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Freedom House

Freedom in the World 2019 - El Salvador

Free

67 /100

Overview:

Elections in El Salvador are largely credible and free. However, corruption is a serious problem that undermines democracy and rule of law, and violence remains a grave problem. Authorities have pursued a harsh, militarized response to the country's gangs, resulting in allegations of abuse. The country has a lively press and civil society sector, though journalists risk harassment and violence in connection with work related to gang activity or corruption.

Key Developments:

Key Developments in 2018:

- The Nationalist Republican Alliance (ARENA) posted the strongest performance legislative elections held in March, though votes for both ARENA and El Salvador's other dominant party, the Farabundo Martí National Liberation Front (FMLN) declined compared to past elections, with smaller parties benefiting from the difference. Monitors said the polls were generally peaceful and well conducted.
- The year saw mixed results in the fight against corruption. Former president Antonio "Tony" Saca was given a 10-year prison sentence after pleading guilty to charges of embezzlement and money laundering. However, the year also saw efforts by elected officials to obstruct the work of Attorney General Douglas Meléndez, and the legislature voted against reinstating him to a second term at year's end.
- The Constitutional Chamber of the Supreme Court was left vacant for several months while lawmakers wrangled to see their preferred candidates confirmed to its benches.
- The homicide rate continued to decline, but remained high, with roughly 3,300 homicides during the year. However, the number of disappearances increased to over 3,500—about 200 more than in 2017.

Political Rights and Civil Liberties:

POLITICAL RIGHTS: 32 / 40 (-2)

A. ELECTORAL PROCESS: 11 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4

El Salvador's president is directly elected for a five-year term. Salvador Sánchez Cerén, the candidate of the FMLN, won the 2014 presidential election. The runner-up, Norman Quijano of ARENA, accused the Supreme Electoral Tribunal (TSE) of fraud, but domestic and international observers considered the elections competitive and credible.

Municipal elections in March 2018 resulted in a decisive win for ARENA candidates. A European Union (EU) observation mission said that the elections were generally well run, but noted that some incumbent mayors used office staff for campaign activities, and handed out food and other goods to voters.

A2. Were the current national legislative representatives elected through free and fair elections? 3 / 4

The 84-member, unicameral Legislative Assembly is elected for three years. In the March 2018 elections, ARENA won 37 seats, the FMLN won 23, Grand Alliance for National Unity (GANU) won 10, and the National Conciliation Party (PCN) won 9; the rest went to smaller parties and coalitions. Votes for the ARENA and FMLN parties declined compared to previous legislative elections. Turnout was roughly 46 percent.

The EU observation mission declared the elections well organized, transparent, and the calmest since the 1992 peace accords. However, the mission noted a lack of voter education, particularly regarding the issue of cross-voting, a procedure that allows voters to vote for candidates from more than one party list.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 4 / 4

The country's electoral framework has undergone a number of changes in recent years, at times contributing to inefficiencies and confusion surrounding electoral processes. Implementation of a 2015 reform by which citizens, as opposed to partisan representatives, are called on to oversee vote counting was delayed ahead of the 2018 polls, resulting in inadequate training for the citizens drafted. Additionally, there were reports that the TSE dismissed nonpartisans in favor of partisans.

Separately, in February 2018 a list of donors (from 2006–17) to political parties was published for the first time, marking an improvement in campaign transparency.

B. POLITICAL PLURALISM AND PARTICIPATION: 13 / 16 (-1)

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 4 / 4

Salvadorans are free to organize in different political parties or organizations. While two parties, FMLN and ARENA, have dominated the country's system for the past few decades, new parties have emerged and are able to participate and compete in political processes. In 2018, the first independent candidate was elected to the legislature.

Campaign donation records released in 2018 showed that between 2006 and 2017, ARENA received more donations than any other party, and that most of its donations had come from companies. The FMLN collected the second-most donations, with most of those funds coming from individuals.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4

Opposition parties have the ability to increase support and gain power through elections. Historically, executive elections are closely contested between the two main parties, but in legislative elections, smaller parties stand to gain power.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 2 / 4 (-1)

Criminal groups hold significant influence over Salvadoran political life. Political candidates face threats from such groups, though there are also persistent reports of negotiations and transactions between political parties and criminal organizations. For example, party leaders negotiate with criminal leaders in order to secure permission to hold rallies or otherwise operate in gang-controlled areas; police have asserted that all major political parties engage in such negotiations, and some politicians upon questioning have openly admitted to it, describing the deals as a reality that accompanies political operations in parts the country. Parties have paid gangs to coerce or intimidate voters into casting ballots for particular parties or candidates. Parties also hire gangs to provide security for their events. Transactions between parties and gangs also involve deals in which gang leaders receive special access to politicians, or a party's investment in social services for the families of gang members.

Since the transition to democracy, the military has been an apolitical institution—though it has not always cooperated with civilian authorities.

Score Change: The score declined from 3 to 2 due to the ongoing, significant influence of criminal organizations on the behavior of voters, politicians, and political parties.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4

Ethnic, religious, and gender groups, and LGBT (lesbian, gay, bisexual, and transgender) people, have full political and electoral opportunities, but are underrepresented in the legislature and in high-level government positions. In 2018, the first openly transgender candidate ran for election, for a seat on the San Salvador Municipal Council. A 2013 statute requires that 30 percent of legislative and municipal candidates be women, and just over 30 percent of seats in the Legislative Assembly were held by women following the 2018 elections. However, only 10 percent of women held mayoral seats after the year's municipal elections, and the interests of women are not well represented in practice.

C. FUNCTIONING OF GOVERNMENT: 8 / 12 (-1)

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 3 / 4

The freely elected government is generally able to determine policies. However, the government lacks authority over some areas that are controlled by criminal groups, and public officials are known to collaborate with criminal organizations. Several mayors have been accused of facilitating extortion rackets, assassinations, and buying campaign support from gangs and criminal networks.

Salvadorans continue to express concern that multinational corporations exert influence over local and national government officials. Separately, in August 2018, in the wake of a Chinese lobbying effort, the government announced that it would break ties with Taiwan and establish diplomatic relations with China. The US threatened severe sanctions over the move, but eventually backed down.

C2. Are safeguards against official corruption strong and effective? 2 / 4 (-1)

Corruption is a serious problem in El Salvador. The office of the attorney general, the Probity Section of the Supreme Court, and other institutions continued to pursue an active agenda against official corruption in 2018.

However, the year saw the continued obstruction and underresourcing of the attorney general's office and other institutions working to combat entrenched corruption. In August, President Sánchez Cerén vetoed an amendment that would have granted broad autonomy to the attorney general's financial intelligence unit, a move Attorney General Douglas Meléndez said would compromise his ability to investigate financial crimes. El Salvador was suspended from a key multinational financial intelligence group due to Sánchez Cerén's veto, and Meléndez alleged that Sánchez Cerén stood to benefit from the suspension because he would no longer be obligated to respond to a number of information requests about his personal dealings. In December, the legislature voted not to reinstate Meléndez, who during his career as attorney general had prosecuted former president Saca and attempted to extradite former president Mauricio Funes. His successor has no experience in constitutional or criminal law.

Meanwhile, major corruption cases proceeded, but with somewhat mixed results. In August, former president Saca pleaded guilty to embezzlement and money laundering of public funds exceeding \$300 million. In exchange for his plea agreement, his sentence was reduced from 30 to 10 years in prison, though critics argued that the sentence was too light. Earlier, in June, an arrest warrant was issued for former president Funes, who had been convicted in absentia of illicit enrichment in 2017; related arrest warrants were also issued against 31 people involved in the same scandal, which prosecutors dubbed the "public looting" case and involved the alleged embezzlement of \$351 million from the state bank, much of which was carried out in cash-filled trash bags. In a separate case, arrest warrants were issued in October for Funes, former attorney general Luis Martínez, businessman Enrique Rais, and nearly two dozen others accused of providing perks to the former attorney general's office in exchange for favoritism in corruption cases against political officials and business elites. At year's end, Funes remained in Nicaragua, where he has been granted asylum; Rais was reportedly in Switzerland.

Score Change: The score declined from 3 to 2 due to the obstruction of the attorney general's office in its pursuit of high-profile cases.

C3. Does the government operate with openness and transparency? 3 / 4

There have been advances in the implementation of the Access to Public Information Law, but challenges remain, including delays in responding to information requests and the denial of requests on dubious grounds, or for reasons not sufficiently explained. In 2017, the Constitutional Chamber added additional limits to the law's reach when ruling on a case involving the travel expenses of former president Funes. According to the ruling, the current government did not have to disclose information related to incidents that took place during previous administrations, because it would not have sufficient information regarding those events.

In 2018, media reports revealed that presidents Sánchez Cerén, Saca, and Funes had redirected tens of millions of dollars to secret discretionary funds. Auditors had reportedly noted the movement of funds, but were unable to access information about how they were spent.

CIVIL LIBERTIES: 35 / 60 (−1)

D. FREEDOM OF EXPRESSION AND BELIEF: 12 / 16

D1. Are there free and independent media? 2 / 4

The Constitution provides for freedom of the press. In practice, the media scene is robust, but reporters face significant challenges. Harassment and acts of violence following coverage of corruption and gang violence have led reporters to engage in self-censorship. Officials at times prevent journalists from taking audio or video recordings of government affairs. In 2018, recording devices were banned during former president Saca's corruption trial.

Most of the country depends on privately owned television and radio networks for news, and ownership in the broadcast sector is highly concentrated. Access to the internet is unrestricted. Online outlets like El Faro and Revista Factum are critical sources of independent reporting.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4

Religious freedom is generally respected. However, religious leaders working with former gang members or who have been critical of the government have faced harassment.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 3 / 4

Academic freedom is respected and the educational system is generally free from extensive political indoctrination. However, intimidation and violence by gang members against teachers and students continues to present a challenge to the education system.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 3 / 4

While private discussion is generally free, the prevalence of gang activity requires many Salvadorans to curtail discussion of gang-related and other sensitive topics outside of their homes.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 8 / 12

E1. Is there freedom of assembly? 3 / 4

Freedom of assembly is generally upheld, and public protests and gatherings are permitted. However, due to the prevalence of violence in El Salvador, the safety of participants is impossible to guarantee.

Protesters clashed with police forces during June 2018 demonstrations in the capital against the privatization of water services. The police used tear gas to disperse the crowd, and protestors responded by throwing rocks at the national assembly building, resulting in damage.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights- and governance-related work? 3 / 4

Nongovernmental organizations (NGOs) operate freely and play an important role in society and policymaking. However, groups involved with human rights- and governance-related topics sometimes face threats and extortion attempts from criminal

groups. Impunity for such attacks, as well as occasional pressure on NGOs by police, has prompted some observers to question the government's commitment to the protection of freedom of association and human rights.

Several NGOs and associations have reported discovering microphones or other listening devices on their premises in recent years, including the National Association of Private Companies (ANEP), the Salvadoran Foundation for Economic and Social Development (FUSADES), and the National Development Foundation (FUNDE).

Land rights defender Dina Yeseni Puente was murdered in August 2018 in Mesas de Jujutla. The motive was unknown, but there was suspicion that she was killed in connection with her activism.

E3. Is there freedom for trade unions and similar professional or labor organizations? 2 / 4

Labor unions have long faced obstacles in a legal environment that has traditionally favored business interests, including by mandating only light penalties for employers who interfere with strikes. The law prohibits strikes in sectors deemed essential, but is vague about the type of work falling within this designation.

F. RULE OF LAW: 7 / 16 (-1)

F1. Is there an independent judiciary? 2 / 4 (-1)

Judicial independence is not consistently respected by the government, and the judicial system is hampered by corruption. The legislature does not always observe Supreme Court rulings. Powerful individuals can evade justice by exerting pressure on the judiciary.

While the Supreme Court's Constitutional Chamber has been relatively well-regarded, a 2018 standoff over nominees to its benches reflected the politicization of judicial appointment procedures, and prompted criticism from some analysts who said the justices eventually selected comprised a weakened court. Firstly, candidate screening processes by national bar associations and the National Council of the Judiciary (CNJ) meant to vet candidates for integrity and professionalism were criticized as inadequate. After the mandated 30 candidates were selected through the screening procedures, the chamber's seats remained vacant for several months past the deadline upon which they were have to been filled, as legislators engaged in extended interparty wrangling over which candidates could gain enough support to achieve confirmation. There were also allegations that members of the legislature facing corruption investigations by the Supreme Court's Probity Section sought to nominate judges that were unqualified, had apparent conflicts of interest, or had dubious track records with regard to corruption cases. The seats were eventually filled in November. Legislators openly admitted that the aim of the interparty negotiations was to see that each of the involved parties was able to secure a candidate they believed would rule in their party's favor.

Score Change: The score declined from 3 to 2 because a months-long standoff over nominees to Supreme Court's Constitutional Chamber reflected the politicization of judicial appointment procedures and inadequacies in related screening processes.

F2. Does due process prevail in civil and criminal matters? 2 / 4

Due process rights are guaranteed by the constitution, but upheld inconsistently. Interpreters are not always provided for defendants who do not speak Spanish. Rights advocates report that police have carried out arbitrary arrests and detentions as part of the country's crackdown on gangs. In 2018, there were concerns about the selection process for the new attorney general. Four of the seven members of congress in charge of selecting the next attorney general had been accused of various forms of corruption.

There was some progress in addressing crimes committed during El Salvador's civil war following the 2016 Supreme Court ruling that the Amnesty Law, which prevented the prosecution of civil war crimes, was unconstitutional. The trial on the massacre at El Mozote, an attack that killed almost 1,000 civilians in 1981, continued since being reopened in 2016. In October 2018, just days after Archbishop Óscar Romero was canonized, an arrest warrant was issued for his killer, a former military officer. Romero was murdered in 1980, presumably by a right-wing death squad for criticizing the government.

Despite this progress, in July the Supreme Court ruled that the government had failed to provide restorative justice to victims, and ordered the Defense Ministry to preserve its archives and make them available.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 1 / 4

Violence, much of which is linked to criminal gangs, remains a grave problem. However, the official homicide rate continued to decline in 2018; police reported that there were roughly 3,300 homicides during the year, compared to about 3,900 in 2017, 5,300 in 2016 and 6,700 in 2015. However, the number of disappearances increased to over 3,500 in 2018—about 200 more than the previous year—raising questions about whether homicides had actually been reduced.

Police have been implicated in hundreds of extrajudicial killings as part of an ongoing militarized response to the country's criminal gangs, and in February 2018, the attorney general's office formally accused high-ranking military officials of ordering the extrajudicial killings of suspected gang members. However, concerns remain that senior-level officials are evading prosecution. Additionally, several police officers were convicted in 2018 of participating in extrajudicial killings. Gangs, in turn, continue to target members of security forces and their families.

Prisons remain extremely overcrowded, and conditions within can be lethal due to disease, lack of adequate medical care, and the risk of attack by other inmates. In August 2018, the legislature voted to make permanent the "extraordinary measures" implemented in 2016 to increase security in prisons. Human rights groups and the UN

High Commissioner for Human Rights criticized the decision, with the latter saying that conditions permitted under the measures led him to the conclusion that "these are implemented for the primary purpose of dehumanizing the detainees." Nearly 30 percent of people held in prison are in pretrial detention.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 2 / 4

Women are granted equal rights under the law, but are often subject to discrimination. Indigenous people face poverty, unemployment, and labor discrimination. Discrimination on the basis of sexual orientation is prevalent, and LGBT people and groups are often the targets of hate crimes and violence, including by state security agents.

Underrepresented populations, particularly internally displaced persons and LGBT people, have limited access to the justice system. However, in a development reflecting increasing attention to discrimination against LGBT people, the government in April 2018 approved an Institutional Policy for the Care of the LGBT Population. Officials signaled the government's commitment to its tenets in public statements and events, but its practical effect remains to be seen.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 8 / 16

G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 2 / 4

Freedom of travel within El Salvador is complicated by gang activity. The MS-13 and Barrio 18 gangs control certain neighborhoods, making it dangerous for residents to travel, work, and attend school. The Internal Displacement Monitoring Center (IDMC) has estimated that hundreds of thousands of people have been displaced by violence in recent years.

In July 2018, the Supreme Court ruled that the government had failed to protect victims forcibly displaced by violence, and gave the government six months to develop policies and legislation to protect and assist victims of displacement.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2 / 4

Businesses and private citizens are regularly subject to extortion. Indigenous people face difficulties securing land rights and accessing credit.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 2 / 4

Abortion is punishable by imprisonment, including in cases where a woman's life is at risk due to her pregnancy, and the Constitutional Chamber affirmed in 2013 that the "rights of the mother cannot be privileged over the fetus." Some women have been jailed despite credible claims that their pregnancies ended due to miscarriage.

Domestic and sexual violence remains high. There were approximately 380 femicides in 2018, though that was down from 468 in 2017. In one prominent case, *La Prensa Gráfica* journalist Karla Turcios was murdered by her husband in April 2018.

Adolescent pregnancy is a serious problem in El Salvador. Between 2013 and 2015, adolescent pregnancies accounted for one out of every three pregnancies in El Salvador. Many are the result of sexual assault.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 2 / 4

El Salvador remains a source, transit, and destination country for the trafficking of women and children, though some sex trafficking cases have been prosecuted. There are instances of forced labor in the construction and informal sectors. The U.S. Department of State's 2018 *Trafficking in Persons* report noted that El Salvador has investigated and prosecuted more trafficking cases, opened new victim services offices, and introduced a new trafficking awareness campaign.

ecoi.net summary:

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