

Amnesty International Report 2022/23; The State of the World's Human Rights; El Salvador 2022

Background

In March, following a proposal by President Bukele, the Legislative Assembly decreed and then extended a state of emergency for nine months, which remained in effect at the end of the year, and amended numerous laws, in response to a spike in homicides allegedly committed by gangs.

In September, the president announced his intention to seek re-election, despite criticisms from experts and organizations that the constitution prohibits consecutive re-election.

Arbitrary detentions and unfair trials

Most of the more than 60,000 arrests made during the state of emergency were allegedly arbitrary because they did not comply with legal requirements, namely that an arrest warrant must be issued or the person caught red-handed committing a crime. Some of the arrests were based solely on individuals having tattoos or a prior criminal record or the fact that they were living in an area controlled by a gang.¹

Thousands of people were indiscriminately prosecuted, most of whom were denied contact with their legal representatives, access to the case file, information on the reasons for their detention or the right to be heard at the indictment hearing. According to local organizations and lawyers, hearings, which were rushed, sometimes dealt with hundreds of defendants at a time.

At the end of the year, President Bukele announced the imposition of a military siege on some areas and cities as a complementary measure to the state of emergency. In December alone, the military and police encircled three of the most populous and poorest cities, arresting hundreds of people on suspicion of being gang members. The Legislative Assembly approved criminal and procedural amendments contrary to international law. These included holding hearings and issuing sentences without the accused being present and withholding the identity of the judges, as well as abolishing maximum periods of pretrial detention.

According to local organizations, as of August, 89% of the habeas corpus writs filed in defence of people detained during the state of emergency had not been resolved.

Both the minister of security and the chairman of the ruling party announced their intention to extend the state of emergency throughout 2023.

Right to life and security of the person

During the state of emergency, El Salvador had the highest rate of people deprived of liberty of any country in the world, with 1,927 people imprisoned per 100,000 inhabitants. By the end of the year, there were more than 94,000 people detained in the country, despite the fact that the holding capacity of the country's prisons, as of February 2021, was 30,864, according to official data obtained by local organizations.

Extreme overcrowding resulted in violations of the right to life and physical integrity and caused serious sanitation problems and shortages of food and basic hygiene supplies, seriously affecting the health of detainees.

Cases were documented where prisoners were ill-treated by prison guards, as well as cases of torture by gang members, including beatings, lynchings and constant threats, which prison officials did not attempt to prevent.

At least 90 men were reported to have died in state custody as of November. Civil society organizations reported that numerous death certificates documented signs of torture. In a large number of cases, organizations reported that the authorities did not officially inform the families of the deaths. There was no publicly available evidence that these events were being diligently investigated.

Freedom of expression

At the beginning of 2022, the organizations Access Now, CitizenLab and Amnesty International confirmed that the mobile phones of several journalists and members of civil society organizations had been infected with Pegasus spyware. At the end of the year, there was no information that this was being diligently investigated.

In February, the Legislative Assembly approved amendments to the criminal law allowing the use of “digital undercover agents”, which would permit police to implement “necessary” digital undercover operations. The Association of Journalists of El Salvador (APES) warned that vagueness and inconsistencies in the law risked leading to the legalization of abusive surveillance.

In April, the Penal Code was modified to provide for prison sentences of between 10 and 15 years for those who generate “anxiety” or “panic” by reporting on gangs, in an attempt to silence the press. APES registered 125 attacks against journalists and reported that 11 had fled the country during 2022 in a context of threats on social media and public accusations by government figures.

National organizations highlighted the deterioration of access to public information and transparency.

Human rights defenders

During the state of emergency, the president adopted a confrontational public discourse that stigmatized and attacked human rights defenders, international organizations and the independent media.

In the first half of 2022, 61 attacks were recorded against human rights defenders, according to the human rights organization Mesa por el Derecho a Defender Derechos.

Sexual and reproductive rights

A total ban on abortion remained in force. At least two women remained imprisoned and six faced legal proceedings on charges relating to obstetric emergencies. In July, a young woman was sentenced to 50 years in prison for an obstetric emergency, the first time the maximum prison term had been applied.

Right to truth, justice and reparation

The authorities continued to fail to adopt adequate legislation to fully guarantee the rights of victims of crimes under international law committed during the armed conflict (1980-1992).

There was little progress in investigating and bringing to justice those suspected of criminal responsibility for the crimes committed during the armed conflict.
