special police unit exists to investigate these types of crimes; availability and effectiveness of protection at the national, state and local levels;
      ii. Accessibility to justice system: complaints procedure, whether protection for witnesses/whistleblowers is addressed; police response to complaints; judicial process for these types of complaints (e.g. are witness protection orders available and to what extent are they enforced);
      iii. Whether special training of police and judiciary in dealing with witness protection cases exists;
      iv. Whether police response to witnesses is measured or evaluated, including results;
      v. Existence, scope and effectiveness of any witness protection programs.
   c. Ability of victims to seek relocation:
      i. Capability to flee from aggressor without being found (e.g., the level of risk & socio-economic factors);
      ii. Accessibility to databases to find a victim (e.g., school registries, etc.); what are the main national registries and identity cards that are issued by the government? Which authorities and at what level are able to access these registries? Level of security used to protect these databases; surveillance systems in place at the state and national levels;
iii. Level of communication among law enforcement agencies at the local, state, and federal levels;
iv. Known cases of victims being found by agents of persecution.

2. Gangs
   a. Structure of main gangs
      i. Hierarchical division of main gangs as a whole and as cliques; scope of communication between leadership and cliques and within cliques; how are orders transmitted and executed;
      ii. The role of women in the maras;
      iii. Number of cliques and members.
   b. Recruitment
      i. Methods of recruitment; have they changed after the mano dura policies? Target population (i.e. age, gender, social class, etc.);
      ii. Initiation process and processes practiced for promotion within;
      iii. Information on how to leave a gang; treatment of former gang members or people who try to leave; information about former gang members (also known as calmados); whether they are still active or collaborate with gangs.
   c. Areas of operation
      i. Territorial division of gangs and cliques; how are territorial divisions established (riña del barrio);
      ii. Conflicts and disputes between cliques and gangs for territorial presence;
      iii. Presence in rural areas.
   d. National/transnational activities
      i. Local criminal activities: kidnapping, extortion, homicides; statistics;
      ii. International activities: drug trafficking, killings for hire; statistics;
      iii. Whether gangs can be considered transnational crime syndicates; relationship with drug cartels and other organized criminal organizations.
      iv. Capability to flee from gangs without being found; scope of their reach at the national and transnational levels.
   e. State efforts
      i. Legislative framework;
      ii. Anti-gang units: whether a special police unit exists to combat gangs and investigate crimes committed by them; information on effectiveness, training, and resources; instances of corruption or excessive use of force; whether their effectiveness is measured or evaluated; statistics on arrests.
      iii. Accessibility to justice system: complaints procedure; police response to complaints; judicial process for these types of complaints; statistics on charges, convictions, and jail terms;
iv. State protection programs: existence, scope and effectiveness of any
testimony protection program; whether the protection for victims,
wrinkles, and former gang members is addressed; accessibility to
databases to find a victim; level of security used by authorities to
protect these databases; known cases of victims being found.

3. Violence against Women
   a. Current extent of gender-based violence, including: domestic violence, sexual
      harassment and violence (including rape), and stalking:
      i. Statistics: national, state-level, and local;
      ii. Legislative framework; whether there have been any new
developments nationally; or at the state-level.
   b. Effectiveness of the police and judiciary in addressing gender-based violence:
      i. Police records; arrests and complaints; numbers of persons
         charged/arrested for committing gender-based crimes (as outlined in
         section a); numbers of those convicted; length of jail term (if found
         guilty); numbers of those released;
      ii. Police protection measures; whether special police units exist to
          investigate these types of crimes; protection orders and enforcement;
      iii. Accessibility to justice system: Complaints procedure, police response
          to complaints; judicial process for these types of complaints (e.g. are
          protection orders available);
      iv. Whether special training of police and judiciary in dealing with gender-
          based cases exists;
      v. Whether police response to gender-based violence is measured or
         evaluated by government agencies.
   c. Status of emergency shelter system:
      i. Number of government-run shelters in operation and the capacity of
         each of these shelters (e.g., number of beds per shelter, trained staff);
      ii. Accessibility and length of stay allowed;
      iii. Options available after individual leaves shelter; whether social
          services follows-up with victim.
   d. Ability of victims to seek relocation:
      i. Capability to flee from aggressor without being found (e.g., the level of
         risk & socio-economic factors);
      ii. Accessibility to databases to find a victim (e.g., school registries, etc.);
          what are the main national registries and identity cards that are issued
          by the government? Which authorities and at what level are able to
          access these registries? Level of security used to protect these
          databases; surveillance systems in place at the national and state
          level;
      iii. Known cases of victims being found by their ex-partners.

4. Sexual Orientation
a. Treatment by society; current extent of homophobia, discrimination, and harassment against members of the Lesbian, Gay, Bisexual, and Transgendered (LGBT) community:
   i. Statistics on homophobic violence/hate crimes: national, state-level, and local;
   ii. Incidents of homophobic violence against LGBT members (widespread, minimal, under-reported, etc.);
   iii. Types of violations sustained by LGBT members (e.g., insults, harassment, discrimination, physical violence, homicide);
   iv. Legislative framework; whether there have been any new developments nationally; or at the state-level.

b. Police effectiveness in addressing wrongdoing/violence against LGBT individuals:
   i. Police records; arrests and complaints; numbers of those charged for committing homophobic crimes (as outlined in section a); numbers of those convicted; length of jail term (if found guilty); numbers of those released (without conviction);
   ii. Police protection measures; whether a special police unit exist to investigate these types of crimes;
   iii. Accessibility to justice system: Complaints procedure, police response to complaints; judicial process for these types of complaints (e.g. are protection orders available);
   iv. Whether special training of police and judiciary in dealing with LGBT cases exists;
   v. Whether police response to LGBT violence is measured or evaluated.

c. Ability of victims to seek relocation:
   i. Capability to flee from aggressor without being found (e.g., the level of risk & socio-economic factors);
   ii. Accessibility to databases to find a victim (e.g., school registries, etc.);
      what are the main national registries and identity cards that are issued by the government? Which authorities and at what level are able to access these registries? Level of security used to protect these databases; surveillance systems in place at the national and state level;
   iii. Known cases of victims being found.

Appendix 2

Map of Most Violent Municipalities in El Salvador in 2015

Homicide rates per 100,000 people

White – homicide rate between 0 and 25
Green – between 25 and 50
Yellow – between 50 and 75
Orange – between 75 and 100
Red – between 100 and 150
Black – above 150


[Alternate format]
The image illustrates the map of El Salvador divided into departments and municipalities. Each municipality in the map has a number and is colored according to the level of the rate of homicides during 2015. There is also a list of these municipalities by numerical order and grouped by departments. The text reads as follows:

The Most Violent Municipalities in 2015

Trends in violence strongly impacted the country in 2015, but some municipalities were more affected than others. Insecurity affects all of El Salvador, with some regional variation. This map identifies the regions most affected by violence, ranked by colour.

White: homicide rate between 0 and 25 (including the municipalities that had less than six homicides in six years)
Green: homicide rate between 25.1 and 50
Yellow: homicide rate between 50.1 and 75
Orange: homicide rate between 75.1 and 100
Red: homicide rate between 100.1 and 150
Black: homicide rate of 150.1 or more

San Salvador

1. San Salvador [Black]
2. Ciudad Delgado [Black]
3. Mejicanos [Red]
4. Soyapango [Orange]
5. Cuscatancingo [Yellow]
6. San Marcos [Orange]
7. Ilopango [Red]
8. Nejapa [Red]
9. Apopa [Red]
10. San Martín [Red]
11. Panchimalco [Black]
12. Aguilares [Red]
13. Tonacatepeque [Yellow]
14. Santo Tomás [Red]
15. Santiago Texacuangos [Red]
16. El Paisnal [Red]
17. Guazapa [Black]
18. Ayutuxtepeque [Orange]
19. Rosario de Mora [Black]

Santa Ana

20. Santa Ana [Yellow]
21. Chalchuapa [Orange]
22. Metapán [Orange]
23. Coatepeque [Red]
24. El Congo [Red]
25. Texistepeque [White]
26. Candelaria de la Frontera [White]
27. San Sebastián Salitrillo [Green]
28. Santa Rosa Guachipilín [White]
29. Santiago de la Frontera [White]
30. El Porvenir [Orange]
31. Masahuat [White]
32. San Antonio Pajonal [White]

San Miguel

33. San Miguel [Orange]
34. Chinameca [Red]
35. El Tránsito [Black]
36. Ciudad Barrios [Black]
37. Chirilagua [Black]
38. Sesori [Yellow]
39. San Rafael Oriente [Green]
40. Moncagua [Yellow]
41. Lolotique [Green]
42. San Jorge [Green]
43. Chapeltique [Yellow]
44. San Gerardo [White]
45. Carolina [Yellow]
46. Quelepa [Green]
47. San Luis La Reina [White]
48. N. Edén de San Juan [White]
49. Nueva Guadalupe [Yellow]
50. Uluazapa [Orange]
51. Comacarán [Green]
52. San Antonio del Mosco [White]

**La Libertad**

53. Santa Tecla [Green]
54. Quezaltepeque [Black]
55. Ciudad Arce [Yellow]
56. San Juan Opico [Yellow]
57. Colón [Orange]
58. La Libertad [Orange]
59. Antiguo Cuscatlán [Green]
60. Comasagua [Orange]
61. San Pablo Tacachico [Red]
62. Jayaque [Red]
63. Huzúcar [Black]
64. Tepecoyo [Orange]
65. Teotepeque [Green]
66. Chiltiupán [Green]
67. Nuevo Cuscatlán [Yellow]
68. Tamanique [White]
69. Sacacoyo [Red]
70. San José Villanueva [Black]
71. Zaragoza [Red]
72. Talnique [Red]
73. San Matías [Red]
74. Jicalapa [White]

**Usulután**

75. Usulután [Red]
76. Jiquilisco [Black]
77. Berlín [Yellow]
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<tr>
<td>80</td>
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<td>84</td>
<td>Estanzuelas</td>
<td>Red</td>
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<td>85</td>
<td>Mercedes Umaña</td>
<td>Orange</td>
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<td>86</td>
<td>Alegria</td>
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<td>87</td>
<td>Concepción Batres</td>
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<tr>
<td>88</td>
<td>San Fco. Javier</td>
<td>Red</td>
</tr>
<tr>
<td>89</td>
<td>Puerto El Triunfo</td>
<td>Red</td>
</tr>
<tr>
<td>90</td>
<td>Tecapán</td>
<td>Black</td>
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<tr>
<td>91</td>
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<td>Ereguayquín</td>
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<td>93</td>
<td>Santa María</td>
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<td>94</td>
<td>Nueva Granada</td>
<td>Yellow</td>
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<tr>
<td>95</td>
<td>El Triunfo</td>
<td>Red</td>
</tr>
<tr>
<td>96</td>
<td>San Buenaventura</td>
<td>Red</td>
</tr>
<tr>
<td>97</td>
<td>California</td>
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**Sonsonate**

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<td>101</td>
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<td>102</td>
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<tr>
<td>103</td>
<td>Juayúa</td>
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<td>104</td>
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<td>105</td>
<td>Sonzacate</td>
<td>Yellow</td>
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<tr>
<td>106</td>
<td>S. Antonio del Monte</td>
<td>White</td>
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<tr>
<td>107</td>
<td>Nahulingo</td>
<td>Black</td>
</tr>
<tr>
<td>108</td>
<td>Cuisnahuat</td>
<td>White</td>
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<tr>
<td>109</td>
<td>S. Catarina Masahuat</td>
<td>Green</td>
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<tr>
<td>110</td>
<td>Caluco</td>
<td>Black</td>
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<tr>
<td>111</td>
<td>Santa Isabel Ishuatán</td>
<td>White</td>
</tr>
<tr>
<td>112</td>
<td>Salcoaitán</td>
<td>Green</td>
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<tr>
<td>113</td>
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**La Unión**

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<td>Orange</td>
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116. Pasaquina [Green]
117. San Alejo [Black]
118. Anamorós [Green]
119. El Carmen [Black]
120. Conchagua [Orange]
121. El Sauce [White]
122. Lislique [Green]
123. Yucuaiquín [Green]
124. Nueva Esparta [White]
125. Polorós [Green]
126. Bolívar [Red]
127. Concepción de Oriente [White]
128. Intipucá [Red]
129. San José Las Fuentes [White]
130. Yayantique [Black]
131. Meanguera del Golfo [Green]

La Paz

132. Zacatecoluca [Red]
133. Santiago Nonualco [Red]
134. San Juan Nonualco [Red]
135. San Pedro Masahuat [Red]
136. Olocuitla [Red]
137. San Pedro Nonualco [Green]
138. San Fco. Chinameca [Black]
139. San Juan Talpa [Red]
140. El Rosario [Yellow]
141. San Rafael Obrajuelo [Black]
142. Santa María Ostuma [Black]
143. San Luis Talpa [Black]
144. San Antonio Masahuat [White]
145. San Miguel Tepezontes [Red]
146. San Juan Tepezontes [White]
147. Tapalhuaca [Orange]
148. Cuyultitán [Yellow]
149. Paraíso de Osorio [Red]
150. San Emigdio [Yellow]
151. Jerusalén [White]
152. Mercedes La Ceiba [White]
153. San Luis La Herradura [Black]

Chalatenango
154. Chalatenango [Green]
155. Nueva Concepción [Yellow]
156. La Palma [White]
157. Tejutla [Red]
158. La Reina [Red]
159. Arcatao [White]
160. San Ignacio [White]
161. Dulce Nombre de María [Yellow]
162. Citalá [Green]
163. Agua Caliente [White]
164. Cpción. Quezaltepeque [Green]
165. Nueva Trinidad [White]
166. Las Vueltas [White]
167. Comalapa [Green]
168. San Rafael [White]
169. San José Las Flores [White]
170. Ojo de Agua [White]
171. Nombre de Jesús [White]
172. Potonico [White]
173. San Francisco Morazán [White]
174. Santa Rita [White]
175. La Laguna [White]
176. San Isidro Labrador [Red]
177. San Antonio La Cruz [White]
178. El Paraíso [Yellow]
179. San Miguel de Mercedes [Red]
180. San Luis del Carmen [White]
181. Cancasque [Red]
182. S. Antonio Los Ranchos [White]
183. El Camizal [White]
184. San Fernando [White]
185. Azacualpa [White]
186. San Francisco Lempa [White]

Cuscatlán

187. Cojutepeque [Red]
188. Suchitato [Black]
189. San Pedro Perulapán [Black]
190. San José Guayabal [Black]
191. Tenancingo [Black]
192. San Rafael Cedros [Red]
193. Candelaria [Green]
194. El Carmen [Black]
195. Monte San Juan [Red]
196. San Cristóbal [Red]
197. Santa Cruz Michapa [Black]
198. S. Bartolomé Perulapía [Red]
199. San Ramón [Orange]
200. El Rosario [Red]
201. Oratorio [White]
202. Santa Cruz Analquito [Black]

**Ahuachapán**

203. Ahuachapán [Yellow]
204. Atiquizaya [Orange]
205. San Francisco Menéndez [Green]
206. Tacuba [Yellow]
207. Concepción de Ataco [Orange]
208. Jujutla [Orange]
209. Guaymango [White]
210. Apaneca [White]
211. San Pedro Puxtla [White]
212. San Lorenzo [White]
213. Turín [Green]
214. El Refugio [Black]

**Morazán**

215. San Fco. Gotera [Yellow]
216. Jocoro [White]
217. Corinto [Green]
218. Sociedad [Yellow]
219. Cacaopera [Yellow]
220. Guatajiagua [Red]
221. El Divisadero [White]
222. Jocoaitique [White]
223. Osicala [Green]
224. Chilanga [Green]
225. Meanguera [White]
226. Torola [Orange]
227. San Simón [White]
228. Delicias de Concepción [Yellow]
229. Joateca [Orange]
230. Arambala [White]
231. Lolotiquillo [White]
232. Yamabal [White]
233. Yoloaiquín [Orange]
234. San Carlos [Yellow]
235. El Rosario [White]
236. Perquín [Red]
237. Sensembra [White]
238. Gualococti [White]
239. San Fernando [White]
240. San Isidro [White]

**San Vicente**

241. San Vicente [Orange]
242. Tecoluca [Black]
243. San Sebastián [Red]
244. Apastepeque [Red]
245. San Esteban Catarina [Black]
246. San Idelfonso [Yellow]
247. Santa Clara [Yellow]
248. San Lorenzo [White]
249. Verapaz [Yellow]
250. Guadalupe [Orange]
251. Santo Domingo [Yellow]
252. Sn. Cay. Istepeque [Red]
253. Tepetitán [White]

**Cabañas**

254. Sensuntepeque [Yellow]
255. Ilobasco [Red]
256. Victoria [Green]
257. San Isidro [Orange]
258. Jutiapa [White]
259. Tejutepeque [Red]
260. Dolores [Green]
261. Cinquera [White]
262. Guacotecti [Green]

The image also has a graph titled "The 42 Most Dangerous Municipalities" that depicts, separately, the number of municipalities in the white, green, yellow, orange, red, and black groups. Each colour group has statistical information on the total population for these municipalities, the total number of homicides, and the homicide rate.

White group: composed of 70 municipalities with a total population of 417,312 inhabitants. The total number of homicides was 103, for a rate of 24.7 homicides per 100,000 inhabitants.
Green group: composed of 37 municipalities with a total population of 709,689 inhabitants. The total number of homicides was 258, for a rate of 36.4 homicides per 100,000 inhabitants.

Yellow group: composed of 33 municipalities with a total population of 1,289,841 inhabitants. The total number of homicides was 820, for a rate of 63.6 homicides per 100,000 inhabitants.

Orange group: composed of 29 municipalities with a total population of 1,314,344 inhabitants. The total number of homicides was 1,121, for a rate of 85.3 homicides per 100,000 inhabitants.

Red group: composed of 51 municipalities with a total population of 1,626,449 inhabitants. The total number of homicides was 2,053, for a rate of 126.2 homicides per 100,000 inhabitants.

Black group: composed of 42 municipalities with a total population of 1,102,636 inhabitants. The total number of homicides was 2,301, for a rate of 208.7 homicides per 100,000 inhabitants.

### Appendix 3

**APPENDIX 3: Articles 2 and 57 of the Special Comprehensive Law for a Violence-free Life for Women (Ley Especial Integral para una Vida Libre de Violencia para las Mujeres)**

**Article 2. The Right of Women to a Violence-Free Life**

The right of women to a life free of violence includes their being free from every form of discrimination, being valued and educated free from stereotypical expectations of behaviour and social and cultural practices based on concepts of inferiority or subordination.

Likewise, it refers to the enjoyment, exercise and protection of their human rights and the freedoms enshrined in the Constitution and in current National and International Instruments on these matters, including the following rights:

1. Respect of their life and physical, psychological and moral integrity
2. Respect for the dignity inherent in their person, and protection for their family
3. Freedom and personal safety
4. Not being submitted to torture or humiliating treatment
5. Equal protection before the law and under the law
6. Simple and swift recourse to competent courts that protect her in the face of acts that violate her rights
7. Freedom of association
8. Freedom of religion and beliefs
9. Participation in public life, including public office

**Article 57. Procedural guarantees for women who face violent acts**

Women who may be facing violent acts shall be guaranteed:
a. That their privacy shall be protected at all times. As a consequence, their sex life must not be exposed directly or indirectly to justify, minimize or relativize the damage done.
b. That they shall be provided with a copy of the prosecution's indictment, the administrative accusation, the legal medical examination, and of any other document of interest for the woman dealing with violent acts; likewise, they shall be treated with dignity and respect, especially by the parties participating in the proceedings.
c. That they shall be assisted, inasmuch as possible, by people of the same sex who are experts and trained in victim's rights, women's human rights, the perspective of gender and prevention of gender violence, in accessible locations that guarantee privacy, safety and comfort.
d. That they shall not be discriminated against due to their sexual history or for any other reason.
e. That their privacy shall be duly protected and the information in their case file shall be partially or fully withheld, to avoid the disclosure of information that could lead to them or their family members being identified, keeping confidential all information regarding their residence, telephone, and place of work or study, among others. This protection includes their family and close relatives.
f. That they shall be informed and notified in a timely and truthful fashion regarding the actions taken during the entire judicial or administrative process, as well as regarding relevant resources and support services. Likewise, that they shall be provided with a copy of the administrative accusation and the prosecution's indictment, the legal medical examination and any other document of interest for the woman, guaranteeing dignified and respectful treatment.
g. That they shall receive comprehensive, proper and timely care, which may extend beyond the duration of the administrative or judicial proceedings, regardless of the outcome.
h. That they shall receive medical attention, proper and specialized treatment, when required. Likewise, the Protocol for medical attention in cases of sexual violence shall be used to prevent sexually transmitted diseases, as well as the Technical Guide to Medical Attention for Family Planning.
i. That someone may be designated to accompany them throughout the entire judicial or administrative proceedings.
j. That they shall not be coerced by testimony given during the proceedings.
k. That emergency measures of protection or precaution established in this or in other laws currently in force shall be passed into law immediately.
l. That they shall receive timely and proper help and protection from the National Civil Police, or from any other authority and from the community.
m. That they may testify in special conditions of care and protection; likewise, that they may avail themselves of the option of presenting evidence ahead of the trial.
n. That their emotional state will be taken into consideration when it comes to testifying during the trial, and that this will be assessed on a case-by-case basis.
o. That they will receive information about their rights and the proceedings in a language or dialect that they understand, in a form accessible for their age and maturity.
p. That they may request emergency protection and precautionary measures if the aggressor is granted early release.

The victims of the crime of human trafficking, in addition to the guarantees established above, will benefit from the following:

1. The sanctions or impediments established under immigration law shall not be applied to them, when the violations are the result of the activity carried out as part of the crime of which they have been victims.
2. They may remain in the country, in accordance with the law currently in force, and will receive documentation or a record certifying that situation.
3. Free legal advice on immigration issues.

Women who face acts of violence shall benefit from all the rights established in this law, in the rest of the legal code and in the International Agreements currently in force.

Appendix 4

Law Against Domestic Violence (Ley Contra la Violencia Intrafamiliar)

Protection Measures

Article 7.- The following measures are established to prevent, punish and eradicate different forms of domestic violence:

a. issuing a court order requiring that the aggressor refrain from harassing, following, intimidating, threatening or carrying out other forms of abuse against victims of violence or any other person in the family group, whether or not sharing the same dwelling;
b. issuing a court order requiring that persons involved in reported acts of violence refrain from engaging in acts of harassment, intimidation, provocation, threat or other similar acts that could lead to or be conducive to domestic violence, and other acts set out in the Family Procedural Law;
c. prohibiting the aggressor from threatening the victim in both the private and public spheres;
d. prohibiting the aggressor from drinking alcoholic beverages or ingesting narcotics, hallucinogens or substances that generate physical or psychological dependence, at the prudential discretion of the judge;
e. issuing a court order requiring that the aggressor immediately vacate the common dwelling. If he/she refuses, assistance will be provided by the National Civilian Police;
f. securing for the victim, at his/her request, a different place of residence as protection against future aggression;
g. issuing a search warrant for the dwelling where, due to domestic violence, the physical, sexual, psychological and financial integrity of any of its inhabitants is at grave risk;
h. suspending any permit allowing the aggressor to bear arms while the protective measures are in place, and ordering confiscation of weapons in his/her possession;
i. temporarily suspending participation by the aggressor in the personal care, guardianship, upbringing and education of his/her minor children and his/her right to visit with them in the event of aggression;
j. prohibiting the aggressor from accessing the permanent or temporary residence of the victim and his/her place of work or study;
k. establishing a temporary support payment; once determined, ex officio implementation will take place;
l. granting exclusive use of the household goods to the victim for a fixed period. Special protection must be given to the dwelling and the household goods covered by the family property regime.
m. issuing a court order for police protection and assistance addressed to the public safety authority in the [victim’s] neighborhood. The victim shall carry a copy of this order so that he/she can go to the nearest authority in the event of a threat of aggression outside the home; and
n. any other measure provided for in current family law.

Notification of the National Civilian Police

Art. 10.- Whenever the National Civilian Police becomes aware or is notified that a person is the victim of domestic violence, it must take the necessary measures to prevent that person from being abused, and must take the following steps:

a. If the victim reports that he/she has suffered blows or injuries, even where invisible, or emotional damage, or is found unconscious, or where under any circumstances requires medical care, [the police] must help the victim and shall make the necessary arrangements to ensure that the required medical treatment and transportation to a medical service or care centre is provided so that assistance can be obtained;
b. If the victim or family members express concern for their personal safety, or for that of the children or any other family members involved, [the police] must make the necessary arrangements to bring them to an appropriate place at which they can obtain assistance;
c. Advise the victim of domestic violence of the importance of preserving evidence;
d. Provide the victim with information on the rights conferred by this law and other information in this regard, and on governmental or private services available to victims of domestic violence;
e. Arrest the alleged aggressor where the existence of and participation in domestic violence behaviours comes to light, when the acts constitute other crimes that are manifestations thereof and when this constitutes the crime of domestic violence as referred to in Article 200 of the Criminal Code. In all cases, the police shall take appropriate measures to prevent the aggressor from continuing the violent acts and shall protect the victim, and
f. In its duty to help victims, and in those cases in which domestic violence does not yet constitute a crime, even where the victim does not so request, the National Civilian Police may issue a special temporary protection measure that will consist of ordering the alleged aggressor to leave the scene of the events for a period of up to forty-eight hours. Failure to observe this order carries criminal liability.
Endnotes

1  US 23 May 2016.

2  All information originates from US 23 May 2016.

3  Canada 25 Nov. 2015, 4.

4  UN 14 Feb. 2011, paras. 7, 8 and 10.


9  El Salvador 2011a.


11 InSight Crime n.d.


13 Meeting with ORMUSA; meeting with El Faro.

14 Meeting with ORMUSA.

15 All the information originates from the meeting with ORMUSA.

16 Meeting with ORMUSA; meeting with El Faro.

17 Meeting with ORMUSA.

18 Meeting with El Faro; meeting with ORMUSA.
A World Health Organization report on violence against women defines femicide as "the intentional murder of women … Femicide is usually perpetrated by men, but sometimes female family members may be involved. Femicide differs from male homicide in specific ways. For example, most cases of femicide are committed by partners or ex-partners, and involve ongoing abuse in the home, threats or intimidation, sexual violence or situations where women have less power or fewer resources than their partner … Femicide committed by someone without an intimate relationship with the victim is known as non-intimate femicide, and femicide involving sexual aggression is sometimes referred to as sexual femicide. Such killings can be random, but there are disturbing examples of systematic murders of women, particularly in Latin America." UN 2012, 1, 3.
Meeting with ISDEMU; meeting with CEMUJER; meeting with the Secretariat of Social Inclusion.

Meeting with CEMUJER; meeting with the Secretariat of Social Inclusion.

El Salvador Nov. 2015, 43-44.

Meeting with ORMUSA; meeting with the CSJ-SP.

Meeting with ORMUSA.

El Salvador 2016, Art. 2.

Ibid.

El Salvador Nov. 2015, 36.

Ibid., 37.

Ibid., 37-38.

Meeting with ORMUSA; meeting with CEMUJER; meeting with Among Friends Association.

Meeting with ORMUSA.

Ibid.

Meeting with CEMUJER.

Meeting with ORMUSA; meeting with ISDEMU; meeting with the Secretariat of Social Inclusion.

All information originates from the meeting with ORMUSA.

Ibid.
50 Meeting with PDDH.

51 Meeting with FESPAD; meeting with CONASOJ.

52 Meeting with PDDH.

53 Meeting with Foundation Cristosal; meeting with El Faro.

54 Meeting with ORMUSA; meeting with ISDEMU; meeting with the Secretariat of Social Inclusion.

55 El Salvador n.d.b, 16.

56 Ibid., 22.

57 Ibid. 7.

58 Ibid., 19.

59 Meeting with the Secretariat of Social Inclusion.

60 El Salvador n.d.b, 17.

61 Meeting with ORMUSA; meeting with the Secretariat of Social Inclusion.

62 Meeting with ORMUSA.

63 ORMUSA indicated that it operates between 8:00 a.m. and 3:30 p.m., while the Secretariat of Social Inclusion indicated that the Ciudad Mujer centres operate between 7:30 a.m. and 3:30 p.m.

64 Meeting with ORMUSA; meeting with the Secretariat of Social Inclusion.


66 Ibid.
Meeting with ISDEMU; meeting with the Secretariat of Social Inclusion.

Meeting with ISDEMU.

All information originates from the meeting with ISDEMU.

Meeting with the Secretariat of Social Inclusion; meeting with ISDEMU; meeting with ORMUSA.

Meeting with ORMUSA.

Meeting with ISDEMU.

Meeting with ISDEMU; El Salvador n.d.c.

El Salvador n.d.c.

Meeting with ORMUSA; meeting with ISDEMU.

All information originates from the meeting with ORMUSA.

Meeting with ORMUSA; meeting with ISDEMU.

Meeting with ORMUSA meeting with ISDEMU; meeting with FESPAD.

Meeting with ORMUSA.

Meeting with FESPAD.

Meeting with ISDEMU; meeting with Dr. Gaborit.

Meeting with Dr. Gaborit.

All information originates from the meeting with Foundation Cristosal.

Meeting with COMCAVIS-TRANS; telephone conversation with ALDES; meeting with Among Friends Association.
Meeting with the Secretariat of Social Inclusion.

Telephone conversation with ALDES.

All the information originates from the meeting with COMCAVIS-TRANS.

Meeting with COMCAVIS-TRANS; meeting with Among Friends Association.


TyT n.d.

TyT 2016, 2.

Meeting with COMCAVIS-TRANS; meeting with Among Friends Association.

Meeting with COMCAVIS-TRANS.

All the information originates from the meeting with Among Friends Association.

ILGA May 2016, 35.


Meeting with Among Friends Association; meeting with COMCAVIS-TRANS.


Ibid.

Meeting with COMCAVIS-TRANS.

Meeting with Among Friends Association; meeting with ALDES.
104  Meeting Among Friends Association.

105  Meeting with Among Friends Association.

106  Meeting with Among Friends Association.

107  Meeting with Among Friends Association; meeting with COMCAVIS-TRANS.

108  Meeting with Among Friends Association; meeting with COMCAVIS-TRANS.

109  Meeting with Among Friends Association.

110  Meeting with Among Friends Association; meeting with COMCAVIS-TRANS; meeting with ALDES.

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117  Meeting with ALDES; meeting with COMCAVIS-TRANS.

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119  Meeting with COMCAVIS-TRANS; meeting with Among Friends Association; meeting with ALDES.

120  Meeting with ALDES; meeting with COMCAVIS-TRANS.
Meeting with Dr. Gaborit; meeting with FESPAD; meeting with ALDES.

Meeting with Dr. Gaborit; meeting with ISDEMU.

All information originates from the meeting with COMCAVIS-TRANS.

Date modified:
2018-07-06
Trans woman defies danger to champion LGBTI rights in El Salvador

Bianka Rodríguez, named regional winner for the Americas for the UNHCR Nansen Refugee Award, champions the transgender community’s rights.

Bianka Rodríguez was leaving a San Salvador shopping centre when a man with a gun came up and forced her into his car. He proceeded to drive aimlessly around the city, rattling off a list of places she frequented to make it clear that he had been stalking her. He rifled through her purse, sniffed her hair and threatened to kill her.

The man eventually released Rodríguez unharmed, but the incident was a terrifying reminder of the risks she faces as a transgender woman in her native El Salvador.

“I was sure I was about to become one more statistic – yet another murdered trans woman,” said Rodríguez, now 26, who serves as president and executive director of a San Salvador-based NGO called Comcavis Trans. For her courageous work on behalf of El Salvador’s LGBTI and trans communities, Rodríguez has been chosen as the regional winner for the Americas of the UNHCR Nansen Refugee Award, a prestigious annual prize that honours those who have gone to extraordinary lengths to support forcibly displaced and stateless people.

“In El Salvador, we trans people get harassed, beaten, extorted, and killed,” said Venus Nolasco, a 40-year-old trans woman who was attending a recent workshop sponsored by Comcavis. “Bianka is one
of us, so she understands everything we’re up against. She’s extremely brave, and I really admire her.”

“I was sure I was about to become one more statistic – yet another murdered trans woman.”

With some of the highest indicators of violent crimes in the world, El Salvador is particularly dangerous for LGBTI people, and trans people face the highest risk. At least 14 trans people are thought to have been killed in El Salvador last year alone, with an overwhelmed criminal justice system not being able to respond.

Often, trans people have no choice but to flee their homes and communities, driven out by violent street gangs that control large swaths of territory. In the first six months of 2019, Comcavis recorded 44 cases of trans people who were displaced internally due to targeted violence, even as an unknown number of others have sought asylum abroad.

In addition to the threat of violence, El Salvador’s trans community also faces discrimination and often-insurmountable obstacles to securing housing, health care, education, and employment. This lack of opportunities tends to funnel them into sex work.

“We live in a situation in which society at large discriminates against us and the state discriminates against us,” said Rodriguez. “The only option left is to try to survive in a country that denies us our rights.”
Rodriguez had faced many similar hurdles. She was abused by her trans-phobic mother, she says, and forced to drop out of college due to discrimination and bullying. Since the board of Comcavis asked her to take over the presidency, she has become the public face of this most marginalized of communities.

Founded in 2008, Comcavis Trans has made major strides in bringing visibility and dignity to the trans community, knitting support networks and plying the country to help teach trans men and women across El Salvador about their rights. The organization also lobbies for legislation to protect the LGBTI community and advocates for trans people in prison. But their efforts have come with a stiff price.

Comcavis’ founder and former president, Karla Avelar, was forced to flee the country and seek asylum in Europe in the wake of threats against her and her family. The threats were just the latest in a series of hardships that had seen Avelar, a former sex worker, incarcerated, repeatedly raped, and shot nine times. But the threats against her and her family were the last straw, and she was forced to seek asylum, which was granted in Europe.

The decision to step into Avelar’s shoes was an agonizing one, said Rodriguez. She tried to talk the board out of it, insisting she was not up to the challenge, and cried herself to sleep as she wrestled with the choice.

In the end, she accepted, largely, she said, to ensure that the organization that had helped her through hard times remained available to other transgender men and women.

“We live in a situation in which society at large discriminates against us.”

“I wanted to throw in the towel, but I know that those who seek us out desperately need our help,” she said, speaking over the chorus of barking neighbourhood dogs and screeching parrots that echoed through the backyard of the spartan home she shares with her aunt.

Born in San Salvador in 1993, Rodriguez recalls being around five years old when she first understood she was a girl trapped in a boy’s body. Her father, an architect by training whose own brother was
gay, recognized and respected her gender identity. But he died when she was just six years old, and Rodriguez says her mother beat her for looking and acting too feminine and locked her in her room. Rodriguez left home and subsequently went to live with her maternal grandmother, who had come to terms with her gender identity.

With her grandma’s support, she was able to finish high school and start a college degree in agro-industrial engineering. But the harassment of her peers and targeted abuse by a professor who she says told her she represented “an offense against his principles” forced her to put her dreams of graduating college on hold. Once again, she dropped out and began looking for a job. But because of the discrepancy between her looks – she had grown her hair long and wore makeup and women’s clothing – and the male name on her ID, she got only a litany of rejections.

• See also: Salvadoran transgender activist takes stand against violence

She finally sought out Comcavis, and then-president Avelar, perhaps sensing Rodriguez’ innate leadership potential, asked her to join the organization as the communications manager. Just a few years later, Rodriguez would take over as the organization’s president and executive director after Avelar’s departure.

The Nansen Refugee Award is named in honour of Norwegian explorer and humanitarian Fridtjof Nansen, the first High Commissioner for Refugees, who was appointed by the League of Nations in 1921 and won the Nobel Peace Prize in 1922 for his humanitarian work. The Award aims to showcase Nansen’s values of perseverance and commitment in the face of adversity.

The overall winner of the award will be announced on 2 October and it will be presented by UNHCR, the UN Refugee Agency, at a ceremony in Geneva, Switzerland on the 7 October.

“I don’t see this honour as for me, specifically,” said Rodriguez. “I see it as a recognition of the trans community in El Salvador and all the trans people who come to us for help.”

You can read about the other regional winners of the UNHCR Nansen Refugee Award here.

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TAB 7
IACHR Expresses Concern over Recent Violent Attacks against LGBTI People in the Americas

Press Release

IACHR Expresses Concern over Recent Violent Attacks against LGBTI People in the Americas

March 14, 2019

Washington, DC—The Inter-American Commission on Human Rights (IACHR) expressed its concern over the acts of violence and discrimination against lesbian, gay, bisexual, trans, and intersex (LGBTI) people that have been reported since the start of 2019 in different countries in the Americas. The IACHR calls upon OAS member states to take urgent, effective measures to guarantee the life, safety, personal integrity, and dignity of people regardless of their sexual orientation, gender identity, and bodily diversity, including through laws and policies that promote cultural change in societies. It also calls on states to investigate, prosecute, and punish those responsible for these events.

So far in 2019, the IACHR has received information regarding violent incidents including assaults, malicious murders, sexual violence, and discrimination against LGBTI people in the region. In the course of the monitoring work it carries out on violence against LGBTI people in the Americas, the IACHR has received information on the following specific attacks and warns that the invisibility surrounding this issue means that other such incidents may have taken place that have not yet come to light.

The IACHR was informed that on January 1, 2019, a gay couple from the city of Porvenir, Chile, were attacked by two men who threw a pot of boiling water at one of them and immersed the other in a tub of boiling water. One of the victims of the attack, José David Muñoz Vargas, 52 years old, suffered severe burns on 22% of his body and was admitted to a hospital in Santiago. The IACHR was also informed that on the same day, in the city of Valparaíso, Chile, a 24-year-old man was attacked by people who had offered to help him reach his destination in the Laguna Verde area. According to information received from civil society representatives, the victim was pulled out of the car he was traveling in with two other people and was physically attacked after a telephone conversation revealed that he was gay. He received cigarette burns on his hands and was hit on the head with a rock. The IACHR also received information on a case of rape and aggression against a 14-year-old Chilean girl who civil society representatives reported was abused sexually by her stepfather because she was a lesbian and beaten by her biological father for the same reason. The IACHR notes that these events have been publicly condemned and are being investigated by the relevant authorities. The IACHR also notes that the president of the Republic of Chile has condemned all acts of aggression that are perpetrated on the grounds of sexual orientation.

Furthermore, the IACHR learned of the murder of a 17-year-old Peruvian boy on January 1, 2019, in San Martín, Peru. The murderer was the boy’s own father, who allegedly shot him for being gay and then committed suicide. With regard to this particular case, the IACHR notes that authorities have begun investigations and that the exact motives for the murder are not yet clear. In this sense, the IACHR is aware of how difficult it is to determine whether a given act of violence was prompted by prejudice and notes that establishing this requires a thorough investigation into the causes of attacks under the principle of due diligence.

The IACHR also learned that on January 5, 2019, Pablo Dell’Oso, a young gay man, was attacked as a consequence of his sexual orientation and left unconscious after leaving a nightclub in the city of Córdoba, Argentina. Another similar incident took place on the same day, when trans activist Lara María Bertolini’s skull was fractured after being attacked with a bottle while she was walking her dog in the City of Buenos Aires. The attacker made discriminatory statements during the assault. The IACHR also received reports about an attack on a group of gay and lesbian young people on January 6, 2019. The group was verbally and physically assaulted at a nightclub at the end of the Diversity Festival in the city of El Bolsón, Río Negro Province, Argentina. The attack was apparently brought on by two young men kissing in the street. The Argentine state
IACHR Expresses Concern over Recent Violent Attacks against LGBTI People in the Americas

The IACHR is concerned over the information it has received regarding the violent, malicious murder of Quelly da Silva, a 35-year-old trans woman who was murdered on January 20, 2019, in Campinas, São Paulo, Brazil. The perpetrator allegedly committed the crime because he considered the victim to be “a demon.” After killing her, he cut out her heart and left a religious image in its place. The IACHR also learned of the death of Vanusa da Cunha Ferreira, a 36-year-old lesbian, on January 19, 2019, in the Brazilian state of Goiás. According to the information the IACHR received, the accused confessed that he tried to rape the victim to change her sexual orientation and then killed her to stop her from struggling. The cause of death was multiple blows to the head.

The IACHR was also informed of an attack on a gay male couple on January 20, 2019, in Rosarito, Mexico. According to media reports, a group of individuals allegedly broke into the couple’s house in the state of Baja California and attacked them with stones. One of the two died of serious head injuries following the attack.

The IACHR also received information regarding the murder of two trans women in El Salvador in two different incidents that took place on February 3 and 8, 2019, respectively. The first of the victims died in hospital from multiple injuries. The second victim was attacked with a machete and also died in hospital as a result of this.

In addition to the worrying information about these violent incidents against LGBTI people entailing extreme viciousness and cruelty, the IACHR is concerned about the fact that such attacks are significantly underreported. Violence against LGBTI people in the Americas is often not reported to authorities or covered by the media, which leads to invisibilization. In this regard, OAS member states have an obligation to implement data collection policies to better document particular manifestations of violence and discrimination and to produce statistical information on violence based on sexual orientation and gender identity with a view to developing public policies that protect the human rights of LGBTI people.

In light of the above, the IACHR reiterates that when violence against LGBTI people is condoned or tolerated, this violence is reproduced, which stokes prejudice against these groups. The IACHR notes that OAS member states have made efforts to investigate into these events and reminds them of their duty to act with due diligence to investigate, prosecute, punish, and provide redress for human rights violations, including murders and other acts of violence, in compliance with their international obligations. It also wishes to stress that in these cases, due diligence means that states must take into account the different ways in which LGBTI people experience violence and adjust their lines investigation accordingly, so as to take into account possible motivations based on prejudice relating to sexual orientation, gender expression or identity, and/or bodily diversity.

The IACHR notes that several of the acts of violence reported at the beginning of 2019 occurred in public spaces. In this regard, the IACHR wishes to stress that like all people, LGBTI people have the right to go about their business freely in both public and private spaces without suffering violence or discrimination. Being able to use public spaces without suffering discrimination or violence is an important factor in the social inclusion of the LGBTI community, as it fosters social cohesion, the exchange of ideas and experiences, respect for diversity, and political participation, and promotes a feeling of belonging to the community or place where one lives. In this regard, the rapporteur on the rights of LGBTI people, Commissioner Flávia Piovesan, stated that “LGBTI people should not have to avoid visiting public parks out of fear they might be attacked at any moment due to their gender identity or sexual orientation. LGBTI people being denied access to public and cultural spaces because of violence and discrimination translates into a major limitation on their right to exercise their personal autonomy, to develop freely, and to form relationships with other human beings, with their community, and with the outside world.”

The IACHR also wishes to emphasize that acts of violence against women—including lesbian, bisexual, and trans women—are experienced as intersecting manifestations of structural and historical sexism and prejudice against non-normative sexual orientations and gender identities. Lesbian women are particularly at risk of sexual violence due to misogyny and gender inequality. Commissioner Margarete May Macaulay, rapporteur on women’s rights, added that “states have an obligation under the Convention of Belém do Pará to prevent, punish and eradicate all forms of violence against women, including lesbian, bisexual, trans, and intersex women. This is part of every woman’s right to live free from violence and discrimination.”

In light of the above, the IACHR wishes to reiterate that states should take all necessary measures to prevent violations of the human rights of LGBTI people under their jurisdiction, particularly when they are aware of the risk that these people are exposed to. It also wishes to stress that this obligation includes a duty on the part of states to foster cultural change within their societies through positive actions, with a view to modifying social patterns of violence and discrimination against people with different sexual orientations and gender identities, regardless of whether these are real or perceived.
A principal, autonomous body of the Organization of American States (OAS), the IACHR derives its mandate from the OAS Charter and the American Convention on Human Rights. The Inter-American Commission has a mandate to promote respect for and to defend human rights in the region and acts as a consultative body to the OAS in this area. The Commission is composed of seven independent members who are elected in an individual capacity by the OAS General Assembly and who do not represent their countries of origin or residence.

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TAB 8
Press Release

IACHR Condemns Alarming Numbers of LGBT Killings in the Region So Far this Year

March 23, 2017

Washington, D.C. - The Inter-American Commission on Human Rights (IACHR) condemns the alarming number of killings of lesbian, gay, bisexual, and trans people (LGBT) in the region and urges the States to investigate these deaths with a differentiated approach and ensure that they do not go unpunished. The Commission is concerned about the information it has received indicating that in the first months of this year, at least 41 serious crimes against LGBT persons have been reported in Argentina, Brazil, Colombia, El Salvador, the United States, and Venezuela.

The Commission has received information from civil society organizations indicating that so far this year, 17 serious crimes based on prejudice against LGBT persons have been reported in El Salvador. The Commission was informed that in the third week of February, three trans individuals were killed and another violently attacked. One of the victims, identified as Elizabeth Castillo, was kidnapped and killed. Her body, showing signs of torture, was found on the road outside Villa de Cuyultitán, after she had attended the funeral of two trans women—identified as Yasuri Jandres, 22, and Daniela Rodríguez, 29—who had been shot to death in the city of San Luis de Talpa. The same week that these three women were killed, unknown individuals violently attacked a trans person, who was hospitalized and reportedly has yet to be identified. According to the information received, the identity of those responsible for all these crimes remains unknown.

The Commission notes with concern that the information available indicates that to protect their lives, trans people from El Salvador have been forced to flee to other countries, such as Mexico and the United States. The International Organization for Migration (IOM) has also reported at least 136 cases of forced displacements of LGBT persons, motivated by fear and threats to their personal integrity.

The Commission is concerned to observe that the following African-American trans women have been killed in the United States so far this year: Mesha Caldwell, 41 years old; JoJo Striker, 23; Keke Collier, 24; Chyna Gibson, 31; Ciara McElveen, 21; and Jaquarrius Holland, 18. Meanwhile, police have characterized as a homicide what happened to 28-year-old Jamie Lee Wounded Arrow, a two-spirit person, defined as a person who has both feminine and masculine spirits and recognize gender as a continuum that includes diverse identities, sexual orientations and social roles. In Pennsylvania, a 23-year-old trans man, Sean Hake, was killed by three gunshots to the torso, fired by a police officer who had responded to a domestic violence call.

With regard to Brazil, the Commission received information indicating that every 28 hours an LGBT person is violently attacked due to homophobia, biphobia, or transphobia. For example, the Commission learned of a 20-year-old gay man, Marcos Valdevino, who was attacked by an unidentified man at a party. The case went viral on social media after he posted photos of his injuries and fractured arm and said, “This is the price you pay for being gay in Brazil.” The Commission has also been informed about violent attacks that ended the lives of Agatha Mont, 26; Mirella de Carlini, 39; Emanuelle Muniz, 21; Hérica Izidoro, 24; Michelly Garcia, 25; and Jennifer Celia Henrique, 37; Lexia Alves de Brito, 30; Camila Albuquerque, 20; Bruna Tavares, 17, all of them Brazilian trans women. In one notable cases, 42-year-old Dandara dos Santos was tortured and killed by five men in Fortaleza, an incident that was captured on video and went viral on social media. According to available public information, based on that video police arrested three adolescents and two men allegedly responsible for torturing and eventually killing Dandara.

In Venezuela, the body of a trans woman, 32-year-old Alexandra Peña Vizcaya, was found in the state of Lara. The expert examination carried out reportedly found that she had been kidnapped and tortured, her penis cut off and the skin on her face peeled back. This homicide has the same characteristics as the murder of a gay man, 60-year-old Ibán José Chávez, whose
In Colombia, the information the Commission received indicates that Silvana Pineda, a 34-year-old trans woman, was killed when she was walking down the street in the municipality of La Dorada. In Barranquilla, the body of Johnny Mercado Ballestas, a 36-year-old man perceived as gay, was found tied to a chair; he was gagged and his body showed clear signs of torture.

In addition, the information available indicates that in Córdoba, Argentina, a 27-year-old trans woman was stabbed in the arm with a bladed weapon by her partner.

“This situation in disturbing and unsustainable,” said Commissioner Francisco Eguiguren Praeli, IACHR Rapporteur on the Rights of Lesbian, Gay, Bisexual, Trans, and Intersex Persons (LGBTI). “States must urgently adopt the necessary measures to put an end to these situations and ensure that these crimes are investigated using a differentiated approach. The high levels of barbarity and cruelty could be because the perpetrators were motivated by prejudice based on the victim’s real or perceived sexual orientation or gender identity or expression, something that must be clarified. There must be no impunity, and reparation must be made to the victims and their families,” he added.

As it recommended in its 2015 report Violence against LGBTI Persons, the Commission urges the OAS Member States to develop guidelines or protocols that include indicia or elements that would assist police officers, prosecutors, and other investigators in determining whether a particular crime was committed based on prejudice against the victim’s actual or perceived sexual orientation and/or gender identity, to ensure that they meet their obligation to investigate and punish those responsible.

According to the IACHR Registry of Violence and the 2015 report Violence against LGBTI Persons, 80 percent of trans persons killed between January 2013 and March 2014 were 35 years of age or younger. The IACHR observes with concern that, according to the information available, the average age of the trans women killed since January 1 of this year was 28.

The IACHR calls to mind that in serious and urgent situations, the IACHR may ask a State to adopt precautionary measures to prevent irreparable harm to individuals under its jurisdiction, regardless of whether there is a case or petition pending before the Commission. In addition, the Commission underscores the importance for States to ensure the safety of all LGBTI persons, guaranteeing that they can freely and fully exercise their human rights without discrimination on the basis of sexual orientation, gender identity or expression, or bodily diversity.

A principal, autonomous body of the Organization of American States (OAS), the IACHR derives its mandate from the OAS Charter and the American Convention on Human Rights. The Inter-American Commission has a mandate to promote respect for human rights in the region and acts as a consultative body to the OAS in this area. The Commission is composed of seven independent members who are elected in an individual capacity by the OAS General Assembly and who do not represent their countries of origin or residence.
TAB 9
Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador

United Nations High Commissioner for Refugees (UNHCR)
March 2016
HCR/EG/SLV/16/01
UNHCR Eligibility Guidelines are issued by the Office to assist decision-makers, including UNHCR staff, Governments and private practitioners, in assessing the international protection needs of asylum-seekers. They are legal interpretations of the refugee criteria in respect of specific profiles on the basis of social, economic, security, human rights and humanitarian conditions in the country/territory of origin concerned. The pertinent international protection needs are analysed in detail, and recommendations made as to how the applications in question relate to the relevant principles and criteria of international refugee law as per, notably, the UNHCR Statute, the 1951 Refugee Convention and its 1967 Protocol, and relevant regional instruments such as the Cartagena Declaration, the 1969 OAU Convention and the EU Qualification Directive. The recommendations may also touch upon, as relevant, complementary or subsidiary protection regimes.

UNHCR issues Eligibility Guidelines to promote the accurate interpretation and application of the abovementioned refugee criteria in line with its supervisory responsibility as contained in paragraph 8 of its Statute in conjunction with Article 35 of the 1951 Convention and Article II of its 1967 Protocol and based on the expertise it has developed over the years in matters related to eligibility and refugee status determination. It is hoped that the guidance and information contained in the Guidelines will be considered carefully by the authorities and the judiciary in reaching decisions on asylum applications. The Guidelines are based on in-depth research, information provided by UNHCR’s global network of field offices and material from independent country specialists, researchers and other sources, rigorously reviewed for reliability. The Guidelines are posted on UNHCR’s Refworld website at http://www.refworld.org.
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### Abbreviations

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<td>ARENA</td>
<td>National Republican Alliance (<em>Alianza Republicana Nacionalista</em>)</td>
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<td>B-18</td>
<td><em>Barrio-18</em>. The B-18 gang is also referred to as the 18th Street Gang.</td>
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<td>CEAR</td>
<td>Comisión Española de Ayuda al Refugiado</td>
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<td>FMLN</td>
<td>Farabundo Martí Front for National Liberation (<em>Frente Farabundo Martí para la Liberación Nacional</em>)</td>
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<td>IACHR</td>
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<td>IUDOP</td>
<td>El Instituto Universitario de Opinión Pública</td>
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<td>LAWG</td>
<td>Latin America Working Group</td>
</tr>
<tr>
<td>MS</td>
<td><em>Mara Salvatrucha</em>. The MS is also referred to as the MS-13.</td>
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<tr>
<td>ORMUSA</td>
<td>Organización de Mujeres Salvadoreñas por la Paz</td>
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<tr>
<td>PNC</td>
<td>Civilian National Police (<em>Policía Nacional Civil</em>)</td>
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I. Introduction

Over the last few years, Salvadoran nationals have been seeking international protection as refugees in the region of the Americas and beyond in increasing numbers. These Eligibility Guidelines provide guidance on deciding claims for international protection lodged by Salvadoran asylum-seekers who fall within certain risk profiles or who find themselves in certain circumstances. The risk profiles outlined in this document are based on UNHCR’s legal assessment of available country of origin information and informed by UNHCR’s experience in working with asylum-seekers from El Salvador.

This document is based on information available to UNHCR up to December 2015, unless otherwise stated.

II. Overview of the Situation in El Salvador

A. Background

The increasing exodus of Salvadorians in search of international protection is rooted in the human rights, social, political and economic impact of the increasing reach, power and violence of organized criminal groups in El Salvador. The extent of the violence is reflected in the fact that the small and densely-populated country of El Salvador presently has the highest rate of homicides of any country in the world.\(^1\) This surge of violence is driven by the activities of powerful rival and conflictive street gangs that operate across El Salvador and also by the severe response of the State security forces. At the same time, the influence of other organized crime groups, as well as widespread domestic and societal abuse of women and children, also fuels the flight of Salvadorians seeking international protection.

The origins of the current violence can be traced to the brutal civil war that affected El Salvador between 1980 and 1992.\(^2\) This conflict produced over 70,000 deaths and widespread forced displacement\(^3\) in a population that today still only numbers just over six million.\(^4\) It contributed to the large present-day Salvadoran diaspora that is based mainly in the United States of America (USA) but present also in Italy and Spain. The 1992 peace accords between the government and the guerrilla army of the Farabundo Martí Front for National Liberation (Frente Farabundo Martí para la Liberación Nacional - FMLN) reintegrated the FMLN into civilian life as a political party, recreated the formerly highly militarized security forces under new civilian control, and introduced a raft of social measures.\(^5\) Despite positive advances since then, the legacy of conflict and poverty also provided fertile conditions for growing institutional corruption, the consolidation of organized drug- and people-smuggling structures, and the prevalence of violence committed by non-State actors.\(^6\)

The violent street gangs in present-day El Salvador are a consequence of, among other factors, the deportations of Salvadoran gang members back from the USA to El Salvador. Through the 1990s and 2000s, deported gang members built up violent rival street gangs based on the Californian gang


model. Given the relative institutional weakness and corruption of the State in post-war El Salvador and social deprivation among former combatants and other Salvadorian youth, these gangs rapidly consolidated themselves in many poorer neighbourhoods and quickly spread throughout the territory of El Salvador. Most of these gangs are affiliated to one of the two main gang structures also imported from the USA, the Mara Salvatrucha (MS) - also commonly referred to as the MS-13 and - its rival Barrio-18 (B-18) - also commonly referred to as the 18th Street Gang. 

During the 2000s, the Salvadoran State responded to the gangs’ increasing territorial dominance and escalating violence and extortion by implementing a series of ‘Firm Hand’ (mano dura) policies based on increasingly repressive security measures. These began in El Salvador with the mano dura 2003 Anti-Mara Law, and were ramped up further with the 2004 ‘super’ mano dura plan, a special regime giving the authorities greater powers to arrest and prosecute suspected gang members, with fewer judicial guarantees and harsher punishments. Yet the mano dura strategy demonstrably failed to eliminate or contain the gangs or to reduce the rising homicide rate. Instead this strategy is reported to have provided the impetus for gangs to become more organized and ruthless, whilst at the same time engendering among members of the security forces a lack of respect for the human rights of youth suspected of being gang members. 

In 2009, after 20 years of government by the right-wing National Republican Alliance (Alianza Republicana Nacionalista - ARENA) party, the left-wing FMLN party of President Funes was elected to power. This government reportedly sought to distinguish itself from the previous ARENA regimes by adopting policies that encouraged a more preventative and social approach to tackling crime and insecurity, including a focus on crime prevention and the rehabilitation of convicts. However, the shooting and burning of a bus in Mejicanos on 20 June 2010, killing 14 passengers inside and injuring another 12, illustrated the gangs’ growing power and brutality. This widely condemned act was characterized by the government as an act of ‘terrorism’ by the gangs and prompted the adoption of a new ‘Anti-Mara’ law in September 2010 that remains in force today. The Funes administration also began investigating citizens and public officials linked to sophisticated drug-smuggling structures operating in El Salvador, such as Los Perrones and the Texis Cartel, albeit with relatively limited success.

In March 2012, the government and MS and B-18 gang leaders endorsed a truce pact that allowed 30 gang leaders to be transferred from maximum-security to less restrictive prisons. It is reported that...
the national murder rate decreased by 40 per cent as a result of this truce pact, although the practice of extortion by gangs against the population continued unabated. Over the following year, other parties also adhered to the truce pact, including the Organization of American States, the Catholic Church and a number of smaller gangs. However, in May 2013, the Constitutional Court declared that the government had acted unconstitutionally in appointing the architect of the truce (then Defence Minister David Munguía Payés) and other military officials to public security posts. His civilian replacement tried to continue negotiations with the gangs, using a Spanish priest as an intermediary who tried to include NGOs and municipal mayors in a process of local pacification. However, from mid-2013, homicide rates began rising again. This was seen as a reflection of a lack of faith in a truce pact that had always been considered as controversial by some sectors of Salvadorian society and which now was increasingly criticized.

In June 2014, a new FMLN government took office under the presidency of Salvador Sánchez, who from the outset rejected calls to continue dialogue with the gangs. Through 2014 and into 2015, the truce between the MS and B-18 gang structures looked ever more fragile as homicide rates increased significantly. In early 2015, reportedly in an attempt to force the government back to the negotiating table, the gangs killed bus drivers who had disobeyed the gangs’ proclaimed public transport strike. The gangs also targeted and killed increasing numbers of police officers, with the police responding in kind. The truce definitively ended in April 2015 when the Sánchez government returned the gang leaders to isolation cells in Zacatecoluca maximum-security prison. Since then open warfare has prevailed between the different gangs and between the gangs and the security forces, impacting directly on the lives of local inhabitants with the homicide level in 2015 higher than during the country’s civil war.

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19 Heraldo, Cinco pandillas menores se unen a tregua de maras en el salvador, 7 April 2014.
B. Structures and Patterns of Organized Violence

1. Levels of Violence

Currently, El Salvador is the country with the highest homicide rate in the world, reporting 6,640 homicides between 1 January and 31 December 2015, comparable to an annual rate of approximately 103 homicides per 100,000 inhabitants in 2015.26 These figures are not an anomaly in the context of Central America, where four of the five countries with the highest homicide rates in the world are located. Rather, for El Salvador the year 2015 represents a return to the decade-long trend of rapidly escalating murder rates that had been interrupted primarily due to the effect of the 2012 truce pact.27 The year 2015 has seen a dramatic rise also in ‘multiple homicides’, with 89 per cent more double-homicides and 148 per cent more triple-homicides registered by October 2015 than for the whole of 2014.28

Despite some variation over the last ten years, the homicide rate is relatively evenly distributed across the four regions of El Salvador.29 In 2015, 92 per cent of the homicides took place across 100 municipalities containing 77 per cent of El Salvador’s population; however, 70 per cent occurred in just 50 of those municipalities (60 per cent of the population).30 Disaggregated data from the period before the truce (2009-2011) shows that every year there were more than 25 municipalities with in excess of 100 homicides per 100,000 inhabitants; in some cases, the annual homicide rate exceeded 150 per 100,000 inhabitants and one municipality recorded 303.3 homicides per 100,000 inhabitants.31

The territorial dynamics of extreme violence in El Salvador can shift relatively rapidly. For instance, some areas of the country that were extremely violent before the truce pact are now less so, whilst some zones that were calm before the truce are now violence hotspots again.32 In 2015 the metropolitan area of the capital San Salvador no longer had the highest homicide rate; instead the central zones of El Salvador (Cuscatlán, La Paz, Cabañas and Usulután departments) were most severely affected.33 However, violence on public transport – on which 80-85 per cent of the

26 La Prensa Gráfica, El Salvador con más homicidios en C. A., 3 January 2016, http://www.laprensagrafica.com/2016/01/03/el-salvador-con-mas-homicidios-en-c-a. For comparison, homicide rates in North America over the last decade have averaged around 1.5 per 100,000 inhabitants in Canada and 5 per 100,000 inhabitants in the USA. UN Office on Drugs and Crime (UNODC), Global Study on Homicide 2013: Trends, Contexts, Data, 10 April 2014, https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf.
27 The Huffington Post, These 10 Countries Have the World’s Highest Murder Rates, 4 October 2014, http://www.huffingtonpost.com/2014/04/10/worlds-highest-murder-rates_n_5125188.html. The five countries are Guatemala, El Salvador, Belize, Venezuela and Honduras. This ranking – and the trends for El Salvador over time - is based on data from 2012, the most recent year for which comparable global data on homicide figures were published by UNODC, Global Study on Homicide 2013: Trends, Contexts, Data, 10 April 2014, https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf, p. 126.
28 By October 2015, 370 double-homicides and 57 triple homicides had been registered in El Salvador, as compared to 196 double-homicides and 23 triple-homicides registered for the whole of 2014. See La Prensa Gráfica, 83 masacres ocurridas hasta octubre de 2015, 3 October 2015, http://www.laprensagrafica.com/2015/10/03/83-masacres-ocurridas-hasta-octubre-de-2015.
29 Traditionally, the region of Occidente had lower annual homicide rates than the other three regions, but since 2013 it has taken the region of Occidente. See La Prensa Gráfica, 50 municipios concentran más violencia y población, 25 June 2015, http://www.laprensagrafica.com/2015/06/25/50-municipios-concentran-mas-violencia-y-poblacion.
32 Sala Negra de El Faro, La Tregua redefinió el mapa de asesinatos de El Salvador, 9 March 2015, http://www.salanegra.elfaro.net/es/2015/03/cronicas/16490/La-Tregua-redefini%C3%B3-el-mapa-de-asesinatos-de-El-Salvador.htm.
33 Sala Negra de El Faro, La Tregua redefinió el mapa de asesinatos de El Salvador, 9 March 2015, http://www.salanegra.elfaro.net/es/2015/03/cronicas/16490/La-Tregua-redefini%C3%B3-el-mapa-de-asesinatos-de-El-Salvador.htm. Note, however, that San Salvador continues consistently to register the highest number of homicides overall (i.e. as distinct from homicide rates that reflect the relative size of the population). For instance, between April and June 2015, San Salvador department registered 567 (32.6%) of the total of 1738 homicides in all fourteen departments of El Salvador. See Instituto de Medicina Legal, Homicidios de abril a junio del año 2015 según Instituto de Medicina Legal y datos consolidados con la Fiscalía General de la República y la Policía Nacional Civil, 2015, http://www.transparencia.gob.sv/FilesMaster/InformacionGeneral/documentacion/ivir/00405849/HOMICIDIOS%20abril%20junio%202015.pdf. Indeed, some analysts argue that San Salvador (rather than Caracas as commonly reported) was actually the city with the highest homicide rate in the world in 2015. See El Faro, La ciudad más violenta del mundo, 26 January 2016, http://bosblogs.elfaro.net/cronicas/2016/01/la-ciudad-m%C3%A1s-violenta-del-mundo.html.
Salvadoran workforce relies – remains prevalent and increased in frequency during 2015, with 79 transportation employees killed just between January and October 2015.\(^3\)

The vast majority of homicide victims are reported to be male and between the ages of 15 and 34.\(^3\,\,34\) In this respect, it is notable also that El Salvador was recorded in 2012 as having the highest rate of homicide victims among children and adolescents aged 0 to 19 years per 100,000 population of any country in the world.\(^3\) Here again, a gendered division of the homicide victims is evident, with the homicide rate for boys at 42 per 100,000 and that for girls at 11 per 100,000.\(^3\,\,37\) Homicide is the leading cause of death among adolescent boys in El Salvador.\(^3\,\,38\) Domestic abuse of children, both boys and girls, is also relatively widespread in El Salvador.\(^3\,\,39\)

In 2011, El Salvador also reported a large number of forced disappearances, mostly of young men, as a result of growing gang violence.\(^40\) Although the number of reported forced disappearances fell in 2012 and 2013, it again significantly increased in 2014 with increasing numbers of young women among the victims.\(^41\) This upward trend appeared to be continuing in 2015, with San Salvador continuing to be the main location for forced disappearances (followed by Santa Ana and La Libertad), 90 percent of those disappeared were later found dead.\(^42\) Since the late 2000s, the frequency of kidnappings in El Salvador has also been reported to be increasing, with the majority carried out by gangs, mostly by the MS.\(^43\)

Violence against women is reported to be prevalent.\(^44\) A five-fold rise in ‘femicides’ (murders of women because of their gender) was reported during the 2000s, coinciding with the spread of gangs but also reflecting wider gender inequality, that gave El Salvador the highest recorded rate of femicide in the world between 2004 and 2011.\(^45\) After a decrease in 2012-2014, the number of femicides again increased drastically in 2015.\(^46\) Presently, domestic violence is considered the leading form of

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\(^{3}\) The Diario de Hoy, Policía registra 129 asesinatos en transporte público en el año, 3 October 2015, http://www.elsalvador.com/articulo/policia-registra-129-asesinatos-transporte-publico-ano-89126.\(^{34}\)

\(^{35}\) Figures from 2009 to 2012 show consistently that around 86 per cent of homicide victims were male; of whom over two-thirds were between the ages of 15 and 34. Fundauno, Atlas de la violencia en El Salvador (2009-2012), November 2013, http://fundauno.org.es/pdf/2014/Atlas_2012.pdf, pp. 33, 37.


\(^{41}\) UNHCR, Women on the Run; First Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico, 26 October 2015, http://www.refworld.org/docid/56307e2a4.html.


violence against women, followed closely by violence perpetrated by gang members. Indeed, women linked with one gang are reported to be considered a target for rival gangs and they and other women are reported to be abused, (gang) raped and killed as part of gang initiation rites or if they try to leave the gang to which they belong or with which they are affiliated. Meanwhile, 97 per cent of human-trafficking cases registered in the last few years in El Salvador have reportedly involved sexual exploitation.

Alongside homicides, forced disappearances, kidnappings, and widespread forms of violence against women, a range of other types of violent crimes are prevalent in El Salvador. Many of these are less easily documented than homicides and are known to be underreported, because victims do not report these crimes to the police for fear of retribution and due to a lack of confidence in the authorities. Extortion, usually by gangs, is a particularly prevalent example of these other forms of violent crime. Indeed, despite being the smallest country in Central America, the population of El Salvador is reported to pay the highest amount of extortion money, estimated conservatively at around US$400 million per year, and it is reported that those who do not pay are commonly killed or see their businesses burned down as a reprisal. Whereas homicide levels fell during the truce pact reportedly due to orders from the gang leaders to reduce killings, extortion and other forms of violent crime are reported to have continued unabated and may even have increased.

2. Armed Actors

The current dynamics of violence in El Salvador stems from the presence and activities of three main forms of armed actors: gangs, including the Barrio-18 and the Mara Salvatrucha; drug-smuggling structures (transportistas); and the State security forces, particularly the police and the army.


50 A survey among small businesses reported that 97 per cent were extorted but did not report it due to lack of confidence in the police. See La Prensa Gráfica, Policía calcula que extorsiones solo suman $7.9 millones, 28 September 2014, http://www.lawg.org/action-center/lawg-blog/69-general/1500-how-violence-affects-women-in-el-salvador.


a) **Gangs**

Despite being the smallest country in Central America, El Salvador is the nation reported to be the most affected by the violence of street gangs (pandillas) and reportedly has the highest concentration of gang members among any country in the region.\(^5\) Across most of the departments that make up the territory of El Salvador, many hundreds of local street gangs are reported to operate in both urban and rural zones, with between 30,000 and 60,000 active members in total.\(^5\) These gangs are considered to be the main force that has been driving the increase of violence in El Salvador over the last decade and the surge in murders and population displacement over the past couple of years.\(^5\) Official statistics show that 65 per cent of the murders registered in the country between January and mid-November 2015 were committed by gang members.\(^5\)

As noted above, although El Salvador has a long history of street gangs, the street gangs presently operating in the country are reported to have their origins in the violent California-style gang culture brought back by Salvadorian gang members deported from the United States of America from the 1990s onwards.\(^5\) These gangs are usually based in poor or lower middle-class urban or rural zones, sometimes comprised of just a single neighbourhood (colonia) or a few such neighbourhoods. However, despite a culture of identification with their home territory, these gangs are also considered capable of great mobility and can rapidly expand their influence to nearby neighbourhoods. They may also relocate to new neighbourhoods to seek refuge from offenses against them by the security forces or other gangs. Similarly, while physical reference points such as streets, streams or graffiti or markers often mark the dividing lines between gang territories,\(^5\) these boundaries can reportedly also shift literally overnight as one gang pushes into, or disputes, the territory of another.

Salvadorian gangs are reported to pursue a strategy of exclusive control over their home territories, using violence to repel other gangs or challengers. Within its own territory, each gang tries to control

\(^{53}\) UNHCR treats gangs as ‘the relatively durable, predominantly street-based groups of young people for whom crime and violence is integral to the group’s identity. The term is also used to refer to organized criminal groups of individuals for whom involvement in crime is for personal gain (financial or otherwise) and their primary “occupation”:’ See UNHCR, Guidance Note on Refugee Claims Relating to Victims of Organized Gangs, 31 March 2010, www.refworld.org/docid/4b621f6e2.html, pp. 1-2.


\(^{55}\) Recent and reliable estimates of the numbers of active gang members in El Salvador are always difficult to establish. A 2013 police study estimated that there were 32,310 active gang members distributed across 567 local gangs in El Salvador,\(^{32}\) of whom 10,961 were imprisoned. However, a study by the Ministry of Justice and Security the same year estimated the figure instead at 58,783 active gang members. La Prensa Gráfica, Hoy: 32,310 pandilleros en el país: Antipandillas, 27 December 2013, http://www.laprensagrafica.com/2013/12/27/hoy-32310-pandilleros-en-el-pais-antipandillas. In October 2015, the Minister of Defence alluded to an unsubstantiated figure of 60,000 gang members in El Salvador, more than the approximately 50,000 members of the State’s own police and armed forces. Panam, Pandilleros de El Salvador superan en número a efectivos de seguridad, 23 October 2015, http://es.panampost.com/thabata-molina/2015/10/23/pandilleros-de-el-salvador-superan-en Numero-a-efectivos-de-seguridad.


the localized criminal enterprises which sustain members’ livelihoods, such as extortion, drug-selling, prostitution and other crimes. Businesses, (public) transport routes and even homes in other nearby (and often wealthier) neighbourhoods may also be targeted for extortion by the gang. Presently, the main source of revenue for most gangs is reported to be extortion (renta), which is increasingly directed and carried out by phone from within prisons by incarcerated gang members.

Each local gang is reported to have its own active membership that can range in size from a handful to a hundred or more initiated ‘soldiers’ under the leadership of senior members (palabreros). Gangs in El Salvador are predominantly male and largely composed of youth and young adults, although senior members are often older. Following initiation, members traditionally identified themselves through gang-related tattoos and style of dress and appearance, although there is apparently a move now towards discouraging these visible practices as they also helped to identify members to the security forces. A distinctive special vocabulary, hand signs and other body signs and even written codes are still apparently used by gangs in El Salvador. Imprisoned gang members are reported to remain active and increasingly direct the activities of those on the street.

Once initiated into a gang, members must follow the rules established by their palabreros. The violation of different rules is reported to lead to different punishments, commonly serious beatings or death. Lifelong loyalty to the gang is required and those who desert or cooperate with the security forces or rival gangs are reported to be routinely pursued and killed by their own gang as punishment. It is reported that even those former gang members who are sheltered under State-run protection programmes often do not escape punishment. The gangs are reportedly assisted by many ‘anonymous’ voluntary or involuntary collaborators in the territories where they operate, including


family members and younger children from the neighbourhood, who are not gang members but act as lookouts, help to collect and launder extortion money and perform other tasks, and who sometimes collect a salary from the gang.71 The authorities estimated that in 2013 there were 470,000 people affiliated with the gangs in El Salvador, as family members, friends or others; by mid-2015 this figure had risen to between 600,000 and 700,000 people (i.e. 10 per cent of the population).72

Gangs are reported to exercise extraordinary levels of social control over the population of their territories (and, to a lesser extent, over other territories where they practise extortion). In these zones, inhabitants are reportedly required to ‘look, listen and keep quiet’ (‘mirar, oír, callar’) and often face a plethora of gang-imposed restrictions on who they can talk with and what about, what time they must be inside their homes, where they can walk or go to school, who they can visit and who can visit them, what they can wear, and even, reportedly, the colour of their hair.73 It is equally forbidden for inhabitants to show ‘disrespect’ for the gang, a subjective evaluation on the part of gang members that can reportedly encompass a multitude of perceived slights and offences, such as arguing with a gang member or refusing a request, resisting a child’s recruitment into the gang, or rejecting the amorous attentions of a gang member.74

Gangs in El Salvador are reported to achieve this degree of social control principally through the use of threats and violence to create a pervasive atmosphere of fear among inhabitants, especially amongst those without family or other links to the local gang.75 They reportedly exploit this control in many ways. For instance, some local gang members are reported to have required their local community councils (directivas comunales) to apply to the municipality for permission to close and blockade streets, which hamper entry and pursuit by the police, or to issue an authorization to create private security schemes that are then manned by the gang members and afford an additional source of income through extorting fees from local residents.76 Others are reported to have installed gates at the entrance to the neighbourhoods where they review the identity documents of passers-by to control who is able to enter, or have taken over local businesses that residents are then obliged to use for their purchases of bread or bottled water.77

Persons who resist the authority of the local gang or who even just inadvertently cross it, or who collaborate with the security forces or with rival gangs, are reportedly subjected to swift and brutal

73 Indeed, residents of other neighbourhoods and towns have been killed simply for the ‘offence’ of entering the gang’s territory without permission and by accident. See La Prensa Gráfica, Las mascotas de la pandilla, 21 July 2014, http://www.laprensagrafica.com/20140721/las-mascotas-de-la-pandilla; La Prensa Gráfica, Matan a mujer por llegar de visita a zona de pandillas, 11 November 2014, http://www.laprensagrafica.com/20141111/matan-a-mujer-por-llegar-de-visita-a-zona-de-pandillas.
retaliation from the gang. Not only are such persons killed by the gangs but their family members are often targeted as well. Moreover, especially in the current context of heightened confrontation, the gangs reportedly sometimes impose collective threats and punishments on whole communities – or parts of them – where they believe that the community bears some share of responsibility for the perceived infraction or disloyalty. This is reported to have generated group displacement events involving dozens of families from certain neighbourhoods. Finally, the strongly macho ethos of the Salvadoran gangs expresses itself on an everyday basis through their reported virulent hatred and ill-treatment of persons based on their perceived sexual orientation and/or gender identity and in the widespread sexual and gender-based violence experienced by women and girls living in their territories.

Mara Salvatrucha (MS) and Barrio-18 (B-18) gang structures

The vast majority of local gangs in El Salvador are reported to be affiliated with either the Barrio 18 (B-18) or the Mara Salvatrucha (MS), and often reference this affiliation in their gang name. B-18 and MS are large transnational gang structures or identities that have their origins in the Californian gang scene, where B-18 was formed by Mexicans and MS by the children of Salvadorians fleeing the civil war. Both B-18 and MS are themselves affiliated in turn with the Southern (Sureño) gang movement: this reportedly unites Hispanic gangs from southern California under the aegis of the powerful Mexican Mafia and is reported to offer a form of collective security (against attack by non-Sureño gangs) for members of these gangs when incarcerated in the USA. However, on the street both in the USA and in El Salvador, B-18 and MS have long been implacable enemies.

During the 2000s, a large number of B-18 and MS gang members were imprisoned as part of the government’s mano dura response. However, hundreds of deaths during gang confrontations in the overcrowded prisons reportedly led to B-18 and MS members being sent to different prisons, giving the gang leaders the chance to organize themselves and enforce more hierarchical command structures.

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83 The Barrio-18 (18 Street) gang structure is sometimes also referred to as ‘Mara 18’, reflecting the common tendency in general parlance also to refer to both MS and B-18 (and sometimes other gangs as well) as ‘maras’. A Central American shorthand for gangs. Note, however, that B-18 members do not generally refer to B-18 as a ‘mara’, a term which they see as associated with their hated rival, the Mara Salvatrucha. The term ‘salvatrucha’ derives from the Salvadorian origin of the founders and many original members of the MS in the USA.

84 For example, an MS-affiliated gang will usually reference this through a suffix, as in the case of an MS clique called the Criminal Mafia Salvatruchos (Criminal Mafiosos Salvatruchos).


86 Thus, both MS and B-18 add the number 13 after their gang names to reference their Sureño gang affiliation status and connection to the Mexican Mafia – the M (La Eme), as in M is the 13th letter of the alphabet. By contrast, Northern (Norleto) gangs from northern California use the number 14 as N is the 14th letter. See Revista Factum, Sureños, los otros pandilleros, 4 November 2014, http://revistafactum.com/surenos-los-otros-pandilleros/.

run from within the prisons. Their apparent consolidation has coincided with a growing level of confrontation and violence that was interrupted in 2012-2013 only by the B-18/MS truce pact.

In El Salvador, B-18 is believed to be slightly smaller than its arch-enemy, the MS, but it is also considered to be less sophisticated and more undisciplined, “trigger-happy” and unpredictable. Even so, B-18 reportedly has a loose hierarchy in which its imprisoned palabreros (or tabos or ranfleros) coordinate the criminal activities of the gang and give the orders to the palabreros on the street and authorize relevant activities, such as increases in extortion demands. In early 2015, there were reported to be 28 B-18 tribes (tribus) in El Salvador, each composed of dozens or hundreds of B-18 members. These are reported to operate across many smaller local territorial gang divisions known as ‘fields’ (canchas) that make up a tribe. In 2005, B-18 split into two warring factions that call themselves Sureños (Southerners) and Revolucionarios (Revolutionaries). Reports indicate that within these factions, disputes and gang-wars also sometimes arise, such as the bloody local war within the B-18 Revolucionarios faction in Zacatecoluca department in 2014.

Meanwhile, the MS gang structure is traditionally seen as more bureaucratic and disciplined than the B-18 but it is no less violent. In El Salvador, now sometimes considered the spiritual home of the MS franchise, MS is reported to be directed by a circle (ranfla or rueda) of imprisoned palabreros, above whom sits the national leadership. The MS is considered to be a diffuse and fluid organization but has a more intimate and coordinated structure than B-18: this is comprised of some 246 cliques (elikas or clickas), each with up to a few dozen members. A number of MS cliques are often grouped together under each MS ‘programme’ (programa), which is under the control of a mid-level palabrero. Powerful MS palabreros can reportedly control a large number of cliques, who pay ‘tribute’ (financial quotas from criminal activities) to them. It is reported that MS in El Salvador has

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93 It is reported that MS in El Salvador has apparently formed a 18/MS truce pact. See Insight Crime, Profile: Mara Salvatrucha (MS13), undated, http://www.insightcrime.org/el-salvador-organized-crime-news/mara-salvatrucha-ms-13-profile (date accessed: 22 December 2015)
95 In the dispute in Zacatecoluca, it is reported that the rebel gangs fighting against their former allies in the Revolucionarios faction were assisted surreptitiously by gangs from the Sureños faction. See Sala Negra de El Faro, La rebelión por la que sangra Zacatecoluca, 3 November 2014, http://www.salanegra.elfaro.net/es/201411/cronicas/16173/A-rebel%CA%83n-por-la-que-sangra-Zacatecoluca.htm
96 Note that the accounts suggest the reverse nominative hierarchy, i.e. that several tribes may make up a field (cancha). See Insight Crime, Barrio 18 in El Salvador: A View from the Inside, 25 March 2015, http://www.insightcrime.org/news-analysis/barrio-18-el-salvador-view-from-inside
100 See Sala Negra de El Faro, Todas las muertes del Cranky, 13 October 2011, http://www.salanegra.elfaro.net/es/201110/cronicas/5645/; Note that the Sureños faction of B-18 in El Salvador is distinct from the Sureños gang movement that originated in southern California and in which both B-18 and MS participate.
formed an unusual alliance in 2015 with the Sureños faction of B-18 to wage war against the Revolucionarios faction of B-18.  

B-18 and MS gangs reportedly live primarily from extortion, although some MS cliques are also now reported to be heavily involved in selling and distributing illegal firearms in El Salvador.  

Despite the 2012 USA designation of MS as a ‘transnational criminal organization’, MS and B-18 gangs have reportedly focused mainly on taking over the small drug distribution markets in their local territories as opposed to transnational activities.  

Even so, some local gangs have an ad hoc relationship with larger drug-trafficking organizations and are reported to have provided minor services for them, such as acting as local ‘muscle’ escorting drug shipments through their territories or carrying out assassinations.  

MS appears to have substantially more contact with these larger criminal organizations than B-18. However, during 2015, MS reputedly attempted to wrest control over local cocaine-trafficking routes from Salvadorian transportista structures, reportedly contributing to a bloody retaliatory war between MS and corrupt officials in the security forces who are said to be linked to these structures.

Certain powerful imprisoned MS leaders in El Salvador are also reported to have a relationship with MS cliques along the east coast of the USA, where they reportedly masterminded a violent MS expansion in 2009 and even ordered a killing there, with monetary ‘tribute’ from illicit activities including extortion and prostitution flowing back to the leaders in El Salvador. This development accompanied a reported reversal in the earlier relationship between MS in the USA and in El Salvador, with orders now apparently travelling from the leadership in El Salvador to North America rather than vice versa. In 2015, MS reportedly sought to bolster its presence on the east coast of the


USA as a means of generating more revenue and creating a more disciplined and structured organization. MS members have also been arrested in recent years in countries such as Mexico, Chile, Italy, Peru and Spain, reportedly pointing to a strategy of expansion to new territories.  

The Salvadorian B-18 and MS gangs are also reported to maintain ties with their counterparts in other countries of Central America and Mexico, via social networks and other media, who are used to arrange for the safe passage of drugs and weapons. Especially following increased police pressure after the breakdown of the truce, gang members from El Salvador are reported to have also travelled to neighbouring countries to seek sanctuary with affiliated gangs there, whom they have trained on how to transmit coded messages, or in isolated zones near the border, where they exercise control and recruit new members. Gang members are also sometimes ‘lent’ between affiliated gangs from neighbouring countries to carry out assassinations and other criminal activities.

The enduring enmieta – and sometimes within – B-18 and MS is deeply rooted. However, of all the countries where B-18 and MS are present, it was in El Salvador that the local gang leaders exerted sufficient organizational influence over their affiliated local gangs at the national level to negotiate a 2012 truce pact that was endorsed by the government. Even if not all affiliated gang leaders on the street agreed with the truce, the pact showed the apparent ability of the gangs to cooperate in lowering (or raising) the national murder rate in an instant. Even prior to the truce pact, contact between B-18 and MS leaders reportedly produced also concerted action in other areas, such as the tabling of common public positions by the gangs and the enforcing of public transport strikes. However, from at least early 2014, as the truce began to fragment, it was reported that B-18 and MS gang leaders simultaneously started to prepare for a return to war, directing their members to prioritize the purchasing of firearms and to increase extortion demands as necessary. By late 2015, the B-18 and MS affiliated gangs were reportedly more heavily armed than ever, with assault rifles and military hardware commonplace. Since the unravelling of the truce pact they are reported to have also engaged in the mass recruitment of new members, especially youth and children

110 Prensa Libre, “Hoy cipotes que solo matar saben; no es tan sencillo calmarse de un día para otro”, 7 August 2015, http://www.prensalibre.com/internacional/policia-italiana-desbarata-pandilla-de-salvadoreños-en-Milán-
114 As yet, fears expressed by the government that MS and B-18 will combine to create a single structure remain unrealized. See El Universal, Amenaza a frontera sur alianza entre maras, 12 August 2015, http://www.eluniversal.com.mx/articulo/mundo/2015/08/12/amenaza-a-frontera-sur-alianza-entre-maras.
116"Hoy cipotes que solo matar saben; no es tan sencillo calmarse de un día para otro”, 7 August 2015, http://www.prensalibre.com/internacional/policia-italiana-desbarata-pandilla-de-salvadoreños-en-Milán-
119 It appears that the MS moves most commonly to Honduras and B-18 to Guatemala. See Prensa Libre, Pandilleros asan al país como su guarida, 7 August 2015, http://www.prensalibre.com/guatemala/pandilleros-asan-al-pais-como-su-guari...
as young as 11-12 years. Following the decision by the Sanchez government in April 2015 to return the gang leaders to isolation cells in Zacatecoluca maximum-security prison, in both B-18 and MS the local-level affiliated gangs have reportedly been allowed to operate with almost complete autonomy in adopting an unprecedented degree of aggression towards security forces, the rival gangs and the local community, without needing to consult incarcerated leaders on big decisions such as whether or not to kill a person or to attack a rival gang. The rival gangs are also reported to have embarked on an aggressive expansion to new territories, turning much of the country into an apparent free-fire zone disputed by the gangs.

Especially within MS, since the breakdown of the truce there is also an apparently growing military sophistication that is increasingly transforming the affiliated local gangs into a force that can combat the State and hold territory. In some zones, MS cliques have reportedly been ordered to locate and monitor police officers living in their territory and to kill a specified number, with officers from special police units as a priority and prosecutors and other judicial officials to be targeted if no police officers are found. In just the first four months of 2015, 24 police officers were reportedly killed by the gangs, often when they were off-duty and unarmed, and a total of 44 were killed by August 2015. Moreover, in the second half of 2015 a number of State institutions were targeted by car bombs and other improvised explosive devices, with the MS and B-18 gangs as the principal suspects. Additionally, according to the police 32 per cent of all homicide victims registered between the start of 2014 and mid-September 2015 had links with the gangs, a figure that presumably includes gang-on-gang killings and killings by the security forces.

Finally, as evidenced over the past few years, one of the most remarkable changes occasioned by the truce has been the dramatically increasing political sophistication with which the leaders of B-18 and MS have come to couch their grievances with the government and assert their increasingly overt political ambitions. The gangs reportedly continue to decide which political parties can campaign on their territories and they are also reported to have control of several local churches. Indeed, the MS and B-18 gangs claim to be able to influence the elections in El Salvador and, in February 2015,


120 Sala Negra de El Faro, Más represión, más asesinatos, más armas, más reclutamientos, 20 September 2015, http://www.salanegra.elfaro.net/es/201509/cronicas/17376/M%C3%A1s-represi%C3%B3n-m%C3%A1s-asesinatos-m%C3%A1s-armas-m%C3%A1s-reclutamientos.htm.


issued a communique asserting that the ruling FMLN almost lost the 2014 presidential election because it lacked their support.\textsuperscript{129}

**Other gangs**

Other gangs exist in El Salvador that are not affiliated to MS or B-18. Indeed, whilst 70 per cent of gang members deported from the USA were MS or B-18, other deportees belonged to other \textit{Sureño} structure gangs in California.\textsuperscript{130} Some attached themselves to MS or B-18 once back in El Salvador, whilst others left the gang life and tried to avoid confrontations with the existing gangs.\textsuperscript{131} Of the smaller \textit{Sureño} gangs that tried to establish themselves again, only \textit{Mirada Locos 13} reportedly still survives and is the third strongest gang in El Salvador, based in San Miguel.\textsuperscript{132} However, other deportees reportedly joined together as the \textit{Sureños} gang, composed of members from many different \textit{Sureño} gangs in California, and set up in territories not dominated by MS or B-18 and in businesses that did not interest the bigger gangs (such as the trade in methamphetamines and ecstasy).\textsuperscript{133} The \textit{Sureños} gang has reportedly been racked by internal conflicts and killings in recent years.\textsuperscript{134}

Alongside the \textit{Mirada Locos 13} gang and the \textit{Sureños} gang, other notable non-MS and non-B-18 street gangs currently operating in El Salvador reportedly include, among others, the \textit{Mao Mao} and \textit{La Maquina} – both of which emerged during the civil war of the 1980s – as well as the gangs of \textit{La Raza} and \textit{Mara Desorden}.\textsuperscript{135} In numerical terms, none of these gangs comes close to comparing with either B-18 or MS, although some of the larger ones reportedly dispute territories with local gangs that are B-18 or MS affiliates.

**b) Smuggling Structures (Transportistas)**

Alongside the widespread street gangs in El Salvador, there are other organized criminal structures that are linked closely to the dynamics of cross-border smuggling and trafficking of goods and people. These smuggling structures (\textit{transportistas}) developed during the civil war of the 1980s when they moved contraband and illicit goods along the country’s unguarded Pacific coast.\textsuperscript{136} Later, as El Salvador became a key transit point for drug smuggling from the Andean region,\textsuperscript{137} Salvadoran \textit{transportista} groups reportedly developed specialized drug-trafficking networks along specific routes in El Salvador.\textsuperscript{138} They reportedly work for whichever larger regional drug-trafficking organization hires them to receive, store and transport drugs through El Salvador, mostly to Mexico but sometimes directly to the United States.\textsuperscript{139} As a result, they are reported to have become increasingly tied to Mexican drug-smuggling cartels.\textsuperscript{140}

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\textsuperscript{133} Revista Factum, \textit{Sureños, los otros pandilleros}, 4 November 2014, \texttt{http://revistafactum.com/surenos-los-otros-pandilleros/}.

\textsuperscript{134} Revista Factum, \textit{Sureños, los otros pandilleros}, 4 November 2014, \texttt{http://revistafactum.com/surenos-los-otros-pandilleros/}.


\textsuperscript{137} BBC, \textit{Los Perones, el poderoso grupo criminal que pocos conocen}, 28 August 2014, \texttt{http://www.bbc.com/mundo/noticias/2014/08/140820_el_salvador_perrones_transportistas_cocaina_jcps}.


\textsuperscript{139} BBC, \textit{Los Perones, el poderoso grupo criminal que pocos conocen}, 28 August 2014, \texttt{http://www.bbc.com/mundo/noticias/2014/08/140820_el_salvador_perrones_transportistas_cocaina_jcps}.

\textsuperscript{140} S. Dudley, ‘Drug Trafficking...
These smuggling structures are considered to be more sophisticated organizations than the street gangs. They are reportedly based around complex horizontal networks of connected persons and do not usually pursue exclusive control of the territories where they are based (nor practise extortion there), but rather work to move goods along particular smuggling routes.141 They are reported to rely primarily on corruption and bribery of local and national political, police and judicial authorities to secure protection for their activities, although violent means are reportedly also used where this is deemed necessary.142 Assassinations and threats by these organizations usually appear to be largely to disputes or punishments of those involved in the structures,143 or others who pose a direct risk.144 Although drug trafficking is a lucrative source of income for these smuggling structures, they reportedly also operate other illicit businesses based around the smuggling of other goods and of people.

The oldest of these smuggling structures is ‘Los Perrones’, which reportedly began smuggling food and clothes in La Unión department in south-eastern El Salvador during the civil war in the 1980s.145 It is now reported to be principally involved in drug smuggling, money-laundering and other profitable illicit activities,146 and reportedly works with Mexican drug-trafficking organizations, especially the Sinaloa cartel.147 It reportedly has a horizontal structure, rather than a clear vertical chain of command, such that it can adapt flexibly to arrests and change.148 Indeed, at some point the structure split into two divisions that continue to work closely together: ‘Los Perrones Orientales’ are based in the east around San Miguel, Usulután and La Unión departments and ‘Los Perrones Occidentales’ are based around Santa Ana department in the west of El Salvador.149

Through bribery and corruption, Los Perrones has reportedly built up a sophisticated intelligence network within the Salvadoran State and it can call on an extensive network of collaborators in local and national government, including politicians, police, prosecutors and judges.150 The structure is also reported to have links with some MS and B-18 cliques in the areas where it operates.151 Police

For instance, it appears that MS cliques have recently begun to violently dispute the control of certain smuggling routes with transportistas in El Salvador, who have enlisted the support of their ties to political elites and the police and military structures – including, apparently, death squads – as a means of combating this threat. See Center for Strategic and International Studies, Central American Gangs as a “Wicked Problem”, 24 November 2015, http://csss.org/blog/central-american-gangs-wicked-problem.
investigators and other individuals who pose a threat to the structure or competition for its routes have reportedly been killed.\textsuperscript{152} Newspaper journalists investigating the structure are reported to have received threats.\textsuperscript{153} Despite ongoing arrests of its members, including the jailing of many of the original leaders, the structure is reported to have managed to regroup, expand and increase its transport capacity and continues to operate today.\textsuperscript{154}

A more recent and powerful structure to emerge in northwest El Salvador is the so-called Texis Cartel (\textit{Cartel de Texis}). Based originally in Texistepeque and Metapán, Santa Ana department, the Texis Cartel is reported to operate a cocaine- and people-smuggling route known as \textit{El Caminito} that runs from Honduras to Chalatenango department in north-central El Salvador and then northwest through Sonsonate department to Guatemala.\textsuperscript{155} It has reportedly been involved in transporting drugs and other contraband merchandise for Sinaloa Cartel operatives in Honduras, for the Gulf Cartel and for the Zetas.\textsuperscript{156} However, it reportedly also has connections with other drug-trafficking structures such as the Guatemala-based \textit{`Los Temerarios'}.\textsuperscript{157} which also operates sporadically in El Salvador.\textsuperscript{158} Presently, the Texis Cartel is reportedly organized into four main groups dedicated to different illicit activities: transporting cocaine from Panama to Mexico; selling and distributing drugs; car theft; and money-laundering.\textsuperscript{159}

The Texis Cartel is reportedly comprised of a ring of individuals with strong ties to El Salvador’s political and business elites, giving them a veneer of respectability,\textsuperscript{160} although it relies also on the connections brought by incarcerated drug-traffickers of the 1980s.\textsuperscript{161} The structure reportedly wields tremendous political power in the territories where it operates and even up to the national level, including important links with politicians, police and judges that allow it to operate with a degree of impunity.\textsuperscript{162} However, in 2015 the Prosecutor’s Office convicted several Texis Cartel members, including one relatively high profile individual.\textsuperscript{163} Texis Cartel members appear to avoid direct


\textit{El Faro, Narcotraficantes infiltraron a la PNC}, 11 May 2009, \url{http://archivo.elfaro.net/secciones/noticias/20090511/noticias3_20090511.asp}.


\textit{La Prensa Gráfica, Cartel de Texis con amplia base en Guatemala}, 14 September 2013, \url{http://www.laprensagrafica.com/2013/09/14/cartel-de-texis-con-amplia-base-en-guatemala}.


\textit{Unacid, La asociación que facilitó el tráfico de Texis}, 14 October 2013, \url{http://www.laprensagrafica.com/2013/10/14/el-asocio-que-facilito-el-trafico-de-texis}.


\textit{El Faro, Otro concejal de Metapán vinculado por las autoridades al tráfico de drogas}, 27 January 2012, \url{http://www.elfaro.net/es/2012/01/noticias/7378/otro-concejal-de-metapan-vinculado-al-trafico-de-drogas}.

\textit{La Prensa Gráfica, Condenan a 17 integrantes del Cartel de Texis}, 2 October 2015, \url{http://www.laprensagrafica.com/2015/10/02/condenan-a-17-integrantes-del-cartel-de-texis}.

\textit{La Prensa Gráfica, Condenan a 35 años de cárcel a “El Barro” Herrera}, 21 September 2015, \url{http://www.laprensagrafica.com/2015/09/21/condenan-a-35-aos-de-carcel-a-el-barro-herrera}.
involvement in violence and rely instead on the protection of local authorities.\textsuperscript{164} The Texis Cartel reportedly also has close connections with local MS cliques along the routes that it operates which protect the drugs and carry out assassinations for hire.\textsuperscript{165} There are a number of killings that appear to be associated with the cartel.\textsuperscript{166} Newspaper journalists investigating the cartel are reported to have received death threats.\textsuperscript{167}

c) \textit{State Security Forces}

The security forces of the Salvadoran State are reported to have contributed directly to the current dynamics of violence in the country. These include the Civilian National Police (Policía Nacional Civil - PNC), a civilian institution created in the aftermath of the civil war to maintain public order whilst ensuring respect for human rights, and the Armed Forces (Fuerza Armada), which are subject to civilian control and encompass the national Army, Air Force and Navy.\textsuperscript{168} As well as territorial units, the PNC has a number of more specialized units, such as the anti-gang unit, and a separate police oversight body (Inspectoría).\textsuperscript{169} Alongside their national defence function, the Armed Forces have reportedly been used for many years to support the police and other State institutions dealing with the security situation inside El Salvador, especially in zones with a strong presence of organized criminal groups.\textsuperscript{170}

The deteriorating security situation following the breakdown of the gang truce is reported to have prompted a strong response from politicians and the security forces. In January 2015, high-ranking police officers and politicians were reported to have authorized members of the security forces to use their weapons against criminals “without fear of any consequences”.\textsuperscript{171} In February 2015, the Police Inspector General reportedly characterized the confrontations between the gangs and the security forces as a ‘war’, arguing that gang members killed during such confrontations do not count as executions.\textsuperscript{172} A total of 3,000 soldiers have also been deployed specifically to support the PNC in high-crime areas within El Salvador.\textsuperscript{173} In the first four months of 2015, there were reportedly more than 250 shootout between the police and the gangs, or an average of more than two per day, and bulletproof vests were distributed to security forces operating in particularly dangerous areas.\textsuperscript{174} The PNC claimed that the gang members killed as a result of this strategy of armed engagement with the

\begin{itemize}
  \item \textsuperscript{165} D. Farah and P. Philips Lum, \textit{Central American Gangs and Transnational Criminal Organizations}, 24 February 2013, \url{http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf}. Note, however, there are reports of a recent attempt by MS cliques to wrest control of certain routes from transportista groups. See Center for Strategic and International Studies, \textit{Central American Gangs as a “Wicked Problem”}, 24 November 2015, \url{http://csis.org/blog/central-american-gangs-wicked-problem}.
  \item \textsuperscript{166} El Faro, \textit{Otro concejal de Metapán vinculado por autoridades al tráfico de drogas}, 27 January 2012, \url{http://www.elfaro.net/es/201201/noticias/7378/Otro-concejal-de-Metap%C3%A1n-vinculado-por-autoridades-al-tr%C3%A9fico-de-drogas.htm}.
  \item \textsuperscript{167} D. Farah and P. Philips Lum, \textit{Central American Gangs and Transnational Criminal Organizations}, 24 February 2013, \url{http://www.strategycenter.net/docLib/20130224_CenAmGangsandTCOs.pdf}.
  \item \textsuperscript{168} Constitution of the Republic (Constitución de la República), Legislative Decree Vol. 38, 15 December 1983, published in Diario Oficial No. 234, Tono No. 281, 16 December 1983, \url{http://www.refworld.org/docid/3db996c864.html} Article 159.
  \item \textsuperscript{169} See Estructura Organizativa, Policía Nacional Civil, \url{http://www.pnc.gob.sv/portal/page/portal/informativo/instituciones/estructura_organizativa} (date accessed: 22 December 2015).
  \item \textsuperscript{170} This power is granted on an exceptional basis to the president of El Salvador by the Constitution. See Constitution of the Republic (Constitución de la República), Legislative Decree No. 38, 15 December 1983, published in Diario Oficial No. 234, Tono No. 281, 16 December 1983, \url{http://www.refworld.org/docid/3db996c864.html} Article 168(12). However, this power has been renewed annually for a number of years, at least since 2008, most recently in 2015. See El Salvador: Decreto No. 61 of 2015, Reforma al Decreto Ejecutivo No. 60 de fecha 28 de septiembre de 2009, mediante el cual se dispone de la Fuerza Armada, con el propósito de apoyar a la Policía Nacional Civil, en operaciones de mantenimiento de la paz interna. 21 May 2015, \url{http://www.refworld.org/docid/56a247914.html}.
  \item \textsuperscript{172} La Prensa Gráfica, \textit{Aquí estamos en guerra }, 19 February 2015, \url{http://www.laprensagrafica.com/201502/19/aqui-estamos-en-guerra}.
  \item \textsuperscript{173} Insight Crime, \textit{Need for Police Reform in El Salvador at All-Time High}, 20 August 2015, \url{http://www.insightcrime.org/news-analysis/police-reform-in-el-salvador}.
\end{itemize}
gangs account for the majority of registered homicides, although this is not supported by the official figures.

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 in El Salvador. In 2015 this pattern became more evident with reports of death squads dressed like policemen killing suspected MS gang members and other, mostly young, residents of MS gang-controlled neighbourhoods in different parts of the country. The police, prosecutors and other institutions of the Salvadoran State have reportedly not made any efforts to investigate these killings. Extrajudicial executions by the PNC of gang members and persons supposed to be affiliated with the gangs have also been reported. The security forces reportedly also carried out mass arrests without legal basis and made excessive and arbitrary use of detention, especially of youth suspected of being gang members. The security forces have reportedly subjected suspected gang members in their custody to severe physical mistreatment. Newspaper journalists reporting on these stories have reportedly received death threats.

C. Ability and Willingness of the State to Provide Protection

1. Overview

A number of laws in El Salvador are directed at combating organized crime. A new law banning gangs and criminal organizations was adopted in 2010. In March 2015, a new anti-extortion law was approved that allows police to investigate extortion without waiting for a complaint, introduces longer sentences for the crime of extortion and attempts to prevent extortion phone calls from prisons. In August 2015, the Supreme Court confirmed the constitutionality of the 2006 antiboom terrorism law, which provides for special measures against ‘terrorist’ organizations and harsher


176 Recent statistics indicate that 32 per cent of the homicides are gang members, which must include those killed during these clashes but also in inter- and intra-gang violence. See El Diario de Hoy, En siete de cada diez homicidios las víctimas no son de pandillas, 15 November 2015, http://www.elsalvador.com/articulo/sucesos/siete-cada-diez-homicidios-las-victimas-no-son-pandillas-93242.


Between 2009 and 2015, the PNC was the State institution about which the highest number of complaints was made regarding human rights abuses.\footnote{Insight Crime, 480 Gang Members Infiltrated El Salvador Security Forces: Report, 22 February 2016, http://www.insightcrime.org/news-briefs/el-salvador-480-gang-members-infiltrate-el-salvador-security-forces.} In 2014 alone, 900 police officers were reported to have been sanctioned for misconduct, with this figure likely representing only a fraction of those who committed abuses.\footnote{Insight Crime, Need for Police Reform in El Salvador at All-Time High, 20 August 2015, http://www.insightcrime.org/news-analysis/police-reform-in-el-salvador.} It is reported that overall public opinion in El Salvador tends to view the police as driven by aggressive and vindictive motives rather than by professional ethics.\footnote{H. Silva, ‘El síndrome Snowden en El Salvador’, Revista Factum, 21 October 2015, http://revistafactum.com/el-sindrome-snowden-en-el-salvador.} Indeed, individual officers and entire local forces within the police reportedly sometimes take one or the other side in disputes between rival local gangs.\footnote{Insight Crime, Need for Police Reform in El Salvador at All-Time High, 20 August 2015, http://www.insightcrime.org/news-analysis/police-reform-in-el-salvador.} Moreover, it is reported that neither the police nor any other State authorities have investigated recent murders carried out by uniformed and heavily armed death squads that give the appearance of having official links.\footnote{Insight Crime, Need for Police Reform in El Salvador at All-Time High, 20 August 2015, http://www.insightcrime.org/news-analysis/police-reform-in-el-salvador.}
In 2015, there was a small increase in the number of prosecutions of gang members compared to 2014. Proportionally many more children were prosecuted for gang-related crimes in 2015 than in the previous year. In general, though, intimidation and violence against complainants reportedly continues to contribute to a climate of impunity from criminal investigation and prosecution. Victims are particularly averse to reporting crimes perpetrated by gangs for fear of reprisals. For example, a survey indicates that 84 per cent of businesses that were subjected to extortion did not lodge a complaint with the police or other authorities due to threats by gangs and the gangs’ practice of killing those who do report them to the authorities. Complaints to the police about gang extortion are reportedly often relayed back to the gangs, which then exact severe retribution on the complainants.

It is reported that the police – even the elite Anti-Gang Unit in high-profile cases – are usually not seen as offering a sufficient form of protection for those residents who are threatened by gangs, since their presence is only temporary and the gangs will return once the police move on after a few hours or days. Reports indicate that often the most that police are able to do is to provide an escort out of the neighbourhood for those who have received threats. Even police officials who live in areas where the gangs operate are reported to acknowledge their fear at the inability of the State to protect them from assassination in their homes or on the way to work.

The judicial system is reported to be particularly inefficient and subject to corruption, a practice that in turn contributes to high levels of impunity for crimes in El Salvador, where the criminal conviction rate reportedly is less than per cent. In 2012 alone, there were reports of ongoing investigations into complaints against 487 of the 600 serving judges in El Salvador. The Salvadorian penal system is reported to have a history of particular weakness when it comes to prosecuting high-level drug-traffickers. Even specialized anti-mafia judges have reportedly been arrested on charges of receiving bribes from organized criminal groups.

In 2006, El Salvador adopted a law that provides for protection and support to victims and witnesses of crimes. Each year, the programme created by this law reportedly supports around 1000 victims or witnesses, about 50 of whom are ‘protected witnesses’ (i.e. criminal turncoats), through measures

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199 Compared with 2014, there was an increase of 52% of minors being prosecuted for gang-related crimes in 2015, leading to calls among some politicians to try such cases as adults rather than under the more favourable penal framework applied to minors. El Nuevo Diario, Aumentan en un 52 % los menores pandilleros procesados en El Salvador en 2015, 12 October 2015, http://www.elnuevodiario.com.ni/internacionales/373365-aumentan-52-menores-pandilleros-procesados-salvadore.


203 Sala Negra de El Faro, Huir de las pandillas ante la mirada de la Policía Antipandillas, 21 January 2015, http://www.salanegra.elfaro.net/201501/cronicas/16500/Huir-de-las-pandillas-ante-la-mirada-de-la-Polic%C3%ADa-Antipandillas.html.


205 Sala Negra de El Faro, La rebelión por la que sangra Zacatecoluca, 3 November 2014, http://www.salanegra.elfaro.net/en/201411/cronicas/16173/La-rebel%C3%ADn-por-la-que-sangra-Zacatecoluca.htm.


such as the offer of a safe house or a sporadic subsistence stipend. However, there are well-documented examples of these witnesses, especially the protected witnesses, being tracked down and killed by gangs and other organized criminal groups, including after trial judges allowed or ordered their identities to be revealed during trial proceedings.

Fear, shame and lack of confidence in what is generally considered an ineffective and unsupportive justice system reportedly come together to prevent many women from reporting domestic or gang violence. Moreover, a particular issue reported to exacerbate women’s vulnerability is the fact that the penal code in El Salvador prohibits abortion in all circumstances such that, between 2000 and 2011, it is reported that 129 women were prosecuted for crimes relating to abortion, 23 of whom were convicted of abortion and 26 of homicide. By contrast, despite the fact that Salvadoran women, men and children are at risk of trafficking (for forced labour as well as sexual exploitation), the police in El Salvador are reported to have made only 96 arrests for human trafficking between 2012 and 2015, of which only 35 cases ended in conviction.

Conditions in the prison system are reported to be harsh and life threatening due to gross overcrowding, unhygienic conditions, and gang activities. While the prisons are built to hold around 8,500 persons, the current prison population is reported to be in excess of 32,000, of whom 74 per cent are convicts and 26 per cent are awaiting trial, with homicide as the most common offence. Around 38 per cent of the current prison population report being members of a gang. Even though members of the MS and B-18 are sent to separate prisons to minimize confrontations, violence in the prisons continues. In August 2015, 14 members of the B-18 Revolucionarios faction were reportedly murdered in an internal purge in Quezaltepeque prison.

211 SalaNegra de El Faro, Asesinaron al Niño de Hollywood (y todos sabíamos que eso ocurriría), 30 November 2015, http://www.salanegra.elfaro.net/es/201411/chronicas/16293/Asesinaron-al-Ni%C3%B1o-de-Hollywood-(y-todos-sab%C3%ADamos-que-eso-ocurr%C3%ADa).htm.


In January 2015, the new government outlined its five-year US$2.1 billion ‘Secure El Salvador Plan’ (Plan El Salvador Seguro), which includes an increased focus on the country’s 50 most violent municipalities and also emphasizes crime prevention and reform of the criminal justice system.\textsuperscript{220} However, although the plan was officially launched in July 2015, its implementation is reported to remain contingent on legislative approval of security budget proposals.\textsuperscript{221} The Sánchez Ceren administration also proposed a gang rehabilitation law in April 2015 that would be the first of its kind in El Salvador;\textsuperscript{222} it was presented to the Legislative Assembly in October 2015.\textsuperscript{223} However, in the current political climate this proposed law is reportedly expected to face serious challenges in gaining the requisite political backing.\textsuperscript{224}

2. Trends in Internal and External Displacement and Returns

No government system exists to register internally displaced persons or to monitor the dynamics of internal displacement in El Salvador. Nonetheless, academic surveys carried out in El Salvador report that in 2012 alone 2.1 per cent of its total population were newly displaced within the country due to criminal violence and threats.\textsuperscript{225}Scaled up to the total population of El Salvador, this equates to approximately 130,000 people newly displaced in 2012 alone. Around one-third of those displaced were reportedly displaced twice within 2012.\textsuperscript{226} In 2014, the same survey found that 4.6 per cent of the population were displaced in that year on the same grounds,\textsuperscript{227} equating to about 275,000 people. Of these, 1.8 per cent was reportedly forced to change homes six times during that year to escape unrelenting threats and fears of violence.\textsuperscript{228}

Government figures on the number of children dropping out of the public education system in El Salvador each year appear to corroborate the magnitude of the crisis of violence and forced displacement in the country.\textsuperscript{229} These figures show that in 2014, approximately 1 per cent of children in the public education system dropped out and reported ‘insecurity’ as the reason, more than twice as many as in 2009. Moreover, some of the other reasons given by children for dropping out of school in 2014, such as ‘change of home’ (2.2% of all public school children), ‘leaving country’ (1.2%) and ‘change of school’ (0.3%), are thought to also be related to threats and forced displacement.\textsuperscript{230}

One of the reported reasons for multiple displacements is that displaced persons often have little choice but to relocate to areas that are also controlled by gangs.\textsuperscript{231} If they move to an area controlled by the same gang, their problems are likely to follow them to the new location; if they move to an area

\begin{footnotesize}
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\item La Prensa Gráfica, Benito Lara afirma que “mano dura” no dio resultado contra violencia, 21 October 2015, http://www.laprensagrafica.com/2015/10/21/benito-lara-afirma-que-mano-dura-no-dio-resultado-contra-violencia#hash.7A7xu11H dumpsters.
\item Ibid., p. 35a, table 38.
\item Ibid., p. 10, cuadro 26.
\item El Faro, La deserción escolar por inseguridad se duplicó en los últimos cinco años, 24 August 2015, http://www.elfaro.net/es/201508/noticias/17252/La-deserci%C3%B3n-escolar-por-inseguridad-se-duplic%C3%B3-en-los-%C3%B3ditos.html. For different figures but same conclusions, see also La Prensa Gráfica, 68 Estudiantes abandonan la escuela cada día por la delincuencia, 26 August 2015, http://www.laprensagrafica.com/201508/26/68-estudiantes-abandonan-la-escuela-cada-dia-por-la-delincuencia#hash.c6vWmE3l.png.
\item Ibid.
\item Sala Negra de El Faro, Huir de las pandillas ante la mirada de la Policía Antipandillas, 21 January 2015, http://www.salanegra.elfaro.net/es/201501/cronicas/16500/Huir-de-las-pandillas-ante-la-mirada-de-la-Polic%C3%BAAntipandillas.htm.
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controlled by a different gang, they are likely to be challenged by this gang as rival gangs usually do not accept persons coming from areas controlled by other gangs settling in their home territory. Where gangs and other criminal groups have serious problems with a person or believe that the person in question could represent an ongoing threat, they are reported to make efforts to try and track the person down even after they have fled their home. Moreover, because persons who flee their homes due to threats or gang-related violence often have to do so rapidly, they usually incur substantial economic losses as they have little time to make arrangements to sell or rent their houses and businesses or even to collect all of their belongings. There is no government programme for assisting displaced persons and so each new displacement is reported to exacerbate the downward spiral in their living conditions.

Salvadores affected by the present dynamics of violence are also fleeing El Salvador in increasing numbers to seek asylum outside the country. As at the end of 2014, 10,965 Salvadores were recognized as refugees, the majority by the United States of America and Canada (10,006); another 18,037 asylum applications by Salvadores remained pending a decision at the year’s end. The number of asylum applications by Salvadores has increased significantly, with 11,742 applications lodged in 2014, almost twice the number of applications lodged in 2013 (6,601 applications) and three times the number of applications in 2010 (3,810 applications). In the first six months of 2015, the number of asylum applications by Salvadores in the United States of America increased by 125 per cent compared to the same period in 2014, with a total of 8,700 applications. In 2014, 32.7 per cent of all decisions taken on Salvadoran asylum applicants resulted in recognition under the 1951 Convention, while the total protection rate was 38 per cent.

The majority of claims for asylum by Salvadores are lodged in the United States of America (USA). Although many of these claims are lodged by adults, from 2011 onwards the southern border of the USA also saw a surge in unaccompanied child arrivals from children fleeing El Salvador and the other Northern Triangle countries, many of whom claimed asylum. Interview data from 2013 indicates that 72 per cent of the children from El Salvador claim to have left because of violence in society, with 63 per cent specifying gangs as the source of harm, while 20 per cent of the children mentioned domestic violence as a relevant factor.

Although some Salvadorean migrants have voluntarily returned to the country, the number of Salvadorian refugees voluntarily repatriating to El Salvador in recent years is negligible. However, 235

232 Sala Negra de El Faro, Huir de las pandillas ante la mirada de la Policía Antipandillas, 21 January 2015, http://www.salanegra.elfaro.net/es/201501/cronicas/16500/Huir-de-las-pandillas-ante-la-mirada-de-la-Polic%C3%ADa-Antipandillas.htm.
a large number of Salvadorian nationals are deported each year from the USA and Mexico by air and land, either pursuant to a deportation order following conviction for criminal activities or due to their irregular migration status.\textsuperscript{246} Deportees are reported to be easily identifiable by gang members at the point of return to El Salvador, putting deportees who had left El Salvador because of specific problems with a gang at particular risk.\textsuperscript{247} In some cases, deportees and other returnees who left the country due to insecurity or threats have been killed by gangs shortly after arrival in El Salvador.\textsuperscript{248} Deportees and returning migrants who bring resources from overseas are also reported to be an identifiable target for extortion by the gangs and thus face heightened threats, as are children and other persons in El Salvador who receive remittances from family members living and working overseas.\textsuperscript{249}

### III. Assessment of International Protection Needs of Asylum-seekers from El Salvador

#### A. Refugee Protection under the 1951 Convention

This Section outlines a number of potential risk profiles for asylum-seekers from El Salvador. UNHCR considers that asylum-seekers from El Salvador falling within one or more of these risk profiles may be in need of international refugee protection under Article 1A of the 1951 Convention relating to the Status of Refugees (1951 Convention), depending on the circumstances of the individual case. Potential risk profiles are based on UNHCR’s legal assessment of available country of origin information at the time of writing as referred to in Section II and the present section.

Examination of claims by asylum-seekers in this context should include a full analysis of applicable Convention grounds.\textsuperscript{250} In the particular context of El Salvador, where gangs are reported to exercise high levels of social control over all aspects of life of members of the population in the areas under the gangs’ control (see Section II.B.2.a in particular), it would frequently be appropriate for applications for international protection from applicants who flee gang-related forms of persecution to be analysed in relation to the ground of (imputed) political opinion.\textsuperscript{257} The ground of political opinion needs to reflect the reality of the specific geographical, historical, political, legal, judicial, and socio-cultural context of the country of origin. In contexts such as that in El Salvador, expressing objections to the activities of gangs may be considered as amounting to an opinion that is critical of the methods and policies of those in control and, thus, constitute a “political opinion” within the meaning of the

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\textsuperscript{247} Interviews with Salvadorian child returnees in the migrant return centre in El Salvador indicates that 59% of boys and 61% of girls identified gangs and violence as the primary reasons for leaving El Salvador. See Perspectives, \textit{No Childhood Here: Why Central American Children are Fleeing their Homes}, July 2014, \url{http://www.immigrationpolicy.org/sites/default/files/docs/no_childhood_here_why_central_american_children_are_fleeing_their_homes.pdf}. There are also indications of MS presence in migrant processing centres in countries such as the USA. Washington Times, \textit{Violent gangs taking advantage of immigration crisis, using border as recruiting hub}, 11 July 2014, \url{http://www.washingtontimes.com/news/2014/jul/11/violent-gang-ms-13-taking-advantage-immigration-cris/}


\textsuperscript{251} Ibid., paras 45-51.
refugee definition. 252 For example, individuals who resist being recruited by a gang, or who refuse to comply with demands made by the gangs, such as demands to pay extortion money, may be perceived to hold a political opinion. 253

Not all persons falling within the risk profiles outlined in this Section will necessarily be found to be a refugee. Conversely, these risk profiles are not necessarily exhaustive. A claim should not automatically be considered as without merit simply because it does not fall within any of the identified profiles. There is no hierarchy implied in the order in which the profiles are presented. All claims by Salvadoran asylum-seekers need to be considered on their own merits in fair and efficient status determination procedures and based on up-to-date country of origin information. There is a certain degree of overlap between some of the profiles, and the particular circumstances of an individual asylum-seeker may mean that two or more profiles may be applicable to the applicant. 254

Where relevant, particular consideration should be given to any past persecution to which applicants for refugee status may have been subjected. 255 In light of the context of organized crime and human rights abuses in El Salvador, the applicability of the exclusion clauses may need to be considered in certain cases.

1. Persons perceived by a gang as contravening its rules or resisting its authority

Gangs in El Salvador reportedly perceive a wide range of acts by residents of the area under the gang’s control as demonstrating ‘resistance’ to their authority. Acts commonly construed as a challenging a gang’s authority reportedly include but are not limited to: criticizing the gang; refusing a request or ‘favour’ by a gang member; arguing with or looking mistrustfully at a gang member; refusing to participate in gang activities or to join the gang; rejecting the sexual attention of a gang member; having (perceived) links with a rival gang or a zone controlled by a rival gang; refusing to pay extortion demands; wearing certain clothing, tattoos or other symbols; participating in civil, religious or other organizations viewed as undermining the gang’s authority; and passing on information about the gang to rivals, authorities or outsiders. 256 In some cases, a stranger accidentally turning up uninvited in a gang zone is reportedly taken as a serious affront to the gang’s authority. 257

Persons who live in localities that serve as ‘invisible’ boundaries between the territories of rival

252 Ibid., paras 46.

253 Ibid., paras 50-51.

254 Based on the specific country information relating to El Salvador, these risk profiles develop those identified in general terms by UNHCR in its typology of victims of organized gangs. See UNHCR, Guidance Note on Refugee Claims Relating to Victims of Organized Gangs, 31 March 2010, www.refworld.org/docid/4bb21f6a02.html, pp. 4-6.


Depending on the particular circumstances of the case, UNHCR considers that persons perceived by a gang as contravening its rules or resisting its authority may be in need of international refugee protection on the grounds of their (imputed) political opinion,\footnote{http://www.refworld.org/docid/56e6e5e14.html} membership of a particular social group,\footnote{http://www.refworld.org/docid/56e6e5e14.html} or on the basis of other Convention grounds.

2. **Persons in professions or positions susceptible to extortion, including those involved in informal and formal commerce as business owners, their employees and workers, or as street vendors; public transport workers; taxi and mototaxi (tuc-tuc) drivers; public sector employees; children and adults who receive remittances from abroad; and certain returnees from abroad**

Extortion is reported to be pervasive in El Salvador and the regular extortion quotas imposed by the gangs can be crippling. Those subject to extortion demands for money, goods and services include, but are not limited to, persons involved in informal and formal commerce as business owners, their employees and workers, or as street vendors; public transport workers; taxi and mototaxi (tuc-tuc) drivers; transport workers; public sector employees; employees and workers, or as street vendors; public transport workers; taxi and mototaxi (tuc-tuc) drivers; public sector employees; children and adults who receive remittances from abroad; and certain returnees from abroad.
drivers; public sector employees,\textsuperscript{267} returnees who return from abroad with financial resources; children and adults who receive remittances from family members who live and work abroad; and even schoolchildren for the little money they may carry.\textsuperscript{268} 

The level of extortion payments are reportedly often raised steeply and without warning by gangs, sometimes with the apparent intention of bankrupting a business so that the gang can take it over.\textsuperscript{269} Moreover, extortion victims may have to simultaneously pay extortion money to two or more gangs, especially where a business operates across one or more territories where these gangs practise extortion.\textsuperscript{270} It is reportedly not unusual for victims to lose their livelihood due to excessive extortion demands by gangs, which are reported to have risen sharply since 2014.\textsuperscript{271} Extortion demands reportedly sometimes take the form of a requirement to purchase at an inflated price (poor quality) goods or services from businesses controlled by the gangs.\textsuperscript{272} 

Extortion is reportedly the lifeblood of most local gangs in El Salvador and the refusal to pay extortion demands is usually construed by gang members as a serious act of resistance to the authority of the gang itself.\textsuperscript{273} Individuals who refuse to pay extortion demands – or who delay in meeting their ‘quotas’ because they are unable to pay – are reportedly subjected to threats and violence against them, as well as against their employees, business partners and family members. The threats and violence reportedly swiftly escalate with any continuing delay or refusal to pay, with persons in these circumstances reportedly commonly being killed by the gangs.\textsuperscript{274} Persons found by the gangs to have reported extortion demands to the authorities are also reportedly subjected to severe retribution.\textsuperscript{275} 

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Depending on the particular circumstances of the case, UNHCR considers that persons in professions or positions susceptible to extortion, including but not limited to those involved in informal and formal commerce as business owners, their employees and workers, or as street vendors; public transport workers; taxi and mototaxi drivers; public sector employees; and certain returnees from abroad may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of their membership of a particular social group, or on the basis of other Convention grounds.275

3. ‘Informants’, victims and victims of crimes committed by gangs and other organized criminal groups, or by members of the security forces

Witnesses and victims of crimes committed by gangs and other organized criminal groups in El Salvador have reportedly been killed by the perpetrators to ensure their silence, even when they have not sought to formally denounce those crimes to the authorities.277 Those who do denounce the crimes, or who otherwise cooperate with the authorities against gangs or other organized crime groups as ‘informants’, are reportedly pursued for their ‘betrayal’, often along with their family members, even when placed in a witness protection programme.275 Persons giving evidence against corrupt members of the security forces have also reportedly been targeted and killed, even as protected witnesses.279

275 See UNHCR, Guidance Note on Refugee Claims Relating to Victims of Organized Gangs, 31 March 2010, www.refworld.org/docid/4bb21fa02.html; UNHCR, ‘Informants’, witnesses and victims of crimes committed by gangs and other organized criminal groups or by members of the security forces may be in need of international refugee protection on the ground of their (imputed) political opinion, or on the basis of their membership of a particular social group, or on the basis of other Convention grounds.


277 See UNHCR, Guidance Note on Refugee Claims Relating to Victims of Organized Gangs, 31 March 2010, www.refworld.org/docid/4bb21fa02.html; UNHCR, ‘Informants’, witnesses and victims of crimes committed by gangs and other organized criminal groups or by members of the security forces may be in need of international refugee protection on the ground of their (imputed) political opinion, or on the basis of their membership of a particular social group, or on the basis of other Convention grounds.


4. Family members, dependants and other members of the household of gang members or other organized criminal groups; inhabitants of areas where gangs operate; and others who are perceived to be affiliated with a gang

Persons suspected by one gang of supporting or having links with a rival gang are reportedly subjected to threats and violence. Persons with a family member (or family members) in a gang, as well as other persons perceived to be affiliated with members of gangs or other organized criminal groups, are reportedly treated with suspicion and have been attacked and killed.281

At the same time, male inhabitants of zones where the gangs operate and persons otherwise perceived – whether correctly or not – to be affiliated with the gangs by members of the security forces or by members of reputed death squads have also reportedly been attacked and killed by these armed actors.282

Depending on the particular circumstances of the case, UNHCR considers that family members, dependants and other members of the households of gang members may be in need of international protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.283 Inhabitants of areas where gangs are known to operate, and other persons perceived to be affiliated with gang members or members of other organized criminal groups, may...


5. Gang ‘traitors’ and former members; criminal turncoats

Gangs and other organized criminal groups reportedly track down those whom they consider to have betrayed them. The gangs are reported to usually pursue and kill their own ‘traitors’, including not only the so-called pecetas (turncoats) but also those who leave a gang without permission or otherwise seriously breach the rules of the gang. The family members of these ‘traitors’ are reportedly also often attacked. At the same time, an individual who has left a gang reportedly continues to face an undiminished risk of assassination by members of rival gangs, and by members of his/her own former gang if s/he refuses to collaborate with such demands as they may make from time-to-time of the ex-member.

Depending on the particular circumstances of the case, UNHCR considers that gang deserters and former gang members, including turncoats, may be in need of international refugee protection on the basis of their membership of a particular social group, or on the basis of their (imputed) political opinion, or on the basis of other Convention grounds. Claims by persons of this profile may give rise to the need to examine possible exclusion from refugee status.


For further analysis on exclusion considerations, see Section III.D.

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6. Children and youth with certain profiles or in specific circumstances

Children and youth suffer multiple types of violence in El Salvador. Children may fall into any of the profiles listed in these Eligibility Guidelines. However, children in El Salvador may also be at risk of child-specific forms of persecution. Procuraduría para los Derechos Humanos, *Informe especial sobre el impacto de la violencia en los derechos de las niñas, niños y adolescentes en El Salvador*, 2013. Procure the full text or summary for more details.

Moreover, the upsurge in gang violence since the early 2010s has reportedly given the country the highest rate of homicide among children and adolescents in the world, and homicide is the leading cause of death among adolescent boys in El Salvador.

Since the early 2010s, gangs have reportedly been responsible for the forced disappearance of a significant number of children and youth, with the majority of victims later found murdered.

The fact that children, particularly those living in territories where the gangs operate, are frequently a target of gang violence is partly the result of the reported large numbers of youth in the gangs themselves. Children and youth who have not been recruited by a gang but who live in territories where gangs operate reportedly find it difficult to avoid coming into contact with the local gang, its members and its activities (e.g. being asked to do the gang a ‘favour’, receiving the amorous attention of a gang member, etc.) or being (mis)taken for a member or affiliate of the local gang by rival gangs.

Students who go to school in an area that is controlled by a different gang than the gang that controls the area where they live are reportedly at risk of being targeted for violence by the rival gangs at school and while they travel to school.

Children equally face such risks when they travel to visit relatives or attend a health centre, etc., in an area controlled by a different gang. The gangs are reported to have a presence in schools and some schools have been forced to close due to the violence of the gangs.

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Recruitment by gangs of local children and youth – particularly boys but sometimes also girls – reportedly starts from an early age.298 Efforts by gangs to recruit new members from the children and youth have reportedly seen a significant increase since the early 2010s.299 New members are reportedly often required to prove their value through acts of violence, despite their young age.300 Girls are reportedly increasingly targeted from a young age by gangs with demands to become “wives” or girlfriends of gang members.301 The refusal to join a gang or to collaborate with its members by a child or youth and/or their family is reportedly usually interpreted as a challenge to the gang’s authority or as a ground for suspicion of some rival affiliation,302 resulting in threats and violence directed against the child or youth and/or their family members. Even if the child leaves the area where the gang operates, family members who remain there reportedly may continue to face threats and violence.303

Depending on the particular circumstances of the case, UNHCR considers that children, in particular but not limited to those from areas where gangs operate or from social milieus where violence against children is practised, may be in need of international refugee protection on the basis of their membership of a particular social group, or on the basis of their (imputed) political opinion or on the basis of other Convention grounds.304 Asylum claims made by children, including any examination of exclusion considerations for children formerly associated with a gang or other organized criminal group, need to be assessed carefully and in accordance with the UNHCR Guidelines on child asylum claims.305

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305 UNHCR, Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1A(2) and 1F of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees, HCR/GIP/09/08, 22 December 2009, http://www.refworld.org/pdfid/4b2f4fd2.html. For further analysis on exclusion considerations, see Section III.D.
Discrimination and violence against women and girls is reported to be prevalent in El Salvador.106 The country has one of the highest recorded rates of femicides in the world.107 and young women are reportedly increasingly represented among the victims of forced disappearances.108 Domestic violence is reportedly considered the leading form of violence against women and girls in El Salvador, followed closely by violence perpetrated by gang members.109 There are reported cases of domestic violence by gang members against their wives and other female members of their own household; women and girls in this situation are often trapped as any attempt to report the violence or to escape the situation in the home would likely lead to targeting for violence by gang members, and may also put the woman’s family members at risk.110 Some women and girls also face stigma and prosecution as a result of the government’s restrictive approach to abortion.111

In the territories where the gangs operate, sexual and gender-based violence against women and girls is reportedly widespread, as is the recruitment of girls to carry out tasks for the gangs.112 Women and girls perceived as being linked with a particular gang are reportedly also a target for rival gangs and they and other women and girls are reportedly abused, raped and killed as part of gang initiation rites, or if they try to leave the gang to which they belong or with which they are affiliated, or if they are seen to resist its authority in other ways, including by rejecting the sexual advances of a gang


member. 313 Women and girls may be seen by gang members as their partners, even when a woman or girl has never consented to being in a couple. Women and girls in this situation are reported to be subjected to persistent violence, while being unable to seek protection due to the authority exercised by their “partner” in the area controlled by the gang. 314 Family members of women and girls who have problems with the gangs are also often targeted on the basis of their affiliation to the woman or girl in question. 315

Depending on the particular circumstances of the case, UNHCR considers that women and girls, in particular but not limited to women and girls from areas where gangs operate or those from social milieus where violence against sexual and gender-based violence against women and girls is practised, may be in need of international refugee protection on the basis of their membership of a particular social group, and/or their (imputed) political opinion, or on the basis of the other Convention grounds. 316

8. Individuals of diverse sexual orientations and/or gender identities

Discrimination against individuals of diverse sexual orientation and/or gender identities is reportedly widespread in El Salvador and such persons have consistently been targeted for attacks and murder by the gangs and other sectors of society, including by the police and other public authorities. 317 As noted


above, the Salvadoran gangs are reported to possess a strong *macho* ethos, which reportedly expresses itself on an everyday basis through their virulent hatred and ill-treatment of persons based on their perceived sexual orientation and/or gender identity. Transgender individuals, in particular transwomen, are reported to be at particular risk of violence.

Depending on the particular circumstances of the case, UNHCR considers that individuals of diverse sexual orientations and/or gender identities may be in need of international refugee protection on the basis of their membership of a particular social group, or on the basis of other Convention grounds. It should be emphasized that individuals of diverse sexual orientations and/or gender identities cannot be expected to change or conceal their identity in order to avoid persecution.

### 9. Journalists and human rights defenders, especially those working on issues relating to organized crime and corruption

Journalists and human rights defenders, especially those working on issues relating to organized crime and corruption in El Salvador have reportedly been the subject of threats, attacks and even killings by criminal elements.

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122 See UNHCR, Guidance Note on Refugee Claims Relating to Victims of Organized Gangs, 31 March 2010, [www.refworld.org/docid/4b6217a74.html](http://www.refworld.org/docid/4b6217a74.html) para. 12(g). For further guidance, see UNHCR, Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and its 1967 Protocol relating to the Status of Refugees, 23 October 2012, [www.refworld.org/docid/50348a64c.html](http://www.refworld.org/docid/50348a64c.html).

123 See also, for example, Court of Justice of the European Union, X, Y, Z v Minister voor Immigratie en Asiel, CEI 199/12 - CEI 201/12, 7 November 2013, [www.refworld.org/docid/527948b14.html](http://www.refworld.org/docid/527948b14.html).

124 UNHCR, Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and its 1967 Protocol relating to the Status of Refugees, 23 October 2012, [www.refworld.org/docid/50348a64c.html](http://www.refworld.org/docid/50348a64c.html) para. 12(g). For further guidance, see UNHCR, Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and its 1967 Protocol relating to the Status of Refugees, 23 October 2012, [www.refworld.org/docid/50348a64c.html](http://www.refworld.org/docid/50348a64c.html).

125 See also, for example, Court of Justice of the European Union, X, Y, Z v Minister voor Immigratie en Asiel, CEI 199/12 - CEI 201/12, 7 November 2013, [www.refworld.org/docid/527948b14.html](http://www.refworld.org/docid/527948b14.html).


Depending on the particular circumstances of the case, UNHCR considers that journalists, other media professionals and human rights defenders who are working on issues perceived to be sensitive by either State or non-State armed actors, including but not limited to organized crime and corruption, may be in need of international refugee protection on the ground of their (imputed) political opinion, or on the basis of other Convention grounds.  

10. Teachers and educators working in public schools and educational institutions

Due to the youthful membership of the gangs in El Salvador, gangs reportedly often seek to exert influence in and on public schools and educational institutions in the zones where they operate. Gang members may also be present as students in these schools and educational institutions. Teachers and other educators working in parts of the country where gangs are present reportedly often find themselves subject to extortion demands. Moreover, those teachers and educators who represent an alternative source of authority or resist or oppose the gangs and their recruitment of local youth have reportedly been threatened and killed by the gangs.

Depending on the particular circumstances of the case, UNHCR considers that teachers and educators working in public schools and educational institutions may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.

11. Former members of the police and armed forces

Members of the PNC and armed forces have long represented a target for attack by gang members and other organized criminal groups, especially since lower-ranking officials often live in the same neighbourhoods as gang members. However, since the breakdown of the gang truce, some local gangs have reportedly been ordered to kill a specified number of police officers living in their communities.

territories.\textsuperscript{329} As a result, in 2015 the targeted assassination of policemen and soldiers, often off-duty, by the gangs reportedly escalated sharply.\textsuperscript{330} In 2015, a number of State institutions were also targeted by improvised explosive devices, in attacks that were reportedly coordinated by the gangs.\textsuperscript{331}

Depending on the particular circumstances of the case, UNHCR considers that members of the PNC and armed forces may be in need of international refugee protection on the basis of their membership of a particular social group, or on the basis of other Convention grounds.\textsuperscript{332}

In view of the need to maintain the civilian and humanitarian character of asylum, applications for international refugee protection by combatants should not be considered unless it is established that they have genuinely and permanently renounced military and armed activities.\textsuperscript{333} Claims by persons of this profile may give rise to the need to examine possible exclusion from refugee status.\textsuperscript{334}

\section{Other public officials, especially those engaged in investigating or confronting organized crime, including judges, prosecutors and attorneys}

Judges, prosecutors and in investigating or confronting organized crime, including the gangs, have reportedly been threatened and attacked.\textsuperscript{335} Moreover, since the breakdown of the gang truce,\textsuperscript{336} some gangs have reportedly ordered their members to kill judicial officials in their territories if no police officers – reportedly the gangs’ principal target - are found there.\textsuperscript{337} Other public officials, including both local and national government employees, who are working in


\textsuperscript{331} Insight Crime, \textit{The Mystery Behind El Salvador’s IEDs}, 9 October 2015, \url{http://www.insightcrime.org/news-analysis/the-mystery-behind-el-salvadors-ieds}.


\textsuperscript{333} UNHCR Executive Committee, \textit{Conclusion on the civilian and humanitarian character of asylum, No. 94 (LIII)}, 8 October 2002, \url{http://www.refworld.org/docid/3da1ddd7c4.html}. For guidance on how to establish the genuineness and permanence of renunciation, see UNHCR, \textit{Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum}, September 2006, \url{http://www.refworld.org/docid/4d5269bc2.html}.

\textsuperscript{334} For further analysis of exclusion considerations, see Section III.D.


\textsuperscript{336} See Sections II.A and II.B.2(a) above.

\textsuperscript{337} La Prensa Gráfica, \textit{Pandilla en La Libertad ordena matar dos policías por clíca}, 8 April 2015, \url{http://www.laprensagrafica.com/2015/04/08/pandilla-en-la-libertad-orden-matar-dos-policias-por-clica#sthash.6NY6nlBG.dpuf}.

41
territories where the gangs operate have reportedly also received death threats due to their work, or have been subjected to extortion demands by the gangs.\textsuperscript{338}

Depending on the particular circumstances of the case, UNHCR considers that public officials, especially those engaged in investigating or confronting organized crime – such as judges, prosecutors and attorneys – may be in need of international refugee protection on the basis of their (imputed) political opinion, or on the basis of other Convention grounds.\textsuperscript{339}

13. \textbf{Family members, dependants, other members of the households, and employees of persons falling within the previous risk profiles}

Family members, dependants, other members of the households of individuals with any of the profiles above, as well as employees of such individuals, can reportedly also be a target for attacks and assassination by gangs, sometimes even after the person who was initially targeted by the gang in question has fled or has already been killed.\textsuperscript{340}

Family members, dependants, other members of the households, and employees of individuals with any of the profiles above may also be in need of international protection for reason of their association with individuals at risk on the basis of their (imputed) political opinion, or on the basis of their membership of a particular social group, or other Convention grounds.\textsuperscript{341}

B. \textbf{Refugee Status under UNHCR’s Broader Mandate Criteria, under the Cartagena Declaration or under Article I(2) of the 1969 OAU Convention and Protection on Other Grounds}

The 1951 Convention forms the cornerstone of the international refugee protection regime. The criteria for refugee status contained in the 1951 Convention need to be interpreted in such a manner that individuals or groups of persons who meet these criteria are duly recognized and protected under that instrument. Only when an asylum-seeker is found not to meet the refugee criteria in the 1951 Convention, for example because the feared persecution is not for reason of a Convention ground, or the threshold for applying the 1951 Convention definition is not otherwise met, should broader


\textsuperscript{339} See UNHCR, \textit{Guidance Note on Refugee Claims Relating to Victims of Organized Gangs}, 31 March 2010, www.refworld.org/docid/4b43656c2.html, paras 12(e) and 17.


international protection criteria contained in UNHCR’s mandate and regional instruments be examined.

1. Refugee Status under UNHCR’s Broader Mandate Criteria

UNHCR’s mandate encompasses individuals who meet the refugee criteria under the 1951 Convention and its 1967 Protocol, but has been broadened through successive UN General Assembly and ECOSOC resolutions to a variety of other situations of forced displacement resulting from indiscriminate violence or public disorder. In light of this evolution, UNHCR’s competence to provide international protection to refugees extends to individuals who are outside their country of nationality or habitual residence and who are unable or unwilling to return there owing to serious threats to life, physical integrity or freedom resulting from indiscriminate violence or other events seriously disturbing public order.

In light of the information provided in Section II above, UNHCR considers that most if not all violence in Salvadorian society is discriminative, targeting individuals or groups of individuals for specific reasons. Where these reasons are related to one or more of the 1951 Convention grounds, it is appropriate to consider eligibility for refugee status under the 1951 Convention.

While the need to consider eligibility for refugee status under UNHCR’s broader mandate on the basis of indiscriminate violence is thus unlikely to arise, there may be exceptional cases where it is necessary to assess the threat to life, physical integrity or freedom resulting from events seriously disturbing public order. In the exceptional circumstances of El Salvador, relevant considerations in this regard include the fact that in certain parts of the country the Government has lost effective control to gangs or other organized criminal groups and is unable to provide protection to civilians.

In the context of El Salvador, the available information indicates that the exercise of control over key aspects of people’s lives in areas controlled by gangs is repressive, coercive and undermines an ordre public based on respect for the rule of law and human dignity.

Relevant indicators to assess the threat to life, physical integrity or freedom resulting from events seriously disturbing public order include: (i) high rates of murders, disappearances, attacks, kidnappings, sexual, gender-based and other forms of violence, particularly in areas where gangs are active (see Section II.B); and (ii) the number of people who have been forcibly displaced due to criminal violence, whether in urban or in rural settings (see Section II.C.2); (iii) the extensive measures of control, including social, economic, and political control, over local populations by gangs in certain parts of the country, including by means of threats, intimidation and extortion, thereby seriously affecting the State’s ability to provide protection; (iv) the ability of gangs and other organized criminal groups and government officials to commit violent crimes, extortion and a range of human rights abuses with impunity; (v) the forced recruitment of youth and others by gangs; (vi) the impact of organized criminal violence on the humanitarian situation as manifested by poverty and the systematic undermining of livelihoods in urban and rural settings; and (vii) systematic constraints on access to education and other basic services as a result of insecurity.

Against this background, UNHCR considers that individuals who have been found not to meet the
refugee criteria contained in the 1951 Convention and who originate from areas where organized criminal groups, particularly gangs, have a strong presence and are operating, may, depending on the individual circumstances of the case, be in need of international protection under UNHCR’s broader mandate criteria on the grounds of serious threats to life, physical integrity or freedom resulting from events seriously disturbing public order.

2. **Refugee Status under the Cartagena Declaration**

Salvadorian asylum-seekers who seek international protection in any of the countries that have incorporated the refugee definition included in the 1984 Cartagena Declaration on Refugees (Cartagena Declaration)\(^{349}\) into their national legislation may qualify for refugee status on the grounds that their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances that have seriously disturbed public order.\(^{350}\)

Following similar considerations as for UNHCR’s broader mandate criteria, UNHCR considers that individuals who have been found not to meet the refugee criteria contained in the 1951 Convention but who originate from areas in El Salvador controlled by gangs or where gangs otherwise have a strong presence and are operating, may, depending on the individual circumstances of the case, be in need of international protection under the terms of the refugee definition of the Cartagena Declaration, on the grounds that their lives, safety or freedom were threatened by one or more of the objective situations listed in that definition. Whether these criteria are met in a specific area needs to be assessed in each case at the time of adjudication.

3. **Refugee Status under Article I(2) of the 1969 OAU Convention**

For the same reasons as above, UNHCR considers that individuals who have been found not to meet the refugee criteria contained in the 1951 Convention but who originate from areas in El Salvador where street gangs have a strong presence and are operating, may, depending on the individual circumstances of the case, be in need of international protection under the terms of Article I(2) of the 1969 Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Convention).\(^{351}\)

4. **Eligibility for Subsidiary Protection under the EU Qualification Directive**

Persons originating from El Salvador who seek international protection in Member States of the European Union and who are found not to be refugees under the 1951 Convention may qualify for subsidiary protection under Article 15 of the Qualification Directive (recast), if there are substantial grounds for believing that they would face a real risk of serious harm in El Salvador.\(^{352}\)

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\(^{349}\) *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984, [http://www.refworld.org/docid/3ae6b36ec.html](http://www.refworld.org/docid/3ae6b36ec.html).* Unlike the OAU Convention [see below], the Cartagena Declaration is not a binding legal instrument; its provisions acquire the force of law only through incorporation in national legislation. For guidance on the interpretation of the Refugee Definition in the Cartagena Declaration, see: UNHCR, *Summary Conclusions on the Interpretation of the Extended Refugee Definition in the 1984 Cartagena Declaration; Roundtable 15 and 16 October 2013, Montevideo, Uruguay, 7 July 2014, [http://www.refworld.org/docid/53e52e7d4.html](http://www.refworld.org/docid/53e52e7d4.html).

\(^{350}\) *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984, [http://www.refworld.org/docid/3ae6b36ec.html](http://www.refworld.org/docid/3ae6b36ec.html), para. III(3).*

\(^{351}\) *Organization of African Unity, Convention Governing the Specific Aspects of Refugee Problems in Africa ("OAU Convention"), 10 September 1969, 1001 UN Treaty Series 45, [http://www.refworld.org/docid/3ae6b36018.html](http://www.refworld.org/docid/3ae6b36018.html).*

\(^{352}\) Serious harm for the purposes of the Qualification Directive is defined as (a) the death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or (c) serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict. European Union, *Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), 13 December 2011, [http://www.refworld.org/docid/4f06fa5e2.html](http://www.refworld.org/docid/4f06fa5e2.html), Articles 2(1), 15.* In light of the information presented in these Protection Considerations, applicants may, depending on the individual circumstances of the case, be in need of
In light of the information provided in Section II above, UNHCR considers that most if not all violence in Salvadorian society is discriminate, targeting specific individuals or groups of individuals for specific reasons. Where these reasons are related to one or more of the 1951 Convention grounds, it is appropriate to consider eligibility for refugee status under the 1951 Convention. In these circumstances, the need to consider eligibility for international protection under Article 15(c) of the Qualification Directive (recast) is unlikely to arise.

C. Considerations Relating to the Application of an Internal Flight or Relocation Alternative

Assessment of the possibility of the application of an internal flight or relocation alternative (IFA/IRA) requires an evaluation of the relevance as well as reasonableness of the proposed IFA/IRA.\(^\text{353}\)

1. Relevance of IFA/IRA

Where the claimant has a well-founded fear of persecution at the hands of the State and/or its agents, there is a presumption that consideration of an IFA/IRA is not relevant.

Where the agents of persecution are non-State agents, consideration must be given to whether the persecutor is likely to pursue the claimant in the proposed area of relocation. Considering the small territorial size of El Salvador, and given the ability of the gangs and other organized criminal groups to operate country-wide, and indeed internationally – both independently and as part of international criminal networks – a viable IFA/IRA is unlikely to be available to individuals at risk of being pursued by such actors. It is particularly important to note the operational capacity of certain organized structures, particularly the MS and B-18 and the larger smuggling structures, to carry out attacks in any part of El Salvador, irrespective of territorial control of the specific zone. Further consideration should be given to: (i) the reach and ability of organized criminal networks to trace and target individuals, both in rural areas and in urban centres, including in the capital city of San Salvador, and including individuals who are covered by State-run protection programmes; (ii) the profile of the asylum-seeker and the existence of any reasonable grounds to believe that he or she will be traced and targeted; and (iii) the profile of the asylum-seeker and the existence of any reasonable grounds to believe that he or she will attract adverse attention and be targeted anew by organized criminal groups, especially gangs, that control the proposed area of relocation or which have a strong presence and operate there.

2. Reasonableness of IFA/IRA

Whether an IFA/IRA is “reasonable” is determined on a case-by-case basis, taking into account the personal circumstances of the applicant, including the impact of any past persecution.\(^\text{354}\) Other factors that must be taken into account include the safety and security situation in the proposed area of relocation; respect for human rights in that area, and the possibilities for economic survival,\(^\text{355}\) in order to evaluate whether the individual would be able to live a relatively normal life without undue hardship in the area of relocation, given his or her situation.

UNHCR considers that particular attention must be given to: (i) the level of violence and general security conditions in the area of proposed relocation, including the presence of organized criminal


\(^{354}\) Ibid., paras 24, 27-30.

\(^{355}\) Ibid., paras 33-35.
groups; (ii) the scale of forced displacement in the area of proposed relocation; (iii) the availability of basic infrastructure and access to essential services in the proposed area of relocation; (iv) the availability of housing in the proposed area of relocation; (v) the presence of livelihood opportunities in the proposed area of relocation; (vi) the general lack of government support for persons displaced by the violence; (vii) the extent to which the applicant can expect to receive genuine support from any members of his or her (extended) family who may be living there and, for women and children, the possible impact of widespread domestic violence and abuse; and (viii) the overall sustainability of the relocation in light of the fact that displaced persons in El Salvador are frequently forced to displace multiple times.

D. Exclusion from International Refugee Protection

Among nationals or habitual residents of El Salvador seeking international protection, there may be individuals who have been associated with acts falling within the scope of the exclusion clauses provided for in Article 1F of the 1951 Convention. 356 Exclusion considerations would be triggered, in particular, in cases involving possible participation in acts of violence, including extortion, robbery, murder, homicide, violent assaults, rape, prostitution, kidnapping and trafficking in people, drugs and arms, and other violent crimes. In all such cases, it will be necessary to examine carefully any issues of individual responsibility for crimes which may give rise to exclusion from international refugee protection. Given the potentially serious consequences of exclusion from international refugee protection, the exclusion clauses need to be interpreted restrictively and applied with caution. Mere membership in a criminal group or organization is not a sufficient basis to exclude. A full assessment of the circumstances of the individual case is required in all cases. 357

In view of the particular circumstances and vulnerabilities of children, the application of the exclusion clauses to children needs to be exercised with great caution. 358 Where children associated with a gang or other organized criminal group are alleged to have committed crimes, it is important to bear in mind that they may be victims of offences against international law and not just perpetrators. 359


357 In some cases, individual responsibility for excludable acts may be presumed if membership and participation in the activities of a particularly violent group is voluntary. Detailed guidance on the interpretation and application of Article 1F of the 1951 Convention can be found in UNHCR, Guidelines on International Protection No. 5: Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees, HCR/GIP/03/05, 4 September 2003, http://www.refworld.org/docid/3f5857684.html; and Background Note on the Application of the Exclusion Clauses: Article 1F of the 1951 Convention Relating to the Status of Refugees, 4 September 2003, http://www.refworld.org/docid/3f5857d24.html.

358 For further guidance on the application of the exclusion clauses to children, see UNHCR, Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, HCR/GIP/09/08, 22 December 2009, http://www.refworld.org/docid/4b24f6d2.html, paras 58-64.

359 The Paris Principles, which concern children associated with armed forces or armed groups, provide useful guidance by analogy for children associated with gangs. The Principles state: “Children who are accused of crimes under international law allegedly committed while they were associated with armed forces or armed groups should be considered primarily as victims of offences against international law; not only as perpetrators. They must be treated in accordance with international law in a framework of restorative justice and social rehabilitation, consistent with international law which offers children special protection through numerous agreements and principles”. See UNICEF, The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, February 2007, http://www.refworld.org/docid/465198442.html, paras 3.6 and 3.7
TAB 10
UNHCR – UN High Commissioner for Refugees

Stabbed 58 times, transgender woman flees El Salvador

With red hair, carefully made up and dressed in feminine attire, Neila stood out in the gang-ravaged El Salvador neighbourhood where she was born a man.

She put up with the taunts, jeers and insults over her gender identity for years, but it was a fourth savage knife attack that finally drove the 26-year-old beautician to flee for her life.

"This is all because my gender identity differs from what is traditional," said Neila, who was stabbed 58 times in the attacks, which left her with a necklace of scarring around her throat and slash wounds to her arm.

Now living in a shared room in this city in southern Mexico, she is among a growing number of lesbian, gay, bisexual, transgender and intersex (LGBTI) people from Central America's so-called "Northern Triangle" countries of El Salvador, Guatemala and Honduras who are fleeing assaults and harassment for safety in neighbouring countries.

Between January 2013 and March 2014, at least 594 people who were either LGBTI or were perceived to be so, were killed across the Americas, while another 176 were victims of serious physical assaults, according to a study by the Inter-American Commission on Human Rights (IACHR).

In Honduras, LGBTI activists have reported at least 190 murders in the last five years. In Neila's native El Salvador, meanwhile, the non-profit "Entre Amigos" reported that 11 LGBTI people were murdered in 2008, 23 in 2009 and 10 in 2010. Corpses frequently showed signs of assault, torture and rape.

A surge in gang-related violence, and crimes including rape and extortion, drove more than 29,000 people to flee Honduras, El Salvador and Guatemala last year and apply for refugee status in 2014 in other countries in the region - and among them were a growing number of LGBTI people, the UN Refugee Agency said.

"In the past three years, we have seen a major increase in the number of people from the LGBTI community who are fleeing gender-based persecution in the Northern Triangle of Central America," said Mark Manly, UNHCR Representative in Mexico.

"Gays, lesbians, and particularly transgender women have become targets for the criminal networks that control many neighbourhoods. Others have suffered serious abuse and discrimination within their families or their communities," he added.

So far this year, 13 per cent of the cases assisted by UNHCR's field office in Tapachula were from the LGBTI community. "Our objective is to ensure that they have information on the possibility of seeking asylum in Mexico, access to the determination procedure, as well as safe and dignified living conditions," Manly said. "If they find protection in southern Mexico, they can avoid the extreme danger faced by migrants who travel north in the hopes of entering the United States".

To that end, Mexico has included persecution based on gender as a fifth factor for recognizing refugee status, said Manly, and the UNHCR has actively advocated in the region for states to guarantee the safety of people fleeing discrimination based on their sexual orientation.

After working as a prostitute to raise the funds needed to flee El Salvador, Neila endured a spell on the streets of Tapachula before two friends helped her with food and water and brought her to UNHCR's attention.

For now, her bed is a piece of cardboard on the floor of a room she shares with five others. Her wardrobe is a string hanging from the wall. She subsists on prepaid rationing cards provided by the UN Refugee Agency as she waits to see if she will be granted refugee status in Mexico.
She trusts no-one, she said, and is afraid to move too far from the security of the room she shares. She longs to see her family - her mother, she said, was always supportive of her sexual identity - and worries about their safety back at home in El Salvador.

"I miss my family, and every day I fear for their lives because my mother was witness to a murder while she was selling sandals on the street," she said. "But there is no way to get them out of there."

doc: ecoinet summary: More than 29,000 people fled Honduras, El Salvador and Guatemala in 2014 due to a surge in gang-related violence and applied for refugee status in other countries in the region; among them were a growing number of LGBTI people

Countries: El Salvador, Guatemala, Honduras

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TAB 11
Women on the Run

First-hand accounts of refugees fleeing El Salvador, Guatemala, Honduras, and Mexico

A study conducted by the United Nations High Commissioner for Refugees
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EXECUTIVE SUMMARY

Today, we are confronted with a global refugee crisis of unprecedented levels, a crisis that, as shown in this report, deeply affects the Western Hemisphere. No one knows this better than those fleeing epidemic levels of violence, including gender-based violence, in El Salvador, Guatemala, and Honduras. Research conducted over four months found that women face a startling degree of violence that has a devastating impact on their daily lives. With no protection at home, women flee to protect themselves and their children from murder, extortion, and rape. They present a clear need for international protection. Based on US Department of Homeland Security data covering FY 2015, of the thousands of women and girls from these countries who expressed a fear of being returned to their home country and were subject to the credible fear screening process, US authorities have found that a large percentage have a significant possibility of establishing eligibility for asylum or protection under the Convention against Torture.2

A surging tide of violence sweeping across El Salvador, Guatemala, and Honduras forces thousands of women, men, and children to leave their homes every month. This region of Central America, known as the Northern Triangle (“Northern Triangle of Central America” or “NTCA”), is one of the most dangerous places on earth.3 The region has come under increasing control by sophisticated, organized criminal armed groups, often with transnational reach, driving up rates of murder, gender-based violence, and other forms of serious harm. According to data from the UN Office on Drugs and Crime, Honduras ranks first, El Salvador fifth, and Guatemala sixth for rates of homicide globally.4 Furthermore, El Salvador, Guatemala, and Honduras rank first, third, and seventh, respectively, for rates of female homicides globally.5 In large parts of the territory, the violence has surpassed governments’ abilities to protect victims and provide redress.6 Certain parts of Mexico face similar challenges.7

Over the last few years, there has been a sharp escalation in the number of people fleeing the NTCA. In 2014, tens of thousands sought asylum in the United States,8 and the number of women crossing the US border was nearly three times higher than in 2013.9 Others have fled to neighboring countries. Combined, Mexico, Belize, Costa Rica, Nicaragua, and Panama have seen the number of asylum applications from citizens fleeing the NTCA grow to nearly 13 times what it was in 2008.10 An alarming feature of this refugee crisis is the number of children fleeing home, with their mothers or alone. Over 66,000 unaccompanied and separated children11 from the NTCA reached the United States in 2014.12 The number of children
traveling with their mothers is comparable: recent US Government statistics show that over 66,000 families arrived to the United States in fiscal year 2014. Since 2014, countries of asylum have exerted significant efforts to intensify border control measures with a view to containing this phenomenon. However, at the end of August 2015, the United States Government recorded more unaccompanied children arriving to the United States than in the same month in 2014, and the number of family arrivals at the close of financial year 2015 is the second largest on record.14

This report provides first-hand accounts of the severity of the protection crisis in the NTCA and Mexico. The United Nations High Commissioner for Refugees (UNHCR) interviewed 160 women from these countries in the US from June to August 2015. Though these women do not represent a statistical sample of refugees from this region, they have all been either recognized as refugees or have been screened by the US Government to have a credible or reasonable fear of persecution or torture.15
Escalating Violence against Women

Women interviewed for this report indicated that they and their children face extreme levels of violence on a near-daily basis. They described being raped, assaulted, extorted, and threatened by members of criminal armed groups, including gangs and drug cartels. Eighty-five per cent of the women described living in neighborhoods under the control of maras (criminal armed groups prevalent in the NTCA) or other transnational or local criminal groups.

Sixty-four per cent of the women described being the targets of direct threats and attacks by members of criminal armed groups as at least one of the primary reasons for their flight. Women also described incidents in which gang members murdered or were responsible for the forced disappearance of a loved one (e.g. a child, partner, or other close relative). Many were asked to pay a cuota, or “tax,” for living or commuting to work in a certain area, and threatened with physical harm if they could not pay.

Women emphasized that the presence of criminal armed groups in their neighborhoods had a deep impact on their daily lives. Women increasingly barricaded themselves and their children inside their homes, unable to go to school or work fearing gunfights or direct threats from armed groups. Sixty-two per cent of women reported that they were confronted with dead bodies in their neighborhoods and a number of women mentioned that they and their children saw dead bodies weekly.

Living in an environment of escalating violence, women spoke of multiple instances of threats, extortion, and physical or sexual assault over extended periods. In some instances, the harm became so intolerable that they had no choice but to flee. In other cases, a particular event prompted their immediate departure, sometimes within hours of an attack occurring.

For many of the women interviewed, the increasing violence from criminal armed groups occurred alongside repeated physical and sexual violence at home. Women described life-threatening and degrading forms of domestic violence, including repeated rapes, sexual assaults, and violent physical abuse, such as beatings with baseball bats and other weapons. Women repeatedly emphasized that the police could not protect them from harm. In fact, many of the women’s abusive partners were members or associates of the criminal armed groups, making it even harder to seek protection from the authorities.

No Safety at Home

The women interviewed for this report were unable to find safety at home. All three countries in the NTCA have passed legislation addressing violence against women. Nonetheless, the women consistently stated that police and other state law enforcement authorities were not able to provide sufficient protection from the violence. More than two-thirds tried to find safety by fleeing elsewhere in their own country, but said this did not ultimately help.

Sixty per cent of the women interviewed reported attacks, sexual assaults, rapes, or threats to the police or other authorities. All of those women said that they received inadequate protection or no protection at all.

Forty per cent of the women interviewed for this study did not report harm to the police; they viewed the process of reporting to the authorities as futile. Some had seen the police fail to provide sufficient responses to family or friends who had made reports. Others felt that criminal armed groups maintained such tight control of their neighborhoods that the police were unable to intervene effectively on their behalf.
Ten per cent of the women interviewed stated that the police or other authorities were the direct source of their harm in their home countries. In certain instances, women described collusion between the police and criminal armed groups. Several women from NTCA countries who worked for the police themselves or who had family members working with the police said refusal to collaborate with maras resulted in gang members threatening or attacking them or their families. Women emphasized that this atmosphere made it very difficult to seek protection.

Sixty nine per cent of the women interviewed for this report attempted to find safety by going into hiding in other parts of their home countries. Women moved to other neighborhoods, often moving in with family members or close friends. Many tried to remain invisible by constantly barricading themselves and their children inside the home. Yet women repeatedly stated that members of criminal armed groups were able to track them when they moved, and emphasized that even in new locations, they continued to experience similar levels of violence.

Women fleeing some parts of Mexico reported problems similar to those of women fleeing the NTCA (although to differing degrees). Indeed, in 2014 Mexicans constituted the largest nationality seeking asylum in the United States. Mexico faces a complex situation, as it is simultaneously a country of origin, a country of transit, and a country of asylum.
Mexican women interviewed for this report fled areas under some degree of control by transnational criminal gangs. Women reported being raped, assaulted, and threatened by members of these groups. And, like women from the NTCA, some Mexican women described severe domestic violence. Although Mexico has taken significant steps in enacting national legislation to address violence against women, Mexican women interviewed for this report reflected a lack of trust in the authorities’ capacity to respond in those areas from which they fled.

UNHCR interviewed 15 transgender women from Mexico, El Salvador, and Honduras for this report. They described similar experiences of gender-based violence and lack of police protection, yet their gender identity further exacerbated the level of violence they experienced. They relayed recurrent discrimination, beatings, and attacks from family members, romantic partners, clients or employers, and others.

Fleeing to Find Refuge

All the women interviewed for this report were forced to leave their countries to escape persecution, yet the journey itself, through Guatemala and Mexico, presented its own set of challenges. Women reported paying high fees to smugglers, and being victims of extortion throughout their flight, particularly near the US/Mexico border.

Several women from the NTCA mentioned that they took contraceptives before traveling, in order to reduce the possibility of becoming pregnant if they were raped during flight. Despite precautions, many women reported that coyotes sexually or physically abused them during transit. The women interviewed for this report suffered serious, targeted human rights violations related to protected grounds under the 1951 Convention relating to the Status of Refugees. Given the demonstrated fear of persecution, and in the absence of effective State protection, many of the claims for international protection of women interviewed for this report are likely, upon individual determination, to fall within the scope of the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and related jurisprudence. Their stories are not atypical: thousands of women fleeing this region may be facing similar hardships. Countries hosting refugees from this emerging crisis should ensure that each woman has the opportunity to present her case for asylum.
RECOMMENDATIONS

The growing refugee situation originating from the NTCA and Mexico requires a comprehensive regional approach. Governments have a duty to manage migration, and must do so using policies that protect human lives and ensure that individuals fleeing persecution can find safety, acknowledging that border security and refugee protection are not mutually exclusive.
Make Saving Lives the Top Priority

UNHCR calls on governments in the region to:

- Ensure that all steps taken to manage this situation are in strict accordance with refugee law, including the fundamental principle of non-refoulement.
- Ensure that all migration policies protect people’s legal right to seek asylum, and refrain from using detention as a deterrent.
- Provide safe and legal avenues to asylum so that individuals fleeing their countries do not have to turn to people smugglers.

Reinforce Host Country Capacity to Provide Refuge

UNHCR calls on governments in the region to:

- Set in place or reinforce individualized screening procedures to identify the specific protection needs of all those arriving.
- Ensure that individuals in need of refugee protection can access adequate and humane reception conditions, including by:
  - Reinforcing shelter availability appropriate for particularly vulnerable groups, including transgender women and unaccompanied children.
  - Strengthening alternatives to detention, including various forms of reporting requirements, community and supervision schemes, and accommodation in designated reception centers with guaranteed freedom of movement. Such alternatives have proven to be far more cost-effective than detention.
  - Avoiding the use of unnecessary immigration detention and other punitive measures. Deprivation of liberty must be a last resort used only after individualized determination, and the best interests of the child must guide all actions taken in regard to children.
- Bolster efforts to ensure access to fair and efficient asylum procedures, including by:
  - Ensuring asylum-seekers, and in particular unaccompanied children, have access to legal assistance and information on the right to seek asylum.
  - Providing the necessary resources for domestic adjudication processes to resolve cases in a timely manner.
• Allowing for deportation of those who are not found to be in need of protection in a manner that ensures the return is carried out with safety and dignity.
• Training adjudicators on the application of refugee law to people fleeing the NTCA and parts of Mexico, with particular focus on profiles of individuals at heightened risk of persecution such as women subject to gender-based violence, transgender women, and unaccompanied children.
• Promote durable solutions and collaborate to share responsibility for refugee protection in the region, including through refugee resettlement as a strategic and/or emergency protection tool for refugees at a heightened risk.

**Address Root Causes of Displacement**

UNHCR calls on governments in the region to:
• Redouble efforts to formulate political solutions that address “push factors” and the root causes of refugee flows.
• Expand efforts to prosecute traffickers and smugglers while fully respecting the rights of victims.

### WHAT WOMEN WOULD SAY TO GOVERNMENTS

“I think they should combat the gangs. If they catch gang members, don’t let them go.”  
– Salvadoran woman

“I’d tell them to work more on security and see what solutions they can provide to break apart the gangs and traffickers. These are the groups who have arrived and ruined everything.”  
– Honduran woman

“Get a president who respects the laws and cares about women’s rights, especially victims of abuse, whatever abuse. Even though many laws exist to protect us, they don’t enforce them. They only exist in name.”  
– Guatemalan woman

“Mexico should create safety and protect women better.”  
– Mexican woman

“[The US] is the only country near us that can protect us. It’s the nearest to us that actually enforces its laws.”  
– Salvadoran woman

“Thank you. I think the US has helped a lot of people who entered this country out of necessity, fleeing from countries all over the world. We’re thankful for the opportunity. I’m thankful I get to be part of this.”  
– Salvadoran woman

“To the US Government, I’d say that those places [detention centers] shouldn’t exist. We aren’t criminals, we aren’t here to hurt others, we’re hard-working people.”  
– Guatemalan woman

“The US leaders should think about how they would treat their own mothers. We just want to protect our children. The gang members are forcibly recruiting the young people – especially young men. And the US Government does not understand this. This is one of the reasons I had to leave, to protect my sons.”  
– Honduran woman

“The US Government should listen closely to the stories of people fleeing their countries, because they are leaving out of great necessity.”  
– Salvadoran woman
METHODOLOGY

UNHCR conducted this report between April and September 2015 to provide detailed analysis of why women are fleeing El Salvador, Guatemala, Honduras, and Mexico.

This report follows up on two 2014 studies, which examined why unaccompanied children fled NTCA countries and Mexico. In *Children on the Run*, UNHCR research indicated that 58 per cent of the 404 children interviewed in the United States presented protection concerns, and that if not allowed to lodge an asylum claim, they could face harm if returned home. In *Uprooted*, UNHCR research found that nearly 50 per cent of the children interviewed at Mexico’s southern border identified specific incidents of beatings, intimidation, threats, and insecurity as a reason for leaving the NTCA. Two overarching patterns of harm related to international protection needs emerged in their first-hand accounts: violence by organized criminal armed groups and violence in the home.

For this report, UNHCR sought to interview women age 18 or older with El Salvadoran, Guatemalan, Honduran, or Mexican nationality. All the women interviewed had most recently entered the United States on or after 1 October 2013. In order to understand women’s reasons for flight, UNHCR chose to focus the interviews for this report on women who had passed either a credible or reasonable fear screening with a US asylum officer, or had been granted some form of protection in the United States (such as asylum).

The design and implementation of the survey were guided by the principles of confidentiality and voluntary and informed participation. UNHCR distributed a notice to the US Government, and subsequently identified and arranged interviews with women who met the parameters described above. UNHCR requested and obtained access to 11 US Immigration and Customs Enforcement (ICE) detention facilities nationwide. UNHCR distributed sign-up sheets in each location in advance to allow women to learn about the project and sign up for an interview slot. UNHCR also coordinated with legal service providers in the majority of the facilities to identify interview candidates. A majority of the women were interviewed while in ICE custody; all interviews took place in spaces that met the confidentiality requirements of the project.

The interview process included two components: first, a comprehensive informed consent process to outline UNHCR’s mandate, the purpose of the survey, and the rights of interviewees, and then a one-on-one interview with a UNHCR team member. While an option for telephonic interpretation was offered to each woman at the outset to ensure that the interview took place in a language in which she was comfortable, none of the women made use of this service. All of the 160 interviews were conducted in Spanish. Upon the request of some women interviewed in non-detained settings, lawyers were present during the interviews as observers.

To supplement the women’s voices, UNHCR conducted an extensive literature review and consulted with experts on both patterns of asylum and country conditions.
This report is based on in-depth, individual interviews conducted by UNHCR in August and September 2015 with 160 women. The women ranged in age from 18 to 57. 63 women were from El Salvador, 30 from Guatemala, 30 from Honduras, and 37 from Mexico.

Of the individuals interviewed, 15 are transgender women. Sixty-seven per cent of the women interviewed are mothers. Of those mothers, 36 per cent traveled with at least one of their children to the United States. Seven per cent of the women traveled with a partner or spouse.

Ninety-three per cent of the women had passed their credible or reasonable fear interviews – the first step in accessing asylum procedures in the United States.24 The remaining seven per cent of women had been granted asylum, withholding of removal, or protection under the Convention against Torture in the United States. Every woman indicated that she fled her country in the pursuit of protection that she could not receive in her home country.

Ninety-four per cent of the women interviewed were being held in US detention facilities at the time of the interview; 25 per cent had been in detention for less than one month, 27 per cent had been in detention for one to three months, and 41 per cent had been in detention for more than three months.
The women from El Salvador, Honduras, and Guatemala interviewed for this report spoke of pervasive and systemic levels of violence, connected to increasing territorial influence of criminal armed groups from which it was nearly impossible to find reprieve. Women from certain parts of Mexico reported similar issues. In fact, 136 of the 160 women interviewed (from all four countries) stated that they lived in neighborhoods controlled by criminal armed groups.

In 2014, governments of Latin America and the Caribbean, in cooperation with UNHCR, established the Brazil Plan of Action to address forced displacement and statelessness in the Americas, including a prevention program to strengthen national protection and assistance mechanisms for populations in NTCA countries. As a complementary action, the presidents of El Salvador, Guatemala, and Honduras unveiled the Alliance for Prosperity, a coordinated plan amongst the three countries to address the underlying conditions that motivate people to leave their countries. The goals of the initiative are to energize social and economic development, promote settlement of migrant populations in their own communities, and implement long-term measures to respond to the underlying causes of displacement. The three governments have made progress on some of those commitments and have requested a combined USD $2.857 billion in funding for 2016 to support their plan. The US has taken significant steps to support these initiatives and develop further means of addressing root causes of displacement in the region.

However, the testimonies of 160 women emphasize that these long-term efforts have not curbed root causes of displacement or addressed the urgent humanitarian need. The women from the NTCA reported multiple reasons for flight. Many women spoke of severe instances of violence due to maras or other criminal armed groups, including assaults, extortion, and disappearances or murder of family members. Likewise, many women described brutal domestic violence. Many emphasized that being women compounded the difficulties they faced; this was especially true for transgender women. Sixty per cent of those interviewed reported harm to the relevant authorities, but received inadequate protection; 40 per cent believed a police report would be ineffective or make matters worse and never sought protection from the authorities. Women from Mexico reported similar patterns of concerns, although, as discussed below, with differing levels of severity.
Violence and Insecurity Due to Criminal Armed Groups

The violence that women are fleeing from in the NTCA stems from increasing territorial control by organized criminal armed groups. Mara Salvatrucha (MS-13) and 18th Street (M-18), the two most powerful gangs in Central America, alongside other groups, engage in brutal killings, assaults, robberies, and widespread extortion. Murder rates in the region are among the highest in the world: according to data from the UN Office on Drugs and Crime, Honduras ranks first, El Salvador fifth, and Guatemala sixth. Impunity for murder and violent crime is widespread, reflecting inadequate government capacity to provide safety, especially for women. In fact, El Salvador, Guatemala, and Honduras rank first, third, and seventh, respectively, for rates of female homicides globally.

Women interviewed emphasized that increasing power of gangs and other criminal groups posed particular dangers for women. Nelly, a young Honduran woman, said: “The gangs treat women much worse than men. They want us to join as members, but then women are also threatened to be gang members’ ‘girlfriends,’ and it’s never just sex with the one; it’s forced sex with all of them. Women are raped by them, tortured by them, abused by them.”

In the NTCA countries, the presence of criminal armed groups is pervasive and difficult for the government to control. Recent estimates suggest that there are 20,000 gang members in El Salvador, 12,000 in Honduras, and 22,000 in Guatemala. Central American “mano dura” (“iron fist”) policies involved large-scale government efforts to crack down on gang violence, but recent data shows their effectiveness has been limited. El Salvador, in particular, is facing the highest rates of murder since the end of the civil war in 1992. Police and their family members are now specifically targeted.

The women interviewed for this report emphasized that the presence of gangs and cartels had a deep imprint on their daily lives. Approximately 62 per cent of the women reported having directly witnessed violent crime in their communities. Roughly the same percentage (62 per cent) of the women had seen dead bodies in their neighborhoods. A number of women mentioned they came across dead bodies on at least a weekly basis. Women described increasingly barricading themselves and their children inside their homes, avoiding certain areas and not taking public transit, being unable to leave the home to commute to work or school to hide from gun fights, and keeping children inside after the children had witnessed acts of violence or death. One Guatemalan woman said, “In the local market, the people from the cartel put the dead body of a woman on public display to strike fear into everyone.”

For a number of the women interviewed, residing in this type of environment led directly to the targeted threats or violence that precipitated their flight. Nearly every woman spoke of multiple traumas throughout her life. In some cases, the harm worsened or compounded over time until they reached a “breaking point” and realized they had to leave as soon as possible. In other cases, a particular event forced women to flee immediately, sometimes within a few hours following a threat or attack.

Brutal Domestic Violence

The increased activity of criminal armed groups and accompanying violence has occurred in societies already affected by high rates of violence...
against women.\textsuperscript{41} Domestic violence in the three Central American countries is commonplace and is rarely discussed openly.\textsuperscript{42}

A common theme among women interviewed was that, due to their gender, they were both targets of violence and unable to find adequate protection. As Claudia, a Salvadoran woman who suffered domestic violence at the hands of her gang-affiliated husband, explained: “The whole reason I was in danger was because I was a woman. A man feels like he is entitled to physical and emotional power over you.”

All three NTCA countries have made some effort to put in place laws to protect women from Sexual and Gender Based Violence.\textsuperscript{43} Yet the legal frameworks offer only limited protection to women and have not been effectively implemented, according to US Department of State reports.\textsuperscript{44} Under-reporting of instances of severe harm, as well as the widespread impunity for acts of violence, are pervasive examples of the lack of trust in government institutions and point to the basic structural challenges to rule of law, citizen security, and justice.\textsuperscript{45}

**Violence in Mexico**

According to women who participated in this report, some of the problems women face in the NTCA are reflected in certain parts of Mexico. Women interviewed for this report came from areas under the influence of criminal armed groups, and often encountered problems securing protection from police or other state authorities. Notably, in 2014, Mexico surpassed China as the country with the highest number of nationals requesting asylum in the United States.\textsuperscript{46}

Lana, a Mexican woman, described how, as a woman, she experienced life in her village of origin: “Everything affects you because there, a
woman is worthless. It is as though your life is not worth anything. They [cartel members] rape. There is no limit. There is no authority. There is no one to stop them.”

In recent years, Mexican drug cartels have extended their reach towards Central America and have increasing built links with major criminal armed groups there, including MS-13 and M-18. Cartels fighting over drug route control has been a significant source of violence, leading to more than 80,000 deaths in Mexico since 2006. Police and judicial corruption, as well as a lack of structural and institutional capacity, leaves many citizens without legal recourse or protection against violence by cartels. The US Department of State observes that significant problems with violence against women persist in Mexico, with forced disappearances and sexual violence particular issues in the border regions.

Mexico has passed several laws intended to give women the right to equality and a life free of violence, and all 32 Mexican States have created and passed their own laws to address violence against women. However, reporting remains low: reports by the United Nations, nongovernmental organizations, and the US Department of State indicate various causes for low reporting of rates of violence against women, including authorities’ ineffective approach to victims, and a perception that cases will not be prosecuted.

Indeed, Mexican women interviewed for this report reflected a lack of trust in the authorities’ response in certain parts of Mexico. One young woman said the police did “nothing” when her brother was kidnapped, therefore, she subsequently “didn’t report when the police beat and raped me because I was afraid.”
**Direct Harm by Criminal Armed Groups**

More than 60 per cent of women interviewed for this report described direct threats and attacks by various criminal armed groups as at least one of the primary reasons for their flight.

Some women described incidents in which criminal armed groups forcibly disappeared or murdered a loved one, whether a spouse, child, parent, sibling, or other relative or close friend. These cases generally involved threats or extortion. In other cases, women themselves received death threats from criminal armed groups after an attack on a family member, and fled to avoid harm to themselves or other remaining family members.

In many cases, the woman in question did not know why she received direct threats or why criminal armed groups had targeted family members for disappearance or death. Many of the women’s partners or other family members had not shared what was occurring; thus, the disappearance or murder was the first, and tragic, indication. Yet many women concluded that they could not be safe in their home countries after experiencing the death or disappearance of a family member, a sentiment compounded by the unwillingness or inability of the police or other authorities to provide protection.

Indigenous women faced particularly high rates of violence, including sexual violence, from criminal armed groups: of the 15 indigenous women interviewed for this report, 12 reported that they had been physically abused and 11 sexually abused. One indigenous woman from...
Honduras, for example, said: “The gang members were persecuting and threatening me…. They used to tell me that they were going to kill me and my children… they had already killed two of [my friend’s] brothers, because he was a gang member…. They were upset with the father of my children and wanted money.”

**Threats or Attacks after Failure to Pay Extortion Fees**

Many women living in areas with widespread presence of criminal armed groups fled in part because they were constantly subject to extortion, with escalating physical threats if they were unable to pay. Some women reported they were asked to pay a *cuota* for working, living, or transiting an area. Others reported being asked to pay ransom for the return of a kidnapped loved one. Sometimes after the payment of a hefty fee, the loved one was released to the care of the family, but more often than not, the kidnapped family member never returned home.

Velma, a woman from an area of Mexico with a heavy presence of criminal armed groups, was asked for ransom when her sister was kidnapped. Velma paid the first two installments, but missed the third. She reported that the cartel sent a letter threatening that she had 12 hours to leave town or she would be killed. Velma fled that day, as she was unable to pay. She has never heard from her sister again, and presumes she was killed.

In NTCA countries, many women were targeted for extortion if they or their family were viewed or perceived as (even moderately) successful. Gloria, a Honduran woman, made and sold small amounts of food from her house. “I had to stop selling tortillas...
and other foods from my home, because when B18 [a Honduran gang] arrived, they wanted me to pay a certain amount to them, and I could not.”

In other cases, criminal armed groups in the NTCA learned that women had family or friends in the United States who were sending them money, and demanded that they pay high fees. If women missed payments, they received death threats or direct attacks by the criminal armed groups.

Angelica, from Mexico, owed money to a cartel in her area. When she was late on a payment, members of the group “came and took photos of me and my kids, and said they were going to kill me. They even called my mother in New York and told her that I had to pay. So I decided to leave.”

Children Recruited and Killed by Criminal Armed Groups

Some women from NTCA countries reported direct and devastating threats and attacks on their children, and five women reported that their children had been killed. Many more women from this region feared that criminal groups would forcibly recruit or otherwise abuse their children, and this contributed to flight.

Gloria, from Honduras, told UNHCR that members of a criminal armed group abducted her 13-year-old grandson, and “when we finally found his body, it was at the morgue. They had cut his head off, tied his hands and feet, cut him all over.” After her grandson’s death, Gloria and her family fled to another part of the Honduran city where they lived. But they received continuing threats from the same people they believed abducted the boy, and eventually fled the country.

Nelly, a young woman from Honduras, stated that a criminal armed group murdered her nephew (who lived with her) because he refused to be recruited and was suspected of having allegiances to another armed group. “[B18] wanted [my nephew] to join them and said if he did not, that meant he was a member of the other gang, their rival. He refused to join. They increased their threats. After a year… they killed him.” Nelly and her family found the body three days later at the morgue. “We reported the murder to the police, but they never do anything,” Nelly said. “The same police are working at the gang’s side…. They passed our report on to the gang, and the gang knew we’d reported them.” Nelly and her family fled almost immediately. “We decided to move the next day…We knew the gang realized we’d made the report, so we decided to go, because we knew we’d be next.”

Many women reported that they faced direct threats themselves after trying to protect their children from recruitment or abduction. “Gang members tried to recruit my 10-year-old son to sell drugs, and then threatened us when we did not comply,” stated Sara from Guatemala.
Many women described worrying about children they had been forced to leave behind. One El Salvadoran woman, for instance, was only able to bring some of her children with her when she fled. “My daughters are still in El Salvador and I worry for their safety,” she said. “I worry that they will be killed by the gangs. I took my son and grandson to the US so they wouldn’t be recruited into the gangs, but I couldn’t take my daughters as well. I am very worried for them.”

**Targeted for Suspected or Actual Involvement in Rival Criminal Groups**

Women from the NTCA interviewed for this report explained that refusal to join an armed group in their countries might be taken as a sign of allegiance to a rival group. Other inadvertent activities, like being new to a neighborhood or accidentally crossing boundaries between armed groups, could also lead to suspicion of rival gang membership.

In some cases, including in Mexico, women whose family members were involved in criminal armed groups reported also being victims of gangs’ threats. For instance, one woman, whose brother had been reportedly involved with a powerful Mexican cartel, explained that she suffered when her brother decided to collaborate with US law enforcement. The woman and her family noted suspicious people following and monitoring them constantly. They moved many times within the region to find safety, to no avail. One day they returned home to find death threats written on their doorstep, alluding to the brother’s situation. The woman and her family fled to the United States immediately, seeking protection.

**Threats to Police or Government Authorities and Their Family Members**

Several women from NTCA countries said they either worked directly for the police or had a family member who worked with the police or other authorities. According to these women, police officers or government authorities who refused to collaborate with the gangs were threatened, attacked, or killed. Their family members often faced risks of persecution by association. Women explained that threats and attacks on police and other authorities made it very difficult to seek protection and contributed to a generalized feeling of impunity and insecurity.

Norma, the wife of a police officer in El Salvador, faced extortion from a criminal armed group, and then was attacked by four gang members when she refused to pay. “Three of the four raped me,” she said. “They took their turns…. They tied me
by the hands. They stuffed my mouth so I would not scream. They took off my clothing. They then threw me in the trash.” She said it happened because her husband is a policeman, and she worried her children would also be harmed. “They’d kill me. Gangs don’t forgive….I knew if they didn’t harm me, they’d harm my children.” Without any way to find protection, Norma fled to the United States. Even her husband, the policeman, felt powerless to act. “He feels so useless…he wants to protect me, to do whatever he can for me.”

The mother of a police officer in El Salvador described how criminal armed groups threatened her son when he refused to support them. Instead of receiving the protection of his police colleagues, he was punished. “My son went a number of times, he asked his bosses to help him, as a police officer. They in fact lowered him to a lower grade.” The armed groups started threatening her because of her son’s behavior. She, too, sought police protection, but received no meaningful help.

Some women from Mexico also described threats to the police. For instance, Dania, a young Mexican woman, stated that her female neighbor, who worked for the police, was threatened and killed when she refused to work with local cartels. According to Dania, the armed group offered the neighbor 5,000 pesos (approximately US $300) to work with them, but she refused. Dania’s mother offered to hide the neighbor, but “the [cartels] told her that if she didn’t turn herself in, they would start to kill her family.” Dania relayed that the armed group killed the neighbor. “I went to see her body,” said Dania. “They had shot her.”

**Inadequate Protection in Home Countries**

The women interviewed drew a stark picture of their societies where they saw the State as corrupt or inept, working in conjunction with illegal armed actors, or as the direct perpetrators of the harm the women suffered. While examples given by women fleeing the NTCA are particularly severe, women from Mexico also described problems seeking protection.

In the search for protection, 69 per cent of women interviewed moved within their own country, unable to find protection in their home areas. Some moved multiple times, attempting to hide, but none found safety. In many cases, the perpetrators of abuse tracked them or threatened to harm family members if they did not return. Sixty per cent of the women interviewed reported abuse, threats, or other harm to the police but received little help, if any. The rest of the women — 40 per cent — never attempted to file police complaints, having seen friends or family do so to no avail, or simply believing that, given the pervasive presence of criminal armed groups, the police would have no effect.

In fact, 10 per cent of the women interviewed stated that the police or other authorities were the direct source of their harm. Five of the 16 women reported to have suffered direct police abuse were transgender, a group particularly likely to be targeted because of their gender identity. Police collusion with criminal armed groups was one of the most pervasive concerns for the women interviewed. Women described family members or friends in the police who were pressured by illegal groups to collaborate. When they refused to collaborate with the armed groups, these police officers were threatened or killed. Women interviewed had lost trust in the ability of their governments to protect them from the
threats they had experienced and the harm they feared. They simply felt they could not find safety at home. “We cannot go back to Honduras,” said one woman in her late 30s. “They will kill us. With the gangs it is very difficult... The gang members wear the same vests and use the same guns that the police do. How do they get hold of these guns and vests? From the police.”

Women Who Reported Harm to Authorities, But Received Inadequate Protection
All of the women who said they reported persecution to the authorities in the NTCA and Mexico stated that they received no protection or inadequate protection.

Many women viewed the reporting of persecution as an entirely futile process. For instance, Nelly, the young woman from Honduras, reported various incidents around her nephew’s murder to the police, to no avail. She first reported the criminal armed group’s attempted recruitment of her nephew, and received no assistance. Her next complaint to the police was to report that the group had murdered her nephew. “They never do anything,” she said about the authorities. “They’re always contracted by the same gang members. They don’t do anything for people who really need it. They’re only on the side of the gang members.”

Sometimes women were unable to report incidents and threats due to bureaucratic excuses. “I went to the public ministry to file a complaint about [my husband’s abduction] and they told me that I needed to have a document to say I was the wife,” reported one woman from Mexico. “They said they couldn’t do anything.”

Some women, after trying to make official reports, described being threatened by authorities. Natalia, a woman from Michoacán State in Mexico, approached the police about her common-law husband’s disappearance. After witnessing masked men break into her home, abduct her partner, then leave in a federal police vehicle, Natalia contacted authorities to find out whether her partner was being held in custody. He was not. She repeatedly sought information from various authorities. A forensics official showed her a tortured body and told her that this “this is what they do to people who ask too many questions.” When she continued to complain,
authorities told her, “You will only get yourself into problems if you keep it up.” Natalia started receiving direct threats from a powerful criminal cartel and fled to the United States. Her partner was never found.

**Women Who Chose Not to Report to Authorities**

40 per cent of the women interviewed chose not to report harm to the authorities at all, having seen others fail to gain protection in similar circumstances.

Particularly in NTCA countries, some women felt that police were unable to help because the neighborhoods were so controlled by the criminal armed groups. Other women had received direct threats that they or family members would be killed if they went to the authorities. For instance, Sandra, from El Salvador, described direct threats she received after her son-in-law was murdered. “[A] narco and his father began threatening my daughter and me. They are narcos, but are affiliated with [a criminal group]. They thought that I had denounced them to the police after they killed my son-in-law, even though that was not true.…They threatened us multiple times. They would drive by slowly, armed with guns. They also killed a cat and a dog and left them dismembered in front of our house.”

Many women spoke of the collusion of the police with the armed criminal actors. “The police and the maras work together,” said Alexa from El Salvador. “It’s useless to go to the police. They let everyone go after 48 hours. If you call the police, you just get into more problems.”

**Severe and Prolonged Domestic Violence**

Women interviewed for this report described prolonged instances of physical, sexual, and psychological domestic violence, for which authorities provided no meaningful help. Unable to secure state protection, many women cited domestic violence as a reason for flight, fearing severe harm or death if they stayed.

Many of the women’s abusive partners were members or associates of criminal armed groups. These women stated that because these groups were often the highest powers in their neighborhoods, they did not believe the government could protect them. “My husband was connected with the maras. When he abused me, I knew there was nowhere I could go,” said Claudia from El Salvador. “There is no way to escape them.”

A Guatemalan woman, whose partner was abusive, emphasized intrinsic links between the domestic violence she experienced and the violence in her neighborhood: “Twice, I saw the gang kill two young men who approached the block. My ex required me to watch…it was a way of making me more afraid, weaker. How they screamed and begged for their life, I can’t forget it.”

**Physical and Sexual Violence in the Home**

The most common form of domestic abuse reported by the women interviewed was at the hands of their husbands or domestic partners. Notably, a significant number of the women who described surviving domestic violence were not officially married to their abusive partners, but nonetheless suffered severe harm and were unable to leave that partner and find protection elsewhere in their country.

The forms of abuse described were varied and often life-threatening. Women described repeated rapes and sexual assaults. In addition, the women detailed instances of violent physical abuse, including: beatings with hands, a baseball bat, and other weapons; kicking; threats to do bodily harm with knives; and repeatedly being thrown against walls and the ground. The abuse occurred both inside the home and in public. Many women described being in constant fear. One woman described her partner’s calculated decisions about how to beat her: “He was smart. He did not hit me in a way that left bruises, so there was not evidence for others to see.”

A rape survivor from Guatemala described constant and debilitating abuse. “My husband
abused me verbally and physically on a regular basis. He kept me locked in the house. I wore my hair pulled back, and sometimes he would grab my hair, shove my face near the fire, and ask ‘Are you fine here?’ Or he would hold a knife to my neck and ask the same thing. I had to respond ‘yes.’ To me, this is not a life.”

Another woman from El Salvador endured escalating levels of physical and sexual violence for years. “He’d demand that I have sex with him, and sometimes I did not want to. And he’d then take me by force. He said I was his,” she explained. “He’d throw the table, the utensils.... Sometimes he put the iron to me, hit me with a belt, cut me. I have scars. But I always took it. He’ll hit the wall with his fists until his fists bleed. He has so much anger and so much hurt. This scares me. I really think he’ll kill me now. He’s so violent.”

The physical and sexual abuse was often accompanied by psychological abuse, including isolation, stalking, and threats to harm family members. Nearly every woman who survived domestic abuse recalled being called a “slut,” “whore,” or “prostitute” by her partner. Mariela, a Mexican woman, said she was “beaten like a man” by her husband for several years. She tried to flee, but he tracked her to several different cities before she ultimately fled to the United States.

One Honduran woman fled after years of abuse escalated to the point of her husband nearly killing her. He severely beat her many times, often in front of her young children. Yet one incident stood out in her mind. On this evening, the woman’s husband came home drunk and she did not want to be near him, so she slept on the sofa. “In the middle of the night, I felt like water was falling on me. I woke up and he was urinating on my face and body.”

Lack of State Protection

Survivors of domestic violence stated that authorities in NTCA countries were unable or unwilling to help them. One El Salvadoran woman recalled that she was “standing in front of the police, bleeding, and the police said, ‘Well, he’s your husband.’” Another El Salvadoran woman stated: “One time the police came to our home, but they said that because this was a case of domestic violence, we could resolve it between ourselves. I do not have confidence in the police.”
In the rare cases where police arrested the perpetrators of abuse, the perpetrators were generally released within a few days. "I reported my husband to the police once," explained a woman from Honduras. "They detained him, but only for 24 hours, and then he was released and was even more angry." Another Honduran woman, whose mother had been abused by the woman's father and later her stepfather, sometimes made official complaints on her mother's behalf. But it was useless, she says. "They put them in jail for 24 hours and then they are out."

Most of the women interviewed reported that they had suffered intimate partner violence for a prolonged period, often years. They either experienced one specific instance that caused them to flee on the spot, or someone offered to help them and they took advantage and left as soon as they could. For instance, Carolina, from Honduras, reported that her husband forced her and her children into the car and threatened to drive them over a cliff. "He said he loved me and would rather kill all of us than me leave him," she said. The car had a mechanical problem, and her husband was not able to carry out the threat. Rather than go to the authorities, Carolina contacted her brother and arranged to flee the country immediately. She was forced to leave her children behind and continues to worry about them.

**Threats to Harm Family**

Many women reported that, if they tried to leave, their abuser threatened to harm their families, including their parents, siblings, and children. Mothers stated that it was common that their abusive domestic partners would use children as pawns in the relationship. Some of the partners would threaten to take full custody in court, some physically took the children, and others simply threatened to have the children killed.

A Guatemalan woman in her early 20s had become a target of her well-connected abusive boyfriend. "I came [to the United States] because my parents were receiving death threats. My boyfriend was really, really abusive and he had friends in high places. My parents were really worried because he threatened everyone. I moved several times to get away from him, but it never worked." She fled to save her life and those of her family.

Women who fled alone and left children in their home countries expressed deep worries about their children and other family members left behind. Some women described situations in which their children still lived with the woman's abuser. Others described situations in which the children were hidden with a family member, but the woman feared that the abusive partner or father would be able to find them. In some cases, that fear came true, and the women knew their children were now with the abusive party.

Many women reported that they had spoken with family members at home who told them that their partners – or their armed criminal associates – continue to look for the women. When the abused women's situations cause threats to their family members, whether parents, siblings, children, or others, they often feel even more isolated and unprotected. In some cases, the family members are supportive. In others, they are not. A number of women whose mothers had suffered domestic violence talked about being under pressure to stay in abusive relationships with their domestic partners.

**Targeted Violence Faced by Transgender Women**

For this report, UNHCR interviewed 15 transgender women from El Salvador, Honduras, and Mexico. They experienced many of the issues faced by all the women interviewed. In addition, the transgender women UNHCR interviewed faced numerous additional concerns that added to their persecution. They reported routine discrimination, harassment, beatings, and attacks on them or their friends, as well as forced sex work. Transgender women repeatedly emphasized that the police provided no protection and in some instances perpetrated further harm.
Acute Discrimination and Harassment

Many of the transgender women interviewed talked of being confronted by constant discrimination, harassment, and the threat of violence on a daily basis. Simply leaving the house was often a cause for discrimination and potential physical violence. “People on the street would verbally and physically assault me often,” said a transgender woman from El Salvador. Elisabeth, from Mexico, echoed the risk of being outside: “In Mexico, if anyone sees you [wearing women’s clothing], they make fun of you or throw things at you, or people might hit you.”

A number of the transgender women interviewed had been kicked out of the house or shunned by family for years after coming out as gay or transgender. (Several of the women spoke of coming out as gay when they were young, and only later also realizing their gender identity as transgender.) Maria, from El Salvador, said, “I had to leave my home because my parents kicked me out of the house when I was 11 and had come out as gay. I could not afford to pay for school on my own, so I had to stop studying.”

Most of the transgender women left school early because they were kicked out of their homes by their parents, or were threatened or attacked in school. Sara, a transgender woman from Mexico, had to leave school around age 9 or 10 “because [my classmates] hit me with rocks.” She says the abuse occurred because she “was very feminine.”

The transgender women interviewed described how the pervasive cultural stigma and discrimination impacted their ability to find safe access to the legal employment market. One woman from Honduras explains: “I had to quit every job I ever had because of the risks encountered. I found work after my friend was murdered at a restaurant, but they fired me after three people came to look for me and kill me. The owner said it was too dangerous for him, his workers and the clients to have me there as a result. He was correct, but it didn’t help me.”

Sonia shared that she found legal employment working with her community doing outreach and education to youth and had previously worked as a sex worker. “I did not want to be a prostitute, but there are not many options for transgender people in El Salvador. I was forced to do it.” One Mexican woman echoed this. “The majority of [transgender] people are forced to prostitute.”
Their discriminatory lack of access to safe work escalated their risk of serious harm.

“A transgender person is constantly threatened and anyone could do harm to you for your appearance alone. Being transgender, very simply, is impossible.”

Sexual and Physical Violence

Transgender women described numerous examples of having seen friends attacked, raped, and killed. The trauma of these experiences contributed to acute fear in the women that they, too, would be subject to similar incidents.

Sara from Mexico described what happened to a transgender friend, Jacqueline: “[Cartels in Tijuana] kidnapped her and brought her to a garage and cut off two of her toes, and raped her many times. They told her that they would kill someone from her family if she reported them.”

Unable to identify whether it was gangs or cartels in Mexico, Betty witnessed a different group “kill a friend who was a trans woman. They stabbed her like 12 times. They put her in a barrel and they put gas [on it] and they lit it on fire.”

One commonality amongst the transgender women interviewed by UNHCR for this report, regardless of background or country of origin, was that each had been repeatedly abused and assaulted, often both sexually and physically.

Many of the women survived sexual abuse and rape by numerous people throughout their lives – including family members, clients or employers, romantic partners, and the authorities.

One transgender woman’s testimony underscored the severity of the multiple harms she survived in Mexico with the following, “I lived on the street and didn’t have anyone. When I was seven years old, a cousin raped me for five years. My mom blamed me [and] started beating me to punish me. Before leaving, five of my friends were more or less buried alive. I lived with them. That’s also why the police pursued me. They burned some of us alive, because they said we had AIDS. They said if our bodies remained, our virus would run throughout the town. They said we had to be killed so we wouldn’t infect others.”

The transgender women who participated in sex work reported being extorted and sexually or physically assaulted by clients, their employers, and the authorities. One transgender woman from El Salvador said: “I was constantly beaten and raped when doing sex work – by clients [and the] police, who also forced me to pay a cuota of $15-20 a week, or more. I did eventually go and put in a claim with the national police office because I thought I should. I was very scared. But I knew I had to leave.”

Another transgender woman from El Salvador described a similar situation that caused her to flee: “I made a criminal complaint against the police officials who raped and beat me, and I am afraid they will kill me...They kill trans women often. I had many friends who were murdered.”

Laura, a transgender woman in her 30s from Mexico who had moved within the country several times already, went to Tijuana to find safety. “[T]hey are near the US and maybe I could be safer there. I was wrong.” She continued: “In Tijuana, the police raped and beat me. [Then] the police told me if they saw me again in the city they would kill me...They were afraid that I would say something.”

“I saw the [drug cartel] kill someone on the street as I was leaving school. They saw me running away. The threats started this day. They told me if I said anything or moved, they’d kill me. They’d look for me, find me and kill me. The[y] had raped me twice, kidnapped me four times, beat my partner, and mistreated me in so many other ways. They’d said they’d kill me. They also said if I didn’t leave, they’d find my family and kill them, too. So, I decided to go.”

ANYA FROM HONDURAS
Lack of State Protection

Transgender women interviewed described the impossibility of finding safety at home, being unable to get protection from authorities, and being unable to relocate within their country. A number of transgender women noted that the same types of problems – discrimination, harassment, and serious physical and sexual violence – existed wherever they tried to flee inside their countries and they could not find any protection or refuge at home.

“Leaving my work one day, a group of people attacked me because I was a homosexual. They beat me, and I had to go to the hospital. I didn’t know who they were, but they hate transgender people. I was in the hospital for eight days.”

Later, Alma from Honduras stood up to a group who was harassing her on the street and told them they lacked respect for her. Again, she was beaten. “I was screaming and asking people to help me, but no one would help me. No one would even call the police.” A different time, a “group of three men grabbed me, beat me, raped me, and I escaped from them after three hours. I went to San Pedro Sula to make the report. I was so beat up, and they wouldn’t take my report. They didn’t want to listen to me at all. Thus, I went to Tegucigalpa. I lived alone, and my ex-boyfriend who was living in the US paid for me to have a bodyguard.” When we asked her why she left Honduras, she explained, “I was not safe. I’ve tried to be in different cities [in Honduras], and it’s always the same. I’ve made 30 reports, and the police have never done anything.”

Transgender women told UNHCR they had no way of reporting abuse or finding protection. Sara said, “I saw many times that the police would beat my trans friends...in the center and downtown Tijuana. I never reported it because if I report it and they find out, the one who suffers would be me. It’s amazing that many of us survive,” she said. “There are murders of transgenders [sic] and we cannot complain.”
WOMEN AS REFUGEES UNDER INTERNATIONAL LAW

This section addresses categories in refugee law that apply to some women fleeing the NTCA to the United States. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol relating to the Status of Refugees (the Refugee Convention or Convention, and the Protocol) define a refugee as a person who, “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.” Both the Convention and the Protocol prohibit the return of persons who meet the criteria of “refugee” to their country of origin.

The United States became a party to the Protocol in 1968, and incorporated the substantive provisions into domestic US law in 1980. Since then, US courts have expressly relied on UNHCR interpretations and especially the Handbook on Procedures and Criteria for Determining Refugee Status (Handbook) in assessing refugee claims, and have recognized that UNHCR’s “analysis provides significant guidance for issues of refugee law.”

UNHCR has given authoritative commentary on determining refugee status with specific consideration of gender. UNHCR’s long-standing interpretation of refugee law recognizes that gender violence (including intimate partner violence); family association; political opinion; lesbian, gay, bisexual, transgender and intersex (LGBTI) status; and racial or indigenous status, among others, meet the criteria for protection.

Women who are subject to gender-based violence in a specific country may qualify for both refugee protection and “complementary protection” under US law. This includes Temporary Protected Status, where the Attorney General declares such a country to be unsafe for reasons typically related to violence or natural disaster.
International Protection of Refugees in US Law

The “well-founded” element of the refugee definition requires the applicant to show a “reasonable fear under the circumstances,” but does not, according to UNHCR, impose the higher probability standard of “more likely than not.” The United States adopted UNHCR’s interpretation, so that a “well-founded fear” is defined as a “reasonable possibility,” a significantly lower standard than that of a “probability.” Other States Parties to the Refugee Convention similarly reject the “probability” standard. So interpreted, the well-founded fear standard reflects the international community’s recognition of refugees’ trauma and difficulty in telling their stories and in presenting documentary proof in support of their claims. In addition to the well-founded fear, US law adds “past persecution” to the refugee definition’s standard of proof, so that proof of past persecution is a distinct basis for eligibility; it usually creates a presumption of a well-founded fear, though under some circumstances, past persecution alone can result in a grant of refugee protection.

Demonstrating persecution entails showing serious harm (for instance, a serious human rights violation) and a State’s refusal or inability to offer effective protection. UNHCR recognizes that forms of harm that are gender specific, most prominently sexual violence, constitute such serious harm. Rape, for example, is a form of serious harm within the meaning of persecution, due not only to the physical harm, but also because of the severe and long-lasting psychological harm that it causes.

To meet the Refugee Convention’s refugee definition, persecution must be “for reasons of” a protected ground (such as race, religion, or political opinion), a causal link between the well-founded fear of persecution and one or more Convention grounds (referred to as the “nexus” requirement in US law). A Convention ground need not be the exclusive reason for the persecution, and a “reason” may reference more than one Convention ground. The United States accepts UNHCR’s position that the Convention ground need only be a “relevant contributing factor, though it need not be shown to be the sole, or dominant, cause” of the persecution. Under US law, a protected ground must be “at least one central reason” for the persecution suffered or anticipated, but need not be the exclusive or dominant reason. Reasons for persecution may be mixed; a protected ground need not be the exclusive reason or cause.

The Convention grounds include race, religion, nationality, membership in a particular social group, and political opinion.

The political opinion ground includes not only beliefs associated with formal political parties, but also protected political beliefs and opinions that may include any assertions or expressions related to basic human rights. Political opinions may be

**PARTICULAR SOCIAL GROUP**

UNHCR defines a “particular social group” as a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one that is innate, unchangeable, or is otherwise fundamental to the identity, conscience, or the exercise of one’s human rights.

In the US context, “particular social group” was first defined in terms of an immutable characteristic. As discussed below in more detail, certain particular social groups, such as family and LGBTI status, have been seen as a protected ground in the United States for some decades. In later years, US law has increasingly accepted cases involving domestic violence under this rubric.
express or imputed, and include views regarding the treatment and rights of women.

The race and nationality grounds refer to physical or innate actual or perceived characteristics. Indigenous people are included in these grounds, which is especially relevant to claims (including women’s claims) from Guatemala and neighboring countries.

Protection from religious persecution and the right to hold religious beliefs and practice one’s religion are fundamental, with long-standing recognition under international human rights law. UNHCR has described and interpreted this ground in Guidelines on International Protection: Religion-Based Refugee Claims.

International Protection and Women

All of the Convention grounds in the refugee definition apply, of course, to women as well as men. In recent decades, the persecution alleged by many women seeking asylum in the United States has been for reasons relating to membership in a “particular social group.” In addition, women like those profiled in this report may find the Convention grounds of race, religion, nationality, and political opinion relevant to their claims.

Domestic Violence as the Basis for International Protection

Domestic violence against women may be one of the most prevalent forms of violence against women and has been one of the most common contexts for claims to refugee protection based on a gender-defined “particular social group.”

Domestic violence is generally defined as a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone.

WOMEN AND PARTICULAR SOCIAL GROUP

Certain women seeking asylum in the United States may be able to build a case for refugee status using the “particular social group” ground. UNHCR interprets particular social group in the context of gender as defined by gender alone or by gender in combination with other characteristics. Indeed, UNHCR’s Guidelines on Gender-Related Persecution within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees (Gender Guidelines) state “[W]omen [are] a clear example of a social subset defined by innate and immutable characteristics…and who are frequently treated differently than men.”

United States jurisprudence, for the most part, also supports defining “particular social group” to encompass gender. Several federal courts have held that gender itself can define “particular social group,” and US administrative authorities (whose guidance notes play a normative role in the development of US refugee law) instruct that “women hold a significantly different position in many societies than men...Women may suffer harm solely because of their gender.” One court found that as a result of pervasive, targeted violence, “Guatemalan women” generally constituted a particular social group.

Several decades ago, the United States played a leadership role in establishing a principled framework for defining “particular social group,” including recognition of women as a protected class. Early jurisprudence defined a particular social group in terms of “immutable characteristics.” However, since around 2006, various streams of analysis have led to a debate over whether additional requirements to define “particular social group” should be used.
UNHCR takes the position that women who suffer serious harm in domestic relationships can qualify for refugee protection. The US Gender Guidelines specify that domestic violence can be the basis of a claim to refugee protection where there is State unwillingness or inability to protect.

Much of the US jurisprudence on this issue involves Central American women. In 2014, in a case involving Guatemalan victims of domestic violence, the federal Board of Immigration Appeals clarified previous rulings and explicitly held that domestic violence could be the basis for refugee protection. The Board went on to reaffirm this position in two very recent decisions, underscoring in these decisions that the person claiming refugee status need not have been married to the abuser in order to qualify.

Protecting Families and Children

Family relationships are central to many of the stories presented by women profiled in this report. Women may be daughters, mothers, or sisters of persons targeted for persecution. Women may seek to protect their children from harm or forced recruitment. And women themselves may be targeted as a result of their associations. Political opinions may be imputed to them because of a family relationship.

UNHCR considers family as a “classic example” of a particular social group, stating that “[m]embers of a family, whether through blood ties or through marriage and attendant kinship ties, meet the requirements of the definition by sharing a common characteristic which is innate and unchangeable, as well as fundamental and protected.” Similarly, US administrative authorities and US courts have often described family as a “prototypical example” of a particular social group that is a basis for refugee protection. When family members are persecuted as a result of their relationship to a particular individual, that individual need not also be targeted on account of another Convention ground.

Particular Concerns for LGBTI People Seeking Refugee Status

Being forced to conceal one’s sexual orientation or gender identity may lead to a well-founded fear of persecution. UNHCR’s Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention
FIRST-HAND ACCOUNTS OF REFUGEES FLEEING EL SALVADOR, GUATEMALA, HONDURAS, AND MEXICO

and/or its 1967 Protocol relating to the Status of Refugees (Sexual Orientation and Gender Identity Guidelines), issued in 2012, state “a person cannot be denied refugee status based on a requirement that they change or conceal their identity, opinions or characteristics in order to avoid persecution,” and note the severe mental and other consequences on such individuals who are forced to conceal their identities.

One of the first “particular social group” claims recognized in the United States (in 1990) was based on homosexual status. That recognition has been extended by courts and administrative authorities to LGBTI cases generally. LGBTI claims for refugee protection may also implicate other grounds. For example, persecution because of an applicant’s advocacy for equal rights for LGBTI individuals or an applicant’s protest against discriminatory treatment and violence can constitute persecution on account of political opinion. Persons can be targeted as LGBTI even if they do not self-identify; LGBTI status can be imputed.

Paramilitary, rebel groups, and so-called “gangs” in particular may target LGBTI individuals. Where non-State entities inflict harm on an LGBTI person (either in collaboration with the State or police, or where State protection is unavailable), the person qualifies for refugee protection. Families and communities may threaten serious harm on LGBTI individuals, and this can constitute persecution where (as is often the case) there is no meaningful State protection. Non-State actors, including family members, neighbors, or the broader community, may be either directly or indirectly involved in persecutory acts against LGBTI individuals, including intimidation, harassment, domestic violence, or other forms of physical, psychological, or sexual violence.

Transgender persons may be at heightened risk. UNHCR’s Sexual Orientation and Gender Identity Guidelines note “[t]ransgender individuals are often highly marginalized and their claims may reveal experiences of severe physical, psychological and/or sexual violence.” The United States has long recognized transgender cases under the particular social group rubric.
Gender identity is distinct from sexual orientation, which encompasses “the emotional and sexual attraction an individual feels towards others.” Transgender individuals may be of any sexual orientation. The proper analysis of immutability with transgender individuals is not based on the immutability of gender (transgender persons generally believe it is mutable), but based on gender identity as a characteristic that is immutable and fundamental to identity.

**Political Opinion and Violence against Women**

Both UNHCR and the United States have asserted that the term “political opinion,” a Convention ground, includes opinions on gender roles. This includes non-conformist behavior (such as women refusing to submit to violence) that leads a persecutor to impute a political opinion to that person. It is not necessarily relevant whether the individual claiming protection has articulated the opinion concerned. Sexual violence in retaliation for actual and imputed political opinion has been recognized as a form of persecution.

Most recently, administrative authorities in the United States have instructed adjudicators that “opposition to institutionalized discrimination of women, expressions of independence from male social and cultural dominance in society, and refusal to comply with traditional expectations of behavior associated with gender…may all be expressions of political opinion. Feminism is a political opinion and may be expressed by refusing to comply with societal norms that subject women to severely restrictive conditions.”

Individuals — including women — who fear, or who have suffered, the kinds of violence perpetrated by criminal armed groups in Central America may be eligible for refugee protection based on their political opinion, including a political opinion imputed to them. As detailed above, women may be threatened, attacked for refusal to comply with threats, forced into sexual relationships with gang members, and forcibly recruited. Criminal armed groups may view those who oppose them, either expressly or implicitly, as having oppositional political opinions. Political opinion (both expressed and implied) may manifest in various expressions of anti-gang beliefs and values: refusing forced affiliation or taxes-via-extortion; testifying or informing against the gangs; participating in community-based gang prevention and intervention activities; maintaining neutrality (especially in “hazardous” conditions); or associating with persons or social or religious groups that promote anti-gang values.

Women in such situations may have a claim for refugee status, regardless of whether their political opinion is grounded in explicit and expressed oppositional views or whether those views are real or imputed. This well-established imputed political opinion doctrine focuses on the persecutor’s perception of the applicant’s beliefs, not the applicant’s own beliefs. Evidence of imputation of a political opinion can be direct or circumstantial. Most importantly, persecutory agents, including non-State actors, may have multiple reasons for targeting a person — including financial gain or a need for new members — in addition to an imputed political opinion. “Mixed motives” such as these can be sufficient to meet the test for refugee status.

**Religion, Race, and Refugee Status**

Women like those interviewed for this report may be protected under the grounds of “race” and “religion” in the refugee definition.

Protection from religious persecution has longstanding recognition under international human rights law. Religion is inerably linked to other grounds so that it is often difficult to separate religious persecution from grounds of political opinion, race, nationality, or membership in a particular social group. The criminal armed groups described in this report may threaten basic religious rights, for instance, where people are morally opposed to violence and resist joining gangs.

Religious beliefs and identity are central to indigenous communities, many members of which have a deep sense of loyalty and identification with their communities, as well as opposition to violence. This
may especially be the case with women, who, as noted, are often targeted because of their gender and indigenous identities. Women who assert their rights to independence, to be free from violence — all of which are gender-specific rights and political beliefs — may also be asserting opinions grounded in religion.

Indigenous people are also protected by the “race” grounds in the refugee definition. Race, defined in the principal international instrument as “race, colour, descent, or national or ethnic origin,”¹³⁰ is a physical characteristic or perceived innate characteristic beyond the control or choice of the individual. Indigenous women are an especially vulnerable group; many indigenous Guatemalans are persecuted, or fear persecution, based on current conditions of severe discrimination and violence.¹³¹
OBSTACLES WOMEN REPORTED IN SEEKING INTERNATIONAL PROTECTION

All women interviewed fled their home countries because they believed they could not find protection. Some women reported their abuse or threats to the authorities; others did not. Some women described suffering for years prior to reaching a point where they felt compelled to flee; some moved from place to place within their neighborhoods or country many times, and only left after sustained attempts at finding protection within their own country; others endured a threat or attack that was so direct and disconcerting that they fled their home countries outright.

All the women interviewed for this report made the difficult, and potentially life-threatening, decision to journey north. Both Mexico and the United States have taken significant steps to offer protection for women fleeing the NTCA. The United States has also offered protection to women fleeing Mexico. Nonetheless, women described numerous hardships along the path to safety, including detention and the dangers of the journey itself.

More than three-quarters of the women stated they knew the path to safety would be difficult, yet they decided to flee anyway. When asked why, they responded that staying in their home countries meant certain death or continued suffering. Sara, who fled Honduras and sought asylum in the United States, explained: “Coming here was like having hope that you will come out alive.”
The Journey North

People have fled NTCA countries for Mexico, the United States, and other countries in the region. All of the women interviewed for this report — who fled to the United States, transiting through Mexico — indicated different degrees of difficulty in finding safety. The most problematic aspect of flight and accessing asylum, as identified by the women themselves, was detention (in both the United States and Mexico).

Mexico faces complex challenges as a country of origin for some women seeking protection in the United States, a country of asylum for women fleeing the NTCA, and a country of transit for those women fleeing the NTCA who continue to the United States. This complexity is reflected by the experiences of women who participated in this report: women asserted that navigating the dangerous journey through Mexico was a significant challenge to finding protection.

Many women from the NTCA described having to pay high fees and being victims of extortion throughout their flight, particularly while transiting through Mexico. Ana, a woman in her 40s from El Salvador, described her journey: “My coyote [smuggler] charged me US $6,500. From El Salvador to Guatemala, we traveled by bus. In Mexico, we traveled by bus. I had to pay extortion four times. They ask for thousands of pesos, but take what you have…It was the authorities and the cartels.”

One woman described her lack of trust in the authorities of countries in the region. “In Guatemala, the police got all of us off the bus and robbed one of the migrants. The rest of us paid them voluntarily. Then, five police got a beautiful girl off the bus. We were pretty sure that they took her off to rape her. In Mexico, every time we got on the bus, the police came on and asked for a certain amount. You had to pay them.”

Given their fears, many women who spoke to UNHCR said they took precautions to avoid harm. Some women from the NTCA obtained fake Mexican identification cards so they could try to avoid detection, deportation, and extortion. A few women

MOTHERS SEPARATED FROM THEIR CHILDREN

Over 60 per cent of the mothers interviewed for this report were forced to leave behind one or more of their children when they fled their home countries. The separation from their children was one of the most difficult parts of their flight. “For me, the worst part is not knowing what’s happening to my children,” said a woman from Mexico.

Carolina, from Honduras, was forced to leave her children behind with her abusive husband when she fled for her life. Since fleeing, Carolina has spoken with her 13-year-old daughter on the phone. Her daughter told her that “she [my daughter] was paying for what happened with me,” and Carolina’s husband was abusing the girl.

One woman, Arelia from Mexico, left her youngest child, a three-year-old, at home because she feared he would not survive the journey. A few months after arriving in the United States with her older children and applying for asylum, she learned her youngest son had kidney failure. She felt she had no choice but to return to Mexico to be with her dying son, even though a criminal armed group had targeted her family. After her son’s death, Arelia immediately returned to the United States to continue her asylum case. At the time of her interview with UNHCR, she was detained without possibility of bond, separated from her two children who were held in foster care in the United States.

Once detained in the United States, women describe detention as a significant barrier to their ability to maintain communication and be safely reunited with their sons and daughters. “I am very sad here. We cannot see our families. I only talk once a week with my kids. We get depressed being here,” said one woman.
had family members — usually male — accompanying them during their flight. Many women used coyotes, with their families paying significant sums of money in an attempt to ensure their safety. Many religious women stated that they prayed and used their faith in God to keep them safe.

A number of women mentioned that they sought out birth control injections or pills before fleeing “so that if you are raped, you will not end up pregnant. And you will only have the trauma of the event, but not a baby in the future from the rape.”

**Attacks during Transit**

Despite precautions, a number of women described horrific incidents of sexual and physical violence in transit. For instance, a transgender woman from El Salvador described how Mexican immigration officials stopped her and a transgender friend in southern Mexico, and physically and sexually assaulted them. Other women were abducted and extorted by criminal armed actors.

One woman from Guatemala who was traveling with her daughter said that the coyote raped her every day of her 20-day trip. She said the coyote offered a reduced smuggling fee if she had sex with him, but she accepted only because she was afraid that he would kill her or rape her daughter if she protested.

A significant number of women reported being held captive by smugglers in Mexico, usually near the US border. The women had to provide contact information for family members; coyotes then told family members to pay ransom to get the women released. If family members did not pay, coyotes threatened to harm the women they held. Some women went into significant debt to family members who paid, leaving them without resources to pay bond or hire lawyers once they reached the United States and were detained there. Many were released physically unharmed during captivity; others, whose families could not pay, were not.

Coyotes abandoned some women in life-threatening conditions on the US side of the border. Tania, a Guatemalan woman in her early 20s, traveled with a coyote to Sasabe, Arizona. “[The first coyote] handed me off to other coyotes, but those other coyotes just

left me in the desert,” she said. “My friend and I were there for five days in the desert. We had a little bit of water, but that ran out pretty fast. We drank water from cattle troughs.”

**Obstacles to Accessing Asylum in Mexico**

All of the women interviewed for this report had transited through Mexico before entering the US asylum system. All women interviewed for this report were either recognized as refugees or have been screened by the US Government and determined to have a credible or reasonable fear of persecution or torture.

**MARIA’S STORY**

Maria, a transgender woman from El Salvador, fled her home country twice. The first time, she and a transgender friend were detained for several months by the Mexican authorities. “We were detained with men and were sexually and physically abused there,” she said. “My friend could not stand being detained, and she decided to be returned to El Salvador. Then she was killed when she went back.”

Maria pursued her asylum case while detained in Mexico. “But I lost after four months. They had me interviewed by a man when I asked to be interviewed by a woman. They denied my case for ‘lack of proof.’”

Persecuted and abused again by Salvadoran police after being returned to El Salvador, Maria fled again, with a different transgender friend. The second time she reached Mexico, immigration police arrested her again. “I was punched in the face and bleeding,” she said. “They stole all our belongings.” Maria was able to run away and stayed in a shelter in Mexico for a few months, but, living in constant fear there, she traveled to the United States to apply for asylum.
As a country of origin, transit, and asylum, Mexico presents a multifaceted environment for women seeking safety. Although this report does not discuss in detail the experiences of women seeking asylum in Mexico, it is clear that many of the women interviewed would appear to qualify for protection under the country’s exemplary asylum legislation, which incorporates an expanded refugee definition that could be used to ensure the international protection of women fleeing criminal violence in Central America. The complexity of the situation in Mexico is reflected in the women’s varied experiences. Some women interviewed had attempted to find safety in Mexico before coming to the United States. Others reported that they lacked sufficient information about the Mexican asylum system to know that they could apply for protection there. Still others attempted to avoid detection, fearing that if caught they would be returned to their home countries. Some women chose not to seek asylum in Mexico. Many traveled through remote and unsafe parts of Mexico, far from the three offices of Mexico’s small refugee protection agency, risking their lives to evade the authorities.

Many women interviewed perceived Mexico to be an unsafe place to claim asylum. For instance, Ana, from El Salvador, said: “Mexico [is] almost as bad as El Salvador. Why would I go there? That would be no escape. In fact, it would be worse, because I don’t know anyone there.”

Some women who participated in this report told UNHCR they would have been willing to stay in Mexico if they knew how to make an asylum claim and had access to national procedures and safe reception facilities. In fact, a few women interviewed did apply for asylum in Mexico, although only one was granted protection. Others reported being denied due to “lack of proof.” A woman from Honduras explained, “asylum is very difficult to access in Mexico.” When these women eventually reached the United States, each was deemed to meet the initial requirements for accessing US Asylum procedures (some women’s cases were still pending; others had been granted asylum or some other form of protection in the United States).

Several people mentioned that they lost their cases for asylum in Mexico because of an ostensible lack of proof. “I asked for political asylum in Mexico, but I did not win it,” said Patricia, from Honduras, who had been referred to the asylum process by priests at a migrant shelter where she stayed. “They [the Mexican adjudicators] told me that I did not bring proof or anything. They wanted proof...I did not have photos showing how he had hurt me...They made me feel like if I had photos, it would have been easier.”

Obstacles to Accessing Asylum in the United States

All the women UNHCR interviewed for this report had either been recognized as refugees or been screened by the US Government and determined to have a credible or reasonable fear of persecution or torture. Many of the women spoke of the United States as a beacon of hope and safety. Some of the women, particularly those who had been quickly released from immigration detention, were indeed grateful to have arrived in the United States and be able to apply for asylum.

Valeria, a mother in her 30s from El Salvador who fled with her children, relayed her newfound sense of security: “I say completely sincerely that my happiest day was when I got to the United States with my family. It was the first time I felt safe...Now, I am so happy seeing my children content and safe and going to school. I tell them over and over that nothing will happen to them here.”

However, many of the women expressed confusion about the need to continue fighting for asylum upon arrival to the United States. Almost all of the women interviewed for this report were apprehended by or turned themselves into officials of US Customs and Border Protection (CBP) shortly after crossing the border. CBP officials are often the first point of contact for asylum-seekers. Under these circumstances, an individual must express fear of return to CBP in order to continue with the asylum process. Otherwise, if rejected by CBP, she faces summary removal to her country of origin or last
habitual residence. During this process, she will be held in detention by either CBP or Immigration and Customs Enforcement (ICE).

For some, this was not their first time arriving at the United States border in search of safety. One woman from El Salvador tried to find safety in neighboring Honduras and the United States multiple times before finally being allowed to pursue her claim in the United States. “When I was almost twenty years old and was two months pregnant with my daughter, I was coming home from the doctor, and my cousin assaulted me and raped me in front of his gang, on the street… The first time I arrived to the US, I was detained and deported. The second time, I arrived in the US in April 2014. I told the officials that I was there because I was afraid to return to my country. But they did not write anything down. They told me that everyone says
this, and that I did not have the right to anything because I had been deported already. I was deported again to El Salvador. Then in June 2014, I was able to escape to Honduras with my life.” She returned a third time and a US immigration judge recognized that her fear of persecution was well founded and allowed her to remain permanently. She says, “Just to be here, to be a refugee here, I already feel safe. I would say thank you, thank you for letting me be here. And thank you for believing in women like me.” She and her daughter are now safely reunited with her husband.

However, some women who participated in this report said that detention caused them to question whether to abandon their claims for asylum. Women were held in facilities with their children, including very young children, and described wanting to abandon their claims so that their sons or daughters would be able to leave detention.

Some felt detention exacerbated traumas suffered at home and in flight. As Alexa from El Salvador put it: “They should help facilitate the asylum process so that one doesn’t suffer in detention centers. They shouldn’t be causing more harm.” One Mexican woman described experiencing severe anxiety each time the officers closed and locked the doors to her cell. She said, “It is better to be free and to die by a bullet than to suffer and die slowly in a cage.”

For many women who spoke with UNHCR, detention has meant they have been unable to hire a lawyer, due to lack of resources and distance from major service providers. A recent academic study looked at asylum cases from Central America and found that “the single most important factor in determining outcome is whether or not these individuals are represented in their court proceedings.”

For women without attorneys, the lack of ability to fully understand the proceedings, file the correct paperwork in a language they do not understand, or gather evidence to support their cases is daunting. “I haven’t filled out an asylum application yet because it is in English only,” said a young woman from Guatemala.

Women interviewed for this report emphasized that the experience of being detained remains with them far beyond release. “The things I lived through in detention have marked me for life,” said a Salvadoran woman who recently was granted asylum. “Please remember that we are also human beings. I didn’t want to come here, but for me it was a question of life and death.”
CONCLUSION

The women who shared their stories with UNHCR for this report fled situations of extreme violence and abuse at the hands of criminal armed groups. They were threatened, extorted, physically abused, and even raped. Some had family members who were murdered or disappeared and some had children who were forcibly recruited into criminal armed groups. In overlapping incidents, many women also fled horrific physical and sexual violence at home. The transgender women UNHCR interviewed were affected by these patterns of violence in addition to acute discrimination, harassment and violence specific to their gender identity.

The increasing reach of criminal armed groups, often amounting to de facto control over territory and people, has surpassed the capacity of governments in the region to respond. The women interviewed talked about the authorities being threatened by criminal
armed groups and even colluding with them in certain circumstances. They repeatedly emphasized that they had no choice but to flee, fearing for their lives. Some fled so quickly that they had to leave children behind; many women worried deeply what would become of their families at home.

Seeking asylum is a lawfully protected act. Forced return – without the opportunity to have a refugee claim fully adjudicated on the merits – runs counter to the laws meant to protect refugees. All of the women UNHCR interviewed for this report had either been recognized as refugees or been screened by the US Government and determined to have a credible or reasonable fear of persecution or torture.

Each suffered serious human rights violations related to protected grounds under the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and related jurisprudence, and their own governments were unable to provide protection or redress. Many of the claims for international protection of the women interviewed for this report are likely, upon individual determination, to fall within the scope of the 1951 Convention and related jurisprudence.

Thousands of others fleeing the region have faced similar hardships. Many of the women interviewed were relieved and thankful to have found safety in the United States in particular. Yet the women profiled in this report described numerous obstacles to finding safety, including facing dangerous journeys, detention, and in certain instances, refoulement from countries of asylum.

This looming refugee crisis requires a comprehensive regional response with a balanced protection approach. Such an approach should ensure that adequate screening procedures are in place in countries of asylum to identify the protection needs of all those arriving, that asylum procedures are accessible, fair, and efficient, and that effective protection is available to all refugees, including through the provision of adequate reception arrangements. A regional approach is also essential to upholding the shared responsibility of countries in the Americas and to finding long-term solutions for refugees. Recognizing that border security and refugee protection are not mutually exclusive, all steps should be taken to manage this situation in accordance with international refugee law, including the fundamental principle of non-refoulement.
WOMEN ON THE RUN

1 This report refers to El Salvador, Guatemala, and Honduras collectively as the "Northern Triangle of Central America." The report also discusses concerns faced by some Mexican asylum-seekers.

2 In FY 2015, out of 16,077 females from El Salvador, Guatemala, Honduras, and Mexico who were subject to the credible fear screening by a U.S. asylum officer, 13,116 (or 82 percent) were found to have a significant possibility of establishing eligibility for asylum or protection under the Convention against Torture. The purpose of this screening process is "to quickly identify potentially meritorious claims of asylum and to resolve frivolous ones with dispatch.... If an alien passes this threshold-screening standard, his or her claim for protection...will be further examined by an immigration judge in the context of removal proceedings." US Department of Homeland Security, Refugees, Asylum, and International Operations Directorate Officer Training: Asylum Division Officer Training Course, “Lesson Plan Overview: Credible Fear,” February 28, 2014, available at http://www.legalexams.com/ legalexamproperty/20140228/16-revised-credible-fear-lafterty-memo-lesson-plan-asp; see also 8 U.S.C.Sec. 1225(b)(1)(B)(i). As a signatory to the 1967 Protocol ("Protocol") relating to the Status of Refugees, the US is required to co-operate with the UNHCR by "providing them with the information and statistical data requested, in appropriate form, concerning" the implementation of the Protocol. See UN General Assembly, Protocol relating to the Status of Refugees, GA Res. 2198 (XXIV), UN GAOR, 24th Sess., UN Doc. A/RES/2198 (6 Dec. 1969), Art. 2. The information is on file with UNHCR.


11 UNHCR defines an “unaccompanied child” as any child under the age of 18 who has been “separated from both parents and other relatives and [is] not being cared for by an adult who, by law or custom, is responsible for doing so,” while a “separated child” is one who is “separated from both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives.” UNHCR Guidelines on Determining the Best Interests of the Child (May 2008) at 8, available at http://www.refworld.org/docid/48480c342.html; UNHCR, Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection (2014).


13 For FY 2014, the U.S. Government apprehended 66,144 family units. Ibid.

14 Ibid.

15 The United States employs a range of accelerated removal procedures that subject an individual to summary removal without a formal immigration hearing. The women whose stories are reflected in this report passed through one of the following accelerated procedures: expedited removal, reinstatement of removal, or administrative removal. An individual apprehended for the first time at a port of entry to the United States, or between ports of entry within 100 miles and two weeks of having crossed the US border without authorization, may be placed in expedited removal proceedings. If she expresses a fear of return, then she is referred for a screening interview with an asylum officer to determine whether she has a credible fear of persecution or torture. At the credible fear interview, she must establish a “significant possibility” that she will be granted asylum or relief under the Convention Against Torture (CAT). 8 CFR § 208.30(b). If the asylum officer finds that she has a credible fear of return, she is referred to an Immigration Judge for a full merits hearing on her claim. 8 CFR § 208.30(l).

Individuals who reenter the United States without authorization after a prior order of removal are placed into reinstatement of removal. Those who are not lawful permanent residents and are convicted of certain crimes after entering the United States may be placed into administrative removal. Under either reinstatement of removal or administrative removal, if an individual expresses a fear of return, she is referred for an interview with an asylum officer to determine whether there is “a reasonable possibility that he or she would be persecuted on account of his or her race, religion, nationality, membership in a particular social group or political opinion.” 8 CFR § 208.31(c). If the asylum officer finds that the individual has a reasonable fear, the case is referred to an Immigration Judge for full merits consideration of whether the individual is eligible for withholding or deferral of removal under the refugee definition or Convention against Torture, 8 CFR § 208.31(e).

The United States also employs affirmative and definitive asylum procedures. A number of women in this report passed through either the affirmative asylum process, in which the United States may be placed into administrative removal. Under either reinstatement of removal or administrative removal, if an individual expresses a fear of return, she is referred for an interview with an asylum officer to determine whether there is “a reasonable possibility that he or she would be persecuted on account of his or her race, religion, nationality, membership in a particular social group or political opinion.” 8 CFR § 208.31(c). If the asylum officer finds that the individual has a reasonable fear, the case is referred to an Immigration Judge for full merits consideration of whether the individual is eligible for withholding or deferral of removal under the refugee definition or Convention against Torture, 8 CFR § 208.31(e).


17 The word “transgender” is “an umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc.” Human Rights Campaign, Sexual Orientation and Gender Identity Definitions, available at http://www.hrc.org/resources/entry/sexual-orientation-and-gender-identity-terminology-and-definitions

18 UN General Assembly, Convention relating to the Status of Refugees, GA Res. 429 (V), UN GAOR, 5th Sess., UN Doc. A/RES/429 (19 December 1950)


22 Individuals who are placed in accelerated removal in the United States will be summarily removed to their country of origin or last habitual residence unless they express a fear of return. If fear is expressed, these individuals are referred for asylum-related screening via one of two processes: the credible fear interview process or the reasonable fear interview process. Upon a positive credible fear or reasonable fear determination, a US asylum officer refers the individual’s case to an Immigration Judge for further review. Individuals who have not been placed in removal proceedings may apply for asylum affirmatively by filing an application for asylum with US Citizenship and Immigration Services. For a more detailed discussion, see footnote 24.

23 Individuals who have not been placed in accelerated removal in the United States may be placed into administrative removal. Under either reinstatement of removal or administrative removal, if an individual expresses a fear of return, she is referred for an interview with an asylum officer to determine whether there is “a reasonable possibility that he or she would be persecuted on account of his or her race, religion, nationality, membership in a particular social group or political opinion.” 8 CFR § 208.31(c). If the asylum officer finds that the individual has a reasonable fear, the case is referred to an Immigration Judge for full merits consideration of whether the individual is eligible for withholding or deferral of removal under the refugee definition or Convention against Torture, 8 CFR § 208.31(e).

24 For a more detailed discussion, see footnote 23.
represents the plain text of the document as if being read naturally.
WOMEN ON THE RUN

Gender Guidelines
interpretations. Of particular relevance here are the Group Guidelines offer a detailed interpretation of the “membership of a Social Group Guidelines see James C. Hathaway & Michelle Foster, (finding that gender was a “prototypical immutable characteristic”);

Niang v. Gonzales (finding that political opinion, whether correctly or incorrectly attributed, may constitute a reason for political persecution within the meaning of the Act. “). Considerations for Asylum Officers INS Office of International Affairs, available at http://www.refworld.org/docid/4dfb7a082.html (providing further analysis on the requirements of “particularity” and “social distinction”).


In 1985, the Board issued Matter of Acosta, which defined a “political social group” in terms of “immutable characteristics” and naming “sex” as a quintessential example. Matter of Acosta, 19 I&N Dec. 211, 233 (B.I.A. 1985).

In 2006, the Board confused the analysis by including additional requirements (i.e. “social distinction” and “particularity”) (See Deborah Anker, Law of Asylum in the United States, (Thomson Reuters 2015), Ch. 5., but, as noted, in the last two years especially, it has been moving in a more principled and legally coherent direction, even suggesting a return to its core analysis with its recognition of gender as a defining qualification for refugee protection. See also, Matter of A-R-C-G., 26 I&N Dec.288 (B.I.A 2014) (providing further analysis on the requirements of “particularity” and “social distinction”).

World Health Organization (WHO), The WHO Multi-country Study on Women’s Health and Domestic Violence Against Women (2005), at vii (“women are more at risk of experiencing violence in intimate relationships than anywhere else.”.).

United States Department of Justice, Office on Violence Against Women, Areas of Focus (updated 23 July 2014) http://www.justice.gov/ovw/domestic-violence


See re E-M- (B.I.A unpublished decision, 18 Feb. 2015, Texas) and re D-M-R (B.I.A unpublished decision, 9 June 2015, Arizona) (both on file). In A-R-C-G., the Board had defined the political social group as married women who could not leave the relationship. In the two more recent decisions, the Board held that marriage was not necessary to meet the political social group requirements.

See Deborah Anker, Law of Asylum in the United States, (Thomson Reuters 2015), Ch. 5.


Ibid.


The US-Acosta definition specifically points to kinship ties as an example of the type of shared, immutable characteristic that can form the basis of a particular social group. Matter of Acosta, 19 I&N Dec. 211, 233 (B.I.A. 1985).

Zelaya v. Holder, 668 F.3d 159 (4th Cir. 2012).

UNHCR, Guidelines on International Protection No. 8: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity Within the context of Article 1A(2) of the 1951 Convention and its 1967 Protocol relating to the Status of Refugees, U.N. Doc HCR/GIP/12/09 (23 Oct. 2012) ¶¶ 30-31, available at http://www.unhcr.org/refworld/docid/50348af2c.html [hereinafter UNHCR Sexual Orientation and Gender Identity Guidelines]. See also Karouni v. Gonzales, 399 F.3d 1163 (9th Cir. 2005); James C. Hathaway & Jason Pobjoy, Queer Cases Make Bad Law, 44 NYU J. INT’L & POL’L, 315, 335 (2012) (arguing that “it is the modification of itself, or the impact that the modification has on the applicant, that is the relevant per se factor”); Deborah Anker & Sabi Arslan, Escalating Persecution of Gays and Refugee Protection: Comment on Queer Cases Make Bad Law, 44 N.Y.U.

There are several sources of official authority on US law. United States Citizenship and Immigration Services (USCIS) (part of the Department of Homeland Security) has jurisdiction over the first-tier Asylum Officer decision makers, and issues instructions and training materials on key issues, discussed herein. The Board of Immigration Appeals, or Board, is part of the Executive Office of Immigration Review (EOIR), which is within the Department of Justice. Immigration Judges also are a part of EOIR; they conduct formal removal hearings, including hearings on refugee protection claims (sometimes after the first Office has issued a non-final unfavorable decision). The Board hears appeals on decisions of immigration judges, and is the final administrative decisionmaker. A Board decision can be appealed to the relevant federal court of appeal. Federal courts of appeals are independent, constitutional courts. The US Supreme Court may hear appeals from the federal courts. See Deborah Anker, Law of Asylum in the United States, (Thomson Reuters 2015), Ch. 1.
"educated, cultivated, reflected opinion."

situation of common [people] not only of the philosophers. …The instinctive or

The Status of Refugees in International Law 228, 251 (1966). Refugee


thedailybeast.com/articles/2014/07/13/out-and-proud-in-el-salvador-s-

him or herself or should not be required to change") [hereinafter USCIS

fundamental" and has "characteristics that an individual cannot change about

Humanitarian/Refugees%20%26%20Asylum/Asylum/Asylum%20Native%20

(28

http://www.refworld. was targeted by a non-State armed group).

Lawrence v.

211 (B.I.A 1985). In the US domestic context, this status versus conduct

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Id that homosexuality is a status. A status is like an immutable characteristic,

among other abuses, forced labor and detention) for his conduct in engaging

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2005).

FIRST-HAND ACCOUNTS OF REFUGEES FLEEING EL SALVADOR, GUATEMALA, HONDURAS, AND MEXICO

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www.state.gov/documents/organization/220654.pdf

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FIRST-HAND ACCOUNTS OF REFUGEES FLEEING EL SALVADOR, GUATEMALA, HONDURAS, AND MEXICO

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“Every Day I Live in Fear”
Violence and Discrimination Against LGBT People in El Salvador, Guatemala, and Honduras, and Obstacles to Asylum in the United States
“Every Day I Live in Fear”
Violence and Discrimination Against LGBT People in El Salvador, Guatemala, and Honduras, and Obstacles to Asylum in the United States
Human Rights Watch defends the rights of people worldwide. We scrupulously investigate abuses, expose the facts widely, and pressure those with power to respect rights and secure justice. Human Rights Watch is an independent, international organization that works as part of a vibrant movement to uphold human dignity and advance the cause of human rights for all.


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"Every Day I Live in Fear"
Violence and Discrimination Against LGBT People in El Salvador,
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**Glossary**

**Bisexual:** The sexual orientation of a person who is sexually and romantically attracted to both women and men.

**Cisgender:** Denoting or relating to a person whose sense of personal identity and gender corresponds with their sex assigned at birth.

**Gay:** A synonym for homosexual in many parts of the world; in this report, used specifically to refer to the sexual orientation of a man whose primary sexual and romantic attraction is toward other men.

**Gender:** The social and cultural codes (linked to but not congruent with ideas about biological sex) used to distinguish between society's conceptions of “femininity” and “masculinity.”

**Gender Identity:** A person's internal, deeply felt sense of being female or male, both, or something other than female or male.

**Heterosexual:** The sexual orientation of a person whose primary sexual and romantic attraction is toward people of another sex.

**Homophobia:** Fear of, contempt of, or discrimination against homosexuals or homosexuality, usually based on negative stereotypes of homosexuality.

**Homosexual:** The sexual orientation of a person whose primary sexual and romantic attractions are toward people of the same sex.

**Intersex:** An umbrella term that refers to a range of traits and conditions that cause individuals to be born with chromosomes, gonads, and/or genitals that vary from what is considered typical for female or male bodies.

**LGBT:** Lesbian, gay, bisexual, and transgender; an inclusive term for groups and identities sometimes also grouped as “sexual and gender minorities.”
LGBTI/LGBTQ/LGBTIQ/LGBTQI: Umbrella terms used to refer inclusively to those who are lesbian, gay, bisexual, and transgender along with those who are queer and/or intersex.

Non-Binary: Gender identity of people who identify as neither female nor male.

Queer: An inclusive umbrella term covering multiple identities, sometimes used interchangeably with “LGBTQ.” Also used to describe divergence from heterosexual and cisgender norms without specifying new identity categories.

Sexual Orientation: The way in which a person’s sexual and romantic desires are directed. The term describes whether a person is attracted primarily to people of the same or other sex, or to both or others.

Sexual Violence: Any sexual act, attempt to obtain a sexual act, or other act directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting.¹

Transgender: The gender identity of people whose sex assigned at birth does not conform to their identified or lived gender. A transgender person usually adopts, or would prefer to adopt, a gender expression in consonance with their gender identity but may or may not desire to permanently alter their physical characteristics to conform to their gender identity.

Transgender Men: Persons designated female at birth but who identify and may present themselves as men. Transgender men are generally referred to with male pronouns.

Transgender Women: Persons designated male at birth but who identify and may present themselves as women. Transgender women are generally referred to with female pronouns.

Transphobia: Fear of, contempt of or discrimination against transgender persons, usually based on negative stereotypes of transgender identity.

**Travesti**: A term that has different meanings in different cultural contexts, but in Central America is generally claimed by people assigned male at birth, who transit towards the female gender. *Travestis* do not necessarily identify as women and sometimes use the term to denote a political identity.
Summary

Camila Díaz Córdova, a 29-year-old transgender woman, tried for years to escape the violence that had characterized her life in El Salvador. She made her way to the United States in 2017 to seek asylum, but after four months in immigration detention, in November 2017, she was deported to El Salvador and to her eventual death.

On July 27, 2020, a court in El Salvador convicted three police officers of killing Díaz. Prosecutors alleged that on January 31, 2019, the officers had forced her into the back of a pickup truck, beaten her, and thrown her from the moving vehicle. She died several days later. The judge held that the evidence, including the vehicle's GPS tracking, the location where Díaz was found, and Díaz's autopsy report established the officers’ criminal responsibility. It was the first time anyone had ever been convicted for killing a transgender person in El Salvador.

While this ruling represented a much needed first step toward accountability for anti-trans violence in El Salvador, hate crimes against lesbian, gay, bisexual and transgender (LGBT) people there and in neighboring Honduras and Guatemala have continued. Meanwhile, in the United States, the administration of Donald J. Trump has been busy closing doors to asylum seekers, including LGBT people from Central America.

In March 2020, the US government entirely closed its southern border to asylum seekers, leaving them to suffer persecution in their home countries or in Mexico. The Covid-19 pandemic served as the pretext for the closure, but for years, the Trump administration had adopted increasingly severe measures aimed at preventing asylum seekers from ever reaching the United States and expelling them quickly if they did cross the border. Measures included a program forcing asylum seekers to remain in Mexico for lengthy periods, an expedited asylum review process allowing for little or no contact with lawyers, an attempt to bar asylum seekers who transited through third countries before arriving at the US border, and a policy of transferring asylum seekers to Guatemala, where they did not have effective protection. Among the asylum seekers affected by all these measures were LGBT people, returned to conditions almost identical to those they had fled.
This report documents violence and discrimination against LGBT people in El Salvador, Guatemala and Honduras—collectively known as the Northern Triangle of Central America—and, in some cases, along the migration routes they take to seek asylum. It is based on 116 interviews with LGBT people from El Salvador, Guatemala, and Honduras and 93 government officials, nongovernmental organization representatives, United Nations officials, lawyers, journalists, and other stakeholders.

LGBT people in the Northern Triangle face high levels of violence, have limited protections under national law, and in recent years have fled home in significant numbers, undertaking perilous journeys to seek asylum in the United States. LGBT migration has taken place for years, but it first received significant media attention when LGBT people joined a series of migrant “caravans” that traveled in groups to the US-Mexico border beginning in 2017. Like others in the caravans, LGBT people were fleeing from high levels of generalized violence in certain areas, but many were also fleeing from persecution on the grounds of sexual orientation or gender identity.

Human Rights Watch interviewed LGBT people in and from the Northern Triangle who described the complex web of violence and discrimination that threatens their physical safety, limits their life choices, and in some cases leads them to flee their country. Some described violence at the hands of family members, leading them to flee home at as young as eight years old. Others described bullying and discrimination that drove them out of school or limited their academic success. Although no statistics are available on LGBT people’s economic situation in the Northern Triangle, many interviewees told us that family rejection and discrimination lead to a higher likelihood of economic marginalization, particularly for trans women, several of whom said they could not find any job other than sex work. Poverty in turn places LGBT people at high risk of violence from gang members, from other members of the public, and from police and other members of the security forces. And while victims of violence in El Salvador, Guatemala and Honduras generally face monumental challenges obtaining redress in the face of fragile institutions, corruption and gang influence, LGBT victims often face an additional barrier in the form of stigma and discrimination from the very law enforcement agents charged with keeping them safe.

Given the high levels of violence and discrimination that many LGBT people face in the Northern Triangle, the US government should be rigorously protecting LGBT asylum
seekers’ ability to safely cross the border into the United States and apply for asylum. Instead, the Trump administration has implemented a seemingly unending series of obstacles, blocking LGBT people’s path to safety at every turn.

Camila Díaz Cordova, among so many others, did not have to die. Responsibility for her death lies first and foremost with the Salvadoran police officers who killed her, but additional responsibility is borne by the US Immigration and Customs Enforcement (ICE) for its failure to give Camila a chance to make her asylum claim, resulting in her deportation to a place where she feared for her life.

Human Rights Watch calls on the US government to reverse the harmful policies that have virtually shut off access to asylum for LGBT and other asylum seekers from the Northern Triangle, including the March 2020 Centers for Disease Control and Prevention (CDC) order that closes the US southern border to asylum seekers. Immigration judges in the United States should be attentive to the multiple forms of violence and discrimination facing LGBT people from the Northern Triangle and should uphold the 1951 Refugee Convention and its 1967 Protocol by continuing to recognize LGBT people as members of a particular social group that is vulnerable to persecution.

The governments of El Salvador, Guatemala and Honduras should hold accountable public officials who carry out or are complicit in violence or discrimination on the grounds of gender identity or sexual orientation, and should take meaningful and rights-respecting steps though legal or policy reform to protect against discrimination on these grounds in all sectors including employment, education, housing, health care, and access to goods and services. They should strengthen existing systems for tracking and investigating crimes based on anti-LGBT animus and should, where hate crimes statutes exist, prosecute such offenses as hate crimes and hold those responsible accountable. They should establish administrative procedures for legal gender recognition that allow trans people to obtain documents that reflect their gender identity without unnecessary hurdles. Their leaders should make unambiguous statements of support for the rights of LGBT people, including the right to non-discrimination and the right to be free from violence.

Each day that passes without adequate protection puts the lives of LGBT people from the Northern Triangle at risk of persecution and abuse. The United States, and the Northern Triangle governments, have obligations to take steps to protect them.
Recommendations

Recommendations to the United States Government

To the Executive Branch

• Cease to use tariffs, trade sanctions, foreign aid, or other measures to pressure other countries to enter into “third country” agreements, especially if these countries are unable to provide effective legal or physical protection to asylum seekers.

To the Attorney General

• Make clear that the United States will comply with US and international refugee law by recognizing that persecution on the grounds of sexual orientation and gender identity is a legitimate basis for the grant of asylum.

• Make clear that the United States will comply with US and international refugee law by recognizing that individuals fleeing domestic violence in states that are unable or unwilling to provide adequate protection to them have a legitimate basis for the grant of asylum.

• Make clear that the United States will comply with US and international refugee law by recognizing that individuals fleeing gang violence in states that are unable or unwilling to provide adequate protection to them have a legitimate basis for the grant of asylum.

To the Centers for Disease Control and Prevention (CDC)

• Withdraw the Interim Final Rule published in the Federal Register on March 24, 2020, and the CDC’s Order dated March 20, 2020, “Suspending the Introduction of Certain Persons from Countries Where a Communicable Disease Exists,” and ensure any public health-related regulation on entry of foreigners recognizes the US obligation to protect refugees from return to a threat of persecution, exposure to torture or cruel, inhuman or degrading conditions or punishment, or threats to life and physical security.
To the Department of Homeland Security

- Withdraw the proposed Rule on Security Bars and Processing, which would bar from asylum and withholding of removal “aliens whose entry would pose a risk of further spreading infectious or highly contagious illnesses or diseases, because of declared public health emergencies in the United States or because of conditions in their country of origin or point of embarkation to the United States.”

- Withdraw the proposed federal rule to amend the regulations governing asylum, withholding of removal, credible fear, and reasonable fear standards and procedures.

- End the Migrant Protection Protocol (MPP). In the interim, issue regulations clarifying that lesbian, gay, bisexual and transgender (LGBT) people, whose safety cannot be assured in Mexico, are among the vulnerable groups exempted from it.

- End Prompt Asylum Claim Review (PACR) in order to ensure that all asylum seekers, including LGBT asylum seekers, have an opportunity to present their claims before an Immigration and Customs Enforcement agent and are able to seek legal counsel.

- End the “metering” system implemented by Customs and Border Patrol which limits the number of people allowed to enter the United States each day to make their case for asylum.

- Terminate the Asylum Cooperative Agreements with Guatemala, Honduras, and El Salvador, recognizing that none of these countries meet the criteria as safe third countries for asylum seekers, including those who are LGBT.

- Prioritize resources to ensure that ports of entry across the US-Mexico border can process and consider asylum claims in a fair and timely fashion.

To Immigration and Customs Enforcement (ICE, an agency of the Department of Homeland Security)

- 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. Provide persons in ICE custody with information in their own language, including orders of removal and other documents that they may be asked to sign.
To Congress

- Prohibit the use of funds to implement the Migrant Protection Protocols, the Prompt Asylum Claims Review, the Asylum Cooperative Agreements, or any subsequent revisions to those protocols and agreements that block access to the right to seek asylum in the United States.

- Exercise its oversight authority by conducting hearings on the United States’ fulfilment of its asylum and protection responsibilities, and on harms experienced by LGBT people forced to wait in Mexico for extended periods of time before claiming asylum, transferred to Guatemala, or deported from the United States to their countries of origin.


To the Department of State

- Grant outstanding requests by the United Nations Special Procedures and the Inter-American Commission on Human Rights to visit the US-Mexico border for independent reporting and monitoring of policies and practices that affect the internationally recognized right to seek asylum.

- Provide adequate financial and technical support to accountability mechanisms in El Salvador, Guatemala, and Honduras aimed at investigating and documenting bias-based crimes, including within offices of the Attorney General and national human rights institutions.

- Provide financial and technical support to LGBT-led organizations in the Northern Triangle in all aspects of their work, including those related to documentation of human rights violations, advocacy, economic empowerment, and service provision.

- Publicly speak out in support the rights of LGBT people in the Northern Triangle and urge Northern Triangle governments to adopt policies to combat violence and discrimination against LGBT people.
To the US Agency for International Development (USAID)

- Provide funding for services for LGBT victims of violence in the Northern Triangle, including shelters, psycho-social support, and livelihood programs.
- Increase financial and technical support to LGBT-led organizations in the Northern Triangle in all aspects of their work, including those related to documentation of human rights violations, advocacy, economic empowerment and service provision.
- Provide emergency assistance to LGBT people and human rights defenders working on issues related to gender and sexuality in the Northern Triangle when they face security threats.

Recommendations to the Government of El Salvador

To the President and the Executive Branch

- Create a specialized office charged with eradicating discrimination against LGBT individuals, promoting inclusive public policies, ensuring equal treatment in the provision of services, and increasing awareness and sensitivity about sexual orientation and gender identity. The government should provide this office with sufficient resources and operating budget to accomplish its aims.
- Engage directly with civil society organizations that promote and defend LGBT rights to discuss how best to improve protection of the rights of LGBT people.
- Terminate the Asylum Cooperative Agreement signed with the United States.
- Rigorously enforce Executive Decree 56 of 2010 that prohibits discrimination in the executive branch, and require all ministries and other government agencies to prohibit discrimination on the grounds of sexual orientation and gender identity in hiring, contracting, and all other activities, and to take steps to counter systemic anti-LGBT discrimination.

To the Attorney General’s Office

- Conduct prompt, thorough, and independent investigations into crimes against LGBT people to hold those responsible accountable.
- Conduct monitoring and evaluation of existing systems to track bias-motivated crimes. Ensure that all officials who receive complaints, including police and prosecutors, receive training on sexual orientation and gender identity in order
better identify such crimes, and that they systematically ask complainants to indicate whether they (or the victim) may have been victimized on the basis of sexual orientation or gender identity.

- Train judges and prosecutors on hate crimes, including the elements of a hate crime under Salvadoran law, in order to ensure that bias-motivated crimes are prosecuted as such.

**To Congress**

- Pass comprehensive civil non-discrimination legislation that explicitly includes sexual orientation and gender identity as protected classes and that covers sectors including, inter alia, education, employment, health, and housing, and ensure that any existing civil non-discrimination legislation is also applicable to discrimination on the grounds of sexual orientation and gender identity.

- Pass a gender identity law that allow people to change the sex markers on their official documents through a simple, administrative process, such as filing an application at the Civil Registry. Legal gender recognition should not include burdensome requirements that violate rights, such as a requirement to undergo divorce, surgery, or psychiatric evaluation before changing one's gender.

**To the Ministry of Justice and Public Security**

- In collaboration with LGBT civil society organizations, train police and other ministry personnel on their obligations to uphold and protect the rights of LGBT people.

**To the Ministry of Local Development**

- Establish support services for young people, including both children and young adults, who are expelled from their homes for reasons related to their sexual orientation or gender identity, including shelter, counseling services, educational services and job training.
To the Ministry of Education

- Enforce policies that require all schools, public and private, not to discriminate against students on the basis of sexual orientation, gender identity or gender expression.
- Enforce anti-bullying policies that require all schools to take measures to prevent and respond to instances of bullying, including from staff and teachers, based on sexual orientation, gender identity and gender expression.
- Ensure that all curricula, including comprehensive sexuality education curricula, are inclusive of and reinforce acceptance of sexual and gender diversity.
- Provide students who have dropped out before completing high school, including LGBT people, with opportunities to complete their high school education, and reach out to LGBT organizations to ensure that LGBT young adults are aware of such opportunities.

To the Ministry of Labor

- Reopen dialogue with LGBT civil society organizations about programming to provide employment and job training to LGBT people.

To the Department of Statistics and Census

- Ensure the collection of data on discrimination, economic marginalization, and social exclusion on the grounds of sexual orientation and gender identity and the impact of such exclusion on economic development and individual well-being.

Recommendations to the Government of Guatemala

To the President and the Executive Branch

- Terminate the Asylum Cooperative Agreement signed with the United States.
- Through the Secretariat for Planning and Programming, formulate policies advancing the protection and promotion of LGBT people’s human rights. Engage directly with civil society organizations that promote and defend LGBT rights to discuss how best to improve protection of the rights of LGBT people.
• Fulfill the commitment made to the Inter-American Commission on Human Rights in November 2012 to establish a comprehensive public policy to guarantee LGBT and intersex people’s enjoyment of their rights.

• Express public support for the work of the Human Rights Ombudsperson’s Office in advancing the protection of LGBT people’s rights.

• Require all ministries and other government agencies to prohibit discrimination on the grounds of sexual orientation and gender identity in hiring, contracting, and all other activities, and to take steps to counter systemic anti-LGBT discrimination.

To the Attorney General’s Office

• Conduct prompt, thorough, and independent investigations into crimes against LGBT people to hold those responsible accountable.

• Issue guidance indicating that the Law on Femicide is applicable to violence against transgender women.

• Conduct monitoring and evaluation of existing systems to track bias-motivated crimes. Ensure that all officials who receive complaints, including police and prosecutors, receive training on sexual orientation and gender identity in order to assist them in identifying such crimes, and that they systematically ask complainants to indicate whether they (or the victim) may have been victimized on the basis of sexual orientation or gender identity.

To Congress

• Pass Initiative 5674 of 2019 on the prevention and punishment of bias-based crimes against LGBT people.

• Withdraw Initiative 5272, the Life and Family Protection Act, from consideration.

• Cease efforts to remove the current Ombudsperson based on his stances in support of LGBT people’s rights and access to abortion.

• Pass comprehensive civil non-discrimination legislation that explicitly includes sexual orientation and gender identity as protected classes and that covers sectors including, inter alia, education, employment, health and housing, and ensure that any existing civil non-discrimination legislation is also applicable to discrimination on the grounds of sexual orientation and gender identity.
• Pass a gender identity law that allows people to change the sex markers on their official documents through a simple, administrative process, such as filing an application at the Civil Registry. Legal gender recognition should not include burdensome requirements that violate rights, such as a requirement to undergo divorce, surgery, or psychiatric evaluation before changing one’s gender.

To the Ministry of Interior
• Issue a regulation clearly prohibiting discrimination on the basis of sexual orientation or gender identity and hold accountable law enforcement officers who engage in such discrimination.
• Conduct monitoring and evaluation of existing systems to track bias-motivated crimes. Ensure that all officials who receive complaints, including police and prosecutors, receive training on sexual orientation and gender identity in order to assist them in identifying such crimes, and that they systematically ask complainants to indicate whether they (or the victim) may have been victimized on the basis of sexual orientation or gender identity.

To the Ministry of Social Development
• Establish support services for young people, including both children and young adults, who are expelled from their homes for reasons related to their sexual orientation or gender identity, including shelter, counseling services, educational services and job training.

To the Ministry of Education
• Adopt an anti-discrimination policy that requires all schools, public and private, not to discriminate against students on the basis of sexual orientation, gender identity or gender expression.
• Adopt an anti-bullying policy that requires all schools to take measures to prevent and respond to instances of bullying based on sexual orientation, gender identity and gender expression.
• Ensure that all curricula, including comprehensive sexuality education curricula, include and reinforce acceptance of sexual and gender diversity.
• Provide students who have dropped out before completing high school, including LGBT people, with opportunities to complete their high school education, and reach out to LGBT organizations to ensure that LGBT young adults are aware of such opportunities.

To the Ministry of Labor
• Launch a public campaign to inform employers and jobseekers that discrimination based on sexual orientation or gender identity is illegal.

To the National Statistics Institute
• Ensure the collection of data on discrimination, economic marginalization, and social exclusion on the grounds of sexual orientation and gender identity and the impact of such exclusion on economic development and individual well-being.

Recommendations to the Government of Honduras
To the President and the Executive Branch
• Terminate the Asylum Cooperative Agreement signed with the United States.
• Prohibit the Military Police for Public Order from carrying out stops and searches of ordinary civilians at checkpoints and in the streets.
• Require all ministries and other government agencies to prohibit discrimination on the grounds of sexual orientation and gender identity in hiring, contracting, and all other activities, and to take steps to counter systemic anti-LGBT discrimination.

To the Attorney General’s Office
• Conduct prompt, thorough, and independent investigations into crimes against LGBT people to hold those responsible accountable.
• Conduct monitoring and evaluation of existing systems to track bias-motivated crimes. Ensure that all officials who receive complaints, including police and prosecutors, receive training on sexual orientation and gender identity in order to assist them in identifying such crimes, and that they systematically ask complainants to indicate whether they (or the victim) may have been victimized on the basis of sexual orientation or gender identity.
• Train judges and prosecutors in the elements of a hate crime in order to ensure that bias-motivated crimes are prosecuted as such.

**To the Ministries of Public Security and Defense**

• Issue a regulation clearly prohibiting discrimination on the basis of sexual orientation or gender identity and hold accountable law enforcement officers and military personnel who engage in such discrimination.

**To Congress**

• Pass comprehensive civil non-discrimination legislation that explicitly includes sexual orientation and gender identity as protected classes and that covers sectors including, inter alia, education, employment, health and housing.
• Pass a gender identity law that allow people to change the sex markers on their official documents through a simple, administrative process, such as filing an application at the Civil Registry. Legal gender recognition should not include burdensome requirements that violate rights, such as a requirement to undergo divorce, surgery, or psychiatric evaluation before changing one's gender.

**To the Secretariat of Human Rights, in collaboration with the Directorate for Childhood, Adolescence and Families**

• Establish support services for young people, including both children and young adults, who are expelled from their homes for reasons related to their sexual orientation or gender identity, including shelter, counseling services, educational services and job training.

**To the Ministry of Education**

• Adopt an anti-discrimination policy that requires all schools, public and private, not to discriminate against students on the basis of sexual orientation, gender identity or gender expression.
• Adopt an anti-bullying policy that requires all schools to take measures to prevent and respond to instances of bullying based on sexual orientation, gender identity and gender expression.
• Create a system to gather and publish data about bullying on the basis of sexual orientation and gender identity in schools.

To the Ministry of Labor, in Conjunction with the Human Rights Ombudsperson’s Office

• In collaboration with LGBT organizations, conduct a national-level investigation into allegations of employment discrimination on the grounds of sexual orientation and gender identity, and sanction employers who violate national law by discriminating.

• Conduct a public messaging campaign to ensure that both employers and LGBT people are aware of the law that prohibits employment discrimination on the grounds of sexual orientation and gender identity.
Methodology

This report is based on primary research conducted in 2019 and early 2020 in El Salvador, Guatemala, Honduras, Mexico, and the United States. The research was conceptualized in early 2019, when the arrival of several caravans of migrants and asylum seekers—initiating in Honduras and transiting through El Salvador, Guatemala, and Mexico, before arriving at the US Southern border—brought into sharp focus the specific human rights violations that impact LGBT people from the Northern Triangle so profoundly that many make the difficult and dangerous decision to leave their country.

Given the common experiences of LGBT asylum seekers from the Northern Triangle, and the fact that there are some similarities in their countries of origin with regard to legal protections (or lack thereof) and common forms of violence, Human Rights Watch decided to research violence and discrimination in all three countries.

This research was conceived with two primary objectives. The first was to contribute to preserving or improving access to asylum in the United States by providing accurate and reliable information based on firsthand testimony to US government decision-makers as well as individual immigration judges and attorneys about the country conditions from which LGBT people from the Northern Triangle are fleeing. The second was to use the report in advocacy work in collaboration with regional, national and local LGBT and other human rights organizations within the Northern Triangle to advance country-level reforms to mitigate violence and discrimination.

A Human Rights Watch researcher conducted interviews in El Salvador (San Salvador, La Unión, and San Miguel) in May and July 2019; in Guatemala (Guatemala City, Huehuetenango, Jalapa, Guastatoya, and Quetzaltenango) in May and August 2019; and in Honduras in May and August 2019 (Tegucigalpa, Comayagüela, San Pedro Sula, and El Progreso), where she interviewed LGBT people who had been victims of human rights abuses, representatives of LGBT organizations and other human rights organizations, government officials, and United Nations officials.

Human Rights Watch researchers also interviewed LGBT asylum seekers and representatives of organizations that provide them with legal representation and other
support in Mexico (Tijuana), and the United States (Los Angeles and Washington, DC), spoke by phone with LGBT activists from the Northern Triangle who had sought refuge in Switzerland and Spain, and communicated by phone and email with a wide range of organizations working on LGBT issues and refugee issues throughout the United States.

In total, Human Rights Watch interviewed 116 victims of anti-LGBT abuses.²

<table>
<thead>
<tr>
<th>Country of Origin</th>
<th>Lesbian or Bisexual Women</th>
<th>Gay or Bisexual Men</th>
<th>Trans Women</th>
<th>Trans Men</th>
<th>Non-binary or Other</th>
<th>Total</th>
</tr>
</thead>
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<td>10</td>
<td>17</td>
<td>9</td>
<td>1 non-binary, 2 travesti</td>
<td>41</td>
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<tr>
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<td>23</td>
<td>19</td>
<td>1</td>
<td>1 travesti</td>
<td>51</td>
</tr>
<tr>
<td>Honduras</td>
<td>6</td>
<td>5</td>
<td>9</td>
<td>3</td>
<td>1 non-binary</td>
<td>24</td>
</tr>
</tbody>
</table>

Twenty of the interviewees were asylum seekers or refugees, whom Human Rights Watch interviewed in Mexico and the United States in December 2019 and January 2020.

The research focuses on violence and economic marginalization, which puts LGBT people at greater risk of violence. For that reason, the report includes cases of discrimination in education and employment but does not include other forms of discrimination such as in medical settings. Although we did document several such cases of discrimination, including sexual harassment from health providers on the grounds of sexual orientation or gender identity, these incidents did not clearly contribute to economic marginalization or physical violence. The exclusion of such incidents should not be taken to suggest that these are not serious human rights violations that merit further investigation and reporting.

² Not all interviewees disclosed both their gender identity and their sexual orientation, and there may be some overlap between categories. For instance, a trans woman or man may also be lesbian, gay, or bisexual, but given the nature of the qualitative interviews conducted, some interviewees only identified themselves as trans without discussing their sexual orientation.
Interviewees who were victims of human rights violations were reached with the support of domestic LGBT rights organizations in El Salvador, Guatemala and Honduras, or with the support of immigration lawyers and organizations providing support services to asylum seekers and refugees in Mexico and the United States. Spanish-speaking Human Rights Watch researchers conducted the interviews in Spanish. Most interviews were conducted one-on-one in a private space, while some were conducted in small groups of individuals who knew one another and expressed comfort in speaking together. No compensation was provided to interviewees.

Human Rights Watch sought to interview people from across the LGBT spectrum, but the majority of people we interviewed were either trans people or gay men. There are several possible reasons for this.

First, we intentionally sought out cases of violence, and in many parts of the world, trans women and gay men may be at highest risk of being targeted by perpetrators of violence for violating gender norms. Second, lesbian and bisexual women are often less connected to LGBT rights organizations. Queer women-led organizations receive little donor funding, women may feel alienated or excluded by male-led or dominated groups, and women may have more difficulty securing the independence from families that facilitates participation in LGBT organizing. The skewed nature of our interview pool should not suggest that lesbian and bisexual women in the Northern Triangle are not victims of violence and discrimination based on their sexual orientation. Such violence may take place in the “private” sphere, be perpetrated by family members or intimate partners, and never be reported to police nor to human rights organizations.

Human Rights Watch also interviewed 93 other people who had knowledge of human rights violations affecting LGBT people in the Northern Triangle or during the asylum-seeking process in the United States, including government officials, United Nations officials, human rights activists, journalists and lawyers.

In addition, Human Rights Watch conducted a literature review, including reports published by LGBT organizations in the Northern Triangle and the United States, reports by regional and international bodies including the Inter-American Commission on Human Rights and United Nations agencies, US State Department reports, and court rulings from Northern Triangle countries and from the United States.
Human Rights Watch issued information requests to the governments of El Salvador, Guatemala and Honduras in July 2019, asking for available data on the number of cases of violence against LGBT people that had been reported to police, the number prosecuted, and the number resulting in convictions, and again in September 2020, asking for further information on efforts to combat violence and discrimination based on gender identity and sexual orientation. All three governments responded, and the country sections of this report provide further discussion of the information provided. The responses are also included in annexes to this report. During the drafting of this report, Human Rights Watch further engaged via email with government representatives, who provided feedback on specific cases.

Human Rights Watch did not conduct in-depth research in Mexico and therefore did not include recommendations to the Mexican government in this report. However, many LGBT interviewees reported on violations that took place in Mexico, either en route to the United States or in cases in which LGBT people from the Northern Triangle briefly sought refuge in Mexico, either formally applying for asylum or living in Mexico without documents, before returning to their countries of origin.
I. Background

El Salvador, Guatemala, and Honduras, which comprise Central America’s Northern Triangle, have among the world’s highest murder rates. Gang-related violence, much of it exported from the United States as a result of past deportations of members of street gangs initially formed in US cities in the 1980s and 90s, is persistent and pervasive. Dozens of local and transnational gangs have a presence in each country, controlling the lucrative local drug trade and using violence as a tool to extort money and ensure compliance. The most dominant gangs are Mara Salvatrucha 13, also known as MS-13, and the 18th Street Gang, also known as Barrio 18, which currently operates as two separate factions.

Gang violence presents a danger for residents of Northern Triangle countries from all walks of life but has a particularly strong impact on people living in low-income neighborhoods, many of which are effectively controlled by gangs. Police rarely investigate gang-related violence, and most murders are never prosecuted. In some cases, gangs specifically target LGBT people, killing, assaulting, threatening or extorting them for reasons that interviewees told Human Rights Watch might be linked to personal anti-LGBT animus; to assert social control or dominance; or because gangs recognize that LGBT people, particularly those who are poor, may have weak social support systems to protect them.

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6 See, for example, Human Rights Watch, Deported to Danger: United States Deportation Policies Expose Salvadorans to Death and Abuse, February 5, 2020, https://www.hrw.org/report/2020/02/05/deported-danger/united-states-deportation-policies-expose-salvadorans-death-and#10b6b, section IV.

Violence in the Northern Triangle takes place along an economic axis. This holds true for gang violence but also for police violence: Human Rights Watch interviews suggest some police believe they can abuse or fail to attend to the needs of people living in poverty or who are otherwise marginalized without consequences. LGBT people in the Northern Triangle straddle various economic strata, but some, especially those who are trans and gender non-conforming, are pushed into the social and economic margins by a lifetime of discrimination. This systemic marginalization often begins with rejection and abuse by families: as documented in the following chapters, LGBT people from all three countries told Human Rights Watch of parents and other family members physically assaulting them and expelling them from their homes.

Education and employment discrimination on the grounds of sexual orientation or gender identity contribute further to economic marginalization, ultimately leaving many LGBT people without stable livelihoods and few housing options outside of poor and often gang-controlled neighborhoods.\(^8\) A significant number of trans women in the Northern Triangle, often unable to obtain other employment, do sex work: a business that requires frequent interactions with gang members and police and sometimes exposes them to violence.

None of the governments in the Northern Triangle have criminalized same-sex conduct since the 19th century, but measures to protect LGBT people from discrimination are insufficient. As discussed further in the following chapters, Honduras outlaws employment discrimination on the grounds of sexual orientation and gender identity via its penal code, but activists in Honduras told Human Rights Watch they were not aware of any cases in which the law had been enforced.\(^9\) El Salvador and Guatemala outlaw discrimination on various grounds, but do not explicitly include sexual orientation or gender identity, and even where such laws are open-ended in terms of the categories that they protect, they are not applied.\(^10\) Additionally, to effectively curtail systemic discrimination, states should

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prioritize adopting comprehensive civil and administrative laws banning discrimination. While the use of the criminal law is warranted when discrimination manifests itself in particular egregious forms—notably, acts of violence or incitement to violence—it's focus on criminal intent, which needs to be established beyond a reasonable doubt, is inadequate to capture and sanction much discriminatory behavior.\footnote{None of the three countries has in place comprehensive civil law protections against discrimination.}

When it comes to protection against crime, the governments of El Salvador, Guatemala and Honduras have failed to curb gang violence against the population in general, but LGBT people may face an additional barrier to protection: in all three countries, LGBT people reported stigma and discrimination from police officers when they attempted to report crimes, deterring some LGBT crime victims from reporting at all, as discussed in Sections II to IV of this report.

Both Honduras and El Salvador have passed hate crimes legislation in the last 10 years, augmenting criminal penalties for some crimes that are motivated by anti-LGBT animus. While these are in principle important legal deterrents, neither country has convicted anyone on hate crimes charges.\footnote{REDLAC, “The Impact of Violence on the LGBTI Community in Northern Central America,” Snapshot No. 6, September 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/Protection%20Snapshot%206%20-%20English%20-%20September%202019.pdf (accessed September 15), page 5.}

All three countries have procedures in place intended to collect data on anti-LGBT crimes, but in practice only collect such data inconsistently. The Inter-American Commission on Human Rights has noted that throughout the Americas:

Insufficient training of police agents, prosecutors, and forensics authorities might also lead to inaccurate reporting. For example, when trans victims are registered according to their sex assigned at birth, their gender identity is
not reflected in the records. Trans women are frequently identified in public records as ‘men dressed in women’s clothes.’

In July 2019, Human Rights Watch wrote to the Attorney General’s offices and the Human Rights Ombudsperson’s offices in each country, requesting data on crimes. Their responses are included as annexes to this report.

Transgender people in the Northern Triangle are made particularly vulnerable by the lack of legislation providing for an administrative procedure to modify the sex marker on their official identification documents. A November 2017 advisory opinion issued by the Inter-American Court of Human Rights (IACtHR) stated that in order to uphold the rights to privacy, nondiscrimination, and freedom of expression—as member states, including the Northern Triangle countries, are obligated to do under the American Convention on Human Rights—states should establish simple, efficient procedures that allow people to change their names and gender markers on official documents through a process of self-declaration, without invasive and pathologizing requirements, such as medical or psychiatric evaluation or divorce.

To date, none of the Northern Triangle countries have done so, in contrast to several other Latin American countries. The absence of legal gender recognition in El Salvador, Guatemala, and Honduras means that every time a transgender person is required to present an identification document, they risk being subjected to humiliation, discrimination, and even violence.

Violence against transgender women in the Northern Triangle is of such significant magnitude that activists have coined the term “transfemicide” or “transfeminicide.”

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referring to the murder of trans women because of their gender, as female, and gender identity as trans women. The term acknowledges the intersectional violence and discrimination that trans women face under patriarchal social structures built around rigid gender norms and roles.

Migration: A Pathway Out of Violence

Between January 2007 and November 2017, at least 4,385 people sought asylum in the United States based on claims of persecution related to gender identity or sexual orientation, according to data NBC News obtained through a Freedom of Information Act request to United States Citizenship and Immigration Services. The three countries producing the most LGBT asylum seekers in the United States per capita were El Salvador (with 1,228 asylum seekers filing claims based on sexual orientation or gender identity during that period), Honduras (651), and Guatemala (369). The data is unsurprising given the Northern Triangle countries’ largely unchecked anti-LGBT violence and their proximity to the United States. The migration-focused network REDLAC writes that for many LGBT people from the Northern Triangle “the only available coping mechanism is internal or cross-border displacement, and seeking asylum in the United States or Mexico (although not all those who are forcibly displaced seek asylum and many are unaware of their right to do so).”

Undoubtedly, for decades, individual LGBT people from the Northern Triangle have fled their countries for reasons related in part to discrimination and violence based on gender identity or sexual orientation. However, LGBT asylum seekers around the world were largely invisible in the international arena before 2008, when the office of the United Nations High Commissioner for Refugees (UNHCR) issued its first guidance on refugee

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18 Transfemicide/transfeminicide has been recognized officially as a category of violence by the governments of Argentina and of Mexico City, both of which have among the world’s most rights-respecting gender identity laws. It has not been recognized by governments in the Northern Triangle.


20 According to NBC’s data, in absolute numbers, Mexico produced more LGBT asylum seekers than Guatemala, but given relative population size, Guatemala produced more per capita.

claims related to sexual orientation and gender identity. The guidance, intended to complement earlier guidance issued in 2002 on persecution based on gender, asserted that LGBT people fleeing persecution on the grounds of sexual orientation and gender identity should be recognized as eligible for refugee status under the Refugee Convention, which provides for protection on grounds including race, religion, nationality, membership of a particular social group and political opinion. UNHCR noted that “the transgression of social or religious norms, including by expressing one’s sexual orientation or identity, may be analyzed in terms of political opinion, religion or membership of a particular social group,” although most LGBT claims are processed under the latter category.

In August 2017, the first recognized “caravan” of transgender and gay asylum seekers from Central America arrived in the United States, escaping violence in their countries of origin. It was followed by other caravans of hundreds of migrants and asylum seekers that included Central Americans from all walks of life, including LGBT people, in 2018 and 2019. Like others in the caravans, LGBT people were fleeing from some forms of violence that cut across all genders and sexualities, but many were also fleeing persecution on the grounds of sexual orientation or gender identity.

Obstacles to Asylum in the United States

When it comes to the rights of LGBT people, the administration of President Donald J. Trump has paid lip service to some rights and denigrated others, eroding, in particular, the

23 Ibid, paras. 29-32.
rights of transgender people. Numerous policy enactments belie the Trump administration’s professed concern for the safety and security of LGBT people, at home and abroad. Among them are asylum and immigration policies that endanger asylum seekers, including LGBT people fleeing grave danger in the Northern Triangle.

On March 20, 2020, in response to the Covid-19 pandemic, the Centers for Disease Control and Prevention (CDC) issued a public health rider authorizing US Customs and Border Protection (CBP) to summarily expel unauthorized migrants, including asylum seekers and children, without considering whether they are eligible for protection under US law. The order is grounded in the CDC’s quarantine powers under Title 42 of the Code of Federal Regulations, rather than Title 8, which covers immigration. It utilizes a medical quarantine rationale to countermand protections in US immigration law for refugees and short circuits the right of asylum seekers for an opportunity to lodge claims or have them examined. In the first five months after the CDC order was issued, CBP summarily expelled more than 105,000 people from the United States based on the order. The CDC order marks the first time, since the US Refugee Act was enacted in 1980, that asylum seekers have been summarily turned away at the border, with no chance to make their case for asylum and no regard to the risk they might face in Mexico or in their countries of origin.

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Even before the United States shut down the border altogether as part of its response to Covid-19, an array of obstacles hindered access to asylum. They are discussed briefly here, with further detail provided in Section V of this report.

**Metering** is a “slow down” strategy implemented by CBP that artificially limits the number of asylum seekers who can enter the United States at border crossings every day. Even before the US shut down the border altogether as part of its response to Covid-19, metering forced asylum seekers to wait in Mexican border cities for as many as six months before they even underwent the first step in the US of the asylum procedure, a credible fear interview.\(^3\) This delay tactic has a particularly pernicious effect on LGBT asylum seekers, who face discrimination and violence in Mexican border cities on the basis of their gender identity or sexual orientation.

The **Migrant Protection Protocol (MPP)**, also known as the “Remain in Mexico” program, forces asylum seekers to remain in Mexico while their asylum claims are adjudicated in the United States. A DHS memo exempts “individuals from vulnerable populations ... on a case-by-case basis,” meaning that such individuals can remain in the United States as their claim is adjudicated, but the memo does not include LGBT people as members of a vulnerable group, and Human Rights Watch has received reports of LGBT people placed in “Remain in Mexico”.\(^3\) MPP hearings have been on hold since March 2020, extending asylum seekers’ wait.

The **Prompt Asylum Claim Review (PACR)** process, initiated by CBP in October 2019, fast-tracks removal proceedings for asylum seekers who arrive at the US border. The expedited process creates conditions by which traumatized individuals may feel discouraged to speak openly about the persecution that they have fled.\(^3\) PACR was suspended in March 2020.

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\(^3\) Human Rights Watch interview with Chris Chambers, Casa Arcoíris, Tijuana, January 31, 2020.


2020 following the CDC order that closed the border to asylum seekers.\textsuperscript{34}

The \textbf{Guatemala Asylum Cooperative Agreement (ACA)}, an agreement between the US and Guatemalan governments in July 2019, enables the United States to rapidly expel non-Guatemalan asylum seekers to Guatemala without allowing them to lodge asylum claims in the United States, but also leaves them without access to effective protection in Guatemala.\textsuperscript{35} As a result, many feel compelled to abandon their asylum claims and return to their home countries where they are at real risk of serious harm.\textsuperscript{36} For a Salvadoran or Honduran LGBT person who has fled the brutality of gangs and sometimes the authorities in their home country, being forcibly transferred to Guatemala, where many asylum seekers fear they will face similar forms of persecution as in their home countries, is a devastating blow. The risk of harm to asylum seekers returned to Guatemala is so severe that Human Rights Watch and Refugees International issued a joint report in May 2020 calling on both governments to rescind the policy in its entirety.\textsuperscript{37}

The Departments of Justice and Homeland Security even sought to institute a strict prohibition on asylum in the United States for any asylum seeker who passes through any other country on the way to the United States, known as the Third-Country Asylum Rule. A federal court struck down the rule on June 30, 2020 on procedural grounds.\textsuperscript{38}

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LGBT asylum seekers who do get past these obstacles and are able to apply for asylum within the borders of the United States continue to be subjected to human rights violations.


\textsuperscript{35} ACAs have also been signed with Honduras and El Salvador, but transfers have not started to either country at time of writing.


\textsuperscript{37} Ibid.

Many spend months, sometimes upwards of a year, in Immigration and Customs Enforcement (ICE) detention. ICE officials often detain trans women with men. Human Rights Watch has documented abuses of trans women in ICE custody, including sexual assault by other detainees, humiliating strip searches by male guards, unreasonable use of solitary confinement, and inadequate access to medical care. In 2018 and 2019, two deaths of trans women were linked to insufficient medical attention in ICE facilities. In January 2020, 45 members of Congress called on ICE to release all transgender migrants and asylum seekers from detention, arguing that ICE could not guarantee their health and safety. Organizations have also documented human rights abuses against gay asylum seekers in ICE custody.

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II. El Salvador

I could no longer endure this situation. I couldn't continue this life; it was no longer a life at all. I was suffering at the hands of my neighbors, gangs, my family, and the authorities of my country.

—Pricila P., trans woman from San Salvador, Los Angeles, California, US, December 11, 2019

Background

In 2015, El Salvador had the highest murder rate in the world. Four years later, its homicide rate remains among the world’s highest. El Salvador also has thousands of missing-persons cases and sexual crimes, according to data from the Attorney General’s office.

State authorities have historically been largely ineffective in protecting the population from this violence, often perpetrated by gangs, whom President Nayib Bukele, elected in 2019, has described as running “a parallel state.” Authorities may be unable to help protect Salvadoran citizens who are victimized by violence for reasons including fear for their own security, infiltration of authorities’ offices by gangs, and insufficient resources.

At the same time, Salvadoran security forces have themselves committed extrajudicial executions, sexual assaults, enforced disappearances, and torture. Impunity is widespread. The United Nations special rapporteur on extrajudicial executions in 2019 denounced a “pattern of behaviour amongst security personnel, amounting to extrajudicial...
executions and excessive use of force, which is fed by very weak institutional responses, including at the investigatory and judicial level." Her report referred to abuses by the police and the army. The Salvadoran Ombudsperson for the Defense of Human Rights (PDDH) found that investigations reached hearings in only 14 of 48 cases involving 116 extrajudicial killings committed by police from 2014 to 2018, and only two led to convictions.

An estimated 38 percent of Salvadorans live in poverty, and about 8 percent in extreme poverty. Only about a quarter of households have access to basic services like education, health, and infrastructure, and a quarter of the population is employed in the formal sector. Human Rights Watch identified 138 cases in which people deported by the United States to El Salvador in the past seven years had been killed, and an additional 70 cases in which people suffered severe abuse, including sexual assault or torture, after being deported from the United States to El Salvador.

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51 Ibid., pp. 39, 194.

52 Human Rights Watch, Deported to Danger.
Sexual Orientation and Gender Identity in El Salvador

Legal and Policy Context

When it comes to its laws and official policies, El Salvador stands ahead of most Central American nations in recognizing the rights of LGBT people, but its legal and policy environment is still lacking in protections.

El Salvador is the only Central American member of the LGBTI Core Group at the United Nations, a group of countries that since 2008 has advocated for best practices on upholding the rights of LGBT and intersex people.53

The constitutional chamber of the Supreme Court ruled in 2009 that a provision in the country’s constitution that protects against discrimination based on “nationality, race, sex or religion” applies to sexual orientation, citing United Nations Human Rights Committee jurisprudence. The ruling does not reference gender identity, although its findings—including that the grounds referred to in article 3 of the constitution are illustrative and not limiting—could be equally applicable to gender identity.54

Article 246 of the penal code prohibits job discrimination based on “sex, pregnancy, origin, civil status, race, social or physical condition, religious or political beliefs, membership or lack of membership in a labor union, or relationship with other workers.”55 The term “sex” has been held to be inclusive of sexual orientation and gender identity in some jurisdictions elsewhere in the world, including by the United States Supreme Court, but no existing jurisprudence or authoritative legal guidance in El Salvador makes clear whether such grounds are covered under article 246.56 Article 292 of the penal code criminalizes discrimination by government officials on the grounds of “nationality, sex, race, religion, or any other condition of a person,” creating space for prosecutions on the grounds of discrimination based on sexual orientation and gender identity, but the law

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does not cover abuses by non-state actors. In response to an information request from Human Rights Watch, El Salvador’s Attorney General’s office affirmed that no one has ever been convicted for discrimination based on sexual orientation or gender identity. In addition, the criminal law, which has historically been abusively used against LGBT people, should not be the primary framework used to protect against discrimination and to hold those who discriminate to account. Non-criminal anti-discrimination provisions include Executive Decree 56 of 2010, which states that any executive branch policies, activities, actions, omissions that result in discrimination on the basis of sexual orientation or gender identity are prohibited, and that all policies need to be reviewed for compliance with the decree. While an important measure, the decree, which only applies to the executive branch and not to other public or private actors, is of limited application. There is no comprehensive civil law prohibiting discrimination by public and private actors.

Executive Decree 56 led to the establishment of El Salvador’s Directorate on Sexual Diversity, which was charged with training government employees, including police officers, on sexual orientation and gender identity and conducting research on LGBT issues in the country. In 2017, the directorate launched an Inclusion Index aimed at setting standards and evaluating all government ministries and agencies on LGBT inclusion. This seemed to motivate government institutions: several vaunted the scores they received in their first evaluation in public statements. But in June 2019, President Bukele dissolved the Secretariat of Social Inclusion, within which the directorate on sexual diversity was based, and subsumed the directorate into an existing Gender Unit in the Ministry of Culture, renamed the Gender and Diversity Unit. LGBT activists criticized the move,

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60 Human Rights Watch interview with Cruz Torres, former director of sexual diversity in the Secretariat of Social Inclusion, San Salvador, April 29, 2019.
protesting that few of their grave concerns regarding safety and discrimination could be adequately addressed under the ambit of culture. 62 They have also expressed concern that other government initiatives aimed at promoting LGBT inclusion, have resulted in little or no concrete follow-up, particularly since President Bukele took office, including a set of trainings conducted by the Ministry of Justice and Public Security in 2018 under the banner of a campaign entitled “I’m Doing What’s Right.” 63

El Salvador’s Ministry of Justice and Public Security tracks crimes against LGBT people, including through an “LGBT” box that can be checked on complaint forms, which ought to provide the state with data to help understand patterns and mitigate such crimes. 64 However, according to an official at the Attorney General’s office, prosecutors are often embarrassed to ask about complainants’ sexual orientation or gender identity, leading to likely undercounting. 65

In 2015, El Salvador passed a landmark hate crimes bill that increased sentences for homicides and threats based on gender identity and expression and sexual orientation, as well as race, ethnicity, religion, gender and political affiliation, although the statute does not extend to other crimes, such as assault and rape. 66 But in the intervening five years,


65 Human Rights Watch interview with Marina de Ortega, director for women, children, adolescents, LGBTI people and other vulnerable groups at the Attorney General’s office, San Salvador, May 2, 2019.

66 Republic of El Salvador, Legislative Decree 106 of 2015 (Decreto Legislativo No. 106 de fecha 03 de septiembre de 2015), http://www.jurisprudencia.gob.sv/busqueda/showExtractos.php?bd=2&nota=732213&doc=558819&singlePage=false (accessed September 11, 2020). The reform increases the maximum sentences for homicide, to 30 to 50 years if committed by an ordinary citizen and 40 to 70 years if committed by a public official, if a murder is ruled to be a hate crime.
prosecutors have only filed hate crimes charges three times based on gender identity, and never based on sexual orientation. In the 2020 Camila Díaz Córdova murder trial, a judge dismissed the hate crimes charges, apparently as a result of insufficient evidence.\(^6^7\) Two other cases remained pending at time of writing.\(^6^8\)

El Salvador’s Human Rights Ombudsperson’s Office (Procuradoría para la Defensa de los Derechos Humanos, PDDH), an autonomous body with the government that receives human rights complaints, refers cases to other government agencies and can call for them to take steps to address human rights abuses, has received a number of complaints from victims of anti-LGBT discrimination and violence. In May 2019, the PDDH published a report on 19 unsolved murders of LGBT people, primarily trans women, that it had been able to document between 2009 and 2016. The report assailed both police and prosecutors’ failure to assiduously investigate and prosecute anti-LGBT hate crimes.\(^6^9\)

While some branches of government have attempted to address anti-LGBT violence and discrimination, they have not taken one of the steps that could reduce such violations: passing a law that allows transgender people to change their name and gender identity on official documents through a simple, administrative process.\(^7^0\) The discrepancy between gender identity and official documentation is a source of discrimination and humiliation for trans people, as well as a source of conflict with authorities. For instance, when Maria I., a trans woman, attempted to renew her identity card in 2010, an official at the DUI

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\(^6^8\) Nahomy Alexandra, a trans girl who officials at the Human Rights Ombudsperson’s Office said was between 15 and 17 years old, was found strangled in the back of a car in November 2018. The case remains pending, as does a case involving the murder of a trans woman, Tita Andrade, in March 2020. Human Rights Watch interview with Carlos Rodríguez, assistant prosecutor for individual rights, Human Rights Ombudsperson’s Office, San Salvador, July 24, 2019; Human Rights Watch email correspondence with Jessica Torres de Cruz, Human Rights Ombudsperson’s Office, June 19, 2020.


(identity document) center in Ciudad Delgado, San Salvador, refused to take her photo unless she came back dressed in men’s clothing and without makeup on.\textsuperscript{71}

In 2018, Congressmember Lorena Peña presented a gender identity bill, drafted in collaboration with trans organizations.\textsuperscript{72} The bill was discussed by the parliamentary commission on women and gender equality in May 2019, but has not advanced to a full parliamentary debate.\textsuperscript{73} In at least two cases, judges have allowed transgender people to legally change their name and sex, but only after lengthy court proceedings and on the basis that they had undergone sex reassignment surgery.\textsuperscript{74} Erika Q., a 39-year-old trans woman from San Salvador, said:

I don’t know why governments make it so complicated for people to have names that they are comfortable with. It’s unjust that they are denying something that could change the lives of so many people. It’s something primordial in one’s life—it is how you feel respected. If they approve the gender law, trans people will have a different way of thinking, ‘there’s a law that validates me.’\textsuperscript{75}

El Salvador has legislated attempts to address violence against women, although they have had limited success in stemming violence.\textsuperscript{76} The Special Comprehensive Law for a

\textsuperscript{71} Human Rights Watch telephone interview with Maria I., June 25, 2020; Duicentro de Ciudad Delgado, “Procedure Suspension Act” ("Acta de Suspension de Tramite"), November 30, 2010, on file with Human Rights Watch.
\textsuperscript{75} Human Rights Watch interview with Erika Q., Washington, D.C., December 5, 2019.
Life Free of Violence for Women, passed in 2011, establishes severe penalties for femicide, defined as the murder of a woman when motivated by “hatred or contempt for her status as a woman,” but it does not alter sentences for other forms of physical and sexual violence against women. It prohibits discrimination in its application, including on the grounds of “sexual identity.” It is unclear whether the definition of “women” under the law is intended to be inclusive of trans women.

In 2017, El Salvador established specialized courts for violence against women in San Salvador. These courts have jurisdiction over femicide and a number of other crimes included under the Special Comprehensive Law, including obstructing access to justice. They also have jurisdiction over crimes covered by the penal code, including article 246, which criminalizes employment discrimination (on grounds of sex, but not explicitly addressing sexual orientation or gender identity) and article 292, which criminalizes discrimination by government officials on the grounds of “nationality, sex, race, religion, or any other condition of a person.” Because transgender women are not legally recognized as women, it is not clear that they can benefit from these courts. Even lesbians may face exclusion: Andrea Ayala, an activist with the organization ESMULES (Espacio Mujeres Lesbianas Salvadoreñas por la Diversidad, Salvadoran Lesbian Women’s Space for Diversity), said that in two cases in which ESMULES tried to help victims obtain recourse—one involving domestic violence and the other involving employment discrimination—officials at the court for violence against women said they did not have jurisdiction over the cases because the women were lesbians.

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80 Human Rights Watch telephone interview with Andrea Ayala, founder of ESMULES, April 19, 2019.
Social Stigma

Violence and discrimination take place in a context of family rejection and social stigma that have a negative impact on the well-being of LGBT people. Despite some progress in attitudes toward LGBT people in El Salvador, social stigma remains pervasive.

Those interviewed by Human Rights Watch described churches and families as significant sources of stigma. Erika Q., a 39-year-old trans woman from San Salvador, emphasized the influence of churches on social norms in a country embattled by insecurity and weak rule of law:

You’re insulted on a daily basis. Much of this comes from the churches, where verbal harassment is constant. It’s the churches that have the power. I have nothing against churches, but they are the source of much anti-LGBT discrimination and hate. People don’t feel protected by the police or the government, but they feel protected by religion. But some churches use this against us. They focus on us as part of the problem.81

In some cases, churches practice conversion therapy, attempting to change people’s gender identity or sexual orientation. Ricardo S., a 28-year-old gay man, described an experience at a church youth retreat when he was 17:

They threw me on the ground, held me down, and put a crucifix on my penis and another one on my buttocks, and the priest shouted, ‘I order this demon to leave your body!’ Then, a spiritual guide came [to San Salvador] from Sonsonate who continued to follow my case. They obliged me to dress differently and said that if I felt like I wanted to fall in love with a man, that I had to start praying hard. I thought I was possessed by a demon of homosexuality. That lasted for three years.82

Octavio M., a 25-year-old trans man, was subjected to conversion therapy, in his case in a mental health setting, by personnel at the Christian-affiliated orphanage where he was raised:

When I was between 15 and 17 years old, they made me go to a psychologist. We did exercises, I had to draw things. And they had dolls that represented a family and said that a man couldn’t be with a man, and a woman couldn’t be with a woman. Eventually I told them the things I thought they wanted to hear.\(^\text{83}\)

Cruz Torres, then-director of sexual diversity in the Secretariat of Social Inclusion, told Human Rights Watch that churches were the source of a vocal campaign against so-called gender ideology, a catch-all term that religious fundamentalists and others use to refer to a supposed gay and feminist-led movement to subvert traditional families and social values.\(^\text{84}\)

Many trans women interviewed by Human Rights Watch survived by doing sex work, and their work exposed them to particularly high levels of social stigma. Serafina N., a trans sex worker based in the Hospital Benjamin Bloom area of San Salvador, said people in passing cars frequently threw trash, stones, and mangoes at sex workers in the area.\(^\text{85}\)

Interviewees said social rejection, family rejection and bullying contributed to depression, including suicidal ideation. Xavier H., a trans man, described becoming aware of his gender identity as a boy at age three. The severe bullying he endured, he said, led him to attempt suicide at age six.\(^\text{86}\) Two other trans men and a trans woman interviewed by Human Rights Watch in El Salvador also said that they had seriously considered or attempted suicide.\(^\text{87}\)

**Violence Against LGBT People in El Salvador**

“My life has never been happy,” Maria I., a trans woman in San Salvador told Human Rights Watch. “My mother died in the earthquake in 1986. My father didn’t want me and left me with my grandmother. The first time I was raped, I was nine.” At age nine, Maria would have been perceived as a young boy. A stranger plied her with a toy doll—“first he

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\(^{83}\) Human Rights Watch interview with Octavio M. (pseudonym), San Salvador, May 3, 2019.

\(^{84}\) Human Rights Watch interview with Cruz Torres, San Salvador, April 29, 2019.

\(^{85}\) Human Rights Watch interview with Serafina N. (pseudonym), San Salvador, July 13, 2019.


tried to give me a ball, but I didn’t like it”—and then pushed her into a bathroom and raped her while her grandmother was out buying food. Maria, who described herself as “pretty, and feminine,” threw out her bloody underwear, thinking her grandmother would blame her. She did not tell anyone. At age 14, Maria left home due to her grandmother’s rejection of her transgender identity. On the streets, she was raped again.88

Maria was raped again as an adult, this time by gang members, in 2015. By then, El Salvador had on the books its hate crimes law, with harsh penalties for violence based on sexual orientation and gender identity. It had established institutions like the Sexual Diversity Directorate, which opened their doors to people needing services like Maria, a trans woman who sometimes did sex work to survive. Still, to Maria’s knowledge, despite her filing a complaint, no one was ever arrested for the assault.

The Salvadoran government acknowledges the violence and discrimination that confront LGBT Salvadorans. The Attorney General’s office in El Salvador released statistics in January 2020 indicating it had tabulated 692 cases of violence against LGBT and intersex people in five years.89 Importantly, the government has also acknowledged violations at the hands of security officials. A 2017 Ministry of Justice and Public Security report minced no words:

It cannot be denied that the country is marked by high levels of violence and criminality, which, in addition to generating restrictions on people’s freedom, also violates fundamental rights such as the right to life and physical integrity. In general terms, the country presents high levels of social exclusion and vulnerability, within which cultural practices reproduce violence and discrimination.

One of the populations that are most affected by this situation is that composed of LGBTI people, who, in addition to suffering from widespread discrimination, also face multiple forms of violence, including acts of

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88 Human Rights Watch interview with Maria I., location withheld, July 18, 2019.

UNHCR’s 2016 guidelines for asylum applications of Salvadorans stated that LGBT people have “consistently been targeted for attacks and murder by the gangs and other sectors of society, including by the police and other public authorities” and that El Salvador’s gangs have demonstrated “virulent hatred and ill-treatment of persons based on of their perceived sexual orientation and/or gender identity,” particularly against trans women.\footnote{UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from El Salvador, HCR/EG/SLV/16/01, March 2016, https://www.refworld.org/pdfid/56e706e94.pdf (accessed September 11, 2020), pp. 38-39.} The Inter-American Commission on Human Rights reported similar concerns.\footnote{Inter-American Commission on Human Rights, Violence against LGBTI persons, OAS/Ser.L/V/II.rev.1, http://www.oas.org/en/iachr/reports/pdfs/ViolenceLGBTIPersons.pdf, para. 279.}

As seen above, several policy initiatives suggest good will on the part of government institutions to make policy inclusive of people of diverse gender identities and sexual orientations. But for many LGBT people, daily life on the streets is controlled not by the state but by criminal gangs, including the two factions of the 18th Street Gang, or Barrio 18, and Mara Salvatrucha 13, or MS-13. LGBT people, especially trans women, face violence at the hands of gangs that can be motivated by anti-LGBT animus or opportunism related to LGBT people’s perceived or actual social and economic vulnerability. LGBT people also face violence from the police, and activists have pointed out that putting more police on the streets—a key feature of the Bukele administration’s approach to crime—is not necessarily beneficial for LGBT people.\footnote{Carmen Valeria Escobar, “For LGBTI People the Territorial Control Plan Doesn’t Exist: Bianka Rodríguez” (“Para las personas LGBTI no existe el Plan Control Territorial: Bianka Rodríguez”), Gato Encerrado, December 13, 2019, https://gatoencerrado.news/2019/12/13/para-las-personas-lgbti-no-existe-el-plan-control-territorial-bianka-rodriguez (accessed September 11, 2020).}

The case of Camila Díaz Córdova, in which three police officers have been accused of killing a trans woman in January 2019, discussed below, is illustrative of the various forms of violence and discrimination LGBT people experience.
Between October 2019 and March 2020, at least seven transgender women and one gay man were murdered in El Salvador.\(^\text{94}\) Several cases bore clear indications of being anti-LGBT hate crimes.\(^\text{95}\) Relentless violence, and threat of violence, cause many trans people, and in some cases lesbian, gay, and bisexual people, to live on the run. In 2019, the transgender rights organization COMCAVIS Trans reported having assisted 84 people who suffered internal displacement due to their sexual orientation or gender identity.\(^\text{96}\)

According to COMCAVIS, most fled their homes because of threats from gangs or because of attempted murder based on their gender identity or sexual orientation.\(^\text{97}\)

**Domestic Violence**

For too many LGBT people in El Salvador, violence begins at home, sometimes from a very young age, especially for those who breach gender norms.

Michelle S., a 25-year-old trans woman who grew up on a ranch in Zacatecoluca municipality, La Paz department, told Human Rights Watch that she was severely beaten by her father from when she was five or six years old. Michelle said:

> My father beat me because of the way I walked. It got to the point that he hung me by my feet from the ceiling, for up to an hour. He did this many times. He hit me with ropes that he'd run through sand to make it hurt more. He also hit me with a rubber whip, the kind you use to hit horses....


\(^\text{95}\) Cristian González Cabrera (Human Rights Watch), “Justice for LGBT Salvadorans Requires Reckoning with Hate,” commentary, La Prensa Gráfica, https://www.hrw.org/news/2020/04/11/justice-lgbt-salvadorans-requires-reckoning-hate. Pineda was found naked with her face disfigured and covered in logs and a car tire in an apparent enactment of crucifixion while Andrade was found 90 percent burned. Such symbolic and brutal murders are often committed against people accused of “moral crimes.”


When he would beat me, he would tell me that he wished I had never been born, that I was an embarrassment. He never beat my siblings.98

The beatings worsened when Michelle was 11 or 12 years old:

I had a friend who was like me, and a friend of my father’s told him ‘Your son is going around with another faggot,’ and he beat me on the legs. The teacher saw [the marks] and called the police. Police came to the school, and they brought me home and spoke to him. They knew my father. They didn’t do anything, because of their friendship with him and because he was a sergeant in the army.99

Michelle’s father’s response was to tie her to the gate to prevent her from running away to her grandmother’s house. Twice, Michelle said, her father hit her so hard that she vomited blood and had to seek medical treatment. Michelle told Human Rights Watch researchers that she told doctors she had fallen down, fearing that if she told the truth, her father would beat her again. At around this time, reacting to the violence, Michelle began to cut herself. She eventually fled home at age 15 and turned to sex work for survival, leading to further vulnerability to violence, as discussed further below.100

Maria I., a trans woman San Salvador, described being beaten by an uncle as a child:

An uncle lived with us. He was a biker [motorcyclist] and was really machista, and humiliated me. When he saw changes in me, for instance when I grew my hair longer and powdered my face, he beat me.101

Laura I., a 27-year-old trans woman, said that when she was 13 and started to develop a feminine gender expression, her father threatened to kill her:

99 Ibid.
100 Ibid.
101 Human Rights Watch interview with Maria I., location withheld, July 18, 2019.
My father always treated me badly. I still hadn’t told him about my gender expression [identity], but I think he already had a sense of my expression. At the end of 2005 [my father] said: ‘If you turn out to be a faggot I’ll beat the shit out of you and kill you.’

At age 15, Laura came out to her father as trans. He did not beat her, but tried to force her to have sex with a female sex worker, telling her it was “so you are made into a man.” Laura told Human Rights Watch she still felt traumatized by this incident years later.

Navas F., a trans man, said his family members beat him when he first had a relationship with a woman, around ninth grade. His aunt took him for an exorcism with a woman considered to be a witch. Navas said his inability to “change” and his family’s refusal to accept him led to a deep depression and a suicide attempt.

**Violence and Harassment by State Security Forces**

Maria I., a trans woman from San Salvador, was living in fear when Human Rights Watch interviewed her in July 2019. Maria’s best friend, Camila Aurora Díaz Cordoba, had been murdered in January. Three police officers had been arrested and charged with Camila Díaz’s murder earlier in July. Maria was afraid that they had not acted alone, and that other police officers could be coming for her.

Maria I. told Human Rights Watch about Díaz’s life, and about her death at 29 years old. According to Maria I., Díaz moved to San Salvador at age 17, escaping a family that rejected her gender identity and tried to “change” her by enrolling her in a military institution. Díaz started doing sex work to make a living, and befriended Maria I. The two women fled to Mexico together in March 2016, escaping from a violent environment in which gang members had murdered their close friend, Mónica, had raped Maria, and had threatened Camila. But they found life in Mexico dangerous and economically unsustainable, and they returned to El Salvador. Díaz fled again in 2017, this time reaching the United States and turning herself in to immigration authorities in August. But in

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103 Ibid.
105 Human Rights Watch interview with Maria I. (pseudonym), location withheld, July 18, 2019.
November, she was deported back to El Salvador. She returned to sex work. Fourteen months later, she was dead.

In July 2020, three police officers were convicted of Diaz’s murder. According to prosecutors, they picked up Díaz at around 3 a.m. on January 31 after receiving reports of someone creating a disturbance in the street. They handcuffed her, placed her face down in the back of a police pickup truck, and severely beat her before throwing her out of the moving vehicle. Díaz died at Rosales Hospital on February 3, 2019.

It is remarkable in El Salvador to see a conviction for the murder of a trans woman, and police records indicate that international pressure played a significant role in advancing investigations. But it is unremarkable for trans people, and in some cases other sexual minorities, to experience serious violence at the hands of the security forces.

Pricila P., a trans woman from San Salvador, recounted how in February 2018, on her way home from work in the evening, four police officers assaulted her after a “routine stop” in which they required all men to alight from a public minibus and searched them for drugs:

When everyone else got back in, they didn’t let me, they told the driver to go on. They asked me if I was gay, and I said, ‘Yes,’ because I never liked to hide that. They said, ‘You don’t understand that you are a man?’

One of the police officers grabbed my testicles and squeezed. I said to let go. He said, ‘You’re realizing you’re a man because you feel pain. If you were a woman you wouldn’t feel pain.’ The pain threw me to the floor. One of them stepped on my hand with his boot. He said that I would become a man by force. They beat me, and they left me there.

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108 A Human Rights Watch researcher viewed the case file, which included a document in which a police investigative body urgently requested information about the case from another organ, citing “international pressure.”
I arrived at home, bathed, and changed. I realized I couldn’t feel safe with the police in my country.\textsuperscript{109}

An activist from a trans rights organization accompanied Pricila P. to the central police station to file a complaint, but the police refused to accept it, she said:

They saw we were people from the [LGBT] community. The man at the reception said that if it was mistreatment of a gay, there was no point in filing a complaint. He said it was my fault, that maybe I had disrespected the police, that I deserved this... We had to give up and go home. I remember that [the activist] said ‘That’s why there are so, so many deaths.’\textsuperscript{110}

In November 2018, a police patrol stopped Pricila P. as she was coming home in the early morning, wearing makeup. Police officers asked, “Why are you like this? You’re a man,” and threw a bottle of water in her face, she said. They grabbed her purse which contained her antiretroviral medication. According to Pricila P.:

I said not to take it because it was medicine that I had to take daily. They realized it was for HIV, and they said, ‘Oh, you’re going to die.... you don’t need this, you’re already approaching death.’\textsuperscript{111}

Pricila P. went without antiretroviral therapy for two months after the incident: it was difficult to get an appointment to get her prescription refilled, and the hospital was in a neighborhood controlled by a rival gang, dangerous for residents of MS-13-controlled neighborhoods. She told Human Rights Watch: “My health deteriorated, the virus became detectable, from not taking my medicine for two months.”\textsuperscript{112}

Aldo Peña, a 35-year-old trans man, was the only person interviewed by Human Rights Watch who successfully brought charges against state security agents for anti-LGBT

\textsuperscript{109} Human Rights Watch interview with Pricila P., Los Angeles, December 11, 2019.
\textsuperscript{110} Ibid.
\textsuperscript{111} Ibid.
\textsuperscript{112} Ibid.
violence. Peña was on a bus returning home from the LGBT pride march in San Salvador on June 27, 2015, when he got into a verbal altercation with the driver, who had skipped his stop. The driver ordered Peña and his friend off the bus, dropping them off in front of three police officers, whom Peña recognized as officers who had harassed him in the neighborhood in the past, demanding to see his ID and deriding him for being transgender.\footnote{Human Rights Watch interview with Aldo Peña., San Salvador, May 3, 2019, and by telephone, April 10, 2020.}

Peña said one police officer grabbed him by the shirt, causing Peña to respond, “I’m not a criminal.” The police officers started beating both Peña and his female friend, the beating worsening when Peña asked why they were beating her. Peña said police knocked him to the ground, jumped on him, and hit him with a gun, causing him to briefly lose consciousness. When he awoke, he said, he was handcuffed and on his stomach on the ground.\footnote{Ibid.}

Police took Peña and his friend to the nearby station, where he could hear her screams as she was beaten with a belt. According to Peña, police shouted at him, “You’re always going around with that dyke!” The police hit Peña, jumping on him, he said, “as if I was a trampoline... One officer said, ‘Come touch this son of bitch and see what he is.’”\footnote{Ibid} About twelve police officers were beating him. Peña said:

> They told me that I was going to wake up in a ditch, and that they would say it was the gangs. [They said:] ‘If you’re a man, you can take it.’ I thought it was my last day to live.\footnote{Ibid.}

Activists from LGBT organizations including Entre Amigos and Comcavis Trans mobilized national and international attention to Aldo Peña’s case, attracting support from people including then-mayor of San Salvador Nayib Bukele—the current president—and then-First Lady Margarita Villalta de Sánchez, eventually resulting in Peña’s release.\footnote{Mitch Kellaway, “Salvadoran Trans Man Says He Was Brutalized by Police After Pride Parade,” Advocate, July 14, 2015, https://www.advocate.com/violence/2015/07/14/salvadoran-trans-man-says-he-was-brutalized-police-after-pride-parade (accessed September 11, 2020); Human Rights Watch interview with Aldo Peña, San Salvador, May 3, 2019.} After hospitalization for his injuries, Peña filed a complaint against the police officers, which
advanced to trial.\(^{118}\) It was not easy, he said: “The prosecutor in my case was bullied by her peers for being on my case; they told her that it’s the case of a faggot, of a dyke.” The interim pretrial judge was also hostile: “The pretrial judge always referred to me as faggot.” Eventually, Peña obtained a rare outcome in El Salvador: two of the police officers who had attacked him were sentenced to four years in prison.\(^{119}\)

Peña concluded, “The [police] violence was the worst thing that happened to me. I’m lucky to still be alive.”\(^{120}\)

Maria I.’s experience, on the other hand, demonstrates why few trans victims of police violence bother to file complaints at all. Maria I., a trans woman living in San Salvador, said that in 2016 a friend was dropping her off at home when police stopped the friend’s car at a checkpoint. Maria recounted:

They were asking for my friend’s documentation, normal things, and then they asked where she was going. She said, ‘I’m going to drop off my amiga [female friend].’ One of the police looked in the window at me and said, ‘Ah, but this thing is not a woman.’ They made me get out of the car and wanted to make me strip in the street to see if I was a woman. I refused, and said ‘You’re violating my rights.’ He said to me ‘Your rights, to me, are in the garbage.’ They asked for my ID and I said I didn't have it. They said if I didn't have my ID it was probably because I was a criminal, and they started taking pictures of me, saying they were going to put them on the internet to see if I had committed some crime. I felt powerless, they in their uniform are the authority.\(^{121}\)


\(^{120}\) Human Rights Watch interview with Aldo Peña, San Salvador, May 3, 2019.

\(^{121}\) Human Rights Watch telephone interview with Maria I., June 25, 2020.
Since the driver of the car did have her papers, Maria said she asked police, “On what basis are you going to fine me?” Instead of responding, she said, “They kicked me.”  

Maria I. spoke with a friend who encouraged her to file a complaint.

Two days later I went to the police to file a report, [but] the person who was going to register my report told me that it was better not to file a report because it was against police officers. ‘We are the law and you can’t file a complaint against the law. We can’t accept your report.’ And he said to another person there, ‘Can you believe that this gentleman came to file a complaint against [our] comrades? And they started to make fun of me, they were laughing. So I said that I was going to look for help elsewhere, that I would go to the human rights office to file a report, and that I would file one against them at the same time because they wouldn’t take my report. And they said: ‘I wipe my ass with your rights.’

Maria also filed a complaint with the Human Rights Ombudsperson’s Office, but she said that to her knowledge there was no follow-up. She said, “The hardest thing was filing a complaint, because I knew it exposed me to more danger.”

Police abuse of authority was not limited to beatings. In the case of Yadira Q., a trans woman, police used their power to extort sex, a form of sexual assault. Yadira Q. said that in November 2017 she was sitting with a group of trans and cisgender friends in an outdoor area when four male police officers approached them, searched them all, and found one person in possession of marijuana. The police officers pulled aside three trans women in the group and asked them to get into the police vehicle. They drove them to a remote area, where they said they could detain the entire group of friends for “association” with the man who had marijuana, or that the trans women could provide them with oral sex as a “solution.” Fearing arrest, Yadira and her two friends complied.

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122 Human Rights Watch interview with Maria I., location withheld, July 18, 2019.
123 Ibid.
124 As part of the complaint, Maria authorized the sharing of her case with the oversight division within the police, which she understood to be risky. She never heard from the police. Human Rights Watch telephone interview with Maria I., June 25, 2020. A copy of the complaint is on file with Human Rights Watch.
125 Human Rights Watch interview with Yadira Q. (pseudonym), La Union, July 19, 2019.
Others described threats, harassment, and discrimination from the police. Mario L., a 26-year-old gay man, said police threatened him in January 2018 when he was standing in the street with his boyfriend.

A few police officers came up to us and asked what we were doing. We said that we were just talking. They said that someone called them [to say] that we were engaged in immoral acts. There were four police officers.... They asked if we were gay and we said, yes, but that we hadn’t even kissed [on the street].... One started getting annoyed and said, ‘To rid them of this, you have to beat the shit out of them.’ … He said: ‘Aren’t you embarrassed to be doing this? Are you really gay or are you gang members and are trying to brainwash us? Let’s see if you can kiss each other to see if it’s true.’ We didn’t do it. And then they said that we were disrespecting them and that we had to get into the [police] car...

My friend who was inside the house came out and asked if they had an order to take us. They told her to stay out of it [and] pointed their gun at her... Then one of the police officers [who had not participated in the intimidation] got in the car to leave, and the others then got in too.¹²⁶

While most cases Human Rights Watch documented of violence and discrimination by security forces involved the police, three cases involved harassment by soldiers.

Nelson V., a 25-year-old trans man, said he was stopped in the street by soldiers looking for a gang member. When they became aware of his gender nonconformity, he said:

They lifted up my t-shirt and said, ‘What is this?’ I said, ‘I’m a trans man.’ One of them said, ‘Oh, it’s a chick. It’s a woman. Dyke, you haven’t been with a man, once you’re with a man that will change you.’ I could sense the hatred he felt for me. ‘I know dykes and I know faggots, but I don’t know people like you.’¹²⁷

¹²⁶ Human Rights Watch interview with Mario L. (pseudonym), San Miguel, July 17, 2019.
Angie R., a 36-year-old trans woman in San Salvador, said that on November 8, 2018, two soldiers and a police officer stopped her as she walked home in the evening after attending a soccer game with a friend. They threatened to plant drugs on her if she would not perform oral sex on them. Angie R. refused and threatened to report them. The next day, a cousin who worked in a store near her house told Angie that both police and gang members had come looking for her. Angie R. decided to move out of the home where she lived with her mother and rent a place, fearing violence from both the security forces and the gang members she presumed to be working with them. She filed a report at the Human Rights Ombudsperson’s Office, but although officers initiated an investigation, Angie R. was afraid that she might face reprisals, and did not follow up with the complaint. Nearly two years later, Angie had not returned to her mother’s home out of fear for her safety, although she struggled to pay the rent.

Mario L., the gay man in San Miguel who was threatened by police for standing in the street with his partner, said that on another occasion, soldiers threatened him because he was wearing an earring. “They told me: if we see you with an earring again, we’ll beat you and take the earring out of your ear.”

**Gang Violence**

On numerous occasions, gangs in El Salvador have targeted LGBT people for violence or threats of violence specifically because of their sexual orientation or gender identity.

Ramón L., a 22-year-old gay man, described the murder of a friend in Nuevo Guadalupe in 2015.

Geovanni Francisco Pérez, we called him Geo, was a friend of mine. He was openly gay and he was assassinated because of his sexual orientation. He had a relationship with a gang member... It was about five years ago, in 2014. As his friends, we told him: this will get you in trouble. The gang members didn’t want that someone of them was hanging out with someone

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who’s gay. They told him to come to a place and he didn’t return home. They found him three days later. There were really horrible pictures in the papers. He was tortured, [it was] terrible... I was really shaken by that image. It made me afraid because he was my friend. I thought that something like that could happen to me too.\(^{131}\)

Ramón said that Geo’s mother did not pursue justice, despite the fact that “everyone knew” which gang members were allegedly involved, because she feared reprisals.\(^{132}\) Ramón mourned the friend he had lost:

> We met in a cybercafé and we liked to play video games together. We played Capture the Fish, Mortal Combat.... He had recently graduated with a psychology degree, he’d gotten a job, he was happy. He was well-known as a softball player.\(^{133}\)

Maria I., a trans woman from San Salvador, described the loss of one of her best friends, Mónica, in 2011. (The murder of her other best friend, Camila Díaz Córdova, for which police officers have been charged, is recounted above). Maria I. said that in 2006, gangs chased Mónica out of the Montreal neighborhood in San Salvador, where her mother owned a house: “The gang members told her they didn’t want to see her there anymore.” Maria I. assumed this was because Mónica was trans. In 2011, Mónica told Maria that she was moving back in with her family. Maria I. recounted: “The gang members had chased her away from there, but she said she didn’t have money to be renting. I told her no, that it was dangerous.”

Mónica returned to Montreal on May 14, Maria recalled. A week later, she was dead. Maria told Human Rights Watch that she heard secondhand from a witness’s relative that Mónica


\(^{133}\) Ibid.
was shot twice by gang members who said they had warned her to stay away from the neighborhood.\textsuperscript{134}

Maria I., too, became a victim of the gangs in Montreal neighborhood, in 2013. She told Human Rights Watch: “The gang members told me: ‘Hey faggot, if you want to live here you have to pay us $10 a week.’” Maria I. knew sex workers in the neighborhood, both transgender and cisgender, faced extortion, but tried to explain that she was doing domestic work and earning very little.\textsuperscript{135} The gang members were unrelenting, telling her she had to pay them in order to live there.\textsuperscript{136}

In September 2015, Maria I. was unable to pay for a few weeks. She said:

One night I went out to buy soda and a man appeared at my side and hit me and told me to come with him. There was another man. And they took me to a ravine and down there I saw two others. They told me to walk down the ravine... I said that I wouldn't go down there, that if they wanted to do something to me that they'd have to do it here. [But] they pushed me and I fell [down the ravine], and they beat and raped me, the four of them. For quite some time, I was afraid that I had caught a disease, because they didn’t use protection.\textsuperscript{137}

After raping Maria I., the gang members warned her that she had better continue to pay them or face additional violence. Maria I. filed a police report against her assailants, but to her knowledge, no one was ever arrested.\textsuperscript{138}

Sandra C., a 24-year-old lesbian from San Miguel, described how MS-13 members subjected her to threats and extortion after killing her aunt’s husband’s brother, “Luis.” The gang had killed Luis in 2017 because he too was being subjected to extortion, and failed to pay up, Sandra C. said. Sandra’s aunt’s husband confronted MS-13 members

\textsuperscript{134} Human Rights Watch interview with Maria I., location withheld, July 18, 2019.


\textsuperscript{136} Human Rights Watch interview with Maria I., location withheld, July 18, 2019.

\textsuperscript{137} Ibid.

\textsuperscript{138} The police report is on file with Human Rights Watch.
about his brother’s murder, threatening them with a machete. Soon after, he and Sandra's aunt, along with her grandmother, fled El Salvador for Mexico, and in January 2018 the gang turned its attention to Sandra, who owned a small shop.

The gangs threatened me more than 10 times. The first time, they came to my work. They said they were gang members from MS and I had to pay them the quota for them to protect me and to not have problems. Later, they said they knew I had a girlfriend, maybe the third time that they came. They started making machista comments, ‘You’ve never been with a man, you don’t know how good it feels’…. They said they were going to teach me what it was really like to be with a man. I was afraid they were going to do something more than threaten me.  

Sandra paid up, while she could, and never considered reporting the threats and extortion to the police:

I didn’t ever try to go to the police…. [in El Salvador], the police don’t even start investigations. I had never gone to the police. I had heard this from other people, and the news. People filed complaints and police do not do anything. The only thing you can do is flee…. When I couldn’t pay them anymore, I decided to leave.  

Sandra stayed in Chiapas, Mexico with her aunt, uncle, and grandmother for about six months, but left Mexico for the United States after four men sexually assaulted her in Chiapas, as documented in the section below. When her uncle returned to El Salvador in 2019 to care for a child who had remained there, Sandra said, MS-13 members killed him.  

One danger that faces many Salvadorans in gang-controlled neighborhoods, but that has particular salience with regard to trans people and some lesbian, gay and bisexual people, is forced recruitment.

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139 Human Rights Watch interview with Sandra C., Los Angeles, December 10, 2019.
140 Ibid.
141 Ibid.
Johanna Ramírez, a researcher with Servicio Social Pasionista, in the Mejicanos neighborhood of San Salvador, told Human Rights Watch, “LGBT people are recruited by the gangs as collaborators because they’re seen as vulnerable people, easier to manipulate.”

Pricila P., a 32-year-old trans woman from San Salvador, faced forced recruitment attempts. In 2017, MS-13 members asked her to store guns and drugs in her home. They knew that she was living alone because her family had rejected her. “They thought that because I was a faggot—gender identity doesn’t exist for them—that I would have to cooperate with them.” The next night, she said, three gang members arrived at her house demanding her answer.

When I said, ‘No,’ one of them grabbed me and threw me to the floor. He hit me in the stomach. One of them lifted his shirt and showed me his tattoo. He said, ‘You respect the gangs. You respect these two letters.’ They beat me, and they burned a part of my foot with a lighter that they lit a cloth with and dropped on my foot.

Pricila P. showed Human Rights Watch researchers the scar on her foot, where gang members had torched a cloth and dropped it on her.

When she continued to refuse to work with MS-13, they told her she would have to pay “tax” twice a month:

Every first and 16th day of the month they arrived in my house. Often, I couldn’t pay them. When I couldn’t pay, they came with a wooden bat. There was a big, empty house at the end of the community. They took me there, put me against the wall, and beat me. They said that their bat was the law. They hit me 13 times, to represent the name of the gang. On many occasions I had to stay lying there, vomiting blood, until I could get up and

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144 Ibid.
145 Ibid.
go home…. You can’t ask for help, because obviously people don’t get involved, for their own security.\textsuperscript{146}

They also told people in the neighborhood that Pricila had AIDS. After this, she said, “People started to shout at me, beat me, throw rocks at me.”\textsuperscript{147}

To pay the “rent” MS-13 demanded, Pricila, who had a low-paying job working at a store, turned to sex work. “I didn’t like exercising that profession, but unfortunately I had to do it to pay the gangs. This continued through 2018, the formal job and the informal job,” she said.\textsuperscript{148}

On February 13, 2019, Pricila was witness to MS-13’s abduction of a gay friend, whom the gang had also been trying to recruit. She saw gang members force her friend into a car and drive away. Later that night, they came for Pricila.

At around 11:30 or 12 at night they knocked on my door and they said if I continued to refuse [to join], the next person to disappear would be me, and also because I had been a witness…. So unfortunately I had to leave my country, at 4 a.m. on February 14th. I just grabbed a backpack, I didn’t plan. I threw in a few things and the little money that I had.\textsuperscript{149}

Pricila P. continued to experience violence on her journey through Mexico, but eventually made it safely to the United States and applied for asylum. At time of writing, her next hearing was not scheduled until December 2021 due to Covid-19-related slowdowns in the US immigration system.\textsuperscript{150}

Kiana C., a 30-year-old trans woman, also fled El Salvador because of gang violence, accompanied by discriminatory police treatment. Kiana C. told Human Rights Watch that in December 2018 and January 2019, gang members from both MS-13 and Barrio 18 threatened to kill her:

\textsuperscript{146} Human Rights Watch interview with Pricila P., Los Angeles, December 11, 2019.
\textsuperscript{147} Ibid.
\textsuperscript{148} Ibid.
\textsuperscript{149} Ibid.
\textsuperscript{150} Human Rights Watch telephone interview with Pricila P., August 11, 2020.
MS controlled the area where I lived, and the 18 controlled where I worked [as a sex worker]. Barrio 18 members were the ones who attacked me. They told me I needed to leave the colonia or I would leave in a bag. The prosecutor’s office and the police came to my house, and MS thought it was [because I had reported] them. They told me I needed to leave and go far, or they would kill me.\textsuperscript{151}

Her attempt to report the threats to the police, with the assistance of the trans organization COMCAVIS, was met with further abuse:

I filed a complaint, but the police derided me, calling me a prostitute, a gay, saying that I was a slut from the streets and that they weren’t going to help me. They called me ‘faggot.’\textsuperscript{152}

Kiana C. said the police refused to give her a copy of the criminal complaint that detailed the testimony she provided them and the case number, and she did not know whether it was ever investigated. Without a copy of the criminal complaint, she will also lack an important document to corroborate her experience of the violence in her asylum application. Fearing her life was at risk, she fled to Mexico.\textsuperscript{153} She entered the United States and filed an asylum claim shortly before the border closed to asylum seekers in March 2020.\textsuperscript{154}

It is not always clear to what extent gang violence in El Salvador is directly related to a victim’s sexual orientation or gender identity, but gangs sometimes used these details to further threaten someone.

Frank, a non-binary person from Santa Ana, said that in 2010, when they were 16, a gang kidnapped them and held them for ransom in a cave for four days, demanding $20,000 from Frank’s family members in the United States. Throughout the ordeal, during which gang members hit Frank on the feet and stomach and withheld food, they also repeatedly

\textsuperscript{151} Human Rights Watch interview with Kiana C., Tijuana, Mexico, January 31, 2020.
\textsuperscript{152} Ibid.
\textsuperscript{153} Ibid.
\textsuperscript{154} Human Rights Watch telephone interview with a representative of an LGBT shelter in Tijuana, August 2020.
asked “Are you a faggot?” They threatened to “sell” Frank if their family did not come up with the money. They freed them when Frank’s family paid the ransom.  

Yésica N., a trans woman from San Luis Talpa, recounted a chilling story of the murder of three of her close friends—Daniela, Yasuri, and Elizabeth, all trans women—after they refused to sell drugs for a gang. It is unclear whether the gang’s demand was related to the victims’ gender identity. Yésica N. told Human Rights Watch:

Gang members had told them a year before their death: ‘If you want to live in this place, you have to sell drugs for us.’ Two [other trans friends who had been threatened] fled to Mexico. The other girls stayed. On February 19 [2017], they killed the first two. Less than 50 steps from the local police station, during the Valentine’s Day dance.  

Yésica N. said that two days later, at the burial of the first two victims, Daniela and Yasuri, the third victim, Elizabeth, received a phone call and left to meet someone. Her body was found the next morning. Yésica said Elizabeth’s eyes had been gouged out, her hands tied and her throat slit. Yésica said, “It was also as if I died, in a way.”  

Laura I., a 28-year-old trans woman who dropped out of high school due to bullying, said that in 2015, she was studying for her high school diploma at night school, but her efforts to attend night school, too, were thwarted. On at least three occasions, when she was walking home after dark, gang members threatened her from a car, telling her that they did not want to see her in the neighborhood. The third time, one descended from the vehicle. “He lifted his shirt to show me he had a gun. From then on, for a year, I didn’t leave my home after 6 p.m.” Laura I. told Human Rights Watch, “I think it was because they saw me as a trans woman and thought that I was selling sex.”

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157 Ibid.
Yadira Q., a trans woman in La Union, said that while she had not been personally victimized by gangs, she knew other trans women whom gang members had sexually assaulted, and she had been subjected to threats of sexual violence:

To avoid having problems with them, you have to agree to have sex with them. The gang members told me one time, ‘We don’t have anything against you faggots. It’s just that what we like, we acquire. If we tell you to do something, you do it by choice or you do it by force.’

LGBT people who make a living through sex work face a high level of exposure to gang violence.

Michelle S., a trans woman from Zacatecoluca, began selling sex at age 15 after fleeing violence at the hands of her father, as recounted above. When she was 16 or 17, gang members shot her friend, who was also trans and sold sex, in front of her when the friend refused to pay them “rent.” Police came to the scene of the crime and Michelle, afraid to tell the truth about the attack, told the police that strangers held her up, along with her friend, for money. Rather than providing support to Michelle or referring her to support services for victims of sexual exploitation, the police harassed her about her gender identity. “The police took my testimony, but they also told me this happened to us because we were dressed like women.”

When trans women or other non-conforming people witness gang violence, they may be particularly susceptible to repercussions because of difficulty blending in. Erika, a 39-year-old trans woman from San Salvador, said, “I always was one of those people who said ‘I never want to leave my country. I’m going to die in my country.’” But she fled in 2015 after

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160 Consistent with international law on the rights of the child, child prostitution is one of the worst forms of child labor. The use of a child in sexual activities for remuneration or any other form of consideration should be a criminal offense and anyone who uses, offers, obtains, procures or provides a child for such use should be prosecuted. The child who is commercially sexually exploited or engaged in sex work should not be prosecuted or penalized for having been party to illegal sex work. Children engaged in sex work should be provided all appropriate assistance, including assistance in their physical and psychological recovery, and social reintegration, and where necessary, protective measures should be taken.
witnessing gang members murder four people in her neighborhood. “When it happened they saw me. They knew I was a witness. After a week they came and threatened me.”\textsuperscript{162}

Erika did not know where she could hide, or blend in, as a visible trans woman in a small country run largely by gangs.

Sometimes they say you should move to another department, but the government doesn't have control of the country, and all the criminality is interconnected, so you can't escape it. Especially being trans, you can't hide yourself.\textsuperscript{163}

When Lisa A., a 27-year old trans women in San Miguel, was abducted by a gang, she had little recourse, especially as police appeared to be complicit in the violence by returning her to the perpetrators after she called for help: Lisa A. hailed a taxi to get home from a party on November 8, 2018. The taxi driver then picked up a man who he said was a friend whom he would drop off before taking Lisa to her destination. But on the city outskirts, the driver stopped the car in a dark, vacant area.

He pulled out a pistol from his belt and told me ‘You messed with someone you shouldn't have messed with.’ ‘Who?’ I asked. He said: ‘I'm going to leave you here with two bullets in you.’

He told me to go toward the wood, but I thought: I'm not ready to die like this. I hit him with my purse. The pistol fell, and I took off running.\textsuperscript{164}

Lisa A. ran into the hills, hid in the bushes, and called 911. The operator told her to enable GPS on her phone to send her location. When police arrived 30 minutes later, Lisa emerged from her hiding place and approached the officers, who were talking to the men who had threatened her, men she had concluded must be gang members. According to Lisa:

\textsuperscript{163} Ibid. Human Rights Watch has also reported on how difficult it is for any victim of gang violence in El Salvador to safely relocate within the country. See Human Rights Watch, Deported to Danger, pp. 50-55.
\textsuperscript{164} Human Rights Watch interview with Lisa A. (pseudonym), La Union, July 19, 2019.
The police officer just looked at me. I showed my cell phone to show that I had made the 911 call. He took my phone and asked: ‘What were you doing with them?’ ‘I don’t know them, I wanted the taxi driver to take me back to my neighborhood and I don’t know why they took me here.’ The police officers and the gang members stood and looked at each other for a while, and then the police officer just handed me over to the gang members, without words. The police officer gave me a push and turned me over.\textsuperscript{165}

Lisa A. said the gang held her captive in a cave in the forest, where her two abductors were joined by others.\textsuperscript{166} Lisa A. described her captivity:

During the time that they had me there, they tortured me, they beat me, they asked me why I dress like this, saying ‘We don’t like faggots.’ … Several of them raped me…. They shaved my head.\textsuperscript{167}

Lisa A. managed to escape after four days. She ran through the woods, found the highway, and caught a ride back to San Miguel, where she went to the police station to file a report. The officers on duty insisted she could only file a report if she had her identification documents. Lisa A. said that despite her explanation that she had just escaped a kidnapping, and her obvious injuries, the police turned her away. She tried another police station, but after being made to wait several hours while police officers joked about her gender expression, she left without filing her complaint.\textsuperscript{168}

Discrimination in El Salvador: A Pathway to Life on the Margins

While El Salvador’s penal code prohibits discrimination by state officials, as discussed above, LGBT people have no protection against violence in sectors such as education, employment and housing. A 2018 study by Spain’s international development agency found that “the structural character of the discrimination and exclusion of LGBTI people

\textsuperscript{165} Human Rights Watch interview with Lisa A. (pseudonym), La Union, July 19, 2019.
\textsuperscript{167} Human Rights Watch interview with Lisa A. (pseudonym), La Union, July 19, 2019.
\textsuperscript{168} Ibid.
places them, often from a young age, in a cycle of poverty because of the lack of access to services, opportunities, and social services.”

169 El Salvador, like most countries, does not keep statistics regarding LGBT people’s economic vulnerability, but Human Rights Watch heard from LGBT Salvadorans that education and employment discrimination limited their options, sometimes landing them in poverty.

Poverty is not just a harm in itself in El Salvador; people living in poverty are disproportionately affected by violence. Human Rights Watch’s 2020 investigation *Deported to Danger* found that gang violence is concentrated in specific urban neighborhoods, many of which are completely controlled by gangs.  

LGBT people, who are pushed into the social and economic margins by a lifetime of discrimination, are likely to have few options with regard to choosing a safe place to live. Trans women, who are often both impoverished and compelled to engage in sex work as a result of employment discrimination, are even more likely to face violence from gangs, the police, and clients. Erika Q., a 39-year-old trans woman from San Salvador, said she turned to sex work to survive after she was unable to obtain other employment:

> In El Salvador, many fall into prostitution because there is no other way to subsist. You lose hope. I lost hope about finding work in El Salvador. I applied to many places, but they never called me back.... What we really need is access to work.  

Erika Q. had dropped out of school because of bullying, which impeded her future opportunities:

> I studied up to ninth grade. I was discouraged [and left school because] when you start to realize you have a different identity, you realize it’s going

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170 Human Rights Watch, *Deported to Danger*, section IV.

to be a fight. There were many jokes from other students. You’re not psychologically prepared for that. They see us [trans people] as people without feelings.\textsuperscript{172}

Other LGBT people were kicked out of classes or threatened with expulsion from school due to gender nonconformity. Nelson V., a trans man, said that in fourth grade, the assistant director of his primary school began to harass him about wearing pants rather than a skirt. He had to repeat a grade after being kicked out of class repeatedly, he said.

The assistant director said that he was going to throw me out of school. He sent me home because I came to school wearing pants and was not allowed into class. He always bothered me: ‘Who is your boyfriend? Is Jorge your boyfriend? Or is he your girlfriend?’\textsuperscript{173}

Ricardo S., a gay man, described harassment from his public high school teachers in San Salvador for being “very effeminate.” One teacher, who caught him with makeup on, said it was “for faggots” and threatened to expel him. She sent him to a psychologist, who urged him to get a girlfriend. To stay in school and avoid further problems, Ricardo pretended that a female friend was his girlfriend.\textsuperscript{174}

Xavier H., a 26-year-old trans man, remembered being bullied by classmates for being “different.” They threw stones at him, he said, and teachers did nothing. Sometimes Xavier hid in the bathroom to eat lunch, to escape bullying, but sometimes “they pulled me out of the bathroom by force and beat me hard.”\textsuperscript{175} Xavier continued to suffer discrimination in university, where in 2015, during what was supposed to be the last year of his veterinary program, he was repeatedly rejected when applying for placements for a required external internship because of what he believed was anti-trans bias. When Human Rights Watch interviewed him in 2019, he had still not managed to do his internship and complete the program.\textsuperscript{176}

\textsuperscript{172} Human Rights Watch interview with Erika Q., Washington, D.C., December 5, 2019.
\textsuperscript{174} Human Rights Watch interview with Ricardo S., San Salvador, April 30, 2019.
\textsuperscript{175} Human Rights Watch interview with Xavier H., San Salvador, May 3, 2019.
\textsuperscript{176} Human Rights Watch interview with Xavier H., San Salvador, May 3, 2019.
Xavier did manage to find a job in a veterinary clinic, despite not having completed his degree, but there, too, he faced harassment from colleagues who disparaged his gender identity and insisted on calling him by his dead name (the name on his official documents). Xavier said he was also paid less than similarly qualified colleagues. He eventually left his job.177

Navas F., a trans man in San Salvador who studied hospitality, also found employment opportunities were closed to him because of his gender identity. “I went to leave my CV at hotels and restaurants but there was no door open to me.” He was invited for a job interview at one restaurant, where the person interviewing him observed that there was an “error” on his identity documents. Navas explained he was a trans man. He did not hear back from the employer.178

LGBT people may also be held back from opportunities or promotions. Henryk A., a trans man, said his supervisor refused to send him to trainings and denied him opportunities for advancement that were available to his cisgender colleagues at the medical laboratory where he worked.179

Pricila P., a trans woman from San Salvador, said that finding employment was contingent on hiding her gender identity: “People like me are not accepted. I always knew I was a girl, but I had to cut my hair short and dress in men’s clothes to have a formal job.”180

177 Ibid.
VI. Obligations Under International Human Rights Law

Obligations of El Salvador, Guatemala, and Honduras to Address Anti-LGBT Violence and Discrimination

The Inter-American system is among the most developed regional human rights systems when it comes to articulating the basis for rights and protections related to sexual orientation and gender identity. As the Inter-American Commission on Human Rights (the “Commission”) has stated:

[t]he principles of non-discrimination, equality before the law, the right to life and personal integrity are founding principles of the regional and universal human rights system, with legal duties that are of particular importance to lesbian, gay, bisexual, trans, and intersex (hereinafter ‘LGBTI’) persons in the Americas.\footnote{Inter-American Commission on Human Rights, Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas, OEA/Ser.L/V/II.170 Doc. 184, December 7, 2018, http://www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf (accessed September 11, 2020).}


Article 4 of the Convention protects the right to life, echoing Article 6 of the International Covenant on Civil and Political Rights (ICCPR), to which El Salvador, Guatemala, and Honduras are all states party. Article 5 protects each person’s “physical, mental, and moral integrity” and prohibits torture and cruel, inhuman and degrading punishment or
treatment. No one should live with the constant threat of violence, and states are obligated under international and regional law to protect the right to security of the person and the right to personal integrity.

The Organization of American States (OAS), the main regional governance body in the Western Hemisphere, has recognized the obligation of member states to address violence against LGBT people. The OAS’s General Assembly has issued annual resolutions since 2013 urging member states to produce data on violence based on sexual orientation and gender identity, with a view to fostering public policies to prevent such violence.

The Inter-American Commission on Human Rights, created by the OAS to serve as the principal hemispheric human rights body, has specified that states should “make efforts and allocate sufficient resources to collect and analyze disaggregated statistical data in a systematic manner on the prevalence and nature of violence and bias discrimination against LGBTI persons, or those perceived as such.”

The Court has found that the right to life under Article 4 of the American Convention, in conjunction with Article 1(1), is comprised of both negative and positive obligations. States must not only ensure that no person be arbitrarily deprived of their life, but must also adopt all appropriate measures to “prevent, try, and punish the deprivation of life as a consequence of criminal acts, in general, but also to prevent arbitrary executions by its own security agents.”

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492 Ibid.
As such, the court held that safeguarding the right to life requires:

States to effectively investigate deprivation of the right to life and to punish all those responsible, especially when State agents are involved, as not doing so would create, within the environment of impunity, conditions for this type of facts to occur again, which is contrary to the duty to respect and ensure the right to life.\textsuperscript{493}

The Commission has further emphasized that “any abridgment of the human rights recognized by the Convention that may be attributed, according to the rules of international law, to actions or omissions by any public authority constitutes an act attributable to the State.”\textsuperscript{494}

The UN Human Rights Committee, in overseeing states’ compliance with the ICCPR, emphasizes that states’ positive obligations:

...will only be fully discharged if individuals are protected by the State, not just against violations of ... rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of ... rights in so far as they are amenable to application between private persons or entities.\textsuperscript{495}

The UN Office of the High Commissioner for Human Rights notes that although hate-motivated violence against LGBT people is typically perpetrated by non-state actors, “failure by State authorities to investigate and punish this kind of violence is a breach of States’ obligation to protect everyone’s right to life, liberty and security of person.”\textsuperscript{496}


The Inter-American Court of Human Rights has ruled that in investigating and prosecuting cases of violence, judicial processes should be attentive to the specific vulnerabilities of LGBT people. In March 2020, in \textit{Azul Rojas Marín y Otra vs. Perú}, a case involving sexual violence and other forms of torture of a trans woman in prison, the Court held that when investigating violent acts, state authorities “have a duty to take all reasonable measures to uncover whether there are possible discriminatory grounds.” No facts can be omitted from this investigation if they can lead to establishing that the violence was motivated by discrimination; failure to investigate possibly discriminatory motives could be a violation of the non-discrimination provision in Article 1(1) of the American Convention.\footnote{Inter-American Court of Human Rights, \textit{Case of Azul Rojas Marín et al. v. Peru}, Preliminary Objections, Merits, Reparations and Costs, Judgment of March 12, 2020, https://www.corteidh.or.cr/docs/casos/articulos/senec_402_esp.pdf (accessed September 11, 2020), para. 196.}

In its determination, the court ordered Peru to establish a specific protocol for investigation and administration of justice in cases involving allegations of violence against LGBTI people. Such a protocol should include, the court ruled, the obligation to be sensitive to victims’ gender identity and sexual orientation, not engage in stereotyping or other discriminatory treatment, avoid retraumatization, and stipulate methods to
determine whether crimes of sexual violence or torture were perpetrated due to anti-LGBTI animus.\textsuperscript{500}

Regional human rights law is equally firm in its condemnation of all forms of discrimination against LGBT people. The OAS General Assembly resolution cited above, in addition to calling for data collection with regard to violence, calls on member states to adopt public policies against discrimination by reason of sexual orientation and gender identity or expression.\textsuperscript{501}

In November 2017, the Inter-American Court of Human Rights issued an advisory opinion, in response to a query from Costa Rica about its obligations under the American Convention, stating that in order to uphold the rights to privacy, nondiscrimination, and freedom of expression, states must establish simple, efficient procedures that allow people to change their names and gender markers on official documents through a process of self-declaration, without invasive and pathologizing requirements such as medical or psychiatric evaluation or divorce.\textsuperscript{502} To date, none of the Northern Triangle countries have done so.

In February 2020, the Inter-American Convention Against All Forms of Discrimination and Intolerance entered into force. It explicitly protects against discrimination on the grounds of gender identity, gender expression and sexual orientation alongside other grounds including language, cultural identity, migrant or refugee status, and socioeconomic status. It has been signed by 12 countries and ratified by Mexico and Uruguay. El Salvador, Guatemala, and Honduras are among the countries that have neither signed nor yet ratified the convention.\textsuperscript{503}


The Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity address both violence and discrimination against LGBT people. The principles assert that states should take all necessary measures to prevent violence and harassment related to sexual orientation or gender identity, including through vigorous investigation, redress to victims, and awareness-rising campaigns to reduce bias.\textsuperscript{504}

The Yogyakarta Principles also call on states to ensure all human rights without discrimination on the basis of sexual orientation or gender identity, including the right to work and to education.\textsuperscript{505} They urge states to ensure that procedures exist whereby a person’s self-defined gender identity can be indicated on all State-issued identity documents that include gender markers.\textsuperscript{506}

As noted by the UN Human Rights Committee, the term “discrimination” should be understood broadly, “to imply any distinction, exclusion, restriction or preference... which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.”\textsuperscript{507} Regardless of intent, policies and practices that result in disparate impacts on particular groups of people—including LGBT people—can constitute discrimination which states are obligated to eliminate. The UN Committee on Economic, Social and Cultural Rights, the authoritative body that interprets the UN Convention on Economic, Social and Cultural Rights, has also stressed that states are obligated to eliminate not only formal, but also de facto or substantive, discrimination, noting:

> Eliminating discrimination in practice requires paying sufficient attention to groups of individuals which suffer historical or persistent prejudice instead of merely comparing the formal treatment of individuals in similar situations. States parties must therefore immediately adopt the necessary measures to prevent, diminish and eliminate the conditions and attitudes


\textsuperscript{505} Ibid., principles 12, 16.

\textsuperscript{506} Ibid., principle 3.

which cause or perpetuate substantive or de facto discrimination... In order to eliminate substantive discrimination, States parties may be, and in some cases are, under an obligation to adopt special measures to attenuate or suppress conditions that perpetuate discrimination.\(^{508}\)

Accordingly, to effectively curtail systemic discrimination, it is critical that states prioritize adopting comprehensive civil and administrative laws banning discrimination. While the use of the criminal law is warranted when discrimination manifests itself in particular egregious forms—notably, acts of violence or incitement to violence—its focus on criminal intent, which needs to be established beyond a reasonable doubt, is inadequate to capture and sanction much discriminatory behavior.\(^{509}\) This is particularly true when discrimination is widespread as part of policies and practices. By contrast, civil and administrative legal frameworks are better designed than the criminal law to give greater weight to the consequences of particular actions, and can help address and sanction harmful actions and practices that impact groups or large numbers of people in a way that promotes good systems and policies.

States are also obligated to adopt robust economic and social policies in various areas—education, health, and employment, among others—to counter societal discrimination and its harmful effects, and affirmatively ensure the equal rights of vulnerable groups, such as LGBT people in the Northern Triangle.

**Obligation of the United States Not to Return Refugees**

Under US law and the 1967 Protocol Relating to the Status of Refugees, to which the United States is party, the United States may not return asylum seekers to face threats to their lives or freedom without: (1) affording them an opportunity to apply for asylum or for protection against facing the threat of torture; and (2) conducting a full and fair examination of those claims.


\(^{509}\) In many countries, including in the Northern Triangle, governments have used the criminal law in ways that disproportionately impact particularly vulnerable or marginalized groups, including LGBT people, raising further concerns about its effectiveness and appropriateness as the primary tool to address discrimination.
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. 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.

There is no right to be granted asylum under international law, but there is a right to seek asylum. 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....”

However, the policies instituted by the Trump administration that are discussed in Section V, including the CDC summary expulsion order, the Guatemala Asylum Cooperation Agreement, the metering system, the Migrant Protection Protocol, the Prompt Asylum Claims Review, and the attempt at a full-scale asylum ban for those crossing through third countries have effectively nearly eviscerated the right to seek asylum. Each of these policies alone, but also in combination, creates a significant risk of refoulement of refugees because the policies prevent US authorities from assessing each individual's


asylum claim, which is the means by which refugees can be identified and protected against return to persecution or other serious harm.

Under the Guatemala Asylum Cooperation Agreement, some people who have a well-founded fear of persecution appear to be abandoning their claims and returning to their home countries where they are at real risk of serious harm. Given Guatemala’s incapacity to provide effective protection, and the risk that some LGBT Hondurans and Salvadorans transferred to Guatemala under the agreement would face the threat of serious harm either in Guatemala or after returning to their home countries, the United States violates its domestic and international nonrefoulement obligations by not examining the asylum claims of LGBT Hondurans and Salvadorans it is forcibly sending to Guatemala. Given security conditions for LGBT people and weaknesses in the asylum system in El Salvador and Honduras, the same human rights obligations will likely be breached if the United States transfers asylum seekers to Honduras and El Salvador under Asylum Cooperative Agreements that have been signed, but not implemented, with those countries.514

VII. Dreams of a Better Future

The LGBT asylum seekers from the Northern Triangle whom Human Rights Watch interviewed in the United States and Mexico are dreaming of a better future: a future in which they can be treated with respect and dignity regardless of their sexual orientation or gender identity; a future free from violence; a future in which they can study and work without fear of discrimination. For far too many asylum seekers, especially those who are caught in limbo in Mexico while the Trump Administration unveils one policy after another that further restricts their options, those dreams remain out of reach.

LGBT asylum seekers who have made it into the United States expressed eagerness to integrate and establish themselves. Carlitos B., a non-binary person from Guatemala, told Human Rights Watch researchers when we interviewed them in Los Angeles in 2019:

I’m waiting for my work permit. I want to do everything legally, I want to work, be able to rent a room. Maybe I will look for work in a restaurant. I used to help out in a restaurant. Right now I’m studying English at night from 6 to 9 p.m. In the morning sometimes I go running in the mountains.515

Marina T., a trans woman from Honduras who was waiting for her metering number to be called in Tijuana when Human Rights Watch interviewed her, said:

If I get asylum in the US, I will go wherever I have a sponsor. I want to become independent, find work, finish my studies, and live a life full of peace, full of love, the love that I never received from my family in Honduras. I don’t want to keep suffering.516

The governments of El Salvador, Guatemala, and Honduras bear responsibility for creating or tolerating the conditions that forced people like Carlitos B. and Marina T. to flee their countries. They should act urgently to rein in violence and discrimination on the grounds of sexual orientation and gender identity, making it possible for the hundreds of thousands

515 Human Rights Watch interview with Carlitos B., Los Angeles, December 9, 2019.
of LGBT people who remain in the Northern Triangle to contemplate a life in which they do not have to choose between risking violence and discrimination and relinquishing home.

The United States should ensure that once people like Carlitos B. and Marina T. arrive at the Southern border, they are given an opportunity to access a safe space that will allow them to realize their dreams.
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LGBT people in El Salvador, Guatemala, and Honduras – the Northern Triangle of Central America – face a complex web of violence and discrimination that threatens their physical safety and limits their life choices. This includes violence at the hands of gangs, law enforcement officials, and their own families, which leads many LGBT people from the Northern Triangle to undertake perilous journeys to seek asylum in the United States. But the US government has increasingly closed doors to them, implementing a series of policies that restrict access to asylum and most recently closing the southern border to asylum seekers entirely, using Covid-19 as a pretext. This report, based on interviews with 116 LGBT people in and from the Northern Triangle, documents the violence LGBT people face there, the failure of their own governments to protect them, and the further abuses they face if they attempt to seek asylum in the United States. It calls on the US government to reverse life-threatening policies that restrict access to asylum, and on the Northern Triangle governments to adopt robust laws and policies to prevent and respond to anti-LGBT violence and discrimination.
Deported to Danger
United States Deportation Policies Expose Salvadorans to Death and Abuse

Available In  English  Español

A newly-arrived Salvadoran deportee from the United States waits for an interview with Salvadoran authorities at a reception center on September 28, 2018. © 2018 Moises Saman/Magnum Photos

- Video
- Photo Gallery
- Map
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.
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
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

https://www.hrw.org/report/2020/02/05/deported-danger/united-states-deportation-policies-expose-salvadorans-death-and
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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
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’ fulfilment 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
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. 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. 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.

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. This agency is responsible for bringing criminal charges and conducting criminal investigations. 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.

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. Every department has at least one IML office, and seven departments have a regional clinic, totaling 17 IML installations countrywide. 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.

Local Office for Attention to Victims (Oficina Local de Atención a Víctimas, OLAV)
Plan El Salvador Seguro (adopted by the Salvadoran government to try to improve security conditions in the country) 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.[11] 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.[12] 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)

ISNA is the Salvadoran governmental institution that develops and executes programming for children and adolescents.[13] Their programming includes childcare and foster care, physical and psychological health and wellbeing services, job and vocational training, and education.[14]

The Center for Attention to Children, Adolescents and Family Niñez, Adolescencia y Familia, CANAF) (Centro de Atención a la

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.[15] 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.[16] Staff at departmental offices reported caseloads no greater than 300 since opening their doors, in part because so many children migrated again.[17]

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 the issuance of passports and visas to immigration enforcement.[18]

Directorate for Attention to the Migrant (Dirección de Atención al Migrante, DAMI)[19]
DGME-run center in the Quiñónez neighborhood (also called “La Chacra”) of San Salvador where people deported from US federal immigration detention are processed back into El Salvador.[21] 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.[22] 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 Ana Department.[23] 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.[24] As of February 2018, Yo Cambio has been replicated in 14 prisons. Demand is high, but lack of budget continues to be an issue.[25] 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.[26]

**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.[27] 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.
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.[28]

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.[29] 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.
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.\[31\] 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.\[32\]

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.\[33\] 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.\[34\] 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.
 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.[35] Through public information requests to the Salvadoran Attorney General’s Access to Public Information Office,[36] we acquired municipal-level data on adult and child homicides[37] and sexual crimes[38] 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.[39]

- 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.[40] 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.[41] These data have extreme limitations.[42] However, they
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,[43] 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,[44] 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.[45]

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.[46] 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.[47]
I. Background

Human Rights Situation in El Salvador

El Salvador, with just over six million citizens, has among the world’s highest homicide rates, 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. 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. Successive Salvadoran governments have deployed military units alongside police in public security operations, despite a 1992 peace accord stipulation against it. Media outlets widely report that the current national police director is under investigation for threats and links to drug trafficking and extermination groups.

In 2019 alone, the Central American University Human Rights Institute received seven reports of elite Salvadoran police units burning victims. 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 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. Victims or witnesses of eight arbitrary arrests in two incidents in 2019 and late 2018 told Human Rights Watch of beatings at police barracks.

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. 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...
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.[59] The IML registered 14 homicides in police barracks and prisons in 2018. [60] One official told Human Rights Watch that 10 other detainees had died from extreme heat. Two inmates said there was tuberculosis in Salvadoran prisons.[61] One 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.[62]

**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.[63] 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.[64]

**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.[65] According to the IACHR, victims said they are at times unable to file complaints regarding 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. Because very few cases are investigated, knowledge of perpetrators is limited. 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, and the rates of “feminicide,” including domestic violence killings are the highest in the region. 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.

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 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. Several LGBT Salvadorans also reported being beaten or sexually assaulted by the police. 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. 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.

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, 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.

- 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,[76] 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.[77] 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 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,
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. 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. 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.

Deported Former or Current Gang Members Killed by Gangs
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,[81] battling for power within the gang,[82] committing crimes like robbery,[83] or calling attention to the gang through flamboyant behavior.[84] Gangs reportedly kill members of rival gangs, or those assumed to be members, for living in or transiting their area,[85] including one who was evangelizing after leaving behind gang life[86] and one who was recently deported.[87]

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.[88] 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.[89]
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." 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 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.[91]

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.[92] 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. [93] 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.”[94] The 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.”[95]
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.[96]

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 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.[97]

- 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.”[98] 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.[99]

- 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.”[100] 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.”[101] Paiz had several
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 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.”[103]

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.”[104]

**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.”[105]
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.[106] 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.[107]

**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.*”[108]

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.”[109] 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.”[110]
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, 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, 81 deportees died after being in the country for one 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. For all deported people killed, we focused only on individuals deported from the United States. 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. 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.
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.[116] 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 extrajudicial killings starting in 2013).[117] Private actors were the alleged perpetrators in the overwhelming majority of the killings.[118] Only three accounts identified through our press searches[119]–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.[120] 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 governmental accounts. Among victims who do report, protocol does not require authorities to ask about migration status of victims.[121]

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
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).
[123]

There is no mandatory requirement that the Salvadoran prosecutor’s office (FGR) collects
migratory status in its investigations, including in its homicide investigations.[124] 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.”[125] An investigator in a different
department also said migratory status was irrelevant to their office, “unless the person requests
it.”[126] 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.”[127] 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.”[128]

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.[129] 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.[130]

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...
who was killed after her deportation from the United States.[131] Nevertheless, several directly impacted individuals and authorities told us about women killed after their deportations.[132]
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.[133]

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.[134] Many non-homicide crimes are unreported and thus undocumented in El Salvador.[135] For example, one survey suggests that less than five percent of sexual crimes were reported to Salvadoran authorities in 2018.[136] Crimes less serious than homicide go unreported to authorities, are 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
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.[137] 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.[138]

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,[139] alongside 13 men who disappeared or were kidnapped before being found killed.[140]

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.[141]

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.[142]

**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.”[143]
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.[145] In addition, according to a local prosecutor we interviewed, a woman was subjected to sexual harassment after her deportation from the US.[146] 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;[147] and a female deportee who said that she was raped by a gang member after deportation from the US.[148]

**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.[149] 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.’”[150]

In October 2014, Angelina’s father took her daughter to church.[151] 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
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.” 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.” 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.”

Angelina was raped twice more by Mateo before fleeing again—this time with her daughter—to the United States. 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. 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 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.”

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. In the second case, a deportee who police accused of extortion, evading arrest, and shooting at police; claimed he was face down on
deportee was taken to a hospital for his injuries and was later acquitted of all criminal charges.

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. Presumed gang members subsequently beat three and shot and injured three others. Suspected gang members likewise extorted 13 deportees (including one beaten and one shot and injured). Alleged gang members subsequently killed 14 deportees (including six of those extorted). For these 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. 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.”

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?”

Safe relocation in El Salvador is incredibly difficult for anyone. 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
United States Deportation Policies Expose Salvadorans to Death and Abuse | HRW

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. [171] 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.[172]

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.” [173] 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[174] 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.” [175] 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.[176] 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.[177]

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 they had originally fled. Two who were beaten and extorted,[178] and one who was beaten, extorted,
another. 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. Three additional male deportees attempted to go into hiding in a new location before they were killed or disappeared, according to press accounts.

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.

After the killing, the press arrived. Nearly every Salvadoran media outlet covered the murder, some in more than one story. 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.

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. 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.”

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
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 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.”[188]

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.\[189\] In most municipalities, however, crime tends to concentrate in a small percentage of specific neighborhoods.\[190\] Such neighborhoods register multiple homicides and sexual crimes each year.\[191\] Many have also been the sites of clandestine graves containing victims who were kidnapped, disappeared, and often tortured before they were killed.\[192\] 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.\[193\] 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].”\[194\] 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.\[195\] They—like other residents—may show symptoms of trauma.\[196\] 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;\[197\]
- Altavista neighborhood at the border of Ilopango, San Martín, and Tonacatepeque municipalities of San Salvador department,\[198\] and surrounding areas like San José Flores neighborhood of Tonacatepeque municipality of San Salvador department;
- San Roque neighborhood and surrounding neighborhoods like Zacamil of Mejicanos municipality\[199\] in San Salvador department;
- Iberia\[200\] and San Jacinto\[201\] neighborhoods of San Salvador municipality in San Salvador department;
- La Campanera neighborhood\[202\] of Soyapango municipality in San Salvador department;
• El Platanar neighborhood of Moncagua municipality in San Miguel department;[204]

• Ciudad Pacífica,[205] Milagro de la Paz[206] and San Antonio Silva[207] neighborhoods of San Miguel municipality in San Miguel department;

• Tierra Blanca neighborhood of Jiquilisco municipality in Usulután department;[208]

• Chaguantique neighborhood and surrounding areas at the border of Jiquilisco and Puerto El Triunfo municipalities in Usulután department;[209]

• El Ojuste[210] and La Poza[211] neighborhoods of Usulután municipality in Usulután department;

• El Junquillo neighborhood of Ahuachapán municipality in Ahuachapán department;[212] and

• Apaneca and surrounding neighborhoods of Chalchuapa municipality of Santa Ana department.[213]

No publicly available dataset demonstrates what percentage of migrants leaving El Salvador come from hot spots of violence;[214] however, among the cases of people deported from the United States who were subsequently harmed in El Salvador 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,[215] 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.[216]

• 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.[217]

• In 2014, one deportee was reported killed in Tierra Blanca of Jiquilisco.[218]

• Two deportees were killed in the La Poza neighborhood of Usulután municipality in 2014 and 2018.[219]

• 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
other deportees from the United States had also been killed in El Junquillo or adjacent Las Viñas in 2012 or 2013 and 2016.[221] A separate official in the same region told reporters they “go [there] frequently” to investigate homicides.[222]

- 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).[223]

### 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?”[224] Residents’ responses included Altavista (and San Jose de las Flores next to it), San Roque, Iberia, La Campanera, Ciudad Pacifica, Milagro de la Paz, and San Francisco adjacent to Apanec of Chalchuapa. These neighborhoods are often notorious beyond just residents. For example, in 2019, the Salvadoran investigative press outlet, *El Faro*, noted that Altavista, La Campanera, and Milagro de la Paz are nationally stigmatized.[225]

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.[226] One police officer expressed concerns to Human Rights Watch that naming such neighborhoods can negatively impact their residents and make them “even hotter.”[227]

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.”[228]
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, bars to cover windows, and dirt floors.[229] 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.[230] 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.[231]

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.”[232] 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.”[233]

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.[234] 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, 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.”[235]

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.[236] An FGR prosecutor told Human Rights Watch that “depending on the deportee’s [neighborhood], we do see changing addresses as a risk [for death].”[237]
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.”[238]

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.”[239]

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 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].[240]

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.[241]

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.[242] 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.”[243] Irene J., said of her recently deported husband:
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. Nationwide, in 2018, authorities made arrests in approximately 22 percent of registered homicide cases. For homicides of boys, the 2018 clearance rate (meaning charges were filed) in El Salvador is 13.6 percent. The clearance rate for homicides in the US (adults and children) was several times higher at 62 percent; in many European countries the rate is above 75 percent. For sexual crimes, authorities in El Salvador made arrests in only 9.5 percent of registered cases in 2018. The comparable clearance rate for sexual crimes in the US was 33.4 percent in 2018. For sexual crimes against girls in El Salvador, the 2018 clearance rate was 7.6 percent. Low clearance rates can occur for a number of reasons, but in El Salvador, the state is frequently either unable, due to 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.”[253]

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. 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.[254]

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.[255] 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.[256]

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, 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 ....[257]
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 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 ilicitas]. We were beaten [repeatedly] during those three days.[260]

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.
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.[261] 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.[262]

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 found few resulted from such armed confrontations.[263] 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.[264] 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.[265]

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:

> 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.[266]
Several people recently deported from the US told Human Rights Watch that law enforcement authorities had detained or stopped and questioned them. 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. 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. [269]

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.” [270]

### 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,[271] during,[272] and immediately after the country’s civil war from 1980 to 1992.[273] Experts have shown that during and after the civil war, “death squads” or “extermination groups” were deeply rooted in the country’s security forces[274] and in specific cases, targeted deportees.[275]
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.[280] 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.[281] 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 military- or police-style uniforms arrived in at least five victims’ homes, took them out, and then shot them dead, according to press reports.[282] Men dressed in dark clothing reportedly took at least six more victims from their homes before killing them.[283]

- In Chaguantique, of the 12 homicides the press reported, the killers of three in 2015 wore “clothing similar to what the police use.”[284]

- 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.[285]

- In 2017 in El Platanar, “men in black” reportedly took two women from their homes in the neighborhood and then killed them.[286] In 2018, residents and journalists alike reportedly suspected the “exterminators” in a separate double homicide.[287]

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.[288]

- 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 United States in 2015 who had non-gang-related tattoos, at his home.[289]
nephew, both alleged gang members, some 100 meters away to a coffee field where they were interrogated and killed.[290]

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....”[291]

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 identidad] [292] and passport ... They took photos of everything ... and told me it was evidence.”[293]

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.”[294]

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
Several people harmed after being deported to El Salvador had arrived in the United States as children and adolescents.[296] Several described attending school in the US and nearly all worked, but given their limited economic means and precarious legal status, many also found themselves living in US communities with higher levels of poverty.[297] 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. [298]

### 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.”[299]

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.[300] 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.”[301]

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.”[302]

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 occurred in 1990 as a young adult and the most recent of which occurred in December 2017. He
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. 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 of former long-term US residents who were killed, and of the case of a US citizen 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 of death. 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.

A police investigator told Human Rights Watch that among his recent homicide cases were several involving deportees who had been extorted:
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, 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.”[310] 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].’”[311]

**Tattoos**

Tattoos are common in the United States.[312] 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.[313] A few other former long-term US residents we interviewed acknowledged their tattoos were gang-related.[314]

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, after being beaten repeatedly in a US federal prison when he was young and vulnerable.[315] Bartolo A. agreed, stating: “Many times, one does it [gets tattoos while in prison] to obtain protection from the
In El Salvador, however, tattoos are deeply stigmatized, and can prove deadly. This has been true for many years.[318]

Today, gangs, authorities, and death squads link tattoos to gang membership in El Salvador. Officials[319] 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.”[320]

- “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 areas. The constant variables among murdered deportees and disappeared deportees is tattoos. Some are gang members.”[321]

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,[322] an angel and Christ,[323] a shield,[324] stars on the elbows,[325] and allusions to the US city of Los Angeles.[326] In some of these 30 cases, the individuals had spent their childhoods, their adolescence and/or more than 10 years in the US.[327] Some were killed within days of their deportation,[328] but others were killed years later, despite trying to leave their homes as little as possible (for example, travelling only to and from work).[329] 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 Human Rights Watch researcher that Ángel was killed in 2018 in their rural municipality after Ángel’s deportation in 2018.[330]

- 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.”[331]
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.”[332]

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.[333] 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.[334]

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.”[335] However, the removal sessions are only offered in San Salvador, must be spaced weeks apart, and can take years to completely remove tattoos.[336]

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. [337]

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.[338] He also worked the limited odd jobs that were available, such as construction, two or three times per week.[339] 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.”[340] Javier testified that he “gave in to the easy money” of participating in burglaries.[341]

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
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 denying him protection under the Convention against Torture and ordering him deported from the United States. [342] 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]. [343]

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. [344] 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
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.\[345\]

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 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.\[346\]

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.\[347\]

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.”\[348\] 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.\[349\]

Although deportations of individuals with TPS or DACA status are on hold as of the writing of this report,\[350\] 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
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.\[351\] 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.”\[352\] The UN refugee agency (UNHCR) has defined such a crime as a “capital crime or a very grave punishable act.”\[353\] 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 ... [and therefore should only happen] in exceptional cases and after due consideration of all the circumstances.”\[354\]

Therefore, in accordance with international refugee law, procedures must be in place to ensure careful application of this narrow exception.\[355\] 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.”\[356\] 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 standard known as “withholding of removal.”\[357\] But for people who have been convicted of what are regarded as “particularly serious crimes,” withholding is also barred.\[358\]

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.\[359\]

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
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.

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. 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....”

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,[363] the US government returns to 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,[364] 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.[365]

Although legal challenges continue, the United States Court of Appeals for the Ninth Circuit has allowed this sweeping policy to remain in place.[366] 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.[367]

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 particularly violent Altavista neighborhood in El Salvador, who both died while trying to cross the Rio Grande in June 2019.[368]

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.[369] 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.[370]

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.
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 serious doubts about their ability to handle large numbers of asylum claims and offer effective protection.[372]

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,[373] 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.[374] Despite the official end to family separation in June 2018,[375] many separations are still happening.[376] 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[377], 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 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[378], 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.[379]

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.[380] 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.[381] Beyond that, his decision failed to
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 “credible fear interviews,” the threshold interview that is required before an affirmative asylum seeker is allowed to present their claim to an immigration judge.\[382\]

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.\[383\]

US Law Fails to Adequately Value Long-Term Connections to US\[384\]

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.\[385\] 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.\[386\] 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.\[387\] Moreover, the UN special rapporteur 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.”\[388\] 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.[389] 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.[390] 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. [391] These cases are closely analogous to the situation of DACA beneficiaries and, in some cases, TPS beneficiaries as well.

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.
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.”[392]

This interpretation is inconsistent with the United States’ obligation under the International Covenant on Civil and Political Rights (ICCPR).[393] 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.”[394]

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.[395] 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 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
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.
• 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,
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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TAB 14
The impact of violence on LGBTI people in the North of Central America

Lesbian, gay, bisexual, trans and intersex (LGBTI) people face discrimination, human rights violations and persecution across the world, particularly in societies where their sexual orientations, gender expressions, identities, or bodies do not fit the established cultural norms. This discrimination is particularly severe in the North of Central America (NCA), where LGBTI people are disproportionately impacted by the high levels of generalised violence. A comprehensive overview of the ongoing violations is difficult to obtain, due to the lack of disaggregated data collection and various barriers impeding people from making official reports. However, the available existing evidence shows that LGBTI people face rejection from their families, communities and wider society, and additional barriers in accessing basic services such as health and education, as well as employment. As reported by LGBTI rights organisations, this is exacerbated by the absence of a protective legal framework, the guarantee of basic rights, and persecution from criminal groups and state actors.

For many affected people, the only available coping mechanism is internal or cross-border displacement, and seeking asylum in the United States or Mexico (although not all those who are forcibly displaced seek asylum and many are unaware of their right to do so). International protection mechanisms exist for LGBTI persons, under the 1951 Convention Relating to the Status of Refugees (with most qualifying as ‘a determined social group’) and the principles of Yogyakarta which establish the right to seek and qualify for asylum for people escaping persecution related to sexual orientation or gender identity.

The governments of the three NCA states have been reluctant to design and implement measures guaranteeing protection, assistance and access to justice for LGBTI people. The progress that has been made towards guaranteeing rights has been obtained largely through the advocacy efforts of LGBTI organisations. In contrast, the humanitarian sector has little capacity to provide a differentiated response to the specific needs of LGBTI people, especially those displaced.

This snapshot analyses the main risks for LGBTI people in the NCA, particularly in the context of criminal violence. It highlights: an overview on access to basic rights; the main agents of persecution; the latest available data on human rights violations; the situation of displaced LGBTI people; and the main actions that states and the humanitarian sector must focus on in order to meet the needs.

Key Messages:
- LGBTI people in the NCA face structural, family, community, criminal and state violence, and a lack of legal protection.
- Human rights abuses are underreported in official registries. At least 243 homicides were registered by civil society organisations in the last 5 years.
- These different forms of violence impede access to education, employment and basic services. In El Salvador, only 50% of displaced LGBTI people studied beyond primary school.
- Displacement is a protection coping mechanism. 88% of LGBTI asylum seekers from the NCA suffered sexual and gender-based violence in their countries of origin.
### Honduras

- **Honduras**
  - 2,564 homicides were registered between January and August this year, an average of 11 per day. This represents a 5% increase compared to the same period in 2018.
  - 39 massacres (the assassination of three or more persons in the same context and place) were registered between January and June.
  - 3 minors were reported to have been killed during political protests in April and June.
  - In July, the crops of a community opposing a hydroelectric project in Rio Blanco (between Santa Barbara and Intibuca) were destroyed, affecting 25 families.
  - According to a recent study by IOM and the Secretary of Security, 16% of girls and 10% of boys experienced sexual violence before turning 18 years old.
  - The National Commission for Human Rights has received 7,446 reports of people displaced by violence between 2016 and June 2019, out of which more than half report having fled from violent threats, 12% due to the murder of a relative, 12% due to extortion, 7% due to threat of murder and 4% due to the recruitment of children.
  - Out of the 154 homicides registered in July, 22 were committed by security forces, and 16 were remains of bodies found in clandestine graves.
  - 736 cases of violence against women were registered between 2018 until June of this year, out of which 242 were sanctioned.
  - The alert for missing children has been activated 23 times this year.

### El Salvador

- **El Salvador**
  - 1,860 people were murdered between January and August, an average of 8 homicides per day. According to the government, August was the least violent month of the XXI century. However, the Transparency Portal of the National Civilian Police (which publishes disaggregated data of homicides and rapes) stopped functioning at the beginning of 2019.
  - Out of the 154 homicides registered in July, 22 were committed by security forces, and 16 were remains of bodies found in clandestine graves.
  - Out of the 42,000 families affected by the drought in 2018, half are still vulnerable to food insecurity.
  - Between January and July, 22,693 people were deported to El Salvador, a 59% increase compared to the same period in 2018.
A general update on the protection crisis in the NCA
January to August 2019

Guatemala

- A total of 3,186 necropsies linked to violent events were registered between January and August, an average of 13 people per day²¹.

- From January to August the alert for missing children was activated 5,078 times, an average of 21 children per day²².

- Due to the extended drought, a lagoon and two rivers have dried up in northern Guatemala. Last year drought affected 354,000 families across the country²³.

- During the first 6 months of the year, 327 aggressions and 12 assassinations of human rights advocates have been registered²⁴.

- This year 296 deaths of migrants were registered close to the United States-Mexico border and 82 were registered in Central America²⁸ (in comparison to another high-risk journey, 307 migrants died in the Mediterranean this year²⁹).

- Mexican authorities rescued 19 victims of human trafficking in Mexico City³⁰.

- Human rights defenders report that the government is less receptive to their work, especially after the ending of the mandate of the International Commission against Impunity in Guatemala (due to pressure from the government)³⁵, and budget cuts for the Human Rights Office³⁶.

Outside the region:

- Between January and July, 64,622 people were deported to Guatemala, an 18% increase compared to the same period in 2018²⁷.

- The latest data from the US fiscal year (October 1, 2018 to August 31, 2019) show that 72,873 unaccompanied Honduran minors were intercepted at the US border³¹. In 2014, when 68,541 children were registered, the US government declared the unaccompanied minors crisis³².

- 657,404 people have been arrested at the US border from January to August 2019³³.

- The Mexican government announced that 30,000 migrants, who had requested asylum in the US and were sent to Mexico under the 'Migrant Protection Protocol', were to be relocated to Chiapas, in the south of Mexico near Guatemala³⁴.
1 The lack of protection for the LGBTI community in the NCA

A. Social context and dominant narratives

Hetero-normativity
Prejudice, discrimination and its associated violence, are rooted in social contexts and conventions that impose heterosexuality as the norm³ (known as ‘heteronormativity’). This discourse is the underlying current of homophobic narratives that are propagated – particularly by media outlets – throughout societies and reinforce prejudice, the normalisation of stigma and violence³. Although there are variations in each country, heteronormativity is dominant in the NCA. In Guatemala, 80% of the general population, and 90% of the LGBTI population, consider that LGBTI persons are discriminated against in their country³. In the three countries, approximately 88% of the general public opposes equal marriage³, and in Honduras, the same proportion of the public considers homosexuality as immoral³. This dominant discourse has important political repercussions. In recent years, hate speech, promoted by anti-LGBTI rights, conservative and/or religious groups, have increasingly played a more prominent role, finding support in right-wing parties, and rolling back existing rights of LGBTI people⁴⁴. In Guatemala, for example, the president, who is evangelical, declared that, “our government and Guatemala believe in the family based on the marriage of a man and a woman”⁴⁴. His government has supported a draft law – the Law for the Protection of Life and Family - (currently in third debate and yet to be approved⁴³) to prohibit same-sex marriage and abortion, moreover establishing that “no one is obliged to accept non-heterosexual conducts and practices as normal”⁴³. The dissemination of information about LGBTI people in schools and the discussion of other forms of sexuality that do not correspond to heterosexuality would be prohibited. According to OHCHR, this law could lead to increased hate crimes against LGBTI people⁴⁴, and according to the LGBTI organisation Visibles, could lead to the criminalisation of girls, women and LGBTI people⁴⁵. According to an organisation interviewed for this snapshot, during the recent electoral campaign, neither of the candidates referenced the LGBTI population in their campaigns. In fact, both candidates signed a commitment to halt any advancements in LGBTI rights⁴⁶. In El Salvador, expressing support for LGBTI people in political campaigns is considered to be “political suicide”⁴⁷. Before this year, the Sexual Diversity Directorate existed under the Presidency’s Social Inclusion Secretariat, operating since 2010 to implement policies addressing discrimination based on sexual orientation and gender identity⁴⁸. This directorate also offered employment opportunities for the LGBTI population⁴⁹ and provided psychological and legal services to victims of violence. However, since the arrival of the new government this year, the Social Inclusion Secretariat has been eliminated and the Sexual Diversity Directorate has been reassigned to the Ministry of Culture. No information has been provided as to how this directorate will operate, and currently services are being directly provided by civil society organisations. In 2017 in Honduras, four trans women ran for public office, but were subject to threats and hate crimes and none were elected⁵⁰.

Political trends
This dominant discourse has important political repercussions. In recent years, hate speech, promoted by anti-LGBTI rights, conservative and/or religious groups, have increasingly played a more prominent role, finding support in right-wing parties, and rolling back existing rights of LGBTI people⁴⁴. In Guatemala, for example, the president, who is evangelical, declared that, “our government and Guatemala believe in the family based on the marriage of a man and a woman”⁴⁴. His government has supported a draft law – the Law for the Protection of Life and Family - (currently in third debate and yet to be approved⁴³) to prohibit same-sex marriage and abortion, moreover establishing that “no one is obliged to accept non-heterosexual conducts and practices as normal”⁴³. The dissemination of information about LGBTI people in schools and
Anti-discrimination legislation
None of the NCA states criminalise homosexuality, and all three national legislations include some form of protection against discrimination\(^P^1\). However, according to the organisations interviewed, this does not translate into concrete protection, especially in the face of exclusion, discrimination and impunity. In Guatemala, the state has publically acknowledged that there is no official recognition or codification of the rights of LGBTI people, and that the Penal Code does not specify causes of discrimination, nor protect people against discrimination due to sexual orientation or gender identity in areas such as employment, education, housing, healthcare or treatment in public establishments\(^5^2\). In 2012, the Guatemalan state committed to elaborating a public policy for LGBTI people, but is yet to fulfil its commitment\(^5^8\). In El Salvador, although the Constitution protects everyone equally, there is no specific legislation on antidiscrimination for protecting LGBTI people or other vulnerable groups\(^5^4\). The Sexual Diversity Directorate used to promote non-discrimination and certain protection measures within the government. In 2018, LGBTI organisations in Honduras publicly called for an Antidiscrimination Law.

Gender Identity Legislation
LGBTI organisations in Honduras have been pushing for a Gender Identity Law for the legal recognition of the names of trans persons since 2003. This law would allow for trans women and men to have a legal document with the gender indicator and name with which they self-identify\(^5^5\). It is expected that the draft law will be presented to the National Congress before the end of 2019\(^5^6\). In El Salvador, a similar draft law is under construction\(^9^7\). In Guatemala, since 2016, the National Registry of Persons, supported by the United Nations Development Program, has implemented a new protocol for LGBTI persons, through which it is possible to change the person’s name and photo in their identity documents according to their gender identity\(^5^8\). However, trans people are still unable to change their gender markers in their documents\(^5^9\), and the costs of the process are often prohibitive. A draft law on gender identity (initiative 5395) was presented in 2017 by trans organisations, and received an unfavourable opinion in August 2018\(^6^0\). According to a Guatemalan organisation interviewed for this snapshot report, legislators from the Congress organised a technical workgroup to discuss the initiative but only invited people from the evangelical and Catholic churches to participate. Correct documentation is fundamental for access to basic rights. Without this modification in identity documents, trans people are subject to harassment in their daily interactions, in banks, health centres and when accessing State services. 42% of trans women in El Salvador claim having experienced problems using their identification document (for example whilst paying bills, claiming inheritance, using their passport)\(^6^1\).

Hate crime legislation
In Honduras, thanks to advocacy from LGBTI organisations and communities, the Penal Code was reformed in 2012 to sanction discrimination and hate crimes due to sexual orientation and gender identity\(^5^7\). However, despite the legislation, organisations interviewed highlight that there is no practical application\(^6^2\). Likewise, in El Salvador, in 2015 the Penal Code was reformed to include convictions for hate crimes and threats, but in practice it still lacks application\(^6^4\). According to the LGBTI rights advocate and founder of COMCAVIS TRANS, Karla Avelar, “the Prosecutor does not have the resources, nor the criminal system the necessary experience and training to investigate and appropriately prosecute hate crimes”\(^6^3\). This year in June, for the first time since 2015, a case of a trans woman murdered by police officers was registered as a hate crime and went before the Peace Tribunals\(^6^5\).

Equal marriage legislation
None of the NCA countries has legislation permitting equal marriage or civil union. In El Salvador, the definition of the family in the Family Code excludes the possibility\(^6^6\). In Honduras, in 2004 political and religious groups managed to push for the reform of articles 112 and 116 of the Constitution to prohibit same-sex marriage and the adoption of minors by homosexual couples, and invalidated the recognition of marriages of same-sex couples celebrated under foreign jurisdictions\(^6^8\).

Access to healthcare
In terms of access to healthcare services, El Salvador has an attention protocol in place in hospitals for survivors of sexual violence (prophylaxis, HIV therapies, and in some cases mental health therapy). They also have specialised clinics for the LGBTI community and sex workers. In Guatemala, according to an organisation interviewed, the Ministry of Health provides treatment for people in transit with HIV for a period of two months. However, access is easier if these people have their medical history and documentation with them, which is not always the case. Furthermore, since February 2019, the HIV Attention Units of the Guatemalan hospital network have declared a shortage of antiretroviral drugs\(^6^9\). In general, there is no holistic approach to healthcare provision for LGBTI people in the NCA, and is limited to the response to AIDS/HIV and other severe STDs.
Violence and its impacts on the LGBTI population

A snapshot of recent violence

Homicides of LGBTI Persons

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(from 2014 to June 2019, according to the Sin Fronteras observatory⁷⁰):

- A rise in the use of firearms in homicides against LGBTI people in the NCA has been observed over the last two years.

- More crimes are observed during the month of July, the same month as the celebration of Pride⁷². In Honduras, for example, July was the most violent month of 2019, with 8 violent deaths registered (4 gay people, 1 lesbian person, 3 trans people)⁷³.

- According to a poll of 50 trans women in Honduras, 60% responded having suffered physical violence⁷⁴.

"In April 2019, two lesbians were murdered in Jalapa, Guatemala, with an homophobic message left on their bodies"⁷¹.

Assassinations of trans people in the NCA in the last year

Honduras

- Bessy Michelle Ferrera, Age: 40, 8 July 2019, Comayagüela, Central District, Shot⁷⁶
- Santiago Carvajal ("Santi"), 6 July 2019, Puerto Cortes, Shot⁷⁶
- Antonia Lainez Larios, 3 July 2019, El Negrito, Yoro, Shot⁷⁶
- Shakira ("La Moy"), Age: 20, 8 June 2019, Choloma, Cortes, Stoned⁷⁸
- Fabiola, Age: 28-30, 2 June 2019, Quimistan, Santa Barbara, Stabbed⁷⁸
- Wilmer Adali Hernandez Rapalo, Age: 24, 24 March 2019, Dos Caminos, Villanueva, Cortes, Beaten and burnt⁷⁸
- Laura Gentle Argüeta, Age: 31, 2 March 2019 Roatan, Islas de la Bahía, Stabbed⁷⁸

Guatemala

- R. Adelso Rodriguez Alonzo, Age: 24, 28 May 2019, Usulután, Zacapa, Shot⁷⁵
- Angela Paola Fajardo, 18 May 2019, Guatemala City, Stabbed⁷⁵
- Unknown name, Age: 25, 7 December 2018, Villa Nueva, Guatemala, Unknown cause⁷⁵
- Jessica Areli Ruedas Gomez, Age: 29, 28 August 2018, Jalapa, Stabbed⁷⁵
- A. Sis, 16 July 2018, Salama, Baja Verapaz, Shot⁷⁵

El Salvador

- Lolita, Age: 20, 8 February 2019, Sonsonate, Stabbed⁷⁵
- Camila Diaz Cordova ("Aurora"), Age: 29, 3 February 2019, Soyapango, San Salvador, Unknown cause⁷⁵
- Unknown name, Age: 20, 25 August 2018, Soyapango, San Salvador, Beaten and strangled⁷⁵

Information from the ‘Remembering our Dead’ portal from Trans Lives Matter, from July 2018 to July 2019.
B. The lack of data and invisibility of violations

The previous page is a small sample of the latest available numbers of abuses against the LGBTI population, but do not provide a full picture. Although there are important initiatives led by civil society organisations to visualise the situation, there is a lack of reliable official data managed by states on violent acts committed against LGBTI population based on their sexual orientation or gender identity. This is due to various reasons: first, a lack of disaggregated data in the homicide and abuses registries. Authorities register the sex appearing on the victim’s identity document, but do not gather data regarding sexual orientation or gender identity. Second, due to fear or distrust of authorities, few victims in the NCA dare to file complaints. This is even more common for LGBTI people, who may suffer abuse and discrimination from authorities. High levels of impunity also discourage people from seeking help, and as consequence, it is estimated that in Honduras, for example, 90% of police abuse cases are not investigated. This lack of information regarding violence rates against LGBTI population makes it impossible to establish the real dimension of the problem and the creation of public policies destined to prevent, protect and care for the LGBTI community.

“people are revictimised over and over again, there is no healing process”
Humanitarian organisation in Honduras

C. Differents agents of persecution

In general, organisations working in the NCA speak of a structural violence, where discrimination against LGBTI people affects their access to basic services, including, education, healthcare, justice and employment, exposing them to greater risks and increasing their vulnerability. Moreover, in the context of generalised and criminal violence, discrimination and homophobia exacerbates and aggravates their protection risks.

Three overlapping categories of agents of persecution can be identified:

• **Family and community surroundings:**

In many cases, violence begins at an early age, in the family and community. According to interviews for this snapshot, in some communities with low educational levels, the lack of knowledge regarding different sexualities and gender identities, as well as the influence of conservative religions, reinforce the rejection towards LGBTI people in their homes and communities. In these cases, people (particularly girls and trans youth) are expelled from their homes at an early age at 12 or 13 years old. In other cases, rejection can lead to abuse and psychological violence, also known as ‘corrective violence’. An organisation interviewed working with LGBTI population in Guatemala, reported several cases of people accused of being ‘sinners’ by their families. In the same country, some trans women are not expelled from their homes, but are subject to double work shifts to comply with both traditional gender roles.

According to several organisations interviewed, churches (Catholic and evangelical) in some communities act as the agents of persecution, particularly in Honduras and Guatemala. In other cases, community groups implement cleansing politics and patrols and provoke the displacement of people they do not consider part of the community. Some schools expel or deny entrance to students who manifest their sexual orientation or gender identity. In Guatemala, conversion therapies persist and there is strong social pressure to participate in these activities. In El Salvador, according to information collected by five civil society organisations on cases of displaced LGBTI persons, 50% of the cases dropped out of school after completing their primary education and only 18% finished high school. The main reasons for dropping out were violence received by students or teachers, sexual harassment of teachers and principals, harassment of teachers and gang violence.

What with rejection from their families, schools and churches, there are few places left for LGBTI people to find safety and protection. This marginalisation and lack of opportunities results in a high proportion of LGBTI people forced to take on sex work.

Many have to survive in the streets, exposed to organised crime, human trafficking for sexual exploitation, as well as physical safety risks and health problems. According to REDLACTRANS, 58% of women in Guatemala do not finish elementary school, and 76% work in informal employment, including sex work, in order to survive.

• **Organised crime and gangs**

Gangs controlling territories of a great number of urban communities in the NCA are visibly machistas (macho), and as a result, LGBTI people are at higher risk of attack and persecution. Attacks and homicides of LGBTI people (or those perceived as being part of the population) often have signs of torture, mutilation of genitalia or homophobic messages written on the victims’ bodies.

Different criminal groups have different ways of abusing LGBTI rights. Some consider that they do not have “total control if LGBTI people are present in territories”, and therefore they threaten, displace or murder LGBTI persons. In other cases, gangs extort LGBTI people, particularly sex workers. In other cases, criminal groups manipulate and exploit LGBTI people, recruiting them for drug trafficking. According to some of the organisations interviewed, there is the perception that trans women can go unnoticed before authorities or will not be searched by male police officers. Organisations have attended several cases of trans women that have been recruited into criminal gangs and have trafficked drugs across borders, based on the promise of surgeries (breast augmentation or sex reassignment surgery) upon reaching the other country. In some cases, gangs or narcotraffickers finance breast augmentations, but implants are filled with drugs in order to cross borders. An organisation interviewed recently provided a response to a trans woman left alone in the street bleeding, after gang members cut her breast open to recover their merchandise.
• **State agents:**

Homophobic discourses and social attitudes have harmful effects on state institutions. For example, a study in El Salvador from 2014 of the National Police found that 67% of officers interviewed said that LGBTI people did not have the same rights as other people under national law. According to another study, 57% of interviewed officers thought that LGBTI people had mental illnesses and only a 26% would accept working with them as colleagues. According to the organisations interviewed, LGBTI people in El Salvador do not have confidence in the state institutions, due to the lack of investigation and impunity reported in institutions such as the Office of Human Rights, the National Police, the National Prosecutor's Office, and the Attorney General's Office.

These attitudes can lead to violence acts: attacks, abuse of authority and arbitrary detentions. The IACHR has received an important number of reports of human rights violations by security forces including torture, demeaning or inhumane treatment, excessive use of force, and illegal detentions. According to some organisations, these attacks affect people working on the streets the most. Reports have been made of authorities extorting people in exchange for "protection". In other cases, during arbitrary detentions, people are subject to blackmail and sexual violence. In Honduras, certain legal dispositions, particularly the Law for Police and Social Coexistence, result in discrimination against trans people. Article 99 allows for the detention of "street prostitutes", and article 142 grants the police the authority to arrest "attempts against modesty, good customs and public morals' allowing the abuse and arbitrary detentions of sex workers, and particularly affecting trans women. According to a poll conducted with 50 Honduran trans women, 39% identified members of the police or armed forces as their main aggressors. In the same country, the LGBTI rights organization, Cattrachas, is litigating a case before the Inter-American Court of Human Rights on the extrajudicial killing of a trans woman, Vicky Hernández, during the 2009 coup. According to the Inter-American Commission on Human Rights, "this case presents the Inter-American Court with the opportunity to develop jurisprudence regarding violence against LGBT persons, with special emphasis on the situation of trans women.

**Most vulnerable profiles**

According to most of the organisations interviewed, the population group within the LGBTI community facing the highest risks are trans women, followed by gay men. The most common explanation is that because of their high visibility, these profiles are more vulnerable to attacks. However, it is also possible that it is easier to identify attacks on trans women, than for example, lesbian women or bisexual people. Attacks on the latter may be underreported in official records and media outlets. There is no data and there is little information regarding the situation of trans men, and homicides are often registered as femicides. It is reported that in general trans men suffer from invisibility in society, but also sometimes within LGBTI and feminist organisations. LGBTI rights defenders are another high risk profile.
According to the organisations interviewed, in general, LGBTI people in North of Central America are not subject to a single type of violence, isolated event or agent of persecution, but to a combination of several types of violence. This is in addition to structural violence, which hinders access to education, employment and basic services\(^4\). The few survival mechanisms available, such as sex work or displacement, are dangerous options and often place people at greater risk of abuse, trafficking, disease and human rights violations.
3 Displacement as consequence of violence against LGBTI people

A protection mechanism

Facing expulsion from their homes, discrimination from their communities and social circles, threats and attacks from gangs, in addition to abuses from authorities and general lack of access to basic rights, in many cases, displacement is a coping and protection mechanism for the LGBTI community. According to the UNHCR, 88% of LGBTI asylum seekers from the NCA suffered sexual and gender violence in their country of origin¹¹. According to a study in El Salvador on the causes of displacement, one third of the LGBTI population were displaced due to gang threats, 27% due to homicide attempts based on sexual orientation and/or gender identity, 11% due to physical violence, 9% due to sexual violence, 8% due to extortion and authority abuse, and 2% due to domestic violence¹¹. 

Displacement statistics

In terms of persecuting agents, according to information gathered by 5 civil society organisations in El Salvador¹¹, 102 cases of displaced LGBTI people were identified in 2018. In 79% of cases, gangs were perpetrators of the acts of persecution; 17%, the National Civil Police; 2% people from the community; and, 2% their partners. According to the Honduran organisation, Asociación de Derechos Humanos Cozumel Trans, at least 250 people of the LGBTI community in Honduras have obtained asylum in the last eight years, and hundreds more have sought it unsuccessfully¹¹. An organisation from Guatemala interviewed for this snapshot stated that in the course of the year they have served 132 LGBTI displaced people in transit through Guatemala.

“Kataleya lived in a dangerous slum in Guatemala City, known as El Gallito. Kataleya says that when a group of men found out she is a transgender woman, they beat her and sexually assaulted her. She woke up in a ditch. “I got up and went to see my mom...all beaten up,” she says. Kataleya and her mom left the city and headed to a northern region of Guatemala, close to the border with México. “I escaped to another part of Guatemala, and they did the same things to me. I escaped to Mexico, and they did the same things to me.”

Maria Inés Taracena, Arizona Public Media, 2017¹¹

Rejection from host communities

Displacement is not a guarantee of safety or a durable solution for many people, particularly due to discrimination from host communities or authorities, or rejection when searching for employment or housing. According to several organisations, this rejection worsens the displacement cycle, and LGBTI people are often forcibly displaced several times without finding safety. The migratory route is long and there is a high risk of attacks, human trafficking and smuggling, labour exploitation and sexual abuse.

Shelter as a priority need

Organisations interviewed highlighted shelters as one of the LGBTI community’s most pressing need. The governments of the NCA offer scarce physical protection for displaced people; most of the available shelters are maintained by civil society, and few provide specialised or differentiated care to respond to the LGBTI people’s protection needs. In El Salvador, the organisation CONCAVIS TRANS shelters destitute and homeless trans women, but there is no specialised shelter for displaced LGBTI people¹². The Salvadoran Institute for Childhood and Adolescence Development manages a shelter for children and adolescents, but there is no specialised attention protocol or services for LGBTI youth. In Guatemala, the National Protection Network is made up of seven civil society organisations working with UNHCR, develops safe spaces for people in the LGBTI community, and trains the authorities on specific protection needs. However, according to an organisation working in Guatemala, greater efforts can still be made to disseminate information to LGBTI people on the services provided by the network. During the mixed migrations of the 2018 caravans, the LAMBDA Association turned its office in a temporary shelter for 125 LGBTI people, providing lodging and food for people in transit. A shelter just after the Guatemalan border in Tenosique, Mexico, has a separate space for hosting LGBTI people at night¹². However, according to an organisation working in the region, during the day and in the common areas of the shelter, the other migrants
often discriminate against LGBTI people. Some organisations also mention that there are higher levels of discrimination in shelters run by certain religious groups. A best practice used by several humanitarian organisations is the distribution of cash to enable people to stay in hotels rather than in shelters.

“[They are] lucky if they stay at a shelter or receive services from an organisation, many don’t know that they can seek help”
LGBTI Organisation in Guatemala

Separate or common shelters?

There is no consensus in the literature or among civil society organisations on the best way to offer safe shelter for displaced LGBTI people in transit. For several organisations, providing a space exclusively for LGBTI people is problematic: as the LGBTI population is “a heterogeneous collective that does not necessarily have more affinity to share space among themselves than with heterosexual cisgender people”¹²³, and creating separate spaces can be considered discriminatory. Other organisations perceive that the existing barriers and risks in current shelters (discrimination, micro aggressions and violence) remain high and are unlikely to change in the recent future, and a temporary and pragmatic solution is to provide separate spaces.

For both solutions, the following considerations are essential¹²³:

- The shelter must guarantee freedom from violence and discrimination, both from employees and volunteers working in the space, as well as from other migrants in transit.

- Protocols that preserve LGBTI peoples’ dignity and rights must be employed for admittance and registration. For example: respecting the use of social names and gender self-perceptions. Special attention must be paid to ensuring ‘do no harm’ and not revictimising people during the needs identification process and initial interview.

- Access to health services must be ensured, by training personnel, providing information about services and guaranteeing that sexual and gender violence response programmes are also available to the LGBTI population (and not only heterosexual women).

- The respect for the principle of ‘do no harm’ must ensure that people are not being rejected or forced to take on greater risks by the shelter (for example by securing that opening and access hours are not harmful for sex workers, or any other restrictions that might cause them to abandon the shelter).

LGBTI networks in the migration route

An important self-protection mechanism are networks run by trans women and LGBTI organisations. Through these networks, LGBTI individuals and families open their doors to displaced people, and enable them to avoid having to spend time in shelters where they can be subject to greater risk¹²⁴. There have been reports of trans people and gay men traveling in groups or caravans as a safety measure for many years now, such as the ‘Caravana Arcoiris 17”¹²⁵.

Asylum applications

According to organisations interviewed, LGBTI people usually seek the United States as their final destination, due to perceiving that they will find protection and greater opportunities. According to a study by the Spanish Agency for International Development Cooperation (AECID), LGBTI people seek asylum in Guatemala only because they lack the economic resources to continue on north, and not because they consider Guatemala as a safe space¹²⁶. The same often applies to Mexico. Despite having sought protection, asylum seekers face a number of risks. An organisation interviewed received reports of asylum seekers in Mexico and the US who were stripped from their documents, requested ‘proof’ of their sexual orientation, and ‘advised’ by authorities to hide their identities and ‘be discreet’ to order to request asylum. Many LGBTI people do not know their rights and do not know that persecution and violence due to sexual orientation and/or gender identity is a valid reason for requesting for asylum. Furthermore, since equal marriage is not legal in the NCA, LGBTI families do not have the necessary documentation to apply for family reunification¹²⁷.

 Migration detention

Whilst requesting asylum and waiting for a response, LGBTI people maintained in detention are subject to multiple violations, particularly trans women detained in men spaces and vice-versa. In the United States, the number of LGBTI people in detention is not public, but civil society organisations are aware of at least 300 trans people who have currently been in detention for months or even years. In the US, trans women represent one out of every five survivors of sexual violence in detention¹²⁸. Reports point to an inadequate access to HIV and hormonal treatment. In the last year, two trans women have died in and after falling ill in detention in the US¹²⁹.

Deportations and returns

For those who abandon the asylum process because of these detention conditions, or have their requests rejected, returning to the NCA can be a death sentence. There is no adequate response or identification of protection needs for those deported¹³⁰, and even less so for LGBTI people. According to an organisation in Honduras, people avoid returning to same area or home that they fled from, and that most of the time, in less than two months they become displaced north again. The severity of this situation was demonstrated recently with the case of Camila Diaz Cordova, a 29-year-old Salvadoran trans woman who travelled in 2018 with the caravan and requested asylum in the United States. After being held in a detention centre for men, she was deported to El Salvador. Finding no employment or safety in her country, she engaged in sex work. A few months later, she was murdered by three police officers, beaten and abandoned on the side of the road¹³¹.
The response of the humanitarian sector

According to interviews with different grassroots organisations, civil society, international cooperation and the United Nations, the humanitarian sector is still learning how to provide specialised attention to LGBTI people, and more practical elements are still needed to improve the “diversity approach” in the response. However, several humanitarian organisations implement protocols to care for LGBTI people, particularly in Guatemala, where UNHCR and LAMBDA have developed minimum standards for differentiated care and have worked in the training of the partners of the National Protection Network, composed of seven civil society organisations and authorities. Several organisations work in training and capacity-building authorities. IOM, for example, has worked for several years with the governments of Central America to elaborate non-binding national work-plans on the protection of the LGBTI community, and has trained Foreign Relations Ministries and migration police staff.

There are very few humanitarian organisations implementing programmes specially targeting the LGBTI population, and resources for specialised services are scarce. According to several organisations, the current needs surpass the response capacity. As a result, most organisations do not openly advertise that they offer services to the LGBTI community, due to lacking the capacity to respond to all of the needs.

The following actions must be prioritised:

1. Strengthening grassroots and local LGBTI organisations, with sustainable financial resources and support for advocacy and strategic litigation.
2. Securing that LGBTI people are consulted and involved in the design, implementation, monitoring and evaluation of the programmes affecting them.
3. Improving the communication of the services offered across the migration routes.
4. Developing/implementing practical tools for a differentiated response.
5. Improving interview processes and training for response teams in the NCA countries and on the migratory route.
6. Promoting more joint advocacy actions amongst civil society organisations.
7. Improving and supporting data gathering processes on needs and protection risks in coordination with civil society organisations.
8. Conducting joint periodical civil society reports on the humanitarian needs of the LGBTI population.
Main recommendations

In the three NCA countries, the following immediate actions are required:

**In protection:**
- Recognition from states of the impact of violence on LGBTI people.
- Drafting of legislation on anti-discrimination, on civil documentation allowing family reunification and on gender identity documentation.
- Follow up and legal assistance for human rights abuses of LGBTI people, in particular for sexual violence.
- Strengthening of homicide and hate crime registry systems to include subcategories for LGBTI persons, and public documentation of the extent of the problem.
- Disaggregated information that includes sex, gender and sexual orientation, to ensure that LGBTI populations are documented as victims of forced displacement.
- Recognition of forced displacement, as a consequence of discrimination and violence due to sexual orientation and gender identity, in the three countries, and the ratification and implementation of the necessary legal frameworks to respond to the situation.
- Drafting of protection mechanisms and protocols for deported people with protection needs.
- Awareness raising for state personnel on diversity and the development of processes that prevent re-victimization.

**In education and employment:**
- Access for diverse sex and gender identities in the education system, the elimination of barriers at schools and graduation.
- Employment for LGBTI persons that does not undermine safety and dignity.

**In healthcare:**
- Integral healthcare for LGBTI people that goes beyond HIV treatment, including ensuring access hormonal treatment for trans people, mental health programmes and responses to sexual and gender-based violence, amongst other treatments.

**In shelter:**
- Specialised shelters and safe spaces, free from discrimination, with trained personnel and adequate supplies.

Methodology

This report is based on a systematic monitoring of press reports, operational reports of national organisations and international agencies, and academic documents, as well as semi-structured interviews conducted between July and August with 11 humanitarian organisations.

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El Salvador

Events of 2018

El Salvador has one of the world’s highest homicide rates.

Gangs continued in 2018 to exercise territorial control and extort residents in municipalities throughout the country. They forcibly recruit children and subject some women, girls, and lesbian, gay, bisexual, and transgender (LGBT) individuals to sexual slavery. Gangs kill, disappear, rape, or displace those who resist them, including government officials, security forces, and journalists.

Security forces have been largely ineffective in protecting the population from gang violence and have committed egregious abuses, including the extrajudicial execution of alleged gang members, sexual assaults, and enforced disappearances.

Girls and women alleged to have had abortions have been imprisoned for homicide and aggravated homicide, including during the year. LGBT individuals also face discrimination and violence. These conditions have resulted in internal and cross-border displacement.
While impunity for government abuses and corruption continue to be the norm, in recent years, El Salvador has taken some steps to bring former officials to justice.

In July 2016, the Supreme Court declared unconstitutional a 1993 amnesty law that prohibited the prosecution of war crimes and crimes against humanity, committed overwhelmingly by state security forces, according to the United Nations Truth Commission, during the country’s civil war (1979-1992). In March 2017, former military commanders were brought to trial for their alleged responsibility for the 1981 El Mozote massacre, in which 978 civilians died, including 553 children, and soldiers committed mass rapes. The trial was ongoing at time of writing.

Four other cases remained open but had not reached trial, including one related to the assassination of Archbishop Oscar Romero as he celebrated mass in a hospital chapel in March 1980, a day after his radio homily begging soldiers to stop their repression and killings. In October, a judge ordered the arrest of ex-Cpt. Alvaro Saravia for his alleged role in planning the crime.

In September, a court sentenced former President Antonio Saca and various members of his administration to 5-10 years in prison for embezzling more than US$301 million of public funds to enrich themselves and bribe officials and journalists during his presidency (2004-2009). The ruling followed the attorney general’s arrest of 32 people in former President Mauricio Funes’ (2009-2014) circle for allegedly embezzling $351 million through the same mechanism. In January 2016, former President Francisco Flores (1999-2004) died while he was being investigated for similar crimes.

Abuses by Security Forces

Since taking office in 2014, President Salvador Sánchez Cerén has expanded the military’s role in public security operations, despite a 1992 peace accord stipulation that it not be involved in policing. Killings of alleged gang members by security forces in supposed “armed confrontations” increased from 142 in 2013 to 591 in 2016. In her June 2018 report, the UN special rapporteur on extrajudicial killings found a “pattern of behavior ... amounting to extrajudicial executions and excessive use of force” by state security.

A 2017 investigative report in the Salvadoran online newspaper Revista Factum documented evidence of a “death squad” within an elite unit of the Salvadoran police that engaged in killings, sexual assault of teenage girls, robbery, and extortion. At the funeral of a female police officer in September, the National Civil Police (Policia Nacional Civil) director stated that
In their 2017 and 2018 visits, the UN special rapporteurs on internal displacement and extrajudicial killings documented threats and harassment by security forces against members of the LGBT population, individuals who work toward gang members’ rehabilitation, and adolescent children and young adults.

Prison Conditions

In August, the Legislative Assembly made permanent a “state of emergency” that put inmates at seven prisons on lockdown and suspended their family visits. El Salvador first declared the emergency state in March 2016, then extended it as part of its “extraordinary measures” to combat crime in April 2016.

Designed to hold up to 11,400 inmates, the country’s penal institutions held more than 38,700 in January. Approximately 30 percent are in pretrial or remand detention.

Cases of tuberculosis among inmates increased from 96 in March 2016 to 1,272 in January 2018. Access to visit prisons has been restricted, but international journalists allowed to enter have noted prisoners’ skeletal appearance. More were killed or died in the prisons in 2018 than in 2017.

Gangs

According to widely reported figures, approximately 60,000 gang members are present in at least 247 of the country’s 262 municipalities. They enforce their territories’ borders and extort and gather intelligence on residents and those transiting these areas, particularly around public transport, schools, and markets.

Numerous security and elected officials have collaborated with gangs in criminal operations, according to international and national media. According to media reports, all political parties have negotiated with them for conducting campaigns, voting, and daily operations and on a truce begun in 2012 between national government, 11 municipal governments, and the two largest gangs.

In April 2016, the Legislative Assembly modified an existing counterterrorism statute to explicitly classify gangs as terrorist organizations and reformed its penal code to impose prison sentences of up to 15 years on anyone who “solicits, demands, offers, promotes, formulates,
In a terrorist organization and convictions for it. The Attorney General’s Office used the reforms to retroactively prosecute current and former officials who participated in truce negotiations from 2012 to 2014.

Children’s Rights

Various local and international officials believe child abuse is widespread. In 2017, 46 girls and 311 boys were murdered, according to the Institute of Legal Medicine, and at least 20 girls and 14 boys were disappeared, according to the Attorney General’s Office. Judges absolved rapists of children as young as 12, if they “formed a home” or had a child together.

In August 2017, the Legislative Assembly prohibited marriage below the age of 18 in all circumstances, ending an exception for pregnant girls.

Women’s Sexual and Reproductive Rights

Since 1998, abortion is illegal under all circumstances. Providers and those who assist with the procedure face prison sentences of between six months and 12 years.

In 2018, the Legislative Assembly considered two proposals for modifications to the penal code to permit abortion in cases of rape, grave fetal malformations, or risks to the health of the mother. Support was insufficient to bring either to a vote.

More than 150 girls and women were prosecuted in the past two decades. The courts accepted as evidence a floating lung test that forensic pathologists deemed unreliable over a century ago.

At least 20 women remained imprisoned at time of writing on charges of manslaughter, homicide, or aggravated homicide for allegedly having abortions. In February, the Supreme Court determined there was not enough evidence to prove Teodora Vasquez harmed her fetus and released her 10 years into her 30-year sentence. In March, Maira Figueroa was released 15 years into her 30-year sentence, after the Supreme Court decided charges for aggravated homicide were “excessive and immoral,” given that the then-19-year-old became pregnant from rape and had obstetric complications.

LGBT Rights

LGBT individuals are targets of homophobic and transphobic violence, including by police and gang members. Since 1994, over 600 have been killed, according to four Salvadoran LGBT
El Salvador introduced hate crimes into its penal code in September 2015. To date, no cases have been prosecuted as hate crimes. Human Rights Watch is not aware of any bias-related murders of known LGBT individuals that have resulted in conviction.

**Attacks on Journalists**

Journalists reporting on abuses of power or corruption at various outlets are targets of death threats, as are journalists living in gang-controlled neighborhoods.

In the past decade, at least seven journalists have been murdered. In three cases between 2011 and 2016, Salvadoran courts convicted gang members, who had targeted journalists because of their reporting.

**Key International Actors**

For fiscal year 2018, the United States disbursed over $42 million in bilateral aid to El Salvador.

In her April report, the UN special rapporteur for internal displacement noted a “striking disparity between government figures [in the hundreds] on those internally displaced by [State and gang] violence and those of civil society and international organizations [in the tens or hundreds of thousands].”

In August, El Salvador broke diplomatic relations with Taiwan to open them with China.

In October, Pope Francis canonized Archbishop Oscar Romero, who before his assassination used his pulpit to preach peace and to denounce state killings and abuses of power.
Keynote

World’s Autocrats Face Rising Resistance

Kenneth Roth
Executive Director
TAB 16
Sexual and Gender-based Violence (SGBV) & Migration Fact Sheet

Updated December 2018

Sexual and gender-based violence (SGBV) forces many women, girls, and LGBTI persons to flee El Salvador, Guatemala, and Honduras. Family members, gangs, and drug traffickers most frequently perpetrate SGBV, but violence by police and other authorities is also widespread. Despite pervasive SGBV in the three countries, staggering impunity levels persist, with an average of less than 10 percent of cases resulting in conviction. Many individuals and families fleeing SGBV are potentially eligible for protection under U.S. as well as Mexican refugee law, as the governments of El Salvador, Guatemala, and Honduras fail to protect their citizens from SGBV.

Women and girls endure high rates of domestic and sexual violence in Guatemala, El Salvador, and Honduras

- In Guatemala, more than 100 cases of violence against women are reported each day, and 51,391 cases were reported in 2017, according to the Public Prosecutor’s Office.¹ The actual number of incidents is likely much higher, however, as many continue to go unreported.²
- In the first nine months of 2018 in Guatemala, 7,689 reports of sexual violence were recorded by the Public Prosecutor’s Office, including 4,576 instances of sexual assault of children under 18 years old. Of those reported assaults, 90 percent were committed against women and girls.³
- In Guatemala from January to July of 2018, 2,102 pregnancies in girls aged 10-14 were registered by the Ministry of Health.⁴
- According to a 2017 study, 67.4 percent of women and girls in El Salvador report having experienced gender-based violence at some point in their lifetimes, and 40 percent report having experienced sexual violence.⁵ Actual numbers are probably significantly higher because women and girls are prevented from reporting by fear and shame, threats of retribution, and lack of confidence that they would be believed by authorities.⁶

The National Emergency System in Honduras receives approximately 4,000 calls reporting domestic violence each month. This represents a very small portion of the actual incidence of domestic violence, due to widespread underreporting.

Gangs use sexual violence as a strategy to maintain fear and control

- Gangs in Northern Triangle countries employ sexual violence as a strategy to maintain control over territories and populations. Rape is widespread and is used by gang members to punish girls, women, and their family members for failure to comply with the gang’s demands and to demonstrate the gang’s dominance over the community.
- Girls, many aged 15 or younger, are forced to become “girlfriends” of gang members, and those who resist are subject to sexual violence, and in some cases killed. Reports have found that recruitment of girls and women, and rape and sexual violence by gangs, is widespread and constitutes a contemporary form of slavery, and that girls involved with gangs are “generally victims of gender and sexually-based violence.”
- Women and girls are frequently kidnapped and subject to repeated rape by multiple gang members. Girls as young as nine years old have been victims of gang rape.
- In some cases, victims of sexual violence by gangs are tortured, killed, and dismembered, and their bodies left in clandestine graves, or in public areas to provoke fear in other women and girls.
- Girls and young women threatened by gangs and subjected to forced recruitment or rape often go into hiding and stop attending school due to fear of leaving their homes.

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Rates of gender-motivated killings have increased dramatically over the past several years

- In Honduras, 388 murders of women were registered in 2017. In the majority of cases the aggressor was an intimate partner.  
- In Guatemala, 772 murders of women were registered in 2017, and 314 murders of women were registered in just the first five months of 2018.  
- In El Salvador, 155 murders of women were registered in the first four months of 2018—a 20% increase from the same period in 2017. In 2017, a woman was murdered every 18.7 hours.  
- El Salvador has recently been found to have the highest rate of femicide in Latin America, with a rate of 10.2 women killed for every 100,000 women.

Members of the LGBTI community are targets of gender-based violence by families, gangs, and authorities

- Civil society organizations in Guatemala, El Salvador, and Honduras report that LGBTI people are at high risk for violence and extortion by gangs and organized criminal groups, hate crimes, and abuse by authorities, leading many LGBTI individuals to migrate in search of safety.  
- According to the UN High Commissioner for Human Rights, in Guatemala “LGBTI people are stigmatized, dehumanized even, by Guatemalan society and media, leaving them particularly vulnerable to violence and ill-treatment. They face discrimination at all levels,’ including in access to health care, education, and employment.” While reliable statistics are not available, hate crimes against LGBTI individuals are widespread, as is discrimination and violence committed by state authorities.  
- In Honduras from 2009 to 2018, more than 300 people were violently killed on account of their sexual orientation or gender identity, including 24 people so far in 2018. LGBTI activists have also been targets of violence and assassination.

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● At least 145 LGBTI persons in El Salvador have been murdered since 2015, and many of those victims were subject to torture and mutilation.25 The number of transgender women murdered annually in El Salvador has increased 400 percent since 2003.26

The vast majority of sexual and gender-based crimes go unreported and unpunished
● In Guatemala, intimate partner violence goes unreported in an estimated 90 percent of cases. 27 Causes of underreporting include social stigma toward survivors, fear of reprisal by the abuser, and the unresponsiveness and ineffectiveness of the judicial system.28
● In El Salvador, of the 662 violent deaths of women registered by the Public Prosecutor between 2013 and 2016 only 5 percent resulted in a conviction.29
● In Honduras, there is a 92 percent impunity rate for femicide and a 94 percent impunity rate for sexual violence.30
● In El Salvador, Guatemala, and Honduras, LGBTI victims do not report violent crimes because they fear discrimination and abuse by authorities, and the vast majority of reported crimes against LGBTI people are not investigated.31
● In Guatemala, of the 4,973 cases of sexual violence against children registered in 2016, fewer than 5 percent had resulted in sentences by October of 2017.32

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TAB 17
Women and LGBTQ Deportees Face Compounded Dangers Upon Return

By Binh X. Ngo  |  August 10, 2018, 9:00 am

The Latinx transgender community marches through a heavily immigrant neighborhood to fight against discrimination on July 9, 2018, in Queens, New York.
The Trump administration has led an aggressive anti-immigrant campaign that will have dangerous ramifications for vulnerable populations—especially women and LGBTQ immigrants. Many are being returned to Latin American countries such as Mexico, El Salvador, Honduras, and Guatemala that are rife with dangers—including gender-based violence, domestic abuse, and gang violence—without stable enough institutions to protect them.

Administrative changes to asylum law and policy are making it significantly more difficult for asylum-seekers to establish claims—especially for those fleeing severe domestic abuse or gang violence. The Trump administration’s moves to shrink the grounds for asylum will ultimately re-expose many women and LGBTQ people to dangers that originally compelled them to flee.

The administration also systematically scrapped temporary protections for large groups of immigrants by rescinding the Deferred Action for Childhood Arrivals (DACA) program and terminating Temporary Protected Status (TPS) for nationals of, among others, certain Latin American countries. Although multiple courts have put the DACA rescission on hold, the fate of the program remains in limbo as the cases work their way through the courts. Of the more than 620,000 DACA recipients from Mexico, El Salvador, Honduras, and Guatemala, about half are women and girls. Ten percent of all DACA recipients surveyed by Center for American Progress in 2017 identify as LGBT. Meanwhile, as TPS designations begin expiring in 2019, large numbers of TPS holders—approximately 110,000 of which are Salvadoran and Honduran women and girls—will soon lose their status. Whether they are asylum-seekers or longtime residents of the United States with TPS or DACA, all may soon have to return to countries in which they will be critically unsafe.

As a result of the administration’s drastic changes, many women and LGBTQ immigrants from Mexico, El Salvador, Honduras, and Guatemala will be turned away, deported, or coerced into so-called voluntary return or departure—processes by which noncitizens agree, sometimes unknowingly or reluctantly, to be expelled from the United States without receiving a formal order of removal. The forcible return of individuals to countries where their safety or freedom will likely be threatened violates the fundamental principle of nonrefoulement, which is enshrined in U.S. and international law. By turning away or returning vulnerable people to countries in which they are at disproportionate risk of sexual assault, torture, and murder, the Trump administration is not only failing to fulfill its legal obligations; it is also denying women and LGBTQ immigrants basic human rights.

Women face gender-based violence upon return
Upon returning to their countries of origin, deported or repatriated migrants fall prey to myriad threats. In Mexico and Central America, structural violence against women is perpetuated by the traumatic threats, domestic abuse, sexual assault, and femicide that women face on a near daily basis. El Salvador, Honduras, and Guatemala consistently rank among the most dangerous countries for women; in 2016, they reached respective rates of 11, 10.2, and 2.5 femicides per 100,000 women. In Mexico, gender-motivated crimes have risen sharply in the last decade, with seven women murdered every day in 2016.

Upon return, many women must grapple with indefinite separation from family in the United States; permanent trauma and post-traumatic stress disorder; and the stigma and discrimination associated with presumptions that they abandoned their family or engaged in sexual activity during their migration journey. Countless women are targeted, assaulted, and even killed by gang members or former partners within days of their return. In one case, an immigrant living without status in Texas was pressured to sign “voluntary return” documents after confrontations with U.S. Border Patrol in 2009. She was sent back to Mexico despite expressing genuine fears of violent retaliation by her abusive ex-husband, who was deported a year earlier. Shortly after, her remains were found in an incinerated car—the result of an apparent homicide perpetrated by her ex-husband.

LGBTQ immigrants experience persecution and gender-based violence

For LGBTQ people, the risks associated with return are compounded by their sexual orientation or gender identity and expression. Given that the LGBTQ community includes women, this group encounters gender-based violence in addition to other threats. Eighty-eight percent of LGBTI asylum-seekers and refugees interviewed by the U.N. High Commissioner for Refugees had suffered from sexual and gender-based violence in their countries of origin. Deportation adds further risks due to increased visibility and vulnerability associated with being deported. Transgender women, in particular, suffer from disturbing levels of persecution after returning to their countries of origin. For example, after a transgender woman’s claim was denied in 2017, she was sent back to El Salvador, where she was subjected to extortion and frequent gang beatings. In another case, Johanna Vasquez, a transgender woman who was deported back to El Salvador, was kidnapped by a group of armed men immediately after leaving the airport, then assaulted, gang raped, and abandoned on the side of a road.

Despite the well-documented horrific conditions of U.S. immigrant detention centers, many LGBTQ immigrants would rather risk incarceration and redeportation than face life-threatening oppression in their home countries. When interviewed by Amnesty International, several gay men and
transgender women deportees indicated that their fear of persecution was so palpable that they re-embarked on the precarious northbound journey to the United States on the exact same day of return. Johanna Vasquez described her own experience of fleeing back to the United States after being deported, saying, “I left the same day. The same minute. To stay in El Salvador where they will kill you or to leave? There was no choice.”

There is a lack of institutional capacity to reintegrate and protect returnees

The loss of status for hundreds of thousands of TPS holders and DACA recipients will likely result in an escalation in return—either through deportation or voluntary return—further burdening countries that are already struggling with crippling insecurity. Mexico, El Salvador, Honduras, and Guatemala currently lack the security and infrastructure to support a potentially large population of returning citizens. As a result, the health and safety of women and LGBTQ people often fall through the cracks. Reception and reintegration services exist for Central American returnees but are considerably underfunded and ineffective, leaving many returning nationals to fend for themselves. In 2017 interviews conducted by the Center for Migration Studies and Cristosal, all deported migrants from El Salvador, Honduras, and Guatemala indicated that they had been living without significant institutional support.

In recent years, Mexico and the three Northern Triangle countries of Central America—Guatemala, Honduras, and El Salvador—have taken steps to establish legal protections against sexual and gender-based violence. However, due to persistent corruption and widespread impunity, a chasm remains between laws and reality. In Guatemala, El Salvador, and Honduras, respectively, only 2 percent, 5 percent, and 10 percent of femicide result in convictions. The vast majority of gender-motivated crimes go unreported or unpunished, and in many instances, government authorities themselves are the perpetrators of abuse.

In some cases, progressive changes in law have actually intensified hostility against marginalized populations. For example, since Mexico’s legal recognition of same-sex unions in 2010, homophobic and transphobic backlash has exacerbated conditions for LGBT people, particularly for transgender women. According to the Trans Murder Monitoring project, there were 263 reported killings of transgender people in Mexico between 2011 and 2016. Given the lack of trust in institutions to adequately provide reintegration programs, job opportunities, and safety from gender-based violence, most women and LGBTQ people must confront a difficult choice: resign to an indefinite state of self-confinement or reattempt the northbound journey.
Conclusion

The Trump administration’s far-reaching moves to impose stricter asylum requirements and terminate vital protection programs catalyze the removal of immigrants with legitimate protection needs. For many women and LGBTQ immigrants from Mexico and Central America, return is tantamount to torture or death.

Rather than endangering women and LGBTQ people, the Trump administration should change its inhumane enforcement and deterrence policies in order to ensure the safety and dignity of every immigrant seeking U.S. protection.

Binh X. Ngo is an intern with the Immigration Policy team at the Center for American Progress.

The author would like to thank Sharita Gruberg of the LGBT Research and Communications Project and Silva Mathema, Philip E. Wolgin, and Tom Jawetz of the Immigration Policy team for their research help and input.

Author’s note: This column uses “LGBTQ” as an acronym for this community. The author uses “LGBT” and “LGBTI” only in instances where the underlying cited source uses these acronyms.
TAB 18
In 2015, Aldo Alexander Peña was on his way to a pride parade in the capital of El Salvador. He was excited. It was his first time joining the parade since he began hormone replacement therapy, which helped his appearance align with his identity as a transgender man.

But what should have been a day of celebration for LGBT rights quickly turned into a vicious attack. The bus Peña was riding on refused to stop and let him off; when he complained, the bus driver called the police—who beat Peña, calling him a lesbian.

“There was blood coming out of my mouth and nose, and I could barely see,” Peña said. “At one point, I heard my friend praying for my soul. She thought I was dead.” Hours later, finally at a hospital, doctors told him he had a broken jaw and a fractured eye socket.

WIDESPREAD VIOLENCE AGAINST LGBT PEOPLE

Sadly, such an attack is not unusual in Latin America, which has the world’s highest rates of violence against LGBT people. Many violent crimes go unpunished in El Salvador, in particular, thanks to the presence of widespread, powerful gangs and a dearth of effective law enforcement. El Salvador has the world’s highest murder rate of any country not openly at war—a single day without a homicide can make international news—and it ranks among the worst-scoring countries on the Global Impunity Index.
Rampant discrimination against the country’s LGBT community often translates to a lack of police action when crimes are committed against transgender people. A 2016 report (http://www.washingtonblade.com/2016/01/29/report-documents-anti-trans-violence-discrimination-in-central-america/) found that transgender women in El Salvador have an average life expectancy of less than 35 years, due in part to the high rates of violence they suffer.

Earlier this year, three transgender women were murdered in El Salvador in a span of just 72 hours—and in May, with the number of transgender deaths still on the rise, the United Nations called for an investigation (http://www.reuters.com/article/us-elsalvador-violence-lgbt/u-n-calls-for-probe-into-violence-against-transgender-women-in-el-salvador-idUSKBN189018) into crimes against sexual minorities in the country. Along with other LGBT rights activists in El Salvador, AJWS grantee ASTRANS helped call attention to this disturbing trend.


“The killers believe what they're doing is allowed.”

**A SURPRISING VICTORY**

Set against this backdrop of transgender murders, Peña’s case had an unusual ending—not only because he survived his attack by police, but because his case went to court.

Two AJWS grantees stepped in to assist Peña: Generacion Hombres Trans El Salvador (HT El Salvador) and Fundacion de Estudios para la Aplicacion del Derecho (FESPAD). HT El Salvador helped Peña bring the attack to the attention of the country’s attorney general and the human rights ombudsman, who launched an independent investigation. With legal support from FESPAD, this led to a criminal case. In October 2016, a judge handed down a guilty verdict, sentencing two of the police officers involved in the attack to four years in prison, respectively, for aggravated assault.
It marked the first time that police in El Salvador were successfully prosecuted for an attack against a transgender person—making the case a rare, but critical victory not just for Peña, but for the country’s entire LGBT community.

AJWS’s grantees in El Salvador continue to press for progress, despite the risks involved in their work. Their efforts range from advocating for legal solutions to running clinics, where transgender clients receive both medical and psychological support.

“We live with the uncertainty,” said Verónica López (https://www.thedailybeast.com/the-trans-activists-standing-up-to-the-brutal-gangs-of-el-salvador), a trans woman and board president of ASTRANS. “[But] I feel very motivated right now ... I have be
able to find people in activism that lend me a hand in different ways, and make me motivated to continue to fight.”

Elizabeth Daube (https://ajws.org/who-we-are/our-team/staff/elizabeth-daube/) is a Senior Communications Officer at AJWS.
TAB 19
NO SAFE PLACE

SALVADORANS, GUATEMALANS AND HONDURANS SEEKING ASYLUM IN MEXICO BASED ON THEIR SEXUAL ORIENTATION AND/OR GENDER IDENTITY

AMNESTY INTERNATIONAL
Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.
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30 RECOMMENDATIONS
The countries of the Northern Triangle of Central America (El Salvador, Guatemala and Honduras) are among the most violent in the world. In addition to alarming levels of general insecurity, their respective murder rates are well above what the World Health Organization considers to be epidemic levels, and more than 75 percent of these are classified as deaths by firearm.

This situation of violence, added to the institutional weakness in these countries, has resulted in increasing numbers of people fleeing their countries of origin in fear of their life. The investigation entitled “Home Sweet Home?” conducted by Amnesty International in 2016 concluded that violence has become a key push factor for migration, particularly in El Salvador and Honduras where high levels of violence and increasing territorial control on the part of gangs or “maras” is seriously affecting people’s ability to exercise their human rights.

Despite the difficulty in obtaining accurate figures from the countries’ governments, there is evidence that Lesbian, Gay, Bisexual, Transgender and Intersex people (LGBTI) are particularly exposed to violence in the Northern Triangle countries, and that this is related intrinsically to the multiple forms of discrimination that LGBTI people face in the different spheres of their family and working life, as part of society more widely and institutionally, on the basis of their gender identity and/or sexual orientation.

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2 The World Health Organization (WHO) considers a murder rate of more than 10 per 100,000 inhabitants to be an epidemic level. However, in 2016, the murder rate in El Salvador was recorded as 81.2 per 100,000 inhabitants (National Civil Police), in Honduras 58.9 per 100,000 (SEPOL) and in Guatemala 27.3 per 100,000 (National Civil Police).

3 Instituto Igarapé, Homicide Monitor, 2016, available at homicide.igarape.br

4 Terms used to indicate certain groups characterized by certain violent criminal activities and generally associated with territorial control throughout the Northern Triangle of Central America, particularly El Salvador and Honduras.


6 The capacity of each person to feel a deep emotional, affective and sexual attraction to people of the same gender and the capacity to maintain intimate and sexual relations with these people. The term lesbian is generally used to refer to female homosexuality and gay to male homosexuality.
Amnesty International has documented how, given the lack of options for protecting their lives and physical integrity in their own countries, gay men and trans women choose to flee and seek protection in other countries such as Mexico or the United States. For many of them, however, this path is paved with new acts of violence and discrimination at the hands of criminal gangs and the authorities in the transit and/or destination countries. When detained, they also find themselves in a highly vulnerable situation and may even be deported back to their countries of origin; i.e. to the hell from which they have escaped, and where they will again be attacked. In other words, gay men and trans women are exposed to gender-based violence at every point on their journey in search of protection.

The stories of Carlos, Camila, Marbella and Cristel, whose names have been changed to protect their safety, are representative of the primary human rights abuses and violations that gay men and trans women suffer due to their sexual orientation and/or gender identity, both in their countries of origin and when they seek international protection in other countries such as Mexico. When using pseudonyms to ensure the anonymity and safety of these people, some details of their personal life and geographical or temporal references have also purposely been omitted from their stories. These measures demonstrate the fear they live in for their lives.

This document is the result of a series of interviews conducted between 2016 and 2017 with 20 asylum seekers and refugees primarily from El Salvador and Honduras, aged between 16 and 34 years old, identifying as gay men or trans women, and with human rights organizations and international organizations. Amnesty International conducted in-depth interviews with people in the given cases and, as far as possible, cross-referenced this information with other available sources, including official documentation; however, it was sometimes impossible to obtain such documentation given the transitory nature of the lives of those seeking asylum, and the lack of complaints made to the authorities for fear of reprisals.

Amnesty International would like to thank those who shared their stories, as well as the activists and human rights defenders who provided the information with which to produce this document.

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7 Transgender is a term used to describe different variants of gender identity, the common denominator being a lack of conformity between a person’s biological sex and the gender identity traditionally assigned thereto. A trans person may construct their gender identity regardless of surgical interventions or medical treatment.

8 Gender identity is the deep, internal and individual way in which gender is experienced by a person, and it may or may not correspond to the sex ascribed to them at the time of their birth.

9 Sexual orientation refers to the capacity each person has to feel a deep emotion, affective and sexual attraction to people of a different gender, to people of the same gender or to more than one gender, as well as the capacity to maintain intimate and sexual relations with those people.
Carlos, Marbella, Cristel and Camila suffered acts of discrimination, exclusion and physical violence from an early age in their respective countries of the Northern Triangle due to the simple fact that their sexual orientation and/or gender identity was different from the traditionally accepted heterosexual and patriarchal social norms.

Carlos, a young Honduran of 25 years of age recalls that, on various occasions during his childhood and adolescence, he experienced humiliation, rejection as well as beatings from family members “for being gay”. Members of the gang that controlled his neighbourhood also attacked and threatened him for the same reason, and so he was forced to flee his country. For her part, Cristel, a 25-year-old Salvadoran trans woman, also saw leaving her country as a way of avoiding the threats and attacks she received from gang members in her neighbourhood “for not being a biological woman”.

In the case of Camila, another trans woman from El Salvador aged 34, it was the police from her neighbourhood who persecuted her and issued death threats “for being trans” on numerous occasions, until she had no other option but to leave the country. Marbella, a 20-year-old Guatemalan trans woman, was the victim of a trafficking ring that recruited LGBTI people, and was subjected to further threats and intimidation following her rescue.
According to the UN High Commissioner for Refugees (UNHCR), LGBTI people are one of the “risk profiles” for asylum seekers from El Salvador and Honduras, and it is therefore acknowledged that these people may need international protection in accordance with the 1951 Refugee Convention and its 1967 Protocol.

Although it is difficult to obtain official and accurate figures on attacks against LGBTI people in El Salvador, Guatemala and Honduras, different non-governmental organizations (NGOs) and international organizations have documented that they are particularly affected by the widespread climate of violence and insecurity in the Northern Triangle of Central America. LGBTI people are frequently the target of different forms of violence due to their real or perceived sexual orientation and/or gender identity, such as, for example, intimidation, threats, physical aggression, sexual violence and even murder.

Amnesty International received a number of statements from gay men and trans women testifying to having been raped in their countries. According to UNHCR, 88 percent of LGBTI asylum seekers and refugees from the Northern Triangle interviewed in the context of a study reported having suffered sexual and gender-based violence in their countries of origin.

Carlos (Honduran) interviewed in 2017.
In terms of murders of LGBTI people, NGOs that are gathering and systematizing information on the situation have reported high numbers of murders in recent years (see table).

A study conducted in 2016 indicates that the Northern Triangle region is one of the most dangerous regions for trans women. These same NGOs warn that the real figures could be higher given that not all cases are systematically denounced or adequately reported.

Violence towards LGBTI people is rooted in the environment of discrimination and stigma that is prevalent in society generally towards these people, who differ from the traditionally established patriarchal social norms and gender roles. This situation is reflected in the testimonies received by Amnesty International, which bear witness to multiple acts of verbal and physical violence and exclusion in different arenas of daily life; from within their own family, community and society more generally, including at school and, later, in the workplace. Nor are the “maras” or gangs in the Northern Triangle of Central America, characterized by their violent criminal behaviour and generally associated with territorial control, excluded from this reality. It has been documented that they are governed by highly sexist codes of conduct, and they often attack LGBTI people for real or perceived their gender identity or sexual orientation, subjecting them to acts of physical and sexual violence, as well as blackmail.

“I was forced to leave my country, I didn’t ask to, just because I was transsexual, just because I was not a biological woman”

Cristel (Salvadoran) interviewed in 2016.

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ATTACKS ON LGBTI PEOPLE IN THE NORTHERN TRIANGLE OF CENTRAL AMERICA

HONDURAS

According to the NGO Cattrachas Lesbian Network—which monitors violent deaths of LGBTI people on the basis of information appearing in the media—264 murders of LGBTI people were reported in Honduras between 2009 and July 2017, of which 152 (or 58 percent) were gay men and 86 (or 32.5 percent) were trans people. Among these were a number of activists and defenders of LGBTI rights, such as René Martínez Izaguirre, President of the Sampedrana Gay Community, who was disappeared and killed in June 2016.

EL SALVADOR

The Association for Communicating and Training Trans Women in El Salvador (COMCAVIS TRANS) reported a total of 28 serious attacks, most of them murders, perpetrated against LGBTI people between January and September 2017. During February 2017, three trans women were brutally murdered within a 72-hour period. A fourth was brutally attacked just days later.

GUATEMALA

The serious violence and discrimination suffered by LGBTI people has been highlighted on a number of occasions by international human rights bodies. For example, at the end of 2016, five trans women were reported murdered within a six-week period. For its part, the NGO Transgender Europe indicated that 40 trans people were murdered in Guatemala during 2016.18


In 2016, when she was 19 years old, Marbella, a Guatemalan trans woman, replied to an invitation to participate in a beauty contest in Guatemala City, which turned out to be a recruitment front for a trafficking ring. Marbella states that she was held in a house for several months during which time she was subjected to sexual exploitation along with other trans women from Central America, until she was rescued by a police operation. A number of those responsible were subsequently arrested and a criminal investigation opened.

On her release, Marbella wanted to return home and resume her life and studies. She relates, however, that shortly after her return, she began to receive warnings that those responsible for her previous ordeal were looking for her and she was even threatened. Terrified, Marbella stopped going to school, no longer went out and shut herself in the house for fear that the threats would be carried out.

The threats did not stop, and she felt unprotected in her own country and so, at the end of 2016, she decided to leave for Mexico to protect her life and integrity.

When Amnesty International interviewed her in a border town in southern Mexico at the end of March 2016, she did not know what stage the legal proceedings in Guatemala had reached. She stated that she was, however, afraid of being so close to the situation from which she was escaping. Some weeks later, the Mexican state granted her international protection.
Carlos decided not to report the attacks and threats he received in Honduras, having seen how many of his friends, also gay, were attacked and persecuted specifically for having made complaints.

Like Carlos, most of the trans women and gay men commented in their interviews with Amnesty International that to go to the Police or Prosecution Service would mean or has meant an additional and direct risk to their safety, their life or their integrity; rarely was such an act perceived as synonymous with obtaining protection from the violence they faced.

For fear of suffering reprisals at the hands of their attackers, and given the lack of trust in the authorities responsible for law enforcement, who are regarded as being involved in corruption, complicity and cover-ups with organized criminal gangs, many people prefer not to report the attacks they suffer.

“I never tried to make a complaint because of what happened previously to some friends. My friend (...) went to report a crime and he hadn’t even finished making the complaint when they were already at his front door, which is why he went to Mexico; another friend went to make a complaint and was killed on the way home, after doing so.”

Carlos (Honduran) interviewed in 2017.
More serious still, in Camila’s case, from El Salvador, the insults, death threats and persecution she experienced came from a police officer, who even turned up at her house with a firearm. Camila’s story is unfortunately not a one-off but part of a backdrop of reported attacks on LGBTI people, perpetrated directly by members of the security forces and fostered by the context of discrimination and stigma prevalent in society.

For her part, Cristel related how she was subjected to unjustified controls in the street and searches of her belongings by members of the Salvadoran police, apparently due to her gender identity and expression. Local activists indicated in this regard that trans women are particularly exposed to harassment, unjustified searches and arbitrary detentions from the police because of the stigma they bear.

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When Camila went to the police in El Salvador to report the attacks she had suffered, rather than taking her complaint seriously and offering her protection, the officers mocked her gender identity.

Camila insisted on exercising her rights like any other person but, but the officers threatened to lock her up so, in the end, she gave up and went away.

"I told them I knew my rights and that I could make a complaint. The response was that they were going to lock me up and my partner up."

Camila (Salvadoran) interviewed in 2017.
A study conducted in 2014 in this regard revealed the extent of prejudice due to sexual orientation and/or gender identity within the Salvadoran National Police. It concluded that 66.8 percent of the 413 police officers interviewed believed that, in accordance with national law, LGBTI people did not have the same rights as others. Despite some progress within certain institutions responsible for law enforcement, the testimonies gathered bear witness to the fact that a lack of sensitivity continues to form a barrier to protecting the rights of LGBTI people.

The few people who dare go to the authorities to report a crime are frequently re-victimized or treated with disdain, indifference and discrimination due to their gender identity and/or expression, and so they rarely follow their case up and even, sometimes, withdraw it. The above is in violation of the right of all people to enjoy equal protection before the law without discrimination.

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22 ESMULES and CIPAC, Actitudes hacia las personas LGBTI por parte de las fuerzas policiales. (Police Attitudes Towards LGBTI People), El Salvador, September 2014. Available at: www.cipacdh.org/pdf/Informe_El_Salvador_FINAL.pdf [in Spanish only]
Camila is a 34-year-old Salvadoran trans woman. She recounts that, at the start of 2016, a police officer who lived in the same neighbourhood as her began to harass her for being trans; he hounded her and insulted her whenever their paths crossed, even in front of her partner or family.

To begin with, Camila ignored her neighbour’s violent and transphobic behaviour but his aggressive attitude increased as the months went by. The officer even threatened Camila and her partner with death on a number of occasions while carrying a firearm, and even in her own home. For fear that these threats would come to pass, Camila left her home and went to live with relatives. She also went to the Civil National Police (PNC) with the aim of reporting the matter.

As a trans woman, however, she was mocked and insulted by some of the officers present. When she insisted on making a complaint, knowing that she had every right to do so, the police officers threatened to lock her up, following which she gave up and left.

Camila recounts that she continued receiving telephone death threats over the ensuing weeks, even in her new home, from the same individual, who told her he knew she had gone to the police. Fearing for her life, and faced with this level of persecution and surveillance, Camila saw no other option but to flee to Mexico with her partner.

After crossing the Mexican border, Camila and her partner caught a minibus for their journey onward but were forced to get off shortly before entering Tapachula due to an impending migration control. Camila says that a short distance after having got off the minibus, she and her partner were stopped by uniformed individuals who she says insulted their gender identity, threatened them and took their money. Camila made a complaint to the Special Prosecution Service for Crimes against Immigrants. When she was interviewed two months later, she was unaware of what stage the investigation was at.

Camila was recognized as a refugee at the end of April 2017. She subsequently went to live in another town in Mexico.

23 Tapachula is a town in Chiapas State, on the south-eastern border with Mexico, adjoining Guatemala.
In accordance with international human rights law, any discrimination based on the sexual orientation and/or gender identity of a person is prohibited:

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
(Article 26 of the International Covenant on Civil and Political Rights)

It follows from the above that although the political constitutions of countries of the Northern Triangle do not expressly include this prohibition nor make explicit reference to LGBTI people, these countries do have a duty to ensure that all people enjoy equal protection before the law without discrimination.

In the countries of the Northern Triangle, where high levels of impunity are common, LGBTI people very rarely obtain justice when they report the serious attacks they have suffered.

In a study conducted into impunity for such attacks, the NGO Cattrachas noted that, of the 225 violent deaths of LGBTI people recorded during the period 2008 to 2015, only 13 had resulted in a conviction.

In these countries, discriminatory prejudice, as well as a lack of awareness and training among justice operators as regards these kinds of attack, have been cited by local activists as factors that contribute to the lack of investigation of cases of violence.

This lack of effective access to justice only perpetuates the circle of violence to which LGBTI people are subjected and increases their lack of protection. Silence and escape are therefore often the only alternatives they have to protect their lives and physical integrity.

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INVISIBILITY

We do not know the exact number of trans women and gay men who, like Camila, Carlos, Marbella and Cristel, flee the violence of the Northern Triangle of Central America each year. This is because the attacks that LGBTI people suffer in their countries of origin are rarely reported to the national authorities or classified as such, for the reasons described above, and because many of the destination countries do not compile statistical information by sexual orientation and/or gender identity for the asylum seekers and refugees they take in.

For example, it was only in 2015 that US Immigration and Customs Enforcement, known as the ICE, stated that it would gather information on the gender identity of those detained.27 This lack of accurate data not only contributes to the dissimulation of a real phenomenon but hinders the design and implementation of adequate measures to guarantee the rights of LGBTI people.

Most of the information available in this regard comes from monitoring conducted by a number of NGOs and from information gathered by UNHCR and its partners in the context of their activities with LGBTI people.

For example, the NGO Immigration Equality which provides guidance to LGBTI asylum seekers in the United States indicated that of all the requests they have received over the last years, Guatemala, Honduras, and El Salvador are among the 10 countries with the highest numbers of requests. In March 2017, the Salvadoran NGO COMCAVIS Trans indicated that at least 136 LGBTI people28 had left the country since 2012. In practice, however, the figures are likely to be higher.

27 Immigration and Customs Enforcement (ICE), Transgender Care Memorandum, June 2015. Available at: www.ice.gov/news/releases/ice-issues-new-guidance-care-transgender-individuals-custody

UNHCR informed us that, during 2016 in Mexico, 159 LGBTI people were provided with humanitarian assistance by UNHCR and its partners. Again, however, it is possible that the figures are higher given that not all people register with UNHCR or its partners.
LGBTI people who are forced to flee are particularly vulnerable to violations of their human rights.\textsuperscript{29} In addition to the serious situation they experience in their own countries, they suffer further acts of violence on the journey and/or in their destination countries.

In Mexico, high levels of crime and human rights violations are reported against migrants generally, including attacks, robberies and kidnappings perpetrated by organized criminal gangs, sometimes in collusion with different government authorities, as well as different kinds of abuse of authority by the security forces and other Mexican migration services,\textsuperscript{30} which go unpunished in 99 percent of the cases reported.\textsuperscript{31} Faced not only with these kinds of attack, LGBTI people also find themselves exposed to acts of violence due to their real or perceived gender identity and/or sexual orientation.

According to UNHCR, two-thirds of LGBTI asylum seekers and refugees coming from the Northern Triangle and interviewed in 2016 as part of a study reported suffering sexual and gender-based violence in Mexico after crossing the border at blind spots.\textsuperscript{32}


\textsuperscript{31} WOLA et al., El acceso a la justicia para personas migrantes en México: un derecho que sólo existe en papel (Access to Justice for Migrants in Mexico: a right that exists only on paper), July 2017. See also Hogar Refugio La 72. En los límites de la frontera, quebrando los límites (On the limits of the border, breaking the limits), April 2017, p. 21. Available at www.la72.org/?p=1719 (only in Spanish)

In addition, the testimonies received by Amnesty International highlight the fact that, the whole way along their escape route, they are subjected to stigma and discrimination from the authorities, and also sometimes in the shelters that receive them, due to the injurious prejudice surrounding their sexual orientation and/or gender identity that is also prevalent in this country.

It is important to note, in this regard, the high numbers of Mexican LGBTI victims of violence each year and the fact that many of them, including transgender people, in turn seek protection in other countries.

LGBTI people also suffer violence, both verbal and physical, from other migrants. This can be seen, for example, in insults or contemptuous words that refer to their sexual orientation and/or gender identity, or in more serious aggression.

When we interviewed Carlos for the first time in the shelter where he was staying in the South of Mexico, he told us that he was afraid to go outside, and tried to avoid doing so.

Despite this, Carlos commented that, a short while ago, while walking along a path, he was brutally attacked by other migrants. His aggressors knew he was gay and so they insulted him for his sexual orientation. He states that he was also raped.

Finally, the information gathered by Amnesty International—in its interviews with asylum seekers in various border towns in southern Mexico, and with workers from shelters and other organizations—bears witness to the presence of gang or “mara” members in these areas. For asylum seekers, the presence of individuals linked to the same gangs that were persecuting them, threatening them and/or attacking them in their home countries increases their perception of insecurity and can even form a real and imminent risk. Cristel recounted, for example, that on returning from sorting out some paperwork with the Mexican migration office one day, she recognized an individual in the street linked to the same gang that had blackmailed and threatened her in El Salvador. Because of this she stopped going out of the house unless absolutely necessary, for fear of being attacked or located.

“They took my money, my clothes (...), they gave me nothing to eat, no water, they mistreated me, they told me, ‘Ignorant asshole, why were you born this way? Fucking asshole.’”

Cristel (Salvadoran) interviewed in 2016.
Migration detention is another situation in which LGBTI asylum seekers are particularly exposed to abuses and violations of their human rights, including lack of effective access to their right to seek asylum and acts of gender-based violence and discrimination on the part of other detainees and the guards.

UNHCR has acknowledged that LGBTI people are often at risk during the time they spend in migration detention centres.\(^{34}\) This risk is greater for transgender women when they are held in cells reserved for men because there are no adequate policies or measures that take their individual and gender identity needs into account.

To this must be added the impact of the detention itself on asylum seekers, which only exacerbates their symptoms of depression, anxiety and the effects of post-traumatic stress.\(^ {35}\) These symptoms are present in LGBTI asylum seekers due to the serious acts of violence they have suffered.

In Mexico, there are documented migrant detention centres that fail to meet the specific protection needs of LGBTI people; trans women in particular are mixed with others, or crowded into provisional cells that are temporarily allocated to them.\(^ {36}\) In a report published in July 2017, the Citizens’ Council of the National Migration Institute (INM) of Mexico highlighted the fact that the different LGBTI people met and interviewed in the different centres “stated that they had suffered discrimination, sexual harassment and even aggression from other detainees or the centre staff”.\(^ {37}\)}
This report indicates that detainees are generally subjected to pressure and intimidation to accept so-called “voluntary return”, which denies them effective access to the right to seek asylum.\(^{38}\)

Amnesty International finds this situation concerning in that it may contribute to the increased vulnerability of LGBTI people detained for migration reasons, who are often unaware of their right to seek asylum. By subjecting them to pressure during their detention, in a context in which their rights as LGBTI people are not systematically guaranteed, they are exposed to deportation to their countries without the possibility of receiving the international protection they deserve.\(^{39}\) and despite the fact that gender persecution is one of the causes established in Mexican legislation for recognizing refugee status.\(^{40}\)

Carlos indicates that he only found out about his right to seek asylum after being detained and taken to a holding centre in the south of Mexico. Once he became aware of this possibility, he said he wanted to begin the process as soon as possible, as it would enable him to escape the violence he had experienced in Honduras; however, in an attempt to demotivate him, the person dealing with his case warned him that it would mean remaining in detention for around three months. Two days later, Carlos was finally able to begin the process.

After several weeks, however, he became severely depressed and felt he would be unable to bear such difficult detention conditions. He was released after around a month’s detention due to being offered alternative methods to migration detention and so he was moved to a shelter.

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\(^{38}\) Ibid. See also Animal Político, Hoy no comes, así amenazan a migrantes en México para que acepten la deportación voluntaria (No food today: how migrants in Mexico are threatened to accept voluntary deportation), 3 August 2017. Available at: www.animalpolitico.com/2017/08/amenazas-migrantes-mexico/?utm_source=Hoy+en+Animal&utm_campaign=cdf495dd10-g&utm_medium=email&utm_term=0_ae638a5d34-cdf495dd10-392971985 [in Spanish only].

\(^{39}\) Observatorio de Migración, Derribando Muros (Breaking down Walls), Boletín no. 7 April 2017, pg. 2. [in Spanish only].

\(^{40}\) Article 13 of the Law on Refugees, Additional Protection and Political Asylum.
Carlos is a 25-year-old gay man. Until March 2016 he was working in the patterns and prints department of a clothing manufacturer in his home country. Carlos had by this time already experienced humiliation, insults and rejection by his family for being gay from an early age.

He sometimes also received death threats from the gangs in the area in which he lived. But in March 2016 it was different. He was beaten by a group of gang members who insulted him and repeated their threats: if you don’t leave town immediately, you’ll end up dead. For fear of reprisals, Carlos decided not to report this attack but left his community and fled to San Pedro Sula — the second largest city in Honduras and one of the most dangerous places in the world.41

Nonetheless, within a few weeks, the gangs had located him through their networks of informants. Carlos says they attacked him as he was leaving the job he had found in this new city. His fear was such that he initially decided simply not to leave the house; he even gave up work. But the gangs found out where he lived and went there to threaten him further.

Without a safe place to stay, Carlos had no option but to flee once more. This time he decided to leave the country. On 13 September 2016, without really knowing the route, he took several buses through Guatemala to the Mexican border.

Carlos recounts how he was detained by the INM in Mexico a few hours after crossing the border. He was taken to a holding centre where he was locked up day and night with others in a very small cell. He was only let out to collect his food, and then immediately returned to the cell to eat it. This same space included toilets and washing space, clothes had to be washed and hung out there, and they had to sleep on mats on the floor. In his words, “It was a truly horrible place.”

Carlos found out about his right to seek asylum for the first time while in detention, when he stated his reasons for not wanting to be deported back to Honduras. He wanted to begin asylum proceedings immediately but the person dealing with his case told him, in an attempt to put him off, that he would be held in these detention conditions for at least three months if he requested asylum. Determined, Carlos repeated his desire to start the process as soon as possible but says he was only allowed to do so two days later.

He states that after two weeks he felt desperate at the conditions in which he was being held, spending almost the whole day locked up and sleeping on a mat. However, he was informed that he could benefit from alternative measures to detention, implemented by the Mexican government with the support of UNHCR, and so he was finally able to leave and was moved to a migrant shelter.

Carlos says he tried to avoid leaving the shelter for fear of meeting gang members and other groups in the border town in which he was living. However, one day as he was walking along a path he was attacked by migrants who were aware of his sexual orientation. On this occasion, Carlos was also raped.

Carlos is still waiting for his asylum claim to be considered. The process has taken several months because the first decision he received - which refused him asylum - was declared null and void due to a number of irregularities.

“If there were more information about what an LGBTI community is, what it is to be gay, lesbian, what we suffer, if there were campaigns, more information for people, I believe there would be less ignorance towards us”

Carlos (Honduran), interviewed in 2017.
For her part, Cristel recounts her painful experience in a US migration detention centre. Feeling unsafe in Mexico after the abuse she had suffered, Cristel decided to travel to the United States, where she hoped to live according to her gender identity and without fear. She says that, on arriving at the US border, she was detained and subsequently taken to a detention centre where she was held for around three months.

She was detained all this time alongside men given that, in her words, the authorities did not take her gender identity into account, nor the vulnerability that this situation created for her. Cristel says she could not bear these terrible conditions and ended up accepting so-called “voluntary return” to El Salvador.

The situation described by Cristel concurs with the results of a report published in March 2016 by Human Rights Watch, which documents the multiple abuses and violations of human rights, including sexual aggression and harassment, suffered by trans women when detained in male units of US detention centres. Although the US ICE had issued guidelines intended to improve the detention conditions of trans women some months previously, these are reportedly suffering from implementation problems.

Trans women’s vulnerability is now being intensified by the prolonged periods asylum seekers are forced to spend in detention following the drastic reduction in alternative methods, exacerbated by the migration policies implemented by President Donald Trump.

“I was held in a US cell and it was horrible, so tense; you are discriminated against as well, they discriminate against you, they marginalize you (...) they put me in with all men, three and a half months, they never took account of my sexuality or that I was trans.”

Cristel (Salvadoran) interviewed in 2017.

All people, including asylum seekers and migrants, have the right to freedom, to move freely and to be protected from arbitrary detention regardless of their legal status. Amnesty International is therefore opposed to the routine use of detention as an instrument for exercising migration control, given the negative impact it has on the rights of those detained and the fact that states often use detention as a way of dissuading or punishing illegal migration instead of tackling its real causes.

According to current international standards, migration detention is an exceptional measure to be used as a last resort when it is not possible to use other less restrictive means. States must therefore ensure that alternative measures to detention are effectively available for all migrants, without discrimination. When envisaging the use of these alternative measures, states must conduct individual assessments that take into account the specific circumstances and vulnerability of each case, such as for example, pregnant women, trafficking victims, LGBTI people, the elderly or those with a serious medical or psychological condition.
For those unaware of their right to request asylum, or who are deprived of effective access to it, detention by the migration authorities is the start of a deportation process that will culminate in their return to their country of origin, directly back to the serious risks they were trying to escape.\(^49\)

The evidence gathered by Amnesty International in this regard shows that Mexico and the United States are returning people who are fleeing violence to their countries of origin without being able to request asylum;\(^50\) which is in violation of the principle of non-refoulement (non-return)\(^51\) and places people in serious danger.

Amnesty International has furthermore documented that, despite the above, thousands of people are being deported to the countries of the Northern Triangle each year,\(^52\) where there are no comprehensive mechanisms that would enable those at risk to be identified or provided with the protection and care they need, and nor from an adequate gender perspective in the case of LGBTI people.\(^53\)

Given the multiple dangers facing them on their return to their country, many people have no option but to flee for their life yet again, seeking safety either elsewhere within the country or going abroad once more. Some of the people interviewed by Amnesty International who had been deported to their country or had accepted so-called voluntary return indicated that their fear was so great on arriving back in their country of origin that, the very same day of their deportation, they had again taken a bus to cross the border.

Other people stayed several weeks or months in a different area or city of the country, seeking their own ways of surviving, until they were faced with further danger and fled once again, as was the case of Cristel. Because of the networks of informants gang members have around the country, they quickly found out that Cristel had returned and so she once more became the target of blackmail and threats, until she was forced to flee El Salvador again in search of protection.


\(^{50}\) ICE. Transgender Care Memorandum, June 2015.


\(^{52}\) Amnesty International, Facing Walls, USA and Mexico’s violation of the rights of asylum seekers AMR 01/6426/2017, 2017. Available at: www.amnesty.org/es/documents/amr01/6426/2017/es/

Cristel is 25 years old. This Salvadoran trans woman describes how her life changed in just a few hours one day in August 2014 when she received death threats from a gang in the area where she lived with her mother in El Salvador. She had been identified as trans, and they gave her 24 hours to get out, or they would kill her.

Cristel had suffered stigma and discrimination in her country for her gender identity in the past. She had also been blackmailed by gangs, but at no time had there been actual attacks on her life. Faced with this new threat, Cristel feared for her life and so grabbed two changes of clothing and took “the road North”, knowing nothing about the journey that awaited her. Cristel travelled by bus to the Mexican border and, like so many other undocumented migrants, crossed the Suchiate River in a raft.

Once across the border, Cristel recounts that she got a taxi to take her into Tapachula where she could rest before continuing her journey on to Mexico City. However, instead of taking her there, the supposed taxi driver took her to an unknown house where her belongings were taken from her and she was raped on several occasions by different people, and sexually exploited. Cristel recalls that she remained in captivity for several days in this house, along with K, another trans woman from El Salvador, until one night they managed to escape while their abductors were distracted.

The two women walked and walked until a car driver offered to help them and took them to the Specialist Prosecution Service for Crimes against Immigrants in Tapachula, where they were able to make a complaint. They were taken to a shelter for migrants, where Cristel was able to commence her recovery. Some weeks later, the INM granted her a humanitarian visa because she had been the victim of a serious crime in Mexico. Cristel indicated that she had not been informed of the progress made in the investigation that was opened after she reported the crime in Mexico.

The humanitarian visa she received allowed her to remain in Mexico for one year. She says she felt very unsafe in the country, however, and so she travelled to the United States with K. At the border, the two women handed themselves over to the US authorities and were taken to a migration detention centre. Cristel recounts that she was detained in the US for more than three months, in the men’s unit. She says that at no time did the authorities take her gender identity into account. This prolonged detention was extremely difficult for Cristel, who had been greatly affected by the abuse suffered in Mexico, and so she finally withdrew her asylum request and agreed to her “voluntary return” to El Salvador. Her friend K now lives in the United States.

On her return to El Salvador, Cristel set up home in a different area of the country. However, she had no option but to live in a neighbourhood that was also controlled by gangs. Through their information networks, the gang member that had threatened her previously became aware of her presence and began to blackmail her: she had to pay a tax plus so-called “rent” or they would kill her. Cristel says she was only able to pay the sums demanded for a few weeks, after which her family tried to obtain a loan to help her and avoid the threats being carried out.
But she again received death threats by phone and, at the start of 2017, was assaulted in the street by the same gang member. Cristel went to the Civil National Police to report the incident. Shortly afterwards, however, she says she saw police officers chatting with the gang member. More threats came over the following days: Cristel was given two weeks to quit the neighbourhood and not return to any area controlled by this gang. She says her boyfriend also received death threats and was murdered several weeks later as he was going to visit his family in an area controlled by a rival gang.

Cristel had no option but to flee to Mexico once more. Around the same time that Cristel travelled to Mexico, three trans women were murdered in El Salvador within a one-week period.54

Cristel requested international protection in a border town in southern Mexico, living in constant fear of being attacked or abused once more, and restricting her movements to the strictly essential. Cristel recounts that, one day, on returning home, she recognized someone in the street linked to the gang that had blackmailed and threatened her in El Salvador, and this only resulted in yet further terror and anxiety on her part.

The stories of Camila, Carlos, Marbella and Cristel, along with other testimonies gathered by Amnesty International, bear witness to the multiple and repeated abuses and violations of human rights experienced by trans women and gay men both in their countries of origin and in their transit and/or destination countries, often motivated by their real or perceived sexual orientation and/or gender identity.

When forced to flee to another country to escape the violence, instead of obtaining the immediate protection they require, LGBTI people often again experience abuses and violations of their rights similar to those suffered in their home countries. In other words, their vulnerability as migrant persons and asylum seeker is exacerbated by their Sexual orientation and/or gender identity.

This circle of constant violence and lack of protection is the result of the deep discrimination and stigma LGBTI people experience at different levels of society in these countries, linked to a lack of adequate and effective measures to guarantee their rights and a lack of knowledge of their particular protection needs.

Recommendations

States need to act to fully guarantee the rights of LGBTI people from the Northern Triangle of Central America. Amnesty International therefore recommends:

1. Adopt and implement prevention and awareness-raising policies aimed at promoting respect for the rights of LGBTI people and preventing all forms of violence against them, both in the domestic sphere and within public institutions.

2. Conduct exhaustive investigations into all crimes and human rights violations committed against LGBTI people with the aim of identifying, prosecuting and punishing those responsible. The different possible lines of investigation should include those aimed at determining whether the crimes were committed on the basis of the victim’s sexual orientation and/or gender identity.

3. Provide adequate medical and psychological care for LGBTI victims of violence.
4. Ensure that the official records of the different institutions responsible for providing care to LGBTI victims of violence have data collection systems that enable the gender identity and/or sexual orientation of individuals to be taken into consideration in order to quantify and analyse the violence to which they are subjected.

5. Improve coordination between consular services abroad and the reception centres in the countries to identify people with protection needs and guarantee that all reception, reintegration and protection programmes for deported migrants take into account the rights and specific needs of LGBTI people.

6. Assess the risk of deported or returning LGBTI people so that, in the face of high risk, a fast-track system can be activated in third countries to support asylum requests from those LGBTI people involved, as a protection measure.

1. Ensure that people receive information on their right to claim asylum and that they have effective access to this process, and refrain from deporting people at risk back to their country of origin.

2. Collect, systematize and produce data and records on violence against LGBTI asylum seekers or refugees persecuted on the basis of their real or perceived sexual orientation and/or gender identity.

3. Conduct exhaustive investigations with all due diligence for crimes and human rights violations committed against LGBTI people considering, among the possible lines of investigation, those aimed at determining whether the crimes were committed on the basis of the sexual orientation and/or gender identity of the victims.

4. Adopt or, where appropriate, continue to develop good practices related to the use of alternatives to migration detention for LGBTI people, based on an individualized assessment of the specific protection needs of each person that takes into account their sexual orientation and/or gender identity.

5. Put special mechanisms in place for vulnerable asylum seekers who may need to be urgently moved from border areas to other parts of the country while they await the results of their asylum procedure, with special emphasis on LGBTI communities.
Salvadorans, Guatemalans and Hondurans seeking asylum in Mexico based on their sexual orientation and/or gender identity.
TAB 20
Neither Security nor Justice:
Sexual and Gender-based Violence and Gang Violence in
El Salvador, Honduras, and Guatemala
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Methodology

This report draws on interviews conducted with Central American migrant children, case documentation from KIND’s child clients, and interviews with government and civil society representatives to demonstrate the ways in which sexual and gender-based violence (SGBV) and gang violence intersect to threaten the lives of thousands of children and families in El Salvador, Honduras, and Guatemala.

KIND and the Human Rights Center Fray Matias de Cordova (Centro de Derechos Humanos Fray Matías de Cordova, or CDH Fray Matias) conducted 60 interviews with migrant children in Tapachula, Mexico, and Mexico City between March and July 2016. Documentation was collected from an additional 36 KIND client cases of child SGBV survivors. Every child provided informed consent to participate in the study. The research also draws on 58 interviews conducted by KIND with key government and civil society actors in El Salvador, Guatemala, and Honduras, including judges, police, and prosecutors as well as representatives from organizations focused on migration and women’s, children’s and LGBTI rights.

This report forms part of a broader ongoing study focused on sexual and gender-based violence and child migration in Central America and Mexico. KIND, in collaboration with CDH Fray Matias and with generous support from the Oak Foundation, documented forms of SGBV against migrant children in their places of origin and transit, as well as the responses of Central American and Mexican governments to these forms of violence. KIND and CDH Fray Matias will publish findings and recommendations from the broader study in summer 2017.

Glossary

Gender-based violence is any form of violence, including physical, sexual, and emotional harm or threats of such harm, against a person based on their actual or assumed sex, gender, or sexual orientation. It includes violence perpetrated in any site including in the home and in public, as well as violence perpetuated or condoned by the state. Gender-based violence typically manifests against women and girls, but victims can also be men and boys, especially in the context of violence against LGBTI people.

Sexual violence is a form of gender-based violence and includes any sexual act or attempted sexual act that is carried out in the absence of freely given consent, regardless of the perpetrator’s relationship to the victim. Sexual violence can also include coerced sexual acts in exchange for food, shelter, protection, or resources. While women and girls suffer the highest rates of sexual violence, boys and men are also victims. LGBTI people are also frequently victims of SGBV.

Sexual and gender-based violence (SGBV) refers to sexual and other forms of gender-based violence. Although these forms of violence can be perpetuated against men and boys, they most commonly take the form of violence against women and girls, which is “a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.”

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Neither Security nor Justice
“When a gang says, ‘This is my territory,’ they are talking about everything, the houses, the businesses, the people, and specifically the women and girls.”
Cynthia Hernández Cruz, Director, Survivor’s Foundation (Fundación Sobrevivientes), Guatemala

“Women in Honduras live in constant fear. They have no confidence that the government will provide either security or justice.”
Carolina Sierra, Director, Forum of Women for Life (Foro de Mujeres por la Vida), San Pedro Sula, Honduras

“I can tell a woman that she should report domestic violence, but she will ask me, ‘Who will support me, who will protect me?’ and I can’t answer those questions.”
Judge, Tegucigalpa, Honduras

“One of my [police] officers was talking to a 15-year-old girl who was thinking of leaving the country because she was receiving attention from gang members in her neighborhood. I said that we can’t tell her not to go, because we know the government can’t offer her protection.”
Police officer, San Salvador, El Salvador

Introduction

The Northern Triangle of Central America, which includes El Salvador, Honduras, and Guatemala, is one of the most violent regions in the world. Along with staggering homicide rates, all three countries have extremely high rates of sexual and gender-based violence (SGBV), including rape and sexual assault, domestic violence, human trafficking, sexual exploitation, and sexual abuse of children. The three countries also have some of the highest rates of femicide, or the gender-motivated killing of women and girls, in the world, and rates have risen dramatically over the past several years. In El Salvador, a woman was murdered every 16 hours in 2015. In Honduras, gender-based violence is the second leading cause of death for women of reproductive age. On average, two women are murdered each day in Guatemala, and the number of women murdered each year has more than tripled since 2000.

The rise of violence in El Salvador, Honduras, and Guatemala is in large part attributable to gangs that have grown increasingly powerful in all three countries. These gangs employ brutal forms of violence to maintain control over the territories where they operate. Gangs dominate urban areas of El Salvador, Honduras, and Guatemala and have increased their presence in rural and semi-urban areas in recent years, leaving children and youth in these areas vulnerable to gang violence. This intensified gang violence has a particularly severe impact on women and children, who are vulnerable to sexual and gender-based violence within their homes and neighborhoods, and find little hope of receiving protection or justice from the state.

Rates of SGBV in El Salvador, Honduras, and Guatemala are extremely high, and in the vast majority of cases, violence goes unreported and unpunished. When victims of SGBV live in gang-controlled areas or when perpetrators have gang affiliations, crimes are even more likely to result in impunity. Many victims do not report violence because they do not trust authorities or because they know that doing so will put them, and their families, at greater risk of retaliation by gangs. Those few who do report violence confront the unwillingness or inability of the state to provide either protection or justice. With no place to turn, many of these women and children are forced to flee their country to save their lives. Whether they ultimately reach Mexico, the United States, or any other country, they need—and in many cases should qualify for—refugee protection.
This report examines the relationship between gang violence and SGBV in El Salvador, Honduras, and Guatemala. It describes common forms of SGBV in the gang context and the ways in which gangs use SGBV to exert and maintain control over populations and territories in the areas where they operate. It also explains the factors that prevent reporting and prosecution of SGBV, both when the perpetrator is a gang member and when the victim lives in a gang-dominated area. The report briefly outlines government efforts to address violence and impunity. It provides recommendations on how the governments of El Salvador, Honduras, and Guatemala can work to reduce gang-related SGBV and increase assistance and justice for survivors, which in turn will provide affected individuals and families with alternatives to forced migration. The report also makes recommendations to the U.S. government on how to direct and prioritize aid to Central American countries to effectively bolster efforts to prevent and address SGBV.

Compounded Vulnerabilities: Sexual and Gender-based Violence in the Gang Context

SGBV is widespread in El Salvador, Guatemala, and Honduras

Sexual and gender-based violence, including sexual violence, domestic violence, human trafficking, femicide, and violence against LGBTI people, permeates the lives of women and children in El Salvador, Honduras, and Guatemala, disproportionately affecting girls and young women. These forms of violence have deep roots in “patriarchal attitudes and a machista culture,” as well as structural forms of inequality that marginalize women, girls, and LGBTI people, and justify discrimination and violence against them. Afro-descendant and indigenous girls suffer doubly, in addition to gender-based violence and discrimination, they endure widespread discrimination and social, political, and economic exclusion based on race and ethnicity.

While SGBV affects women, children, and LGBTI people throughout El Salvador, Honduras, and Guatemala, those who live in gang-controlled areas experience widespread and extremely brutal forms of gender-based violence. Gang presence also limits access to justice for those affected by violence by creating additional barriers to reporting, investigation, and prosecution, and further entrenching impunity—heightening the need for refugee protection for its victims.

Gangs use SGBV as a strategy of control

Lydia is a study participant who grew up in a gang-dominated area of a small city in Honduras. When she was 14 years old, gang members abducted her, took her to an abandoned property, and raped her. Lydia escaped and told her mother; she called the police. Lydia identified the men, and they were briefly sent to jail. Lydia became pregnant as a result of the rape, and while she was pregnant the men who raped her were released from jail and threatened to kill her. Lydia and her mother relocated within Honduras, but the gang members followed them and continued to threaten Lydia. Lydia was forced to flee to the U.S. to save her life.

Lorena is a study participant from Guatemala City. When she was 8 years old her family relocated to a small rural town in Guatemala to escape gang violence, only to confront it again in their new town. When Lorena was in middle school, a neighbor who was a gang member began to express interest in her. When she refused to become his girlfriend he began stalking and threatening her. During her walk home from school one day, the same gang member and his friend took 14-year-old Lorena by force to an isolated area and raped her. Lorena changed schools to avoid the gang member, but he continued to follow her and repeatedly threatened to rape her again. She eventually fled to the U.S. to escape further sexual violence.

As gangs have increased their control in El Salvador, Honduras, and Guatemala over the past several years,
they have systematically used sexual violence as a principal tactic for establishing and maintaining dominance over the communities and territories in which they operate, similar to violent tactics used in other contexts of armed conflict. Girls living in gang-controlled neighborhoods receive clear messages that they and their bodies belong to the gang, and that gang members have power to exercise sexual violence with complete impunity. Gang members have raped and tortured girls and left their mutilated and dismembered bodies in public places to demonstrate their dominance of the area and instill fear in the community. In other cases, women and girls who live in gang-controlled areas have gone missing; their bodies have been found in clandestine graves, with evidence of sexual violence and torture.

Gangs use sexual violence to control the behavior of women and girls; for example, gang members frequently use rape to punish women and girls suspected of reporting gang activity to the police. While gang members primarily target girls and young women for SGBV, they control boys and men by threatening sexual violence against sisters, girlfriends, daughters, wives, or other women and girls close to them.

The brutal and widespread acts of violence against women and girls perpetrated by gangs reflect both the machista or hyper-masculine culture inside the gang, as well as the patriarchal structure of the broader society within which gangs operate. As a leading Salvadoran women’s rights organization explains, in order to understand gang SGBV, “It is important and urgent to understand how gender violence is exacerbated by gang activity, which, by definition, is enabled by two factors: on the one hand, it is carried out at the margins of the country’s existing laws; and on the other hand, it operates within a society with a clear patriarchal substrate.”

Fear of gang violence, including sexual violence, forces girls and young women to limit their movement outside the home, abandoning school, work, and other activities, and in some cases the community or country. As Julia, a study participant from Guatemala, explained, “Girls basically have two options: go out with a marero [gang member], or stay inside all the time because a marero will get what he wants [from a girl].”

**Forms of SGBV used by gangs**

Girls who participated in this study reported suffering myriad forms of SGBV by gang members, as well as ongoing threats and harassment. Their reports are consistent with the growing body of research cited throughout this report that documents the prevalence of SGBV by gangs in El Salvador, Honduras, and Guatemala. Gangs kidnap, rape, or otherwise sexually assault, harass, and traffic girls, and force them into situations of sexual and domestic slavery.

Girls, including participants in this study, have told of being kidnapped by gang members and taken to abandoned buildings or other remote sites, sometimes for days or weeks, where they are raped by one or multiple gang members. Gang members threaten to gravely harm or even murder victims and their families if victims disclose the abuse they experienced.

Teenage girls are the most frequent targets of kidnapping and rape by gangs, but girls as young as eight and nine have been victims of sexual violence. In some cases, boys have been targeted for sexual violence and torture by gang members.

*Maria is a 16-year-old study participant from El Salvador. Gang members began to threaten Maria with sexual violence when her family refused to pay an extortion fee to the gang. Maria attempted to flee the country, but was stopped at the border by gang members who kidnapped her and took her to an abandoned house. There, Maria was drugged and continuously raped by gang members. She witnessed gang members bring other women and girls into the house and rape them. After three months in captivity, Maria managed to escape and flee to Mexico for safety.*

The territorial dominance of gangs in many parts of El Salvador, Honduras, and Guatemala has also given rise to a specific form of violence, whose victims are referred to as “novias de pandillas” or “jainas” (gang members who control the community and force young women to marry gang members as a way to gain control over them).
Neither Security nor Justice

Gang members force or coerce these girls and young women into a sexual relationship. In many cases a gang member approaches a girl and tells her that she will become his girlfriend, and if the girl refuses, the gang member threatens to sexually assault her or to harm or kill members of her family. In other cases girls feel compelled to enter into a relationship with a gang member to gain protection from sexual violence by other gang members, or to escape sexual or physical violence in the home. 29

A report by the Salvadoran nongovernmental organization (NGO) Organization of Salvadoran Women for Peace (ORMUSA) cites a statement from a Salvadoran police officer explaining the dynamics of violence and coercion that women and girls experience:

“They consider that it is the gang members, the men, who decide which woman will be their partner or one of their partners. As men advance in the criminal structure [of the gang], they have the right to have more and more women... And this woman, who is the partner of a gang member, it’s not her who decides if she wants to be or not, the male gang members even have the right to decide that they no longer like a woman and they are no longer interested in her and she has to be passed to another gang member, or she has to go to a prison for an ‘intimate visit’ to have sexual relations with a certain gang member who she doesn’t even know. If she refuses, we have had many cases in which women have been killed for not agreeing, for example, to go to a prison [to have forced sexual relations with a gang member].” 30

As the “novia” or “jaina” of a gang member, girls often endure physical and sexual violence and may be obligated to perform work for the gang. 31 These girls are considered the property of that gang member, and if they are seen interacting with other men they can be killed by the gang for treason. 32 Regardless of how a girl ends up in such a relationship, once in it she is generally not permitted to leave, and any presumed lack of loyalty to the boyfriend or the gang can be punished with violence or death. 33 Even when a gang member is in prison, other gang members monitor the movements of his girlfriend or wife, and any behavior considered inappropriate can be punished with violence. 34 In some cases, gangs target girls to become the “girlfriend” of an incarcerated gang member. Gang members take these girls to the jail regularly, where they are expected to have sexual relations with the imprisoned gang member and to smuggle in contraband such as cell phones. 35

Families of girls chosen to be girlfriends of gang members often feel powerless to protect them because gangs threaten violence against the entire family if they resist. In one case a gang leader ordered the father of a young girl to send his daughter to be the gang member’s “woman.” The father initially refused, but then acceded when the gang leader threatened to begin killing members of his family. 36 In some cases parents have sold their daughters into relationships with gang members in exchange for financial compensation by the gang. 37

Forced recruitment of girls into sexual relationships with gang members that they are not able to leave constitutes sexual servitude and a contemporary form of slavery. The United Nations Special Rapporteur on Contemporary Forms of Slavery in a 2016 report on El Salvador reported on slavery-like practices in the context of gang violence, including “forcing young women and girls to become gang members’ sexual partners.” And that, “Failure to comply is met with severe reprisals, including homicides of the girl or woman’s entire family or threats of such violence,” as well as incidents in which gang members had “physically invaded the homes of women, evicted or killed male members of the household, and forced the women to work in domestic and sexual servitude.” 38

Gangs also traffic and sexually exploit girls. Government and civil society groups report cases in which gangs kidnap girls and take them to jails or brothels and force them to have sex with individuals in exchange for payment to the gang. 39 Gangs sometimes recruit these victims from secondary schools under their control. 40

Gangs are also involved in international human trafficking operations. Refuge for Children (El Refugio de la Niñez), a leading Guatemalan children’s rights organization, provided assistance to two Salvadoran girls, ages 14 and 15, who were brought to Guatemala
by a human trafficker who promised them work in a restaurant. When they arrived in Guatemala, the girls were taken to a high security prison, where they were raped by imprisoned gang members in exchange for payment to the gang. The full extent of involvement of gangs in human trafficking and commercial sexual exploitation of children and adolescents is unknown and requires further investigation.

Gangs often target LGBTI people based on their actual or perceived gender identity or sexual orientation, subjecting them to physical and sexual violence as well as extortion and forced labor. Some gangs in El Salvador have reportedly required members to attack LGBTI people as part of their initiation. These cases are extremely difficult to document. LGBTI people in El Salvador, Honduras, and Guatemala rarely report abuse or exploitation to authorities, due to abuse and discrimination by government authorities directed at LGBTI communities, as well as widespread discrimination and stigma against them.

These forms of SGBV, and the reasons gangs employ them—to control, exploit, and subjugate girls and women; to control territory, gain power, and suppress resistance; to target or harm families; to harm LGBTI individuals; to extract free labor and services from vulnerable groups—can form the basis of claims for refugee protection for victims whose states fail to protect them under the internationally (and nearly universally) accepted refugee definition set out in the United Nations Convention relating to the Status of Refugees.

Devastating Impact of SGBV on Migrant Children

Migrant children who are survivors of SGBV can experience:

- Pregnancy as a result of sexual violence
- Sexually transmitted infections
- Post-traumatic stress disorder, depression, and anxiety
- Self harm and suicidal thoughts
- Significant educational losses due to withdrawal from school

Nowhere to Turn: How Gang Violence Further Deepens Impunity for SGBV

Generalized impunity for SGBV

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

High impunity rates result from multiple factors. Very few victims report SGBV-related crimes, due to the normalization of violence against women and girls, widespread lack of trust in authorities, and fear of retribution by the abuser. When SGBV is reported, state institutions often fail to effectively investigate and prosecute cases, due to lack of training, insufficient
resources to carry out an investigation or prosecution, and sometimes the intentional mishandling of cases by police, prosecutors, and judges. In all three countries, judicial processes tend to be slow, burdensome, and traumatic, and victims generally do not have access to adequate information and support services.

Additionally, governments typically do not effectively protect victims from further violence and retaliation by their abusers during the judicial process, leading many survivors in all three countries to abandon or withdraw their cases before resolution.

Within this context of general impunity for SGBV, victims of violence perpetrated by gang members and victims who live in gang-dominated areas face additional obstacles to reporting violence and seeking protection and justice.

**Fear of retribution by gangs creates an additional barrier to reporting SGBV**

_Nancy is a study participant from El Salvador. When she was 12 years old, gang members raped and murdered her sister Angela as punishment for her refusal to carry drugs and collect extortion money for the gang. Angela’s boyfriend, a gang member who was in jail at the time, ordered her murder. Although Nancy’s family knew who was responsible for Angela’s death, they did not tell the police because they feared being killed by the gang, often the consequence for people who report gang crimes. An elderly neighbor had recently witnessed a murder by gang members and reported it to police; her body was found a few days later. A few years after this, Nancy and her boyfriend were both shot by gang members after her boyfriend refused to pay extortion fees. Nancy was injured, and her boyfriend was killed. Nancy was too afraid to inform the police, fearing retaliation by the gang. Even so, the gang believed Nancy had “snitched” on them to the police and began threatening her, forcing her to flee to the U.S for safety._

Gangs exercise strict control and constant surveillance over the communities in which they operate, and in many cases impose punishing “rules of conduct” that prohibit residents from talking to the police or other authorities, and violently harm those who do not comply. Vigilant gang surveillance and these rules of conduct prevent victims from reporting SGBV, whether the violence is committed by gang members or by non-gang-affiliated husbands, partners, boyfriends, or other family members.

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

In Honduras, young women murdered by gangs have been found with stones in their mouths, indicating that they were killed for talking to the police or for talking to family or friends about gang activity. These acts of violence send a clear message to other women and girls in the community—reporting any crime to the police will place them in grave danger. Even when women or girls are killed by gang members, in some cases their families do not report the crime for fear of retaliation. Rather, the entire family flees their neighborhood or the country, sometimes leaving in the middle of the night to avoid attention.

Police corruption and involvement in gang activities creates an additional layer of risk in reporting violence and other criminal activity. In some cases, police, prosecutors, and other authorities are involved in, or complicit with, gang activity and share information with gangs when a crime is reported, making the victim vulnerable to retaliation. Police have been suspected of colluding with gangs in perpetrating violence against LGBTI people, further eroding the confidence of LGBTI communities that authorities will protect them.
Neither Security nor Justice

Marta, a 16-year-old girl from El Salvador, was targeted by a gang member who wanted her to become his “woman,” and told her that if she refused she would, “suffer the consequences.” Marta explained why she and her family did not report the threats: “We did not call the police to report what happened to me because you cannot trust the police. Sometimes the same police officers are part of or have an agreement with the gang members.”

Police corruption also prevented Patricia, a study participant from El Salvador, from reporting gang violence.

At age 12, Patricia moved in with a man 20 years her senior to escape abuse in her home. By the time Patricia realized that her boyfriend was the leader of a local gang, she was trapped in an abusive relationship. While the physical and sexual abuse that Patricia suffered became increasingly severe, she knew she could not report it to the police because she had seen local police officers at her boyfriend’s house, selling guns to her boyfriend and other gang members. Without options for protection, Patricia fled to the U.S. with her young child.

Police often use repressive and violent tactics in gang-controlled urban neighborhoods, which further discourage victims from reporting SGBV to police. According to Juárez of ORMUSA, “If a woman sees the police come into her neighborhood and carry out raids, kick in the doors, and violently round up all the teenage boys in the community, what perception will she have of the police? Will she go to the police to report?”

Fear of retaliation by gang members combined with lack of trust in the police mean that women and girls in gang-controlled territories rarely seek state protection from SGBV. Government agencies interviewed for this report confirmed the challenges that victims encounter in reporting SGBV by gangs or in gang-controlled areas, citing that while they know these forms of violence are extremely common, their agencies receive few—if any—reports.

Widespread underreporting of gang-related SGBV results in a lack of reliable statistics on these forms of violence. Additionally, the governments of El Salvador, Honduras, and Guatemala do not have effective systems for tracking cases of SGBV or other forms of violence in which the perpetrator is involved in a gang or organized crime. These factors contribute to challenges in determining the extent and impact of gang-related SGBV.

**Barriers to investigation and prosecution of SGBV cases involving gangs**

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

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

Government officials, including police, prosecutors, and judges in El Salvador, Honduras, and Guatemala frequently assume that women and girls targeted by gangs or from gang-controlled areas have connections with gangs and discriminate against them, refusing to accept their reports, or publicly questioning the credibility of their accounts. In one case a woman in El Salvador attempted to report a rape by a perpetrator...
affiliated with organized crime. The police intimidated and threatened her to discourage her from making the report. When young women from marginal urban areas are killed, state officials and the media often criminalize the victim, claiming that she was gang-involved. This discredits the victim, is used to justify a cursory investigation, and in many cases results in a gender-motivated murder being classified as “gang conflict” rather than femicide.

**Lack of protection and services for victims of gang-related SGBV**

“There are no viable options in this country for victims of gang violence. If you report, the gang will come after you, and the state can’t protect you. Even if the gang member goes to jail, there is a network in place to harm you.” – Police officer, El Salvador

Judges, prosecutors, and other officials often fail to recognize or take seriously the danger victims and witnesses of SGBV face during the judicial process, and do not put in place adequate protection measures. When judges issue protection orders, including restraining orders, they lack capacity to monitor and enforce compliance. For example, a prosecutor in the Public Prosecutor’s Office in Honduras expressed concern that police were unable to enter certain gang-controlled neighborhoods to deliver restraining orders or orders to appear in court to perpetrators of domestic violence, forcing victims to either drop their case or deliver the documents to the abuser themselves. Lack of protection leaves SGBV survivors who seek justice and their families vulnerable to intimidation and violent retaliation by gang members.

While witness protection programs exist in all three countries, they are underfunded and lack capacity to provide protection in cases involving gangs or organized crime. Programs provide protection to only the victim/witness in most cases, leaving the victim’s family members vulnerable to retribution by gangs. Women and girls receiving state “protection” may suffer further abuse by authorities. For example, in El Salvador, women and girls who have entered the state witness protection program have reported that security guards charged with protecting them have sexually harassed them, offering them improved living conditions in exchange for sexual favors, and in at least one case attempted to sexually assault a woman under their protection. State-imposed protection mechanisms generally remain in force only during the course of an active judicial procedure, although protection needs persist, and may even be greater after resolution. Our interviews with girls who were targets of gang-related SGBV indicate that incarcerated gang members continue to monitor and control victims, meaning that victims and witnesses need ongoing protection after a case has been closed, regardless of the outcome.

Women and children fleeing gang-related SGBV also face a lack of options for safe shelter. El Salvador has just one government-run domestic violence shelter, and it can accommodate only 35 women and children. Tegucigalpa, the capital city of Honduras, has no government-run domestic violence shelters, and only one NGO-run shelter. Guatemala has no government-administered shelters for women fleeing domestic violence, and the civil society shelters that provide this service have very limited capacity.

Many of the government and civil society-run shelters that exist have sub-standard living and safety conditions, and most impose criteria related to age, gender, and family size that make it impossible for families to stay together when seeking safety (for example, some shelters do not accept women with several children). Shelters also lack the capacity to ensure the safety of victims in cases in which the perpetrator has ties to gangs or organized crime, and in some cases explicitly ban victims of abuse by gang members. In Honduras, for example, some civil society-run shelters have regulations that prohibit women or families who have ties to gangs. According to a prosecutor in the Public Prosecutor’s Office in Honduras, these policies reflect the inability of most organizations to provide security to the victim and other shelter residents in cases where a threat is posed by a gang member, as well as the widespread stigma and discrimination against women from gang-controlled areas, who in many cases are criminalized and blamed for the violence perpetuated against them.
The Guatemalan NGO Refuge for Children (El Refugio de la Niñez) is one of the few organizations that provide shelter and other services to children fleeing gang violence. El Refugio reports that in cases in which they have sheltered girls who are victims of gang-related sexual violence, gang members have discovered their whereabouts and attempted to force them to leave the shelter by threatening shelter staff, and in one case firing a gun at the doors of a shelter.75

The Link between Gang-related SGBV and Forced Migration

“When gangs are involved, victims of domestic violence don’t report, they leave.” – Police officer, El Salvador76

The above quote rings true not only for domestic violence, but for all forms of SGBV. Survivors of SGBV by gangs endure a network of gang surveillance and control that they cannot escape within the borders of their country, and from which their states do not protect them. Survivors of SGBV often have no choice but to flee their countries, seeking safety in Mexico or the United States. They often have legitimate claims for refugee protection under international, Mexican, and U.S. refugee law.

Many girls and young women migrate after being threatened with sexual violence by a gang member. Several of the girls interviewed for this study had been sexually harassed by gangs in their neighborhoods, or approached by gang members who expressed interest in them and asked them to become their “girlfriends.” They reported having friends, cousins, classmates, and siblings who had been victims of sexual violence perpetuated by gangs, including kidnapping, rape, and in some cases gender-motivated killings, and they all understood the violent consequences for refusing the advances of a gang member. When a girl receives attention from a gang member, she and her family often decide that it is not safe for her to leave the house, and she stops attending school, church, and other activities. Recognizing that even these forms of isolation cannot fully protect girls from violence, many families feel they have no choice but to send their daughters out of the country to save their lives.

In some cases gang members threaten sexual violence against girls as a reprisal for a family member having rebuffed or crossed the gang in some way, such as by refusing to pay extortion. In these cases, the threat of violence is directed at the entire family, and if the girl flees, another family member becomes the target. Therefore, it is increasingly common for entire families to migrate or relocate internally in the face of the threat of sexual and gender-based violence.77

Existing Efforts to Prevent and Address Gang-related SGBV

El Salvador, Honduras, and Guatemala have laws in place that criminalize SGBV and impose penalties for perpetrators, and also define and sanction the crime of femicide, or the gender-motivated killing of a woman or girl. All three countries have also created specialized entities, including special police units, prosecutors, and courts to handle SGBV cases and provide support to survivors. El Salvador and Honduras have enacted legislation that mandates harsher penalties for hate-based crimes motivated by gender identity, and sexual orientation, among other characteristics.78 The Honduran penal code also criminalizes discrimination and inciting discrimination based on gender, gender identity, and sexual orientation, among other characteristics.79 Honduras created a specialized unit to prosecute hate-based crimes.80 While these efforts represent important first steps toward addressing SGBV, much work remains to be done. Laws are far from fully implemented and special units and programs lack funding and often limit coverage to urban centers.81 In addition to these shortcomings, existing laws and specialized services do not effectively address the particular vulnerabilities of survivors of SGBV who live in gang-controlled areas or in cases where perpetrators have gang affiliations.

The governments of El Salvador, Honduras, and Guatemala have recently shown some progress in implementing gang-violence prevention strategies in partnership with civil society and international partners.
El Salvador’s “Plan El Salvador Seguro,” initiated in 2015, includes violence prevention components aimed at creating educational and work opportunities for youth, reclaiming public space, and providing support services to families in areas affected by gang violence, in addition to security and attention to victims of crime. As part of the national plan, the Salvadoran government is working with UNICEF and the international development organization Plan International to implement the program “Hagamos Nuestra la Escuela/This School is Ours.” The program aims to address the high level of gang violence in El Salvador’s schools, and provides psychological support to students within schools, as well as vocational training and flexible programming to reintegrate students who have left school due to violence. Guatemala’s “Escuelas Seguras/Secure Schools” program also seeks to address violence in schools, and a recent campaign by the Guatemalan Education Ministry and UNICEF provides students with an app that allows them to report violence and harassment in schools to authorities. In Honduras, the recently launched “Regional Project for the Prevention of Violence Against Children, Adolescents, and Youth” includes a focus on violence prevention through the reinsertion of at-risk children and youth into the educational system.

This increased focus by Central American governments on the prevention of violence against children and youth, including gang-based violence, marks progress. Nonetheless, civil society representatives have expressed concern that government responses to violence continue to be primarily reactive rather than preventative, and that prevention programming has not received adequate funding to produce intended results. According to Judith Erazo of the Guatemalan organization Community Research and Psychosocial Action and an expert on violence against women, “There has been a focus on the judicial system as the only response to violence against women and children. There isn’t a real public policy for violence prevention to combat the widespread sexism and racism that are at the roots of these forms of violence.” With little prevention focus, responses to SGBV serve as a Band-Aid rather than a solution. Additionally, Central American governments have pursued hardline security strategies to fight gang violence and crime that have been accompanied by abuses and in some cases extrajudicial killings by police. This approach has undermined violence prevention efforts by deepening mistrust in government institutions and discouraging citizens from communicating or cooperating with police.

In support of efforts by Central American governments to address root causes of migration, in Fiscal Year (FY) 2016, the U.S. government allocated nearly $750 million in aid for Central America, a significant increase from the $295 million in aid allocated in FY 2015. The FY 2016 funding aims to decrease child migration from the region through investment in economic development, good governance, and security, and signals an increased commitment on the part of the United States to address the root causes of migration from Central America. However, SGBV prevention, response, and reduction have not been explicitly included as benchmarks for U.S. assistance.

One example of violence-prevention efforts supported by U.S. foreign assistance is community-based violence prevention programming (or “place based” programming) funded by the United States Agency for International Development (USAID) in select communities in El Salvador, Guatemala, and Honduras with high levels of violent crime. International organizations and local civil society and religious organizations have implemented violence prevention programming, including community policing initiatives and mentorship and job training for youth. These programs have shown positive results in some communities. An independent evaluation reported significantly lower rates of violent crime and high perceptions of security by residents in communities with place-based programming as compared to residents of communities where only a traditional “iron first” approach to law enforcement was used. While such programs currently exist in a limited number of communities, they provide a valuable model for community-based approaches to violence prevention in the context of gang violence.
The U.S. government through USAID has also supported promising initiatives to address SGBV in Central America and provide assistance to victims. These include the creation of comprehensive victim service centers for survivors in El Salvador that provide legal assistance and medical and psychological services,94 as well as the creation of 24-hour courts in Guatemala to hear cases of violence against women. These courts also contain forensic labs equipped to carry out specialized analysis of evidence in such cases.95 There is an urgent need to scale up these efforts and increase their geographical coverage and capacity to ensure that all victims have access to these essential services.

Laws criminalizing SGBV and femicide, along with violence prevention efforts, indicate significant advances by the governments of El Salvador, Honduras, and Guatemala in addressing and preventing SGBV. However, meaningful progress can only be made through further investment by these Central American governments and long-term targeted aid from the U.S. government to prevent and respond to sexual and gender-based violence, including gang-related SGBV, and its role in driving forced displacement from the region.

Recommendations

Governments of El Salvador, Honduras, and Guatemala

- Establish and strengthen internal government entities charged with investigating and prosecuting local-level corruption and police involvement with gangs and organized crime. Create, expand, and strengthen international monitoring entities, such as the International Commission Against Corruption in Guatemala (CICIG) and the Support Mission Against Corruption and Impunity in Honduras (MACCIH), to ensure accountability for corruption at all levels.96 Prosecute government authorities found guilty of colluding with gangs or organized crime.

- Increase by 50 percent the budget for investigation of sexual and gender-based violence crimes, including funds to purchase equipment required for gathering and preserving forensic evidence. Hire and train experts in the collection and analysis of forensic evidence and ensure that this evidence is handled according to protocols in place.

- Increase funding, personnel, and equipment dedicated to specialized units focused on gender-based violence within police, public prosecutor’s offices, and courts, to provide protection, adjudicate cases, and reduce the burden on victims to follow up on their cases. Expand these specialized units beyond capital cities. Provide regular training for personnel in these units to increase awareness of laws related to SGBV, increase sensitivity and build technical capacity for identifying and assisting a variety of SGBV victims, including children, LGBTI people, and indigenous people, as well as victims of SGBV in the gang context.

- Expand and institutionalize training and oversight for regular police, prosecutors, and judges to ensure sensitivity and the application of proper procedures and due process in cases of gender-based violence. Training should be ongoing and mandatory and should build capacity to work with survivors of trauma, as
well as increase awareness of protection needs related to SGBV in the gang context.

- Strengthen civil police forces and train them in community policing strategies to build trust between police and communities and eliminate the use of repressive, violent tactics by police.

- Devote funding to the monitoring and enforcement of legal protection mechanisms (such as restraining orders) for women and girls who are victims of domestic violence and other gender-based crimes. Train judges in identifying risk factors for sexual and gender-based violence and issuing appropriate protective orders. Develop capacity and procedures to ensure that individuals granted protection orders are provided with pro-active forms of protection, not only assistance in response to re-victimization/violation of the orders. Do this by:
  - ensuring coordination between judges issuing orders and local police
  - creating a specialized unit within the public prosecutor’s office to monitor and enforce protective orders
  - dedicating staff to develop mechanisms to monitor enforcement of protective orders in the context of gang violence and control.

- Strengthen victim and witness protection programs by expanding them to protect family members, and offering victims protection beyond the sentencing phase if there is a continued threat. Create witness protection programs and shelters that have capacity to provide security to victims and families in cases involving gangs, including mechanisms to provide protection outside of the country if necessary.

- Invest funding in the creation and expansion of government programs and services for comprehensive support for women, children, LGBTI people, and indigenous people who are victims of violence. Attention should include legal, psychological, and health care services, as well as basic needs such as shelter. Create additional sites and ambulatory services to make services accessible to women and children living outside major cities. Governments, in collaboration with civil society, should create a network of shelters in each country and throughout the region for victims of sexual and gender-based violence. Ensure at least some specialized shelters have the capacity to safely transport and house victims in cases where perpetrators have affiliations with gangs or other organized criminal groups.

- Implement comprehensive public education efforts to de-normalize violence against women, girls, and LGBTI people, with a focus on structural inequalities underlying these forms of violence. These efforts should include on-going education in primary and secondary schools, as well as public and community-based campaigns. Ensure that these programs and initiatives are adequately and sustainably funded.

- Invest funding in community-based violence prevention programming, including sexual and gender-based violence prevention programming and gang violence prevention and intervention programming, that is tailored to the needs and dynamics of specific communities and developed with substantive input from community members. Gang violence prevention and intervention strategies should be modeled after successful evidence-based programming and should include school-based prevention programs, programs
to strengthen families, and community policing. Programming should provide meaningful alternatives to gang involvement—such as vocational training and employment opportunities—and should support (former) gang member reinsertion into communities, families, and the workforce. Community members and youth should be involved in a substantive way in devising solutions.

- Create and implement a system for the collection of statistics on SGBV-related crime, disaggregated by age and gender of victims, to be used consistently across government agencies. This system should be used to provide more accurate and current information about the extent and forms of violence, to guide policy decisions, and to monitor progress. Make statistics available to the public while protecting the confidentiality of survivors.

**Government of the United States**

- U.S. funding to the region must address the root causes of migration and include support to governments to combat the epidemic of violence generated by gangs, narco-trafficking, and other criminal elements, and to fight corruption.

- To meaningfully address the root causes of migration from Central America, the United States must commit to substantial and long term funding for El Salvador, Honduras, and Guatemala. Funding should be higher than the FY 2016 funding level of nearly $750 million, and at a minimum must be equal to this funding level.

- SGBV prevention and response should be a priority for foreign assistance from all U.S. agencies to El Salvador, Guatemala, and Honduras. Funding should support SGBV prevention efforts, increase capacity within the police and judicial systems to investigate and prosecute SGBV-related crimes, and increase services for SGBV survivors.

- Gang violence prevention and intervention should be a priority for foreign assistance and should support successful evidence-based models that include school-based prevention, strengthening of families, involvement of community members in devising solutions, development of community policing, providing meaningful alternatives to gang involvement, and support to (former) gang members seeking reintegration into families, communities, and the workforce.

- Scale up community-based programming focused on reduction of gang violence (including SGBV) through creation of meaningful educational and employment alternatives for youth who are at risk of violence and gang involvement, as well as for youth seeking to leave gangs, while providing a range of services, such as counseling, for participating youth. Programming should include a community education component on gender norms, discrimination, and SGBV.

- U.S. funding should require as a condition a process of meaningful consultation by civil society organizations with expertise in gender, SGBV, gangs, and at-risk youth in designing programming and in ensuring appropriate monitoring, transparency, and accountability mechanisms. In consultation with these organizations, the United States should set benchmarks for the progressive reduction of SGBV and should
condition release of foreign aid on reaching these benchmarks.

- Civil society organizations that receive U.S. funding directly or indirectly should be required to train staff on SGBV and LGBTI issues, and to develop policies of inclusion and non-discrimination for programs and services.

- All U.S. funding to Central America should include human rights conditions that require countries to end the use of violent and repressive policing techniques, as well as the involvement of the military in law enforcement. All assistance to police forces should be conditioned on demonstrated respect for human rights, including non-discrimination in policing, and respect for human rights defenders (including women’s rights).

- The United States should develop clear metrics to evaluate the impact of all programs funded with U.S. assistance, to ensure that funding is used in the most effective and efficient way possible. The results of all evaluations should be made available to the public.
Endnotes

1 A total of 48 interviews were conducted by KIND staff between the 2nd and 6th of November, 2015 in El Salvador; between the 8th and 19th of February, 2016 in Honduras; and between the 3rd and the 28th of May, and 19th and 24th of September, 2016. An additional ten interviews were conducted by phone or Skype.


11 The terms victim and survivor are used interchangeably in this report to refer to a person who has experienced sexual and gender-based violence, in recognition of the different ways in which people who have experienced sexual and gender-based violence identify.


18 KIND interview, Claudia Hernández, Executive Director, Foundation for Survivors (Fundación Sobrevivientes), Guatemala City, September 20, 2016 [Hereafter “C. Hernández Interview”]; Boerman Interview.

19 Boerman Interview; Arce, 2014.

20 Arce, 2014.

21 Delgado and Vargas Méndez, 2016, p.35.

22 Boerman Interview.

23 Delgado and Vargas Méndez, 2016, p.22.


26 KIND Interview, Silvia Juárez, Program Director, Organization of Salvadoran Women for Peace (ORMUSA), Skype, June 1 2016 [Hereafter “Juárez Interview”]; C. Hernández Interview.

27 Arce, 2014.

28 The civil society representative asked that the organization remain anonymous to protect the child and his family.

29 KIND interview, Noah Bullock, Executive Director, Foundation Cristosal, Washington, D.C., October 15, 2016 [Hereafter “Bullock Interview”].

30 Quote from an interview with Harold Soto, Subdirector General of the National Civil Police (PNC), in El Salvador, cited in Delgado and Vargas Méndez, 2016, p. 32.


33 Bullock Interview.


36 Delgado and Vargas Méndez, 2016, p.33.

37 Delgado and Vargas Méndez, 2016, p.34.


39 KIND interview, Representative of the Secretary-General Against Sexual Violence, Exploitation, and Human Trafficking in Guatemala (SVET), Guatemala City, September 23, 2016 [Hereafter “SVET Interview”]; Boerman and Knapp, 2017, p. 10, 11.

40 Delgado and Vargas Méndez, 2016, p.31.

41 Written communication, Leonel Dubón, Executive Director, Refuge for Children (El Refugio de la Niñez), Guatemala, February 17, 2017 [Hereafter “Dubón Written Communication”].


47 KIND Interview, staff members and board of directors, Association of Women for Dignity and Life (Las Dignas), San Salvador, November 6, 2015 [Hereafter “Las Dignas Interview”]; KIND Interview, Regina Fonseca, Program Coordinator, Center for Women’s Rights (CDM), February 18, 2016 [Hereafter “Fonseca Interview”]; KIND Interview, Miriam Domínguez Sebastian, Ombudsperson for Women, Office of the Ombudsperson for Human Rights (PDH) Guatemala City, September 22, 2016 [Hereafter “Domínguez Interview”].

48 KIND Interview, Judge with expertise in violence against women, Tegucigalpa, Honduras, February 15, 2016 [Hereafter “Judge Honduras Interview”]; KIND Interview, Prosecutor in the Public Prosecutor’s Office, Tegucigalpa, Honduras, February 18, 2016, [Hereafter “Prosecutor Honduras Interview”]; Elisa Portillo, Feminist Attorney, Latin American and Caribbean Committee for the Defense of Women’s Rights (CLADEM) and Women’s Movement, Guatemala City, Guatemala, May 24, 2016. [Hereafter “Portillo Interview”]. In Guatemala, since the creation of the 2009 Law Against Femicide, the Public Prosecutor has a responsibility to prosecute all cases of violence against women, regardless of whether the victim chooses to continue with the legal process. However, without the active participation of the victim in the investigation and prosecution it is very unlikely that a case will reach a sentence.

49 Juárez Interview; Bullock Interview.

50 Juárez Interview.

51 Fonseca Interview.

52 KIND interview, Carolina Sierra, Director, Forum of Women for Life (Foro de Mujeres por la Vida), San Pedro Sula, February 11, 2016.

53 Boerman Interview; The Advocates, 2016, p. 4.


55 Juárez Interview.

56 KIND Interview, Police Officer, National Civil Police (PNC), Guatemala City, May 24, 2016; KIND interview, Police Officer, National Civil Police (PNC), San Salvador, El Salvador, November 5, 2016 (Hereafter “PNC El Salvador Interview”); SVET Interview.

57 Las Dignas Interview; C. Hernández Interview.


59 Portillo Interview.

60 PNC El Salvador Interview.


62 Prosecutor Honduras Interview.


64 Bullock Interview; Prosecutor Honduras Interview; C. Hernández Interview.

65 PNC El Salvador Interview; Prosecutor Honduras Interview; Bullock Interview.


67 PNC El Salvador Interview; Prosecutor Honduras Interview; Bullock Interview.

68 Imprisoned gang members monitor, control, and harm their targets through assistance from non-imprisoned gang members.


70 Center for Women’s Rights, 2013, p.32.

71 Dubón Written Communication.
The Salvadoran penal code mandates harsher sentences for hate-motivated murder, as well as the threat or attempt of murder, based on sexual orientation and gender identity and expression, among other factors. Salvadoran Penal Code, Chapter I, Article 129, Chapter II, Article 155. The Special Law for a Life Free of Violence for women (LEIV) defines the crime of femicide, or the hate-motivated murder of a woman, and establishes penalties for that crime. The Honduran penal code includes the crime of “femicide” in Article 118A and classifies as “aggravated” any crime motivated by hate based on sex, gender, race, ethnicity, sexual orientation, disability, and other factors in Title III, Chapter II, Article 32. The Honduran Congress is currently considering a revised penal code that includes femicide, or the gender-motivated killing of a woman, as an aggravated crime, but omits other aggravating factors. LGBTI rights groups in Honduras are urging Congress to revise the proposed code to maintain the existing categorization of hate-motivated crimes (Mendoza Interview).

79 Honduras Penal Code Articles 321, 321A.
81 Domínguez Interview; C. Hernández interview; Fonseca Interview; Las Dignas Interview
88 Erazo Interview.
90 Juárez Interview; Bullock Interview.
96 The International Commission Against Impunity in Guatemala (CICIG) and the Support Mission against Corruption and Impunity in Honduras (MACCIH) are national-levels bodies charged with investigating cases of corruption and strengthening government institutions to prevent and counter corruption.
TAB 21
AMNESTY INTERNATIONAL

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.
WORKERS’ RIGHTS
The authorities did not recognize independent trade unions operating outside of the state-controlled Egyptian Trade Union Federation. This was reflected in a new draft labour law which tightened central control on unions.

A military court unfairly tried 26 civilian workers at Alexandria Shipyard Company for striking.

Egyptian human rights organizations repeatedly warned that the government was not doing enough to ensure that its economic policies, including subsidy reform and currency devaluation, as well as proposed reforms to the civil service law, did not negatively affect people on lower incomes and those living in poverty.

DEATH PENALTY
Criminal courts continued to hand down death sentences for murder, rape, drugs trafficking, armed robbery and “terrorism”. People were executed for murder and other criminal offences.

The Court of Cassation overturned some death sentences and referred cases for retrial, including a death sentence against ousted president Mohamed Morsi and at least one case of a mass unfair trial linked to the 2013 unrest.

Military courts handed down death sentences against civilians following grossly unfair trials marred by enforced disappearances and torture and other ill-treatment.

On 29 May a military court sentenced six civilian men to death and 12 civilian men to prison sentences of 15 to 25 years on charges of belonging to the Muslim Brotherhood, obtaining classified information and possessing firearms and explosives. The court ignored the men’s complaints of torture and other ill-treatment, as well as evidence that security forces had subjected them to enforced disappearance following their arrests in May and June 2015. The court also sentenced two other men to death and six to 25-year prison terms in their absence. The detainees were appealing the judgment before a higher military court.

1. Egypt: ‘Officially, you do not exist’ – disappeared and tortured in the name of counter-terrorism (MDE 12/4368/2016)

EL SALVADOR
Republic of El Salvador
Head of state and government: Salvador Sánchez Cerén

Increasing levels of violence continued to affect people’s rights to life, physical integrity, education and freedom of movement. There were reports of excessive use of force by the security forces and of a surge in asylum applications by Salvadorans in various countries in the region. A total ban on abortion threatened women’s rights. However, a proposal to decriminalize abortion in certain specific circumstances was before the Legislative Assembly at the end of the year. A human rights defender was tried on charges of slander and defamation. The Supreme Court declared the 1993 Amnesty Law unconstitutional. Impunity for violence and other crimes against lesbian, gay, bisexual, transgender and intersex (LGBTI) people persisted.

BACKGROUND
Levels of violence and other crimes, primarily resulting from gang activity, continued to ravage the country, with 3,438 homicides reported in the first six months of the year; the equivalent figure for 2015 was 3,335. The press also reported sexual violence against women and girls by gang members.

In April, the authorities approved a series of “extraordinary measures” to try to stem the wave of violence afflicting the country, including legal reforms to introduce stricter prison regimes and the creation of a specialized reaction force of 1,000 police and military personnel to combat criminal gangs. Critics raised concerns that the use of the military in public security operations could
result in human rights violations, according to media reports.

**EXCESSIVE USE OF FORCE AND EXTRAJUDICIAL EXECUTIONS**

Members of the security forces were accused of human rights violations during operations to combat organized crime. In April, the Office of the Human Rights Ombudsman reported that both the police and the military had used excessive force and committed extrajudicial killings while carrying out two security operations in 2015. The Ombudsman was also reported in the press as stating that other similar cases were under investigation.

**WOMEN’S RIGHTS**

Threats to women’s rights persisted. The total ban on abortion remained in place even for cases of rape or where there is a risk to the life of the woman.

In May, María Teresa Rivera was released after spending four years in prison, convicted of aggravated homicide after having a miscarriage. The judge released María Teresa Rivera after reviewing her sentence and ruled that there was insufficient evidence to support the charges against her. More than 20 women remained in prison serving lengthy sentences after suffering pregnancy-related complications or obstetric emergencies.

In July, a new proposal filed by a group of parliamentarians from the main opposition party, the Nationalist Republican Alliance (ARENA), sought to increase prison terms from a maximum of eight years to up to a maximum of 50 years for having an abortion. The reform had not been approved by the end of the year.

In October, parliamentarians belonging to the ruling Farabundo Martí National Liberation Front (FMLN) put forward a proposal to decriminalize abortion in four circumstances, including when a woman’s life is at risk or when the pregnancy is a consequence of rape. The proposal remained pending at the end of the year.

There were high levels of gender-based violence. In the period January to July, 338 women were killed; the equivalent figure for 2015 was 249, according to official records.

**HUMAN RIGHTS DEFENDERS**

In August, human rights defender Sonia Sánchez Pérez was acquitted of all charges. Her trial resulted from a lawsuit filed by a private company accusing her of slander and defamation because of her statements about the environmental impact of the company’s infrastructure project on her community. She had also denounced threats against her by private security personnel. The company filed an appeal against the decision.

**MIGRANTS’ RIGHTS**

Many of those who sought to leave the country were fleeing the effects of the increasing control of criminal gangs over areas of the country and the impact this had on the rights to life, physical integrity, education and freedom of movement of local populations.

LGBTI people were frequently targeted for abuse, intimidation and violence because of their sexual orientation and/or their gender identity. In particular, transgender women, who often face greater obstacles in accessing justice because of discrimination, were subjected to violence and extortion by gangs. Unable to seek protection or justice, some LGBTI people fled the country as the only way to escape the violence.

Deportations of Salvadorans, especially from Mexico, increased. However, El Salvador did not put in place an effective protocol or mechanism to identify and protect those who were forcibly returned to the communities from which they had fled.

**IMPUNITY**

El Salvador acceded to the Rome Statute of the International Criminal Court in March.

In June, a monitoring compliance hearing relating to two cases of enforced disappearance committed during the armed conflict took place before the Inter-American Court of Human Rights. In September, the Court rendered a judgment in one of the cases, Contreras et al v El Salvador, and
requested that the state provide detailed and updated information about the criminal investigations and all the efforts made to identify and bring to justice those suspected of criminal responsibility for crimes under international law and human rights violations.

In July, the Supreme Court declared the 1993 Amnesty Law unconstitutional, an important step forward for victims of past human rights violations seeking justice. Four military officers who were the subject of a 2011 arrest warrant issued by a Spanish judge for their involvement in the 1989 killing of six Jesuit priests, their housekeeper and her daughter were reportedly arrested in February. However, according to press reports, the Supreme Court denied the extradition request in August.

In September, a court ordered the reopening of the El Mozote case in which hundreds of civilians were executed by military officials in December 1981.

During 2016, two former military officers who served as ministers of defence during the armed conflict were deported from the USA to El Salvador accused of human rights violations committed during the 1980s.

The rights to freedom of expression and of peaceful assembly were severely curtailed ahead of presidential elections in April. Police used excessive force including firearms against members of opposition parties. Hundreds of political opponents and others, including foreign nationals, were arbitrarily arrested and held without charge or trial for varying periods; several were tortured.

BACKGROUND
In April, incumbent President Obiang won the presidential elections with 93.7% of the votes cast. There were reports of electoral fraud and numerous human rights violations prior to the elections. Independent political opposition parties boycotted the compilation of the electoral register and the elections on the grounds that both contravened electoral law.

FREEDOM OF EXPRESSION
The right to freedom of expression was suppressed. In January, police in Bata arbitrarily arrested Convergence for Social Democracy members Anselmo Santos Ekoo and Urbano Elo Ntutum, for “disturbing the peace”, as they distributed leaflets and announced a meeting of their opposition party. They were released without charge 10 days later.

FREEDOM OF ASSEMBLY
Between February and May, over 250 people were arrested for attending opposition parties’ meetings. All but four of those arrested were released without charge after being held for over a week. Members and sympathizers of the opposition party Citizens for Innovation (CI) were particularly targeted, as were relatives of the party’s Secretary-General, Gabriel Nze. Taxi drivers taking people to meetings were also arrested.

On 28 February, plain clothes security personnel disrupted a CI meeting in Bata. CI members Leopoldo Obama Ndong, Manuel Esono Mia, Federico Nguema, Santiago Mangue Ndong and Jesús Nze Ndong were arrested and remained in detention without

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2. El Salvador: Scandalous proposal to increase jail terms for women accused of abortion (Press release, 12 July)
3. Americas: Home sweet home? Honduras, Guatemala and El Salvador’s role in a deepening refugee crisis (AMR 01/4865/2016)
4. El Salvador rejects Amnesty Law in historic ruling (News story, 14 July)
5. El Salvador debe abolir la Ley de Amnistia y enfrentar su sangriento pasado (News story, 14 January)

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EQUATORIAL GUINEA

Republic of Equatorial Guinea
Head of state and government: Teodoro Obiang Nguema Mbasogo
TAB 22

A total legal abortion ban remained in place, violating women’s human rights. Human rights defenders of lesbian, gay, bisexual, transgender and intersex (LGBTI) communities and those defending and promoting sexual and reproductive rights faced increasing risks and particularly suffered violence and intimidation from state agents, individuals and private groups. The 1993 Amnesty Law was not repealed, presenting an obstacle for accessing justice and reparations for victims of human rights violations that occurred during the 1980-1992 armed conflict.

Background

Legislative and municipal elections were held in March. A 30% gender quota in the electoral lists was required for the first time. No party reached the required number of representatives to achieve a majority in the Legislative Assembly.

Levels of gang-related violence and organized crime surged and homicide rates soared. According to official records, 4,253 homicides were registered in the first eight months of the year, compared with 3,912 for the whole of 2014. Criminal violence forced many Salvadorians to leave the country, and also led to the internal displacement of thousands of families, according to the Civil Society Roundtable against Forced Displacement Provoked by Violence and Organized Crime.

In September, the Inter-American Commission on Human Rights requested El Salvador to adopt precautionary measures to protect the life and personal integrity of three men who allegedly had been subjected to enforced disappearances, and of their families who had been attacked and threatened after enquiring with the authorities about the whereabouts of their relatives.

In September, amid reports and complaints of increased violence against LGBTI communities, the Legislative Assembly reformed the Criminal Code to increase the penalties for crimes motivated by political opinions, racial hatred or sexual orientation and gender identity.

Women’s rights

Between January and October, 475 women were murdered, an increase from 294 in 2014, according to information gathered by the Salvadoran Women’s Organization for Peace and official records. Despite the Special Comprehensive Law for a Life Free from Violence for Women, some judges continued to qualify gender-based murders of women and girls as homicide instead of the crime of femicide as defined in law, according to the Salvadoran Women’s Organization for Peace.

In January, the Legislative Assembly granted the request of pardon in favour of “Guadalupe”, a woman incarcerated on pregnancy-related grounds. She was released after serving seven years of a 30-year sentence based on charges of “aggravated murder” after suffering a miscarriage. Authorities recognized judicial errors in the original prosecution. More than 15 women remained in jail under similar circumstances.

In March, the UN Human Rights Council adopted the outcome of the UPR of El Salvador. Fourteen recommendations were made relating to sexual and reproductive rights. While El Salvador accepted recommendations to provide access to sexual and reproductive health services, including contraception, it merely “noted” the recommendation to decriminalize abortion and remove the total ban. El Salvador remained silent on a recommendation to immediately and unconditionally release all women imprisoned for having undergone an abortion or suffering a miscarriage.¹

In November, the Office of the Human Rights Ombudsman issued a resolution on the case of Maria Teresa Rivera, who was sentenced to 40 years in prison after experiencing an obstetric complication and was wrongfully accused of having an abortion. The Ombudsman found violations of due process and the presumption of innocence, and determined that the participation of Maria Teresa Rivera was not demonstrated during trial.

Human rights defenders

The Citizen Group for the Decriminalization of Therapeutic, Ethical and Eugenic Abortion and the Feminist Collective for Local Development – leading organizations in the promotion of sexual and reproductive rights – were harassed and stigmatized by state officials, individuals and private groups because of their work on women’s rights. Both organizations were called “unscrupulous groups” and “unpatriotic traitors”.

Human rights defenders working for the defence and promotion of sexual and reproductive rights were also particularly stigmatized for the legal assistance provided to women convicted of homicide after suffering obstetric emergencies. Defamatory campaigns against human rights defenders aggravated the risks they faced. The authorities failed to take effective measures to curb their stigmatization and reduce risks.²

Human rights defenders from the LGBTI communities also reported violence and intimidation. In May, Francela Méndez, a transgender activist and member of the Salvadoran Women’s Network of Human Rights Defenders, was murdered.³ By the end of 2015, no one had been brought to justice. Organizations reported an increase in cases of harassment and violence against the transgender community by state agents and other individuals.

Impunity

The 1993 Amnesty Law remained in place, denying access to justice and reparations to victims of the human rights violations committed during the armed conflict (1980-1992). In April, former General and Defence Minister Eugenio Vides Casanova was deported from the USA after an immigration judge in Florida ruled in 2012 that he should be sent back to El Salvador for his role in human rights violations committed by the armed forces during the armed conflict.⁴ By the end of the year, there was no public information suggesting that former General Vides was facing any legal proceeding.

In March, the Human Rights Ombudsman called upon the authorities to overcome the prevalent impunity for human rights violations during the armed conflict. The Ombudsman also called on the Legislative Assembly to deprive the Amnesty Law of its legal effects and urged the Attorney General’s Office to effectively investigate victims’ claims.

In March, more than a year after a ruling by the Constitutional Chamber of the Supreme Court of Justice ordering the Attorney General’s Office to thoroughly investigate the 1981 San Francisco Angulo massacre, in which 45 people were killed allegedly by members of the army, the Constitutional Chamber required the Attorney General to report the status of the investigation. Almost two months later, the Attorney General submitted a report, followed by a second in July after the Constitutional Chamber requested additional details. By the end of the year, no decision had been issued by the Constitutional Chamber.

In July, the Constitutional Chamber established the responsibility of the armed forces in the enforced disappearance of 11 people in the context of the 1982 military “Cleaning Operation”. The Constitutional Chamber’s ruling required the National Defence Ministry to provide information about the operation and in particular the fate and whereabouts of the victims. The Constitutional Chamber requested the Attorney General’s Office to immediately start an investigation.

1. Amnesty International calls on El Salvador to decriminalize abortion and immediately release all women imprisoned for pregnancy-related complications (AMR 29/1254/2015)
2. Defenders under attack! Protecting sexual and reproductive rights in the Americas (AMR 01/775/2015)

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TAB 23
HUMAN RIGHTS VIOLATIONS AGAINST TRANSGENDER PERSONS IN EL SALVADOR


February 2015
List of Issues: Human Rights Violations against Transgender People in El Salvador

I. Introduction

The International Human Rights Clinic at the American University Washington College of Law,* in conjunction with Heartland Alliance, Ana Cisneros, Asociación Solidaria para Impulsar el Desarrollo Humano (Solidarity Association to Promote Human Development - ASPIDH Arcoiris), Comunicando y Capacitando a Mujeres Trans Con VIH (Communicating and Preparing Trans Women with HIV - COMCAVIS TRANS), y Generación de Hombres Trans de El Salvador – HT 503 (El Salvador Generation of Trans Men – HT 503), have created this List of Issues (LOI) that identifies human rights violations against transgender persons ("trans" persons) in El Salvador. This collaborative report presents three principal objectives: (1) to highlight human rights violations against trans persons in El Salvador; (2) to evaluate El Salvador's compliance with the International Covenant on Civil and Political Rights (ICCPR); and (3) to produce recommendations to safeguard and promote human rights for trans persons. El Salvador ratified the ICCPR on November 30, 1979. In June 2015, the United Nations Office of the High Commissioner for Human Rights will evaluate this report and consider El Salvador's compliance with the ICCPR. This List of Issues, submitted by non-governmental organizations (NGOs), serves as an additional source of information for members on the United Nations Committee.
II. Background

Trans men and trans women in El Salvador encounter many challenges and difficulties in their own country. Trans persons are a unique population in that they have problems and needs that may differ from the needs of gay, lesbian, or bisexual persons. For example, trans persons have a psychological sexual identity that does not conform to their biological sexual assignment. For this reason, the topic of gender identity introduces unique challenges for both trans men and trans women.

In recent years, the Salvadorian government has implemented laws and mechanisms to protect the human rights of trans persons in El Salvador. We celebrate these advances and encourage the government to continue its work in coordination with trans persons and NGOs. However, there are still many areas in which El Salvador fails to protect, safeguard, and guarantee the human rights of trans men and trans women.

The government of El Salvador has implemented new initiatives that give trans men and trans women more political power, empowering them to advocate for the protection of their human rights. For example, in 2010, President Carlos Mauricio Funes Cartagena approved Executive Decree No. 56, called "Disposiciones para evitar toda forma de discriminación en la Administración Pública, por razones de identidad de género y/o de orientación sexual," ("Regulations to prevent all forms of discrimination in the Public Administration, for reasons of gender identity and/or sexual orientation").\(^1\) The Salvadorian government also created a new

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*This report was written by Student Attorneys Andrea González and Ashley Hoornstra, under the supervision of Professor Shana Tabak, of the International Human Rights Clinic, American University Washington College of Law. Additional edits and suggestions were provided by Ana Cisneros, Alexa Rodríguez, Karla Avelar, Marcelo Ferreyra, Stefano Fabeni, Paty Hernández, and Vi Rivera.

government agency, called the Directorate for Sexual Diversity, which focuses specifically on the advancement of human rights for the lesbian, gay, bisexual, transgender and intersex (“LGBTI”) population. This agency is under the supervision of the Secretary of Social Inclusion.

In June 2012, LGBTI organizations and activists worked together with the Office of the Human Rights Ombudsman to establish the Permanent Forum of Human Rights for the LGBTI Population, ("Permanent Forum"), which is an institutional mechanism that provides a forum for civil society to discuss political issues. This forum consists of NGOs and independent LGBTI activists, and is located inside the Office of the Human Rights Ombudsman. The Permanent Forum has many objectives, including:

- to ensure that the LGBTI population has access to the enjoyment of human rights, to carry out other actions like this one; to analyze the situation of the LGBTI population in El Salvador, to establish and implement processes to sensitize officials entrusted with the administration of justice to this population, to establish groundwork for the creation of a law to eradicate all forms of discrimination against the LGBTI population, among others.

These successes are essential in the fight for trans persons’ rights in El Salvador, but trans men and trans women still live in constant danger because El Salvador has not implemented sufficient legal mechanisms to fully protect their human rights.

Although the government of El Salvador has taken certain first steps in improving the situation for the trans population, these steps have proven ineffective. For example, Executive Decree No. 56, although written to protect LGBTI persons, has an inferior legal status compared
to other laws in the country. Executive Decree No. 56 lacks mechanisms to drive inclusive public policy, or to implement and sanction discrimination complaints; it is only a mandate to "prevent" anti-discrimination for employment in the public administration. Moreover, Executive Decree No. 56 has not been ratified by the new president, Salvador Sánchez Cerén. Given that Executive Decree No. 56 does not have the force to report or sanction discrimination complaints, government officials and agents in the National Civil Police, Military Police, and Metropolitan Police Force continue to physically and verbally attack trans persons. Many activists and NGOs fighting for the rights of the trans population understand that trans persons are not heard, and that the government does not take their concerns seriously. This government inaction can be interpreted as if the government is failing to engage in serious dialogue with the Permanent Forum and the LGBTI civil society. It does not appear that the government wants to promote or approve initiatives necessary to safeguard, protect, and guarantee the human rights of trans persons and the LGBTI community more generally. Consequently, this LOI recommends strengthening the dialogue between the Permanent Forum and the Salvadorian government, implementing reforms recommended by the Permanent Forum because they are necessary to protect trans persons rights and the rights of the LGBTI population in general.

In sum, although trans persons have been able to make some advancement in recent years, they still lack recognition of the fundamental human rights that every person deserves. Each person has the right to enjoy the protections established in the ICCPR, but the Salvadorian government has failed to protect and guarantee these fundamental rights.

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III. Recommended List of Issues

Trans persons, civil society organizations, and human rights activists continue reporting violations of the ICCPR, an agreement which El Salvador has ratified. This LOI focuses on four principal recommendations describing the human rights violations that trans people suffer and explains why those rights are so important for El Salvador to safeguard.

1) **El Salvador should approve a gender identity law for trans persons.**

The absence of a gender identity law in El Salvador results in severe human rights violations of trans persons. Salvadorian laws do not permit a trans person to change his or her name except in "exceptional circumstances," and only if the new name reflects the same gender used in the original identification document. The government lacks a mechanism allowing a trans person to change his or her gender identity in identification documents. Without identification documents that accurately reflect a trans person's gender expression, the government violates a trans person's fundamental rights – such as the right to vote, study, and work – as a result of the discrimination that government agencies and society perpetrated against trans persons. Hence, the absence of an identity law violates several ICCPR provisions: (1) Article 1, which establishes the right of self-determination; (2) Article 16, which establishes that everyone has the right to recognition before the law; (3) Article 19, which establishes the right to freedom of expression; (4) Article 25, which establishes the inherent right to vote; and (5) Article 26, which establishes that all persons are equal before the law.

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9 Article 1, International Covenant on Civil and Political Rights.
10 Article 16, International Covenant on Civil and Political Rights.
11 Article 19, International Covenant on Civil and Political Rights.
12 Article 25, International Covenant on Civil and Political Rights.
13 Article 26, International Covenant on Civil and Political Rights.
The government's refusal to allow a trans person to change his or her gender identity in his or her Documento Único de Identidad, (Unique Identity Document - DUI), violates several articles of the ICCPR. Article 1 is violated, as the government prohibition hinders a trans person's right to free determination to live in accordance with his or her gender expression. The absence of an identity law also specifically violates Article 19 of the ICCPR, which safeguards an individual’s right to free expression.\textsuperscript{14} In the case of trans persons, his or her psychological gender identity is the expression that should always be reflected, without prohibitions or fear of retaliation. Trans persons – both trans men and trans women – have the right to express their gender identities in everyday activities. Unfortunately, they are unable to do so because the Salvadorian government does not allow them to have an identity document, such as the DUI, to reflect their true identities. The absence of a gender identity law prevents trans persons from engaging in fundamental activities.

For example, according to a study conducted by one NGO, 42 percent of trans women have reported problems using their DUIs because of the "official" gender identity reflected in these documents.\textsuperscript{15} Although there are no statistics documenting the same problem for trans men, they also encounter difficulties using their DUIs.\textsuperscript{16} The discrimination against trans persons illustrates what occurs when trans persons use their DUIs. When a trans person takes a photo for a DUI, his or her appearance must conform to the "official" gender, and not the gender identity with which the trans person identifies.\textsuperscript{17} For example, a trans woman named Virginia F. was verbally assaulted by a delegate at DUICENTRO, the office where identification documents

\textsuperscript{14} Article 19, International Covenant on Civil and Political Rights.
\textsuperscript{16} Anonymous testimony on file at the American University, Washington College of Law.
are processed for Salvadorians. When she wanted to change the name that appeared on her DUI, the delegate verbally assaulted her saying, "that she was a man . . . [and that] she should come dressed as who she was or they would not process the document."\textsuperscript{18}

Because of government officials’ discriminatory policies, when taking the picture for the DUI, a trans woman cannot wear makeup and must pull back her hair, to appear more masculine in accordance with her identity document.\textsuperscript{19} Given that the DUI indicates that a trans woman's biological sex is male, a trans woman is obligated to appear looking like her masculine gender. Trans women are humiliated and suffer discrimination in everyday activities, including applying for loans, paying credit cards, or using a passport.\textsuperscript{20}

Another fundamental right, periodically realized by most individuals in the world, is the right to vote. However, the right to vote without restriction and without discrimination does not exist for a trans man or trans woman. If he or she wants to vote while appearing in conformance with his or her true gender identity, and not with the “official” identity known by the State, then the trans person will not be permitted to vote. For example, when a trans woman wants to participate in elections in El Salvador, she has to vote dressed in a way that reflects the gender identity of her DUI photo.\textsuperscript{21}

On February 2, 2014, during the presidential elections, various cases of discrimination in which trans persons were denied the right to vote were documented. Salvadorian activist Ana Cisneros and the NGO, ASPIDH, presented a report on observations of the presidential elections, which revealed several cases of discrimination, including the following:

\textsuperscript{18} Complaint filed by Veronica F. at the Prosecutor’s Office for Human Rights, 30 November 2010, physical copy on file at the American University, Washington College of Law.
\textsuperscript{19} Id.
\textsuperscript{21} Id. at 17.
Case 1: A grave and [symbolic] incident was that of Camilla Portillo. The government did not want to permit her to vote. It was not until after diplomats from Germany and other international observers arrived, that she was allowed to vote.\textsuperscript{22}

Case 2: . . . [T]hree trans women were not permitted to vote at [their designated voting station in \textit{Centro Escolar Ramón Belloso en la Colonia Monsterrat}] in San Salvador. . . We were advised to petition to the court, requesting an investigation of the incident involving its citizens and asking that we be permitted to exercise our right to vote in the second round. In some cases there is a predominant discussion that we are men and we should go that way. . . \textsuperscript{23}

Consequently, to vote in El Salvador, a trans woman would need to change her appearance so that it does not reflect her true gender identity. If a trans woman arrives to vote dressed in a way that expresses her feminine gender identity, the officials do not permit her to vote.\textsuperscript{24} This is not only embarrassing to the person, but it also violates a trans person's right to vote because he or she is forced to present themselves with the "official" gender identity reflected in the DUI, and if he or she fails to do so, that person cannot exercise his or her right to vote. These restrictions violate several rights of trans persons: the right to vote, the right to recognition before the law, and the right to free expression.

In addition, Article 26 of the ICCPR, which guarantees that every person is equal before the law,\textsuperscript{25} is also violated by the absence of a gender identity law. Although El Salvador has ratified the ICCPR, and the Salvadorian constitution establishes in Article 3 that all people are equal before the law,\textsuperscript{26} El Salvador still fails to protect trans persons from discrimination. In fact, the absence of a gender identity law promotes the discrimination against trans men and trans

\textsuperscript{23} Id.
\textsuperscript{25} Article 26, International Covenant on Civil and Political Rights.
\textsuperscript{26} Article 3 of the Constitution of El Salvador.
women because without this law, trans persons cannot move forward, study, or succeed in society expressing their true gender identities.

The lack of a gender identity law also has consequences in education. The majority of trans persons work in the informal labor sector, and this tends to occur because of the absence of a gender identity law. Without a law that assures that transgender identity will be recognized by the government, trans men and trans women struggle to receive driver's licenses and academic degrees.\(^27\) Given that many jobs in the formal sector require academic degrees, it is imperative that trans persons have access to education without discrimination.

At this time, trans persons do not have full access to education, because no law exists to prevent discrimination. For example, Ambar Alfaro, a trans woman, was a student at the National Institute for Off-campus Education of Colonia Miramar ("Institute"). On July 21, 2012, the director of the Institute humiliated Ambar by discriminating against her.\(^28\) Ambar was finishing her first year working toward her undergraduate degree when the director of the Institute told her that she could not take her school picture dressed as a woman. The director told her to “cut her hair, cover her breasts, put on a suit jacket and tie, and start growing her facial hair, because if she did not comply with his instructions she would not be able to graduate.”\(^29\) Bravely, Ambar refused and told the director of the Institute that he could not stop her from graduating and that he could not force her to take a photo looking like a man. Further, she reminded him that another trans student had already made a complaint for this same form of discrimination and that they would have to accept her with her gender expression.\(^30\)

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\(^28\) Complaint filed by Ambar Alfaro at the Prosecutor’s Office for Human Rights, 23 July 2012, physical copy on file at the American University, Washington College of Law.

\(^29\) *Id.*

\(^30\) Complaint filed by Ambar Alfaro at the Prosecutor’s Office for Human Rights, 23 July 2012, physical copy on file at the American University, Washington College of Law.
of the Institute responded, "that doesn’t mean that we would allow anyone to do so." Ambar also suffered discrimination from a professor at the Institute. The professor knew that Ambar only felt comfortable when she was identified as a woman, yet the professor insisted on calling Ambar by her "official" masculine name. Ambar was unable to graduate, as she gave up her studies because of the discrimination she suffered from the director and professor at the Institute. The discrimination that Ambar suffered continues to go unpunished, as not even the Office of the Human Rights Ombudsman has responded to her complaint. As this example demonstrates, the discrimination and humiliation suffered by trans persons is so severe that it prevents an atmosphere of dignity and respect in schools.

Other obstacles result from the absence of a gender identity law. Access to health care for trans men and trans women is affected by the lack of an identity law. When a trans woman needs medical services, health centers do not recognize her as a trans woman, but rather as a man, and this occurs in large part because of the gender identity reflected in the DUI. For this reason, a trans woman does not have access to holistic health care, which should include psychological, sexual, and reproductive care. Given the lack of access to holistic health care, at least three trans women have died as a result of self-medicating. Health services for the LGBTI population are oriented toward the prevention of HIV/AIDS and fail to consider the broader sexual and reproductive health of trans persons.

Trans men also lack access to hormone treatment. The Salvadorian government has prohibited surgical operations that reassign sexual organs. For this reason, many trans men flee

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31 Complaint filed by Ambar Alfaro at the Prosecutor’s Office for Human Rights, 23 July 2012, physical copy on file at the American University, Washington College of Law.
32 Id.
34 Id.
35 Anonymous testimony on file at the American University, Washington College of Law.
to other countries, such as Guatemala, to obtain treatment and surgery.\textsuperscript{36} Trans men who do not have money for hormonal treatments or surgery outside of the country desperately wait for a physical reason to justify the operation. As one trans man stated, "We pray for breast cancer so that we can get these surgeries here in our country."\textsuperscript{37} This demonstrates how the government violates trans persons’ right to free determination. It is the government's duty to permit these treatments and surgeries, as well as to sensitize doctors and medical professionals to treat trans persons with respect and dignity.

Despite the great need for a gender identity law to protect trans persons, one reason that the Salvadorian government has still not approved an identity law is because the general public does not support a law that would eradicate discrimination. In a study conducted by the US Agency for International Development (USAID), 72.4 percent of Salvadorians disagree with the idea of a gender identity law.\textsuperscript{38} Considering that the majority of the Salvadorian community does not support an identity law, legislators are not incentivized to approve one. However, the State has an obligation to respect and guarantee human rights to all its citizens, even without support from the majority of the population. The government needs to recognize that a gender identity law is imperative in preventing human rights violations against trans men and trans women. Homophobia does not justify government inaction. Trans persons are not able to engage freely in basic and fundamental activities, all because of the absence of a gender identity law that could promote the acceptance of trans persons.

\textsuperscript{36} Anonymous testimony on file at the American University, Washington College of Law.
\textsuperscript{37} Id.
Recommended questions:

a) Would the State of El Salvador confirm if it has discussed the possibility of approving a gender identity law? If El Salvador is not considering the law, what is the justification of the State for not considering it?

b) What protections can the State offer to the trans population when they participate in elections so that they do not encounter discrimination and violence?

c) What type of protection can the State provide so that trans persons can attend school without discrimination?

d) What type of protection can the State provide so that trans persons can find satisfactory work?

e) What type of actions can the Ministries of Health, Education, and Labor take in order to combat and sanction discrimination and transphobic taunting, and to educate their public servants?

2) El Salvador should amend its civil penal code to classify discrimination as a setback and harm against trans persons and LGBTI persons in general.

As previously discussed in the Background Information section of this paper, El Salvador implemented Executive Decree No. 56, called "Regulations to avoid all forms of discrimination in the Public Administration, for reasons of gender identity and/or sexual orientation." Although Executive Decree No. 56 indicates that government entities cannot discriminate on account of sexual orientation or gender identity, the violations against trans persons and LGBTI persons continue.

To date, Executive Decree No. 56 has had no impact in El Salvador. Due to the state’s non-violent discrimination against trans people, it is in violation of the ICCPR. Article 1 of the

39 See supra note 1 and accompanying text.
40 Executive Decree No. 56: Regulations to prevent all forms of discrimination in the Public Administration, for reasons of gender identity and/or sexual orientation, available electronically at: http://asp.salud.gob.sv/regulacion/pdf/decretos/acuerdo_56_discriminacion_sexual.pdf.
41 Article 1 and 2 of Executive Decree No. 56: Regulations to prevent all forms of discrimination in the Public Administration, for reasons of gender identity and/or sexual orientation, available electronically at: http://asp.salud.gob.sv/regulacion/pdf/decretos/acuerdo_56_discriminacion_sexual.pdf.
ICCPR,\textsuperscript{42} which establishes the right to free determination and to the economic, cultural, and social development of all people, is violated by the Salvadorian government when government agents discriminate against trans persons in government offices. Article 2 of the ICCPR ensures the right to an effective remedy if a person's human rights are violated.\textsuperscript{43} El Salvador has violated this article because it maintains impunity and ignores incidents of discrimination against trans persons that are carried out by government and civil actors. El Salvador has also violated Article 26 of the ICCPR, which establishes the principle of nondiscrimination.\textsuperscript{44} The Salvadorian government tolerates discrimination and fails to sanction government and civil actors that discriminate and verbally assault trans persons.

No legal framework truly protects trans persons from discrimination based on gender identity or sexual orientation. The Salvadorian constitution establishes in Article 3 that all persons are equal before the law,\textsuperscript{45} but the principle of non-discrimination on account of gender expression and identity are not written in the Salvadorian constitution. The Salvadorian Civil Code also fails to reflect the principles of equality and non-discrimination on account of sexual orientation or gender expression. The most recent anti-discrimination law passed was the law of Equality, Equity, and Eradication of Discrimination against Women. However, the State does not have an identity law that recognizes trans women as women, and thus the current law does not protect trans women.\textsuperscript{46} Although Executive Decree No. 56 was implemented in 2010, indicating that government agencies should not discriminate on account of sexual orientation or

\textsuperscript{42} Article 1, International Covenant on Civil and Political Rights.
\textsuperscript{43} Article 2, International Covenant on Civil and Political Rights.
\textsuperscript{44} Article 26, International Covenant on Civil and Political Rights.
\textsuperscript{45} Article 3, Constitution of El Salvador.
gender identity, discriminatory actions on account of the Salvadorian government continue to occur.

One of the greatest shortcomings of Executive Decree No. 56 is that it lacks sanctions for those who violate it – a subject that is discussed further in Section Four of this paper. Consequently, given that there are no laws to sanction or eradicate discrimination, trans persons are vulnerable when they try to exercise their most fundamental rights. Government employees discriminate against trans persons with impunity. For example, in one government office, *Ciudad Mujer* (Women's City), various jobs were offered to trans women. One of these trans women was Cindy. She filed a complaint that the employees at *Ciudad Mujer* discriminated against her and against her trans colleagues. Employees at *Ciudad Mujer* discriminated against these women by saying that "of those we have hired, many have been real women." Although the victims of discrimination filed complaints, those who discriminated against them were never disciplined, and Cindy decided to quit because she would not tolerate such discriminatory oppression at *Ciudad Mujer*.

Further, activists at COMCAVIS, ASPIDH, Generación de Hombres Trans de El Salvador – HT 503, and Ana Cisneros affirm that discrimination is one of the greatest barriers to trans persons seeking formal-sector employment in El Salvador. Therefore, the government of El Salvador violates Article 1 of the ICCPR as this discrimination interferes with free determination and economic development of trans persons.

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47 *See infra* note 86 and accompanying text.  
49 Anonymous testimony on file at the American University, Washington College of Law.  
50 *Id.*  
51 *Id.*  
52 *Id.*
Government discrimination against trans persons is also commonplace when trans persons want to exercise their right to vote. As previously mentioned, when a trans woman tries to exercise her right to vote in elections expressing her feminine gender, she is harassed when people learn that she is a trans woman, and government employees adhering to the laws and politics of the State refuse her the right to vote.53 In some instances, the harassment results in violence.54 Consequently, civil society, through the Permanent Table, has tried on many occasions to initiate dialogue with the Electoral College and Supreme Electoral Tribunal so that the government agency respects the right to suffrage for trans persons.55

On July 31, 2014, Pati Hernández, founder of ASPIDH and current Technical Adviser of the NGO, signed an agreement with the Supreme Electoral Tribunal, acting as a representative of ASPIDH. The agreement is an advancement on the part of the Supreme Electoral Tribunal in recognizing how delegates from the electoral college have discriminated trans men and trans women's right to vote. However, this agreement is not sufficient to ensure that electoral representatives will respect the right to suffrage for trans persons. The greatest achievement of the agreement is that the Supreme Electoral Tribunal promised to "proportion the basic conditions that sexually diverse citizens are addressed . . . in voting centers formulating necessary steps for continuity in strengthening the facilitation of electoral rights to LGBTI citizens."56 Although the agreement discusses facilitating the sensitization of government actors to protect the right to vote for trans persons and LGBTI,57 there is still need for change. To

53 See supra notes18 and 20.
55 Anonymous testimony on file at the American University, Washington College of Law.
57 Id. at 5.
ensure that the trans persons' and LGBTI community's right to vote is truly protected by a legal framework, we recommend the following: (1) classify the discrimination against trans and LGBTI persons as a harm and prejudice in the Salvadorian Civil Code; (2) amend the electoral code to consecrate the right to free expression and non-discrimination on account of sexual orientation or gender expression; (3) include in these laws the sanctioning of government agents who do not implement the recommended amendments.


d**Recommended questions:**

a) Has the State of El Salvador considered implementing a law that would sanction or penalize government actors who discriminate on account of sexual orientation or gender identity? If the State has not done so, why not?

b) What protections has the State offered to the trans population who participate in elections so that they do not encounter discrimination and violence?

c) Has the State of El Salvador launched an investigation of the discriminatory acts against trans persons and LGBTI who are refused the right to vote?

d) Has the State of El Salvador launched an investigation of discriminatory acts against trans persons and LGBTI in the labor sector?

e) What mechanisms does the State of El Salvador have in order to implement discrimination complaints?
3) **The State of El Salvador needs to amend its penal code to classify hate crimes against trans persons and LGBTI persons in general.**

Since 1997, the LGBTI population has suffered not only from discrimination, but also from hate crimes that have killed many trans persons. Navi Pillay, former High Commissioner of the United Nations described hate crimes as varying "from harassment and torture to kidnappings and murders" targeted against the LGBTI population. The government's failure to classify hate crimes against trans persons is especially problematic, given that since 2003, there has been a 400 percent increase in homicides against trans women for expressing their gender identity. It is alarming that in the face of this atmosphere of violence and continued assassinations, the government of El Salvador has not implemented a law or public policy to fight the increasing violence against trans persons.

In violation of Article 2 of the ICCPR, which guarantees that if the rights of a person are violated, they have a right to an effective remedy, El Salvador has failed to investigate incidents of violence and homicide against trans persons. Additionally, El Salvador violates Articles 7 and 26 of the ICCPR. Article 7 of the ICCPR establishes that no one should be subjected to torture or cruel and inhumane treatment. Current evidence suggests that the government of El Salvador is an accomplice and facilitator of torture and cruel and inhumane treatment, on account of the lack of government action in prosecuting the state actors who

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58 This section uses pseudonyms to protect the identity of the victims.


63 Articles 7 and 26, International Covenant on Political and Civil Rights.

64 Article 7, International Covenant on Political and Civil Rights.
perpetrate torture and cruel and inhumane treatment of trans persons. El Salvador is also in violation of Article 26 of the ICCPR,\textsuperscript{65} which establishes the principle of non-discrimination. The government has permitted state actors to discriminate and refuses to investigate violent acts and homicides simply because the victims are trans persons or of the LGBTI population.

The Salvadorian penal code does not reflect the principles of equality and non-discrimination for sexual orientation or gender expression. The Salvadorian government has not established a law classifying hate crimes and other forms of discrimination against trans persons. Article 174 of the Salvadorian Penal Code does condemn acts of torture and other morally degrading acts,\textsuperscript{66} as reflected in the definition of the United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. The United Nations Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment defines the term torture as:

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.\textsuperscript{67}

Similarly, Article 174 of the Salvadorian penal code establishes that:

\textit{[c]ommitting torture by an authority or public servant who, abusing his position, and with the intention of obtaining a confession or information of whatever person or to punish because of whatever act that he or she has committed or is suspected of committing, or for whatever reason based in a form of discrimination, has subjected to conditions or procedures by nature, duration, or other circumstances, subjected to physical or mental suffering . . . of whatever method, attacking against moral integrity. The person at fault

\textsuperscript{65} Article 26, International Covenant on Political and Civil Rights.
\textsuperscript{66} Article 174 of the Salvadorian penal code, available electronically at: \url{http://noticias.juridicas.com/base_datos/Penal/lo10-1995.l2t7.html}.
\textsuperscript{67} Article 1 of the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (emphasis added).
for torture shall be punished with a prison sentence between two and seven years if the attack was grave, and of prison from one to three years if it is not grave.\textsuperscript{68}

However, evidence suggests that public servants and the government tacitly and on occasion directly engage in discrimination by torturing and inflicting attacks against the moral integrity of trans persons. Highlighting the lack of investigation in the assassinations of trans persons and gays, for which the government is not accused of these crimes. Therefore, in Section Four of this paper, we present evidence that public servants have tortured or attacked the integrity of trans victims, and that these crimes continue without investigation and punishment.\textsuperscript{69}

The government does not have a mechanism to collect data identifying victims of hate crimes against either trans persons or LGBTI people. It is important to highlight that the deaths of trans women have been documented by Salvadorian NGOs, such as ASPIDH or COMCAVIS, among other organizations. When a trans person's death receives public recognition, it is only because civil society has exposed to the public the information it has gathered, in contrast to the Salvadorian government, which does nothing. For this reason, many assassinations are not reported as LGBTI-related deaths, because the government identifies the deceased by the "official" name in his or her DUI. Many unreported deaths occur, as families and friends of trans persons fail to report deaths to the authorities out of fear of retaliation, either from police or gang members. These assassinations and assaults would not be documented if not for the efforts by NGOs to track the deaths of trans persons. Homicides of trans men have not yet been systematically documented by NGOs, as trans men have recently organized to combat the increasing discrimination and assault against them.


\textsuperscript{69} See infra note 86 and accompanying text.
To contextualize the increasing levels of violence in El Salvador, the following data summarizes the deaths that have occurred since 2008, which continue to go unpunished. In 2008, 13 assassinations of gay men and trans women were registered. In 2009, there were 23 assassinations of gay men and trans women. The story of a young woman named Tania demonstrates why these murders were undoubtedly hate crimes. On June 9, 2009, Tania, an adolescent transgender woman of only 16 years of age, was kidnapped, tortured, raped, and killed. The people responsible for Tania's death attacked her in such a way that her autopsy report noted that she died due to severe contuse cranio-facial trauma – in simple terms, they killed her by smashing her face.

In 2010, ten murders were reported. ASPIDH reported that between 2012 and 2013, 32 complaints were presented at the Office of the Human Rights Ombudsman "about the abuse police perpetrated specifically against trans women," which were never investigated and continue to go unpunished. In 2012, it is estimated that there were 14 assassinations of trans women and gay men, and in 2013, eight assassinations of trans women and gay men have been documented.

In 2014, seventeen years after the first LGBTI pride parade, it is still dangerous for trans women to participate in the LGBTI movement because of the risk of violence. These dangers demonstrate the importance of a law that recognizes hate crimes. For example, after the LGBTI

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72 Id.
75 Id.
76 Id.
pride parade on June 28, 2014, there were four assassinations, and three of those victims were trans women.\(^77\) On July 2, 2014, a trans woman was killed, and on July 3, 2014, another trans woman assassinated.\(^78\) It is estimated that in 2014, there have been 14 assassinations of trans women, 2 assassinations of gay men, and one documented assassination of a trans man.\(^79\) Also, the current Director of ASPIDH confirmed that there were 180 cases of aggression against the trans population as of November 2014.\(^80\)

One of the most recent murders was that of a trans man. On December 3, 2013, Juan, a trans man, was shot to death in front of his house.\(^81\) Juan was well known in the community because he was a bus driver, and he also provided transportation to his comrades in the LGBTI pride parade. Unfortunately, of the 13 assassinations reported in 2013, including that of Juan, not one was investigated or brought to justice by the police or by the Attorney General of the Republic. Three activists confirmed the fact that none of the assassinations of trans women or gays had been investigated or prosecuted by the State and continue with impunity.\(^82\) Further, as will be discussed further in a later section of this report, many of the violent aggressions that trans persons suffered were perpetrated by agents of the State and when the victim wanted to complain and seek justice, they were denied access to the system.\(^83\)

Discrimination, acts of violence, assassinations, and other hate crimes are only fueled by the absence of investigation


\(^78\) *Id.*

\(^79\) News Red LACTRANS, *ASPIDH disseminates information about human rights violations against the trans population before the Inter-American Court of Human Rights in Mexico*, (noting that at least 7 assassinations were trans women), available electronically at: [http://redlactrans.org.ar/site/paises/el-salvador/el-salvador-noticias](http://redlactrans.org.ar/site/paises/el-salvador/el-salvador-noticias).


\(^82\) Anonymous testimony on file at the American University, Washington College of Law.

\(^83\) *See infra* note 88 and accompanying text.
and indictment of those who attack trans persons. In El Salvador, trans persons must fight alone, without government protection against transphobia, because hate crimes are not part of the penal code in El Salvador. Trans persons cannot find justice through police channels, even for charges of common crimes, because officials refuse to take their complaints and investigate cases where the civil society or the same police officials have discovered attacks against trans persons.

As previously discussed, El Salvador has violated Article 2 of the ICCPR by failing to investigate and provide effective judicial recourse. Additionally, government inaction suggests that the State is complicit in facilitating torture and cruel and inhumane treatment against trans persons. Public servants discriminate against trans persons by allowing cases to sit uninvestigated and unpunished, when the only reason for doing so is because of the victims' sexual orientation or gender expression. Consequently, the State is in violation of Articles 7 and 26 of the ICCPR due to its failure to prosecute cases of attacks and assassinations against trans and LGBTI victims.

**Recommended questions:**

a) Has the State of El Salvador considered implementing a law that would prohibit hate crimes on account of sexual orientation and/or gender identity? If the government has not done so, why not?

b) Has the State of El Salvador launched an investigation of the homicides involving trans persons from 2008 to 2014? If the government has not done so, why not?

c) Has the State of El Salvador collected data on LGBTI murder victims from 1998 to 2014? If the government has not done so, why not?

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84 *Sexual Diversity in El Salvador: A Report on the Human Rights Situation of the LGBT Community*, University of California, Berkley, School of Law, July 2012, p. 17.

85 *See infra* notes 88-89 and accompanying text.
d) Has the State of El Salvador prosecuted the government actors who have tortured and committed inhuman and degrading acts?

4) **El Salvador needs to implement a plan to eradicate government impunity.**

Executive Decree No. 56, which was approved in 2010 and is the only legal mechanism to prevent discrimination within the Salvadorian government, is particularly problematic for the trans population. The main problem with Executive Decree No. 56 – called "Dispositions to avoid all forms of discrimination in the Public Administration, for reasons of gender identity and/or sexual orientation" – is that it does not penalize those who violate anti-discriminatory norms dictated by the Decree. Executive Decree No. 56, Regulations to prevent all forms of discrimination in the Public Administration, for reasons of gender identity and/or sexual orientation, available electronically at: [http://asp.salud.gob.sv/regulacion/pdf/decretos/acuerdo_56_discriminacion_sexual.pdf](http://asp.salud.gob.sv/regulacion/pdf/decretos/acuerdo_56_discriminacion_sexual.pdf).

Article 1 and Article 2 of Executive Decree No. 56 indicate that government entities cannot discriminate against an individual based on sexual orientation or gender expression, either directly or indirectly. However, cases involving discrimination by government actors suggest that government officials continue discriminating against trans persons and that the Salvadorian government is complicit and perpetuating torture and denigrating and inhuman acts against trans persons.

Civil society activists have highlighted that government entities continue to violate Executive Decree No. 56 because they do not feel threatened that the government will actually prosecute them for perpetrating discrimination. Further, LGBTI activists have called, paradoxically, Executive Decree No. 56 homolesbotransphobic, given that it calls to avoid discrimination and not to eradicate it completely.

In particular, trans persons do not have access to legal remedies for their human rights violations. Even though the National Civil Police is supposed to help victims of abuse, the trans

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87 *Id.*
community is persecuted and humiliated by these very same government agents. Activists state that when filing complaints, the police harass trans persons and do not take their allegations seriously.88 The activists try to raise awareness amongst police officers, explaining that their lives are in danger, but the police usually respond with sarcasm and derogatory language. For example, ASPIDH reported before the Inter-American Commission on Human Rights in Mexico that the "Attorney General of the Republic of El Salvador, entrusted to lead the criminal investigations, has not initiated even one investigation of the cases reported, much less provided official correspondence. Of the cases reported, not one case has been assigned a prosecutor."89 Additionally, ASPIDH emphasized instances of homophobia by the government, in which the Attorney General of the Republic of El Salvador refused to accept the complaints, the prosecutors in charge of taking complaints, principally the delegations in Soyapango, Santa Ana, La Libertad, Ahuachapán, Morazán . . . [explaining] that the Attorney General did not permit victims to enter, as it is only under the pressure of social networks that the Attorney General, Luiz Martinez, processed the complaints, [and] personally called each of the headquarters. This was the way we succeeded in processing our complaints.90

ASPIDH also provided evidence regarding several activists from the organization who witnessed an incident of aggression against a trans woman on an early morning in June 2013, carried out by the CAM and agents of the mayor's office. However, the Prosecutor’s Office of the Santa Ana Central Delegation did not allow the trans woman to submit a complaint directly against the CAM agents or the mayor's office, even though she was the victim of the attack.91 The Prosecutor's Office also prohibited the trans woman victim from providing evidence showing the

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88 Anonymous testimony on file at the American University, Washington College of Law.
90 Id.
91 Correspondence of the case of S., the complaint was finally presented when delegate Yanira Díaz intervened, who took the case. Physical copy of this correspondence is archived at American University, Washington College of Law.
physical lesions that she had as a result of the physical assault carried out by CAM agents or the mayor's office. Various activists from civil society had to intervene before the victims could finally present their complaints.

In addition, the National Civil Police and the Office of the Attorney General of the Republic lack coordination on the eradication of government impunity for crimes against LGBTI people. If the National Civil Police do not send a notice to the prosecutor's office, or if the prosecutor's office does not receive the notice in time, a case is closed without further investigation. The Office of Audits is expected to vigilantly ensure the processing of these cases, but this office has not taken the activists' allegations seriously. For example, in several departments throughout the country – including Soyapango, Santa Ana, La Libertad, Ahuachapán, and Morazán – prosecutors refused to accept complaints from trans persons, and would not even let victims enter the office. The Attorney General failed to resolve these complaints, which include allegations of police brutality. The same police unit has committed crimes against trans persons and continues to go unpunished without investigation.

Discrimination against trans persons continues to persist, due to widespread government impunity. Instead, the government must act to eradicate discrimination altogether. Through the Transparency Law, activists and LGBTI organizations note that as November 2014, the Directorate of Sexual Diversity, under the Secretary of Social Inclusion, has not related specific indicators or other evidence related to the agency's goals, short of the material of inclusion of the trans population. These government institutions have neither provided information to civil

92 Correspondence of the case of S., the complaint was finally presented when delegate Yanira Díaz intervened, who took the case. Physical copy of this correspondence is archived at American University, Washington College of Law.
93 Testimony of Pati Hernández, Former Director of ASPIDH and current Technical Advisor of ASPIDH, 27 October 2014.
94 Id.
95 Anonymous testimony on file at the American University, Washington College of Law.
society, nor have they facilitated a recollection of their work since their creation in 2010. The Salvadorian government leaves this vulnerable community of trans men and trans women exposed to transphobia in the country, as the government fails to monitor or sanction itself as a government, and fails to protect the human rights of its citizens.

Recommended questions:

a) Does the State of El Salvador plan to amend Executive Decree No. 56 to include a mechanism for complaints and sanctions of the discrimination perpetuated by government agencies and agents?

b) What does the State of El Salvador plan to do in order to accept the complaints from trans persons at the delegations in Soyapango, Santa Ana, La Libertad, Ahuachapán, and Morazán that are currently refusing to permit trans victims to enter to report human rights abuses?

IV. Recommendations

1. Amend the Constitution to establish the principle of nondiscrimination for sexual orientation and/or gender expression.

2. Write and approve an identity law sensitive to the needs and vulnerabilities of both trans women and trans men so that they can enjoy the fundamental rights such as the right to vote, work, make a living, medical attention, among others.

3. Write and approve a law that penalizes government officials who engage in discriminatory practices.

4. Write and approve a general anti-discrimination law for LGBTI persons, working with the Secretary of Social Inclusion, the Office of the Human Rights Ombudsman, and LGBTI activists and organizations in El Salvador.

5. Amend the penal code to classify hate crimes against trans persons.

6. Amend the civil code to classify discrimination as a harm and prejudice against trans persons and lesbians, gay, bisexual and intersex persons.

7. Elaborate the national policy of Sexual Diversity, so that the Directorate of Sexual Diversity develops programs and mechanisms for citizen participation.
8. Reform Executive Decree No. 56 to eliminate discriminatory concepts. For example, the language stating, "eliminate discrimination," should be rephrased to state, "eradicate discrimination." Also add sections regarding the application and sanction of discriminatory behavior.

9. Reform the Ministries of Labor, Education, Health, Safety, and the Women's Institute so that their corresponding internal strategic plans apply Executive Decree No. 56.

10. Implement the inclusion of integrated health in the Ministry of Health, so that trans persons' specific health needs receive attention.

V. Conclusions

In recent years, the State of El Salvador has started to recognize certain rights of trans men and trans women in the country, but these advances are not sufficient to guarantee the human rights of trans persons. Many of the human rights violations against trans persons occur (1) because of the absence of an identity law; (2) because of the absence of classifying discrimination on account of sexual orientation or gender identity in the civil code; (3) because of the absence of a hate crime classification in the penal code and discrimination as a crime against trans persons; and (4) because of the impunity protecting government actors. It is imperative that El Salvador take action to protect the rights of trans men and women, because the violence and discrimination against trans persons is rising at an alarming rate. The periodic review of El Salvador presents the perfect opportunity for the State to confront these human rights violations against trans persons and to affirm its promise to protect and safeguard the rights of trans persons. It is also an opportunity for El Salvador to comply with the international conventions, such as the ICCPR, to which El Salvador is a party.
TAB 24
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DEFINITIONS & ABBREVIATIONS

DEFINITIONS

**Lesbian** A woman who is emotionally and sexually attracted to other women.¹

**Gay** A man who is emotionally and sexually attracted to other men.²

**Bisexual** A person who is emotionally and sexually attracted to people of their own gender and people of other genders.³

**Transgender** A person whose gender identity and assigned sex at birth do not correspond. Also used as an umbrella term to include gender identities other than male and female.⁴

**Travesti (Latin America)** Individuals who were assigned male sex at birth and who, often from a young age, adopt female names, pronouns, clothing styles, and hair styles. They may or may not take female hormones, modify their bodies with silicone, and/or have sex reassignment surgery. They tend to claim their own identity as opposed to identifying themselves as either men or women.⁵

**LGBT** An umbrella term encompassing lesbian, gay, bisexual, and transgender people.⁶ The researchers acknowledge that some of the people who are the focus of this report may not self-identify as belonging to any of the categories implied by the term LGBT.⁷

**Gender Identity** Each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical, or other means) and other expressions of gender, including dress, speech, and mannerisms.⁸

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⁵ Global Rights: Partners for Justice, Demanding Credibility and Sustaining Activism, A Guide to Sexuality Based Advocacy, p. 98.
**Sexual Orientation** Each person’s capacity for profound emotional, affectional, and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender. This is integral to a person’s identity and does not depend on gender identity.9

**ABBREVIATIONS**

- **CAM** Cuerpo de Agentes Metropolitanos (San Salvador Municipal Police)
- **CAT** Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- **CEDAW** Convention on the Elimination of All Forms of Discrimination against Women
- **CSO** Civil Society Organization
- **Fiscalía** Fiscalía General de la República (Public Prosecutor’s Office)
- **IACHR** Inter-American Commission on Human Rights
- **IACHHR** Inter-American Court of Human Rights
- **ICCPR** International Covenant on Civil and Political Rights
- **ICESCR** International Covenant on Economic, Social and Cultural Rights
- **OAS** Organization of American States
- **NGO** Non-Governmental Organization
- **PDDH** Procuraduría para la Defensa de los Derechos Humanos (Human Rights Ombudsperson’s Office)
- **PNC** Policía Nacional Civil (Salvadoran National Civil Police)
- **UN** United Nations
- **UDHR** Universal Declaration of Human Rights

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EXECUTIVE SUMMARY

“The State has an enormous debt to the LGBT population.”

Lesbian, gay, bisexual, and transgender (LGBT) Salvadorans regularly experience discrimination and violence perpetrated by State actors. In January 2017, researchers from Georgetown University Law Center’s Human Rights Institute conducted interviews with LGBT individuals, activists, human rights defenders, and members of the Salvadoran government focusing on human rights violations committed by law enforcement and justice system officials.

The major findings of this report fall into three categories: violations perpetrated against human rights defenders; abuse by law enforcement, including police and military personnel; and obstacles to accessing justice and accountability.

- **Human Rights Defenders**
  - Activists are subject to heightened policing.
  - Law enforcement officials harass and dismiss concerns of human rights organizations.

- **Police and Military Violence**
  - While engaged in law enforcement, members of the police and military have raped, beaten, stalked, arbitrarily searched, arbitrarily detained, extorted, intimidated, and threatened LGBT people.
  - Police and soldiers initiate violence against people on the street whose nonconforming sexual orientation or gender identity is readily apparent.
  - Police and soldiers escalate routine encounters (such as ID checks) into violent ones when they learn that a person is lesbian, gay, bisexual, and/or transgender.
  - Police and military violence toward LGBT people is often sexual or gendered in nature.
  - Police trainings on LGBT issues have had positive effects.
  - Soldiers are not trained on LGBT issues.

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10 Interview with Juana, pseudonym, San Salvador, Jan. 10, 2017. (El Estado tiene una deuda enorme con la población [LGBT].)
- **Access to Justice**
  - LGBT victims are often prevented from filing complaints of human rights abuses.
  - Police and prosecutors frequently fail to investigate crimes against LGBT people.
  - Military officials have failed to hold soldiers accountable for violence toward LGBT people.
  - Despite the regularity of violence, few cases of law enforcement abuse of LGBT people have been prosecuted.

While the country’s high level of violence affects all Salvadorans, violence toward LGBT people is marked by hate, dehumanization, homophobia, and transphobia. Faced with the frequent threat of abuse and discrimination, many LGBT people consider fleeing the country.¹¹

To address the State’s failure to respect and fulfill the human rights of LGBT persons, the researchers formulated recommendations to branches and agencies of the government of El Salvador, as well as to international actors who engage with it.

"**The most effective way of guaranteeing the non-repetition and prevention of new attacks and violations of the rights of LGBTI persons, and of the defenders of their rights, is precisely the fight against impunity—...the investigation, prosecution, and punishment of those responsible.**"¹²

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¹² Commissioner José de Jesús Orozco, IACHR Rapporteur on Human Rights Defenders, at IACHR hearing on the Human Rights Situation of LGBTI People in El Salvador, Washington, D.C., March 21, 2017. (La manera más efectiva de garantizar la no repetición o la prevención de nuevos ataques y violaciones a los derechos de las personas LGBTI y de los defensores y defensoras de sus derechos es precisamente la lucha contra la impunidad. Y en este sentido, sin duda, investigar, procesar, y sancionar las y los responsables.)
METHODOLOGY

This report is the result of the Georgetown Law Human Rights Institute’s legal and factual investigation assessing the nature and prevalence of institutional violence against lesbian, gay, bisexual, and transgender (LGBT) people in El Salvador. The findings and recommendations contained herein are derived from over 50 interviews with victims, human rights defenders, non-governmental organization (NGO) practitioners, and government officials that took place during a week-long fact-finding mission to San Salvador in January 2017.

The researchers designed this mission in accordance with the Lund-London standards for research involving human subjects and the research protocol was approved by Georgetown’s Institutional Review Board. Through an extensive literature review and discussions with regional experts, the researchers identified institutional violence against LGBT people in El Salvador as a source of under-documented human rights violations. To provide the fullest picture of interactions between LGBT Salvadorans and justice system actors, the researchers sought perspectives from three relevant groups: victims representing a diversity of sexual orientations and gender identities, NGO practitioners, and human rights defenders, and government officials from the national police, military, Legislative Assembly, Public Prosecutor’s Office, Human Rights Ombudsperson’s Office, and the Secretariat of Social Inclusion. Interviewees were recruited through NGOs or via direct overtures, consistent with convenience sampling techniques. Interview questions were drafted in advance to address the specific roles of each interviewee. Researchers collected testimonial and documentary evidence from interviewees aided, when necessary, by interpreters.

To protect interviewees, researchers implemented an extensive consent process describing the research protocol. Potential interviewees were informed that no direct benefits would arise from their participation or lack thereof. Researchers and interpreters conducted all interviews in private locations, generally the offices of NGOs or government officials. Interpreters had experience working with the target populations and were subject to strict confidentiality agreements. Interview notes and audio recordings were stored on secure devices; Identifying information was removed from all quotations and stories used in the report, except where NGO practitioners and government officials consented to attribution. All other names are pseudonyms.

While these interviews provide a great deal of rich information regarding the interactions between LGBT people and government actors, the scale of the fact-finding mission was such that no statistical significance should be ascribed to the following findings.

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14 ASPIDH, ATRANS, Colectivo Alejandria, COMCAVIS, ESMULES, Entre Amigos, FESPAD, and HT503.
LEGAL FRAMEWORK

El Salvador has legal obligations under international and domestic law that encompass and explicitly protect LGBT persons and human rights defenders. International treaties, human rights declarations, the Salvadoran Constitution, federal statutes, and State initiatives collectively condemn State violence and impunity and guarantee access to justice. The State may not discriminate against people on the basis of sexual orientation or gender identity when fulfilling its obligations to prevent, investigate, punish, and redress human rights violations.

INTERNATIONAL

State Responsibility under International Human Rights Law

International treaties impose upon states a fundamental obligation to respect and fulfill the human rights of all persons. This obligation is threefold: states must refrain from interfering with the enjoyment of human rights; protect individuals and groups from human rights abuses; and act affirmatively to facilitate the enjoyment of basic human rights.\(^\text{15}\) Under the American Convention on Human Rights (American Convention), El Salvador must “undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.”\(^\text{16}\) Its affirmative duty to prevent violations of human rights is triggered by “acts and omissions of its agents, even when those agents act illegally or otherwise outside the permitted sphere of their authority.”\(^\text{17}\)

El Salvador has a duty to incorporate international treaties into domestic law. The American Convention mandates adoption of “such legislative or other measures as may be necessary to give effect to those rights or freedoms.”\(^\text{18}\) The Inter-American Commission on Human Rights


\(^{18}\) Organization of American States (OAS), American Convention on Human Rights, adopted by El Salvador on June 20, 1978, Article 2. The Inter-American Court of Human Rights has recognized that this principle has its source in treaties as well as custom. Inter-American Court of Human Rights, Case of Heliodoro-Portugal v. Panama. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 12, 2008. Series C No. 186. See also Permanent Court of International Justice; Exchange of Greek and Turkish Populations, Greece v Turkey,
(IACHR) asserts that the duty of member states to prevent violations of their citizens’ human rights “implies the adoption of all legal, political, administrative measures, and those regarding cultural changes, which ensure that a potential violation of human rights will be effectively addressed.”

In the context of law enforcement, the obligations to prevent violations, through training and other means, apply equally to military and police forces. The jurisprudence of the IACHR and the Inter-American Court of Human Rights (IACtHR) regularly requires the armed forces to adhere to the American Convention and other human rights treaties.

A state may not rely on its domestic law to excuse non-compliance with international treaties. The United Nations Draft Articles on the Responsibility of States for Internationally Wrongful Acts underscores that a wrongful act’s “characterization is not affected by the characterization of the same act as lawful by internal law.”

The Salvadoran Constitution provides that international treaties, including human rights treaties, are incorporated into and prevail over domestic law in case of conflict. The Constitutional Chamber of the Supreme Court recognized the primacy of

Advisory Opinion, Series A no. 10; p. 20.


20 Since Salvadoran military officers in this context are being deployed for internal law enforcement purposes, not an armed conflict, the applicable law is international human rights law, not international humanitarian law.

See, e.g., U.N. Code of Conduct for Law Enforcement Officials, Art. 1, Commentary (ib) (“In countries where police powers are exercised by military authorities, whether uniformed or not, or by State security forces, the definition of law enforcement officials shall be regarded as including officers of such services.”).


24 Constituent Assembly, Constitution of the Republic of El Salvador; Sec, Third, Ch. 1, Title IV, Art. 144-149. Nonetheless, the Constitution, under the same section, also stipulates that no international convention shall be ratified if it restricts or affects constitutional dispositions, unless the ratification includes reservations to those portions of the treaty which are contrary to the Constitution, thus rendering those portions as having legal effect within the country. The Constitution further grants the Salvadoran Judiciary powers to declare a ratified
international human rights treaties by holding that constitutional rights should be interpreted in light of human rights treaties.\textsuperscript{25}

**Non-discrimination**

The principle of non-discrimination, a bedrock rule of international law, requires states to ensure equal treatment of all persons under their jurisdiction. The doctrine traces its roots to the United Nations (UN) Charter,\textsuperscript{26} the Organization of American States (OAS) Charter, \textsuperscript{27} the American Declaration of the Rights and Duties of Man,\textsuperscript{28} and the Universal Declaration of Human Rights (UDHR).\textsuperscript{29}

Subsequent international treaties expanded and cemented the non-discrimination principle. The International Covenant on Civil and Political Rights (ICCPR) mandates that states “prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground.”\textsuperscript{30} The American Convention requires states to “ensure to all persons... the free and full exercise of those rights and freedoms, without any discrimination.”\textsuperscript{31} The International Covenant on Economic, Social and Cultural Rights (ICESCR),\textsuperscript{32} the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),\textsuperscript{33} and the Convention

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\textsuperscript{25} Because the Constitution and human rights treaties have shared goals, the relationship between the two is one of compatibility. Constitutional Chamber of the Supreme Court of El Salvador; accumulated cases 52-2003/56-2003/57-2003; April 1, 2004; Section V.3.

\textsuperscript{26} "Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion," UN, General Assembly, *Charter of the United Nations*, June 26, 1945, 1 UNTS XVI, Article 55.

\textsuperscript{27} "All human beings, without distinction as to race, sex, nationality, creed, or social condition, have a right to material wellbeing and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security," OAS, *Organization of American States Charter*, ratified by El Salvador on August 15, 1950, Article 45(a).

\textsuperscript{28} "All persons are equal before the law... without distinction as to race, sex, language, creed or any other factor," OAS, *American Declaration of the Rights and Duties of Man*, adopted on April 1948, Article 2.

\textsuperscript{29} "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind," UN, *Universal Declaration of Human Rights*, adopted on December 10, 1948, Article 2.


\textsuperscript{32} UN, General Assembly, *International Covenant on Economic, Social and Cultural Rights*, ratified by El Salvador on November 30, 1979, Articles 2(3) and 3.

\textsuperscript{33} UN, General Assembly, *Convention on the Elimination of All Forms of Discrimination against Women*, ratified by El Salvador on August 19, 1981, Article 1. Defining discrimination as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment
against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)\textsuperscript{34} likewise include non-discrimination provisions. As recognized by the UN Human Rights Committee and the IACtHR, non-discrimination is inextricably tied to equality before and equal protection of the law.\textsuperscript{15}

As a party to these treaties, El Salvador is obligated to prevent and redress discrimination by State and non-State actors.\textsuperscript{36} When acts of discrimination do occur, the State must take appropriate measures to attain redress for victims. \textsuperscript{37}

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\footnotesize
or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."
\textsuperscript{34} UN, General Assembly, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, accession by El Salvador on June 17, 1996, Article 1(1). Defining torture as "severe pain or suffering... intentionally inflicted on a person... for any reason based on discrimination of any kind."
\textsuperscript{35} UN Human Rights Committee, CCPR General Comment No. 18: Non-discrimination, November 10, 1989 ("Non-discrimination, together with equality before the law and equal protection of the law without any discrimination, constitute a basic and general principle relating to the protection of human rights."). I/A Court H.R., Case of Atala Riffo and daughters v. Chile. Merits, Reparations and Costs. Judgment of February 24, 2012. Series C No. 238, para. 78: "Regarding the principle of equality before the law and non-discrimination, the Court has stated that "the notion of equality springs directly from the oneness of the human family and is linked to the essential dignity of the individual. That principle cannot be reconciled with the notion that a given group has the right to privileged treatment because of its perceived superiority. It is equally irreconcilable with that notion to characterize a group as inferior and treat it with hostility or otherwise subject it to discrimination in the enjoyment of rights which are accorded to others not so classified." The Court's case law has also indicated that at the present stage of development of international law, the fundamental principle of equality and non-discrimination has entered the realm of jus cogens.
\textsuperscript{36} International Commission of Jurists, Sexual Orientation, Gender Identity and International Human Rights Law, at 26.
\end{flushright}
Protection of Sexual Orientation and Gender Identity

The protections of international law, including non-discrimination provisions, extend to sexual orientation and gender identity. The Yogyakarta Principles enshrine this consensus and serve as an interpretive aid to international human rights treaties.\(^38\) Other instruments, such as the Inter-American Convention against All Forms of Discrimination and Intolerance, specifically prohibit discrimination based on an individual's sexual orientation or gender identity.\(^39\)

Although the treaties binding El Salvador do not explicitly reference sexual orientation or gender identity, decisions by international courts and treaty bodies support the application of non-discrimination provisions to sexual orientation and gender identity. The ICCPR and ICESCR prohibit discrimination based on "race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."\(^40\) In Toonen v. Australia, the UN Human Rights Committee held that the inclusion of "sex" in article 26 of the ICCPR requires states to protect against discrimination on the basis of sexual orientation.\(^41\) Subsequently, the UN Committee on Economic, Social and Cultural Rights recognized sexual orientation and gender identity as covered by the ICESCR’s non-discrimination clause under "other status."\(^42\) The American Convention’s non-discrimination provision mirrors those of the ICCPR and the ICESCR, but uses "any other social condition"\(^43\) rather than "other status"; in Atala Riffo y Niñas v. Chile, the IACHR held that "social condition" includes sexual orientation and gender identity.\(^44\)

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\(^{39}\) OAS, **Inter-American Convention against All Forms of Discrimination and Intolerance**, adopted on June 5, 2013, El Salvador is a party to this convention, Article 1.


\(^{41}\) Toonen v. Australia, CCPR/C/50/D/488/1992, UN Human Rights Committee (1994); see also, International Detention Coalition, **Position Paper LGBTI Persons in Immigration Detention**, at 17; Redactrans, **The Night is Another Country**, at citation 3, para. 8.7.


\(^{44}\) I/A Court H.R., **Case of Atala Riffo and daughters v. Chile. Merits, Reparations and Costs. Judgment of February 24, 2012. Series C No. 239**, para. 91. In the wake of these precedents, international bodies increasingly recognized the significance of sexual orientation and gender identity to the implementation of human rights law. The committee charged with monitoring the application of CEDAW acknowledged that discrimination against women "based on sex and gender is inextricably linked with other factors that affect women, such as sexual orientation and gender identity." UN Committee on the Elimination of Discrimination against Women, **General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women**, (2010), CEDAW/C/GC/28.
Right to Personal Security and Integrity

The right to security and personal integrity is guaranteed by the ICCPR and the American Convention. This most fundamental of human rights is directly implicated when State actors commit violence, including extrajudicial killings, corrective rape, and other forms of physical and sexual violence, against people. Under article 27 of the American Convention, states may not suspend these guarantees “in time of war, public danger, or other emergency.”

Torture and Cruel, Inhuman, or Degrading Treatment or Punishment

Torture and cruel, inhuman, or degrading treatment or punishment are explicitly prohibited by the ICCPR, the American Convention, the CAT, and the Inter-American Convention to Prevent and Punish Torture (Inter-American Convention against Torture). Under the CAT, torture is defined as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person” for the purposes of coercion or discrimination of any kind “by or at the instigation of or with the consent or acquiescence of a public official or other person acting in


48 The IACHR has adopted a definition of “corrective rape” as a “hate crime in which an individual is raped because of their perceived sexual or gender orientation, with the intended consequence of the rape being to ‘correct’ the individual’s orientation or make them ‘act’ more like their gender.” “The essence of these crimes is punishment for non-normative sexualities and genders.” These attacks combine “a fundamental lack of respect for women, often amounting to misogyny, with deeply-entrenched homophobia.” Inter-American Commission on Human Rights, Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, OAS/Ser.L/VIII.rev.1 Doc. 36, Nov. 12, 2015, paras. 170-171, quoting Keren Lehavot and Tracy L. Simpson, Incorporating Lesbian and Bisexual Women into Women Veterans’ Health Priorities, June 27 2013.

49 OAS, American Convention on Human Rights, ratified by El Salvador on June 20, 1978, Article 27.

50 UN, General Assembly, International Covenant on Civil and Political Rights, ratified by El Salvador on November 30, 1979, Article 7; OAS, American Convention on Human Rights, ratified by El Salvador on June 20, 1978, Article 5. See generally, UN, General Assembly, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, accession by El Salvador on June 17, 1986; OAS, Inter-American Convention to Prevent and Punish Torture, ratified by El Salvador on October 17, 1994.
an official capacity.”\textsuperscript{50} The Inter-American Convention against Torture addresses culpability similarly, but extends the definition of torture to include “methods...intended to obliterate the personality of the victim or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish.”\textsuperscript{51} Violations may occur at any stage of police or military custody and commonly include: rape,\textsuperscript{52} extortion of sexual favors, excessive force, beatings, using firearms to harm or incapacitate victims, forcing victims to publicly strip naked, hostility, humiliation, or verbal abuse.\textsuperscript{53}

Both the CAT and its Inter-American counterpart require states to take proactive steps to train police officers and other officials responsible for persons deprived of liberty to prevent torture or other cruel, inhuman, or degrading treatment or punishment.\textsuperscript{14} In addition, the CAT explicitly mandates that states provide redress and compensation for victims of CAT violations.\textsuperscript{55}

**Deprivation of Liberty**

The ICCPR and the American Convention protect against arbitrary and illegal arrest, detention, or deprivation of liberty.\textsuperscript{56} Due to its “special role as guarantor” in detention facilities, states are obligated to “safeguard the health and welfare of prisoners.”\textsuperscript{57} Conditions that “exceed the inevitable level of suffering inherent in detention” violate detainees’ human rights.\textsuperscript{58} Those who are legally detained are ensured humane treatment and “respect for the inherent dignity of the human person.”\textsuperscript{59} The UN Office of the High Commissioner for Human Rights emphasized that

\textsuperscript{50} UN, General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, accession by El Salvador on June 17, 1996, Article 1.1.

\textsuperscript{51} OAS, *Inter-American Convention to Prevent and Punish Torture*, ratified by El Salvador on October 17, 1994, Article 2.


\textsuperscript{54} UN, General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, accession by El Salvador on June 17, 1996, Article 10; OAS, *Inter-American Convention to Prevent and Punish Torture*, ratified by El Salvador on October 17, 1994, Article 7.

\textsuperscript{55} UN, General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, accession by El Salvador on June 17, 1996, Article 14.


\textsuperscript{59} UN, General Assembly, *International Covenant on Civil and Political Rights*, ratified by El Salvador on Novem-
“states must refrain from arresting or detaining persons on discriminatory grounds, including sexual orientation and gender identity.” These obligations include taking preventive measures to protect those vulnerable to attacks by state agents or third persons, because torture violations are compounded by arbitrary detention.

**Access to Justice and Impunity**

Access to justice is a fundamental element of the effective rule of law. El Salvador has an obligation to exercise due diligence in the prevention, investigation, punishment, and redress of human rights violations committed against its citizens. The UDHR and the ICCPR require states to ensure effective access to justice for all citizens. Regionally, the American Convention on Human Rights, ratified by El Salvador on June 20, 1978, Article 5.

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68 Due diligence includes taking steps to investigate discriminatory motives and ensure that crimes based on sexual orientation or gender identity are investigated. Inter-American Commission on Human Rights, *Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, OAS/Ser.L/VII/rev.1 Doc. 36, Nov. 12, 2015, para. 501-508.


70 The Universal Declaration of Human Rights provides for the right to equality before the law without discrimination, equal protection of the law, and the right to an effective remedy by competent tribunals. UN, General Assembly, *Universal Declaration of Human Rights*, 1948, Art. 7, 8. Furthermore, the International Covenant on Civil and Political Rights, which El Salvador is a party to, establishes that states are bound to “ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy…. UN, General Assembly, *International Covenant on Civil and Political Rights*, December 16, 1966, Art. 2 (entered into force Mar. 23, 1976). The Human Rights Committee has stated that Article 2(3) of the ICCPR “requires that in addition to effective protection of Convention rights States Parties must ensure that individuals also have accessible and effective remedies to vindicate those rights.” Furthermore, Article 14 and Article 26 of
guarantees access to legal recourse and protects the right to a fair trial.\textsuperscript{67} The IACHR has stated that the obligation of a state to “prevent, investigate, punish, and provide reparations” for human rights violations extends to acts of violence based on a person’s sexual orientation or gender identity.\textsuperscript{68}

El Salvador’s obligations to prevent, investigate, punish, and redress human rights violations are wide ranging. The IACHR has emphasized that these obligations include a requirement to adopt all legal, political, administrative, and cultural changes necessary to ensure that violations of the human rights of LGBT people are addressed.\textsuperscript{69} El Salvador’s duty to ensure access to justice begins with diligent investigation.\textsuperscript{70} This duty is especially important when the violation was, or might have been, committed by, or with the aid of, state officials.\textsuperscript{71} All investigations should be serious, impartial, thorough, and effective.\textsuperscript{72} They should not rely on the impetus of the victim, or their next of kin, but should be initiated by the State itself.\textsuperscript{73}


\textsuperscript{69} The UN High Commissioner for Human Rights mandates: “taking legislative and other measures to prohibit, investigate, and prosecute all acts of violence, and incitement to violence, motivated by prejudice and directed at LGBTI persons; providing remedies to victims and protection against reprisals; publicly condemning such acts of violence; and recording statistics of such crimes and the outcomes of investigations, prosecutions, and remedial measures.” Inter-American Commission on Human Rights, \textit{Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, OAS/Ser.L/VII/rev.1 Doc. 36, Nov. 12, 2015}, para. 385, fn. 1110 (citing OHCHR, \textit{Discrimination and Violence against Individuals Based on their Sexual Orientation and Gender Identity, A/HRC/29/23}, May 4, 2015, para. 11). The IACHR has urged a similar measure: “establishing data collection mechanisms to study and assess the extent and tendencies of these types of violence; enacting legal provisions criminalizing violence based on prejudice against non-normative sexual orientations and gender identities, as well as against bodily diversity; pursuing community-based prevention; and designing and implementing comprehensive public education policies and programs to eradicate stereotyping and stigmatization of LGBTI persons.” Inter-American Commission on Human Rights, \textit{Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, OAS/Ser.L/VII/rev.1 Doc. 36, Nov. 12, 2015}, para. 391.

\textsuperscript{70} While this obligation is one of means rather than results, states “must not treat it as a mere formality, preordained to be ineffective.” Inter-American Commission on Human Rights, \textit{Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, OAS/Ser.L/VII/rev.1 Doc. 36, Nov. 12, 2015}, para. 299.


Access to justice includes the right to an effective judicial remedy. The IACHR has described this as a victim’s right “to obtain a judicial investigation conducted by a competent, impartial, and independent tribunal that will establish whether or not a violation has taken place and will set, when appropriate, adequate compensation.” The IACtHR affirmed that states must ensure that “victims or their next of kin have full access and legal standing at all the stages of the investigation and prosecution of those responsible.” These obligations apply to “justice operators,” all State officials who administer the justice system, and must be available both de jure and de facto.

To satisfy its international obligations to respect and protect human rights, El Salvador must ensure that appropriate reparations are provided for all human rights violations. These measures should be “calculated to provide adequate restitution, compensation, and rehabilitation for the victims.”

For El Salvador to live up to its obligation to prevent and combat impunity under the Inter-American System, it must implement the access to justice measures stipulated above. Impunity is defined as “an absence, on the whole, of investigation, prosecution, arrest, trial and conviction of those responsible for violating rights.” The IACtHR has stated that if “the State apparatus
acts in such a way that the violation goes unpunished and the victim’s full enjoyment of such rights is not restored as soon as possible, the State has failed to comply with its duty to ensure the rights of those subject to its jurisdiction."\textsuperscript{81} Failure to prevent and combat impunity fosters repetition, implies that the acts are acceptable, and increases victim’s mistrust of the State, creating a cyclical function whereby impunity raises the likelihood of future violations.\textsuperscript{82}

**DOMESTIC LAW**

**Salvadoran Constitution**

The Constitution of El Salvador guarantees equal protection of the laws\textsuperscript{83} and certain fundamental rights, including life, physical and moral integrity, liberty, security, work, property, honor, and personal and family intimacy.\textsuperscript{84} Under Article 3, civil rights may not be denied on the basis of nationality, race, sex, or religion.\textsuperscript{85} in light of international treaties, the Supreme Court has interpreted this non-discrimination provision to cover sexual orientation.\textsuperscript{86} More generally, the article prohibits arbitrary differentiation, a distinction made in law or policy without reasonable justification.\textsuperscript{87}

**Salvadoran Legislation**

**Amendment to the Salvadoran Criminal Code**

A 2015 amendment to the Salvadoran Criminal Code increased penalties for homicide and verbal assault motivated by prejudice against the victim’s sexual orientation or gender identity or expression.\textsuperscript{88} Homicides are subject to penalties of 20-25 or 25-30 years, depending on


\textsuperscript{84} The right to liberty is also enshrined in articles 4, 8, and 9 of the Constitution of El Salvador.


\textsuperscript{87} Constitutional Chamber of the Supreme Court of El Salvador; 18-2004; December 9, 2009; Section V.1.

\textsuperscript{88} Constitutional Chamber of the Supreme Court of El Salvador; 17-95; December 14, 1995; Section X.

\textsuperscript{89} Hate crime legislation also applies to acts motivated by racial, ethnic, religious, or political prejudice. Legisla-
aggravating factors; those prosecuted as hate crimes are eligible for prison terms of 20-30 or 30-50 years.\textsuperscript{90} Assault sentences, which normally run from one to four years, are increased by up to one third if prosecuted as hate crimes.\textsuperscript{91} These increased penalties do not apply to other crimes, such as battery and rape.

\textbf{Law for a Life Free of Violence for Women}

This statute recognizes and ensures a woman's right to a life free from violence; it institutionalizes policies intended to prevent, prosecute, and punish violence against women, but contains no explicit protections based on sexual orientation or gender identity.\textsuperscript{92} It defines several crimes against women, including femicide and expressions of violence against women,\textsuperscript{93} but ignores physical abuse. It defines institutional violence as an act or omission by any public servant that discriminates against or has the purpose of delaying or impeding the enjoyment of women's rights and freedoms, but establishes no sanctions.\textsuperscript{94}

\textbf{Executive}

On May 4th, 2010, then-President Mauricio Funes enacted Presidential Decree No. 56,\textsuperscript{95} ordering all public offices and agencies in his administration to abstain from any activity, policy, action, or omission resulting in discrimination against any person on the basis of sexual orientation or gender identity.\textsuperscript{96} All heads of public offices were required to review their policies, programs, and projects and adopt any necessary modifications to prevent direct or indirect discrimination on the basis of sexual orientation or gender identity.\textsuperscript{97}

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\textsuperscript{90} Legislative Assembly of El Salvador; decree No. 106 – Amendments to the Criminal Code; September 3, 2015; articles 1 and 2.
\textsuperscript{93} Legislative Assembly of El Salvador; Decree 520 – Law for a Life Free of Violence Life for Women; December 14, 2010; article 1.
\textsuperscript{94} Legislative Assembly of El Salvador; Decree 520 – Law for a Life Free of Violence Life for Women; December 14, 2010; at articles 46 and 55.
\textsuperscript{96} The President of El Salvador is empowered by article 163 of the Constitution to issue presidential decrees within the limits demarked by the Constitution. Constituent Assembly of El Salvador, Constitution of El Salvador; article 163.
\textsuperscript{97} Presidential Decree 56 (2010); Dispositions to avoid all forms of discrimination in the public administration based on gender identity and/or sexual orientation; May 4th 2010.
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The decree has limited application due to its status under Salvadoran law. It only applies to executive branch agencies and public officers. Furthermore, there are no sanctions or legal consequences to public servants that refuse to follow the decree.

**LGBT Specific State Initiatives**

**Secretariat of Social Inclusion – Directorate of Sexual Diversity**

The Secretariat of Social Inclusion, an office in the executive branch, is charged with: promoting social inclusion, eliminating all forms of discrimination, advancing human rights policies, and advising the president on non-discrimination and inclusion.  

The Directorate of Sexual Diversity, located within the Secretariat, aims to eliminate discrimination by increasing awareness and understanding of the LGBT community, advancing pro-LGBT public policies, and creating environments free from LGBT-phobia. Dr. Vanda Pignato, the current Secretary of Social Inclusion and former first lady of El Salvador, launched a 24-hour hotline that is intended to provide counselling to LGBT people.

**Permanent Roundtable on Human Rights of LGBT Population**

The Office of the Human Rights Ombudsperson supervises the fulfillment of human rights obligations in El Salvador, particularly with respect to executive action. The Ombudsperson is empowered to advance legal and other forms of recourse to protect human rights. In order to pursue this mandate, the office hosts the Permanent Roundtable on Human Rights of the LGBTI population, which brings civil society organizations and activists together to devise and advance an agenda that will facilitate the enjoyment of fundamental rights by the LGBTI population.

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99 Council of Ministers of El Salvador; Internal Rules of the Executive Branch; April 18th, 1989 Arts. 53-A and 53-B.


102 Legislative Assembly of El Salvador, decree no. 183 – Ley de la Procuraduría de los Derechos Humanos (Ombudsperson’s Office Law); February 20, 1992; article 113. Constituent Assembly of El Salvador, Constitution of El Salvador, article 194.1.4.

Use of Military in Law Enforcement

The Chapultepec Agreement, which brought an end to the Salvadoran Civil War in 1992, set forth the principles that govern the Salvadoran armed forces in peacetime. The mission of the military is to “defend the sovereignty of the State and the integrity of its territory” from external threat.\(^{104}\) The Agreement deems “security” outside the constitutional competence of the armed forces.\(^{105}\) The military are to play a role in law enforcement “only in very exceptional circumstances, where the normal means have been exhausted.”\(^{106}\) In all its endeavors, armed forces operations must “be consistent with the principles deriving from the rule of law, the primacy of the dignity of the human person and respect for human rights.”\(^{107}\) The training of members of the armed forces must “emphasize the pre-eminence of human dignity and democratic values” and “respect for human rights.”\(^{108}\)

The President is empowered under article 168, section 12 of the Salvadoran Constitution to deploy the armed forces “for the maintenance of internal peace, tranquility and public safety”; (i) in “exceptional” circumstances; (ii) when the “ordinary means” for maintaining security have been exhausted; (iii) the use of the armed forces must be “limited to the time and to the extent strictly necessary for the restoration of order and shall cease as soon as that task has been achieved”; and (iv) the President must keep the Legislative Assembly informed of executive actions.\(^{109}\) President Funes invoked this provision in Executive Decree No. 60 in September 2009 to establish joint PNC and military patrols for “prevention, deterrence and apprehension of criminals throughout the national territory.”\(^{110}\) The decree was renewed for the ninth time in December 2016, extending its validity through December 31, 2017.\(^{111}\)

\(^{104}\) Chapultepec Agreement, Ch.1, Sec. 1, Para. A; similar language appears in the Salvadoran Constitution, Art. 212.
\(^{105}\) Chapultepec Agreement, Ch.1, Sec. 1, Para. E.
\(^{106}\) Chapultepec Agreement, Ch.1, Sec. 1, Para. F.
\(^{107}\) Chapultepec Agreement, Ch.1, Sec. 1, Para. B.
\(^{108}\) Chapultepec Agreement Ch.1, Sec. 2.
\(^{109}\) Salvadoran Constitution, Art. 168, Sec. 12.
\(^{110}\) Executive Decree No. 60 (Sep 2009).
\(^{111}\) Executive Decree No. 60 (Sep 2009) as amended by Executive Decree No. 68 (Dec 2016).
CONTEXT & BACKGROUND

SITUATION OF VIOLENCE FOR ALL SALVADORANS

“We are supposed to be celebrating the peace, but what peace?”

— Mónica Hernández, on the 25th anniversary of the signing of the peace accords.112

For twelve years following El Salvador’s 1979 coup,113 the military junta, aided by the United States government,114 fought against populist guerilla forces in a civil war that ultimately claimed over 75,000 lives.115 The civil war was marked by institutional violence fueled by impunity that persisted as the military junta employed scorched-earth policies against the leftist guerillas and anyone they thought might support them.116 At the end of the war, the Truth Commission for El Salvador reported that almost 85% of the 22,000 complaints they received were attributed to State agents, allied paramilitary groups, and death squads, with Armed Forces personnel accused in almost 60% of complaints.117 Military officers were implicated in human rights violations ranging from large-scale massacres118 to forced disappearances of children.119 With assistance from the United Nations, the Salvadoran government and the leftist coalition signed the Peace Accords, resulting in a reduction of the role of the armed forces and the creation of a civilian police force (the PNC).120

112 Interview with Mónica Hernández, San Salvador, Jan. 11, 2017(Estamos celebrando los 25 años de los acuerdos de paz, pero ¿de qué paz podemos hablar?)


120 Chapultepec Agreement, Ch.1, Sec. 4, and Ch. 2, Sec. 2, Para B.
Twenty-five years later, El Salvador is plagued by conflict of a different kind. The country has one of the highest homicide rates in the world.\textsuperscript{121} Violence is the leading cause of death among Salvadoran women between fifteen and forty-four years old.\textsuperscript{122} Much of this violence can be attributed to gangs or to the security and paramilitary forces fighting them.

During the post-war era, expatriate gang members deported back to El Salvador by the United States brought the organization and skills necessary to consolidate gangs and attain significant power.\textsuperscript{123} In response, the government expanded the law enforcement authority of both civilian and military forces as part of the Mano Dura ("firm hand") anti-gang policies. While the 1992 peace accords envisioned a traditional distinction between the military and the police force,\textsuperscript{124} the Constitution allows the president to employ the military in internal law enforcement in extreme situations.\textsuperscript{125} Beginning in 2009, then President Funes exercised these powers through Executive Decree No. 60, since renewed nine times by himself and his successor, President Salvador Sánchez Cerén.\textsuperscript{126} Several renewals have included amendments expanding the military’s police functions. Today, soldiers are primarily employed in joint PNC/military patrols in areas of high gang activity and are also responsible for the external security of many of El Salvador’s prisons.\textsuperscript{127}

Executive Decree No. 60 resulted in a dramatic rise in the number of soldiers engaged in law enforcement, from approximately 1,975 in 2008 to 6,500 in 2009.\textsuperscript{128} As more soldiers were deployed in internal policing between 2009 and 2011, complaints filed against members of the military increased by 53.7%.\textsuperscript{129} By September 2015, 7,900 soldiers were carrying out police

\textsuperscript{124} Chapultepec Agreement, Ch.1, Sec. 1, Para. A.
\textsuperscript{125} Salvadoran Constitution, Art. 168, Sec. 12.
\textsuperscript{126} Executive Decree No. 60, Sep. 2009.
\textsuperscript{127} Executive Decree No. 60, Sep 2009, as amended by Executive Decree No. 88, Dec 2016, article 1.
functions, along with approximately 23,000 police officers. The Ombudsperson's Office (PDDH) reported that 68% of the human rights complaints they received between June 2015 and May 2016 were committed by the PNC or the military.

Given the atmosphere of heightened violence, prevalence of organized crime, and 94% impunity rate for homicides, Salvadoran authorities often explain the violence experienced by LGBT people as commensurate with the experience of the heterosexual, cisgender general population. It is impossible, with current data, to say with certainty whether this is true. However, virtually every LGBT person interviewed reported instances of violence perpetrated against them by state and/or private actors. Murders of LGBT people are often marked by a level of brutality that reveals the hate and dehumanization motivating the crimes. These homicides are characterized by signs of torture, including severe beating, dismemberment, multiple stab wounds, and multiple gunshots. Lesbian, gay, bisexual, and transgender interviewees told researchers they live in a constant state of fear, worrying about when the next threat will arise. In 2014 and 2015, 60 LGBT people left the country to escape violence; in the first three months of 2017, fueled by the murders of three transgender women, 29 LGBT people have fled El Salvador.

133 Roque Planas, How El Salvador Became the World's Most Violent Peacetime Country, WorldPost, Mar. 4, 2016, available at: http://www.huffingtonpost.com/entry/el-salvador-most-violent-country_us_56d9e239e4b0000de4047fbe, accessed on March 24, 2017. Government interviewees reminded researchers that the generalized levels of violence contribute to victimization of all Salvadorans, including those who identify as LGBT.
DISCRIMINATION AGAINST LGBT SALVADORANS IN ALL ASPECTS OF LIFE

“As transgender women we have no way of fighting back. Without access to healthcare, education, or work, it’s as if they cut off our arms and legs.”

– Graciela, a transgender woman

While the government has made some advances in the last few years to address discrimination and violence faced by LGBT people, including the hate crimes amendment to the Criminal Code, Presidential Decree No. 56, the establishment of the Directorate for Sexual Diversity, and the Permanent Forum for Human Rights for the LGBT Population, these initiatives either lack enforcement mechanisms or satisfactory implementation. As one transgender woman put it, “I feel like the government is a group that wants to put down the whole LGBT community. They want to act like we don’t exist, but we do exist.”

LGBT Salvadorans often have difficulties accessing the healthcare services they need. LGBT people have reported that, once their gender identity or sexual orientation is known, they are forced to wait for long periods of time before receiving care, or are denied treatment outright. For transgender persons, discrimination occurs when medical personnel refuse to call them by their names and insist on using the mis-gendered name printed on their identification documents. Because of their exclusion from the healthcare system, transgender persons in El Salvador cannot safely access hormone treatment, so some resort to risky self-medication to change their appearance. For lesbian women, gynecological services can be difficult to access because doctors refuse to treat them, telling them they do not need any care because they do not have sex with men. In extreme cases, lesbian women have experienced sexual abuse while attempting to access healthcare.

137 Interview with Graciela, pseudonym, San Salvador, Jan. 10, 2017. (Aquí en el país las mujeres transgénero no tenemos como poder luchar, se nos cierran muchas puertas. No tener acceso a la salud, a la educación, no tener acceso al trabajo es como si nos cortan los brazos y las piernas.)
138 Interview with Graciela, pseudonym, San Salvador, Jan. 10, 2017. (Creo que el gobierno es un conjunto en el cual se proponen que las personas LGBT no crezcamos. Nos quieren hacer como que no existimos. Mas sin embargo sí existimos.)
140 Interview with Maybel, pseudonym, San Salvador, Jan. 11, 2017.
141 Interviews with Maybel, pseudonym, San Salvador, Jan. 11, 2017; Rafael Isidoro, pseudonym, San Salvador, Jan. 9, 2017.
142 Interview with Wendy Castillo, San Salvador, Jan. 9, 2017.
Discrimination against LGBT people in the Salvadoran education system takes many forms. Interviewees reported being formally or constructively prevented from attending all levels of schooling. Many faced discrimination by teachers and administrators, including being expelled, being coerced into wearing clothing that correlated to their sex assigned at birth, and only being permitted to participate in night school. Ambar Alfaro, a transgender woman who attended the National Institute for Off-campus Education of Colonia Miramar, ultimately withdrew from her studies due to the discrimination she faced. An Institute professor insisted on identifying Ambar by the male name in her identification document, and the director told her she would not be allowed to graduate unless she adopted a more masculine appearance in her school picture. Victor Manuel, a transgender gay man, was forced to quit medical school after he was seen with his partner and then began receiving death threats.

Without access to education, LGBT people in El Salvador are precluded from pursuing employment in their field of choice. Those who support themselves through alternative or informal means, including street vending and sex work, are more exposed to law enforcement, gangs, and other perpetrators of violence. In a 2013 Inter-American Commission on Human Rights (IACHR) hearing, civil society organizations (CSOs) reported that three transgender women who engaged in sex work were ab ducted and murdered. Barriers to entering the formal labor market are particularly high for transgender women. As one interviewee explained, "They offer you three jobs as a transgender woman: working at the grocery store, as a hairdresser, and as a sex worker."

145 Attending school at night increases the chance that an individual will become a victim of a crime. In some places in the country, gangs have instituted a curfew for those living in areas they control.
152 Interview with Deisy, San Salvador, Jan. 10, 2017. (Como mujer trans te ofrecen tres trabajos: trabajar en el mercado, como estilista, y realizar trabajo sexual.)
Those who manage to secure stable employment find it difficult to keep. Daniela, a transgender woman trained as a nurse, was fired from two jobs after her former employers complained that her identity made patients uncomfortable. There are no laws in El Salvador that prohibit employment discrimination against individuals based on their sexual orientation or gender identity.

ALEX PEÑA

“I need justice. I want the officers who did this to be jailed so people know hate crimes will be punished.”

– Alex Peña

One of the most well-known cases of violence inflicted by Salvadoran law enforcement against a member of the LGBT community is that of Alex Peña. Alex is a transgender man, a Municipal Police (CAM) officer, and an activist in the LGBT community. In June 2015, on his way home from a pride celebration, Alex exchanged heated words with a bus driver. The driver stopped near a police station and called over officers standing outside. When Alex got off the bus, he was confronted by seven National Police (PNC) officers, some of whom were off-duty. They put Alex in a headlock and beat him, kicking him repeatedly in the head and ribs. Eventually, eight more officers joined the attack, which left Alex unconscious with a fractured eye-socket and jaw. The officers moved him into the station, holding him on the pretense that he had assaulted an officer. They left Alex face down on the floor, handcuffed and with his feet tied together.

Once he regained consciousness, the police stood on his head and began kicking him in the ribs, yelling, “Don’t you say you’re a man?” Alex begged them to leave him alone because he “felt like [he] was going to pass out again.” They told him, “You’re going to die here, you son of a bitch.

155 Interview with Alex Peña, San Salvador, Jan, 13, 2017. Unless otherwise sourced, all information in this section is from this interview.
157 Interview with Alex Peña, San Salvador, Jan, 13, 2017. ¿No decís que vos hombre, pues?
158 Interview with Alex Peña, San Salvador, Jan, 13, 2017. (Les empecé a suplicar porque sentía que me iba a desmayar.)
Tomorrow you’re going to be another death by the gangs.”159 One officer repeatedly pulled him up by his hair and asked him whether he was a man; whatever his response, the officer smashed his face against the floor. Alex “had no hope at that point. I felt there was no hope left. But the last thing they saw of me was not going to be me begging for anything.”160

As news spread of Alex’s detention, several LGBT activists rushed to the police station.161 From where they stood, they could see him swaying back and forth, struggling to stay conscious.162 Villy Rivera, Karla Avelar, and William Hernández identified themselves as LGBT human rights defenders and friends of Alex and demanded to speak to him.163 The officer in charge said he did not care who they were or what work they did, and told them to leave.164

When senior officials from the Human Rights Ombudsman’s Office (PDDH) and the PNC arrived and told the police to take Alex to the hospital, they loaded him in the back of a police pickup truck.165 Despite an officer’s threat to shoot up their car, Alex’s friends followed.166 They watched as the police continued to beat Alex, driving so erratically that his body was bouncing above the sides of the truck bed.167 An officer told Alex, “because of your faggot friends it’s going to be worse for you.”168

The same police officers who beat and abused Alex were responsible for guarding him at the hospital. Doctors treated his broken jaw, fractured eye socket, and other serious injuries with surgery, prescription antibiotics, and pain medication. Under police pressure, the hospital discharged Alex the following morning.169 The police transported him to a detention center, but refused to disclose Alex’s location to his friends or the human rights officials.170 He was held in jail for several more days without access to the antibiotics and pain medications he had been prescribed. Even after a month of recovery, Alex had bloodshot eyes, difficulty eating solids, and painful neck spasms.171

158 Interview with Alex Peña, San Salvador, Jan. 13, 2017. (Me decían: “Aquí te vas a morir, hijo de puta. Mañana sos una muerte más de los pandilleros.”)
159 Interview with Alex Peña, San Salvador, Jan. 13, 2017. (Esperanza yo no tenía. Yo sentía que ya no había esperanza. Y que lo último que ellos vieran de mí, no me iban a ver suplicarles nada.)
164 Interview with Villy Rivera, San Salvador, Jan. 12, 2017.
165 Interview with Villy Rivera, San Salvador, Jan. 12, 2017.
168 Interview with Villy Rivera, San Salvador, Jan. 12, 2017. (Por culpa de esos tus amigos culeros te va a ir peor.)
A few days after he was brutally beaten, Alex appeared at a hearing on charges that he had assaulted one of the offending officers. Even the judge found it “laughable” that Alex, visibly injured and confined to a wheelchair, was being accused of perpetrating a crime against an unscathed “victim.” However, the public defender assigned to Alex’s case pushed him to accept a plea deal and admit guilt. The attorney told him that if the prosecutors had let the case go this far, they probably did not believe his story, which did not bode well for his case against the police. Undeterred, Alex persisted and was acquitted of the charges.

Alex’s acquittal cleared the way for his case against the officers, which began in November 2016. After an investigation by the police disciplinary unit, the PNC referred the case to the Fiscally (public prosecutor’s office) for further investigation and possible indictment. FESPAD, a legal aid provider representing Alex, met with prosecutors who told the organization they had been ordered to “file”—or shelve—the case. Alex had to threaten a lawsuit to pressure the Fiscalía to pursue charges. He continued to face resistance from the attorneys responsible for seeking justice on his behalf; one asked, “[w]hy are you going to convict police officers to defend faggots?” Attorneys from FESPAD had to supervise every step of the officers’ trial because the prosecutors intentionally, or negligently, failed to introduce crucial evidence.  

Of the roughly 15 officers involved in brutally beating and detaining Alex, charges were filed against the seven that Alex could recognize. A judge dismissed charges against three in the first stage and one was acquitted. Two of the remaining three officers were convicted and sentenced. The main perpetrator and instigator of the attack escaped prosecution when the juez de información (information judge) left his name off charging documents in the second stage of the case. Charges against him are still pending in the Fiscalía; he remains employed by the PNC.  

Alex’s story is severe, but all too common. Lesbian, gay, bisexual, and transgender people are routinely harassed and physically abused by law enforcement officers. Unfortunately, few victims achieve any kind of justice or redress. Because of the support of human rights defenders and sympathetic government officials, Alex survived and was able to hold some of his attackers accountable. His case is the only example identified by government officials of a successful prosecution of a hate crime committed by law enforcement against an LGBT person.

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172 Interview with Villy Rivera, San Salvador, Jan. 12, 2017. (El juez dijo que era “risible estar viendo a ustedes los ofendidos, y a usted que es el agresor, y aquí al que veo más golpeado es él.”)  
173 Interview with FESPAD, San Salvador, Jan. 12, 2017. (Miren, ya tengo órdenes de mi jefe de archivar este proceso.)  
175 The juez de información (information judge) refused to call Alex by his name, referring to him by the female name on his ID. The judge has since been transferred due to evidence of corruption. Interview with FESPAD, San Salvador, Jan. 12, 2017.  
FINDINGS

HUMAN RIGHTS DEFENDERS

LGBT activists face violence and discrimination from State actors that is often unpunished. These violations impede the work of human rights defenders and have a directly negative effect on the promotion of human rights.

Legal Summary

El Salvador has a special duty to protect human rights defenders, which includes those defending the rights of LGBT persons. The United Nations Declaration on Defenders states “everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.” In the Inter-American system, both the Inter-American Court of Human Rights (IACtHR) and the Inter-American Commission on Human Rights (IACHR) have recognized the right to defend human rights, and the IACHR has established a rapporteurship on human rights defenders.

Any person who “promotes or seeks the realization of human rights and fundamental freedoms, nationally or internationally” is considered a human rights defender. This definition

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179 While the Declaration on Defenders is a non-binding instrument, it contains rights that are encapsulated in other binding international instruments, such as the International Covenant on Civil and Political Rights. The Declaration on Defenders was also adopted by consensus by the General Assembly, representing a strong commitment to its implementation. UN, General Assembly, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted on December 9, 1998, A/Res/52/144, March 8, 1999, Article 1; United Nations Human Rights Office of the High Commissioner, Declaration on Human Rights Defenders, available at: http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx, accessed on March 24, 2017.


encompasses any person or group, paid or volunteering, of any gender, profession, or background, in the public or private sector.182 Defenders protect both unquestioned and nascent civil, political, economic, social, and cultural rights.184

Violence against activists can have the effect of discouraging the defense and promotion of human rights.185 Under Kavas-Fernández v. Honduras, states are obligated “to provide the necessary means for human rights defenders to conduct their activities freely; to protect them when they are subject to threats in order to ward off any attempt on their life or safety; to refrain from placing restrictions that would hinder the performance of their work, and to conduct serious and effective investigations of any violations against them, thus preventing impunity.”186 Specifically, the IACtHR has held that fear caused by the murder of a defender as a result of their advocacy work can stifle the ability of others to defend human rights.187

Reports from the IACHR recognize that LGBT human rights defenders face specific threats, in addition to those faced by all defenders.188 LGBT defenders commonly face aggression.
harassment, threats, and smear campaigns by State and non-State actors. Investigators often fail to correctly identify victims, misclassify crimes against LGBT persons, or ignore the intersectional vulnerabilities of human rights defenders and LGBT persons. States undermine the work of LGBT defenders by criminalizing or refusing to recognize their work. As such, El Salvador must provide protections that address the unique and specific threats to those defending the human rights of LGBT persons.

Violations of the Rights of Human Rights Defenders

Government actors have targeted human rights defenders and non-governmental organizations (NGOs) that advance the rights of LGBT people, effectively restricting their ability to work. As Wendy Castillo, a lesbian activist at ASPIDH, stated, "Everyone here is vulnerable to violence, not only the LGBT community. But [activists] are more vulnerable because we denounce acts of violence on television, on the radio, through protests, and before the [Legislative] Assembly."
State actors have inhibited the work of LGBT rights defenders through: raids of NGO offices, heightened policing of NGO members, disrespect for LGBT rights defenders and their work, and violence or threats against known LGBT rights defenders.

Law enforcement has invaded, or attempted to invade, the offices of organizations that defend the rights of LGBT persons on three reported occasions. On August 12, 2013, police entered COMCAVIS, a transgender human rights organization, with an allegedly invalid warrant. Officers referenced the organization as a place where illegal activities and prostitution occurred, treated members aggressively, and did not allow members to record police conduct. On February 20, 2015, police attempted to enter ASPIDH, a transgender human rights organization, without a warrant and insulted members of the organization, calling them prostitutes and criminals. On June 29, 2015, following a press conference denouncing the officers who attacked Alex Peña, ESMULES, a lesbian human rights organization, was subject to a suspected police break in.

Law enforcement has subjected NGOs to heightened policing. For approximately four months in the beginning of 2014, soldiers implementing an anti-gang neighborhood checkpoint stopped and patted down all transgender persons who sought to enter ASPIDH, but did not stop and search all other persons in the area. The harassment obstructed ASPIDH from conducting its work, resulting in the organization having to move its headquarters.

Police officers have exhibited disrespectful behavior towards LGBT rights defenders and their work through the use of insulting and dismissive language. Officers have referred to transgender rights NGOs as criminal or prostitution organizations. Refusing to recognize the work of transgender rights organizations as legitimate can stifle their efforts. For instance, Bianca, a transgender woman, was denied a permit to hold a pro-LGBTI rally because, upon presenting her ID, she was told, “That’s not you. Let the person in this picture come.”

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197 Interview with Mónica Hernández, San Salvador, Jan. 11, 2017.
200 Interview with Bianca, pseudonym, San Salvador, Jan. 10, 2017. Incident occurred in San Miguel. (Esa no eres tú. Que venga la persona que está aquí.)
State actors have used violence and threats against LGBT rights defenders, particularly against those who are actively engaged in deterring attacks on LGBT people. The beating and detention of Alex Peña, discussed in detail above, is a striking instance of violence against an activist. Not only that, but when other human rights defenders attempted to intervene to help Alex, they faced threats and harassment themselves. After explaining that they worked in human rights, police responded, “we don’t give a fuck about what you do.” Alex reported that the police “… were all over the street laughing out loud, telling me that ‘this was happening to us because of my faggot friends.’” Wendy Castillo, who assisted Alex, was subsequently followed by police officers. Other activists reported being insulted, threatened, or dismissed when acting as human rights defenders. A member of COMCAVIS had to seek asylum in the United States due to threats from police officers after the raid of their offices.

Far from protecting LGBT rights defenders, these violent and threatening actions inhibit the ability of activists to protect human rights. Further, that these actions go unpunished means those who wish to fight for the rights of LGBT people may not do so out of fear of reprisal from State actors.

**VIOLENCE BY STATE ACTORS: POLICE & ARMED FORCES**

The police beating of Alex Peña made international headlines. As described earlier in this report, fifteen police officers surrounded Alex outside a police station, beat him and taunted him for his identity as a transgender man, arrested him, and continued to abuse him in detention.

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201 Interview with Alex Peña, San Salvador, Jan. 13, 2017.
202 Interview with Villy Rivera, San Salvador, Jan. 12, 2017. (Porque al principio les dijimos: “Trabajamos en Derechos Humanos,” y nos dijeron que les valía verga lo que hicieramos.)
203 Interview with Alex Peña, San Salvador, Jan. 13, 2017. (Ellos por toda la calle riéndose, diciéndome que por mis amigos culeros estábamos así.)
204 Interview with Wendy Castillo, San Salvador, Jan. 9, 2017.
205 Juana, pseudonym, a transgender woman, reported that a police officer responded to her identifying as a human rights defender by saying that they didn’t care and that “people like you are the first ones to die and I myself can be the one who kills you.” (Las personas como vos sois los primeros que se mueren y yo mismo puedo ser el que te mate). Interview with Juana, pseudonym, San Salvador, Jan. 10, 2017 (Incident occurred in 2016, in La Libertad department and was reported to the PDDHi; see also, interview with Catalina, pseudonym, San Salvador, Jan. 9, 2017.
208 Interview with Alex Peña, San Salvador, Jan. 13, 2017.
Alex Peña’s story is far from isolated. In fact, it embodies many of the patterns of law enforcement violence revealed to be a part of the regular existence of LGBT people in El Salvador. According to interviews conducted for this report, law enforcement officers, both police and members of the military exercising police powers, target LGBT people for violence, inflict hateful violence in public, and many times move the violence to a private location, often a police station, where the abuse can escalate.

Almost every LGBT individual interviewed recalled numerous instances in which they were victimized by law enforcement officers, but such violence has become so normalized that most of the interviewees only had time to report their worst experiences. Their stories revealed that members of the military engaged in law enforcement, a practice the Salvadoran government has been escalating since 2009, are committing violent acts against LGBT people. The interviews further revealed patterns in how law enforcement violence begins, and in the types of violence that law enforcement subject LGBT people to. Interviews also revealed that, while there is some disagreement within the LGBT community as to the effectiveness of police training to date, sensitization of law enforcement seems to have had some, if limited, impact.

Legal Summary

As described above, under international law, El Salvador has a duty to ensure that police and soldiers employed in law enforcement adhere to international human rights standards, including the duties to respect and ensure non-discrimination, personal integrity, freedom from inhumane or degrading treatment, and the prohibition on arbitrary detention. El Salvador’s duty to prevent human rights abuses by police and military includes training these actors on human rights.

While the Constitution of El Salvador defines the military’s mission as defending the state from external threats, article 168 gives the President the authority to use the armed forces for internal security under “exceptional” circumstances where the civilian system has been “exhausted.” The military is only to be used in this way for a limited time and only so far as is

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20 The term “law enforcement” is used to refer to all state actors who exercise police powers, including members of the military and the police. The term “police” refers to members of the PNC or CAM.


necessary to "re-establish order." In 2009, then President Mauricio Funes issued Executive Decree No. 60, invoking article 168 of the Constitution, to deploy members of the military to support the National Civil Police (PNC) in internal security. The decree has been renewed nine times by Funes and his successor, current President Salvador Sánchez Cerén, all the while expanding the military’s police functions through a succession of amendments.

The Constitution of El Salvador enshrines the rights to life, physical integrity, and liberty, among others, and establishes the obligation of the police to fulfill its duties in full respect of human rights. Under the police’s organic law, one of the functions of the police is to protect and guarantee the free exercise of the rights and liberties of all the persons in the national territory, and to protect the human dignity, as well as maintain and defend the human rights, of all persons. While the military’s organic statute does not mention human rights, the Ministry of National Defense has a specific office targeting military members that provides training on, and investigates allegations of, human rights abuses.

Civilian criminal statutes prohibiting crimes such as rape apply equally to members of the police and military. So do the heightened penalties for hate crimes in articles 129 and 155 of the Salvadoran Criminal Code, which lengthen the sentences given for killing or threatening someone because of their sexual orientation, race, ethnicity, religion, political affiliation or gender. Because the Ministry of National Defense and the PNC are executive agencies, Presidential Decree No. 56, which prohibits discrimination on the basis of sexual orientation or gender identity by executive agencies, applies to members of the military and the PNC.

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216 Executive Decree No. 60, Sep. 2009.
217 Executive Decree No. 60, Sep 2009, as amended by Executive Decree No. 68, Dec 2016, article 1.
219 Legislative Assembly of El Salvador; Organic Law of the National Civil Police; December 6, 2001; article 4, section 2.
220 Legislative Assembly of El Salvador; Organic Law of the National Civil Police; December 6, 2001; article 13, section 2.
223 Presidential Decree No. 56, 2010; Dispositions to avoid all forms of discrimination in the public administration base on gender identity and/or sexual orientation; May 4th 2010.
Military Violence While Engaged in Law Enforcement

“I don’t remember if there were human rights in El Salvador [in 1987] ... It’s the same [today]; the authorities look for ways of attacking you, be it verbally or physically.”

— Meybel, transgender woman victim of military violence, during the civil war and today.224

The research for this report revealed that more extensive use of the military for policing has increased interactions between soldiers and civilians and resulted in incidents where military officers on the streets commit violence against LGBT people.

Previously published reports on violence toward LGBT people in El Salvador have not yet highlighted violence by military officers as a distinct finding.225 However, a wide range of those interviewed for this report recalled violence at the hands of military officers and also overwhelmingly reported that members of the military are more disrespectful and more violent toward them than the police.226 All incidents described below occurred within the last several years, from approximately 2010 to present, corresponding with the rise in the use of military officers for internal law enforcement. In addition, despite being aware of the problem, military officials have not taken adequate steps to address it.

Military Officers Commit Acts of Violence Against LGBT People

Many LGBT people reported that military officers engaged in law enforcement have committed violence against them within the last several years. Much of the violence reported was

224 Interview with Meybel, pseudonym, San Salvador, Jan. 10, 2017. ([Referring to the year 1987] No sé si ya habían derechos humanos aquí en El Salvador. [Answering whether things have changed] Es igual. Autoridades buscan maneras de agredirlo, ya sea verbalmente o físicamente.)
perpetrated by joint PNC/military patrols. This violence has been targeted at LGBT people because of their sexual orientation and/or gender identity. This is clear from statements made by soldiers during the incidents, the types of violence inflicted, the victims’ noticeable gender and/or sexual non-conformity, and an otherwise lack of any legitimate law enforcement purpose for the incident.

Some interviewees live or work in areas with a high military presence, which increases their daily interactions with soldiers and thus increases their vulnerability to violence. One interviewee, Kelvin, a transgender man, lives near one of the largest prisons in El Salvador, an area which also has a high rate of gang activity. Both of these factors have led to a substantial military presence in his neighborhood. Kelvin reported that, since around 2014, he has frequently been stopped by patrols because he has tattoos and piercings, which they allegedly consider indicators of gang affiliation. He also reported that abuse begins not when he is stopped but when soldiers discover that he is transgender.

Interviews also revealed that LGBT people are being targeted for violence because of their sexual orientation and/or gender identity, which is often made clear by what the soldiers say during the incident. For instance, Daniela, a transgender woman, reported that a group of soldiers once stopped her in La Paz Department on her way home from a party. The soldiers made fun of her until one said “leave the faggot,” and then “what we can do is beat the shit out of him and put the rifle in his ass,” and finally proceeded to hit her very hard, threw her to the ground, and kicked her. Several other transgender and travesti people reported being hit with the back of a rifle, hit in the back of the neck, kicked, and severely beaten by military officers or joint PNC/military patrols when their gender identity became apparent.

The violence is often sexually motivated. During one incident, Emilia, a transgender woman, was asked by soldiers at a bus stop for her cell phone. When she refused, they threatened her, said

227 Because of this, further incidents of military violence are detailed in the section that follow on general law enforcement.
228 (See also) the story of soldiers stationed outside the offices of ASPIDH for the first four months of 2014 in the Human Rights Defenders section.
229 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017.
230 Interview with Daniela, pseudonym, San Salvador, Jan. 10, 2017. (Deja al cuero.)
231 Interview with Daniela, pseudonym, San Salvador, Jan. 10, 2017. (No date for the incident was provided. (Lo que podemos hacer es tallegrirlo y meterle el rifle en el culo.)
232 Interview with Daniela, pseudonym, San Salvador, Jan. 10, 2017. (No date for the incident was provided. She did not file a complaint.)
234 Interview with Mina, pseudonym, San Salvador, Jan. 12, 2017.
236 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017.
they would take her to a police station, but then took her to a different location where they raped her.\textsuperscript{237} In another instance, Deisy, a transgender woman sex worker, reported that she had been solicited four times between 2010 and 2013 by soldiers who, after having sex with her, refused to pay. During one of those incidents, the soldier had sex with her while threatening her with a gun. Three of these incidents occurred in San Salvador, the other in Santa Ana.\textsuperscript{238} Many LGBT people also reported soldiers harassing them, for instance by conducting arbitrary and invasive searches,\textsuperscript{239} withholding their IDs,\textsuperscript{240} trying to hit and punch them,\textsuperscript{241} following them,\textsuperscript{242} and insulting them on the street.\textsuperscript{243}

Failure to Address Military Abuses

Despite evidence that military officers are committing human rights violations against LGBT people, interviews with the Ombudsman’s Office (PDDH) and the military reveal that the military is not taking adequate steps to address the issue.

When asked to comment for this report on the allegations of military violence against LGBT people, Lieutenant Colonel Luis Pérez y Pérez, the chief of the human rights department in the legal affairs office at the Ministry of National Defense, denied that there was an issue.\textsuperscript{244} He said that military officers carrying out police duties with the PNC are respectful of international human rights law and that, if violations occur, they are isolated.\textsuperscript{245} Lieutenant Colonel Pérez y Pérez was only able to provide one example of an investigation into a military agent for violating the rights of an LGBT person, which he said concluded that the allegations were false.\textsuperscript{246}

Yet the research for this report revealed that the military has, on several occasions, acknowledged that its officers are being accused of human rights abuses. Senior PDDH Official and LGBTI Roundtable Coordinator Jessica Torres reported that the statistics of the Ombudsman’s Office mark out Armed Forces agents as violators of the right to personal integrity.\textsuperscript{247} When the PDDH has presented this information to military officials, Torres said that the military’s response is to “always complain”\textsuperscript{248} that they are being pointed to when it comes to violations of the right to integrity.\textsuperscript{249} Torres also reported that they conduct sensitization training for soldiers, but recalled

\textsuperscript{237} Interview with Emilia, pseudonym, San Salvador, Jan. 9, 2017.
\textsuperscript{238} Interview with Deisy, pseudonym, San Salvador, Jan. 10, 2017.
\textsuperscript{240} Interview with Valentina, pseudonym, San Salvador, Jan. 11, 2017.
\textsuperscript{241} Interview with Sara, pseudonym, San Salvador, Jan. 11, 2017.
\textsuperscript{242} Interview with Lucía, pseudonym, San Salvador, Jan. 12, 2017.
\textsuperscript{243} Interview with Patricia, pseudonym, San Salvador, Jan. 9, 2017.
\textsuperscript{244} Interview with Luis Pérez y Pérez, Phone Interview, Washington, DC, Feb. 2, 2017.
\textsuperscript{245} Interview with Luis Pérez y Pérez, Phone Interview, Washington, DC, Feb. 2, 2017.
\textsuperscript{246} Interview with Luis Pérez y Pérez, Phone Interview, Washington, DC, Feb. 2, 2017.
\textsuperscript{247} Interview with Jessica Torres, San Salvador, Jan. 13, 2017.
\textsuperscript{248} Interview with Jessica Torres, San Salvador, Jan. 13, 2017. (Siempre se quejan.)
\textsuperscript{249} Interview with Jessica Torres, San Salvador, Jan. 13, 2017.
one soldier asking, in reference to transgender women, “but, look, why do they want to be treated like women if they are men?” Torres opined that the military should not be involved in matters of public security given that they are trained to use force against external threats.

Lieutenant Colonel Pérez y Pérez stated that soldiers who carry out police duties receive general human rights training. They also receive guidelines on when and how they can interact with LGBT civilians, but these guidelines are provided through a presentation and not in writing.

**Law Enforcement Officers Target LGBT People**

Salvadoran police officers and soldiers target LGBT persons for violence because their appearance, expression, or behavior falls outside traditional gender and sexual norms—in other words, because they are lesbian, gay, bisexual, and/or transgender. Transgender women who are sex workers face added vulnerability to harassment and violence by members of the police and military. As is made clear by the details of the following incidents, no factor explains the violent actions of these State actors against this population better than their strong aversion to LGBT people.

**Violent Interactions Based on Sexual Orientation and/or Gender Identity**

The interviews for this report show that police officers and soldiers initiate immediately violent interactions against persons whose appearance, expression, or behavior makes it clear that they are lesbian, gay, bisexual, and/or transgender. These incidents often begin on the streets or in other public areas of El Salvador, like parks and food stalls. Many of the reported incidents involve multiple members of the police and/or military. The researchers found that these State actors sometimes move the interaction to a private and isolated location where they can further escalate the violence into beatings and even rape. The research for this report shows that Salvadoran law enforcement officers sometimes use police stations to commit violence against LGBT persons.

The violence and harassment that law enforcement officers commit ranges from verbal, to physical, to sexual. The verbal harassment is expressly homophobic and transphobic: when driving by seven transgender women on the street in Sonsonate Department, police officers on patrol said “faggots, get out of the way or we’ll run you over”; in another incident outside a pro-LGBT clinic in San Salvador in early 2016, soldiers laughed at the sight of two transgender women exiting a health clinic and said, “these fags want to get themselves killed.” One of the

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250 Interview with Jessica Torres, San Salvador, Jan. 13, 2017. *(Pero, mire, ¿por qué quieren que les traten como mujeres si son hombres?)*


252 Interview with Luis Pérez y Pérez, Phone Interview, Washington, DC, Feb. 2, 2017.


254 Interview with Juana, pseudonym, San Salvador, Jan. 10, 2017. *(Maricones, quítense de aquí o los vamos a atropellar!* (She did not file a complaint.)
women immediately went to a nearby government office and filed a report.\textsuperscript{255} This sort of animus was also exhibited in an incident where law enforcement officers drove by a group of transgender women waiting for the bus and pepper-sprayed them.\textsuperscript{256}

Transgender women who are sex workers are particularly vulnerable to police abuse.\textsuperscript{257} They face routine harassment at night in San Salvador by members of both the PNC and the CAM, who abuse their authority by citing a municipal ordinance\textsuperscript{259} to extort them for free sexual services or a $17 fine in return for not arresting them,\textsuperscript{259} even though the ordinance does not actually establish arrest as a possible penalty.\textsuperscript{260} Police officers sometimes make good on their threats of arrest by detaining transgender women sex workers at police stations for hours on end without charges if they do not immediately pay the fine.\textsuperscript{261} Because the officers engaged in these practices tend to cover their badges, wear ski masks, and leave their police cars behind, it is virtually impossible to identify them in a complaint.\textsuperscript{262}

Larger groups of law enforcement officers will sometimes target groups of people on the street who appear to be lesbian, gay, bisexual, and/or transgender. In one incident, which occurred in a San Salvador suburb in late 2016, seven police officers with covered badges approached a group of friends who identify as travesti having a meal on the street and, after throwing their food on the ground, slapped them hard in the chest (a practice known as pechada), checked their cellphones to make sure they had no gang affiliations, groped, and photographed them in full view of passersby.\textsuperscript{263}

Groups of Salvadoran police officers and soldiers will sometimes choose to move an already violent interaction into a police station where the abuse can escalate further. In a separate incident in a San Salvador suburb in late 2016, a joint police/military squad, of about four police officers and a soldier, detained four travesti friends who were simply eating and watching soccer

\textsuperscript{255} Interview with Blanca, pseudonym, San Salvador, Jan. 10, 2017. (Estos culeros quieren que los maten.).
\textsuperscript{256} Interview with Patricia, pseudonym, San Salvador, Jan. 9, 2017. (Location and date unspecified. She did not file a report.)
\textsuperscript{258} Sex work is not criminalized in El Salvador; however, a San Salvador municipal ordinance lists any public offer of sexual services and public sexual harassment as a “grave infraction.” San Salvador Municipal Mayoralty, Ordinance for Citizen Coexistence in the San Salvador Municipality, Decree 87, December 20, 2011, Article 32.
\textsuperscript{259} Interview with Sara, pseudonym, San Salvador, Jan. 11, 2017. Sara, a transgender woman sex worker, said police officers would harass her for money or sex up to four times per week. (Location and date unspecified.)
\textsuperscript{260} The ordinance does list fines as a possible penalty. San Salvador Municipal Mayoralty, Ordinance for Citizen Coexistence in the San Salvador Municipality, Decree 87, December 20, 2011, Articles 82, 86, and 96.
\textsuperscript{261} Interview with Sara, pseudonym, San Salvador, Jan. 11, 2017. She reported being held for three hours with no charges or explanation and then being released. (Location and date unspecified. She did not file a report.)
\textsuperscript{262} Interview with Sara, pseudonym, San Salvador, Jan. 11, 2017.
\textsuperscript{263} Interview with Lucia, pseudonym, San Salvador, Jan. 12, 2017. (She did not file a report.)
on the street. The joint squad took them to a police station, made them raise their arms and open their legs, slapped them hard in the chest (pechada), and asked one of them to pull up her shirt, allegedly to check for gang tattoos; when she refused, they kicked her. The friends were detained without charges for two hours. In another case, a gay man and some of his friends were hanging out at a local public park when they were detained by police officers, beaten, taken to a police station, and beaten further; when the officers returned them to the park, they threatened to shoot them if they did not leave.

The researchers found that Salvadoran police officers and soldiers repeatedly commit these sorts of violations, at times against the same individual or group. Mina, a travesti individual, reported that on two separate occasions within a five-week period in late 2016, she was beaten on the street, detained, taken to a police station, raped, and beaten further by members of the same joint police-military squad. She and three of her friends (two of them travesti, one of them gay) were drinking sodas and eating churros at their usual street stall hangout in a San Salvador suburb when a group of three police officers and one soldier approached, made them stand up, and proceeded to slap them hard in the chest (pechada). Then, they made them try to eat each other’s fake fingernails, took them to a police station, separated them, and then stripped Mina and tied her to a post, at which point one squad member tried to rape her orally and another anally; when she resisted, they hit her ribs so hard that one of them was nearly fractured. Less than five weeks later, the same group subjected Mina to the same ordeal. She went to a court three times to try to file a report about the first incident but was turned away. She managed to file a report about the second incident.

As described above, in June 2015, a group of Salvadoran police officers beat Alex Peña and repeatedly smashed his face into the floor of the police station, where he was detained after several police officers broke his eye-socket and jaw by kicking him in the head. The practice of using police stations to abuse lesbian, gay, bisexual, and transgender Salvadorans discourages them from turning to law enforcement for help, reinforces the distrust LGBT people, and the general population, have of law enforcement officials, and underscores the extent of the impunity with which members of the police and military violate the rights of those they are supposed to protect.

264 Interview with Rosibel, pseudonym, San Salvador, Jan. 12, 2017. (She did not file a report.)
265 Interview with Francisco and Rodrigo, pseudonyms, San Salvador, Jan. 12, 2017. (Location and date unspecified.)
266 Interview with Mina, pseudonym, San Salvador, Jan. 12, 2017.
267 Mina’s story was corroborated until this point (and no further because they were separated) during an interview with travesti individual Rosibel, pseudonym, San Salvador, Jan. 12, 2017. (She did not file a report.)
268 Interview with Mina, pseudonym, San Salvador, Jan. 12, 2017.
269 See section on Alex Peña above.
270 See section on Access to Justice below.
Violence Committed After Sexual Orientation and/or Gender Identity Becomes Apparent

The researchers found that police officers and soldiers frequently escalate checks for identification or for possible gang tattoos into violent interactions because they realize that the person they have stopped is transgender. The IDs of transgender men and transgender women do not match their gender expression or name, given that Salvadorans cannot change their documents to match their gender identity. For transgender men, their gender identity is also noticed by police officers and soldiers when, to check for gang tattoos, they lift their shirts and see their chest bindings.

Kelvin, a transgender man who lives in a San Salvador suburb, reported that he is frequently stopped by patrols because he has tattoos and piercings, which the patrols consider indicators of gang affiliation; he is then often asked either for his ID or to lift his shirt to reveal his tattoos, and complying with either request shows he is transgender. Invariably, the treatment gets worse at that point. On one occasion in late 2016, Kelvin was walking in his neighborhood when four soldiers and one police officer with face masks, which indicates that they were an anti-gang patrol, whistled at him to come over. After he complied, the soldiers raised his shirt to his neck, revealing his binding. They asked for his ID, which he did not have because a police officer had destroyed it weeks earlier while calling him a “faggot.” When he did not produce his ID, they beat him. He told the researchers, “I just put myself in God’s hands, because when I saw that they covered their faces, that’s when I really got scared.” One of the State actors beating him said, “if you want to be a man, you have to take it like a man.” His interview took place weeks after this incident, and he still had trouble breathing. He did not file a report out of fear of reprisals. He said:

*I have been persecuted by security forces, on so many occasions. Many times when people know about my gender identity then because of discrimination they persecute you even more. They don’t even let you live in peace... People say I should get involved in the [human rights for LGBT people] organization, but sometimes I prefer to simply lock myself up at home—who knows if something will happen to me on the way there.*

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271 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017.
272 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017. (Vos culero sos.)
273 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017. (Lo único que hice fue encomendarme a las manos de Dios, porque cuando vi que se taparon las caras, ahí sí ya me dio más miedo.)
274 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017. (Vos bicho querés ser, como bicho vas a aguantar)
275 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017.
276 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017. (Sinceramente he sido bien asediado, pues, por lo que es la seguridad pública. Ya muchas veces cuando saben mi identidad de género entonces por la discriminación más lo persiguen a uno. No lo dejan a uno ni vivir en paz... A veces me dicen “ven, acércate a la organización,” pero a veces prefiero encerrarme en la casa, quién sabe que en el camino me vaya a pasar algo.)
Similarly, Miguel, a transgender man, reported that he is frequently stopped by police officers on the street and is made to lift his shirt, allegedly to check for gang tattoos; when they see his girdle, the treatment gets worse; they detain and beat him, using lesbian slurs and other obscene gendered language, but they don’t take him into custody.277 The most recent time this happened,278 the police removed his shirt, exposing his girdle and accusing him of carrying drugs in it; they then beat him and split his lip open, telling him that if he is a man, he can put up with this kind of treatment. He does not file reports out of fear of reprisal and because he believes that the police will not investigate such incidents.279 When the researchers asked Miguel why he thought this happens, he said that when you look like a man, it is as if the police have the authority to beat you up.280

In addition to the incident discussed in his separate section of this report, Alex Peña described being assaulted by soldiers because of the mismatch between his ID and his gender expression. On one occasion, three soldiers stopped him in the street; when he provided them with his ID and municipal police badge, they became confused, asking him, “don’t you like to be touched by men?”281 One of them then put his hands around Alex’s neck and choked him.282

The researchers received reports from transgender women that not carrying an ID reduces the probability that law enforcement officers will learn of their transgender identity and thus treat them worse.283 One transgender woman activist also reported that, unlike with her government-issued ID, she passes for cisgender to police when they check her work ID because it accurately reflects her gender identity and because it refers to the civil society organization (CSO) where she works as a human rights organization and not a transgender rights organization.284

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277 Interview with Miguel, pseudonym, San Salvador, Jan. 9, 2017.
278 As of the date of his interview on Jan. 9, 2017.
279 Interview with Miguel, pseudonym, San Salvador, Jan. 9, 2017. (Location and date unspecified.)
280 Interview with Miguel, pseudonym, San Salvador, Jan. 9, 2017.
281 Interview with Alex Peña, San Salvador, Jan. 13, 2017. (¿Y a vos no te gusta que te toquen los hombres?)
282 Interview with Alex Peña, San Salvador, Jan. 13, 2017. (Location and date unspecified.)
283 Interviews with Graciela, pseudonym, San Salvador, Jan. 10, 2017; Natalia, pseudonym, San Salvador, Jan. 10, 2017. This practice is in line with the results of a study conducted by the Salvadoran National Civil Police (PNC) that concluded that 60% of LGBT persons consider that hiding their sexual orientation and/or gender identity is the number one measure they take to minimize the chances of being the victims of violence and crime motivated by their sexual orientation and/or gender identity. Notably, while the number two measure was avoiding dangerous places, the number three measure was avoiding conflicts with the PNC itself. See Informe para la Formulación del Diagnóstico sobre la Atención y Procedimientos dirigidos a la Población LGBTI, slide 16 of 54 (PowerPoint Presentation), Policía Nacional Civil, 2017.
Sexual and Gendered Violence

"Police officers treat us like men to beat us, but when it comes to demanding sexual favors from us, they treat us like women."

– Ambar Alfaro, transgender woman activist, ASPIDH\textsuperscript{285}

The interviews conducted for this report revealed patterns in the types of violence police and military inflict upon LGBT people. These types of violence appear to be tailored to question, correct, or degrade them for their sexual orientation and/or gender identity. Such violence includes sexual violence and gendered violence.

The most common type of violence reported was sexual violence.\textsuperscript{286} A recurring theme in these stories was the hypersexualizing of transgender women and travestis. Ambar Alfaro, the transgender woman activist quoted above, recalled trying to report a robbery to a police officer in La Paz Department in December 2011. The police officer locked himself in a room with her, demanded oral sex, and, upon her refusal, proceeded to masturbate and ejaculate on her feet.\textsuperscript{287} One transgender woman, Valentina, reported that she and her friend were beaten and raped by police officers on their way home from a nightclub.\textsuperscript{288} As told in the section above, Mina, a travesti individual, reported that, in a San Salvador suburb in late 2016, one officer tried to rape him orally while another tried to rape him anally during an arbitrary detention. A month later, the same group of police officers and soldiers detained him a second time, told him that they “wanted to go again,”\textsuperscript{289} and did the same thing. During these incidents, they told him that they were “more attracted to [him] because of [his] body,”\textsuperscript{290} that they “wanted to see if in fact [he] did what they had been told [he] did,”\textsuperscript{291} that they wanted to “be” with him,\textsuperscript{292} and that they “wanted to try [his] lips.”\textsuperscript{293}

Several transgender women and travestis reported that police and soldiers groped them during arbitrary pat downs.\textsuperscript{294} Emilia, a transgender woman, recalled being subject to random pat downs

\textsuperscript{285} Interview with Ambar Alfaro, San Salvador, Jan. 9, 2017. (Los policías nos tratan como hombres para golpear-nos, pero a la hora de exigirnos favores sexuales, nos tratan como mujeres.)

\textsuperscript{286} For more examples, see Emilia and Deisy’s stories in the section on military violence.

\textsuperscript{287} Interview with Ambar Alfaro, San Salvador, Jan. 9, 2017.

\textsuperscript{288} Interview with Valentina, pseudonym, San Salvador, Jan. 11, 2017. (Location and date unspecified.)

\textsuperscript{289} Interview with Mina, pseudonym, San Salvador, Jan. 12, 2017. (Querían otra vez.)

\textsuperscript{290} Interview with Mina, pseudonym, San Salvador, Jan. 12, 2017. (Me dijeron que ya les atraía más por mi cuerpo.)

\textsuperscript{291} Interview with Mina, pseudonym, San Salvador, Jan. 12, 2017. (Que querían ver si en verdad así como le habían contado nosotros hacíamos eso.)

\textsuperscript{292} Interview with Mina, pseudonym, San Salvador, Jan. 12, 2017. (Qué quería que estuviera con él.)

\textsuperscript{293} Interview with Mina, pseudonym, San Salvador, Jan. 12, 2017. (Qué quería probar mis labios.)

\textsuperscript{294} Interviews with Lucía, pseudonym, San Salvador, Jan. 12, 2017; Mónica Hernández, San Salvador, Jan. 11,
on the streets of San Salvador. On one occasion, a police officer grabbed her breasts, told her she could not do anything and that he had all the power. She did not report the incident.\textsuperscript{296} Natalia, a transgender woman who can pass as cisgender, noted that police try to touch her, whisper in her ear, try to undress her, and try to prove she doesn’t have a vagina when they realize she is transgender.\textsuperscript{296}

Many transgender women reported police officers coercing or attempting to coerce them into having sex.\textsuperscript{297} Graciela reported that, in June 2015 while she was in detention, two CAM officers and the director of the station coerced her into having sex in exchange for letting her go.\textsuperscript{298} Bianca recalled an incident where soldiers stopped her in the street, harassed her verbally, and then told her she had to give them oral sex to be let go. Thankfully, her nephew was nearby to help her out of the situation.\textsuperscript{299}

Interviews conducted for this report also revealed stories of lesbian women and transgender men being targeted for sexual violence by law enforcement. Andrea Ayala, the director of ESMULES, reported the story of a teenage lesbian couple who were kicked out of their homes because of their sexual orientations. They went to the police for help; but instead, a member of the police called someone from his church, who raped the women in an attempt to correct\textsuperscript{300} their sexual orientations.\textsuperscript{301} Diego, a transgender man, reported that transgender men are afraid to go to the police about corrective or punishing rape from their families because the police “will do the same things.”\textsuperscript{302}

Even when the violence against LGBT people isn’t sexual, it is often gendered. One type of violence reported by several transgender women and travestis was the pechada, an open-handed strike to the chest that some described as a signal to act like a man.\textsuperscript{303} The pechada is also used

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296 Interview with Emilia, pseudonym, San Salvador, Jan 9, 2017.
297 Interview with Natalia, pseudonym, San Salvador, Jan, 9, 2017.
298 Additional stories about the targeting of transgender women who are sex workers can be found in the section above.
300 The IACHR has adopted a definition of “corrective rape” as a “hate crime in which an individual is raped because of their perceived sexual or gender orientation, with the intended consequence of the rape being to ‘correct’ the individual’s orientation or make them ‘act’ more like their gender.” “The essence of these crimes is punishment for non-normative sexualities and genders.” These attacks combine “a fundamental lack of respect for women, often amounting to misogyny, with deeply-entrenched homophobia.” IACHR Report, quoting Keren Lehavot and Tracy L. Simpson, \textit{Incorporating Lesbian and Bisexual Women into Women Veterans' Health Priorities}, June 27, 2013.
302 Interview with Diego, pseudonym, San Salvador, Jan. 12, 2017. (\textit{No podría ir a la policía porque era lo mismo, querían violarme para corregirme}.)
303 Interviews with Mina, pseudonym, San Salvador, Jan. 12, 2017, Lucía, pseudonym, San Salvador, Jan. 12,
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to “see how much they can take” and, for transgender women, possibly aimed at bursting breast implants. In contrast, when transgender men reported being beaten, they recalled law enforcement officers making comments suggesting that the beatings were aimed at challenging their male gender identity. For instance, Kelvin, a transgender man who lives in a suburb of San Salvador, recalled that, when a group of police and soldiers severely beat him in his neighborhood in December 2016, he was told “if you want to be a man, you have to take it like a man.” He did not report the incident for fear of reprisal. Alex Peña also reported that the police, while beating him in June 2015, kept repeating “Don’t you say you’re a man?”

Some of the violence reported indicated disgust at the female gender expression of people that officers believed to be men. For example, as reported above, a patrol composed of soldiers and police made a group of travestis try to eat each other’s fake fingernails in a San Salvador suburb in late 2016.

Several transgender men and transgender women reported police and soldiers threatening them in a way that degraded their gender identity. For example, Kelvin reported that a police officer, upon raiding his house in a San Salvador suburb in 2014, said that he could “give him a mercy shot” because Kelvin “shouldn’t exist.” As this officer was leaving his house, he again threatened Kelvin by saying “now or later” he was going to “see [Kelvin’s] end.” In another instance, a police officer who stalked Kelvin in his neighborhood every day for a year, during 2013 and 2014, told Kelvin’s mom that she had “given birth to a woman” and that he was going to “make [Kelvin] a woman.” He did not report either incident for fear of reprisal.

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30 Interview with Mina, pseudonym, San Salvador, Jan. 12, 2017. (Para ver qué resistencia tienen.)


30 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017. (Vos bicho querrés ser, como bicho vas a aguantar.)

30 Interview with Alex Peña, San Salvador, Jan. 13, 2017. (¿No decís que sos hombre pues?)


30 Interview with Juana, pseudonym, San Salvador, Jan. 10, 2017. See the Human Rights Defenders section above for her story.

30 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017. (¿Sabes qué puedo hacer? Tirarte el tiro de gracia, en la frente te la pego y ahí se acaba todo, porque ustedes no deberían existir)

30 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017. (Tarde o temprano te tengo que ver el fin.)

30 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017. (¿Sabes qué? Vos una mujer parriste y una mujer lo voy a hacer.)

30 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017.
Police Training

Salvadoran organizations defending the human rights of LGBT persons have conducted and participated in sensitization trainings attended by law enforcement officers. Assessment of the effectiveness of LGBT sensitization trainings on police officers is mixed among LGBT advocates. Andrea, a lesbian rights activist, and Sara, a transgender woman, asserted that many police officers who have undergone sensitization training have changed their behavior towards the LGBT community for the better;³¹⁴ by contrast, another transgender woman, Valentina, opined that the trainings have had little effect on the sensitivity of police.³¹⁵

One such training by the organization ASPIDH was attended in 2016 by current PNC Director Howard Cotto and current Minister of Justice and Security Mauricio Ramírez Landaverde, the former PNC Director.³¹⁶ Mónica Hernández, the director of ASPIDH, reported that both State officials seemed open to working with the LGBT community.³¹⁷ Sara, a transgender woman, recalled that in 2014, Mr. Landaverde, while PNC Director, issued a public apology on behalf of the PNC for police abuse against the LGBT community in general and against transgender man Alex Peña in particular.³¹⁸ In Sara’s opinion, this apology helped because police officers may be motivated to act with more respect towards LGBT persons upon seeing their Director engaging with LGBT persons in a respectful way.³¹⁹

LGBT activists who facilitate these trainings often meet resistance. Wendy Castillo, a human rights activist at ASPIDH, reported that, while administering the trainings, she would try to teach officers to ask individuals, especially transgender individuals, what name they wish to be called and many officers would respond, “No, here on the DUI (ID) it says their name and that’s what I’m going to call them even if they don’t like it.”³²⁰ After a week of trainings, Wendy overheard an officer say to a colleague, “I’m here only because I was forced to, because if one of my sons turns out to be a faggot, I would beat the hell out of him or send him to the hookers.”³²¹

The researchers received some reports of positive interactions between LGBT persons and police officers. Notably, some of these positive interactions were associated with successful sensitization trainings taken by law enforcement officials and administered by CSOs promoting the rights

³¹⁵ Interview with Valentina, pseudonym, San Salvador, Jan. 11, 2017.
³¹⁶ Interview with Mónica Hernández, San Salvador, Jan. 11, 2017.
³¹⁸ Note that this was in 2014, so the PNC Director’s apology was referring to incidents of ill treatment of Alex Peña by the police that preceded the notorious June 2015 incident after the pride event recounted above.
³¹⁹ Interview with Sara, pseudonym, San Salvador, Jan. 11, 2017.
³²⁰ Interview with Wendy Castillo, San Salvador, Jan. 9, 2017. (No, si aquí en el DUI dice su nombre y yo así les voy a decir aunque no les guste.)
³²¹ Interview with Wendy Castillo, San Salvador, Jan. 9, 2017. (Yo estoy aquí porque de plano me obligaron, porque si a mí un hijo me sale culero, primero le sampo riata o lo mando donde las putas.)
of LGBT persons. For example, Kelvin, a transgender man whose accounts of violence from police and military were discussed above, reported that on one occasion a police officer in a San Salvador suburb was initially confused because his ID did not match his gender expression, but then apologized and asked him how he liked to be addressed. The officer said he had received trainings and that he would pray for him and hope for the best for him. Kelvin also reported that, during the search of his home in a San Salvador suburb in 2014 discussed above, where a police officer threatened his life, another police officer treated him respectfully, asking him about the progress of his transition and rebutting another officer by saying that people can live how they want. The researchers also received second-hand reports of positive interactions; for example, a physician for a clinic that helps LGBT patients reported a case of a police officer who helped a transgender woman find a person who had robbed her.

The researchers received reports about the importance of education as a way of addressing the lack of knowledge about gender and sexuality issues among law enforcement officers, which may be a source of their violent actions against LGBT persons. In a 2014 study by ESMULES on the attitudes of the Salvadoran police force toward LGBTI persons, 413 PNC officers were tested on their knowledge about gender and sexuality issues; they got the right answer only half the time. For example, 70% of those tested confused sexual orientation with gender identity. The officers were also tested on their opinions and prejudices about LGBT persons. Officers who had received information on sexual diversity in the three years preceding the study had more favorable views about LGBT persons than did those who had not received such information within that period.

The violence perpetrated against LGBT people by police and military engaged in law enforcement not only contravenes international and domestic law, it also deepens the distrust that LGBT people and the general population have of Salvadoran authority, thus fueling impunity. This precarious situation underscores the need for action on the part of the State, which should be taken in consultation with LGBT CSOs whose practitioners can voice the concerns of a community in dire need of comprehensive solutions.

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322 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017. (The date of the incident was not specified.)
323 Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017.
325 Only half of the 413 PNC officers reported having received information about sexual diversity in the three years preceding the study; of those, about half reported that their main source of information had been the National Academy of the PNC, yet only 33% of them thought the information they learned at the Academy was “complete.” This suggests the National Academy of the PNC should make its curriculum on gender and sexuality more robust. ESMULES, CIPAC, Evaluación de Actitudes hacia las personas LGBTI por parte de las Fuerzas Policiales de El Salvador, 2014, pp. 14-18, 21, 24.
326 On a scale between 0 (negative) and 100 (positive), the officers averaged an unsatisfactory 54.2, with a low standard deviation indicating their attitudes were relatively homogeneous. ESMULES, CIPAC (2014), Evaluación de Actitudes hacia las personas LGBTI por parte de las Fuerzas Policiales de El Salvador, pp. 14-18, 21, 24.
BARRIERS IN ACCESS TO JUSTICE

The research for this report revealed significant institutional barriers that impede the ability of lesbian, gay, bisexual, and transgender individuals to access justice throughout the legal system. While the impunity rate in El Salvador is staggeringly high, LGBT Salvadorans face barriers in accessing justice that go beyond those faced by the general public.\textsuperscript{327} Regardless of the identity of the perpetrator, the State is required to provide non-discriminatory access to justice. For instance, the interviews revealed many cases of gang violence followed by inaction on the part of the police. The evidence of discriminatory animus in barriers faced by LGBT people interviewed was particularly concerning.

The research and interviews conducted for this report showed barriers in access to justice due to the actions or omissions of State actors throughout the justice process. The main State actors in this process are the police and the Fiscalía (Public Prosecutor’s Office). Some interviewees indicated that the involvement of the Human Rights Ombudsperson’s Office (PDDH) and the Secretariat of Social Inclusion could be very beneficial to LGBT victims of crimes when attempting to access the justice system.

These barriers indicate a failure of the Salvadoran government to fulfill its obligations to provide redress for victims of human rights abuses and to provide equal protection under the law. This is particularly true when victims were unable to access the justice system after experiencing violence at the hands of State actors. The researchers also found evidence of human rights violations perpetrated against individuals during their attempt to access the justice system, particularly when filing complaints with the police. These barriers foster impunity, discourage the reporting of crimes, and foster mistrust of the justice system by LGBT people and the general population.

Legal Summary

Access to justice is a fundamental requirement for effective rule of law.\textsuperscript{328} El Salvador has wide ranging obligations to exercise due diligence in the investigation, punishment, and redress of human rights violations against LGBT people.\textsuperscript{329} El Salvador’s satisfaction of access to justice measures is vital to satisfying their obligation to prevent and combat impunity under the jurisprudence of the Inter-American System. Impunity is defined as “an absence, on the whole, of investigation, prosecution, arrest, trial and conviction of those responsible for violating rights.”\textsuperscript{330}


\textsuperscript{330} Inter-American Commission on Human Rights, Violence against Lesbian, Gay, Bisexual, Trans and Intersex
The Inter-American Commission on Human Rights (IACHR) has emphasized that the Organization of American States (OAS) should “adopt measures to guarantee the life and personal integrity of those who report... prejudice based violence.” This security is necessary for ensuring that victims have adequate access to justice, as required under international law, and that there is not impunity for human rights violations. The case of Alexa Rodriguez indicates the possible international legal consequences that barriers to reporting crimes may have. Alexa is a Salvadoran transgender woman who filed a petition with the IACHR alleging “attacks against her life” by gangs and the National Civil Police (PNC). Alexa was unable to file a complaint because members of the PNC refused to accept her complaint on multiple occasions. While the IACHR has yet to rule on the merits of Alexa’s case, it did make a preliminary decision that her complaint qualified for an exception from the requirement to exhaust domestic remedies, allowing her case to proceed to the merits stage.

El Salvador has international legal obligations to exercise due diligence in investigating violence against LGBT people. These investigations should be exhaustive and impartial in order to ensure that such violence is discouraged, particularly when committed by State actors. In the case of violations by police officers, military personnel, or other State actors, this obligation is compounded by El Salvador’s responsibility for the violent acts.

Furthermore, information on a victim’s sexual orientation and gender identity is key to an effective investigation. In order to satisfy the State’s obligations to prevent and respond to human rights violations, accurate and disaggregated data on violence against LGBT individuals is imperative. This data would allow El Salvador to track violence against LGBT individuals, provide for public policies to decrease this violence, and avoid providing impunity for the


334 IACHR, Report No. 73/16, Petition 2191-12, Admissibility Report, Alexa Rodriguez, El Salvador, Dec. 6, 2016, para. 2-5. Complaint was found admissible under, inter alia, Articles 5, 8, 11, 12, 24, and 29 of the American Convention on human rights.


perpetrators. An effective investigation into the murder of, or act of violence committed against, a lesbian, gay, bisexual and/or transgender individual requires diligently investigating the possibility of discriminatory animus. This is especially true in order to effectively implement El Salvador’s new hate crimes legislation, as explained above. This information should be disaggregated according to the victims’ particular sexual orientation and/or gender identity, and not use LGBT as a catchall, as risk factors for violence can be different based on an individual’s particular sexual orientation and/or gender identity. It is also important that investigators not allow “bias-based assumptions” to taint their investigative efforts, but rather conduct “serious and impartial investigations.”

**Barriers to Reporting Crimes**

Many LGBT people, particularly transgender individuals, who have attempted to file a complaint with the police reported facing significant obstacles, including further violations of their rights. This prevented the filing of complaints, or caused major difficulties. There were also many individuals who reported never attempting to file a complaint, because of the difficulties faced by others.

**Impediments to Filing a Complaint**

A major barrier to filing complaints is the use of coercive mechanisms by police to discourage the filing of, or refusal to accept, complaints. These tactics include bribery, threats, violence, and ridicule from police officers. Strikingly, reporting to the police has led to further human rights abuses for some LGBT people. This danger is illustrated by the case of Ambar, also discussed above. In 2011, Ambar, a transgender woman, went to make a complaint about the violence to which she was being subjected. The police officer she was making the complaint to locked his door, tried to demand sex from Ambar, and ejaculated on her. These coercive mechanisms can be particularly exacerbated when attempting to report violence from other police officers.

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345 El Salvador is responsible for the acts and omissions of its agents even when they are acting illegally or otherwise outside their permitted authority. Inter-American Commission on Human Rights, *Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, OAS/Ser.L/VIII.rev.1* Doc. 36, Nov. 12, 2015, para. 437; Interviews with Ambar Alfaro, San Salvador, Jan. 9, 2017; Miguel, pseudonym, San Salvador, Jan. 9, 2017.
348 Interviews with Wendy Castillo and Nathaly Camila Portilla, San Salvador, Jan. 9, 2017; Graciela, San Sala-
Transgender women reported being ridiculed or blamed when attempting to report a crime to
the police.349 Victim blaming can be particularly prevalent for transgender women who are sex
workers, one transgender woman reported that police blame them for discrimination because as
a sex worker they are asking for it.350 In some cases there are clear indicators that this ridicule
was motivated by discriminatory animus on the basis of the individual’s sexual orientation and/
or gender identity—in violation of international and domestic law.351 For example, Bianca was
mocked by the police, who insulted her using a derogatory term for being homosexual.352 Such
abuse makes it very difficult, and risky, to report crimes, particularly when the perpetrator is a
member of the police or military.

Beyond direct coercion, another initial obstacle for individuals is the refusal or failure of the
police to receive a complaint when the perpetrator is not readily identifiable.353 In the context
of police violence, the identifying information is often a badge number. This is particularly
concerning due to reports that police personnel cover their badges or order individuals to keep
their eyes down so that their badge number cannot be identified.354 As one victim explained,
some police do not wear their identifying number, and soldiers sometimes wear masks.355

Through the information researchers received from interviews, it appears there are two forms
of complaints that can be filed: a complaint (denuncia) or an aviso. While a denuncia does require
more specific identifying information about the perpetrator, an aviso has no such requirement.356
The interviews indicate that the identification requirement is being used to prevent lesbian, gay,
bisexual, and transgender individuals from filing complaints with the police.357

349 Interviews with Bianca, pseudonym, San Salvador, Jan. 10, 2017; Natalia, pseudonym, San Salvador Jan. 9,
350 Interview with Patricia, pseudonym, San Salvador, Jan. 9, 2017
351 The IACHR outlines elements that may be indicative of discriminatory intent. Inter-American Commission
on Human Rights, Violence against Lesbian, Gay, Bisexual, Trans and Intersex Persons in the Americas, OAS/
Ser.L/VIII.rev.1 Doc. 36, Nov. 12, 2015, para. 504.
352 Interviews with Bianca, pseudonym, San Salvador, Jan. 10, 2017; Patricia, pseudonym, Jan. 9, 2017; Natalia,
pseudonym, Jan. 9, 2017; Dr. Modesto Mendizábal, Jan. 13, 2017.
353 Interviews with Patricia, pseudonym, San Salvador, Jan. 9, 2017; Bianca, pseudonym, San Salvador, Jan. 10,
2017.
354 Interviews with Wendy Castillo and Nathaly Camila Portillo, San Salvador, Jan. 9, 2017; Kelvin, pseudonym,
San Salvador, Jan. 12, 2017; Sara, pseudonym, San Salvador, Jan. 11 2017; Rodrigo, pseudonym, San Salvador,
355 Interview with Rodrigo, pseudonym, San Salvador, Jan. 12, 2017.
356 Interview with Juan Paolo Ramos Orellana, Director of the Office of Legal Aid and Coordinator of Judicial
357 Interview with Patricia, pseudonym, San Salvador, Jan. 9, 2017
Unreported Crimes

Perhaps the largest barrier in access to justice is that many individuals we spoke with indicated that they did not, and would not, attempt to report a crime. There are a number of compounding factors that led interviewees to the decision not to report a crime, including: fear of retribution by police or military; fear that reporting will expose them to more abuse during reporting;\textsuperscript{358} threat;\textsuperscript{359} belief that reporting is futile;\textsuperscript{360} and lack of knowledge on how to report a crime.\textsuperscript{361} Many of these fears are based on knowledge of what has happened to other LGBT people who reported crimes.\textsuperscript{362} In a recent hearing before the IACHR, activists emphasized that the 24-hour hotline intended to provide information regarding how and where to present complaints is not available for 24 hours a day.\textsuperscript{363} This illustrates the stifling power that impunity and negative treatment of victims can have on the reporting of crimes.

Upon being asked if he had ever tried to report the violence he faced from police and military, Kelvin, a transgender man, explained, "If you see statistics of people that have had the courage to do so [file a complaint], they have to deal with consequences of that. These people are vengeful and if you file a complaint they can end up in jail, and sooner or later they'll come out and they will never forget your face."\textsuperscript{354} He further explained that, "it's very risky to file a complaint, because like it or not, for a complaint like that tomorrow you may not exist."\textsuperscript{365} Kelvin hopes to leave El Salvador because of the violence he faces, but said that before he left he would file complaints about the violence he has faced. Kelvin emphasized that he shared his story, "because I don't want future generations to go through the same thing."\textsuperscript{366}

Lack of security for victims of crimes when reporting inhibits the filing of complaints. One major issue regarding security is the lack of confidentiality of reports. Many victims believe that

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\textsuperscript{358} Interview with Victor Manuel, pseudonym, San Salvador, Jan. 12, 2017.
\textsuperscript{359} Interview with Emilia, pseudonym, San Salvador, Jan. 9, 2017.
\textsuperscript{360} Interviews with Emilia, pseudonym, San Salvador, Jan. 9, 2017; Miguel, pseudonym, San Salvador, Jan. 9, 2017.
\textsuperscript{361} Interview with Valentina, pseudonym, San Salvador, Jan. 11, 2017.
\textsuperscript{362} Interview with Victor Manuel, pseudonym, San Salvador, Jan. 12, 2017.
\textsuperscript{364} Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017 (Si usted se fija en las estadísticas de personas que sí tienen el valor de hacer eso [file a complaint] es porque se atienen a las consecuencias, porque tarde o temprano acuérdate que son personas encorbasas que pueden tomar represalias por eso. Recuérdese que si uno pone una denuncia ellos pueden ir hasta presos y tarde o temprano ellos van a salir y de nuestra cara nunca se van a olvidar).
\textsuperscript{365} Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017 (Ahora está difícil poner una denuncia, porque quiérase o no, quién quita por una denuncia el día de mañana ya no exista.)
\textsuperscript{366} Interview with Kelvin, pseudonym, San Salvador, Jan. 12, 2017 (Por mi no hay problema, por mi que se den cuenta de mi historia, porque no quiero que otras generaciones vengan a pasar por lo mismo.)
they will be at risk because the person they are reporting will be told that a report was made.\textsuperscript{367} There is even distrust of the Inspectoria, which is in charge of internal investigations of the police, when making a report about another officer.\textsuperscript{368} In relation to gangs, the researchers heard reports that it is risky to be seen talking with the police, as these conversations can get back to gang members.\textsuperscript{369} The case of Carmen, a transgender woman, is particularly illustrative of this danger.\textsuperscript{370} She filed a complaint about a gang with the police and shortly thereafter the gang leader showed up at her house and told her she had hours to get out.\textsuperscript{371} When she asked how he knew about the complaint, the gang leader said he was more powerful than the police.\textsuperscript{372} Carmen was forced to flee El Salvador after this incident.\textsuperscript{373}

**Successes**

Due to the PDDH's involvement, a number of complaints have found more success.\textsuperscript{374} For example, in 2010 Mónica Hernández was detained during an inspection of a bus by police officers; the PDDH responded to her phone call and came to the police station.\textsuperscript{375} Mónica was eventually able to file a complaint, partially due to identifying herself as a human rights defender and the presence of the PDDH.\textsuperscript{376} The PDDH and the Office of the Police Inspector were also contacted and responded when Alex Peña was detained and beaten in 2015, and demanded that Alex be brought to the hospital.\textsuperscript{377}

**Barriers to Effective Investigation**

Lesbian, gay, bisexual, and transgender victims and activists told researchers that the police do not properly investigate cases of violence against LGBT people.\textsuperscript{378} Human rights defenders recently noted that this failure to investigate is almost absolute for attacks against human


\textsuperscript{369} Interview with Karla Guevara, San Salvador, Jan. 10, 2017


\textsuperscript{371} Interview with Carmen, pseudonym, San Salvador, Jan. 10, 2017.

\textsuperscript{372} Interview with Carmen, pseudonym, San Salvador, Jan. 10, 2017.

\textsuperscript{373} Interview with Carmen, pseudonym, San Salvador, Jan. 10, 2017.

\textsuperscript{374} Interview with Natalia, pseudonym, San Salvador, Jan. 9, 2017.

\textsuperscript{375} Interview with Mónica Hernández, San Salvador, Jan. 10, 2017.

\textsuperscript{376} Interview with Mónica Hernández, San Salvador, Jan. 10, 2017.

\textsuperscript{377} Interview with Karla Avelar, San Salvador, Jan. 10, 2017.

rights defenders. A failure to diligently investigate crimes can lead to impunity and repeated violations as evidenced by the case of Mina, whose case of being abused by police officers is discussed above. Mina reported this event to the police three times, but did not see any results. While she was making the complaint, she was told, “perhaps we (she and her friends) had attacked them (the police).” Roughly a month later she was detained by the same police officers who had assaulted her, and was assaulted again. Mina reported this to the same authorities, who took evidence, but she has not seen anything come of it.

Another barrier to effective investigations of crimes against LGBT people occurs when victims are not properly identified according to their sexual orientation and/or gender identity. While the PNC and Fiscalía did state that they record the sexual orientation and gender identity of a victim in their records, they did not indicate that they disaggregate this data beyond the umbrella term of LGBT. The Fiscalía also acknowledged that they may not always be aware of a victim’s sexual orientation and gender identity because responding police officers may not know how to properly ascertain that information about the victim.

The interviews conducted for this report revealed that investigators may be allowing bias-based assumptions to impede serious, impartial, and exhaustive investigations. For example, José Acosta reported that his partner, a homosexual man, was killed by many stab wounds. Despite the nature of his death, the police insisted on ruling it a suicide. Transgender victims and activists for transgender rights also made statements indicating that there was a general understanding that transgender individuals were more likely to be arrested when police respond to an incident. This understanding is supported by specific accounts where transgender individuals were arrested or detained when they were actually the victims of crimes. For example, Alex Peña was removed from the hospital one night after being beaten and detained by police officers and taken into detention again. Karla Avelar was also removed from the hospital and detained after an attempt on her life that left her with nine bullet wounds. The researchers heard reports

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381 Interview with Mina, pseudonym, San Salvador, Jan. 10, 2017.
382 Interview with Mina, pseudonym, San Salvador, Jan. 10, 2017 (Nos dijeron que “quizás nosotros les habíamos agredido”).
386 Interview with the Fiscalía, San Salvador, Jan. 12, 2017.
387 Interview with José Acosta, San Salvador, Jan. 11, 2017.
of transgender individuals being arrested or blamed for altercations where they were acting in self-defense. Some of these arrests included explicit indications of discriminatory animus due to the arrestee’s sexual orientation and/or gender identity. For example, one transgender woman reported the police saying, “I hate faggots,” as their reason for arresting her friend. Another transgender woman reported trying to help her friend, who was a transgender man, when he was being arrested. When she asked why he was being detained the police responded that it was because they wanted to.

Finally, many LGBT people are estranged from their families, who may not insist on thorough investigations. Therefore, the IACHR has stated that it is imperative to recognize the victims’ “social family” as agents for the victim. However, interviews indicate that non-family members may not be respected as agents for victims. For instance, when José Acosta challenged the investigators about ruling his partner’s death a suicide, as discussed above, the investigators responded that he was not a family member and could not be involved. Human rights defenders who responded to help Alex Peña when he was detained and beaten by the police were also asked if they were his family members.

When combined with the difficulties LGBT people face in reporting crimes, these findings lead to an overwhelming distrust of law enforcement, which stifles the reporting of crimes, and further marginalizes LGBT people. Speaking about police officers, Karla Avelar, a transgender activist, explained: ‘Far from making us feel safe and trusting, what they provoke in us is fear. There is no professionalism among the police, no commitment to respect citizens. To the police in this country, just by being trans, gay, or from other marginalized populations, you are a criminal. If you are poor, you are a criminal. If you are gay, you are a criminal. If you are trans, criminal. They generalize you and label you with labels that end up stigmatizing you and criminalizing you. You can be sure that if a transgender woman commits a felony, she is prosecuted and convicted, but if a transgender woman is the victim, the aggressor goes free.’

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183 Interview with Emilia, pseudonym, San Salvador, Jan. 9, 2017.
184 Interview with Susana, pseudonym, San Salvador, Jan. 9, 2017.
185 Interviews with Andrea Ayala, San Salvador, Jan. 10, 2017; José Acosta, San Salvador, Jan. 11, 2017;
188 Interview with José Acosta, San Salvador, Jan. 11, 2017.
190 Interview with Karla Avelar, San Salvador, Jan. 10, 2017. ¡Lejos de causarnos confianza y seguridad, pues lo que nos causa es miedo. No hay ese profesionalismo de la policía, no hay esa convicción de respetar a la ciudadanía. La policía de este país, por el simple hecho de ser trans, gay y otras poblaciones que están por ahí, sos criminal. Sos pobre y para ellos sos criminal. Sos gay y para ellos sos criminal. Sos trans, criminal. Te generalizan y te etiquetan con ciertas etiquetas que te terminan estigmatizando y criminalizando. Ten por seguro que si
Gaps in Application of the Law and Data

Access to justice requires due diligence to ensure the effective punishment and redress of violations against LGBT people. Researchers heard of very few instances where there was a judicial decision in a case involving violence against an LGBT person, possibly as a result of the extensive barriers to reporting crimes. There was evidence that the prosecutor’s office and the judicial system impede access to effective punishment and redress.

One barrier to effective prosecution is the failure to apply the hate crimes legislation. This law provides for increased sentencing penalties for hate crimes in the form of homicide or verbal assault against LGBT people and other protected groups. While this is a potentially useful tool, there are concerns about whether it is being properly utilized. When asked, the Fiscalía was unable to point to any case involving an LGBT victim where this legislation was applied. In response to formal requests for information by the researchers, the Fiscalía stated that the application of the hate crimes reforms to the Salvadoran Criminal Code in specific cases is not systematically tracked or recorded in their system, but that, if the hate crimes provision was relevant in a case, it would be applied according to law. Given the amount of violence against LGBT persons in El Salvador, it is concerning that the Fiscalía does not track the application of this new code and cannot point to any concrete instances of its successful application. This apparent failure to apply the law was reflected in the interviews conducted with activists and other government officials. Assemblywoman Cristina Cornejo (from the FMLN party) stated that the hate crimes reforms, which she saw as a significant achievement of the Legislative Assembly, “have been useless so far” because they have not been applied by the Fiscalía and other relevant authorities. Many interviewees indicated that the hate crimes legislation was not being properly utilized, and stated they did not know of an instance where it had been applied.

The interviews indicated deficiencies in how the Fiscalía is handling cases of violence against LGBT individuals and communicating on their status. Interviewees reported that the Fiscalía will shelve, instead of prosecute, cases where transgender individuals are the victims. In the case

una trans comete un delito es procesada y condenada. Pero ten por seguro que si la mujer trans es la víctima, el victimario queda libre.

401 Interview with Assemblywoman (Diputada) Cristina Cornejo, San Salvador, Jan. 11, 2017.
402 Interview with the Fiscalía, San Salvador, Jan. 12, 2017.
404 Interview with Assemblywoman (Diputada) Cristina Cornejo, San Salvador, Jan. 11, 2017 (No ha servido de nada hasta el momento.)
of Alex Peña, a prosecutor told FESPAD that they were instructed to shelve the case.⁴⁰⁷ LGBT
human rights defenders also reported that they are not able to get information on the status
of pending cases from the Fiscalía when they request it; for instance, they have not received
requested information on the investigation into the April 2013 murder of Tania Vázquez, a
transgender woman.⁴⁰⁸ Finally, in an interview the Fiscalía stated that although they keep records
of LGBT victims, they do not have a specialized protocol for investigating crimes against LGBT
persons; the fact that a victim was lesbian, gay, bisexual, and/or transgender is simply taken into
consideration by the investigators (there was no explanation as to how this information affects
the investigation).⁴⁰⁹

A Dearth of Data
The research conducted for this report exposed a concerning lack of data from the PNC and
Fiscalía on complaints taken involving LGBT people and the outcome of their cases. The
researchers submitted three information requests to the Fiscalía on February 6th and 7th, 2017.
These requests asked for information on the number of cases of homicides and/or threats which
had been presented to the Fiscalía from September 2015 to February 2017 in which the motive
was presumed to be the gender identity and/or sexual orientation of the victim. Additionally, the
researchers requested information on cases in which the Fiscalía began investigative or judicial
proceedings, as well as how many went to trial or sentencing, and in which of those cases the
hate crimes aggregated sentence was applied.

In response to this request, the Fiscalía provided information on the number of cases they
were aware of with threats against, or homicides of, a lesbian, gay, bisexual, and/or transgender
individual since September of 2015, including information on actions taken by the Fiscalía
in response.⁴¹⁰ However, they stated that they do not track whether the aggravated sentences
provided for in the hate crimes legislation were applied in any case, and do not track if any of
the cases went to trial.⁴¹¹ The PDDH also reported that they had requested information from
the Fiscalía on the application of the new hate crimes legislation in February of 2016, but as of
February 2017 had not received a response.⁴¹²

⁴⁰⁸ IACHR hearing on the Human Rights Situation of LGBTI People in El Salvador, Washington, D.C., March 21,
2017.
⁴⁰⁹ Interview with the Fiscalía, San Salvador, Jan. 12, 2017. In an IACHR hearing on March 21, 2017 the Salva-
doran government reported that the Fiscalía was training 55 prosecutors on how to prosecute crimes against
LGBT persons, but non-governmental organizations reported that they had no knowledge of this initiative even
though they had met with the Fiscalía recently. IACHR hearing on the Human Rights Situation of LGBTI People
⁴¹⁰ Fiscalía General de la República, Unit of Access to Public Information, Resolution to Information Request N°
⁴¹¹ Fiscalía General de la República, Unit of Access to Public Information, Resolution to Information Request N°
⁴¹² Human Rights Ombudsperson’s Office, First Situational Report on Hate Crimes committed against the
LGBTI population, March 2, 2017.
Furthermore, the data the researchers do have point to alarming rates of impunity, and low rates of reporting, in crimes committed against LGBT people. There is a concerning disparity between the number of crimes against LGBT persons recorded by the government, and those recorded by LGBT human rights organizations. This data corroborates reports that the laws on the books are not being properly applied.\footnote{Interview with Assemblywoman (Diputada) Cristina Cornejo, San Salvador, Jan. 11, 2017.}

According to the information provided by the Fiscalía on February 22nd, in response to the researchers’ request, they had information on 16 murders of and 4 threats against LGBT people from September of 2015 to February 17, 2017.\footnote{Fiscalía General de la República, Unit of Access to Public Information, Resolution to Information Request N° 43-UAIP-FGR-2017, Feb. 21, 2017, citing Department of Statistics according to records of SIGAP to date 02/17/2017, 09:56:59 a.m.} The Fiscalía initiated proceedings in only three of these cases.\footnote{Fiscalía General de la República, Unit of Access to Public Information, Resolution to Information Request N° 43-UAIP-FGR-2017, Feb. 21, 2017, citing Department of Statistics according to records of SIGAP to date 02/17/2017, 09:56:59 a.m.} None of them have reached a public hearing stage.\footnote{IACHR hearing on the Human Rights Situation of LGBTI People in El Salvador, Washington, D.C., March 21, 2017.} However, in an IACHR hearing on March 21, 2017, the Salvadoran government reported that from December 2014 to March 3, 2017, the Fiscalía has investigated 109 cases involving LGBT victims and brought 12 cases to trial.\footnote{The yearly murders are also broken down by the victim’s sexual orientation and gender identity: in 2014, 29 transgender and 3 gay men were murdered; in 2015, 33 transgender, 1 lesbian, and 3 gay men were murdered; in 2016, 40 transgender and one gay man were murdered. Interview with Karla Avelar, San Salvador, Jan. 10, 2017.} Non-governmental organizations (NGOs) have kept their own record of cases of violence against LGBT people. COMCAVIS’s records show that more than 600 lesbian, gay, bisexual, and/or transgender individuals have been murdered since 1993, with 42 murders in 2014, 37 murders in 2015, and 41 murders in 2016.\footnote{In 2016 the Fiscalía reported only 2 homicides. Fiscalía General de la República, Unit of Access to Public Information, Resolution to Information Request N° 43-UAIP-FGR-2017, Feb. 21, 2017, citing Department of Statistics according to records of SIGAP to date 02/17/2017, 09:56:59 a.m.} The disparity in these numbers is striking. According to the Fiscalía’s response to researchers’ questions, in 2016 alone, the Fiscalía has record of less than five percent of the homicides recorded by COMCAVIS.\footnote{In 2016 the Fiscalía reported only 2 homicides. Fiscalía General de la República, Unit of Access to Public Information, Resolution to Information Request N° 43-UAIP-FGR-2017, Feb. 21, 2017, citing Department of Statistics according to records of SIGAP to date 02/17/2017, 09:56:59 a.m.} The disparity between the government’s statistics and NGO numbers show that the barriers to justice are potentially leading to a shockingly low reporting rate, and the near zero number of cases where the Fiscalía took action indicates that the impunity rate for crimes against LGBT individuals is extremely high.
CONCLUSION & RECOMMENDATIONS

This report contributes to a growing body of research confirming a pattern of systemic discrimination and violence against LGBT people by Salvadoran law enforcement. Not only do they face societal prejudice, but the state itself—through police, military, and judicial actors—continually violates their human rights with impunity. The human rights violations documented in this report originate from international human rights obligations accepted by the Salvadoran government. State actors subject LGBT people to physical and mental abuse on a regular basis, partaking in arbitrary and discriminatory acts of violence. Further, the rate of impunity is staggering. These agencies fail to investigate, prosecute, and punish violations by non-state actors, and it became clear to the researchers that they actively discouraged—by way of threats and more violence—lesbian, gay, bisexual, and transgender victims from reporting violence committed by State actors. Additionally, no State agency collects or retains data on violations of LGBT rights. Without this data, it is impossible for the Salvadoran government to identify patterns of violence and to keep a record of cases and complaints.

Based on extensive interviews with human rights defenders, legal experts, and State officials, the researchers developed recommendations with respect to key actors. These are designed not only to guide law enforcement, judicial, and political practice domestically, but to assist international organizations and governments in promoting the welfare of LGBT people in El Salvador.

RECOMMENDATIONS

National and Municipal Police

Recruitment and Training

- Recruit and integrate more women and LGBT officers into the national and municipal police forces (PNC and CAM).

- With the help of civil society, develop and implement expanded trainings for police officers about issues of gender and sexuality. Trainings should prioritize patrol officers and should also be incorporated into the academy syllabus.

- Incorporate training on human rights, with particular attention to the rights of LGBT people, into joint trainings with military officials deployed in anti-gang task forces.

Complaint Process

- Allow transgender women to utilize currently existing intake centers designed to support female victims.

- Create a confidential and secure intake system to ensure the protection of LGBT people reporting hate-based violence or crimes.
Investigation

- Where the victim’s sexual orientation, gender identity, or human rights work may be a motivating factor in the crime, the police should diligently collect evidence on and investigate these factors, ensuring that they are clearly identified in the complaints procedure as having been addressed.

- In cases of homicide, allow for close friends or cohabitants, in addition to family members, to request information about and request the initiation of an investigation.

Data

- Record victims’ self-described sexual orientation and gender identity during the complaint process. This is imperative for tracking hate crimes, as risk factors and motivation for violence vary based on victims’ identities.

Human Rights Defenders

- Respect the status and legitimacy of human rights organizations and defenders.

- Refrain from raiding offices of human rights organizations or subjecting defenders to heightened policing.

- Publicly condemn violations of defenders’ rights.

Military

Transparency

- Address the issue of military violence against LGBT people. Publicly announce a plan to train soldiers, improve the quality of investigations, and create paths to accountability for those who commit human rights violations.

- Publish the rules of engagement for military involved in law enforcement in accordance with international human rights standards. Include specific protections addressing the unique needs and threats that LGBT people face.

Training

- Publish guidelines for, and provide trainings on, engagement with LGBT persons that raises awareness of the specific threats they face. These trainings should be developed in coordination with civil society and the Office of Human Rights within the military.

Complaint Process

- Provide public guidance on the process for filing complaints against soldiers who commit human rights abuses while engaged in law enforcement.

- Create an effective, independent accountability mechanism to receive and promptly investigate complaints against members of the military.
Data
- Record victims’ self-described sexual orientation and gender identity during the complaint process. This is imperative for tracking hate crimes, as risk factors for violence vary based on victims’ identities.

**Fiscalía General de la República**

**Complaints and Investigations**
- Create a confidential and secure means for LGBT people to file complaints, particularly against members of the police and military. Appropriate measures include providing reporting rooms that are tailored to the needs of LGBT people and training employees to receive complaints.
- Create a special unit tailored to the prosecution of crimes against LGBT people.
- Develop guidelines and trainings specific to the investigation and prosecution of crimes against LGBT victims in concert with civil society.
- In cases of homicide, allow for close friends or cohabitants, in addition to family members, to request information about and request the initiation of an investigation.
- Train prosecutors to apply articles 129 and 155 of the Salvadoran Criminal Code as amended by the hate crimes reforms of Legislative Decree 106.
- Train prosecutors to interact respectfully with LGBT victims, defendants, and witnesses, using correct pronouns and names.

Data
- Develop and implement a data collection system tracking victims’ self-described sexual orientation and gender identity.
- Publish an annual report on hate crimes and associated investigations, prosecutions, and convictions disaggregated by sexual orientation and gender identity.

**Public Defender’s Office**
- Train attorneys to address the specific needs of LGBT people accused of crimes.

**Judiciary**
- Train judges to apply articles 129 and 155 of the Salvadoran Criminal Code as amended by the hate crimes reforms of Legislative Decree 106.
- Train judges to interact respectfully with LGBT victims, defendants, and witnesses, using correct pronouns and names.
Executive

- The President should make public statements showing full support for the LGBT population, condemning the violence perpetrated against them, and calling for the prompt and effective investigation of all hate crimes.
- Sign the Inter-American Convention Against All Forms of Discrimination and Intolerance.

Legislative Assembly

- Pass a gender identity law, developed in concert with civil society organizations, allowing people to change the gender listed on birth certificates and other government documentation.
- Pass a law requiring agencies such as the PNC, CAM, military, and Fiscalía to collect data on the self-described sexual orientation and gender identity of victims and publish periodic reports on the status and outcomes of cases disaggregated by identity.
- Codify Presidential Decree No. 56 and include an effective and accessible enforcement mechanism to address discrimination by public employees.
- Ratify the Inter-American Convention Against All Forms of Discrimination and Intolerance.

Ombudsperson

- Reestablish regular meetings of the Permanent Roundtable on Human Rights of the LGBTI population and publish meeting schedules and minutes.
- Push for systematic data collection of victims' sexual orientation and gender identity at all relevant government agencies.

INTERNATIONAL ACTORS

The United States Ambassador to El Salvador

- Increase engagement with LGBT civil society organizations by attending events and meetings convened by civil society.
- Make public statements in support of LGBT rights highlighting the positive contributions of the LGBT community to society.
The U.S. Department of State

• In its next periodic review of El Salvador under the Alliance for Prosperity program, the Department of State should take appropriate steps to ensure that the government of El Salvador is abiding by the required human rights conditions to which 50% of funding is tied, including the requirement to “investigate and prosecute in the civilian justice system members of military and police forces who are credibly alleged to have violated human rights, and ensure that the military and police are cooperating in such cases.”420

• Publish benchmarks used to assess El Salvador’s progress in holding human rights violators accountable.

• Add LGBT-specific benchmarks for funding tied to compliance with human rights norms.

Organization of American States

• Continue to engage with the government of El Salvador and utilize the findings of this report to address the needs of LGBT people by calling on the State to combat hate crimes and impunity.

Inter-American Commission on Human Rights

• Follow-up on the implementation by El Salvador of the recommendations included in the IACHR’s Report on Violence against LGBTI People in the Americas, adopted in 2015.

• Follow-up with the government of El Salvador regarding measures to comply with its obligations to respect and safeguard the human rights of LGBT people in El Salvador, including with respect to the information presented by human rights organizations during the March 2017 hearing held before the IACHR.

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April 11, 2020 12:00AM EDT

Justice for LGBT Salvadorans Requires Reckoning with Hate
No Hate Crime Conviction Despite Five Years of LGBT Murders Since Legislative Reform

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A transgender woman shows a photograph of Camila Díaz, whom she met while migrating to the US, where they both turned themselves in to immigration authorities. Both women were eventually deported. © 2020 AP Photo/Salvador Melendez

Camila Díaz Córdova, a transgender woman, suffered violence and discrimination her entire life. She even fled El Salvador multiple times to seek refuge abroad. After being deported from the United States in late 2017, her fate was sealed. Prosecutors allege that in January 2019 police officers detained Camila and assaulted her in a pickup truck before throwing her out of the moving vehicle. She died from her injuries.
Earlier this month, an investigating judge ruled that a homicide case against the officers can proceed to trial. Yet, he dismissed the classification of the murder as a hate crime based on gender identity.

A hate crime occurs when a perpetrator targets a victim on the basis of their identity. Though any violent crime is objectionable, hate crimes are particularly reprehensible as they aim to terrorize a group. In 2015, the Legislative Assembly recognized the gravity of these crimes and modified the Penal Code to include killings motivated by hate, including on the basis of a person’s sexual orientation or gender identity, as aggravated homicides. As of today, however, prosecutors have tried to classify just three murders of lesbian, gay, bisexual and transgender (LGBT) people, including the murder of Camila, as hate crimes. In all three cases, judges dismissed the hate crimes charges, and none have resulted in a conviction.

Seven trans women and two gay men have been murdered in the past five months in El Salvador. Details of the cases show the perpetrators’ apparent hatred for people with diverse gender expressions or sexuality. Victoria Pineda, for example, was found naked in Ahuachapán with her face disfigured and covered in logs and a car tire. Bianka Rodríguez of COMCAVIS said she believed Victoria was “crucified,” with the tire symbolizing a crown of thorns and the logs the wooden crossbar. Tita Andrade, another transgender woman, was found 90% burned in La Unión. Such symbolic and brutal murders are often committed against groups like the LGBT community accused of “moral crimes.”

Hate crime prosecutions carry higher sentences and demonstrate a commitment by the public authorities to confront criminal activity motivated by hatred. When targeted assaults and killings of LGBT people are classified as hate crimes, this sends an important signal to the broader public that the authorities value LGBT lives. It also allows the authorities to track patterns and root causes of violence, which will help build strategies to deter anti-LGBT violence.

President Bukele has made fighting crime a cornerstone of his presidency and touts the declining numbers of homicides. Yet, his lack of strategy when it comes to LGBT hate crimes is disquieting. In 2020 there have already been three reported murders of gay and transgender people in El Salvador. Bukele should publicly and unequivocally condemn this violence, encourage prosecutors to pursue hate crimes charges, and ensure that judges receive adequate training on hate crimes.

As it stands, the trial of those accused of killing Camila will not examine whether they targeted Camila for her gender identity. Even so, LGBT Salvadorans are closely watching whether justice will be delivered for the recent spate of murders. If prosecutors succeed in securing a hate crime conviction, it may partially lift the insecurity under which the embattled community lives. It may even reassure them that they live in a country that values their existence, where there may be hope beyond the dream of fleeing north that Camila shared with too many other LGBT people in El Salvador.
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TAB 26
ARGUMENT

El Salvador’s Justice System Takes on a Historic Case

Transgender rights activists say the prosecution of Camila Díaz Córdova’s death as a hate crime is an advance, although LGBTQ citizens continue to face discrimination and abuse.

BY ANNA-CATHERINE BRIGIDA | MARCH 9, 2020, 6:00 AM

Virginia Flores has been on edge since February 2019, when she learned her best friend, Camila Díaz Córdova, a transgender woman, was dead in an apparent homicide. She has reason to be worried. Flores, a 37-year-old trans woman from El Salvador, knows she has beaten the odds just by being alive today. In El Salvador, trans women have a life expectancy of only 35 years due to extreme violence. Across the entire Latin America and Caribbean region, the figure ranges from 30 to 35 years, compared to average life expectancies ranging from 65 to 81.

The killing was a turning point for Flores: She said she realized she would never live in peace in her home country. In the week Díaz Córdova died, another trans woman was killed in El Salvador, and at least five more have been killed since then. In 2011, one of Flores and Díaz Córdova’s best friends, a trans woman named Monica, was killed. There was no arrest or conviction. “It’s alarming,” Flores said. “That’s why so many people say, ‘I don’t want to be here.’ Because I could be next.”

(Update, March 12, 2020: This piece has been slightly updated to reflect that on March 11, a judge ruled that the homicide case will continue to the third phase of El Salvador’s justice process, but the charges of unlawful deprivation of liberty and the classification of the homicide as a hate crime will not proceed.) Prosecutors had classified the homicide as a hate crime in a historic case for the country. It wasn’t until the country modified its penal code in 2015 that prosecutors could even categorize a homicide as a hate crime and seek a harsher penalty. Of 27 killings that El Salvador’s ombudsman has identified as LGBTQ hate crimes since then, prosecutors have tried to classify just two as hate crimes, not including the case of Díaz Córdova. In both cases, judges decided not to accept the charges, which would carry a higher sentence.
Trans rights organizations hope that the case will send a signal to Salvadoran society that hate crimes against lesbian, gay, bisexual, transgender, and queer citizens are unacceptable and will be punished accordingly. But they say this would mark only a small step forward for trans rights in a country where LGBTQ citizens face systematic abuse and discrimination in nearly every aspect of life.

**El Salvador has one of the highest rates of trans women who are killed** relative to its small population, with 19 homicides reported in 2018. The exact number of trans women who have fled in recent years is difficult to track, because they often don’t tell anyone they are leaving and why, said Mónica Linares, the director of the trans rights organization Aspidh Arcoiris Trans. Another trans rights organization, Comcavis Trans, has documented 116 cases of trans women leaving the country since 2014, but the real number could be even higher. “The belief of the LGBT population has always been that the only way to ensure their rights is to leave the country,” said Johanna Ramírez, who provides legal aid through the San Salvador-based organization Passionist Social Service, in 2018.

“That’s why so many people say, ‘I don’t want to be here.’ Because I could be next.”

Trans women report constant harassment from employers, law enforcement, and other government institutions. In a 2019 study, trans women in El Salvador reported experiencing systemic intimidation, robbery, sexual assault, and harassment from police. Many employers refuse to hire them, so sex work is often their only option. A 2014 report from the Joint United Nations Programme on HIV/AIDS found that nearly 50 percent of trans women in El Salvador made a living through sex work. This work exposes them to even more violence and discrimination, from their clients, gangs, and authorities. Díaz Córdova and Flores both had been sex workers in the past.

Flores is now considering seeking asylum in the United States. But she has heard horror stories about the journey and potential detention in the United States—some from Díaz Córdova herself when she was alive—that are making her think twice. Díaz Córdova
attempted to seek asylum in late 2017 before being deported. Flores also knows that seeking asylum in the United States is now becoming harder than ever.

In fiscal year 2019, a record 69 percent of asylum cases were rejected, according to Transactional Records Access Clearinghouse, a nonprofit data research center at Syracuse University. Díaz Córdova was one of the tens of thousands of people who pursued asylum in the United States in 2017, but she abandoned the attempt later that year, citing horrible detention center conditions to her friends, and returned to El Salvador. Opting to return home instead of waiting years for cases to be resolved has become more common under President Donald Trump’s administration. “She came back disillusioned,” Flores said.

Now, Flores is one of many Central Americans weighing whether it still makes sense to pursue an asylum claim. In July 2019, the United States entered into a controversial safe third country agreement with Guatemala that requires migrants to seek asylum there if they enter the country en route to the United States, as most Salvadorans and Hondurans do. But civil society groups question how the country will care for the migrants when hundreds of thousands of its own citizens are leaving.

In September 2019, the governments of El Salvador and Honduras entered into similar agreements with the United States that have been met with equal criticism. Last July, the Trump administration announced a new rule that disqualifies any migrant from receiving asylum in the United States if they have not been denied asylum in another country they had passed through. This makes many Central Americans ineligible, because most travel through Mexico before reaching the U.S. border. Lawyers are still waiting to see exactly how these new restrictions will play out, given ongoing legal challenges.

Flores has heard about policy changes to restrict asylum for people from her country but said it doesn’t change the reality of her situation. She doubts that her country has gotten any safer for trans women like her and is scared the people responsible for Díaz Córdova’s death will harm her for speaking out. “With the way things are in my country, I would say that any attempt to leave is worth it,” she said in September 2019. Despite her fear, she has decided that speaking out is worth the risk.
Díaz Córdova’s attempts to seek a safe haven spanned several years. On Aug. 3, 2015, three Barrio 18 gang members approached Díaz Córdova while she was working at a bar in downtown San Salvador. She told Flores she suspected they had been sent by a group of trans women who worked at a nearby bar who had a personal problem with her and had previously threatened her. The gang members told her that she had 15 days to leave. If she refused, they threatened to kill her. Díaz Córdova reported the threats to police, but no one was ever arrested in relation to her case, according to Carlos Rodríguez, deputy attorney for civil rights for El Salvador’s ombudsman, who has been following the case.

Living in El Salvador seemed like certain death for Díaz Córdova, so that month she left for Mexico, where she gained legal residence. She then returned to El Salvador and convinced Flores to come to Mexico with her in March 2016, but there, they found life nearly as difficult as at home. Flores was violently robbed while with another friend, so she returned to El Salvador after two months. Díaz Córdova returned to El Salvador at the end of 2016 before leaving her home country in February 2017 for the last time. Back in Mexico, she met and formed a strong friendship with Julia, another trans woman from El Salvador whose name has been changed for her safety. As legal residents, they tried to establish new lives in various parts of Mexico. But they were unexpectedly fired from a clothing factory in what Julia believes was a case of workplace discrimination, leading Díaz Córdova to urge Julia to come with her to seek asylum in the United States in August 2017.

Julia said that U.S. officials at the port of entry in Tijuana, Mexico, tried to turn them away, but Díaz Córdova remained adamant that they needed to enter the United States because they feared for their lives. A Spanish-speaking immigration official later came to process their cases. They had passed a major hurdle, but more were yet to come.

Díaz Córdova and Julia were then transferred to a detention facility in San Diego. Trans women are particularly vulnerable in immigrant detention. “Conditions are so bad in detention that our main goal is to get women out as soon as possible,” said Allegra Love, director and lawyer for Santa Fe Dreamers Project, a New-Mexico based immigrant legal aid organization. An average client spends four months in detention, Love said, but she has worked with at least one woman who was detained for two years. In recent years, parole has become less common for all asylum-seekers, including trans women. “They feel alone and like they are never going to win, and they roll the dice and they say, ‘I can’t take this. I’m going home.’ That’s how horrific detention is,” Love said.
Trans women are particularly vulnerable in immigrant detention.

Díaz Córdova applied for parole in early November 2017, which would have granted her release while her asylum case worked its way through an immigration court backlog. The request was denied—on the grounds that she had failed to prove she was not a flight risk—like many parole requests in recent years. From February to September 2017, only 4 percent of those who applied received parole from immigration detention, according to information presented in a lawsuit from the American Civil Liberties Union against the U.S. Department of Homeland Security.

With documentation of the threats and violence she fled, Díaz Córdova would have likely had a strong chance for protection back in 2017. New asylum rules would make her case harder to argue today.

After months of detention, Díaz Córdova waived her right to seek asylum and was deported in November 2017. Julia said that Díaz Córdova had lost hope and willingly waived her right to formally file for asylum, but Flores said Díaz Córdova told her that she was unaware of what she was signing.

Eventually, Julia and Díaz Córdova reconnected in El Salvador, but leaving still remained on their minds. Julia suggested to Díaz Córdova that they return to Mexico, and Díaz Córdova said she would think about it, but she never had the chance to give Julia her answer. Díaz Córdova went missing on Jan. 30, 2019. Earlier in the evening, she had told Flores she was having problems with a group of trans women who worked as sex workers whom she believed were receiving protection from a gang or police. “What I do is just listen and stay quiet,” said Díaz Córdova in her last message to Flores.

When Flores awoke the next day, Díaz Córdova had not responded to her last text. Once she realized something was wrong, Flores and friends began searching various police stations, hospitals, and the morgue. But they couldn’t find Díaz Córdova. Days later, a hospital confirmed that she had been treated there for serious injuries. She did not survive.
In July 2019, three police officers were arrested on suspicion of Díaz Córdova’s death. During a hearing that month, the judge accepted the charges, including a charge of aggravated homicide motivated by hate. As per Rodríguez, this was the first time a judge accepted this classification of a homicide as a hate crime, which carries a maximum sentence of 50 years compared to 30. The judge ordered that the police officers be held in prison while awaiting the rest of the trial. Lawyers for the accused said their clients are not guilty and repeatedly referred to Díaz Córdova using the pronoun “he” when addressing reporters outside the courtroom.

According to documents filed by the prosecutors, a witness said that he saw three police officers put Díaz Córdova in the back of their truck on the morning of Jan. 31. About an hour later, first responders reported finding Díaz Córdova seriously bruised and bleeding, in their assessment as a result of being thrown out of a moving vehicle. Prosecutors allege that Díaz Córdova was critically wounded by the officers. When asked for comment, the police officer handling the case said he would not confirm these details on the grounds that police cannot comment on an ongoing investigation.

A hearing in March was postponed, and the judge asked for more evidence from the prosecutors. The judge decided on March 11 that the case could continue to the third phase of El Salvador’s justice process, but the charges of unlawful deprivation of liberty and the classification of the homicide as a hate crime would not proceed, dashing the hopes of Flores and other activists.

Advocates say bias across the justice system continues: Trans women are stigmatized by judges and lawyers for engaging in sex work and blamed for the violence they experience. But the investigation of the case still represents a step forward in a country where just a few years ago the framework to prosecute as a hate crime did not even exist in its criminal code. Whatever the outcome, the case has made it further in the judicial process than any other homicide classified as a hate crime to date, according to Rodríguez.

“When the news broke, I felt a little bit of happiness and satisfaction, but I know that it’s a long process and that I have to wait until it reaches the end,” Flores said. “I’ve seen so much injustice in this country, so believing in the justice system is nearly impossible for me.”

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KNOW THE WEST

A long journey awaits transgender migrants in detention

After mistreatment by ICE, LGBTQ women are transferred around the West.

Lilly Fowler | Feb. 28, 2020

Matt M. McKnight/Crosscut

This story was originally published by Crosscut (https://crosscut.com/2020/02/transgender-immigrants-seeking-asylum-moved-tacoma-ice-prison-amid-care-concerns) and is reproduced here with permission.

It would be years before Amara reached the U.S.

Sitting in the ICE detention center in Tacoma — dark, curly hair with a hint of bright dye, yellow prison shirt — she gives off a sense of desperation: Had she traveled all this time and all this way just to be locked up?

Amara, who is transgender, left her home country of El Salvador in 2016, after gang members held a knife to her neck, she said, and demanded that she live as a man, not a woman.

“I can’t change the way I am when living this way is what makes me happy,” Amara said in Spanish, nervously rubbing her hands together. (Her name in this story has been changed to protect her privacy.)

For several years after escaping El Salvador, Amara lived in Mexico — until she was sexually assaulted. Slowly, the 32-year-old, who is diabetic and HIV positive, began making her way to the U.S. She had heard the country offered protections for people like her. In November, she turned herself in at the San Ysidro Port of Entry, which sits between Tijuana and San Diego, and requested asylum.

Amara is one of about 14 members of the LGBTQ community to recently arrive at the Northwest ICE Processing Center. Last month, the group of transgender women were transferred here from the Cibola County Correctional Center in Milan, New Mexico, about 80 miles west of Albuquerque. The facility is owned and operated by CoreCivic, a private prison company headquartered in Nashville, Tennessee. U.S. Immigration and Customs Enforcement asked CoreCivic to run the facility even after the federal Bureau of Prisons ceased working with the company due to
an investigation that found medical neglect had led to the death of inmates
(https://www.revealnews.org/article/inside-the-billion-dollar-industry-of-locking-up-immigrants/). Approximately
dozens more transgender detainees were sent to Aurora, Colorado. ICE refers to the moves as temporary.

Advocates and immigration attorneys say the transfers were necessitated by medical complaints about the care of
transgender individuals housed in Cibola.

In a statement, Tanya Roman, a spokesperson for ICE, acknowledged poor conditions had led to the transfers,
noting that they had occurred while the federal agency “works with its contractor to assess and improve the quality
of long-term health care management” at the Cibola County Correctional Center.

**Last year, more than two dozen of the transgender women at Cibola County Correctional Center sent a
handwritten letter in Spanish, complaining about inadequate medical care and mistreatment from
staff.**

ICE, Roman said, “takes both the mental and physical well-being of all those within our care very seriously.”

In 2014, ICE opened a first-of-its kind dedicated unit for transgender women in Santa Ana, California. One year later,
ICE established guidance on the care of transgender individuals in custody. The agency’s Transgender Care
personnel to allow transgender detainees to identify themselves based on their gender identity. The directive also
requires detention facilities to allow transgender detainees to be housed with others of the same gender identity and
provide access to hormone therapy and other trans-specific health care.

In 2017, under pressure from immigration activists, ICE abruptly shut down the transgender unit in California
same year, ICE opened a similar unit at the Cibola County Correctional Center. According to ICE, the transgender
unit in Cibola houses up to 60 women. But even facilities specifically dedicated to transgender care haven’t
proved to be safe.

In May 2018, Roxsana Hernandez Rodriguez, a transgender woman held at the Cibola County prison, died of HIV-
related complications. An independent autopsy later revealed Hernandez showed signs she had been abused
raising questions about her care at the facility. A little over a year after Hernandez’s death, Johana Medina León,
another asylum-seeking transgender woman, died in a hospital in El Paso, Texas, shortly after being released from
n1012956) custody. She reportedly requested medical attention while in custody but was denied.

In 2016, the watchdog group Human Rights Watch released a report (https://www.hrw.org/report/2016/03/23/do-you-
see-how-much-im-suffering-here/abuse-against-transgender-women-us) involving interviews with 28 transgender
women — most from Mexico, Guatemala, El Salvador, and Honduras — who had been kept in ICE detention between
2011 and 2015. The organization found even those living in the Santa Ana unit dedicated to transgender detainees
were “regularly subjected to humiliating and abusive strip searches by male guards; have not been able to access
necessary medical services, including hormone replacement therapy, or have faced harmful interruptions to or
restrictions to that care; and have endured unreasonable use of solitary confinement.”

The accounts of mistreatment and recent deaths have led advocates and members of Congress to call for the
immediate release of all transgender detainees. Last month, dozens of advocacy organizations, including Seattle-
based OneAmerica and La Resistencia, sent a letter
(https://www.washingtonblade.com/content/files/2020/01/Transgender_Release_Organizational_Letter.pdf) to


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acting ICE Director Matthew Albence and Chad Wolf, acting Department of Homeland Security secretary, arguing it was their understanding that ICE facilities were not complying with the agency’s standards of care for transgender individuals as outlined in the 2015 memo.

Just this month, U.S. Sen. Patty Murray, D-Washington, and other members of Congress, followed suit, asking that "ICE consider the supervised release of those individuals or [placing] them in alternative-to-detention programming.” The lawmakers reminded ICE that the agency should only detain transgender immigrants in facilities specifically equipped to accommodate them.

"It is unclear which ICE detention facilities, if any, have formally modified their contracts to provide a safe environment for transgender migrants,” the letter from Murray and other members of Congress (https://www.murray.senate.gov/public_cache/files/57d3777-1d43-457c-93eb-7a8e597d4b6/02062020---acting-secretary-wolf-acting-director-albence---ask-for-explanation-on-how-ice-is-complying-with-congressional-requirements-for-transgender-migrant-care.pdf) reads before demanding answers from the federal agency by the end of March.

Even those who are released face an uphill battle. Robert Foss, an attorney with Entre Hermanos, an advocacy organization that focuses on the Latinx LGBTQ community, is handling a number of the legal cases of the transgender women detained in Tacoma.

Foss said the Trump administration has made a number of changes that make navigating the asylum system in the U.S. extremely difficult. For example, the Migration Protection Protocols, otherwise known as the "Remain in Mexico" policy (https://www.newyorker.com/news/dispatch/how-the-us-asylum-system-is-keeping-migrants-at-risk-in-mexico), requires that asylum seekers wait in Mexico for months as their case proceeds. In addition, the administration can now reject asylum applications from anyone (https://www.nytimes.com/2019/09/12/world/americas/asylum-seekers.html?auth=login-email&login=email) who has not already been denied asylum in one of the countries they traveled through on their way to the U.S. Finally, the administration has reached deals with El Salvador and Guatemala to send asylum seekers back (https://www.vox.com/2019/9/26/20870768/trump-agreement-honduras-guatemala-el-salvador-explained) to those countries, claiming they are safe countries.

A report by Human Rights Watch released earlier this month (https://www.hrw.org/sites/default/files/report_pdf/elsalvador022) that 138 Salvadorans had been killed since 2013 after being deported from the U.S.
“There is no way in the world that El Salvador is a safe third country,” Foss said. “It is unconscionable that any government in the world would do that and in particular that the United States would do that.” A report by Human Rights Watch released earlier this month
(https://www.hrw.org/sites/default/files/report_pdf/elsalvador0220_web_0.pdf) found that 138 Salvadorans had been killed since 2013 after being deported from the U.S.

Foss, who has visited some of the transgender women in detention in Tacoma, said he’s already seen signs of a “less than full understanding of trans issues.” One guard asked another about using a hand sanitizer immediately after being around some of the transgender women, which Foss took as a possible slight. Some of the women on their way to Tacoma also reported being called “perras” or “dogs” by personnel in Florence, Arizona.

But Wendy Mironov, a nurse practitioner and volunteer for La Resistencia who has visited many of the women held in Tacoma, said she’s surprised that the medical care at the facility has been as good as it is, with many of them reporting that they continue to receive hormone treatments and medicine for other health concerns, including diabetes.

“I’m shocked they have someone inside the detention center who is doing gender care,” she said.

Advocates, however, are still pushing to get the women released as soon as possible. The Washington Immigrant Solidarity Network has been recruiting a network of people in the region who are willing to host transgender individuals after they are released.

[RELATED:https://www.hcn.org/articles/immigration-the-grassroots-groups-helping-asylum-seekers-on-the-border]

“We want to make sure they feel loved and supported,” said Monserrat Padilla, Western Washington coordinator of the immigrant solidarity network, “and build a better understanding of each other.”

Waving Pride flags, immigration advocates with the Yakima Immigrant Response Network and Central Washington Justice for Our Neighbors greeted the transgender women at the Yakima airport when they arrived in the state.

Amara herself said she’s desperate to get out and understands having a sponsor would help her case.

“Es fatal esto (This is awful),” Amara said of being in detention.

“Sometimes I miss having someone to talk to,” she said, noting that although she lives in close quarters with other women, she’s not particularly close to any of them.

Lilly Fowler is a reporter at Crosscut focused on race, immigration and other issues. Find her on Twitter @LillyAFowler
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TAB 28
SAN SALVADOR, El Salvador — Anti-LGBTQ hate crimes in El Salvador have increased over the last two months.

Unknown suspects in a vehicle on Oct. 27 stabbed Anahy Miranda Rivas, a 27-year-old transgender woman, with a knife on Los Héroes Boulevard in San Salvador and dragged her to death.

The body of Jade Camila Díaz, a trans community leader in Morazán department, was found floating in the Torola River on Nov. 9, three days after she was reported missing. The murder of Victoria, 44, who was brutally killed, was reported on Nov. 16. The body of Oscar Cañenguez was found the next day near San Vicente's market.

The country's LGBTQ organizations remain on alert and they have not stopped their constant social media condemnations of the rise in the number of these cases against the LGBTQ community.

“What is happening @FGR_SV @PresidenciaSV? We demand concrete actions! Enough LGBTI deaths!” Erick Ivan Ortiz, an LGBTQ activist and a member of Colectivo Normal, in a tweet in which the offices of El Salvador's Attorney General and president were tagged.

Editor’s note: The Washington Blade published a Spanish version of this story on Nov. 21.
Culture Minister Seucy Callejas, whose ministry is charged with the inclusion of the LGBTQ community in government policies on Twitter said, “We condemn social violence, especially that which targets the most vulnerable communities.”

“We are working to uncover the causes of the recent homicides,” added Callejas in her statement that LGBTQ organizations and activists criticized.

“The culture minister made a pronouncement by tweet and refers to LGBTI people as most vulnerable communities, noting her discomfort with us,” William Hernández, director of Asociación Entre Amigos, told the Washington Blade.

A trans woman’s disappearance in Santa Ana became public after these crimes against the LGBTQ community took place. This case is the one to which the El Salvador’s attorney general referenced, clarifying a person had been detained for having committed a crime.

“The prosecutor gave more importance to the crime,” Hernández told the Blade. “It was as though they implied that they kill us because we are involved in illegal activities and not because of LGBTIphobia.”

Assemblyman Josué Godoy, a member of the Republican Nationalist Alliance (ARENA) party who represents Santa Ana department, on social media declared, “We have seen over these last few days a series of hate crimes against the LGBT community, primarily against trans women. We must act.” He urged the State to condemn these crimes and act with respect to them.

El Salvador’s human rights ombudsman, via a statement from Julio Guillermo Bendec, condemned anti-LGBTQ hate crimes and said through outrage and social pressure the State must act to curb violence and discrimination against this segment of the community. At the same time, he urged authorities to undertake actions necessary to prevent these events that continue to happen.

The U.N. in El Salvador, which also wanted to show its solidarity with the LGBTQ community, on Wednesday issued a statement via social media and a poster.

“The U.N. system in El Salvador makes a call to national authorities who are charged with investigating these crimes that they punish those responsible, consider transphobia as an aggravating factor, and take urgent measures to prevent more acts of violence based on prejudice and hate towards the LGBTI community,” said the U.N. in El Salvador.

President Nayib Bukele as of deadline had still not issued an official statement or comment on his social media pages about these crimes against the LGBTQ community. Some may see this silence as a setback to the work that organizations have been doing for many years.

“The quality of life conditions for the LGBTI community for which we have been working for many years are falling apart for many people,” Hernández told the Blade. “They possibly think we have not achieved much, but we must keep fighting as long as changes don’t come from the State.”
Anti-LGBTQ hate crimes in El Salvador on the rise

Pressure mounts for El Salvador to investigate wave of LGBT+ killings

By Oscar Lopez

MEXICO CITY (Thomson Reuters Foundation) - Following a wave of murders, LGBT+ rights activists in El Salvador on Thursday backed a United Nations appeal for authorities to step up action to protect gay and trans people.

At least four LGBT+ people have been killed in the impoverished and violence-plagued Central American country in the last month, gay and trans rights groups said, with the latest victim, Oscar Canenguez, a gay man, found dead on Sunday.

In a statement, the U.N. called on Salvadorean authorities “to investigate these crimes so that they might punish the perpetrators ... and take urgent measures to prevent further acts of violence ... against the LGBTI community.”

The Salvadorean prosecutor’s office did not immediately respond to a request for comment. After the murder of a trans woman in October, President Nayib Bukele said that authorities were working to end anti-LGBT+ stigma.

LGBT+ people face persistent discrimination and abuse in El Salvador, where local gang violence and entrenched social prejudices can be a deadly mix. Gay marriage is illegal and trans people cannot change their gender on official documents.

The country’s influential Catholic Church and most evangelical groups publicly condemn gay marriage and sex.
According to COMCAVIS Trans, a local advocacy group, some 600 LGBT+ people have been murdered in El Salvador since 1993.

Campaigners said inaction on LGBT+ rights by the government of Bukele, who took office in June, was partly to blame for the rising violence.

“The new authorities don’t have justice (or) the prosecution of these cases as a priority,” said Roberto Zapata, secretary general of local advocacy group AMATE El Salvador.

“This new government is completely silent,” he told the Thomson Reuters Foundation.

Zapata noted with concern that the directorate of sexual diversity, which dealt with LGBT+ discrimination, had been absorbed into the ministry of culture in June.

The government had yet to convene a roundtable between the justice ministry and local LGBT+ groups, Zapata said - a key forum during the previous administration for discussing issues like the violence facing the community.

“There has been a change, but unfortunately it’s been for the worse,” Zapata said.

Only 12 out of 109 LGBT+ murders recorded between December 2014 and March 2017 went to trial, government data shows, and there has never been as successful conviction, according to Human Rights Watch.

Three out of four of the latest murders were of trans women, with one victim found in a river and another discovered naked and buried in debris.

Reporting by Oscar Lopez @oscarlopezgib; editing by Katy Migiro. Please credit the Thomson Reuters Foundation, the charitable arm of Thomson Reuters that covers humanitarian news, women's and LGBT+ rights, human trafficking, property rights, and climate change. Visit news.trust.org

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TAB 30
In early June, officials from ICE took photographs of the transgender detainees at Cibola to share with the media. “It was a whole big lie,” Alejandra Barrera said. Photograph by Ron Rogers/ U.S. Immigration and Customs Enforcement via AP
he Cibola County Correctional Center, an Immigration and Customs Enforcement detention facility, is situated at the edge of Milan, New Mexico, about eighty miles west of Albuquerque. It sits behind a Shell gas station, cut off from the rest of town by a bend in I-40. Behind it lies an expanse of the New Mexican highlands, mostly yellow grass and rusted conifers. Cibola is the only ICE facility in the country with a unit reserved exclusively for transgender women. The trans pod, as it’s known, opened in 2017, and can house up to sixty people, though the population is usually around half that. In late June, twenty-nine detainees in the pod sent an open letter to a Phoenix-based advocacy group, Trans Queer Pueblo, reporting deficient medical care in the facility and abuse by its staff. The letter, which was written in Spanish, said that the medical staff did not provide proper treatment to individuals who are H.I.V.-positive, disabled, or in need of routine medical treatment.

Most of the pod’s detainees signed the letter with their legal names—José, Gilberto, Edwin—and added their chosen names in parentheses—Yoselin, Ruby, Karla. Among the signatures was that of Alejandra Barrera. Barrera was one of the trans pod’s first detainees. At the time of the letter, Barrera had been inside for more than a year and a half, the longest a trans detainee had ever been held at Cibola. Trans migrants spend an average of ninety-nine days in ICE custody, which is more than double the length of other migrants’ detentions, a Center for American Progress report found last year. The long detention periods are primarily a result of the fact that nearly all trans detainees apply for asylum and must wait for immigration judges to rule on their applications. Under the Trump Administration, growing backlogs in immigration courts have slowed this process further.

During Barrera’s initial asylum interview, a Department of Homeland Security official determined her to have a “credible fear” of persecution were she to return to her home country, El Salvador. Barrera also had a worsening medical condition, which was diagnosed when she arrived in detention. (She declined to specify for reasons of privacy.) Rebekah Wolf, one of Barrera’s attorneys, told me that the illness is chronic, negatively affects Barrera’s cognition, and, if left untreated, is likely fatal.

While Barrera remained in detention, she watched dozens of other trans migrants enter Cibola and be granted parole within months, sometimes weeks. Nearly all trans asylum seekers at Cibola are released on humanitarian parole, and most are eventually granted asylum. However, in twenty-two months, beginning in November, 2017, Barrera was denied parole five times and denied asylum. The rulings by ICE, which administers parole, and the immigration judges, who decide asylum, baffled her lawyers. At the very least, she fell victim to Trump-era immigration policies and practices that were designed to
limit all manners of entry into the country. She may also have been a casualty of bias and rank incompetence.

In late August, I met Barrera at Cibola, in a windowless room that I later learned served as the courtroom for her asylum proceedings, which took place via video conference with an immigration judge in Denver. During our conversation, she was poised, polite, and confident. She also appeared tired—not sluggish or drowsy so much as suffering from a kind of permanent fatigue. She spoke about growing up in San Salvador, her home country’s capital, and recognizing her gender identity early. “I am sure that, as of the moment I started going to school, that’s when I started developing that woman that is inside of me,” she told me.

Barrera, who turned forty-four in April, was one of eight children. Her mother became her main support system—though her mother “never really agreed with it,” Barrera said, referring to her gender identity. For decades, she kept her feelings secret. As an adult, she worked as a beautician, and later got involved in trans activism, educating members of El Salvador’s L.G.B.T.Q. community about disease prevention and visiting terminally ill AIDS patients in local hospitals. It was perilous work. “We were afraid of reprisals from the government, and also from conservative sectors,” she told me.

Barrera spoke steadily, often with her palms pressed together; her nails were unpainted and carefully manicured, descending in length from her thumbs to her pinkies. She punctuated her speech by regularly flipping her straight black hair, which reached down the length of her back. Her two front teeth were missing; I learned later that she’d had a total of six pulled while in ICE detention, which she described as the result of poor dental care.

Before fleeing to the U.S., Barrera was sexually assaulted by members of the Salvadoran military and the transnational gang MS-13—which has roots in El Salvador—who targeted her based on her transgender identity and outspoken activism. Between 2013 and 2016, MS-13 members beat her five times, leaving scars on her face, scalp, and one of her legs. She told me that she loved her activist work, but, amid constant danger, and unable to find protection in local law enforcement, she feared for her life. In November, 2017, she journeyed to the U.S. border, with her niece Zulay, who is also transgender. They presented themselves to Customs and Border Protection officials at the San Ysidro port of entry, in Southern California, to request asylum. Twelve days later, they were transferred to the trans pod at Cibola.
Wolf, now an attorney with the Immigration Justice Campaign, took on Barrera’s case pro bono. At the time, ICE was administering blanket denials of parole for asylum seekers in its El Paso district, of which Cibola is a part. Anticipating a denial, Wolf did not apply for parole until June, 2018, when her client’s medical situation worsened into what she called “an emergency.” (A month later, a federal court blocked the practice of blanket denials, which had been occurring in five ICE districts, though news organizations have reported that the practice has continued.)

Cibola’s medical staff claimed that they had been providing Barrera with appropriate treatment for her condition since her arrival at the facility, seven months earlier. Barrera and Wolf contend that, although Barrera’s medical documents show that she was prescribed medication, she was never actually given it. In the hope of winning Barrera’s release, Wolf requested that a doctor at the University of New Mexico’s School of Medicine review Barrera’s medical records and produce an affidavit. The doctor found that Barrera was administered two treatment courses in a four-month period, beginning in December, 2017, neither of which produced a “clinically satisfactory response.” The doctor also concluded that the disease had likely begun infecting Barrera’s vital organs. In the eighteen months since then, Barrera has received no specialized treatment for her illness.

In June, ICE denied Barrera’s application for humanitarian parole, in part because it had denied Barrera parole once before, the agency said, and nothing in the current request adequately changed the circumstances of her case. Wolf was shocked. According to her records, this was Barrera’s first parole application. Wolf inquired how Barrera could have been denied previously, and ICE sent her a rejection letter dated March 13, 2018. She came to the conclusion that ICE officials had fabricated the document. For one, the senior official who signed it wasn’t in his position on March 13th. Furthermore, the day that ICE claimed Barrera had her original parole interview happened to be Wolf’s birthday, all of which she spent with Barrera, mostly in court; there was no parole interview. (Barrera’s first four parole-denial letters state three different dates for when this original parole interview supposedly occurred.) Wolf said that each subsequent parole denial was based, in part, on this fabricated document. Barrera has no criminal history in the United States and had multiple sponsors willing to take her in upon her release, satisfying two main criteria for parole. According to ICE’s own rules, Wolf argued, Barrera should have been released. (ICE did not respond to requests for comment regarding Barrera’s legal case.)
On the same day, Barrera learned that an immigration judge had denied her asylum claim. During her asylum hearing, in April, 2018, Barrera recounted the abuse that led her to seek asylum. The government’s attorneys, who were in Denver alongside the judge, noted chronological discrepancies between that day’s testimony and what she had stated during her original asylum interview, in 2017. It is D.H.S.’s general practice to share the Department’s notes from initial asylum interviews with asylum seekers, but Barrera and Wolf didn’t receive the notes from Barrera’s interview until after the evidentiary hearing was closed, five months later; as a result, Wolf couldn’t contest the government’s arguments. (A spokesman for U.S. Citizenship and Immigration Services, the D.H.S. arm that handles asylum applications, declined to comment on Barrera’s case, citing confidentiality rules.)

Echoing a position common among immigration attorneys and L.G.B.T.Q. activists, Wolf argued that Barrera, as a trans asylum seeker, should never have been detained in the first place. Despite the judge’s doubts about Barrera’s “credibility,” Wolf told me, “everyone concedes that she is, in fact, a trans woman from El Salvador,” one of the five most dangerous countries in the world for women, and where trans women have been consistently targeted. Transgender asylum seekers, particularly those from Central America, are a vulnerable population: they have “a higher rate of chronic diseases,” Wolf told me, and “a higher rate of issues related to trauma than even the average asylum-seeker population.” Zulay, Barrera’s niece, was granted asylum during her hearing, which had occurred on the same day as Barrera’s. Shortly afterward, she was released and taken in by an advocacy organization in Phoenix. Barrera remained in detention.

ICE—which currently has more than fifty thousand migrants in its custody, an all-time high—records a detainee as transgender if that person identifies as such. At any given time, transgender detainees are held across some twenty different facilities, and, outside of the Cibola pod, trans women are likely to be housed with cisgender men, leading to outsized rates of sexual abuse. A letter sent to D.H.S. last year by thirty-seven members of Congress noted that, if each reported attack involved a separate victim, L.G.B.T.Q. migrants were roughly a hundred times more likely to suffer sexual abuse than other detainees.

Many trans detainees also require consistent access to health care, which detention centers largely fail to offer. ICE guidelines state that hormone therapy will be provided to trans detainees who are already receiving treatment when they are taken into custody, and that they shall receive “other transgender-related health care and medication based on medical need.” But Wolf said that “things like H.I.V.
medication, epilepsy medication, and antibiotics for other kinds of chronic diseases are really hit or miss.” On September 25th, fourteen human-rights groups demanded that ICE release all L.G.B.T.Q. migrants in its custody and any detainees with H.I.V., citing the agency’s failure to provide adequate health care to these populations. “By the Department of Homeland Security’s own count, three hundred individuals identifying as transgender have been in [ICE] custody” in the past year, Roger Coggan, of the Los Angeles L.G.B.T. Center, said. “Lack of medical and mental-health care, including lack of H.I.V. care, is the norm.”

Earlier this year, a twenty-five-year-old trans woman named Johana Medina León, who was detained for more than a month at New Mexico’s Otero County Processing Center, was repeatedly denied medical treatment as her health “rapidly deteriorated,” according to a claim filed by her family against the federal government. Medina León, a nurse from El Salvador, who was H.I.V.-positive, eventually requested deportation, as a means to receive medical care. Shortly afterward, she was found unconscious in the ICE facility and taken to a hospital in El Paso, where she died, four days later, of pneumonia. ICE has said that it granted Medina León humanitarian parole the same day she was taken to the hospital. (Before Medina León’s death, Otero was the subject of a letter by the A.C.L.U. and other advocacy groups decrying the facility’s treatment of trans women and gay men. It has also been at the center of a force-feeding controversy.)

Barrera told me that she routinely had to wait weeks, sometimes months, for Cibola’s medical staff to answer or act upon her medical requests. When she did receive medical attention, she said, it often was “not . . . because I have requested it” but because someone else had intervened—namely, Wolf or Alma Rosa Silva-Bañuelos, the New Mexico program director at TransLatina Coalition, a national advocacy group, who counsels trans inmates at Cibola. Barrera recalled a time when she was vomiting, beset with migraines and nosebleeds, and experiencing extreme sensitivity to light—potential symptoms of a dangerous progression in her illness—for days on end. The Cibola medical staff didn’t see her until a week and a half had passed, and only after Wolf and other advocates appealed directly to ICE. All told, Barrera had requested medical attention six times during that period. She told me that, on most occasions, the resulting treatment course was simply a ten-day supply of Tylenol.

Cibola is operated by CoreCivic, a private, for-profit prison-management company. For sixteen years, CoreCivic ran the complex as a federal penitentiary, but, in July, 2016, the Bureau of Prisons cancelled its contract, spurred by an investigation that found that gross medical negligence had...
resulted in the deaths of several inmates. Three months later, CoreCivic received its ICE contract for the same facility, rehiring, as Wolf told me, “a lot of the same guards.” When I asked Barrera if she'd witnessed any abuse from the guards, she sighed. “Muchas,” she said. She described how a Cibola guard pepper-sprayed the length of one of the pod's hallways, after two detainees were separated after a fight. It seeped into several of the detainees’ unventilated rooms, including Barrera's; six of the women had to go to the medical ward for immediate treatment, and Barrera had to keep a moist washcloth over her mouth until the end of the following day, including to sleep. She also described being denied water, because, she said, quoting a guard, she was an immigrant who does “not have any rights.” (ICE did not respond to requests for comment regarding Barrera's medical treatment or the alleged abuse and neglect at Cibola.)

In early June, officials from ICE, which does not have a constant presence at the facility, took photographs and video of the trans pod to share with the media. They show the women watching television, playing volleyball in the yard, getting haircuts, meeting with asylum officers. “It was a whole big lie,” Barrera said. “They opened up the recreation area. They opened up everything. . . . We could be in the hallway, we could be in the barbershop, in the library. But, in reality, they really never have them open.” ICE told the women that the photos and videos were for internal purposes, and not for release—“so that we could look happy.” “That's when all of us girls got united,” Barrera said, “and we started sending the letters.”

Barrera had been shy and withdrawn when she first arrived in detention. As the months passed, though, she began to assume a mentor role with the other detainees. Perpetually the eldest member of the Cibola pod, she was also by far the longest-serving. From that position, she became a source of support to other women, helping to orient new arrivals and advising them on how to advocate for themselves.

During our interview, she proudly produced original copies of letters that the pod had sent to various advocacy groups. On one such letter, Barrera's was the first signature. “This is the continuation of my activism,” she said.

After ICE rejected Barrera's initial asylum appeal, Wolf reached out to Tania Linares Garcia, a litigator with the National Immigrant Justice Center, a nonprofit. In January, Linares Garcia filed an appeal for Barrera in federal court. In June, the court granted Barrera a stay of removal,
insuring that she could not be deported while her appeal was ongoing. It was the first legal breakthrough in her case. At that point, her lawyers filed another parole request to ICE, her fifth. The request, too, was denied. All the while, Barrera’s health continued to deteriorate.

In July, her legal team filed a petition for a writ of habeas corpus, which called on D.H.S. to defend, to a federal judge, the reasons for Barrera’s continued detention. They expected that a judgment could take several months. But, on September 6th, Barrera was unexpectedly released on parole. That night, she was transferred from Cibola to ICE’s Albuquerque field office, where she was greeted in the parking lot by Silva-Bañuelos, Wolf, and four former trans-pod detainees, all of whom she’d been inside with and three of whom now have asylum. They brought Barrera a bundle of flowers and a tres leches cake.

A week later, I met Barrera and Silva-Bañuelos at a small TransLatina Coalition office space on Albuquerque’s east side. Barrera wore jeans, a gray striped T-shirt, and a large, blue-gray rosary. On her right ankle, above a blue cloth sandal, was a black monitoring bracelet. She described sitting alone after learning that she would finally be released, following twenty-two months at Cibola. After a little while, she told her best friend in detention. “We began to scream, and got excited, and we began to hug, and we cried,” she said. “We went through all the emotions together.” Soon, the whole pod rallied around her, congratulating her and celebrating the news. For months, Barrera had watched trans women whom she had mentored be released from Cibola. This time, it was her turn.

That first night, Silva-Bañuelos put Barrera up in a hotel. The following day, Barrera moved into the home of Silva-Bañuelos, who had offered to sponsor Barrera if she were granted parole; Barrera will live with Silva-Bañuelos, in Albuquerque, until her asylum case is resolved. On Barrera’s third night in the house, Silva-Bañuelos organized a party for her, with around twenty people who had all, in some way, been involved with her case. The group grilled outside, mixed aguas frescas, and made pupusas, stuffed flatbreads native to El Salvador. It was Barrera’s first opportunity to cook in nearly two years. She described the past week as pure happiness. “Now I finally have space. I have a bed I can sleep in. I have the things that I need—I have my privacy, one of the things I needed most,” she told me. She was able to speak with Zulay, her niece, on the phone, too, a conversation she described as very sad and very happy—“both emotions coming at the same time.”

Barrera’s asylum appeal is pending in federal court. She said that the trauma of detention is still with her, may always be with her. But she described trying to channel it, to make it work to her advantage.
“It will stay with me because that will be a motivation to go on fighting and fighting, so that there is no other Alejandra in detention,” she said. “I have the opportunity to speak about what happened to me inside, and what’s still happening to my compañeras inside.”

On October 16th, Barrera travelled with Linares Garcia and Silva-Bañuelos to Washington, D.C., where she was invited to address congressional leaders at a panel on the dangers that trans migrants face in ICE detention. Wearing a bubble-gum-pink blazer atop a floral shirt, she read from a prepared statement. “I am here this afternoon because I want you to know about the inhumane conditions I was subjected to,” she said. “Thank God nothing is forever.”

Murat Oztaskin is a member of The New Yorker’s editorial staff.

More: Immigration Transgender Rights Border Crisis Donald Trump
TAB 31
OUT COMMUNITY VOICES

Gay Salvadoran finds freedom and hardship in America

Luis Rodriguez crossed into America in May 2018. Over a year later, his asylum claim hasn't been approved. He says it was impossible to stay in El Salvador.


Mike Blake / Reuters

Oct. 11, 2019, 3:28 PM EDT

By Reuters

A year to the day after crossing the U.S.-Mexico border in May 2018, Luis Rodriguez, 20, writhed on a gurney in a Los Angeles emergency room with a kidney and bladder infection.
He wasn't just in pain - he was worried. His asylum claim had not yet been approved. He had no work permit, though he'd been working seven days a week anyway. Now he was seriously ill, and bills were mounting.

When Rodriguez arrived in the United States, he had planned to finish his final year of high school, earn a university degree and then become a systems engineer. He'd always been studious and driven in El Salvador, the kid teachers commended. But here in the hospital, his goals seemed out of reach.

He felt alone in this country - but, he told Reuters, he hadn't had much choice in leaving his own.

Rodriguez is gay. He and his first love, Bryan Claros, were high school classmates, meeting secretly when they could on an isolated stretch of beach outside their hometown of La Libertad. One March night, four gang members surrounded them there, beat up Claros and threatened Rodriguez, both men told Reuters.

“Never show your faces here again,” Rodriguez recalled them saying.

A police detective’s report on the incident, reviewed by Reuters, confirmed the outlines of their account, saying Rodriguez was the victim of “aggravated threats” by terrorist groups or gangs and that “it was recommended that he emigrate ... because these individuals who threaten people always act out the threats they make.”

The couple left town within the week, along with Rodriguez’s father, Andres Rodriguez, 52. He told Reuters he accepted his son’s relationship and refused to let the pair risk the journey alone. “He’s my son, and I will always support him,” he said.
They joined a gathering caravan in spring 2018 in southern Mexico. To anyone who asked, the young men said they were cousins.

Just shy of the U.S. border in Tijuana, Mexico, Andres Rodriguez decided not to cross with the younger men, convinced that his case for asylum was not as strong. He waited long enough to ensure his son made it out of detention, then headed home.

Luis Rodriguez and Claros were sent to the Otay Mesa Detention Center in San Diego to await immigration court hearings. There, Rodriguez - schooled by caravan members on the language of human rights - wrote a letter on behalf of 36 other detainees to protest the living conditions.

"In this country," he wrote, "the First Amendment protects the rights of all human beings no matter their race, religion, nationality, social group, sexual orientation or political opinion. For that reason we urge CCA" - a private company, now called CoreCivic, that runs Otay Mesa - "to treat us like the humans we are."

The May 2018 letter, reviewed by Reuters, alleged the detained migrants were forced to work six hours a day for $1.50 per hour.

“When we ask for medical attention they do not treat us, and many of us have wounds and pains," the letter said.
In a statement to Reuters, CoreCivic representative Amanda Gilchrist said work programs were “completely voluntary.” In a separate statement to Reuters, the Immigration and Customs Enforcement agency, which overseas the center, also said work was voluntary and that all detainees were screened for health issues and provided treatment as needed.

Conditions at the center briefly improved and Rodriguez said he suffered no punishment for taking a stand - a result that impressed him.

Rodriguez and Claros were released on immigration parole after four months, each moving in with their respective relatives in Los Angeles.

The young men said the addresses on their court papers were not updated. Receiving word of his San Diego hearing a day in advance, Claros said he rushed more than 100 miles to make it in time. He was granted asylum on October 18, according to his court papers. He then moved in with relatives in Texas.

Rodriguez got notice of his hearing on the day it was to be held and missed it, he said. His next court date is later this year.

Related

After his relative learned he was gay, Rodriguez said, tension mounted in the household and he moved out. He found a job, was fired for being undocumented, then found another as a metal worker. Every day, he worked nine to 12 hours. His relationship with Claros became strained by distance and the pressures in their lives, he said. They broke up.

One afternoon in early May 2019, he was hospitalized in unbearable pain. After 15 days’ absence from work, his boss fired him, he said. Rent was due. His hospital bill climbed to $1,155.

After he was discharged, however, his luck began to turn. His work permit landed and he began applying for jobs the next day. Soon he started as a half-time cashier at McDonald’s, making
$14.50 an hour, and took a second job as a house painter.

A friend agreed to help him find a center where he could earn his general education diploma.

Making his way in the United States is still difficult, he said, but things are starting to work out for him.

"To be able to go to school in a few years, I see that as a lot better - because then I won't have been defeated."

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TAB 32
Leave or die, options of the LGBTI community in El Salvador

The violence and discrimination suffered by the LGBTI community in El Salvador is forcing its members to leave the country or die at the hands of street gangs or security forces of a government quite willing to overlook murder, activists say.
EFE heard the news from Bianka Rodriguez and Roberto Zapata, human rights activists on behalf of the lesbian, gay, bisexual, transgender and intersex community in El Salvador, where more than 600 hate killings have gone unpunished.

El Salvador is one of the world's most violent countries, as shown by a homicide rate from 50.3 to 103 for every 100,000 inhabitants, recorded between 2015 and 2018.

According to various social organizations, this murderous violence is also one of the factors causing forced emigration, among whose crowds of people looking for a safer life are members of the LGBTI community.

Figures provided to EFE by the Trans Communicating and Training Association (Comcavis-Trans), directed by Rodriguez, indicate that between 2018 and so far in 2019 no less than 151 cases of displacement have been recorded.

The main victims are trans women with 67.5 percent of the cases, followed by gay men with 17.2 percent.

Those responsible for this phenomenon are mostly street gangs and state security forces, whose homicide attempts, threats and injuring of people convince many of the targeted individuals to get up and go live somewhere else.

Added to this is the widespread impunity that has allowed more than 600 LGBTI citizens to be murdered since 1993, with gang members, police and the military as the principal perpetrators.

"Trans people are persecuted by security forces to exercise physical and sexual violence," Rodriguez said.

She added that trans women are often victims of sexual slavery by the "mara" gangs, which force them to engage in illegal acts or pay a "sex fee," which means having sex with no protection and no pay.

"We're in a dead-end street," lamented the trans activist, adding that victims "have to flee the country to find somewhere that acknowledges their rights" and to avoid becoming one more murder statistic.

Violence and impunity are not the only scourges that undermine the rights of the Salvadoran LGBTI community, given that the discrimination they suffer dumps them into a very poor economic situation.

According to Roberto Zapata, secretary general of the Amate Association, LGBTI people face "a number of barriers when going through the selection process to get a job," given all the "prejudice that exists."

Figures managed by his organization show that two-thirds of trans women suffer "some kind of job exclusion," so that many of them "are doing sex work as the only way to support themselves."

This situation, he said, has left part of this segment living on the edge of poverty.

"When poor economic conditions meet the social stigma we bear due to our gender orientation and identity, other phenomena occur, such as being forced to leave the place we live," he said.

Sexual diversity organizations looked on with distrust when El Salvador's President Nayib Bukele took office last June 1, so that during the march on International LGBTI Pride Day, participants expressed their intention to take "not one step back" from the progress that has been achieved.

One of the first moves by Bukele, of the rightist Grand Alliance for National Unity (GANA), was to eliminate the Social Inclusion Secretariat (SIS).

"We're not asking for any special rights," Rodriguez said, adding that all she hoped for was a life "free of violence, free of stigma, free from discrimination." EFE-EPA hs/cd
TAB 33
Transgender woman deported from US murdered in El Salvador

Camila died at a hospital in San Salvador, El Salvador, on Feb. 3, 2019. Local activists told the Washington Blade she migrated to the U.S. after receiving death threats, but was deported back to El Salvador. (Photo courtesy of Aspidh Arcoiris Trans)

Editor's note: A Spanish version of this story that El Salvador Correspondent Ernesto Valle wrote was published on the Washington Blade’s website on Feb. 16. This article has been updated with additional details about Camila and her deportation from the U.S.

SAN SALVADOR, El Salvador — A transgender woman who the U.S. deported back to her native El Salvador died earlier this month after she was attacked outside the country's capital.

Asociación Aspidh Arcoiris Trans, a Salvadoran trans advocacy group, told the Washington Blade that Aurora, who was also known as Camila, had been reported missing at the end of January.

The group looked for Camila at various hospitals and eventually learned she had been admitted to Rosales National Hospital in San Salvador, the Salvadoran capital, on Jan. 31 with multiple injuries. Camila passed away on Feb. 3.

She was found on Carretera de Oro above the municipality of Soyapango outside of San Salvador. It remains unclear what happened to Camila.
Activists with whom the Blade spoke said threats that Camila received prompted her to travel to the U.S. with one of the migrant caravans that left Central America last year. They said the U.S. deported Camila and she had been in El Salvador for 4-5 months before her death.

“She migrated to the U.S. because of threats that she had received, but she was deported because they didn't believe her,” Aislinn Odaly's, an independent LGBTI rights advocate, told the Blade.

Camila is the second trans women reported killed in El Salvador this month.

A trans woman who used the name Lolita was killed with a machete on Feb. 8. The murder took place in Sonsonate, but trans rights organizations don't have any additional information.

El Salvador's National Civil Police and the country's attorney general have not classified either murder as a hate crime, in part, because Lolita and Camila died in public hospitals where the reports that were made did not mention they were victims of violence.

“We want justice and that these cases are investigated and the reformed penal code procedures to be applied when those who are responsible are found,” Aspidh Arcoiris Trans Projects Coordinator Ambar Alfaro told the Blade, referring to a 2015 amendment to El Salvador's legal code that enhances penalties for hate crimes based on sexual orientation and gender identity. “Although we have begun the year badly, we hope these crimes establish precedents for there to also be a positive legal framework that regulates the situation of trans people, especially the situation of violence and insecurity.”

The lack of action on the part of the judicial system to investigate hate crimes has created a widespread feeling of anxiety among El Salvador's LGBTI activists. “It is unfortunate that although we have articles in the penal code that (allow for the classification of) crimes committed against trans people as hate crimes, they are not put into practice,” Miss Trans El Salvador 2018 Tatiana Molina, who is also an LGBTI activist, told the Blade. “Such is the case of all the crimes that have occurred in recent years and specifically the cases of Camila and Lolita. That is why we are demanding justice and the prompt investigation and prosecution of these cases.”

The increase in anti-LGBTI hate crimes and the lack of prosecution of them has sparked increased fear among community members. “I feel outraged, insecure and even more so I am afraid of any reaction of a homophobic or transphobic person who can harm us while walking in the streets,” said Odaly's.

Aspidh Arcoiris Trans has made formal complaints in Camila's case and continues to give special attention to it. Advocacy groups have also filed formal complaints in Lolita's case, but it remains unclear whether any investigation into either murder or those who may be responsible has begun.

A spokesperson for the National Civil Police has not returned the Blade's request for comment.

**Casa Ruby working with trans Salvadoran women detained by ICE**

El Salvador, which borders Guatemala and Honduras, has one of the world's highest per capita murder rates. Thousands of people — including trans women who are even more vulnerable to violence from gang members, police and family members because of their gender identity — have migrated from El Salvador in hopes of reaching the U.S. and other countries that include Mexico.

The Blade earlier this month confirmed U.S. Immigration and Customs Enforcement was housing 45 trans women at a privately-run detention center in Texas. Some of the detained trans women for whom the D.C.-based Casa Ruby is working to provide housing are from El Salvador.
Transgender woman deported from US murdered in El Salvador

Michael K. Lavers and Ernesto Valle

Lolita was killed in Sonsonate, El Salvador, on Feb. 8, 2019. (Photo courtesy of Aspidh Arcoiris Trans)
Transgender woman deported from US murdered in El Salvador

TAB 34
El Salvador’s President-Elect Opposes Same-Sex Marriage, as LGBTQ Community Struggles for Acceptance

By JO CORONA  FEB 12, 2019  LATIN AMERICA LGBTQ NEWS

Nayib Bukele made history in El Salvador when he won the presidential elections February 3, ending decades of two-party rule. Hailed as a young, millennial, anti-corruption candidate, Bukele won by over 20 points ahead of the right-wing Nationalist Republican Alliance (ARENA) candidate, Carlos Callejas. While Bukele’s win is a sign of change for many, his stance on same-sex marriage and LGBTQ rights, in general, is concerning for local advocates.

In October of 2018, the presidential electoral campaigns in El Salvador were in full swing and María Luz Nóchez, a journalist working for the award-winning outlet El Faro, was out covering one of the candidates: the 37-year old Bukele. That day, he and his running mate,
Félix Ulloa, had gone to a Jesuit-led university in the country’s capital to address the student population about their campaign platform.

The place—inside and out—was packed, and the audience clapped effusively each time Bukele talked about cracking down on corruption. But during the Q & A that followed, someone from the audience prompted Bukele to express his thoughts on same-sex marriage. The social media savvy candidate said he had gay friends and acquaintances, but added that marriage could only happen between a man and a woman. “Water is in a bottle and I have the option of drinking it there or in a cup, but that does not mean the cup is going to become a bottle,” El Faro reported him saying.

“There was this big silence when he said that,” Nóchez said in Spanish during an interview with Latino USA. “People did not expect that response.” According to Nóchez, this was the first time the candidate publicly took a stance on a topic linked to the LGBTQ community and that—in conservative and religious El Salvador—could potentially become a polarizing issue and translate into voters defecting for other candidates.

A few weeks before that statement, Bukele had taken the country by storm when he announced, via Facebook Live, that he was running for president. Now he will become El Salvador’s youngest president. But whereas in other Central American countries—such as Costa Rica—same-sex marriage became a galvanizing issue on which the election hinged, in El Salvador it was more like the non-issue candidates tiptoed around, and Bukele had so far been mute on the topic of LGBT rights.

“If you want popularity, talk about fighting corruption,” said Nóchez. “Not this.”

Although human rights organizations point to the lack of official data on hate crimes committed against LGBTQ people in El Salvador, violence against the marginalized group is a grim reality, where same-sex marriage is illegal, and discrimination an imminent threat for transgender people, since the law forbids changing public documents to reflect the gender a trans person identifies with.

“Trans women in El Salvador are frequently kicked out of their homes,” said Nóchez, who also reports on gender violence. To survive, many have to work in the streets as prostitutes, and this creates an additional layer of stigma because “their clients fear being exposed as ‘that’ type of client.” This vulnerability is only compounded by the fact that the Salvadoran transgender population has the highest rates of HIV in the country—two out of 10.
An analysis done by civil society organizations estimated that around 500 LGBTQ people had been killed since 1999. In 2016, Reuters reported that 25 LGBTQ people were killed in that year alone. In a country with a population roughly surpassing six million, these numbers are almost on par with the United States, which recorded death of 29 transgender people in 2017, according to advocates.

In a country where, according to the Pew Research Center, more than 60 percent of the population considers society should reject homosexuality, where women can be imprisoned for having a miscarriage, and where one of the political parties contending for the presidency (Vamos) crusaded against anything related to LGBT rights, some consider Bukele’s lukewarm position is foremost a political calculation. The new president is just conforming to the status quo and tiptoeing around this issue to avoid antagonizing a sector of society adamantly against granting rights to the LGBTQ community.

Activists participate in a march against homophobia on May 17, 2018 in San Salvador. (Photo by Marvin Recinos/AFP/Getty Images)

Researcher Vaclav Masek thinks of Bukele as an “opportunistic,” and said he was probably being strategic.
“There is probably a core group of supporters who voted for Bukele, young Salvadorans, who would probably be dissuaded of his validity or his legitimacy as a candidate if he were to be outspoken or in favor of minority rights,” said Masek, who investigates democratic transitions in Central America.

Bukele won without the support of the two political parties that emerged out of the civil war from the 1980s and have dominated Salvadoran politics ever since. Perceived by voters as an anti-establishment outsider, Bukele campaigned hard against corruption and effectively portrayed himself as belonging to a political platform without such a loaded past, the small right-wing party known as Great Alliance for National Unity (GANA).

But in reality, Bukele’s political career was launched in 2012, when he was elected mayor of Nuevo Cuscatlán for the historically leftist Farabundo Martí National Liberation Front (FMLN). Three years later, he was voted mayor of San Salvador, the country’s capital, for the same party. Then, in 2017, the party’s ethics committee expelled him, allegedly after he threw an apple at a fellow congresswoman.

In 2014, when he was voted mayor of San Salvador, Bukele told the LGBTQ community he was committed to protecting their rights, Nóchez recalled. In November of that year, Bukele was recorded talking to a group of LGBTQ advocates. In the video, he tells them he is an ally, that he is convinced discrimination stems from ignorance and that he wants to be “on the right side of history.”

Regardless of who would have won, a Salvadoran LGBTQ organization found the elections presented an adverse scenario for queer rights, pointing to the absence of proposals in favor of the acknowledgment, protection and social inclusion of LGBTQ people. The exception came from the incumbent FMLN, who in 2010 created the Bureau of Sexual Diversity within the Ministry of Social Inclusion, from where timid attempts have been made to advance the queer agenda in the public sphere, and whose candidate promised to continue with the work done by the Ministry.

Notwithstanding the current situation, El Salvador’s queer community is mobilizing. In June of 2016, more than a dozen social organizations announced the creation of the LGBTI Federated Association, an umbrella movement to help them gain political clout, fight against threats and create an observatory to systematize human rights violations.

However, in a country where being queer is potentially life-threatening, the federation is not really pushing to legalize same-sex marriage nor adoption for same-sex partners—flagship issues in the rest of the world. Instead, activist William Hernández told El Faro back when the federation was born, they are focused on protecting lives.
“What use is getting married if they are still killing us?” Hernández said.
TAB 35
POLITICS

The Mother of El Salvador's Trans-Rights Movement

In El Salvador, where trans women are denied basic human rights, Karla Avelar bravely leads her community forward.

BY ALICE DRIVER

JANUARY 30, 2018

Karla Avelar poses for a portrait in San Salvador, El Salvador

PHOTOS BY DANIELLE VILLASANA
Her body reads violence, a pale script of wide, jagged scars that run across her stomach, chest, and back, punctuated only by the circular scars left by bullet wounds. Living openly as an HIV-positive trans woman, Karla Avelar, 39, has survived three assassination attempts and five years in a men’s prison. Her mere existence challenges societal norms in her conservative birth country of El Salvador. That’s why she founded the NGO Comcavis Trans Association in San Salvador in 2008.

Avelar, who was born in Chalatenango, in northwest El Salvador, is tall with unruly hair. She is soft-spoken and has a wide, easy smile, but her presence is commanding. Through pure willpower and self-education, Avelar, who never finished elementary school, has learned how to navigate the world of human rights on her own.

Avelar and her staff of seven, which includes trans women and men, as well as several volunteers, provide support to the LGBTI community, defending and protecting their rights when no one else will. According to Avelar, trans women migrate from El Salvador to the United States in great numbers because they have no guarantee of basic human rights in their home country, including access to education and health care.

Although the United States offers more opportunities for the trans population, Avelar has become increasingly worried about President Trump’s statements and policies regarding the LGBTI community. “The US is taking drastic actions, and they are resulting in a worsening human-rights situation,” she says. “It not only affects one country — it affects the whole world, because other countries could copy his actions.”

***

I spent three weeks with Avelar in San Salvador last August getting to know her work and the trans women whom she helps. Avelar introduces me to Nicole Rosales, 22, a trans woman and sex worker who has a cascade of waist-length curly brown hair with golden highlights. Rosales dreamed of an education, but because of discrimination, she never had that opportunity. “At fifteen, I decided to become a transgender woman. There are no options for work aside from being a prostitute,” she explains. “I have been beaten, raped, assaulted. It’s not easy. Clients tell you, ‘You are worth $5!’ They say that trans people have
HIV — that we are worthless. But there are many trans people who have shown society what we are worth.” When I ask Rosales what her aspirations would be if she could do anything, she says, “Ever since I was little, I wanted to be a lawyer.” Seeking better opportunities, Rosales had attempted to migrate to the United States earlier in the year, but before reaching Mexico, she turned back, in fear of being kidnapped and forced into prostitution by a gang.

Trans activist Karla Avelar, left, talks with Sadira Saldaña, right, in a park in San Salvador. PHOTO BY DANIELLE VILLASANA

Marfil Estrella Pérez Mendoza, 25, a trans woman and sex worker, came to Comcavis Trans to get help preparing the necessary documents to request asylum in the United States. She had survived an assassination attempt by a man with an ice pick who had attacked her late one night while she was walking home from work. Trans women in El Salvador are particularly vulnerable to violence and have been targeted by both death squads and gangs
since the civil war in the 1980s. Marfil Estrella, whose name translates to Ivory Star, felt like she had to leave the country in order to stay alive. Describing her experience as a trans woman, she says, “It is an odyssey. People see a transgender person, and they start looking at you like an alien — especially if you don’t look like a woman and you have more masculine features.”

Pérez Mendoza fled El Salvador in August. I accompanied her via bus from San Salvador to Tapachula, Mexico, and witnessed firsthand the level of unwanted attention that Pérez Mendoza experienced on her journey. She continued to do sex work as she traveled through Guatemala and Mexico to pay for her transportation to Tijuana. In November, she crossed the border from Tijuana into the United States and requested asylum. She was immediately sent to a detention center for men, a US detention policy that often creates violence for trans women. If her request is granted, she hopes to enroll in high school.

Avelar and I also met with Alejandra Jiménez, 31, a trans woman with the lithe body and graceful movements of a ballet dancer. She had migrated from El Salvador to Italy when she was nineteen. Jiménez returned to El Salvador this past summer to challenge the law that prohibits trans women and men from changing their names on legal documents. “I left the country when I was nineteen years old because I understood that in this country, I would not have the security and tranquility to be able to express my identity in the deepest sense,” she tells me. “A person close to me had been murdered because she was a transvestite. I was very afraid, and with the support of my family, I emigrated.” For Jiménez and other trans women, the discrepancy between their appearance and the names on their official documents often results in employment discrimination and harassment. “Not being able to change names limits trans people,” explains Avelar. “Unfortunately, in El Salvador, women and men are defined by their genitals.”

Gabriel Escobar, 21, a trans man who volunteers at Comcavis Trans, is aware of the difference between his trans experience and that of trans women. Escobar has a slight frame and a calm manner and recognizes that, physically, he can pass as a man. He says that he has experienced no violence and little discrimination and laments, “I wish life were easier for trans women. People congratulate trans men when they transition, but they kill trans women.”
Avelar, who mentors Escobar and her younger colleagues, continues to receive death threats and recently had to move homes for her safety. She is aware that one day she might have to flee El Salvador, just as so many trans women before her have done. “This is a country that requires committed people,” she argues, “people that will fight to achieve equality. If we don’t achieve that, at least we are making the effort so that future generations can live in a just country.”

Alice Driver is a freelance journalist based in Mexico City, and she is currently covering migration in Central America for Longreads.
TAB 36
SAN SALVADOR, El Salvador — Andrea, a transgender woman who lives in San Luis Talpa, a small city that is near El Salvador’s main international airport, was walking to her mother’s home on Aug. 29 when a man stopped his motorbike and began to yell at her.

Andrea was talking with her friend on her cell phone when the man confronted her. Three cars stopped on the highway on which she was walking a few minutes later and men with guns stepped out.

“I ran, ran into the hallway of a small school,” Andrea told the Washington Blade a few weeks later during an interview at a restaurant in the Salvadoran capital of El Salvador, which is roughly 45 minutes northwest of San Luis Talpa. “I was scared.”

“Thank God they didn’t kill me,” added Andrea. “I don’t leave my house anymore. I don’t leave because I am completely afraid of the danger.”

MS-13 forces trans women to traffic drugs
Violence and discrimination based on gender identity remains commonplace in El Salvador. The murder of three trans women — Yasuri Orellana, 24, Daniela Flores, 27, and Elizabeth Castillo, 23 — in San Luis Talpa in February 2017 underscores the risks that Andrea and other trans Salvadorans face on a daily basis.

Isabel, a trans activist who lived in San Luis Talpa from 2010-2014, told the Blade as Andrea listened that the three trans women who were murdered were “known.”

“It is a small town,” said Isabel, referring to San Luis Talpa.

Violence linked to the MS-13 street gang has made San Luis Talpa and the surrounding area one of the most dangerous parts of El Salvador. Isabel said MS-13 last February told trans women they would be killed if they did not traffic drugs for them.

The Blade interviewed Isabel and Andrea in San Salvador because local sources said it was too dangerous for reporters to travel to San Luis Talpa. Isabel and Andrea also asked the Blade not to use their real names or disclose their identities in order to protect their safety.

“I live in San Luis Talpa,” said Andrea.

Police, soldiers also target trans women

The Justice Department last July in a press release announced an MS-13 member who allegedly killed three LGBT people in El Salvador is in U.S. custody.

The announcement — which coincided with U.S. Attorney General Jeff Sessions’ trip to El Salvador — noted the gang member shot three people in La Paz Department “who were believed to have committed extortions without authorization from MS-13.” A Justice Department spokesperson at the time declined to tell the Blade whether the MS-13 member is a suspect in the killing of the three trans women, but San Luis Talpa is located in La Paz Department.

Isabel said trans women who live in San Luis Talpa lack access to education and “dignified” employment. She told the Blade that police officers and soldiers also target them.

She said they “surround” the perimeter of municipal celebrations and Halloween parties in order to prevent armed men from entering. Isabel said trans women “are outside of these dances and we are talking, doing our thing.”

Isabel told the Blade that police officers often proposition them for sex.

“What do you prefer,” she asked hypothetically. “That they don’t hit us or that we feel better that she (a trans woman) prefers to have sex and not get hit.”

“Exactly,” said Andrea.

Isabel told the Blade that street gangs and other “collective groups” do “the same thing” as police officers and soldiers.

“They call you outside of the dance and if you do not want to leave you are going to have to face the consequences when you leave,” she said. “It is a mortal sin to deny your body to a leader of these gangs.”

Andrea told the Blade that authorities often dismiss trans women when they file a complaint.

“They smile and say that you like it, it’s what you like,” she said. “Why are you crying?”

Isabel noted Castillo’s body was burned without its eyes before it was thrown onto a highway. Isabel told the Blade that machismo, misogyny, a lack of respect for women and religious fundamentalism are among the factors that contribute to the brutality of the killing of trans women in El Salvador.

“There is no value of life,” she said.

Authorities have ‘done’ nothing to investigate murders

The Salvadoran government insists it is fighting violence and discrimination based on gender identity and sexual orientation.
An amendment to the country’s legal code that lawmakers approved in 2015 enhances penalties for anti-LGBT hate crimes. Three of the five police officers who Alex Peña of Generación de Hombres Trans de El Salvador, a group that advocates on behalf of trans Salvadoran men, accused of attacking him after a 2015 Pride celebration in San Salvador were convicted and sentenced to prison.

Cruz Torres, director of the Office of Diversity in El Salvador’s Ministry of Social Inclusion, told the Inter-American Commission of Human Rights last March during a D.C. hearing on anti-LGBT violence in El Salvador that the government has directed public agencies to stop discrimination based on gender identity and sexual orientation. He also noted he specifically works on LGBT issues.

“For the country of El Salvador, this hearing held to talk about the situation of the human rights of the LGBTI community in our country constitutes an important space to highlight so many of the advances that we have made in this area as well as the challenges that all of us have,” said Ambassador Carlos Calles, who is El Salvador’s permanent representative to the Organization of American States, which created the commission in 1959.

Andrea, left, is a transgender woman who lives in San Luis Talpa, El Salvador, eats lunch at a restaurant in the Salvadoran capital of San Salvador on Sept. 23, 2017. She asked the Washington Blade not to use her real name and disclose her identity because of anti-trans violence in her hometown. (Washington Blade photo by Michael K. Lavers)

A Salvadoran trans advocacy group told the Blade this week that eight gang members have been detained in connection with the murders of the trans women in San Luis Talpa, but authorities have not classified them as hate crimes.

Isabel said the police and prosecutors have “not done” anything to investigate them. She also told the Blade that two of the three trans women who were murdered in San Luis Talpa last February were killed in “broad daylight” near a municipal police station.

“When a trans woman dies, she is responsible, she asked for it, she put herself in a situation, she, she, she,” said Isabel. “And she is the only one who is responsible.”

‘I am very afraid’

Isabel said more than half a dozen trans women fled San Luis Talpa in 2017. She told the Blade that she and her colleagues “know nothing” about a dozen others.

As for Andrea, she said she has cut her hair in order to change her appearance. She told the Blade when asked whether she would like to leave San Luis Talpa that no organization has helped her.

“I am very afraid,” said Andrea.

Michael K. Lavers and Ernesto Valle
Transgender women struggle to survive in El Salvador city

https://www.washingtonblade.com/2018/01/05/trans-women-struggle-survive-el-salvador-city/
At least seven transgender people have been killed in El Salvador since the beginning of the year.

Many LGBTI refugees from Central America are now waiting for asylum and work permits in the United States after fleeing their home countries. Maybelline Rivas is one of them.

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*El Salvador Scraps 'Patrimonial' Teen Pregnancy Marriage Law*

Rivas, currently living in Washington, D.C., is from El Salvador. When she was a child, her school expelled her for wearing makeup and “acting too feminine.” Her mother also kicked her out of the house as punishment and rejection.

“At age 11, I was already defined and on hormones. I was already a trans woman,” she told NBC News.

After Rivas’ mother deprived her of a home, Rivas turned to sex work for a livelihood. Life took a turn for the better when Rivas met an older trans woman who introduced her to a local LGBTI organization in El Salvador called Aspínd Arcoiris, of which she at last became the director.

A wave of transphobic violence swept El Salvador in 2015, leading to the murder of Francela Mendez, a respected trans activist. As the head of Aspínd Arcoiris at the time, Rivas organized a die-in in front of the Office of the Attorney General together with other organizations to demand a thorough investigation of the crime.

In the same year, Rivas’ older brother, Marvin Ovidio Rivas, was murdered by gang members for standing by Rivas and shielding her from violence. It put an end to Maybelline’s hope to lead the fight for trans rights in her country.

“My family was very afraid. My mom told me that she preferred that I leave and go somewhere far away, rather than to see me get murdered like my brother. And that’s what motivated me to leave the country,” Rivas said.
In 2015, Rivas boarded a plane and left El Salvador. During her first months in Washington D.C., Rivas was homeless. But because of her prior work experience working as a director for an LGBTI organization, Rivas was hired to lead a sex education program for Latinx members of the LGBTI community.

“I think that if Maybelline had not left the country, something would have happened to her,” said Paty Hernandez, Latinx services manager at Casa Ruby, an LGBTI homeless shelter. “We were very confrontational when it came to injustices.”

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Ava Benach, an immigration lawyer now handling Rivas’ asylum case, said that trans women from El Salvador, Guatemala, Honduras and Mexico can make the case for why they qualify for asylum.

“The violence and oppression and danger and persecution these women face—and the trans men, for that matter— is enormous,” Benach said. “I would say that almost any trans individual who has fled those countries has a certain claim. Maybelline is a little more interesting, in a way, because she was a serious activist for trans rights, which is a tremendously courageous thing to do in a country like El Salvador.”

According to a 2013 report published jointly by El Salvador’s Office of Human Rights, 52.5 percent of percent of trans women living in El Salvador have received death threats due to transphobia or extortion by gang members who try to extract rent payments from trans sex workers.

The U.N. High Commissioner for Human Rights reported that at least seven transgender people were killed in El Salvador since the beginning of this year. However, Rivas suspects the toll to be much higher for the entire country as violence against trans women in gang-dominated rural towns often go unseen.

“All of us trans women who are here in this country are the survivors and the warriors, because we left our country with all of our dreams thwarted,” Rivas said. “And now we’ve come here to achieve them.”
TAB 38
UN calls for inquiry into anti-trans violence in El Salvador

The United Nations has called for an investigation into unprecedented violence against transgender women in El Salvador.

The investigation comes after the U.N. High Commissioner for Human Rights (OHCHR) recorded seven deaths of trans women in the country so far this year; local LGBT organizations put the toll at 17.

“We urge the government of El Salvador to take urgent measures to ensure the protection of activists and individuals who are under threat,” OHCHR Spokeswoman Ravina Shamdasani told reporters in Geneva last week.

The U.N. office, which in 2011 declared its opposition to discrimination or violence against people based on sexual orientation, linked the recent spike in killings with ineffective investigations of LGBT-related crimes.

Last year, local organizations said at least 25 transgender women were killed in the Central American country. One prominent transgender human rights defender, Karla Avelar, told
UN calls for inquiry into anti-trans violence in El Salvador

Reuters about the threats she encountered and insisted that she has no protection from authorities in her area.

“Criminals operate within the same institutions of government. So how can you entrust your life to them? How can you entrust your security to these institutions?” Avelar told Reuters.

The activist is a finalist for an international prize for human rights activists – the Martin Ennals Award – but said the gang members have already sought to extort some of the future prize money if she wins. She said was shot and wounded multiple times, and was forced to flee her home six times over the last two years because of threats from local gang members.

“Many transgender people have been forced to migrate to other countries to safeguard their own lives,” Avelar told Reuters.

This exodus of trans people from the region has been labelled a ‘refugee crisis’ by the United Nations Refugee Agency.

The conservative country has one of the world’s highest murder rates outside of conflict zones, with 81.7 reported homicides per 100,000 residents last year. Activists say LGBT people face a double threat from such violence; anti-LGBT rhetoric from religious figures and politicians perpetuates already entrenched social prejudices, activists say, while the influential Roman Catholic Church furthers anti-LGBT sentiment by publicly condemning gay marriage and sex.

Transgender people are not allowed to change to the gender they identify with on public documents, and same-sex marriage is not recognized by Salvadoran law. Activists warn that laws restricting gay rights will be slow to change, citing a 2013 survey by the U.S.-based Pew Research Center that found that nearly two thirds of Salvadorans believe that society should not accept homosexuality.

Anti-gay sentiment is common across Latin America, which is the world’s deadliest region for LGBT people, according to research group Transrespect Versus Transphobia Worldwide. Gay rights activists say that LGBT people fare better economically in countries that have legalized marriage and other basic rights.

El Salvador  |  LGBT  |  U.N. High Commissioner for Human Rights (OHCHR)  |  violence against transgender people

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TAB 39
SAN SALVADOR, El Salvador — When three transgender women were murdered within 72 hours in El Salvador back in February, local activists were shaken but, sadly, not surprised. The string of murders was just the latest threat of violence against the country’s increasingly vulnerable LGBTI community.

"We will kill all trans people here": El Salvador's trans community lives in fear

By Rossalyn Warren

April 27, 2017, 4:44am
Cerritos is a coordinator for Astrans LGBTI, an LGBTI charity based in El Salvador, and he has every reason to be concerned. El Salvador is considered the most dangerous place in the world outside of a war zone — earlier this year, the country celebrated its first homicide-free day in two years.

Many Salvadorans live under the control of the local gangs, and territories on the outskirts of the city are ruthlessly run using unspoken codes dictated by gang leaders. In the busy city center, police armed with shotguns stand on most corners, guarding everything from convenience shops to bakeries.

In recent years, the LGBTI community has become particularly vulnerable to the gang violence. Trans people have been verbally abused and sexually harassed in the street, beaten and raped by gang members, and sometimes even attacked by the police. The life expectancy for a transgender woman in El Salvador is less than 35 years, according to the International Lesbian and Gay Association. And 16 trans people are reportedly killed every year in the country.

“We're used to the violence,” Cerritos said. “We know it’s a risk every time we step outside.”

Cerritos and his colleagues were left reeling from the recent spate of murders in San Luis Talpa, 30 minutes outside the city. There, three transgender women were murdered within just 72 hours in February. The third victim, Elizabeth Castillo, was reportedly kidnapped, tortured, and killed after attending the funeral of the other two other victims.

The police were seemingly unsympathetic, describing the murdered women as “men who were wearing women’s clothes.”
Astrans LGBTI told VICE News that the spate of killings ignited fear in their community, and highlighted the impunity granted to perpetrators of anti-LGBTI crime. Though a law that recognized hate crimes motivated by gender or sexual orientation was introduced in 2015, campaigners say no one has ever been convicted of the murder of transgender people in the country.

“We still don’t know who killed those three women,” Cerritos added.

Astrans LGBTI, founded in 2007, say the demand for their work in the city and rural areas has increased in the last year. Their services, which include hormone treatment and sexual health advice, currently benefit 83 trans women and 26 trans men, but they can support up to 200 people at any given time.

The staff at the charity say people — often isolated by their community, ostracized by their family, or facing threats — come to them in a desperate state.
Cerritos was once in the same position. After he came out to his parents at 18, he fled home. Feeling alone and trapped, he travelled to the coast. There, he contemplated suicide. “I wanted to see the ocean. I wanted it to be the last thing I saw in my life,” he said.

Cerritos ultimately decided to return home, and started university in San Salvador in 2014. Today, he fights his own battles, as well as those of other transgender people. In El Salvador, transgender people are not legally allowed to change their name or gender on official documentation. This means that when Cerritos graduates later this year, they will not call out his real name at the ceremony.

“I’m fighting that,” he said, shrugging his shoulders.
from persecution. Two members of Astrans LGBTI — including the president of the charity — were forced to flee El Salvador in 2015 after death threats from gangs, and were later granted asylum in the U.S.

But some people in El Salvador’s LGBTI community now say the desire to flee to the U.S. has diminished since President Trump took office. Though Obama deported more people than any other president, Trump’s treatment of transgender people, as well as his rhetoric and policies regarding immigration, has fueled further concern — many now fear that any future asylum requests would be rejected.

“At the moment, people don’t see the magnitude of the problem,” Cerritos says, “but if it [Trump’s deportations] continues the way it is, it’s going to cause a lot of problems for us.”

Countries in Latin America pose the deadliest threat to LGBTI people, according to the research group “Transrespect versus transphobia worldwide.” Their study recorded a total of 2,115 reported murders of transgender people worldwide between January 2008 and April 2016, and 78 percent of them occurred in Central and South America.

As long as the killers of the transgender women in San Luis Talpa continue operate with impunity, Cerritos and his team say, there is little hope of safety for El Salvador’s transgender community.

“To us, those murders are just the start,” Cerritos said. “The killers believe what they’re doing is allowed.”

Rossalyn Warren is a freelance reporter. Reporting for this article was supported by The European Journalism Centre. Follow her on Twitter @RossalynWarren.
TAB 40
OAS commission holds hearing on anti-LGBT violence in El Salvador

March 27, 2017 at 1:11 pm EDT | by Michael K. Lavers

The Inter-American Commission on Human Rights last week held a hearing on anti-LGBT violence and hate crimes in El Salvador.

Bianka Rodríguez of Comunicado y Capacitando a Mujeres Trans, a Salvadoran advocacy group known by the acronym COMCAVIS, told commissioners during the March 21 hearing in D.C. that at least 600 people have been victims of hate crimes based on their sexual orientation or gender identity since 2004.

Statistics from COMCAVIS and Asociación para Impulsar el Desarrollo Humano (ASPIDH) Arcoiris Trans, another Salvadoran advocacy group, indicate roughly two dozen trans people were reported killed in El Salvador in 2015. One of these victims was Francela Méndez, a prominent trans rights advocate who was a board member of Colectivo Alejandría, a trans advocacy group that is based in the Salvadoran capital of San Salvador.

Three trans women were killed in San Luis Talpa, a municipality in La Paz Department, last month. Rodríguez said eight trans women have fled El Salvador since these murders.

Francela Méndez was a member of Colectivo Alejandría who was killed at a friend's home in 2015. The transgender rights organization has hung this tribute to her at its offices in San Salvador, El Salvador. (Washington Blade photo by Michael K. Lavers)
“The violence that El Salvador faces is a problem that affects all sectors of society,” she said. “LGTBI (lesbian, gay, transgender, bisexual and intersex) people aren’t immune to this problem.”

‘We find ourselves in a cycle of violence’

The Organization of American States, which is based in D.C., created the Inter-American Commission on Human Rights in 1959 as a way to promote human rights throughout the Western Hemisphere. Anti-LGBT violence and discrimination in El Salvador is among the LGBT-specific issues the commission examined last week.

El Salvador, which borders Guatemala and Honduras, has one of the world's highest murder rates. Anti-LGBT rhetoric from politicians and religious figures, discrimination, poverty and a lack of educational opportunities are among the factors that have made LGBT Salvadorans particularly vulnerable to violence.

A report from El Salvador's Attorney for the Defense of Human Rights indicates 52 percent of trans women it surveyed said they received death threats. A press release the Inter-American Commission on Human Rights released on March 23 indicates 17 of the more than 40 reports of “serious crimes” against LGBT people that have been committed in the Western Hemisphere so far this year come from El Salvador.

Rodríguez said trans women's family members frequently commit acts of violence against them because of their gender identity. She also told the commission that gang members routinely extort money from those who engage in sex work.

“We find ourselves in a cycle of violence, discrimination and criminalization,” said Rodríguez.

LGBT advocates frequent targets

Rodríguez and others who testified at the hearing said LGBT rights advocates in El Salvador are frequently threatened and attacked.

Ambar Alfaro of ASPIJD Arcoiris said an activist was carjacked last October as she left a San Salvador mall and held against her will for nearly an hour. She pointed out a group of four “unknown men” with guns carjacked COMCAVIS Director Karla Avelar during the same month, demanded her identification and her cell phone and threatened her.

Alex Peña of Generación de Hombres Trans de El Salvador, a group that advocates on behalf of trans Salvadoran men, said a group of police officers attacked him in 2015 after he had a confrontation with a bus driver while returning home from a San Salvador Pride celebration. Espacio de Mujeres Lesbianas por la Diversidad (ESMULES) Executive Director Andrea Ayala told the Blade during a previous interview that she suspects police officers broke into her office after she and other advocates publicly denounced the attack.

“The state has not adopted any type of measures that protect us and guarantee that we can do our work without risk,” said Alfaro.

Avelar did not attend the hearing because she was unable to obtain a visa that would have allowed her to travel to the U.S.

Government defends response to anti-LGBT violence

Representatives of the Salvadoran government who testified at the hearing defended the country's efforts to combat anti-LGBT violence and discrimination.

Cruz Torres, director of the Office of Diversity in El Salvador's Ministry of Social Inclusion, noted he specifically works on LGBT issues. He also pointed out the country's government has directed public agencies to stop discrimination based on sexual orientation and gender identity.

Salvadoran lawmakers in 2015 approved an amendment to the country's legal code that enhances penalties for anti-LGBT hate crimes.

Three of the five police officers who Peña accused of attacking him were convicted last October and were sentenced to prison. A State Department spokesperson told the Blade last month that it “supports” the ongoing investigation into the murders of the three trans women in San Luis Talpa.

“For the country of El Salvador, this hearing held to talk about the situation of the human rights of the LGBTI community in our country constitutes an important space to highlight so many of the advances that we have made in this area as well as the challenges that all of us have,” said Ambassador Carlos Calles, who is El Salvador's permanent OAS representative.
Alex Peña of Generación de Hombres Trans de El Salvador was allegedly attacked by police officers in June 2015 while returning home from a Pride celebration in San Salvador, El Salvador. (Photo courtesy of Espacio de Mujeres Lesbianas por la Diversidad)

Wendy Acevedo, who is one of El Salvador’s alternative OAS representatives, acknowledged LGBT and intersex Salvadorans “confront vulnerabilities.”

“We are receptive to listening to this commission,” she said.

Kerlin Belloso of the Fundación de Estudios para la Aplicación del Derecho, a Salvadoran human rights group known by the acronym FESPAD, said the hate crimes law has “not had any affect in practice.” She and other advocates who testified also pointed out stigma and mistreatment and a lack of urgency on the part of law enforcement and public officials are among the barriers that LGBT Salvadorans face when they are victims of hate crimes and discrimination.

“The state’s inaction is almost absolute,” said Alfaro.

Michael K. Lavers
Michael K. Lavers is the international news editor of the Washington Blade.
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OAS commission holds hearing on anti-LGBT violence in El Salvador

The Trans Activists Standing Up to the Brutal Gangs of El Salvador

| BRAVE |

The recent murders of three trans women in El Salvador garnered international headlines. Salvadoran activists talk about the violence, and their life-risking campaigning for change.

Tim Teeman
Senior Editor And Writer
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https://www.thedailybeast.com/the-trans-activists-standing-up-to-the-brutal-gangs-of-el-salvador
Imagine a typical day at work including the ever-present possibility that you may be murdered.

“We live with the uncertainty,” said Verónica López, a trans woman and board president of ASTRANS, one of El Salvador’s leading trans rights organizations. “We do not know if we will come back home, or come to work the next day. You get accustomed to it. We have little choice. We know if we do something that is not liked we can be killed.”

“I help trans women at our clinic, and when I think about going there I think, they’re
going to kill me in this office,” said Dr. Modesto Mendizábal, an ASTRANS board member who oversees the medical and psychological help and hormone therapy ASTRANS offers to over 100 clients. “Colleagues of ours have gotten killed. It’s very painful, but it is something that happens. I am not surprised.” (ASTRANS stands for Asociación Salvadoreña de Transgéneras, Transexuales y Travestis, or translated: the Salvadoran Association of Transgender, Transsexual and Transvestite Women.)

A brightly lit room with cups of coffee and glasses of water in Midtown Manhattan seemed far from El Salvador. But the stories of extreme violence and persecution endured by lesbian, gay, bisexual and particularly transgender people as told by the members of ASTRANS felt sharply near.

As we sat in the offices of the American Jewish World Service (AJWS), the international human rights organization which funds and supports the work of
ASTRANS, a member of the trans campaigning and support group related the story of two female colleagues who had been attacked and assaulted. They were both raped, suffering fissures in their anuses.

Gang members asked one of the victims where her family lived. “That family had to move, far, far away, and the family completely disintegrated as a result. They took everything they needed to take, and left,” an ASTRANS member said. (For all gang-related and other deemed-sensitive stories in this article, the group’s members asked for their individual names not to be used.)

“Another staff member was pulled out of her home, raped, and beaten up. She was told, ‘If you don’t come with us, you know what is going to happen.’ They would have killed her, her brothers, and her family. This goes on daily. It’s really, really scary.”

One of ASTRANS’s clients who had been forced to leave her mother and family wanted to kill
herself.

“It’s impossible for her to go home. When someone receives a threat that they will be murdered they have to leave. You can’t come back. If you do, gang members will murder you. This woman lost communication with her mother and brothers. She decided to commit suicide. Luckily we got her some help and anti-depressants. It’s a small example of a much deeper problem. It is not just individuals being threatened, but entire families. Gangs tell them, ‘We’ll not just kill you, we will kill all your loved ones too.’”

Trans women are already at risk of suffering disproportionately from poverty, violence, and social exclusion, said ASTRANS. Fleeing persecution, they go to Guatemala, Mexico, and the U.S., among other countries.

The level of persecution faced by El Salvador’s LGBTI community made international headlines recently, with the widely publicized murders of three trans women in the San
Luis Talpa municipality of the
La Paz department of El
Salvador, between Feb. 18 and
21.

One accompanying report stated
that the average life expectancy
of a trans person in the Central
American nation was 35 years.
While the El Salvadoran
government has vowed to
investigate the murders as hate
crimes, activists suspect that
they will not be—and the
perpetrators not be caught.

The U.S. State Department told
the Washington Blade that it
“supports” the investigation into
the killings.

In a wide-ranging report on
LGBT violence in Central
America, the Blade reported that
“more than a dozen” trans
women were killed in El
Salvador in 2015. Karla
Guevara, director of trans
advocacy group, Colectivo
Alejandria, told the Blade that
the country was “totally full of
hate.”

An ASTRANS member said,
“We’re not exactly sure what
happened with these most recent murders. The gangs have stopped the media talking to family members. There’s a particular threat in that city and that state against LGBT people. Some have left everything behind because they are afraid of being killed. All this is combined with high levels of impunity—cases that are either not investigated, or criminals who have gotten off ‘scot-free.’

“After the civil war (which took place between 1980 and 1992), we hoped the situation was going to get better or be better controlled. But the murder rate is so high (there were headlines in January when the country recorded its first homicide-free day in two years), and LGBTI people are much more vulnerable. This part of the country specifically has more criminal acts and threats than any other places, and violence too. This is a very violent country: There is not even enough space for dead bodies in morgues.

“There was a document released
after the murders of the three women around hate crimes, and the district attorney has promised to reopen the cases—under pressure from international press and media—but it hasn’t happened yet.”

Gangs typically shoot LGBTI people, and disfigure them with bullets to the face, the ASTRANS member said. “One of our friends, a gay professor at a university, was killed this way, and so was another activist. Both were shot in the forehead.”

Both murders have gone unsolved. “The district attorney has not pursued them, no witnesses had come forward, and the judgment of judges is usually prejudiced,” an ASTRANS member said.

In gang killings, the ASTRANS member said, trans people have their clothing removed to humiliate them even more, “exposing their genitals, so revealing a person who looks feminine and who has a penis. In some cases they have been stoned to death, or murdered with a machete, but usually it is
a firearm. There is a very high level of violence and hatred in the murders of trans people. In the code of the gangs, being trans is seen as something negative: People do not differentiate a trans person as distinct from a homosexual person.”

As well as supporting trans people and speaking out on the issue of their life-or-death forced migration—either within the country or having to leave it altogether—ASTRANS said it is the only organization in El Salvador to provide gender-affirming hormone therapy.

The organization’s clients are learning how to interpret their laboratory results, identify risks, and act accordingly, ASTRANS says. “As part of their care, they are complying with hormone treatment and changing nutritional and physical habits to optimize their treatment. They are also avoiding risks such as self-medication and intoxication.”

Anti-LGBT and transprejudice is rooted in stereotypes of
machismo, said Mendizábal, who is gay, “as well as a very religious society where it is considered a sin or vice to have a different orientation than the one society expects of you. You can’t be sure that the crimes against these women were done just because they were trans. The ways they were murdered was the same, but this is a mix of criminality, violence, and transphobia.”

Since 2014, AJWS has been working with ASTRANS to advance the rights of trans people by conducting human rights training, carrying out workshops with key public officials, providing health services for trans people, and contributing to national and international advocacy forums.

Through a grant from AJWS, ASTRANS is providing health services and psychological support for new and returning trans patients through their health clinic.

ASTRANS is also leading local and national advocacy efforts
around Transgender Identity
Law and for the investigation of
LGBTI hate crimes.

While marriage equality and
recognition of same-sex unions
seem at-present distant
possibilities, Presidential Decree
56, issued in 2010, prohibits
discrimination based on sexual
orientation and gender identity
in the public sector, and created

a Directorate For Sexual Identity
within the Secretariat For Social
Inclusion.

However, violence and prejudice
against LGBTI people remains
high, as does police and official
inaction over tackling them as
outlined in a 2015 State
Department report (PDF). That
same year, Francela Méndez
Rodríguez, a prominent
Salvadoran trans rights activist,
was murdered.

“I think we have to talk about
culture,” said López. “They are
not willing to create laws that
protect human rights in El
Salvador. There is reform to
address hate crimes, and some
institutions are doing
investigations but not applying
laws.”

The aim of ASTRANS is to work within states, district attorneys, organizations, and various state and government departments, she added. Other LGBT groups include Asociación Entre Amigos, Generación de Hombres Trans de El Salvador.

and Espacio de Mujeres Lesbianas por la Diversidad.

Mendizábal said: “We need space to demonstrate our qualities that we are not something bad for society, that our lives are sustaining for our country. The Department of Social Inclusion leads work on LGBT work from central government, but there are very few resources. We want to improve visibility of the trans community, and show our skills, and create a window for LGBT people.”

Sebastián Flores Cerritos, a trans man and communications officer for ASTRANS, said that the political conflicts in El Salvador were harmfully
reflected back on to LGBT people. “The political forces are constantly at war and social issues, like LGBT, are seen as an instrument to regain power. Every time the issues comes up in our country, it’s as a strategy, and then the homophobic people get really crazy, and aggression and homicides happen.”

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Aside from being murdered or attacked, trans people are excluded from many other social spaces and often rejected by their families, said Mendizábal. They can be forced into sex work or selling drugs. “Some are accepted by their families, but very few. They experience exclusion in schools. Bullying is very, very hard, so many abandon their education.

“We assembled a focus group of 20 trans women; the majority—18 of them—talked about the importance of spirituality for them. They looked to church, and went there to listen to messages, because they felt tormented by their exclusion from society. The majority of
their experiences was negative. They could find no space to be themselves, had psychological violence done to them, and experienced aggressive stereotyping at home and hospitals.”

López said her efforts to access a proper education and health care had been hindered because her gender identity was not recognized.

The experience of trans people and the civil, military and municipal police forces in El Salvador is mostly negative. “The experience of trans women in particular is that they suffer all kinds of violence, including sexual violence, and extortion at the hands of the police,” said one ASTRANS member. “We also know of a physically small guy who was beaten by the police, who were much bigger than he was, and then he was accused of beating the police himself.”

Another member told a story of a young trans man, thrown into jail by police after Pride
celebrations in 2015, who considered him—without evidence—to be a delinquent. “The police assume young people are gang members.”

When the ASTRANS member and their friends went to the police station “they looked at us like they wanted to hit us,” then confiscated the member’s cellphone. “My friend was treated in a very inhumane way. He was being criminalized as if he had done something wrong. The police should have been protecting us.”

“There is a lot of violence from the police and army, but you cannot say the entire police is bad,” said Mendizábal. “There are good police and there are bad police. There are police that are in communication with LGBTI people, but only a few of them. Sometimes the police take care of trans people, as in the case of some trans women who had been kidnapped by a gang. That time the police intervened, and saved their lives.”

What would help would be a full
non-discrimination law, said López. “It would not solve our lives, but it would help make society to be more inclusive and respectful of LGBTI human rights. A gender identity law for trans people would be good, so we can access our rights, because without a law that doesn’t identify us we don’t exist in our country.”

Mendizábal said hate crimes needed to be prosecuted fully under the country’s penal code.

The prevalence of gangs, and their control is all-pervasive. One ASTRANS member said that if someone asks to see your ID, which shows that you live somewhere else, you can be asked why are you in that particular neighborhood.

“You have to be very careful and very aware of where you’re going to, and the certain zones of a city. I once got a wrong bus, and ended up somewhere I shouldn’t be. I was somewhere where gangs killed people. I was able to get out. Nobody is safe. You have to try and be careful. It can have an impact on family
and friends, because they can go and kill someone else in my family. Some projects have to pay off gang members to reach trans people in various communities.”

With such tough work, how do the ASTRANS members remain committed? Jorge López, who defines himself as a queer man and who oversees the organization’s finances and administrative matters, said: “Trans individuals have disadvantages when it comes to being members of the community. I want to help them have a right to live better and have jobs.” He stifled tears. “I get very emotional when I think about this. It’s about how you are as a citizen.”

Mendizábal added, “Many people say here that they are proud of being American. Like you, we are proud of being from El Salvador, and we love our country. We don’t want to leave our country. We want to develop our rights and equality. We believe our country will get better one day.”
Next, ASTRANS wants to launch a campaign against the stigmatization of trans identities, and the phenomenon of trans women “over-hormoning” themselves. AJWS gave them a sum of money which helped expand their clinical services. Mendizábal is a volunteer, and there is also a volunteer psychologist. They hope to be able to secure funds to be able to pay a nurse.

“More than trans social rights, good health, well-being, and psychological stability are all part of someone’s self-realization,” said Mendizábal. “We hope we can help people become more confident and affirmed with their identity and happier with themselves.”

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The changing priorities from an Obama to a Trump administration, in terms of foreign aid and advocacy, has alarmed activists.

“There is a lot of uncertainty,” said Mendizábal. “We are very dependent on the United States.
What happens here has an impact globally. The anti-trans law that was just announced was a big alarm for us. It gives more value to anti-trans activists in El Salvador.”

While there hasn’t been an outbreak of bathroom-related panics and bills in El Salvador, the country “takes its cues from the U.S.,” said Mendizábal, “so they go as far as they can get away with things one way or another. Under Obama, the administration moved toward human rights. When there is no human rights advocacy and when foreign aid may be dependent on ramping up the fight against terrorism, rather than human rights, we may see some negative effects for what that might mean for more marginalized populations and the advocacy for their own rights.”

The ASTRANS activists are determined to persevere. When Cerritos wanted to start hormone therapy in 2013, he went to a hospital and was told “that I was crazy, that I should think about
it, that I wouldn’t be able to pay for it, that my parents wouldn’t support me. I didn’t feel confident. I didn’t want to see a psychologist who would make me feel bad about myself. I had to seek other help, and other trans men, and self-medicate.”

Cerritos said he had to leave El Salvador and go to Guatemala to access the care he needed, “but it took me a year and a half to be able to start my transition because I needed to save money for the trip and consultation. It was very expensive. I had no economic support from my parents and I was also a student. It wasn’t easy.”

How is his family now? “Well, it’s a process for my family. Because they have been living with someone for 20 years and that person is now doing a very radical change. It is not easy, it is hard for them. They fear how society is. They are afraid something might happen to me. They are frightened for my safety, but they try to be strong.”

How is Cerritos feeling? Is he living the life he wants in El
Salvador?

“Yes, I feel very motivated right now. Activism and starting my treatment have [totally] changed my perspective on life... Before, I didn’t want to study or see anyone. Now that has all changed. The support of my parents has been fundamental. They didn’t abandon me. They never abandoned me. And I have been able to find people in activism that lend me a hand in different ways and make me motivated to continue to fight for something bigger.”
TAB 42
Police, Gangs Major Perpetrators of LGBT Violence in El Salvador

Written by Sam Tabory - APRIL 26, 2016

El Salvador  Homicides  Human Rights

NarcoCulture

Data collected by activists suggest security forces and gang members are the principal perpetrators of violence against members of the LGBTI communities in El Salvador, highlighting the under-prosecution of crimes against sexual minorities in Central America.
Karla Avelar, president of the Trans Communication and Training Association (Asociación Comunicando y Capacitando Trans – COMCAVIS TRANS) in San Salvador, says data her organization collected on over 600 murders of members of the Lesbian, Gay, Bi-sexual, Transgender, or Intersex (LGBTI) community since 1993 shows that police officers and gang members are the principal perpetrators, reported ACAN-EFE.

Activists had to track down and investigate the circumstances of these deaths because there is no public agency in El Salvador that registers the sexual orientation or gender identity of homicide victims.

Avelar says that crimes against members of the LGBTI community are not isolated, that they generally follow a certain pattern, and go systematically unpunished. She says that transgender men and women are particularly targeted.

According to ACAN-EFE, in the first three months of 2016 Avelar’s organization has documented 29 cases of sexual minorities forced to flee their homes — and sometimes the country — due to threats, extortion, and attempts on their life by police officers or gang members.
In 2015 there was a rash of prominent attacks carried out against members of the LGBTI community in El Salvador, including the separate murders of two transgender women and the police-beating of a transgender man.

El Salvador’s penal code does not include provisions for hate crime penalties for crimes targeting victims based on sexual orientation or gender identity.

**InSight Crime Analysis**

This is not the first time police and gangs have been identified as principal perpetrators of violence against the LGBTI community in El Salvador. A 2012 report on Sexual Diversity in El Salvador from the International Human Rights Law Clinic at the University of California, Berkeley cites instances of gangs requiring new members to carry out attacks against members of the LGBTI community as part of their initiation. It also documents instances of rape, abuse, and physical attacks carried out by police officers against gay men and trans women in particular.

The report echoed Avelar’s concerns regarding lack of investigation and prosecution of violence against the LGBTI community, particularly when
Police and gangs as principal perpetrators of violence against the LGBTI community.

SEE ALSO: Coverage of Human Rights

Amid a broader crisis of violence and impunity in El Salvador, in which gangs and security forces are often pitted against each other, the victimization of LGBTI-identified individuals by security forces and gangs alike points to a shared culture of unchecked violent masculinity.

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