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2023 Trafficking in Persons Report: El Salvador

EL SALVADOR (Tier 2 Watch List)

The Government of El Salvador does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included hiring more police and prosecutors in specialized anti-trafficking units and providing pre-departure orientation sessions for Salvadorans participating in temporary work programs abroad. However, the government did not demonstrate overall increasing efforts compared with the previous reporting period, even considering the impact of the COVID-19 pandemic on its anti-trafficking capacity. The government investigated, prosecuted, and convicted fewer traffickers. Fewer than half of all identified victims received government services or referral to outside care providers, and services provided to victims were inadequate. The government arrested and detained thousands of suspected gang members on charges of illicit association, disabling criminal networks that fueled the demand for sex and labor trafficking. However, authorities arrested and detained children affiliated with gangs without screening for trafficking indicators. Interagency coordination remained weak, and the government's data was unreliable; the national anti-trafficking council did not fulfill its role to reconcile this data or publish a report on the government's 2022 efforts. Therefore El Salvador remained on Tier 2 Watch List.

PRIORITIZED RECOMMENDATIONS:

- Increase funding for and availability of specialized, trauma-informed services for all identified trafficking victims, including adults, boys, and LGBTQI+ victims.

- Develop and implement a national referral mechanism for victim protection, independent of criminal justice proceedings and with an option for authorities and the public to refer potential victims directly to government or NGO service providers, without first referring to police or prosecutors.
- Develop and implement procedures to proactively identify trafficking victims from at-risk groups, particularly among children apprehended for gang-related activities, and refer victims to service providers.
- Increase and institutionalize anti-trafficking training for police, immigration officials, municipal security personnel, prosecutors, and judges, with a focus on applying trauma-informed, victim-centered procedures and investigating and prosecuting forced labor.
- Establish and fund a legally required victim compensation fund and develop a mechanism to enforce payment of court-ordered restitution to victims.
- Develop a multi-year NAP to combat trafficking and allocate resources toward its implementation.
- Improve interagency coordination and data collection to document, share, and analyze information on anti-trafficking efforts.
- Amend the 2014 anti-trafficking law to include a definition of human trafficking consistent with international law.
- Provide reintegration and livelihood support services for victims' long-term wellbeing and extend victim-witness protection services beyond the duration of a trial, particularly for victims who testify against members of organized criminal groups.
- Expand targeted prevention measures, including through raising awareness of fraudulent recruitment for employment in El Salvador and abroad and by holding accountable employers or recruiters who commit fraudulent practices that facilitate trafficking.

PROSECUTION

The government decreased law enforcement efforts to prosecute trafficking crimes. The 2014 Special Law Against Trafficking in Persons criminalized sex trafficking and labor trafficking and prescribed penalties of 10 to 14 years' imprisonment; these penalties were sufficiently stringent and, with respect to sex trafficking, commensurate with penalties prescribed for other serious crimes, such as rape. Inconsistent with the definition of trafficking under international law, the law considered the use of force, fraud, or coercion as an aggravating factor rather than an essential element of the crime; the penalties increased to 16 to 20 years' imprisonment for trafficking offenses involving these factors. The law defined trafficking broadly to include fraudulent adoption without the purpose of exploitation.

Police investigated 36 new suspected trafficking cases (34 for sex trafficking and two for labor trafficking) in 2022, involving 13 suspects, compared with 45 cases investigated (40 for sex trafficking and five for labor trafficking) involving 32 suspects in 2021, and 30 cases investigated in 2020. The government prosecuted an unknown number of suspects in two cases, compared with 31 individuals prosecuted in 12 cases (new and ongoing) in 2021 and 39 sex trafficking cases involving 31 suspects (all new) in 2020. Authorities convicted 10 individuals under a combination of sex trafficking and sexual assault statutes in three sex trafficking cases, with convicted offenders receiving sentences ranging from eight to 20 years' imprisonment. In comparison, authorities convicted 29 traffickers, including 27 for sex trafficking and two for labor trafficking, in 2021 and 12 traffickers in 2020. There were reports of corruption and complicity among some individual government officials, which may have resulted in obstacles to anti-trafficking law enforcement efforts. In October 2022, the government began prosecuting a former mayor for allegedly leading a migrant smuggling operation, crimes that placed migrants at severe risk of trafficking. Authorities continued prosecuting several police officers arrested for migrant smuggling crimes in previous years. The government did not report any other investigations, prosecutions, or convictions of government employees complicit in human trafficking crimes.

The government maintained specialized anti-trafficking police and prosecution units. Both units lacked sufficient human and material resources to effectively investigate and prosecute all cases; in particular, government and civil society stakeholders noted limitations in investigating and prosecuting cases outside San Salvador. The absence of an electronic case-management system limited efforts to collect, share, and analyze law enforcement information. The anti-trafficking police unit, based in San Salvador with nationwide jurisdiction, added and filled five new investigator positions bringing the total to 28. Police outside San Salvador did not consistently refer trafficking cases to the specialized unit for investigation. The specialized prosecution unit hired new prosecutors in 2022, filling some of the many vacancies created by the reassignment of staff in the previous reporting period. By the end of 2022, the unit employed 15 prosecutors, including two assigned to cover cases in the eastern region of the country, one assigned to cover cases in the western region, and 12 assigned to San Salvador and the central region of the country. However, the government's March 2022 state of exception, a measure introduced to counter gang-related crimes, directed significant law enforcement resources away from crimes without a clear connection to gangs. The government seconded two prosecutors in the specialized anti-trafficking unit to work on state of exception cases for a portion of their time.

While police and the attorney general's office acknowledged the importance of a victim-centered approach, experts noted in some cases police used harsh questioning during victim interviews leading to re-

traumatization. Observers reported judges did not have an adequate understanding of the complexity of trafficking crimes, or sufficient expertise in evidentiary processes and victim-centered procedures for trafficking cases, including the use of non-testimonial evidence to corroborate victim testimony. The government reported training each of its 15 specialized prosecutors and all national police officers country-wide on anti-trafficking enforcement, policies, and laws. Members of the specialized police unit attended routine meetings with counterparts in neighboring countries as part of an information-sharing network, and prosecutors coordinated with Mexican and United States authorities on trafficking and related cases.

PROTECTION

The government decreased victim protection efforts. The government collected limited data on its victim identification and protection efforts and data collection methods varied among agencies; police and prosecutors reported separate victim protection figures and authorities did not clarify the extent to which the data sets overlapped. Police reported identifying 29 victims, including nine girls and five women exploited in sex trafficking; one woman and five men exploited in forced labor; and four girls, three boys, and two women subjected to unspecified forms of exploitation. Prosecutors reported 31 victims, including 21 girls and nine women exploited in sex trafficking and one woman exploited in forced labor. Police reported 11 victims, four subjected to sex trafficking and 7 unspecified, were LGBTQI+ persons. Prosecutors reported two Colombian victims and three Nicaraguan victims. In comparison, the government identified 97 victims in 2021 and 37 victims in 2020. Prosecutors reported 16 sex trafficking victims, 10 girls and six women, received services from the government or with the government's support. Separately, police reported referring six child trafficking victims to shelters: three girls to the government's trafficking shelter and two boys and one girl to an NGO shelter. In comparison, the government provided services to 24 victims and referred 11 additional victims to NGOs for support in 2021, and the government provided psychological care to 27 victims and collaborated with NGOs to provide financial assistance for lodging, food, basic necessities, and job placement to 36 victims in 2020.

The government's 2018 Inter-Institutional Action Protocol for the Immediate Comprehensive Care of Victims of Trafficking in Persons outlined the roles and responsibilities of government agencies in responding to trafficking victims. The protocol required all officials initially to refer potential victims to police or prosecutors, without an option to refer potential victims directly to government or private sector service providers. The government's national anti-trafficking council trained hospitality sector workers on identifying and assisting trafficking victims; with support from an international organization, it also trained 911 operators on a victim-centered approach to identifying and responding to

trafficking victims. The government reported immigration officials were trained to screen individuals for signs of trafficking at the border, in airports, and at ports. It did not, however, provide details about these trainings and screening measures or report successful victim identification through these means.

The government lacked formal procedures to identify and refer trafficking victims among the country's most vulnerable groups, including individuals in commercial sex and children apprehended for gang-related activity. Due to a lack of formal identification procedures, authorities may have detained and arrested some unidentified trafficking victims. Local experts reported police, immigration agents, and other first responders lacked sufficient training to properly identify, interact with, and protect victims, who were often mistaken for criminals and may have been punished for unlawful acts traffickers compelled them to commit. In addition, experts reported authorities did not screen for human trafficking indicators among families fleeing gang-controlled communities or other forced displacement victims; trafficking victims and at-risk persons among these populations, particularly children exploited by gangs, remained uncounsed in official statistics and without access to justice and specialized services. In March 2022, the government enacted criminal reforms establishing prison sentences for children as young as 12 convicted of committing crimes on behalf of a gang. In 2022, authorities detained, jailed, prosecuted, and sentenced children for unlawful gang-related activity, including drug possession, aggravated homicide, unlawful association, and illegal firearms possession without screening for indicators of force, fraud, or coercion. Under the state of exception, arrests of children for gang-related activity increased; media reports citing a leaked government database showed authorities sent 1,082 children, including 21 12-13-year-olds, to pre-trial detention between March and August 2022.

The government provided limited assistance to victims, and local experts reported the quality of care was inadequate. The government had neither a national referral system nor a designated agency to manage victims' care outside the criminal justice system; prosecutors or police made victim assistance decisions on a case-by-case basis. The specialized prosecution unit had one psychologist on staff to provide psychological services to victims throughout legal proceedings. Prosecutors and police reported collaborating with other agencies, such as the Ministry of Health, to assist victims, but did not provide detail on the nature or extent of such services. The 2014 law required the government to allocate funding for the establishment and operation of temporary shelters for trafficking victims, but the government did not fulfill this mandate. Instead, police housed victims who needed temporary lodging in a makeshift bedroom inside the specialized unit's offices.

The government operated one trafficking victims' shelter, which could house 12 girls between the ages of 8 and 17. The government assisted women trafficking victims at its shelter for female victims of gender-based violence, but it did not offer services for adult trafficking victims who did not fit this profile... In both the trafficking and gender-based violence shelters, authorities restricted residents' movement and limited their participation in outside activities, including work. The government did not report the shelters' budget or other funding for victim protection in 2022. The government did not provide shelter services to male and/or LGBTQI+ victims. Two private shelters for vulnerable LGBTQI+ persons could assist trafficking victims, though they did not do so during the reporting period. There were no government or private shelters for male trafficking victims. Several NGO service providers assisted vulnerable populations, including survivors of gender-based violence, that likely included trafficking victims. The government housed victims only through the duration of investigations. The government did not offer long-term support or reintegration services to trafficking victims following the conclusion of investigations, leaving them at risk of re-trafficking.

Judges ordered convicted traffickers to pay restitution to victims and nine victims received a total of \$14,800 in restitution in 2022. The 2014 law required the government to create a victim compensation fund, including an allocated budget, and establish a technical administration unit to manage it, but the government did not fulfill this mandate. The government reported granting victim-witness protection measures, relative to individual safety risks, for participating victims and witnesses only through the duration of a trial. October 2022 reforms to El Salvador's penal code expanded provisions allowing all victims of certain crimes, including trafficking, to provide testimony by video or other means in advance of a trial. Local experts reported a lack of adequate security measures and lengthy investigations and prosecutions led many victims to cease participation before the conclusion of criminal justice processes. In addition, inadequate economic and livelihood assistance led victims and witnesses to leave the country in search of economic opportunity before authorities completed investigations. LGBTQI+ individuals experienced discrimination within the law enforcement and judicial systems that limited their access to justice, and local experts reported this worsened under the state of exception. A 2019 immigration law granted foreign victims the right to obtain residency – with multiple entry and exit permission and the ability to work – for an initial period of up to two years with the option to extend; no foreign victims received residency benefits during the year.

PREVENTION

The government maintained prevention efforts. The Ministry of Public Security and Justice led the government's national anti-trafficking council,

which was responsible for coordinating anti-trafficking efforts among 10 government institutions. The council met several times at the working level and facilitated interagency cooperation on cases. However, the council's ministerial level members did not convene, and it did not advance anti-trafficking policy or practice. The council developed a one-year national anti-trafficking action plan to guide the activities of its member institutions through December 2022, though the government did not report allocating resources toward its implementation. For a second year, the council did not produce a legally required annual report on anti-trafficking efforts. The government's data collection was unreliable, and methods varied among agencies; the council failed to fulfill its role to reconcile the data.

The government operated a hotline to provide women, adolescents, and members of the LGBTQI+ community with legal guidance and psychological care in cases of violence, including trafficking, but it did not report assisting any trafficking victims through this service. The government operated eleven, donor-supported Urban Opportunity Centers providing educational and recreational opportunities in high crime areas for children at risk of exploitation by gangs, an increase of six from 2021. The government reported conducting awareness campaigns and trainings in the hospitality sector. The government did not conduct prevention activities aimed at reaching children and young adults active on social media, despite concerns from trafficking experts of increasing risks among this group.

The Ministry of Foreign Affairs (MFA) primarily managed El Salvador's recruitment process for temporary workers on H-2A visas to the United States and maintained a website, which included information on Salvadoran workers' rights and warnings against fraudulent recruitment tactics. The government did not provide warnings or information against fraudulent recruitment practices for employment within El Salvador. The MFA assigned four officials to partner with the United States to coordinate and oversee the H2 visa program in El Salvador. The MFA conducted four-part pre-departure orientation sessions for H2 visa holders, including providing information on labor laws in the United States and reviewing the terms of workers' contracts. At five consulates in the United States, the MFA added labor attaches who were trained to recognize and respond to labor concerns of Salvadoran workers, including possible cases of forced labor. The labor code prohibited withholding pay, but the government did not effectively enforce this provision. Neither the labor code nor the penal code specified fines or punishment for fraudulent recruitment of workers. The government did not issue an executive decree, as required by a 2020 supreme court decision, to establish and implement a minimum wage for domestic workers. Salvadoran law criminalized sex tourism and prescribed penalties of four to 10 years' imprisonment, but authorities did not report any investigations or prosecutions of sex tourism crimes. The government did not make efforts

to reduce the demand for commercial sex acts. The government arrested and detained thousands of suspected gang members on charges of illicit association, disabling criminal networks that fueled the demand for sex and labor trafficking. The government did not provide anti-trafficking training to its diplomatic personnel or to troops prior to their deployment as peacekeepers.

TRAFFICKING PROFILE:

As reported over the past five years, human traffickers exploit domestic and foreign victims in El Salvador, and traffickers exploit victims from El Salvador abroad. Traffickers exploit adults and children in sex trafficking within the country; children without parents, adolescent girls, and LGBTQI+ persons are at particular risk. NGOs reported sex trafficking occurs in the tourism industry. Traffickers often exploit victims within their own communities or homes, sometimes their own children or other family members. Traffickers exploit Salvadoran adults and children in forced labor in agriculture, domestic service, and begging. Economic and social marginalization increases transgender individuals' risk of exploitation within El Salvador and during migration. Traffickers exploit adults and children from neighboring countries – particularly Honduras, Guatemala, and Nicaragua – in sex trafficking and forced labor in construction, domestic service, or the informal sector. Traffickers recruit victims in regions of the country with high levels of violence and capitalize on fear to coerce victims and their families through threats of violence.

In 2022, territorial gang control decreased dramatically across El Salvador, following the arrests of thousands of suspected gang members under the government's state of exception. Media sources documented gangs' loss of control over neighborhoods throughout the country, and residents of these neighborhoods reported observing a significant decline in extortion and violence by the end of 2022. There is no data on the state of exception's impact on trafficking in El Salvador. Prior to the state of exception, limited government presence in gang-controlled territory exacerbated trafficking risks among vulnerable groups and limited their access to justice and protection. Many victims of forcible displacement were families fleeing the exploitation of children by gangs in their communities. Gangs appropriated indigenous land and threatened indigenous children for crossing gang territory, compelling them to drop out of school or leave home and increasing their vulnerability to exploitation. In prior years, there were reports that gangs used the pretense of domestic employment to lure women into forced labor. Transnational criminal organizations and gangs, including MS-13 and Barrio18, operated by recruiting, abducting, training, arming, and subjecting children to forced labor in illicit activities including assassinations, extortion, and drug trafficking – often within children's own communities. Gangs intimidated, harassed, and coerced children to join their ranks, then employed violence and threats to compel affiliated

children to commit unlawful acts and prohibited them from leaving the control of the gang. These groups subjected women and children, including LGBTQI+ children, to sex trafficking and forced labor in domestic service and childcare.

Traffickers exploit Salvadoran men, women, and children in sex trafficking and forced labor in Belize, Guatemala, Mexico, and the United States. Traffickers exploit some Salvadorans who irregularly migrate to the United States in forced labor, forced criminal activity, and sex trafficking en route or upon arrival. Traffickers exploit some foreign victims from Asia, South America, or other Central American countries to sex and labor trafficking in El Salvador. Individuals without personal identification documents are highly vulnerable to trafficking. Traffickers increasingly use social media and messaging platforms to lure victims, including through false employment or educational opportunities abroad, and facilitate their exploitation. Traffickers accelerated this trend as a means to reach potential victims in their own homes during the pandemic. There were reports of corruption and complicity among some individual government officials, which may have resulted in obstacles to anti-trafficking law enforcement efforts.

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